

YARRA CITY COUNCIL

INTERNAL DEVELOPMENT APPROVALS COMMITTEE MEETING

MINUTES

**held on Wednesday 14 February 2007 at 6.00 pm
at the Richmond Town Hall Meeting Room 3**

I. ATTENDANCE

Councillor Kay Meadows
Councillor Paul D'Agostino
Councillor Annabel Barbara

Mary Osman (Co-ordinator Statutory Planning)
Curtis de la Pierre (Senior Statutory Planner)
Katrina Thomas (Senior Statutory Planner)
Cindi Johnston (Governance Officer)

II. APOLOGIES AND LEAVE OF ABSENCE

III. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST

Nil

IV. CONFIRMATION OF MINUTES

Internal Development Approvals Committee Resolution:

Moved: Councillor D'Agostino **Seconded:** Councillor Barbara

That the minutes of the meeting of IDAC held on 29 November 2006 be confirmed.

CARRIED

***"Welcome to the City of Yarra.
Council acknowledges the
Wurundjeri community as the first
owners of this country.
Today, they are still the custodians
of the cultural heritage of this land.***

***Further to this, Council acknowledges
there are other Aboriginal and Torres
Strait Islander people who have lived,
worked and contributed to the
cultural heritage of Yarra."***

INTERNAL DEVELOPMENT APPROVALS COMMITTEE

ITEM	PAGE	RESOLUTION
1. 52-56 Kent Street, Richmond – Planning Permit Application No. PL06/0739 (Development of seven dwellings).	5	36
2. 36 Leicester Street, Fitzroy – Planning Permit Application No. PL06/0342 (To use and develop the land for the purpose of a child care centre, including partial demolition).	48	65
3. 333-345 St Georges Road, North Fitzroy – Planning Permit Application No. PL06/0654 (Use and development for the purpose of office, including part demolition, buildings and works and a reduction in the car parking requirements).	73	100
4. Ground Floor 59-61 Johnston Street, Fitzroy – Planning Permit Application No. PL06/0113 (To use the entire ground floor as a hotel with a maximum of 750 patrons and liquor licence, operating until 1.00 am, 7 days a week. The application also proposes part demolition, buildings and works and a waiver of car parking associated with the hotel use).	112	136
5. 49 Fenwick Street, Clifton Hill – Planning Permit Application No. PL06/0686 (Development of extension to dwelling including partial demolition).	145	165

Councillor D'Agostino nominated Councillor Meadows as Chairperson.

There being no other nominations, Councillor Meadows was appointed Chairperson.

Councillor Meadows assumed the Chair.

Councillor Kathleen Maltzahn was present for Item 4.

Councillor Jackie Fristacky was present for Items 2, 3, 4, 5.

Councillor Judy Morton was present for Item 1.

The Items were heard in the following order:

Item 5

Item 4

Item 3

Item 2

Item 1

1. 52-56 Kent Street, Richmond – Planning Permit Application No. PL06/0739 (Development of seven dwellings).

Proposed Use/Development: Development of seven dwellings
Existing Use: Two dwellings and a vacant lot
Applicant: Hassell Pty Ltd
Zoning/ Overlays: Residential 1 Zone
 Part Special Building Overlay
Date of Application/s: 23 August 2006
Application No/s: PL06/0739

Background

Planning Permit Application No. 010037

1. Planning Permit Application No. 01/0037 for the development of 9 two storey dwellings on the site was refused by council on 10 August 2001. An Application for Review was lodged by the applicant but was withdrawn prior to the hearing.
2. Details of the refused application included:
 - (a) the provision of four dwellings fronting Kent Street with the other five dwellings orientated in an east-west arrangement on the rear portion of the site;
 - (b) the four front dwellings sought ground floor north facing private open space facing Kent Street with a minimum area of 25sqm;
 - (c) ground floor of the four front dwellings included a dining/ living room, kitchen and laundry, and two bedrooms, bathroom, ensuite and small north facing balcony with access from the master bedroom at the first floor level;
 - (d) the front setback varied between 3.9m to 4.5m;
 - (e) the side setbacks at ground level was 1.5m with the setback increased to 1.8m at the first floor level;
 - (f) the overall height of the dwellings varied in height between 5.5 and 7.0m;
 - (g) the design of the dwellings were varied in design detailing;
 - (h) the rear dwellings sought ground floor private open space with a minimum area of 25sqm;
 - (i) the rear dwellings with have ground floor of the four front dwellings included a dining/ living room, kitchen and laundry, and two bedrooms, bathroom, and ensuite at the first floor level; and
 - (j) a basement car park with access from Little Kent Street provided accommodation for 19 cars.

Planning Permit Application No. PL02/0455

3. Planning Permit PL02/0455 was issued on the 4 February 2003 for 'construction of six two storey dwellings with basement car parking.'
4. Details of this application included:
 - (a) demolition of existing dwellings on site;

- (b) development of six two storey dwellings over a basement car parking level;
 - (c) three dwellings fronting Kent Street with a further three dwellings behind and accessed via an entrance gate to Kent Street;
 - (d) a basement car park to provide accommodation for 13 cars, 3 motorcycles and refuse and storage areas with access via a ramp to Lt Kent Street;
 - (e) dwellings typically comprised ground level entry, 3 bedrooms, laundry, bathroom, open plan floor living/kitchen/meals area and deck areas;
 - (f) dwellings 56A and 52A would have ground floor living and adjacent open space areas with the remaining dwellings having living areas and adjacent decks at first floor level;
 - (g) new construction was to be partly to the side boundaries at ground level and only where adjacent to existing boundary walls;
 - (h) first floor construction would be setback off side boundaries except where adjacent to existing boundary walls;
 - (i) front setbacks varied from 2.0-3.9m at ground level with the two storey components setback between 5.3-6.7m; and
 - (j) the new dwellings would have had a contemporary appearance with curved roof forms.
5. This planning application was not acted upon and has subsequently expired.

Existing conditions

Subject Site

- 6. The subject site comprises of three adjoining parcels of land located on the southern side of Kent Street. The overall frontage to Kent Street and Little Kent Street at the rear is 27.25m. The depth of the site is approximately 37m. The overall site area is 1008.25sqm.
- 7. Located on the western portion of the subject site is the dwelling at 52 Kent Street. This property contains a modest, single storey Victorian dwelling. Private open space is located at ground level to the south of the dwelling. A single garage space is available from Little Kent Street. The condition of the dwelling is considered to be poor.
- 8. The middle property number 54 is vacant land. The fence bounding this site does not align with the title boundaries and provides the dwelling at 52 Kent Street a small strip along the western part of this site with the remaining parcel of land being available for use by the dwelling at 56 Kent Street.
- 9. Located on the eastern portion of the subject site is the dwelling at 56 Kent Street. This property contains a simple, single storey Victorian dwelling. Private open space is located at ground floor level to the south of the dwelling and also on the adjoining property to the west. A brick shed and galvanised iron garage is located adjacent to the southern title boundary.
- 10. A timber paling fence surrounds the subject site. There is no significant vegetation.

Surrounding Land

- 11. The subject site is located within a residential area.

12. Located directly to the north of the subject site is Kent Street which is a local street. It is noted that recent roadworks to Kent Street have relocated the traffic speed hump device that was in front of the dwelling at 52 Kent Street. The street reserve also includes a number of street trees in front of the subject site.
13. Located further to the north of the subject site are dwellings facing Kent Street with rear access to Little Buckingham Street. The building stock opposite the subject site includes a variety of different building forms including the townhouse development on the corner of Lambert Street and Kent Street, modest single storey dwellings and more recent double storey townhouse development at 57 Kent Street.
14. Located to the east of the subject site is a modest single storey, double fronted weatherboard dwelling at 58 Kent Street. The fence alignment between the subject site and this property does not align with the titles however this dwelling appears to be constructed to both side title boundaries. Significantly for the local area, this property has a substantial area of private open space, albeit south facing. Located adjacent to the southern title boundary is a shed with access from Little Kent Street.
15. Located to the south of the subject site is Little Kent Street which is a service street.
16. Located directly to the south of the subject site across little Kent Street is a recent two storey townhouse development of double storey construction, a single pedestrian entry and three vehicle entries at ground level with a north facing balcony with screening to a height of 1.7m at the upper floor level. The adjoining site to the east, of this development (49 Somerset Street), has a current planning application which includes the construction of a double storey townhouse facing Little Kent Street. Located opposite the subject to the west is car parking associated with a walk up flat development.
17. Located directly to the east of the subject site is a single storey, single fronted Victorian dwelling with ground level private open space located to the south.

Proposal

18. The application is for the construction of seven dwellings. Details of the proposal include:

General

- (a) demolition of the two existing dwellings and associated structure (no planning approval required);
- (b) construction of seven dwellings which generally includes four dwellings facing Kent Street and three dwellings facing Little Kent Street;

Dwelling 1

- (c) dwelling 1 will be located adjacent to the entire length of the western title boundary and will have frontage to both Kent Street and Little Kent Street;
- (d) the ground floor of dwelling 1 will comprise bedroom 1 with built in robe, bathroom, dining room, laundry, kitchen with living area with access to a south facing deck of approximately 23sqm;

- (e) the first floor of dwelling will comprise bedroom 3, central bathroom, bedroom 2 including walk through robes and ensuite, and study nook;
- (f) two car parking spaces at grade will be provided with access from Little Kent Street;

Dwellings 2 and 3

- (g) dwellings 2 and 3 will be located centre of the Kent Street frontage and will have no frontage to Little Kent Street;
- (h) the ground floor of dwellings 2 and 3 will comprise entry, bedroom 1 with built in robes, central bathroom, bedroom 2 with built in robe and ensuite, study nook, European laundry beneath the staircase and a deck with external store;
- (i) the first floor of dwellings 2 and 3 will comprise open plan living/ kitchen and meals area with a north facing terrace of 18sqm;
- (j) a single car parking space with access from Kent Street will be provided for each of the dwellings which will have part of the terrace cantilevered over;

Dwelling 4

- (k) the layout and details for dwelling 4 will be the same as dwelling 1 with the exception that this dwelling will be located along the entire length of the eastern title boundary and the deck area measure approximately 24sqm;

Dwelling 5-7

- (l) dwellings 5-7 will be located centre of the Little Kent Street frontage and will have no frontage to Kent Street;
- (m) the ground floor will comprise of a single car garage with access from Little Kent Street, open plan living/ kitchen and living area with access to ground floor, north facing, private open space of 38sqm;
- (n) the first floor will comprise of two bedrooms (both with built in robes), central bathroom, laundry with toilet and a study nook;

Setbacks

- (o) the setback to the front (north) title boundary will be varied at ground level being between 2.52m to 6.0m;
- (p) the minimum setback to the north title boundary will be 1.84m to the terrace areas which increases to a minimum of 2.79m at the first floor;
- (q) the ground floor will be constructed to both the eastern and western elevations for a distance of 15.52m;
- (r) the first floors will have a minimum setback from the eastern and western title boundaries of 0.75m for a small portion of the upper building envelope of dwellings 1 and 4 and then will be setback 1.23m;
- (s) dwellings 5-7 will be located on the southern title boundary for both the ground and first floor levels;

Heights

- (t) the maximum height of the development will be R.L. 21.28 which is approximately 6.55m above ground level at Kent Street.

Design

- (u) the façade facing Kent Street is a contemporary mix of elements including painted feature steel beam framing; a combination of low light and high light windows, rendered fibre cement sheet with expressed joints, white glazed brickwork and flat roof forms;
- (v) the Little Kent Street elevation includes perforated Corten steel gates, perforated galvanised steel tilt up garage doors, steel bar pedestrian gates, and timber panel tilt up door; and
- (w) the rear dwellings also incorporate timber cladding in a selected stain finish at the upper levels.

Revised plans

19. Following the planning consultation meeting, revised plans were submitted on the 2 January 2007 which make the following modifications to the original proposal:
 - (a) the inclusion of a visual break central to the Kent Street frontage through the deletion of the roof areas to the terraces of dwellings 2 and 3;
 - (b) the reduction in the location and prominence of the steel beam on the Kent Street frontage;
 - (c) the deletion of the roller doors along the Kent Street and the provision of alternative material treatment of the garage doors including perforated Corten steel gates for dwellings 1 and 4, perforated galvanised steel tilt up garage doors for dwellings 5 and 7, and timber panel tilt up door for dwelling 6;
 - (d) the deletion of the west facing study window for dwelling 1;
 - (e) the deletion of the east facing study window for dwelling 4;
 - (f) the relocation of the building envelope of dwellings 1 and 4, 6.0m towards the north; and
 - (g) the alteration of the footpath and crossover material detailing in Little Kent Street to define pedestrian and vehicle entries.

Planning controls

Zone

Residential 1 Zone (clause 32.01)

20. The subject site is located within the Residential 1 Zone. Pursuant to clause 32.01-4 of the Yarra Planning Scheme (the Scheme), a planning permit is required to construct two or more dwellings on a lot.
21. The provisions of clause 55 (ResCode) apply as do the decision guidelines outlined in clause 65.

Overlays

Special Building Overlay

22. The southern most portion of the site is covered by the Special Building Overlay. Pursuant to clause 44.05-1 of the Scheme, a planning permit is required for the construction of buildings and works.

23. The controls of the Special Building Overlay also requires an application under the above provision to be referred to the relevant floodplain management authority, which is in this instance, Melbourne Water. Melbourne Water's response will be outlined in the 'referral' section of this report.

Particular and general provisions

Two or more dwellings on a lot (clause 55)

24. The application is required to be assessed against the provisions of clause 55.

State Planning Policy Framework (SPPF)

25. The following State Planning Policy Framework policies are most relevant to the application:
 - (a) clause 12.01 A more compact city;
 - (b) clause 12.05 A great place to be;
 - (c) clause 14.01 Planning for urban settlement;
 - (d) clause 14.02 Metropolitan development;
 - (e) clause 16.02 Medium density housing; and
 - (f) clause 19.03 Design and built form.
26. Clause 12.01, 12.05 and 14.01 of the Scheme generally encourage the orderly development of urban areas, allowing opportunities for redevelopment and intensification of existing urban areas provided that regard is given to the land capability, environmental quality and that development is respectful of neighbourhood character. Further, the policies encourage higher land use densities and mixed use developments in areas with high accessibility to integrated transport nodes and other community facilities.
27. In this regard, the subject site is well located having regard to public transport and other community facilities. The site is proximate to the Bridge Road and Victoria Street activity areas. The site is also proximate to tram routes along Victoria Street, Bridge Road and Church Street. The subject site provides adequate resources for higher density residential development and is a suitable development site.
28. The objective of clause 16.02 (Medium Density Housing) is:

"to encourage the development of well designed medium-density housing which:

 - (a) *respects the neighbourhood character;*
 - (b) *improves housing choice;*
 - (c) *makes better use of existing infrastructure; and*
 - (d) *improves energy efficiency of housing."*
29. The proposal will achieve urban consolidation objectives and provide housing choice whilst utilising existing infrastructure.
30. The proposal is not considered to significantly compromise the amenity of nearby residents however this will be explored in further detail in the assessment section of this report.

31. Clause 19.03 of the State Planning Policy examines Design and Built Form. The objective of clause 19.03 is:

"To achieve high quality urban design and architecture that:

- (a) *reflects the particular characteristics, aspirations and cultural identity of the community;*
- (b) *enhances liveability, diversity, amenity and safety of the public realm; and*
- (c) *promotes attractiveness of towns and cities within broader strategic contexts."*

32. During the application process, there have been modifications to the design to ensure that the above objective is met.

Local Planning Policy Framework (LPPF)

33. The following local Planning Policy Framework policies are relevant to the above application:

- (a) clause 21.04 Vision- Strategic Framework;
- (b) clause 21.05 Strategic Elements; and
- (c) clause 22.10 Built form and design policy.

Clause 21.04 Vision

34. Clause 21.04 outlines a framework vision for the City of Yarra. Key strategies include:

- (a) *maintain 19th Century character;*
- (b) *maintain mixed land use character;*
- (c) *emphasise major new residential development opportunities within mixed use areas;*
- (d) *promote high standards of urban design; and*
- (e) *limit development within established residential areas in order to protect and enhance character and amenity.*

35. In relation to the proposed development, it is considered that the proposed built form (including the demolition of the existing buildings on the site) will not have any impact upon the prevailing 19th century character dominant in the municipality. The site is not covered by heritage overlay. An assessment of the application against the various urban design principles implemented in the Scheme is provided in a later section of this report.

Clause 21.05-1 Element 1: Urban Design Framework

36. Selected relevant objectives include:

- (a) *to retain the City's identity as a low-rise urban form, with (mainly in Fitzroy, Richmond, Collingwood, Abbotsford and Burnley) areas of higher development and landmarks valued highly by the local community;*
- (b) *to retain and extend the City's fine grain street pattern and urban form;*
- (c) *to ensure new development responds to the City's historic identity;*
- (d) *to retain important landmarks and icons which contribute to the identity of the City;*
- (e) *to ensure that at street level, buildings have a human scale;*

- (f) *to respect the intrinsic fine grained nature of the City where this originally occurred;*
 - (g) *to enhance key entries into the City through excellence in architecture;*
 - (h) *to provide pedestrian spaces and links that provide a safe, inclusive, attractive and vibrant public domain and a sense of community;*
 - (i) *to maintain and strengthen the distinct character of each type of built form within the City; and*
 - (j) *to ensure that developments contribute positively to the urban fabric and public space system of the City.*
37. The proposal introduces a contemporary design, which is supported by various planning policies. The proposed building form respects the scale and rhythm of the streetscape, and does not seek to introduce a new building form which is out of scale with the neighbourhood. This will be discussed later in this report.
- Clause 21.05-2 Element 2: Residential Land Use and Development*
38. This clause addresses residential development within the municipality and examines the broader concepts of appropriate housing. Selected relevant objectives include:
- (a) to accommodate forecast increases in resident and household numbers;
 - (b) to improve the diversity of housing stock (type, tenure and affordability) to support continued diversity in population structure;
 - (c) to maintain and strengthen existing and preferred neighbourhood character;
 - (d) to enhance levels of residential amenity and safety;
 - (e) to maintain the mixed land use character of the City to provide sustainable neighbourhoods;
 - (f) to facilitate high quality design outcomes in respect to all new residential development, with emphasis on inclusive design, amenity for occupants and neighbours, energy efficiency in design, and a positive contribution to neighbourhood character;
 - (g) to encourage the development of sustainable buildings including enhancing the environmental performance of existing dwellings; and
 - (h) to maintain the building dominated Urban Residential character with no front and no or minimal side setbacks.
39. It is policy to encourage high quality outcomes and improve diversity. In this instance, the development will provide a number of different building layouts.
40. The proposal offers a functional and appropriate design outcome. Amenity impact on properties nearby will be discussed further in the report.

Clause 22.10 Built Form and Design Policy

41. The following objectives apply to the application:
- (a) *ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character;*
 - (b) *ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design;*

- (c) *limit the impact of new development on the amenity of surrounding land, particularly residential land;*
 - (d) *design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and 'walkability' of the City's streets and public spaces;*
 - (e) *create a positive interface between the private domain and public spaces; and*
 - (f) *encourage environmentally sustainable development.*
42. A full assessment of the application against these provisions will be provided in the planning consideration section of the report.

Notice of application

Notification

43. Notification of the application was required pursuant to section 52 of the *Planning and Environment Act 1987* (the Act) and was given to adjoining landowners and occupiers by ordinary mail and two signs were displayed on site.
44. Council received seven objections to the application. One objection was withdrawn during the application process.
45. The grounds of objection related to:
- (a) overdevelopment;
 - (b) housing diversity and the further reduction of family homes;
 - (c) impact on views;
 - (d) overlooking;
 - (e) modernist approach to the architectural detailing;
 - (f) increase in traffic;
 - (g) pressure on onstreet car parking;
 - (h) impact on infrastructure;
 - (i) visual bulk of upper level;
 - (j) overshadowing of private open space;
 - (k) height;
 - (l) impact on neighbourhood character;
 - (m) location of site services;
 - (n) demolition; and
 - (o) loss of onstreet car parking.

Consultation Meeting

46. A planning consultation meeting was held on the 6 December 2006 which discussed the grounds of objection outlined above.

Revised Plans

47. As stated above, revised plans were received during the course of the planning application process. This report is based upon the revised plans received on 2 January 2007.

Referrals and comments

48. The application was referred to:

- (a) Council's Urban Designer;
- (b) Council's Engineering Services Unit;
- (c) Melbourne Water.

Council's Engineering Services Unit

49. The following comments were made:

- (a) the removal of the slow point is not supported (note- this comment is not relevant due to the subsequent removal of the slow point by Council);
- (b) a payment to the Council is required for the removal of the street tree and the planting of a replacement tree;
- (c) the vehicle crossing for dwellings 2 and 3 is satisfactory as it will allow the 85th percentile vehicle;
- (d) a redesign of the crossovers is required to Little Kent Street is required; and
- (e) the dimensions of the car parking spaces for dwellings 2 and 3 will be satisfactory.

Council's Urban Designer

50. The following comments were made:

- (a) whilst the proposed development is higher than the single storey scale of the adjoining properties, the double storey form can be supported;
- (b) the designer recognises the single storey height of the adjoining dwelling by recessing and setback the upper level from the side boundaries;
- (c) the continuity of form and mass across the entire site is a concern and a visual break is required in the façade either by splitting the development into two separate buildings or by having a deep recess in the middle;
- (d) the deletion of one of the dwellings facing Little Kent Street would assist in the reduction of the density and continuous mass;
- (e) front setbacks facing Little Kent Street would be encouraged as well as balconies at the upper level;
- (f) the placement of some of the dwellings facing Little Kent Street is encouraged;
- (g) the extent of garage doors facing Little Kent Street needs to be reduced to allow improved pedestrian amenity and reduce prominence;
- (h) the modernist architectural expression and minimalist design approach is acceptable;
- (i) the proposed design interprets the traditional terrace and is complementary to the existing pattern of dwellings;
- (j) further demonstration that the white glazed brickwork is compatible with the street is required; and
- (k) sample board should be requested.

51. It is noted that since receiving the written comments from Council's Urban Designer, the applicant met with Council to discuss solutions to the above issues. Whilst not all the Urban Designers suggestions were undertaken by the applicant, Council's Urban Designer was sufficiently satisfied with the revisions made to the plans as per the 2 January 2007 set of plans.

52. The assessment section of this report will discuss the urban design issues in further detail.

Melbourne Water

53. Due to the site's location within the Special Building Overlay, the application was required to be referred to Melbourne pursuant to Section 55 of the Act. Melbourne Water responded that they had no objection to the planning application subject to the following conditions:
- (a) no polluted and/ or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses;
 - (b) finished floor levels must be a minimum of 300mm above the kerb levels; and
 - (c) any new garage, carport or vehicle parking area must be constructed with finished floor or surface levels a minimum of 150mm above the kerb levels.
54. Melbourne Water has also requested the following footnote to be placed on any planning permit issued:
- (a) if further information is required in relation to Melbourne Water's permit conditions shown above, please contact Naaz Begum on telephone (03) 9235 2228, quoting Melbourne Water's reference 123511.
55. Pursuant to section 62(1)(a) of the Act, the above conditions must be imposed on any planning permit issued for the application.

Assessment

56. The proposal raises a number of issues, principally in relation to:
- (a) urban design;
 - (b) traffic and car parking; and
 - (c) potential impact on amenity of existing residences.
57. In addition, Council must also have regard to the objections received.
58. To this extent, the primary decision guidelines and assessment tools for the application will be:
- (a) clause 55 ResCode- Two or more dwellings on a lot; and
 - (b) clause 22.10 Built Form and Design Policy.

Clause 55 – ResCode

59. The application is required to be assessed against the objectives, standards and decision guidelines of clause 55.

Neighbourhood Character

60. Impact of the proposed development upon neighbourhood character has been discussed extensively above.

- 61. It is considered that the proposed development will be sympathetic with the prevailing neighbourhood despite the more modern approach to the design. While the design is presented as a non-traditional building, it nevertheless displays the pattern of the traditional building stock (including vertical emphasis, fine detailing of materials, verticality and setbacks).
- 62. The existing street pattern of Kent Street including single and double fronted dwellings will be able to absorb the change of the pattern from three dwellings facing Kent Street to four dwellings facing Kent Street.
- 63. Five of the dwellings will provide the private open space at the ground level which is consistent with the neighbourhood character. Dwellings 2 and 3 will provide north facing terraces facing Kent Street. From a neighbourhood character perspective, it would have been preferable for the terraces to be discrete from the streetscape, however when considering other conflicting planning considerations, it is appropriate to locate the terraces on the north side of the dwelling to provide suitable residential amenity and energy efficiency. Additionally, the location of the terraces, central to the façade to Kent Street will result in a visual break of the mass of the façade which was actively encouraged by Council's Urban Designer.
- 64. To some extent, the proposed design does rely more upon the emerging neighbourhood character. It is likely that there will be further redevelopments within the locality in a similar manner given limited heritage controls.

Residential Policy

- 65. The subject site is in an appropriate location for medium density housing, as the site has good access to public transport, employment opportunities and local facilities.

Dwelling Diversity

- 66. The above standard does not technically apply to the above site as the development is for less than ten dwellings however, it is considered that the proposed development will meet the objective to create dwelling diversity in developments as three different dwelling layouts will be provided.
- 67. One of the concerns of the residents was in relation to the further reduction of family homes in the Richmond locality. Dwellings 1 and 4 will have three bedrooms which could potentially accommodate "family" although it is noted that the private open space areas are compact in nature which would suit people who want to limit ongoing yard maintenance.
- 68. From a policy perspective, planning policy encourages the consolidation of urban areas to limit environmental impact on the urban fringe and maximise accessibility for the community. Additionally, smaller homes are a direct response to the declining household capacity.

Infrastructure

- 69. The land has connections to all utilities and there is no evidence that the development would overload the existing infrastructure.

- 70. Since the assessment of the application from Council's Engineering Services Unit (dated 22 November 2006), the traffic island which was located to the north of 52 Kent Street has been removed and replaced with an alternative structure to the east. Therefore, commentary with regards to the traffic island are no longer relevant to the consideration of the application.
- 71. In order to control potential damage to Council's assets (due to the proposed works in both Kent Street and Little Kent Street), it is suggested that a condition should be placed on any planning permit issued requiring a pre-construction site meeting and condition assessment of the infrastructure surrounding the site. Additionally, a condition should be imposed on any planning permit issued requiring a construction management plan.
- 72. Concerns were raised by objectors with regard to overloading the capacity of infrastructure. In relation to drainage, the application was referred to Melbourne Water who indicated no issues with regard to infrastructure provision. All other service authorities will be consulted as a part of the subdivision process, should a planning permit be issued and the land subdivided.

Integration with the Street

- 73. It is considered that the proposed dwellings facing Kent Street will generally provide a positive interface with the street. The extent of varied front setbacks, material detailing, side setbacks at the upper level and location of windows and balconies facing the street will assist in the building's integration into the streetscape.

Street Setback

- 74. The appropriateness of the street setback has already been discussed above. Under the above standard, the application should be setback 2.96m. It is considered that the proposed development will provide a transition between the varying setbacks of both adjoining properties. While the proposed development will exceed the front setback of the adjoining properties facing Kent Street (and therefore the above standard), this is nevertheless considered to be acceptable given the structure forward of the prevailing building line is only a balcony and will be located central to the frontage.
- 75. A ResCode assessment for the setback of the dwellings facing Little Kent Street is difficult given that neither adjoining properties have not built form facing Little Kent Street. However, generally building forms in Little Kent Street are constructed to the front title boundaries. It is considered that the construction along the southern title boundary with no setback to Little Kent Street will be entirely appropriate.

Building Height

- 76. The proposed building height will be approximately 6.65m, although there is a change in the topography of the land which will mean that most parts of the building will actually have a building height less than 6.65m. The plans appropriately state that the maximum building height will be R.L. 21.28.

- 77. There is no issue with the overall double storey building height. Further consideration is required in relation to the building height along boundaries and potential impact upon neighbouring properties which will be considered under the relevant ResCode standard.
- 78. In relation to visual impact, the development has been treated to avoid unreasonable bulk through the provision of angled walls for dwellings 1 and 4, and changes in the material detailing.

Site Coverage

- 79. The plans submitted with the application indicate that the site coverage will be in order of 50 per cent of the total site. This complies with the above standard which suggests that a site coverage of 60 per cent should be achieved.

Permeability

- 80. The plans submitted with the application indicate that the permeable area of the application equates to 35 per cent of the site area. This amount complies with the above standard.
- 81. It is noted that the car parking space for dwelling 4 will use Lilydale toppings which is a permeable surfaces. For practicality and potential impact upon the drainage system, it is recommended that an alternative permeable surface be provided for this area.

Energy Efficiency

- 82. The energy efficiency opportunities of the proposed dwellings have been discussed extensively. Generally the energy efficiency outcome for the site will be appropriate with the exception of the provision of the studies of dwellings 1 and 4 with a natural daylight and ventilation source. Furthermore, any windows that should be screened to avoid overlooking, should have an area above 1.7m to allow natural ventilation.

Open Space

- 83. No communal open space will be provided and therefore this standard is not applicable to the application.

Safety

- 84. The proposed development will potentially increase the safety along Little Kent Street given the provision of a more active frontage along this street. In the ResCode standards relating to car parking, there will be further discussion with regards to the limitation of the width of crossovers.
- 85. No other safety matters are evident with this proposal.

Landscaping

- 86. The layout of each of the dwellings will allow a level of landscaping within private open space areas. A condition should be imposed on any planning permit issued requiring the provision of a landscaping plan detailing the planting within the front setback of the development to ensure a suitable presentation to the street.
- 87. Additionally, it is noted that a small street tree will be required to be removed in order to accommodate the proposed crossover to Kent Street. It is considered suitable to place a condition on any planning permit issued requiring the cost of the removal of the tree, the planting of a new tree and the maintenance of the tree in its infancy should be paid by the applicant prior to the commencement of the development. Council's Open Space Section has requested \$1500 to be paid.

Access

- 88. The access arrangements have been assessed by Council's Engineering Services Unit.
- 89. The application seeks the construction of a double crossover to Kent Street. The dimensions and location of the crossover is considered to be satisfactory. It is noted that a small street tree is required to be removed to accommodate the development and payment to Council to remove and replace the street tree has been discussed above.
- 90. The access arrangements to Little Kent Street are problematic. While it is recognised that the character of Little Kent Street includes extensive crossovers to the street, the provision of two triple-width crossovers does not enhance traffic safety. It is therefore considered that some alteration be made to the layout of the development (dwellings 5 and 7 be flipped) so that two double crossovers will be separated by the entrance of dwelling 5 and the triple crossover for dwelling 7 and 4 will be reduced to a single crossover and double crossover.
- 91. Melbourne Water has requested particular requirements in relation to the floor level of the garages and car parking surfaces. A cross- section at a scale of 1:50 will be required to demonstrate that vehicles can access the garage/ car parking space at this level (given the change in levels) without the bottom of the vehicle scraping (or bottoming out).
- 92. The application also proposes alterations to the road reservation of Little Kent Street adjoining the subject site. It is considered that all these works and their costs must be borne by the applicant. Further changes to be made include details of the material, dimensions and drainage system to be implemented to be shown on a scale of 1:50 and submitted to Council's Manager of Infrastructure for further approval.
- 93. The provision of Lilydale toppings for a crossover and a car parking space will not be acceptable to Council. The stones potentially block drainage systems, and in a location which is subject to flooding, can not be supported. A condition can be imposed requiring an alternative permeable surface treatment.

94. The proposed perforated Corten steel gates applied to the garage door of dwelling 1 and 4 can not be used without encroaching on Little Kent Street. It is considered suitable to impose a condition on any planning permit issued requiring an alternative opening mechanism for the door (such as bi-folding) so that the gates can open without encroaching the road reservation whilst vehicles are parked within the car parking spaces.

Parking Location

95. This standard requires that car parking facilities will be:
 - (a) reasonably close and convenient to dwellings;
 - (b) secure;
 - (c) allow safe and efficient movements within the development; and
 - (d) ventilated.
96. The parking location will be reasonably convenient for all of the dwellings and can be fully enclosed for security.
97. The proposed car parking spaces will allow efficient movements although demonstration is required above in regards to the access to ensure vehicles do not scrape.
98. The car parking facilities will meet the above requirement.

Parking Provision

99. The proposed development will provide sufficient car parking for the residents.
100. Dwellings 1 and 4 which are provided with three bedroom accommodation will be provided with two car parking spaces accessed from Little Kent Street. The length of these car parking spaces at 6.0m meet the above standard however there is a marginal non-compliance with the width of the car parking spaces of dwellings 1 and 4. The above standard requires the width of car parking spaces constrained by walls to be 5.5m. The car parking area associated with dwelling 1 will be 5.32m and 5.27m associated with dwelling 4. Despite the minor non-compliance with the width of the car parking space under the above standard, it is considered that two vehicles will be able to physically fit although it will be tight.
101. In relation to the single car garages associated with dwellings 5-7, the length at 6.0m and the width of 3.5m complies with the above standard.
102. The car parking spaces associated with dwellings 2 and 3 with access from Kent Street will have dimensions 3.0m by 6.0m. The proposed width of 3.0m of the car parking spaces is considered acceptable given that there will only one column between the car parking spaces which would not restrict the ability to open and manoeuvre into the car parking spaces.
103. In relation to visitor car parking, the above standard requires the provision of one visitor car parking space to each five new dwellings. The application therefore seeks a technical waiver of the visitor car parking space.

104. Given that all of the dwellings will be provided with the required number of car parking spaces (which is unique given the restrictions on development in Richmond), it is considered that the waiver of the visitor car space can be supported.
105. The implementation of a visitor car parking space would not be successful for the development as the proposal does not include common property and the potential management issues associated with common property (particularly when only limited to one car parking space).
106. It is noted that the development does not include bicycle parking. In the absence of the required visitor car parking space, it is considered suitable to request bicycle parking for each dwelling to be shown on the plans.

Side and Rear Setback

107. The proposed development will not comply with the side and rear setbacks in standard relation to the upper floor of dwellings 1 and 4. The setback of the upper level from the east and west title boundaries will vary from 0.75m to 1.27m. The above standard would suggest a side setback at the upper floor level approximately 1.9m. Whilst the proposed development will not comply with this requirement, it is nevertheless not considered to be fatal to the application.
108. With respect to the non-compliance relating to dwelling 1 and the western title boundary, the proposed first floor building envelope will be located adjacent to the roof of the adjoining property and therefore will not have any impact.
109. With respect to the non-compliance relating to dwelling 4 and the eastern title boundary, much of the proposed first floor building envelope will be located adjacent to the roof of the adjoining property. However, unlike dwelling 1, approximately 3.7m of the first floor building envelope of dwelling 4 will be visible from the private open space of the adjoining property to the east. Despite, the visibility, the proposed building envelope will not create significant visual bulk as it is setback 1.23m and the material detailing has been treated with expressed joints in a vertical arrangement which provides visual interest and reduces the perceived length of the building.
110. With respect to the non-compliance relating to the southern title boundary, it is demonstrated by the form of the building on the opposite side of the street, that no setback to the street is an appropriate building form. The location of Little Kent Street will provide separation between these buildings so that no amenity impact will occur.

Walls on boundary

111. The above standard provides controls on the height and length of walls along title boundaries.
112. The height of the walls along the title boundaries were of particular concern to the objectors to the application.

- 113. The combination of the change in the topography of the land and the restrictions placed on the development by Melbourne Water to resolve potential flooding issues has resulted in the development being outside the above standard. The walls on boundary standard requires that the height of walls on boundary should have an average of 3.0m (but be no higher than 3.6m).
- 114. The wall on boundary along the eastern title boundary ranges in height between 3.4m to 3.7m. The length of this wall is in order of 22.5m. The height of the remaining section of fence will vary between 2.4m and 2.6m.
- 115. Much of the wall along the eastern title boundary will be adjacent to the dwelling located on the adjoining property to the east. However, there will be a significant length of wall highly exposed to this property. In relation to the length of the wall, there is the ability to change the wall located adjacent to the courtyard of dwelling 4 to a normal paling fence which will physically break up the length of the wall (by dividing it into two separate parts) and will also reduce the height of this wall to a standard paling fence height.
- 116. The southern section of dwelling 4 will result in 6.1m located on the eastern title boundary. This wall varies in height between 3.5m to 3.7m. The floor level is approximately 600mm above the natural ground level, at this point, due to the requirement of Melbourne Water to have the finished floor level 300mm above the kerb line. The top of this section of wall comprises of a horizontal glazed roof section, and therefore there may be the opportunity to rake the glazed roof form which will achieve the reduction in the overall height of the wall. By imposing a condition of this nature, the wall on boundary could potentially be lowered to comply with the above standard requirement (3.0m). This would afford a lower wall on boundary without affecting the overall amenity of the room.
- 117. Due to the elevated deck level of dwelling 4, the fence located along the eastern title boundary has also been increased in height. A condition should be imposed on any planning permit issued that lowers the height of the deck level to be 150mm above the kerb line of Little Kent Street. In turn, the height of the fence should be 1.8m above deck level.
- 118. Similarly, the same situation occurs along the western title boundary in relation to dwelling 1. In fact, the difference between floor height and natural ground level is more significant on the western side of the site. The deck height should be lowered and therefore the overall fence height will be lowered.

Daylight to existing windows

- 119. There are no other windows that would be affected by the development.

North facing windows

- 120. The proposed development does not have any north facing windows within 3.0m of the development.

Overshadowing Open Space

121. Shadow diagrams have been submitted with the above application. It is noted that the proposed development will create some shadow on adjoining properties. The shadow impact has been improved since the relocation of the building envelopes of the first floors of dwellings 1 and 4.
122. The shadow diagrams indicate that the proposed development will allow both side adjoining properties to have adequate solar access either in the morning or afternoon. In addition, further opportunities to reduce shadow will be created through the reduction in the walls heights in selected locations along the western and eastern title boundaries.

Overlooking

123. Some of the previous overlooking concerns raised by the objectors to the application have been addressed through the submission of revised plans which specifically, deleted the staircase window on the east and west elevations.
124. However, there are remaining overlooking issues relating to the south facing window of bedroom 2 of dwelling 4. This window will need to be screened in accordance with the above standard to ensure no overlooking opportunities to the adjoining property to the east.
125. The south facing windows of dwellings 5, 6 and 7 may have the opportunity to overlook the rear yard of the existing dwelling at 49 Somerset Street. A planning application is before Council to development the land for a townhouse facing Little Kent Street. If approval of this development is given, the layout of the development will result in all windows and private open space to be screened to a height of 1.7m. If this is the case, there would be no requirement to screen the south facing windows of dwellings 5, 6 and 7. Therefore, a condition could be imposed on any planning permit issued which requires demonstration of compliance with relation to overlooking into the property at 49 Somerset Street.

Internal views

126. More details on the plans are required to demonstrate that no internal views between dwellings are available from:
 - (a) bedroom 2 of dwelling 1; and
 - (b) bedroom 2 of dwelling 4.
127. A condition can be imposed on any planning permit issued to ensure these windows are screened or demonstrated that no internal views will result.

Noise impact

128. The subject site is located within a residential zone and the proposed development is residential in nature. It is considered that all possible noise created will be consistent with the residential use.

Accessibility

- 129. The mix of floor layouts of dwellings will ensure that some of the dwellings will be accessible to disabled persons. Specifically, the design of dwellings 1 and 4 which includes kitchen/ living, bathroom and bedroom facilities at ground floor level will allow for accommodation for persons with limited mobility.
- 130. As part of the site is encumbered by the Special Building Overlay, Melbourne Water has required the floor levels to be elevated 300mm above the kerb line which has introduced a few steps to access the ground floor of the dwellings.

Dwelling Entry

- 131. All dwelling entries will be easily recognisable. For the dwellings facing Little Kent Street, the entries have been emphasised by providing particular pavement which match the pedestrian entries.
- 132. It is considered appropriate to place a condition on the planning permit issued requiring glazing to be either incorporated into the pedestrian door or side glazing panels be provided.

Daylight to New Windows

- 133. Generally all new windows within the development will have sufficient access to daylight.
- 134. Concern is raised with regard to bedroom 2 of dwellings 2 and 3 achieving sufficient natural daylight and ventilation. A north facing window has been provided for these bedrooms, however these windows will not receive sufficient daylight due to the location of the balcony cantilevering over the window for a distance of 4.13m. The windows will not provide suitable amenity as it also adjoins the car parking space for these dwellings. Bedroom 2 of dwellings 2 and 3 have also been provided with obscure glass window facing the south and a partially glazed roof. Given the location of the robes across the windows and located beneath the partially glazed roof, in order to ensure that sufficient daylight and ventilation to bedroom 2 of dwellings 2 and 3, it is considered appropriate to impose a condition on any planning permit to relocate the robes so that the south facing window and glazed roof will be unencumbered by the robe.
- 135. During the application process, windows at the first floor level on the east and west elevations have been deleted in response to concerns raised by the adjoining properties. This change to the plans, however, has resulted in the study areas to be provided with no natural daylight or ventilation source. It is therefore considered appropriate on any planning permit issued to impose a condition to require the provision of an openable skylight to enable natural daylight and ventilation.

Private Open Space

- 136. Each of the dwellings will be provided with individual private open space areas. All of the primary private open spaces will be provided with convenient access from the kitchen/ dining and living rooms which is specifically required under the above clause.

- 137. The deck associated with dwelling 1 will have dimensions 4.33m by 5.32m, giving an overall area of 23sqm. Similarly, Dwelling 4 will have a deck with dimensions of 4.28m by 5.66m, giving an overall area of 24.22sqm. Both of these dwellings will be provided with a water feature to enhance the private open space areas. The above standard suggests that private open space located at ground level should have an area of secluded private open space of 25sqm. Dwellings 1 and 4 would comply with this requirement if the area of the water feature is used in the private open space calculation. In addition, the above standard requires an overall area of 40sqm which is achieved for dwellings 1 and 4 given that they have an open space area within the front setback of 15sqm. The minimum width of the private open space is also complied with.
- 138. Dwellings 2 and 3 will be provided with a north facing terrace with a total area of 18sqm. The above standard requires balconies to have an area of 8.0sqm with a minimum width of 1.6m. A very small proportion of the terrace will only have a width of 1.2m which would not comply with the above standard however more than 12sqm of the terrace exceeds the requirement of the minimum width of 1.6m. Compliance with the above standard is achieved.
- 139. Dwellings 5-7 will be provided with ground floor private open space areas. The total area of private open space will be 38sqm which is a marginal non-compliance with the above standard which specifies that the private open space should be a minimum of 40sqm. The non-compliance is not considered to be significant given the northern orientation of the private open space, the connection with the dwelling, and the usability of the space.
- 140. Compliance with the above standard is achieved.

Solar Access to Private Open Space

- 141. The location of the private open space associated with dwellings 5-7 to the north of the dwellings will enable excellent solar access for these dwellings providing that the walls separating the areas of private open space are kept to minimum height. A condition should be imposed on any planning permit issued requiring the specification of the fencing adjacent to the private open spaces to be 1.7m above ground or deck level (which will also ensure privacy).
- 142. In relation to dwellings 2 and 3, terraces have been added to the north side of the dwellings to maximum solar access for these dwellings. These dwellings will also be provided with south facing private open space at ground level. These areas will not receive any solar access but nevertheless will be considered as secondary private open spaces and will generally improve residential amenity of these dwellings. During the application process, the south facing, ground floor, private open spaces of these dwellings have been substantially reduced in size in favour of the north facing terraces at first floor level.
- 143. In relation to dwellings 1 and 4, decks have been provided to the south of the dwellings. This does not maximise solar access to these dwellings but given the orientation of the lot, located on the southern side of Kent Street, this arrangement is unavoidable. While a balcony facing Kent Street would have been one solution for these dwellings, it would mean the balconies at the first floor level along the entire front façade to Kent Street which would have an impact on the design and the integration of the development in the streetscape.

- 144. The decks for dwellings 1 and 4, while south facing, are relatively large in size and therefore will allow some solar access (but not optimum solar access). The shadow diagrams submitted with the application indicate some solar access. Additionally, it is noted that the area within the front yards of these dwellings will be north facing and therefore will achieve solar access even when the rear decks can not.
- 145. Having regard to the fact that the majority of the dwellings proposed will have reasonable to excellent solar access, it is considered that generally compliance with the above standard will be achieved.

Storage

- 146. The application plans show the location of external storage areas for each dwelling. Compliance with the above standard is achieved.

Design Detail

- 147. The design of new development is encouraged to respect the existing or preferred neighbourhood character. In this instance, it is considered that the proposed development will achieve a design which does not compromise the neighbourhood character of the surrounding area. Neighbourhood character has already been discussed in the above report.
- 148. The design is clearly contemporary in nature using a variety of different architectural forms which will provide a high degree of articulation.
- 149. The application was also assessed by Council's Urban Designer who generally supported the proposed development subject to a number of changes which have been included in the revised plans dated 2 January 2007.

Front Fence

- 150. The proposed development will comprise of a new front fence facing Kent Street. The front fence will be galvanised steel slats on a steel frame. The height of the front fence will be graduated due to the slope of the land but the maximum height of the fence will be 1.5m.
- 151. The slats will be in a vertical arrangement which broadly reflects the traditional timber picket fencing of the locality.
- 152. The height of the front fence at 1.5m will meet the above standard. It is noted that many of the surrounding properties have lower styled fencing (approximately 1.0m to 1.20m in height). While the proposed front fence will be slightly higher than the surrounding front fencing, it is nevertheless considered appropriate having regard to the scale of the proposed development. In addition, the proposed front fence will allow a high degree of transparency.
- 153. It is noted that the proposed front fence will have a visual interruption at the location of the bin storage area located adjacent to the northern title boundary associated with dwellings 2 and 3. As discussed under the 'site services' standard of this report, it is considered appropriate to request a 1:50 elevation of the bin storage area. It is also considered suitable to require the bin storage area to be integrated into the design of the front fence so that the bin storage area is not as apparent.

Common Property

154. The development has been designed so that no common property will be created.

Site Services

155. The proposed development shows the location of a bin storage area for dwellings 1-4. It is noted that the bin storage will only achieve storage for one wheelie bin. Council's current arrangement for the collection of rubbish and recycling will include the provision of two wheelie bins of 80 litres. It is therefore considered appropriate to impose a condition on any planning permit issued requiring the proposed bin storage areas to be extended to include recycling receptacle storage. Similarly, it is considered suitable to impose a condition on any planning permit issued for the location of bin and recycling storage for dwellings 5-7.
156. It is noted that the bin storage for dwellings 2 and 3 will be located within the front yard facing Kent Street. Concern is raised about the potential impact upon having bin storage within the front setback. A condition requiring the elevation of the bin and recycling storage at a scale of 1:50 showing these facilities to be screened from general view should be imposed on any planning permit issued.
157. In relation to other site services including mail boxes, hot water services, air conditioning and heating systems, a condition can be imposed on any planning permit issued requiring these facilities to be shown on the plans and to be screened from general view.

Clause 22.10 Built Form and Design Policy

158. The guidelines relate to all new development located outside heritage overlay areas. As the application is to be assessed against the provision of clause 55 (see below), Council is only required to make a full assessment against the following design elements:
- urban form and character;
 - setbacks and building heights;
 - street and public space quality; and
 - environmental sustainability.

Urban form and character

159. The subject site interfaces with two different built forms. The built form to Kent Street contains modest original dwellings that were constructed with primary frontage to Kent Street which contribute to the residential nature of the street. The second built form typology is that facing Little Kent Street which is the secondary frontage to many properties facing Kent Street and Somerset Street and comprises a combination of the rear of properties including sheds, roller doors and the occasional residential building facing Little Kent Street. Given the secondary nature of the Little Kent Street, the streetscape is more discordant.

160. The unifying feature of both streets is the level of infill buildings and the potential for redevelopment due to the lack of heritage controls on the present built form.
161. The proposed development will retain the City's fine grain street pattern and urban form. The prevailing subdivision pattern with single frontages to Kent Street will be maintained by the proposed layout of the development through the use of narrow allotment widths. Council's Urban Designer commended the application with regard to the retention of the street pattern and rhythm facing Kent Street. Similarly, the division of the Little Kent Street frontage into five separate proportions, will retain the subdivision pattern facing Little Kent Street.
162. In relation to the building design, Council's Urban Designer commented that the modernist architectural expression and minimalist design approach was acceptable in the locality. The design acknowledges the traditional terrace formation through the vertical patterning of the façade. However, concern is raised with regards to the combination of colours, materials and finishes and integration with the streetscape. In particular, the use of glazed white bricks is not evident in the locality and therefore it is recommended that a condition be imposed on any planning permit requiring a schedule of colours, material and finishes (which is a standard requirement) with the specification that the proposed brickwork be changed to a traditional brickwork located within the streetscape.
163. The proposed built form will add to the layering of architectural styles located in this street. The dwellings are clearly modern in appearance but references the simple and understated nature of surrounding buildings facing Kent Street. The fine grain detailing of the general locality has been reflected through the design treatment of the building including the simple but effective steel beam frame, the provision of expressed joints in the fibre cement sheeting cladding, the gentle differing setbacks and variation in the material cladding.
164. The façade of the building has been improved since the original application through the provision of a deep recess central of the façade (the location of the terrace areas associated with dwellings 2 and 3) which will reduce the overall continuity and mass associated with the façade. The strong steel frame in the façade has also been reduced to be more sympathetic to the modest building form of the locality.
165. The design of the Little Kent Street frontage has also been improved through the planning process through the provision of alternative and generally higher quality design treatments to the garage doors facing Little Kent Street. The finer detailing to the Little Kent Street frontage is not warranted in this instance as the majority of built forms facing this street are very modest and simple outbuilding or similar structures. Consideration could be given to the further vertical division of the first floor windows however this is not considered necessary in the Little Kent Street location given that understated and simple structures are predominant to the traditional housing stock of the Richmond locality.
166. Also during the application process, the cladding of dwellings 5-7 have been altered to include timber cladding. Timber cladding is a traditional material in the locality and therefore this aspect is appropriate. However, further information is required in relation to the finish of the timber cladding to ensure that weathering of the timber is controlled particularly on the western side.

Setbacks and building heights

- 167. The proposed development will use a varied setback to the Kent Street frontage which assists in the transition of the development into the developments and adds finer detailing to the façade. The ground floor and first floors will also have differing setbacks.
- 168. At ground floor, the western side of the development will have a slightly greater setback to Kent Street than the adjoining property to the west however, the eastern side of the development will have a slightly less setback to Kent Street than the adjoining property to the east. The difference between the development and the adjoining sites will be less than 1.4m.
- 169. The upper floor will reduce the front setback to 1.87m in the centre of the frontage. Given that this element is centre of the frontage and that it is balcony only (thereby not having the same extent of bulk than if the setback was full length walls), the reduced setback can be supported as it will not be appreciable in the streetscape.
- 170. In relation to the Little Kent Street dwellings, there will be no setback provided, which is considered to be acceptable. The prevailing built form of Little Kent Street includes high rear fences including roller doors, outbuildings and garages with no setback.
- 171. In relation to proposed height, it is considered that the proposed double storey height is appropriate. This streetscape can readily accommodate a mix of single and double storey. While it is acknowledged that both adjoining buildings facing Kent Street are single storey, the traditional building forms including a pitched roof form adds additional height to the building which will not be similar to the overall height of the proposed development. The maximum height of 6.55m is considered to be reasonable in the context.
- 172. It is further noted that the change in the topography of the land will affect the height of the overall development in order to obtain dwellings which do not have a change in the floor level. In addition, the imposition of the controls of Melbourne Water because of the potential flooding issue, means that slightly more additional height has been added to accommodate both the change in the topography of the land and the potential flooding issue. There will be further detailed discussion in relation to the height (more particularly, the height of walls on boundaries in the ResCode assessment of this report.)
- 173. In relation to policy, the policy requires that the height of the new development is appropriate to the context of the area. Having regard to this policy, there is no issue with the provision of double storey built form for the site. This has also been reinforced by the previous approval of the site which allowed double storey building form.
- 174. In relation to the proposed roof form, the building will effectively have a flat roof form. It is acknowledged that traditional roof forms are more common in the locality however more recent developments have introduced the flat roof form. Additionally, buildings facing Little Kent Street are generally of the flat roof form. The lack of pitched roof form of the development is not considered to unreasonably affect the overall neighbourhood character of the site. The provision of any additional roof articulation including a pitched roof form would undermine the proposed architectural approach of the development.

175. Inspection of the east and west elevations indicates that there will be a small variation in the height of the parapet at the first floor level of about 500mm. This change in the height of parapet will be very subtle.

Street and public space quality

176. The Kent Street dwellings have been orientated to face Kent Street and will produce a suitably high quality architectural design.
177. The proposed front façade includes the provision of lowlight and highlight windows which will allow for perceived observation and surveillance opportunities only. More traditional windows with typical window sill heights would achieve better observation and surveillance opportunities however planning policy would not provide sufficient strength in order to require the proposed lowlight and highlight windows to be replaced with more traditional window forms. In addition, the architectural merit of the design may be compromised with the provision of traditional windows.
178. In relation to the Little Kent Street frontage, revisions have been made to the garage detailing to achieve high quality material detailing allowing perceived transparency. This is even more important to the urban design outcome of the development as there no active frontage to the dwelling (i.e. no habitable rooms adjacent to the street at ground level). The extensive glazing at the first floor will also compensate for the lack of observation and surveillance opportunities at ground level for the dwellings facing Little Kent Street. The location of the dwellings in Little Kent Street will potentially improve the quality of the public space and the application includes alteration to the public domain in order to define crossovers and pedestrian entries.
179. The design of the development facing Kent Street will not create any particular safety issues and will have no impact on pedestrian amenity although a double crossover will be provided centre to the frontage.

Environmental sustainability

180. Appropriate regard has been made to overall environmental sustainability. From a broad perspective, urban consolidation will reduce environmental impacts on the urban fringe. From a more local perspective, the design has also incorporated energy efficient principles in the design including:
- (a) the predominant alignment of the dwellings in a north-south direction;
 - (b) the location of the front habitable rooms for dwellings 1-4 to the north so as to achieve maximum solar access;
 - (c) the location of the living rooms and private open space associated with dwellings 2, 3 and 5-7 to the north;
 - (d) the provision of attached walls and floors to retain heat;
 - (e) the provision of no west facing windows; and
 - (f) generally all habitable rooms to be provided with a natural daylight source which will allow ventilation.
181. It is noted that with the alterations to the plans in order to reduce overlooking concerns of the objectors, that the study has been provided without a window. A condition should be imposed on any planning permit issued which requires an openable skylight to be provided so that a natural daylight and ventilation can be achieved to these areas.

Conclusion

183. It is recommended to the Committee that having considered all objections and relevant planning documents, the Committee resolves to issue Notice of Decision to Grant Planning Permit Application No. PL06/0739 for the development of seven dwellings at the subject site 52-56 Kent Street, Richmond.

RECOMMENDATION

184. That having considered all objections and relevant planning documents, the Committee issue a Notice of Decision to Grant Planning Permit Application No. PL06/0739 for the purposes of development of the site at 52-56 Kent Street, Richmond for seven dwellings subject to the following conditions:

Amended Plans

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the planning permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally be in accordance with the determination plans received at Council on the 2 January 2007 which made the following modifications to the application:
 - (a) the inclusion of a visual break central to the Kent Street frontage through the deletion of the roof areas to the terraces of dwellings 2 and 3;
 - (b) the steel beam along the Kent Street frontage, reduced in size and relocated to be less prominent;
 - (c) the deletion of the roller doors along the Kent Street and the provision of alternative material treatment of the garage doors including perforated Corten steel gates for dwellings 1 and 4, perforated galvanised steel tilt up garage doors for dwellings 5 and 7, and timber panel tilt up door for dwelling 6;
 - (d) the deletion of the west facing study window for dwelling 1;
 - (e) the deletion of the east facing study window for dwelling 4;
 - (f) the relocation of the building envelope of dwellings 1 and 4, 6 metres towards the north;
 - (g) the alteration of the footpath and crossover material detailing in Little Kent Street to define pedestrian and vehicle entries;

but further modified to show:

- (h) deletion of the traffic slowpoint located within the Kent Street road reservation;
- (i) the location of all street trees with a notation to the small street tree stating that removal and replanting will be conducted by Council at the expense of the applicant;
- (j) scale of 1:50 showing the materials and construction details of the modifications to Little Kent Street to be approved by Council's Manager of Infrastructure;

- (k) cross-section at a scale of 1:50 showing the floor levels of the garages and car parking surfaces in accordance with Melbourne Water's requirements and demonstration that a 85th percentile vehicle can access and egress the garage without 'bottoming out';
- (l) flipping the layout of dwellings 5 and 7 so that two double crossovers will be separated by the pedestrian entrance of dwelling 5 and the triple crossover for dwelling 7 and 4 will be reduced to a single crossover and then a double crossover;
- (m) the deletion of the Lilydale toppings for a crossover and car parking space and the provision of an alternative surface treatment;
- (n) an alternative opening mechanism for the perforated Corten steel gates so that that gates can open without encroaching the road reservation whilst vehicles are parking within the car parking space;
- (o) the provision and details of a bicycle space for each dwelling;
- (p) the wall along the eastern title boundary adjacent to the lightcourt of dwelling 4 be replaced with a normal paling fence;
- (q) the living room wall located on the eastern title boundary to be reduced to a maximum of 3.0m when measured from the adjoining property to the east;
- (r) the lowering of the decks of dwellings 1 and 4 to 150mm above the kerb line of Little Kent Street and the reduction in the height of the fence to 1.8m above deck level;
- (s) demonstration of compliance with the standard relating to overlooking in relation to the property at 49 Somerset Street;
- (t) the implementation of screening techniques to prevent potential overlooking from the south facing window of bedroom 2 of dwelling 4 in accordance with the relevant standard relating to overlooking;
- (u) prevent potential internal views available from bedroom 2 of dwelling 1 and bedroom 2 of dwelling 4;
- (v) the relocation of the robes associated with bedroom 2 of dwellings 2 and 3 so that the south facing window will remain unencumbered;
- (w) the specification of the fences to the private open spaces of dwellings 5 to 7 to be 1.7m above deck level;
- (x) the provision of openable skylights for all studies;
- (y) the details of site permeability indicating that 20 per cent will be achieved for the development site;
- (z) external lighting at all pedestrian entries to be incorporated into the overall design of the building;
- (aa) the provision of side glazing panels or glazing in doors for pedestrian entries for the dwellings facing Little Kent Street;
- (ab) the location of mail boxes for each of the dwellings;
- (ac) the provision of a bin enclosure for each of the dwellings that will accommodate two 80 litre wheelie bins;
- (ad) the location of any plant and machinery including hot water services, air conditioning units and heating units, all of which are to be screened from street views;
- (ae) the provision of the landscape plan to show the location, quantity and maturity of all proposed plants, the botanical name of plants, the location of all areas to be covered by lawn and a specification of works to be undertaken prior to planting. Native plants should be planted;

- (af) a schedule of all external colours, materials and finishes to show all external walls, roof, fascias, window frames, glazing types, doors, fences, paving (including car park surfaces), outbuildings and structures. The schedule shall show the deletion of the white glazed bricks with the selected brickwork to be traditional brickwork located within the streetscape and the treatment of timber cladding against weathering; and
- (ag) notation indicating all boundary walls will be cleaned and finished.

Endorsed Plans

2. All development must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.

Car Parking Areas

3. All areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
 - (a) used for no other purpose;
 - (b) formed to levels, constructed, line marked, sealed, illuminated and drained to specifications approved by the Responsible Authority; and
 - (c) maintained at all times to the satisfaction of the Responsible Authority.

Vehicular crossings

4. Any alteration to vehicular crossovers must be in accordance with Council's standard vehicular crossing specification. Any portions of redundant vehicle crossing shall be reinstated with kerbing and paving of the surrounding area with the cost of all works to be borne by the permit holder.

Damage to Roads

5. All damaged road(s) and footpath(s) adjacent to the development site must be reinstated to the satisfaction of the Responsible Authority.

Street tree

6. The applicant or permit holder must pay all costs associated with the removal and the replanting of the street tree.

Landscaping

7. Landscaping must be carried out in accordance with the endorsed landscaping plan and maintained to the satisfaction of the Responsible Authority.

Lighting

8. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on nearby land.

Melbourne Water

9. No polluted and/ or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses;
10. Finished floor levels must be a minimum of 300mm above the kerb levels;
11. Any new garage, carport or vehicle parking area must be constructed with finished floor or surface levels a minimum of 150mm above the kerb levels.

Pre-construction Meeting

12. Prior to the commencement of works including demolition, the application is to contact Council's Services Contracts Unit to arrange a pre-construction site meeting and condition assessment of the infrastructure surrounding the site.

Construction Management Plan

13. Prior to the commencement of construction or any works on the site (including demolition and material removal) the applicant must submit for approval to the Responsible Authority a Construction Management Plan in line with the requirements of the City of Yarra's Building Code of Practice. The plan must address, but not be limited to the following:
 - (a) site contamination and disposal of contaminated matter;
 - (b) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside the site;
 - (c) on site facilities for vehicle washing;
 - (d) parking facilities for construction workers;
 - (e) delivery and unloading points and expected frequency;
 - (f) a liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced; and
 - (g) an outline of requests to occupy footpaths or roads, or anticipated disruptions to local services.

Construction

14. During the construction phase of the development, the following conditions shall be met:
 - (a) only clean rainwater shall be discharged to the stormwater drainage system;
 - (b) stormwater drainage system protection measures shall be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the premises enters the stormwater drainage system;
 - (c) vehicle borne material from the premises shall not accumulate on the roads abutting the site;
 - (d) all machinery and equipment must be cleaned (if required) on site and not on adjacent footpaths or roads;

- (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be contained within the site boundaries, and disposed of responsibly; and
- (f) all site operations shall comply with the *Environmental Protection (Residential Noise) Regulations 1997*.

Construction Hours and Noise

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

Time Limits

- 16. This permit will expire if the development is not commenced within two years from the date of this permit. All development must be completed within four years of the date of this permit. The Responsible Authority may approve extensions to these time limits if requests are made within three months of expiry.

Notes:

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

Vehicle crossings must be located on the endorsed plans and constructed to the satisfaction of the Responsible Authority.

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

In accordance with Council policy, a 5 per cent public open space contribution may apply in the event of the subdivision of the land.

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

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Naaz Begum on telephone (03) 9235 2228, quoting Melbourne Water's reference 123511.

Submissions

Ms Kathryn Hanbud addressed the Committee on behalf of the Applicant.

The following people also addressed the Committee:

*Ms Chrisanne McDonald; and
Ms Narelle Honey.*

INTERNAL DEVELOPMENT APPROVALS COMMITTEE RESOLUTION

Moved: Councillor D'Agostino

Seconded: Councillor Barbara

That having considered all objections and relevant planning documents, the Committee issue a Notice of Decision to Grant Planning Permit Application No. PL06/0739 for the purposes of development of the site at 52-56 Kent Street, Richmond for seven dwellings subject to the following conditions:

Amended Plans

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the planning permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally be in accordance with the determination plans received at Council on the 2 January 2007 which made the following modifications to the application:
 - (a) the inclusion of a visual break central to the Kent Street frontage through the deletion of the roof areas to the terraces of dwellings 2 and 3;
 - (b) the steel beam along the Kent Street frontage, reduced in size and relocated to be less prominent;
 - (c) the deletion of the roller doors along the Kent Street and the provision of alternative material treatment of the garage doors including perforated Corten steel gates for dwellings 1 and 4, perforated galvanised steel tilt up garage doors for dwellings 5 and 7, and timber panel tilt up door for dwelling 6;
 - (d) the deletion of the west facing study window for dwelling 1;
 - (e) the deletion of the east facing study window for dwelling 4;
 - (f) the relocation of the building envelope of dwellings 1 and 4, 6 metres towards the north;
 - (g) the alteration of the footpath and crossover material detailing in Little Kent Street to define pedestrian and vehicle entries;

but further modified to show:

- (h) deletion of the traffic slowpoint located within the Kent Street road reservation;

- (i) the location of all street trees with a notation to the small street tree stating that removal and replanting will be conducted by Council at the expense of the applicant;
- (j) scale of 1:50 showing the materials and construction details of the modifications to Little Kent Street to be approved by Council's Manager of Infrastructure;
- (k) cross-section at a scale of 1:50 showing the floor levels of the garages and car parking surfaces in accordance with Melbourne Water's requirements and demonstration that a 85th percentile vehicle can access and egress the garage without 'bottoming out';
- (l) flipping the layout of dwellings 5 and 7 so that two double crossovers will be separated by the pedestrian entrance of dwelling 5 and the triple crossover for dwelling 7 and 4 will be reduced to a single crossover and then a double crossover;
- (m) the deletion of the Lilydale toppings for a crossover and car parking space and the provision of an alternative surface treatment;
- (n) an alternative opening mechanism for the perforated Corten steel gates so that that gates can open without encroaching the road reservation whilst vehicles are parking within the car parking space;
- (o) the provision and details of a bicycle space for each dwelling;
- (p) the wall along the eastern title boundary adjacent to the lightcourt of dwelling 4 be replaced with a normal paling fence (1.8m in height);
- (q) the living room wall located on the eastern title boundary to be reduced to a maximum of 3.0m when measured from the adjoining property to the east;
- (r) the lowering of the decks of dwellings 1 and 4 to 150mm above the kerb line of Little Kent Street and the reduction in the height of the fence to 1.8m above deck level;
- (s) demonstration of compliance with Standard B22 in relation to the property at 49 Somerset Street;
- (t) the implementation of screening techniques to prevent potential overlooking from the south facing window of bedroom 2 of dwelling 4 in accordance with Standard B22;
- (u) prevent potential internal views available from bedroom 2 of dwelling 1 and bedroom 2 of dwelling 4;
- (v) the relocation of the robes associated with bedroom 2 of dwellings 2 and 3 so that the south facing window will remain unencumbered;
- (w) the specification of the fences to the private open spaces of dwellings 5 to 7 to be 1.7m above deck level;
- (x) the provision of openable skylights for all studies;
- (y) the details of site permeability indicating that 20 per cent will be achieved for the development site;
- (z) external lighting at all pedestrian entries to be incorporated into the overall design of the building;
- (aa) the provision of side glazing panels or glazing in doors for pedestrian entries for the dwellings facing Little Kent Street;
- (ab) the location of mail boxes for each of the dwellings;
- (ac) the provision of a bin enclosure for each of the dwellings that will accommodate two 80 litre wheelie bins, including appropriate screening with details to be submitted;
- (ad) the location of any plant and machinery including hot water services, air conditioning units and heating units, all of which are to be screened from street views;

- (ae) the provision of the landscape plan to show the location, quantity and maturity of all proposed plants, the botanical name of plants, the location of all areas to be covered by lawn and a specification of works to be undertaken prior to planting. Native plants should be planted;
- (af) a schedule of all external colours, materials and finishes to show all external walls, roof, fascias, window frames, glazing types, doors, fences, paving (including car park surfaces), outbuildings and structures. The schedule shall show the deletion of the white glazed bricks with the selected brickwork to be traditional brickwork located within the streetscape and the treatment of timber cladding against weathering;
- (ag) notation indicating all boundary walls will be cleaned and finished;
- (ah) low light windows associated with the first floor south facing bedrooms of Unit 1 and Unit 4 to be appropriately screened; and
- (ai) deletion of the first floor ensuite and study area of Unit 4 with a corresponding reduction in the first floor envelope by 3.0m from the south boundary.

Endorsed Plans

2. All development must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.

Car Parking Areas

3. All areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
 - (a) used for no other purpose;
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Vehicular crossings

4. Any alteration to vehicular crossovers must be in accordance with Council's standard vehicular crossing specification. Any portions of redundant vehicle crossing shall be reinstated with kerbing and paving of the surrounding area with the cost of all works to be borne by the permit holder.

Damage to Roads

5. All damaged road(s) and footpath(s) adjacent to the development site must be reinstated to the satisfaction of the Responsible Authority.

Street tree

6. The applicant or permit holder must pay all costs associated with the removal and the replanting of the street tree.

Landscaping

7. Landscaping must be carried out in accordance with the endorsed landscaping plan and maintained to the satisfaction of the Responsible Authority.

Lighting

8. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on nearby land.

Melbourne Water

9. No polluted and/ or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses;
10. Finished floor levels must be a minimum of 300mm above the kerb levels;
11. Any new garage, carport or vehicle parking area must be constructed with finished floor or surface levels a minimum of 150mm above the kerb levels.

Pre-construction Meeting

12. Prior to the commencement of works including demolition, the application is to contact Council's Services Contracts Unit to arrange a pre-construction site meeting and condition assessment of the infrastructure surrounding the site.

Construction Management Plan

13. Prior to the commencement of construction or any works on the site (including demolition and material removal) the applicant must submit for approval to the Responsible Authority a Construction Management Plan in line with the requirements of the City of Yarra's Building Code of Practice. The plan must address, but not be limited to the following:
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 - (c) on site facilities for vehicle washing;
 - (d) parking facilities for construction workers;
 - (e) delivery and unloading points and expected frequency;
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 - (g) an outline of requests to occupy footpaths or roads, or anticipated disruptions to local services.

Construction

14. During the construction phase of the development, the following conditions shall be met:
 - (a) only clean rainwater shall be discharged to the stormwater drainage system;
 - (b) stormwater drainage system protection measures shall be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the premises enters the stormwater drainage system;
 - (c) vehicle borne material from the premises shall not accumulate on the roads abutting the site;
 - (d) all machinery and equipment must be cleaned (if required) on site and not on adjacent footpaths or roads;
 - (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be contained within the site boundaries, and disposed of responsibly; and
 - (f) all site operations shall comply with the *Environmental Protection (Residential Noise) Regulations 1997*.

Construction Hours and Noise

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Time Limits

16. This permit will expire if the development is not commenced within two years from the date of this permit. All development must be completed within four years of the date of this permit. The Responsible Authority may approve extensions to these time limits if requests are made within three months of expiry.

Notes:

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

Vehicle crossings must be located on the endorsed plans and constructed to the satisfaction of the Responsible Authority.

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

In accordance with Council policy, a 5 per cent public open space contribution may apply in the event of the subdivision of the land.

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

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Naaz Begum on telephone (03) 9235 2228, quoting Melbourne Water's reference 123511.

CARRIED

Attachment 1 – Subject Land 52-56 Kent Street, Richmond

Attachment 2 – Proposed Ground & First Floor Plans

Attachment 3 – Elevations & Sections

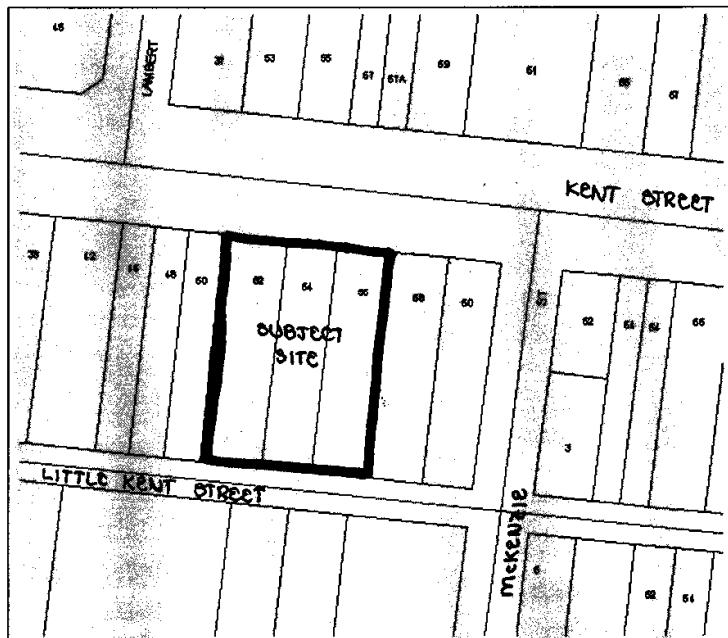
Attachment 4 – Design Response Plan & Streetscape Elevations

Attachment 5 – Proposed Site Plan

Attachment 6 – Shadow Diagrams

ATTACHMENT 1

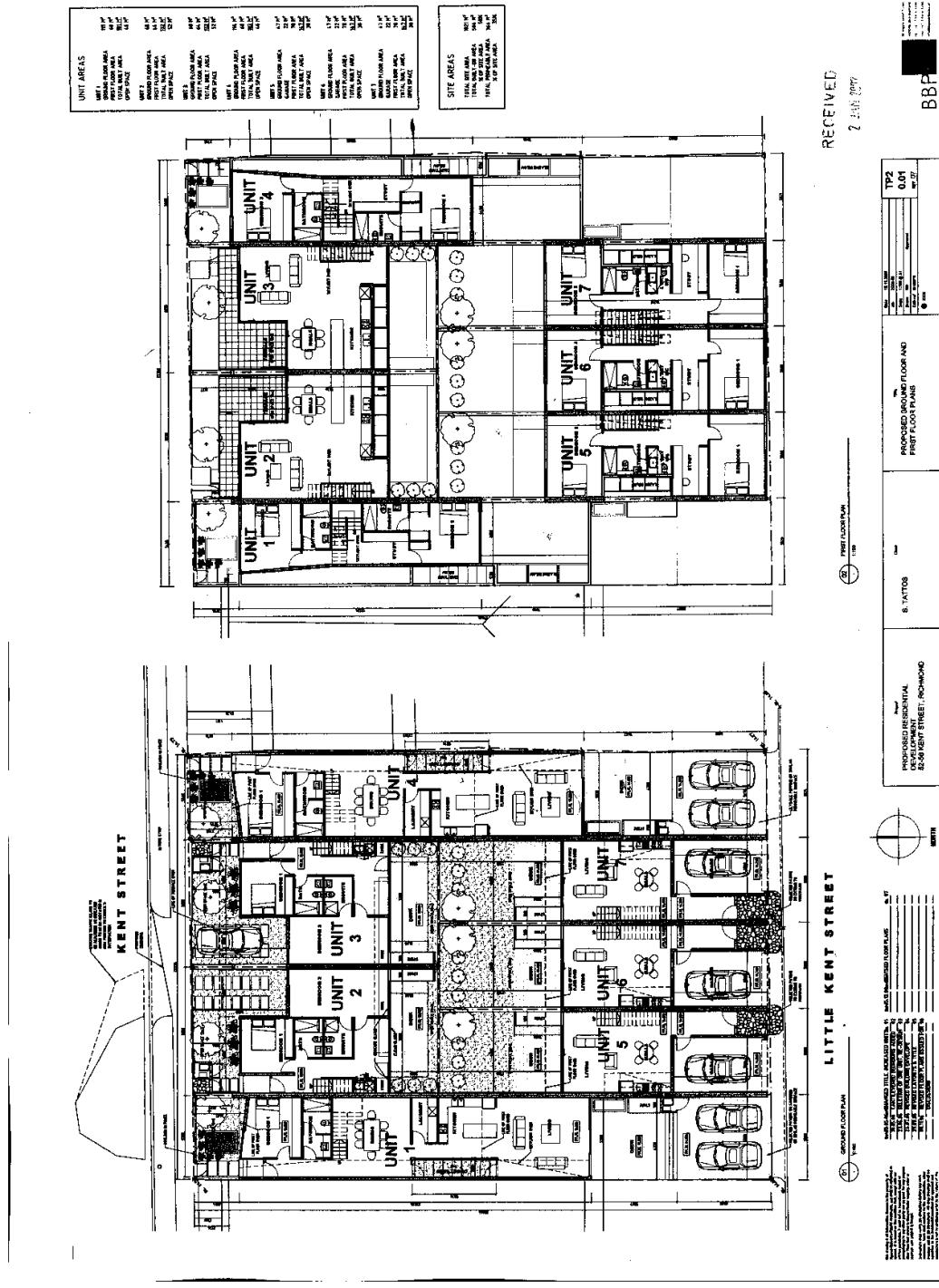
SUBJECT LAND: 52-56 Kent Street, Richmond



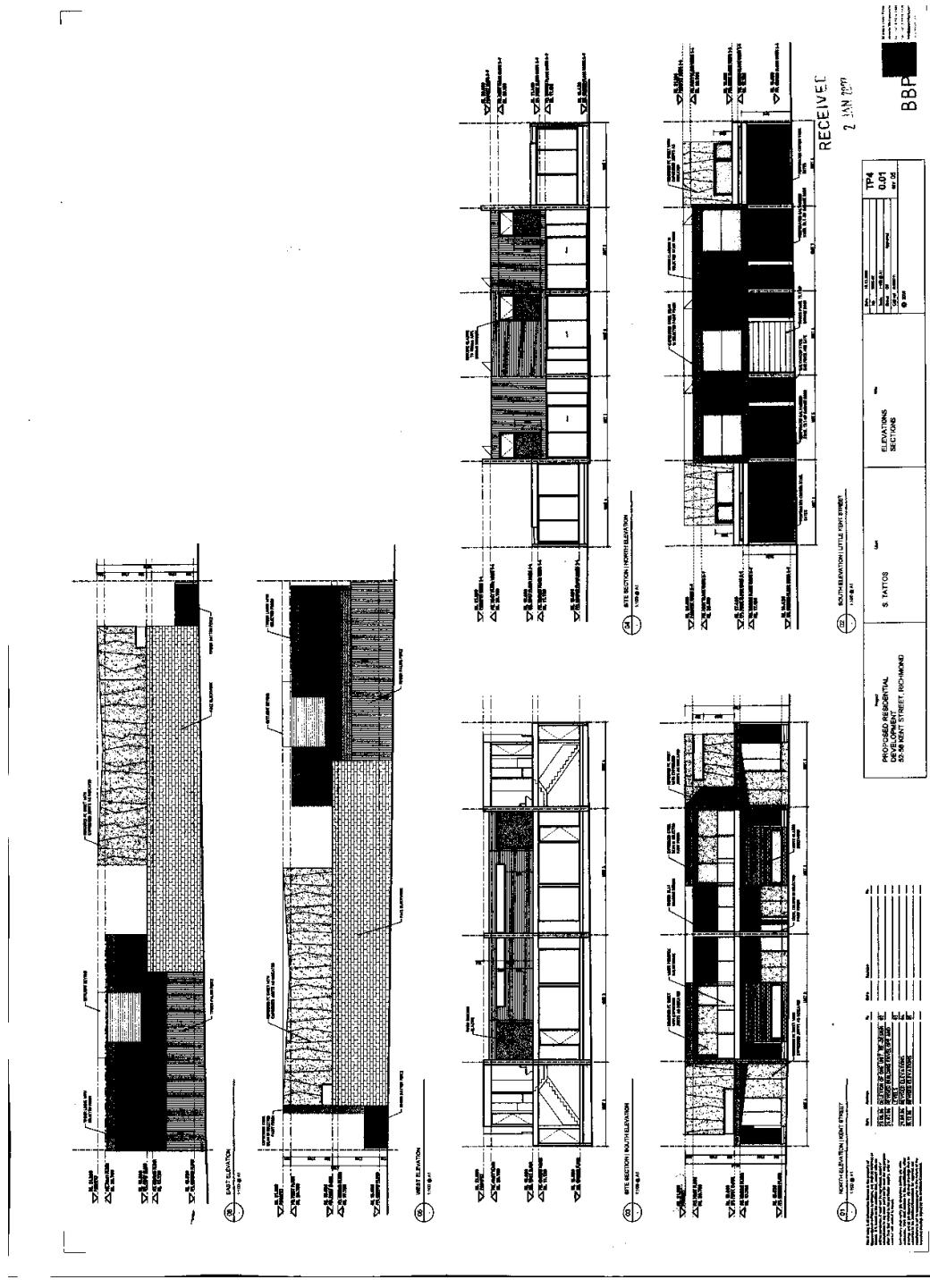
↑ North

■ Subject Site

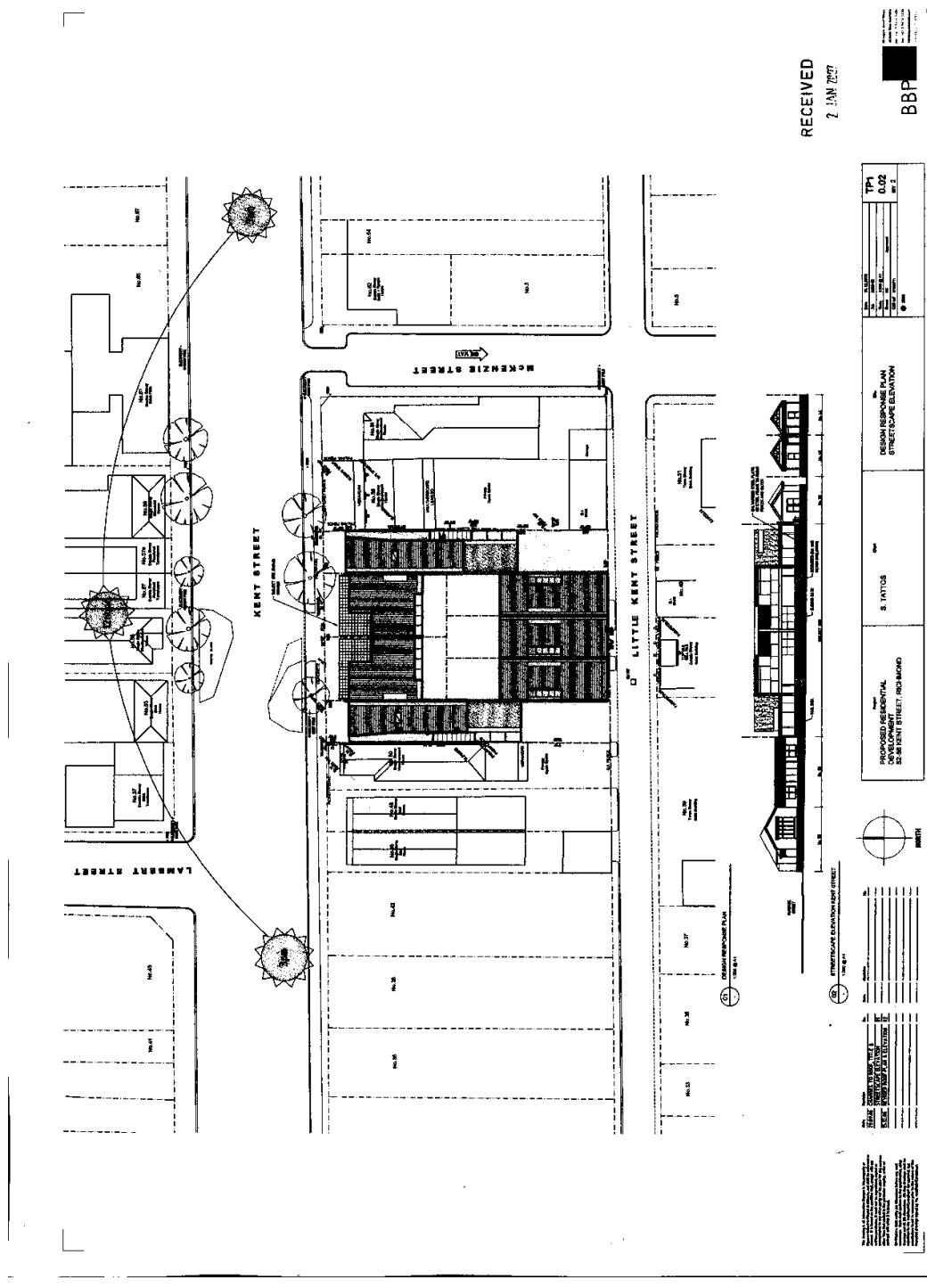
ATTACHMENT 2



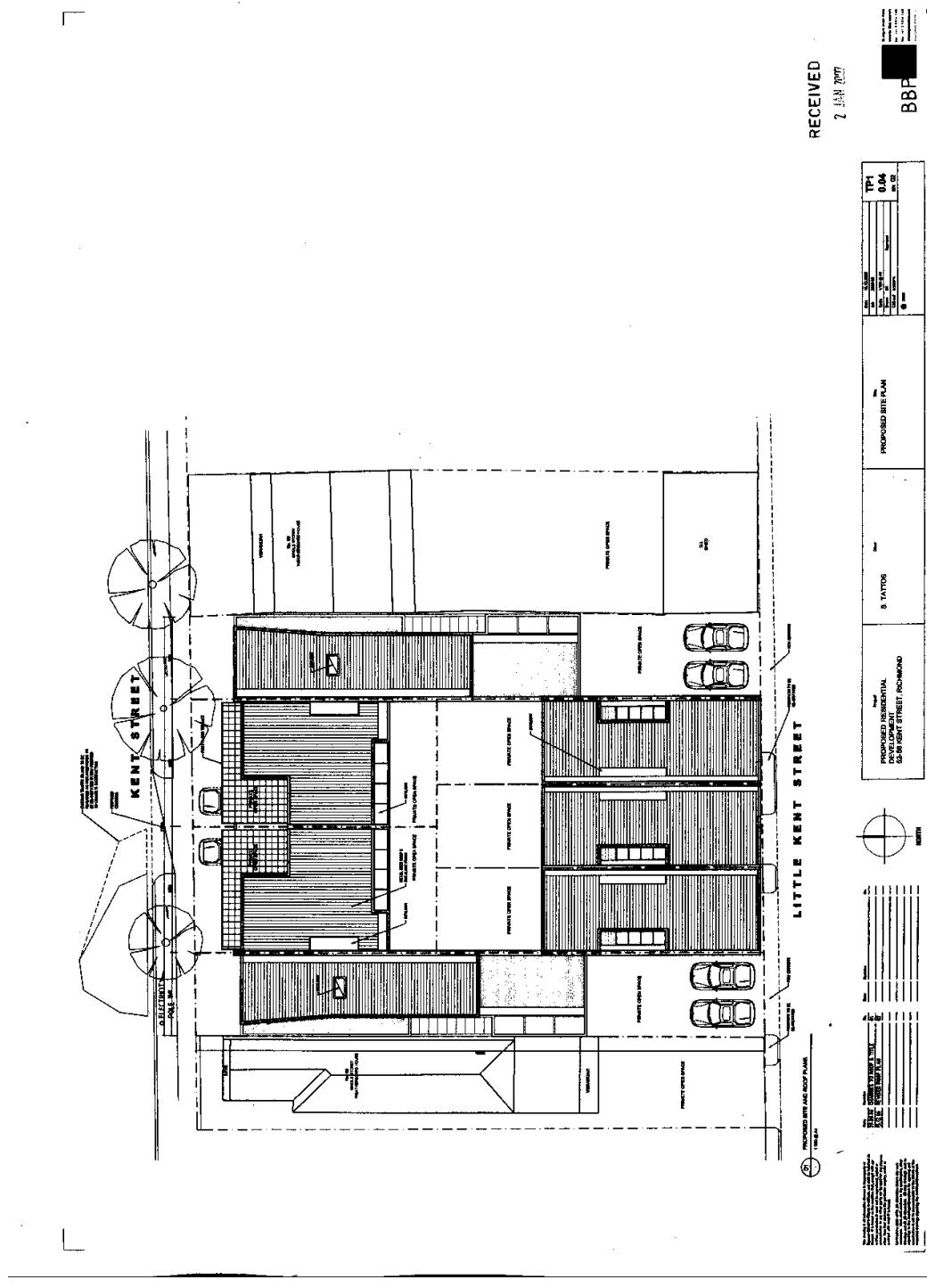
ATTACHMENT 3



ATTACHMENT 4



ATTACHMENT 5



ATTACHMENT 6



**2. 36 Leicester Street, Fitzroy – Planning Permit Application No. PL06/0342
(To use and develop the land for the purpose of a child care centre,
including partial demolition).**

Land: 36 Leicester Street Fitzroy
Proposal: To use and develop the land for the purpose of a child care centre, including partial demolition
Existing use: Dwelling
Applicant: Richard Foley
Zone / overlays: Residential 1 Zone / Heritage Overlay (Schedule 334)
Date of application: 13 April 2006
Application no: PL06/0342

Background

1. Planning Permit Application No. PL02/0980 was issued on 24 October 2002 which allowed for alterations and additions for the purpose of restoring the dwelling to its original form. This application was in part, resultant of an emergency building order issued on the dwelling on 19 February 2001 for a garage which was in a poor condition.

Existing conditions

Subject Site

2. The subject site is located on the southern side of Leicester Street, between Fitzroy Street to the east and Nicholson Street to the west. A 3.6m wide Right of Way (ROW) abuts the subject site to the west which also provides access to Rose Street to the south. A 3.0m wide ROW is also located to the south of the subject site which provides rear access to properties along Leicester Street and Rose Street.
3. The subject site is rectangular in shape measuring 13.24m wide, by 26.2m long and has a total site area of 346.89sqm. Presently the site contains a double-storey, detached, mock Georgian style dwelling with a 138sqm private open space area located to the rear. A single car garage is located in the south-western corner at the intersection of the two ROW's.
4. No restrictive covenants are noted on the certificate of title.

Surrounding Land

5. The subject site is located at an interface between light industrial / commercial uses all contained within a Mixed Use Zone immediately to the south and further to the east. To the north, west and immediate east of the subject site are dwellings contained within a Residential 1 Zone.

6. More specifically the dwellings directly to the north of the subject site, across Leicester Street, include single-storey, attached, Victorian style dwellings and infill two-storey mock Victorian style dwellings. All contain small private open spaces to the rear and most have access to informal, single, un-covered car parking spaces accessed by a ROW.
7. The dwelling to the east of the subject site is a detached, double-fronted, post-war style dwelling with an uncovered car space accessed from Leicester Street. A 35sqm (approximate) private open space area is located to the rear containing a clothesline and storage sheds located adjacent the western (side) boundary.
8. The property to the south of the subject site, across the ROW, is a large saw tooth profile brick warehouse building used for commercial purposes (Major Graphics Signs) which fronts Rose Street.
9. The property to the south-west of the subject site, diagonally opposite the subject site and across the ROW, is a two-storey vacant warehouse building which has a concurrent development and use planning application (PL06/0640) for an office and single dwelling. At the time of writing, a determination has not been made.
10. To the west and across the ROW is Garryowen Park which is developed with a children's playground, a grassed recreation area and contains mature trees. Abutting the park to the east is a semi-detached early Victorian dwelling fronting Leicester Street.

The Proposal

11. The application is to use and develop the land for the purpose of a child care centre, including partial demolition. Further information includes:
 - Development*
 12. Removal of the existing front hedge and the construction of a 1.6m high timber fence including a pedestrian entrance gate fronting Leicester Street.
 13. Construction of a new fence on the western title boundary where the land is open to the ROW, timber decking to the rear of the existing dwelling and a sliding gate to the existing car space located on the south-west corner of the subject site.
 - Use*
 14. The existing dwelling is proposed to be converted into a child care centre. The existing ground floor bedroom, dining room, open plan kitchen / meals and living area is proposed to be used for children's rooms. A nappy change area is proposed in the existing ground floor bathroom.
 15. The first floor is accessed by an internal staircase and contains a children's room in a former master bedroom and a staff room in the study. The two most southern bedrooms are to be used for 'private' purposes.

16. The proposal includes a maximum of 26 children and two staff members. Hours of operation are from 6.30 am to 6.30 pm Monday through to Friday and closed on Saturday and Sunday.
17. One off-street car space, located on the south-western corner, is proposed for staff. Preliminary approval has been granted from Council's Traffic Transport Unit for a drop off – pick up zone operating between 7.30 am to 9.30 am and 4.30 pm to 6.30 pm Monday to Friday. Final details of this drop-off pick-up zone will be confirmed upon a planning permit being granted, should this be the case.

Planning Controls

Zone

Residential 1 Zone

18. Pursuant to clause 32.01-1 (Table of uses) of the Yarra Planning Scheme (the Scheme) a child care centre is neither a use contained in section 1 (permit not required) or section 3 (prohibited) of the table. Therefore the un-specified use is categorised as a section 2 use (permit required) and requires planning permission.
19. In accordance with clause 32.01-6 of the Scheme a planning permit is also required to construct a building, or construct or carry out works for a use in Section 2.

Overlay

Heritage Overlay (Schedule 334)

20. Pursuant to clause 43.01-1 of the Scheme, a planning permit is required to demolish or remove a building, construct a building, or externally alter a building by structural work, rendering, sandblasting or in any other way.

Particular Provisions

Car Parking

21. Pursuant to clause 52.06-5 (Car Parking Table) of the Scheme, a child care use does not have a defined parking rate. Given no rate is specified in the table, an adequate number of car spaces must be provided to the satisfaction of the responsible authority.

General Provisions

22. The general provisions found at clause 65 of the Scheme are also of relevance to this application. Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate (inter alia):
 - (a) the matters set out in Section 60 of the Act;
 - (b) the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;
 - (c) the purpose of the zone, overlay or other provision;

- (d) any matter required to be considered in the zone, overlay or other provision;
- (e) the orderly planning of the area; and
- (f) the effect on the amenity of the area.

Definitions

Land use Terms

23. Pursuant to clause 74 of the Scheme, a child care centre is defined as:
 - (a) land used to care for five or more children who are not permanently resident on the land.
24. It is considered the proposal fits the above description.

State Planning Policy Framework (SPPF)

24. This section sets out the State Planning Policies which apply to all land in Victoria. These policies must be taken into account when making decisions under this scheme. Accordingly the following State Planning Policy Framework policies apply to the application:
25. Contained within clause 11 (Introduction, Goal and Principles) of the SPPF are seven statements of general principles that elaborate upon the objectives of planning in Victoria and describe the factors that influence good decision-making in land use and development planning.
26. The most relevant to this application is clause 11.03-6 (Social needs) of the Scheme, which states, *inter alia*:
 - (a) planning is to recognise social needs by providing land for a range of accessible community resources, such as ... community support (... family services) facilities. Land use and development planning must support the development and maintenance of communities with adequate and safe physical and social environments for their residents, through the appropriate location of uses and developments and quality of urban design.
27. The Scheme recognises the importance of social services for the Yarra community. The provision of child care facilities, particularly in the inner city is in high demand due to the current lack of services. Given the location of the subject site in a Residential 1 Zone, careful consideration needs to be given to possible amenity impacts the child care facility may have. This will be further discussed in the assessment section of this report.
28. Clause 12 (Metropolitan Development) of the Scheme aims to ensure that land use contributes to economic, social and environmental goals.
29. Clause 12.01-1 (A more compact city) of the Scheme states that it is an objective, *inter alia*:
 - (a) to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport and communication, water and sewerage and social facilities.

30. It is considered that the subject site is located in area which can be readily connected to infrastructure and is in close proximity to public transport including tram lines along Brunswick Street and Nicholson Street.
31. Pursuant to clause 12.06-1 (A fairer city) of the Scheme, it is an objective:
 - (a) to provide fairer access to and distribution of social and cultural infrastructure.
32. A relevant strategy pursuant to clause 12.06-2 (Social and Physical Infrastructure) of the Scheme is to:
 - (a) plan for a more equitable distribution of social infrastructure by:
 - (i) identifying gaps and deficiencies in social and cultural infrastructure and encouraging their location in activity centres, especially those identified as Principal Activity Centres.
33. Whilst not located within an activity centre, the subject site benefits from being within 70m of the Principle Activity centre (Brunswick Street) and subsequently has good access to public transport, pedestrian and bicycle networks.
34. Clause 15.11 (Heritage) of the Scheme states that it is an objective to:
 - (a) to assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria's image and making a contribution to the economic and cultural growth of the State.
35. The subject site is located in the *South Fitzroy Heritage Overlay Precinct* which is significant given the suburb was one of Melbourne's first true suburbs. It is considered that the significance of the greater precinct will not be unduly compromised by the proposal given only minor works (fences) are proposed.
36. Pursuant to clause 17.02-1 (Business) of the Scheme, the objective is:
 - (a) to encourage developments which meet community's needs for retail, entertainment, office and other commercial services and provide net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
37. The provision of a child care facility in an inner suburban locality where facilities are at a minimum is considered appropriate and will provide a net community benefit.
38. Pursuant to clause 18.02-1 (Car parking and public transport access to development) of the Scheme the objective is:
 - (a) to ensure access is provided to developments in accordance with forecast demand taking advantage of all available modes of transport and to minimise impact on existing transport networks and the amenity of surrounding areas.

39. A general implementation pursuant to clause 18.02-2 of the Scheme includes, *inter alia*:
- (a) in allocating or requiring land to be set aside for car parking, planning and responsible authorities should:
- (i) have regard to the existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking;
 - (ii) encourage the efficient provision of car parking through the consolidation of car parking facilities; and
 - (iii) the amenity of residential precincts should be protected from the effects of road congestion created by on-street parking.
40. The proposal incorporates one on-site car space in the south-western corner of the subject site and Council's Traffic Engineering Services Unit has granted preliminary approval for a 15 minute drop off zone on the Leicester Street frontage.
41. It is acknowledged that all car parking for the child care use cannot be accommodated on site given the physical constraints of the land. However, in the context of an inner city environment, where excellent access to public transport, pedestrian and bike routes are available, this is considered reasonable. This issue will be further discussed in the assessment section of this report.

Local Planning Policy Framework (LPPF)

42. This section sets out the Municipal Strategic Statement (MSS) and the Local Planning Policies (LPP) that apply to the area covered by this Scheme. Before making decisions about permit applications, planning and responsible authorities must take the MSS and LPPs into account.
43. Pursuant to clause 21.02 (Municipal Profile - People) of the Scheme, it states that Yarra contains a high proportion of persons in the 18 - 34 year age groups at 41.7 per cent, compared with 27.8 per cent for the Melbourne Statistical Division. Conversely, there are few persons in the 0 – 17 year age groups (14.6 per cent) reflecting the low proportion of family households in the City. Furthermore the traditional nuclear family makes up only 17.8 per cent of households compared with 38.1 per cent for the Melbourne metropolitan area overall.
44. Whilst it is acknowledged that Yarra has a lower than normal number of children, the municipality currently has a shortage of childcare facilities. This is evident by the Priority of Access (Family & Children Services) Policy which identified frustrations for Yarra residents endeavouring to secure child care places for their children.
45. The Policy has since been given final approval on 19 December 2006 and in essence the policy gives priority access to disadvantaged children followed by children already enrolled and those children and families who reside in Yarra.

46. It is considered that the provision of a new child care use in the Fitzroy locality will assist in the shortage of child care facilities and also provide a net community benefit for surrounding residents who require child minding services.
47. Pursuant to clause 21.05-8 (Strategic Elements - Element 8: Transport & Access) of the Scheme, it states (inter alia) that:
- (a) by virtue of its inner city location, Yarra is greatly affected by road based transport. Whilst offering high levels of accessibility for both residents and business, the amenity impacts and environmental costs of these traffic volumes are significant.
48. A relevant objective for the application includes:
- (a) reduce the reliance on the private motor car and encourage the use of alternative transport modes, at both the local and metropolitan levels.
49. Strategies to achieve these objectives include:
- (a) integrate transport and land use planning to (inter alia):
 - (i) promote a mix of land use activities, city-wide and around activity centres, to reduce travel demand.
50. The location of the proposed child care facility in a 7.0m wide street (approximately) with on-street parking both sides requires consideration is given to amenity impacts associated with forecasted increased traffic volumes. Especially at peak drop off and pick up times.
51. On-street parking within the immediate neighbourhood is restricted to permit holders or time restricted parking spaces. It is considered that employees electing to commute to the premises would be obligated to use public transport, walk, or cycle due to lack of suitable on-street car parking spaces. Such an outcome is considered in-line with Council policy to assist in reducing amenity and environmental impacts associated with traffic volumes.
52. Issues associated with parents dropping off and picking up children and the impact this has on Leicester Street will be discussed in the assessment section of this report.
53. Clause 22.01 (Discretionary Uses in the Residential 1 Zone) of the Scheme applies to land in the Residential 1 Zone and states, inter alia:
- (a) non-residential uses have the potential to affect adversely the amenity of residential areas. Guidance is required on the performance standards to be met by such non-residential uses in order to implement the MSS objective of enhancing liveability through an attractive, functional and harmonious urban environment.
54. The objective is:
- (a) to ensure that residential amenity is not adversely affected by non-residential uses.

55. It is policy that the following matters be taken into account when considering applications for discretionary uses:
- (a) except on land abutting and with access to a road in a Road Zone:
- (i) all required car parking should be on-site;
 - (ii) hours of operation should be limited to 8.00 am – 8.00 pm except for convenience shop or licensed premises;
 - (iii) buildings and works should be consistent with the scale, bulk and character of adjoining residential areas;
 - (iv) noise levels incompatible with a residential environment should not be generated;
 - (v) the scale of the proposed use should be compatible with providing service to the local residential community; and
 - (vi) use of existing buildings constructed for non-residential purposes is encouraged.
56. An assessment against this policy is offered in the assessment section of this report.
57. Clause 22.02 (Development Guidelines for Heritage Places) of the Scheme applies to all land covered by the Heritage Overlay. The relevant clause applicable to this application is clause 22.02-3.6 (Carports, carparks, garages and other additions) of the Scheme which states, *inter alia*:
- (a) the height and design of new front fences and gates should normally:
- (i) not obscure views to heritage places from surrounding streets;
 - (ii) be a maximum of 1.2m in height if solid or 1.5m in height if more than 50 per cent transparent; and
 - (iii) be consistent with the architectural period of the building.
58. The proposal involves the construction of a 1.6m high fence in a locality which is characterised by 1.0m iron or timber picket fences. No detail has been provided on the design therefore an assessment can not be made on the transparency or architectural style of the fence.
59. A condition, should a permit be granted, will require a revised fence design no more than 1.5m in height and a style which complies the above policy.

Other policies

60. Council has prepared Amendment C84 to the Yarra Planning Scheme. The amendment proposes to replace the existing provisions of clause 21 (MSS) and most of clause 22 (local policies) of the Local Planning Policy Framework. Amendment C84 has finished the notification process and is currently waiting to be scheduled for a Panel Hearing.
61. Council has endorsed the exhibition of the Amendment and it is appropriate that due consideration be given to relevant clauses. An assessment of the key relevant clauses is provided below:

62. The draft MSS identified that Yarra is a growing population however the average persons per household has decreased from 2.3 persons in 1991 to 2.2 in 1996 and 2.1 in 2001. Similarly the average household size for the MSD has fallen from 2.8 to 2.7 over the same time period. Furthermore in Yarra 33.5 per cent of households are single person households.
63. In regards to transport, 20 per cent of households do not have motor vehicles, compared with 9 per cent for the MSD. The proportion of the population that walks, cycles or uses public transport to work is 34.3 per cent compared with 10.6 per cent for the MSD. Trends for non-car travel and in particular for cycling are showing an increase in the City.
64. Pursuant to clause 21.03 (Vision) of the draft policy it states that:
 - (a) Council seeks to achieve a socially, environmentally, culturally and economically sustainable future for the Yarra community.
65. The vision for Yarra will be achieved by a City that (inter alia):
 - (a) maintains quality residential neighbourhoods.
66. To achieve this vision, Council will manage the complex mix of land uses that make up the City to (inter alia):
 - (a) manage the interface between residential and non residential uses; and
 - (b) minimise impacts of new land uses on residential amenity.
67. The provision of a child care facility is considered to contribute towards the social and sustainable future of the Fitzroy locality were currently such facilities are of a high demand. Conditions, should a permit be granted, relating to the operation and hours of use, will ensure that amenity of neighbouring dwellings is not adversely affected by the proposal.
68. Pursuant to clause 21.04-4 (Community facilities, hospitals and medical services) of the draft policy states that:
 - (a) Council wishes to retain community services which cater to a range of needs (in particular for disadvantaged groups). Community facilities may be private or not for profit organizations.
69. It is a relevant objective:
 - (a) to maximise accessibility of community services by:
 - (i) encourage community facilities and services to locate within or adjacent to retail centres and locations that support multi-purpose trips and shared parking arrangements; and
 - (ii) ensure all community facilities are located so that they are easily accessible by public transport.
70. The subject site is located within 70m of Brunswick Street which is defined major activity centre. As such, the subject site has excellent access to public transport including tram services along Nicholson and Brunswick Streets and bus routes along Nicholson Street servicing Melbourne's northern and eastern suburbs.

- 71. Clause 22.01 (Discretionary Uses in the Residential 1 Zone) of the draft policy essentially remains unchanged from existing for the purpose of this application with exception it now states it is policy that, *inter alia*:
 - (a) noise emissions should be compatible with a residential environment.
- 72. Whilst objectors have raised noise from children as an amenity issue, it is considered that the hours of operation proposed between 7.30 am (proposed by condition – previously 6.30 am) and 6.30 pm Monday to Friday are commensurate with the adjoining commercial premises to the south and are generally compatible with a residential environment.
- 73. Clause 22.11(Accessible Buildings) of the draft policy applies to all applications for development and has the following relevant objective:
 - (a) to ensure that all new public and commercial buildings are designed to enable access to and within buildings for all people.
- 74. Clause 22.11-3.1 (Public and commercial buildings) of the draft policy relates to child care centres and states that:
 - (a) all new public and commercial buildings meet Australian Standard 1428 Part 2 provisions for access and mobility.
- 75. Clause 22.11-3.3 (Provision for lifts) of the draft policy states:
 - (a) all multi-storey public and commercial buildings provide a wheelchair accessible lift to all levels.
- 76. The provision of no internal lift, the proposed rear deck and the existing step arrangements on the Leicester Street frontage will result in the proposal failing to comply with policy. However, given the building is existing and this is not a purpose built facility, some flexibility should be allowed when considering the draft policy.

Notice of application

- 77. Notification of the application was required pursuant to section 52 of the *Planning and Environment Act 1987* (the Act), via letters sent to the adjoining landowners and occupiers by ordinary mail and by two signs displayed on site for a minimum of 14 days. Twenty-five objections to the proposal were received.
- 78. A consultation meeting occurred at the Fitzroy Town Hall on 1 November 2006 and was attended by the applicant, Council's Transport Co-ordinator, two officers from Statutory Planning and five objectors.
- 79. Issues raised by objectors were discussed in detail, Council's Transport Co-ordinator explained the department's referral and general information on traffic conditions in the locality. A number of concerns were re-iterated and remained unsolved. However the applicant did agree to increase the commencement time from 6.30 am to 7.30 am in response to resident concerns raised.

Summary of Issues and Concerns

80. The issues raised in the submitted objection letters include:
- (a) the location of a child care centre on the one way Leicester Street will have an adverse impact on traffic conditions by way of:
 - (i) further loss of on-street car parking given only one off street parking space is proposed;
 - (ii) increase traffic noise; and
 - (iii) traffic congestion resulting from parents dropping off and picking up children.
 - (b) the proposed 15 minute drop off zone on Leicester Street will further reduce on street car parking;
 - (c) noise from children playing;
 - (d) the Garryowen Park may be inappropriately used by the child care facility for commercial gain;
 - (e) the front fence on Leicester Street is not in keeping with the heritage streetscape;
 - (f) the building is structurally un-sound to be used for a child care facility;
 - (g) resident cars parked on the street will be damaged by parents; and
 - (h) the use of the two first floor southern most rooms annotated as 'private'.

Referrals and comments

81. The application was referred to Council's Traffic Engineering Services Unit, Open Space Unit, Children Services Unit and Heritage Advisor. Each referral is summarised in turn below:
82. Traffic Engineering Services Unit noted:
- (a) Leicester Street contains 2P parking restrictions operating between 7.00 am and 7.00 pm on the south side of the street and a full time Permit Zone on the north side. There is a very high demand for on-street car parking in the area and opportunities to park all-day are virtually non-existent;
 - (b) public transport in the area is considered good. Two tram routes run along Nicholson Street and Brunswick Street and provide a viable travel option for any additional staff and potentially for parents;
 - (c) the applicant has proposed the introduction of an on-street drop-off zone outside the development. This would facilitate parents setting down and collecting children from the centre. This parking arrangement appears to have merit, especially since the development cannot practically provide an on-site car park for parents;
 - (d) in relation to providing only one parking space, we would prefer that two on-site spaces be made available to the two staff members of the centre; and
 - (e) before a decision is made whether to grant a dispensation in car parking, the above factors should be taken into account.

(i) proposed Drop-off Zone - South side of Leicester Street:

An on-street drop-off zone as suggested by the applicant (10 or 15 Minute parking restrictions operating 7.30 am to 9.30 am and 4.30 pm to 6.30 pm) was discussed with engineers from Council's Transport Unit, who have no objection to this parking arrangement. The applicant is to consult the Transport Unit with the view to having the parking restriction signs installed upon the completion of all building works. The cost of these sign works shall be borne by the applicant.

(ii) on-site Car Parking Space:

The on-site car parking space should be lengthened to 5.4m in order to comply with the Australian/New Zealand Standard.

83. In response to resident concerns, Council's Open Space Unit noted that there would be limited opportunity to commercially use Garryowen Park on a frequent basis. This is due to legal requirements of having signed guardian consent forms every time a child visits there.
84. Children Services Unit raised numerous concerns about the viability of the subject site operating as a Child Care facility. These include inadequate bathroom and staffing requirements, lack of open space provision and issues relating to specific Department of Human Services (DHS) internal layout requirements.
85. Whilst the referral details fundamental failings with the proposal, these issues are matters that cannot be considered as part of the planning application process. Rather these matters are dealt with separately when applying for a license from DHS. Nevertheless the referral has been passed onto the applicant, who indicates that the proposal can comply with all applicable DHS requirements.
86. Council's Heritage Advisor has requested additional information on the type and style of material proposed on the fence to ensure the fence respects the character. As discussed previously a condition, should a permit be granted, will require compliance with clause 22.02-3.6 (Carports, carparks, garages and other additions) of the Scheme.

Assessment

87. The primary issues which relate to the application include:

- (a) the suitability of the child care use in a Residential 1 Zone;
- (b) waiver of car parking requirements;
- (c) traffic concerns; and
- (d) additional objector concerns.

Use

88. Discretionary uses within a residential 1 Zone are required to comply with clause 22.01 contained within the LPPF of the Scheme.

89. The proposal in part fails to comply with the policy given only one car space is proposed on site and the hours of operation from 6.30 am to 6.30 pm fail to comply with the recommended hours of 8.00 am to 8.00 pm.
90. It is considered that a 6.30 am opening time will have an adverse amenity impact on neighbouring dwellings by way of children being dropped off and vehicle movements to and from the subject site.
91. As stated previously in the report, during the consultation meeting the applicant acknowledged resident concerns of the 6.30 am start and stated that a 7.30 am start time could be appropriate. Whilst still not complying with policy, it is considered that an appropriate balance needs to be given between resident amenity and the reasonable commercial expectations of a child care facility which provides a valuable service to families in the Fitzroy and broader area. In this context, should a permit be granted, the 7.30 am commencement time will be a conditional requirement.
92. Buildings and works are limited to boundary fencing and a rear deck which will have minimal impact on the scale, bulk and character of adjoining dwellings.
93. Furthermore, as the subject site is located within a Residential 1 Zone consideration is also required against the applicable purpose of the zone:
 - (a) in appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.
94. The use of the land as a child care facility is considered to be a community use which provides a net community benefit. Currently the Yarra community has a shortage of child care centres and subsequent places for children.
95. To determine whether the subject site is an 'appropriate location,' consideration needs to be given to the possible amenity impacts the use may have? In response, a child care use with 26 places is considered comparatively small to other similar centres operating in Yarra which typically cater upwards of 35 places.
96. Noise impacts from the operation of the premises would generally be limited to the adjoining dwelling to the east, given the front yard is unsuitable as a children playing area due to DHS requirements.
97. To the south of the subject site and across the ROW, is a commercial use (Major Graphics Signs) which is unlikely to be affected by the child care use evident by lack of objection received. Whilst to the west and across the ROW is Garryowen Park.
98. With regard to the potential amenity impact on the dwelling to the east of the subject site, it is submitted that there is sufficient buffering between these two sites owing to both dwellings being built to the shared property (eastern) title boundary and the storage sheds located on shared common boundary which would assist in noise buffering.
99. Combined with the modest operating times of 7.30 am (proposed by condition) to 6.30 pm Monday through to Friday, it is considered that the subject site is an 'appropriate location' for the operation of a child care centre.

Car Parking

100. Clause 52.06 (Car Parking) of the Scheme does not specify the number of car spaces required on site for a child care use. Therefore the applicant is required to demonstrate that an 'adequate number of car spaces has been provided to the satisfaction of the Responsible Authority.'
101. The proposal provides one on-site car parking space in the south-western corner of the subject site which is proposed to be used by staff members. To understand whether one car space is adequate for the use it is useful to understand how the premise operates.
102. The child care centre is proposed to operate between 7.30 am to 6.30 pm (conditional) which is when on-street car parking is at a premium. Whilst one car space is provided for one staff member, other staff members and contractors will not be able to park on site.
103. On-street parking is presently tightly controlled by permit zones and time restrictive parking spaces. Private car parking availability is restricted to the car park annexed to the Melbourne Exhibition Centre. It is not anticipated that staff members would elect to use this private car parking given the facility is in excess of 600m walking distance away from the subject site.
104. Given the above, staff would be forced to use other travel options when travelling to work or risk receiving regular parking infringement notices. It is not anticipated that time restrictive parking would be suitable for employees of a child care centre given DHS requirements of having minimum staff to children ratio at all times. Hence an employee would not be able to move a car every two hours, to avoid possible parking infringement notices.
105. Non-private vehicle travel options are actively encouraged by Council's LPP and MSS. The subject site has excellent access to regular tram services along Brunswick Street and Nicholson Street which services the central business district and Melbourne's northern suburbs. Furthermore, Council's draft MSS recognises that cycling is emerging and popular form of transport in Yarra.
106. The surrounding streets of Fitzroy provide an excellent network of cycling networks which connect to neighbouring suburbs, whilst the existing dwelling's bathroom facilities at first floor would provide appropriate end of trip facilities for cyclists.
107. Council's Traffic Engineer has recommended that an additional on-site car space would be preferential to accommodate the second staff member. Whilst a second on-site car space may be a preferred option, the additional land area required would severely reduce the children's play area. In turn the economic viability of the child care use would be compromised due to DHS guidelines requiring minimum play areas for each child.
108. The recommendation of increasing the vehicle length to 5.4m will be a conditional requirement, should a permit be granted.
109. In the context of the above, it is considered that the provision of one on-site car parking space is adequate for the operation of a proposed child care use on the subject site.

Traffic

110. The affect the proposed child care use will have on the traffic flows along Leicester Street was a primary concern cited on all objection letters received by Council.
111. Leicester Street is 7.0m wide and provides on-street car parking on both sides which further reduces the width of the street to approximately 3.0m. One-way vehicle access is provided from Fitzroy Street to the east, to Nicholson Street to the west. Opportunities to connect to other streets including Westgarth Street to the north and Rose Street to the south are limited to ROW's which are not generally favoured by through motorists. All traffic exiting Leicester Street into Nicholson Street is required to turn south (left).
112. As a result of the restrictive vehicle movements described above, Leicester Street enjoys a relatively low number of vehicle movements estimated by Council's Transport Unit to be between 300 – 400.
113. The applicant has proposed and been granted preliminary approval by Council's Traffic Engineering Department, for a single 15 minute pick-up and drop off zone operating between 7.30 am to 9.30 am and 4.30 pm to 6.30 pm Monday through to Friday on the Leicester Street frontage.
114. It is considered that the provision of a drop-off zone between the hours proposed will assist in preventing parents electing to use vehicles to transport children, blocking Leicester Street for other motorists.
115. It is acknowledged that vehicle movements along Leicester Street will increase from existing relatively low conditions, especially during peak pick up / drop off times. However, it is considered that the proposed child care use will not adversely affect traffic flows given the proposed drop-off / pick-up zone on Leicester Street.
116. In the context of the above, the provision of a child care centre in a locality where child care centres are at a premium, it is considered that the amenity effects resulting from increased traffic movements along Leicester Street are minimal and justifiable.

Additional Objector Concerns

117. Objection letters received by Council and issues raised at the consultation meeting raised concerns which have not been addressed above. These include questioning the structural integrity of the existing building, damage to vehicles resulting from increased, and the use the two first floor bedrooms marked as 'private'.
118. In response the structural integrity of the building is an issue which the building permit process and DHS certification would oversee. Damage to vehicles is a civil matter in which Council cannot enforce through the planning permit process.
119. In regards to the use of the first floor rooms, it is agreed that the word private is ambiguous and could refer to a dwelling use. Given the two bedrooms are located at first floor, it would be considered inappropriate to allow a possible dwelling use at first floor in conjunction with a child care use at ground floor.

120. The applicant has been made aware of this concern and in response the applicant has stated that these two rooms will be used for storage, ancillary to the child care use. Should a permit be granted, this will be a conditional requirement.

Conclusion

121. For all the reasons outlined in this report, it is recommended that the application for the use and development of the land for the purpose of a child care centre, including partial demolition at 36 Leicester Street, Fitzroy be approved subject to the conditions listed below.

RECOMMENDATION

122. That having considered all objections and relevant planning documents, the Committee issue a Notice of Decision to Grant a Planning Permit for the use and development of the land for the purpose of a child care centre, including partial demolition at 36 Leicester Street, Fitzroy subject to the following conditions:

1. Before the use and 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 application plans dated 7 August 2006 but modified to show:
 - (a) the on-site car space increased in length to a minimum of 5.4m;
 - (b) a maximum front fence height of 1.5m if permeable, or 1.2m if solid and details of the permeability, material, and architectural style of the front fence to ensure the fence complements the heritage place pursuant to clause 22.02-3.6 of the Yarra Planning Scheme; and
 - (c) the two southern most bedrooms at first floor level to be annotated as storage ancillary to the child care centre use.
2. All development and use must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.
3. The use hereby permitted must only operate between 7.30 am to 6.30 pm Monday through to Friday, unless further consent is granted by the Responsible Authority.
4. No more than 26 children and two staff members are to be permitted on the premises at any one time, unless further consent is granted by the Responsible Authority.
5. The use of the land for a child care centre must not commence until the pole signs displaying information relating to the proposed drop-off / pick-up zone on Leicester Street are erected to the satisfaction of the Responsible Authority.

6. The single staff car parking space located on the south-west corner must be maintained at all times to the satisfaction of the Responsible Authority and must not be used for any other purpose, except with the written consent of the Responsible Authority.
7. All delivery and collection of goods associated with the child care centre must be conducted between 8.00 am and 6.00 pm Monday to Friday unless further consent is granted by the Responsible Authority.
8. Any damaged road(s) and footpath(s) adjacent to the development site must be reinstated to the satisfaction of the Responsible Authority.
9. This permit will expire if the use or development is not commenced within two years from the date of this permit. All development must be completed within four years from the date of this permit. The Responsible Authority may approve extensions to these time limits if requests are made within three months of expiry.

Note: The cost of the pole signs required for the proposed pick-up and drop-off zone on south side of Leicester Street shall be borne by the applicant. Please contact Council's Engineering Services Unit on (03) 9205 5746 for further details.

Note: All future operators of the child care facility will not be permitted to obtain business parking permit(s).

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

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

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

Submissions

The Applicant, Mr Richard Foley addressed the Committee.

The following people also addressed the Committee:

*Ms Barbara Ferluga;
Ms Maureen Vincent;
Mr Mark Seychell; and
Mr Carlo Ferluga.*

INTERNAL DEVELOPMENT APPROVALS COMMITTEE RESOLUTION

Moved: Councillor D'Agostino

Seconded: Councillor Barbara

That the matter be deferred until the Applicant has gained endorsement of the plans from the Department of Human Services.

CARRIED

Attachment 1 – Subject Land 36 Leicester Street, Fitzroy

Attachment 2 – Ground Floor Plan

Attachment 3 – First Floor Plan

Attachment 4 – Existing & Proposed Fencing

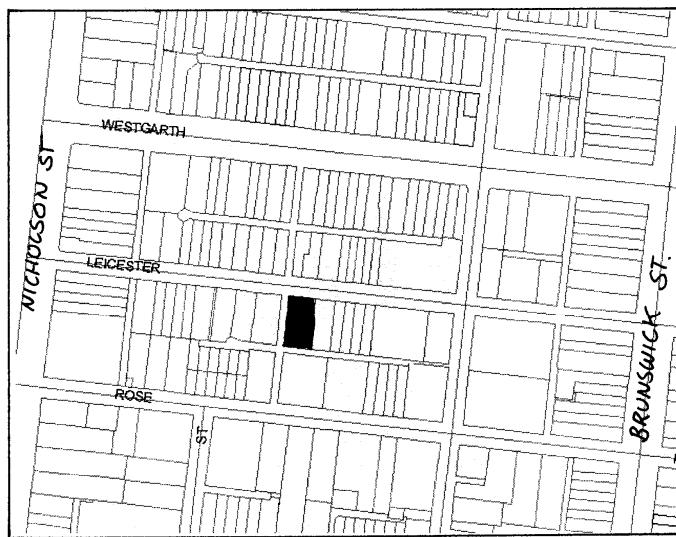
Attachment 5 – Proposed new decking & gates

Attachment 6 – Proposed fence to west side of property, facing Garryowen Park

Attachment 7 – Proposed fence to front of property, facing Leicester Street

ATTACHMENT 1

SUBJECT LAND: 36 Leicester Street, Fitzroy

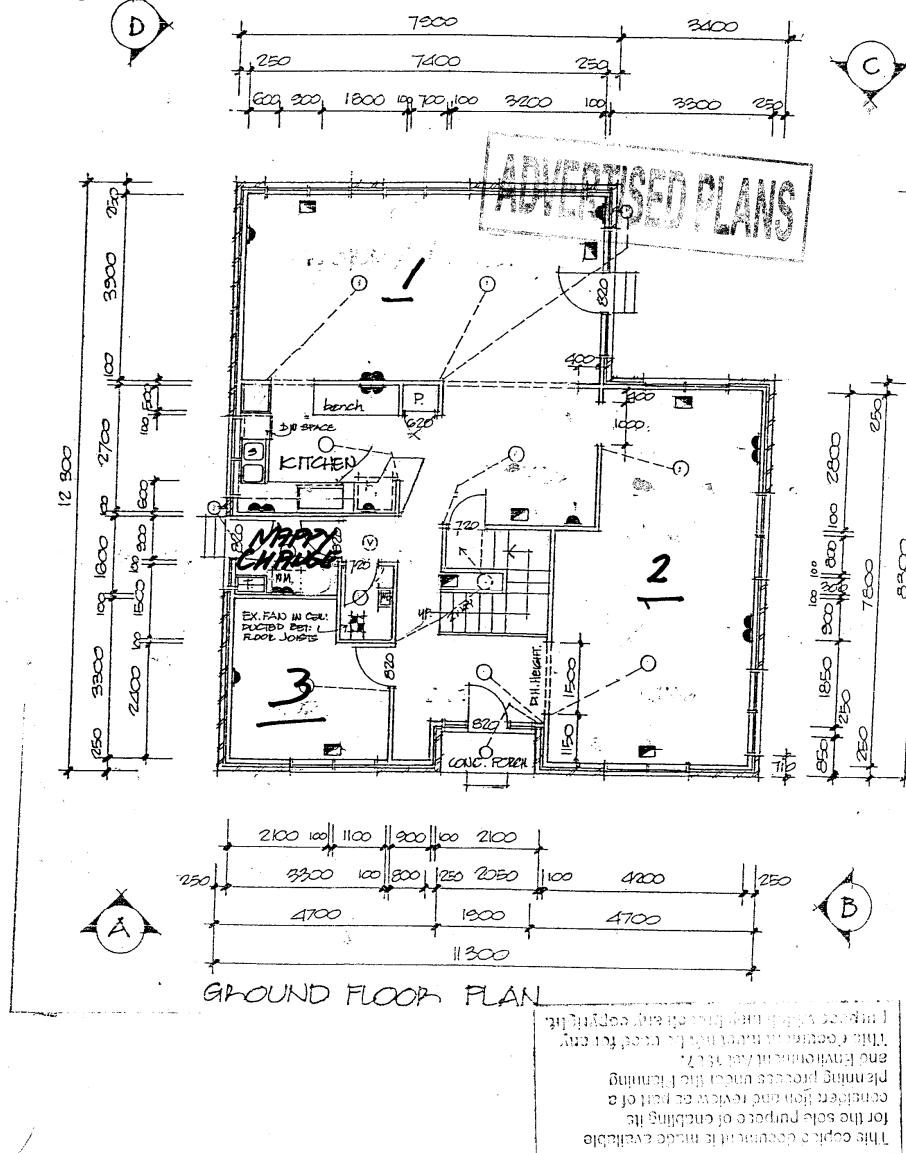


Subject Land ■

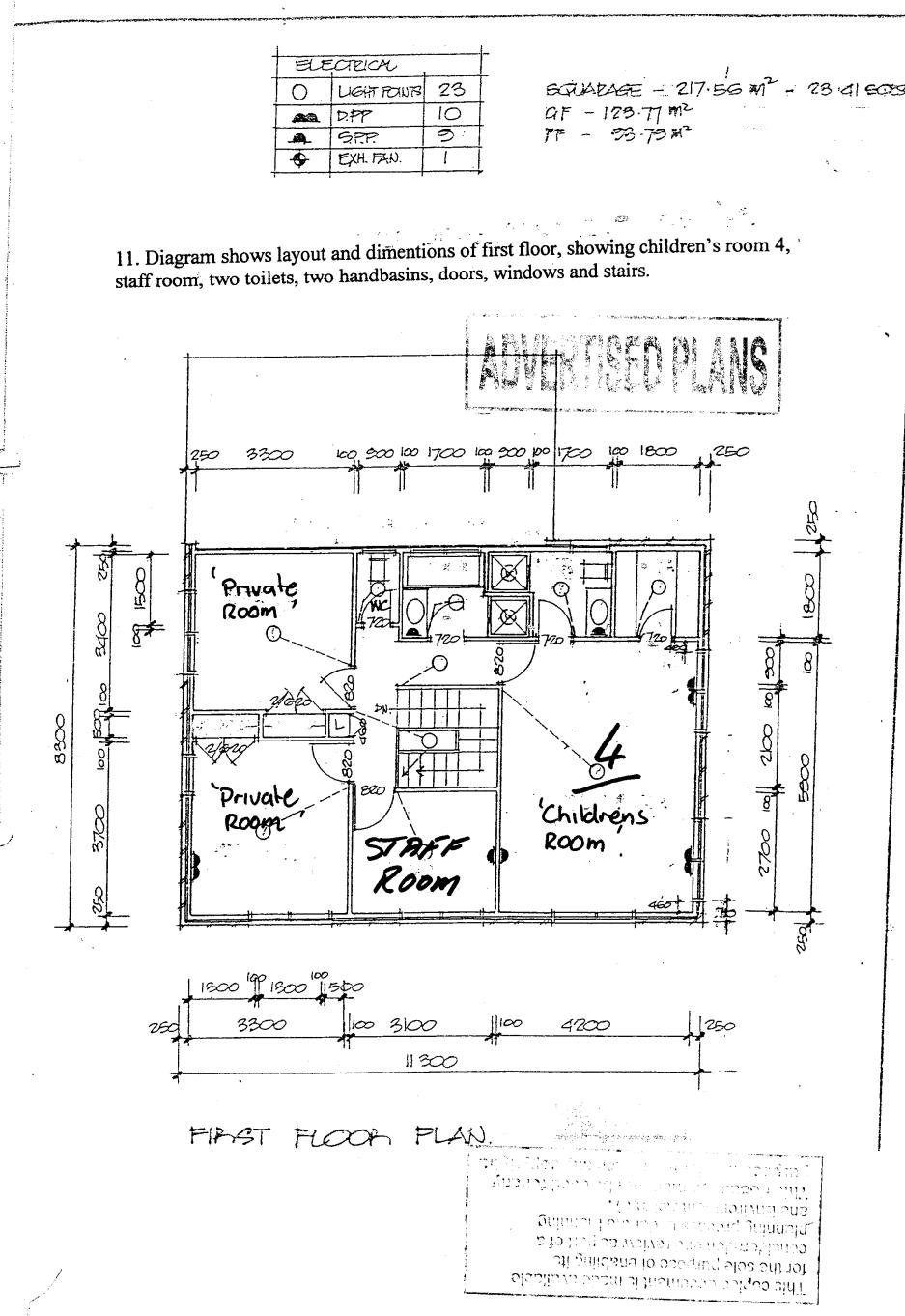
North ▲

ATTACHMENT 2

10. Diagram shows layout and dimensions of first floor; shows childrens' rooms 1, 2 and 3, food preparation area, nappy change area, toilet, handbasin, location of doors, windows, stairs, lighting and power.
Note that heating is by way of external gas heater ducted to the inside rooms.

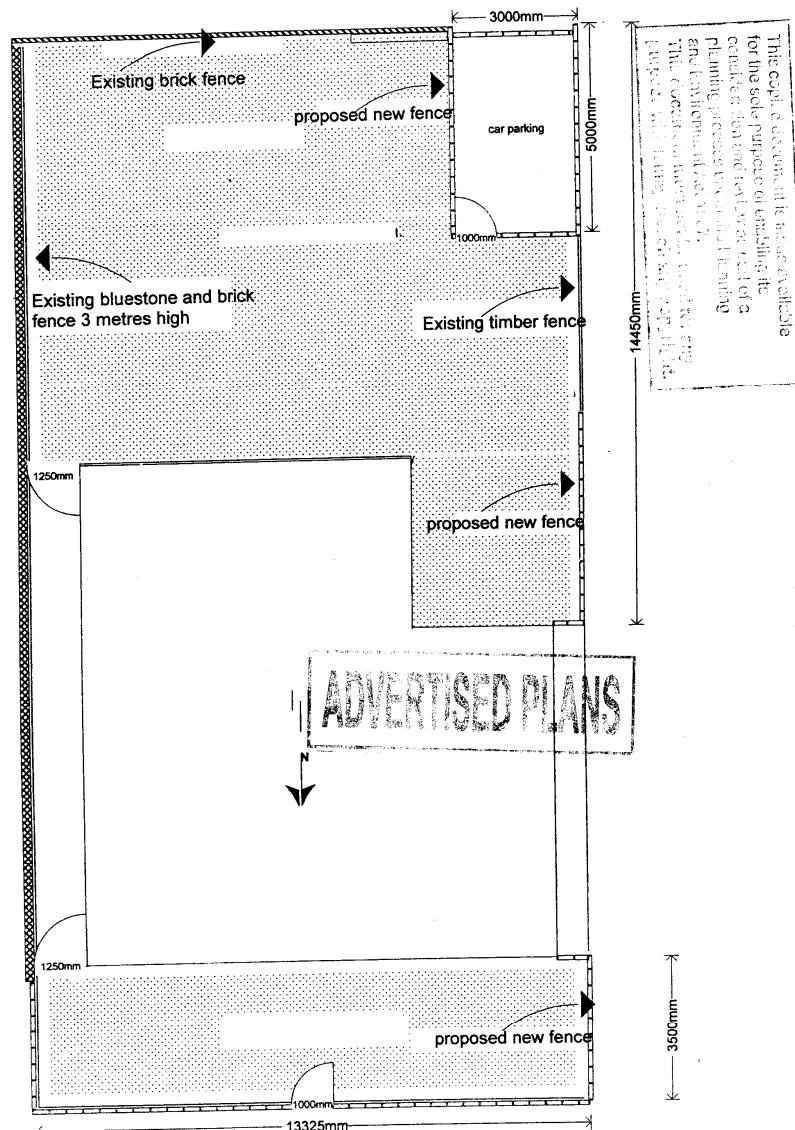


ATTACHMENT 3



ATTACHMENT 4

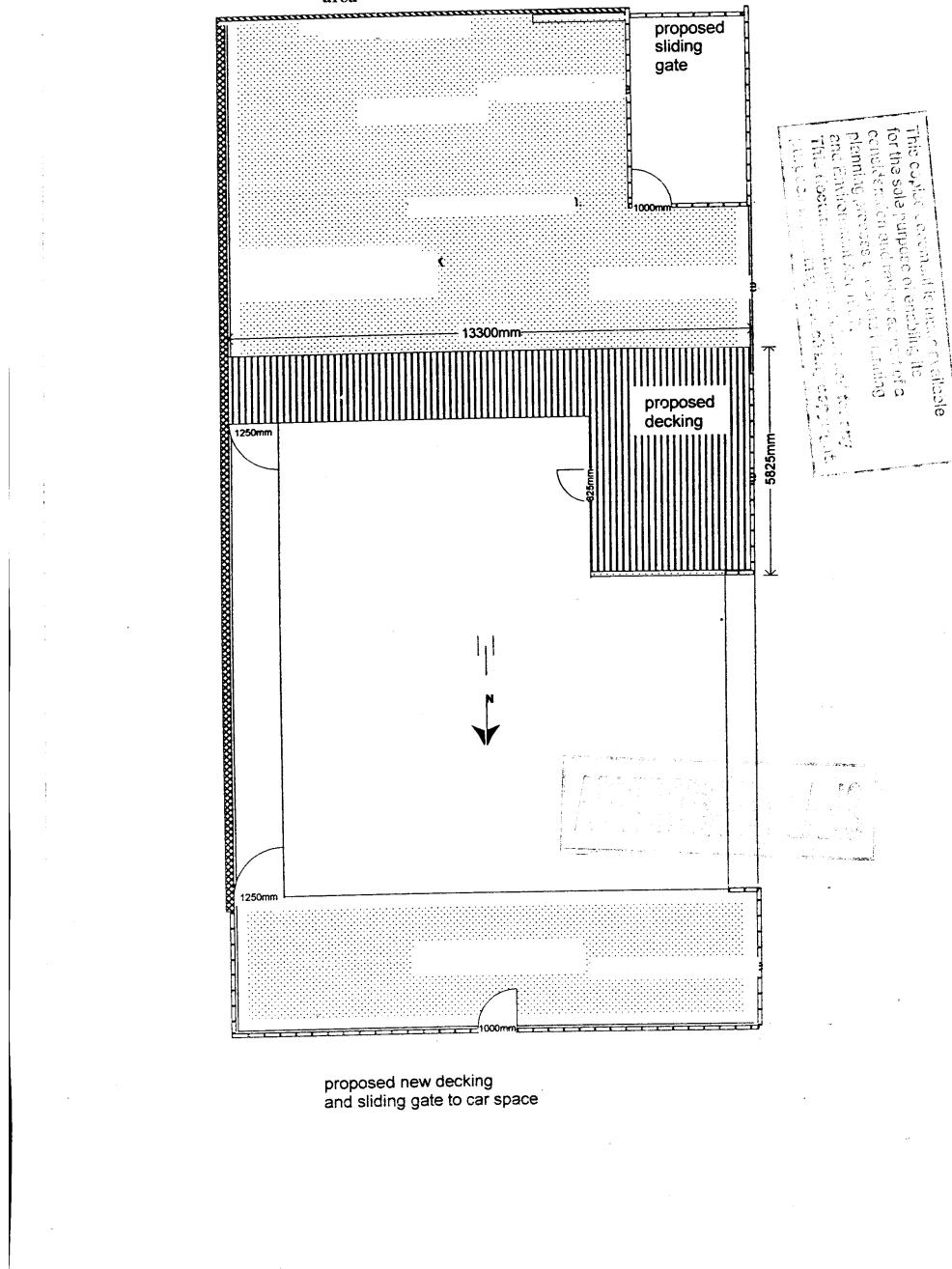
5. Diagram shows existing and proposed fencing



plan of existing and proposed new fences

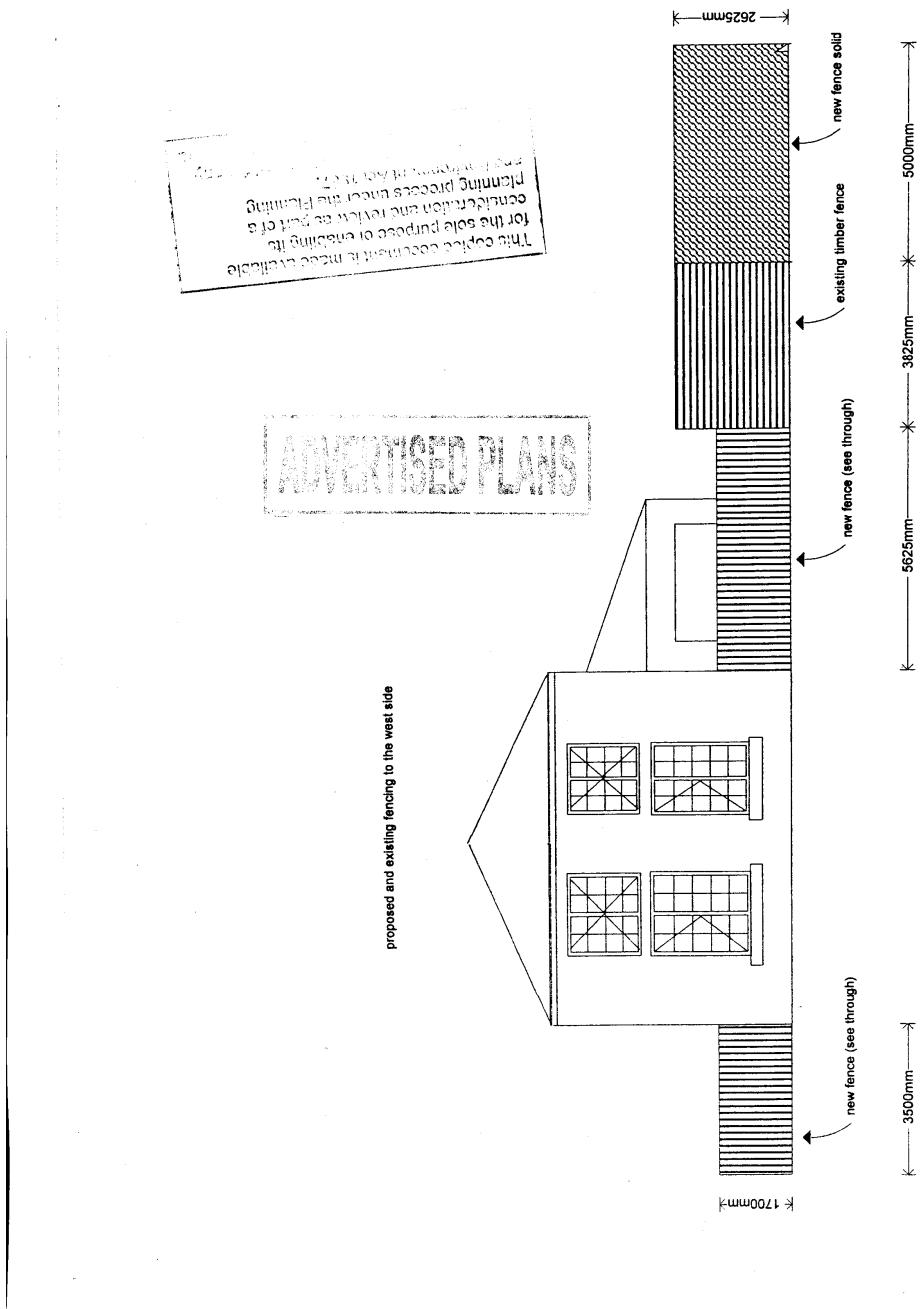
ATTACHMENT 5

6. Diagram shows proposed new decking and sliding gate to parking area; also gate from car park, front gate, and side gates to service area



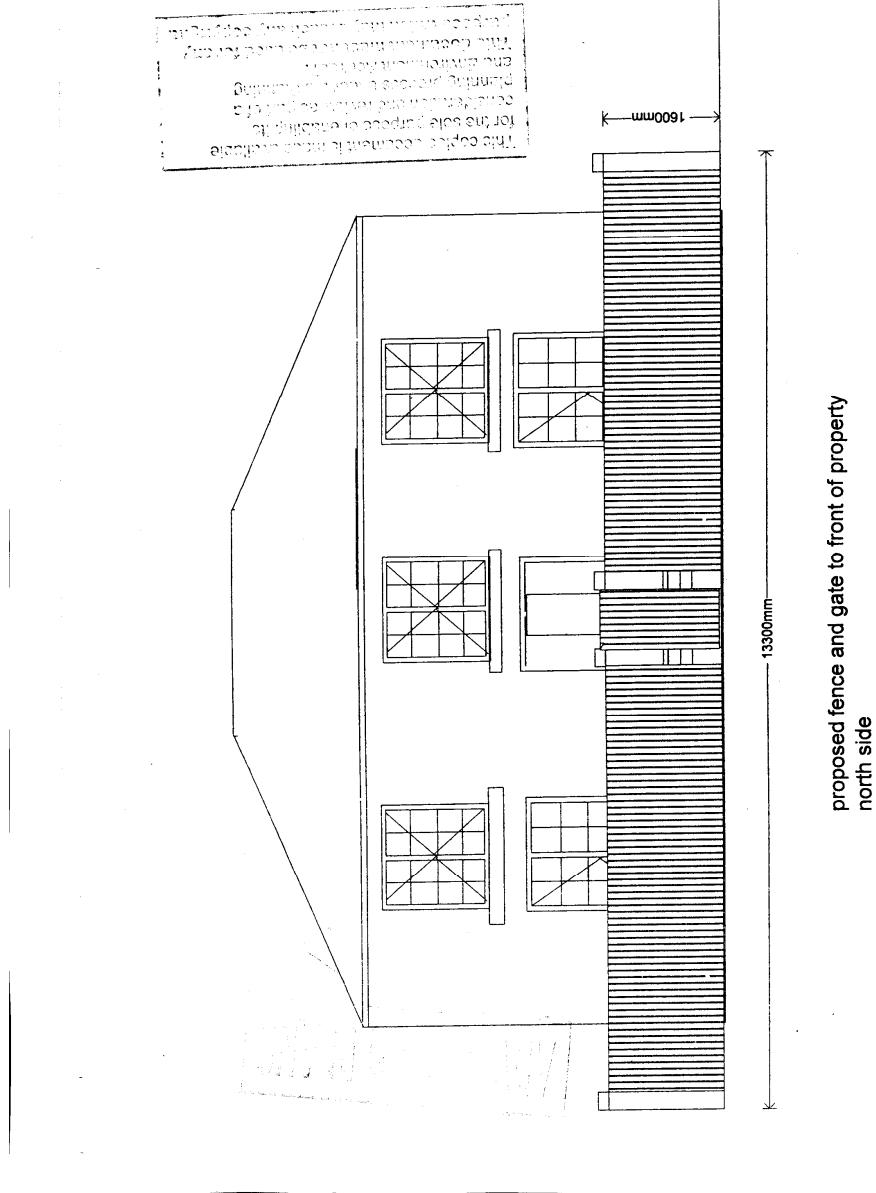
ATTACHMENT 6

14. Diagram shows proposed fence to West side of property, facing Garryowen Park.



ATTACHMENT 7

15 Diagram shows proposed fence to front of property, facing Leicester Street.



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3. **333-345 St Georges Road, North Fitzroy – Planning Permit Application No. PL06/0654 (Use and development for the purpose of office, including part demolition, buildings and works and a reduction in the car parking requirements).**
-

Land	333-345 St Georges Road, North Fitzroy
Proposed Development:	Use and development for the purpose of office, including part demolition, buildings and works and a reduction in the car parking requirements
Existing Use:	Office and shops
Applicant:	Buchanan Planning
Zoning/Overlays:	Business 1 Zone and Heritage Overlay
Date of Application:	27 July 2006
Application No:	PL06/0654

Background

1. This application was lodged with Council on 27 July 2006 for use and development for the purpose of office, including part demolition, buildings and works and a reduction in the car parking requirements. Further information was requested on 24 August 2006 and was received on 19 October 2006. The application was advertised during October and November 2006. Council received eight objections to the application. A consultation meeting was held in December 2006.
2. A search of Council records indicate that the most recent planning permit issued for the site is Planning Permit Application No. 1971 which allowed use of the first floor as an office.

Existing conditions

Subject Site

3. The site is located on the north-west corner of St Georges Road and Holden Street in North Fitzroy. A 3.3m wide Right of Way abuts the rear boundary extending between Holden and Barkly Streets.
4. The subject site is known as 333, 341 and 345 St Georges Road, North Fitzroy and consists of two land parcels which are described in the following Certificates of Title:
 - (a) Volume 6256 Folio 148 – Lot 1 on Plan of Subdivision 14591; and
 - (b) Volume 6498 Folio 457 – Lot 2 & 3 on Plan of Subdivision 14591.
5. The site is an irregular rectangular in shape and 333 St Georges Road has a site area of 393sqm and 341 and 345 St Georges Road each have a site area of 276sqm (Total subject site area of 945sqm). The site has an approximate frontage to Holden Street of 28.0m and an approximate frontage to St Georges Road of 23.5m with a curved boundary on the street corner.

6. The two lots that comprise the subject site are each occupied by a part single storey and part two storey building complex constructed in the late 1930's for the purposes of shops and residences. The building is modern style cream and manganese brick with the two storey corner having a highly detailed and parapeted façade, portal and arched entries to the former residences behind. The building retains the cantilever street canopies and some original shop fronts as well as significant dado tiling. The gable end to the upper level of the corner section of the building is an important profile and it demonstrates the design resolution of the form behind the main parapeted façade and is part of the silhouette of the corner streetscape.
7. The site at 333 St Georges Road is occupied by a pharmacy at ground floor and a residence at first floor. At the rear in the former residence is a medical centre with a car park at the rear abutting the Right of Way. The site at 341 St Georges Road is occupied by a milk bar with a residence located at the rear, which extends approximately 80 per cent of the site length. The site at 345 St Georges Road is occupied by a real estate, which extends approximately 90 per cent of the site length.

Surrounding Land

8. Surrounding land uses are commercial and residential in nature. To the north, south and east of the site are commercial uses located within the Business 1 Zone. To the west of the subject site on the opposite side of the Right of Way is a Residential 1 Zone.
9. St Georges Road is included on the Retail and Activity Centres Framework Plan as a smaller centre catering for local convenience retailing / limited speciality retailing (household goods). The subject site is located in the Local Convenience Retail Strip on the plan, which is where Council's Retail Premises Policy (clause 22.04) encourages retail activities serving localised community needs.
10. The abutting land north of the subject site is occupied by a Beauty Therapist Salon with a residence located at the rear. The shop is constructed to the side boundaries and the residence is setback approximately 1.5m from the common boundary and extends approximately 70 per cent of the site length. There is no on-site car parking. Further north is a two storey brick building which is occupied by a Hair Dressing Salon with apartments at the rear. There is on-site car parking at the rear, accessed of the Right of Way.
11. To the east, on the opposite side of St Georges Road are a mix of commercial uses.
12. To the south, on the opposite side of Holden Street, is a part single and part two storey building which is occupied by an Accountant Firm. Further south are a mix of commercial uses.
13. To the west is a 3.5m wide Right of Way. Abutting the west side of the Right of Way are the rear boundaries of residential properties fronting Pilkington Street.
14. Diagonally opposite the site on the south-east corner of St Georges Road and Holden Street is a three storey building (formerly the Aberdeen Hotel) which has been converted into an education centre, retail premises and dwellings. On-site car parking is provided for the dwellings.

15. The subject site and surrounding land is within the North Fitzroy Heritage Precinct, which is of outstanding significance because it contains a wide range of 19th and early 20th century buildings, many of which remain substantially intact. The former Aberdeen Hotel diagonally opposite the subject site is noted as being of individual significance to the precinct.
16. While the subject building is not itself contributory to the heritage precinct, it is of stylistic and cultural significance, presenting as a largely intact example of an Interwar building at a major intersection in North Fitzroy.

Proposal

17. It is proposed to carry out buildings and works, including partial demolition, to redevelop the land for the purposes of shop and office tenancies. The proposal can be summarised as follows:

Lot 1:

- (a) internally re-arrange the former medical clinic and convert to office (65sqm);
- (b) internally re-arrange residence and convert to office (81sqm);
- (c) construct a first floor at the rear of the retained dwelling with four on-site car spaces in the building undercroft;
- (d) the first floor is constructed to the north boundary, in part along the west boundary (Right of Way) except for one building recess of 645mm, and in part along the south boundary except for one building recess of 645mm and a 1900mm depth west facing terrace. The facades of the building have a maximum height of 8.0m above natural ground level;
- (e) materials and finishes include alucabond composite metal panelling, charcoal rendered external walls and aluminium framed windows;

Lot 2 & 3:

- (f) demolish single storey buildings (built as residences at the rear of the existing shops) and awning above arcade entrance. Entrance door to 139 St Georges Road to be recessed;
- (g) construct a ground floor addition to the building to provide two office tenancies (79sqm and 82sqm) and refurbish the arcade;
- (h) construct a first floor addition, setback 4.3m from the building parapet except for a 2.3m depth terrace either side of the arcade entrance. The first floor is constructed to the north boundary, south boundary and in part along the west boundary (Right of Way) except for two building recesses of 645mm and a 2025mm depth west facing terrace. The facades of the building have a maximum height of 8.0m above natural ground level;
- (i) the first floor addition is to comprise two office tenancies (184sqm each);
- (j) building services and bins are located at the rear of the building; and
- (k) in the undercroft at the rear of the building are 6 on-site car spaces, accessed via the Right of Way.

Planning controls

Zone

Business 1 Zone (B1Z)

18. Pursuant to clause 34.01-1 of the Yarra Planning Scheme, a permit is required to use the site as an office if any frontage at ground floor exceeds 2.0m. The proposed office frontage on Holden Street exceeds 2.0m, therefore a planning permit is required for this proposed office. To use the site for the purposes of shops is a Section 1 – No permit required use.
19. Pursuant to 34.01-4 of the Yarra Planning Scheme, a permit is required to construct or carry out works.
20. The purpose of the Business 1 Zone is:
 - (a) to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies; and
 - (b) to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

Overlays

Heritage Overlay (HO 327 – North Fitzroy Precinct)

21. Pursuant to clause 43.01-1 of the Yarra Planning Scheme, a permit is required to demolish, construct or carry out works.
22. The purpose of the Heritage Overlay is:
 - (a) to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;
 - (b) to conserve and enhance heritage places of natural or cultural significance;
 - (c) to conserve and enhance those elements which contribute to the significance of heritage places;
 - (d) to ensure that development does not adversely affect the significance of heritage places; and
 - (e) to conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

Particular and general provisions

Clause 52.06 (Car parking)

23. Pursuant to clause 52.06-1 of the Yarra Planning Scheme, 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. Where the floor area occupied by an existing use is increased, the parking requirement only applies to the floor area of any extension of the use or site area provided the existing number of car spaces is not reduced.
24. Pursuant to clause 52.06-5, the standard car parking requirement for an office is 3.5 spaces per 100sqm of leasable floor area and for a shop is 8 spaces per 100sqm of leasable floor area. A permit may be granted to reduce or waive the number of the spaces required by the table at clause 52.06-5.

Clause 52.07 (Loading and unloading of vehicles)

25. Pursuant to clause 52.07 of the Yarra Planning Scheme, a single loading bay of 7.6m long by 3.6m wide and with a height clearance of 4.0m is required for a single tenancy building with a floor area of 2600sqm or less. A permit may be granted to reduce or waive the required number of spaces.

Clause 52.34 (Bicycle Facilities)

26. Pursuant to clause 52.34-3, an office use of less than 1000sqm of leasable floor area and a shop use of less than 600sqm of leasable floor area is not required to provide bicycle facilities.
27. Clause 65 contains decision guidelines that are relevant to this application. Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:
 - (a) the matters set out in Section 60 of the Act;
 - (b) the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;
 - (c) the purpose of the zone, overlay or other provision;
 - (d) any matter required to be considered in the zone, overlay or other provision;
 - (e) the orderly planning of the area;
 - (f) the effect on the amenity of the area;
 - (g) the proximity of the land to any public land;
 - (h) factors likely to cause or contribute to land degradation, salinity or reduce water quality;
 - (i) whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site;
 - (j) the extent and character of native vegetation and the likelihood of its destruction;
 - (k) whether native vegetation is to be or can be protected, planted or allowed to regenerate; and
 - (l) the degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

State Planning Policy Framework (SPPF)

Clause 12.01-1: Strategies: Activity centres

28. This clause places considerable emphasis on the important role of activity centres in terms of accommodating a variety of retail, commercial and entertainment uses. This clause stipulates that activity centres should be developed with a strategic framework for the use and development of land in and around the centre to give clear direction in relation to preferred locations for investment.
29. Council's MSS and Local Policy Framework, in particular clause 21.05-4 (Retailing and Activity Centres) and the Retail Centres Policy at clause 22.04, provides the framework for defining the role and function of individual centres within the municipality. The subject site is located outside of the Core Retail Area on the plan, which is where Council's Retail Premises Policy (clause 22.04) encourages the location of offices, recreation and entertainment uses (including food and drink premises). Only retail activities serving localised community needs should locate in Local Convenience Retail Strips. These clauses are discussed in more detail within this report.

Clause 12.05: A great place to be

30. Relevant objective:
 - (a) to create urban environments that are of better quality, safer, and more functional, provide more open space and an easily recognisable sense of place and cultural identity.
31. This clause includes strategies aimed at promoting good urban design, recognising and protecting cultural identity and neighbourhood character, improving safety and protecting heritage places and values.
32. Council's Development Guidelines for Heritage Places is the most appropriate mechanism and assessment tool to assist Council in deciding on whether or not a development appropriately responds to the existing sense of place and cultural identity. An assessment against the relevant policy is offered further in this report and the comments of Council's heritage advisor are also discussed.

Clause 15.05: Noise abatement

33. Relevant objective:
 - (a) to assist the control of noise effects on sensitive land uses.
34. Given the nature of an office use, noise abatement is not considered to be an issue. It should be noted that building regulations will require the building design to incorporate suitable attenuation techniques to ensure adjacent properties are adequately protected from external noise sources.

Clause 15.12: Energy efficiency

35. The objective of clause 15.12 is:
 - (a) to encourage land use and development which is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.
36. Each office and shop tenancy is provided with a sufficient number of windows to allow adequate access to natural daylight. Each first floor office will have access to an open air terrace, allowing for natural ventilation of the first floor offices.

Clause 17: Economic Development

37. The broad policy objective for business within Victoria is:
 - (a) to encourage developments which meet communities needs for retail, entertainment, office and other commercial services and provide net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
38. The two storey scale of the development is considered to be an appropriate intensification of the use of the site given that the retail strip is designated as a Local Convenience Retailing Centres in Council's MSS. The proposal responds to Council's strategic framework for the location of office uses and shop uses at strip shopping centres as outlined on the Retail and Activity Centres Framework Plan.

Clause 18.02: Car and public transport access

39. The objective of this clause is:
 - (a) to ensure access is provided to developments in accordance with forecast demand taking advantage of all available modes of transport and to minimise impact on existing transport networks and the amenity of surrounding areas.
40. It is stated in this clause that the amenity of residential precincts should be protected from the effects of road congestion created by on-street car parking. Council's traffic engineer has assessed the likely impact of car parking and traffic on the local residential area and found that there will be no adverse impacts on the existing network. An assessment against car parking is discussed further within this report.

Clause 18.03 - Bicycle transport

41. Objective:
 - (a) to integrate planning for bicycle travel with land use and development planning and encourage cycling as an alternative form of transport.
42. There are adequate bicycle networks to the site to help make cycling a viable alternative form of transport to the site. A condition on permit will require the provision of bicycle parking.

Clause 19.03 - Design and built form

43. This clause outlines objectives to achieve high quality urban design and architecture, which includes objectives of heritage, architectural quality, consolidation of sites and empty sites, landscape architecture and pedestrian spaces. This clause aims to ensure that new development:
 - (a) reflects the particular characteristics, aspirations and cultural identity of the community;
 - (b) enhances liveability, diversity, amenity and safety of the public realm; and
 - (c) promotes attractiveness of towns and cities within broader strategic contexts.
44. For development proposals for non-residential development, planning and responsible authorities must have regard to the eleven design principles outlined at clause 19.03. A detailed assessment against this provision is outlined later within this report.

Local Planning Policy Framework (LPPF)

Clause 21.04: Vision – Strategic Framework

45. The above vision outlines a number of strategic objectives which provide a means of ensuring a socially, environmentally and economically sustainable future for the Yarra community as a whole. In attempting to achieve these objectives, an overall strategic framework plan and 9 detailed elements are provided. A discussion on the relevant elements is provided below:

Clause 21.05-1: Element 1 – Urban Design Framework

46. Relevant objectives include:
 - (a) to retain the City's identity as a low-rise urban form, with (mainly in Fitzroy, Richmond, Collingwood, Abbotsford and Burnley) areas of higher development and landmarks valued highly by the local community;
 - (b) to retain and extend the City's fine grain street pattern and urban form;
 - (c) to ensure new development responds to the City's historic identity;
 - (d) to retain important landmarks and icons which contribute to the identity of the City;
 - (e) to ensure that at street level, buildings have a human scale;
 - (f) to respect the intrinsic fine grained nature of the City where this originally occurred;
 - (g) to ensure new development visually responds to and embraces the qualities of the City's natural heritage and waterways;
 - (h) to encourage ecologically sustainable and inclusive design;
 - (i) to provide pedestrian spaces and links that provide a safe, inclusive, attractive and vibrant public domain and a sense of community;
 - (j) to maintain and strengthen the distinct character of each type of built form within the City; and
 - (k) to ensure that developments contribute positively to the urban fabric and public space system of the City.

47. The development responds to the prevailing low-rise scale of surrounding built form, which is between one and three storeys high. The proposal preserves the key original fabric of the building by retaining the front façade and front portion of the building and the retention of former dwelling on Holden Street. The setback of the first floor from the street frontages helps to maintain the scale and built form character of the subject site when viewed from Holden Street and St Georges Road.
48. The proposed addition to the building is to be constructed from lightweight materials and the design detailing is simplistic, complimenting rather than competing with the art deco detailing of the existing building. Legible access to the development is via footpaths along the street frontages or via a new pathway at the rear of the building, which connects with Holden Street and the undercroft car park area.

Clause 21.05-4: Element 4 - Retailing and Activity Centres

49. St Georges Road, North Fitzroy is identified as a Local Convenience Retail Strip on the Retail and Activity Centres Framework Plan. Relevant objectives include:
 - (a) to enhance the long term viability of strip centres;
 - (b) to ensure centers continue to meet the 'convenience' and 'weekly' shopping needs of local communities;
 - (c) to enhance the individualised character of each centre, reflective of retail 'identity', and heritage and cultural influences;
 - (d) to reinforce centers as 'community hubs';
 - (e) to provide sufficient and appropriately located car parking;
 - (f) to ensure the functioning of centres minimises amenity impacts on adjoining residential areas, particularly from parking demand, noise and late night trading; and
 - (g) to ensure high levels of accessibility via enhanced public transport facilities, and provision of safe and convenient pedestrian and bicycle environments.
50. The two storey scale of the development is considered appropriate for a Local Convenience Retail Centre, ensuring that the proposed intensification of the use of the site is consistent with Council's strategic vision for the strip centre and the local community. The office fronting Holden Street is unlikely to result in noise or late night activity issues given the nature of an office use. Council's traffic engineer has assessed the proposed car parking for the development and found the car parking provision to be satisfactory. A detailed assessment of the car parking provision and Council's traffic engineer's comments is included within this report.

Clause 21.05-7 - Heritage Conservation

51. This clause considers a Heritage Conservation Framework for the municipality. Selected relevant objectives include:
 - (a) to conserve of places of aesthetic, archaeological, architectural, cultural, historical, scientific and social significance which reflect Yarra's historic development;
 - (b) to retain and enhance of the integrity of cultural heritage places;

- (c) a heritage that is understood and appreciated by an informed community; and
 - (d) a coordinated and informed approach to heritage conservation by management organisations, property owners and the wider community.
52. Relevant strategies to achieve these objectives relevant to this application include:
- (a) ensure that our heritage places maintain their integrity through:
 - (i) the conservation of individual sites and areas of cultural heritage significance; and
 - (ii) managing future development on and around heritage places.
 - (b) ensure that our heritage fabric continues to be a living fabric through:
 - (iii) considering alternative uses on individual sites of heritage significance, where appropriate; and
 - (iv) ensuring historic places and infrastructure are adequately maintained.
53. The proposal complies with this clause as it retains the key original fabric of the existing building and proposes additions that will not impact on its cultural heritage significance. A discussion of heritage considerations is offered in the assessment section of this report.
- Clause 21.05-8: Element 8 - Transport and Access*
54. This clause recognises that reducing the incidence of car based travel will achieve a number of objectives. These are:
- (a) making the City more liveable;
 - (b) reducing congestion and fragmentation of land, and improving road safety;
 - (c) improving convenience and access for all persons, particularly recognising the dependency on public transport of a significant percentage of Yarra's population;
 - (d) enhancing the City's economic role and performance through facilitating more efficient freight movement on roads; and
 - (e) reducing environmental impacts and conserving energy in transport use.
55. This clause acknowledges that while reliance upon cars will continue and traffic flows cannot be expected to be decreased, Council has a pivotal role in minimising traffic impacts by acting as an advocate for alternative modes of transport. Council's traffic engineer has assessed the proposal and found the access arrangements to be adequate for the development. A detailed discussion of these considerations is offered in the assessment section of this report.

Clause 22.02: Development Guidelines for Heritage Places

56. This policy applies to all land covered by the heritage overlay. The relevant objectives are:
 - (a) to conserve Yarra's unique cultural heritage to ensure its future conservation and continued relevance to the community; and
 - (b) to promote the City's heritage.
57. The proposal complies with the above objectives, with a detailed assessment of the development against this policy included in a later section of this report.

Clause 22.04: Retail Centres Policy

58. This policy applies to retail centres identified on the Retailing and Activities Centres Plan at clause 21.05-4. Relevant objectives include:
 - (a) *late night and 24 hour trading activities are discouraged from locating adjacent to residential areas.*
59. The proposed shop tenancies and most of the offices at first floor do not require a planning permit therefore hours of operation are not determined as part of this application. The proposed office at ground floor fronting Holden Street, which does require a planning permit due to the frontage exceeding 2.0m, is unlikely to result in adverse off-site amenity impacts on nearby residences due to the Right of Way providing a 3.5m wide physical separation from the rear boundaries of residences fronting Pilkington Street. This will be discussed in greater detail in the assessment section of this report.

Relevant policy

The Town Planning Parking Policy (September 2001)

60. This policy outlines parking considerations as they specifically apply to the City of Yarra. This policy is the result of a comprehensive car parking review, aimed at the effective management of both on and off street parking within Yarra. The policy recommends reduced car parking ratios, which are specific to the City of Yarra. Relevant objectives of policy are:
 - (a) to provide functional parking at realistic rates that are appropriate to the attributes of the site and the broader neighbourhood;
 - (b) to preserve the amenity of residential and commercial areas; and
 - (c) to provide a consistent framework for the consideration of applications to reduce or waive car parking.
61. The Town Planning Parking Policy specifies a rate of 3 spaces per 100sqm of leasable floor area for an office use greater than 200sqm and 4 spaces per 100sqm of leasable shop floor area. An assessment of the proposal against this policy is included in this report.

Notice of application

62. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by letters sent to surrounding owners and occupiers and by signs displayed on site.

63. Council received eight objections to the application.

Summary of objections

64. The objections are summarised as follows:

- (a) height and scale of the development inappropriate opposite residential properties;
- (b) two storey wall on the rear boundary inappropriate opposite the residences;
- (c) loss of privacy from overlooking;
- (d) loss of sunlight;
- (e) reflected light and light spill issues;
- (f) impact on on-street car parking;
- (g) impact on traffic movement; and
- (h) impact on property values.

Consultation

65. A consultation meeting was held on 11 December 2006. At the meeting the applicant agreed to amendments to the plans to be addressed by way of conditions on a permit.

Referrals and comments

66. The application was referred to Council's traffic engineer and heritage advisor.

Traffic engineering comments

Car parking provision:

- (a) *the proposed development comprises retail and office tenancies with a total on-site car parking provision of ten spaces accessed off a Right of Way. According to the submitted report, the development would have a statutory car parking requirement of 46 spaces;*
- (b) *the development's frontage along St Georges Road would experience high levels of pedestrian traffic, and a significant proportion of customers/visitors to the site would be pedestrians;*
- (c) *the development has good access to public transport, with tram services along St Georges Road and bus services operating along Holden Street. Public transport would be a viable transport option for employees;*
- (d) *some of the streets surrounding the site contain short term parking restrictions (1P, 2P) and Permits zones (usually operating after hours). It is agreed that short term parking spaces are available within walking distance of the site. The time-based parking restrictions ensure that there is parking turnover;*
- (e) *the operation of the new development should not create a noticeable impact on the existing on-street parking conditions in the area. Before a decision is made whether to grant a dispensation in car parking, the above factors should be taken into account;*

Access arrangements:

- (f) *there is no objection of the use of the rear Right of Way in order to provide vehicular access for the development. The Right of Way can be accessed from either Holden Street in the south or Barkly Street from the north. An 85th percentile vehicle can either enter into the car parking spaces in a forward direction or reverse into the spaces;*

Internal layout:

- (g) *the dimensions of the car parking spaces are adequate. In this instance, the 4.9m lengths of the spaces are considered satisfactory since each space allows for 500-600 mm vehicle overhang;*

Right of Way:

- (h) *the surface of the Right of Way is to be resurfaced, from the north building line of the property to Holden Street. The car parking area is to neatly match the levels of the east side of the Right of Way. The Right of Way works are to be done to Council's satisfaction. The cost of these works shall be borne by the applicant;*

Drainage:

- (i) *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), to Council's satisfaction;*
- (j) *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; and*

Refuse collection:

- (k) *The collection of refuse for all developments should be in accordance with Council's Services Contracts' requirements and, where applicable, with Domestic Refuse collection in Multi unit developments Part 1.*

Heritage advisor comments

Existing building, St Georges Rd:

- (a) *delete the raked form of the fascia to the proposed upper level addition, and provide a minimum height above ceiling level for roof parapet and fascia;*
- (b) *retain side walls to entrance courtyard- new display boards and/or cabinets could be surface mounted to walls. Alternatively, a small sized opening could be made;*
- (c) *retain awning to street front – not cut as proposed in front of entrance gates;*
- (d) *scope to improve prominence of upper façade by paint awning fascia a similar colour to the main brick colour, and by removing all signage from above awning; (also scope to request YCC to relocate young street tree planted in front of entrance);*
- (e) *clarify height of proposed glass roof to entrance court;*
- (f) *clarify proposed St Georges Rd Streetscape Elevation, double lines between first floor faced corners;*
- (g) *show elevations of walls to first floor offices at return from open terrace;*
- (h) *retain indication of original division of entrance courtyard into two pathways – retain short extent of planter at arched wall and at entrance, and pave with bricks laid into ground in place of full length of planter;*
- (i) *clarify proposed replacement paving to existing concrete in courtyard;*

- (j) retain low brick piers to either side of opening and all brick work surround to opening;
- (k) clarify proposed "wrought iron gates to arcade";
- (l) retain original gate on site;
- (m) clarify proposed doors/gates at arches between courtyard (arcade) and new reception area;
- (n) provide proposed elevation of brick wall with arches and parapet, and new work;

Existing building, Holden St:

- (o) clarify retention of original entrance door;
- (p) clarify TP03 whether roof over entrance passage altered;
- (q) clarify Holden St Elevation – glazed face is to Kitchen, not above existing stairwell. Clarify material to corner element;
- (r) lower existing roof at southwest corner not shown on elevation;
- (s) clarify columns treatment and material to proposed new (curved) entry foyer walls;

New rear addition, Holden St:

- (t) revise materials to not use sheen materials;
- (u) provide east elevation of proposed new rear addition; and
- (v) clarify whether any ancillaries proposed (such as satellite dishes, access ladders, air conditioning plants, wall and roof top mounted lighting, solar heating systems, roof top gardens, water meters and rubbish bins) and if so, these to be concealed from streetscape views without increasing the apparent height to the street.

Assessment

67. When considering this application, consideration is given to five main areas:

- (a) consistency with policy;
- (b) use;
- (c) built form (clause 19.03 and Heritage);
- (d) impact on amenity of surrounding land uses;
- (e) traffic and parking; and
- (f) loading and unloading.

State Planning Policy Framework (SPPF)

68. The proposal, subject to conditions, complies with relevant SPPF. The proposed intensification of the use of the site is representative to what the zoning provisions allow and what is envisaged for the retail centre in Council's Strategic Framework, complying with clause 12.01 (Activity centres) and 17.02 (Business). It is submitted that the entitlements of persons who live in residences opposite the subject site have been reasonably protected given the Residential 1 Zone is opposite a Business 1 Zone, reducing the capacity for the residences to enjoy the same level of amenity when compared to a direct abuttal with another residential zone.

69. The proposed scale and massing of the addition satisfies key urban design objectives for ensuring that the development will integrate with surrounding built form while minimising off-site amenity impacts in line with design objectives at clause 12.05 (A great place to be) and clause 19.03 (Design and built form). Subject to conditions on permit addressing overlooking and light spill, off-site amenity impacts as a result of the development will not be detrimental on the nearby residences. Council's traffic engineer has indicated that the proposed shortfall of car parking will have no obvious impact on existing car parking conditions in the local area. The development is considered to reasonably meet the transport needs of prospective employees required by clause 18.02 (Car parking and public transport access to development) and conditions on permit will require bicycle parking to ensure that the development complies with clause 18.03 (Bicycle transport).

Local Planning Policy Framework (LPPF)

70. The proposal complies, subject to conditions, with relevant LPPF objectives. The proposed development of the site within a two storey building envelope is an appropriate intensification of the site given the land is within a Local Convenience Retail Centre. The ground floor office which requires a planning permit is not expected to result in adverse off-site amenity impacts on the surrounding area given the low-impact nature of an office use. The proposed buildings and works, subject to modifications to the west façade and design detailing, are considered to be an appropriate consolidation of the site without detracting from the existing building fabric. An assessment of the built form is provided later in this report as well as an assessment against car parking and bicycle parking.

Use

71. The shop tenancies are a Section 1 – no permit required use. The proposed office fronting Holden Street is the only tenancy of this development that requires a planning permit for the use because the ground floor frontage exceeds 2.0m.
72. Converting the former medical suites into an office is unlikely to detract from the appearance of the retail centre given that no external changes are proposed to the building. It is considered unnecessary to stipulate on the permit hours of operation for the office given that the other proposed office tenancies do not require planning permission and it is likely that an office use will occur between normal business hours, resulting in no adverse off-site amenity impacts on surrounding land uses.

Built form

73. Design objectives as outlined at clause 19.03 are relevant for the assessment of the appropriateness of the design response for the site. An assessment against each objective is offered below:

Context:

- (a) development must take into account the natural, cultural and strategic context of its location; and

- (b) a comprehensive site analysis should be the starting point of the design process and form the basis for consideration of height, scale and massing of new development.
- 74. The setbacks and building height is appropriate for the site context. The first floor is sufficiently setback from the street frontages and residential properties on the opposite side of the Right of Way to ensure that the development does not present as a dominate element. The flat roof form is compatible with the style and appearance of surrounding roof forms, which are mixed in character.
- 75. The design detailing of the development will not compete with the existing building fabric on the site, helping to preserve the built form character at this main road intersection.
- 76. The amenity of the residence to the north will not be adversely affected by the development given that the proposed works will not overshadow the residence and the south facing windows will continue to receive adequate access to natural daylight as the windows have 1.5m clear access to the sky.

The public realm:

- (a) the public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.
- 77. The proposal employs sufficient vertical modulation at the rear of the building to ensure that the west façade does not present as one large mass to the public domain or residences opposite the laneway. The development will not dominate the St Georges Road street frontage due to the setback of the first floor from the existing building fabric on the street frontage.

Safety:

- (a) new development should create urban environments that enhance personal safety and property security and where people feel safe to live, work and move in at any time.
- 78. Natural surveillance of the public domain is afforded by the proposed windows and terraces. The development incorporates windows at ground floor at the rear of the building, allowing for surveillance of the undercroft car parking. In addition, a condition on permit will require the installation of lighting within the undercroft area.

Landmarks, views and vistas:

- (a) landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.
- 79. The development will not obscure any significant viewlines from the public domain due to the building envelope being contained within two storeys. The two storey rear façade is appropriate opposite the Residential 1 Zone because the 3.5m wide Right of Way creates adequate physical separation between the rear boundaries of the residences fronting Pilkington Street and the rear boundary of the subject site.

Pedestrian spaces:

- (a) design of the relationship between buildings and footpaths and other pedestrian spaces, including the arrangement of adjoining activities, entrances, windows, and architectural decoration, should enhance the visual and social experience of the observer.
80. The entrances to the rear of the building are well defined and access is provided by a pathway, separated from the undercroft car parking. Bin storage and pits and meters have been incorporated into the overall design of the development and are concealed from streetscape view and are logically located.

Heritage:

- (a) new development should respect, but not simply copy, historic precedents and create a worthy legacy for future generations.
81. The design response, subject to modifications to the design detailing, adequately addresses the historic context of the site, maintaining the sense of the original rhythm of the subject building while positively contributing to the changing character and appearance of the retail strip. A detailed discussion of heritage considerations is included within this report.

Consolidation of sites and empty sites:

- (a) new development should contribute to the “complexity” and diversity of the built environment;
 - (b) site consolidation should not result in street frontages that are out of keeping with the “complexity” and “rhythm” of existing streetscapes; and
 - (c) the development process should be managed so that sites are not in an unattractive, neglected state for excessive periods and the impacts from vacant sites are minimised.
82. The proposed development is of an appropriate scale and incorporates sufficient street setbacks to preserve the built form character of the retail strip. The development will not present as one large building to the Right of Way or residential properties opposite because a west facing terrace, windows and panelling introduce architectural form and rhythm to the west façade. The vertical modulation helps to break up the perceived visual mass of the west façade. The Right of Way provides adequate physical separation between the development and the rear boundaries of residences fronting Pilkington Street to ensure that the two storey west façade is of an appropriate scale when viewed from private open space.

Light and shade:

- (a) enjoyment of the public realm should be enhanced by a desirable balance of sunlight and shade; and
- (b) this balance should not be compromised by undesirable overshadowing or exposure to the sun.

83. Given the two storey scale of the development and that a 3.5m wide Right of Way separates the subject site from the Residential 1 Zone, overshadowing of private open space will not be a significant issue and it is noted it will only occur in the morning. To reduce the potential for reflected light to impact on surrounding land uses, a condition on permit will require that the west façade and windows are non-reflective (low sheen).

Energy and resource efficiency:

- (a) all building, subdivision and engineering works should promote more efficient use of resources and energy efficiency.
84. The development incorporates openable windows and open air terraces, allowing for access to natural daylight, sunlight and ventilation of the building. The undercroft car park will also have good natural ventilation.

Architectural quality:

- (a) new development should aspire to the high standards in architecture and urban design; and
 - (b) any rooftop plant, lift over-runs, service entries, communication devices, and other technical attachment should be treated as part of the overall design.
85. A condition on permit will require that all rooftop equipment be concealed from view. High quality materials and finishes will be sought as a condition on the permit.

Landscape architecture:

- (a) recognition should be given to the setting in which buildings are designed and the integrating role of landscape architecture; and
 - (b) planning authorities should emphasise urban design policies and frameworks for key locations or precincts.
86. The subject site currently does not include soft landscaping and the development does not propose any soft landscaping. Given the limited opportunities for soft landscaping and the prevailing 'urban' character, ensuring that the development is constructed from high quality materials and finishes is considered to adequately respond to this objective. This will be addressed by way of condition on the permit.
87. Council's Development Guidelines for Heritage Places at clause 22.02 is also applicable to the assessment of the appropriateness of the buildings and works.
88. It is policy at clause 22.02-3.3 that additions and new works to all heritage places encourage design that:
- (a) may be contemporary;
 - (b) avoids reproduction architecture;
 - (c) will not be confused with the original historic fabric;
 - (d) will ensure that the original historic fabric remains intact;

- (e) will not visually dominate an existing heritage place or street in terms of size, height, and bulk when viewed from surrounding streets;
 - (f) considers the architectural integrity of the heritage place;
 - (g) reflects the particular rhythm, spatial characteristics and character of the surrounding historic streetscape;
 - (h) avoids blank walls at ground and upper floor levels when viewed from the surrounding streets;
 - (i) retains original bluestone road/laneway materials and details;
 - (j) encourage setbacks that result in new additions and works that are not visible when viewed from surrounding streets;
 - (k) encourage a façade height that conforms to the same height as the adjacent building frontages in the street;
 - (l) consider proposals for structures that exceed the height of adjacent buildings if the new structures are located at the rear of the site and will not visually dominate surrounding heritage places; and
 - (m) encourage building orientation that conforms to the same pattern as the existing buildings in the street (where there is a dominant subdivision pattern).
89. The proposed retention of the former residence fronting Holden Street and the front façade and front depth of the building will ensure that the original scale and silhouette of the corner streetscape is retained. The location of the first floor will ensure that the original building dominates streetscape viewlines and not the new additions.
90. The proposed buildings and works have been assessed as a contemporary addition to the building which does not replicate the original features of the building. The design detailing of the addition is simplistic, allowing the art deco detailing of the existing building to remain the dominant architectural feature of the site.
91. It is policy at clause 22.02-3.5 that additions and new works in industrial and heritage places discourage the following additions and new works:
- (a) contemporary balconies;
 - (b) promotion signs;
 - (c) roof top mounted signs;
 - (d) roof top gardens;
 - (e) pedestrian entrance canopies and other ancillary structures; and
 - (f) reflective glass to windows.
92. However, it is also policy that the additions and new works listed above may be acceptable in exceptional circumstances if:
- (g) they do not negatively impact upon the significance or architectural character of the place; and/ or
 - (h) they cannot be seen from the street.

93. Subject to the awning above the arcade being reinstated and the south facing terrace (fronting Holden Street) being further setback to align with the shallow setback employed on the south façade, the terraces will not negatively impact on the character of the streetscape. The terraces are subtle elements of the building design which assist in the vertical modulation of the south and west (rear) façade. The terraces behind the retained front façade will not be visible from the street. Conditions on permit will address the design detailing of the building, including windows being constructed from non-reflective glass.
94. It is policy that new upper storey additions should normally be permitted where:
 - (i) the higher section is hidden from the street; and/ or
 - (j) the higher section is hidden behind an existing parapet wall; and/ or
 - (k) the higher section meets the other requirements of this policy.
95. Given the corner location of the site, it is not possible to conceal the proposed first floor from streetscape view. It is submitted however that the upper floor is generally located to minimise impact on the existing building, being setback a minimum 4.3m from the building parapet and being setback behind the former medical clinic on the Holden Street frontage. The new works will read as an addition to the building rather than being confused as part of the existing fabric, helping to ensure the development is sympathetic to the rhythm and spatial characteristics of the streetscape.

Amenity impact on adjoining properties

96. As the land is zoned Business 1 and it is opposite a Residential 1 Zone to the west of the site, off-site amenity impacts from the proposed development require careful consideration. It is acknowledged that the proposed offices at first floor do not require planning approval, however consideration of the built form needs further discussion. In its current form, the development does not achieve an appropriate balance between providing a high level of amenity for the proposed office use and minimising the impact on the established residences.
97. Overlooking is an issue to the neighbouring dwellings given that the development proposes unscreened west facing windows and an unscreened west facing terrace which will provide overlooking opportunity into the residential properties to the west. While overlooking is not strictly a decision guideline for development in a Business 1 Zone, the subject site's location opposite a Residential 1 Zone is a site constraint and consideration should be given to minimising intrusion on the residences. Accordingly, a condition on permit will require the first floor west facing windows and terrace to be screened.
98. The physical separation between the Residential 1 Zone and Business 1 Zone as a result of the 3.5m wide Right of Way helps to minimise the impacts of visual bulk, overshadowing, loss of sunlight and light spill on the nearby residential properties. It is considered inappropriate to require the first floor to be setback from the rear boundary to provide visual relief to the residences to the west. The physical separation between the subject site's rear boundary and the rear boundaries of the residences fronting Pilkington Street will result in the development being of an appropriate scale when viewed from these properties.

It is noted that if it was applicable to apply Rescode to the assessment of the setback of the development from the rear boundaries of the residences, the development would comply with the required setback, exceeding it by 400mm. Further, the shallow setbacks employed along the rear (west) façade combined with the palette of materials, will help to break up the visual mass of the wall so that it has vertical articulation and responds to a fine grain lot size.

- 99 While the development will result in a change in physical circumstances, the off-site amenity impacts will not be detrimental on residential amenity subject to conditions on the permit addressing overlooking and light spill. The west façade (rear elevation) is to combine a rendered surface treatment with alucabond composite metal panels and aluminum framed windows. To reduce potential for light spill, it will be a condition on permit that windows are non-reflective glass and the proposed finishes are low-sheen (non-reflective) materials.

Assessment against car parking (clause 52.06)

100. The proposal is for 210sqm of shop floor area and 838sqm of leasable office floor area. The table below provides the required rates in accordance with the provisions of clause 52.06 and Council's Town Planning Parking Policy.

Use	Yarra Planning Scheme	Town Planning Parking Policy
Office	$838 \times 3.5/100 = 29.3$	$838 \times 3/100 = 25.1$
Shop	$210 \times 8/100 = 16.8$	$210 \times 4/100 = 8.4$
Total spaces required	= 46.1 [46]	= 30.8 [31]

101. The development provides ten car spaces. Accordingly, a car parking reduction of 36 car spaces is being sought pursuant to the Planning Scheme and 21 car spaces pursuant to the Town Planning Parking Policy.
102. A reduction in car parking requirements is governed by considerations contained in Clause 52.06 of the Yarra Planning Scheme. Clause 52.06-1 states:

- (a) *before a requirement for car spaces is reduced or waived, the applicant must satisfy the responsible authority that the reduced provision is justified due to:*

- (i) any relevant parking precinct plan;
- (ii) the availability of car parking in the locality;
- (iii) the availability of public transport in the locality;
- (iv) any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;
- (v) any car parking deficiency or surplus associated with the existing use of the land;
- (vi) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement;
- (vii) local traffic management;
- (viii) local amenity including pedestrian amenity;

- (ix) an empirical assessment of car parking demand; and
- (x) any other relevant consideration.

103. The subject site currently has informal car parking for four cars and the existing building is currently occupied by shop, office and residential tenancies which require the following parking provisions:

Use	Yarra Planning Scheme	Town Planning Parking Policy
Office	$185 \times 3.5/100 \times = 6.5$	$185 \times 3/100 = 5.6$
Shop	$167 \times 8/100 = 13.4$	$167 \times 4/100 = 6.7$
Dwelling	$2 \times 2 \text{ spaces per dwelling} = 4$	Not specified [= 4]
Medical	$2 \times 5 \text{ spaces per practitioner} = 10$	Not specified [= 10]
Total spaces required	= 33.9 [34]	= 26.3 [26]

104. As the site currently has four on-site car spaces, it is therefore considered that the site has a car parking credit of 30 spaces pursuant to the Yarra Planning Scheme and a credit of 22 spaces pursuant to the Town Planning Parking Policy.

105. In light of the above considerations, it is submitted that the car parking reduction being sought is appropriate and justified for the following reasons:

- (a) taking into account the car parking credit for the site, 6 car spaces are to be waived for the proposed office and shop tenancies;
- (b) it is impractical and undesirable to require complete provision of car parking for shops in a strip shopping centre. This stance is supported in the VCAT decision *Ian Perkins & Associates Pty Ltd v Yarra CC [2002] VCAT 1114 (23 October 2002)*;
- (b) providing more car parking on-site will increase detriment to the surrounding local road network through increased traffic congestion which is not considered to be consonant with sound town planning practice;
- (c) the site is located within close proximity to excellent networks of public transport (trams and buses) and this is expected to encourage alternative forms of transport to and from the site;
- (d) the proposed development will be required to provide bicycle parking to help make cycling a viable, alternative mode of transport to the site. Further, given the limited supply and high demand for on-street parking, prospective employees are likely to consider alternative transport modes, such as public transport or cycling;
- (e) the existing short-term on-street parking restrictions will provide for a turnover of car parking which can adequately cater for visitors to local businesses in the area, reducing potential conflict with surrounding land uses for on-street car parking;
- (f) the intensity of the development is not unreasonable for a Local Convenience Retail Centre and is unlikely to result in an unreasonable demand on existing on-street car parking; and
- (g) the application was referred to Council's Engineering Services Unit and they have not objected to the proposed reduction in car parking.

Assessment against loading and unloading of goods

106. Pursuant to clause 52.07 of the Yarra Planning Scheme, a single loading bay of 7.6m long 3.6m wide and with a height clearance of 4.0m is required for a single tenancy building with a floor area of 2600sqm or less.
107. The proposed total floor area of the shop tenancies is 210sqm. A permit may be granted to waive the loading bay requirement if:
 - (a) the land area is insufficient; and
 - (b) adequate provision is made for loading and unloading vehicles to the satisfaction of the Responsible Authority.
108. The existing shop tenancies do not have the provision of a loading bay and vehicles currently load and unload goods at the rear of the building or from the loading bay on St Georges Road. The proposal seeks to retain this existing condition, which is considered satisfactory.

Conclusion

109. In conclusion, the subject site represents a significant part of a Local Convenience Retail Centre in terms of building footprint and exposure to the public realm. The use and development is considered to be respectful of the prevailing urban character with no adverse amenity impacts on surrounding land uses, complying with the State Policy Planning Framework and Local Policy Planning Framework.

RECOMMENDATION

110. That having considered all objections and relevant planning documents, the Committee issue a Notice of Decision to grant a Planning Permit Application No. PL06/0654 for use and development for the purpose of office, including part demolition, buildings and works and a reduction in car parking requirements at 333-345 St Georges Road, North Fitzroy, subject to the following conditions:

1. Amended Plans

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 submitted with the application, but modified to show:

- (a) first floor south facing terrace setback 645mm from the south boundary to align with the setback of the building recess;
- (b) delete the raked form of the fascia to the proposed upper level addition to St Georges Road. The maximum height above ceiling level for the roof parapet and fascia is 700mm;
- (c) retain awning above arcade entrance on St Georges Road;
- (d) the proposed glass roof to the entrance court located behind the parapet and to be no higher than the existing parapet;

- (e) elevations showing the walls to the first floor offices at the return from the open air terrace;
- (f) east elevation of the first floor office which is constructed on the south boundary (Holden Street);
- (g) retain indication of original division of entrance courtyard into two pathways and retain short extent of planter at arched wall and at entrance and pave with bricks laid into ground in place of full length of planter;
- (h) retain low brick piers to either side of arcade entrance and all brick work surround to opening;
- (i) details of wrought iron gates to arcade;
- (j) lighting of undercroft car parking;
- (k) a notation on plan stating that all new on boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority;
- (l) all first floor west facing windows (except for the west facing sliding doors to the terrace) to be opaque glass to 1.7m high above finished floor level;
- (m) all west facing terraces to be screened to allow no more than 25 per cent visual permeability to 1.7m high above finished floor level. Details of the screening treatment must be submitted;
- (n) all west facing windows to be non-reflective glass and have a glazing treatment to reduce glare and all shop front windows to be non-reflective glass. Details and a sample of the glazing treatment must be submitted;
- (o) external materials and finishes to the west façade (facing Right of Way) to be non-gloss (low sheen). Details and a materials board must be submitted;
- (p) stairwell facing Holden Street and glass atrium to be clear non-reflective glass;
- (q) courtyard paving to be terrazzo concrete floor;
- (r) areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters;
- (s) the surface of the Right of Way is to be resurfaced, from the north building line of the property to Holden Street. The car parking area is to neatly match the levels of the east side of the Right of Way. The Right of Way works are to be done to Council's satisfaction. The cost of these works shall be borne by the applicant.
- (t) a car parking allocation schedule;
- (u) the provision of 15 bicycle parking spaces with details submitted of the bicycle rails;
- (v) all roof top equipment and building services to be concealed from streetscape view; and
- (w) a schedule of all external materials and finishes (including colour samples) must be submitted prior to the endorsement of plans. The schedule must show the materials, colour and finish of all external walls, roof, fascias, window frames, glazing types, doors and include one set of coloured elevations.

all to the satisfaction of the Responsible Authority.

2. Endorsed Plans

All development and use must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.

3. Layout of Plans

The layout of the uses on the endorsed plans must not be altered without the written consent of the Responsible Authority.

4. Car Parking Areas

All areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:

- (a) used for no other purpose;
- (b) formed to levels, constructed, line marked, sealed, illuminated and drained to specifications approved by the Responsible Authority; and
- (c) maintained at all times to the satisfaction of the Responsible Authority.

5. Damage to Roads

All damaged road(s) and footpath(s) adjacent to the development site must be reinstated to the satisfaction of the Responsible Authority.

Trenching for underground services within a Public Highway will require the re-sheeting of footpaths and the reinstatement of any assets. The cost of these reinstatement and footpath works shall be borne by the applicant.

The applicant is to provide a dilapidation report and arrange a site meeting with Council's Reinstatement Officer prior to any demolition works on the site.

6. Garbage Collection

Rubbish, including bottles and packaging material (recyclables), shall at all times be stored within the building and screened from external view. All waste collection to be undertaken by private contractors from within the development and must not be undertaken between the hours of 7.00 am and 7.00 pm.

7. Lighting

Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on nearby land.

8. Construction Management Plan

Before the commencement of the development, a Construction Management Plan 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 Construction Management Plan must include the following matters:

- (a) a pre-conditions survey of all Council roads;
- (b) construction team details;

- (c) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside of the site;
- (d) on site facilities for vehicle washing;
- (e) parking facilities for construction workers;
- (f) methods for management of noise and general nuisance;
- (g) operational matters;
- (h) security;
- (i) waste and stormwater treatment;
- (j) construction program;
- (k) preferred routes for trucks delivering to the site;
- (l) delivery and unloading points and expected frequency;
- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) a liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced and who is available 24 hours per day;
- (o) details of any contaminated soil or other material on the site and methods proposed to deal with contaminated material, including steps proposed to protect construction workers and adjoining residents; and
- (p) traffic management measures to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads.

9. Construction

During the construction phase of the development, the following conditions shall be met:

- (a) only clean rainwater shall be discharged to the stormwater drainage system;
- (b) stormwater drainage system protection measures shall be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the premises enters the stormwater drainage system;
- (c) vehicle borne material from the premises shall not accumulate on the roads abutting the site;
- (d) all machinery and equipment must be cleaned (if required) on site and not on adjacent footpaths or roads;
- (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be contained within the site boundaries, and disposed of responsibly; and
- (f) all site operations shall comply with the *Environmental Protection (Residential Noise) Regulations 1997*.

10. Construction Hours and Noise

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

11. Time Limits

This permit will expire if the use of development is not commenced within two years from the date of this permit. All development must be completed within four years of the date of this permit. The Responsible Authority may approve extensions to these time limits if requests are made within three months of expiry.

Note: Heritage

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

Note: Drainage

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

Note: Building Permit

A building permit must be obtained before development is commenced.

Note: Parking Permit

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

Submissions

The Applicant, Mr Greg Buchanan and Architects addressed the Committee.

The following people also addressed the Committee:

*Belinda (C/- 8 Pilkington St, North Fitzroy); and
Mr & Mrs Zu Ming Ziang.*

INTERNAL DEVELOPMENT APPROVALS COMMITTEE RESOLUTION

Moved: Councillor D'Agostino

Seconded: Councillor Barbara

That having considered all objections and relevant planning documents, the Committee issue a Notice of Decision to grant a Planning Permit Application No. PL06/0654 for use and development for the purpose of office, including part demolition, buildings and works and a reduction in car parking requirements at 333-345 St Georges Road, North Fitzroy, subject to the following conditions:

1. Amended Plans

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 submitted with the application, but modified to show:

- (a) first floor south facing terrace setback 645mm from the south boundary to align with the setback of the building recess;
- (b) delete the raked form of the fascia to the proposed upper level addition to St Georges Road. The maximum height above ceiling level for the roof parapet and fascia is 700mm;
- (c) retain awning above arcade entrance on St Georges Road;
- (d) the proposed glass roof to the entrance court located behind the parapet and to be no higher than the existing parapet;
- (e) elevations showing the walls to the first floor offices at the return from the open air terrace;
- (f) east elevation of the first floor office which is constructed on the south boundary (Holden Street);
- (g) retain indication of original division of entrance courtyard into two pathways and retain short extent of planter at arched wall and at entrance and pave with bricks laid into ground in place of full length of planter;
- (h) retain low brick piers to either side of arcade entrance and all brick work surround to opening;
- (i) details of wrought iron gates to arcade;
- (j) lighting of undercroft car parking;
- (k) a notation on plan stating that all new on boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority;
- (l) all first floor west facing windows (except for the west facing sliding doors to the terrace) to be opaque glass;
- (m) all west facing terraces to be screened to allow no more than 25 per cent visual permeability to 1.7m high above finished floor level. Details of the screening treatment must be submitted;
- (n) all west facing windows to be non-reflective glass and have a glazing treatment to reduce glare and all shop front windows to be non-reflective glass. Details and a sample of the glazing treatment must be submitted;
- (o) external materials and finishes to the west façade (facing Right of Way) to be non-gloss (low sheen). Details and a materials board must be submitted;

- (p) stairwell facing Holden Street and glass atrium to be clear non-reflective glass;
- (q) courtyard paving to be terrazzo concrete floor;
- (r) areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters;
- (s) the surface of the Right of Way is to be resurfaced, from the north building line of the property to Holden Street. The car parking area is to neatly match the levels of the east side of the Right of Way. The Right of Way works are to be done to Council's satisfaction. The cost of these works shall be borne by the applicant.
- (t) a car parking allocation schedule;
- (u) the provision of 15 bicycle parking spaces with details submitted of the bicycle rails;
- (v) all roof top equipment and building services to be concealed from streetscape view;
- (w) a schedule of all external materials and finishes (including colour samples) must be submitted prior to the endorsement of plans. The schedule must show the materials, colour and finish of all external walls, roof, fascias, window frames, glazing types, doors and include one set of coloured elevations; and
- (x) that the existing entrance to 341 St Georges Rd, be retained.

all to the satisfaction of the Responsible Authority.

2. Endorsed Plans

All development and use must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.

3. Layout of Plans

The layout of the uses on the endorsed plans must not be altered without the written consent of the Responsible Authority.

4. Car Parking Areas

All areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:

- (a) used for no other purpose;
- (b) formed to levels, constructed, line marked, sealed, illuminated and drained to specifications approved by the Responsible Authority; and
- (c) maintained at all times to the satisfaction of the Responsible Authority.

5. Damage to Roads

All damaged road(s) and footpath(s) adjacent to the development site must be reinstated to the satisfaction of the Responsible Authority.

Trenching for underground services within a Public Highway will require the re-sheeting of footpaths and the reinstatement of any assets. The cost of these reinstatement and footpath works shall be borne by the applicant.

The applicant is to provide a dilapidation report and arrange a site meeting with Council's Reinstatement Officer prior to any demolition works on the site.

6. Garbage Collection

Rubbish, including bottles and packaging material (recyclables), shall at all times be stored within the building and screened from external view. All waste collection to be undertaken by private contractors from within the development and must not be undertaken between the hours of 7.00 am and 7.00 pm.

7. Lighting

Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on nearby land.

8. Construction Management Plan

Before the commencement of the development, a Construction Management Plan 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 Construction Management Plan must include the following matters:

- (a) a pre-conditions survey of all Council roads;
- (b) construction team details;
- (c) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside of the site;
- (d) on site facilities for vehicle washing;
- (e) parking facilities for construction workers;
- (f) methods for management of noise and general nuisance;
- (g) operational matters;
- (h) security;
- (i) waste and stormwater treatment;
- (j) construction program;
- (k) preferred routes for trucks delivering to the site;
- (l) delivery and unloading points and expected frequency;
- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) a liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced and who is available 24 hours per day;
- (o) details of any contaminated soil or other material on the site and methods proposed to deal with contaminated material, including steps proposed to protect construction workers and adjoining residents; and
- (p) traffic management measures to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads.

9. Construction

During the construction phase of the development, the following conditions shall be met:

- (a) only clean rainwater shall be discharged to the stormwater drainage system;
- (b) stormwater drainage system protection measures shall be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the premises enters the stormwater drainage system;
- (c) vehicle borne material from the premises shall not accumulate on the roads abutting the site;
- (d) all machinery and equipment must be cleaned (if required) on site and not on adjacent footpaths or roads;
- (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be contained within the site boundaries, and disposed of responsibly; and
- (f) all site operations shall comply with the *Environmental Protection (Residential Noise) Regulations 1997*.

10. Construction Hours and Noise

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

11. Time Limits

This permit will expire if the use of development is not commenced within two years from the date of this permit. All development must be completed within four years of the date of this permit. The Responsible Authority may approve extensions to these time limits if requests are made within three months of expiry.

Note: Heritage

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

Note: Drainage

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

Note: Building Permit

A building permit must be obtained before development is commenced.

Note: Parking Permit

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

CARRIED

Attachment 1 – Subject Land 337-339 St Georges Road, North Fitzroy

Attachment 2 – Colour & Materials Schedule

Attachment 3 – Existing & Proposed Elevations

Attachment 4 – Proposed Ground Floor Plan

Attachment 5 – Proposed First Floor Plan

Attachment 6 – Existing Conditions

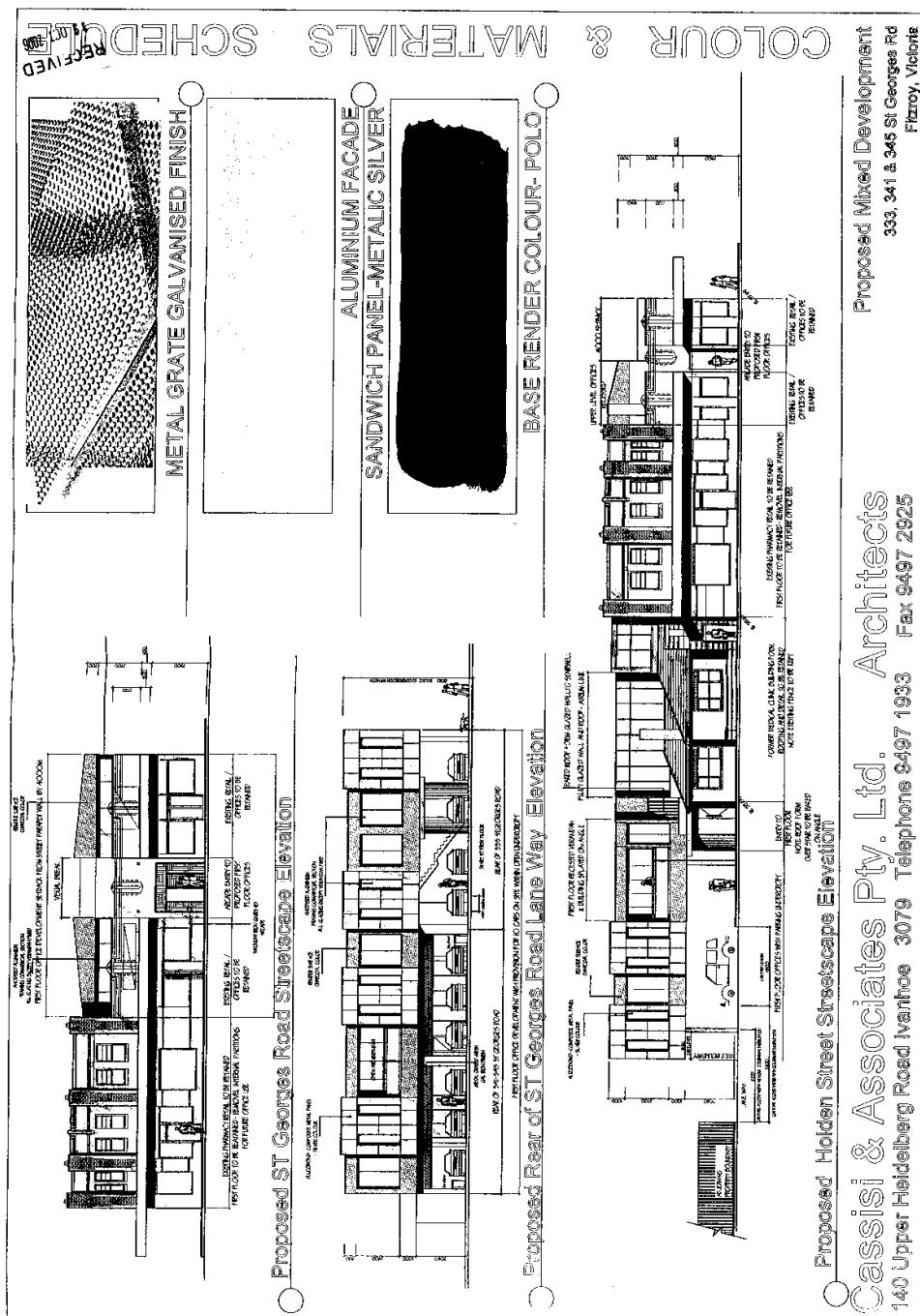
Attachment 7 – Shadow Diagrams

ATTACHMENT 1

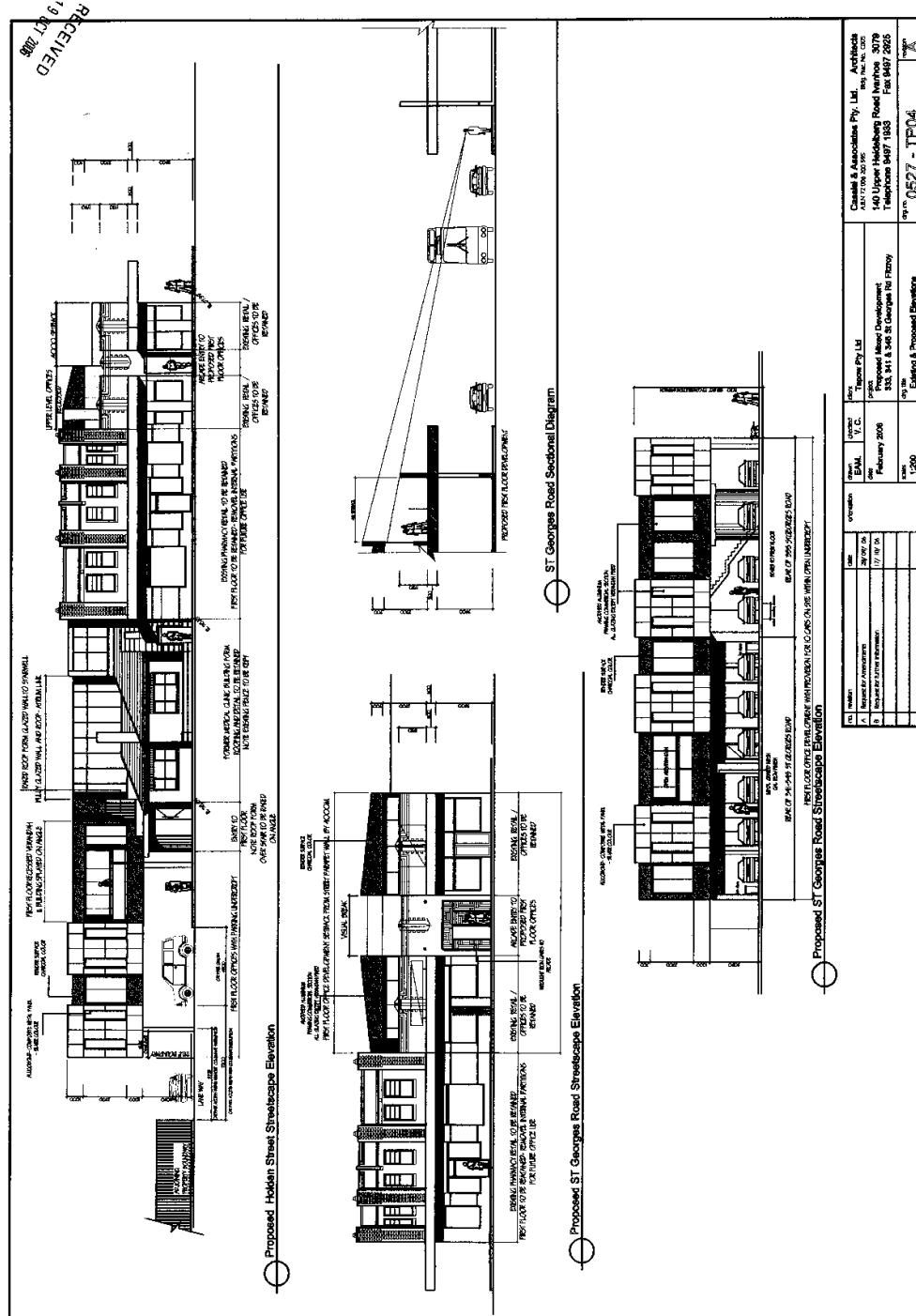
Subject Land – 333, 341 & 345 St Georges Road, North Fitzroy



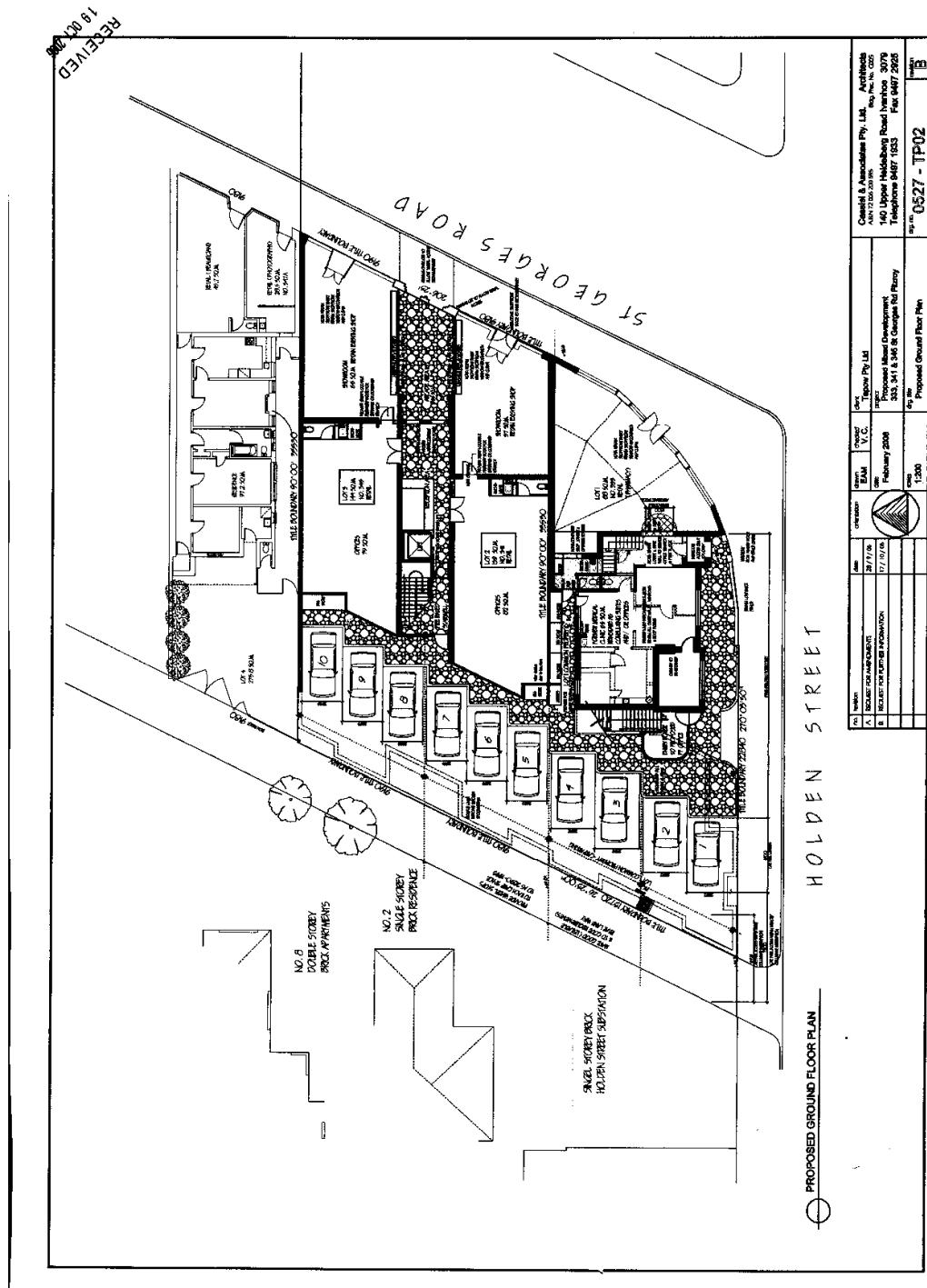
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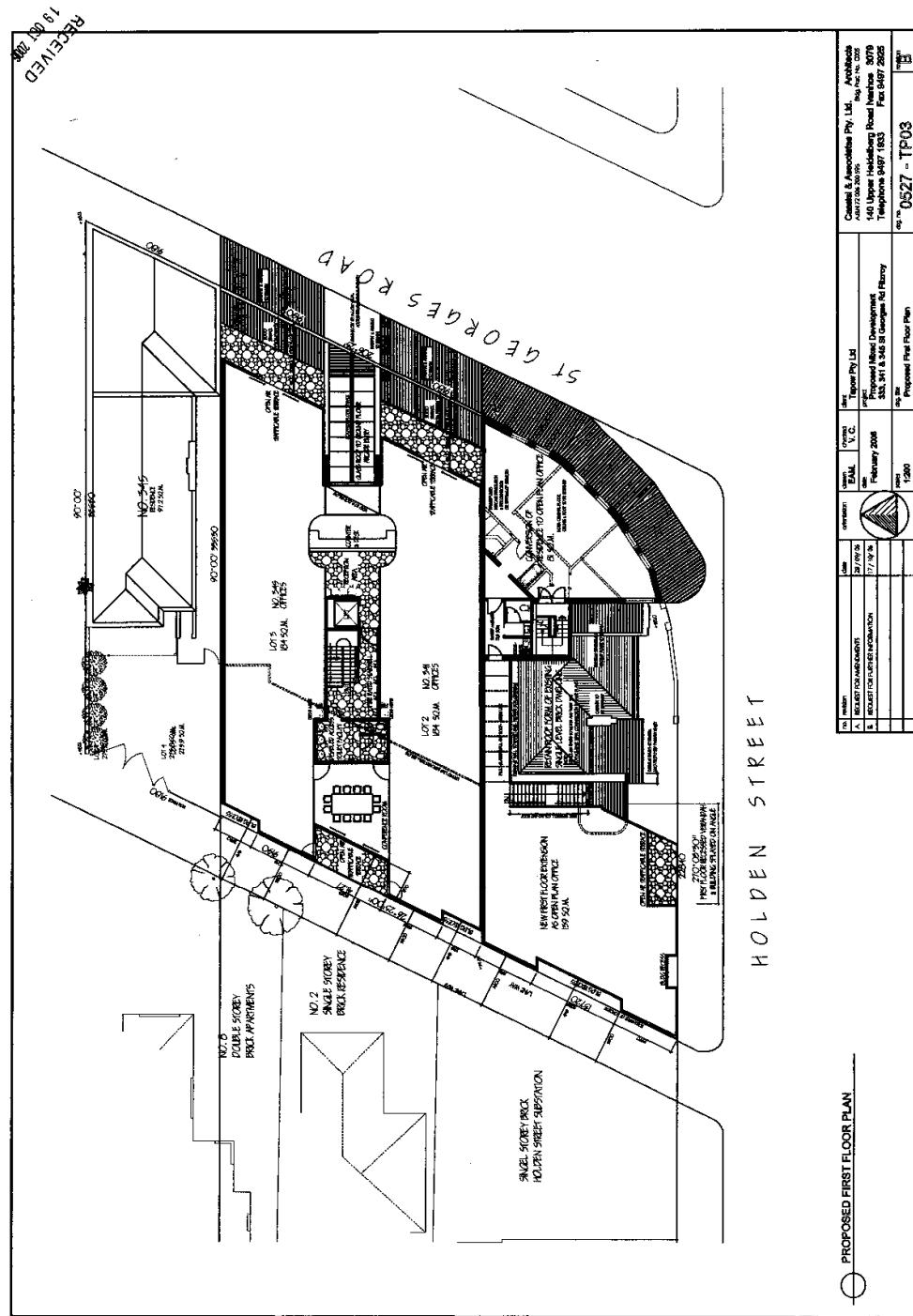
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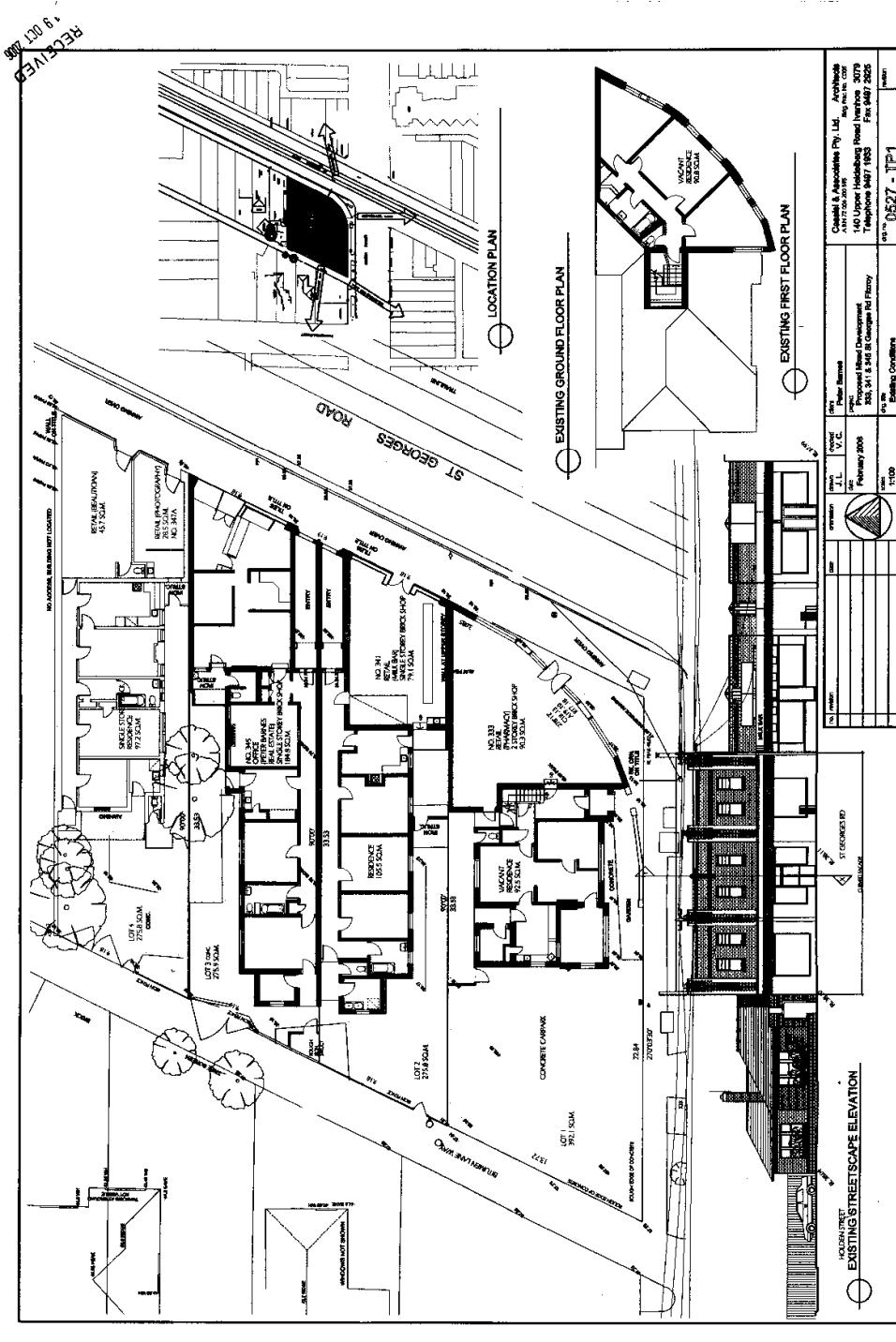
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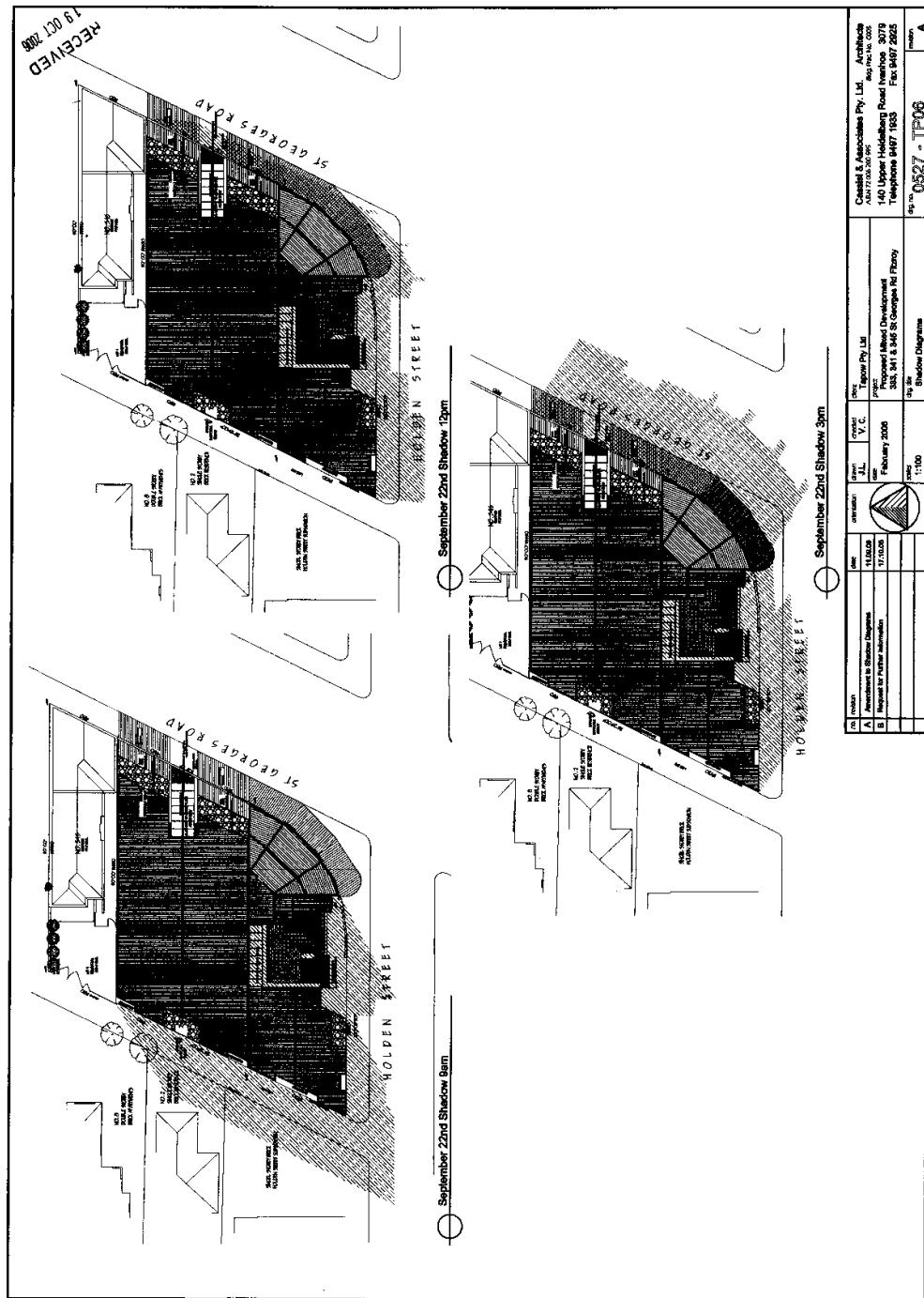
ATTACHMENT 5



ATTACHMENT 6



ATTACHMENT 7



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4. **Ground Floor 59-61 Johnston Street, Fitzroy – Planning Permit Application No. PL06/0113 (To use the entire ground floor as a hotel with a maximum of 750 patrons and liquor licence, operating until 1.00 am, 7 days a week. The application also proposes part demolition, buildings and works and a waiver of car parking associated with the hotel use).**
-

Land	Ground floor 59-61 Johnston Street, Fitzroy
Proposed Development:	To use the entire ground floor as a hotel with a maximum of 750 patrons and liquor licence, operating until 1am, 7 days a week. The application also proposes part demolition, buildings and works and a waiver of car parking associated with the hotel use.
Existing Use:	Hotel and Place of assembly
Applicant:	Sol Sombre Pty Ltd
Zoning/Overlays:	Business 1 Zone/ Mixed Use Zone and Heritage Overlay
Date of Application:	07/02/2006 & amended application 22/08/2006
Application No:	PL06/0113

Previous Planning Applications

1. Planning Permit Application No. PL02/0295 was issued on 25 October 2002 and permitted a “change of use of part of the ground floor from club use to hotel use, the sale and consumption of liquor (general liquor licence) and the waiving of associated car parking requirements”. Of significance Planning Permit Application No. PL02/0295 relates to the ground floor front bar located on the south west corner of the site only. The remaining portion of the land (including the rear ground floor hall and first floor) enjoys existing use rights as a place of assembly (club).
2. Planning Permit Application No. PL02/0295 allows for the use to operate from 7.00 am to 1.00 am, Monday to Sunday with a maximum of 120 patrons.

Background

3. Planning Permit Application No. PL06/0113 was received on 7 February 2006 for alterations and additions to the existing building. More specifically the alterations and additions relate to the ground floor rear hall area and include improved W/C facilities, an acoustic ceiling and airlocks. It became apparent that these works were proposed to improve the acoustic performance of the premises and the internal amenity.
4. Planning Permit Application No. PL06/0113 was advertised and one objection was received.

5. During the course of assessing the application Council officers questioned the current use of the ground floor rear hall area. It became apparent that the ground floor rear hall was being used as a hotel without planning permit permission. It also became apparent that there was a discrepancy regarding the licensing of the rear ground floor hall area. In particular, it is understood that a General Liquor Licence was originally issued by Liquor Licensing Victoria to the ground floor front bar area (as permitted by Planning Permit Application No. PL02/0295). However in late 2005 Liquor Licensing Victoria approved a variation of the General Licence to include the remainder of the ground floor (previously covered by a club licence), including the rear hall area (Licence No. 31951513). However, there was no planning permit approval for this change.
6. By way of letter dated 5 July 2006, Council wrote to Liquor Licensing Victoria requesting that they use their powers under section 58A of the *Liquor Control Reform Act* (Act) to correct a mistake in the issue of a variation to the General Licence No. 31951513 and to reduce the licensed area via the redline plan to be no larger than that demonstrated on the endorsed plans under Planning Permit Application No. PL02/0295 (i.e. the front bar area only). It is noted that to date and after various attempts from Council officers, no response has been received from Liquor Licensing Victoria to the letter date 5 July 2006.
7. In addition to writing to Liquor Licensing Victoria, Council Planning Officers also indicated to the permit applicant that a planning permit did not exist to use the entire ground floor as a hotel and therefore a retrospective planning permit application was required in order to assess the entire proposal for the site inclusive of the proposed use as a hotel.
8. In response, a revised application for planning permit was received on 22 August 2006 for a change of use for a licensed hotel along with associated works, increased patron numbers and waiver of associated car parking requirements.
9. The revised planning application was advertised and a total of three objections were received.
10. This report recommends approval of the proposal subject to conditions.

Existing conditions

Subject Site

11. The site is located on the north side of Johnston Street, between Fitzroy and Spring Streets, Fitzroy. The site is rectangular in shape with a frontage to Johnston Street of 17m, a depth of 46.3m and an overall site area of approximately 787sqm.
12. The building is predominantly two stories in height (as presented to Johnston Street), reducing to single storey at the rear of the site. The building extends across the width of the site at its frontage and is setback 1.5m from the eastern boundary and 2.5m from the west boundary to provide for service access. At the northern end of the site, male and female toilets exist along the eastern and western boundaries between the main building and the boundary.

13. The site is known as The Melbourne Spanish Club and has been used by the Spanish community for some 37 years. The “front bar”, located along the south western portion the site, is used as a hotel in accordance with Planning Permit Application No. PL02/0295. It is understood that the ground floor rear hall has been used as a hotel (without a planning permit) since late 2005. The first floor is currently used by the Spanish Community for cultural and entertainment purposes.

Surrounding Land

14. Surrounding land incorporates a mix of land uses and development. Land to the north of the site is zone mixed use. Development to the north fronts Argyle Street and comprises a mix of commercial, industrial and residential land use.
15. Land to the south of the site is zoned Business 1 and this zone extends along Johnston Street. Johnston Street is made up of a variety of commercial premises as well as live entertainment venues, including The Old Bar and Laundry.
16. Land to the east and west of the site is zoned Business 1 (towards the front and middle portion of the site, where properties front Johnston Street) and Mixed Use (towards the rear of the site, where properties front onto Argyle and Fitzroy Streets).

Proposal

17. The application proposes to use the entire ground floor as a hotel with a maximum of 750 patrons and liquor licence, operating until 1.00 am, seven days a week. The application also proposes part demolition, buildings and works and a waiver of car parking associated with the hotel use. More specifically the application proposes:

Use

- (a) use of the entire ground floor as a hotel including liquor licence (although the ground floor front bar already has planning approval to be used as a hotel, it is intended that this existing approval be absorbed by the overall change of use);
- (b) the premises will provide for a live music entertainment venue;
- (c) a maximum of 750 patrons are proposed;
- (d) a waiver of car parking is proposed;
- (e) the following hours of operation are proposed:
 - (i) Sunday: between 10.00 am and 1.00 am (the following day);
 - (ii) Good Friday & Anzac Day: between 12 noon and 1.00 am (the following morning); and
 - (ii) On any other day: between 7.00 am and 1.00 am (the following morning).

Works

- (f) minor demolition works, to allow for a building upgrade (toilets and external doors);
- (g) two external airlock doorway's extending 1.2m into the rear service courtyard along the western side of the building;

- (h) extension to the ground floor toilets located to the rear north west corner of the site. The toilets will extend 3.0m along the western boundary and will provide for improved female toilet facilities;
- (i) existing sliding gate located along the western boundary (fronting Harrison Place) to be replaced with a new swinging emergency gate; and
- (j) a number of internal works are proposed which do not require a planning permit. These works involve the installation of sound insulation within the roof space of the rear section of the building. These noise attenuation measures include the following:
 - (i) 77mm speedwall lightweight concrete panelling;
 - (ii) vibration isolation pads between the speedwall panel and the purlins;
 - (iii) 500mm air gap;
 - (iv) 100mm thick acoustic insulation; and
 - (v) 2 x 9mm compressed fibre cement sheet and 1 x 13mm plasterboard resiliently mounted.

Zone

Business 1 Zone (B1Z)

- 18. Pursuant to clause 34.01-1 of the Yarra Planning Scheme, a planning permit is required for a Hotel use.
- 19. Pursuant to clause 34.01-4 of the Yarra Planning Scheme, a planning permit is required for buildings and works.

Mixed Use Zone (MUZ)

- 20. Pursuant to clause 32.04-1 of the Yarra Planning Scheme, a planning permit is required for a Hotel use.
- 21. Pursuant to clause 32.04-7 of the Yarra Planning Scheme, a planning permit is required for buildings and works.

Overlays

Heritage Overlay (HO 311)

- 22. Pursuant to clause 43.01-1 of the Yarra Planning Scheme, a planning permit is required for part demolition and buildings and works.

Particular and general provisions

Clause 52.06 (Car parking)

- 23. Pursuant to clause 52.06-1 of the Yarra Planning Permit, a planning permit is required for a waiver of car parking.

Clause 52.27 (Liquor licence)

- 24. Pursuant to clause 52.27 of the Yarra Planning Scheme, a planning permit is required for a liquor licence.

State Planning Policy Framework (SPPF)

Clause 12.01-1 – Strategies: Activity centres

25. This clause places considerable emphasis on the important role of activity centres in terms of accommodating a variety of retail, commercial and entertainment uses. This clause stipulates that activity centres should be developed with a strategic framework for the use and development of land in and around the centre to give clear direction in relation to preferred locations for investment.
26. Council's MSS and Local Policy Framework, in particular clause 21.05-4 (Retailing and Activity Centres) and the Retail Centres Policy at clause 22.04, provides the framework for defining the role and function of individual centres within the municipality. These clauses are discussed in more detail within this report.

Clause 15.05 – Noise abatement

27. Clause 15.05 has the following objective:

To assist the control of noise effects on sensitive land uses.

28. The application proposes works that will improve the acoustics of the building. Subject to conditions, it is considered that the application will meet the above objective.

Clause 15.11- Heritage

29. Clause 15.11 of the State Planning Policy Framework provides guidelines for the consideration of Heritage noting that the objective of clause 15.11 is:
 - (a) *“to assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other value important for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria’s image and making a contribution to the economic and cultural growth of the State”.*

30. The proposed buildings and works are minor and are considered appropriate for the site and the surrounds with a detailed discussion provided within a following section of this report.

Clause 17.01 – Activity centres

31. Clause 17.01 has the following objective:

- (a) *to encourage the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres (including strip shopping centres) which provide a variety of land uses and are highly accessible to the community.*

32. General implementations include, amongst other things:

- (a) *incorporate and integrate a variety of land uses, including retail, office, education, human services, community facilities, recreation, entertainment and residential uses where appropriate;*
- (b) *provide a good accessibility by all available modes of transport (particularly public transport) and safe pedestrian and cycling routes, and to encourage multi-purpose trip making to such centres; and*
- (c) *minimise the effects of commercial development on the amenity of residential and parklands areas, for example as a result of traffic congestion, noise or overshadowing.*

Local Planning Policy Framework (LPPF)

33. *Clause 21.04 – Vision – Strategic Framework*

The above vision outlines a number of strategic objectives which provide a means of ensuring a socially, environmentally and economically sustainable future for the Yarra community as a whole. In attempting to achieve these objectives, an overall strategic framework plan and 9 detailed elements are provided. A discussion on the relevant elements is provided below:

34. *Clause 21.05-4 – Element 4: Retailing and Activity Centres*

Relevant objectives include:

- (a) *to ensure high levels of accessibility via enhanced public transport facilities, and provision of safe and convenient pedestrian and bicycle environments; and*
- (b) *to ensure the functioning of centres minimizes amenity impacts on adjoining residential areas, particularly from parking demand, noise and late night trading.*

35. Johnston Street is identified as a major centre with the following retail function and identity:

- (a) *local convenience retailing/ specialist regional retailing (household goods and office equipment)/ restaurant and entertainment activities (Spanish theme).*

36. The application proposes an entertainment use, consistent with the retail function and identity of Johnston Street, as detailed above. In addition, the applicants have indicated that music provided within the front bar will include Flamenco, and a Spanish influenced menu (tapas) is to be prepared within the kitchen. It is also noted that the first floor will continue to be used by the Spanish Community.

37. *Clause 21.05-7 – Element 7: Heritage Conservation*

Relevant objectives include:

- (a) *to conserve places of aesthetic, archaeological, architectural, cultural, historical, scientific and social significance which reflect Yarra's historic development;*
- (b) *a heritage that is understood and appreciated by an informed community; and*

- (c) *a coordinated and informed approach to heritage conservation by management organizations, property owners and the wider community.*
38. The proposed works are located to the rear of the site and will not impact on the heritage streetscape.
39. *Clause 22.02- Development Guidelines for Heritage Places*
40. Clause 22.02 Development Guidelines for Heritage Places is a local policy applicable to the application. The relevant objectives are:
- (a) *to conserve Yarra's unique cultural heritage to ensure its future conservation and continued relevance to the community; and*
 - (b) *to promote the City's heritage.*
41. The proposal complies with the above objectives, with an assessment of this policy found in later sections of this report.
42. *Clause 22.04 - Retail Centres Policy*
- This policy applies to retail centres identified on the Retailing and Activities Centres Plan at clause 21.05-4. Relevant policy includes:
- (a) *late night and 24 hour trading activities are discouraged from locating adjacent to residential areas.*
43. A discussion on hours of operation is provided within a following section of this report.
44. *Clause 22.09 – Licensed Premises*
- The objectives of the policy are:
- (a) *to manage the future development of entertainment uses and licensed premises, in line with Council's Municipal Strategic Statement;*
 - (b) *to effectively manage the location, operation and hours of trade of licensed premises, in order to protect the amenity of surrounding areas;*
 - (c) *to protect residential and other commercial uses from excess noise, traffic and car parking issues; and*
 - (d) *to provide for daytime trade and active street frontages in retail strips, whilst providing reasonable commercial opportunities for the trading of licensed premises and entertainment uses.*
45. The subject site is suitably located to operate as an entertainment venue in accordance with Council's policy direction of the MSS (Retailing and Activity Centres) and Retail Centres Policy (clause 22.04). However, in addressing the tensions which exist between maintaining the defined role of the centre and developing it as an entertainment and speciality retail centre, the incidence of amenity conflicts between business and residential activities must be effectively managed, particularly in relation to parking demand, noise and late night trading.

46. The protection of the amenity of residential areas from the impacts of late night trading must be considered in the context of the level of amenity that can be reasonable expected given the zoning of the land and proximity to the activity centre. Council's Licensed Premises Policy is the relevant assessment tool for assessing whether the potential impacts are compatible or capable of being managed with the surrounding land uses. A detailed assessment against this policy is provided in the assessment section of this report.

Notice of application

47. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act* (1987) by letters sent to surrounding owners and occupiers and by signs displayed on site. A total of three objections were received.

Summary of Issues and Concerns

48. The objections can be summarised as follows:

- (a) since the Spanish Club was leased about 12 months ago there have been problems with noise, overcrowding and patron behaviour;
- (b) negative impact on business in the area;
- (c) Brunswick/ Johnston Streets are becoming de facto nightclub precincts;
- (d) patron numbers is larger than other venues;
- (e) increase in parking problems in the area;
- (f) noise; and
- (g) excessive hours and patron numbers.

Consultation

49. A consultation meeting was held on 11 December 2007 at Fitzroy Town Hall where Councilors, objectors, applicants and Council planning officers met to discuss the application.
50. No resolutions were made at the consultation meeting.
51. It is noted that issues were raised at the consultation meeting regarding whether the owners of the land were in fact notified of the planning application in accordance with section 48 of the *Planning and Environment Act* 1987.
52. Following the consultation meeting the permit applicant indicated that notice was provided by way of the lease.
53. In determining whether the signing of the lease addresses the requirements of section 48 of the *Planning and Environment Act* 1987 legal advice was sought. The advice makes reference to two different decisions by the Administrative Appeals Tribunal and the Victorian Civil and Administrative Tribunal and highlights that it is clear that the owner is aware of the application given the attendance at the consultation meeting and the submission of an objection. The advice concludes by stating that the purpose of section 48 has been satisfied, albeit by a different procedure than that required by the Act. It is therefore considered that this matter has been adequately addressed and will not be discussed further in this report.

Referrals

54. The application was referred to the following internal authorities:

Engineering Services Unit

- (a) *on-street parking in the surrounding area is very high. It is agreed that patrons who visit the development would also attend other venues;*
- (b) *it would be expected that a proportion of patrons would utilize taxis as their means of transport, particularly if patrons intend to imbibe alcohol;*
- (c) *public transport servicing the local area is considered satisfactory, and could be a useful means of travel for patrons to and from the site before midnight; and*
- (d) *from an engineering perspective, the on-street parking in the Fitzroy area is finite, thus making it difficult for patrons to park near the site. With the sale and serving of alcohol, driving to the premises should be discouraged as much as possible, especially if patrons intend to drink alcohol.*

Community Amenity

Background

- (a) *Council has received numerous complaints in relation to this premises that include extremely loud music noise (readings obtained), footpath obstructions when patrons leaving and entering and continuously exceeding numbers;*
- (b) *some works have been undertaken at the premises in an effort to reduce the music noise emissions and the operators did transfer some band from the premises to other premises;*
- (c) *the premises were again checked as late as Monday 6 November (2006) and music noise emissions again exceeded the limits and were clearly audible in the nearest residence, despite the work undertaken. It appears the music noise issues will continue in the future; and*
- (d) *since March 2006, 64 complaints have been received regarding music noise and patron behavior when entering and leaving.*

Recommendation

- (e) *patron numbers not exceed 400 maximum, staff and security staff to ensure the footpath at the front of the premises is patrolled and the footpath is not obstructed by patrons entering or leaving the premises;*
- (f) *a tamper free music noise limiter be installed and be operating effectively to ensure compliance with SEPP N2 at all times amplified music is being played. An authorized officer of Council is able to inspect the said limiter at any time the venue is open for business;*

OR

- (g) *the application be refused due to continued breaches of SEPP N2 and patron behaviors issues with no confidence that it will improve moving forward.*

55. A discussion on the recommendations made by Council's Community Amenity Unit is provided within the assessment section of this report.

Council's Noise Management Officer

- (a) *the background noise levels, which were measured on the evening of Friday 5 May 2006, between 11.00 pm and 12.00 pm, are relatively consistent with the numerous background measurements made. Therefore, the calculated SEPP N-2 noise limits (listed in table 2 of their report) are accepted as being approximately correct for a Friday or Saturday night only;*
 - (b) *the report does not state octave band music noise levels from within the venue. However, the expected sound reduction of the new roof/ceiling has been supplied. From this it is not accurately possible to determine if music noise emissions will meet the calculated SEPP N-2 limit. However, Marshall Day Acoustics has stated that the specified roof design, in addition with the other recommended works, will ensure compliance with SEPP N-2 at the nearest and most affected residential premises;*
 - (c) *considerable noise control works were carried to the roof/ceiling of the rear room prior to the measurements conducted by Council on 11 August 2006. These measurements showed an 8dB excess of SEPP N-2 at the rear of 353 Fitzroy Street and therefore excesses would have been greater at the two closer residences; and*
 - (d) *it is expected that the Spanish Club would have completed all noise control work by now. Marshall Day Acoustics have recommended that a commissioning report be carried out after the completion of the work, therefore, it is expected that this further testing and preparation of the commissioning report should already have been carried out.*
56. In relation to point (d) it is noted that Marshall Day prepared a report title "Spanish Club Music Noise Emission Progress Report" dated 1 November 2006. This report was referred to Council's Noise Management Officer and the following comments were provided:
- (a) *music noise has been assessed at 32 Argyle Street, which is not the nearest and most affected premises;*
 - (b) *the measurement position in the lane to the east has not been specified;*
 - (c) *the report states that "recent measurements of 13 October 2006 showed reductions in the octave band external L10 noise level of as much as 14dB." This does not tell us whether this reduction in noise is in the frequency bands where it is required;*
 - (d) *a noise excess of 26dB was measured on 1-07-2006, therefore a 14dB reduction indicates that there may still be a 12dB excess; and*
 - (e) *the report also states "that airlock doors are proposed for the north west side (Spring Street) of the building but have not been constructed as yet, since planning approval has not been provided for these external doors." From my observations and measurements, this further work will have little effect on bringing the venue into compliance with SEPP N-2.*
57. In response to the comments made by Council's Noise Management Officer, Marshall Day has responded as follows:
- (a) *the object of the music noise measurements was a progressive assessment rather than a final compliance check. We are not trying to prove that the venue currently complies with SEPP N-2, merely to report on the progress of the works and demonstrate that significant steps have been taken and that music noise emission have been reduced significantly;*

- (b) *regarding measurement locations, we recognise that there may be some locations closer than 34 Argyle Street, but access was not pre-arranged at other locations. 34 Argyle Street was available at the time of measurement and the results are indicative. When final compliance is to be assessed once the airlock doors have been constructed, the worst-affected residence will be used for measurements. We understand that measurements would need to be conducted at the residence of Mr Paul Mees;*
 - (c) *the measurement position in the lane to the east was at ground level, approximately 20m east of the venue. Note that this location is closer than that of the nearest complainant;*
 - (d) *the 14dB reduction in noise level was in the 63Hz octave band. Reductions of 9-13dB were measured in the 31.5Hz, 125Hz and 250Hz octave bands;*
 - (e) *regarding the possible "12dB excess" indicated, it does not necessarily follow that an excess of this amount would occur, due to various potential differences in music noise emission from one night to the next, different bands, different internal noise levels, different measurement locations, etc.;*
 - (f) *regarding the possible sound reduction of the airlock doors, I note that during my music noise measurements of 13 October 2006, there was regularly a clear change in music noise level at the rear of 34 Argyle Street during the band performance. This effect was attributed to the periodic opening and closing of the access doors. Given that this effect is obvious subjectively, it is clear that it is having a significant effect on the music noise emission from the venue;*
 - (g) *in closing, it is important to highlight that irrespective of any permits allowing construction of airlock doors, the Spanish Club has a legal obligation to achieve compliance with SEPP N-2 and that as discussed with yourselves, you have committed to taking whatever measures are required to reduce music noise emission to within compliance with the noise limits; and*
 - (h) *I do not believe that compliance can be achieved with SEPP N-2 without treating the external doors, so it is very important that work on the airlock door arrangements be allowed to proceed.*
58. From the above it is clear that the proposed buildings and works are required to be undertaken before any final noise report can be undertaken. It is therefore recommended that a condition be included on the permit noting that following the completion of all approved building and work and prior to the use commencing a final Commissioning Report be submitted to the satisfaction of the Responsible Authority which demonstrates that the premises will comply with SEPP N-2.

Assessment

59. When considering this application, consideration is given to the following areas:
- (a) use;
 - (b) liquor Licence;
 - (c) buildings and works;
 - (d) waiver of car parking; and
 - (e) bicycle facilities.

Use

60. Subject to conditions, it is considered that the proposed use complies with both SPPF and LPPF. The proposed use will contribute to the vibrancy of the major activity centre, improving its status as an entertainment destination. This is compatible with the primary zoning of the land and complies with broad strategies for activity centres outlined at clause 12.01 and economic development outlined at clause 17.02. A discussion on the potential off-site amenity impacts as a result of the use is included within the liquor licence section of this report.
 61. The site is suitably located to operate as an entertainment venue in accordance with Council's policy direction of the MSS (Retailing and Activity Centres) and Retail Centres Policy (clause 22.04).

Assessment against Licensed Premises Policy (clause 22.09)

62. This policy applies to all land for the consideration of applications for new licensed premises, where a permit is required pursuant to clause 52.27.

63. *It is policy that:*

Clause 22.09-3.1 Amenity:

- (a) *the operation of licensed premises have minimal impact on the amenity of the area, in relation to noise, hours of operation and / or car parking demand;*
 - (b) *noise emissions from licensed premises comply with the standards specified in the State Environmental Protection Policy; and*
 - (c) *licensed premises operate in a manner that provides for the safety of patrons, the general public and nearby owners and occupiers of land.*

64. The rear hall area has been used as a live music entertainment venue since late 2005 without a Planning Permit. During this time Council has received a number of complaints relating to noise generated within the building.

65. The subject planning application seeks to legitimise the use of the ground floor premises (as a hotel) and of significance proposes works that will improve the acoustic performance of the premises. To ensure that music noise levels comply with SEPP N2 noise limits, acoustic works are proposed at the north end of the building to sound proof the site. The submitted application was accompanied by a report prepared by Marshall Day Acoustics (dated 11 August 2006) which indicates that typical noise treatment will include:

 - (a) double glazed windows;
 - (b) sound locks to foyers, amenities and staff offices;
 - (c) optimising sound speaker location and orientation;
 - (d) a noise limiter/ compressor to be incorporated within the sound system and set to ensure that the maximum internal noise levels comply with SEPP N2 noise limits at the nearest affected residential property;
 - (e) replacing the existing ceiling/ roof with:
 - (i) **metal deck roofing (no longer proposed);**
 - (ii) 77mm speedwall lightweight concrete panelling;

- (iii) vibration isolation pads between the speedwall panel and the purlins;
 - (iv) 500mm air gap;
 - (v) 100mm thick acoustic insulation; and
 - (vi) 2 x 9mm compressed fibre cement sheet and 1 x 13mm plasterboard resiliently mounted.
66. In addition, the submitted Marshall Day Acoustic report (dated 11 August 2006) indicates that a commissioning report is to be submitted to the Responsible Authority to ensure that music noise levels comply with the SEPP N-2 music noise limits. The Marshall Day report also indicates that the commissioning report must be completed by an appropriately qualified acoustic consultant and must be submitted to the Responsible Authority after the completion of all the works. In accordance with this recommendation and as highlighted earlier, a condition will be included requiring that following the completion of all approved buildings and works and prior to the use commencing, a final Commissioning Report be submitted to the satisfaction of the Responsible Authority which demonstrates that the premises will comply with SEPP N-2.
67. In addition to the above, it is recommended that a noise monitor and limiter be installed with a "power cut off" unit which must disconnect the power to the amplified equipment for a minimum of ten seconds in the event that music or entertainment noise exceeds SEPP N-2. This condition will ensure on going amenity problems relevant to noise will be alleviated.
68. The approval of the subject planning application will allow for the applicant to undertake the building and works required to acoustically treat the building. As highlighted above, a condition will be included requiring a final Commissioning Report be undertaken following the completion of the works, and prior to the use commencing, to ensure that the premises complies with SEPPN-2. It is considered that these measures will address the noise issues that have been experience in the past with the operation of the rear hall area.
69. It is noted that concern has been raised by objectors regarding patrons congregating at the front of the premises. In order to address this, and in accordance with the recommendations of Council's Community Amenity Officer, a condition will be included requiring staff and security staff to ensure the footpath at the front of the premises is patrolled and the footpath is not obstructed by patrons entering or leaving the premises.
70. A discussion on hours of operation and car parking is provided within a following section of this report.
71. *Clause 22.09-3.2 Hours:*
- (a) *the location of the premises, its use, nature of surrounding uses and hours of operation, its zoning and the zoning of surrounding land be considered in the determination of the hours of operation of licensed premises; and*
 - (b) *trading after 11.00 pm and 24 hour licensed premises not be supported adjacent to residential uses, unless the Responsible Authority is satisfied that the use will not adversely affect the amenity of the area, in relation to noise, hours of operation and / or car parking demand.*

72. The front and middle portion of the subject site is located within a Business 1 Zone while the rear portion (stage) is included within a Mixed Use Zone. Within the Mixed Use zone a variety of uses exist within close proximity to the subject site ranging from industrial to residential premises.
73. As highlighted earlier, Planning Permit Application No. PL02/0295 permits a hotel use within the “front bar” (located on the south west portion of the site) operating from 7.00 am to 1.00 am, Monday to Sunday. These hours of operation are appropriate given that the front bar is located solely within the Business 1 Zone section of the site and of significance all neighbouring properties are also within a Business 1 Zone and included within the Johnston Street activity centre.
74. While the “front bar” is located within a Business 1 Zone, the rear hall area is partly located within a Business 1 Zone and partially within a Mixed Use Zone. In addition the neighbouring properties to the rear are included within a Mixed Use Zone and include residential dwelling.
75. The planning application proposes the following operating hours for the entire ground floor:
- | | |
|-------------------------|--|
| Sunday | between 10.00 am and 1.00 am (the following day); |
| Good Friday & Anzac Day | between 12 noon and 1.00 am (the following morning); and |
| On any other day | between 7.00 am and 1.00 am (the following morning). |
76. Given that the rear of the site and neighbouring properties to the rear are included within a Mixed Use Zone it is considered that the proposed operating hours for the rear hall (until 1.00 am, 7 days a week) is excessive. In accordance with clause 22.09-3.2 it is recommended that the rear hall operate until 11.00 pm from Sunday to Wednesday and until 1.00 am from Thursday to Saturday (the following day). It is considered that trading until 1.00 am from Thursday to Saturday (the following day) is acceptable given the site falls within an entertainment/activity centre precinct and therefore trading later on these evenings typically associated with entertainment type functions is reasonable. It is considered necessary to limit late night activities to Thursday to Saturday to ensure a reasonable balance is achieved between amenity implications and the functions of the activity centre.
77. While it is recognised that the site currently has a general liquor licence (issued by Liquor Licensing Victoria) which allows alcohol to be served until 1am for the entire ground floor, as highlighted within the background section of this report, Council officers believe that this licence has been issued in error and have written to Liquor Licensing Victoria (by way of letter dated 5 July 2006), requesting that they use their powers under section 58A of the Act to correct a mistake in General Licence No. 31951513 to reduce the licensed area via the redline plan to be no larger than that demonstrated on the approved plans under Planning Permit Application No. PL02/0295 (i.e. the front bar area only).
78. *Clause 22.09-3.3 Patron Numbers:*
- (a) *the maximum number of patrons permitted on the licensed premises at any one time is limited to the safe and amenable operating capacity of the premises, and potential adverse amenity effects on surrounding uses.*

79. The application proposes a maximum of 750 patrons across the entire ground floor. Given that the “front bar” accommodates 120 patrons (in accordance with Planning Permit Application No. PL02/0295) a maximum of 630 patrons are proposed to be accommodated in the rear hall area.
80. As highlighted earlier, Council’s Community Amenity Unit has recommended that patron numbers be reduced to 400. Given that the “front bar” accommodates 120 patrons, this would result in 280 patrons in the rear hall area.
81. While it is acknowledged that the proposed patron numbers at 750 is excessive and therefore a reduction in patrons numbers is required, it is considered that reducing patron numbers to 280 in the rear hall is not a reasonable proposition given that the rear hall has an overall area of 295m².
82. Following various discussions with the permit applicant it was agreed that patron numbers would be reduced to 400 in the rear hall, while maintaining the 120 patrons in the front bar. This is considered appropriate for the following reasons:
- (a) Council’s Building Services Unit have confirmed that given the overall area of the hall it can comfortably accommodate 590 patrons (based on the area per person in accordance with Building Code of Australia 2006 Volume 1). Therefore the reduced patron numbers at 400 will ensure that the hall is operating at a safe and amenable capacity;
 - (b) the application proposes buildings and works which will ensure that all noise generated from the premises complies with SEPPN-2; and
 - (c) conditions will permit the premises to operate until 1.00 am Thursday to Saturday (the following day) and restrict operating hours until 11.00 pm on all other nights (excluding Anzac Day and Good Friday).
83. *Clause 22.09-3.4 Car Parking:*
- (a) *licensed premises provide car parking in accordance with clause 52.06 and the Yarra Parking Policy 2001;*
 - (b) *car parking for licensed premises not detrimentally impact on the functioning of local traffic networks and / or car parking availability; and*
 - (c) *car parking be managed to discourage patrons parking in residential zones.*
84. A discussion on the reduction in car parking is provided within a following section of this report.
85. *Clause 22.09-3.6 Mixed Use Zone*
- (a) *the amenity of the Mixed Use zone not be detrimentally affected with regard to noise intrusion and the availability of car parking;*
 - (b) *new licensed premises not be supported in the Mixed Use zone, unless the Responsible Authority is satisfied that the use will not adversely affect the amenity of the area, in relation to noise, hours of operation and / or car parking demand; and*

- (c) *the hours of operation of licensed premises in a Mixed Use zone be limited to 11.00 pm on any night, unless the Responsible Authority is satisfied that minimal detriment will be caused by the operation of the use beyond 11.00 pm, to the amenity of nearby residential uses, by way of noise emissions from the site, patrons arriving at and leaving the premises, and the availability and location of car parking.*
86. Clause 22.09-3.7 *Business and Industrial Zones*
- (a) *new licensed premises are discouraged from locating within Industrial zones in line with clause 21.05-3;*
 - (b) *new hotels, taverns and licensed places of assembly are discouraged from locating at ground level, unless the use is located within a Food / Entertainment Activity Area as defined in the Activity Centres Framework Plan at clause 21.05;*
 - (c) *licensed premises trade no later than 1.00 am, unless the Responsible Authority is satisfied that minimal detriment will be caused by the operation of the use to the surrounding area, by way of noise emissions from the site, patrons arriving at and leaving the premises, and the availability and location of car parking;*
 - (d) *licensed premises with residential abutments trade no later than 11.00 pm, unless the Responsible Authority is satisfied that minimal detriment will be caused by the operation of the use to the surrounding area, by way of noise emissions from the site, patrons arriving at and leaving the premises, and the availability and location of car parking;*
 - (e) *where the licensed premises forms an interface with a Residential 1 or Mixed Use zone, ingress and egress to the premises be located away from the interface with residential uses; and*
 - (f) *car parking from new licensed premises not adversely impact on residential areas by way of on-street, over-flow parking or vehicles accessing off-street car parking.*
87. As highlighted earlier, the majority of the subject site is included within a Business 1 Zone, with a small section at the rear located within a Mixed Use Zone. In accordance with the above, licensed premises should not operate beyond 11.00 pm within a Mixed Use Zone and beyond 1.00 am with a Business zone. In order to reach a balance between the two zones, hours of operation will be limited until 11.00 pm from Sunday to Wednesday and until 1.00 am Thursday to Saturday (the following day). It is considered that trading until 1.00 am from Thursday to Saturday (the following day) is appropriate given that works are proposed to acoustically treat the building, patron numbers will be restricted and a number of management conditions are proposed to be imposed on any approval granted.
88. It is considered that this approach, balances the objectives of both the Mixed Use and Business 1 zones which will facilitate a use on the site which can effectively management amenity impacts associated with hours of operation.

A Noise and Amenity Action Plan (NAAP) containing the following information:

- (a) *the identification of all noise sources associated with the premise (including, but not limited to, music noise, entries and exits to the premise and courtyards) likely to impact on adjoining residents;*
- (b) *measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures;*

- (c) standard procedures to be undertaken by staff in the event of complaints by a member of the public, the Victoria Police, an "authorised officer" of the Responsible Authority or an officer of Liquor Licensing Victoria;
 - (d) details of staffing arrangements including numbers and working hours of all security staff, bar staff, waiters/waitresses, on-premises manager, and other staff;
 - (e) details of training provided for bar staff in the responsible serving of alcohol;
 - (f) hours of operation for all parts of the premises;
 - (g) lighting within the boundaries of the site;
 - (h) security lighting outside the premises;
 - (i) details of the provision of music including the frequency and hours of entertainment provided by live bands and / or DJs;
 - (j) details of waste management plan including storage and hours of collection for general rubbish and bottles associated with the licensed use; and
 - (k) any other measures to be undertaken to ensure minimal amenity impacts from proposed licensed use.
89. A condition will be included requiring a details Noise and Amenity Action Plan (NAPP) be submitted in accordance with the above.
- Buildings and works
90. The application proposes part demolition, buildings and works to the rear of the site. The works are proposed to acoustically treat the building as well as improving the internal amenity of the site.
91. Of significance the majority of works (including air locks and new doors) will not be visible to the public given that they are located along the service courtyard, within the subject site.
92. The only works that will be visible to the public will be a new emergency gate located along the western boundary, facing Harrison Place. It is considered that the new gate is an appropriate response to the laneway character of Harrison Place and will not have an impact on the heritage overlay.
93. The proposed buildings and works comply with clause 22.02 (Development Guidelines for Heritage Places) and they will not be confused with the original historic fabric and will ensure that the original historic fabric remains in tact. Of significance it is noted that the buildings and works will not be visible from Johnston Street.
- Waiver of car parking
94. The table at clause 52.06-5 sets out the number of car spaces required for uses not covered by a parking precinct plan or another clause. In accordance with clause 52.06-5 a hotel is required to supply 60 car parking spaces per 100m² of bar floor area and 30 car spaces per 100m² of lounge floor area available for public use.

95. In accordance with the clause 52.06-5, the rear hall area should provide 88 car spaces (295m² @ 30 spaces per 100m²) and the front bar should provide for 81 car spaces (135m² @ 60 spaces per 100m²). While it is recognised that the subject planning application relates to the entire ground floor, it is noted that the front bar currently operates in accordance with Planning Permit Application No. PL02/0295.
96. In accordance with clause 52.06-1 a permit may be granted to reduce or to waive the number of car spaces required by the table at clause 52.06-5. Amongst other things consideration is to be given to the following factors:
- (a) parking credits associated with the existing use of the site;
 - (b) empirical parking surveys of similar uses;
 - (c) public transport accessibility; and
 - (d) the availability of spare parking in the locality.

Parking credits

97. The rear hall area has been used as a place where the Spanish community meet for cultural and entertainment purposes. It is considered that the previous use of the hall falls under the definition of a Place of Assembly (club).
98. Pursuant to clause 52.06-5 a Place of Assembly has a parking requirement of 0.3 spaces to each seat or to each sqm of net floor area, whichever is greater. Given the rear hall has a floor area of 295m², this portion of the site generates a parking requirement of 88 car spaces. Given that no car parking is provided on site, this equates to a car parking credit of 88 car spaces associated with the rear hall area.
99. Therefore, the proposed rear hall generates a car parking requirement of 88 car spaces for the hotel use and the rear hall currently has a car parking credit of 88 car spaces associated with the former place of assembly use.

100. In relation to the front bar, parking credits associated with Planning Permit Application No. PL02/0295 exist which in effect equates to 81 car parking spaces based on the existing floor area.

Empirical parking surveys

101. The application was accompanied by a Traffic Impact Report prepared by Ratio Consultants (dated August 2006). Amongst other things the report includes an empirical parking survey whereby Ratio Consultants arranged for staff and sample patron interview questionnaires to be conducted at the Melbourne Spanish Club during the period of the parking occupancy surveys (Friday 11 August 2006 and Saturday 12 August 2006 from 6.00 pm to 1.00 am). The results of the survey are provided below:

Staff Surveys

	Drove a car	Used public transport	Walked	Motorcycle/ bike
Friday 11th August 2006	29%	7%	21%	43%
Saturday 12th August 2006	22%	22%	22%	33%

Patron Surveys

	Drove a car	Passenger in car	Public transport	Walked	Motorcycle/bike	Taxi
Friday 11th August 2006	17%	27%	30%	11%	7%	8%
Saturday 12th August 2006	14%	20%	21%	23%	0%	21%

Public transport accessibility

102. The subject site has good access to public transport, with the following services available:
- (a) tram route 96 (East Brunswick to St Kilda Beach);
 - (b) tram route 112 (West Preston to St Kilda Beach); and
 - (c) bus routes 200, 201, 203, 205 and 208 operating along Johnston Street.

Availability of spare parking in the locality

103. The submitted Traffic Impact Report prepared by Ratio Consultants (dated August 2006) provides a parking survey which was conducted within the vicinity of the subject site on Friday 11 August 2006 and Saturday 12 August 2006 from 6.00 pm to 1.00 am. The survey results show:
- (a) on Friday and Saturday evenings the surveyed area is very busy and attempting to park close to the site during the evening period would be difficult;
 - (b) a minimum of 10 available car spaces were surveyed at 10.00 pm on the Friday;
 - (c) a minimum of 6 available car spaces were surveyed at 9.00 pm on the Saturday; and
 - (d) car parking demands remains at a consistent level between 8.00 pm and 12.00 midnight.
104. In accordance with the above a waiver of car parking is supported for the following reasons:
- (a) when applying the car parking credits from the previous use they equate to the car parking waiver proposed;
 - (b) a sample survey of patrons conducted by Ratio Consultants on a Friday and Saturday evening (between 6.00 pm and 1.00 am) provides a breakdown of various travel modes taken by patrons to and from the subject site. The survey indicates that some 14-17 per cent of patrons drove a car whilst 20-27 per cent was passengers in a car. Some 8-21 per cent of patrons caught a taxi. The majority of current employees used public transport, rode a bicycle or walked to the premises. Just under a third of employees drove a car;
 - (c) the subject site has good access to public transport;
 - (d) Council's Engineering Services Unit has indicated that it would be expected that a proportion of patrons would utilise taxis as their means of transport, particularly if patrons intend to consume alcohol;

- (e) Council's Engineering Services Unit has indicated that during daytime hours, pedestrian movements along Johnston Street are high and a proportion of the site's patrons would be pedestrians already engaged in other activities/ business in the area;
- (f) Council's Engineering Services Unit have indicated that on-street parking in the Fitzroy area is finite, thus making it difficult for patrons to park near the site. With the sale and serving of alcohol, driving to the premises should be discouraged as much as possible, especially if patrons intend to drink alcohol; and
- (g) Council's Engineering Services Unit has not objected to the proposed waiver of car parking.

Bicycle facilities

- 105. Table 1 to clause 52.34-4 provides the number of bicycle spaces required for uses.
- 106. In accordance with clause 52.34-4 a hotel is required to provide the following number of bicycle spaces:

Use	Employee	Visitor
Hotel	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	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

- 107. In accordance with the clause 52.34-4, the rear hall area should provide 3 employees bicycle spaces (295m² @ 1 space to each 100sqm) and the front bar should provide for 5 employee bicycle spaces (135m² @ 1 space to each 25sqm).
- 108. In addition, visitor parking is required to be provided in the order of 3 visitor bicycle spaces (295m² @ 1 space to each 100sqm) and the front bar should provide for 5 visitor bicycle spaces (135m² @ 1 space to each 25sqm).
- 109. Therefore, overall a total of 8 employee bicycle spaces are required and 8 visitor bicycle spaces are required to be provided. A condition will be included requiring bicycle parking to be provided in accordance with clause 52.34-4.
- 110. Table 2 to clause 52.34-3 notes that if 5 or more employee bicycle spaces are required, 1 shower is to be provided for the first 5 employee bicycle spaces. Therefore a condition will also be included requiring 1 shower be provided for employees.
- 111. Table 3 to clause 52.34-3 notes that 1 change or direct access to a communal change room be provided to each shower. Therefore a condition will also be included requiring 1 change room be provided for cyclists.

Conclusion

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

RECOMMENDATION

113. That having considered all objections and relevant planning documents, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit Application No. PL06/0113 to use the entire ground floor as a hotel plus liquor licence, including part demolition, buildings and works and a waiver of car parking at ground floor 59-61 Johnston Street, Fitzroy, subject to the following conditions/grounds:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the application plans but modified to include:
 - (a) a total of 8 employee bicycle spaces to be provided on site;
 - (b) a total of 8 patron bicycle spaces to be provided on site or in a suitable location in consultation with the Responsible Authority. These spaces must be appropriately identified and provided within a convenient location for patrons;
 - (c) one shower and change room facility to be provided for employee cyclists;
 - (d) a Noise and Amenity Action Plan to be submitted that details (but is not limited to) the following:
 - (i) noise control. Report must be undertaken by a suitably qualified acoustic engineer;
 - (ii) waste disposal;
 - (iii) neighbour liaison;
 - (iv) management and staff;
 - (v) security management;
 - (vi) business profile (detailing operational style); and
 - (vii) dealing with 'smokers' (Tobacco Act).

All to the satisfaction of the Responsible Authority.

2. Following the completion of all approved buildings and works and prior to the use commencing, a final Commissioning Report must be prepared by a suitably qualified acoustician and submitted to the satisfaction of the Responsible Authority which demonstrates that the premises complies with State Environment Protection Policy No. N-2 (Control of Music Noise from Public Premises) or its successor policy or legislation. Once endorsed, the Commissioning Report forms part of this permit and must be complied with, and any modifications to the management plan must be approved by the Responsible Authority.

3. Prior to the commencement of the use the permit holder must install a noise monitor and limiter in the premises which must be set by a qualified and experienced acoustician at a level to ensure compliance with SEPP N-2 at all times, to the satisfaction of the responsible authority. The noise limiter must have each of the following characteristics:
 - (a) a "power cut off" unit to be used, in the event that music or entertainment noise exceeds the set levels, the noise limiter must disconnect power to the amplification equipment for a minimum of 10 seconds; and
 - (b) it must be contained in a lockable unit so that it is only accessible by a qualified and experienced acoustician, the licensee or the Responsible Authority.
4. Once the noise monitor and limiter is installed, the permit holder must:
 - (a) provide a certificate by the acoustician engaged by the permit holder to the Responsible Authority specifying details of all settings of the noise limiter, to be dated and signed by the permit holder, the acoustician and an authorised officer of the Responsible Authority; and
 - (b) it must be maintained at all times and must not be altered, upgraded or replaced except with the consent and satisfaction of the Responsible Authority and an updated certificate in accordance with condition 4(a).
5. All sound amplification equipment used for the purpose of entertainment on or from the premises must be connected to the noise monitor and limiter system at all times the premises are open to patrons.
6. All use must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority;
7. The layout of the uses on the endorsed plans must not be altered without the written consent of the Responsible Authority;
8. The premises may only operate between the following hours:

<u>Front Bar</u>	
Monday to Sunday	Between 7.00 am and 1.00 (am) the following day)
<u>Rear Hall</u>	
Sunday to Wednesday	Between 7.00 am and 11.00 pm
Thursday to Saturday	Between 7.00 am and 1.00 am (the following day)
Good Friday & Anzac Day	between 12 noon and 1.00 am (the following day)
9. No more than 120 patrons may be permitted within front bar (south west portion of the site).
10. No more than 400 patrons may be permitted in the rear hall at any one time.

11. The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which this permit relates during or immediately after the trading hours authorised under this permit.
12. The licensee shall ensure that the level of noise emitted from the premises shall not exceed:
 - (a) the permissible noise level from mechanical equipment as specified in the State Environment Protection Policy N-1 Control of Noise Industrial, Commercial and Trade Premises within the Melbourne Metropolitan area; and
 - (b) the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N2.
13. No music must be played outside the premises. No speakers must be sited outside the premises.
14. The operator must request patrons, by a prominent notice, to take account of the needs of local residents for peace and quiet during normal sleeping hours.
15. The operator and/ or security staff must request patrons to not congregate on the footpath, in front of the premises.
16. The footpath must not be obstructed by patrons entering or leaving the premises.
17. The use permitted must not adversely affect the amenity of the locality by the appearance of any buildings, works or materials, the transporting of goods to and from the premises, emissions from the site or in any other way.
18. Any empty bottles associated with the use must be taken in bags and no emptying of bottles into garbage bins is permitted after 10.00 pm on any night or before 7.00 am on any day.
19. Garbage collections are restricted between 7.00 am and 8.00 pm on any day.
20. During all hours (whether or not liquor is served) in which the business is open to the public, entry must be made freely available to a member of the Victoria Police, an "authorised officer" of the Responsible Authority or an officer of Liquor Licensing Victoria for the carrying out of any investigations associated with the sale or consumption of alcohol on the site.
21. During all hours (whether or not liquor is served) in which the business is open to the public, there must be present on the premises, a person above the age of 18 years, responsible for the good conduct of the premises ("the Manager").

22. The Manager must at all times be authorised by the occupier of the premises to make statements on their behalf to a member of the Victoria Police, an “authorised officer” of the Responsible Authority or an officer of Liquor Licensing Victoria regarding the conduct of the premises for the activity hereby authorised.
23. This permit will expire if
 - (a) works associated with the sound attenuation of the building are not commenced within 3 months from the date of this permit and completed within 6 months from the date of this permit; and
 - (b) if the use is not commenced within 12 months from the date of this permit.

The Responsible Authority may approve extensions to these time limits if requests are made within three months of expiry.

Note: These premises are required to comply with the *Food Act 1984*. No fit-out is to commence until plans have been approved by Council's Public Health Unit. Please contact the Public Health Unit on (03) 9205 5777.

Note: These premises will be required to comply with the *Health Act 1958*. No Fit-out is to commence until plans have been approved by Council's Public Health Unit. Please contact the Public Health Unit on (03) 9205 5777.

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

Note: A building permit must be obtained before development is commenced.

Submissions

*The Applicant, Mr John Perry addressed the Committee.
Mr Damien Isles also addressed the Committee on behalf of the Applicant.*

The following people also addressed the Committee:

*Mr Rafael Verdugo; and
Mr Paul Mees.*

INTERNAL DEVELOPMENT APPROVALS COMMITTEE RESOLUTION**Moved:** Councillor D'Agostino**Seconded:** Councillor Barbara

That with respect to Planning Permit Application No. PL06/0113, Council resolves to issue a Notice of Refusal for development of the land for use of the entire ground floor as a hotel, with a maximum of 750 patrons and liquor license, operating until 1.00 am, 7 days per week, including part demolition, buildings and works and a waiver of car parking requirements at 59 – 61 Johnston Street, Fitzroy, subject to the following grounds:

1. The proposed use of the site will result in an unreasonable amenity impact on abutting residential occupants and local area, with specific regard to noise and poor patron management.
2. The proposal does not comply with Clause 22.09 – Licensed Premises Policy of the Yarra Planning Scheme.
3. The proposal provides inadequate car parking to effectively accommodate patrons.

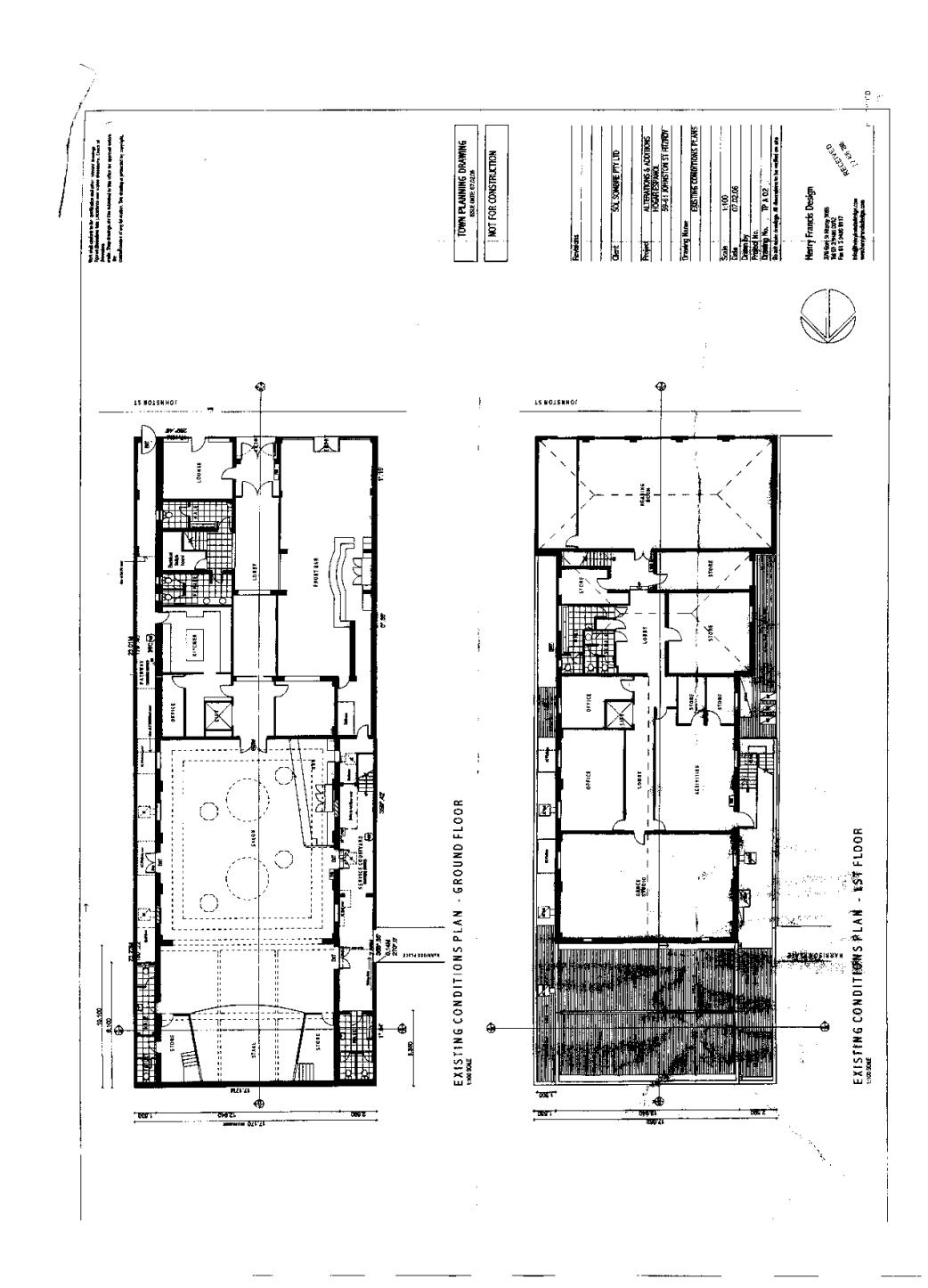
CARRIED**Attachment 1 – Subject Land Ground Floor, 59-61 Johnston Street, Fitzroy****Attachment 2 & 3 – Existing Condition Plans****Attachment 4 – Existing Elevations****Attachment 5 – Amended Proposed Plan****Attachment 6 – Proposed Elevations****Attachment 7 – Proposed Sections****Attachment 8 – Existing & Proposed Shadow Analysis**

ATTACHMENT 1

PL06/0113
59 – 61 Johnston Street, Fitzroy
The Spanish Club

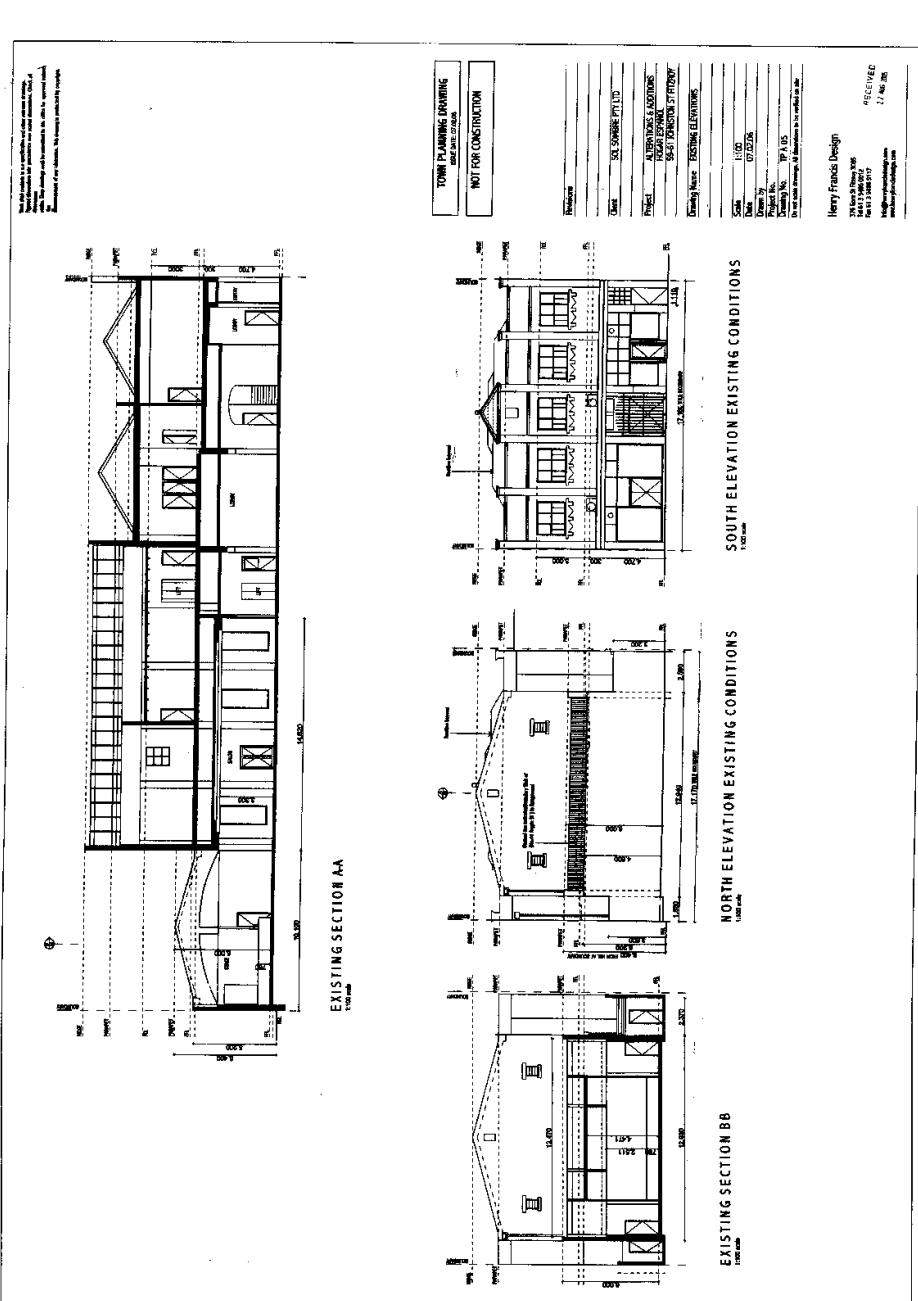


ATTACHMENT 2

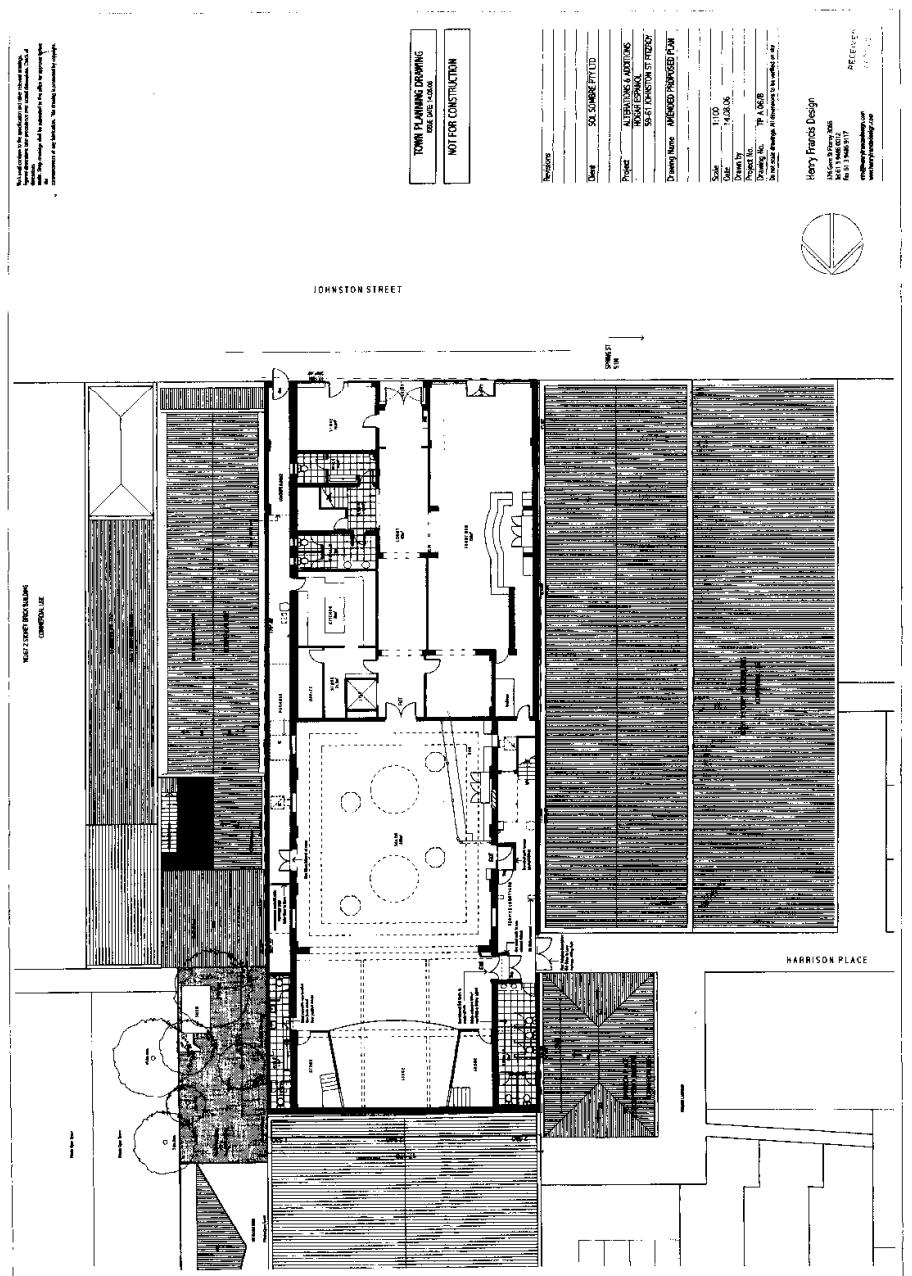


ATTACHMENT 3

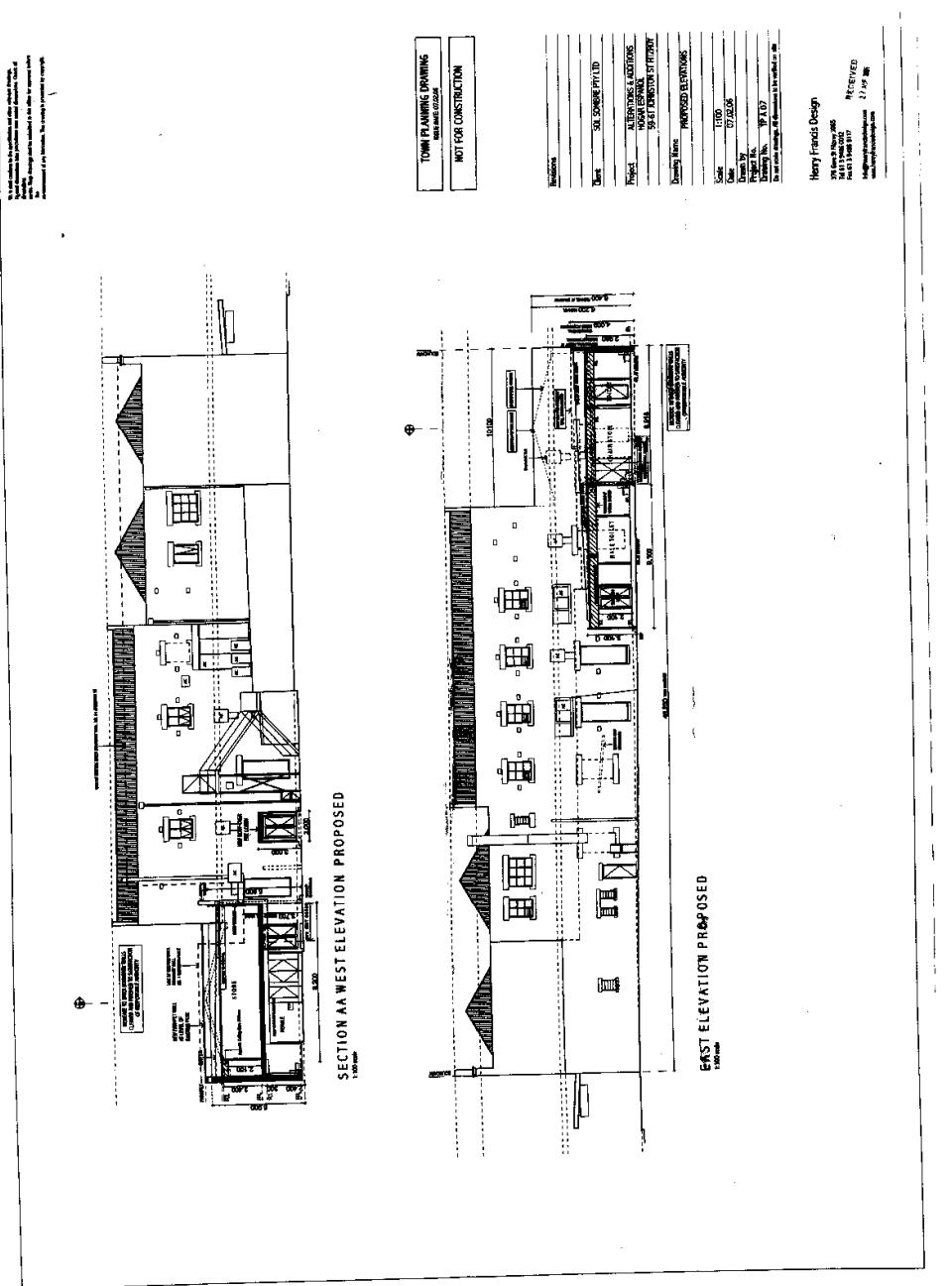
ATTACHMENT 4



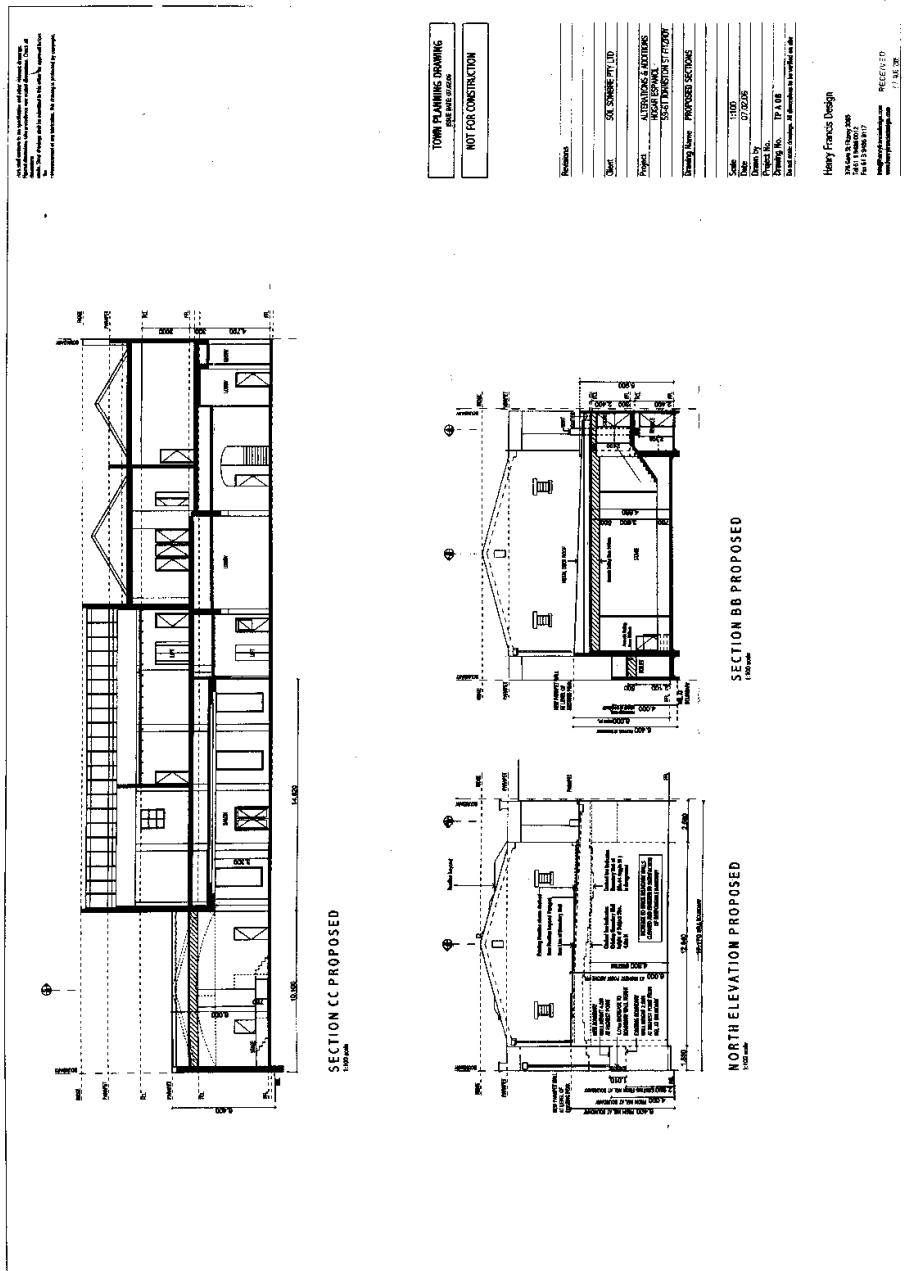
ATTACHMENT 5



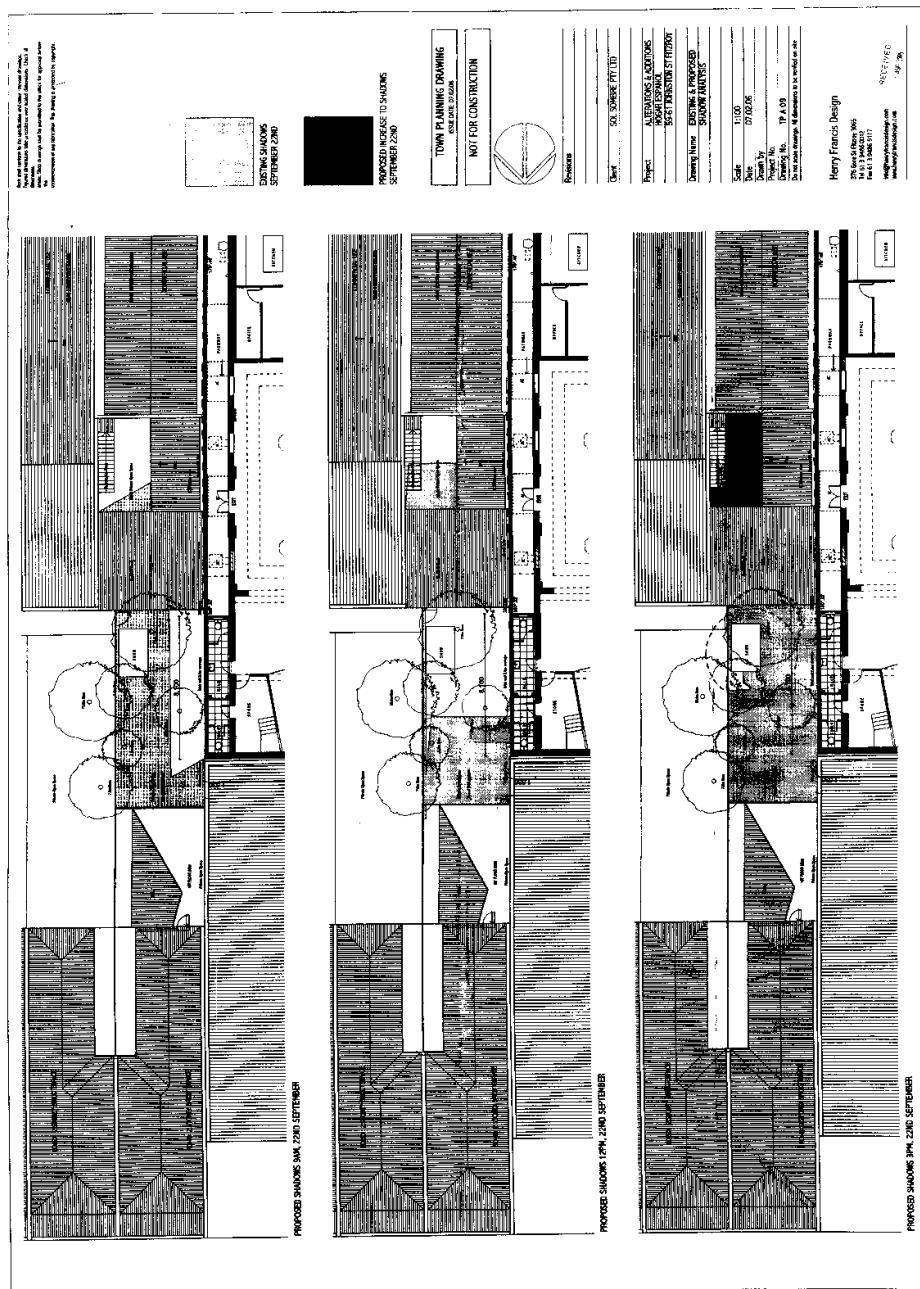
ATTACHMENT 6



ATTACHMENT 7



ATTACHMENT 8



5. **49 Fenwick Street, Clifton Hill – Planning Permit Application No. PL06/0686 (Development of extension to dwelling including partial demolition).**

Land:	49 Fenwick Street, Clifton Hill
Proposal:	Development of extension to dwelling including partial demolition
Existing use:	Single dwelling
Applicant:	Andrew Ramage
Zone / overlays:	Residential 1 Zone
Heritage Overlay (Schedule 316)	
Date of application:	7 August 2006
Application no:	PL06/0686

Background

1. Council records do not indicate any previous applications associated with the subject site.
 2. Council received amended plans during the application process. This process will be explained in further detail in this report.

Existing conditions

Subject Site

3. The subject site is located on the western side of Fenwick Street to the south of the intersection with Spensley Street. The site is irregular in shape with a frontage to Fenwick Street of 6.17m and a frontage to the laneway to the west of the site of 7.17m. The length of the subject site along the northern title boundary is 31.57m with the length of the site along the southern title boundary increasing to 35.12m. The overall site area is approximately 206sqm.
 4. The site has a gentle fall from the western title boundary towards the eastern title boundary. There is no significant vegetation.
 5. Located on the subject site is a partially attached, single fronted, single storey weatherboard Edwardian dwelling. The building is attached to the dwelling to the north with a minor setback of 1.23m to the south. The front setback is 4.24m to the front title boundary.
 6. The dwelling consists of two bedrooms, lounge, kitchen, bathroom and laundry. Private open space is located at ground level located to the west of the dwelling. Vehicle access through gates along the western title boundary can be accommodated on the site.

Surrounding Land

7. The subject site is located within a residential area.

8. Located on the adjoining site to the north is a dwelling which is attached to the dwelling on the subject site. This dwelling shares the same attributes as the subject building being a partially attached, single fronted, single storey weatherboard Edwardian dwelling. The building envelope of this dwelling is the same as the subject site dwelling. Located within the ground floor private open space is a shed which is adjacent to the southern title boundary. Also located along part of the southern title boundary are two relatively large trees within close proximity to the common title boundary.
9. Located to the west of the subject site is a small laneway which provides rear access to many properties facing Spensley Street to the north-west and Fenwick Street. Access to this laneway is to the west of the intersection of Walker Street and Fenwick Street. No through access is provided.
10. Located further to the west are the rear properties of dwellings also facing Spensley Street. These dwellings are period homes that have private open space adjacent to the laneway. The dwellings are typically single storey and single fronted.
11. Located directly to the south of the subject site is a double fronted, single storey Edwardian dwelling. Significantly, this dwelling has been subject to a later addition to the rear which has orientated living rooms including windows to the north. Private open space is located at ground level to the west of the dwelling.
12. Located directly to the east of the subject site is Fenwick Street which is a local street. Located further to the east is an infill development located on land which was originally 1 Walker Street. This redevelopment/ infill development comprises three double storey dwellings.

Proposal

13. The proposed development is for the development of an extension to the existing dwelling including partial demolition. The application includes:

Demolition

14. The application seeks the demolition of the rear (western wall), a small portion of the southern wall (western portion), a rear section of the roof and the iron fence with gates along the western title boundary. The application also may include the removal of sections of the front fence.

Ground floor

15. The ground floor extension will extend the ground floor a further 3.12m from the existing building alignment towards the west. The existing southern setback of 1.23m will be maintained.
16. The ground floor will comprise two front bedrooms, a bathroom, laundry beneath the staircase with access from the kitchen. Also located at ground floor will be the open plan living/ meals and kitchen area with access to a west facing deck. The deck will be irregular in shape but will vary in width between 2.0m and 4.0m. Also located within the rear garden adjacent to the southern title boundary will be a new garden shed 0.7m wide by 1.5m in length, and 2.0m high.

17. The application also seeks the construction of a rear 3.0m high roller door along the western title boundary of the site, for vehicular access.

First Floor

18. The first floor building envelope will include an ensuite with access through the walk in robes, master bedroom with a study nook area and a small balcony located in the north-west corner of the first floor. The balcony will be 2.12m wide by 1.8m wide.
19. The upper level overall building envelope will have a length of 11.6m and a maximum width of 3.65m. The upper level will be located adjacent to the northern title boundary for a distance of 11.6m and will be setback, 5.66m from the western title boundary and 2.38m from the southern title boundary.

Heights

20. The overall height of the proposed development will be R.L. 42.30 which is a maximum of 7.01m above natural ground level. The height of the boundary wall along the northern title boundary will be 5.86m.

Car parking

21. The application includes the provision of a single car parking space accessed via the new roller door located along the western title boundary.

Design

22. The design is traditional in nature using a low profile hipped roof form with a gable to the western end constructed of zinicalume cladding and weatherboard cladding
23. The proposed site coverage will be 48.4 per cent.

Planning controls

Zone

24. The subject site is located within the Residential 1 Zone. Pursuant to clause 32.01-3 of the Yarra Planning Scheme (the scheme) and the schedule to the zone, a planning permit is required for the extension of a dwelling on a lot less than 500sqm.
25. The application is required to be assessed against the provisions of clause 54 (ResCode).

Overlays

Heritage Overlay - Schedule 316 (clause 43.01)

26. The subject site is located within the Clifton Hill Eastern Precinct (HO316). Pursuant to clause 43.01-1 (Heritage Overlay) of the Scheme, a planning permit is required for demolition and to carry out works. The relevant document for assessment is the local planning policy Development Guidelines for Heritage Places contained at clause 22.02 of the Scheme and the provisions of ResCode (clause 54).

Particular and general provisions

27. As stated above, the provisions of Clause 54 (ResCode) applies to the application.

State Planning Policy Framework (SPPF)

Clause 12.05 A great place to be

28. The most relevant policy located within clause 12 is clause 12.05 (A great place to be). The objective of this policy is '*to create urban environments that are of better quality, safer and more functional, provide more open space and an easily recognisable sense of place and cultural identity.*'
29. More specifically, this clause requires Council to have regard to urban design, cultural identity and neighbourhood character, safety, heritage, neighbourhood design and open space. This clause sets out a number of strategies for each principle which is generally elaborated in more detailed planning policy within the broader State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement (MSS) and Local Policies.

Clause 15.11 Heritage

30. The proposal is consistent with the State Planning Policy Framework. Pursuant to clause 15.11 (Heritage), the planning objective is to:

"assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific and research purposes, as a means of understanding our past, as well as maintain and enhancing Victoria's image and making a contribution to the economic and cultural growth of the State".

31. A more detailed assessment of the application with respect to heritage will be provided in the planning consideration section of this report.

Clause 19.03 Design and Built Form

32. Clause 19.03 seeks to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties. The objective of this policy is:

'To achieve high quality urban design and architecture that:

- (a) *reflects the particular characteristics, aspirations and cultural identity of the community;*
 - (b) *enhances liveability, diversity, amenity and safety of the public realm; and*
 - (c) *promotes attractiveness of towns and cities within broader strategic contexts.*
33. In this instance, achievement of the above objective is demonstrated by the level of compliance with ResCode (clause 54). An assessment of clause 54 will be provided within the assessment section of this report.

Local Planning Policy Framework (LPPF)

Clause 21.02 Municipal Profile

34. A relevant policy direction located within the MSS is:

'The prevailing nineteenth century character of the City emanates not only from the vast numbers of Victorian and Edwardian buildings but equally from the related characteristics of the urban fabric. Subdivision patterns (predominantly small allotment sizes within an intricate grid of streets and laneways), minimal building setbacks and moderate building heights, are all significant in creating Yarra's overriding character as an intensively developed urban area, with a prevailing human scale.'

35. Modifications to the design have been made to ensure that the location of the new addition is sympathetic to the prevailing nineteenth century building form so that it will remain the focus of the site. The proposed double storey height can be supported in this instance given that it is located to the rear of the site and that the surrounding area contains a combination of both single and double storey building form. However, there will be more discussion in relation to acceptable building envelope in the assessment section of this report.
36. In relation to the material detailing, the proposed design has taken into account the various materials and treatments of the existing dwelling in this locality and assembled them together.
37. The proposed development will also utilize minimal building setbacks which is characteristic of the existing housing patterns. The intricate architecture and interaction at the human scale is also maintained.

Clause 21.03 Key Influences and Issues

38. This planning policy recognises that planning outcomes need to balance many conflicting interests:

'Whilst new development can still proceed, development within defined heritage areas and areas of established and consistent urban character, demand the particular attention be given in order to ensure that it is respectful of existing streetscapes and neighbourhood character.'

39. Assessment of the application against the relevant heritage policies has indicated that in this instance, appropriate development can occur without compromising the existing streetscapes and neighbourhood character however further modifications to the proposed upper floor building envelope is required. The modification to the upper building envelope will be discussed in the context of the ResCode assessment.

Clause 21.05 Strategic Elements

40. Clause 21.05 of the Scheme includes an element on urban design. The objectives encourage the retention of neighbourhood character, consistency in the streetscape, energy efficient design, and maintaining human scale. An assessment of ResCode will be provided below which indicates that the design has had appropriate regard to the streetscape, building and massing, internal amenity, external amenity and other planning matters.
41. It is noted that the subject site is identified as being within a residential area on the Residential Development Framework Plan.

Clause 21.05-7 Heritage Conservation

42. The subject site is also identified as being within a heritage area on the Heritage Conservation Framework Plan.
43. Objectives include:

'Conservation of places of aesthetic, archaeological, cultural, historical, scientific and social significance which reflect Yarra's historic development.'

'Retention and enhancement of the integrity of cultural heritage places.'

'Cultural heritage places that are useable and offer the highest possible standards of amenity and functionality for users.'

44. Council's Development Guidelines for Heritage Places is the relevant tool to assist in the assessment of applications affected by a Heritage Overlay. The relevant policy directives are outlined below.

Clause 22.02 Development Guidelines for Heritage Places

45. Particular guidelines relating to alterations and additions are outlined at Clause 22.02-3.3 which encourages the following:
 - (a) contemporary design;
 - (b) avoid the use of reproduction architecture;
 - (c) clear delineation between the new fabric and the original historic fabric;
 - (d) ensure the original historic fabric remains intact;
 - (e) ensure that the new development will not visually dominate;
 - (f) the architectural integrity be maintained; and
 - (g) the particular rhythm, spatial characteristics be reflected in the design.
46. A full assessment of the application against the above policy directives will be provided in the assessment section of this report.

Notice of application

Notification

47. Notification of the original application commenced on the 29 August 2006. A sign on the Fenwick Street frontage and another sign erected on the western title boundary were displayed for a minimum duration of 14 days. Notices were also sent out by Council notifying surrounding landowners and occupiers of the application.
48. Council received 15 objections to the application.

Objections

49. The objections to the original application were quite detailed. The ground raised can be summarised as:
 - (a) overshadowing to private open space;
 - (b) impact on daylight of windows;
 - (c) shadow of windows;
 - (d) excessive height and inconsistent with neighbourhood character;
 - (e) visual bulk;
 - (f) extent of walls along the southern title boundary;
 - (g) overlooking;
 - (h) energy efficiency;
 - (i) non-compliance with the side and rear setbacks provision of ResCode;
 - (j) impact upon property value;
 - (k) use of balcony for entertaining and associated noise potential;
 - (l) limit the ability to provide on site car parking;
 - (m) overdevelopment;
 - (n) impact on heritage;
 - (o) impact on adjoining tree;
 - (p) structural stability of the northern party wall is questioned; and
 - (q) noise and times during construction process.

Consultation Meeting

50. A planning consultation meeting was held on the 16 November 2006 for the applicant and objectors to discuss grounds of objection.

Revised plans circulated to objectors for comment

51. Revised plans were submitted to Council on the 24 November 2006. The following provides an extensive list of the changes made to the application plans:
 - (a) the setback of the first floor building envelope from the east (front) title boundary has increased from 13.34m to 14.34m;
 - (b) the setback of the first floor building envelope from the south title boundary has increased from 2.02m to a minimum of 2.38m;
 - (c) a roller door to the western title boundary cladded in zinc corrugated iron has been provided;
 - (d) a car parking space has been provided within the rear yard;
 - (e) the proposed BBQ and structure has been deleted;

- (f) a new shed 0.7m wide, 1.5m long and 2.0m high will be located adjacent to the southern title boundary (approximately where the proposed BBQ structure was to be located on the previous plans);
 - (g) the western most window along the southern elevation of the dwelling at ground floor has been deleted;
 - (h) merbau decking will be provided to the front verandah;
 - (i) the first floor walk in robe, ensuite and stairwell have been reconfigured to achieve the increased setback from the front title boundary;
 - (j) the three windows located on the northern title boundary have been replaced with two skylights;
 - (k) the size of the master bedroom has been increased to add a study nook and to decrease the overall area of the balcony;
 - (l) the length of the balcony has decreased from 4.15m to 1.8m;
 - (m) the first floor building envelope has been located inside the existing brick wall located on the title boundary;
 - (n) a list of the proposed changes to the front façade has been provided;
 - (o) a roof window to provide light to the ensuite has been provided on the east elevation;
 - (p) the overall height of the development as viewed on the north elevation has increased from 6.89m to 6.93m;
 - (q) the wall height of the development as viewed on the north elevation has decreased in height from 5.95m to 5.81m;
 - (r) the overall height of the ensuite section of the dwelling as viewed on the north elevation has decreased in height from 6.73m to 6.58m;
 - (s) the bottom part of the timber slatted screen on the north elevation has been changed to render;
 - (t) the material detailing of the proposed addition on the north elevation has changed from red bricks to render finish;
 - (u) the overall height of the building as viewed from the west elevation has increased in height from 6.89m to 6.93m;
 - (v) the single storey wall height as viewed from the west elevation has increased from 2.92m to 3.07m;
 - (w) a south facing ensuite window has been provided;
 - (x) the windows at first floor level along the southern elevation has changed proportion and will be provided with a window sill height of 1.7m above finished floor level;
 - (y) the overall height of the building as viewed along the southern elevation has increased in height from 6.89m to 7.01m; and
 - (z) the proposed new fence is to remain consistent with the height of the existing fence (specified as being between 1.22m and 1.26m).
52. Other changes to the plans include:
- (a) the trees on the adjoining property to the north has been shown on the plans;
 - (b) the building envelope, location of windows and the eave location has been corrected;
 - (c) the height of the fence and location of trellis on the southern title boundary has been corrected;
 - (d) the existing conditions have been modified to include the gates on the western title boundary;
 - (e) spot levels throughout the site have been provided;
 - (f) the location of the gate adjacent to the southern title boundary has been corrected;
 - (g) building height levels have been added to the elevations; and

- (h) shadow diagrams updated.
- 53. The revised plans were circulated to all original objectors to the application for comment. Council received seven additional submissions to the plans. Many of the objections were resubmitted with the original grounds of objection still being areas of concern.
- 54. Council received a detailed submission that suggested alternative concepts/ plans which sought to consolidate the area of the master bedroom and study area, relocate the balcony to the eastern side of the first floor building envelope and locate the ensuite and walk in robe to the western side of the first floor building envelope.
- 55. The applicants were provided with a copy of the detailed submission for their consideration and instructed Council to formally consider the revised plans submitted on the 24 November 2006.
- 56. The provision of alternative building concepts was useful in understanding the concerns of the particular objectors and would indicate a building envelope which would be acceptable to them. However, under the provisions of the *Planning and Environment Act 1987* (the Act) Council is required to consider the application plans as submitted, by the planning application.
- 57. Subject to some modifications, this report outlines how the proposed development as submitted by the applicant is generally consistent with planning policy.

Referrals and comments

- 58. The original application plans were referred to Council's Heritage Advisor. The following comments were made:
 - (a) the subject site is located within a single storey streetscape;
 - (b) the subject building is one of a single storey cottage pair;
 - (c) sightlines will enable views to the upper storey addition and modification is required to reduce the visibility of the proposed upper storey addition from the street by a combination of methods including increase setback or reduction of wall heights;
 - (d) no issue with the change in the front fence gate location; and
 - (e) appropriate to use timber verandah flooring.
- 59. The amended plans did not require re-referral as the upper level setbacks was increased by 1.0m which follows the comments made above.

Assessment

- 60. In this instance, the primary decision guidelines and policy assessment tools for the application are:
 - (a) clause 54 (ResCode- One dwelling on a lot); and
 - (b) clause 22.02 Development Guidelines for Heritage Places.
- 61. In addition, Council must also have regard to the objections received.

Clause 54 ResCode

62. The proposal has been assessed against the objectives, standards and decision guidelines contained within clause 54 of the Scheme.
63. Many of the objections raised with respect to the revised plans specify that while the proposed development may meet the standard requirements of clause 54, the objective of the clause will not be met.
64. With regard to this proposition, it is useful to refer to a relevant VCAT decision. Senior Member Byard in Chak Lai Li v Whitehorse City Council (Planning Permit Application No. P576/2005) held that a standard "contains the requirements to meet the objective". Furthermore, if the standards are met, it is not open to contend that the objective is not met.

However, this does not mean that a permit must automatically be granted if all standards are met (although it may be a strong indication for the grant of a permit). A failure to meet ResCode objectives cannot be the basis for refusal when all relevant standards are met.

65. The following provides discussion in relation to the relevant ResCode provisions.

Neighbourhood Character

66. The following objectives relate to this clause:
 - (a) *to ensure that the design reflects the existing neighborhood character or contributes to a preferred neighborhood character; and*
 - (b) *to ensure that development responds to the features of the site and surrounding area.*
67. The proposed development will generally be responsive to the prevailing neighbourhood character of the area.
68. While the proposed development will comprise a double storey extension, the predominant low scale of the traditional building form will remain. The scale of the building will remain as a single storey building with an additional level extension appearing as a later addition. There are a number of Tribunal decisions that finds that the provision of double storey (particularly as an extension to an existing single storey dwelling) in an area that is predominantly of single storey scale is not inconsistent with the neighbourhood character.
69. Many of the additional windows reflect the vertical window proportions and spaces area however there are a number of windows with horizontal orientation. These windows are located adjacent to the roofline and therefore are relatively discrete.
70. In relation to the roof form, the proposed development will provide a low profile hipped roof form and a gable on the western end of the first floor. The series of roof forms are appropriate for the locality.

- 71. The private open space will remain at the ground level which is consistent with the area. It is noted that a balcony will be introduced to the western elevation however its location in the north-west corner of the first floor will mean that it will not be visible from the streetscape and will not have any impact upon neighborhood character.
- 72. The material detailing of the proposed addition (including weatherboards and zincalume sheeting) utilise the traditional building forms of the locality.

Integration with the Street

- 73. The proposed development will have negligible impact upon the Fenwick Street Streetscape given the setback of the upper floor from the front wall. A sightline section has been provided as a part of the planning drawings which ascertain that from directly opposite the subject site, no views will be available to the proposed addition. However, minor views will be available to the sides given the location of the gable roof form to Fenwick Street and the setback of the existing dwelling from the southern title boundary. The sightline drawing demonstrates that most views to the new addition will be limited to the roof.

Street setback

- 74. The proposed development will not change the existing street setback to Fenwick Street.

Building Height

- 75. The proposed overall building height will be approximately 7.01m which complies with the 9.0m height standard and is acceptable as it will sufficiently respect the surrounding neighbourhood character of Victorian/ Edwardian scale which consists of high single storey dwellings due to relatively generous floor to ceiling heights.
- 76. It is recognised that the height of the development will be higher than many of the immediately adjoining properties which maintain the single storey scale. As discussed above, it is not considered that the double storey building form will be inconsistent with the prevailing neighbourhood character. In relation to height, the impact of this development will be negligible given the general setback from the street.
- 77. The potential issue with the building height, it not the proposed height, per se, but rather the location of the first floor building envelope. The location of the first floor building envelope will be discussed in further detail in the standards relating the side and rear setbacks.

Site coverage

- 78. The proposed site coverage as shown on the accompanying documents is calculated as 48.4 per cent which complies with the standard which specifies that the site coverage for development should not exceed 60 per cent. The ground floor building envelope will only be extended 3.12m towards the west which is a negligible site coverage increase.

Permeability

79. The proposed plans do not show proposed permeable surfaces. The applicant's submission states that the proposed permeability will be 77.9 per cent which will be less than the amount of 80 per cent prescribed under the above standard. The documents also indicate that the current hard surface is currently 91.9 per cent and therefore the proposed development will improve the existing situation.
80. Given the lack of information provided on the plans in relation to the hard surface cover and how the proposed standard is met, a condition should be imposed on any planning permit issued ensuring compliance.

Energy Efficiency Protection

81. The orientation of the lot, including part of the existing building adjacent to the northern title boundary, makes it difficult to achieve northern orientation. In order to achieve a maximised northern orientation for the subject site would compromise solar access and energy efficiency to the adjoining property to the south which has extensive north facing windows.
82. The proposed development does rely upon the majority of windows to face west or south which will not provide the best energy efficient outcome for the site. The development will provide significant west facing windows which will have no solar protection. A condition should be imposed on any planning permit issued that requires solar protection devices to be applied to all west facing windows. There are a number of ways that solar protection devices can be applied to the windows including retractable awnings, eaves/ canopies, screens etc.
83. The proposed development will ensure that all new habitable rooms will be able to receive adequate daylight through the provision of a number of windows to each room in relevant locations.
84. The shared floor and part wall construction will assist in heat retention.
85. Concerns were raised by an objector in relation to impact of the proposed development upon their energy efficiency. The above standard does require consideration be given to the siting and design of buildings to ensure that the energy efficiency of existing dwellings on adjoining lots will not be unreasonably reduced.
86. It is acknowledged that the adjoining property to the south has extensive north facing windows which obtains direct solar access at present. This is demonstrated on the shadow sections provided with the revised plans. Concerns were raised that there would be a loss of energy efficiency with the reduction in the solar access to the adjoining north facing windows.
87. With regards to the north facing windows and access to solar access, there is a particular standard which sets out the reasonable building envelope opposite north facing windows. Assessment further in this report will outline, that the proposed development will actually comply with this standard.

- 88. Upon further inspection of the shadow diagrams, it appears that if the upper storey addition was reduced in height by a further 0.5m, there would be no difference with respect to solar access to the adjoining north facing windows of the proposed development compared to the existing condition when taking into account the potential limitation of solar access that the trellis has. However, having regard to the existing design, the proposed development already uses minimum floor to ceiling heights for the first floor level (at 2.4m) and appropriately uses a 2.7m floor to ceiling height for the existing ground floor level which incorporates living room areas. There is little opportunity to reduce the existing floor to ceiling heights without severely impacting internal amenity of the subject dwelling.
- 89. While the southern side of the first floor level could potentially be reduced to a 2.1m floor to ceiling height, this would result in an unsymmetrical roof pitch which would have an undesirable visual impact on the externals of the building. The extent of solar access to the north facing windows will be discussed in further detail at the north facing windows standard.

Significant tree

- 90. The ground floor plan indicates that there is the ability for significant vegetation to be planted within the private open space.
- 91. It is noted that the adjoining site to the north has two large trees understood to be commonly known as "The Peppercorn Tree" (*Schinus molle*). The proposed development will be in close proximity of these trees. Concerns have been raised in relation to the health of the trees.
- 92. While concerns have been raised with respect to these trees, it should be noted that this particular tree species is an environmental weed species (as identified by clause 22.08) and therefore Council does not consider the request for arborist consultation and supervision to be provided during the construction phase for this particular species to be consignant with sound environmental practice.
- 93. Furthermore, the specific content of the above standard including the objective and decision guidelines would not justify a condition of this nature to be imposed on any planning permit issued.

Parking

- 94. The requirements of this standard do not apply to extensions to existing dwellings. During the application process, as a response to the objections received, the development was revised to provide one car parking space adjacent to the western title boundary.
- 95. Council's Traffic Engineer has been consulted with relation to the proposed car parking space. Given the proposed width of the site (and subsequently the car parking space) and the width of the laneway which through access is not provided, the proposed car parking space will not work. It is subsequently recommended that a condition be imposed on any planning permit issued that the car parking space be deleted.

Side and rear setbacks

96. With a maximum building height of 7.01m (as viewed on the eastern end of the southern elevation), the above standard specifies a setback of 2.09m from side and rear setbacks. The proposed development clearly complies with the requirements with respect to the east and west title boundaries.
97. Furthermore, the proposed development complies with the above requirement with respect to the southern title boundary in which the minimum setback of 2.38m exceeds the calculated requirement above.
98. It is further noted that during the application process, the setback of the development from the southern title boundary was increased from a minimum of 2.01m to 2.38m in order to comply with the above standard. The result however, has elongated the upper floor building envelope when viewed from the adjoining property to the south (especially with the conversion of some of the balcony area to a study nook) which may result in unreasonable visual bulk given that the adjoining property to the south has extensive north facing windows which have an outlook onto the site.
99. In order to minimise this impact, it is recommended that the length of the upper floor building envelope be reduced through the deletion at the first floor balcony and the study nook. This will reduce the building envelope of the first floor level by 2.12m. The adjoining property to the south will also benefit in relation to solar access to the western most, north facing window.
100. With respect to the northern title boundary, the upper floor building envelope will not have a setback and therefore does not comply with the standard. This is not significant for most the wall, as the much of the building envelope of the upper floor will be adjacent to the roof of the adjoining dwelling to the north. However, the application seeks to construct additional height along the northern title boundary which will be exposed to the private open space of the adjoining property to the north.
101. The provision of the balcony which is required to be screened to a height of 1.7m above the finished floor level will result in additional built form on the northern title boundary which will be highly visible from the adjoining property to the north. This report recommends the reduction in the upper floor building envelope through the deletion of the balcony and the study nook area.
102. Having regard to the above standard, the proposed development does not comply with respect to the northern title boundary however with further modifications to the plans will be acceptable.

Walls on boundaries

103. As discussed above, the application seeks additional walls on boundary along the northern title boundary. The provision of an additional length of 3.12m along the northern title boundary, complies with the above standard which allows up to 10m plus 25 per cent of the remaining length of the boundary of an adjoining lot. The height of such wall however does not comply with the above requirement.

104. The application seeks to construct two sections of wall with a height of 4.8m and 5.81m on the northern title boundary where it is adjoining the private open space of the adjoining property to the north. This exceeds the above standard requirement which suggests that the height of the wall should not exceed an average of 3.0m.
105. Given the prevailing neighbourhood character, it is not considered unreasonable to locate some walls on boundary however, it is recognised that the height of the wall will have a visual impact upon the adjoining property to the north. To this extent, the removal of the balcony will reduce the extent of wall on boundary and ensure that most of the wall will be single storey. The portion of double storey wall adjacent to the private open space of the adjoining property to the north will therefore be reduced to around 1.0m in length, which is considered reasonable.

Daylight to existing windows

106. The proposed development will not impact upon daylight to existing windows. The setback of the proposed addition from adjoining windows will be at least half the height of the wall. Impact on solar access to the north facing windows on the adjoining property to the south will be discussed under the next standard.

North facing windows

107. Based on a maximum wall height along the southern elevation of 5.9m, compliance with the above standard is achieved with a setback of 2.38m. The proposed development provides a 2.38m setback which complies with the above standard.
108. In creating a setback from the southern title boundary to achieve compliance with the above standard, the building envelope of the upper floor of the proposed development has been elongated in an east-west direction. A part of the balcony has also been converted to a study area which has increased the amount of wall along the southern elevation.
109. The deletion of the balcony and the study will result in the overall length of the first floor building envelope by 2.12m. As discussed previously, this reduction in the building envelope will reduce perceived visual bulk of the development. The recommended modification will also mean the western most, north facing window of the adjoining property to the south will only be opposite single storey building form (as opposed to double storey building form).
110. The shadow sections provided with the plans indicate that most of the north facing windows will receive some solar access, but that, solar access will be reduced. Compliance with the above standard which specifies setbacks from the southern title boundary, coupled with the shadow diagrams indicating that most of the windows will still receive some solar access suggests that the objective which seeks to ensure adequate solar access to existing north facing habitable room windows will be achieved. In addition, the modification to the building envelope will improve solar access to the western most window.

Overshadowing

111. Shadow plans have been submitted as a part of the application. The shadow plans indicate that most of the proposed shadow created by the development will be located within the area shadowed by the existing boundary fencing. The amount of shadow is not considered to be significant. Given the orientation, depth and width of the adjoining property to the south, it is considered that a reasonable extent of solar access will be achieved despite the proposed development. In addition, the reduction of the building envelope 2.12m from the western end of the building will result in less shadow impact than what has been shown on the shadow plans.

Overlooking

112. Concerns have been raised with relation to potential overlooking issues.
113. With relation to ground floor, it appears that the fencing surrounding the site will prevent any overlooking in accordance with the above standard.
114. In relation to the south facing windows at the first floor levels, the three proposed windows will have a window sill height of 1.7m above finished floor level which complies with the above standard.
115. The study window at the first floor level on the western title boundary will be provided with a window sill height of 1.7m and therefore complies with the above standard.
116. The balcony located in the north-west corner of the first floor has been provided with a screen to a height of 1.7m. It is not clear from the plans whether the 1.7m high screen has been applied from the finished floor level of the balcony. The screen includes solid weatherboard cladding for part of the screen and timber slatted screen with maximum 25 per cent transparency. Further demonstration through the provision of a cross-section is required to ensure that the configuration of the timber screens will not result in overlooking will not be required in this instance given this report recommends the deletion of the balcony.

Daylight to new windows

117. It is considered that all new windows will be able to achieve appropriate daylight.

Private open space

118. The private open space for the dwelling will be located to the west of the dwelling with access from the open plan kitchen, meals and living area. The extension to the dwelling will reduce the existing private open space for the site by 19.25sqm but will create a better connection from the dwelling to the private open space from the open plan kitchen, meals and living area.
119. The private open space will be irregular in shape with a minimum dimension of 5.6m. The above standard requires private open space areas have a minimum area of 3.0m.

- 120. The overall area of the private open space will be approximately 45sqm. However, this calculation includes the car parking space adjacent to the western title boundary and the garden shed adjacent to the southern title boundary. In this instance, it is considered appropriate to include the area designated for car parking in the private open space calculation as this space could serve a dual purpose.
- 121. The area occupied by the garden shed is approximately 1.05sqm which is not significant.
- 122. Based on the above standard, with the site having an overall site area of 206.20sqm, the provided private open space should be 41sqm.
- 123. The proposed development therefore complies with the above requirement.

Solar access to open space

- 124. The private open space will be located to the west of the existing dwelling and will continue to have appropriate solar access. The shadow diagrams submitted with the application indicates that the private open space associated with the proposed development will receive appropriate solar access during various times of the day.

Design detail

- 125. Having regard to the neighbourhood character and the fact that the extension/ additions are to the rear of the site, it is considered that the design detail is generally appropriate.
- 126. It is considered necessary as a condition of the planning permit to require the provision of colours, materials and finishes schedule given the site's location within a heritage overlay. Furthermore, it is suggested that the standard colours, materials and finishes condition be modified so that the palette of new colours, materials and finishes incorporates the existing materials and colours.

Front fences

- 127. The application seeks modification of the existing front fence to relocate the front gate to generally align with the location of the front door. The plans indicate that the height of the existing front fence will not change (maximum 1.26m) and the design will remain as timber pickets.

Development Guidelines for Heritage Places

- 128. As stated above, the subject site is located within a heritage overlay (schedule 316) which relates to the Eastern Clifton Hill Precinct. In addition to the comments received by Council's Heritage Advisor, clause 22.02 (Development Guidelines for Heritage Places) are also relevant.
- 129. The application seeks to demolish small sections of the existing roof structure and a rear chimney. Given that the proposed demolition will generally not be visible and that only limited heritage fabric is proposed to be demolish, there is no issue regarding demolition.

130. In relation to the proposed buildings and works, the clause encourages design which:
- (a) avoids reproduction architecture;
 - (b) will not be confused with the original historic fabric;
 - (c) allows the original heritage fabric to remain intact;
 - (d) will not visually dominate the heritage place;
 - (e) considers the architectural integrity of the heritage place;
 - (f) avoids blank walls; and
 - (g) reflects rhythm and spatial characteristics of the heritage place.
131. The proposed development at the upper level will have limited visibility from the street. The setback of the upper storey addition will ensure that the gable of the existing building will screen the modifications to the building. Additionally, the presentation of the ensuite/ walk in robe (the eastern portion of the upper floor building envelope) has been reduced through increased setback and reduced floor to ceiling heights.
132. While the application uses materials such as weatherboard and zincalume roof cladding which the existing building utilises, the application does not seek to inappropriately reproduce the original architecture.
133. The addition makes reference to the existing building form by generally replicating building forms used in the existing building. This is entirely appropriate and demonstrates that the architectural integrity of the building will be maintained. While it is noted, that the application does provide some horizontal shaped windows along the southern elevation which is not consistent with traditional form, these windows will not be obvious due to their close proximity to the roofline.
134. Council's Heritage Advisor generally supported the application. It was suggested that the visibility of the ensuite be reduced. This has been achieved in the revised design through the increase a setback of the upper floor addition by 1.0m and the reduction in the floor to ceiling heights of the eastern section of the upper floor.
135. The limited visibility of the addition and the lack of demolition of the existing building will ensure that the heritage place will remain largely intact and new works will not dominate the streetscape.

Objectors concerns

136. Many of the objectors concerns have been addressed through the assessment of planning policy. Commentary is provided below for outstanding objectors concerns:

Impact upon property value

137. The potential impact upon property value is not considered to be a valid planning consideration.

Use of balcony for entertaining and associated noise potential

- 138 The relevant assessment criteria for the application does not extend to noise. It is generally considered that as the site is in a residential area, any noise created will also be residential in nature. However, given the recommendations of the above report which seeks to delete the balcony, it is considered that this ground of objection nevertheless has been addressed.

Overdevelopment

139. General compliance with planning policy suggests that the proposed development is not an overdevelopment of the site. It is noted that the proposed upper storey master bedroom is very generous in size however planning policy does not provide specific standards in relation to room size.

Structural stability of the northern party wall

140. Potential impact upon the stability of the northern title boundary is not a planning consideration. Typically, the building assessment process would investigate potential issues such as structural capabilities.

Noise and times during construction process.

141. There is a standard condition recommended to be imposed with respect to construction times.

Conclusion

142. Having regard to the above report, it is considered that with the modification of the upper floor building envelope through the increased setback of the first floor from the western title boundary a further 2.12m, and some standard detail conditions that the proposed development is generally acceptable.

RECOMMENDATION

140. That having considered all objections and relevant planning documents, the Committee issue a Notice of Decision to Grant Planning Permit PL06/0686 for the purposes of development of an extension to dwelling including partial demolition at 49 Fenwick Street, Clifton Hill subject to the following conditions:

Amended Plans

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the planning permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally be in accordance with the determination plans received at Council on the 24 November 2006 but further modified to show:
 - (a) the reduction in the length of the first floor building envelope through the deletion of the balcony and the study nook so that the setback from the western title boundary will be an additional 2.12m;
 - (b) the deletion of car parking space;
 - (c) the elevation of new western title boundary;

- (d) floor level of deck to be specified with the height of the side fences to be at least 1.8m above the finished floor level of the deck;
- (e) all west facing habitable room windows to be provided with a technique to limit solar access;
- (f) the implementation of screening techniques to prevent potential overlooking for all first floor habitable room windows in accordance with the relevant standard relating to overlooking;
- (g) the details of site permeability indicating that 20 per cent will be achieved for the development site;
- (h) the location of any plant and machinery including hot water services, air conditioning units and heating units, all of which are to be screened from street views;
- (i) a schedule of all external colours, materials and finishes to show all external walls, roof, fascias, window frames, glazing types, doors, fences, paving (including car park surfaces), outbuildings and structures. The schedule shall show colours, material and finishes which generally reflect the existing conditions of the building; and
- (j) notation indicating all boundary walls will be cleaned and finished.

Endorsed Plans

- 2. All development must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.

Damage to Roads

- 3. All damaged road(s) and footpath(s) adjacent to the development site must be reinstated to the satisfaction of the Responsible Authority.

Construction Hours and Noise

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

Time Limits

- 5. This permit will expire if the development is not commenced within two years from the date of this permit. All development must be completed within four years of the date of this permit. The Responsible Authority may approve extensions to these time limits if requests are made within three month of expiry.

Notes:

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

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

INTERNAL DEVELOPMENT APPROVALS COMMITTEE RESOLUTION

Moved: Councillor Barbara

Seconded: Councillor D'Agostino

That the matter be deferred for the Applicant to amend their plans in order to further address some objector concerns.

CARRIED

Attachment 1 – Subject Land 49 Fenwick Street, Clifton Hill

Attachment 2 – Existing Plans

Attachment 3 – Proposed Plans

Attachment 4 – Proposed Plans

Attachment 5 – Elevations

Attachment 6 – Site Plan

Attachment 7 – Sight Line

Attachment 8 – Shadow Plan 22 September 9.00 am

Attachment 9 – Shadow Plan 22 September 10.00 am

Attachment 10 – Shadow Plan 22 September 11.00 am

Attachment 11 – Shadow Plan 22 September 12.00 noon

Attachment 12 – Shadow Plan 22 September 1.00 pm

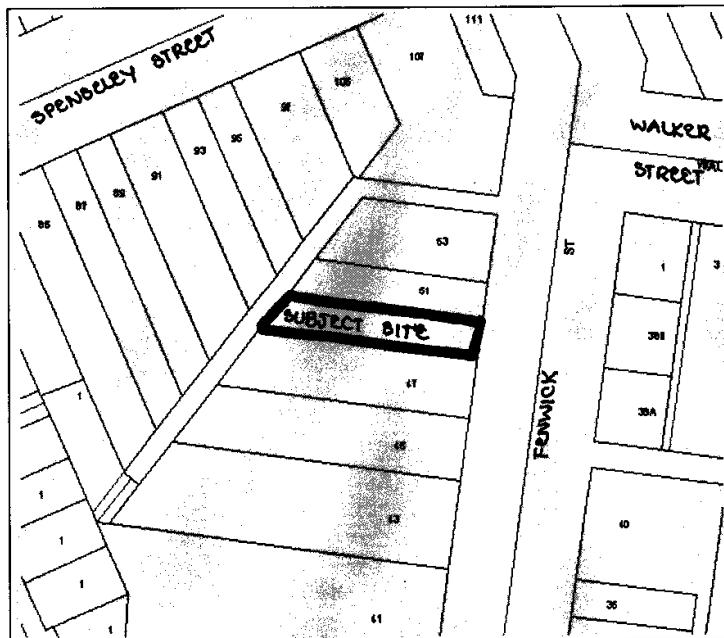
Attachment 13 – Shadow Plan 22 September 2.00 pm

Attachment 14 – Shadow Plan 22 September 3.00 pm

Attachment 15 – 18 – Shadow Sections

ATTACHMENT 1

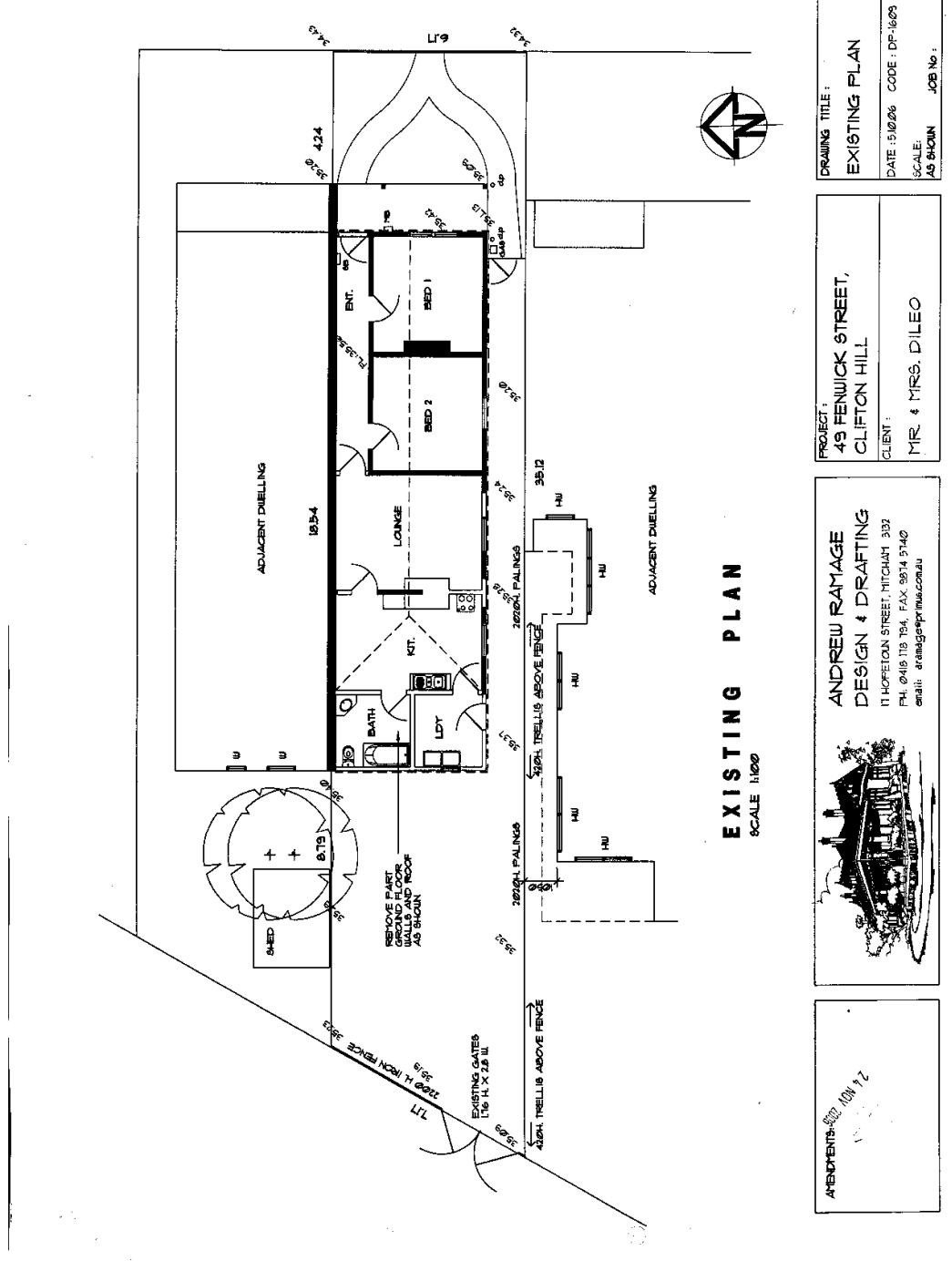
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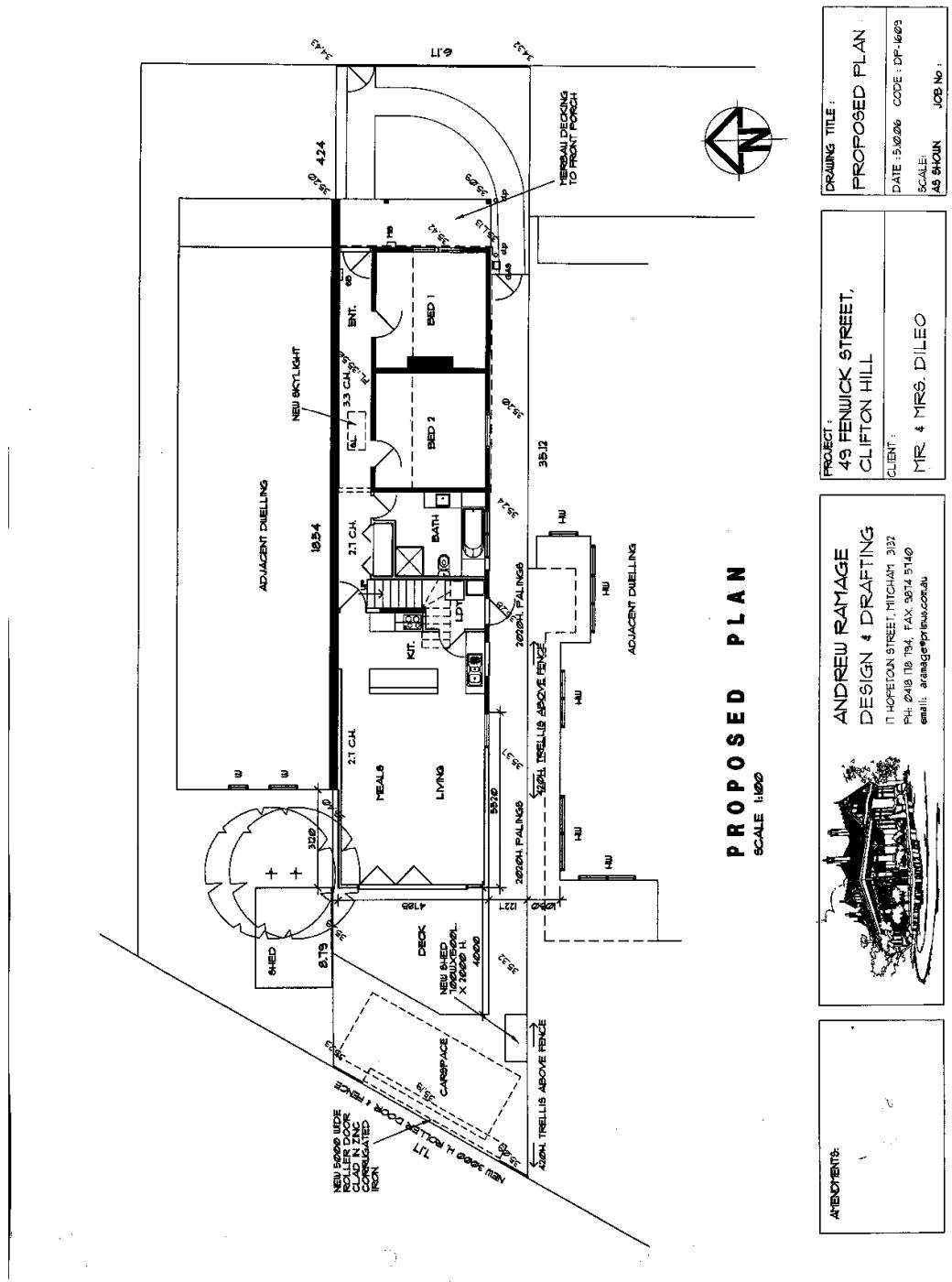
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■ Subject Site

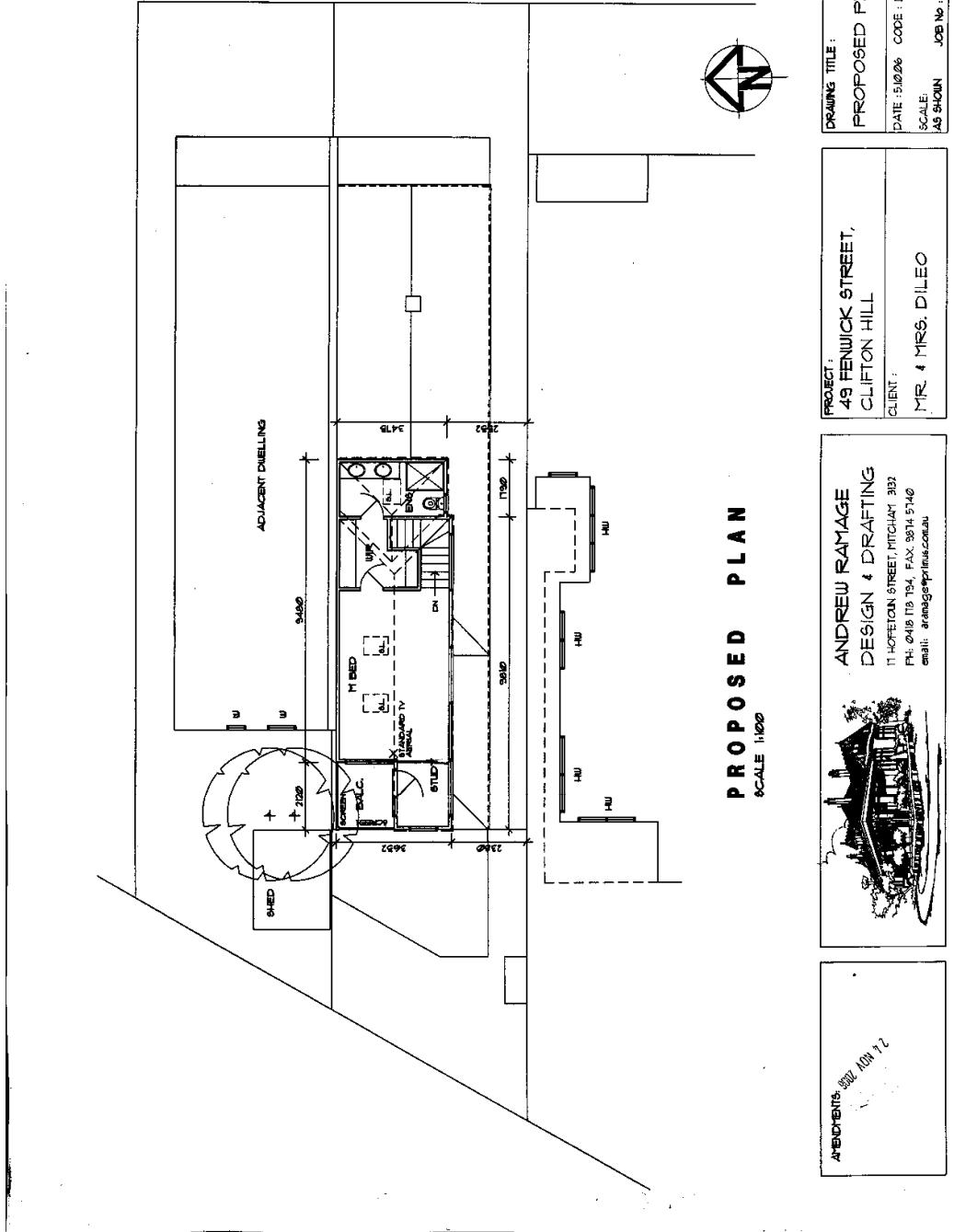
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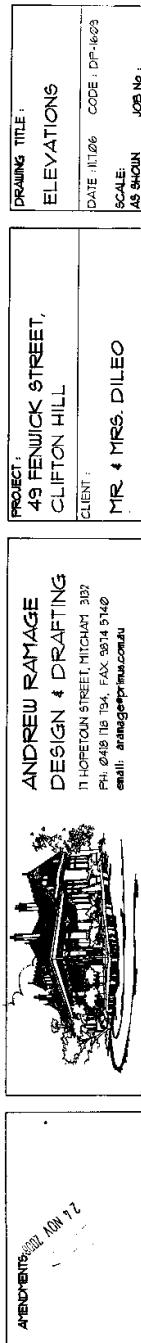
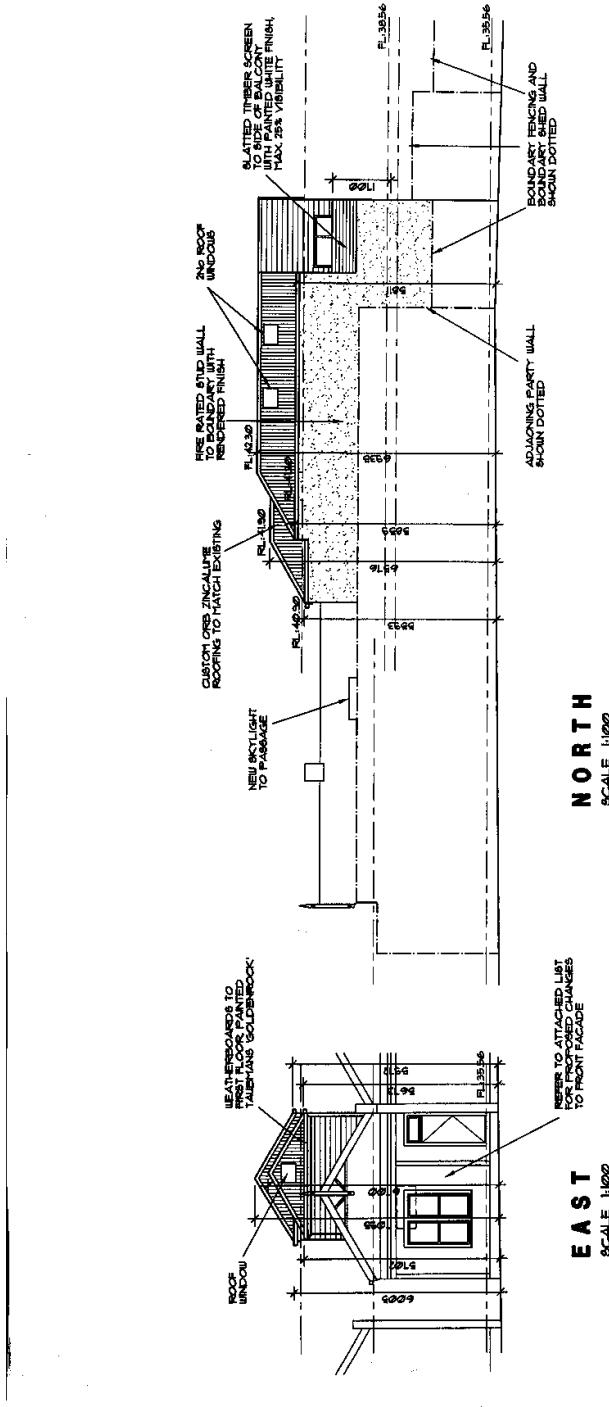
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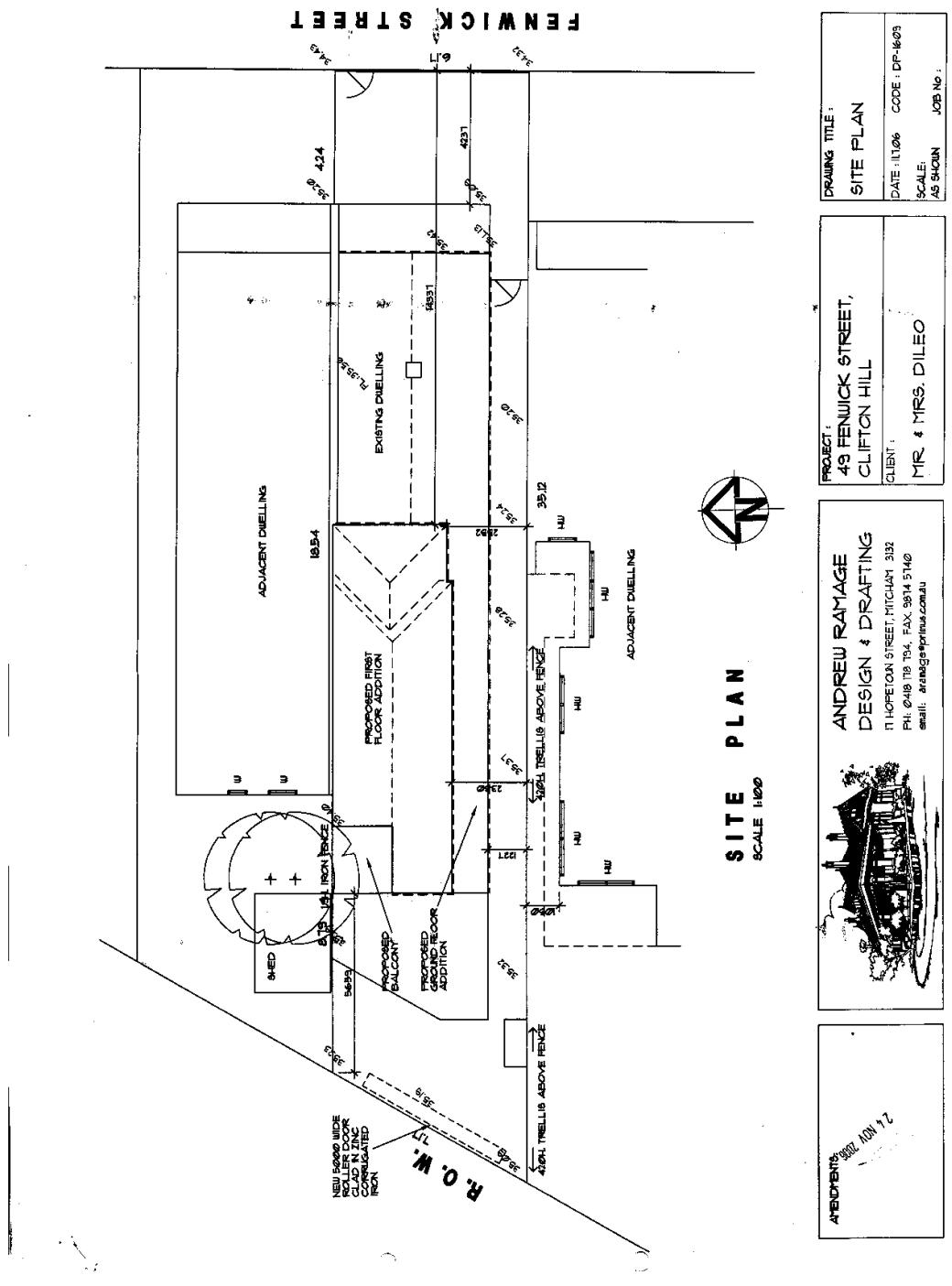
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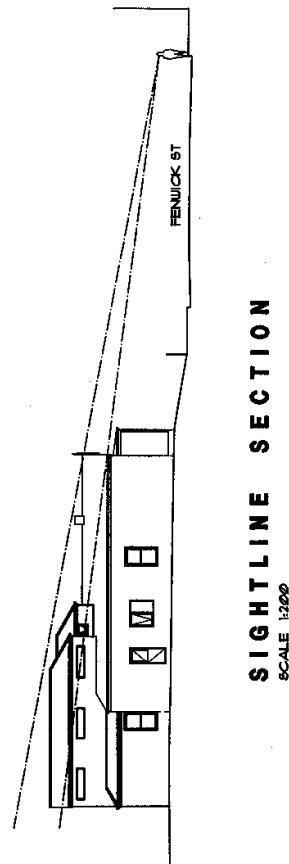
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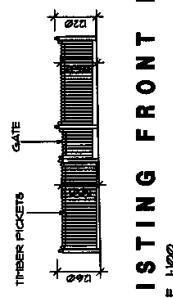
ATTACHMENT 6



ATTACHMENT 7

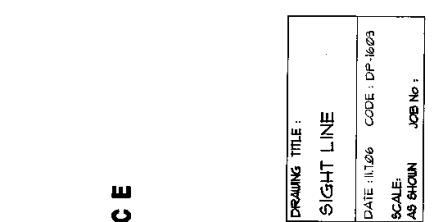


EXISTING FRONT FENCE
SCALE 1:200



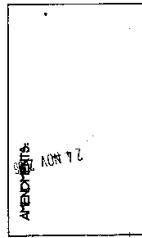
PROPOSED FRONT FENCE
SCALE 1:200

NOTE:
EXISTING FENCE HEIGHT TO REMAIN UNCHANGED

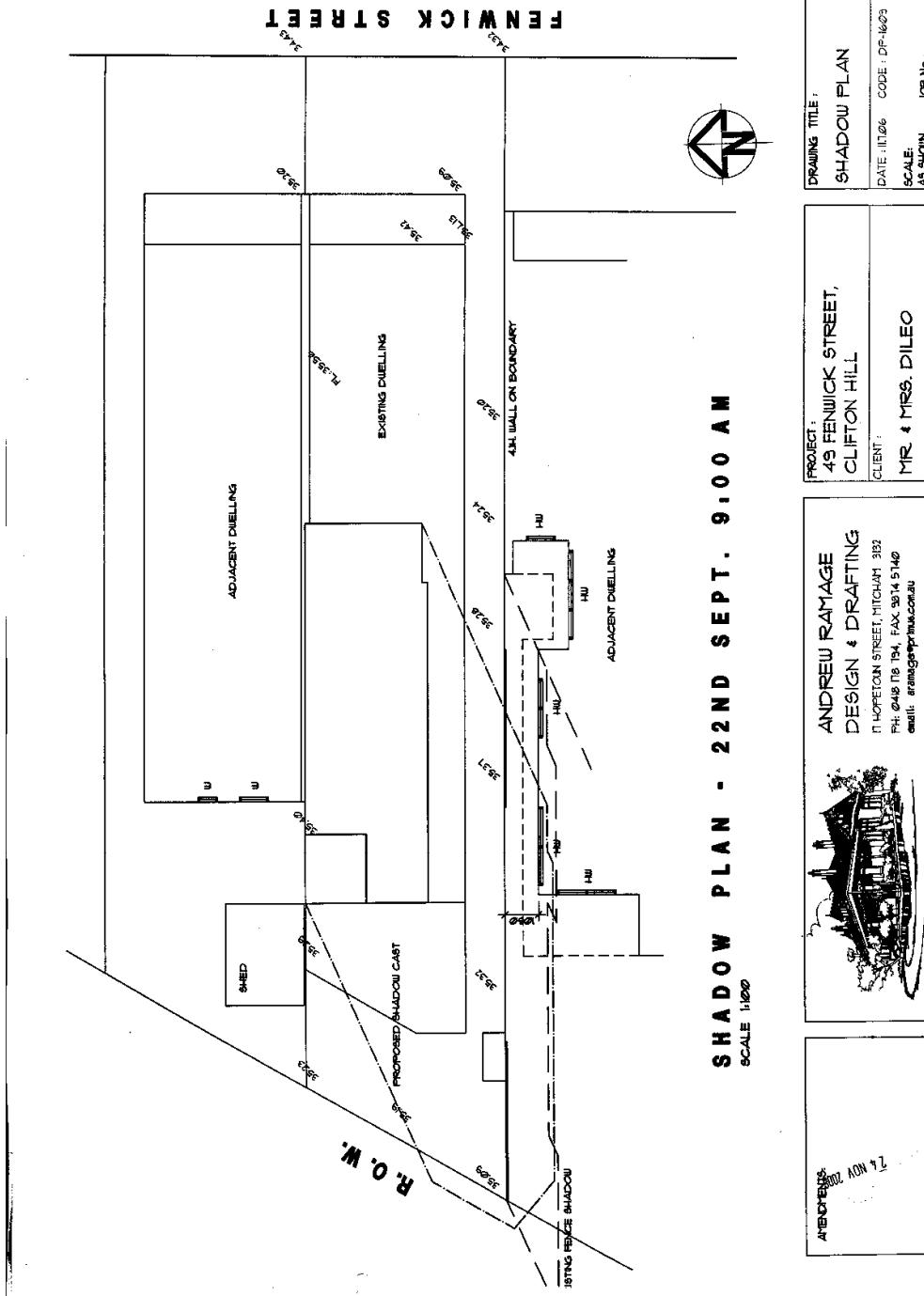


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DATE : 11/2/06	CODE : DP/16/23
SCALE : AS SHOWN	JOB No. :

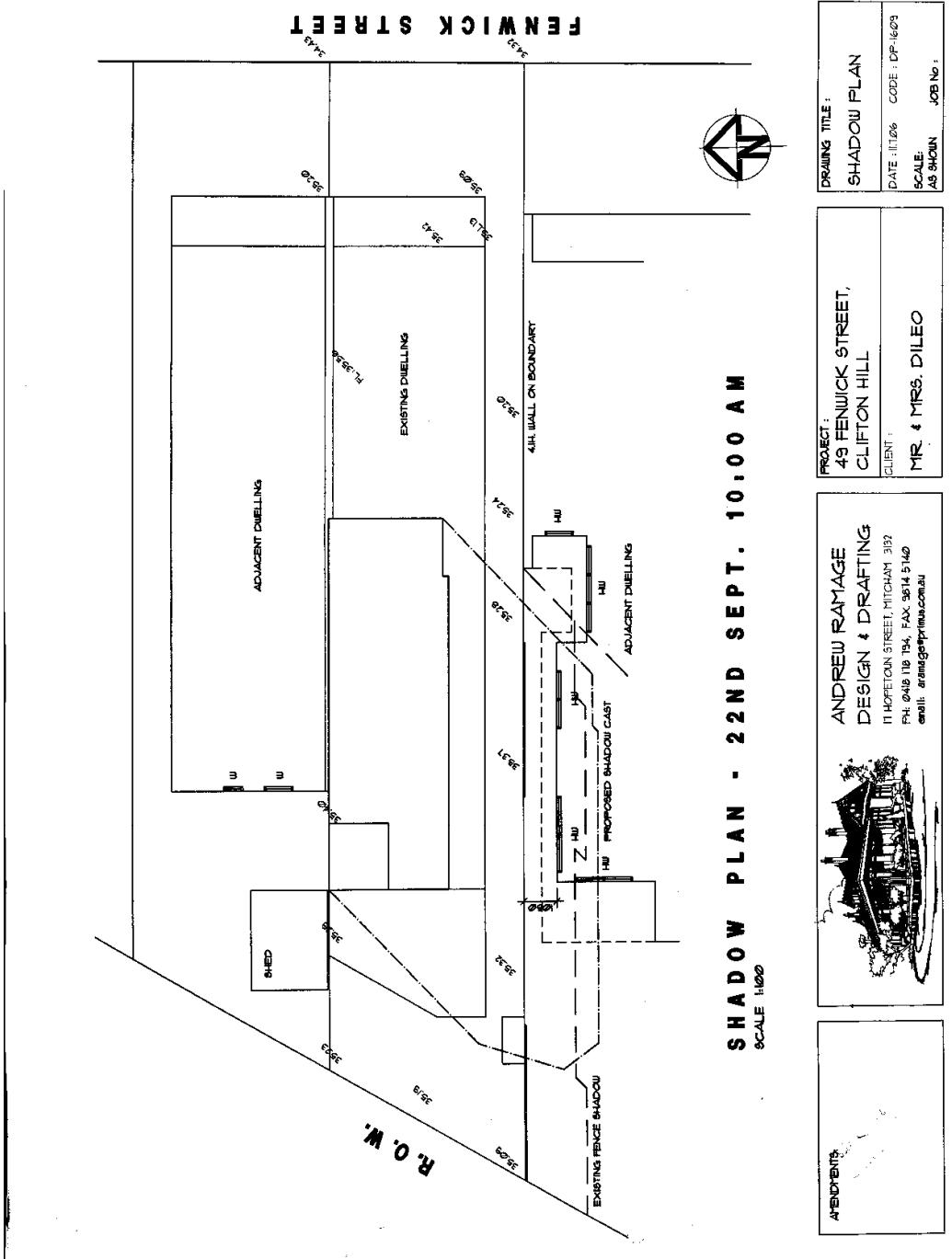
PROJECT : 49 FENWICK STREET, CLIFTON HILL
CLIENT : MR & MRS. DILEO



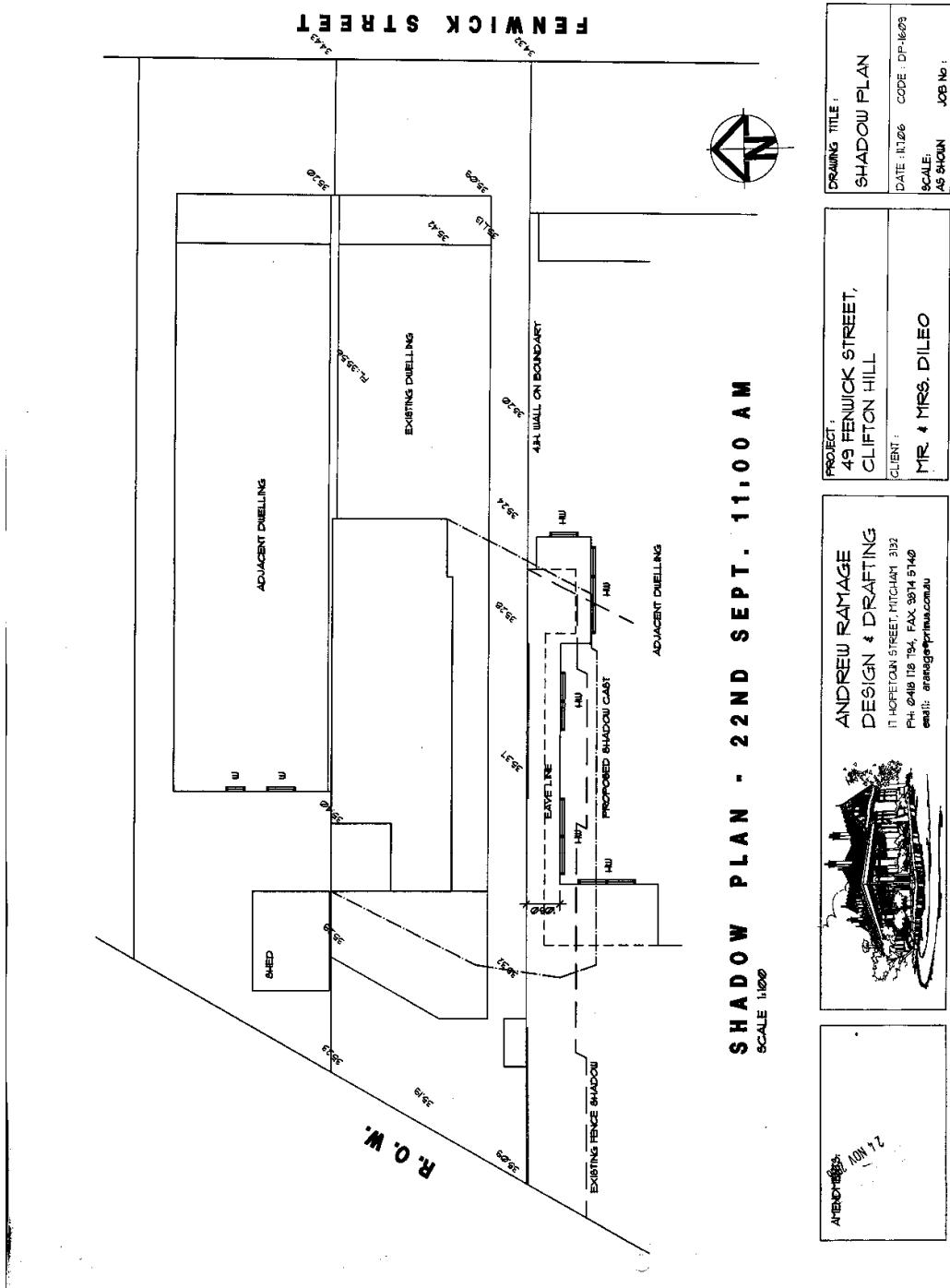
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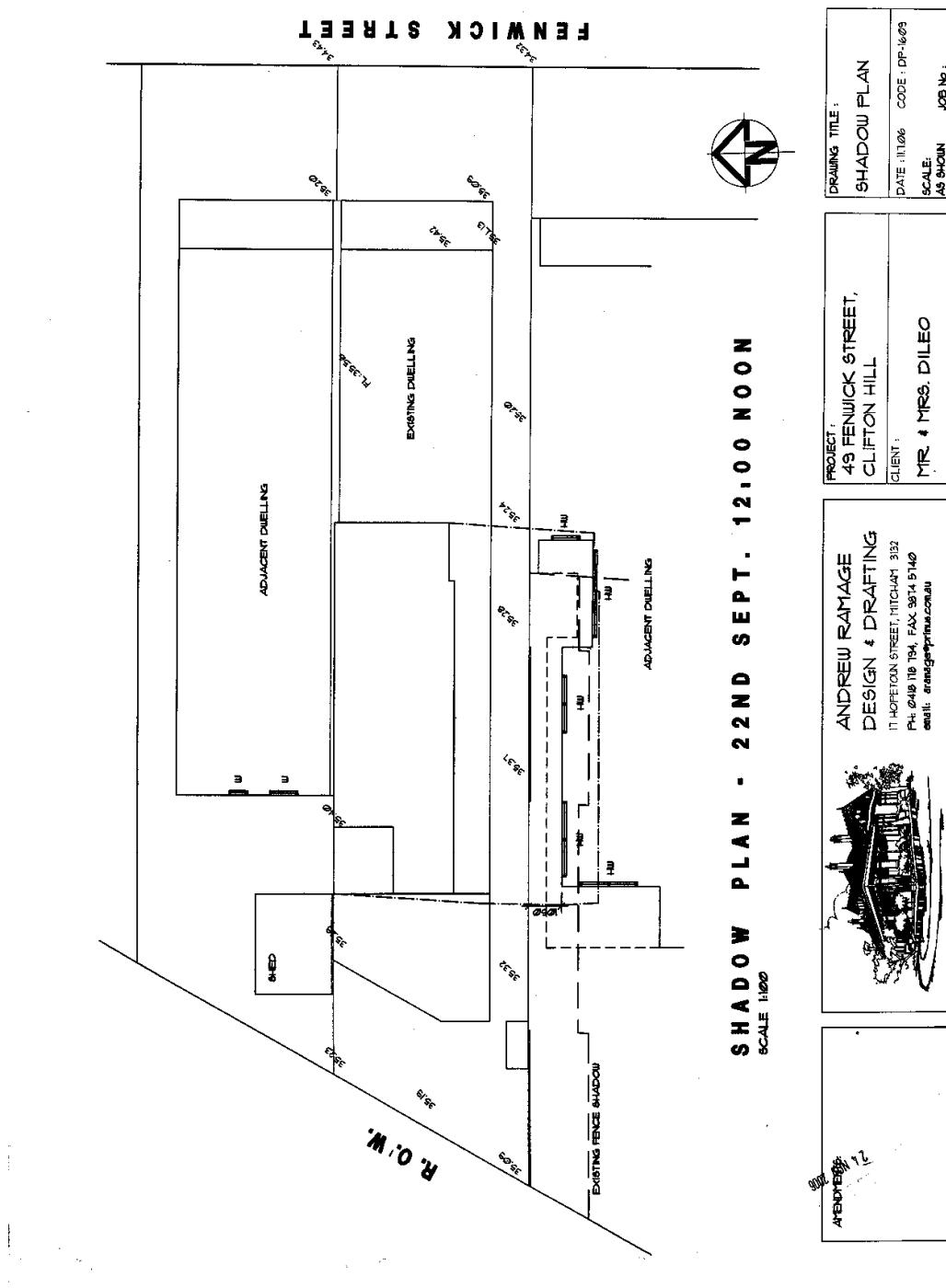
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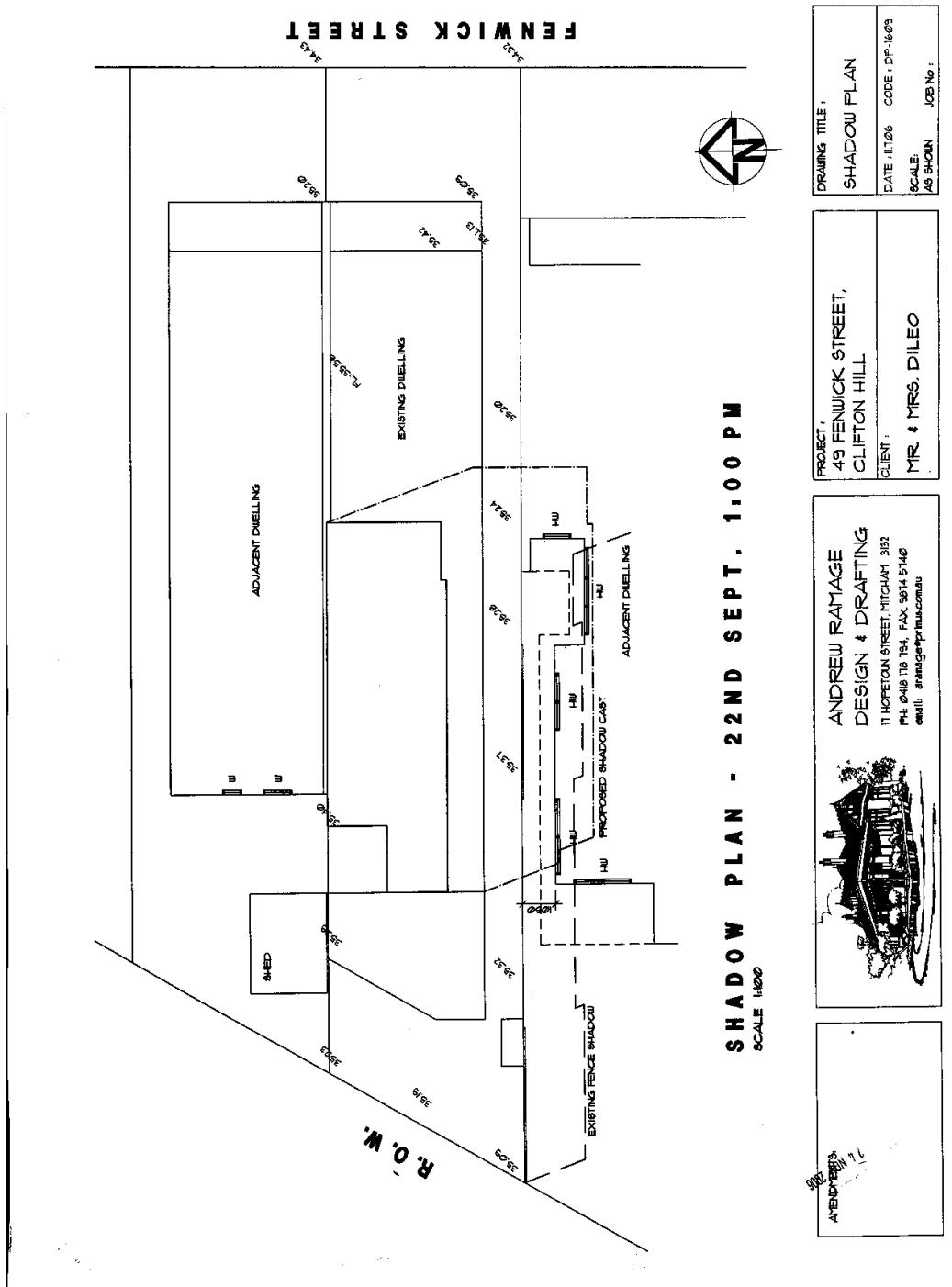
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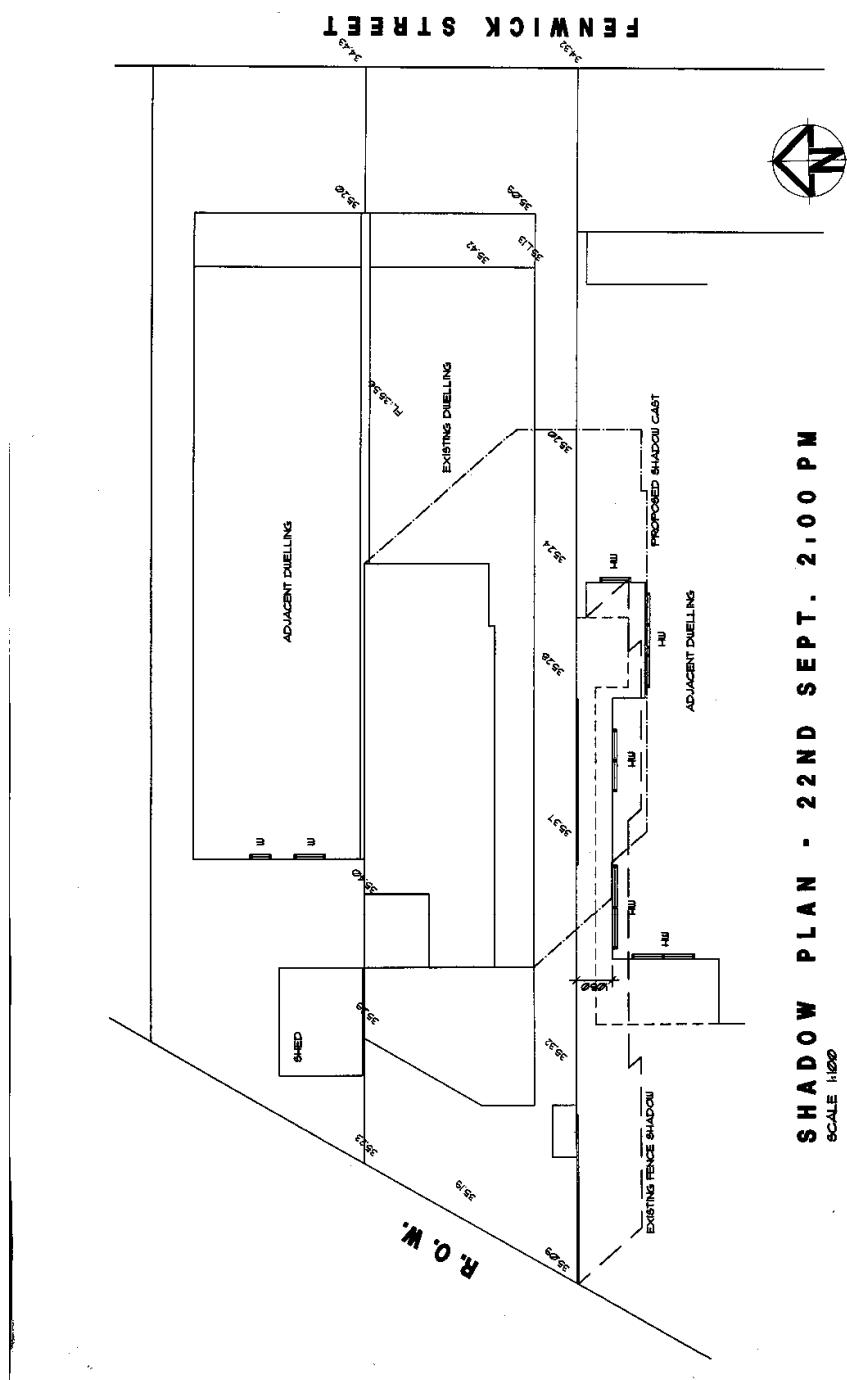
ATTACHMENT 11



ATTACHMENT 12



ATTACHMENT 13



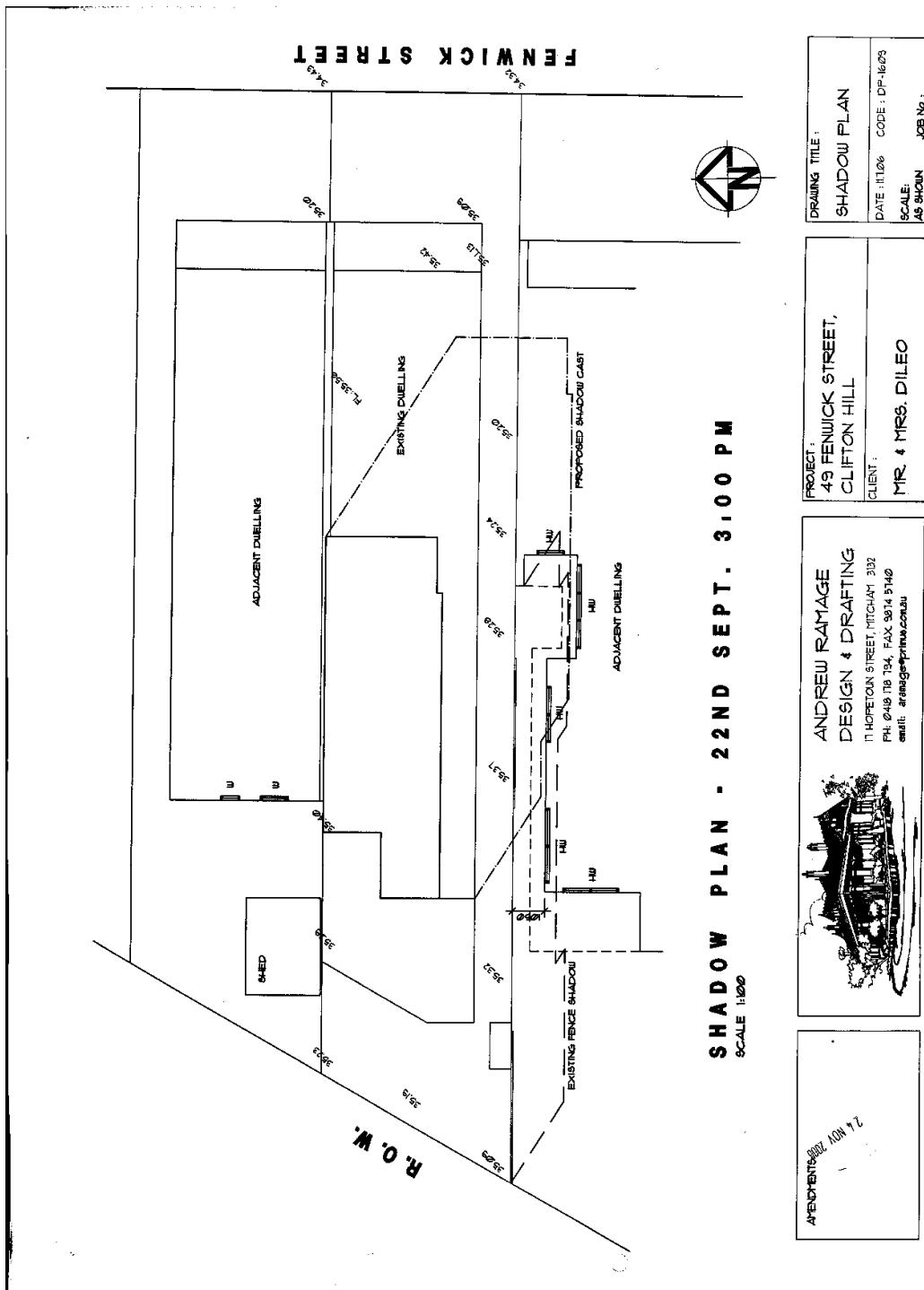
SHADOW PLAN - 22ND SEPT. 2.00 PM

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DATE 11/1/06	CODE : DP-16/03	JOB NO. :
SCALE: AS SHOWN		

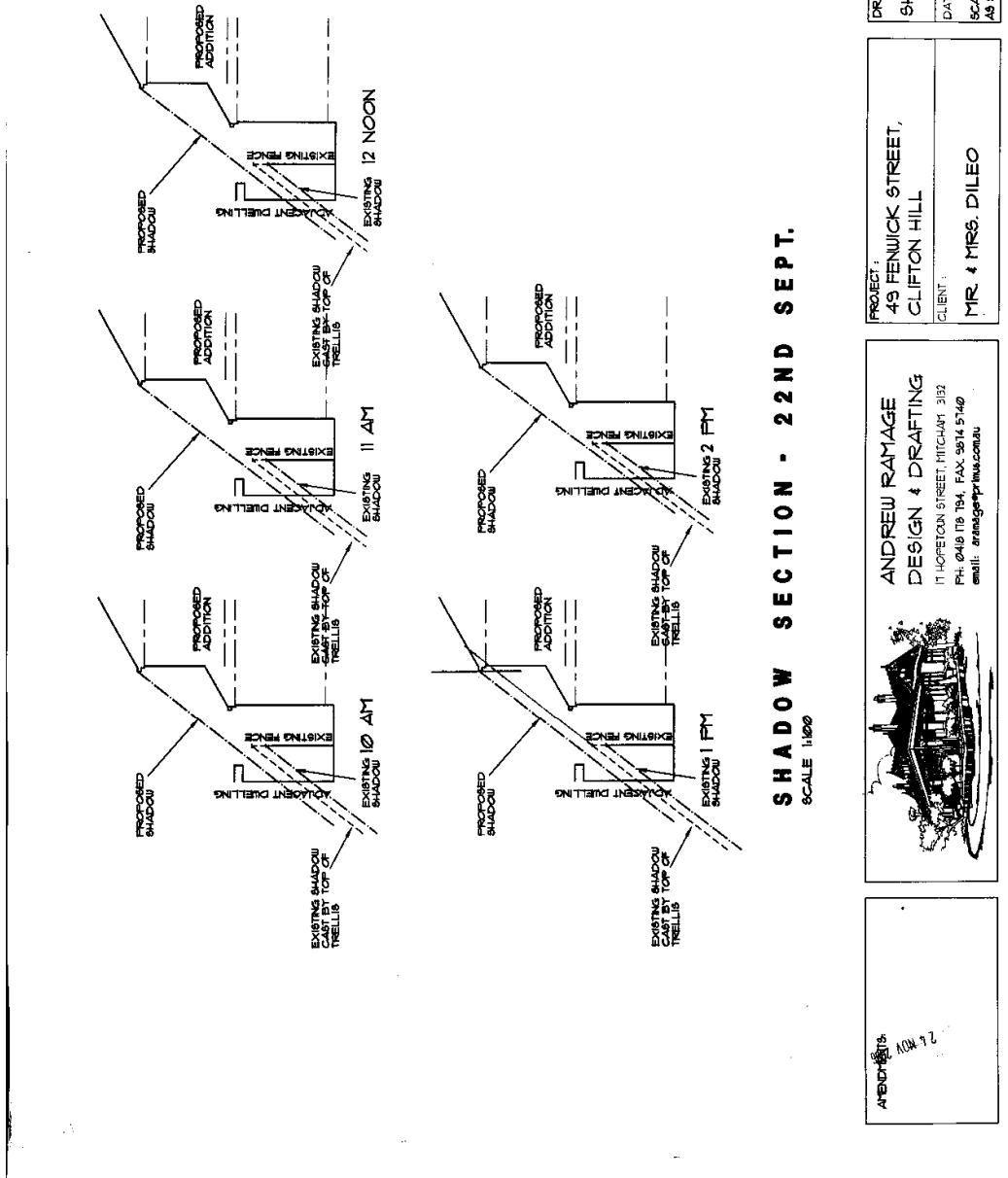
PROJECT : 49 FENWICK STREET,
CLIFTON HILL
CLIENT : MR. & MRS. DILEO

APPENDIXES
1900-1912

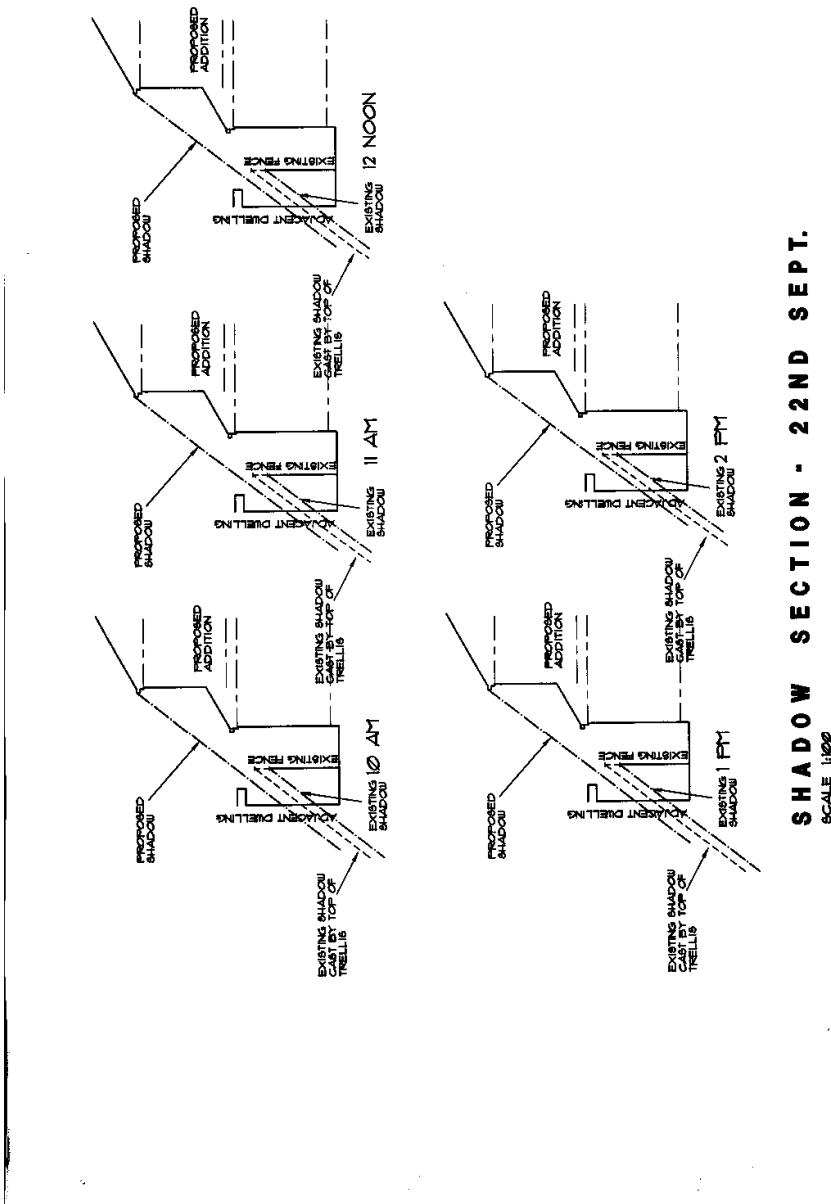
ATTACHMENT 14



ATTACHMENT 15



ATTACHMENT 16

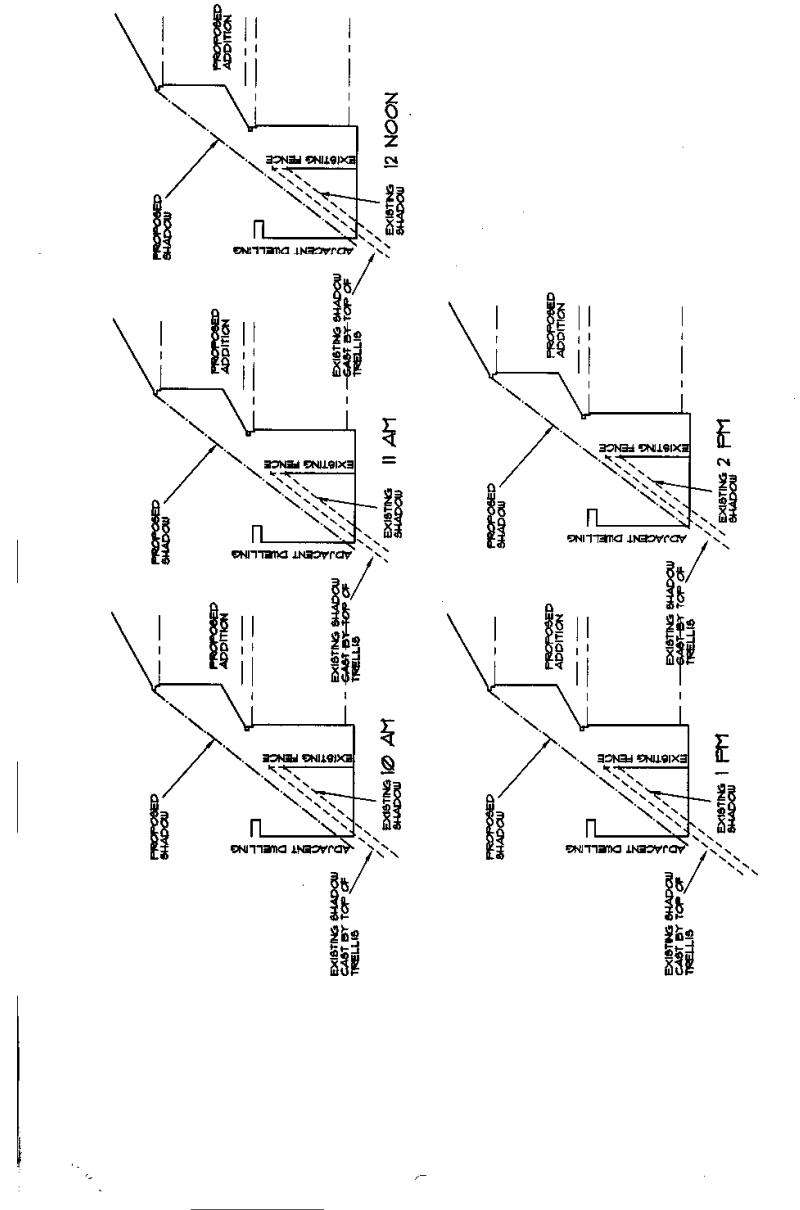


SHADOW SECTION - 22ND SEPT.
SCALE 1:100

PROJECT: 49 FENWICK STREET, CLIFTON HILL	CLIENT: MR & MRS. DILEO
DESIGNER: ANDREW RAMAGE DESIGN & DRAFTING 11 HOPETON STREET, MITCHAM 3132 Ph: 0419 18 1934, FAX: 9514 5142 email: arama@optusnet.com.au	DATE: 11/06 CODE: DP-1609 SCALE: AS SHOWN JOB NO:

ATTACHMENT 16
10 AM 22 NOV 12

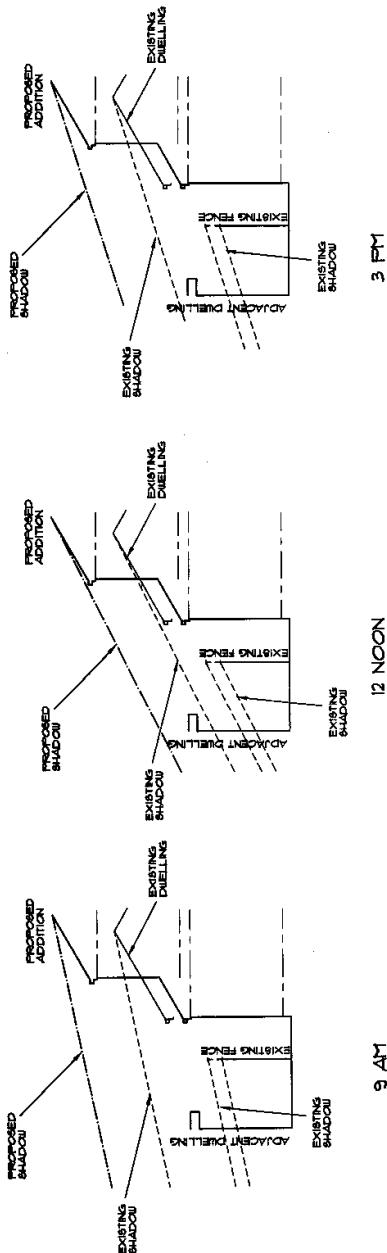
ATTACHMENT 17



SHADOW SECTION - 22ND SEPT.
SCALE 1:100

AMENDMENTS:	1
3002 AM 12	
ANDREW RAMAGE DESIGN & DRAFTING: 11 HOPEON STREET, MITCHAM 3132 PH: 03 8161 194, FAX: 03 9145 1460 email: andrew@optusnet.com.au	
PROJECT:	49 FENWICK STREET, CLIFTON HILL
CLIENT:	MRI & MRS. DILEO
DRAWING TITLE:	SHADOW SECTION
DATE:	11/2/06
CODE:	DP-1606
SCALE:	AS SHOWN
Job No.:	

ATTACHMENT 18



SHADOW SECTION - 22ND JUNE
SCALE 1:200

PROJECT: 49 FENWICK STREET, CLIFTON HILL	CLIENT: MR & MRS. DILEO
DRAWING TITLE: SHADOW SECTION	DATE: 11/06
	CODE: DP-1609
	SCALE: AS SHOWN
	JOB NO.:

AMENDMENTS: 12

The meeting closed at 7.55 pm.

Confirmed at the meeting held on 28 February 2007.

Chairperson