



YARRA CITY COUNCIL

Internal Development Approvals Committee

Agenda

**to be held on Wednesday 15 November 2017 at
6.30pm in Meeting Rooms 1 & 2
at the Richmond Town Hall**

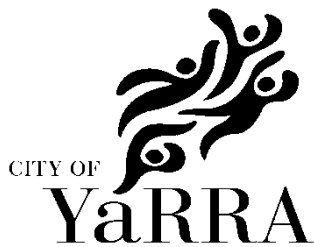
Rostered Councillor membership

Councillor James Searle (substitute for Cr Bosler)
Councillor Misha Coleman
Councillor Daniel Nguyen

- I. ATTENDANCE**
Chris Stathis (Senior Statutory Planner)
Amy Hodgen (Co-Ordinator Statutory Planning)
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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***"Welcome to the City of Yarra.
Yarra City Council acknowledges the
Wurundjeri as the Traditional Owners
of this country, pays tribute to all
Aboriginal and Torres Strait Islander
people in Yarra and gives respect to
the Elders past and present."***



Guidelines for public participation at Internal Development Approval Committee meetings

POLICY

Council provides the opportunity for members of the public to address the Internal Development Approvals Committee.

The following guidelines have been prepared to assist members of the public in presenting submissions at these meetings:

- public submissions are limited to a maximum of five (5) minutes
- where there is a common group of people wishing to make a submission on the same matter, it is recommended that a representative speaker be nominated to present the views of the group
- all public comment must be made prior to commencement of any discussion by the committee
- any person accepting the chairperson's invitation to address the meeting shall confine himself or herself to the subject under consideration
- people making submissions shall address the meeting as a whole and the meeting debate shall be conducted at the conclusion of submissions
- the provisions of these guidelines shall be made known to all intending speakers and members of the public generally prior to the commencement of each committee meeting.

For further information regarding these guidelines or presenting submissions at Committee meetings generally, please contact the Governance Branch on (03) 9205 5110.

**Governance Branch
2008**

1. Committee business reports

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1.2	12 - 18 Albert Street, Richmond - Planning Application No. PLN17/0284	74	98
1.3	111 Charles Street, Abbotsford VIC 3067 - Planning Permit Application No. PLN17/0237 for part demolition and construction of a double-storey extension to the existing dwelling.	164	179

-
- 1.1 87 - 89 Moor Street, Fitzroy - Planning permit application number PL03/0732.06 - Amendment to increase the hours for the sale and consumption of liquor in the outdoor café.**
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Executive Summary

Purpose

1. This report provides Council with an assessment of amendment application PL03/0732.06 at No's 87-89 Moor Street, Fitzroy to increase the hours for the sale and consumption of liquor in the outdoor café. The report recommends approval of the application.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 11.03 – Activity Centres;
 - (b) Clause 13.04 – Noise and Air;
 - (c) Clause 17.01 – Commercial;
 - (d) Clause 21.03 – Vision;
 - (e) Clause 21.04 – Land Use;
 - (f) Clause 22.05 – Interface Uses Policy; and
 - (g) Clause 22.09 – Licensed Premises.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic justification;
 - (b) Off-site amenity impacts; and
 - (c) Objector concerns.

Objector Concerns

4. Forty-nine objections were received to the application, these can be summarised as:
 - (a) Amenity impacts (i.e. noise and antisocial behaviour from patrons due to the increased hours of operation, including music and light spillage into neighbouring properties); and
 - (b) Increased demand for on-street car parking.

Conclusion

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

CONTACT OFFICER: John Theodosakis
TITLE: Senior Statutory Planner
TEL: 9205-5307

1.1 87 - 89 Moor Street, Fitzroy - Planning permit application number PL03/0732.06 - Amendment to increase the hours for the sale and consumption of liquor in the outdoor café.

Trim Record Number: D17/170554

Responsible Officer: Senior Coordinator Statutory Planning

Proposal: Amendment to increase the hours for the sale and consumption of liquor in the outdoor café.

Existing use: Café, place of assembly (art gallery/art exhibition/performance space), retail premises (art dealership) and education centre (workshop space) with liquor licence.

Applicant: Message Consultants

Zoning / Overlays: Commercial 1 Zone; Heritage Overlay (HO 311 and HO 334)

Date of Application: 31 January 2017

Application Number: PL03/0732.06

Planning History

6. The following summary of previous applications / planning history is extracted from the previous officer's report to IDAC (dated 10 August 2016):

- (a) *Planning Permit PL03/0732 was issued by Council on 11 December 2003 "to use the premises as a place of assembly (art gallery/art exhibition and performance space), retail premises (art dealership), education centre (workshop space) and associated café with liquor licence including waiver of car parking requirements". The permit allowed a maximum of 120 patrons (apart from Tuesday night art exhibitions where 140 patrons are permitted). The premises was permitted to operate (including the sale and consumption of alcohol) between 10am and 11pm Wednesday to Saturday and 10am and 10pm Tuesday and Sunday and was closed on Mondays with the performance space and workshop space having more restricted hours (paragraph 16 and 17 details these hours which have not been amended since the original approval) and the courtyard permitted to operate until 7pm (and until 10pm at certain times of the year).*
- (b) *An amendment application (PL03/0732.01) was submitted in February 2006 seeking to extend the operation hours and increase patron numbers. The application subsequently lapsed as further information was not provided within the specified timeframe.*
- (c) *An amendment application (PL03/0732.02) was approved by Council on 07 December 2010 for allow for various building and works to the courtyard, increase the area of the courtyard and increase the licensed hours to the courtyard from 7pm until 10pm Wednesday to Sunday 1 October – 30 April and Good Friday and Anzac day only. The amendment also allowed for a 9am commencement (previously 10am). The courtyard remained operating until 7pm for the remainder of the year. The amendment also limited the courtyard to a maximum of 60 patrons at any one time, with the approved maximum of 120 patrons (and 140 for Tuesday art exhibitions) across the whole site unaltered.*
- (d) *An amendment application (PL03/0732.03) was approved 25 November 2011 which allowed for the deletion of a shade sail.*

- (e) *An amendment application (PL03/0732.04) was received 15 August 2012 to increase the approved hours of operation and sale and consumption of liquor inside the building and increase patron numbers to 200. The application lapsed on the 15 April 2013 as further information was not provided within the specified timeframe.*
 - (f) *Planning application PLN14/1172 was lodged on 16 December 2014 to increase the hours of operation and patron numbers associated with the current use of the site. The application was subsequently withdrawn on the 31 April 2015 and the current amendment application lodged in its place.*
7. More recently, amendment application no PL03/0732.05 (refused by Council on 10 August 2016) was approved by the Victorian Civil and Administrative Tribunal (the 'VCAT') (reference no. P208/2016). This amendment redefined the site's use as a function centre, with modified patron numbers and hours of operation. The amended permit and the VCAT decision are included as an appendix to this report. The changes to this permit include (amongst others):
- (a) The preamble modified to include "Function centre";
 - (b) The hours of operation of the premises (excluding the outdoor courtyard) modified to 9am to 11pm, Monday to Sunday (Conditions 6 and 7);
 - (c) The patron numbers across the site as a whole increased from 120 to 200 (Condition 8);
 - (d) To provide for the sale and consumption of liquor in the indoor areas within the timeframes specified above; and
 - (e) To allow smokers to use the outdoor courtyard after closure of this area (Condition 12).
8. It is this planning permit that the current amendment application relates to.

Background

9. This application to amend Planning Permit PL03/0732 was received by Council on 31 January 2017, after Council's decision to refuse planning application no. PL03/0732.05 (i.e. the previous amendment application) and the subsequent lodgement of an application for review with the VCAT. Following the submission of further information the application was advertised during March 2017 and 49 objections were received.

Existing Conditions

10. The following description of the subject site and surrounding land is extracted from the previous Officer's report which is still relevant to the current application. Where not in Italics, the descriptions have been updated.

Subject Site

11. *The subject site is situated on the northern side of Moor Street between Fitzroy and Brunswick Streets. The site is in the form of an 'L' shape and measures approx. 420sqm with the front portion of the site occupied by a courtyard and the existing part single and part double building being setback approximately 20.5 metres from Moor Street. The site is bounded to the west by Fishers Lane and an open car park, a double storey building to the rear (north) and another laneway to the east.*
12. *The business is known as Grub Food Van and essentially operates as a cafe but is operating under a planning permit for place of assembly (art gallery/art exhibition/performance space), retail premises (art dealership) and education centre (workshop) inside the building at ground and first floor and associated liquor licence. The building is constructed to the north, east and west property boundaries.*

13. *The courtyard measures approx. 160sqm and includes four water tanks along west side (with a 2m high acoustic fence installed to the west side of the tanks) and a silver caravan (used for food service) on the east side. The courtyard is generally open to Moor Street apart from large planter boxes along the frontage and a 2m high wooden fence that wraps around the south-west corner. The current amendment application relates to this space only which operates as a food and drinks premises (café).*
14. *The building contains a large customer seating area at ground floor (known as the Green Room), with food preparation areas and customer toilets along the north side (total floor area approx. 360sqm). The Green Room opens onto the courtyard via large glazed doors, with the remaining ground floor walls containing no windows (apart from two windows on the west wall that have been in-filled with corrugated iron). The south-west side of the Green Room is single storey with a clear polycarbonate skillion roof that is partially operable.*
15. *The first floor contains an upper gallery/function area (120sqm) on the east side and an office and food preparation area on the north side (total floor area approx. 220sqm). The gallery area at first floor contains 3 windows on its east wall, one on the south wall and 3 highlight windows on its west wall above the first floor polycarbonate skillion roof and one below the skillion roof. The walls are brick with a metal roof and plaster ceiling.*

Surrounding Land

16. *The site is located 33.5m west of Brunswick Street and is located within a Commercial 1 Zone. To the east of the site (beyond the laneway) is a single storey cafe that faces Moor Street....Further east are commercial properties that face onto Brunswick Street with The Labour in Vain Hotel is located on the intersection of Brunswick Street and Moor Street.*
17. *To the west of the site beyond Fishers Lane is a single storey dwelling facing onto Moor Street. The east wall of the dwelling does not contain any windows and has private open space located to the rear. To the rear of this dwelling is an open car park, with further residential uses to the west (reflecting the residential zoning of the land to the west of the subject site). Across from the site, on the opposite side of Moor Street is a single storey dwelling, with residential uses to the west and commercial uses to the east to Brunswick Street (including an architect's office and retail outlet facing onto Moor Street). A double storey building adjoins the site to the rear and appears to be used for commercial purposes associated with a building that fronts onto Brunswick Street.*
18. *The site is within walking distance of tram services along Brunswick Street, Smith Street, and Nicholson Street. Bus services are available along Johnston Street and Alexandra Parade.*

The Proposal

19. This application seeks to amend Condition 10 of the planning permit to increase the hours for the sale and consumption of liquor in the outdoor cafe between 1 October - 30 April on Mondays and Tuesdays from:
 - (a) 9.00am to 7.00pm; to
 - (b) 9.00am to 10.00pm (i.e. to match Wednesday to Saturday approved hours).
20. There is to be no change to the patron numbers or to the courtyard area.

Legislative Provisions

21. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* [the Act]. Section 72 of the Act states:
 - (1) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*

- (2) *This section does not apply to—*
- (a) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
 - (b) *a permit issued under Division 6.*

22. The original planning permit PL03/0732 was issued on 11 December 2003 and whilst the previous Section 72 amendment was approved recently by the VCAT, the hours specified at Condition 10 for the sale and consumption of liquor in the courtyard area did not form part of this decision. The original planning permit that also included these hours (as amended by amendment application PL03/0732.02 on 07 December 2010) was not issued at the direction of the Tribunal or under Division 6 of the Act.
23. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit. Accordingly, the relevant sections will be addressed in this report.

Planning Scheme Provisions

Zoning

Commercial 1 Zone

24. The subject site is located within the Commercial 1 Zone. The proposed increase in hours for the sale and consumption of liquor on the premises does not trigger a planning permit under the zone provisions. In addition, the use of the land as a food and drinks premises (café) is nested with retail premises and is an as-of-right use (i.e. listed under Section 1) in the table of uses at Clause 34.01-1 of the Scheme.

Overlays

Heritage Overlay (Schedules 311 and 334)

25. The subject site is affected by the Heritage Overlay. The proposed increase in hours for the sale and consumption of liquor on the premises does not trigger a planning permit under the overlay provisions.

Particular Provisions

Clause 52.27 – Licensed Premises

26. Pursuant to clause 52.27 (Licenced Premises) of the scheme, a planning permit is required to use land to sell or consume liquor if the hours of trading allowed under a licence are to be extended. The requirement to obtain a planning permit is therefore triggered under Clause 52.27.

General Provisions

Clause 65 – Decision Guidelines

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

State Planning Policy Framework (SPPF)

28. The following SPPF provisions of the Scheme are relevant:

Clause 11.03 – Activity Centres

29. The relevant objectives of this clause include:

- (a) *To build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.*
- (b) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.*

Clause 13.04 – Noise and Air

30. The objective of this clause is '*to assist the control of noise effects on sensitive land uses*'.

Clause 17.01 - Commercial

31. The relevant objective of this clause is '*to encourage development which meets the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities*'.

Local Planning Policy Framework (LPPF)

Clause 21 – Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

32. The relevant sections of this clause are:

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

Clause 21.04 – Land Use

33. The relevant objectives of this clause are:

- (a) *To reduce potential amenity conflicts between residential and other uses.*
- (b) *To maintain a balance between local convenience and regional retail roles in Yarra's activity centres.*
- (c) *To maintain the long term viability of activity centres.*

Clause 21.04-2 – Activity centres

34. The subject site is located within the Brunswick Street Major Activity Centre (MAC). Of activity centres, Clause 21.04-2 states the following:

- (a) *Activity centres in Yarra have a retail, hospitality, and service focus. Because of the pattern of development in the municipality, almost all residents are within 400m of an activity centre. The provision of local services is therefore important for maintaining the character of activity centres as local destinations.*

- (b) *The presence of service, retail and entertainment uses creates active and vibrant activity centres with good access to services and facilities, which is an important attribute of the municipality.*

35. Relevant objectives and strategies include:

- (a) *Objective 4: To maintain a balance between local convenience and regional retail roles in Yarra's activity centres.*
- (b) *Strategy 4.1: Increase the range of retail, personal and business services, community facilities, and recreation activities, within individual centres.*
- (c) *Strategy 4.2: Support the regional role of the Major Activity Centres as an important component of Yarra's economy and as a metropolitan destination.*
- (d) *Objective 5: To maintain the long term viability of activity centres.*
- (e) *Strategy 7.1: Support a diversity of arts uses such as live music venues, performance spaces, galleries and artist studios in appropriate and accessible locations.*

Clause 21.08 – Neighbourhoods

36. Clause 21.08-7 describes Fitzroy in the following way:

- (a) *Fitzroy is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/ industrial activities.*
- (b) *The role of the Brunswick Street centre can be characterised as hospitality, entertainment, clothing and footwear, art galleries and studios, and non-government community services, all with a metropolitan focus.*

37. Within Figure 17 of Clause 21.08-7, the subject site is identified as being within the Brunswick Street Major Activity Centre (MAC). Figure 18 of Clause 21.08-7 shows the site as being within a heritage overlay area.

Relevant Local Policies

Clause 22.05 – Interface Uses Policy

38. The objectives of this clause are:

- (a) *To enable the development of new residential uses within and close to activity centres, near industrial areas and in mixed use areas while not impeding the growth and operation of these areas as service, economic and employment nodes.*
- (b) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*

Clause 22.09 – Licensed Premises

39. The objectives of this clause are:

- (a) *To effectively manage the location, operation and hours of trade of licensed premises, in order to protect the amenity of nearby properties and areas.*
- (b) *To protect residential and other commercial uses from excess noise, traffic and car parking issues.*
- (c) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*

Other Documents

Draft Licensed Premises Policy

40. Planning Scheme Amendment C209 seeks to update Council's licensed premises policy at Clause 22.09 in order to improve the way licensed venues are managed in the City of Yarra. Amendment C209 was on public exhibition between Monday 14 November and Friday 16 December 2016. A total of 36 submissions have been received.
41. At its meeting on 21 February 2017, Council considered submissions received for Amendment C209 and resolved to refer the amendment to an independent planning panel to consider the submissions received. At this meeting, Council also resolved to make a number of changes to the draft licensed premises policy as a result of the submissions received.
42. The panel hearing for the amendment was held on 26-27 April 2017. After receiving the panel's report, several changes were made and the revised version was considered and approved at the Council meeting on 15 August 2017. The amendment has been sent to the Minister for Planning for final approval.
43. In summary, the revised policy includes clearer preferred hours for licenced premises in residential zones, preferred hours for outdoor areas, preferred hours for the commencement of the sale and consumption of liquor, preferred hours for packaged liquor outlets, consideration of smoking areas and management, and preferred hours for deliveries and waste collection. There are also modified application requirements relating to noise and amenity action plans, acoustic reports, cumulative impact assessments and safe design considerations. Specific matters are outlined for consideration in amendment applications.

Advertising

44. As described in detail in the background section, the application was advertised under section 52 of the *Planning and Environment Act, 1987* in March 2017 by way of 114 letters sent to surrounding owners and occupiers, and two signs, with one displayed to Moor Street and the other to Fishers Lane.
45. Forty-nine objections were received to the application, these can be summarised as:
 - (a) Amenity impacts (i.e. noise and antisocial behaviour from patrons due to the increased hours of operation, including music and light spillage into neighbouring properties); and
 - (b) Increased demand for on-street car parking.

Referrals

External

46. The application was not required to be referred (or notice given) to any referral authorities under Clause 66 of the Scheme.

Internal

Civic Compliance Unit

47. The application was referred to Council's civic compliance unit. In summary, a number of complaints have been received in relation to the premises between 1 December 2016 and 31 October 2017 (i.e. the time of writing this report). The advice is included as an attachment to this report.

OFFICER ASSESSMENT

48. The primary considerations for this assessment are as follows:
 - (a) Strategic justification;
 - (b) Liquor Licence;

- (c) Objector concerns; and
- (d) Other matters.

Strategic justification

- 49. The subject site is located within the Commercial 1 Zone and within the Brunswick Street MAC. The purpose of the Commercial 1 Zone includes creating vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. The ongoing use of the land for commercial purposes and is therefore considered to be consistent with the zone provisions and appropriate for the site.
- 50. More broadly, the State and local planning policy, at Clause 11.03, Clause 17.01-1 and Clause 21.04-2, seeks to encourage the aggregation and sustainability of commercial facilities in activity centres. These policies seek to cluster employment, entertainment and service functions within identified centres that meet the needs of local residents, providing that a balance is achieved in relation to off-site amenity impacts.
- 51. Clause 13.04-1, Clause 21.04-2 and Clause 22.05 identify that noise and the interface between uses must be managed appropriately, particularly in a municipality such as Yarra where almost all residents are within 400 metres of an activity centre.
- 52. The MSS, at Clause 21.04-2, identifies that the presence of service, retail and entertainment uses creates active and vibrant activity centres with good access to services and facilities, which is an important attribute of Yarra. Furthermore, the site has excellent access to surrounding tram and bus networks, in accordance with relevant objectives found at Clause 21.06 relating to transport.
- 53. From a policy context, it is considered that the proposal is generally consistent with relevant provisions of the State and local planning policy frameworks in relation to economic development and the purpose of the zone. However, further consideration of the impact of increased sale of liquor hours (Monday and Tuesday) is required given the close proximity of residentially zoned land.

Liquor Licence

- 54. The amendment relates to an increase in the hours of operation in the outdoor courtyard that is used as a food and drinks premises (café) and therefore the decision guidelines at Clause 52.27 of the Scheme must be considered (as they relate to the amendment only).
- 55. Council's local licensed premises policy (Clause 22.09 – provided later) will also be considered. This policy provides a local perspective to the ambitions of the planning policy within the State Planning Policy Framework.
- 56. In addition to the above, it is necessary to give consideration to potential cumulative impacts associated with the proposed amendment to the liquor license. The "Corner Hotel" decision (*Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors*) provides a potential assessment methodology for considering applications that may result in cumulative impact. The decision also acknowledges that depending on the nature of the use (i.e. premise type, patron numbers and operating hours) the required level of assessment will vary.
- 57. Since the "Corner Hotel" decision Council has developed an assessment tool to determine the likelihood of cumulative impact occurring as a result of a proposal based on risk factors associated with the type of premises, size of premises and closing hours of the premises, to help determine what level of assessment is appropriate, as follows:

Type of Premise	Risk Factor
Café / Restaurant	0

Bar / Restaurant / Café	1
Bar	3
Hotel / Tavern	3
Night Club	3
Place of Assembly	2
Size of Premise	Risk Factor
0 – 49 patrons	0
50 – 99 patrons	1
100 – 199 patrons	2
200+	3
Closing hours	Risk factor
11pm	0
12am	1
1am	2
2am	3
3am	3
After 3am	4

58. Condition 11 of the planning permit restricts the total seat numbers to 60 in the courtyard area associated with the cafe and the maximum closing time in this space would be 10.00pm. Applying the matrix table, the amendment has not increased the risk that was previously considered and a full assessment against cumulative impact in this instance is not warranted given that the existing patron numbers in the courtyard would be maintained and the closing hours are less than 11pm.
59. The site is located within a Commercial 1 Zone and as such, the liquor licence continues to be contextually acceptable. The business would operate in accordance with the Noise and Amenity Action Plan (NAAP and the existing conditions of the planning permit) to reduce any potential detriment on the surrounding area.
60. Clause 22.09 (Licensed premises policy) of the Scheme is Council's local policy to guide the assessment of the amended liquor licence.
61. The business currently operates predominantly as a food and drinks premises (cafe) during the day and evening, with a place of assembly (art gallery/art exhibition/performance space), retail premises (art dealership) and education space (workshop space) and includes art gallery/art sales evenings, theatre/film/poetry/spoken word performances, lectures, and art/craft classes.
62. The current amendment proposes to increase the hours for the sale and consumption of liquor in the outdoor cafe between 1 October - 30 April on Mondays and Tuesdays from 9.00am to 7.00pm to 9.00am to 10.00pm. These hours will be commensurate with the hours already approved under the permit from Wednesday to Sunday during the same months.
63. To determine whether the proposed intensification of the use is appropriate, the key assessment tools for this application are clause 22.05 (*Interface Uses*), clause 22.09 (*Licensed Premises Policy*) and Clause 52.27 (*Licensed Premises*).
64. These policies contain various considerations for non-residential uses located near residential properties, with decision guidelines relating to overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the amenity of nearby residential sites.

65. To the west of the site and beyond Fishers Lane are dwellings and therefore a sensitive interface. Condition 22 of the planning permit prohibits any music in the outdoor courtyard as well as speakers. No additional buildings and works are proposed, and in relation to fumes/air emissions and waste management, there are existing permit conditions / controls.
66. Clause 22.09 (Licensed Premises Policy) provides the relevant guidance in relation to considerations of the proposed sale and consumption of liquor on the premises on off-site amenity impacts. It contains six key elements that will be considered in the following section.

Clause 22.09-3.1 – Location and Access and Clause 22.09-3.2 – Hours of Operation

67. The location of the premise is no different from that previously considered in 2003 (i.e. at the time that the original planning permit was issued) and most recently considered as part of the last amendment considered by the VCAT. The subject site is within a Commercial 1 Zone with no transition between this and the residential zone to the west. Clause 22.09 (*Licensed Premises Policy*) encourages licenced premises not to trade beyond 1am in Commercial 1 Zones and encourages licensed premises within 30 metres of a residential area to not trade beyond 11pm unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area. The extended hours until 10pm clearly comply with this.
68. Council's Civic Compliance Unit has indicated that there have been six unsubstantiated complaints (following the consideration of complaints in the previous officer's report to the IDAC on 10 August 2016) between 1 December 2016 and 31 October 2017 (i.e. the latter being the time of writing this report).
69. This summary of breaches indicates that the site has been generally operating in accordance with the existing permit. It is also considered that there can be an increase as the extended hours are compliant with policy, and are less than the maximum permitted in the Scheme.
70. The time period of 1 October - 30 April (i.e. primarily during the warmer months) restricts the intensification of the use to ensure that the amenity of the area will not be unreasonably impacted. Given the café can operate 24 hours a day, 7 days a week without a planning permit (as this is an as-of-right use), there is little difference in terms of negative amenity impacts generated by the sale and consumption of liquor in the courtyard.
71. In relation to access, the Noise and Amenity Action Plan (NAAP) stipulates that notices informing patrons to leave the premises quietly and to avoid lingering will be placed strategically through the courtyard area. The existing permit conditions further emphasise that patrons are to exit the site quietly (i.e. Condition 25). The operator must also ensure that patrons do not congregate in the outdoor areas of the site or in adjacent areas (i.e. Condition 26). The existing permit also contains a condition specifically stating that all external lighting shown must be designed, baffled and located to prevent any adverse impact on adjoining properties (i.e. Condition 28). This condition will be maintained.
72. Toilet facilities are readily available for patrons within the venue and there is adequate infrastructure for patrons.

Clause 22.09-3.3 – Patron Numbers

73. This is not applicable as the amendment does not increase the maximum number of patrons allowed in the venue.

Clause 22.09-3.4 – Noise

74. The noise and amenity action plan submitted with the application outlines measures to ensure that the sale and consumption of liquor in the courtyard area at the amended time would not be detrimental to the amenity of the area.

The plan includes measures to be undertaken to identify and address sources of noise. A noise and amenity action plan would be endorsed as part of any amended planning permit to be issued and the previous plan would be required to be superseded.

75. As stated in the noise and amenity action plan, there will be no amplified music outside the building (i.e. none within the café / external courtyard). In addition to being referenced in the noise and amenity action plan, this is also enshrined within condition 22 of the current planning permit.
76. Conditions of the current planning permit also require that the noise from the venue comply with EPA requirements, notably SEPP N-2 which controls music from public premises. Given the above, it can be seen that the courtyard / cafe is already tightly regulated in terms of noise emissions. In terms of the proposed amendment and increasing the hours of operation to 10.00pm on Mondays and Tuesdays, between the period of 1 October - 30 April from a noise perspective, it is further considered appropriate as these hours would not extend into the hours for sleep disturbance (as is regulated for residential properties in NSW but industry accepted nationally).
77. Additionally, the existing planning permit only allows the emptying of bottles between 7:00am and 10:00pm. This will continue to be in force if the increased trading hours are supported and further minimises any potential off-site amenity impacts from noise.

Clause 22.09-3.5 – Car Parking

78. This amendment does not seek to increase the maximum number of patrons or the floor area of the existing café / outdoor area. Therefore, there is no increase in the car parking requirement.
79. The enforcement of anti-drink driving laws would also influence patrons to travel responsibly to the venue (e.g. public transport, taxi, private driver service, etc.) if they intend to imbibe alcohol and lack of car parking available in the surrounding area is also another deterrent.
80. The combination of factors outlined above result in no unreasonable impacts on the functioning of the local traffic network or car parking availability and will not adversely impact on residential areas by way of on-street parking.

Clause 22.09-3.6 – Noise and Amenity

81. As part of this application, a noise and amenity action plan has been submitted outlining the measures to address potential amenity impacts. Measures include the presence of a manager on-site at all times to immediately address any amenity issues (if practical) and the training of staff to the relevant industry standards (RSA). However, the NAAP currently removes the hours for the sale and consumption of liquor in the outdoor courtyard on Good Friday and Anzac Day at Condition 10(b)(ii). The submitted NAAP would need to be updated in response to Condition 2 of the planning permit and an additional condition will be included to rectify this (i.e. Condition 2(e)) as this has not been applied for as part of the current amendment application.
82. Many of the requirements of Clause 22.09-3.6 and Clause 22.09-4.3 of the Scheme, in relation to the provision of a noise and amenity action plan, are addressed in other sections of this report. The measures within the submitted noise and amenity action plan are considered appropriate to manage the extended operation of the café / courtyard area without causing undue detriment to the amenity of the surrounding area.

Objector concerns

83. Forty-nine objections were received to the application, with grounds summarised as:
 - (a) Amenity impacts (i.e. noise and antisocial behaviour from patrons due to the increased hours of operation, including music and light spillage into neighbouring properties).

84. It's been outlined in this and past amendment applications, that behaviour of patrons (particularly when they are not on the premises) cannot be controlled via the Planning Scheme. Further, with the site located in a Major Activity Centre and with a number of other entertainment venues in the area (pubs, hotels, wine bars etc), it is difficult to associate behaviour of patrons with just one venue. As outlined at paragraph 68 of this report, there have been six complaints between 1 December 2016 and 31 October 2017 that upon investigation by Council's Civic Compliance Unit were unsubstantiated.
85. Condition 22 of the planning permit prohibits music from being played in the outdoor courtyard, as well as prohibiting any speakers outside the building, and Condition 28 addresses light spillage.
- (b) Increased demand for on-street car parking;
86. Car parking issues are not relevant to this application as there is no trigger under the Scheme for the consideration of additional car parking by the amendment.

Other Matters

87. Based on the above, Condition 2 will be modified from:

Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a revised Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The plan must be generally in accordance with the plan submitted with the application dated June 2016, but be amended to include the following:

- (a) *Updated to reflect the uses that currently operate from the land and to remove references to the former Artery operation;*
- (b) *Show the operation hours and patron numbers permitted by this permit;*
- (c) *Updated to remove reference to the sound level meter being used to control noise emissions to first floor function room and to refer to the recommendations of the endorsed acoustic report prepared in accordance with Condition 4; and*
- (d) *Include all changes required by the acoustic report prepared in accordance with Condition 4.*

to:

Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a revised Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The plan must be generally in accordance with the plan submitted with the application dated June 2016, but be amended to include the following:

- (a) *Updated to reflect the uses that currently operate from the land and to remove references to the former Artery operation;*
- (b) *Show the operation hours and patron numbers permitted by this permit;*
- (c) *Updated to remove reference to the sound level meter being used to control noise emissions to first floor function room and to refer to the recommendations of the endorsed acoustic report prepared in accordance with Condition 4; and*
- (d) *Include all changes required by the acoustic report prepared in accordance with Condition 4.*

(e) **Reference the hours of operation for Good Friday and Anzac Day at Condition 10(b)(ii).**

88. Condition 10 will be modified from:

The sale and consumption of liquor in the outdoor courtyard area must only occur between the following hours:

(a) 1 October – 30 April

- (i) Monday – Tuesday 9.00am to 10.00pm
- (ii) Wednesday – Sunday 9.00am to 7.00pm
- (iii) Good Friday and Anzac Day 12 noon to 10.00pm

(b) 1 May – 30 September

- (i) Monday – Sunday 9.00am to 7.00pm
- (ii) Good Friday and Anzac Day 12 noon to 7.00pm

to:

The sale and consumption of liquor in the outdoor courtyard area must only occur between the following hours:

(a) 1 October – 30 April

- (i) Monday – Tuesday 9.00am to **10.00pm**
- (ii) Wednesday – Sunday 9.00am to 10.00pm
- (iii) Good Friday and Anzac Day 12 noon to 10.00pm

(b) 1 May – 30 September

- (i) Monday – Sunday 9.00am to 7.00pm
- (ii) Good Friday and Anzac Day 12 noon to 7.00pm

Conclusion

89. The proposed amendment is considered to demonstrate a high level of compliance with the policy objectives contained within the State and Local Planning Policy Framework. Notably, the proposed amendment will not result in unreasonable impacts on the surrounding area through the implementation of the noise and amenity action plan, and maintaining restrictions on sale and consumption of liquor in the courtyard / outdoor cafe area until 10.00pm, Mondays and Tuesdays between 1 October - 30 April.

90. Based on the above report, the proposed amendment is considered to comply with the relevant Planning Scheme provisions and planning policy and is therefore supported, subject to conditions outlined in the recommendation below.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant an Amended Planning Permit PL03/0732 to extend the operating hours of the premises for the sale and consumption of liquor in the outdoor café at 87-89 Moor Street, Fitzroy, subject to the following conditions (new or amended conditions highlighted in **bold**):

1. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, 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 show:
 - (e) The indoor areas presently used as a Food and drink premises;
 - (f) The position of a designated smoking area in the outdoor courtyard for use after its closure, measures for its enclosure and access arrangements at different times;
 - (g) The extent of the red line area for the sale and consumption of liquor;
 - (h) Details of how access to the outdoor courtyard will be managed once the courtyard ceases liquor service; and
 - (i) Any changes recommended in the acoustic report prepared in accordance with Condition 4.
 - (j) Elevations showing the windows and doors that are subject to the recommendations of the acoustic report prepared in accordance with Condition 4.
 - (k) Location of areas for waste storage in accordance with the endorsed Waste Management Plan required by Condition 27.
 - (l) Indicative seating numbers for the downstairs Green Room.
 - (m) Location of external lighting to ensure that the adjacent eastern unnamed laneway is acceptably lit when it is used for access and egress to the site.

2. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a revised Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The plan must be generally in accordance with the plan submitted with the application dated June 2016, but be amended to include the following:
 - (a) Updated to reflect the uses that currently operate from the land and to remove references to the former Artery operation;
 - (b) Show the operation hours and patron numbers permitted by this permit;
 - (c) Updated to remove reference to the sound level meter being used to control noise emissions to first floor function room and to refer to the recommendations of the endorsed acoustic report prepared in accordance with Condition 4; and
 - (d) Include all changes required by the acoustic report prepared in accordance with Condition 4.
 - (e) **Reference the hours of operation for Good Friday and Anzac Day at Condition 10(b)(ii).**

All to the satisfaction of the Responsible Authority.

3. The endorsed Noise and Amenity Action Plan forms part of this permit and must be complied with to the satisfaction of the Responsible Authority and any modifications to the endorsed Noise and Amenity Action Plan must be approved by the Responsible Authority.

4. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When - approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the

Acoustic Evidence prepared by Marshall Day dated 11 May 2017, but modified to include (or show, or address):

- (a) The first floor windows to be closed while the upstairs function room is in use;
 - (b) Updated to show the operation hours and patron numbers permitted by this permit; and
 - (c) Limitations on the use of the Green Room should the recommended internal acoustic works not be installed so that no more than 75 patrons are permitted with the roof open and no more than 55 patrons after 10.00pm on Sunday to Wednesday nights.
5. The recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
6. The function centre may only operate between the following hours (except where otherwise specified by this permit):
- (a) Monday-Sunday 9.00am – 11.00pm
7. The sale and consumption of liquor in the indoor areas may only occur between the following hours (except where otherwise specified by this permit):
- (a) Monday-Sunday 9.00am – 11.00pm
8. No more than 200 patrons are permitted on the land at any one time to the satisfaction of the responsible authority.
9. After 10.00pm, patrons must exit the venue through the doors to the eastern unnamed laneway to the satisfaction of the responsible authority.

Outdoor Courtyard

10. The sale and consumption of liquor in the outdoor courtyard area must only occur between the following hours:
- (a) 1 October – 30 April
 - (i) Monday – Tuesday 9.00am to **10.00pm**
 - (ii) Wednesday – Sunday 9.00am to 10.00pm
 - (iii) Good Friday and Anzac Day 12 noon to 10.00pm
 - (b) 1 May – 30 September
 - (i) Monday – Sunday 9.00am to 7.00pm
 - (ii) Good Friday and Anzac Day 12 noon to 7.00pm
11. Not more than 60 patrons are permitted in the outdoor courtyard at any one time to the satisfaction of the responsible authority.
12. After the closure of the outdoor courtyard in accordance with Condition 10 above:
- (a) The outdoor courtyard may only be used as a smoking area for a maximum of 20 persons within the designated smoking area shown on the endorsed plans
 - (b) No liquor is to be consumed in the designated smoking area.
 - (c) The double doors to the Green Room must be kept closed other than to allow access for smokers and staff.

All to the satisfaction of the responsible authority.

Function Room

13. No more than 70 patrons are permitted in the first floor function room at any one time to the satisfaction of the responsible authority.
14. The windows to the first floor function room and upper level of the stairwell must be closed when the function room is in use to the satisfaction of the Responsible Authority.

Green Room

15. Until all the acoustic works to the ground floor Green Room including the upgrading of the existing east facing windows and the installation of absorptive treatment required by the endorsed acoustic report (in accordance with Condition 4) are completed to the satisfaction of the Responsible Authority, no more than 75 patrons are permitted in the Green Room when the roof is open and no more than 55 patrons are permitted in the Green Room after 10.00pm on Sunday to Wednesday nights.
16. No more than 140 patrons are permitted in the Green Room, Sunday to Wednesday after 10.00pm to the satisfaction of the responsible authority.
17. The roof and double doors to the Green Room must closed after 6.00pm when the patron capacity exceeds 90 patrons and must be closed at all times after 10.00pm (other than to allow access for smokers and staff to the designated smoking area) to the satisfaction of the responsible authority.

Amenity

18. Non-amplified equipment and microphones must comply with SEPP N-2 requirements.
19. Prior to the commencement of the use of the first floor function room, the permit holder must install a noise monitor and limiter in the premises that must be set by a qualified and experienced acoustician at a level to ensure compliance with State Environment Protection Policy No. N-2 (Control of Music Noise from Public Premises) in accordance with the endorsed acoustic report required by Condition 4, to the satisfaction of the Responsible Authority.
20. All sound amplification equipment used for the purpose of entertainment within the first floor function room must be connected to the noise monitor and limiter system at all times to the satisfaction of the responsible authority.
21. Music within the ground floor areas (Green Room) must not exceed the music levels as specified within the endorsed acoustic report required by Condition 4 to the satisfaction of the responsible authority.
22. No music may be played in the outdoor courtyard. No speakers may be sited outside the building.
23. The permit holder 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.
24. The permit holder 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.

25. 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.
26. The operator must ensure that patrons do not congregate in the outdoor areas of the site or in adjacent areas.
27. 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.
28. External lighting shown on the endorsed plans must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.
29. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a Waste Management Plan must be submitted and approved to the satisfaction of the Responsible Authority. When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan and associated notated plans will form part of this permit. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.
30. Any empty bottles associated with the use must be taken in bags and no emptying of bottles into garbage bins is permitted after 10.00pm on any night or before 7.00am on any day.
31. Garbage collections must only occur between 7.00am and 8.00pm on any day.
32. 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.
33. 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").
34. 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.
35. All landscaping works must be maintained to the satisfaction of the Responsible Authority.
36. All acoustic works required by the permit must be maintained to the satisfaction of the Responsible Authority.
37. This permit will expire if:
 - (a) the use is not commenced within two years of the date of this permit.

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

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 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 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.

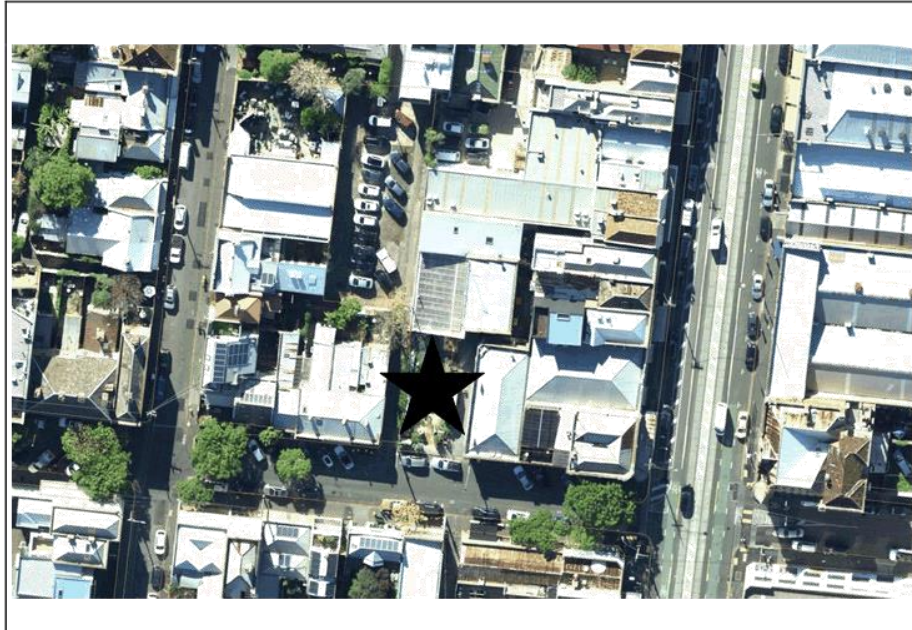
CONTACT OFFICER: John Theodosakis
TITLE: Senior Statutory Planner
TEL: 9205 5307

Attachments

- 1** Site location - 87 - 89 Moor St, Fitzroy
- 2** VCAT Order and most current planning permit.
- 3** Amended Noise and Amenity Action Plan
- 4** Civic Compliance - alleged compliance matters.

Attachment 1 - Site location - 87 - 89 Moor St, Fitzroy

SUBJECT LAND: 87 – 89 Moor Street, Fitzroy



↑ North

★ Subject Site

Attachment 2 - VCAT Order and most current planning permit.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P2089/2016
PERMIT APPLICATION NO. PL03/0732.05

CATCHWORDS

Section 77 *Planning and Environment Act* 1987; Yarra Planning Scheme; Amendment to existing permit pursuant to Section 72 *Planning and Environment Act* 1987; Existing food and drink premises; Proposed Function centre; Hours of operation; Patron Numbers; Sale and consumption of liquor

APPLICANT	Grub Food Van Pty Ltd
RESPONSIBLE AUTHORITY	Yarra City Council
RESPONDENTS	Raymond Francis Kelly and others, Ian Hall
SUBJECT LAND	87-89 Moor Street, Fitzroy
WHERE HELD	Melbourne
BEFORE	Megan Carew, Member
HEARING TYPE	Hearing
DATE OF HEARING	25-26 May 2017
DATE OF ORDER	28 June 2017
DATE OF CORRECTION	28 July 2017
CITATION	Grub Food Van Pty Ltd v Yarra CC (Corrected) [2017] VCAT 850

ORDER

- 1 In application P2089/2016 the decision of the responsible authority is set aside.
- 2 Planning permit PL03/0732.05 is amended and an amended permit is directed to be issued for the land at 87-89 Moor Street, Fitzroy in accordance with the endorsed plans and the conditions set out in Appendix A. The amended permit allows:
 - Use of land as a Function centre and sale and consumption of liquor for a Food and drink premise and Function centre and a reduction of car parking requirements in accordance with the endorsed plans.

Megan Carew
Member

Attachment 2 - VCAT Order and most current planning permit.

APPEARANCES

For applicant	Mr Patrick Doyle, Solicitor, TP Legal He called Mr Ross Leo, acoustic engineer, Marshall Day Pty Ltd to give evidence.
For responsible authority	Ms Natalie Luketic, Solicitor, Harwood Andrews
For Raymond Francis Kelly and others	Ms Sivy Orr, Town Planning Consultant Ms Anna Wolf, in person
For Ian Hall	Ian Hall in person

Attachment 2 - VCAT Order and most current planning permit.**INFORMATION**

Description of proposal	To amend Planning Permit PL03/0732 to provide for use of land as a Function centre associated with the existing food and drink premises and to increase the patron numbers, alter the hours of operation and hours for sale and consumption of liquor.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> (the Act)– to review the refusal to amend a permit under Section 72 of the Act.
Planning scheme	Yarra Planning Scheme
Zone and overlays	Commercial 1 Zone Heritage Overlays: HO311 Brunswick Street Precinct Fitzroy and HO334 South Fitzroy Precinct
Permit requirements	Clause 34.01 for use of land as a Function centre in the Commercial 1 Zone Clause 52.06 for a reduction of car parking requirements. Clause 52.27 for the Sale and Consumption of Liquor for a Food and drink premises and Function Centre
Relevant scheme policies and provisions	Clauses 17, 18, 21, 22.05, 22.09, 34.01, 52.06, 52.27, 52.34, 52.43 and 65
Land description	The review site is located on the north side of Moor Street, 30m west of Brunswick Street on the corner of Fishers Lane. The existing two storey former industrial building is set back 22m from Moor Street with an open area used for food and drink premises (restaurant) including the serving of food from a seasonal food van. The site sits on the edge of the Brunswick Street Activity Centre and has a number of residential interfaces to the west and southwest.
Tribunal inspection	The Tribunal inspected the site and surrounds following the hearing at Wednesday lunchtime and again on a Saturday evening.

Attachment 2 - VCAT Order and most current planning permit.

REASONS¹

WHAT IS THIS PROCEEDING ABOUT?

- 1 The “Grub Food Van” is an existing food and drink premises located within a former industrial building in Fitzroy. It has a large outdoor seating area fronting Moor Street that houses a re-purposed caravan that acts as a food service area together with the larger food and drink premises. The existing business is located 30m from the vibrant Brunswick Street Activity Centre.
- 2 The permit applicant seeks to amend an existing planning permit PL03/0732 to provide for use of land as a Function centre associated with the existing business and to increase the patron numbers, alter the hours of operation and alter hours for sale and consumption of liquor. The new use also requires further consideration of reduction in on-site car parking provision.
- 3 Council officer supported the proposal, but found that the hours of operation should be limited to 11pm other than for 12 times per year. However, Council refused the application, expressing concern about adverse amenity impacts to nearby residents. The Respondents in this matter supported Council’s position. They say that the review site is removed from the main focus of activity in Brunswick Street and has a direct interface with residential properties (refer to Figure 1: location). They say that the proposal will result in unacceptable impacts on their amenity.
- 4 The key issues for determination in this case are whether the proposed amendments are appropriate and whether they would result in acceptable off-site amenity impacts.
- 5 Having inspected the site and surrounds and considered the State and Local Planning Policy Frameworks, the purpose of the Zone, the decision guidelines of the relevant clauses of the Yarra Planning Scheme and the submissions of the parties, I have determined to set aside the decision of the responsible authority and amend the permit in part. I have not supported all of the amendments sought, particularly the extended hours past 11.00pm. My reasons follow.

¹ The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

Attachment 2 - VCAT Order and most current planning permit.

Figure 1: Location.



PERMIT HISTORY

- 6 This permit has a complex history that is discussed below.

The former “Artery” business

- 7 Planning Permit PL03/0732 was issued on the 11 December 2003. At that time the occupant of the review site was different and the business was known as “The Artery.” The permit allowed the holder to:
- Use the premises as a place of assembly (art gallery/ art exhibition and performance space), Retail premises (art dealership), Education Centre (workshop space) and associated café with liquor licence including waiver of car parking requirements.
- 8 The endorsed plans associated with the 2003 approval show the lower level of the former industrial building, with its clear ceiling as a “main gallery room” with a “coffee bar/ café service area” of 206m². It is understood that the eastern section of this area was the performance space and a stage is shown in the northeast corner. The upper level is shown as “Upper gallery & function area of 124m²” with a small room to the north of this space that was to be used for life drawing classes. Entry is provided for from the eastern unnamed laneway. To the front of the building was a courtyard area of 47.25m² to be enclosed with timber battens accessed from the main gallery through recessed aluminium framed glass doors. Customer car parking is shown on the remainder of the land.
- 9 While the officer’s report for the original approval indicates that up to 200 patrons and hours up to 1am were originally sought, the approved permit was subject to a range of conditions including that:

Attachment 2 - VCAT Order and most current planning permit.

- The premises accommodate no more than 120 patrons (other than on Tuesday nights when art exhibition openings occur);
 - The operating hours of the premises be 10am to 11pm Wednesday to Saturday and 10am to 10pm Tuesday and Sundays (closed on Mondays) and 12 noon to 10pm on Good Friday and Anzac Day with the performance and workshop spaces having more limited hours;
 - The outdoor courtyard was to be closed after 7pm each day.
 - Various amenity conditions applied including a requirement for a noise and amenity management plan.
- 10 The Artery operated for several years (I was advised until about 2007) before the current applicant occupied the premises.

The 2010 and 2011 Amendments for Grub Food Van

- 11 Grub Food Van sought an amendment to the permit to install the food van and to enlarge the area available for outdoor dining (removing the car parking).
- 12 In December 2010, Council granted an amended permit PL/0372.02. The description of what the permit allowed remained the same, but the endorsed plans were amended to show:
- The main gallery room and a Lounge/seating/ gallery/ retail space at ground level (no performance space);
 - The Upper Gallery and Function area of 120m², converting the workshop space to a kitchen of 30m²;
 - An expanded outdoor courtyard (no longer fully enclosed) occupying the former car parking area with the installation of the food truck;
 - Use of water tanks with intervening acoustic panels to the western edge of the outdoor courtyard; and
 - A single car space shown with access from Fishers Lane in the location of the former courtyard, adjacent to the glass doors to the main gallery room.
- 13 The officer report for this application notes that at that time no use permission was required for a café under the planning scheme (a situation that remains today). However, the permit retained Condition 4 that the “premises” can only operate between the following hours (except where otherwise specified by this permit):
- a) Good Friday and Anzac Day between 12 noon and 10.00pm;
 - b) 10.00am to 11.00pm Wednesday to Saturday;
 - c) 10.00am to 10.00pm Tuesday and Sunday; and
 - d) Monday closed

Attachment 2 - VCAT Order and most current planning permit.

These hours are also the hours of operation included in the existing liquor licence for the indoor part of the premises².

- 3 There are a number of conditions (5, 7 and 8) that vary these hours in a more limited way for specific areas of the site. Condition 5 pertains to the outdoor café. Conditions 7 and 8 continued to relate to redundant uses of “workshop space” and “performance space” from the former Artery operation no longer shown on the endorsed plans.
- 14 In approving the expanded courtyard, the conditions of the permit were amended to provide for no more than 60 persons in the outdoor café at any one time (included in the 120/140 patrons permitted overall) and for the sale and consumption of liquor in the outdoor café between certain hours seasonally. An amended Noise and Amenity Management plan dated 2011 was also endorsed.
- 15 The permit was further amended in November 2011 to delete some shade sails and the endorsed plans for the ground and first floor are attached as Appendix B.
- 16 The description of what the permit allows does not allow any development/ buildings and works, although condition 1 refers to “Before the development” and the endorsed plans clearly show buildings and works that have occurred on the land.
- 17 I was advised that the “Grubb Food Van” has operated from this site since opening in 2012 and has grown to occupy all of the courtyard and downstairs areas as essentially one large food and drink premises. The upstairs area is also used as part of the food and drink premises and can be set aside for private functions.
- 18 I understand that the food and drink premises is open 8.00am to 10.00pm Tuesday to Saturday and 6.00pm Sunday and is closed on Mondays³, although alcohol can only be served within the hours set out above which coincide with Condition 4 of the permit. The current endorsed Noise and Amenity Action Plan states that:

As use of the land for a food and drink premises (café) does not require planning approval within the Business 1 Zone, operational hours identified in the amended planning permit relate only to the sale and consumption of liquor in association with the café. It is proposed that the café will open at 7.00am.

WHAT CHANGES DOES THE APPLICANT WANT TO MAKE?

- 19 The applicant seeks to have the permit amended to better reflect its current operational requirements as follows:

² No 32273366.

³ <http://www.grubfoodvan.com.au/>

Attachment 2 - VCAT Order and most current planning permit.

- Amend the description of what the permit allows to remove reference to former uses of the land including education centre and retail premises and add the term “Function centre” in the brackets;
 - Allow the use/ premises to open on Mondays;
 - Increase the patron numbers across the site as a whole from 120 (140 on Tuesdays) to 200, except that after 11m only 118 would be permitted on the site in the upstairs function centre (at the hearing the submission and evidence was that only 90 would be in the upstairs space);
 - Amend the hours of operation of the premises (excluding the outdoor courtyard) to 7am to 11pm Sunday to Wednesday and 7am to 12am Thursday to Saturday (including public holidays and the eve of public holidays);
 - To provide for the sale and consumption of liquor in the indoor areas within the timeframes specified above.
 - To allow smokers to use the outdoor courtyard after closure of this area.
- 20 The permit applicant originally sought to extend the hours of operation of the outdoor courtyard, but at the hearing this was not pursued. No changes are proposed to the hours of operation or patron numbers in the outdoor courtyard. It would be fair to say that the Statements of Grounds and the submissions of the Respondents in this matter raised a number of concerns about the existing use of the outdoor courtyard. The current use of this area is not before me (other than the assessment of the smoking area). Approval was given in 2010 for this area subject to the conditions on the existing permit and the applicant is not seeking to amend these aspects of the permit.
- 21 The red line area presently reflects the full extent of the building and outdoor courtyard and is not proposed to be altered by this amendment.
- 22 A new set of plans was provided with the application that essentially reflect the existing endorsed plans. The new plans are stamped by Council as the “Decision Plans 29 April 2016” The plans include the historic descriptors set out above, modified to show coloured areas that relate to the acoustic assessments. A draft amended Noise and Amenity Action Plan dated June 2016 was also submitted.

WHAT MUST I DECIDE?

- 23 Ms Orr raised a number of matters questions of enforcement in her submissions- including the changed car parking arrangements, bin storage, lighting, bike rack location and compliance with information signage requirements. These matters are not before me because the applicant has not sought to address these matters as part of the amendments sought.

Attachment 2 - VCAT Order and most current planning permit.

- 24 The parties at the hearing agreed that the current permit, together with the endorsed plans and the endorsed Noise and Amenity Action Plan when read together clearly do not reflect the current operation or how the permit applicant submits it intends to operate. Confusingly, the existing permit contains extensive reference to the former “Artery” operation that has not operated on the site for some time. It is not clear to what extent the permit seeks to regulate the food and drink premises use (café and now a food and drink premises being “as-of-right”), it does not clearly reflect all of the changes that have occurred on the site and its current endorsed plans are lacking in information and clarity.
- 25 As I explained to the parties at the hearing, I consider that it would have been a far simpler process for this application to be considered as a fresh application that simply reflects exactly what the applicant seeks to do on the site. However this was not the approach pursued. It is not my role in considering an application to amend a permit to look behind the existing permit. I must consider the existing permit at face value. I must decide whether the amendments are acceptable.
- 26 None of the parties put to me that the amendments proposed could not be considered or that they transform the permit, although I raised this as a concern at the hearing. The ambit of change that may be made to a permit is fortuitously wide. In *Bestway Group Pty Ltd v Monash CC*⁴ the Tribunal found that:
- [14] ...the ambit of change that may be made to a permit under any of these provisions may be quite substantial and may include changes to any of the things allowed by the permit, its conditions and the land description
- 27 Taking into account the findings of the Tribunal set out above, I find that the scope of the amendments sought do not fall outside of the ambit of what can be considered under Section 72 as:
- Council accepted that the permit remained valid at the time of its 2010 and 2011 amendment approvals and the permit holder has since relied on that permit.
 - The amendments do not result in an entirely different use as “an associated café” was clearly contemplated in 2003 and also in the 2010 amendment.
 - The permit currently authorises a place of assembly, although an art gallery/ art exhibition and performance space;
 - The outdoor café/ courtyard is to remain as approved;
 - The current permit and the proposed permit contemplate the sale and consumption of liquor and the red line area is the same;

⁴ *Bestway Group Pty Ltd v Monash CC* (Red Dot) [2008] VCAT 860

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- Notice has been given to persons who may be affected by the proposed changes; and
 - The permit applicant has sought to limit substantive changes to key permit conditions.
- 28 Given the wide scope to amend a permit as outlined in *Bestway*, I find that if the permit is to be amended that there is benefit in it directly reflecting the proposed use of the land as described by the permit applicant at the hearing, rather than seeking to retain the redundant aspects of the former Artery operation.
- 29 Taking into account the submissions and material before me at the hearing and my site inspections, I find that the existing business is best described as a “Food and drink premises” which is an as-of-right (no permit required) use within the Commercial 1 Zone.
- 30 Mr Doyle submitted that to the extent the applicant wished to run functions, that this would be permissible within its current use. I agree. The occasional conversion of a food and drink premises to a function centre does not alter its primary purpose. However, the permit applicant is seeking to formalise the use of the land for a Function centre.
- 31 To achieve this, the application sought to add a “function centre” to the brackets after the term “place of assembly” on the permit. At the time the permit was issued the definition of a “place of assembly” significantly differed to what is currently within the planning scheme. The permit allows “place of assembly (art gallery/ art exhibition and performance space)”. The current definition of “Place of assembly” now includes a function centre, together with a very wide range of other uses not contemplated by the original permit for the Artery or forming part of the current use or the proposal before me.
- 32 I find that the proposed new use is properly described as a “Function centre” and the references to the former Artery uses should be removed from the permit. I note that an “art gallery/ art exhibition centre” would now be included in the land use term “Exhibition centre”, which is also an as-of-right use in the Commercial 1 Zone. In a similar manner, the removal of the “education centre (workshop space)” or “retail premises (art dealership)” uses as proposed by the applicant is acceptable because these uses are no longer occurring on the site (or proposed at this time) and in any event are now as-of-right within the zone.
- 33 The term “liquor licence” is also out of date and should read “sale and consumption of liquor associated with the Food and drink premises and Function centre” to reflect the provisions of Clause 52.27.

WHAT ARE MY FINDINGS?

- 34 The review site is part of the Commercial 1 Zone that is applied to the vibrant Brunswick Street Activity Centre. It is an area where all forms of

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Food and drink premises are actively encouraged, as are a range of entertainment uses consistent with the objectives of the zone. I find that the use of the land for a Function centre associated with the existing use is one that is supported by the zone.

- 35 However, the context of this site is such that it is located on the interface of this precinct with an established inner urban residential area. Council's policy at Clause 22.05 seeks to maintain a balance between commercial and residential land uses in interface locations such as this. Its objectives are:
 - To enable the development of new residential uses within and close to activity centres, near industrial areas and in mixed use areas while not impeding the growth and operation of these areas as service, economic and employment nodes.
 - To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.
- 36 Council expressed concern that the use of the land for functions, increased patron numbers and hours of operation would add to the cumulative impact of various land uses in the activity centre on residential amenity. A review of the Council's complaints register tabled by Council at the hearing demonstrates that there have been a number of complaints made in respect to the current operations including music noise.
- 37 The respondents say that the current use has resulted in off-site amenity impacts including noise and poor patron behaviour, with impacts some distance away in Moor Street. Mr Hall submitted that the building is not designed to accommodate late night functions. The respondents say that the use is not suited to the building because the Green Room (downstairs) has an operable roof, open doors to the courtyard and limited acoustic benefit.
- 38 Mr Doyle submitted that the existing use is well managed and that the proposed amendments are, subject to conditions, acceptable and will not impact on the amenity of nearby residents.

CAN THE OPERATION BE APPROPRIATELY MANAGED SO THAT REASONABLE AMENITY IS AFFORDED TO RESIDENTS?

- 39 The applicant seeks to add the Function centre use and increase patron numbers across the premises as a whole to no more than 200 at any one time, maintaining the restriction of 60 patrons within the outdoor courtyard area. In addition, the applicant wishes to increase the hours for the sale and consumption of liquor for the indoor part of the premises to 7am to 11pm Sunday to Wednesday and 7am to 12 midnight Thursday to Saturday (including public holidays and the eve of public holidays).
- 40 The building can comfortably accommodate 200 patrons. It is a large venue. If a new Food and drink premises were to occupy the building, there would be no limit on patron numbers, other than what may arise from an application to sale and consume liquor on the premises because the use is an

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as-of-right/ no permit required use in the zone. The 200 patrons could be distributed in a number of ways as set out in the scenarios in the acoustic evidence.

- 41 However, additional patrons associated with this use and the Function centre can result in additional noise and impacts from patron behaviour, particularly where the sale and consumption of liquor is authorised. Clause 52.27 applies to the consideration of the sale and consumption of liquor. Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:
 - The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
 - The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
 - The impact of the hours of operation on the amenity of the surrounding area.
 - The impact of the number of patrons on the amenity of the surrounding area.
 - The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.
- 42 Council's local planning policy at Clause 22.09⁵ sets out policy for licensed premises. It sets out policy for hours of operation as follows:

Licensed premises in a Residential or Mixed Use Zone or within 30 metres of a residential area not trade beyond 11pm on any night unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area.
- 43 It is policy that licensed premises be managed in accordance with a Noise and Amenity Plan. A draft plan has been included with the application.
- 44 I consider that there are two key issues to assess in terms of the impact of the increased patron numbers and hours- firstly the noise impacts and secondly how patrons will be managed.

What does the noise evidence say?

- 45 The proposal was accompanied by an acoustic assessment prepared by SLR consultants. The report was limited to only the first floor function room. This report recommended that no more than 118 persons be accommodated in the building after 11.00 pm and that they be located in the upstairs function room with all windows to this room to be closed. The draft Noise and Amenity Action Plan documents these measures. The report considered

⁵ Amendment C209 proposes to update this policy. A Panel has heard the matter but no report has been issued as yet. The amendment maintains the policy of 11pm closure for sites such as this. It seeks that larger venues (more than 200 patrons) be directed to Brunswick Street between Gertrude Street and Alexandra Parade.

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amplified music and specifies the use of a noise-limiting device for the upstairs function room or the use of a sound meter for sound checks.

- 46 I had the further benefit of the evidence of Mr Leo in respect to the noise impacts on the proposal. Somewhat unusually, Mr Leo's firm, Marshall Day had previously acted in the role of advisor to Council on this application, providing a peer review of the acoustic report prepared by SLR Consulting. However, Mr Leo advised that he had no prior involvement in the peer review, but that recommendations in the peer review report that the west facing windows in the upstairs function room should be closed should also be taken into consideration.
- 47 Mr Leo's assessment included both the first floor function room and the remainder of the site. He explained that tests for commercial/industry noise and music are subject to statutory requirements under the State Environmental Protection Policy (Control of Noise from Commerce, Industry and Trade) N-1 and State Environmental Protection Policy (Control of Music Noise from Public Premises) N-2⁶. There is however no statutory criteria to apply to patron or crowd noise. Mr Leo relied on criteria developed by his firm.
- 48 The evidence of Mr Leo is that the relevant noise criteria at the residential receivers in the vicinity of the site (the most affected property being the dwelling under construction at 199 Brunswick Street) can be met by:
- Upgrading the existing windows to the eastern façade of the ground and first floor to 6.38mm laminated glass;
 - The provision of absorptive treatment with a minimum noise reduction co-efficient of 0.7 to the ground floor dining areas;
 - Limiting music levels on the ground floor to background music only (68L₁₀) monitored by staff;
 - Limiting music levels in the upstairs function room to no more than 78LAeq in the day and evening (until 10.00pm) periods and background levels only in the night-time period of 68L₁₀.
 - When patron numbers in the ground level Green Room exceed 90 persons in the evening period (6pm-10pm), the glass roof and double doors should be shut and the glass roof and double doors should be shut at all times after 10.00pm.
 - Patrons in the first floor function room should not exceed 70 at any time.
 - If there is no absorptive treatment/ window upgrade installed in the Green Room then the number of patrons prior to 10.00pm should not exceed 75 while the roof is open and after 10pm should not exceed 55 on a Sunday to Wednesday.

⁶ Condition 12 of the existing permit requires compliance with the SEPPs.

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- The ground floor Green Room should not have more than 140 patrons at any one time between 10.00pm and 11.00pm Sunday to Wednesday.
- A music noise limiter should be installed to amplification equipment in the upstairs function room. A noise limited is not required for the downstairs part of the premises because this area is mainly used as a food and drink premises with music noise levels kept to background levels by staff.
- After 10.00pm entry and exit should be restricted to the laneway as this entrance is further away from residents.
- The Noise and Amenity Action Plan would need to be updated.

Can noise be managed?

- 49 The Tribunal considered Council's policy at Clause 22.09 in the decision of *Saint Kilda Pty Ltd v Yarra CC (Correction)* [2014] VCAT 676 (8 August 2014). The Tribunal found that:

It seems to me that implicit within this local policy is a position that trading up to 11:00pm is acceptable, reflecting activity centre policies set out earlier about balancing 'active centre' activity with residential amenity. Policy is quite explicit however, that trading beyond 11:00pm has the potential to unreasonably impact on residential amenity, i.e. the same level of activity before 11:00pm may well be unacceptable after this time. Unless a proponent can satisfy the Council (and now the Tribunal) that it can operate to conditions that will not result in such an impact, it is strongly expressed policy that a permit to trade beyond 11:00pm should not be granted. Based on the submissions and evidence before me, I find that there is limited justification for the use to operate beyond 11pm.

- 50 Council officers in this case supported the operation of this premises to 11pm seven days a week as being in accordance with its policy as well as a midnight closure 12 times a year. This would be an extension of the hours to Monday, Tuesday and Sunday (including public holidays) over what the current permit allows by one hour only except for the 12 occasions.
- 51 Given the acoustic evidence before me, I find that this is a venue that has some noise management issues even within the hours specified by Council policy. For example if patron numbers exceed 90 in the downstairs area/ Green Room after 6.00pm, the doors and roof should be shut. This is primarily because of the specific building in which this venue resides and because of the proximity of the site to residents, both current and that under construction at 199 Brunswick Street.
- 52 The noise evidence before me also supports some of the resident's concerns about the existing use. For example, Mr Leo specified that without the acoustic treatments proposed to the Green Room, patron noise would be excessive when there are more than 75 patrons in the Green Room if the

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roof is open. The current permit does not restrict the operation of the roof or limit the number of patrons below 120/140 in the Green Room.

Music Noise

- 53 In respect to music noise, the proposal falls within the consideration of Clause 52.43 as a Function centre is considered a live music venue. Mr Doyle disputed whether this clause applies given the applicant does not propose live bands and only limited acoustic instruments. However, a function centre clearly falls within the definition of a live music venue. The existing permit does not restrict live music and it is not clearly precluded from the current Noise and Amenity Action Plan. This clause requires me to be satisfied that amenity impacts will be acceptable.
- 54 On my inspections, music noise was audible outside the building in both the day and early evening, but could not be characterised as excessive. During the day it was no louder than the music from the cafe opposite.
- 55 The evidence before me is that music noise can be managed effectively with sound monitoring and a noise-limiting device to specified levels (as set out above) and I am satisfied that SEPP N2 can be met with the additional patron numbers and hours with the measures suggested by Mr Leo above.

Patron Noise

- 56 In terms of patron noise, I am satisfied that the measures outlined by Mr Leo are satisfactory and that the additional patron numbers can be accommodated. I find that the 11.00pm closure (an additional hour over current approvals on a Sunday to Tuesday) in accordance with Council's policy is acceptable in this activity centre location, subject to the recommendations of Mr Leo. However, I am not persuaded hours after 11.00pm to Midnight should be permitted given the specific circumstances of this site and the difficulties even prior to this hour that arise in ensuring acceptable amenity outcomes.
- 57 I have set out detailed conditions to reflect the recommendations of Mr Leo, together with the additional recommendation of the peer review that the west facing windows of the function room are also to be closed when it is in use. In addition, I noticed south-facing windows to the stairwell that are also openable to the function room on my inspection. I find that, as a precaution, these should also remain closed.
- 58 My concerns about noise impact do not arise in the daytime period (other than for the Green Room if no acoustic work is implemented and the roof is open as presently can occur under the existing permit). The respondents submitted that the hours for the sale and consumption of liquor should be limited to a 9am start to limit the venue being used as a "recovery party venue" whereby patrons on their way home from other late night venues can obtain liquor. This was a consideration of the 2010 approval in the officer's report for the outdoor café that establishes a 9am start time except

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for Good Friday and Anzac Day. I consider the concerns that informed this approval are equally applicable to the indoor use and that the sale and consumption of liquor should be consistent between the two with a 9.00am start for the serving of liquor to reduce the possibility of the use acting as a late night recovery venue.

- 59 Mr Doyle sought variations to conditions that would permit the use to proceed dependent on the future occupancy of 199 Brunswick Street. I do not support these changes. I inspected 199 Brunswick Street consider that it is at a later stage of construction and should be considered as per Mr Leo's evidence.
- 60 Mr Doyle also requested conditions that made the patron numbers in the Green Room contingent on undertaking of the acoustic works required by the acoustic report. These conditions were supported by the evidence of Mr Leo. Council did not support this approach, submitting that the works should be required in full.
- 61 I find that approach taken by the applicant is acceptable because it will significantly limit the use of these spaces over and above what the current permit would allow. For example, the current permit would allow 120 patrons in the Green Room on a Wednesday to 11.00pm with the roof open versus no more than 75 at any time with the roof open or 55 patrons after 10.00pm). The works to the Green room are not directly relevant to the noise impacts from the function room or courtyard and I am satisfied that the Green Room can be considered separately. However, I do not support the inclusion in the draft condition of a reference to music noise, as the acoustic evidence is that this should be generally maintained at "background" levels in the Green Room.
- 62 I note that it was the evidence of Mr Leo that the acoustic works could be internal, including the glazing changes. If this was not the case, further planning approval may be required under the Heritage Overlay and the zone which may take additional time.

Patron Management

- 63 Patron management is a difficult issue in activity centres, whereby there are a number of similar land uses nearby. The site is part of a cluster of later night venues including the Rook Returns, the Labour in Vain and the Perseverance, all of which open to 1.00am.
- 64 Ms Orr says that the application was flawed as the applicant did not submit a cumulative impact assessment. However, the Council officer undertook an assessment of all nearby land uses that allow for the sale and consumption of liquor. In addition, all parties provided me with material and submissions at the hearing in respect to cumulative impact. However, planning practice note No.61 specifies that a Cumulative Impact Assessment is only required when the site is within a cluster and also open past 11.00pm. I have found

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for the reasons set out above that the use should not operate past 11.00pm given the noise constraints associated with this building.

- 65 I am generally satisfied that the broader patron management issues for this venue can be addressed through the Noise and Amenity Action Plan and that the use will not result in cumulative impacts that are unacceptable. I find that the use of the land as food and drink premises with an associated use as function centre is one that differs from land uses such as a nightclub and would be generally expected to have a lesser management concern.
- 66 In this respect, Ms Orr sought that the endorsed plans show indicative seating numbers for the Green Room. I consider that this would reinforce the fact (as put to me at the hearing and borne out on my inspection) that this is primarily a seated venue and I have included this in Condition 1.
- 67 There are some specific aspects of patron management that should be addressed, particularly dispersal from a Function ending after 10.00pm (given the extended hours). At present patrons can currently enter and exit the site either through the outdoor courtyard or alternatively through the existing door that opens directly onto the eastern unnamed laneway.
- 68 It is proposed that after 10.00pm, the eastern laneway will be the only entry and exit point because the doors to the Green Room will be generally closed for noise attenuation. I find that this is acceptable. However, I have concerns that lighting of the laneway relies primarily on the strings of overhead lights in the courtyard⁷ and a light above the door. I have included a condition that the plans show the location of lighting to achieve adequate lighting of the laneway and that this lighting be appropriately baffled (noting this is currently part of the Noise and Amenity Action Plan).
- 69 Once patrons exit the site, there is nothing that presently prevents people entering the outdoor courtyard at any time. It is unfenced and open to the eastern laneway abuttal. Condition 15 of the existing permit requires that the operator must ensure that patrons do not congregate in the outdoor areas of the site or in adjacent areas and this is retained as Condition 25. The Council officer sought additional conditions to manage this after 10.00pm that I find are appropriate, although I note if new fencing is required, that a separate planning approval under the provisions of the Heritage Overlay may be required.
- 70 With the addition of the above measures, I am satisfied that the Noise and Amenity Action Plan is sufficient to provide for acceptable crowd dispersal from the premises between 10.00 and 11.00pm, noting that the existing permit would allow 11.00pm closure Wednesday to Saturday.

⁷ One of the enforcement concerns raised by Ms Orr.

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Should the use be allowed to open on Mondays?⁸

- 71 The current permit prevents the use of the “premises” on a Monday pursuant to Condition 4 and this is reflected in the current liquor licence for the “indoor area”. The hours for which the outdoor café is licenced include Mondays commencing at 9am (not proposed to be altered).
- 72 Mr Doyle submitted that the current restriction on use of the premises as a whole on a Monday was a response to the original occupier’s need to close the premises to prepare for Art exhibitions on Tuesdays. He submitted that the business as a whole should be able to be open on Mondays because it is within a Major Activity Centre, and this was part of a normal business week.
- 73 In contrast, the respondents submitted that the Monday was an important “day of rest” from the use of the land and that the premises should remain closed. As set out above, the use of the land for a food and drink premises is an as-of-right use in the zone and could operate at any time in an existing building without planning approval. The proposed function centre use is directly related to the current use and I find that there is no reason why in this commercial zone, that the use should not be able to operate on a Monday per se, provided that off-site amenity impacts are managed as set out above.

Is the use of the outdoor courtyard for smoking after its closure acceptable?

- 74 The permit applicant seeks permission for patrons to be allowed to smoke within a designated area within the courtyard after closure of this area. The use is to be limited to 20 persons at any one time. No alcohol would be served in the courtyard at this time and patrons would be discouraged from taking drinks outside with them. Access to this space would be via the double doors to the Green Room.
- 75 The present permit does not limit where patrons can smoke and access to the courtyard is unrestricted (other than the present Condition 15). The evidence of Mr Leo was that small numbers of patrons using the outdoor courtyard for smoking would have limited impact on the amenity of the area. He relied on the existing high brick fence to the rear of No. 85 Moor Street and to specific conditions on other residential properties and considered that no new acoustic treatments would be required for the outdoor courtyard.
- 76 Based on the evidence of Mr Leo, I find that the use of the courtyard is an acceptable solution for smokers from its closure until 11.00pm. I note that the future legislation currently proposed by the State government may result in this aspect of the proposal needing to be reconsidered if smoking is

⁸ I understand that a second application to amend this permit PL03/0732.06 seeks to allow the use to operate on Mondays and is presently on hold with Council.

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banned in outdoor dining areas and may require rethinking of the use of the outdoor courtyard.

IS CAR PARKING AND TRAFFIC A CONCERN?

- 77 The addition of a Function centre for 200 patrons affect the extent of a car park reduction in the permit because of the increased patron numbers. Council's traffic engineers did not express any concerns in respect to car parking or traffic matters.
- 78 I note that no car parking is provided on site at present, despite one car space being shown on the endorsed plans adjacent to the entrance to the Green Room.
- 79 I am satisfied that no additional car parking is required for the proposed use because it is located within the Brunswick Street Activity Centre, the availability of convenient public transport and alternative transport options and the existing level of saturation in the area.
- 80 A number of respondents in Statements of Grounds raised concerns about illegal car parking in the surrounding streets. I note that management of the public parking resource is a matter for Council.
- 81 A number of the Statements of Grounds raised concerns about waste management. The increased patron numbers may result in increase in waste generated from the site. While the current permit and Noise and Amenity Action Plan addresses waste, there is no Waste Management Plan. I find that this would be appropriate in this case given the new use and increased patron numbers.

ARE THE PROPOSED PLANS ACCEPTABLE?

- 82 A new set of plans were provided with the application that essentially reflect the existing endorsed plans, with some colours added to reflect some of the acoustic report. I find that there is a need for a new set of endorsed plans that clearly reflects the current operation with the amendments proposed and that this should be required as part of the amended permit.
- 83 The endorsed plans should also include elevations where required to identify the windows and doors that are subject to the recommendations of the acoustic report.

CONCLUSION

- 84 For the reasons given above, the decision of the responsible authority is set aside. An amended permit is granted subject to conditions.

Megan Carew
Member

Attachment 2 - VCAT Order and most current planning permit.**APPENDIX A – PERMIT CONDITIONS**

PERMIT APPLICATION NO	PL03/0732.05
LAND	87-89 Moor Street, Fitzroy

WHAT THE PERMIT ALLOWS

- Use of land as a Function centre and sale and consumption of liquor for a Food and drink premises and Function centre and a reduction of car parking requirements in accordance with the endorsed plans.

CONDITIONS

1. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, 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 show:
 - (a) The indoor areas presently used as a Food and drink premises;
 - (b) The position of a designated smoking area in the outdoor courtyard for use after its closure, measures for its enclosure and access arrangements at different times;
 - (c) The extent of the red line area for the sale and consumption of liquor;
 - (d) Details of how access to the outdoor courtyard will be managed once the courtyard ceases liquor service; and
 - (e) Any changes recommended in the acoustic report prepared in accordance with Condition 4.
 - (f) Elevations showing the windows and doors that are subject to the recommendations of the acoustic report prepared in accordance with Condition 4.
 - (g) Location of areas for waste storage in accordance with the endorsed Waste Management Plan required by Condition 27.
 - (h) Indicative seating numbers for the downstairs Green Room.
 - (i) Location of external lighting to ensure that the adjacent eastern unnamed laneway is acceptably lit when it is used for access and egress to the site.

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2. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a revised Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The plan must be generally in accordance with the plan submitted with the application dated June 2016, but be amended to include the following:
 - (a) Updated to reflect the uses that currently operate from the land and to remove references to the former Artery operation;
 - (b) Show the operation hours and patron numbers permitted by this permit;
 - (c) Updated to remove reference to the sound level meter being used to control noise emissions to first floor function room and to refer to the recommendations of the endorsed acoustic report prepared in accordance with Condition 4; and
 - (d) Include all changes required by the acoustic report prepared in accordance with Condition 4.

All to the satisfaction of the Responsible Authority.

3. The endorsed Noise and Amenity Action Plan forms part of this permit and must be complied with to the satisfaction of the Responsible Authority and any modifications to the endorsed Noise and Amenity Action Plan must be approved by the Responsible Authority.
4. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Evidence prepared by Marshall Day dated 11 May 2017, but modified to include (or show, or address):
 - (a) The first floor windows to be closed while the upstairs function room is in use;
 - (b) Updated to show the operation hours and patron numbers permitted by this permit; and
 - (c) Limitations on the use of the Green Room should the recommended internal acoustic works not be installed so that no more than 75 patrons are permitted with the roof open and no more than 55 patrons after 10.00pm on Sunday to Wednesday nights.

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5. The recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
6. The function centre may only operate between the following hours (except where otherwise specified by this permit):
 - (a) Monday-Sunday 9.00am – 11.00pm
7. The sale and consumption of liquor in the indoor areas may only occur between the following hours (except where otherwise specified by this permit):
 - (a) Monday-Sunday 9.00am – 11.00pm
8. No more than 200 patrons are permitted on the land at any one time to the satisfaction of the responsible authority.
9. After 10.00pm, patrons must exit the venue through the doors to the eastern unnamed laneway to the satisfaction of the responsible authority.

Outdoor Courtyard

10. The sale and consumption of liquor in the outdoor courtyard area must only occur between the following hours:
 - (a) 1 October – 30 April
 - (i) Monday – Tuesday 9.00am to 7.00pm
 - (ii) Wednesday – Sunday 9.00am to 10.00pm
 - (iii) Good Friday and Anzac Day 12 noon to 10.00pm
 - (b) 1 May – 30 September
 - (i) Monday – Sunday 9.00am to 7.00pm
 - (ii) Good Friday and Anzac Day 12 noon to 7.00pm
11. Not more than 60 patrons are permitted in the outdoor courtyard at any one time to the satisfaction of the responsible authority.
12. After the closure of the outdoor courtyard in accordance with Condition 10 above:
 - (a) The outdoor courtyard may only be used as a smoking area for a maximum of 20 persons within the designated smoking area shown on the endorsed plans

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- (b) No liquor is to be consumed in the designated smoking area.
- (c) The double doors to the Green Room must be kept closed other than to allow access for smokers and staff.

All to the satisfaction of the responsible authority.

Function Room

- 13. No more than 70 patrons are permitted in the first floor function room at any one time to the satisfaction of the responsible authority.
- 14. The windows to the first floor function room and upper level of the stairwell must be closed when the function room is in use to the satisfaction of the Responsible Authority.

Green Room

- 15. Until all the acoustic works to the ground floor Green Room including the upgrading of the existing east facing windows and the installation of absorptive treatment required by the endorsed acoustic report (in accordance with Condition 4) are completed to the satisfaction of the Responsible Authority, no more than 75 patrons are permitted in the Green Room when the roof is open and no more than 55 patrons are permitted in the Green Room after 10.00pm on Sunday to Wednesday nights.
- 16. No more than 140 patrons are permitted in the Green Room, Sunday to Wednesday after 10.00pm to the satisfaction of the responsible authority.
- 17. The roof and double doors to the Green Room must closed after 6.00pm when the patron capacity exceeds 90 patrons and must be closed at all times after 10.00pm (other than to allow access for smokers and staff to the designated smoking area) to the satisfaction of the responsible authority.

Amenity

- 18. Non-amplified equipment and microphones must comply with SEPP N-2 requirements.
- 19. Prior to the commencement of the use of the first floor function room, the permit holder must install a noise monitor and limiter in the premises that must be set by a qualified and experienced acoustician at a level to ensure compliance with State Environment Protection Policy No. N-2 (Control of Music Noise from Public Premises) in accordance with the endorsed acoustic report required by Condition 4, to the satisfaction of the Responsible Authority.
- 20. All sound amplification equipment used for the purpose of entertainment within the first floor function room must be connected to the noise monitor

Attachment 2 - VCAT Order and most current planning permit.

and limiter system at all times to the satisfaction of the responsible authority.

21. Music within the ground floor areas (Green Room) must not exceed the music levels as specified within the endorsed acoustic report required by Condition 4 to the satisfaction of the responsible authority.
22. No music may be played in the outdoor courtyard. No speakers may be sited outside the building.
23. The permit holder 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.
24. The permit holder 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.
25. 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.
26. The operator must ensure that patrons do not congregate in the outdoor areas of the site or in adjacent areas.
27. 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.
28. External lighting shown on the endorsed plans must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.
29. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a Waste Management Plan must be submitted and approved to the satisfaction of the Responsible Authority.

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When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan and associated notated plans will form part of this permit. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

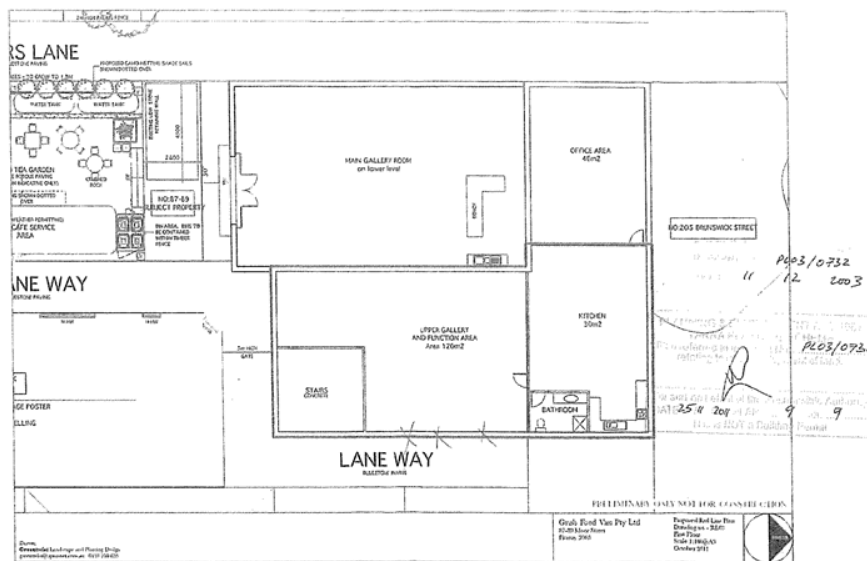
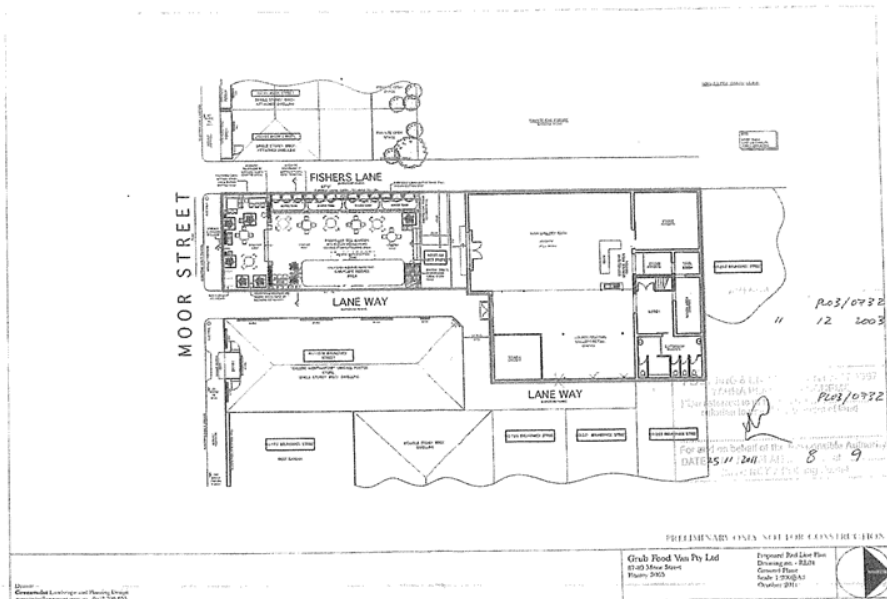
30. Any empty bottles associated with the use must be taken in bags and no emptying of bottles into garbage bins is permitted after 10.00pm on any night or before 7.00am on any day.
31. Garbage collections must only occur between 7.00am and 8.00pm on any day.
32. During all hours (whether or not liquor 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.
33. 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").
34. 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.
35. All landscaping works must be maintained to the satisfaction of the Responsible Authority.
36. All acoustic works required by the permit must be maintained to the satisfaction of the Responsible Authority.
37. This permit will expire if:
 - (a) the use is not commenced within two years of the date of this permit.

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

– End of conditions –

Attachment 2 - VCAT Order and most current planning permit.

APPENDIX B- PLANS ENDORSED 2011



Attachment 2 - VCAT Order and most current planning permit.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P2089/2016
PERMIT APPLICATION NO. PL03/0732.05

APPLICANT	Grub Food Van Pty Ltd
RESPONSIBLE AUTHORITY	Yarra City Council
RESPONDENTS	Raymond Francis Kelly and others, Ian Hall
SUBJECT LAND	87-89 Moor Street, Fitzroy
WHERE HELD	Melbourne
BEFORE	Megan Carew, Member
HEARING TYPE	No Hearing
DATE OF ORIGINAL ORDER	28 June 2017
DATE OF CORRECTION	28 July 2017

CORRECTION ORDER

- 1 Pursuant to Section 119 of the *Victorian Civil and Administrative Tribunal Act 1998*, the Tribunal's order in Application P2089/2016 dated 28 June 2017 is corrected as follows:
- 2 The conditions in Appendix A are amended and replaced by the conditions in Appendix A to this order.

Megan Carew
Member

Attachment 2 - VCAT Order and most current planning permit.

REASONS

- 1 By order dated 28 June 2017, the Tribunal ordered the decision of the responsible authority to refuse to grant a permit be set aside and a permit be granted and directed to be issued for the subject land on the conditions set out in Appendix A to the Tribunal's order.
- 2 By email letter dated 4 July 2017, Ms Orr on behalf of the respondents drew the Tribunal's attention to what she suggested was an error within the Tribunal's order, and submitted that the order should be corrected.
- 3 The corrections sought relate to the incorrect numbering of the conditions in the order and the incorrect reference to an "acoustic report" rather than "noise and amenity action plan".
- 4 Section 119 of the *Victorian Civil and Administrative Tribunal Act 1998* provides that the Tribunal may correct an order made by it if the order contains:
 - a a clerical mistake;
 - b an error arising from an accidental slip or omission;
 - c a material miscalculation of figures or a material mistake in the description of any person, thing or matter referred to in the order; or
 - d a defect of form.
- 5 I am satisfied that a mistake or error has occurred here, comprising a clerical mistake and/or accidental slip or omission, and find it appropriate to authorise a correction of the order.

Megan Carew
Member

Attachment 2 - VCAT Order and most current planning permit.**APPENDIX A – PERMIT CONDITIONS**

PERMIT APPLICATION NO	PL03/0732.05
LAND	87-89 Moor Street, Fitzroy

WHAT THE PERMIT ALLOWS

- Use of land as a Function centre and sale and consumption of liquor for a Food and drink premises and Function centre and a reduction of car parking requirements in accordance with the endorsed plans.

CONDITIONS

1. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, 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 show:
 - (a) The indoor areas presently used as a Food and drink premises;
 - (b) The position of a designated smoking area in the outdoor courtyard for use after its closure, measures for its enclosure and access arrangements at different times;
 - (c) The extent of the red line area for the sale and consumption of liquor;
 - (d) Details of how access to the outdoor courtyard will be managed once the courtyard ceases liquor service; and
 - (e) Any changes recommended in the acoustic report prepared in accordance with Condition 4.
 - (f) Elevations showing the windows and doors that are subject to the recommendations of the acoustic report prepared in accordance with Condition 4.
 - (g) Location of areas for waste storage in accordance with the endorsed Waste Management Plan required by Condition 27.
 - (h) Indicative seating numbers for the downstairs Green Room.
 - (i) Location of external lighting to ensure that the adjacent eastern unnamed laneway is acceptably lit when it is used for access and egress to the site.
2. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale

Attachment 2 - VCAT Order and most current planning permit.

and consumption of liquor commence, a revised Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The plan must be generally in accordance with the plan submitted with the application dated June 2016, but be amended to include the following:

- (a) Updated to reflect the uses that currently operate from the land and to remove references to the former Artery operation;
- (b) Show the operation hours and patron numbers permitted by this permit;
- (c) Updated to remove reference to the sound level meter being used to control noise emissions to first floor function room and to refer to the recommendations of the endorsed acoustic report prepared in accordance with Condition 4; and
- (d) Include all changes required by the acoustic report prepared in accordance with Condition 4.

All to the satisfaction of the Responsible Authority.

- 3. The endorsed Noise and Amenity Action Plan forms part of this permit and must be complied with to the satisfaction of the Responsible Authority and any modifications to the endorsed Noise and Amenity Action Plan must be approved by the Responsible Authority.
- 4. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Evidence prepared by Marshall Day dated 11 May 2017, but modified to include (or show, or address):
 - (a) The first floor windows to be closed while the upstairs function room is in use;
 - (b) Updated to show the operation hours and patron numbers permitted by this permit; and
 - (c) Limitations on the use of the Green Room should the recommended internal acoustic works not be installed so that no more than 75 patrons are permitted with the roof open and no more than 55 patrons after 10.00pm on Sunday to Wednesday nights.

Attachment 2 - VCAT Order and most current planning permit.

5. The recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
6. The function centre may only operate between the following hours (except where otherwise specified by this permit):
 - (a) Monday-Sunday 9.00am – 11.00pm
7. The sale and consumption of liquor in the indoor areas may only occur between the following hours (except where otherwise specified by this permit):
 - (a) Monday-Sunday 9.00am – 11.00pm
8. No more than 200 patrons are permitted on the land at any one time to the satisfaction of the responsible authority.
9. After 10.00pm, patrons must exit the venue through the doors to the eastern unnamed laneway to the satisfaction of the responsible authority.

Outdoor Courtyard

10. The sale and consumption of liquor in the outdoor courtyard area must only occur between the following hours:
 - (a) 1 October – 30 April
 - (i) Monday – Tuesday 9.00am to 7.00pm
 - (ii) Wednesday – Sunday 9.00am to 10.00pm
 - (iii) Good Friday and Anzac Day 12 noon to 10.00pm
 - (b) 1 May – 30 September
 - (i) Monday – Sunday 9.00am to 7.00pm
 - (ii) Good Friday and Anzac Day 12 noon to 7.00pm
11. Not more than 60 patrons are permitted in the outdoor courtyard at any one time to the satisfaction of the responsible authority.
12. After the closure of the outdoor courtyard in accordance with Condition 10 above:
 - (a) The outdoor courtyard may only be used as a smoking area for a maximum of 20 persons within the designated smoking area shown on the endorsed plans
 - (b) No liquor is to be consumed in the designated smoking area.

Attachment 2 - VCAT Order and most current planning permit.

- (c) The double doors to the Green Room must be kept closed other than to allow access for smokers and staff.

All to the satisfaction of the responsible authority.

Function Room

- 13. No more than 70 patrons are permitted in the first floor function room at any one time to the satisfaction of the responsible authority.
- 14. The windows to the first floor function room and upper level of the stairwell must be closed when the function room is in use to the satisfaction of the Responsible Authority.

Green Room

- 15. Until all the acoustic works to the ground floor Green Room including the upgrading of the existing east facing windows and the installation of absorptive treatment required by the endorsed acoustic report (in accordance with Condition 4) are completed to the satisfaction of the Responsible Authority, no more than 75 patrons are permitted in the Green Room when the roof is open and no more than 55 patrons are permitted in the Green Room after 10.00pm on Sunday to Wednesday nights.
- 16. No more than 140 patrons are permitted in the Green Room, Sunday to Wednesday after 10.00pm to the satisfaction of the responsible authority.
- 17. The roof and double doors to the Green Room must closed after 6.00pm when the patron capacity exceeds 90 patrons and must be closed at all times after 10.00pm (other than to allow access for smokers and staff to the designated smoking area) to the satisfaction of the responsible authority.

Amenity

- 18. Non-amplified equipment and microphones must comply with SEPP N-2 requirements.
- 19. Prior to the commencement of the use of the first floor function room, the permit holder must install a noise monitor and limiter in the premises that must be set by a qualified and experienced acoustician at a level to ensure compliance with State Environment Protection Policy No. N-2 (Control of Music Noise from Public Premises) in accordance with the endorsed acoustic report required by Condition 4, to the satisfaction of the Responsible Authority.
- 20. All sound amplification equipment used for the purpose of entertainment within the first floor function room must be connected to the noise monitor and limiter system at all times to the satisfaction of the responsible authority.

Attachment 2 - VCAT Order and most current planning permit.

21. Music within the ground floor areas (Green Room) must not exceed the music levels as specified within the endorsed acoustic report required by Condition 4 to the satisfaction of the responsible authority.
22. No music may be played in the outdoor courtyard. No speakers may be sited outside the building.
23. The permit holder 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.
24. The permit holder 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.
25. 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.
26. The operator must ensure that patrons do not congregate in the outdoor areas of the site or in adjacent areas.
27. 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.
28. External lighting shown on the endorsed plans must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.
29. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a Waste Management Plan must be submitted and approved to the satisfaction of the Responsible Authority. When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan and associated notated plans will

Attachment 2 - VCAT Order and most current planning permit.

form part of this permit. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

30. Any empty bottles associated with the use must be taken in bags and no emptying of bottles into garbage bins is permitted after 10.00pm on any night or before 7.00am on any day.
31. Garbage collections must only occur between 7.00am and 8.00pm on any day.
32. 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.
33. 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").
34. 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.
35. All landscaping works must be maintained to the satisfaction of the Responsible Authority.
36. All acoustic works required by the permit must be maintained to the satisfaction of the Responsible Authority.
37. This permit will expire if:
(a) the use is not commenced within two years of the date of this permit.

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

– End of conditions –

Attachment 2 - VCAT Order and most current planning permit.

Helping you understand your planning needs



PLANNING PERMIT (Amended)(Corrected)

Permit No: PL03/0732

Planning Scheme: Yarra

Responsible Authority: City Of Yarra

copy

ADDRESS OF THE LAND:

87-89 Moor St Fitzroy VIC 3065


THE PERMIT ALLOWS:

Use of land as a Function centre and sale and consumption of liquor for a Food and drink premises and Function centre and a reduction of car parking requirements in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, 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 show:
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 - (g) Location of areas for waste storage in accordance with the endorsed Waste Management Plan required by Condition 27.
 - (h) Indicative seating numbers for the downstairs Green Room.
 - (i) Location of external lighting to ensure that the adjacent eastern unnamed laneway is acceptably lit when it is used for access and egress to the site.

Date: 11 December 2003


Katrina Thomas
Signature for the Responsible Authority

Planning and Environment Regulations 2015 No. 33/2015 Form 4 Sections 63, 64 64A and 86

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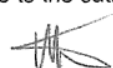
For more information call 9205 5555 or visit www.yarracity.vic.gov.au

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2. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a revised Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The plan must be generally in accordance with the plan submitted with the application dated June 2016, but be amended to include the following:
 - (a) Updated to reflect the uses that currently operate from the land and to remove references to the former Artery operation;
 - (b) Show the operation hours and patron numbers permitted by this permit;
 - (c) Updated to remove reference to the sound level meter being used to control noise emissions to first floor function room and to refer to the recommendations of the endorsed acoustic report prepared in accordance with Condition 4; and
 - (d) Include all changes required by the acoustic report prepared in accordance with Condition 4.

All to the satisfaction of the Responsible Authority.
3. The endorsed Noise and Amenity Action Plan forms part of this permit and must be complied with to the satisfaction of the Responsible Authority and any modifications to the endorsed Noise and Amenity Action Plan must be approved by the Responsible Authority.
4. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Evidence prepared by Marshall Day dated 11 May 2017, but modified to include (or show, or address):
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 - (c) Limitations on the use of the Green Room should the recommended internal acoustic works not be installed so that no more than 75 patrons are permitted with the roof open and no more than 55 patrons after 10.00pm on Sunday to Wednesday nights.
5. The recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
6. The function centre may only operate between the following hours (except where otherwise specified by this permit):
 - (a) Monday-Sunday 9.00am – 11.00pm
7. The sale and consumption of liquor in the indoor areas may only occur between the following hours (except where otherwise specified by this permit):
 - (a) Monday-Sunday 9.00am – 11.00pm
8. No more than 200 patrons are permitted on the land at any one time to the satisfaction of the responsible authority.

Date: 11 December 2003


 Katrina Thomas
 Signature for the Responsible Authority

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9. After 10.00pm, patrons must exit the venue through the doors to the eastern unnamed laneway to the satisfaction of the responsible authority.

Outdoor Courtyard

10. The sale and consumption of liquor in the outdoor courtyard area must only occur between the following hours:

(a) 1 October – 30 April

- (i) Monday – Tuesday 9.00am to 7.00pm
- (ii) Wednesday – Sunday 9.00am to 10.00pm
- (iii) Good Friday and Anzac Day 12 noon to 10.00pm

(b) 1 May – 30 September

- (i) Monday – Sunday 9.00am to 7.00pm
- (ii) Good Friday and Anzac Day 12 noon to 7.00pm

11. Not more than 60 patrons are permitted in the outdoor courtyard at any one time to the satisfaction of the responsible authority.
12. After the closure of the outdoor courtyard in accordance with Condition 10 above:
- (a) The outdoor courtyard may only be used as a smoking area for a maximum of 20 persons within the designated smoking area shown on the endorsed plans
 - (b) No liquor is to be consumed in the designated smoking area.
 - (c) The double doors to the Green Room must be kept closed other than to allow access for smokers and staff.

All to the satisfaction of the responsible authority.


Function Room

13. No more than 70 patrons are permitted in the first floor function room at any one time to the satisfaction of the responsible authority.
14. The windows to the first floor function room and upper level of the stairwell must be closed when the function room is in use to the satisfaction of the Responsible Authority.

Green Room

15. Until all the acoustic works to the ground floor Green Room including the upgrading of the existing east facing windows and the installation of absorptive treatment required by the endorsed acoustic report (in accordance with Condition 4) are completed to the satisfaction of the Responsible Authority, no more than 75 patrons are permitted in the Green Room when the roof is open and no more than 55 patrons are permitted in the Green Room after 10.00pm on Sunday to Wednesday nights.
16. No more than 140 patrons are permitted in the Green Room, Sunday to Wednesday after 10.00pm to the satisfaction of the responsible authority.
17. The roof and double doors to the Green Room must closed after 6.00pm when the patron capacity exceeds 90 patrons and must be closed at all times after 10.00pm (other than to allow

Date: 11 December 2003


Katrina Thomas
Signature for the Responsible Authority


Attachment 2 - VCAT Order and most current planning permit.

access for smokers and staff to the designated smoking area) to the satisfaction of the responsible authority.

Amenity

18. Non-amplified equipment and microphones must comply with SEPP N-2 requirements.
19. Prior to the commencement of the use of the first floor function room, the permit holder must install a noise monitor and limiter in the premises that must be set by a qualified and experienced acoustician at a level to ensure compliance with State Environment Protection Policy No. N-2 (Control of Music Noise from Public Premises) in accordance with the endorsed acoustic report required by Condition 4, to the satisfaction of the Responsible Authority.
20. All sound amplification equipment used for the purpose of entertainment within the first floor function room must be connected to the noise monitor and limiter system at all times to the satisfaction of the responsible authority.
21. Music within the ground floor areas (Green Room) must not exceed the music levels as specified within the endorsed acoustic report required by Condition 4 to the satisfaction of the responsible authority.
- ➔ 22. No music may be played in the outdoor courtyard. No speakers may be sited outside the building.
23. The permit holder 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.
24. The permit holder 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.
25. 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.
26. The operator must ensure that patrons do not congregate in the outdoor areas of the site or in adjacent areas.
27. 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.
28. External lighting shown on the endorsed plans must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.
29. Before the use of the land for a Function centre commences, patron numbers exceed 120 on the land or the amended hours of operation for sale and consumption of liquor commence, a Waste Management Plan must be submitted and approved to the satisfaction of the

Date: 11 December 2003


Katrina Thomas
Signature for the Responsible Authority

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Responsible Authority. When submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan and associated notated plans will form part of this permit. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

30. Any empty bottles associated with the use must be taken in bags and no emptying of bottles into garbage bins is permitted after 10.00pm on any night or before 7.00am on any day.
31. Garbage collections must only occur between 7.00am and 8.00pm on any day.
32. 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.
33. 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").
34. 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.
35. All landscaping works must be maintained to the satisfaction of the Responsible Authority.
36. All acoustic works required by the permit must be maintained to the satisfaction of the Responsible Authority.
37. This permit will expire if:
 - (a) the use is not commenced within two years of the date of this permit.


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

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 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 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.

Date: 11 December 2003


Katrina Thomas
Signature for the Responsible Authority

Planning and Environment Regulations 2015 No. 33/2015 Form 4 Sections 63, 64 64A and 86

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Attachment 2 - VCAT Order and most current planning permit.


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

THIS PERMIT WAS ISSUED AT THE DIRECTION OF VCAT AS FOLLOWS:

Date of Order

28 June 2017	Planning Permit PL03/0732 was amended in accordance with the order of the Victorian Civil and Administrative Tribunal, reference: P2089/2016.
28 July 2017	Planning Permit PL03/0732 was corrected in accordance with the order of the Victorian Civil and Administrative Tribunal, reference: P2089/2016.

Date: 11 December 2003


 Katrina Thomas
 Signature for the Responsible Authority

Planning and Environment Regulations 2015 No. 33/2015 Form 4 Sections 63, 64 64A and 86

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Attachment 3 - Amended Noise and Amenity Action Plan

Amended Noise + Amenity
Action Plan: App PL03/0732.06.

Noise and Amenity Action Plan

87 – 89 Moor Street Fitzroy

Yarra Planning Scheme

Prepared on behalf of Musicmann Pty Ltd

March 2017

17 MAR 2017

Attachment 3 - Amended Noise and Amenity Action Plan

1. Purpose

Planning Permit PL03/7032 was issued by the City of Yarra in December, 2003 and allows use of the land as a place of assembly (art gallery/art exhibition and performance space), retail premises (art dealership), education centre (workshop space) and associated café with liquor license including waiver of car parking requirements.

A Noise and Amenity Action Plan (prepared by Marshall Day Acoustics) was endorsed under the permit on 22 December 2003.

An amendment to this permit was approved by Council on 7 December, 2011 which amongst other things, increased the licensed area and hours and an amended revised Noise and Amenity Action Plan was been prepared in accordance with Condition 1(j) of the amended permit in order to provide a framework under which the conduct of the premises is managed so as not to result in adverse amenity impacts on nearby residents.

This Noise and Amenity Action Plan has been prepared in support of a further application to amend the permit to allow revised opening times and licensed hours for the courtyard café.

2. Context

Operation of the premises will continue to involve a focus upon the café use which provides light refreshments throughout the day as well as a breakfast, lunch and dinner menu. The café will allow the service of organic produce grown by the proprietors that would also be for sale. An on premises liquor licence allows the sale and consumption of alcohol throughout the day and it is intended that the premises would provide for a stronger daytime focus, particularly at breakfast and lunchtime.

Although the exhibition, performance and workshop spaces will still form part of the uses on the site there will be less emphasis on these uses. These uses, when they do occur, will be in accordance with the conditions of the Permit and this Noise and Amenity Action Plan.

3. Hours of Operation

The amended planning permit allows uses governed by the permit to operate between the following hours:

- Sunday, Monday and Tuesday 10.00am-10.00pm
- Wednesday to Saturday 10.00am-11.00pm
- Good Friday and Anzac Day 12.00 noon-10.00pm

The hours of operation set out above relate only to the uses for which a planning permit is required (place of assembly, retail premises and education centre).

Within the hours stipulated above specific components will operate as follows:

Attachment 3 - Amended Noise and Amenity Action Plan

Performance Space:

- Wednesday and Sunday 12.00pm to 3.30pm and 7.00pm to 9.30pm
- Thursday to Saturday 12.00pm to 3.30pm and 7.00pm to 10.30pm

Workshop Space:

- Wednesday to Friday 6.00pm to 8.00pm
- Saturday and Sunday from 10.00am to 11.30am and 12.30pm to 4.30pm

Art exhibitions:

- Tuesdays only during the abovementioned operating hours.

Sale and consumption of liquor in the outdoor café

As use of the land for a food and drink premises (café) does not require planning approval within the Commercial 1 Zone, operational hours for the licensed cafe relate to the sale and consumption of liquor which is limited to the following hours:

- 1 October – 30 April
 - Monday-Sunday 9:00am to 10:00pm
 - Good Friday and Anzac Day 12 noon to 10:00pm
- 1 May – 30 September
 - Monday-Sunday 9:00am to 7:00pm

4. Patron Numbers

No more than at 120 persons may be on the premises at any one time with the exception of during art exhibitions when up to 140 persons may be present.

No more than 60 persons may be present in the café at any one time (inclusive of patron numbers identified above).

5. Staffing Numbers

Due to the nature of the uses operating from the premises, no security staff will be required onsite with the duty managed and staff being responsible for ensuring that the use operates in accordance with this Plan. The premises does not provide a separate bar facility thus no specialist bar staff are required.

The staffing arrangements for the café will comprise of the following:

- Waiters: 5 (maximum)
- On Premises Manager: 1

Attachment 3 - Amended Noise and Amenity Action Plan

The staffing arrangements for other uses will be determined on the basis of the nature of the activity occurring.

6. Noise Sources

Potential noise sources within the site include:

- Amplified music associated with the performance space;
- Collection/disposal of waste;
- People/crowd noise;
- Conversation;
- Patrons arriving and leaving the premises.

7. Management Plan

Noise

All noise emitted from the subject premises will comply with any limits, standards or rules prescribed thereto or imposed by, in or under State Environment Policy made pursuant to the Environment Protection Act 1970, and in particular the State Environment Protection Policies N1 (Control of Noise from Commerce, Industry and Trade) and N-2 (Control of music from public premises).

No amplified music will be played in the outdoor courtyard café.

No emptying of bottles into garbage bins is permitted after 10 pm on any night, or before 7 am on any day. No bottles or other waste materials shall be removed from the site between the hours of 8.00pm on any day and 7.00am the following morning.

Notices informing patrons to leave the premises quietly and to avoid lingering will be placed strategically throughout the café as per the endorsed plans.

Provision of Music/Entertainment

Entertainment will include but not limited to:

- Theatre
- Poetry
- Spoken Word
- Lectures
- Acoustic Instruments
- Singers
- Performance art
- Film Screenings

Any music provided onsite as part of the performance space will be in accordance with Conditions on the Planning Permit which include:

Attachment 3 - Amended Noise and Amenity Action Plan

9. *No amplified instruments or drums shall be permitted.*
10. *Non-amplified equipment and microphones must comply with SEPP N-2 requirements.*
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.*

With the exception of non-amplified instruments, only low level background music will be played inside the building and there will be no amplified music outside the building. All music emitted from the subject premises will comply with the State Environment Protection Policy (Control of music from public premises) N-2.

Operation of the amplification system will be as per the table below. A copy of the table will be permanently affixed at the sound desk:

Level Controls on Sound System:

System Type: Mixer: MX 20/6 Yamaha

Master Control ----- FOH ----- KNOB to be set 1/10

Noise Measure Levels:

Cd Setting	FOH 1/10 Slide Control – Max Gain 3/10
Vocals / Instruments Microphone Only	FOH 3/10 Slide Control – Max Gain 3/10
Internal Music Level	65 – 70 heq dBA

Reference point checks will be:

- Behind Bar – Sound measurer
- Sound Desk – Sound measurer

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Attachment 3 - Amended Noise and Amenity Action Plan

Sound checks to be recorded twice: 8:00pm and 9:30pm

Measures to Manage Noise

The measures outlined above relating to the conduct of music at the venue will be undertaken in conjunction with the following to control additional potential noise sources:

- All windows upstairs and doors to be kept shut
- Door between gallery room and outside café area to be closed when outside area closes
- Rubbish removal is to occur during daytime business hours
- Staff Member to be responsible for quietly ensuring patrons leave
- Signage to be always at exit "Please respect our neighbours and leave quietly."
- Information to be available to all patrons:
 - Nearest Taxi Rank is at St. Vincent's Hospital
 - Tram and Train timetables
 - Silver Top Taxi number 13 1008
- Manager to check on outside noise emissions
- Maintain policy on Low impact entertainment
- Contact details given to the neighbours

Service of Alcohol

All floor staff employed will have a Certificate in the Responsible Serving of Alcohol and no intoxicated persons will be served alcohol onsite.

All intoxicated persons will be asked to leave the premises and a taxi will be arranged if no other alternative travel arrangements are possible.

Service of Food

The kitchen will be open for the service of food for the duration of the opening hours

Overall Management

At all times during the operation of the premises there will be present on the premises, a nominated person above the age of 18 years who is responsible for the good conduct of the premises ("The Manager").

The Manager is required to:

- i. monitor noise emissions while the premises is open to ensure that noise is not excessive;
- ii. ensure that alcohol is being served responsibly and to ensure that no liquor is provided to any intoxicated person;
- iii. ensure that the premises closes at the allotted time

Attachment 3 - Amended Noise and Amenity Action Plan

- iv. supervise the departure of patrons from the premises so as to ensure that any noise and disturbance is minimised; and
- v. be authorised by the Owner to make statements and admissions to any authorised officer of the Responsible Authority or the Victoria Police regarding the conduct of the premises.

Complaints

In the event of a complaint being lodged by the general public or by the Victorian Police The Manager or The Owner will respond to the complaint in writing within 48 hours.

All complaints received will be stored within the premises operating records.

1. Address the complaint immediately
2. Ascertain validity of complaint
3. Address situation and change circumstances if needed
4. Supply Copy of Incident Incident Operation Report
5. Supply Copy of Video Surveillance (if available)
6. Follow up next day with procedure addressing relevant issues
7. Follow up with written response to authority that relates to the complaint

Emergency Telephone Contact

- Mark Murphy (Owner/Manager) – 0406 424365
- Onsite dwelling number – 03 9419 8991
- Citywatch Security – 9380 4000

Lighting

Security lights will be mounted to the front façade of the building to illuminate the immediate frontage for persons entering and exiting the building.

Security lights will also be present in the front courtyard with security lights being mounted at various points to illuminate this area but will be baffled to avoid any light spill outside the subject site

Internal lighting will be turned up as an indicator that it is closing time.

Security light at the top of the stairs and exit lights are wired in and are constantly on.

Security

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Attachment 3 - Amended Noise and Amenity Action Plan

The premises will be guarded by an alarm monitoring company and security cameras will be mounted within the premises.

Waste Management

All waste is to be collected by professional Waste Mangers between the hours of 7:00am and 8:00pm Monday to Friday. During collection times, all bins will be placed towards the front of the site to allow for efficient collection from Moor Street.

8. Conclusion

The proprietor undertakes to operate the premises in accordance with the Noise and Amenity Action Plan and any other conditions imposed by the Responsible Authority on the permit as issued, not excluding any other rights available under Victorian Law.

Attachment 4 - Civic Compliance - alleged compliance matters.

Johnston, Cindi

From: Alexander, Steve <Steve.Alexander@yarracity.vic.gov.au>
Sent: Tuesday, 31 October 2017 12:16 PM
To: Theodosakis, John
Subject: 87-89 Moor Street - alleged Compliance matters

Hi John ,

Following on from our conversation below is a list of alleged complaints received by Compliance between 1 December 2016 – 31 October 2017. Let me know if you need more info. I'm mindful of your timeframe, I hope the brief description is ok.

28/8/17 – Bins left outside after collection - (Officer spoke to owners and appropriate enforcement action taken). No further action.

9/6/17 – Overhanging vegetation - (Officer spoke to owners and appropriate enforcement action taken). No further action.

19/4/17 – 2x Use breach - trading Good Friday prior to 12pm. (Not substantiated, café use ok, no alcohol served)

10/1/17 – Damage to bluestone in laneway (not substantiated ,no damage)

30/12/16 – Development breach, shade cloth and lights (investigated temporary structure, no breach, not substantiated)

7/12/16 – Use breach, alcohol being served outside hours (not substantiated, café use ok).

Steve Alexander

Coordinator, Civic Compliance

City of Yarra.

PO Box 168 RICHMOND 3121

(T): (03) 9205 5166 (F): (03) 8417 6666

E: steve.alexander@yarracity.vic.gov.au

W: www.yarracity.vic.gov.au

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- 1.2 12 - 18 Albert Street, Richmond - Planning Application No. PLN17/0284 – Development of the land for the construction of a seven-storey building, a reduction in the car parking requirement associated with offices and a food and drink premises (cafe) (no permit required uses) and a waiver of the loading and unloading requirements.**
-

Executive Summary

Purpose

1. This report provides Council with an assessment of Planning Application PLN17/0284 at 12 – 18 Albert Street, Richmond and recommends approval, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 21.05 – Built Form;
 - (b) Clause 22.05 – Interface Uses Policy;
 - (c) Clause 22.10 – Built Form and Design Policy;
 - (d) Clause 34.02 – Commercial 2 Zone;
 - (e) Clause 52.06 – Car Parking; and
 - (f) Clause 52.07 – Loading and unloading of vehicles.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic justification;
 - (b) Built form;
 - (c) On-site amenity;
 - (d) Off-site amenity;
 - (e) Traffic, access, bicycle parking and car parking reductions;
 - (f) Waste management; and
 - (g) Objector concerns.

Objector Concerns

4. Twenty nine (29) objections were received to the application, these can be summarised as:
 - (a) Excessive building height;
 - (b) Development would be out of character with the area;
 - (c) Visual bulk;
 - (d) Inadequate on-site parking and traffic impacts on the broader area;
 - (e) Overshadowing of neighbouring properties; and
 - (f) Overlooking from the upper level balconies.

Conclusion

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

CONTACT OFFICER: John Theodosakis
TITLE: Senior Statutory Planner
TEL: 9205 5307

1.2 12 - 18 Albert Street, Richmond - Planning Application No. PLN17/0284

Trim Record Number: D17/172097

Responsible Officer: Coordinator Statutory Planning

Proposal:	Development of the land for the construction of a seven-storey building, a reduction in the car parking requirement associated with offices and a food and drink premises - cafe (no permit required uses) and a waiver of the loading and unloading requirements.
Existing use:	Dwellings / commercial
Applicant:	Cremorne Properties Pty Ltd C/- Contour Consultants
Zoning / Overlays:	Commercial 2 Zone, Design and Development Overlay (Schedule 5) and City Link Project Overlay.
Date of Application:	10 April 2017
Application Number:	PLN17/0284

Planning History

1. There are no previous planning applications which are relevant to the proposed development.

Background

2. The application was lodged on the 10 April 2017. Following the submission of further information, the application was advertised and twenty nine (29) objections were received.
3. A consultation meeting was held on the 08 August 2017 and was attended by the applicant, objectors and council officers.
4. In response to the issues raised by council officers and objectors with regard to the perforation of the screen across the eastern interface, a 'Façade Concept Study' was emailed to Council on 20 September 2017 that provided further details (included as an appendix).
5. The concept study has not been formally introduced to the application material and has not been circulated to objectors, but will be utilised for discussion purposes through the body of this report and is included as an appendix.
6. In response to Council's Officer's request, updated shadow diagrams were emailed on 01 November 2017 confirming the extent of additional shadows cast to the east. These have been included as an appendix. It is highlighted that the additional shadow diagrams were submitted for clarity only and are not dissimilar in their impact to the shadow diagrams that formed part of the material previously advertised to surrounding neighbours.
7. The assessment undertaken in this report is based on the advertised material (received by Council 10 April 2017).

Existing Conditions

Subject Site

8. The subject site is located on the southern side of Albert Street, between Church Street to the west and Gibbons Street to the east. Gibbons Street runs adjacent to the rear (southern) boundary of the subject site and extending along the eastern boundary, intersecting with Albert Street at the north-east property boundary.

9. The site is rectangular in shape and comprises of the following titles.

Address	Title Vol/ Folio number	Easements or restrictions
12 Albert Street	Vol. 01783 Fol. 519	None
16 Albert Street	Vol. 01999 Fol. 652	None
18 Albert Street	Vol. 09937 Fol. 303	None

10. Combined, the site has a frontage to Albert Street of approximately 23.7m, a depth of 31m with a site area of approximately 734.7sqm.



11. The site is occupied by two, single-storey purpose-built dwellings (i.e. at property No's. 12 and 16 Albert Street) and a single-storey warehouse building (i.e. No. 18 Albert Street). Vehicle access is provided into a brick garage associated with No. 16 Albert Street from Gibbons Street at the rear, and from Albert Street into the commercial building at No. 18 Albert Street.

Surrounding Land

12. The subject site is located within a former industrial pocket in Richmond which is experiencing some built form change. Large office buildings have been constructed over recent years, with most industrial buildings in the immediate area converted into office and warehouse for retailing purposes. Albert Street contributes to the Church Street business/showroom precinct (located approximately 70m to the west) consisting of largely single and double-storey showrooms, office buildings, art galleries and motor repair workshops. The subject site is also located approximately 350m south of the Swan Street Major Activity Centre (MAC) that also provides access to a range of urban infrastructure, including shops and community services and public transport within easy walking distance.
13. The built form within the surrounding area varies substantially. To the east are largely single-storey residential buildings that are in the Neighbourhood Residential zone. Land to the north, west and south is zoned Commercial 2. Single and double-storey built forms surrounded by taller commercial buildings is an established theme within the surrounding streetscapes. Examples of this, is the existing five-storey building opposite Gibbons Street to the south and the seven-storey building with the large 'X' design detail fixed to it that faces Church Street. Landscaping does not make a significant contribution to the character along Albert Street.



14. To the north is Albert Street and on the opposite side are single and double-storey commercial buildings, with under-croft car parking areas and with crossovers that extend across their front boundaries. The buildings are of masonry construction and are hard-edged to the street. Albert Street itself contains on-street parking on both sides that is restricted.
15. To the immediate west are commercial buildings that are constructed of masonry and are generally single-storey. Typically these buildings are constructed to their front boundary and extend to the rear.
16. To the south is Gibbons Street and opposite is a hard-edged wall of a car park associated with a five-storey, mixed use building, which is built to all boundaries, fronting onto Church Street to the west.
17. To the east, on the far side of Gibbons Street are the secluded areas of private open space, including outbuildings of three dwellings facing Brighton Street. Brighton Street is mostly residential in nature, comprising a mix of single and double storey period dwellings (mostly Victorian and Edwardian) and infill residential development of varying eras. Richmond Primary School is located on the eastern side of the street and extends through to Mary Street, south-east of the site. To the immediate south of the three dwellings opposite, is an open air car park with a double-storey commercial building further south.

The Proposal

18. The proposed development is for a seven-storey office building, with a Food and Drinks Premises (café) at ground floor, reduction in car parking requirements and waiver of loading bay requirements. The key elements of the development can be summarised as follows:

Use

19. The building would contain 2804sq.m. of office floor area (no permit required use).
20. A 96sq.m. food and drinks premises is proposed at ground floor (no permit required use);

Building

21. The proposed building would contain the following:

Layout

- (a) A glazed ground floor would be provided to Albert Street, associated with a café that would occupy 96sq.m. of the ground floor area, and in part across the perimeter of the meeting areas associated with the office component to the north and east. Services, waste rooms, substation and a switch room are also located on the ground floor.

The recessed pedestrian entrance at the north-west corner of the ground floor would provide immediate access into a lobby with a double lift core and stairwell to the upper floors;

- (b) Vehicular access is provided to four car spaces, located in the rear setback to Gibbons Street and to the basement (also accessed via Gibbons Street to the south) that would accommodate seventeen (17) car spaces;
- (c) On-site bicycle parking is provided in the basement and on the ground floor (total of 29 bicycle spaces);
- (d) Office space is provided on the ground floor and across a further six levels with amenities positioned centrally along the western boundary;

Building Massing

- (e) A maximum building height of 26.2m high above the natural ground level;
- (f) A recessed ground floor to Albert Street of 3m; with cantilevering first and second levels setback 0.6m; the third through to the fifth levels setback 1.5m; and the sixth level setback 7m from the northern boundary;
- (g) The building would extend to the western boundary;
- (h) The building would extend to the eastern boundary at the ground floor and would be setback from the first through to the sixth floors between 1.15m and 15.11m. Terraces and balconies would extend into these setbacks;
- (i) The building would be constructed to the southern boundary with the upper-most level setback a minimum 2m;

Materials and Finishes

- (j) External walls would be constructed with light coloured concrete, masonry and perforated, metal panels with the upper portions of the building treated with dark perforated, metal frames;
- (k) The ground level would be recessive to the north with the upper two levels emphasised with a framing element; and
- (l) The eastern façade would include a large perforated screen that would be constructed to the boundary at the first and second levels and would be acutely angled as it progresses to the upper most level;

ESD Features

22. The proposed development would incorporate the following ESD commitments:

- (a) Access to natural ventilation through operable windows;
- (b) Exceed the minimum BCA/NCC energy efficiency standards;
- (c) A STORM report with a score of 125% which relies on 144sq.m. of roof connected to a 5,000lt water tank for flushing of all toilets;
- (d) A 6 kW solar PV array installed on the rooftop;
- (e) Energy efficient lighting systems; and
- (f) Water efficient fixtures throughout.

Planning Scheme Provisions

Zoning

Clause 34.02 – Commercial 2 Zone

23. Pursuant to Clause 34.02-1 of the Yarra Planning Scheme (the Scheme):

- (a) a planning permit is not required for the use of the land for offices; and

- (b) a 'Food and Drinks Premises' is a Section 1 – no permit required use unless the leasable floor area exceeds 100sq.m. The proposed food and drinks premises (cafe) has a floor area of 96sq.m. and does not require a planning permit.

24. For assurance, a condition will require the food and drinks premises (café) to be clearly delineated. This is to ensure that the café does not exceed the maximum area permitted that would otherwise require a planning permit (i.e. if at any point it exceeds 100sq.m.).
25. Pursuant to Clause 34.02-4 (buildings and works) of the Scheme, a planning permit is required to construct a building or construct or carry out works.

Overlays

Design and Development Overlay – Schedule 5

26. Under Clause 43.02 of the Scheme, a planning permit is not required for use of the land or buildings and works. The purpose of DDO5 is to ensure that the development of land around the City Link exhaust stack is not adversely affected by – and does not affect – the operation of the stack. The DDO5 triggers referral of development applications to CityLink, VicRoads and the Environmental Protection Authority.

City Link Project Overlay

27. Pursuant to Clause 45.07-6 of the Scheme, an application must be referred to the relevant Roads Corporate, in this instance, being VicRoads.

Particular Provisions

Clause 52.06 – Car parking

28. Clause 52.06-1 requires that a new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land.
29. A permit is required to reduce the number of car parking spaces required under this clause.
30. Before a requirement for car parking is reduced, the applicant must satisfy the Responsible Authority that the provision of car parking is justified having regard the decision guidelines at clause 52.06-6 of the Scheme.
31. The table below outlines the car parking requirements for the office and café facets of the development and the allocation of car parking which would be provided in association with each use.

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Reduction sought
Office	2900sq.m. net floor area	3.5 car parking spaces per 100sq.m. of net floor area	98	21	77
Food and Drinks	150sq.m. leasable floor area	3.5 car parking spaces per 100m ² leasable floor area	3	0	3
Total			101	21	80

32. A total of twenty one (21) car spaces are proposed on site, therefore the application seeks a reduction of seventy nine (80) car spaces.

Clause 52.07 - Loading and Unloading of Vehicles

33. Clause 52.07 of the Scheme states: no building or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless:
- (a) *Space is provided on the land for loading and unloading vehicles as specified in the table below.*
 - (b) *The driveway to the loading bay is at least 3.6 metres wide. If a driveway changes direction or intersects another driveway, the internal radius at the change of direction or intersection must be at least 6 metres.*
 - (c) *The road that provides access to the loading bay is at least 3.6 metres wide.*
34. The application has not proposed any loading facilities in association with the proposed café and accordingly a waiver is sought.

Clause 52.34 – Bicycle facilities

35. The purpose of the policy is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces. A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.
36. The table below outlines the bicycle parking requirements for the proposed uses:

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Reduction sought
Office	2900sq.m. net floor area	1 to each 300m ² net floor area (if the net floor area exceeds 1000m ²)	10	29	Surplus of 16
		1 visitor space to each 1000sq.m. of net floor area (if the net floor area exceeds 1000m ²)	3		
Food and Drinks	96sq.m. leasable floor area	N/A	N/A	N/A	N/A

37. As indicated in the table above, the proposal would provide a surplus of eleven (16) bicycle parking spaces above the requirements of this clause.

General Provisions

Clause 65 – Decision Guidelines

38. The decision guidelines outlined at clause 65 of the Scheme are relevant to all applications. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant State Planning Policy Frameworks, Local Planning Policy Frameworks and any local policy, as well as the purpose of the zone, overlay or any other provision.

State Planning Policy Framework (SPPF)

Clause 13.04-1 – Noise abatement

39. The objective under this clause is *'to assist the control of noise effects on sensitive land uses'*.

Clause 15.01-1 – Urban Design

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

Clause 15.01-2 – Urban design principles

41. Policy objective is *'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'*.

Clause 15.01-4 – Design for safety

42. The objective is *'to improve community safety and encourage neighbourhood design that makes people feel safe'*. The clause includes several strategies to achieve this objective.

Clause 15.01-5 – Cultural identity and neighbourhood character

43. The objective is *'to recognise and protect cultural identity, neighbourhood character and sense of place'*.

Clause 15.02-1 – Sustainable development: Energy and resource efficiency

44. The objective is *'to encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions'*.

45. The clause has the following strategies:

- (i) *Ensure that buildings and subdivision design improves efficiency in energy use.*
- (ii) *Promote consolidation of urban development and integration of land use and transport.*
- (iii) *Improve efficiency in energy use through greater use of renewable energy.*
- (iv) *Support low energy forms of transport such as walking and cycling.*

Clause 17.01-1 – Business

46. The objective is *'to encourage development which meets the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities'*.

Clause 18.02-2 – Cycling

47. It is an objective *'to integrate planning for cycling with land use and development planning and encourage as alternative modes of travel'*.

48. The clause includes several strategies to achieve this objective including requiring the provision of adequate bicycle parking and related facilities to meet demand at education, recreation, shopping and community facilities and other major attractions when issuing planning approvals.

Clause 18.02-5 – Car parking

49. The policy is relevant to the proposal because the application seeks a reduction in the standard car parking requirement of the Scheme. The objective is to ensure an adequate supply of car parking that is appropriately designed and located.

50. It is also required to allocate or require land to be set aside for car parking subject 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. Proposals are also encouraged to facilitate the use of public transport.

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement

51. The MSS provides a broad demographic overview of the municipality and is structured into four themes at clause 21.03 consisting of 'land use', 'built form', 'transport' and 'environmental sustainability'.

Relevant clauses are as follows:

Clause 21.04-3 – Industry, office and commercial

52. Within Yarra the volume of commercial and associated uses is so significant that they form clusters of interrelated activity. The commercial and industrial sectors underpin a sustainable economy and provide employment. Yarra plans to retain and foster a diverse and viable economic base. The objective of this clause is to increase the number and diversity of local employment opportunities.

Clause 21.05-2 – Urban design

53. The relevant Objectives of this Clause are:
- (a) *Objective 16 - To reinforce the existing urban framework of Yarra;*
 - (b) *Objective 17 - To retain Yarra's identity as a low-rise urban form with pockets of higher development:*
 - (i) *Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
 - *Significant upper level setbacks*
 - *Architectural design excellence*
 - *Best practice environmental sustainability objectives in design and construction*
 - *High quality restoration and adaptive re-use of heritage buildings*
 - *Positive contribution to the enhancement of the public domain*
 - *Provision of affordable housing.*
 - (c) *Objective 18 - To retain, enhance and extend Yarra's fine grain street pattern;*
 - (d) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric;*
 - (e) *Objective 21 - To enhance the built form character of Yarra's activity centres;*
 - (i) *Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form; and*
 - (ii) *Strategy 21.3 Support new development that contributes to the consolidation and viability of existing activity centres.*

Clause 21.05-3 – Built form character

54. New development must respond to Yarra's built and cultural character, its distinct residential 'neighbourhoods' and individualised shopping strips, which combine to create a strong local identity.

- (a) The general objective of this clause is to maintain and strengthen the identified character of each type of identified built form within Yarra.
 - (i) *Strategy 23.1 - Require applicants for planning permits to identify the Built Form Character Types in which the subject site is located by reference to Maps in clause 21.08 Neighbourhoods and to identify how the proposed development responds to the Built Form Character Type.*

Non Residential Areas

- (b) *Objective 27 - To improve the interface of development with the street in non residential areas.*
 - (i) *Strategy 27.1 - Allow flexibility in built form in areas with a coarse urban grain (larger lots, fewer streets and lanes); and*
 - (ii) *Strategy 27.2 Require new development to integrate with the public street system.*

Clause 21.05-4 Public environment

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

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

Clause 21.06-3 – The road system and parking

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

- (a) *To reduce the reliance on the private motor car; and*
- (b) *To reduce the impact of traffic.*

Clause 21.07 – Environmental sustainability

57. This clause seeks to promote ecologically sustainable development with the following strategies:

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

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

58. Figure 8 – Built Form Character Map under clause 21.08 of the Scheme identifies the subject site as being located in a non-residential area which includes the objective to:

- (a) *Improve the interface of development to the street.*

Relevant Local Policies

Clause 22.05 – Interface Uses Policy

59. Pursuant to Clause 22.05 of the Scheme, this policy applies to applications for use or development within Mixed Use, Business and Industrial Zones (amongst others). A relevant objective is *‘to ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity’*.

Clause 22.07 – Development abutting laneways

60. This policy applies to applications for development that is access from a laneway or has laneway abuttal. The objectives under this policy are:
- (a) *To provide an environment which has a feeling of safety for users of the laneway.*
 - (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
 - (c) *To ensure that where development is accessed off a laneway, all services can be provided to the development.*
 - (d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

Clause 22.10 – Built Form and Design Policy

61. Pursuant to Clause 22.10 of the Scheme, this policy applies to all new development that is not included within a heritage overlay. The policy comprises design elements to guide the scale, form and appearance of new development, of which the following are relevant to this application:
- (a) Setbacks and building heights;
 - (b) Street and public space quality;
 - (c) Environmental sustainability;
 - (d) On-site amenity;
 - (e) Off-site amenity;
 - (f) Landscaping and fencing; and
 - (g) Parking, traffic and access.
62. The policy has the following objectives:
- (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.*
 - (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) *Encourage environmentally sustainable development.*

Clause 22.16 – Stormwater Management

63. The objectives under this clause are:
- (a) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
 - (b) *To promote the use of water sensitive urban design, including stormwater re-use*

- (c) *To mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design for new development.*
- (d) *To minimise peak stormwater flows and stormwater pollutants to improve the health of water bodies, including creeks, rivers and bays.*
- (e) *To reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and well being.*

Clause 22.17 – Environmentally Sustainable Development

- 64. This policy applies throughout the City of Yarra to residential and non-residential development that requires a planning permit in accordance with the thresholds in Table 1 of this Policy.
- 65. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

Other documents

Swan Street Structure Plan

- 66. Council adopted the Swan Street Structure Plan (Structure Plan) at its Council meeting in December 2013. The intent of the Structure Plan is to be used as a guide for Council in the consideration of planning applications for new development in the area; and it will also be used to improve planning controls for the study area. At this stage, the Structure Plan does not form part of the Scheme.
- 67. Most recently (17 October), Council developed a design and development overlay which adopted changes to four of the precincts (all related to Swan Street and unrelated to the subject site) and moved a motion to put the Design and Development Overlay to exhibition if authorisation is received from the Minister for Planning.
- 68. The subject site is located within the Church Street Precinct (i.e. Precinct 9). Accordingly, the Built Form Map for Precinct 9 illustrates a preferred height of five to six storeys (19m) for the subject site. In terms of built form, the following objectives and strategies are of note in relation to use, built form, the public realm and access and movement:
 - (a) *To consolidate the Precinct's role as a location for office and showroom retail activities and employment;*
 - (b) *To provide a mixture of complementary activities that support the role and function of the precinct and add to the general amenity and improved activation of the area;*
 - (c) *To ensure built form provides passive surveillance of the street;*
 - (d) *To ensure new built form minimises off-site amenity impacts at the interface with existing residential areas;*
 - (e) *Promote public realm improvements through redevelopment opportunities; and*
 - (f) *To create a pedestrian and cycle friendly environment.*
- 69. The question of how much weight should be given to the Structure Plan, has been previously discussed in (March 2016) *429 Swan Street Pty Ltd v Yarra CC [2016] VCAT 370*. In summary, the Tribunal determined that only limited weight could be attributed to the Structure Plan, given:
 - (a) Uncertainty about the content of any amendment and whether there will ultimately be support for planning scheme provisions which translate to the Structure Plan;
 - (b) The surrounding context has changed since the development of the Structure Plan; and

- (c) Provisions in the Structure Plan relating to the subject land are inconsistent with the Yarra Planning Scheme regarding the projected height of development.

- 70. Furthermore, in paragraph 21 of the decision, Member Davies states '*my primary duty is to give effect to what is in the planning scheme*'...and '*I should give limited weight to the adopted Structure Plan, particularly its site-specific provisions*'.
- 71. On this basis, the Structure Plan cannot be relied upon to dictate a design response for redevelopment of the subject land. Nevertheless it is referenced as relevant.

Advertising

- 72. The application was advertised pursuant to Section 52 of the *Planning and Environment Act* 1987 (the Act), by way of 258 letters sent to adjoining and neighbouring owners and occupiers and notices displayed on site, at the Albert and Gibbons Street frontages.
- 73. A total of twenty nine (29) objections were made to Council, the grounds of which are summarised as follows:
 - (a) Excessive building height;
 - (b) Development would be out of character with the area;
 - (c) Visual bulk;
 - (d) Inadequate on-site parking and traffic impacts on the broader area;
 - (e) Overshadowing of neighbouring properties; and
 - (f) Overlooking from the upper level balconies.
- 74. A planning consultation meeting was held on the 08 August 2017 and was attended by the applicant, objectors and council officers.
- 75. In response to the issues raised by council officers and objectors with regard to the level of perforation of the screen across the eastern interface, a 'Façade Concept Study' was emailed to Council on 20 September 2017.

Referrals

External Referrals

- 76. Notice of the application was provided to VicRoads, the EPA and CityLink Transurban (being located within the Design and Development Overlay – Schedule 5). VicRoads and CityLink initially objected to the application and advised that the proposal had serious risk implications given its location above the CityLink tunnel. Transurban had been in contact with VicRoads over the need to submit geo-technical information in order to determine the impact this development will have on their assets.
- 77. The permit applicant has since provided a geotechnical report to VicRoads. VicRoads and CityLink have since withdrawn their objection and support the application subject to conditions (i.e. Condition 13).
- 78. The EPA also responded and did not raise any objection to the application.
- 79. A copy of the full referral comments has been included as an attachment to this report.

Internal Referrals

- 80. The application has been referred to council's Traffic Engineering Unit, Waste Management and ESD advisor. The comments are generally supportive but with several recommendations for changes. These comments have been included as an attachment to this report.

81. The application was also referred to Council's Urban Design Unit who raised several concerns that will be addressed in the body of the assessment. These comments have been included as an attachment to this report.

OFFICER ASSESSMENT

82. The primary considerations for this application are:

- (a) Strategic justification;
- (b) Built form;
- (c) On-site amenity;
- (d) Off-site amenity;
- (e) Traffic, access, bicycle parking and car parking reductions;
- (f) Waste management; and
- (g) Objector concerns.

Strategic justification

83. The subject site is located within a Commercial 2 Zone (C2Z) which has the objective of encouraging development of commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.
84. An office use and the food and drinks premises (café use that is less than 100sq.m.) do not require a planning permit in the C2Z (indicating strong strategic support); however the construction of buildings and works does.
85. In regards to the proposed building and works, State and Local policies encourage the concentration of development in and around activity centres and intensifying development on sites well connected to public transport to ensure efficient use of existing infrastructure. While it is not relied upon, Council's Swan Street Structure Plan provides further specific guidance for the preferred direction for land use and development on the subject site and the surrounding land, which reinforces current State and Local policy to increase the number and diversity of employment opportunities within and around activity centres.
86. The application proposes the construction of a seven storey, office building on a site which is currently underutilized in an area identified for increased development under the Swan Street Structure Plan. The proposal is highly consistent with the purpose of the zone and strategic intent for this area that seek to encourage intensification of commercial uses and provision of diverse employment opportunities.
87. The site is well connected to public transport infrastructure being in proximity to train and tram services along Swan Street, and tram services along Church Street, hence encouraging the use of alternative modes of transport to and from the site rather than reliance on motor vehicles, are encouraged by clauses 18.02 – *Movement Networks*; 21.06-3 – *The Road System and Parking*; and 21.03 – *Vision of the Scheme*.
88. While there may be strong strategic direction for intensified development and car parking reductions within the subject site, the built form policy and direction under clauses 22.05 – *Interface uses* and 22.10 - *Built Form and Design Policy* of the Scheme also outline that consideration must be given to the design of the building and its interfaces with the surrounding area.

Built form

89. The relevant permit trigger for the development is the Commercial 2 Zone, and the primary considerations for the proposed development are the decision guidelines at clause 34.02-7 – *Decision Guidelines*. Furthermore, the urban design assessment for this proposal is guided by State and Local policies at clauses 15.01-2 - *Urban design principles*; 21.05 - *Urban design*; 22.05 - *Interface uses policy*; 22.10 - *Built form and design policy*.

90. These provisions and guidelines seek a development that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations of the area. Particular regard must be given to the height and massing, street setbacks, relationship to adjoining buildings, and existing context.

91. Consideration of the built form and design is assessed under the following headings:

Context

92. The existing character of the surrounding area is predominantly one and two storeys in height with taller built forms interspersed. Most commercial buildings are hard edged to the street.

93. The direct interfaces to the subject site includes blank walls of one and two-storey commercial buildings, with dwellings on the opposite side of Gibbons Street to the east and a five-storey commercial building on the opposite side of Gibbons Street to the south.

94. The subject site, together with land on the opposite side of Albert Street, to the south and west is zoned Commercial 2. The purpose of this zone includes '*to encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services*'.

95. Single-storey dwellings are located to the east and north-east of the site and two-storey, hard-edged warehouse / commercial buildings are to the west and north fronting onto Albert Street. The subject site includes two, purpose-built dwellings that will be demolished (no permit required for demolition). The purpose-built dwellings on the subject site are anomalous to the zoning of the land, which prohibits 'accommodation' and the proposal is considered to be an improvement in this regard. The proposal would adhere to the zoning of the land through the development of the site with commercial uses which are as-of-right to the zone (i.e. a food and drinks premises (café) and office).

96. The proposed seven storey building would be taller than the buildings immediately interfacing the site and those in the broader area. However this is consistent with the strategic direction provided by policy in this area.

97. Given the site's commercial zoning it is expected that higher built form than the residential areas to the east will occur, especially if development is to achieve State and Local strategic policy of increased development and employment opportunities near activity centres and public transport as outlined earlier in this report. While this may be the case, the site's context requires careful consideration with the interplay with residential areas/interfaces to the east and built form objectives for the presentation to Albert and Gibbons Streets important.

Height, scale and massing of the development

98. It is important for any assessment of building height and neighbourhood character to balance the range of influencing factors affecting this area, including policy provisions, existing height characteristics of nearby built form and preferred future character development of the area.

99. The Scheme provides guidance to assist in determining whether the proposed height is acceptable within the site context. In relation to the SPPF, building heights are best derived from specific design objectives; the aspirations for urban consolidation and issues of minimising adverse off-site amenity impacts rather than outlining arbitrary height limits.
100. With regard to policy direction under the Scheme, clause 21.05 – *Urban Design* contains Objective 17: *to retain Yarra's identity as a low-rise urban form with pockets of higher development*.
101. Strategy 17.2 reads as follows:
 - (a) *Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
 - (i) *Significant upper level setbacks*
 - (ii) *Architectural design excellence*
 - (iii) *Best practice environmental sustainability objectives in design and construction*
 - (iv) *High quality restoration and adaptive re-use of heritage buildings*
 - (v) *Positive contribution to the enhancement of the public domain*
 - (vi) *Provision of affordable housing*
102. Based on the policy above, the proposed development must be able to demonstrate specific benefits to gain policy support for a height which is more than six (6) storeys.
103. It is considered that the height for the proposed building can be supported in light of the policy guidance under Strategy 17.2 with the development proposing significant upper-level setbacks, architectural design excellence, best practise ESD outcomes and positive contributions to the public realm as follows:
 - (a) The proposed building would provide significant upper level setbacks from the third level through to the sixth level that range between 2.87m and 15.1m from the eastern boundary (i.e. the most sensitive interface). The sixth level, being the upper-most level would be set back 15.1m from the eastern boundary and 7m from the Albert Street frontage and would therefore have a smaller floor template than the levels below and therefore presents as a recessive 'cap' on the western side of the building;
 - (b) The development is considered of high architectural quality and in that regard responds to the design objectives at clause 15.01-2. The contemporary design is appropriate and responds well to this part of Richmond which is growing;
 - (c) Council's ESD advisor has commented that the application largely meets council's best practise standards for ESD outcomes, and any deficiencies and outlined later in this assessment can be addressed by condition; and
 - (d) The design detail and overall choice of materials are supported, given the generous void ratio to Albert Street, varied approach to the façade with ground level, shop-front windows and horizontal louvers and sunshades that would extend at the upper levels and emphasising framing elements that would divide the building into three components, thus making a positive contribution to the public realm, and particularly to Albert Street which is the primary frontage.
104. These elements will be expanded upon in the following sections of this report, but indicate that the height of the proposed building is supportable at seven storeys under the policy direction at clause 21.05 of the Scheme. Furthermore, the Tribunal (*Rowcliffe Pty Ltd v Stonnington CC* [2004] VCAT 46 (29 January 2004)) has previously stated:
 - [54] If mere visibility becomes the test across metropolitan Melbourne, then it will be virtually impossible to construct buildings above the prevailing scale. This, in turn, would render it impossible to achieve the clearly stated urban consolidation objectives expressed in the Planning Scheme, objectives which Clause 11 requires us "to give effect to". The Tribunal rejects the notion that, because some of the buildings would be visible above the existing built form, they are therefore unacceptable.

Rather, the test is whether the proposal is complementary to the surrounding area, and of a scale that can be assimilated without unreasonably disturbing the surrounding built environment.

105. With the above in mind, the proposal creates a façade that will be six-storeys with a recessive upper level to Albert Street and whilst greater in height than most surrounding buildings, the broader area is seeing substantial change in terms of taller built forms. It is considered that the design has been well considered in relation to its context, by pushing the taller section to the west and reducing the wall height to 12m across the eastern boundary, clearly marking this section as the end of the Commercial 2 zone.
106. To the north, the ground level would be setback 3m and the first and second levels would cantilever above and would be setback 600mm. The first and second levels would be framed to give the impression of a three-storey podium, reducing the development to a human scale when viewed from Albert Street. This is considered to achieve the policy direction under clause 22.10-3.4 – *Street and Public Space Quality* of the Scheme which requires developments to provide pedestrian/human scaled designs at street level. It suffices to state that there is no reason to indicate that a three-storey podium effect is unacceptable in this particular instance, where there is policy direction for a more robust design approach and taller building.
107. Council's Urban Designer found the 1.5m front setbacks of the levels above the podium to be insufficient and recommended a setback of a minimum of 3m to provide a more recessive approach. However, the surrounding physical context can comfortably absorb the height and setbacks without appearing dominating and creating visual bulk. Additionally, these levels above the podium have been softened through the adopted glazing. The three-storey podium is also emphasised with a framing element at the first and second levels that will assist in creating a visual connection at the lower levels to the surrounding streetscape. The horizontality of the podium will assist in blending the proposal into the surrounding neighbourhood at the lower levels and the overall choice in materials combined with the design is considered to provide a high standard of architecture.
108. To the south, the development would extend to the boundary at the first through to the fifth levels and would be setback 2m at the sixth level. Council's Urban Designer recommended the adoption of a minimum 2m setback above the first three levels and identified Gibbons Street as a pedestrian thoroughfare. However, in the absence of a footpath, with similar characteristics to a laneway; with the hard-edged interface of the five-storey building opposite; and with surrounding car spaces; the presentation of the building to the south, with vehicle access to under-croft car and bicycle spaces and the access ramp to the basement, can be supported.
109. The development would be developed to the western boundary and would be five-storeys taller than the adjoining built-form, however the adjoining site is also zoned Commercial 2, and is subject to the same controls, and is not a sensitive interface.
110. To the east, where the development interfaces the Neighbourhood Residential Zone, the development has adopted a recessive design with setbacks that range between 1.15m and 15.11m with a screening device that would extend into these setbacks along the boundary up to the first three levels before angling away. This is considered to be an appropriate response to this side as the setbacks at the upper levels are generous and would reduce the visual massing of the development to the east. Gibbons Street also continues along the eastern perimeter of the subject site and provides a further 3.96m distance from the rear boundaries of dwellings fronting onto Brighton Street.
111. Overall, it is considered that the development is massed so that it appropriately references its surrounding context. The development would also use materials that include light coloured concrete, masonry and perforated metal panels with the upper portions of the building treated with dark perforated, metal frames that are of a good quality.

It is also worth highlighting that the subject site and properties within the Commercial 2 Zone are not covered by a Heritage Overlay and therefore the policy direction at clause 21.05 of the Scheme which calls for higher built form outcomes are not as tempered as other sections where a more curtailed approach is required (i.e. properties fronting onto Brighton Street, zoned Neighbourhood Residential and in a Heritage Overlay).

The Public Realm & Pedestrian spaces

112. The interface of the building to Albert Street and the extensive glazing to the northern elevation and in part across the eastern elevation associated with the Food and Drinks premises (café) and a section of the office at the ground floor would substantially contribute to (and improve) surveillance and activation of Albert and Gibbons Street. This outcome is encouraged within commercial areas, as outlined as a decision guideline of the zone at clause 34.02-7 and under the policy direction at clause 22.10-3.4 of the Scheme. The building is also designed with cantilevered upper levels to Albert Street, to provide weather shelter outside of the subject site which in conjunction with the use of the ground floor premises for a food and drinks premises (café) would improve the level of interaction and pedestrian experience between the subject site and the street.
113. Council's Urban Designer provided comments of support in relation to the method of activation to Albert Street, but raised concerns in relation to the under-croft car spaces at the rear to Gibbons Street. However, Gibbons Street is commonly used as a vehicle access point by other properties and this forms part of its character. As such, there is no concern with the location of the under-croft car spaces in this location.

Landmarks, Views and Vistas

114. It is policy at clause 15.01-2 of the Scheme that important landmarks, views and vistas be protected or enhanced, or where appropriate, created by new additions to the built form. The proposed development does not compete with any identified landmarks given its location and is considered to be an acceptable response to the policy direction under clause 22.03-4 of the Scheme. The proposed building would not result in the loss of any significant view lines to heritage buildings and/or landmarks.

Consolidation of Sites and Empty Sites

115. The subject site is somewhat under-utilised and provides two purpose-built dwellings and a warehouse that will be replaced with built form that is encouraged by the policy within the Scheme as discussed in this report and where hard edged development to the street is a desired outcome (as identified under clause 21.08 of the Scheme).

Light and Shade

116. Due to the north-south orientation of the site the proposed development would result in overshadowing to Gibbons Street to the south, and east (including the secluded areas of private open space associated with the dwellings to the east and the open-air car park to the south-east, fronting onto Brighton Street that will be discussed later in this assessment). While this may be the case, the level of shadowing cast by the proposed development is acceptable given that Gibbons Street is largely used by vehicles and is not a street that encourages pedestrians to congregate. The shadow would extend over Gibbons Street, and across the wall associated with the car park to the five-storey building opposite that is hard-edged to Gibbons Street.
117. The subject site is located in a commercial location and some degree of overshadowing is inevitable due to the hard-edge built form character which has been established. It is considered that the shadowing from the development would not affect the usability of the public realm and the amount of overshadowing to Gibbons Street is considered to be reasonable.

Energy and Resource Efficiency

118. The proposed development includes commitments to exceed the minimum BCA energy rating requirements by incorporating energy and water efficient appliances; and through the provision of water tanks to reticulate stormwater in the toilet facilities. The design of the building also accommodates window openings that will allow for cross-ventilation.
119. While outlining that the project largely meets Council's best practise ESD standard, council's ESD advisor has recommended some changes to ensure the building is designed appropriately with regard to energy efficiency.
120. These comments from council's ESD advisor are considered to address the requirements of the policy under clause 22.16 – *Stormwater Management* and clause 22.17 – *Environmentally Sustainable Development*. The following section of this report will address each of these issues:
- (a) *All bicycle racks appear to be hanging. Please include at least 20% 'on-ground' bike racks inline with AS2890.3.*
 - (i) This will be addressed with a condition.
 - (b) *Hot water system type unknown. Please indicate what type of hot water system will be specified.*
 - (c) *Please check the WMP to ensure that the waste management provisions are sufficient.*
 - (i) A condition will require the submission of an amended SMP that will include the details of the hot water system. A WMP was provided by the permit applicant that was reviewed by Council's Waste Management Advisor who provided comments of support.
 - (d) *Consider providing facilities for electric vehicle charging.*
 - (e) *Consider using low-VOC adhesives, sealants as well as floor/wall/ceiling coverings.*
 - (f) *Consider a % reduction of Portland cement and substitution with industrial waste aggregate or other.*
 - (i) Points 'd' to 'f' above have been suggested by council's ESD advisor as opportunities for improvement to energy efficiency outcomes within the development. While these specific points would provide improvements it is considered onerous to require these particular points in light of the fact that the building is already designed to exceed the minimum BCA energy rating requirements as a whole.
121. Overall, it is considered that subject to the conditions discussed above, the proposed development would achieve best practice in environmentally sustainable development in accordance with the overarching objectives under clause 22.17 – *Environmentally Sustainable Development* of the Scheme.

Site Coverage

122. The proposal occupies 100% of the site area, resulting in a higher level of site coverage from that of the existing conditions.
123. While this may be the case, full site coverage is considered to be appropriate and consistent with the commercial character of the wider area that accommodates predominantly hard-edged built form with little or no areas of open space or landscaping.

Architectural Quality

124. The development is considered of high architectural quality and in that regard responds to the design objectives of clause 15.01-2 of the Scheme. The contemporary design is appropriate and responds well to this part of Richmond where it is sandwiched between an evolving commercial area to the west and south and a more sensitive residential interface to the east. The proposed design is offering a modern built form that revitalises the street frontage by activating this with a food and drinks premises (café) and provides articulation and activation through the inclusion of windows, balconies and the clear glazing above the podium level.
125. The screening element across the eastern interface varies in terms of its perforation and provides an appropriate design response to the surrounding commercial area whilst acknowledging the sensitive interface to the east, and screening the upper level balconies. A condition of permit will also require the elevations and floor plans to reflect the perforated screen detail across the eastern elevation in accordance with the Façade Concept Study' received by Council on 20 September 2017 that was submitted to provide some clarity on the detail and degree of perforation.
126. The western elevation requires further articulation until such time as the adjoining property is developed (as would be anticipated and encouraged by policy), this elevation would present a blank masonry wall with no articulation. As such, a condition will require this wall to provide visual interest and articulation with colours and/or materials.
127. Overall it is considered that the proposed development (subject to appropriate conditioning of the western elevation) would achieve a high level of architectural quality. It provides appealing aesthetics by contributing to and improving the streetscape through an active frontage and use of high quality materials, that will be further improved visually to the west with a condition. A condition will also require the ongoing engagement of Bates Smart (or an architectural firm to the Council's satisfaction) to ensure that the level of architectural quality is sustained.

On-site amenity

128. In accordance with the design objectives of the On-site Amenity heading outlined in Clause 22.10 of the Scheme, the office building has been designed to include appropriate services for future users. In addition, the design incorporates openings to all four elevations, including balcony areas to the east and a large terrace at the sixth level allowing daylight/solar access and ventilation and recreation areas available to staff. Each floor level would be provided with service amenities and accessible to staff with lifts and a stairwell.
129. The proposed design response and site coverage negates the need for any landscaping or fencing, which is appropriate within the commercially zoned site context of Albert Street and provides bicycle parking in excess of the requirements at Clause 52.34 of the Scheme. The development would also provide 21 on-site car spaces in a basement that has also been adequately designed.

Off-site amenity

130. The policy framework for external amenity considerations is contained within Clauses 22.10-3.8 – (*Off-site amenity*) and 22.05 - *Interface uses policy*. Clause 22.10-3.8 - *Off-Site Amenity* outlines objectives and decision guidelines for considering whether a development has adequate regard to the site's context and surrounding pattern of development. Following is an assessment of the development against the potential off-site amenity impacts.

131. The subject site is zoned Commercial 2, as are the properties to the north (opposite Albert Street) west, and south (opposite Gibbons Street). Sites to the east are in the Neighbourhood Residential Zone (Schedule 1). The nearest residences are the dwellings to the east, immediately opposite Gibbons Street. These are the sensitive interfaces that will be considered.

132. The appropriateness of amenity impacts (i.e. noise, visual bulk, overlooking and overshadowing) need to be considered within their strategic context, with the site being located within a Commercial 2 Zone. This issue is further discussed within the Tribunal matter of *Calodoukas v Moreland CC* [2012] VCAT 180:

[13] ...owners of residential properties next to a business or industrial zone cannot realistically expect the same level of residential amenity as someone residing in the middle of a purely residential area. Similarly, owners of commercial or industrial sites abutting residential properties cannot expect the same opportunities as owners of sites well removed from residential areas.

133. With the above in mind the following assessment is provided:

Noise

134. Policy at Clause 22.05 – *Interface uses* of the Scheme seeks to ensure new commercial development is adequately managed having regard to its proximity to residential uses.

135. The proposal is unlikely to result in unacceptable noise emissions to the nearby residential properties given the majority of the building would be used for offices. Furthermore, the majority of the office space is enclosed and the use will be conducted indoors. As the office use does not require a planning permit, there is no further control that can be applied in regards to this. Similarly the food and drinks premises (café) is also a no-permit required use because it is less than 100sq.m.

136. The location of services/plant equipment is shown adjacent to the western boundary at the sixth level (19.6m west of the residential land to the east) which abuts commercial premises within the neighbouring building. A condition will require that the noise and emissions from plant equipment comply at all times with the State Environment Protection Policy – *Control of Noise from Commerce, Industry and Trade* (SEPP N1).

137. In light of the above it is considered unlikely that the use of the building would result in any unreasonable amenity impacts to the surrounding area, including the residential area to the east.

Visual bulk

138. With the north, west and southern interfaces with the subject site being to commercial premises, these interfaces would not be subject to unreasonable visual bulk impacts with the height of the proposed building facing onto roofed areas of adjoining commercial premises or the five-storey wall of the building to the south, or hard-edged commercial buildings on the opposite side of Albert Street to the north.

139. The primary consideration with regards to visual bulk is the appearance of the building to the east where dwellings on the opposite side of Gibbons Street have westerly views. The development has adopted a recessive design approach to the east with setbacks from the first through to the sixth floors that range between 1.15m and 15.11m, and has applied an aluminium screen across the eastern elevation with interesting design detail and degree of perforation. The building will provide a three-storey podium to the east, separated a minimum distance of 3.96m from the rear boundaries of the properties opposite (i.e. as measured to the edge of the screen combined with the width of Gibbons Street) with the upper levels separated 5.96m at the third level, 6.96m at the fourth level, 11.44m at the fifth level and 14.9m, at the sixth level.

The ground floor is articulated with windows, and service openings that combined with the interesting design detail of the perforation to the screen above will reduce the visual impact.

Overlooking

140. The design detail applied to the screen that includes transparency of up to 25% at the first and second levels and between 45% to 80% at the upper levels (i.e. where this is acutely angled), will screen the upper level balconies and prevent unreasonable overlooking into the secluded areas of private open spaces of the dwellings opposite.
141. The method of screening also complies with policy under clause 22.05 – *Interface Uses Policy* that contains the direction to: *Minimise the potential for unreasonable overlooking of private open space areas and into habitable room windows of adjoining residential properties, through the use of appropriate siting, setbacks, articulation and possibly screens.*
142. Overall, it is considered that the interface between the proposal and the secluded areas of private open spaces of dwellings to the east would not be unreasonable with the physical buffer already provided by Gibbons Street further justifying the design response.
143. Given that the subject site and remaining interfaces with commercial land uses, the proposed building is considered to avoid unreasonable impacts for the reasons outlined above.

Overshadowing

144. The proposed development would increase the shadow impact into the secluded areas of private open spaces of the dwellings opposite Gibbons Street to the east. Revised shadows that provide a clear analysis of the increased shadow impact into the secluded areas of private open space at the equinox were emailed to Council on 01 November 2017 (included as an appendix). These indicate that there would be an increase to the existing shadows between 1.30pm and 3pm at the equinox (September 22nd). The additional impact limited to the two afternoon hours at the equinox, is considered reasonable when having regard to the site's inner city context and policy support for a taller built form on the subject site.

Traffic, access, loading and car parking reductions

145. Clauses 18.02-5 - *Car parking*, 21.06 - *Transport*, and Clause 52.06 - *Car parking*, of the Scheme will be used to frame this car parking assessment for the proposed development.
146. Before a requirement for car parking is reduced (including reduced to zero), the applicant must satisfy the Responsible Authority that the provision of car parking is justified having regard to an assessment requirements of Clause 52.06-6. A car parking reduction is considered to be justified in this instance based on the above decision guidelines for the following reasons:

Car parking demand:

147. Council's Traffic Engineering Unit have indicated that the proposed office would have a car parking provision rate of 0.75 spaces per 100 square metres (21 on-site spaces for 2,804 square metres of floor area) and have identified a nearby development at 33 Balmain Street, Cremorne, that was approved with an on-site car parking provision of 0.78 spaces per 100 square metres with an office floor area of 1,788sq.m. with 14 on-site car parking spaces (Planning Permit PLN15/0309 issued on 21 October 2015).
148. Council's Traffic Engineering Unit are satisfied that the office parking rate of 0.75 spaces per 100sq.m. for the proposed development is appropriate given the site's excellent accessibility to public transport services.

The availability of car parking in the surrounding area:

149. Directly in front of the site along Albert Street there are only two on-street car parking spaces available, with on-street parking within the surrounding street network being occupied at high rates with 2P restrictions.
150. It is noted to detail that the removal of the existing vehicle cross-overs into Albert Street would provide additional on-street car parking directly in front of the subject site.

The availability of public transport in the locality and convenient access:

151. The subject site is well connected to public transport being closely located to the Swan Street Major Activity Centre (MAC) and 70m east of Church Street that provide tram services, including within easy walking distance of two train stations.
152. These public transport services are all in ready walking distance of the subject site and provide viable transport options in north-south and east-west corridors. Reducing the rate of car parking provided for an office use based on the surrounding transport options is also generally in line with the policy direction under clause 21.03 – *Vision (Transport)* which states that in the City Of Yarra in 2020, *most people will walk, cycle or use public transport for the journey to work.*

State and Local Policy consideration:

153. Encouraging the use of public transport as well as walking and cycling as modes of transport is central to Council's policy objectives relating to sustainable transport. Forcing developments to provide additional parking, as set out in the Scheme, will not provide any encouragement towards achieving the objectives of sustainable transport that are outlined in clauses 18.02 and 21.06 of the Scheme.

Traffic and local amenity:

154. The reduced rate of on-site car parking will mean a reduced impact on traffic within the surrounding street network, which is considered a positive outcome in an area that is already experiencing significant traffic and parking congestion.
155. The level of traffic generated by the proposed development within Albert Street is suggested to be in the order of eleven (11) vehicle movements during the peak commuter periods. The findings in the traffic report were reviewed by Council's Engineer who responded favourably.
156. With the above comments in mind, it is considered that the level of traffic which would be associated with the proposed development would be catered for by the existing road networks without unreasonable traffic impacts to the surrounding area.
157. In conclusion and with the above in mind, the reduction in the car parking requirement being sought is considered appropriate for the following reasons:
 - (a) For the food and drinks premises (café) dedicated off-street parking for customers and patrons is not usually provided for these types of uses in Yarra and areas of inner metropolitan Melbourne and it is highly likely that it would attract people who work or reside locally.
 - (b) For the offices:
 - (i) The subject site has good access to public transport facilities with established tram routes, and is in easy walking distance of many retail outlets, restaurants and cafes and various other facilities and resources;

- (ii) Resident, employee or visitor permits will not be issued for the development, which will encourage employees to use alternative modes of transport which is a welcomed sustainable option in lieu of on-site car parking and consistent with local policy such as Clause 21.06; and
- (iii) A further benefit of not providing all required on-site car spaces is that pressure on traffic and congestion is not exacerbated through the provision of more car spaces.

Car park design:

- 158. Clause 52.06-8 (Design standards for car parking) of the Scheme relates to the design of car parking areas and contains 7 standards and requirements relating to access way, car parking spaces, gradients, mechanical parking, urban design, safety and landscaping.
- 159. These details, along with the proposed ramp design have been reviewed by council's Traffic Engineering Unit who are generally satisfied with the layout of the vehicle access arrangements. Council's Engineer has requested that the plans be revised to include additional details that also include a ground clearance check for the length of the ramped access-way and the profile of Gibbons Street (directly in front of the access-way). A condition will address this.
- 160. Council's Engineer has also requested the installation of a convex mirror on the column between parking spaces 2 and 3 on the ground floor to improve the visibility for a motorist when exiting car parking space 1. This will also be requested through a condition.
- 161. Overall, the proposed reduction in car parking numbers and design and configuration of access and car parking areas are considered to achieve a satisfactory outcome.

Green Travel Plan (GTP)

- 162. The permit applicant has also submitted a GTP that will be endorsed as part of the material. A condition has been included requiring the provisions, recommendations and requirements of the GTP to be implemented and complied with.

Bicycle parking

- 163. The development would provide bicycle parking, with most securely provided in the basement. The bicycle spaces to Gibbons Street would be located in a secure location and will be subject to a condition requiring that *at least 20% of these bicycle spaces are 'on-ground' bike racks in line with AS2890.3* (as requested by Council's ESD advisor).
- 164. The number of bicycles provided exceed the requirements of the Scheme with the, further complying with the objectives under clause 22.10-3.7 of the Scheme.

Loading bay

- 165. The waiver of an on-site loading bay has been reviewed by council's Traffic Engineering Unit who offered no objection to this aspect of the proposed development.
- 166. The closest loading bay is located on the eastern side of Church Street, just south of Gibbon Street that could also be used by the site if necessary.

Waste management

- 167. This WMP has been reviewed by council's Waste Management Unit who have provides comments of support.

Objector concerns

168. Objector concerns have been addressed within the body of this report, the following section provides a summary of the assessed outcomes discussed earlier:

Excessive building height

- (a) The height of the proposed building has been assessed as an appropriate response to the context of the subject site and with regards to its sensitive interfaces earlier in this report under paragraphs 98 to 111 and found to achieve an acceptable outcome.

Development would be out of character with the area

- (b) The proposed development has been assessed against the relevant character policies of the Scheme earlier in this report under paragraphs 98 to 111 and found to achieve an acceptable outcome.

Visual bulk;

- (c) Visual bulk impacts with sensitive interfaces to adjoining lots has been assessed earlier in this report under paragraphs 138 to 139 and found to achieve an acceptable design response.

Inadequate on-site parking and traffic impacts on the broader area

- (d) Issues relating to car parking have been assessed earlier in this report under paragraphs 145 to 161 and found to achieve an acceptable outcome.

Overshadowing of neighbouring properties

- (e) Overshadowing has been addressed at paragraph 144.

Overlooking from the upper level balconies.

- (f) Overlooking has been addressed at paragraphs 139 to 142.

Conclusion

169. The proposal is considered to be acceptable having regard to the relevant State and Local policies, the Commercial 2 Zone and relevant Particular Provisions under the Yarra Planning Scheme as outlined in the above assessment and should therefore be approved, subject to conditions.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN17/0284 for the development of the land for the construction of a seven-storey building, a reduction in the car parking requirement associated with offices and a food and drink premises - cafe (no permit required uses) and a waiver of the loading and unloading requirements at 12 – 18 Albert Street, Richmond subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans received by Council on 10 April 2017 but modified to show:

- (a) Any requirement of the VicRoads endorsed Engineering report (Condition 13) (where relevant to be shown on the plans) and consistency with the VicRoads approved plans as required by 14;
 - (b) The perforated screen detail across the eastern elevation in accordance with the Façade Concept Study' received by Council on 20 September 2017;
 - (c) The ground floor plan clearly delineating the food and drinks premises (café) and the office area;
 - (d) The entrance ramp width, headroom clearances, "parallel space" dimensions, and the column setbacks, depths and clearances to the walls of the basement car park annotated;
 - (e) The installation of a convex mirror on the column between parking spaces 2 and 3 on the ground floor to improve the visibility for a motorist when exiting car parking space 1;
 - (f) Any requirement of the endorsed Sustainable Management Plan (condition 3) (where relevant to be shown on the plans); and
 - (g) A schedule of materials (and the relevant elevations updated) that includes a combination of colours and materials to the west-facing, on-boundary wall to break up its visual bulk.
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Sustainable Management Plan

3. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Waterman AHW Pty. Ltd. prepared on 29 March 2017, but modified to include or show:
- (a) at least 20% 'on-ground' bike racks in line with AS2890; and
 - (b) the type of hot water system.
4. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

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

Road Infrastructure

6. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
7. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all building works and connections for underground utility services outside the building's frontage must be reconstructed:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

8. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
9. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority the relocation of any service poles, structures or pits necessary to facilitate the development must be undertaken:
 - (c) at the permit holder's cost; and
 - (d) to the satisfaction of the Responsible Authority.

Car parking

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

to the satisfaction of the Responsible Authority.

Green Travel Plan

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

VicRoad's Conditions

12. Prior to the endorsement of any development plans, excluding demolition works, an Engineering report from a suitably qualified Engineer outlining the design, management and construction techniques to be implemented prior, during and following excavation to prevent any impact on the City Link / Burnley Tunnel is to be submitted to VicRoads for approval. Once approved, the Engineering Report will form part of the planning permit. Without limiting the scope of the report, it must consider all relevant structural and geotechnical issues, including, but not limited to, demonstrating:
 - (a) That the development will not compromise the structural integrity of the City Link / Burnley Tunnel;
 - (b) What is the load applied to the ground by the development;
 - (c) That the development will not cause changes to groundwater conditions that will result in adverse effect on the tunnel;
 - (d) Any holding points requiring VicRoads inspection and approval prior to releasing the hold points.
13. Before the development commences, excluding demolition works, detailed design drawings must be submitted to and approved by VicRoads. When approved by VicRoads, the drawings may be endorsed by the Responsible Authority and will then form part of the permit. The drawings must be drawn to scale with dimensions and three copies must be provided. The drawings must show:

- (a) All excavation, loading and footing details must accord with the approved Engineering Report described at the condition above;
 - (b) Excavation depths to be shown at Australian Height Datum (AHD);
 - (c) All sub surface basement levels to be shown at AHD on floor plans and elevation plans.
14. All design, excavation and construction must accord with the approved Engineering Report described at Condition 13 (above).
15. The layout of the site and the size, levels design and location of buildings and works which may impact CityLink/Burnley Tunnel must not be modified without the prior written consent of VicRoads.

Lighting

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

General

17. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
18. As part of the ongoing progress and development of the site, Bates Smart or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.
19. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
20. The development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
22. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
23. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
24. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

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

Construction Management

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

- (iv) fitting pneumatic tools with an effective silencer;
- (v) other relevant considerations; and
- (q) any site-specific requirements.

During the construction:

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

Time expiry

27. This permit will expire if:

- (a) the development is not commenced within two years of the date of this permit; or
- (b) the development is not completed within four years of the date of this permit.

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

Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5585 to confirm.

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

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

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

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

CONTACT OFFICER: John Theodosakis
TITLE: Senior Statutory Planner
TEL: 9205 5307

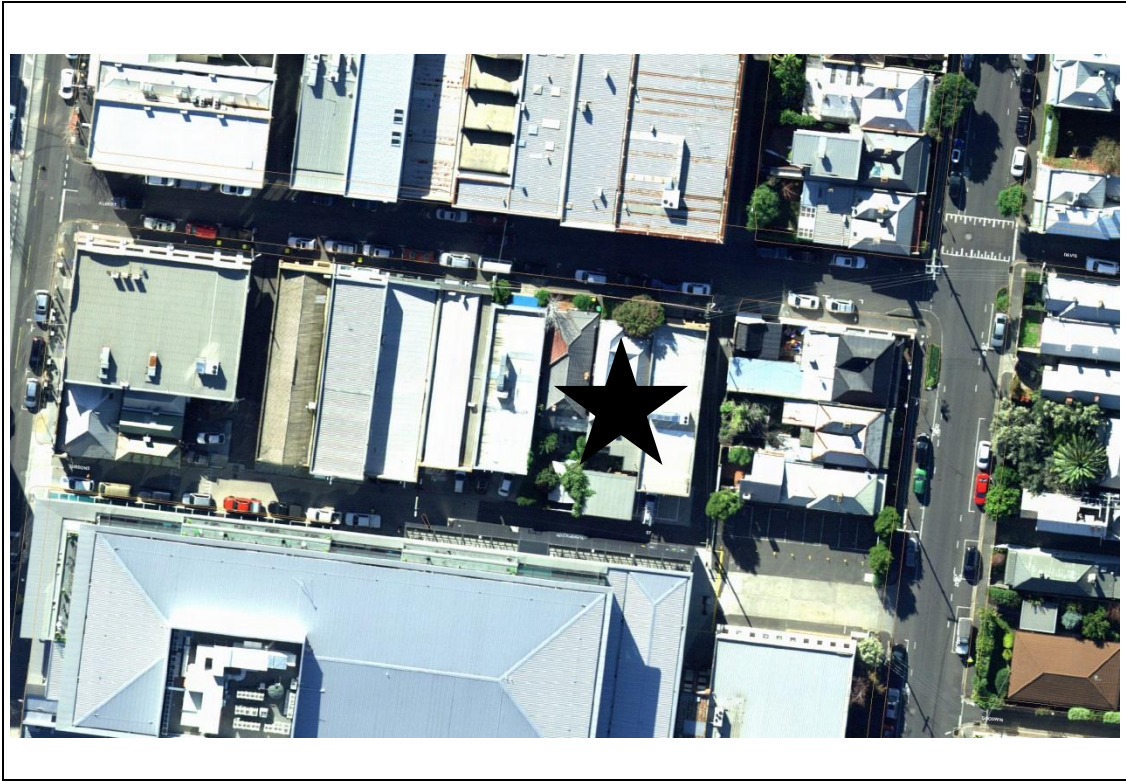
Attachments

- 1 Site location - 12-18 Albert Street, Richmond
- 2 PLN17/0284 - Existing conditions, site plan, Proposed basement plans, Level 1 and 2 plan, Level 3 and Level 4 plans.
- 3 PLN17/0284 - Level 5, Level 6, Roof Plan and Elevations.
- 4 PLN17/0284 - Original Shadow diagrams
- 5 PLN17/0284 - EPA Referral Response

- 6** PLN17/0284 - VicRoad's and CityLink's response
- 7** PLN17/0284 - Council's Engineering comments.
- 8** PLN17/0284 - Council's ESD Referral
- 9** PLN17/0284 - Council's urban design advice
- 10** PLN17/0284 - Facade concept study (received by Council 20 September 2017)
- 11** PLN17/0284 - Existing Shadow diagram (received by Council 01 November 2017)
- 12** PLN17/0284 - Proposed shadow (received by Council 01 November 2017)

Attachment 1 - Site location - 12-18 Albert Street, Richmond

SUBJECT LAND: 12 – 18 Albert Street, Richmond



↑ North

★ Subject Site

Attachment 2 - PLN17/0284 - Existing conditions, site plan, Proposed basement plans, Level 1 and 2 plan, Level 3 and Level 4 plans.

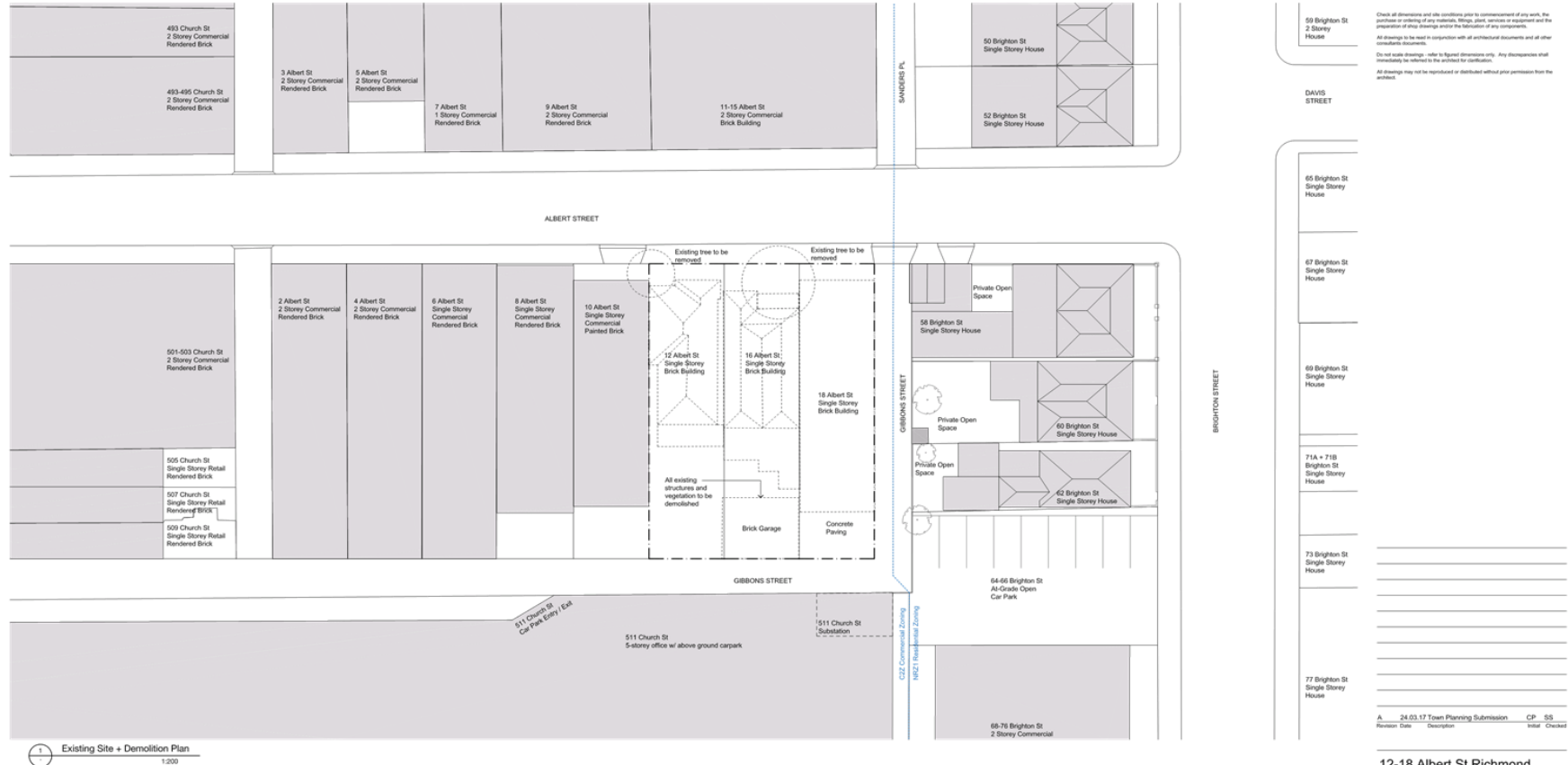
**12-18 ALBERT ST, RICHMOND
TOWN PLANNING SUBMISSION**

DRAWING SCHEDULE

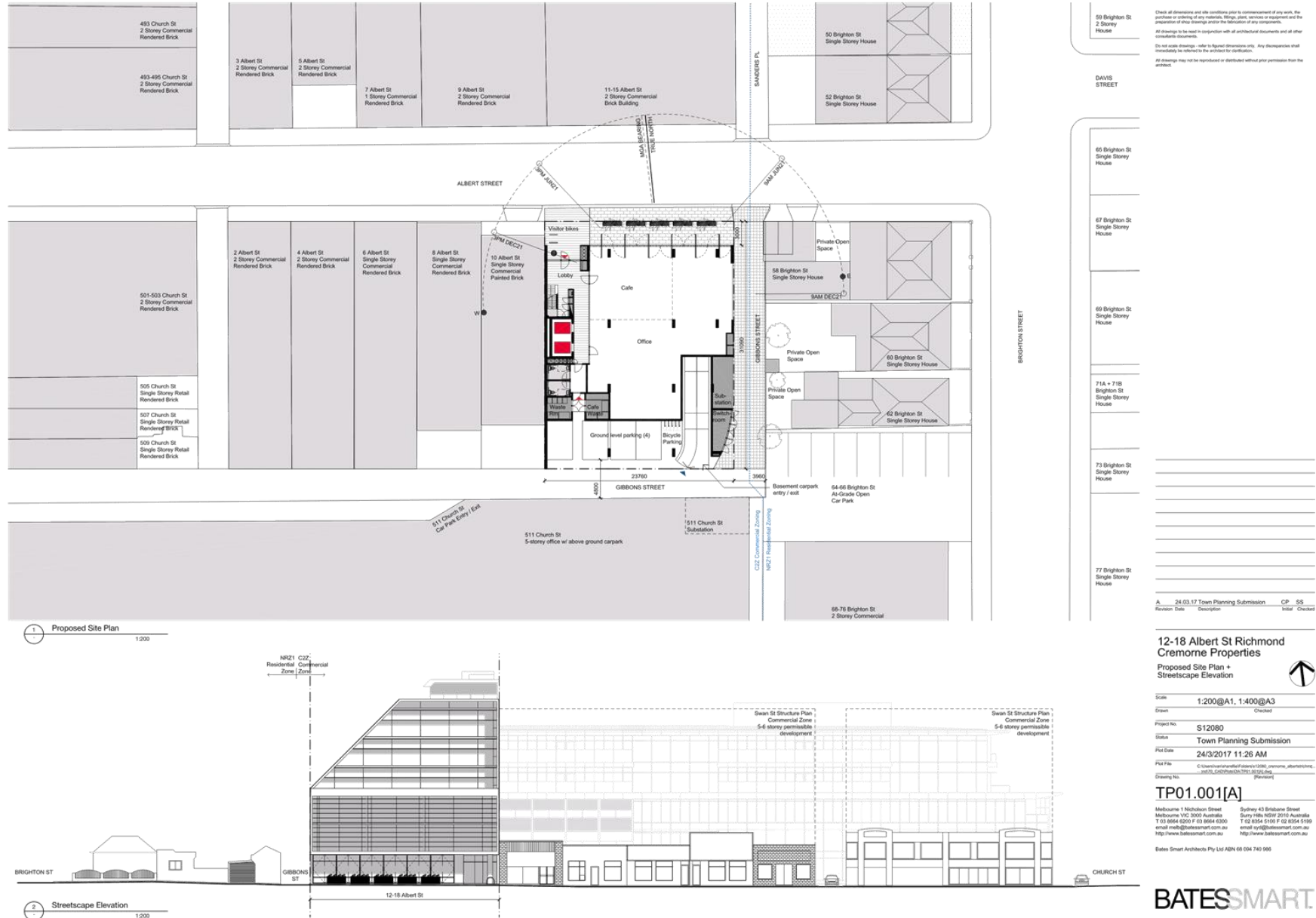
DWG NO.	REV	DRAWING TITLE
TP00.001	A	Cover Sheet + Drawing Schedule
TP01.000	A	Existing Site + Demolition Plan
TP01.001	A	Proposed Site Plan + Streetscape Elevation
TP02.001	A	Key Plan - Basement B1
TP02.100	A	Key Plan - Ground Level
TP02.101	A	Key Plan - Typical Podium, Level 1 + 2
TP02.103	A	Key Plan - Level 3
TP02.104	A	Key Plan - Level 4
TP02.105	A	Key Plan - Level 5
TP02.106	A	Key Plan - Level 6
TP02.107	A	Key Plan - Roof
TP07.001	A	Elevations - North + East
TP07.002	A	Elevations - South + West
TP08.001	A	Section AA
TP08.002	A	Section BB
TP10.001	A	Existing Shadow Diagrams - Spring Equinox September 22
TP10.002	A	Proposed Shadow Diagrams - Spring Equinox September 22



Attachment 2 - PLN17/0284 - Existing conditions, site plan, Proposed basement plans, Level 1 and 2 plan, Level 3 and Level 4 plans.



Attachment 2 - PLN17/0284 - Existing conditions, site plan, Proposed basement plans, Level 1 and 2 plan, Level 3 and Level 4 plans.



Attachment 2 - PLN17/0284 - Existing conditions, site plan, Proposed basement plans, Level 1 and 2 plan, Level 3 and Level 4 plans.



Check all dimensions and site conditions prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of any drawings and/or the fabrication of any components.
All drawings to be used in conjunction with all architectural documents and all other relevant documents.
Do not make changes - refer to signed dimensions only. Any discrepancies shall immediately be referred to the architect for clarification.
All drawings may not be reproduced or distributed without prior permission from the architect.

Revision	Date	Description	Initial	Checked
A	24.03.17	Town Planning Submission	CP	SS

**12-18 Albert St Richmond
Cremorne Properties**

**Key Plan
Basement B1**

Scale: 1:100@A1, 1:200@A3

Drawn: _____ Checked: _____

Project No: S12080

Status: Town Planning Submission

Plot Date: 28/3/2017 10:25 AM

Plot File: C:\Users\matt\Documents\12-18 Albert St Richmond\12-18 Albert St Richmond.dwg

Drawing No: TP02.001[A]

TP02.001[A]

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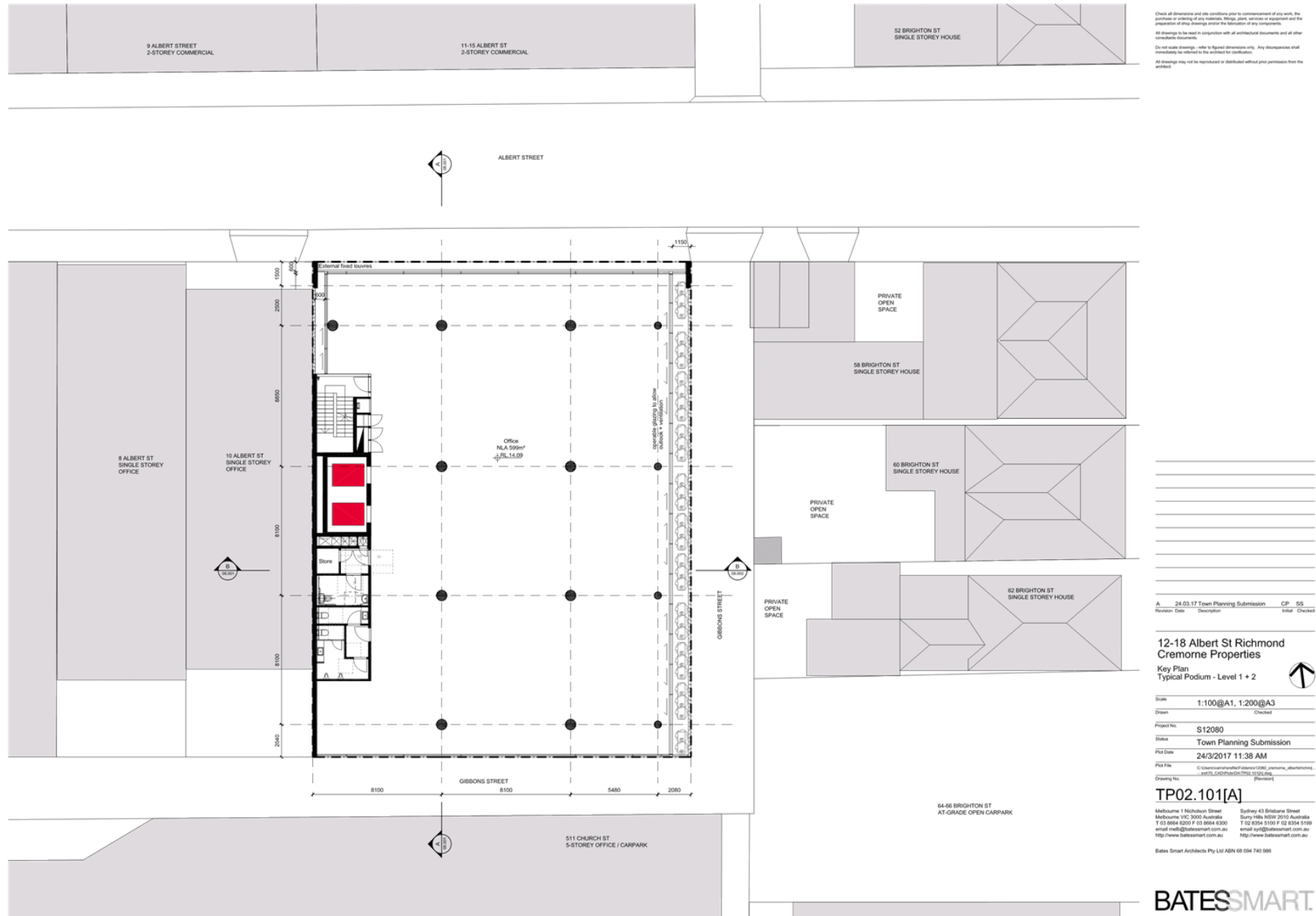
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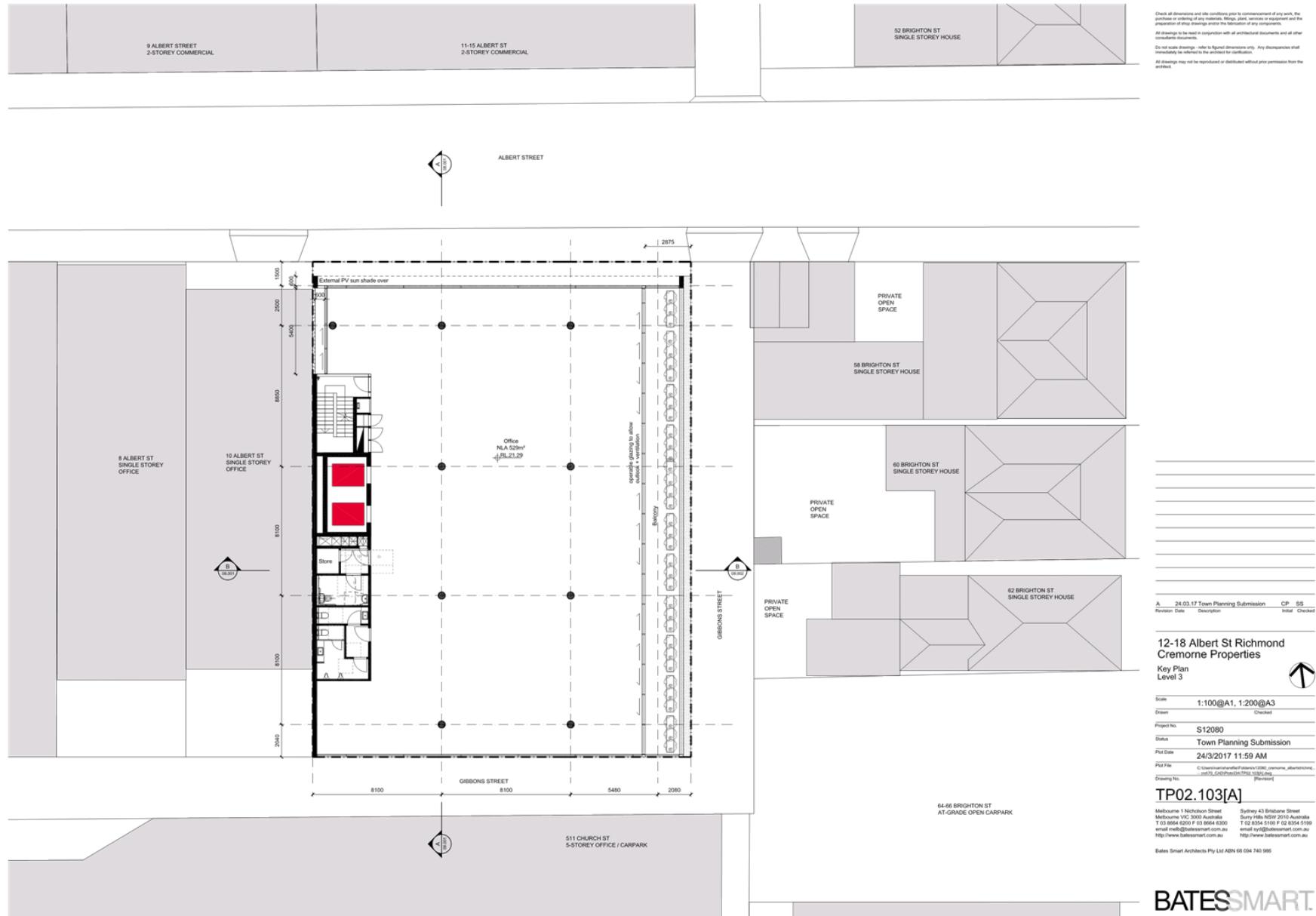
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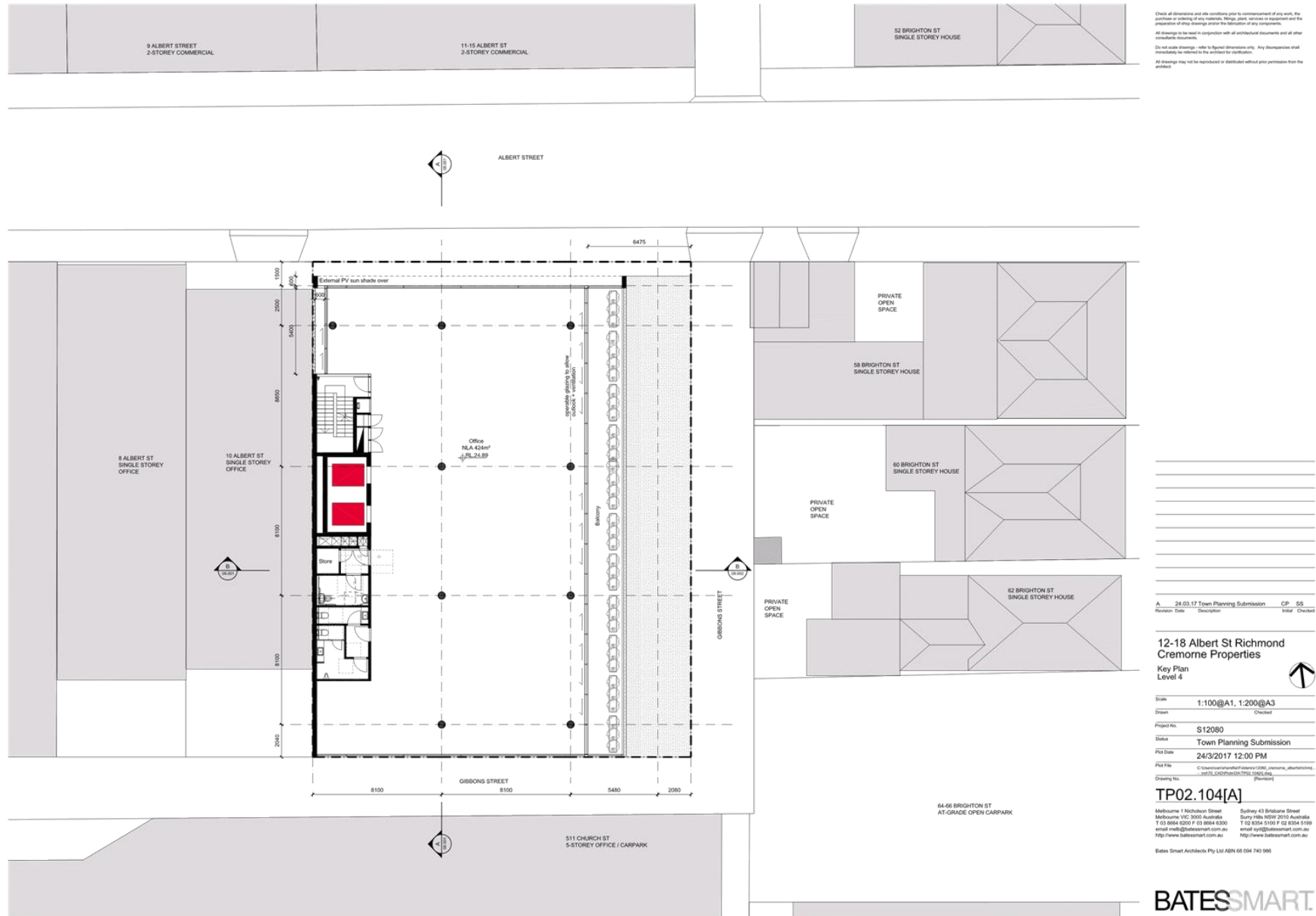
Attachment 2 - PLN17/0284 - Existing conditions, site plan, Proposed basement plans, Level 1 and 2 plan, Level 3 and Level 4 plans.



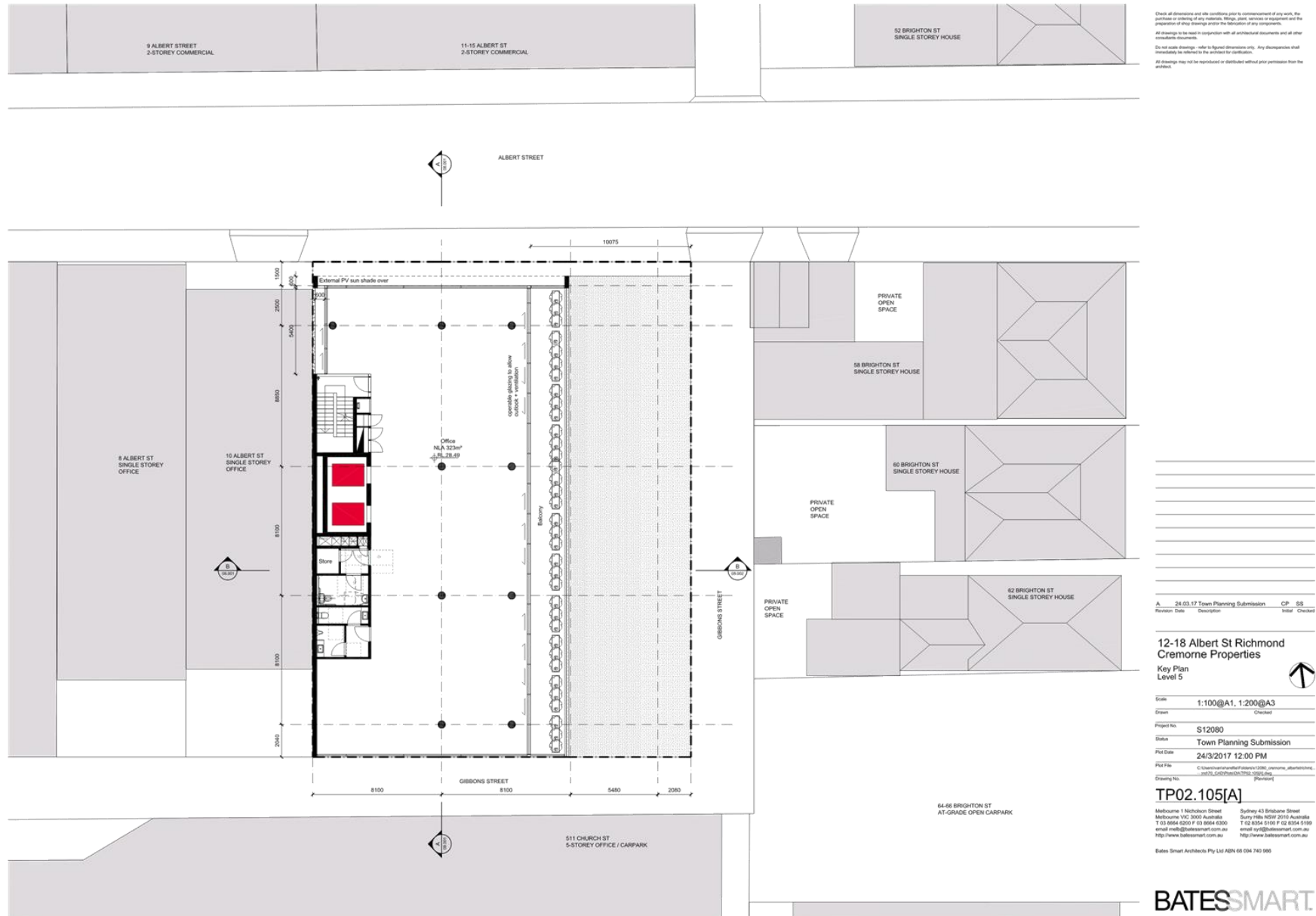
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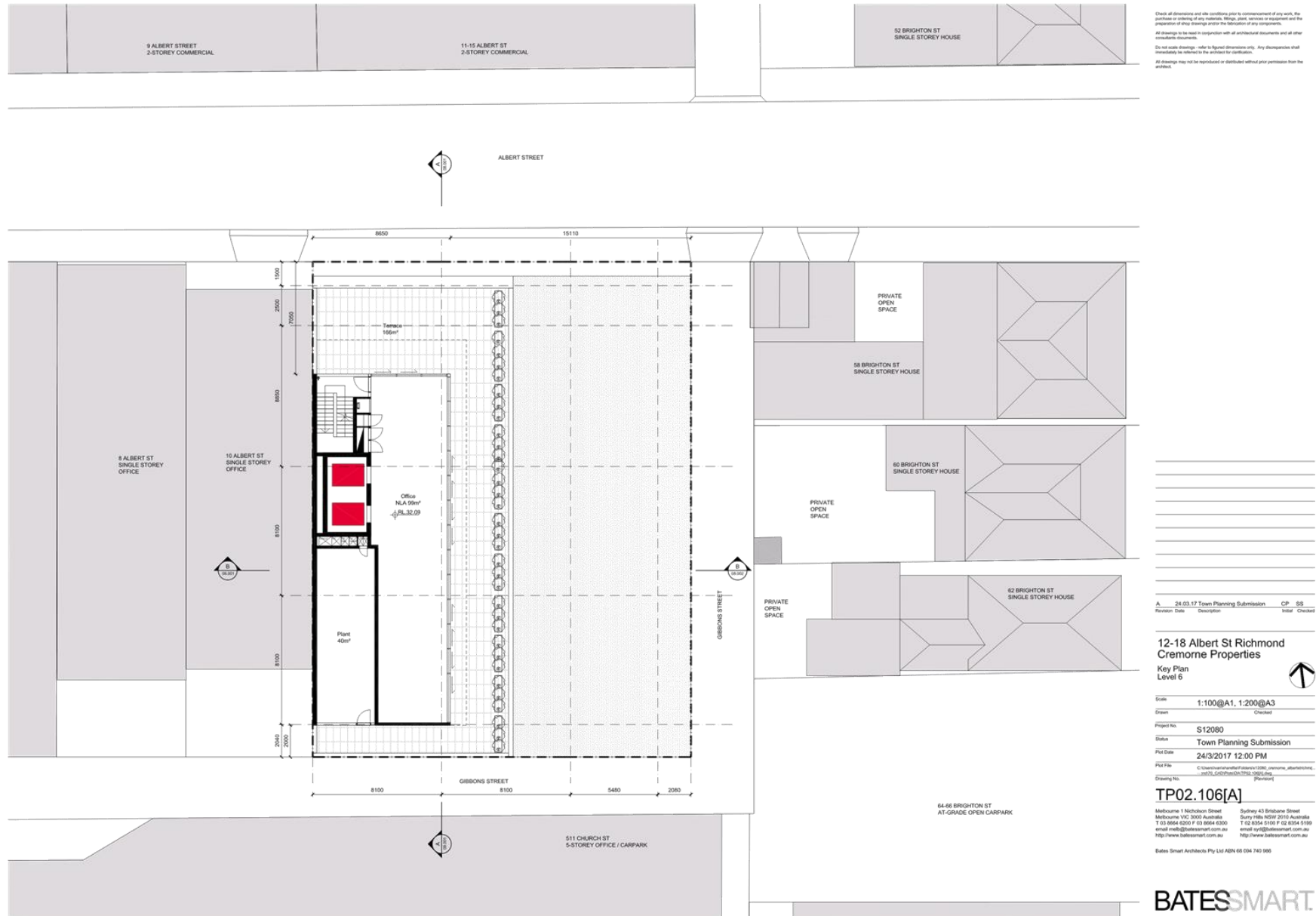
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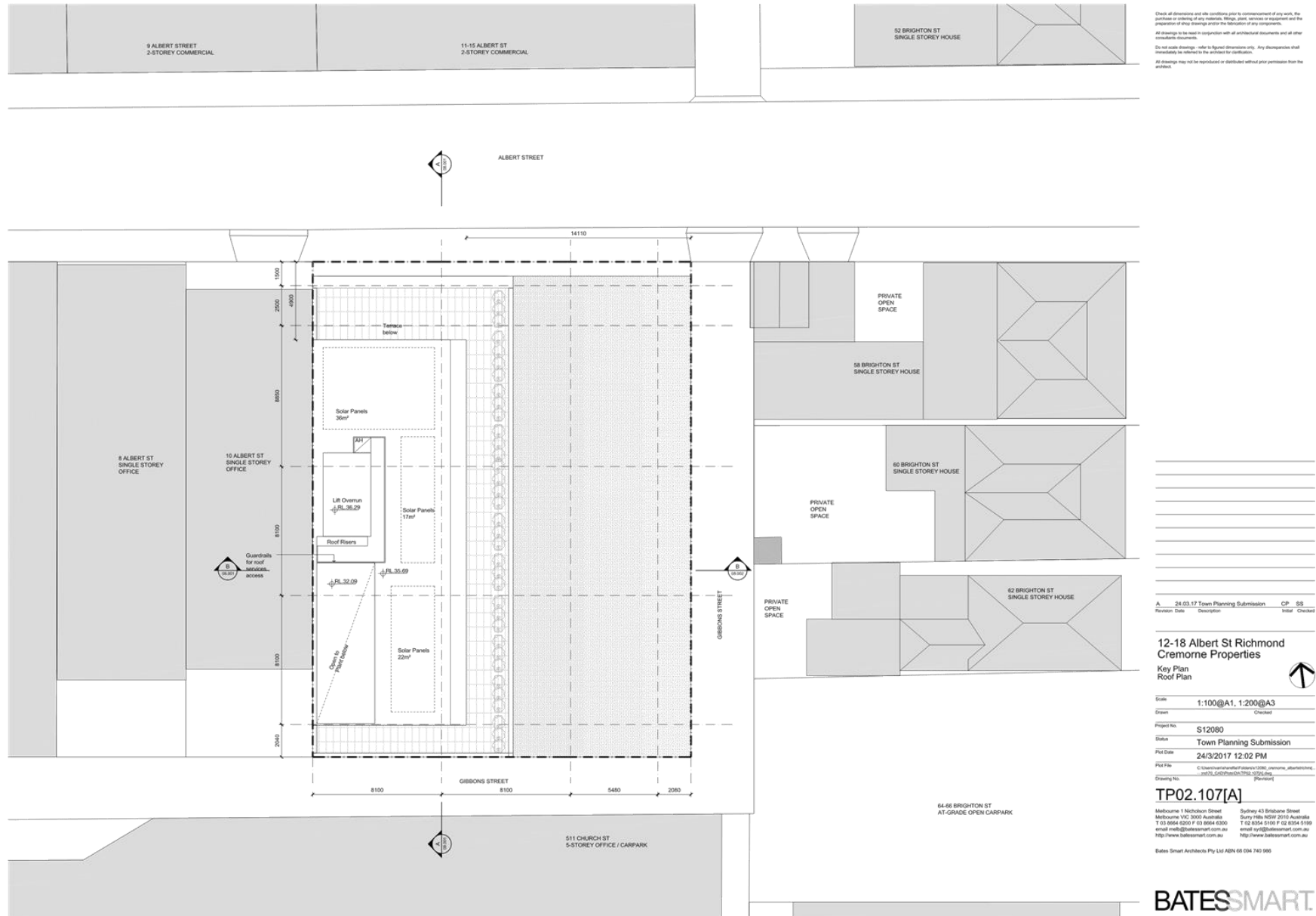
Attachment 3 - PLN17/0284 - Level 5, Level 6, Roof Plan and Elevations.



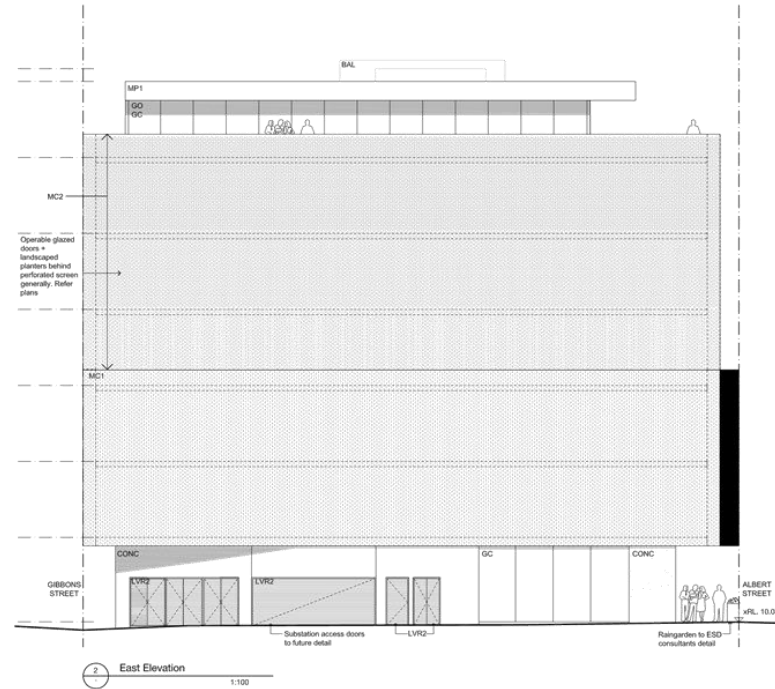
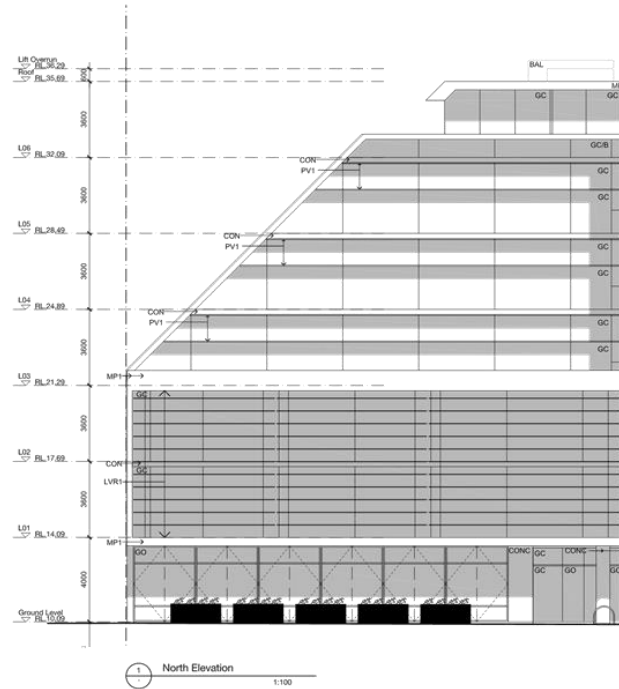
Attachment 3 - PLN17/0284 - Level 5, Level 6, Roof Plan and Elevations.



Attachment 3 - PLN17/0284 - Level 5, Level 6, Roof Plan and Elevations.



Attachment 3 - PLN17/0284 - Level 5, Level 6, Roof Plan and Elevations.



Check all dimensions and site conditions prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of any drawings and/or the fabrication of any components.

All drawings to be made in conjunction with all architectural documents and all other relevant documents.

Do not make drawings - refer to figure dimensions only. Any discrepancies shall immediately be referred to the architect for clarification.

All drawings may not be reproduced or distributed without prior permission from the architect.

Legend:

- BAL Roof guard rail balustrade
- GC Fixed clear glazing
- GC/B Fixed balustrade clear glazing
- GO Operable clear glazing
- CONC Concrete finish
- MC1 Perforated metal cladding type 1 to detail - approximately 10% opening
- MC2 Perforated metal cladding type 2 to detail - approximately 25-50% graduated opening across facade
- MC3 Perforated metal cladding type 3 to detail - approximately 50% opening
- MC4 Metal cladding to detail - profile to match MC3
- MP1 Powdercoated metal in selected dark recessive colour perforation patterning
- LVR1 Powdercoated fixed sun-shade louvers to match MP1
- LVR2 Powdercoated louvers to match MP1
- PV1 Horizontal photovoltaic glazed panels

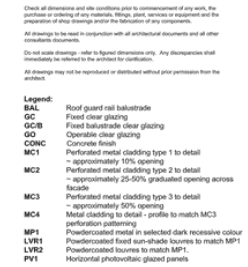
A 24.03.17 Town Planning Submission CP SS

12-18 Albert St Richmond
Cremorne Properties
Elevations
North + East

Scale 1:100@A1, 1:200@A3
Drawn Checked
Project No. S12080
Status Town Planning Submission
Plot Date 30/3/2017 11:22 AM
Plot File C:\Users\martin\Documents\12-18_albert_st_richmond_planning_submission\12-18_albert_st_richmond_planning_submission.dwg
Drawing No. (Preliminary)

TP07.001[A]
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Bates Smart Architects Pty Ltd ABN 66 094 740 986

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A	24.03.17 Town Planning Submission	CP	SS
Revision	Date	Description	Initial Checked

12-18 Albert St Richmond
Cremorne Properties
Elevations
South + West

Scale	1:100@A1, 1:200@A3
Drawn	Checked
Project No.	S12080
Status	Town Planning Submission
Plot Date	30/3/2017 11:23 AM
Plot File	C:\Users\charles\Documents\12080_planning_submission\12080_planning_submission\12080_planning_submission.dwg
Drawing No.	(Review)

TP07.002[A]

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Bates Smart Architects Pty Ltd ABN 66 094 740 006

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Architectural section drawing of a proposed multi-level office building at 511 Church Street. The drawing shows a cross-section of the building with multiple floors. The left side of the drawing shows the existing multi-level carpark/office building, and the right side shows the proposed new building. The new building has a 7000 setback on the left and a 7050 setback on the right. The building is 1100 units high. The drawing includes labels for various levels: L11 (RL 30.29), L10 (RL 29.09), L9 (RL 28.49), L8 (RL 24.89), L7 (RL 21.22), L6 (RL 17.69), L5 (RL 14.09), and Basement B01 (RL 7.09). The drawing also shows the ground level (RL 16.09) and the existing multi-level carpark/office building. The drawing includes a scale bar and a north arrow.

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TP08.002[A]

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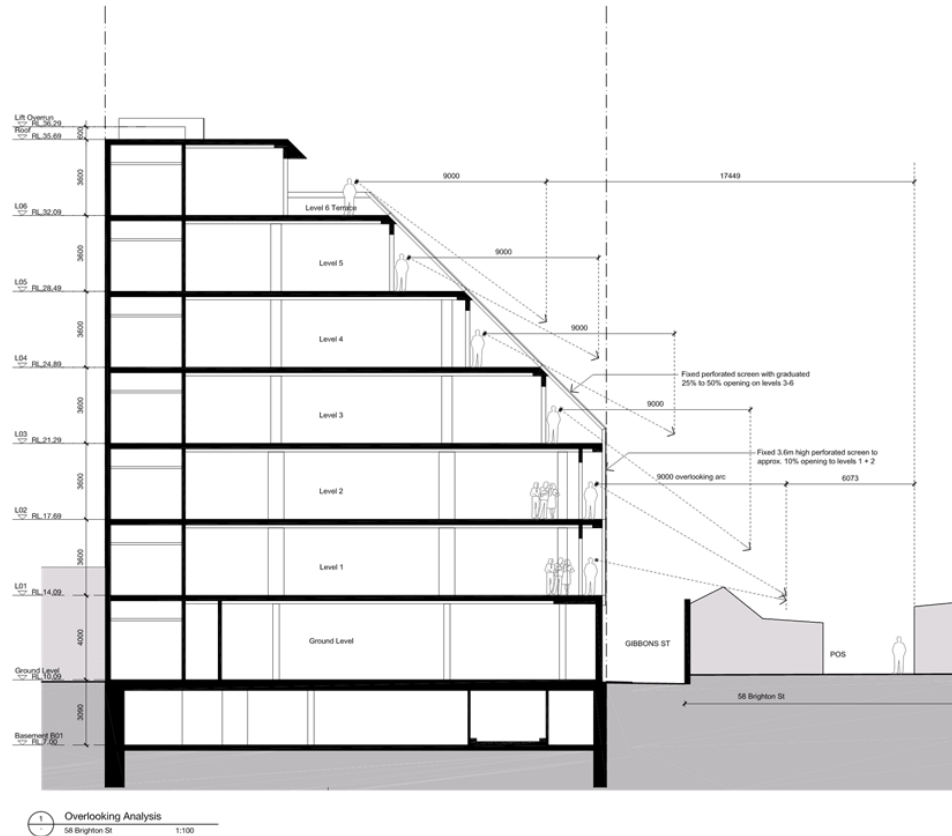
Attachment 3 - PLN17/0284 - Level 5, Level 6, Roof Plan and Elevations.

Check all dimensions and site conditions prior to commencement of any work, the purchase or ordering of any materials, things, plant, services or equipment and the preparation of any drawings and the fabrication of any components.

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Do not scale drawings - refer to figured dimensions only. Any discrepancies shall immediately be referred to the architect for clarification.

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A 24.03.17 Town Planning Submission CP SS

12-18 Albert St Richmond
Cremorne Properties
Overlooking Analysis
58 Brighton St

Scale 1:100@A1, 1:200@A3

Drawn Checked

Project No. S12080

Status Town Planning Submission

Plot Date 30/3/2017 11:25 AM

Plot File C:\Users\michael.bates\Documents\12-18 Albert St Richmond\12-18 Albert St Richmond.dwg

Drawing No. TP08.005[A]

Melbourne 1 Nicholson Street Sydney 43 Brisbane Street

Melbourne VIC 3000 Australia Berry Hills NSW 2010 Australia

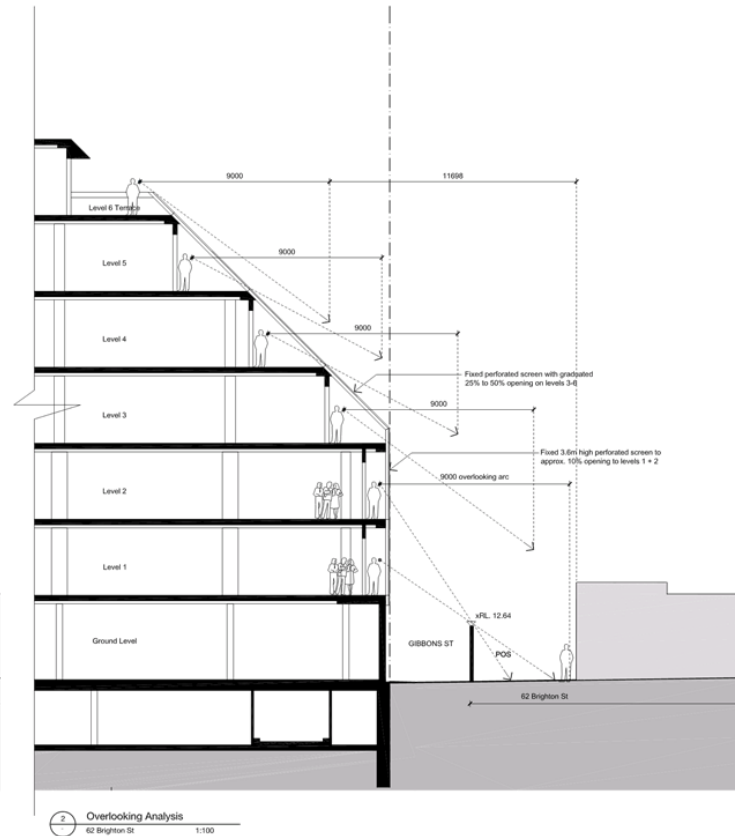
T 03 8664 8200 F 03 8664 8300 T 02 8354 5100 F 02 8354 5189

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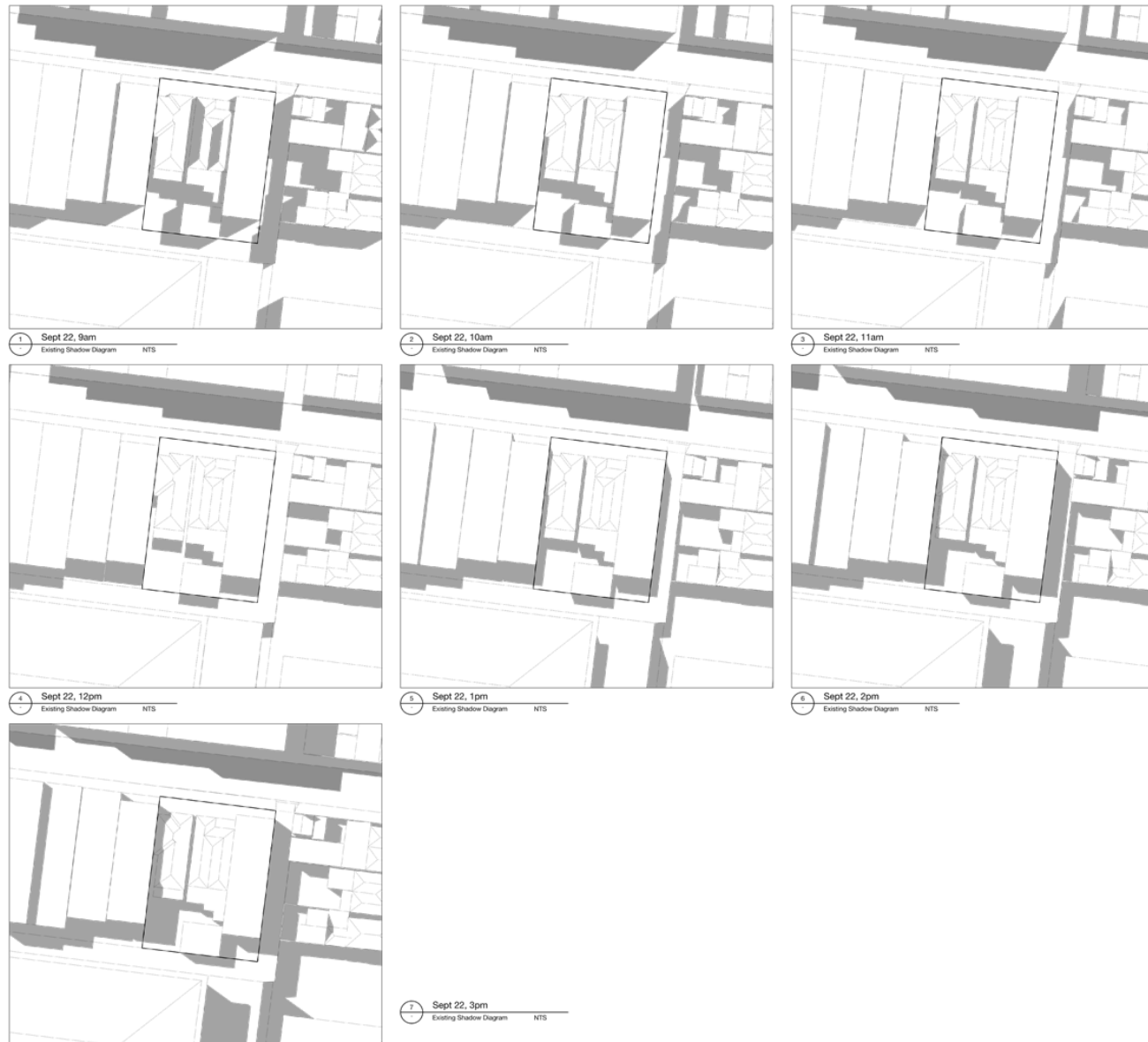
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Attachment 4 - PLN17/0284 - Original Shadow diagrams



Check the dimensions and site conditions prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of shop drawings and/or the fabrication of any components.

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Do not scale drawings - refer to figured dimensions only. Any discrepancies shall immediately be referred to the architect for clarification.

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A	24.03.17 Town Planning Submission	CP	SS
Revision	Date	Description	Initial Checked

12-18 Albert St Richmond
Cremorne Properties
Existing Shadow Diagrams
Spring Equinox September 22



Scale	NTS
Drawn	Checked
Project No.	S12080
Status	Town Planning Submission
Plot Date	24/3/2017 12:19 PM
Plot File	C:\Users\amirahfidli\Folder\12080_crowne_allerbachinc_10075_CAD\Drawn\12080_01010.dwg
Drawing No.	[Revision]

TP10.001[A]

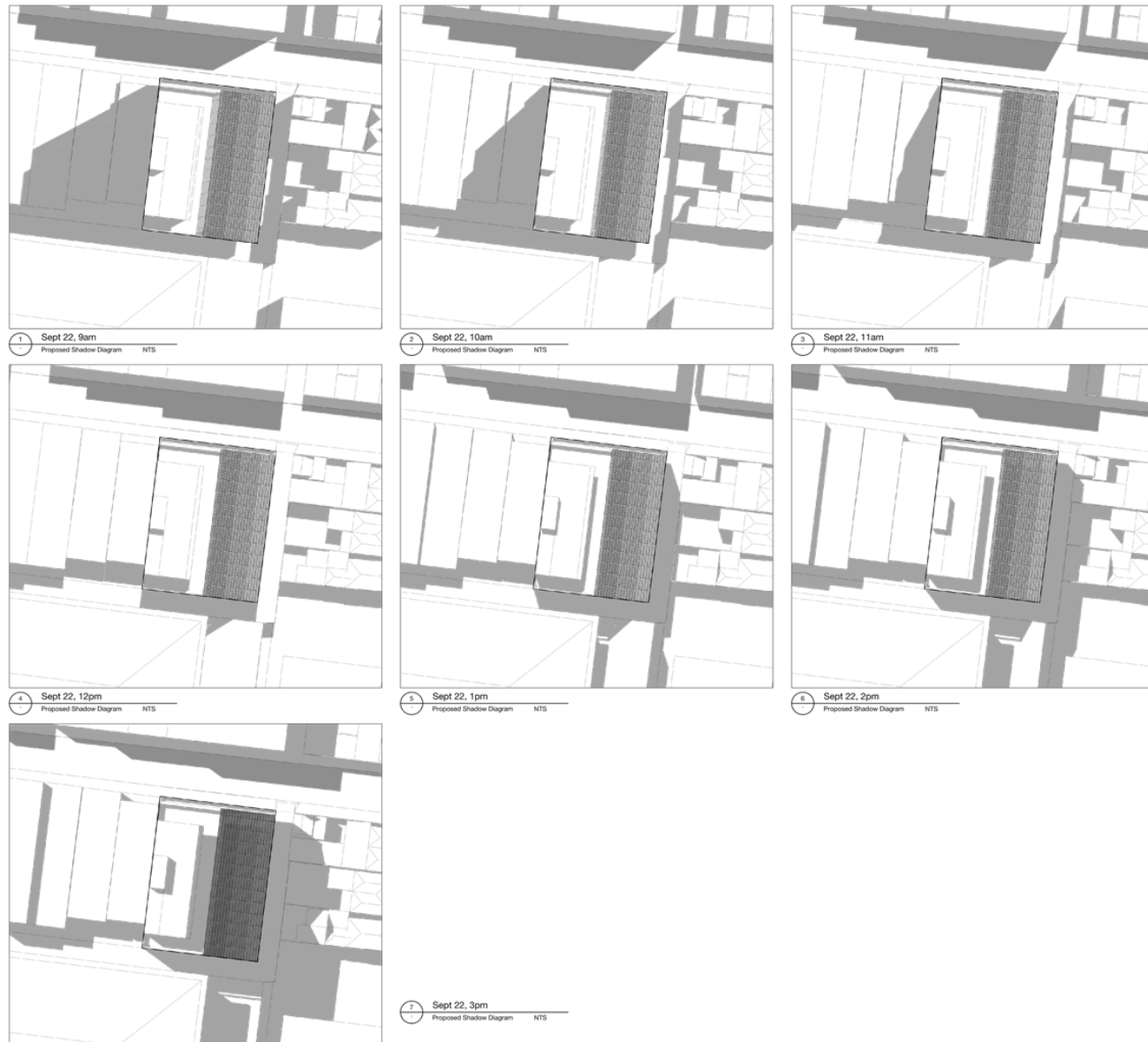
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Attachment 4 - PLN17/0284 - Original Shadow diagrams



Check the dimensions and site conditions prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of shop drawings and/or the fabrication of any components.

All drawings to be read in conjunction with all architectural documents and all other consultants documents.

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A	24.03.17 Town Planning Submission	CP	SS
Revision	Date	Description	Initial Checked

12-18 Albert St Richmond
Cremorne Properties
Proposed Shadow Diagrams
Spring Equinox September 22



Scale	NTS
Drawn	Checked
Project No.	S12080
Status	Town Planning Submission
Plot Date	24/3/2017 12:20 PM
Plot File	C:\Users\amirahfidli\Folder\12080_crowne_allerhatchinc_ind75_CAD\Drawn\Drawings\00201.dwg
Drawing No.	[Revision]

TP10.002[A]

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<http://www.batesmart.com.au>

Bates Smart Architects Pty Ltd ABN 68 004 740 005

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Attachment 5 - PLN17/0284 - EPA Referral Response



Lvl 3, 200 Victoria Street
Carlton
Victoria 3053
GPO Box 4395
Melbourne, Victoria 3001
T: 1300 EPA VIC
DX 210082
www.epa.vic.gov.au

Mr. John Theodosakis
YARRA CITY COUNCIL
PO BOX 168
RICHMOND VIC 3121

25/07/2017

Reference: 5007557

Dear Mr. Theodosakis

RE: PLANNING PERMIT APPLICATION: PLN17/0284
PROPOSAL: Construction of a Seven Storey Building (Office) in
DDO5
PREMISES ADDRESS: 12-18 Albert Street, RICHMOND VIC 3121

Thank you for your correspondence in relation to the above planning permit application, referred to EPA on 31/05/2017.

EPA is not a statutory referral Authority under Section 55 of the Planning and Environment Act 1987, since this proposal:

- (a) does not require a licence or works approval or amendment to a licence or works approval;
- (b) is not proposed to be used for an industry or warehouse for a purpose listed in the table to Clause 52.10 shown with Note 1 or for which the threshold distance cannot be met; and
- (c) is not a proposed extractive industry intended to be used at a later date for landfill.

EPA has no concerns with Council issuing this planning permit according to the information that has been provided.

It is considered that the proposal will not adversely impact the operations of the City Link Exhaust Stack and the operation of the exhaust stack will not adversely impact the occupiers of the development, due to the height and distance of the proposal from the exhaust stack.

Attachment 5 - PLN17/0284 - EPA Referral Response



If you need additional information or assistance, please contact our , Julia Lam on 1300 EPA VIC (1300 372 842).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Emma Roper'.

Emma Roper
Team Leader
Metro Compliance Strategy Support
EPA Victoria

Attachment 6 - PLN17/0284 - VicRoad's and CityLink's response



27 September 2017

Yarra City Council
P O Box 168
RICHMOND VIC 3121
Attention: John Theodosakis

Metropolitan North West Region
499 Ballarat Road
Sunshine Victoria 3020
Telephone (03) 9313 1333

Send Correspondence to:
mrw.mail@roads.vic.gov.au
or Fax (03) 9313 1175

Parcels and Drawings to:
Private Bag 4000 Sunshine
Victoria 3020

vicroads.vic.gov.au

Dear Mr. Theodosakis,

PLANNING APPLICATION NO.: PLN17/0284
VICROADS REFERENCE NO: 21865/17
PROPERTY ADDRESS: 12 ALBERT STREET, RICHMOND

Section 55 – No objection subject to conditions

VicRoads have received a Geotechnical Assessment prepared by Douglas Partners and a supplementary letter prepared by Adams Consulting Engineers (copy attached) from Contours Consultants Australia Pty Ltd on 30 August 2017.

VicRoads in consultation with CityLink does not object to the development and are prepared to withdraw its objection dated 28 July 2017 (copy attached) having considered the geotechnical documentation submitted (above).

If Council regards the proposed development favourably, VicRoads would require that the following conditions be included in any Notice of Decision to issue a Planning Permit or Planning Permit:

1. *Prior to the endorsement of any development plans, excluding demolition works, an Engineering report from a suitably qualified Engineer outlining the design, management and construction techniques to be implement prior, during and following excavation to prevent any impact on the City Link/Burnley Tunnel is to be submitted to VicRoads for approval. Once approved, the Engineering Report will form part of the planning permit. Without limiting the scope of the report, it must consider all relevant structural and geotechnical issues, including, but not limited to, demonstrating:*
 - (a) *That the development will not compromise the structural integrity of the City Link/Burnley Tunnel;*
 - (b) *What is the load applied to the ground by the development;*
 - (c) *That the development will not cause changes to groundwater conditions that will result in adverse effect on the tunnel*
 - (d) *Any holding points requiring VicRoads inspection and approval prior to releasing the hold points.*



VicRoads ABN 61 760 960 480

PSL 38

Attachment 6 - PLN17/0284 - VicRoad's and CityLink's response

2. *Before the development commences, excluding demolition works, detailed design drawings must be submitted to and approved by VicRoads. When approved by VicRoads, the drawings may be endorsed by the Responsible Authority and will then form part of the permit. The drawings must be drawn to scale with dimensions and three copies must be provided. The drawings must show:*
 - a) *All excavation, loading and footing details must accord with the approved Engineering Report described at the condition above;*
 - b) *Excavation depths to be shown at Australian Height Datum (AHD);*
 - c) *All sub surface basement levels be shown as AHD on floor plans and elevation plans.*
3. *All design, excavation and construction must accord with the approved Engineering Report described at Condition 1 (above).*
4. *The layout of the site and the size, levels, design and location of buildings and works which may impact CityLink/Burnley Tunnel must not be modified without the prior written consent of VicRoads.*

Permit conditions (1),(2) and (3) have been included to ensure a geotechnical report forms part of the planning permit and the footings and imposed loadings are in accordance with the findings of the geotechnical report submitted with the proposal. This must be undertaken to VicRoads and CityLink's satisfaction prior to the building permit stage.

Please note the permitholder must demonstrate to VicRoads and CityLink's satisfaction the original design assumptions included in the geotechnical analysis are detailed/confirmed on the construction drawings and the stress changes or deflections that may be induced in the tunnel lining by the new development are likely to be relatively small, supported by detailed numerical analysis.

Once Council makes its decision, please forward a copy of the decision to VicRoads as required under Section 66 of the Planning and Environment Act 1987.

Should you have any enquiries regarding this matter, please contact me on 03 9313 1148 or Gillian Menegas@roads.vic.gov.au.

Yours sincerely



GILLIAN MENEGAS

Principal Planner - Statutory Planning Department (Central)

Cc: Contour Consultants & CityLink

Attachment 6 - PLN17/0284 - VicRoad's and CityLink's response

Yarra City Council
PO Box 168
RICHMOND VIC 3121
Attention: John.Theodosakis



Metropolitan North West Region
499 Ballarat Road
Sunshine Victoria 3020
Telephone (03) 9313 1333

Send Correspondence to:
mnw.mail@roads.vic.gov.au
or Fax (03) 9313 1175

Parcels and Drawings to:
Private Bag 4000 Sunshine
Victoria 3020

vicroads.vic.gov.au

Dear Mr. Theodosakis,

PLANNING APPLICATION NO.: PLN17/0284
VICROADS REFERENCE NO: 21865/17
PROPERTY ADDRESS: 12 ALBERT STREET, RICHMOND

Section 55 – Objection

Thank you for referring details of the above application to the Roads Corporation (VicRoads) pursuant to Section 55 of the Planning and Environment Act 1987.

The application is for development of the land for the construction of a 7 storey building, a reduction in the car parking requirements associated with offices and food and drink premises (cafe) (no permit required for these uses) and a waiver of the loading and unloading requirements within a CityLink Project Overlay.

In the absence of a Geotechnical Report, VicRoads in consultation with CityLink objects to the development in its current form on the following ground:

1. The proposed use and development may adversely affect the operation of the City Link Tunnel and associated infrastructure.

In relation to point numbered 1 above, VicRoads may be prepared to withdraw their objection upon receipt of a **geotechnical report** which demonstrates to VicRoads/CityLink satisfaction that the development will have no adverse effect on the tunnel structures. In particular it must clarify and confirm the following:

- a) *Whether there is to be any temporary drawdown of the groundwater as a result of the activities and how groundwater is to be managed.*
- b) *The bearing pressures (irrespective of value).*

If Council decides to make their decision without the above additional information and/ or modifications, this letter should be regarded as an objection to the issue of a planning permit.

Please forward a copy of Council's decision to this office as required under Section 66 of the Planning and Environment Act 1987.

Should you have any enquiries regarding this matter, please contact me on 03 9313 1148 or Gillian.Menegas@roads.vic.gov.au

Yours sincerely

GILLIAN MENEGAS

Principal Planner - Statutory Planning Department (Central)

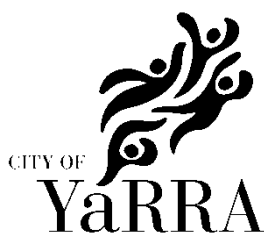
Cc: CityLink & Contour Planning Consultants

28 July 2017



VicRoads ABN 61 760 960 480

P5L38

Attachment 7 - PLN17/0284 - Council's Engineering comments.

MEMO

To: John Theodosakis
From: Mark Pisani
Date: 10 July 2017
Subject: Application No: PLN17/0284
 Description: Mixed Use Development
 Site Address: 12-18 Albert Street, Richmond

I refer to the above Planning Application received on 31 May 2017 and the accompanying report prepared by Cardno in relation to the proposed development at 12-18 Albert Street, Richmond. Council's Engineering Services unit provides the following information:

CAR PARKING PROVISION**Proposed Development**

Under the provisions of Clause 52.06-5 of the Yarra Planning Scheme, the development's parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office	2,804 m ²	3.5 spaces per 100 m ² of net floor area	98	21
Food and Drink	96 m ²	4 spaces per 100 m ² of leasable floor area	3	0
Total			101 Spaces	21 Spaces

To reduce the number of car parking spaces required under Clause 52.06-5 (including to reduce to zero spaces), the application for the car parking reduction must be accompanied by a Car Parking Demand Assessment.

Car Parking Demand Assessment

In reducing the number of parking spaces required for the proposed development, the Car Parking Demand Assessment would assess the following:

- *Parking Demand for Office Use.* Parking associated with office type developments is generally long-stay parking for employees and short term parking (say up to two hours' duration) for customers and clients. The actual parking demand generated by the office is expected to be lower than the statutory parking rate of 3.5 spaces per 100 square metres of floor space, since the area has very good access to public transport services.

The proposed office would have a car parking provision rate of 0.75 spaces per 100 square metres (21 on-site spaces for 2,804 square metres of floor area). By comparison, the nearby development at 33 Balmain Street, Cremorne, was approved with an on-site car parking provision of 0.78 spaces per 100 square metres with an office floor area of 1,788.1 square metres with 14 on-site car parking spaces (Planning Permit PLN15/0309 issued on 21 October 2015). We are satisfied that the office parking rate of 0.75 spaces per 100 square metres for

Attachment 7 - PLN17/0284 - Council's Engineering comments.

the proposed development is appropriate given the site's excellent accessibility to public transport services.

- *Parking Demand for the Food and Drink Premises.* The proposed food and drink premises would have a parking demand of three spaces. One space would be generated by an employee and the balance would be generated by patrons.
- *Availability of Public Transport in the Locality of the Land.* The site is within walking distance of tram services operating along Church Street and Swan Street. Rail services can be obtained from East Richmond railway station.
- *Multi-Purpose Trips within the Area.* Clients to the office and patrons to the café could combine their visit by engaging in other activities or business whilst in the area. Walk-up trade would be primary source of customers for the café.

Appropriateness of Providing Fewer Spaces than the Likely Parking Demand

Clause 52.06 lists a number of considerations for deciding whether the required number of spaces should be reduced. For the subject site, the following considerations are as follows:

- *Availability of Car Parking.* Cardno had conducted on-street parking occupancy surveys of the area surrounding the site on Monday 16 May 2016 between 9:00am and 6:00pm. The survey area was bounded by Chestnut Street, Gordon Street, Amsterdam Street, Mary Street, Lesney Street and Pearson Street. The extent and times of the survey are considered appropriate. An inventory of 618 publicly available parking spaces was identified. The peak parking occupancy was recorded at 10:00am, with no fewer than 50 spaces being vacant within the study area. Although on-street parking in the area is constrained, nay short-stay parking overflow for the development could be accommodated on-street.
- *Relevant Local Policy or Incorporated Document.* The proposed development is considered to be in line with the objectives contained in Council's *Strategic Transport Statement*. The site is ideally located with regard to sustainable transport alternatives and the lack of on-site car parking would discourage private motor vehicle ownership and use.

Adequacy of Car Parking

From a traffic engineering perspective, the waiver of parking associated with office and café is considered appropriate in the context of the development and the surrounding area. Clients to the office may go to other destinations within the local area. The café would rely on walk-up trade. The operation of the development should not adversely impact existing on-street parking conditions in the area.

Engineering Services has no objection to the reduction in the car parking requirement for this site.

TRAFFIC GENERATION

The traffic generation for the site adopted by Cardno is as follows:

Proposed Use	Adopted Traffic Generation Rate	Peak Hour	
		AM	PM
Office	0.5 trips per peak hour (per allocated space) 21 on-site spaces	11	11

The traffic generated by this site is low and can be accommodated in the local road network without adversely impacting on existing traffic conditions of Gibbons Street, Albert Street or any of the nearby roads.

Attachment 7 - PLN17/0284 - Council's Engineering comments.**DEVELOPMENT LAYOUT DESIGN****Layout Design Assessment**

Item	Assessment
Access Arrangements	
Development Entrance/Ramped Accessway	Width not dimensioned on the drawings. The one-way ramped accessway must have a minimum wall-to wall width of 3.6 metres as per the Australian/New Zealand Standard AS/NZS 2890.1:2004.
Visibility	Entrance is located off Gibbons Street (a Right of Way). The east side of the entrance is set back from Gibbons Lane (not dimensioned). There is no objection to the installation of a convex mirror to view any pedestrians walking along Gibbons Lane. A signal system to alert pedestrians of exiting cars is not supported, as it should be the driver's responsibility to view and give way to any pedestrians on a Public Highway.
Headroom Clearance	Not dimensioned on the drawings.
Development Entrance – Vehicle Turning Movements	The vehicle turning movements into and out of the ramped accessway via Gibbons Street using the B99 design vehicle are satisfactory.
Base of Ramped Accessway – Vehicle Turning Movements	The submitted B99 design vehicle swept paths turning from the ramped accessway into the aisle are satisfactory.
Car Parking Modules	
Car Parking Spaces	The dimensions of the regular car parking spaces satisfy <i>Design standard 2: Car parking spaces</i> of Clause 52.06-8.
Parallel Parking Space	Not dimensioned on the drawings.
Accessible parking Space	With the exception of the length (which satisfies <i>Design standard 2</i>), the design of the accessible space and shared area satisfy the Australian/New Zealand Standard AS/NZS 2890.6:2009.
Aisle	The 6.4 metre wide aisle satisfies <i>Design standard 2</i> .
Column Setbacks and Depths	Not dimensioned on the drawings.
Clearances to Walls	Not dimensioned on the drawings.
Blind Aisle Extension	The blind aisle extension of 1.0 metre satisfies AS/NZS 2890.1:2004.
Vehicle Turning Movements	Vehicle turning movements into and out of the parking bays with B85 design vehicle are considered satisfactory.
Gradients	
Ramp Grade for First 5.0 metres inside Property	The ramp grade for the first 5.0 metres inside the building line is 1 in 10 (along the centre line of accessway and satisfies <i>Design standard 3: Gradients</i>).
Ramp Grades and Changes of Grade	The ramp grades and the changes of grade for the ramped accessway and the internal ramps satisfy <i>Design standard 3</i> .
Loading Arrangements	
Loading Bay Waiver	The nearest Loading Zone is on the east side of Church Street, just south of Gibbon Street, and could be used to unload and deliver goods to the site.

Attachment 7 - PLN17/0284 - Council's Engineering comments.**Design Items to be Addressed**

Item	Details
Ramped Accessway - Width	Wall-to-wall width to be dimensioned.
Ramped Accessway - Visibility	Here is no objection to the installation of a convex mirror as per the Cardno report.
Headroom Clearance	To be dimensioned on the drawings.
Parallel Parking Space	To be dimensioned on the drawings.
Column Setback and Depths	To be dimensioned on the drawings.
Clearances to Walls	To be dimensioned on the drawings.
Ramped Accessway – Ground Clearance	A ground clearance check using the B99 design vehicle must be provided for the length of the accessway. The check must also include the profile of Gibbons Street (directly in front of the accessway).
Visibility for Parking Space 1	Visibility for a motorist wishing to exit parking space 1 is obscured on the western side by the building wall. To improve visibility for a motorist exiting this space, it is recommended that a convex mirror be mounted on the column in between parking spaces 2 and 3. This mirror would view conditions in Gibbons Street to the west of the site.

ENGINEERING CONDITIONS**Civil Works**

- Upon the completion of all building works and connections for underground utility services, the footpath immediately outside the property's Albert Street road frontage must be reconstructed to Council's satisfaction and at the Permit Holder's expense.
- The redundant vehicle crossing on the property's Albert Street frontage must be demolished and reinstated to Council's satisfaction and at the Permit Holder's cost.
- Before the occupation of the building, Gibbons Street (between Albert Street and the western boundary of the property) must be profiled and re-sheeted to Council's satisfaction and at the Permit Holder's expense. Any areas of failure must be reconstructed in full depth road pavement to Council's satisfaction.
- Upon the completion of all building works and connections for underground utility services, the open drain in Albert Street which abuts the eastern and southern property boundaries of the site must be reconstructed to Council's satisfaction and at the Permit Holder's cost.
- The vehicle crossing servicing Gibbons Street (on Albert Street, adjacent to the development) must be reconstructed to Council's current engineering requirements.

Impact of Assets on Proposed Development

- Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.
- Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

Attachment 7 - PLN17/0284 - Council's Engineering comments.

Road Asset Protection

- Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the developer's expense.

Construction Management Plan

- A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.

Discharge of Water from Development

- Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.
- Contaminated ground water seepage into basements from above the water table must be discharged to the sewer system through a trade waste agreement with the relevant authority or in accordance with EPA guidelines.
- Contaminated groundwater from below the water table must be discharged to the sewer system through a trade waste agreement from the relevant sewer authority.
- Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.

Removal, Adjustment, Changing or Relocation of Parking Restriction Signs

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

NON-PLANNING ADVICE FOR THE APPLICANT

Legal Point of Discharge

The applicant must apply for a Legal Point of Discharge under Regulation 610 – Stormwater Drainage of the *Building Regulations 2006* from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the *Local Government Act 1989* and Regulation 610.

Preparation of Detailed Road Infrastructure Design Drawings

The developer must prepare and submit detailed design drawings of all road infrastructure works and drainage works associated with this development for assessment and approval.

Protection of Basement

The Permit Holder/developer is responsible for the management and protection of their building from groundwater.

The developer needs to ensure that the basement car park and any portions of the development at or below natural surface level have a level of protection to minimise the seepage of subterranean water (groundwater) or any rainfall run-off from penetrating the walls or floors of the site.

The excavation for the basement would be to a depth of in excess of 3.0 metres and it is possible that groundwater could be encountered.

Attachment 7 - PLN17/0284 - Council's Engineering comments.

In the event that any contaminated groundwater seeps through the walls of the basement, this water must not be discharged into Council's stormwater drainage system under any circumstances. Any contaminated groundwater that is present within the site must be treated and disposed of in accordance with a Trade Waste Agreement and as per EPA guidelines and Melbourne Water/City West Water guidelines.

It is also the Permit Holder's onus and responsibility to ensure that rainfall run-off does not enter the property in the event of a heavy storm. Adequate measures should be in place to prevent backwash from entering the property.

Regards

Mark Pisani
Senior Development Engineer
Engineering Services Unit

Attachment 8 - PLN17/0284 - Council's ESD Referral

Sustainable Management Plan (SMP)

Referral Response by Yarra City Council



ESD in the Planning Permit Application Process

Yarra City Council's planning permit application process includes Environmentally Sustainable Development (ESD) considerations. This is now supported by the ESD Local Policy Clause 22.17 of the Yarra Planning Scheme, entitled *Environmentally Sustainable Development*.

The Clause 22.17 requires all eligible applications to demonstrate best practice in ESD, supported by the Built Environment Sustainability Scorecard (BESS) web-based application tool, which is based on the Sustainable Design Assessment in the Planning Process (SDAPP) program.

As detailed in Clause 22.17, all **large** planning permit applications with Yarra City Council are required to include a Sustainable Management Plan (SMP). This application is a 'large' planning application as it meets the category *Non-residential 1. With a gross floor area greater than 1000m²*.

What is a Sustainable Management Plan (SMP)?

An SMP is a detailed sustainability assessment of a proposed design at the planning stage. An SMP demonstrates best practice in the 10 Key Sustainable Building Categories and;

- Provides a detailed assessment of the development. It may use relevant tools such as BESS and STORM or an alternative assessment approach to the satisfaction of the responsible authority; and
- Identifies achievable environmental performance outcomes having regard to the objectives of Clause 22.17 (as appropriate); and
- Demonstrates that the building has the design potential to achieve the relevant environmental performance outcomes, having regard to the site's opportunities and constraints; and
- Documents the means by which the performance outcomes can be achieved.

An SMP identifies beneficial, easy to implement, best practice initiatives. The nature of larger developments provides the opportunity for increased environmental benefits and the opportunity for major resource savings. Hence, greater rigour in investigation is justified. It may be necessary to engage a sustainability consultant to prepare an SMP.

Assessment Process:

The applicant's town planning drawings provide the basis for Council's ESD assessment. Through the provided drawings and the SMP, Council requires the applicant to demonstrate best practice. The following comments are based on the review of the architectural drawings, prepared by *Bates Smart Architects (23.03.2017)* and the accompanying SMP, prepared by *Waterman AHW dated 29.03.17*.

Attachment 8 - PLN17/0284 - Council's ESD Referral

Sustainable Management Plan (SMP)

Referral Response by Yarra City Council



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Attachment 8 - PLN17/0284 - Council's ESD Referral

Sustainable Management Plan (SMP)

Referral Response by Yarra City Council



Assessment Summary:

Responsible Planner:	John Theodosakis		
ESD Advisor:	Euan Williamson		
Date:	22.06.2017	Planning Application No:	PLN17/0284
Subject Site:	12-18 Albert Street, Richmond, VIC 3121		
Site Area:	Approx. 738m ²	Site Coverage:	100%
Project Description:	Seven storey building comprising office & ground floor café.		
Pre-application meeting(s):	No ESD involvement.		

This application meets Council's Environmental Sustainable Design (ESD) standards. Should a permit be issued, the following ESD commitments (1) and deficiencies (2) should be conditioned as part of a planning permit to ensure Council's ESD standards are fully met.

Furthermore, it is recommended that all ESD commitments (1), deficiencies (2) and the outstanding information (3) are addressed in an updated SMP report and are clearly shown on Condition 1 drawings. ESD improvement opportunities (4) have been summarised as a recommendation to the applicant.

(1) Applicant ESD Commitments:

- Office areas have access to good natural ventilation and daylight.
- Building to exceed NCC/BCA minimum levels of thermal energy efficiency. 10% improvement in insulation and glazing.
- Energy efficient VRV system with COP of 4.2 or better.
- A solar PV array on the roof (6kW) and Building Integrated PV (3.7 kW) integrated into northern façade to both contribute to electricity consumption.
- Reasonable shading through Building Integrated PV solar system and metal screening.
- A 125% STORM score demonstrating best practice relies on 594m² of roof connected to 5m² of raingardens on the ground floor and a further 144m² of roof connected to a 5,000 litre tank for flushing of toilets on the ground floor.
- Energy efficient lighting systems.
- Water efficient taps, fixtures and appliances.
- Plans note 24 secure bicycle parking for staff and visitors.

(2) Application ESD Deficiencies:

- All bicycle racks appear to be hanging. Please include at least 20% 'on-ground' bike racks inline with AS2890.3.

(3) Outstanding Information:

- Hot water system type unknown. Please indicate what type of hot water system will be specified.
- Please check the WMP to ensure that the waste management provisions are sufficient.

(4) ESD Improvement Opportunities:

- Consider providing facilities for electric vehicle charging.
- Consider using low-VOC adhesives, sealants as well as floor/wall/ceiling coverings.
- Consider a % reduction of Portland cement and substitution with industrial waste aggregate or other.

Further Recommendations:

Attachment 8 - PLN17/0284 - Council's ESD Referral

Sustainable Management Plan (SMP)

Referral Response by Yarra City Council



The applicant is encouraged to consider the inclusion of ESD recommendations, detailed in this referral report. Further guidance on how to meet individual planning conditions has been provided in reference to the individual categories. The applicant is also encouraged to seek further advice or clarification from Council on the individual project recommendations.

Attachment 8 - PLN17/0284 - Council's ESD Referral

1. Indoor Environment Quality (IEQ)

Objectives:

- to achieve a healthy indoor environment quality for the wellbeing of building occupants.
- to provide a naturally comfortable indoor environment will lower the need for building services, such as artificial lighting, mechanical ventilation and cooling and heating devices.

Issues	Applicant's Design Responses	Council Comments	CAR*
Natural Ventilation and Night Purging	Office areas have access to good natural ventilation. Mechanical ventilation to be in excess of ventilation standards.	-	1
Daylight & Solar Access	Office areas will have good access to daylight.	-	1
External Views	External views from most office areas.	-	1
Hazardous Materials and VOC	All paints and carpets will be low VOC type. All engineered timber products will have no or low formaldehyde levels.	Consider using low-VOC adhesives, sealants as well as floor/wall/ceiling coverings.	4
Thermal Comfort	Good thermal comfort is determined through a combination of good access to ventilation, balanced passive heat gains and high levels of insulation. The application proposes for the office areas: - Good access to natural ventilation - Exterior shading - Good thermal efficiency standards.	Please refer to section on, <i>NCC Energy Efficiency Requirements Exceeded and Effective Shading</i>	1

* Council Assessment Ratings:

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [1. Indoor Environment Quality](#)
Good Environmental Choice Australia Standards www.geca.org.au
Australian Green Procurement www.greenprocurement.org
Residential Flat Design Code www.planning.nsw.gov.au
Your Home www.yourhome.gov.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

2. Energy Efficiency

Objectives:

- to ensure the efficient use of energy
- to reduce total operating greenhouse emissions
- to reduce energy peak demand
- to minimize associated energy costs.

Issues	Applicant's Design Responses	Council Comments	CAR*
NCC Energy Efficiency Requirements Exceeded	Building to exceed NCC/BCA minimum levels of thermal energy efficiency. 10% improvement in insulation and glazing.	-	1
Hot Water System	Hot water system type unknown. Overall performance standard over 30% improvement.	Please indicate what type of hot water system will be specified.	3
Peak Energy Demand	Peak demand to be reduced through various elements including shading and orientation and solar PV energy generation.	-	1
Effective Shading	Reasonable shading through BiPV system and metal screening.	-	1
Efficient HVAC system	Energy efficient VRV system with COP of 4.2 or better, economy cycle and mixed mode operation, or equivalent.	-	1
Efficient Lighting	Energy efficient lighting including LED lighting and occupancy/daylight sensor controls throughout the building, 30% improvement in NCC lighting power density.	-	1
Electricity Generation	A solar PV array on the roof (6kW) and BiPV (3.7 kW) integrated into northern façade to contribute to electricity consumption.	-	1
Electric Vehicle Infrastructure	No information has been provided.	Consider providing electric vehicle charging infrastructure.	4

*** Council Assessment Ratings:**

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [2. Energy Efficiency](#)
 House Energy Rating www.makeyourhomegreen.vic.gov.au
 Building Code Australia www.abcb.gov.au
 Window Efficiency Rating Scheme (WERS) www.wers.net
 Minimum Energy Performance Standards (MEPS) www.energyrating.gov.au
 Energy Efficiency www.resourcesmart.vic.gov.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

3. Water Efficiency

Objectives:

- to ensure the efficient use of water
- to reduce total operating potable water use
- to encourage the collection and reuse of rainwater and stormwater
- to encourage the appropriate use of alternative water sources (e.g. grey water)
- to minimise associated water costs.

Issues	Applicant's Design Responses	Council Comments	CAR*
Minimising Amenity Water Demand	<p>The following WELS water efficiency standards have been specified:</p> <ul style="list-style-type: none"> • Taps: 6 Star • Urinals: 5 Star • Toilets: 4 Stars • Showerheads: 3 Star (<9litre/min) 	-	1
Water for Toilet Flushing	Rainwater storage for flushing of toilets on ground floor and for irrigation.	-	1
Water Meter	Separate metering for each level and water sub-metering to assist with ongoing water management.	-	1
Landscape Irrigation	Rainwater will be used for irrigation of courtyards, terraces and rooftop gardens.	-	1
Other	-	-	1

*** Council Assessment Ratings:**

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [3. Water Efficiency](#)
 Water Efficient Labelling Scheme (WELS) www.waterrating.gov.au
 Water Services Association of Australia www.wsaa.asn.au
 Water Tank Requirement www.makeyourhomegreen.vic.gov.au
 Melbourne Water STORM calculator www.storm.melbournewater.com.au
 Sustainable Landscaping www.ourwater.vic.gov.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

4. Stormwater Management

Objectives:

- to reduce the impact of stormwater runoff
- to improve the water quality of stormwater runoff
- to achieve best practice stormwater quality outcomes
- to incorporate Water Sensitive Urban Design principles.

Issues	Applicant's Design Responses	Council Comments	CAR*
STORM Rating	A 125% STORM score demonstrating best practice relies on 594m ² of roof connected to 5m ² of raingardens on the ground floor and a further 144 m ² of roof connected to a 5,000 litre tank for flushing of toilet on the ground floor.	-	1
Discharge to Sewer	-	-	-
Stormwater Diversion	-	-	-
Stormwater Detention	-	-	1
Stormwater Treatment	-	-	-
Others	-	-	-

* Council Assessment Ratings:

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [4. Stormwater Management](#)
 Melbourne Water STORM calculator www.storm.melbournewater.com.au
 Water Sensitive Urban Design Principles www.melbournewater.com.au
 Environmental Protection Authority Victoria www.epa.vic.gov.au
 Water Services Association of Australia www.wsaa.asn.au
 Sustainable Landscaping www.ourwater.vic.gov.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

5. Building Materials

Objectives:

- to minimise the environmental impact of materials used by encouraging the use of materials with a favourable lifecycle assessment.

Issues	Applicant's Design Responses	Council Comments	CAR*
Reuse of Recycled Materials	A preference for products with third party environmental certification, such as GECA	-	1
Embodied Energy of Concrete and Steel	No specific commitments have been made.	Consider a % reduction of Portland cement and substitution with industrial waste aggregate or other.	4
Sustainable Timber	All timber used onsite to be PEFC or FSC accredited or equivalent.	-	1
Design for Disassembly	All materials will be prefabricated for ease of assembly/disassembly and limiting transportation.	-	1
Others	-	-	1

*** Council Assessment Ratings:**

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [5. Building Materials](#)

Building Materials, Technical Manuals www.yourhome.gov.au

Embodied Energy Technical Manual www.yourhome.gov.au

Good Environmental Choice Australia Standards www.geca.org.au

Forest Stewardship Council Certification Scheme www.fsc.org

Australian Green Procurement www.greenprocurement.org

Attachment 8 - PLN17/0284 - Council's ESD Referral

6. Transport

Objectives:

- to minimise car dependency
- to ensure that the built environment is designed to promote the use of public transport, walking and cycling.

Issues	Applicant's Design Responses	Council Comments	CAR*
Minimising the Provision of Car Parks	Basement car parking.	-	1
Bike Parking Spaces	Plans note 24 secure bicycle parking spaces for staff and visitors.	All bicycle racks appear to be hanging. Please include at least 20% on ground bike racks inline with AS2890.3	2
End of Trip Facilities	End of trip facilities provided in basement.	-	1
Car Share Facilities	-	-	NA
Others	-	-	-

*** Council Assessment Ratings:**

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [6. Transport](#)

Off-setting Car Emissions Options www.greenfleet.com.au

Sustainable Transport www.transport.vic.gov.au/doi/internet/icy.nsf

Car share options www.yarracity.vic.gov.au/Parking-roads-and-transport/Transport-Services/Carsharing/

Bicycle Victoria www.bv.com.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

7. Waste Management

Objectives:

- to ensure waste avoidance, reuse and recycling during the design, construction and operation stages of development
- to ensure long term reusability of building materials.
- to meet Councils' requirement that all multi-unit developments must provide a Waste Management Plan in accordance with the *Guide to Best Practice for Waste Management in Multi-unit Developments 2010*, published by Sustainability Victoria.

Issues	Applicant's Design Responses	Council Comments	CAR*
Construction Waste Management	80% recycling target for construction and demolition waste.	-	1
Operational Waste Management	Waste system with different bins for general waste and recycling.	Please check the WMP to ensure that the waste management provisions are sufficient.	3
Storage Spaces for Recycling and Green Waste	Area for waste bins can be identified on the plans.	Please check the WMP to ensure that the waste management provisions are sufficient.	3
Others	-	-	-

*** Council Assessment Ratings:**

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [7. Waste Management](#)

Construction and Waste Management www.sustainability.vic.gov.au

Preparing a WMP www.epa.vic.gov.au

Waste and Recycling www.resourcesmart.vic.gov.au

Better Practice Guide for Waste Management in Multi-Unit Dwellings (2002)

www.environment.nsw.gov.au

Waste reduction in office buildings (2002) www.environment.nsw.gov.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

8. Urban Ecology

Objectives:

- to protect and enhance biodiversity
- to provide sustainable landscaping
- to protect and manage all remnant indigenous plant communities
- to encourage the planting of indigenous vegetation.

Issues	Applicant's Design Responses	Council Comments	CAR*
On Site Topsoil Retention	There is no productive topsoil on this site.	-	NA
Maintaining / Enhancing Ecological Value	Terrance and courtyard landscaping will improve the ecological value of this site.	-	1
Reclaiming Contamin. Land	No information has been provided.	-	NA
Other	Native and indigenous species will be used where practical.	-	1

*** Council Assessment Ratings:**

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [8. Urban Ecology](#)

Department of Sustainability and Environment www.dse.vic.gov.au

Australian Research Centre for Urban Ecology www.arcue.botany.unimelb.edu.au

Greening Australia www.greeningaustralia.org.au

Green Roof Technical Manual www.yourhome.gov.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

9. Innovation

Objective:

- to encourage innovative technology, design and processes in all development, which positively influence the sustainability of buildings.

Issues	Applicant's Design Responses	Council Comments	CAR*
Significant Enhancement to the Environmental Performance	-	-	-
Innovative Social Improvements	-	-	-
New Technology	-	-	-
New Design Approach	-	-	-
Others	-	-	-

*** Council Assessment Ratings:**

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [9. Innovation](#)
 Green Building Council Australia www.gbca.org.au
 Victorian Eco Innovation lab www.ecoinnovationlab.com
 Business Victoria www.business.vic.gov.au
 Environment Design Guide www.environmentdesignguide.com.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

10. Construction and Building Management

Objective:

- to encourage a holistic and integrated design and construction process and ongoing high performance

Issues	Applicant's Design Responses	Council Comments	CAR*
Building Tuning	Commissioning and tuning of building services in line with CIBSE and ASHRAE standards.	-	1
Building Users Guide	A Building Users Guide detailing the sustainability features of the building be developed and given to building users.	-	1
Contractor has Valid ISO14001 Accreditation	Preference given to building contractor with a valid ISO14001 accreditation.	-	1
Construction Management Plan	An Environmental Management Plan will be developed by the building contractor to monitor and control activities undertaken during construction.	-	1
Others	-	-	-

*** Council Assessment Ratings:**

1 – Design Response is **SATISFACTORY**; 2 – Design Response is **NOT SATISFACTORY**
 3 – **MORE INFORMATION** is required; 4 – **ESD IMPROVEMENT OPPORTUNITIES**

References and useful information:

SDAPP Fact Sheet: [10. Construction and Building Management](#)

ASHRAE and CIBSE Commissioning handbooks

International Organization for standardization – ISO14001 – Environmental Management Systems

Keeping Our Stormwater Clean – A Builder's Guide www.melbournewater.com.au

Attachment 8 - PLN17/0284 - Council's ESD Referral

Sustainable Management Plan (SMP)
for planning applications being considered by Yarra Council



Applicant Response Guidelines

Project Information:

Applicants should state the property address and the proposed development's use and extent. They should describe neighbouring buildings that impact on or may be impacted by the development. It is required to outline relevant areas, such as site permeability, water capture areas and gross floor area of different building uses. Applicants should describe the development's sustainable design approach and summarise the project's key ESD objectives.

Environmental Categories:

Each criterion is one of the 10 Key Sustainable Building Categories. The applicant is required to address each criterion and demonstrate how the design meets its objectives.

Objectives:

Within this section the general intent, the aims and the purposes of the category are explained.

Issues:

This section comprises a list of topics that might be relevant within the environmental category. As each application responds to different opportunities and constraints, it is not required to address all issues. The list is non-exhaustive and topics can be added to tailor to specific application needs.

Assessment Method Description:

Where applicable, the Applicant needs to explain what standards have been used to assess the applicable issues.

Benchmarks Description:

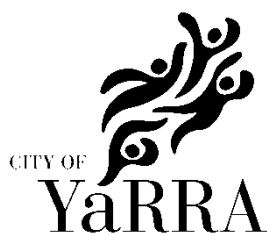
The applicant is required to briefly explain the benchmark applied as outlined within the chosen standard. A benchmark description is required for each environmental issue that has been identified as relevant.

How does the proposal comply with the benchmarks?

The applicant should show how the proposed design meets the benchmarks of the chosen standard through making references to the design brief, drawings, specifications, consultant reports or other evidence that proves compliance with the chosen benchmark.

ESD Matters on Architectural Drawings:

Architectural drawings should reflect all relevant ESD matters where feasible. As an example, window attributes, sun shading and materials should be noted on elevations and finishes schedules, water tanks and renewable energy devices should be shown on plans. The site's permeability should be clearly noted. It is also recommended to indicate water catchment areas on roof- or site plans to confirm water re-use calculations.

Attachment 9 - PLN17/0284 - Council's urban design advice

MeMO

TO: John Theodosakis
FROM: David Pryor
DATE: 22 June 2017
SUBJECT: 12 Albert St, Richmond
APPLICATION NO: PLN17/0284
DESCRIPTION: Construction of a seven-storey office building, including food and drink premises

Urban design advice has been sought in relation to:

- the presentation of the building in terms of articulation and architectural expression; and
- any proposed capital works in the vicinity.

COMMENTS SUMMARY

This proposal is supported in principle, subject to the improvements to massing and design outlined below, including the following:

- increase the upper-level setbacks from the north and south boundaries;
- Review the design to better integrate the Level 6 form;
- Develop the design of the east screen to reduce perceived bulk and to provide a textured, less alienating presentation to the residential precinct adjacent;
- Review the design of the north elevation to ensure the upper levels are visually light;
- Explore opportunities to build on the character of the area, including the re-use of existing materials or the provision of a laneway tenancy;
- Delete the carparking from ground floor level and replace it with space which contributes to activation.

There are no known capital works proposed for this area.

Site and context

The land is zoned C2Z, with a residential area adjoining to the east. Under the Swan St Structure Plan, the site sits within the Church Street Precinct; the preferred height limit is 5-6 storeys or 19m.

Apart from the houses to the east, there are no adjacent buildings of sensitive character which the proposed development would need to respond to. Gibbons St is a lane wrapping around the east and south boundaries of the site; the south leg of this lane is quite well used by pedestrians, who can connect to Brighton St via an unlocked carpark. On the south side of Gibbons St, a 5-storey office building at 511 Church St is a dominating presence, highly visible from Brighton St, and its above-ground carparking has a negative impact on the lane.

Attachment 9 - PLN17/0284 - Council's urban design advice

Three unremarkable single-storey buildings currently occupy the site – two houses and a light industrial building.

Built form and Massing

The proposed building height transitions from 3 storeys (12m) at the east (laneway) boundary to 7 storeys (26m) at the common boundary on the west side. This is very logical, and limits amenity impacts on residential neighbours, although its bulk would still have a significant visual impact on the three adjoining houses, its height being about three times the width of the lane, and it would cast additional shadow over the private open space of 60 Brighton St, including at 2-3pm on the equinox. Taller development can be anticipated to the west of the site, but in the meantime, the proposal would be much taller than its single storey neighbour. This interface has been well considered with respect to views from Albert St, but presents a large blank wall as viewed from the southwest.

In relation to Albert St, the 1.5m setback above three levels is considered insufficient for the upper levels to be recessive, noting that the PV sunshading and perimeter frame would only be set back about 900mm. This is evident in the perspective on p23 of the Bates Smart report. It is recommended that this setback be increased by 1.5m.

To the south, the proposal presents a wall of up to 23m with no setback, creating a height:width ratio of up to 6:1 in relation to Gibbons St. It is recommended that this wall be set back about 2m above three storeys, noting that the building opposite has a modest setback at a similar height. This would improve light penetration, and would better respond to Design Guidelines under Clause 22.10-3.3, which include: *New development which abuts a laneway should be no higher than 2 storeys.*

Increased upper-level setbacks from the north and south (as above) would have the additional benefit of reducing the building's bulk as presented to the east and reducing the extent and impact of the blank side wall to the west.

I support the provision of communal facilities adjoining a roof terrace atop the building, but this form is the least well integrated in the composition. This could be improved by ensuring that the north end of its west wall terminates in line with the floors below (as shown on the plan but not on the elevation) and by setting Levels 3 to 5 back from the south in line with Level 6 (as recommended above).

Presentation of the building

The building design has a focus on cohesiveness, which is a reasonable approach, giving the building a strong image appropriate to an office building. However, the screen which wraps up the east elevation has the effect of solidifying the building's bulk. This could be alleviated by reducing the length of the screen (the increased setbacks recommended above would reduce its length by 3.5m) and by using fold-outs rather than simple holes, giving the screen greater texture and more varied visual effects (depending on sun angles and direction of view); such screening could also be used to fine-tune the control of overlooking, sun penetration and views. (The image below is purely to illustrate what is meant by fold-outs)

Attachment 9 - PLN17/0284 - Council's urban design advice**Figure 1: screen with fold-out perforations**

The photovoltaic (PV) sunshading on the north elevation is commended. Some drawings (eg the perspective on p40) show a glass pane across the north face of the PVs; I recommend that this be deleted, as it detracts from the intended “visual lightness” of the upper levels. Also, consideration should be given to raking these panels; they would then present as less solid when viewed from the street below, and their efficiency would be increased. The proposed layering of perforated metal at the northwest corner would present well (assuming it gains building approval), and once the south setback has been introduced, the proposed patterned metal cladding would adequately provide interest to the remainder of the blank west wall.

There may be opportunities to add character to the development by reusing components from the existing buildings, such as graffitied bricks from the back fence; this could help it respond to the history of the neighbourhood and would have environmental benefit, consistent with Clause 22.10-3.5: “Maximise the retention and re-use of existing materials”.

The board-finished concrete shown on p41 of the Bates Smart report is commendable, but there is currently no written commitment to such a high quality finish. This could be addressed through a permit condition or by amending the legend on the elevations.

Street Interface

The north half of the ground floor treatment is supported. The setback enables street activation through a sheltered outdoor dining area. The rain gardens are supported, but I note that the basement below extends to the boundary, preventing in-ground planting. The ground level carparking is not supported. This inactive undercroft space has a negative impact on Gibbons St, which needs improved interfaces, given its role as a pedestrian thoroughfare. Also, the use of valuable ground floor space for habitable uses should be maximised; there is an opportunity to diversify the range of tenancies available in the precinct by including a small shop or business addressing the laneway.

Other

I commend the placement of a welcoming stair at the entry, encouraging passive exercise and helping to reduce energy usage. There is a further opportunity for the upper-level stairs to provide an attractive connection between offices on adjoining floors, and the linework on the plans suggests this may be intended.

Attachment 9 - PLN17/0284 - Council's urban design advice

Drawing TP02.100 suggests that the proposal includes new paving to the adjoining footpath and lane; this would need to be discussed with council officers, given the maintenance requirements which would ensue.

Attachment 10 - PLN17/0284 - Facade concept study (received by Council 20 September 2017)



Attachment 10 - PLN17/0284 - Facade concept study (received by Council 20 September 2017)

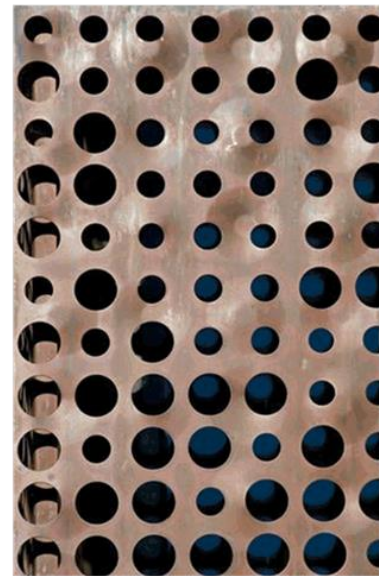
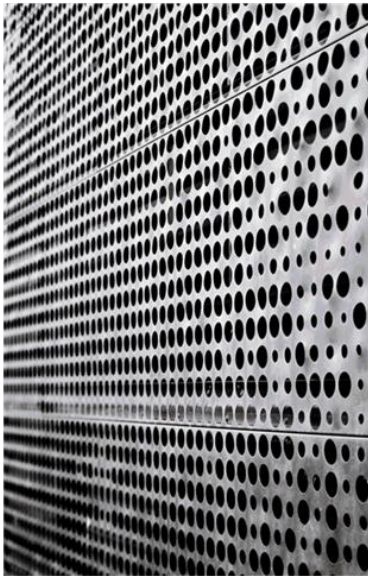
12-18 ALBERT STREET RICHMOND
FACADE PERFORMANCE STUDIES

2

FACADE CONCEPT

*Texture
Variation
Visual privacy*

- *Creates visual separation and retains privacy to adjacent residential development*
- *Perforation creates texture and variation*
- *Allows filtered light through to office floorplate*
- *Warm metallic colour & finish*
- *High quality material ensures durability & lasting aesthetic*



Attachment 10 - PLN17/0284 - Facade concept study (received by Council 20 September 2017)

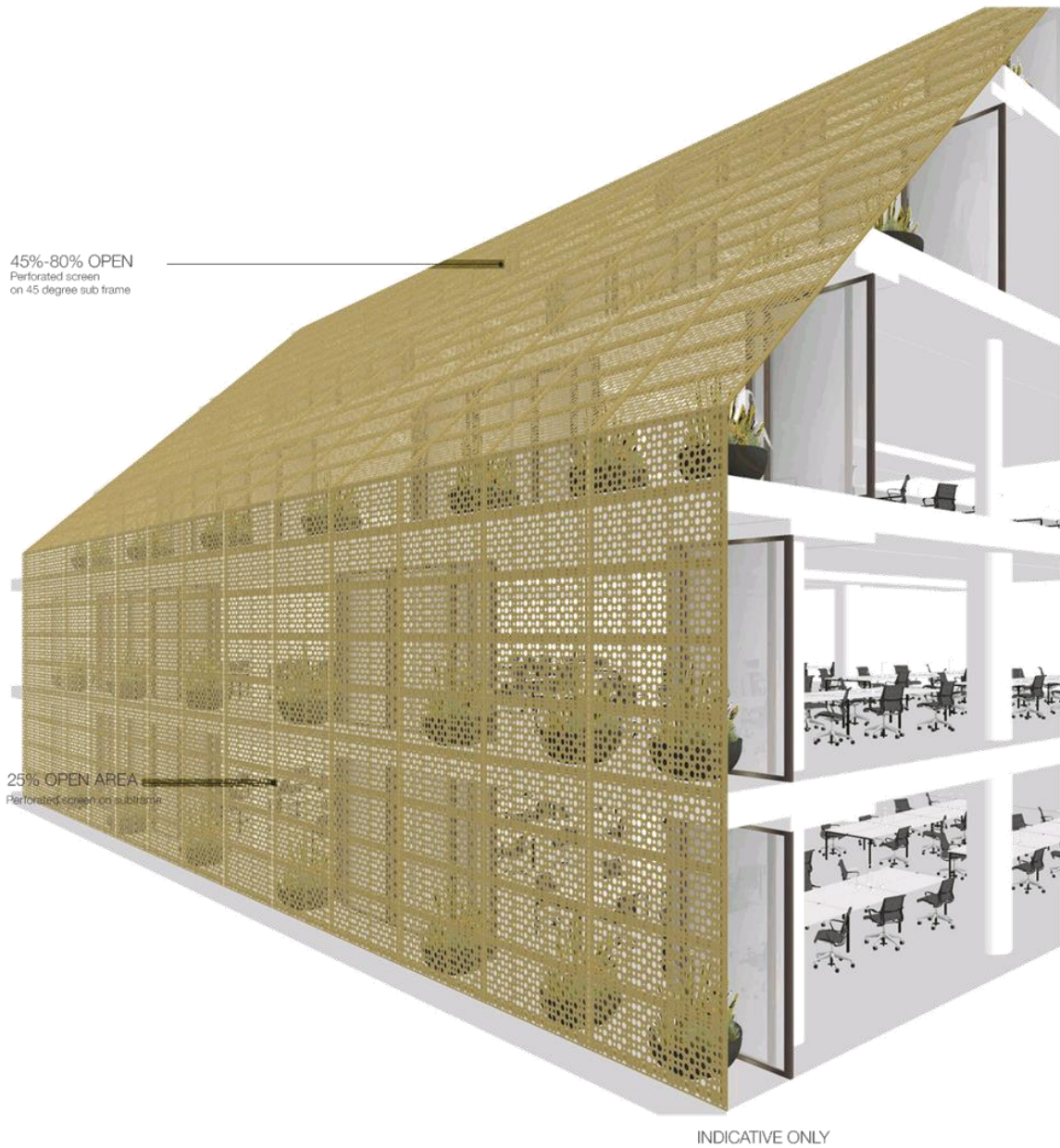
12-18 ALBERT STREET RICHMOND
FACADE PERFORMANCE STUDIES

3

FACADE EAST

Perforated screen concept carefully balances visual privacy whilst allowing filtered light to the office levels

- Perforated aluminium screen achieves 25% open area to vertical face to create visual separation of adjacent development
- 45-80% open area at the roof to maximise daylight access whilst still achieving visual screening below.



BATESSMART.

Attachment 10 - PLN17/0284 - Facade concept study (received by Council 20 September 2017)

12-18 ALBERT STREET RICHMOND
FACADE PERFORMANCE STUDIES

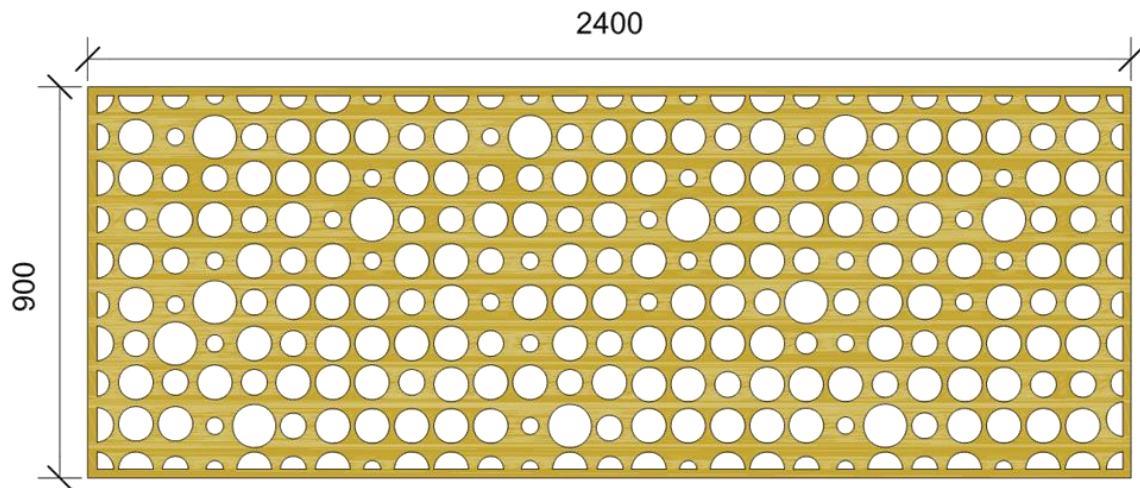
4

UPPER SCREEN

45-80% OPEN

(INDICATIVE CONCEPT)

Rectilinear perforated aluminium screen with maximum of 80% open area

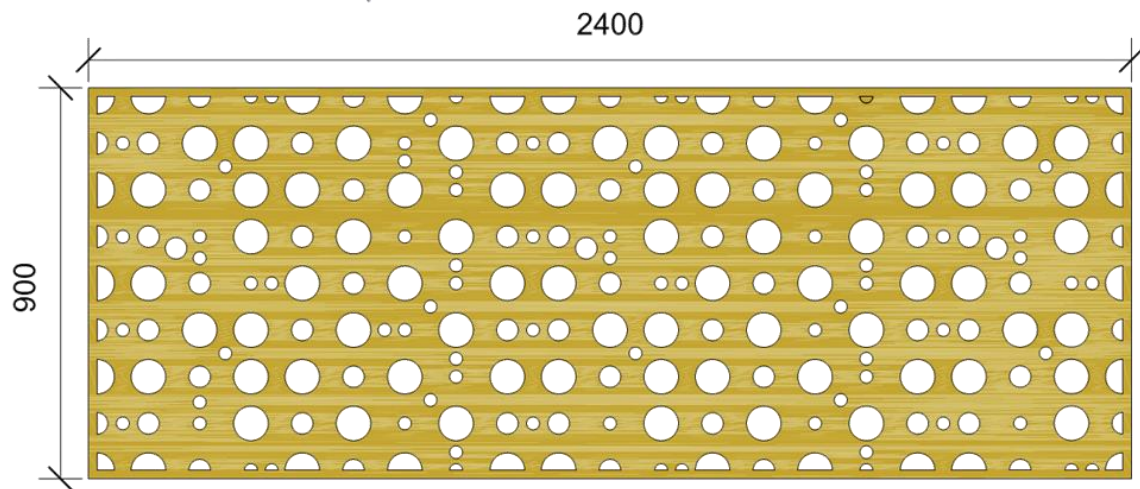


LOWER SCREEN

25% OPEN

(INDICATIVE CONCEPT)

Rectilinear perforated aluminium screen with maximum of 25% open area



BATESSMART.

Attachment 10 - PLN17/0284 - Facade concept study (received by Council 20 September 2017)

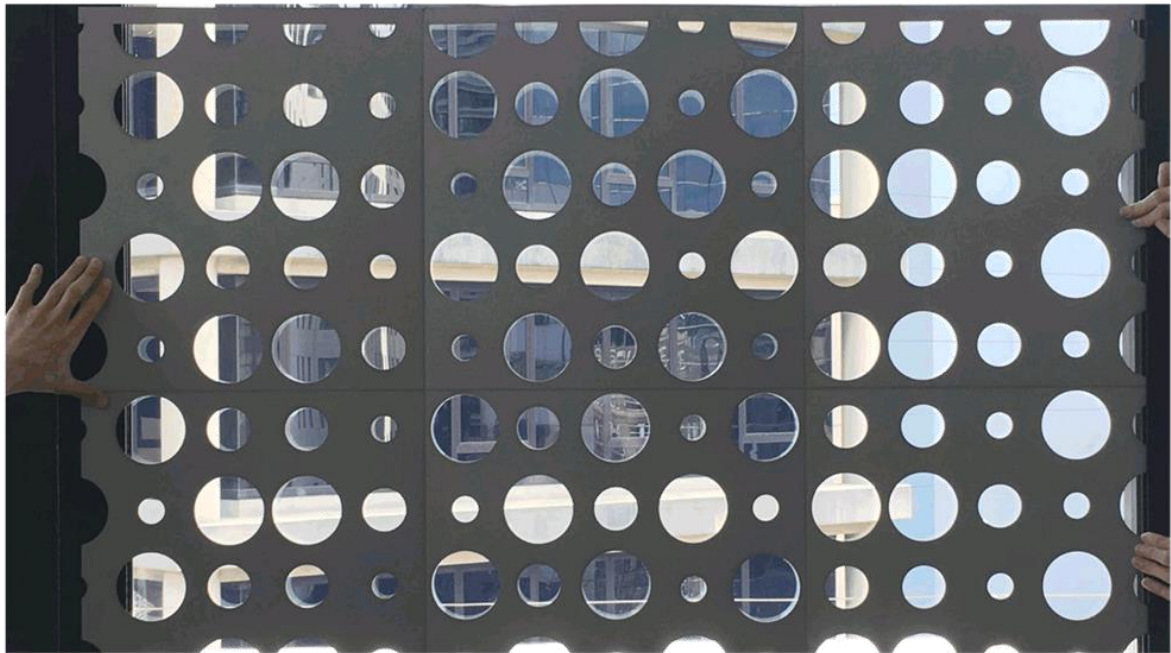
12-18 ALBERT STREET RICHMOND
FACADE PERFORATION STUDIES

5

LOWER SCREEN

1:1 MODEL

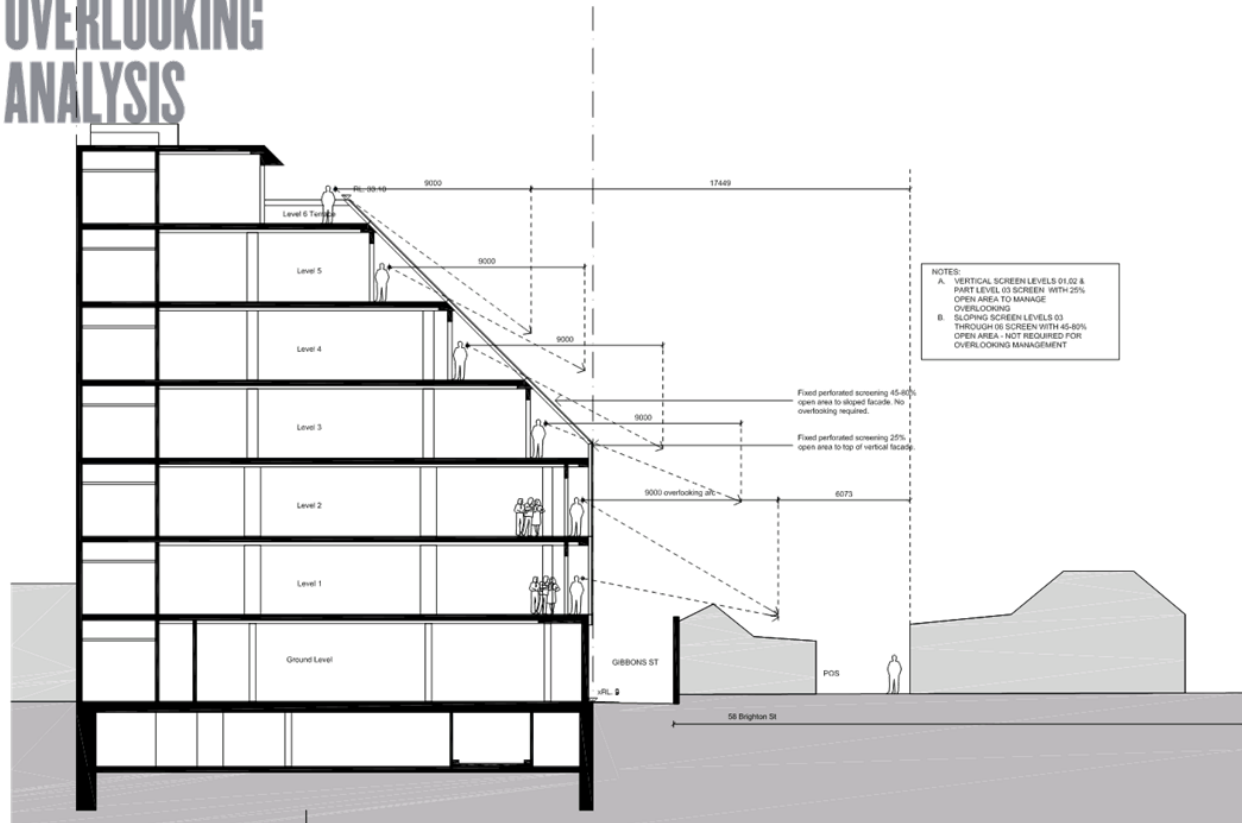
25% OPEN



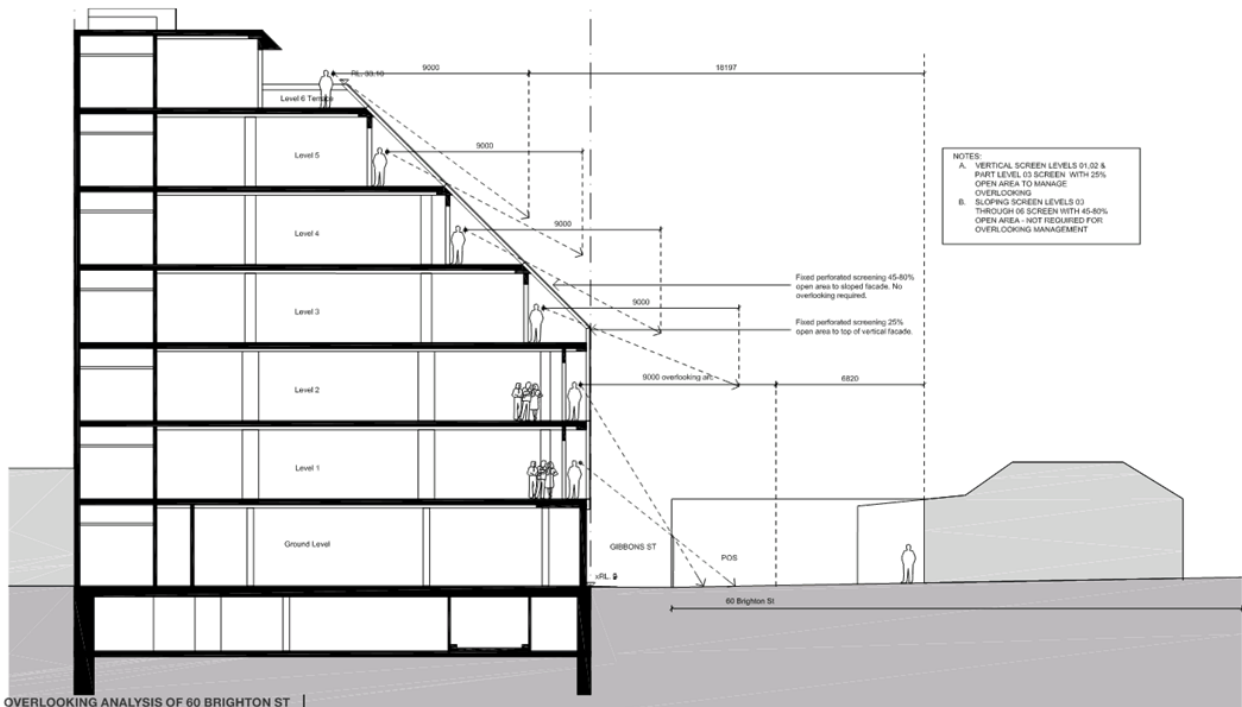
Sample screen scale 1:1

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FACADE OVERLOOKING ANALYSIS



OVERLOOKING ANALYSIS OF 58 BRIGHTON ST

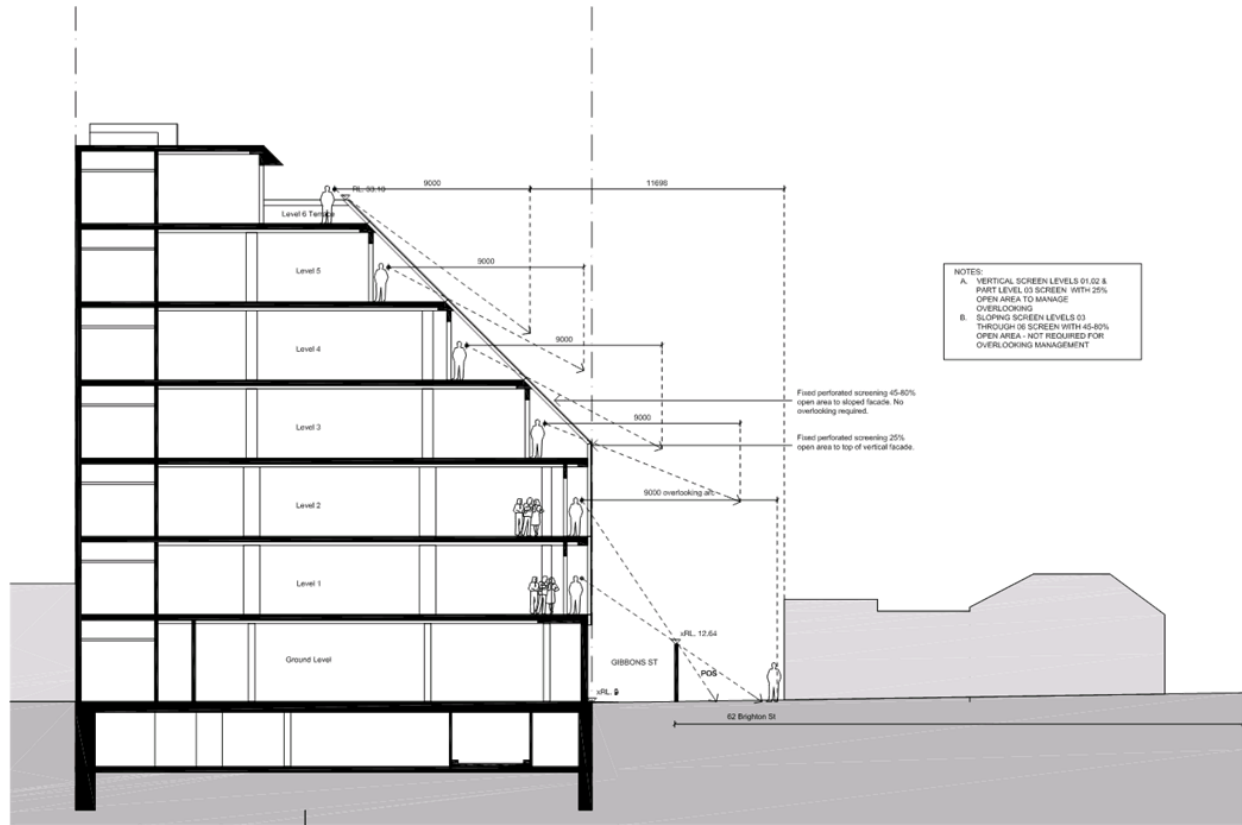


OVERLOOKING ANALYSIS OF 60 BRIGHTON ST

Attachment 10 - PLN17/0284 - Facade concept study (received by Council 20 September 2017)

12-18 ALBERT STREET RICHMOND
FACADE PERFORMANCE STUDIES

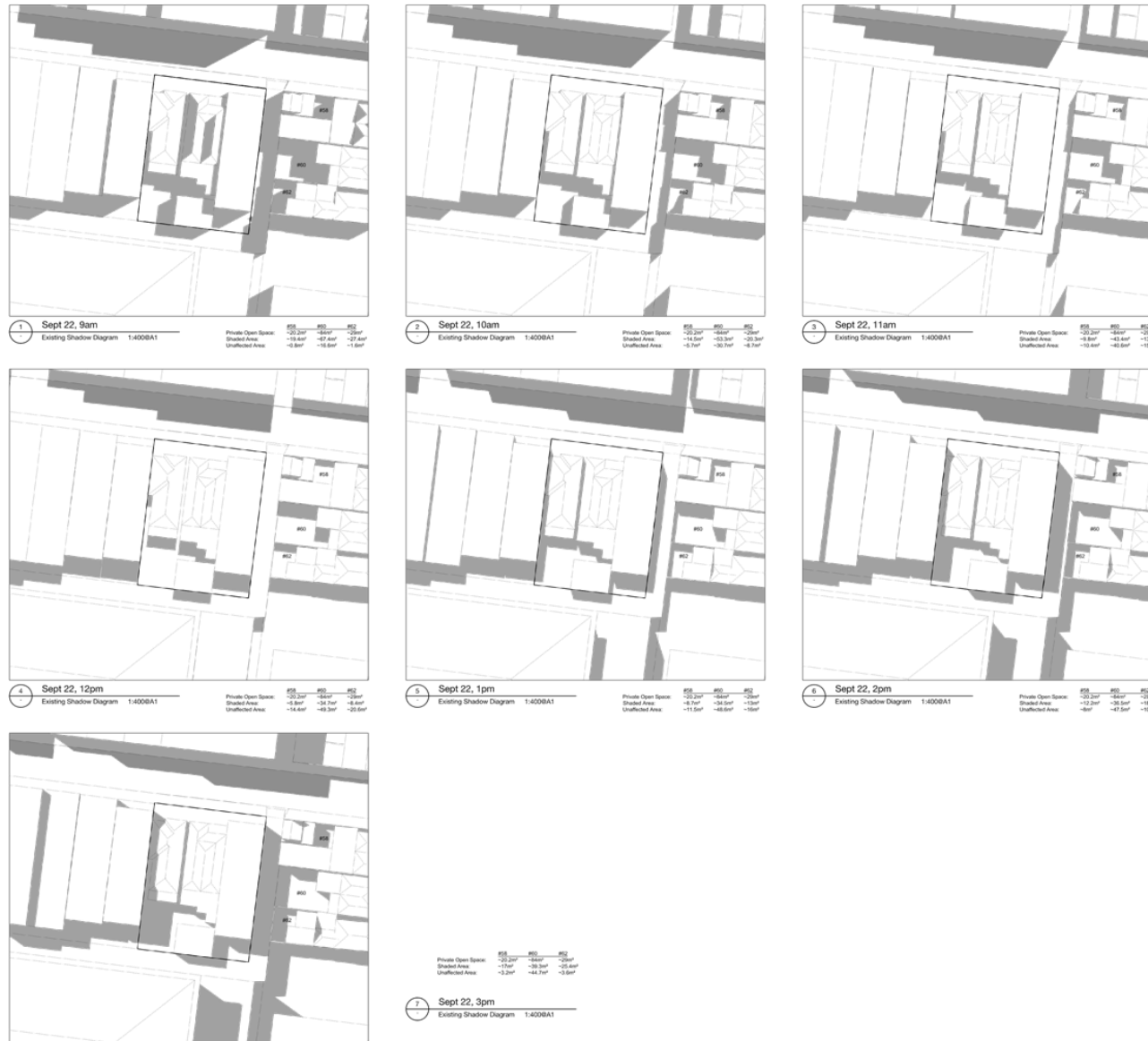
7



OVERLOOKING ANALYSIS OF 62 BRIGHTON ST

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Attachment 11 - PLN17/0284 - Existing Shadow diagram (received by Council 01 November 2017)



Check all dimensions and site conditions prior to commencement of any work, the purchase or ordering of any materials, things, plant, services or equipment and the preparation of any drawings and the fabrication of any components.

All drawings to be used in conjunction with all architectural documents and all other relevant documents.

Do not scale drawings - refer to figure dimensions only. Any discrepancies shall immediately be referred to the architect for clarification.

All drawings may not be reproduced or distributed without prior permission from the architect.

Shadow diagrams to scale, CP SS
B 1.11.17 additional information

A 24.03.17 Town Planning Submission CP SS

12-18 Albert St Richmond
Cremorne Properties
Existing Shadow Diagrams
Spring Equinox September 22

Scale 1:400@A1
Drawn Checked
Project No. S12080
Status Town Planning Submission
Plot Date 1/11/2017 12:38 PM
Plot File C:\Users\matt\Documents\12080\12080_plans\12080_plans.dwg
Drawing No. 12080

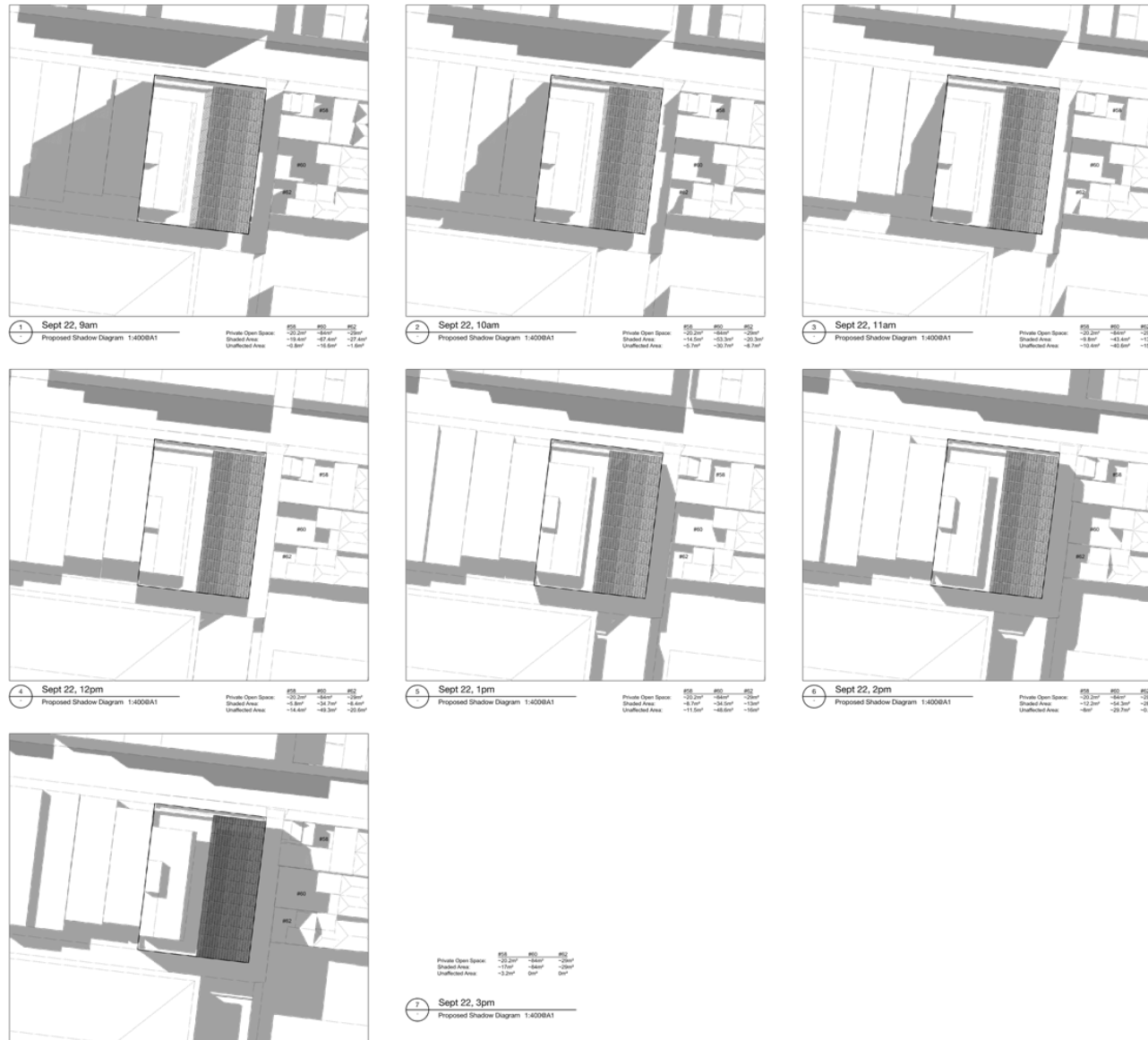
TP10.001[B]
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http://www.batesmart.com.au

Bates Smart Architects Pty Ltd ABN 58 094 740 985

BATESSMART

Attachment 12 - PLN17/0284 - Proposed shadow (received by Council 01 November 2017)



Check all dimensions and site conditions prior to commencement of any work, the purchase or ordering of any materials, things, plant, services or equipment and the preparation of any drawings and the fabrication of any components.
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Shadow diagrams to scale, CP SS
B 1.11.17 additional information
A 24.03.17 Town Planning Submission CP SS

12-18 Albert St Richmond
Cremorne Properties
Proposed Shadow Diagrams
Spring Equinox September 22

Scale 1:400@A1
Drawn Checked
Project No. S12080
Status Town Planning Submission
Plot Date 1/11/2017 12:37 PM
Plot File C:\Users\michael\Documents\12-18_albert_st_richmond_plans\12080.dwg
Drawing No. 10000000 (Preliminary)

TP10.002[B]
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Bates Smart Architects Pty Ltd ABN 58 094 740 985

BATESSMART.

1.3 111 Charles Street, Abbotsford VIC 3067 - Planning Permit Application No. PLN17/0237 for part demolition and construction of a double-storey extension to the existing dwelling.

Executive Summary

Purpose

1. This report provides Council with an assessment of planning application PLN17/0237 at No.111 Charles Street, Abbotsford and recommends approval, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay;
 - (b) Clause 22.07 – Developments abutting Laneways;
 - (c) Clause 43.01- Heritage Overlay; and
 - (d) Clause 54 – One dwelling on a lot (Rescode).

Key Issues

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

Objector Concerns

4. Two objections were received to the application, and they can be summarised as:
 - (a) Overlooking;
 - (b) Overshadowing;
 - (c) Visual bulk;
 - (d) Impact on energy efficiency;
 - (e) Removal of trees; and
 - (f) Plan discrepancies (habitable room windows; screening details and height of boundary fencing).

Conclusion

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

CONTACT OFFICER: Tamina Loan Vy
TITLE: Statutory Planner
TEL: 92055104

1.3 111 Charles Street, Abbotsford VIC 3067 - Planning Permit Application No. PLN17/0237 for part demolition and construction of a double-storey extension to the existing dwelling.

Trim Record Number: D17/134158

Responsible Officer: Senior Coordinator Statutory Planning

Proposal:	Part demolition and construction of a double-storey extension to the existing dwelling
Existing use:	Single-storey dwelling
Applicant:	Arabella Georges Architect
Zoning / Overlays:	Neighbourhood Residential Zone – schedule 1; Heritage Overlay - schedule HO313.
Date of Application:	23 March 2017
Application Number:	PLN17/0237

Planning History

1. Planning permit PL03/0085 was approved on 25 March 2003 for the construction of a front verandah.

Background

2. Application No.PLN17/0237 was received on 23 March 2017, advertised in May 2017 and two objections were received.
3. This application was called-up to IDAC by Councillor Jolly for determination.
4. On 12 September 2017, revised plans were received under section 57A of the *Planning and Environment Act* 1987 (the Act) and include the following changes;
 - (a) Reduced setback of the first floor from the southern boundary from 2.5m to 1.88m;
 - (b) Replaced planter box on the southern side of the first floor deck with privacy screening;
 - (c) Reduced sill height of the first floor, south-facing window of the master bedroom from 1.2m high to 1.05m above finished floor level;
 - (d) Relocated first floor, east-facing windows of the study/nursery to be closer to the sliding doors.
 - (e) Increased demolition to include the southern window to the living room;
 - (f) Skylights to ground floor shifted further south and bathroom window moved further east;
 - (g) Deleted south-facing windows from first floor study and bathroom;
 - (h) Deck floor lowered (approximately 400mm) in height (to match study/nursery);
 - (i) Angle of first floor roof over study/nursery lowered.

Amendment VC110

5. The subject site is affected by Amendment VC110 which was gazetted on 27 March 2017 which introduced a mandatory maximum building of 9m and maximum of two storeys, at clause 32.09-9 of the Scheme.

Existing Conditions

Subject Site

6. The subject site is located on the western side of Charles Street, between Gipps Street to the south and Vere Street to the north in Abbotsford. The site is rectangular in shape and has a 6.58m wide frontage, 22.1m long boundary, yielding an overall site area of 145.40sqm.
7. Developed on the site is a free-standing, timber weatherboard, single-storey Victorian-era dwelling, with a corrugated iron hipped roof, and bullnose front verandah.
8. The dwelling is setback 2.79m from the front title boundary, and approximately 1.1m from the southern boundary and 0.4m from the northern boundary for the majority of the dwelling, with the bathroom and laundry constructed along the northern boundary. The dwelling currently accommodates two bedrooms, living, dining and kitchen; laundry, bathroom and storage room. Private open space is located in the south-west corner of the site which is concreted. There are three trees along the southern boundary. The plans show the existing western boundary fence/gate, part of the southern boundary fence and part of the dwelling abutting the northern boundary extending beyond the title boundaries of the subject site.

Surrounding Land

9. The surrounding area generally consists of weatherboard, single-storey dwellings Victorian-era dwellings, some with double-storey extensions which are located towards the rear of the site. There are also two-storey, brick Victorian-era dwellings located further north along Charles Street (towards Vere Street). A 3m wide laneway is located at the rear (west) of the subject site.
10. To the north is a single-storey Victorian-era dwelling with a front setback of 2.79m from the street. The majority of this dwelling is setback 0.8m from the southern boundary, with approximately 4.2m towards the rear of the dwelling constructed on the southern boundary. There are three south-facing windows, with two shown as habitable rooms. Private open space is located at the rear (west) of this dwelling.
11. To the south of the site is a single-storey, Victorian-era dwelling with a modern, rear double-storey extension which partially cantilevers over the private open space area located in the north-west corner of the site. Based on endorsed plans for planning permit (PLN10/0731) it shows at ground floor there are a number of windows and sliding doors to living/dining, hallway, study nook which are setback 3.3m from the northern boundary (the proposed plan shows the study nook with a non-habitable window). The first floor extension includes a bedroom with north and east-facing windows. The north-facing window has a sill height of 1.7m above finished floor level and is setback 2.5m from the northern boundary.
12. To the west of the laneway are the rear private open spaces associated with dwellings facing Park Street.
13. To the east of Charles Street are single-storey dwelling with hipped roofs (two of the properties have double-storey extension at the rear abutting their rear boundary).

The Proposal

14. The proposal is for part demolition and construction of a double-storey extension to the existing dwelling. The proposal is summarised as follows:

Demolition

- (a) Demolition at the rear of the existing dwelling, including a portion of the living/kitchen/dining room and removal of the laundry, bathroom and storeroom (including associated roof above);
- (b) Demolition of the roof above the first and second front rooms (to accommodate roof deck);
- (c) Demolition of part of the northern wall for a window; and

- (d) Removal of western-most tree (no permit required).

Development

- (e) Construction of a ground floor extension located behind the second bedroom, to accommodate a laundry and bathroom, and an open plan dining/kitchen and living area facing the rear private open space area;
- (f) The extension would abut the northern boundary for 8.82m and the southern boundary for 6.84m and would be setback 3m from the rear boundary;
- (g) Create a north-facing window within the wall of the hallway (opposite bedroom 2); construction of a 1.88m high and a 1.99m high paling fence along the rear north and south boundaries, respectively;
- (h) Construction of a first floor to accommodate a roof deck (facing Charles Street), a study/nursery, shower, and a bedroom to abut the northern boundary (8.8m); setback 3m from the rear boundary and 1.88m from the southern boundary;
- (i) The front wall of the first floor would be setback 10.41m from the eastern boundary, and the roof deck is setback approximately 7.1m from the front title boundary;

General

- (j) The maximum building height is 6.7m above natural ground. On-boundary wall heights along the northern boundary are 5.63m above ground level and 1.9m on the southern boundary;
- (k) Skylights provided on the southern side of the ground floor roof and solar panels provided on the northern side of the first floor roof;
- (l) Proposed materials includes:
 - (i) Roofing - corrugated iron natural finish
 - (ii) Gutters - quad painted mid grey
 - (iii) Walls - weatherboard painted white
 - (iv) Front fence - brickwork painted mid grey and timber pickets painted white (no permit required)

Planning Scheme Provisions

Zoning

Neighborhood Residential Zone 1 [NRZ1]

- 15. The subject site is in the Neighbourhood Residential Zone Schedule 1. The following provisions apply:
 - (a) Pursuant to clause 32.09-5 of the Scheme, a permit is required to extend one dwelling on a lot less than 500m². A development must meet the requirements of clause 54.
 - (b) Pursuant to clause 32.09-9 of the Scheme, the maximum height of a building used for a dwelling or residential building must not exceed 9m and must not contain no more than 2 storeys at any point.

Overlays

Heritage Overlay (Charles Street Precinct) [HO313]

16. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to demolish or remove a building and to construct a building or construct or carry out works. The HO313 schedule identifies there are no external paint control to the subject site, and no permit is required to repaint an already painted surface.

Particular Provisions

Clause 54 – ResCode

17. Pursuant to Clause 54 of the Scheme, the requirements of Clause 54, a development:
- (a) *Must meet all of the objectives of this clause.*
 - (b) *Should meet all of the standards of this clause*

General Provisions

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

State Planning Policy Framework (SPPF)

Clause 15.01-1 – Urban design

19. The objective of this clause is:
- (a) *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

Clause 15.01-2 – Urban design principles

20. The objective of this clause is:
- (a) *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

Clause 15.01-5 - Cultural identity and neighbourhood character

21. The objective of this clause is:
- (a) *To recognise and protect cultural identity, neighbourhood character and sense of place.*

Clause 15.02-1 - Energy and resource efficiency

22. The relevant objective of this clause is:
- (a) *To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.*

Clause 15.03 – Heritage

23. The objective of this clause is:
- (a) *To ensure the conservation of places of heritage significance*

Local Planning Policy Framework (LPPF)

Clause 21.05-1 Heritage

24. The objective of this clause is:

- (a) *To protect and enhance Yarra's heritage places;*

Clause 21.05-2 - Urban Design

25. The relevant objectives of this clause are:

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

Clause 21.08-1 Abbotsford (Neighbourhoods)

26. *Abbotsford is a highly varied neighbourhood with a substantial number of industrial and commercial buildings of various types and eras. The residential precincts are surrounded by industrial development located in the vicinity of Hoddle Street and the Yarra River.*
27. Figure 6 (built form character map), shows the subject site is located within a Heritage Overlay area and the objective is to “*Ensure that development does not adversely affect the significance of the heritage place*”.

Relevant Local Policies

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

28. Clause 22.02 of the Scheme applies to land within a Heritage Overlay.

Clause 22.02-5.1 – Demolition

29. The policy under this clause (**Removal of Part of a Heritage Place or Contributory Elements**) states:

- (a) *Generally discourage the demolition of part of an individually significant or contributory building or removal of contributory elements unless:*
- (i) *For a contributory building:*
- *that part is not visible from the street frontage (other than a laneway), abutting park or public open space, and the main building form including roof form is maintained; or*
 - *the removal of the part would not adversely affect the contribution of the building to the heritage place.*

30. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 identifies this site as being contributory.

Clause 22.02-5.7 – New Development, Alterations and Additions

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

- (h) *Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*
 - (i) *Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.*
- 32. *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*
- 33. Clause 22.02-5.7.2 (Specific Requirements (where there is a conflict or inconsistency between the general and specific requirements, the specific requirements prevail)) offers the following relevant policy guidance:

Residential Upper Storey Additions

- (a) *Encourage new upper storey additions to residential heritage places or contributory elements to heritage places to:*
- (b) *Preserve the existing roof line, chimney(s) and contributory architectural features that are essential components of the architectural character of the heritage place or contributory elements to the heritage place. Respect the scale and form of the heritage place or contributory elements in the heritage place by stepping down in height and setting back from the lower built forms.*
- (c) *Sightlines should be provided to indicate the 'envelope' from the street of proposed upper storey additions (refer to the sightline diagrams in 22.02-5.7.1).*

Ancillaries and Services

- (d) *Encourage ancillaries or services such as satellite dishes, shade canopies and sails, access ladders, air conditioning plants, wall and roof top mounted lighting, roof top gardens and their associated planting, water meters, and as far as practical aerials, to contributory or significant buildings, to be concealed when viewed from street frontage.*
- (e) *Where there is no reasonable alternative location, ancillaries and services which will reduce greenhouse gas emissions or reduce water consumption, such as solar panels or water storage tanks, or provide universal access (such as wheel chair ramps), may be visible but should be sensitively designed.*
- (f) *Encourage ancillaries or services in new development to be concealed or incorporated into the design of the building.*

Clause 22.07 – Development Abutting Laneways

- 34. This policy applies to development that is accessed from a laneway or has laneway abuttal. The relevant objectives of this clause are:
 - (a) *To provide an environment which has a feeling of safety for users of the laneway.*
 - (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*

Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)

- 35. This policy applies to applications for development/extensions greater than 50sqm can result in greater hard surface area and changes to the volume, velocity and quality of stormwater drainage into natural waterways.

Advertising

36. The application was advertised in accordance with Section 52 of the *Planning and Environment Act* (1987) by way of 11 letters sent to surrounding property owners and occupiers and the display of a sign on-site.
37. Two objections were received, and raised the following concerns:
- (a) Overlooking;
 - (b) Overshadowing;
 - (c) Visual bulk;
 - (d) Impact on energy efficiency;
 - (e) Removal of trees; and
 - (f) Plan discrepancies (habitable room windows; screening details and height of boundary fencing).
38. Following the submission of amended plans pursuant to Section 57A of the Act, the application was advertised under Section 57B by letters sent to adjacent properties and objectors, who reiterated the above concerns.

Referrals

External

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

Internal

- (a) The application was referred to Council's Heritage Advisor.
40. Comments are provided as attachments to this report.

OFFICER ASSESSMENT

41. The considerations for this application are:

- (a) Clause 54 (Rescode);
- (b) Heritage; and
- (c) Objector concerns

Clause 54 (Rescode)

42. This particular provision comprises 19 design objectives and standards to guide the assessment of new residential development. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. Where relevant, assessment will also be made in this section against Clause 22.07 (Development Abutting Laneways).
43. The following objectives are not relevant to this application:
- (a) Integration with the street objective (no change);
 - (b) Street setback objective (no change);
 - (c) Significant trees objective (none on-site);
 - (d) Solar access (not applicable to extensions);
 - (e) Front fences objective (no change)

Neighbourhood character and design detail objectives

44. Charles Street between Gipps Street and Vere Street generally consists of single-storey dwellings, some with two-storey extensions located at the rear of the site within close proximity of the site. However, there are also two-storey Victorian-era terraces which are located further north-east of the subject site, towards Vere Street. Roof forms along Charles Street are a combination of hipped roofs, with the majority being corrugated iron.
45. The proposed extension would be located behind and above the second bedroom, and incorporates a hipped corrugated iron roof, and is considered to be in keeping with the existing roof form. However, the proposed roof deck and associated screens and planter box would be clearly visible from the street, and would be out of character (where character is largely derived from the heritage aspects). This will be further discussed under the heritage section.

Building height objective

46. The maximum height of the extension is 6.7m, above natural ground level; complying with the 9m specified under the zone.

Site coverage and permeability objectives

47. The proposed site coverage is 68% (increased from 61%) exceeding the standard's 60%. However, the higher site coverage is acceptable, as it reflects the higher than 60% site coverage within the street.



Site coverage within in the context of subject site

48. The proposed site coverage is acceptable, and will not create unreasonable visual bulk, given the proposal incorporates a combination of low on-boundary wall height (2m) on the southern boundary, raked walls/roof on the southern elevation. The proposed wall height is lower than the average height 3.2m at standard A11; and the proposed setback of 1.88m at first floor exceeds the side setback of 1.33m at standard A10.
49. The proposed site permeability is 14%, improved from the existing 13.5%. Whilst this is less than the standard 20%, it is similar to the existing condition. However, proposed permeable surfaces are not clearly delineated on plan, and this will be addressed via condition.
50. A STORM rating report was submitted, which proposes a 100mm deep raingarden (achieving 112% STORM rating) which would assist with on-site stormwater filtration, and would also reduce the stormwater run-off on the drainage system. However, details of the raingarden have not been shown on the floor plan. This will be addressed via condition.

Energy efficiency protection objectives

51. The west-east orientation of the dwelling will remain unchanged, however energy efficiency on-site will be improved and the ground floor extension would be provided with ample daylight access and cross-ventilation. The proposed layout of the open plan living area has numerous skylights above the kitchen/living area, and large bi-fold glass doors are provided with direct access to the private open space located to its west. While the private open space is located on the west of the dwelling, it would enjoy solar access from the west and northern aspects, and the location of the private open spaces reflects the location of existing private open spaces (the private open space to the south is the anomaly). With regards to the bi-fold doors to the open plan living area, no external shading is proposed. Due to its orientation to the west and extent of glazing, a condition will require external shading to protect passive heat gain.
52. The first floor bedroom and nursery has west, east and south-facing windows that would have ample access to natural daylight. The west-facing bedroom window has external shutters that allow protection from heat gain to this room. The proposed solar panel on the northern slope of the first floor roof will also provide alternative energy on site.
53. The proposal will not unreasonably reduce energy efficiency on the property to the south. The proposed shadows cast by the extension would largely be contained within existing shadows, with minimal shadows created (0.8m - 3.7sqm, between 9am – 3pm, on 22 September). The proposal will have no impact on existing solar access to existing habitable room windows due to their setbacks, and the proposed setback of the extension.

Side and rear setbacks objective

Proposed wall	Proposed max. wall height	Required setback	Proposed setback	Compliance
First floor south wall	4.7m	1.33m	1.88m	Complies
First floor west wall	4.7m – 6.7m	1.33m - 1.93m	3m	Complies

54. The above table shows the proposed setbacks from the rear (west) and the southern boundaries complies.

Walls on boundaries objectives

55. The standard requires:
- The total length of new walls along the north and south boundaries should not exceed 13.03m (10m plus 25% of the remaining length); and
 - The maximum height of all on boundary walls should not exceed an average height of 3.2m, with no part higher than 3.6m, unless abutting a higher or simultaneously constructed wall on an adjoining lot.

Southern boundary

56. The proposed on-boundary wall on the southern boundary is 2m high and 6.84m long, which complies with the length and height under the standard.

Northern boundary

57. The proposed on-boundary wall on the northern boundary is 5.63m high and 8.8m long, where the length of complies with the standard. The proposed height is acceptable as part of the wall abuts an existing wall. Of the remaining length of wall, this is opposite a narrow walkway with a non-habitable, south-facing window, and therefore limited impact on the amenity of this property.

Daylight to existing windows objective

58. The standard states:

- (a) *Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot.*
- (b) *Walls or carports more than 3 metres in height opposite an existing habitable room window should be set back from the window at least 50 per cent of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window.*
- (c) *Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window.*

59. The property to the south has north-facing, glass doors and highlight windows to the ground floor living room and reading nook (as per endorsed plans issued under PLN10/0731) and a highlight window to the first floor bedroom.

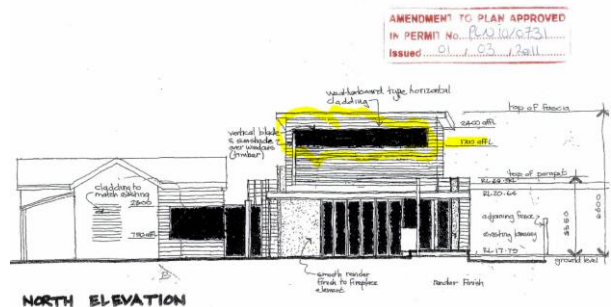
60. The ground floor doors and windows are setback a minimum of 3.3m from the northern boundary, therefore these existing rooms would receive adequate daylight as per the standard, with an area of approximately dimension of 42.9sqm (exceeds the standard's minimum dimensions of 3sqm), by virtue of their setbacks from the northern boundary.

North-facing window objective

61. The ground floor habitable room windows of the adjoining property to the south are overhung by its own first floor (and pergola), therefore there is no need to discuss this further. The first floor, north-facing window is a highlight window (sill height of 1.7m) and is setback 2.5m from the northern boundary. The proposed first floor, south wall is approximately 4.8m high above natural ground level, and is required to be setback 1.72m from the southern boundary. The proposed setback is 1.88m, therefore complies with the setback. The adjacent northern window would be unaffected by the proposal, as the combination of the proposed setback and the height of the angle wall/roof of the first floor, southern wall is lower towards the adjacent window, and would prevent any shadows to this window.



Proposed south wall/roof raked, with lower height towards the adjacent first floor highlight window.



Adjacent highlight window with sill height 1.7m above finished floor level.

Overshadowing open space objective

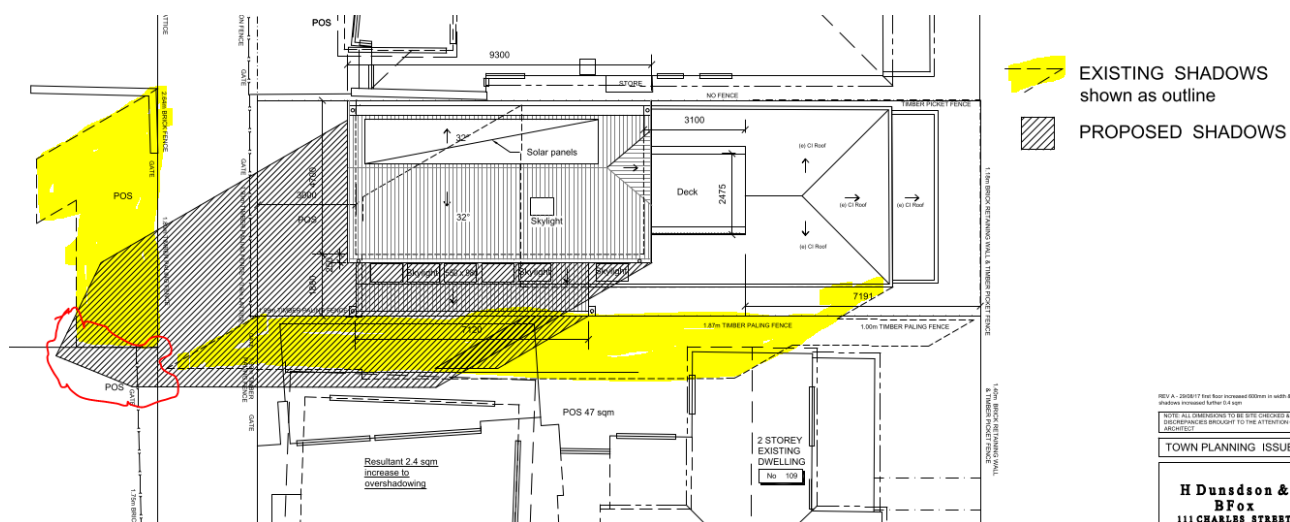
62. The proposed shadows (on 22 September) cast by the extension would largely be within the existing shadows cast by existing dwelling/structures abutting the laneway and boundary fences; however shadows will fall over the rear laneway, rear corners of the rear private open spaces of no's 82 and 84 Park Streets and the private open space of no.109 Charles Street.

Proposed shadows	No.82 Park Street	No.84 Park Street	No.109 Charles Street
9am	0.2sqm	1.7sqm	Increased from 0.5sqm to

			2.4sqm shadow (11.6sqm of sunlight)
12pm	No increased shadows	No increased shadows	Increased from zero shadow to 3.7sqm (10.3sqm with sunlight)
3pm	No increased shadows	No increased shadows	Increased from 0.1sqm to 0.8sqm (13.2sqm with sunlight).

Nos. 82 and 84 Park Street

63. The proposed shadows within the private open space of Nos. 82 and 84 Park Street are considered to be acceptable, as the additional increase is approximately 0.2sqm and 1.7sqm, respectively. The shadows are largely within shadows cast by existing boundary fences/wall, and are confined within corners of these private open spaces, (currently in shadow). The proposed shadows are minimal and limited to 9am, therefore the proposal is considered to not unreasonably overshadow these secluded private open spaces.



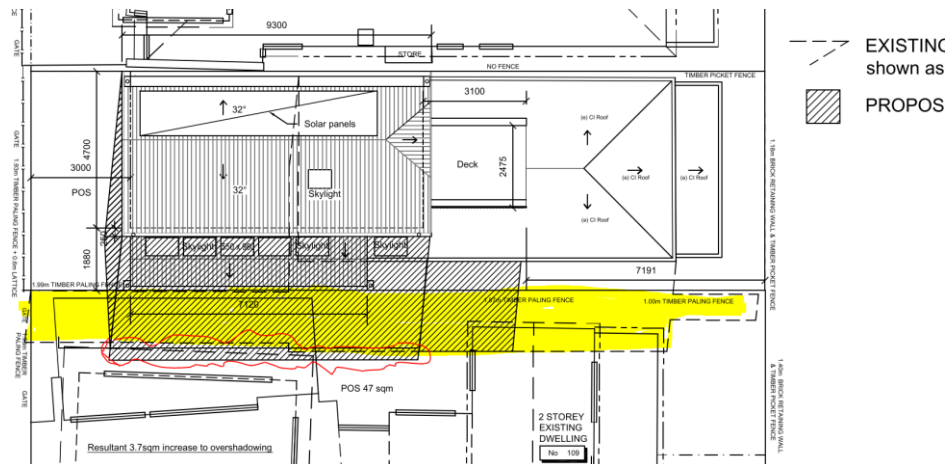
Proposed 9am shadow (circle in red, existing shadows highlighted in yellow)

No.109 Charles Street

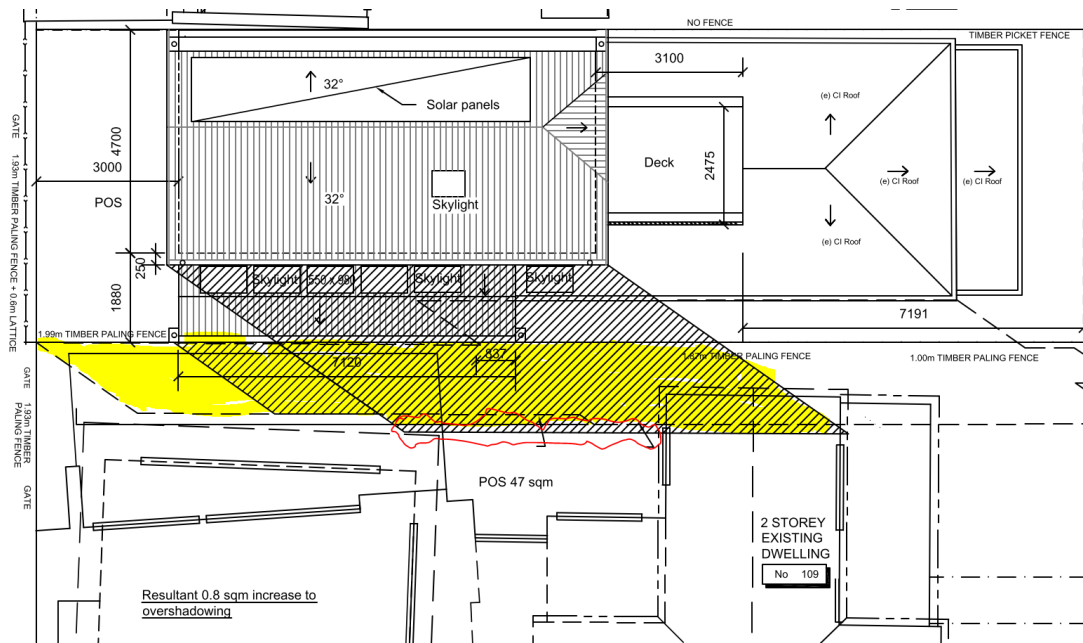
64. The private open space of No.109 Charles Street is approximately 45sqm - 47sqm, which is partially shadowed by existing boundary fence and the existing dwelling on the site. Comparing the existing and proposed shadows, approximately 21sqm of this area is in shadow with approximately 14sqm receiving sunlight, between 9am -3pm.
65. The first floor proposed revised shadows are:

9am	2.4sqm (previously shadow was 0.5sqm)
12pm	3.7sqm (previously no shadow)
3pm	0.8sqm (previously shadow was 0.1sqm)

66. The proposed shadows as seen in the shadow diagrams below, are not unreasonable, and are considered to be minimally increased. Proposed shadows are largely located next to existing shadows and the private open space area would continue to receive adequate sunlight. It is worth noting that the adjacent property to the south has been developed with an addition which orientates the private open space to the north (rather than the west as per the remnant of Charles Street). It is unreasonable to expect no development on the boundary given the inner urban area which characteristically has walls on the boundary. The proposal has deliberately restricted the ground floor wall to less than 2m high (could be up to 3.2m high), and has exceeded the setback of the first floor (as required under clause 54.04-1). Therefore on balance the proposal is considered an appropriate design.



Proposed 12pm shadow (circle in red, existing shadows highlighted in yellow)



Proposed 3pm shadow (circle in red, existing shadows highlighted in yellow)

Overlooking objective

67. The first floor deck incorporates planter boxes on the north side, and section CC shows there will be no direct views into the adjacent habitable room windows, due to the views being obscured by the existing roof profile.
68. The deck proposes a vertical louvre screen on the south side. However details of the louvre screen have not been provided to demonstrate how the overlooking requirements would be achieved. This could normally be addressed via condition to ensure no overlooking into the private open space and habitable rooms on the southern property. However the roof deck presents heritage issues that will be discussed later in the report.
69. The first floor west-facing window is not screened; and has partial views into the private open space of No.84 Park Street. Objectors highlighted there are different ground levels on site, compared to that shown on plans, where the ground level of the private open space would be higher than that shown in section AA. A condition will be required to verify existing boundary fence heights and demonstrate compliance with the overlooking requirements.
70. The first floor south-facing bedroom is referenced on the floor plan and south elevation that it would be screened, however no details are provided and it appears there will be overlooking. This will be addressed via condition.

Daylight to new windows objective

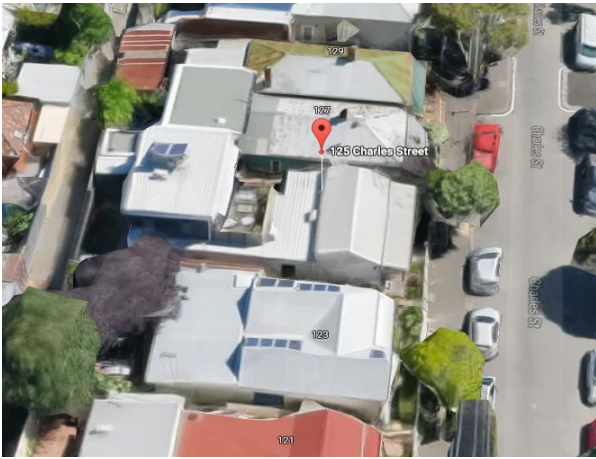
71. The ground floor open plan extension is provided with ample daylight access and cross ventilation via sliding doors and skylights. The first floor rooms will have ample daylight access via west and east-facing windows.

Private open space and solar access to open space objectives

72. An area of approximately 19.72sqm secluded private open space is provided at the rear of the site and will be directly accessed from the open plan living area. The first floor deck (7.6sqm) would be accessed from the study/nursery. While the proposal does not provide the recommended 20%, private open space is currently not directly accessed from the living room. The proposed layout ensures the private open space is directly/conveniently access from the open living area.

Heritage Assessment

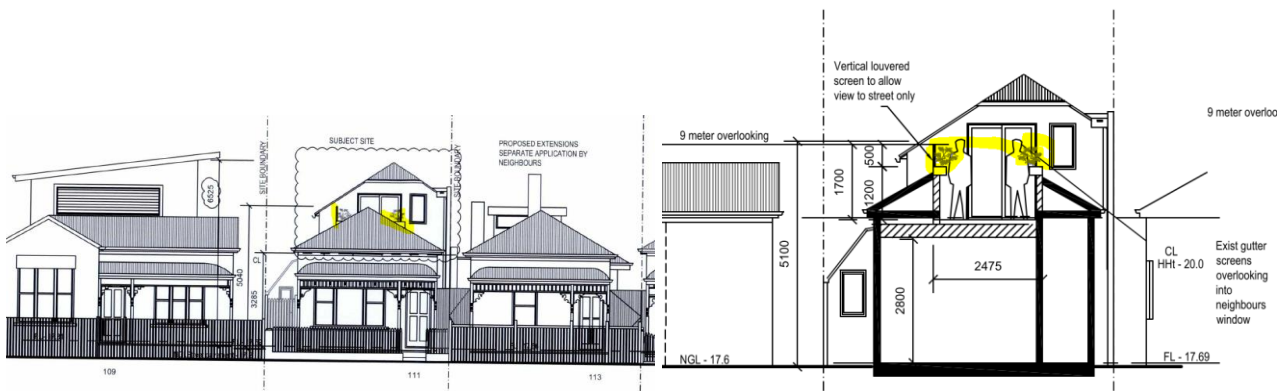
73. Heritage considerations for this application relate to whether compliance is achieved with Clause 43.01-4 (Heritage Overlay: Decision guidelines) and Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) of the Scheme.
74. The demolition of the existing dwelling commences behind the front two rooms and is acceptable as the rear section is not visible from the street. However, the removal of the roof above the second front room to accommodate a deck above this location is not acceptable as the portion of the main roof to be removed is highly visible from the street, and would adversely impact the dwelling's contribution to the street.
75. Clause 22.02-5.7.1 states:
- (a) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*
76. The proposed deck would be highly visible from the street and incorporates planter boxes and screening, which would further attract attention and is not a contemporary element to the existing heritage dwelling. The Applicant has taken an example of a first floor deck from No.125 Charles Street (north of the site). This deck is setback 8.5m (from the front wall of the building) which is located behind the two front rooms. That dwelling also has a hipped roof which runs across the frontage of this site, and the deck is also setback from the side boundaries, thus reducing visibility and is largely obscured by the existing roof profile.
77. Compared to the proposed first floor deck on the subject site, the deck is only setback 4.21m from the front wall of the dwelling. The privacy screen and planter boxes adds further elements which protrude above the deck, and is not confined with the profile of the roof (refer to proposed section CC below).
78. Council's Heritage Advisor recommended the deck and associated privacy screen/planter box to be deleted, as they would be highly visible from the street and this element would be alien to the historic roof form.
79. The inadequate setback of the deck is not concealed by the existing roof and would protrude above the roofline. The deck is not appropriately located or designed, and contradicts policy. As such a condition will require this to be deleted.



Hip roof of No.125 Charles Street and first floor deck appropriately setback from the street



Existing roof profile of No. 111 Charles Street (hipp running front to rear)



Proposed first floor deck/privacy screen/planter box protruding above the existing roof profile

80. The proposed first floor incorporates a hipped and half gable roof, which setbacks from the front wall of the dwelling and would not visually dominate the existing dwelling. The addition complies with the sightline for an upper level extension to a contributory building (as per figure 2 of clause 22.02-5.7), and subject to the deletion of the deck would be an acceptable addition to the streetscape.
81. The proposed solar panels on the northern slope of the first floor roof are not shown in the proposed north, west or east elevations. As the solar panels appear to be visible from the street, a planning permit is required. The solar panels are proposed to be on the same plane as the roof, associated with the new extension and combined with a front setback of approximately 12m will not visually dominate when viewed from the street. As such a condition will require these to be shown in elevations.

Objector concerns

Overlooking

82. This has been addressed in paragraphs 67-70.

Overshadowing

83. This has been addressed in paragraph 62-66.

Visual bulk

84. This has been addressed in paragraphs 48; 54-57.

Impact on energy efficiency

85. This has been addressed in paragraphs 51-53 and 58-66.

Other matters

Tree removal

86. The tree that is proposed to be removed is not a significant tree listed in the schedule to the Charles Street Heritage precinct HO313, and is not a significant tree under Council's Local Laws, as the diameter of the trunk is less than 400mm (being 300mm).

Plan discrepancies

87. The plan discrepancies identified by objectors relating to habitable room windows and boundary fencing heights has been taken into consideration, including the previously mentioned endorsed plans to provide this assessment.
88. The proposed ground floor plan shows the proposed paling fencing along the rear north and south boundaries would be beyond the title boundaries of the subject site and is not acceptable. A condition will require all works to be constructed within the subject site's title boundaries.
89. While no works are proposed to the existing western paling fence and gate (and therefore this cannot be conditioned as it is existing), a planning application could be lodged to relocate this fence to be within the title boundaries.

Conclusion

90. Based on the above report, the proposal is considered to comply with the relevant Planning Scheme provisions and planning policy and therefore should be supported subject to conditions.

RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit PLN17/0237 be issued for part demolition and construction of a double-storey extension to the existing dwelling at 111 Charles Street, Abbotsford generally in accordance with the plans noted previously as the "decision plans" and subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit.
The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:
 - (a) Proposed demolition roof plan;
 - (b) Deletion of the first floor roof deck;
 - (c) The first floor west and south-facing windows to bedroom 1 screened to comply with the objective of clause 54.04-6 (Overlooking objective) of the Yarra Planning Scheme;
 - (d) The proposed raingarden clearly shown on the proposed ground floor plan (including a cross-section), consistent with the proposed STORM rating report;
 - (e) Reference of the brick wall associated with the adjacent property omitted from the existing and proposed north elevations;
 - (f) Proposed permeable surfaces clearly delineated on the ground floor plan;
 - (g) Proposed extension (including new fences) shown within title boundaries;
 - (h) Solar panels to be shown on elevations; and
 - (i) External shading to the ground floor, west-facing bi-fold doors/windows.

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
4. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
5. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
6. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
7. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit.

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

Notes:

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

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5585 to confirm.

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

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

CONTACT OFFICER: Tamina Loan Vy
TITLE: Statutory Planner
TEL: 92055104

Attachments

- 1** PLN17/0237 - 111 Charles Street Abbotsford - site and context map
- 2** PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 1 - 3D and existing site plan
- 3** PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 2 (proposed floor plans and sightline)
- 4** PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 3 (shadow diagrams and cross-section)
- 5** PLN17/0237 - 111 Charles Street Abbotsford - Heritage advice
- 6** PLN17/0237 - 111 Charles Street Abbotford - Further heritage advice
- 7** PLN170237 - 111 Charles Street Abbotsford - Advertising S52 - STORM Report

Attachment 1 - PLN17/0237 - 111 Charles Street Abbotsford - site and context map

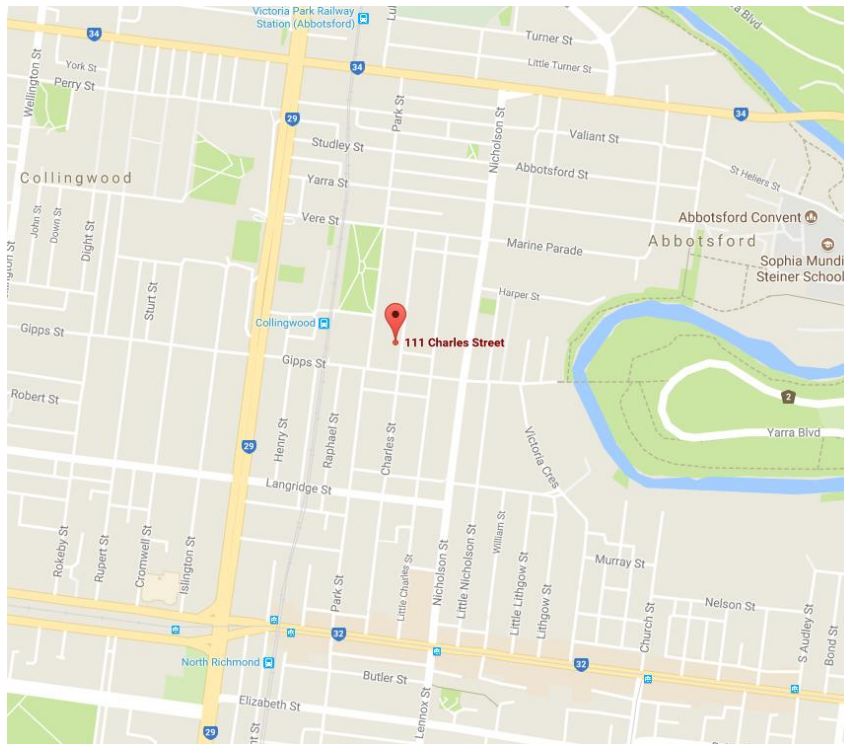


Subject site - 111 Charles Street Abbotsford



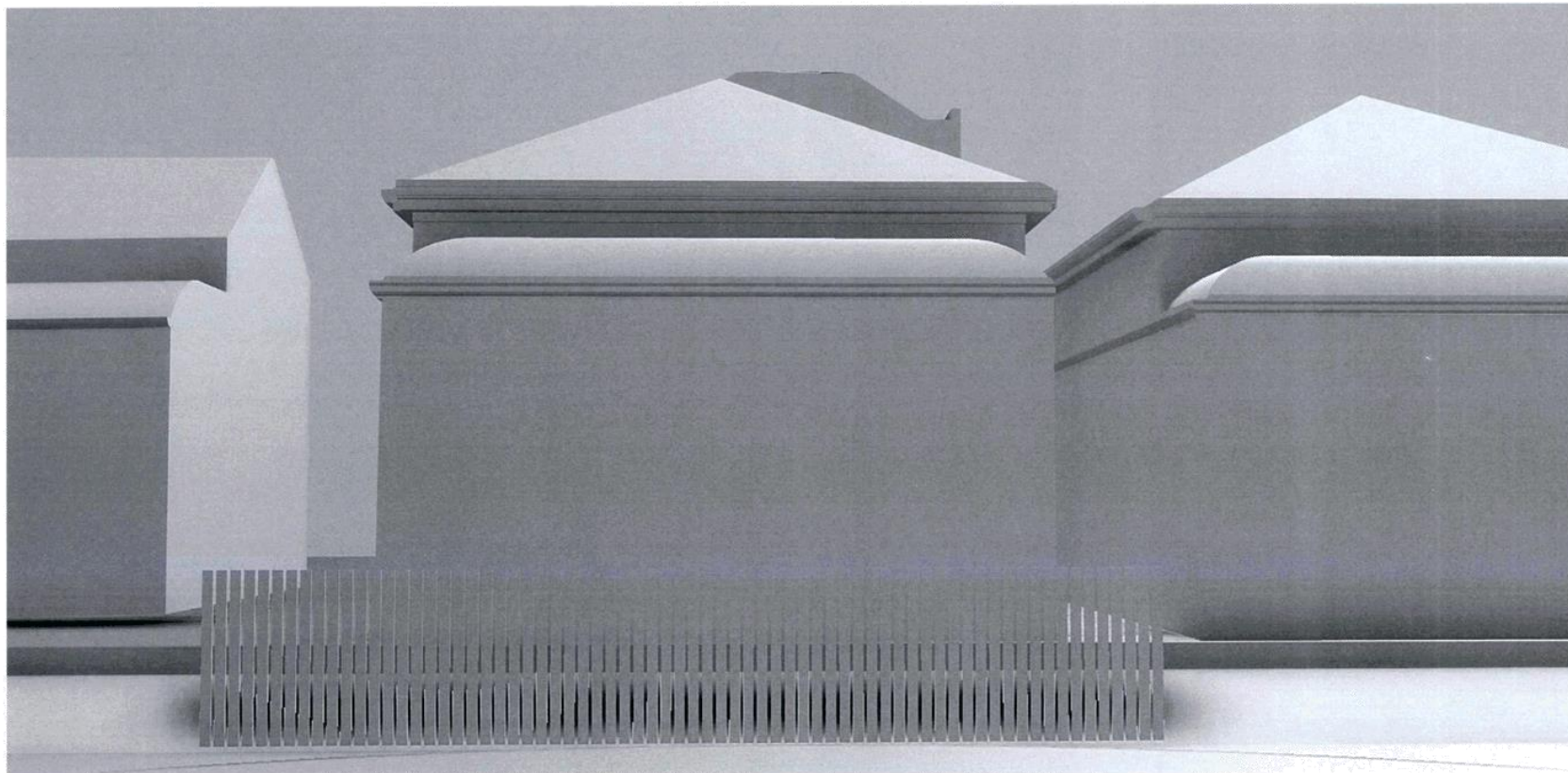
PLN17/0237 - 111 Charles Street Abbotsford (subject site circle in red)

Attachment 1 - PLN17/0237 - 111 Charles Street Abbotsford - site and context map

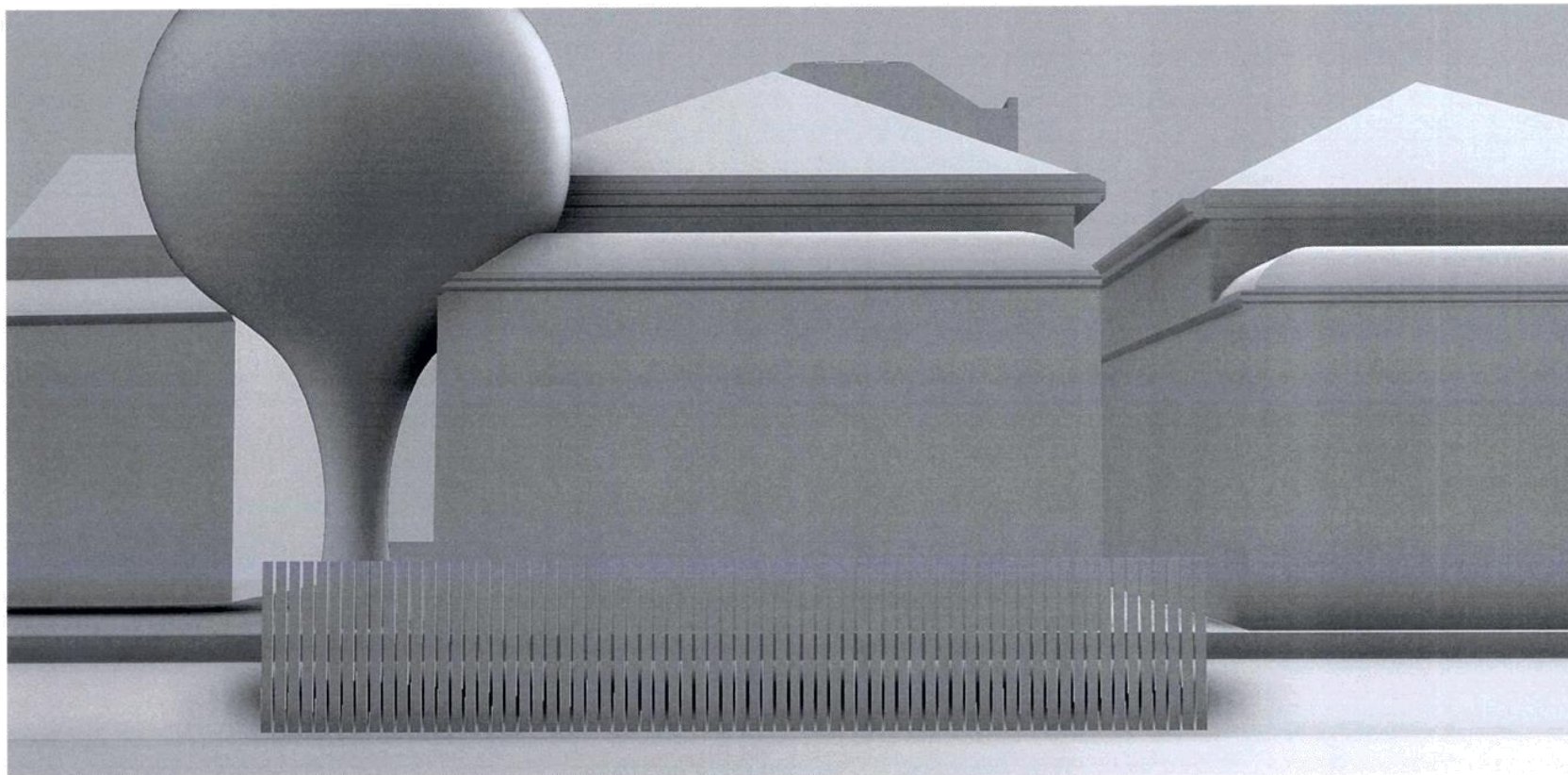


111 Charles Street Abbotsford (site and context)

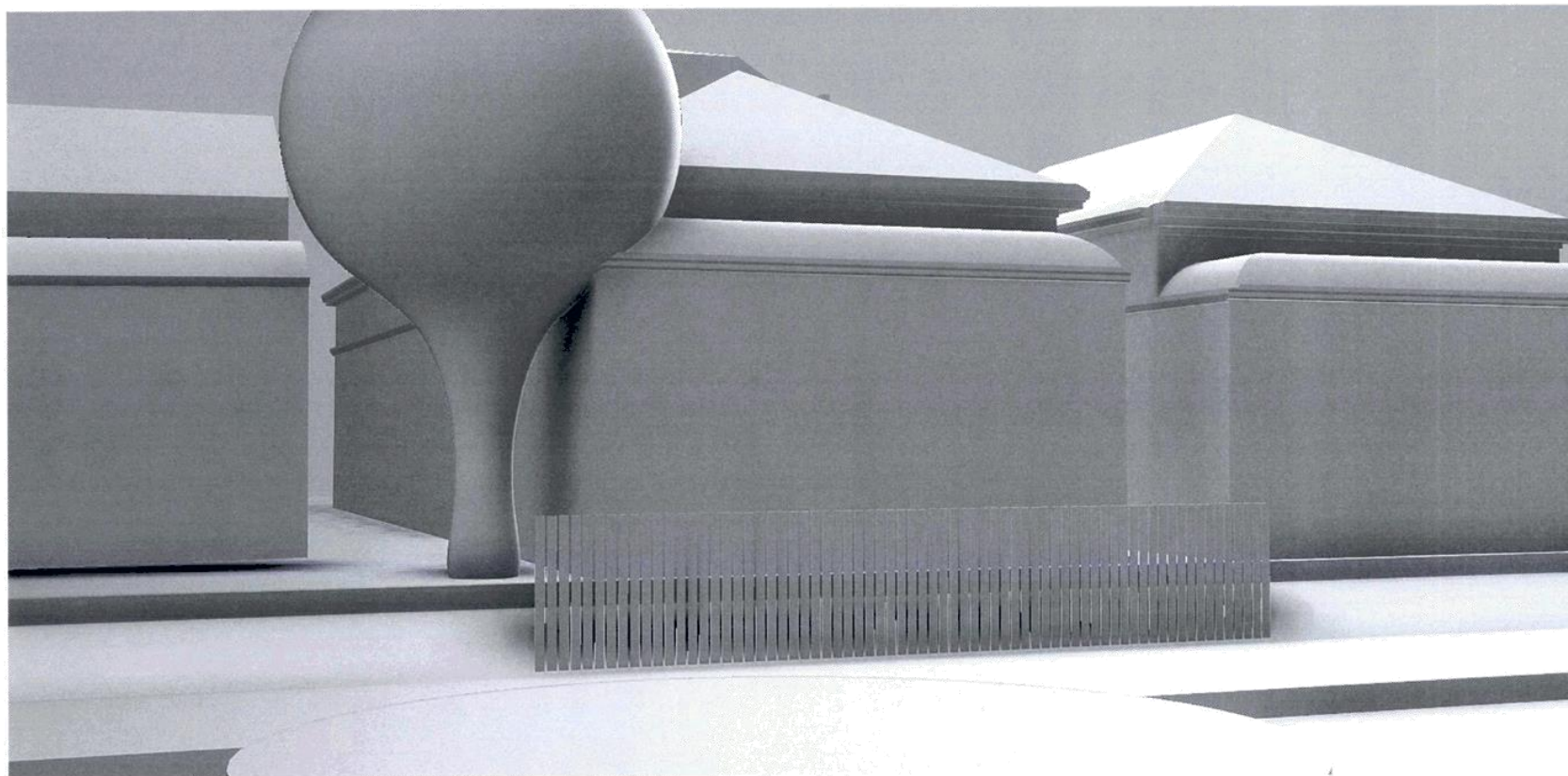
Attachment 2 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 1 - 3D and existing site plan



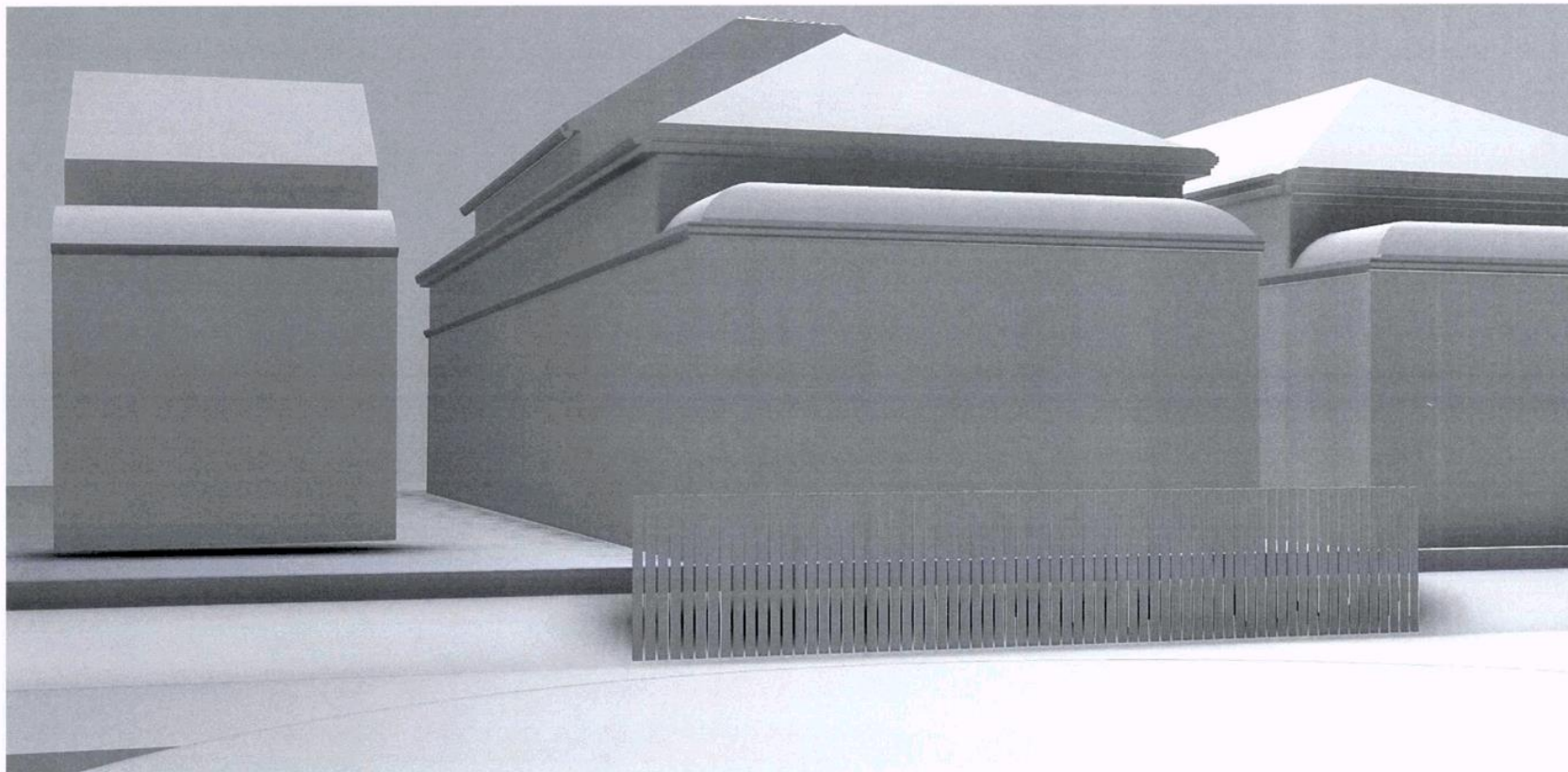
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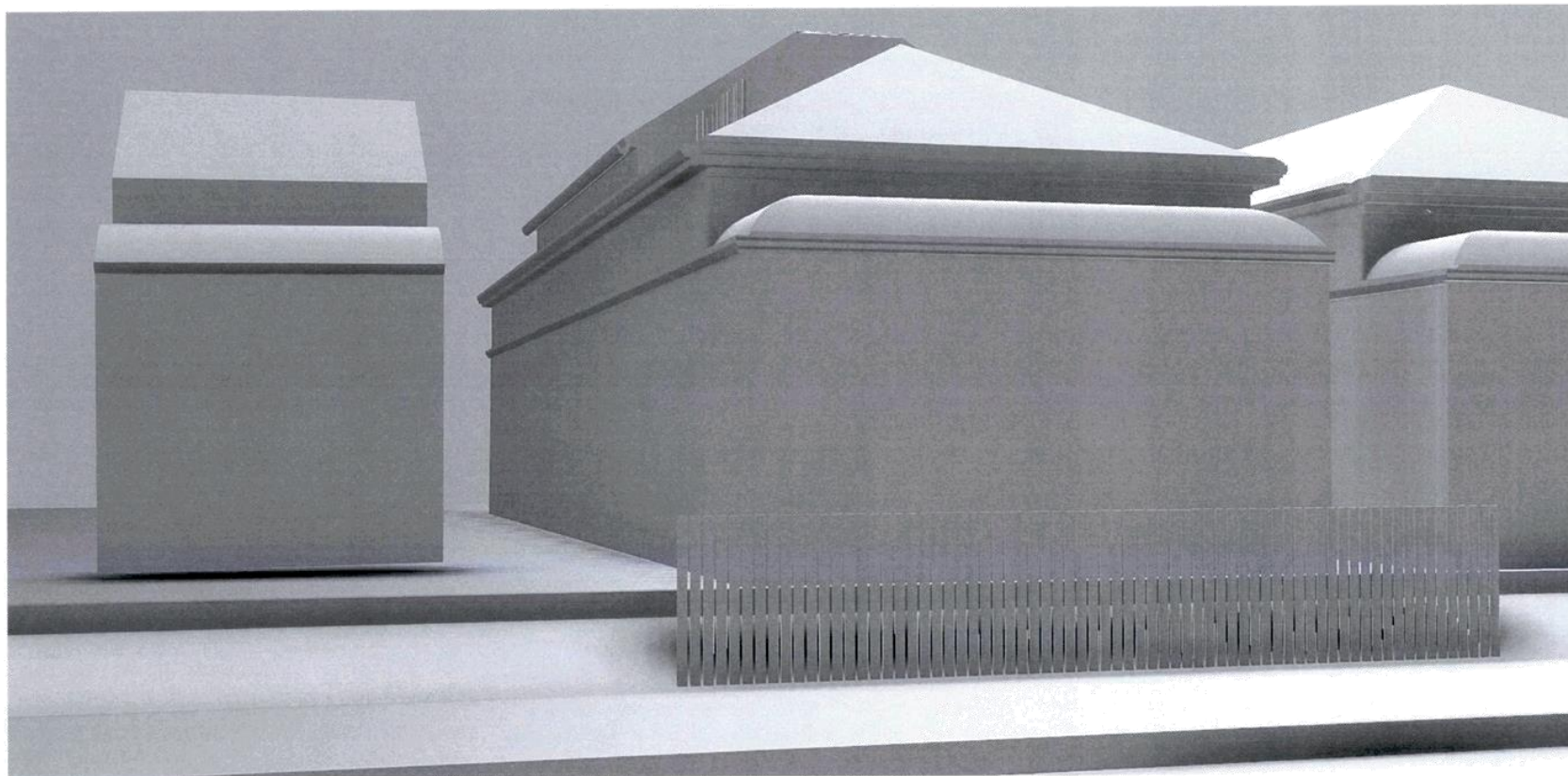
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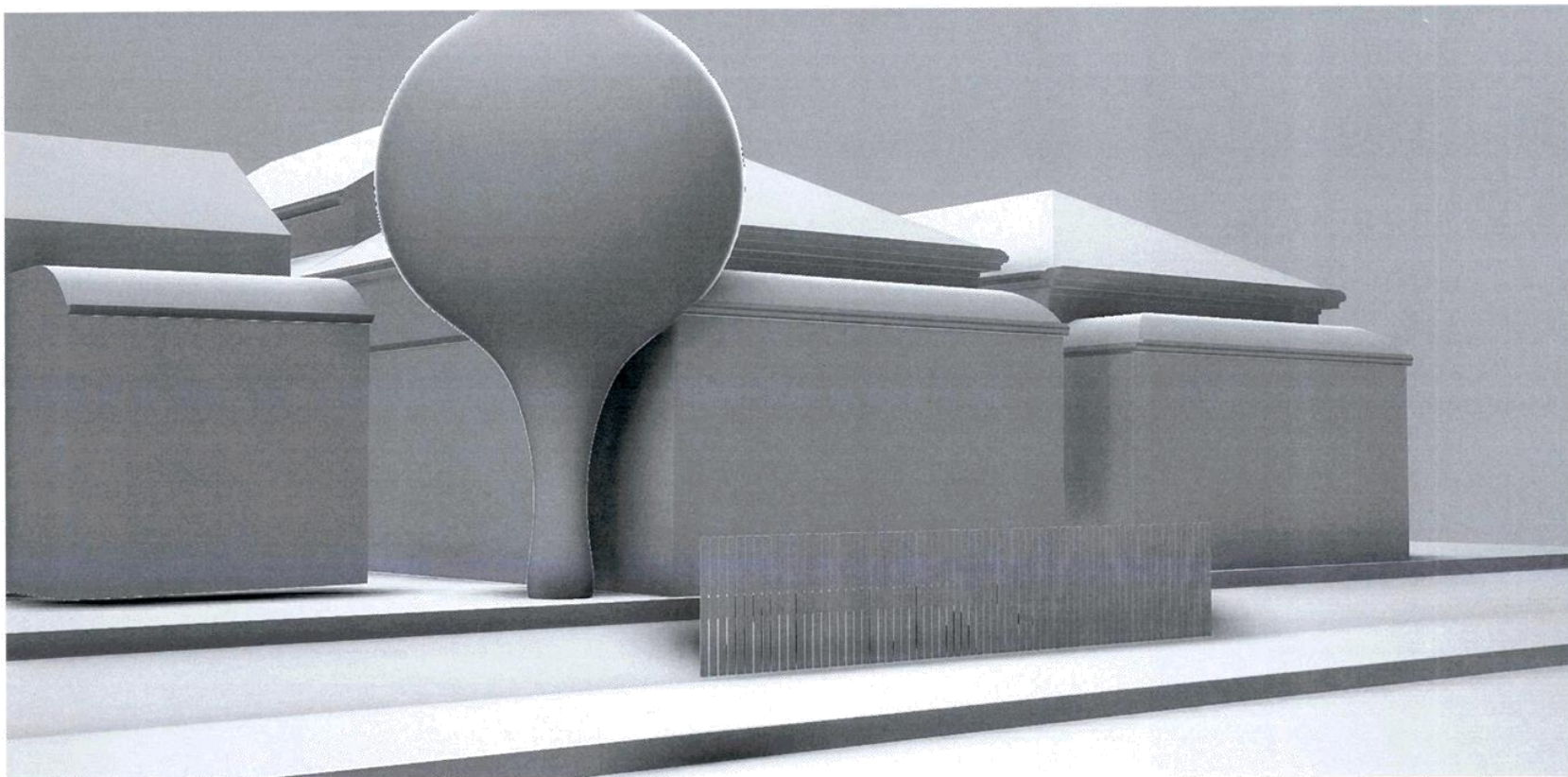
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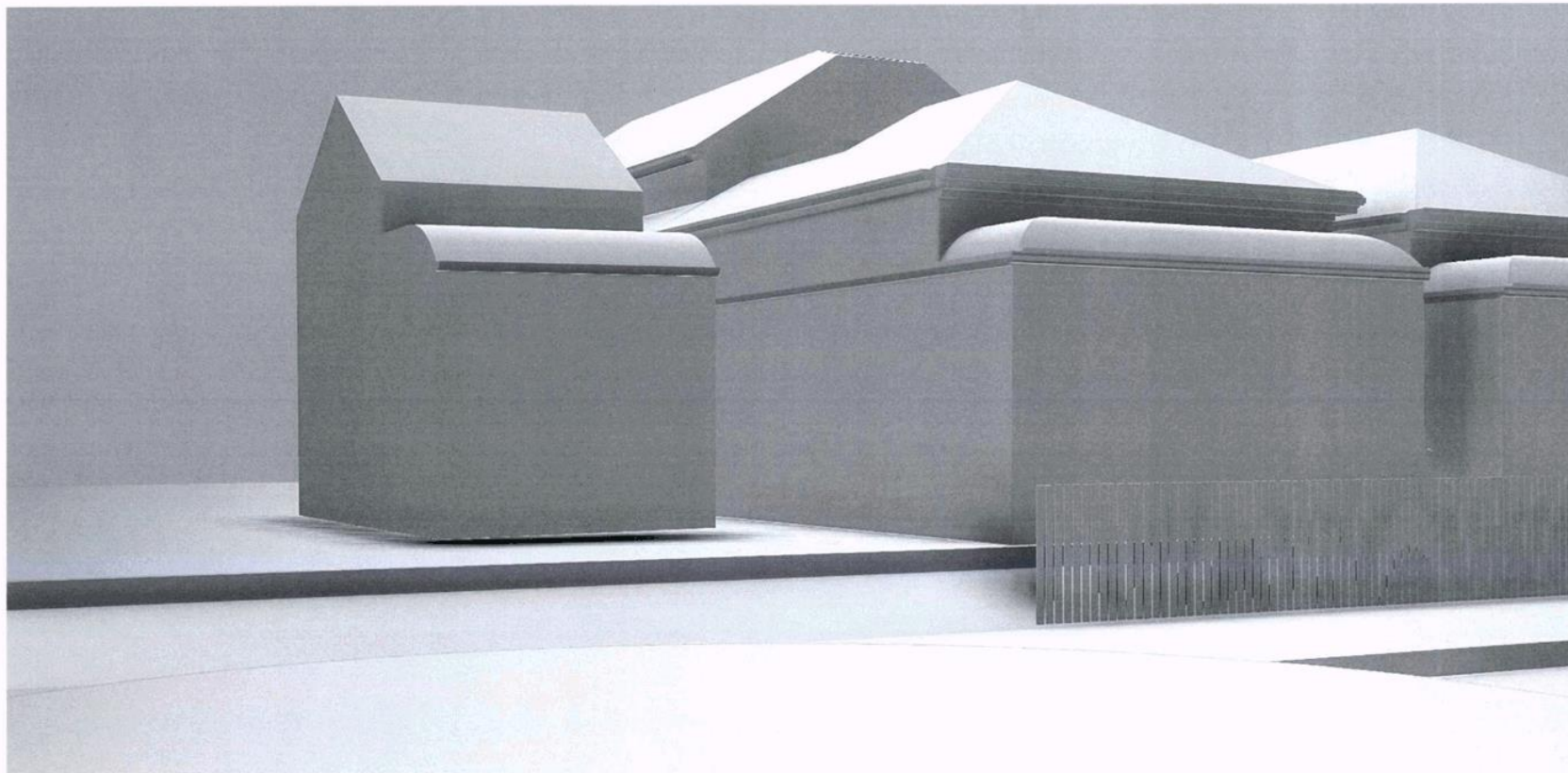
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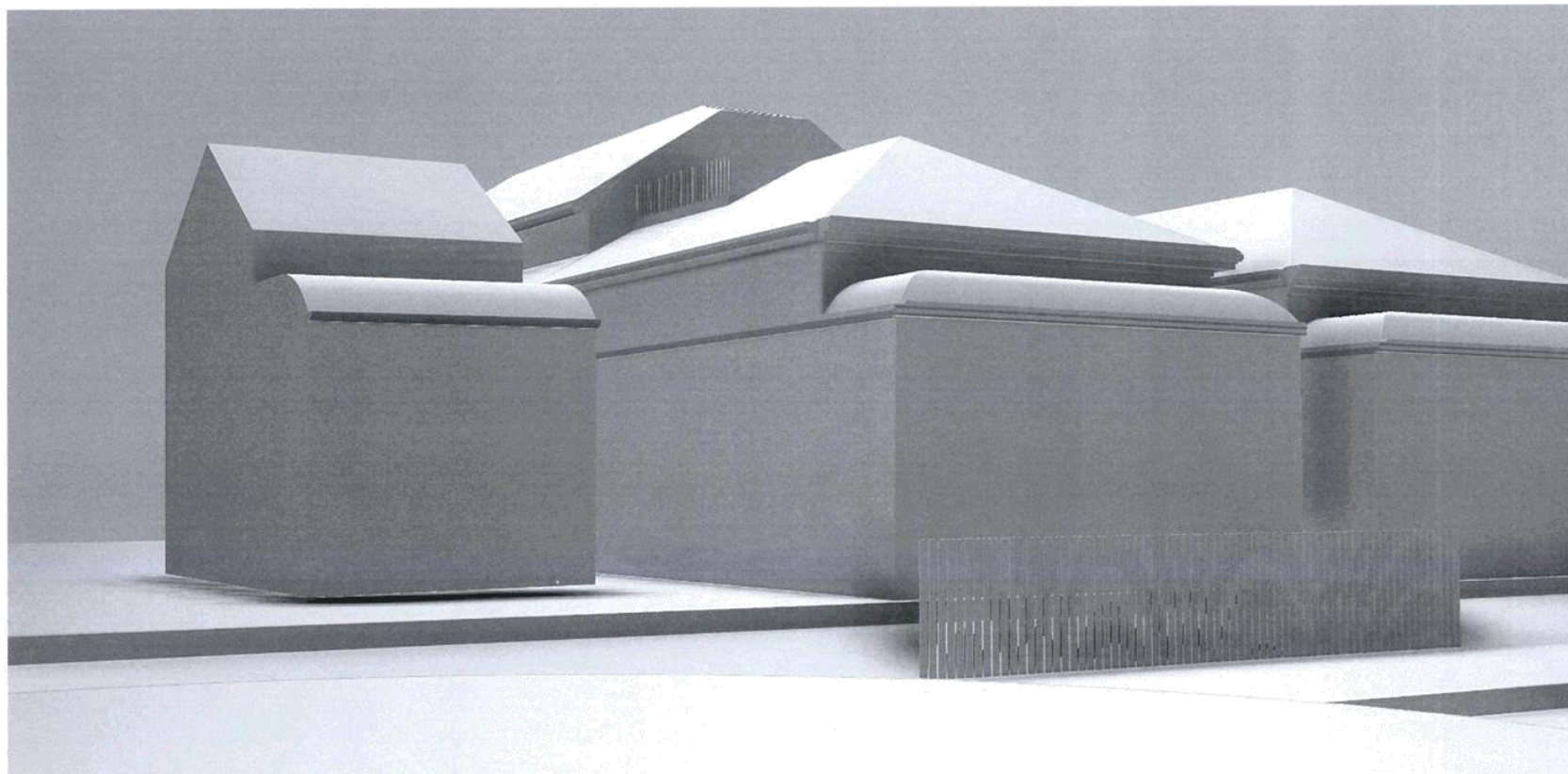
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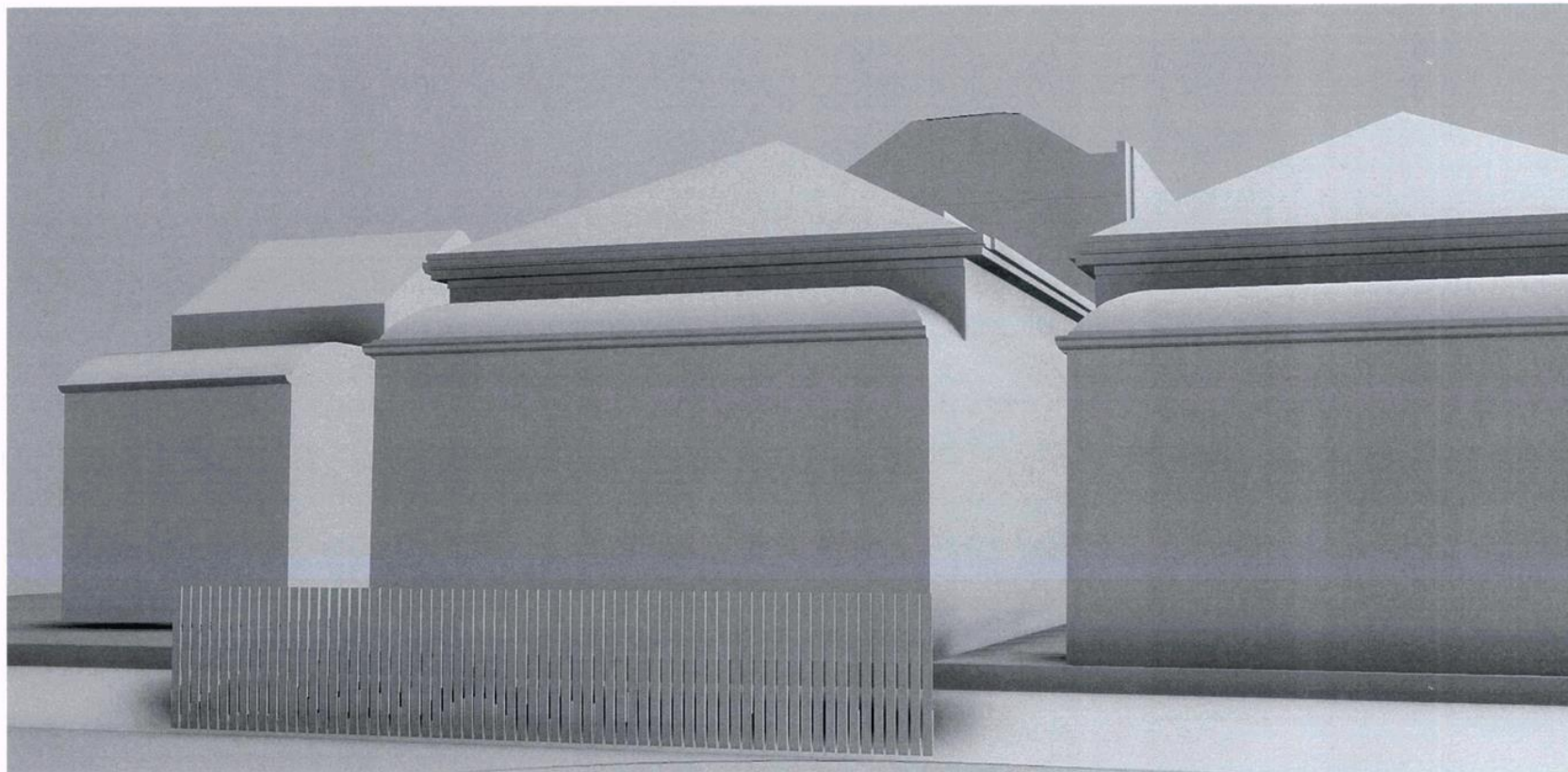
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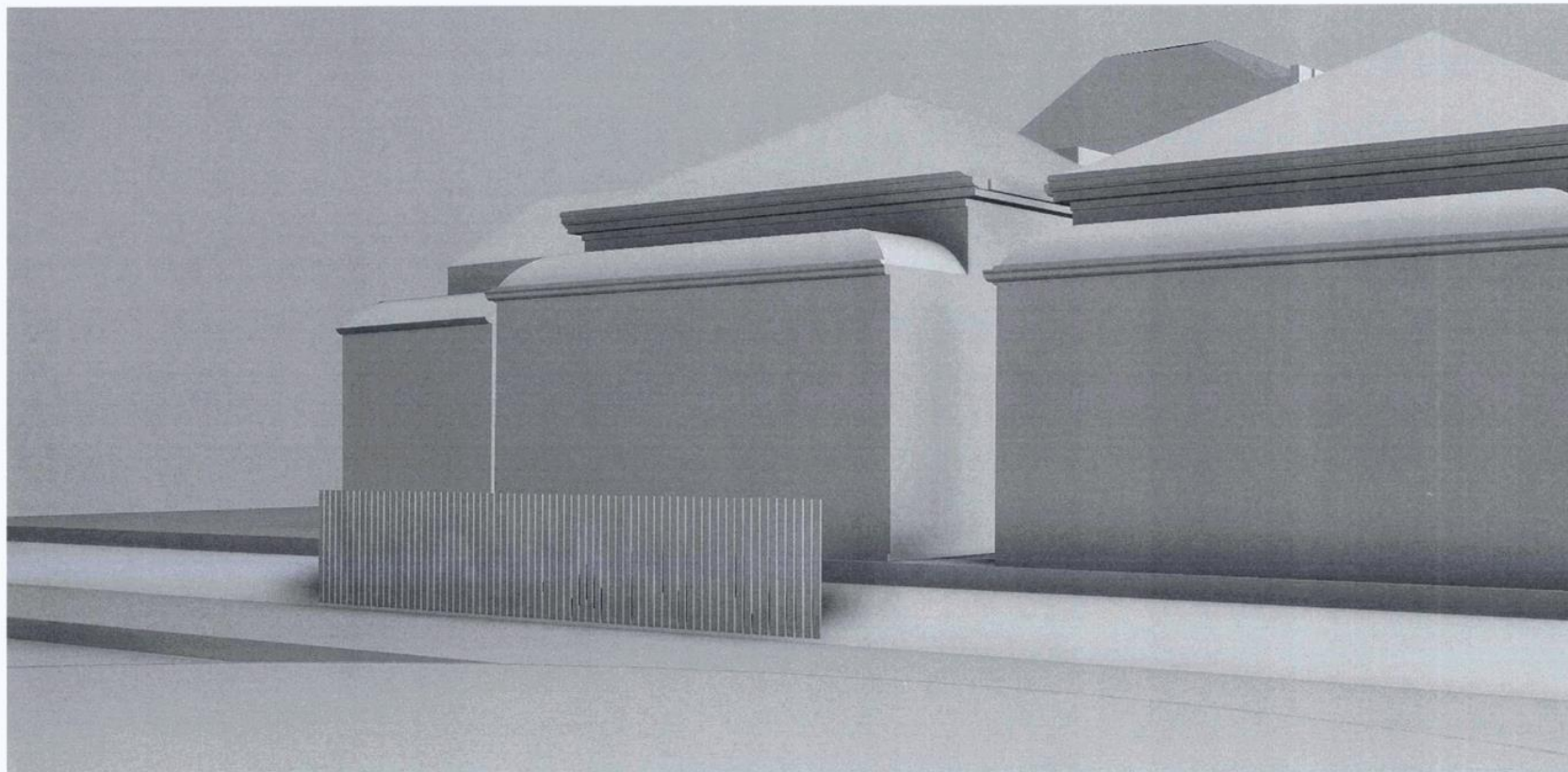
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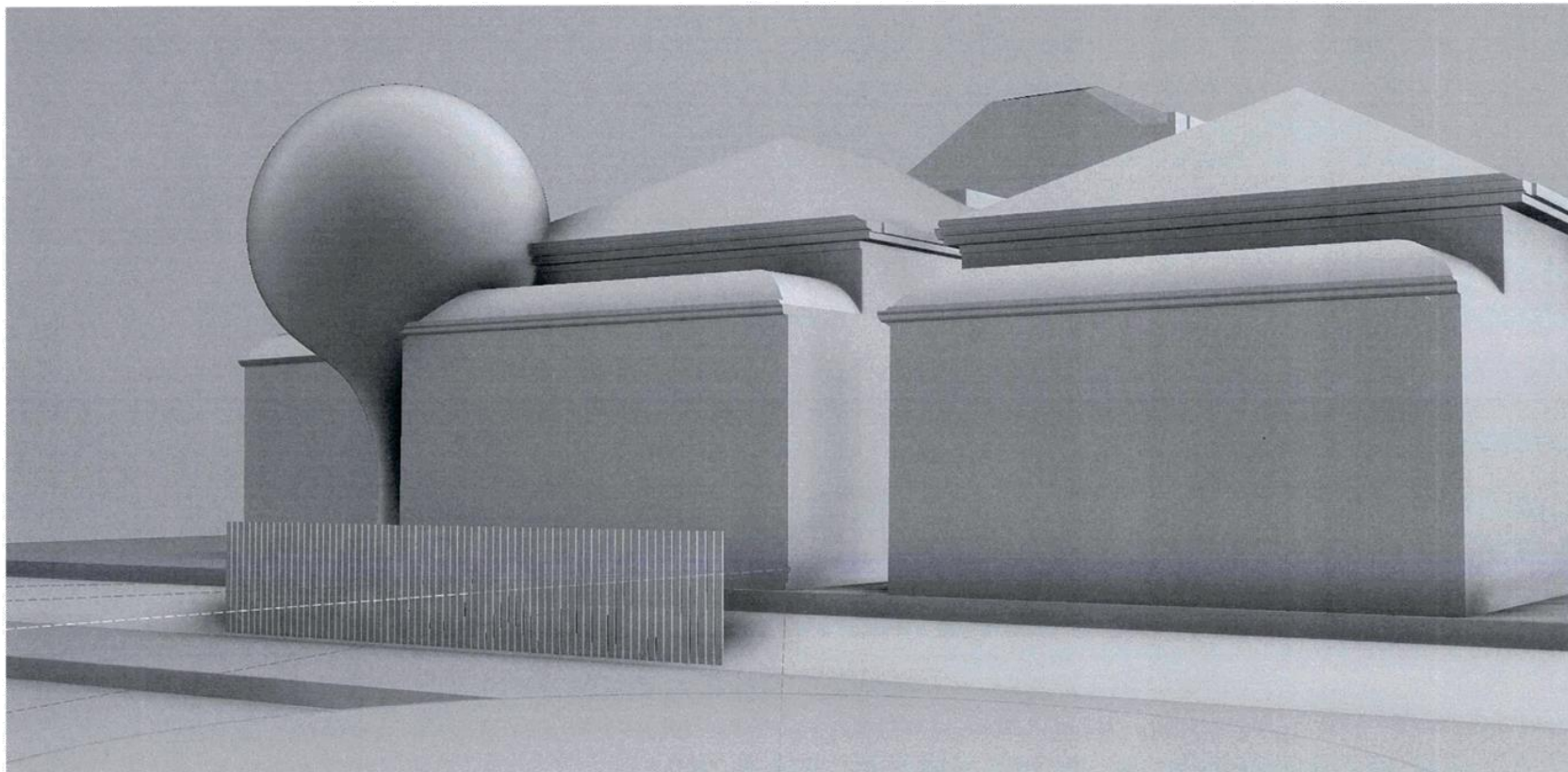
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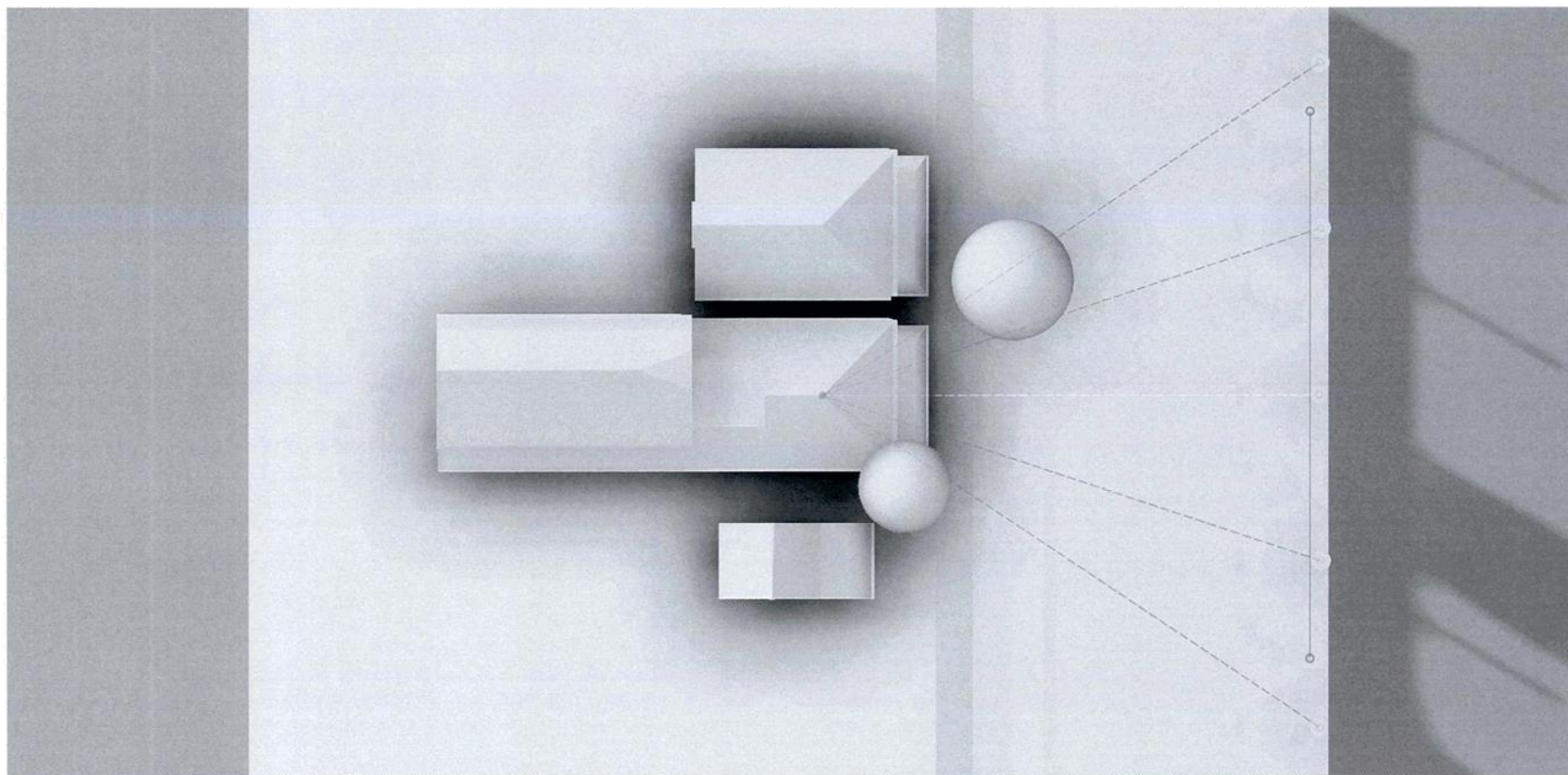
Attachment 2 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 1 - 3D and existing site plan



Attachment 2 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 1 - 3D and existing site plan



Attachment 2 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 1 - 3D and existing site plan



Attachment 2 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 1 - 3D and existing site plan



DUNSDON & FOX RESIDENCE

111 CHARLES STREET
ABBOTSFORD, 3067

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ARABELLA GEORGES RAIA
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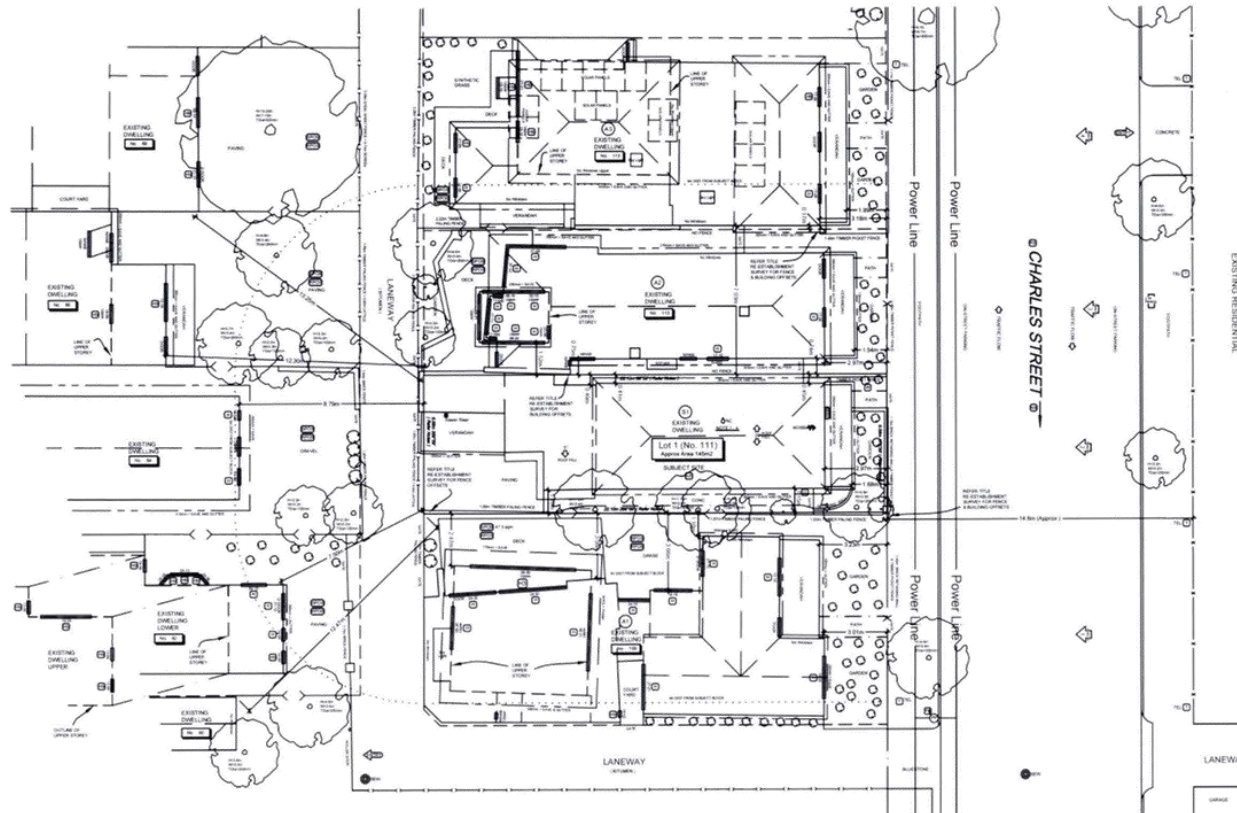
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Attachment 2 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 1 - 3D and existing site plan



EXISTING SITE PLAN
1:200



NOTE: ALL DIMENSIONS TO BE SITE CHECKED & ANY DISCREPANCIES BROUGHT TO THE ATTENTION OF THE ARCHITECT

TOWN PLANNING ISSUE

**H Dunsdon &
B Fox**
111 CHARLES STREET
ABBOTSFORD

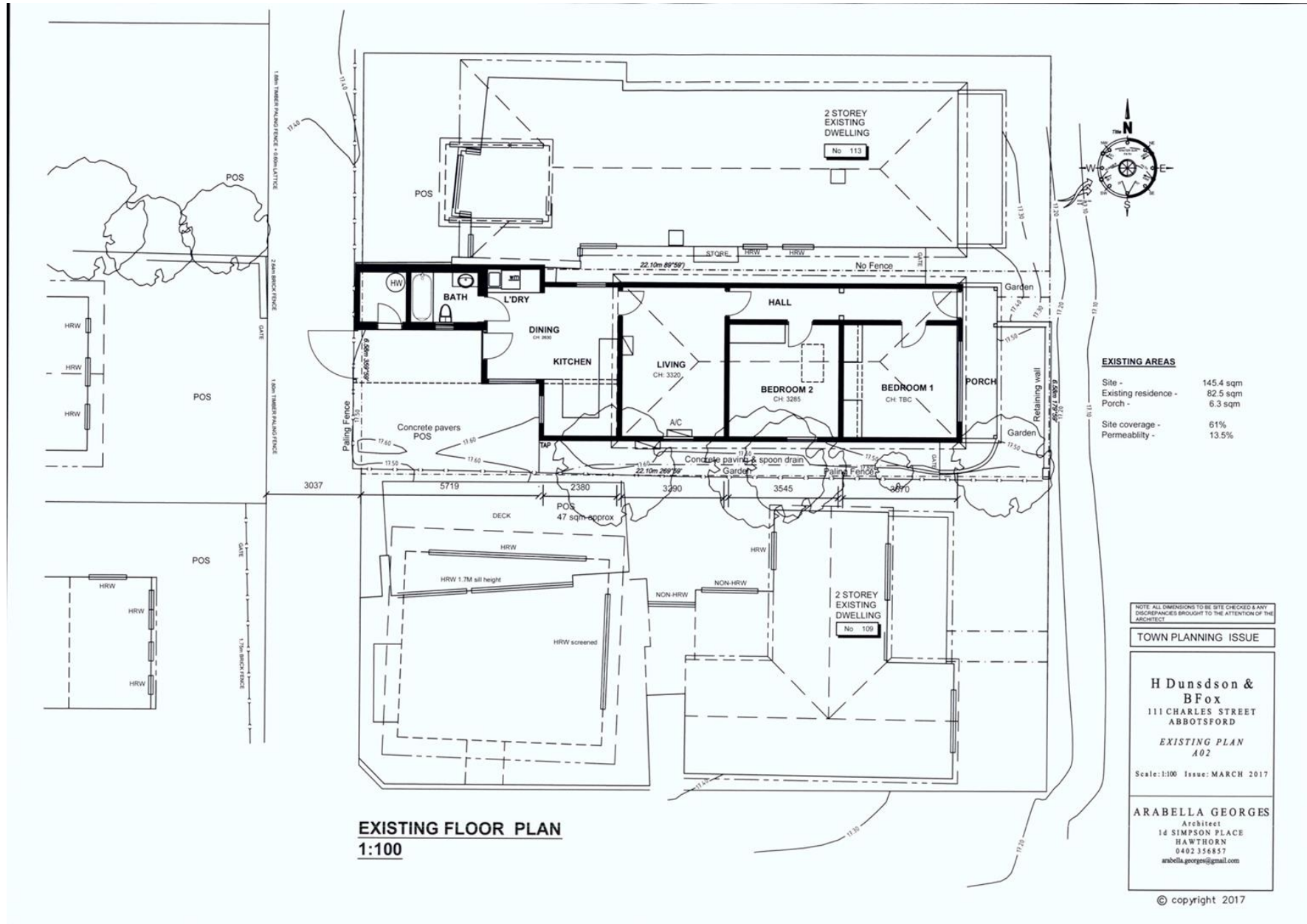
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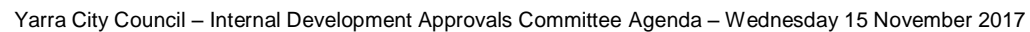
Scale: 1:200 Issue: MARCH 2017

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0402 356857
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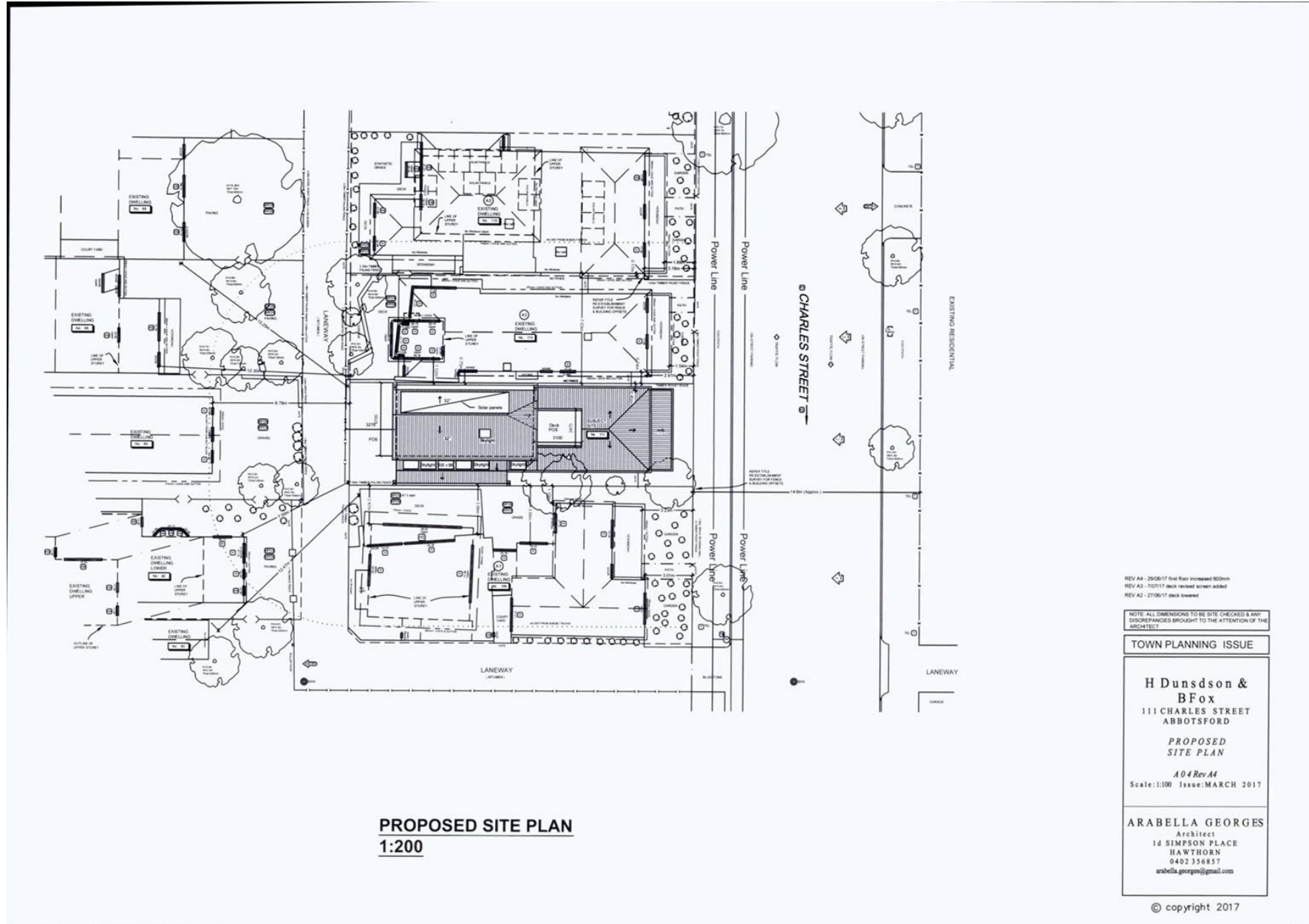
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Attachment 2 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 1 - 3D and existing site plan

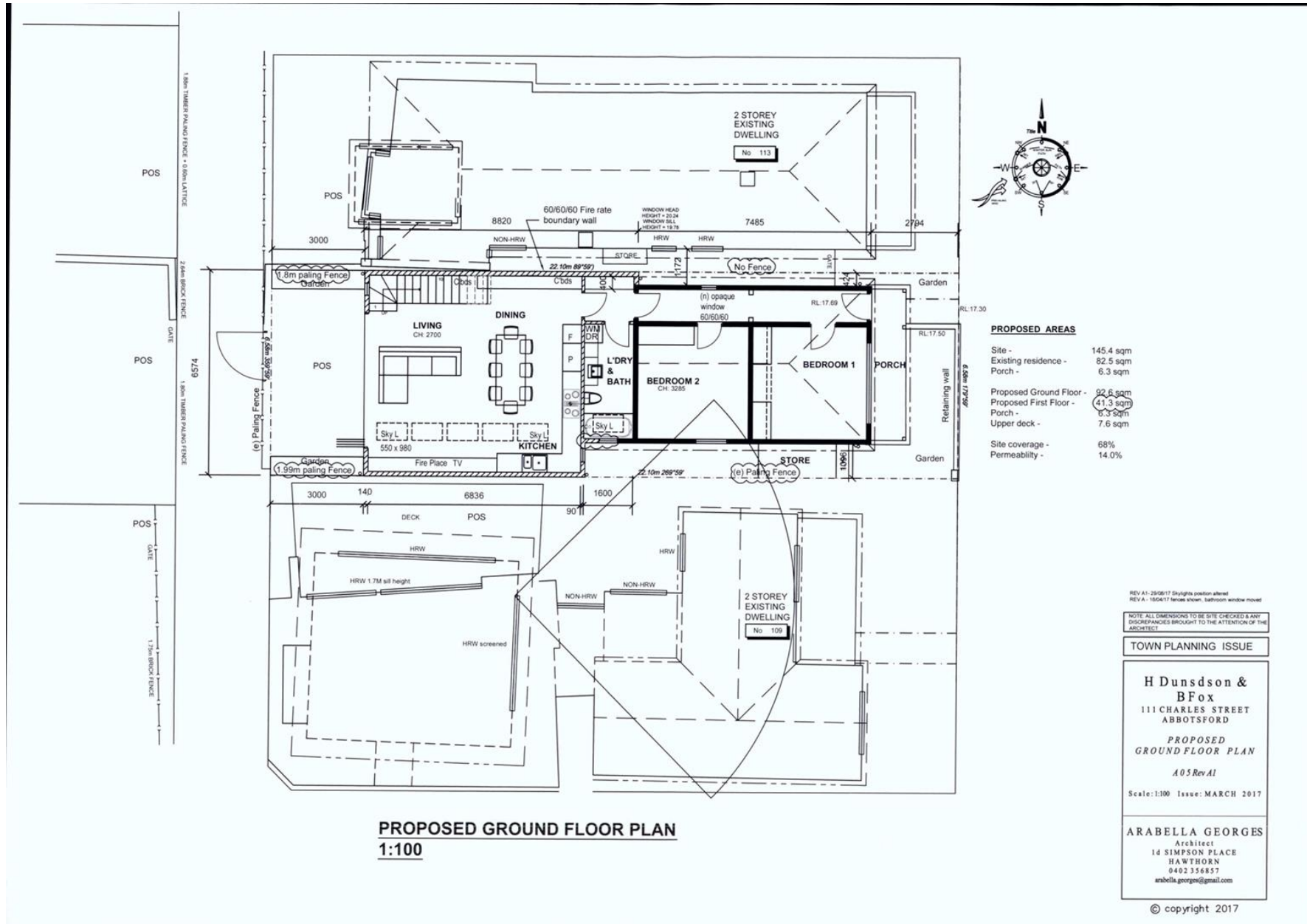




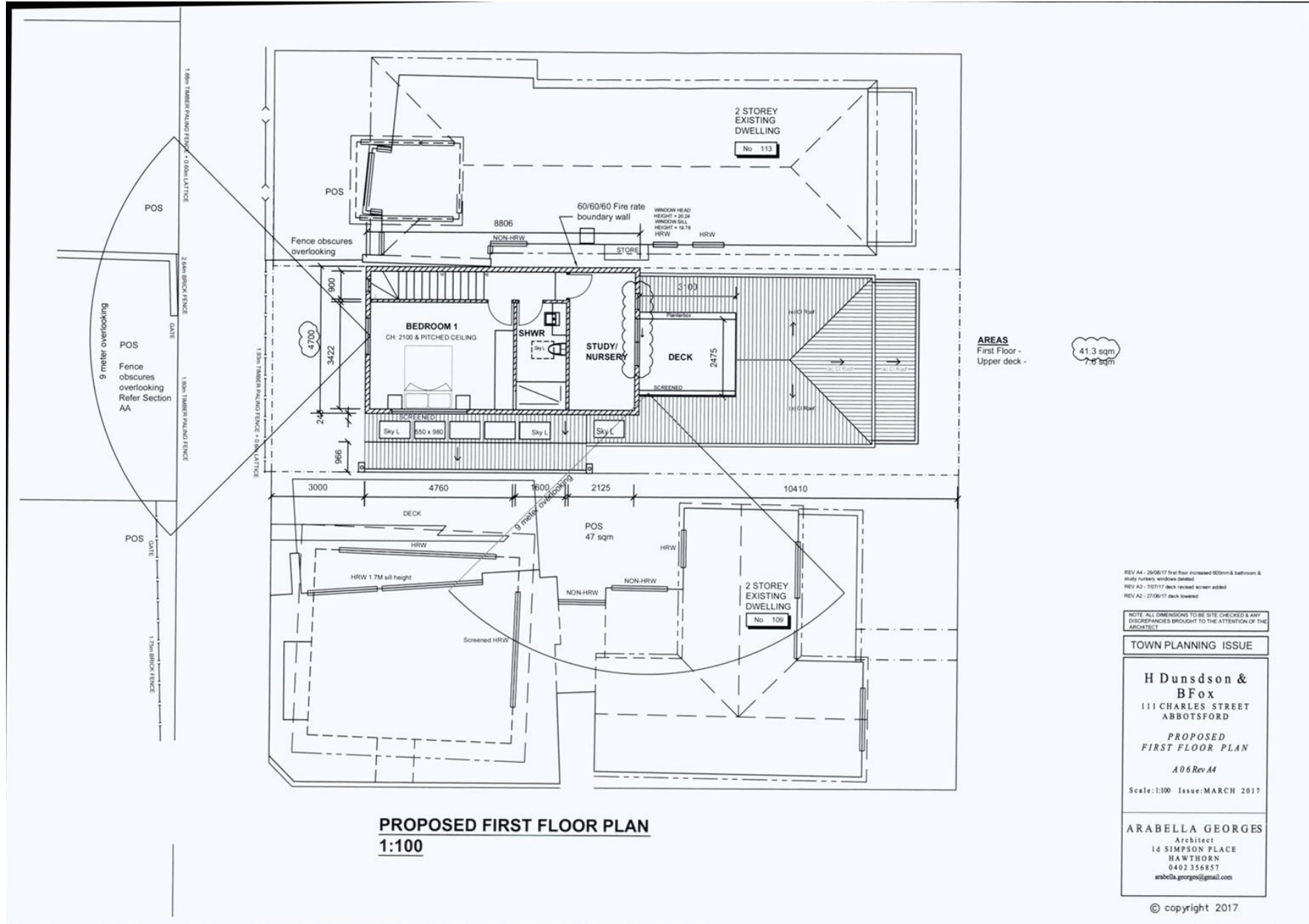
Attachment 3 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 2 (proposed floor plans and sightline)

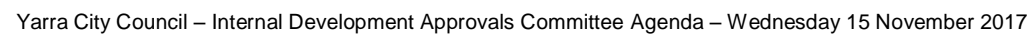


Attachment 3 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 2 (proposed floor plans and sightline)



Attachment 3 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 2 (proposed floor plans and sightline)

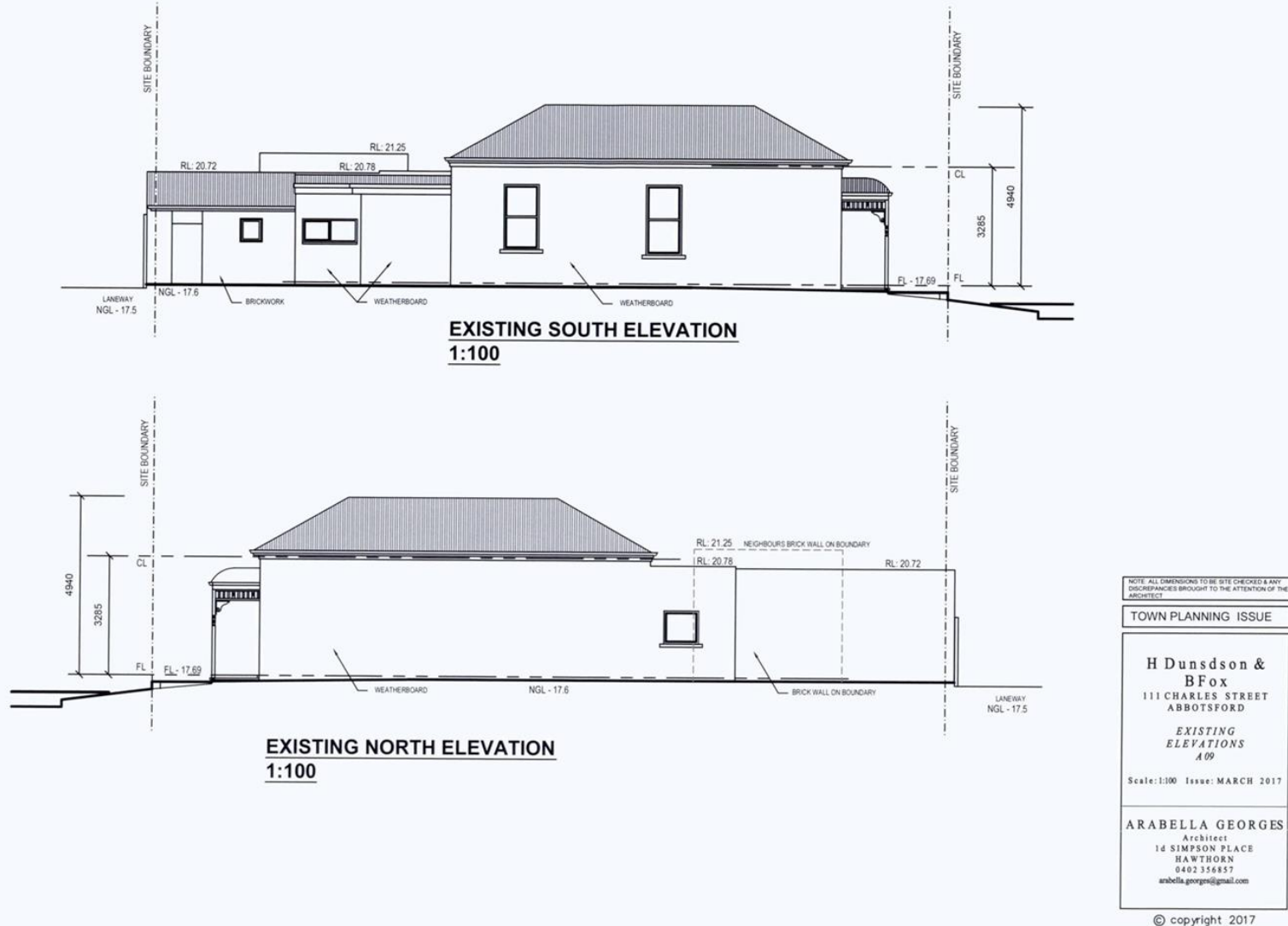






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Attachment 3 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 2 (proposed floor plans and sightline)



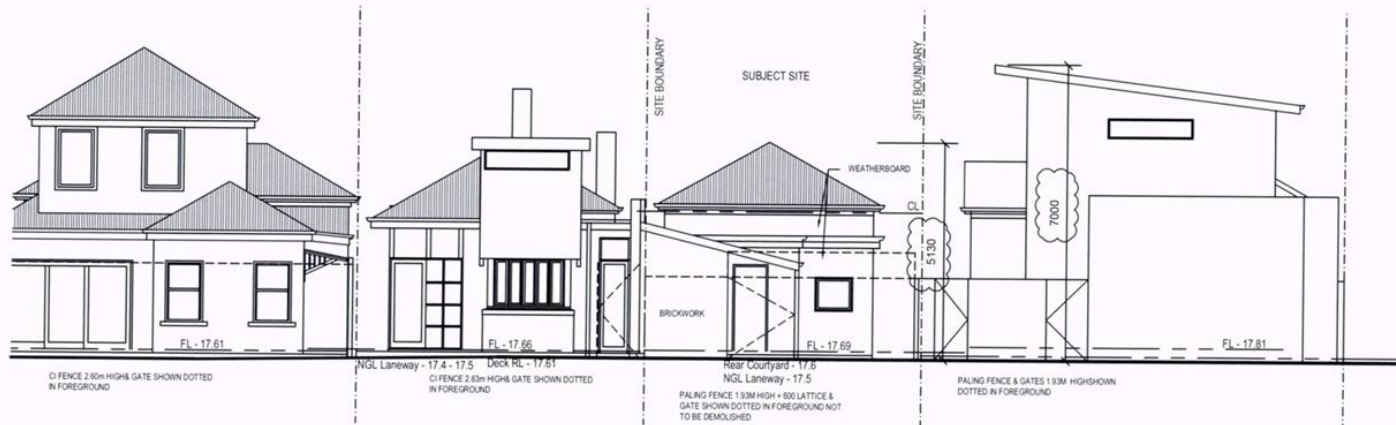
Attachment 3 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 2 (proposed floor plans and sightline)



EXISTING EAST ELEVATION
1:100

EXISTING MATERIALS

Roofing - Corrugated iron natural finish
Gutters - quad painted pale blue
Walls - weatherboards painted cream
Front fence - brickwork and timber pickets painted pale cream
Timber trims & verandah - Timber painted pale blue and cream
Windows - timber painted pale blue and cream
Front door - Timber painted pale blue
Porch - stained timber



EXISTING WEST ELEVATION
1:100

REV A - 18/04/17 Building heights shown and adjacent residences shown with full elevations

NOTE: ALL DIMENSIONS TO BE SITE CHECKED & ANY DISCREPANCIES BROUGHT TO THE ATTENTION OF THE ARCHITECT

TOWN PLANNING ISSUE

**H Dunsdon &
B Fox**
111 CHARLES STREET
ABBOTSFORD

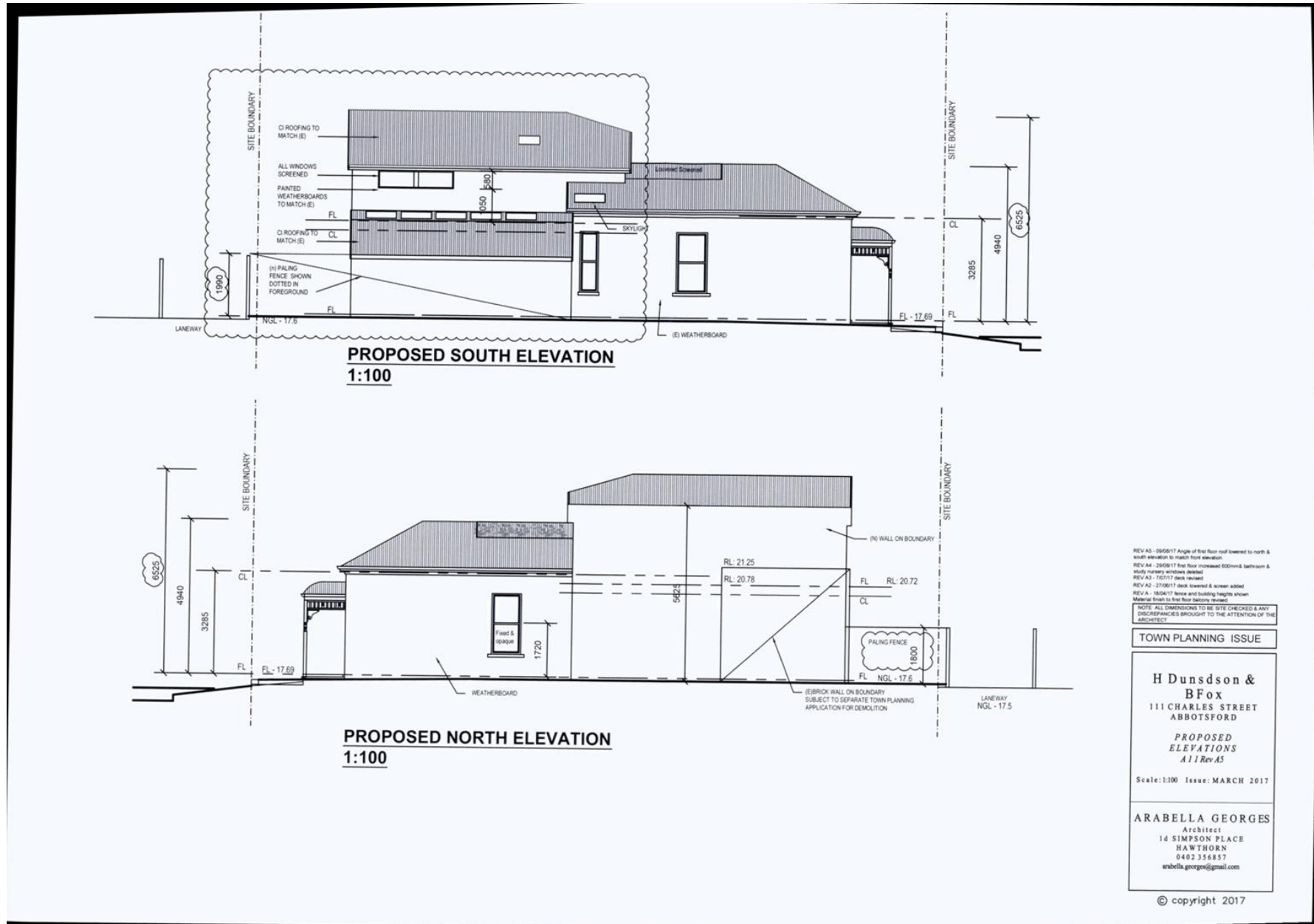
**EXISTING
ELEVATIONS2**
A10 Rev A

Scale: 1:100 Issue: MARCH 2017

ARABELLA GEORGES
Architect
14 SIMPSON PLACE
HAWTHORN
9402 356857
arabella.georges@gmail.com

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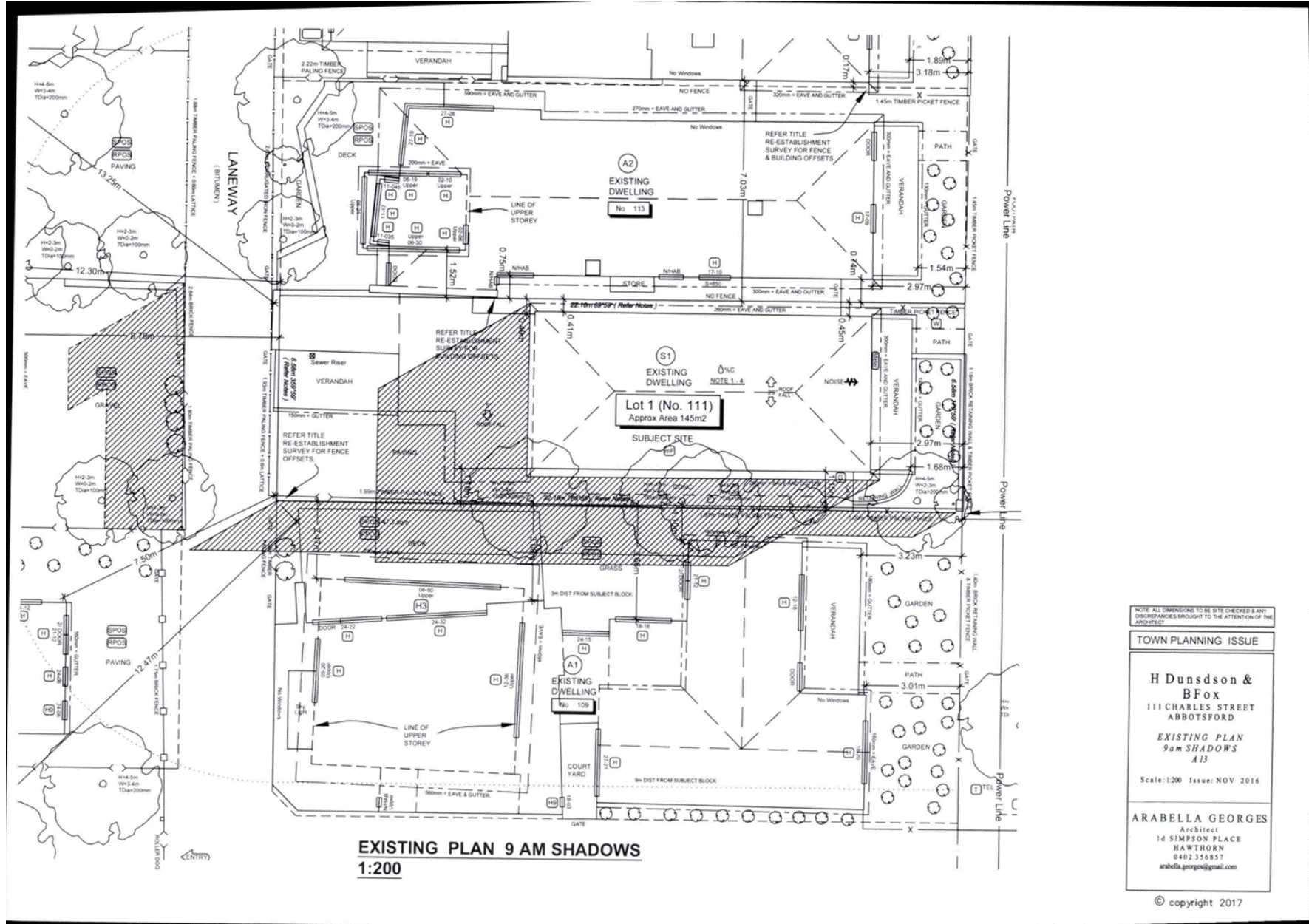
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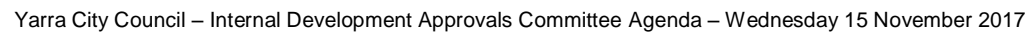


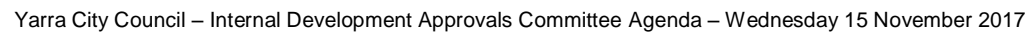
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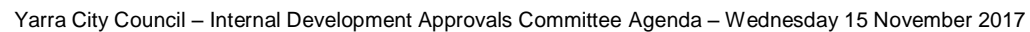


Attachment 4 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 3 (shadow diagrams and cross-section)

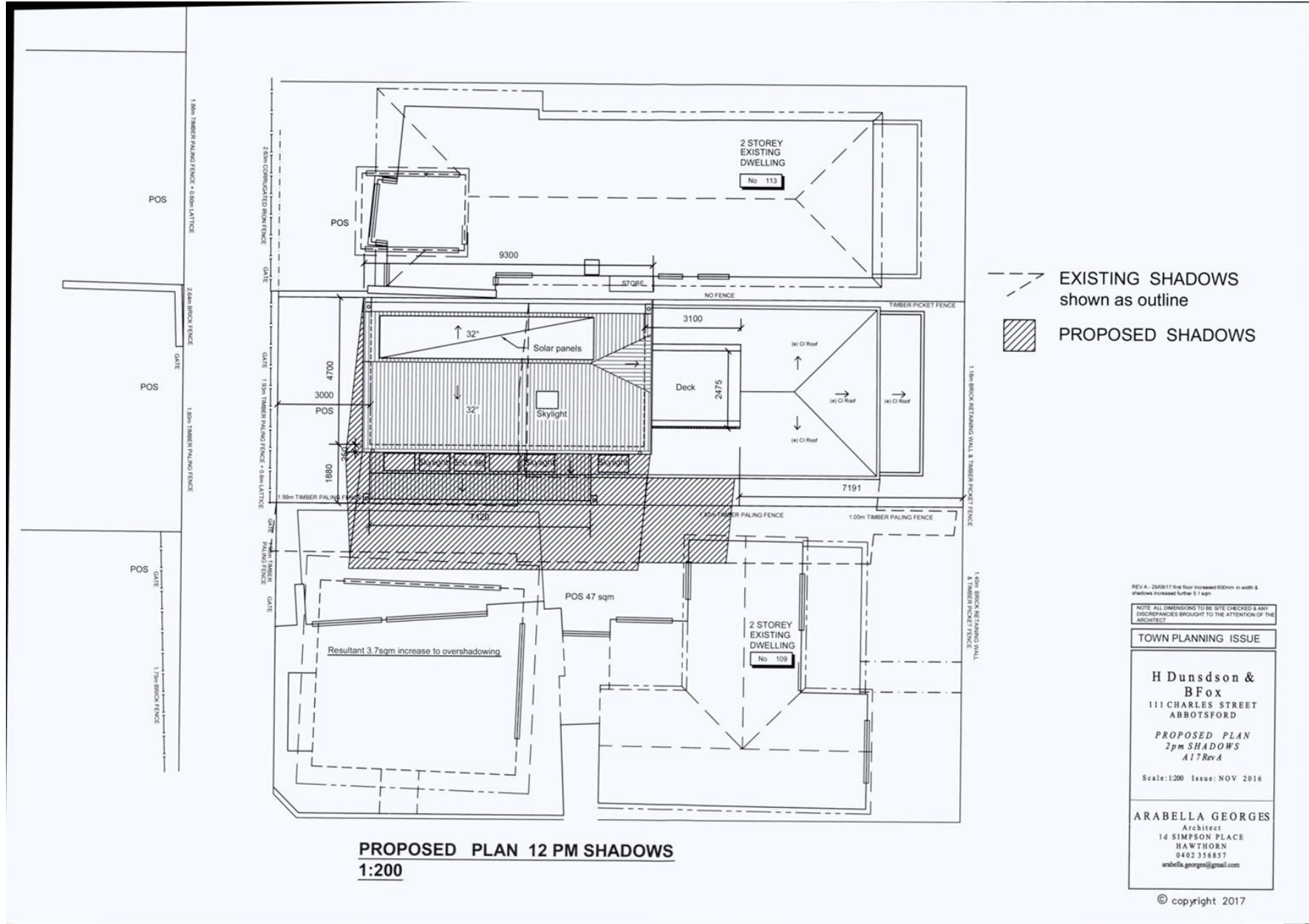


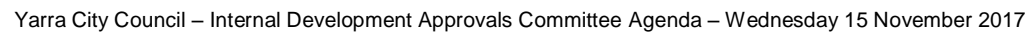




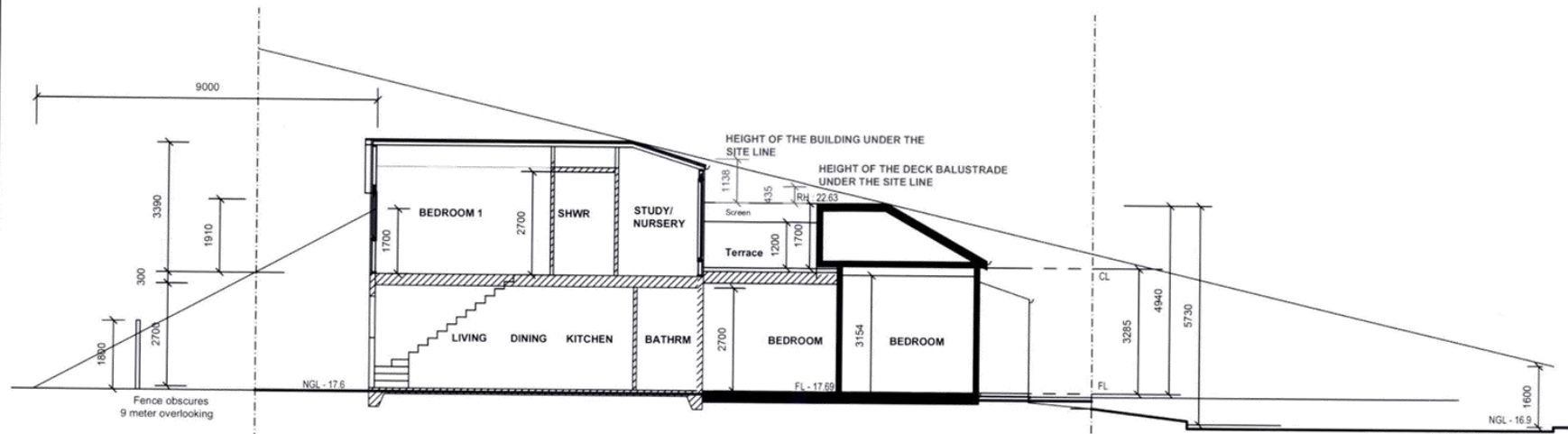


Attachment 4 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 3 (shadow diagrams and cross-section)

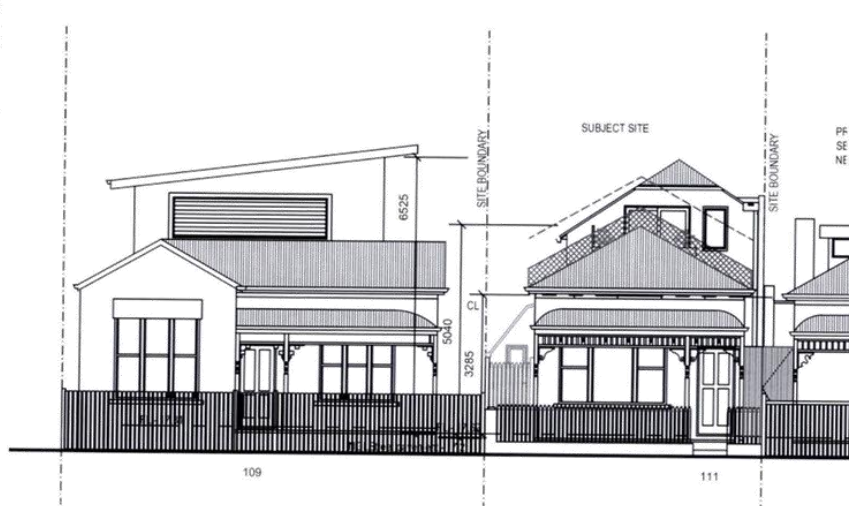




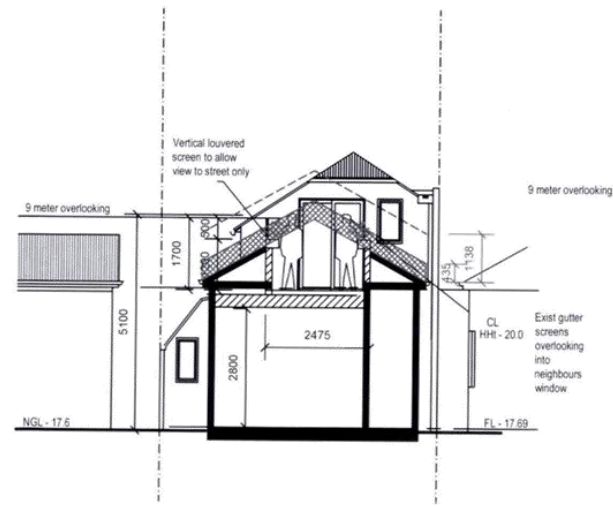
Attachment 4 - PLN17/0237 - 111 Charles Street Abbotsford - Advertising S57B - Revised Plans Part 3 (shadow diagrams and cross-section)



PROPOSED SECTION AA
1:100



PROPOSED EAST ELEVATION
1:100



PROPOSED SECTION CC
1:100

NOTE: ALL DIMENSIONS TO BE SITE CHECKED & ANY DISCREPANCIES BROUGHT TO THE ATTENTION OF THE ARCHITECT

TOWN PLANNING ISSUE

H Dunsdon & B Fox
111 CHARLES STREET
ABBOTSFORD

PROPOSED SECTIONS
Heritage Views

A 19

Scale: 1:100 Issue: MARCH 2017

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Attachment 5 - PLN17/0237 - 111 Charles Street Abbotsford - Heritage advice

City of Yarra Heritage Advice

Application No.:	PLN17/0237
Address of Property:	111 Charles Street, Abbotsford
Planner:	Tamina Loan Vy
Yarra Planning Scheme References:	<p>STATE POLICY:</p> <ul style="list-style-type: none"> • Clause 15.03 Heritage <p>LOCAL POLICY:</p> <ul style="list-style-type: none"> • Clause 21.05-1 Built Form (Heritage) • Clause 43.01 Heritage Overlay • Clause 22.02 Development Guidelines for sites subject to the Heritage Overlay
Heritage Overlay No. & Precinct:	HO313-Charles Street Precinct, Abbotsford
Level of significance:	Contributory, constructed, 1870-1890 (Appendix 8, City of Yarra Review of Heritage Overlay Areas 2007)
General description:	HO313 Charles Street Precinct, Abbotsford
Drawing Nos.:	Set of 21 x A3 drawings prepared by Arabella Georges Architect, received by Council and date stamped 26 April 2017

CONTEXT DESCRIPTION:

The subject site is a rectangular allotment with a principal frontage to Charles Street and rear access via an asphalted laneway. It is located on the western side of the street, between Vere Street to the north and Gipps Street to the south.



Above: Current aerial of the subject site

The site is a single fronted, single storey, timber weatherboard dwelling of the Victorian era. It has a sheet metal roof and bullnose verandah and the façade windows appear to have been replaced with larger, interwar alternatives. Verandah fretwork is not original either, but overall the dwelling continues to contribute to the historic streetscape as a Victorian-era dwelling.

Charles Street is a long and highly intact streetscape. The majority of properties are contributory or individually significant and a number of contributory properties have new additions toward the rear.

The immediate area is characterised by single storey, timber weatherboard dwellings with sheet metal roofs. Further north towards Vere Street there are a number of double storey masonry terraces, but these are not visible from the subject site.

Attachment 5 - PLN17/0237 - 111 Charles Street Abbotsford - Heritage advice



Above: Subject site as seen from across the street.

ASSESSMENT OF PROPOSED WORKS:

Comments regarding proposed demolition:

The extent of demolition proposed by this application includes demolition of all of the fabric beyond the front two rooms of the house, and the entire roof beyond the first front room.

The key consideration for assessing this aspect of the works is whether the proposed demolition will adversely affect the significance of the heritage building or the broader heritage precinct.

Clause 22.02-5.1 of the Yarra Planning Scheme discourages the demolition of part of a contributory building or removal of contributory elements unless:

- That part of the heritage place has been **changed beyond recognition** of its original or subsequent contributory character(s).

For a contributory building:

- that **part is not visible from the street frontage** (other than a laneway), abutting park or public open space, and the main building form including **roof form** is maintained; or
- the **removal of the part would not adversely affect the contribution of the building** to the heritage place.

Demolition of ground floor fabric beyond the front two rooms (shown on the floor plans as 10.4metres from the front title boundary) is supported as retaining enough contributory fabric at the front of the property to maintain the integrity of the site.

Demolition of the roof beyond the depth of the first front room is **not supported** as it will involve removing part of contributory fabric that is visible from the public realm and that is part of the main roof form of the dwelling. Demolition of the roof in this zone would adversely affect the contribution of the building to the heritage place by diminishing its visible integrity.

It is strongly recommended that the full roof form be retained for at least the depth of the two front rooms or about 7.5 metres from the alignment of the main front wall.

Comments regarding new development, alterations and additions:

The extent of new works proposed by this application includes development of a double storey addition with roof terrace towards the front.

Attachment 5 - PLN17/0237 - 111 Charles Street Abbotsford - Heritage advice

The key consideration for assessing this aspect of the works is whether the proposed new development will adversely affect the significance, character or appearance of the heritage building or the broader heritage precinct.

Setbacks:

Clause 22.02-5.7.1 of the Yarra Planning Scheme encourages:

setbacks from the principal street frontage to be similar to those of adjoining contributory buildings;
where there are differing adjoining setbacks, the greater setback will apply.



Above: Aerial showing the comparative setbacks of nearby upper storey additions



Above: Extent of upper level addition to no. 109 that is visible from Charles Street



Above: Extent of upper level addition to no. 115 that is visible from Charles Street

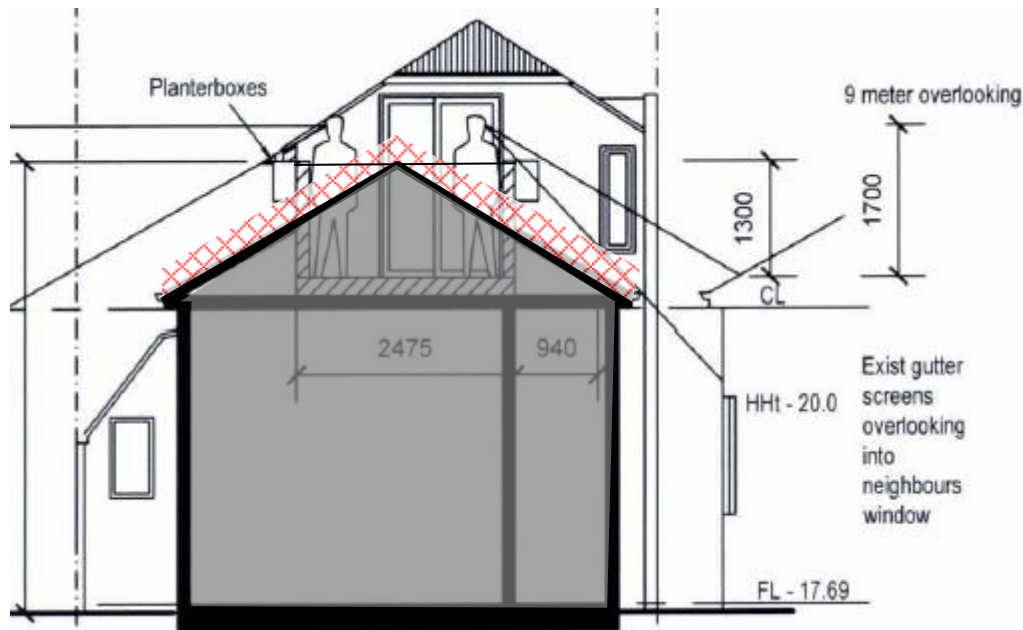
Attachment 5 - PLN17/0237 - 111 Charles Street Abbotsford - Heritage advice

The proposed front setback for the upper level addition will be about 7.5 metres from the alignment of the original main front wall. This setback will be reduced to 4.5 metres by the proposed open roof deck.

The front setbacks of other nearby upper level additions are about 11 metres for no.109 Charles Street (constructed in 2013) and 7.5 metres for No.115 (constructed in 2015). It should be noted however that both nos. 109 and 115 are double-fronted dwellings that have roof forms that provide a much higher degree of concealment from the street than the subject property.

Although the policy at Clause 22.02-5.7.1 suggests that the greater setback of the upper storey at no. 109 should be applied, it is considered that the proposed 7.5 metre setback for the façade of the addition would be acceptable.

The sightline diagrams (shown in Clause 22.02-5.7.1) are of little assistance for assessing the extent of visibility of upper level additions to buildings with simple hipped roofs and no parapet such as the subject property.



Above: Estimated extent of the proposed upper level additions that will be concealed by the existing hipped roof shown hatch in red

The diagram above shows a rough assessment of the extent that the proposed upper floor level will be concealed by the remaining portion of roof from the opposite side of the street. As demonstrated, all activity on the front deck will be clearly visible from both directly in front and from oblique angles. Even when not in use, the mandatory balustrading will be partially visible rising above the roof line.

Clause 22.02-5.7.1 specifically discourages:

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

The proposed deck will only be accessible from a study/nursery. Given that usable open space is available at the rear, it is considered that the proposed upper level deck is not critical to the amenity of the house. The clear visibility of activity above the roofline of a traditional hipped roof is not in any way contemporary with the era of the original building.

In conclusion, it is considered that the setback of the proposed upper level façade addition is acceptable. The proposed open deck in front of the upper level addition should be deleted.

Scale/height:

Clause 22.02-5.7.1 of the Yarra Planning Scheme encourages:

similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height

The proposed facade height for the new development will be between 5.1metres and 6.6metres tall. The overall scale has been achieved with between 2.1metre and 3.3metre internal ceiling heights.

Attachment 5 - PLN17/0237 - 111 Charles Street Abbotsford - Heritage advice

The proposed scale is considered reasonable.

Roof form:

The proposed roof form for the upper level addition will be a half hip, a gable roof with the end clipped off with what resembles a hip roof.

The form of the proposed roof is supported as it is sympathetic against the existing hipped roof and allows the overall height of the addition to be minimised.

Appearance:

Clause 22.02-5.7.1 of the Yarra Planning Scheme encourages the design of new development to:

- Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.
- Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.

A contemporary design approach has been adopted for the proposed new building. This approach is not unacceptable provided that adequate respect is given to the heritage character of the surrounding area through details such as external materials, proportions and fenestration.

The adjacent properties are generally of contributory buildings of traditional appearance.

Contributory buildings within this precinct are characterised as having:

- Pitched gabled (mainly Edwardian-era) or hipped (mainly Victorian-era) roofs,
- One storey wall heights;
- Weatherboard, some brick or stucco walls;
- Corrugated iron roofing;
- Chimneys of either stucco finish (with moulded caps) or of matching face brickwork with corbelled capping courses;
- Post-supported verandah elements facing the street;
- Less than 40% of the street wall face comprised with openings such as windows and doors;

A large sliding door has been proposed for access to the front deck. Given that the deck is not supported, the large opening will not be necessary.

All window openings in the façade should be of traditional vertical proportions to be respectful of the fenestration of the original house and those in the street.

The proposed external materials for the new development will be weatherboard cladding (painted white) and natural corrugated metal roof sheeting. These materials will be in keeping with those of the original house.

RECOMMENDATIONS:

On heritage grounds the works proposed in this application may be approved subject to the following conditions:

- 1) That the existing roof structure must be retained to a depth of at least 7.5 metres from the alignment of the main front wall of the original house;
- 2) That the proposed front upper level deck must be deleted;
- 3) That the proportions of the upper level façade windows must be more vertical rectangular in keeping with traditional window opening of the original house;

SIGNED:



Diahn McIntosh

DATED: 22 August 2017

Attachment 6 - PLN17/0237 - 111 Charles Street Abbotford - Further heritage advice

Vy, Tamina Loan

From: McIntosh, Diahnn <Diahnn.McIntosh@yarracity.vic.gov.au>
Sent: Tuesday, 19 September 2017 11:44 AM
Subject: PLN17/0237 - 111 Charles Street Abbotsford - Further Heritage advice regarding the front roof deck

Dear Tamina

Further to my previous email regarding this application, I have now reviewed the additional plans received 12 September 2017.

I wish to confirm that my previous concerns regarding the proposed front roof deck remain unchanged by the submitted drawings. The 3D images confirm that the proposed screen will be clearly visible from the street rising out of the main roof form in a manner that is totally alien to the historic roof form as well as the roof forms around it. This concern is further compounded by the proposed planterboxes which do not appear to have been shown on the 3D images.

Please don't hesitate to contact me directly if you require any further clarification regarding my comments.

Kind regards,

Diahnn McIntosh
Heritage Advisor (Mondays, Tuesdays and Wednesdays) City of Yarra PO Box 168 Richmond 3121

-----Original Message-----

From: McIntosh, Diahnn
Sent: Wednesday, 6 September 2017 11:08 AM
To: Vy, Tamina Loan
Cc: Connell, Danielle
Subject: HP TRIM Document : D17/117118 : PLN17/0237 - 111 Charles Street Abbotsford - Heritage advice

Dear Tamina

I refer to the amended drawings that were recently received in response to the above mentioned application.

FRONT DECK:

I note that the floor level for the proposed front deck has been reduced. While this has effectively reduces the extent of balustrading visible rising above the roof line, it has not eliminated it. Given the extent of this roof form that is clearly visible from oblique angles, any visible balustrading would not be desirable.

I also note that despite the reduction in height of the proposed balustrading rising above the existing roof line, it is now proposed to include a privacy screen of 500mm height above the balustrading. This element will be clearly evident from the street - irrespective of whether the deck is in use or not.

I am concerned that the submitted 3D images do not even show the privacy screen or the planter boxes. I am also concerned that the proposed screen has been rendered in the Proposed South Elevation to make it appear to blend with the adjacent roof material despite the notation that it is intended to be louvered.

I continue to strongly recommend the deletion of the front deck, including the proposed louvered screen, on the grounds that it will be a completely foreign element that will be clearly visible from the street in an area traditionally associated with the original roof.

FRONT WINDOW:

The relocation of the small rectangular window opening on the façade is of no heritage concern.

Attachment 6 - PLN17/0237 - 111 Charles Street Abbotford - Further heritage advice

WIDTH OF UPPER FLOOR ADDITION:

The proposal to increase the overall width of the upper floor addition is essentially of no major concern, however it should not result in any increase in the overall height of the finished development.

CONCERNS REGARDING THE SIGHTLINE DRAWING The submitted sightline drawing based on Section AA appears to be incorrectly drawn. The pitched roof form over the study is not consistent with the scale of the half hip roof form shown on the proposed roof plan.

These drawings need to be coordinated to ensure that the sightline drawing is accurate.

Please don't hesitate to contact me directly if you require any further clarification regarding my comments.

Kind regards,

Diahn McIntosh

Heritage Advisor (Mondays, Tuesdays and Wednesdays) City of Yarra PO Box 168 Richmond 3121

Attachment 7 - PLN170237 - 111 Charles Street Abbotsford - Advertising S52 - STORM Report



STORM Rating Report

TransactionID: 458192
 Municipality: YARRA
 Rainfall Station: YARRA
 Address: 113 Charles St

Abbotsford
 VIC

Assessor: Arabella Georges
 Development Type: Residential - Dwelling
 Allotment Site (m2): 145.00
 STORM Rating %: 112

Description	Impervious Area (m2)	Treatment Type	Treatment Area/Volume (m2 or L)	Occupants / Number Of Bedrooms	Treatment %	Tank Water Supply Reliability (%)
Roof	99.90	Raingarden 100mm	1.00	0	112.30	0.00

Date Generated: 23-Apr-2017

Program Version: 1.0.0