

# **Design and Development Overlay Schedule 36 - Fitzroy East and Johnston Street North**

## **1 Objectives**

To ensure development responds to the heritage character and streetscape by supporting:

- a new mid-rise character (ranging from 6 to 9 storeys) with a new prominent street wall along the northern side of Johnston Street and scale of development transitioning down to Argyle Street; and
- mid-rise development (ranging from 3 to 8 storeys) in the mixed use precinct in Fitzroy East, north of Argyle Street, which ensures the varied but low heritage street wall remains the visually dominant element of the streetscape and upper level developments are recessive providing a clear visual distinction between lower street walls and upper level development.

To ensure the façade composition and articulation of development responds to:

- the commercial character of Johnston Street; and
- the varied industrial and residential heritage character of Fitzroy East.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on the southern side of Johnston Street, opposite footpaths of Kerr, George and Gore Streets and upper levels along the south side of Argyle Street.

To ensure that development provides for equitable development outcomes through building separation and a design response that considers the development opportunities of neighbouring properties.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

## **2.0 Buildings and works**

A permit is required to construct a building or construct or carry out works, except for:

- rear ground floor extensions no higher than 4 metres above ground level;
- an alteration to an existing building façade provided:
  - the alteration does not include the installation of an external roller shutter;
  - in a C1Z, at least 80 per cent of the building façade at ground floor level is maintained as an entry or window with clear glazing; and
  - in a MUZ, the alterations include and/or retain existing windows and pedestrian entry points and do not create blank walls.
- construction of an awning to an existing building that projects over a road, if it is authorised by the relevant public land manager.

## 2.1 Definitions

**Heritage building** means any building subject to a Heritage Overlay, on the Victorian Heritage Register or any building graded as either Contributory or Individually Significant.

**Laneway** means a road reserve of a public road 9 metres or less wide.

**Parapet** does not include features such as brackets, pediments, urns, finials or other decorative elements.

**Public realm** means all streets and spaces open to the public but does not include laneways.

**Street wall** means the façade of a building at the street boundary, or if the existing heritage building is set back from the street boundary, the front of the existing building.

**Street wall height** means the height of the street wall measured by the vertical distance between the footpath at the centre of the frontage and the highest point of the building, parapet, balustrade or eaves at the street edge; or in the case of a heritage building, if it is set back from the street from the centre of the building frontage to the highest point of the building, parapet, balustrade or eaves.

**Upper level** means development above the height of the street wall.

**Upper level setback** means the setback of the upper level measured from the street wall of the building.

## 2.2 General Requirements

A permit cannot be granted under this Design and Development Overlay to vary a requirement expressed with the term 'must'.

The requirements below apply to an application to construct a building or construct or carry out works.

## 2.3 Street Wall Height and Setback Requirements

Street wall heights should not exceed the heights specified in Map 1 and as stated below, where applicable.

Development should achieve a continuous street wall with no front setback towards a street, unless a front set back exists and the site is within a Heritage Overlay.

Infill development should match the frontage street wall height of an adjoining heritage property for a minimum length of 6 metres along the front boundary, but should not be higher than 11.2 metres where an adjacent heritage street wall is taller.

The street wall on corner buildings should continue the main frontage street wall height for a minimum of 8 metres to the side street, with a transition in height to match the rear interface where required.

Development should retain the visual prominence of:

- the heritage street wall in the vistas along the street; and
- heritage fabric of the return façade of heritage buildings on corner sites.

## **2.4 Upper Level Setback Requirements**

Upper levels above the Argyle Street street wall should be set back by a minimum of 10 metres.

Upper levels above the primary and side street wall should be set back by a minimum of 6 metres along other streets.

For development over 16.4 metres, the top most upper level above a heritage building should be set back a further 3.2 metres from a street frontage.

Upper levels should:

- be visually recessive from main frontages and side streets to ensure development does not overwhelm the heritage buildings and minimise upper level bulk;
- be set back from the street wall below to ensure that upper level additions as seen from the public realm do not detract from the character of the streetscape when viewed directly or obliquely along the street; and
- contain upper level setbacks above the street wall within a maximum of two steps (including the setback above the street wall below as one step) to avoid repetitive steps in the built form.

Projections such as building services and architectural features (other than shading devices, moldings etc.), balconies and balustrades should not intrude into a setback.

For heritage buildings, upper level setbacks behind the street wall in excess of the minimum upper level setback should be provided where:

- it would facilitate the retention of a roof form and/or chimneys that are visible from the public realm, or a roof or any feature that the relevant statement of significance identifies as contributing to the significance of the heritage building or streetscape;
- it would maintain the perception of the three-dimensional form and depth of the building; and
- a lesser setback would detract from the character of the streetscape when viewed directly or obliquely along the street.

## **2.5 Building Height Requirements**

Development should not exceed the heights shown on Map 1.

A permit should only be granted to construct a building or carry out works which exceeds the building heights shown in Maps 1 and 2 where each of the following requirements are met to the satisfaction of the responsible authority:

- the minimum common boundary and building separation requirements in this schedule are exceeded by at least 1 metre each for levels above the height;
- accessibility provision that achieves the standards in Clauses 55.07 and 58.05 respectively for a minimum of 70% of dwellings;
- communal open space provision that exceeds the minimum standards in Clauses 55.07 and 58.03 by 20%;
- secluded private open space provision that exceeds the minimum standards in Clauses 55.07 and 58.05 by 20% each;

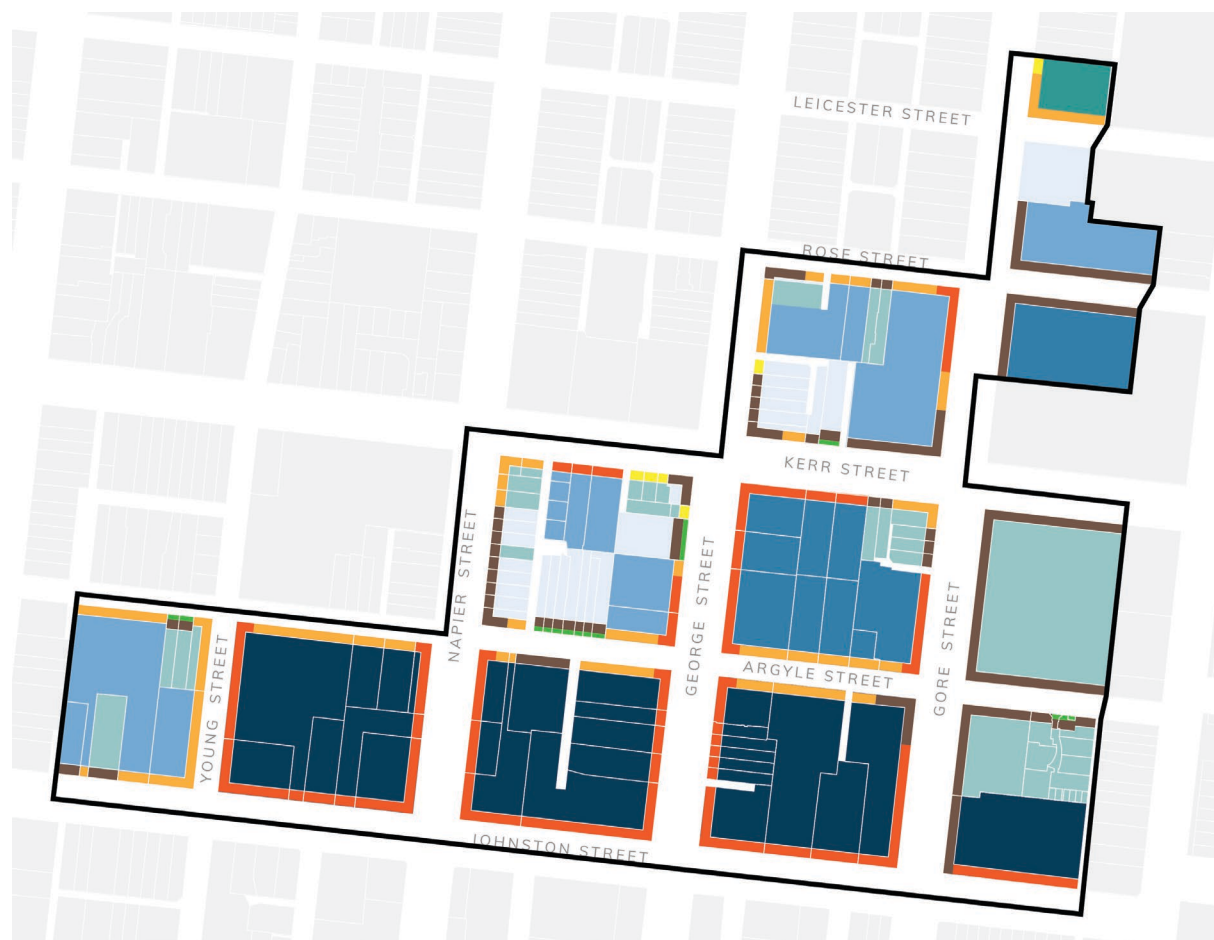
- excellence for environmentally sustainable design measured as a minimum BESS project score of 70%; and
- no additional overshadowing to secluded private open space of residentially zoned properties outside of the schedule and/or opposite footpath, kerb outstands etc. beyond that which would be generated by a proposal that complies with the maximum building height.





Architectural features may exceed the building height.

Service equipment and/or structures including balustrades, unenclosed pergolas for communal areas, shading devices, plant rooms, lift overruns, stair wells, structures associated with pedestrian access, green roof areas and other such equipment may exceed the height provided that:

- the equipment/structures do not cause additional overshadowing of private open space to residential land, opposite footpaths, kerb outstands etc.; and
- the equipment/structures are no higher than 2.6 metres above the preferred maximum height; and
- the equipment/structures occupy less than 50 per cent of the roof area (solar panels excepted).

**Map 1: Street Wall Heights and Building Heights**



Building Height		Streetwall	
11.2m		Retain landscape setback	
14.4m		Retain heritage streetwall	
17.6m		8m	
20.8m		11.2m	
24.0m		14.4m	
27.2m			
30.4m			

## 2.6 Interface Requirements

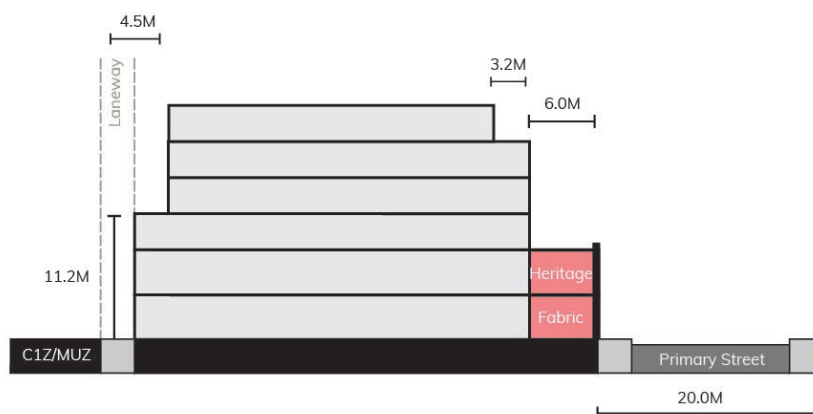
Development on a rear boundary should not exceed 11.2 meters.

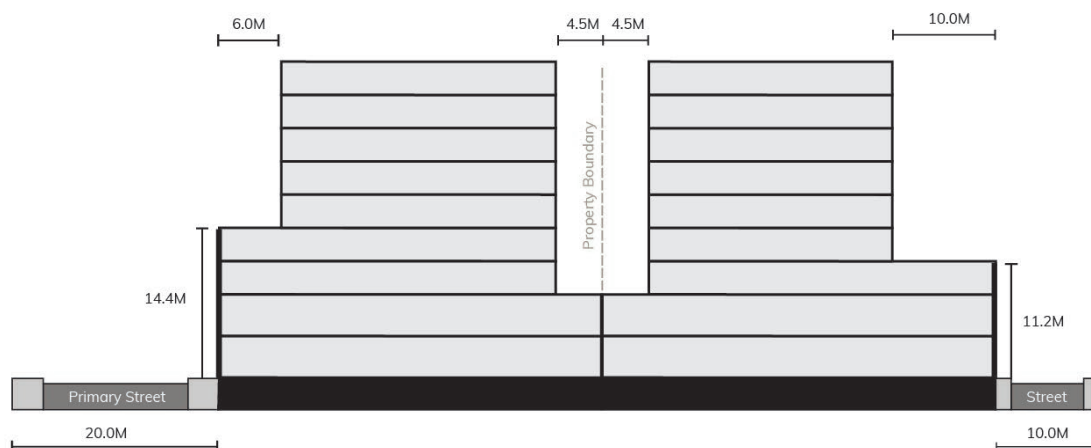
Upper level setbacks above a rear boundary wall should be contained within a maximum of two steps (including the setback above the boundary wall below as one step) or be contained within a sloped façade to avoid repetitive stepping of individual levels.

Development should respond to existing secluded private open spaces by setting back at upper levels to create a sense of separation, minimise overshadowing and reduce building bulk.

Development should not visually dominate adjoining residential sites, including where separated by a laneway.

**Figures 1 and 2: Indicative Cross Sections and Measurements**





## 2.7 Overshadowing

Development should meet the objective of Clause 55.04-5 Overshadowing for single dwellings on a lot within the Mixed Use Zone.

New development must not overshadow:

- the opposite footpath of Johnston, Napier, George, Gore and Kerr Streets (as applicable), measured as 3.0 metres from the relevant property frontage between 10am and 2pm at 22 September; and
- any opposite kerb outstands, seating and/or planting areas (as applicable), between 10am and 2pm at 22 September.

New development should not overshadow properties fronting Argyle Street, south side, from the first floor upwards between 10am and 2pm at 22 September.

## 2.8 Building Separation Requirements

Where development shares a common boundary within the overlay and/or adjoins a Commercial 1 Zone and/or Mixed Use Zone outside of the overlay, upper level development should:

- be set back a minimum of 4.5m from the common side boundary, where a habitable window or balcony is proposed and/or exists; and
- be set back a minimum of 3.0m from the common side boundary where a commercial or non-habitable window is proposed and/or exists.

Where the common boundary is a laneway, the setback is measured from the centre of the laneway.

Where development consists of multiple buildings and/or separate upper levels, upper level development should:

- be set back a minimum of 9m from each other, where a habitable window or balcony is proposed; and
- be set back a minimum of 6m from each other where a commercial or non-habitable window is proposed.

## 2.9 Building Layout Requirements

Internal layout of commercial and residential units should show how they can be adapted over time, including demonstrating how commercial and residential units can be combined or divided without major structural remedial works.

Ensure shop front widths are not reduced to the extent they become commercially unviable.

Buildings in the Commercial 1 and Mixed Use Zone should:

- be designed to accommodate commercial activity at the ground floor level; and
- incorporate floor to floor heights suitable for commercial activity of at least 4 metres at ground floor level, where heritage elements are not a constraint.

## 2.10 Façade Design Requirements

Development fronting Johnston Street should achieve fine-grain, commercial façade designs at ground and first floor to reinforce a commercial character and promote activation and surveillance of the public realm.

Development on streets other than Johnston Street should achieve active frontage design at ground level to create a pedestrian-oriented environment and passive surveillance towards the public realm.

Development façades should:

- relate to the vertical and horizontal proportions of either:
  - the modern commercial character of Johnston Street; or
  - the mixed historic industrial warehouse and residential character of Fitzroy East;as applicable.
- create a suitable ratio of solid and void elements;
- create visual interest through the arrangement of fenestration, balconies and the application of architectural features such as external shading devices, window sills etc.;
- avoid overly busy façades that rely on a multitude of materials and colours;
- maintain existing openings and the inter-floor height of a heritage building and avoid new floor plates and walls cutting through historic openings;
- avoid highly reflective glazing in openings of heritage buildings;
- encourage the retention of solid built form behind retained heritage façades and avoid balconies behind existing openings;
- be simple and not compete with the more elaborate detailing of the heritage building(s) on the subject site or an adjoining site;
- avoid large expanses of glazing with a horizontal emphasis, except to ground floor shopfronts and former industrial buildings; and
- ensure projections such as balconies, building services, architectural features (other than shading devices, mouldings etc.) do not intrude into a setback and not dominate the façade.

Building services and service cabinets should be located away from the primary street frontage and should be designed and located so they complement the street frontage and character and appearance of the building.

Development should avoid blank walls, including on side street frontages.

Blank side walls in a mid-block location which are visible permanently or temporarily from adjoining residential sites and/or the public realm should be designed to provide visual interest to passing pedestrians through colour, texture or finishes.

### **2.11 Access, Parking and Loading Areas Requirements**

Pedestrian access to buildings should be achieved via streets and avoid primary access from laneways. Where pedestrian access from a laneway is appropriate, it should include a pedestrian refuge or landing.

Ensure pedestrian entrances are clearly visible, secure and have an identifiable sense of address.

Residential and commercial pedestrian entrances should be distinguishable from each other.

The common pedestrian areas of new buildings should be designed with legible and convenient access, with hallway and lobby areas of a size that reflects the quantity of apartments serviced and which can be naturally lit and ventilated.

Resident and staff bicycle parking should be located and designed to be secure and conveniently accessible from the street and associated uses.

Vehicle access should be achieved from laneways or side streets (in that order of preference).

Car parking should be located within a basement or concealed from the public realm.

Development must not provide additional vehicular access from Johnston Street.

Vehicle ingress and egress into development, including loading facilities and building servicing, should be designed to ensure a high standard of pedestrian amenity and limit potential conflict between vehicle movements and pedestrian activity.

Development with redundant vehicle access points should reinstate the kerb, line-marked parking bays, and relocate any parking signs.

Development with laneway access may require a ground level set back in order to achieve practicable vehicle access. Between ground level and first floor, a headroom clearance of 3.5 meters minimum should be achieved.

Ensure access to service laneways is maintained in order to facilitate commercial use of the properties fronting Johnston Street.

Properties on the inside corner of bends in laneways or at intersections between two laneways should provide a minimum 3m x 3m splay to facilitate vehicle access.

## **3.0 Subdivision**

None specified.

## **4.0 Advertising**

None specified.



## 5.0 Application Requirements

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- a site analysis and urban design context report which demonstrates how the proposal achieves the Design Objectives and requirements of this schedule;
- for development proposals for buildings over 20 metres in height should be accompanied by a wind study analysis to assess the impact of wind on the safety and comfort of the pedestrian environment on footpaths and other public spaces while walking, sitting and standing; and
- a Traffic Engineering Report prepared by a suitably qualified traffic engineer that demonstrates how the development:
  - minimises impacts on the level of service, safety and amenity of the arterial road network (including tram services);
  - reduces car dependence and promotes sustainable transport modes; and
  - which includes an assessment of the cumulative impacts of traffic and parking in the Precinct including an assessment of the ongoing functionality of laneway/s, where applicable.

## 6.0 Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- whether the requirements in Clauses 2.2 to 2.11 are met;
- whether the design of the streetscape interface makes a positive contribution to an active, pedestrian-oriented street environment and/or public realm;
- whether the design of development fronting Johnston Street achieves a fine-grain modern commercial character;
- whether the design of development in the remainder of the precinct achieves a mixed use industrial warehouse and/or residential character;
- whether development retains the prominence of the heritage street wall in the vistas along the primary street frontage;
- whether heritage buildings on street corners retain their prominence when viewed from the opposite side of the primary and secondary street;
- whether heritage buildings retain their three-dimensional form as viewed from the public realm, including the opposite side of the street;
- whether upper level development above the heritage street wall is visually recessive and does not dominate or visually overwhelm the heritage buildings;
- whether a strong sense of separation between upper levels and street walls is achieved when viewed from the opposite side of the street;
- whether the development delivers design excellence, including but not limited to building siting, scale, massing, articulation and materials;

- whether upper side and rear setbacks are sufficient to limit the impact on the amenity of existing dwellings;
- the shadowing impacts of the development on opposite footpaths and public spaces are minimised;
- whether proposed roof decks are set back from lower levels and are recessive in appearance;
- whether the development mitigates negative wind effects;
- the cumulative impact of development on traffic and parking in the nearby area, including on the functionality of laneways; and
- whether the layout and appearance of areas set aside for vehicular access, loading and unloading and the location of any proposed car parking is practicable, safe and supports a pedestrian-oriented design outcome.

### **Expiry**

The requirements of this schedule cease to have effect 2 years after publication in the Government Gazette (*Note: Minister to insert date*)

### **Reference Documents**

*Brunswick and Smith Street Built Form Review – Background Analysis Report, 2019*

*Brunswick and Smith Street Built Form Review – Heritage Analysis and Recommendations. 2019*

*Brunswick and Smith Street Built Form Review – Johnston Street Built Form Framework, 2019*

*Brunswick and Smith Street Built Form Review – Fitzroy East Built Form Framework, 2019*

*Traffic Engineering Assessment – Brunswick Street and Smith Street Activity Centres, 2019*