

Planning Application

Report for 10 March 2026 Council Meeting



Application Information

Council Reference	PLN24/0680
Application Received	27 August 2025
Delegate	Manager, Statutory Planning
Address	2-10 Clarke Street Abbotsford
Proposal	Section 96A combined planning scheme amendment and planning permit application to allow for the use of the land for a Retirement Village as well as buildings and works, subdivision, removal of vegetation and creation of an easement
Ward	Langridge
Zone	Special Use Zone – Schedule 2 (current) Special Use Zone – Schedule 7 (proposed)
Overlay(s)	Heritage Overlay – Schedule 9 (HO9) Significant Landscape Overlay – Schedule 1 (SLO1) Development Contributions Plan Overlay – Schedule 1 (DCPO1) Heritage Grade: Victorian Heritage Register

Planning Scheme Amendments

Amendment VC277

- 1) Amendment VC277 was gazetted on 18 December 2025 and makes changes to Clause 52.06 (Car parking) of the Victoria Planning Provisions and all planning schemes. The amendment updates parking requirements to align with public transport access and reduces the number of car parks required for development in locations well-served by public transport. Clause 52.06 has been updated to incorporate maximum car parking rates in some cases. Transitional provisions apply – these will be discussed in the Car Parking assessment below.

Amendment VC281

- 2) Amendment VC281 makes changes to the Victoria Planning Provisions and 34 planning schemes by amending clause 12.03-1R (Yarra River protection) to implement stage one of Burndap Birrarung burndap umarkoo, the Yarra Strategic Plan 2022-2032, February 2022. The amendment also introduces clause 51.06 to ensure responsible public entities have regard to the principles specified in the Yarra River Protection (Wilip-gin Birrarung murrn) Act 2017.
- 3) The amendment introduces Clause 51.06 [Birrarung (Yarra River) protection] to ensure Representative Public Entities (RPEs) have regard to the principles specified in the Act. Pursuant to section 1(d) of the Act, RPEs (as defined in the Act) must have regard to the principles in Part 2 of the Act when performing functions or duties or exercising powers in relation to Yarra River Land or other land, the use of development of which may affect Yarra River Land, and other matters.
- 4) Relevant to this application, Yarra City Council is identified as a Representative Public Entity under Clause 51.06 (Birrarung (Yarra River) Protection).
- 5) Further discussion is provided in the Particular Provisions and Assessment sections of this report.

Site and Surrounds

Subject Site

- 6) The subject site is on the eastern side of Clarke Street and on the south-east corner of the intersection of Clarke and St Heliers Street, in Abbotsford. The site has a frontage to Clarke Street of 99.98m, a frontage to St Heliers Street of 84.46m and an overall site area of 5879sqm. The site is occupied by a 2-3 storey building which is currently vacant, but previously occupied by a Residential Aged Care Facility. The site is also occupied by a Place of Worship, known as the Good Shepherd Chapel, which forms part of the broader Abbotsford Convent Precinct. The site currently benefits from vehicle access along the southern boundary, accessed via Clarke Street. There are 6, on-site car parking spaces accessed via 2 crossovers on Clarke Street.

Title Information

- 7) The title submitted with the application does not show any covenants, restrictions or easements. The title also confirms that the site is subject to Caveat AF739800F, which relates to an electric substation and the associated land being leased to CitiPower Pty Ltd. The application proposes to retain this substation and as such, does not impact this Caveat.



Figure 1 - View of subject site from Clarke Street (Planning Officer, April 2025)



Figure 2 - View of subject site, looking south-west from St Heliers Street (Planning Officer, April 2025)

Surrounding Area

- 8) The subject site forms part of the Abbotsford Convent Precinct, which includes land to the east and south of the site. This Precinct contains various historical buildings previously used as a Convent but now contains a variety of uses including arts and craft centres, artist studios, food and drink premises, a school, wellbeing centres and various other creative activities, including community markets. The site also contains extensive gardens with a large number of mature vegetation, including native vegetation. Land further east beyond the Convent Precinct comprises the Collingwood Children's Farm and the Yarra River with multiple trails and walking tracks.

- 9) Land to the west of the site, on the opposite side of Clarke Street, comprises an established, low-rise residential precinct located within the Neighbourhood Residential Zone. A small pocket of industrial-zoned land is also located west of the site, bound by Yarra Street to the north, Clarke Street to the east, Marine Parade to the south and Paterson Street to the west.

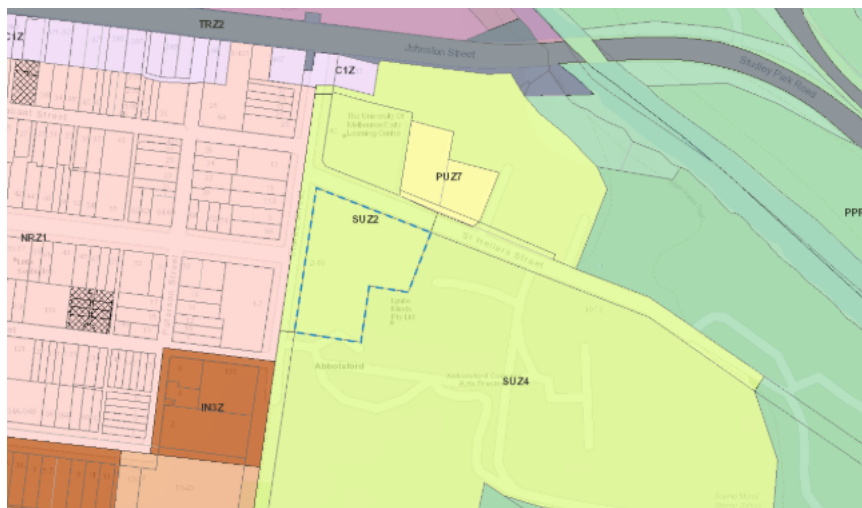


Figure 3 – Zoning map of subject site and surrounds (VicPlan, April 2025) Land to the north comprises an early learning centre, vacant land and a car park for visitors to the Abbotsford Convent and Collingwood Children’s Farm.

- 10) Clarke Street is a two-way street with time-restricted and permit-only car parking located on both sides of the street. St Heliers Street is also two-way with no on-street parking permitted. The southern side of the street consists of on-street bicycle parking spaces.



Figure 4 - Residential land to the west of the site on the opposite side of Clarke Street (Planning Officer, April 2025)

- 11) The site is located within the Principal Public Transport network and is within walking distance of bus routes along Johnston Street to the north and Victoria Park Railway Station, located approximately 700m north-west of the site. The site also forms part of the Johnston Street Neighbourhood Activity Centre, which includes commercial services including offices, retail premises, food and drink premises and a supermarket. The site is well-serviced by shared paths and trails, noting the Main Yarra Trail east and south of the site as well as Nicholson Street further west, which forms part of the Principal Bicycle Network as identified in Clause 02.04 of the Strategic Framework Plan.



Figure 5 - Nearmap aerial imagery of subject site and surrounds (December 2025)

Proposal

The planning permit application is for partial demolition and buildings and works for the construction of a Retirement Village, including the removal of vegetation and subdivision. Further details of the proposal are as follows:

Demolition

- 12) The following structures are proposed for demolition (planning permit not required as site is on Victorian Heritage Register):
 - a) Full demolition of the existing, 2-3 storey 1970s-era building (and retention of the Good Shepherd Chapel);
 - b) A 4.97m long section of the eastern boundary fence, located on the south-east corner of the site;
 - c) The existing crossovers on Clarke Street. The two crossovers serving the car parking spaces will be removed and reinstated with footpath, kerb and channel. The southern-most crossover will be widened, resulting in the loss of 1, on-street car parking space.

Tree Removal

- 13) It is proposed to remove a total of 11 trees on site, including:
 - a) Tree #1 – Flowering Gum;
 - b) Tree #2 – Douglas Fir;
 - c) Tree #20 – Silky Oak;
 - d) Tree #s 22 – 27 – Cut-leaf Birches;
 - e) Tree #29 – Hedge Wattle; and
 - f) Tree #30 – Common Olive.
- 14) These trees are shown on page 10 of 22 of the Arboricultural Report prepared by Glenn Waters and dated 3 October 2023, included as an attachment to this

report. This report also refers to the removal of Tree #21. However, the applicant advised in their cover letter to their response to Council's request for further information that Tree #21 will now be retained. Should a planning permit issue, a condition will require a Tree Management and Protection Plan to correctly reflect the trees to be removed and retained.

Use

- 15) The proposed development will comprise a Retirement Village Facility (permit not required use under Draft Schedule 7 to the SUZ), which is defined under Clause 73.03 of the Scheme as:

Land used to provide permanent accommodation for retired people or the aged and may include communal recreational or medical facilities for residents of the village

- 16) The Retirement Village will consist of the following:
- a) A total of 60 independent living units, including 11 x 1 bedroom apartments, 44 x 2 bedroom apartments and 5 x 3 bedroom apartments;
 - b) 1 x basement level comprising 69 residential car parking spaces, 20 bicycle parking spaces and waste storage facilities;
 - c) Ground level lobby, reception area and meeting room, as well as visitor bicycle parking, e-bike and e-scooter parking and indoor and outdoor communal spaces;
 - d) Communal terrace, dining area and kitchen/bar at Level 1;
 - e) The independent living units will be located across all levels of the development (except the basement).
 - f) Aged care services will also be provided.

Buildings and works

- 17) The proposed development will consist of the following:
- a) Overall height of 4 storeys / 14.49m;
 - b) The ground floor will have the following setbacks:
 - i. Between 4.01m to 9.815m from the northern boundary;
 - ii. 7.5m from the southern boundary;
 - iii. 5.57m from the western boundary; and
 - iv. 7.88m to 56m from the eastern boundary.
 - c) The first and second floors will have the following setbacks:
 - i. Between 4.01m to 11.05m from the northern boundary;
 - ii. 7.23m from the southern boundary;
 - iii. 5.57m from the western boundary; and
 - iv. Between 7.88m to 56m from the eastern boundary;
 - d) The third floor will have the following setbacks:
 - i. Between 5.05m to 9.81m from the northern boundary
 - ii. 7.13m from the southern boundary;
 - iii. 5.57m from the western boundary; and
 - iv. Between 7.98m to 56m from the eastern boundary.
 - e) The roof services will have the following setbacks:
 - v. Between 9.26m to 16.3m from the northern boundary;
 - vi. 9.82m from the southern boundary;

- vii. 8.32m from the western boundary; and
 - viii. Between 10.6m to 58m from the eastern boundary.
- f) Vehicle access is proposed along the southern boundary of the site via an existing laneway. The existing crossover will be widened to 7.23m resulting in the loss of 1 car parking space on Clarke Street. However, the removal of the central and northern-most crossovers from Clarke Street will create space for approximately 5 new angled parking spaces;
 - g) Private open spaces for the ground level units will be provided in the front setback to Clarke Street as well as within the eastern setback;
 - h) Communal open space is also proposed at ground level in the eastern setback;
 - i) Construction of a 1.8m high semi-permeable fence along the northern, eastern and western perimeters of the building. The fence will be constructed of metal pickets on a solid plinth. The fence will be set back between 1.95m to 8.9m from the northern boundary, creating a publicly-accessible space along the St Heliers Street frontage;
 - i. The fence will follow the proposed line of subdivision along the eastern perimeter of the site, resulting in a setback from the Good Shepherd Chapel of approximately 1m.
 - j) A central break in the building is proposed which will result in the upper levels reading as two separate wings;
 - k) The rooftop services include provision of 100 solar panels with a total output of 50 kilowatts;
 - l) Provision of a 50,000L underground rainwater tank, located below basement level;
 - m) The ground level units fronting Clarke Street will have 2.9m high pergolas constructed of aluminium in their private open spaces
 - n) The buildings will have a mansard-style roof profile.



Figure 6 - Artist's impression of development looking east from the intersection of Clarke and Abbotsford Streets



Figure 7 - Artist's impression of proposed development looking south-east from the intersection of Clarke and St Heliers Streets



Figure 8 - Artist's impression of proposed development looking north-east from the Convent Gardens south of the site

Materials and Finishes

- 18) The primary materials for the development include:
- a) Light, cream-coloured brickwork;
 - b) Light, cream-coloured render with a vertical corrugated profile;

- c) Mid-grey render;
- d) Shingle diamond cladding;
- e) Dark grey metal cladding with a vertical joint;
- f) Corrugated roofing;
- g) Metal plant screen and window shutters;
- h) Metal balcony balustrades; and
- i) Clear and spandrel glazing.

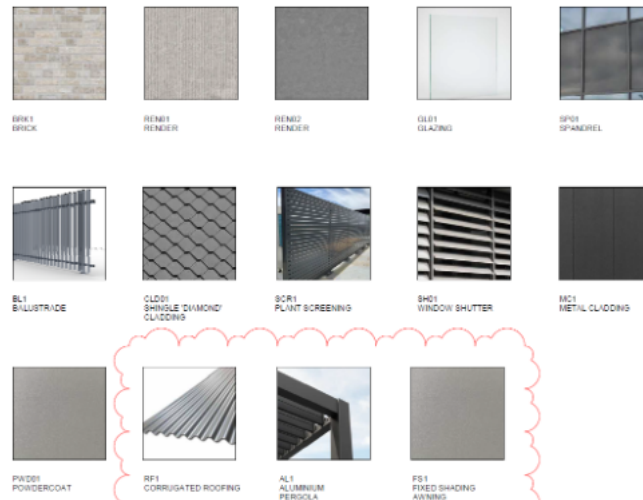


Figure 9 - Proposed material palette

Subdivision & Easement

- 19) It is proposed to subdivide the land into two lots, as follows:
- 20) The proposed Retirement Village will occupy Lot 1, with an overall area of 3906sqm;
- 21) The existing Good Shepherd Chapel will occupy Lot 2, with an overall area of 1974sqm.
- 22) A 2.8m wide easement is proposed along the proposed common boundary, to maintain access for maintenance of the Good Shepherd Chapel and to ensure no development occurs in this area, to protect view lines

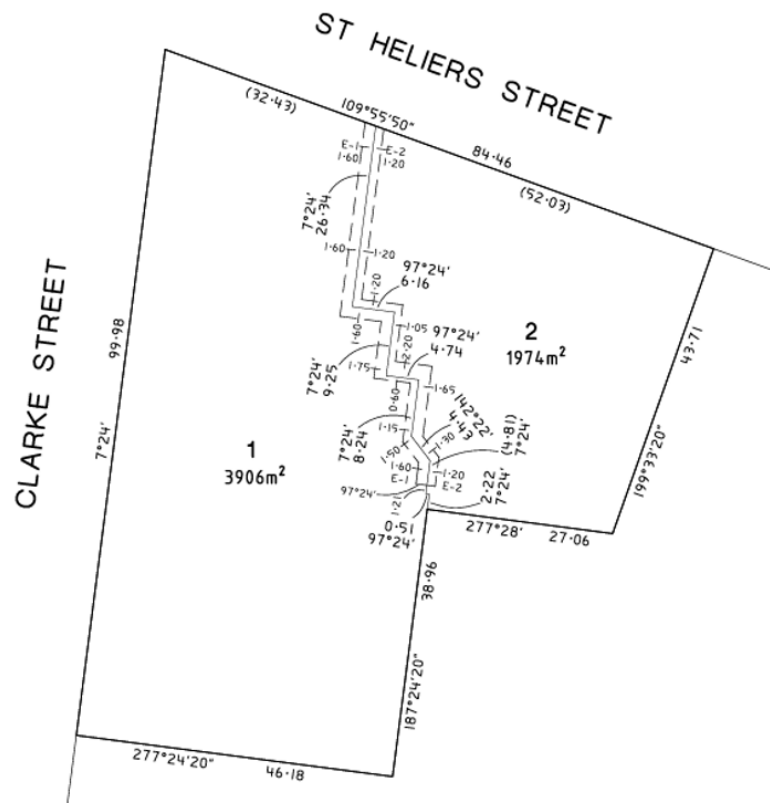


Figure 10 – Proposed plan of subdivision

Yarra Planning Scheme Provisions

Zoning

Special Use Zone – Schedule 2 (Current Zoning)

- 23) The subject site is in the Special Use Zone – Schedule 2 (St Heliers Street, Abbotsford) – SUZ2. The following provisions apply:
- Pursuant to Section 1.0 (Table of Uses) of SUZ2, the use of land for Accommodation (which includes Residential Aged Care Facilities and Retirement Villages) is prohibited;
 - Pursuant to Clause 37.01-3, a planning permit is required to subdivide land;
 - Pursuant to Clause 37.01-4, a planning permit is required to construct a building or construct or carry out works. However, as the proposed uses are prohibited under the SUZ2, the buildings and works are also prohibited.

Special Use Zone- Schedule 7 (Proposed Zoning)

- 24) It is proposed to introduce Schedule 7 to the Special Use Zone (SUZ7) – 2-10 Clarke Street, Abbotsford. The purposes of this zone will be:
- To provide for the development and management of the site primarily for arts, culture, education, retirement village and residential aged care facility uses;
 - To ensure the use and development of the land recognises and retains the environmental, historical and cultural values of the site.
- 25) The following provisions will apply under the SUZ7:

- a) Pursuant to Section 1.0 (Table of Uses) of SUZ7, the use of the land for a Residential Aged Care Facility and Retirement Village are Section 1, permit not required uses. It is noted that all other 'Accommodation; uses, such as Dwellings, remain prohibited under the updated zone.
- b) Pursuant to Clause 37.01-3, a planning permit is required to subdivide land;
- c) Pursuant to Clause 37.01-4, a planning permit is required to construct a building or construct or carry out works. This clause notes that an 'apartment development' must meet the requirements of Clause 58. While the proposal is technically not an 'apartment development' the proposed retirement units take the form of individual dwellings, and therefore an assessment against the internal amenity of these units is appropriate; and
- d) Pursuant to Clause 37.01-3, a planning permit is required to subdivide land;

26) The application will be assessed against the SUZ7 and not SUZ2.

Overlays

Heritage Overlay – Schedule 9 (Clarke Street / St Heliers Street Abbotsford Former Convent of the Good Shepherd)

- 27) The subject site is affected by the Heritage Overlay – Schedule 9 (HO9). The following provisions apply:
- a) Pursuant to Clause 43.01-1, a planning permit is required to subdivide land;
 - b) Schedule 9 states that the site is on the Victorian Heritage Register. Pursuant to Clause 43.01-2, a heritage place which is included in the Victorian Heritage Register is subject to the requirements of the Heritage Act 2017;
 - c) Pursuant to Clause 43.01-2, an application to subdivide a heritage place which is included in the Victorian Heritage Register must be referred to the relevant referral authority under Section 55 of the Act in accordance with Clause 66 of this Scheme.
 - d) Pursuant to Clause 43.01-3, no permit is required under the Heritage Overlay to development a heritage place which is included in the Victorian Heritage Register, other than an application to subdivide a heritage place of which all or part is included in the Victorian Heritage Register. As such, Council is not required to assess the application against the Heritage Overlay (Schedule 9) provisions. However, proposed Schedule 7 to the SUZ contains decision guidelines relating to the impacts of proposed development on the Abbotsford Convent Buildings.
 - e) As previously stated, Heritage Victoria has issued planning permit P39573 for the construction of the 4 storey retirement village building. This permit has been included in the attached documents.

Significant Landscape Overlay- Schedule 1 (SLO1)

28) The subject site is affected by the Significant Landscape Overlay – Schedule 1 (SLO1). The following provisions apply:

- a) Pursuant to Clause 42.03-2, a planning permit is required to construct a building or construct or carry out works. This does not apply:

- i. *If a schedule to this overlay specifically states that a permit is not required.*
 - ii. *To the conduct of agricultural activities including ploughing and fencing (but not the construction of dams) unless a specific requirement for that activity is specified in a schedule to this overlay.*
- b) Schedule 1 specifies that a permit is not required to construct a building or construct or carry out works if the building does not exceed a height of 6m or the works are carried out by or on behalf of a public land manager, municipal council or public authority. As the proposed buildings and works are taller than 6m and are not carried out by any of the above authorities, a planning permit is required under the SLO1.
- c) Pursuant to Clause 42.03-2 and Schedule 1, a planning permit is required to remove, destroy or lop vegetation, except for:
 - (i) *Non-native vegetation that is less than 6 metres in height, has a trunk circumference of less than 0.35 metre measured at 1.4 metres above ground level and a branch spread of less than 4 metres.*
 - (ii) *Pruning of dead or broken branches, or branches less than 50 millimetres in diameter at the point of contact with the larger branches or trunk, provided no more than 1/3 of the foliage of each individual plant is removed. This does not apply to the trunk of a tree.*
 - (iii) *Vegetation maintenance carried out by, or on behalf of, a municipal council or public authority or public land manager.*
 - (iv) *Non-native vegetation in preparation for revegetation works carried out by, or on behalf of, a municipal council, public authority or public land manager.*
 - (v) *Vegetation that could adversely affect stream flow carried out by, or on behalf of, a municipal council, public authority or public land manager.*
 - (vi) *Land within Schedule 4 to the Special Use Zone if the removal, destruction or lopping of vegetation is carried out in accordance with the Abbotsford Convent Master Plan 2004.*
- d) A planning permit is required to remove all trees proposed for removal, except for Tree #30, as it is non-native vegetation and the diameter and breast height (1.4m above ground level) is less than 0.35m. The Arborist Report incorrectly states that a permit is not required to remove the Hedge Wattle (Tree #29), however as this species is native, a permit is required.
- e) Pursuant to Schedule 1 of the SLO, a permit is required to construct a fence within 30m of the banks of the Yarra River or abutting public open space. This does not apply to a fence that:
 - (i) *does not exceed a maximum height of 1.4 metres at any point above ground level; and*
 - (ii) *is of timber post and rail, timber post and wire, or metal post and wire construction.*
- f) The proposed fencing is not within 30m of the banks of the Yarra and does not abut public open space and therefore, a planning permit is not required.

Development Contributions Plan Overlay – Schedule 1 (Yarra Development Contributions Plan)

- 29) The subject site is affected by the Development Contributions Plan Overlay – Schedule 1 (DCPO1).
- 30) Schedule 1 of the Development Contributions Plan Overlay (DCPO1) applies to the proposal due to the proposed additional commercial floor area and requires the developer to pay a cash contribution towards essential city infrastructure like roads and footpaths. Pursuant to Clause 45.06-1 a permit granted must:
 - a) Be consistent with the provisions of the relevant development contributions plan.
 - b) Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay
- 31) The subject site is located within Charge Area 7 (Abbotsford) and the development infrastructure levy and community infrastructure levy is applicable to the residential development. Council's standard conditions will be included to ensure that the applicable Development Infrastructure Levy and Community Infrastructure Levy is paid, as required.

Particular Provisions

Clause 51.06 – Birrarung (Yarra River) Protection

- 32) As a Representative Public Entity (RPE), Yarra City Council has a legal obligation under the *Yarra River Protection (Wilip-gin Birrarung Murrn) Act 2017* ('Yarra River Protection Act') to deliver the of Burndap Birrarung Burndap Umarkoo (BBBU) aka Yarra Strategic Plan (YSP) to ensure protection and enhancement of the Birrarung and its parklands as one living and integrated natural entity. The Act enshrines in law the protection of the Yarra and acknowledges the significance of the river to the Wurundjeri Woi- Wurrung people and highlighting their role on its ongoing management. Commitment to decolonisation on Yarra River land and respecting first people's connection to country is a requirement under the Act
- 33) Clause 51.06 [Birrarung (Yarra River) protection] seeks to ensure RPEs have regard to the principles specified in the Act. Pursuant to section 1(d) of the Act, RPEs (as defined in the Act) must have regard to the principles in Part 2 of the Act when performing functions or duties or exercising powers in relation to Yarra River Land or other land, the use of development of which may affect Yarra River Land, and other matters.
- 34) Yarra River land is defined as: Part 3—Yarra River land - that is adjacent to the Yarra River, or any part of which is within 500 metres of a bank of the Yarra River.
- 35) The amendment also affirms the Act principles through the updated clause 12.03-1R which seeks to enhance the natural beauty, biodiversity, environmental health, cultural values and recreational opportunities of the Birrarung (Yarra River) Corridor.
- 36) Given this application relates to Yarra River land, as an RPE, Yarra City Council is legally obliged to ensure the development has regard to the principles specified in the Act under clause 51.06 [Birrarung (Yarra River) protection].

Clause 52.02 – Easements, Restrictions and Reserves

- 37) Pursuant to Clause 52.02, a planning permit is required before a person proceeds under Section 36 of the *Subdivision Act* 1988 to create, vary or remove an easement. A planning permit is required for the proposed access easement between the proposed common boundaries of the subject site and the Good Shepherd Chapel.

Clause 52.06 – Car Parking

- 38) Pursuant to Clause 52.06-2, before a new use commences the required car parking spaces must be provided on the land as set out at Clause 52.06-5.
- 39) As stated earlier in the report, Amendment VC277 was gazetted on 18 December 2025 and makes changes to Clause 52.06 (Car Parking) across all Victorian planning schemes. The amendment updates parking requirements and includes both minimum and maximum parking rates.
- 40) Transitional provisions are included; these note that if the number of car parking spaces that would be required under the former clause is less than the minimum number of car parking space required under the current clause, then the former clause requirement can prevail. However, if the minimum number of car parking spaces required under the current (new) clause is less, Council can rely on the lesser number. The transitional provisions also state that the maximum car parking rate does not apply to applications lodged before the gazettal date of VC277. This application therefore benefits from this transitional provision.
- 41) The following table outlines the car parking requirements associated with the application under the former Clause 52.06:

Use	Size	Statutory parking rate*	No. spaces required	No. spaces allocated	Reduction sought
Retirement Village	55 x 1-2 bedroom units	1 to each 1-2 bedroom dwelling plus	55	69	0
	5 x 3 bedroom units	2 to each 3+ bedroom dwelling (with studies or studios that are separate rooms counted as bedrooms)	10		0
Total			65	69	0

*Site is within the Principal Public Transport Network – Column B parking rates apply

- 42) Under the current Clause 52.06, the subject site is in a Category 2 Car Parking Area, which prescribes a minimum parking rate of 1 car parking space per dwelling and no maximum rate.
- 43) The required number of car parking spaces under the current Clause 52.06 is 60. The proposed car parking provision of 69 spaces therefore complies with (and exceeds) both the former and current Clause 52.06 requirements.

Clause 52.17 – Native Vegetation

- 44) Pursuant to Clause 52.17-1, a permit is required to remove, destroy or lop native vegetation, including dead native vegetation. This does not apply:
 - a) *If the table to Clause 52.17-7 specifically states that a permit is not required.*
 - b) *If a native vegetation precinct plan corresponding to the land is incorporated into this scheme and listed in the schedule to Clause 52.16.*
 - c) *To the removal, destruction or lopping of native vegetation specified in the schedule to this clause.*
- 45) The vegetation proposed for removal is either non-native or is planted vegetation. The table of exemptions at Clause 52.17-7 states that native vegetation that was either planted or grown as a result of direct seeding does not need a permit for removal.

Clause 52.34- Bicycle Facilities

- 46) The bicycle parking requirements at Clause 52.34 do not apply to Retirement Villages.
- 47) Although Clause 52.34 does not apply to this application, the development proposes 20 bicycle parking spaces at basement level for residents' use, 8 visitor bicycle parking spaces at ground level, 4 x e-bike spaces and 5 x e-scooter spaces also at ground level, for use by residents and visitors. The residential bicycle parking spaces are located in a secure storage room within the basement.

Clause 53.01 – Public Open Space Contribution and Subdivision

- 48) Pursuant to Clause 53.01-1, a subdivision is exempt from a public open space requirement specified in this scheme if:
 - a) It is one of the following classes of subdivision:
 - i. Class 1: The subdivision of a building used for residential purposes provided each lot contains part of the building. The building must have been constructed or used for residential purposes immediately before 30 October 1989 or a planning permit must have been issued for the building to be constructed or used for residential purposes immediately before that date.
 - ii. Class 2: The subdivision of a commercial or industrial building provided each lot contains part of the building.

- b) It is for the purpose of excising land to be transferred to a public authority, council or a Minister for a utility installation.
 - c) It subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided.
- 49) The subdivision will be exempt from a public open space contribution as Council considers it unlikely that each lot will be further subdivided.
- 50) Lot 1 will comprise the Retirement Village development. The retirement village units will all be contained within Lot 1. Further, the proposed SUZ7 will prohibit Dwelling uses. As such, any subdivision proposal that would subdivide the apartments into individual lots would not be supported by Council. Lot 2 will comprise the existing Good Shepherd Chapel. Considering it is on the Victorian Heritage Register and contains a heritage-significant building, further development on this lot is unlikely.

Clause 53.03 – Residential Reticulated Gas Service Connection

- 51) Pursuant to Clause 53.03-2, A permit must not be granted for construction of a new dwelling or a new apartment development that is to be connected to a reticulated gas service. A permit granted for buildings and works in relation to an application to which this clause applies must include the following mandatory condition(s) as relevant:

"Any new apartment development allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed."

- 52) For an application for subdivision, a permit must not be granted for a subdivision that includes a lot that is to be connected to a reticulated gas service. This does not apply to:
- a) *a lot that will not be used for, or include, a dwelling; or*
 - b) *a lot that contains an existing dwelling or apartment; or*
 - c) *a lot where a permit has been granted for a dwelling or apartment on the land in the lot.*
- 53) A permit granted for subdivision in relation to an application to which this clause applies must include the following mandatory condition:

"Any lot shown on the endorsed plan must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This does not apply to:

- *a lot that will not be used for, or include, a dwelling; or*
- *a lot that contains an existing dwelling or apartment; or*
- *a lot where a permit has been granted for a dwelling or apartment on the land in the lot.*

This condition continues to have force and effect after a statement of compliance under the Subdivision Act 1988 has been issued and the subdivision authorised by this permit has been completed."

54) Should a permit issue, these conditions will be included.

Clause 53.18- Stormwater Management in Urban Development

55) This Clause applies to an application under a provision of a zone to construct a building or construct or carry out works. An application to construct a building or to construct or carry out works:

- a) Must meet all of the objectives of Clauses 53.18-5 and 53.18-6.
- b) Should meet all of the standards of Clauses 53.18-5 and 53.18-6.

Clause 58 – Apartment Developments

56) This clause applies as the development is for the construction of an apartment development (Retirement Village) located in the Special Use Zone. A development should meet all the standards and must meet all the objectives. While the proposal is technically not an 'apartment development' the proposed retirement units take the form of individual dwellings, and therefore an assessment against the internal amenity of these units is appropriate to ensure an acceptable level of internal amenity is achieved;

Clause 65 - Decision guidelines

57) These guidelines set out the relevant matters to be considered, as appropriate, before deciding on an application or approval of a plan.

Planning Policy Framework

58) The following Planning Policy Framework clauses are relevant to the proposal:

- Clause 2 - Municipal Planning Strategic, including:
 - Clause 02.01 – Context:
 - Clause 02.01-1 – Location
 - Clause 02.01-2 – Community and Population Growth
 - Clause 02.02-4 – Natural Environment
 - Clause 02.01-5 – Climate Change
 - Clause 02.01-6 – Built Environment and Heritage
 - Clause 02.01-7 - Housing
 - Clause 02.01-9 – Transport
 - Clause 02.02 – Vision
 - Clause 02.03 – Strategic Directions:
 - Clause 02.03-1 – Settlement;
 - Clause 02.03-2 – Environmental and Landscape Values

- Clause 02.03-3 – Environmental Risks and Amenity
- Clause 02.03-4 – Built Environment and Heritage
- Clause 02.03-5 - Housing
- Clause 02.03-7 – Transport
- o Clause 02.04 – Strategic Framework Plan
 - Identifies the site within the Johnston Street Neighbourhood Activity Centre
- Clause 11 – Settlement
 - o Clause 11.01-S – Settlement
 - o Clause 11.02-1S – Supply of Urban Land
 - o Clause 11.03-1S – Activity Centres
 - o Clause 11.03-1L – Activity Centres (Johnston Street – Precinct 8)
- Clause 12 – Environmental and Landscape Values
 - o Clause 12.01-1S - Protection of biodiversity
 - o Clause 12.01-1L – Biodiversity
 - o Clause 12.01-2S – Native Vegetation Management
- Clause 13 – Environmental risks and amenity:
 - o Clause 13.05-1S – Noise Management
 - o Clause 13.07-1S – Land Use Compatibility
 - o Clause 13.07-1L – Interfaces and Amenity
- Clause 15 – Built environment and heritage:
 - o Clause 15.01-1S – Urban Design
 - o Clause 15.01-1L – Urban Design
 - o Clause 15.01-2S – Building Design
 - o Clause 15.01-2L – Building Design
 - o Clause 15.01-2L-01 – Environmentally Sustainable Development
 - o Clause 15.01-5S – Neighbourhood Character
- Clause 16 – Housing:
 - o Clause 16.01-1S – Housing Supply
 - o Clause 16.01-1L – Location of Residential Development
 - o Clause 16.01-1L-01 – Housing Diversity
 - o Clause 16.01-5S – Residential Aged Care Facilities
- Clause 18 – Transport:
 - o Clause 18.01-1S – Land Use and Transport Integration
 - o Clause 18.02-1S - Walking
 - o Clause 18.02-2S – Cycling
 - o Clause 18.02-2L – Cycling
 - o Clause 18.02-3S – Public Transport
 - o Clause 18.02-3R – Principal Public Transport Network
 - o Clause 18.02-4L-01 – Car Parking
- Clause 19 – Development infrastructure:
 - o Clause 19.03-3L – Water Sensitive Urban Design
 - o Clause 19.03-5L – Waste

Referrals

External Referrals

- 59) Pursuant to Clause 66.01 (Subdivision Referrals) of the Scheme, an application to subdivide a heritage place for which all or part is included in the Victorian Heritage

Register must be referred to the Executive Director specified in the *Heritage Act 2017*. Accordingly, the application was referred to Heritage Victoria and their response is included in the attachments to this report. In summary, Heritage Victoria are supportive of the proposed subdivision, subject to the following conditions that must be included should a permit issue:

- a) *All new titles issued as a consequence of this permit must carry over the notice from the parent title that the land is listed in the Victorian Heritage Register. Copies of each new title are to be lodged with the Executive Director, Heritage Victoria as proof of compliance with this condition within 14 days of the land being subdivided.*
- b) *Prior to the issue of a statement of compliance, the final subdivision plan must be approved and endorsed by the Executive Director, Heritage Victoria. The plan must be drawn to scale with dimensions and be generally in accordance with the Plan of Subdivision PS927301S prepared by JCA Land.*

Internal referrals

- 60) The application was referred to the following internal departments and/or consultants and their comments are included in the attached material:
 - a) Heritage (GJM Heritage Consultants);
 - b) Acoustic (SLR Consulting);
 - c) City Strategy – Open Space;
 - d) Strategic Projects Parks and Open Space (Public Realm)
 - e) Strategic Transport;
 - f) City Works – Open Space Services (Arborist);
 - g) City Works – Waste Management;
 - h) Development Engineering; and
 - i) Environmentally Sustainable Design.

Public Notice

- 61) As this is a Section 96A Application, community engagement will be undertaken as part of the exhibition of draft amendment C328yara, including direct notification to surrounding landowners and occupiers, signs displayed on the Clarke Street and St Heliers Street frontages, notice in the Government Gazette, a designated website and via social media.
- 62) It is proposed that C328yara be exhibited in accordance with the requirements of section 96C of the *Planning and Environment Act 1987*. This includes giving notice of the preparation of a planning scheme amendment and notice of the planning permit application that is being considered concurrently with the amendment to those considered to be materially affected.

- 63) Unlike standard planning scheme amendments, section 96C(8) of the *Planning and Environment Act 1987* requires that the planning authority must give a copy of the proposed planning permit to each person whom notice of the amendment and application has been given. A copy of the draft planning permit will be included in the exhibited documents.

Assessment

- 64) The considerations for this planning permit application are as follows:
- a) Built Form;
 - b) Architectural Quality
 - c) Public Realm
 - d) Off-site Amenity
 - e) On-site Amenity (including Clause 58)
 - f) Car Parking, Traffic & Bicycle Parking;
 - g) Loading & Waste
 - h) Subdivision & Easement
 - i) Clause 51.06 – Birrarung (Yarra River) Protection

Built Form

Site context

- 65) The primary built form considerations for the proposed development are the decision guidelines under the proposed Schedule 7 to the SUZ as well as the Significant Landscape Overlay and policy at Clause 15.01-1L (Urban Design) and Clause 15.01-2L (Building Design). All of these provisions and guidelines support a development outcome that responds to the existing or preferred neighbourhood character and provides a contextual urban design response. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and relationship to adjoining buildings and open space.
- 66) The site is also in the Heritage Overlay – Schedule 9 (*Clarke Street / St Heliers Street Abbotsford Former Convent of the Good Shepherd*) which identifies the site within the Victorian Heritage Register. As such, Heritage Victoria are the responsible authority for assessing the application under the Heritage Overlay and local heritage policy at Clause 15.03-1L of the Scheme. As Heritage Victoria are the responsible authority for heritage matters, these will not be assessed as part of this Section 96A application. However, the decision guidelines of the SUZ7 require consideration of impacts of proposed development on the existing Convent buildings. These will be assessed in the following sections of the report.
- 67) As previously discussed, the surrounding area is primarily low-rise residential comprising dwellings of up to 3 storeys. Taller built form is observed east of the site within the Abbotsford Convent Precinct, which comprises significant historical

buildings where tall spires primarily contribute towards the precinct's higher built form.

- 68) The site is also located within the Johnston Street Neighbourhood Activity Centre (NAC) – Precinct 8, Relevant to the proposal, Clause 11.03-1L (Activity Centres) encourages new development to be sensitively located and respectful of the existing built form. More detailed guidance on built form for the site is provided in proposed Schedule 7 to the SUZ, which includes consideration of:
- a) Whether the siting, building heights, setbacks and façade design is recessive and complementary of the residential and heritage context;
 - b) Whether adequate setbacks are provided to the Abbotsford Convent buildings; and
 - c) Whether the design enhances view lines to the Abbotsford Convent buildings, including the church spires.
- 69) State-level planning policy at Clause 16.01-5S (Residential Aged Care Facilities) also recognises the contribution of aged care facilities to housing diversity and choice and are appropriate uses in residential areas. Whilst the primary use of the land will be for a Retirement Village, there will be an ancillary aged care offering and it is considered that a Retirement Village also provides an alternative housing choice for older members of the community.
- 70) Of note, Clause 16.01-5S recognises that these types of facilities are different to dwellings in their purpose and function and will have a different built form (including height, scale and mass) compared to traditional dwelling forms.
- 71) To ensure that the Retirement Village is not later used for Dwellings, the proposed Schedule 7 to the SUZ will prohibit all other Accommodation uses (including Dwellings), except for Retirement Villages and Aged Care Facilities, which will be Section 1, as-of-right uses. Further, all retirement village units will be located on a single parcel (Lot 1) and will not be subdivided into individual lots.

Height, massing and setbacks

- 72) The development will have a maximum height of 14.49m, comprising 4 storeys. The roof plant screen will extend a further 1.7m to 2.1m above the roof. The street wall will vary in height between 2 and 3 storeys.
- 73) Clause 15.01-2L (Building Heights) seeks to ensure the height of new buildings respond to the building height requirements set out in the Planning Scheme, adjoining development building height or where there are no specified building height requirements, have regard to the physical and strategic context of the site. In addition, the SLO1 requires consideration of *whether the scale, form, siting and design of new buildings, including materials, colours and finishes, are sensitively integrated with the natural landscape setting of the river corridor.*
- 74) There are no specified building height requirements in the proposed SUZ7 or existing overlays.
- 75) Land to the west is primarily residential and consists of low-rise dwellings of between 1 and 2 storeys. To the east, buildings within the Abbotsford Convent precinct are between 1 and 4 storeys. Although a predominantly low-rise area, the site is located in the Johnston Street NAC. Clause 11.03-1L (Activity Centres) and Clause 15.01-2L (Building Design) encourage mid-rise development to be directed to both major and

neighbourhood activity centres. Further, state planning policies (such as Clause 11.01 – Settlement) encourage housing growth and choice in areas that are well-served by public transport, shops, services, education facilities and other amenities.

- 76) As such, there is broad strategic support for increased housing density and mid-rise development in this location.
- 77) Whilst the proposed development will be an increase in height from the existing two storey building on the site, it has been designed and massed to sit comfortably within its heritage and streetscape context, as will be discussed in the following paragraphs.
- 78) The decision guidelines of proposed SUZ7 encourage the design response to enhance view lines of the Abbotsford Convent and Good Shepherd Chapel buildings when viewed from Clarke Street, Abbotsford Street and the corner of Clarke Street and St Heliers Street. In addition, *new development should achieve adequate setbacks to the Abbotsford Convent and the Good Shepherd Chapel to create a sense of openness and separation between buildings.*

Clarke Street frontage (western boundary)

- 79) The development will have a 2 - 3 storey street wall. Along the Clarke Street frontage, the street wall will drop to 2 storeys / 8m within the centre of the frontage. The street wall will then increase up to 3 storeys / 11.75m at the southern end of the frontage and up to 3 storeys / 11.54m at the northern end of the frontage (corner of St Heliers Street). This tapering in street wall height is designed to maximise view lines towards the Good Shepherd Chapel further east of the site, as illustrated in Figure 11.:

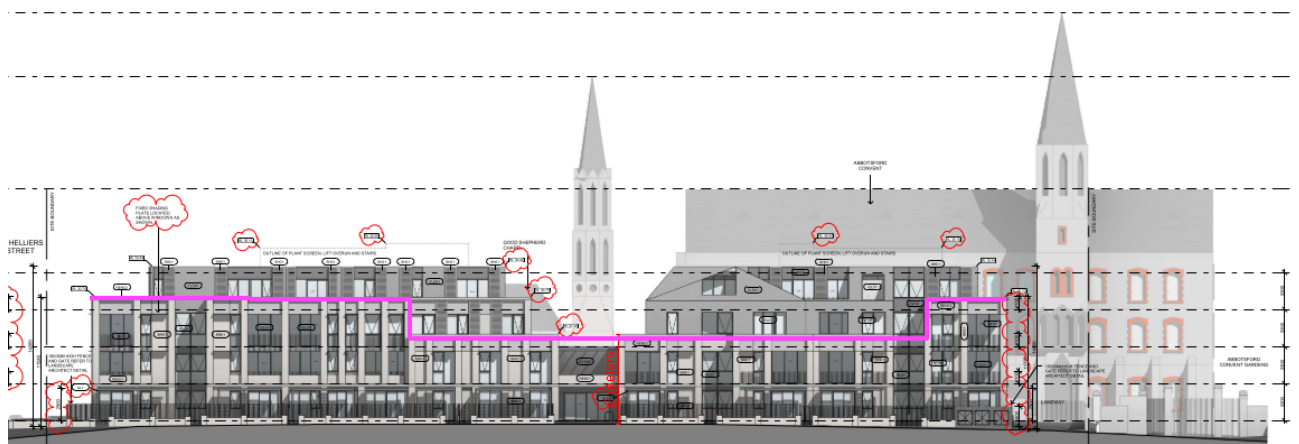


Figure 11 - Planning officer mark-up of west elevation showing variation in street wall height in pink

- 80) The development will be set back from Clarke Street 5.57m from Ground Level to Level 2. This setback increases at Level 2 towards the centre of the site's Clarke Street frontage, above the two storey street wall, up to 8.3m. This 8.3m setback is then continued at Level 3 at the northern and southern ends of the building, increasing to 9.7m towards the centre of the site. These setbacks are greater than those of the existing building and ensure the upper-most levels of the development are recessive to the lower levels.
- 81) In addition, the 2-3 storey street wall will provide a sensitive transition in scale between the taller built form towards the east of the site and the low-rise, 1-2 storey

residential built form west of the site. The height of the street wall will ensure that there is only a height difference of 1 storey between existing and proposed built form along the Clarke Street interface.

- 82) Generous landscaping, including canopy trees, are proposed within the front setback to Clarke Street, ensuring built form is further softened by greenery.
- 83) An artist's impression showing the view line from the intersection of Abbotsford Street and Clarke Street is provided in Figure 12. This image illustrates the tapering building form, which "opens up" within the centre of the site to frame the spire of the Good Shepherd Chapel.



Figure 12 - Artist's impression showing proposed view line from intersection of Abbotsford St & Clarke St, looking east

- 84) This view line is a positive improvement to the existing view line from the Abbotsford Street / Clarke Street intersection, where only the top of the Good Shepherd Chapel spire is visible, as shown in the following image:



Figure 13 - Artist's impression showing existing view line from intersection of Abbotsford St & Clarke St, looking east

- 85) Given the requirement to consider heritage impacts under proposed Schedule 7 to the SUZ, plication was referred to GJM Heritage Consultants (GJM), who are supportive of the proposed development, including its height and massing. GJM observe:

The development site is located at a transitional space between the Convent proper and the one- and two-storey streetscape to the west. It is our view that the massing and materiality of the new built form provides a successful architectural transition while retaining a long-term and historically appropriate use for the site.

- 86) However, GJM raised concerns about the design of the Clarke Street elevation, including the variation in roof forms, noting these elements "... to be overly complex. The asymmetry, varying upper-level setbacks and irregular placement of vertical elements draws the eye and makes the overall design less recessive." The proposed roof design within this elevation is demonstrated in Figure 12. To address this issue, GJM recommend that the façade articulation and roof forms should be simplified to create a more recessive design that is more consistent in terms of façade and roof forms. They reference the design of the southern façade as a "more restrained and successful elevation" as an appropriate design response for the western elevation:



Figure 14 - Artist's impression of development showing the southern elevation, looking north from the Abbotsford Convent Gardens

- 87) As can be seen in Figure 14, the southern elevation adopts a uniform presentation with a grid-like design that reflects, but provides a contemporary interpretation of, the pattern and spacing of windows observed on the western wall of the Convent building. The southern elevation also features a flat roof form. Whilst not consistent with the pitched roofs of the Convent buildings, it allows the visual mass of the development to be reduced.
- 88) To address the recommendations of GJM, a condition will require the development to have a flat roof profile, with all mansard/chamfered roof forms removed. This outcome is consistent with a condition incorporated into the permit issued by HV, which requires; *Simplification of the façade articulation and roof forms for the new built form.*

Southern elevation- Abbotsford Convent Gardens

- 89) Along the site's southern elevation, the development will be set back 7.23m from the southern boundary from Ground Level up to Level 2. At Level 3, the setback of the southern walls is increased to 9.82m. Balconies are proposed in between, with a setback of 7.13m from the southern boundary.
- 90) The setbacks proposed from the southern boundary have increased from existing conditions, which will open up view lines to the Good Shepherd Chapel church spire as well as the spire of the Convent building, as illustrated in Figures 15 and 16 below:



Figure 15 - Artist's impression of existing built form at the southern boundary (viewed from the western boundary), looking east from Clarke Street



Figure 16 - Artist's impression of proposed built form at the southern boundary, looking east from Clarke Street

- 91) As noted previously and shown in Figure 14 above, the southern façade has been designed with a simple, grid-like pattern of openings which is reflective of the pattern of fenestration observed on the Convent buildings. The materials on this elevation include light-grey bricks with the top-most level constructed of diamond-pattern shingle cladding, which is considered to be muted and recessive, whilst referencing the historic masonry materials of the Convent buildings. The additional setback of the top-most level will ensure that the primary focus will be to the lower levels of the development, and in combination with the muted material palette and finishes, will sit comfortably within the context of Clarke Street and the Abbotsford Convent Gardens.
- 92) GJM Heritage are supportive of the development's southern interface, however suggest it could be further improved by a visually permeable eastern boundary fence, at its southern end. This would enhance the view line to the Convent building from Clarke Street along the southern boundary. The amended plans lodged as part of the Section 50 Amendment on 9 December 2025 incorporated a 1.8m semi-permeable

fence, as notated on the ground floor plan and shown on the western elevation. This change is considered a satisfactory response to GJM's recommendation.



Figure 17 - Artist's impression of proposed southern wall of development, looking north from Clarke Street and Abbotsford Convent Gardens

St Heliers Street Frontage (northern boundary)

- 93) The development will be set back between 4.01m up to 11.05m from St Helier's Street. The front fence will also be partially set back from the boundary, resulting in a widened footpath with provision for bench seating. The frontage incorporates substantial landscaping, including provision for canopy trees. The landscaping treatments including footpath widenings and public seating will soften the proposed built form from the street.
- 94) The proposed 1.8m high fence will be semi-permeable, providing privacy between the public and private realm. The height of the fence will not result in unreasonable bulk to the St Heliers Street frontage, given it will be set back behind substantial landscaping.
- 95) Levels 1 and 2 will have the same setbacks to St Heliers Street as ground level, forming a 3 storey podium / street wall and Level 3 will be set back between 9.26m and 16.3m. A 3 storey podium on the corner of St Heliers Street and Clarke Street is supported, as it will "hold the corner" and "announce" the development when approaching the site from the north. The proposed Level 3 setbacks will ensure that there will be minimal, if any views of the fourth storey when viewed from the public realm, as illustrated in Figure 19. Whilst a balcony is proposed within this setback, its balustrades are integrated into the parapet of the podium ensuring limited views from the public realm.
- 96) The north-west corner of the building is considered an improvement from existing conditions. Currently, a solid, two storey brick wall is constructed on this corner, as shown in Figure 18. By contrast, the proposed development will open up and activate

this corner, through the provision of balconies and windows, as seen in Figure 19. These design features reduce bulk on this north-west corner and provide a more active frontage, that also promotes passive observation of the surrounding public realm.



Figure 18 - Artist's impression of existing built form, looking south-east from corner of Clarke & St Heliers Streets



Figure 19 - Artist's impression of proposed development, looking south-east from corner of Clarke & St Heliers Streets

- 97) The proposal increases the setback of the new built form from the northern boundary of the site (to the north-west corner of the building), when compared to the existing setbacks from this interface. This results in a modest increase to the view lines of the Good Shepherd Chapel beyond. The minor increase is supported, given the proposed development is of a high architectural quality that has had regard to its surrounding heritage and context, providing articulation and modest materials in order to sit sensitively within the streetscape. By contrast, the existing 1970s building has no relationship to the site's historical context and lacks activation with the public

realm. The setback of Level 3 will also ensure the development reads as a three storey building from this view-point, appearing as a 1 storey increase between the development and the Chapel. The balconies located on the north-east corner of the building will provide additional transparency and views from this interface. The additional landscaping along the St Heliers Street frontage will further soften the built form to the public realm.

- 98) The development will be set back a minimum 6.2m from the Chapel at the north-east corner (demonstrated in Figure 20). This setback will provide adequate separation and ensure the proposed development does not overwhelm the Chapel. The setbacks of Level 3 will also ensure the development reads as a three-storey building from St Heliers Street, when looking south.



Figure 20 - Artist's impression of proposed development, looking south from St Heliers Street

- 99) As shown in Figure 21, views of Level 3 will become more apparent further east along St Heliers Street. However, these views are acceptable and will not unreasonably impact the heritage significance of the Chapel, given the setback at Level 3 from the Chapel (at the northern end of the site) increases to 8.4m and the use of lighter-weight materials. In addition, a condition will require the retention of Tree No. 20, which is located within the St Heliers Street setback and between the Chapel and existing 1970s building. The retention of this tree will further obscure views to the development from further east along St Heliers Street.



Figure 21 - Artist's impression of proposed development, looking south-west from St Heliers Street

Eastern elevation

- 100) The decision guidelines for the proposed SUZ7 requires consideration of *whether the development achieves adequate setbacks to the Abbotsford Convent and the Good Shepherd Chapel to create a sense of openness and separation between buildings.*
- 101) The proposed setbacks from the Chapel and Convent buildings will vary between 6.2m, and 19.7m. The setbacks will increase as the building height increases. Within this setback, the development incorporates landscaping and communal open space. A 1.8m semi-permeable fence will be constructed along the proposed subdivision boundary, which will be set back 1m from the existing buildings. Condition 14 of the Heritage Victoria permit requires the deletion of the fence between the subject site and the Good Shepherd Chapel so there is an unfenced boundary. This would result in a landscape treatment along the boundary, which would “sustain a strong visual and spatial relationship with the Good Shepherd Chapel and Convent buildings”. Planning officers agree with this assessment and will address this change via a condition.
- 102) The proposed setbacks are an increase from current conditions, with the existing building partially constructed against the Chapel (with a walkway link) or otherwise set back between 4.7m and 10.8m from the Chapel and Convent buildings. As can be seen in the below images, the proposed development will provide greater building separation and improve view lines to these heritage buildings. GJM are supportive of the setbacks and scale of built form along the eastern interface.
- 103) The proposed 1.8m high boundary fencing will be visually permeable, as demonstrated in Figure 22. The spacing between each paling is not dimensioned. This will be addressed via a condition. The spacing must demonstrate adequate visibility of the Chapel and Convent buildings beyond. The boundary fencing will follow the proposed line of subdivision. This will be discussed in detail later in the report. However, Heritage Victoria have not objected to the proposed boundary alignment and its setback from the existing Convent and Chapel buildings (subject to conditions).



Figure 22 - Artist's impressions showing various view lines along the eastern boundary

Significant Landscape Overlay

104) In relation to the impact of the scale of the development within the SLO1, the decision guidelines require consideration of (as is relevant to buildings and works)

- a) *Whether buildings and works are sufficiently set back from the banks of the Yarra River to ensure that:*
 - i. *The river's natural flood and water course characteristics are not impacted.*
 - ii. *The topography of the river and its banks are maintained as the dominant feature in the public views of the river corridor.*
 - iii. *The existing riparian vegetation is protected and enhanced.*
 - iv. *That views of development from the Yarra River and adjacent public open space, bicycle and shared paths and bridge crossings are minimised*

- b) *Whether buildings will protrude above the predominant tree canopy within a given area; and*
 - c) *Whether the scale, form, siting and design of new buildings, including materials, colours and finishes, are sensitively integrated with the natural landscape setting of the river corridor.*
- 105) The proposed development will be set back in excess of 100m from the banks of the Yarra River. A number of buildings are situated between the subject site and the Yarra, including the Chapel and Convent buildings, a large car park, and a two storey building at No. 40 Clarke Street. These buildings, in addition to the downward slope of the land, will adequately obscure views of the development from the Yarra corridor.
- 106) The proposed development will adopt a neutral material and colour palette, with light grey-beige coloured bricks being the predominant material. This will ensure the development does not stand out from or significantly contrast with the natural landscape setting of the river corridor.
- 107) As discussed in the attached Clause 58 Assessment for Landscaping, the proposed landscaping will ensure the development complements the landscape theme of the surrounding area. The removal of trees is also discussed in the Clause 58 Landscape assessment.

Summary

- 108) Overall, the height, setbacks and massing, subject to the conditions discussed, are appropriate having regard to the site context, preferred future character of the area and the decision guidelines of the proposed SUZ7 and Schedule 1 to the SLO. GJM have also confirmed the SUZ7 decision guidelines are met, subject to changes discussed above. The submission of an interpretation plan that builds on the existing historic interpretation of the wider Convent site is recommended; this should consider the historical associations of the development site to Abbotsford Convent and include any archaeological finds from the site.
- 109) A Heritage Interpretation Plan has been included as a condition on the Heritage Victoria Permit. As Heritage Victoria are the responsible authority for development within the Heritage Overlay – Schedule 9, an Interpretation Plan is not required for the Planning Permit.

Site coverage

- 110) The development will have a site coverage of 51.5%. This site coverage will allow for generous landscaping that is consistent with the character of the area and site's proximity to the Yarra River Corridor. The proposed site coverage also allows for the provision of permeable surfaces (15.8% permeability) which will reduce the impact on the local drainage network (stormwater will also be discussed later in the report). The proposed site coverage also minimises visual bulk impacts and will provide a sense of openness through the site.

Architectural Quality

- 111) Policy at Clause 15.01-2L encourages design in developments to make a positive contribution to the streetscape through high quality architecture and urban design.
- 112) The proposed development achieves a good level of architectural quality and would appropriately respond to the surrounding Abbotsford context. The material palette includes the primary use of a light grey brick, complemented by a similar colour

render with a recessed, vertical pattern texture, as well as a darker grey, smooth-textured render. This simplified material palette complements the material character of the surrounding area where brick and render are widely observed.

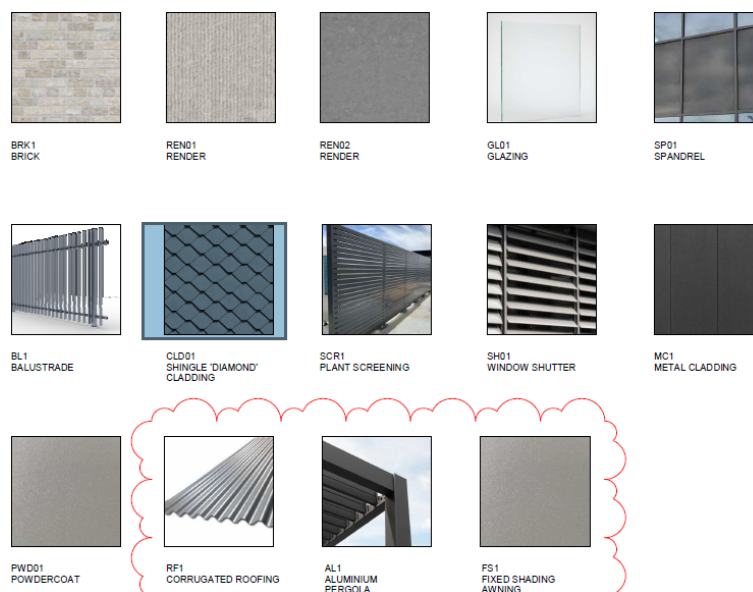


Figure 23 – Proposed materials and finishes palette

- 113) The upper levels of the building incorporate a diamond-pattern shingle cladding. This material appears lighter-weight in comparison to the brickwork of the lower levels. This ensures the development provides a robust podium, that focuses the development at the “human scale” and provides a more positive pedestrian environment. Further, the lighter-weight upper levels will ensure taller built form is recessive to and concentrates focus to its lower levels.
- 114) The use of shingle cladding on the upper levels also complements the slate tile roofs on the existing Convent and Chapel buildings. As can be seen in the image below, the roof of the Good Shepherd Chapel is constructed of slate tiles, in both a square and scalloped alternating pattern:



Figure 24 - Photograph of the Good Shepherd Chapel roof, viewed from St Heliers Street (Planning Officer, April 2025)

- 115) The materials and use of grey-toned finishes will ensure that the development sits comfortably within the Abbotsford Convent setting rather than drawing attention away from historical buildings through the use of contrasting finishes.
- 116) Whilst the site does not immediately abut the Yarra River corridor, the proposed materials and finishes are considered to integrate with the surrounding landscape setting. The use of grey colours in the finishes will complement the natural tones observed within the Yarra River surrounds and is not considered to detract from the environmental significance of the surrounding area.
- 117) As previously discussed, GJM Heritage have raised concerns with the façade design of the Clarke Street elevation and a condition has been included to provide a more simplified architectural approach by the removal of the mansard / chamfered roof form and replacement with a flat roof.
- 118) The materials and finishes of fencing proposed throughout the development has not been notated. This will be required via condition.

Public realm

- 119) Clause 15.01-1L and Clause 15.01-2L encourage the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user. This can be achieved by designing developments to provide a high level of pedestrian amenity and visual interest, by incorporating well-defined entries at ground level and installing glazed areas which allow visual permeability into the interior space.
- 120) Proposed Schedule 7 to the SUZ also requires consideration of whether the development creates passive surveillance towards Clarke and St Heliers Streets, including the Convent Gardens and whether the development creates good pedestrian connections.
- 121) The above objectives have been achieved in the following ways:
 - a) Generous front setbacks along Clarke Street and St Heliers Street are proposed, with provision for landscaping including public seating, which provides a space for pedestrians to interact;
 - b) Locating private open space of ground level dwellings within the Clarke Street frontage to increase activity and promote passive observation;
 - c) Glazing and private balconies provide passive observation of the two streetscapes as well as the Convent Gardens;
 - d) Visually permeable fencing along both frontages provide transparency through the site without compromising on privacy for residents;
 - e) A clearly defined main entrance from Clarke Street, which is set back from the frontage and includes visitor bicycle parking. The main entrance also frames the spire of the Good Shepherd Chapel which helps to “announce” the front entrance;
 - f) Utilising the existing accessway along the southern side of the site for vehicle access and locating the entry to the basement away from the frontage; and

- g) Locating site services away from the frontages where appropriate. Some services including the water meter and fire booster cupboards will be visible from Clarke Street. However, these will be enclosed within a cabinet which also forms part of the front fencing and is considered to be appropriately integrated with the overall development.



Figure 25 – Artist's impression of Clarke Street frontage, showing main entrance



Figure 26 – Artist's impression of proposed development showing public seating on corner of Clarke and St Heliers Street (Landscape Plan)

- 122) Council's Strategic Projects Parks and Open Space Unit have reviewed the application from a public realm perspective and are generally supportive, subject to the following additional contributions from the applicant:
- At least two of the new on-street parking spaces to be DDA-compliant – in consultation with Council's Parking Management Unit;
 - Seating in front setback to St Heliers Street to consider needs of elderly (e.g. arm rests and back support);

- c) Need to ensure seamless DDA compliant transition from footpaths into the site. Ensure surface is suitable for surrounding tree viability but DDA compliant and hard-wearing;
 - d) Consult with council on further public realm improvements;
- 123) These contributions will be addressed via conditions for a Public Realm Functional Layout Plan and Detailed Design plans.
- 124) In addition, the following recommendations are made for the ground level layout and interface with the public realm:
- a) Provide a more refined design around service cabinets, create interest and potentially reference precinct history in contemporary way
 - b) Ensure entrances to private terraces at ground level from the street have had regard to accessibility and mobility constraints (e.g. gate openings)
 - c) Integrate seating into the front entry bicycle parking area.
 - d) Ensure that visitor bicycle parking in front setback to Clarke Street is not obstructing passageway
 - e) Safety concerns with entry alcove on St Heliers St frontage
 - f) Sculptural / play elements shown in St Heliers St frontage on Landscape Plan – concerns with safety and proximity to the road
 - g) Ensure entrances are clearly defined based on usage and functionality i.e. prompts to facilitate main entrance identity
- 125) Recommendations a) – c) will be addressed via condition for amended plans. Regarding Recommendation d) the width of the entrance ramp from Clarke Street (excluding the visitor bicycle parking) will be 3.88m and will not obstruct pedestrian passage. It is noted that the integration of a seat within this front setback may narrow this passage. The condition for the seat will require the passage width be maintained at 3.88m.
- 126) The condition for lighting to all building entries, as discussed in the Clause 58 Assessment, will ensure that the entrance from St Heliers Street is safe and visible. In addition, a condition will require a notation that this entrance will be secure and for resident/employee use only. These changes will ensure that Recommendations e) and g) are met.
- 127) To address Recommendation f), a condition will require details of these features to be included on the Landscape Plan, to ensure they do not pose a safety risk to the elderly/people with limited mobility and are not a road/traffic hazard.

Off- site amenity

- 128) Clause 15.01-2L (Building Design) of the Scheme aims to provide building design that minimises the detrimental impact of development on neighbouring properties, the public realm and the natural environment, with potential impacts relating to overshadowing, loss of daylight to windows, visual bulk, overlooking of sensitive areas, noise, fumes and air emissions, storage and waste and light spill . The relevant policy framework for amenity considerations is contained within this clause, as well as Clause 13.07-1L-01.
- 129) The nearest dwellings are located west of the site on the opposite side of Clarke Street. This land is located in the Neighbourhood Residential Zone – Schedule 1. The existing Schedule 2 to the SUZ and proposed Schedule 7 of the SUZ require consideration of the development’s impacts on the amenity of the neighbourhood.

Visual Bulk and daylight to windows

- 130) The nearest dwellings and associated habitable room windows are located approximately 24m west of the subject site. The proposed 4-storey development is not considered to result in unreasonable visual bulk to these dwellings, considering the 14m wide buffer provided by Clarke Street and that both existing dwellings as well as the proposed development are set back from their respective street frontages.
- 131) The western elevation adopts a number of design treatments to break up building mass when viewed from Clarke Street and St Heliers Street. These treatments include (and are not limited to):
- a) Balconies and glazing, which provide openings in the façade and minimise blank walls;
 - b) Permeable front fencing, which provides views into the site (without compromising on-site privacy to ground level private open space);
 - c) Landscaping across the frontages at ground level to further soften built form;
 - d) Generous setbacks from the street; and
 - e) A wide central break, which provides views towards the spire of the Good Shepherd Chapel as well as transparency through the site
- 132) The separation between the proposed development and these dwellings will also ensure there is no loss of daylight to existing east-facing habitable room windows. This is evidenced in the shadow diagrams which demonstrate no overshadowing to existing dwellings between 9am and 3pm at the September equinox. Whilst shadow diagrams for the winter or summer solstices have not been provided, the September equinox is widely accepted as an appropriate baseline for measuring shadow and daylight impacts considering the need to balance off-site amenity expectations against the development potential of a site.

Overlooking

- 133) Although not applicable in this instance, the overlooking objectives of Clause 54 and Clause 55 (Standard A15 and B22 respectively) specify that new development should be designed to avoid direct views into habitable room windows (HRWs) and secluded private open space (SPOS) within a radius of 9m and 45 degree arc. As previously discussed, the nearest HRWs and SPOS are located more than 20m west of the subject site, As such, there will be no unreasonable overlooking from the proposed development and screening measures are not required. Overlooking in relation to internal views is discussed with the attached Clause 58 assessment.

Overshadowing

- 134) The proposed development will not result in any additional overshadowing of existing SPOS. A decision guideline of proposed Schedule 7 to the SUZ states that new development must not additionally overshadow the Abbotsford Convent Gardens between 10am and 2pm on 22 September. Further, the decision guidelines of

Schedule 1 to the Significant Landscape Overlay also require the considering of overshadowing impacts from development on the banks and waterway of the Yarra River between 11am and 2pm on 22 June and on any public open space between 11am and 2pm on 22 September

- 135) The submitted shadow diagrams confirm that the proposed development will not result in any additional overshadowing of the Abbotsford Convent Gardens between 10am and 2pm at the September equinox. Additional shadowing will be limited to just 9am at the September equinox and this occurs just beyond the shadow footprint cast by the existing boundary fence. Given this shadow impact is limited to just a 1-hour period, it is not considered unreasonable and will not impact the use and enjoyment of the gardens, considering it is not affecting a central area.
- 136) The proposed development will not result in any additional overshadowing to the banks of the Yarra as it is located more than 200m east of the subject site. Further, the site does not abut public open space.

Noise

- 137) Clause 13.5-1S states that community amenity should not be reduced by noise emissions. Similarly, local policy at Clause 13.07-1L-01 calls for development to consider noise attenuation in its design response, both in relation to ensuring the proposed use and development does not result in adverse noise impacts on the surrounding environment and to ensure that future residents are reasonably protected from noise emissions from the existing environment. Standard D16 (Noise Impact objectives) of Clause 58 also provides detailed guidance on internal noise amenity for apartment dwellings. It is noted that the subject site is not located within a Noise Influence area as specified in Table D5 at Clause 58.04-3.
- 138) An acoustic report has been submitted and identifies that internal noise levels will primarily be the result of noise transfer through windows, door and the roof. Minimum 6mm thick glazing is proposed to all habitable rooms, walls are recommended to be constructed to ensure compliance with the nominated internal noise criteria and penetrations must be sealed with gap free flexible sealant. Concrete is recommended for the roof construction.
- 139) Regarding the operation of plant equipment, specific equipment selections have not been finalised. However, the applicant's acoustic report recommends that equipment selection be reviewed by a suitably qualified acoustic engineer during the detailed design phase of the development to ensure compliance with the Noise Protocol – Part I is achieved.
- 140) The acoustic report was peer reviewed by SLR Acoustic Consultants on behalf of Council(SLR), who confirms that the site is not exposed to significant road traffic noise and is comfortable that the proposed construction materials will result in the relevant noise criteria being met inside the retirement units.
- 141) Regarding noise impacts from the proposed development to existing sensitive receivers, SLR confirm that the operation of the car park gate, existing substation and rooftop mechanical plant are unlikely to affect their amenity. SLR have not made further recommendations for acoustic treatments and as such, the submitted acoustic report will be endorsed should a permit issue.
- 142) Further, the proposed development will be associated with a residential use and any activities on the land would be consistent with those typically attributed to residential

living. Any noise from the development would be acceptable having regard to the surrounding residential setting.

- 143) A standard condition will also be included and will require the development to ensure ongoing compliance with the relevant EPA noise limits.

Fumes, air emissions and light spill

- 144) The majority of the building will be enclosed and the uses will be conducted indoors (with the exception of outdoor balconies associated with individual retirement units and the outdoor communal open space. The proposed development will not result in unreasonable air emissions, with light spill from the building limited due to the nature of the use being primarily for residential purposes. It is also considered that future occupants would be capable of self-managing any light spill from existing streetlights, through the use of curtains and/or blinds.

On-site Amenity (including Clause 58)

- 145) An Assessment of Clause 58 is included as an attachment to this report. Broadly speaking, the proposed development satisfies the Clause 58 objectives and will provide a good degree of on-site amenity, subject to conditions to address deficiencies relating to:

- a) Landscaping (Standard D10);
- b) Internal Views (Standard D15);
- c) Accessibility (Standard D18);
- d) Private Open Space (Standard D20);
- e) Storage (Standard D21);
- f) Functional Layout (Standard D26); and
- g) Natural Ventilation (Standard D29).

Car Parking, Traffic and Bicycle Parking

Car Parking

- 146) Under Clause 52.06 of the Scheme, the required number of on-site car parking spaces is 60 and the proposed development will provide 69 spaces, 9 more than the statutory requirement.
- 147) The removal of two existing crossovers along the site's Clarke Street frontage will result in the creation of approximately 5 new on-street car parking spaces. However, this requires approval from Council's parking management unit and will be included as a permit note, should a planning permit issue.

Traffic

- 148) For the car parking spaces accommodated on-site, the applicant's traffic engineers and Council's Engineering unit quantified peak hour volumes of 12 vehicle movements both within the morning and afternoon peak (equivalent to 1 vehicle every 5 minutes on average). Council's Engineering unit confirmed that the additional traffic volume is not unduly high and would not have a detrimental impact on the traffic operation of Clarke Street or the surrounding road network.

Access and Layout

- 149) Clause 52.06-9 (Design standards for car parking) of the Scheme relates to the design of car parking areas and contains 7 standards and requirements relating to access way, car parking spaces, gradients, mechanical parking, urban design, safety and landscaping.
- 150) Access to the proposed basement car park will be via the existing crossover and accessway on Clarke Street (along the southern boundary of the site). These works will involve the widening of the existing crossover on Clarke Street to 7.23m (at the kerb) and 6.1m (at the property boundary). Council's Engineering unit have reviewed the crossover widening and are satisfied with the proposed dimensions. However, they have requested a cross-sectional drawing to confirm a B99 design vehicle can enter and exit the property via Clarke Street without scraping or bottoming out. This diagram will need to be prepared in accordance with Council's vehicle crossing information sheet
- 151) The applicant has provided these cross-sectional diagrams (included on page 28 of the attached Traffic Report). Council's Engineering unit have reviewed these drawings and confirm that additional information is required, as outlined below:
- The cross sectional drawing for the vehicle crossing (TP3.03) has been prepared by CHT Architects and is incomplete. This drawing was used by Traffix Group for assessing the ground clearance. However, the drawing has not been included in the latest set of architectural drawings that have been referred for review.*
- The Development Engineering team again advises that the existing vehicle crossing must be demolished and reconstructed with a new vehicle crossing. This must be reflected on the architectural drawings prior to endorsement.*
- The cross-fall (grade) of the footpath section of the new vehicle crossing (for 1.2 metres from the property line) must be 1 in 40.*
- The cross-sectional drawing must be resubmitted with dimensions as per the information provided in the Engineering referral comments of 30 October 2024 as well as any other engineering requirement previously mentioned in the referral comments. Non-compliance may further delay the application process.*
- The ground clearance is to be re-tested with the revised vehicle crossing drawing.*
- 152) Accordingly, should a permit issue, a condition will require this cross-sectional drawing to be submitted to Council's Engineering unit for approval.

- 153) Council's Engineering unit have also reviewed the development's basement car park, accessway and gradients and is generally supportive of the arrangements subject to the following matters being addressed:
- a) A convex mirror be provided at the development entrance to assist exiting motorists in viewing the Clarke Street footpath;
 - b) The shared area of the accessible parking space to be hatch line-marked in accordance with the Australian/New Zealand Standard AS/NZS 2890.6:2009;
 - c) The minimum headroom clearance of the ramp dimensioned such that it be shown perpendicular to the surface of the ramp; and
 - d) The vehicle crossing sectional diagram as discussed above provided.
- 154) These recommendations have been addressed in the updated plans submitted to Council as part of the further information response. Council's Engineering unit have reviewed the revised drawings and are satisfied these matters have been addressed.
- 155) Several engineering conditions regarding civil works and road asset protection have been recommended. These conditions are considered standard and will be included on the permit should one issue.
- 156) Overall, the proposed design and configuration of access and car parking areas are considered to achieve a satisfactory outcome and will be further improved with the above details requested by Council's Engineering unit.

Loading and Unloading

- 157) Clause 15.01-2L (Building Design) includes several strategies for new development to achieve in relation to loading facilities. Relevantly, to minimise noise from deliveries through appropriate design, location and management of loading bays. Furthermore, Clause 65 (Decision Guidelines) also requires the consideration of loading and unloading facilities in relation to amenity, traffic flow and road safety.
- 158) On-site loading is proposed to take place at ground level in the accessway on the southern boundary. This accessway has been designed to accommodate a Small Rigid Vehicle with a length of 6.4m. Swept path diagrams have been included within the applicant's Traffic Report and demonstrate satisfactory ingress and egress from / to Clarke Street. Council's Engineering unit are also satisfied with the on-site loading arrangements.

Bicycle Facilities

- 159) Clause 18.02-2L (Cycling) includes the objective to improve cycling infrastructure and encourage cycling as an alternative mode of transport for people of all ages and abilities, to be achieved through the following strategies:
- (a) *Encourage the provision of secure bicycle parking (including cargo bicycles).*
 - (b) *Encourage separate entrances for bicycles and motorised vehicles in developments.*
 - (c) *Provide easily accessible visitor bicycle parking.*
 - (d) *Encourage publicly accessible and safe cycling links through large sites, where links connect with the existing cycling network.*
 - (e) *Encourage the provision of electric bicycle infrastructure.*

- 160) As discussed earlier in the report, there are no statutory bicycle parking requirements for Retirement Villages. However, the development proposes 20 bicycle parking spaces at basement level for residents' use, 8 visitor bicycle parking spaces at ground level, 4 x e-bike spaces and 5 x e-scooter spaces also at ground level, for use by residents and visitors. The residential bicycle parking spaces are located in a secure storage room within the basement.
- 161) Clause 52.34-6 includes provisions for the design of bicycle parking spaces. Council's Strategic Transport Unit has reviewed the design of bicycle parking spaces and is satisfied, subject to the dimensions of the visitor bicycle parking spaces to be included and the locking mechanism to the secure bicycle store to be nominated on the plans. These recommendations will be included as conditions should a permit issue. In addition, a condition will require the e-bike storage to be clearly shown on the east elevation, as this is currently not depicted.
- 162) Pursuant to Clause 15.01-2L-01 (Environmentally Sustainable Development), a residential development (other than Dwellings) of more than 1000sqm requires the preparation of a Green Travel Plan, to promote the use of walking, cycling and public transport and minimise car dependency and to promote the use of low emissions vehicle technologies and supporting infrastructure.
- 163) A Green Travel Plan has been included in the Sustainability Management Plan (page 18). The Green Travel Plan identifies the site's Walk Score (85 – "Very Walkable"), outlines the proximity of the site to local amenities (such as cafes, shops, restaurants, banks etc.), summarises the bicycle storage provisions, outlines public transport options to/from the site, the on-site provision of car parking and EV charging spaces, and the availability and proximity of car share programs. Further information is required to address:
- a) Sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
 - b) A designated 'manager' or 'champion' responsible for coordination and implementation;
 - c) Details of bicycle parking and bicycle routes;
 - d) Details of GTP funding and management responsibilities;
 - e) The specific design of bicycle storage devices proposed to be used for resident spaces, including demonstration of their suitability for parking cargo bikes, electric bikes and recumbent bikes;
 - f) Security arrangements to access the resident bicycle storage spaces;
 - g) Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and
 - h) Provisions for the Green Travel Plan to be updated not less than every 5 years.
- 164) These items will be addressed in a condition for an amended Green Travel Plan.

Waste management

- 165) Clause 19.03-5L includes several waste related strategies for developments to achieve. The strategies seek to ensure that waste and recycling (including separation, storage, collection and composting) is provided within well-sized and designed facilities that are commensurate with the proposed uses. The facilities should also be located to enable ease of use by occupants and for disposal, with the facilities sensitively and discreetly located.

- 166) Furthermore, Clause 17.01-1L specifically seeks in relation to the municipalities major employment precincts that waste collection facilities are located away from pedestrian environments.
- 167) A Waste Management Plan (WMP) was submitted by the applicant and commits to the following waste management procedures:
- a) Waste will be stored in two, dedicated bin storage rooms within the basement. One storage room includes provision for 2 x 1100L garbage bins, 4 x 660L recycling bins, 5 x 240L food and organics bins (FOGO) and 1 x 240L glass recycling bin and the other storage room includes 1 x 1100L garbage bins, 4 x 660L recycling bins, 5 x 240L FOGO bins and 2 x 260L glass recycling bins;
 - b) Provision of a bin wash down area;
 - c) Provision of a dual chute system for residents of each level of the building;
 - d) Waste collection will occur on-site within the basement car park by a private contractor, using a mini rear-loading vehicle. The private contractor will prop temporarily within the internal accessway while the bins are emptied and exit the site in a forwards direction;
 - e) Waste collection will be undertaken outside of peak periods to minimise disruption and ensure there is sufficient space within the carpark for the transfer of bins to and from the waste vehicle.
- 168) Council's Waste Management Unit have reviewed the WMP and have confirmed that it is satisfactory. The WMP will be endorsed and will form part of the permit should one issue. In addition, Council's Engineering Unit have reviewed the swept path diagrams for a mini rear-loading vehicle and are satisfied that a waste collection vehicle can safely enter and exit the basement.

Subdivision & Creation of Easement

Subdivision

- 169) Pursuant to Clause 37.01-3 (Special Use Zone) and Clause 43.01-1 (Heritage Overlay), a planning permit is required to subdivide land.
- 170) The application proposes to subdivide the land into two lots. Lot 1 will contain the proposed Retirement Village and will have an area of 3906sqm, and Lot 2 will contain the existing Good Shepherd Chapel with an area of 1974sqm. The proposed plan of subdivision also includes a 2.8m wide easement along the common boundary, which is to facilitate maintenance access to the Chapel and also enhance view lines. Development will not be permitted in this easement. The proposed plan of subdivision is shown below:

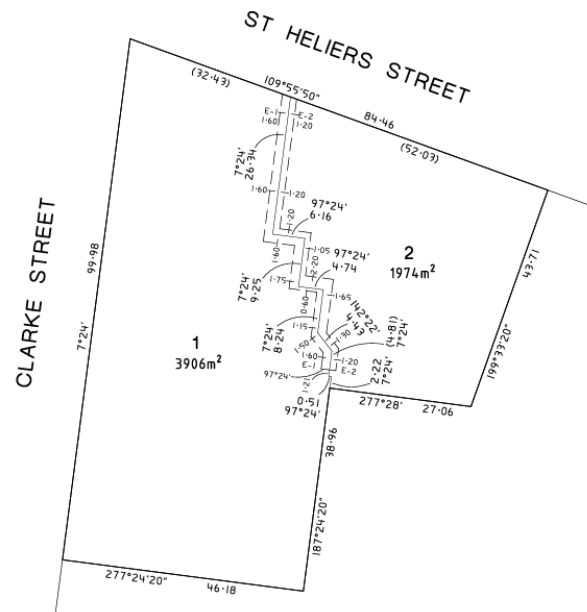


Figure 27 - Proposed two-lot subdivision

- 171) In considering an application for subdivision, the Responsible Authority must consider (as is relevant to both the Special Use Zone and Heritage Overlay):
- The Municipal Planning Strategy and the Planning Policy Framework;
 - Any guidelines in the schedule to the SUZ; and
 - Whether the proposed subdivision will adversely affect the significance, character or appearance of the heritage place.
- 172) The subdivision was referred to Heritage Victoria pursuant to Clause 43.01-2 of the Scheme and Section 8 of the Subdivision Act. Heritage Victoria on 30 July 2025 consented to the issue of a planning permit, subject to the following conditions:
- All new titles issued as a consequence of this permit must carry over the notice from the parent title that the land is listed in the Victorian Heritage Register. Copies of each new title are to be lodged with the Executive Director, Heritage Victoria as proof of compliance with this condition within 14 days of the land being subdivided.*
 - Prior to the issue of a statement of compliance, the final subdivision plan must be approved and endorsed by the Executive Director, Heritage Victoria. The plan must be drawn to scale with dimensions and be generally in accordance with the Plan of Subdivision PS927301S prepared by JCA Land.*
- 173) The above conditions will be included on the permit should one issue. Heritage Victoria has not consented to certification or the issue of a statement of compliance at the present time.
- 174) The proposal will not adversely affect the significance, character or appearance of the HO9 precinct. As detailed in the previous sections of the report, the proposed development, including its siting and setbacks from the existing Convent Buildings, will improve and maximise view lines of heritage buildings and will sit comfortably and sensitively within the surrounding context.

- 175) There are no specific subdivision requirements in Schedule 2 or proposed Schedule 7 to the SUZ.
- 176) For the reasons outlined above, the proposed two-lot subdivision is supported. Standard subdivision conditions will be included on the permit should one issue.

Easement

- 177) Pursuant to Clause 52.02, before deciding on an application, in addition to the decision guidelines in Clause 65, the Responsible Authority must consider the interests of the affected people.
- 178) The proposed easement is designed to ensure access is maintained to the Chapel for servicing requirements. The Chapel currently shares services with the existing building on the subject site. These services are required to be separated to ensure each building is serviced by individual assets. The proposed easement responds to this requirement, whilst also ensuring that no development can occur in this area in future. Through this, the easement protects the curtilage of the Chapel for access and servicing and in addition, will protect view lines and visual amenity of the Chapel.
- 179) Should a permit issue, a note will be included on the planning permit requiring the applicant to lodge a certified plan at the Titles Office for registration of the easement pursuant to Section 23 of the *Subdivision Act* 1988.
- 180) A condition will also require the creation of easement plan to be referred to the relevant authorities when submitted for certification in accordance with Section 8 of the *Subdivision Act* 1988. A permit expiry condition will be included for the creation of easement.

Clause 51.06 – Birrarung (Yarra River) Protection

- 181) As a Representative Public Entity (RPE) Yarra City Council has a legal obligation under the Yarra River Protection (Wilip-gin Birrarung Murrong) Act 2017 ('Act') to deliver the of Burndap Birrarung Burndap Umarkoo (BBBU) or otherwise known as the Yarra Strategic Plan (YSP) to ensure protection and enhancement of the Birrarung and its parklands as one living and integrated natural entity. The Act enshrines in law the protection of the Yarra and acknowledges the significance of the river to the Wurundjeri Woi-Wurrung people and highlighting their role in its ongoing management. Commitment to decolonisation on Yarra River land and respecting first people's connection to country is a requirement under the Act.
- 182) Clause 51.06 requires RPEs to have regard to the principles specified in Part 2 of the Act when performing functions or duties or exercising powers in relation to Yarra River Land or other land, the use or development of which may affect Yarra River Land and other matters.

General principles

- 183) The General Principles are:

- a) *Proposed development and decision-making should be based on the effective integration of environmental, social and cultural considerations in order to improve public health and wellbeing and environmental benefit.*
 - b) *Decision-makers should take into account the best practicably available information about the potential impacts of climate change so as to avoid, so far as possible, serious or irreversible damage resulting from climate change.*
 - c) *Decision-makers should take into account the impact of any individual action or policy on public health and wellbeing and seek to ensure that public health and wellbeing is enhanced by the action or policy.*
 - d) *Each generation should ensure that the environmental, social and cultural benefits that have been acquired are maintained or enhanced for the benefit of future generations.*
 - e) *Protection of the environment and delivery of sustainable development is a responsibility shared by all levels of government, industry, business, communities and the people of Victoria.*
- 184) In accordance with the above, the proposed development is accompanied by a Sustainability Management Plan, which has been reviewed by Council's ESD officer who confirms the development will provide a positive contribution to sustainability (subject to additional recommendations as discussed in the attached Clause 58 assessment (Energy Efficiency)). The development has also been assessed against the Significant Landscape Overlay – Schedule 1.
- 185) Council's Biodiversity Officer and Landscape Consultant have reviewed the proposed landscaping and recommend that species be selected from local native plant stock from the Melbourne Region. Council's Biodiversity Officer confirms that in ensuring the landscape planting palette matches local plant communities, the development will contribute towards the protection of the environmental and cultural values of the river and riparian areas, including vegetation, water quality and environmental flows.
- 186) Conditions in the permit will require ongoing compliance with the sustainability and landscaping commitments.

Environmental Principles

187) The Environmental Principles are:

- a) *If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation or for failing to assess the risk-weighted consequences of the options.*
- b) *Environmental practices and procedures should ensure that biodiversity and ecological integrity is maintained or enhanced in ways that are proportionate to the significance of the environmental risks and consequences being addressed.*
- c) *If approaches to managing environmental impacts on one segment of the environment have potential impacts on another segment, the best practicable environmental outcome should be sought.*
- d) *There should be a net gain for the environment in the area of Yarra River land arising out of any individual action or policy that has an environmental impact on Yarra River land.*

- 188) As discussed in the Clause 58 assessment for Landscaping, a condition will require 100% of plant species throughout the development to be selected from the Melbourne Local Native Plant Guide. Prior to colonisation, the local plant communities at the subject sit were from the Volcanic Plains Bioregion Ecological Vegetation Class (EVC) 55_61: Plains Grassy Woodland. To build plant species' resilience and adaptation to climate change, Council's Biodiversity Officer advises it is preferable to source plants from a variety of EVCs across Melbourne, over sourcing plants from a site specific EVC to improve genetic diversity. A lack of genetic diversity would limit the extent to which plants can adapt to change.
- 189) A condition will also require the retention of Tree 20, which is a native species with high amenity value.

Social Principles

190) The Social Principles are:

- a) *The existing amenity of Yarra River land, including its natural features, character and appearance, should be protected and enhanced for the benefit of the whole community.*
- b) *Community consultation and participation should play an essential and effective role in the protection, improvement and promotion of Yarra River land.*

191) As discussed in the body of the report, the proposed development will not compromise view lines to and from the Yarra River. The development will be set back more than 150m from the banks of the Yarra and the scale of built form and proposed materials have been sensitively designed, chosen and sited to ensure the development sits comfortably within the surrounding environment.

192) Community engagement will take place as part of the exhibition of draft planning scheme amendment C328yara, as discussed below.

Recreational Principles

193) The Recreational Principles are:

- a) *Community access to, and use and enjoyment of, Yarra River land should be protected and enhanced through the design and management of public open space for compatible multiple uses that optimise community benefit.*
- b) *Public open space should be used for recreational and community purposes that are within the capacity of that space, in order to sustain natural processes and not diminish the potential of that open space to meet the long-term aspirations of the community.*

194) The development will not obstruct access to Yarra River land. There is no public open space proposed as part of this application.

Cultural Principles

195) The Cultural Principles are:

- a) *Aboriginal cultural values, heritage and knowledge of Yarra River land should be acknowledged, reflected, protected and promoted.*
 - b) *The role of the traditional owners as custodians of Yarra River land should be acknowledged through partnership, representation and involvement in policy planning and decision-making.*
 - c) *The cultural diversity and heritage of post European settlement communities should be recognised and protected as a valued contribution to the identity, amenity and use of Yarra River land.-European settlement communities should be recognised and protected as a valued contribution to the identity, amenity and use of Yarra River*
- 196) The subject site is located in an area of Aboriginal Cultural Sensitivity. The Victorian *Aboriginal Heritage Regulations 2018* (r.7) require an Aboriginal Cultural Heritage Management Plan for a proposed activity if:
- a) All or part of the activity area for the activity is in an area of cultural heritage sensitivity (not subject to significant ground disturbance); and
 - b) All or part of the activity is a high impact activity.
- 197) Part (b) of the above is met, as the use of land for a Retirement Village is a high impact activity area.
- 198) The applicant has submitted written advice from a qualified heritage advisor under Section 189 of the *Aboriginal Heritage Act 2006*. The heritage advisor observes that the subject site is not located within an area of cultural heritage sensitivity as defined by Division 3 of the Victorian *Aboriginal Heritage Regulations 2018* by virtue of Regulation 26(2) and has been submitted to significant ground disturbance. Further details as to why a Cultural Heritage Management Plan is not required are provided in the attached advice from the heritage advisor. In summary:
- a) Based on the heritage consultant's review of background information, including aerial photography, the site is not within an area of cultural sensitivity pursuant to Division 3 of the Victorian Aboriginal Heritage Regulations 2018 by virtue of Regulation 26(2); and
 - b) The site has already been subject to significant ground disturbance.
- 199) In addition, the Victorian Aboriginal Heritage Register lists no previously identified Aboriginal Cultural Heritage Places within the activity area. However, the applicant may wish to prepare a voluntary Cultural Heritage Management Plan under Section 45 of the *Aboriginal Heritage Act 2006*.
- 200) Council's heritage consultant (GJM Heritage) recommended a historical interpretation plan to build on the existing historical interpretation of the wider Convent site. This has been included in the Heritage Victoria planning permit and does not need to be addressed as part of this Section 96A Amendment application.

Management Principles

201) The Management Principles are:

- a) *There should be coordination between all levels of government and government agencies when designing policies and programs and making decisions in relation to Yarra River land.*

- b) *When designing policies and programs, the best practicable measures available at the time should be used.*
- c) *Implementation of natural resource management should aim for continuous improvement and extend beyond compliance with relevant laws and requirements.*

202) The Planning Scheme Amendment will be prepared in consultation with the Department of Transport and Planning and Minister for Planning. As part of the consultation process, anyone with an interest in the land and the proposed development will be able to make submissions on the application. The planning scheme amendment process and development application will be managed in accordance with the *Planning and Environment Act (1987)*.

203) In summary, the proposed development will be consistent with the principles in Part 2 of the Act.

Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra. We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra. We pay our respects to Elders from all nations and to their Elders past, present and future.
