

**1. APPLICATION FOR PLANNING PERMIT D/402/2012**

**677- 681 PLENTY ROAD RESERVOIR VIC 3073**

**AUTHOR: Principal Planner– Gavin Crawford**

**DIRECTOR: Director City Works and Development – Michael Ballock**

**OWNER/APPLICANT/CONSULTANT:**

**Applicant:** Ikonomidis Reid Pty Ltd

**Owner:** Maria Ikonomidis and Leanne Robyn Reid

**SUMMARY:**

- Use and development of the land comprising the construction of a four (4) storey building containing three (3) office tenancies, thirty (30) dwellings and thirty-four (34) car parking spaces. Vehicle access is gained via a right-of-way to the rear of the premises.
- Development comprises a mix of dwelling sizes as follows:
  - 12 x 1 bedroom dwellings (3 with studies);
  - 18 x 2 bedroom dwellings (1 with study)
- Each dwelling has a balcony/terrace varying in size from 8 square metres to 20 square metres.
- The Certificates of Title indicate that a restrictive covenant applies to the land. The covenant restricts excavation other than for the foundations of any building. It is considered that the proposed development will not breach the terms of the covenant.
- Recommendation – Notice of decision to grant a permit subject to conditions

**CONSULTATION:**

- Notice of the application was given by posting a sign on the land and mailing of notices to affected properties.
- 154 objections have been received.
- Plans were amended under s57A after advertising to improve the internal amenity of dwellings located mid-block and to increase setbacks from the north west boundary at Level 1 and Level 2. These changes did not result in additional amenity impacts and did not require notification.
- The permit application has been referred internally to Council's ESD officer and Capital Works (infrastructure engineers). There are no statutory referral authorities as identified in the Act and Darebin Planning Scheme.
- Separate discussions have been held with the permit applicant throughout the process.

## RECOMMENDATION

**THAT** Planning Permit Application D/402/2012 be approved and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

- 1) Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the *application (identified as Job No. 005860A, Dwg No's. TP03- TP05 Rev C Dated 12 September 2012 Prepared by Ikonomidis Reid)* but modified to show:
  - a) Ground floor commercial premises notated as offices.
  - b) A colours, materials and finishes schedule.
  - c) Details of the screening used around the northwest elevation (Level 2). The screening must be no more than 25% transparent in a horizontal or downward angle or comprise obscure glazing to 1.7m above finished floor level.
  - d) Details of all rooftop plant and equipment including air conditioner and heating units.
  - e) Detail designs of the proposed car park including:
    - i) control equipment (controlling access to and egress from the internal / basement car parks); and,
    - ii) ramp dimensions, height and grades, accessway widths and queuing area.
  - f) Bicycle parking / facilities to comply with clause 52.34 of the Planning Scheme.
  - g) Planter pots with appropriate plant / tree species to provide a 'green element' on:
    - i) Southeast elevation, level 4; and,
    - ii) Northwest elevation, level 4 & 5.
  - h) The pedestrian ramp between the lobby entrance and Plenty Road to accord with the requirements of Australian Standard AS1428.1;
  - i) The heights and setbacks from the north-west boundary must comply with Standard B17 of Clause 55 of the Darebin Planning Scheme for Dwellings 11, 12, 23 and 24 as measured from the subject sites north-west boundary.
  - j) Modifications to the light courts/ internal balconies to improve internal amenity and access to daylight to Councils satisfaction;
  - k) Any modifications in accordance with the Environmentally Sustainable Development Management Plan (Refer to Condition No. 6 of this Permit);
  - l) Any modifications in accordance with the Acoustic Assessment (Refer to Condition No. 9 of this Permit); and,
  - m) A single communal antenna for the development (refer also to Condition No. 11 of this Permit). The location of the antenna must be shown on the roof plan and elevations. The height of the antenna must be nominated.

When approved, the plans will be endorsed and form part of this Permit.

- 2) The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 3) This Permit will expire if:
  - a) The development does not start within three (3) years from the date of this Permit; or
  - b) The development is not completed within five (5) years of the date of this Permit.

The Responsible Authority may extend the times referred to if a request is made in writing before this Permit expires or within three (3) months after the expiry date.

- 4) Prior to the commencement of any buildings and works (including demolition of the existing building), the owner must submit a Construction Management Plan to the Responsible Authority for approval. No works are permitted to occur until the Plan has been approved in writing by the Responsible Authority. Once approved, the Construction Management Plan must be implemented to the satisfaction of the Responsible Authority. The Plan must provide details of the following:
  - a) Hours for construction activity (including demolition) in accordance with condition 19;
  - b) Measures to control noise, dust, water and sediment laden runoff;
  - c) The location of parking areas for construction and sub-contractors' vehicles to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises and traffic flows in surrounding streets including the ROW;
  - d) Measures to ensure that sub-contractors / tradespersons operating on the site area aware of the contents of the Construction Management Plan;
  - e) Contact details of key construction site staff;
  - f) The location of any site sheds and the like; and,
  - g) Vehicle access locations and truck routes.
- 5) Before the development starts, a waste management plan must be submitted to and approved by the Responsible Authority. The approved plan must be implemented to the satisfaction of the Responsible Authority. The plan must provide the following details of a regular private waste collection service (including recyclable) for the subject land including:
  - a) Collection of waste bins from within the confines of the upper ground floor car park (no bins to be placed in the ROW);
  - b) Type/size of trucks; and,
  - c) Times/days for waste collection consistent with Condition 12,to the satisfaction of the Responsible Authority.

Waste storage and collection must undertaken in accordance with the approved management plan and must be conducted in such a manner as not to affect the amenity of the surrounding area and which does not cause any interference with the circulation and parking of vehicles on abutting streets.

- 6) Before the development starts, an Environmentally Sustainable Development Management Plan (ESD Management Plan) prepared by a suitably qualified

professional must be submitted to and approved in writing by the Responsible Authority.

a) The ESD Management Plan must address:

- Energy Management;
- Water Conservation and Re-use; and
- Demolition and Construction Waste Management.

b) Where appropriate, the ESD Management Plan should:

- Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards;
- Document the means by which the appropriate target or performance will be achieved;
- Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring; and
- Demonstrate that the design elements, technologies and operational practices that comprise the ESD Management Plan can be maintained over time.

A schedule for implementing and monitoring the ESD Management Plan must be included.

The approved ESD Management Plan must be implemented to the satisfaction of the Responsible Authority.

- 7) Before the development is occupied a sustainable transport display must be provided in a visually prominent location in the lobby of the development at ground floor. The display must include a transport plan and must include public transport route maps and timetables and maps of walking and cycling routes to and from the site. The display must be regularly monitored and kept up to date to the satisfaction of the Responsible Authority.
- 8) Prior to the issue of a building permit for any building or any works authorised by this permit, a development levy must be paid to Darebin City Council. The amount of the development levy for each charge unit must be calculated in accordance with Schedule 1 to the Development Contribution Plan Overlay.
- 9) Before the development starts, an Acoustic Assessment of the development, to the satisfaction of the Responsible Authority, must be submitted to the Responsible Authority. The assessment must be prepared by a suitably qualified acoustic engineer and must detail recommended treatments of the development and/or the adoption of appropriate measures to ensure that:
  - a) Noise emissions associated with the operation of surrounding and nearby non-residential uses and traffic do not impact adversely on the amenity of the dwellings.
  - b) The design of habitable rooms of all dwellings adjacent to a road limits internal noise levels to a maximum of 45 dB(a) in accordance with relevant Australian Standards for acoustic control (including AS3671-Road Traffic).
  - c) Noise emissions from the development (including the operation of plant, transmission of noise between dwellings and the use of the car park) do not impact adversely on the amenity of dwellings within the development and neighbouring residential properties.

The development must be constructed in accordance with the requirements/

recommendations of the approved Acoustic Assessment to the satisfaction of the Responsible Authority.

- 10) Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the Building Act 1993 and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
- 11) Only one (1) communal television antenna may be erected on the building. Individual antennae for individual dwellings/tenancies must not be erected.
- 12) Collection of waste must be conducted so as not to cause any unreasonable disturbance to nearby residential properties and may only take place during the times of 7:00am to 6:00pm to the satisfaction of the Responsible Authority.
- 13) Waste storage and collection must be undertaken in accordance with the approved management plan and must be conducted so as to minimise effects on the amenity of the surrounding area and which does not cause unnecessary interference with the circulation and parking of vehicles on abutting streets.
- 14) Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
- 15) The stormwater from the property is to be connected to the existing 300mm drain at the front of the site in Plenty Road to the satisfaction of Council with the discharge from the site not to exceed that of the pre-development.
- 16) The ground and lower ground level car park and accessways must be provided with a minimum height clearance of 2.4 metres measured to the underside of any ductwork / piping to the satisfaction of the responsible authority.
- 17) A rubber speed hump is to be erected near the entrance of the ROW from the car park egress to slow traffic speeds entering and exiting the development and reduce pedestrian / vehicle conflict.
- 18) A sign is to be erected at the entrance to the ROW warning drivers and pedestrians that the laneway is a shared accessway.
- 19) All works including earthworks, demolition and construction activity associated with the approved development must take place during the following hours, except with the prior written consent of the Responsible Authority:
  - Monday to Friday: 7:00am to 7:00pm
  - Saturday: 7:00am to 5:00pm.
- 20) With the exception of guttering, rain heads and downpipes; all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
- 21) No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.

- 22) All outdoor lighting must be designed, baffled and located to prevent light spill from the site causing undue detriment to the locality, to the satisfaction of the Responsible Authority.
- 23) All dwellings that share dividing walls and floors must be constructed to limit noise transmission to 45 STC (Sound Transmission Class) in accordance with Part F(5) of the Building Code of Australia.
- 24) Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
- 25) Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
  - a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all weather sealcoat;
  - d) Clearly line marked to indicate each car space and the direction of traffic flow (accessibility parking bay must be marked in accordance with the internationally recognised symbol); and
  - e) Drained to the satisfaction of the Responsible Authority.Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.
- 26) The car stackers must be routinely serviced and maintained to the satisfaction of the Responsible Authority to ensure satisfactory access to all car spaces and to prevent any adverse effect on adjoining land by the emission of noise.
- 27) Any clothes lines provided on the balconies must not exceed the height of the balustrade and must not be visible from outside the site.
- 28) A minimum 1 car space must be allocated to each dwelling a minimum 1 car space must be allocated to each office premises.
- 29) Before the development is occupied, a contribution for the installation of seven (7) external bicycle rail(s) within the vicinity of the site must be paid to the Darebin City Council.

## REPORT

### INTRODUCTION AND BACKGROUND

#### Subject site and surrounding area

- The previous application D404/2011 for the construction of a six storey building containing 40 apartment style dwellings and basement car parking was lodged with Council, 31 May 2011. There were 84 objections lodged. An application for review lodged with VCAT for failure to determine the application within the prescribed time frame was lodged by the applicant. Council opposed the application. VCAT affirmed Council's decision and ordered that no permit be granted on 3 April 2012 generally on the grounds that "the building is simply too big and overly dominant having regard to not only the physical context, but also the strategic context that applies."
- The Tribunal also commented "that a building of 3-4 storeys in height with appropriate transition in form toward the residential hinterland represents an

outcome that is supported by the planning scheme's policies as they currently stand."

- Application was lodged on 7 June 2012 for the construction of a four storey building containing 30 apartment style dwellings with basement car parking generally in accordance with the recommendations of VCAT (having regard to the Section 57a amendments which to improve the internal amenity of dwellings located mid-block and increase setbacks from the north west boundary at Level 1 and Level 2).

## **ISSUES AND DISCUSSION**

- The site known as 677-679 Plenty Road, Reservoir comprises 4 lots on the northern side of Plenty Road approximately 13 metres north of Frier Avenue and is currently occupied by a clothing clearance centre and accountant's office.
- The site and the Plenty Road streetscape (north side) is within a Business 1 Zone, whilst land to the rear is within a Residential 1 Zone.
- A Development Contributions Plan Overlay applies over the land.
- The site is rectangular in form and has the following characteristics:
  - Frontage to Plenty Road of 24.38 metres;
  - Interface to the rear ROW of 22.91 metres;
  - Depth of 38.1 metres;
  - Total area 928 m<sup>2</sup> ;
  - Long axis orientated on a northwest / southeast alignment;
  - 3.5 metre fall to the Plenty Road frontage (south-east);
  - Informal vehicle access is to the rear from the ROW; and,
  - Time restricted parking exists along the Plenty Road frontage which also consists of a taxi rank and bus stop.
- The site is located in a local retail activity centre defined as the Plenty Road / Tyler Street- Local Convenience Centre as recognised through *Council's Retail Activity Centres Strategy (March 2005)*.
- Adjoining the site to the north-east is a bakery and fast food shop, recessed back from the street with car parking in the forecourt and to the south-west, a printing and office supplies outlet.
- To the south side of Plenty Road is residential, likewise to the north beyond the ROW. Given the angular direction of Frier Avenue the rear of the subject land and its development will have a prominent aspect to Friar Avenue.
- Built form in the Business 1 zone is eclectic but there is a relatively consistent theme of form, width and scale reminiscent of 1950s – 1960s architecture.
- The site and locality enjoys good access to public transport with Tram Route 86 immediately fronting the site, along with bus and taxi ranks at the site's frontage. The Epping rail line and local station is 1.3 km west of the subject land.

## **Proposal**

- It is proposed to demolish the existing buildings occupying the land and construct of a multi-storey building including one sub-level car park for use as dwellings and offices.
- The application also seeks the consent to reduce parking requirements under clause 52.06 of the Darebin Planning Scheme.
- The building presents as 4 storeys to Plenty Road with a maximum height of 15 metres. Due to the fall of land toward Plenty Road the proposed development will appear as a 3 storey building from Friar Avenue / to the rear.
- The building consists of 30 residential units of 1 and 2 bedrooms, some inclusive of a study and 3 commercial tenancies at ground floor.
- Thirty four (34) parking spaces are proposed to be provided on-site.

### **Objections**

- 154 objections have been received.

### **Objections summarised**

- Excessive scale and bulk;
- Does not respect preferred neighbourhood character;
- Overlooking;
- Traffic noise;
- Does not meet projected housing needs;
- Insufficient parking;
- Interfere with bus stop;
- Waste management concerns;
- Obstruction of laneway;
- Plenty Road/Tyler Street strip centre not identified for major retail or residential development in Planning Scheme;
- Devaluation of property;
- Inadequate public transport (tram too slow);
- Site unsuitable for retail;
- Overdevelopment of the site and area;
- Loss of businesses from site;
- Does not comply with Building Code requirements;
- Street frontage should be more visually exciting;
- Compromise pedestrian safety;
- Increased violence;
- Ecologically and environmentally unsound;
- Previous application refused by VCAT;
- Lack of landscaping;
- Plenty Road Integrated Land Use and Transport Study should be finalised before new development;



- Bedroom sizes inadequate;
- Lack of ventilation to some bedrooms.

### **Officer comment on summarised objections**

#### Excessive Scale and Bulk/Neighbourhood Character

The subject site is located within an established commercial centre situated on a main road. The size and scale of the development to Plenty Road is considered appropriate for these environs. The rear of the development is reduced to three storeys with its interface to the residential properties. The building will be setback sufficiently to limit detrimental impact on surrounding residential properties and the use of a variety of materials and finishes will present as an attractive, contemporary building.

#### Overlooking

The upper level windows and balconies are appropriately screened to a height of 1.7 metres above finished floor level to limit the potential for overlooking.

#### Traffic Noise

The proposal will utilise an existing laneway to obtain vehicle access to on-site car parking. The site is located in a commercial strip where the previous land use would have also relied on the laneway for vehicle access. It is considered that the proposed use of the laneway will not differ greatly to the previous or otherwise reasonable use of the laneway for vehicle access and therefore traffic noise generated by the proposal is considered acceptable in the context.

#### Does not meet projected housing needs

State and Local policy encourage higher density residential development in areas close to public transport. This site is well serviced by public transport with the tram route located along Plenty Road as well as bus services. The provision of a diversity of housing is also encouraged and the proposed development provides a mix of single and double bedroom dwellings as well as some with studies.

#### Insufficient Parking

Sufficient car parking is to be provided on site for the proposed development. This is discussed further under Clause 52.06 later in the report.

#### Interfere with bus stop

The proposed development is contained within the site boundaries and is unlikely to interfere with the operations of the bus stop.

#### Waste Management

A Waste Management Plan is to be required as a condition of any approval issued and must be to the satisfaction of Council. The Plan will require that collection of bins is confined to the upper ground floor car park, provide details of the type/size of trucks and times/days of collection. Compliance with the approved Waste Management Plan will be required to ensure minimal disturbance to surrounding properties.

#### Obstruction of Laneway

The development will not provide parking in the ROW and though there is perceived concern with parking and obstruction of the ROW, there is no reason to suggest that this will arise as a result of the proposed development. The ROW and its design features and constraints essentially define it as an 'Access Lane' as specified in Clause 56.06-8 of the planning scheme. The environment of an Access Lane

provides for 300 vehicle movements per day. The anticipated vehicle movements associated with this development will be less than that figure.

#### Not an area for major retail or residential

Under Clause 22.03 – Activity Centres, the subject site is located in a ‘Local Convenience Centre’ where it is policy to “provide local level convenience retail services” and “provide a wider mix of economic activities including commercial office.” The commercial premises proposed are of sizes to support this intent. Whilst the policy for Local Convenience Centres does not directly encourage residential development, it does not discourage it either. In fact, it is both State and Local policy to encourage higher density residential development in areas close to public transport. This site is well serviced by public transport with the tram route located along Plenty Road as well as bus services. The current application is for a four storey development which is consistent with the Tribunals comment “that a building of 3-4 storeys in height with appropriate transition in form toward the residential hinterland represents an outcome that is supported by the planning schemes policy.”

#### Devaluation of Property

As property depreciation cannot be assured as a result of a proposed development, Council and VCAT have consistently held this ground to be irrelevant in the consideration of an application.

#### Inadequate Public Transport (Tram too slow)

The site is located on a tram route along Plenty Road and is also proximate to bus services. The nearest train station is located 1.3 km from the site. It is considered that the site is well served by various forms of public transport.

#### Site unsuitable for retail

The subject site is located in a Business 1 Zone in which the purpose of the zone, in part is “to encourage the intensive development of business centres for retailing.....” and in which a permit is not required for use as a shop.

Office use is proposed at ground floor (based on the information accompanying the application) and this should be shown on the plans. Office use is discretionary in the Business 1 Zone. It is noted that the activity centre demonstrates a range of non-retail uses and the proposed office use is acceptable in this location.

#### Overdevelopment of the site and area

The subject site carries a Business 1 zoning which encourages intensive development and is within a designated Local Convenience Centre. It is a reasonable expectation that activity centre sites that carry this zoning will be developed boundary to boundary and in a multi-level form in order to achieve State and Local planning policy directives for mixed use developments that maximise the efficiencies associated with an Activity Centre location. The current application is for a four storey development which is consistent with the Tribunals comment “that a building of 3-4 storeys in height with appropriate transition in form toward the residential hinterland represents an outcome that is supported by the planning schemes policy.”

#### Loss of businesses from site

The existing businesses on the site will be replaced by new commercial opportunities.

#### Does not comply with Building Code

The BCA, Section D1.2 for Class 2 buildings requires the provision of 2 exits. Each unit has access to a hallway and a secondary emergency exit point via a balcony.

#### Street frontage

The street frontage is an attractive, contemporary design that incorporates extensive glazing to shopfronts that will allow for a high degree of interaction between the proposed uses and the public realm.

#### Compromise pedestrian safety

There will be no conflict between pedestrian vehicle movements across the site frontage as all vehicle movements to and from the site will be via the rear right-of-way. The right-of-way can be used for vehicle and pedestrian movements however, it is primarily designed to provide vehicle access to adjoining sites. It is considered that the proposed use and development will not compromise the ability for pedestrians to utilise the laneway in a safe manner.

#### Increased violence

There is no evidence to suggest that there is an increased risk of violence by tenants in a high rise as opposed to low rise housing developments.

#### Ecologically and environmentally unsound

There is no evidence to suggest that a development of this type on a main road in an activity centre within Metropolitan Melbourne is either ecologically or environmentally unsound.

#### Previous application refused by VCAT

The previous application was for a seven storey development. The current application is for a four storey development which is consistent with the Tribunals comment *“that a building of 3-4 storeys in height with appropriate transition in form toward the residential hinterland represents an outcome that is supported by the planning schemes policy.”*

#### Lack of landscaping

The site is commercially zoned and is within a designated activity centre. Presently there is no landscaping on the site and generally it is not expected that sites in this context would provide on-site landscaping.

#### Plenty Road Integrated Land Use and Transport Study should be finalised

The existing controls and policy directives under the Darebin Planning Scheme allow for a comprehensive assessment of applications for development along Plenty Road. There is no statutory mechanism that would allow decisions on planning permit applications within the study area for the Plenty Road Integrated Land Use and Transport Study to be delayed or withheld in the absence of a finalised study.

#### Bedroom sizes inadequate

The proposed bedrooms are considered to be of adequate size for the purpose of this style of housing.

#### Lack of ventilation to some bedrooms

All bedrooms have external windows that will allow for adequate ventilation.

## **PLANNING ASSESSMENT**

### **State Planning Policy Framework**

#### Clause 15.01 Built Environment & Heritage

It is policy to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity and to achieve urban design outcomes that contribute positively to the local urban character. The design response achieves this objective through:

- Activation of the public realm;
- Concentrating vehicular movements to / from the site via the rear laneway;
- Obscuring from public view, all roof top air conditioning, plant and equipment; and,
- Avoiding overshadowing private secluded open space and habitable room windows.

#### Clause 15.02 Sustainable Development

The design response provides for higher residential densities at a location which benefits from convenient access to public transport and is within walking distance of high order conveniences.

#### Clause 16.01 Housing

It is policy that new housing be designed to respond to the community needs by providing affordable higher density housing developments strategically located close to transport corridors and activity centres. The development achieves these principles by:

- Providing for 30 residential apartments on Plenty Road in an identified local neighbourhood centre (Tyler Street precinct);
- Being fronted by a bus stop and taxi rank and passed by the Route 86 tram with the Epping train line within walking distance of the site; and,
- It is a strategic redevelopment site under clause 16.01-3.

### **Municipal Strategic Statement**

#### Clause 21.05-2 Housing

It is recognised that residential and mixed use development of 4 or more storeys contributes positively to the economic and social conditions in the City and should be encouraged on sites which display particular characteristics. The appropriateness of this site is demonstrated by:

- Its size, shape, orientation and location on the northern side of Plenty Road minimising the potential for overshadowing of neighbouring residential properties;
- Plenty Road frontage;
- Views enjoyed to the northeast along Plenty Road and distant views to the Dandenong Ranges;
- Availability of public transport to the front of, or within convenient walking distance of the site; and
- That the site is not within, nor immediately adjoins a Heritage Overlay, though is close to the Oakville Precinct (HO172).

#### Clause 21.05-3 Urban Design

The proposal is considered to be consistent with the policy objectives as follows:

- The design of the proposed development is of high quality that provides active frontage to Plenty Road whilst being respectful of the residential character to the rear with the appearance of the building reduced to 3 storeys.
- The proposal is within an area where increased housing density is encouraged.
- The proposal is a multi-level, mixed use development that incorporates a high degree of activity at the pedestrian level along Plenty Road. The upper levels of the building have balconies and habitable room windows that address the public realm and will allow for interaction between the building and the street. The building design possesses strong architectural features particularly in the Plenty Road facade resulting in a positive contribution to the streetscape. To the rear of the site the design responds to the residential interface through a reduced scale, varied setbacks, a mix of materials and finishes including obscure glazing and privacy screens.
- The proposed development has been designed to provide passive surveillance of the street and rear right of way. It also includes a verandah over the public walkway in front of the building thereby contributing to pedestrian amenity.
- The proposal incorporates day and evening activity through the inclusion of commercial spaces at ground level and residential in upper levels.
- There is provision for stormwater harvesting through the use of three (3), 5000 litre underground tanks.

#### Clause 21.05-6 Activity Centres

There is a vision by Council to build upon the principles of Melbourne 2030 locally and strengthen the vibrancy and role of local activity centres so they become community focal points through the consolidation and integration of higher density housing around activity centres. The development responds by investing high density housing which is strategically located to enjoy easy access to multiple modes of public transport, high order conveniences and education services and where both commercial and residential activity is positioned and designed to activate Plenty Road. The development will assist in injecting vibrancy into the activity centre.

#### Clause 22.03 Activity Centres

The site is identified as a 'Local Convenience Centre' under this clause, which also calls on the Retail Activity Centres Strategy (2005), a reference document in the Darebin Planning Scheme. It is also important to note that further strategic work undertaken along the Plenty Road corridor has identified the weakness of this local centre and the opportunity increased residential development provides toward the revitalisation of this centre.

The site is located within the Plenty Road / Tyler Street Activity centre described as

*"Comprises local convenience services including newsagent, etc; has wider role in bridal fashion and services, jewellery, flower arranging etc; strong video shop; evidence of some change to office use; potential for residential conversion; hotel at northern end."*

This policy acts to strengthen the role and character of activity centres in the municipality by introducing a range of land uses and integrated development opportunities that activate and create a sense of place in the centre. The development responds to the policy objectives by:

- Providing an active commercial street frontage to Plenty Road;

- Utilising the rear lane for vehicular access including waste collection; and
- Achieving residential land use which is amenable to the surrounding and on-site commercial activities.

#### Clause 22.10 Residential and Mixed Use Development of 4 or More Storeys

This policy provides a specific local approach to design and built form elements of new development, building upon the objectives and principles of State urban design principles at Clause 15.01.

The policy requires consideration be given to the following Clause 55 standards:

- Clause 55.04-3 – Daylight to existing windows
  - The proposal is setback at least 3 metres from the adjacent residential property ensuring adequate daylight to the existing windows of that dwelling.
- Clause 55.04-6 – Overlooking
  - The upper level windows and balconies are appropriately screened to a height of 1.7 metres above finished floor level to limit the potential for overlooking.
- Clause 55.04-7 – Internal Views
  - Whilst there no internal overlooking between balconies through the use of screens, there is the potential for overlooking from Level 2 bedroom windows into Level 1 balconies. A condition of any approval issued will require appropriate screening/glazing to a height of 1.7 metres above finished floor level.
- Clause 55.04-8 – Noise Impacts
  - The lift core does not directly adjoin habitable rooms. Other plant and equipment associated with heating and cooling of the building will be located on the roof and should be appropriately screened.
- Clause 55.04-1 – Side and rear setbacks
  - Having regard to the existing 4.4m to 6.9m high wall on the north west boundary of the site, the 3.6m width of the Right of Way (where most Right of Ways are 3m in width), the gentle slope of the land up to the north, the driveway and the outbuilding in the rear yard of 4 Frier Avenue adjacent to the subject site and the proposal having a maximum three storey building height in a business 2 zone the proposal provides appropriate setbacks from the adjacent residential use.
- Clause 55.04-4 – Walls on Boundaries
  - There are no walls on boundaries to the rear.
- Clause 55.04-5 – Overshadowing
  - The adjacent residential property is located to the north-west of the subject site. The proposed development will not overshadow the adjacent property beyond existing shadows cast by the boundary fence and therefore the secluded private open space of the adjacent dwelling will receive at least five hours of sunlight between 9am and 3pm.
- Sustainability
  - All habitable rooms have access to external windows (including light courts) allowing for natural light and ventilation to each dwelling.

- The layout of the dwellings facing the north and south has been amended to improve the internal amenity and access to natural light of living areas, secluded private open spaces and habitable room windows.
- Design strengths include stormwater retention within the basement through the use of underground tanks with a total capacity of 15,000 litres.
- Design & Materials
  - The wider neighbourhood, as opposed to the site, is contained within a local heritage precinct (HO172). The design offers a modern and individual response to the neighbourhood without attempting to mimic heritage attributes to the nearby precinct.
  - The design incorporates an appropriate response to the residential interface to the rear through the use of a three-storey scale, building setbacks and varied materials and finishes.
- Building Height
  - The building has a maximum height of 15 metres equating to 4 storeys to Plenty Road and 3 storeys to the rear lane. This is considered appropriate within the neighbourhood context and generally in line with the Tribunal's findings for the previous application where it was considered *"that a building of 3-4 storeys in height with appropriate transition in form toward the residential hinterland, represents an outcome that is supported by the planning scheme's policies as they currently stand."*
  - The position of the development site on the north side of Plenty Road minimises shadow being cast across residential properties and their associated secluded open space.
- Setbacks
  - The design response provides a built façade at ground level which extends across the entire Plenty Road frontage with a zero setback, save for the lobby entrance. Above upper ground level the outer realms of the building façade to Plenty Road have a zero to 3.0 metre setback from the front boundary, with balconies protruding into this setback.
  - From side boundaries, the eastern wall of the proposed development coincides with a single storey wall for the majority length (88%) of the common boundary and to the west, 52% of the common boundary. The rear of the property to the west is a grassed gravel car park for the commercial premises and will not be affected by the length of wall on boundary.
- Dwelling Diversity
  - The development provides a range of 1 and 2 bedroom dwellings, and 1 and 2 bedroom dwellings with studies.
- Car Parking & Vehicle Access
  - The proposed development has vehicle access from the rear lane to the ground level and basement car parks. There is no vehicle access directly to or from Plenty Road.
  - Reduction in requisite parking numbers are referred to under the response to clause 52.06 – car parking. Though the land is not within 400 metres of a train station, it remains within convenient walking distance of, and enjoys excellent access to other forms of public transport including bus and taxi ranks to the front of the site and a tram stop a short distance to the west.

- Street Address
  - The design response provides an active commercial interface with extensive glazing at ground level articulated by a recessed lobby which defines the entrance to the residential element of the development.
  - The lobby entrance is recessed 2.8 metres in from the front setback, substantially more than the maximum recommended 300mm. This is necessary to provide a ramp in response to site topography.
- Amenity Impacts including Overshadowing and Overlooking
  - The design response attempts to address overlooking through the use of screening devices at level 1 and level 2 to filter natural light whilst assisting to obscure the outlook into the secluded open space of 2 Frier Avenue as per clause 55.04-6.
  - The proposed development will not overshadow the adjacent property beyond existing shadows cast by the boundary fence and therefore the secluded private open space of the adjacent dwelling will receive at least five hours of sunlight between 9am and 3pm.
  - Servicing equipment is to be located on the roof of the building and a condition of any approval will require these to be screened.
- On-site Amenity and Facilities including Private Open Space
  - The development is not exposed to unreasonable noise encroachment from external sources and mechanical plant and equipment on the building's roof is positioned away from existing residential properties to the north and visually screened. The screen will need to be designed and demonstrated to manage noise emissions.
  - Each dwelling is provided a balcony of at least 8 m<sup>2</sup> accessed directly from main living areas.
  - The proposed development provides for people with limited mobility through a ramped residential entry to Plenty Road and the provision of a lift.
- Waste Management
  - A waste management plan is required as a condition of any approval issued.
  - Waste disposal and storage is via a waste area assigned in the upper ground car park.
- Equitable Access
  - Unrestricted access will be provided to the commercial tenancies.
- Utility Services
  - Any upgrades to utility services to accommodate the proposed development will be at the cost of the land developer.

#### City of Darebin Retail Activity Centres Strategy 2005

The subject site is identified under 'activity centre' related clauses 21.05-6 and 22.03 as a local convenience centre. There are 55 of these centres in the municipality. Melbourne 2030 does not define or include local convenience centres. They are picked-up under the Darebin *Retail Activity Centres Strategy*. Clause 22.03 outlines that decision making in respect of local convenience centres is through the decision making framework in the Retail Strategy (table 5.4). The Retail Activity Centres Strategy identifies the centres role and function as:



*“Comprising local convenience services including newsagent, etc has wider role in bridal fashion and services, jewellery, flower arranging etc; strong video shop; evidence of some change to office use; potential for residential conversion; hotel at northern end.”*

The Policy recognises the need to encourage development that contributes to the interest, viability and vibrancy of activity centres, improve the amenity of the built environment, and introduce residential land use activities at locations which support the roles and functions of activity centres.

#### Plenty Road Integrated Land Use & Transport Study

These guidelines encourage a high level of activation and surveillance of public spaces, encouraging increased residential densities at locations that are conveniently located to neighbourhood activity centres and public transport stops and where sites enjoy access to rear lanes. Specifically for the Tyler Street precinct which the development site is situated within, there is a clear focus on revitalising the neighbourhood centre. The proposal is consistent with this objective.

#### **Zones**

##### Clause 34.01 – Business 1

The subject land is zoned Business 1 under the Darebin Planning Scheme. The purpose of the B1Z is amongst other matters:

- 1. To encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.*

A planning permit is required to use the land for dwellings and for offices.

The proposal satisfies the decision guidelines for use and development as follows:

##### *The effect that existing uses may have on the proposed use*

The use of the land for residential and office reflects the underlying land use activities in play in the local context.

##### *The drainage of the land*

The development is required to address drainage requirements imposed by Council's Capital Works unit.

##### *The availability of and connection to services*

Reticulated infrastructure will be provided to the subject land.

##### *The effect of traffic to be generated on roads*

The proposed land use will increase traffic on local streets however, it is considered that the traffic load can be easily accommodated within the existing traffic network without causing detriment to surrounding properties.

##### *The interim use of those parts of the land not required for the proposed use*

Not applicable.

##### *The movement of pedestrian and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport*

The building provides adequate accessibility and movement paths for cyclists, pedestrians and waste removal and emergency service vehicles.

##### *The provision of car parking*

Refer to commentary under the response to Clause 52.06.

*The interface with adjoining zones, especially the relationship with residential areas*

The proposed development provides a respectful interface to the residential area to the rear through the use of a three-storey scale, building setbacks and varied materials and finishes.

*The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road*

Refer to commentary under the response to Clause 22.10.

*The storage of rubbish and materials for recycling*

Rubbish receptacles will be stored in a bin enclosure on the upper ground floor.

*Defining the responsibility for the maintenance of buildings, landscaping and paved areas*

Subject to the independent arrangements of the Owner's Corporation.

*The design of buildings to provide for solar access*

The design falls short in providing for natural solar access to the habitable rooms of a number of apartments. A condition of approval will require improved solar access through light courts and internal balconies.

The development fulfils the objectives and decision guidelines of the clause, providing for higher density development supportive of the semi-commercial context in which the site is situated, the frontage to Plenty Road and accessibility to nearby activity centres and the broader metropolitan district via the tram and nearby train network.

Clause 52.06 – Car Parking

The development comprises 30 residential apartments, 3 commercial (office) tenancies and 34 parking spaces provided over two levels.

The table to clause 52.06 applies a standard rate of parking for various land uses, relevant as follows:

Use	Ratio	No. of	Total Required
Dwelling	1 space/ 1 & 2 bedroom dwelling	30	30
Visitors	1 space/ 5 dwellings	30	6
Office (alternative use as Shop)	3.5 spaces / 100m <sup>2</sup> (4 spaces / 100m <sup>2</sup> )	151m <sup>2</sup>	5 (6)
<b>Total</b>			<b>41 (42)</b>

(Note that the dimensions of the proposed 'study' of various apartments are inadequate to be considered a bedroom in their own right.)

The commercial tenancies that form part of the proposed development are intended for use under this application as offices. Under Clause 34.01 a planning permit is not required to use these premises for shops. Therefore in consideration of this the car parking rate for a shop has also been shown and would require the provision of 1 additional space over the entire development.

The maximum shortfall of on-site car parking would be 8 spaces.

In considering reduction in the parking requirements, it must be assessed based upon the provisions applicable under clause 52.06. The proposal satisfies the decision guidelines as follows:

*Any relevant parking precinct plan*

Not applicable.

*The availability of car parking in the locality*

Limited on-street car parking is available in the locality and that which is not in high demand is time restricted parking. The shortfall is not significant and given the times for use by visitors of the dwellings and commercial premises is not likely to conflict, the availability of on-street parking in proximity of the site is considered to be sufficient.

*The availability of public transport in the locality*

The subject site fronts tram route 86 and is within a 1.3 km walk of the train station in Robinson's Road, Preston. Tram route 86 has been identified by the Federal Government in their report '*Communicating the Imperative for Action- A report to the Council of Australian Governments (June 2011)*'. The report identifies Route 86 as a priority of Stage 2 of Victoria's Integrate Transport Corridor Development Program. The program involves intensifying residential development along tram lines. With the project designed at integrating higher density housing with public transport, a variation to car parking ratios is considered feasible. In addition, a bus stop and taxi rank also exist immediately to the Plenty Road frontage of the site.

*Any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces*

Not applicable. There are no common parking areas available for the sharing between retail and residential land uses on-site.

*Any car parking deficiency or surplus associated with the existing use of the land*

The existing land uses comprise a clothing shop and accountant's office. No parking is provided for customers and an unformed area is available for staff of the accountant's office. Existing deficiency / credit is 25 spaces for the shop and 1.5 spaces for the accountant's office.

*Any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement*

Not applicable.

*Local traffic management*

The proposed reduction in car parking ratios will not compromise traffic flow in the precinct.

*Local amenity including pedestrian amenity*

The reduction in parking provision will not increase the risk to pedestrian safety or amenity.

*An empirical assessment of car parking demand*

Based on ABS data it has been found that 1 bedroom dwellings generate a minimum parking demand of 0.7 car spaces per dwelling, with the 12 single bedroom dwellings having an empirical demand of 8 car spaces, and 2 bedroom dwellings generate a

minimum parking demand of 1 car space per dwelling with 18 double bedroom dwellings generating an empirical demand of 18 car spaces for a total empirical demand of dwelling residents of 26 car spaces.

Visitor parking spaces have been previously accepted by VCAT at a rate of .12/dwelling in apartment generating a dwelling visitor demand of 4 car spaces.

The dwellings will have a total empirical demand of 30 car spaces. As visitor parking is typically short-term and will in the most part be outside business hours, adequate on-street parking in Plenty Road exist to meet the demand of 4 spaces. This would allow each dwelling to be allocated a car space which provides better security and will minimise long term parking impacts on street (particularly in Frier Avenue).

Having regard to the size of the offices being between 47 square metres and 54 square metres an empirical demand of 1 staff car space per office is anticipated (this would likely be similar if the use was for a shop).

It is recommended that a minimum 1 car space be allocated per dwelling and that a minimum 1 car space be allocated to each office premises.

#### *Any other relevant consideration*

It is recommended that the applicant contribute to on street bike facilities for each car parking space reduced (see Clause 52.34 below). Based on the above assessment, it is considered reasonable to grant consent to the reduction in the parking requirements of Clause 52.06.

#### Clause 52.07 – Loading and Unloading

No defined loading bay is provided on-site with any permit to issue to include the waiver of loading bay requirements. As with other businesses along Plenty Road, loading and unloading will occur from the main road frontage.

#### Clause 52.34 – Bicycle Facilities

The table to clause 52.34 requires that resident cycle parking be provided as 1 space / 5 dwellings and for visitors, at a rate of 1 space / 10 dwellings.

A total requisite space for the proposed 30 dwellings is 5 for residents and 3 visitor spaces. For residents, parking is provided in a store room on the upper ground floor adjacent to the car park with space for 16 bicycles. Bicycle parking is conveniently accessible for residents via the ROW eliminating conflict with pedestrian traffic into and out of the building.

There is no statutory requirement for cycle parking (staff or clients) for the offices as the net floor area does not exceed 1000 square metres. Having regard to the reduction in office car parking a minimum 1 bicycle space should be provided on street by way of contribution. Also having regard to the reduction in 6 dwelling visitor car spaces 6 visitor bike spaces be provided on street by way of contribution

## **POLICY IMPLICATIONS**

### **Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

### **Social Inclusion and Diversity**

Nil

### **Other**

Nil

## **FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

## **FUTURE ACTIONS**

Nil

## **DISCLOSURE OF INTERESTS**

Section 80C of the Local Government Act 1989 requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

## **RELATED DOCUMENTS**

Darebin Planning Scheme and the Planning and Environment Act (1987) as amended.