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AGENDA

Planning Committee Meeting to be held
at Darebin Civic Centre,
350 High Street Preston
on Monday, 17 December 2018
at 6.00pm.

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Agenda

1. MEMBERSHIP

Cr. Susan Rennie (Mayor) (Chairperson)
Cr. Steph Amir
Cr. Gaetano Greco
Cr. Kim Le Cerf
Cr. Trent McCarthy
Cr. Susanne Newton (Deputy Mayor)
Cr. Julie Williams

2. APOLOGIES

Cr. Tim Laurence is on an approved leave of absence.

Cr. Lina Messina is noted as an apology.

3. DISCLOSURES OF CONFLICTS OF INTEREST

4. CONFIRMATION OF THE MINUTES OF PLANNING COMMITTEE

Recommendation

That the Minutes of the Planning Committee Meeting held on 19 November 2018 be confirmed as a correct record of business transacted.

5. CONSIDERATION OF REPORTS

5.1 APPLICATION FOR PLANNING PERMIT D/1007/2012 6-34 High Street Preston

Author: Principal Planner

Reviewed By: General Manager City Sustainability and Strategy

Applicant	Owner	Consultant
Onoufrios Gorozidis C/- Message Consultants P/L 2/398 Smith Street COLLINGWOOD VIC 3066	St Onoufrios P/L 101 Cheltenham Road DANDENONG VIC 3175	Message Consultants P/L 2/398 Smith Street COLLINGWOOD VIC 3066

SUMMARY

- Council has received an appeal against the non-determination of this planning application. A hearing date of 13 March 2019 has been set aside by the Victorian Civil and Administrative Tribunal to hear the case.
- The proposal is for an 18-storey (plus basement levels) mixed use development, designed by KUD Architects comprising:
 - A maximum height of 56 metres.
 - 157 dwellings (30 x 1-bedroom, 119 x 2-bedroom & 8 x 3-bedroom).
 - Six (6) commercial / retail spaces (897 square metres).
 - 201 car parking spaces (+2 DDA spaces).
 - 13 motor bike parking spaces.
 - 114 bicycle parking spaces.
 - Communal roof terraces at levels 2, 7, 10 and 16 (2,313 square metres).
 - 40 kilo-litre water tank.
- The development is finished in grey concrete panel, black vertical fin/handrail, grey alucobond, black vertical purlin, bronze aluminium composite panel, yellow podium glazing, tinted double glazed windows and painted concrete.
- A pedestrian link is provided between High Street and Plenty Road adjacent to the site's northern boundary. This link will be available for general public access.
- There is no restrictive covenant on the title for the subject land.
- The proposal fails to meet a number of objectives and standards of Clause 22.06, Clause 43.02 and Clause 58 of the Darebin Planning Scheme.
- The planning scheme identifies the subject land as a strategic landmark site which in conjunction with the Urban Design Framework (for St George's Road and Plenty Road Corridors, 2015) requires an exemplary level of design quality.
- It is recommended that the application is refused planning permission at the forthcoming appeal hearing.

CONSULTATION:

- Public notice of the initial proposal designed by Design Consortia Australia (DCA) was given notice via signs posted on site and letters to surrounding owners and occupiers. This proposal received 36 objections in October 2013.
- Notice of the current proposal prepared by KUD Architects is currently being undertaken in accordance with requirements of the Tribunal, including letters to surrounding owners and occupiers and the display of a signs on site.
- This application was referred internally to the Urban Design officer, ESD officer, Capital Works Unit, Transport Management and Planning Unit and the Public Realm Unit.
- This application was not required to be referred to external authorities.
- The initial proposal prepared by DCA was referred to the Office of the Victorian Government Architect (OVGA).
- To inform the requirements for a high standard of architectural and urban design quality, Council also attained independent urban design advice from MGS Architects in relation to the current proposal prepared KUD Architects.
- Council officers wrote to objectors in early November 2018 to update them on the status of the application and provide them with an opportunity to review the latest plans on line.

Recommendation

That Council form a view that Planning Permit Application D/1007/2012 be refused planning permission at the forthcoming Tribunal hearing, on the following grounds:

- (1) The proposal fails to provide a design which accords with the objectives of Clause 22.01 (The Junction Framework Plan) of the Darebin Planning Scheme, particularly in the relation to the design of the street wall, roof form, the southern elevation and the pedestrian link.
- (2) The proposed fails to achieve the design quality expected for a Strategic Landmark Site as described in Clause 43.02 (Design and Development Overlay 3) of the Darebin Planning Scheme and supporting guidelines contained in the Urban Design Framework (2015) St George's Road and Plenty Road Corridors (as amended 4 September 2017).
- (3) The materials, architectural detailing, roof form, residential entrances, design and scale & height of the podium levels are contrary to Clause 22.06 (Multi Residential and Mixed use Development), Clause 43.02 (Design and Development Overlay – 3) of the Darebin Planning Scheme, Objective 5.1.7 of the Urban Design Guidelines of Victoria and the advice of the Office of the Victoria Government Architect (dated 15 October 2014) and MGS Architects (dated October 2018).
- (4) The proposal does not provide sufficient activation of the pedestrian link between High Street and Plenty Road, contrary Clause 22.06 (Multi Residential and Mixed use Development) and Clause 43.02 (Design and Development Overlay – 3) of the Darebin Planning Scheme and the advice of MGS architects (dated October 2018).
- (5) The proposal does not provide a sufficient mix of dwellings types including social and affordable housing, contrary to Clause 16.01-4S (Housing Affordability), Clause 16.01-S (Housing Diversity), 22.06 (Multi Residential and Mixed use Development), Clause 43.02 (Design and Development Overlay – 3) and Standard D3 of Clause 58 of the Darebin Planning Scheme, and the advice of MGS architects (dated October 2018).
- (6) A number of aspects of the proposal, particularly the internal and external design of the proposal and the pedestrian link are contrary to the advice of the OVGA (dated 15 October 2015) and the advice of MGS Architects (dated October 2018).

- (7) The proposal does not satisfactorily comply with the standards and objectives of Clause 58 (Apartment Developments) of the Darebin Planning Scheme, in particular:
- Standard D1: Urban Context
 - Standard D2: Residential Policy
 - Standard D3: Dwelling Diversity
 - Standard D5: Integration with the street
 - Standard D7: Communal Open Space
 - Standard D15: Internal Views
 - Standard D16: Noise Impacts
 - Standard D17: Accessibility
 - Standard D18: Building Entry
 - Standard D19: Private Open Space
 - Standard D23: Waste and Recycling
 - Standard D24: Functional Layout
 - Standard D25: Room depth
 - Standard D26: Windows
 - Standard D27: Natural Ventilation

INTRODUCTION AND BACKGROUND

Council has received an appeal against the non-determination of this planning application. A hearing date of 13 March 2019 has been set aside by the Victorian Civil and Administrative Tribunal to hear the case.

The application as originally submitted was for an 18-storey mixed use development comprising 209 dwellings, commercial uses and a reduction in car parking, designed by Design Consortia Australia.

The initial proposal was advertised and received 36 objections in October 2013.

Council raised a number of issues with this proposal including its design and the internal amenity of the apartments. The application was also referred to the Office of the Victorian Government Architect (OVGA) in 2014. The OVGA raised concerns with the internal amenity and functionality of the proposal and the presentation of the façades, particularly the street wall to High Street and Plenty Road.

In response to the matters raised by Council and the OVGA the applicant lodged a Section 57a Amendment, prepared by KUD Architects who replaced Design Consortia Australia. The applicant has not sought a further review of these plans by the OVGA, despite two written requests from Council to do so. The revised proposal is also for an 18-storey mixed use development but with a substantially revised architectural treatment. This proposal comprises 157 dwellings and commercial uses.

Council has formed the view that the latest plans do not achieve the design expectations for a strategic landmark site, as previously set out in by Council and OVGA. On this basis this report is recommending that Council form a view that opposes the granting of a planning permit.

ISSUES AND DISCUSSION

Subject site and surrounding area

- The land is irregular in shape and provides a 56 metre frontage to Plenty Road and 64 metre frontage to High Street with a site area of 3,047 square metres.
- The site provides a fall of approximately 3 metres east to west.
- A Commercial 1 Zone, Design & Development Overlay (Schedule 3) and Environmental Audit Overlay apply to the site.
- A Category 2 Road Zone designation applies to High Street and Plenty Road.
- The site is located within the triangular 'island' defined by High Street to the west, Plenty Road to the east and Raglan Street to the north. It directly abuts the Junction Hotel which occupies the southern 'apex' of the triangle, north of the intersection with Miller Street and Dundas Street.
- The site is occupied by an industrial building which accommodates the 'Paintmobile' paint shop. The building is effectively double-storey in height and set back from the site boundaries, with the exception of the north-west corner of the site where a single storey element extends out to the north and west boundaries.
- Vehicle access to the site is provided via both the High Street and Plenty Road frontages, close to the southern boundary, to areas of hardstand and parking to the south and west of the building.
- The site is designated as a 'strategic landmark site' within 'The Junction Neighbourhood Centre' along the Plenty Road corridor. This precinct is undergoing significant regeneration, characterised by newer higher built forms and the emergence of multi-storey mixed use and apartment buildings.
- To the north is 33-35 Plenty Road which is currently under development for a 12 storey mixed use building pursuant to Planning Permit D1063/2011.
- A Planning Permit (D465/2015) for a 12 storey apartment building has been granted for the land at 36-46 High Street, to the north and east of this site.
- A Planning Permit (D491/2017) for a 12 storey apartment building has been granted for the land at 70-82 High Street (corner of Raglan Street), to the north and west of the site.
- To the south at 1 Plenty Road is the Junction Hotel, comprising the original two storey 1920's hotel building with a modern single storey addition to the north. An at-grade car park accessed from both the Plenty Road and High Street frontages is located between the hotel building and the site. The Junction Hotel is listed on the Victorian Heritage Register and is affected by a site specific Heritage overlay (HO216).
- To the east of the site is Plenty Road, an important north-south road. It has a width of approximately 20 metres, which accommodates tram route 86.
- On the opposite side of Plenty Road is the Preston South Shopping Centre, including Woolworths Supermarket and other single storey commercial and retail buildings and extensive at grade car parking fronting Plenty Road.
- To the west of the site is High Street, also a major north-south route. On the opposite side of High Street are a range of single and double storey commercial buildings and a 3-6 storey mixed use building at 43-49 High Street.
- The sites location within 'The Junction Neighbourhood Centre' along the High Street and Plenty Road corridor provides excellent access to a range of commercial, retail, community services and facilities, employment opportunities and transport facilities.

The key locational attributes include:

- 700 metres to the north – Preston Central Principal Activity Centre
 - Tram Route 86 along Plenty Road.
 - Bus Routes 552 & 553 on High Street.
 - 180 metres to the south – Bus route 552 (along Dundas Street).
 - 535 metres to south west – Thornbury railway station
 - 550 metres to the north west – Bell railway station
 - 145 metres to the north east – Adams Reserve
 - 320 metres to the south east – Sir Douglas Nicolls Sporting Complex (south east)
 - 480 metres to the south east – Penders Park
 - 430 metres to north west – St John’s College
 - 600 metres south west – Thornbury Primary School
- Clearway restrictions apply along Plenty Road at the following times:
 - Southbound, 7:00-9:00am, Mon-Fri.
 - Northbound, 4:00-6:30pm, Mon-Fri.

Parking on Plenty Road is generally subject to short-term restrictions (1/4P-2P) outside of Clearway periods.

- No standing restrictions apply along High Street south of the site between 7:00-9:00am, Mon-Fri (southbound).

Parking on High Street is generally subject to short-term restrictions (1/4P-2P) outside of no standing periods.

Proposal

- The proposal is for an 18-storey (plus basement levels) mixed use development, designed by KUD Architects comprising amending the previous proposal by Design Consortia Australia:
 - A maximum height of 56 metres (18 storeys).
 - 157 dwellings (30 x 1-bedroom, 119 x 2-bedroom & 8 x 3-bedroom).
 - Six (6) commercial / retail spaces (891 square metres).
 - 201 car parking spaces (+2 disabled spaces).
 - 13 motor bike parking spaces.
 - 114 bicycle parking spaces.
 - Communal roof terraces at levels 2, 7, 10 and 16 (2,313 square metres).
 - 40 Kilolitre water tank.
- The development is finished in grey concrete panel, black vertical fin/handrail, grey alucobond, black vertical purlin, bronze aluminium composite panel, yellow podium glazing, tinted double glazed windows and painted concrete.
- A pedestrian link is provided between High Street and Plenty Road adjacent to the site’s northern boundary. This link will be available for general public access.

PLANNING ASSESSMENT

Clause 22.01 – The Junction Framework Plan

This policy applies to all land located in and around the intersections of High Street, Plenty Road and Bell Street, Preston, generally known as “The Junction”. The Junction – South Preston has been identified as a key area of opportunity for the municipality. It is located at an internodal area in High Street between the core retail functions offered at Preston and Thornbury. The Junction area lies at a transition point part way along one of Melbourne’s longest, traditional retail strip centres.

The area is characterised by a mix of commercial, retail and industrial properties fronting Plenty Road and High Street. Key uses within the area are the Preston South Shopping Centre, Australia Post and The Junction Hotel which is a local landmark on the intersection of High Street and Plenty Road. The preferred future for The Junction envisages a vibrant mix of commercial uses at ground level with residential uses above whilst acknowledging the existing industrial uses. Residential development and commercial uses will be encouraged on Plenty Road and High Street, and will contribute towards the creation of a cohesive sense of place through their built form (especially at ground level) and through increasing the pedestrian connectivity to and from and within the Junction area. This policy is derived from The Junction Framework Plan and implements the recommendations of the Plenty Road Integrated Land Use and Transport Study 2013.

Objectives:

- *To enhance the commercial spine along High Street and Plenty Road by encouraging a mix of uses.*
- *To improve the safety and amenity of High Street and Plenty Road by creating an attractive pedestrian environment*
- *To ensure development along High Street and Plenty Road assists in creating a sense of place through a positive interface with the public realm.*
- *To improve linkages between The Junction and the High Street shops south of Dundas Street and north of Bell Street.*
- *To create east-west pedestrian and bicycle connections through strategic sites between Plenty Road and High Street south of Raglan Street to achieve a fine-grained pedestrian network and increase access to public transport.*
- *To increase the provision of canopy vegetation towards Plenty Road and High Street on development sites.*
- *To promote commercial and residential development that is designed to allow for flexible and adaptable spaces over time that can host a variety of commercial uses and varying sizes of households.*
- *To encourage redevelopment of selected underutilised and redundant industrial sites for commercial, and higher density residential purposes.*
- *To ensure a high standard of amenity for new residential development that incorporates noise attenuation measures to minimise the impacts of existing industrial uses.*
- *To recognise existing residential areas and to consolidate and improve the amenity of these areas and ensure new development does not unreasonably impact upon the amenity of existing residences*
- *To promote environmentally sustainable development through the siting, layout and design of all buildings and better use of existing infrastructure.*

- *To improve safety, amenity and surveillance of the Bell Railway Station and pedestrian linkages to and from the station.*
- *To recognise and protect heritage assets.*
- *To encourage the upper levels of buildings to be separated from other buildings or set back from property boundaries to ensure high level access to daylight is provided at lower levels, especially for south-facing aspects of new developments.*
- *To ensure that new development does not compromise the ability for future adjoining buildings to gain high level access to daylight at the lower levels.*

The development realises many of the broad objectives of this policy. However at a detailed level the proposal fails to capitalise on the strengths of the site including its large area and the wide street frontages. The shortcomings of the proposal include the façades of the street wall elements fronting High Street and Plenty Road. These aspects of the proposal respond poorly to the fine-grain tactile façade treatments sought by Council, the OVGA and MGS Architect. The east – west pedestrian link is also poorly resolved and articulated with the risk that this space does not realise the goal for an attractive well used pedestrian / commercial thoroughfare. The proposal falls short of the mark for a major development on strategic landmark site. Council officers have affirmed this view together with the previous input of the OVGA and the independent urban design advice provided by MGS Architects.

Clause 34.01 - Commercial 1 Zone

The six (6) retail spaces totalling 897 square metres in area are proposed. These spaces provide a mix of sizes and orientations to High Street, Plenty Road and the proposed east – west link. The retail spaces further the purpose of the Commercial 1 Zone by providing retail uses at ground level and higher residential densities above. The retail spaces further the directions of Clause 21.04-3 (Retail and Commercial Activity) of the Darebin Planning Scheme which seeks to strengthen the role of the Junction area as a commercial mixed use precinct.

Clause 22.06 - Multi Residential and Mixed Use Development

This policy applies to the consideration of multi-apartment developments.

Objectives:

- *To facilitate residential and mixed use development which promotes housing choice, displays a high standard of urban design, limits off-site amenity impacts, and provides appropriate on-site amenity for residents.*
- *To facilitate development that demonstrates the application of environmentally sustainable design principles.*
- *To facilitate a high quality street edge that relates to the public realm.*
- *To encourage efficient design outcomes that consider the development potential of adjoining sites.*
- *To encourage the consolidation of lots to facilitate better design and amenity outcomes for higher density development in locations where substantial housing change is directed.*

Element	Comment	Compliance
Sustainability	A Sustainable Management Plan (SMP) has been prepared. The key sustainable design indicatives' are: - Average 6.6 star energy rating.	Complies subject to condition

Element	Comment	Compliance
	<ul style="list-style-type: none"> - Rainwater tank to irrigate the garden on level 16. - High performance glazing and efficient services, appliances and fixtures. <p>Further details of ESD measures are required as a condition of any approval that may issue.</p>	
<p>Design and Materials</p>	<p>Policy sets a mandatory maximum height limit of 18 storeys (56 metres) and a maximum 4-storey street wall height. This site will accommodate the tallest building in the Junction precinct, creating a landmark form that will denote the intersection of High Street and Plenty Road.</p> <p>Higher storeys should be set back from the street wall and either side boundary at an adequate distance to create separation between the lower and upper parts of the building, with this space being useable for secluded private open space.</p> <p>An active frontage should be provided to each street interface. A publicly accessible connection between High Street and Plenty Road is sought along southern site boundary.</p> <p>Objective 5.1.7 of the Urban Design Guidelines for Victoria (UDGV) is to <i>ensure the building facade detail supports the context or preferred future character of the activity centre. A façade composition may use, proportion, contrast, repetition, or alignment of the building elements to create an identity for the building.</i></p> <p>At 18-storeys the proposal complies with the mandatory maximum height limit under DDO3 (18-storeys - 56 metres).</p> <p>The proposal provides a 2 to 3 storey podium to High Street and Plenty Road with 15 to 16 storeys above the podium. The OVGA previously recommended an increased podium height (from 2 storeys) as the difference in scale to the tower form previously presented an uncomfortable juxtaposition. It also recommended approaching the design of the street interfaces as housing blocks rather than a podium model. The podium is currently proposed at 3 storeys on High Street, and 2 storeys on Plenty Road, and should be increased to 4 storeys, at least on High Street. This would provide the scale sought for the street edge, as well as providing a better proportioned relationship to the tower element.</p> <p>At a detailed level the podium comprising silver and clear glazing, with alucobond framing elements lacks the robustness, visual interest and rhythm sought for the street podium. A brickwork podium is preferred to echo the surrounding context and provide ‘tactility’ at street level. Note the OVGA’s advice that shop fronts should take <i>reference from the more historic areas of the street in terms of scale, grain, detail and canopy treatments to develop a coherent and deliberate architectural strategy for the facades. The detailing of the retail facades, in terms of scale and rhythm, articulation and materiality, and ratio of glazing to framing should contribute positively to street quality. A development of this size should embrace its capacity to define a new benchmark</i></p>	<p>Does not comply</p>

Element	Comment	Compliance
	<p><i>(of design and quality). Frontages should also achieve a fine-grain streetscape rhythm.</i></p> <p>The design of the street wall interfaces comprising broad expanses of glazing with very little discernable articulation or rhythm fails to achieve the design outcome sought by the OVGA. This view is echoed by MGS - <i>The applicant has adopted a uniform materiality of tinted curtain wall treatments to this interface above a continuous ground level glazed skin to each main street interface varied only by their differing ground level datum. It is a response that in my view a response that falls well below the placemaking ambition sought for this context and specifically this site. Likewise the uniform approach to the proposed laneway provides little by way of reference to the rich tradition of secondary laneway streetscapes that are so typical in the municipality. The solid and masonry qualities sought for lower floors with lighter upper levels in policy have been subverted by this approach and the juxtaposition with the adjoining historic hotel is both awkward and largely unresolved as a streetscape response.</i> MGS recommends a similar a series of main street and laneway fine grain approaches to podium façade that celebrates the materiality and richness of detailing characteristic of Darebin’s Main Streets.</p> <p>The residential entrances should be suitably visible on High Street and readily distinguishable from the shop frontages, providing a sense of address suited to the quantity of apartments for which they will act as the front doors. The design of the residential entrances fail to achieve this objective and should be further developed. In addition the canopies over the residential entrances appear to be set too high to provide weather protection at street level.</p> <p>The site’s shape and its position in the Junction’s urban structure, and the future 18-storey form’s visibility over the adjacent (undeveloped) 6-storey site to the south requires visual emphasis to the south elevation. Note the OVGA’s advice that the <i>southern edge requires an architectural strategy that is both elegant and carefully articulated</i> as it is likely to be highly exposed for some time – and the difference in future scale to the adjacent site ensures that the majority of the building would remain visible. The positioning of the lower part of the south elevation close to the site boundary has produced a relatively unadorned façade to a scale of 7-storeys. This is considered a practical response to the interface condition, however the facade has the appearance of a largely ‘flank’ elevation finished in grey concrete panel, but is located in a prominent position that invites visual focus. Also note the OVGA’s advice that the site needs to work together with the adjacent car park site to collectively realise the desired landmark quality of the Junction, as well as responding to the heritage building on the corner. The DDO recommends locating the pedestrian link on the southern boundary which would provide scope for more activated façade treatment as previously proposed by DCA. Instead the</p>	

Element	Comment	Compliance
	<p>proposal locates the link adjacent the northern boundary. The expression of the lower part of the southern facade should be further developed with the presumption that it will be visible over the longer term.</p> <p>The roof form should be carefully considered in terms of the contribution to the skyline. The roof form appears truncated and would benefit from further development to create a profile suited to the site's 'landmark' visibility.</p> <p>The materials palette is generally as follows: podium clad in silver and clear glazing, with alucobond framing elements. Lower rise elements clad with concrete panels. Central element predominantly finished with tinted glazing and two shades of bronze coloured aluminium cladding to balcony fronts. The quality and application of the materials palette is not convincing for this landmark site. As discussed above the use of glazing to a large portion of the street wall elements result in an expansive elevation to High Street and Plenty Road where a fine-grain treatment is sought. A re-design of the podium elements is required.</p> <p>The advice provided by MGS architects in response to the plans prepared by KUD echo much of the feedback provided by Council's Urban Design officer and the broader design principles outlined by the OVGA. Notably MGS highlight that <i>the uniform expression and position of the southern elevation significantly compromises the potential of the adjoining site to be developed and enjoy similar northern aspect to that sought in the applicant's proposal. The setbacks of the podium levels are grossly inadequate with the quality of the external southern terrace compromised by overshadowing and likely to be impacted further by an architectural response for levels above that presents as largely solid form and in its configuration is likely to further compromise the amenity of the podium level.</i> MGS recommends increased setbacks from the south boundary together with wholesale changes to architectural expression and materials of the tower elements.</p> <p>MGS is of the view that the site and its attributes warrant the use of <i>campus of forms above the podium rather than a single extruded stepped form which would represent a more convincing response than the current proposal that delivers a problematic response where the sideage response is given secondary consideration and where a design language that celebrates the solidity and mass of upper levels and transparency of lower levels sits at odds with the language and typology sought by policy.</i></p> <p><i>The splayed language of the main street interfaces to the east and west have similarly introduced unfortunate interfaces between projecting balcony forms and indented bedroom areas requiring these highly visible projecting forms to be screened with the screens forming the predominant aspect when seen from the key arrival boulevards north and south. The result is one that amplifies the apparent closure of the tower form from these key strategic view locations when</i></p>	

Element	Comment	Compliance
	<p><i>tactics to reduce mass should have formed a key part of the strategy.</i></p> <p><i>In turn the potential for a high level of amenity for occupants is compromised with bedrooms juxtaposed in the immediate interface with the balcony of adjoining units making noise conflicts almost inevitable.</i></p> <p><i>The design response is an awkward assemblage of podium mid-level concrete and upper level painted concrete and aluminium banding balcony form that is ostensibly sculptural in form and is unconvincing in its realisation as an architectural response to the site.</i></p> <p><i>Presently the footprint of the building is projected to fill the projecting outer triangulated forms at the upper most 14th and 15th levels, amplifying the perceived bulk and form of these levels from street level and the surrounding public realm aspects. Both policy and good urban design practice would typically seek to make upper levels more recessive rather than amplified.</i></p> <p>The proposal provides an abundance of open spaces. According to MGS these spaces lack complimentary internal spaces that enable these spaces to be effectively used and are configured in forms that position them against sheer tower forms likely to result in poor amenity including the effect of wind. MGS is of the view, that the podium element should be radically rethought to include complementary internal social and amenity spaces to ensure these spaces are well used and contribute to liveability and the building of an engaged community within the building. The footprint occupied by dwellings 2.1 to 2.4 provide an opportunity to develop a complimentary set of spaces that enable both inside and outside areas to work in concert. Typically in a development of this scale they might include play areas for children, inside and outside, a kitchenette, sink and toilet areas to compliment external adjoining shaded and weather protected informal meal and social areas and in many instances include bookable dining, meeting spaces, exercise areas, etc. All common area external spaces will need to meet the amenity standard for sitting, not standing or walking, and the applicant should provide a wind report demonstrating the design response achieves this benchmark.</p> <p>The development features internal corridor lengths at podium level of over or near 40 metres in length and constant width and at upper levels in excess of 30 metres in some instances. This approach has been the subject of substantial criticism in earlier VCAT decisions notably the Mentone Bowl decision, which was subsequently supported in a number of further decisions. Typically applicants have been encouraged to reconsider these areas as streets rather than institutional form corridors through measures that have included indentation of entries to dwellings to provide an entry threshold to apartments and their surrounds and through increased daylighting and reconfiguration to reduce lengths of these</p>	

Element	Comment	Compliance
	areas.	
Building Height	At 18-storeys (56 metres), the proposal complies with the mandatory maximum height limit. Elements such as the lift overrun extend beyond the maximum building height which is permitted under the DDO policy.	Complies
Apartment diversity	Developments of ten or more dwellings should provide a range of dwelling sizes and types, including dwellings with a different number of bedrooms. The development provides 157 dwellings (30 x 1-bedroom, 119 x 2-bedroom & 8 x 3-bedroom). Therefore 95% of dwellings are proposed as either 1 or 2 bedrooms. All 3-bedroom dwellings are proposed as penthouses on the 2 highest floor levels. A development of this scale should contribute greater mix of dwellings types including a greater proportion of more affordable 3-bedroom accommodation as sought by the DDO.	Does not comply
Parking and vehicle access	Refer to the Clause 52.06 assessment below.	Complies
Street address	<p>High Street is at a lower level compared to Plenty Road, with the podium element accommodating the difference in level. Three commercial tenancies of differing sizes are proposed along the High Street interface, as ought by DDO3 for Strategic Sites. These commercial tenancies, along with the residential entrances, would provide active frontage to much of this interface.</p> <p>The primary entry to the building and the upper level tower is exclusively configured off the High Street frontage despite the tram network and tram stop being located in Plenty Road. The primary vertical lift core should be accessible from both street frontages.</p> <p>The Plenty Road interface also provides three commercial tenancies of differing sizes. The commercial units have rear access for servicing and avoid using the residential foyers for access. The commercial units should also indicate servicing for employees, such as bathrooms and kitchenettes.</p> <p>Vehicle entrances are suitably located at the southern end of the site, away from the proposed pedestrian/cycle link.</p> <p>Development should provide an <i>attractive, recognisable and accessible pedestrian access point from the street to the residential component of the building</i>. The residential entrances should be suitably visible on High Street and readily distinguishable from the shop frontages, providing a sense of address suited to the quantity of apartments for which they will act as the front doors. The design of the residential entrances fail to achieve this objective and should be further developed. In addition the canopies over the residential entrances appear to be set too high to provide weather protection at street level.</p> <p>A pedestrian link is proposed along the northern boundary of the site, where policy recommends locating the link along the southern boundary. As a guide Clause 22.20 (CBD Lanes) of the City of Melbourne Planning Scheme identifies four core</p>	Does not complete

Element	Comment	Compliance
	<p>value characteristics that contribute to the success of laneways as pedestrian environments: <i>Connectivity – The provision of a physical connection through a city block; Active frontages – Building frontages that provide for visual and physical interaction between the public space of the lane and the ground floors of the buildings; Elevation articulation – the architectural character of the buildings adjoining the lane and the degree to which this provides aesthetic and spatial interest to the public realm and; Views – views from the lane’s public realm towards a connecting lane, street or landmark.</i></p> <p>The proposal provides two commercial tenancies with frontage to the link. These commercial spaces narrow to 3 metres adjacent a high proportion of the link with the central portion flanked by a blank wall. A blank wall fronts the link at first floor level with balconies setback and located above providing no direct relationship with the space. A framed arbour structure is proposed above. At ground level the north elevation adopts the same rudimentary façade detailing provided to High Street and Plenty Road and provides no openings to promote interaction between the link and the adjacent commercial uses. The difference in levels between the retail space fronting Plenty Road and the link also poses a challenge in achieving interaction which the proposal fails to resolve. The end users of the commercial spaces are unknown at this stage and details of the internal layouts including seating, bathroom facilities, kitchens and the like are not provided. There is concern that these narrow spaces will be utilised for servicing and ad-hoc activities rather than functioning as activated floor space. The success of the link is dependent upon the design, layout and relationship of the adjacent commercial spaces which have the potential to affect the functionality with respect to servicing and access and its desirability as a pedestrian thoroughfare. The proposal provides insufficient information and fails to articulate how the spaces and architectural detailing encourage a dynamic and seamless interaction between the private and ‘public’ realm.</p> <p>MGS recommends reducing the car parking footprint at lower ground and at ground level to enable a 9 metre wide zone for landscaping including a 6 metre wide shared pedestrian and cycle path with continuous retail activation at ground level. In addition residential units located above ground level should provide activation to the walk way below.</p>	
<p>Amenity Impacts Including Overshadowing and Overlooking</p>	<p>The site is relatively isolated from adjacent sensitive interfaces. Matters of overlooking and overshadowing are not an issue.</p> <p>The northern interface provides setbacks of around 12 metres to the adjacent mixed use apartment development. This is deemed to be an adequate level of separation, avoids the need for screening and allows a satisfactory level of outlook and access to daylight between the two buildings.</p>	<p>Complies</p>
<p>On-Site Amenity and</p>	<p>On site amenity is reasonable but does not achieve complete compliance with Clause 58 which is discussed in detail below.</p>	<p>Does not comply</p>

Element	Comment	Compliance
Facilities, including Private Open Space	The positive aspect of the proposal are the provision of floor to ceiling heights of 2.7 metres and large rooftop garden areas. The Clause 58 assessment highlights some shortfalls with respect to functional layouts, ventilation and accessibility. Refer to the Clause 58 assessment below for further details.	
Waste Management	The application is accompanied by a waste management plan detailing the number and size of bins required to service the development and the times, frequency and means of waste collection.	Complies subject to condition
Equitable Access	All levels are provided with lift access. Three (3) lifts are provided.	Complies

Clause 43.02: Design and Development Overlay (Schedule 3):

This policy applies to the consideration of multi-apartment apartment developments.

Element	Comment	Compliance
Street frontage	<p>High Street is at a lower level compared to Plenty Road, with the podium element accommodating the difference in level. Three commercial tenancies are proposed along the High Street interface, their sizes differ, as sought by DDO3 for Strategic Sites. These commercial tenancies, along with the residential entrances, would provide active frontage to much of this interface.</p> <p>The primary entry to the building and the upper level tower is exclusively configured off the High Street frontage despite the tram network and tram stop being located in Plenty Road. The primary vertical lift core should be accessible from both street frontages.</p> <p>The Plenty Road interface also provides three commercial tenancies of differing sizes. The commercial units have rear access for servicing and avoid using the residential foyers for access. The commercial units should also indicate servicing for employees, such as bathrooms and kitchenettes.</p> <p>Vehicle entrances are suitably located at the southern end of the site, away from the proposed mid-block pedestrian/cycle link.</p> <p>Development should provide an <i>attractive, recognisable and accessible pedestrian access point from the street to the residential component of the building</i>. The residential entrances should be suitably visible on High Street and readily distinguishable from the shop frontages, providing a sense of address suited to the quantity of apartments for which they will act as the front doors. The design of the residential entrances fail to achieve this objective and should be further developed. In addition the canopies over the residential entrances appear to be set too high to provide weather protection at street level.</p> <p>A pedestrian link is proposed along the northern boundary of the site. The link is flanked by the sides of two commercial tenancies, however the commercial spaces narrow to 3 metres</p>	Complies

Element	Comment	Compliance
	<p>adjacent a high proportion of the link and the central portion is flanked by a blank wall, together with a northern flank wall associated with the adjacent apartment development. The north elevation of the proposal adopts the same rudimentary façade detailing provided to High Street and Plenty Road and provides no openings to promote interaction between the link and the adjacent commercial uses. The difference in levels between the retail space fronting Plenty Road and the link also poses a challenge in achieving interaction which the proposal fails to resolve. The end users of the commercial spaces are unknown at this stage and details of the internal layouts including seating, bathroom facilities, kitchens and the like are not provided. There is concern that these narrow spaces will be utilised for servicing and ad-hoc activities rather than functioning as activated floor space. The success of the link is dependent upon the design, layout and relationship of the adjacent commercial spaces which have the potential to affect the functionality with respect to servicing and access and its desirability as a pedestrian thoroughfare. The proposal provides insufficient information and fails to articulate how the spaces and architectural detailing encourage a dynamic and seamless interaction between the private and 'public' realm.</p> <p>MGS recommends reducing the car parking footprint at lower ground and at ground level to enable a 9 metre wide zone for landscaping including a 6 metre wide shared pedestrian and cycle path with continuous retail activation at ground level. In addition residential units located above ground level should provide activation to the walk way below.</p>	
Building Height and setback	<p>At 18-storeys (56 metres), the proposal complies with the mandatory maximum height limit. Elements such as the lift overrun extend beyond the maximum building height which is permitted under this policy.</p> <p>The site is relatively isolated from adjacent sensitive interfaces. Matters of overlooking and overshadowing are not an issue.</p> <p>The setback between the tower and podium provides a clear visual distinction and is supported.</p> <p>The northern interface provides setbacks of around 12 metres to the adjacent mixed use apartment development. This is deemed to be an adequate level of separation, avoids the need for screening and allows a satisfactory level of outlook and access to daylight between the two buildings.</p>	Complies
Access and parking	<p>The site provides vehicle access to High Street and Plenty Road. Access and parking considerations are assessed in more detail under Clause 52.06.</p>	Complies

Clause 58 Apartment Developments

Std	Comment	Compliance	
		Std	Obj
D1	Urban Context		
	<p><i>The design response must be appropriate to the urban context and the site. The proposed design must respect the existing or preferred urban context and respond to the features of the site</i></p> <p>The site’s size and shape and its position in the Junction’s urban structure, adjacent two arterial roads provides a unique opportunity for a building of scale and quality. Such a response is encouraged by the by the OVGA who noted that <i>the site presents significant challenges as well as opportunities. The site is unusual in Melbourne due to its triangular junction nature and we recommend the project team would benefit from further research to identify fine examples of how such sites have been developed successfully to inform their approach to site.</i></p> <p>Notably the OVGA advised that <i>the concession for achieving an increase in height and quantum of development should be captured through design contribution to the public realm. We suggest that the development should more effectively contribute to the delivery of a significantly improved public realm. We recommend more rigorous consideration of the broader public realm strategy for the project and the junction. What is the nature of the footpaths, lanes, and public spaces in line with the changing nature of the area from industrial use to a highly populated mixed use area? The quality of the landscape (both hard and soft) should reflect this change, with significant greening and generosity in the pedestrian areas.</i></p> <p>The OVGA advised that the southern edge requires an architectural strategy that is both elegant and carefully articulated as it is likely to be highly exposed for some time – and the difference in future scale to the adjacent site ensures that the majority of the building would remain visible.</p> <p>MGS highlights that developments of this scale supported in suburban areas have typically been accompanied by urban interventions that complete the streetscape with public realm and landscape improvements out to the kerb line. The proposal as a landmark should consider the locations for integrated art in the response through the development of an integrated art plan. The development does not include any public realm improvements or public art.</p> <p>Overall the proposal represents a poor response to the advice of Council, the OVGA and MGS. The large expanses of glazing to High Street and Plenty Road are contrary to the clear design advice provide by Council and OVGA. The proposal does not offer any changes to the public realm and the design of the façades to High Street and Plenty Road relate poorly to the fine-grain forms located to the south and elsewhere, as sought by the OVGA. The pedestrian link requires further resolution and clarity on its function and relationship to the internal spaces located within the development. Further changes are required to the residential entrances and roof form as discussed above. The issues and changes sought to the plans are not insubstantial and would not be possible to resolve via planning permit conditions.</p>	N	N
D2	Residential policy		
	<p>The proposal furthers the objectives of relevant State and Local planning policy outlined in the Darebin Planning Scheme, by providing a mixed use development in an existing commercial area with excellent access to public transport, retail shopping, services and employment opportunities. However at</p>	N	N

Std	Comment	Compliance	
	detailed level the proposal fails to achieve a satisfactory design response or provide a suitable mix of dwellings types.		
D3	Dwelling diversity		
	<p>Developments of ten or more dwellings should provide a range of dwelling sizes and types, including dwellings with a different number of bedrooms. The development provides 157 dwellings (30 x 1-bedroom, 119 x 2-bedroom & 8 x 3-bedroom). Therefore 95% of dwellings are proposed as either 1 or 2 bedrooms. All 3-bedroom dwellings are proposed as penthouses on the 2 highest floor levels. A development of this scale should contribute greater mix of dwellings types including a greater proportion of more affordable 3-bedroom accommodation.</p> <p>The Planning Scheme was amended recently to include as a purpose the inclusion of affordable housing. The podium levels in particular would provide an ideal opportunity for the inclusion of housing for very low, low and moderate income households with funding support opportunities currently being offered by the State Government for worthy projects. The proximity of the proposal to public transport and services positions the site well as a candidate subject to getting the design response resolved whilst the reduced parking demand arising from the inclusion of this demographic group would aid responses to the recommendations above</p>	N	N
D4	Infrastructure		
	Adequate infrastructure exists to support new development.	Y	Y
D5	Integration with the street		
	<p>High Street is at a lower level compared to Plenty Road, with the podium element accommodating the difference in level. Three commercial tenancies are proposed along the High Street interface, their sizes differ, as ought by DDO3 for Strategic Sites. These commercial tenancies, along with the residential entrances, would provide active frontage to much of this interface.</p> <p>The Plenty Road interface also provides three commercial tenancies of differing sizes. The commercial units have rear access for servicing and avoid using the residential foyers for access. The commercial units should also indicate servicing for employees, such as bathrooms and kitchenettes.</p> <p>The primary entry to the building and the upper level tower is exclusively configured off the High Street frontage despite the tram network and tram stop being located in Plenty Road. The primary vertical lift core should be accessible from both street frontages.</p> <p>MGS recommends the incorporation of a generous facility to <i>accommodate the emergence of substantial parcel deliveries and be configured with a generous entry zone level to acknowledge the increased use of delivery services and their aligned need to park short-term scooters and bicycles and the like. Logically this will need a major rethink of the arrival experience, expansion of the public realm at the key entry nodes to both street frontages and a larger ground and lower ground footprint for these essential elements of a building of this scale if it is to be resilient and fit for purpose in the long term.</i></p> <p>Vehicle entrances are suitably located at the southern end of the site, away from the proposed mid-block pedestrian/cycle link.</p> <p>MGS highlights that developments of this scale supported in suburban areas have typically been accompanied by urban interventions that complete the streetscape with public realm and landscape improvements out to the kerb line.</p>	N	N

Std	Comment	Compliance	
	<p>The proposal as a landmark should consider the locations for integrated art in the response through the development of an integrated art plan. The development does not include any public realm improvements or public art.</p> <p>Early comments in relation to the pedestrian link apply.</p> <p>The proposal provides insufficient information and fails to articulate how the spaces and architectural detailing encourage a dynamic and seamless interaction between the private and 'public' realm. MGS recommends substantial modifications to the design and size and relationship with this space. This is discussed in greater detail under the Clause 22.06 assessment above</p>		
D6	Energy Efficiency		
	<p>A Sustainable Management Plan (SMP) has been prepared. The key sustainable design indicatives' are:</p> <ul style="list-style-type: none"> - Average 6.6 star energy rating. - A rainwater tank to irrigate the garden on level 16. - High performance glazing and efficient services, appliances and fixtures. <p>Further details of various ESD measures are required as a condition of any approval that may issue.</p>	Y	Y
D7	Communal open space		
	<p>The proposal provides 157 dwellings equating to a recommended area of 250 square metres of communal open space.</p> <p>The proposal provides communal roof terraces at levels 2, 7, 10 and 1, totally 2,313 square metres.</p> <p>MGS are of view that the external spaces lack complimentary internal spaces that enable these spaces to be effectively used. The external spaces are configured in forms that position them against sheer tower forms likely to result in poor amenity including the effects of wind. MGS is of the view that the podium element should radically rethought to include complementary internal social and amenity spaces to contribute to liveability and the building of an engaged community. The footprint occupied by apartments 2.1 to 2.4 should be seen as the opportunity to develop a complimentary set of spaces that enable both inside and outside areas to work in concert. Typically in a development of this scale they might include play areas for children, inside and outside, a kitchenette, sink and toilet areas to compliment external adjoining shaded and weather protected informal meal and social areas and in many instances include bookable dining, meeting spaces, exercise areas, etc. All common area external spaces will need to meet the amenity standard for sitting, not standing or walking. The applicant should provide a wind report demonstrating the design response achieves this benchmark.</p>	Y	N
D8	Solar access to communal outdoor open space		
	<p>Being at rooftop level the communal open spaces will receive excellent solar access.</p>	Y	Y
D9	Safety		
	<p>The development is secure and the creation of unsafe spaces has been avoided. The dwelling entries are adequately located and visible.</p>	Y	Y

Std	Comment	Compliance	
D10	Landscaping		
	<p>The site has an overall area of 3,047 square metres, where the Standard sets down a preference for 15% of site area to be deep soiled and 1 large tree per 90 square metres of deep soil or 2 medium trees per 90 square metres of deep soil.</p> <p>The proposal does not meet the Standard. This is considered acceptable in the context of the site, as a high site coverage is anticipated and expected along this corridor and in this specific location. Additionally, the proposal provides extensive communal outdoor landscaped areas including a rooftop terrace at Level 16.</p>	N	Y
D11	Access		
	Vehicle access is provided to both High Street and Plenty Road. Each access accounts for less than 33% of the street frontages in accordance with this standard.	Y	Y
D12	Parking location		
	Parking facilities are proximate to the dwellings they serve. The basement and podium level car park is adequately secure.	Y	Y
D13	Integrated water and stormwater management		
	A rain water tank is provided for irrigation.	Y	Y
D14	Building setback		
	<p>The proposal has been well considered in regard to setbacks.</p> <p>The development will be built to High Street and Plenty Road with active retail frontages and residential entrances. The upper levels provide a consolidate setback to avoid a tiered form. This response is in keeping with the emerging character of High Street and Plenty Road.</p> <p>The northern interface provides setbacks of around 12 metres to the adjacent mixed use apartment development. This is deemed to be an adequate level of separation which avoids the needs for screening and allows a reasonable level of outlook and access to daylight between the two buildings.</p>	Y	Y
D15	Internal views		
	The proposal provides a unique layout comprising interfacing balconies (for example dwellings 2.13 – 2.14). This arrangement is repeated throughout the development and affects a high proportion of the dwellings. This layout raises issues of noise and privacy between a high proportions of the dwellings. Further detail is required regarding the side walls / screening measures of the balconies. The plans seem to indicate vertical timber slats to screen the side of the balconies from the windows and frontages of the balconies to adjacent dwellings. It is considered that timber slats would be insufficient to restrict noise between adjacent balconies in such close proximity.	N	N
D16	Noise impacts		
	<p>All plant and equipment is appropriately located within the basement or rooftop area to avoid any unreasonable loss of amenity to occupiers. Services fronting High Street and Plenty Road are integrated into the facades to reduce their visibility.</p> <p>A high proportion of bedrooms are located directly adjacent the lift well (3-lifts) creating a potential noise disturbance.</p>	N	N

Std	Comment	Compliance	
	A high proportion of the dwellings position bedrooms next to neighbouring living spaces and balconies. A mirrored layout that locates adjacent like-with-like uses is preferred as it reduces noise disturbance between adjacent dwellings.		
D17	Accessibility		
	Insufficient information is provided to demonstrate compliance with this standard.	N	N
D18	Building entry		
	<p>Residential entrances are proposed from High Street at level LG. The smaller foyer provides a single lift that services dwellings within the podium. This foyer is proposed at 2 metres in width, which is adequate for functionality. The larger foyer to High Street is proposed at 3 metres in width, which would be adequate for the amount of dwellings served. However, a widened 'arrival space' within the linear movement corridor of the primary entrance would provide a more generous gesture for a building of this scale.</p> <p>The foyer width decreases to only 2 metres in front of the lifts, where a 90 degree turn is required. The functionality of this arrangement considering that bikes will need to use the lifts to access basement parking areas is compromised.</p> <p>A further residential entrance is proposed from Plenty Road. At 2 metres in width, this is a small entrance though it would only serve one level of dwellings.</p> <p>The primary entry to the building and the upper level tower is exclusively configured off the High Street frontage despite the tram network and tram stop being located in Plenty Road. The primary vertical lift core should be accessible from both street frontages.</p> <p>Common circulation areas at the upper levels have some access to natural daylight and ventilation. The length of the corridors is also an improvement of the previous design.</p>	N	N
D19	Private open space		
	<p>The majority of the balconies exceed the area and dimension requirements.</p> <p>Notably the balconies serving the 3-bedroom dwellings provide an area of 14 square metres with a minimum dimension of less than a metre and a maximum dimension of 2.5 metres. On balance the size and usability of these balconies is deemed satisfactory.</p> <p>The proposal provides a unique layout comprising interfacing balconies (for example dwellings 2.13 – 2.14). The arrangement is repeated throughout the development and affects a high proportion of the dwellings. This layout raises issues of noise and privacy between a high proportions of the dwellings. Further detail is required regarding the side walls of balconies. The plans seem to indicate vertical timber slats to screen the side of the balconies from the windows and frontages of the balconies to adjacent dwellings. It is considered that timber slats would be insufficient to restrict noise between adjacent balconies, located at such proximity.</p>	N	N
D20	Storage		
	Each dwelling should have convenient access to a total of 10, 14 and 18 cubic metres of storage space (inclusive of 6, 9 and 12 cubic metres of internal storage) for 1, 2 and 3 bedroom accommodation respectively.	Y	Y

Std	Comment	Compliance	
	The proposal generally exceeds the requirement for internal storage. The external storage spaces are located within the car park either within a consolidated storage area or at the end of a car parking space. These spaces range from 4 to 12 cubic metres in volume. The overall provision of storage internal and external is satisfactory.		
D21	Common property		
	Common property areas are appropriately designed and delineated.	Y	Y
D22	Site services		
	Sufficient areas for site services are provided. Site services are appropriately designed and integrated into the development.	Y	Y
D23	Waste and Recycling		
	Residential and commercial waste is to be collected via a private waste services provider. The waste storage spaces are centrally located within the building and away from the street frontages. Waste is to be collected three times a week per waste stream equating to 12 collections per week. This equates to a high number of trips to the site for waste collection. It is recommended that the waste storage area provided increased capacity to reduce the number of waste collections each week.	N	N
D24	Functional layout		
	<p>The dimensions of all bedrooms achieve or exceed the requirements of this standard.</p> <p>The area and dimensions of all living rooms largely achieve or exceed the requirements of this standard. Notably the living rooms serving dwellings 3.1 and 3.4 are only 3.0 metres wide at the opening to the balcony and widen to 4.3 metres at the rear of the living room. This layout is repeated for successive dwellings located on levels 4, 5, 6, 7, 8 and 9 and affects a total of 14 dwellings. This layout is deemed satisfactory given the larger part of these living rooms are wider than the recommended width of 3.6 metres.</p> <p>A high proportion of the dwellings position bedrooms next to neighbouring living spaces and balconies. A mirrored layout that locates adjacent like-with-like uses is preferred as it reduces noise disturbance between adjacent dwellings.</p> <p>Privacy and amenity are compromised through the configuration of dwellings along the east and west elevations of levels 3 to 13. For example the projecting balcony forms of 11.3, 11.4, 11.7, 11.8 and related dwellings at levels 12 and 13 have direct abutments of bedrooms and balconies of adjacent dwellings. Dwellings 10.1 and 10.2 having direct interfaces of balconies and living areas with adjoining common area open space.</p> <p>At levels 8 and 9 there are similar conflicts between projecting balconies and adjoining indented balconies to dwellings 8.6 and 8.11 with 8.7 and 8.10 with the same conflicts repeated on the levels above.</p> <p>At level 7 these characteristics are repeated with further compromise to amenity arising from the lack of resolution of the separation of the primary living areas and balconies of dwellings 7.8 and 7.9 from the adjoining common external area terrace.</p> <p>The inter-dwelling conflicts are repeated at levels 3 to 6 inclusive.</p> <p>The adequacy of daylighting to a number of dwellings is also questioned,</p>	N	N

Std	Comment	Compliance	
	arising from the flanking projecting walls and built forms to the north and south of indented habitable rooms and the layout of dwellings and proposed cantilevering balcony spandrels that further overlap these aspects. Areas of concern include the indented bedrooms of dwellings 3.5, 3.14, 7.5, 7.12 and commensurate dwellings at upper levels with the same characteristics.		
D25	Room depth		
	All levels of the building provide a floor to ceiling height of 2.7 metres in compliance with the standard. Factoring the overhanging balconies a high proportion of the dwellings provide a depth of greater than 9 metres to a living room. These depths together with the projecting walls and built forms to the north and south and cantilevering balcony spandrels that further overlap these aspects, will result in a reduced the level of daylight into a high proportion of living rooms. Areas of concern include the combination of indented balcony forms and deep living rooms to dwellings such as 2.5, 3.14, 8.5 and 8.12 and repeated on all commensurate dwellings.	N	N
D26	Windows		
	All living rooms and bedrooms have direct access to daylight. Ninety battle-axe bedrooms are proposed. Areas of concern include the indented bedrooms of Dwellings 3.5, 3.14, 7.5, 7.12 and commensurate dwellings at upper levels with the same characteristics. The adequacy of daylight to these bedrooms is questioned arising from the projecting walls and built forms to the north and south of these indented bedrooms and proposed cantilevering balcony spandrels that further overlap these aspects.	N	N
D27	Natural ventilation		
	Fifty six of the 157 dwellings achieve natural ventilation. This equates to 35% of the dwellings where the standard recommends 40% of new dwellings provide opportunities for cross flow ventilation. This could be addressed via a permit condition requesting details of window openings which would increase the number of dwellings which achieve this standard to above 40%.	Complies subject to condition	Y

Clause 52.06 Car Parking

(1) Number of Parking Spaces Required

The proposal is for 157 dwellings comprising:

- 30 x 1- bedroom.
- 119 x 2-bedroom.
- 8 x 3-bedroom.
- Retail / food and drink with a floor area of 897 square metres.

The recommended provision of car parking is set out at Clause 52.06-5 of the Planning Scheme.

Use	Rate	Provision	Requirement
Dwelling	1 space to each 1 & 2 bedroom dwelling 2 spaces to each 3+ bedroom dwelling	173	165
Retail / food &	3.5 spaces to each 100m ² net floor area	14	31

drink			
Visitors	Zero for sites within the PPTNA	14	0
Total		201	196

Since the amended application was lodged the recommended car parking rates under Clause 52.06 has been reduced via amendment VC148 (31/07/2018). Relevantly in this case the provision of visitor car parking is no longer a requirement of the Planning Scheme for this site. In addition the car parking rate for retail and food and drink premises has been reduced from 4 spaces to 3.5 space to each 100 square metres of floor area. These new requirements apply to all sites located within 400 metres of the Principal Public Transport Network Area (PPTNA). As the site is located on Tram route 86 it qualifies for these lower car parking rates.

The amendment to Clause 52.06 alters the scope of the application from one which required a car parking reduction to a car parking surplus. This provides scope to alter the distribution of car parking spaces or reduce the number of car parking space to accommodate other features such as additional storage or a larger and improved commercial interface with the pedestrian link.

Clause 52.06 recommends the provision of 196 car parking spaces. The development proposes a total of 201 spaces with the following distribution:

21 spaces for the 1-bedroom dwellings - shortfall of 9 spaces.

136 spaces for the 2-bedroom dwellings - surplus of 17 spaces.

16 spaces for the three bedroom dwellings – provision met.

14 visitor parking spaces – surplus of 14 spaces.

Retail / food & drink - 14 spaces (6 tandem spaces and 2 DDA spaces) - shortfall of 17 spaces.

In addition to the car parking spaces 13 motorcycle spaces are provided within the various car parking levels. These spaces are available to individual dwellings on a demand basis.

Based on the applicant’s Car parking Demand Assessment Council is satisfied with the level of car parking provision (this was on the basis of the higher car parking rates prior to VC148).

Notably, the development provides 17 additional car parking spaces for the 2-bedroom dwellings. These spaces cannot be re-allocated to the 1-bedroom dwellings as the surplus includes spaces are small ‘bonus’ car parking spaces and tandem spaces which cannot be used by 1-bedroom dwellings. Nevertheless, Council is generally satisfied with a parking rate of 0.7 spaces for 1-bedroom dwellings in an Activity Centre.

Council is satisfied with the parking provision and requests that the applicant provide a Car Park Management Plan to identify the car parking spaces for 1-bedroom dwellings (standard car parking spaces), 2-bedroom dwellings (mixture of standard car parking spaces, tandem spaces and bonus small car parking spaces), 3-bedroom dwellings (all tandem spaces) and car parking associated with resident visitor parking and the retail use (2 accessible spaces and tandem spaces). The car parking plan does not have to allocate car parking spaces to individual dwellings.

The Car Park Management Plan will be assessed in detail for the following:

- Each 1-bedroom dwelling shall have access to a standard car parking space.

- Each space allocated for resident visitor use shall be a standard car parking space.
- The retail component of the site is permitted to use tandem parking. The tandem parking shall accord with the requirement of the Planning Scheme
- The 3-bedroom dwellings are permitted to have tandem car parking. The tandem car parking shall accord with the Planning Scheme.
- The 2-bedroom dwellings shall have access to at least one space that accords with the requirements of the Planning Scheme.
- Two bedroom dwelling shall not share a tandem space. Furthermore, a 2-bedroom dwelling shall not be allocated a 'small car space' only.

Design Standards for Car parking

The development provides small car parking spaces as bonus spaces (for the 2-bedroom dwellings) only that smaller in dimension that required under the Planning Scheme. Council is satisfied with these spaces given they are in addition to the requirements of the Planning Scheme.

A section diagram of each ramp showing headroom clearances is required. Notably, the ramp at the bottom of Basement Level 2 on shows a headroom clearance of 2.1 meters at the ramp transition.

The overall layout of the car parking spaces and access ways are satisfactory.

Additional Design Requirements

One metre blind aisles have not been provided however all end of aisle car parking spaces may be accessed in a satisfactory manner.

Access to parking bays located next to walls is satisfactory.

The applicant has confirmed that the location of columns cannot meet the requirements of Clause 52.06 for structural reasons. The encroachment of the columns is minor and users will still be able to access their vehicles in a satisfactory manner.

Traffic Impact

The level of additional traffic will not have a detrimental impact on High Street, Plenty Road or the surrounding road network. The surrounding network has sufficient capacity to accommodate additional vehicle movements.

Clause 52.54 Bicycle Parking

The recommended provision of bicycle parking is set out under Clause 52.34-3.

Use	Rate		Employee / Resident Requirement	Visitor / Shopper Requirement
	Employee / Resident	Visitor / Shopper		
Dwelling (four or more storeys)	1 resident space to each 5 dwellings	1 visitor space to each 10 dwellings	31 resident	16 visitor
Retail	1 to each 300m ²	1 to each 500m ²	3 staff	2 customer
Total Requirement			34	18

The development provides 114 spaces in total. Considering the location of the site near bicycle routes such as St Georges Road and the high bicycle ownership rates within Darebin it is recommends that 1 bicycle parking space is provided to each dwelling. A revised plan showing 157 resident bicycle parking spaces and 21 spaces for visitors and the retail use is required.

It is noted that 20% of the bicycle parking is horizontal according with Australian Standard 2890.3:2015. The horizontal bicycle parking is provided at ground floor level to accommodate customers and residential visitors.

A high proportion of the bicycle parking is poorly located. Bicycle parking spaces should be located adjacent or in proximity to the lift core to improve access and usability for residents.

It is recommended the applicant rationalise how customers and resident visitor’s access bicycle parking located on the Ground Floor accessed from Plenty Road.

REFERRAL SUMMARY

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection, subject to conditions.
Urban Design officer	Objection based on the design of the proposal.
ESD Officer	No objection, subject to conditions.
Public Realm Unit	No objection, subject to conditions.
MGS Architects	Objection based on the external and internal design of the proposal.
OVGA	Objection based on the design of initial proposal prepared Design Consortia Australia.

PLANNING SCHEME SUMMARY

Darebin Planning Scheme clauses under which a permit is required

- Clause 32.01-4 (Commercial 1 Zone) – construct a building and to carry out works.
- Clause 43.02 (Design and Development Overlay) – buildings and works.

Applicable provisions of the Darebin Planning Scheme

Section of Scheme	Relevant Clauses
SPPF	11.01-1R, 11.02, 11.03R, 11.032S, 11.03, 15, 15.01-2S, 15.01, 15.01-4R, 15.01-1R, 15.02, 16, 16.01-4S, 16.01-3S, 16.01-3R, 16.01-2R, 16.01-1R, 16.01-2S, 16.01, 17.02, 18.02-2R, 18.02-2S
LPPF	21, 21.03, 21.05, 22.01, 22.06, 22.12
Zone	32.01
Overlay	43.02, 45.06
Particular provisions	52.06, 58, 52.27

Section of Scheme	Relevant Clauses
General provisions	65.01
Other State Policy	Plan Melbourne Urban Design Guidelines for Victoria (2017)

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

RELATED DOCUMENTS

- Darebin Planning Scheme

Attachments

- Aerial Photo (**Appendix A**)
- Plans (**Appendix B**)

DISCLOSURE OF INTEREST

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

**5.2 APPLICATION FOR PLANNING PERMIT D/845/2017
69 - 71 High Street, Northcote**

Author: Principal Planner

Reviewed By: General Manager City Sustainability and Strategy

Applicant	Owner	Consultant
ITS Design Pty Ltd (Vic)	Amamoor Pty Ltd	Site Matters Town Planning and Site Analysis Consultants

SUMMARY

- It is proposed to partially demolish the rear of the existing two (2) storey building and construct a mixed use development consisting of a food and drink premises (restaurant) and office (both existing) and three (3) apartments (two (2) one bedroom and one (1) two (2) bedroom). Each apartment has been provided with secluded private open space ranging from 12 square metres to 18 square metres.
- The proposal seeks a reduction of six (6) car spaces for apartment 1, the office and food and drink premises (restaurant). The food and drink premises (restaurant) will have 36 seats.
- The land is zoned Commercial.
- There is no restrictive covenant on the Title for the subject land.
- 30 objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 58 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

CONSULTATION:

- Public notice was given via one (1) sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Infrastructure and Capital Delivery, Environmental Operations, Transport Engineering and Strategy, Environmental Sustainability Officer and Heritage Advisor.
- This application was not required to be referred to external authorities.

Recommendation

That Planning Permit Application on D/845/2017 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

- (1) Before the development and use 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 and dimensions and must be generally in accordance with the plans submitted with the application (identified as Sheet TP06, TP07, TP08, TP09, TP10, TP11, TP13, dated June 2016, drawn by ITS Design and shown with Council's advertised date stamp) but modified to show:
 - a) A swept path assessment demonstrating that B85th percentile vehicles can enter and exit the car stackers in accordance with the requirements of AS2890.1:2004 to the satisfaction of the Responsible Authority. Swept paths are to show wheel path, vehicle overhang and vehicle overhang plus 300mm clearance lines. This must be achieved by reducing the ground floor building footprint without decreasing the setbacks of the ground floor from any property boundary.
 - b) The applicant must confirm the car stacker model and provide the technical data sheets separately. The proposed car stacker system must allow for a minimum internal car platform width of 2.4 metres, a minimum height clearance of 3.25 metres and a minimum pit depth of 2 metres.
 - c) All windows in the development treated with either double glazing or glazing that is a minimum of 6mm thick.
 - d) Three (3) bicycle spaces allocated to the commercial premises in the rear ground floor service area in accordance with AS2890.3.2015.
 - e) A sign within the services area showing which bike hooks are designated to the commercial premises.
 - f) The location of all plant and equipment (including air conditions and the like). These are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the buildings.
 - g) All windows on each level along the western elevation aligned vertically.
 - h) A comprehensive schedule of external materials, colours and finishes (including colour samples). Construction materials are to be low maintenance. External materials and finishes (including glazing) are to be of a low reflectivity level. The use of painted surfaces must be minimised.

Annotated coloured elevations showing the location/application of the materials, colours and finishes must be provided.
 - h) Any modifications in accordance with the acoustic report (refer to Condition No. 5 of this Permit).
 - i) Any modifications in accordance with the Sustainable Design Assessment (refer to Condition No. 6 of this Permit).
 - j) A waste management plan in accordance with Condition No. 7 of this permit.
 - k) A single communal antenna for the development (refer also to Condition No. 20 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.
 - l) Finished floor levels reference to the Australian Height Datum (AHD).

- m) The doors to each apartment clearly signposted. This must be annotated on the plans.
- n) The residential entry door to High Street shown with clear glazing.
- o) Annotations on the plans stating that the car spaces are allocated to Apartment 2 and 3.

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

- (2) The layout of the use 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 either:
 - The development does not start within three (3) years from the date of this Permit; or
 - The development is not completed or the use is not started within five (5) years from the date of this Permit.

As relevant, the Responsible Authority may extend the time referred to if a request is made in writing:

- Before this Permit expires;
 - Within six (6) months after the expiry date; or
 - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
- (4) Before any buildings or works commences, a site assessment of the site, prepared by a member of the Australian Contaminated Land Consultants Associated (Victoria) Inc, or other suitably qualified environmental professional, must be submitted to the Responsible Authority to its satisfaction. The Responsible Authority may request the site assessment be reviewed by a suitably qualified environmental auditor nominated by the Responsible Authority and at the cost of the owner/developer.

The site assessment must include:

- An opinion on the level and nature of contamination (if any), how much is present and how it is distributed;
- Details of any clean up, construction, ongoing maintenance, monitoring or other measures in order to effectively manage contaminated soil (if any) that is present within the site (management measures); and
- Recommendation on whether the environment condition of the land is suitable for the proposed use and whether an environmental audit of the land should be undertaken.

Should the consultants opinion be that an environmental audit be undertaken, before the use commences, either:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the *Environment Protection Act 1970*, or
- An environmental auditor appointed under the *Environment Protection Act 1970* must make statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

In the event that the management measures are required or a statement is issued in accordance with Part IXD of the *Environment Protection Act*, before the use commences all management measures of the site assessment or conditions of the Statement of Environmental Audit must be complied with.

Written confirmation of compliance with the management measures of the site assessment or the conditions of the Statement of Environmental Audit must be provided by a suitably qualified environmental professional.

If the management measures of the site assessment or the conditions of the Statement of Environmental Audit require ongoing maintenance or monitoring, before the use commences the owner of the land must enter into an Agreement with the Responsible Authority under Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority. This agreement must be to the effect that except with the written consent of the Responsible Authority all management measures of the site assessment or conditions of the Statement of Environmental Audit issued in respect of the land will be complied with to the satisfaction of the Responsible Authority. Written confirmation of compliance with the management measures of the site assessment or the conditions of the Statement of Environmental Audit must be provided by a suitably qualified environmental professional.

A memorandum of the Agreement must be entered on the Title to the land and the owner must pay the costs of the preparation and execution of the Agreement and entry of the memorandum on Title.

- (5) Before 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:
- 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.
 - Noise emissions associated with the dwelling do not impact adversely on the surrounding commercial uses.
 - The design of habitable rooms of all dwellings adjacent to a road limits internal noise levels to a maximum of 35dB(a) in accordance with relevant Australian Standards for acoustic control (including AS3671-Road Traffic).
 - 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.

- (6) Before the development starts, a revised Sustainable Design Assessment (SDA) generally in accordance with the document identified as BESS report, dated 4 May 2017, prepared by ITS Design detailing sustainable design strategies to be incorporated into the development to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. The document is to be amended as follows:
- Provide details on how all windows open. Operable windows must be maximised, including to the light wells.
 - Change the obscure glazed windows to external screens that block views down, but not out. Install larger operable windows.
 - Install PV panels for common area electricity.

The development must be constructed in accordance with the requirements/recommendations of the Sustainable Design Assessment to the satisfaction of the Responsible Authority.

Prior to the occupation of the development, a report from the author of the SDA, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SDA have been implemented in accordance with the approved Plan.

- (7) Before the development starts, a waste management plan, to the satisfaction of the Responsible Authority, demonstrating the operation of the garbage and recyclables storage area must be submitted to the Responsible Authority.

The plan/documentation must demonstrate the means by which garbage and recyclables will be stored on the site and must clearly detail: what waste services will be provided (ie. cardboard paper plastic and metals recycling or comingled waste, general waste and even organic waste), types of bins, types of collection vehicles, frequency of collection, times of collection, location of collection point for vehicles and any other relevant matter. The plan must require that collection for all apartments and office be undertaken by a private contractor.

Waste storage and collection must be 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.

- (8) Before the use starts, employee bicycle parking spaces must be provided on the land to the satisfaction of the Responsible Authority.
- (9) 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 2010. 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.
- (10) All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
- (11) The land must be drained to the satisfaction of the Responsible Authority.
- (12) Seating for patrons on the premises must not exceed 36.
- (13) All security alarms or similar devices installed on the land must be of a silent type approved by the Standards Association of Australia and be connected to a registered security service.
- (14) Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to the car stacker and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.

- (15) Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.

- (16) With the exception of guttering, rainheads 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.
- (17) 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.
- (18) Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
- (19) 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; and
 - c) 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.
- (20) No buildings or works are to be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires or cables under the control of a public authority or the Responsible Authority without the prior written consent of the Responsible Authority and any relevant authority.
- (21) Only one (1) communal television antenna may be erected on the building. Individual antennae for individual dwellings/tenancies must not be erected.

NOTATIONS

(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition No. 1 of this Permit and any additional modifications which are "necessary or consequential" are those that will be assessed by Council when plans are lodged to satisfy that condition. Any "necessary or consequential" amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant Section of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications and without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require new permit application.

- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- N5 Except where no planning permission is required under Clause 52.05 of the Darebin Planning Scheme, no advertising sign may be displayed on the land without further planning permission.
- N6 No buildings or works may be built over any easement on the land except with the written consent of the relevant authority.

INTRODUCTION AND BACKGROUND

Planning Permit D/55/1968 was issued on the 29 October 1968 for use of the premises for the purpose of a tailor's workshop.

Planning permit D/150/1975 was issued on the 9 February 1976 for building alterations and use of the premises for the manufacturing of trousers.

Planning permit D/182/1976 was issued on the 15 November 1976 for building alterations.

Planning permit D/229/2015 was issued on the 29 June 2015 for a liquor licence and a car parking reduction associated with a restaurant.

ISSUES AND DISCUSSION

Subject site and surrounding area

- The subject land is regular in shape and measures 33.65 metres in length and 5.98 metres in width for a total site area of 201 square metres. The site has no appreciable fall and is sited in an east-westerly direction. The site abuts two (2) separate lots to the north and south. A right-of-way T-intersection abuts the site to the rear with High Street to the front.
- The land is located within the Commercial 1 Zone and is affected by a Heritage Overlay (HO161) and Development Contributions Plan Overlay (DCPO). It is noted that the provisions to require payments of the DCPO have currently expired.
- The site is located on the western side of High Street approximately 40 metres north of Westgarth Street and 40 metres south of Barry Street. The site is situated in Westgarth Village in the Darebin Economic Land Use Strategy and is considered a Neighbourhood Activity Area.
- The subject site is currently occupied with a two – storey building with zero front setback to High Street. At ground level the building is built to the north and south boundary for a length of 21.65 metres with a setback of 12 metres from the rear (western) boundary. The first floor level sits directly above the ground floor level and also extends for a length of 21.65 metres along the north and south boundary. The building on site is currently used for the purpose of a food and drink premises (restaurant) at the ground floor and an office at the first floor.
- To the rear of the site are a number of single storey outbuildings and a large paved area that currently accommodates two uncovered car parking spaces. Currently along the western property boundary is a 2.8 metre high colorbond roller door. The site is void of any vegetation. The site is not considered either significant or contributory in the Heritage Overlay.

- To the east of the site is High Street, which is in a Road Zone Category 2. High Street carries trams with a large tram stop to the front of the site. Beyond High Street further east are commercial premises built boundary to boundary with either Victorian or Edwardian buildings.
- To the west of the site is a right-of-way T-intersection. A 3.05 metre wide right-of-way with a north south alignment carries vehicles from Westgarth Street from the south to Barry Street to the north. The right-of-way intersects with a perpendicular right-of-way that has an east west east alignment.
- Further west beyond the right-of-way are residential lots fronting Barry Street to the north and Westgarth Street to the south. These dwellings are single storey with each lot utilising the right-of-way for vehicle access.
- To the north of the site is double storey brick building that is one of a pair. These buildings are both considered significant under the Heritage Overlay. These buildings are used for commercial purposes. The buildings are built boundary to boundary. Further north are a hair and beauty salon, shops and Westgarth Theatre.
- To the south of the site is 63 – 65 High Street Northcote where demolition and construction has commenced for a four storey building for eight (8) apartments plus basement car parking (Planning Permit D/846/2007). The planning permit for this lot was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT Ref No. P2947/2008). At present the rear of the site has been cleared, whereas the existing facades of the original buildings have been retained.
- High Street is a major thoroughfare containing a tram line and vehicle lanes in each direction. There are one hour parking restrictions from 8.30am to 4.30pm Monday to Friday and between 8.30am to 12.30pm on Saturday along the west and east side of High Street. There is a Clearway between 4.30pm to 6pm Monday to Friday and one hour parking restrictions in Barry Street between 9am until 11pm daily. There are no standing restrictions on Westgarth Street.
- This section of High Street forms part of Westgarth Central in the High Street Corridor Land Use and Urban Design policy which is a fairly intact, valued and historically significant Victorian and Edwardian streetscape. It is a successful shopping strip comprising a mix of restaurants, cafes, bars and retail shops including a bottle shop and a small number of clothing and jewellery shops.

Proposal

- It is proposed to partially demolish the rear of the existing two (2) storey building and construct a mixed use development consisting of a food and drink premises (restaurant), office and three (3) apartments as follows:
 - Construct an additional two (2) floors above the existing two (2) storey building.
 - The front section of the existing building is to be retained with ground and first floor extensions, extending the length of the site to the western boundary. The front façade of the building will not be altered as part of this application.
 - The proposed ground floor will retain a 36 seat food and drink premises (restaurant) to the front of the site while to the rear will be separate storage and bin facilities for both residents and the commercial premises, pedestrian access to a staircase to the upper levels and a car stacker to provide on-site parking for Dwellings 2 and 3.
 - The first floor will retain the existing office space covering 80 square metres which will remain toward the front of the site. To the rear of this level will be a single bedroom dwelling (Apartment 1). This dwelling will have open plan kitchen, meals and living room with direct access to a west facing balcony. A light court is provided to the bedroom and bathroom.

- The second floor will comprise a two (2) bedroom apartment facing High Street (Apartment 3), while to the rear (west) of this level will be the main bedroom and ensuite for Apartment 2, with the living zone for this apartment is on the third floor. Apartment 2 will contain a single bedroom and study nook while apartment 3 will contain two (2) bedrooms. Each apartment will have open plan living, kitchen and dining and light wells to the bedrooms and bathrooms. Both apartments will have east facing balconies.
- The overall height of the development is 13.7 metres.
- The proposal seeks a waiver of six (6) car spaces.

Objections

- Thirty (30) objections have been received.

Objections summarised

- The height of the proposed development at four (4) stories is not acceptable in this neighbourhood.
- The mass and bulk of the proposed building is visually unacceptable and not compatible with adjacent building forms.
- Overdevelopment of the site.
- Inadequate on site car parking.
- Car-parking reduction will cause traffic congestion in surrounding streets as there is already a lack of on street parking available in the area.
- The proposal will overshadow the streetscape.
- The proposed development is not in keeping with the heritage character of the streetscape.
- The proposed bulk, form and appearance of the building will affect the significance of the Heritage Overlay.
- The proposed development cannot meet accessibility requirements in the BCA or DDA
- The proposal fails to meet residential design code including but not limited to neighbourhood character, building height, site coverage, energy efficiency dwelling entry etc.
- The four storey building will impact on CBD vies from the top of Rucker's Hill.
- The village atmosphere and fabric of Westgarth Village will be impacted upon as a result of this proposal.

Officer comment on summarised objections

- The height of the proposed development at four (4) stories is not acceptable in this neighbourhood.

The Planning Scheme provisions are an established tool for determining whether a development is of an appropriate scale relative to the site and its specific context and characteristics. The subject land is in a Commercial Zone where more intensive development with greater building heights are encouraged. The proposed four (4) storey building on commercially zoned land is considered acceptable in this location. The fourth level is setback approximately 15 metres from High Street and won't be visible from the west side of High Street due to the existing canopy and will only be partially visible from the eastern side of High Street (if at all).

The height of the proposed development will match that approved on the adjoining site to the south at 63 – 65 High Street, Northcote. The planning permit for this lot was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) and allowed *demolition of existing buildings with the retention of the High Street building façade and construction of a four (4) storey building with basement car park, to be used for the purpose of shops at ground level and dwellings in accordance with the endorsed plans and the reduction of car parking.*

- The mass and bulk of the proposed building is visually unacceptable and not compatible with adjacent building forms.

The development does not propose a substantial level of change in terms of height, bulk and scale over existing single and two storey buildings. The overall height of the building at 13.7 metres is reasonable in the commercial context.

The proposed development has no direct residential abuttal due to the 3.05 metre wide right of way separating it from the residential area to the west. Additionally, the development has an appropriate transition in scale, with the fourth level setback substantially from the front and rear boundaries. The northern and southern elevation plans demonstrate the appropriateness of this transition.

- Overdevelopment of the site.

Established areas of Melbourne are to absorb a high proportion of Melbourne's expected growth. State and Local Planning Policy envisages an increase in housing density in well serviced area's such as this.

The consideration of a development is based on its compliance with a set of criteria outlined in the Darebin Planning Scheme and not based on a subjective concern of 'too many units'. The State Government has a clear policy on urban consolidation which is dependent on medium density housing development.

In looking at the proposal, the extra three (3) dwellings are acceptable and can be accommodated within this neighbourhood. The additional three (3) dwellings will provide housing choice for residents in Darebin and give occupants the opportunity to participate in the Westgarth Village and live close the Central Business District (CBD) and provide new customers to existing local businesses.

The scale of development over four (4) levels is entirely appropriate in a commercial zone, that is well serviced by public transport and close to shops, schools and essential services.

- Inadequate on site car parking.

Car parking has been provided for apartment 2 and 3. Apartment 1 which is a one (1) bedroom home and the office and food and drink premises (restaurant) are to have no car-parking provided on the land. The reduction in parking associated with these uses is within reasonable limits and will not negatively impact on the surrounding streets or lead to unreasonable parking congestion (see assessment against Clause 52.06 below).

- Car-parking reduction will cause traffic congestion in surrounding streets as there is already a lack of on street parking available in the area.

It is considered that whilst there would be an increase in traffic movements in the abutting streets arising from the proposed development, these would be incremental and would not unreasonably affect local traffic conditions.

Council's Transport Engineering and Strategy Unit have stated that the car-parking waiver of six (6) spaces is acceptable noting that the office and food and drink premises (restaurant) were already operating with reduced on site car parking.

Specifically, the office has no on-site car-parking, whilst the food and drink premises (restaurant) was operating with two (2) spaces to the rear of the site.

The existing commercial uses are unlikely to be 'self-attractors', rather servicing nearby residents, employees, visitors who are on multi-purpose trips – i.e. to the Westgarth Theatre – and that this, along with the site's proximity to public transport, means that this aspect of the proposal is unlikely to generate significant additional car-parking.

The waiver of car spaces for the commercial tenancies is consistent with the *centre based approach* to car parking, whereby in important activity centres car parking considerations should not be determinative, instead the land use mix in a centre should arise from a combination of strategic planning and the economic forces at work in the centre.

The waiver at this level for an individual site, where there is a change of use or an extension to an existing building in most circumstances car parking shortfalls should be waived if it is consistent with the strategic plan for the centre, firstly because the most equitable solution is to deal with car parking on a centre wide basis and secondly because even in saturated car parking conditions a balance will occur between the level of activity and the car parking supply.

The waiver of one resident car parking space for apartment 1 is supported on the grounds that this aligns with the most recent ABS car ownership data. The site is also located in an Activity Centre, and there are ample public transport options and walking and cycling routes located proximate to the site. The tenants of this apartment will not be 'transport disadvantaged'.

- The proposed will overshadow the streetscape.

The proposal will not unreasonable overshadow High Street, which is located east of the site. Shadow will predominately fall to the south of the site, except for in the early morning and late afternoons, where some shadow is expected to be cast over the street after 3pm.

Shadow diagrams submitted with the application demonstrate that overshadowing of High Street is marginal and mostly over the road reserve and a small section of the footpath. This is not unreasonable and will not have a detrimental impact on the streetscape.

- The proposed development is not in keeping with the heritage character of the streetscape.

The proposed development has support from Council's Heritage Advisor. The symmetrical appearance of the extension ties in with the streetscape, while the neutral, unadorned façade will not detract from the adjoining significant Victorian and Edwardian buildings.

- The proposed bulk, form and appearance of the building will affect the significance of the Heritage Overlay.

The proposed ground and first floor are to be retained as part of this proposal. This will maintain continuity to the streetscape. It is important to note that the subject building is not considered either significant or contributory in the Heritage Overlay, offering the least value to the wider heritage precinct. This also means there is more scope to develop with site than other's in the precinct.

- The proposed development cannot meet accessibility requirements in the BCA or DDA

A planning application under the *Planning and Environment Act 1987* does not represent approval for anything which would be assessed by a Building Surveyor under the relevant Building Regulations. In terms of equity of access and dependence on stairs to access all upper three levels the Building Regulations do not mandate the requirement for a lift.

Equally there is no specific requirement in the Darebin Planning Scheme or *Planning and Environment Act (1987)* that would enable Council to require a lift for this proposed development.

- The proposal fails to meet residential design code including but not limited to neighbourhood character, building height, site coverage, energy efficiency dwelling entry etc.

An assessment will be conducted against Clause 58 of the Darebin Planning Scheme which will assess the above design objectives.

- The four storey building will impact on CBD vies from the top of Rucker's Hill.

The proposed building is at the bottom of Rucker's Hill and will not impact on CBD views from the top of Rucker's Hill. The proposal increases the overall height of the building by 5.35 metres to 13.7 metres. This is less than the proposed approved development at 63-65 High Street, Northcote which is proposed to be 13.9 metres tall.

- The village atmosphere and fabric of Westgarth Village will be impacted upon as a result of this proposal.

In looking at the proposal, the extra three (3) dwellings is acceptable and can be accommodated within this neighbourhood. The additional three (3) dwellings will provide housing choice for residents in Darebin and give occupants the opportunity to participate in the Westgarth Village and live close the Central Business District, whilst also providing new customers to existing local businesses.

The proposal will contribute to the on-going viability of the centre and is encouraged at both State and Local level.

Also of note is the four (4) storey building that is currently under construction abutting the site to the south at 63 – 65 High Street, Northcote (Planning Permit D/846/2007). The planning permit for this lot was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT). There were some 36 objections raised for this application that are of a similar nature to the objections raised above. The Tribunal, after inspecting the site, considering all submissions and evidence and reviewing the provisions of the Darebin Planning Scheme including the High Street Corridor and Land Use and Urban Design policy ('High Street Policy') at Clause 22.05 found the third floor (level 4) acceptable for the following reasons as summarized below:

- *The High Street Policy does not have a mandatory effect. They are guidelines only.*
- *Despite the third level (level 4) resulting in more than one level above the existing building, the development will not create an inappropriate visual impact on the streetscape or surrounds.*
- *The third level (level 4) is significantly recessed from the front boundary. This design will limit views of the upper level from directly opposite High Street and avoid increased overshadowing of public spaces.*
- *The proposed third level (level 4) will avoid adverse impacts on the Heritage values of the streetscape.*

PLANNING ASSESSMENT

Clause 13.04-1S Use of Contaminated and Potentially Contaminated land

The objective at Clause 13.04-1S is:

- *To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.*

The above objective requires applicants to provide adequate information on the potential for contamination to have adverse effects on future land use if the subject land is known to have been used for industry, mining or the storage of chemicals, gas, wastes or liquid fuel.

The land has previously been used for clothing manufacture (textile operations).

Section 60 (1)(e) of the *Planning and Environment Act 1987* states that Council must consider any significant effects (e.g. contamination) which it considers the environment may have on the use or development.

Clause 13.04-1 also requires applicants provide adequate information on the potential for contamination to have adverse effects on the future land use, where the subject land is known to have been used for industry, mining or the storage of chemicals, gas, wastes or liquid fuel.

Council has knowledge that the site has previously been used as clothing manufacturing which is classified as textile operations which is listed as high potential for contamination in the Potentially Contaminated Land Practice Note June 2005.

At present, there is uncertainty as to whether the land could be contaminated and the proposal involves underground works that break the existing hardstand covering the rear of the site. Additionally, the Potentially Contaminated Land Practice Note June 2005, directs that land that has been identified as potentially contaminated that is to be used for a sensitive purpose, requires either a Certificate of Environmental Audit or a Statement of Environmental Audit be issued, as necessary. A condition of any approval will require a Site Assessment to be carried out and further requirements, including an audit and a Section 173 Agreement, if any contamination issues are identified.

Clause 15 Built Environment and Heritage

In assessing and determining residential development applications, regard must be had for Clause 15.01-1.

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

Clause 15.01-2S Building Design

To achieve building design outcomes that contribute positively to the local context and enhance the public realm.

The proposed works are not considered unreasonable in the local context given the site is zoned commercial and located in the High Street Policy.

The proposed form, scale and appearance of the extension is considered acceptable as the upper levels are well setback from the front façade, particularly the fourth level and therefore will not detrimentally impact on the amenity of adjoining lots, the public realm or the natural environment.

There will be no detrimental amenity impacts to nearby residential lots (as detailed below), as none are abutting the site.

The public realm, including the pedestrian path and streets, will be protected by the retention of the existing awning over the footpath. The proposed building extension will not impact on the functionality or amenity of the public realm.

The proposal provides appropriate articulation to the facades through materials, design and setbacks.

The views from Rucker's Hill will be protected in this location. The development matches the height of the approved development south of the site at 63 – 65 High Street, Northcote.

The proposed extension will not change the perception of safety for local patrons to the area. Safety for the residents of the development is acceptable with adequate access from both the front and rear of the site.

The proposal maintains the surveillance of the street with appropriate pedestrian access, balconies and windows facing both High Street and toward the west.

The proposal has an appropriate sense of address with a new dwelling entry from High Street along with an entryway from the rear.

There is no vegetation on site.

Clause 15.01-4S Healthy Neighbourhoods

To achieve neighbourhoods that foster healthy and active living and community wellbeing.

The site is located in an area that is well serviced by public transport. The applicant proposes to waive car parking so having a tram stop directly in front of the site ensures that occupants can easily connect to shops, schools, parks and other services.

Occupants of apartment 1 will be encouraged to seek alternate transportation methods, which in itself fosters healthy, active living.

Occupants who decide to walk will be supported by weather protection from the commercial premises along High Street. The location of the site also encourages occupants to engage in the social activities and entertainment proximate to the site.

Clause 15.01-1S – Urban Design

To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

The proposed extension of the building is acceptable as it is low scale, of a similar height to that development approved to the south and is functional.

The current amenity, attractiveness and safety of the public realm will not be impacted upon as a result of the proposed extension, which maintains the current building façade to the street.

Clause 15.01-5S Neighbourhood Character

The proposal provides a design response which continues the commercial uses on site, whilst also adding three (3) dwellings on the land, furthering urban consolidation objectives. This mix of uses is considered appropriate.

The land is zoned commercial and the proposed addition of two (2) levels is considered satisfactory with regard to the residential component to the west, which is separated from the subject site by a laneway.

The materiality and facade of the extension aim to be neutral so as to not detract from existing buildings. The overall height of the building will match that approved to the south of the site at 63-65 High Street, Northcote. A condition of approval will request a comprehensive schedule of construction materials, external finishes and colours

Clause 15.01-6S Design for rural areas

The site is not located in a rural area.

Clause 15.01-1R Urban Design – Metropolitan Melbourne

The proposed extension is of an acceptable quality that it will seamlessly integrate with the rest of the building and streetscape.

Clause 16 Housing

Clause 16.01-3R – Housing Diversity – Metropolitan Melbourne

The proposal includes a mix of new housing which offers the public, housing choice. The location of the site is ideally located in a vibrant, thriving neighbourhood activity centre that offers entertainment, shops and essential services.

17 Economic

Clause 17.01-1S – Diversified economy

The proposal maintains the existing commercial uses which protects employment near the site.

The site is along a strip commercial precinct that has a range of uses that support each other and the local community.

Zoning

The level and type of change anticipated on a site is dictated by the zone and associated policy, as well as the strategic and physical context. The planning scheme through the Commercial 1 Zone sets the tone for a greater site coverage and scale of development than the nearby residential context.

The site is located in a Commercial 1 Zone where the purpose is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To create vibrant mixed use development centres for retail, office, business, entertainment and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

The commercial uses, (food and drink premises and office) do not require a permit under the Zone. The residential accommodation does not require a permit as the residential entry is less than 2 metres in width. Under the Zone a planning permit is required for buildings and works.

In a Commercial Zone less weight is placed on amenity considerations than in a Residential Zone. Any development must acknowledge the adjoining uses and buildings and the strategic context of the site and be designed accordingly. A balance should be reached which maintains an acceptable level of amenity on and off the site.

The following is an assessment against the relevant decision guidelines at Clause 34.01-8 for use and buildings and works.

General

- *The interface with adjoining zones, especially the relationship with residential area.*

The site is located in a neighbourhood activity centre in a commercial zone, where policy encourages retention of this centre and intensification through shop-top housing. The proposal maintains appropriate commercial uses at the ground and first floor which tie in with the neighbouring commercial uses. The proposal also includes dwellings.

The subject site has no direct residential abuttal with the right of way separating the subject site from residentially zoned land. The proposal adopts a sensitive approach transitioning down from the east and west of the site. The proposed fourth level will match the height of the development to the south at 63-65 High Street, Northcote which was approved by VCAT (VCAT Ref No. P2947/2008).

The commercial and residential uses strike an acceptable balance in the commercial zone. A condition of approval will require that noise attenuation measures are implemented to ensure there are no noise emissions that may impact the dwelling uses.

Buildings and works

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

The proposal maintains an active frontage at ground level with retention of the existing food and drink premises (restaurant) and awning above the pavement. A separate pedestrian entry is proposed from High Street and also the rear of the land from the right-of-way.

- *The provision of car parking.*

This is assessed in detail below against Clause 52.06 of the Scheme.

- *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.*

The proposed building is partially retained which aids in conserving the building. The addition of a second and third level above the existing ground and first floor is considered acceptable in this context and similar to that approved to the south of the site at 63-65 High Street, Northcote.

The prevailing scale of the area is one (1) and two (2) stories, however policy support is there for intensification of these commercial premises with shop-top housing. The additional two (2) levels is entirely appropriate with respect to the commercial zone. It's noted that in the surrounding Neighbourhood Residential Zone to the west there is a maximum height limit of 11 metres (three (3) storey maximum). The maximum building height proposed in the application is 13.7 metres, where there is no mandatory maximum height limit.

The fourth level is setback 15 metres from High Street and in excess of 8 metres from the rear western property boundary, which is an appropriate separation.

The proposal provides flank walls for future construction. A materials and construction schedule will be required to be submitted and be to our satisfaction.

- *The storage of rubbish and materials for recycling.*

The design provides space for the storage of garbage and recyclables to the rear of the site on the ground floor. The Waste Management Plan submitted with the application must be amended to state that waste for the apartments and office will be collected by a private contractor.

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

The proposal is provided with a shared entryway from High Street and a separate pedestrian entryway from the rear that can be easily managed by the owner's corporation (in common areas) or the individual property owners (in private areas).

- *Consideration of the overlooking and overshadowing as a result of buildings or works affecting adjoining land in a General Residential Zone.*

Consideration of the overlooking and overshadowing to adjoining land in the General Residential Zone is addressed below.

- *The availability of and connection to services.*

Services are available to the site.

- *The design of buildings to provide for solar access.*

The apartments have been designed with appropriate solar access and are supported by an acceptable Sustainable Development Assessment report, subject to conditions.

- *The objectives, standards and decision guidelines of Clause 54 and Clause 55.*

The relevant objectives, standards and decision guidelines are considered later in this report, particularly to assess off-site impacts to neighbouring residential properties. In addition, Clause 22.06 of the Scheme provides an additional method of assessing the development.

Local Policies

Clause 21.03 – Housing

The Strategic Housing Framework Plan illustrates the directions for residential land use and development in Darebin as set by the Darebin Housing Strategy (2013).

This framework provides greater certainty as to where growth and change can be expected and the preferred scope of housing change in terms of the intensity and type of residential development to be encouraged in different areas. The framework plan identifies three Housing Change Areas which apply to all land in the municipality, known as Minimal, Incremental and Substantial.

The subject site is identified in an area of incremental change in the Strategic Housing Framework Plan detailed as follows:

Incremental

The Darebin Housing Strategy 2013-2033 provides a housing change framework plan that indicates *"the appropriate level of change in terms of the intensity and type of residential development that could be accommodated in areas that permit residential use."*

The subject site is identified as an area of incremental change in the Strategic Housing Framework Plan and is defined as:

"Residential and commercial areas that have the capacity to accommodate a moderate level of residential development over time. It is expected that the general character of Incremental Change Areas will evolve over time as new modest types of development are accommodated." (Clause 21.03)

Housing (Clause 21.03)

The Strategic Housing Framework Plan builds on the directions for residential land use and development in Darebin as set out by the Darebin Housing Strategy (2013). The policy states that residential and commercial areas have the capacity to accommodate a moderate level of residential development over time. It is expected that the general character of Incremental Changes Areas will evolve over time as new yet modest types of development are accommodated. Incremental Change Areas generally display one (1) or more of the following characteristics:

- *A diversity of housing stock, diversity of lot sizes and a more varied neighbourhood character. Typically areas include some medium density and small apartment development, but the predominant dwelling stock is single to double storey dwellings.*
- *Have some stand-alone or small clusters of heritage sites, including along strategic corridors, however are generally unaffected by extensive heritage recognition.*
- *Are located:*
 - *Within an 800 metre walkable catchment of an activity centre*
 - *Generally within an 800 metre walkable catchment of train, tram or SmartBus services.*

The proposed development meets all the dot points raised above and is considered an appropriate type of development envisaged in an Incremental change area. The site is well serviced by public transport, shops and essential services. The scale and form of proposal provides an appropriate transition to the nearby buildings and is considered to be an acceptable level of change for the site and surrounding area given the relevant planning policy framework.

Clause 21.03-2 Housing Development: Objective 1 – Housing Provision

It is policy to ensure that the design of development at interfaces between Substantial Change and Incremental or Minimal Change Areas, provides a sensitive transition, with particular consideration given to:

- Design and layout which avoids unreasonable amenity impacts on adjoining sensitive residential interfaces due to overshadowing, loss of privacy and unreasonable visual intrusion.

- Site orientation, layout and topography in determining the appropriate built form envelope and in assessing the impact of proposed development on adjoining amenity.
- Sympathetic response to the identified values of any adjoining heritage overlays.

As discussed the proposal provides an adequate transition in scale and avoids unreasonable amenity impacts on nearby residential land.

Clause 21.03-2 Housing Development: Objective 2 – Housing Density

It is policy to achieve higher density housing outcomes in identified locations to accommodate Darebin's projected population growth.

Planning policy relating to the site encourage new housing near retail and employment precincts (and above ground floor level within these precincts), and are to ensure new housing is located so as to allow pedestrian access to local services, employment and facilities, including commercial areas.

Other objectives at clause 21.03-3 also encourage housing diversity and affordable housing in these areas.

As the site is within a neighbourhood activity centre and has access to trams and trains and other nearby services there is policy support for increased density at this location.

Clause 21.03-2 Housing Development: Objective 3 – Residential Amenity

It is policy to facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents. Mixed use developments are to be designed to provide adequate amenity to residences on the site, minimising the need for screening and limiting unreasonable negative amenity impacts on surrounding residential uses.

The proposed extension is considered to meet policy objectives identified above with appropriate building articulation and setbacks from High Street with no unreasonable off-site amenity impacts.

Clause 21.04 – Economic Development

This policy is to enhance the viability of retail/activity centres in the municipality and places activity centres in a hierarchy. It generally encourages intensive use and development in and around activity centres and supports the accommodation of residential or mixed-use development. Additionally, retention and development of active frontages in activity centres is encouraged.

The DELUS report indicates that the site is in the Westgarth Village precinct (No. 11). The core role/function of the precinct is as follows:

Good small neighbourhood centre with niche 'Bohemian' flavour; cafes and restaurants, organic food; Westgarth theatre is a destination/attractor.

The Strategy states that the centre is vibrant and should be supported by redevelopment of shop-top housing of between 2 – 3 levels.

The proposed mixed use development will strengthen the current centre, add vibrancy and diversity through a range of housing types while maintaining an active frontage. Car parking and waste storage is from the rear right-of-way.

Clause 22.05: High Street Corridor Land Use and Urban Design

This policy sets out objectives to protect key public views and vistas and strengthen the core retail function of the designated activity centres along High Street. It is also policy to promote redevelopment on the intermodal areas in High Street, protect residential land and progressively widen rear laneways where possible.

The following is an assessment against the decision guidelines at Clause 22.05-3 for all precincts.

- *Where vehicular access to the site is obtained by a laneway, the laneway is to be widened to 6 metres.*

The right-of-way T-intersection to the rear of the site ensures that for approximately half of the site the rear right-of-way is 6 metres wide. This unique situation allows vehicles to reverse from the site, without having to widen the right-of-way. The 6 metre widening nominated in this policy is not mandatory. Existing vehicle access arrangements are from the current right-of way configuration. Use of the right-of way is supported by Council's Vehicle Crossings Policy – October 2014, which forms part of Council's 2017 – 2021 Council Plan.

- *New development is required to have rear setbacks adjacent to residential properties in accordance with the Diagrams below.*

The subject site is separated from the adjoining residential properties by a right-of way T-intersection which for the most part has a depth of 6 metres (see diagram 1a). The proposal is setback at the first floor by 2 metres from the rear property boundary, 4 metres at the second floor and 6.5 metres at the third (fourth level) level. This is within the 45 degree envelope measured 6.9 metres above ground level.

- *Buildings with street frontage are to maintain a street wall height of 8-10 metres with upper levels set back.*

The proposal maintains the current street wall height of 8.3 metres to the first level and 10.2 metres to the parapet of the second floor level.

- *Where preferred building height is expressed as a number of storeys, the ground floor storey is expected to be up to 4 metres high and storeys above ground floor to be 3 metres high.*

The proposed development will be four storeys in height. Each storey will be 3 metres in height except for the ground floor level which is 3.3 metres in height.

Precinct 2: Westgarth Central

The site is located in Precinct 2: Westgarth Central.

It is policy:

- *To retain and enhance the relatively intact, valued and historically significant Victorian and Edwardian streetscape.*

The existing building is being retained as part of this application. The proposed extension has a simple, neutral presentation to the street that will not detract from the adjoining Victorian and Edwardian buildings.

- *To retain and enhance the mix of small-scale cinemas, local convenience retail, restaurants and speciality wretail uses in narrow fronted premises.*

The commercial uses are being retained as part of this proposal.

- *To encourage the development of small-scale residential development above or behind business premises.*

The proposed development is considered small-scale with only three (3) apartments proposed, located above and behind the existing building.

- *To ensure that the visual impact of development behind or above existing buildings is minimised by appropriate setbacks and height.*

The proposed works will not cause any visual impact from the street with large setbacks from both High Street and the rear right-of-way.

- *To encourage low-rise development on larger lots north of Candy Street*

Not applicable

Design Guidelines

- *The façade of any replacement building that extends across two or more lots to be designed to appear as multiple buildings of typical frontage width.*

Not applicable.

- *New buildings or extensions (other than sites identified below) are not to exceed one level above existing building floor levels, and any part of the building above the existing front façade height is to be set back behind the façade so that it does not extend more than 15% above the apparent front wall height when viewed from the footpath opposite the site in High Street.*

The above requirements are not mandatory. The Tribunal member found in *Petsinis v Darebin CC* for the land at 63-65 High Street, Northcote, that the policy does not have a mandatory effect and the *non-compliance with the policy identified above is not necessarily fatal to the proposal*. The member found the proposed four (4) storey building acceptable for the following reasons:

- The fourth level is significantly recessed;
- There will be no loss of vistas to the Westgarth cinema;
- The effect of the third level on sunlight and daylight to nearby residential properties is acceptable.

The proposed development has a much smaller footprint on level four than that proposed to the south. Additionally, there will be no impacts to adjoining residential lots due to the right of way to the rear, the proposed second and third level (levels 3 and 4) will not extend 1.24 metres (15%) high above the parapet wall height when viewed from the footpath opposite the site in High Street.

- *Primary pedestrian access to new development is to be from High Street.*

There is access from both High Street and the rear laneway. As the site is narrow, an expansive lobby cannot be accommodated to High Street, as this will deactivate the frontage. The proposed front and rear entry points are acceptable.

- *New buildings on land north of Candy Street are not to exceed 3 storeys.*

Not applicable.

- *Buildings over 8 metres in height:*

- *Are to be built to the front and side boundaries up to a height of between 8 and 10 metres above ground level, and then set back a minimum of 1.5 metres from the front boundary per floor.*

The existing building is 8.3 metres high. The second level is setback 2.6 metres from the frontage, while level 4 is setback 15 metres from the frontage.

- *Are to include measures (such as contrasting external wall materials) to ensure any part of the building above and set back from the front wall is visually recessive.*

The proposed external materials of the building will have a neutral aesthetic that will not appear visually dominant.

Clause 22.06: Multi Residential and Mixed Use Development

Element	Comment	Compliance
Sustainability	<p>The passive solar access of the commercial premises remain unchanged. Each unit has good access to natural light with either a west or east facing balcony and light courts provided to the bedrooms.</p> <p>Each apartment has good ventilation and balconies that can accommodate retractable clothes lines.</p> <p>A 3000 litre underground water tank is proposed, along with bike storage for each dwelling.</p> <p>A revised Sustainable Design Assessment will be required as current elements of the report were not satisfactory.</p>	Yes – Subject to condition.
Design and Materials	<p>The proposed development of four (4) storeys provides a graduated increase in height over adjoining building forms.</p> <p>The development exhibits an appropriate standard of design, which is simple in appearance with parapet walls and straight lines.</p> <p>Materials of construction and external finishes will be included as a condition of approval.</p> <p>The proposed design maintains an active street frontage and awning to the façade.</p> <p>Clear glazing to the restaurant ensures passive surveillance and articulation is provided in the form of setbacks, breaks in building forms and materials.</p>	Yes – subject to condition
Building Height	<p>The overall height of the building is 13.7 metres. This is acceptable in a Commercial Zone. The site does not abut residentially zoned land.</p> <p>The proposal will improve the local centre and is not considered to be out of place.</p>	Yes

Element	Comment	Compliance
Dwelling diversity	The proposal will provide both one (1) and two (2) bedroom dwellings, each with access to either west or east facing balconies and light courts to the windows.	Yes
Parking and vehicle access	<p>Vehicle access is appropriately provided from the adjoining right of way to the west of the site, which is encouraged under Councils Vehicle Crossing Policy – October 2014.</p> <p>Only apartments 2 and 3 will be provided with on-site car parking.</p> <p>The proposed waiver of six (6) spaces is deemed satisfactory (see assessment under Clause 52.06 below).</p>	Yes
Street address	<p>The proposal meets the policy guidelines in respect to street address in that the retail premises has an active street frontage and the residential addresses are accessed via a dedicated secure pedestrian access-way from High Street. A condition of approval will ensure that the front residential door is provided with clear glazing for additional passive surveillance.</p> <p>Mailboxes are provided at the entry area.</p>	Yes – subject to condition
Amenity impacts including overshadowing and overlooking	<p>There are adjacent dwellings in a Neighbourhood Residential Zone to the west of the land. Issues of overlooking and overshadowing impacts are considered below. In summary impacts would be within acceptable limits in that:</p> <ul style="list-style-type: none"> • Unreasonable overlooking will not occur to the west from windows or balconies, which have external screening that do not allow for downward views but rather distant views. • There will no unreasonable overshadowing over the adjoining area of secluded private open space to the south west after 10am with the majority of shadow after 10am falling over the existing right-of-way. Prior to this, the shadow will not be cast beyond the fence shadow. The subject site is separated from residential land by a 3.05 metre wide laneway. • Services and plant have been included on the plans. 	Yes
On-Site Amenity and facilities including Private Open space	<p>Each apartment is accessible from both High Street and the rear laneway.</p> <p>The apartments have access to either a 12 or 18 square metre balcony with either a western or eastern orientation.</p> <p>All rooms have access to natural light, either by way of an external view or from a light well.</p>	Yes

Element	Comment	Compliance
Waste	<p>Appropriate space is available for services.</p> <p>A separate 660 litre bin for the food and drink premises will be collected by a private contractor. This is the current arrangement for the site.</p> <p>The office and apartments will each have separate bins located to the rear of the lot on the ground floor.</p> <p>A condition of approval will require that the waste management plan submitted with the application is amended to remove reference to the bin collection point being made from Barry Street as this is problematic. Instead the bins for the apartments and office must be undertaken by private contractor.</p>	Yes – Subject to condition.
Equitable Access	<p>The ground floor food and drink premises (restaurant) is accessible to persons of limited mobility.</p> <p>In terms of equity of access and dependence on stairs to access all upper three levels the Building Regulations do not mandate the requirement for a lift. Equally there is no specific requirement in the Darebin Planning Scheme or <i>Planning and Environment Act (1987)</i> that would enable Council to require a lift for this proposed development.</p>	Complies

Clause 58 Assessment

The following sections provide discussion on fundamental areas of Clause 58 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.02-4 D4 Infrastructure

The development is to be located in an established area where there is adequate infrastructure. The proposal will not exceed the capacity of local infrastructure.

Council’s Capital Works Unit has commented that drainage is available to the site subject to conditions.

Complies subject to condition

Clause 58.03-1 D6: Energy Efficiency

The proposal is considered to be generally energy efficient due to the following:

- Attached construction.
- Cross ventilation is available in the design.
- The development does not unreasonably affect the solar access and energy efficiency of neighbouring dwellings.
- Open space and living areas with access to daylight.
- Space for outdoor clothes drying facilities.
- Space for bicycle storage.

- A BESS report was submitted which details energy saving measures. A condition of approval will require that these measures are shown on the plans along with modifications to this report.

Complies subject to conditionClause 58.03-2 D7 Communal open space

The proposed development does not have provision for communal open space as the number of dwellings is less than 40.

The proposed development is modern and contemporary in design and relies on balconies as the main secluded private open space of each dwelling. Each dwelling will have direct access to a balcony from the main open layout kitchen, meals and living room areas.

The proposed balconies will provide for the recreational needs of the occupants.

Complies with objectiveClause 58.03-3 D8: Solar access to communal outdoor open space objective

The proposed development does not have provision for communal open space in the development, but rather the main living and dining areas have direct access to a balcony.

The balconies have the purpose of providing the recreational needs of occupants, whilst also adding articulation to the building.

The balconies are positioned to receive direct access to sunlight and have sufficient width and dimensions.

Complies with objectiveClause 58.04-3 D16: Noise Impacts

The proposed development has been designed to contain noise sources within the development and to protect residents from external noise. Internal walls and constructions will comply with F(5) of the Building Code of Australia.

No internal mechanical plant is proposed.

Noise sensitive rooms and balconies have been sited to take into consideration noise sources on immediately adjacent properties. The wider area is a mix of commercial uses, shop-top housing and detached dwellings along with the emergence of multi-level apartment buildings. High Street also includes trams and trains. The noise generated by vehicles and trams travelling along High Street will not prevent residential development from being approved on the subject site.

The site is not located in a noise influence area.

A condition of approval will require that an acoustic assessment is prepared to determine that there will be no inappropriate noise emissions.

Complies subject to condition

Clause 58.04-1 D14 Building Setback

The proposed extension is to be built above the existing floor plate and involves boundary to boundary construction to the northern and southern sides and stepped back from High Street and the rear property boundary for the second and third level.

The design response is considered acceptable as follows:

- The proposed extension is set back from the front and rear boundaries;
- The development does not abut adjoining areas of secluded private open space.
- All habitable room windows have an acceptable outlook, with the west facing windows provided with external screens that provide outlook whilst limiting downward views. As these are on the western interface they will also provide some shading in the summer months.
- Apartment 1 balcony faces west over the rear right-of-way. The balustrade of the balcony is screened so as to not overlook adjoining areas of secluded private open space.
- Apartment 2 and 3 have east facing balconies while balcony 3 not screened as it would not overlook open space or habitable rooms.
- All bedrooms will be provided with a light court for daylight access. It is also important to note that the fourth level of the development at 63 – 65 High Street, Northcote is setback 1.5 metres from the common boundary. This ensures natural light to light courts/voids on both sites.
- The location of balconies for the approved development to the south are positioned to the east (front) and west of the site and will therefore not be impacted upon by the proposed development.
- All habitable room windows along the southern wall have either a sill height of 1.7 metres above (FFL) or face a light court on the subject site and there are no windows proposed along the northern walls.
- With respect to overshadowing, there will no unreasonable overshadowing over the adjoining area of secluded private open space to the south west after 10am with the majority of shadow after 10am falling over the existing right-of-way. Prior to this, the shadow will not be cast beyond the fence shadow.

CompliesClause 58.05-1 D17 Accessibility

Ultimately the proposal will not be suitable for people with limited mobility as they may not be able to access the dwellings as there is no lift access to the upper levels.

While the proposal provides the following:

- Ground level entrance hall width of 1.2 metres from the right-of-way;
- Clear path from the entrance of each dwelling to the main bedroom;
- Large bathroom area; and
- Access to the ground level restaurant

the proposal in this instance is not considered satisfactory for people with limited mobility.

As the proposal only involves the construction of 3 dwellings and the above requirements are considered discretionary, the proposal in this instance is considered to comply with the objective.

The proposal could be made accessible with people of limited mobility by the internal reconfiguration of the building and the installation of a lift.

Complies with objective.

Clause 58.05-2 D18 Building entry and circulation

There is a separate shared office/apartment entry from High Street. A condition of approval will ensure that the front apartment/office door is provided with clear glazing to increase passive surveillance and provide an unobstructed view through to the entrance hallway and natural daylight.

A secondary entrance is also proposed from the rear right-of-way. This entrance is accessed through the roller door, which has grills for natural, is sheltered and provides for a transitional space that is visible, safe and attractive.

The entire frontage to High Street is protected from the weather by an overhanging awning.

Complies subject to condition

Standard D19: Private Open Space

The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.

This is achieved through the following:

- A balcony with an area and dimensions specified in table D5 (see below) and conveniently accessed from a living room;

Table D5 Balcony size

Dwelling Type	Minimum area	Minimum dimension	Compliance
Studio/1 bedroom	8 square metres	1.8 metres	Yes
2 bedroom	8 square metres	2 metres	Yes

Apartment 1 – (1 bedrooms) – Provided with a 12 square metre balcony with a minimum 2 metres dimension.

Apartment 2 – (1 bedroom and a study) – Provided with a 12 square metre balcony with a minimum 3 metres dimension.

Apartment 3 (2 bedrooms) – Provided with a 18 square metre balcony with a minimum 3 metres dimension.

The proposed balcony sizes and depth exceed that required under the standard and are considered useable and functional with good amenity that will receive sunlight and provide an acceptable outlook for each apartment.

Complies

Clause 58.05-4 D20: Storage

Each dwelling should have convenient access to usable and secure storage space.

The total minimum storage space should meet the requirements specified in Table D6 (see below).

Dwelling type	Total minimum storage volume	Minimum storage volume within the dwelling	Compliance
1 bedroom	10 cubic metres	6 cubic metres	Yes
2 bedroom	14 cubic metres	9 cubic metres	Yes

Each dwelling will be provided with a total of 14 cubic metres of storage volume that includes 6 cubic metres at ground floor level in the rear services area and 8 cubic metres of storage within the apartments.

Complies

Clause 58.07-1 D24 Functional Layout

The standard requires that bedrooms in new development meets the minimum internal room dimensions specified in Table D7 with the main bedroom being a minimum of 3 metres by 3.4 metres and all other bedrooms being a minimum of 3 metres by 3 metres with provision for a wardrobe.

The bedroom of Apartment 1 is as follows:

- Bedroom 1 – 3.2 metres by 3 metres;

The bedroom of Apartment 2 is as follows:

- Bedroom 1 – 3 metres by 2.9 metres*;

The bedrooms of Apartment 3 are as follows:

- Bedroom 1 (main) – 3.42 metres by 3.5 metres;
- Bedroom 2 – 2.99 metres by 4.1 metres,

*The bedroom of apartment 2 falls slightly short of the numerical requirements of the standard, however it is acceptable in this instance as this bedroom has a large study space to the west that is partitioned off by an internal sliding door. This configuration allows the room to be expanded or reduced at the occupants will, allowing for a flexible, room layout.

All other bedrooms meet the numerical requirements of Table D7.

The proposed living spaces of each dwelling are as follows:

Apartment 1 - 4.6 metres by 5.5 metres;

Apartment 2 – 6.3 metres by 4.2 metres

Apartment 3 – 5.8 metres by 5.9 metres

The proposed rooms comply with the minimum requirements of the standard.

Comply with the objectiveClause 58.07-2 D25 Room Depth

The proposed room depth of the living spaces is acceptable.

The living room depth of apartment 1 and 3 (single aspect) is less than 7.5 metres. This is 2.5 times the ceiling height of the room which is 3 metres.

The living space of Apartment 2 has an east and west aspect and a room depth of 9 metres.

Complies**Clause 43.01 Heritage**STATEMENT OF SIGNIFICANCE: – Taken from the Darebin Heritage Review 2000 – HO161 – Northcote - Westgarth Township Area.

The proposal is required to be assessed against the decision guidelines at Clause 43.01-4 of the overlay controls. Generally the proposal complies with all relevant decision guidelines, policies and Statement of Significance as follows:

The Municipal Planning Strategy and the Planning Policy Framework.

The proposed works are consistent with both State and Local Planning policy as well as the Statement of Significance. The existing building is being retained as part of this proposal.

The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.

The subject building is not significant or contributory in the heritage precinct, nonetheless the proposed building at the front and along the side is retained. This will result in minimal disruption to the building fabric of the street.

With respect to the upper levels, these are well setback on site, are simple in appearance so as to not detract from the adjoining significant heritage buildings.

Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.

The existing building as it presents to High Street remains mostly unchanged except for minor modifications to the location of the entry to the restaurant. It is interesting to note that the subject site is not considered either significant or contributory in the Heritage Overlay. Comments from Council's Heritage Advisor are that the building could be demolished.

The setbacks of the third and fourth level ensure that the existing building remains the focal point for the site, even though its contribution to the heritage precinct is negligible.

With respect to specific policy recommendations within HO161, the retention of the building ensures the continuous street wall to High Street is maintained, along with the visual dominance of Westgarth Theatre.

Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.

The proposed building on the third and fourth level is amply setback from the front façade and are without additions and modifications so as to not detract from the subject building or surrounding buildings.

Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.

The proposed building is considered respectful to the adjoining significant heritage buildings abutting the site and in the wider precinct, as they are setback from the front façade, are simple in appearance with straight lines, rectangular windows and a neutral colour palette that will not detract from adjoining heritage buildings.

Council’s Heritage advisor supports the proposal.

Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.

The proposed partial demolition is necessary to construct the new extension and welcomed by Council’s heritage advisor.

Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.

The proposed works will not adversely affect the significance, character or appearance of the heritage place.

The proposal is considered to be consistent with the purpose of the overlay.

Clause 52.06 Car Parking

Number of Parking Spaces Required

Table 1 to Clause 52.05-5 sets out the car parking requirement that applies to a use listed in the table. Column B applies because the land is identified as being within the Principal Public Transport Network Area as shown on the Principal Public Transport Network Area Maps.

Use	Rate – Column B	Area/Number	Required	Provision
Dwelling	- 1 space per 1 and 2 bedroom dwelling.	3 dwellings	3 spaces	2 spaces
Food and drink premises (restaurant)	3.5 spaces to each 100m ² of leasable floor area	100.6m ²	3 spaces	0 spaces
Office	3 to each 100m ² of net floor area	80m ²	2	0 spaces
Total			8 spaces	2 spaces

A reduction of six (6) car spaces is being sought.

The reduction of car parking for the development is considered acceptable due to the following:

- Planning Permit D/229/2015 previously assessed a car-parking waiver of 14 spaces for 40 patrons for the restaurant. Amendment VC148 introduced a new rate for land that is identified as being within the Principal Public Transport Network Area as shown on the Principal Public Transport Network Area Maps. As such the car parking demand for the land and its commercial uses has reduced.
- The restaurant use currently has a car-parking credit of 14 car spaces. As such the reduction of 3 spaces is acceptable.
- The site is located in proximity to a wealth of public transport options, including the No.86 Tram along High Street and Westgarth and Merri Railway Stations to the east.
- The existing office has operated without on-site car parking and will continue to do so as part of this application.
- The peak times for patron attendance at the venue would be after 5:00pm and would be outside the peak times for car parking demand created by the commercial/ retail uses in High Street.
- The site is located within an activity centre which provides an array of shops and other services. It is common that vehicle trips to areas comprising a wealth of different uses and functions will attract trips that serve more than one function – ie a restaurant will often draw some of their trade from nearby office workers who would have already parked their car. This sharing of trips tends to decrease the overall amount of car parking demand within such areas.
- It is anticipated that patrons to the venue will be on multi-purpose trips to within the activity centre.
- The waiver of one resident car parking space aligns with recent ABS car ownership date.
- There is sufficient car-parking available in surrounding streets.
- Four (4) apartment bicycle hooks are to be included in the rear services yard. These can be easily accessed.

Design Standards 2 – Car parking Spaces

Transport has some concerns with access into and out of the car stackers due to the narrow aisle width between the property boundary and the edge of the laneway. It is noted that the site has the advantage of being located at the intersection of two laneways which can assist with access.

Nevertheless it is requested that the applicant prepare swept path assessments demonstrating the B85 design vehicle can enter and exit the car stackers in accordance with AS2890.1:2004. This will form a condition of approval.

Design Standard 4 - Mechanical Parking (Car Stackers)

Mechanical parking may be used to meet the car parking requirement provided:

- *At least 25% of the mechanical car parking spaces can accommodate a vehicle clearance height of at least 1.8m.*
- *Car parking spaces that require the operation of the system are not allocated to visitors unless used in a valet parking situation.*
- *The design and operation is to the satisfaction of the responsible authority.*

The applicant must confirm that car stacker model and provide the technical data sheets separately. The data sheets provided on plan TP13 are unreadable.

The stacker system must achieve the requirement for 25% of spaces to be capable of accommodating a vehicle of at least 1.8m high. Furthermore, the proposed stacker system must allow for an internal car platform width of 2.4m.

Based on the limited technical data supplied a height clearance of , and pit depth of 2,000mm will need to be provided.

Complies

Clause 52.34 – Bicycle Facilities

The purpose of Clause 52.34 is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

Under Table 1 at Clause 52.34 of the Scheme, the proposed leasable floor area of the office and restaurant and the scale of development (being not more than four (4) storeys) does not trigger the requirement for bicycle spaces for the proposed development. However Council's Transport Engineering and Strategy Unit have requested at least one (1) bike rake per apartment for a total of three (3). The proposal has included a total of 4 wall mounted bicycle spaces provided in the rear ground floor services area.

These bicycle spaces go toward the car park reduction and are deemed acceptable.

Clause 65.01 Decision Guidelines

The proposed development complies with both State and Local Planning Policies.

As detailed previously the proposal meets the purpose of the zone and all other relevant provisions and will contribute to the orderly planning of the area and bolster trade for local businesses.

The proposed site has previously been used for textile purposes which may have contaminated the site. As the proposal involves a sensitive use, the land will need to be sufficiently remediated to ensure there is no contamination of the land.

The land is not affected by any form of flooding.

There is adequate space to the front of the land and to the rear for the loading and unloading of goods that will be required for the commercial uses (primarily the restaurant), that will not detrimentally impact on the amenity, traffic flow and road safety of the wider area. Small transportation trucks will be able to use the right-of-way to unload goods for the restaurant which can be taken through the back.

On balance the proposed development is deemed acceptable as it will enhance the local centre as well as have minimal impacts on the amenity of the surrounding streets.

The proposed development will improve the vibrancy of the place through its mixed uses and make a positive architectural contribution through colour and contrast.

CLAUSE 58 COMPLIANCE SUMMARY

Clause	Std		Compliance	
			Std	Obj
58.02-1	D1	Urban Design		
		Please see assessment in the body of this report.	Y	Y
58.02-2	D2	Residential policy		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
58.02-3	D3	Dwelling diversity		
		N/A as development contains less than 10 dwellings	N/A	N/A
58.02-4	D4	Infrastructure		
		Adequate infrastructure exists to support new development Council's Infrastructure and Capital Delivery unit are supportive of the application subject to condition	Y	Y
58.02-5	D5	Integration with the street		
		The proposal provides adequate vehicle and pedestrian links with separate pedestrian entries between the apartments and restaurant. The office will share the internal walkway with the apartments with each dwelling clearly signposted. Vehicle access for apartment 2 and 3 is from the rear right-of-way which is supported by Council's Vehicle Crossings Policy – October 2014. Both balconies for apartments 2 and 3 front High Street ensuring passive surveillance of the street.	Y	Y
58.03-1	D6	Energy Efficiency		
		The proposal is considered to be generally energy efficient. The proposal has responded to initial concerns held by Council's Environmental Sustainability Officer. A condition of approval will require that a published BESS report is submitted which demonstrates satisfactory ESD measures.	Y	Y
58.03-2	D7	Communal Open Space		
		Please see assessment in the body of this report.	N	Y
58.03-3	D8	Solar access to communal outdoor open space		
		Please see assessment in the body of this report.	Y	Y
58.03-4	D9	Safety		
		The layout of the proposed development has been designed to ensure the safety and security of residents and customers to the property.	Y	Y

Clause	Std		Compliance	
		<p>The dwelling entrances from High Street and the rear of the property are not obscured or isolated. The hallway and staircases will be lit at night with sensor lights. The corridors and pedestrian access are of an appropriate width.</p> <p>The entrances to the restaurant and dwellings are separate and clearly delineated.</p> <p>The private open space within the development is protected from inappropriate use as a public thoroughfare.</p>		
55.03-5	D10	Landscaping		
		<p>The surrounding landscape character is commercial in nature.</p> <p>There are no significant trees on site. There are no opportunities for landscaping on site and there are none on adjoining properties that require protection.</p>	N/A	N/A
58.03-6	D11	Access space		
		<p>No vehicle crossovers are proposed as part of this application.</p> <p>Vehicle access for Apartment 2 and 3 is proposed from the rear of the site, which is an arrangement that is supported by Council's Vehicle Crossings Policy. The arrangement has support from Council's Transport Unit.</p>	Y	Y
58.03-7	D12	Parking location		
		<p>The car stacker for Apartments 2 and 3 is on the ground floor and easily accessible by the residents.</p> <p>No habitable room windows will be impacted upon as part of this proposal.</p>	Y	Y
58.03-8	D13	Integrated water and stormwater management		
		<p>The proposed development has been designed to meet the current best practice performance objectives for stormwater quality.</p> <p>The development is to be located in an established area where there is adequate infrastructure. The proposal will not exceed the capacity of local infrastructure.</p> <p>Council's Infrastructure and Capital Delivery Unit has commented that drainage is available to the site subject to conditions.</p> <p>The proposed development has been designed to maximise infiltration of stormwater, water and drainage of residual flows into permeable surfaces and treatment areas as detailed in the Storm Rating</p>	Y	Y

Clause	Std		Compliance	
		Report		
58.04-1	D14	Building setback objective		
		Please see assessment in the body of this report.	Y	Y
58.04-2	D15	Internal views		
		There will be no internal overlooking due to the position of dwellings above one another. Habitable room windows cannot look into one another within the development.	Y	Y
55.04-3	D16	Noise impacts		
		Please see assessment in the body of this report.	Y	Y
58.05-1	D17	Accessibility		
		Please see assessment in the body of this report.	N	Y
58.05-2	D18	Building entry and circulation		
		Please see assessment in the body of this report.	Y	Y
58.05-3	D19	Private open space		
		Please see assessment in body of this report.	Y	Y
58.05-4	D20	Storage		
		Please see assessment in body of this report.	N	Y
58.06-61	D21	Common property		
		The proposed development avoids future management difficulties in areas of common ownership, as the subject site can be functionally subdivided, with the exception of the ground level entrance hall and pedestrian passage at each level, and the rear services room which will be in common ownership. This arrangement is functional and capable of efficient management.	Y	Y
58.06-2	D22	Site services		
		There is enough space on site to install site services. Site facilities have been designed to be accessible, adequate and attractive. Pigeon mailboxes will be incorporated at ground floor level in the entrance hallway. The mailboxes will be in accordance with Australia Post requirements	Y	Y
58.06-3	D23	Waste and recycling		
		The proposed development has a dedicated area for waste and recycling enclosures which are adequate in size, durable, waterproof, adequately ventilated	Y	Y

Clause	Std		Compliance	
		and blend in with the development. Council's Environmental Operations unit have commented that the proposed location and pick up area (Barry Street) for the apartments and office is deemed acceptable. The proposed services room is spacious, functional, adequate in size and invisible from the public realm. A waste management plans has been submitted and deemed acceptable.		
58.07-1	D24	Functional layout.		
		Please see assessment in the body of this report.	N	Y
58.07-2	D25	Room depth		
		Please see assessment in the body of this report.	Y	Y
58.07-3	D26	Windows		
		All new habitable rooms have a window in an external wall of the building. No rooms within the development rely on borrowed light. The proposed development to the south of the site provides for its own amenity with void areas provided on its own land and the fourth level setback 1.5 metres from the common boundary.	Y	Y
58.07-4	D27	Natural Ventilation		
		The proposed design provides windows and doors that can open to effectively manage natural ventilation of dwellings. Each apartment has a strong sense of spatial flow and the layouts minimise corridors.	Y	Y

REFERRAL SUMMARY

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation requiring drainage of the land is to the satisfaction of the Responsible Authority.
Transport Management and Planning	No objection, subject to the following conditions included in the recommendation: <ul style="list-style-type: none"> - <i>Bicycle parking must be shown on the development plans and it is recommended that one bicycle parking space per apartment is provided. Bicycle parking must be designed in accordance with AS2890.3:2015.</i> - <i>The plans must show a swept path assessment demonstrating that B85th percentile vehicles can enter and exit the car stackers in accordance with AS2890.1:2004.</i>

Department/Authority	Response
	<p>- <i>The applicant must confirm the car stacker model and provide the technical data sheets separately.</i></p> <p>The above requirements will be included as a condition of any approval.</p>
Environmental Operations Unit	<p>No objection, subject to condition included in the recommendation that all waste is to be collected by a private contractor.</p>
Environmental Sustainability Officer	<p>No objection, subject to the below conditions included in the recommendation</p> <ul style="list-style-type: none"> - <i>Provide details on how all windows open. Operable windows must be maximised, including to the light wells.</i> - <i>Change the obscure glazed windows to external screens that block views down, but not out. Install larger operable windows.</i> - <i>Install PV panels for common area electricity.</i> <p>Response: The above requirements will be shown on the plans.</p> <ul style="list-style-type: none"> - <i>The 3m² light wells are a poor outcome for daylight and do not allow any direct sunlight and limit airflow.</i> <p>The plans show light wells of 7 square metres which are satisfactory.</p> <ul style="list-style-type: none"> - <i>It is not clear if there is adequate access around the car stackers for people, bins, bikes, etc. to move in and out of the rear of the building.</i> <p>The plans have been amended to show ample space around the car stacker for pedestrian movement. The depth of this space is 2 metres by 8 metres long and allows plenty of room for circulation and accessing of bikes.</p> <ul style="list-style-type: none"> - <i>Install an overhang to the and east and west facing glazed doors and install external adjustable shading.</i> <p>The plans show an overhang to all east and west facing glazed doors and windows.</p> <p>Fixed screens have been included on the plans to habitable room windows, blocking views down, but no out.</p> <ul style="list-style-type: none"> - <i>Install a garage door that allows some degree of daylight and natural air to enter.</i> <p>A roller grill door is proposed which will allow daylight and ventilation.</p> <ul style="list-style-type: none"> - <i>The 3,000 litre water tank shown on the roof of the restaurant does not appear to be a realistic size.</i> <p>The 3,000 litre water tank has now been shown underground.</p> <ul style="list-style-type: none"> - <i>The bike parking area will not work. The handlebars will protrude to 700mm, so access down the hall will be too difficult. It might also be a problem for fire escape</i>

Department/Authority	Response
	<p><i>requirements.</i></p> <p>The bike hooks are acceptable and in an open area that is 2 metres wide by 8 metres long.</p> <ul style="list-style-type: none"> - <i>All of the bins must be drawn on the plans including the restaurant.</i> <p>All bins have been shown on the plans.</p> <ul style="list-style-type: none"> - <i>If the restaurant already has a private waste contractor in place, what are the current waste and recycling requirements? Based on the City of Melbourne Waste guidelines, a restaurant requires 660L waste and 240L recycling per day for every 100m² of floor area. This would require many bins and there is not enough space to fit all the bins. The development will not work.</i> - <i>Each unit requires 80 litres of waste per week and 100 litres of recycling per week. The rates in the WMP are incorrect.</i> - <i>Locating bins for collection on Barry Street for collection is not acceptable.</i> <p>Council's Environmental Operations unit have advised that the proposed waste and recycling requirements are acceptable, provided the bins for the apartments and office are undertaken by private collection.</p> <ul style="list-style-type: none"> - <i>The storage areas are only approximately .8X.9 so would need to be over 8 metres tall to be 6m³.</i> <p>Plans show the storage areas as being 6 cubic metres</p>
Heritage Advisor	<p>No objection. The form and expression of the building to the street is appropriately neutral and symmetrical. The front setback is better suited to 3 metres and doubtful about the top level, however it's so far back from the frontage it's virtually invisible. Existing façade could be demolished and however as it remaining there is no issue.</p>

PLANNING SCHEME SUMMARY

Darebin Planning Scheme clauses under which a permit is required

- *Clause 34.01-4 (Commercial 1 Zone) a planning permit is required to construct a building or construct or carry out works.*
- *Clause 43.01 – (Heritage Overlay) a planning permit is required to partially demolish and construct a building or construct or carry out works.*
- *Clause 52.06 – reduce or waive the car parking requirements.*

Applicable provisions of the Darebin Planning Scheme

Section of Scheme	Relevant Clauses
SPPF	11.01-1S, 11.01-R1, 11.02-1S, 11.03-1S, 11.03-1R, 13.04-1S, 15, 15.01-1S, 15.01-2S, 15.01-4S, 15.01-5S, 15.01-6S, 15.01-1R, 16.01-3R, 17.01-1S, 17.02, 18, 19, 19.01, 19.02, 19.03

Section of Scheme	Relevant Clauses
LPPF	21.01-2, 21.01-4, 21.01-6, 21.02, 21.02-3, 21.02-4, 21.03, 21.03-2, 21.04, 22.05, 22.06
Zone	34.01
Overlay	43.01, 45.06
Particular provisions	52.06, 58
General provisions	65.01
Neighbourhood Character Precinct	N/A

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

RELATED DOCUMENTS

- Darebin Planning Scheme and the Planning and Environment Act (1987) as amended.
- City of Darebin Heritage Review: 200, Andrew Ward.
- Vehicle Crossings Policy – October 2014.
- Darebin Economic land Use Strategy 2014

Attachments

- Aerial Image (**Appendix A**)
- Advertised Plan (**Appendix B**)

DISCLOSURE OF INTEREST

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

**5.3 APPLICATION FOR PLANNING PERMIT D/361/2018
834 High Street Thornbury**

Author: Principal Planner

Reviewed By: General Manager City Sustainability and Strategy

Applicant	Owner	Consultant
Max Architects P/L Ground Level 31 Coventry Street SOUTH MELBOURNE	Brooks Property Group P/L 37 Northern Road HEIDELBERG WEST	Max Architects P/L Ground Level 31 Coventry Street SOUTH MELBOURNE

SUMMARY

- The proposal involves the partial demolition of the existing building and the development of a 5-storey mixed use proposal comprising:
 - Retention of the existing façade.
 - Seven (7) dwellings (1 x 2-bedroom and 6 x 3-bedroom).
 - One (1) commercial / retail space (99 square metres).
 - 15 car parking spaces.
 - 10 bicycle parking spaces.
- The site is zoned Commercial 1 and is affected by the Heritage Overlay - 309.
- There is no restrictive covenant on the title for the subject land.
- One (1) objection was received.
- The proposal achieves the objectives and standards of Clauses 22.05, 22.06, 43.01 and 58 of the Darebin Planning Scheme.
- It is recommended that the application be approved.

CONSULTATION:

- Public notice of the proposal was undertaken by the display of a sign on site and letters to surrounding owners and occupiers.
- The proposal received one (1) objection.
- This application was referred internally to the Transport Management and Planning Unit, Capital Works Unit, ESD officer, Heritage officer and Urban Design officer.
- This application was not required to be referred to external authorities.

Recommendation

That Planning Permit Application D/361/2018 be approved and a Notice of Approval 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: TP-02 Rev B, TP-03 Rev D, TP-04 Rev C, TP-05 Rev E, TP-06 Rev E, TP-07 Rev E, TP-08 Rev E, TP-09 Rev D, TP-10 Rev D, TP-11 Rev E, TP-12 Rev D, TP-13 Rev C and TP-14 Rev, prepared by MAX Architects) but modified to show:
 - a) Modifications in accordance with the Sustainable Management Plan (refer to Condition No. 6 of this Permit).
 - b) Modifications in accordance with the Waste Management Plan (refer to Condition No. 7 of this Permit).
 - c) Modifications in accordance with the Acoustic Report (refer to Condition No. 8 of this Permit).
 - d) A comprehensive schedule of construction materials, external finishes and colours (including colour samples).
 - e) External operable sun shading devices (excluding roller shutters) to all east and west facing habitable room windows / glazed doors. Where sun shading devices are being utilised a dimensioned section diagram or photograph must be included to demonstrate the shading type and effectiveness.
 - f) Fixed external sun shading devices to all north facing habitable room windows/ glazed doors. Where sun shading devices are being utilised a dimensioned section diagram must be included to demonstrate their effectiveness.
 - g) Window type and opening mechanism on all elevation plans. Window mechanism must not increase overlooking of secluded private open space and/ or habitable room windows. Sliding, casement or sash windows must be provided to maximise ventilation.
 - h) A single communal antenna for the development (refer also to Condition No. 16 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.
 - i) The location of all plant and equipment (including air conditioners and the like). These are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building.
 - j) Indicative location of signage.
 - k) A canopy over the public footpath to High Street set back 0.75 metres from the kerb and a minimum clearance height of 3 metres above the level of the public footpath.
 - l) Full compliance with Standard D17 (Accessibility) of Clause 58 of the Darebin Planning Scheme in relation to Dwellings 1.01, 3.01 & 4.01.
 - m) Removal of the rain-gardens and their replacement with a proprietary product by ENVIUSS or SPEL (or similar) to filter water in accordance with STORM.

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 either:
- The development does not start within three (3) years from the date of this Permit; or
 - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
 - Within six (6) months after the expiry date; or
 - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
- (4) As part of the consultant team MAX Architects or an experienced architect must be engaged to oversee the design intent and construction quality to ensure that the design and quality and the appearance of the approved building is maintained to the satisfaction of the Responsible Authority.
- 5) 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 2010. 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.
- 6) Before the development starts, a Sustainable Management Plan (SMP) prepared by a suitably qualified professional, must be submitted to, and approved in writing by, the Responsible Authority.

The SMP must address the 10 key Sustainable Building Categories:

- a) Management
- b) Energy
- c) Water
- d) Stormwater
- e) Indoor Environmental Quality (IEQ)
- f) Transport
- g) Waste
- h) Urban Ecology
- i) Innovation
- j) Materials

It is recommended that a Built Environment Sustainability Scorecard (BESS) or Green Star rating is included in the SMP.

Prior to the occupation of the development, a report from the author of the SMP, approved as part of this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SMP have been implemented in accordance with the approved Plan.

- 7) Before the development starts, a waste management plan, to the satisfaction of the Responsible Authority, demonstrating the operation of the garbage and recyclables storage area must be submitted to the Responsible Authority. The collection of waste must be limited to no more than four (4) collections per week across all waste streams.

The plan/documentation must demonstrate the means by which garbage and recyclables will be stored on the site and must clearly detail: what waste services will be provided (ie. cardboard paper plastic and metals recycling or comingled waste, general waste and even organic waste), types of bins, types of collection vehicles, frequency of collection, times of collection, location of collection point for vehicles and any other relevant matter. The plan must require that collection be undertaken by a private contractor.

Waste storage and collection must be 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.

- 8) Before development starts, an Acoustic Assessment of the development, to the satisfaction of the Responsible Authority, must be submitted to and approved by 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 the adjacent bar / restaurant (Joannie's) do not impact adversely on the amenity of the dwellings.
 - b) Dwellings are to be designed to achieve the following noise levels:
 - (i) Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am.
 - (ii) Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.
- Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed.
- 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.

- 9) All apartments that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
- 10) Before the apartments are occupied, an automatic external lighting system capable of illuminating the residential entry and rear right of way access must be provided on the land to the satisfaction of the Responsible Authority.
- The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.
- 11) Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
- 12) The land must be drained to the satisfaction of the Responsible Authority.

- 13) 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.
- 14) 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.
- 15) Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
- 16) Only one (1) communal television antenna may be erected on the building. Individual antennae for individual dwellings/tenancies must not be erected.
- 17) Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
- a) Constructed;
 - b) Properly formed to such levels that they can be used in accordance with the plans;
 - c) Drained;
 - d) Line-marked to indicate each car space and all access lanes;
 - e) Clearly marked to show the direction of traffic along the access lanes and driveways.
- to the satisfaction of the Responsible Authority.
- Car spaces and access lanes shown on the endorsed plans must not be used for any other purpose.
- 18) The amenity of the area must not be adversely affected by the use or development as a result of the:
- a) Transport of materials, goods or commodities to or from the land; and/or
 - b) Appearance of any building, works, stored goods or materials; and/or
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and/or
- and/or in any other way, to the satisfaction of the Responsible Authority.

Council Notations:

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are "necessary or consequential" are those that will be assessed by Council when plans are lodged to satisfy that condition. Any "necessary or consequential" amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- N5 To complete a satisfactory Sustainable Management Plan (SMP) the Responsible Authority recommends the use of the Built Environment Sustainability Scorecard (BESS) to assess the developments environmental performance against appropriate standards.

INTRODUCTION AND BACKGROUND

No planning history applies to the site.

ISSUES AND DISCUSSION

Subject site and surrounding area

- The land is regular in shape and provides a 12.19 metre frontage to High Street, a depth of 24.82 metres with a site area of 442 square metres.
- The site provides a fall of approximately 1.6 metres east to west.
- A Commercial 1 Zone and Heritage Overlay apply to the site.
- A Category 2 Road Zone designation applies to High Street.
- The site is occupied by a double storey form to High Street and single storey section to the rear with double height ceiling (effectively double storey) constructed to all boundaries.
- The premises is currently vacant. A furniture shop previously operated from the premises.
- To the north of the site is 834A High Street which is occupied by a hairdresser and residence located above including a central rooftop terrace located adjacent the common boundary.
- Further to the north is the Junction area comprising several recent apartment developments and the Preston South Shopping Centre, comprising low scale commercial and retail buildings and extensive at grade car parking fronting Plenty Road.
- To the south of the site is 832 High Street which is occupied by Joanie's, a licensed bar and restaurant with partially covered outdoor dining space to the rear. The premises also provides live music or amplified music via a DJ (on occasion). The venue has a capacity of 126 patrons. The venue is open until 1.00am.
- To the east of the site is the T-junction of a right of way (ROW). Beyond the ROW are a block of 2-storey walk-up flats and the rear garden associated with 1 Pender Street.
- To the west of the site is High Street. A similar mix of commercial uses and 2-storey buildings are provided on the opposite side of the High Street.

- The site forms part of the High Street corridor where mixed use development proposals are encouraged. This section of High Street has undergone a resurgence with many bars and restaurants and the Thornbury Cinema having recently emerged. Some recent development including upper level extension and additions are present within the precinct.
- The site is provided with excellent access to a range of commercial, retail, community services and facilities, employment opportunities and transport facilities. The key locational attributes include:
 - 900 metres to the north – Preston Central Principal Activity Centre.
 - Tram Route 86 on High Street.
 - Bus Routes 552 & 553 on High Street.
 - 50 metres to the north – Bus route 552 (along Dundas Street).
 - 350 metres to south west – Thornbury railway station.
 - 750 metres to the north-west – Bell railway station.
 - 345 metres to the north east – Adams Reserve.
 - 180 metres to the east – Sir Douglas Nicholls Sporting Complex (south-east).
 - 280 metres to the south-east – Penders Park.
 - 630 metres to north-west – St John’s College.
 - 400 metres south-west – Thornbury Primary School.

Proposal

- The proposal is for a 5-storey mixed use development comprising:
 - Partial demolition of the existing building. Front façade is to be retained.
 - Seven (7) dwellings (1 x 2-bedroom & 6 x 3-bedroom).
 - One (1) commercial / retail space (99 square metres) fronting High Street.
 - 15 car parking spaces (within car stackers) with access off the ROW.
 - 10 bicycle parking spaces.
- Four (4) of the seven (7) dwellings provide split level accommodation.
- Five (5) of the seven (7) dwellings provide two (2) balconies.
- Each dwellings is orientated with primary views to either the east or west or east and west.
- The ground level shop front is to be remodelled to incorporate new glazing, a tiled plinth, services cupboard and residential entry.
- The first floor façade, awning and “Brooks Furniture” sign is to be retained. The two (2) existing first floor windows will be remodelled into balustrade openings within balcony spaces located behind. A natural grey cement render finish will be applied to the façade.
- The upper levels will be finished in standing seam aluminium cladding with metal balustrades to the balconies.
- The rear elevation is finished in concrete block-work at the ground, 1st and 2nd floor level and natural grey cement render finish at the 3rd and 4th floor.

OBJECTIONS

- One (1) objection received.

Objections summarised

- Height
- Heritage
- Overlooking
- Shading
- Precedent
- Equitable development

Officer comment on summarised objections:

- Height

At State and Local planning level the intent to change this part of High Street has strategic support. Policy encourages new development to a height of 2-levels above existing buildings. In this case the existing building is 2-storeys in height. While the development proposes an additional 3-levels due to the 3-storey height of the existing parapet/street wall to be retained, the height proposed achieves the intent of the policy. The upper two storeys are proposed with a consolidated front setback of 3.5 metres. This approach to the design of the front elevations is supported, avoiding a 'tiered' profile, whilst complying with the minimum setback depth sought by policy. The upper storey is also setback from the side boundaries providing a more moderated built form. The overall height of the proposal together with the massing and setback is contextual and does not result in a built form outcome which would be at odds with the future scale and character of the area as envisaged by policy.
- Heritage

Council's Heritage Advisor supports the proposal in regard to height, built form and materials. Notably the proposal involves the retention of the existing façade, awning and "Brooks Furniture" sign. The upper levels are finished in aluminium seam cladding with steel balustrades. The restrained form and singular approach to materials is a positive aspect of this proposal which is suited to the heritage context of the site.
- Overlooking

The site is located within a predominantly commercial precinct and is relatively isolated from adjacent sensitive interfaces. The light-well windows and the side facing upper level windows have been designed and sited to restrict overlooking of adjacent properties. The rear facing windows and balconies are either sited more than 9 metres from adjacent windows and rear gardens or are designed to limit downward views.
- Shading

The development will cast a shadow over the adjacent commercial property to the south and the ROW and a portion of the rear garden associated with 1 Pender Street to the east. As the Tribunal has stated on many occasions residents living adjacent a commercial precinct which is designated for higher density development, must temper their amenity expectations in comparison to properties located within the residential hinterland. In this case the level of overshadowing is satisfactory.
- Precedent

At 12.19 metres the site provides one of the wider frontages within the immediate precinct. Most sites within the immediate heritage precinct provide 4 to 6 metres

frontages and therefore have lesser development opportunities in comparison to the subject site. The heritage grading and the unique context of the each site will also affect the scope of works and level of demolition that Council would consider appropriate for each site. All sites are unique and all planning applications must be considered on their merits within their physical site context. If the application is to set a precedent it could be its high quality built form and massing and materials palette as opposed to the height of proposal which would be less achievable on neighbouring sites given their smaller footprint.

- **Equitable Development**

The building envelope is proposed to rise sheer on the side boundaries to a height of 4 storeys, with east and west facing light-court windows to the north and south. The boundary walls provide an opportunity for a mirrored boundary wall construction on the adjacent properties to the north and south of the site. Critically the light-court windows provide an inward aspect thereby protecting them against impacts associated with adjacent multi-level development.

While the upper 2 levels do provide north and south facing windows, these windows serve non-habitable areas, a bedroom or provide a secondary light-source to a living room. These windows are also adequately setback from the side boundaries and will receive adequate daylight in the event that adjacent properties are developed at a similar scale.

It is considered that the development responds positively to the principles of equitable development.

PLANNING ASSESSMENT

Clause 22.05 - High Street Land use and Development corridor

This policy applies to the land located along the High Street corridor and implements the High Street land use and urban design objectives and strategies in the MSS and the recommendations of the High Street Urban Design Framework and Precinct Guidelines.

The site is located within Precinct 7 of Clause 22.05. Within precinct 7 is it is policy:

- *To encourage offices and showrooms at ground floor level, particularly in the area between Flinders Street and Pender Street on the west side of High Street.*
- *To encourage residential development above and behind commercial premises.*
- *To ensure new development is designed to protect the amenity of adjoining residential properties.*

The retail space furthers the purpose of the Commercial 1 Zone by providing a retail use at ground level and higher residential densities above. The retail space supports the directions of Clause 21.04-3 (Retail and Commercial Activity) of the Darebin Planning Scheme which seeks to strengthen the role of Darebin's commercial precincts.

Height and Front boundary Setback:

Policy encourages an additional two levels above existing buildings. In this case the development proposes an additional 3-levels. Due to the 3-storey height of the existing parapet/street wall to be retained, the height of development extending beyond this datum equates to an additional 2-storeys. The upper two storeys are proposed with a consolidated front setback of 3.5 metres. This approach to the design of the front elevations is supported,

avoiding a ‘tiered’ profile, whilst complying with the minimum setback depth sought by policy. The top storey is also setback from the side boundaries giving it a more moderated built form.

Clause 22.06 - Multi residential and mixed use Development

This policy applies to the consideration of multi-apartment developments.

Element	Comment	Compliance
Sustainability	<p>A Sustainable Management Plan (SMP) has been prepared. The key sustainable design indicatives’ are:</p> <ul style="list-style-type: none"> - Average 6.4 star rating - A water tank for rainwater harvesting system for toilet flushing (equivalent to 20 bedrooms) and irrigation. - Integrated rain gardens. - High performance glazing and efficient services, appliances and fixtures. - Cross-flow ventilation. - Excellent provision of bike parking (10 spaces). 	Complies subject
Design & Materials	<p>The proposal involves the retention and remodelling of the existing façade. The new shop front includes new glazing treatments, tiled plinth, services cupboard and pedestrian access. The glazing format, along with the tiles to the shopfront plinth provide interest to the street front and is supported.</p> <p>The upper level of the façade is largely unchanged and includes the retention of the ‘Brooks Furniture’ sign. The two (2) first floor windows are converted into balcony openings with little impact on the appearance of the façade.</p> <p>The existing the parapet/street wall rises to a height of 3 storeys, with an additional 2-storeys rising above this datum. The upper two storeys are proposed with a consolidated setback of 3.5 metres. This approach to the design of the front form is supported, avoiding a ‘tiered’ profile, whilst complying with the minimum setback depth sought by policy.</p> <p>The building envelope is proposed to rise sheer on the side boundaries to a height of 4 storeys. The 5th level is setback from the side boundaries. This arrangement would not prejudice the form of development on the adjacent sites and generally facilitates an equitable approach to development.</p> <p>The proposed materials palette consists primarily of metal cladding (standing seam), concrete block-work and glazing and is supported.</p>	Complies
Building Height	<p>A consideration of height requires a balanced consideration of all the related policy drivers such as housing diversity, affordability and urban consolidation. Any discussion of height should be balanced against the design and massing of the building and its response to the immediate context.</p> <p>The State planning policy framework generally encourages Melbourne to become a more compact city by accommodating a substantial portion of its future household growth within its</p>	Complies

Element	Comment	Compliance
	<p>established urban areas. Activity centres, strategic redevelopment sites and locations proximate to public transport are the preferred locations for new residential development, which is encouraged to comprise an intensive scale and built form.</p> <p>At a local planning level the intent to change this part of High Street has strategic support. Policy encourages new development to height 2-levels above existing buildings. In this case the existing building is 2-storeys in height. While the development proposes an additional 3-levels due to the 3-storey maximum height of the existing parapet/street wall to be retained, the height of development extending beyond this datum equates to an additional 2-storeys. The upper two storeys are proposed with a consolidated front setback of 3.5 metres. This approach to the design of the front elevations is supported, avoiding a 'tiered' profile, whilst complying with the minimum setback depth sought by policy. The upper storey also setback from the side boundaries giving it a more moderated built form.</p> <p>The proposed rain gardens on balconies are not considered an acceptable solution given their location and the need for maintenance. A proprietary product such by ENVIUSS or SPEL that is a more suitable solution and is required as a condition of approval.</p>	
Apartment diversity	The proposal provides seven (7) dwellings, including one (1) 2-bedroom and six (6) 3-bedroom dwellings. Four dwellings provide split level accommodation and five dwellings have access to two (2) balconies. The mix of dwelling sizes and layouts is a positive aspect of this proposal.	Complies
Parking and vehicle access	Refer to the Clause 52.06 assessment below.	Complies
Street address	The retail tenancy maintains an active frontage to High Street. The residential entrance is adequately visible. Services are integrated into the façade. The retention of the awning maintains weather protection on High Street.	Complies
Amenity Impacts Including Overshadowing and Overlooking	The site is located within a commercial precinct relatively isolated from adjacent sensitive interfaces. Matters of overlooking and overshadowing are not an issue.	Complies
On-Site Amenity and Facilities, including Private Open Space	<p>On balance the proposal achieves a satisfactory response to Clause 58 (Apartment Developments):</p> <ul style="list-style-type: none"> • A variety of well-proportioned layouts, including split level and dual aspect dwellings. • Large well dimensioned living spaces. • Five dwellings have access to two (2) balconies 	Complies

Element	Comment	Compliance
	<ul style="list-style-type: none"> • Floor to ceiling heights of 2.7 metres. • Excellent provision of bicycle parking. • Excellent cross ventilation. • Excellent quantity of storage provision. <p>While some very minor aspects of Clause 58 are not met, most of the development far exceeds the minimal standards. Overall the proposal is deemed to be a very good housing product. Refer to the Clause 58 assessment below for further details.</p>	
Waste Management	The application is accompanied by a waste management plan detailing the number and size of bins required to service the development and the times, frequency and means of waste collection.	Complies subject to condition
Equitable Access	All levels are provided with lift access.	Complies

Clause 43.01 - Heritage Overlay:

The site forms part of the heritage precinct of High Street Thornbury where a Heritage Overlay (Schedule 309) applies. The precinct comprises the properties at 732-848 & 825-927 High Street, Thornbury. Contributory places include the early to mid-twentieth century shops and residences, which comprise the majority of buildings within the precinct. The consistency of scale, form and detailing of the shops within the centre and the extent to which development in one main period is apparent are important characteristics. Places of individual local significance, which have their own citations in this Study, these include: Collins Corner at No.774, the Drive-in garage at No.802, the shop row at 804-10, the former Regent Theatre at No.851-9, the former Anderson's Furniture Warehouse at No.885, and the shops and residences at No.844-46. The precinct as a whole is of local historic significance to Darebin City.

The decision guidelines contained under the Heritage Overlay require a contextual consideration of the location, bulk, form and appearance of the proposed buildings. Clause 22.05 (High Street Corridor) of the Darebin planning Scheme encourages re-development of properties for mixed use apartment development within the heritage precinct. At a broader State and local policy level there is support to re-develop sites with good access to public transport, shops and services (sustainable development).

The site benefits from a number of physical and locational attributes and planning scheme objectives. The site's size, its main road location, its access to tram services and shops are all factors which indicate that a development of the type and scale sought is appropriate.

While acknowledging the site's inclusion in a Heritage Overlay, it is considered that the site's circumstances and physical and policy context do not preclude higher density development.

- The height of the development will be read in the context of other higher density forms that can be expected to the north and south of the site.
- The design approach retains a strong base comprising the original 3-storey façade with recessed upper levels, providing separation from the heritage façade.
- The upper two storeys are proposed with a consolidated front setback of 3.5 metres. This approach to the design of the front elevations is supported, avoiding a 'tiered'

profile, whilst complying with the minimum setback depth sought by policy. The upper storey is also setback from the side boundaries giving it a more moderated built form.

- The singular and understated materials palette provides visual interest and does not undermine the heritage elements to be retained.
- The heritage façade has been respectfully remodelled and integrated into the overall architectural language of the proposal.
- The rear ROW provides a point of demarcation between the dwellings located to the east and the development.

It is considered that the proposal achieves a well resolved design outcome which balances the aims and objectives of the heritage overlay while achieving an increased housing density in a mixed use building format, as sought by policy.

Clause 58 - Apartment Developments:

Std	Comment	Compliance	
		Std	Obj
D1	Urban Context		
	The proposal appropriately responds to the features of the site and the surrounding context. Consideration of the site context has determined appropriate interface treatments, siting, scale and height. At 5-storeys represents a good fit within the existing and emerging streetscape as sought by policy. The side the rear setbacks provide an appropriate transition to in response considerations of equitable development and amenity. The architectural detailing comprising a restrained palette of materials and clean-lines is appropriate to the heritage context.	Y	Y
D2	Residential policy		
	The proposal furthers the objectives of relevant State and Local planning policy outlined in the Darebin Planning Scheme, by providing a mixed use development in an existing commercial area with excellent access to public transport, retail shopping, services and employment opportunities.	Y	Y
D3	Dwelling diversity		
	The proposal provides seven (7) dwellings, including one (1) single bedroom and six (6) 3-bedroom dwellings. Four dwellings provide split level accommodation and five dwellings have access to two (2) balconies. The mix of dwelling sizes and layouts is a positive aspect of this proposal.	Y	Y
D4	Infrastructure		
	Adequate infrastructure exists to support new development.	Y	Y
D5	Integration with the street		
	The retail tenancy maintains an active frontage to High Street. The residential entrance is adequately visible. Services are integrated into the façade.	Y	Y
D6	Energy Efficiency		
	The development has been designed to maximise north facing	Y	Y

Std	Comment	Compliance	
	<p>dwellings and balconies. Habitable rooms have been designed with windows offering good access to daylight, sunlight and ventilation. Battle-axe bedroom have been avoided.</p> <p>A Sustainable Management Plan (SMP) has been prepared. The key sustainable design indicatives' are:</p> <ul style="list-style-type: none"> - Average 6.4 star rating - A 10,000 water tank for rainwater harvesting system for toilet flushing (equivalent to 20 bedrooms) and irrigation. - Integrated rain gardens. - High performance glazing and efficient services, appliances and fixtures. - Cross-flow ventilation. - Excellent provision of bike parking (10 spaces). 		
D7	Communal open space		
	Not applicable.	N/A	N/A
D8	Solar access to communal outdoor open space		
	Not applicable.	N/A	N/A
D9	Safety		
	The development is secure and the creation of unsafe spaces has been avoided. The dwelling entry is adequately located and visible from High Street.	Y	Y
D10	Landscaping		
	The site area is below the threshold to trigger a landscaping requirement.	N/A	N/A
D11	Access		
	Vehicle access is provided via the ROW as encouraged by policy.	Y	Y
D12	Parking location		
	Parking facilities are proximate to the dwellings they serve. The car parking area is adequately secure.	Y	Y
D13	Integrated water and stormwater management		
	A water tank is provided within the basement for irrigation and flushing of selected toilets (equivalent to 20 bedrooms).	Y	Y
D14	Building setback		
	<p>The proposal is well considered in regard to built form and setbacks. The development maintains the existing 3-storey façade to High Street with the additional levels setback 3.5 metres from High Street in accordance with policy.</p> <p>The side the rear setbacks provide an appropriate transition to adjacent properties and respond to considerations of equitable development and amenity.</p>	Y	Y
D15	Internal views		
	The dwellings are designed and located to ensure no unreasonable	Y	Y

Std	Comment	Compliance	
	internal overlooking is provided.		
D16	Noise impacts		
	<p>All plant and equipment is appropriately located within the basement or on the rooftop area to avoid any unreasonable loss of amenity to occupiers. Services fronting High Street are integrated into the facade to reduce their visibility. The lift well is located away from all but two adjoining bedrooms.</p> <p>Joannie’s bar and restaurant located at No. 832A High Street, adjoins the south boundary of the site. The venue can accommodate up to 126 patrons, including capacity for 62 patrons within the rear courtyard. While the venue primarily operates as a bar and restaurant, the venue does host live music and provides entertainment via a DJ on occasions. The venue is open to 1.00am Monday to Saturday. The liquor license (License No. 32316790) includes following conditions:</p> <ul style="list-style-type: none"> <i>The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No.N-2.</i> <i>Music may be provided in the internal areas of the premises at background music level only. The live performance of any musical works or the playing of any recorded musical works at higher than background music level is prohibited.</i> <p>While the noise levels should be relatively low (not above background music) the proposal does include bedrooms, balconies and living rooms adjacent to the common boundary. On this basis it is likely that future residents within the proposal are likely to be affected by some level noise from the venue.</p> <p>Planning policy encourages High Street to accommodate additional dwellings that would contribute to broader planning objectives of enhancing housing diversity in places that are convenient to services, employment and public transport. Policy also values the live entertainment activities within the activity centre. Policy expects new development to protect future residents from existing noise sources.</p> <p>Clause 53.06 (Live Music and Entertainment Noise) requires that a noise sensitive uses be designed and constructed to include acoustic attenuation measures that will reduce noise levels from an indoor live music venue to below the noise levels specified in SEPP N-2. Practice Note 81 assigns the obligation to mitigate noise to the agent of change, being the new use or development.</p> <p>Given the noise level from Joannie’s are at a relatively low level compared to a typical live music venue and live music is not a regular part of the entertaining on offer, it is deemed appropriate to address this as a condition of approval, requiring the submission of an acoustic report recommending attenuation measures to the sensitive interfaces of the development. Mitigation measures could include double glazing and/or solid walls on the common boundary. These measures would not be unreasonable and would not prejudice the quality or amenity of</p>	Y	Y

Std	Comment	Compliance	
	the proposed dwellings.		
D17	Accessibility		
	<p>This standard recommends that 50% of the dwellings achieve accessibility standards in relation to corridor, bathroom and bedroom dimensions.</p> <p>All dwelling entries and bathrooms achieve this requirement. However the width of corridors from the entries to the accessible bathrooms do not meet the requirement.</p> <p>Four of the seven dwellings provide a split level layout making and are therefore ill suited to persons requiring accessible accommodation. As a condition of the permit the 3 single level dwellings will be required to achieve this standard. While this does achieve the recommended target it is deemed an appropriate outcome given the type of accommodation proposed.</p>	N	Y
D18	Building entry		
	The residential entry to High Street is not large which is expected for a building of this scale. The entry is recessed and is distinguished from the shop front.	Y	Y
D19	Private open space		
	<p>The proposal provides seven (7) dwellings, including one 2-bedroom and six (6) 3-bedroom dwellings. Five (5) dwellings have access to two (2) balconies.</p> <p>Dwelling 1.01 provides an 11 square metre balcony with a dimension of 2.0 metres in excess of this standard.</p> <p>Dwellings 2.01 and 2.02 provide two (2) balconies of 12 and 13 square metres respectively. The primary balcony spaces located off the living rooms provide an area of 13 square metres and a minimum dimension of 2.0 metres, widening to 3.2 metres, where a minimum 2.4 metre dimension is sought. This is deemed a satisfactory outcome given the combined area of the two balconies far exceeds this standard and the minimum dimension of the main balcony is only below the standard in part and above it for the remainder.</p> <p>Dwelling 3.1 provides a 12 square metre balcony with a minimum dimension of 2.5 metres. The area achieves the standard and the dimension exceeds it.</p> <p>Dwellings 3.02 and 3.03 provide 12 square metre balconies with a 3.0 metre dimension plus two (2) additional balconies off a bedroom. This arrangement exceeds the standard in dimension and the total area.</p> <p>Dwelling 4.1 provides a 12 square metre balcony with a minimum dimension of 3.2 metres. The area achieves the standard and the dimension exceeds it.</p>	N	Y
D20	Storage		
	Each dwelling should have convenient access to a total of 10, 14 and 18 cubic metres of storage space (inclusive of 6, 9 and 12 cubic metres of internal storage) for 1, 2 and 3 bedroom accommodation respectively.	Y	Y

Std	Comment	Compliance	
	Each dwelling is provided with 6 cubic metres of external storage space within the basement. Each dwelling is provided with 10 to 30 cubic of internal storage space. The total volume of the storage areas exceeds the standard.		
D21	Common property		
	Common property areas are appropriately designed and delineated.	Y	Y
D22	Site services		
	Sufficient areas for site services are provided. Site services are appropriately designed and integrated into the development.	Y	Y
D23	Waste and Recycling		
	Residential and commercial waste is to be collected via a private waste services provider. The waste storage space is centrally located within the building and away from the street frontages. Waste is to be collected one a week per waste stream equating to four collections per week.	Y	Y
D24	Functional layout		
	<p>The standard recommends bedroom dimensions of 3.0 x 3.4 metres for a main bedroom and 3.0 x 3.0 metres for all other bedrooms.</p> <p>Dwelling 1.01 provides 2 bedrooms measuring 3.0 x 3.1 metres and 3.2 x 3.35 metres for the main bedroom. The main bedroom provides a separate walk in robe. This is a satisfactory outcome given all dimensions except the 150mm shortfall to the main bedroom exceed the standard.</p> <p>Dwellings 2.01 and 2.02 provide three bedrooms of 2.8 x 3.0 metres, 3.0 x 3.17 metres and 3.02 x 3.02 metres to the main bedroom. Two of the three bedrooms in each dwelling have access to a 12 square metre balcony. The main bedroom is provide a walk-in robe. This is a satisfactory outcome given the overall level of amenity to these dwellings is generally excellent, comprising split level accommodation and access to two large balcony spaces.</p> <p>Dwellings 3.01 provides three bedrooms of 3.3 x 3.3 metres, 3.3 x 3.6 metres and 3.2 x 3.4 metres to the main bedroom. All bedrooms exceed the standard.</p> <p>Dwellings 3.02 and 3.03 provide three bedrooms of 2.8 x 3.0 metres, 3.0 x 3.17 metres and 3.02 x 3.02 metres to the main bedroom. Two of the three bedrooms in each dwelling have access to a 12 square metre balcony. The main bedroom is provided a walk-in robe. This is a satisfactory outcome given the overall level of amenity to these dwellings is generally excellent, comprising split level accommodation and access to two large balcony spaces and large living areas.</p> <p>Dwelling 4.1 provides three bedrooms of 3.0 x 3.0 metre, 2.95 x 3.2 metres and 3.0 x 3.67 metres to the main bedroom. This is a satisfactory outcome given all dimensions exceed the standard except the 5mm shortfall to the main bedroom.</p> <p>The standard recommends a minimum living room width of 3.3 metres for studio and single bedroom dwellings and 3.6 metres for dwellings with 2+ bedrooms and an area of 10 and 12 square metres</p>	Y	Y

Std	Comment	Compliance	
	<p>respectively.</p> <p>Dwelling 1.01 provides 2 bedrooms and a living room width of 5.55 metres and area of 31 square metres.</p> <p>Dwellings 2.01 and 2.02 provide three bedrooms and a living room width of 5.5 metres and an area of 57 square metres.</p> <p>Dwellings 3.02 and 3.03 provide three bedrooms and a living room width of 3.3 to 5.7 metres and an area of 55 square metres.</p> <p>Dwelling 4.01 provides three bedrooms and a living room width of 17 metres and an area of 65 square metres.</p> <p>The floor to ceiling heights are 2.7 metres throughout as encouraged under this standard. The width, depth and dual aspect to selected dwellings ensures adequate daylight is provided to the living spaces.</p>		
D25	Room depth		
	The floor to ceiling heights are 2.7 metres are provided throughout as encouraged under this standard. The width, depth and dual aspect to the dwellings ensures more than adequate daylight is provided to the living spaces.	Y	Y
D26	Windows		
	All living rooms and bedrooms have direct access to daylight. No battle-axe bedrooms are proposed.	Y	Y
D27	Natural ventilation		
	All dwellings at all levels are provided with natural ventilation.	Y	Y

Clause 52.06 Car Parking

Number of Parking Spaces Required

The required provision of car parking is set out under Clause 52.06-5 of the Darebin Planning Scheme.

Use	Rate	Provision	Requirement
Dwelling	1 to each 1&2 bedroom dwelling	1	1
	2 to each 3+ bedroom dwelling	14	12
Visitors	Zero for sites within the PPTNA	0	0
Shop	3.5 spaces to each 100m ² net floor area	0	3
Total		15	16

Since the application was lodged the recommended car parking rates under Clause 52.06 have been reduced via amendment VC148 (31/07/2018). Relevantly in this case the provision of visitor car parking is no longer a requirement of the Planning Scheme for this site. In addition the car parking rate for retail and food and drink premises has been reduced from 4 spaces to 3.5 spaces to each 100 square metres of floor area. These new requirements apply to all sites located within 400 metres of the Principal Public Transport Network Area (PPTNA). As the site is located on Tram route 86 it qualifies for these lower car parking rates.

Clause 52.06 recommends the provision of 16 car parking spaces. The development proposes a total of 15 spaces with the following distribution:

1 space to the 2-bedroom dwelling – provision met.

14 spaces for six 3-bedroom dwellings - surplus of 2 spaces.

Zero spaces for the retail use - shortfall of 3 spaces.

The Car Parking Demand Assessment concludes that the provision of car parking is satisfactory based on the following:

- Adequate parking is provided to accommodate the long-term residential car parking.
- An overflow demand of up to 2 shop spaces during business hours and weekends.
- An overflow demand of up to 1 visitor space during the evening and on weekends.
- The availability of alternative car parking in the nearby area to accommodate short-term demands.
- The site's access to alternative transport modes, including provision of bicycle parking and the site's walkability, and
- The site's existing car parking deficiency.

The traffic impact assessment confirmed that a maximum overflow of one staff and one customer space for the shop tenancy is to be expected and these parking demands will be required to be accommodated within the nearby area.

Council is satisfied with the provision and distribution of car parking including the two surplus car parking spaces.

Access and Manoeuvrability

Access to and from all car stacker platforms accords with B85 of AS2890.1:2004. Vehicles can safely manoeuvre to and from each space.

Mechanical Parking (Car Stackers)

The Sphere Global IDEA-Lift (car stacker) will accommodate the 15 off-street car parking spaces. This system is a 3 level independent stacker with a two level pit. The stacker accommodates car heights of 1.7 metres on the lower and middle level and car heights of 2.0 metres on the upper level resulting in 33% of spaces being able to accommodate vehicle heights of at least 1.8 metres in accordance with Clause 52.06-9. A useable platform width of 3.0 metres is also provided.

Traffic Impact

It is estimated that the development will generate 4 vehicle trip ends per dwelling per day. This equates to a daily traffic generation of 28 vehicle trip ends per day for the 7 dwellings proposed. Typically, 10% of this traffic can be expected in the AM and PM commuter peak hours, which equates to 3 vehicle trip ends in each peak hour. This level of additional traffic generation is not expected to adversely impact on the operation of the surrounding street network.

Clause 52.34 - Bicycle Parking

The recommended provision of bicycle parking is set out under Clause 52.34-3.

Number of Bicycle Spaces Required

Use	Rate		Employee / Resident Requirement	Visitor / Shopper Requirement
	Employee / Resident	Visitor / Shopper		
Dwelling (four or more storeys)	1 resident space to each 5 dwellings	1 visitor space to each 10 dwellings	1	1
Retail	1 to each 300m ²	1 to each 500m ²	1	1
Total				

The applicant has proposed to provide 10 bicycle parking spaces within the basement level. All bicycle parking will be provided as ground-mounted rails thereby complying with Australian Standard 2890.3:2015.

A review of the development plans confirms that the bicycle rails are provided within a 1800mm envelope and accessed from a 1500mm wide aisle. The rails have been located at 1000mm centres in accordance with AS2890.3:2015.

REFERRAL SUMMARY

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation
Transport Management and Planning	No objection, subject to condition included in recommendation
Urban Design officer	No objection
ESD Officer	No objection, subject to conditions.
Heritage Officer	No objection

PLANNING SCHEME SUMMARY

Darebin Planning Scheme clauses under which a permit is required

- Clause 32.01-4 (Commercial 1 Zone) – construct a building and to carry out works.
- Clause 43.01 (Heritage Overlay) – demolition and buildings & works.

Applicable provisions of the Darebin Planning Scheme

Section of Scheme	Relevant Clauses
SPPF	11.01-1R, 11.02, 11.03R, 11.032S, 11.03, 15, 15.01-2S, 15.01, 15.01-4R, 15.01-1R, 15.02, 16, 16.01-4S, 16.01-3S, 16.01-3R, 16.01-2R, 16.01-1R, 16.01-2S, 16.01, 17.02, 18.02-2R, 18.02-2S
LPPF	21, 21.03, 21.05, 22.01, 22.05, 22.06, 22.12

Section of Scheme	Relevant Clauses
Zone	32.01
Overlay	43.01, 45.06
Particular provisions	52.06, 52.34, 52.43, 58
General provisions	65.01

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

RELATED DOCUMENTS

- Darebin Planning Scheme

Attachments

- Aerial Photo (**Appendix A**)
- Plans (**Appendix B**)

DISCLOSURE OF INTEREST

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

5.4 PRESTON MARKET - SUBMISSION TO HERITAGE COUNCIL OF VICTORIA

Author: Coordinator Economic Development
Principal Planner

Reviewed By: General Manager City Sustainability and Strategy

PURPOSE

The purpose of this report is to recommend that Council make a submission to the Heritage Council of Victoria, in response to the recommendation of the Executive Director of Heritage Victoria regarding the Preston Market not being a site of state heritage significance.

EXECUTIVE SUMMARY

On 26 November 2018, the Executive Director of Heritage Victoria recommended that the Heritage Council not include the Preston Market on the Victorian Heritage Register in response to two applications received. See **Appendix A** for the full recommendation.

The Executive Director's recommendation to the Heritage Council in general terms was:

- That the place does not meet the criteria for State heritage significance, and
- In line with standard procedure (without forming any view on the local heritage significance), to refer the recommendation to the City of Darebin to give its own assessment on the merit of applying a local Heritage Overlay

It is important to note that the Executive Director's recommendation to refer the matter to Council for further consideration is a routine process in cases where Heritage Victoria's recommendation is that a place is not considered to be of state significance. The phrasing of this recommendation is somewhat confusing for those not familiar with Heritage Victoria's role or processes as it is not clear that this is simply a routine referral and that it does not indicate or imply that local significance has been found – in fact, whether or not the site has local significance has not even been considered by Heritage Victoria.

Also, in this case Council has already looked into the question of local heritage significance and not found a basis on which heritage controls could be meaningfully applied to the site. Given this, Council decided at its meeting of 21 May 2018 not to seek a heritage control at that time and instead sought to have social significance addressed in an integrated way as part of the current review of planning controls. The report to Council noted that *"on balance, officers conclude that seeking a heritage overlay or interim protection at this point would not be likely to succeed, nor would it provide meaningful protection"*. This advice remains current and the Executive Director's recommendation does not reveal any new information that would warrant Council revisiting its earlier decision.

Considering Council's own research, the report to Council on 21 May 2018, and having reviewed Heritage Victoria's report, officers advise that they accept Heritage Victoria's assessment that the Preston Market does not meet the criteria for inclusion on the Victorian Heritage Register as outlined in the *Heritage Act 2017*.

There are important elements of the market that contribute to the market's success such as the wide pedestrian streets, access to natural light and individualised tenancies. While these are not necessarily of heritage value (using the definitions of heritage as it applies under the *Heritage Act* and the *Planning and Environment Act*), they are defining elements of the

market's design, sense of identity and place. Council is keen to ensure these contributory elements are respected and retained, replicated or enhanced in any possible future redevelopment of the site.

Council has been seeking to ensure important elements are incorporated in an integrated way as part of the current Review of Planning Controls. This could be achieved via a number of different planning controls such as the incorporated plan, or a design and development overlay. Important elements include:

- The valued internal characteristics that are readily associated with the Preston Market through the built form, access to light, openness and composition of individual tenancies.
- The number of pedestrian thoroughfares, and community spaces within the market footprint
- The continuity of trade of the market and minimisation and mitigation of construction disruption
- The wide cruciform pedestrian streets that offer a stage for activities or encounters
- Crossing places that sustain social engagement
- Open edges that promote public access
- Natural light and a sense of being open to the outside ('open air market')

A draft submission has been prepared and attached to this report for Council consideration (**Appendix B**), which accepts heritage Victoria's submission, calls for the important elements of the built form that support the social role of the market to be incorporated into the planning controls, and requests that any referral be made to the Victorian Planning Authority rather than City of Darebin in recognition that they are formally responsible for the current review of planning controls.

Council could also choose to modify the submission, not to make a submission, or to seek heritage controls at either state or local level, and this report outlines these options in more detail.

Recommendation

That Council:

- (1) Notes the rich social heritage and importance of the market to the community, and reiterates Council's commitment to working to preserve the long term viability of the market.
- (2) Endorses the submission to the Heritage Council regarding the nomination of Preston Market as presented in **Appendix B** and requests that officers submit to the Heritage Council for consideration before 24 January 2019.
- (3) Reiterates its commitment to working in partnership with the VPA to review the planning controls and future opportunities for the site and to engagement with the community, key stakeholders and the owners of the Preston Market as an important part of this review.

BACKGROUND / KEY INFORMATION

Market operation and interim controls

Unlike a number of markets in Melbourne, Preston Market is a private business on a privately owned site.

One of Council's core objectives is for the market itself to thrive as an ongoing operation, which is a critical ingredient of protecting its social heritage and importance to the community.

Protecting an ongoing operation or use is not something that heritage controls can do because they focus on the built form – the buildings and structures. While there are no specific tools (under Planning legislation) that can require the private owner and operator to continue the use, there are opportunities to facilitate and encourage this use through both planning controls and other opportunities. To this end Council has been working with the Victorian Planning Authority (VPA) on its current Review of Planning Controls at the Preston Market Site, and to ensure that other opportunities are explored as part of the current Review.

Officers are not aware of any proposal by the owners of the Preston Market site to stop operating the market or demolish it. Nor do officers regard it as likely to be in the interests of the owner to do anything that would undermine the community goodwill associated with the market.

In terms of controls presently applying to the Preston Market, after advocacy by the community and Council, the Minister for Planning resolved in 2017 to apply interim height controls for the Market footprint until 30 July, 2019. On 7 November 2018, Council called on the Minister to extend these until after the current Review of Planning Controls at the Preston Market is completed and any changes to the Planning Controls arising from the review have been made.

Council also requested that interim demolition controls be put in place while the current review of planning controls by the VPA are in progress, and until a Planning Amendment process has been finalised. Council's very clear intent is that no irreversible change occurs at the site while the Review is in progress. At this stage, Council has not received a response to this request from the state government.

Council assessment of heritage and importance of built form to success of the Market

Council commissioned extensive research and advice on heritage at this site which was summarised in a report to Council on 21 May 2018. The research articulated very valuable analysis of the social value of the site and the attributes of the market built form that contributes to this (such as the layout and open air feel). The research came in three documents:

- Heritage Study Research Report.
- Heritage Study Technical Report
- Preston Market Heritage Study Peer Review

The 21 May 2018 report noted that *"on balance, officers conclude that seeking a heritage overlay or interim protection at this point would not be likely to succeed, nor would it provide meaningful protection"*.

It also noted that there are elements of the market that contribute to the market's success such as the wide pedestrian streets, access natural light and individualised tenancies. These are not necessarily of heritage value (using the definitions of heritage as it applies under the *Heritage Act* and the *Planning and Environment Act*), but are defining elements of the market's design, sense of identity and place. These urban design elements are highly desirable and important and can also be readily translated into a design based planning control such as an incorporated plan, or a design and development overlay.

At the 21 May 2018 meeting Council resolved not to seek approval from the Minister to Planning to apply heritage controls (whether interim or permanent) to the market site at this time. Instead, it requested that heritage be considered in an integrated way as part of the current review of planning controls being led by the Victorian Planning Authority (VPA). Council's decision of 21 May had generally explored and considered the question of heritage significance at local and state level.

At its meeting held on 21 May 2018, Council resolved in part:

'That Council:

- (6) *Council request that the CEO write to the VPA to request that the Heritage Study and associated technical reports be considered in an integrated way as part of the current review of planning controls.*

Based on this resolution Council wrote to the VPA and subsequently received a response on 8 June 2018, confirming that the VPA review of the planning controls and future opportunities will:

- *"take into consideration the material Council have provided regarding social and cultural heritage"*
- *"commission a review of the local heritage significance of the site and the options available to protect the local heritage values of the site as part of the overall review of planning controls"*
- *"not consider assessing the site for state significance as the VPA remit only covers the review of the current local planning controls for the site"*
- *"consider the independent heritage advice along with other technical information, including community engagement, traffic, drainage and urban design reports to allow for a holistic review of the planning controls"*

Council's guiding principles, formally endorsed at its meeting on 3 September 2018, seek that work:

- *Ensures social heritage considerations are assessed as part of the VPA review process.*
- *Incorporates the valued internal characteristics that are readily associated with the Preston Market through the built form, access to light, openness and composition of individual tenancies.*
- *Ensures the market footprint has a number of pedestrian thoroughfares, and*
- *Is planned to "minimise and mitigate against the risk of construction disruption to continuous trade of the market".*

Victorian process for considering possible state heritage listing

For a place or object to be included in the Victorian Heritage Register it must meet at least one of the Heritage Council of Victoria's criteria for assessment. These criteria are used to determine the importance of a place or object to the history and development of Victoria.

Anyone can nominate a place or object to be listed on the Victorian Heritage Register. Applications to register a place or object on the Victorian Heritage Register are processed by Heritage Victoria, a part of the Department of Environment, Land, Water and Planning. The Executive Director of Heritage Victoria recommends whether a place or object should be registered but the final decision is made by the Heritage Council of Victoria, an independent statutory body.

The *Heritage Act* requires criteria to be used when assessing the cultural heritage significance of places and objects and determining whether those places or objects warrant inclusion in the Victorian Heritage Register.

In 2008 the Heritage Council adopted the heritage assessment criteria set out below. This criteria is used by Heritage Victoria to determine whether a criterion is applicable when considering the significance of a particular place or object.

- a) Importance to the course, or pattern, of Victoria's cultural history.
- b) Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
- c) Potential to yield information that will contribute to an understanding of Victoria's cultural history.
- d) Importance in demonstrating the principal characteristics of a class of cultural places and objects.
- e) Importance in exhibiting particular aesthetic characteristics.
- f) Importance in demonstrating a high degree of creative or technical achievement at a particular period.
- g) Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions.
- h) Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

Detailed guidance is provided in the Victorian Heritage Register Criteria and Thresholds Guidelines (Endorsed by Heritage Council 6 December 2012 - reviewed and updated 5 June 2014).

Heritage Council decision and submissions process

Council has been notified that two applications were received on 20 July 2018 and 12 October 2018 by Heritage Victoria from the Darebin Appropriate Development Association requesting that the Preston Market be added to the Victorian Heritage Register and be afforded a level of protection through heritage control. The applications outline that the Preston Market's built form, social fabric and archaeological value is of substantial importance to Darebin and Victoria's heritage.

The first application, nominated that the built form and social contribution of the Preston Market was of Local and State significance. The second application concentrated on seeking protection and/or further investigation into the historical contribution and archaeological significance of the Preston Market site relating to its historical use for a number of tanneries. The applications have been reviewed by the Executive Director of Heritage Victoria. On Monday 26 November, the Executive Director made a recommendation to the Heritage Council of Victoria not to include Preston Market on the Heritage Register or to seek further analysis.

People with an interest in the Preston Market and the recommendation now have the opportunity to provide a submission to the Heritage Council of Victoria. The Heritage Council of Victoria is an independent statutory authority responsible for reviewing recommendations made by the Executive Director and for adding places and objects to - and removing them from - the Heritage Register.

Council understands that Heritage Victoria have notified all applicants and people who registered as having an interest in this application on the same day as Council was notified of the recommendation.

The statutory process pursuant to the *Heritage Act 2017* allows for 60 days for submissions to be received. The closing date of submission is the 24 January, 2019.

Following the close of submissions the Heritage Council can request further information on any of the submissions. After the 60-day submission period, the Heritage Council must conduct a hearing in relation to a submission if:

- a) The submission includes a request for a hearing before the Heritage Council; and
- b) The submission is made by a person or body with a real or substantial interest in the place or object that is the subject of the submission

Despite this the Heritage Council may conduct a hearing in relation to a submission in any other circumstances the Heritage Council considers appropriate.

If no hearing is held, the Heritage Council has 40 days in which to make a determination whether or not to include the place in the Victorian Heritage Register (VHR). If the Heritage Council conducts a hearing, it must make a determination whether or not to include the place or object in the VHR within 90 days of the last day of the hearing.

Previous Council Resolution

At its meeting held on 21 May, 2018, Council resolved:

That Council:

- (1) *Council reiterates Council's commitment to working in partnership with the VPA to review the planning controls and future opportunities and to engage with the community, key stakeholders and the owners of the Preston Market as an important part of this review.*
- (2) *Council notes the community feedback received to date received through the Community Engagement Findings Report – Phase One. (Appendix A).*
- (3) *Council notes the community engagement planned in Phase Two of the review of planning controls and future opportunities.*
- (4) *Council notes the rich social heritage and importance of the market to the community, and reiterates Council's commitment to working to preserve the long term viability of the market.*
- (5) *Council resolves not to seek approval from the Minister of Planning to apply heritage controls (whether interim or permanent) to the market site at this time.*
- (6) *Council request that the CEO write to the VPA to request that the Heritage Study and associated technical reports be considered in an integrated way as part of the current review of planning controls.*

- (7) Council release heritage reports in full including the research report (*Heritage Study Volume 1: history and community connections, Appendix B*), and the technical reports (*Heritage Study Volume 2: significance Appendix C*) and the Peer Review (*Appendix D*) to the community on 22 May 2018.
- (8) Council request that Council Officers meet with site owner's representatives to discuss the heritage reports and highlight Council's view of the importance of the market to the municipality and Melbourne more generally.
- (9) Council resolves that this Council report becomes public and that it releases all Appendix A, B, C and D
- (10) Council immediately releases the Council resolution; and
- (11) The timing of the release of Appendix A to be done in consultation with the VPA.'

At its meeting held on 3 September 2018, Council resolved:

That Council:

- (1) Notes the rich social heritage and importance of the market to the community, and reiterates Council's commitment to working to preserve the long term viability of the market.
- (2) Reiterates its commitment to working in partnership with the VPA to review the planning controls and future opportunities for the site and to engagement with the community, key stakeholders and the owners of the Preston Market as an important part of this review.
- (3) Thanks community members for their feedback and participation in Phase Two community engagement.
- (4) Endorses community engagement proposed in Option One of this report and works with the VPA to progress this.
- (5) Endorses the community vision as a guide for the future of the market at the site.
- (6) Reaffirms Council's endorsement of the following principles adopted by Council on 21 May, 2108 to guide Council's participation in the current the Review:
 - Council loves the market and is committed to seeing the market thrive into the future.
 - It's important to Council that the community engagement process undertaken is extensive, inclusive and open to ideas.
 - The market needs to remain accessible to all traders and the community during and post construction and the new development.
 - The built form of the site needs to continue to support and encourage the market as a desirable community meeting place.
 - The site will consistently provide a hub of vibrant activity, with varied uses for residents, businesses and visitors.
 - Any future development of the site should incorporate environmental sustainability design and include affordable housing.
 - The location of the site is a good location for meeting Darebin's growing population's needs, as it is strategically located near transport, services and jobs.
 - Any future development must integrate well with the wider neighbourhood and contribute to connectivity and accessibility for pedestrians and active transport users with Central Preston as a whole.
 - Parking needs must be sufficiently addressed.

- (7) *Endorses the following further guiding principles to support and inform Council's participation in the next stage of the Review noting that Council may refine or update these in future when it considers further technical advice and future community engagement.*

Guiding principles

Recognising that the site is a designated strategic development site of state significance being well located close to transport, services and jobs, that any development of the site:

Design Outcomes

- a. Gives priority to pedestrians and high pedestrian amenity to Cramer Street, Mary Street and Station Avenue.*
- b. Delivers strong levels of activation through the site.*
- c. Delivers a sustainable, liveable future neighbourhood both for the site itself but in its contribution to the wider Precinct.*
- d. Prioritises community safety including 24/7 safety by design on all pedestrian links.*
- e. Incorporates improved and safe walking links connecting High Street, Preston Railway Station, Preston Library, Preston High School and Melbourne Polytechnic (to and from the Market).*
- f. Ensures access to daylight and sunlight of open space.*
- g. Achieves best practice environmentally sustainable design as standard.*
- h. Aspires to have a net zero energy requirement from the grid*
- i. Has a complementary and positive economic and place based impact on High Street.*
- j. Includes well-located, high quality, attractive public and community spaces.*
- k. Recognises and plans for the future significance of the public realm interface and linkages between a redeveloped Market site and Preston railway station.*
- l. Ensure spaces are accessible for all ages and abilities.*
- m. Provides good solar access and wind protection throughout the year*
- n. Ensures sunlight reaches the open space to the south of Cramer Street including at the winter solstice.*
- o. Provides for the inclusion of floor space for creative studios.*
- p. Provides for the inclusion or provision of high quality, public art integrated into the design of public spaces and buildings.*
- q. Adopts a planned/curated approach to cultural infrastructure across the site.*
- r. Incorporates additional dedicated commercial buildings to deliver non-retail employment outcomes.*
- s. Incorporates exemplary design and architectural quality and include the use of quality durable materials.*
- t. Incorporates a diverse range of housing options on site, including the provision of affordable housing.*
- u. Ensures developers contribute to community and recreation infrastructure to meet needs of future community.*

- v. *Ensures that intensity and height of any future development is such that the guiding principles in this list are achieved.*

Vehicles and Parking

- w. *The impact of heavy vehicles is minimised and encouraged via Murray Road.*
- x. *Parking and loading areas are located at basement level.*
- y. *Ensures there is no net loss of car parking attributable to the market use in any future development and parking numbers are maintained during construction activities .*
- z. *Ensures parking requirements do not impinge on good/safe design outcomes for redevelopment on High Street.*

Preston Market

- aa. *Ensures Preston Market thrives into the future as the heart of this site and of Preston.*
- bb. *Ensures that Preston Market complies with regulatory requirements including safety standards.*
- cc. *Ensures that Preston Market is not detrimentally affected by overshadowing.*
- dd. *Ensures social heritage considerations are assessed as part of the VPA review process.*
- ee. *Ensures relevant social and cultural considerations are captured and used to identify and inform recommendations in regards to the overall site and the built form.*
- ff. *Incorporates the valued internal characteristics that are readily associated with the Preston Market through the built form, access to light, openness and composition of individual tenancies.*
- gg. *Ensures the market footprint has a number of pedestrian thoroughfares.*
- hh. *Ensures that street and pedestrian edges are activated with uses.*
- ii. *Plans to minimise and mitigate against the risk of construction disruption to continuous trade of the market.*
- (8) *Notes that there is a currently an application with Heritage Victoria relating to the Preston market site and requests that a further report come to Council during any future submission period to consider a submission from Council.*
- (9) *Requests that Council officers engage with stakeholders to advocate for Council's principles and to explore options for achieving these to inform future Council decisions including engaging with market traders, community, site owners, developers and the VPA.*

The guiding principles were established to guide Council's comment on the VPA's Preston Market Planning Controls Review and to also to guide Council's participation in future considerations for the Preston Market.

COMMUNICATIONS AND ENGAGEMENT

Consultation

- Officers have contacted key stakeholders and community members that are known to have an interest in the Preston Market to ensure they understand the process of making a submission to the Heritage Council.

- Officers have updated Frequently Asked Questions (FAQs) and information on Council's website.

Communications

A detailed communications plan will continue to be delivered for the length of this project and so far has included:

- Regular Councillor updates, briefings and reports
- Updates to engaged stakeholders
- Updates to traders both operating in the Market but also within Preston Central
- Posts on Council's Facebook and Instagram accounts
- Regular updates on Council's community engagement platform
- Promotion of future community engagement opportunities

Key messaging covers:

- Council's commitment to helping the market thrive
- Council's commitment to full community engagement
- How the review process works and how the community can get involved
- Local stories celebrating the market and what people love about it
- Practical Council services and activities that support the area

ANALYSIS

Alignment to Council Plan / Council policy

Goal 3 - A liveable city

Environmental Sustainability Considerations

Council has established in its guiding principles that "any future development of the site should incorporate environmental sustainability design". Any future development must integrate well with the wider neighbourhood and contribute to connectivity and accessibility for pedestrians and active transport users with Central Preston.

Equity, Inclusion and Wellbeing Considerations

Council recognises the cultural importance of the Preston Market to Darebin and at the heart of the principles Council has established to guide this work is equity, inclusion and wellbeing considerations.

Cultural Considerations

Council recognises the cultural importance of the Preston Market to Darebin. The submission presented in **Appendix B** addresses the social and cultural significance of the Market and the findings from the Heritage Study undertaken by Council that articulates very valuable analysis of the social value of the site and the attributes of the market built form that contributes to this (such as the layout and open air feel).

Economic Development Considerations

There are no economic development implications associated with this submission.

Financial and Resource Implications

Preparation of the submission has been completed within existing budgets.

Legal and Risk Implications

If Council does not endorse or support preparation of a submission, Council officers would not have the delegation to present a submission to the Heritage Council.

DISCUSSION

Officers' advice concurs with Heritage Victoria's recommendation on state significance

Heritage Victoria's recommendation report (**Appendix A**) outlines the Executive Director's assessment of the place against the tests for state significance set out in The Victorian Heritage Register Criteria and Thresholds Guidelines (2014). Note that Heritage Victoria have not assessed local significance and this is not covered in their report.

Considering Council's own research, the report to Council on 21 May 2018, and having reviewed Heritage Victoria's report, officers advise that they accept Heritage Victoria's assessment that the Preston Market does not meet the criteria for inclusion on the Victorian Heritage Register as outlined in the *Heritage Act 2017*. Further, officers are aware of no further evidence to suggest there is a case for state significance.

Heritage Victoria has specifically assessed whether the space frame has significance, which is a matter that was identified as worth of further research in Council's research. Heritage Victoria's recommendation report concludes:

- the space frame system and tilt-up concrete walls at Preston Market are among the earliest examples of both technologies in Victoria but the nature and scale of the achievement is not of a high degree or 'beyond the ordinary' for the period in which it was undertaken.
- As one of the earliest uses in Victoria of the space frame system and tilt-up concrete walls, the construction of Preston Market generated interest in the construction industry. However both systems were already in use nationally and internationally well before the construction of Preston Market. There are places in Victoria which are better able to demonstrate space frame technology and that this is not an element of the building that is of state significance.

Local significance

The 21 May 2018 report to Council noted that "*on balance, officers conclude that seeking a heritage overlay or interim protection at this point would not be likely to succeed, nor would it provide meaningful protection*". This advice remains current and the Executive Director's recommendation does not reveal any new information that would warrant Council revisiting its earlier decision.

The 21 May 2018 report to Council also noted that there are elements of the market that contribute to the market's success such as the wide pedestrian streets, access to natural light and individualised tenancies. These are not necessarily of heritage value (using the

definitions of heritage as it applies under the *Heritage Act* and the *Planning and Environment Act*), but are defining elements of the market's design, sense of identity and place. These elements of urban design are highly desirable and important and can also be readily translated into a design based planning control such as an incorporated plan, or a design and development overlay.

Part of the Executive Director's recommendation is to refer the matter back to Council to consider whether to apply a local Heritage Overlay. The phrasing of this recommendation is somewhat confusing for those not familiar with Heritage Victoria's role or processes as it is not clear that this is simply a routine referral and that it does not indicate or imply that local significance has been found – in fact, whether or not the site has local significance has not even been considered by Heritage Victoria.

In this case, Council has already looked into the question of local heritage significance and not found a basis on which heritage controls could be meaningfully applied to the site. As outlined in further detail in the background section of this report, this conclusion was informed by an independent expert report that covered both social history and a heritage assessment and a further peer review. The conclusion was that both state and local heritage significance was difficult to justify in the context of considering planning controls largely because the intangible element of social history and cultural significance, while unquestionably significant, was virtually untranslatable into planning controls through a heritage overlay.

Important elements of the built form

As identified through the heritage research, above, there are elements of the market built form that contribute to its success performing its social role in the community such as access to light, openness and composition of individualised tenancies. Council has been seeking to ensure these elements of the built form are incorporated in an integrated way as part of the Review of Planning Controls, which could be achieved via a number of different planning controls such as the incorporated plan, or a design and development overlay. These planning controls are generally more flexible than heritage controls and provide a good opportunity to ensure that these elements of built form are incorporated.

As mentioned previously, these attributes include:

- The valued internal characteristics that are readily associated with the Preston Market through the built form, access to light, openness and composition of individual tenancies.
- The number of pedestrian thoroughfares, and community spaces within the market footprint
- The continuity of trade of the market and minimisation and mitigation of construction disruption
- The wide cruciform pedestrian streets that offer a stage for activities or encounters
- Crossing places that sustain social engagement
- Open edges that promote public access
- Natural light and a sense of being open to the outside ('open air market')

Limits of heritage controls generally

It is important to note that even if the Preston Market site had heritage planning controls this would not prevent any alterations or future developments on the site. It is common for heritage controls to allow development as long as any identified heritage elements can be satisfactorily managed. This is evident throughout Melbourne and Victoria. Any works would be subject to an additional permit process.

Further, inclusion of the site in the State Heritage Register or application of a Heritage Overlay would not provide any protection for the ongoing use of the land for the purpose of a market because heritage overlays can only protect the built form – buildings and structures.

Referral authority should be updated to reflect current responsibility

The reference in the Executive Director's recommendation to refer Preston Market to the 'City of Darebin' be directed to the Victorian Planning Authority (VPA), as they are currently the relevant Planning Authority.

What happens next in regards to the Review of Planning Controls?

The next stage of the Review of Planning Controls is planned to include in-depth community engagement in the first half of 2019 to develop foundational elements for planning controls and to build a stronger understanding of opportunities issues and trade-offs amongst a large, diverse segment of the community, involving all key stakeholders.

Based on Council's guiding principles, officers will continue to seek that social heritage is considered in an integrated way as part of the current Review of Planning Controls and also to seek that important elements of the built form are incorporated into planning controls at the site. The VPA have also committed to considering these matters in an integrated way.

OPTIONS FOR CONSIDERATION

In regards to the next steps on the submission, there are several options open to Council.

1) Council makes a submission that:

- a) **accepts Heritage Victoria's assessment that the Preston Market site does not have state significance, and**
- b) **outlines Councils view that there are important elements of the built form that must be incorporated into planning control.**

This option and the draft submission (**Appendix B**) reflects Council's heritage assessment and supports Council's previous resolutions and the guiding principles which have been developed to guide Council's work with the VPA. These principles seek to incorporate the important elements of the built form in the Review of Planning Controls.

(2) Council makes a submission that asks the Heritage Council places Preston Market on the Heritage register. (Not recommended)

This option is not supported by evidence in regards to the heritage assessment. It would also be contrary to Council's recent decisions not to seek heritage controls but instead to seek protection of the important elements in an integrated way via the Review of Planning Controls.

It may be confusing to stakeholders without knowledge of the heritage definitions in Victoria and the tests that apply given Council's credibility as an authority on these matters.

(3) That Council decide not to make a submission. (Not recommended)

Officers have not identified any benefits in not making a submission. For a site of such importance to Council it would be appropriate for Council to make a submission and would support a clear and transparent approach.

(4) Any of options 1, 2, 3 above, and seek to have a local Heritage Overlay applied by writing to the Minister for Planning. (Not recommended)

Council has already considered this at 21 May 2018 and decided not to seek a heritage control at that time and instead sought to have social significance addressed in an integrated way as part of the current Review of Planning Controls. The Executive Director's recommendation does not reveal any new information that would warrant Council revisiting its earlier decision.

This option is not supported by evidence in regards to the heritage assessment. It would also be contrary to Council's recent decisions not to seek heritage controls but instead to seek protection of the important elements in an integrated way via the Review of Planning Controls.

(5) Any of options 1,2,3 above, and resolve not to seek that a local Heritage Overlay be applied

Council has already considered this at 21 May 2018 and resolved not to seek a heritage control at that time and instead sought to have social significance addressed in an integrated way as part of the current Review of Planning Controls.

Council could consider reaffirming its previous decision however this is not necessary.

IMPLEMENTATION STRATEGY**Details**

- Council Officers would submit the submission to the Heritage Council as requested by Council.
- Council will continue to work with the VPA to develop planning controls and future opportunities for the Preston Market precinct in line with Council's guiding principles and with in-depth community engagement.

Communication

- A copy of Council's report and submission will be made available on the Preston Market yoursay website.

Timeline

- Officers to submit Council's submission to the Heritage Council before the submission close period (24 January, 2019)
- Officers offer to answer any additional questions that the Heritage Council may have at any hearing of submissions, should a hearing occur.

RELATED DOCUMENTS

- Council Minutes – 21 May 2018
- Council Minutes – 3 September 2018
- Heritage Study Research Report
- Heritage Study - Technical Report

- Heritage Study - Peer review

Attachments

- Heritage Victoria Recommendation - Preston Market (**Appendix A**)
- Draft Submission Heritage Council of Victoria (**Appendix B**)

DISCLOSURE OF INTEREST

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

6. OTHER BUSINESS

6.1 GENERAL PLANNING INFORMATION: SCHEDULED VCAT APPLICATIONS

The General Planning Information attached at **Appendix A** contains lists of:

- Scheduled VCAT appeals for the information of the Planning Committee. The table includes appeals heard as well as those scheduled for the coming months (but does not include mediations and practice day hearings).

Recommendation

That the General Planning Information attached as **Appendix A** be noted.

Related Documents

- Nil

Attachments

- General Planning Information (**Appendix A**)

7. URGENT BUSINESS

8. CLOSE OF MEETING