



6.1 146-150 BRIDPORT STREET ALBERT PARK
(PDPL/00817/2022)

LOCATION/ADDRESS: 146-150 BRIDPORT STREET, ALBERT PARK VIC 3206

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: ANITA ROZANKOVIC-STEVENSON, MAJOR PROJECTS & APPEALS ADVISOR

1. PURPOSE

- 1.1 To determine Council's position on the proposed amended plans ahead of the Major Case Appeal hearing P357/2023 before the Victorian Civil and Administrative Tribunal (VCAT) listed to be heard over seven days on 8, 9, 10, 13, 14, 15 and 16 November 2023.

2. EXECUTIVE SUMMARY

WARD:	Lake
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 16 objections
APPLICATION NO:	PDPL/00817/2022
APPLICANT:	JD Bridport Street 1 Pty Ltd C/- MinterEllison
EXISTING USE:	Retail
ABUTTING USES:	Residential, Retail
ZONING:	Commercial 1 Zone
OVERLAYS:	Heritage Overlay, Schedule 443
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	N/A

- 2.1 The application proposed the partial demolition and construction of a six-storey building over two (2) basement levels within the Heritage Overlay (Schedule 443) comprising a restaurant (as-of-right); the use of the land for accommodation with a ground floor frontage exceeding 2 metres in width; a reduction in the number of car parking spaces required under clause 52.06-5 for the restaurant and a reduction in the bicycle requirements of clause 52.34.
- 2.2 Following notice of the application, Council received 219 objections. The objections included the failure to achieve design excellence, precedence, overlooking of public gardens, flooding, urban heat Island effects and the timing and extent of notice.
- 2.3 Several concerns regarding non-compliance with policy contained within the Port Phillip Planning Scheme ('the scheme') include impacts to heritage and neighbourhood character and noncompliance with car parking and traffic. Additionally, amenity impacts raised by objectors are summarised as; incursions on natural light, views, privacy, overshadowing, noise and overlooking.



- 2.4 Subsequently, the applicant lodged a review with the Tribunal (VCAT) pursuant to Section 79 of the *Planning and Environment Act 1987* – failure of responsible authority to make a decision on a planning permit application within statutory timeframes (60 statutory days).
- 2.5 As a result, twenty-one (21) objectors joined as parties to the proceedings by lodging a Statement of Grounds (SOG) with the Tribunal.
- 2.6 Based on the advertised plans (**Attachment 1**) Council determined that had it determined the application within the prescribed time, it would have issued a Notice of Refusal to Grant a Permit to the advertised plans on the following five (5) grounds:
 - *The proposal would not adequately respond to its urban context and would not meet the objectives of standards D1 'Urban Context Objectives' and D2 'Residential policy' requirements of Clause 58.*
 - *As a result of its height, width and impact upon the adjacent individually graded building at 152 Bridport Street, the proposed development is not considered to be consistent with the decision guidelines of the Heritage Overlay or the strategies contained within the heritage policy at Clause 15.03-1L.*
 - *The development would not provide an adequate response to environmental sustainable design or stormwater management and therefore fails to achieve the policy guidelines at Clauses 15.01-2L-02 and 19.03-3L.*
 - *By virtue of bulk and setbacks the proposal would result in unacceptable offsite amenity impacts contrary to Standards D14 'Building setback objectives' D17 'Wind impacts' of Clause 58 and Clause 15.01-1L.*
 - *The proposal does not demonstrate adequate waste arrangements contrary to Standard D24 (Waste and recycling objectives) of Clause 58.*
- 2.7 In advance of the Compulsory Conference held on 10 August 2023, and by order of the Tribunal, a copy of the delegate report (**Attachment 2**) and grounds were circulated to the Tribunal and all parties, advising of the grounds Council intends to rely upon at the hearing.
- 2.8 The Compulsory Conference was attended by Council, the permit applicant and most objector parties who were afforded an opportunity to outline a summary of their issues in dispute. No agreement was reached.
- 2.9 As a result of no agreement being reached, the permit applicant has made an application to the Tribunal to amend the plans which they seek to substitute at day 1 of the appeal hearing on 8 November 2023.
- 2.10 Notice of the proposed amended application has been given to all parties and registered objectors (21 objectors who are party to the appeal).
- 2.11 The proposed amended plans (**Attachment 3**) have been prepared by Cera Stribley, and are titled 'VCAT final hearing', Revision C, September 2023. The application is also accompanied by relevant reports such as Clause 58, Heritage Report, Landscape Plans, ESD report, Traffic Impact Assessment and Waste Management Plan.
- 2.12 As summarised by the applicant in the Statement of Changes accompanying the amendment, the key changes proposed are:
 - Deletion of one story - Level 5 (sixth storey).



- Overall height reduction of 3.5m.
 - Number of apartments increased from 6 to 9 (+3).
 - Apartment mix changed from 5 x 4-bed and 1 x 3-bed to 4 x 4-bed, 2 x 3-bed and 3 x 2-bed.
 - Number of car parking spaces increased from 20 to 22 (+2).
 - Reduction in area of Food & Beverage premises from 695 m2 to 455m2 (-240m2).
 - Southern setback to Bridport St on Levels 01-04 increased from 9.7m to 10.2m (+0.5m).
 - Northern setback to Bevan St on Levels 01-03 increased from 3m to 3.5m (+0.5m).
 - Northern setback to Bevan St on Level 04 increased from 3m to 6.7m (+3.7m).
 - Eastern setback in rear portion of Level 04 increased from 3m to 5.3m (+2.3m).
 - Provision of 3m western setback of the southern section at first floor level.
- 2.13 Council must consider and form a position on the proposed amended plans in advance of the Tribunal hearing. The amendments sought are considered appropriate as outlined in the Council report.
- 2.14 It is considered that the changes in the proposed amended plans and draft conditions have resolved the grounds of non-support.

RECOMMENDATION – PART A

- 3.1 That the Responsible Authority advise VCAT that, had it been the Responsible Authority for determination of the application, would have issued a Notice of decision to grant a permit for the partial demolition and construction of a five-storey building over two (2) basement levels within the Heritage Overlay (Schedule 443) comprising a restaurant (as-of-right); the use of the land for accommodation with a ground floor frontage exceeding 2 metres in width; a reduction in the number of car parking spaces required under clause 52.06-5 and a reduction in the bicycle requirements of clause 52.34 at 146-150 Bridport Street, Albert Park subject to the following conditions:

Amended Plans Required

1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale and dimensioned. The plans must be generally in accordance with the amended by Cera Stribley Revision C dated September 2023, but modified to show:
 - a) The material for the screening to the balcony associated with dwelling 102.
 - b) The 'non-heritage shopfront to be demolished' annotation on TP.0302 deleted and specific items detailed in accordance with the Schedule of Conservation Works at Condition 5.



- c) If feasible, having regard to any relevant engineering and authority requirements, the relocation of the fire booster cupboard from shop 150 to the rear of the building and integrated into the fencing along Bevan Street.
- d) The location of a mailroom.
- e) 'Food and beverage' notation deleted and replaced with 'restaurant'.
- f) Shower and changeroom facilities for restaurant employees in accordance with Clause 52.34-5.
- g) Bicycle signage as required by Clause 52.34-7.
- h) All columns within each basement to be clearly annotated to comply with AS2890.1.
- i) A notation that new on-street parking area parallel to the Bevan Street title boundary is to be signed posted as 1P and include the same day/time restrictions to match those current parking restrictions in this section of Bevan Street.
- j) All grades, length of grades, and intermediate levels along the internal edge of the main ramp in accordance with AS2890.1.
- k) The western edge of the ramp where it intersects with the footpath offset 1 metre from the western property boundary to achieve a minimum 1 metre x 2.5 metre splay.
- l) Urban Art in accordance with condition 4.
- m) Any changes required by condition 5 Schedule of Conservation Works.
- n) Any changes required by condition 6 Wind Impact Assessment.
- o) Any changes required by condition 7 Waste Management Plan.
- p) Any changes required by condition 8 Sustainable Management Plan.
- q) Any changes required by condition 13 Landscape Plan.

No Alterations - use and development

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

No alterations - external materials

- 3. All external materials, finishes, and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Urban Art

- 4. Before the occupation of the development allowed by this permit, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The value of the urban art must be at least 0.5% of the total building cost of the development to the satisfaction of



the Responsible Authority. Urban art in accordance with the approved plan must be installed prior to the occupation of the building to the satisfaction of the Responsible Authority.

Schedule of Conservation Works

5. Prior to the any demolition and endorsement of plans under Condition 1 of this permit, an amended Schedule of Conservation Works based on the report prepared by Bryce Raworth dated 28 August 2023 and the amended plans by Cera Stribley Revision C dated September 2023, must be submitted to and approved by the Responsible Authority. When approved, the Schedule of Conservation Works will be endorsed and will form part of the permit. The report must:

Shop 146

- a) Delete all reference to option B at 4.6.
- b) the proposed treatment of the reconstructed verandah at shop 146;
- c) Specific items to be demolished, salvaged and retained to the shopfront.

Shop 148

- d) Specific items to be demolished, salvaged and retained to the shopfront.

Shop 150

- a) Investigate whether the original tiling to the floor of the ingo is still extant below the concrete of the splayed doorway and if applicable, provide an assessment of its restoration.
- b) Delete reference to 'salvage and retain granite from No 150 shopfront for reuse'.
- c) The proposed entrance treatment to shop 150;
- d) Specific items to be demolished, salvaged and retained to the shopfront.

Reconstruction of verandah and conservation works.

- a) Provide further details of:
 - i. Specific items to be demolished, salvaged and retained to each shop front.
 - ii. like-for-like replacement of the steel verandah battens; and
 - iii. reinstatement of orbs to the parapet.

Once approved by the Responsible Authority, all buildings and works must be in accordance with the demolition method statement.

Wind Impact Assessment Report

6. Prior to the endorsement of plans under Condition 1 of this permit, a Wind Impact Assessment Report must be submitted to and be approved by the Responsible Authority. The report must model and assess the wind impacts on public land, publicly accessible areas on private land and private open space resulting from the development



in accordance with Standard D17 of Clause 58.04-4 – Wind Impacts Objective of the Port Phillip Planning Scheme. The report must be based on the amended plans by by Cera Stribley Revision C dated September 2023. The report must:

- a) Incorporate all condition 1 built form changes as they relate to external modifications.
- b) Model the recommendations to achieve compliance with standard D17; and
- c) Make built form recommendations to achieve compliance with standard D17.

All to the satisfaction of the Responsible Authority.

Waste Management Plan

7. Prior to the endorsement of plans under Condition 1 of this permit, an amended Waste Management Plan based on the report prepared by OneMileGrid, dated 14 September 2022 must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When approved, the report will be endorsed and will then form part of the permit.

The report must be amended to detail:

- a) Any relevant condition 1 changes and requirements.
- b) Specify the number of floors specified within the development.
- c) Provide a wash down area to each waste room.
- d) The provision of storm water pollution prevention.
- e) The provision of an electronic waste (e-waste) recycling bin / skip.
- f) Include scaled waste management drawings.

Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority.

Sustainable Management Plan (SMP)

8. Prior to the endorsement of plans under Condition 1 of this permit, an amended Sustainable Management Plan (SMP) based on the report prepared by GIW Environmental Solutions, Revision D, dated 8 November 2022 (Revision B) must be submitted to and approved by the Responsible Authority. The report must be amended to:

- a) All condition 1 changes where relevant.
- b) All reports and assessment tools to be published and finalised so as to not be in draft form.

Incorporation of Sustainable Design

9. The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority.



Implementation of Sustainable Design

10. Prior to occupation of the development approved under this permit, an ESD Implementation Report (or reports) from a suitably qualified person or company, must be submitted to and endorsed by the Responsible Authority. The Report must confirm that all ESD initiatives in the endorsed SMP and WSUD report have been implemented in accordance with the approved plans to the satisfaction of the Responsible Authority. The SMP and WSUD initiatives must be maintained throughout the operational life of the development to the Satisfaction of the Responsible Authority.

Incorporation of Water Sensitive Urban Design (WSUD) Initiatives

11. Prior to occupation of the development approved under this permit, the project must fully implement the water sensitive urban design initiatives listed in the SMP to the satisfaction of the Responsible Authority. These initiatives must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

Maintenance manual for Water Sensitive Urban Design (WSUD) Initiatives

12. Before the occupation of the development approved under this permit, a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority. The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:

- a) inspection frequency;
- b) cleanout procedures; and
- c) as installed design details/diagrams including a sketch of how the system operates.

The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.

Landscape Plan

13. Concurrent with the endorsement of plans under Condition 1 of this permit, amended Landscape Plans based on the Plans prepared by Myles Baldwin Design, Issue A, dated 14 September 2023 must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:
 - a) All condition 1 changes.
 - b) Planter dimension, depth and volume notated.
 - c) Details of access to planter boxes and a maintenance schedule.
 - d) Water Efficient Landscaping as claimed in the SDA and BESS report at condition 8.



- e) Water Sensitive Urban Design treatments as claimed in the SDA and BESS report at condition 8.

All to the satisfaction of the Responsible Authority.

Completion of Landscaping

- 14. The landscaping as shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or the commencement of the use or at such later date as is approved by the Responsible Authority in writing.

Landscaping Maintenance

- 15. The landscaping as shown in the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the landscaping plan to the satisfaction of the Responsible Authority.

Site Management Water Sensitive Urban Design

- 16. The developer must ensure that:
 - a) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site.
 - b) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system.
 - c) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
 - d) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system.
 - e) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

Car Parking and bicycle parking layout

- 17. Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must be:
 - a) Constructed;
 - b) Properly formed to such levels that may be used in accordance with the plans;
 - c) Surfaced with an all-weather surface or seal coat (as appropriate);
 - d) Drained and maintained;
 - e) Line marked, as appropriate, to indicate each car space, visitor space, bicycle space, loading bay and/or access lane; and



- f) Clearly marked to show the direction of traffic along access land and driveways.
All to the satisfaction of the Responsible Authority.

On-Site Bicycle Parking

18. Before the development is occupied, bicycle racks must be provided on the land to the satisfaction of the Responsible Authority.

Parking and Loading Areas

19. Car and bicycle parking and loading areas and access lanes must be developed and kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.

Vehicle Crossings

20. Before the occupation of the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed, and the footpath and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

Applicant to Pay for Reinstatement

21. Prior to the occupation of the development, the applicant/owner must do the following things to the satisfaction of the Responsible Authority:
- a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development.
 - b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
 - c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

Street Tree Protection

22. Tree Protection Fencing is to be established around the trees parallel to the Bevan Street boundary.
- a) The fencing is to be a 1.8-metre-high temporary fence constructed using chain wire / cyclone mesh panels, with shade cloth attached (if required), held in place with concrete feet/pads. Alternative materials may be used, if approved by the Responsible Authority.
 - b) No excavation, construction activity, grade changes, surface treatment or storage of materials of any kind is permitted within the TPZ without the prior written consent of the Responsible Authority.

Walls on or facing the boundary



23. Prior to the occupation of the development allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

No Equipment or Services

24. Any plant, equipment or domestic services visible from the primary street frontage (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority.

Piping and ducting

25. All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.

EPA noise guidelines

26. The roof top plant and services must be screened and baffled and/or insulated to minimise noise and vibration to other residences in accordance with Environmental Protection Authority Noise Control Technical Guidelines.

Ongoing Involvement of the Architect

27. The applicant must retain Cera Stribley (or a suitably qualified firm), to complete the design and provide architectural oversight of the delivery of the detailed design as shown in the endorsed plans and endorsed schedule of materials and finishes during construction except with the prior written approval of the Responsible Authority.

Time for Starting and Completion

28. This permit will expire if one of the following circumstances applies:

- a) The development is not started within four (4) years of the date of this permit.
- b) The development is not completed within two (2) years of the date of commencement of works.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

RECOMMENDATION “PART B”



- 3.2 Authorise the Manager City Development to instruct Council's Statutory Planners and/or Council's solicitors on the VCAT application for review.

PERMIT NOTES

- The new on-street parking area within Bevan Street as part of the crossover works is to be signed posted as 1P at the same days/times to match the parking restrictions in the street.
- A vehicle crossing permit must be obtained from Council's City Permits Unit prior to the carrying out of any vehicle crossing works.
- This Planning Permit represents the Planning approval for the development of the land. Side and rear boundary fences do not form part of this Planning approval. All matters relating to the boundary fences shall be in accordance with the provisions of the Fences Act 1968.
- Before the development starts (including demolition) an Asset Protection Permit must be obtained from Council's City Permits Unit.
- All construction activities associated with the development must comply with the requirements of Council's Community Amenity Local Law 2023.

4. RELEVANT BACKGROUND

- 4.1 There is no relevant history or background for this application.

5. PROPOSAL

- 5.1 The proposed amended application seeks a planning permit to construct a five-storey building over two basement levels to the rear of a row of three double storey heritage buildings at 146, 148 and 150 Bridport Street on a total site area of 972 square metres.
- 5.2 The heritage facades, sides and associated chimneys are to be retained to a depth of 9.3 metres, with the balance of the rear additions proposed to be demolished.
- 5.3 Extensive repair and restoration works are proposed to the retained heritage fabric including the reinstatement of a new verandah to 146 Bridport, to match 148 and 150 Bridport Street.
- 5.4 The reconstruction of the verandah will necessitate the removal of the deciduous *Ulmus x hollandica* (Dutch Elm) Council Street tree.
- 5.5 At second floor level and above, the new building addition is setback a minimum of 10.2 metres behind the existing heritage buildings principal façade to Bridport Street.
- 5.6 The proposal provides a combined 456 square metres of retail (restaurant) within the heritage buildings ground and first floor, which extend north into the new 5 storey building.
- 5.7 Pedestrian access to the restaurant and residential lobby is via Bridport Street.
- 5.8 Two (2) dwellings are proposed across all levels, save for the top floor (fifth storey) which proposes one (1), for a total of nine (9) dwellings. All dwellings are provided with private open space.
- 5.9 To Bevan Street, rear setbacks (to the glazing line) of 3.5 metres to 7 metres at the fourth level (fifth storey) are provided.



- 5.10 Three (3) existing crossovers to Bevan Street will be removed. The construction of one (1) new crossover and ramp to the northwest corner of the rear boundary will provide access to the developments two basement levels containing a total of nineteen (19) residential car parking spaces, exceeding the statutory requirement of eighteen (18) as required by the Scheme.
- 5.11 Pursuant to Clause 52.34 Bicycle Facilities, the proposal generates a requirement of four (4) visitor bicycle spaces and one shower and change room facility associated with the restaurant.
- 5.12 Zero (0) visitor bicycle spaces and no shower and change room facilities are provided. Accordingly, a reduction of four (4) visitor bicycle spaces and a waiver of the shower and change room facilities for the restaurant is sought.
- 5.13 The proposal exceeds the statutory requirement of residential bicycle spaces provided.
- 5.14 In addition to three (3) car parking spaces provided for the restaurant, Basement 01 contains dwelling car parking spaces and garages, waste rooms, storage, bicycle spaces and the basement gym associated with the ground floor dwelling GO1.
- 5.15 Basement 02 contains further dwelling car parking spaces and garages, motorcycle spaces, rainwater tanks, storage and services. Separate lifts service the dwellings and retail uses.
- 5.16 The proposal features dual Waste Chute Rooms on each level of the building. Collection and management of waste streams will be managed by private contractor who will utilise a 6.4 m rear-lift waste collection vehicle (mini-loader).
- 5.17 The mini loader will enter basement 01 and prop adjacent the bin store, from where the bins will be transferred directly to the waiting truck for emptying and be returned to the bin storage area immediately following collection.
- 5.18 A ceiling clearance height of 2.5 metres is required for the lifting of the largest bin type in the area where the bin lifting occurs. As shown on Section A-A TP.3000, ceiling heights of 2.6 metres are provided.
- 5.19 The building features an overall maximum building height of 18.3 metres from Bridport Street (South). The lift overrun projects 900 millimetres (23.65 AHD) and the services screen (24.25 AHD) by 1.5 metres above roof level (22.75 AHD).
- 5.20 The design response remains contemporary and addresses each elevation by way of varied form while drawing from the scale and proportions of heritage fabric in the immediate area.
- 5.21 The rear (north) elevation capitalises on the utilitarian character of the southern side of Bevan Street and provides a robust design response to the sheer walls and hard edges that dominate the streetscape.
- 5.22 The side (east) elevation features a stacked wave design detailed in off form concrete and fluted terrazzo that provides visual depth to the building's façade and distorts the volumetric density of the building.
- 5.23 When viewed from Bridport Street, the massing of the smooth concrete and glazed rectilinear form of the proposed building is visually recessive to the host building.
- 5.24 Finishes are applied consistently to all elevations and colours which are constrained to a muted pallet of whites and greys offset by powder coated charcoal fenestration.



5.25 The table below provides a comparison of the advertised plans against the proposed amended plans:

	Original Proposal (Advertised Plans)	Proposed amended plans	Change
Restaurant	695 sqm	456 sqm	-239 sqm
Dwellings	6	9	+3
Dwelling Schedule			
2-bedroom	0	3	+3
3 bedroom,	1	2	+1
4-bedroom	5	4	-1
Total dwellings	6	9	+3
Car parking - Dwellings			
	20	19	-1
Car parking - Restaurant			
	2	3	+1
Total car parking	22	22	-
Bicycle parking	8	8	-
Built form	Original Proposal (Advertised Plans)	Proposed amended plans	Change
Overall maximum height			
	21.9 m	18.3 m	-3.5 m
Levels			
	6	5	-1

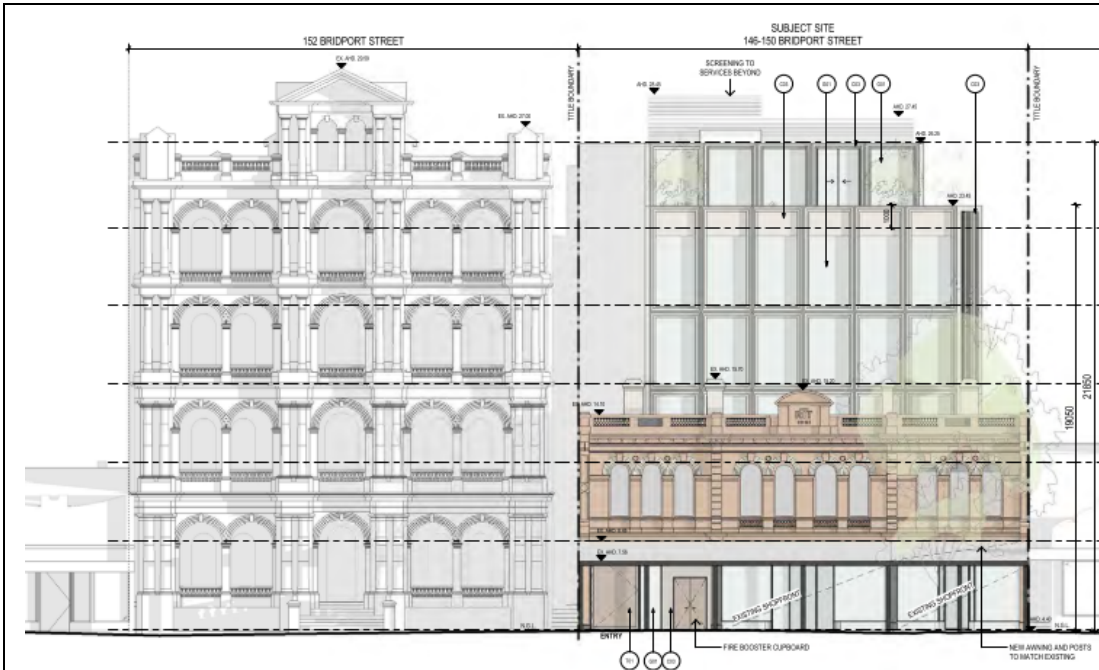


Image 1. Advertised plans from Bridport Street

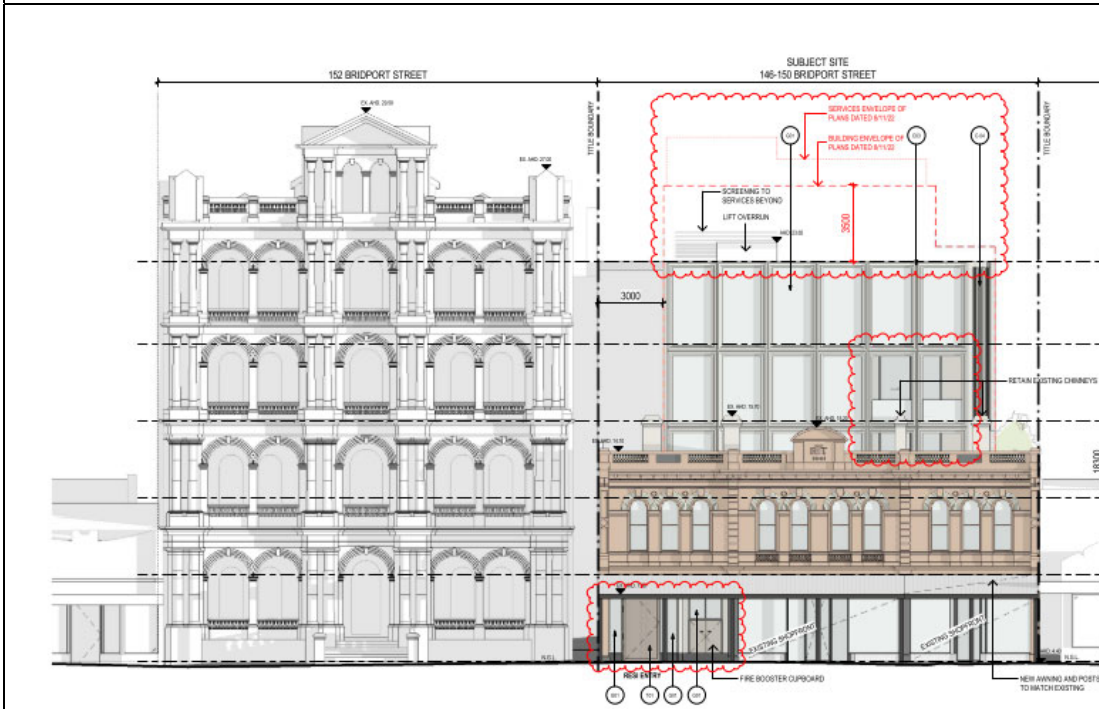


Image 2. Proposed amended plans from Bridport Street

Setbacks	Original Proposal (Advertised Plans)	Proposed amended plans	Change



North (Bevan Street)			
Ground floor	4 m	4 m	-
First floor	3 m – 6 m	3.5 m – 7 m	+500 mm - 1 m
Second floor	3 m	3.5 m	+500 mm
Third floor	3 m – 6.6 m	3.5 m	+500 mm
Fourth floor	3 m – 6.6 m	7m	+3.4 m
Fifth floor	7 m	Floor deleted	Floor deleted
East (side) to Montague Street properties			
Ground floor	0 m – 3.5 m	0 m – 3.7 m	+200 mm
First floor	0 m – 3.5 m	0 m – 3.7 m	+200 mm
Second floor	3 m	3.7 m	+200 mm
Third floor	3 m	3 m	-
Fourth floor	3 m	3 m	5.3 m
Fifth floor	5 m	Floor deleted	Floor deleted
South (Bridport Street)			
Ground floor	-	-	-
First floor	-	-	-
Second floor	9.7 m	10.2 m	+500 mm
Third floor	9.7 m	10.2 m	+500 mm
Fourth floor	9.7 m	10.2 m	+500 mm
Fifth floor	15 m	Floor deleted	Floor deleted
West (side) to Biltmore			
Ground floor	0 m (central core) – 4.4 m	0 m (central core) – 4.4 m	-
First floor	0 m (central core) – 3 m	0 m (central core) – 3 m	+3 m associated with dwelling 102
Second floor	0 m (central core) – 3 m	0 m (central core) – 3 m	-
Third floor	0 m (central core) – 3 m	0 m (central core) – 3 m	-
Fourth floor	0 m (central core) – 3 m	0 m (central core) – 3 m	-
Fifth floor	0 m (central core) – 3 m	Floor deleted	Floor deleted



6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	971 sqm (as per plan of re-establishment)
Existing building & site conditions	<p>The development site comprises three separate allotments at 146, 148, 150 Bridport Street.</p> <p>The site is rectangular in shape and orientated in a north-south axis that features a fall of approximately 1.2 metres in the reverse direction (frontage to rear).</p> <p>The site features a frontage and rear boundary width of 20.2 metres and side boundary lengths of 48.1 metres.</p> <p>The site is occupied by three two-storey attached significantly graded buildings constructed to both side boundaries with veranda's featured to 148 and 150.</p> <p>The rear of the lot contains a number of single storey structures and at-grade parking.</p> <p>The building was constructed in c.1901 and was historically used for retail purposes and is currently occupied by three separate retail tenancies.</p> <p>The total retail floor area is approximately 400 square metres.</p>
Immediate interfaces	<p><u>North (Rear) Bevan Street</u></p> <p>Has a varied heritage character with both the northern and southern sides exhibiting the utilitarian back of house character that reflects the historical development pattern of rear access to those lots fronting Bridport Street and St Vincent Place South.</p> <p>Single dwellings found interspersed fronting the street provide small setbacks and are flanked by strongly defined street walls of adjoining properties.</p> <p>The northern residentially zoned side ranges in scale from one to two stories and garage facilities to recent development.</p> <p>The southern commercial zoned side ranges in scale from one to four stories and is dominated by at grade car parking, and zero street walls.</p> <p><u>East (Side)</u></p> <p>One (1) to two (2) storey commercial buildings of no or varied heritage significance are evident.</p> <p>A Council owned laneway separates 330 and 332 Montague Street and provides access to under croft car parking to 330.</p> <p><u>South (Front) Bridport Street</u></p> <p>Bridport street is the main commercial thoroughfare through the Bridport Street / Victoria Avenue, Albert Park Neighbourhood Activity Centre and is aligned in an east – west orientation.</p> <p>Building scale is generally one to two storeys in height and fewer examples of four and five storey buildings are evident.</p> <p>The streetscapes prevailing character is of low rise heritage interspersed by recent additions.</p>



	<p><u>West (Side)</u></p> <p>Adjoining the development site is the 'Biltmore' - a four storey building at 152 Bridport Street of individual heritage significance and on the Victorian Heritage Register (VHR HO475).</p> <p>The City of Port Phillip Heritage Review identifies the site as "the former Albert Park Coffee Palace' which is of architectural and social significance in South Melbourne. It is one of the few major survivors of a number of nineteenth century coffee palaces that were built across Melbourne.</p> <p>The statement of significance notes:</p> <p><i>Built as the Albert Park Coffee Palace, Biltmore was begun in 1887 to designs by architect Walter Scott Law, and was completed in 1889 by architects Frederick de Garis and Son.</i></p> <p><i>Biltmore is an imposing four storey facade of arcaded loggias. These loggias are divided into three bays with the central bay of one arch and the side bays of two arches. Pairs of engaged columns define these bays and employ different orders at each level from Tuscan, to Roman Doric and variations of the Corinthian above. The composition is surmounted by a balustrade and large central pediment with windows. Internally the ground floor contains a large dining room, ancillary service rooms and reception rooms.</i></p> <p><i>Alterations and additions were made to the building in the late 1920s with another thirty-eight bedrooms added by the architects Arthur and Hugh Peck. Becoming a private hotel in 1928, it was renamed the Biltmore Private Hotel in 1931. In 1950 it was sold to the Royal Melbourne Hospital, with minor alterations undertaken by</i></p> <p><i>Stephenson and Turner, and used as a nurses' home, before reverting back to a private hotel in 1966. It was refurbished and subdivided into twelve apartments in the mid 1990s.</i></p> <p>The front setback is 2.7 metres to the wall of the verandah and ~ 5 metres to the building wall at the building entrance.</p> <p>This building is constructed with small or no setbacks to the shared boundary and includes habitable room windows facing the site.</p>
<p>Surrounds</p>	<p>The site is located within the Bridport Street / Victoria Avenue, Albert Park Neighbourhood Activity Centre which is commercial / mixed use in nature.</p> <p>Bridport Street features east and west bound traffic lanes with central tram lanes that accommodates Tram route 1 East Coburg – South Melbourne Beach.</p> <p>On street parking is featured on both sides of the road and reflects the commercial nature of the Neighbourhood Activity Centre. A taxi zone is located adjacent to the frontage.</p>



7. PERMIT TRIGGERS

7.1 The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?
<p>Clause 34.01 Commercial 1 Zone (C1Z)</p>	<p>Pursuant to Clause 34.01-1 a permit is required for the use of land for dwelling as the ground level frontage exceeds 2 metres in width.</p> <p>A permit is required to use the land for ‘dwelling’ pursuant to Clause 34.01-1.</p> <p>Pursuant to Clause 34.01-1 – A permit is not required to use the land for a ‘restaurant’ as nested under ‘food and drink premises (retail premises) which is a section 1 as-of-right use.</p> <p>Clause 34.01-4 – A permit is required to construct a building or construct or carry out works. An apartment development must meet the requirements of Clause 58 - Apartment Developments.</p> <p>Attachment 4 contains an assessment of the proposed amended plans against Clause 58.</p> <p>A permit is required to construct a building and carry out works pursuant to Clause 34.01-4.</p>
<p>Clause 43.01 Heritage Overlay, Schedule 443 Bridport Street / Victoria Avenue Commercial Precinct</p>	<p>Pursuant to Clause 43.01-1 – A permit is required to demolish or remove a building and construct a building and carry out works.</p> <p>A permit is required to demolish a building and construct a building and carry out works pursuant to Clause 43.01-1.</p>
<p>Clause 52.06 Car Parking</p>	<p>Pursuant to Clause 52.06-3, a permit is required to reduce (including to zero) the number of car parking spaces required under Clause 52.06-5.</p> <p>As the site is located within the Principal Public Transport Network Area, the Column B car parking rates for dwellings and restaurant are outlined in Table 1 to Clause 52.06.</p> <p><u>Dwellings</u></p> <p>The car parking measure for the dwelling use is:</p> <ul style="list-style-type: none"> • To each one or two bedroom dwelling, one (1) car parking space is required. • To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms), two (2) car spaces are required. • When in the PPTN, no visitor car parking spaces are required to be provided. <p>The application proposes three 2-bedroom dwellings and six 3+ bedroom dwellings, generating a requirement of fifteen (15) car spaces to be provided within the developments.</p>



	<p>Nineteen (19) dwelling car spaces are provided, exceeding the statutory requirements for the dwellings.</p> <p>A permit <u>is not</u> required to reduce the number of car parking spaces associated with the dwelling.</p> <p><u>Restaurant</u></p> <p>The car parking measure for the restaurant use is:</p> <ul style="list-style-type: none"> • 3.5 car spaces to each 100 sq m of leasable floor area. <p>The 456 sqm restaurant generates a car parking requirement of 15 car spaces.</p> <p>Three (3) car spaces are provided in Basement 01, resulting in a reduction of twelve car spaces for the restaurant use.</p> <p>A permit is required to reduce the number (12) of car parking spaces associated with the restaurant pursuant to Clause 52.06-3.</p>
<p>Clause 52.34 Bicycle Facilities</p>	<p>Pursuant to Clause 52.34-2, a permit is required to vary, reduce or waive any requirement of Clause 52.34-5 and Clause 52.34-6.</p> <p>Table 1 to Clause 52.34-5 Bicycle spaces, sets out the number and type of bicycle facilities required for a new use.</p> <p><u>Dwellings</u></p> <p>The use of the land for dwellings attracts a statutory requirement for bicycles.</p> <p>In developments of four or more storeys, 1 bicycle space to each 5 dwellings is required for residents.</p> <p>In developments of four or more storeys, 1 to each 10 dwellings is required for visitors.</p> <p>The proposal generates a requirement of two (2) resident bicycle spaces. Zero (0) visitor bicycle spaces are required.</p> <p>One (1) bicycle parking space for each dwelling is provided within the individual storage areas and garages, exceeding the statutory requirement.</p> <p>A permit <u>is not</u> required to reduce the number of bicycle spaces and facilities associated with the dwellings pursuant to Clause 52.34-5.</p> <p><u>Restaurant</u></p> <p>The use of the land for restaurant attracts a statutory requirement for bicycles.</p> <p>For employees, the restaurant is required to provide 1 bicycle space to each 100 square metres of floor area available to the public.</p> <p>For visitors the restaurant is required to provide 2 bicycle spaces plus 1 to each 200 square metres of floor area available to the public if the floor area available to the public exceeds 400 sq m.</p> <p>If 5 or more employee bicycle spaces are required, 1 shower for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter is required.</p>



	<p>1 change room or direct access to a communal change room to each shower is required for employees.</p> <p>The 456 sqm restaurant generates a requirement of:</p> <ul style="list-style-type: none"> • Five (5) employee bicycle spaces; • Four (4) visitor bicycle spaces; and • One (1) employee shower; and • One (1) employee change room. <p>Eight (8) employee spaces are provided within Basement 01 exceeding the statutory requirement.</p> <p>Zero (0) visitor bicycle spaces are provided, accordingly, a reduction of four (4) visitor bicycle spaces is sought.</p> <p>No shower and change room facilities are proposed for restaurant employees.</p> <p>A permit is required to reduce the number of bicycle spaces and facilities associated with the restaurant pursuant to Clause 52.34-5.</p>
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8. PLANNING SCHEME PROVISIONS

8.1 Municipal Planning Strategy (“MPS”)

The following Planning Policies are relevant to this application:

- Clause 02.01 Context
- Clause 02.02 Vision
- Clause 02.03 Strategic Directions

The following provisions of the of the Planning Policy Framework (PPF) are relevant to this application:

8.2 Planning Policy Framework (“PPF”)

- Clause 11.01-1R Settlement - Metropolitan Melbourne
- Clause 11.03- 1S Activity centres
- Clause 11.03-1L- 01 Activity centres
- Clause 11.03-1L- 04 Local and neighbourhood activity centres
- Clause 13.05-1S Noise management
- Clause 13.07-1L-03 Interfaces and amenity
- Clause 15.01-1S Urban Design
- Clause 15.01-1L-02 Urban design - Metropolitan Melbourne
- Clause 15.01-2L-01 Building design
- Clause 15.01-2L-02 Environmentally sustainable development
- Clause 15.01-2L-03 Urban art
- Clause 15.01-5S Neighbourhood Character



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| Clause 15.03-1S | Heritage conservation |
| Clause 15.03-1L | Heritage policy |
| Clause 16.01-1S | Housing supply |
| Clause 16.01-1R | Housing Supply – Metropolitan Melbourne |
| Clause 16.01-1L-01 | Housing diversity |
| Clause 16.01-1L-02 | Location of residential development |
| Clause 17.02-1S | Business |
| Clause 18.01-1L-01 | Land use and transport integration |
| Clause 18.01-3L-01 | Sustainable and safe transport in Port Phillip |
| Clause 18.02-4L-01 | Car parking |
| Clause 18.02-4L-02 | Loading facilities |
| Clause 19.03-3S | Integrated water Management |
| Clause 19.03-3L | Stormwater Management |
| Clause 19.03-5L | Waste and resource recovery |
- 8.3 Other relevant General or Particular Provisions
- | | |
|--------------|--|
| Clause 52.06 | Car Parking |
| Clause 52.34 | Bicycle Facilities |
| Clause 58 | Apartment Developments |
| Clause 65.01 | Decision Guidelines – Approval of an Application or Plan |
| Clause 71.02 | Operation of the Planning Policy Framework |
- 8.4 Clause 72.04 Incorporated documents
- Australian Standard AS/NZS 2890.1:2004, Parking Facilities - Off-street car parking (Standards Australia, 2004)
 - Principal Public Transport Network Area Maps (Victorian Government, August 2018)
- 8.5 Clause 72.04 Incorporated documents, schedule 1.0
- Heritage Design Guidelines (City of Port Phillip, 2022)
 - Port Phillip Heritage Review - Volumes 1-6 (December 2021)
 - City of Port Phillip Heritage Policy Map (Adoption Version Amendment C161port Part 2, December 2021) (Part of Port Phillip Heritage Review)
- 8.6 **Clause 72.08 Background documents**
- Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Department of Environment, Land, Water and Planning, 2017).
 - Plan Melbourne 2017-2050: Addendum 2019 (Department of Environment, Land, Water and Planning, 2019)
- 8.7 **Clause 72.08 Background documents, schedule 1.0**



- Act and Adapt – Sustainable Environment Strategy 2018-28 (City of Port Phillip, 2018)
- City of Port Phillip Council Plan 2017-2027 (City of Port Phillip, 2017)
- City of Port Phillip Urban Art Strategy (City of Port Phillip, 2002)
- City of Port Phillip Water Sensitive Urban Design Guidelines, 2009 (City of Port Phillip, 2009)
- Don't Waste It! - Waste Management Strategy 2018-28 (City of Port Phillip, 2018)
- Guidelines for Preparing a Waste Management Plan (City of Port Phillip, 2019)
- Heritage Design Guidelines (City of Port Phillip, 2022)
- Move, Connect, Live: Integrated Transport Strategy (City of Port Phillip, August 2018)
- Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO, 1999)

8.8 Relevant Planning Scheme Amendment/s

C203port

Amendment C203port was gazetted on 14 April 2023. The Amendment implements the Port Phillip Planning Scheme Audit Report 2018 and responds to Victorian Government changes to the format and content of planning schemes introduced in 2018.

All policies currently in the Local Planning Policy Framework of the Planning Scheme have been reviewed and translated into the new format to simplify and improve its structure, function and operation and remove unnecessary regulation.

Amendment C203port updates the local policies in the Port Phillip Planning Scheme by replacing the Municipal Strategic Statement at Clause 21, and Local Planning Policies at Clause 22, with a Municipal Planning Strategy, local policies within the Planning Policy Framework and selected local schedules to the heritage overlay, particular provisions and operational provisions.

Specifically, Amendment C203port:

- *Implements the Port Phillip Planning Scheme Audit 2018 and the land use and development directions of Council's adopted strategies and documents, including Act and Adapt – Sustainable Environment Strategy 2018-28, Art and Soul – Creative and Prosperous City Strategy 2018-22, Don't Waste It! – Waste Management Strategy 2018-28, In Our Backyard – Growing Affordable Housing in Port Phillip 2015-25, and Move, Connect, Live – Integrated Transport Strategy 2018-28.*
- *Updates the Port Phillip Planning Scheme to comply with Victorian Government changes to planning schemes regarding language, format and structure introduced by Amendment VC148.*
- *Updates local heritage policy to implement new Heritage Design Guidelines, which provide detailed and illustrated guidance on eleven development themes, informed by extensive consultation undertaken in 2019.*
- *Deletion of the application requirement in the Schedule to Clause 43.01 (Heritage Overlay) for building services and solar energy system applications.*



- *Minor drafting changes to the sightline policy guidelines in Clause 15.03-1L (Heritage policy).*

Any new policy of relevance to this Application are largely the result of the Amendment translating the policy into the new format and is largely 'policy neutral' and does not alter the meaning of the policy. Where it is not policy neutral, the Amendment seeks to give effect to adopted Council strategies and plans.

There are no transitional arrangements in the adoption of C203port.

C213port

The amendment corrects obvious and technical errors that occurred as part of the approval of amendments C203port.

9. REFERRALS

9.1 Internal referrals

The proposed amended plans were referred to the following areas of Council for comment. The comments are discussed in detail below and full comments can be found at **Attachment 5**.

Internal department	Referral comments (summarised)
<p>Heritage</p>	<p>No objection, subject to conditions</p> <p>The focus of the referral is the information provided in the Bryce Raworth Schedule of Conservation Works, dated 28 August (the Schedule).</p> <p>Permit conditions to amend / clarify to the satisfaction of Council;</p> <ul style="list-style-type: none"> • proposed entrance treatment of number 150; • treatment of fire booster cabinet; • replacement of the steel verandah battens; • reinstatement of orbs to the parapet; • specific items for demolition to be noted on plans; and • granite plinth from No 150 shopfront for reuse to new entrance and fire booster cabinet to number 150. <p>Supports the demolition of the shopfront at number 150, detailed in the Heritage Impact Statement by Bryce Raworth, December 2022.</p> <p>Due to the design response to heritage, the previous referral supported a higher degree of visibility on the site than would normally be permitted. With the revised plans the overall height of the new building has been reduced and greater side setbacks have been created to the adjoining building. This has decreased this visibility further. The sightline shown on Drawing TP.3000 and attached below, can therefore be supported.</p>
<p>Comment:</p> <p>As outlined in the referral comments to the previously assessed advertised plans, the proposal continues to be supported by Councils Heritage advisor and the referral response to the proposed amended plans has focused on the submitted Schedule of Conservation Works.</p> <p>Proposed permit conditions will address the outstanding items as listed above in the event a permit issues, and in order to retain the heritage values of the shopfronts, a condition will be placed on permit requiring the relocation of the fire booster cabinet to the rear boundary.</p>	



<p>Urban design</p>	<p>No objection</p> <p>From an urban design perspective, the proposal is well conceived, carefully resolved and provides a suitable response to the policy and urban contexts.</p> <p>The overall building form and mass have been well shaped to respond to the sensitive adjacencies particularly the heritage shops on Bridport St and the Biltmore Coffee Palace, as well as the lower scale properties to the east and Bevan Street.</p> <p>Setbacks at the upper levels have been generously proportioned to minimize impacts upon adjacent habitable rooms or private open spaces.</p> <p>The height of the proposed building approximates that of the parapet on the front elevation of the Biltmore building.</p> <p>The proposed built form, including removal of level 5, reduces dominance on the abutting Biltmore Coffee Palace and the retained heritage façade and shops fronting Bridport St, which is considered appropriate and a suitable sympathetic response to the immediate urban context.</p> <p>The upper levels are well set back (by 10.2 metres) at the rear, and retaining the form and character, of the heritage shops. This is greater than setbacks in heritage streetscapes in similar 'high streets' where preferred setbacks are often between 3-6 metres. The proposed setbacks respond well to the important heritage qualities of the existing shops and the adjacent Biltmore building.</p> <p>Recommendations</p> <ul style="list-style-type: none"> • Shower facilities and change rooms for restaurant to be reinstated. • The commercial lift providing access from basement to the ground level is questionable considered the lift access is terminated on the ground level and results in a non-DDA compliant accessibility within the commercial/retail on the upper level. • DDA compliant staff and patron facilities are provided. • Employee bike parking in the basement.
<p>Comment:</p> <p>Councils' urban designers continue to support the proposed amended plans. Shower facilities and change rooms facilities should be provided to support the developments commercial functions and DDA.</p> <p>Access to employee bike parking in the basement is supported, noting that this would require a user to enter the site from Bevan Street. Basement 01 contains the commercial lift to access the restaurant and is efficient and functional.</p> <p>The commercial lift terminates at the ground floor, resulting in non DDA access to the first floor of the restaurant.</p> <p>Due to the reduced floor area provided to the first floor of the restaurant, reinstating the lift would require a substantial redesign and result in the loss of dwelling 102. Given that the ground floor of the restaurant area is 284 square metres in size, this is a substantial offering to accommodate patrons of all abilities. Accordingly, this outcome is considered acceptable.</p> <p>The requirement for shower and change rooms facilities will be addresses by way of permit condition.</p>	



<p>Traffic Engineering</p>	<p>No objection, subject to conditions.</p> <p>A car parking waiver of 12 car is considered appropriate noting that the site is located within PPTN.</p> <p>Recommended permit conditions</p> <ul style="list-style-type: none"> • Garage door opening width to match the swept-path diagrams to be clearly annotated on the plans. • All columns within each basement to be clearly annotated complying with the requirements of AS2890.1. • The main ramp needs to show all grades, length of grades, all intermediate levels along internal edge in accordance with AS2890.1. • The ramp where it intersects with the footpath should have a minimum 1m offset from the western property boundary with a view to achieve a minimum 1m x 2.5m splay. • A pedestrian sight triangle is also required on the eastern side where ramp connects with the footpath in accordance with AS2890.1. • The height of all structures and vegetation etc within these splays are to be limited to no more than 750mm in height. • The site frontage has 1/4P restrictions, however, parking demand can be lot busier during midday towards afternoons. To provide adequate loading access for the development whilst avoiding double parking etc it is recommended that a permit condition be imposed to undertake loading/unloading during weekday mornings (i.e: 7am -10 am) - The applicant should provide a Loading Management Plan reflecting this.
<p>Comment:</p> <p>The reduction in car parking associated with the restaurant continues to be supported, noting that the previous floor area of the restaurant generated a higher reduction sought of 22 spaces. Save for the loading management plan (LMP) discussed below and the pedestrian sight triangle for the eastern edge of the ramp due to existing conditions, all recommended permit conditions are accepted and will form a recommended permit condition.</p> <p>A LMP is not recommended to be placed on permit as a dedicated loading bay is located proximate to the site and ¼ parking spaces are located adjacent to the frontage.</p> <p>Imposing a time constraint on loading, will impinge on the commercial activities of the uses and is considered inequitable for the following reasons:</p> <ul style="list-style-type: none"> • The purpose of the commercial zone is to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. • Public car spaces are a shared public resource. • The removal of two redundant crossovers to the rear at Bevan Street, will create two (2) new public on street car parking spaces. <p>As contained within the Traffic Impact Assessment Report, a car parking survey was undertaken to capture the expected peak operating hours of the restaurant. The surveys times were:</p> <ul style="list-style-type: none"> • Saturday 19th August 2023, between 2:00pm and 9:00pm; and • Friday 25th August 2023, between 2:00pm and 9:00pm. 	

The survey area is illustrated below.

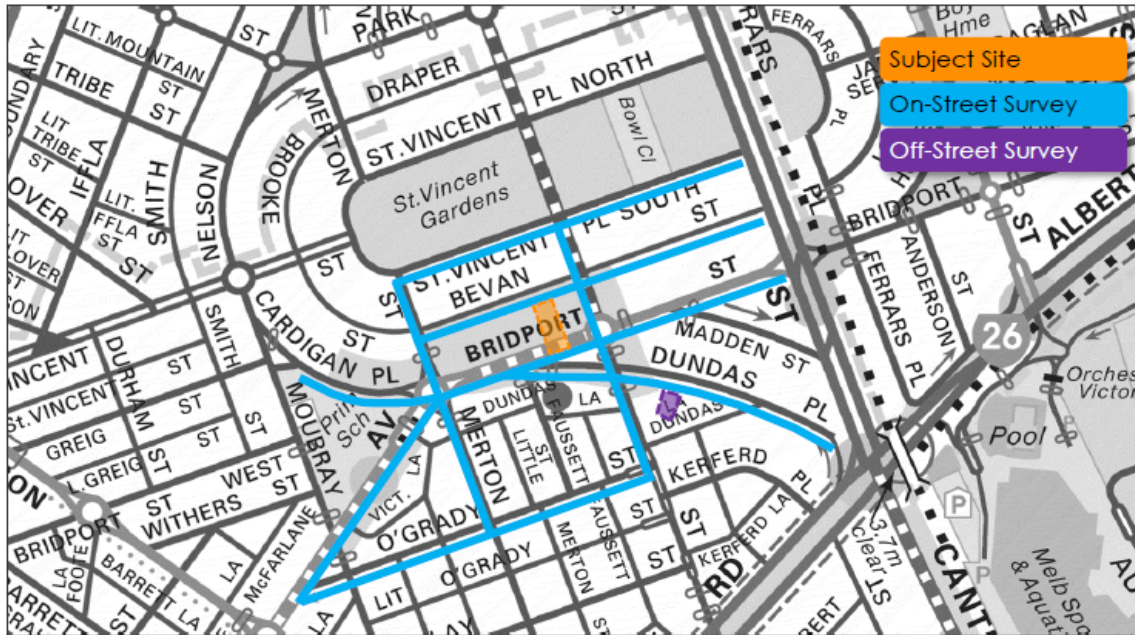


Image 3. Survey area. Source: Traffic Impact Assessment Report prepared by OneMileGrid dated 17 September 2023.

Peak occupancy on the Saturday and Friday Peak both occurred at 2pm leaving no fewer than 311 and 263 spaces (of 878 surveyed) spaces vacant.

At peak capacity, it is apparent that any pressures of sharing a public resource for the purposes of loading and deliveries within the commercial shopping strip can be readily absorbed in the immediate surrounds.

The subject site is not located in an area with the same level of activities as a Major Activity Centre and the increase in activity associated with nine (9) dwellings proposed does not warrant a dedicated-on site loading bay or the provision of a loading management plan for the restaurant.

Arborist	Objection
	<p>Tree removal is not supported.</p> <p>The tree is in good health with no observed structural faults that compromise its long-term retention.</p> <p>Planting opportunities in Bridport Street are already constrained, the extension of the veranda will result not only in the loss of the tree, it will also remove a planting opportunity.</p> <p>Tree removal will have a negative impact on the visual amenity of the area.</p> <p>The tree is in good health with good structure. The tree is ~5m in height with a canopy width of ~9m, N-S.</p> <p>The extent of canopy that needs to be removed to facilitate construction of the veranda would make the tree's retention unviable. The large limb indicated above would need to be removed. The foliage mass that must be</p>



	<p>removed from those branches inside the 'construction zone' is likely to compromise the health of ~50% of the remaining canopy mass.</p>
<p>Comment: As previously reported, the extension of the verandah will result in the loss of the street tree. To ascertain whether the location and extent of canopy could accommodate the reconstruction of the verandah as sought by policy, an assessment has been made by Councils Arborist who concludes that the retention of the street tree is not viable. On balance, the reconstruction of the verandah remains the preferred outcome over the retention of the <i>Ulmus x hollandica</i> (Dutch Elm) Council Street tree. When a tree is removed for development purposes, the developer is charged the amenity valuation costs and removal and replacement costs. Tree amenity refers to the tree's biological, functional and aesthetic characteristics within an urban landscape context. It also factors in the tree's ability to continue to provide these qualities into the medium- to long-term future. The monetary value of tree amenity is calculated to quantify the loss to the community due to the tree's removal. This process is managed by Councils Park Services.</p>	
<p>Sustainability</p>	<p>No objection, subject to conditions.</p> <p>The application demonstrates an acceptable outcome for ESD subject to two changes.</p> <p>Approve subject to conditions addressing north elevation external shading and daylight to apartment 102.</p> <p>The SMP claims that the north-facing glazing would be externally shaded but this is not evident on the plans. The depth of framing around the north elevation glazing is not sufficient to provide effective solar shading to the large expanses of glass.</p> <p>Natural daylight to the living area of apartment 102 would be poor. I note that the room does not pass the natural daylight criteria in the IEQ section of the BESS report. The room is single aspect, facing a narrow terrace area. It would rely on borrowed natural daylight from the east/ north-east, which would be partly compromised by the 1800mm high screen on the east boundary of the terrace.</p> <p>Natural daylight to the living area could be improved by opening up the room into a dual aspect space. This would involve reconfiguring the pantry and deleting the internal wall between the study and the living area.</p> <p>Recommendations</p> <ul style="list-style-type: none"> • Effective solar shading provided to the north elevation habitable room windows for the living room of apartment 101, the living room and master bedroom of apartment 201, the living room of apartment 301 and the living room of apartment 401. • The most effective external shading for north facing glazing is provided by a fixed overhang, either via a projecting fin or louvres or deep window frames. • Reconfiguration of living area and study of apartment 102 to provide a dual aspect room.
<p>Comment: Councils Sustainability Officer has reviewed the application and the revised Sustainable Management Plan (SMP) prepared by GIW Environmental Solutions, Revision D, dated 14 September 2023 (Revision D) and determined that subject to two recommendations that relate to solar shading to the north facing habitable room windows and the reconfiguration of dwelling 102 to increase daylight</p>	



access, the proposal demonstrates an acceptable response to sustainability, resolving several outstanding matters that the previous scheme did not address.

Dwelling 102 has been identified as having compromised daylight access in the BESS report. Standard D7 of Clause 58.07-2 - Room depth works to ensure that adequate daylight into single aspect habitable rooms is provided. The dwelling has a ceiling height of at least 2.7 metres and the single-aspect room does not feature a depth exceeding 9 metres as sought by the standard. The location of the kitchen furthest from the window is appropriate when having regard to the mechanical lighting commonly applied for tasks in this area.

The SMP claims BESS IEQ credits for external shading and to the northern windows of concern across level 1 - 4, a 350 mm deep overhang and 350 mm deep vertical elements is provided. The draft NatHers Certificates in the SMP specifies that horizontal shading features that provide shading to the building in the horizontal plane include eaves, verandahs, pergolas, carports, or overhangs or balconies from upper levels.

Further, Standard D6 of Clause 58.03-1 - Energy efficiency objectives, specifies a maximum cooling load of 30 MJ/m² for dwellings in Climate Zone 21 Melbourne.

The draft NatHers Certificates indicate a min cooling load of 5.2 MJ/m² and a max cooling load of 28.8 MJ/m². The SMP details almost identical figures, however it is noted that the NatHers Certificates are in draft and require to be finalised.

Notwithstanding, the project achieves a total BESS score of 58%.

It is recommended that an amended SMP is required via conditions of permit to address the status of the Draft NatHers Certificates.

Waste

No objection, subject to conditions.

The WMP is mostly consistent with the Guidelines for preparing a waste management plan 2021 – City of Port Phillip.

Recommendations

An amended Waste Management Plan to show:

- The number of floors within the development.
- Storm water pollution prevention.
- A wash down area is required to be provided in each waste room.
- Disability access to all waste and resource recovery facilities and services, including access to bin chutes and bin rooms.
- Provision of an electronic waste (e-waste) recycling bin / skip:
- The WMP indicates plans to include separate glass bins once CoPP transitions to include glass services, ensure enough space is available waste rooms to include services.

Comment:

A Waste Management Plan (WMP) has been resubmitted with the proposed amended plans and provides further details of the private waste arrangement to manage the developments collection and waste stream.

Councils Waste Management officers have reviewed the application and advised that the proposed Waste Management Plan (WMP) is mostly consistent with the Guidelines for preparing a waste management plan 2021 – City of Port Phillip.

The following matters have been raised to be addressed by a revised WMP to the satisfaction of Council and will be adopted by way of recommended permit conditions.



- The number of floors specified within the development.
- A wash down area to each waste room and the provision of and Storm water pollution prevention.
- Provision of an electronic waste (e-waste) recycling bin / skip

All accessible access to the bin rooms is achievable (when assessed against the Standard D18 (Accessibility Objective of Clause 58.05-1) as all door openings within the bin rooms are a minimum dimension of 900 millimetres wide, and a minimum circulation area of 1.2 metres by 1.2 metres is provided.

10. EXTERNAL REFERRALS

The application was not required to be externally referred.

11. PUBLIC NOTIFICATION/OBJECTIONS

- 11.1 In accordance with the directions contained with the Tribunals Practice Note – PNPE9 Amendment of Planning Permit Applications and Plans, the applicant has given notice of the proposed amended plans to all parties and persons who were originally notified of the planning permit application and to those persons who lodged an objection to the grant of a permit with Council or a Statement of Grounds with the Tribunal.
- 11.2 The statement of changes, a PNPE9 Form A (Notice of Amendment of an Application) was served including contact details to request to view the proposed amended plans and supporting material. Parties to the proceeding were automatically provided with a copy of the proposed plans for consideration.
- 11.3 The Form A outlines the process should any persons wish to join as a party to the proceeding, lodge a statement of grounds (but not join as a party), amend their statement of grounds or do nothing.
- 11.4 Any Statement of Grounds (SOG) must be filed with VCAT by the 13 October 2023.
- 11.5 At the date of printing of this report (18 October 2023), no new or amended SOG to the proposed amended plans have been received.

New Objections

- 11.6 The following new objections are new and were not previously addressed in the original delate report. They relate to builder shortages, construction length and time, existing trees on site and the saleability of the dwellings. These are addressed in turn below.

Builder shortage

The number of construction workers is not a relevant planning consideration and cannot be considered in assessing an application under the provisions of the Planning & Environment Act 1987, or the Port Phillip Planning Scheme.

Construction length and time

The length and time for the construction of this proposal is not a relevant planning consideration and cannot be considered in assessing an application under the provisions of the Planning & Environment Act 1987, or the Port Phillip Planning Scheme.

Existing trees on site.



The existing trees are not protected under any provision of the Port Phillip Planning Scheme.

Sales

The Victorian Civil and Administrative Tribunal has consistently found that property and rental values are not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the Planning & Environment Act 1987, or the Port Phillip Planning Scheme.

12. ASSESSMENT

An assessment of the revised plans has been assessed against each ground of refusal as follows. This is to ensure that Council has addressed each ground of refusal given Council's position has changed to recommendation of approval.

PREVIOUS GROUNDS OF REFUSAL 1

The proposal would not adequately respond to its urban context and would not meet the objectives of standards D1 'Urban Context Objectives' and D2 'Residential policy' requirements of Clause 58.

12.1 Standard D1 - Urban Context Objectives, seeks:

- *To ensure that the design responds to the existing urban context or contributes to the preferred future development of the area; and*
- *to ensure that development responds to the features of the site and the surrounding area.*

As outlined in the officer's delegate report that considered the advertised plans, it was reported that the height of the proposed development failed to respect the predominant 2-3 storey scale and to protect the landmark status of the Biltmore building. It was further noted that a reduced height would provide a more appropriate solution.

The proposed amended plans result in a building that is visually subservient to the landmark buildings the 'Biltmore' (152 Bridport Street).

This is achieved through the deletion of one level to the building, reducing the building so as to be set lower than that of the parapet on the front elevation of the Biltmore building.

Though minor, the increased side and front setbacks further assist in tempering the design response by providing more breathing space between the buildings and allowing greater oblique views beyond the site to appreciate the layering of heritage fabric evident in the immediate surrounds.

Critically, these changes allow the new additions to serve as a backdrop – to complement and not compete with the host building or that of its neighbour, ensuring that the new building respects and does not detract from the heritage significance of the adjoining heritage place and streetscape.

The changes are appreciable in the renders showing oblique views southwest to the subject site from the junction of Bridport and Montague Street as shown in Image 4 and 5 below.



Image 4. Render of the view to the building in the advertised plans from the junction of Bridport and Montague Street. Source: Advertised plans, Cera Stribley



Image 5. Render of the view to the building in the proposed amended plans from the junction of Bridport and Montague Street. Source: Advertised plans, Cera Stribley.

From this perspective, visual impacts are greatest due to the single storey development immediately to the east. Until such time that these allotments are developed, any development will be highly visible. However, visibility is not the test of acceptability.

When referring to the original plans, Councils Heritage Advisor previously advised;

... "The high design quality coupled with the generous front setback, and setbacks to the sides and rear results in a building that is respectful of the heritage context and will be suitably recessive and not visually dominant."

... While there will be some impacts upon views to the Biltmore (principally from Montague Street), in primary views along Bridport Street it will retain it's landmark qualities and prominence in the streetscape".

Standard D2 - Residential policy objectives, seeks:

- *To ensure that residential development is provided in accordance with any policy for housing in the Municipal Planning Strategy and the Planning Policy Framework.*



- *To support higher density residential development where development can take advantage of public and community infrastructure and services.*

Clause 11.03-1L-04 and 16.01-1L-02 of the scheme was assessed to determine the proposals compliance with Standard D2.

The objective of the overarching state policy at Clause 11.03-1L-01 – Activity centres of the Scheme seeks to:

... maintain and strengthen a network of distinct, diverse, and viable activity centres that facilitate appropriate housing and economic growth.

Several strategies to achieve this objective are listed and include the following most relevant strategies:

- *Ensure land use supports the strategic role and function of the activity centre.*
- *Support development within activity centres that positively contributes to the built form character of the centre whilst conserving heritage buildings, and streetscapes, and the distinctive and valued character of the traditional retail strips.*
- *Encourage greater consistency in land use and built form intensity at the interface of activity centres and surrounding residential areas, including a transition in building scale to adjoining low-rise development.*
- *Ensure that the heritage scale and form of buildings in the Bridport Street / Victoria Avenue, Albert Park; Armstrong Street, Middle Park; and Glen Eira Road, Ripponlea Neighbourhood Activity Centres, is respected.*

A further strategy is relevant to consider in that it omits Bridport Street when referencing constraining residential development:

- ***Limit residential development in the Neighbourhood Activity Centres of Tennyson Street, Elwood and Centre Avenue, Port Melbourne, being locations that do not offer direct access to the Principal Public Transport Network.***

- 12.2 When viewed from the streetscape, the design changes including the deletion of one level and greater setbacks to distance the building further behind the existing 2 storey façade and its immediate neighbours, meet the policy intent.

Specific guidance at Clause 11.03-1L-04 - Bridport Street / Victoria Avenue Neighbourhood Activity Centre, Albert Park, reiterates that development must be designed to respect the following elements (most relevant bolded):

- ***The predominant one and two storey scale of Victorian buildings, with higher development setback from the principle street to minimise its visibility.***
- ***The prominence of landmark buildings including the ‘Biltmore’ (152 Bridport Street), the Windsor Hotel (107 Victoria Avenue), the Albert Park Hotel (85 Dundas Place) and the former ES&A Bank (95 Dundas Place).***
- *The consistent streetscape frontage widths to buildings.*
- *Views to Albert Park toward the Bay from Victoria Avenue.*
- *The island open space reserve (Broadway Tree Reserve) in Albert Park Village.*

Support the reinstatement of original verandah forms to the commercial buildings on Bridport Street and Victoria Avenue.



Having regard to the aforementioned objectives and strategies, it is apparent that policy does not seek to limit residential development in Bridport Street.

Instead, the existing heritage character, form and scale of one to two storey Victorian buildings necessitates a design response of siting higher development behind the heritage buildings to minimise, not conceal its visibility in the streetscape.

Clause 16.01-1L-02 - Location of Residential Development, seeks to direct the majority of new residential development to preferred housing growth areas to achieve *substantial*, *moderate* or *incremental* residential growth. The background document that informs this policy is the *City of Port Phillip Housing Strategy 2007 to 2017* (City of Port Phillip, 2007). The designated areas and descriptors are outlined below.

Map 1 - Housing Opportunities Framework Plan of the Housing Strategy locates the site within an 'established residential areas' and designates it a 'minimal change area'. The housing framework identifies the minimal change area as residentially zoned land.

The subject site is commercially zoned, and the purpose of the activity centres Commercial 1 Zone is to provide for residential uses at densities complementary to the role and scale of the commercial centre.

- Substantial residential growth within strategic sites and renewal precincts located proximate to a Major Activity Centre and/or the Principal Public Transport Network (PPTN), including the Fishermans Bend Urban Renewal Area, and that are to a height, scale and massing that respects the built form context surrounding the strategic site/renewal precinct.
- Moderate residential growth within the established retail/commercial strips of Major Activity Centres, the Glen Huntly Road/Ormond Road Neighbourhood Activity Centre and the St Kilda Road Neighbourhood (St Kilda Road South Precinct) that is:
 - Generally sited above or to the rear of retail/commercial premises, or as part of more intensive mixed-use developments on larger strategic redevelopment sites as identified in Structure Plans.
 - To an intensity and scale that keeps with the existing streetscape and heritage context, and does not compromise the economic function of the centre.

Provide for incremental residential growth through well designed medium density (2 to 3 storey) infill development:

- On sites with frontage to a Main Road adjacent to the PPTN and where there is an existing diverse neighbourhood character capable of accommodating change.
- Within areas proximate to a Major Activity Centre, and where there is an existing diverse neighbourhood character capable of accommodating change.
- On sites fronting Ormond Road and Glen Huntly Road, proximate to the Elwood Junction and Elwood Village activity centres.
- Along Main and Collector roads that are already characterised by medium-density (2 to 3 storey) development.
- Heritage areas close to the St Kilda Activity Centre that are generally characterised by existing three storey development.

Image 6. Preferred housing growth areas of Clause 16.01-1L-02. Source: The Port Phillip Planning Scheme.

Specific guidance of where medium density development is to be *avoided* is outlined in the policy as evidenced below.

Discourage medium density development in Limited Residential Growth Areas including established residential areas outside a Heritage Overlay and that have a highly consistent neighbourhood character, or are not proximate to a Major Activity Centre or the PPTN.

Limit new development in Minimal Residential Growth Areas affected by a Heritage Overlay.

Ensure major residential development delivers a positive social benefit to the community.



Image 7. Preferred housing growth areas of Clause 16.01-1L-02. Source: The Port Phillip Planning Scheme

It is apparent that the subject site does not conform to the locational context of the definitions and there is no 'policy fit' having regard to applicable locational context.

Notwithstanding, 'Minimal change' is designated in areas where an existing heritage overlay applies and specifies that:

... New development will be minimised in order to protect the recognised heritage values of these areas. All new development shall be in accordance with the Port Phillip Heritage Policy at Clause 22.04.*

*Amendment C203port transferred the amended heritage policy at clause 22.04 to Clause 15.03-1L.

Having regard to these competing policies, it is concluded that residential growth through the provision of nine (9) new dwellings within the Bridport Street / Victoria Avenue, Albert Park Neighbourhood Activity Centre is supported, however support for residential intensification is foremost subject to the acceptability of the developments response to the centres identified heritage values and is principally assessed by the built form response.

As outlined in the discussion below related to heritage and addressing the previous grounds of refusal 2, the proposed amended plans reversed the previous delegates position that the intensification of density was not supported in this activity centre.

For these reasons it is considered that the proposed amended plans have addressed and resolved refusal grounds 1 as it relates to not achieving the objectives of Standards D1 and D2.

ASSESSMENT AGAINST PREVIOUS GROUNDS OF REFUSAL 2

As a result of its height, width and impact upon the adjacent individually graded building at 152 Bridport Street, the proposed development is not considered to be consistent with the decision guidelines of the Heritage Overlay or the strategies contained within the heritage policy at Clause 15.03-1L.

Similarly to grounds 1, the proposal generated adverse heritage impacts to the host building, the adjoining Biltmore building and to the streetscape and were attributed to the height and width of the proposed building.

Specifically, the proposed design response in matching the height to the Biltmore (See Image 1 and 2) was considered to adversely impact on landmark status of the Biltmore building and the low-scale heritage character of the centre. This position was reflected in the officer's assessment against the decision guidelines within the delegate report.

The report acknowledges that the visibility of the additions, particularly from the intersection at Bridport and Montague Street provides justification for a smaller and more modest building more in keeping with the small local scale of the centre.

The changes detailed in the proposed amended plans have addressed the height, massing and bulk of the building, refining the design detail and by providing greater setbacks.

Although these changes do not conceal the building from the Bridport Streetscape, policy does not seek concealment. For additions to commercial buildings, Clause 15.03-1L states;

Support additions to commercial and industrial buildings that are set back a minimum depth of the primary roof form (commercial buildings) or two structural bays (industrial

buildings) to retain original or early fabric including the principal facade/s and roof features, and which:

- respect the scale and massing of the existing heritage building or streetscape; and
- maintain the prominence of the heritage features of the building or streetscape and do not detract from, or visually dominate, the heritage building or streetscape; and
- are visually recessive against the heritage fabric.

As sought for commercial buildings, the proposed building is set back the minimum depth of the primary roof form.

The overall building form and massing has been reduced and further recessed into the site, respecting the scale and massing of the existing heritage building or streetscape.

The degree of visibility has now been further reduced with minor incursions into the sightline diagram beyond the 'concealment' zone as demonstrated by Image 8 below.

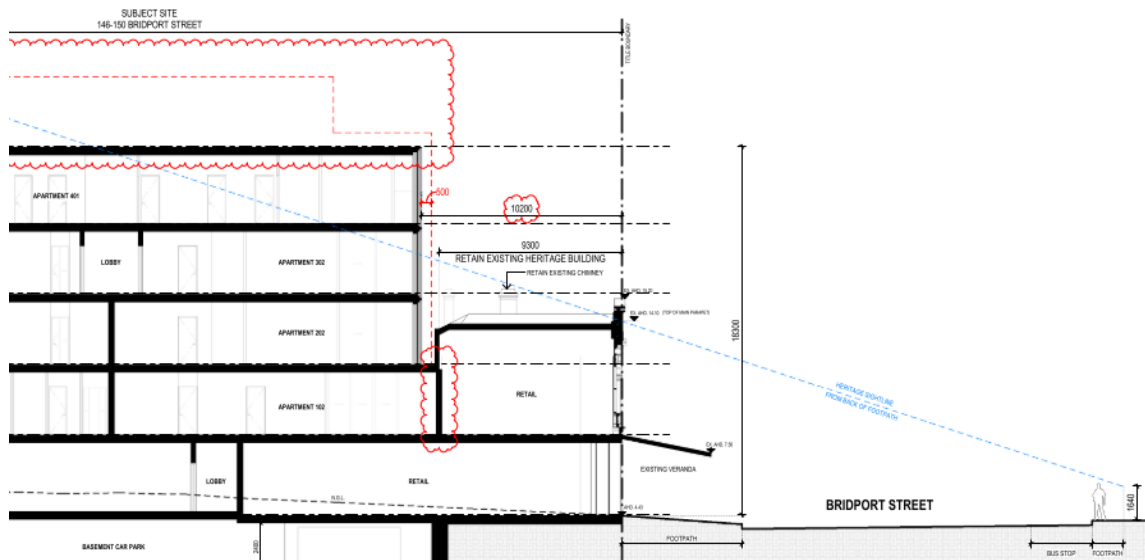


Image 8. Heritage sightline diagram. Source: TP.3000 Proposed Amended plans, Cera Stribley.

These sightline controls encourage additions to be fully concealed when viewed from natural eye level on the opposite footpath, as one way of achieving the above policy.

As explained in the original heritage referral, the reason for this policy approach is to *'maintain the consistency and integrity of the heritage streetscapes within local or neighbourhood activity centres, specifically to retain the visual primacy of the streetscape created by the predominantly two storey parapetted buildings, as is found in Bridport Street and to ensure that new development is visually recessive'*.

The heritage officer further opined that *'Given the high design quality of the proposed new building, which carefully responds to and interprets the historic built context, it is my opinion that a higher degree of visibility may be permitted on the subject site'*.

It is now considered that the proposed amended plans have satisfactorily responded to the applicable heritage policy and resolved the concerns that form the basis of ground 2.



ASSESSMENT AGAINST PREVIOUS GROUNDS OF REFUSAL 3

The development would not provide an adequate response to environmental sustainable design or stormwater management and therefore fails to achieve the policy guidelines at Clauses 15.01-2L-02 and 19.03-3L.

As detailed in the Sustainability referral response found at Section 9.1 of this report, the SMP was resubmitted and provides further details of the applications response to sustainability matters in the proposed amended plans.

As outlined, all outstanding matters that informed the previous delegate report have been satisfactorily resolved.

The resubmitted SMP demonstrates a 58% score, exceeding best practice benchmarked at 50%.

It is considered that the proposed amended plans satisfactorily respond to and resolve the concerns that form the basis of ground 3.

ASSESSMENT AGAINST PREVIOUS GROUNDS OF REFUSAL 4

By virtue of bulk and setbacks the proposal would result in unacceptable offsite amenity impacts contrary to Standards D14 'Building setback objectives' D17 'Wind impacts' of Clause 58 and Clause 15.01-1L.

Clause 58 – Apartment developments is the primary tool by which this development and its amenity impacts are assessed. The purposes of the Clause 58 are:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage apartment development that provides reasonable standards of amenity for existing and new residents.*
- *To encourage apartment development that is responsive to the site and the surrounding area.*

Standard D14, Building setback objectives of Clause 58.04-1 prescribes the following objective:

- *To ensure the setback of a building from a boundary appropriately responds to the existing urban context or contributes to the preferred future development of the area.*

The standard states:

The built form of the development must respect the existing or preferred urban context and respond to the features of the site.

Buildings should be set back from side and rear boundaries, and other buildings within the site to:

- *Ensure adequate daylight into new habitable room windows.*
- *Avoid direct views into habitable room windows and private open space of new and existing dwellings. Developments should avoid relying on screening to reduce views.*
- *Provide an outlook from dwellings that creates a reasonable visual connection to the external environment.*
- *Ensure the dwellings are designed to meet the objectives of Clause 58.*

Before deciding on an application, the responsible authority must consider:



- *The purpose of the zone and/or overlay that applies to the land.*
- *Any relevant urban design objective, policy or statement set out in this scheme.*
- *The urban context report.*
- *The design response.*
- *The relationship between the proposed building setback and the building setbacks of existing adjacent buildings, including the interface with laneways.*
- *The extent to which the proposed dwellings are provided with reasonable daylight access through the layout of rooms and the number, size, location and orientation of windows.*
- *The impact of overlooking on the amenity of existing and proposed dwellings.*
- *The existing extent of overlooking into existing dwellings and private open space.*
- *Whether the development meets the objectives of Clause 58.*

The standard focuses on providing setbacks that respect the existing urban (or preferred future development) and then focuses the balance of the objectives to the amenity provided to future occupants of the proposed building.

Firstly, there are no numerical side and rear setback standards that apply to this proposal.

External impacts in this standard focus on *avoiding direct views into habitable room windows and private open space of new and existing dwellings.*

As outlined in the delegate reports assessment of the Decision guideline of the Commercial 1 Zone, there is no overlooking or overshadowing to any building in an adjacent residential zone (Bevan Street).

The report outlined that the setbacks provided to the rear (Bevan Street) and side (east) title boundaries were acceptable. As outlined in the table earlier in the report, these setbacks have only increased further, so continue to be acceptable.

The area that informed the grounds of refusal relates to the front half of the western boundary to the Biltmore building.

For the first 9.3 metres of the subject site's heritage building, the side setbacks are built on the boundary at ground and first floor. This area is not in contention as it is not proposed to change. It is an existing condition best understood when viewing the Plan of Reestablishment and Detail Survey by JRL Land surveyors (**Attachment 6**). A screen shot is provided below at Image 9.

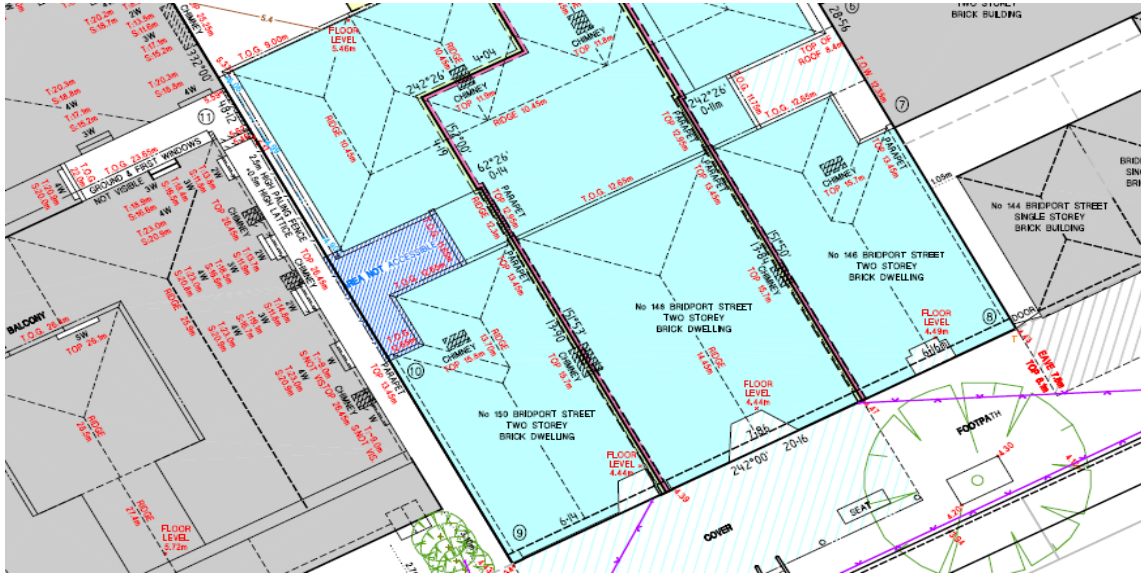


Image 9. Screenshot of existing 2 storey wall on boundary conditions. Source: Plan of Reestablishment and Detail Survey by JRL Land surveyors

At ground floor, windows set opposite this new boundary wall are associated with the former restaurant and are concealed by the existing 2.5 metre fence plus 500-millimetre lattice.

The built form that was not considered acceptable was the ~18 metre first floor wall on boundary that extended past the retained heritage wall. This wall is opposite two habitable room windows - one bedroom (studio) and one kitchen. The living room does not contain windows to this boundary. This is evident in Image 10 and 11 below that highlights the first floor east facing windows of the Biltmore.

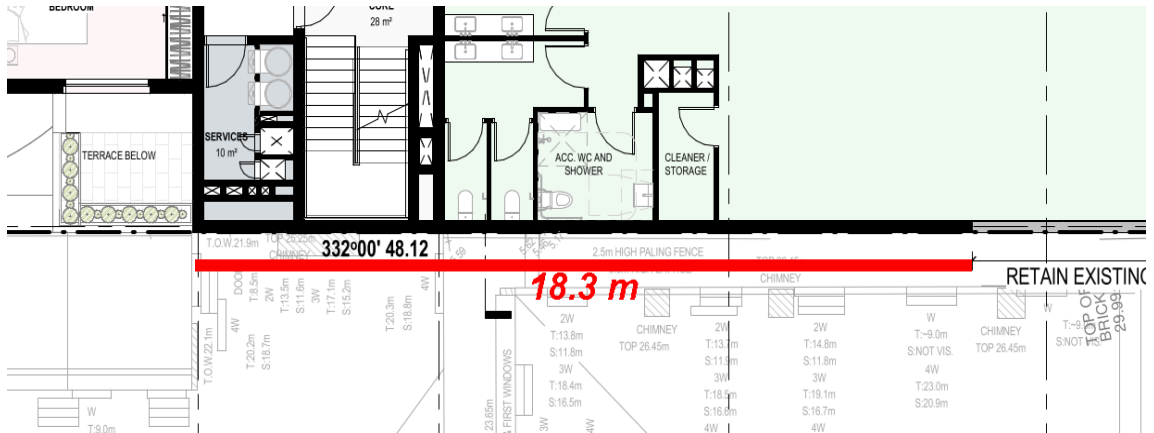


Image 10. Screenshot of first floor wall on boundary, as advertised. Source: Source: TP.1101 Advertised plans, Cera Stribley.



Image 11. Screenshot of first floor east facing Biltmore windows. Source: Source: Plan of Reestablishment and Detail Survey by JRL Land surveyors

The layout of this affected dwelling is shown below in Image 12, taken from the endorsed plans of the Biltmore dated 23 July 1993.

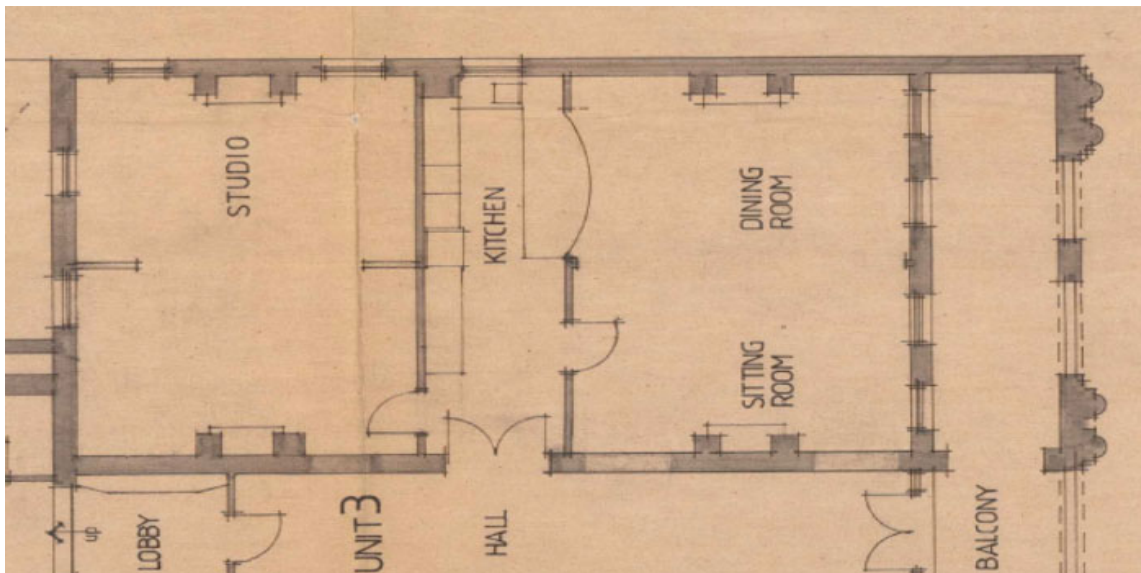


Image 12. Screenshot of first floor east facing Biltmore windows. Source: Endorsed plans of the Biltmore Building, Planning permit S3378. 23 July 1993.

Concern was also raised about the 3-metre setback provided opposite the Biltmore's habitable room windows from the second floor and above.

Image 13 below shows the surveyed windows, highlighting those that are habitable as detailed in the endorsed floor plans.



Image 13. Screenshot of east facing habitable Biltmore windows highlighted yellow, non-habitable highlighted purple. Source: Source: Plan of Reestablishment and Detail Survey by JRL Land surveyors. NB: a discrepancy exists as one surveyed window at second floor is not shown on the endorsed plans.

At second floor, one of the affected habitable rooms - bedroom 1, is dual aspect. At third floor, bedroom 1 is also dual aspect and one of the affected windows highlighted purple is associated with the bathroom which is not a habitable room. The only single aspect habitable room affected is bedroom 3.

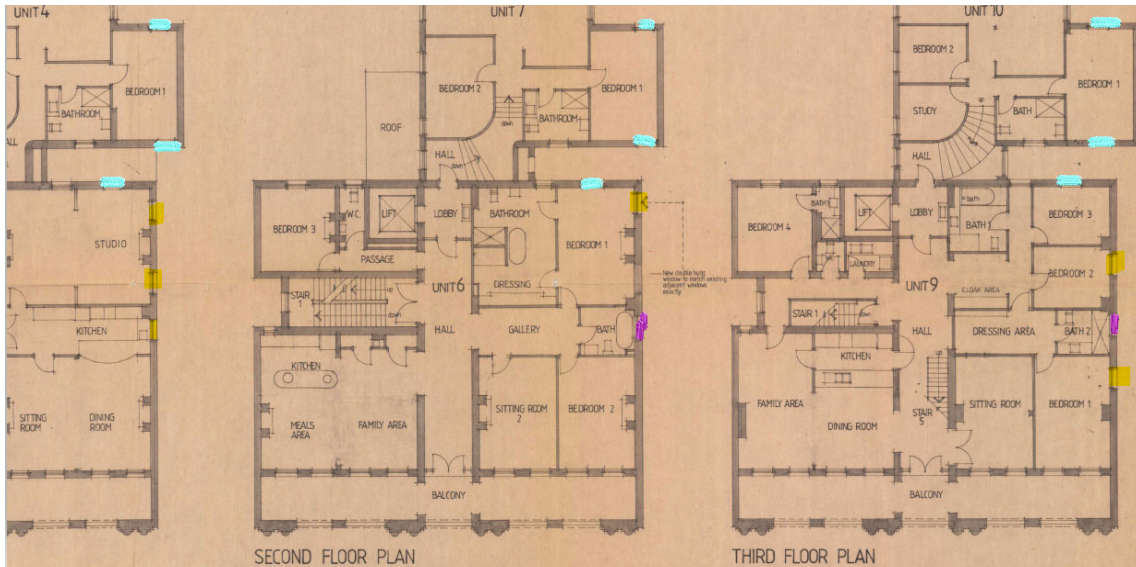


Image 14. Screenshot of floor plans showing the first, second and third floor east facing habitable room windows of the Biltmore highlighted. Yellow highlight denotes six habitable room windows. Purple highlight denotes non-habitable room windows. Blue denotes windows that are not east facing. Source: Endorsed plans of the Biltmore Building, Planning permit S3378. 23 July 1993. NB: a discrepancy exists as one surveyed window at second floor is not shown on the endorsed plans.

The proposed amended plans now provide a new 3 metre setback at the first floor, where it extends beyond the retained heritage building. The only remaining wall on boundary to all levels is the wall related to the core/lift as shown in Image 15 below.

This 5.9-metre proposed boundary wall is set against what is annotated as bedroom 1 at first, second and third floor in Image 14 above and– highlighted blue. As evidenced, these bedrooms contain no windows to the eastern wall and are dual aspect.

When considering the affected windows (highlighted in yellow), only one kitchen window at first floor, and bedroom 2 on the second floor are single aspect.

Given that one level is deleted and a 3-metre setback is now provided at first floor, the outcome is considered appropriate.

It is broadly accepted that in the site’s context, amenity impacts relating to a building’s location in an activity centre will generate greater amenity impacts. These are typically experienced in lower levels of privacy, solar access and increased shadows.

These benefits are to be balanced against the disbenefits attributable to the location of residential properties within a commercially zoned precinct.

In contrast, a resident within a residential zone is likely to experience a higher level of amenity but has constrained access to the offerings that living in this Neighbourhood Activity Centre provides.

The planning scheme recognises this tension and is evidenced by the omission of regular ResCode standards to be applied to development. In fact, change is expected in this sites policy context and resolving amenity impacts cannot be at the expense of restraining development.

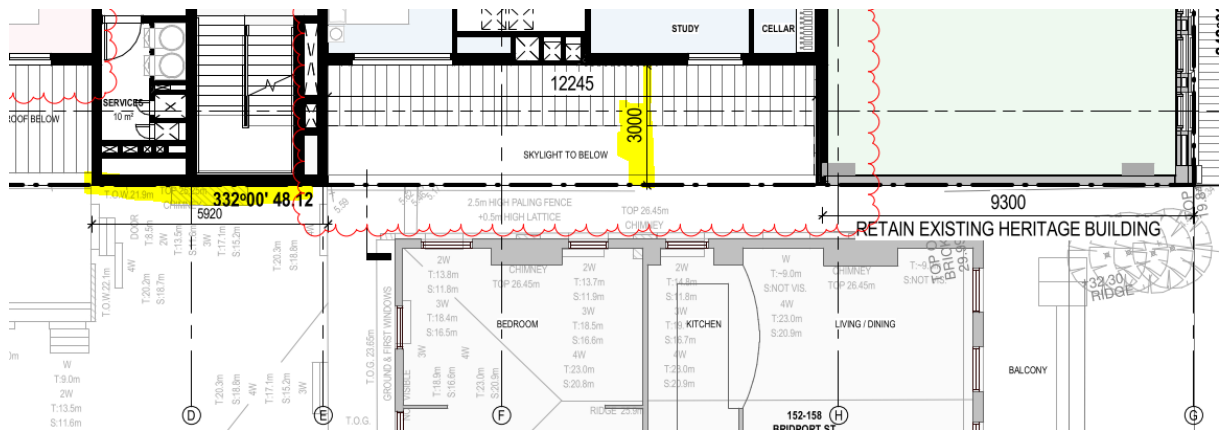


Image 15. Screenshot of first floor wall on boundary in the proposed amended plans. Source: Source: TP.1101 Advertised plans, Cera Stribley.

Two remaining matters that formed ground 4 relate to D17 ‘Wind impacts’ of Clause 58 and Clause 15.01-1L.

Standard D17 operates to ensure that the built form, design and layout of development does not generate unacceptable wind impacts within the site or on surrounding land and is applicable to buildings 5 storeys or greater.

No wind report has been submitted with the application. As the proposal is sited between the taller Biltmore to the west and buffered by built form to the east, any changes required to the built form to meet the standards will be minor. Nonetheless, in the event a permit issues, the



submission of a wind report will be required to detail all built form changes necessary to meet the standard and will be assessed before the endorsement of any Condition 1 plans to council satisfaction.

The matters extrapolated in the grounds that relate to Clause 15.01-1L refer to the proposal's failure to meet the policy of Landmarks, views and vistas and Building design (Clause 15.01-1L-02).

The objectives of the aforementioned policies require a development to:

- *Maintain the visual prominence of and protect primary views to valued landmarks in Port Phillip; and*
- *To facilitate high quality urban design and architecture that integrates with the prevailing neighbourhood character and contributes to the amenity and vitality of the area.*

As outlined throughout this report, the proposed amended plans have reduced the built form and massing, decreasing the visibility of the new additions to ensure that the visual prominence of Biltmore building is not unreasonably affected.

The previous position was that the proposal failed to respect the heritage character of the area and consequently, did not meet the policy test of *high-quality urban design and architecture that integrates with the prevailing neighbourhood character*

This was shared by Councils Urban Designer in response to the advertised plans who stated in relation to bulk and massing;

... 'The proposed built form, including removal of level 5, reduces dominance on the abutting Biltmore Coffee Palace and the retained heritage façade and shops fronting Bridport St, which is considered appropriate and a suitable sympathetic response to the immediate urban context.

The upper levels are well set back (by 10.2 metres) at the rear, and retaining the form and character, of the heritage shops. This is greater than setbacks in heritage streetscapes in similar 'high streets' where preferred setbacks are often between 3-6 metres. The proposed setbacks respond well to the important heritage qualities of the existing shops and the adjacent Biltmore building'.

Although this position was not accepted in the previous assessment in the Delegate Report, the changes tabled in the proposed amended plans have satisfied Council's concerns.

As outlined in City of Port Phillip Heritage Design Guidelines, Council encourages a contextual design approach that complements and respects the heritage places and their settings and should not overpower it.

A contextual design method contemplates the layering of different styles which the design guidelines recognise is a defining feature of Port Phillip's heritage. The guidelines instruct that the reproduction of heritage styles (mock or imitation period detailing) in new work, is not contextual design. Likewise, contemporary design responses to heritage that does not reference to the past is discouraged.

Despite the top floor remaining visible, Council's Urban Designers and Heritage Advisors support the proposed amended plans. This is contemplated in the Design Guidelines that state:

- *Visible additions may be considered when the heritage place is situated on a site or within an area where higher density development is encouraged, or the additions are in accordance with specific development guidelines for the heritage place.*



When having regard to the architectural response to the heritage character and the commercial zone of the land that seeks to create vibrant mixed use commercial centres while providing for residential uses at densities complementary to the role and scale of the Neighbourhood Activity centre, it is considered that the proposal achieved this and has satisfactorily responded to and resolve the concerns that form the basis of ground 4.

AGAINST PREVIOUS GROUNDS OF REFUSAL 5

The proposal does not demonstrate adequate waste arrangements contrary to Standard D24 (Waste and recycling objectives) of Clause 58.

As detailed in the Waste referral response found at Section 9.1 of this report, the WMP was resubmitted with the proposed amended plans and provides further details of the private waste arrangement to manage the developments collection and waste stream.

Councils Waste Management officers have advised that proposal is supported, subject to conditions requiring additional details in the WMP and on the plans to address:

- *the number of floors specified within the development.*
- *a wash down area to each waste room and the provision of and Storm water pollution prevention; and*
- *the provision of an electronic waste (e-waste) recycling bin / skip.*

It is considered that the proposed amended plans satisfactorily respond to and resolve the concerns that form the basis of refusal ground No. 5.

13. COVENANTS

13.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lots 1, 2 and of Plan of Subdivision 125810. [Parent Title Volume 00237 Folio 311].

14. CONCLUSION

14.1 Clause 71.02 – integrated decision making of the planning scheme requires the decision-maker to integrate the range of policies relevant to the issues to be determined and balance the positive and negative environmental, social and economic impacts of the proposal in favour of net community benefit and sustainable development.

14.2 When considering net community benefit, fair and orderly planning is key; the interests of present and future Victorians must be balanced; and, the test is one of acceptability.

14.3 The proposed amended plans will provide a high quality architectural scheme that is well resolved and responsive to the heritage character of the streetscape and adjacent heritage places.

14.4 The heritage response provides for the reconstruction and restoration of the three heritage commercial buildings and the continued use of the land to support the commercial activities in the Neighbourhood Activity Centre.

14.5 In summary, the proposal meets a range of applicable policies to be considered in favour of net community benefit and sustainable development.

15. OFFICER DIRECT OR INDIRECT INTEREST

15.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.



16. OPTIONS

- 16.1 Approve as recommended and inform VCAT of Council's position.
- 16.2 Approve with changed or additional conditions and inform VCAT of Council's position.
- 16.3 Refuse - on key issues and inform VCAT and parties of Council's position and the new grounds of not support; and
- 16.4 Authorises the Manager City Development to instruct Council's Statutory Planners and or Council Solicitors on this application for review during the course of the Tribunal hearing.

ATTACHMENTS

- 1. **Advertised plans**
- 2. **Delegate report (advertised plans)**
- 3. **Proposed amended plans with shadow studies**
- 4. **Clause 58 (Apartment Developments) Assessment**
- 5. **Internal Referrals**
- 6. **- Plan of re-establishment and detail survey**