

STATUTORY PLANNING COMMITTEE
11 MARCH 2008

B1	87 DUNDAS PLACE, ALBERT PARK
ADDRESS:	87 Dundas Place, Albert Park
PROPOSAL:	Partial demolition of existing building (excluding front façade) and construction of a four level building above basement; containing two shops and five dwellings and a requirement for loading; dispensation of shop car parking.
WARD:	Albert Park
NEIGHBOURHOOD:	Middle Park/Albert Park
TRIGGER FOR DETERMINATION BY STANDING COMMITTEE:	More than 15 objections
APPLICATION NO:	639/2007
APPLICANT:	Metaxas Architects
EXISTING USE:	Post office
ABUTTING USES:	Residential and Commercial
ZONING:	Business 1
OVERLAYS:	HO 3
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL:	Expired
RESPONSIBLE EXECUTIVE DIRECTOR:	Geoff Oulton, Executive Director, Community Development and Planning
AUTHOR:	Phillip Beard, Senior Urban Planner

1. EXECUTIVE SUMMARY

- 1.1. The proposal includes demolition of the majority of the existing building (front facade to be retained) and construction of a four storey building above basement at grade 'stacker' car parking at the rear of the site. A total of two shops and five dwellings are proposed. A dispensation of car parking for the shop component is also sought. Key issues relate to likely amenity impacts (overlooking, overshadowing, visual bulk and scale), heritage, car parking and traffic impacts.
- 1.2. It is recommended that a Notice of Decision to Grant a Permit be issued.

KEY ISSUES

1. Abutting amenity impacts
2. Parking/Traffic
3. heritage impacts

2. PROPOSAL

- 2.1. It is proposed to demolish the majority of the existing single storey commercial tenancy (used as a post office) and construct a four storey building comprising five residential apartments (dwellings), at grade stacker car parking at the rear and two commercial shop tenancies. A reduction in the relevant planning scheme standard is required in relation to the car parking provision. As well, clause 52.07 requires a permit to reduce or vary the requirement for on site loading facilities.
- 2.2. During the assessment process and following the initial public notification process, amended plans were submitted to Council. These plans essentially deleted a portion of the proposal's rear section at levels two and three along with deleting the originally proposed mezzanine level and associated roof form. These amended plans were formally re-advertised and form the basis of this assessment.
- 2.3. The submitted/re-advertised plans show the following:

Basement Level

- 2.2 This level would contain the 'pit' section of each of the car stackers along with storage and access space for the shops. Stair areas are also proposed, along with a 5,000 litre rainwater tank.

Ground Floor

- 2.4. Access to the car stackers would be provided across the full width of the site and would occur from Dundas Lane at the rear of the site. This lane is approximately 4.4m wide between existing footpaths. A total of 12 car parking spaces and four bicycle parking spaces would be provided at this level. Car parking would be provided in the form of triple stackers, with three cars able to be parked in each of the four stackers (12 car spaces in total). Further storage areas would also be provided at this level. A shared lift and stairwell are also proposed giving access to the dwellings above.
- 2.5. The proposal also comprises a pedestrian entrance from Dundas Place and a dedicated foyer area and entry lobby. Adjacent would be two shop tenancies of 100m² and 158m² in area. These would be accessed from an indented lobby area towards the eastern side of the site. Three vertical openable windows would also be included within the retained portion of the existing façade.
- 2.6. At ground level, the building would maintain its current front and side setbacks. The rear setback would be zero to the metal feature door to the parking area. The existing building façade, including the front wall, entry steps and indented entry, would be retained.

First Floor

- 2.7. This level would contain two dwellings comprised of one x two-bedroom and one x three-bedroom. The rear setback would mostly be 2m, comprising a terrace/balcony. The rear elevation would mostly be glass. The rear balcony balustrade is shown as 1.2m high black powder coated aluminium.

- 2.8. Side setbacks would mostly be zero, although a portion of the west wall would be setback just over 1m. The front setback to the balcony face would be 3m, with planting proposed immediately behind. The front balcony would be 4.1m deep, meaning that the front wall at this level would be setback 8.4m from the street. In terms of the front wall's relationship to the retained façade, it would be setback 6m behind.
- 2.9. The front elevation would essentially be glass, whilst the visible west elevation would be clad in pre-cast concrete, light oxide grey finish. The east elevation at this level would largely be obscured by the abutting building.
- 2.10. The 'folded glass' element contributing to Urban Art would be located at this level and would be setback immediately behind and above the retained front parapet. It would be approximately 4m high.

Second Floor

- 2.11. This level would contain two dwellings, one x two bedrooms and one x three bedrooms. At this level the main front wall of the building would be set back between 9.3m and 10.8m from the front boundary and 7m behind the front façade. The front balcony would be 3.5m deep, with its front balustrade being glass and generally setback 3m behind the existing facade.
- 2.12. Side setbacks would be the same as the level below, being zero to the east and between zero and 1m to the west. The rear setback would be 2m across a full width balcony. The main rear wall, at that setback, would be a combination of light grey concrete and sliding glass.
- 2.13. The side elevations would both be clad in the same oxide finish (light grey) concrete as the level below.

Third floor

- 2.14. This level would contain one three bedroom dwelling. It would not have a rear balcony and therefore, its main wall would be setback 2.5m from the boundary. Both side setbacks would be very similar to the levels below.
- 2.15. The main front wall would be setback between 13.9m and 15.4m from the front boundary, or alternatively, generally 11.2m behind the existing front façade.
- 2.16. The front balcony would be 4.5m deep, along with a 1.2m deep plant box in front. The outer face of the plant box would be setback between 8.3m and 9.6m from the front boundary, or alternatively, 6m behind the existing façade.
- 2.17. External cladding to the west elevation would be different from the levels below and would consist mostly of Rheinzinc and aluminium features to the west whilst the east would be a combination of Rheinzinc and grey concrete.
- 2.18. The rear elevation would be a combination of Rheinzinc and E-glazing.

- 2.19. The overall height of the proposed new building would vary slightly due to the slope of the land, but would be between 15m and 15.4m. The maximum height would be at the top of the lift core. This highest point of the building would be setback approximately 26m from the front boundary and 5.8m from the rear boundary.
- 2.20. The proposal would take the form of a sloping or angled roofed structure of contemporary design. It would incorporate a glass feature above the front façade approximately 4m high. Aside from the various setbacks noted above, the building would be regular in its shape. It would be between 800mm and (to the lift core) 1.9m higher than the abutting hotel and approximately 6.8m higher than the main roof line of the abutting buildings to the west.
- 2.21. Solar units are proposed on the roof.

3. SUBJECT SITE AND SURROUNDS

- 3.1. The subject site is located on the south side of Dundas Place, to the west of its intersection with Montague Street. It is adjacent to Bridport Street across a small piece of open space reserve. It is a single, rectangular shaped lot with a frontage of approximately 12m to Dundas Place and an average depth of approximately 36.6m. The site area is approximately 450m². There is a fall of approximately 700mm from front to back. It also abuts and has access rights over a lane to the south, known as Dundas Lane.
- 3.2. Dundas Place is a small, mostly commercial, street. It has a single lane and is one way with 90 degree restricted parking on its south side. Nearby Bridport Street is much larger and busier, with a well established commercial feel and trams in its centre. There are varied commercial developments in the nearby precinct, dating from the late 19th century to 1980's.
- 3.3. This Dundas Place section of the Albert Park commercial precinct consists of a cluster of shops, predominantly of the Victorian era and mostly at high two storey scale (generally equivalent to current three storey), but also including smaller scale buildings to the west along with the large and important hotel building immediately abutting to the east. This building is approximately 14m high.
- 3.4. Further along the south side of Bridport Street are located additional well established commercial buildings of a similar scale and age (mostly high two storeys dating from 1890's to 1970s-80-s). These contain a wide variety of commercial uses, including shops, cafes, offices and banks.
- 3.5. The opposite side of Bridport Street is also dominated by very well established commercial premises, with building stock mostly dating from the Victorian era. The 'Biltmore' building is located in this section and is clearly the dominant structure in the immediate area. It would be generally equivalent in height to a contemporary six level building. Most other nearby buildings are of the high two storey scale found nearby.

- 3.6. The application site currently contains a single storey, 1930s mock Italianate building containing a post office. It has simple pitched roofs of tile and metal. It is setback between approximately 2.6m and 3.6m from the front boundary. Side setbacks of the main front boundary are zero. Behind this building is a metal storage shed setback approximately 2.4m to west boundary and 1m to the east boundary. At the very rear of the site is a brick building abutting Dundas Lane at zero setback. It is approximately 2.5m to 3m high.
- 3.7. The front of the building also includes an indented entry area accessed by a series of steps along with a notable gable shaped parapet. This feature is approximately 6.8m high with the main horizontal façade being 4.6m high.
- 3.8. The site to the east contains a significant and substantial hotel. It was originally Victorian in its architecture, but was altered to art deco style presumably some time in the 1930s. It is approximately 14m high and is flat roofed. It has two patio/terrace/beer garden areas abutting the common boundary with the subject site. It has an angled and varied angled front setback of between zero and 2.8m. The main building has a rear setback to Dundas Lane of between approximately 7m to over 10m (at an angle) to its main portion but also has a blank two storey wall at lower level abutting the lane at zero setback. There are various windows of the hotel facing the subject site.
- 3.9. To the west are two Victorian commercial terrace buildings. They are 'high' two storey, with a main wall height of approximately 8.2m high and an approximate maximum parapet height of 10.2m. The nearest of these buildings to the subject site (No. 91 Dundas Place) mostly abuts the common boundary, but also has a small 'sideway' approximately 1.2m wide. Both these buildings (Nos. 91 and 93) also abut the rear lane at zero setback.
- 3.10. To the south of the site, separated by Dundas Lane, is a single storey weatherboard dwelling. This has a 'sawtooth' setback arrangement to the lane of between zero and approximately 2.2m. There is a fence abutting the lane, along with windows beyond, but these are perpendicular to the lane. The general presentation of this dwelling to Dundas Lane is that of blank walls and high fencing.
- 3.11. Dundas Lane itself is approximately 4.8m wide, kerb to kerb. It is bitumen surfaced with no obvious heritage elements. At the west end of this lane, where intersecting with Fausett Street, is a contemporary commercial building approximately 10.5m high. Most other buildings to the immediate south are more modest and residential in scale.
- 3.12. A reasonable description of the immediate area would be of a commercial precinct to the north, east and west, with Victorian era buildings predominating, generally being approximately 7m to 8m high. Some smaller and clearly larger buildings exist, mostly to the west and opposite, whilst behind the site is mostly single storey residential in scale.
- 3.13. The site does not contain any mature trees.

4. ADVERTISING/OBJECTIONS

4.1. The proposal in its original form was advertised to abutting and nearby properties, along with signs being placed on the site. Over 40 objections were received. Following this process and based on both officer and objector concerns, the applicant formally submitted revised plans which were re-advertised.

4.2. Following this process, a further five objections were received. A total of 45 objections have been received. None of the original objectors withdrew their objections and a number of objectors reiterated their concerns and requested that their objections remain.

4.3. The objections raised the following key grounds, (*with Officer response and assessment following in italics*):

- Overlooking/Overshadowing to properties behind.

This matter is discussed in section 6 of this report.

- Inappropriate height, scale and bulk. Building would be out of character with the surrounding area.

See Sections 6.4 and 6.5 of this report.

- Inadequate on-site car parking, increases in traffic generation.

This matter is discussed in Section 6 of this report.

- Inappropriate response to local heritage character.

See sections 6.4 and 6.5 of this report.

- “Reverse” amenity impacts to abutting hotel, shadowing of hotel patrons.

It is asserted that there are windows and terraces on the east elevation of the proposal facing the abutting hotel, where the hotel’s external patio areas are located. It is noted that the revised plans modifies the rear of the proposal so that no windows would face the hotel and the rear balconies would have wing walls between them and the hotel site.

Nonetheless, it is considered that the matter of ‘reverse’ amenity is a valid one. That is, the potential for future residents of the subject site to raise complaints regarding the hotel’s operations. The hotel is well established and its outdoor areas are quite extensive. Given the new smoking laws, it is considered that these outdoor areas are likely to have constant use, which could impact on future residents of the site.

Interface between these outdoor areas and the subject site would be direct, that is, there would be immediate abuttal. Whilst the revised plans show no direct window or terrace openings facing the hotel, there would still be front and rear openings in very close proximity to the hotel (especially at the rear).

It is therefore recommended that, if a permit is to issue, the side walls facing the hotel and in particular, the rear sliding doors to the balconies be adequately and acoustically treated so as to protect any residents from hotel noise. (Refer condition 1 (f)).

- Undesirable precedent.

This matter was raised both via written objections and at the consultation meeting. To an extent, it is considered to have some merit. Should a permit be granted in this case, it would logically be more difficult to reject future proposals for similar developments nearby.

However, planning applications must be assessed on their merits. This proposal would necessarily be different from any future proposal on another site, as streetscape character matters and matters of streetscape scale and bulk would also be different.

It is further considered that the scale of this proposal has largely been derived as a result of its abuttal to the existing hotel. The only other large existing building nearby is the Biltmore. Conceivably, a large proposal could be submitted on either site abutting that building, but few if any other sites could sustain a building of this proposal's scale.

There may be some merit to the argument that if this would establish a contemporary benchmark and that other buildings further to the west could potentially be developed at a similar scale. However, this is unlikely to occur, as there are much greater heritage implications for the abutting Victorian terraces, requiring a much greater degree of retention and therefore, scope for a large building behind would be limited.

This site is unusual in that it does not contain a tall or highly visually significant building and it abuts a very tall building on one side. As well, only its façade and entry features have any heritage significance. There is therefore infill opportunity on this site which would not necessarily exist nearby.

- 4.4. A consultation meeting was held on 17 January 2008 which was attended by most objectors and the applicant. At the consultation meeting it became clear that the majority of the objections centered on matters of character, scale and associated heritage response. Other matters such as amenity impacts (including overlooking, overshadowing) and parking were raised. The applicant indicated that there was potentially some scope to address key concerns, but no formal revisions were submitted following the consultation meeting.

5. URBAN PLANNERS ANALYSIS OF KEY ISSUES

5.1. Port Phillip Planning Scheme Provisions:

Clause 34.01 – Business 1 Zone

- A planning permit is required for all buildings and works. A permit is required for residential use if any entry is more than 2m wide. The proposed entry would be less than that dimension in this instance. Before deciding on an application, the responsible authority must consider, as appropriate (for buildings and works):
- The decision guidelines at Cl. 65.
- The SPPF and LPPF, including the MSS and local planning policies.
- The objectives, standards and decision guidelines of Cl55. This does not apply to development of four or more storeys.
- The movement of pedestrians, cyclists and vehicles providing supplies, waste removal, emergency services and public transport,
- The provision of car parking,
- The interface with adjoining zones, especially the relationship with residential areas,
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road,
- The storage of rubbish and materials for recycling,
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas,
- The availability of connection to services,
- The design of buildings to provide for solar access,

At Clause 34.01-2, there are also requirements relating to “Amenity of the neighbourhood”, as follows.

- Transport of materials, goods or commodities,
- Appearance of any buildings, works or materials,
- Emission of noise, artificial light, vibration, small, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

In terms of the decision guidelines relating to use of land, the following must be taken into account.

- The State and local planning frameworks, including local policies and MSS,
- The effect that existing uses may have on the proposed use,
- The drainage of the land,
- The availability of and connection to any services,
- The effect of traffic to be generated on roads,
- The interim use of those parts of the land not required for the proposed use.

5.2. Clause 43.01 - Heritage Overlay:

- A permit is required to demolish or remove a building, construct a building, externally alter a building by structural work, rendering, sandblasting or in any other way, construct or carry out works, externally paint a building, externally paint an unpainted surface in a Heritage Overlay area.

Relevant considerations include:

- The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.
- Any applicable heritage study and any applicable conservation policy.
- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.
- Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.
- Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.
- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.
- A permit is required under the provisions of Clause 52.06 to reduce the Planning Scheme parking provision requirements.
- A permit is required under the provisions of Clause 52.07 to reduce or vary the requirement for on site loading facilities.

6. STRATEGIC ISSUES

6.1. An assessment of the proposal has been made against relevant policies and strategies; a copy of the assessment is retained on file. The following summary assesses where the proposal is considered to be non-compliant, or would only comply subject to conditions.

- Protect heritage and streetscape character.

Officer comment: This is achieved, subject to conditions. The heritage façade would be retained. The proposal would sit behind the existing façade and would be a recessed element. There would be some impact and change on the streetscape but it is considered that the proposal would be respectful of the surrounding character by way of the recommended increased front balcony setbacks at second level, flat roof, increased rear setbacks and conversion to a mezzanine upper level.

- Achieve a constant residential population.

Officer comment: This is not achieved. Population for the area would increase.

- Acknowledge historic architectural character and low scale development.

Officer comment: This is generally achieved. The main heritage aspect of the existing building (façade and entry) would be retained. There would be some change in impact in terms of the relationship of the proposal to its surroundings as the building would be a notable piece of contemporary infill at four storeys high. Subject to conditions, it is considered that the overall historic feel of the locality would be maintained.

- Respond to road pattern/subdivision grain/neighbourhood context/character/heritage places

Officer comment: Achieved, subject to conditions. Response to local context, character and immediate heritage places (setbacks, scale and form) would be generally supportable, subject to the recommended setback increases, lowering of the roof form and a mezzanine upper level.

- Respect prevailing scale, form and setbacks and minimise impact on neighbourhood character and amenity of adjoining properties.

Officer comment: Generally achieved, subject to conditions, as assessed above. The proposal would be lower (subject to condition) than the abutting hotel but taller than the buildings to the west. The proposed setbacks would create a building respectful of the abutting neighbours. Amenity matters (overlooking in particular) may be addressed by condition.

- Discourage new development which may result in adverse amenity impacts from increased traffic and car parking demands.

Officer comment: This is partly achieved. Council's Traffic Engineer has raised no objection to the residential parking provision, but believes that the dispensation for the shops may be too great. It is considered that the dispensation is supportable, based on the well held principle of 'centre based' parking provision, whereby few people drive specifically to a specific commercial development. It is generally accepted that most customers of the shops would already be in the centre. Staff parking is provided.

- Limit views into neighbouring private open space and habitable rooms, protect occupants from external noise and contain noise sources:

Officer comment: Achieved. Subject to conditions regarding rear overlooking and acoustic treatment to protect against potential abutting noise sources (hotel beer garden areas).

- Sympathetic and respectful of heritage place?

Officer comment: Achieved, subject to condition. The proposed development would be sited behind the existing façade and indented entry (to be retained). Abutting heritage places would be respected, subject to increased setbacks and the recessive nature of the proposal. Existing key buildings (the abutting hotel and Biltmore opposite), would continue to read as the major heritage elements in the immediate vicinity. The proposal would be lower than the abutting hotel, but taller than the other abutting buildings by approximately 5m. Subject to a requirement to increase the second level front balcony setbacks, and acknowledging the recessive nature of the proposal with a modified upper level, it would read as a secondary and recessive streetscape element.

- Disregard atypical buildings:

Officer comment: Not achieved. The hotel abutting to the east is considered an atypical building and the proposal would use it as a benchmark. Subject to conditions, however, this is considered an appropriate outcome.

- No change to facade or roof; either distinguishable from original building (contemporary) or not easily distinguishable (reproduction); do not obscure significant elements; maintain existing view to principal façade.

Officer comment: Not achieved. The main roof would be removed and a new and larger building constructed above. It is, however, recommended that the new roof not be angled as shown, but instead be flat. The proposed additions to rear of building would be distinguishable from the original building due to its contemporary design. Existing views to the principal façade would be maintained.

- Upper storey addition sited and massed so as not to be visible, particularly in intact/consistent streetscapes. If the road is less than 5m wide – it should sit within a 10° site line. In exceptional circumstances up to 18° may be possible.

Officer comment: This is not achieved. However the streetscape has a variety of contrasting scales and setbacks, most notably between the 14m high hotel building and the current single storey (approx. 5.5m, excluding parapet) post office building. The second level, as proposed, would sit at a 37° line, whilst the upper level would sit at a 33° line. Whilst the second level would clearly exceed the sight line angle, it would partly be hidden by the existing (to be retained) parapet along with the proposed glass art feature. With a front setback of over 9m and being setback 7m behind the front façade, the height and setback proposed is considered acceptable and would be appropriate infill in this context.

The upper level, however, is not considered acceptable and even though setback over 11m behind the front façade, it is not considered adequately recessive. It is therefore recommended that this level be reduced in size and relate to the level below and that it have a front setback behind the retained façade of at least 18m with an overall height for that level of no more than 3.3m giving the building a total height, excluding the lift shaft, of approximately 13.8m measured at the front of the site. This would give a sight line of approximately 22°. This is considered acceptable in this unusual infill circumstance with a mixed streetscape (refer condition 1 (b)).

- Visible roof form related to original building.

Officer comment: Not achieved. The proposed addition would be flat roofed, but this would minimise the impact on the streetscape and is considered the preferable outcome.

6.2. **Heritage/Demolition Issues**

The proposal was referred to Council's Urban Design and Heritage Advisor. The following comments were received.

"1. Design Response:

The Design Statement and the folded glass element by Kate Spencer are strongly supported as an innovative response. The folded stamp motif to the glass reflects a dynamic approach to the site that will create an added level of significance and reflects past use. The datum height of the folded glass will tie in with the existing parapet height of adjoining heritage buildings.

The internal amenity to each unit is enhanced through the northern orientation. Units that face Dundas Lane are the most compromised given the southern orientation. Internal light wells would help address this issue in part.

Colours and finishes are contextual and reflect a controlled mix of render, pre-weathered zinc cladding, oxide finished pre-cast and timber panelling. The ESD initiatives including solar and photovoltaic cells are supported. Clarify how the 5000l rain water tank will be used – should be used as grey water.

2. Extent of Demolition:

The extent of demolition is satisfactory given that there are no internal controls. We do however need to request existing elevations. Note the removal of the stack chimney to the east boundary.

Replacing the windows in the front facade with doors depends on detailing and proportion. They would need to match in width and be no higher than the original. This will need to be confirmed against the existing elevations once they are received. Based on the site visit this should be a satisfactory response.

3. Sight line issue:

The sight line from the front has been incorrectly taken. It needs to come from the gutter line from behind the parapet as per the policy – existing elevations will help establish exactly where this point exists – however scaling off the drawings it would appear to be 4.4m above the natural ground level.

Whilst no. 85 Dundas Place will obscure the front of the building from the north-east the openness of the park area (Broadway Tree Reserve) will expose the proposed additions. The scale in my opinion is a concern and should be reduced by at the very least one storey. The Albert Park Hotel should remain as the iconic landmark building to this section of the streetscape. Effectively a “book end” to this section of heritage graded buildings – also note the scale of Biltmore, formerly the ‘Albert Park Coffee Palace’.

4. Presentation to the rear:

The 3 storey outcome to 1-3 Faussett St is the benchmark in terms of an appropriate scale interfacing the rear laneway. Four storeys may be appropriate however the precast panel that sits over three levels towards the west side of the elevation, creates perceived visual bulk. If this façade was reworked to create a more uniform appearance it would integrate more successfully.

5. Other:

- Existing signage (Albert Park Post Office) would need to remain to the façade. From a heritage conservation perspective signage forms part of a building’s significance regardless of the change of use;*
- Clarify if they intend submitting a heritage report. Strongly suggested;*
- The extent of car stackers is intensive to Dundas Lane.*

12 February 2008

In response to the drawings referred today, amended plans received 15 November 2007, it is noted that:-

- *The increased setback of 4m to the first floor from Dundas Place is supported;*
- *The increased setback to part of Unit 1.02 is supported to the rear;*
- *There is no real change to the third floor except for deletion of the lap pool to the east boundary. As previously advised this level should be deleted given its intrusive character and associated heritage impacts.*
- *The 18 degree performance measure as per Clause 22.04 is still not shown correctly on the elevations – I have shown it in red on TP 4.01;*
- *There is still no heritage report to justify the design or why it does not need to comply with local policy.”*

The above comments are considered to have validity and merit. They deal with two key grounds of this proposal being demolition and the heritage impact of the proposal. The matter of deletion of the upper level, as recommended by the Heritage Advisor, is discussed later in this report.

Demolition:

The extent of demolition is supported by Council's Heritage Advisor. It is noted that Council has no internal controls and in addition, it has been verbally confirmed that the only elements of the existing building that have any meaningful heritage significance are the front façade, including parapet, and the indented entry and steps. These key elements would be retained.

The applicant's heritage consultant states:

“The Port Phillip Heritage Review, 2000, identified the subject site as a significant place within the precinct. However, it is at best a modest building in terms of character, aesthetically undistinguished and in my view, could have been graded contributory or even left ungraded”.

Officers agree with this assessment and note that the original heritage buildings on the site, from the Victorian era, were demolished to make way for the current structure.

In short, no heritage concerns are raised in terms of the extent of demolition proposed.

Impact of new additions:

This is one of the key issues and is closely related to scale and bulk.

The applicant's heritage consultant (page 10) indicates that the second and third levels would be sited and massed towards the rear, so as to be visually recessive in accordance with Council policy. Some merit is seen in these comments, but note that having visually recessive additions is only one aspect of the assessment that Council must undertake.

Discussion of alignment with the Heritage Overlay provisions occurs later in this report. Dealing only at this stage with the policy outcome of visually recessive buildings, it is acknowledged that one abutting building is extremely large in relation to most other buildings nearby. It (the hotel building) is atypical. However, the other abutting buildings are only considered slightly taller than the majority of building stock and are generally far more representative of local character. The proposal would be approximately 5m taller than those buildings. Even noting the upper level location some 11m behind the retained façade, oblique views from the north and north-west would be clearly available, as would views from directly in front.

It is acknowledged that that third level element would be setback from the front far greater than the upper levels of the either abutting buildings, but as a contemporary design, it would be a visible element and would not be recessive enough. Infill development of this site calls for an extremely sensitive response, one where both abutting buildings are 'respected' as should be the wider views and vistas. Whilst the lower levels would achieve this outcome, it is the upper levels which are of greatest concern.

In this respect, it is considered that a much greater front setback should be achieved for the upper level. The sensitive response is one where the upper level is recessive to the point that it appears as a 'pop up' appearing above the glass art feature when viewed directly and obliquely from across the street. To achieve this, an additional at least 7m front setback would be needed. It is therefore recommended that the upper level be reduced so that it would have a much smaller footprint. Any internal re-arrangement of floor space would be a commercial and/or marketing matter that the proponent would address. The recommendation would require an upper level front setback of at least 18m behind the retained front façade (refer proposed condition 1 (b)) or approximately 22m from the front boundary.

This setback would achieve a suitably recessive building. Council's Heritage Advisor has verbally confirmed that the 'pop up' third level as recommended would achieve Council's objectives and would be a 'pragmatic outcome'. It was further verbally commented that the recommendation would create a building which would have such a degree of recessiveness that the 'village' character of this section of the precinct would be suitably protected and maintained.

It was verbally acknowledged by Council's Heritage Advisor that the width of the road at the front of the site would enable the upper level to be viewed from opposite, but that the proposed setbacks and adhering to an integrated architectural response where all levels had the same or very similar external treatment, would suitably respond to the site's context.

Written confirmation and expansion of the above verbally received comments in relation to the front setback have been received as below.

- *If a third floor level was proposed with a setback of approximately 22m then the architectural response must reflect the aesthetic of the lower levels and present as a neutral backdrop to the existing Post office building. The façade treatment should be uniform in expression and modernist in detailing. The adjacent Albert Park Hotel and its austere Moderne detailing sets a clear precedent in terms of a contextual response;*
- The massing of the top floor within an approximate 22 degree building envelope would reflect a more recessive and legible outcome that would be closer to satisfying the heritage policy objectives for upper floor additions. It would sit beneath the height of the adjacent hotel and still present as secondary infill.

It is also considered that the front balcony face at second level would read as a streetscape element noting that it would be setback only 3m behind the front façade and consequently between 5.5m and 7m from the front boundary. Whilst some of the front balcony face would be obscured by the proposed glass parapet feature, it is still considered reasonable that the front balcony face at second level be setback an additional metre. (Refer condition 1 (a)).

In this way, much of the building bulk of both abutting buildings would continue to read as the dominate elements in the streetscape and the heritage impact on those buildings and on the heritage character of this section of the street would be reduced to appropriate levels.

Glass feature.

Council's Heritage Advisor and Council's Urban Art Officer have expressed support for this feature.

6.3. Residential Amenity:

The proposal would comply with the residential standard provisions of Clause 22.06 and the relevant objectives of Rescode, even though Rescode does not technically apply in this case as the proposal is four storey and the site is located in a Business 1 zone.

Overshadowing of properties behind.

Based on the shadow diagrams provided, it is considered that shadowing from the proposed development would not unreasonably impact the adjoining properties to the south and that adequate levels of sunlight penetration would be maintained. Shadows cast at 9am would largely fall to the west, across the commercial properties in that direction and Dundas Lane. There would be no shadows cast over the properties on the other side of Dundas Lane. By midday, some shadows would be affecting No. 336 Montague Street, opposite in Dundas Lane. However, the extent of these midday shadows would only be cast over built and roofed areas. By 3pm, that same property would experience further shadow effect, which would include a small area of open space.

Shadows would only affect that pocket of open space from approximately 2pm onwards, meaning that it would still receive five hours of sunlight, using Rescode as a guide.

Where abutting a business zone, such a shadow impact is considered acceptable.

Overlooking of properties behind.

Adjoining residents have raised overlooking and loss of privacy as matters of concern. The plans do not specifically indicate any screening to the rear facing balconies and despite the height of the proposal; it is considered that screening details specifically need to be addressed. Therefore, it is recommended that screening to the first and second level rear balconies be depicted on the plans, with such screening allowing outward and distant views, but eliminating views down into neighbouring properties. (Refer condition 1 (d)).

6.4. Parking and Traffic

The proposal was referred to Council's Sustainable Transport Engineer. The following comments were received.

"Existing:

Post office shop of 169sqm with car parking at the rear.

Proposed:

Construction of 2 retail premises (213sqm and 234sqm) and 4 apartments (2 x 2 bedrooms and 2 x 3 bedrooms) with 12 on site parking spaces in 4 triple car stackers.

Parking comments:

On street parking within a reasonable walking distance is highly utilised during business hours of 9am to 5pm, Monday to Friday. Parking outside of these hours has some spare capacity.

Public transport is very good.

The proposal is to provide 1 car space for each of the 2 x 2 bedroom apartments (2 spaces), 2 car spaces for each of the 2 x 3 bedroom apartments (4 spaces) plus 5 car spaces per 100sqm of the floor area for the 447sqm retail (22 spaces), a total of 28 spaces. As only 12 spaces are proposed, the proposal is short of 16 spaces. (Empirical rates are used for the retail, these rates have now been used throughout busy strip shopping centres in the City of Port Phillip for about 4 - 5 years.)

The residential component is satisfactory as 8 spaces are proposed (only 6 are required). The retail is proposed to have just 4 spaces, whereas 22 are required, leaving a shortfall of 18 spaces. This is a too large a number to dispensate. The submitted Traffic Engineering report tries to argue, that credits from the previous use should apply and that there is sufficient on street parking supply to accommodate the shortfall:

- Firstly, I do not believe credits should be accepted for site as the works are much greater than the current use (more than 20% greater)*
- Secondly, even if we decide to accept credits, they need to be calculated correctly. The report calculated credits at the planning scheme rate of 8 spaces per 100sqm, whereas the requirement was calculated at the lowest possible empirical rate of 3 spaces per 100sqm (they either calculated credits at empirical rate as the requirements or they calculate requirements using same rate as credits, they cannot use two different rates depending on which one gives them better outcome).*
- They are also saying that the site has no off-street car parking, which is again incorrect. From the aerial photograph it can be seen that there are 2 off-street spaces.*
- Say that we accept credits from previous use for the 169 retail at a rate of 5 spaces per 100sqm that would provide 8 spaces - 2 existing = credit of 6 spaces. Subtracting this from the shortfall of 18, the shortfall would get to 12 spaces, which is still seen as large. The submitted survey of some 243 spaces within 250m of the site, including some of the spaces that are restricted to Permit Zone, loading zone etc shows 91% utilisation on Thursday at 12 noon, which is a clear indication that parking on street has not got much capacity.*

In regard to the proposed car parking layout, the triple car stackers etc, the proposal is considering to create a very large cross-over and to remove a significant proportion of a narrow footpath in Dundas Lane."

Credits for existing use:

The floor area of the existing post office building at the front of the site is approximately 169m² in area. If a storage shed further toward the rear of the site is included as part of the current floor space, a total figure of 249m² is arrived at. This would generate the need for 12 car spaces at a rate of 5 per 100m². Subtracting the existing two car spaces on site, this would give a credit of 10 car spaces.

A total of 372m² of retail floor area is proposed when measured accurately. Using the above rate the proposal would require 19 car spaces. Applying credits for all existing post office floor space, the proposal would be 9 car spaces short.

Notwithstanding the arguments for and against credits, based on the above figures the proposal would be 15 car spaces short for the shops (4 spaces are to be provided). Essentially, only staff parking is proposed whilst shop customers would need to use kerbside parking.

Adequacy of shop parking provision:

It is general planning principle that consideration of car parking provision for new development in well established local commercial precincts should be on a centre wide basis. Patrons to any retail premises are very unlikely to drive expect to park at the premises. Moreover, most customers would already be in or near the immediate area for other reasons. The provision of only staff parking for the retail component is therefore considered acceptable. This conclusion is reached noting the location of nearby tram stops (route No. 1) and light rail stop (route 96).

Residential parking provision:

Eight car spaces would be provided. Five dwellings, including three of three bedroom and two of two bedroom are proposed. A total of eight car spaces are required under Rescode, which is considered a more reasonable and appropriate rate than the two car spaces per dwelling as specified in Clause 52.06. Council has adopted the Rescode rate for residential parking provision.

6.5. Height, scale and bulk:

The section of Dundas Place and Bridport Street nearby is predominantly characterized by Victorian two storey commercial premises at heights of between approximately 7m and 8m. There are various smaller and larger buildings, some at single storey two others at four or more storeys. The subject site sits between one of the very large buildings (approximately 14m high) and an approximately 8m high terrace.

It is considered that the site is capable of sustaining infill development which would transition between neighbouring buildings. The key matter is what scale and bulk the infill should take based on local context and further informed by the Heritage Overlay provisions and local policy.

Based on the character and setbacks of the abutting buildings, especially the hotel, the greatest concern is in relation to the rear presentation. Whilst the clear 'break' created by Dundas Lane is acknowledged, it is also acknowledged that the main rear presentation of the hotel gives a strong character reference point in terms of scale and in particular setback. The main portion of the hotel building is set at an angle to its rear boundary and is at a distance of between approximately 7m to over 10m.

By contrast the proposal, even in its revised and re-advertised form, would be setback from the rear only 2m up to second level and at 2.5m at upper level. These setbacks are not considered sufficient. The proposal would present significant bulk to the rear lane and most notably when viewed obliquely from either end of Dundas Lane (especially the east) would form a significant and new element protruding substantially beyond the rear of the main hotel building.

When viewed from the west, the rear of the proposal would not have the benefit of the hotel as its backdrop and whilst at a greater distance compared to the east view, would nonetheless form another large and massive form in the context of what is a relatively modest rear lane with a single storey dwelling adjacent.

Some additional bulk is supportable in this rear context, but greater setbacks are required to achieve an acceptable outcome and recognition of the hotel's rear presentation. It is therefore recommended that levels two and three have a minimum rear setback of at least 4.5m.

This rear interface is considered to be suitably different from the relatively new building on the corner of Faussett Street and Dundas Lane. The proposal would be relatively 'hard' in its response, whilst the nearby building referred to above is softer, with a wider use of glass and greater articulation. As well, that building is on a corner site and does not have the 'benchmark' effect of the relatively generous rear setback of an abutting building (as the hotel does to the subject site). Thus, there is no sense of air space that it fills, as would be the case with the proposal. This different context is considered sufficient to justify the rear setbacks as recommended if comparing the proposal to its nearest contemporary neighbour at the rear.

Matters relating to the front of the building have previously been discussed in some detail but it is reiterated that the presentation is not considered recessive enough in terms of being a sensitive piece of infill. The front balcony face at second level would be a new streetscape element and should be setback a further metre from the street.

The upper level would be visible in the context of abutting buildings despite its currently proposed setback. In order for the proposal to achieve the recessive outcome that infill development should achieve and at the same time, 'respect' the abutting hotel (as called for by policy), the upper level needs to be a small and very modest 'pop up' element at most. Its main front wall would need to generally mimic the location of the originally proposed mezzanine level. That is, a setback some 7m greater than currently proposed is considered necessary as a minimum.

The overall village feel of this precinct is considered a very important aspect for consideration and infill development should not only respect abutting and immediate context, but also the modest and largely consistent built character of the area. Whilst it acknowledged that a large and atypical building exists on an abutting site, this is not considered justification for matching that height. One way of achieving this outcome would be increasing the front setback of any new building in comparison to its neighbours. A considered approach has been taken that would make bulk, form and scale of the proposal recessive. An increased front setback is recommended (refer condition 1 (b)).

The streetscape is varied and therefore the 10 degree sightline rule need not strictly apply, but it is still considered a useful guide as to appropriate scale and mass for infill development. The second level would be at an angle of approximately 37 degrees. Noting that the tall abutting hotel would continue to dominate the precinct, the proposed main wall with a setback of between 9m and 11m should ensure that such a variation is supportable. However, the 33 degree angle for the upper level (to its projecting roof) is not considered to respect either the abutting hotel or the village feel of the precinct. The recommended changes (refer condition 1 (b)) would result in an angle of approximately 22 degrees measured from the eave line.

In relation to matters of scale, height and bulk, there are particular provisions in the Heritage Overlay which require assessment. They are as follows.

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

If the 'heritage place' is taken to be the surrounding area, it is considered that the proposal with the recommended changed form would be in keeping with that place.

In particular, it is acknowledged that this proposal has the potential to provide a transition in heights between the strong and dominant hotel building and the lower scale buildings in this portion of the precinct. A way of achieving such transition is to make new infill building recessive in height and setbacks, especially at the street frontage. This should be achieved via the recommendation.

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

Following from previous assessments, it is considered, with some modifications as previously assessed, that the proposal would ensure that bulk, form and appearance of the infill would be sufficiently in keeping with the appearance of adjacent buildings. Rectangular forms predominate on both abutting sites, and the building scale on one side is large for this area. Hard edge zero setbacks are also a notable characteristic of the immediate buildings, especially at the front. The recommendation regarding upper level setbacks would address this.

7. ENVIRONMENTAL ASSESSMENT

- 7.1. The permit applicant submitted a sustainability statement as part of the original submission. Council's Sustainable Design Officer has raised no concerns and indicated that the proposal would meet Council's relevant objectives. It is recommended that the Statement be endorsed as part of any permit.

8. COVENANT

- 8.1. There is no restrictive covenant on title.

9. CONCLUSION

- 9.1. The proposed extent of demolition is supportable, but the additions as proposed are considered in need of further amendment in order for them to relate appropriately to the heritage significance of the area, the provisions of the Heritage Overlay in terms of buildings being 'in keeping' with the locality, to respect the two key buildings in the immediate area and that the village feel of the area be maintained. To this end, it is recommended that the front of the building at second level be modified by an increased setback of one metre to the balcony face and that the upper level be setback at least a further 7m from its currently proposed position (measured to its front wall).
- 9.2. In addition, it is recommended that the rear setbacks of levels two and three be increased to at least 4.5m in order to better reflect the very low scale of opposite buildings and to reduce what would be a notable projection beyond the rear of the abutting hotel. This would mainly aid in creating a better visual outcome when viewed from either end of Dundas Lane.
- 9.3. The car parking, whilst not providing retail customer parking, is considered supportable using the centre based approach whereby most retail patrons would not drive specifically to this site. The residential parking provision would meet with relevant requirements.
- 9.4. Subject to the recommended conditions, the additions would integrate appropriately with the existing streetscape and the neighbourhood character both in a streetscape sense and in terms of immediate side, rear and oblique interfaces. Its proposed urban art feature, being the folded glass element above and behind the retained front parapet, is supportable.
- 9.5. It is considered that the proposed building would not cause unreasonable overshadowing, but additional screening is recommended to the rear balconies.
- 9.6. Subject to the conditions as noted, it is recommended that a Notice of Decision be issued.

10. OPTIONS

Approve as recommended.

Approve with changed conditions.

Refuse - on key issues.

11. RECOMMENDATION: NOTICE OF DECISION

That the Statutory Planning Committee, having caused the application to be advertised and having received 45 objections is of the opinion that the development of the land for the purposes of the part demolition of the existing building and construction of a four storey building, comprising a total of 5 dwellings, retail premises, reduction of car parking provision, variation to on site loading facilities will not cause material detriment to any person.

That a Notice of Decision to Grant a Permit be issued for part demolition of the existing building and construction of a four storey building, comprising a total of 5 dwellings, retail premises, reduction of car parking provision, variation to on site loading facilities generally in accordance with the endorsed plans.

That the decision be issued as follows:

1. Before the development starts, amended plans and elevations 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 generally in accordance with the plans submitted to Council (Metaxas Architects, dated 12/11/07, received by Council 19/11/07) but modified to show the following:
 - (a) An increase in the front setback of the second level balcony face by 1m, placing it at least 4m behind the retained front façade.
 - (b) An increase in the front setback of the third level, so as to be setback at least 18m behind the retained front façade and parapet, with such third level being no more than 3.3m high with a flat roof giving a height above NGL at that point of no more than 13.9m.
 - (c) An increase in rear setbacks of levels two and three to at least 4.5m.
 - (d) Provision of screening to both rear balconies, with details of screening methods to be used, so that screening is provided to at least 1.7m above relevant floor level and that the screening allows for outward and distant views but eliminates downward views into adjacent residential properties.
 - (e) A schedule of external materials and colours, including samples (glass and otherwise), all in a form capable of being endorsed and placed on Council's file.
 - (f) details of suitable and appropriate acoustic treatment to all side walls abutting the hotel to the east along with suitable acoustic treatment of front and rear openings where adjacent to the external hotel beer garden areas so as to protect occupants of the permitted building from excessive hotel noise emissions.

Once approved, these plans become the endorsed plans under this permit.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

4. All external materials finishes and paint colours are to be to the satisfaction of the responsible authority and must not be altered without the written consent of the Responsible Authority.
5. No equipment, services and architectural features other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
6. Any plant and equipment proposed on the roof of the building must be screened in a manner to complement the appearance of the building to the satisfaction of the Responsible Authority.
7. Prior to the commencement of the development hereby permitted the applicant must demonstrate how environmentally-positive features will be incorporated into the development where possible, to the satisfaction of the responsible authority following consultation with Council's ESD officer via completion of either an appropriate STEPS assessment or a written Sustainability Statement of the various approaches to sustainability matters included in the development.
8. The car parking areas and accessways as shown on the endorsed plans shall be formed to such levels so that they may be used in accordance with the plan, and shall be properly constructed. The car park and access areas shall be maintained to the satisfaction of the Responsible Authority.
9. Before commencement of the works, a construction management plan must be prepared, including a works program, with the objective of minimising the impact of construction works on the nearby residential properties to the satisfaction of the responsible authority. The plan must specify the means of reducing the construction impact (at the cost of the applicant) of dust and noise on the nearby properties, and must provide that hours of work be in accordance with any relevant Local Law
10. Prior to the commencement of the development, a Waste Management Plan based on the draft "Best Practice Guidelines for Kerbside Recycling at Multi-Occupancy Residential Developments (Sustainability Victoria June 2006) must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include reference to the following:
 - The estimated garbage and recycling generation volumes for the whole development.
 - The garbage and recycling equipment to be used and the collection service requirements, including the frequency of collection.
 - The location of, proximity, screening of and space allocated both to the garbage and recycling storage areas and collection points.
 - The path of access for both users and collection vehicles.
 - How noise, odour and litter will be managed and minimised.
 - Approved facilities for washing bins and storage areas.
 - Who is responsible for each stage of the waste management process.

- How tenants and residents will be regularly informed of the waste management arrangements.
11. During the construction of the buildings and works allowed by this permit, the roads and streets adjacent to the subject land must be kept free of parked or standing vehicles or any other obstruction, including building materials, equipment etc. so as to maintain free vehicular passage to abutting benefiting properties at all times, unless with the written consent of the Responsible Authority.
 12. The car parking allocation for this development must be not less than one car space for each one or two bedroom apartment and two car spaces to each three bedroom dwelling. Resident car spaces must be shown as part lots on any plan of subdivision.
 13. Before completion of the building allowed by this permit, the permit holder must incorporate Urban Art in the development, in accordance with Council's Urban Art Strategy, viewable from the frontage/public realm, to a value of at least 0.5% of the total building cost of the development to the satisfaction of Council's Urban Art Officer.
 14. This permit will expire if one of the following circumstances applies:
 - (a) The development is not started within 2 years of the date of this permit.
 - (b) The development is not completed within 2 years of the date of commencement.

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within three months afterwards.

Permit Notes

This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

The applicant/owner would provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.

The developer shall show due care in the development of the proposed works so as to ensure that no damage is incurred to any adjoining properties.

Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:

- *Monday to Friday: 7.00am to 6.00pm; or*
- *Saturdays: 9.00am to 3.00pm.*

An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.