



6.1 **480/2020 - 141 ACLAND STREET, ST KILDA VIC 3182**
LOCATION/ADDRESS: **141 ACLAND STREET, ST KILDA VIC 3182**
EXECUTIVE MEMBER: **KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT**
PREPARED BY: **MARTIN COOKSLEY, SENIOR URBAN PLANNER**

1. PURPOSE

- 1.1 To consider and determine application P480/2020 for partial demolition, alterations and additions; the construction of ground, first and second floor levels to an existing commercial building and the reduction of car parking requirements at 141 Acland Street, St Kilda.

2. EXECUTIVE SUMMARY

WARD:	Lake Ward
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 16 objections
APPLICATION NO:	480/2020
APPLICANT:	Dragonfly Architecture and Construction
EXISTING USE:	Retail premises
ABUTTING USES:	Commercial and residential
ZONING:	Commercial 1 Zone (C1Z)
OVERLAYS:	Heritage Overlay (HO7) Design and Development Overlay (DDO6-8)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 The proposal involves demolition, building and works, including a three-storey addition to the rear of the existing building, and the reduction of car parking requirements from the planning scheme in association with office and food and drink premises.
- 2.2 The subject site has an area of 248m² and is developed with a two storey Victorian era commercial building. The building contains a ground floor food and drink premise, with a vacant office at the first floor. The rear of the site abuts an unnamed laneway that provides rear access to the commercial properties along Acland Street and the rear of residential properties facing onto Chaucer Street.
- 2.3 The land is in a Commercial 1 Zone (C1Z) and is subject to a Heritage Overlay (HO7) and Design and Development Overlay (DDO6-8).
- 2.4 The application was received on 16 October 2020 and included ground and first floor additions including a roof terrace. The proposed layout was to continue with a ground floor food and drink premise and first floor office, with access to the roof terrace for the users of the office only.



- 2.5 The application was advertised, and twenty-six objections were received. Concerns related to the construction of and use of a roof deck in a commercial setting, the lack of provision for loading and waste collection, overshadowing, overlooking, inadequate on-site car parking and whether a Cultural Heritage Management Plan was required.
- 2.6 A consultation meeting occurred on 30 March 2021 and discussed the proposal as per the advertised plans.
- 2.7 In response to matters raised by objectors, amended plans were submitted to Council on 6 September 2021 under Section 57A of the Planning and Environment Act 1987. The amended plans deleted the roof terrace towards the rear of the site to become additional office space, incorporated a car stacker to the garage and internal changes. The plans were re-advertised on 10 September 2021, with some further objections raised regarding overshadowing and visual bulk impact to private open space. The amended plans are the basis for this assessment, and form **Attachment 1**.
- 2.8 The proposed development would be consistent with the building and works decision guidelines of the Commercial 1 Zone (Clause 34.01), the Heritage Policy (Clause 22.04), and the objectives and requirements of Schedule 6 to the Design and Development Overlay. Further, it is considered reasonable to reduce the car parking requirements at Clause 52.06 (Car Parking). It is also considered that the amenity of the surrounding area would not be unreasonably impacted by the proposal, given the commercial context of the subject site and the strategic direction of the area to facilitate local scale commercial activity.
- 2.9 It is recommended that a Notice of Decision to Grant a Permit be issued, subject to conditions.

3. RECOMMENDATION

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
- 3.2 That a Notice of Decision to Grant a Permit be issued for partial demolition; alterations and additions; the construction of a ground, first and second floor addition to an existing commercial building, the construction of a roof terrace and the reduction of car parking requirements at 141 Acland Street, St Kilda.
- 3.3 That the decision be issued as follows:

1 Amended Plans Required

Before the 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 with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application (identified as TP0, TP1.01 – TP1.02, TP2.01 – TP2.05, TP3.01 – TP3.04, TP4.01 – TP4.03 and TP5.01 – TP5.04, prepared by Dragonfly Architecture and Construction and dated 18 August 2021) but modified to show:

- a) Pedestrian site triangles for the proposed garage.
- b) The following annotations to support the Sustainable Design Assessment (SDA);
 - i. A commitment to the DTS method addressing the Thermal Performance Rating.



- ii. A commitment to providing fixtures, fittings and appliances (dishwashers and washing machines) as part of the building fit-out.
- iii. An indication of electrical provisions for electric vehicle charging.
- iv. The sub-meter provided to all major common area services to be separately sub-metered.
- v. A commitment to provide a Building Users Guide to future owners.

c) A stormwater layout plan.

2 No Alterations

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.

3 Privacy Screens Must be Installed

Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building and thereafter maintained to the satisfaction of the Responsible Authority.

4 Walls on or facing the boundary

Before 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.

5 No equipment or services

No plant, equipment or domestic services (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from a street frontage (other than a lane) or public park without the written consent of the Responsible Authority.

6 Noise Limits

Noise levels must not exceed the permissible noise levels stipulated in *Part 5.3 - Noise, of the Environment Protection Regulations 2021 for Residential Premises, Commercial, Industrial and Trade Premises and Entertainment Venues and Outdoor Entertainment Events* to the satisfaction of the Responsible Authority.

7 Updated Sustainable Design Assessment

Prior to plans being endorsed under Condition 1 of this permit, an updated Sustainable Design Assessment (SDA) must be submitted to and approved by the Responsible Authority. The updated SDA must be generally in accordance with the SDA submitted with the application, but modified to address the following;

- a) Meet the minimum 50% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS to demonstrate best practice in sustainable design.
- b) A commitment to the use of low VOC paints, sealants and adhesives and E1 or E0-grade engineered wood products.

Where alternative ESD initiatives are proposed to those specified in this



condition, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes.

When approved, the updated SDA will be endorsed and will then form part of this permit. The ESD initiatives in the endorsed SDA must be fully implemented and must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

8 Implementation Report for Environmentally Sustainable Design

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 SDA/SMP and WSUD report have been implemented in accordance with the approved plans to the satisfaction of the Responsible Authority. The ESD and WSUD initiatives must be maintained throughout the operational life of the development to the Satisfaction of the Responsible Authority.

9 Water Sensitive Urban Design Response

Prior to the endorsement of plans under condition 1 of this permit, an updated Water Sensitive Urban Design (Stormwater Management) Response that outlines the stormwater treatment strategy for the site must be submitted, to the satisfaction of and approved by the Responsible Authority.

The response must include;

- a) A site layout plan showing all stormwater catchment areas, permeable and impermeable areas in m², location and type of all stormwater management devices and connection notations.
- b) A report to demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).
- c) Design details of the stormwater treatment devices, such as cross-sections and connection to legal point of discharge.

When approved, the WSUD Response will be endorsed and will form part of this permit. The initiatives in the endorsed WSUD Response must be fully implemented and must be maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

10 Stormwater Treatment Maintenance Plan

Prior to the endorsement of plans under Condition 1 of this permit, a Stormwater Treatment Maintenance Plan detailing the on-going maintenance of the stormwater treatment devices must be submitted to and approved by the Responsible Authority, addressing the following points;

- A full list of maintenance tasks for each device,
- The required frequency of each maintenance task (e.g. monthly, annually etc.),
- Person responsible for each maintenance task.

The Stormwater Treatment Maintenance Plan can be part of the Water Sensitive Urban Design (Stormwater Management) response or can be contained in a stand-alone manual. When approved, the STMP will be endorsed and will form



part of this permit.

11 Construction Management Water Sensitive Urban Design

The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit:

- 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.

12 Time for Starting and Completion

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

- a) The development is not started within two (2) 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.

4. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
566/2015	Partial demolition and construction of a section of the boundary wall	Approved	12/08/2015

5. PROPOSAL

- 5.1 Demolition and building and works are proposed to the existing building, comprising of ground, first and second floor additions, and the reduction of the car parking requirements associated with the Office and Food and Drink Premises uses at the site.
- 5.2 The plans which are subject to this report are those submitted under Section 57A of the Act, referred to as TP0, TP1.01 – TP1.02, TP2.01 – TP2.05, TP3.01 – TP3.04, TP4.01 – TP4.03 and TP5.01 – TP5.04, prepared by Dragonfly Architecture and Construction

and Council date stamped as received on 26 August 2021. Please refer to **Attachment 1**.

5.3 Specifically, the application proposes the following:

Demolition:

- Internal walls to the ground and first floors.
- Sections of ground floor wall to the rear (south west elevation), sides (north west and south east elevations) of the building.
- Sections of ground and first floor wall to the rear (south west elevation), sides (north west and south east elevations) of the building.
- The roof to the rear, beyond a 9.49m section of the roof to the front of the site.

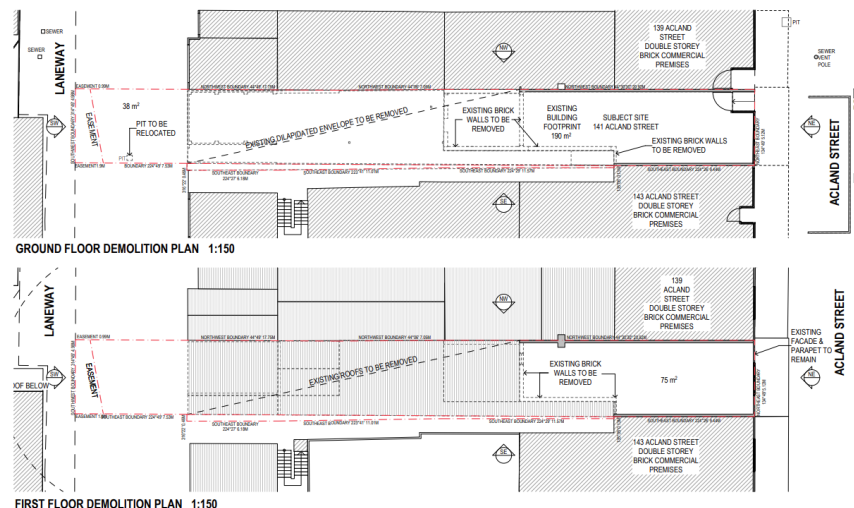


Figure 1. Proposed demolition plan (demolition outlined in red)

Buildings and works:

- The construction of a three-storey rear addition containing:
 - Ground floor:
 - Food and drink premises with leasable floor area of 176sqm
 - A 12sqm services room.
 - A 23sqm garage to the rear containing a dual car stacker.
 - Permeable paved area of 24sqm to the rear of the site (generally the driveway).
 - Rear access ramp (1.0m wide) and door.
 - Internal access corridor between Acland Street and the rear of the site, with two stairwells to access the upper floors.
 - First floor:

- Office 1: 126sqm office, accessed from stair lobby, located to the front of the site with a small transition in floor level located towards the middle of the floor plate.
- Office 2: 92sqm office accessed by its own stairwell located to the rear of the site. New double-glazed window to the rear (south west) elevation with opaque glazing to 1.7m above FFL.
- Second floor:
 - Office 3: 134sqm office accessed from stair lobby located to the rear of the site. New double-glazed window to the rear (south west) elevation with opaque glazing to 1.7m above FFL.

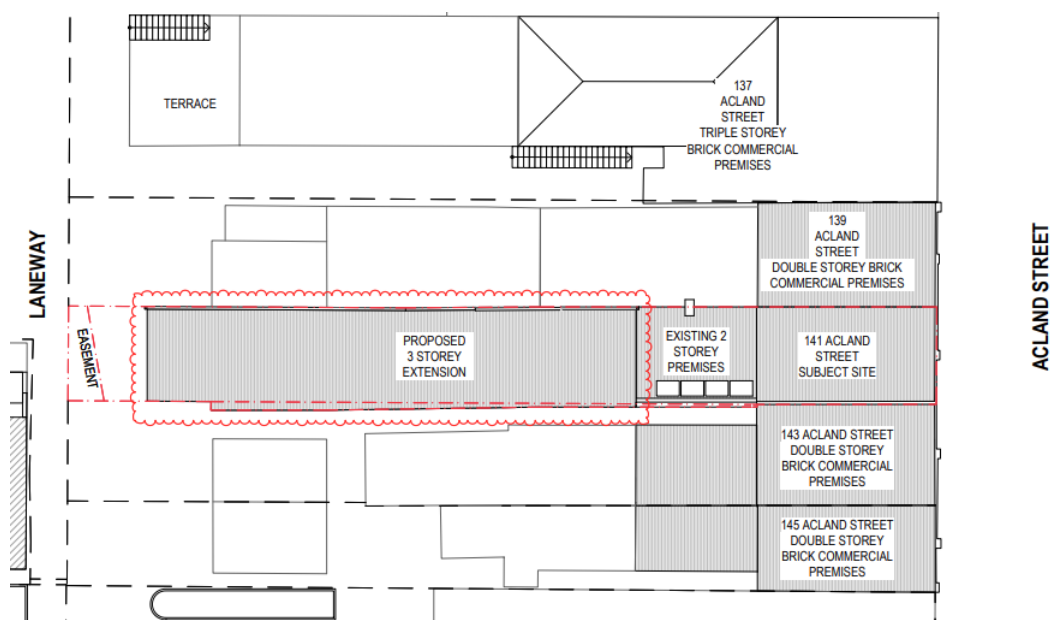


Figure 2. Proposed three storey addition to rear of the existing building.

- The building would be built to both north-west and south-east boundaries.
- There is no change to the front setback as the existing section of building at the front (north-east) would remain; the new built form would be set back from the existing front façade by 9.49m at the first floor, and 15.84m at the second floor.
- The building would be setback 4.1m from the rear boundary at ground level providing a total separation of 6m from the side elevation of the dwellings at 22 Chaucer Street.
- The rear setback of the building would reduce slightly to 4.07m at first floor and increase back to 4.1m at second floor level.
- Walls on the north-west and south-east boundaries to measure between 10.317m and 9.76m in height due to the slope of the land and abutting existing walls on the boundary.



- The additions would have an overall height of 10.317m as measured to the rear elevation with a flat roof form.
- Materials and finishes would include white (ground floor), light grey (first floor) and dark grey (second floor) renders, Light grey metal roof sheeting, white powder coat and black metal finishes to trim, doors and window frames, and a combination of clear and opaque glass to the proposed windows.

Amended Plans (Section 57a)

The proposal was amended following advertising under Section 57A of the Act. The originally advertised plans were amended as follows:

- The replacement of a roof terrace with the second-floor office, increasing the office floor area from 218sqm to 352sqm.
- The addition of the dual car stacker to the rear of the site (contained within the garage).
- The inclusion of a step in the first-floor office in order to accommodate a second floor office within the height controls for this site.

5.4 The original (advertised) plans are contained within **Attachment 2** (superseded plans).

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	248sqm
Existing building & site conditions	<p>The lot is rectangular in shape with a 5m length to both the front and rear of the site (frontage to Acland Street and rear boundary abutting a ROW) with both side boundaries of 45.6m in length.</p> <p>The site is developed with a two-storey Victorian era commercial property containing a ground floor retail premises and first floor office.</p>
Immediate interfaces	<p>The site forms part of the Acland Street Major Activity Centre and is located with an immediate interface to Acland Street approximately 125m to the north west of the junction with Barkly Street. This section of Acland Street is consistent with the character of the wider Major Activity Centre and accommodates a combination of vibrant commercial uses including retail, food and drink premises and live music venues. The site is well served by public transport with the site located opposite a tram stop.</p> <p><u>Immediate interfaces:</u> <u>139 Acland Street:</u> Located to the north-west boundary, 139 Acland Street is developed with a two storey commercial building which adjoins the subject site. The building contains a ground floor</p>



	<p>retail premises with a first floor office and rear access to the lane.</p> <p><u>143 Acland Street:</u> Located to the south-east boundary, 143 Acland Street is developed with a two storey building constructed to match that of the subject site, with a frontage constructed from the Victorian era architecture typical of the area. The building contains a ground floor retail premises, with the first floor occupied with a 1 bedroom dwelling. The 1 bedroom dwelling's private open space is a terrace located towards the rear of the site at the first floor, with a setback of approximately 1.0m to 1.3m from the subject site. The site enjoys rear access to the lane.</p> <p><u>Laneway</u> The subject site abuts a laneway to the rear of the site which services the rear of properties fronting Acland Street and Chaucer Street.</p> <p>Opposite the site are other commercial properties in Acland Street</p>
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6.1 A Zone and Overlay Map is contained at Attachment 3.

7. PERMIT TRIGGERS

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

Zone or Overlay	Why is a permit required?
Commercial 1 Zone Clause 34.01	A permit is required under the provisions of Clause 34.01-02 for the carrying out of the proposed buildings and works. A permit is not required for the uses – food and drink premises or offices.
Heritage Overlay (HO7) Clause 43.01	Pursuant to Clause 43.01-1, A permit is required to: <ul style="list-style-type: none"> Demolish or remove a building. Construct a building or construct or carry out works.
Design and Development Overlay (DDO6-8) Clause 43.02	Pursuant to Clause 43.02-2, A permit is required to construct a building or construct or carry out works.
Car Parking Clause 52.06	Pursuant to Clause 52.06-3 a permit is required to: <p>Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.</p> <p>Table 1 of Clause 52.06-5 sets out the required number of car parking spaces for each specified use. The subject site is</p>



	<p>located within a Principal Public Transport Network Area (PPTN), and therefore Column B applies to specified uses at this site. Based on Table 1, the required car parking rate for the uses at the site is as follows:</p> <ul style="list-style-type: none"> • Office: 3 to each 100 sqm of net floor area, or 10.56 spaces. • Food and Drink Premises: 3.5 to each 100 sqm of leasable floor area, or 6.16 spaces. <p>The proposed development would contain 352m² of Offices and 176m² of Food and Drink Premises. Pursuant to this Clause, a total of 16.72 spaces rounded down to 16 spaces. The proposal would provide for 2 on-site car parking spaces resulting in a shortfall of 14 spaces. Therefore, a permit is required for the reduction of 14 car spaces.</p>
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8. PLANNING SCHEME PROVISIONS

8.1 State Planning Policy Frameworks (PPF)

The following State Planning Policies are relevant to this application:

- Clause 21.03 Ecologically Sustainable Development, including
 - Clause 21.03-1 Environmentally Sustainable Land Use and Development
- Clause 21.04 Land Use, including
 - Clause 21.04-2 Activity Centres
- Clause 21.05 Built Form, including
 - Clause 21.05-1 Heritage
 - Clause 21.05-2 Urban Structure and Character
 - Clause 21.05-3 Urban Design and the Public Realm
- Clause 21.06 Neighbourhoods, including
 - Clause 21.06-6 St Kilda

8.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

- Clause 22.04 Heritage Policy

8.3 Other relevant provisions

- Clause 52.06 Car Parking
- Clause 65 Decision Guidelines



9. REFERRALS

9.1 Internal referrals

The s57A (amended) plans and documents were referred to the following areas of Council for comment (in italics). The comments are discussed in detail in Section 9 of this report.

Internal Department / Officer	Referral comments (summarised)
Heritage Advisor	<p><i>There will be no heritage impacts as the proposed new development at rear is not visible from Acland Street, and the façade is retained with no changes.</i></p> <p><u>Planners comment</u> No concerns were raised.</p>
Urban Design unit	<p><i>Proposal is supported.</i></p> <p><i>Consider balcony/s to rear elevation to add to passive surveillance and safety.</i></p> <p><i>Not enough information is provided about the proximity, levels and manoeuvring space required in and off the rear lane. Ensure adequate and safe access for pedestrians and vehicles.</i></p> <p><i>Accessibility advice required as no lift is provided and strong preference is for a lift to be provided to ensure equitable access.</i></p> <p>Planner comment: Council's Traffic Engineer has provided advice regarding the access to the car spaces, per below advice.</p> <p>One of the objections received has raised overlooking as a concern, which resulted in extending the enclosed office area at second floor level (deletion of the terrace). Therefore reintroducing balconies to the proposal would result in further concerns and given this would be to the rear of the elevation, would not cause a negative impact in terms of urban design.</p> <p>It is noted that internal accessibility requirements, notably with regard to the lift, were not required to be assessed in this application.</p>
Internal Department / Officer	Referral comments (summarised)



<p>Transport Safety Engineer</p>	<p><i>Access way dimensions are satisfactory and in accordance with Clause 52.06 of the planning scheme.</i></p> <p><i>Notes that full pedestrian sight triangles were not provided, access is from Right of Way, which has no dedicated pedestrian facilities.</i></p> <p><i>The proposed car stacker is considered satisfactory.</i></p> <p><i>The provision of the four bicycle spaces provided, is well in excess of the planning scheme requirements.</i></p> <p><i>The expected traffic generation is expected to have a negligible impact on surrounding local streets and intersections.</i></p> <p><i>Clause 52.06 of the planning scheme requires 16 off street parking spaces to be provided for the proposal.</i></p> <p><i>It was noted that the application is seeking a waiver for 14 parking spaces with 2 spaces provided.</i></p> <p><i>It was acknowledged that the submitted traffic report identified 150 spaces available within proximate area (60m). It was therefore considered that there is a sufficient number of short term on-street parking spaces to accommodate the shortfall in parking.</i></p> <p><i>It was also noted that the development will not be eligible for parking permits and would need to abide by on-street parking restrictions.</i></p> <p><u>Planners Comments:</u></p> <p>The above comments are noted. With regard to the comments regarding sight lines to the rear accessway, should a planning permit be granted, amended drawings showing site triangles would be required to be provided as a recommended condition. Refer to recommended condition 1 a).</p>
<p>Sustainable Design</p>	<p><i>It was noted that the proposed application did not demonstrate best practice with regard to Environmentally Sustainable Design.</i></p> <p><u>BESS Assessment:</u></p>



	<p><i>The project needs to meet the minimum 50% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%)</i></p> <p><u><i>Indoor Air Quality</i></u></p> <p><i>It was noted that, many materials used in the fit-out and construction of buildings contain Volatile Organic Compounds (VOC) and formaldehyde which pose serious health risks to building occupants. It was recommended that the report include a commitment to the use of low VOC paints, sealants and adhesives and E1 or E0-grade engineered wood products (e.g. MDF, plywood, engineered-wood flooring).</i></p> <p><u><i>Energy:</i></u></p> <p><i>Recommended that commitments to the DTS method (Energy 1.1 Thermal Performance Rating) should be provided on plans.</i></p> <p><u><i>Water:</i></u></p> <p><i>Recommend that a statement on plans be included that indicates all WELS-rating (Water efficient fixtures) commitments for all fixtures, fittings and appliances that reflect what is in the BESS assessment.</i></p> <p><u><i>Stormwater:</i></u></p> <p><i>It was recommended that in order to satisfy Stormwater requirements, a Stormwater layout plan should be provided which indicates treatments measures and modelling reports. In addition to this, a maintenance manual for each stormwater measure proposed along with a Construction Site Management Plan should be provided in accordance with Council's guidelines.</i></p> <p><u><i>Transport(Electric Vehicle Infrastructure)</i></u></p> <p><i>An annotation on plans should be provided indicating provisions for electric vehicle charging.</i></p> <p><u><i>Urban Cooling</i></u></p> <p><i>It was recommended that for non-visible flat roofs and concrete driveway, light-coloured or reflective</i></p>
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9.2

	<p><i>finishes should be specified to-mitigate urban heat island effect.</i></p> <p><u>Building Management & Construction (Metering)</u></p> <p><i>Recommended that a sub-meter should be provided to all major common area services.</i></p> <p>Planner comment: Should a permit be granted, it is recommended that an updated SDA be provided to address the comments from Council’s ESD officer above. Refer to recommended condition 7.</p> <p>Further, it is recommended to include annotations on plans to reflect the updated SDA, and to provide a stormwater plan. Refer to recommended condition 1 b) and c).</p> <p>Recommended conditions 8, 9, 10, and 11 are included to ensure that the SDA is appropriately implemented and followed through the life of the building.</p> <p>The S57A plans that form this assessment indicate that a light grey metal roof would be used, which addresses the urban cooling issue raised by the ESD referral.</p>
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External referrals

The application was not required to be externally referred.

10. PUBLIC NOTIFICATION/OBJECTIONS

It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties (50 letters) in accordance with section 52 of the Planning and Environment act 1987. At the time of the public notification process, a public notice was not placed on the site due to the covid-19 pandemic affecting the ability for notices to be retrieved from St Kilda Town Hall at that particular time. However, the public notification process occurred in accordance with s52 of the Planning and Environment Act.

10.1 The application has received 26 objections. The key concerns raised are **summarised** below (officer comment will follow in italics where the concern will not be addressed in Section 9):

- **Inappropriate siting of commercial roof deck proximate to existing residential dwellings.**

The roof terrace has been deleted from the original proposal and no longer part of the proposal per the s57A plans which are under consideration.

- **Potential for future liquor licencing of roof terrace, including under State of Emergency and Recovery Exemptions**



See above. The roof terrace has been deleted under the S57A plans, which form the basis of this report.

▪ **Lack of provision for loading and waste collection**

The applicant has indicated that private waste collection would occur via the lane a maximum of twice a week. Bins would be contained within the services room internally, located on the ground floor.

▪ **Requirement for Cultural Heritage Management Plan (CHMP)**

A due diligence statement determined that the proposal is exempt from requiring a CHMP. This is due to the proposed development not being considered as a high impact activity based on the Aboriginal Heritage Planning Tool assessment.

▪ **Overshadowing and visual bulk impact to private open space**

▪ **Overlooking from roof terrace to private open space**

▪ **Inadequate on-site car parking**

10.2 A **consultation** meeting was held on 30 March 2021. The meeting was attended by a Ward Councillor, applicants, objectors and Planning Officers.

10.3 The meeting resulted in a number of changes that have been incorporated into the **s57A** plans, which are under consideration as discussed above. The updated plans did not result in any objection being withdrawn.

10.4 It is considered that the objectors do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

11. OFFICER'S ASSESSMENT

11.1 Building and Works (Commercial 1 Zone)

The decision guidelines for Building and Works in a Commercial 1 Zone, pursuant to Clause 34.01-8, are as follows as it relates to this application:

- *The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.*
- *The provision of car parking.*
- *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.*
- *Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.*
- *The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.*



- *The availability of and connection to services.*
- *The design of buildings to provide for solar access.*
- The provision of car parking and the movement of traffic and pedestrians are discussed in Section 11.4 below. The proposal is considered to meet the decision guidelines and requirements of Clause 52.06 – Car Parking.

The proposed extensions would have no impact upon the streetscape of Acland Street as the proposal is contained to the rear of the site. The proposed built form would be fully obscured from the street by the existing façade and parapet, both of which will remain unchanged. Solar access would not be unreasonably impacted by the proposed building due to its low scale and location surrounded by other commercial properties.

Waste storage would be accommodated in the proposal via a 12sqm services room containing bins, bicycle racks and a water tank, and the general responsibilities of site maintenance would be the responsibility of the land owner. Access and availability to services would not change with the proposed additions.

Overlooking:

The proposal notes that the first and second floor windows located to the rear façade would be fixed and fitted with obscured/opaque glazing to a height of 1.7 metres above FFL to ensure there would not be unreasonable overlooking to adjoining and adjacent residential properties. No further screening is therefore required.

Overshadowing:

Amended shadow diagrams had been provided to assist with the assessment of this application. They have been included as **Attachment 4**.

The proposed shadow diagrams provided show 100% shadow impact to a terrace at the rear of 143 Acland Street from 1pm-3pm. However, the land is zoned for commercial purposes, as is the land at 143 Acland Street, and the expectation of amenity should not be considered the same as those properties in land zoned for residential purposes. This expectation has been upheld at the Tribunal when considering the impacts on residential properties located within commercial zones. The policy direction of this Major Activity Centre and the commercial zoning of the land supports the redevelopment for retail, office, business, entertainment and community uses.

On balance, it is considered that the shadow impact created by the proposed building would be reasonable as the commercial zoning of the land intends to facilitate commercial uses, and the terrace of the abutting dwelling would continue to receive reasonable sunlight during the morning hours.

11.2 Heritage

Pursuant to the Heritage Policy at Clause 22.04-3, it is policy that additions and/or alterations to heritage places:

- *Do not change the original principal facade(s) or roof.*
- *Are distinguishable from the original parts of the heritage place to be conserved, if a contemporary architectural approach is used.*



- *Are based on research that can identify the elements, detailing and finishes originally employed.*
- *Do not obscure or alter an element that contributes to the significance of the heritage place.*
- *Maintain an existing vista or viewlines to the principal facade(s) of a heritage place.*

Further, it is policy that *an upper storey addition is sited and massed behind the principal facade so that it preferably is not visible, particularly in intact or consistent streetscapes.*

The proposal would result in no changes to the principal façade and roof, and would be contained to the rear of the building, setback 15.8m from the front façade and concealed *behind* the existing built form. There are no alterations proposed to change the front façade or principal roof.

The proposed additions, due to the significant setback from the front elevation would be contained within a sightline measured from the opposite side of Acland Street, would be sited *appropriately* to ensure that they would not impose on or detract from the heritage streetscape.

Furthermore, the rear of the site fronting onto both Acland Street and Chaucer Street adjoin a lane that does not contain any recognised heritage value. The rear of the site are largely *developed* with contemporary additions or buildings with no heritage value. It is considered that the development of the rear of the subject site would not result in any adverse impact to the heritage value of the surrounding heritage place.

11.3 Design and Development Overlay (Schedule 6, Area 6-8)

The design objectives of Schedule 6 to the Design and Development Overlay as it relates to this *proposal* are as follows:

- *To protect sunlight access to public places and open space areas, in particular the foreshore and significant streets including Fitzroy Street, Acland Street, the Esplanade, Beaconsfield Parade and Marine Parade.*
- *To encourage retention of the streetscape elements and features that enhance the appearance of the identity and image of the St Kilda foreshore and adjacent areas as an attractive seaside residential, entertainment and leisure area.*
- *To ensure the built form and building siting respects the dominant street patterns.*
- *To encourage high quality, well-designed new buildings, works, renovations and additions that are compatible with the existing diverse architectural and streetscape character of St Kilda and reinforce its distinctive built form.*
- *To ensure that the facade design of new development is compatible with, and respects the character of, neighbouring buildings within the same streetscape.*



- *To ensure that any new car parking areas are not visible from public spaces, are not provided by way of open parking lots, and are provided in basement structures where feasible.*
- *To encourage the design of new car parking spaces within buildings so that residential or commercial floor space is provided between the parking areas and public streets, so that the building does not appear as a parking station.*
- *To ensure building height and form reflects the topography of the foreshore and surrounding area.*
- *To ensure that new development on sites containing or adjacent to a heritage place is of a form and scale that is respectful of the heritage place.*
- *To encourage architectural design elements which enhance the character of the area and form and provide a safe and comfortable environment for outdoor eating and promenading.*

The preferred character for Area 6-8 – Acland Village is as follows:

- *A cosmopolitan and vibrant shopping, leisure and residential village with a strong sense of its leisure function and local identity.*
- *A variable scale of development that responds to the different characters of the various streets.*
- *A precinct that builds on a local ethos of innovative design responses.*

Design and Development Overlay (DDO 6-8) – Design Outcomes and Requirements

The proposed buildings and works would be modest and would be confined to the rear of the site with no changes proposed to the existing building façade. Given the minor works proposed, it is considered that the proposal would align with the DDO provisions including the specific Design Outcomes and Requirements for DDO 6-8 (Acland Village precinct). The new works would be under the 10.5m height stipulated for this precinct and would not overshadow the Peanut Farm Reserve. The internal floor layouts of the building allow for a range of commercial uses and have been designed to ensure a public facing use to the ground floor with office uses to the upper floors.

With regard to amenity impacts, there would be an impact of overshadowing to the adjoining terrace contained at 143 Acland Street. Whilst the proposed extensions would create additional shadow over the terrace from 1pm, it is not considered to be unreasonable given the residential dwelling is contained within a commercial zone and given the expectation of amenity should not be the same as those properties in land zoned for residential purposes. In addition to this, to the rear, the sites fronting Chaucer Street (located in a residential area) would not be unreasonably affected by any shadow cast by the proposed development. The rear of 20 Chaucer Street would receive an additional 8sqm of additional overshadowing at 9am and would not be affected thereafter. With regard to overlooking, the proposal would include screening to the first and second floor windows located to the rear façade in the form of opaque glazing (fixed shut) to a height of 1.7 metres above FFL. This would ensure there is no unreasonable



overlooking into the secluded private open space or habitable room windows of adjacent residential properties.

The proposed buildings and works would not affect the vibrant leisure and shopping character, the streetscape/built form character or scale of Acland Street or the surrounding area. The buildings and works would also not affect the flexibility and consequent variety of uses that the site could accommodate and would not result in amenity impacts while the scale would not affect the pedestrian friendly character and active frontages of Acland Street.

In summary, the proposal is considered to be consistent with the requirements, objectives and guidelines of the Design and Development Overlay and the Acland Village precinct.

11.4 Traffic and Parking

The car parking requirements of the Port Phillip Planning Scheme are set out at Clause 52.06. The purpose of Clause 52.06 is:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Table 1 detailed in Clause 52.06-5 sets out the required number of car parking spaces for each specified use. The subject site is located within a Principal Public Transport Network Area (PPTN), and therefore Column B of Table 1 applies to specified uses at this site. As a result of applying these requirements, the required car parking rate for the uses at the site is as follows:

- Office: 3 to each 100 sqm of net floor area, **or 10.56 spaces**.
- Food and Drink Premises: 3.5 to each 100 sqm of leasable floor area, **or 6.16 spaces**.

The proposed development would contain 352sqm of Offices and 176sqm of Food and Drink Premises space. A total of 16.72 spaces (10.56 spaces for the office and 6.16 spaces for the retail space) would be required (16 in total). The proposal would provide for 2 on-site car parking spaces in the form of a dual car stacker, resulting in a shortfall of 14 spaces. A reduction of 14 car spaces is therefore required.



Requirements for an application to reduce (including reduce to zero) the number of car parking spaces required, pursuant to Clause 52.06-7, includes:

“An application to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be accompanied by a Car Parking Demand Assessment.

The Car Parking Demand Assessment must assess the car parking demand likely to be generated by the proposed new use.”

The applicant has provided a Car Parking Demand Assessment as a part of their Traffic Impact Assessment. The Car Parking Demand Assessment sets out, in summary, that the shortfall of car spaces at the subject site would be appropriate for the following reasons:

- *The Food and Drink Premises is likely to capture customers from within the surrounding commercial area, nearby residents and staff of the surrounding businesses. Demand can therefore be accommodated within the on-street supply.*
- *Typical Office operation would occur during normal weekday business hours and the demands outside of the normal weekday business hours would be minimal.*
- *The majority of the overall car parking demand would be generated by the Office use.*
- *The site is well serviced by public transport, with several tram and bus services operating within the vicinity of the site, including:*
 - *Tram 96 – 20m from site.*
 - *Tram 16 – 225m from site.*
 - *Tram 3/3A and 67 – 610m from site.*
 - *Bus 246, 600, 606, 922 and 923 – 100m from site.*
 - *Bus 623 – 200m from site.*
- *The area is also well located within convenient access to cycling and pedestrian routes, located within the Acland Village precinct and nearby to major cycling routes.*
- *The site is located within close proximity to long term and short term public and paid parking lots within the precinct including 24 Chaucer Street, Woolworths, Acland Court, Belford Street, Shakespeare Grove and Irwell Street.*
- *The development has incorporated bicycle storage within the design, including space for 4 bicycles to be stored securely on the ground floor.*

It is considered the shortfall of 14 spaces would be adequately accommodated within the local area as there are a number of alternate transport methods and short term and long term car parking options available. The subject site is also located within a commercial precinct. Furthermore, a 14 space shortfall is considered to be low, and the highest demand for car parking would occur during



typical business hours, meaning the impact to nearby residents would be minimal.

In addition, no further car spaces can be accommodated on site due to the constraints of the site. It would be difficult to contain any further car parks within the lot.

For the reasons detailed above the proposed car parking reduction is considered acceptable in this instance.

11.5 Sustainable Design and Water Sensitive Urban Design

A Sustainable Design Assessment (SDA) with a Water Sensitive Urban Design Response (WSUD) was provided with the application; however, the SDA and WSUD response fell short of the requirements of Clauses 22.12 and 22.13 upon review by Council's Environmentally Sustainable Design Officer.

Should a permit be granted, it is recommended that conditions be included to ensure the SDA and WSUD responses address the referral comments of Council's ESD officer. Refer **to recommended conditions 1 b), 1 c), 7, 8, 9, 10 and 11.**

12. COVENANTS

12.1 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 Lot 1 of Title Plan 318404Q [Parent Title Volume 07267 Folio 373].

13. OFFICER DIRECT OR INDIRECT INTEREST

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

14. OPTIONS

- 14.1 Approve as recommended
- 14.2 Approve with changed or additional conditions
- 14.3 Refuse - on key issues

15. CONCLUSION

16. It is considered that subject to conditions, the development of the site to contain a three storey addition with mixed use of food and drink premises and offices uses, and the reduction of the car parking requirement, would be appropriate and would not have an unreasonable impact upon the amenity of the surrounding area.

16.1 It is considered that the development would be appropriate in this location given the commercial context, zoning and consistency with the built form requirements.

16.2 The proposal would provide satisfactory provisions for on-site car parking considering the proximity of the site to alternative forms of transport and parking facilities.

16.3 The proposed development is therefore considered to be acceptable subject to conditions.

ATTACHMENTS

- 1. Attachment 1 - Plans For Assessment (S57A)
- 2. Attachment 2 - Originally Advertised Plans



3. **Attachment 3 - Zone and Overlay Map**
4. **Attachment 4 - Amended Shadow Diagrams**