



# Minutes

## Planning Decisions Committee

6.30pm, Wednesday 15 September 2021

Microsoft Teams

## 1. Appointment of Chair

Cr de Vietri nominated Cr O'Brien as chair.

There being no other nominations, Cr O'Brien was elected chair.

Cr O'Brien assumed the chair.

## 2. Statement of recognition of Wurundjeri Woi-wurrung Land

*"Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.*

*We acknowledge their creator spirit Bunjil, their ancestors and their Elders.*

*We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.*

*We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.*

*We pay our respects to Elders from all nations here today—and to their Elders past, present and future."*

## 3. Attendance and apologies

Attendance

Councillors

Cr Herschel Landes

Cr Bridgid O'Brien

Cr Gabrielle de Vietri

Council officers

Daniel Herrmann (Co-Ordinator Statutory Planning)

Laura Condon (Senior Planner)

Rhys Thomas (Senior Governance Advisor)

Cindi Johnston (Governance Officer)

## 4. Declarations of conflict of interest

No declarations were made.

## 5. Confirmation of Minutes

### RESOLUTION

**Moved:** Cr Landes    **Seconded:** Cr de Vietri

1. That the minutes of the meeting of the Planning Decisions Committee held on Wednesday 25 August 2021 be confirmed.

**CARRIED**

## 6 PLANNING DECISIONS COMMITTEE

<b>Item</b>		<b>Page</b>	<b>Res. Page</b>
6.1	PLN20/0950 - 196-202 Johnston Street, Collingwood - Part demolition, construction of an 11 storey mixed use building, use of the land for office/food and drink premises (no permit required) and dwellings (permit required) and a reduction of car parking requirements.	4	19
6.2	PLN17/0626.04 - 60-88 Cremorne St, Cremorne - Section 72 Amendment to Planning Permit PLN17/0626 to allow for new terraces to the building at levels 4 and 5.	34	34
6.3	PLN20/0869 - 390A Queens Parade, Fitzroy North (CONFIDENTIAL ITEM)		

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6.1 PLN20/0950 - 196-202 Johnston Street, Collingwood - Part demolition, construction of an 11 storey mixed use building, use of the land for office/food and drink premises (no permit required) and dwellings (permit required) and a reduction of car parking requirements.

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**Reference** D21/113190  
**Author** Daniel Herrmann - Co-Ordinator Statutory Planning  
**Authoriser** Manager Statutory Planning

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## RECOMMENDATION

That had Council been in a position to decide on the application, a Notice of Decision to Grant Planning Permit PLN20/0950 be issued for Part demolition, construction of an multi-storey mixed use building, use of the land for office/food and drink premises (no permit required) and dwellings (permit required) and a reduction of car parking requirements at 196-202 Johnston Street, Collingwood, generally in accordance with the decision plans and subject to the following conditions:

### Amended Plans

1. Before the development commences, 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 this permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the advertised plans, prepared by JCB Architects (dated 10.03.2021) but modified to show:
  - (a) The changes as depicted on the without prejudice "Sketch" plans prepared by JCB Architects and dated 19 August 2021 that show:
    - (i) Deletion of Level 7 and reduction of building height by 3.2m.
    - (ii) Reconfiguration of apartments on the western side of Levels 4, 5, 6 and 7.
    - (iii) Reduction in dwellings from 98 to 84.
    - (iv) Reconfiguration of resident storage areas.
    - (v) Communal rooftop open space.
    - (vi) Increased solar PV panels at rooftop level.
    - (vii) Revisions to facade treatment for the proposed street walls at 196-198 Johnston Street along both Johnston Street and Sackville Street frontages.
    - (viii) Minor revision to layout of Dwelling 00.04 at Level 2.

But further modified to show:

- (b) The boundary setbacks of Levels 08 and 09 to be consistent with Levels 09 and 10 of the advertised plans dated 10.03.2021.
- (c) The width of the vehicle crossing to match the width of the development entrance.

- (d) The doorway width of the development entrance must be dimensioned on the drawings.
- (e) Demonstrate that exiting motorists can clearly view pedestrians within the sight triangle and that visibility is not obstructed.
- (f) The existing road hump and street tree outside the property's Sackville Street are to accurately be depicted on the drawings.
- (g) Cross-sections with dimensions annotated in accordance with Council's Vehicle Crossing Information Sheet together with the B99 design vehicle ground clearance template demonstrating access into and out of the development that requires a number of spot levels that include:
  - (i) a reduced 2.0 metres level inside the property;
  - (ii) the bottom of kerb (invert) level; and
  - (iii) the edge of the channel level and levels of the road pavement along Rokeby Street.
- (h) A reduction of the depth for the proposed canopy extension along Johnston Street, measured from the title boundaries, to satisfy the requirements of the *Building Regulations 2018*.
- (i) Revised BADS assessment plans to reflect changes shown in the plans referred to in Condition 1(a).
- (j) Demonstrate compliance with Standard D20.
- (k) A minimum of 10 visitor bicycle spaces provided at a location easily accessible to visitors of the site. All visitor spaces should be a horizontal at-grade bike hoop and in accordance with access and clearance requirements of AS2890.3 or otherwise to the satisfaction of the responsible authority.
- (l) Notations of electrical infrastructure to ensure car parking areas are 'electric vehicle ready', including:
  - (i) One or more distribution boards within each car parking basement level, with capacity to supply 1 x 7kW (32amps) electric vehicle charger for each parking space.
  - (ii) A scalable load management system to ensure that electric vehicles are only charged when the building electrical load is below the nominated peak demand.
- (m) State use descriptions for all tenancies labelled 'commercial' as one of the following uses shop, food and drink premises, restaurant or bar.
- (n) Non-reflective metal mesh cladding.
- (o) Consistent details of the removal and reinstatement of the existing canopy shown on demolition and heritage façade detail plans and elevations.
- (p) Removal of existing signage from the heritage façade and associated canopy.
- (q) A plinth of a minimum 400mm height to ground floor shopfronts of the heritage façade.
- (r) Revised demolition plans and heritage façade detail plan (TP2-105), consistent with the Conservation Management Plan required at Condition 5.
- (s) Any changes required by the Acoustic Report at Condition 12.
- (t) Any changes required by the Landscape Plan and Public Realm Plan at Conditions 23 and 25.
- (u) Any changes required by the amended Sustainable Management Plan at Condition 10;
- (v) Any changes required by the amended Wind Assessment at Condition 17;
- (w) Any changes required by the amended Waste Management Plan at Condition 14.
- (x) Any requirement of the endorsed Tree Management Plan (condition 21) (where relevant to show on plans).
- (y) Any changes required by Melbourne Water conditions 27 – 31.

2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. As part of the ongoing progress and development of the site, Jackson Clements Burrows Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
  - (a) Oversee design and construction of the development; and
  - (b) Ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

### Conservation

4. Before demolition commences, a detailed and annotated photographic record of the former Austral Picture Theatre building context must be submitted to and approved by the Responsible Authority as a record of the building. The photographs must:
  - (a) Include the interior and each external elevation of the building;
  - (b) Be submitted in black and white format; and
  - (c) Be taken by a suitably qualified heritage photographer.
5. In conjunction with the submission of development plans under Condition 1, a Conservation Management Plan, prepared by a suitably qualified heritage consultant, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Conservation Management Plan will be endorsed and will form part of this permit. The Conservation Management Plan must include, but not be limited to, the following:
  - (a) Fully dimensioned and accurately measured plans at a scale of no less than 1:50 prepared by a suitably qualified heritage practitioner/ architect, detailing:
    - (i) The existing façade, roof and eastern return wall to a depth of approximately 9.4 metres, including sections to show the thickness of architectural elements;
    - (ii) The proposed restoration works to the existing façades;
    - (iii) Details of proposed canopy to Johnston street; and
    - (iv) New window openings to the first floor confirming installation to have minimal impact on existing heritage fabric
  - (b) A written description of the demolition, conservation, construction and external painting methods to be used including a heritage paint analysis to determine a historically appropriate colour scheme.
6. The provisions, recommendations and requirements of the endorsed Conservation Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### Structural Report Requirement

7. Before the demolition commences, a structural report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the structural report will be endorsed and will form part of this permit. The structural report must be prepared by a suitably qualified structural engineer, or equivalent, and demonstrate the means by which the retained portions of building will be supported during demolition and construction works to ensure their retention.
8. The provisions, recommendations and requirements of the endorsed structural report must be implemented and complied with to the satisfaction of the Responsible Authority.



## Façade Strategy and Materials and Finishes Plan

9. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
- (a) Elevations at a scale of 1:20 or 1:50 illustrating typical podium and tower details, entries and doors;
  - (b) Elevations at a scale of 1:20 or 1:50 detailing all reconstruction and restoration works to the former Austral Picture Theatre building to be prepared by a suitably qualified heritage architect and be consistent with the Conservation Management Plan required by Condition X;
  - (c) Section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
  - (d) Design of operable windows via cross-section / detailed plans (i.e. size and operability).
  - (e) A materials schedule and coloured drawings and renders outlining colours, materials and finishes and graffiti proofing of walls including:
    - (i) details of the proposed metal mesh being a non reflective;
    - (ii) use of real brick for the Sackville Street podium

## Sustainable Management Plan

10. In conjunction with the submission of development plans under Condition 1, an amended SMP must be submitted to and approved by the Responsible Authority. When approved, the amended SMP will be endorsed and will form part of this permit. The amended SMP must be generally in accordance with the Sustainable Management Plan dated April 2021, prepared by Atelier Ten, but updated to include the following:
- (a) Daylight modelling for all living spaces to demonstrate compliance with the BESS daylight factor requirement for living areas.
  - (b) Removal of ultra-low VOC paint as an innovation, update GS credits while maintaining GS approach.
  - (c) Clarify specification limits for VOC and formaldehyde.
  - (d) See comments above re: natural ventilation to commercial spaces.
  - (e) Clarify, and address thermal performance of commercial and retail spaces via JV3 report or similar.
  - (f) Clarify reduction in GHG emissions associated with proposed against baseline.
  - (g) Provide NatHERS modelling conducted for residential apartments to clarify.
  - (h) Clarify carpark ventilation strategy.
  - (i) Clarify WELS ratings of dishwashers which are identified as 'water efficient' in SMP.
  - (j) Confirm extent and granularity of water metering.
  - (k) Clarify whether any additional treatment devices (i.e. SPEL) are required to achieve water quality targets.
  - (l) Provide firm commitments around use of recycled materials (i.e. bricks) or products that utilise post-consumer materials (i.e. insulation).
  - (m) Good. Provide more information on structural timber to be used to support claim.
  - (n) Clarify extent of sustainable timber strategy (by weight, component or cost).
  - (o) Clarify the DDA bathroom on the ground floor includes a shower and can be used as an EoT for unisex and non-binary building users.
  - (p) Include details of car share locations within Green Travel Plan OR Building (/occupant) Users Guide for residents and commercial staff.
  - (q) Confirm site-wide coverage of ALL vegetation, and clarify soil depth for canopy vegetation proposed in the 'public laneway'.

- (r) Provide more details to support UHI claim (see above re: all vegetation site coverage), and confirm SRI values of light cladding and proposed roofing material. Consider additional climbing vegetation from ground level to level 2 on the north façade to minimise heat gain of masonry elements which will contribute to UHI in the streetscape.
  - (s) Clarify provision of an Environmental Management Plan to guide the building and minimise environmental impacts during the construction phase.
11. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Acoustic Report

12. In conjunction with the submission of development plans under Condition 1, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess the following:
- (a) Potential noise impacts from nearby licensed premises on the proposed dwellings.
  - (b) Potential noise impacts from services on Site (eg. substation) on the proposed dwellings.

The acoustic report must make recommendations to limit the noise impacts in accordance with the *Environment Protection Authority Publication 1826* and the *Environmental Protection Regulations 2021*.

13. The recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Waste Management Plan

14. In conjunction with the submission of development plans under Condition 1, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 18 December 2021, but modified to include:
- (a) Updated ratios of Table 1 and associated updates to Table 2 to reflect designated uses for each commercial tenancy.
  - (b) Swept path diagrams relating to waste collection vehicles.

15. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

16. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

#### Wind Tunnel Report

17. In conjunction with the submission of development plans under Condition 1, a Wind Tunnel Report to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the amended Wind Tunnel Report will be endorsed and will form part of this Incorporated Document. The Wind Tunnel Report must be generally in accordance with the Environmental Wind Assessment prepared by VIPAC, dated 18 February 2021, but modified to include (or verify):



- (a) ground level wind environment of the seating areas on the north and south ends of the western public laneway.

### Street Trees

- 18. Before the development commences, the permit holder must make a one off contribution of \$500 to the Responsible Authority to be used for the replacement street tree planting along Johnston Street that is required by the development.
- 19. Before the development commences, the permit holder must provide an Asset Protection Bond of \$1,500 (ex GST) for the northern tree on Sackville Street, unless otherwise advised by the Responsible Authority. The security bond:
  - (a) must be provided to the Responsible Authority in the form of a bank cheque or guarantee;
  - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
  - (c) must be in accordance with the requirements of this permit.
- 20. Any pruning required to be undertaken for the four street trees along the subject site's Rich Street and Johnston Street frontages must be completed by an approved tree maintenance contractor (to the satisfaction of the Responsible Authority) with all associated costs to be borne by the permit holder.

### Tree Management Plan

- 21. In conjunction with the submission of development plans under Condition 1, an amended Tree Management Plan to the satisfaction of the Responsible Authority and by a suitably qualified Arborist must be submitted to and approved by the Responsible Authority. When approved the amended Tree Management Plan will be endorsed and will form part of the permit. The amended Tree Management Plan must be generally in accordance with the Tree Management Plan prepared by Tree Logic, but modified to include (or show):
  - (a) Removal of the Johnston Street street tree (this is to be removed and replaced at the owners expense)  
  
to the satisfaction of the Responsible Authority.
- 22. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented thereafter to the satisfaction of the Responsible Authority.

### Landscape Plan (excluding laneway design)

- 23. In conjunction with the submission of development plans under Condition 1, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by Etched dated December 2020, but modified to include (or show):
  - (a) Exclude the design detail of the proposed laneway and adjoining public realm (to be addressed separately under Condition 26);
  - (b) Incorporate detail of the rooftop communal open space;
  - (c) show the type, location, quantity, height at maturity and botanical names of all proposed plants – as a planting plan with a plant schedule;

- (d) provide details of the raised planters and terrace/rooftop planting (including planter box materials and dimensions, mulch layer – something that won't blow away, growing media – suitable in weight and content for roof top gardens, filter media, irrigation method, drainage system, root barrier / water proofing layer);
- (e) provide information on the proposed method for irrigation and drainage;
- (f) detail the maintenance schedule following construction (duration, tasks, regime);
- (g) show the materiality of the proposed spaces;

to the satisfaction of the Responsible Authority.

24. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:

- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
- (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
- (c) replacing any dead, diseased, dying or damaged plants,

all to the satisfaction of the Responsible Authority.

#### Public Realm Plan

25. In conjunction with the submission of development plans under Condition 1, or by such later date as approved in writing by the Responsible Authority, a Laneway Detail Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Realm Plan must be generally in accordance with the 'ground floor plan' (page 11) and 'elevation' (page 12) landscape concepts prepared by Etched, dated December 2020, but modified to include the following:

- (a) Existing/proposed public realm conditions outside of title boundaries including street trees, light poles, surface materials and fixtures.
- (b) Surface treatments and levels, including appropriate transitions to Johnston and Sackville Street footpaths and ground floor commercial tenancies.
- (c) Materials schedule of all proposed materials, including surface materials, furnishings and fixtures.
- (d) A minimum of 10 visitor bicycle spaces, including 1 x hoop bicycle parking on Johnston Street frontage.
- (e) show the type, location, quantity, height at maturity and botanical names of all proposed plants – as a planting plan with a plant schedule;
- (f) provide details of the raised planters planting (including planter box materials and dimensions, mulch layer – something that won't blow away, growing media – suitable in weight and content for roof top gardens, filter media, irrigation method, drainage system, root barrier / water proofing layer);
- (g) provide information on the proposed method for irrigation and drainage;
- (h) Removal of the northern seating node.
- (i) Increase functional width at the southern end of the laneway by relocating the southern tree further north and redesign of southern seating node
- (j) Removal and replacement of the existing street tree along Johnston Street to align with laneway trees.
- (k) Clear pedestrian sightlines demonstrated along the laneway with proposed landscaping layout.
- (l) Location of lighting consistent with the Public Lighting Plan under Condition 31, including the replacement of bollard lighting with integrated lighting with garden beds/planters (unless otherwise agreed by the responsible authority).
- (m) High level drainage details.
- (n) Cross sections of the laneway as necessary.

- (o) detail the maintenance schedule following construction (duration, tasks, regime).

All to the satisfaction of the Responsible Authority.

- 26. Before the building is occupied, all works associated with the Public Realm Plan as shown on the endorsed plans and Public Realm Plan (referred to in Condition 25) must be fully constructed and completed by the permit holder, with all costs borne by the permit holder, to the satisfaction of the Responsible Authority.

#### Car Park Management Plan

- 27. Before the use and development commences, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
  - (a) the number and location of car parking spaces allocated to each tenancy;
  - (b) the management of visitor car parking spaces and security arrangements for occupants and employees of the development, including details on how residential visitors are to access car parking;
  - (c) details of way-finding, cleaning and security of end of trip bicycle facilities;
  - (d) The number and allocation of storage spaces;
  - (e) policing arrangements and formal agreements;
  - (f) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc; and
  - (g) details regarding the management of loading and unloading of goods and materials.
- 28. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Car parking

- 29. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
  - (a) constructed and available for use in accordance with the endorsed plans;
  - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
  - (c) treated with an all-weather seal or some other durable surface; and
  - (d) line-marked or provided with some adequate means of showing the car parking spaces;

to the satisfaction of the Responsible Authority.

#### Melbourne Water Conditions

- 30. Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:
  - (a) Finished floor levels of Apartments 00.03, 00.05, 00.06 located at the ground floor set no lower than 20.0m to AHD.
  - (b) Windows and openings to the ground floor apartments shown finished no lower than 20.0m to AHD, demonstrated within the western elevation.
  - (c) Finished floor levels of the Substation set no lower than 20.0m to AHD.

- (d) The northern elevation clearly denoting the apex within the driveway. The 'metal expanded mesh' door must be deleted to reveal the driveway ramp/apex within the elevation.
- 31. Finished floor levels of the ground floor tenancies (including all dwellings, retail, commercial, services/storage and lift/stair lobbies) must be shown to be constructed no lower than 20.0 metres to Australian Height Datum (AHD) which is 300mm above the applicable flood level of 19.7 metres to AHD.
- 32. The basement driveway must incorporate a flood proof apex set no lower than 20.0m to AHD, which is 300mm above the applicable flood level of 19.7 metres to AHD.
- 33. All external doors, windows, vents and openings to the basement car park must be finished no lower than 20.0m to AHD, which is 300mm above the applicable flood level.
- 34. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor and surface levels (as constructed) at the entrance ramps/apex, ground floor and any basement openings reduced to the AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

#### Public Lighting Plan

- 35. Before the development commences, a Public Lighting Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Lighting Plan must address lighting along the Johnston Street, Sackville Street and laneway interfaces but also in the laneway and entrances to the approved building. When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
  - (a) A maintenance regime for the lighting scheme within the curtilage of the property.
  - (b) The use of energy efficient luminaries and/or solar lighting technologies to reduce carbon emission if possible.
- 36. The provisions, recommendations and requirements of the endorsed Public Lighting Plan must be implemented and complied with at no cost to Council and to the satisfaction of the Responsible Authority.

#### Section 173 Agreement (Laneway)

- 37. Within six months of the commencement of works the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, which provides for the following:
  - (a) The Owner must provide unfettered 24 hour public access over that part of the land to be used for the new north-south laneway; and
  - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 34(a) at the cost of the owners of the site and to the satisfaction of the Responsible Authority.
- 38. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

#### Section 173 Agreement (Council lease for Room to Create program)

- 39. Prior to occupation of the development, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, which provides for the following:

- (a) The Owner must enter into a lease of the northern most ground floor commercial tenancy comprising an area of 56 square metres to the Yarra City Council for a period of 4 years with 2 further options of 3 years each at a nominal rental of \$1 per annum.
- (b) For the duration of the lease, the Yarra City Council shall be responsible for the payment of utilities and services to the tenancy (eg. electricity, water).
- (c) For the duration of the lease, the tenancy shall be used for Yarra's 'Room to Create' program (art and crafts centre) or other similar Council program.
- (d) The Owner will undertake the fit out of the internal art and craft centre (to include floor covering, ceiling, lighting and air conditioning) before the tenancy is occupied in accordance with plans jointly approved between the Owner and Yarra City Council, and at the full cost of the Owner.
- (e) In all other respects the lease is to be in a form of the standard REIV commercial lease.

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

#### Loading and Unloading

- 40. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
- 41. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.

#### Road Infrastructure

- 42. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
- 43. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
  - (a) In accordance with any requirements or conditions imposed by Council.
  - (b) Demonstrating satisfactory access into and out of the site with a vehicle ground clearance check using the B99 design vehicle and be fully dimensioned with actual reduced levels (to three decimal places) as per Council's Vehicle Crossing Information Sheet;
  - (c) Be DDA compliant;
  - (d) At the Permit Holder's cost; and
  - (e) To the satisfaction of Council.
- 44. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all building works and connections for underground utility services outside the building's frontage must be reconstructed:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
- 45. Before the building is occupied, or by such later date as approved in writing by the responsible authority, any isolated areas of road pavement failure as a consequence of construction traffic impacts must be reconstructed:
  - (a) at developer's cost;
  - (b) the satisfaction of any other relevant authority; and

- (c) to the satisfaction of the responsible authority.
46. Before the building is occupied, or by such later date as approved in writing by the responsible authority the relocation of any service poles, structures or pits necessary to facilitate the development must be undertaken:
- (a) at the developer's cost; and
  - (b) to the satisfaction of the responsible authority.
47. Before the building is occupied, or by such later date as approved in writing by the responsible authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the developer's cost; and
  - (b) to the satisfaction of the responsible authority.
48. Before the building is occupied, or by such later date as approved in writing by the responsible authority, the removal of any kerbside parking sensors and any reinstatement of parking sensors will require the developer to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the developer.
49. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

### General

50. The amenity of the area must not be detrimentally affected by the use or development, including through:
- (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
51. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
52. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
53. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
54. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
55. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

## Construction Management Plan

56. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:

- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
- (b) works necessary to protect road and other infrastructure;
- (c) remediation of any damage to road and other infrastructure;
- (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
- (e) facilities for vehicle washing, which must be located on the land;
- (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
- (g) site security;
- (h) management of any environmental hazards including, but not limited to,:
  - (i) contaminated soil;
  - (j) materials and waste;
  - (k) dust;
  - (l) stormwater contamination from run-off and wash-waters;
  - (m) sediment from the land on roads;
  - (n) washing of concrete trucks and other vehicles and machinery; and
  - (o) spillage from refuelling cranes and other vehicles and machinery;
- (p) the construction program;
- (q) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (r) parking facilities for construction workers;
- (s) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (t) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (u) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (v) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (w) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority.

In preparing the Noise and Vibration Management Plan, consideration must be given to:

- (i) using lower noise work practice and equipment;
- (ii) the suitability of the land for the use of an electric crane;
- (iii) silencing all mechanical plant by the best practical means using current technology;
- (iv) fitting pneumatic tools with an effective silencer;

During the construction:



- (x) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (y) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (z) vehicle borne material must not accumulate on the roads abutting the land;
- (aa) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (bb) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority.

57. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
58. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

#### Development Infrastructure Levy

59. Prior to the commencement of the development the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan.

#### Community Infrastructure Levy

60. Prior to the issue of a building permit, the Community Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan;

#### Time expiry

61. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit;
  - (b) the development is not completed within four years of the date of this permit;
  - (c) the proposed dwelling use is not commenced within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

#### Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact Council's Construction Management Branch on 9205 5585 for further information.

The site is subject to the Heritage Overlay. A planning permit may be required for any further external work.

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the Building Regulations 2018 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 133.

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch. Any on-street parking reinstated (signs and line markings) as a result of development works must be approved by Council's Parking Management unit.

All future employees, residents, future owners and occupiers within the development approved under this permit will not be permitted to obtain business, resident or visitor parking permits.

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirement of the Environmental Audit Overlay must be met prior to the commencement of the development permitted under the permit.

#### *Melbourne Water Flooding Information*

The property in question is subject to flooding from breakaway flow from Melbourne Water's Alexandra Parade Main Drain when the capacity of the underground drainage system is exceeded. The applicable 1% Average Exceedance Probability (AEP) flood level for the property is 19.7 metres to Australian Height Datum (AHD).

To access more information regarding other services or online applications that Melbourne Water offers please visit our website.

For further enquiries in relation to this application, please contact our Customer Service Centre on 131 722.

### Submissions made online during the meeting

Vaughan Connor, Contour Consultants (for the applicant)  
Catherine Mililli  
Lucy Groenewegen  
Karen Cummings, Collingwood Historical Society Inc  
Peter Shellie  
Matthew Carabott, Collingwood Action Group  
Tony Knox  
Alice Smyth  
Anne Horrigan-Dixon  
Glen McCallum, Protect Fitzroy North Inc.  
David Kilderry  
Adam Promnitz  
John Beattie  
Mim Lowe  
Anthony Rogers

### **PROPOSED PLANNING DECISIONS COMMITTEE RECOMMENDATION**

**Moved:** Cr O'Brien

That had Council been in a position to decide on the application, a Notice of Decision to refuse to grant a Planning Permit PLN20/0950 be issued for Part demolition, construction of an multi-storey mixed use building, use of the land for office/food and drink premises (no permit required) and dwellings (permit required) and a reduction of car parking requirements at 196-202 Johnston Street, Collingwood, generally in accordance with the decision plans and subject to the following conditions:

1. The height and lack of setbacks of the development will visually dominate the heritage place, which is contrary to the purpose of the heritage overlay at clause 43.01 and fails to comply with clauses 21.05-1 and 22.02 of the Yarra Planning Scheme.
2. The proposed development fails to satisfy the building height and upper level setback requirements and does not contribute positively to the preferred built form character outlined in DDO15.
3. The proposed development does not respond to the site context nor fit into the emerging built form context and streetscapes as envisaged under clauses 15.01, 15.01-1S, 15.01-2S, 15.01-5S and 21.05-2 of the Yarra Planning Scheme.
4. The proposed development does not meet the standards for the provision of adequate communal open space and does not provide adequate deep soil canopy trees as required by Clauses 58.03-2 and 58.03-5.

Motion lapsed for want of a seconder.

## PLANNING DECISIONS COMMITTEE RESOLUTION

**Moved:** Cr de Vietri

**Seconded:** Cr Landes

That had Council been in a position to decide on the application, a Notice of Decision to Grant Planning Permit PLN20/0950 be issued for Part demolition, construction of an multi-storey mixed use building, use of the land for office/food and drink premises (no permit required) and dwellings (permit required) and a reduction of car parking requirements at 196-202 Johnston Street, Collingwood, generally in accordance with the decision plans and subject to the following conditions:

### Amended Plans

1. Before the development commences, 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 this permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the advertised plans, prepared by JCB Architects (dated 10.03.2021) but modified to show:
  - (a) The changes as depicted on the without prejudice "Sketch" plans prepared by JCB Architects and dated 19 August 2021 that show:
    - (i) Deletion of Level 7 and reduction of building height by 3.2m.
    - (ii) Communal rooftop open space.
    - (iii) Increased solar PV panels at rooftop level.
    - (iv) Revisions to facade treatment for the proposed street walls at 196-198 Johnston Street along both Johnston Street and Sackville Street frontages.
    - (v) Minor revision to layout of Dwelling 00.04 at Level 2.

But further modified to show:

- (b) Deletion of Levels 05 and 06 (with a building height no greater than 28 metres, as defined by DDO15).
- (c) Introduce a 3 metre setback of Levels 00-02 from Sackville Street to provide additional communal open space with an appropriate landscaping treatment (excluding basement entry) and associated re-design / consolidation of Apartments 00.03, 00.04, 00.05 and 00.06 to meet the requirements of Clause 58.
- (d) The boundary setback of Level 07 to be consistent with Level 09 of the advertised plans dated 10.03.2021.
- (e) Widen the internal pedestrian corridor to provide access to the end of trip facilities, south of the lift core, to a minimum width of 1.6 metres.
- (f) The width of the vehicle crossing to match the width of the development entrance.
- (g) The doorway width of the development entrance must be dimensioned on the drawings.
- (h) Demonstrate that exiting motorists can clearly view pedestrians within the sight triangle and that visibility is not obstructed.
- (i) The existing road hump and street tree outside the property's Sackville Street are to accurately be depicted on the drawings.

- (j) Cross-sections with dimensions annotated in accordance with Council's Vehicle Crossing Information Sheet together with the B99 design vehicle ground clearance template demonstrating access into and out of the development that requires a number of spot levels that include:
  - (i) a reduced 2.0 metres level inside the property;
  - (ii) the bottom of kerb (invert) level; and
  - (iii) the edge of the channel level and levels of the road pavement along Rokeby Street.
- (k) A reduction of the depth for the proposed canopy extension along Johnston Street, measured from the title boundaries, to satisfy the requirements of the *Building Regulations 2018*.
- (l) Revised BADS assessment plans to reflect changes shown in the plans referred to in Condition 1(a), (b), (c), (d) and (e).
- (m) Demonstrate compliance with Standard D20.
- (n) A minimum of 10 visitor bicycle spaces provided at a location easily accessible to visitors of the site. All visitor spaces should be a horizontal at-grade bike hoop and in accordance with access and clearance requirements of AS2890.3 or otherwise to the satisfaction of the responsible authority.
- (o) Notations of electrical infrastructure to ensure car parking areas are 'electric vehicle ready', including:
  - (i) One or more distribution boards within each car parking basement level, with capacity to supply 1 x 7kW (32amps) electric vehicle charger for each parking space.
  - (ii) A scalable load management system to ensure that electric vehicles are only charged when the building electrical load is below the nominated peak demand.
- (p) State use descriptions for all tenancies labelled 'commercial' as one of the following uses shop, food and drink premises, restaurant or bar.
- (q) Non-reflective metal mesh cladding.
- (r) Consistent details of the removal and reinstatement of the existing canopy shown on demolition and heritage façade detail plans and elevations.
- (s) Removal of existing signage from the heritage façade and associated canopy.
- (t) A plinth of a minimum 400mm height to ground floor shopfronts of the heritage façade.
- (u) Revised demolition plans and heritage façade detail plan (TP2-105), consistent with the Conservation Management Plan required at Condition 5.
- (v) Any changes required by the Acoustic Report at Condition 12.
- (w) Any changes required by the Landscape Plan and Public Realm Plan at Conditions 23 and 25.
- (x) Any changes required by the amended Sustainable Management Plan at Condition 10;
- (y) Any changes required by the amended Wind Assessment at Condition 17;
- (z) Any changes required by the amended Waste Management Plan at Condition 14.
- (aa) Any requirement of the endorsed Tree Management Plan (condition 21) (where relevant to show on plans).
- (bb) Any changes required by Melbourne Water conditions 27 – 31.

2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. As part of the ongoing progress and development of the site, Jackson Clements Burrows Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
  - (a) Oversee design and construction of the development; and
  - (b) Ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

#### Conservation

4. Before demolition commences, a detailed and annotated photographic record of the former Austral Picture Theatre building context must be submitted to and approved by the Responsible Authority as a record of the building. The photographs must:
  - (a) Include the interior and each external elevation of the building;
  - (b) Be submitted in black and white format; and
  - (c) Be taken by a suitably qualified heritage photographer.
5. In conjunction with the submission of development plans under Condition 1, a Conservation Management Plan, prepared by a suitably qualified heritage consultant, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Conservation Management Plan will be endorsed and will form part of this permit. The Conservation Management Plan must include, but not be limited to, the following:
  - (a) Fully dimensioned and accurately measured plans at a scale of no less than 1:50 prepared by a suitably qualified heritage practitioner/ architect, detailing:
    - (i) The existing façade, roof and eastern return wall to a depth of approximately 9.4 metres, including sections to show the thickness of architectural elements;
    - (ii) The proposed restoration works to the existing façades;
    - (iii) Details of proposed canopy to Johnston street; and
    - (iv) New window openings to the first floor confirming installation to have minimal impact on existing heritage fabric
  - (b) A written description of the demolition, conservation, construction and external painting methods to be used including a heritage paint analysis to determine a historically appropriate colour scheme.
6. The provisions, recommendations and requirements of the endorsed Conservation Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Structural Report Requirement

7. Before the demolition commences, a structural report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the structural report will be endorsed and will form part of this permit. The structural report must be prepared by a suitably qualified structural engineer, or equivalent, and demonstrate the means by which the retained portions of building will be supported during demolition and construction works to ensure their retention.
8. The provisions, recommendations and requirements of the endorsed structural report must be implemented and complied with to the satisfaction of the Responsible Authority.

## Façade Strategy and Materials and Finishes Plan

9. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
- (a) Elevations at a scale of 1:20 or 1:50 illustrating typical podium and tower details, entries and doors;
  - (b) Elevations at a scale of 1:20 or 1:50 detailing all reconstruction and restoration works to the former Austral Picture Theatre building to be prepared by a suitably qualified heritage architect and be consistent with the Conservation Management Plan required by Condition X;
  - (c) Section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
  - (d) Design of operable windows via cross-section / detailed plans (i.e. size and operability).
  - (e) A materials schedule and coloured drawings and renders outlining colours, materials and finishes and graffiti proofing of walls including:
    - (i) details of the proposed metal mesh being a non reflective;
    - (ii) use of real brick for the Sackville Street podium

## Sustainable Management Plan

10. In conjunction with the submission of development plans under Condition 1, an amended SMP must be submitted to and approved by the Responsible Authority. When approved, the amended SMP will be endorsed and will form part of this permit. The amended SMP must be generally in accordance with the Sustainable Management Plan dated April 2021, prepared by Atelier Ten, but updated to include the following:
- (a) Daylight modelling for all living spaces to demonstrate compliance with the BESS daylight factor requirement for living areas.
  - (b) Removal of ultra-low VOC paint as an innovation, update GS credits while maintaining GS approach.
  - (c) Clarify specification limits for VOC and formaldehyde.
  - (d) See comments above re: natural ventilation to commercial spaces.
  - (e) Clarify, and address thermal performance of commercial and retail spaces via JV3 report or similar.
  - (f) Clarify reduction in GHG emissions associated with proposed against baseline.
  - (g) Provide NatHERS modelling conducted for residential apartments to clarify.
  - (h) Clarify carpark ventilation strategy.
  - (i) Clarify WELS ratings of dishwashers which are identified as 'water efficient' in SMP.
  - (j) Confirm extent and granularity of water metering.
  - (k) Clarify whether any additional treatment devices (i.e. SPEL) are required to achieve water quality targets.
  - (l) Provide firm commitments around use of recycled materials (i.e. bricks) or products that utilise post-consumer materials (i.e. insulation).
  - (m) Good. Provide more information on structural timber to be used to support claim.
  - (n) Clarify extent of sustainable timber strategy (by weight, component or cost).
  - (o) Clarify the DDA bathroom on the ground floor includes a shower and can be used as an EoT for unisex and non-binary building users.
  - (p) Include details of car share locations within Green Travel Plan OR Building (/occupant) Users Guide for residents and commercial staff.



- (q) Confirm site-wide coverage of ALL vegetation, and clarify soil depth for canopy vegetation proposed in the 'public laneway'.
  - (r) Provide more details to support UHI claim (see above re: all vegetation site coverage), and confirm SRI values of light cladding and proposed roofing material. Consider additional climbing vegetation from ground level to level 2 on the north façade to minimise heat gain of masonry elements which will contribute to UHI in the streetscape.
  - (s) Clarify provision of an Environmental Management Plan to guide the building and minimise environmental impacts during the construction phase.
11. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Acoustic Report

12. In conjunction with the submission of development plans under Condition 1, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess the following:
- (a) Potential noise impacts from nearby licensed premises on the proposed dwellings.
  - (b) Potential noise impacts from services on Site (eg. substation) on the proposed dwellings.

The acoustic report must make recommendations to limit the noise impacts in accordance with the *Environment Protection Authority Publication 1826* and the *Environmental Protection Regulations 2021*.

13. The recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Waste Management Plan

14. In conjunction with the submission of development plans under Condition 1, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 18 December 2021, but modified to include:
- (a) Updated ratios of Table 1 and associated updates to Table 2 to reflect designated uses for each commercial tenancy.
  - (b) Swept path diagrams relating to waste collection vehicles.
15. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
16. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

### Wind Tunnel Report

17. In conjunction with the submission of development plans under Condition 1, a Wind Tunnel Report to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the amended Wind Tunnel Report will be endorsed and will form part of this Incorporated Document. The Wind Tunnel Report must be generally in accordance with the Environmental Wind Assessment prepared by VIPAC, dated 18 February 2021, but modified to include (or verify):
  - (a) ground level wind environment of the seating areas on the north and south ends of the western public laneway.

### Street Trees

18. Before the development commences, the permit holder must make a one off contribution of \$500 to the Responsible Authority to be used for the replacement street tree planting along Johnston Street that is required by the development.
19. Before the development commences, the permit holder must provide an Asset Protection Bond of \$1,500 (ex GST) for the northern tree on Sackville Street, unless otherwise advised by the Responsible Authority. The security bond:
  - (a) must be provided to the Responsible Authority in the form of a bank cheque or guarantee;
  - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
  - (c) must be in accordance with the requirements of this permit.
20. Any pruning required to be undertaken for the four street trees along the subject site's Rich Street and Johnston Street frontages must be completed by an approved tree maintenance contractor (to the satisfaction of the Responsible Authority) with all associated costs to be borne by the permit holder.

### Tree Management Plan

21. In conjunction with the submission of development plans under Condition 1, an amended Tree Management Plan to the satisfaction of the Responsible Authority and by a suitably qualified Arborist must be submitted to and approved by the Responsible Authority. When approved the amended Tree Management Plan will be endorsed and will form part of the permit.

The amended Tree Management Plan must be generally in accordance with the Tree Management Plan prepared by Tree Logic, but modified to include (or show):

  - (a) Removal of the Johnston Street street tree (this is to be removed and replaced at the owners expense)  
  
to the satisfaction of the Responsible Authority.
22. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented thereafter to the satisfaction of the Responsible Authority.

### Landscape Plan (excluding laneway design)

23. In conjunction with the submission of development plans under Condition 1, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by Etched dated December 2020, but modified to include (or show):

- (a) Exclude the design detail of the proposed laneway and adjoining public realm (to be addressed separately under Condition 26);
- (b) Incorporate detail of the rooftop communal open space;
- (c) show the type, location, quantity, height at maturity and botanical names of all proposed plants – as a planting plan with a plant schedule;
- (d) provide details of the raised planters and terrace/rooftop planting (including planter box materials and dimensions, mulch layer – something that won't blow away, growing media – suitable in weight and content for roof top gardens, filter media, irrigation method, drainage system, root barrier / water proofing layer);
- (e) provide information on the proposed method for irrigation and drainage;
- (f) detail the maintenance schedule following construction (duration, tasks, regime);
- (g) show the materiality of the proposed spaces;

to the satisfaction of the Responsible Authority.

24. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:

- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
- (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
- (c) replacing any dead, diseased, dying or damaged plants,

all to the satisfaction of the Responsible Authority.

### Public Realm Plan

25. In conjunction with the submission of development plans under Condition 1, or by such later date as approved in writing by the Responsible Authority, a Laneway Detail Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Realm Plan must be generally in accordance with the 'ground floor plan' (page 11) and 'elevation' (page 12) landscape concepts prepared by Etched, dated December 2020, but modified to include the following:

- (a) Existing/proposed public realm conditions outside of title boundaries including street trees, light poles, surface materials and fixtures.
- (b) Surface treatments and levels, including appropriate transitions to Johnston and Sackville Street footpaths and ground floor commercial tenancies.
- (c) Materials schedule of all proposed materials, including surface materials, furnishings and fixtures.
- (d) A minimum of 10 visitor bicycle spaces, including 1 x hoop bicycle parking on Johnston Street frontage.
- (e) show the type, location, quantity, height at maturity and botanical names of all proposed plants – as a planting plan with a plant schedule;

- (f) provide details of the raised planters planting (including planter box materials and dimensions, mulch layer – something that won't blow away, growing media – suitable in weight and content for roof top gardens, filter media, irrigation method, drainage system, root barrier / water proofing layer);
- (g) provide information on the proposed method for irrigation and drainage;
- (h) Removal of the northern seating node.
- (i) Increase functional width at the southern end of the laneway by relocating the southern tree further north and redesign of southern seating node
- (j) Removal and replacement of the existing street tree along Johnston Street to align with laneway trees.
- (k) Clear pedestrian sightlines demonstrated along the laneway with proposed landscaping layout.
- (l) Location of lighting consistent with the Public Lighting Plan under Condition 31, including the replacement of bollard lighting with integrated lighting with garden beds/planters (unless otherwise agreed by the responsible authority.
- (m) High level drainage details.
- (n) Cross sections of the laneway as necessary.
- (o) detail the maintenance schedule following construction (duration, tasks, regime).
- (p) remove commercial tenancy recesses along the laneway to avoid potential entrapment spaces.

All to the satisfaction of the Responsible Authority.

26. Before the building is occupied, all works associated with the Public Realm Plan as shown on the endorsed plans and Public Realm Plan (referred to in Condition 25) must be fully constructed and completed by the permit holder, with all costs borne by the permit holder, to the satisfaction of the Responsible Authority.

#### Car Park Management Plan

27. Before the use and development commences, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the number and location of car parking spaces allocated to each tenancy;
  - (b) the management of visitor car parking spaces and security arrangements for occupants and employees of the development, including details on how residential visitors are to access car parking;
  - (c) details of way-finding, cleaning and security of end of trip bicycle facilities;
  - (d) The number and allocation of storage spaces;
  - (e) policing arrangements and formal agreements;
  - (f) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc; and
  - (g) details regarding the management of loading and unloading of goods and materials.
28. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Car parking

29. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:

- (a) constructed and available for use in accordance with the endorsed plans;
- (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
- (c) treated with an all-weather seal or some other durable surface; and
- (d) line-marked or provided with some adequate means of showing the car parking spaces;

to the satisfaction of the Responsible Authority.

### Melbourne Water Conditions

- 30. Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:
  - (a) Finished floor levels of Apartments 00.03, 00.05, 00.06 located at the ground floor set no lower than 20.0m to AHD.
  - (b) Windows and openings to the ground floor apartments shown finished no lower than 20.0m to AHD, demonstrated within the western elevation.
  - (c) Finished floor levels of the Substation set no lower than 20.0m to AHD.
  - (d) The northern elevation clearly denoting the apex within the driveway. The 'metal expanded mesh' door must be deleted to reveal the driveway ramp/apex within the elevation.
- 31. Finished floor levels of the ground floor tenancies (including all dwellings, retail, commercial, services/storage and lift/stair lobbies) must be shown to be constructed no lower than 20.0 metres to Australian Height Datum (AHD) which is 300mm above the applicable flood level of 19.7 metres to AHD.
- 32. The basement driveway must incorporate a flood proof apex set no lower than 20.0m to AHD, which is 300mm above the applicable flood level of 19.7 metres to AHD.
- 33. All external doors, windows, vents and openings to the basement car park must be finished no lower than 20.0m to AHD, which is 300mm above the applicable flood level.
- 34. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor and surface levels (as constructed) at the entrance ramps/apex, ground floor and any basement openings reduced to the AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

### Public Lighting Plan

- 35. Before the development commences, a Public Lighting Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Lighting Plan must address lighting along the Johnston Street, Sackville Street and laneway interfaces but also in the laneway and entrances to the approved building. When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
  - (a) A maintenance regime for the lighting scheme within the curtilage of the property.
  - (b) The use of energy efficient luminaries and/or solar lighting technologies to reduce carbon emission if possible.
- 36. The provisions, recommendations and requirements of the endorsed Public Lighting Plan must be implemented and complied with at no cost to Council and to the satisfaction of the Responsible Authority.

### Section 173 Agreement (Laneway)

37. Within six months of the commencement of works the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, which provides for the following:
- (a) The Owner must provide unfettered 24 hour public access over that part of the land to be used for the new north-south laneway; and
  - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 34(a) at the cost of the owners of the site and to the satisfaction of the Responsible Authority.
38. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

### Section 173 Agreement (Council lease for Room to Create program)

39. Prior to occupation of the development, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, which provides for the following:
- (a) The Owner must enter into a lease of the northern most ground floor commercial tenancy comprising an area of 56 square metres to the Yarra City Council for a period of 4 years with 2 further options of 3 years each at a nominal rental of \$1 per annum.
  - (b) For the duration of the lease, the Yarra City Council shall be responsible for the payment of utilities and services to the tenancy (eg. electricity, water).
  - (c) For the duration of the lease, the tenancy shall be used for Yarra's 'Room to Create' program (art and crafts centre) or other similar Council program.
  - (d) The Owner will undertake the fit out of the internal art and craft centre (to include floor covering, ceiling, lighting and air conditioning) before the tenancy is occupied in accordance with plans jointly approved between the Owner and Yarra City Council, and at the full cost of the Owner.
  - (e) In all other respects the lease is to be in a form of the standard REIV commercial lease.

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

### Loading and Unloading

40. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
41. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.

### Road Infrastructure

42. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

43. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
  - (a) In accordance with any requirements or conditions imposed by Council.
  - (b) Demonstrating satisfactory access into and out of the site with a vehicle ground clearance check using the B99 design vehicle and be fully dimensioned with actual reduced levels (to three decimal places) as per Council's Vehicle Crossing Information Sheet;
  - (c) Be DDA compliant;
  - (d) At the Permit Holder's cost; and
  - (e) To the satisfaction of Council.
  
44. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all building works and connections for underground utility services outside the building's frontage must be reconstructed:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
  
45. Before the building is occupied, or by such later date as approved in writing by the responsible authority, any isolated areas of road pavement failure as a consequence of construction traffic impacts must be reconstructed:
  - (a) at developer's cost;
  - (b) the satisfaction of any other relevant authority; and
  - (c) to the satisfaction of the responsible authority.
  
46. Before the building is occupied, or by such later date as approved in writing by the responsible authority the relocation of any service poles, structures or pits necessary to facilitate the development must be undertaken:
  - (a) at the developer's cost; and
  - (b) to the satisfaction of the responsible authority.
  
47. Before the building is occupied, or by such later date as approved in writing by the responsible authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
  - (a) at the developer's cost; and
  - (b) to the satisfaction of the responsible authority.
  
48. Before the building is occupied, or by such later date as approved in writing by the responsible authority, the removal of any kerbside parking sensors and any reinstatement of parking sensors will require the developer to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the developer.
  
49. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.



## General

50. The amenity of the area must not be detrimentally affected by the use or development, including through:
- (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
51. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
52. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
53. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
54. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
55. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

## Construction Management Plan

56. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) works necessary to protect road and other infrastructure;
  - (c) remediation of any damage to road and other infrastructure;
  - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
  - (e) facilities for vehicle washing, which must be located on the land;
  - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - (g) site security;
  - (h) management of any environmental hazards including, but not limited to,:
  - (i) contaminated soil;
  - (j) materials and waste;
  - (k) dust;
  - (l) stormwater contamination from run-off and wash-waters;
  - (m) sediment from the land on roads;
  - (n) washing of concrete trucks and other vehicles and machinery; and
  - (o) spillage from refuelling cranes and other vehicles and machinery;
  - (p) the construction program;

- (q) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (r) parking facilities for construction workers;
- (s) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (t) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (u) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (v) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (w) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority.

In preparing the Noise and Vibration Management Plan, consideration must be given to:

- (i) using lower noise work practice and equipment;
- (ii) the suitability of the land for the use of an electric crane;
- (iii) silencing all mechanical plant by the best practical means using current technology;
- (iv) fitting pneumatic tools with an effective silencer;

During the construction:

- (x) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (y) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (z) vehicle borne material must not accumulate on the roads abutting the land;
- (aa) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (bb) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority.

- 57. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 58. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
  - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Development Infrastructure Levy

59. Prior to the commencement of the development the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan.

#### Community Infrastructure Levy

60. Prior to the issue of a building permit, the Community Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan;

#### Time expiry

61. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit;
  - (b) the development is not completed within four years of the date of this permit;
  - (c) the proposed dwelling use is not commenced within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

#### Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact Council's Construction Management Branch on 9205 5585 for further information.

The site is subject to the Heritage Overlay. A planning permit may be required for any further external work.

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the Building Regulations 2018 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 133.

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch. Any on-street parking reinstated (signs and line markings) as a result of development works must be approved by Council's Parking Management unit.

All future employees, residents, future owners and occupiers within the development approved under this permit will not be permitted to obtain business, resident or visitor parking permits.

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirement of the Environmental Audit Overlay must be met prior to the commencement of the development permitted under the permit.

#### *Melbourne Water Flooding Information*

The property in question is subject to flooding from breakaway flow from Melbourne Water's Alexandra Parade Main Drain when the capacity of the underground drainage system is exceeded. The applicable 1% Average Exceedance Probability (AEP) flood level for the property is 19.7 metres to Australian Height Datum (AHD).

To access more information regarding other services or online applications that Melbourne Water offers please visit our website.

For further enquiries in relation to this application, please contact our Customer Service Centre on 131 722.

**CARRIED**

#### Adjournment

The meeting adjourned at 8.43pm.

The meeting resumed at 8.45pm.



The meeting closed at 9.38pm.

**Confirmed at the meeting held on Wednesday 29 September 2021**

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**Chair**