



Minutes

Planning Decisions Committee

6.30pm, Wednesday 27 October 2021

Microsoft Teams

1. Appointment of Chair

Cr Nguyen nominated Cr Stone as chair.

There being no other nominations, Cr Stone was elected chair.

Cr Stone 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 Claudia Nguyen

Cr Amanda Stone

Cr Gabrielle de Vietri (substitute for Cr Mohamud)

Council officers

Amy Hodgen (Senior Co-ordinator Statutory Planning)

Robert Galpin (Senior Statutory 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 de Vietri **Seconded:** Cr Stone

1. That the minutes of the meeting of the Planning Decisions Committee held on Wednesday 13 October 2021 be confirmed.

CARRIED

6 PLANNING DECISIONS COMMITTEE

Item		Page	Res. Page
6.1	PLN19/0426 – 35-41 Spensley Street, Clifton Hill - Part demolition of the existing building and construction of a multi-storey building, use of the land for dwellings and a reduction in the car parking requirements associated with a hotel (no permit required for hotel use).	4	13
6.2	PLN10/1063.01- Lot 12&11A/156 George Street, Fitzroy (including common property) - Amend the approved use of the land as an education centre by way of an increase of students from 78 to 220, extension of the floor area, extended hours of operation and associated buildings and works and demolition and reduction in the car parking requirements.	15	19
6.3	PLN21/0504 - 42 O'Grady Street Clifton Hill – Use of the land as a medical centre, a reduction in the car parking requirements of the Yarra Planning Scheme and the display of business identification signage.	20	22

Order of Items

Item 6.2 was heard first.

Item 6.3 was heard second.

Item 6.1 was heard third.

6.1 **PLN19/0426 – 35-41 Spensley Street, Clifton Hill - Part demolition of the existing building and construction of a multi-storey building, use of the land for dwellings and a reduction in the car parking requirements associated with a hotel (no permit required for hotel use).**

Reference D21/152472
Author Robert Galpin - Statutory Planner
Authoriser Senior Coordinator Statutory Planning

RECOMMENDATION

That having considered all submissions and relevant planning policies, the Committee resolves to advise the Victorian Civil and Administrative Tribunal that had it been in the position to, it would have issued a Notice of Decision to Grant a Planning Permit PLN19/0426 for part demolition of the existing building and construction of a multi-storey building, use of the land for dwellings and a reduction in the car parking requirements associated with a hotel (no permit required for use) at 35-41 Spensley Street, Clifton Hill, 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 One Design Office (dated 20.04.2021) but modified to show:
 - (a) The changes as generally depicted on the without prejudice 'sketch plans' prepared by One Design Office and dated 11 October 2021 that show;
 - (i) Reduction in the overall number of apartments from 17 to 15
 - (ii) Deletion of Apartments 105 and 205 and associated second floor, west facing balcony
 - (iii) Extension of Apartments 104, 106, 204 and 206
 - (iv) Reconfiguration of Apartments 102 and 202
 - (v) Reconfiguration of the windows to the western light court.

But further modified to show:

- (b) Balcony within the western light court retained at Level 1 and accessible by Apartments 104 and 105.
- (c) The retention (or like-for-like replacement) of window frames within the heritage façade adjacent to the balcony openings
- (d) That the colour of materials Mc1 and Ba1 at Levels four and five (including the rooftop plant screen) amended to a colour palate of light to mid grey.
- (e) The height of the roof plant screen reduced to a maximum of 500mm above the highest item of plant equipment, with this to be no higher than 1.8m.
- (f) Details regarding the proposed mesh to the side additions confirming it will be non-reflective
- (g) Greater articulation (e.g. variation in materials, textured finish) to the second floor western boundary wall adjacent to 33 Spensley Street

- (h) The windows fronting the western light court screened (to a height of 1.7m from the internal FFL with a maximum of 25% permeability or similarly limited) to prevent views into any habitable room windows or areas of Secluded Private Open Space located within 9m.
- (i) Operable windows provided to all habitable rooms, without compromising overlooking measures.
- (j) The dwellings fronting the western light court meeting the requirements of Standard D15 (internal views) of Clause 58.04-2 of the Yarra Planning Scheme
- (k) A minimum of 50% of dwellings meeting the requirements of Standard D17 (accessibility) of Clause 58.05-1 of the Yarra Planning Scheme, including either bathroom Design Option A or B in Table D4.
- (l) All dwellings meeting the requirements of Standard D19 (Private Open Space) of Clause 58.05-3 of the Yarra Planning Scheme, with no decreases to the existing setbacks.
- (m) All dwellings meeting the requirements of Standard D20 (Storage) of Clause 58.05-4 of the Yarra Planning Scheme
- (n) All living areas and bedrooms meeting the requirements of Standard D24 (Functional Layout) of Clause 58.07-1 of the Yarra Planning Scheme.
- (o) Floor to ceiling heights dimensioned on all sections, demonstrating all living areas and bedrooms meet the requirements of Standard D25 (Room Depth) of Clause 58.07-1 of the Yarra Planning Scheme.
- (p) Breeze paths annotated on the plans in accordance with the requirements of Standard D27 (Natural Ventilation) of Clause 58.07-4 of the Yarra Planning Scheme i.e. excluding front door openings.
- (q) The provision of a convex mirror at the car park entrance to improve sight lines to the west;
- (r) The aisle servicing the at-grade parking spaces and stackers dimensioned at a minimum of 6.4m
- (s) Convex mirrors installed within the basement to assist motorists when circulating in the car park.
- (t) The finished floor levels along the edge of the slab set 40mm above the edge of the ROW.
- (u) Confirm that service cabinet doors opening outward into the laneway will be able to swing 180 degrees and be latched when fully open.
- (v) Existing/proposed public realm conditions outside of title boundaries including street trees, light poles, surface materials and fixtures.
- (w) The provision for a minimum of one bicycle space per dwelling, with:
 - (i) A minimum 20% of bicycle storage spaces provided as horizontal at ground-level spaces
 - (ii) The layout of bicycle spaces is in accordance with access and clearance requirements of AS2890.3
- (x) A minimum of two visitor bicycle spaces on site, located in a publicly accessible and visible area and designed in accordance with AS2890.3.
- (y) A minimum of one additional bicycle hoop to either the Berry or Spensley footpath, installed in accordance with clearance and access requirements of AS2890.3 and Council's standard detail
- (z) The seat on the corner of Spensley and Berry Street retained

- (aa) Any changes required by the endorsed Sustainable Management Plan pursuant to Condition 7
 - (bb) Any changes required by the endorsed Acoustic Report at Condition 9.
 - (cc) Any changes required by the endorsed Waste Management Plan pursuant to Condition 11
 - (dd) Any requirement of the endorsed Tree Management Plan pursuant to Condition 13 (where relevant to show on plans).
 - (ee) Any changes required by the endorsed Landscape Plan pursuant to Condition 15
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.

Conservation Management Plan

3. 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, eastern chimneys and southern and western return walls, including sections to show the thickness of architectural elements;
 - (ii) Details of the infill works, replacement windows and doors to the heritage façade with original details reinstated.
 - (iii) Reconstruction of the eastern chimneys
 - (b) A written description of the demolition, conservation and construction
 - (c) the approved heritage maintenance plan to form part of the proposed Owners Corporation documents.
4. 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

5. 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.
6. The provisions, recommendations and requirements of the endorsed structural report must be implemented and complied with to the satisfaction of the Responsible Authority.

Sustainable Management Plan

7. 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 Energy Lab, but updated to include the following:
- (a) Vague language amended to include firm commitments to all of the proposed outcomes;

- (b) An average rating of 7 Stars NatHERS is achieved
 - (c) No dwellings to exceed the maximum NatHERS annual cooling load of 30MJ/m²
 - (d) A minimum of 1 bicycle space per dwelling
 - (e) A minimum of two visitor bicycle spaces
 - (f) Additional detail regarding composting in accordance with the endorsed Waste Management Plan required pursuant to Condition 11.
 - (g) A landscaping strategy demonstrating best practice in urban ecology through the use of planter boxes, green roofs, walls or facades to increase canopy, improve urban heat and increase biodiversity
8. 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

9. In conjunction with the submission of development plans under Condition 1, an amended Acoustic Report to the satisfaction of the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report dated 09 March 202, prepared by Cogent Acoustics but updated to assess the following:
- (a) The final mechanical plant specifications;
 - (b) Impacts of the fire pump room to the approved ground floor bedroom of 33 Spensley Street.
 - (c) The impacts of the rear laneway substation to the habitable room windows of 31 Berry Street.
 - (d) Impacts of the basement car park entry gate and car stackers to 31 Berry Street and 33 Lilly Street,
 - (e) Music noise limits from the hotel (wine bar) to the nearest noise sensitive receiver
 - (f) The report must demonstrate compliance with the noise limits determined in accordance with the EPA Noise Protocol, including the sleep disturbance criteria to the satisfaction of the Responsible Authority
10. 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

11. 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 Salt3 and dated 6 April 2021, but modified to include:
- (a) Waste generation rates and collection day frequency table for the residential component updated in line with Council's current three bin service consisting of:
 - (i) Garbage collected weekly
 - (ii) Recycling collected fortnightly
 - (iii) Glass collected fortnightly
 - (b) Food waste diversion included for the commercial component of the development
 - (c) Details for management of hard waste (commercial) and e-waste (both) must be defined, e-waste cannot be disposed of in waste bins.
 - (d) Detail regarding food waste consistent with the endorsed SMP at condition 7
 - (e) Reference included in the plan regarding potential review if operational requirements change.

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

Tree Management Plan

13. The provisions, recommendations and requirements of the endorsed Tree Management Plan generally in accordance with the Tree Management Plans prepared by Galbraith and Associates dated 14 September 2019 must be complied with and implemented thereafter to the satisfaction of the Responsible Authority.
14. Any pruning required to be undertaken for the four street trees along the subject site's Berry and Spensley 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.

Landscape Plan

15. Before the plans under Condition 1 are endorsed, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
 - (a) Provide a plant schedule and planting plan with the following information including:
 - (i) Planter boxes located at the Level 3 terraces and Level 4 south-western balcony;
 - (ii) Show the type, location, quantity, height at maturity and botanical names of all proposed plants;
 - (iii) A legend containing key features, materials and surfaces;
 - (iv) Soil media and the dimensions for the planters;
 - (v) Information on irrigation and drainage systems;
 - (vi) Maintenance schedule, tasks and duration;
 - (vii) Load bearing weights for the building to be checked and confirmed by a suitably qualified structural engineer against the saturated bulk density of soil media, planter box and plant mass proposed.

to the satisfaction of the Responsible Authority.
16. 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,

to the satisfaction of the Responsible Authority.

Car parking

17. 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.

18. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stackers must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stackers must be maintained thereafter to the satisfaction of the Responsible Authority

Bicycle hoop

19. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, an additional bicycle hoop must be installed within the streetscape adjacent to the subject site:
- (a) at the permit holder's cost; and
 - (b) in a location and manner,

to the satisfaction of the Responsible Authority.

Road Infrastructure

20. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated, including by the re-sheeting of the entire Berry Street and Spensley Street footpath for the width of the property frontage if required by the Responsible Authority:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
22. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, The laneway, from Berry Street to the site's western boundary, must be reconstructed:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
23. 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.

General

24. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the car park and pedestrian entrances must be provided within the property boundary. Lighting must be:
- (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,
- to the satisfaction of the Responsible Authority

25. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
26. 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.
27. 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.
28. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
29. 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

30. 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.

31. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
32. 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

33. 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; or the Owner must enter into an agreement with Yarra City Council to pay the Development Infrastructure Levy within a time specified in the agreement.

Community Infrastructure Levy

34. 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; or the Owner must enter into an agreement with Yarra City Council to pay the Community Infrastructure Levy within a time specified in the agreement.

Time expiry

35. 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 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.

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.

Adjournment

The Meeting adjourned at 7.48pm.

The Meeting resumed at 7.52pm.

Submissions made online during the meeting

Ed Zagami, Planning Studio on Peel (for the applicant)
Terrence Sheehan
Ray Tonkin
Karen Cummings, Collingwood Historical Society
Chris Goodman, The 3068 Group
David Levin, East Clifton Hill Residents Inc
Joshua Reid
Andy Lloyd, East Clifton Hill Residents
Robyn Williams
Carol Jasen
Thomas Ingham
Gerard Grant
Julian Golby
Justin Francis, ECHR Inc
Susan Hunt
Andrea Allan
Mark Plackett
Alice Coates
Sue Lewis

PLANNING DECISIONS COMMITTEE RESOLUTION

Moved: Cr de Vietri

Seconded: Cr Stone

That having considered all submissions and relevant planning policies, the Committee resolves to advise the Victorian Civil and Administrative Tribunal that had it been in the position to, it would have issued a Notice of Refusal to Grant a Planning Permit PLN19/0426 for part demolition of the existing building and construction of a multi-storey building, use of the land for dwellings and a reduction in the car parking requirements associated with a hotel (no permit required for use) at 35-41 Spensley Street, Clifton Hill, subject to the following grounds:

1. The proposed extent of demolition is excessive, fails to retain elements that contribute to the importance of the heritage place and will negatively impact upon its heritage significance. This is contrary to clause 43.01 (Heritage Overlay) and the policies at clauses 15.03, 21.05, 21.09 and 22.02 of the Yarra Planning Scheme.
2. The proposed development does not appropriately respond to the 'Individual Significance' of the building and fails to protect and enhance the heritage place. This is contrary to the clause 43.01 (Heritage Overlay) and the policies at clauses 15.03, 21.05 and 22.02 of the Yarra Planning Scheme.
3. The building height and upper level setbacks result in an overbearing development and will be contrary to the built form character of the area.

4. The proposal does not achieve an acceptable standard of Environmentally Sustainable Design, including minimising the use of energy and natural resources in construction and operation, adequate stormwater infiltration or collection, or electric vehicle charging facilities.
5. The proposed development would result in unreasonable visual bulk and overshadowing impacts, particularly to those at No. 33 Lilly Street and No. 31 Berry Street.

CARRIED UNANIMOUSLY

6.2 [PLN10/1063.01- Lot 12&11A/156 George Street, Fitzroy \(including common property\) - Amend the approved use of the land as an education centre by way of an increase of students from 78 to 220, extension of the floor area, extended hours of operation and associated buildings and works and demolition and reduction in the car parking requirements.](#)

Reference D21/84853
Author Laura Condon - Senior Statutory Planner
Authoriser Senior Coordinator Statutory Planning

RECOMMENDATION

That having considered all objections and relevant planning policies, the Planning Development Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN10/1063.01 for use as an education centre, buildings and works and partial demolition and associated reduction in the car parking requirements at lot 12&11A/156 George Street, Fitzroy (including common property) subject to the following conditions and amended permit preamble (with amended/new conditions in bold):

Existing permit preamble

Change of use for an education centre (fashion school).
Proposed per preamble

Use as an education centre, buildings and works and partial demolition and associated reduction in the car parking requirements.

1. **Within 3 months of the date of this amended permit (PLN10/1063.01) 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, and three copies must be provided. The plans must be generally in accordance with the decision plans No A02 (dated 05/09/2021), A07 (dated 01/12/2020), A08 (dated 05/09/2021) and C02 (dated 23/12/2019) but modified to show:**
 - (a) **An existing Webb Street elevation updated to show proposed demolition to accommodate the new pedestrian entry,**
 - (b) **Detail the position and wording of a sign at the entrance to the basement car park to advise drivers with a large SUV or small van (B99 vehicles) not to enter the basement car park ramp,**
 - (c) **Confirm the following for the basement ramp:**
 - (i) **Accurately show existing ramp conditions/position on all plans, confirming no change is proposed,**
 - (ii) **Detail a minimum width of 3.0 metres, and**
 - (iii) **Delete the protruding nib wall shown at the end of the ramp.**
 - (d) **Detail the position of real-time public transport information screen within the second-floor education centre lobby,**
 - (e) **Specify 1on1 teaching pods in the basement are used for acoustic and non-amplified instruments/music only with the position of advisory signage to this effect also noted,**

- (f) **Annotate lockers shown within the basement,**
 - (g) **Notation stating the pedestrian gate and roller door to Webb Street will remain closed apart from ingress and egress with staff and students provided with electronic/card access,**
 - (h) **Pedestrian/bicycle access gate to the Webb Street roller door to have a width of 1m,**
 - (i) **The full extent of the sewing room in the north-east corner of the site, and**
 - (j) **Position and size of the bin storage area in accordance with the endorsed Waste Management Plan pursuant to Condition 13.**
2. The use and development must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.
 3. The **education centre** must operate between the following hours:
 - (a) Monday to Thursday 8.00 am to 10.00 pm
 - (b) Friday 8.00 am to 6.00 pm
 - (c) Saturday 8.00 am to 5.00 pm
 - (d) Sunday Closed
 4. The **education centre** is to have no more than **220** students on the premises at any one time.
 5. **No fewer than twenty eight (28) bicycle spaces are to be provided on site for the use at all times.**

Green Travel Plan

6. **Within 6 months of the date of this amended permit (PLN10/1063.01), an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by One Mile Grid dated 15 2021, but modified to address the following:**
 - (a) **The changes in the basement layout detailed in section 57A amended decision plan No A02 (dated 05/09/2021) and any subsequent changes pursuant to Condition 1.**
7. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Acoustic report

8. **Within 6 months of the date of this amended permit (PLN10/1063.01) or within 3 months of the education centre operating at full capacity, 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. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Acoustic Dynamics and dated 19 February 2021, but modified to show/address the following:**

- (a) The changes in the basement layout detailed in section 57A amended decision plans No A02 (dated 05/09/2021) and any subsequent changes pursuant to Condition 1,
 - (b) All noise including background, machinery/plant, footfall noise, furniture impacts and music noise emissions from the nominated 'sewing room' and other spaces at second level above the apartment located below the education centre on level 1 on at least two separate dates between 8:00am- 6pm and an assessment of noise from cleaning activities and whilst cleaning is undertaken out of hours,
 - (c) The report must demonstrate compliance with the noise limits determined in accordance with the EPA Noise Protocol, including the sleep disturbance criteria to the satisfaction of the Responsible Authority. If any exceedance is detected, the report must include remedial recommendations for approval by the Responsible Authority. All approved remedial action must be undertaken on site within 3 months of the submission of the acoustic report to Council, and
 - (d) The acoustic report must assess the compliance of the use and, where necessary, make recommendations to limit the noise impacts in accordance with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority.
9. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
10. The use must at all times comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021).

Operation Management Plan

11. Within 6 months of the date of this amended permit (PLN10/1063.01) an Operation Management Plan must be submitted to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must include:
- (a) Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons including prevention of student loitering in common areas and immediately outside the building.
 - (b) A contact phone number for the centre's management should be made available to neighbours to facilitate communication and resolve concerns.
 - (c) Details of staff training.
12. The provisions, recommendations and requirements of the endorsed Operation Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

13. Within 6 months of the date of this amended permit (PLN10/1063.01) 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 Lid and dated 21/09/2020, but modified to include:

- (a) Show on-site bin storage area,
 - (b) Identify waste generation rates for general waste, recycling, glass and food waste
 - (c) Appropriate bin storage provided for each waste stream as outlined by condition 13(b),
 - (d) Address E-waste management and identify an e-waste storage area,
 - (e) Identify private collection will be provided a detail the frequency of collections, and
 - (f) Cleaning procedures/vermin management procedures for the bin room/area.
14. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
15. Rubbish must at all times be stored within the building and screened from external view. Refuse and recycling collection must not take place before 7.00 am and after 10.00 pm on any day.
16. Within 6 months of the date of this amended permit (PLN10/1063.01), or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
17. Within 6 months of the date of this amended permit (PLN10/1063.01), or by such later date as approved in writing by the Responsible Authority and subject to the relevant authority's consent, the relocation, pits, structures and service poles necessary to facilitate the development must be undertaken:
- (a) in accordance with any requirements or conditions imposed by the relevant authority;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
18. This permit will expire if:
- (a) the development is not commenced within two years of the date of this amended permit (PLN10/1063.01).
 - (b) the development is not completed within four years of the date of this amended permit (PLN10/1063.01).
 - (c) the use is not commenced within 2 years of the date of this amended permit (PLN10/1063.01).
 - (d) The use is discontinued for a period of two years.

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

NOTES

This site is subject to a Heritage Overlay. A planning permit may be required for any further external works.

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

Students and staff of the **education centre** will not be eligible for parking permits.

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.

Submissions made online during the meeting

Paul O'Shea, CS Town Planning Services (for the applicant)
Peter Eley
Peter Lovric
Theresa Lovric

PLANNING DECISIONS COMMITTEE RESOLUTION

Moved: Cr Nguyen

Seconded: Cr de Vietri

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

6.3 **PLN21/0504 - 42 O'Grady Street Clifton Hill – Use of the land as a medical centre, a reduction in the car parking requirements of the Yarra Planning Scheme and the display of business identification signage.**

Reference D21/139724
Author Jessica Sutherland - Statutory Planner
Authoriser Coordinator Statutory Planning

RECOMMENDATION

1. Before the use 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, and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:
 - (a) The design of the business identification sign.
 - (b) A notation confirming the rear gates do not protrude into Rose Street.
 - (c) The on-site car parking space dimensioned in accordance with the requirements of Clause 52.06 of the Yarra Planning Scheme.
2. The use and locations of the sign 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. No more than three (3) practitioners are permitted to operate from the land at any one time.
4. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the hours of 8am to 8pm, seven days a week.
5. Except with the prior written consent of the Responsible Authority, each practitioner must carry out no more than 10 appointments per day.
6. The amenity of the area must not be detrimentally affected by the use, 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.
7. The use must at all times comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021).
8. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

9. 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.
10. The sign must not be illuminated by external or internal light.
11. The sign must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
12. The signage component of this permit expires 15 years from the date of the permit.
13. This permit will expire if:
 - (a) the use is not commenced within two years from the date of this permit; or
 - (b) The use is discontinued for a period of two years; or
 - (c) the sign is not erected within 2 years of the date of this permit

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

Notes

This site is subject to a Heritage Overlay. A planning permit may be required for any further external works.

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

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.

All future business (*whether as owners, lessees/tenants, occupiers*) within the development approved under this permit, will not be permitted to obtain business parking permits.

Submissions made online during the meeting

Nisha Brown & Meredith Watson(for the applicant)
Grant Kennaway
Carol Jasen
Bruno Muraca
Paul Hindson
Alice O'Brien

PLANNING DECISIONS COMMITTEE RESOLUTION

Moved: Cr de Vietri

Seconded: Cr Nguyen

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

The meeting closed at 9.26pm.

Confirmed at the meeting held on Wednesday 17 November 2021

Chair