

**Referral 44: VCAT Call-in P1537/2023  
155 Johnston Street, Fitzroy**

**Priority Projects Standing Advisory Committee Report**

*Planning and Environment Act 1987*

**24 January 2025**

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

*Planning and Environment Act 1987*

Priority Projects Standing Advisory Committee Report pursuant to section 25 of the PE Act

Referral 44: VCAT Call-in P1537/2023

155 Johnston Street, Fitzroy

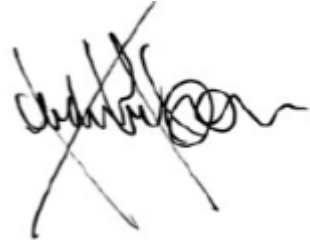
**24 January 2025**

A handwritten signature in blue ink, appearing to read 'Alison'.

Alison McFarlane, Chair

A handwritten signature in dark red ink that reads 'Peter Edwards'.

Peter Edwards, Member

A handwritten signature in dark red ink, appearing to read 'Andrew Hutson'.

Andrew Hutson, Member

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## Glossary and abbreviations

ABS	Australian Bureau of Statistics
Applicant	Greystar Australia Development Manager Pty Ltd
C1Z	Commercial 1 Zone
Chris Andrianopoulos	Chris Andrianopoulos and Andrianopoulos Nominees Pty Ltd
Committee	Priority Projects Standing Advisory Committee
Council	Yarra City Council
DCPO1	Development Contributions Plan Overlay Schedule 1
DDO10	Design and Development Overlay Schedule 10
DDO36	Design and Development Overlay Schedule 36
DFP	Development Facilitation Program
DTP	Department of Transport and Planning
EAO	Environmental Audit Overlay

EPA	Environment Protection Authority
HO334	Heritage Overlay 334 South Fitzroy Precinct
Land	155 Johnston Street, Fitzroy
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Yarra Planning Scheme
Proposal	VCAT Proceeding P1537/2023 involving Planning Permit Application PLN23/0441
VCAT	Victorian Civil and Administrative Tribunal

## Overview

Referral summary	
Referral land	155 Johnston Street, Fitzroy
VCAT call-in	Referral 44: VCAT Call-in P1537/2023 Yarra Planning Scheme Application PLN23/0441
Brief description	Demolition of existing buildings and development of a twelve-storey mixed-use building with and reduction in car parking
Applicant	Greystar Australia Development Manager Pty Ltd on behalf of Greystar Australia
Planning Authority	Yarra City Council
Objections	152
Committee process	
The Committee	Alison McFarlane (Chair), Andrew Hutson and Peter Edwards
Supported by	Georgia Thomas and Gabrielle Trowse
Directions Hearing	Online via video conference on Thursday, 14 November 2024
Committee Hearing	In person at Planning Panels Victoria and 161 Collins Street and online via video conference on 9, 10, 11, 13, 17, 18 and 19 December 2024
Site inspections	Unaccompanied, 6 December 2024
Parties to the Hearing	<p><b>Greystar Australia Development Manager Pty Ltd</b> (Applicant) represented by Peter O'Farrell and Carly Robertson of Counsel, instructed by Hall &amp; Wilcox, calling the following expert evidence:</p> <ul style="list-style-type: none"> <li>- Acoustics from Darren Tardio of Enfield Acoustics</li> <li>- Environmentally sustainable design from Jan Talacko of Ark Resources</li> <li>- Urban design from Mark O'Dwyer of H2O Architects</li> <li>- Traffic from John-Paul Maina of Impact</li> <li>- Planning from Kel Twite of UpCo</li> <li>- Visual amenity from Chris Goss of Orbit</li> </ul> <p><b>Yarra City Council</b> (Council) represented by Maria Marshall of Maddocks, calling the following expert evidence:</p> <ul style="list-style-type: none"> <li>- Urban design from Leanne Hodyl of Hodyl and Co</li> </ul> <p><b>Chris Andrianopoulos and Andrianopoulos Nominees Pty Ltd</b> represented by Dominic Scally of Best Hooper Lawyers</p> <p><b>Philip Coldwell and Fitzroy Residents' Association Inc</b> represented by Philip Coldwell</p> <p><b>Paul Stewart and Ann Bullen</b></p> <p><b>Michael Soltys</b></p> <p><b>Elizabeth Dax</b></p>
Citation	Priority Projects Standing Advisory Committee Referral 44 [2025] PPV
Date of this report	24 January 2025

## Executive summary

Referral 44: VCAT Call-in P1537/2023 relating to Yarra Planning Scheme Application PLN23/0441 seeks to demolish existing buildings and construct a 12-storey building comprising 202 dwellings, including a basement with parking for 44 cars and roof deck with communal facilities (the Proposal). The Applicant, Greystar Australia Development Manager Pty Ltd, proposes to offer dwellings under a 'build-to-rent' model.

Council and local residents objected to the Proposal because:

- its scale, mass and height are not responsive to its context and exceeds the planning scheme requirements
- it does not provide adequate acoustic attenuation for future residents compromising the viability of the nearby live music venue
- some dwellings will have poor daylight access, ventilation, excess single aspect apartment depth and insufficient internal room dimensions
- it will not achieve an acceptable environmentally sustainable development outcome
- does not comply with the wind target criteria, resulting in poor comfort levels in the development and surrounding public realm.

The Minister for Planning considered this proceeding raises a major issue of policy, and its determination may have a substantial effect on the achievement or development of planning objectives. The Minister referred the proceeding to the Priority Project Standing Advisory Committee (Committee) for advice and any recommendations about appropriate permit conditions that should be imposed.

Following a public Hearing and review of extensive material, the Committee is satisfied the Proposal will achieve an acceptable planning outcome that, on balance, provides a net community benefit and sustainable development. The Committee concludes the Proposal, with proposed conditions, provides:

- an acceptable scale, mass and height that:
  - sits comfortably within in the emerging local context of mid rise buildings
  - achieves a high architectural standard
  - is well articulated to give primacy to the street wall and ensure upper levels are recessed to avoid dominating or overwhelming the street
  - will not result in unreasonable off-site amenity impacts
- adequate acoustic attenuation for future residents that will not impact the lawful operation of the nearby live music venues
- a comfortable and functional living environment for future residents
- an acceptable environmentally sustainable development outcome
- acceptable wind comfort levels in the development and surrounding public realm.

## **Recommendation**

Based on the reasons set out in this Report, the Committee recommends:

- 1. Yarra Planning Scheme Planning Permit Application PLN23/0441 for the demolition of the existing buildings, development of a multi storey, mixed-use building, use of the land for dwellings and a reduction in the statutory car parking requirements at 155 Johnston Street, Fitzroy should be granted subject to the permit conditions contained in Appendix F.**



# 1 Introduction

## 1.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (Committee) was appointed by the Minister for Planning (Minister) on 14 June 2020. The purpose of the Committee is set out in its (amended) Terms of Reference dated 9 September 2023:

... provide timely advice to the Minister for Planning on projects referred by the Development Facilitation Program (DFP), or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

The Minister's letter of referral was dated 16 October 2024, and this is the Committee's Referral 44. Specifically, the Minister noted:

- the project was referred by the Development Facilitation Program
- the proceeding raises a major issue of policy, and the determination of the proceeding may have a substantial effect on the achievement or development of planning objectives.

The Committee is to provide advice to the Minister about appropriate permit conditions that should be imposed.

The Referral was listed to be heard at the VCAT starting on 11 November 2024. VCAT Proceeding P1537/2023 involved Planning Permit Application PLN23/0441 (the Proposal) which relates to the redevelopment of 155 Johnston Street, Fitzroy (the Land).

The members of the Committee that considered Referral 44 are:

- Alison McFarlane, Chair
- Andrew Hutson, Member
- Peter Edwards, Member.

The Committee was assisted by Ms Georgia Thomas and Ms Gabrielle Trowse, Project Officers, from the Office of Planning Panels Victoria.

## 1.2 Process

### (i) Directions Hearing

Upon receipt of the letter of referral from the Minister and the subsequent VCAT file, the Committee wrote to all parties to the VCAT proceedings on 29 October 2024 advising of the referral, and another letter dated 31 October 2024 inviting them to attend a Directions Hearing at Planning Panels Victoria on 14 November 2024.

In its letter to parties, the Committee directed that all parties seeking to be heard provide a summary of the key issues they intended to rely upon at the Hearing before the Directions Hearing. All parties seeking to be heard complied with that Direction.

### (ii) Site inspections

The Committee undertook an unaccompanied site inspection on 6 December 2024.

### 1.3 The Committee's approach

The letter of referral advises the *proceeding raises a major issue of policy and the determination of the proceeding may have a substantial effect on the achievement of development of planning objectives*. The Committee is to advise the Minister for Planning on whether a permit should issue and if so, with what permit conditions.

The Committee considered all relevant written submissions and material in relation to the permit including:

- original application reports and plans
- expert evidence from the Applicant and Council
- submissions made to the Hearing.

Clause 20 of the Terms of Reference of the Committee require it to provide a 'concise written report' to the Minister for Planning. This report is concise in that it focuses on the key determinative issues only and does not seek to deal with every matter raised through the original objections, the submissions of parties at the Hearing and the evidence provided in support. All submissions and materials have been considered by the Committee in reaching its conclusions, regardless of whether they are mentioned in the report.

The Committee deals with the key issues under the following headings:

- built form and urban design
  - scale and massing
  - wind
- amenity
  - noise attenuation
  - internal amenity
  - environmentally sustainable design
- transport
  - traffic
  - footpath and road capacity
  - car parking provision
  - car parking access
  - bicycle storage and facilities
- the planning permit.

The Committee has complied with and reported on all relevant matters in accordance with its Terms of Reference, in particular clauses 11, 15, 18, 20 and 21.

## 2 The proposal and planning context

### 2.1 The land and surrounds

The Land is located on the north side of Johnston Street, west of Smith Street and east of Brunswick Street, Fitzroy. The Land has direct abuttal of 50.78 metres to Young Street and 50.98 metres to Argyle Street and an overall area of 2,561 square metres (Figure 1). The Land is currently developed with single storey warehouse buildings, a car park and canopy structure.

**Figure 1** Aerial view of 155 Johnston Street



Source: Document 25

**Figure 2** Existing site conditions of 155 Johnston Street



Source: Document 3.061

The Land and surrounding properties are in the Johnston Street Neighbourhood Activity Centre. The area surrounding the Land is varied in use, parcel size and form and has a mix of residential, commercial, retail, hospitality and commercial uses.

Interfaces to the north of the Land comprise:

- Argyle Street, a one-way road allowing traffic to move in a westerly direction
- double storey terrace houses at 143 and 145 Argyle Street
- a 3-8 storey apartment building referred to as the Artist Apartments (Figure 3).

Interfaces to the west of the Land comprise:

- Young Street, a one-way road that carries traffic in a northerly direction
- a single storey brick building at 159-161 Johnston Street occupied by a live music entertainment venue known as the ‘Night Cat’ (Figure 4)
- a single storey brick office building identified as “contributory” to Heritage Overlay 334 at 118-120 Argyle Street on the west side of Young Street and south side of Argyle (Figure 5).

Interfaces to the south of the Land comprise:

- a single storey warehouse used as a restricted retail premises at 159-161 Johnston Street
- a BP Petrol Station at 143-153 Johnston Street (Figure 6)
- Johnston Street, 20 metre wide road reservation with two way traffic.

Interfaces to the east of the Land comprise:

- a single storey brick warehouse at 146 Argyle Street
- Bohemio furniture store at 159-161 Johnston Street
- Forty Winks furniture store at 163 Johnston Street.

**Figure 3**      **Artist Apartments**



Source: Document 25

**Figure 4**      **Night Cat venue**



Source: Document 27

**Figure 5**      **118-120 Argyle Street**



Source: Document 25

**Figure 6**      **143-153 Johnston Street**



Source: Document 25

## 2.2 The proposal

The applicant for the proposal is Greystar Australia Development Manager Pty Ltd on behalf of Greystar Australia (the Applicant).



The Proposal is for a 12 storey building (11-storeys above ground over a one level basement).

**Figure 7** Proposed development view from Argyle Street to east



Source: Document 25

Mr Twite, the planning expert called by the Applicant, summarised the proposal as follows:

The building will be accessed via a pedestrian lobby from Young Street, with vehicular access to the south along Young Street. The lobby leads into a resident lounge, co-working lounge, social lounge, social lounge, gym, workshop, multi-purpose space and a ground level communal courtyard (309.6sqm).

A 68.8sqm food and drinks premises is located at the intersection of Young and Argyle Streets, accessed via both frontages. A void is offered at the mezzanine to provide a double height space for this tenancy. A second void is also provided above the residential lobby to mark this space and create a sense of arrival.

Along with the bicycle entry, 5 dwellings front Argyle Street, along with a substation.

Dwellings continue at the mezzanine and levels 1-9, with the podium form generally expressed to 4-5 storeys (with a 5 storey expression at the north- west corner) and a tower form emerging at level 4.

The rooftop includes a 314.6sqm communal terrace, with landscaping and a pergola. This level is accessed via stairs and a lift, with services positioned to the east (including hot water systems, heat pumps and solar panels).

The development has a height of 34.9 metres (measured to parapet), plus lift overrun, services, pergola balustrade and the rooftop pergola (5.2 metre high lift overrun, 1 metre high pergola balustrade, 2 metre high plant screen and 2.7 metre high pergola).

To Argyle Street, the building presents a 12.601 metre to 16.030 metre high street wall.

To Young Street, the building presents a 15.42 metre high street wall.

The development includes a 15.39 metre high wall on the southern boundary to the service station and a 12.601 metre high wall on the eastern boundary to 146-151 Argyle Street.

Upper level setbacks generally commence at level 4, with the eastern segment of the Argyle Street frontage being setback 6 metres. At level 5, the northern setback is increased to a minimum 6 metres.

The upper level setback to Young Street commences at level 5, with a 3 metre setback.

The development is primarily constructed in concrete, with a range of red, grey and white finishes. Balustrades at podium level are a patterned concrete in colours corresponding to their surrounds.

## 2.3 Council decision

Council's position is that the Proposal does not achieve an acceptable planning outcome. Its grounds of refusal were determined at its meeting of 4 March 2024.

On 28 November 2024 Council considered Amended Plans substituted through the VCAT Proceeding. Council amended its grounds of refusal at this meeting. The grounds relied upon by Council in the Hearing were:

1. The scale, mass and height of the proposed development does not respond to the site context and fails to comply with the relevant provisions of the Scheme.
2. The scale, mass and height of the proposal fails to meet the building requirements and design objectives of the Design and Development Overlay (Schedule 36).
3. The proposal fails to demonstrate a reasonable level of acoustic attenuation for future occupants of the site, compromising the viability of the nearby live music venue.
4. The development fails to provide for an acceptable on-site amenity for future occupants, including through poor daylight access, ventilation, excess single aspect apartment depth and insufficient internal room dimensions.
5. The development fails to achieve an acceptable environmentally sustainable development outcome.
6. The proposal fails to demonstrate compliance with the relevant wind target criteria, resulting in a potential for unreasonable wind impacts for the development and surrounding public realm.

## 2.4 Planning context

Table 1 lists the provisions and policies relevant to the Proposal. Table 2 lists the planning permit triggers for the Proposal.

**Table 1** Planning context

Source	Relevant references
<b>Victorian planning objectives</b>	- Section 4 of the PE Act
<b>Municipal Planning Strategy</b>	<ul style="list-style-type: none"> <li>- Clause 02.01-2 – Community and population growth</li> <li>- Clause 02.01-3 – Activity centres</li> <li>- Clause 02.01-5 – Climate change</li> <li>- Clause 02.01-6 – Built environment and heritage</li> <li>- Clause 02.01-7 – Housing</li> <li>- Clause 02.03-1 – Settlement</li> <li>- Clause 02.03-3 – Environmental risks and amenity – Climate change</li> <li>- Clause 02.03-4 – Built environment and heritage</li> <li>- Clause 02.03-5 – Housing</li> <li>- Clause 02.03-7 – Transport</li> </ul>
<b>Planning Policy Framework</b>	<ul style="list-style-type: none"> <li>- Clause 11.01-1S &amp; Clause 11.01-1R (Settlement), Clause 11.03-1S, Clause 11.03-1R &amp; Clause 11.03-1L (Activity Centres)</li> <li>- Clause 13.04-1S (Contaminated and Potentially Contaminated Land), Clause 13.05-1S (Noise management)</li> <li>- Clause 15.01-1S, Clause 15.01-1R &amp; Clause 15.01-1L (Urban Design), Clause 15.01-2S &amp; Clause 15.01-2L (Building Design), Clause 15.01-2L-01 (Environmentally Sustainable Development), Clause 15.01-4S &amp; Clause 15.01-4S (Healthy Neighbourhoods), Clause 15.01-5S (Neighbourhood Character), Clause 15.03-1S &amp; Clause 15.03-1L (Heritage)</li> </ul>

	<ul style="list-style-type: none"> <li>- Clause 16.01-1S &amp; Clause 16.01-1R (Housing Supply), Clause 16.01-1L (Location of residential development), Clause 16.01-1L (Housing diversity), Clause 16.01-2S &amp; Clause 16.01-2L (Housing affordability)</li> <li>- Clause 18.02-1S &amp; Clause 18.02-1L (Walking), Clause 18.02-2S, Clause 18.02-2R &amp; Clause 18.02-2L (Cycling), Clause 18.02-3S (Public transport), Clause 18.02-3R (Principal public transport network), Clause 18.02-4L-01 (Car parking)</li> <li>- Clause 19.03-3S (Integrated water management), Clause 19.03-3L (Water sensitive urban design), Clause 19.03-5S (Waste and resource recovery), Clause 19.03-5L (Waste).</li> </ul>
<b>Zones</b>	- Commercial 1 Zone (C1Z)
<b>Overlays</b>	<ul style="list-style-type: none"> <li>- Design and Development Overlay Schedule 10 (DDO10)</li> <li>- Design and Development Overlay Schedule 36 (DDO36)</li> <li>- Heritage Overlay 334 South Fitzroy Precinct (HO334)</li> <li>- Environment Audit Overlay (EAO)</li> <li>- Development Contributions Plan Overlay Schedule 1 (DCPO1)</li> </ul>
<b>Particular, general and operation provisions</b>	<ul style="list-style-type: none"> <li>- Clause 52.06 (Car parking)</li> <li>- Clause 52.34 (Bicycle facilities)</li> <li>- Clause 53.06 (Live music entertainment venues)</li> <li>- Clause 53.18 (Stormwater Management in Urban Development)</li> <li>- Clause 58 (Apartment developments)</li> <li>- Clause 71.02-3 (Integrated decision making)</li> </ul>
<b>Planning practice notes</b>	- Planning Practice Note 81: Live music and entertainment noise

Table 2 Planning permit triggers

Clause	Permit requirements
<b>Clause 34.01-1 (C1Z)</b>	- To use the site as a dwelling (because the frontage exceeds 2 metres at ground level)
<b>Clause 34.01-4 (C1Z)</b>	- To construct a building or construct or carry out works
<b>Clause 43.01-1 (HO)</b>	- To demolish and remove a building and to construct a building or construct or carry out works
<b>Clause 43.02-2 (DDO)</b>	- To construct a building or construct or carry out works
<b>Clause 52.06-3 (Car parking)</b>	- To reduce the number of car parking spaces required under Clause 52.06-5

## 3 Built form and urban design

### 3.1 Scale and massing

#### (i) The issue

The issue is whether the scale and massing of the building are acceptable.

#### (ii) Background

The key planning scheme provision relevant to the issue is DDO36.

The design objectives of DD036 are:

To ensure development responds to the heritage character and streetscape by supporting:

- a new mid-rise character (ranging from 6 to 9 storeys) with a new prominent street wall along the northern side of Johnston Street and scale of development transitioning down to Argyle Street
- mid-rise development (ranging from 3 to 8 storeys) in the mixed use precinct in Fitzroy East, north of Argyle Street, which ensures the varied but low heritage street wall remains the visually dominant element of the streetscape and upper level developments are recessive providing a clear visual distinction between lower street walls and upper level development.

To ensure the façade composition and articulation of development responds to:

- the commercial character of Johnston Street
- the varied industrial and residential heritage character of Fitzroy East.

To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on the southern side of Johnston Street, opposite footpaths of Kerr, George and Gore Streets and upper levels along the south side of Argyle Street.

To ensure that development provides for equitable development outcomes through building separation and a design response that considers the development opportunities of neighbouring properties.

To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.

The decision guidelines of DDO36 most relevant to scale and massing issues are:

- whether the requirements in Clauses 2.2 to 2.11 are met
- whether the design of the streetscape interface makes a positive contribution to an active, pedestrian-oriented street environment and/or public realm
- whether the design of development in the remainder of the precinct achieves a mixed use industrial warehouse and/or residential character
- whether a strong sense of separation between upper levels and street walls is achieved when viewed from the opposite side of the street
- whether the development delivers design excellence.

The Application compares with the building envelope requirements in DDO36 set out in Table 3.



**Table 3** Comparison of proposed building envelope with DDO36 requirements

Element	Requirement (metres)	Application (metres)	Exceedance (metres)
Street wall Young Street	14.4	16.03	1.63
Street wall Argyle Street	11.2 (14.4 at intersection with Young Street)	12.43-16.08	1.4-4.83
Upper level setback Young Street	6	3	3
Upper level setback Argyle Street	10	6 10 for Level 9	4
Building height	30.4	34.9	4.5

The Applicant called:

- Mr O'Dwyer to provide expert urban design evidence (Document 25)
- Mr Twite to provide expert planning evidence (Document 27).

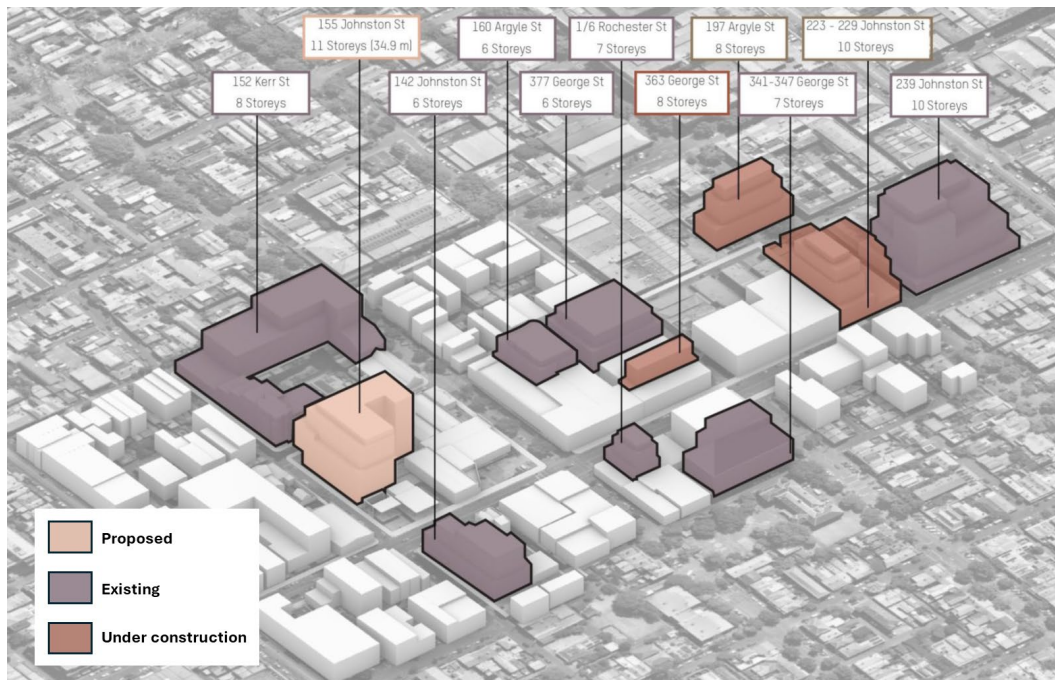
Council called Ms Hodyl to provide expert urban design evidence (Document 35).

### (iii) Evidence and submissions

The Applicant submitted the height and scale of the proposal was as acceptable having regard to:

- the provisions of DDO36
- the emerging height of built form in the area
- the variation in height does not result in unreasonable off-site amenity impacts (including in relation to shadow and wind impacts)
- high architectural standard of the design.

Mr O'Dwyer stated the proposal was an appropriate response to the neighbourhood character, built form, height, and scale of the context (Figure 8).

**Figure 8** Scale of surrounding development

Source: Document 25 modified by the Committee

He considered the scale of the development was appropriate in the context of the emerging character in a high change area, noting:

While this (the Proposal) exceeds the preferred maximum height by 4.5 metres, this exceedance is not considered to be excessive and assists the Proposal to assimilate with the nearby recent and under construction developments.

He also supported the proposed street wall heights to Young and Argyle Street.

Both streetwalls exceed the preferred height prescribed by DDO36 of 1.63 metres on Young Street and 1.23 metres on Argyle Street. The exceedance of height is acceptable, as the higher streetwall supports a focused (sic) at the corner of Argyle and Young Streets and holds the corner while creating a Corner Crown dialogue with the adjacent NKYA 'Cheese Grater'<sup>1</sup> across Argyle Street at 300 Young Street.

Mr O'Dwyer also noted the height of the street wall at the corner of Argyle Street referenced the similar scale of the façade of the 'Red Triangle' building to the west.

Mr O'Dwyer supported the proposed 1.2 metre set back at ground level on Argyle Street with the associated bike parking and columns with the fences and screening to the private open spaces of the apartments adjacent. The columns would mark the footpath edge while the setback would enable bike parking and pedestrian buffer. He supported the upper level setbacks of 6-metres at Argyle Street and 3 metres at Young Street because they provide clear separation to the street walls. He noted that the narrow streets with the proposed setbacks would bring the street walls into visual priority within the public realm and make the upper levels visually recessive.

In response to Ms Hodyl's recommendation to increase the floor to ceiling height of the ground and mezzanine levels to 4 metres, Mr O'Dwyer was satisfied the double height space of the corner café and the 2.7 metres floor to ceiling height of the ground level apartments were appropriate and could accommodate future commercial uses if required.

<sup>1</sup> Residents requested the NKYA building be referred to as the Artist Apartments

Mr Twite supported Mr O'Dwyer's evidence. He was satisfied that the height and scale of the proposal met the planning objectives for the site, stating:

The C1Z, DDO10 and DDO36 that apply to the site contemplate a mixed-use redevelopment of this nature and scale, with the proposal representing a high quality architectural outcome that will achieve and maintain a reasonable level of amenity for new and existing residents.

Mr Twite did not support Ms Hodyl's recommendation to increase setback of ground floor at Young Street to 2 metres, because there is nothing in planning scheme to require footpath widening.

Council submitted the application did not provide an acceptable response to:

- the strategic and physical context of the land including the sensitive residential interface to the north and protected heritage character of the HO334
- DDO36, in particular the overall height, street wall and upper level setbacks.

Concerning whether higher developments in the surrounding context give licence to the height of the Proposal, Council submitted:

Just as there are factors which weigh in favour of achieving taller building height on the Subject Land, there are equally a number of elements in the surrounding physical context which call for a more considered design response than that put forward by the Applicant. To place weight on those taller examples to the east would ignore other equally important elements. These include:

- land to the north along Argyle Street is in the Neighbourhood Residential Zone which has a mandatory 2 storey height limit (9m);
- whilst not having any contributory heritage value, the Subject Land is located in the HO334 immediately south of a number of valued and highly intact heritage dwellings on Argyle Street;
- save for the development at 150 Kerr Street – 300 Young Street, Fitzroy, land to the north-west, north and north-east is characterised as predominantly low scale with a number of fine grain single and double storey dwellings on Argyle Street, Young Street and Napier Street;
- the Subject Land largely sits behind Johnston Street and is on a corner block (with effectively two street frontages), which means that development will be highly visible, particularly from the north, west and east; and
- the Subject Land does not have the benefit of frontage to Johnston Street (being an arterial road).

Council relied on Ms Hodyl's urban design evidence in support of its submissions. Ms Hodyl said the scale of larger nearby developments should not enable the proposal to exceed the height requirements of DD036. Instead, the Proposal should be responsive to its location at the corner of two narrow streets that are remote to Johnston Street and keep with the urban grain of the location.

Ms Hodyl concluded the:

- Proposal's height and scale would lead to inappropriate visual bulk and should be reduced to 9 storeys (30.5 metres)
- floor to floor height of ground floor and mezzanine level at 3.1 metres would limit future commercial use and should be increased to 4 metres
- street walls are too high and should be reduced by one level in concert with increase ceiling heights

- upper level set back of 6 metres to Argyle Street is supported if street wall heights are reduced
- setback should be increased to widen the Young Street footpath
- northern elevation should be modified to improve the amenity of street interface to Argyle Street, including by raising the floor level of apartments, removing columns, and relocating bicycle parking
- elevation and setbacks of the corner café should be modified to enhance the public realm.

Resident submitters objected to development. They stated:

- the Proposal should comply with the provisions of DD036
- the height and street walls are too high for the area and immediate context
- visual bulk is excessive for the context
- there is inadequate transition in scale to Argyle Street.

Chris Andrianopoulos and Andrianopoulos Nominees Pty Ltd (Chris Andrianopoulos) (owner of the land to the south of the subject site) agreed with the urban design evidence of Mr O'Dwyer and planning evidence of Mr Twite.

#### **(iv) Discussion**

There is general agreement between the parties that the Proposal:

- delivers a design character relevant to the mixed-use nature of the precinct
- achieve strong sense of separation between upper levels and street walls
- architectural quality
- would make a positive contribution to the street environment and public realm through the Argyle Street pedestrian interface and the inclusion of the café at the corner.

The main built form issue in dispute is whether it is acceptable for the Proposal to exceed the discretionary requirements in DD036 for height, street wall height and upper levels setbacks.

The larger of the recent developments in the surrounding area are at ten storeys and front onto Johnston Street (an arterial road). These heights compare favourably with the Proposal. The Committee does not agree with Council's submissions or Ms Hodyl's opinion that taller buildings should be located on main roads. The narrow street context of the Land would limit the overall perception of the proposed height because the upper levels of the building will not be seen from the ground (Figure 8). In this more constrained context, the Committee agrees with Mr O'Dwyer that it would be the street walls which would have the visual priority and less so the upper form. In this urban context the Proposal will present a 10-storey building comparable to the height requirement of the DD036.

More distant views from further away may expose the full form and scale of the design but the Committee accepts that this is a high change area with existing substantial developments. Further, higher scale development is expected in the immediate surrounds and the Proposal will sit appropriately within this emerging urban context.

The 6-metre set back of upper levels from Argyle Street, less than the required 10 metres in the DD036, is acceptable given the narrow nature of the street where the street wall would have prominence, and upper levels would be recessive. The street wall set back 3 metres from the

upper levels at the interface with Young Street and the Commercial 1 Zone to the west is acceptable. The views to the upper levels would be constrained from within the adjoining streets.

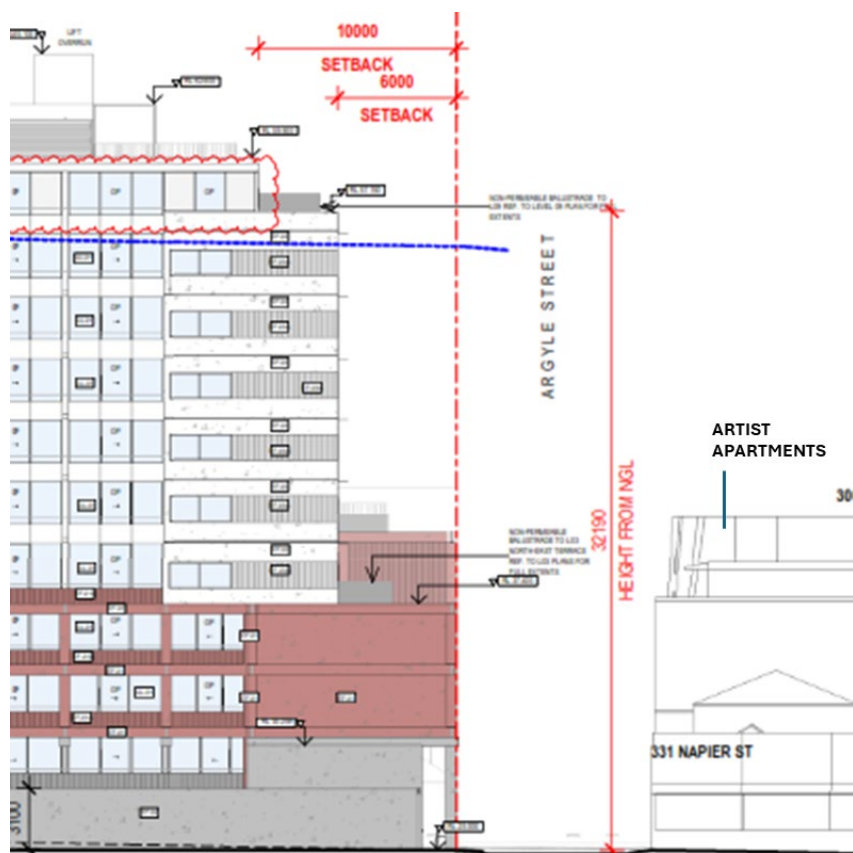
Although the height of the street walls will exceed the DD036 requirements, the Committee supports the Proposal because:

- on Argyle Street the street wall is similar to the Artist Apartments opposite
- the overlap of the proposed north elevation opposite two double storey terraces to the east corresponds with the step down in the street wall
- the street walls that meet at the corner of Young and Argyle Streets give appropriate prominence to the corner and associated café and acknowledge the similarly scaled and sculptural treatment of the Artist Apartments on the opposite corner.

The DD036 requires development to provide a 'suitable transition' to lower scale residential areas to the north. The Committee accepts that the Proposal:

- offers a satisfactory transition to the specific residential conditions to the north of Argyle Street in the context of the building height requirements
- has no adverse consequences on the amenity of the public realm or neighbouring properties that would require further transition measures
- the stepped profile responds positively to the scale and robust nature of Argyle Street, including the Artist Apartments and double storey terrace houses to the north (Figure 9).

**Figure 9** Profile of development with land to the north



Source: Document 31 with Committee mark up

The Committee is satisfied the proposed ceiling heights will not unduly limit any future commercial re-use of these spaces and does not support recommendations to increase the floor-to-floor height of the ground and mezzanine levels.

The Committee does not support recommendations to increase footpath width of Young Street (discussed further in Chapter 5.2) or modifications to ground floor interface with Argyle Street. The Committee is satisfied the proposed design for the ground floor conditions respond to the public realm of Argyle Street through setback to the proposed residential units and the café's external activation.

The Committee's preferred version of permit conditions incorporating the above is shown in Appendix F.

#### **(v) Finding**

The Committee finds:

- The scale and massing of the Proposal are acceptable because the specific conditions of the site context and interfaces are acceptably addressed in the design while exceeding the height and setback requirements, achieve relevant objectives.

### **3.2 Wind**

#### **(i) The issue**

The issue is whether the Proposal has unreasonable wind impacts on open spaces, balconies, and adjacent public realm.

#### **(ii) Background**

The key planning provision relevant to the issue is Clause 58.04-4 Standard D17 (Wind impact). The objective of this provision is:

To ensure the built form, design and layout of development does not generate unacceptable wind impacts within the site or on surrounding land.

The Applicant engaged RWDI Australia Ltd to prepare a Pedestrian Wind Study dated 24 October 2024 (Wind Study) (Document 34). This updated earlier wind assessments and was based on models prepared from architectural documents dated February 2024.

#### **(iii) Evidence and submissions**

The Applicant submitted Proposal would not result in unreasonable wind impacts to the open spaces and balconies. It relied on the Wind Study which found the development would result in:

- comfortable wind conditions on the ground level for passive sitting to standing use at most locations including at the primary lobby entrance along Argyle Street
- slightly higher winds, conducive for active walking use, at the northwest corner of the proposed building, which is suitable for the intended use as a footpath
- wind conditions within all balconies that would meet the target comfort criteria for walking, and most spaces comfortable for sitting use
- comfortable conditions for sitting and standing in all communal outdoor spaces.

In relation to the northwest corner of the proposal, the Wind Study recommended:

To address the strong winds at the northwest corner, localised wind mitigation measures are recommended. These can include chamfering the corner, or installing an awning along Argyle Street, or incorporating artwork or a similar screening feature at the corner. Wind comfort should be further improved for seated patrons through the use of portable screening elements when in use, or to manage to use of this space operationally. With the inclusion of these measures, it is expected that the wind conditions within the various outdoor spaces around the development site will be safe and suitable for the intended use of the various spaces.

Council submitted that the Proposal failed to demonstrate compliance with the relevant wind target criteria, resulting in a potential for unreasonable wind impacts for the development and surrounding public realm. Council did not consider this to be an acceptable planning outcome.

In response to its concerns, Council proposed a permit condition requiring the preparation of an updated wind assessment demonstrating compliance with the target comfort criterion for sitting, standard and walking areas at set out in the Planning Scheme. The Applicant agreed to the condition.

**(iv) Discussion**

The Wind Report demonstrates the development will not generate acceptable wind impacts within the site or on surrounding land, with minor design modifications. It is appropriate for the Wind Tunnel Test to be rerun once the detailed design process is complete and final changes are integrated into the design in accordance with Condition 2.

The Committee's preferred version of permit conditions incorporating the above is shown in Appendix F.

**(v) Finding**

The Committee finds:

- The built form, design and layout of development, with modifications required by permit conditions, will generate acceptable wind impacts within the site and on surrounding land.

## 4 Amenity

### 4.1 Noise attenuation

#### (i) The issues

The issues are whether the Proposal will appropriately manage noise effects:

- on future residents
- of the communal areas and plant equipment on new or neighbouring residents.

#### (ii) Background

The key planning scheme provision relevant to the issues is Clause 53.06 (Live music entertainment venues).

The purposes of Clause 53.06 are:

- To recognise that live music is an important part of the State's culture and economy.
- To encourage the retention of existing and the development of new live music entertainment venues.
- To protect live music entertainment venues from the encroachment of noise sensitive residential uses.
- To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.
- To ensure that the primary responsibility for noise attenuation rests with the agent of change.

Clause 53.06-3 requires:

A live music entertainment venue must be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive residential use within 50 metres of the venue.

A noise sensitive residential use must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from any:

- Indoor live music entertainment venue to below the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826, Environment Protection Authority, November 2020)
- Outdoor live music entertainment venue to below 45dB(A), assessed as an  $L_{eq}$  over 15 minutes.

For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of a noise sensitive residential use with windows and doors closed (consistent with EPA Publication 1826). A permit may be granted to reduce or waive these requirements if the responsible authority is satisfied that an alternative measure meets the purpose of this clause.

The Applicant called Mr Tardio to provide expert noise evidence at the Hearing (Document 30).

Council engaged SLR Consulting to review the Octave reports and Mr Tardio's evidence. SLR Consulting prepared a summary memorandum for Council on the Applicant's noise assessment and Mr Tardio's evidence but was not called as an expert at the Hearing (Document 48f).



### **(iii) Evidence and submissions**

The Applicant submitted the Proposal complies with Clause 53.06 and other provisions which relate to acoustic amenity.

Mr Tardio's assessment assumed noise emitted from the Night Cat would comply with its planning permit. He noted the earlier assessments prepared in support of the Proposal recommended installing a noise making system in the Proposal's dwellings because noise monitoring showed the Night Cat did not comply with its permit.

Mr Tardio's estimated the Night Cat is exceeding the noise limits prescribed in its permit by 24 to 25 dB at nearby dwellings, based on noise measurements he recorded between 1 – 12 March 2024.

Mr Tardio explained it was unusual to design the Proposal's noise attenuation system for the Night Cat's existing noise levels as opposed to its permitted levels. Choosing some arbitrary noise level would create an issue if at a later date the venue emits even greater noise. Further it may create a precedent that assumes music venues can operate in a non-compliant way.

Mr Tardio advised acoustic treatment of the Proposal would be required to ensure future residents are satisfactorily protected from noise emitted from the Night Cat. His recommended treatments assumed the Night Cat would be compliant with its permit conditions. His recommendations were to:

- remove south facing windows to studio apartments on the southwest corner
- redesign the layout of northwest corner apartments so the bedrooms do not have direct exposure to the west, unless behind a wintergarden
- install wintergardens on the west elevation constructed of nominal 10 millimetre (mm) glass
- use a wide airgap glazing system behind the wintergardens consisting of a double glazing unit plus a 160 mm airgap and 12 mm secondary glazing
- use non glazed façade walls of 150 mm concrete with internal framed plasterboard wall and insulation
- resolve any noise transmission through the ceiling cavity ventilation system during detail design process.

While Mr Tardio did not think it was necessary to install a noise masking system, he noted it is difficult for these systems to effectively mask low (bass) frequencies within apartments and physical mitigation measures were preferable.

His modelling also confirmed the proposed built form is unlikely to reflect noise at the frequency of interest towards existing elevated residences in the surrounding area, and would actually shield a number of residents to the north from noise.

Mr Tardio agreed that it is appropriate to assess the Proposal's noise emissions (roof top communal area and services plant) but these can be suitably managed as is typical for all residential buildings in urban areas noting:

- mechanical services plant noise abatement can be managed and will be resolved during detail design
- roof top communal areas are generally not of concern as building management rules typically include booking requirements and closure during sensitive hours, primarily

because the operator has a vested interest in controlling adverse impacts on their own residents, and by association nearby neighbours.

The Applicant stressed the correct starting point for the noise assessment was that the Night Cat would be operated in accordance with its planning permit. Further, it is appropriate for decision makers to proceed on the basis that permit conditions will be complied with and the enforcement regime in Victoria will ensure compliance.

The Night Cat, a live music venue located within 50 metres of the Land, submitted:

- the development will not be effectively sound-proofed and will negatively impact the business due to new residents complaining of noise
- the noise assessments lack creditability because measurements were taken over a few nights only and without any consultation
- its venue was effectively sound-proofed in 2016 and there have been no substantiated noise complaints since that time
- 'agent of change' legislation was introduced to protect live music venues
- a noise masking system was to be relied on in the Proposal
- Night Cat patrons leaving the venue would result in amenity complaints
- new buildings would reflect noise and lead to further impacts on nearby existing developments.

Most resident submissions were similar to those from the Night Cat. In addition, residents submitted noise from the roof top communal areas and mechanical services plant would be unacceptable. They suggested the types of the activity (televised sport or amplified music) and times of operation (daylight hours only) of the rooftop terrace would need to be restricted to manage impacts on existing residents.

Chris Andrianopoulos submitted the Applicant's submissions on Clause 53.06 were correct in law and the Night Cat must comply with its permit conditions.

Council submitted the Proposal does not provide a reasonable level of acoustic attenuation for future occupants of the site and will compromise the Night Cat's viability.

Council submitted planning provisions require a new sensitive use to mitigate against compliant and non-compliant noise emissions in the environment it enters. Council relied on commentary within several VCAT cases in support of its submissions. These commonly found:

- residents living close to commercial uses cannot expect the same level of amenity as that on offer within the core of a residential zone
- the concept of agent of change where developments adjacent to live music venues would be expected to include noise attenuation to ensure music venues are not unreasonably constrained
- whether a live music venue was in breach of existing permit was not a matter for the decision maker to consider when considering a new permit application.

Council considered having west facing dwellings orientated towards the Night Cat was inappropriate from an acoustic perspective. Council submitted, if a permit was to issue, noise attenuation measures would be required in accordance with Mr Tardio's recommendations. It noted these recommendations would only achieve compliance with permissible, not existing noise.

#### **(iv) Discussion**

The parties agreed the Applicant was responsible for providing acoustic treatment to protect future residents from the Night Cat's noise emissions and that the Proposal should not impact or limit the continuation of a vibrant live music industry in Fitzroy. The primary issue in dispute was whether the Proposal should be designed to mitigate the Night Cat's existing, non-compliant noise emissions.

The Committee has proceeded on the basis Clause 53.06-3 applies to lawful noise. The acoustic assessment need only demonstrate the acoustic treatments required to protect residents from the noise emissions permitted from the Night Cat in accordance with its permit. There was nothing put to the Committee that demonstrated it should proceed on an alternative basis. It would be untenable for planning in Victoria to operate on the basis that compliance with planning permit conditions is not required or optional.

Mr Tardio's assessment is thorough and comprehensive. Mr Tardio's recommended acoustic treatments will protect future residents from unreasonable noise and ensure the viability of the Night Cat.

The Committee appreciates nearby residents noise concerns that the rooftop communal areas and mechanical services plant may adversely affect them, but accepts Mr Tardio's advice that any potential impacts will be managed in the typical way residential buildings are managed in urban areas. Permit conditions are not appropriate to confine the hours of operation of or the type of activity within the communal area because a permit is not required to use the Land for accommodation (other than ground floor dwellings).

The Committee's preferred version of permit conditions incorporating the above is shown in Appendix F.

#### **(v) Findings**

The Committee finds:

- The noise assessment is properly based on the Night Cat complying with its permit conditions.
- The proposed acoustic treatment incorporating Mr Tardio's changes is satisfactory.
- Permit conditions are not required to confine the hours of operation of the type of activity with the roof top communal because these normal residential activities can be conducted without a planning permit.

## **4.2 Environmentally sustainable design**

#### **(i) The issues**

The issue is whether the Proposal will meet relevant Environmentally sustainable design (ESD) standards.

#### **(ii) Background**

The key planning scheme provision relevant to the issues are Clause 15.01-2L-01 (Environmentally Sustainable Design), Clause 58.03-8 (Integrated water and stormwater management objectives) and Clause 58.07-2 (Room depth objective).

The objectives of Clause 15.01-2L-01 are:

To achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

The objectives of Clause 58.03-8 are:

To encourage the use of alternative water sources such as rainwater, stormwater and recycled water.

To facilitate stormwater collection, utilisation and infiltration within the development.

To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site.

The objective of Clause 58.07-2 is:

To allow adequate daylight into single aspect habitable rooms.

The Applicant called Mr Talacko to provide expert ESD evidence (Document 24).

### **(iii) Evidence and submissions**

The Applicant submitted the Proposal could achieve the relevant ESD standards consistent with Mr Talacko's evidence. The Applicant committed to independent certification of the development by the Green Building Council.

Mr Talacko advised his analysis confirmed the Proposal could achieve the following ESD standards:

- 4 star Green Star Buildings rating
- compliance with the Built Environment Sustainability Scorecard (BESS) daylight standard for living areas and bedrooms
- average Nationwide House Energy Rating Scheme (NatHERS) energy rating of 7.5 stars
- compliance with the energy efficiency standard in clause 58.03-1
- compliance with the Urban Stormwater Best Practice Environmental Management Guidelines.

Mr Talacko recommended minor modifications to the Proposal to optimise sustainable design outcomes of the Proposal, including:

- reduction in glazing to selected apartments to address heat gain and loss.
- increase the capacity of the rainwater storage tank from 25,000 litres to 50,000 litres
- the inclusion of ceiling fans to living rooms of single aspect apartments to enhance air circulation
- extension of north-west corridors to the façade on all levels to add capacity for additional natural light and ventilation
- installation of natural ventilation ducts at eastern leg of corridor to facilitate cross flow ventilation.

These recommendations were incorporated into Document 31.

Mr Talacko also recommended reconfiguration of the internal layout of some studio apartments to place the kitchen facilities closer to windows to improve their access to natural light. While he noted that some rooms exceeded the room depth Standard D27, he was satisfied this achieved an acceptable outcome because:

- the extra length was less than a metre
- shortening the space would not improve amenity but just reduce space.

Council submitted the Proposal did not provide adequate:

- daylight penetration to some living rooms and bedrooms
- daylight to the some of the internal corridors
- natural ventilation.

Council noted that the proposal incorporated a mechanical ventilation system, but best practice would require communal corridors to be extended to the facades of the building to provide an opportunity for natural ventilation and increased daylight to those spaces.

Some resident submitters were concerned the Proposal would put undue pressure on the existing stormwater system in the neighbourhood.

#### **(iv) Discussion**

The Committee accepts Mr Talacko's evidence that the Proposal can comply with Planning Scheme and ESD best practice standards.

The Committee notes that some apartments have living room length beyond the length designated in clause 58. Consistent with Mr Talacko's assessment, the Committee agrees the extra length is a minor variation and shortening the length would not improve amenity but just reduce space.

The Committee considered Mr Talacko's recommendation to relocate the kitchen facilities closer to windows in studio apartments. Both the original layout and Mr Talacko's layout are acceptable and there is no need for the Committee to recommend conditions to require the layout to be altered.

Stormwater drainage matters will ultimately be resolved during detail design in accordance with the permit conditions. The Committee notes:

- the existing site is already 100 per cent impervious and as such, the proposal will not exacerbate existing stormwater flooding issues in the surrounding area
- the Proposal has the capacity to comply with the requirements of the urban stormwater best practice management guidelines and provides a 50,000 litre rainwater retention tank for toilet flushing.

The Committee's preferred version of permit conditions is shown in Appendix F. These incorporate:

- Mr Talacko's recommended design changes by referencing the Document 31 plans
- a requirement to prepare a Sustainable Management Plan.

#### **(v) Finding**

The Committee finds:

- The Proposal meets relevant environmentally sustainable development standards and will provide a comfortable living environment for future residents.

### **4.3 Functional layout**

#### **(i) The issue**

The issue is whether the Proposal will provide a functional layout for studio apartments.

**(ii) Background**

The key planning provision relevant to the issue is Clause 58.07-1 Standard D26 (Functional layout). The objective of this clause is:

To ensure dwellings provide functional areas that meet the needs of residents.

Standard D26 provides:

Bedrooms should:

- Meet the minimum internal room dimensions specified in Table D11.
- Provide an area in addition to the minimum internal room dimensions to accommodate a wardrobe.

**Table D11 Bedroom dimensions**

Bedroom type	Minimum width	Minimum depth
Main bedroom	3 metres	3.4 metres
All other bedrooms	3 metres	3 metres

Living areas (excluding dining and kitchen areas) should meet the minimum internal room dimensions specified in Table D12.

**Table D12 Living area dimensions**

Bedroom type	Minimum width	Minimum area
Studio and 1 bedroom dwelling	3.3 metres	10 square metres
2 or more bedroom dwelling	3.6 metres	12 square metres

The Applicant called:

- Mr Twite to provide expert planning evidence (Document 27)
- Mr Talacko to provide expert ESD evidence (Document 24).

**(iii) Evidence and submissions**

Mr Twite's assessment found various dwellings would narrower than Standard D26, but still met the requirement. He was satisfied the dwellings would provide a functional layout for future residents.

Mr Twite reviewed Mr Talacko's recommendations to rearrange the kitchen layout of some dwellings as summarised in Chapter 4.3. He noted:

- this will result in kitchens encroaching the living space when considering the door swing of cupboards, the fridge and dishwasher
- would still meet Standard D26 objective.

**(iv) Discussion**

The Committee is satisfied the dwellings meet the objectives of Standard D26. While some dwellings have dimensions marginally less than the standard, the overall room areas are acceptable and will provide a functional space for future residents.

**(v) Finding**

The Committee finds:

- The Proposal will provide a functional layout for apartments and meets the objectives of Clause 58.07-1 Standard D26.

## 5 Transport

### 5.1 Traffic

#### (i) The issues

The issues are whether the proposal will:

- unreasonably increase traffic on the local road network
- compromise road safety.

#### (ii) Evidence and submissions

Many resident submitters were concerned that the Proposal's traffic loading would lead to traffic congestion and safety issues, although these concerns were not shared by Council.

The Head, Transport for Victoria did not object to the Proposal in terms of its impact on Johnston Street.

Mr Maina noted the Proposal provided limited on-site car parking and assumed a modal shift to more sustainable transport modes, including walking, cycling and public transport. He surveyed existing traffic in Young Street and Argyle Street with the results shown in Table 4.

**Table 4** Traffic survey data

Street	Peak hour (vehicles per hour)		Daily (vehicles per day)	
	Average	Maximum	Average	Maximum
Young Street	39 (am)	57 (am)	614	790
	51 (pm)	59 (pm)		
Argyle Street	32 (am)	55 (am)	541	653
	49 (pm)	73 (pm)		

Source: Document 26, para 38

Mr Maina explained traffic will use Young Street to enter and exit the development, then circulate through the surrounding road network. He estimated the development would generate:

- 7 to 9 trips (approximately 1 vehicle every 6 minutes) in peak periods
- 58 daily trips.

Mr Maina was satisfied the development's traffic would have no discernible impact on the operation and safety of:

- Young Street (and in turn Argyle Street) due to its one-way operation and slow speed environment
- Johnstone Street because it carries around 19,000 vehicles per day and the increase in traffic is negligible.

#### (iii) Discussion

The Committee acknowledges that residents are concerned about increased traffic and road safety but agrees with Council and Mr Maina that the proposed development will not adversely impact traffic conditions or road safety on the surrounding road network.



The Committee notes:

- the Head, Transport for Victoria has not objected to the application
- traffic flows in peak periods (7 to 9 trips) would be within daily variations of Young Street traffic flow.

The Advisory Committee agrees with Mr Maina that the minor increase in traffic on the road network will not heighten any safety risks.

#### **(iv) Findings**

The Committee finds:

- Vehicle movements generated by the development will have a minor increase in overall traffic volumes on the local road network
- The minor increase in traffic volumes on the local road network generated by the development are acceptable and will not compromise road safety.

## **5.2 Footpath and road capacity**

### **(i) The issue**

The issue is whether existing footpaths and roadways can accommodate additional pedestrians and cyclists.

### **(ii) Evidence and submissions**

Some submitters were concerned the existing road and footpath network would be overloaded by the development's pedestrian and cycling movements.

Council did not share these concerns.

Ms Hodyl opined:

- Young Street footpath is very narrow and is inadequate to comfortably and safely support pedestrian movements
- local footpath widening would be required to accommodate increased pedestrian movements associated with the development
- wider footpaths enhance and encourage walking.

In oral evidence, Mr Maina explained:

- existing footpaths are approximately 1.5 metres wide
- the development's pedestrian numbers would not exceed the footpath capacity
- the internal lifts will control or meter the number of people exiting the building onto the footpath
- pedestrian studies are only required for developments where pedestrians are expected to converge in large numbers, for example around Southern Cross Railway Station, which is not the present case.

The Applicant noted the Planning Scheme does not contain policy or controls requiring the widening of footpaths in Young or Argyle Street.

### **(iii) Discussion**

The Committee observes the site is set within a network of fine-grained local streets with narrow footpaths reflecting Fitzroy's industrial history where wider footpaths were considered unnecessary.

The Committee accepts Mr Maina's traffic evidence that footpath widening is not required to support the development's pedestrian movements. The abutting roads carry relatively low traffic volume which supports a safe environment for pedestrians and cyclists.

The additional pedestrian space created within the setback to Young Street is a positive urban design initiative associated with the proposed commercial space, but not required to make the footpath width acceptable to support the development. Rather the Committee is satisfied the existing footpath is of sufficient width to support the development's pedestrian volumes. This position is supported by Council as the road manager with ultimate responsibility for the local road and footpath network.

The Advisory Committee's preferred version of permit conditions is shown in Appendix F.

### **(iv) Findings**

The Committee finds:

- Additional footpath widening is not required to facilitate the proposal
- The existing road and footpath network will safely accommodate pedestrians and cyclists.

## **5.3 Car parking provision**

### **(i) The issue**

The issue is whether the proposal provides an appropriate number of car parking spaces.

### **(ii) Background**

The car parking requirement for the development under Clause 52.06 is 207 spaces. The Proposal's car park:

- provides 44 spaces within the basement
- will be accessed from Young Street.

### **(iii) Evidence and submissions**

Several submitters stated the development:

- did not provide sufficient car parking, including for trades people, visitors or accessible (disabled) parking
- would contribute to greater demand for on-street parking
- did not comply with Planning Scheme requirements
- should provide more on-site parking because public transport is inadequate and congested.

Council was generally satisfied with the car parking arrangements, however requested:

- a car park management plan require on-site parking allocation for specific dwelling types
- minor drawing amendments to show the dimensions of car parking spaces.

In relation to the car parking waiver sought, Council noted that it is well accepted that a modal shift away from private vehicles is required to achieve holistic transport and planning objectives. In this case, the availability of on-site parking would highly influence a potential resident's decision on whether to move into the building. Council identified an existing on-street loading zone 30 metres west of the Land on Argyle Street which could be used to service the development.

The Applicant relied on the evidence of Mr Maina. His key findings were:

- the car parking waiver is appropriate based on car parking demand assessment which identified:
  - the development has unconstrained empirical parking demand for 77 – 81 spaces
  - Australian Bureau of Statistics (ABS) Census data (2021) shows 80 percent of studio apartments and 48 percent of 1-bedroom dwellings residents do not own a car
  - Planning Scheme Clause 02.03-7 (Transport) promotes and prioritises sustainable transport modes and encourages reduced use of private motor vehicles
  - on-street parking is operating at/near capacity and there are no nearby parking opportunities for new residents
- there is no statutory requirement to provide accessible or visitor parking
- the loading zone for garbage collection in the basement could also be used by trades people
- car parking bays and aisles comply with AS2890.1-2004 for parking facilities intended for residential use
- which the car parking dimensions differ from those specifies in Clause 52.06-9 (Design standards for car parking) this design is acceptable given their compliance with the relevant Australian Standard
- a car parking management plan requiring the specific allocation of parking spaces to a particular type of dwellings (for example studios or 1 bedroom) is not relevant for a build to rent development as:
  - parking is provided to residents who require parking as part of their rental agreement
  - due to the expectation of turnover in the rental housing occupancy, the mix of residents and dwellings that require parking will vary over time.

#### **(iv) Discussion**

The Committee is satisfied that the proposed car parking arrangements are satisfactory.

The car parking waiver is consistent with policy that supports a modal shift to sustainable transport modes particularly in highly accessible locations with convenient access to public transport.

The acceptability of car parking provision is not reliant on the availability of on-street parking to supplement on-site parking. As noted by all parties, on-street parking supply is already oversubscribed and has infrequent and unreliable availability.

The on-street loading zone located within 30 metres of site, together with the loading zone in the basement, should provide sufficient options for delivery vehicles and tradespeople.

The Committee agrees with Mr Maina that a car parking management plan which allocates parking spaces is not required for the proposal. Unbundling car parking from individual dwellings provides maximum flexibility for the building operator to match future residents with their individual parking needs and preparedness to pay for parking.

The Committee's preferred version of permit conditions incorporating the above is provided in Appendix F.

## **(v) Findings**

The Committee finds:

- The proposed car parking arrangements are satisfactory.
- The Proposal is consistent with policy encouraging a shift to sustainable transport modes particularly in locations with excellent access to public transport.

## **5.4 Car parking access**

### **(i) The issue**

The issue is whether the proposal has safe and efficient access to on-site car parking.

### **(ii) Evidence and submissions**

Residents were concerned that vehicles entering the development would queue on Young Street waiting for the access gate to open leading to delays and congestion for motorists.

Council was generally satisfied with the access arrangements but requested:

- pedestrian sight triangles be shown on the drawings
- confirm vehicles can use the driveway without scraping or bottoming out
- minor drawing amendments to show the pedestrian sight triangle at the exit lane of the access driveway.

Mr Maina supported the proposed access arrangement. His evidence was:

- the proposed vehicle access consists of a two way ramp to basement carpark from Young Street
- the access arrangement generally complies with Clause 52.06-9 and Australian Standard AS 2890.1-2004
- the proposal cannot provide an adequate sight triangle for motorists exiting the site to observe pedestrians approaching from Johnston Street along the Young Street footpath as access is located at the southern boundary abutting an existing structure. However, the intent of this requirement can be addressed by:
  - installing convex mirror to assist with sight lines
  - installing a warning flashing light system at the southern interface of the accessway and footpath where the light activates when the access gates are opened to alert pedestrians of an oncoming vehicle
  - motorists exiting the site are likely to travel more towards the centre of the driveway which further improves visibility to see oncoming pedestrians from the south
- security gate access for vehicles would be operated by remote control and residents would usually activate the gate as they are approaching along Young Street to minimise any potential disruption to through traffic.

### **(iii) Discussion**

The vehicle access to and from the basement car park is satisfactory.

The development will not result in regular or significant delays to motorists on the local road network due to existing low traffic flows and expected low frequency usage of the basement car park. Further, as Mr Maina noted, residents will have remote access to the car park enabling them to automatically open the gate as they approach the car parking entry from Young Street, further minimising delays.

It is an important safety requirement for motorists exiting the building to be able see approaching pedestrians. In constrained and built-up areas, it is not always possible to meet the appropriate sight distance requirements. Mr Maina suggestion of the warning light and convex mirror arrangement is an acceptable solution that is commonly used in other like developments. The Committee also agrees with Mr Maina that motorists exiting the building are likely to travel more towards the centre of the driveway which will future enhance visibility to approaching pedestrians.

The longitudinal section of the driveway ramp from Young Street into the basement shows road levels and ramp grades (Document 31, with ramp detail sections shown on TP3-107 B) but does not confirm that vehicles will not scrape as they enter and leave Young Street. This matter can be readily resolved during detail design stage through permit conditions.

The Advisory Committee's preferred version of permit conditions is shown in Appendix F.

#### **(iv) Findings**

The Committee finds:

- The proposal provides safe and efficient access to onsite car parking
- The potential for car scraping at the Young Street driveway can be resolved during detail design.

## **5.5 Bicycle storage and facilities**

#### **(i) The issues**

The issues are whether the Proposal has:

- an adequate supply of onsite bicycle storage
- appropriate charging stations.

#### **(ii) Background**

The development provides 260 bicycle parking spaces, of which 248 are secure within the site and 12 are publicly accessible spaces located within the Argyle Street setback. 52 per cent (123) of the bicycle parking spaces are located on the ground.

Access to the secure bicycle storage area is proposed via a 1.65 metre corridor from Argyle Street.

#### **(iii) Evidence and submissions**

Submitters were concerned about the design and provision of visitor bicycle storage spaces.

Council submitted:

- a minimum of 50 visitor bicycle parking spaces should be provided
- the proposed kerb outstand on Argyle Street should be used for visitor bicycle storage

- at least 30 per cent of residential bicycle storage should be provided on the ground (not elevated)
- the access corridor to the secure bicycle storage area should be widened to 2.5 metres
- at least 10 electric bicycle charging points should be provided.

The Applicant relied on the Mr Maina's evidence. His key findings were:

- the Proposal exceeds the Clause 52.34 (Bicycle facilities) to provide 40 resident and 20 visitor bicycle parking spaces
- the Proposal exceeds the Built Environment Sustainability Scorecard requirement to provide 202 resident and 51 visitor bicycle parking spaces
- the 1.65 metre wide access corridor does not comply with Australian Standard 2890.3-2015 Bicycle facilities which requires an accessway to be 2.5 metres wide
- the width of the accessway is considered acceptable having regard to *Austroads Research Report AP-R527-16 Bicycle Parking Facilities* which nominates an acceptable range (1.5 – 2.0 metres) for access corridors
- there is no universal charging system for electric bicycles
- cyclists commonly charge their bicycle batteries at work or within their home
- it may be appropriate for the development to provide cabling to support a universal charging system if it becomes available
- it may also be appropriate to provide one to two charging stations within the development.

Ms Hodyl preferred for the public bicycle rails to be located adjacent to the proposed commercial space or front entrance, rather than outside private homes along Argyle Street.

#### **(iv) Discussion**

The total number of bicycle storage spaces to be provided as part of the development exceeds the requirements of Clause 52.34 (Bicycle facilities) and is acceptable.

The proposed layout and configuration of the secure bicycle facility will be convenient for future residents.

The Committee agrees with Ms Hodyl's suggestion to position public bicycle rails away from private homes and closer to the commercial areas of the development. This matter can be resolved through permit conditions.

The Committee supports providing at least two electric bicycle charging stations within the bicycle storage facility provided they are fit for purpose and can be used by residents. Providing cabling for a universal system that may become available in the future is a sensible approach. This can also be resolved through permit conditions.

While it would be preferable to increase the width of the corridor providing access to the secure bicycle parking areas, on balance, the Committee believes the proposed 1.65 metres corridor is acceptable on balance because:

- it is unlikely that the substation can be narrowed to provide additional corridor width
- the corridor width is considered adequate using Austroads assessment (Austroads is an association of Australian and New Zealand transport agencies, representing all levels of government)

- the corridor is relatively short (approximately 3 metres) minimising the likelihood of two cyclists attempting to pass one another at the same time.

The Advisory Committee's preferred version of permit conditions incorporating the above is provided in Appendix F.

**(v) Findings**

The Committee finds:

- The proposed bicycle storage is satisfactory
- Public bicycle storage rails should be located away from homes in Argyle Street to a location adjacent to commercial or communal spaces.

## 6 The planning permit

### (i) Relevant considerations

Clause 71.02-3 of the Planning Scheme requires a responsible authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

- the Municipal Planning Strategy and Planning Policy Framework
- the purpose of the zone, overlay or other provision
- the orderly planning of the area
- the effect on the amenity of the area.

The issue specific chapters of this Report provide the objectives of the key planning scheme provisions that are relevant to the issues.

Other matters to be taken into account include:

- objections
- comments and decisions of referral authorities
- other matters a Responsible Authority must and may take into account under section 60 of the PE Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

The Applicant circulated draft permit conditions (Document 20). All parties were given the opportunity to make oral submissions on the draft conditions on the final day of the Hearing. Parties were invited to supplement oral submissions with written submissions. Appendix E summarises submissions on the permit conditions in dispute.

### (ii) Discussion

Council's Officer Delegate Report (Document 3.061) provides a helpful summary of the permit triggers, application requirements and referral requirements for the Proposal under the Planning Scheme. It also provided a summary of referral authority comments and responses, and a chronology of the Permit Application. The Committee has been assisted by these in its deliberations.

The matters required to be considered by the Committee have been discussed at length in the issue specific chapters of this Report.

The Committee's discussion on the conditions is contained in in Appendix E.

On balance, the Committee considers that a permit should be granted. The Proposal, with conditions, provides:

- an acceptable scale, mass and height that:
  - sits comfortably within in the emerging local context of mid rise buildings



- it is of a high architectural standard
- is well articulated to give primacy to the street wall and ensure upper levels are recessed to avoid dominating or overwhelming the street
- will not result in unreasonable off-site amenity impacts
- adequate acoustic attenuation for future residents that will not impact the lawful operation of the nearby live music venues
- a comfortable and functional living environment for future residents
- an acceptable environmentally sustainable development outcome
- acceptable wind comfort levels in the development and surrounding public realm.

The Committee concludes:

- The Proposal achieves an acceptable outcome that provides a net community benefit and sustainable development.

The Committee recommends:

- 1. Yarra Planning Scheme Planning Permit Application PLN23/0441 for the demolition of the existing buildings, development of a multi storey, mixed-use building, use of the land for dwellings and a reduction in the statutory car parking requirements at 155 Johnston Street, Fitzroy should be granted subject to the permit conditions contained in Appendix F.**

## Appendix A Terms of Reference

Version 2: Amended June 2023

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

### Name

1. The Standing Advisory Committee is to be known as the 'Priority Projects Standing Advisory Committee' (the Committee).
  - a. The Committee is to have members with the following skills:
  - b. statutory and strategic land use planning
  - c. land development and property economics
  - d. urban design and architecture
  - e. heritage
  - f. civil engineering and transport planning
  - g. social impacts
  - h. environmental planning
  - i. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

### Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Development Facilitation Program (DFP), or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

### Background

5. The Victorian Government is committed to streamlining the assessment and determination of projects that inject investment into the Victorian economy, keep people in jobs and create homes for people. The planning system is an important part of supporting investment and economic growth in Victoria.
6. The DFP focusses on new development projects in priority sectors and/or projects that are in the planning system that face undue delays. These can include (but are not limited to) housing, mixed use, retail, employment, tourism, industrial and other opportunities.

### Method

7. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
8. The referral letter must specify:
  - a. the specific issues the Minister for Planning seeks advice about

- b. the mechanism of intervention being considered (for example, but not limited to, draft planning scheme amendment, call-in from the Victorian Civil and Administrative Tribunal, planning permit application)
  - c. whether submissions are to be considered by the Committee, and if so, how many are being referred, and
  - d. how the costs of the Committee will be met.
  - e. The letter of referral will be a public document.
- 10. In making a referral, the Minister for Planning or delegate must, either:
  - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
  - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
- 11. The Committee may inform itself in anyway it sees fit, but must consider:
  - a. The referral letter from the Minister for Planning
  - b. referred submissions
  - c. the comments of any referral authority
  - d. the views of the project proponent
  - e. the views of the relevant Council and
  - f. the relevant planning scheme.
- 12. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority, or government agency.
- 13. The Department of Transport and Planning (DTP) will be responsible for any further notification required. New submissions, if required, will be collected by DTP.
- 14. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
- 15. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
- 16. The Committee may:
  - a. assess any matter 'on the papers'
  - b. conduct discussions, forums, or video conferences when there is a quorum of:
    - i. a Chair or Deputy Chair, and
    - ii. at least one other member.
- 17. The Committee may apply to vary these Terms of Reference in any way it sees fit.

## **Submissions are public documents**

- 18. The Committee must retain a library of any written submissions or other supporting documentation provided to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
- 19. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

## Outcomes

20. The Committee must produce a concise written report to the Minister for Planning providing the following:
- a short description of the project
  - a short summary and assessment of issues raised in submissions
  - a draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral
  - any other relevant matters raised during the Committee process
  - its recommendations and reasons for its recommendations
  - a list of persons or authorities/agencies who made submissions considered by the Committee and
  - a list of persons consulted or heard, including via video conference.

## Timing

21. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
- the date of receipt of referral, if no further submissions or information are to be sought, or
  - receipt of the final submission of material or final day of any public process in respect of a referral.

## Fee

22. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
23. The costs of the Committee will be met by each relevant proponent.

  
**Sonya Kilkenny MP**  
**Minister for Planning**

**Date:**

9/9/2023

## Appendix B Letter of Referral

Ms Kathy Mitchell  
Chair (lead)  
Priority Projects Standing Advisory Committee  
Planning Panels Victoria  
[planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au)

Dear Kathy,

I refer to the Victorian Civil and Administrative tribunal VCAT application P1537/2024 which relates to the redevelopment of the land at 155 Johnston Street, Fitzroy. The project was referred to me by the Development Facilitation Program (DFP).

I advise that I have decided to call in the proceeding from VCAT under clause 58(2)(a) of *Schedule 1 to the Victorian Civil and Administrative Tribunal Act 1998* as I consider that the proceeding raises a major issue of policy, and the determination of the proceeding may have a substantial effect on the achievement or development of planning objectives. I have also decided to refer the matter to the Priority Project Standing Advisory Committee for advice and any recommendations about appropriate permit conditions that should be imposed.


On 27 December 2024 the proponent filed an appeal with VCAT under *section 79 of the Planning and Environment Act 1987* due to the City of Yarra's failure to determine the permit application within the prescribed time. On 4 March 2024 council officers resolved that if it had been able to determine the application it would have refused the proposal.

The matters raised by council and third-party objectors to the permit application relate to building scale and design response, onsite and off -site amenity, traffic and car parking, acoustic attention and wind impact impacts.

The VCAT hearing was scheduled to commence on 11 November 2024 for a period of nine days.

The cost of the advisory committee will be met by the proponent, Greystar Australia.  
Should you have any questions please contact Adam Henson, Director of Development Facilitation Program Department of Transport and Planning on [adam.henson@transport.vic.gov.au](mailto:adam.henson@transport.vic.gov.au).

Yours sincerely



The Hon Sonya Kilkenny MP  
Minister for Planning  
Minister for the Suburbs

Date: 16/10/2024

## Appendix C Parties to the VCAT Proceeding

Party	Role
Greystar Australia Development Manager Pty Ltd	Applicant
Yarra City Council	Responsible Authority
Head, Transport for Victoria	Referral Authority
Alan Edward Harris	Respondent
Amanda Margery Paxton	Respondent
Ann Linda Bullen	Joint Respondent
Chris Andrianopoulos and Andrianopoulos Nominees	Respondent
Elizabeth Dax	Respondent
Fitzroy Residents Association Inc, an incorporated association in Victoria, registration No A0031108S	Respondent
Helena Mestrovic	Joint Respondent
Janice Tan	Joint Respondent
Marc Buret	Respondent
Michael Soltys	Respondent
Nigel Nettar	Joint Respondent
Night Cat Holdings Pty Ltd	Respondent
Philip Douglas Coldwell	Respondent
Priscilla Rogers	Respondent

## Appendix D Document list

### Hearing documents

No	Date	Description	Presented by
<b>2023</b>			
1	9 Sep	Terms of Reference	Minister for Planning
<b>2024</b>			
2	18 Oct	Letter of Referral	Minister for Planning
3	24 Oct	Referred materials – listed in this Appendix after Document 70	Department of Transport and Planning
4	25 Oct	Letter from Council to VCAT regarding filing of evidence	Council
5	25 Oct	Email from Applicant to Committee regarding filing of evidence	Applicant
6	29 Oct	Initial email to VCAT parties	PPV
7	31 Oct	Directions Hearing notification letter	PPV
8	11 Nov	Summary of key issues	Ann Bullen and Paul Stewart
9	11 Nov	Summary of key issues	Philip Coldwell and Fitzroy Residents' Association
10	11 Nov	Summary of key issues	Helena Mestrovic
11	12 Nov	Summary of key issues	Michael Soltys
12	12 Nov	Summary of key issues	Robert Mestrovic
13	12 Nov	Email and letter to Committee	Head, Transport for Victoria
14	12 Nov	Summary of key issues	Applicant
15	12 Nov	Summary of key issues	Marc Buret
16	12 Nov	Summary of key issues	Elizabeth Dax
17	12 Nov	Summary of key issues	Chris Andrianopoulos
18	12 Nov	Summary of key issues	Council
19	14 Nov	Letter to Committee regarding proposed directions and permit conditions	Applicant
20	14 Nov	Proposed draft permit conditions	Applicant
21	15 Nov	Directions and Hearing Timetable	PPV

No	Date	Description	Presented by
22	18 Nov	Response to nominated site inspection locations	Helena Mestrovic
23	19 Nov	Letter filing evidence	Applicant
24	19 Nov	Statement of evidence of Jan Talacko	Applicant
25	19 Nov	Statement of evidence of Mr Mark O'Dwyer	Applicant
26	19 Nov	Statement of evidence of Mr JP Maina	Applicant
27	19 Nov	Statement of evidence of Mr Kel Twite	Applicant
28	19 Nov	Statement of evidence of Mr Chris Goss	Applicant
29	19 Nov	Visual amenity images of Mr Chris Goss	Applicant
30	19 Nov	Statement of evidence of Mr Darren Tardio	Applicant
31	19 Nov	Witness Recommendation Plans	Applicant
32	19 Nov	Statement of Changes	Applicant
33	19 Nov	Updated Landscape Plan	Applicant
34	19 Nov	Updated Wind Study Report	Applicant
35	28 Nov	Evidence statement of Leanne Hodyl	Applicant
36	2 Dec	Submission	Helena Mestrovic
37	2 Dec	Submission	Paul Stewart and Ann Bullen
38	2 Dec	Nominated site inspection location	Paul Stewart and Ann Bulleen
39	2 Dec	Submission	Elizabeth Dax
40	2 Dec	Submission	Phillip Coldwell and Fitzroy Residents Association Inc
41	2 Dec	Submission	Michael Soltys
42	2 Dec	Submission	Chris Andrianopoulos
43	2 Dec	Submission	Applicant
43a	2 Dec	Castles v Bayside CC [2004] VCAT 864	Applicant
43b	2 Dec	Ashlyn Enterprises PL. V Yarra CC [2003] VCAT 87	Applicant
43c	2 Dec	First Cashmore Pty Ltd v Macedon Ranges SC [2005] VCAT 893	Applicant
43d	2 Dec	McGuire v Port Phillip CC [2017] VCAT 789	Applicant
43e	2 Dec	Australian Investment Solutions (Vic) Pty Ltd v Glen Eira CC [2013] VCAT 2067	Applicant
43f	2 Dec	Pace Development Group Pty Ltd v Yarra CC [2017] VCAT 1085	Applicant



No	Date	Description	Presented by
43g	2 Dec	The Greystar Advantage – Bringing the Build-to-Rent Revolution to Fitzroy	Applicant
43h	2 Dec	The Share Project Pty Ltd v Minister for Planning [2020] VCAT 1462	Applicant
43i	2 Dec	GFM Investment Management Limited ATF GFM Home Trust II Subtrust No 9 v Port Phillip CC [2024] VCAT 458	Applicant
44	2 Dec	Submission	Council
45	2 Dec	Without Prejudice Draft Permit Conditions incorporating changes proposed by Council	Council
46	5 Dec	Written submission, enclosing attachment: a) Mylonas v Darebin CC [2016] VCAT 1583	Night Cat
47	5 Dec	Version 2 Hearing Timetable and Distribution List	PPV
48	9 Dec	PLN230441 for 155 Jonston Street - Supplementary SAC Officer Report	Council
48a	9 Dec	Paragraph 1 Link to document 48 – Officer Report	Council
48b	9 Dec	Paragraph 11 link to document 48 - VCAT Amended Plans	Council
48c	9 Dec	Paragraph 11 link to document 48 - VCAT Amended Urban Context Report	Council
48d	9 Dec	Paragraph 14 link to document 48 - Acoustic Evidence - 13 October 2024	Council
48e	9 Dec	Paragraph 17 link to document 48 - Officer Report	Council
48f	9 Dec	Paragraph 25 link to document 48 - Acoustic consultant advice	Council
48g	9 Dec	Paragraph 25 link to document 48 - Internal urban design comments	Council
48h	9 Dec	Paragraph 25 link to document 48 - Leanne Hodyl Evidence	Council
48i	9 Dec	Paragraph 25 link to document 48 - Council's Without Prejudice Draft Permit Conditions [2 December 2024]	Council
49	9 Dec	Clause 53.06 of Yarra Planning Scheme	Council
50	9 Dec	Environment Protection Authority Publication 1826 Noise Limit Assessment Protocol dated May 2021	Council
51	9 Dec	Planning Practice Note 81 Live Music and Entertainment Noise November 2022	Council
52	10 Dec	Presentation of Mr O'Dwyer	Applicant
53	10 Dec	Planning Scheme maps with overlay plan	Applicant
54	11 Dec	Version 3 Timetable and Distribution List	PPV
55	12 Dec	Victoria's Housing Statement	Applicant
56	13 Dec	Johnston Street Built Form Framework dated July 2019	Council
57	17 Dec	Barker v Nillumbik SC [2024] VCAT 584 (1 July 2024)	Council

No	Date	Description	Presented by
58	17 Dec	Development Victoria v Knox CC [2024] VCAT 152 (18 March 2024)	Council
59	17 Dec	Savoy Towers Pty Ltd v Moonee Valley CC [2023] VCAT 1396 (15 December 2023)	Council
60	17 Dec	Shak Developments Pty Ltd v Hobsons Bay CC [2024] VCAT 1093 (18 November 2024)	Council
61	17 Dec	Proposed permit conditions (17 December 2024)	Applicant
62	18 Dec	Yarra C269yara Panel Report	Council
63	18 Dec	Position on draft permit conditions	Chris Andrianopoulos
64	18 Dec	Officer's Assessment Report for 21 – 43 Hoddle Street (6 August 2024)	Applicant
65	18 Dec	Derby Street Developer Pty Ltd v Yarra CC [2024] VCAT 1186 (16 December 2024)	Applicant
66	19 Dec	Proposed permit conditions (18 December 2024)	Applicant
67	19 Dec	Comments on drafting of permit conditions	Paul Stewart and Ann Bullen
68	19 Dec	Comments on drafting of permit conditions	Michael Soltys
69	19 Dec	Comments on Applicant's proposed permit conditions (18 December 2024)	Council
70	19 Dec	James v Darebin CC [2024] VCAT 805 (23 August 2024) (2)	Council

### Referred materials (as part of Document 3)

No	Description
<b>Application for review and attachments</b>	
3.001	Application for Review (11 December 2023)
3.002	Index to Application for Review
<b>Volume A – Documents regarding the Land</b>	
3.003	Planning Property Report – 155 Johnston Street, Fitzroy
<b>Volume B – Permit Application</b>	
3.004	Planning Application Summary
3.005	Covering letter prepared by Contour (3 July 2023)
3.006	Metropolitan Planning Levy Certificate (16 June 2023)
3.007	Title search (30 June 2023)
3.008	Planning and Urban Context Report prepared by Contour (July 2023)
3.009	Urban Context Report, Part 1 (June 2023)
3.010	Urban Context Report, Part 2 (June 2023)

No	Description
3.011	Architectural Plans by JCB Group (30 June 2023)
3.012	Landscape Plan by Acre (28 June 2023)
3.013	Transport Impact Assessment by Impact (30 June 2023)
3.014	Green Travel Plan by Impact (30 June 2023)
3.015	Waste Management Plan by Leigh Design (28 June 2023)
3.016	Sustainability Management Plan by Introba (June 2023)
3.017	Stormwater Management Plan by Fyfe (22 June 2023)
3.018	Heritage Memorandum by Bryce Raworth (23 June 2023)
3.019	Pedestrian Wind Assessment by RWDI (23 June 2023)
3.020	Acoustic Report by Octave Acoustics (28 June 2023)
3.021	Preliminary Environmental Site Assessment by BlueSphere (27 March 2023)
3.022	Greystar Project Dossier
3.023	Boundary Re-Establishment Survey by Veris (28 July 2022)
3.024	Feature and Level Survey and Site Analysis by Veris (23 February 2023)
<b>Volume C – First Request for Further Information</b>	
3.025	RFI Request from Council to Greystar (29 July 2023)
3.026	Letter from Contour to Council (RFI Response) (23 August 2023)
3.027	Further information response lodgement (PRFI23/1011)
3.028	Architectural Plans by JCB Group (22 August 2023)
3.029	Landscape Plan by Acre (22 August 2023)
3.030	Pedestrian Wind Assessment by RWDI (15 August 2023)
3.031	Pedestrian Wind Assessment by RWDI (23 August 2023)
3.032	Acoustic Report by Octave Acoustics (16 August 2023)
3.033	Ground Clearance Assessment by Impact (17 August 2023)
3.034	Project Advice Notice By ACOR Consultants (9 August 2023)
<b>Volume D – Second Request for Further Information</b>	
3.035	Second RFI Request from Council to Greystar (18 September 2023)
3.036	Letter from Contour to Council (Second RFI Response) (22 September 2023)
3.037	Further information response lodgement (PRFI23/1140)
3.038	Architectural Plans by JCB Group (22 August 2023)
3.039	Pedestrian Wind Assessment by RWDI (22 September 2023)
<b>Volume E – Elapsed Days Form</b>	
3.040	Calculating elapsed days in failure applications – Planning (11 December 2023)

No	Description
<b>VCAT orders</b>	
3.041	Initiating Order on 19 December 2023
3.042	Procedural Orders on 12 February 2024
3.043	Practice Day Orders on 16 February 2024
3.044	Compulsory Conference (Interim) Orders on 12 March 2024
3.045	Compulsory Conference (Interim) Orders on 3 April 2024
3.046	Correction (Interim) Orders on 8 April 2024
3.047	Compulsory Conference (Interim) Orders on 18 April 2024
3.048	Compulsory Conference (Subsequent) Orders on 26 April 2024
3.049	Procedural Orders on 2 May 2024
3.050	Practice Day Orders on 8 May 2024
3.051	VCAT Order - 8 May 2024
<b>VCAT practice day hearing submissions</b>	
3.052	First Practice Day Hearing Submissions on behalf of Applicant (15 February 2024)
3.053	Applicant's second Practice Day hearing submissions including request for adjournment (7 May 2024)
3.054	Supplementary Acoustic Report (Octave Acoustics, 7 May 2024)
<b>VCAT files regarding amendment to application</b>	
3.055	Statement of changes to plans (JCB Architects, 17 April 2024)
3.056	Updated architectural plans (JCB Architects, 17 April 2024)
3.057	Updated Urban Context and Design Report (JCB Architects, 17 April 2024)
<b>Other files from VCAT proceeding</b>	
3.058	Letter from Council to Applicant in response to RFI (27 September 2023)
3.059	Letter from Head, Transport for Victoria to Applicant advising it does not object (20 November 2023)
3.060	VCAT Practice Note PNPE2 (Information from Decision Makers) form (8 January 2024)
3.061	City of Yarra Planning Application Delegate Report (4 March 2024)
3.062	Expert witness report of Darren Tardio in acoustics (13 October 2024)
<b>Submissions to permit application</b>	
3.063 – 3.225	Original submissions to permit application

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### Objector statements of grounds

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3.226 – Objector statements of grounds filed at VCAT  
3.275

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## Appendix E Summary of submissions on draft permit conditions

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
2	Before the development starts <del>(excluding and demolition, built excavation, site preparation and site remediation)</del> , amended plans must be <u>submitted to approved</u> and endorsed by the responsible authority. The plans must: ...	Not agreed. Condition appropriate as drafted.	Council does not agree to retention of this requirement. The site is in a heritage overlay and as such Council strongly disagree that demolition can be commenced prior to the endorsement of plans and reports. Condition 1(c)(iii) relates to demo shown on plans so inappropriate for this to be adopted before plans are provided for endorsement.
<b>Committee discussion</b>			
Support Applicant. Existing buildings are not contributory to the heritage precinct and it is unnecessary to delay preparation of the site for development while amended plans are prepared for endorsement.			
2c	-	Be generally in accordance with the prepared by Jackson Clements Burrows, Plan TP0-000, TP0-001, TP0-100 – TP0.105, TP1-100 – TP1-112 <del>09</del> , TP2-101 – TP2-107, TP3-101 – TP3-107, TP4-100 – TP4-1254, TP5-100 – TP5-300, TP9-101, <del>dated 17 April 2024</del> <u>7 November 2024</u> , but modified to show the following details:	Council agrees.
<b>Committee discussion</b>			
Support Applicant changes agreed by Council.			
2ci	<u>The deletion of level(s) X.</u>	Refer to Chapter 3	Refer to Chapter 3
<b>Committee discussion</b>			
Support Applicant. Refer to Chapter 3.			

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
2cvii	<a href="#">Compliance with Standard D15 (internal views) of Clause 58.</a>	Not accepted. Internal views addressed by Kel Twite recommendations (Condition xviii in Document 66)	Council satisfied based on the inclusion of conditions by Mr Twite.
<b>Committee discussion</b>			
Support Applicant changes agreed by Council.			
2cviii	<a href="#">All studio apartments to demonstrate compliance with Standard D26 (functional layout) of Clause 58.</a>	Not agreed. Satisfactorily addressed within Document 31.	Council does not accept that the objective is met. The studio apartments are too small to provide for stoves and sinks and rely on bedroom space for circulation. The functional layout of these dwellings must be resolved.
<b>Committee discussion</b>			
Support Applicant. Refer to Chapter 4.3.			
2cv	<a href="#">All apartments to demonstrate compliance with Standard D27 (Room depth) of Clause 58.</a>	Not agreed. Satisfactorily addressed within Document 31.	Council position is the standard is not met. The studio apartments are too small to provide for stoves and sinks and rely on bedroom space for circulation. The functional layout of these dwellings must be resolved.
<b>Committee discussion</b>			
Support Applicant. Refer to Chapter 4.2.			
2cix	Details, including level of transparency, of the fencing and glazing of <a href="#">ground floor</a> apartments <del>G.05, G.06 and G.07</del> facing onto the communal open space.	Agreed.	-
<b>Committee discussion</b>			
Support Council changes agreed by Applicant.			

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
2cx	<a href="#">A notation to confirm that all showers to accessible dwellings are hobless and, where Design Option B at Table D7 of Clause 58.05-1 (Accessibility) is relied upon, has a removable shower screen.</a>	Agreed.	-
<b>Committee discussion</b>			
Support Council changes agreed by Applicant.			
2cxi	<a href="#">A door between the waste storage room and smoke lobby on Basement Plan B1.</a>	Not agreed. Not required.	Council position is that this condition should be retained. Access to waste area for residents is convoluted through a number of doors and creates conflicts with vehicles. A direct doorway to waste area from lift lobby is preferable
<b>Committee discussion</b>			
Support Council changes agreed by Applicant.			
2cxii	<a href="#">The visitor bicycle spaces, and associated area required to comply with Australian Standard AS2890.3, provided for entirely within the subject site to avoid bicycles protruding onto the Argyle Street footpath.</a>	Not agreed. Addressed in Document 31.	Council position is that this condition should be retained. The spaces must be entirely provided within the site. Ms Hodyl discussed that the footpaths are narrow already and bicycles protruding into this would be a bad outcome. Agree with Ms Hodyl that bicycle spaces should be located together at the eastern end as well.
<b>Committee discussion</b>			
Generally support Council. Refer Committee discussion on the location of visitor bicycle parking in Chapter 5.5. Committee preferred condition <i>"The visitor bicycle spaces, and associated area required to comply with Australian Standard AS2890.3., provided for entirely within the subject land and located near commercial or shared areas."</i>			



# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
2cxiii	<a href="#">Details of the public realm interface on the north-east corner, ensuring the access path along the adjacent property remains secure.</a>	Agreed.	-
<b>Committee discussion</b>			
Support Council changes agreed by Applicant.			
2cxiv	<a href="#">A seamless level transition between the ground floor setbacks and public footpath.</a>	Agreed.	-
<b>Committee discussion</b>			
Support Council changes agreed by Applicant.			
2cxv	<a href="#">Additional greenery / landscaping provided along the Argyle Street frontage within the subject site's title boundaries.</a>	Not agreed. Landscaping satisfactorily addressed by Document 33.	Council position is that this condition should be retained.
<b>Committee discussion</b>			
Support Applicant. Landscaping in accordance with Document 33 is acceptable.			
2cxvi	<a href="#">A note confirming any tactiles, handrails, ramps or landings accommodated within the subject site boundary and not protrude outside of the subject site's title boundaries.</a>	Agreed.	-
<b>Committee discussion</b>			
Support Council changes agreed by Applicant.			
2cxvii	<a href="#">A minimum of 50 visitor bicycle parking spaces in total be provided.</a>	Not agreed. Addressed in Document 31.	Council position is that this condition should be retained. Bicycle parking rates should be in accordance with best practice.
<b>Committee discussion</b>			
Support Applicant. Refer to discussion in Chapter 5.5.			

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
2cxviii	<a href="#">At least 30 percent of resident bicycle parking to be provided as a ground level (horizontal) hoop and comply with Clause 52.34 of the Yarra Planning Scheme and Australian Standard AS2890.3.</a>	Not agreed. Addressed in Document 31.	Council is unclear from plans if this is met. The dimensions provided do not appear to comply with at ground parking (that is, the space between each space would be 500mm in accordance with Australian Standard)
<b>Committee discussion</b>			
Support Applicant. The bicycle storage facility provides 123 (53 per cent) horizontal spaces on ground level. Bicycle spaces are planned in the form of proprietary bicycle racks designed to satisfy AS2890.3 2015.			
2cxix	<a href="#">Access corridors to the bicycle storage widened to 2500mm or to the satisfaction of the Responsible Authority.</a>	Not agreed. Width of 1650mm proposed, due to the limitations of the substation, with the access way within the acceptable range of 1.5-2 metres.	Council not satisfied because the evidence relied on "Austroads Guide" rather than the Australian Standard.
<b>Committee discussion:</b>			
Support Applicant. Refer to discussion in Chapter 5.5.			
2cxxii	<a href="#">Dimensions of all bicycle storage spaces, lifts, corridors and relevant access ways to demonstrate compliance with Australian Standard AS2890.3 or to the satisfaction of the Responsible Authority.</a>	Agreed.	-
<b>Committee discussion</b>			
Support Council changes agreed by Applicant.			
2cxxiii	<a href="#">A minimum of 10 electric bicycle charging points in the resident bicycle parking spaces adjacent to spaces suitable for electric bicycles to use.</a>	Not agreed. Main evidence was that 10 charging points are not required, and that 1-2 charging points would be sufficient.	Council satisfied with the Applicant's response.
<b>Committee discussion</b>			
Support Applicant changes agreed by Council.			

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
2cxxiv	<a href="#">The pedestrian sight triangle measuring 2.0 metres by 2.5 metres superimposed at the exit lane of the vehicle access to Young Street.</a>	Not required. Superseded by condition requiring installation of a convex mirror and light system.	Council satisfied with the Applicant's response.
<b>Committee discussion</b>			
Support Applicant changes agreed by Council.			
2cxxv	<a href="#">The car parking spaces dimensioned in accordance with the requirements of Clause 52.06.</a>	Not agreed. The parking spaces have been designed to comply with the requirements of AS2890.1:2004, per the evidence of JP Main.	Council satisfied with the Applicant's response.
<b>Committee discussion</b>			
Support Applicant changes agreed by Council.			
2cxxvi	<a href="#">The location of the electric vehicle charge points on basement carpark plans.</a>	Agreed.	-
<b>Committee discussion</b>			
Support Council changes agreed by the Applicant.			
2cxxvii	<a href="#">The width of the vehicle door of the development entrance dimensioned in accordance with the Swept Path Diagrams at Appendix A of the Traffic Impact Assessment dated 30 June 2023.</a>	Not agreed. Evidence of Mr Maina is that this condition is no longer applicable as the plans that informed the Traffic Impact Assessment dated 30 June 2023 have been superseded.	Council satisfied with the Applicant's response.
<b>Committee discussion</b>			
Support Applicant changes agreed by Council.			
new	-	<a href="#">Title boundaries correctly expressed in metres not m<sup>2</sup>.</a>	Council agreed.
<b>Committee discussion</b>			
Support Applicant changes agreed by Council.			

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
new	-	<a href="#">Internal overlooking between the ground level communal and open space and adjacent dwellings treated with landscaping per the Acre landscape plans (22 October 2024) and minimum 1.7 metre high side wall screens with maximum 25% transparency.</a>	Council agreed.
<b>Committee discussion</b> Support Applicant changes agreed by Council.			
new	-	<a href="#">Internal overlooking at levels 1 to 9 treated in accordance with sketch plan SK-100 (Jackson Clements Burrows Architects, 22 October 2024).</a>	Council agreed.
<b>Committee discussion</b> Support Applicant changes agreed by Council.			
new	-	<a href="#">Elevations updated to correct the height of the upper level balustrades.</a>	Council agreed.
<b>Committee discussion</b> Support Applicant changes agreed by Council.			
new	-	<a href="#">Level 4 to 8 plans corrected to show the length of the southern corridor and window positioning.</a>	Council does not agree with Mr Twite's recommendation to have the north-west corridor terminate at a public open space.
<b>Committee discussion</b> Support Applicant. The arrangement shown in Document 31 is acceptable.			
new	-	<a href="#">Compliance with Standard D18 for at least 50% of dwellings.</a>	Council agreed.
<b>Committee discussion</b>			

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
Support Applicant changes agreed by Council.			
9	Before the building is occupied, any wall located on a boundary facing public property to the underside of the mezzanine level must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.	-	Resident submitters - Graffiti painters can climb well. May need graffiti proof finish at higher levels.
<b>Committee discussion</b>			
The condition proposed by the Applicant is acceptable and will ensure an appropriate finish is applied to the building most likely to be graffitied.			
10	<u>Except with the prior written consent of the Responsible Authority, the use of the roof terrace area to the north of the lift well must not be used for activities, other than access or egress, operate after the hours of:</u> <u>a) 11 pm Friday and Saturday nights to 7am the following day</u> <u>b) 10 pm Sunday to Thursday nights to 7am the following day.</u>	Not accepted. The evidence did not establish such a condition is reasonably required.	Council noted this condition was a recommendation of SLR Consulting. Resident submitters – Refer to Chapter 4.1
<b>Committee discussion</b>			
Agree with the Applicant. Refer to discussion in Chapter 4.1.			
14	Before the use or development commences, <del>(excluding any demolition, bulk excavation, site preparation and site remediation)</del> , an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority....	Not agreed. Condition appropriate as drafted.	Refer to commentary for Condition 2.
<b>Committee discussion</b>			

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
Support Applicant. Refer to Committee discussion for Condition 2.			
17	Before the development commences, <del>(excluding any demolition, bulk excavation, site preparation and site remediation)</del> , a Tree Management Plan to the satisfaction of the Responsible Authority...	Not agreed. Condition appropriate as drafted.	Refer to commentary for Condition 2.
<b>Committee discussion</b>			
Support Applicant. Refer to Committee discussion for Condition 2.			
19	Before the development commences, the permit holder must provide an Asset Protection Bond of \$3,000 (ex GST) for the tree along the Argyle Street frontage of the development to the Responsible Authority.		Resident submitters said the bond should be higher.
<b>Committee discussion</b>			
The Committee accepts the bond is a standard rate imposed by Council. There was nothing put to the Committee demonstrating a higher bond would be required.			
20	Before the use or development commences, <del>(excluding any demolition, bulk excavation, site preparation and site remediation)</del> , an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended 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 prepared by Enfield Acoustics and dated <a href="#">13 October 2024</a> <del>[insert]</del> , but modified to include (or show, or address):	Not agreed. Condition appropriate as drafted.	Refer to commentary for Condition 2.  Council disagrees with the Applicant based on advice from SLR. If the Committee were to agree with the Applicant, Council would strongly recommend that (c) be adopted.

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
	<p>a) Any changes required to comply with Condition <del>2</del><sup>1</sup>.</p> <p>b) <u>In the instance that the venue's existing non-compliance is taken into consideration] The assumed level of music noise at the façade of the proposed development is not to be less than 76 dB in the 63 Hz measurement band, based on an existing non-compliance for music noise from the Night Cat to existing dwellings of 19 dB in the 63 Hz band, unless it is demonstrated, to the satisfaction of the relevant authorities, that an alternative degree noncompliance exists.</u></p> <p>c) <u>For any proposal that includes the double glazing detailed in Enfield's Expert Witness Statement] The basis for the predicted 31 dB sound transmission loss in the 63 Hz measurement band of the glazing system proposed for apartments is to be provided. The proposed system comprises:</u></p> <p><u>i. Insulated Glass Unit (IGU) comprising 8 mm glass / 12 mm air / 10 mm glass</u></p> <p><u>ii. 160 mm airspace</u></p> <p><u>iii. 12 mm secondary glazing</u></p> <p><del>b) Whether the proposed residential use is designed to be constructed to include acoustic attenuation measures that will reduce noise levels from the Night Cat live music premises when operating at the levels permitted under</del></p>		

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
	<p><del>Planning Permit PL02/1224 to below the noise limits specified in the Environment Protection Regulations 2021 under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826, Environment Protection Authority, November 2020).</del></p> <p><del>c) For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of a noise-sensitive residential use with windows and doors closed (consistent with EPA Publication 1826).</del></p> <p><del>d) In the event that additional or alternative acoustic mitigation works and strategies are required to achieve compliance with this condition, the report must specify any such works and strategies.</del></p>		
<b>Committee discussion</b>			
Support Applicant. Refer to Chapter 4.1.			
24	<p>When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan (SMP) must be generally in accordance with the report prepared by <a href="#">Introba</a> and dated June 2023 but modified to include or show: <del>Ark Resources November 2024.</del></p> <p><a href="#">a) Any changes required to comply with Condition 2.</a></p>	<p>Query Council's reference to 2023 report rather than the 2024 Ark Resources report. Applicant considers it preferable that the evidence or Mr Talacko is referenced.</p>	<p>Council not satisfied with the recommendations made by Mr Talacko as the report did not form part of the amended plans that were substituted. Mr Talacko's evidence that a fan would suffice is strongly disagreed with as (a) apartments do not comply with ventilation standard of Clause 58 and (b) bedrooms do not have a window external to building (they have window to winter garden so ventilation to bedrooms will be extremely compromised).</p>



# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
	<ul style="list-style-type: none"> <li><u>b) How the 20% improvement on upfront carbon emissions will be met and how it is calculated.</u></li> <li><u>c) Updated solar photovoltaic (PV) system with minimum capacity proposed.</u></li> <li><u>d) The heating, ventilation, and air conditioning type and efficiency, and update SMP and plans to be consistent.</u></li> <li><u>e) Improve the thermal performance of poorer performing dwellings, so that no dwelling is less than 6 Star rating.</u></li> <li><u>f) Remove all ambiguous language from the SMP (e.g. “where possible”)</u></li> <li><u>g) An Environmental Management Plan for construction and demolition phases be developed and implemented</u></li> <li><u>h) The follow four items removed as “innovative” in the BESS report:</u> <ul style="list-style-type: none"> <li><u>i. Acoustic strategy</u></li> <li><u>j. Low Volatile Organic Compounds (VOC) paints</u></li> <li><u>k. Construction and demolition waste</u></li> <li><u>l. Air tightness testing.</u></li> </ul> </li> <li><u>i) Ventilation and natural daylight to corridors improved, potentially by extending to exterior walls of the building to north and south, and allowing for additional operable windows</u></li> </ul>		

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
	<p><u>j) High efficiency air supply with heat recovery (HRV) to dwellings with poor natural ventilation.</u></p> <p><u>k) Redesign of floorplates and apartment layouts, façade design (or other design options) for lower levels to ensure that BESS daylight standards for both living rooms and bedrooms are met.</u></p>		
<b>Committee discussion</b>			
Support Applicant. Refer to Chapter 4.2.			
26	Before the use or development commences, <del>(excluding any demolition, bulk excavation, site preparation and site remediation)</del> , an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority....	Not agreed. Condition appropriate as drafted.	Refer commentary for Condition 2.
<b>Committee discussion</b>			
Support Applicant. Refer to Committee discussion for Condition 2.			
30	Before the use or development commences, <del>(excluding any demolition, bulk excavation, site preparation and site remediation)</del> , a Wind Tunnel Test to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Wind Tunnel Test will be endorsed and will form part of this permit. The Wind Tunnel Test must be generally in accordance with the Wind Assessment	Unclear why Council is seeking to reference 2023 rather than 2024 report.	The 2024 report was not provided to Council as part of the application or amended plans and has not been peer reviewed.

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
	Report prepared by RWDI and dated <a href="#">23 August 2023</a> , <del>4 October 2024</del> but modified to include...		
<b>Committee discussion</b>			
Support Applicant. It is appropriate for permit conditions to reference the most recent Wind Report prepared for the Proposal. The report prepared for the approval of the responsible authority will include updates to the building form required by Condition 2 and will need to demonstrate compliance with wind comfort requirements in Clause 58.04-4. The Committee has refined the drafting of the condition in Appendix F to eliminate duplication and ensure all sub-clauses are clear.			
32	Before the development commences, (excluding any demolition, bulk excavation, site preparation and site remediation), 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 ...		Resident submitters – In addition to draft requirements, amend condition to provide: <ul style="list-style-type: none"><li>- gate on car park ramp be situated so that a car does not need to straddle the foot path and intrude into the street, or obstruct the street while waiting for the gate to open or close</li><li>- car parks for residents only and not operated as a commercial car park</li><li>- if car parks are charged-out then they should be free or lower cost to affordable housing tenants</li><li>- on-site parking for ride share cars.</li></ul>
<b>Committee discussion</b>			
Refer to discussion in Chapters 5.3 and 5.4. In addition, there is no need to amend the conditions to limit or restrict future commercial operation of the car park. Such an arrangement cannot be carried out under the current application and would be subject to a new application process.			
39	<a href="#">Before the building is occupied or by such later date as approved in writing by the Responsible Authority, the footpath along the property's Young Street and Argle Street frontages must be reconstructed in asphalt:</a> <a href="#">a) at the permit holder's cost; and</a>	Not supported. Amend as:  Before the building is occupied or by such later date as approved in writing by the Responsible Authority, <a href="#">any damage, apart from pre-existing damage, caused</a> to the footpath along the property's Young Street and Argle Street frontages	No comment

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
	<a href="#">b) to the satisfaction of the Responsible Authority.</a>	<a href="#">during construction</a> must be reconstructed in asphalt...	
<b>Committee discussion</b>			
Support Applicant. It is appropriate to require the footpath to be reinstated to its pre-existing condition.			
40	<a href="#">Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the kerb and channel along the property's Young St and Argle St frontages must be reconstructed:</a> <a href="#">a) at the permit holder's cost; and</a> <a href="#">b) to the satisfaction of the Responsible Authority.</a>	Not supported. Amend as:  Before the building is occupied or by such later date as approved in writing by the Responsible Authority, <a href="#">any damage, apart from pre-existing damage, caused</a> to the footpath along the property's Young Street and Argle Street frontages <a href="#">during construction</a> must be reconstructed in asphalt...	No comment.
<b>Committee discussion</b>			
Support Applicant. It is appropriate to require the kerb and channel to be reinstated to its pre-existing condition.			
47	<a href="#">Prior to the commencement of the use authorised by this permit, 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> <a href="#">a) a minimum of 10% of the total number of dwellings within the approved development under PLN23/0441 to be provided as affordable housing developed in association with an accredited housing association.</a>	Not agreed.	Condition should be retained. There is clear policy in the Yarra Planning Scheme requiring such a condition and the inclusion of such a condition is consistent with the submissions of the Applicant that it is trying to resolve the housing crisis with this development.

# (D45)	Draft conditions (Document 20) with Council mark up (Document 45)	Applicant (Document 66)	Council (Document 69) and resident submitters (Documents 67 and 68)
	<a href="#">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 Responsible Authority’s costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement.</a>		
<b>Committee discussion</b>			
Support Applicant. A condition requiring an affordable housing contribution can only be applied if voluntarily agreed by the Applicant, consistent with the submissions of the Applicant.			
51	This permit will expire if: <ul style="list-style-type: none"><li>- The development is not commenced within four years of the date of this permit; or</li><li>- The development is not completed within six years of the date of this permit.</li><li>- The use is not commenced within seven years from the date of this permit; or</li><li>- The use is discontinued for a period of two years...</li></ul>	-	Resident submitters – the expiry times should be amended as: <ul style="list-style-type: none"><li>- the time to commence the development should be two years</li><li>- the time to complete the development should be four year</li><li>- the time to commence the use should be give uses</li><li>- the time for expiry of the use should be one year.</li></ul>
<b>Committee discussion</b>			
The expiry provisions are appropriate for a development of the scale proposed and recognise the time required to obtain endorsed plans, secure building approvals and a construction team, and complete the construction to occupancy.			
Other		-	Resident submitters – should development given a Young Street address to prevent confusion.

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**Committee discussion**

Property addressing is a matter for Council.

Other	-	-	Resident submitters – need to ensure central air-conditioning system as many private open space areas are not big enough for individual air conditioning.
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**Committee discussion**

The Applicant confirmed a centralised air conditioning system will be installed, consistent with Document 31.

Other	-	-	Resident submitters – conditions should ensure short term occupancy of dwellings (for example Airbnb) is not permitted.
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**Committee discussion**

No conditions required. The Committee has proceeded on the basis the Victorian planning system does not regulate the duration of occupancy of a dwelling.

Other	-	-	Resident submitters – There should be conditions requiring water, stormwater, sewerage, electricity and communications infrastructure to be upgraded.
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**Committee discussion**

A Development Contributions Plan Overlay applies to the Land and requires contributions to be made towards the delivery of community and development infrastructure, including roads and drainage. Additional permit conditions are not required.

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## Appendix F Committee preferred version of the Planning Permit

### Permit Number:

**Planning Scheme:** Yarra Planning Scheme

**Responsible authority:** Yarra City Council

**Address of the land:** 155 Johnston Street, Fitzroy

**The permit allows:**

- Clause 34.01-1 Use of the land for dwellings
- Clause 34.01-4 Construct a building and carry out works
- Clause 43.01-1 Demolish or remove a building, construct a building and carry out works
- Clause 43.02-2 Construct a building and carry out works
- Clause 52.06-3 Reduce the number of car parking spaces

### The following conditions apply to this permit:

#### Compliance with documents approved under this permit

1. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

#### Amended plans required before the development starts

2. Before the development starts (excluding any demolition, bulk excavation, site preparation and site remediation), amended plans must be approved and endorsed by the responsible authority. The plans must:
  - a) be prepared to the satisfaction of the responsible authority;
  - b) be drawn to scale with dimensions and submitted in electronic form;
  - c) be generally in accordance with the prepared by Jackson Clements Burrows, Plan TP0-000, TP0-001, TP0-100 – TP0.105, TP1-100 – TP1-112, TP2-101 – TP2-107, TP3-101 – TP3-107, TP4-100 – TP4-124, TP5-100 – TP5-300, TP9-101, dated 7 November 2024, but modified to show the following details:
    - i) The removal of kerb to allow for the construction of a crossover in Demolition Plans.
    - ii) Sensor lighting in the recessed entry of the fire exit along Young Street, and deletion of the separating wall to the car parking ramp.
    - iii) Deletion of the “visually permeable panel” from the car park ramp and replaced with a convex mirror provided to assist with sight lines between motorists and pedestrians along Young Street and a Warning Flashing Light system to be installed at the southern interface of the access and pedestrian path (this light is to be active when the access gates are opened to alert pedestrians of an oncoming vehicle).

- iv) A cross-section of the louvres (angle and transparency) of the east-facing balconies to demonstrate compliance with Standard D15 (Internal views) of Clause 58.
- v) Details, including level of transparency, of the fencing and glazing of ground floor apartments facing onto the communal open space.
- vi) A notation to confirm that all showers to accessible dwellings are hobless and, where Design Option B at Table D7 of Clause 58.05-1 (Accessibility) is relied upon, has a removable shower screen.
- vii) A door between the waste storage room and smoke lobby on Basement Plan B1.
- viii) The visitor bicycle spaces, and associated area required to comply with Australian Standard AS2890.3., provided for entirely within the land and located near commercial or shared areas.
- ix) Details of the public realm interface on the north-east corner to, ensuring the access path along the adjacent property remains secure.
- x) A seamless level transition between the ground floor setbacks and public footpath.
- xi) A note confirming any tactiles, handrails, ramps or landings accommodated within the subject site boundary and not protrude outside of the subject site's title boundaries.
- xii) At least one bicycle repair station within the residential bicycle parking area.
- xiii) Wayfinding signage for bicycle facilities in accordance with clause 52.34 of the Yarra Planning Scheme.
- xiv) Dimensions of all bicycle storage spaces, lifts, corridors and relevant access ways to demonstrate compliance with Australian Standard AS2890.3 or to the satisfaction of the Responsible Authority.
- xv) A minimum of 2 electric bicycle charging points in the resident bicycle parking spaces adjacent to spaces suitable for electric bicycles to use.
- xvi) The location of the EV charge points on basement carpark plans.
- xvii) The surface levels of the vehicle access point along Young St checked to ensure the underside of a B99 vehicle can clear during ingress and egress manoeuvres.
- xviii) Title boundaries correctly expressed in metres.
- xix) Internal overlooking between the ground level communal and open space and adjacent dwellings treated with landscaping per the Acre landscape plans (22 October 2024) and minimum 1.7 metre high side wall screens with maximum 25% transparency.
- xx) Internal overlooking at levels 1 to 9 treated in accordance with sketch plan SK-100 (Jackson Clements Burrows Architects, 22 October 2024).
- xxi) Elevations updated to correct the height of the upper level balustrades.
- xxii) Level 4 to 8 plans corrected to show the length of the southern corridor and window positioning.



- xxiii) Compliance with Standard D18 for at least 50% of dwellings.
  - xxiv) Any changes required to comply with Condition 11 (Façade Strategy)
  - xxv) Any changes required to comply with Condition 13 (Landscape Plan)
  - xxvi) Any changes required to comply with Condition 19 (Acoustic Report)
  - xxvii) Any changes required to comply with Condition 23 (Sustainable Management Plan)
  - xxviii) Any ventilation pathways introduced to comply with Condition 24 (Sustainable Management Plan) are adequately acoustically treated.
  - xxix) Any changes required to comply with Condition 25 (Waste Management Plan)
  - xxx) Any changes required to comply with Condition 29 (Wind Assessment)
  - xxxi) The development and use 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 consultant team, Jackson Clement 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.
4. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
5. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- a) Monday to 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.
6. 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 basement car park and building entrances must be provided within the subject land boundary. Lighting must be:
- a) located;
  - b) directed;
  - c) shielded; and
  - d) of limited intensity
- to the satisfaction of the Responsible Authority.
7. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.

8. 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.
9. Before the building is occupied, any wall located on a boundary facing public property to the underside of the mezzanine level must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

**Use conditions**

10. 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.

**Façade strategy**

11. In conjunction with the submission of development plans under Condition 2, 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) any changes required to comply with Condition 2;
  - b) elevation drawings at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical tower facade details;
  - c) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
  - d) information about how the façade will be maintained, and
  - e) a sample board or coloured drawings outlining colours, materials and finishes.
12. The provisions, recommendations and requirements of the endorsed Façade Strategy must be complied with and implemented to the satisfaction of the Responsible Authority.

**Landscaping plan**

13. Before the use or development commences, excluding any demolition, bulk excavation, site preparation and site remediation work, 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 Acre and dated 22 August 2023, but modified to include (or show):
  - a) any changes required to comply with Condition 2;
  - b) details of balcony planter boxes to dwellings, including dimensions (particularly width and depth), drainage, lining, materials, and growing media, ensuring:

- i) Volumes and cultivations depth of growing media are adequate for the proposed plant species.
    - ii) For above ground planted areas (particularly rooftop terraces and green roofs, wind-proof mulch is to be used (such as screened rock).
  - c) confirmation that overflow outlets are to be connected to the building's stormwater drainage; and
  - d) a maintenance schedule, including task details and frequency, as well as details of maintenance access.
14. 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.
15. 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.

#### **Tree management plan**

16. Before the development commences, excluding any demolition, bulk excavation, site preparation and site remediation, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for:
- a) the protection of the street tree along the Argyle Street frontage:
    - i) pre-construction;
    - ii) during construction; and
    - iii) post construction
  - b) the provision of any barriers;
  - c) any pruning necessary; and
  - d) watering and maintenance regimes
- to the satisfaction of the Responsible Authority.
17. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

#### **Street Trees Bond**

18. Before the development commences, the permit holder must provide an Asset Protection Bond of \$3,000 (ex GST) for the tree along the Argyle Street frontage of the development to the Responsible Authority. The security bond:

- a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority; and
- b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority.

### **Acoustic report**

19. Before the use or development commences, excluding any demolition, bulk excavation, site preparation and site remediation, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended 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 prepared by Enfield Acoustics and dated 13 October 2024, but modified to include (or show, or address):
  - a) any changes required to comply with Condition 2.
20. Within 3 months of the commencement of the use, 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) noise from mechanical equipment, including the substation to Argyle Street, be designed to comply with both the Noise Protocol (Part 1) (Publication 1826.4, Environment Protection Authority, May 2021) at both the apartment building across Argyle Street and in the apartments of the building subject to this permit. Consideration should also be given to the EPA Victorian guidelines for low frequency noise (Publication 1996).
  - b) any noise limits and mitigation works committed to in the Endorsed Acoustic Report pursuant to Condition 19 are achieved.
  - c) 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) as may be amended from time to time, or any other requirement to the satisfaction of the Responsible Authority.
21. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
22. The use and development 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), as may be amended from time to time.

### **Sustainable management plan**

23. Before the use and development commences, (excluding any demolition, bulk excavation, site preparation and site remediation), an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will

be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the *Statement of Evidence Environmentally Sustainable Design* (Jan Talacko, Ark Resources) but modified to include or show:

- a) demonstrate the development can attain the following standards in relation to environmentally sustainable design:
  - i) 4 star Green Star Buildings rating;
  - ii) Compliance with the BESS daylight standard for living areas and bedrooms;
  - iii) Average NatHERS energy rating of 7.5 stars;
  - iv) Compliance with the energy efficiency standard in clause 58.03-1;
  - v) Compliance with the Urban Stormwater Best Practice Environment Management Guidelines.
- b) include evidence of registration of the development with the Green Building Council of Australia targeting a 4 star rating;
- c) any changes required to comply with Condition 2.

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

#### **Waste management plan**

25. Before the use or development commences, (excluding any demolition, bulk excavation, site preparation and site remediation), 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 28 June 2023, but modified to include:

- a) any changes required to comply with Condition 2;
- b) how hard waste will be collected and from where;
- c) details of the use of a diverter chute for separation of recycling and glass;
- d) A revised waste collection method noting that Council's bin service would be unsuitable due to the site requiring large volumes of waste to be collected from within the subject land.

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

27. The collection of waste from the subject land must be by private collection, unless with the prior written consent of the Responsible Authority.

28. Delivery and collection of goods to and from the subject 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.

## Wind Assessment

29. Before the use or development commences, (excluding any demolition, bulk excavation, site preparation and site remediation), a Wind Tunnel Test to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Wind Tunnel Test will be endorsed and will form part of this permit. The Wind Tunnel Test must be generally in accordance with the Wind Assessment Report prepared by RWDI and dated 24 October 2024, but modified to include (or show):
- a) any changes required to Comply with Condition 2;
  - b) the appropriate target comfort criterion for areas around the development is applied in accordance with Clause 58.04-4;
  - c) how the target comfort criteria is met;
  - d) removal of ambiguous wording (that is “comfortable window conditions”);
  - e) removal of recommendations that rely on vegetation for the comfort criteria to be met, and where relevant, provide new recommendations;
  - f) the assessment of impermeable balustrades on the Level 5 northwest corner balcony and on all balconies on Level 9, demonstrating the relevant comfort criteria is met.
30. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

## Car Park Management Plan

31. Before the development commences, (excluding any demolition, bulk excavation, site preparation and site remediation), 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) details of way-finding, cleaning and security of end of trip bicycle facilities;
  - b) the number and allocation of storage spaces where relied upon for compliance with Standard D21 of Clause 58;
  - c) 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;
  - d) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 25; and
  - e) details regarding the management of loading and unloading of goods and materials.
32. 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.

**Public Realm conditions**

33. Concurrent with the submission of Condition 1 plans or by such later date as approved in writing by the Responsible Authority, a vehicle crossing design must be submitted to Council's Civil Engineering Department for approval.
34. 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 at the permit holder's cost to the satisfaction of the Responsible Authority.
35. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossings must be demolished and re-instated as footpath, verge (if applicable), and kerb and channel at the permit holder's cost to the satisfaction of the Responsible Authority
36. Before the use or development commences, (excluding any demolition, bulk excavation, site preparation and site remediation), or by such later date as approved in writing by the Responsible Authority, a Public Lighting Plan to the satisfaction of the Responsible Authority must be submitted to and approved by Council's Civil Engineering Department. When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must be designed to:
  - a) address lighting along Young St, Argle St and along areas traversed by pedestrians including entrances to the approved building;
  - b) comply with uniformity, access and maintenance requirements as per standard AS1158.3.1; and
  - c) control light spillage in accordance with the requirements of AS 4282 – 2019," Control of the obtrusive effects of outdoor lighting"all to the satisfaction of the Responsible Authority.
37. 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.
38. Before the building is occupied or by such later date as approved in writing by the Responsible Authority, any damage, apart from pre-existing damage, caused to the footpath along the property's Young Street and Argle Street frontages during construction must be reconstructed in asphalt at the permit holder's cost to the satisfaction of the Responsible Authority.
39. Within 2 months of the completion 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) in accordance with Yarra Standard Drawings;
  - b) at the permit holder's costto the satisfaction of the Responsible Authority.
40. Any service poles, structures or pits located within the public realm areas that interfere with the proposal, must be adjusted accordingly at the permit holder's cost to the satisfaction of the Responsible Authority.

**Green Travel Plan**

41. Before the use commences, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Green Travel Plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by Impact and dated 30 June 2023, but modified to include or show any changes required to comply with Condition 2.
42. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

**Development Infrastructure Levy**

43. 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**

44. 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.

**Construction Management Plan**

45. 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 Construction Management 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 subject 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 subject land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the subject land;
  - e) facilities for vehicle washing, which must be located on the subject 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;
    - ii) materials and waste;
    - iii) dust;
    - iv) stormwater contamination from run-off and wash-waters;
    - v) sediment from the subject land on roads;
    - vi) washing of concrete trucks and other vehicles and machinery; and



- vii) spillage from refuelling cranes and other vehicles and machinery;
- i) the construction program;
- j) preferred arrangements for trucks delivering to the subject land, including delivery and unloading points and expected duration and frequency;
- k) parking facilities for construction workers;
- l) measures to ensure that all work on the subject land will be carried out in accordance with the Construction Management Plan;
- m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- n) 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;
- o) 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;
- p) 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; and
  - v) other relevant considerations.

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.

46. During the construction:

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

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

**Expiry conditions**

48. This permit will expire if:

- a) the development is not commenced within four years of the date of this permit; or
- b) the development is not completed within six years of the date of this permit;
- c) the use is not commenced within seven years from the date of this permit; or
- d) the use is discontinued for a period of two years.

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.