

Planning Panels Victoria

Referral 43: VCAT Call-in P336/2024 475-481 Church Street, Richmond Priority Projects Standing Advisory Committee Report

Planning and Environment Act 1987

9 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.

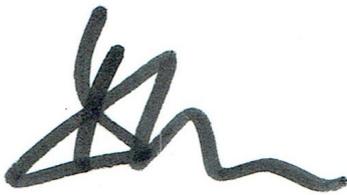
Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Report pursuant to section 25 of the *Planning and Environment Act 1987*

Referral 43: VCAT Call-in P336/2024

475-481 Church Street, Richmond

9 January 2025

A handwritten signature in black ink, consisting of a stylized, bold, and somewhat abstract set of strokes.

David Merrett, Chair

A handwritten signature in black ink, featuring a more fluid and cursive style with several loops and a long tail.

Andrew Hutson, Member

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Glossary and abbreviations

Amended plans	Architectus plans circulated dated 19 November 2024
Applicant	475 Church Street Pty Ltd
Committee	Priority Projects Standing Advisory Committee
Council	Yarra City Council
Cremorne UDF	Revised Cremorne Urban Design Framework September 2023
D#	Document number
DDO53	Design and Development Overlay Schedule 53 (Cremorne Enterprise Precinct – Church Street Precinct)
DFP	Development Facilitation Program
NOD	Notice of Decision to Grant a Permit
Planning Scheme	Yarra Planning Scheme
subject land	475-481 Church Street, Richmond
VCAT	Victorian Civil and Administrative Tribunal

Overview

Referral summary

Referral land	475-481 Church Street, Richmond
VCAT call-in	Referral 43: VCAT Call-in P336/2024
Brief description	Development of an 11-storey mixed use building comprising office space, retail, and food and drink premises
Applicant	475 Church Street Pty Ltd
Planning Authority	Yarra City Council
Objections to Permit Application PLN23/0316	26

Committee process

The Committee	David Merrett (Chair) and Andrew Hutson
Supported by	Gabrielle Trowse, Project Officer, Planning Panels Victoria
Directions Hearing	Online on 30 October 2024
Committee Hearing	In person at Planning Panels Victoria and online on 3 and 4 December 2024
Site inspections	Unaccompanied, 2 December 2024 Accompanied, 3 December 2024
Parties to the Hearing	475 Church Street Pty Ltd (Applicant) represented by Adrian Finanzio of Counsel, instructed by Planning & Property Partners, calling the following expert evidence: Mark Sheppard of Urbis in urban design Clare McAllister of Ratio in urban design/architecture Stuart McGurn of Urbis in town planning Yarra City Council represented by Darren Wong of Planology Scott Pease
Citation	Priority Projects Standing Advisory Committee Referral 43 [2025] PPV
Date of this report	9 January 2025

Executive summary

Overview of proposal

Planning Permit Application PLN23/0316 proposes the development of an 11-storey commercial building comprising offices and ground floor retail uses and a reduction in car parking requirements at 475-481 Church Street, Richmond.

The subject land is large (3,347 square metres) and is located within an employment precinct where significant mid-rise commercial infill development is expected. It is located a short walk to the Richmond-Swan Street Major Activity Centre.

Planning Application PLN23/0316 was determined by Council on 27 February 2024 which issued a Notice of Decision to Grant a Permit. This contained 61 permit conditions and many Condition 1 amended plan requirements. Key Condition 1 requirements that were subject of this Hearing include:

- the deletion of two levels from the main building
- a 3 metre setback for the rear pavilion building from the residential properties at 7 Sanders Place, Richmond
- deletion of the window on the north wall of the pavilion building
- treatment of the main building to prevent overlooking of Sanders Place townhouses
- the removal of a glazed recess in the main building front façade.

The Referral was listed to be heard at the Victorian Civil and Administrative Tribunal (VCAT) starting on 27 January 2025. Proceeding P336/2024 was initiated by the joint objectors led by Nicolas Voelcker, seeking review of Council's decision to grant a permit.

The Minister for Planning considered the proposal raises a major issue of policy, and determination of the proceeding may have a substantial effect on the achievement of planning objectives.

The key issues before the Committee that required determination related to:

- building height
- setback of the pavilion building
- overlooking
- permit conditions.

Reasons for findings

The Committee finds the permit application is strategically supported by state and local planning policy that guides significant infill development into the Cremorne enterprise precinct as a major employment precinct for the City of Yarra.

The Yarra Planning Scheme provides strong support for mid-rise development (8-12 storeys) in this major employment precinct that is identified in the Strategic Framework Plan in the Municipal Planning Strategy. The land has excellent public transport access to the services and facilities of the precinct and the Richmond-Swan Street Major Activity Centre.

The precinct is experiencing significant redevelopment that is defining an emerging, more intense built form character. Several 10-12 storey developments are either constructed or approved in Church Street.

The land is relatively unconstrained, but the proposal raised concerns over the height of the main building and several interface issues with the residential properties to the rear of the subject land. To address these concerns the Applicant circulated amended plans that:

- deletes Level 10 (resulting in a 10 storey building)
- reduces the height of the rear pavilion building from 4 storeys to 2 storeys with a saw-tooth roof form
- locates the pavilion building at the residential boundary or 0.4 metre from it
- constructs a screen at the property boundary to mitigate overlooking impacts.

The Committee adopts the Applicant's amended plans subject to the recommendations of this Report. The Committee does not see any planning benefit in deleting another storey as resolved by Council in an area where commercial floorspace underpins the role of the precinct. The overshadowing impact of the 10 storey building is limited and not unreasonable on the western footpath of Church Street.

While not bound by the agreement the Committee considers it is a relevant matter that the changes to the pavilion building satisfied the submitters and resulted in the joint submitters and another submitter withdrawing from the Hearing. The Committee does not agree with Council, in this case, that overlooking should be addressed at its source as the proposed screen protects views to the north over the lower height of the pavilion building and inhibits views to west to the taller main building.

On other matters the Committee accepts:

- the need for an early works permit condition but does not consider this should include demolition as no permit is required for this
- the need for a planter box to be inserted into the glazed recess between the Restricted Retail Premises entries
- the width of the pedestrian access along Sanders Place should be at least 1.45 metres from the planter boxes or subject to another arrangement acceptable to the Responsible Authority
- publicly accessible seating should be added to the main forecourt entry.

Recommendation to the Minister for Planning

The Committee recommends:

- 1. Approve and issue Planning Permit PLN23/0316 subject to the conditions shown 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 on 14 June 2020. The purpose of the Committee is set out in its (amended) Terms of Reference dated 9 September 2023 (see Appendix A):

... 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.

This is Referral 43 to the Committee. The Minister's letter of referral dated 27 September 2024 (see Appendix B) noted the:

- project was referred by the DFP
- proceedings raised 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 on whether a planning permit should be issued, and if so, the appropriate permit conditions that should be imposed.

The Referral was listed to be heard at the Victorian Civil and Administrative Tribunal (VCAT) starting on 27 January 2025. The VCAT Proceeding relates to Planning Permit Application PLN23/0316, which proposed to develop an 11-storey commercial building comprising offices and ground floor retail uses and sought a reduction in car parking requirements at 475-481 Church Street, Richmond (the subject land).

Two VCAT proceedings relate to this matter, which VCAT determined in its order of 12 July 2024 would be heard together as they sought review of the same Yarra City Council (Council) decision, including:

- Proceeding P336/2024: initiated by the joint objectors led by Nicolas Voelcker, seeking review of Council's decision to grant a permit
- Proceeding P448/2024: initiated by 475 Church Street Pty Ltd, seeking review of conditions included in Council's Notice of Decision to Grant a Permit.

By order dated 15 October 2024, the Tribunal granted leave for the Applicant to withdraw the Conditions Proceeding (P448/2024). The consideration of permit conditions that form the planning permit are considered by the Committee.

The members of the Committee that considered Referral 43 are:

- Mr David Merrett, Chair
- Mr Andrew Hutson, Member.

The Committee was assisted by Ms Gabrielle Trowse, Project Officer 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 10 October 2024 advising of the

referral and inviting them to attend a Directions Hearing at Planning Panels Victoria on 30 October 2024.¹

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 on at the Hearing before the Directions Hearing. All parties seeking to be heard complied with that Direction. After reviewing the key issues, the Committee summarised the key issues at the Directions Hearing being (but not exclusively):

- built form and urban design, including the height of the main building and potential deletion of floors, and the height and setbacks of the rear pavilion building
- permit conditions
- overlooking
- protection of vegetation.

(ii) Site inspections

The Committee held an unaccompanied site inspection on 2 December 2024 and an accompanied site inspection on Day 1 of the Hearing.

1.3 Amended plans

In accordance with the Committee's Direction 6, 475 Church Street Pty Ltd (the Applicant) lodged amended plans (D18) and a Hearing version of the Notice of Decision to Grant a Permit (NOD) (D19) on 6 November 2024 that included the removal of Level 10 from the main building.

The Applicant discussed issues with the submitters from Sanders Place and Brighton Street to the rear of the subject land and on 19 November 2024 submitted:

- further amended plans (D22)
- a revised NOD (D23 and D24 containing clean and tracked versions respectively).

To address other permit condition issues, the Applicant submitted a Day 1 Hearing version of the NOD (D50) that included the changes of the amended plans (D22). These changes are detailed in Chapter 2. For the purposes of this Report the Committee adopts the D50 version of the NOD upon which all recommendations of this Report are based.

1.4 Resolved issues and parties

Based upon the changes contained in the amended plans (D22):

- Mr English representing the joint submitters in Sanders Place advised by email (D27) that the submitters were satisfied with the amended plans and withdrew from the Hearing
- Mr O'Leary representing a submitter in Brighton Street advised by email on 20 November 2024 (D26) that the submitter was satisfied with the amended plans and withdrew from the Hearing
- Head, Transport for Victoria and City Link Melbourne advised by letter (D48) on 29 November 2024 that it was satisfied with the permit conditions that related to the City Link tunnels and withdrew from the Hearing.

In response to the amended plans (D22) and the revised NOD (D50), Council maintained its support for the proposal but submitted the following issues were unresolved:

¹ D4

- deletion of Level 5
- setback of the eastern elevation to 28 and 30 Brighton Street and the southern elevation to 7 Sanders Place
- deletion of the highlight window in the pavilion building along the northern boundary
- screening treatments to manage overlooking
- provision of bicycle facilities.

The Applicant prepared a list of remaining issues (D58) and whether they were resolved or unresolved, stating the following issues had been resolved:

- the bicycle facilities required by Conditions 1(j) and 1(k)
- the preamble to Conditions 1, 22, 27, 29, 33, 39, and 43 to exempt early works subject to finalising the drafting of Conditions 3 for the early works plan.

Ultimately, there were four remaining unresolved issues:

- the height of the proposed main building and whether Level 5 should be deleted
- the setback of the pavilion building from residential boundaries
- the use of a screen adjacent to a residential property in Sanders Place to address overlooking
- the drafting of permit conditions.

The submitter who did not withdraw from the Hearing maintained his objection that the pavilion building should be set back 3 metres from the abutting residential boundaries.

1.5 The Committee's approach

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.

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

- the original application reports and plans
- Council's Planning Decisions Committee report of 27 February 2024 recommending a Notice of Decision to Grant a Permit be issued
- amended plans and draft conditions filed by the Applicant on 19 November 2024
- Council response to the amended plans
- expert evidence from the Applicant
- submissions made at the Hearing.

Clause 20 of the Committee's Terms of Reference require it to provide a "*concise written report*" to the Minister for Planning. This Report focuses on the key determinative issues only and does not seek to deal with every matter raised. 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:

- The subject land and proposal
- Strategic planning context
- Building height, pavilion building and overlooking
- Permit conditions
- The planning permit.

2 The subject land and proposal

2.1 The subject land and its context

The subject land is located on the east side of Church Street, generally between Swan Street to the north and the Yarra River to the south. It is irregularly shaped and comprises three titles with a combined area of 3,347 square metres.

Figure 1 shows the context of the subject land and its surrounds. Adjoining land to the north (459-471 Church Street) contains a 10 storey (is 41.5 metres) mixed use commercial building known as Industry Lanes (Figure 2). To its rear is a 4 storey childcare centre that fronts Brighton Street.

Figure 1 The subject land and its surrounds



Source: Ms McAllister evidence statement (D30), page 8

One, two and three-storey commercial buildings currently occupy the subject land (Figure 3).

At the northern part of the eastern boundary, the subject land abuts the rear of dwellings at 28 and 30 Brighton Street. The central part of the eastern boundary abuts 3 storey attached townhouses at 7 Sanders Place. The southern part of the eastern boundary abuts a private laneway providing access to 7 Sanders Place (Figure 4) and to the east of this is a 2 storey office building at 1-3 Sanders Place.

Figure 2 Industry Lanes at 459-471 Church Street, Richmond



Source: Ms McAllister evidence statement (D30), page 9

Figure 3 Site frontage to Church Street



Source: Mr Sheppard evidence statement (D29), page 17

To the south of Sanders Place are 2 storey commercial buildings.

To the west at 500 Church Street is a 3 storey commercial building and at 506-510 Church Street is a 10-storey plus roof terrace office development (Figure 5).

Figure 4 Access lane to 7 Sanders Place townhouses



Source: Ms McAllister evidence statement (D30), page 10

Figure 5 500 and 506-510 Church Street, Richmond



Source: Ms McAllister evidence statement (D30), page 12

Figure 6 provides a view of the subject land to the rear of dwellings fronting Brighton Street.

Figure 6 View west from Brighton Street with subject land occluded



Source: Committee photo

The Richmond-Swan Street Major Activity Centre is located approximately 200 metres north of the subject land.

2.2 The proposal

The amended plans (D22) show a mixed use commercial building, to be known as Richmond Lofts, including:²

A main ten (10) storey building, comprising a podium varying between two and four storeys, and a secondary two (2) storey 'pavilion' building on the north-eastern part of the site, to be used for the purposes of office, restricted retail, food and drink premises and shop uses. Two levels of basement carparking are provided, incorporating 152 parking spaces.

Mr McGurn, giving evidence for the Applicant, provided a helpful summary of the amended plans:

Main building

- Above the podium, the main building's tower component is set back a minimum of 5 metres. At upper levels, the building's front wall slants away from Church Street, resulting in increased setbacks (reaching approximately 9.78 metres at roof level). The main building generally presents as three elements to Church Street, with the elements stepping down in height from the north to the south.
- The main building's overall height steps down from 46.95 metres in the north, to 43.95 metres, to 41.6 metres. The upper level incorporates a double-height void at the western and eastern ends of the building in the central and northernmost elements. These elements serve to integrate the rooftop plant with the overall building. The plant level protrudes above the southernmost component but is concealed by the central and northernmost elements.
- The main building's setbacks increase as it increases in height. To the street, the building is generally built to boundary at podium level, which increases in height from 2

² D28, paragraph 1

storeys in the south to four storeys in the north. Above the podium, the building is set back 5 metres, increasing to 9.78 metres at the top level. A ground level setback is provided to the Food and Drink premises (3.36 metres) and to the building entry (7.81 metres).

- To the north, the podium is built to the boundary. The upper levels are set back 4 metres, excluding the central building core which is built to the boundary. To the south, a 3.045 metre setback is provided at ground level, incorporating a new footpath and widened carriageway.
- The building is built to the boundary for the remainder of the podium level and is then set back 5 metres from the Sanders Place centreline, increasing to 8.6 metres at the top level.
- The ground and first floor level eastern setbacks vary from 3.95 metres to 7 Sanders Place, to 13.905 metres centrally in the site. The remainder of the podium is generally set back 5 metres from the boundary. At upper levels, the set back is a minimum of 5 metres.

Pavilion building

- The pavilion building, which reaches a height of two storeys plus rooftop plant (approximately 9.5 metres in height) and the main building are connected internally at ground level, with end of trip facilities located in the lower pavilion level. A mezzanine level and outdoor area provides access to the upper level of the pavilion. Level 2 of the main building is separated from the pavilion building's roof and plant area by 5 metres.
- The pavilion building is built to the eastern boundary (common boundary with 28 and 30 Brighton Street) and is set back 0.4 metres from the southern boundary. The pavilion's roof form comprises two sawtooth components running east-west, screening the plant located to their north. A slanted roof element runs along the eastern boundary, screening the plant from views from the east.

The main building will accommodate a 75 square metre shop, a 679 square metre restricted retail premises, and a 255 square metre food and drink premises. Sanders Place will provide vehicle access to the underground carpark and a loading bay and pedestrian access to the shop and restricted retail premises. The food and drink premises will have direct access from Church Street and the internal foyer.

Sanders Place will be widened the full depth of the subject land to accommodate vehicle and pedestrian movements.

Figure 7 contains an image of the amended plans from Church Street showing Level 10 deleted. Figure 8 contains an image of the lower levels of the development at the corner of Sanders Place and Church Street.

Figure 7 Comparison of decision and amended plans from Church Street



Source: D31a, page 15

Figure 8 Proposed development on the corner of Church Street and Sanders Place



Source: Ms McAllister expert statement (D30), page 28

2.3 Cremorne Urban Design Framework

Council adopted the Revised Cremorne Urban Design Framework September 2023 (Cremorne UDF) in September 2023. The subject land is in Precinct CS-E.

Yarra Planning Scheme Amendment C317yara proposes interim planning controls including Design and Development Overlay Schedule 53 (DDO53 – Cremorne Enterprise Precinct – Church Street Precinct) and is currently being considered by the Minister for Planning. Yarra Planning Scheme Amendment C318yara will seek to implement DDO53 as a permanent control.

2.4 Council decision

At its 27 February 2024 meeting, Council resolved to support the application but to amend or add the following conditions:

- Condition 1(b): amend to require the deletion of Level 10
- Condition 1(c): new condition to require the east elevation of the pavilion building set back in accordance with Figure 42 (direct residential interface) in accordance with the Cremorne UDF which shows a 3 metre setback.
- Condition 25(a): amend to insert reference to the Japanese Maple tree in the courtyard of Unit 1, 7 Sanders Place.

The amended plans (D22) and NOD (D50), proposed by the Applicant vary from the Council resolution in the following ways:

- deletion of the Levels 2 and 3 of the pavilion building resulting in a 2 storey building and a 3 metre setback to the residential boundaries
- insertion of a 10 metre by 4 metre louvred screen on the subject land adjacent to the western wall of Unit 1, 7 Sanders Place
- retention of Level 5 in the main building and deletion of Level 10.

3 Strategic planning context

3.1 Background

The Committee had regard to:

- Council Officers' report and Council resolution of 27 February 2024
- urban design evidence of Ms McAllister and Mr Sheppard as it related to urban design policy
- planning evidence of Mr McGurn as it related to planning policy
- relevant submissions from Council, the Applicant and the submitter.

The key issues to be resolved are:

- whether the application is supported by State and local planning policy
- how the proposal will deliver on key policy imperatives.

3.2 Planning context

This chapter identifies planning context, including in the Yarra Planning Scheme (Planning Scheme) relevant to planning permit application.

Table 1 Planning context

	Relevant references
Victorian planning objectives	section 4 of the <i>Planning and Environment Act 1987</i>
Municipal Planning Strategy	Clause 02.01-8 Economic development Clause 02.03-4 Built environment and heritage Clause 02.03-6 Economic development Clause 02.04 Strategic Framework Plan
Planning Policy Framework	Clauses 11.01-1S Settlement, 11.01-1R Settlement – Metropolitan Melbourne Clauses 13.07-1S Land use compatibility, 13.07-1L Interfaces and amenity Clauses 15.01-1S Urban design, 15.01-1R Urban design – Metropolitan Melbourne, 15.01-1L Urban design Clauses 15.01-2S Building design, 15.01-2L Building design and 15.01-2L-01 Environmentally sustainable development Clauses 17.01-1S Diversified economy, 17.01-1R Diversified economy – Metropolitan Melbourne, 17.01-1R Diversified economy – Metropolitan Melbourne – Inner Metro Region, 17.01-1L Employment, 17.01-2S Innovation and research, 17.02-1S Business Clauses 18.01 Land use and transport, 18.01-3L Sustainable transport Clause 18.02 Movement networks, 18.02-2L Cycling and 18.02-4L-01 Car parking
Other planning strategies and policies	Yarra Spatial and Economic Employment Strategy 2018 Cremorne UDF
Planning scheme provisions	Clause 34.02 Commercial 2 Zone

Clause 43.02 Design and Development Overlay Schedule 2 (Main roads and boulevards)

Clause 43.02 Design and Development Overlay Schedule 5 (City Link exhaust stack environs)

Clause 45.06 Development Contributions Plan Overlay (Yarra Development Contributions Plan)

Clause 45.07 City Link Project Overlay

Table 2 Planning permit triggers

Provisions	Permit trigger
Clause 34.02-1	Food and drink premises (because the leasable floor area exceeds 100sqm) Shop (because it does not adjoin a supermarket or directly adjoins Church Street) Buildings and works
Clause 43.02-2	Buildings and works
Clause 45.07-1	Buildings and works
Clause 52.06-3	Reduce car parking requirements

3.3 Evidence and submissions

(i) Applicant

The Applicant submitted that *“all parties before the Committee agree or accept that a permit should issue for the development”*.

Mr McGurn gave evidence that *“the proposal is an ideal candidate to achieve strategic policy objectives.”* Mr McGurn considered the proposal would contribute to the Cremorne employment precinct which is identified in the Strategic Framework Plan at Clause 02.04 as a major employment precinct.

There are no height controls in the Planning Scheme for the subject land and Mr McGurn considered an assessment of height should be in context with the surrounding area and an exercise of judgement, including the tapering of height down to the residential interface to the rear. Mr McGurn gave evidence that the proposal was consistent with Clause 15.01-2L where employment areas are an identified location for mid-rise development. Mr McGurn considered a 10 storey building was a mid-rise development and referred the Committee to the subject land’s context within Church Street where several other developments, including Industry Lanes immediately to the north, had been approved and constructed at 10 storeys.

Both Mr Sheppard and Ms McAllister accepted a 10 storey building in this location was mid-rise. Ms McAllister gave evidence that mid-rise development is and has been supported in this precinct if it:

- is high quality built form demonstrating architectural design excellence
- provides a transitional scale to the low-rise residential neighbourhood and does not create unreasonable off-site amenity impacts
- does not visually dominate proximate heritage properties

- makes a positive contribution to the street-level public realm, including providing active frontages at street-level and improving movement through the site.

(ii) Council

Council submitted that:³

It considers that the subject land is highly accessible, appropriately zoned and well resourced with infrastructure and services which makes it an excellent candidate for an intensive commercial development.

These positive attributes need to be balanced with managing the more sensitive residential interfaces to the east and south and ensuring the building will be an acceptable fit within Church Street.

Council considered the proposal was an acceptable outcome, subject to the consideration above, and met the strategic role of the area as a major employment precinct.

(iii) Submitter

The submitter did not consider a planning permit should not be granted but is more concerned with the residential interface with the proposed pavilion building.

3.4 Discussion

All parties accepted the main issue before the Committee was not if a planning permit should be granted but what form it should take. This includes the submitters and the Head, Transport for Victoria and CityLink that withdrew from the Hearing based upon the amended plans that were circulated by the Applicant on 19 November 2024 (D22) (see Chapter 1.5).

The Committee considers the issue of building height in Chapter 4 but notes Council's building design local policy at Clause 15.01-2L requires the consideration of "*adjoining development building height or where there are no specified building height requirements, have regard to the physical and strategic context of the site.*" The Committee accepts that the Applicant has taken this approach with the building design in the absence of specific height guidance in the Planning Scheme.

While the Cremorne UDF is not yet part of the Planning Scheme, it is noteworthy that proposed DDO53 supports a preferred height of 40 metres along Church Street and has either a 20 or 28 metre preferred height at the subject land's residential interface to the rear. The Committee notes that one of the design objectives of DDO53 is:

To support a new mid-rise built form character with taller built form reinforcing the Church Street activity spine and transitioning to a lower built form on narrow east-west side streets and at the interfaces with adjoining low rise residential areas.

The Committee accepts the subject land is appropriately zoned, is not restricted by heritage considerations and presents as a large development site which has the potential to accommodate a large mid-rise building which will provide commercial floorspace for one of Council's major employment precincts. Redevelopment of this employment precinct has commenced and Council, the Applicant and experts all referred to examples immediately adjoining the subject land and nearby along the Church Street spine where developments of similar scale have been

³ D52, paragraph 11

constructed. The Committee considers the proposal is consistent with planning policy and the emerging built form of the precinct.

3.5 Findings

The Committee finds:

- the proposal is supported by, and implements, the relevant sections of the Planning Policy Framework
- the proposal is well founded and strategically justified
- the subject land is appropriately zoned to provide for a commercial redevelopment of the land at an appropriate scale and intensity
- the proposal will assist in the development of the Church Street employment precinct
- there is no planning reason to preclude the issue of the planning permit subject to the design considerations discussed in Chapters 4 and 5 of this Report.

4 Building height, pavilion building and overlooking

4.1 Amended plan summary

The amended plans (D22) show the:

- deletion of Level 10 and retention of Level 5
- reduction of pavilion height to two storeys and constructing it to the residential boundaries
- retention of the north facing highlight window in the pavilion
- erection of a screen at the western Sanders Place townhouses boundary to address overlooking.

4.2 Building height

(i) The issue

The issue is whether Level 5 should be deleted from the main building.

(ii) Background

Council engaged Hansen Partnership to review the urban design merits of the permit application. In August 2023 Hansen Partnership recommended a reduction in overall building height with the removal of Level 5 and a reduction of the 4 storey pavilion building to three storeys.

Council staff recommended the deletion of Level 5 or an alternative level in the officer report and Council resolved to issue the NOD with Condition 1(b) to include the deletion of Level 5 and Level 10.

(iii) Evidence and submissions

Council submitted that it:

... acknowledges that the Amended Plans have reduced the height and scale of the main building. While deletion of Level 10 is an improvement, some further reduction in height and scale of the main building is required.

Council considered a further level should be deleted to *“be an acceptable fit within Church Street”* and that a comparison with the adjacent Industry Lanes development bore this out. Industry Lanes has a height of RL 50.5 metres to the building’s parapet at a setback of 9 metres, and the amended plans show a height of RL 56.8 metres to the parapet at a setback of 9.8 metres. The 6.3 metre height difference was, in Council’s opinion, indicative of the need to further reduce height. Council submitted this would still leave the building 2.5 metres taller than Industry Lanes but considered this would be a better fit within Church Street.

Council referred to Clause 18.02-1L that requires development to create high-quality pedestrian environments. At the September equinox Council considered that there was some overshadowing of the Church Street footpath between 10am and 2pm and that the *“building height and resultant overshadowing has not adequately responded to the strategic context of the location in a major*

employment precinct along the Church Street corridor where high quality pedestrian amenity is a priority.”

Ms McAllister’s evidence was that there was a relationship between height and the design of the building. She noted that the Church Street façade presents as three individual forms, separated by strong vertical elements, that step down (from north to south) in height at the Industry Lanes podium height of four storeys to two storeys at the southern end. Ms McAllister supported the deletion of Level 10 as this stepped form would be maintained, but considered the deletion of Level 5 would upset the podium stepped form.

Ms McAllister considered that the buildings at Industry Lanes and opposite the subject land at 506-510 Church Street set an 11-storey benchmark for the street and were an appropriate reference point. Ms McAllister did not support the removal of a level between the ground floor and Level 8 because there was a *“comfortable visual relationship between the abutting developments and an acceptable proportion to the vertical sections of the rising forms.”* Ms McAllister supported the removal of a floor between Levels 8 and 10 from the raking and folded form of the upper levels as *“this would still present a distinct and interesting building silhouette”*.

Ms McAllister referred to the amended shadow diagrams (D40) and concluded that *“removing (an extra) level creates a very minor reduction in shadow on the Church Street footpaths, and no significant difference in shadows to Sanders Place or adjoining residential properties.”*

Mr Sheppard’s evidence was that the removal of Level 10 *“is consistent with the preferred heights in the Cremorne UDF which seeks 10 storeys and 40 metres along main streets, which includes the northern end of Church Street.”* Mr Sheppard considered this was consistent with emerging built form along Church Street *“where developments in the order of 10-12 storeys are approved or constructed.”* Mr Sheppard noted the highest northern building module of the proposal is 13.6 metres wide and accommodating a screen for roof service equipment was *“an acceptable outcome”* which gave the impression of more height.

Mr Sheppard accepted that shadows would be cast on the western Church Street footpath between 9am and 10am, with no impact by 10:20am. He referred to the Cremorne UDF which required no additional overshadowing between 10am and 2pm at September equinox for a minimum of 3 hours. He considered a 20-minute shadow during this time was consistent with the Cremorne UDF and comparable to the shadow cast by Industry Lanes and therefore acceptable.

Mr McGurn considered the removal of Level 10 *“responds appropriately to the site and its context and indeed the emerging character of the area. I see no strategic reason to require the removal of two levels from the building, particularly as Council’s own draft UDF specifies a preferred maximum height of ten storeys on this site, consistent with the amended plans.”* Mr McGurn concluded there was *“no strategic reason as to why another level should be deleted”*.

The Applicant submitted the evidence was uncontradicted and stated⁴:

The proposal at 10 storeys will be of the same scale as the Industrial Lanes neighbour and will present a similar scale to the Church Street public realm. It will have an acceptable shadowing impact. From the east, the main building is well setback from the residential neighbours and from the street. There is no reason to reduce its height.

⁴ D49, Paragraph 67

(iv) Discussion

The Committee acknowledges the height of the main building is a matter between Council and the Applicant, as the submitter's main concern was initially with the height of the pavilion building and its setback.

Development along Church Street is defining a new and emerging character that contains robust, well-designed built forms and heights of 10-12 storeys. The previous 2-3 storey industrial character is slowly being removed with the support of Council policy. The current and proposed⁵ planning policy and controls support the intensification of development along Church Street. The Cremorne UDF, while adopted by Council, has not been introduced into the planning scheme, but the Committee agrees with Mr McGurn that it represents the latest strategic thinking for Church Street. The Committee notes that it supports 10 storeys along Church Street tapering back to the residential areas to the east and the amended plans are consistent with this.

The key issue for the Committee to resolve is whether the removal of another level will be an acceptable outcome. For the reasons outlined below the Committee does not consider there is a valid reason to do so.

There are no specific building height controls in the Planning Scheme. Height should therefore be informed by the subject site's context and emerging character along Church Street. Key aspects the Committee considers are important in defining an acceptable height are:

- the integrity of the proposed design
- the shadow impacts on the public realm.

The Committee has been presented with three expert witness reports and a Council officer report that recommend the deletion of one level. The Committee supports the Applicant and its expert's proposed removal of Level 10 as this will have minimal impact on the design integrity of the main building and maintain the stepping down of height from north to south. Level 10 is part of the upper tapered façade of the building and its removal will have no appreciable impact on design integrity from street level. The removal of Level 5 would have a more significant impact on design integrity which could be discerned at street level.

The protection of the public realm and sunlight access along footpaths are important considerations. At the September equinox there is no impact on the rear residential properties from the main building, and along Church Street the early to mid-morning sunlight access will be impacted but will perform within the proposed policy parameters of the Cremorne UDF. The building will partly overshadow the western footpath of Church Street for 20 minutes. The Committee notes the Cremorne UDF does not prohibit overshadowing, but for the four-hour period between 10am and 2pm there should not be overshadowing for greater than one hour. The proposal satisfies this draft policy.

(v) Findings

The Committee finds that:

- The removal of Level 10 as shown in the amended plans is acceptable as it ensures the design integrity of the development is maintained.
- The development will not unacceptably overshadow the western footpath of Church Street as this is consistent with proposed policy in the Cremorne UDF.

⁵ Cremorne UDF and DDO53

4.3 Pavilion building

(i) The issues

The issues are whether:

- the pavilion building should be set back 3 metres from the residential interface.
- a highlight window on the north facade of the pavilion would restrict future development of the property to the north.

(ii) Background

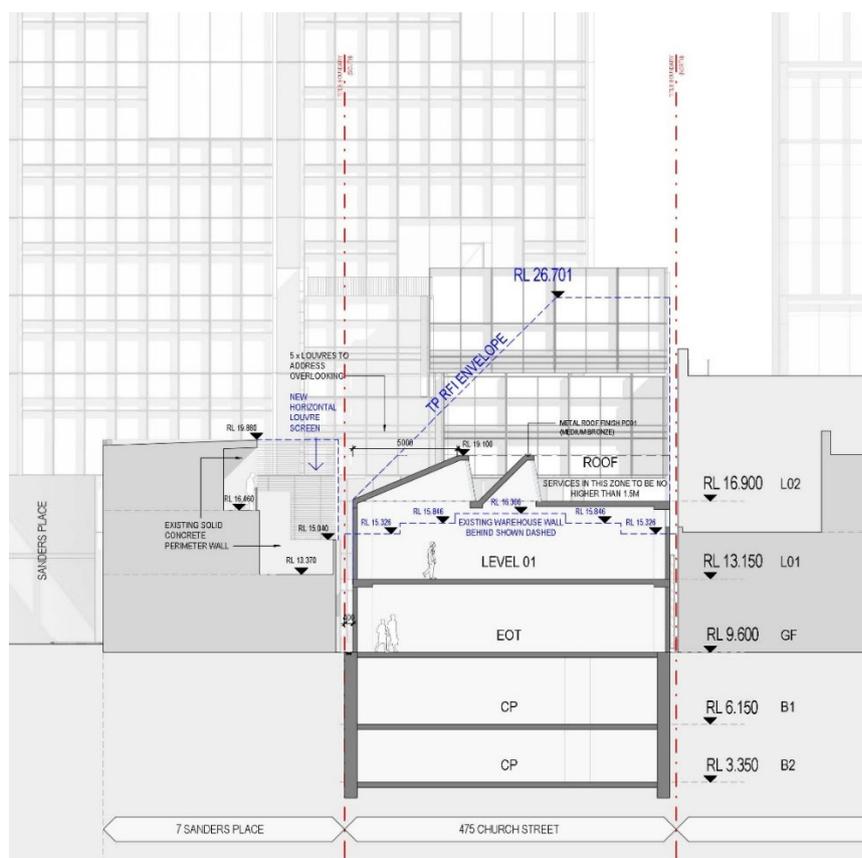
The pavilion building on the application plans was a four-storey tapered form with zero setbacks to the north boundary, zero setbacks to the south boundary with townhouses at 7 Sanders Place, and a 0.5 metre setback to the east boundary with residential properties at 28 and 30 Brighton Street, increasing to 2 metres above Level 1.

A subsequent sketch design was prepared for discussion with objectors dated 18 December 2023. This reduced the height by one storey and established a 3-metre setback to the southern boundary with the Sanders Place townhouses.

The amended plans changed the pavilion design to a two-storey form with two saw tooth highlights on the roof (refer to Figure 9). The amended plans had effectively no setback to the north and east boundaries, with a 0.4 metre setback from the southern boundary with the Sanders Place units. The east boundary with 28 and 30 Brighton Street has an existing one-storey wall which is located on the Applicant's side of the common boundaries and forms part of the existing warehouse on the subject land. The amended plans show the retention of this wall. The wall has established vegetation on the side of the adjoining properties. The plans indicated the roof sloping away from the common boundary with a vertical section between approximately 1.2 and 0.6 metres extending above the line of the retained boundary wall.

The amended plan for the pavilion included a long highlight in the north boundary wall.

The townhouses at 7 Sanders Place have an existing northern boundary wall to a height of RL 15.040 metres, behind which is a balcony level for a bedroom. The townhouses have a higher balcony for the kitchen/living area at RL 16.460 metres for the length of the unit. The proposed pavilion southern wall has a height of RL 16.900 metres.

Figure 9 Cross section of Pavilion building with Sanders Place townhouses and Industry Lanes development

Source: Amended plans (D22), SK2024 Issue D

(iii) Evidence and submissions

Council submitted that the pavilion should be set back 3 metres from 7 Sanders Place and the boundaries with 28 and 30 Brighton Street. Council considered the setback was important to ensure there is some visual separation between the proposed built form and residential properties. The 3 metre setback would provide opportunity for landscaping. Council advised the 3 metre setback to a residential interface was derived from the Cremorne UDF and in particular proposed DDO53.

Mr Sheppard's evidence was that the amended version of the pavilion, without setbacks from residential properties, was acceptable for the amenity of the residents to the south and east. The amended design with a lower form and raked roof would *"be acceptable from an urban design perspective given the context of the townhouses in an area earmarked for mid-rise commercial buildings."*

He considered the residents of 28 and 30 Brighton Street would not be able to see much of the pavilion building over the existing boundary wall that will be retained and that a 3 metre setback would not be warranted. Mr Sheppard noted the current warehouse building is built to the boundaries and its replacement by the pavilion building would only result in an additional height of approximately 1.4 metres at the boundaries.

The Applicant submitted that the highlight window to the northern wall of the pavilion would not limit development opportunities to the northern property because the boundary window would be fire rated.

Mr McGurn's evidence was that the pavilion design would provide an acceptable planning outcome. He stated that a 3 metre setback from the residential properties could be landscaped, but only via pots and planters given the basement car parking area underneath.

The Applicant did not support the 3 metre setbacks to south and east boundaries. It gave substantial weight to the acceptance of the revised pavilion design by objectors and relied on the evidence of its experts. The Applicant stated the Committee is *"not bound by the party's agreement, but it is relevant and should be given some weight."*

The owner of 30 Brighton Street requested the 3 metre setback be applied in accordance with the Cremorne UDF and the existing boundary wall on the applicant's site be retained.

(iv) Discussion

The Committee considers the design of the pavilion building has been well resolved. What initially was a 4 storey building, which would have provided a sense of enclosure to the Sanders Place residents, has been replaced by a 2 storey building that maintains open views to the north. The Sanders Place submitters accepted the amended design of the pavilion, which the Committee considers relevant.

The existing wall to the east boundary would largely obscure the proposed pavilion from adjacent properties and would mitigate the visual presence of the pavilion behind. The retention of the boundary wall is preferred by residents at both 28 and 30 Brighton Street. A 3 metre setback from this boundary would achieve no improved amenity to the townhouses because the existing wall is to be retained.

Council submitted that a 3 metre setback was required between the Sanders Place townhouses and the pavilion. The pavilion wall would be 1.4 metres above the boundary wall of the units, and while this would reduce the visual outlook from part of the bedroom balconies, the Committee considers it to be an acceptable juxtaposition given the townhouses also have full length balconies to the living areas on the second floor that look over and beyond the proposed pavilion. Council's stance that the setback could be landscaped to provide better amenity to the residents and soften the interface is problematic due to the restriction of sunlight access and the need for vegetation to be in planters and pots that would limit their height and growth. Landscaping would only be effective if it extended above the 7.3 metre high townhouse boundary wall. The setback space could become a dark space offering nothing in the way of amenity to the subject site or residents.

The high window on the northern wall of the pavilion faces part of the recently constructed Industry Lanes development. The Committee does not agree with Council that it should be removed. The Committee considers the likelihood of further development on a recently constructed mixed use development is very limited. If further development were to occur to the north, it would not be constrained by the pavilion fire-rated highlight window and equitable development rights would not be restricted. The second level of the pavilion is a commercial space with large roof light windows. If the highlight window were obscured by future development on the boundary, the amenity of the commercial space would not be unreasonably impacted.

(v) Findings

The Committee finds that:

- The amended pavilion design is an acceptable response to protecting reasonable amenity expectations for the adjoining residents.
- A 3-metre setback to the south and east is not required.
- The deletion of the northern highlight window of the pavilion is not required.

4.4 Overlooking**(i) The issue**

The issue is whether overlooking to neighbouring residential properties should be addressed at the source of the overlooking or at the impacted building.

(ii) Background

The landowner agreement included the construction of a 10 metre high and 4 metre wide fixed louvred screen next to Townhouse 1 to mitigate overlooking.

(iii) Evidence and submissions

Council did not support use of the screen to mitigate overlooking and considered it should be addressed at its source (that is, on the rear of the main building) and not the impacted building.

Council drafted the following Condition 1 requirement for the removal of the louvred screen:

The deletion of a freestanding horizontal louvred screen adjacent to the western side of 1/7 Sanders Place, with any screening required to comply with Condition 1(l) of the permit located at the overlooking source.

Condition 1(l) required:

Overlooking diagrams from the main building to demonstrate that views from the windows or terraces within 9 metres of the habitable room windows and secluded private open space of 7 Sanders Place are sufficiently limited (i.e. screened with a maximum 25% openings up to 1.7m above the respective finished floor level) with any additional screening required to demonstrate this, be shown on the plans.

Mr McGurn considered the freestanding screen on the boundary of 7 Sanders Place *“will ensure that no unreasonable overlooking impacts will result.”* Mr McGurn in his oral evidence stated it was a significant issue that the Applicant and Sanders Place residents and another submitter agreed, and that *“it was not unreasonable to have an intervening element to mitigate at the point where overlooking occurs.”*

Council submitted the overlooking screen was a poor planning outcome because:

- the landowner agreement does not mean it is an acceptable planning outcome
- overlooking from the main building should be addressed at its source
- the screen is a substantial and bulky structure located immediately next to the sensitive open space area of 1/7 Sanders Place
- the screen will cast additional unacceptable *“shadows over the adjoining private open space in the early PM period and reduce daylight to this space”*
- overlooking can be easily managed at its source with planter boxes at the edge of terrace areas.

The Applicant stated the screen “*forms an overlooking function to the balcony of the townhouse but also screens the view of the new build from the balcony*”. It stated the reduced height of the pavilion would retain open sky views over the lower built form and “*it generates a form of amenity that secures outlook to the north*”. The Applicant stated the screen was consistent with the site context and not a poor planning outcome. The Applicant referred to the amended shadow diagrams (D57) that consider the impact of the screen and the 2 storey pavilion height. The Applicant submitted this showed that, at the September equinox:

- at 12:30pm there was an additional 11 square metres or 7 per cent of the open space affected by shadow
- at 1:00pm there was an additional 8.5 square metres or 5.4 per cent of the open space affected by shadow
- at 1:30pm there was an additional 5.9 square metres or 3.98 per cent of the open space affected by shadow.

(iv) Discussion

The Committee agrees with Mr McGurn and the Applicant that a mediated agreement between a permit applicant and neighbours is a relevant consideration. The planning merits of the screen are also a consideration. Aside from the agreement between parties, the Committee supports the use of the screen as:

- Townhouse 1 has three areas of private open space: a courtyard at the ground level off a bedroom (Figure 10), a small balcony on the first floor off a bedroom (Figure 11), and a full width balcony off the kitchen and living areas at the second floor (Figure 12). The Committee has added an indicative red outline of the proposed screen to Figure 12. The ground level courtyard is protected from overlooking by the existing two-storey boundary walls.
- It has been described as a substantial structure by Council but practically around two thirds of it will remain unseen by the townhouse residents as it is located behind an existing wall.
- It replicates a structure, albeit an open one, at the eastern end of the eastern townhouse’s open space (Figure 13).
- It maintains views to the north and screens the new built form to the west.
- The ResCode overlooking provisions of the planning scheme do not apply as it relates to overlooking from a commercial property which, in the Committee’s view, allows for innovative and non-prescriptive solutions that directly address overlooking.

The Committee notes these photos (Figures 10-13) were taken during the accompanied site inspection, which all parties were aware of.

Figure 10 Ground floor courtyard



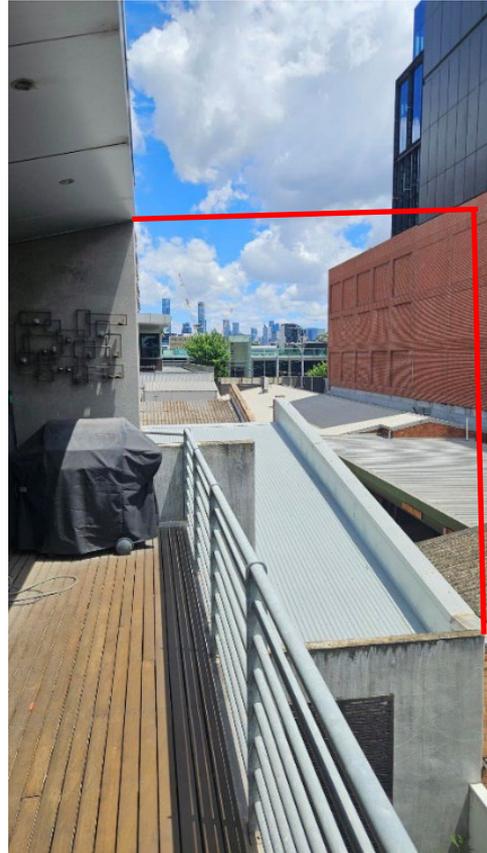
Source: Committee photo

Figure 11 First floor balcony view to west



Source: Committee photo

Figure 12 Second floor balcony view to the west



Source: Committee photo

Figure 13 Second floor balcony view to the east



Source: Committee photo

(v) Finding

The Committee finds:

- The agreement between the Applicant and residents to address overlooking is a relevant consideration.
- The use of a screen that is not located at the source of overlooking is appropriate in the circumstances.

5 Permit conditions

5.1 Early works

(i) The issue

The issue is whether demolition of the existing buildings should be considered as early works.

(ii) Submissions

Council proposed a new Condition 3 in D43 to address early works:

Except with the written consent of the Responsible Authority, before any buildings or works start, an Early Works Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Early Works Plan must include but not necessarily be limited to initial demolition, bulk and detailed excavation. All appropriate approvals must be obtained and the relevant permits in place, prior to endorsement of the Early Works Plan.

The Applicant stated the intent of the permit condition is not in dispute but proposed an alternate drafting in D58:

Except with the prior written consent of the Responsible Authority, prior to the commencement of any buildings and works, an Early Works Plan must be prepared to the satisfaction of the Responsible Authority. The Early Works Plan must provide details of all works which comprise the 'early works', including but not limited to:

- (a) Piling works (Bored Piers), including Capping Beams.
- (b) Retention system including structural columns, shotcrete walls and rock anchors.
- (c) Bulk excavation.
- (d) Detailed excavation.
- (e) Excavation and pouring of pad footings, pile caps and basement slabs.
- (f) Civil drainage retention system.
- (g) Crane pad footing system.

The key difference is the Applicant's version removed the reference to demolition and provided more detailed items of early works.

Council accepted there was no permit trigger for demolition but considered it was sufficiently connected to the construction of the development. Council referred to a section 149A declaration case⁶ at VCAT that considered whether development had commenced prior to the expiry of a planning permit. The Tribunal found that demolition sufficiently demonstrated that development under the permit had commenced, and Council used this as an "*analogy*" to show that works not caught by a permit trigger could be considered in a planning context.

The Applicant considered the Tribunal case did not address the matter at all and for a permit condition to be valid there needs to be a permit trigger and have a sufficient nexus to what is proposed.

The Applicant and Council agreed that Conditions 24 (Arboricultural Report), 25 (Tree Management Plan) and 52 (Construction Management Plan) should not benefit from excluding works described in the Early Works Plan.

⁶ D59 - 535 Hogan's Road Pty Ltd v Wyndham CC [2017] VCAT 1193

(iii) Discussion

The Committee accepts that where early works can commence before major works these should be detailed to avoid any doubt. The Applicant's version of Condition 3 does this, but the Committee notes that both versions include a "*but not limited to*" part to the preamble. The Committee agrees with the Applicant that an early works condition does not need to include demolition because this does not require a planning permit.

The Committee supports the agreement reached by Council and the Applicant on Conditions 24, 25 and 52.

(iv) Findings

The Committee supports the Applicant's version of Condition 3 that addresses early works.

(v) Recommendations

The Committee recommends:

Insert a new Condition 3 in Planning Permit PLN23/0316:

Except with the prior written consent of the Responsible Authority, prior to the commencement of any buildings and works, an Early Works Plan must be prepared to the satisfaction of the Responsible Authority. The Early Works Plan must provide details of all works which comprise the 'early works', including but not limited to:

- (a) Piling works (Bored Piers), including Capping Beams.***
- (b) Retention system including structural columns, shotcrete walls and rock anchors.***
- (c) Bulk excavation.***
- (d) Detailed excavation.***
- (e) Excavation and pouring of pad footings, pile caps and basement slabs.***
- (f) Civil drainage retention system.***
- (g) Crane pad footing system.***

Remove the reference to the exclusion of the Early Works in the preamble to Conditions 24, 25 and 52.

Renumber all permit conditions following Condition 3.

5.2 Other permit conditions**(i) The issue**

The issue is whether the drafting of other permit conditions is appropriate.

(ii) Evidence and submissions

Council proposed three additional Condition 1 requirements.

Front façade glazed recess

The following addition addresses the glazed recess in the front façade between the restricted retail premises entries:

The glazed recess between the entries of the Restricted Retail Premises along Church Street must be filled with a planter box and be flush with the building line.

Ms McAllister and Mr Sheppard gave evidence that this recess could be an entrapment space and inserting a planter box would prevent this. The Applicant supported the drafting of the permit condition.

Sanders Place

The following addition addresses the need to improve the footpath along Sanders Place:

The width of the pedestrian footpath along Sanders Place to be increased by setting back the southern facade line of the restricted retail premises at least 1.45 metres from the planter boxes.

Council advised it would prefer a footpath wider than 1.45 metres.

Mr Sheppard supported the widening of Sanders Place *“to a shared surface for the full width of the laneway for the shared use of pedestrians and vehicles.”*

Ms McAllister recommended *“the alignment of the Sanders Place frontage of the restricted retail premises be reviewed to increase the width (in part) of the pedestrian footpath, while retaining sections of the proposed planter boxes.”* The Applicant supported a more general condition that stated:

The width of the pedestrian footpath along Sanders Place to be increased to improve pedestrian movement.

The Applicant noted that Council supported changes to Sanders Place only after expert evidence was circulated and requested the addition of *“... or such other arrangement to the satisfaction of the Responsible Authority”*.

Main entry forecourt

The following addition addresses the need for publicly accessible seating:

Publicly accessible seating to be added to the main entry forecourt.

Ms McAllister gave evidence to support the need for new seating. The Applicant was non-committal on this drafting but would accept it if recommended by the Committee. Council was concerned the seating would encourage loitering at night and did not consider it necessary.

(iii) Discussion and finding

The Committee appreciates the efforts of Council and the Applicant to reach a consensus on permit conditions, with only variations at the margins remaining.

The Committee:

- accepts the proposed resolved drafting for the glazed recess insert
- supports the original drafting of the Sanders Place condition but accepts that other alternatives may achieve the same outcome, and therefore supports the addition proposed by the Applicant
- supports the need for publicly accessible seating in the main forecourt, particularly given the width of Church Street does not provide for on street seating.

(iv) Recommendation

The Committee recommends:

Amend Condition 1 of the Planning Permit PLN 23/0316 to add the following separate requirements:

- a) The glazed recess between the entries of the Restricted Retail Premises along Church Street must be filled with a planter box and be flush with the building line.***
- b) The width of the pedestrian footpath along Sanders Place is to be increased by setting back the southern façade line of the restricted retail premises at least 1.45 metres from the planter boxes, or such other arrangement to the satisfaction of the Responsible Authority.***
- c) Publicly accessible seating to be added to the main entry forecourt.***

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 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.

Other matters to be taken into account include:

- objections
- submission from the Head, Transport for Victoria
- other matters a Responsible Authority may or must take into account under section 60 of the *Planning and Environment Act 1987*, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

(ii) Discussion

Council's Part A submission provided 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 issues and impacts raised by submissions and expert evidence have been discussed at length in the issue-specific chapters of this Report. In essence the Committee considers:

- there were no submissions that considered a permit should not be issued
- the amended plans substantially addressed issues raised about the application plans
- there is strong local and state policy that supports significant infill development in the Cremorne employment precinct
- the impact of overshadowing on the public realm is acceptable for the proposed 10 storey building
- the design integrity of the main building would be impacted if an additional level was deleted
- the impact of the pavilion building to the abutting residential properties have been addressed by the amended plans and accepted by most of the submitters
- there is no need to set back the pavilion building from abutting boundaries as its reduced height secures views to the north and would be substantially obscured by existing built form.

On balance, the Committee considers that a permit should be granted.

(iii) Recommendation

The Committee recommends:

Issue Yarra Planning Permit PLN23/0316 (VCAT Ref P336/2024) for the construction of a multi storey mixed use building including two basement levels, use of the land for a Shop and Food and Drink Premises, and a reduction in the car parking requirements 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).
2. The Committee is to have members with the following skills:
 - a. statutory and strategic land use planning
 - b. land development and property economics
 - c. urban design and architecture
 - d. heritage
 - e. civil engineering and transport planning
 - f. social impacts
 - g. environmental planning
 - h. 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.

9. 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. a short description of the project
 - b. a short summary and assessment of issues raised in submissions
 - c. a draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral
 - d. any other relevant matters raised during the Committee process

- e. its recommendations and reasons for its recommendations
- f. a list of persons or authorities/agencies who made submissions considered by the Committee and
- g. 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:
 - a. the date of receipt of referral, if no further submissions or information are to be sought, or
 - b. 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



The Hon Sonya Kilkenny MP

Minister for Planning
Minister for the Suburbs

1 Spring Street
Melbourne, Victoria 3000 Australia

Ref: BMIN-1-24-2272

Ms Kathy Mitchell AM
Chair (Lead)
Priority Projects Standing Advisory Committee
Planning Panels Victoria
planning.panels@delwp.vic.gov.au

Dear Ms Mitchell

I refer to the Victorian Civil and Administrative Tribunal (VCAT) application P336/2024, which relates to the construction of a multi-storey, mixed use building, use of land for a Shop and Food and drink premises, and a reduction in the car parking requirements at 475-481 Church Street, Richmond. The project was referred to me by the Development Facilitation Program.

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 Projects Standing Advisory Committee for advice and recommendations on whether the planning permit should be issued, and if so, the appropriate permit conditions that should be imposed.

On 26 March 2024, an objector party representing five (5) residents applied to VCAT under section 82(1) of the *Planning and Environment Act 1987* for the review of Yarra City Council's decision to grant a permit.

The VCAT hearing is scheduled to commence on 27 January 2025.

The cost of the advisory committee will be met by the applicants, Salta Properties and Zagame.

If you would like to discuss this matter further, please contact Adam Henson, Director Development Facilitation of DTP, on email adam.henson@delwp.vic.gov.au.

Yours sincerely



The Hon Sonya Kilkenny MP
Minister for Planning

Date: 27/09/2024

Appendix C Parties to VCAT Proceedings

Parties to VCAT Proceeding P336/2024

Party	Role in VCAT Proceeding
475 Church Street Pty Ltd	Respondent
Yarra City Council	Responsible authority
Nicolas Voelcker	Joint applicant

Parties to VCAT Proceeding P448/2024

Party	Role in VCAT Proceeding
475 Church Street Pty Ltd	Applicant
Yarra City Council	Responsible authority
Department of Transport and Planning	Referral authority
Nicolas Voelcker	Joint respondent
Anna Bennett	Respondent
Scott Pease	Respondent

Appendix D Parties to the Hearing

Submitter	Represented by
475 Church Street Pty Ltd (Applicant)	Adrian Finanzio of Counsel, instructed by Planning & Property Partners, calling the following expert evidence: <ul style="list-style-type: none">• Mark Sheppard of Urbis in urban design• Clare McAllister of Ratio in urban design/architecture• Stuart McGurn of Urbis in town planning
Yarra City Council	Darren Wong of Planology
Scott Pease	

Appendix E Document list

No	Date	Description	Presented by
2023			
1	9 Sep	Terms of Reference	Minister for Planning
2024			
2	4 Oct	Letter of Referral	Minister for Planning
3	9 Oct	Referred materials – <i>see appendix</i>	Department of Transport and Planning
4	10 Oct	Directions Hearing notification	Planning Panels Victoria (PPV)
5	28 Oct	Letter regarding matters to be raised at Directions Hearing	475 Church Street Pty Ltd (Applicant)
6	28 Oct	Summary of key issues	Anna Bennett
7	28 Oct	Summary of key issues	Applicant
8	28 Oct	Summary of key issues	Nicolas Voelcker and others
9	28 Oct	Summary of key issues	Yarra City Council (Council)
10	28 Oct	Letter regarding involvement in the Hearing	Head, Transport for Victoria and CityLink Melbourne
11	29 Oct	Summary of key issues	Scott Pease
12	30 Oct	Pavilion view renders	Applicant
13	30 Oct	Architectural sketch plans	Applicant
14	30 Oct	Building height study	Applicant
15	31 Oct	Version 1 Directions and Hearing Timetable	PPV
16	4 Nov	Revised Direction 10	PPV
17	6 Nov	Email enclosing response to Direction 6	Applicant
18	6 Nov	Hearing version of plans (6 November 2024)	Applicant
19	6 Nov	Hearing version of Notice of Decision (6 November 2024)	Applicant
20	6 Nov	Statement of changes (6 November 2024)	Applicant
21	19 Nov	Letter to PPV regarding resolved issues and updated documents (19 November 2024)	Applicant

No	Date	Description	Presented by
22	19 Nov	Pavilion and Rear of Main Building Plans (19 November 2024)	Applicant
23	19 Nov	Updated Draft Conditions (clean, 19 November 2024)	Applicant
24	19 Nov	Updated Draft Conditions (tracked changes, 19 November 2024)	Applicant
25	19 Nov	Statement of changes (19 November 2024)	Applicant
26	20 Nov	Email withdrawing from the hearing	Anna Bennett
27	21 Nov	Email withdrawing from the hearing	Nicolas Voelcker and others
28	21 Nov	Expert witness statement of Stuart McGurn (town planning)	Applicant
29	21 Nov	Expert witness statement of Mark Sheppard (urban design)	Applicant
30	21 Nov	Expert witness statement of Clare McAllister (urban design)	Applicant
31	21 Nov	Expert witness statement of Chris Goss (visualisation), enclosing attachment: a) Visual amenity evidence	Applicant
32	22 Nov	Version 2 Hearing Timetable and Distribution List	PPV
33	22 Nov	Revised summary of issues	Scott Pease
34	22 Nov	Map of objectors (provided to Committee only)	Council
35	22 Nov	Revised summary of issues	Applicant
36	22 Nov	Part A submission	Council
37	22 Nov	Further email regarding withdrawal from hearing	Anna Bennett
38	25 Nov	Courtbook: a) Volume 1, containing: - Site context information - Planning scheme provisions - Relevant documents from Amendments C317yara and C318yara - Other background documents - Original permit application material. b) Volume 2, containing: - Request for Information and response - Objections - Referral comments - Further 'without prejudice' materials - Council's delegate report and NOD - VCAT documents - SAC documents - Permits and plans for nearby developments and approvals.	Applicant
39	26 Nov	Email enclosing updated shadow studies	Applicant
40	26 Nov	Updated shadow studies	Applicant

No	Date	Description	Presented by
41	26 Nov	Updated Sanders Place shadow studies	Applicant
42	26 Nov	Revised summary of issues	Council
43	27 Nov	Updated preferred permit conditions	Council
44	27 Nov	Addendum to evidence of Clare McAllister (updated shadow diagrams)	Applicant
45	27 Nov	Addendum to evidence of Mark Sheppard (updated shadow diagrams)	Applicant
46	27 Nov	Addendum to evidence of Stuart McGurn (updated shadow diagrams)	Applicant
47	28 Nov	Supplementary officer report in response to amended plans	Council
48	29 Nov	Letter regarding involvement in Hearing	Head, Transport for Victoria and CityLink Melbourne
49	29 Nov	Submission	Applicant
50	29 Nov	Day 1 version of permit conditions	Applicant
51	29 Nov	Submission	Nicolas Voelcker and others
52	29 Nov	Part B submission, enclosing attachment: a) Xin Hai City (Forest Hill) Pty Ltd v Whitehorse CC (Corrected) [2023] VCAT 319	Council
53	2 Dec	Courtbook Volume 3, containing: - Applicant's amended plans, statement of changes and draft conditions circulated on 19 November 2024 - Updated shadow diagrams - Addendums to expert evidence - Submissions from the Applicant, Council and the 7 Sanders Place residents - Correspondence from Head, Transport for Victoria.	Applicant
54	2 Dec	Version 3 Hearing Timetable and Distribution List	PPV
55	2 Dec	Expert witness presentation of Clare McAllister	Applicant
56	2 Dec	Expert witness presentation of Mark Sheppard	Applicant
57	3 Dec	Updated shadow studies with privacy screen	Applicant
58	4 Dec	List of issues	Applicant
59	4 Dec	535 Hogan's Road Pty Ltd v Wyndham CC [2017] VCAT 1193	Council

Appendix to Document List – Referred materials for Document 3

No	Description
3.01	475 Church Street, Richmond - VicPlan Planning Property Report
3.02	477 Church Street, Richmond - VicPlan Planning Property Report
3.03	481 Church Street, Richmond - VicPlan Planning Property Report
3.04	Arboricultural Report (Veris, November 2022)
3.05	Architectural Request for Information Response Report (Architectus, September 2023)
3.06	Daylight Report (Hip V. Hype, September 2023)
3.07	Landscape Plans (Landscape Architects, August 2023)
3.08	Permit applicant letter to Council enclosing permit application (28 April 2023)
3.09	Permit applicant response to Council Request for Information (25 September 2023)
3.10	Planning Permit application (25 September 2023)
3.11	Planning Report (Human Habitats, September 2023)
3.12	Plans (Architectus, September 2023)
3.13	Register Search Statement - V 02555 F 882
3.14	Shadow diagrams (Architectus, August 2023)
3.15	Survey and Demolition Plan (Architectus, May 2023)
3.16	Sustainability Management Plan (ESD Report) (Hip V. Hype, September 2023)
3.17	Town Planning Acoustic Report (DDEG, April 2023)
3.18	Traffic and Transport Assessment (Impact, April 2023)
3.19	Urban Context Plan (Architectus, May 2023)
3.20	Waste Management Plan (Reduce, Reuse, Recycle Strategy) (Hip V. Hype, September 2023)
3.21	Wind Assessment (MEL Consultants, January 2023)
3.22	City of Yarra Planning Decisions Committee meeting agenda (27 February 2024)
3.23	City of Yarra Planning Decisions Committee meeting minutes (27 February 2024)
3.24	Notice of Decision to Grant a Permit (28 February 2024)
3.25	Head, Transport for Victoria and CityLink response to permit application (21 November 2023)
3.26	Letter from Head, Transport for Victoria and CityLink (5 July 2024)
3.27	VCAT Orders - Initiating order in proceeding P336-2024 (4 April 2024)
3.28	VCAT Orders - Procedural orders in proceeding P336-2024 (1 May 2024)
3.29	VCAT Orders - Procedural orders in proceeding P336-2024 (29 May 2024)
3.30	VCAT Orders - Procedural orders in proceeding P336-2024 (Ady Broder withdrawal) (1 July 2024)
3.31	VCAT Orders - Procedural orders in proceedings P336-2024 and P448-2024 (15 July 2024)
3.32	Application for Review by Nicolas Voelcker and others (25 March 2024)

No	Description
3.33	475 Church Street Pty Ltd Statement of Grounds (P336-2024) (3 May 2024)
3.34	Joint objectors Statement of Grounds (P448-2024) (25 June 2024)
3.35	Head, Transport for Victoria Statement of Grounds (P336-2024 and P448-2024) (8 July 2024)
3.36	Council response to PNPE2 (Information from Decision Makers) (3 May 2024)
3.37	475 Church Street Pty Ltd practice day hearing submission (8 July 2024)
3.38	Nicolas Voelcker and others practice day hearing submission (8 July 2024)
3.39	Practice day hearing appearance sheet (12 July 2024)
3.40	List of objections to planning application
3.41	Original objection from 7 Sanders Place residents
3.42	Original objection from Ady Broder
3.43	Original objection from Milda Melissa
3.44	Original objection from owners of Unit 1, 7 Sanders Place (Nicolas Voelcker and Ana Sala-Oviedo) (23 November 2023)
3.45	Original objection from Simon Kirkhope (9 November 2023)

Appendix F Committee preferred version of the planning permit

[Tracked Added](#)

~~Tracked Deleted~~

Address of the land: 475-481 Church Street, Richmond VIC 3121

What this permit will allow: Construction of a multi-storey mixed use building including two basement levels, use of the land for a Shop and Food and Drink premises, and a reduction in the car parking requirements.

What the conditions on the planning permit will be:

1. Before the use or development commences, excluding early site preparation works and bulk excavation, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and must be generally in accordance with the decision plans prepared by Architectus, Plan DA0001 (B), DA0098 (B), DA0099 (A), DA1000 (B), DA1001 (B), DA1002 (B), DA1003 (B), DA1004 (B), DA1005 (B), DA1006 (B), DA1007 (B), DA1008 (B), DA1008 (B), DA1009 (B), DA1010 (B), DA1011 (B), DA1012 (B), DA1013 (B), DA2001 (2), DA2002 (2), DA2010 (A), DA2011 (B), DA2012 (C), DA2013 (B), DA2021 (A), DA2501 (A), DA2502 (A), DA2503 (B), DA2504 (B), DA1014 (A), DA2505 (A), DA2506 and dated 3 August 2023 but modified to show:
 - (a) The deletion of Level 10 from the main building, as depicted in the plans prepared by Architectus, DA1007-DA1013, DA2001, DA2002, DA2010-DA2013 and DA2501-DA2504, all Revision D, dated 6 November 2024;
 - (b) The following changes to the pavilion as depicted in the following plans prepared by Architectus, DA0001; DA1000; DA1001; DA1002; DA1003; DA1004; DA1005; DA2002; DA2010; DA2011; DA2012; DA2501 all marked Without Prejudice (Revision E) and dated 11 November 2024 and SK2023-SK2026 all marked Without Prejudice (Revision D) and dated 11 November 2024 (which are summarised as follows):
 - (i) The deletion of Levels 2 and 3 from the pavilion on the north-east corner of the site;
 - (ii) The addition of a 'sawtooth' roof, angled towards the north, with the peak of the sawtooth elements reaching a maximum height of RL 19.1;
 - (iii) The southernmost peak of the sawtooth roof to be set back 5m from the southern wall and at least 2.86m from the retained eastern wall;
 - (iv) The setback of the pavilion from the eastern boundary of the site reduced to 0mm or greater;
 - (v) The setback of the pavilion from the southern boundary of the site increased to at least 400mm;

- (vi) The existing wall on the eastern boundary, shared with 28 and 30 Brighton Street, is to be retained, with the new eastern wall of the pavilion being constructed inboard;
 - (vii) The eastern wall, southern wall and roof of the pavilion to be constructed of a medium bronze coloured metal; and
 - (viii) The deletion of all windows from the southern and eastern façade of the pavilion building.
- (c) The following changes to the main building as depicted in the plans prepared by Architectus DA0001; DA1000; DA1001; DA1002; DA1003; DA1004; DA1005; DA2002; DA2010; DA2011; DA2012; DA2501 all marked Without Prejudice (Revision E) and dated 11 November 2024, SK2023-SK2026 all marked Without Prejudice (Revision D) and dated 11 November 2024, and SK2027 (Revision A) marked Without Prejudice and dated 11 November 2024 (which are summarised as follows):
- (i) The podium and associated Level 4 terrace on the north-east corner of the main building with a minimum setback of 5 metres from the edge of the second floor terrace of No. 1/7 Sanders Place;
 - (ii) The addition of a freestanding horizontal louvred screen adjacent to the western side of 1/7 Sanders Place;
 - (iii) A horizontal batten screening system to the east facing windows of Levels 2 and 3 of the main building between 0.35m and 1.7m in height above FFL;
 - (iv) The addition of a planter around the edge of the east facing Level 4 terrace, designed to restrict downward views; and
 - (v) Stair access located on the northern boundary situated between the main building and the pavilion building does not provide access to the Level 4 terrace.

But further modified to show:

- (d) An East Elevation of the main building omitting the pavilion;
- (e) Obscure glazing to be nominated as fixed;
- (f) Sensor lighting to the pedestrian/cyclist entry from Sanders Place;
- (g) Timed sensor lighting installed and implemented for the Pavilion building;
- (h) Relocate the secondary entry of the Restricted retail premises further south along the Church Street frontage to avoid pedestrian conflict with the retained street tree;
- (i) Details of the fire booster cupboards to have a high quality material and finish, integrating with the overall development;
- (j) A minimum of 32 visitor bicycle spaces, 160 employee bicycle spaces, and 3 additional showers provided, with all visitor spaces nominated;
- (k) Visitor bicycle spaces associated with the Food and drink premises located in accessible area within the front setback of the Church Street frontage;
- (l) Directional bicycle signage in accordance with the requirements of Clause 52.34- 7;

- (m) The dimensions of ramp grade lengths and the loading bay space in accordance with Appendix A of the Traffic and Transport Assessment (prepared by Impact and dated 11 April 2023);
 - (n) The headroom clearance for basement parking levels be dimensioned in all Sectional drawings consistently;
 - (o) The car parking spaces adjacent to non-compliant columns designated as Small Car Spaces;
 - (p) A ground clearance check using the B99 design vehicle for the vehicular entrance, in accordance with the levels committed to in the public realm plan required by Condition 42;
 - (q) Any changes required to comply with Condition 21 (Façade strategy);
 - (r) Any changes required to comply with Condition 23 (Landscape Plan);
 - (s) Any changes required to comply with Condition 25 (Arboricultural Report);
 - (t) Any changes required to comply with Condition 28 (Wind Assessment);
 - (u) Any changes required to comply with Condition 30 (Waste Management Plan);
 - (v) Any changes required to comply with Condition 34 (Sustainable Management Plan);
 - (w) Any changes required to comply with Condition 40 (External Reflected Glare Assessment);
 - (x) Any changes required to comply with Condition 42 (Public Realm Plan); and
 - (y) Any changes required to comply with the Head, Transport for Victoria conditions (Condition 56 – 61).
 - (z) The glazed recess between the entries to the restricted retail premises along Church Street must be filled with a planter box and be flush with the building line.
 - (za) The width of the pedestrian footpath along Sanders Place to be increased by setting back the southern façade line of the restricted retail premises at least 1.45 metres from the planter boxes or such other arrangement to the satisfaction of the Responsible Authority.
 - (zb) Publicly accessible seating to be added the main entry forecourt.
2. 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. Except with the prior written consent of the Responsible Authority, prior to the commencement of any buildings and works, an Early Works Plan must be prepared to the satisfaction of the Responsible Authority. The Early Works Plan must provide details of all works which comprise the 'early works', including but not limited to:
- (a) Piling works (Bored Piers), including Capping Beams;
 - (b) Retention system including structural columns, shotcrete walls and rock anchors;
 - (c) Bulk excavation;

- (d) [Detailed excavation;](#)
 - (e) [Excavation and pouring of pad footings, pile caps and basement slabs;](#)
 - (f) [Civil drainage retention system; and](#)
 - (g) [Crane pad footing system.](#)
4. 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 the 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.
5. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
6. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.

Use Conditions

- 7. Except with the prior written consent of the Responsible Authority, the Shop use authorised by this permit may only operate between the hours of 7am to 10pm, seven days a week.
- 8. Except with the prior written consent of the Responsible Authority, the food and drink premises authorised by this permit may only operate between the hours of 6am to 1am (the following day), seven days a week.
- 9. No more than 200 patrons are permitted on the land associated with the food and drink premises use at any one time.
- 10. Except with the prior written consent of the Responsible Authority, the gates to the rear courtyard, from Sanders Place, to remain open between 7am and 6pm, Monday to Friday.

General Development Conditions

- 11. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
- 12. As part of the ongoing consultant team, Architectus 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.
- 13. 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.
14. Before the buildings are 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, pedestrian walkway, and building entrances must be provided within the property boundary. Lighting must be:
- (a) Located;
 - (b) Directed;
 - (c) Shielded; and
 - (d) Of limited intensity,
- to the satisfaction of the Responsible Authority.
15. 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.
16. Before the buildings are 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.
17. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
18. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
19. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

Development Infrastructure Levy

20. 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.

Facade Strategy

21. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
- (a) Elevation drawings at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical tower facade details;

- (b) Perspectives of the development as viewed at street level from Church Street;
 - (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, including any vegetation; and
 - (e) A sample board or coloured drawings outlining colours, materials and finishes.
22. The provisions, recommendations and requirements of the endorsed Facade Strategy and Materials and Finishes Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

Landscaping Plan

23. Before the development commences, excluding early site preparation works and bulk excavation, 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 Site Image and dated 29 August 2023, but modified to include (or show):
- (a) Consistency with the architectural plans in accordance with the requirements of Condition 1;
 - (b) Details of planter including planter materials and dimensions, mulch layer and depth, growing medium type and depths, filter material and waterproofing, and irrigation notes; and
 - (c) Notes on the maintenance schedule, tasks and duration.
24. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) Implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) Not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) Replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.

Arboricultural Report

25. Before the development commences, ~~excluding early site preparation works and bulk excavation,~~ an Arboricultural Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Arboricultural Report will be endorsed and will form part of this permit. The Arboricultural Report must be generally in accordance with the Arborist Plan prepared by Urban Forestry Victoria Pty Ltd and dated 28 November 2022, but modified to include (or show):
- (a) A unique ID/Tree number;

- (b) An image of the tree;
- (c) Botanic and common name;
- (d) Tree dimensions (height x width), diameter at breast height- 1.4m above ground level (DBH) and diameter at base;
- (e) Health, structure and retention value;
- (f) Tree Protection Zone (TPZ) and Structural Root Zone (SRZ);
- (g) Impact of the proposed works on the trees. The impact assessment to reference and be consistent with the Australian Standard for Protection of Trees on Development Sites (AS 4970-2009); and
- (h) Recommendations to safeguard retained trees during the construction works.

Tree Management Plan Required

26. Before the development commences, ~~excluding early site preparation works and bulk excavation,~~ 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 retained street trees on Church Street, the trees along the shared boundary of No. 7 Sanders Place's driveway, the Japanese Maple tree in the courtyard of No. 1 / 7 Sanders Place and the trees with the secluded private open space of No. 28 Brighton Street:
 - (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.
27. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

Wind Assessment

28. Before the development commences, excluding early site preparation works and bulk excavation, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by MEL Consultants and dated January 2023, but modified to include (or show):

- (a) Wind mitigation for the southwest entrance (Location 10) to demonstrate standing comfort criteria or clarify the disagreement presented to the satisfaction of the Responsible Authority.
29. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

30. Before the development commences, excluding early site preparation works and bulk excavation, 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 HIP V. HYPE Sustainability and dated 22 September 2023, but modified to include:
- (a) The details for management of e-waste including how it will be separated, stored and disposed of; and
 - (b) The size of the bin room shown consistently with the architectural drawings.
31. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Green Travel Plan

32. Before the development is occupied, 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 11 April 2023, but modified to include or show:
- (a) Any changes to comply with Condition 1.
33. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Sustainable Management Plan

34. Before the development commences, excluding early site preparation works and bulk excavation, 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 Sustainable Management Plan prepared by HIP V. HYPE Sustainability and dated 21 March 2023, but modified to include or show:
- (a) Any changes required by Condition 1;
 - (b) A Zero Carbon Action Plan to commit to a date by which point the operating GHG emissions are net zero;
 - (c) Clarify the gas connection to the building;

- (d) An energy modelling (JV3 or similar) report to demonstrate the energy efficiency standard will be met. Include Heating, Ventilation, and Air Conditioning (HVAC), carpark ventilation system and hot water system specification within the energy efficiency (JV3) report;
 - (e) The Traffic Management Report updated to include the number of bicycles spaces required by Condition 1(r); and
 - (f) A Sustainable Transport Plan.
35. Prior to the occupation of the development approved under this permit, a report from the author of the sustainable management plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the sustainable management plan have been implemented in accordance with the approved plan.
36. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Acoustic Report

37. Within 3 months of the completion of the development, 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) The mechanical and plant equipment, and must assess the compliance and, where necessary, make recommendations to limit the noise impacts in accordance with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) or any other requirement to the satisfaction of the Responsible Authority, as may be amended from time to time.
38. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
39. 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.

External Reflected Glare Assessment

40. Before the development commences, excluding early site preparation works and bulk excavation, an External Reflected Glare Assessment to the satisfaction of the Responsible Authority must be prepared by a suitably qualified professional and must be submitted to and approved by the Responsible Authority. When approved the External Reflected Glare Assessment will be endorsed and will form part of this permit. The External Reflected Glare Assessment must:

- (a) Generally in accordance with the External Reflected Glare Assessment (prepared by wrap consulting and engineering and dated 7 December 2023) as submitted to Council for discussion;
 - (b) Commit to a maximum Visible Light Reflectance (VLR) of 15%;
 - (c) Give consideration to the residential area to the east of the building and make recommendations if required to mitigate impact to the amenity of this area; and
 - (d) Any changes required to comply with Condition 1.
41. The provisions, recommendations and requirements of the endorsed External Reflected Glare Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

Streetscape and Public Realm Conditions

42. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) At the permit holder's cost; and
 - (b) To the satisfaction of the Responsible Authority.
43. Prior to the endorsement of the Condition 1 plans, a Public Realm Plan (Church Street and Sanders Place) must be prepared to the satisfaction of the Responsible Authority (Council). The Public Realm Plan must be submitted for approval by the Responsible Authority (Council), and must include, but not limited to:
- (a) Layout plan indicating all existing and proposed features and surface levels; and
 - (b) Existing and proposed infrastructure within the public space.
44. Prior to the commencement of construction of the development, excluding early site preparation works and bulk excavation, or by such later date as is approved by the Responsible Authority (Council), Detailed Design Plans (Civil and Landscape) associated with the development must be prepared, submitted and approved by the Responsible Authority (Council). When approved, the plan will be endorsed and will then form part of the permit. The Detailed Design plans must include, but not be limited to, the following:
- (a) Detailed layout plan indicating all existing and proposed features and surface levels.
 - (b) Sanders Place:
 - (i) Road cross sections from property boundary to property boundary at 5 metre intervals indicating existing and proposed levels at changes in grade;
 - (ii) Longitudinal sections along the property boundaries, existing and design building lines, lip of kerb, back of kerb and invert of the channel;
 - (iii) All surfaces designed in accordance with the Disability Discrimination Act (DDA) requirements; and
 - (iv) Existing and proposed service pits within the road pavement adjusted to match the reconstructed footpath grades;

- (c) Church Street Frontage:
 - (i) Road cross sections from property boundary to road centreline at 5 metre intervals indicating existing and proposed levels at changes in grade;
 - (ii) Longitudinal sections along the property boundary, existing and design building lines, lip of kerb, back of kerb, invert of the channel, existing Church Street pavement level;
 - (iii) All surfaces must be designed in accordance with DDA requirements;
 - (iv) Distinct delineation between public and private land along all interfaces;
 - (v) Existing and proposed service pits within the footpath area must be adjusted to match the reconstructed footpath grades;
 - (d) Stormwater drainage in accordance with the Council approved stormwater strategy, including design computations, longitudinal sections, pit schedule and details;
 - (e) Detailed layout (size, depth, location) of existing and proposed service utilities, including private property connections to each type;
 - (f) Public lighting plan, including proposals for any temporary lighting;
 - (g) Signage and line marking plans indicating the existing and proposed changes;
 - (h) All streetscape details in accordance with the Urban Design and Open Space departments within Council;
 - (i) All private assets / infrastructure must be located within the private property boundary and not protrude into the public road reserve; and
 - (j) Existing surface levels must not be altered unless approved by the Responsible Authority. To obtain DDA compliant surface grades the finished surface levels within the private property must be adjusted.
45. Before the building is occupied, all associated works shown on the endorsed detailed design plans for the public realm (as required by Condition 43) must be fully constructed and completed to the satisfaction of the Council's Civil Engineering Department and at no cost to the Responsible Authority.
46. Within 2 months of the completion of the development, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) At the permit holder's cost; and
 - (b) To the satisfaction of the Responsible Authority.
47. Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.
48. Any affected road marking adjacent to the development site as a result of the construction works must be reinstated to Council's satisfaction and at the developer's expense.

Car Park Management Plan

49. Before the development is occupied, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) The number and location of car parking spaces allocated to each tenancy;
 - (b) Any tandem parking spaces allocated to a single tenancy;
 - (c) The number and location of car spaces for shared use, including time of shared use;
 - (d) The allocation of visitor parking spaces, and if provided, the management of visitor car parking spaces and security arrangements for occupants of the development, including details on how visitors are to access car parking;
 - (e) Details of way-finding, cleaning and security of end of trip bicycle facilities;
 - (f) The number and allocation of storage spaces;
 - (g) Policing arrangements and formal agreements;
 - (h) 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;
 - (i) 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 30; and
 - (j) Details regarding the management of loading and unloading of goods and materials.
50. 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.
51. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.
52. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

Construction Management Plan

53. Before the development commences, ~~excluding early site preparation works and bulk excavation,~~ a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) A pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) Works necessary to protect road and other infrastructure;

- (c) Remediation of any damage to road and other infrastructure;
- (d) Containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
- (e) Facilities for vehicle washing, which must be located on the land;
- (f) The location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
- (g) Site security;
- (h) Management of any environmental hazards including, but not limited to,:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the 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 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 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;
- (v) other relevant considerations; and

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.

54. 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 land enters the stormwater drainage system;
- (c) Vehicle borne material must not accumulate on the roads abutting the 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.

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

Head, Transport for Victoria Conditions (Conditions 56 – 61)

56. Prior to the endorsements of any development plans, excluding demolition works, an Engineering report from a suitably qualified Engineer outlining the design, management and construction techniques to be implemented prior, during and following excavation to prevent any impact of the City Link assets and infrastructure is to be submitted to the Head, Transport for Victoria and City Link for approval. Once approved, the Engineering Report will form part of the planning permit. Without limiting the scope of the report, it must consider all relevant structural and geotechnical issues, including but not limited to, demonstrating:

- (a) That the development will not compromise the structural integrity of CityLink assets and infrastructure;
- (b) The load and ground stress effected by the development;
- (c) That the development will not result in temporary or permanent drawdown of the regional groundwater table; and
- (d) Any holding points requiring Head, Transport for Victoria inspection and approval prior to releasing the hold points.

57. In addition to Condition 56 above, Head, Transport for Victoria and CityLink must be informed of the following:

- (a) Initial ground water level;

- (b) The reduced level temporary dewatering during basement excavation is intended to lower the water table to, the extraction rate and duration of dewatering, and the expected recharge duration after cessation of dewatering;
 - (c) If the completed basement is tanked or drained; and
 - (d) If drained, confirm flow rate into the basement and the height and extent of the permanent lowering of the water table.
58. Permit holder to bear all costs associated with CityLink undertaking dilapidation surveys before and after the development, including crack mapping and installing crack pins to allow crack opening to be accurately measured. The intention of these surveys is to allow any adverse impacts on CityLink during construction to be identified.
59. Notwithstanding any other condition, the development's proposed basements and any subterranean support structures and any excavation required during construction cannot be any deeper than RL -5.0 AHD.
60. Prior to the commencement of the development, the applicant must provide the Head, Transport for Victoria and CityLink with a plume dispersion study to satisfy the Head, Transport for Victoria, CityLink and the responsible authority that, consistent with the design objectives set out in Clause 43.02 of the Design and Development Overlay, Schedule 5 of the Yarra Planning Scheme:
- (a) The development around the Burnley Tunnel exhaust stack will not be adversely affected by the operation of the stack; and
 - (b) The development around the Burnley Tunnel exhaust stack will not adversely affect the operation of the stack.

The developer must reimburse CityLink for costs it incurs for having the plume dispersion study reviewed by its external consultants.

61. Prior to the occupation of the development amended plans must be submitted to and approved to the satisfaction of the Responsible Authority at no cost to Head, Transport for Victoria showing:
- (a) The provision of signage, line-marking including painted arrows to indicate two way traffic flow within Sanders Place to the satisfaction of and at no cost to the Responsible Authority in consultation with Head, Transport for Victoria;
 - (b) No buildings or works including subterranean support structures and any excavation exceeding an RL-5.0AHD to be shown as a note and dimension on the relevant elevation plan/s;
 - (c) The permit holder must avoid disruption to tram operation along Church Street during the construction of the development. Any planned disruptions to tram operation during construction and mitigation measures must be communicated to and approved by the Head, Transport for Victoria and Yarra Trams a minimum of thirty-five days (35) prior; and
 - (d) The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.

Time expiry

62. This permit will expire if:

- (a) The development is not commenced within three years of the date of this permit; or
- (b) The development is not completed within five years of the date of this permit.
- (c) the use is not commenced within five 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.

Notes

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

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

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

The permit holder must obtain approval from the relevant authorities to remove and/or build over the easement(s).

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

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

Use of Security Cameras must comply with Section 8(1) of the Surveillance Devices Act (2007) which outlines a permit holder's responsibility in relation to surveillance devices. Please ensure compliance with the relevant legislation at all times the security cameras are in use.

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

No parking restriction signs, or line-marked on-street, parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from the relevant Road authority.

All redundant property drain outlets are to be demolished and reinstated to Council's satisfaction and at the permit holder's cost.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the Building Regulations 2018 from Yarra Building Services unit. Any storm water drainage area within the property must be provided for and be connected to the nearest Council

pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 133.

The applicant will be required to prepare a Bearing Pressure Report to be submitted to the Department of Transport for assessment and approval. The purpose of the report is to confirm that the new development's foundations will not impact on the Burnley Tunnel, which is located underneath the development.

Notes CityLink Development and Design Overlay Schedule 5

As the planning application relates to a site that is within approximately 500 metres of the Burnley Tunnel exhaust stack, it may impact on, or be impacted by, the exhaust stack plume dispersal. The stack emits exhaust from the City Link tunnels into the atmosphere and is licensed by the Environment Protection Authority.

The Environment Protection Authority will need to be consulted with and provided an opportunity to comment on the effects of the plume generated from the Burnley Tunnel exhaust stack to determine if the building height is acceptable. We also recommend that the referral authority make an informed decision about whether the proposed project, which is the subject of the planning application, is consistent with the purposes of the Design and Development Overlay, Schedule 5 and to ensure the proposed project reduces the risk of harm to human health and the environment, consistent with the general environmental duty under the Environment Protection Act 2017.

Notes Head, Transport for Victoria

Separate consent and approval may be required for buildings and works undertaken within the arterial road reserve (Church Street) under the Road Management Act 2004.

All disused or redundant vehicle crossovers to be removed and reinstated to kerb and channel to the satisfaction of the Responsible Authority at no cost to Head, Transport for Victoria.

One car space along Church Street to the immediate north of the intersection with Sanders Place and one car space to the immediate south of Sanders Place should be removed (subject to Council approval) to improve visual sightlines and swept path movements.