**Council AGENDA**

**Planning and Related Matters**

Wednesday 24 April 2024

Commencing 6.30 pm

Council Chamber, Merri-bek Civic Centre, 90 Bell Street, Coburg



**Acknowledgement of the traditional custodians of the City of Merri-bek**

Merri-bek City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Merri-bek, and pays respect to their elders past, present, and emerging, as well as to all First Nations communities who significantly contribute to the life of the area.

**1. WELCOME**

**2. APOLOGIES**

Leave of absence has been granted to:

Cr. Carli Hannan - 1 April 2024 to 30 April 2024 inclusive

**3. DISCLOSURES OF CONFLICTS OF INTEREST**

**4. MINUTE CONFIRMATION**

The minutes of the Planning and Related Matters Meeting held on 27 March 2024 be confirmed.

**5. Council Reports**

5.1 1 Champ Street, Coburg - MPS/2021/968 4

**6. URGENT BUSINESS**

**5. Council Reports**

**5.1 1 Champ Street, Coburg - MPS/2021/968**

**Director Place and Environment Joseph Tabacco**

**City Development**

**Executive Summary**

|  |  |
| --- | --- |
| * **Property:** | 1. 1 Champ Street (Lot S12), Coburg |
| * **Proposal:** | 1. Construction of an 11-storey building (Building 1) and a 12-storey building (Building 2) comprising residential apartments above multiple basement levels |
| * **Zoning and Overlay/s:** |  Activity Centre Zone –Precinct 9 (ACZ1)   Heritage Overlay (HO47)   Parking Overlay (PO1)   Environmental Audit Overlay (EAO1)   Development Contributions Plan Overlay |
| * **Strategic setting:** |  |
| * **Objections:** | No public notice has been directed. VCAT will determine the need for public notice. |
| * **Planning Information and Discussion (PID) Meeting:** | No PID held |
| * **ESD:** |  Minimum average NatHERS rating of 7.3 stars   BESS Score of 63 per cent |
| * **Accessibility:** |  Adaptable apartments comprise 51 per cent of the proposal |
| * **Key reasons for refusal** |  Excessive building height that is not consistent with ACZ or Pentridge Masterplan expectations   The proposal’s overshadowing, inadequate accessibility and absence of commercial land uses fails to create an active and vibrant entry and publicly-accessible spaces within a setting of significant heritage assets. |
| * **Recommendation:** | * That Council advises the Victorian Civil and Administrative Tribunal (VCAT) and all parties that the proposed development is not supported. |

**Officer Recommendation**

That Council writes to the Victorian Civil and Administrative Tribunal (VCAT) and all parties to the VCAT review advising that Council does not support planning permit application MPS/2021/968 at 1 Champ Street (Lot S12), Coburg for the construction of an 11-storey building (Building 1) and a 12-storey building (Building 2) comprising residential apartments above multiple basement levels, subject to the following grounds:

1. The proposal fails to meet the objectives of Schedule 1 to the Activity Centre Zone as it exceeds the preferred building height limits and preferred graduated form/upper level setbacks set out in the Pentridge Coburg Masterplan February 2014 (Incorporated Plan), resulting in an inappropriate scale and unacceptable visual impacts to the public realm and publicly-accessible open space. In particular it is noted that the additional height sought fails to:

a) Ensure the publicly-accessible spaces are attractive, comfortable, or experienced at a human scale, as encouraged by the Masterplan.

b) Respond to the heritage context of the former Pentridge Prison, and in particular to the significance of the historic A Division immediately east of the site.

c) Establish a scale of development on the northwest interface (Champ Street) that does not overwhelm the character of existing one and two-storey development opposite.

2. The proposal does not provide an acceptable response to the design and development requirements of Section 4.4 of Schedule 1 to the Activity Centre Zone in relation to the additional building height sought. In particular, it is noted the proposal does not sufficiently demonstrate how the additional height sought:

a) Facilitates benefits to the community such as excellent ESD performance, positive contributions to public open space or the public realm, or the provision of affordable housing;

b) Avoids adverse impacts on the streetscape, heritage values and public realm;

c) Avoids unacceptable visual impact on surrounding streets and public spaces.

3. Providing only residential and communal land uses at the lower levels adjacent to the forecourt and courtyards A and B fails to address the Vision For Pentridge as set out in the Pentridge Coburg Masterplan 2014, in that the proposal does not:

a) respond to the mixed-use ambition of the precinct;

b) create a vibrant and sustainable urban hub, a place for the shared use of its residents and workers, the neighbouring community, and tourists;

c) provide new employment opportunities through the proposed mix of uses

4. The proposal fails to satisfy the requirements of Clause 58.02-1 of the Merri-bek Planning Scheme in relation to Standard D1 (Urban Context) in that the design response is not appropriate to the urban context or the site, and that the proposal does not respect the existing or preferred urban context through excessive building scale and land uses restricted to residential dwellings.

5. The proposal fails to comply with the following Land Use and Development Objectives of the Schedule to the Activity Centre Zone:

a) Develop Precincts 9 and 10 in accordance with the Pentridge Coburg Masterplan February 2014.

6. The proposal fails to provide an acceptable response to the Precinct 9 Objectives (Section 5.9-2 of Schedule 1 to the Activity Centre Zone) and Precinct Guidelines (Section 5.9-4 of Schedule 1 to the Activity Centre Zone).

7. The proposed development will unreasonably overshadow publicly-accessible open space identified as Courtyards A and B, nominated as primary publicly-accessible open spaces within the Coburg Pentridge Masterplan (Figure 4.5a – Open Space Plan). As such, the proposal fails to ensure the publicly-accessible spaces are attractive and comfortable, as encouraged by the Masterplan.

8. The proposed development does not provide adequate access for people of limited mobility through the site to Success Lane, with this thoroughfare identified as a Primary Inter-precinct Pedestrian Link at Figure 4.8c of the Pentridge Coburg Masterplan (Incorporated Document). As such, the proposal fails to ensure the publicly-accessible spaces are accessible, as encouraged by the Masterplan.

**REPORT**

**1. Background**

The report presented to the February 2016 Council meeting (DED6/16) provides general information on the history of Pentridge.

In 2009 the Minister for Planning amended the then Moreland Planning Scheme to modify the Comprehensive Development Zone which applied to the land at the time and incorporated the *Pentridge Coburg Design Guidelines and Masterplan, August 2009* into the planning scheme. The approval of this Amendment followed a Priority Development Panel process which considered the Masterplans for both precincts of the Pentridge redevelopment site. The Planning Scheme was amended again in 2014 to incorporate the February 2014 Masterplan. The Activity Centre Zone (ACZ) precincts which apply to the Pentridge site are a policy neutral translation of the former Comprehensive Development Zone. The ACZ identifies a building height of up to 9-storeys in this location.

The Urban Planning Committee resolved at its January 2016 meeting to write to the Minister for Planning requesting that the State Government’s Office of the Victorian Government Architect appoint a Design Review Panel to undertake a comprehensive review of the existing *Pentridge Coburg Design Guidelines and Masterplan* (February 2014) and the proposed Coburg Quarter, Coburg Masterplan (2015) (DED1/16). The Minister wrote to Council on 23 March 2016 and advised that he would not be initiating a review of the Masterplans.

Council resolved at its August 2016 meeting to initiate a review of the Masterplans (DED61/16). At the March 2017 Council meeting, Council resolved to undertake a critique of the Pentridge Coburg Design Guidelines and Masterplan 2014 and the Pentridge Village Design Guidelines and Masterplan 2009 (the Masterplans) (DED20/17).

Council received a further report at the May 2018 Council meeting (DED26/18), related to the Masterplans. This report concluded that the critique of the Masterplans confirmed broad consistency with the State and local activity centre policies, and the vision and objectives set for the precinct in the Activity Centre Zone. Relevantly the then Minister for Planning advised he would not support a planning scheme amendment that will alter development yields across the precinct. This report noted that Council’s best option is to use the current planning controls encourage the highest quality development outcomes. The Council resolutions included:

*Writes to the Minister for Planning, the Shayher Group and Future Estate to provide an update on the outcome of the critique of the Pentridge Coburg Design Guidelines and Masterplan 2014 and the Pentridge Village Design Guidelines and Masterplan 2009.*

Despite Council’s advocacy and a critique of the Masterplans, the planning policies for Pentridge have largely remained unaltered since 2014. Importantly, the decision for this application must be made on the Masterplan and ACZ provisions as they currently apply to the land.

**Subject site**

Formally identified as Lot S12 on Plan of Subdivision 501198H, the subject site is located on the eastern side of Champ Street behind the bluestone heritage wall. Forming part of Lot S12, the specific development area associated with this proposal (the Site) sits within the Pentridge Coburg Masterplan (2014) (the ‘Masterplan’) area located between Success Lane and Moonering Drive.

The Masterplan contemplates Building 1 and Building 2 being constructed within the Site.

The Site is currently occupied by temporary offices and administrative buildings associated with construction projects in the wider Pentridge locality.

**Surrounds**

The Pentridge Coburg site is bound by Murray Road and the Coburg Lake Reserve to the north; Champ Street to the west; Pentridge Boulevard and the Pentridge Village site to the south and south-east; and established residential housing to the east. This broader site is identified as 1 Champ Street and is located within the northern part of the Coburg Activity Centre. The Masterplan provides details of the preferred urban context and proposed building envelopes.

A range of single-storey and double-storey residential dwellings are evident on the western side of Champ Street opposite the broader site, as are several apartment buildings ranging up to three-storeys in height. Pentridge’s historic A Division Prison building is immediately east of the Site, while the multi-storey shopping centre (Building 9 in the Masterplan) is further to the east and south-east. Brew Dog Brewery, located in the former E Division building, is found on the opposite side of Success Lane.

A location and zoning plan forms **Attachment 1**.



*Figure 1 – The broader site of 1 Champ Street in green, with the development area (the Site) in red.*

**Title details**

The title is encumbered by the following restrictions:

| **Covenant/Agreement** | **Owners obligation** | **Status** |
| --- | --- | --- |
| 1. Covenant PS430271 | Outlines the details of the Plan of Consolidation and Certificate of Registration on Change of Name. | 1. Completed, with no bearing on application. |
| 1. Covenant PS438597 | 1. Outlines the consent provided by the Caveators referred to in Caveat X195416J for the lodgement of Plan of Subdivision PS438597. | 1. Completed, with no bearing on application. |
| 1. Covenant AD889374X 2. (Section 91[2] Heritage Act 1995) | 1. Requires care for the heritage fabric in accordance with the *Heritage Act 2006*. | 1. Ongoing. |
| 1. Section 173 Agreement AB176451A | 1. Requires, among other things:    A whole of site Road Design Framework which makes provision for the development of Pentridge Boulevard.   A whole of site Heritage Interpretation Strategy   A whole of site drainage strategy | Completed |
| 1. Section 173 Agreement AD750703G | 1. Requires the creation and maintenance of a publicly accessible open space network through the site. | 1. Ongoing |
| 1. Section 173 Agreement AD835266F | 1. Requires the provision of 19 car parking spaces on the Sentinel Precinct for use of residents of the Industry Lane owners. | 1. Completed, as per Council’s letter dated 1 March 2022. |
| 1. Section 173 Agreement AG206798D | 1. Relates to the provision of car parking for residential lots and for the QM building. | 1. The proposal is consistent with the approved Car Parking Management Plan relevant Agreement AG206798D, as confirmed by Council’s Development Engineers. |

**The proposal**

The proposal seeks approval for the construction of two multi-storey apartment buildings and associated areas of publicly accessible open space, as summarised below:

 Building 1 (south) at a scale of 11-storeys, and Building 2 (north) at a scale of 12-storeys (as measured from within the Site);

 A total of 245 dwellings (67 one-beds, 163 two-beds, 15 three-beds);

 Three basement levels comprising 260 resident car parking spaces (compliant with the statutory requirement) and 346 bike spaces;

 Resident communal co-working spaces, terrace areas and gymnasium; and

 Three areas of publicly-accessible open space (A Division Forecourt/Champ Street Entry, Courtyard A and Courtyard B) totalling approximately 3900 square metres.

Given the fall of the land from the south-west to the north-east, Building 1 would present a 10-storey height to Champ Street, while Building 2 would present a scale of 11.5 storeys.

Both buildings are proposed to be constructed predominantly of concrete (various finishes) and glazing. Internal communal spaces are typically located at Lower Ground and Upper Ground levels and are proposed to front the Forecourt/Champ Street Entry and Courtyard areas. The outdoor open space areas are proposed to be landscaped.

A drawing of a building

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*Figure 2 – Proposed west elevation to Champ Street (Source: TP2.004)*

A building with many windows

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*Figure 3 – Artistic 3D render of Building 2 as viewed from Courtyard B in the south-east corner of the Site (Source: Application documents)*

The Development Plans form **Attachment 2**. Clause 58 drawings form **Attachment 3**.

**Planning Permit, Heritage Permit and Site history**

While the broader site of 1 Champ Street has seen several applications assessed and developments completed, no relevant permit history exists for the specific development area associated with Buildings 1 and 2 (the Site) or the adjoining publicly accessible open spaces.

An application for a Heritage Permit was made to Heritage Victoria (Application No. P35053) and referred to Council in January 2022. This proposal was similar to the subject application. Council responded to the referral in February 2022, raising concerns relating to matters of detailed design and landscaping. It’s noted the proposal exhibited a reduced scale at this time.

It's understood the Heritage Victoria application was amended several times in response to concerns from Heritage Victoria and the progressing of the application was placed on hold, at the request of the applicant, to enable the exploration of responses to those concerns. While public notice of the heritage permit application was directed in April 2023, the applicant did not carry out the public notice until mid to late January 2024 and after the application was amended to increase the building height. Public notice included a noticed in the Herald Sun newspaper, three on-site public notices (two along Champ Street and one at Pentridge Boulevard) with documents available on Heritage Victoria website during this period. A Heritage Permit was ultimately issued by Heritage Victoria on 29 February 2024.

**Application history**

Council has endeavoured to provide a facilitative approach by placing the application on hold at various stages as the applicant sought to work through outstanding issues raised by both Council Officers, and more significantly Heritage Victoria. In July 2022, the applicant requested that Council’s notice of the planning permit application be delayed in order to address concerns raised by Heritage Victoria with a view to then coordinate both the planning permit and heritage permit public notice processes in parallel. The applicant again requested the application remain on hold in June 2023, as they were pursuing potential amendments with Heritage Victoria. The applicant subsequently requested assessment recommence in September 2023, prior to lodging two further amendments to the application with Council.

The most recent amendment to the application was received on 13 December 2023. The amendments sought to increase the height of each building by two additional levels. The amended application did not propose any substantial changes to address the issues previously raised by Council Officers, including those raised in writing on 6 December 2023. On 23 January 2024, the applicant confirmed in writing that further changes would not be made to address Council officer concerns with the original and amended application. The application to VCAT relating to Council’s failure to make a decision with 60 statutory days was lodged shortly after in February 2024, being before any notice of the application to surrounding owners and occupiers, had been directed.

It’s noted that two prior amendments to the planning permit application have been made in July 2022 and October 2023. The 13 December 2023 amended proposal is assessed in this report.

It is further noted that officers had indicated a level of support for the previously proposed building height of nine and ten storeys, being more consistent with the building heights included in the Masterplan.

VCAT have listed this matter for:

 A Practice Day hearing on 19 April 2024;

 A Compulsory Conference on 31 May 2024; and

 A Major Cases List Merits Hearing on 5, 6, 7, 8 and 9 August 2024.

**Statutory Controls – why is a planning permit required?**

|  |  |
| --- | --- |
| Control | Permit Requirement |
| Activity Centre Zone | Clause 37.08-5: Construct a building or construct or carry out works. |

The following Clauses of the Merri-bek Planning Scheme do not trigger a requirement for a planning permit but are relevant to the consideration of the proposal:

 Clause 43.01 – Heritage Overlay (HO47) H.M. Prison Pentridge, included on the Victorian Heritage Register (VHR). No planning permit is required to develop a heritage place which is included in the VHR. As the site is included in the VHR, the works cannot be assessed by Council under the provisions of the Heritage Overlay or Council’s local heritage policy. However, a Heritage Permit will be required to be issued by Heritage Victoria (HV) for the proposal. Heritage Victoria referred an earlier iteration of the proposal to Council for comment, with Officers raising concern with several design elements.

 Clause 45.03 – Environmental Audit Overlay. In the event that a planning permit is issued, a condition will be required for an Environmental Audit.

 Clause 45.06 – Development Contributions Plan Overlay (Schedule 1). The Development Contribution Plans have expired and therefore not relevant to this application.

 Clause 45.09 – Parking Overlay (Schedule 1)

 Clause 52.06 – Car Parking

 Clause 53.18 – Stormwater Management in Urban Development

 Clause 58 – Apartment Developments

**Aboriginal Heritage**

The *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2018* provide for the protection of Aboriginal places, objects and human remains in Victoria.

While the site is close to a waterway and defined heritage place, the permit applicant has supplied evidence as part of previous applications at the same site that demonstrates the land has been subject to significant ground disturbance. Therefore, no Cultural Heritage Management Plan was required.

**2. Internal/External Consultation**

**Public notification**

Notification of the application pursuant to Section 52 of the *Planning and Environment Act 1987* has not been undertaken. The Activity Centre Zone at Clause 7.0 includes an exemption from notice and third-party review if the application is generally in accordance with the Masterplan (amongst other things). Council has requested a determination by VCAT of whether third party exemptions apply to this application and is seeking legal representation at this VCAT hearing.

**Internal and external referrals**

The proposal was referred to the following external agencies and internal business units:

|  |  |
| --- | --- |
| 1. **External Agency** | 1. **Objection/No objection** |
| 1. Transport for Victoria | 1. No objection raised by the Head, Transport for Victoria. |

| 1. **Internal Branch/Business Unit** | 1. **Comments** |
| --- | --- |
| 1. Urban Design Unit | 1. Does not support the proposal. 2. Primary concerns relate to excessive building height, inadequate activation at Lower Ground level, and limited accessible access to Success Lane. 3. These matters are considered further in Section 4 of this report. |
| 1. Transport - Development Engineering | 1. Supports the proposal, subject to recommended permit conditions. |
| 1. Sustainable Built Environment - ESD Team | 1. Supports the proposal subject to previously-proposed sustainability targets being reinstated. 2. These matters are considered further in Section 4 of this report. |
| 1. City Development - Heritage Advisor | 1. Does not support the proposal. 2. Primary concerns relate to excessive building height and impact of the proposed works on the heritage significance of the broader site. 3. These matters are considered further in Section 4 of this report. |
| 1. Open Space Planning and 2. Planning Arborist | 1. Does not support the proposal in relation to the additional height sought and the resultant shadow impacts on the publicly accessible courtyard areas. |

**3. Policy Implications**

**Planning Policy Framework (PPF):**

The following policies are of most relevance to this application:

 Municipal Planning Strategy (Clause 2), including:

 Vision (Clause 2.02)

 Settlement (Clause 2.03-1)

 Environmental and Landscape Values (Clause 2.03-2)

 Environmental Risks and Amenity (Clause 2.03-3)

 Built Environment and Heritage (Clause 2.03-4)

 Housing (Clause 2.03-5)

 Economic Development (Clause 2.03-6)

 Settlement (Clause 11)

 Environmental Risks and Amenity (Clause 13):

 Contaminated and Potentially Contaminated Land (Clause 13.04-1S)

 Noise Abatement (Clause 13.05-1S and 13.05-1L)

 Built Environment (Clause 15.01), including:

 Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)

 Vehicle Access Design in Merri-bek (Clause 15.01-1L)

 Building Design (Clause 15.01-2S & 15.01-2L)

 Apartment developments in Merri-bek (Clause 15.01-2L)

 Neighbourhood Character (Clause 15.01-5S)

 Environmentally Sustainable Development (Clause 15.01-2L-05-1L)

 Energy efficiency in Merri-bek (Clause 15.01-2L-04

 Residential Development (Clause 16.01), including:

 Housing Supply (Clause 16.01-1S and 16.01-1R)

 Housing for People with Limited Mobility (Clause 16.01-1L)

 Economic Development (Clause 17), including:

 Diversified economy (Clause 17.01-1S & 17.01-1R)

 Core Industry and Employment Areas (Clause 17.01-1L)

 Employment Areas (Clause 17.01-1L)

 Industry (Clause 17.03)

 Transport (Clause 18)

 Infrastructure (Clause 19.02), including:

 Open Space (Clause 19.02-6S, 19.02-6R & 19.02-6L)

**Human Rights Consideration**

This application has been processed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Merri-bek Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006, including Section 18 (Taking part in public life).* In addition, the assessment of the application has had particular regard to:

 Section 12: Freedom of movement

 Section 13: Privacy and Reputation

 Section 20: Property rights

An assessment of whether there is any potential for unreasonable overlooking has been undertaken in Section 4 of this report. The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement. The right of the landowner to develop and use their land has been considered in accordance with the Merri-bek Planning Scheme.

**4. Issues**

In considering this application, regard has been given to the Planning Policy Framework (PPF), the provisions of the Merri-bek Planning Scheme, and the merits of the application.

**Does the proposal benefit from strategic policy support?**

Both State and local planning policies support increased residential densities in Activity Centres to take advantage of the excellent access to public transport and other services within these locations.

In relation to providing new dwellings at increased densities, the proposal enjoys strategic support at both State and local level. However, the proposal fails to satisfy other strategic guidelines in relation to the Activity Centre Zone and the Masterplan, as discussed below.

**Does the proposal respond positively to the requirements of the Activity Centre Zone and Pentridge Coburg Masterplan?**

The Site is located within the Activity Centre Zone (ACZ – Schedule 1, Precinct 9) and the Masterplan area. The proposal does not adequately respond to the objectives and guidelines of the zone (including the Schedule), or the vision and preferred outcomes sought by the Masterplan. Key considerations are assessed below.

Building Height

The Schedule to the ACZ includes direction relating to preferred building height within this precinct (Precinct 9) of the Coburg Activity Centre.

An image depicting the various building site locations within the precinct is included in the Schedule to the ACZ and is a direct translation of preferred outcomes sought by the Masterplan. The image (excerpt provided below) provides preferred heights between eight and five-storeys for Building 1, and between nine and six-storeys for Building 2. In both cases, the higher scale is directed to be located adjacent to the Site’s western boundary (the Champ Street interface), with lower heights identified towards the Site’s eastern interface with the heritage listed A Division building. Building height is to be measured from a location within the Site, marked with an ‘x’

A map of a building

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*Figure 4 – Activity Centre Zone Precinct 9 (part), with Buildings 1 and 2 and their nominated preferred height limits highlighted in yellow (Source: Pentridge Coburg Master Plan February 2014)*

The proposal seeks to vary the preferred building heights of the ACZ and Masterplan as described in the table below:

|  |  |  |
| --- | --- | --- |
| **Building** | **Preferred height** | **Proposal** |
| Building 1 |  Overall height 8 levels   Podium height (Courtyard B) 5 levels |  Overall height 11 levels   Podium height 5 levels |
| Building 2 |  Overall height 9 levels   Podium height (Courtyard A) 6 levels |  Overall height 12 levels   Podium height 6 levels |

For both buildings, a nominally compliant podium height is provided to the communal courtyard areas, though it is noted setbacks provided above the podium height are modest and therefore do not comply the building envelopes and scaling down of building height sought by the Masterplan. Beyond the courtyards and towards the property’s western boundary, the podiums graduate to a non-compliant overall building height towards the Site’s Champ Street interface.

Section 4.4 of the Schedule to the ACZ provides direction for the consideration of proposals seeking to depart from preferred height and setback controls. An assessment of the proposal against these guidelines (in bold) is provided below:

***The proposed development supports the vision for the Activity Centre and achieves objectives of this schedule;***

The proposed development seeks to revitalise this section of the Coburg Activity Centre through a major residential development comprising 245 dwellings. While developments of higher densities are contemplated and supported by the Activity Centre Zone, the objectives of the Schedule to the ACZ and the Masterplan are not wholly met by the proposal, which seeks to depart from direction provided in the Masterplan by:

 Exceeding the height controls applicable to Buildings 1 and 2; and

 Providing no commercial tenancies within two significant marker buildings located at the edge of the Masterplan area.

Page 2 of the Masterplan (Vision for Pentridge) states that ‘the public realm will be *enlivened* through the active integration of the proposed uses, within both new buildings and restored heritage prison buildings*’.* As the Site provides one of only several openings in the heritage bluestone wall, meaningfully activating the publicly-accessible spaces adjacent to Buildings 1 and 2 is considered critical. It is important that any redevelopment of the Site plays a key role in attracting visitors to this section of the Mixed Use Precinct (Figure 0.0b, p.3) - to ensure an ‘area of primary significance’ such as A Division is valued and utilised into the future. The proposal does not achieve this outcome, with residential frontages to the Forecourt (and Courtyards A and B beyond) failing to provide integrated activation to the publicly-accessible areas. The proposed arrangement, therefore, does not achieve the vision of the Masterplan.

Given the above, the proposal does not meet the key objective of the Schedule which references the Masterplan guidance and the creation of a mixed-use / tourism-focused precincts that complement the core retail functions of Coburg (i.e. Sydney Road).

Further, failing to provide commercial tenancies within either building renders the proposal non-compliant with the following Precinct 9 objectives:

o *To promote a high density, residential and mixed use district, that encourages both day and evening activity, through the provision of convenience and leisure retail services, together with offices and service uses.*

o *To create a sustainable, vibrant and integrated mixed use precinct comprising residential, retail, tourist and other commercial activities, within a development composition that complements the heritage significance of the site.*

***The development is of an exemplary quality design that makes a positive contribution to the character of the neighbourhood;***

In relation to materials and detailed design, the proposed development represents an acceptable response to the local context and preferred character of the surrounding area. In relation to height, scale and proposed land uses, however, the proposal does not suitably respond to the surrounding context or preferred character set out in strategic documents relevant to the Site.

***The additional height or reduced setback:***

- ***results in specific design benefits; and***

- ***facilitates benefits to the community, such as excellent ESD performance, positive contributions to public open space or the public realm, or the provision of affordable housing;***

Applying BESS ratings and Council’s Design Excellence Scorecard expectations as a guide, the proposal does not achieve an excellent ESD performance, offering a BESS Score of 63 per cent (within the ‘best practice’ range). It’s noted an average NatHers rating of 7.3 stars is achieved. While the ESD response could have been considered acceptable with conditions recommended by Council’s ESD Officers, the proposal’s ESD performance does not assist in justifying the additional height sought.

No provision of affordable housing has been offered as part of the proposal.

The proposal does provide Clause 58 compliant areas of publicly-accessible communal open space through Courtyards A and B (also required by the Masterplan). As noted above, however, these spaces are not provided with properly integrated activation and are further compromised by the additional scale, overshadowing and wind impacts associated with increased building heights and reduced setbacks.

The application has not demonstrated how the additional building height sought facilitates specific design benefits.

- ***does not increase overshadowing of primary pedestrian routes on 21 March / September (Equinox) between 10:30am and 2pm;***

The additional height sought would result in additional overshadowing to Courtyards A and B when compared to the extent of shadow expected by ACZ compliant building heights and setbacks. The impact of this shadow would be experienced in Courtyard A from after 1pm on the equinox and Courtyard B from 2pm on the equinox. These courtyards are nominated as primary publicly-accessible open spaces within the Masterplan (Figure 4.5a – Open Space Plan). Reducing solar access to these areas when compared to expected conditions as set out in the ACZ and Masterplan is not supported.

Given this, the proposal does not satisfy the following guideline of ACZ Precinct 9:

o *Ensure that building heights and placements do not compromise reasonable environmental conditions in key public places.*

Further, the additional height and resulting shadow would fail to ensure the publicly-accessible spaces are attractive and comfortable, as encouraged by the Masterplan (p.22).

- ***does not have an adverse impact on the streetscape, heritage values, the public realm or the amenity of adjoining properties; and***

- ***does not cause an unacceptable visual impact on surrounding streets, public spaces or private open space.***

As discussed above, the additional height will be readily visible from the public realm and will impact short, medium and long-range views to the Site. Exceeding ACZ and Masterplan preferred height limits by up to three levels would result in an unacceptable impact to Champ Street and the broader public realm through a visually dominant development, and would fail to satisfy the following precinct guideline:

o *Establish a scale of development on the northwest interface (Champ Street) that does not overwhelm the character of existing development opposite.*

Further, the additional height proposed represents an inappropriate response to the heritage context of the broader site at 1 Champ Street, and in particular to the significance of the historic A Division immediately east of the site. The overall building height of 11 and 12-storeys and reduced upper-level setbacks will detract from the significance of the place through a dominant scale and proximity to the Victorian Heritage Registered building.

Through an excessive building scale and reduced upper level setbacks that are considered inappropriate to the Site and surrounding area, it’s further noted the proposal fails to satisfy Clause 58 Standard D1 (Urban Context).

Land Uses and Activation at the Lower Levels

As described in the Proposal section of this report, the application does not seek to provide any commercial uses within the Site. Activation of the Lower Ground levels is instead sought to be provided through private terraces, habitable room windows, and communal co-working spaces in the north-east corner of Building 1.

The Masterplan encourages the provision of commercial tenancies within Buildings 1 & 2 at Section 4.0 (Design & Masterplan Response; p.30). Further guidance on the types of commercial land uses sought for the site is provided at Section 4.3 (Development and Land Use Schedule; p.47), while the Vision For Pentridge at p.2 cites the importance of the *‘active integration of the proposed uses’* and the provision of *‘new employment opportunities through the proposed mix of uses’*. The Vision also sets out the Masterplan seeks to ‘*create a vibrant and sustainable urban hub, a place for the shared use of its residents and workers, the neighbouring community and tourists’.*

An active interface with the courtyards to the east of Buildings 1 and 2 is a desirable outcome consistent with Masterplan and ACZ objectives. Such a response would provide future occupants of the buildings with enhanced on-site services and amenity. It would also encourage visitors to frequent the publicly-accessible communal spaces and enjoy the significant heritage site at A Division, while assisting with an integrated activation of the future community and commercial uses contemplated for the important heritage building by the Masterplan (Section 4.0 – Design & Masterplan Response). Establishing a suitably activated connection between the Champ Street entry, the proposed buildings and ‘A’ Division is considered critical to assist with increased visitation to and enhanced re-use of the significant heritage asset.

An absence of retail tenancies within Buildings 1 and 2 is expected to result in inactive frontages at Lower Ground level due to the privacy expectations of residential dwellings, failing to provide a vibrant interface with publicly accessible open space at Courtyards A and B. The communal co-working spaces proposed within Building 1 do not suitably address this concern. The proposed arrangement represents a non-compliance with both the Masterplan and the ACZ’s Precinct 9 Objectives and weighs against supporting the proposal. Further, the proposal represents a lost opportunity to create an enlivened mixed-use setting to support the adaptive re-use of A Division, as encouraged by the Masterplan.

Accessibility

The Masterplan depicts the passage running north-south from Moonering Drive to Success Lane between ‘A’ Division and Buildings 1 & 2 as a Primary Inter-precinct Pedestrian Link (Figure 4.8c at p.63). Relevant to the current application, this land relates to the public space where Courtyard A connects to Courtyard B via the Forecourt, and where Courtyard B connects to Success Lane. It is considered imperative to provide convenient access through the Site to people of limited mobility wishing to move seamlessly between precincts within the Masterplan area, including between Building 1 & 2 and the retail attractions to the south and south-east - namely the shopping centre at Building 9/Lot S4, and the restaurant/bar at E Division.

As proposed, the application does not provide such access from the Site to Success Lane, with access instead provided only by a series of steps from the lower level of Courtyard B to Success Lane. This would result in people of limited mobility having to exit the Pentridge site via Champ Street and return through Success Lane in order to move between the Site and other attractions to the south and south-east. Similarly this is the case for people with limited mobility travelling from Success Lane to the site, the courtyards and A Division.

It is considered that failing to offer convenient access (such as a landscaped approach ‘meandering’ over a large area) from the land to the south, represents an unacceptable outcome in relation to accessibility and weighs against supporting the proposal. This is particularly relevant given the proposal does not seek to provide any commercial tenancies within the site itself, instead relying on retail providers elsewhere within the broader site of 1 Champ Street. Notwithstanding, it is considered an accessible link should be provided in this location regardless of the proposed Lower Ground uses given the thoroughfare is noted as a Primary Inter-precinct Pedestrian Link in the Masterplan. A failure to achieve these Masterplan ambitions runs the risk of delivering a dormitory residential precinct.

It's noted the proposal offers adequate accessibility to Champ Street and Moonering Drive, although the desire to connect basements has necessitated an increased use of disability access ramps that further impacting on the public realm.

**Does the proposal provide appropriate on-site amenity and facilities?**

The proposal achieves compliance with several internal amenity-related standards of Clause 58 to the Merri-bek Planning Scheme (Apartment Developments). Notably:

 Over 500 square metres of suitably designed communal space across multiple levels is provided for the use of residents (Clause 58 requirement: 250 square metres), with a further 3900 (approx.) square metres of publicly-accessible communal open space provided across the three external courtyard areas.

 100 per cent of living rooms and bedrooms comply with the requirements of Standard D26 (Functional Layout) and Standard D27 (Room Depth).

Further, daylight modelling provided by the Applicant demonstrates suitable daylight levels can be expected to 80 per cent of living rooms and 89 per cent of bedrooms throughout the development. This complies with the relevant BESS requirements and is accepted.

**Does the proposal provide an acceptable response to off-site amenity considerations?**

Beyond the visual bulk previously discussed, the proposal is not found to result in any unreasonable off-site amenity impacts to the proximate residentially-zoned land on the western side of Champ Street, or to any property located outside of the broader site at 1 Champ Street.

**Is the proposal accessible to people with limited mobility?**

Standard D17 seeks for 50 per cent of dwellings to meet the relevant design requirements. 51 per cent of dwellings are assessed to meet the relevant design guidelines of the standard. While short of achieving design excellence, this is acceptable.

**Does the proposal offer an appropriate outcome in relation to car parking, bicycle parking, vehicle access and loading?**

The application seeks to provide 260 residential car parking spaces across the three basement levels. This complies with the requirements of Clause 52.06 (Car Parking) of the Merri-bek Planning Scheme and is considered acceptable.

The proposal seeks to provide 308 residential bicycle spaces, plus 38 visitor bicycle spaces. At a total of 346, this represents a reduction of 77 spaces from the ACZ requirement of 423 spaces. This is considered acceptable given every dwelling will be provided with at least one space, and the fact no car parking reduction is proposed. It is acknowledged, however, the proposal does not achieve best practice for such a well-located site with great access to cycling infrastructure.

Council’s Development Engineers have reviewed the proposal in relation to on-site bicycle parking and vehicle access and are supportive of the proposed arrangements in both cases. Were the proposal to have been supported, permit conditions could have ensured appropriate bicycle parking design was implemented through the endorsement process.

The proposal provides a suitably dimensioned space for on-site waste collection and resident loading. Council’s Development Engineers are satisfied with the proposed arrangement.

**Impact on car congestion and traffic in the local area**

The Applicant’s Traffic Impact Assessment calculates that up to 98 vehicle movements will be generated in the weekday morning and evening peak periods. This is only 10 movements higher than previous 2014 estimates and is not expected to adversely impact the intersections of Champ Street & Murray Street and Champ Street & Sydney Road. The proposal is therefore considered acceptable in relation to traffic generation.

**Does the proposal offer an acceptable outcome in relation to the Champ Street public realm?**

Were Officers of a mind to support the application, recommended conditions would have required a Public Works Plans including an amended Public Realm Plan be submitted prior to the endorsement of plans. Confirmation is required that Buildings 1 and 2 do not reduce the publicly-accessible open space provided - particularly in relation to the forecourt entry west of the heritage bluestone wall. Therefore, a plan that dimensions all of the primary publicly-accessible open space areas is required to ensure compliance with Masterplan expectations. It is considered the ‘3.8 Public Domain Plan’ submitted doesn't accord with the approved 2018 Champ Street Streetscape Improvement Plan.

**5. Response to Objector Concerns**

As covered in Section 2 of this report, the application has not been advertised. As such, no objections have been received to date. The requirement for public notice will be determined by VCAT which, if directed would allow any objectors to become a party to the VCAT review process.

**6. Officer Declaration of Conflict of Interest**

Council Officers involved in the preparation of this report do not have a conflict of interest in this matter.

**7. Financial and Resources Implications**

There are no financial or resource implications from this report, with the costs associated with the VCAT review to be met by Council’s legal budget and expert witness costs by the City Development Branch budget

**8. Conclusion**

On the balance of relevant policies and controls within the Merri-bek Planning Scheme, it is recommended that Council advises the Victorian Civil and Administrative Tribunal (VCAT) and all parties that the proposed development is not supported.

The proposed design response represents a lost opportunity to create an active and vibrant entry and publicly accessible spaces within a setting of significant heritage assets. It is disappointing that the proposal is wholly residential, meaning there are no active ground-floor uses to contribute to the mixed-use character of the precinct. It is paramount that this proposal delivers on the broader vision of Pentridge *to create a vibrant and sustainable urban hub, a place for the shared use of its residents and workers, the neighbouring community and tourists.*

**Attachment/s**

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| --- | --- | --- | --- |
| **1** | 1 Champ Street, COBURG VIC 3058 - Location and Zoning Plan | D24/164938 |  |
| **2** | 1 Champ Street, COBURG VIC 3058 - Architectural Plans | D24/135312 |  |
| **3** | 1 Champ Street, COBURG VIC 3058 - Clause 58 Drawings | D24/135314 |  |