

Planning Application - YR-2022/59 - 272 Maroondah Highway Healesville - Planning Report – Planning Report

APPLICATION DETAILS

Site Address	272 Maroondah Highway (Lot 1 PS445694), Healesville and Lot 1 TP 566609J (Council laneway)
Application No.	YR-2022/59
Proposal	Development of two (2) retail premises, use and development for three (3) dwellings, and reduction in carparking requirements
Existing Use	Commercial premises
Applicant	Soft Loud House Architects
Zone	Commercial 1 Zone (C1Z)
Overlays	Heritage Overlay Schedule 428 (HO428) Design and Development Overlay Schedule 12 (DDO12) Bushfire Management Overlay Schedule 1 (BMO1)
Permit triggers	<ul style="list-style-type: none"> • Clause 34.01-1 (Commercial Zone) - permit required for Section 2 Land Use (Dwellings) • Clause 34.01-2 (Commercial Zone) –permit required to construct a building or construct or carry out works associated with a Section 2 use • Clause 43.01-1 (Heritage Overlay – Schedule 428) – Permit required to construct a building or construct works or carry out works (a permit is not required to demolish the building as it is a non-contributory building) • Clause 43.03-2 (Development and Design Overlay Schedule 12) – permit required to construct a building or construct works or carry out works • Clause 44.06-2 (Bushfire Management Overlay) – permit required to construct a building or construct works or carry out works associated with a dwelling/s • Clause 52.06 (Car parking) – permit required for reduction of carparking requirements
Objections	Twelve (12) objections
Encumbrances on Title (Covenants/Section 173 Agreements)	No
Reason for Council Decision	More than 10 objections \$3 million cost of works
Ward	Ryrie

SUMMARY

This application seeks to develop the land at 272 Maroondah Highway Healesville and part of the adjoining Council owned pedestrian laneway for a three storey building for two retail premises at the ground level, three dwellings on the second and third level, and seeks the reduction in carparking requirements of three spaces.

The proposal requires the removal of a non-contributory building currently used as an office to develop the site, however a planning permit is not required for this demolition.

The application seeks building access and installation of an awning along the adjacent Council owned pedestrian laneway. Council's property department are generally supportive of this, however the permit holder will need to enter into a licensing agreement with Council via separate process following planning approval. The licensing agreement will address function, liability, and maintenance responsibilities. Relevant departments in areas of traffic, infrastructure and property have been made aware of this request and raised no concerns. Necessary conditions on permit are recommended to facilitate this request.

No carparking spaces are provided on the lot. The site does share ownership of and access to a rear nine (9) space informal/gravel surfaced carparking area with the property at 274 Maroondah Highway Healesville. Vehicle access to the carparking area is via Symons Street. The application seeks to secure three of the nine carparking spaces for the dwelling occupants. Relevant permit conditions are recommended addressing the carparking physical layout and installation of design elements to achieve this.

The application received twelve (12) objections with concerns related to general misalignment with Heritage and Township development design outcomes, impacts to commercial businesses, traffic impacts, increase to carparking demand and amenity concerns focused on noise impacts, daylight loss, overlooking and overshadowing into adjoining commercially zoned allotments.

The application exhibits strong alignment to objectives and strategies of Healesville Commercial Precinct (Heritage Precinct) and Healesville District (Healesville Structure Plan) in providing all accessible housing and varied commercial uplift within Healesville Town Centre.

The high-quality building design respects and enhances the existing commercial streetscape character and pedestrian function, and demonstrates a positive relationship with adjoining properties, including the Grand Hotel.

The proposal including the building design detailing is an excellent example of delivering on Council's sustainable development strategic direction.

Overall, it is considered that the proposal demonstrates a strong alignment with the relevant policies and provisions of the Yarra Ranges Planning Scheme. It is recommended that a Notice of Decision to Grant a Permit be issued subject to conditions.

RECOMMENDATION

That Council resolve to approve Planning Application YR-2022/59 for Development of Two (2) Retail Premises, Use & Development Three (3) Dwellings and reduction in carparking requirements at 272 Maroondah Highway (Lot 1 PS445694), Healesville and Lot 1 TP 566609J and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.

DISCLOSURE OF CONFLICT OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

CULTURAL HERITAGE SIGNIFICANCE

The application has been checked against the requirements of the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2007 (Vic)* as to the need for a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required.

EXTRACTIVE INDUSTRY

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the *Mineral Resources (Sustainable Development) Act 1990*.

HUMAN RIGHTS CONSIDERATION

The application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Yarra Ranges Planning Scheme), reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

ENCUMBRANCES ON TITLE

There are no encumbrances on the Certificate of Title for 272 Maroondah Highway Healesville. There are no encumbrances on the Certificate of Title for Lot 1 TP 566609J, other the easement (E-1) in favour of The Grand Hotel, which is discussed below in the site description section of this report.

SITE LOCATION AND DESCRIPTION

The subject site comprises two separate land parcels. The first is 272 Maroondah Highway Healesville, (Lot 1 PS445694) and the second is the adjoining Council owned pedestrian accessway (laneway) to the west of 272 Maroondah Highway (Lot 1 TP 566609J) (see Figure 1 and Figure 2).



Figure 1 - Site Aerial (Source: Intramaps)



Figure 2 - Site Aerial (Source: Intramaps)

The first and main site for this application is known as 272 Maroondah Highway. The land is approximately 244 square metres in area and is located on the southern side of Maroondah Highway Healesville, central to the Healesville Township's commercial core. Currently occupying this site is a single storey retail building which covers the full site area, with zero setbacks from the property boundaries.

The second site is the Council owned laneway located immediately west of 272 Maroondah Highway. The laneway is 2.88 metres wide and 38.71 in length stretching the full length of the 272 Maroondah Highway side boundary and also along the adjoining allotment to the south. The laneway is actively used as a pedestrian access. Along the western boundary of this lot is a relatively small easement which is 600 millimetres wide and 11.58 metres in length in favour of the property to the east – commonly known as The Grand Hotel.

To the south is a separate 226 square metre land parcel (created when 272 and 3274 Maroondah Highway was subdivided, and referred to as 272-274 Maroondah Highway, Healesville, Lot CM1 PS445694 and in equal shared ownership of both 272 and 274 Maroondah Highway) used for car parking with nine unsealed, unlined carparking spaces. 274 Maroondah Highway, Healesville is also a commercially owned property with a retail use, however is not part of this application. The carpark is setback approximately two metres from the building for drainage purposes. Access to the carpark is either via Symons Street, or the Council owned laneway running along the western side. This becomes a pedestrian only access to/from Maroondah Highway and the carpark. More information about carparking and access is provided in the assessment section. Photos included in Attachment 4 provide context of the site rear and access.

At the front of the site is a large English Elm tree (*Ulmus procera*) located in the road reserve that has a high retention value.

The subject site is well positioned to access commercial and community services within walking distance and access to public transport bus services 684, 686, 687 is approximately 50 metres east in Green Street.

SURROUNDING AREA

The majority of the Healesville Commercial Precinct is covered by a Heritage Overlay (see Figure 3), that is intended to include contributory historic commercial and retail buildings which are concentrated in the core of the Maroondah Highway (Nicholson Street) shopping core. While the precinct includes some non-contributory buildings (including this building), this is generally due to being adjacent to, or between, the buildings of heritage value on Maroondah Highway (Nicholson Street).

The subject site is a non-contributory building, adjacent to a heritage significant building, The Grand Hotel which is the most visibly predominant building along the streetscape with a three storey-built form, sited on a corner allotment interfacing with Maroondah Highway and Green Street.

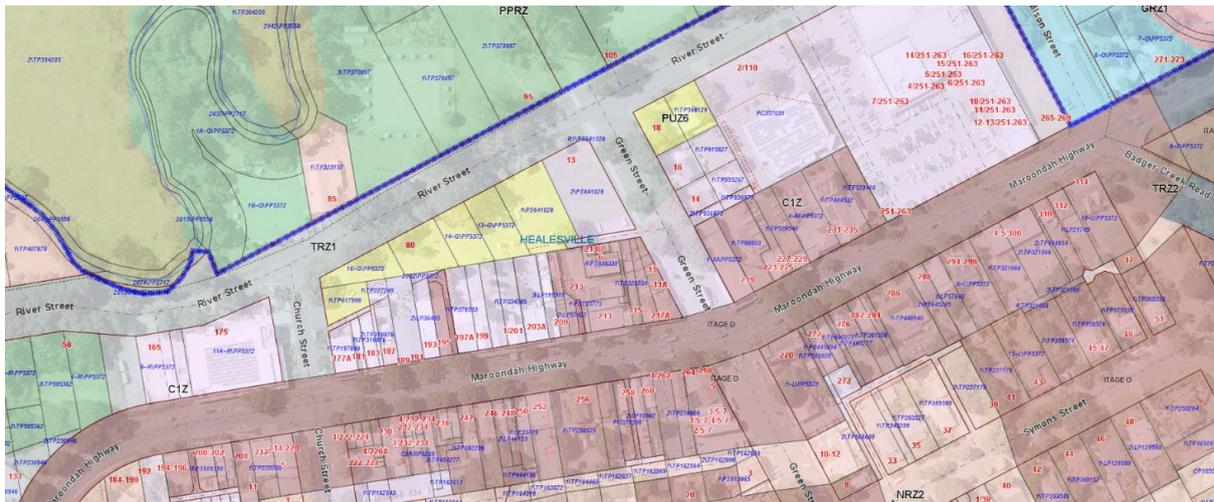


Figure 3 – Lots on immediately adjacent to Maroondah Highway coloured in light brown are covered by Heritage Overlay HO428 (Source: Intramaps)

The Healesville Commercial Precinct demonstrates some of the principal characteristics of an historic rural town main street, including a mix of single and double storey historic commercial buildings, typically with zero setbacks to the street; shopfronts at ground floor level; awnings and verandahs; parapets, and prominent corner buildings including hotels. Rear setbacks on some allotments are predominately used as outdoor dining areas associated with food and drinks premises.

There is a 'high' and 'low' side in the Maroondah Highway precinct, which is the south side and north side respectively. The high side has steps immediately from the road leading to pedestrian footpath and then into a commercial building.

Notably building styles range between 18th century to post World War II era and there is no obvious consistency in architectural design rhythm on either streetscape side. Instead, the main street is an eclectic collection of buildings with different parapets details, window openings of all shapes, varied verandah styles, flat roofs (for single storey buildings), hipped roofs (for double storey buildings), brick and rendered brick facades and myriad of colours schemes contributing to a varied and vibrant historical main street.

Both sides of the streetscape are lined with English Elms trees making a strong linear cohesive streetscape feature which are protected by an existing Heritage Overlay (HO159), contributing to a precinct of heritage significance.

Land to the south

Beyond the common car parking area to the south, are residential zoned properties with dwellings fronting Symons Street with rear secondary access via a carriageway running in the east-west direction, which also provides rear access to Maroondah Highway rear commercial lots.

PROPOSAL

This application seeks to develop the land at 272 Maroondah Highway Healesville and part of the adjoining Council owned pedestrian laneway for a three storey building for two retail premises at the ground level, three dwellings on the second and third level, and seeks the reduction in carparking requirements of three spaces. The portion of the building in the laneway is an awning overhand to provide shelter at the entrances.

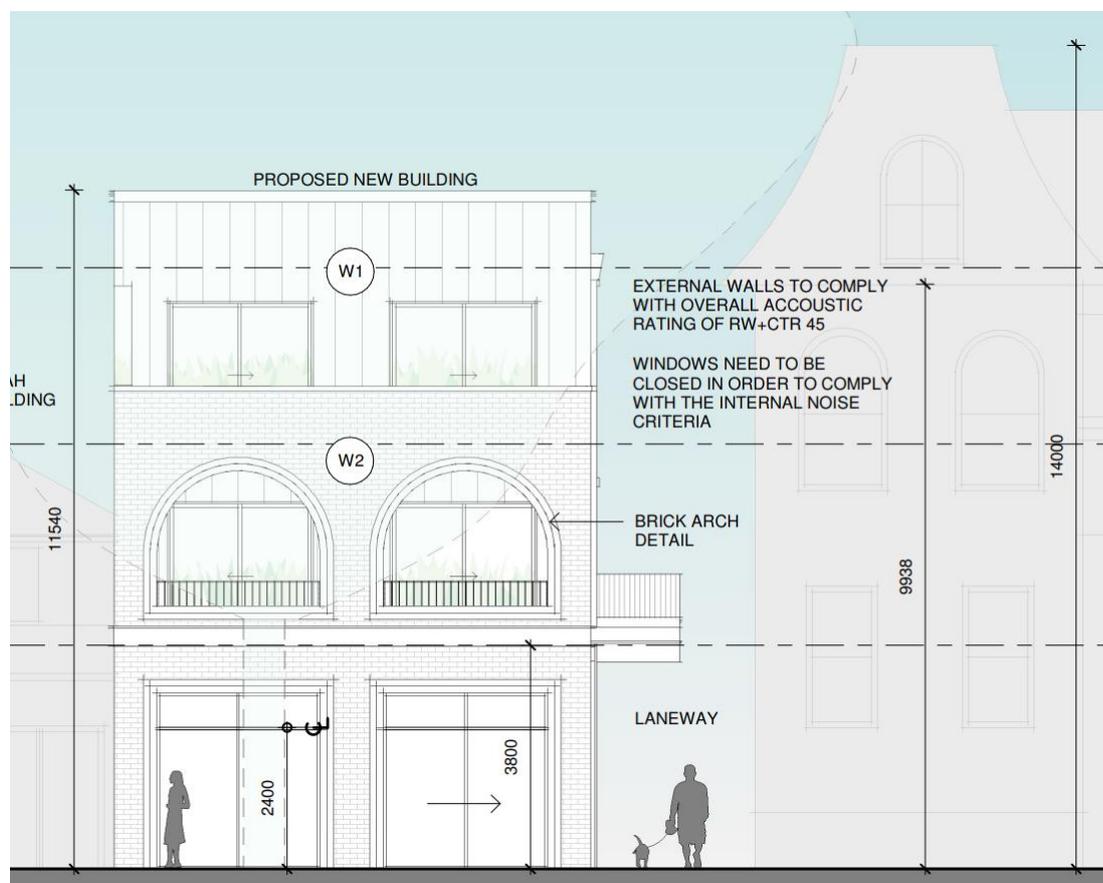


Figure 5 - Facade elevation to Maroondah Highway

The proposal is summarised below:

Building Summary:

Storeys	Three (3) storeys
Setback	Front – Zero
	Side – Zero

	Rear – Zero
Site Coverage	100%
Maximum height of building (measured from Natural Ground Level)	11.54 metres
Car parking Clause 52.06	<p>Full reduction of carparking requirement.</p> <p>Statutory car parking spaces required are:</p> <ul style="list-style-type: none"> • Three (3) car spaces for dwellings land use. • Car spaces for retail premise land use are to Council's satisfaction <p>Land owner has legal ownership on their title to the use of shared commonly owned rear parking (nine spaces)</p>
Bicycle storage	Three bicycle spaces
External materials and finishes	<p>Constructed as a combination of</p> <p>Exterior façade Ground Floor</p> <ul style="list-style-type: none"> • Recycled brick (red) -- All sides <p>Exterior façade First Floor</p> <ul style="list-style-type: none"> • Recycled brick (red) -- North • Recycled brick (red) -- East • Corten (dark brown/red) -South • Corten (dark brown/red) - West <p>Exterior façade Second Floor</p> <ul style="list-style-type: none"> • Corten (dark brown/red) - North • Recycled brick (red) - East • Corten (dark brown/red) - South • Corten (dark brown/red) - West <p>Windows/ flashing</p> <ul style="list-style-type: none"> • Colourbond – Gully Grey • White ash <p>For the purposes of clarity, “Corten” referenced above is a type of metal cladding which has a rusted appearance, and has noise attenuating attributes.</p>
Waste management and services	Rear on-site commercial and residential bin storage area on-site, access via common land.

	<p>Council waste collection is proposed for the residential dwellings, with the retail premises requiring a private collection unless otherwise agreed to by Council's Waste Management Team.</p> <p>General services along western façade, accessed via laneway.</p>
--	---

Development component summary:

Development	
Retail premise 1 (front)*	Size - 92.2 square metres at ground floor level
Retail premises 1 entrance	Entry to retail premise 1 - via Maroondah Highway
Retail premise 2 (rear)*	Size - 52.4 square metres at ground floor level
Retail premises 2 entrance	Retail premise 2 - via the western pedestrian laneway
Dwelling 1	Number of Bedrooms - Two
	Total secluded private open space (balcony) - 17.7 square metres
	Level - First floor level
Dwelling 2	Number of Bedrooms - Two
	Total secluded private open space (balcony) - 25.0 squared metres
	Level - Second floor level
Dwelling 3	Number of Bedrooms - Two
	Total secluded private open spaces (balcony and courtyard)
	- 19.2 square metres (balcony outward facing)
	- 10.6 square metres (courtyard inward facing)
	Level - Spilt over first floor and second floor levels
Dwelling entrance	2.42 metre wide ground floor entrance along the western pedestrian laneway

HISTORY

Application Number and Decision Date	YR-2001/27 - Two (2) lot subdivision of existing shops with rear common property Related to 272 Maroondah Highway and 274 Maroondah Highway.
VCAT History	N/A
Other History	274 Maroondah Highway (adjoining site to the east) shares a common property carparking area with the subject site. In 2005, a Planning Permit was issued for 274 Maroondah Highway <i>External buildings and works, dispensation of car parking requirements and use of land for licensed premises.</i> Council approved a carparking dispensation of 23 spaces for a restaurant venue with a capacity of 100 patrons.

PLANNING CONTROLS

Zoning:	Clause 34.01 – Commercial 1 Zone
Overlay:	Clause 43.01 – Heritage Overlay (Schedule 428) Clause 43.02 – Design and Development Overlay (Schedule 12) Clause 44.06 – Bushfire Management Overlay Schedule 1
Planning Policy:	Clause 11.01-1S - Settlement Clause 11.01-1R - Metropolitan Melbourne Clause 11.02-1S - Activity Centres Clause 13.02 - Bushfire Clause 13.05-1S - Noise Clause 15.01-1S - Urban Design Clause 15.01-2S - Building design Clause 15.01-5S - Neighbourhood Character Clause 15.03-1S - Heritage conservation Clause 16.01 - Housing supply Clause 16.01-2S - Housing affordability Clause 17.01-1S - Diversified economy
Local Planning Policy:	Clause 21.04 – Land use Clause 21.05 – Settlement

	Clause 21.06 – Built form Clause 22.11 – Healesville commercial precinct
Clause 51.03:	Not applicable
Schedule to Clause 51.03:	Not applicable
Particular Provisions	Clause 52.06 – Car Parking Clause 53.02 – Bushfire Planning Clause 53.06 – Live Music Entertainment Venues Clause 58 – Apartment Developments
Other Requirements:	Clause 65 – Decision guidelines

For further information on the planning controls refer to Attachment 2.

PERMIT TRIGGERS

Zoning

- Pursuant to Clause 34.01-1 of the Commercial 1 Zone, a planning permit is required to use the land for the purposes of a dwelling where the ground floor dwelling entrance is more than 2.0 metres wide; and
- Pursuant to Clause 34.01-4 of the Commercial 1 Zone, a planning permit is required to construct a building or construct or carry out works associated with a Section 2 Use.

Overlays

- Under the Heritage Overlay Schedule 428 (HO428), a permit is required to construct a building or construct or carry out works. Pursuant to Clause 43.01 (Heritage Overlay) Incorporated Plan Healesville Commercial Precinct - February 2015, point 5.0 *Planning Permit Exemptions*, a demolition of a non-contributory building is exempted from a planning permit. More discussion about Yarra Ranges Incorporated Plan Healesville Commercial Precinct is provided within the Assessment Section of this report;
- Under the Design and Development Overlay Schedule 12, a permit is required to construct a building or construct or carry out works; and
- Under the Bushfire Management Overlay, a permit is required to construct a building or construct or carry out works for Accommodation (Dwellings).

CONSULTATION

Internal Referrals

This application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Department	Summary of Response	Conditions required
Traffic Engineer	<p>No objections, subject to conditions.</p> <p>Comment: Pleased with the proposal dedicating three car spaces inclusive to the dwelling land use.</p>	<p>Recommended condition:</p> <ul style="list-style-type: none"> - Re-sealing of laneway. - Sealing of existing carpark (privately owned) - Sealing of existing western laneway (council owned) - New building doors facing the communal carparking to be relocated to swing outwards to the laneway only, allowing more room for communal carparking. <p>Further discussion is provided in the traffic/carparking assessment section.</p>
Drainage Engineer	<p>No objection, subject to standard drainage conditions.</p>	<p>All recommended standard conditions are supported and included.</p> <p>Furthermore, recommended an additional drainage condition to be included requiring drainage of the awning along laneway to be connected to the building's site legal point of discharge.</p>
Strategic/Heritage Advice	<p>No objection and no recommended conditions.</p> <p>Design commentary has been provided. Some notable comments</p> <ul style="list-style-type: none"> • The proposed development is generally consistent with DDO12. • The three storey form is acceptable given its abuttal to a taller building (the Healesville Grand 	<p>No conditions to be included, however the design comments received have been discussed in detail below in this report.</p>

Department	Summary of Response	Conditions required
	<p>Hotel.</p> <ul style="list-style-type: none"> The façade shows a sufficient degree of articulation and presentation to street frontage. The proposed development is generally in accordance with local policy for Healesville Town Centre. 	
Arborist	<p>No objection subject to standard conditions.</p> <p>Comment:</p> <ul style="list-style-type: none"> Supportive of the proposed verandah depth which aligns with the existing circumstances to ensure impact to the front streetscape tree is unchanged 	<p>Recommending standard conditions for street tree protection measures during the construction phase</p>
Waste Management	<p>No objection, subject to conditions.</p> <p>Referral note that the waste management plan report illustrates a bin area slightly larger than the proposed corresponding detail on the Ground Floor Plan.</p>	<p>Recommend:</p> <ul style="list-style-type: none"> Condition for the ground floor plan bin storage area to be amended to match the approved waste management plan. A revised Waste Management Plan submitted and approved post advertising.
Economic Development	<p>No objection.</p> <p>Supportive of this application in the centre of Healesville.</p>	<p>Noted.</p>
Property and Leasing	<p>Raised no immediate concerns, commenting that to facilitate the requested access and works on Council owned land (laneway) a separate Council licensing</p>	<p>Recommended including a condition on permit to impose the requirement to obtain the necessary formal licensing consent</p>

Department	Summary of Response	Conditions required
	agreement process must be followed after a planning permit being issued	and a licensing agreement be entered into prior to any works commencing.

External Referrals

This application was referred to the following statutory referral authority for advice on particular matters. The following is a summary of the relevant advice:

Department	Summary of Response	Conditions required
CFA (Recommending referral authority)	No objections No additional conditions to the standard mandatory conditions in the planning scheme	Mandatory bushfire condition applied as required by the planning scheme.
Head of Department of Transport (VicRoads) (Recommending referral authority)	No objections and no conditions.	No conditions.

Public Notification and Consultation

Notification of the application was undertaken by:

- Placing of two sign/s on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days

Number of Objections:

Council received 12 objections to the application and the main concerns include the following

- Neighbourhood character including three storey built form and density;
- Heritage concerns including the demolition of an existing building and lack of response to heritage preservation;
- Car parking issues;
- Common Property usage and entitlement;
- Request for works to take place as part of this planning application;
- Loss of amenity both during construction and post completion;
- Concern for addition of third bar in close proximity to residential area;
- Amenity concerns for the Grand Hotel;

- Amenity concerns for 272 Maroondah Highway;
- Waste management;
- Deliveries to Grand Hotel;
- Continuation of live music at the Grand Hotel and other commercial business impact;
- Protection of street trees;
- Fire Risk requires additional plan to be put in place;
- Documentation inaccuracies throughout submitted documentation; and
- Public Infrastructure Demands are too high

For more information on objections see *Response to Submitters concerns* section of this report.

ASSESSMENT/ KEY ISSUES

Policy State, Regional and Local

The proposal has been assessed against the relevant planning policy provisions, zone and overlay provisions and is consistent with objectives to the Yarra Ranges Planning Scheme.

The Planning Policy Framework (PPF) is outlined in Clauses 10-19 of the Planning Scheme and is required to be taken into account in deciding this application. It contains a range of policies that are expected to be integrated, relevant to the issues to be determined and, where conflicting objectives are identified, these are balanced in favour of net community benefit and sustainable development.

The following planning provisions are relevant to this proposal objectives:

- Settlement - Clause 11.01-1S seeks to promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. Strategies underpinning this objective include to limit urban sprawl and direct growth into existing settlements; promote and capitalise on opportunities for urban renewal and infill redevelopment and develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.
- Metropolitan Melbourne - Clause 11.01-1R seeks to protect the green wedges of Metropolitan Melbourne from inappropriate development. One of the strategies underpinning this objective is to 'consolidate new residential development in existing settlements and in locations where planned services are available and green wedge values are protected'.
- Activity Centres - Clause 11.03-1S seeks to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. To this end, one of the strategies underpinning this objective is to 'build up activity centres as a focus for high-quality development, activity and living by developing a network of activity centres that provides different types of housing, including forms of higher density housing'. Another strategy seeks to

'encourage a diversity of housing types at higher densities in and around activity centres'.

- Bushfire - Clause 13.02 seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.
- Noise management – Clause 13.05-1S seeks to minimise the impact on human health from noise exposure for sensitive land uses including residential use through suitable building siting and design (including orientation and internal layout), urban design and land use separation techniques.
- Urban design - Clause 15.01-1S seeks to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. One of the strategies underpinning this objective is to 'ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness'.
- Building design - Clause 15.01-2S seeks to achieve building design outcomes that contribute positively to the local context and enhance the public realm. Two of the strategies underpinning this objective is to 'ensure the form, scale, and appearance of development enhances the function and amenity of the public realm' and incorporate passive sustainable energy performance of buildings through siting and design.
- Neighbourhood character - Clause 15.01-5S seeks to 'recognise, support and protect neighbourhood character, cultural identity, and sense of place'.
- Heritage conservation - Clause 15.03-1S seeks to ensure the conservation of places of heritage significance. Two of the strategies underpinning this objective are to 'ensure an appropriate setting and context for heritage places is maintained or enhanced' and 'encourage appropriate development that respects places with identified heritage values'.
- Housing supply - Clause 16.01 seeks to facilitate well-located, integrated and diverse housing that meets community needs.
- Housing affordability - Clause 16.01-2S seeks to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations, as listed, but limited to Neighbourhood activity centres and Urban-renewal precincts and sites.
- Diversified economy - Clause 17.01-1S seeks to strengthen and diversify the economy by protect and strengthen existing and planned employment areas and plan for new employment areas. Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region. Improve access to jobs closer to where people live.
- Movement Network – Clause 18.02-1S seeks to facilitate an efficient and safe walking network and increase the proportion of trips made by walking

In addition to broader Planning (state) policy objectives, the Municipal Strategic Statement (MSS) at Clause 21 and specific Local Planning Policies at Clause 21

and Clause 22 identify the important local policy objectives to address the challenges faced by Yarra Ranges, in relation to managing future land use and development within the municipality.

The following local provisions are relevant to this proposal objectives:

- Residential - Clause 21.04-1 seeks to promote housing diversity within consolidation areas that have walkable access to shops, public transport and community facilities. Furthermore, incorporate residential opportunities into commercial development.
- Commercial Development - Clause 21.04-2 seeks to promote the future growth and prosperity of the Shire. Consider the inclusion of residential options in commercial development proposals within housing consolidation areas. Further to minimise off-site impacts to the amenity of local communities and satisfy other relevant planning criteria for such activities.
- Settlement - Clause 21.05 seeks to establish sustainable and attractive townships which can support a range of residential, commercial, retail, community and recreational facilities and services. Promote good design and a high-quality level of amenity which helps to define and enhance the individual character of each town.
- Built form - Clause 21.06 seeks creation of a more sustainable urban form that consolidates development in existing town centres, which has environmental and social benefits. It reduces car dependency, makes more efficient use of community infrastructure and adds life and vitality to town centres
- Healesville Commercial Precinct - Clause 22.11 builds on Clause 15.03, Clause 21.06 and Clause 43.01 to protect and conserve cultural heritage by providing specific guidelines for the Healesville Commercial Precinct. Significant and contributory buildings range from 1880s to post World War II.
- Healesville District - Clause 22.12 builds on Clauses 21.04, 21.05, 21.06 and 21.07, addresses objectives on encouraging commercial uses which contribute to a vibrant town centre, built form development to respect its rural town character, encourage full activation of retail frontages on commercially zoned land, provide for a range of household types and abilities which meet the needs of the local population, access maintain connectivity by retaining existing laneways in the Healesville town centre for safe pedestrian access.

In responding to objectives of relevant planning and local planning provisions specific considerations are that:

- The proposed use and development are well-located to complement a range of other localised neighbourhood uses thereby ensuring the use contributes towards the vibrancy of the Activity Centre, adds to the diverse mix of uses in the Activity Centre and sharpens the focus of the Activity Centre as a place for living as well as doing business (Clauses 11.03-1S, 11.03-1R, 16.01-2S 21.04-1 21.04- 2 and 21.05).
- The proposed use and development exhibit as a quintessential example of a consolidated sustainable development comprising a mix-use building supporting a residential offering with pedestrian proximity to well-serviced daily

amenities and varied commercial use sizes, strengthening commercial opportunities and economic resilience within an established settlement area. Adopting high-quality building passive design layout and series of sustainable design measures outlined in by a submitted Sustainable Design Assessment report, the proposal is classified as having sustainability merit in its use and location, as well as construction and function detail (Clauses 11.01-1S, 11.01-1R, 11.03-1S, 15.01-2S, 16.01, 16.01-2S, 17.01-1S, 21.04-1, 21.04-2, 21.05 and 21.06, 22.12).

- The introduction of two-bedroom apartment-style dwellings into the Healesville town centre represents a new, affordable choice in housing tenure reflecting the demographic profile of Healesville. These dwellings seek to provide housing diversity with attractive 'accessible' design for all age groups, including retired and elderly members of the community (Clause 16.01-1S, 16.01-2S and 21.04-1, 22.12).
- The development introduces more local job opportunities close to residential areas and contributes to a robust commercial sector (Clauses 21.04-2 and 17.01-1S).
- The introduction of a residential use into the town centre with balcony level open space and habitable rooms oriented towards Maroondah Highway and Laneway introduces a new layer of passive public surveillance to the centre of town (Clause 15.01-1S).
- The proposed development represents a typical triple-storey commercial building volume cleverly designed as a two-storey emphasis visual appearance. The third storey building form is sufficiently setback from Maroondah Highway to visually be indiscernible from this important streetscape and the central break in the building form ensures adverse visual amenity impacts to adjoining land is minimised (Clauses 15.01-1S, 15.01-2S, 15.01-5S, 21.04-1 and 21.06).
- The proposal maintains commercial floor space at ground level activating two public interfaces with an identified pedestrian access entry to the residential apartments to minimise land use conflict with commercial uses (Clauses 21.04-1 and 21.04-2).
- The proposal not only maintains the existing laneway for pedestrian access links but improves safety pedestrian passive surveillance by its activation. Laneway activation allows the commercial building to showcase a full retail frontage (Clauses 18.02.1S and 22.12).
- The building design and layout, and use of materiality and noise attenuation construction techniques delivers an exceptional level of residential internal amenity enjoyment (Clauses 13.05-1S and 15.01-2S).
- The building is designed to integrate into the heritage streetscape character, respecting building heights and identified heritage values, whilst neatly slotting into the allotted space maintaining built form streetscape rhythm. The building's detailed design expression comprises subtle odes to the township's historical architecture with a contemporary twist (Clauses 15.01-1S, 15.03-1S, 21.04-2, 22.11 and 22.12). There is one identified detail relating the mounding cast around window/doors and arches that is unsatisfactory within a heritage context. Further discussion of this is provided in the detailed heritage assessment of this report.

- The proposed use and development (dwellings) are of sufficiently low bushfire risk given there is a reasonable separation from the nearest bushfire hazard and vegetation, exposure to radiant heat is within acceptable levels. (Clauses 13.02-1S)

HEALESVILLE STRUCTURE PLAN

In addition to the above, the proposal has been assessed and deemed suitably aligned with the endorsed Healesville Structure Plan which is a reference document under Healesville District - Clause 22.22.

Healesville Structure Plan dated 2016 addressed new opportunities of Healesville Township in key areas, as relevant to this proposal:

- built form, heritage and public;
- residential; and
- business / tourism commercial.

The following are the main key areas' objectives/strategies.

Built form, heritage and public

- *Streetscapes and public spaces in the town centre that maintain the rural town character;*
- *Retention of important heritage places;*
- *A revitalisation of the town centre is needed to ensure the public realm is attractive, functional and safe; and*
- *There are opportunities to increase traffic and pedestrian safety.*

Residential

- *The varied housing forms and lot sizes provide a unique character;*
- *There is a need for increased housing diversity and affordability and specialised accommodation;*
- *Encourage new development to be energy efficient; and*
- *Ensure the built environment is accessible to all*

Business & tourism

- *A strong and dynamic town centre;*
- *A diversity of businesses that cater to local residents and tourists;*
- *Ensure new development complements the main street retail shopping strip;*
- *Focus additional commercial activity and development within the existing town centre shopping strip; and*
- *Discourage out of centre retail proposals*

The proposal suitably aligns to the Structure Plan's relevant objectives and strategies having regard the following considerations:

- The proposal is an uplift to the site and existing town centre streetscape, offering a new purpose built mixed commercial and housing development;
- The building design is respectful to the heritage and rural township character, adopting a contemporary and simple design-built form and style that signals the passive approach to the revitalisation of this town centre;
- The existing building is not an important identified heritage building, nor a contributory building;
- The proposal focuses attention to encouraging pedestrian activity and walking movement safety links;
- The proposal contributes to all-accessible alternative housing type and mixed housing size offering within an established urban setting;
- The building adopts numerous sustainability design energy practices; and
- The proposal provides additional commercial activities within the existing towns centre supporting a dynamic and resilient town centre that is stronger with its local and tourism economy.

Overall, the proposal is consistent with the relevant planning policy and is worthy of support.

Commercial 1 Zone

The purpose of the Commercial 1 Zone acknowledges the role a diverse mix of uses can play in catalysing investment attraction, business growth, residential expansion and, as a result, increasingly higher levels of amenity and vibrance for those who live, work and invest in an Activity Centre.

The proposed use is considered to satisfy the purpose and decision guidelines of the Commercial 1 Zone and is considered appropriate.

The proposal activates two of its ground floor interfaces with two different sized commercial tenancies which could be interchangeable for a variety of retail, business, entertainment and community uses. The activation of the laneway increases attractiveness for pedestrians and cyclists' movement within and around the commercial area, and improves safety through active use and surveillance of the area.

The proposal introduces a residential use component across two upper floors that is proportional and complementary in the role and scale of the commercial centre.

The building is a typical design with contemporary features which expresses both visual cohesion and discernible differences between commercial and residential uses. There are different verandah styles to aid two side public entries, introduction of subtle waves/curves to soften straight edges and integrated balconies within the building envelope. There is sufficient detailing across the built form facades and depth of materiality for additional visual interests.

Waste management is appropriately managed with an integrated storage area to the building's rear and a proposed mixed collection service. Depending on the type of commercial uses, a council collection or private collection is assigned. A council

collection would be along the Maroondah Highway frontage. Residential four waste stream Council collection will be serviced via Symons Street.

Existing surrounding land uses are non-residential in nature and are largely complementary of the proposed residential apartments, notwithstanding that any residential use of land must accept a lower standard of residential amenity (interruptions from noise, light, traffic etc) in a Commercial 1 Zone.

The building orientation and layout provides a good level of solar access to both commercial and residential areas, albeit the rear retail premise is limited in this respect which may benefit a particular type of commercial offering.

The subject land is also suitably connected to or has the ability to connect to all utility services including electricity, gas, telecommunications, sewerage and water supply.

Heritage

The purpose of the Heritage Overlay acknowledges the role a diverse mix of uses can play in catalysing investment attraction, business growth, residential expansion and, as a result, increasingly higher levels of amenity and vibrance for those who live, work and invest in an Activity Centre.



Figure 6 - Clause 43.01 Incorporated Plan Healesville Commercial Precinct (Healesville Heritage Project (Lovell Chen 2015))

Figure 6 details the location of significant, contributory and non-contributory listed buildings in the main street of Healesville. The subject site contains a building with non-contributory value. No planning permit is required to demolish a non-contributory building. As such non-contributory commercial buildings in the precinct provide an opportunity to demolish and construct a development which responds to evolving commercial expectations and market demand.

To better understand the heritage assessment of non-contributory buildings, the Incorporated Plan for the Healesville Commercial Precinct (February 2015) (See Attachment 11) and Clause 22.11-1 Healesville Commercial precinct states:

'Non-contributory' buildings include recent infill development, including post-WWII development of little or no architectural merit or heritage character; earlier buildings which have been significantly modified and where the alterations have diminished the heritage value and character; and some recent 'faux' Victorian style shop buildings. These properties are included in the precinct due to their particular location, which may be sensitive in terms of future precinct management and conservation.

To better understand the significance of the Healesville Commercial Precinct, the following is the extracted Statement of Significance.

Healesville Commercial Precinct is focused on the Healesville 'main street' shopping centre, which is linear in form and borders the east-west running Nicholson Street (Maroondah Highway). The street is sited on a terraced hillside that slopes down from south to north where it borders the flats of the Watts River, giving the street 'high' (south) and 'low' (north) sides. The wide intersection of Green and Nicholson streets is at the centre of the precinct, and is dominated by the Grand Hotel. Dates of construction for graded heritage buildings range from the late 1880s through to the post-WWII period, a wide date range which is not uncommon in rural centres where development can occur over a long period. Generally, two-storey buildings are on the 'high' south side of the street, advantageously sited to afford views to the Watts River corridor, over the roofs of the typically single-storey buildings on the north side of the street. The majority of buildings within the precinct are of brick, with many over-painted, and some with combinations of brickwork and roughcast/render finishes; there are also timber buildings. Mature street trees along Nicholson Street are subject to an existing Heritage Overlay (HO159).

The precinct demonstrates some of the principal characteristics of an historic rural town main street, including a mix of single and double storey historic commercial buildings, typically with zero setbacks to the street; shopfronts at ground floor level; awnings and verandahs; parapets; and prominent corner buildings including hotels. Healesville Commercial Precinct is also of local social significance as a much valued commercial/retail shopping area in the town, which has retained its historical commercial focus, emphasising its importance to the Healesville community.

A heritage assessment rests upon Clause 15.03 - Building Environment and Heritage objectives, Clause 22.11-3 - Healesville Commercial Precinct and the Heritage Overlay decision guidelines. Relevant key design guidelines are as follows, with a subsequent assessment response.

Clause 22.11-3 Policy

- Maintain the prominence of the significant and contributory buildings in the precinct;*
- Ensure development integrates with surrounding heritage buildings and streetscape;*

- *Encourage new development that enhances the character and appearance of the heritage precinct and adopts a contemporary interpretation of traditional forms;*
- *Ensure new development does not dominate the heritage precinct; and*
- *Maintain the architectural integrity and character of significant and contributory building.*

Heritage Overlay (Clause 43.01)

- *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy;*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place;*
- *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy; and*
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*

To examine and achieve an appropriate outcome to these policy objectives it is imperative to highlight the commonly regarded design principles for infill building development in a heritage precinct.

The building needs to be individually distinctive, exhibit high degree of design excellence and contribute to the cohesiveness of the area. The building should sensitively address the critical issues of setbacks, height, form, massing, proportional composition of façade detailing and materials/colours/finishes. The façades have a level of neutral unassuming expression. Façades to be typically simple, with little embellishment, accompanied by basic front and side setbacks, and roof shape, and the building height either consistent or complementary to the streetscape and adjoining properties. Mock-production or mimic designs should be avoided. Overall, the building should not detract from those buildings and places landmarked as culturally significant heritage buildings. Streetscape built form rhythm also must be upheld.

By upholding those design principles, a new infill development would demonstrate no adverse effect to the natural or cultural significance of Heritage Place, maintain architectural integrity and character of significant and contributory building and achieve a sound design outcome to ensuring a contemporary designed development integrates to the streetscape with a complementary and enhancing expression.

The proposal achieves high level of design excellence with its contemporary design approach, detailing, consistent front and side setbacks and flat roof shape form and an appropriate building height.

More specifically:

Building form, scale and height

The proposed building form and scale is representative of a typical commercial building with no direct sensitive interfaces. The building adopts zero front and side setbacks consistent with the existing streetscape built form rhythm. The introduction of a third storey is largely an anomaly against the predominate single and double

storey-built forms along both sides of the streetscape. However the cleverly designed third storey (Figure 7) recedes in both built form setback and appearance back from the second level, to conceal the third level, making it virtually undetectable from a pedestrian scale frontage and oblique angles (Figure 8). There is also an integrated enclosed second level balcony, use of matching materials and colours from ground floor up to the third floor balustrade and a strong pedestrian scale ground floor streetscape and laneway activation.

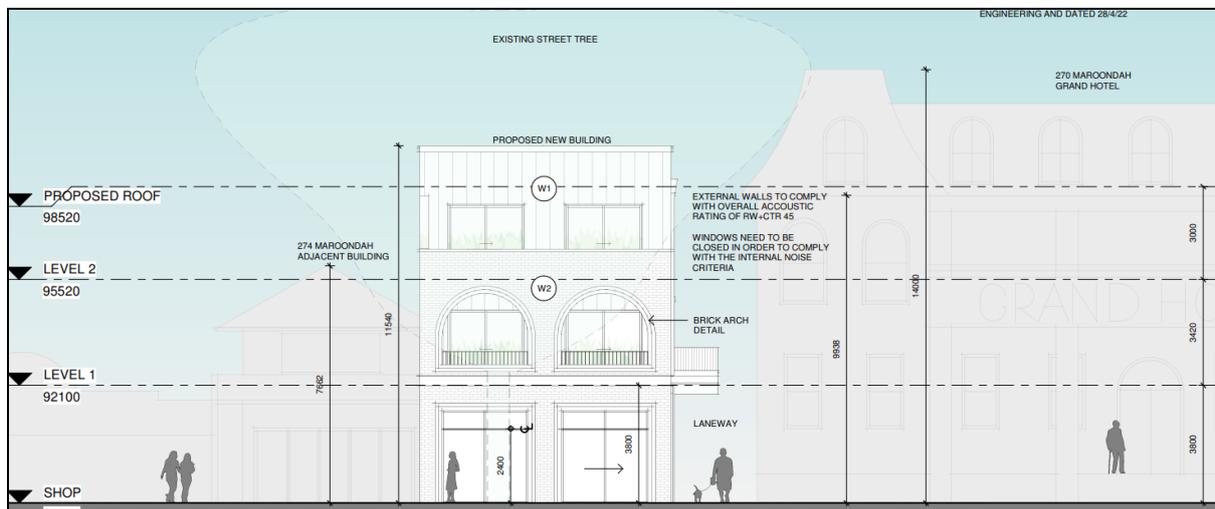


Figure 7 - Streetscape elevation

Through the centre of the building when viewed from the side elevation, a two-storey level clear visual break on both sides is imposed, serving as an open-air lightwell for the residential component (Figure 8). Splitting the built form into half reduces visual scale and massing across the site. Quite purposefully, the building break strategically matches with the existing eastern adjoining's own building break. This is a respectful consideration to the surrounding context and a strong design attribute.

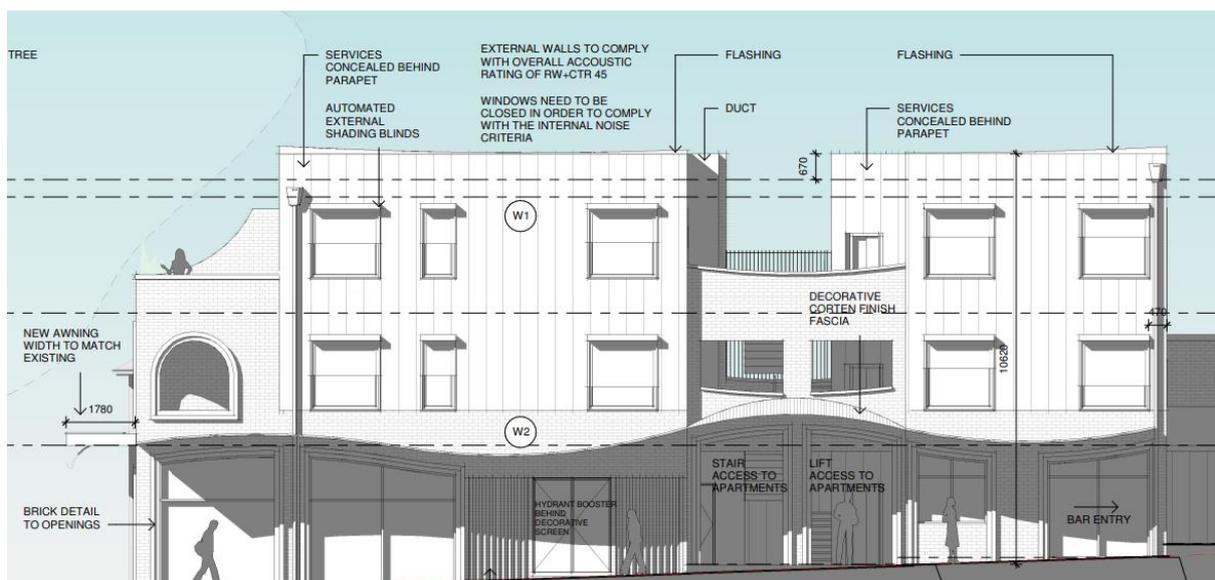


Figure 8 - West elevation showing the open-air light through the centre of the building

The built form is simple, fits neatly within its allotted property boundary and is respectfully typical within a commercial surround.

The building height is greater compared to the buildings to the east however, is notably lower than the Grand Hotel building to the immediate west, despite both buildings being three-storey.

Notwithstanding the subject site is located on the southern 'high side' of the Maroondah Highway streetscape, the proposed varied building height transition across the high side streetscape is considered acceptable for two reasons:

- Firstly, the streetscape building height rhythm remains intact, with the subject site located at the far end of street block, adjacent to a building of a greater height. The proposed building height result has a visually pleasing cascade effect along the streetscape ; and
- Secondly, the proposed building height is lower than The Grand Hotel building and as a result the development will not detract from The Grand Hotel's heritage predominance and height.

Ultimately, the proposed building achieves a secondary tiered status to the adjacent Grand Hotel.

Detailing

Façade design detailing achieves individual distinctive characteristics. Activated along two public interfaces, the façade design seeks to create a primary and secondary interface, with a primary status secured along Maroondah Highway (see Figure 7 and Figure 8 on previous page).

The primary façade is fitted with well-proportioned symmetrical placed window openings on all levels and an attractive almost fully facade floor to ceiling glazing for the commercial level encouraging active views in and out to the public realm. Window and doors are simple rectangular shapes.

One element of concern is the combination of arched opening and decorative stepped cast mouldings surrounding all openings on both public interfaces (north and west) (See Figure 9).

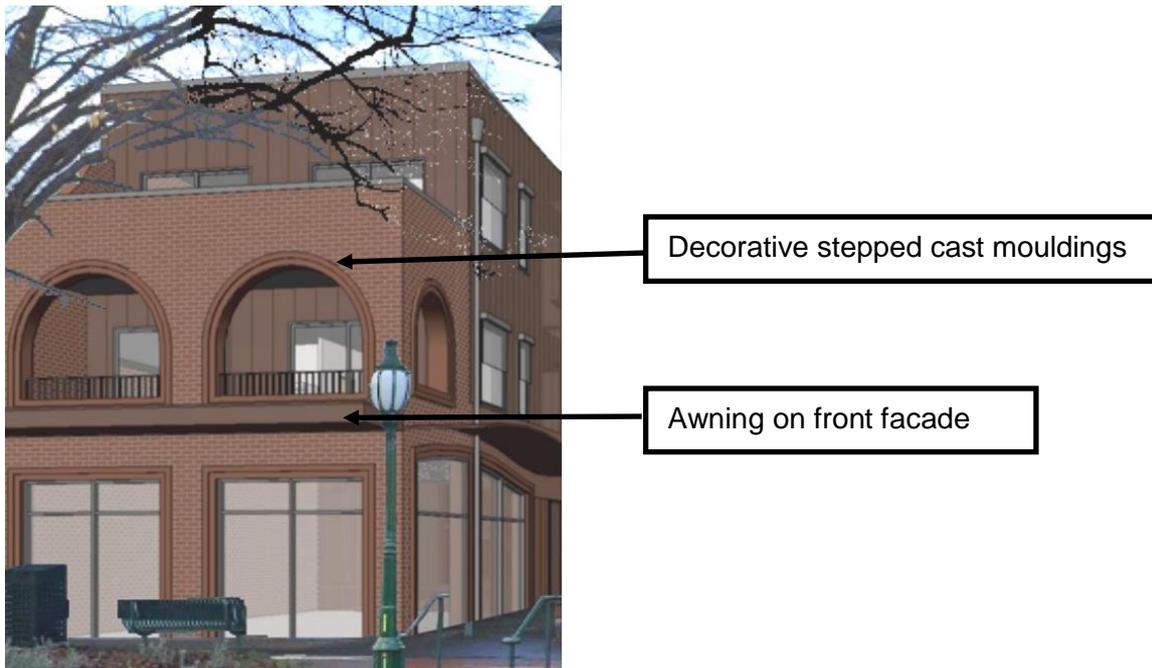


Figure 9 - Artist impression showing the arched openings and awning

When these details are combined, it arguably exhibits a historical mock-reproduction mimicking detailing, carried over or inspired from The Grand Hotel. This design response uncomfortably detracts from the heritage and architectural integrity of The Grand Hotel, which displays the same features. The combination details should be avoided and a more contemporary clean lined cast mould over both openings is a preferred design direction, whilst the arches can remain. The applicant has been made aware of this concern. To secure this simplified contemporary detail, condition 1c of the recommended permit conditions requires the plans to be amended to show clean lined simplification of external windows, doors and arches moulding casts.

The front awning (see Figure 9) with a depth of 1.78 metres is consistent with existing streetscape awnings, in both depth and height, and will offer the public function of casual weather protection at the entrances. The awning is straight/flat and elongated across the full front façade width that visually grounds the building at a pedestrian scale and separates the building between commercial and residential use functions.

The heritage listed street tree opposite the front awning was assessed by Council's Arborist, who advised that there is unlikely to be no additional tree impact as the protrusion is not exceeding the existing conditions.

The introduction of a second awning of 1.40 metres in depth, along the full length of secondary interface with the laneway, provides a necessary detail feature to signal commercial activity, illustrate a sense of residential address and provide weather protection. The awning style is wavy/curvy characteristic; a deviation from the front awning style, but nonetheless, still forms part of a cohesive design response style to add contemporary curves as a distinctive building individual characteristic. Freedom to introduce an interesting feature like this should be supported if there are no visual interruption or inconsistency by such feature along its respective streetscape. In this case the laneway is its own entity with no streetscape reference.

Notably the second awning width should not encroach the prescribed easement (E-1) of 0.6 metres wide along the laneway as outlined above in the site description section

of this report. A condition to delineate these details on the plans is recommended to form part of any permit granted.

Materials, colour and finishes

The material, colours and finishes schedule, and application of, around the building is well-thought out to achieve a muted and complementary schedule, that not only picks up the dominant material (brick) and colours (red and brown) in the area, but applies a contemporary colour tone that serves to ensure the building ages well. Applying brick as the dominant material along the north (front) and east side is a conscious decision to contribute to the building's integration to the streetscape and comply with fire rated wall construction building requirements.

Using brick material across the front the third-floor brick balustrade that blends with the lower floor façade acts as a contemporary feature signalling an ode to a parapet architectural character feature commonly identified in heritage streetscapes. This is a respectful and integrative design measure.

Introduction of Corten board along the third level frontage and all floors to the western and southern sides are satisfactory and contemporary in appearance with its visual lightweight properties. The material is excellent choice for noise attenuation needs and contributes well to the overall design aesthetic.

Overall, the proposal will not adversely affect the natural or cultural significance of the heritage precinct inserting a modern sympathetic addition to the streetscape, that respectfully and compatibly contributes positively to the existing building pattern and enhances the heritage architectural integrity and character. The proposed building design fit-for-propose with its own simply distinctive characteristics that ensures the Healesville main street continues to showcase harmoniously a variety of the building architectural styles from different eras.

The proposal upholds the statement of the heritage citation and meets objectives contained in Clause 15.03 Building Environment and Heritage, Clause 22.11-3 Healesville Commercial Precinct and the Heritage Overlay.

Design and Development Overlay – Schedule 12

This overlay covers the town centres of Healesville, Monbulk, Seville, Warburton, Yarra Glen, and Yarra Junction. The overlay seeks to ensure the following relevant design principles are met:

- *New development should reinforce the pattern of existing development in the town centre with mostly narrow fronted shops and strongly articulated facades;*
- *Building heights should not exceed two storeys (7.5 metres). A third level may be permitted where the overall height of the building will match that of an adjacent building or where it is set back so as not to be easily discernible from the opposite side of the street;*
- *The facades of new development on corner lots should be detailed to provide visual interest from both streets;*
- *Verandahs should be provided on the street frontage of buildings to provide continuous weather protection;*

- *Building facades should be articulated by incorporating a variety of materials, textures and colours that enhance the particular qualities of buildings in the town centre;*
- *Contemporary design that complements the scale and detail of existing buildings in the town centre is preferred; and*
- *All roof-mounted mechanical equipment should be concealed by screens that are designed as an integral part of the building.*

The proposal comfortably meets all relevant design principles, with the building form and orientation reinforcing the existing pattern of development.

A total building height of 11.5 metres over three storeys is proposed and is considered appropriate in this context. The first two storeys equate to 7.22 metres in building height. The third level is setback approximately 3.70 metres from front boundary and the façade is wrapped with rusted steel cladding (Corten), by contrast to the rest of the front façade constructed in brick, a heavier looking material. Visually discernible, the third storey is minimised by an excellent emphasis on two storey visual and physical appearance aided by appropriate details and setbacks. The rhythm of building heights in the streetscape remains intact and there would be now a softer height transition along streetscape cascading downward in a west to east direction.

The subject site is a corner allotment and seeks to activate both public frontages with commercial activity and uses. Different weather protection awnings/verandas styles across each frontage are applied to differentiate between primary and secondary interfaces.

An appropriate material, colour and finishes schedule is proposed, resembling a typical looking commercial building treatment and contemporary use of muted tone colours palette that references existing streetscape palette and allows the building to age well.

Mechanical equipment ducts are integrated into the building. It is recommended to include a condition to conceal any future roof mounted mechanical equipment.

Council's Strategic Planning and Urban Design Departments support the proposal, stating the proposal design response meets the intended outcomes of the Design and Development Overlay Schedule 12 and Vision 2020 by Design – Shire of Yarra Ranges (May 2008).

Carparking / Traffic Impacts

Clause 52.06 (Car Parking) is relevant to the consideration of this application. This clause seeks to ensure there is the provision of an appropriate number of car parking spaces, to ensure that car parking does not adversely affect the amenity of the locality, and to ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The application seeks a full reduction of the carparking requirement. What is important to note is that the site subject already enjoys an existing reduction of the carparking spaces of eight spaces based on the office car parking rate of 3.5 spaces per 100sqm of net floor area. Notably, a site inspection confirmed the office land use.

A retail premise land use carries no specific prescribed carparking rate, and thus a carparking assessment is to Council's satisfaction. To undertake such an assessment, it not unreasonable to impose an assumption that the proposed commercial areas, with their size and layout lends future uses to be shop uses. The following assessment adopts shop carparking rate to the proposal.

Existing circumstances	No of spaces Required	Existing spaces on the lot	Existing waiver
Office (3.5 spaces per 100 square metres)	8	Nil	8 spaces
<i>Note: Nine (9) car parking spaces are provided on the adjoining lot in common property and shared equally between the subject site and 274 Maroondah Highway. As such the premises has access to 4.5 car parking spaces.</i>			
Proposal	Required	Proposed on the lot	Outcome
Two retail premises (3.5 spaces per 100 square metres)	8	Nil	Shortfall of 8 spaces
Three two-bedroom dwellings requires – 1 space per dwelling	3	Nil	Shortfall 3 spaces
Total spaces required	11	Nil	Shortfall 12 spaces

As discussed, there is a rear commonly owned carpark with a total of nine car spaces shared with 274 Maroondah Highway, which benefits from an approved reduction of 24 spaces for a restaurant land use with a 100-patron capacity since 2005. The carparking rates for a restaurant have changed since 2005, and the currently applied rate results in 274 Maroondah Highway taking benefit of a reduction of 40-car parking spaces. This same site has an office on the first floor that increases the carparking reduction enjoyment for this property. The existing generous carparking waiver for this site exceeds what is sought by this proposal.

The property owner and occupier of 274 Maroondah Highway submitted concerns the proposed development would generate a high carparking demand potentially taking over all jointly owned spaces. Approval of this planning permit would not obviate the need to comply with the existing owner's corporation delineation which is an even 50/50 split between the two properties. Should this occur, it remains a civil matter between owners and not a matter of planning consideration nor capable of mitigation via permit conditions.

The proposal designates three (3) carparking spaces within the commonly rear carpark secured for dwelling use. This is acceptable as residents would require long term guaranteed carparking in proximity to their dwelling. Notably, the current

carpark ownership arrangement, would rationally equate to four (4) car spaces per property owner, with one residual car space. The intended designation of three (3) carparking spaces for this proposal would not undermine the existing ownership arrangement.

To secure designation of three carparking spaces, it is recommended a condition is placed on any permit granted to install a plaque or label wheel stopper or similar to visibly acknowledge the dwelling parking allocation, placed either directly behind the proposed building or within the carpark itself. Furthermore, a condition requires visible markers to delineate each space dimension. The applicant is aware of these recommendations. If the dwellings were proposed to be subdivided in the future, the 50 percent share of the common property that the subject site is entitled to could be split between the three dwellings and the commercial property, effectively allocating the dwellings their own car parking space within the common property entitlement. It is also possible that a subdivision of the common property could occur to formally designate the car parks on title; however this would need the consent of all parties of the Owners Corporation which cannot be guaranteed. Regardless, the distribution of the common property entitlement in the first instance is a satisfactory outcome.

Staff and patrons associated with the retail premises would have more flexibility to park within available public parking areas. It is generally understood visitors to commercial streetscape usually park in one public parking location and visit several retail premises or alike on offer. No one premise need cater for their own expected patrons.

The neighbouring residential properties have expressed concern with potential overflow of carparking demand into the residential street of Symons Street. This is largely unfounded, considering the proposed retail premises replaces an existing office use with similar carparking demands. There is no reason to suggest the proposal would impose an overwhelming car parking demand causing unreasonable adverse traffic impacts along this street. Given the proposed scale of the retail offerings, these premises are unlikely to generate specific trips in their own right and are more likely to be visited in passing by visitors to Healesville that will utilize available public parking. No corresponding concern was raised by Council's Engineering Traffic Department on the matter. There is a level of acceptance for resident's living adjacent to Commercial activity areas must accept; in that:

- Retail premises are expected and encouraged in commercial zones and not all commercial properties have additional economic means or physically capable to supply on-site carparking;
- High parking demand is generally focused on weekend periods (aided by tourism);
- Part of living in proximity to a commercial area is experiencing both good and bad outcomes of commercial offerings that includes any ripple effect of public carparking demand within nearby residential streets; and
- Public carparking is a collective asset and benefited by all

Live Music Entertainment – Clause 53.06

This Victorian provision in essence adopts the commonly referred to *Agent of Change* principle. This principle seeks to protect existing commercial activities when faced with new sensitive use or development, and vice versa. It is the responsibility

of the new development/uses to protect their own amenity and function having regard to existing circumstances.

Pursuant to Clause 53.06 - Live Music Entertainment Venues, a planning permit application to construct a residential building within 50 metres of a live music entertainment venue, must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from any:

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

A live music entertainment venue is defined in Clause 53.06 as:

- *a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment;*
- *a rehearsal studio; and*
- *any other venue used for the performance of music and specified in clause 3.0 of the schedule to this clause, subject to any specified condition or limitation.*

The subject site is in proximity to several food and drink premises including The Grand Hotel which hosts live music events inside the building and close to the frontage facing Maroondah Highway.

The planning report details no outdoor live music entertainment venues within 50 metres of the subject site.

As such, the noise assessment criteria to meet this provision is

- **Indoor** live music entertainment venue to below the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826, Environment Protection Authority, November 2020).

The application is accompanied by an Acoustic Report (Noise Impact Assessment) prepared by *Sustainability by Engineering, Environment by Design (SEED)*, dated 28 April 2022, (Attachment 7). The Acoustic Report acknowledges the noise criteria requirement at Clause 53.06 and equally acknowledges the Grand Hotel rear outdoor dining area and live amplified music being played within the buildings frontage (northern).

The report has undertaken assumption-based testing for the Grand Hotel on the adjoining site, focusing on this venue with the most relevant noise impacts for the proposal. The report determined that measured noise levels on the western boundary of the subject site would be approximately 58 decibels at ground level and 64 decibels at first floor level. On the northern boundary of the site (Maroondah Highway frontage) the noise from the live music / band intrusion would be approximately 68 decibels at ground level.

A series of construction methods are therefore recommended by the applicant's Acoustic Engineer to reduce noise experienced internally for the proposed dwellings. These construction methods include:

- Window and Sliding Door glazing elements for the living area of each dwelling, bedrooms and services (bathroom/laundry entry);
- Roof/Ceilings constructed to a standard to mitigate sounds to a level of 40 decibels with the use of a teal sheet or equivalent roof;
- External Masonry Walls constructed to a standard to mitigate sounds to a level of 45 decibels; and
- Corten Walls (to be applied to first and second storey walls (both north, east and west facing) constructed to a standard to also mitigate sounds to a level of 45 decibels

All acoustic noise attenuation measures outlined in the report at Point 7 in the Noise Control recommendation (Construction Recommendation) are considered appropriate. It is recommended that conditions are included to any permit granted, reinforcing that the Acoustic Report recommendations are complied with and managed.

In addition, the Acoustic Engineer made further recommendations to the proposed Ground Floor Retail premises:

- No live music bands or DJs performing inside or outside areas;
- No amplification/speakers erected played outside are or on the external walls;
- The entry doors close automatically; and
- Internal wall mounted speakers must be mounted on resilient rubber mounts to avoid potential structure borne noise or vibration through the wall or slab.

Whilst Council has no control over whether a retail premise seeks to play amplification music internally, it is prudent to take note of Acoustic engineer's recommendations on potential 'internal noise impact' between commercial and residential land uses. Council can manage internal noise impacts under this provision, which is further supported by Clause 13 – Amenity to include permit conditions that states:

- no amplification/speakers erected on the building outside or alongside the western pedestrian laneway, and
- retail premise 1 and 2 entry doors to be of a type to close automatically.

Extreme internal noise transfer between building floor levels is a matter between future occupants.

Clause 53.06 provision objectives are met subject to the above recommended conditions.

All acoustic noise attenuation measures and listed recommended permit conditions should supply some reassurance to The Grand Hotel property owner/licenced propriety's objection concern over the ability to continue ordinary activities free from unreasonable residential noise complaints.

Standard commercial amenity conditions are recommended for any permit granted.

An assessment under Clause 58.04-3 - Noise Impact provision may assist further to minimise internal noise transfer and external noise transfer from general commercial

noise. This is discussed in more detail as part of the relevant Clause 58 Apartment Assessment provision below.

Lastly, as acknowledged above, advertised plans have labelled the rear retail premise as 'a Bar'. There is no request for a liquor licence or live music on the site. Each of these activities require further planning permission.

For the purposes of clarity condition 1 requires the plans to be amended to re-label Ground Floor commercial areas to *Retail Premises* to be consistent with a preamble and the application request.

Bushfire Management Overlay

The site is located within an area affected by the Bushfire Management Overlay. A permit is required to construct a building and works and carry out works to accommodation (dwellings) under Clause 44.06-1. The purpose is to strengthen community resilience to bushfire and to minimise risk from wildfire by ensure that residential and other forms of development catering for people in rural areas and on the fringes of urban areas are appropriately sited and designed.

Ordinarily, this provision requires a bushfire assessment in form of Bushfire Management Statement and Bushfire Management Plan information to accompany the permit application.

A bushfire application information assessment can be waived if determined that the purpose/outcome of such information assessment would only determine a Bushfire Attack Level (BAL) rating requirement that already is imposed by a subsequent building permit aided by *Building Act 1993 (Vic) / Building Regulations 2021 (Vic)* for buildings in a Bushfire Prone Area. In assessing a request to waive the information requirements, Council needs to have regard to the physical extent of proposed built form development (in this case upper floor residential dwellings), the established existing-built form surroundings, proximity to high vegetated areas, access to well-connected road network, and any requirement for defendable space and vegetation removal.

Officers have agreed to a waiver to supply Bushfire Management Statement and Bushfire Management Plan acknowledging above considerations.

The application was referred to Country Fire Authority (CFA), whose representative supported the decision to waive the requirement for a Bushfire Management Statement and Bushfire Management Plan information. The CFA also raised no concerns with the proposal and requested no recommending conditions.

A residential use within this established urban setting location would not result in an unreasonable risk to life. Both Clause 13.02 (Bushfire) objectives and Clause 71.02-3 (Integrated Decision Making) – protection of human life above all over policy consideration, are met.

As required by the Bushfire Management Overlay, the mandatory bushfire conditions still apply.

Clause 58 Assessment

Clause 58 provision applies to apartment style residential development located within a Commercial 1 Zone. The purpose of the provision is to encourage apartment development that provides reasonable standards of amenity for existing and new residents, and to encourage apartment development that is responsive to the site and the surrounding area.

A full Clause 58 assessment has been provided in Attachment 5. The proposal is generally considered to be consistent with the standards and objectives of Clause 58.

Planning Scheme Amendment C148 (Seriously entertained amendment)

Council endorsed Planning Scheme Amendment C148 document is yet to be fully approved and gazetted by Minister for Planning. A Council endorsed document is a seriously entertained document, although must be given less weight compared to Scheme, Act and an Incorporated (reference) document for decision making considerations.

Amendment C148 introduces Clause 22.03 Environmentally Sustainable Design Assessment requirement for two or more dwellings and/or a building greater than 500sqm in size. Permit applications are required to submit a 'Sustainable Design Assessment Report' that demonstrates, to the satisfaction of Responsible Authority, the building incorporates sustainable design initiatives that respond to Clause 22.03 policy objectives. Policy outcomes at Clause 15.01-2S (Building Design) includes a series of strategies for sustainable design outcomes, such energy performance of buildings, water efficiency, storm water management, use of recycled and reusable materials and positive interfaces with the public realm.

The application includes a Sustainable Design Assessment Report, which is supported by Council Officers, detailing a myriad of the sustainable design initiatives, including Rainwater tanks to be connected to all dwelling toilets for flushing, use of recycled materials (brick), installation of green roofs, balcony water taps, waste traps, double glazed windows, 3–5-star appliances and NatHERS star energy rating.

The application suitably achieves the *intended* Clause 22.03 - Environmentally Sustainable Design policy objectives specified in the Planning Scheme amendment.

Other matters

The relationship with 274 Maroondah Highway and the Council owned laneway:

As mentioned above the laneway is owned by Council. However, the laneway is not on Council's Road Registry.

It is imperative to acknowledge that in order to support this planning proposal with its primary and sole access for the dwellings and a retail premises from the laneway, installation of an awning along laneway and request for upgrades to the laneway surface, the permit holder will need to enter into a Council licensing agreement. This agreement outlines the access consent, works, liability and ongoing maintenance responsibilities. Licensing agreements are commonly used in situations where a property requires public land for either temporary or permanent access and/or works.

The relevant Council Property/Traffic/Infrastructure departments have been aware of this and as has the applicant. No concerns have been raised by the departments.

Traffic

Both Council’s Traffic Engineering Department and several objectors have raised concern with the surface condition of Council’s pedestrian laneway adjacent to the subject site, citing the surface condition as sub-standard. The proposal activates the Laneway, relying heavily on it for entrances to dwellings and retail premise, and pedestrian foot traffic supporting the retail premise. Upgrading the laneway surface to current Council standards is recommended at the permit holder’s cost and can be secured by including a permit condition. The applicant is aware of this recommendation.

Council’s Traffic Engineering Department have recommended the rear commonly owned car parking area to be resurfaced from existing gravel to a sealed surface. However, the carparking area has existing approval from Council, and the proposal would not generate an increase in the use of carparking beyond the existing usage. There is no planning merit to request works without identifying a necessity generated either by a function and/or usage change of this carparking area. It is further noted in the event of carpark sealing it is very likely to impact an English Elm tree sited on rear shared boundary between 274 Maroondah Highway and 276 Maroondah Highway. The tree is an integral part of Healesville township character. Avoiding any likely construction impacts should be preferred.

Council’s Traffic Engineering Department requested no access doors (bike storage access and waste bins) immediately adjacent to the carparking area in an effort for providing more vehicle movement. Council has approved the carparking layout and there is no change to carparking use or function. Vehicle type (passenger) and usage are the same at present and proposed. There is no planning merit to request this design change.

RESPONSE TO SUBMITTERS CONCERNS

Objector Concerns	Council Officer Response
Neighbourhood character including three storey built form and density	<p>The proposed three storey building is an increase to the general existing building height in the streetscape; however, the transition rhythm is intact and respectful of adjoining buildings including the Grand Hotel which will still sit higher than the proposed development.</p> <p>A full assessment of the proposal’s built form including visual bulk has been completed above in this report. The density of the proposed development is also considered to be satisfactory in the context of the activity centre setting.</p>
Heritage concerns including the demolition of an existing building and lack of	<p>No planning permit is required for the demolition of a non-contributory building. The demolition of the building could legally occur immediately separately to this application.</p> <p>An assessment of the application against heritage matters</p>

Objector Concerns	Council Officer Response
response to heritage preservation	has been completed as part of this report and can be referred to above. The proposed material and colour palette is respectful of the heritage surrounds and appropriate for this type of built form.
Car parking issues	<p>A full car parking assessment has been undertaken above in this report. Council's Traffic Engineering Team have reviewed the application and are supportive of the proposed car parking outcomes. As per the discussion in this report, it is highly unlikely that the small retail premises proposed as part of this application will generate their own traffic trips and are more likely to be visited as part of a trip to Healesville proper i.e., they will not likely be the sole destination for visitors.</p> <p>A Construction Management Plan will be required by way of permit condition to ensure that disruption is minimised to delivery trucks for surrounding businesses.</p>
Common Property usage and entitlement	<p>No evidence of title breaches has actually been provided with the objection. Owners Corporation entitlements cannot be enforced by Council and is entirely a civil matter between the two parties.</p> <p>The current entitlement is not proposed to be changed as part of this application; and any application to change such entitlements will need to be made with the proper consents.</p> <p>The impact of this on the car parking allocation for the proposed dwellings has been discussed above in this report.</p>
Request for works to take place as part of this planning application	<p>Objectors have requested that the rear access to the common carpark be upgraded from Symons Road at the cost of this permit holder. This access is owned and managed by Council. It is in poor condition and used for rear secondary access by multiple properties (both commercial and residential).</p> <p>There is no reasonable justification that this proposal would deteriorate the accessway surface condition beyond what is generally afforded. The number of car parking spaces provided does not change as part of the proposal.</p> <p>This matter can be referred to Councils Asset Management Team for assessment.</p> <p>It is noted that the laneway adjoining the site will be required to be upgraded to Council's standards by way of permit condition at the full cost of the permit holder.</p>
Loss of amenity both during	A Construction Management Plan will be required by way of permit condition to ensure that disruption during the

Objector Concerns	Council Officer Response
construction and post completion	<p>construction phase will be minimised. As with any construction it is unlikely to be able to avoid any impacts whatsoever on adjoining properties.</p> <p>The future amenity of the proposed dwellings is discussed above in this report as part of the assessment of the appropriateness of the land use within a Commercial 1 Zone.</p>
Concern for addition of third bar in close proximity to residential area	<p>As stated above in this report, although the plans have been labelled as a “bar” land use; this would require a separate planning application for the provision of a liquor license to allow for liquor sales. This has not been applied for as part of this application. The notation of “bar” is required to be removed from the plans by way of permit condition and replaced with “retail premises” as applied for as part of this application.</p> <p>Should a liquor licence for retail premises be proposed, an assessment on amenity impacts would form part of decision making process.</p>
Amenity concerns for the Grand Hotel	<p>Overlooking amenity into The Grand Hotel’s outdoor rear garden area via a proposed new dwelling window is no different if the window related to a commercial use. Overlooking concern into a commercial allotment is not a matter of consideration.</p> <p>Loss of natural light to the Grand Hotel second level east elevation windows facing the laneway. Should there be a reduction in natural light this is commercially acceptable. The subject site should be allowed to build on boundary as well and at the greater height than one (1) storey. The proposed building is separated by a laneway and this separation is sufficient to allow daylight into the Grand Hotel.</p> <p>Overshadowing. Any eastern (morning) overshadowing to the neighbouring Grand Hotel outdoor rear area is acceptable. The outdoor area enjoys uninterrupted western afternoon solar access. Northern (midday) solar access is likely to be infringed by The Grand Hotel’s own building.</p>
Amenity concerns for 272 Maroondah Highway	<p>Overshadowing - Any overshadowing of skylights on neighbouring eastern property is acceptable. The northern lot orientation allows skylights to enjoy both east and north solar access.</p> <p>Any increase in building height on the subject site would likely impact skylights. The subject site commercial endeavours should be impeded by an opposing commercial property’s choice to have boundary to boundary building with skylights.</p>

Objector Concerns	Council Officer Response
	<p>Notably, the proposed building has a physical break, corresponding with the eastern adjoining commercial building break.</p> <p>No windows are on the eastern boundary. Unacceptable request to remove light well along the common boundary with 274 Maroondah Highway. There is no material detriment to adjoining properties generated by the light well – which also includes privacy screening to benefit the objector’s property.</p>
Waste Management	<p>Residential waste collection is from Symons Street. Should a Council service be offered for the commercial uses this is matter that requires further consultation between the retail premise occupier and Council. Waste Management Department have indicatively signal commercial bin up on the Maroondah Highway is possible.</p>
Deliveries to Grand Hotel	<p>Awning is to be installed around 3 metres above ground level along the laneway, more than enough for pedestrian access. Laneway is for pedestrian access not vehicle truck unloading/loading.</p> <p>Awning should not encroach into the easement in favour of the Grand Hotel. A condition to reflect this is recommended.</p>
Continuation of live music at the Grand Hotel and other commercial business impact	<p>The continuation of live music in an existing venue has been assessed in detail above in this report and supported by an Acoustic Assessment prepared by an Acoustic Engineer. Mitigation measures have been put in place to ensure that the amenity of the future owners of the dwellings is taken into account and the live music may continue at The Grand Hotel.</p> <p>Other commercial business impacts referenced in the objections such as proliferation of retail premises etc is not something that can be considered as part of a planning application.</p>
Protection of street trees	<p>Council’s Arborist has reviewed the application in respect to the existing street tree and is supportive of the application which does not impact further on the tree than the existing building.</p> <p>Conditions regarding the protection of the street tree during the works have been recommended.</p>
Drainage concerns	<p>Council’s Drainage Engineers have reviewed the application documentation and are supportive of the proposal subject to standard conditions. The buildings have been designed in such a way to manage stormwater runoff from the built form</p>

Objector Concerns	Council Officer Response
	appropriately without impacting on any adjoining buildings.
Fire Risk requires additional plan to be put in place	Evacuation plans for the building can be put in place as required by the Building Regulations once the building is in use. These specific Fire Risk Plans are not required to be completed as part of the planning permit process and are the responsibility of the future users of the site. Bushfire risk has been discussed above in this report.
Documentation inaccuracies throughout submitted documentation	Whilst it is acknowledged that there are minor discrepancies between the reports; none of these alter the assessment that has been done by Council Planning Officers in the preparation of this report and by the supporting Council referral teams. Minor discrepancies between documents are typical of larger applications where multiple reports have been prepared by separate consultants.
Public Infrastructure Demands are too high	Council's Traffic and Drainage Engineers have reviewed the proposal and are supportive of the application. No concern has been raised with regard to utilizing the existing public drainage / sewerage infrastructure that is in place.

CONCLUSION

The application has been assessed against the relevant provisions of the Planning and Local Policy Frameworks, Zone objectives and the relevant Particular and General Provisions of the Yarra Ranges Planning Scheme.

The application is an appropriate and well-designed contextual response of a sustainable development that reinforces social, economic and environment values within the Healesville Township. The proposal will contribute strongly to the township's historical character and will be a valuable asset to existing and future communities for Healesville.

In light of the above, it is considered that the application is worthy of support, and it is recommended that a Notice of Decision to Grant a Planning Permit be issued subject to conditions.

ATTACHMENTS

1. Permit Conditions
2. Planning Controls
3. C148 Planning Scheme Amendment
4. Site Photos
5. Clause 58 Assessment
6. Development Plans
7. Acoustic Engineer Report
8. Traffic Impact Report
9. Arborist Report
10. Waste Management Plan
11. Incorporated Plan Healesville Commercial Precinct
12. Sustainable Assessment Report