

## MEMORANDUM

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From	Vaughan Connor ( <a href="mailto:vconnor@contour.net.au">vconnor@contour.net.au</a> ) & Paul Vassilacos ( <a href="mailto:pvassilacos@contour.net.au">pvassilacos@contour.net.au</a> )
Date	Thursday, 10 April 2025
Subject	Reasonable Use Assessment – 235-259 Brunswick Road, Brunswick

We act for Bensons Property Group as town planning consultants and refer to Section 101(2)(b) of the Heritage Act 2017 that states:

*“The Executive Director, in determining whether to approve an application for a permit, must consider the extent to which refusal would affect the reasonable or economic use of the registered place or registered object.*

*Factors to be considered in determining reasonable or economic use are outlined in the Heritage Victoria guideline titled Heritage Victoria Policy, Reasonable or economic use, Relevant matters for the consideration of section 101(2)(b) of the Heritage Act 2017 (June 2021).”*

Accordingly, Bensons Property Group has engaged Contour Consultants Australia Pty Ltd to provide a Reasonable Use report.

### Subject Site

The subject site, known as 253 – 259 Brunswick Street, Brunswick, is located on the north side of Brunswick Road on the corner of Brunswick Street and Black Street.

The subject site is one of three lots that make up the Former Cable Tram Engine House & Tram Substation'. It was built in the late 80s and was described as “...*the most extensive cable system in the world operated by a single authority...*”

It has since ceased operation and was more recently used as a mechanic and has been painted externally.

Key characteristics of the subject site include:

- A single land parcel formally described as Lot 2 on Plan of Subdivision 346478.
- Irregular shaped land parcel with a frontage to Brunswick Road of approx. 50 metres and a frontage to Black Street of approx. 14 metres.
- A total site area of approx. 1,007sqm.



Figure 1  
Cadastral Plan

VicPlan

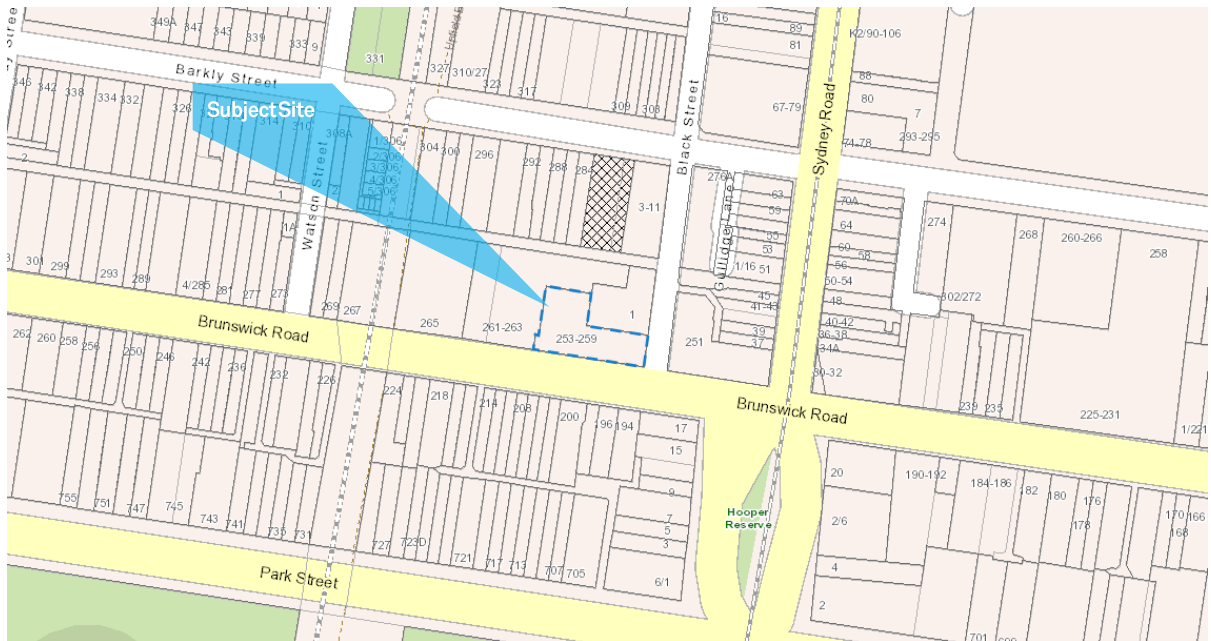


Figure 2  
Aerial Photograph of Subject Site (15/05/2024)

Landchecker.com.au





## Surrounding Area

The Brunswick Activity Centre, within which the subject site sits, includes a broad mix of retail uses, commercial and cultural activity, employment options, administrative and civic centre functions, government investment and regional facilities. It is amongst many areas within the municipality nominated for 'Significant Change' as identified in Council's Strategic Framework Plan.

The subject site is amongst an abundance of transport networks, including the Jewell Station, Upfield Shared Path, bus services along Brunswick Road and tram services along Sydney Road.

A number of existing educational facilities are located nearby including RMIT Brunswick Campus, Ridley College, Monash Parkville Campus and Melbourne University. The subject site is also close to a number of open space reserves including Royal Park and Princes Park.

The surrounding built form consists of a low-rise buildings and mid-rise buildings. The low-rise form includes the existing residential area on the south side of Brunswick Road and other undeveloped parcels of land in the activity centre. The mid-rise form includes more recently developed land parcels within the activity centre and reflects the emerging character of the area.

The surrounding built form also consists of buildings with heritage significance some of which have been redeveloped. The nearest development of this nature is the Sarah Sands Hotel, which accommodates a six (6) storey addition to its rear used for residential purposes.

Having regard to the subject site's immediate surrounds, the following is noted:

- To the north is No. 1 Black Street, which contains the Former Cable Tram substation, and part of No. 261-263 Brunswick Road.
- To the east is Black Street and further east is the Sarah Sands Hotel which accommodates a six (6) storey addition to its rear.
- To the south is Brunswick Road, a wide arterial road. Further south are a series of residential properties in the Neighbourhood Residential Zone.
- To the west is No. 261-263 Brunswick Road which contains an existing building that is currently used for as a warehouse. It was also part of the Former Cable Tram Engine House.

Figure 3  
Distinct Views and Surrounding Landmarks

Hayball







## Proposed Development

The built form composition comprises the retention of the existing building, part demolition and the development of a seven (7) storey building that will be used for student accommodation.

Key elements of the proposed development are described below.

### Existing Building

- Retention and restoration works to the existing building, including the addition of a mezzanine level.

### New Addition

- The construction of a seven (7) storey building comprising 111 rooms, 130 beds, 792sqm of internal communal space, 243sqm of external communal space, zero car parking, 74 bicycle parking space and amenities including, but not limited to, a laundry, dining space and gym.
- There are two metal cladding components proposed. Type A applies to the south façade (Brunswick Road), east façade (Black Street) and part of the north façade and comprises perforated metal cladding, resulting in an angled effect around window openings. Type B applies to the west façade and part of the north façade and comprises face fixed perforated metal screening, noting that there are no window openings where Type B is applied.

Figure 4  
Render of the Proposed Development

Hayball





Figure 5  
Render of the Proposed Development

Hayball



## Reasonable Use Assessment

In addition to addressing the key town planning considerations, as noted in the introduction, this report provides an assessment of reasonable use, having regard to the relevant provisions of the Heritage Act.

More particularly, Section 101(2) of the Heritage Act provides as follows (bold for emphasis):

- (2) *In determining whether to approve an application for a permit, the Executive Director must consider the following:*
- a) *the extent to which the application, if approved, would affect the cultural heritage significance of the registered place or registered object,*
  - b) ***the extent to which the application, if refused, would affect the reasonable or economic use of the registered place or registered object,***
  - c) ...

Heritage Victoria policy notes that the concepts of 'reasonable use' and 'economic use' use are distinct and must be assessed separately, the concepts of both 'reasonable' and 'economic' use are detailed in the 'Reasonable or Economic Use Policy, June 2021' prepared by Heritage Victoria and also referenced in Heritage Victoria's 'Principles for considering changes to places in the Victorian Heritage Register, 2022'. In relation to 'Reasonable Use' it is stated that:

*When taking into account the circumstances of the permit application and the registered place or object, the Executive Director may consider:*

- (1) *the historic, recent and current uses of the registered place or object,*



- (2) *other compatible uses of the registered place or object,*
- (3) *the context and setting within which the place or object is located, and*
- (4) *other relevant matters.*

From a planning perspective this policy should be interpreted in the context of the existing heritage building and its restoration and upgrade to ensure its long-term viability.

It is acknowledged that the following reasonable use assessment is based on the *Planning and Environment Act 1987* / the Merri-bek Planning Scheme, and recently Heritage Victoria have questioned the use of these provisions in this context.

In response, it is the Planning Scheme provisions that determine what land uses and built form outcomes are reasonable, and on that basis, it is entirely appropriate to use Planning Schemes as a parallel criterion in determining reasonable use.

To this end, having regard to the site's location and the various settings in the Merri-bek Planning Scheme, the reasonable use of the site in a redevelopment context can be summarised as:

- Introduction of land uses that are consistent with the applicable Commercial 1 Zone and Planning Policy Framework, including the use of the land for student accommodation and retail (café).
- Retention of the Former Cable Tram House, and development of the rear.
- Development of the rear of the site to support the restoration and retention of the Former Cable Tram House.
- Incorporate any necessary regulatory upgrades to the building, and introduction of environmentally sustainable design initiatives.
- The response to the applicable built form controls is appropriate, appreciating that the controls are preferred and therefore discretionary (can therefore be varied), subject to the overarching design objectives being achieved; these include (Design and Development Overlay, Schedule 18):
  - *To encourage a new mid-rise built form character with lower built form at the interfaces with the adjoining low rise residential areas.*
  - *To complement the valued built form and heritage character along Sydney Road and respect the form, design and context of buildings of individual heritage significance in the precinct.*
  - *To ensure the street wall remains the visually dominant element of all development in Sydney Road and that any height above the street wall is visually recessive, subservient and does not dominate the streetscape appearance.*
  - *To establish a new cohesive built form character in off-corridor locations to the east and west of Sydney Road to achieve an appropriate balance between a sense of enclosure and openness and to ensure new street walls reinforce the existing character of street walls in nominated off-corridor streets.*
  - *To protect the amenity of existing and proposed public open spaces and key pedestrian streets, and maintain reasonable amenity for residential properties within and adjacent to the activity centre.*

In this regard, the proposed amended development:

- has a building height of approximately 22.3m (excluding the services / plant zone), which reflects the preferred overall maximum building height of 25m.
- maintains a zero setback to Brunswick Road and Black Street given the retention of the existing building with the proposed building addition also adopting a zero setback to Brunswick Road and Black Street following ongoing discussions with the OVGA. It is noted that the amended proposal, before Heritage Victoria, reflects a development that better aligns with the provisions of DDO18 in the context of street wall height.



- Results in some shadowing of the footpath on the opposite side of Brunswick Road between 10am and 12pm. More specifically:
  - The provision contained within DDO18 is discretionary and the intention for such provisions is to exercise discretion, where appropriate, and in these circumstances, given the significance of the subject site, it is our view that discretion should be applied.
  - This particular section of Brunswick Road, particularly the footpath on the south side, is not a typical key pedestrian street (despite being nominated as one in DDO18). More specifically, the south side of Brunswick Road lacks any sort of activation given its low-scale residential nature. Further, this section of Brunswick Road does not have a commercial nature on both sides of the street / road unlike most areas in DDO18.
  - The footpath is relatively narrow, and the northern portion (where the extent of shadow is generally affecting) is serviced by street trees, a bus shelter, light poles, bicycle hoops, signage, and bins (i.e. mostly street infrastructure).
  - The extent of shadow cast on the footpath is minor when viewed in the context of the overall development composition acknowledging the various ongoing discussions with Heritage Victoria, OVGA and Council, where it has been widely expressed that this site is unique.
  - The extent of shadow cast on the footpath is limited to the hours between 10am and 12pm. Notably, at 10am, a pedestrian will experience a degree of sunlight with full access to sunlight by 11am. The existing street trees will be clear of any shadow from 12pm and onwards.
- The built form is designed to be contained within a 45-degree arc (measured from the kerb on the southern side of Brunswick Road) consistent with the preferred height noted under the planning control.
- The floor to ceiling height at ground floor, representing the retained heritage form, promotes active use (in this case, in the form of a café and communal area) and incorporates active edges to Brunswick Road, where possible given the heritage significance of the existing building, through minor demolition works resulting in the creation of a new entry.
- The no car development and accommodation of building services at ground floor results in no requirement for a basement or for vehicle access into the site, and this acts to conserve any archaeology beneath the existing slab and minimise intervention to the heritage building façade.

To this end, the proposal makes a positive contribution to the urban fabric and structure of this part of the city, in particular, the proposed development offers an opportunity to restore the historical fabric of the existing building. Further, it has been acknowledged by the OVGA that there is an opportunity to challenge typical heritage conventions, and rather than adopt a set back addition, the proposed new contemporary form rests gently above the existing building.

### **Impact of a Refusal on Reasonable Use**

A significant refurbishment of Former Cable Tram House is required to ensure its long-term viability and integrity. The existing building is suboptimal in relation to contemporary standards associated with daylight, environmentally sustainable design, and accessibility.

The proposed works comprise:

- Demolition of the following elements including:
  - All concrete floor slabs.
  - Lift well to be excavated in centre of main space.
  - The mezzanine areas and associated partition walls, non-original access stairs.



- Lightweight partitioning at the east end of the building.
- Non-original garage door.
- Steel beam over the large spaces at the west end of the site will be trimmed to the end columns.
- North party wall at north-western corner will be demolished and rebuilt within the title boundary.
- The north bay to the roof.
- Two small chimneys to the east side of the roof.
- Additional alterations include:
  - Small changes to external openings. Along the western side of Brunswick Road, a window opening will be enlarged to allow fire egress and a new opening created to accommodate a booster cabinet. Two original doorways to Black Street will be reinstated, with an additional fire egress door opening created.
  - Skylights will be inserted along the south face to the retained main south roof bay.
- Construction of a seven (7) storey addition extending above and behind the retained heritage building.

The impact of a refusal of the application would mean that these various regulatory, protection and conservation works would be unlikely to occur, and the site would continue to be a suboptimal vacant building which does not meet current demands, be it residential, retail or commercial, in the municipality.

The construction of a student housing complex of exemplary contemporary environmentally sustainable design to the rear of Former Cable Tram House, at the scale proposed, would be an appropriate outcome having regard to the existing heritage building and its role within a major activity centre.

With respect to the proposed new building and specifically its scale, it is entirely reasonable for consideration to be given to a development of the scale proposed (7-storeys). As outlined earlier in this submission, the built form response is consistent with what is envisaged for this area, forming part of the Brunswick Major Activity Centre, in the Merri-bek Planning Scheme.

When balancing what can be gained across the site by way of the proposal, there is clearly an opportunity to enhance the Former Cable Tram House and provide a high-quality building appropriate for this location.

Overall, the proposal would be a reasonable use of the site which would contribute to the ongoing significance of the Former Cable Tram House.

Yours sincerely,  
Contour Consultants Australia Pty Ltd

Vaughan Connor  
**Director**