

**Planning Permit Application: TP- 2015-1183
104-108 Hawke Street, West Melbourne**

8 March 2016

Presenter: Evan Counsel, (Acting) Planning Coordinator

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of an application for planning permit lodged by the Melbourne City Council to demolish the existing building on the land at 104-108 Hawke Street and to use the land for the purposes of public recreation reserve (informal outdoor recreation) (refer to Attachment 2 – Locality Plan).
2. The site has a total area of approximately 261 square metres and is currently developed with a single storey warehouse used as a motor vehicle repair workshop.
3. The site is located within the General Residential Zone Schedule 1 and is affected by the Heritage Overlay (HO3 - North & West Melbourne Precinct).
4. Melbourne City Council has recently purchased this property and is seeking approval to demolish the existing warehouse to facilitate use of the land as a public recreation reserve in accordance with the Melbourne City Council's Open Space Strategy program. This proposed reserve will be an extension to the existing Hawke and Adderley Street Park.
5. A planning permit is required for the proposed demolition pursuant to Clause 43.02 Heritage Overlay.
6. Public notice of the application was given by ordinary mail to the owners and occupiers of adjoining properties and by posting two notices on the Hawke Street frontage and one to the rear of the site.
7. The application has received one objection raising concerns that more land should be purchased to extend the size of the park or alternatively, the subject building should not be demolished and should be used to house homeless people.
8. The adjoining neighbours to the west of the site at 110 Hawke Street contacted Council's Planning Department raising concerns in relation to the impact that the proposed demolition will have on their property. They did not lodge a formal objection to the application.

Key issues

9. Key issues to consider include the impact the demolition of the existing building may have on the significance of the heritage place, and whether it is justified for the proposed development of the land.
10. The subject building is not graded in the Melbourne City Council's Heritage Places Inventory Study 2008. Therefore, its demolition will not have an adverse impact on the significance of the heritage place.
11. The use of the site for a public recreation reserve will provide net community benefit whilst making a positive contribution to the character and amenity of the area.
12. A key concern is the potential impact that the demolition of the western boundary wall may have on the neighbouring property to the east at 110 Hawke Street. This neighbouring dwelling is constructed directly adjacent to this wall.
13. Structural and property protection matters are managed under the *Building Act 1993* through the protection works notice requirements. To address this matter a permit condition requires that prior to any demolition on site a report prepared by a structural engineer must confirm the existing conditions of the wall, the impact it may have on neighbouring property and measures required to mitigate these impacts.

Recommendation from management

14. That the Future Melbourne Committee resolves that a Notice of Decision to Grant a Permit be issued subject to the conditions set out in the delegate report (refer to Attachment 4).

Attachments

1. Supporting Attachment (page 2 of 13)
2. Locality Plan (page 3 of 13)
3. Selected Plans (page 4 of 13)
4. Delegate Report (page 5 of 13)

Supporting Attachment

Legal

1. Pursuant to Section 96 of the *Planning and Environment Act 1987* (Act), 'a responsible authority must obtain a permit from the Minister before carrying out any use or development for which a permit is required under the planning scheme for which it is the responsible authority, unless the planning scheme gives an exemption.
2. Clause 67.01 of the Melbourne Planning Scheme provides an exemption from the provisions of Section 96 of the Act for demolition of a building and construction and carrying out of works associated with a Class 1 use (leisure and recreation).

Finance

3. There are no direct financial issues arising from the recommendations contained within this report.

Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

5. Pursuant to Clause 67.02 (Notice Requirements) of the Melbourne Planning Scheme, in accordance with Section 52(1)(c) of the Act, public notice of the application was given by ordinary mail to the owners and occupiers of adjoining properties and by posting two notices on the Hawke Street frontage and to the rear of the site.

Relation to Council policy

6. Relevant Council policies are discussed in the attached delegate report (refer to Attachment 4).

Environmental sustainability

7. Not relevant to this application as Clause 22.19 Energy, Water and Waste Efficiency does not apply to applications for the demolition of a building.

Locality Plan

Attachment 2
Agenda item 6.1
Future Melbourne Committee
8 March 2016

104-108 Hawke Street, West Melbourne





Page 4 of 13
Proposed demolition of building located at 104 Hawke St, West Melbourne
(extent of demolition shaded in red)

Attachment 3
Agenda item 6.1
Future Melbourne Committee
8 March 2016



ADVERTISED PLAN
Sheet no. 1 of 1 sheets

Approx. Scale 1:25



DELEGATED PLANNING APPLICATION REPORT

Application number:	TP-2015-1183
Applicant:	City Of Melbourne
Address:	104-108 Hawke Street, WEST MELBOURNE VIC 3003
Proposal:	Demolition of existing building to use the subject land for the purposes of informal outdoor recreation
Date of application:	21 December 2015
Responsible officer:	Esha Rahman

1 SUBJECT SITE AND SURROUNDS

The subject site is located on the north side Hawke Street approximately 35m to the west of Adderley Street in West Melbourne. Madden Lane is located to the rear of the site.

The site is regular in shape and has a total site area of approximately 261 square metres. The site is currently developed with a single storey warehouse built to all boundaries and is currently used as a motor vehicle repair workshop. The building is not graded in the Melbourne City Council's Heritage Places Inventory Study 2008.

The subject site is located in a residential area. Directly to the west of the subject site is a single storey Victorian terrace dwelling which is D graded in the Melbourne City Council's Heritage Places Inventory Study 2008. This neighbouring dwelling is constructed to the eastern side boundary (the common boundary with a subject site). To the rear of the neighbouring dwelling is private open space and a shed which is also adjoins the wall of the warehouse proposed to be demolished.

To the east is Hawke and Adderley Street public park reserve.

To the south of the subject site across Hawke Street is a mixture of single and double storey heritage and modern buildings used as dwellings and for commercial purposes.

To the north is Madden Lane which includes high boundary walls, fences and roller doors of neighbouring properties.

Aerial Photo / Locality Plan



Figure 1: Subject site shown in red.

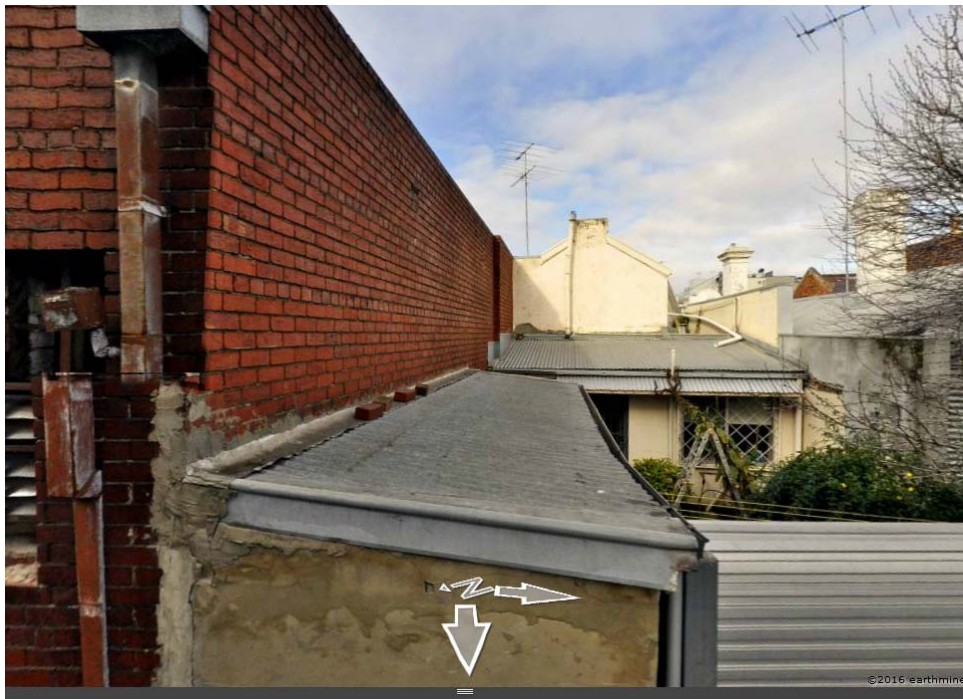


Figure 2: Rear of the neighbouring property at 110 Hawke Street including the shared boundary wall on the subject site.

2 BACKGROUND AND HISTORY

2.1 Pre-application discussions

There have been no pre-application meetings undertaken with the Planning team prior to this application being lodged.

2.2 Planning Application History

There is no directly relevant planning history or background for this application.

3 PROPOSAL

Melbourne City Council has recently purchased this property and is seeking approval to demolish the existing warehouse on the subject site and to use the site as a public recreation reserve in accordance with the Melbourne City Council's Open Space Strategy program. The proposed reserve will be an extension to the existing Hawke and Adderley Street Park located to the immediate east of the site.

The proposal is detailed in the application form dated 21 December 2015 and demolition plans dated 15 January 2016.

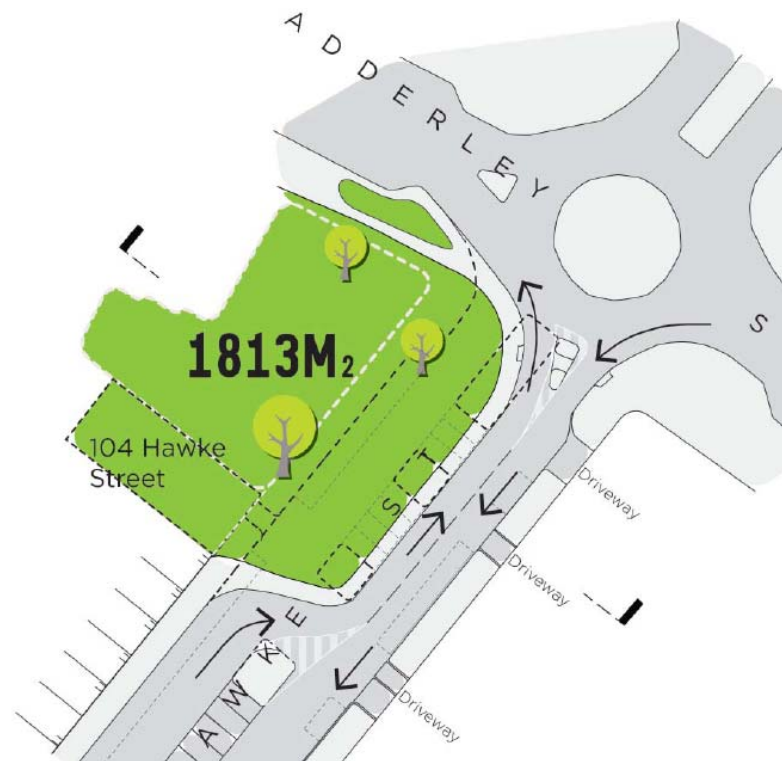


Figure 3: Concept plan of proposed public recreation reserve.

4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme require a planning permit for this proposal:

Clause	Permit Trigger
Clause 32.08 General Residential Zone Schedule 1	Pursuant to Clause 32.08, a planning permit is not required to use the subject site for informal outdoor recreation. The planning scheme defines 'informal outdoor recreation' as land open to the public and used by non-paying persons for leisure or

	recreation, such as a cycle track, picnic or barbecue area, playground, and walking or jogging track.
Clause 43.01 Heritage Overlay Schedule 3	Pursuant to Clause 43.01-1 a permit is required to demolish or remove a building.
Clause 62.02-1	<p>Pursuant to Clause 62.02-1, a planning permit is not required to construct a building or to construct or carry out works with an estimated cost of \$1,000,000 or less carried out by or on behalf of a municipality. However this does not include demolition, therefore the proposal to demolish the existing building does not benefit from this exemption.</p> <p>Pursuant to Clause 62.02-2, a planning permit is not required to construct park furniture including seating, tables, shelters, rubbish bins, playground equipment, barbecues, shade sails, drinking fountains and public toilets unless specifically required by the Planning Scheme.</p> <p>The provisions of the GRZ1 and HO3 do not specifically require a planning permit to construct park furniture.</p>

5 STRATEGIC FRAMEWORK

5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are summarised as follows:

Clause 15.03 Heritage

This policy seeks to ensure the conservation of places of heritage significance.

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

The relevant provisions of the MSS are summarised as follows:

Clause 21.06 Built Environment and Heritage

This clause provides the following relevant urban design and heritage principles:

- To conserve and enhance places and precincts of identified cultural heritage significance.'

Clause 21.16-5 North and West Melbourne

This clause identifies West Melbourne as having a strong residential base. It states that 'many of the area's streetscapes and buildings have been recognised for their heritage significance'.

5.2.2 Local Policies

The relevant local policies are summarised as follows:

Clause 22.05 Heritage Places Outside the Capital City Zone

This clause seeks to achieve the following objectives as relevant:

- 'To conserve all parts of buildings of historic, social or architectural interest which contribute to the significance, character and appearance of the building, streetscape or area.
- To ensure that new development, and the construction or external alteration of buildings, make a positive contribution to the built form and amenity of the

area and are respectful to the architectural, social or historic character and appearance of the streetscape and the area.'

The clause outlines a set of performance standards which relates to demolition and construction or carrying out of buildings and works. These are required to be considered for the assessment of planning applications for heritage places within the heritage overlay.

In relation to demolition, the standard outlines the following:

'Demolishing or removing original parts of buildings, as well as complete buildings, will not normally be permitted in the case of 'A' and 'B', the front part of 'C' and many 'D' graded buildings. The front part of a building is generally considered to be the front two rooms in depth.'

6 ZONE

The subject site is located within the General Residential Zone Schedule 1 where a planning permit is not required to use the subject site for informal outdoor recreation.

7 OVERLAY(S)

The subject site is affected by the Heritage Overlay Schedule 3 North & West Melbourne Precinct where a planning permit is required to demolish or remove a building. The relevant objectives of the Heritage Overlay are:

- 'To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.'

8 PARTICULAR PROVISIONS

There are no relevant particular provisions for this proposal.

9 GENERAL PROVISIONS

The following general provisions apply to the application:

- Clause 65, Decision Guidelines, which includes the matters set out in Section 60 of the Planning and Environment Act 1987.
- Clause 67, Applications under Section 96 of the Act

Pursuant to Section 96 of the Planning and Environment Act 1987, 'a responsible authority must obtain a permit from the Minister before carrying out any use or development for which a permit is required under the planning scheme for which it is the responsible authority unless the planning scheme gives an exemption.

Clause 67.01 provides an exemption from the provisions of S96 of the Act for demolition of a building and construction and carry out works associated with a Class 1 use (leisure and recreation).

10 PUBLIC NOTIFICATION

Pursuant to Clause 67.02 (Notice Requirements), in accordance with Section 52(1)(c) of the Act, notice must be given to the owners and occupiers of adjoining land.

Notice of this proposal was given by ordinary mail to the owners and occupiers of adjoining properties and by posting two notices on the Hawke Street frontage and to the rear of the site for a 14 day period.

11 OBJECTIONS

The application has received one objection raising concerns that more land should be purchased to extend the size of the park. The concern then relates to stating that building should not be demolished as it could be used to house homeless people which is a critical issue in Melbourne.

Melbourne City Council's Planning Department was contacted by the adjoining neighbour located to the west of the subject site at 110 Hawke Street. They did not make a formal objection to the application but raised concerns in relation to the impact that the proposed demolition will have on their property.

12 REFERRALS

12.1 Internal

As the existing building proposed to be demolished is not graded in the Melbourne City Council's Heritage Places Inventory Study 2008, the application was not required to be internally referred to Melbourne City Council's Heritage Advisor. It is considered that there is sufficient policy direction in the Melbourne Planning Scheme to assess the application.

12.2 External

The application was not required to be referred externally.

13 ASSESSMENT

The application seeks approval to demolish the existing building on site and to use the land for the purpose of a public recreation reserve. The proposed reserve will be an extension to the existing Hawke and Adderley Street Park located to the immediate east of the subject site

As the existing building is affected by a Heritage Overlay, a planning permit is required to demolish the building. The key issues to consider are whether the demolition of the existing building will adversely affect the significance of the heritage place and whether the demolition is justified for the proposed development of land.

In the Melbourne City Council's Heritage Places Inventory Study 2008, the building is not graded. Therefore, its demolition will not have adverse impact on the cultural or natural significance of the heritage place. The proposal to use the subject site as a public recreation reserve is justified for the development of the land as it will provide a net community benefit as well as contributing positively to the character and amenity of the area.

The key concern is in relation to the western boundary wall which is proposed to be demolished. As mentioned, the neighbour's dwelling to the west at 110 Hawke Street is constructed adjacent to this boundary wall. It is not clear whether this wall is the common boundary wall or whether the neighbouring dwelling has a separate wall

constructed adjacent to this. While this neighbour has not objected to the proposal, they have outlined concerns with the impact the demolition may have on their existing property. This has been discussed with the applicant who has confirmed that they will be engaging a structural engineer who will be preparing a dilapidation and a structural engineering report to confirm the existing conditions of the wall, the impacts that the proposed demolition may have on the wall and ways to mitigate these impacts. Structural and property protection matters are managed under the Building Act 1993 through the protection works notice requirements. To address this matter, a permit condition will be imposed requiring the submission of a structural engineering report prepared by a qualified Structural Engineer prior to the commencement of the demolition.

In the event the wall is demolished in its entirety, a fence or a new wall may be required to be constructed on this boundary to separate the subject site from the neighbouring site. Pursuant to the Heritage Overlay at Clause 43.01 a planning permit will be required to construct a side boundary fence/wall. The applicant has been advised of this and has confirmed that they will be applying for a planning application should a new fence/boundary wall be required in the future.

The site is currently being used as a motor vehicle repair workshop and there is potential for contamination on the site. Therefore, should a permit be issued, a condition will require an Environmental Assessment be undertaken confirming that the site is suitable for use as a public park.

The application has received one objection raising concerns relating to further extending the size of the park by acquiring more land and Council requiring greater attention to be provided to homeless people.

Whilst it would be desirable to further extend the park, this application relates only to the land at 104-108 Hawke Street which is proposed to be converted into public park in its entirety. The latter concern regarding attention provided to homeless people is admirable, although unfortunately is not a relevant planning consideration and not able to be dealt with via the assessment of this planning permit application.

14 RECOMMENDATION

The proposal is consistent with the relevant sections of the Melbourne Planning Scheme, as discussed above. It is recommended that a Notice of Decision to Grant a Planning Permit be issued subject to the following conditions:

1. Prior to the commencement of the development including demolition and bulk excavation, two copies of plans, drawn to scale must be submitted to the Responsible Authority generally in accordance with the plans submitted with the application but amended to show:
 - a) Any changes required by the Structural Engineering Report in accordance with condition 3.

These amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.

2. Prior to the commencement of the development including demolition and bulk excavation, a re-establishment survey must be undertaken by a Licensed Land Surveyor which indicates that the building to be demolished is located within the title boundaries. This report must be to the satisfaction of the Responsible Authority.
3. Prior to the commencement of the development, including demolition, a report prepared by a suitably qualified Structural Engineer, must be submitted to the Responsible Authority outlining the following:

- a. A dilapidation report documenting evidence of the current conditions of the subject site and the neighbouring property to the west at 110 Hawke Street.
- b. Whether any structure of the neighbouring dwelling to the west at 110 Hawke Street is reliant on this boundary wall.
- c. The impact that the demolition may have on the neighbouring property to the west at 110 Hawke Street and the processes to mitigate these impacts in order to minimise adverse impact on the neighbouring property and its foundation

The recommendations contained within this report must be implemented and be to the satisfaction of the Responsible Authority

4. Prior to the commencement of the demolition including any bulk excavation, the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended use. This PEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the demolition including any bulk excavation. The PEA should include:
 - Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.
 - A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials
5. Should the PEA required under condition 4 reveal that further investigative or remedial work is required to accommodate the intended use, then prior to the commencement of the demolition including any bulk excavation, the applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the intended use(s). This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the the demolition including any bulk excavation. The CEA should include:
 - Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This includes details of how long the uses occupied the site.
 - A review of any previous assessments of the site and surrounding sites, including details of any on-site or off-site sources of contaminated materials. This includes a review of any previous Environmental Audits of the site and surrounding sites.
 - Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 44582.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.
 - An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.
 - Recommendations regarding what further investigate and remediation work, if any, may be necessary to ensure the site is suitable for the intended use(s).

Prior to the occupation of the site, the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the CEA.

6. Should the CEA required under Condition 5 recommend that an Environmental Audit of the site is necessary then prior to the occupation of the building the applicant must provide either:
 - a) A Certificate of Environmental Audit in accordance with Section 53Y of the *Environment Protection Act 1970*; or
 - b) A Statement of Environmental Audit in accordance with Section 53Z of the *Environment Protection Act 1970*. This Statement must confirm that the site is suitable for the intended use(s).

Where a Statement of Environmental Audit is provided, all the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority and prior to the occupation of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or other person acceptable to the Responsible Authority. In addition, the signing off of the Statement must be in accordance with any requirements in it regarding the verification of works.

If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and/or monitoring, the applicant must enter into a legal agreement in accordance with Section 173 of the *Planning and Environment Act 1987* with the Responsible Authority. This Agreement must be executed on title prior to the occupation of the building. The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

7. The demolition as shown on the endorsed plan(s) must not be altered or modified unless with the prior written consent of the Responsible Authority.
8. This permit will expire if one of the following circumstances applies:
 - a) The demolition is not started within two years of the date of this permit.
 - b) The demolition is not completed within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the development if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.