

Application for a Planning Permit

If you need help to complete this form, read **MORE INFORMATION** at the end of this form.

⚠ Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the Planning and Environment Act 1987. If you have any questions, please contact Council planning department.

⚠ Questions marked with an asterisk (*****) must be completed.

⚠ If the space provided on the form is insufficient, attach a separate sheet

🔗 Click for further information.

**CITY OF MARIBYRNONG
ADVERTISED PLAN**

The Land

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address *

Unit No:	St. No.: 362-364	St. Name: Barkly Street
Suburb/Locality: FOOTSCRAY		Post Code: 3011

Formal Land Description *

Complete either A or B.

⚠ This information can be found on the certificate of title

If this application relates to more than one address, attach a separate sheet setting out any additional property details.

A	Vol.: 7613	Folio.: 155	Suburb.: Footscray
OR	Lot No.: 1	Type.: Title Plan	
B	Crown Allotment No.:		Section No.:
	Parish/Township Name:		

The Proposal

⚠ You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application

i For what use, development or other matter do you require a permit? *

PROPOSED EXTENSION & ALTERATION TO EXISTING CHURCH BUILDING

🔗 Provide additional information about the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

i Estimated cost of any development for which the permit is required *


150000.00	⚠ You may be required to verify this estimate. Insert '0' if no development is proposed.
If the application is for land within metropolitan Melbourne (as defined in section 3 of the Planning and Environment Act 1987) and the estimated cost of the development exceeds \$1.093 million (adjusted annually by CPI) the Metropolitan Planning Levy must be paid to the State Revenue Office and a current levy certificate must be submitted with the application. Visit www.sro.vic.gov.au for information.	

Existing Conditions

Describe how the land is used and developed now *

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

This is a church building with a single dwelling, primarily used to gather church members during the wee


 Provide a plan of the existing conditions. Photos are also helpful.

Title Information

Encumbrances on title *

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
- ☒ No
- ☐ Not applicable (no such encumbrance applies).
- ☐ Not Sure

 Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', for example, restrictive covenants.

Applicant and Owner Details

Provide details of the applicant and the owner of the land.

Applicant *

The person who wants the permit.

Name:		
Title: CO	First Name:	Surname:
Organization (if applicable): IDS Design and Construction		
Unit No: FCTY 15	St. No: 5-11	St. Name: Agosta Drive
Suburb: LAVERTON NORTH	State: VIC	Postcode: 3026
Business phone:		Email: anhnguyen@idsshopfitting.com.au
Mobile phone:		Home: 0490144224

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

Contact person's details*

Name:		Same as applicant <input checked="" type="checkbox"/>
Title: CO	First Name:	Surname:
Organization (if applicable): IDS Design and Construction		
Unit No: FCTY 15	St. No: 5-11	St. Name: Agosta Drive
Suburb: LAVERTON NORTH	State: VIC	Postcode: 3026
Business phone:		Email: anhnguyen@idsshopfitting.com.au
Mobile phone:		Home: 0490144224

Owner *


The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organization.

Name:		Same as applicant <input type="checkbox"/>
Title: CO	First Name:	Surname:
Organization (if applicable): LUTHERAN CHURCH OF AUSTRALIA		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No:	St. No: 362-364	St. Name: Barkly Street
Suburb: FOOTSCRAY	State: VIC	Postcode: 3011
Business Phone:		Email: simon.lienert@gmail.com
Mobile phone: 0432981090		Home:

Declaration

This form must be signed by the applicant *

 Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

Signature:



Date

15 / 04 / 2025

day / month / year

Need help with the Application?

General information about the planning process is available at planning.vic.gov.au

Contact Council's planning department to discuss the specific requirements for his application and obtain a planning permit checklist. Insufficient or unclear information may delay your application

Has there been a pre-application meeting with a council planning officer

☒ No

☐ Yes

Officer Name:

Date:

day / month / year

Checklist

Have you:



Filled in the form completely?



Paid or included the application fee?



Most applications require a fee to be paid. Contact Council to determine the appropriate fee.



Provided all necessary supporting information and documents?



A full, current copy of title information for each individual parcel of land forming the subject site



A plan of existing conditions.



Plans showing the layout and details of the proposal.



Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.



If required, a description of the likely effect of the proposal (for example, traffic, noise, environmental impacts)



If applicable, a current Metropolitan Planning Levy certificate (a levy certificate expires 90 days after the day on which it is issued by the State Revenue Office and then cannot be used). Failure to comply means the application is void



Completed the relevant council planning permit checklist?



Signed the declaration?

Lodgement

Lodge the completed and signed form, the fee and all documents with:

Maribyrnong City Council
PO Box 58
Footscray VIC 3011
Cnr Napier and Hyde Streets
Footscray VIC 3011

Contact information:

Phone: (03) 9688 0200

Email: email@maribyrnong.vic.gov.au

DX: 81112

Deliver application in person, by post or by electronic lodgement.

MORE INFORMATION

The Land

Planning permits relate to the use and development of the land. It is important that accurate, clear and concise details of the land are provided with the application.

How is land identified


Land is commonly identified by a street address, but sometimes this alone does not provide an accurate identification of the relevant parcel of land relating to an application. Make sure you also provide the formal land description - the lot and plan number or the crown, section and parish/township details (as applicable) for the subject site. This information is shown on the title.

See **Example 1**.

The Proposal

Why is it important to describe the proposal correctly?


The application requires a description of what you want to do with the land. You must describe how the land will be used or developed as a result of the proposal. It is important that you understand the reasons why you need a permit in order to suitably describe the proposal. By providing an accurate description of the proposal, you will avoid unnecessary delays associated with amending the description at a later date.

 Planning schemes use specific definitions for different types of use and development. Contact the Council planning office at an early stage in preparing your application to ensure that you use the appropriate terminology and provide the required details.

How do planning schemes affect proposals?

A planning scheme sets out policies and requirements for the use, development and protection of land. There is a planning scheme for every municipality in Victoria. Development of land includes the construction of a building, carrying out works, subdividing land or buildings and displaying signs.

Proposals must comply with the planning scheme provisions in accordance with Clause 61.05 of the planning scheme. Provisions may relate to the State Planning Policy Framework, the Local Planning Policy Framework, zones, overlays, particular and general provisions. You can access the planning scheme by either contacting Council's planning department or by visiting Planning Schemes Online at planning-schemes.delwp.vic.gov.au

 You can obtain a planning certificate to establish planning scheme details about your property. A planning certificate identifies the zones and overlays that apply to the land, but it does not identify all of the provisions of the planning scheme that may be relevant to your application. Planning certificates for land in metropolitan areas and most rural areas can be obtained by visiting www.landata.vic.gov.au Contact your local Council to obtain a planning certificate in Central Goldfields, Corangamite, Macedon Ranges and Greater Geelong. You can also use the free Planning Property Report to obtain the same information.

See **Example 2**.


Estimated cost of development

In most instances an application fee will be required. This fee must be paid when you lodge the application. The fee is set down by government regulations.

To help Council calculate the application fee, you must provide an accurate cost estimate of the proposed development. This cost does not include the costs of development that you could undertake without a permit or that are separate from the permit process. Development costs should be calculated at a normal industry rate for the type of construction you propose.

Council may ask you to justify your cost estimates. Costs are required solely to allow Council to calculate the permit application fee. Fees are exempt from GST.

 Costs for different types of development can be obtained from specialist publications such as Cordell Housing: Building Cost Guide or Rawlinsons: Australian Construction Handbook

 Contact the Council to determine the appropriate fee. Go to planning.vic.gov.au to view a summary of fees in the Planning and Environment (Fees) Regulations.

Metropolitan Planning Levy refer Division 5A of Part 4 of the Planning and Environment Act 1987 (the Act). A planning permit application under section 47 or 96A of the Act for a development of land in metropolitan Melbourne as defined in section 3 of the Act may be a leviable application. If the cost of the development exceeds the threshold of \$1 million (adjusted annually by consumer price index) a levy certificate must be obtained from the State Revenue Office after payment of the levy. A valid levy certificate must be submitted to the responsible planning authority (usually council) with a leviable planning permit application. Refer to the State Revenue Office website at www.sro.vic.gov.au for more information. A leviable application submitted without a levy certificate is void

Existing Conditions

How should land be described?

You need to describe, in general terms, the way the land is used now, including the activities, buildings, structures and works that exist (e.g. single dwelling, 24 dwellings in a three-storey building, medical centre with three practitioners and 8 car parking spaces, vacant building, vacant land, grazing land, bush block)

Please attach to your application a plan of the existing conditions of the land. Check with the local Council for the quantity, scale and level of detail required. It is also helpful to include photographs of the existing conditions.

See **Example 3**.

Title Information

What is an encumbrance?

An encumbrance is a formal obligation on the land, with the most common type being a mortgage. Other common examples of encumbrances include:

- **Restrictive Covenants:** A restrictive covenant is a written agreement between owners of land restricting the use or development of the land for the benefit of others, (eg. a limit of one dwelling or limits on types of building materials to be used).
- **Section 173 Agreements:** A section 173 agreement is a contract between an owner of the land and the Council which sets out limitations on the use or development of the land.
- **Easements:** An easement gives rights to other parties to use the land or provide for services or access on, under or above the surface of the land.
- **Building Envelopes:** A building envelope defines the development boundaries for the land.
- signed the declaration on the last page of the application form

Aside from mortgages, the above encumbrances can potentially limit or even prevent certain types of proposals.

What documents should I check to find encumbrances

Encumbrances are identified on the title (register search statement) under the header encumbrances, caveats and notices. The actual details of an encumbrance are usually provided in a separate document (instrument) associated with the title. Sometimes encumbrances are also marked on the title diagram or plan, such as easements or building envelopes.

What about caveats and notices?

A caveat is a record of a claim from a party to an interest in the land. Caveats are not normally relevant to planning applications as they typically relate to a purchaser, mortgagee or chargee claim, but can sometimes include claims to a covenant or easement on the land. These types of caveats may affect your proposal.

Other less common types of obligations may also be specified on title in the form of notices. These may have an effect on your proposal, such as a notice that the building on the land is listed on the Heritage Register.

What happens if the proposal contravenes an encumbrance on title?

Encumbrances may affect or limit your proposal or prevent it from proceeding. Section 61(4) of the *Planning and Environment Act 1987* for example, prevents a Council from granting a permit if it would result in a breach of a registered restrictive covenant. If the proposal contravenes any encumbrance, contact the Council for advice on how to proceed.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

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**CITY OF MARIBYRNONG
ADVERTISED PLAN**

LAND DESCRIPTION

Lot 1 on Title Plan 682287F (formerly known as part of Crown Allotment 12
Section 15 Parish of Cut-paw-paw).
PARENT TITLE Volume 03888 Folio 438
Created by instrument 4886993R 05/06/1950

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor

LUTHERAN CHURCH OF AUSTRALIA VICTORIAN DISTRICT of 52 CHRISTOWEL STREET
CAMBERWELL
E451923 10/07/1972

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section
24 Subdivision Act 1988 and any other encumbrances shown or entered on the
plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP682287F FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 362-364 BARKLY STREET FOOTSCRAY VIC 3011

DOCUMENT END

Imaged Document Cover Sheet

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Construction of
buildings and
works (new toilet
building) for
existing Place of
worship at 362-364
Barkly Street
Footscray 3011
(Lot 1 TP682287)

CITY OF MARIBYRNONG ADVERTISED PLAN

Application for Permit

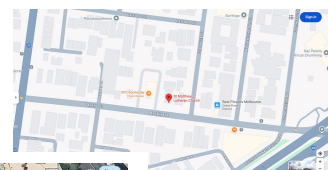


1 September 2025

Town Planning Report

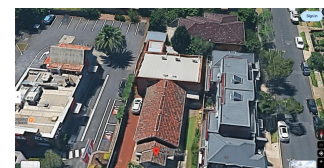


The advertisement
for the advertised plan



big picture urban *rural* 
taking the pain out of planning

Consultant Town Planners)
0410 762 304
matt.gorman@bpur.com.au
PO Box 200, Ballan VIC 3342
www.bpur.com.au
ABN: 14 242 281 164



INTRODUCTION

In relation to Planning Permit Application TP102/2025(1), I have been asked to respond to the Council's Request for Further Information (RFI) dated 9 May 2025. Note: I have limited my assessment to what the RFI has asked for: an assessment of the proposal against six sub-clauses of Clause 55 that are triggered the site's abuttal to land in a General Residential Zone (to its north only) and not any other requirement of Maribyrnong Planning Scheme.

EXISTING CONDITIONS

The site

The site (which also referred be to in this report as the "subject site") abuts the north side of Barkly Street just west of Creswick Street in a suburban area of Footscray. The site is a rectangular lot, with a frontage of 16.5m, a depth of 36.5m, and a (calculated) area of 602.25sqm. The site is generally flat.

St Matthew's Lutheran Church occupies the site. The main building complex contains a single-storey chapel, a hall, storage areas and a kitchen. At the rear of the site, abutting the north site boundary (which is also a zone boundary) are two small buildings containing respectively external toilets and a shed. Together with the rear of the kitchen, these outbuildings abut more than half of the site's rear (north) boundary.

There is an existing crossover and driveway adjacent to the west side of the site's frontage. There is no apparent easement affecting the site. The site is otherwise open in nature. There are no major trees and shrubs onsite.

The neighbourhood

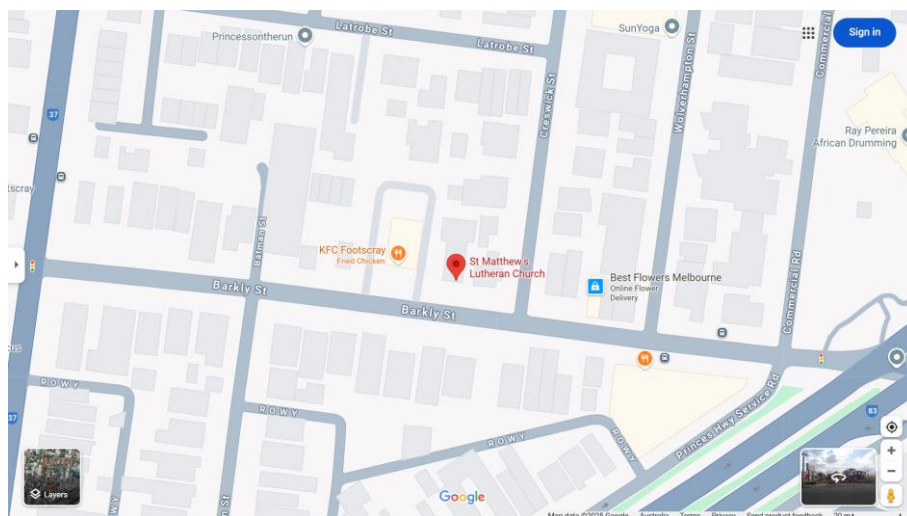
The site is in a mixed use and residential neighbourhood, which includes commercial development, traditional single-dwellings, and infill contemporary multi-dwelling developments including residential apartment buildings.

Near the site, Barkly Street is a well-known Footscray road, with formal carriageways, gutters, crossovers, footpaths and street trees (there are however no nature strips) and power poles. Creswick Street is a typical Footscray side street, similar to Barkly Street but also including nature strips.

Land adjoining the site is developed and used as follows:

- To the site's west is land used for a Convenience restaurant ("KFC"). There is a "drive-thru" area and parking immediately near the site. This neighbouring site does not contain any apparent trees along its common boundary with the site. As with the subject site, this site is in the Mixed Use Zone.
- To the site's east is a site containing a three-storey apartment building. This is also in the Mixed Use Zone.
- To the site's north is a single storey dwelling (house) at 120 Creswick Street. Windows face the site from less than 3m away (measured at 2.6m from the site). This neighbouring site contains several trees (or shrubs) along its common boundary with the site. This site is in the General Residential Zone.

Being in an established residential area, all reticulated infrastructure would be available to the site.

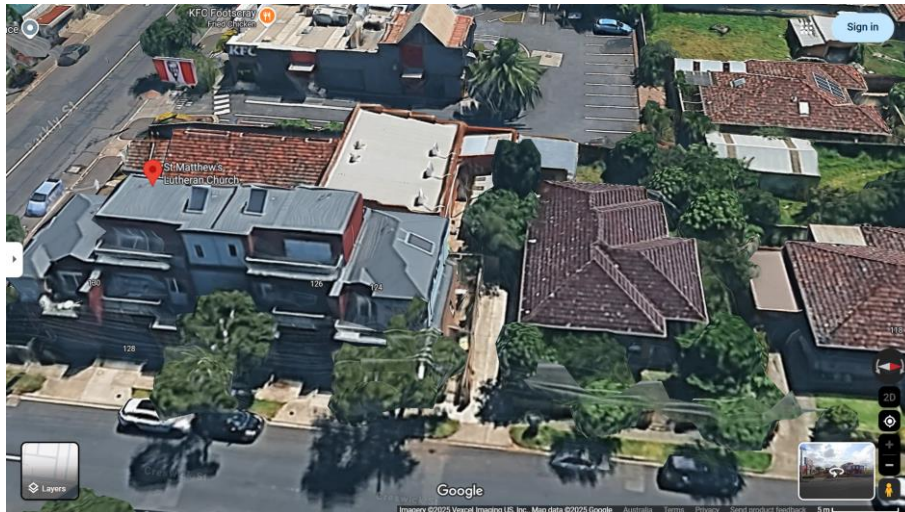


Locality plan, with site marked with red peg (from Google Maps)



Aerial photo showing site (marked with red peg) in context of immediate neighbourhood (from Google Maps)





Oblique aerial photos with site (with red peg) in the centre
The site and its neighbourhood

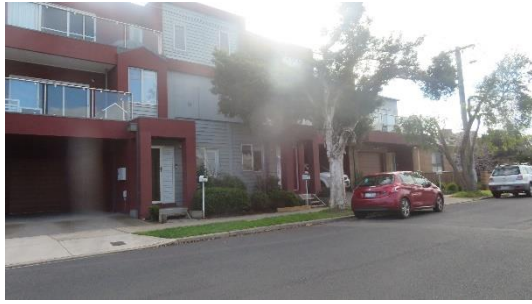


The site



Abutting site on either side of subject site, along Barkly Street





Apartment dwellings to east of site. Note: these photos are provided for context only, as these dwellings are not in the General Residential Zone, they are not subject to the required assessment. The bottom right photo is taken from the approximate location of the proposed toilet building

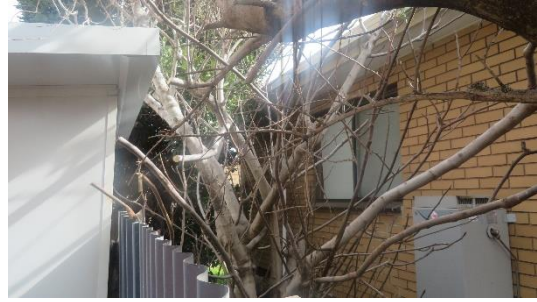


Dwelling (on right of photo) at 120 Creswick Street and its interface with the rear of the site



Dwelling at 120 Creswick Street and its interface with rear of site (right photo largely shows existing conditions at rear of site). Note: these photos were all taken from Creswick Street. Further photos of this dwelling are included in the assessment below





Existing toilet building at rear of site, and (bottom right) western-most of the windows of dwelling at 120 Creswick Street. Note: while the proposed building will be higher than the existing one, it will still be compliant with the relevant standards of Clause 55



Windows that face the site from the south side of the dwelling at 120 Creswick Street (photo taken from Creswick Street). The smaller window shown is likely to be a non-habitable room window, the larger ones are likely to be non-habitable room windows (see also comments immediately below)



Windows that face the site from the south side of the dwelling at 120 Creswick Street (photo taken from rear of subject site). Based on their (moderate) size and their location within the dwelling, these are believed to be habitable room windows (this is confirmed by the below-included floor plan of the dwelling at 120 Creswick Street, which shows them to be bedrooms). Of these only the window in the left photo is opposite the location of the proposed toilet building, the window in the right photo is located closer to Creswick Street, opposite the rear of the multi-dwellings to the east of the site



Window located between the above two habitable room windows. Based on its location with its dwelling, its highlight nature and the apparent cleaning products on its sill, this is understood to be a non-habitable room (this is confirmed by the below-included floor plan of the dwelling at 120 Creswick Street, which shows it to be a bathroom).



Laser measuring device used to measure the distance between the site boundary (as delineated by the existing fence) and the wall of the dwelling at 120 Creswick Street in which the above three windows are located. The measurement was just over 2.6m. Although we did not measure the width of the eaves above the windows, I estimate that they (including the gutter) would be about 0.6m wide, so that there would be a distance of 2m clear to the sky between the windows and location of the proposed toilet building. Even if they are slightly wider, there would still be more than the 1.6m dimension required by Standard B4-1

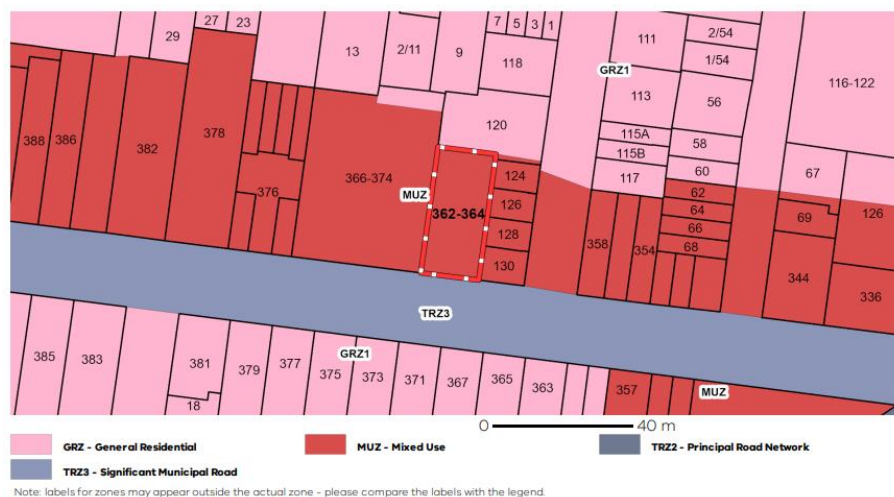
The proposal

The proposal consists of the construction of a new, single-storey 41sqm floor area, toilet building at the site's rear. This will occupy the area currently occupied by the existing toilets and shed (which will be demolished) as well as a small additional area. The new toilet building will about the side of the existing kitchen, and the rear of the existing hall and storage room, all of which will be retained, as well as the site's rear boundary. The purpose of the new toilet building is simply to provide more and better toilets for those, including disabled people, who visit the site. There will be a total of five new closet pans, two urinals, five wash basins and two small storage areas.

Further relevant details of the proposal are provided below in the Clause 55 assessment.

Land use zoning and the request for further information

Under Maribyrnong Planning Scheme, the site is a Mixed Use Zone (MUZ); land to its north is in a General Residential Zone (GRZ1). A permit is required in the MUZ to construct a building or works associated with a Section 2 (Permit required use) (in this case the existing this is because the existing Place of worship use does not meet the relevant condition ("The gross floor area of all buildings must not exceed 250 square metres") to be a Section 1 (Permit not required use). Under the MUZ schedule, there are no varied Clause 55 requirements.



Cadastral/zoning map (from VicPlan) with site highlighted in red. This clearly shows: land to both the east and the west of the site are in the Mixed Use Zone, Barkly Street itself is in a Transport Zone 3; and land to the north is in the General Residential Zone

By letter dated 9 May 2025, the Council requested the following information:

2. Written assessment to demonstrate the requirements of Clauses 55.02-3, 55.02-4, 55.04-1, 55.04-3, 55.04-4, 55.05-2 are met, where the abutting land which is in a General Residential Zone. (As required by Clause 32.04-11),

In turn, Clause 32.04-11 Buildings on lots that abut another residential zone (which is part of Clause 32.04 Mixed Use Zone) states:

Any buildings or works constructed on a lot that abuts land which is in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone, or Township Zone must meet the requirements of Clauses 55.02-3, 55.02-4, 55.04-1, 55.04-3, 55.04-4 and 55.05-2 along that boundary.

Note: that the requirements only apply "along that boundary", that is to land only within (in this case) the General Residential Zone, and not to other land in the Mixed Zone itself.

The full names of the clauses referred to are:

- 55.02-3 Side and rear setbacks objective
- 55.02-4 Walls on boundaries objectives
- 55.04-1 Daylight to existing windows objective
- 55.04-3 Overshadowing secluded open space objective
- 55.04-4 Overlooking objective
- 55.05-2 Overshadowing domestic solar energy systems objective

While as it name suggests, Clause 55 Two or more dwellings on a lot and residential buildings primary concerns residential development, it is understood that it applies in this case to ensure that non-residential buildings similarly do not unreasonably impact adjoining dwellings in zones such as General Residential.

Assessment against relevant sections of Clause 55 Two or more dwellings on a lot and residential buildings

Requirement (note: not all Objectives have Decision guidelines)	How the proposal responds
<p>55.02-3 Side and rear setbacks objective</p> <p>To ensure that the height and setback of a building from a boundary responds to the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings or small second dwellings.</p> <p>Standard B2-3</p> <p>A new building not on or within 200mm of a boundary is set back from side or rear boundaries in accordance with either B2-3.1 or B2-3.2.</p> <p>Standard B2-3 is met if the building is set back in accordance with either B2-3.1 or B2-3.2, rather than needing to comply with both of these provisions:</p> <ul style="list-style-type: none">B2-3.1: The building is set back at least 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.B2-3.2: If the boundary is not to the south of the building, the building is set back at least 3 metres up to a height not exceeding 11 metres and at least 4.5 metres for a height over 11 metres. If the boundary is to the south of the building, the building is set back at least 6 metres up to a height not exceeding 11 metres and at least 9 metres for a height over 11 metres between south 30 degrees west to south 30 degrees east. <p>Sunblinds, verandahs, porches, eaves, facias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5 metres into the side and rear setbacks.</p> <p>Landings that have an area of not more than 2 square metres and less than 1 metre high, stairways, ramps, pergolas, shade sails and carports may encroach into the side and rear setbacks.</p> <p>Diagram B2-3.1 Side and rear setbacks</p> <p>Diagram B2-3.2 Side and rear setbacks</p> <p>Decision guidelines</p> <p>Before deciding on an application, the responsible authority must consider:</p> <ul style="list-style-type: none">Any relevant neighbourhood character objective, policy or statement set out in this scheme.	<p>Details (not to scale here) of submitted plans</p> <p>The relevant sections of the proposed toilet building (shown on the right side of the first of the above images) will be setback from the site's rear boundary in accordance with Standard B2-3. This includes a 1m setback from the boundary for the proposed 3.2m high building.</p> <p>The new boundary wall, which will abut the north site boundary, will have a length of less than 5.9m (less than the minimum/starting point of 10m allowed on <i>any</i> side/rear boundary), a maximum height less than 3.6m, and an average height of 3.2m (both above NGL).</p> <p>In fact, even together with the 4.1m long rear wall of the existing kitchen, there will still be only a wall length of 10m (given the boundary length of 16.5m, Standard B2-4 allows a total boundary wall length of 11.625m).</p> <p>And, though it is not strictly relevant where the standard is met, there is an existing building in the location of the proposed building and the area on the other side of area on the adjoining land is a side setback area.</p>

<ul style="list-style-type: none"> • The design response. • The impact on the amenity of the habitable room windows and private open space of existing dwellings or small second dwellings. • Whether the wall is opposite an existing or simultaneously constructed wall built to the boundary. • Whether the wall abuts a side or rear lane. • Whether a different setback in a rear yard affects the ability to retain or plant canopy trees. 	
<p>55.02-4 Walls on boundaries objectives</p> <p>To ensure that the location, length and height of a wall on a boundary responds to the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings and small second dwellings.</p> <p>Standard B2-4</p> <p>A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of a lot does not abut the boundary for a length that exceeds the greater of the following distances:</p> <ul style="list-style-type: none"> • 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot, or • The length of existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot. <p>A new wall or carport may fully abut a side or rear boundary where slope and retaining walls or fences would result in the effective height of the wall or carport being less than 2 metres on the abutting property boundary.</p> <p>A building on a boundary includes a building set back up to 200mm from a boundary.</p> <p>The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metre of a side or rear boundary does not exceed an average of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.</p> <p>Decision guidelines</p> <p>Before deciding on an application, the responsible authority must consider:</p> <ul style="list-style-type: none"> • Any relevant neighbourhood character objective, policy or statement set out in this scheme. • The design response. • The extent to which walls on boundaries are part of the neighbourhood character. • The impact on the amenity of existing dwellings or small second dwellings. • The opportunity to minimise the length of walls on boundaries by aligning a new wall on a boundary with an existing wall on a lot of an adjoining property. • The orientation of the boundary that the wall is being built on. • The width of the lot. • The extent to which the slope and retaining walls or fences reduce the effective height of the wall. 	

55.04-1 Daylight to existing windows objective

To allow adequate daylight into existing habitable room windows.

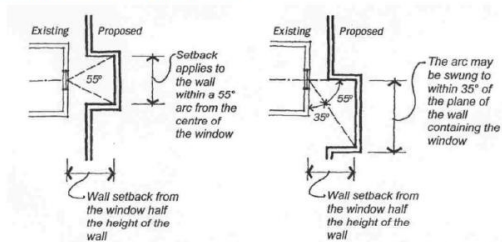
Standard B4-1

Buildings opposite an existing habitable room window provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot.

Walls or carports more than 3 metres in height opposite an existing habitable room window are set back from the window at least 50 per cent of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window.

Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window.

Diagram B4-1 Daylight to existing windows



Decision guidelines

Before deciding on an application, the responsible authority must consider:

- The design response.
- The extent to which the existing dwelling or small second dwelling has provided for reasonable daylight access to its habitable rooms through the siting and orientation of its habitable room windows.
- The impact on the amenity of existing dwellings or small second dwellings.

120 CRESWICK STREET, FOOTSCRAY



<https://www.domain.com.au/120-creswick-street-footscray-vic-3011-2010072022>

The proposed new external walls will be setback/height limited from all boundaries opposite/adjoining any habitable room window facing the site in accordance with Standard B4-1.

The proposed wall will be 3.2m (just over the 3m required to trigger a setback requirement under B4-1) and, while the relevant dimension is not shown on the submitted plans, all three windows facing the site from the south wall of the house at 120 Creswick Street are located 2.6m from the boundary of the site.

This is more than the 1.6m setback required for a 3.2m high wall from any adjoining facing habitable room window.

In addition, of the 2.6m width, allowing for the width of the eaves (which as above, are estimated to be 0.6m wide) there is easily enough area (about 2m wide and much more than 3m long) on the abutting lot for the required "light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky".

55.04-3 Overshadowing secluded open space objective

To ensure buildings do not significantly overshadow existing secluded private open space.

Standard B4-3

The area of secluded private open space that is not overshadowed by the new development is greater than 50 per cent, or 25 square metres with a minimum dimension of 3 metres, whichever is the lesser area, for a minimum of five hours between 9 am and 3 pm on 22 September.

If existing sunlight to the secluded private open space of an existing dwelling or small second dwelling is less than the requirements of this standard, the amount of sunlight will not be further reduced.

Decision guidelines

Before deciding on an application, the responsible authority must consider:

While no shadow diagrams were submitted with the application, any new shadows cast by the proposed toilet building will (for obvious reasons) not fall towards the site to the north. Even if this were not the case however, shadows would not fall on any secluded private open space since the area next to the proposed toilet building is a side setback area only.

Note: even in relation to the site to the east, unreasonable overshadowing will be prevented by the orientation of the site/development plus the building scale/relevant boundary setbacks of the toilet building.

- The design response.
- The impact on the amenity of existing dwellings or small second dwellings.
- Existing sunlight penetration to the secluded private open space of the existing dwelling or small second dwelling.
- The time of day that sunlight will be available to the secluded private open space of the existing dwelling or small second dwelling.
- The effect of a reduction in sunlight on the existing use of the existing secluded private open space.

55.04-4 Overlooking objective

To limit views into existing secluded private open space and habitable room windows.

Standard B4-4

In Clause 55.04-4 a habitable room does not include a bedroom.

A habitable room window, balcony, podium, terrace, deck or patio is located and designed to avoid direct views into the secluded private open space of an existing dwelling or small second dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views are measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.

A habitable room window, balcony, terrace, deck or patio that is located with a direct view into a habitable room window of an existing dwelling or small second dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio:

- Is offset a minimum of 1.5 metres from the edge of one window to the edge of the other; or
- Has sill heights of at least 1.7 metres above floor level; or
- Has fixed, obscure glazing in any part of the window below 1.7 metre above floor level; or
- Has permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent; or
- Has fixed elements that prevent the direct view, such as horizontal ledges or vertical fins.

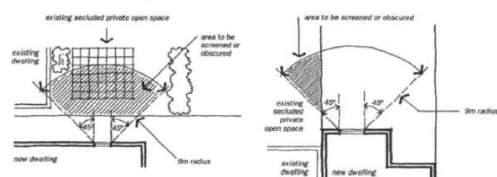
Obscure glazing in any part of the window below 1.7 metres above floor level may be openable provided that there are no direct views as specified in this standard.

Screens used to obscure a view are:

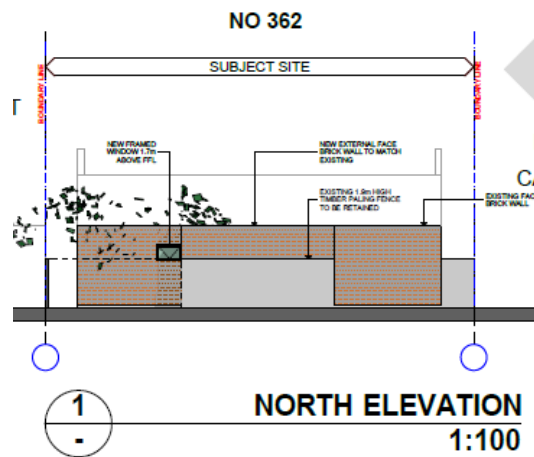
- Perforated panels or trellis with a maximum of 25 per cent openings or solid translucent panels.
- Permanent, fixed and durable.
- Designed and coloured to blend in with the development.

This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8 metres high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8 metres above ground level at the boundary.

Diagram B4-4 Overlooking



Decision guidelines



Detail (not to scale here) of submitted plans

The proposal involves a single-storey building, which will have one window only facing toward 120 Creswick Street. The window will have a sill height of 1.7m but even if this were not the case, the intervening boundary fence will (continue to) be 1.9m high.

Note: "habitable room" is defined at Clause 73.01 General terms of Maribyrnong Planning Scheme as, "Any room of a dwelling, small second dwelling or residential building other than a bathroom, laundry, toilet, pantry, walk-in wardrobe, corridor, stair, lobby, photographic darkroom, clothes drying room and other space of a specialised nature occupied neither frequently nor for extended periods".

That is, even if the proposal involved an extension to a dwelling, small second dwelling or residential building, the proposed window would still not relate to a habitable room (and thus not be subject to this standard and/or require screening).

However, even if this were not the case, the proposal would still satisfy Standard B4-4.

<p><i>Before deciding on an application, the responsible authority must consider:</i></p> <ul style="list-style-type: none"> • <i>The design response.</i> • <i>The impact on the amenity of the secluded private open space or habitable room window.</i> • <i>The existing extent of overlooking into the secluded private open space and habitable room windows of existing dwellings or small second dwellings.</i> • <i>The internal daylight to and amenity of the proposed dwelling, residential building or small second dwelling.</i> 	
<p>55.05-2 Overshadowing domestic solar energy systems objective</p> <p><i>To ensure that the height and setback of a building from a boundary allows reasonable solar access to existing domestic solar energy systems on the roofs of buildings.</i></p> <p>Standard B5-2</p> <p><i>Any part of a new building that will reduce the sunlight at any time between 9am and 4pm on 22 September to an existing domestic solar energy system on the roof of a building on an adjoining lot be set back from the boundary to that lot by at least 1 metre at 3.6 metres above ground level, plus 0.3 metres for every metre of building height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.</i></p> <p><i>This standard applies to an existing building in a Township Zone, General Residential Zone or Neighbourhood Residential Zone.</i></p> <p><i>In Clause 55.05-2 domestic solar energy system means a domestic solar energy system that existed at the date the application was lodged.</i></p> <p>Decision guidelines</p> <p><i>Before deciding on an application, the responsible authority must consider whether the domestic solar energy system has been sited to optimise efficiency and protection from overshadowing.</i></p>	<p>There is no apparent domestic solar energy system at 120 Creswick Street. None is shown in the most recent aerial photos from Google Maps, and while my own photos do not show all existing development at 120 Creswick Street, I did not observe any when I visited the neighbourhood.</p> <p>But even if there were a domestic solar energy system, shadows from the proposed toilet building will still not fall towards the north.</p> <p>While there do seem to be domestic solar energy systems on the roof of the apartment building to the site's east, even if this were subject to this objective, due to its (single-storey) scale of the proposed building, any shadows from it will be unable to reach <i>upwards</i> to the roof of the adjoining triple-storey building.</p>

CONCLUSION

The application involves the proposed Construction of buildings and works (new toilet building) for existing Place of worship at 362-364 Barkly Street Footscray 3011 (Lot 1 TP682287).

As per my above assessment, the proposal satisfies all the relevant required clauses of Clause 55 including meeting each standard of those clauses.

Matt Gorman¹ BA MUP
Consultant Town Planner

¹ I, Matthew Gilbert Gorman, consent to having my personal information (name, phone number, business name, business address, email address etc) contained in this document or any other document authored by me as part of an application for a planning permit, be made available electronically in accordance with the public availability requirements of the Planning and Environment Act 1987. I understand that if I wish to withdraw my consent at any time, I need to notify the Council in writing