



**Proposal to Remove stairway**  
**ATHENAEUM BUILDING**  
**28-36 OCEAN BEACH ROAD SORRENTO**  
**Report on 'Reasonable or Economic Use**

*Prepared for Shatter Pty Ltd*  
*September 2024*

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# TABLE OF CONTENTS

|   |    |
|---|----|
| Executive Summary .....                                       | i  |
| 1. Introduction .....   | 1  |
| 1.1 The Brief .....   | 1  |
| 1.2 The Site.....   | 1  |
| 1.3 History.....  | 3  |
| 2. The Proposal .....   | 6  |
| 2.1 The Works.....  | 6  |
| 2.2 Heritage Impact .....                                     | 7  |
| 2.3 Heritage Victoria Correspondence.....                     | 8  |
| 3. Proposal Rationale .....                                   | 9  |
| 3.1 Prospective Tenant Feedback .....                         | 9  |
| 3.2 The Importance of Retail Frontage and Retail Design ..... | 10 |
| 3.3 Earlier Report Revisited.....                             | 12 |
| 3.4 Application of the ‘Harper Rule’ .....                    | 12 |
| 3.5 Financial Analysis.....                                   | 13 |
| 4. Consideration of Options .....                             | 17 |
| 4.1 CCTV Solution .....                                       | 17 |
| 4.2 Multiple Tenancies.....                                   | 17 |
| 4.3 Removing Surrounding Walls .....                          | 17 |
| 5. Reasonable Use .....                                       | 19 |
| 5.1 Meaning of ‘Reasonable Use’ .....                         | 19 |
| 5.2 Conclusions on Reasonable Use .....                       | 19 |
| 6. Economic Use .....   | 21 |
| 6.1 Meaning of ‘Economic Use’ .....                           | 21 |
| 6.2 Conclusion on Economic Use.....                           | 21 |
| References .....  | 22 |
| Attachment A – CBRE Advice on Rentals.....                    | 23 |
| Attachment B - Compliance Assessment Report .....             | 24 |
| Attachment C - Summary CV .....                               | 25 |

## List of Figures

|   |    |
|---|----|
| Figure 1 – The Site .....                               | 2  |
| Figure 2 – The Athenaeum Today .....                    | 2  |
| Figure 3- The Building Circa 1920 .....                 | 3  |
| Figure 4 – The Existing Ground Floor Plan.....          | 6  |
| Figure 5 – The Existing Interior.....                   | 6  |
| Figure 6 – The Existing Stairway Enclosure.....         | 7  |
| Figure 7 – Figure from Earlier Report .....             | 12 |
| Figure 8 – Application of the harper Rule - Zones ..... | 13 |

## List of Tables

|  |    |
|--|----|
| Table 1 – Financial Model.....                   | 15 |
| Table 2 – Make Fit for Purpose Cost Report ..... | 16 |

## Executive Summary

Rodger Gibbins, Urban Economist and Planner, has been commissioned by Shatter Pty Ltd to prepare a report to Heritage Victoria on issues relating to 'reasonable or economic use'. The report relates to the proposed removal of a stairway from the premises located at 30 to 34 Ocean Beach Road Sorrento, known as the 'Athenaeum'.

The critical issue is the leasability of the floorspace which is compromised by the presence of the stairway blocking views into the premises from the frontage.

By way of background the author of this report prepared an earlier report to accompany the application for a permit that has been issued and acted upon (March 2023).

The site is located at 30 to 34 Ocean Beach Road Sorrento (See Figure 1). The two storey Athenaeum cinema building constructed in 1894 (See Figure 2) at 30 to 34 is heritage listed (H2227). The statement of significance states (inter alia):

*The Athenaeum Theatre, Sorrento is of architectural significance as an early example of a theatre in regional Victoria. It is important for its largely intact original ornate interior and its Moderne remodelling, which reflects its new use as a cinema venue in the 1930s.*

*The Athenaeum Theatre, Sorrento is of historical significance for its associations with the late nineteenth and early twentieth century development of one of Victoria's premier seaside resorts. The building's multi-purpose, entertainment function reflects the early, and continuing, holiday character of this seaside town.*

The proposal is to remove a stairway that was required to be retained as part of the existing Heritage Victoria permit. In its current configuration it severely restricts the leasability of the premises. The stairway is decrepit and has been enclosed by plaster walls for safety reasons. The stairway was enclosed due to it being non-compliant with current standards, it being structurally unsound and due to the tenancy being on the ground level only. Level 1 is closed off to the ground level.

The Heritage Impact Statement that was submitted with the original permit application stated that internal stairs are not inherently significant by virtue of being an original item and are irretrievably non-compliant. It was submitted that the main auditorium is the most significant interior feature and the key objective of the scheme for its adaptive reuse is the retention of original/early elements – notably the decorative plaster ceiling and its domed recesses, the pilasters and plaster ornament to the walls and the stage. This key objective has been achieved because of the sympathetic works recently undertaken.

In summary, while the stairs are original, they do not make an important contribute to the historical understanding of the building's configuration.

Despite marketing efforts, the owner has been unsuccessful in leasing the premises for a large format retail business. Written feedback from several potential retailers has conveyed concerns with the retained stairway based on security issues and the restriction imposed on retail planning for the space. While the potential tenants have expressed enthusiasm for the conservation works that have been undertaken, particularly on the restoration of the heritage ceiling, the stairway remains a point of contention.

A literature review has been undertaken on the topic of the importance of the retail frontage and retail design. It is confirmed that the obstruction of view lines caused by the retained stairway poses a major constraint on effective retail space planning. There are issues relating to staff safety and the security of merchandise due to sightlines being obstructed from the front to the rear.

These issues were addressed in an earlier report to Heritage Victoria where it was found that retaining the stairway would have an adverse impact on the rent that could be achieved for the premises. This was confirmed by property consultants CBRE. The financial analysis in the report estimated that the Internal Rate of Return (IRR) on the project was only 1.67%, which is financially infeasible.

This result was given credence by reference to an approach to valuation termed the 'Harper Rule', where floorspace further from the frontage attracts lower rent. When this is applied the strip behind the stairway becomes a low-rent zone.

In the earlier report the Internal Rate of Return on the 'no stairway' option was 9.1%, which indicated a development on the cusp of financial viability.

The parameters in the financial analysis remain the same except for the cost to 'make fit for purpose'. The original cost estimate was \$1.45m. There now exists an 'as built' cost estimate of \$1.94m. The financial model has been re-run with the updated cost estimate, with the result that the IRR is reduced to 7.24%. This represents an element of risk associated with undertaking the development, therefore it is critical that a solid long-term tenant is found at a rent rate at least equivalent to that used in the modelling.

In response to feedback from Heritage Victoria three options (alternative solutions) have been examined. These have been dismissed for reasons documented in the conclusions below.

## **Conclusions on Reasonable Use**

### **Reasonable use is not affected by refusal if a place can be used without the proposed changes.**

Without the proposed removal of the enclosed stairway the place cannot be economically used for a large format shop – the purpose of the (very expensive) refurbishment works that are now completed in accordance with a permit issued by Heritage Victoria. The stairway, in its current state, restricts the functionality of the space, limiting its commercial viability and preventing the intended reasonable use.

### **The historic, recent and current uses of the registered place or object.**

The historic use of the object, which is the stairway, is discontinued and cannot be restored due to access being denied, and the fact that addressing the safety and non-compliance issues would destroy the object's heritage values. In summary, while the stairs are original, they do not make an important contribute to the historical understanding of the building's configuration.

### **Other compatible uses of the registered place or object.**

Alternative approaches to using and developing the space such as CCTV to address security concerns, multiple tenancies and removing the walls have been examined and are deemed infeasible.

In Section 4 of this report the following alternatives were considered:

- CCTV as an answer to security concerns has been suggested however, it is noted that general surveillance of floorspace is not suggested by Victoria Police in guidelines and integration of passive surveillance is preferred. This solution has been rejected by prospective tenants.
- Multiple tenancies were suggested, however compartmentalisation of the space would block views of the historic ceiling and an absence of natural light would be highly problematic.
- It has been suggested that the stairway could be more visually permeable by removing the surrounding walls, however, the required works to make good would compromise the heritage values. The stair in its current condition is not useable as noted above so even if it was open it wouldn't be accessible. The original stair also is enclosed within an original wall for structural purposes. Therefore if the new wall is removed it still wouldn't be visible as a stair, only the original wall would be seen, which itself is in very poor condition.

**The context and setting within which the place or object is located.**

The object in question is the stairway, which has been enclosed by plaster walls for safety reasons, rendering it hidden from view. It therefore makes no contribution to the function of interpreting the historic significance of the place. Additionally, it severely compromises the economic use of the place by obstructing critical views from the frontage of the retail premises.

**Refusal to enable a change of use may affect reasonable use if the historic use is obsolete.**

On the evidence provided in this report the historic use of the stairway is obsolete.

The stairway that is the subject of this report is an original fixture and therefore has some historic value. However, to repeat the position expressed in Section 2.2:

*The Heritage Impact Statement (Source: Bryce Raworth (Dec 2022) Heritage Impact Statement) that was submitted with the original permit application stated that internal stairs are not inherently significant by virtue of being an original item and are irretrievably non-compliant.*

*Further to this, the Heritage Impact Statement submitted that the main auditorium is the most significant interior and the key objective of the scheme for its adaptive reuse is the retention of original/early elements – notably the decorative plaster ceiling and its domed recesses, the pilasters and plaster ornament to the walls and the stage.*

*This key objective has been achieved because of the sympathetic works recently undertaken.*

The stairway is obsolete in that it provides no access and cannot be used. It is noted that historic referencing is proposed as an alternative to stairway retention.

**Refusal to upgrade facilities to meet standards may affect reasonable use.**

In this instance upgrading to meet standards would severely compromise the heritage values of the object in question (the stairway). The stairs are non-compliant with current regulations, and they can only be brought into compliance with substantial modification, if not re-building.

A Compliance Assessment Report (Source: Saville & Co. Pty Ltd, 29/6/2022) states that the stairs do not comply with several National Construction Code requirements, including relating to stair dimensions and winders. They do not comply with Australian Standards relating to balustrades and disabled access. Furthermore, they are structurally unsound. The report concludes:

*In summary, the stair was not considered by our expert opinion to be in 'reasonable' condition, and we consider the stair to be a danger to the safety of persons relying on this stair for access or egress requirements.*

**Conclusion on Economic Use**

Conclusions are made below in relation to the relevant considerations:

**The financial circumstances of the applicant or owner are irrelevant, but the feasibility of the proposed development may be relevant insofar as it relates to the viability of an ongoing use.**

In the consultant's original report (March 2023) financial modelling was undertaken demonstrating that without the stairway the proposal to develop the place for a large format retail store was feasible, albeit on the cusp of feasibility. Moreover, it was demonstrated that should the stairway be required to be retained, the development would be rendered infeasible. The reason for the outcome was the significantly lower rent rate that was achievable with views into the store being compromised.

In the ensuing period, the conclusions of this report have been born out, as evidenced by the written advice from prospective high-profile tenants. A review of the literature in this report highlights the adverse impact that the obstruction caused by the stairway would have on retail floorspace planning.

**The question of whether works will facilitate an economically sustainable use is relevant.**

The proposal to remove the stairway can produce an economically sustainable outcome by carrying the cost of the conservation works to achieve an appropriate balance between economic viability and conservation objectives. The conservation works undertaken to date have been highly successful and the building is now ideally situated to conserve its heritage values and to display them to the public. This is a highly beneficial outcome that will enable interpretation of the building's historic significance.

However, retention of the stairway severely undermines the financial sustainability of the use for marginal (if any) benefit by severely compromising application of essential retail space planning principles. In fact, the stairway not only obscures views to the retail floorspace but it limits views of the main heritage feature which is the historic ceiling – now fully restored.

**An applicant may be required to provide evidence of economic impact.**

This report provides the required evidence.

**Economic use may be affected if refusal would limit capacity to cover outgoings on a property.**

Refusal to allow removal of the stairway, based on the analysis in this report, would create a situation where the owner would not receive an adequate return on the investment in the comprehensive conservation works. This may threaten the ongoing financial viability of the investment and ongoing upkeep and maintenance to the building itself.

# 1. Introduction

## 1.1 The Brief

Rodger Gibbins, Urban Economist and Planner, has been commissioned by Shatter Pty Ltd to prepare a report to Heritage Victoria on issues relating to 'reasonable or economic use'. The report relates to the proposed removal of a stairway from the premises located at 30 to 34 Ocean Beach Road Sorrento, known as the 'Athenaeum'.

The qualifications and experience of the author are summarised in Attachment 1.

By way of background the author of this report prepared an earlier report to accompany the application for a permit that has been issued and acted upon (March 2023).

This report principally deals with matters arising from Part 5, Division 2 of the Heritage Act pertaining to 'reasonable or economic use'.

This report also addresses the Heritage Victoria Policy on Reasonable or Economic Use (June 2021).

### **Heritage Act 2017 No. 7 of 2017**

#### **101 Determination of permit applications**

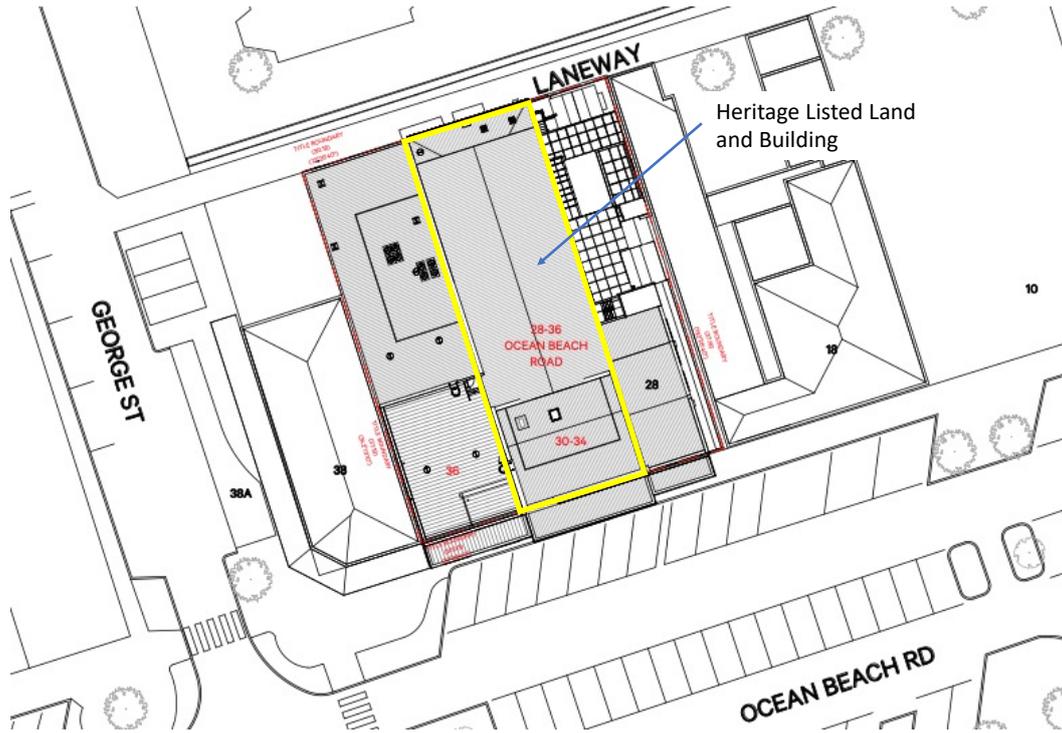
- . (2) In determining whether to approve an application for a permit, the Executive Director **must** consider the following:
  - . (a) the extent to which the application, if approved, would affect the cultural heritage significance of the registered place or registered object;
  - . **(b) the extent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

## 1.2 The Site

The site is located at 30 to 34 Ocean Beach Road Sorrento (See Figure 1). The two storey Athenaeum cinema building (See Figure 2) at 30 to 34 is heritage listed (H2227).

The land is zoned Commercial 1 and is subject to DDO28. While a heritage overlay is in place, it does not trigger a permit requirement under the planning scheme (due to heritage listing H2227).

FIGURE 1 – THE SITE



Source: Tandem Design Studio Pty Ltd Concept Plans

FIGURE 2 – THE ATHENAEUM TODAY



### 1.3 History

*This section is reproduced from the March 2023 Report.*

*Source: Bryce Raworth (Dec 2022) Heritage Impact Statement*

The Athenaeum Theatre was constructed in 1894. It was a multi-purpose venue, used for community and church meetings, wedding receptions, dances, lectures and roller-skating. It was purchased by the MacFarlan family around 1907. David MacFarlan reputedly began operating a cinema at the Athenaeum from c1918 when a bio-box was installed for projecting silent movies.

In November 1925 it was reported that 'extensive alterations' to the Athenaeum were to shortly commence. The whole of the interior was to be renovated. The works undertaken at this time are thought to have included removal of the proscenium wall and a reduction in the depth of the stage to allow for increased seating capacity. The bio-box was rebuilt in 1931, necessitating the relocation of the main auditorium entrance further west. The shopfronts had been rebuilt by this time with a cantilevered awning in place of the original cast iron verandah (Figure 3).

**FIGURE 3- THE BUILDING CIRCA 1920**



*Source: Tandem Design Studio Pty Ltd Concept Plans*

Around 1950, the shops were converted into the cinema foyer and the old entry lobby became the ladies' toilets. The original auditorium entrance was infilled with a shopfront window and the doors relocated to the new foyer entry. A new ticket box was installed in the foyer with the wall to its west side demolished to create an opening for access the cinema. The floor to the main auditorium was rebuilt with a gradual slope, replacing the original flat floor. Concurrent with the upgrade of the cinema, a double storey shop was built on the land to the east side of the Athenaeum.

The Athenaeum was extensively refurbished in 1995-1996, including a complete refit of seats, repainting, new lighting and the installation of air conditioning. The women's toilets dating to the c1950 works were replaced by a ticket box. The façade appears to have remained unaltered at this time apart from repainting. The adjoining pair of single-storey shops at 28 Ocean Beach Road were demolished and replaced by two cinemas sited to the rear of a new shop front. The 1950s double-storey shop on the east side of the Athenaeum was refurbished for use as a restaurant. Works were completed by December 1996.

Original extant features include decorative plaster ceiling with three domed recesses for light fittings and pilasters on the side walls in the main auditorium. The first-floor former shopkeeper's residence is broadly intact but in a dilapidated state. The staircase, joinery items and plaster details are typical of a modest late-nineteenth century domestic interior. The Statement of Significance for the site and the building is contained in the text box below.

### **Statement of Significance**

#### *What is significant?*

*The Athenaeum theatre was built in 1894 in the commercial centre of the seaside town of Sorrento, which became a popular destination in the 1880s. Designed by Melbourne architect, J. F. Gibbins, the multi-purpose theatrical venue was built for Isaac Bensilum, local councillor, hotelier and entrepreneur. The building comprised an auditorium, a foyer, retiring rooms, a deep stage with dressing and store rooms beneath, and two shops with residences above. Originally used for various forms of entertainment, silent films were shown in the auditorium in the 1920s from a newly installed bio-box and by 1932 talking pictures were shown. This coincided with Moderne alterations made to the building and the introduction of new equipment.*

*The Athenaeum is a two storey building constructed from rough hewn local limestone with brick dressings. The front elevation is a simply detailed Italianate facade, with a heavy cornice which runs across the facade below the parapet. This incorporates a segmental arch detail placed at one extreme end with a raised decorative scroll on the parapet above. The grouping of first floor windows is also irregular, and the resulting front facade is therefore unusually asymmetrical in appearance.*

*The interior of the building displays both original and later Moderne detailing. The decorative auditorium features a large cornice, simple pilasters and three deep plaster domes which are set into a ceiling of panelled, floral plasterwork. Similar plasterwork also lines the proscenium wall. These features date from the original construction. Moderne styled plasterwork has been added between the pilasters of the side walls. The foyer entrance contains a bank of Moderne doors, with a frosted glass strip above incorporating the word 'Athenaeum'.*

*Various alterations have been made to the building since the 1930s, however the original 1894 building form remains largely intact. Extensive renovations to the building in the mid-1990s included repainting, the installation of new fittings, including lights in the Moderne style, the insertion of a wide screen in front of the early proscenium, the curtaining of the auditorium walls and the addition of two new cinemas in an adjoining building. The building has been used as a permanent cinema for many years.*

#### *How is it significant?*

*The Athenaeum Theatre, Sorrento is of architectural and historical significance to the State of Victoria.*

#### *Why is it significant?*

*The Athenaeum Theatre, Sorrento is of architectural significance as an early example of a theatre in regional Victoria. It is important for its largely intact original ornate interior and its Moderne remodelling which reflects its new use as a cinema venue in the 1930s.*

*The Athenaeum Theatre, Sorrento is of historical significance for its associations with the late nineteenth and early twentieth century development of one of Victoria's premier seaside resorts. The building's multi-purpose, entertainment function reflects the early, and continuing, holiday character of this seaside town.*

In summary, the history of the building is:

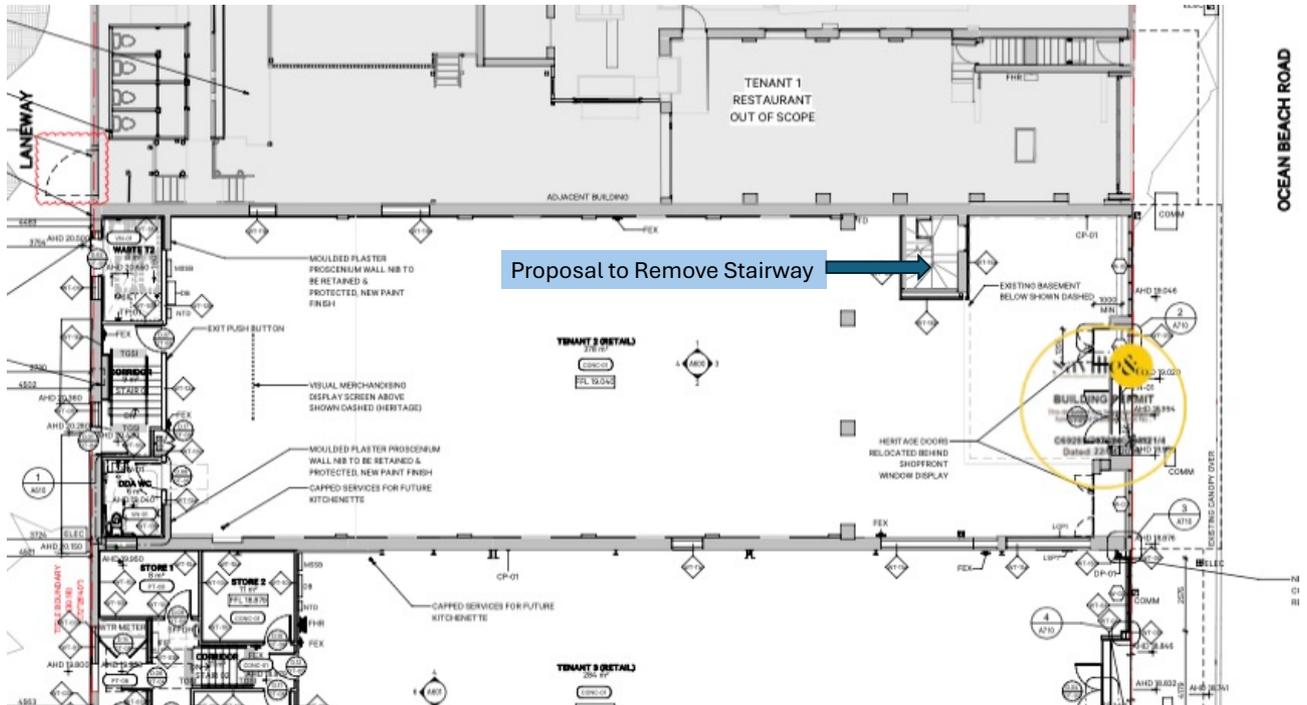
- 1894 - 1918 Flat floor hall, shops at front with residence over.
- 1918 Bio-box installed for silent movie projection.
- 1925 Extensive modifications – proscenium removed for more seating.
- 1931 Bio-box rebuilt. Entrance / foyer and shopfronts rebuilt.
- C1950 Entrance / foyer rebuilt. Flat floor replaced by sloping floor.
- 1995/96 Extensive refurbishing.
- 2024 Refurbishment of the building in accordance with HV permit.

## 2. The Proposal

### 2.1 The Works

The proposal is to remove the stairway shown in Figure 4.

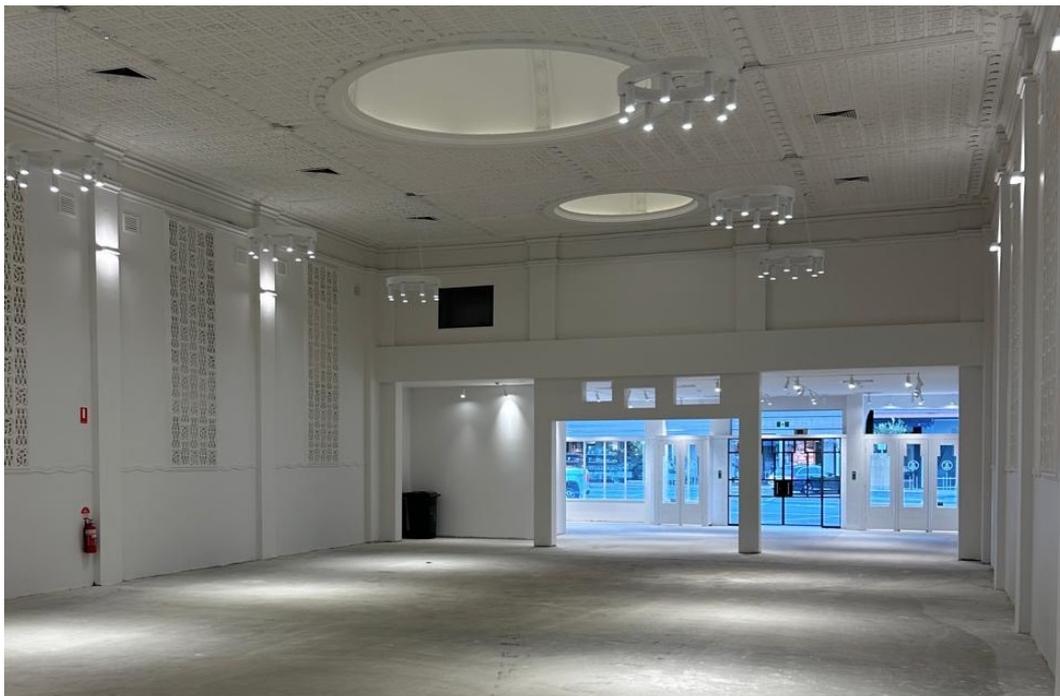
**FIGURE 4 – THE EXISTING GROUND FLOOR PLAN**



Source: Tandem Design Studio

The view from internally is shown in Figure 5.

**FIGURE 5 – THE EXISTING INTERIOR**



Views of the existing stairway enclosure are shown in Figure 6.

**FIGURE 6 – THE EXISTING STAIRWAY ENCLOSURE**



View from Side

View from Front



## 2.2 Heritage Impact

The Heritage Impact Statement (*Source: Bryce Raworth (Dec 2022) Heritage Impact Statement*) that was submitted with the original permit application stated that internal stairs are not inherently significant by virtue of being an original item and are irretrievably non-compliant.

Further to this, the Heritage Impact Statement submitted that the main auditorium is the most significant interior feature and the key objective of the scheme for its adaptive reuse is the retention of original/early elements – notably the decorative plaster ceiling and its domed recesses, the pilasters and plaster ornament to the walls and the stage.

This key objective has been achieved because of the sympathetic works recently undertaken.

It is proposed that the heritage values of the stairway may be appropriately interpreted with markings in the floor, the wall and the ceiling.

## 2.3 Heritage Victoria Correspondence

Heritage Victoria in correspondence dated 24/01/2023 states (inter alia):

*Heritage Victoria is also concerned regarding the proposal to demolish the stairs to the first-floor shopkeeper's residence that date from the original construction of the building. The stairs contribute to an understanding of the original configuration of the place with shops and residence above, and therefore their removal may harm the cultural heritage significance of the Place.*

An email from HV dated 14/8/24 states:

*Thanks for the update—it's great to hear that the heritage plaster detailing is being well received. The conservation works have certainly enhanced the place.*

*Regarding the concerns raised about the enclosed retained stair, our position remains consistent with that tested through the permit process. At that stage, we were not convinced that the removal of the stairs was necessary to achieve a viable adaptive reuse of the place.*

*Could you provide further detail on the evidence gathered and other measures explored to address the security concerns? Specifically, we would prefer to see an increase in security measures, such as additional cameras, rather than the removal of the stairs.*

More recently, in an email from Heritage Victoria (13/9/24) it was stated:

*..... We appreciate the complexity involved, particularly regarding safety, security, and the impact of the current layout on store designs and operations.*

*Please note that the following officer comments are provided to assist in your further consideration of options for the place. They should not be construed as either approval or refusal of the proposal as it currently stands. A decision on the merits of a finalised proposal can only be provided once a permit application has been fully tested through the permit processes under the Heritage Act 2017.*

*We've reviewed your query internally and have discussed the potential next steps. If you wish to pursue the removal of the stairs further, a new permit application will be necessary. This application will need to present a robust argument for the removal of the stairs, including strong reasonable or economic use rationale.*

*It's likely that the property would need to be on the market for a longer period before we would consider any new proposals. Alternatively, we would be open to exploring other options, such as creating multiple tenancies within the building where the stair may be incorporated more easily, or potentially making the stair more visually permeable by removing the surrounding walls.*

*At this point, we would prefer to not schedule another meeting until these alternative options have been thoroughly explored and are able to be presented to us. We want to avoid revisiting full demolition, as we have previously decided against it.*

*We look forward to discussing any new proposals or ideas you may have that address these issues.*

In this report the issues relating to 'reasonable or economic use' are addressed, including consideration of the stated option of multiple tenancies and the option of CCTV as a solution to security concerns.

## 3. Proposal Rationale

### 3.1 Prospective Tenant Feedback

The owner, Shatter Pty Ltd, submits that they have been actively marketing the tenancy for lease for approximately 3 years. Now the works are complete, many prospective tenants have inspected the building. While the overall response to the space is reported to be generally the same in that the space is 'amazing', particularly the feature plaster ceiling, feedback has consistently highlighted concerns about the enclosed, retained stairway. Prospective tenants have expressed that the stairway presents a significant safety risk due to obstructed sightlines, and they perceive it as a serious theft hazard for these same reasons. Consequently, this has led them to decline leasing offers.

The owner acknowledges that the stairs are original elements and contribute to the historical understanding of the building's configuration, however their current enclosed state renders them unrecognizable and ineffective in conveying heritage value. The stairway, concealed from view and devoid of any interpretive role, no longer contributes meaningfully to the public's appreciation of the building's history.

This is resulting in the building being vacant which the owner submits causes a high risk in break ins, vandalism and risk of squatters gaining entry. This would place the overall conservation efforts and ongoing maintenance of the building at risk, potentially jeopardizing the long-term preservation of the site. In addition, it is understood that the Mornington Shire Council has also been eager for the owner to lease the premises, as vacant storefronts on the Sorrento main street contribute to issues for the Council, including decreased foot traffic and blight.

Shatter Pty Ltd therefore submits that, while the stairs may hold some historical value, their removal is essential for ensuring both the financial sustainability of the project and the successful adaptive reuse of the building in a way that can support its future upkeep.

Hence, the owner has marketed to opportunity to lease the premises for a significant period without success, with the following key feedback from potential tenants:

#### **Athlete's Foot**

Unfortunately, we cannot proceed with leasing the store for our Athletes Foot business. As mentioned on site, the white plaster box at the front end of the store reduces visibility dramatically. This obstacle would promote shoplifting and really cannot retail properly for us. When in the off season we need to have reduced staff levels, it's impossible to monitor and run this store economically. We've tried to rework our floor plans numerous times but there is no simple solution. We do appreciate your offer of a reduced rent to accommodate our company at this site. In the event you can remove the white plaster box, please contact us.

Daniel Agostinelli  
Group CEO  
Email to DeGroup 19/8/24

#### **Bed Bath N' Table**

The exterior restoration is truly stunning, and the interior spaces, particularly the ceiling and main hall area, are equally impressive. The heritage character of the building aligns well with our brand ethos.

While we're really drawn to the location and the overall space, we've been grappling with how best to configure our layout within the tenancy. As mentioned onsite, we have concerns with the sight lines through the entire space, particularly regarding the large white boxed-out area located so prominently at the front. Our design team has explored several iterations of potential fit-out configurations, but the position of the stair presents a challenge that

we're finding difficult to resolve. The key issues for us relate to the customer visual aspect of viewing the entire store from the footpath, staff security with all staff having a visual line to all areas of the store and other staff, and security of customers and issues with merchandise theft being a major problem. Given these factors, we regret that we won't be able to proceed on this occasion.

Jonathan Dempsey  
Managing Director  
Email to DeGroup 19/8/24

### **Skechers Shoes**

Skechers head office in LA has approved a store at Sorrento and we have had our architects working on several different designs that would work for us & compliment the iconic interior. We have had difficulty getting around the plaster rectangle in first 10-12 metres on the right of the entrance, it is far too intrusive and would restrict our business functioning properly. It would be a shoplifter's paradise, unfortunately we will need to pass on this location. Please do not hesitate in contacting us again if you have any other shops at Sorrento that are rectangle or square in shape without any built form blocking clear vision.

Matt Hapgood  
Divisional CEO - Distributed Brands  
Email to DeGroup 19/8/24

## **3.2 The Importance of Retail Frontage and Retail Design**

Retail frontage to foot traffic and passing vehicles has long been seen as a prime determinant of trading success. The key elements of frontage are the width and the effective depth of view.

For example, an article on the importance of store layout (<https://www.resonai.com/blog/importance-of-store-layout>) states (inter alia):

*When entering the store, customers find themselves in the decompression zone — a fifteen-foot space that acclimatizes them to their surroundings. As the name implies, the zone's goal is to calm customers, helping them feel comfortable and at ease so they can focus on the shopping experience. Relaxed customers are far more likely to spend their time browsing and building positive associations with the store and brand. For most stores, decompression zones are an opportunity to let customers know what to expect from the shopping experience.*

From this it may be inferred that the views that are blocked by the retained stairway reduce a potential customer's positive expectations.

Another article on the topic is 'Retail Store Layout: 10 Ideas, Examples and Tips', Damem A, April 2024 at (<https://www.shopify.com/retail/the-ultimate-guide-to-retail-store-layouts>).

In this article ten store layout design ideas are explained, and all assume an unencumbered space.

*When deciding upon a layout for your retail space, carefully consider your products, desired consumer behavior, and the square footage you have available. If you have many dissimilar products, consider the grid. A smaller number of products may work well in free-flow arrangements. If you want shoppers to slow down and browse, consider mixing loop and free-flow styles.*

The retained stairway would pose a constraint on implementing these layouts.

The article also mentions the 'decompression space' as per the above article:

*Once a person steps inside, they enter the decompression zone, which is the first five to 15 feet of your store. Think of this as a transition space—customers take a broad, sweeping look at the store, and anything placed directly in this area likely will not be noticed.*

The retained stairway would clearly block the 'sweeping look' referred to.

The importance of the shopfront is emphasised in an article 'The Importance of a Good Frontage', Dixon, D, March 2024 at (<https://www.n3display.co.uk/the-importance-of-a-good-frontage>). In this article it is stated:

*Beyond its role in attracting customers, a good shopfront can directly impact your bottom line by driving sales. By effectively showcasing your products or services, highlighting promotions, and creating an inviting atmosphere, you encourage impulse purchases and increase the likelihood of conversion. Additionally, a well-designed shopfront can elevate the perceived value of your offerings, allowing you to command higher prices and generate greater revenue.*

This draws attention to the fact that then views blocked by the retained stairway will reduce the showcasing effect from the street and from the decompression zone.

This position is reinforced by another article 'How to create a retail store layout that increases sales' Deputy Team, July 2018, at (<https://www.deputy.com/au/blog/how-to-create-a-retail-store-layout-that-increases-sales>).

In this article it is stated:

*The number one goal of a retail store owner is to encourage consumers to buy their goods. Therefore, you should prioritize creating a store design that directs shoppers to see as many products as possible while, at the same time, providing a comfortable atmosphere.*

This highlights the impediment that retention of the stairway poses to effective goods display. The article goes on to say:

*The threshold of a retail store is also known as the 'decompression zone.' It's the first area that customers see when they come into your store. The threshold normally measures five to 15 feet based on how big the store is. The threshold is where shoppers make the change from outside to see what's being offered at your store. Shoppers will decide whether your shop is cheap or expensive when in the threshold. The following aspects should be included in the threshold when designing your retail floor plan:*

- *Make it spacious – Leaving enough space in the threshold will make shoppers feel welcome. A cramped threshold is unconsciously associated with chaos. As a result, the customer is likely to leave your store.*
- *Display your best products – As the threshold is the place where customers decide whether to explore your store further, you should feature your star products in this area.*
- *Ensure that it's appealing – You should do everything possible to ensure your threshold pulls the shoppers in. Specialized artwork to showcase your products and innovative mannequin arrangements are examples of design ideas.*

This confirms that the threshold or 'decompression zone' in the store will be that space between the frontage and the stairway. The article continues:

*It's reported that 90% of consumers turn right when they walk into a store. This important statistic should be considered when designing your retail floor plan. The 'power wall' is the first wall that shoppers will see when they turn right. So, the wall immediately to the shopper's right needs to be given special attention in your store design. Make the most of your power wall by implementing the following:*

- *Increase its size – Use the whole wall to make your power wall stand out. The displays on your power wall should be taller and wider than the other displays in your store. Your power wall should be hard to miss and immediately grab the shoppers' attention.*

- *Choose the right colors – According to research, about 62% to 90% of first impressions are based on color alone. As a result, you should select a color for your power wall that matches the overall theme of your store.*
- *Display your main products – If your store is known for one main type of product, showcase your flagship product on your power wall. For example, if your clothing store is famous for selling jeans but you stock different types of clothes, make sure that jeans are featured heavily on the wall to the right.*

This is a key consideration. In the store the stairway will obscure the view of the power wall obviating one of the key objectives of retail space planning.

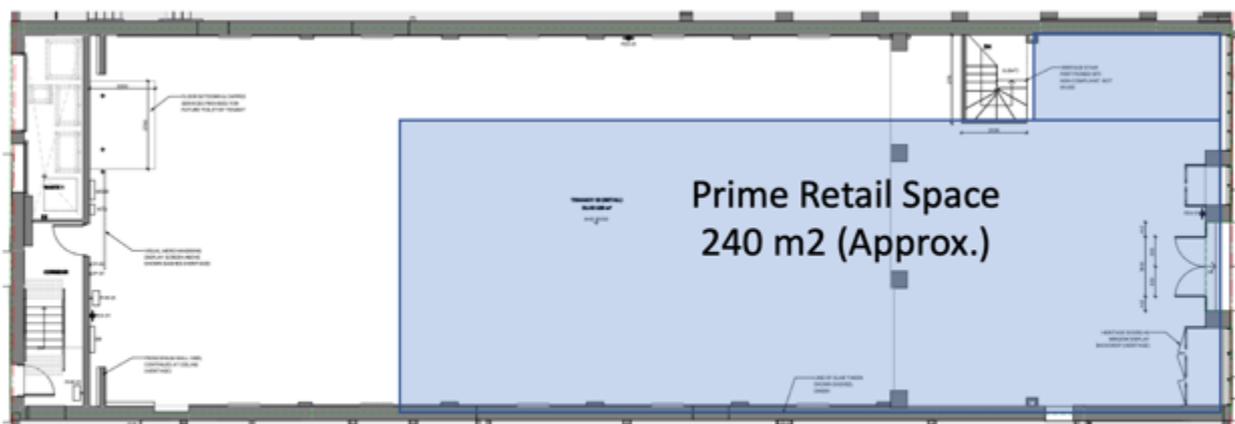
The stairway was enclosed due to it being non-compliant with current standards, it being structurally unsound and due to the tenancy being on the ground level only. Level 1 is closed off to the ground level. There are issues relating to staff safety and the security of merchandise due to sightlines being obstructed from the front to the rear.

This brief literature review confirms the reasons given by the potential tenants documented above. They have submitted that the stairway is a major obstacle to making the space work from a retail layout point of view.

### 3.3 Earlier Report Revisited

In the earlier report to HV (Rodger Gibbins, March 2023) the option of retaining the stairway was examined. In this analysis the floorspace was divided into 'prime retail space' and 'dark' space. A rent rate of \$900 psqm was applied to an option where all the floorspace was 'prime' and \$450 psqm was applied when dark space was created by the stairway – as per Figure 7. The rent estimates were provided by property consultants CBRE (Attachment B).

**FIGURE 7 – FIGURE FROM EARLIER REPORT**



**Option 2 – Removal of Projection Room and Retention of Stair**

Source: Rodger Gibbins, March 2023.

The financial analysis in the report estimated that the Internal Rate of Return on the project was only 1.67%, which is financially infeasible.

### 3.4 Application of the 'Harper Rule'

An alternative approach to estimating the impact of loss of frontage/depth in a retail premises is the 'Harper Rule' (Source: <http://cavrep.com.au/D/DEPTHFORMULAE.html>).

The Harper Rule is also dealt with in International Association of Assessing Officers 'Glossary for Property Appraisal and Assessment' at [https://www.iaao.org/media/glossary\\_ed2\\_web/25F82B9BC6F6A2C7E17F0A9794F5A0A9/IAAO\\_GLOSSARY%202015%20IHDP.pdf](https://www.iaao.org/media/glossary_ed2_web/25F82B9BC6F6A2C7E17F0A9794F5A0A9/IAAO_GLOSSARY%202015%20IHDP.pdf).

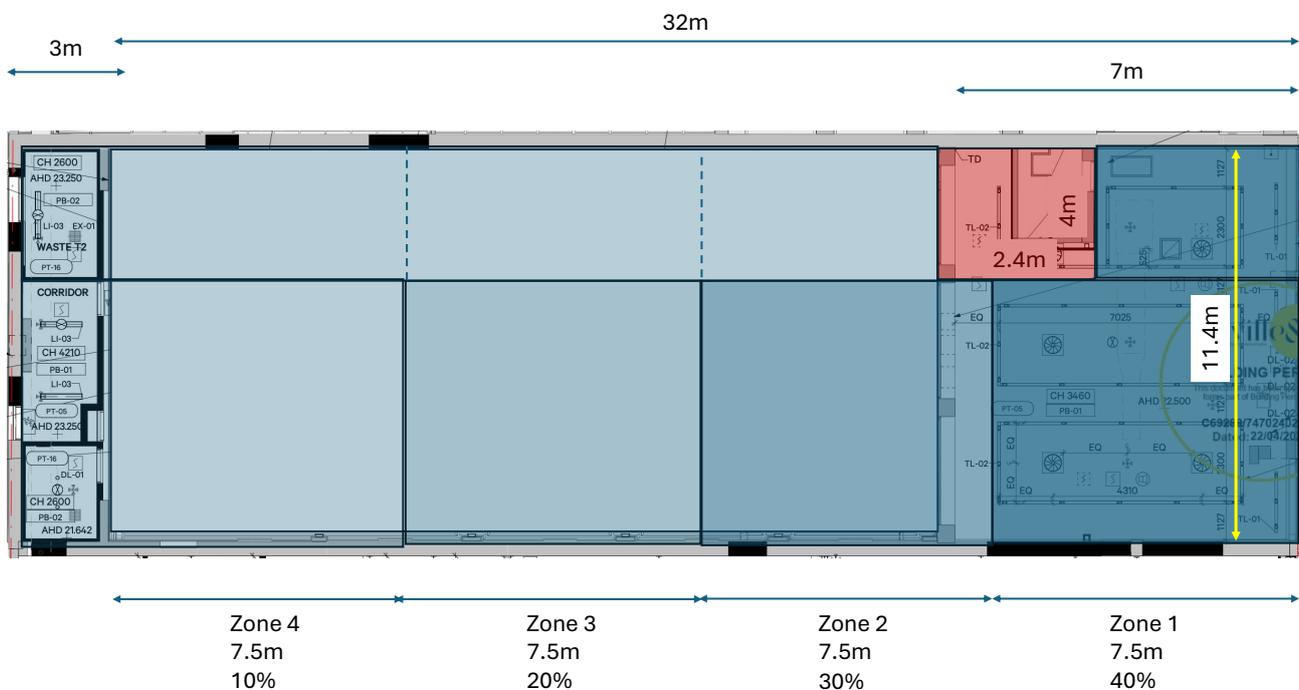
In summary, this rule postulates that for a 30m deep retail lot the land value may be estimated based on:

- The first 7.5m of depth attracts 40% of the land value (Zone 1).
- The second 7.5m 30% (Zone 2).
- The third 7.5m 20% (Zone 3).
- The fourth 10.5m 10% (Zone 4). This includes the amenities section at the rear of the building.

The logic behind this formula is that the further the floorspace is from the frontage, the less visible is the merchandise to potential consumers and the lower the perceptions of product range available.

This formula may be imputed for rent values, as these are prime determinants of floorspace values and for a single story – of land value. The zones referred to above are shown in the figure below.

**FIGURE 8 – APPLICATION OF THE HARPER RULE - ZONES**



Source: Consultant, based on Harper Rule

The figure also shows a 3m strip of floorspace behind the stair enclosure and the adjacent column which is obscured from view from the frontage. The effect of this is to:

- Reduce the rent derived from Zone 1 (where 40% of rent is derived) proportional to the area shown in red.
- Replace approximately 1/3 of Zone 2 (where 30% of rent is derived) with a rate of 10%.
- Replace approximately 1/3 of Zone 3 (where 20% of rent is derived) with a rate of 10%.
- Replace approximately 1/3 of Zone 4 (where 10% of rent is derived) with a rate of 10% (i.e. rent rate remains unchanged).

Therefore, a significant reduction in rent will result from the loss of effective frontage.

### 3.5 Financial Analysis

In the earlier report to HV (Rodger Gibbins, March 2023) a financial analysis was carried out to test the impact that stairway retention would have on the financial feasibility of the development by application of an industry standard approach.

The result of that analysis was that the Internal Rate of Return on the 'no stairway' option was 9.1%, which indicated a development on the cusp of financial viability - with the likely reason that it was well below the industry standard of 15% to 20% being that there are additional costs associated with the conservation aspects of the development.

The parameters in the financial analysis remain the same except for the cost to 'make fit for purpose'. The original cost estimate was \$1.45m. There now exists an 'as built' cost estimate of \$1.94m which is derived from a quantity surveyor project cost report of \$3.29m (Table 2) apportioned on a floorspace basis (the subject building is 59% of the floorspace in the report).

The financial model has been re-run with the updated cost estimate, with the result shown in Table 1. It can be seen that the IRR is reduced to 7.24%.

**TABLE 1 – FINANCIAL MODEL**

| Year     | CIV          | Make Fit for Purpose | Maintenance | Land Tax | Rates   | Total Costs | Rent          | Total Revenue | Minus Other Expenses | Net Revenue | Profit / Loss Pre-WACC | Opening Balance | WACC                    | Closing Balance | Profit / Loss Post-WACC |
|----------|--------------|----------------------|-------------|----------|---------|-------------|---------------|---------------|----------------------|-------------|------------------------|-----------------|-------------------------|-----------------|-------------------------|
| Quantity |              |                      | \$1,938,919 | \$13,109 | \$3,724 |             | 376 sqm       |               |                      |             |                        |                 |                         |                 |                         |
| Rate     |              |                      | 1.5%        |          |         |             | \$900 per sqm |               | 1%                   |             |                        |                 | 5%                      |                 |                         |
| 1        | \$2,126,042  | \$1,938,919          | \$29,084    | \$13,109 | \$3,724 | \$4,110,877 | \$0           | \$0           | \$0                  | \$0         | -\$4,110,877           | -\$4,110,877    | -\$205,544              | -\$4,316,421    | -\$4,316,421            |
| 2        |              |                      | \$29,084    | \$13,109 | \$3,724 | \$45,916    | \$348,737     | \$348,737     | \$3,487              | \$345,250   | \$299,334              | -\$4,017,087    | -\$200,854              | -\$4,217,941    | \$98,480                |
| 3        |              |                      | \$29,956    | \$13,502 | \$3,835 | \$47,294    | \$359,200     | \$359,200     | \$3,592              | \$355,608   | \$308,314              | -\$3,909,627    | -\$195,481              | -\$4,105,109    | \$112,833               |
| 4        |              |                      | \$30,855    | \$13,907 | \$3,951 | \$48,712    | \$369,976     | \$369,976     | \$3,700              | \$366,276   | \$317,563              | -\$3,787,546    | -\$189,377              | -\$3,976,923    | \$128,186               |
| 5        |              |                      | \$31,781    | \$14,324 | \$4,069 | \$50,174    | \$381,075     | \$381,075     | \$3,811              | \$377,264   | \$327,090              | -\$3,649,833    | -\$182,492              | -\$3,832,324    | \$144,599               |
| 6        |              |                      | \$32,734    | \$14,754 | \$4,191 | \$51,679    | \$392,507     | \$392,507     | \$3,925              | \$388,582   | \$336,903              | -\$3,495,421    | -\$174,771              | -\$3,670,192    | \$162,132               |
| 7        |              |                      | \$33,716    | \$15,196 | \$4,317 | \$53,229    | \$404,282     | \$404,282     | \$4,043              | \$400,239   | \$347,010              | -\$3,323,182    | -\$166,159              | -\$3,489,341    | \$180,851               |
| 8        |              |                      | \$34,728    | \$15,652 | \$4,446 | \$54,826    | \$416,411     | \$416,411     | \$4,164              | \$412,247   | \$357,420              | -\$3,131,921    | -\$156,596              | -\$3,288,517    | \$200,824               |
| 9        |              |                      | \$35,769    | \$16,122 | \$4,580 | \$56,471    | \$428,903     | \$428,903     | \$4,289              | \$424,614   | \$368,143              | -\$2,920,374    | -\$146,019              | -\$3,066,393    | \$222,124               |
| 10       |              |                      | \$36,842    | \$16,606 | \$4,717 | \$58,165    | \$441,770     | \$441,770     | \$4,418              | \$437,352   | \$379,187              | -\$2,687,206    | -\$134,360              | -\$2,821,566    | \$244,827               |
| 11       |              |                      | \$37,948    | \$17,104 | \$4,859 | \$59,910    | \$455,023     | \$455,023     | \$4,550              | \$450,473   | \$390,563              | -\$2,431,003    | -\$121,550              | -\$2,552,553    | \$269,013               |
| 12       |              |                      | \$39,086    | \$17,617 | \$5,004 | \$61,707    | \$468,674     | \$468,674     | \$4,687              | \$463,987   | \$402,280              | -\$2,150,274    | -\$107,514              | -\$2,257,787    | \$294,766               |
| 13       |              |                      | \$40,259    | \$18,145 | \$5,155 | \$63,559    | \$482,734     | \$482,734     | \$4,827              | \$477,907   | \$414,348              | -\$1,843,439    | -\$92,172               | -\$1,935,611    | \$322,176               |
| 14       |              |                      | \$41,467    | \$18,690 | \$5,309 | \$65,465    | \$497,216     | \$497,216     | \$4,972              | \$492,244   | \$426,779              | -\$1,508,833    | -\$75,442               | -\$1,584,274    | \$351,337               |
| 15       |              |                      | \$42,711    | \$19,250 | \$5,468 | \$67,429    | \$512,133     | \$512,133     | \$5,121              | \$507,011   | \$439,582              | -\$1,144,692    | -\$57,235               | -\$1,201,927    | \$382,347               |
| 16       |              |                      | \$43,992    | \$19,828 | \$5,632 | \$69,452    | \$527,497     | \$527,497     | \$5,275              | \$522,222   | \$452,769              | -\$749,158      | -\$37,458               | -\$786,616      | \$415,311               |
| 17       |              |                      | \$45,312    | \$20,423 | \$5,801 | \$71,536    | \$543,322     | \$543,322     | \$5,433              | \$537,888   | \$466,352              | -\$320,263      | -\$16,013               | -\$336,276      | \$450,339               |
| 18       |              |                      | \$46,671    | \$21,035 | \$5,975 | \$73,682    | \$559,621     | \$559,621     | \$5,596              | \$554,025   | \$480,343              | -\$144,067      | \$7,203                 | -\$151,270      | \$487,546               |
| 19       |              |                      | \$48,071    | \$21,667 | \$6,155 | \$75,892    | \$576,410     | \$576,410     | \$5,764              | \$570,646   | \$494,753              | \$646,023       | \$32,301                | \$678,324       | \$527,054               |
| 20       |              |                      | \$49,513    | \$22,317 | \$6,339 | \$78,169    | \$593,702     | \$593,702     | \$5,937              | \$587,765   | \$509,596              | \$1,187,920     | \$59,396                | \$1,247,316     | \$568,992               |
| 21       |              |                      | \$50,999    | \$22,986 | \$6,530 | \$80,514    | \$611,513     | \$611,513     | \$6,115              | \$605,398   | \$524,884              | \$1,772,200     | \$88,610                | \$1,860,810     | \$613,494               |
| 22       |              |                      | \$52,529    | \$23,676 | \$6,725 | \$82,930    | \$629,859     | \$629,859     | \$6,299              | \$623,560   | \$540,630              | \$2,401,440     | \$120,072               | \$2,521,513     | \$660,702               |
| 23       |              |                      | \$54,104    | \$24,386 | \$6,927 | \$85,418    | \$648,754     | \$648,754     | \$6,488              | \$642,267   | \$556,849              | \$3,078,362     | \$153,918               | \$3,232,280     | \$710,767               |
| 24       |              |                      | \$55,728    | \$25,117 | \$7,135 | \$87,980    | \$668,217     | \$668,217     | \$6,682              | \$661,535   | \$573,555              | \$3,805,834     | \$190,292               | \$3,996,126     | \$763,846               |
| 25       | -\$5,621,529 |                      | \$57,399    | \$25,871 | \$7,349 | #####       | \$688,263     | \$688,263     | \$6,883              | \$681,381   | \$6,212,290            | \$10,208,416    | \$510,421               | \$10,718,837    | \$6,722,711             |
|          |              |                      |             |          |         |             |               |               |                      |             |                        |                 | Internal Rate of Return |                 | 7.24%                   |

Source: Consultant

An IRR of only 7.24% represents an element of risk associated with undertaking the development. It is critical that a solid long-term tenant is found at a rent rate at least equivalent to that used in the modelling.

It should be noted that in the previous report the 'Retain Stairs' option had an IRR of only 1.67%. It can be expected that with the higher capital cost this will now be substantially negative.

**It is important to note that the 'Make Fit for Purpose' cost (\$1.94m) equates to over \$4,395 per sqm (Gross Floor Area 441 sqm), where building new space on vacant land would be expected to cost in the order of \$2,500 per sqm. This reflects the higher costs associated with conservation works.**

## TABLE 2 – MAKE FIT FOR PURPOSE COST REPORT

## SUMMARY



|   |                     |
|---|---------------------|
| <b>Sorrento Atheneum</b><br><b>28-36 Ocean Beach Road, Sorrento</b> | <b>5 June, 2024</b> |
|---|---------------------|

|  |  |
|--|--|
| Client: Shatter Pty Ltd - C/- DeGroup                | Progress Claim: 09 (PKT07)                 |
| Contractor: Moonah Construction & Project Management | Value of Work Completed until - 31/05/2024 |

| Contract Work Value   | Total (\$)       |
|---|------------------|
| Original Contract Sum (exc. Prime Costs and Provisional Sums) | 1,997,000        |
| UnFixed Materials   | -                |
| Provisional Sums  | 197,814          |
| Novated Consultants Fees                                      | 45,500           |
| Approved Variations   | 754,285          |
| Forecast Variations   | -                |
| <b>Adjusted Contract Sum (exc. GST)</b>                       | <b>2,994,599</b> |
| GST Applicable (10%)  | 299,460          |
| <b>Adjusted Contract Sum (inc. GST)</b>                       | <b>3,294,059</b> |

Source: pkt Quantity Surveyors

## 4. Consideration of Options

### 4.1 CCTV Solution

There is certainly a body of literature making the case that CCTV in retail premises can reduce the incidence of shoplifting. However, the Victoria Police (<https://www.police.vic.gov.au/preventing-shop-theft>) in providing advice on preventing shop theft suggest that:

- *Install CCTV with a view of customers entering the store, and customers paying. Use stickers or signs to show that the store has cameras. Ensure staff know how to save and download CCTV footage.*
- *Show customers they are on camera by having the camera feed visible.*
- *Ensure staff can see over shelves and clothing racks.*
- *Install mirrors to help staff to see obscured floor space.*

It is notable that general surveillance of the floorspace by CCTV is not suggested. Staff surveillance of customers is the key, and this will be impeded by the blind spots created by retaining the stairway. It is notable that none of the prospective tenants who have rejected the opportunity to lease the space have said CCTV could allay their concerns (which relate to layout planning in addition to security concerns).

While CCTV can help deter shoplifting, relying solely on it often means that it is too late to respond effectively, allowing offenders to escape, especially when blind spots from features like the retained stairway impede staff surveillance.

### 4.2 Multiple Tenancies

Dividing the space into multiple tenancies is not appropriate for the following reasons:

**Structural Concerns:** The main hall area exceeds 6 metres in height, necessitating structural reinforcement for any partitioning. Additionally, significant alterations to the shop front would be required, which would mandate further heritage approvals.

**Obscuring Heritage Features:** Partitioning the space would involve walls that could obscure views of the heritage ceiling, the primary heritage feature of the building. Even if the partitions were not full height, they would still obstruct these critical views.

**Air Conditioning Requirements:** Full-height partitions would be necessary for effective air conditioning, as different tenancies require control over their microclimates. Varying staff levels and equipment can produce different heat loads, necessitating dedicated systems. Furthermore, acoustic privacy is crucial; full-height partitions would undermine any chance of appreciating the heritage values of the space.

**Natural Light Limitations:** The only source of natural light for the space comes from the street frontage. Any internal compartments created would lack access to this light, making it impossible to lease these areas at a viable rent.

### 4.3 Removing Surrounding Walls

It has been suggested that removing the surrounding walls of the stairway would enhance its visual permeability. This would certainly be an improvement; however, the stairway has been condemned (Attachment B) and would require complete reconstruction. In order to be transparent, this would have to be done without risers, and it is questionable whether such a solution would accord with heritage conservation principles. The solution of providing interpretive initiatives to record the former presence of the stairs has been offered.

Additionally, while interpretive initiatives to acknowledge the former presence of the stairs have been proposed, these do not provide a functional replacement for the stairway itself. They may help convey the building's history, but they cannot replicate the physical and experiential significance of the original stairway. Therefore, simply removing the walls fails to resolve the underlying issues related to the stairway's safety, structural integrity, and heritage value.

## 5. Reasonable Use

### 5.1 Meaning of 'Reasonable Use'

Heritage Victoria has published a policy on the relevant matters for the consideration of section 101(2)(b) of the *Heritage Act 2017* relating to reasonable or economic use. Regarding **reasonable use** the policy (in summary) contends:

- Reasonable use is not affected by refusal if a place can be used without the proposed changes.
- The Executive Director may consider:
  - the historic, recent and current uses of the registered place or object,
  - other compatible uses of the registered place or object,
  - the context and setting within which the place or object is located, and
  - other relevant matters.
- Refusal to enable a change of use may affect reasonable use if the historic use is obsolete.
- Refusal to upgrade facilities to meet standards may affect reasonable use.

Conclusions are made below in relation to the relevant considerations:

### 5.2 Conclusions on Reasonable Use

Conclusions are made below in relation to the relevant considerations:

#### **Reasonable use is not affected by refusal if a place can be used without the proposed changes.**

Without the proposed removal of the enclosed stairway the place cannot be economically used for a large format shop – the purpose of the (very expensive) refurbishment works that are now completed in accordance with a permit issued by Heritage Victoria.

#### **The historic, recent and current uses of the registered place or object.**

The historic use of the object, which is the stairway, is discontinued and cannot be restored due to access being denied, and the fact that addressing the safety and non-compliance issues would destroy the object's heritage values.

#### **Other compatible uses of the registered place or object.**

Alternative approaches to using and developing the space such as CCTV to address security concerns, multiple tenancies and removing the walls have been examined and are deemed infeasible.

In Section 4 of this report the following alternatives were considered:

- CCTV as an answer to security concerns has been suggested however, it is noted that general surveillance of floorspace is not suggested by Victoria police in guidelines and integration of passive surveillance is preferred. This solution has been rejected by prospective tenants.
- Multiple tenancies were suggested, however compartmentalisation of the space would block views of the historic ceiling and an absence of natural light would be highly problematic.
- It has been suggested that the stairway could be more visually permeable by removing the surrounding walls, however, the required works to make good would compromise the heritage values. The stair in its current condition is not useable as noted above so even if it was open it wouldn't be accessible. The original stair also is enclosed within an original wall for structural purposes. Therefore if the new wall is removed it still wouldn't be visible as a stair, only the original wall would be seen, which itself is in very poor condition.

#### **The context and setting within which the place or object is located.**

The object in question is the stairway which has been enclosed by plaster walls for safety reasons and is hence hidden from view. It therefore makes no contribution to the function of interpreting the historic significance of the

place. Moreover, as detailed above, it severely compromises the economic use of the place by obstructing critical views from the frontage of the retail premises.

**Refusal to enable a change of use may affect reasonable use if the historic use is obsolete.**

On the evidence provided in this report the historic use of the stairway is obsolete.

The stairway that is the subject of this report is an original fixture and therefore has some historic value. However, to repeat the position expressed in Section 2.2:

*The Heritage Impact Statement (Source: Bryce Raworth (Dec 2022) Heritage Impact Statement) that was submitted with the original permit application stated that internal stairs are not inherently significant by virtue of being an original item and are irretrievably non-compliant.*

*Further to this, the Heritage Impact Statement submitted that the main auditorium is the most significant interior and the key objective of the scheme for its adaptive reuse is the retention of original/early elements – notably the decorative plaster ceiling and its domed recesses, the pilasters and plaster ornament to the walls and the stage.*

*This key objective has been achieved because of the sympathetic works recently undertaken.*

The stairway is obsolete in that it provides no access and cannot be used. It is noted that historic referencing is proposed as an alternative to stairway retention.

**Refusal to upgrade facilities to meet standards may affect reasonable use.**

In this instance upgrading to meet standards would severely compromise the heritage values of the object in question (the stairway). The stairs are non-compliant with current regulations, and they can only be brought into compliance with substantial modification, if not re-building.

A Compliance Assessment Report (Source: Saville & Co. Pty Ltd, 29/6/2022) states that the stairs do not comply with several National Construction Code requirements, including relating to stair dimensions and winders. They do not comply with Australian Standards relating to balustrades and disabled access. Furthermore, they are structurally unsound. The report concludes:

*In summary, the stair was not considered by our expert opinion to be in 'reasonable' condition, and we consider the stair to be a danger to the safety of persons relying on this stair for access or egress requirements.*

## 6. Economic Use

### 6.1 Meaning of 'Economic Use'

Heritage Victoria has published a policy on the relevant matters for the consideration of section 101(2)(b) of the *Heritage Act 2017* relating to reasonable or economic use. With regard to **economic use** the policy (in summary) contends:

- The financial circumstances of the applicant or owner are irrelevant, but the feasibility of the proposed development may be relevant insofar as it relates to the viability of an ongoing use.
- The question of whether works will facilitate an economically sustainable use is relevant.
- An applicant may be required to provide evidence of economic impact.
- Economic use may be affected if refusal would limit capacity to cover outgoings on a property.

### 6.2 Conclusion on Economic Use

Conclusions are made below in relation to the relevant considerations:

**The financial circumstances of the applicant or owner are irrelevant, but the feasibility of the proposed development may be relevant insofar as it relates to the viability of an ongoing use.**

In the consultant's original report (March 2023) financial modelling was undertaken demonstrating that without the stairway the proposal to develop the place for a large format retail store was feasible, albeit on the cusp of feasibility. Moreover, it was demonstrated that should the stairway be required to be retained, the development would be rendered infeasible. The reason for the outcome was the significantly lower rent rate that was achievable with views into the store being compromised.

In the ensuing period, the conclusions of this report have been born out, as evidenced by the written advice from prospective high-profile tenants. A review of the literature in this report highlights the adverse impact that the obstruction caused by the stairway would have on retail floorspace planning.

**The question of whether works will facilitate an economically sustainable use is relevant.**

The proposal to remove the stairway can produce an economically sustainable outcome by carrying the cost of the conservation works to achieve an appropriate balance between economic viability and conservation objectives. The conservation works undertaken to date have been highly successful and the building is now ideally situated to conserve its heritage values and to display them to the public. This is a highly beneficial outcome that will enable interpretation of the building's historic significance.

However, retention of the stairway severely undermines the financial sustainability of the use for marginal (if any) benefit by severely compromising application of essential retail space planning principles. In fact, the stairway not only obscures views to the retail floorspace but it limits views of the main heritage feature which is the historic ceiling – now fully restored.

**An applicant may be required to provide evidence of economic impact.**

This report provides the required evidence.

**Economic use may be affected if refusal would limit capacity to cover outgoings on a property.**

Refusal to allow removal of the stairway, based on the analysis in this report, would create a situation where the owner would not receive an adequate return on the investment in the comprehensive conservation works. This may threaten the ongoing financial viability of the investment.

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### **On the Importance of Retail Frontage and Retail Design**

Downloaded 23/9/24

<https://www.resonai.com/blog/importance-of-store-layout>

<https://www.shopify.com/retail/the-ultimate-guide-to-retail-store-layouts>

<https://www.n3display.co.uk/the-importance-of-a-good-frontage>

<https://www.deputy.com/au/blog/how-to-create-a-retail-store-layout-that-increases-sales>

### **On the Harper Rule**

Downloaded 24/9/24

<http://cavrep.com.au/D/DEPTHFORMULAE.html>

[https://www.iaao.org/media/glossary\\_ed2\\_web/25F82B9BC6F6A2C7E17F0A9794F5A0A9/IAAO\\_GLOSSARY%202015%20IHDP.pdf](https://www.iaao.org/media/glossary_ed2_web/25F82B9BC6F6A2C7E17F0A9794F5A0A9/IAAO_GLOSSARY%202015%20IHDP.pdf)

## Attachment A – CBRE Advice on Rentals



CBRE (V) Pty Ltd  
Licensed Estate Agent  
ABN 15 083 694 357

Level 34, 8 Exhibition Street  
Melbourne VIC 3000

T 61 3 8621 3333  
F 61 3 8621 3330

8 March 2023

Mr Ben Delutis  
De Group  
Level 12, 100 Collins Street,  
MELBOURNE, VIC 3000

**RE: Letter of Advice – Retail Space**  
**PPTY: 30-34 Ocean Beach Road, Sorrento**

Dear Ben,

CBRE Retail Investor Services would like to thank you for the opportunity to provide you with the following advice on your property holding at 30-34 Ocean Beach Road, Sorrento.

Based on the property's location in the retail precinct, we believe the market rent is as follows:

| Property | Estimated Net Rental   |
|----------|--|
| Option 1 | Estimated between \$800 and \$1,000 Per Square Meter, Net Per Annum, plus Outgoings and GST. |
| Option 2 | Estimated between \$400 and 450 Per Square Meter, Net Per Annum, plus Outgoings and GST.     |
| Option 3 | Estimated between \$400 and 450 Per Square Meter, Net Per Annum, plus Outgoings and GST.     |

Please note, as discussed, there would be many groups who would be attracted to this retail space.

We see this property appealing to groups for a use such as international apparel or international/national hospitality. The holding, at 30-33 Ocean Beach Road, Sorrento, represents prime suburban strip presence with the added value point of being positioned within one of Melbourne's top blue chip holiday locations. Additionally, the continuous development of hotels and fine dining institutions is increasing international tourism attraction, adding to higher foot traffic and lessening the past seasonal downturn during winter months.

Again, we greatly appreciate the opportunity to discuss your property holding. Our approach is driven by passion, enthusiasm, persistence and hard work. Our driven team is absolutely committed to providing you with professional expertise and the desired results.

Yours sincerely  
CBRE (V) Pty Ltd

Jason Orenbuch  
Associate Director, Retail Investor  
0418 310 693  
jason.orenbuch@cbre.com.au

Lachie Maynes  
Manager, Retail Investor  
0499 377 855  
lachie.maynes@cbre.com

## Attachment B - Compliance Assessment Report

# COMPLIANCE ASSESSMENT REPORT

**Saville & Co. Pty Ltd**  
ACN: 634 336 093  
PO Box 7055, Hawthorn VIC 3122  
Ph: 0400 455 611  
www.savilleandco.com.au

**Date:** 29 June 2022  
**Job No.:** 2020-0264

**Revision:** 01

**To:** DeGroup Pty Ltd  
Level 12, 100 Collins Street,  
Melbourne VIC 3000

**Contact:** Ben DeLutis

**Email:** ben@degroupp.com.au

**Re:** Existing Internal Staircase  
**Address:** 28-36 Ocean Road, Sorrento VIC

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Dear Ben,

On the 21<sup>st</sup> June 2022, we undertook a site visit at the above address to review the existing internal stair providing access between Ground and Level 1 in conjunction with the existing conditions plans. The purpose of the review was to establish the compliance of the existing internal stair in it's current condition.

As such, we note that the stair does not comply with current code requirements as follows:

- Minimum Width:** The width of the stair appeared to diminish throughout the flight in certain areas to less than 1m clear per NCC Volume 1, Clause D1.6.
- Riser & Going Dimensions:** The riser and going dimensions were inconsistent throughout the flight in that the allowances under NCC Volume 1, Clause D2.13 were exceeded.
- Winders:** A stair acting as a required exit shall not be provided with winders in lieu of half landing. In this instance, the stair is provided with winders in lieu of landings which contravenes NCC Volume 1, Clause D2.13.
- Nosings:** The stair currently is not provided with a suitable slip resistant, colour contrasting nosing to the stair treads as required by NCC Volume 1, Clause D2.14.
- Balustrade:** The balustrade / handrail associated with the stair did not appear to be structurally rigid as required by AS1170.1.
- Disabled Access:** The stair did not comply with the requirements of AS1428.1 – 2009 in that handrails to both sides were not provided, handrail diameter, extensions and turn downs were either non-compliant or non-existing as well TGSIs.

In summary, the stair was not considered by our expert opinion to be in 'reasonable' condition and we consider the stair to be a danger to the safety of persons relying on this stair for access or egress requirements.

Please do not hesitate to contact me if you have any queries in relation to the above.

Yours faithfully,



**Justin Saville**  
**Director**  
Saville & Co.  
ACN 634 336 093

## Attachment C - Summary CV

### Rodger Gibbins, Urban Economist and Planner

#### Qualifications

- Graduate Diploma Economics (La Trobe University)
- Master of Urban Planning (University of Melbourne)
- Diploma of Applied Science (Town Planning) (R.M.I.T.)

#### Expertise

- Cost-Benefit Analysis
- Business Case Preparation
- Economic and Social Impact Analysis
- Economic Development Strategies
- Investment Attraction Strategies
- Tourism Strategies
- Land Administration Policy
- Housing Policy and Program Evaluation
- Urban Systems Modelling
- Retail Needs Analysis
- Industrial Land Use Strategies
- Employment Forecasting
- Workforce Planning Strategies
- Public Policy Advisory

#### Selected Relevant Project Experience on 'Reasonable or Economic Use'

- **Mecca (2024):** SC Lennon & Associates was commissioned to prepare an independent report to Heritage Victoria as a follow-up to the 2022 report. The report relates to a proposed 'MECAversity' (a beauty and wellness education facility) on Level 1 within the heritage listed former David Jones store located at 299-307 Bourke Street, Melbourne. The space was allocated to 'back of house' in a previous HV permit.
- **Rodd & Gunn (2023):** SC Lennon & Associates was commissioned by Rodd & Gunn Australia Pty Ltd to prepare a report to Heritage Victoria on issues relating to 'reasonable or economic use' arising from Section 101 of the Heritage Act 2017. The report relates to a proposed integrated high-end retail and hospitality tenancy concept within the heritage listed former David Jones store located at 299-307 Bourke Street, Melbourne.
- **Shatter Pty Ltd (2023):** A report to HV on The proposal is for the Athenaeum Theatre in Sorrento to be adaptively reused as retail premises. The proposed works are mostly confined to the interior with the greatest extent of change occurring in the already altered foyer.
- **Castlemaine State Festival Ltd (2023 – on hold due to funding withdrawal):** A report to HV on a redevelopment proposal for the Castlemaine Goods Shed. The vision is "to be a leading cultural festival and arts centre in regional Australia, engaging people in vibrant experiences, in new and unexpected ways." The vision for the Castlemaine Goods Shed is to create a vibrant creative precinct that is home to the festival, supports and inspires creative practice and partnerships, engages the community and

- **Mecca (2022):** SC Lennon & Associates was commissioned to prepare an independent report to Heritage Victoria on issues relating to 'reasonable or economic use' arising from Section 101 of the Heritage Act 2017. The report relates to a proposed retail tenancy concept within the heritage listed former David Jones store located at 299-307 Bourke Street, Melbourne.
- **Burnham Beeches Investments Pty Ltd:** The report to HV relates to the proposed Burnham Beeches redevelopment project. Located 35 km east of Melbourne' CBD the subject site sits in a bushland setting featuring the iconic three-storey mansion built by the Nicholas family in 1930-33 designed in the Art Deco Streamline Moderne style. The land was initially a mountain retreat and working farm but only for a few years until WW2 when it became a children's hospital.
- **Melbourne Racing Club (2022):** SC Lennon & Associates was commissioned to prepare an independent report to the Heritage Council of Victoria on the 'reasonable and economic use' of a development proposal for the Caulfield Racecourse. The report dealt in part with the implications of listing the site on the VHR after development had commenced in compliance with a planning permit.
- **Richmond Football Club (2021):** SC Lennon & Associates was commissioned to prepare an independent report to the Heritage Council of Victoria on the 'reasonable and economic use' of a development proposal for the Punt Road Oval. The proposal is to continue the use as an AFL venue with substantial modifications to bring the venue up to standard and to cater for the needs of the primary user - the Richmond Football Club. The work involved supporting a case that the project was a continuation of the process of adaption to accommodate the evolution of the game.
- **Community Venues (2021):** Preparation of an independent report to the Heritage Council of Victoria on the economics of a development proposal to refurbish the heritage listed Festival Hall Building. The proposal is to continue the use as an entertainment venue with substantial modifications to bring the building up to standard and to cater for the needs of the primary user - the Hillsong Church. The work involved financial modelling of options depicting various levels of development intensity.
- **ISPT Pty Ltd (2020):** Preparation of an independent report to the Heritage Council of Victoria on the economics of a development proposal to refurbish the heritage listed former Land Titles Office building to accommodate the world class Benaki Museum. The proposal was to build a 30 level tower over the strong rooms to bring the development onto a commercial basis, given the costs involved in the heritage works. This assignment involved a cost benefit analysis of the museum component where the main benefits are derived from the cultural and educational benefits of the museum and conservation of the heritage asset. An economic impact analysis was also provided including the employment uplift associated with increased tourism numbers.
- **Saint Columbans Mission (2019):** Rodger Gibbins was commissioned to prepare a report to Heritage Victoria on issues relating to 'reasonable or economic use' arising from Section 101 of the Heritage Act relating to a proposal to redevelop a site located at 45 to 69 Woodland Street Essendon. This report also addresses the 2012 'Heritage Guidelines' issued by Heritage Victoria and the Heritage Council of Victoria (still relevant to the current Act).
- **PDG Corporation (2018):** Preparation of an independent report to the Heritage Council of Victoria on the economics of a development proposal for the Toyota Dealership site in Elizabeth Street Melbourne. The proposal was to demolish part of a registered building to accommodate multi-level commercial floorspace. The

report addressed issues relating to the 'reasonable or economic use of the registered place' and is based on financial modelling of development scenarios.

- **RJ International (2017):** Preparation of an independent report to the Heritage Council of Victoria on the economics of a development proposal ('Tea House' located in Clarendon Street South Melbourne) involving construction of a hotel adjacent to a registered building. The report addressed issues relating to the 'reasonable or economic use of the registered place' and is based on financial modelling of development scenarios.
- **Caydon Property Group (2016):** Preparation of an independent report to the Heritage Council of Victoria on the economics of a development proposal (Malt Precinct in Cremorne – Silos and Nylex Sign) involving the potential demolition of registered buildings (pursuant to Section 73(1)(b) of the Heritage Act 1995). The report addressed issues relating to the 'reasonable or economic use of the registered place' and is based on financial modelling of development scenarios.
- **Victoria University (2015):** Preparation of an independent report to the Heritage Council of Victoria on the economics of a development proposal (Maidstone former migrant hostel and munitions plant) involving the potential demolition of registered buildings (pursuant to Section 73(1)(b) of the Heritage Act 1995). The report addressed issues relating to the 'reasonable or economic use of the registered place' and is based on financial modelling of development scenarios.
- **Private Client (2015):** In the capacity of Consultant Director at Urbis: Preparation of an independent report to the Heritage Council of Victoria on the economics of a development proposal (Wesley Church Site in Lonsdale Street) involving the partial demolition of a registered building – the Princess Mary Club (pursuant to Section 73(1)(b) of the Heritage Act 1995). The report addressed issues relating to the 'reasonable or economic use of the registered place' and is based on financial modelling of development scenarios.
- **Lend Lease (2014):** Preparation of an independent report to the Heritage Council of Victoria on the economics of a development proposal (East Melbourne Synagogue site) involving the partial demolition of a registered building (pursuant to Section 73(1)(b) of the Heritage Act 1995). The report addressed issues relating to the 'reasonable or economic use of the registered place' and is based on financial modelling of development scenarios.