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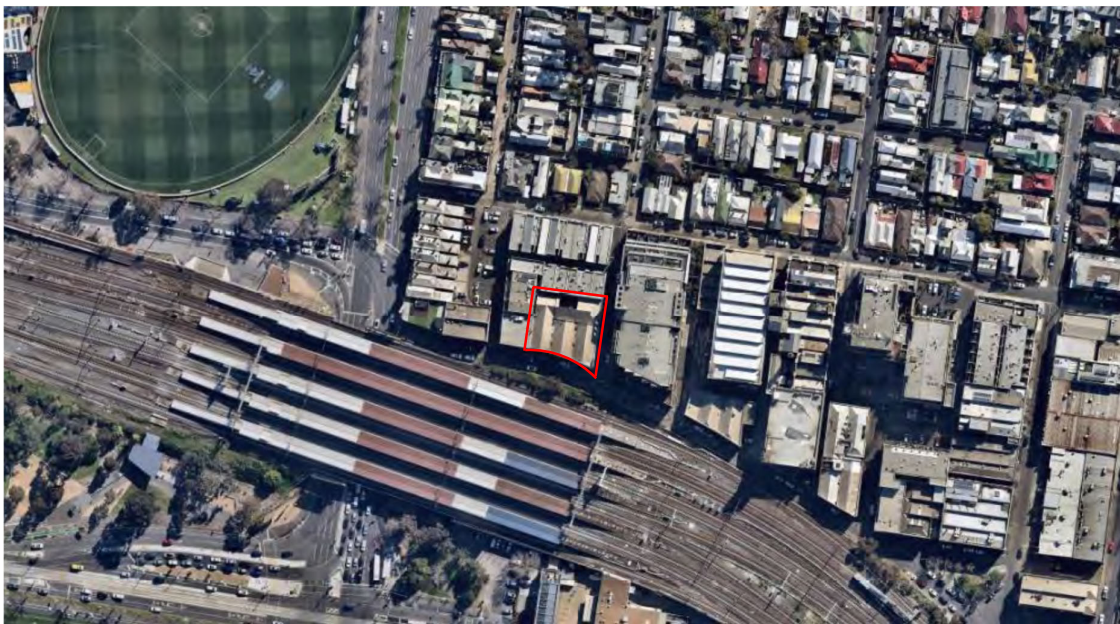
## INDEPENDENT URBAN DESIGN ADVICE

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### Proposed Development at 9-13 Stewart Street Richmond

For City of Yarra

12 May 2022



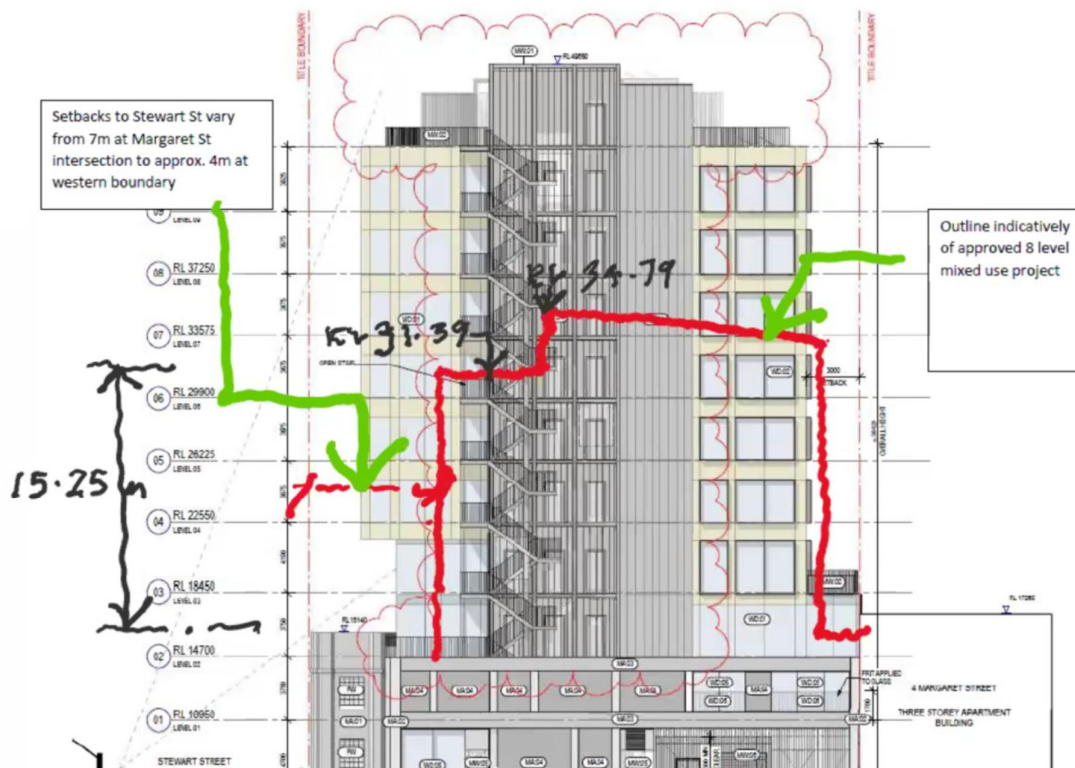
Nearmap

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## BACKGROUND

1. In November 2020 I was instructed by Maddocks acting for the City of Yarra (Council) to prepare a statement of evidence and appear as an expert witness for the above project and appeared on behalf of Council to provide expert evidence in the subsequent hearing.
2. At that time the application sought approval for the partial demolition of the existing buildings on the Subject Land and construction of a 10-storey mixed use building, comprising commercial offices, ground floor retail tenancies, basement car parking and a reduction in the car parking requirements.
3. I had also previously, appeared as Council's urban design expert regarding a previous application on this site (which also included No. 5), which the Tribunal refused (PLN11/0665 & VCAT Ref P339/2012). Council also granted a permit on 20.11.2014 for construction of a 7-storey apartment building at 5 & 9-13 Stewart St, Richmond (PLN13/0417 (there were no endorsed plans, and the permit had lapsed). Notwithstanding, the project for the approved building in the 2014 permit had a maximum height of around RL34.79 whereas the overall height of the proposed building presented at the VCAT Tribunal was RL49.65.



4. The Tribunal heard the matter between the 14-17 December 2020 and issued the order on the 4/3/21. VCAT Reference No. P1090/2020, Permit Application No. PLN19/0910.
5. Key matters of importance relating to the matter before us in this review that provide useful benchmarking for assessment were the conclusions of the members who heard the case, inspected the interfaces and streetscapes, and reviewed the policies at length in addition to the submissions by experts including myself were as follows:

### Policy support for intensification

- a) *From a first principles perspective, the proximity of this site to the Swan Street commercial precinct and various forms of public transport makes it a suitable location for increased development.*
- b) *That there is policy support for new development on this site of at least 5-6 storeys*

### **Heritage and Scale and Bulk**

- c) *We find the Margaret Street façade is largely intact and clearly legible as part of the industrial fabric of this streetscape and the other streets in this industrial sub-precinct. The Tribunal concluded this section comprising approximately 65% of this frontage should be retained.*
- d) *In our view, the height, and setbacks of the new building from an urban design perspective are not completely disengaged from the heritage considerations, and vice versa. We are of the view that the relationship of the new building's height, setbacks, and detailed design with the heritage facade of the existing building and the Stewart Street streetscape impacts with the contribution that this site makes to the heritage significance of this precinct.*
- e) *Overall, we find the combination of the proposed building height and setbacks results in a built form scale that overwhelms the retained heritage fabric and the Stewart Street streetscape more broadly. The outcome is that the proposed new building is not respectful of the urban character of this neighbourhood, which includes its significance as a heritage place. We say this for the following reasons: -*
- f) *We agree with Ms Riddett that the consideration of building height is relevant to heritage skylines, which in this case means understanding its impact from further afield. In this case, we have given greater consideration to the proposed building height within the overall Richmond Hill heritage precinct (within which this site is located) rather than to the west side of Punt Road that is not within this precinct.*
- g) *Whether a taller building is acceptable on this site is influenced by the amenity impacts and by whether the design can 'successfully knit together' the modern and historic elements in a manner that allows the heritage fabric to stand out and remain prominent. We are not persuaded this design achieves this successful knitting enabling the heritage fabric to remain prominent, particularly in Stewart Street.*

### **Height**

- h) *This proposal is described as 10 storeys which appears at face value to be only one storey more in height, but the reality is different. This proposal has a height to the roof of 38.65 metres (almost 10 metres higher than 33-35 Stewart Street), and it has an overall maximum height of 43.17 metres. Mr McGauran's visual comparison of the proposal compared to the eight-storey development approved by the 2014 permit also assists to demonstrate how the height of the buildings can be misleading. The approved building in the 2014 permit had a maximum height of around RL34.79 whereas the overall height of this proposed building is RL49.65.*
- i) *The difference in building height between this proposal and the existing buildings in this industrial sub-precinct will be noticeable as it is in the order of 10 metres. We agree reducing the building height by two or three storeys (as is suggested by the Council's expert witnesses) would mean the height is comparable to the existing and approved buildings in this sub-precinct.*
- j) *The difference in the building height between this proposal and the building at 1 Margaret Street is accentuated by the significant difference in the building setbacks from Stewart Street as well (refer to the image on following page illustrating existing setbacks at 1 Margaret Street). The minimum 4.5 metre staggered setback from the Stewart Street frontage (following the curve of the street) ensures that the new part of that building above the heritage façade is visually recessive and does not dominate that building or the Stewart Street streetscape. This is in contrast to this proposal.*
- k) *Having viewed the subject land from various vantage points along Stewart Street, including those reflected in the photomontages in Mr Wilkinson's evidence statement, we are not persuaded that the combination of the 2.5 and 4.5 metre setbacks are acceptable.*



- l) *While strategy 17.2 at clause 21.05-2 contemplates building heights greater than five to six storeys, we are not satisfied that the proposal provides an acceptable response to the specified circumstances in which greater height may be contemplated. In this regard we find:*
- i. As outlined above, the proposal does not provide significant upper-level setbacks.*
  - ii. We accept that there are elements of this proposal that are consistent with architectural design excellence. However, we are not satisfied the quality of the architectural design of the new building ensures the dominance of the heritage elements of the existing building and streetscape.*
- m) *Even though aspects of the proposal's design support environmental sustainability objectives, we are not satisfied these aspects provide an acceptable balance against the unacceptable heritage and urban design outcomes.*
- n) *In relation to non-residential use and development within the MUZ (and business and industrial zones) the policy seeks to 'minimise noise and visual amenity impacts upon nearby, existing residential properties.' The associated policy considerations include matters such as overlooking, overshadowing, loss of daylight, visual bulk, and light spill (among others).*
- o) *Having inspected both dwellings at 5 and 7 Stewart Street we are of the view that the services core will be readily visible from and extend some eight storeys above the windows in the western façade of these dwellings, particularly 7 Stewart Street. Given the location and height of the services core we are of the view that it is inconsistent with the policy guidelines at clause 22.05-4.2 that seek walls built to a boundary to not adversely impact on the amenity of any adjoining dwelling in terms of visual bulk.*
- p) *Any future proposal should seek to locate building elements of such a height further away from the boundary with these residential properties or otherwise reduce their height.*

### Wind Impact Amelioration

- q) *In general terms therefore we observe that any future proposal for the development of this site should include the details of any wind deflection devices and how they will be viewed in the context of any original building facades to be retained and the streetscapes building is from Stewart Street.*



### STATUTORY AND STRATEGIC PLANNING CONTEXT

#### PLAN MELBOURNE

6. Within Plan Melbourne, there are several outcomes, directions and policies that need to be considered when reviewing this proposal from an urban design perspective.
7. Plan Melbourne outlines a vision of Melbourne as a 'global city of opportunity and choice'. This vision is guided by seven key outcomes, each supported by directions and policies towards their implementation.
8. Outcomes relevant to the land-use and built-form changes sought by this proposal include the following:
  - a) Outcome 1: Melbourne is a productive city that attracts investment, supports innovation, and creates jobs
  - b) Outcome 4: Melbourne is a distinctive and liveable city with quality design and amenity
  - c) **Outcome 5:** Melbourne is a city of inclusive, vibrant, and healthy neighbourhoods
9. **Direction 1.1** seeks to create a city structure that strengthens Melbourne's competitive for jobs and investment, particularly about supporting the central city to become Australia's largest commercial and residential centre by 2050.
  - a) Policy 1.1.1 & 1.1.2 encourages new development opportunities to create grow office floor space amongst residential space is to deliver co-benefits of employment, reduced commuting and transport costs for workers and residents. Urban renewal precincts in and around the central city is acknowledged here to play a major role in delivering high-quality, distinct, and diverse neighbourhoods that offer a mix of uses.

10. **Direction 4.1** advocates a place-making approach to urban design to create *“more great public places across Melbourne.”*
  - a) **Policy 4.3.1** seeks to integrate place-making practices into road-space management to ensure the design of streets encourages the use of active transport and facilitates a greater degree of and encounter and interaction between people and places.
11. **Direction 5.1** outlines the ambition of creating a city of 20-minute neighbourhoods by encouraging the development of vibrant, mixed-use neighbourhoods linked by a network of activity centres. ‘Walkability’, ‘housing diversity’, ‘ability to age in place’ are identified here as key characteristics of 20-minute neighbourhoods.
12. **Direction 5.3** notes the importance of social infrastructure in supporting strong communities. Delivery and co-location of social infrastructure in accessible locations near public transport is a key policy under this direction.
13. Policy guidelines to consider where relevant include:
  - a) *Urban Design Guidelines* for Victoria (Department of Environment, Land, Water and Planning, 2017).
  - b) *Safer Design Guidelines* for Victoria (Crime Prevention Victoria and Department of Sustainability and Environment, 2005).
  - c) *Urban Design Charter* for Victoria (Department of Planning and Community Development 2009).

#### **PLANNING POLICY FRAMEWORK**

14. State and regional planning provisions relevant to this application are set out below:
15. Clause 11.01-1 “Settlement - Metropolitan Melbourne” includes the following relevant strategies:
  - a) Focus investment and growth in places of state significance, including Metropolitan Melbourne Central City, Metropolitan activity centres and major urban renewal precincts.
  - b) Create mixed-use neighbourhoods at varying densities, including through the development of urban-renewal precincts that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.
16. **Clause 15.01-1S “Urban design”** seeks to create urban environments that are *“safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.”* Relevant strategies outlined towards achieving this goal include the following:
  - a) *Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility, and providing for inclusiveness.*
  - b) *Ensure the interface between the private and public realm protects and enhances personal safety.*
  - c) *Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.*
  - d) *Ensure that the design and location of publicly accessible private spaces, including car parking areas, forecourts, and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.*
  - e) *Ensure that development provides landscaping that supports the amenity, attractiveness, and safety of the public realm.*
  - f) *Promote good urban design along and abutting transport corridors.*
17. **Clause 15.01-1R “Urban design – Metropolitan Melbourne”** sets out to create a *“distinctive and liveable city with quality design and amenity”* by undertaking the following relevant strategies:
  - a) *Support the creation of well-designed places that are memorable, distinctive, and liveable*
  - b) *Integrate placemaking practices into road space management*

- c) *Provide spaces and facilities that encourage and support the growth and development of Melbourne's cultural precincts and creative industries.*
18. **Clause 15.01-02S "Building design"** aims to ensure that building design outcomes contributes positively to local contexts and enhances public realm, strategies relevant to this proposal include:
- a) *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
  - b) *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
  - c) *Ensure development is designed to protect and enhance valued landmarks, views, and vistas.*
  - d) *Ensure development provides safe access and egress for pedestrians, cyclists, and vehicles.*
  - e) *Ensure development provides landscaping that responds to its site context, enhances the built form, and creates safe and attractive spaces.*
19. **Clause 15.01-4S "Healthy neighbourhoods"** seeks to achieve neighbourhoods that foster healthy active living and community wellbeing by designing neighbourhoods that encourage community interaction, physical activity, and engagement amongst community members of all ages and abilities. Key relevant strategies include the provision of:
- a) *Connected, safe, pleasant, and attractive walking and cycling networks that enable and promote walking and cycling as a part of daily life.*
  - b) *Streets with direct, safe, and convenient access to destinations.*
  - c) *Conveniently located public spaces for active recreation and leisure.*
20. **Clause 15.02 "Sustainable Development"** is concerned with encouraging development that is energy and resource efficient, minimising greenhouse gas emissions towards supporting a cooler environment. Strategies outlined under this clause include the incorporation of ESD principles in new developments and supporting low energy forms of transport such as walking and cycling.
21. **Clause 17.01-1 "Economic Development"** acknowledges the role of planning in providing a strong, innovative, and diversified economy where all sectors are critical to its property. Specifically, planning has a key role in providing land, facilitating decisions, and resolving land use conflicts to enable regions to capitalise upon its strengths and achieve its economic potential.
22. **Clause 18 "Transport"** encourages solutions that ensure an integrated and sustainable public transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movement of goods and people and is safe.
23. **Clause 18.01-1 "Land use and transport planning"** outline strategies to develop an integrated, equitable and accessible transport networks that connects people to jobs and services and goods to the market. The following strategies are relevant to this proposal:
- a) Ensuring equitable access is provided to developments in accordance with forecast demand, taking advantage of all available modes of transport and to minimise adverse impacts on existing transport networks and the amenity of surrounding areas.
  - b) Requiring integrated transport plans to be prepared for all new major residential, commercial, and industrial developments.
24. **Clause 18.02-2S "Public Transport"** seeks to increase the use of public transport and encourage increased development close to high quality public transport networks.

25. **Clause 18.02-4S "Car parking"** encourages the efficient provision of car parking by consolidating facilities and ensuring that such facilities achieve a high quality of urban design and protects local amenity, including pedestrians and other users.
26. **Clause 19.02-6R "Open space – Metropolitan Melbourne"** outline the objective to strength the integration of Melbourne's open space network, strategies relevant to this proposal include the following:
  - a) Develop a network of local open spaces that are accessible and of high-quality and include opportunities for new local open spaces through planning for urban redevelopment projects.
  - b) Create continuous open space links and tails along the Yarra River parklands (extending from Warrandyte to the Port Phillip Bay).
  - c) Continue the development of the lower Yarra River as a focus for sport, entertainment, and leisure.

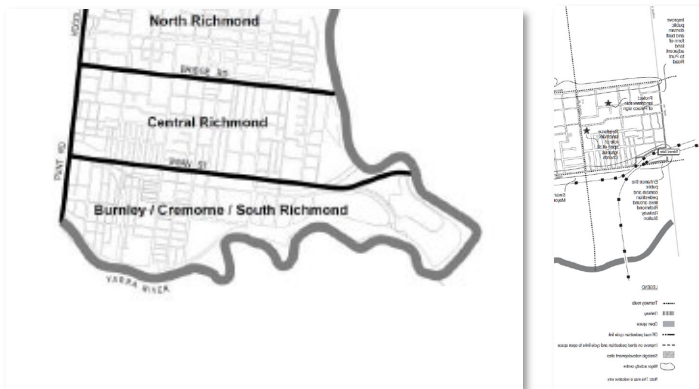
### **LOCAL PLANNING POLICY FRAMEWORK**

27. Clause **21.04 – Land Use** Local planning provisions relevant to this application are set out below:
  - a) Acknowledges the need for Yarra to accommodate its share of Melbourne's population growth, noting the need to direct higher density residential development to strategic re-development sites. Given the pre-existing population diversity, the clause looks to maintain diversity by encouraging all household types and structures - including supporting the provision of affordable housing.
28. In response, Objective 8 under Clause 21.04-3 outlines the objective to increase the number and diversity of local employment opportunities by undertaking the following strategies:
  - a) Strategy 8.1 Support re-zonings, as identified on the relevant Neighbourhood plan, to permit increased commercial and office use in existing industrial areas.
  - b) Strategy 8.2 Support home-based businesses.
  - c) Strategy 8.3 Encourage residential and business land use within the Mixed-Use Zone to locate on the same site.
  - d) Strategy 8.5 Support opportunities for new uses on isolated industrial sites provided they reflect the predominant surrounding uses.
29. A key element of importance in this instance relates to Objective 3 under Clause 21.04.1 wherein it is important to ensure new built residential development in Mixed Use, Business 1, Business 2, and Business 5 Zones and near Industrial and Business Zones is designed to minimise the potential negative amenity impacts of existing non-residential uses in the vicinity.
30. **Clause 21.05 "Built Form"** contain objectives and strategies considering heritage, urban design, built form character and the public environment. It seeks to reinforce the existing urban framework of Yarra of a 'low-rise urban form punctuated by pockets of higher development'. Objectives and strategies under this clause relevant to this application include the following:
  - a) Developments on strategic redevelopment sites should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal provide community benefits such as the provision of affordable housing or a positive contribution to the enhancement of the public domain.
  - b) Retain, enhance, and extend Yarra's fine grain urban fabric by ensuring new developments are designed about its surrounding urban context and fabric, including the re-establishment of historical streets and laneways.
  - c) Provide a public environment that encourages community interaction and activity
  - d) Objective 16 under Clause 21.05 seeks to reinforce the existing urban framework of the City of Yarra, with Strategy 16.2 seeking to "maintain" and strengthen the preferred character of each built form character type within the City of Yarra."



- e) Objective 17 under Clause 21.05 seeks to "retain Yarra's identity as a low-rise urban form with pockets of higher development", outlining the following relevant strategies:
  - f) Strategy 17.2 Development on strategies development sites or within Activity Centres should generally be no more than five to six storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:
    - > Significant upper-level setbacks
    - > Architectural design excellence
    - > Best practice environmental sustainability objectives in design and construction
    - > High quality restoration and adaptive use of heritage buildings
    - > Positive contribution to enhancement of the public realm
    - > Provision of affordable housing.
  - g) Objective 19 under Clause 21.05 seeks to create an inner-city environment with landscaped beauty, outlining the following strategies:
    - > Strategy 19.1 Require well resolved landscape plans for all new development.
    - > Strategy 19.2 Encourage opportunities for planting suitable trees and landscape areas in new development.
    - > Objective 20 under Clause 21.05 seeks to ensure that new development contributes positively to Yarra's urban fabric, including the following strategies:
  - h) Strategy 20.1 Ensure development is designed having regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties, and its environs.
  - i) Strategy 20.2 requires development of Strategic Redevelopment Sites to consider the opportunities for development on adjoining land.
  - j) Objective 21 under Clause 21.05 seeks to enhance the built form character of Yarra's Activity Centres.
  - k) Objective 22 under Clause 21.05 seeks to encourage the provision of universal access in new development.
31. **Clause 21.05-3 "Built Form Character"** outlines the built form character type for each character area.
- a) New development must respond to Yarra's built and cultural character, its distinct residential 'neighbourhoods' and individualised shopping strips, which combine to create a strong local identity.
  - b) Clause 21.05-4 "Public environment" notes: "New development must add positively to Yarra's overall character and help create a safe and engaging public environment where pedestrian activity and interaction are encouraged. Public spaces and urban squares provide outdoor spaces for people to meet and gather. Opportunities to create such spaces will be sought. There is a need to ensure that, as development occurs, Yarra's public environment, buildings and transport infrastructure are accessible to all people."
32. **Objective 28 under Clause 21.05-4** seeks to provide a public environment that encourages community interaction and activity. Strategy 28.1 Encourage universal access to all new public spaces and buildings.
- a) Strategy 28.2 Ensure that buildings have a human scale at street level.
  - b) Strategy 28.3 requires buildings and public spaces to provide a safe and attractive public environment.
  - c) Strategy 28.4 Require new development to consider the opportunity to create public spaces as part of new development.
  - d) Strategy 28.5 Require new development to make a clear distinction between public and private spaces.
  - e) Strategy 28.6 Require new development to consider the creation of public access through large development sites, particularly those development sites adjacent to waterways, parkland, or activity centres.

- f) Strategy 28.8 Encourage public art in new development.
  - g) Strategy 28.9 Apply the Public Open Space Contribution policy at clause 22.12.
  - h) Strategy 28.10 requires site rezoning for new development to consider the inclusion of public domain improvements commensurate with the new use.
33. **Clause 21.06 – Transport** seeks to reduce car dependency by promoting active and public transport by improving the quality of walking and cycling infrastructure. It is explicitly noted that ‘walking’ includes people who use wheelchairs and other mobility devices. Strategies relevant to this application include:
- a) Improve pedestrian and cycling links in association with new development where possible.
  - b) Require all new large developments to prepare and implement integrated transport plans to reduce the use of private cars and to encourage walking, cycling and public transport.
34. **Clause 21.07 – Environmental sustainability** promotes environmentally sustainable development.
35. **Clause 21.08 "Neighbourhoods"** sets out locally specific objectives and strategies for each neighbourhood, the site sits within the SW corner of the Central Richmond Neighbourhood.

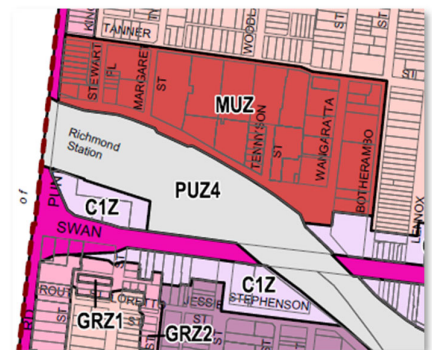


36. The implementation of built form strategies in clause 21.05 includes:
- a) Supporting development that maintains and strengthens the preferred character of the relevant Built Form Character type.
  - b) Improve the built form of:
    - > land around Richmond Station
37. **Clause 22.02 Development Guidelines for Sites Subject to the Heritage Overlay.** This policy applies to all land within a Heritage Overlay. The MSS highlights the importance of heritage to the identity and character of the municipality and one of its objectives is to protect and enhance the City's heritage places. This policy provides guidance for the protection and enhancement of the City's identified places of cultural and natural heritage significance. The objectives of this policy are:
- > To conserve Yarra's natural and cultural heritage.
  - > To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.
  - > To retain significant view lines to, and vistas of, heritage places.
  - > To preserve the scale and pattern of streetscapes in heritage places.
  - > To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.
  - > To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.

- > To ensure that additions and new works to a heritage place respect the significance of the place.
  - > To encourage the retention of 'individually significant' and 'contributory' heritage places.
  - > To protect archaeological sites of cultural heritage significance.
38. **Clause 22.05 Interface Use Policy** This Policy applies to applications for use for development within the Mixed-Use Zone.
- > It is policy that new non-residential use and development within the Mixed-Use Zone is designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.
  - > New non-residential development is to be designed to / so that:
    - > It minimises the potential for unreasonable overlooking of private open space areas and into habitable room windows of adjoining residential properties, using appropriate siting, setbacks, articulation and possibly screens.
    - > The location, length and height of any wall built to a boundary not adversely impact on the amenity of any adjoining residential properties in terms of unreasonable overshadowing of private open space, visual bulk, or loss of day light to habitable room windows.
    - > Where private open space and/or windows to adjoining residential properties are unreasonably affected, appropriate setbacks from boundaries are to be provided to address loss of daylight, overshadowing and visual bulk impacts.
    - > Provide for a high level of acoustic protection to adjoining residential properties by:
      - > Locating plant and other service infrastructure (including automatic garage doors) in discrete locations.
      - > Using masonry wall construction rather than, for example, curtain walling
      - > Building in effective acoustic insulation.
      - > Minimising noise transmission within the building, including from machinery and ventilation systems, between floors or separate units and to adjoining residential properties.
      - > Minimising the opportunity for views from adjoining residential properties into the site, especially where the storage, preparation, business, or industrial activity could present an unsightly appearance.
      - > Minimise the opportunity for light spill due to fixed or vehicular lights, outside the perimeter of the site and on to habitable room windows of nearby residential properties.
39. **Clause 22.17 – Environmentally sustainable development** builds upon Clause 21.07 by setting out an aspirational framework to encourage developments that incorporate best practice in environmentally sustainable development from design through to construction.
40. **Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)**
41. **Clause 22.17 – Environmentally Sustainable Development**

## ZONING

42. The site lies with the **Mixed-Use Zone (MUZ)**. The purpose of the MUZ includes:
- > To implement the Municipal Planning Strategy and the Planning Policy Framework.
  - > To provide for a range of residential, commercial, industrial, and other uses which complement the mixed-use function of the locality.
  - > To encourage development that responds to the existing or preferred neighbourhood character of the area.



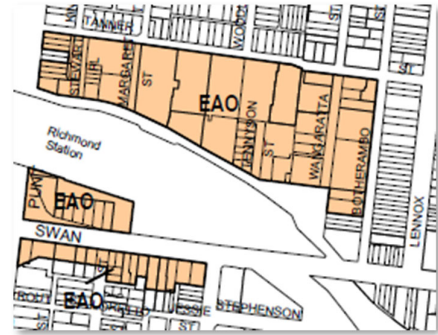
**OVERLAYS**

43. The site is subject to several Overlays as below.

**Environmental Audit Overlay**

44. The site is covered by the EAO. The purpose of the EAO is:

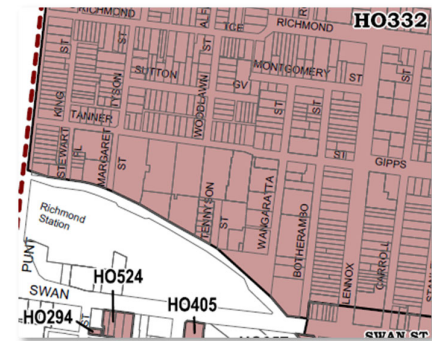
- > To implement the Municipal Planning Strategy and the Planning Policy Framework.
- > To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.



**Heritage Overlay HO332 Richmond Hill Precinct**

45. The site is affected by HO332 relating to the Richmond Hill Precinct. The purpose of the HO is:

- > To implement the Municipal Planning Strategy and the Planning Policy Framework.
- > To conserve and enhance heritage places of natural or cultural significance.
- > To conserve and enhance those elements which contribute to the significance of heritage places.
- > To ensure that development does not adversely affect the significance of heritage places.
- > To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.



46. Decision Guidelines include:

- a) the responsible authority must consider, as appropriate:
  - > The Municipal Planning Strategy and the Planning Policy Framework.
  - > The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.
  - > Whether the location, bulk form or appearance of the proposed building will adversely affect the significance of the heritage place.
  - > Whether the location, bulk, form, and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.
  - > Whether the proposed works will adversely affect the significance, character, or appearance of the heritage place.

47. The existing building on the land, about the City of Yarra Review of Heritage Overlay Areas 2007 (Rev. May 2018), has been identified as a contributory building.

48. Pursuant to Clause 43.01-1 a planning permit is required to demolish or remove a building, construct a building, or carry out works.

**PARTICULAR PROVISIONS**

- 49. Clause 52.06 Car Parking.
- 50. Clause 52.34 Bicycle Facilities.
- 51. Clause 65 Decision Guidelines.

## SWAN STREET STRUCTURE PLAN

52. The Swan Street Structure Plan was adopted by Council on 17 December 2013 as a strategic document for the Swan Street Activity Centre.
53. This led via a Framework Study and to the development of an Amendment C191 for the activity centre. A Panel Report was released on this amendment in October 2020 year and subsequently adopted
54. The Amendment came into operation when notice of its approval was published in the Victoria Government Gazette on 10 February 2022.
55. The Amendment, implements the recommendations of the Swan Street Activity Centre Built Form Framework and Swan Street Built Form Study Heritage Assessments and Analysis by:

- a) rezoning properties from the Commercial 2 Zone to Commercial 1 Zone.
- b) replaces Design and Development Overlay Schedule 17 with revised schedules 25, 26, 27 and 28 on a permanent basis.
- c) updates local policy.
- d) corrects a number of mappings errors.
- e) applies the Heritage Overlay to 15 properties on a permanent basis.
- f) removes the Heritage Overlay from ungraded places; and
- g) applies the Environmental Audit Overlay to sites being rezoned to Commercial 1 Zone.

56. The two most immediate precincts are Precincts 1 and 2, with Precinct 1 south of Richmond Station on Swan Street and Precinct 2 encompass the historic core historical retail section of Swan Street between the Richmond and East Richmond Stations and extending slightly east of Church Street and up to the railway bridge to the west.
57. The Panel report supporting that amendment process was instructive for its recent drafting, its consideration of scale and setback and its finding. Cumulatively, these helps further inform what height and arrangement surrounding character and built form is likely to take. This is particularly relevant given the intersection of Stewart Street at its southeast end with Swan Street and the DDO areas within approximately 200m of the subject site.
58. Key observations of the Panel relevant in painting the picture of future form and affirming the recent VCAT decision for the site included the following:

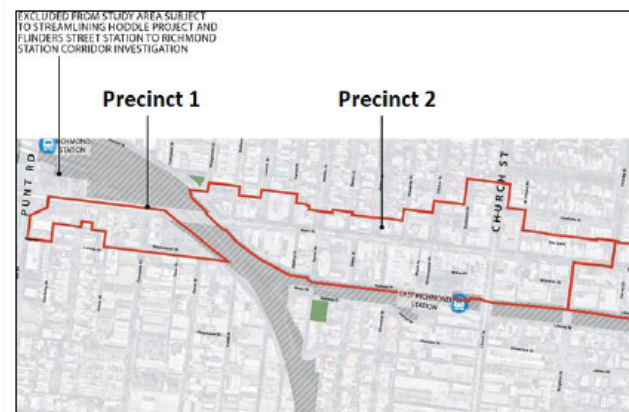
### Setbacks

- a) *For typical Swan Street frontages, a minimum 6-metre upper-level setback should be applied because a minimum 5 metre upper-level setback is insufficient to respond to the heritage streetscape. The 6-metre upper-level setback should be applied as a mandatory provision for all heritage properties and as a discretionary provision for all non-heritage properties.*

### Public Realm amenity

- b) *The amenity of identified footpaths should be protected through overshadowing requirements. Mandatory overshadowing requirements are appropriate and justified for the Swan Street southern footpath and discretionary requirements are justified and supported for all other nominated footpaths. The metric for defining the area for solar access should be revised for all streets and should relate to the area between the property boundary and the existing kerb. The use of the equinox between 10.00am and 2.00pm as the measure for solar access is appropriate.*

**Figure 3 Swan Street Framework study area and**



Source: based on Swan Street Framework, Figure 1, p5

### **Future Heights**

- c) The Precinct 1 Richmond Station precinct south of Swan St envisaged heights of development between 21 and 27m.
  - d) The adjoining Historic Retail Core envisages a development scale of 18-27m north of Swan Street and a slightly taller 21 to 34m to the south of the corridor.
59. A new Design and Development Overlay Schedule 25 (DDO25), which includes planning provisions relevant to Precinct 1 (Richmond Station).
60. A new Design and Development Overlay Schedule 26 (DDO26), also includes planning provisions relevant to Precinct 2 (Swan Street Retail Centre).
61. The proposed mandatory provisions are aimed primarily at addressing:
- a) the minimum metrics required to protect heritage buildings and the heritage streetscape, as appropriate.
  - b) the adequate protection of the residential amenity of adjoining residential areas within the context of site constraints.
  - c) the protection of solar access to the southern footpath along Swan Street to ensure a high-quality pedestrian environment and opportunities for comfortable outdoor dining and associated experiences.
62. The Panel, having considered modelling undertaken of other comparable commercial high streets in the City of Yarra, the recommendations included in the Panel Report into Yarra C220 and C231, and the revised modelling for Swan Street using more accurate and realistic base data, they considered then a 6 metres setback as necessary to achieve a satisfactory outcome that retains the visual prominence of the heritage street wall.

### **EARLIER VCAT DECISIONS**

63. I had earlier as noted provided VCAT review of the earlier application for the subject site VCAT Reference P339/2012. Notably the decision in that matter noted the following:

#### **Strategic Context**

64. The Tribunal concluded that the Mixed-Use Zone and Heritage Overlay combined with the coherent existing renewal scale warranted a bespoke and medium rise solution substantively more modest than that suggested. The Tribunal includes the following:
- > *The subject land is a site with constraints as it is within a Heritage Overlay in a discrete industrial sub-precinct; and it has interfaces with several other properties and adjoins a major railway station, Richmond Station. This is an area where heritage is clearly manifest in its built form.*
  - > *We have concluded that the retention of much of the existing facades of the host buildings does not in this case justify a further 10-11 storeys on the subject land. Although by its design the tower is clearly distinguishable from the original fabric, we cannot conclude that it achieves local policy to be visually recessive and not dominate the heritage place. Further, although the built form and appearance of the proposed building is separated from the lower levels that are part of 'the significance of the heritage place' we consider that the striking design and height of the building will adversely affect the physical manifestation and understanding of that significance which is so clearly evident in the precinct today.*
  - > *We are of the opinion new development in this small heritage precinct between Stewart and Tanner Streets should respond to the existing building form, character, and heritage value of the area, and provide for a built form transition to lower scale development to the north on Richmond Hill. This proposal fails in these regards.*
  - > *We are not persuaded the identification of this precinct in the State planning policy means the Council's desire to have an individual identity for Richmond cannot be achieved. Nor*

*does it mean the areas of historic significance around Richmond Station that are recognised through the imposition of a Heritage Overlay can be ignored.*

- > The subject land is within a Mixed-Use Zone, a zone which forms part of the suite of residential zones found in the planning scheme. The site is also affected by a Heritage Overlay. The form and scale of any development must respond to these controls as well as the built form policies in the planning scheme and the physical context of the subject land and its surrounds.*
- > Regarding the other built form policies in the planning scheme, the Yarra Planning Scheme seeks to protect valued character, including its identity as a low-rise urban form with pockets of higher development, and its heritage places. This area is one such heritage place.*
- > We agree the heritage considerations are important in this case as the intensity of development expected and sought for locations such as this need to be balanced with the significance of this heritage place.*
- > The extent of remaining fabric and the precinct's discrete area reinforce its cohesion, readily apparent on inspection from any of the streets within the sub-precinct. This is an area where its heritage is clearly expressed in the built form.*
- > The strong curve and uniformity of façade heights along Stewart Street as it follows the long wall of the railway reserve reinforces the cumulative impact of this built form. A further clearly visible characteristic is the angled setbacks of the higher portions of the original buildings facing the railway above the Stewart Street facades.*

#### **Height and Scale**

65. We, however, are not persuaded that the retention of much of the existing facades is sufficient in this case to justify an additional 10-11 storeys (32-35m) above the existing building on the subject land.
- > Thus, we find that the proposal, by its appearance and height is not 'in keeping with the character and appearance of adjacent buildings and the heritage place'.*
  - > Whilst we accept that there are circumstances where higher buildings can be accommodated in heritage areas, we have concluded that new development in this precinct between Stewart and Tanner Streets should respond to the existing building form, character, and heritage value of the area, and provide for a built form transition to lower scale development to the north on Richmond Hill.*
  - > The Yarra Planning Scheme specifically identifies protection of 'heritage skyline' and protection from the "visual intrusion" of built form within heritage areas.*
  - > It is clear that the surrounding redevelopments of heights in the order of 6-7 storeys have had more regard to the existing built form character of the area and have contributed to the establishment of a new character that generally utilises the solid heritage base with contemporary additions above. Whilst employing differing design treatments, none seek to dominate the precinct.*
  - > We think the success or appropriateness of these redevelopments has been achieved by employing an appropriate scale and setbacks, and by the selection of materials that are 'well mannered' in the context.*

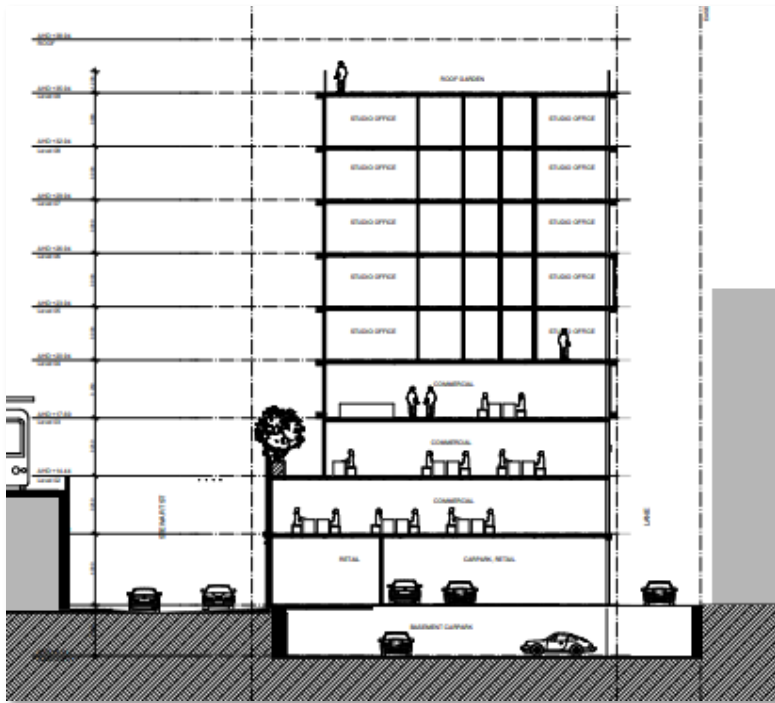
**33-35 Stewart Street, Richmond VIC 3121-Slimform Holding Pty Ltd v Yarra CC [2020] VCAT 1312**



66. A more recent decision of earlier this month is the approval for the development at 33-35 Stewart Street Richmond before Member Dawson.
67. As the findings note, like the development proposal before this tribunal, the proposal includes retention of the existing double storey building façades to Stewart Street, including retention of side walls on the eastern façade to a depth of 4.49 metres and on the western facade to an approximate depth of 3 metres.
68. The proposal occupies an island site.
69. The member notes in their assessment of the precinct the following:
  - a) *My impression of the heritage character is reflected in an earlier Tribunal decision (ACCC Pty Ltd as AWC Property v Yarra (Red Dot) [2012] VCAT 1180) concerning a proposed 14 storey building, also opposite the Richmond Station, at 5 & 9-11 Stewart Street Richmond. In that decision, the Tribunal states at paragraph 43:  

*Our observation is that, somewhat unusually, this precinct clearly demonstrates its heritage to the passer by. The retention of significant proportions of the industrial building fabric has retained and reinforced the remnant heritage evident along all of the streets within this sub-precinct. The subdivision pattern and hard-edged buildings speak to a history of manufacturing and warehousing. The extent of remaining fabric and the precinct's discrete area reinforce its cohesion, readily apparent on inspection from any of the streets within the sub-precinct. This is an area where its heritage is clearly expressed in the built form.**





- b) The proposal provides for a nine-level office and retail premise building with an overall maximum height of 31.76m (to top of lift overrun). RL38.94 and RL35.94 to top of parapet at the street edge. This façade of the upper tower form to Stewart Street is 28.75m from ground level to top of parapet.
  - c) Setbacks to Stewart Street for the upper-level form are proposed to be typically between 2.8m and 3.75m.
  - d) Setbacks to east boundary laneway are 0.6m, 2.16m and 2.39m.
  - e) This height accords closely with the suggested scale heights sought by me in my earlier advice to Council and my advice to this Tribunal.
70. *Presently and in contrast to the above decision and proposition the height to the lift overrun of the subject proposal at RL49.65 versus ground level at RL6.25 results in a building height of 43.4m or more than 35% higher than that determined in the above matter as acceptable in the context.*
- a) *The proposal whilst on a smaller footprint site, has no direct abutments to sensitive uses unlike the subject site.*
  - b) *It has a much taller street wall form to its northern hinterland and eastern interfaces abutting the subject site where neighbouring street-wall to all sides is of comparable scale.*
  - c) *The interfaces to the north and east are also occupied for commercial use and separated by shared lanes.*
  - d) *It has in contrast to the subject proposal, no shadow impacts on the adjoining residential land uses and (as noted by the Tribunal Member), has only modest overshadowing impacts on Stewart Street over and above that arising from the existing built form.*
  - e) *As is also evident, the setbacks from each of the edges have ensured that the views looking laterally down the curving street are to build form with generous glazing and visual interest.*

## **AMENDED PLANS TO THE PRIORITY PROJECTS STANDING ADVISORY COMMITTEE**

71. In April 2022, the Priority Projects Committee circulated amended plans for review by the City of Yarra.
72. The Amended Plans incorporate several modest but important changes in response to the VCAT decision:

### **Margaret Street Heritage façade**

- > After the tribunal concluded that more of the Margaret Street Heritage façade should be retained, the development proposes the retention of a substantial scope of the eastern façade and Heritage fabric.
  - > I am satisfied that the extent of retained fabric is consistent with the advice arising from the Tribunal and support this scope.
  - > Similarly, there are no changes to setbacks on any of the frontages of the development and no change to the number of levels as evidenced by a comparison of the VCAT Plans and the
73. Somewhat confusingly the plans before the committee adopt the same drawing numbers but revert to an earlier revision, rather than continuing revisions sequentially.



### **Basement parking**

74. A lesser number of carpark spaces are provided for in the basement (7 spaces in lieu of 10 spaces.) with a larger services zone.

### **Ground level**

75. A reconfiguration of the lift core and escape stairs and internal shop and Food and Drink premises with the relocation of the lift lobby and entry to the western side of the ground level.
76. A detailed description of the end of travel facilities in earlier plans no longer forms a part of the application.

### **Level 1**

77. A relocation of the lift core and stairs to the eastern side of the floor.
78. A halving of toilets on the floor and a reduced number of lifts from 3 to 2 suggesting a lowering of building specification.

### **Level 2 and 3**

79. A reduction in setback to Stewart Street at level 2 by 2m to 2.5m in lieu of 4.5m previously and a removal of the projecting stair and lift core to the eastern interface.
80. A removal of the buffering landscape terraces to the east and west ends of the northern terrace and a reduced length of terrace.

### **Levels 4 to 7**

81. Continuation of 2.5m setback to the Stewart Street interface and 500mm reduction in length to the western boundary wall core.

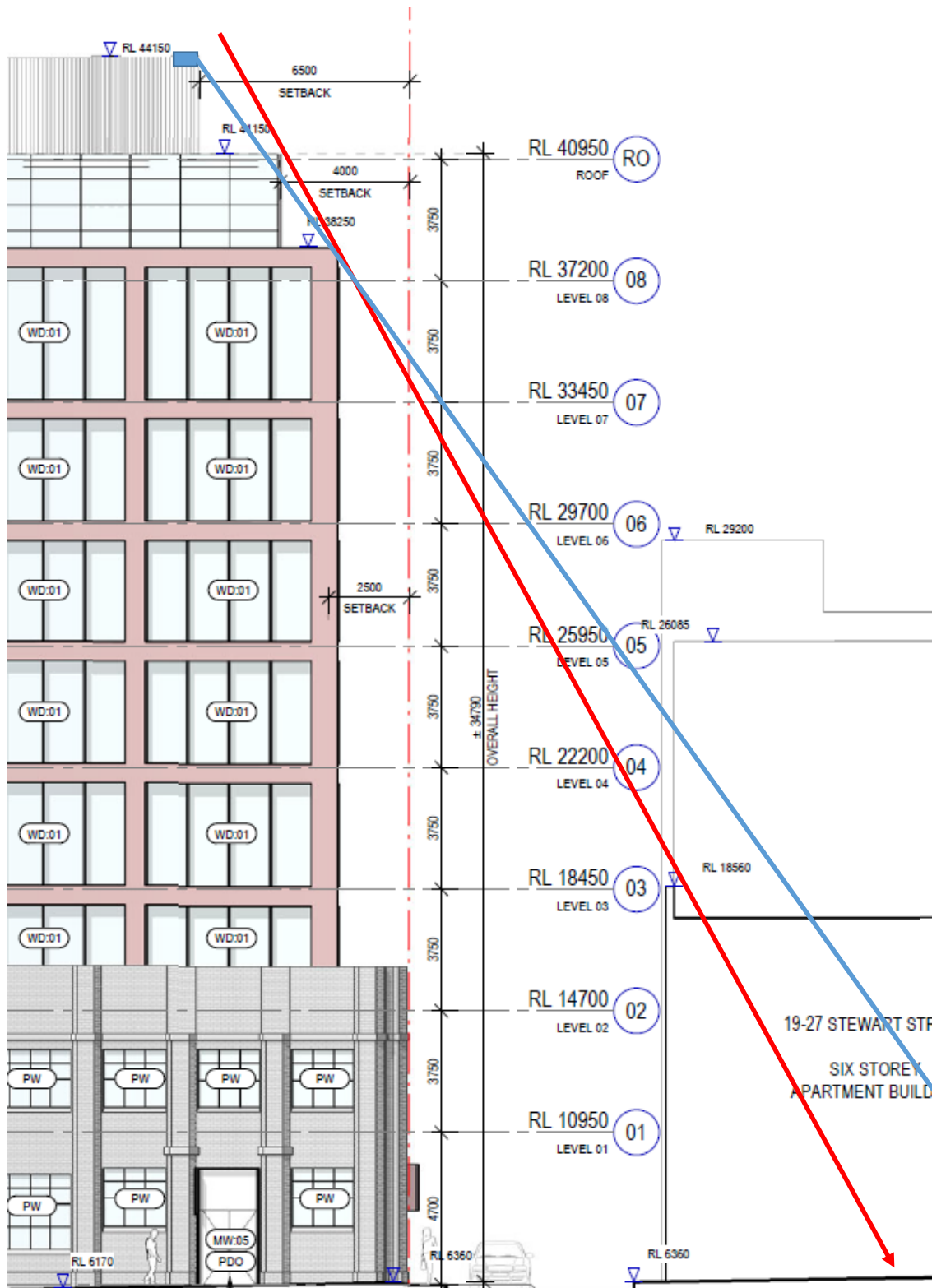
### **Level 8**

82. Increased setback at Level 8 to 4.5m to Stewart Street (previously 2.5m) and 4m to Margaret Street (previously 2.5m save the on-boundary stair).
83. An external terrace is provided to the perimeter south and eastern facades and narrow 600mm terrace to the north with an increase in setback of 1m.
84. Removal of Level 9 and an increase plant area setback of 7m (previously 5m) to the Stewart St frontage and a reduction in setback of the plant by 1.5m to the northern residential interface from 8m to 6.5m. and an increase primary setback of 7m to the western frontage with a reduced-on boundary footprint.
85. The development's height has been reduced as follows:
  - a) To the upper roof parapet of the Level 8 the development is now envisaged as RI 41.15m
  - b) the expansive plant room façade now elevated and expressed to a consistent height of RI 44.15 interrupted only by the taller lift overrun.
  - c) These heights compare to an upper-level parapet of RI 44.75 previously a reduction of 3.6m and a Plant room height of 47.95 now reduced by 3.8m.
  - d) The rendering in the report seek to represent that Level 8 and the plant room would not be visible from the street. Given the setbacks and the distance back of the view this is not sustainable with visibility prominent in close proximity as view lines indicate.



- e) This analysis would suggest that the images within the revised submission simply cannot be correct and that the upper level 8 and plant will be highly visible from the station entry





86. This prominence is obvious in more distant views as seen in the applicants updated report: -



**Setbacks and integration of wind amelioration treatments into the design approach.**

87. Despite the Tribunal concluding that the above podium setbacks to Stewart Street were insufficient and despite the Minister and Council subsequently endorsing mandatory provisions for setbacks of taller form in the adjoining Swan Street Activity Centre (C191) of 6m as a mandatory setback where extending a heritage building, the applicant has persevered with their Level 4 to 7 setbacks of only 2.5m to Stewart St and now adopted a similar approach for levels 2 and 3. (This despite the applicant’s witnesses arguing during the hearing that the site formed part of the Activity Centre).

**Wind report**

88. Additionally, the earlier development response indicated that significant screening and wind amelioration measures would be necessary, and the Tribunal noted these were likely to change the perceived response of the building to the heritage context.

89. None of the recommended screening initiatives recommended by the Wind mitigation report have been adopted in the revised elevations or plans before the Committee meaning the terraces proposed in the plans will not be fit for purpose. Additionally, the adoption of a single extruded form to the south and east facades is likely to amplify down draft outcomes and the concerns relating to the amenity of adjoining western and northern residents remains unresolved. Given the relative absence of easily accessible open space the provision of useful breakout spaces in the development is critical and the preservation of amenity of pedestrian areas surrounding the building and adjoining private residential open space similarly important.

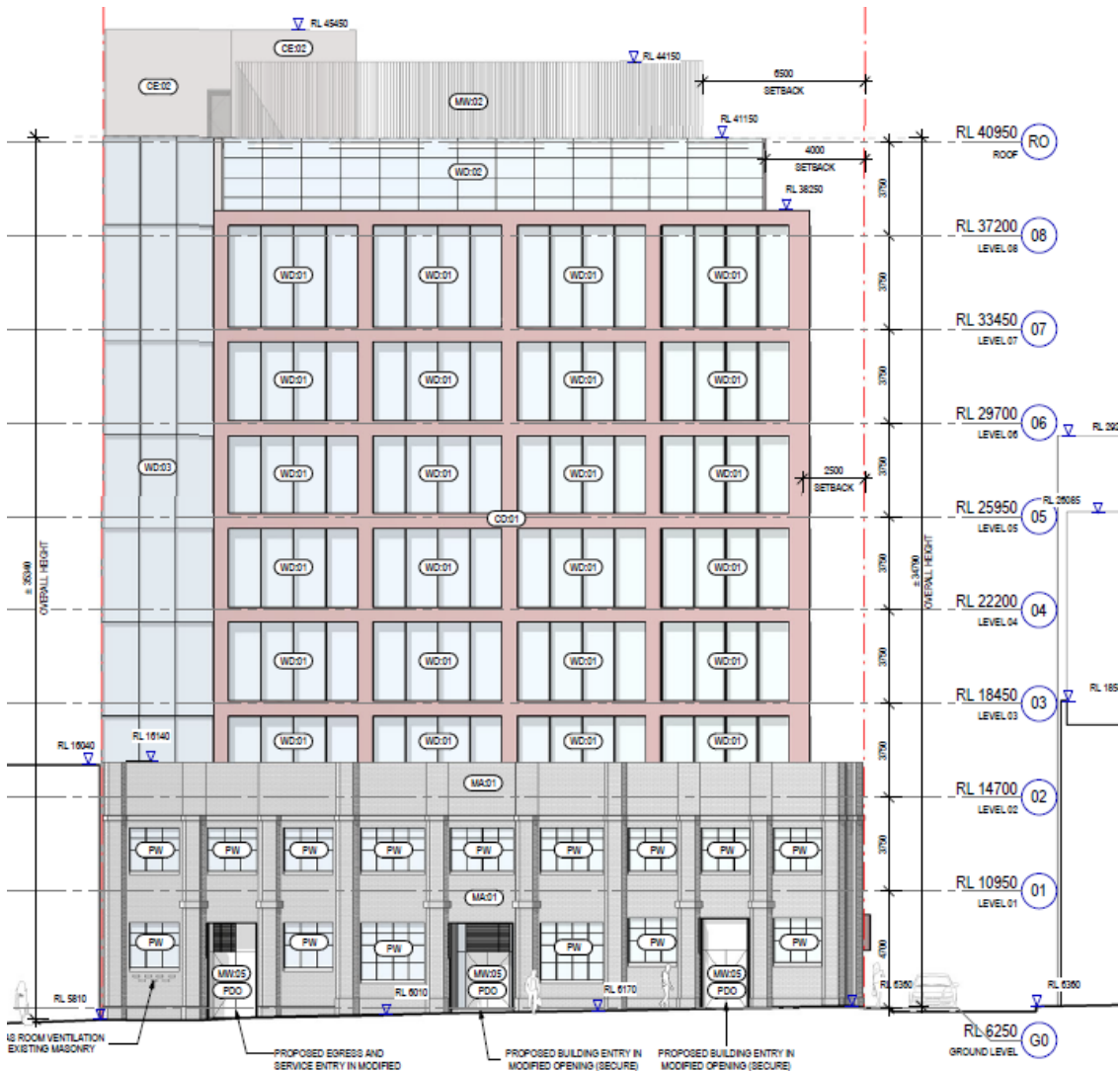
90. The applicant should be asked to update plans with necessary measures so we can all determine what we are dealing with as a built form response and its responsiveness to the heritage and urban design policy settings in which it sits.

**Bulk, form and excessive height**

91. Equally the Tribunal was critical of the development’s insufficient setbacks of the primary service cores to the western frontage and the impact on adjoining residential amenity and the impact on the Margaret Street amenity through scale, removal of heritage and offshore overshadowing impacts and visual bulk and its impact in conjunction with height on what is otherwise a remarkably intact and coherent heritage context in response the applicant has proposed

92. The revised approach with the masonry framing of upper-level form has amplified this perceived bulk versus the earlier highly transparent mass timber forms which were deemed unsatisfactory.

93. The proposal also introduces a new typology referencing masonry loft-built form that has a significant and enduring tradition in Yarra. It juxtaposes a building type that was traditionally built as a loft or factory form as the upper level built form treatment competing with rather than complementing is historically important base building.



94. This sits at odds with planning policy in the local context that seeks to ensure upper-level form is Upper-level development on land within a Heritage Overlay or on land immediately adjoining a heritage building should:

- a) be visually recessive and not visually dominate the heritage building and the heritage streetscape.

95. It is clear that the upper-level design expression now introduced is at odds with this approach.

96. In this regard the building expression has gone backwards rather than forwards as a design response clearly at odds with the legibility goals sought in the Burra Charter and in local policy where heritage policy referred to earlier notes:

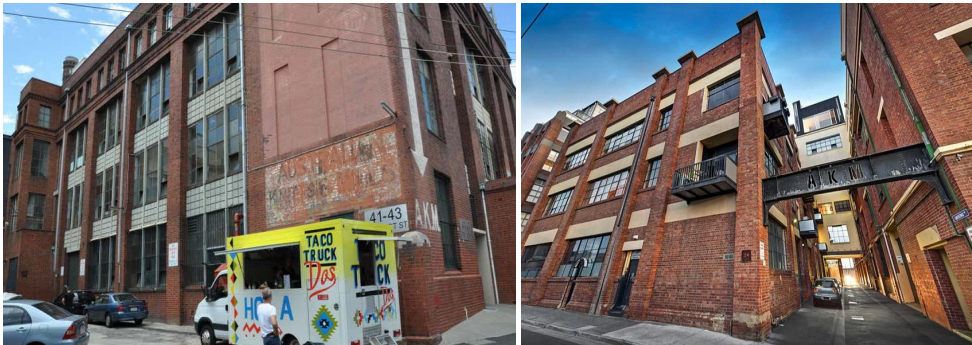
- a) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
- b) *To ensure that additions and new works to a heritage place respect the significance of the place.*
- c) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*

97. It is clear in my view that the provision of a masonry setback warehouse forms references clearly adjoining heritage industrial buildings but doesn't understand how these buildings have occupied sites and contributed to their street and setting.

98. In this instance the building has been incongruously sat on top of an important heritage form and in so doing undermines rather than underpins the values associated with the context and the site.



*Foy and Gibson Building and Bryant and May building*



*Adjoining warehouse forms showing how these buildings form the base of urban framework and form and are not applied to upper levels.*

## **SUMMARY OF FINDINGS**

99. Having reviewed the plans, the final form of the C191 as adopted for the adjoining Planning Scheme amendment by the Minister for the Swan Street Activity Centre, and also the recent decision for the 116 Cremorne Street Site and notably its review of height, offsite impacts and bulk all determined since the hearing of the earlier decision it is reasonable I think to conclude the following:-

### **Strategic support for uses and intensification**

100. There is no question that the site is one where the development of contemporary workplaces is supported by policy alongside the other supporting retail and hospitality uses.

### **Layout**

101. Prioritizing Stewart Street as the primary frontage for access and Margaret Street for service access are also principles that are logical in the proposal underpinned by the established site arrangements and the important role of Stewart Street as a key link to Richmond Station and the Swan Street Activity Centre.

### **Wind Amelioration**

102. I am satisfied that with appropriately enhanced wind comfort standards and interventions to facilitate these, that the development can provide a high-quality workplace environment for occupants and adjoining neighbours but there is no evidence this has been considered at this time even though earlier review of a comparable building indicated significant issues needed to be addressed.



### **Recommendation 1**

An updated wind report based on a wind model in accordance with earlier report recommendations, is required demonstrating that the amenity of the public realm, terraces and adjoining residential private open space is not adversely impacted. Plans and elevations then need to be upgraded for assessment by heritage and urban design consultants and found to be to the satisfaction of the responsible authority.

### **Green Travel**

103. I am supportive of the generous footprint for end of travel facilities but note the workability of the facility as a non-gendered facility in the earlier plan is not supported by the very modest scale of shower areas and would encourage enlargement of these stalls to allow dry change zones for obvious reasons.

### **Recommendation 2**

The ground floor allocation of space for End of Travel facilities is to be evidenced by layouts demonstrating fitness for purpose to the satisfaction of Council.

### **Street level arrangement and floor level configurations**

104. I am comfortable that the ground level will enhance the level of activity and services in Stewart Street if not undermined by the form and impact of upper-level development.

105. I am supportive of the reconfiguration of the floor plan to reposition the lift core to the western side of the building.

### **Heritage**

106. I am supportive of the proposed retention of Heritage fabric to Margaret Street but not of the design concept expression and materiality now adopted for upper levels 2 to 7 inclusive.

107. The support for these approaches however is diminished by the:

- a) proposed amplification of the scale of the elements through the adoption of masonry framework and expression of the levels above the podium between levels 2 and 7 that amplify and exacerbate impact of built form on the heritage context when also considered with the limited 2.5m setbacks from the Stewart Street frontage and as noted earlier are incongruous as a response with best practice in a heritage setting where a contrasting lightweight upper level expression is sought.
- b) In this case by borrowing industrial forms, motifs, and architectural typologies from the neighborhood it further undermines the value attributed to these intact characteristics creating something of a *pastiche* and sits at odds with established best practice and the important role of this precinct as an intact Heritage gateway to Melbourne's sports precinct and architectural excellence therein.
- c) It similarly makes little sense to support a differing set of principles for upper-level development in this heritage neighborhood sitting as it is in direct juxtaposition with the historic Swan Street Activity Centre corridor where a similar recent review would require more ambitious setbacks and contrasting lightweight expression for the upper levels.

### **Recommendation 3**

A revised design language is to be provided for upper-level facades to levels 2-7 demonstrating recessive treatments that distinguish the tower form from the lower-level valued Street wall from to the satisfaction of the responsible authority.

### **ESD**

108. I was supportive of the innovation in ESD and construction systems underpinning the earlier submission,

109. I note the revised plans are silent on the ESD ambition and key measures have been removed from the design expression with no comparison or detail of the revised approach. The earlier plans should provide the basis of ESD ambition for the project.

#### **Recommendation 4**

An updated ESD Plan demonstrating industry best practice is to be provided to the satisfaction of the responsible authority.

#### **Building Bulk and Scale**

- a) the excessive scale of the development above the predominant scale of the neighborhood continues to be an issue with the development continuing to try to establish a landmark status when the attributes of the precinct relate to its consistency, an attribute affirmed in 2 previous VCAT decisions for the site. The design approach adopted does not support a more ambitious scale or expression indeed quite the contrary.
- b) the absence of western setbacks albeit better managed in expression than previously is undermined by the heavier masonry expression to the levels 2 to 7 inclusive.
- c) The adoption of reduced setbacks to levels 2 and 3 has diminished the quality and amenity of open space in the development and amplified the abruptness of the extended tower form and base building.

#### **What heights are reasonable?**

110. The adjoining Swan Street core retail areas south of the rail contemplate heights of between 21m and 28m typically and with largely insensitive commercial and elevated rail corridor uses to the diverse character neighborhood of Cremorne, long known for its cohabitation of big institutional and industrial forms with fine grain areas.
111. In contrast multiple Tribunals have confirmed the largely intact and distinctive attributes of the precinct in which the subject site sits north of the rail. These attributes include the curving crescent form of the buildings to Stewart Street and a coherent medium rise scale of 20m-25m in most instances where renewal has occurred, a scale incidentally concordant with the adjoining western end of the activity Centre.
112. In this instance the applicant proposes a building of in excess of 38 in height at its Margaret Street interface and more than 38.5m at its city facing and excluding the lift overrun.
113. This is a scale approximately 1/3 higher than that of the balance of the precinct and more than double its neighbours.
114. In addition to seeking this greater height than that characterizing the majority of the Activity Centre and all the adjoining neighborhood mixed-use area, it also seeks to propose setbacks less than half the mandated minimums in Swan Street from the Stewart Street interface itself a key pedestrian arrival point to the Richmond Station interchange and to adopt materiality and design expression that amplifies the incongruity in a local context of such an approach to valued heritage buildings and precincts.
115. It is not a site or location that in my view promotes characteristics seeking landmark status.
116. There is no obvious precedent in the environs for the scale proposed and none envisaged by local policy changes for landmarks with this forma and expression.
117. Nor is an outcome proposed where the benefits could be shared across the neighbourhood or where the approach to scale and setback will enhance its integration with broader neighbourhood as has been used to support taller built form.
118. In this instance modest heritage fabric retention and the potential no longer clear in the revised plans for good quality green workplace replicated in several developments in inner Melbourne and this municipality as a framework are the benefits primarily arising from the proposal.
119. These do not warrant the proposed measures and uplift sought by the applicant. They in my view undermine the values ascribed to the area and the shared amenity relied upon for all.
120. The combination of zonal, heritage, urban design and interface controls in the planning scheme need to be read in combination with the unique attributes of the place.

121. As the earlier 2 Tribunal decisions noted, this site is within one such heritage place and this setting should inform the envisaged intensity of development sought.
122. That the Applicant has sought a scale incongruous with its neighbours and that sought in the adjoining Main Street activity centre corridor implies a perceived unfettered or less constrained context than exists in this instance.
123. As the earlier Tribunals both noted, the Yarra Planning Scheme specifically identifies protection of 'heritage skyline' and protection from the 'visual intrusion' of built form within heritage areas.
124. The proposal is excessive in its exceedance of the predominant scale of the area making the development a de-facto new landmark at odds with this policy context and its legibility.
125. With surrounding redevelopments of heights in the order of 6-7 residential mixed-use levels of considerably lesser floor to floor heights typically, it is apparent in my view that the development should in a strategic and physical policy response to context have had more regard to the existing built form character of the area and needs to see substantial reductions in scale to respond to this policy and physical context setting.

### **Excessive height and scale**

126. It follows that a development scale 50% higher than sought in Swan Street's adjoining precincts and 30% taller than its recently reviewed near neighbour, and evident within the heritage precinct within which it sits, is not an outcome I can support in Urban Design terms.
127. This incongruity is noted in the Environmental Wind Assessment where the consultant notes in their scientific assessment:

*The 9 Stewart Street Development will be in an area of predominantly low-rise, 1 to 3 level buildings, and a few taller (4 plus levels) amongst the low-rise buildings. In the far field to the west are the tall buildings the Melbourne CBD and Southbank. Therefore, the upper levels of the 9 Stewart Street Development would have exposure to all wind directions.*

128. My view is that substantial lowering of the building is needed.

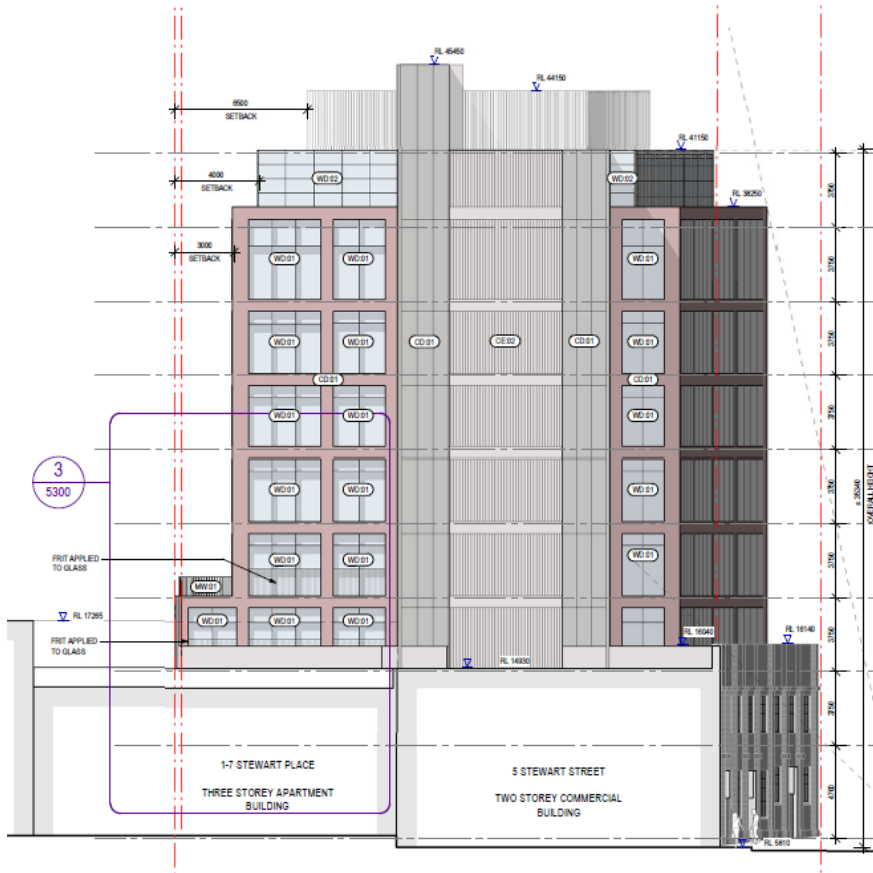
### **Recommendation5**

- a. Remove two floor levels, namely levels 6 and 7.
  - b. Either reintroduction a lightweight palette and design language that does not seek to inappropriately transpose warehouse and industrial architectural forms known and highly valued in the Richmond context into arrangements at odds with these traditions and in a form and setback arrangement that further amplify bulk or increase the setbacks to the primary and secondary street frontages in accordance with metrics similar to Swan Street i.e. 6m to Stewart St and 3m to Margaret St., to reduce the visual impact and confusing of heritage values arising from the limited setbacks and adoption of a masonry palette proposed in the revised plans.
129. This will reduce the height of the building by 7.5m to a foreground parapet height of RL 30.7 to the Stewart Street interface and overall height of nearly 31m to the large plant area screen level. This positions the building with its similar frontage length and larger site, though more constraining interface context at a height comparable through slightly larger overall than that at 31-33 Stewart Street.
  130. It would result in an overall height to approximately 27.8m from natural ground level to the Stewart Street frontage.
  131. This would in my view support a coherent built form expression in this curvilinear street where comparative heights are more apparent because of its crescent form.
  132. These revised heights also sit relatively comfortably with the suggested 27m heights for the western end of Swan Street in the interfaces with the precinct.

## Setbacks

133. I note the proposed setbacks of the development are less than half the mandatory setback measure from heritage facades sought for development in the Swan Street corridor and supported in several other municipal Main Street contexts.
134. I also note that in the adopted C191 Swan Street Amendment considerations this was determined as noted by the Panel, as the outcome of extensive review by several highly regarded heritage experts. Their recommended consensus and that adopted by the Panel proposes a setback arrangement of upper-level form some 2.4 times the dimension proposed in this instance.
135. As noted earlier, the Tribunal concluded in the consideration of this case and after review of the context and the crescent views as well as evidence from heritage consultants that an increased setback was also necessary in this instance.
136. The adoption of a masonry language for upper levels further demands such a response to provide clear demarcation between old and new.
137. I also agree with the C191 Panel and the subsequent confirmation by the Department and the Minister, and the earlier Tribunal for this proposal, that this combination of generous setbacks and modest scale of development above heritage buildings has and will continue to support the celebration of the historic streets of the municipality and contribution to enhanced amenity and placemaking needed for transit-rich mixed use and commercial settings where high concentrations of pedestrian activity are envisaged.
138. I note the 2.5m setback proposed in this instance is also nearly 20% less than the guidance provided by the Tribunal in the earlier review of the subject site.
139. Support for any reduced setbacks is predicated on the excellence of the design resolution of the entire ensemble of design decisions and consequent arrangement and expression.
140. I remain persuaded that with a lower scale response as outlined above and with an appropriate lightweight design language and benchmark best practice green attributes, and subject to mediating the unsatisfactory overshadowing and wind impacts arising from the current proposal, that a modest relaxation of the earlier Tribunal recommendation is supportable partly arising from the somewhat bespoke and curvilinear nature of Stewart Street. The support for this is predicated in radical change to the architectural expression.
141. This expansion of the upper-level footprint and contraction of the space between street wall and upper-level form incursion cannot come with the proposed amplification of height as sought by the current proposal.
142. I had previously recommended to the applicant that setbacks be provided to the western boundary. The applicant has responded with setbacks and better resolution of privacy issues to the areas north and south of the central amenities and stair cores.
143. I acknowledge the Tribunal in the earlier review of the site provided a view that a 3m setback to the adjoining street interfaces was appropriate to create a satisfactory separation between the heritage street wall and upper form for a dramatically reduced built form.

## Western interface



144. The western façade and treatments remain problematic
145. The concern I have was shared by the Tribunal. We have seen in the wind assessment that the heights of the building combined with the design treatments and proximity to neighbours will result in increased wind events in their adjoining properties. The Wind report noted that the author has not been able, at a desktop level, to determine the severity of these or the measures that should be taken to ameliorate them.
146. As is noted in the western elevation SK 3203, the proposed amenities block, and stair built to the boundary are in excess of 35.3m in height relative to their western neighbours without setback and approximately 40m for the stairwell. The masonry framed expression for the balance amplifies this bulk.
147. This visually prominent aspect of the proposal and treatment of this important façade as a sideage places an excessive expectation on the development potential of its neighbour to screen an aspect clearly intended not to be seen. In contrast its neighbour at 31-33 has addressed development in the round. This façade will be the dominant façade visible from the city, Brunton Road and MCG interfaces.
148. Subject to the satisfactory resolution of these matters, I am satisfied that a satisfactory outcome could be achieved for the subject site.

Prepared by Prof. Robert McGauran  
May 2022