



YARRA CITY COUNCIL
Internal Development Approvals Committee
Agenda

**to be held on Wednesday 24 September 2014 at
6.30pm
in Meeting Room 3 at the Richmond Town Hall**

Rostered Councillor membership

Councillor Misha Coleman (substitute for Cr Gaylard)
Councillor Geoff Barbour
Councillor Phillip Vlahogiannis

- I. ATTENDANCE**
Tarquin Leaver (Co-ordinator Statutory Planning)
John Theodosakis (Senior Statutory Planner)
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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***"Welcome to the City of Yarra.
Council acknowledges the Wurundjeri
community as the first owners of this
country.***

***Today, they are still the custodians of
the cultural heritage of this land.***

***Further to this, Council acknowledges
there are other Aboriginal and Torres
Strait Islander people who have lived,
worked and contributed to the cultural
heritage of Yarra."***



Guidelines for public participation at Internal Development Approval Committee meetings

POLICY

Council provides the opportunity for members of the public to address the Internal Development Approvals Committee.

The following guidelines have been prepared to assist members of the public in presenting submissions at these meetings:

- public submissions are limited to a maximum of five (5) minutes
- where there is a common group of people wishing to make a submission on the same matter, it is recommended that a representative speaker be nominated to present the views of the group
- all public comment must be made prior to commencement of any discussion by the committee
- any person accepting the chairperson's invitation to address the meeting shall confine himself or herself to the subject under consideration
- people making submissions shall address the meeting as a whole and the meeting debate shall be conducted at the conclusion of submissions
- the provisions of these guidelines shall be made known to all intending speakers and members of the public generally prior to the commencement of each committee meeting.

For further information regarding these guidelines or presenting submissions at Committee meetings generally, please contact the Governance Branch on (03) 9205 5110.

**Governance Branch
2008**

1. Committee business reports

Item		Page	Rec. Page
1.1	23 Mason Street, Collingwood - Planning Permit Application No. PLN13/1119	5	38

**1.1 23 Mason Street, Collingwood - Planning Permit Application No. PLN13/1119
(Development of the land for full demolition of all structures and the construction
of five dwellings within a three storey residential building.)**

Executive Summary

Purpose

1. This report provides an assessment of the above planning application, which seeks planning approval for development of the land for full demolition of all structures and the construction of five dwellings within a three storey residential building.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 32.04 – Mixed Use Zone;
 - (b) Clause 43.01 – Heritage Overlay;
 - (c) Clause 45.03 – Environmental Audit Overlay;
 - (d) Clause 11.01-2 – Activity centre planning;
 - (e) Clause 15.01-1 – Urban design;
 - (f) Clause 16.01-4 – Housing diversity;
 - (g) Clause 21.05-2 – Urban design;
 - (h) Clause 22.02 – Development guidelines for sites subject to the Heritage Overlay;
 - (i) Clause 22.16 – Stormwater management (water sensitive urban design); and
 - (j) Clause 55 – Two or more dwellings on a lot and residential buildings (ResCode).

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic policy;
 - (b) Heritage and neighbourhood character;
 - (c) Clause 55 – ResCode;
 - (d) Traffic and car parking;
 - (e) Waste management; and
 - (f) Objector concerns.

Objector Concerns

4. Council received a total of nine objections to the application, summarised as follows:
 - (a) Proposal is not consistent with the neighbourhood, heritage or streetscape character and is an overdevelopment of the site.
 - (b) Setbacks from Mason Street are inappropriate.
 - (c) Off-site amenity impacts to surrounding dwellings as a result of visual bulk, excessive height, loss of daylight, reduced airflow, loss of views, noise, overlooking, overshadowing, and reduced energy efficiency.
 - (d) Poor internal amenity to the new dwellings.
 - (e) Traffic and access issues, including the loss of on-street car parking spaces and overuse of the laneway.
 - (f) Loss of green area and open space within the streetscape.
 - (g) Impacts of waste collection.
 - (h) Impacts during construction.
 - (i) Loss of property values.
 - (j) Loss of car parking spaces associated with student housing.

Conclusion

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported, subject to conditions.

CONTACT OFFICER: Erin Baden-Smith
TITLE: Statutory Planner
TEL: 9205 5016

1.1 23 Mason Street, Collingwood - Planning Permit Application No. PLN13/1119

Trim Record Number: D14/126999
 Responsible Officer: Coordinator Statutory Planning

Proposal: Development of the land for full demolition of all structures and the construction of five dwellings within a three storey residential building.

Existing use: Vacant

Applicant: Arthur Shearman, Fastnet Consulting

Zoning / Overlays: Mixed Use Zone; Heritage Overlay (HO336 – Victoria Parade Heritage Precinct, Collingwood); Environmental Audit Overlay

Date of Application: 23 December 2013

Application Number: PLN13/1119

Planning History

6. Planning Permit No. 990070 was issued at the direction of the Victorian Civil and Administrative Tribunal [VCAT] on 10 December 2000 for the *construction of a car park*.
7. Planning Permit 000239 was issued by Council on 6 April 2000 for the *subdivision of the land into 11 lots, each containing one car parking space*.
8. Planning Permit Application No. PLN11/0722 was refused by Council on 20 December 2012. The application sought approval for *development of the land for the construction of a four storey building comprising 6 dwellings, including demolition of fencing and landscaping works*. The refusal was upheld at VCAT (VCAT Reference No: P251/2013).

Background

Land use

9. The land at 23 Mason Street was formerly tied to the use of the land at 39 – 59 Victoria Parade, Collingwood under Planning Permit 990070 as it provided 11 car parking spaces in association with the approved student accommodation use. The association between the two sites was formalised by a Section 173 Agreement required under condition 5 of Planning Permit 990070, which stated:

Within six months of the date of issue of this permit, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987. The Agreement must provide for the following:

- (a) *The provision of 11 car spaces on adjoining land and one car space within the Cambridge Street car park at the rear of the attached houses. Such spaces to be made available for use by residents of the student housing*

10. The Agreement refers to 23 Mason Street, Collingwood as being the ‘adjoining land’ that provides the required 11 car parking spaces. In November 2012, VCAT directed that an amended Planning Permit 990070 be issued deleting the requirement for 11 car parking spaces to be provided on the land at 23 Mason Street, Collingwood.

Existing Conditions

Subject Site

11. The subject site is located on the southern side of Mason Street, between Cambridge Street to the east and Smith Street to the west, in Collingwood. The site is formally known as Lots 1 to 11 on Plan of Subdivision 436337G. The site has a slight fall from east to west and is primarily rectangular in shape, with a frontage to Mason Street of 6.99m and a depth of 30.69m, yielding an overall site area of approximately 215m². The subject site has a slightly irregular western boundary, with a small area of land extending 770mm into the adjacent property to the west for a length of 3.45m. A laneway is located along the eastern and southern boundaries of the site.
12. The subject site is developed with an at-grade, open air car park with a concrete surface (although use of land as a car park has ceased). The site has most recently been used for site sheds and offices for a construction site on Victoria Parade. A timber picket fence adjoins the front (northern) boundary and corrugated iron fencing is located along part of the western side boundary. A number of low shrubs are located along the western side, and a tree is located to the front of the site.
13. Although located within the Victoria Parade Heritage Precinct (HO336), the subject site itself has no heritage significance and is graded 'not contributory' to the overlay.
14. There are no restrictive covenants or encumbrances detailed on the certificates of title submitted with the application.

Surrounding Land

15. The surrounding area has a mixed built form character, owing to the Mixed Use Zone of the subject site and surrounding land, the interface with land in the Commercial 1 Zone to the east, west and south, and the historical mixed use context of the area. The area contains a diverse range of buildings, including former factories, churches, modern infill development, Victorian-era terrace dwellings, and commercial office buildings.
16. Built form in the surrounding area is typically constructed hard to the street edge or incorporates minimal setbacks, and is between one and four storeys in height. Clause 21.08-5 Neighbourhoods (Collingwood) of the Yarra Planning Scheme [the Scheme] describes the suburb as generally "*industrial in character with the residential precincts surrounded by or interspersed with industrial buildings*".
17. The Victorian Heritage Database notes that the Victoria Parade Heritage Precinct (HO336) is significant "*as a substantially intact collection of middle class late nineteenth century residential building stock, supported by key commercial, institutional and religious buildings, demonstrating, as a group, the functions of nineteenth century daily life, and representing the second generation of building development having replaced mainly small timber, buildings dating from the first urban settlement of Collingwood in the 1850s*".
18. Immediately to the west of the subject site is a single storey, attached, Victorian-era terrace dwelling constructed to the shared boundary for a length of approximately 21m. The front wall of the dwelling is setback approximately 1m from Mason Street, and a verandah and small landscaped garden are located within the setback. The verandah is constructed to the Mason Street boundary. The boundary wall incorporates two obscured windows. The rear of the site contains an area of secluded private open space [SPOS]. A roller door adjoins the rear boundary (providing access to the laneway).
19. Further west is a row of four terrace dwellings with a similar configuration. The front walls of the dwellings are generally setback between 1m and 2.5m, and all dwellings incorporate front verandahs. The two western-most dwellings within the row have been extended with two storey additions to the rear of the sites.

20. To the east of the subject site (across the laneway) is a three and four storey, Interwar-era brick building, originally constructed as a nursing institution and currently used as student accommodation. The building is graded 'individually significant' to the HO336. The building is setback 4.5m from the western (laneway) boundary, and incorporates a service area and a number of parallel on-street car parking spaces within the setback. Further south is a double storey building constructed to the laneway frontage.
21. Further east is an open air car park, and a one and two storey brick building (the Cambridge House aged care hospital).
22. To the south of the subject site (across the laneway) is a mixed use, six storey building with a frontage to Victoria Parade. The building incorporates shop and dwelling uses, and a car park accessed via Mason Street and the eastern laneway. Further west of this building is a row of primarily double storey buildings with frontages to Victoria Parade. The buildings are used for residential and commercial purposes, and the sites typically contain rear areas of private open space used for car parking or storage.
23. To the north-east of the subject site (across Mason Street) is a bluestone former church building constructed to both the Mason and Oxford Street boundaries, converted for use as a dwelling. The building has a pitched roof and an overall height of approximately four storeys (to the main ridge line). The building is graded 'individually significant' to the HO336. Further east is a two and three storey brick building associated with the Collingwood English Language School. The school grounds extend north and west (between Cambridge and Oxford Streets and Cambridge Place). The school building is graded 'individually significant' to the HO336.
24. The subject site is located approximately 100m east of the Smith Street Major Activity Centre [MAC], 630m east of the Brunswick Street MAC, and one block north of Victoria Parade. The MACs provide entertainment, retail and service functions including restaurants, bars, cafes, shops and supermarkets. Tram services are available along Victoria Parade, Smith and Brunswick Streets, and the North Richmond train station is located approximately 650m east of the subject site. A number of bus services operate along Hoddle Street. These public transport services provide convenient access to the Melbourne CBD and inner/outer suburban areas.
25. Mason Street is a one-way local Council road with car travel in an easterly direction between Smith and Cambridge Streets. Car parking in the surrounding area is limited, with Mason Street generally containing 1-hour parking spaces during the day and permit parking at all other times. Oxford Street provides some 2-hour daytime parking spaces, unrestricted after 5.30pm.

The Proposal

26. The planning permit application is for development of the land for full demolition of all structures and the construction of five dwellings within a three storey residential building. Specifically, the application proposes:
 - (a) Ground floor
 - (i) The ground floor would contain eight car parking spaces in mechanical stackers; five storage cages each providing 8m³ of storage; a waste storage area; bike racks; and an entry lobby and lift area (accessed via the laneway).
 - (ii) One dwelling would be located towards the front of the building, containing one bedroom; a lightcourt on the western boundary; and a 12m² terrace on the Mason Street frontage.

- (b) First floor
 - (i) The first floor would contain a one bedroom dwelling facing Mason Street, and a two bedroom dwelling at the rear. The front dwelling incorporates a lightcourt on the western boundary and an 8m² balcony on the Mason Street frontage, while the rear dwelling incorporates an 8m² balcony located between the two dwellings.
- (c) Second floor
 - (i) The second floor would contain a one bedroom dwelling facing Mason Street and a one bedroom dwelling at the rear. The front dwelling incorporates a lightcourt on the western boundary and a 9m² balcony on the Mason Street frontage, while the rear dwelling incorporates a 13m² balcony between the two dwellings.
- (d) Heights and setbacks
 - (i) The overall maximum height of the building is proposed to be 11.5m above natural ground level (11.5m on the eastern side and 11.1m on the western side, owing to the slight slope of the land).
 - (ii) The terrace/balcony balustrades are generally built to the front boundary, except for the second floor balustrade which rakes back into the site to achieve a 500mm setback at the upper level. The first and second floor balconies are setback 1.39m from the western side boundary.
 - (iii) The ground floor is generally constructed to the site boundaries, except for a lightcourt on the western boundary and an 800mm setback to the car parking entries on the eastern boundary.
 - (iv) The first and second floors are constructed to the eastern side boundary and part of the western side boundary.
 - (v) At the rear of the building, the western wall of the first and second floors rakes back into the site for an overall setback of 5.27m at a maximum height of 10.45m.
- (e) Car parking
 - (i) The proposed development provides a total of eight car parking spaces within car stackers accessed via the eastern laneway, which runs north-south off Mason Street. Car parking allocation is intended to be one per dwelling, with two visitor spaces provided.
- (f) Bicycle parking
 - (i) Four dedicated bike racks are located within the ground floor bin and general storage area. This area is accessed via the lobby or external roller shutter door.
- (g) Bin storage
 - (i) Bin storage is located on the ground floor, with garbage bins to be collected from inside the building by a private contractor.
- (h) Detailed design
 - (i) The proposed development is contemporary in design, incorporating a flat roof and modern materials and finishes. The façade would incorporate balconies at each level facing Mason Street, with glazed doors behind. The façade will be clad in a concrete wall finish, while the balcony balustrades will be metal 'iron' coloured panels with vertical detailing. The ground floor balcony incorporates a low metal picket fence in a grey colour on the Mason Street elevation, wrapping around the eastern side of the balcony.
 - (ii) The eastern elevation, facing the laneway and the student accommodation building opposite, contains a significant amount of glazing and would be constructed of the same concrete wall finish at the front of the building, with the vertical metal 'iron' panelling continuing from the front balustrades and wrapping around the eastern side of the building at the first and second floors. This metal panel will project slightly from the building. The front and rear sections of the building are separated by the balconies at the first and second floors, and incorporate grey metal picket fencing on the eastern elevation. The rear of the building incorporates horizontal timber cladding to the car park access doors and a roller shutter at ground floor, and vertical metal panelling and glazing at the first and second floors.

- (iii) The western elevation contains a three storey blank wall with a combination of 'concrete' and 'textured concrete' finishes, with a lightcourt towards the front of the site. The rear of the western façade angles back into the site and contains a number of highlight windows set within vertical metal 'iron' coloured panels.
- (iv) The rear elevation is constructed of the 'iron' coloured vertical metal panels, and concrete wall finishes.

Planning Scheme Provisions

Zoning

Mixed Use Zone

- 27. The relevant purposes of the Mixed Use Zone are:
 - (a) *To provide for housing at higher densities; and*
 - (b) *To encourage development that responds to the existing or preferred neighbourhood character of the area.*
- 28. The provisions of Clause 32.04-1 of the Scheme state that use of land as a dwelling is a Section 1 – 'permit not required' use. Pursuant to Clause 32.04-6 of the Scheme, a permit is required to construct two or more dwellings on a lot. A development of three storeys must meet the requirements of Clause 55.

Overlays

Heritage Overlay (HO336 – Victoria Parade Heritage Precinct, Collingwood)

- 29. Under Clause 43.01-1 of the Scheme, a planning permit is required to demolish or remove a building, construct a building or construct or carry out works.

Environmental Audit Overlay

- 30. According to the provisions of Clause 45.03-1 of the Scheme:
 - (a) *Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:*
 - (i) *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
 - (ii) *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*
- 31. The requirements of the EAO will be addressed by way of a note on any permit issued.

Particular Provisions

Clause 52.06 – Car parking

- 32. The provisions of Clause 52.06-2 state that *"before a new use commences, the number of car parking spaces required under Clause 52.06-5...must be provided to the satisfaction of the responsible authority"*.
- 33. Table 1 to Clause 52.06-5 requires a new dwelling with one or two bedrooms to provide one car parking space. Developments of five or more dwellings should also provide one visitor car parking space to each five dwellings.

34. The proposed development of four one-bedroom and one two-bedroom dwellings generates a statutory car parking demand of six car parking spaces (refer to the following table for a breakdown of the proposed car parking arrangement). The proposal satisfies the requirements of Clause 52.06.

Land use	Units	Rate	Spaces required	Spaces proposed	Reduction sought
Dwellings – residents	Four one-bedroom, one two-bedroom	One to each one or two bedroom dwelling	5	6	0
Dwellings – visitors	Five dwellings	One to every five dwellings	1	2	0
Total			6	8	0

Clause 52.34 – Bicycle facilities

35. The provisions of Clause 52.34 only apply to dwellings in developments of four or more storeys. The proposed development is a three storey development and therefore these provisions do not apply.
36. The development will provide four bike racks at ground floor, which exceeds the statutory requirement.

Clause 55 – Two or more dwellings on a lot and residential buildings

37. Under the provisions of the Mixed Use Zone, the proposed development must satisfy the provisions of Clause 55 (ResCode).

General Provisions

38. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant State and Local Planning Policy Frameworks, as well as the purpose of the zone, overlay or any other provision.

State Planning Policy Framework (SPPF)

Clause 11.01-2 – Activity centre planning

39. The objective and relevant strategy of this Clause are:
- (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.*
 - (i) *Encourage a diversity of housing types at higher densities in and around activity centres.*

Clause 15.01-1 – Urban design

40. The objective of this Clause is:
- (a) *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

Clause 15.01-5 – Cultural identity and neighbourhood character

41. The objective of this Clause is:
- (a) *To recognise and protect cultural identity, neighbourhood character and sense of place.*

Clause 15.02-1 – Energy and resource efficiency

42. The relevant objective of this Clause is:
- (a) *To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.*
- Clause 16.01-1 – Integrated housing*

43. The objective of this Clause is:
- (a) *To promote a housing market that meets community needs.*

Clause 16.01-2 – Location of residential development

44. The objective of this Clause is:
- (a) *To locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.*

Clause 16.01-4 – Housing diversity

45. The objective of this Clause is:
- (a) *To provide for a range of housing types to meet increasingly diverse needs.*

Local Planning Policy Framework (LPPF)

Clause 21.04-1 – Accommodation and housing

46. The relevant objectives and strategies within this Clause are as follows:
- (a) *Objective 1 – To accommodate forecast increases in population.*
 - (i) *Strategy 1.3 – Support residual population increases in established neighbourhoods.*

Clause 21.05-1 – Heritage

47. The relevant objective of this Clause is:
- (a) *To protect and enhance Yarra's heritage places.*

Clause 21.05-2 – Urban design

48. The relevant objectives and strategies of this Clause are:
- (a) *To reinforce the existing urban framework of Yarra.*
 - (b) *To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
 - (i) *Strategy 17.1 Ensure that development outside activity centres and not on Strategic Redevelopment Sites reflects the prevailing low-rise urban form.*
 - (ii) *Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits...*
 - (c) *To retain, enhance and extend Yarra's fine grain street pattern.*
 - (d) *To create an inner city environment with landscaped beauty.*
 - (e) *To ensure that new development contributes positively to Yarra's urban fabric*

Clause 21.06 – Transport

49. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives. Relevant objectives and strategies of this Clause are as follows:
- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
 - (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages.*
 - (ii) *Strategy 30.3 – Use rear laneway access to reduce vehicle crossovers.*

- (b) *Objective 31 – To facilitate public transport usage.*
- (c) *Objective 32 – To reduce the reliance on the private motor car.*

Clause 21.07-1 – Ecologically sustainable development

50. The relevant objective and strategy of this Clause are:
- (a) *Objective 34 – To promote ecologically sustainable development.*
 - (i) *Strategy 34.1 – Encourage new development to incorporate environmentally sustainable design measures in the areas of energy and water efficiency, greenhouse gas emissions, passive solar design, natural ventilation, stormwater reduction and management, solar access, orientation and layout of development, building materials and waste minimisation.*

Clause 21.08-5 – Collingwood

51. The following relevant elements are offered at this Clause:
- (a) *Much of Collingwood is industrial in character with the residential precincts surrounded by or interspersed with industrial buildings.*
 - (b) *The Smith Street major activity centre serves multiple roles for local residents whilst attracting visitors from a larger catchment. It is a classic main road strip generally consisting of buildings of two to four storeys interspersed with the occasional building of up to 6 storeys. The subdivision pattern is consistent, and the pattern of the streetscape is generally fine grain. Unlike many other Victorian shopping strips the street is also characterised by the variance in profile and design of buildings. It has a high proportion of individually significant heritage buildings, supported by contributory buildings from the Victorian-era and Edwardian-eras.*
52. This Clause identifies the site as being located within a Heritage Overlay area, where the relevant built form objective is to *ensure that development does not adversely affect the significance of the heritage place.*

Relevant Local Policies

Clause 22.02 – Development guidelines for site subject to the Heritage Overlay

53. The relevant objectives of this Clause are:
- (a) *To conserve Yarra's natural and cultural heritage.*
 - (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
 - (c) *To retain significant view lines to, and vistas of, heritage places.*
 - (d) *To preserve the scale and pattern of streetscapes in heritage places.*
 - (e) *To ensure that additions and new works to a heritage place respect the significance of the place.*
54. Clause 22.02-5.1 (Demolition) outlines that it is policy to:
- (a) *Encourage the removal of inappropriate alterations, additions and works that detract from the cultural significance of the place.*
55. Clause 22.02-5.7 (New Development, Alterations or Additions) outlines that it is policy to (relevantly):
- (a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
 - (i) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
 - (ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*

- (iii) *Be visually recessive and not dominate the heritage place.*
 - (iv) *Be distinguishable from the original historic fabric.*
 - (v) *Not remove, cover, damage or change original historic fabric.*
 - (vi) *Not obscure views of principle façades.*
 - (vii) *Consider the architectural integrity and context of the heritage place or contributory element.*
- (b) *Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*
 - (c) *Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height*

Clause 22.05 – Interface uses policy

- 56. This policy applies to applications for use or development within the Mixed Use Zone (among others). The policy aims to reduce conflict between commercial, industrial and residential activities. The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses. The relevant objective is:
 - (a) *To enable the development of new residential uses within and close to activity centres, near industrial areas and in mixed use areas while not impeding the growth and operation of these areas as service, economic and employment nodes.*
- 57. It is policy that:
 - (a) *New residential use and development in or near commercial centres and activity centres and near industrial uses includes design features and measures to minimise the impact of the normal operation of business and industrial activities on the reasonable expectation of amenity within the dwellings.*

Clause 22.07 – Development abutting laneways

- 58. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal. The relevant objectives of this Clause are:
 - (a) *To provide an environment which has a feeling of safety for users of the laneway.*
 - (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
- 59. Relevant policies are as follows:
 - (a) *Windows and balconies overlook laneways but do not unreasonably overlook private open space or habitable rooms on the opposite side of the laneway.*
 - (b) *Development be in scale with the laneway.*
 - (c) *Development not obstruct existing access to other properties in the laneway.*

Clause 22.16 – Stormwater Management (Water sensitive urban design)

- 60. This policy applies to applications for new buildings, and recognises that increased development can result in greater hard surface area and changes to the volume, velocity and quality of stormwater drainage into natural waterways.
- 61. The relevant objectives of this Clause are as follows:
 - (a) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
 - (b) *To promote the use of water sensitive urban design, including stormwater re-use.*
 - (c) *To mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design for new development.*
 - (d) *To minimise peak stormwater flows and stormwater pollutants to improve the health of water bodies, including creeks, rivers and bays.*

- (e) *To reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and well-being.*

Other Policies

Amendment C133

- 62. Council has prepared a new local policy to consider environmentally sustainable design. Amendment C133 proposes to introduce Clause 22.17 – Environmentally Efficient Design into the Scheme. The Amendment will also update Clause 21.07-1 – Ecologically sustainable development by introducing a new strategy. An Advisory Committee and Panel Report was released on 7 April 2014 and recommended adoption of the amendment subject to minor changes.
- 63. The new policy applies to all land within the City of Yarra, and provides policy objectives and application requirements for residential, mixed use and non-residential development to further implement environmentally sustainable design policy contained within the SPPF and the MSS. The policy requires applications to be considered against the following objectives (where applicable):
 - (a) *Energy efficiency;*
 - (b) *Water resources;*
 - (c) *Indoor environment quality;*
 - (d) *Stormwater management;*
 - (e) *Transport;*
 - (f) *Waste management;*
 - (g) *Innovation; and*
 - (h) *Urban ecology.*
- 64. In determining an application, the Responsible Authority will consider as appropriate:
 - (a) *How the proposal responds to the objectives of this policy from the design stage through to construction and operation, that appropriate tools have been used, and that the specified environmental targets to be achieved are appropriate.*
 - (b) *How the development considers:*
 - (i) *Best practice principles;*
 - (ii) *Innovation;*
 - (iii) *Use of emerging and proven technology; and*
 - (iv) *Commitment to go beyond compliance throughout the construction period and subsequent operation of the building(s).*
 - (c) *Any relevant adopted policies.*

Smith Street Structure Plan

- 65. The subject site is located within the area affected by the *Smith Street Structure Plan* [the Structure Plan]. The Structure Plan was adopted by Council and Amendment C140 prepared, which sought to introduce a Design and Development Overlay. The Yarra C140 Panel Report was released in mid-2012 and recommended that the Structure Plan be abandoned. The Structure Plan is nevertheless an adopted Council document.
- 66. The subject site is identified as part of the *Mixed Use – Langridge Precinct*, where the anticipated built form is generally five storeys. The future character statement for the precinct is as follows:
 - (a) *Infilling of this precinct will see an increase in residential density (replacement of post-war buildings), while retaining some of the former industrial character.*
 - (b) *Medium rise development set back behind the street wall façades.*
 - (c) *Street frontages more active and vibrant.*
- 67. The built form guidelines for the precinct are as follows:

- (a) *Build to the street frontage boundary of the site.*
- (b) *The street frontage façade of infill development must complement the predominant street frontage height of nearby and abutting properties, with upper levels setback.*

Previous VCAT decision

68. The previous planning permit application for the subject site (PLN11/0722) sought approval for the development of the land for six dwellings within a four storey building. The application was originally for a five storey building, but this was reduced to four storeys during the assessment process. The proposal was supported by Council officers subject to conditions, but refused at IDAC. VCAT upheld Council's refusal to grant a planning permit.
69. The proposed development is similar to the previous design in terms of the overall site layout, but has substantially revised the interface with the adjacent courtyard to the west and reduced the overall height of the building by deleting one level. Significantly, the new proposal has provided a setback to Mason Street of between 1.48m and 2.6m, with balconies extending into the setbacks. The previous design incorporated a three storey street wall with simple "punched" openings to the balconies behind. The relevant points of the VCAT decision are outlined as follows.
70. In relation to whether the proposal was an appropriate response to its neighbourhood and heritage context:
- (a) The Tribunal found that while the site has planning policy support for an increase in housing, this support is not without limitations and that considerations relating to heritage, neighbourhood character and internal and external amenity impacts must guide any potential development of the site.
 - (b) The Tribunal agreed with Council's heritage advisor that the proposed building *"was still too assertive in its context, in particular the abrupt transition to its single storey neighbour to the west and its height and bulk in relation to St Saviour's Church which she said should remain the dominant element in the streetscape"*. The proposed development *"fails to resolve the prominence of the building or satisfactorily address its relationship with its neighbour to the west"*.
 - (c) The Tribunal found that *"the proposed building displays quality architecture. The drawings indicate an interesting contemporary building and proposes generally well-designed small apartments with adequate light, storage, private open space, and convenient parking"* and that *"the building is in isolation has merit"*.
 - (d) However, the Tribunal concluded that *"from a heritage and urban context, the building is too large for its small site, a site which is an integral part of a well-defined row of single storey terraces"* and that *"the form and massing proposed fails to adequately respect its heritage context or acceptably respond to its particular urban context"*.
71. In relation to whether the amenity impacts generated by the building area were unreasonable:
- (a) The Tribunal noted that the site *"occupies a position of transition between single storey terraces and a substantial three storey building, in an area clearly designated by policy for more intense and diverse housing"* and acknowledged the presence of a number of high buildings in the immediate location.
 - (b) However, the Tribunal agreed with Council's grounds of refusal that the proposal will adversely affect the amenity of surrounding dwellings, and that *"the setbacks to the south and west do not sufficiently reduce the visual impact of the building on the neighbour [at 21 Mason Street]"*. The Tribunal further concluded that the visual bulk will unreasonably impact the rear yards of properties further to the west in Mason Street.
 - (c) While the Tribunal agreed with the applicant that *"inner urban context invariably reduces amenity and that expectations should be tempered"*, it was not accepted that *"the expectations of solar access should be tempered to the extent of having less sun than that identified above for six months of the year"*. The Tribunal concluded that the effect of the proposal on the amenity of its neighbours to the west is unacceptable.

- (d) Overlooking was not a significant concern, but the Tribunal noted that screening of balconies and windows to limit overlooking serves to increase the apparent size of the building and hence its visual bulk.

72. In conclusion:

- (a) The Tribunal noted that the site presents an opportunity for redevelopment and policy and zoning supports its use as apartments. However, the configuration of the building and the resultant visual bulk presented were found to be unacceptable as they did not respond appropriately to the prevailing urban fabric on the south side of Mason Street, nor to its heritage context.
- (b) The Tribunal acknowledged the “*evident skill of the design architects*” in concluding that the design should be revisited and a less intense proposal submitted to Council.

Advertising

73. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* [the Act] by way of 206 letters sent to surrounding property owners and occupiers, and signs displayed on Mason Street and the eastern laneway.

74. Council received a total of nine objections to the application. The grounds of objection are summarised as follows:

- (a) Proposal is not consistent with the neighbourhood, heritage or streetscape character and is an overdevelopment of the site.
- (b) Setbacks from Mason Street are inappropriate.
- (c) Off-site amenity impacts to surrounding dwellings as a result of visual bulk, excessive height, loss of daylight, reduced airflow, loss of views, noise, overlooking, overshadowing, and reduced energy efficiency.
- (d) Poor internal amenity to the new dwellings.
- (e) Traffic and access issues, including the loss of on-street car parking spaces and overuse of the laneway.
- (f) Loss of green area and open space within the streetscape.
- (g) Impacts of waste collection.
- (h) Impacts during construction.
- (i) Loss of property values.
- (j) Loss of car parking spaces associated with student housing.

75. A planning consultation meeting was held on 15 July 2014, attended by planning officers, the applicant, and objectors. No changes to the proposed development resulted from this meeting.

Referrals

External Referrals

76. The application was not required to be referred (or notice given) to any referral authorities under Clause 66 of the Scheme.

Internal Referrals

Engineering Services Unit

77. The application was referred to Council’s Engineering Services Unit, who made the following comments and observations:

78. Access Arrangements

- (a) *A site inspection of the north-south Laneway abutting the property’s east boundary revealed that it comprises an asphalt pavement flanked by a low profile bluestone kerb and channel on its west side and a bluestone open invert on the east side.*

- (b) *The designer will need to reset the bluestone kerb along the west side of the Laneway in order to provide vehicular access. The invert levels along the channel must not be altered.*
- (c) *A check of the proposed ground floor plan using the Australian/New Zealand Standard's B85 vehicle turning template and the reverse-in template indicates that vehicle turning movements into and out of each stacker platform are considered satisfactory.*
- (d) *The stacker devices must be installed, operated and maintained in accordance with the manufacturer's specifications and requirements.*

79. Internal Layout

- (a) *The individual stacker platforms can accommodate 85th percentile vehicles and are considered satisfactory for this development.*
- (b) *The designer should provide further information in relation to the wall mounted bicycle racks and ensure that four bicycles can be comfortably accommodated.*

80. Public Lighting

- (a) *The redevelopment of the site will provide primary pedestrian access off the Laneway. Essentially, Rights of Ways, lanes and back roads that provide primary pedestrian access to residential dwellings must be adequately lit from the nearest street to the front of the residences (Council policy).*
- (b) *As a consequence of providing primary pedestrian access off the Laneway, the developer must provide public lighting for the new entrance that complies with the minimum lighting level of P4 as required by the Australian Standard AS/NZS 1158.3.1:2005 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements.*
- (c) *The developer must check to ensure that the existing street light at the entrance of the Laneway or the existing light in the Laneway (wall mounted light, opposite the subject site) provide the lighting level P4 to the pedestrian entry. If the existing light level is insufficient, the developer will be required to replace the existing luminaire and/or provide a lighting scheme design to ensure that Council requirements are met. Should new pole/s and light/s be required, the developer will also be responsible for consultation with CitiPower and all owners of affected properties with respect to the position/s of the new pole/s and light/s. Light must not spill into the windows of the subject site or in any of the adjoining residences.*
- (d) *A new light can only be sourced from the energy efficient series adopted by CitiPower for a standard light. All works can only be carried by CitiPower and must comply with CitiPower standard requirements and regulations. This light will be under the CitiPower maintenance scheme once installed.*
- (e) *All costs associated with investigating, designing and supplying and installing any public lighting for pedestrian access to development shall be borne by the developer.*
- (f) *For further information on street lighting, please contact Council's Traffic unit (based at the Fitzroy Town Hall) on telephone 9205 5731.*

81. Drainage

- (a) *The applicant must apply for a Legal Point of Discharge under Regulation 610 – Stormwater Drainage of the Building Regulations 2006 from Yarra Building Services unit.*
- (b) *Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 610.*
- (c) *Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.*

82. Where relevant, these recommendations will be addressed by way of notes and conditions on any permit issued. With regards to the possible replacement of the existing street light, it is considered that it would be overly onerous to require the provision of additional street lighting infrastructure given the existing use of the laneway for access and the relatively small scale of the proposed development. Adequate on-site lighting for the car parking and dwelling entrances will be required by way of a condition on any permit issued (refer to ResCode assessment below).

Heritage

83. The application was also referred to Council's heritage advisor, who made the following comments and recommendations:

84. Built form (height/setbacks)

- (a) *The impact of the transition and the height of the proposed building in relation to the abutting single storey cottage to the west, and its neighbours, and the height and bulk in relation to the church, are the principal issues to consider.*
- (b) *The proposed height of 11.466 metres is similar to the previously proposed height of 11.071 metres abutting the cottage(s) in Mason Street and which was previously considered to be acceptable of itself. The increase in height of approximately 400 mm is inconsequential of itself.*
- (c) *The setbacks in Mason Street are either zero or approximately 1 – 1.5 metres i.e. wing walls have a zero setback with verandah roofs being set back approximately 1 metre allowing for narrow front gardens along the property line. The setback of 1.89 metres to the façade and zero to the fence at the ground floor is similar to the setback pattern of the abutting cottages and is acceptable of itself. The same setback of 1.89 metres at the first floor is acceptable. At the second floor the setback increases to 2.39 metres as the façade is raked back at this level. Of itself this is an improvement.*
- (d) *The height and setbacks are now either acceptable or an improvement.*
- (e) *At the first and second floor the balconies have a zero setback from the property line and a side setback away from the abutting cottage of 1.39 metres. This is an improvement.*
- (f) *While there have been several improvements, the proposed design will still dominate the cottages and the streetscape. While acknowledging that a floor has been deleted is it the less intense development which VCAT recommended? The floor plans have merely been squared up other than for the south-west corner of the second floor which has been set in further but this is not a heritage issue. The principal concern remains the interface with the cottages and the dominant presentation to Mason Street.*
- (g) *The blank wall (west elevation) visible above the cottage still has a tendency to overwhelm it. The front portion of this wall is proposed to be concrete (RN:01) whereas the rear portion is proposed to be textured concrete (RN:02). It is not clear what type of concrete is proposed in either section. Is the front portion off-form, smooth or something else? Together with a similar façade it appears as a concrete box. While previous designs were more aggressive and assertive, this design in terms of surface treatment appears bland and unaesthetic. Without returning to the bold, some visually distinguishable but understated pattern should be used on the concrete of the façade and western return and equivalent elsewhere, to provide a "Plastik" quality and to tone-down (soften) the dominance of the wall above the cottage.*
- (h) *The balcony balustrades to the façade are solid which emphasizes the projection which in turn causes them to be intrusive and dominant. They are proposed to be "Metal Colour Iron" (MF:01). No actual material is proposed. A visually-permeable balustrade such as with metal slats (which would add some texture) and depending on the spacings would present a lighter appearance. Glass balustrades would probably still present as a "box" but could be considered depending upon the outcome. Metal slats would also tie-in with the ground floor balustrade and picket fences. A sunshade/pergola at Level 3 would also add some texture and dilute the almost "Brutalist" quality which the building now has.*

- (i) *Consideration should be give to raking back the first floor balustrade to create a sense of recession as the building rises in height and therefore reducing the visual dominance in relation to the cottages.*
 - (j) *The treatments to the front portion of the east elevation should be altered to tie-in with the façade. At the rear they could remain as is or be changed as per the front.*
85. Colours/materials
- (a) *A light grey or white palette as previously recommended has been employed and this is acceptable.*
 - (b) *Tongue and groove horizontal timber cladding is proposed for the garage doors and adjacent area on the east elevation. "Natural timber" has been specified. There are numerous examples in Yarra where unmaintained stained or natural timber has become unsightly and unacceptable in terms of presentation. If timber is to be used then painted timber is preferred otherwise and other materials should be selected.*
86. Fence
- (a) *Metal pickets – acceptable.*
87. Crossover
- (a) *From the side road - acceptable.*
88. Recommendation / Comments:
- (a) *Not approved in its current form.*
 - (b) *While there have been several improvements, they are not sufficient to result in a design which is less assertive and dominant in relation to the interface with the cottages. The proposed design will still dominate the cottages and the Mason Street streetscape. While acknowledging that a floor has been deleted is it the less intense development which VCAT recommended?
Meaning that if something else were deleted to allow a greater setback of the balconies this might result in an acceptable interface with the cottages which remains the principal concern together with the dominant presentation to Mason Street.*
 - (c) *The following changes may result in a design which is acceptable and the proposal should be resubmitted to achieve a less aggressive and dominant interface. Any other changes in this direction should also be considered:*
 - (i) *Add some visually distinguishable but understated pattern to create some texture to the façade and return concrete at least without returning to the bold.*
 - (ii) *Prefer visually-permeable balustrades such as with metal slats (which would add some texture) and with wide rather than narrow spacings.*
 - (iii) *Consider raking back the first floor balustrade to create a sense of recession.*
 - (iv) *Add a sunshade/pergola to Level 3.*
 - (v) *If timber is to be used then painted timber is preferred otherwise and other materials should be selected.*

Waste Management

89. The application was referred to Council's Engineering Operations Branch, who advised that *"the Waste Management Plan [WMP] prepared by Waste Wise Environmental, dated 26 April 2012, is satisfactory from the Engineering Operations Branch's perspective"*.
90. It is noted that the WMP submitted with the application, dated 29 November 2011, was incorrectly submitted and has been superseded by the April 2012 version. The April 2012 WMP will be relied on for the purposes of this assessment.

OFFICER ASSESSMENT

91. The key planning considerations for Council in considering the proposal relate to:
- (a) Strategic policy;
 - (b) Heritage and neighbourhood character;

- (c) Clause 55 – ResCode, including off-site and on-site amenity considerations and environmental efficiency;
- (d) Traffic and car parking;
- (e) Waste management; and
- (f) Objector concerns.

Strategic policy

- 92. In relation to relevant objectives and strategies of the State and Local Planning Policy Frameworks, it is considered that the proposed development of five dwellings on the site is afforded a high level of strategic policy support.
- 93. The proposal will deliver new housing opportunities in an established urban area with good access to infrastructure and services, consistent with Clause 16.01-2 which encourages *“higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport”*. Clause 11.01-2 of the Scheme specifically encourages the provision of *“a diversity of housing types at higher densities in and around activity centres”*. The subject site is located approximately 100m from the Smith Street MAC, 630m from the Brunswick Street MAC, immediately north of Victoria Parade, and enjoys excellent access to public transport and services.
- 94. Clause 21.04-4 encourages new development to provide for a diversity of housing types; this proposal will deliver five new one and two bedroom dwellings in an inner city location, contributing to the diversity of housing in the area. The proposal will result in efficient use of existing infrastructure, consistent with Clause 21.04-1 of Council’s MSS. Related strategies encourage the adaptation and reuse of land in established urban areas to reduce development pressures on the metropolitan fringe and encourage sustainable transport.
- 95. Clause 16.01-4 also seeks to provide a range of housing types in well-designed, medium-density housing developments that respect the neighbourhood character; improve housing choice; make better use of existing infrastructure and improve the energy efficiency of housing. Clause 16.01-5 aims to deliver more affordable housing closer to jobs, transport and services. It is considered that the subject site’s locational benefits and strategic policy context support a medium-density residential development. The proposal would achieve multiple objectives and is ideally located for higher density development.
- 96. While the proposed development is considered to enjoy a high level of strategic policy support relating to the provision of higher density housing, these objectives must be balanced against the impact on neighbourhood character and the amenity of surrounding dwellings. The following assessment will address the heritage and neighbourhood character considerations of the proposed development.

Heritage and neighbourhood character

- 97. It is considered that subject to conditions, the proposed development will achieve an appropriate outcome with regards to the heritage context of the streetscape, and will adequately respect the existing neighbourhood character. This heritage and neighbourhood character assessment will address Clauses 22.02 and 22.07 and the recommendations of Council’s heritage advisor, with reference to the relevant provisions of the State and Local Planning Policy Frameworks where appropriate. The previous VCAT decision also provides guidance, and will be addressed throughout this assessment where relevant.

Context

- 98. The subject site is located less than 100m east of the Smith Street MAC and abuts the rear boundaries of buildings fronting Victoria Parade. Built form in the surrounding area ranges in height and form. The immediate context is characterised as follows:

- (a) To the west, the subject site adjoins a row of five Victorian-era terrace dwellings on the southern side of Mason Street, all presenting as single storey to the street frontage, with some rear second storey additions. Properties further towards Smith Street are between two and three storeys in height. Generally, the properties are characterised by 1m to 2m front setbacks, side walls on boundaries, and courtyards to the rear.
- (b) Buildings on the northern side of Mason Street are generally between one and two storeys, and are built with zero front setback.
- (c) Buildings to the east and north-east of the subject site are between one and four storeys in height, and are generally built with zero front setback to Mason Street.
- (d) To the south are buildings between two and six storeys (with frontages to Victoria Parade) that typically incorporate open areas to the rear of sites.
- (e) The surrounding context is generally characterised by hard edge boundary construction; high levels of site coverage; and boundary walls with areas of blank facades. The row of one and two storey dwellings to the west of the site is not consistent with the prevailing neighbourhood character, and is one of a few isolated pockets of similar dwellings in this part of Collingwood, given the area's historical commercial and industrial land use context.

99. This context will guide the following heritage and neighbourhood character assessment.

Demolition

100. The application proposes the demolition of all structures on the subject site, including the front, rear and side boundary fencing, and all vegetation. As the site is graded 'not contributory' to the Victoria Parade Heritage Precinct and therefore has no heritage significance, the proposed demolition is considered to be acceptable, consistent with the provisions of Clause 22.02-5.1.

Setbacks and building height

- 101. The proposed development will be setback 1.85m at ground and first floor, and between 1.85m and 2.6m at second floor (as the second floor angles back into the site). Balconies extend into the setbacks, and are screened with a metal picket fence at ground floor and solid vertical steel panel balustrades at the first and second floors. The building is constructed to the side boundaries on the Mason Street elevation, with a height of between 11.1m and 11.5m.
- 102. It is considered that the overall height of the proposed building, the setbacks of the northern wall of the building, and the balconies constructed to the street frontage appropriately respond to the character of the surrounding area. While the subject site adjoins a row of single storey dwellings graded 'contributory' to the Heritage Overlay, the development is considered to adequately respond to the context of the area.
- 103. With regards to heights and setbacks, Council's heritage advisor commented that the proposed height is "*acceptable of itself*", and that the balcony and façade setbacks are similar to the setback pattern of the abutting cottages and are an improvement (on the previous design).
- 104. While the height and setbacks are now either "*acceptable or an improvement*", Council's heritage advisor noted that "*the proposed design will still dominate the cottages and the streetscape*" and that the principal concern is still "*the interface with the cottages and the dominant presentation to Mason Street*". A number of recommendations seek to address the dominance of the building. These recommendations will be discussed in detail further in this assessment.

105. The context outlined above identifies a three and four storey building to the east with an approximate height of 13.7m; a two storey building to the north with an approximate height of 8.8m; the church to the north-east which has a 2.5 storey street wall on Mason Street and up to three storeys to the top of the ridge on the front façade. Buildings further east are up to four storeys in height, and the character of buildings to the north (along Oxford Street) is between three and four storeys.
106. These heights reflect the historical land use and development pattern within the area and have not been a result of modern infill development. Notably, the former church, student accommodation building to the east and Collingwood English Language School to the north-east are all graded 'individually significant' to the Heritage Overlay and date from the 1870s and 1920s. These significant buildings inform the context of the area and contribute to its character.
107. This character has been solidified over time, as evident in the development of other two to four storey buildings on Mason and Oxford Streets, including the two storey building directly opposite the subject site and the four storey apartment building at 15-17 Oxford Street. In some instances, this prevailing height character has been intensified, as in the case of the six storey apartment building directly to the south (fronting Victoria Parade).
108. With regard to the above, the context of the area in terms of historical and modern development heights informs and guides a reasonable expectation of development on the subject site. While it is acknowledged that around 6m of the proposed three storey building will be visible above the roofs of the dwellings to the west, the heights of these buildings do not reflect the overall character of the area and its prevailing building heights.
109. In considering the previous development proposal, the Tribunal acknowledged that the site occupies *"a position of transition between single storey terraces and a substantial three storey building in an area clearly designated by policy for more intense and diverse housing"*. The issue is then whether the proposed three storey building provides an appropriate transition as contemplated by the Tribunal.
110. It is considered that the overall building height (reduced from four to three storeys), the façade setbacks (with protruding balconies rather than 'punched' balconies reinforcing the impression of a setback from the street frontage) and the setbacks of the first and second floor balconies from the western side boundary (providing a 'cut-out' to the adjacent dwelling) represent an acceptable transition between the abutting single storey built form and higher buildings in the surrounding area.
111. The reduced height, increased setbacks of the front wall, and the 'cut-out' in the north-western corner of the building ensure that the development is consistent with Council's local heritage policy at Clause 22.02-5.7.1 of the Scheme and will ensure that the proposed development does not obscure views to principal facades. Views to the contributory dwelling to the west will generally be maintained from the east. This is considered to be acceptable.
112. The proposed development responds to the pattern of front setbacks evident in the row of dwellings to the west, where side walls and verandahs are constructed to the street frontage with the primary façade setback between 1m and 2m. The dwellings also incorporate a pattern of horizontal lines through the verandah roofs.
113. The proposed 1.85m setback of the ground and first floor façades behind the balcony balustrades, with the balustrades extending to the front boundary, responds to the pattern of development of the dwellings to the west. The second floor setback of between 2.35m and 2.6m with the balcony balustrade and façade both raking back into the site ensures that the second floor reads as an appropriately recessive element. The appearance of the building has a clear aesthetic link to the dwellings to the west when the façade setbacks and horizontal lines are considered.

114. To the rear of the site, the transition to the single storey dwellings to the west has been substantially improved through the introduction of setbacks and a raked wall to the upper levels. While the off-site amenity impacts of the proposed development will be discussed in the Clause 55 – ResCode assessment later in this report, this interface treatment is considered to appropriately respond to the site context.
115. The interface to the laneway along the eastern boundary of the site is also considered to be appropriate. The eastern elevation is constructed with zero setback to the laneway, referencing the vertical walls of the ‘individually significant’ building opposite the subject site in addition to the hard edge boundary construction of buildings in the wider area. This ensures that the proposed development respects the scale of surrounding built form, consistent with the objectives of Clause 22.07 of the Scheme. Furthermore, the proposed development provides balconies and windows on the eastern elevation, promoting surveillance of the public realm, consistent with Clause 22.07-3 of the Scheme.
116. Overall, it is considered that the proposed development appropriately responds to the heritage and neighbourhood character of the surrounding area with respect to heights and setbacks. The development responds to the prevailing height and built form character of the area, while incorporating measures to respect the adjacent single storey dwellings. Elements of the detailed design including materials and finishes will be discussed further in the balance of this assessment.

Detailed design, materials and finishes

117. While noting that the height and setbacks of the proposed development are now either “*acceptable or an improvement*”, Council’s heritage advisor commented that the proposed design will still dominate the cottages and the streetscape, noting that the principal concern is the interface to the single storey dwellings to the west and the dominant presentation to Mason Street. The advisor made a number of recommendations to achieve a less aggressive and dominant interface. These will be discussed in turn below.
118. Council’s heritage advisor commented that the blank wall visible on the western elevation overwhelms the single storey dwelling and questioned the proposed ‘concrete’ and ‘textured concrete’ finishes along the front and western elevations, noting that these surface treatments appear “*bland and unaesthetic*”. While avoiding a bold design, it was recommended that a visually distinguishable but understated pattern should be employed on the concrete finishes to soften the dominance of the wall above the dwelling.
119. It is acknowledged that the western façade will be a visible component of the proposed development. In itself, this is not unacceptable, as the presence of boundary walls has been identified as a prominent element of the character of the area. The height of the wall is, in itself, not unacceptable. Visible on-boundary walls are an established part of the character of both heritage and modern developments in the surrounding area, and the three storey height of the wall is commensurate with the height of other buildings in the street.
120. While the height and visibility of the western wall is acceptable in principle, it is agreed that the introduction of additional articulation or patterning of the concrete finishes would reduce the visual bulk and improve the appearance of the building within the streetscape. This can be addressed by way of a condition on any permit issued requiring the materials and finishes schedule to be amended accordingly. A condition will also require the submission of a materials and finishes board with samples of all external materials to be used.
121. Council’s heritage advisor further noted that the solid balcony balustrades at the first and second floors emphasise the projection of the building and are “*intrusive and dominant*”. The advisor recommended the proposed metal ‘iron’ coloured balustrades should be replaced with a visually permeable material, such as metal slats with wide rather than narrow spacings, to provide a lighter element with less visual dominance. It was noted that glass balustrades could also be considered.

This can be addressed by way of a condition on any permit issued. The condition will allow a flexible response in order to avoid a visual inconsistency between the ground floor metal picket fence and the upper level balustrades if metal slats are selected.

122. Council's heritage advisor recommended the addition of a sunshade/ pergola structure above the second floor balcony, in order to "add some texture and dilute the almost 'Brutalist' quality which the building now has". However, it is considered that the addition of a solid projecting element at the second floor would increase the visual presence of the upper level of the building, diminishing the benefits achieved by raking back the front wall and the balustrade. These design elements achieve a more recessive built form outcome that responds to the heritage and streetscape character of the surrounding area. Further additions which emphasise the visibility of the upper level are not supported.
123. Council's heritage advisor commented that the light grey and white colour palette is acceptable from a heritage perspective, but that the 'natural timber' cladding to the car parking entries should be painted in order to avoid the material becoming stained and unsightly over time. Alternatively, a different material should be used. It is acknowledged that timber finishes require ongoing maintenance. A condition will be included on any permit issued requiring the timber finish to be stained and maintained to Council's satisfaction.
124. Overall, it is considered that subject to the conditions outlined above, the detailed design response is acceptable, having regard to the heritage and neighbourhood character context of the site.

Summary

125. With regard to the above discussion and subject to conditions, the proposed development is considered to appropriately respond to the heritage and neighbourhood character of the site and surrounding area.

Clause 55 – ResCode

126. The following is a detailed assessment of the proposal against the relevant provisions of ResCode (Clause 55), incorporating off-site and on-site amenity considerations and environmental efficiency.

55.01 – Neighbourhood and Site Description and Design response

127. A neighbourhood and site description has been completed, comprising a written statement accompanied by a site context plan. A design response has been provided, in the form of a written response to relevant ResCode objectives. The plans submitted with the application and the assessment against the provisions of Clause 55 are deemed appropriate to satisfy this requirement.

B1 – Neighbourhood character objectives

128. It is considered that subject to conditions, the proposed development will adequately respect the existing neighbourhood character, as demonstrated in the above heritage and neighbourhood character assessment. The character of the area is defined by its heritage significance and, as such, is integral to a consideration of neighbourhood character.
129. The built form and heritage character of the area is generally characterised by buildings between two and four storeys in height, with zero boundary setbacks at the front and significant boundary wall construction. As discussed above, the row of 'contributory' single storey dwellings to the west is generally not reflective of the character of the wider area.

It is considered that the proposed development responds to and appropriately respects the character of the area through the overall three storey height (with a recessive third storey); façade setbacks at all levels that reflect those of the adjacent dwelling; and the 'cut-out' from the north-western corner.

130. The neighbourhood character is also informed by the strategic policy and zoning controls which apply to the subject site. The proposed development is consistent with the purpose of the Mixed Use Zone, which specifically contemplates housing at higher densities that responds to the existing neighbourhood character of the area.

131. Overall, it is considered that subject to conditions requiring changes to façade treatments, materials and finishes, the proposed development meets the objective of the standard and will respect the existing neighbourhood character.

B2 – Residential policy objectives

132. In relation to the residential policy objectives of Standard B2, it is considered that the proposed development is consistent with relevant objectives of the State and local planning policy frameworks, which encourage inner city areas with good access to public transport, infrastructure and services to accommodate a substantial portion of the new housing that will be required across Melbourne.

133. The construction of five dwellings on the lot will contribute to housing provision and housing diversity within Yarra, in an area well served by public transport and community infrastructure. This is consistent with Clause 16.01-2 which seeks to encourage new housing in and around activity centres and other areas with good access to services and transport. The subject site is located close to the Brunswick and Smith Street MACs, located close to tram and rail services, and enjoys good access to public open space assets including Fitzroy and Carlton Gardens. The proposal will result in efficient use of existing infrastructure and will support an increase in population in established areas, consistent with Clause 21.04-1 of Council's MSS.

134. The objectives of the standard are met.

B3 – Dwelling diversity objective

135. N/A – This standard does not apply as the proposal is for less than 10 dwellings.

B4 – Infrastructure objectives

136. The construction of five dwellings on the lot will not unreasonably overload the capacity of utility services and infrastructure. The site is already connected to appropriate utility services and infrastructure, and this can be readily extended to accommodate the dwellings.

137. The objectives of the standard are met.

B5 – Integration with the street objective

138. Dwelling 1 (ground floor), dwelling 2 (first floor) and dwelling 4 (second floor) are oriented towards Mason Street, while dwelling 3 (first floor) and dwelling 5 (second floor) are oriented towards the laneway, consistent with the objectives of the standard. The design of the elevations has been considered, with articulation provided via windows and balconies. The pedestrian entrance to the development is clearly legible and visible from the street. Windows and external living areas are oriented towards the street where possible, and the height of the balustrades will enable surveillance of the public realm.

139. The objective of the standard is met.

B6 – Street setback objective

140. While the eastern laneway is not technically a side street, it has been considered as such for the purposes of this standard.
141. The front wall of the adjacent dwelling to the west is setback 1m from Mason Street, and incorporates a verandah built to the street frontage. As the site is on a corner, the standard requires the building to be setback at least 1m from Mason Street and 3m from the laneway. Porches, pergolas and verandahs less than 3.6m in height may encroach into the setbacks of the standard. Accordingly, while the 1.85m setback of the front wall of the building complies with the standard, the balconies at the first and second floors and the zero setback from the laneway require a variation to the standard.
142. The proposed setbacks are considered to achieve an appropriate balance between respecting the setback pattern of the row of dwellings to the west (between 1m and 2m, with verandahs built to the street frontage) and other buildings in the streetscape, which are generally constructed hard edge to the front and side boundaries.
143. As discussed under the heritage and neighbourhood character assessment above, the zero setback to the laneway is considered to respond to the character of surrounding buildings including the student accommodation building directly opposite.
144. The objective of the standard is met.

B7 – Building height objective

145. The maximum height of the proposed development is 11.5m above ground level, which exceeds the maximum 9m recommended by the standard. The height is considered to meet the objective of the standard, which is to ensure that the height of buildings respects the existing or preferred neighbourhood character.
146. As discussed in the heritage and neighbourhood character assessment above, the height of the proposed development is considered to be generally consistent with the surrounding neighbourhood character, which includes two, three and four storey buildings. The transition to the single storey dwellings to the west of the site has been discussed in detail earlier in this report. Council's heritage advisor commented that the proposed height is acceptable from a heritage perspective.
147. The objective of the standard is met.

B8 – Site coverage objective

148. The proposed development would cover 100% of the subject site, which does not comply with the maximum 60% recommended by the standard. It is nevertheless considered that the objective of the standard is met, and that the site coverage respects the existing neighbourhood character. Site coverage in the surrounding area can be generally described as high, with buildings typically occupying 100% of sites (particularly to the north).
149. While the row of dwellings to the west generally contain small open courtyards to the rear, as noted above these examples are not typical of the character of the area where buildings are generally constructed to the front and side boundaries.
150. The proposed site coverage is considered to be acceptable and responds to the existing neighbourhood character.
151. The objective of the standard is met.

B9 – Permeability objectives

152. While the existing site coverage is effectively zero (in terms of buildings on the site), the site is almost entirely concreted with only a very small amount of site permeability. The proposed site permeability would be zero, and accordingly requires a variation to the minimum 20% recommended by the standard.
153. Given the site context and neighbourhood character, the proposed site permeability is considered to be acceptable, subject to appropriate measures to address stormwater management consistent with Clauses 21.07 and 22.16 of the Scheme.
154. The Sustainable Design Assessment [SDA] submitted with the application notes that the proposed development will achieve a STORM rating of 110%, which complies with the objectives of Clause 22.16. No copy of the STORM report has been provided, and will be addressed by way of a condition on any permit issued. The SDA outlines that one 2000L rainwater tank will be installed, connected to 112m² of roof and used for toilet flushing. The rainwater tank is not identified on the plans. This is not acceptable and will be addressed by way of a condition on any permit issued.
155. Given the small size of the subject site, exceeding the best practice in stormwater management by achieving a STORM rating of more than 100% is considered to be acceptable and will meet the objectives of Clause 22.16 of the Scheme.
156. The condition will ensure that the objectives of the standard are met.

B10 – Energy efficiency objectives

157. Overall, it is considered that the proposal will achieve an appropriate level of energy efficiency, consistent with the objectives of the standard.
158. The dwellings will achieve good solar access and natural ventilation, incorporating windows to all habitable rooms. The operability of the windows has not been identified on the plans, and will be addressed by way of a condition on any permit issued. Given the north-south orientation of the subject site, all dwellings will receive solar access from east and west-facing windows.
159. The SDA outlines the following energy efficiency commitments:
 - (a) A minimum FirstRate energy rating of 6 stars;
 - (b) Gas hot water; and
 - (c) Reverse cycle heating; and
 - (d) Outdoor clothes lines.
160. A condition on any permit issued will require the ESD commitments reflected in the SDA to be shown on the plans (where relevant).
161. The proposed development is considered to satisfy the objectives of the standard in addition to the requirements of the draft new local policy Clause 22.17 – Environmentally Efficient Design proposed under Amendment C133.
162. It is not considered that the proposed development will unreasonably reduce the energy efficiency of surrounding dwellings. Concerns regarding reduced energy efficiency were raised in objections from surrounding residents. The decision of *Blair v Yarra CC* [2014] VCAT 120 (10 February 2014) is highly relevant to consideration of energy efficiency. In this decision, the Tribunal affirmed Council's position that ResCode standards in relation to daylight to windows and north-facing windows, both capable of quantitative assessment, "provide the most relevant guidance" in relation to issues of natural light and solar access. These standards will be assessed below.

B11 – Open space objective

163. N/A – This standard does not apply as no public or communal open space is proposed.

B12 – Safety objective

164. Subject to conditions, it is considered that the entrances to the building will meet the requirements of the standard in terms of visibility, safe access and security. The pedestrian entrance to the dwellings is via the eastern laneway, setback 11m from Mason Street. The vehicle entrance to the car parking spaces is also via the eastern laneway. The separation of the pedestrian and vehicle entrances complies with policy at Clause 22.07-3 of the Scheme. The laneway has a width of approximately 4.2m and provides reasonable access to the entrances, with appropriate manoeuvring space.
165. While the dwelling and car park entrances are clearly legible and visible, the plans do not detail any external shelter or lighting to ensure that the pedestrian entrance is safe and provides a level of weather protection to residents and visitors. This will be addressed by way of a condition on permit.
166. This condition will ensure that the objective of the standard is met.

B13 – Landscaping objectives

167. As the proposed development would achieve 100% site coverage, no outdoor landscaping is proposed to be provided. This is considered to be acceptable given the inner-city urban location and character of the surrounding area, which includes a built form dominated urban environment with little to no on-site landscaping. Residents can incorporate landscaping within the balconies if desired, but this is not considered to be necessary. There is no landscape character within the surrounding area, and the objectives of the standard are met.
168. Concerns have been raised regarding the removal of the tree to the front of the site. It is noted that no specific vegetation controls apply to the subject site, and no planning permit is required to remove the tree (which is not a significant tree). This tree is on private land and could be removed by the owner at any time. Accordingly, the removal of the vegetation on the subject site is considered to be acceptable.

B14 – Access objectives

169. The standard requires the width of an accessway or car parking space not to exceed 33% of the street frontage, with no more than a single-width crossover provided for each dwelling fronting a street, and encourages the retention of on-street car parking spaces.
170. The proposed development would reduce the extent of existing vehicular access to the subject site, which currently extends almost the full length of the eastern boundary. The four car stackers would be accessed via a crossover with a length of approximately 11.6m. While this exceeds the requirements of the standard, it is considered that the objectives of the standard are met and that vehicle access to the development will be safe, manageable and convenient.
171. Council's Engineering Services Unit advised that the proposed access arrangements to the development – including vehicle turning movements – are satisfactory, but noted that the bluestone laneway would need to be altered in order to provide vehicle access. All relevant engineering requirements will be addressed by way of conditions on any permit issued.
172. The objectives of the standard are met.

B15 – Parking location objectives

173. The on-site car parking spaces within the four car stackers are conveniently located for future residents and visitors, and have been designed to allow secure, safe and efficient movement of vehicles in line with the requirements of the standard.
174. Car stackers are a common response in residential developments on small inner-city sites, and the use of such devices is well understood by residents purchasing dwellings with allocated stacker spaces. The use of stackers for visitor parking is less common, but not fundamentally unacceptable. Visitor car parking spaces within stackers have been approved in a number of recent VCAT decisions, including *Kweifio-Okai & Ors v Yarra CC* [2013] VCAT 1217 (12 July 2013). It is noted that car parking in the surrounding area is limited, and visitors to the site would be aware of this if choosing to drive. The use of stackers for visitor parking is considered to be acceptable. Council's Engineering Services Unit raised no objection to this arrangement.
175. The objectives of the standards are met.

B17 – Side and rear setbacks objective

Western boundary

176. The proposed development incorporates a small lightcourt on the western elevation, setback 1.15m from the boundary with a length of 1.5m. The wall behind the lightcourt has a maximum height of 11m. The 1.15m setback does not comply with the 6.09m recommended by the standard, but is considered to be acceptable as this wall is located opposite the boundary wall of the adjacent dwelling to the west. No habitable room windows or areas of SPOS will be affected, consistent with the objective of the standard.
177. On the western elevation, the rear section of the first and second floors is proposed to angle in towards the site, resulting in a raked wall setback a maximum of 5.27m at a height of 11m. This section of wall is located opposite the courtyard of the adjacent dwelling to the west. The proposed setback does not comply with the standard, which requires a wall with a height of 11m to be setback 6.09m from a boundary. The relevant decision guideline is the impact on the amenity of the habitable room windows and SPOS of existing dwellings.
178. On balance, it is considered that the proposed development responds to the character of the surrounding area, whilst incorporating measures to mitigate off-site amenity impacts. The building responds directly to the immediate site context, with boundary walls proposed adjacent to the boundary wall of the dwelling to the west and the laneway, and incorporating a substantial setback from the rear SPOS of the adjacent dwelling. While a variation to the standard is required, it is noted that development on narrow lots in inner-city areas often does not meet relevant ResCode standards. The objective of the standard is:
- (a) *To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.*
179. The angled western wall will substantially reduce the visual bulk of the proposed building as viewed from the SPOS areas to the west. The interface treatment to the west represents a significant improvement on the development previously found to be unacceptable by both Council and VCAT. While the building will be visible from the SPOS areas, it will not be an overwhelming visual element given the recessive design treatment of the wall. The proposed configuration to the rear of the site is considered to strike an appropriate balance between encouraging higher density housing and ensuring off-site amenity impacts are minimised. This is considered to be acceptable, and will ensure that the adjacent SPOS areas are not unreasonably impacted by way of visual bulk, commensurate with the inner-city context and built form character of the area.
180. The objective of the standard is met.

B18 – Walls on boundaries objective

Western boundary

181. The proposed development will result in western boundary walls of varying heights constructed the full length of the site, with the exception of a small light court setback 6.6m from Mason Street. This exceeds the maximum 15.18m recommended by the standard.
182. The western boundary wall will be 11m high towards the front of the site (adjacent to the boundary wall of the dwelling to the west) and 2.75m high to the rear of the site (adjacent to the courtyard). The wall also exceeds the average 3.2m and maximum 3.6m boundary wall height recommended by the standard.
183. The relevant decision guidelines are the extent to which walls on boundaries are part of the neighbourhood character, the impact on the amenity of existing dwellings, and the opportunity to minimise the length of walls on boundaries by aligning a new wall on a boundary with an existing wall on a lot of an adjoining property.
184. In this instance, it is considered that the proposed development has appropriately responded to the immediate site context. The highest elements are located opposite the existing boundary walls of the dwelling to the west, and the wall located opposite the courtyard does not exceed 2.75m in height which complies with the standard.
185. In conjunction with the setback of the first and second floors, this will ensure that the courtyard is not unreasonably impacted by way of visual bulk. The length of wall that abuts the existing boundary wall of the dwelling to the west will not result in any unreasonable off-site amenity impacts.

Eastern boundary

186. The proposed development is constructed to the eastern side boundary for the full length of the site. The impacts of the 11.5m high eastern boundary wall are considered to be acceptable, as this boundary adjoins the laneway and a substantial separation is provided to the student accommodation building to the east. No unreasonable visual bulk will result.

Rear boundary

187. The proposed development would result in a wall on the rear (southern) boundary with a height of between 3.45m and 10.75m, accounting for the angled western wall. As this boundary adjoins a laneway with a width of approximately 4.2m, it is considered that dwellings within the six storey building to the south will not be unreasonably impacted by way of visual bulk.
188. The objective of the standard is met.

B19 – Daylight to existing windows objective

189. The adjacent dwelling to the west incorporates two habitable room windows directly on the shared boundary with the subject site. It is noted that on-boundary windows are afforded no protection under the Yarra Planning Scheme and accordingly cannot be considered.
190. The dwelling further west (19 Mason Street) incorporates a number of east-facing highlight windows. These windows are setback 4.4m from the proposed development (the width of 21 Mason Street). While the standard requires the 11m high western boundary wall to be setback 5.5m from habitable room windows, it is considered that the setback is sufficient to allow a reasonable level of daylight to these windows, which serve a corridor and several habitable rooms.

These windows are technically constructed on the boundary, and would not be afforded any protection if the adjacent dwelling at 21 Mason Street were redeveloped. The windows will continue to enjoy a reasonable level of daylight, commensurate with their location on a side boundary and in an inner-city context.

191. The eastern wall of the proposed development is setback approximately 8m from the west-facing habitable room windows of the student accommodation building across the laneway. This complies with the setback required by the standard.
192. The north-facing habitable room windows of the six storey building to the south of the subject site will be assessed under Standard B20 (below).
193. Overall, the objective of the standard is met, and all surrounding habitable room windows will continue to receive an adequate level of daylight.

B20 – North-facing windows objective

194. The building to the south (fronting Victoria Parade) contains a number of north-facing habitable room windows setback at least 1.5m from the laneway, or 5.7m from the proposed development. The standard only applies to north-facing windows located within 3m of a boundary on an abutting lot. Accordingly, the requirements of the standard are not relevant. Nevertheless, it is considered that the windows will continue to receive an adequate level of solar access, consistent with the objective of the standard.

B21 – Overshadowing open space objective

195. The existing conditions created by built form and boundary fencing currently result in some overshadowing of the rear SPOS areas of the dwellings to the west throughout the day. At the September equinox, only the immediately adjacent dwelling will experience additional overshadowing of its rear courtyard.
196. The shadow plans submitted with the application demonstrate that the proposed development will result in some additional overshadowing impacts to the adjacent courtyard during the early morning hours, as follows:
 - (a) 9.00am – the courtyard will be affected by approximately 5.3m² of additional overshadowing and will be entirely in shadow (sunlight reduced from 13% to 0%).
 - (b) 10.00am – approximately 1m² of the courtyard will experience additional overshadowing (sunlight reduced from 36.7% to 32.3%).
 - (c) 11.00am – no additional shadows (54.6% sunlight).
 - (d) 12.00pm – no additional shadows (66.4% sunlight).
 - (e) 1.00pm – no additional shadows (48.3% sunlight).
 - (f) 2.00pm – no additional shadows (25.8% sunlight).
 - (g) 3.00pm – no additional shadows (7% sunlight).
197. Standard B21 requires that where existing sunlight to SPOS is less than the requirements of the standard, the amount of sunlight should not be further reduced. As the existing shadow conditions do not achieve a minimum of 5 hours of daylight to at least 75% or 40m² of SPOS, and a small amount of additional overshadowing will occur, a variation to the standard is required.
198. On balance, it is considered that the adjacent courtyard will continue to receive an acceptable level of sunlight. While the dwelling experiences significant overshadowing throughout the day, the amount of additional shadows cast by the proposed development is small, and the courtyard will be entirely unaffected by additional shadows after around 10.30am. As such, it is considered that the usability of the SPOS will not be unreasonably affected by the proposal, consistent with the objective of the standard.

B22 – Overlooking objective

199. The north-facing balconies and west-facing windows within the lightcourt do not create opportunities for overlooking into any surrounding habitable room windows or SPOS areas.
200. The eastern wall of the proposed development, incorporating a number of windows and balconies, is setback approximately 8m from the west-facing habitable room windows of the student accommodation building across the laneway. This may create opportunities for direct views into habitable room windows. This will be addressed by way of a condition on any permit issued requiring demonstration that the proposed development complies with the requirements of the standard.
201. The west-facing habitable room windows located within the angled wall have lower sill heights of 1.7m above finished floor level, and comply with the standard.
202. The second floor balcony incorporates a solid screen to a height of 1.7m above finished floor level on the western elevation, which complies with the standard.
203. There are no other opportunities for overlooking.
204. The condition will ensure that the objective of the standard is met.

B23 – Internal views objective

205. All habitable room windows and outdoor living areas have been designed to avoid views into SPOS within the proposed development.
206. The objective of the standard is met.

B24 – Noise impacts objective

207. The plans do not identify the location of airconditioning units and other mechanical plant. A condition on any permit will require the plans to identify the location of all mechanical plant to Council's satisfaction and will require noise from mechanical plant to comply with State Environment Protection Policy requirements.
208. Clause 22.05 of the Scheme seeks to ensure that in mixed use areas, new dwellings are appropriately protected from unreasonable noise. In this instance, the subject site is primarily surrounding by residential land uses, and will not be unreasonably affected by external noise. The built form to the south of the site will provide an appropriate buffer to Victoria Parade.
209. The objective of the standard is met.

B25 – Accessibility objective

210. The entrance for the dwellings is located at ground floor, and will be generally accessible for those with limited mobility in accordance with the standard.
211. The objective of the standard is met.

B26 – Dwelling entry objective

212. As discussed in Standards B5 and B12 above, subject to a condition requiring the pedestrian entrance to the dwellings to incorporate adequate shelter lighting, it is considered that the entrance will be clearly visible and easily identifiable and will provide a sense of personal address.
213. The condition will ensure that the objective of the standard is met.

B27 – Daylight to new windows

214. All new habitable room windows will receive adequate daylight in accordance with the standard.
215. The objective of the standard is met.

B28 – Private open space objective

216. The dwellings will be provided with private open space as follows:
- (a) Dwelling 1 – 12m² balcony at the front of the site, accessed from the living room.
 - (b) Dwelling 2 – 8m² balcony on the Mason Street frontage, accessed from the living room.
 - (c) Dwelling 3 – 8m² balcony towards the centre of the site, accessed from the living room.
 - (d) Dwelling 4 – 9m² balcony on the Mason Street frontage, accessed from the living room.
 - (e) Dwelling 5 – 13m² balcony between the two dwellings, accessed from the living room.
217. Each dwelling complies with the requirements of the standard. The amount and type of POS will provide for the reasonable enjoyment of future residents.
218. The objective of the standard is met.

B29 – Solar access to open space objective

219. The balconies to dwellings 1, 2 and 4 are north-facing and will receive a good level of solar access. The balcony to dwelling 5 is uncovered and located at the upper level of the building, and will accordingly receive a good level of solar access. The internal balcony to dwelling 3 will receive limited solar access due to its location on the eastern side boundary. This is considered to be acceptable.
220. Residents of inner-city areas often trade between different aspects of internal and external living standards, and it is considered that the balcony will enjoy a reasonable level of amenity, consistent with the objective of the standard.
221. The objective of the standard is met.

B30 – Storage objective

222. Each dwelling is provided with 8m³ of storage located at ground floor. This complies with the standard.
223. The applicant has confirmed that the storage area located behind one of the car stackers will be allocated to the owner of that car stacker. This is considered to be acceptable.
224. The objective of the standard is met.

B31 – Design detail objective

225. The proposed development is contemporary in design, with a flat roof form that references the character of the streetscape and surrounding area. The design is generally respectful of the existing neighbourhood character, and employs a variety of materials and finishes which are generally sympathetic to the surrounding area. Refer to the heritage assessment above for a discussion of the proposed development from a design detail perspective, and proposed conditions to improve the design response.
226. The flat roof forms, and the dimensions and proportions of new windows and doors, are generally complementary to the streetscape character.
227. The objective of the standard is met.

B32 – Front fences objective

228. The proposed front fence is a 1.5m high metal picket fence. The height, material and style of the proposed front fence comply with the standard, and the fencing is consistent with the streetscape.
229. The objective of the standard is met.

B33 – Common property objective

230. The common areas, including the car parking area and ground floor bin/storage room, will be practical and easily maintained.
231. The objectives of the standard are met.

B34 – Site services objectives

232. The plans identify the location of bin storage areas and mailboxes for the dwellings, conveniently located for access.
233. The objectives of the standard are met.

Traffic and car parking

234. As noted earlier in this report, the proposed development satisfies the statutory car parking provisions of Clause 52.06 of the Scheme, and in fact provides resident and visitor car parking in excess of the required rate. This is acceptable, and will ensure that the surrounding area is not unreasonably impacted by way of increased parking pressures.
235. Council's Engineering Services Unit reviewed the proposed access arrangements and car parking configuration and is satisfied.
236. Bicycle parking spaces are also provided in excess of the statutory requirements of Clause 52.34 of the Scheme, providing four wall-mounted bike racks within the bin/storage area.

Waste management

237. The proposed WMP (dated 26 April 2012, rather than the superseded version dated 29 November 2011) has been reviewed by Council's Engineering Services Branch and is satisfactory. The WMP outlines waste management practices for the proposed development and confirms that bins will be collected by the contractor from within the ground floor bin room and returned after being emptied. Collection times will be required to comply with Council requirements. Any permit issued will require the WMP to be amended to correctly show the layout of the proposed ground floor bin room, and will be endorsed to form part of the planning permit.

Objector concerns

238. The majority of concerns raised by the objectors have been addressed in the above assessment. A summary of the response to objector concerns is provided as follows:
- (a) *Proposal is not consistent with the neighbourhood, heritage or streetscape character and is an overdevelopment of the site.*
- (i) Refer to paragraphs 97 to 125 for a discussion of the proposal from a heritage and neighbourhood character perspective.

Overall, it is considered that the construction of a three storey building is consistent with the strategic policy objectives for the area, responds to the prevailing character of built form in the surrounding area, and will not adversely impact the streetscape or neighbourhood character.

- (b) *Setbacks from Mason Street are inappropriate.*
 - (i) Refer to paragraphs 97 to 125 for a discussion of the proposal from a heritage and neighbourhood character perspective, and Council's Heritage Advisor's comments at paragraphs 83 to 88. Overall, it is considered that the Mason Street design response including façade setbacks with balconies constructed to the street frontage, in addition to the recessive third level, represent an appropriate response to the site and streetscape context.

- (c) *Off-site amenity impacts to surrounding dwellings as a result of visual bulk, excessive height, loss of daylight, reduced airflow, loss of views, noise, overlooking, overshadowing, and reduced energy efficiency.*
 - (i) Refer to paragraphs 176 to 204 for a discussion of the proposal in terms of off-site amenity impacts relating to visual bulk, height, daylight, overlooking, overshadowing and energy efficiency. Overall, it is considered that the proposal has provided an appropriate transition between the single storey built form to the west, incorporating measures to minimise off-site amenity impacts, and the more intense scale of surrounding built form.
 - (ii) Noise impacts arising from the 'as of right' use of land for dwellings is not relevant to the planning merits of the application and has not been considered.
 - (iii) The planning scheme does not recognise any right to a view or ventilation.

- (d) *Poor internal amenity to the new dwellings.*
 - (i) Refer to paragraphs 205 to 224 for an assessment of the proposal in terms of on-site amenity. It is considered that the dwellings will achieve a good level of internal amenity, commensurate with the site's inner-city location.

- (e) *Traffic and access issues, including the loss of on-street car parking spaces and overuse of the laneway.*
 - (i) Refer to the comments of Council's Engineering Services Unit at paragraphs 77 to 81. No on-street car parking spaces are proposed to be removed. It is considered that the laneway can readily accommodate the traffic likely to be generated by the proposed development.

- (f) *Loss of green area and open space within the streetscape.*
 - (i) Refer to paragraphs 167 and 168 for a discussion of the proposed development from a landscaping perspective. As there is no landscape character within the surrounding area, and the streetscape is dominated by built form and hard edge construction, the proposed site coverage and lack of on-site planting is considered to be acceptable.

- (g) *Impacts of waste collection.*
 - (i) Waste collection will be required to be undertaken in accordance with the endorsed WMP, and all details must comply with relevant Council requirements.

- (h) *Impacts during construction.*
 - (i) Construction issues including noise, damage to property, laneway obstruction and ongoing access to the car park of the building to the south of the subject site during the construction process are not relevant to the planning merits of the application and have not been considered.
 - (ii) Nevertheless, given the site constraints, it is considered appropriate to require the preparation of a construction management plan to Council's satisfaction before the commencement of construction.

- (i) *Loss of property values.*
- (i) It is a well-established planning principle that the depreciation of land or property values as a result of a planning permit application is not a relevant planning consideration. As summarised in *Skunca v Mornington Peninsula SC* [2004] VCAT 1690 (23 August 2004):
- “If adjoining land is devalued because of detriment to its amenity, it is the detriment to the amenity that is considered in relation to town planning, not the resulting devaluation (in relation to which there is seldom, if ever, any evidence in any event).”*
- (ii) The issue of property values is not relevant to the planning permit of the application and cannot be considered.
- (j) *Loss of car parking spaces associated with student housing.*
- (i) As noted earlier in the report, the requirement under condition 5 of Planning Permit 990070 was deleted by VCAT in November 2012. The car parking spaces previously provided on the subject site are no longer required for the student accommodation use.

Conclusion

239. The proposal demonstrates a high level of compliance with the policy requirements outlined in the Yarra Planning Scheme, and is supported subject to conditions.

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN13/1119 for development of the land for full demolition of all structures and the construction of five dwellings within a three storey residential building at 23 Mason Street Collingwood VIC 3066, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided.
The plans must be generally in accordance with the decision plans but modified to show:
 - (a) A canopy to the pedestrian entrance at ground floor, either wholly contained within title boundaries or if projecting over the laneway, in accordance with relevant regulations.
 - (b) Additional articulation to the western boundary wall via an understated but visually distinguishable pattern.
 - (c) Visually-permeable balustrades to the balconies on the Mason Street elevation.
 - (d) The timber cladding to be stained, with a note confirming it will be maintained to the satisfaction of the Responsible Authority.
 - (e) A full schedule of materials and finishes, including material and colour samples (in a form that is able to be endorsed and held on file).
 - (f) All stormwater management and energy efficiency commitments outlined in the Sustainable Design Assessment (where relevant to be shown on plans).
 - (g) The operability of all windows, confirming that adequate cross-ventilation is achieved to all dwellings.
 - (h) Demonstration that the east-facing windows and balconies comply with Standard B22 (Overlooking) of Clause 55.04-6 of the Yarra Planning Scheme.
 - (i) Details of all mechanical plant and ancillaries.
 - (j) The bluestone kerb along the western side of the laneway reset in order to provide vehicle access, with a note confirming that the invert levels along the channel will not be altered.

General

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. The development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
4. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the laneway, car parking and dwelling entrances must be provided. Lighting must be:
 - (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity.to the satisfaction of the Responsible Authority.
5. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
6. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
7. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) before 7.00 am or after 6 .00 pm, Monday-Friday (excluding public holidays);
 - (b) before 9.00 am or after 3.00 pm, Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday); or
 - (c) at any time on Sundays, ANZAC Day, Christmas Day and Good Friday.

Sustainable Design Assessment

8. Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment received by Council on 9 May 2014 but modified to include:
 - (a) A STORM report, confirming that the proposed development achieves the 110% STORM rating indicated in the SDA.
9. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

10. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.

When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Wastewise Environmental and dated 26 April 2012, but modified to show:

- (a) The correct layout of the ground floor bin storage area.
11. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction Management Plan

12. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
 - (c) remediation of any damage to road and other infrastructure;
 - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
 - (e) facilities for vehicle washing, which must be located on the land;
 - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (g) site security;
 - (h) management of any environmental hazards including, but not limited to:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery.
 - (i) the construction program;
 - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
 - (k) parking facilities for construction workers;
 - (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
 - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
 - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced; and
 - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.

Car Parking

13. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
 - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;

- (c) treated with an all-weather seal or some other durable surface; and
- (d) line-marked or provided with some adequate means of showing the car parking spaces.

to the satisfaction of the Responsible Authority.

14. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stackers must be installed in accordance with the manufacturer's specifications by a suitably qualified person.
15. The car stackers shown on the endorsed plans must be maintained:
 - (a) by a suitably qualified person; and
 - (b) to the satisfaction of the Responsible Authority.

Expiry

16. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes

This site is subject to a Heritage Overlay. A planning permit may be required for any external works. Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5095 for further information.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5095 to confirm.

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirements of the Environmental Audit Overlay must be met prior to the commencement of development hereby permitted under the permit.

All future residents, employees and occupiers residing within the development approved under this permit will not be permitted to obtain resident, employee or visitor parking permits.

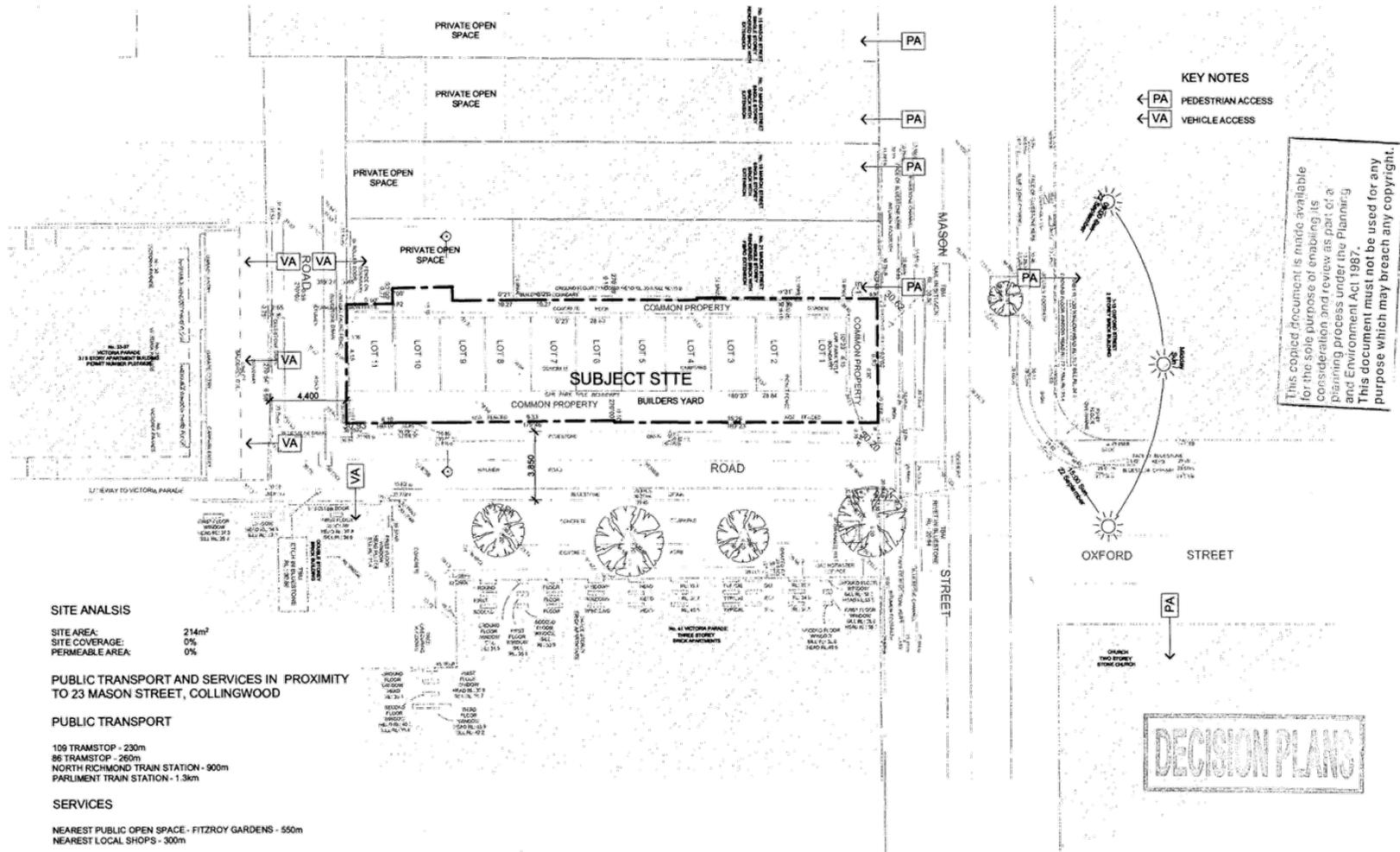
A local law permit may be required for tree removal. Please contact Council's Compliance Branch on 9205 5063.

CONTACT OFFICER: Erin Baden-Smith
TITLE: Statutory Planner
TEL: 9205 5016

Attachments

- 1 Existing conditions and demolition plan
- 2 Proposed floor plans
- 3 Proposed elevations
- 4 Shadow diagrams
- 5 Perspectives

Attachment 1 - Existing conditions and demolition plan



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SITE ANALYSIS
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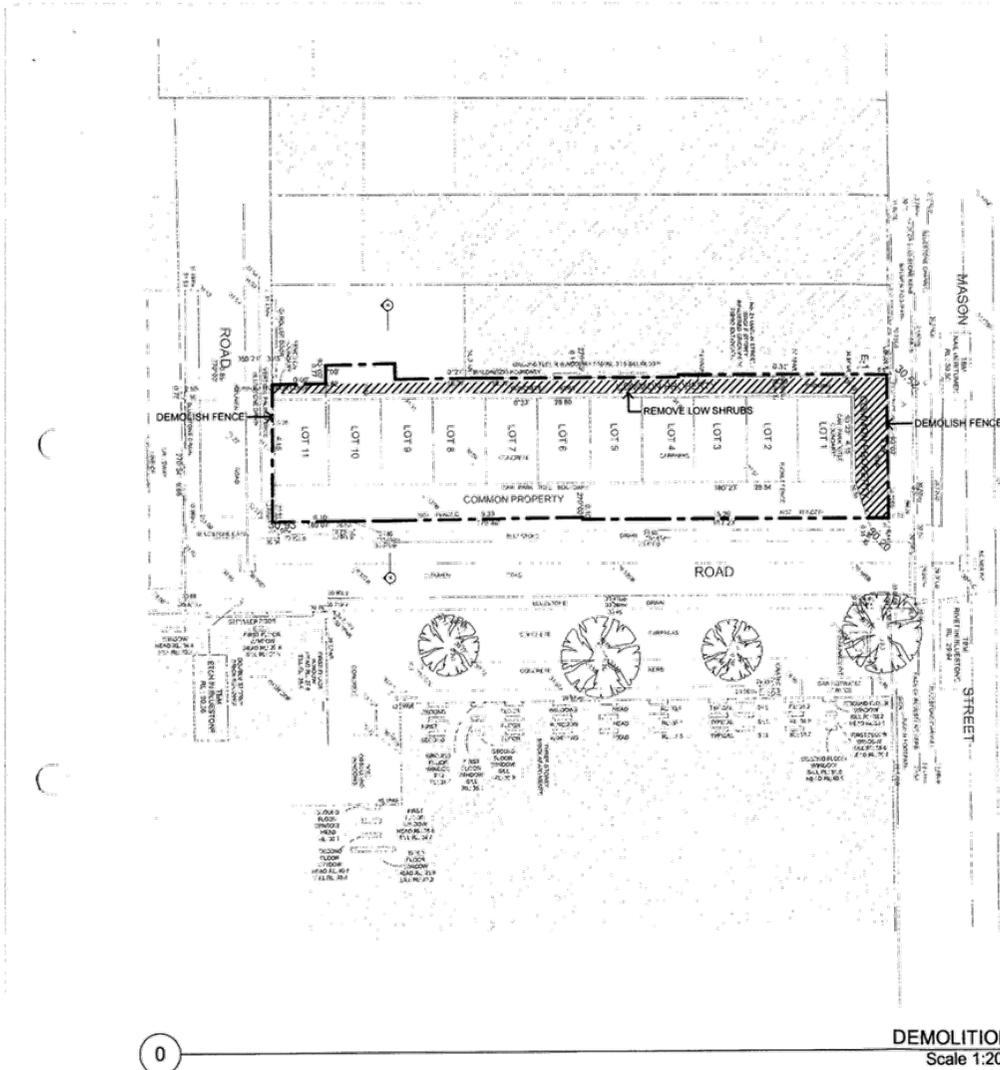
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Attachment 1 - Existing conditions and demolition plan



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TREES AT No. 21 HAVE BEEN REMOVED BY OWNER



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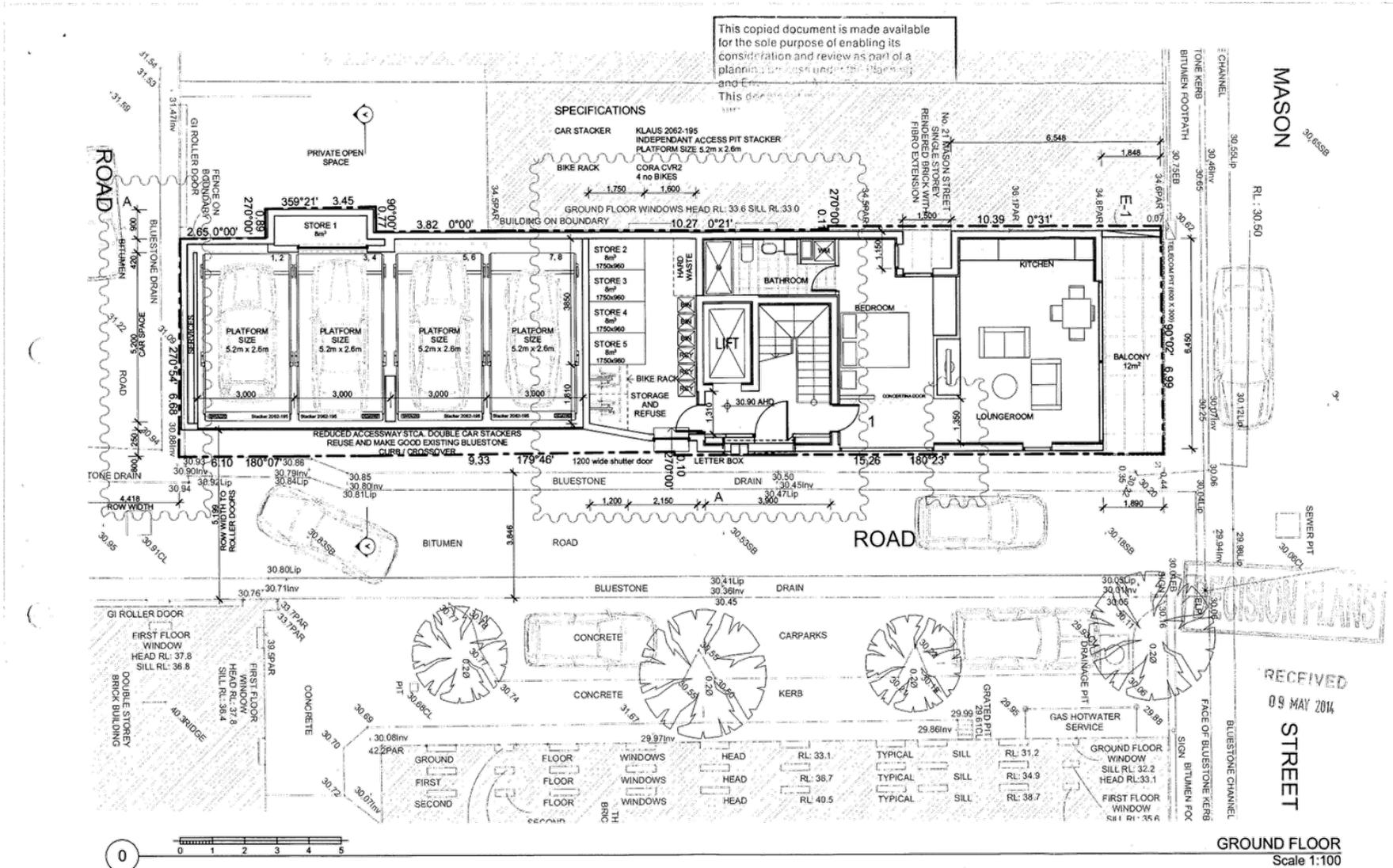
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Attachment 2 - Proposed floor plans



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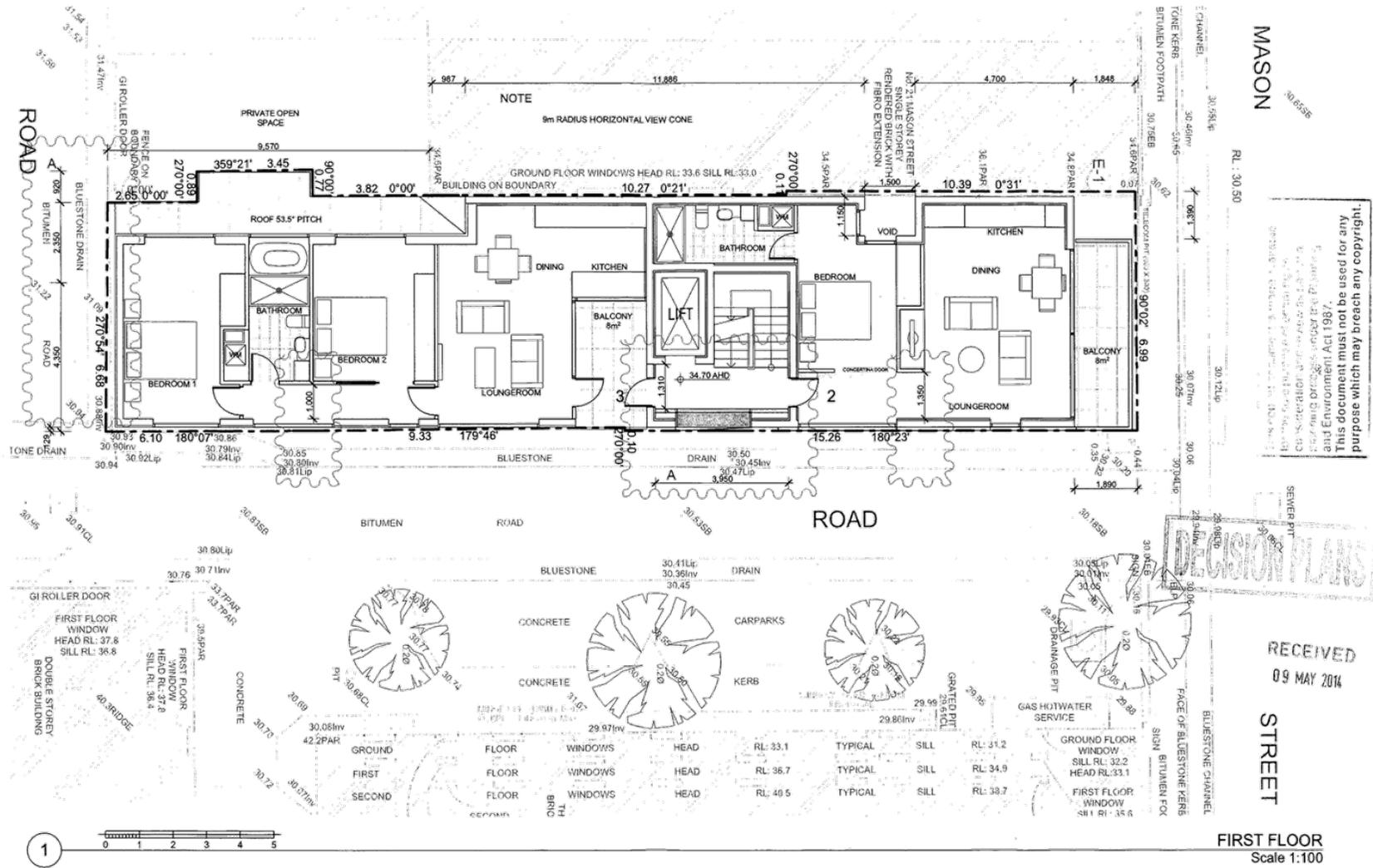


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GROUND FLOOR PLAN
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Rev. A

Attachment 2 - Proposed floor plans



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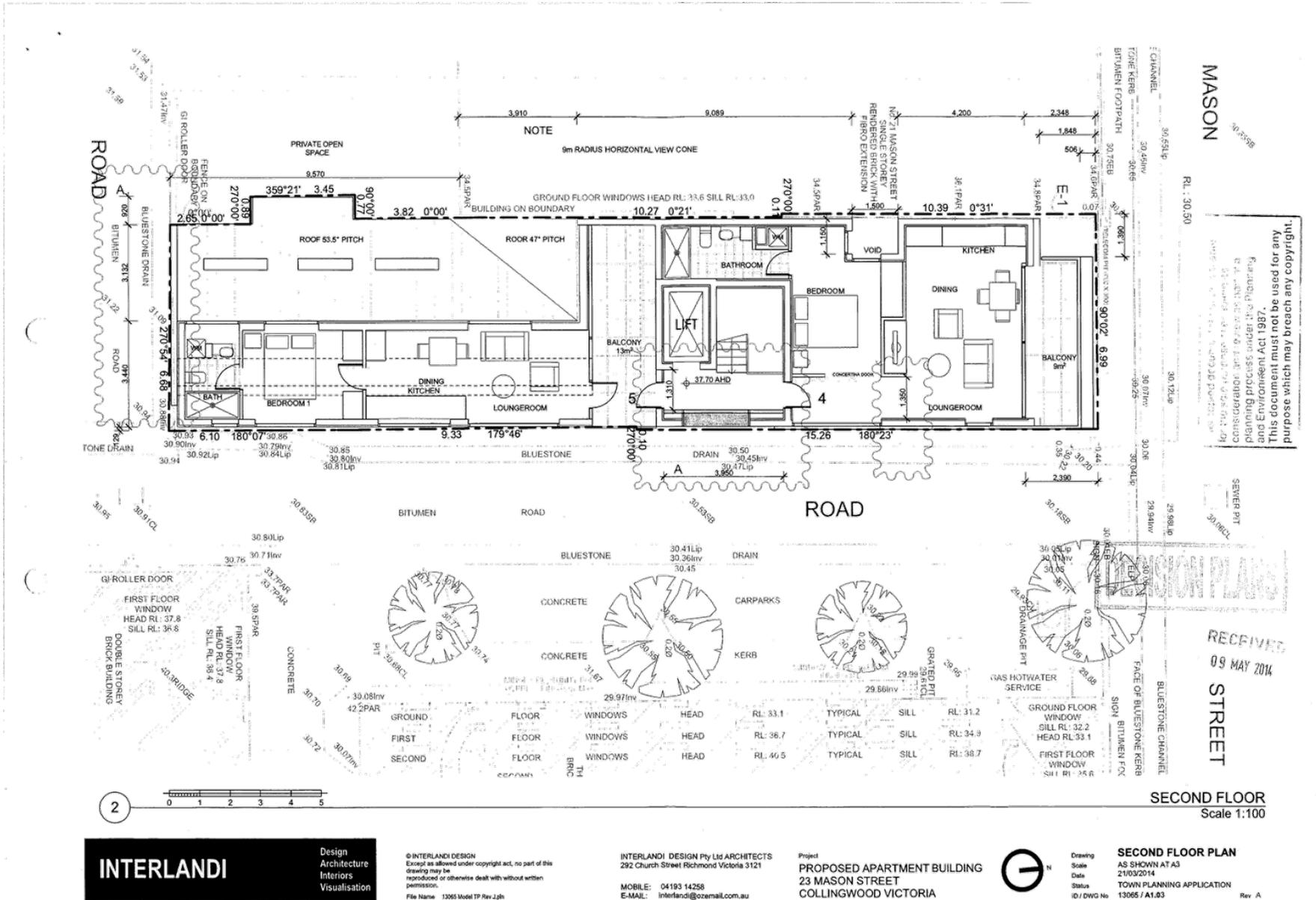
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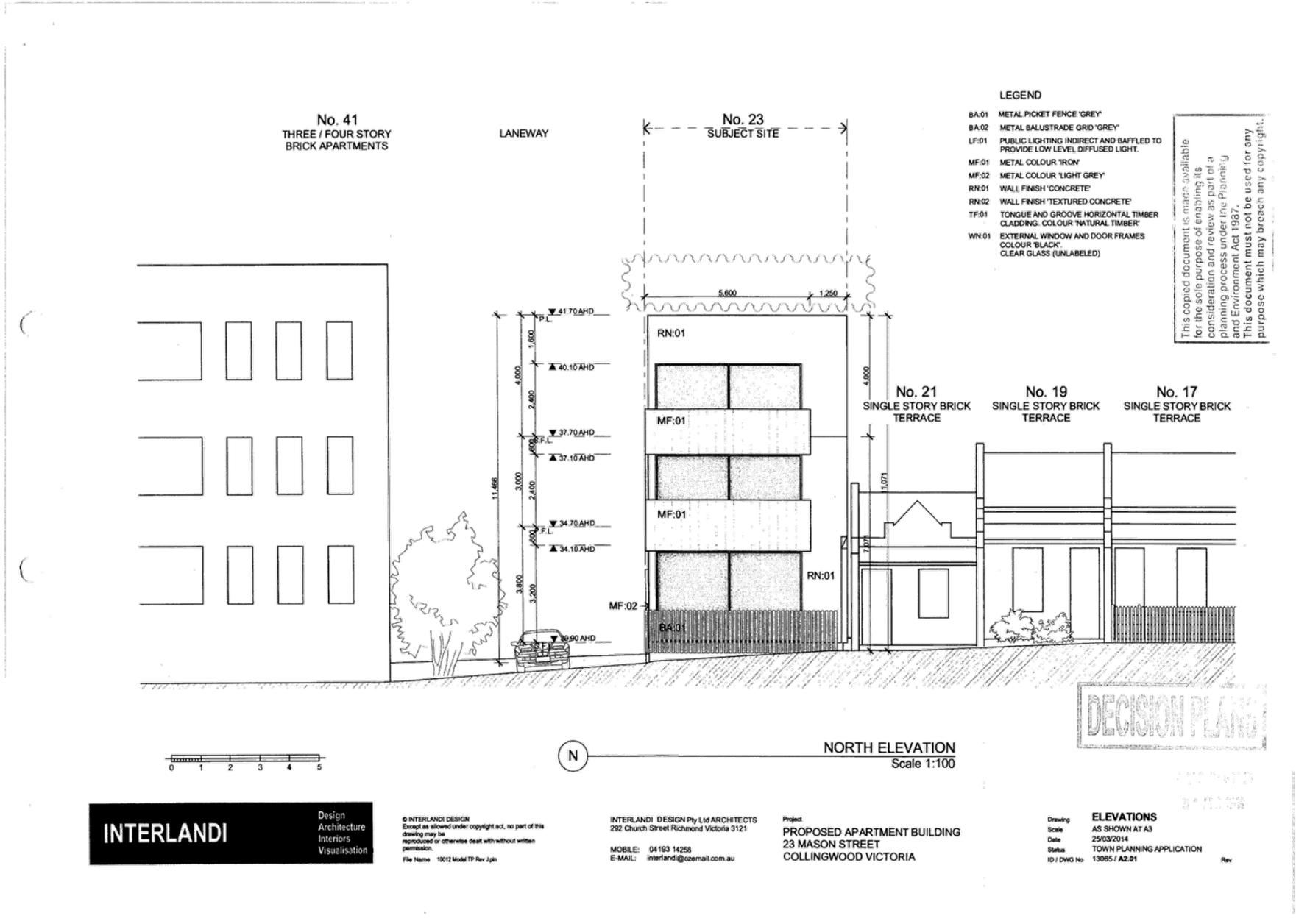


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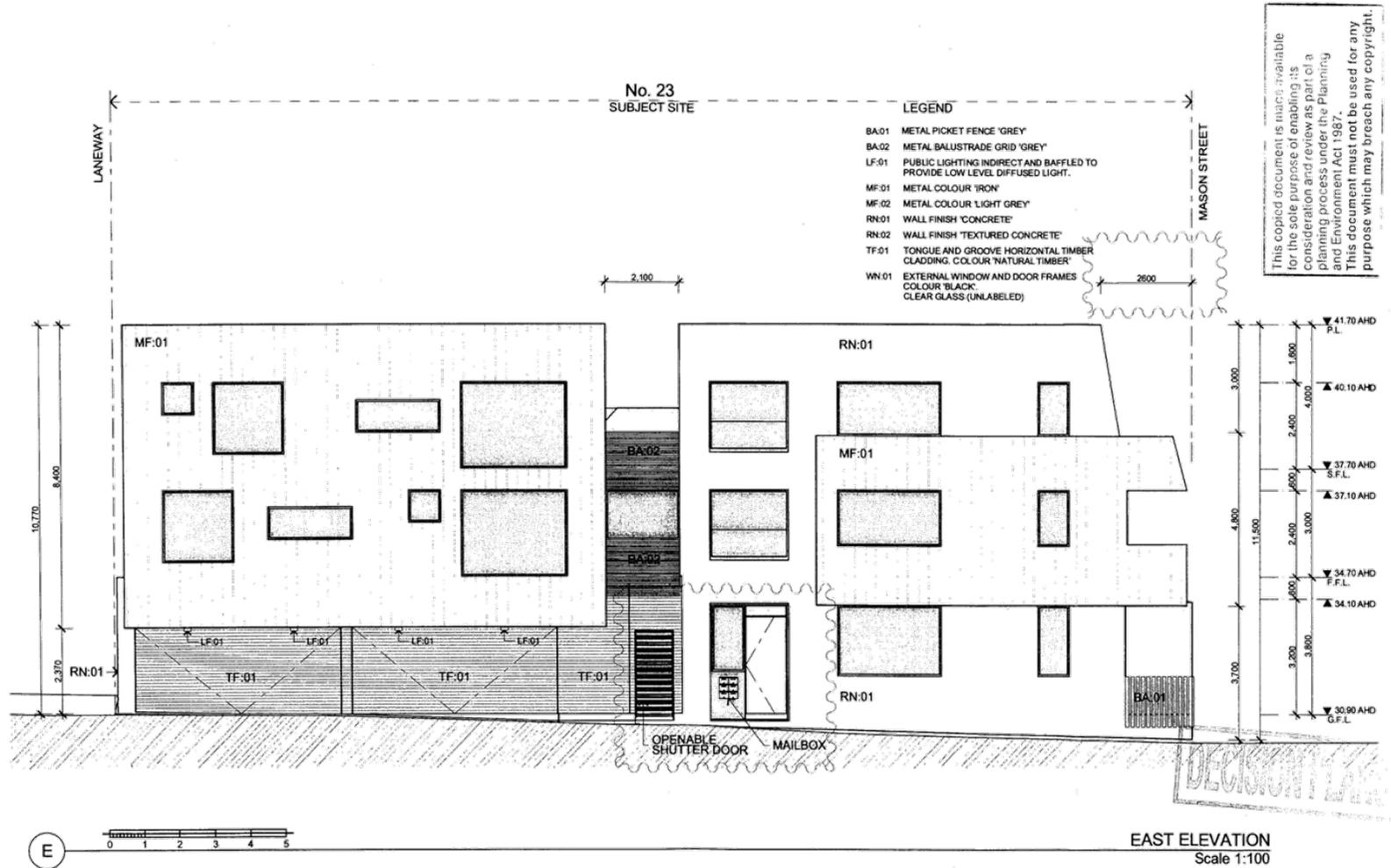
Attachment 2 - Proposed floor plans



Attachment 3 - Proposed elevations



Attachment 3 - Proposed elevations



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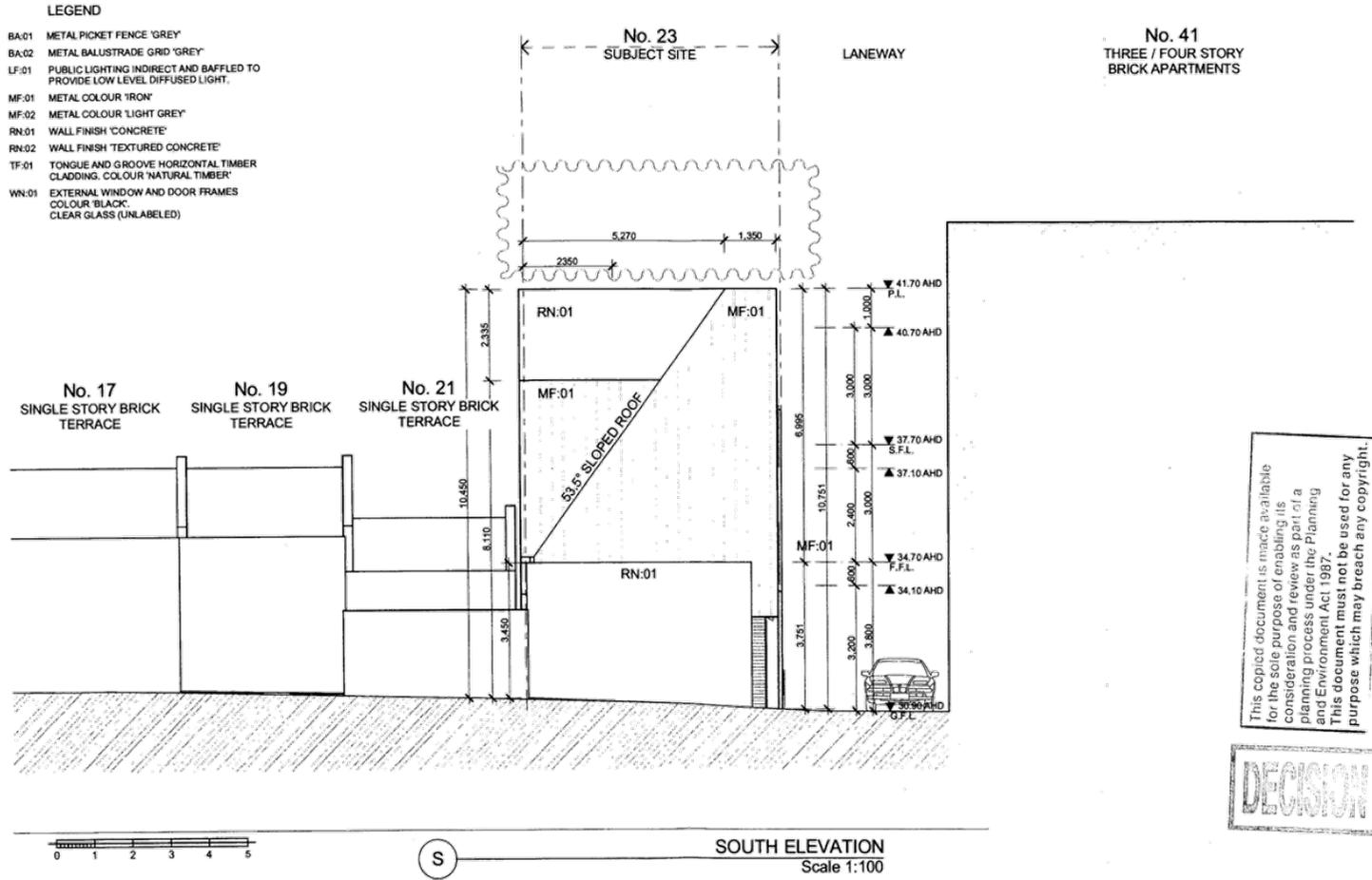
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Attachment 3 - Proposed elevations



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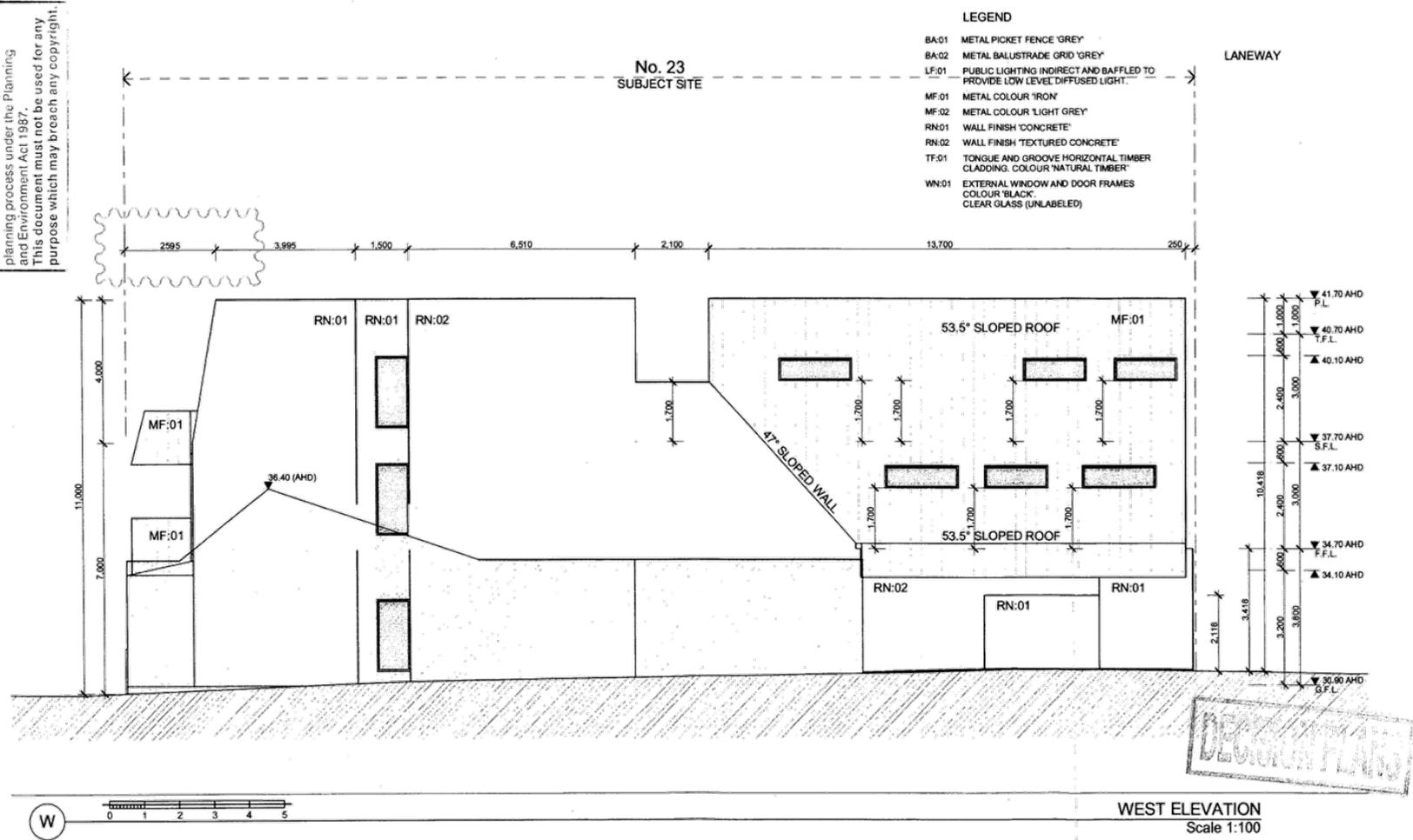
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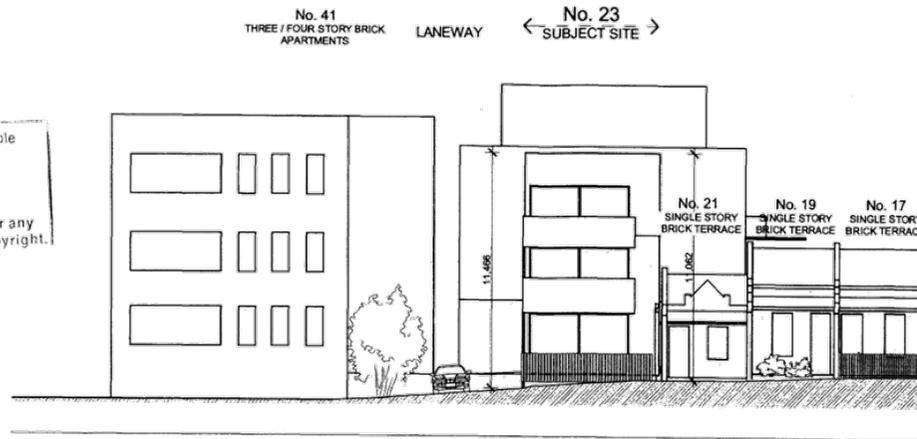
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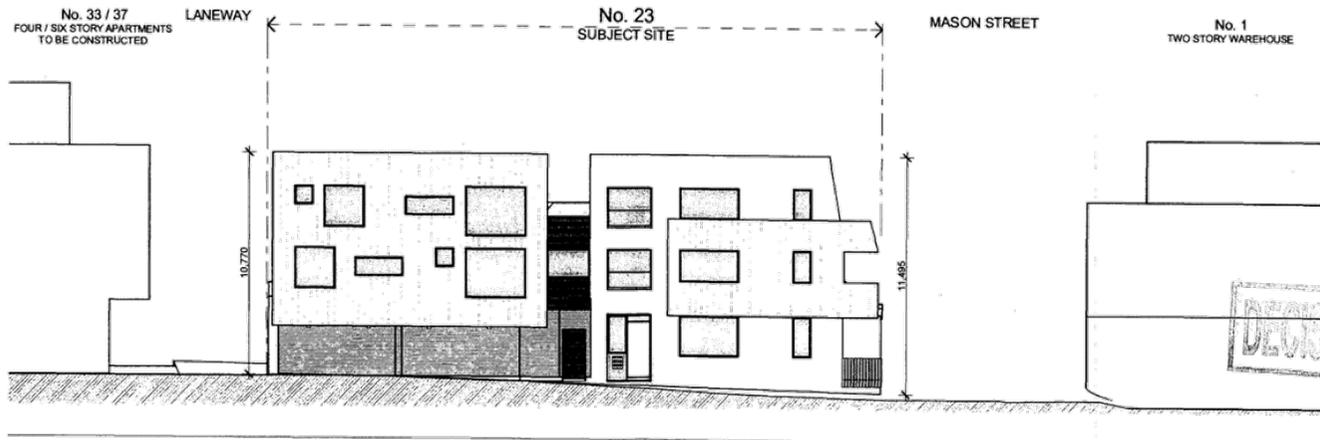
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ES

EAST STREETSCAPE
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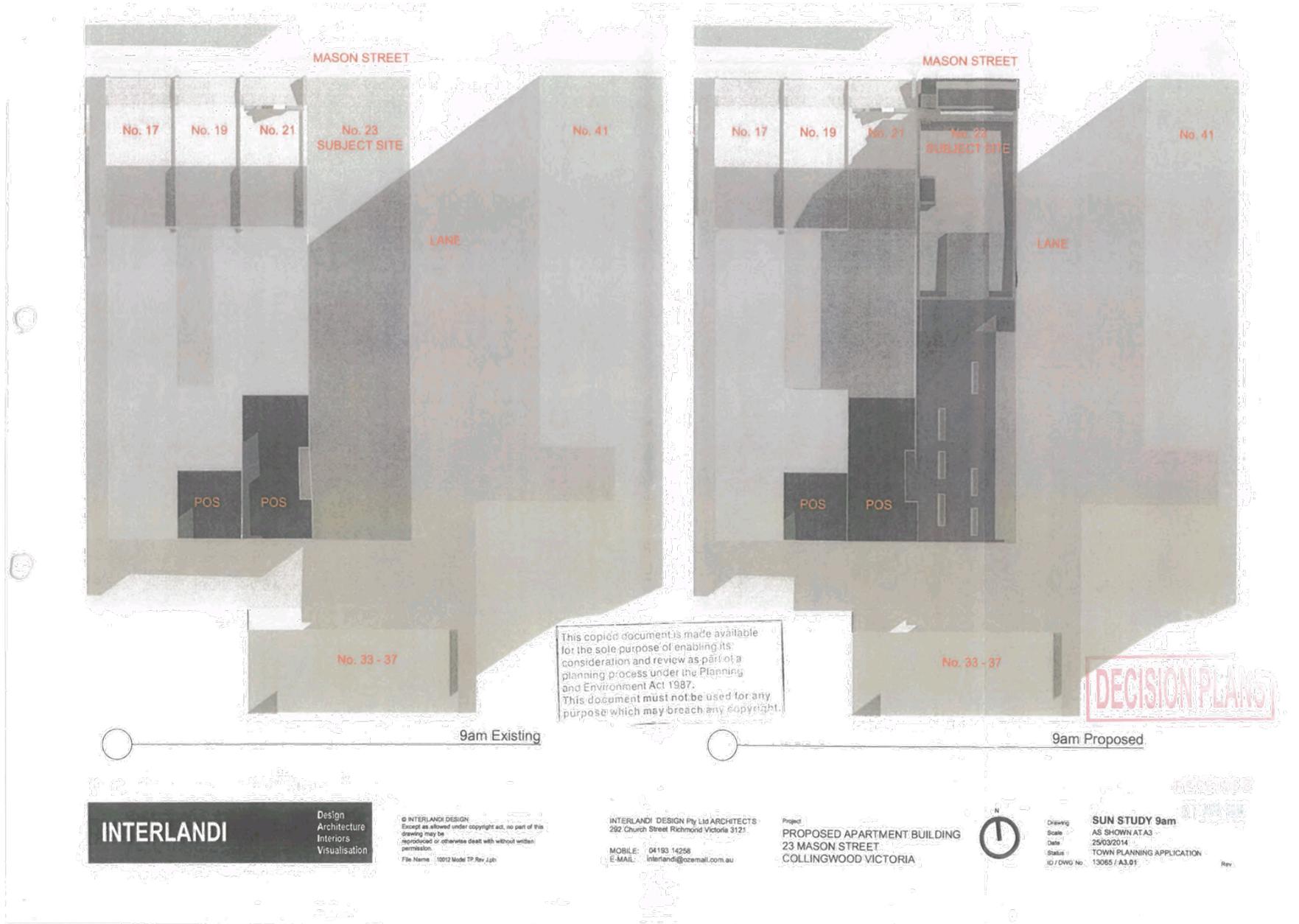
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Attachment 4 - Shadow diagrams



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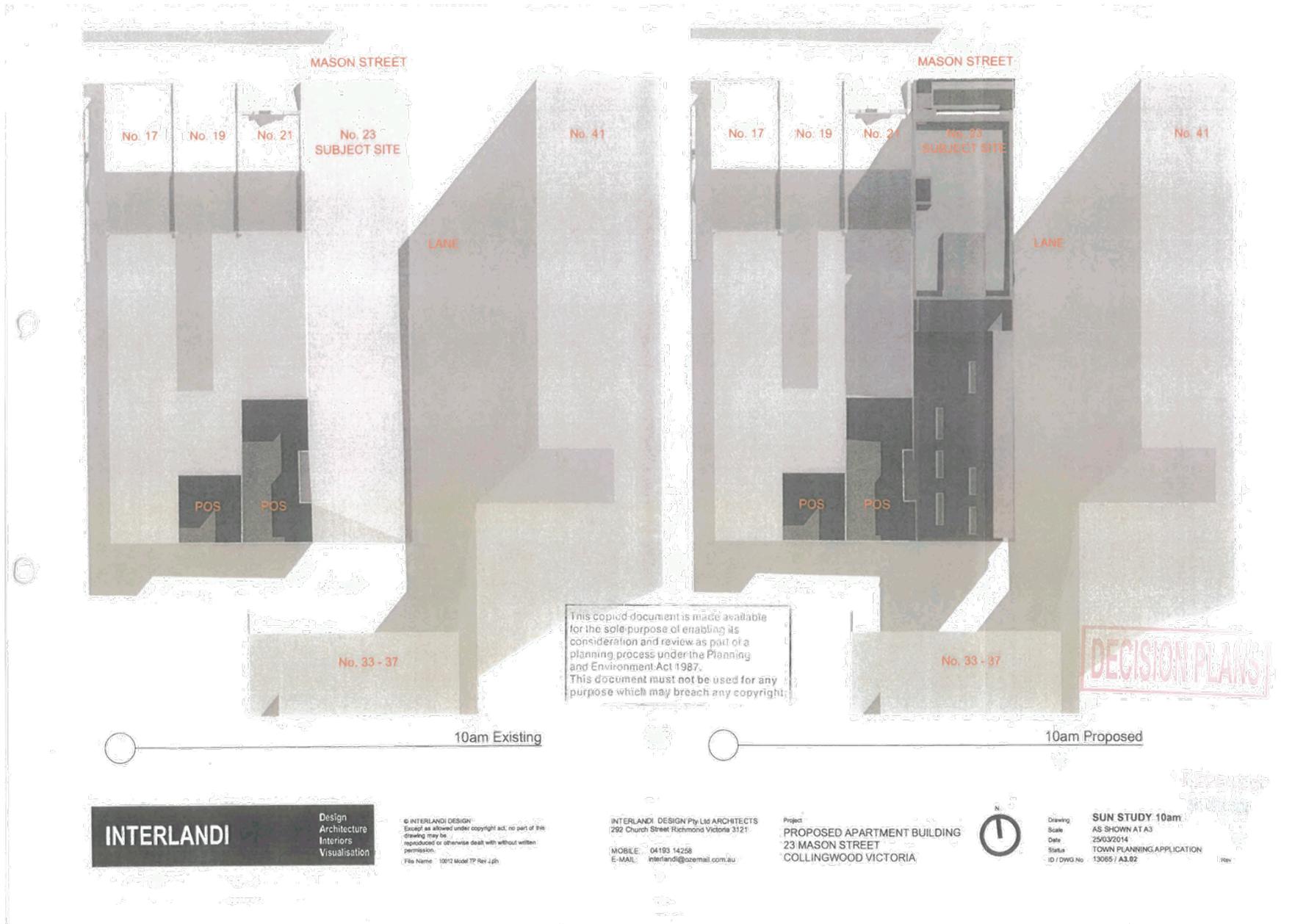
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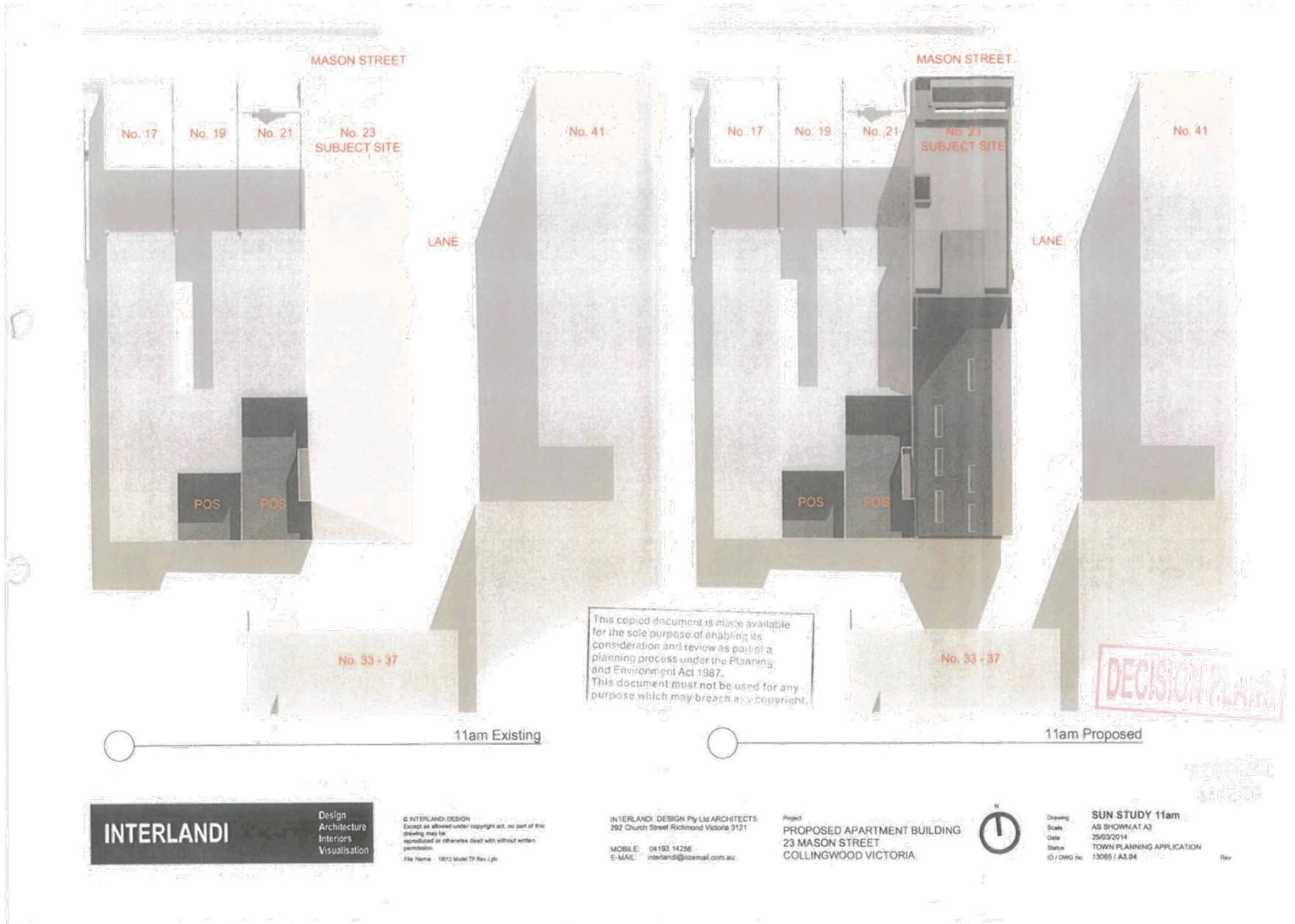


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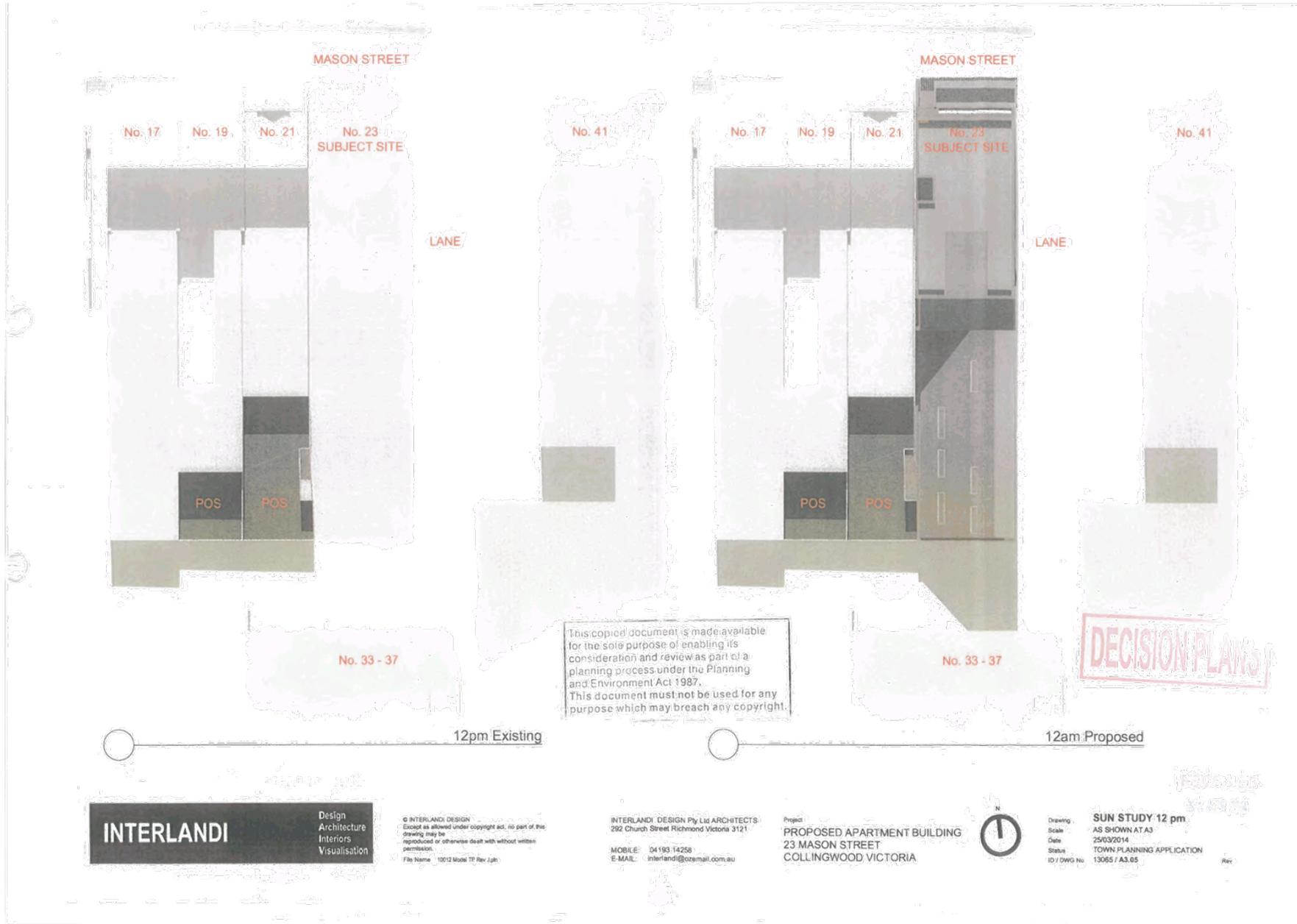
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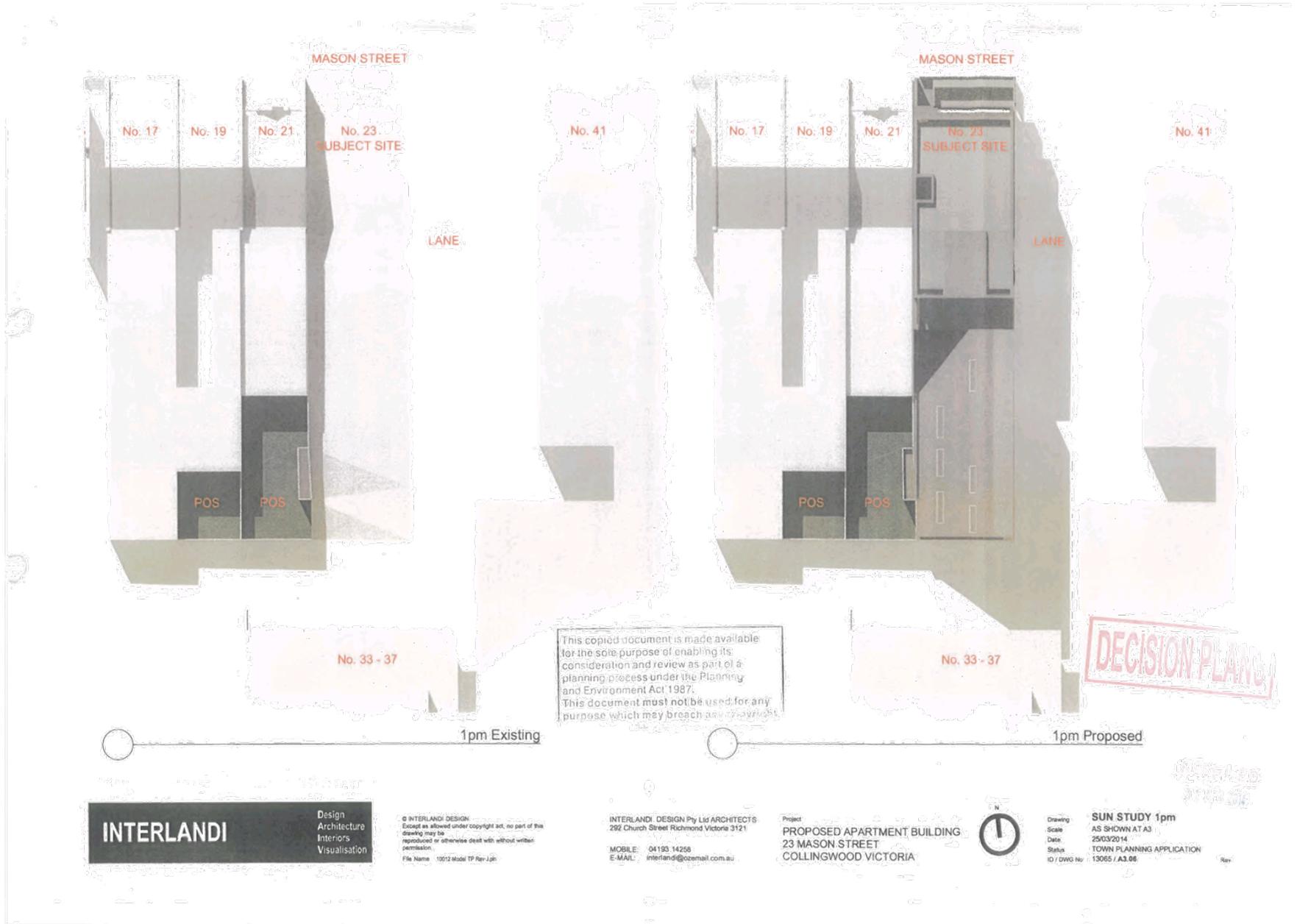
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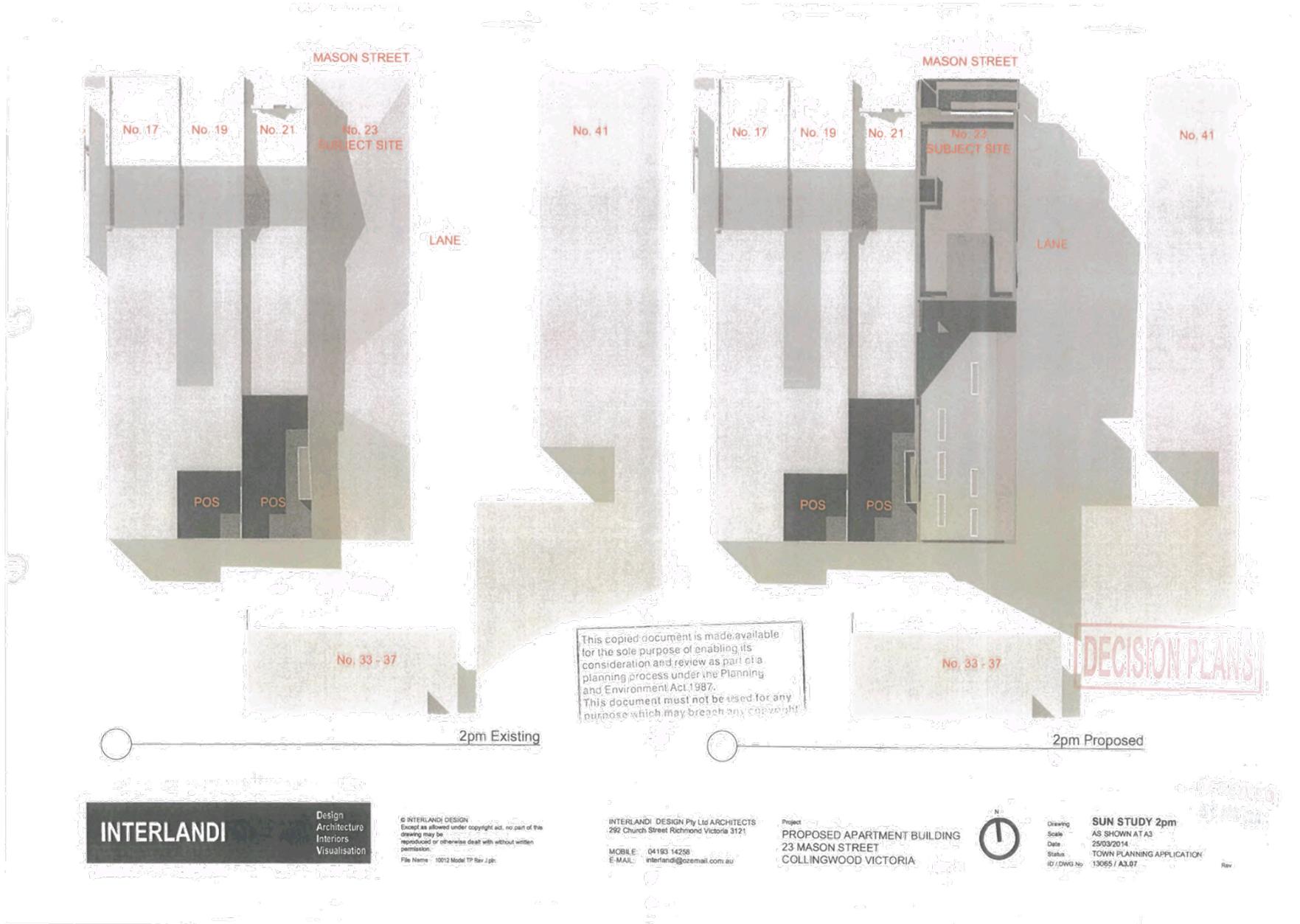
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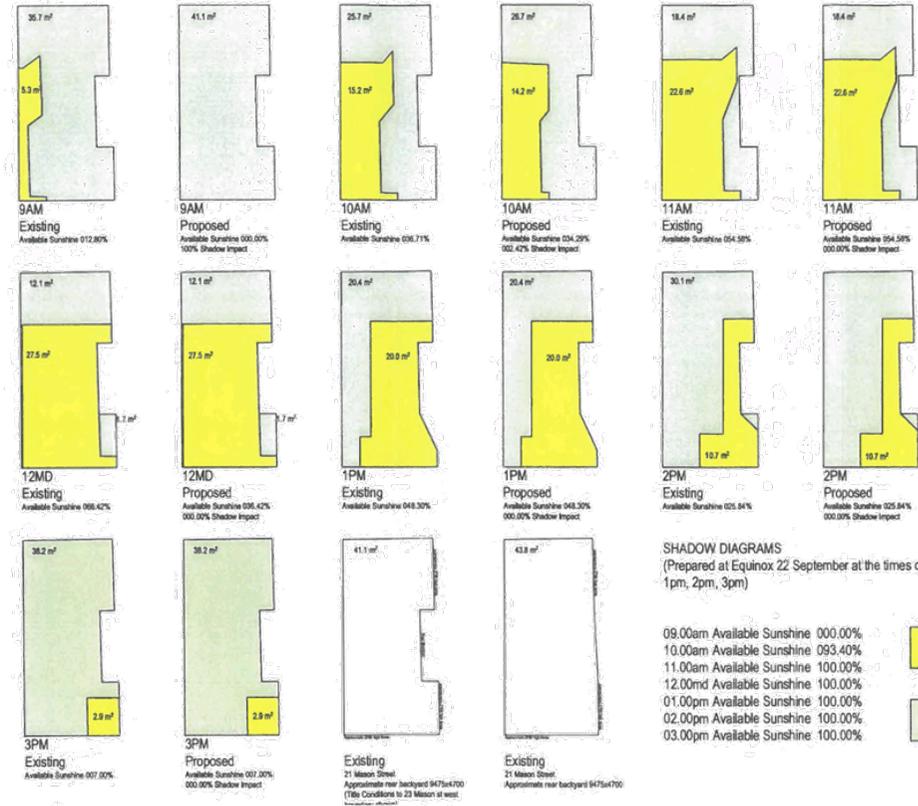
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Attachment 4 - Shadow diagrams



Attachment 4 - Shadow diagrams

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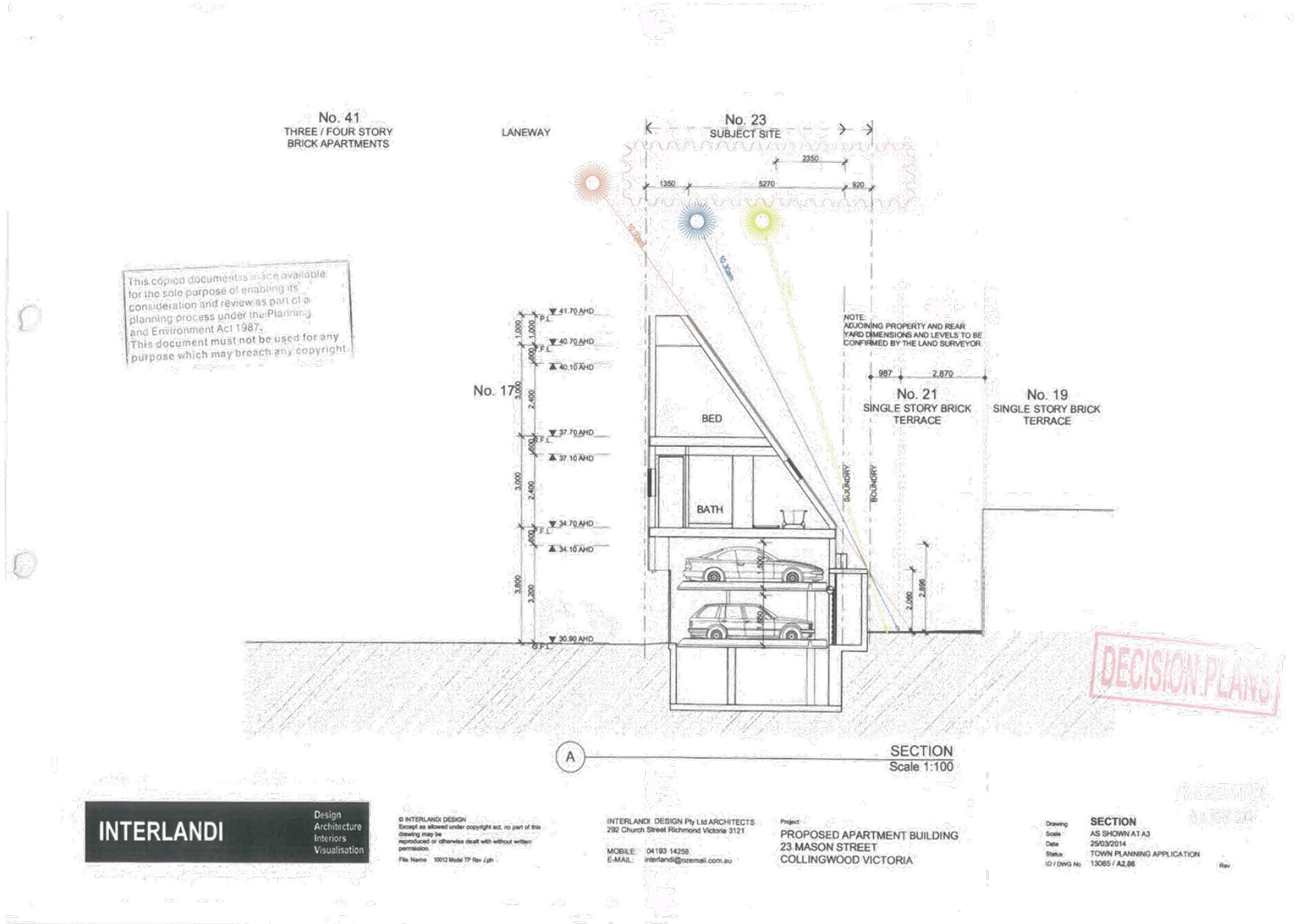
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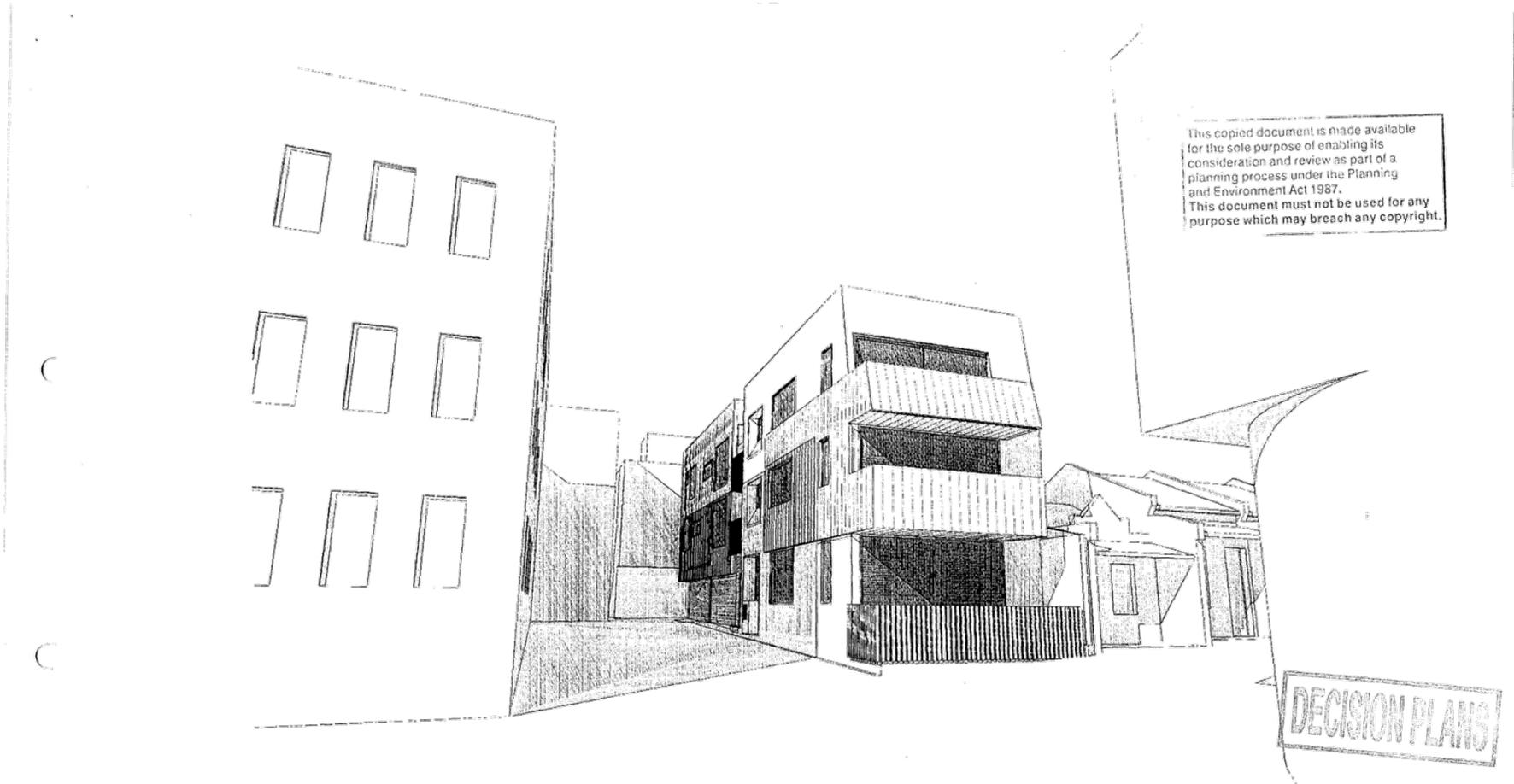


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Attachment 4 - Shadow diagrams



Attachment 5 - Perspectives



2

North East Street View

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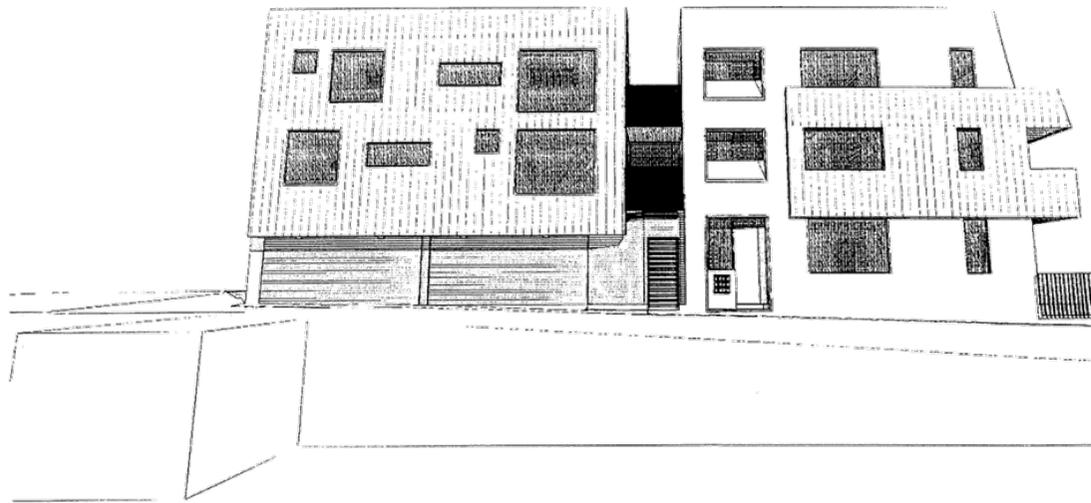
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Attachment 5 - Perspectives



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Eastern Perspective

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Attachment 5 - Perspectives

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North West Street View

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