

**YARRA CITY COUNCIL**

**Internal Development Approvals Committee**

**Agenda**

**to be held on Wednesday 10 May 2017 at 6.30pm  
in Meeting Room 3 at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Misha Coleman  
Councillor Daniel Nguyen  
Councillor Danae Bosler

- I. ATTENDANCE**  
Vicky Grillakis (Co-ordinator Statutory Planning)  
Tarquin Leaver (Senior Co-ordinator Statutory Planning)  
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.  
Yarra City Council acknowledges the  
Wurundjeri as the Traditional Owners  
of this country, pays tribute to all  
Aboriginal and Torres Strait Islander  
people in Yarra and gives respect to  
the Elders past and present."***





## **Guidelines for public participation at Internal Development Approval Committee meetings**

### **POLiCY**

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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	171 Buckingham Street Richmond - Planning Permit Application No. PLN16/1016	5	54
1.2	24 - 28 Stanley Street, Collingwood VIC 3066 – Planning Permit Application No. PLN16/0753	151	166
1.3	14 Coppin Street, Richmond VIC 3121 - Amendment to Planning Application Permit No. PLN16/0008 - Sale and consumption of liquor in association with two (2) food and drink premises (cafes).	173	183

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- 1.1 171 Buckingham Street Richmond - Planning Permit Application No. PLN16/1016**  
**Use and development of the land for the construction of a mixed-use building (between three and eight storeys in height with roof terraces and two basement levels), with a ground floor food and drinks premises (cafe - hours of operation, 7am to 5.30pm, seven days per week) and 202 dwellings (no permit required for dwelling use), reduction in car parking requirements and waiver of loading bay requirements.**
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## **Executive Summary**

### **Purpose**

1. This report provides with an assessment of planning application PLN16/1016 at 171 Buckingham Street, Richmond and recommends approval subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Use (Clauses 32.08-2, 22.01 and 22.05);
  - (b) Built form (Clauses 15.01, 21.05, 22.10, 22.11, 43.02-2, and 52.35);
  - (c) Environmentally Sustainable Development (ESD) (Clauses 15.02-1, 21.05-2, 21.07-1 and 22.17); and
  - (d) Car Parking, Bicycle Provision and Loading Bay (Clauses 52.06, 52.07 and 52.34) of the Yarra Planning Scheme.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Policy and physical context;
  - (b) Use;
  - (c) Built form and design;
  - (d) Off-site amenity;
  - (e) On-site amenity;
  - (f) Car & Bicycle parking / traffic/access/loading facilities;
  - (g) Waste management;
  - (h) Objector concerns; and
  - (i) Other matters

### **Objector Concerns**

4. Fifty-five (55) objections were received to the application, these can be summarised as:
  - (a) The proposal is an overdevelopment and is not responsive to neighbourhood character and heritage;
  - (b) Excessive height and scale;
  - (c) Existing walls should be retained;
  - (d) Design;
  - (e) Amenity impacts (overlooking/overshadowing/daylight to existing windows/noise/issues from substation);
  - (f) Hours of the café will be disruptive;
  - (g) Lack of public contribution;
  - (h) Lack of green spaces;
  - (i) Overshadowing to the public realm;
  - (j) Wind impacts;
  - (k) Inadequate car parking and loading of vehicles and bicycle facilities (including visitor parking) and increased traffic ;

- (l) Congestion will result in emergency vehicles having difficulty driving through the area.
- (m) Use of car stackers;
- (n) Cumulative traffic/parking impacts of other approvals;
- (o) Safety concerns of roads (particularly as close to schools);
- (p) Lack of equitable development opportunities;
- (q) Infrastructure cannot handle increased population;
- (r) Lack of dwelling diversity; and
- (s) Construction issues (disruption, early starts, traffic and noise).

## **Conclusion**

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

**CONTACT OFFICER:** Vicky Grillakis  
**TITLE:** Coordinator Statutory planning  
**TEL:** 92055124

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**1.1 171 Buckingham Street Richmond - Planning Permit Application No. PLN16/1016**

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Trim Record Number: D17/39083

Responsible Officer: Manager Statutory Planning

<b>Proposal:</b>	Use and development of the land for the construction of a mixed-use building (between three and eight storeys in height with roof terraces and two basement levels), with a ground floor food and drinks premises (cafe - hours of operation, 7am to 5.30pm, seven days per week) and 202 dwellings (no permit required for dwelling use), reduction in car parking requirements and waiver of loading bay requirements.
<b>Existing use:</b>	Warehouse
<b>Applicant:</b>	Ratio Consultants
<b>Zoning / Overlays:</b>	General Residential Zone (Schedule 3)/Environmental Audit Overlay/ Design and Development Overlay (Schedules 2 and 9)
<b>Date of Application:</b>	9 November 2016
<b>Application Number:</b>	PLN16/1016

### Planning History

1. Planning Permit 2932 was issued on 1 October 1984 to construct alterations to the building and a new car park.
2. Planning Permit 3360 was issued on 24 December 1985 for erecting advertising signs.
3. Planning Permit 4223 was issued on 7 March 1988 to construct alterations to the existing building, conversion of warehouse floor area to commercial display area, commercial display area to office floor areas and the erection of business advertising sign.
4. Planning Permit 8168 was issued on 4 August 1995 for constructing buildings and works.
5. Planning Permit 96/769 was issued on 15 August 1996 for the purpose of purpose of partial use of the existing building as warehouse and service industry.
6. Planning Permit 97/1148 was issued on 1 September 1997 for the purpose of extending an existing roller door.
7. Planning Permit 97/1633 was issued on 17 December 1997 for the purpose of extending an existing roller door.

### Background

8. The application was lodged on 9 November 2016, and further information subsequently requested in December 2016. The information was received on 15 December 2016 and the application was then advertised with 55 objections being received. A Consultation Meeting was held on 28 February 2017, where the key issues raised in the objections were discussed with Ward Councillors, the Permit Applicant, Objectors and Planning Officers present.
9. Whilst this process was occurring, Council had sought and received advice from an Acoustic Consultant, Urban Design Consultant, as well as Council internal units including Waste Management, Engineering, Open Space, Strategic Transport and Environmental Sustainable Development (ESD). Referral advice is an attachment to this report.
10. In response to objections received and concerns raised through referrals, the applicant submitted sketch plans on 31 March 2017 which showed the following changes:
  - (a) Deletion of one level for the Burnley Street buildings (D1 and D2) to a maximum height of 7 storeys and subsequent reduction in the number of apartments from 202 to 185;
  - (b) The roof plant and equipment above Buildings D1 and D2 setback a total of 3m from Burnley and Buckingham Streets;

- (c) A pedestrian link to Davison Street and subsequent amendment of Apartment A1-104 to a 1-bedroom dwelling (previously 3-bedroom); and
  - (d) 12 visitor car parking spaces within the basement resulting in an overall of 247 spaces provided with 53 at-grade and the remainder within car stackers.
11. Further discussions regarding the car parking allocation took place with Council planning officers expressing concern with the oversupply of resident spaces and undersupply of visitor spaces being contrary to policy. On 20 April 2017 the applicant provided an updated sketch plan of Basement Level 1. The plan shows an increase in the number of visitor spaces to 22, and a reduction in the surplus resident spaces to a total of 206 for residents. The food and drinks premises (café) would continue to have two spaces. This results in a total of 230 car parking spaces being provided within these sketch plans. This constitutes a significant improvement and Council is satisfied with the car parking provision.
  12. The sketch plans do not form part of the decision plans but will form the basis of condition 1 requirements.
  13. As a result of comments from Council's ESD Advisor and acoustic consultant, additional reports were provided on 20 February 2017. The referral comments from Council's acoustic consultant are based the report dated 20 February 2017 and not the advertised acoustic report. Council's ESD Advisor provided comments based on both the advertised report and the later revision.

#### State Government Amendment to Residential Zones

14. On 27 March 2017, Ministerial Amendment VC110 (**VC110**) to all Victorian planning schemes implemented the General Residential Zone (**GRZ**) by altering clause 32.08-9 to state that a building must not be constructed for use as a dwelling or a residential building that:
  - (a) exceeds the maximum building height specified in a schedule to this zone; or
  - (b) contains more than the maximum number of storeys specified in a schedule to this zone.
15. If no maximum building height or maximum number of storeys is specified in a schedule to this zone:
  - (a) the building height must not exceed 11 metres; and
  - (b) the building must contain no more than 3 storeys at any point.
16. Schedule 3 of the General Residential Zone does not state any maximum building height.
17. A mandatory 'garden area' requirement was also introduced within clause 32.08-4.
18. However, these changes do not apply to this planning permit application as pursuant to clause 32.08-14 – *Transitional Provisions* of the Scheme, the minimum garden area requirement of Clause 32.08-4 and the maximum building height/number of storeys requirements of Clause 32.08-9 introduced by Amendment VC110, do not apply to a planning permit application for the construction or extension of a dwelling or residential building lodged before the approval date of Amendment VC110 (27 March 2017). This application was lodged prior to this date and therefore the transitional provisions apply.

### **Existing Conditions**

#### Subject Site

19. The subject site is located on the western side of Burnley Street, Richmond on the northern side of its intersection with Buckingham Street. It is an island site where it is bound by three roads (Buckingham, Burnley and Davison Streets) and a laneway.

The site is generally rectangular in shape with a slight “kink” along its northern boundary where it interfaces with a laneway for its entire length. The site has its western boundary along Davison Street. Overall it has a width of 45.03m and a length of 110.44m, resulting in a total site area of 4973.11sqm.

20. The site is occupied by a large, single storey, brick (painted blue) warehouse which has been used as a warehouse of the party supply businesses, ‘Harry the Hirer’. The building is built to all boundaries with the exception of a portion at the rear interface with Davison and Buckingham Streets for car parking. There is also an unroofed section in the centre of the building.

### Surrounding Land

#### *General*

21. The surrounding area is genuinely mixed in terms of its land uses and built form. The subject site is located in an area which includes lower scale residential, re-development areas, industrial uses, a major arterial road and two Activity Centres (Victoria Street and Bridge Road). There is also land within the Comprehensive Development and Priority Development Zones (where the Planning Minister is the Responsible Authority) to the north-east and to the north.
22. The site is located on the edge of the Victoria Street Activity Centre (AC) which includes Victoria Gardens to the north-east of the subject site. The locality is well served by various modes of public transport (including tram routes along both Bridge Road and Victoria Street) and a variety of community and commercial services and facilities. Yarra and Trinity Primary Schools are also located to the south-west and south (respectively) of the subject site.
23. The surrounding area has changed considerably within the last decade. There are a number of developments in this section of Richmond which are currently under construction, have progressed beyond the planning permit stage or are fully constructed. Nearby developments are as follows:
  - (a) No. 36-44 Doonside Street and No. 27-41 Appleton Street, Richmond - Planning Permit PLN10/0790 issued 11 September 2012 for a 9, 10 and 12 storey building at comprising 210 dwellings, 852sqm of retail and 258 car spaces.
  - (b) No. 9-15 David Street, Richmond – Planning Permit PLN14/0538 issued 6 March 2015 for an 11 storey building containing 139 dwellings, a café and 3 levels of basement. Construction has started.
  - (c) No. 520 Victoria Street, 2A Burnley Street and 2-30 Burnley Street, Richmond – Planning Permit PL09/0206 issued 30 October 2009 which allowed a mixed use development ranging in scale between three to seven storey (plus 2 levels of basement) including 365 apartments over four blocks and one six (6) storey commercial building.
  - (d) No. 2-30 Burnley Street, Richmond – Planning permit PLN11/0930 issued 9 October 2012 which allowed a mixed use development ranging in scale between three and seven storeys in height (plus two levels of basement). This permit required the cancellation of PL09/0206 as a permit condition.
  - (e) No. 647 – 649 Victoria Street, Abbotsford – Planning Permit PLN15/0643 issued 29 June 2016 for the construction of a nine storey building.
  - (f) Several eight storey buildings within the Priority development Zone along the northern side of Victoria Street where the Minister for Planning is the Responsible Authority.

24. The built form types in the area are mixed with some older style industrial buildings, modern residential developments, older residential dwellings (Victorian through to recent constructions) and warehouse residential conversions. Heights range from single storey to seven storeys in the immediate vicinity, with taller buildings further in the distance.
25. Recent residential development as well as former industrial buildings and warehouses are generally constructed with boundary-to-boundary development. They are typically hard-edged in appearance and use material variations, windows and balconies to provide punctuations in their facade. Typical materials found in the area are brick and render with some weatherboard dwellings. A number of single and double storey dwellings as well as three storey, older style apartment buildings are also located in the surrounding area. These are generally characterised by on-boundary walls (some with small side setbacks), with small (if any) front yards. Older stock apartment buildings have communal car parking areas.
26. Land immediately adjacent to the subject site is developed as follows:  
  
*North*
27. To the north of the subject site is a laneway orientated east-west and also the termination of a north-south orientated laneway which services properties along its western side facing Davison Street and Burnley Street along the eastern side.
28. The two sites with direct interface to the subject site are No. 52 Burnley Street and No. 47 Davison Street.
29. No.47 Davison Street is a two storey residential building with 14 apartments constructed in the 1960s. A search of Council's records has found the building plans approving its construction. It includes communal at-grade car parking areas immediately abutting the laneway with windows facing this car parking area, the majority of which are small, covered with metal bars and raised above the floor level. The building plans confirm that these windows are bathrooms, laundries and kitchens, with each dwelling being a mirror image of each other. The kitchens are part of open plan living areas with north-facing windows. The apartments have their primary outlooks to the north. The site's frontage is on an angle with an open garden area and bin storage.
30. No. 52 Burnley Street is a four storey residential building with four multi-level townhouses which are generally built along their northern boundary but setback from the north which is the primary outlook. A planning permit (PL07/0047) was granted on 25 July 2007 with the endorsed plans providing guidance for this assessment. The layouts and built form of these are as follows (as per the endorsed plans):
  - (a) At ground floor, each townhouse has between one to two car parking spaces (accessed from the southern laneway) and one bedroom (daylight accessed from northern courtyards for Units 1-3 and a south-western courtyard for Unit 4) with the eastern-most townhouse (Unit 1) also having a home office facing Burnley Street (currently used for an architectural business). The built form of the ground floor is generally built boundary to boundary with the exception of minor setbacks from the south to allow for garage access and larger setbacks to the north.
  - (b) At first floor, the townhouses are built along the southern boundary with the exception of small 0.7m wide setbacks. The first floor of each townhouse includes open plan living, kitchen and dining areas with either north or east-facing balconies. The first floor is setback from the northern boundary which provides for daylight access through windows. The western-most townhouse (Unit 4) has a bedroom at this floor abutting the western boundary which receives daylight from a window to the north-facing balcony. There are a number of south-facing windows, the majority of which are either associated with non-habitable areas or are additional windows to the open plan living areas.



- (c) Units 1-3 have large, open plan master bedrooms with north-facing decks at second floor with two of the units having a study nook and Unit 4 having a living area with a west-facing roof garden. The second floor is built similarly to the first floor with the exception of increased setbacks from the east and west. There are numerous windows along the southern boundary with each of the habitable rooms also having alternate light sources.
- (d) Units 1-3 each have a roof garden and sunroom above the second floor, built along the southern boundary with setbacks from the northern boundary.

- 31. Burnley Street (between Victoria Street to the north and the subject site) has a varied streetscape character with higher built form juxtaposed with lower forms. The eastern side of the street is dominated by four, large scale residential buildings ranging between seven and eight storeys in height. These buildings are generally built to the street boundary with the façade punctuated by windows and balconies. The northern most of these buildings is a curved-style form. There are two remnant single storey dwellings to the south of the most southern of these larger scale buildings with three multi-unit residential buildings (between three and four storeys in height) to the south of these. The western side of this northern extent of Burnley Street is dominated by the Victoria Gardens Shopping Centre and lower scale remnant commercial/warehouse buildings. Further north, on the northern side of Victoria Street are large scale residential developments completed as part of the Comprehensive and Priority Development Zones abutting the Yarra River.
- 32. In terms of Davison Street, the streetscape is a mixture of single and double storey dwellings with a high prevalence of three storey residential buildings with communal car parking areas at ground floor (either in the front setback or at the rear accessed off a laneway). There is a mixture of built form eras within the street, with some dwellings having heritage value whilst others are not within a heritage overlay and are recent constructions. There is also a mixture of detached and non-detached housing with a varied front setback visible along the street. The road along Davison Street has a 'kink' in it to the north of the site.

#### *South*

- 33. To the south of the subject site is Buckingham Street and across the road are a row of similarly constructed double storey townhouses (between Nos. 182-196 Buckingham Street) which have a frontage to Buckingham Street. The eastern-most has a side wall and fencing along Burnley Street. These townhouses are built boundary to boundary with first floor balconies to the frontage and small enclosed front yards underneath within the overhang area with nib walls either side. Most of the dwellings also have garages with crossovers onto the street. The private open spaces of these dwellings are to the south of their built form.
- 34. To the west of these townhouses are a mixture of single and double storey brick and weatherboard dwellings. These dwellings have varied front setbacks with the western-most of these having its double storey side wall along Buckingham Street as it faces Davison Street.
- 35. Further to the south of the townhouses at Nos. 182-196 Buckingham Street, along the western side of Burnley Street is a four storey modern apartment building with a raised ground floor and balconies facing the street. Immediately to the south of this is a single storey weatherboard dwelling associated with Congregational Church at the intersection of Burnley and Kent Streets. The church is classified as "individually significant" within its own heritage precinct. To the west of this are five, double storey townhouses and beyond that are single and double storey dwellings.
- 36. On the southern side of Kent Street and occupying the majority of the block bounded by Burnley, Kent, Davison and Somerset Streets is the Trinity Catholic Primary School. There are also single storey dwellings within this block.

37. Further south along Burnley Street the streetscape consists of lower rise residential buildings (between single and four storeys, both detached and not) interspersed with higher built form between five and nine storeys at No. 134-138 Burnley Street, No. 142-144 Burnley Street, No. 69 Palmer Street and No. 174 Burnley Street. It should be noted that the eight and six storey buildings at Nos. 134-138 and 142 - 144 Burnley Street are both in the same zone as the subject site.
38. To the south of No. 174 Burnley Street is the Bridge Road AC and beyond that is the wider Richmond area leading south-ward to Swan Street, Burnley train station and the suburb of Burnley.

#### *East*

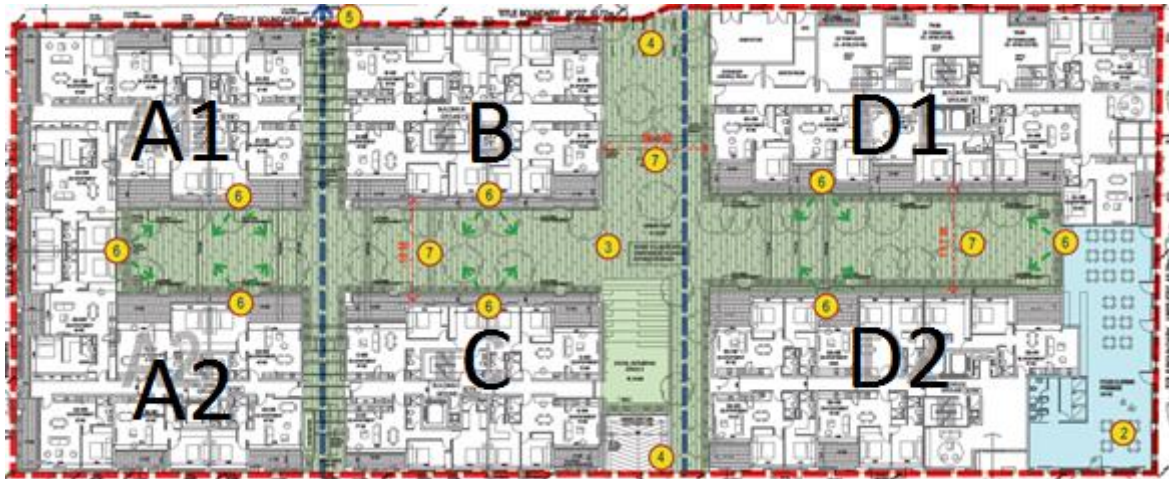
39. This area is historically focused around manufacturing, warehouse and light industry, however the area between Victoria Street and Doonside Street has experienced substantial growth and a shift toward a more residential focus, encouraged by the Mixed Use Zoning of the land on the east side of Burnley Street. One and two storey buildings are being replaced with buildings up to 12 storeys in height.
40. Directly to the east of the subject site is Doonside Street and along the northern side is a large, single storey furniture building built boundary to boundary. On the southern side of Doonside Street is the large, part single, part double storey building occupied by the main offices of 'Harry the Hirer'. This building is within its own site specific heritage overlay. It is also built boundary to boundary with large windows and is constructed in a strong 'Moderne' style, with horizontal banding on the main elevations. It is currently painted blue and white. Further to the east are warehouse/industrial style buildings which are being replaced by high density residential buildings. To the south-east of the subject site the area is mixed with lower scale dwellings and warehouse/industrial buildings.

#### *West*

41. Specifically to the west of the site is Davison Street and on the north-western intersection with Buckingham Street is a three storey, older style residential building setback from both street frontages and car parking along the southern side. To the north of this is a row of single storey brick dwellings built within the Edwardian-era which formed part of the former Cole's Paddock estate. This row typically has small front yards.
42. To the south-west of the subject site is a wide intersection with a large round-about in the centre. Yarra Primary School is located on the south-western intersection of Buckingham and Davison Streets. The large red brick building is built close to its north-eastern boundary with playgrounds and sporting fields further to the west.
43. Further to the west of the site the land is generally lower scale residential (between single and triple storeys in height). There is a mixture of construction eras and built form within the area to the west. Further west is Citizens Park and Church Street and the business located along it.

### **The Proposal**

44. The proposal is for the construction of a multi-storey development with two 'U' shaped buildings at the western and eastern ends and two stand-alone buildings in the central portion of the site. The heights range from eight storeys in the eastern end, to part-four, part-five in the central section and three storeys in the western end. Each of the buildings has a roof garden above it, is built to the street frontage with windows and balconies punctuating the façade and providing setbacks.
45. The buildings are separated by one central east-west landscaped area and two north-south landscaped areas. As shown below:



46. For ease of reference the setbacks of the development have been named as shown on the image above and further to this, A1 and A2 constitute the Davison Street building, and D1 and D2 are the Burnley Street building.

47. The particulars of the proposal are as follows:

#### Demolition

- (a) All structures on-site. (no planning permit required)

#### Use

- (b) Ground floor food and drinks premises (café) within the south-east corner of the Burnley Street building (236sqm) for 90 patrons. The plans do not reflect this and a condition can require a café to be shown. The café is proposed to have hours of 7am to 5.30pm, seven days per week.
- (c) 202 dwellings (54 x one bedroom, 119 x 2 bedroom , 26 x 3 bedroom and 3 x 2 bedroom townhouses with home offices)

#### Construction

##### *Basement levels*

- (d) A total of 235 car spaces provided partly within car stacker (178 spaces in triple stackers) and partly in single spaces (57) on Basement Level 1 accessed via a vehicle crossover from Buckingham Street.
- (e) Basement Level 1 also includes 11 scooter /motorcycle spaces, a 60,000L water tank and waste storage.
- (f) Basement Level 2 is separated into five sections and used for storage and bike spaces (243 bikes and storage for each dwelling)

##### *Burnley Street building (D1 and D2)*

- (g) This 'U' shaped building is construction in a rectilinear form along the northern, southern and eastern boundaries for eight levels with balconies providing punctuations in the façade.
- (h) Dwellings are orientated either towards the street or lane or internalised facing towards the landscaped area.
- (i) At ground level the two wings are separated by the 8.7m wide landscaped area with separation increasing to 10.7m at the levels above.
- (j) At ground floor apartment entries are either from Burnley or Buckingham Streets with large internal lobbies, two lifts cores and service areas adjacent to them. A substation and service area is located at the north-western portion of Building D1.

- (k) At ground floor, Building D1 has six dwellings (4 x 1-bed, 2 x 2-bed and 3 x triple storey townhouses) and Building D2 has five, 2-bed dwellings.
- (l) From the first floor and above, the floor plans are similarly laid out and continue the built form of the ground floor, albeit with additional dwellings,
- (m) From the first floor and above, Building D1 has seven dwellings (3 x 1-bed, 3 x 2-bed, 1 x 3-bed) and the three townhouses (between ground and second floor) and Building D2 has eight dwellings (7 x 2-bed and 1 x 3-bed).
- (n) The only exception with the layouts is the townhouses which have their office/study plus a courtyard facing the laneway at ground floor, first floor bedrooms built along the northern boundary and a second floor open plan kitchen/living/dining areas with balconies. From the third floor and above, there are two, 2-bed apartments instead of the townhouses.
- (o) Buildings D1 and D2 are separated on the roof level and each have a communal roof terrace with a plant area and photovoltaic solar panels.
- (p) Overall height of 25.5m (including the terrace screening) (RL40.6) and up to a maximum of 29.493m (RL44) including the lift core.
- (q) The maximum street wall height is 24.4m.

#### *Building B*

- (r) This building is built to the northern boundary for a length of 24.4m and is setback from Building D1 by 10.72m and Building A1 by 4m. It has an overall width of 17.6m, is four storeys with a roof terrace in the northern half and five storeys with a roof terrace (with plant areas) in the southern half. There is a distance of 8.8m separating this building from the building to the south at ground floor increasing to 10.32m from the first floor and above.
- (s) Each floor contains four, 2-bedroom dwellings either orientated to the laneway or the internal landscaped area with sideages to the abutting setback areas.
- (t) One lift core services this building.
- (u) It has an overall height of 16.195m (RL31.8), 16.8m (RL32.2) including the lift core and up to a maximum of 18.3m (RL33.70) including the roof terrace pergola.

#### *Building C*

- (v) Building C is built along Buckingham Street for a length of 24.2m and is setback from Building D2 by 9.2m and Building A2 by 4m. It has an overall width of 17.6m, is four storeys with a roof terrace in the northern half and five storeys with a roof terrace in the southern half.
- (w) The layout of this building is similar to that of Building B albeit that it is five storeys in height with a roof terrace (with plant areas) above. It has four, 2-bedroom dwellings either orientated to the laneway or the internal landscaped area with sideages to the abutting setback areas at each floor.
- (x) There is an apartment entry area to the west of this building.
- (y) One lift core services this building.
- (z) It has an overall height of 16.2m (RL31.80) and up to a maximum of 19.6m (RL35.2) including the lift core.

#### *Davison Street building (A1 and A2)*

- (aa) This building is constructed similarly to the Burnley Street building in that it forms a 'U' shape, and is constructed along the northern, western and southern boundaries with courtyards, balconies and windows as punctuations in the façade.
- (bb) The Davison Street building is constructed in a rectilinear form to have the appearance of townhouses.
- (cc) Dwellings are orientated either towards the street or lane or internalised facing towards the landscaped area.
- (dd) At ground level the two wings are separated by the 7.92 wide landscaped area with separation increasing to 9.92m at the levels above.

- (ee) One lift core services each building.
- (ff) Each floor is constructed similarly, Building A1 has five dwellings (2 x 1-bed, 1 x 2-bed and 3 x 3-bed) and Building A2 has six dwellings (5 x 1-bed and 1 x 3-bed).
- (gg) There are two apartment entry areas to the east of each of these buildings.
- (hh) This building is three storeys in height with a roof terrace above with two plant areas. It has an overall height of 10.1m (RL25.9) and up to a maximum of 15.089m (RL29.30) in height for the lift core.

#### *General*

- (ii) A new vehicle crossover is to be constructed along Buckingham Street to provide for a two-lane access ramp with a 5.5m width.
- (jj) Two existing crossovers on Buckingham Street will be reinstated.
- (kk) 38 visitor bike spaces are located within the ground floor landscaped area.
- (ll) The ground floor landscaped area includes communal seating areas, bbqs, tables, and play equipment and art.
- (mm) The landscaped area will be open to the public with access being provided through the north-south spine from Buckingham Street and the laneway to the north.
- (nn) The buildings are all rectilinear in form with stone and charcoal cladding for external walls, painted render finishes (annotated as applied finish on the plans), glazed balustrades and windows, metal fin balustrades and gates as well as dark grey cladding for soffits.

#### *Environment Sustainable Development (ESD) initiatives*

- (oo) A 60,000 litre rainwater tank connected to all toilets for flushing.
- (pp) A minimum 10kWp solar PV array;
- (qq) Energy efficient heating/cooling systems.
- (rr) Energy efficient lighting.
- (ss) Water efficient fixtures.
- (tt) 205 bicycle spaces for residents and additional 38 spaces for visitors.
- (uu) Dual waste chutes.
- (vv) Extensive landscaping and open space, will improve the ecological value of the site.

#### *Sketch plans*

48. As outlined earlier, schematic plans have been submitted addressing concerns raised by Council's referral comments and objections. These plans show the following changes:
- (ww) Deletion of one level for to the Burnley Street building (D1 and D2) to a maximum height of 7 storeys (down to 22.5m - RL37.6) and subsequent reduction in the number of apartments from 202 to 185. The Burnley Street building would be reduced in height by 3m (including street wall height).
  - (xx) The roof plant and equipment above the Burnley Street building (D1 and D2) are setback 3m from Burnley and Buckingham Streets.
  - (yy) A pedestrian link (3.8m wide) to Davison Street and subsequent amendment of Apartment A1-104 (the south-western dwelling within Building A1) to a 1-bedroom dwelling (previously 3-bedroom).
  - (zz) 22 visitor car parking spaces and 206 resident car spaces resulting in an overall total of 230 spaces.

### **Planning Scheme Provisions**

#### Zoning

*Clause 32.08 – General Residential Zone (Schedule 3- Office of Housing Sites over 2500sqm and Selected Main Road Sites)*

49. Clause 32.08-2 provides a table of uses. The proposed uses fall within the following categories:
- (a) Dwelling is a 'Section 1' use and does not require a planning permit; and
  - (b) The ground floor food and drinks premises (café) is a 'Section 2 – planning permit required' use.
50. Pursuant to clause 32.08-6 of the Yarra Planning Scheme (the Scheme) a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55, this does not apply to developments of five or more storeys such as this application.
51. Clause 32.08-8 states that a planning permit is required to construct a building or carry out works for a use in Section 2 of Clause 32.08-2, such as is the case with this application.
52. Pursuant to clause 32.08-14 – *Transitional Provisions* of the Scheme, the minimum garden area requirement of Clause 32.08-4 and the maximum building height and number of storeys requirements of Clause 32.08-9 introduced by Amendment VC110 do not apply to a planning permit application for the construction or extension of a dwelling or residential building lodged before the approval date of Amendment VC110 (27 March 2017). This application was lodged prior to this date and therefore the transitional provisions apply and there is no maximum building height for this site within the zone.
53. Decision guidelines for both use and buildings and works are contained at Clause 32.08-12.

#### Overlays

##### *Design and Development Overlay – Schedule 2 – Main Roads and Boulevards*

54. Under clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works.
55. Schedule 2 to the DDO outlines the following design objectives:
- (a) *To recognise the importance of main roads to the image of the City.*
  - (b) *To retain existing streetscapes and places of cultural heritage significance and encourage retention of historic buildings and features which contribute to their identity.*
  - (c) *To reinforce and enhance the distinctive heritage qualities of main roads and boulevards.*
  - (d) *To recognise and reinforce the pattern of development and the character of the street, including traditional lot width, in building design.*
  - (e) *To encourage high quality contemporary architecture.*
  - (f) *To encourage urban design that provides for a high level of community safety and comfort.*
  - (g) *To limit visual clutter.*
  - (h) *To maintain and where needed, create, a high level of amenity to adjacent residential uses through the design, height and form of proposed development.*

56. Decision guidelines include:
- (a) *The contribution of the proposal to the streetscape.*
  - (b) *The design, height and visual bulk of the development in relation to surrounding land uses and developments.*
  - (c) *The design, height and form of the development in relation to the built form character of the street.*

##### *Design and Development Overlay – Schedule 7 (Burnley Street West Precinct)*

57. Pursuant to clause 43.02-2, a permit is required to construct or carry out works. Under Clause 1.0 of the DDO7, there are the following design objectives for how the built form is to respond to the surrounding area:

- (a) To encourage built form which responds to heights in Victoria Gardens Shopping Centre to the east and the scale of established residential development to the west.
- (b) To respond to the opportunity for medium density residential buildings along Burnley Street, while recognising the potential for amenity impacts at ground level attributed to the main road location and traffic.
- (c) To encourage built form which activates the ground floor and provides active pedestrian frontages to Burnley Street.
- (d) To improve the quality of the streetscape and the pedestrian experience along Burnley Street.
- (e) To ensure an appropriate ground level interface and upper level setbacks are provided to protect the amenity and character of established residential area to the west of the precinct.

58. The following relevant requirements are also outlined:

*Building and works*

- (a) Building heights should not exceed the preferred maximum heights shown in the Burnley Street West Precinct Building Envelope Diagram. Built form should address the design principles set out below:

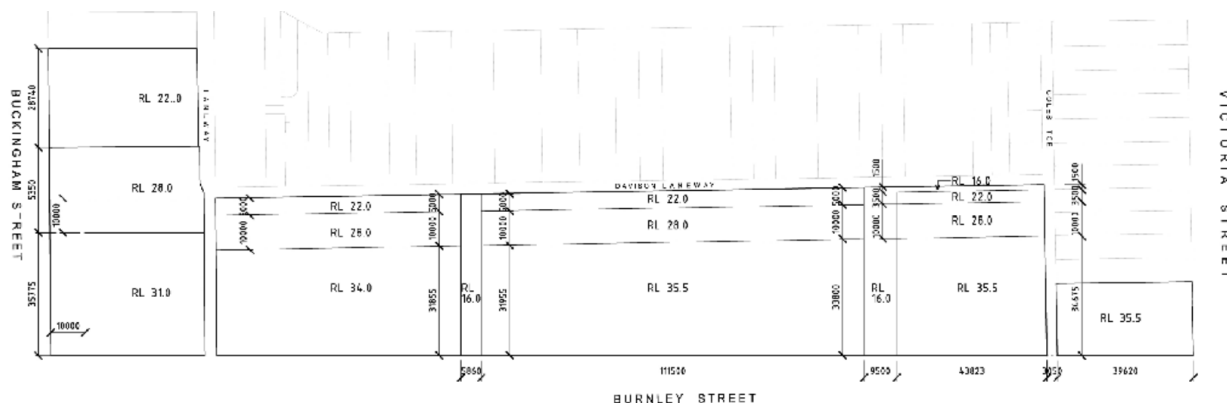
*Burnley Street frontage*

- (b) Built form along the Burnley Street frontage is articulated with recessed elements, varied setbacks, architectural projections and balconies
- (c) Building massing provides variations in height along the Burnley Street frontage, with higher elements oriented perpendicular to Burnley Street to reduce their actual and apparent width, and well separated to provide a varied skyline.
- (d) Higher elements are located at the Burnley Street frontage and largely obscured from view by lower intermediate built form located at the rear of the site.
- (e) At ground level, recesses and varied setbacks provide interest to the streetscape and opportunity for widening of the footpath.
- (f) Built form provides for prominent residential entries at ground level interspersed with non-residential spaces.

*Access and parking*

- (g) Principle vehicle access is from Burnley Street. The number of vehicle crossing and access points is minimised by, where possible, utilising existing signalised intersections/access points to the Victoria Gardens development opposite.
- (h) Car parking is provided at basement level or if constructed above ground is designed to present an attractive building interface.
- (i) Use of the rear laneway for any vehicle access is minimised. Service vehicle access is provided from Burnley Street and provision for service vehicle movement is accommodated within the site.
- (j) A permit may be granted to construct or carry out works which are not in accordance with the specified preferred maximum heights. A permit application is not exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82 (1) of the Act.

59. The Burnley Street West Precinct Building Envelope Diagram shows the preferred heights and massing as follows:



60. The above diagram shows the subject site separated into three sections, with the Burnley/Buckingham Street intersection having a preferred height of RL 31 (15.9m), the centre section being RL28 (12.4m-12.7m) and the Buckingham/Davison Street section being RL 22 (6.4m).
61. Decision guidelines include:
- The effect of the development on the identified heritage places within the precinct.
  - The impact of traffic generated by the proposal and whether it is likely to require additional traffic management control works in the neighbourhood.
  - How ground level commercial occupancy addresses the Burnley Street frontage.
  - How the design, height and form of development responds to the built form character of Victoria Gardens and existing development in Appleton Street.
  - How the design, height and visual bulk of building/s on the site address potential negative amenity impacts on surrounding development.
  - How the proposal improves the street environment for pedestrians along street frontages.
  - The location of, and access to, parking facilities and their effect on the local road network.
  - The effectiveness of new residential development and other noise sensitive uses in protecting their own amenity where potentially affected by existing commercial, industrial, and warehouse businesses.

### *Environmental Audit Overlay*

62. Pursuant to clause 43.03, 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:
- certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
  - 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.
63. As this provision is not a permit trigger but a requirement under the planning scheme, a note will be included on any permit that issues, reminding the permit holder of this mandatory obligation.

### Particular Provisions

#### *Clause 52.06 Car Parking*

64. Clause 52.06-2 requires that before a new use commences, the number of car spaces required under Clause 52.06-5 must be provided. Clause 52.06-3 states that a permit is required to reduce the number of car spaces required under Clause 52.06-5.



65. The Clause 52.06-5 requirements, the proposal provision and the subsequent shortfall are shown below:

Use	Bedrooms/ Area	Rate	No. required	No. proposed	Reduction sought
Dwelling (202 in total)	54 x 1-bed & 122x 2-bed	1 space per 1 and 2 bedroom dwelling	228 in total for residences	233 in total for residences	5 space surplus for residences
	26x 3-bed	2 spaces per 3 bedroom dwelling			
		1 space for visitors to every 5 dwellings for developments	40	0	40
Food and drinks premises	236sqm	4 spaces per 100sqm of leasable floor area	9	2	7
Totals			<b>277</b>	<b>235</b>	<b>42</b>

66. In terms of the car parking allocation, there will be a minimum of one car space per one and two-bedroom and two per three-bedroom with the remainder unallocated but will be offered for sale to purchasers during the marketing process.
67. The car parking spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the responsible authority.
68. A planning permit is required for the technical reduction of 42 spaces. However, there is a surplus of five spaces for residents. The full requirement for residential visitors and seven spaces for the food and drinks premises are required to be reduced (total of 47 spaces).
69. As a result of sketch plans submitted on 7 April 2017 an additional 22 visitor car parking spaces will be provided, with the surplus resident spaces reduced to a total of 206.
70. The sketch plans would result in the following parking provision:

Use	Bedrooms/ Area	Rate	No. required	No. proposed	Reduction sought
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Dwelling (185 in total)	51 x 1-bed & 113x 2-bed	1 space per 1 and 2 bedroom dwelling	206 in total for residences	206 in total for residences	0
	21x 3-bed	2 spaces per 3 bedroom dwelling			
		1 space for visitors to every 5 dwellings for developments	37	22	15
Food and drinks premises	236sqm	4 spaces per 100sqm of leasable floor area	9	2	7
Totals			<b>252</b>	<b>230</b>	<b>22</b>

71. Decision guidelines for consideration of a reduction are contained at Clause 52.06-6. Clause 52.06-8 provides design standards for car parking areas.

*Clause 52.07 – Loading and unloading of vehicles*

72. The purpose of this Clause is to set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and to manage road safety. The provisions set out the minimum dimension requirements for the design of loading and unloading facilities. A permit may be granted to reduce or waive these requirements if either the land area is insufficient; or adequate provision is made for loading and unloading vehicles to the satisfaction of the Responsible Authority.
73. In the case of the proposed development, a loading area of 27.4sqm is required for the food and drinks premises to satisfy the requirement of Clause 52.07. The proposal does not provide any on-site loading space, and accordingly, a planning permit is required to waive this requirement.

*Clause 52.34 Bicycle Facilities*

74. Pursuant to Clause 52.34-3, in developments of four or more storeys, 1 resident bicycle parking space should be provided for every 5 dwellings plus 1 visitor space for every 10 dwellings.
75. Therefore 40 resident bicycle spaces and 20 visitor bicycle spaces are required. As a result of sketch plans, the change in the requirement is 37 resident bicycle spaces and 19 visitor bicycle spaces.

76. The development proposes 205 residential bike racks in Basement Level 2 and 38 visitor bike spaces on the ground floor within the landscaped areas. Therefore, the bicycle provision has been met.
77. Clause 52.34-4 provides design standard for bicycle spaces and signage.

*Clause 52.35 Urban Context Report and Design Response for Residential Development of Five or More Storeys*

78. The clause requires the provision of an urban context report and a design response. These have been provided and hence this requirement is met.

*Clause 52.36 – Integrated public transport planning*

79. The purpose of this clause is:
- (a) *To ensure development supports public transport usage;*
  - (b) *To ensure that easily accessible public transport networks, which are appropriate to the scale of the development, and high quality public transport infrastructure are provide as part of new development;*
  - (c) *To ensure that development incorporates safe, attractive and convenient pedestrian access to public transport stops; and*
  - (d) *To ensure that development does not adversely affect the efficient, equitable and accessible operation of public transport.*
80. As the development is for greater than 60 rooms, the application was referred to Public Transport Victoria for comment, pursuant to Clause 52.36-1 of the Scheme.

General Provisions

*Clause 65 General Provisions*

81. 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, amongst other things, the relevant State Planning Policy Frameworks and Local Planning Policy Framework, as well as the purpose of the Zone, Overlay or any other Provision.

State Planning Policy Framework (SPPF)

*Clause 11.02 (Urban Growth)*

82. Clause 11.02-1 (Supply of Urban Land) the objective is:
- (a) *To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

*Clause 11.02-3 (Planning for growth areas)*

83. The objective is:
- (a) *To locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create benefits for sustainability while protecting primary production, major sources of raw materials and valued environmental areas.*

*Clause 11.03-1 (Activity centre network)*

84. The objective is:

- (a) *To build up activity centres as a focus for high quality development, activity and living for the whole community by developing a network of activity centres.*

*Clause 11.03-2 (Activity centre planning)*

- 85. The objective is:
  - (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.*

*Clause 11.06-2 – (Housing Choice)*

- 86. The objective of this clause is:
  - (a) *to provide housing choice close to jobs and services.*

*Clause 13.03-1 – (Use of contaminated and potentially contaminated land)*

- 87. The objective is:
  - (a) *To ensure that potentially contaminated land is suitable for its intended future use and that contaminated land is used safely.*
- 88. A note highlighting that an audit or a statement must be undertaken will be included on any planning permit issued.
- 89. Clause 13.04-1 (Noise abatement) objective is:
  - (a) *To assist the control of noise effects on sensitive land uses.*

- 90. Noise abatement issues are measured against relevant State Environmental Protection Policy (SEPP) and other Environmental Protection Authority (EPA) regulations.

*Clause 15.01 (Built Environment and Heritage)*

- 91. Clause 15.01-1 (Urban design) objective is:
  - (a) *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

*Clause 15.01-2 – Urban Design Principles*

- 92. The objective of this clause is 'to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties'. This clause outlines principles relating to context, the public realm, safety, landmarks, views and vistas, pedestrian spaces, heritage, consolidation of sites and empty sites, light and shade, energy and resource efficiency, architectural quality and landscape architecture. These principles will be addressed in the following urban design assessment.
- 93. This clause also states that planning must consider as relevant:
  - (a) *Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) (GHDRD) in assessing the design and built form of residential development of four or more storeys;*

*Clause 15.01-4 (Design for safety)*

- 94. The policy objective is:

- (a) *To improve community safety and encourage neighbourhood design that makes people feel safe.*

*Clause 15.01-5 – (Cultural identity and neighbourhood character)*

- 95. The objective of this clause is *'to recognise and protect cultural identity, neighbourhood character and sense of place'*.

*Clause 15.02-1 – (Energy and resource efficiency)*

- 96. The objective of this clause is *'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)*

- 97. The objective of this clause is *'to promote a housing market that meets community needs'*.

*Clause 16.01-2 – (Location of residential development)*

- 98. The objective of this clause is *'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 16.01-3 – Housing opportunity areas*

- 99. The objective of this clause is *'to identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne'*.

- 100. The site is identified as a strategic redevelopment site (SRS) in Clause 22.11.

*Clause 16.01-4 – (Housing diversity)*

- 101. The objective of this clause is *'to provide for a range of housing types to meet increasingly diverse needs'*.

*Clause 16.01-5 – (Housing affordability)*

- 102. The objective of this clause is *'to deliver more affordable housing closer to jobs, transport and services'*.

*Clause 17 – Economic development*

*Clause 17.01-1 – (Business)*

- 103. The objective of this clause is *'to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities'*.

*Clause 18.01-1 – Land use and transport planning*

- 104. The objective of this clause is:

- (a) *To create a safe and sustainable transport system by integrating land-use and transport.*

- 105. Relevant strategies to achieve this objective include:

- (a) *Develop transport networks to support employment corridors that allow circumferential and radial movements.*
- (b) *Plan urban development to make jobs and community services more accessible by:*
  - (i) *Ensuring access is provided to developments in accordance with forecast demand, taking advantage of all available modes of transport and to minimise adverse impacts on existing transport networks and the amenity of surrounding areas.*
  - (ii) *Coordinating improvements to public transport, walking and cycling networks with the ongoing development and redevelopment of the urban area.*
  - (iii) *Concentrating key trip generators such as higher density residential development in and around Central Activities Districts, Principal, Major and Specialised Activity Centres on the Principal Public Transport Network.*
  - (iv) *Requiring integrated transport plans to be prepared for all new major residential, commercial and industrial developments.*
  - (v) *Requiring that substantial increases in activity in employment corridors are connected to the Principal Public Transport Network.*
  - (vi) *Providing routing, bus stop and interchange arrangements for public transport services in new development areas.*
  - (vii) *Providing safe, convenient and direct pedestrian and cycling access to activity centres, public transport interchanges and other strategic redevelopment sites.*
- (c) *Integrate public transport services and infrastructure into new development.*

*Clause 18.02-1 – Sustainable personal transport*

106. The objective of this clause is:

- (a) *To promote the use of sustainable personal transport.*

Local Planning Policy Framework (LPPF)

107. The following LPPF provisions of the Scheme are relevant:

*Clause 21 – Municipal Strategic Statement (MSS)*

*Clause 21.04 – Land use*

*Clause 21.04-1 – (Accommodation and Housing)*

108. The relevant objectives and strategies of this Clause are:

- (a) *Objective 1 - To accommodate forecast increases in population.*
- (b) *Objective 2 - To retain a diverse population and household structure; and*
- (c) *Objective 3 - To reduce potential amenity conflicts between residential and other uses.*

*Clause 21.04-2 – (Activity Centres)*

109. The subject site is located adjacent to the Victoria Street AC.

110. Relevant objectives and strategies include:

- (a) *Objective 4 - To maintain a balance between local convenience and regional retail roles in Yarra's activity centres.*
- (b) *Objective 5 - To maintain the long term viability of activity centres.*

*Clause 21.04-3 – (Industry, office and commercial)*

111. The objective of this clause is '*to increase the number and diversity of local employment opportunities.*'

*Clause 21.05-2 – (Urban design)*

112. The relevant Objectives of this Clause are:

- (a) *Objective 16 - To reinforce the existing urban framework of Yarra;*
- (b) *Objective 17 - To retain Yarra's identity as a low-rise urban form with pockets of higher development:*
  - (i) *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 such as:*
    - *Significant upper level setbacks*
    - *Architectural design excellence*
    - *Best practice environmental sustainability objectives in design and construction*
    - *High quality restoration and adaptive re-use of heritage buildings*
    - *Positive contribution to the enhancement of the public domain*
    - *Provision of affordable housing.*
- (c) *Objective 18 - To retain, enhance and extend Yarra's fine grain street pattern;*
- (d) *Objective 19 To create an inner city environment with landscaped beauty;*
- (e) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric;*
- (f) *Objective 21 - To enhance the built form character of Yarra's activity centres:*
  - (i) *Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form; and*
  - (ii) *Strategy 21.3 Support new development that contributes to the consolidation and viability of existing activity centres.*

*Clause 21.05-4 Public environment*

113. The relevant objective and strategies of this clause are:

- (a) *Objective 28 - To provide a public environment that encourages community interaction and activity:*
  - (i) *Strategy 28.2 Ensure that buildings have a human scale at street level.*
  - (ii) *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*
  - (iii) *Strategy 28.5 Require new development to make a clear distinction between public and private spaces.*
  - (iv) *Strategy 28.8 Encourage public art in new development.*

*Clause 21.06-1 – Walking and cycling*

114. This Clause builds upon the Objectives outlined at Clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

- (a) *Objective 30 - To provide safe and convenient bicycle environments:*
  - (i) *Strategy 30.2 Minimise vehicle crossovers on street frontages.*
- (b) *Objective 32 - To reduce the reliance on the private motor car:*
- (c) *Objective 33 - To reduce the impact of traffic:*

*Clause 21.07-1 – Environmentally sustainable development*

115. The relevant objective of this Clause is:

(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; and*

*Clause 21.08-9 Neighbourhoods (North Richmond)*

116. This clause describes the area in the following way (as relevant):

*Victoria Street East*

(a) *This precinct incorporates the area between Grosvenor Street in the west and the Yarra River to the east. It includes a combination of retail, bulky goods, entertainment, residential and office land uses. The centre has a key interface with the Yarra River, which defines its northern and eastern boundaries. Significant parts of this precinct have recently undergone extensive redevelopment. With a number of key sites in the area still up for redevelopment, it will continue to evolve. New development must enhance the landscape qualities of the Yarra River and include active frontages on Victoria Street and the River. The Victoria Gardens development has the capacity to incorporate further residential development.*

(b) *To the east of Burnley Street is an area of mixed industrial character with a pocket of low rise residential development. Given the proximity of this area to Victoria Gardens and the limited demand envisaged for the reuse of large industrial sites, there is potential for a wider range of employment uses including offices to locate in this precinct. I*

117. Within Figure 21 of Clause 21.08-5, the subject site is identified as being directly to the west of the Victoria Street Activity Centre.

118. Figure 22 of Clause 21.08-5, shows the subject site as being within an 'Inner Suburban residential' built form character area where the objective is to maintain the existing pattern of front setbacks and limit height variations of one storey compared to adjacent properties, on single house sites/small development sites in areas with generally consistent building heights.

#### Local Policies

*Clause 22.01 - Discretionary uses in the Residential 1 Zone*

119. This policy applies to land in the Residential 1 Zone and while not applicable to this application (given the subject site is located within the Mixed Use Zone) the policy provides useful guidance in relation to how a non-residential use has the potential to adversely affect the amenity of a residential area.

120. Clause 22.01-2 policy objective is:

(a) *to ensure that residential amenity is not adversely affected by non-residential uses.*

121. Clause 22.01-3 Policy (amongst others):

(a) *Hours of operation should be limited to 8am to 8pm except for convenience shop.*

(b) *Noise emissions should be compatible with a residential environment.*



- (c) *Food and drink premises, places of assembly, places of worship and plant nurseries should have access to and adjoin a road in a Road Zone*

*Clause 22.05 – Interface Uses Policy*

122. This policy applies to applications for use or development within Commercial 1 Zones (amongst others). The relevant objective of this clause is *‘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’*.

*Clause 22.10 – Built form and design policy*

123. The policy applies to all new development not included in a heritage overlay and comprises ten design elements that address the following issues: urban form and character; setbacks and building heights; street and public space quality; environmental sustainability; site coverage; on-site amenity; off-site amenity; landscaping and fencing; parking, traffic and access; and service infrastructure.

*Clause 22.11 – Victoria Street East Precinct Policy*

124. This policy applies to the subject site, Victoria Street East Precinct and the West Burnley Street Precinct. The principles contained within the Victoria Street East Precinct and Richmond Urban Design Framework (2005) form the policy basis of this clause.
125. Clause 22.11-1 specifically identifies the subject site as a strategic redevelopment site.
126. The policy provides a holistic vision and approach to the development of the precinct. The policy addresses the Yarra River corridor, traffic and access, provision of infrastructure, land use mix and design of built form. Objectives of the policy that apply to this site are:

*Traffic and Access*

- (a) to encourage the use of public transport, cycling and walking for access within the Victoria Street Precinct and between it and other parts of Melbourne;
- (b) to provide for adequate access to, from and within redevelopment sites that contributes to the development of an integrated pedestrian and cycling network within the Precinct; and
- (c) to reduce vehicular traffic conflicts with tram services in Victoria Street without the requirement of future road widening.

*Provision of infrastructure*

- (a) to develop and improve existing infrastructure in and around the Precinct, including parklands on both sides of the River and community infrastructure; and
- (b) to ensure new development contributes to the provision of appropriate physical and social infrastructure to support the change of uses in the Precinct.

*Land use, activity and development opportunities*

- (a) to maximise opportunities for new development on former industrial sites and other disused sites while protecting the amenity of the surrounding area and enhancing the landscape character of the River corridor;
- (b) to provide for higher intensity residential development within the Activity Centre where this will not be discordant with the built form and amenity of residential areas to the west and south of the Precinct.

- (c) to protect existing industrial activities in the Industrial 1 Zone adjacent to the Precinct, while supporting opportunities for a shift from industrial activity to business activity within the Precinct;
- (d) to encourage the relocation of dangerous industry from the area south of Victoria Gardens and encourage more appropriate redevelopment as a transition between Victoria Gardens and residential areas.

*Urban Design and Built Form*

- (a) to relate the siting scale bulk and massing of new development to the distinctive landscape and ex-industrial character of this section of the Yarra River Corridor
- (b) to encourage high quality urban design and architecture throughout the precinct which contributes to the public realm, including the Yarra River corridor and streetscapes;
- (c) to ensure that the development or redevelopment of this precinct protects the character and amenity of neighbouring residential areas; and
- (d) to ensure access to sunlight and amenity is maintained in public spaces and that sensitive community facilities are protected from overshadowing and other detrimental impacts.

127. Relevant policy that apply to this site are as follows:

- (a) Car parking areas should be incorporated within developments, preferably underground. Garage access to underground car parks should be visually concealed from the river frontage and the Main Yarra Trail.
- (b) All development should use existing rear lanes where they exist, to provide service and vehicular access to the site and avoid open air ground level car parks or parking in structures exposed to street frontages.
- (c) The Burnley Street edge of the residential precinct should be consolidated by the provision of medium density housing.
- (d) Uses which activate the Victoria Street, Burnley Street and River Corridor frontages at ground level are encouraged.
- (e) An integrated and improved network of pedestrian access routes should be provided within the Precinct with linkages both within and between sites.
- (f) Mid-block links should be provided through major redevelopment sites in the precinct, including through the Yarra Gardens precinct to connect the riverside paths west to Flockhart and Grosvenor Streets and south to Davison Street.
- (g) All buildings contribute to the public realm through the provision of active frontages, where appropriate, and high quality urban design and architecture with articulated building facades and upper level building setbacks. Windows should be incorporated at upper levels to encourage public surveillance.
- (h) New development on Burnley should be designed so as to provide an appropriate transition in scale and massing, with upper level setbacks provided to minimise impacts on the amenity of adjacent lower-rise housing areas.
- (i) Taller building elements may be constructed, provided that an appropriate height transition is provided within the site to minimise impacts on the amenity of the surrounding area including through the overshadowing of public spaces.

128. Additionally Map 1 shows the subject site as being within a mixed use area with improved pedestrian amenity and access along main roads.

*Clause 22.12 – Public Open Space Contribution*

129. The subject site is in an area where land in lieu of cash is the preferred method of public open space contribution (area 3121C). However considering the size of the site, it is not practical to provide the preferred area of land (300sqm) and therefore cash will be provided.

*Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)*

130. This policy was introduced into the Scheme on 13 March 2014 and applies to (as relevant) new buildings.
131. The applicant provided a Sustainable Management Plan (SMP) that included a STORM report, however the report had some inconsistencies and therefore, an updated STORM report is being required by way of condition, should a permit be issued.

*Clause 22.17 – Environmentally Sustainable Design*

132. This policy was introduced into the Scheme on 19 November 2015 and applies to residential development with more than one dwelling. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

Other Relevant Documents

*Victoria Street Structure Plan (Adopted by Council April 2010)*

133. The purpose of the document is to guide how the Planning Scheme will be implemented and changed and to guide investment in public works in this precinct.
134. Of note, the subject site falls within the 'West Burnley Street' precinct. The vision for this area is new residential development fronting Burnley Street. More specifically, the area is earmarked for potential higher intensity housing to consolidate the Burnley Street edge of the Residential 1 Zone. Future buildings on this site are envisaged as being 3-6 storeys in height with the residential interface providing a scale transition between new development and existing low-rise residential areas.
135. Whilst this document can be considered, it has very limited statutory weight and is not relied upon in the assessment of this application.

*Victoria Street East Precinct, Richmond Urban Design Framework [UDF] (November 2005 – adopted November 2004)*

136. This document was created to guide change in the area and largely informed the Victoria Street East Precinct Policy at clause 22.11 and the DDO7. The UDF complements and should be read in conjunction with other policies and controls in the Scheme. Where there is a conflict or inconsistency in direction, the Planning Scheme is to be given weight as it is the primary planning instrument. In November 2004 Council adopted the Victoria Street East Precinct Urban Design Framework (UDF) and resolved to request the Minister for Planning to approve Amendment C75 to the Yarra Planning Scheme to incorporate the UDF into the scheme on an interim basis.
137. The subject site is located within the Burnley Street West precinct and the UDF recommends (in summary):
  - (a) Buckingham Street is identified as a tertiary pedestrian and traffic access route
  - (b) Potential for higher intensity housing to consolidate the Burnley Street edge of the Residential 1 Zone.
  - (c) Some industrial and commercial buildings without setbacks also exist within the residential zones in the precinct, especially along the west side of Burnley Street. The zero setback pattern should be extended into this area also.

- (d) Burnley Street Residential Interface - Transitional building heights opposite Victoria Gardens, ensuring protection of amenity and character of adjoining residential areas, up to RL 30.5 maximum at the Burnley St frontage and grading down to RL 26 maximum at the laneway along the western edge of the Precinct (see page 21).

## **Advertising**

138. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987 [the Act]* by way of 966 letters sent to the surrounding property owners/occupiers and by six signs, two facing the northern laneway, two facing Buckingham Street and one each to Burnley and Davison Street.
139. 55 objections were received to the application, these can be summarised as:
- (a) The proposal is an overdevelopment and is not responsive to neighbourhood character and heritage;
  - (b) Excessive height and scale;
  - (c) Existing walls should be retained;
  - (d) Design;
  - (e) Amenity impacts (overlooking/overshadowing/daylight to existing windows/noise/issues from substation);
  - (f) Hours of the café will be disruptive;
  - (g) Lack of public contribution;
  - (h) Lack of green spaces;
  - (i) Overshadowing to the public realm;
  - (j) Wind impacts;
  - (k) Inadequate car parking and loading of vehicles and bicycle facilities (including visitor parking) and increased traffic ;
  - (l) Congestion will result in emergency vehicles having difficulty driving through the area.
  - (m) Use of car stackers;
  - (n) Cumulative traffic/parking impacts of other approvals;
  - (o) Safety concerns of roads (particularly as close to schools);
  - (p) Lack of equitable development opportunities;
  - (q) Infrastructure cannot handle increased population;
  - (r) Lack of dwelling diversity; and
  - (s) Construction issues (disruption, early starts, traffic and noise).
140. The grounds of objections raised will be considered and addressed where relevant throughout the following assessment.
141. A Consultation Meeting was held on 28 February 2017, where the key issues raised in the objections were discussed with the Ward Councillors, Permit Applicant, Objectors and Planning Officers present.

## **Referrals**

### **142. External Referrals**

- (a) Public Transport Victoria

### **143. Internal departments**

- (a) Engineering Services Unit;
- (b) Waste Services;
- (c) ESD Advisor;
- (d) Open Space;
- (e) Strategic Transport Unit;

External consultants

- (f) Urban Design (Rob McGauran); and
- (g) Acoustic (SLR Consulting).

144. Referral comments are attachments to this report.

**OFFICER ASSESSMENT**

145. The following key issues and policies will be used to frame the assessment of this planning permit application:

- (a) Policy and physical context;
- (b) Use;
- (c) Built form and design;
- (d) Off-site amenity;
- (e) On-site amenity;
- (f) Car & Bicycle parking / traffic/access/loading facilities
- (g) Waste management; and
- (h) Objector concerns.

Policy and physical context

146. The proposal satisfies the various land use and development objectives within the SPPF and LPPF, providing an acceptable level of compliance with the relevant policies within the Scheme, and is considered to provide a positive strategic opportunity for development within a well-resourced inner-urban environment.
147. State and Local Policies (such as clauses 11.02-1 and 16.01-2) encourage the concentration of development in and around activity centres (with this site being adjacent to an Activity Centre (AC)) and intensifying development within existing urban areas (Clause 11.02) well connected to public transport. It is clear that this part of Richmond (as has previously been outlined) is undergoing significant change and will continue to do so. There is strong state policy support for increased density in this area as shown through Clause 16.01-1 (amongst others).
148. In this instance the site is located close to several public transport options with trams operating along Victoria Street and Bridge Road. Bicycle tracks along the Yarra River provide a better connected journey for cyclists. Locating such a development satisfies the objectives of clauses 11.02-1, 11.02-3 and 18.01-1 of the Scheme.
149. The site is located in an area suitable for redevelopment, with a proposed built form that generally responds to the diverse pattern of urban form in the neighbourhood and with limited off-site amenity impacts. The location of laneways and streets surrounding the proposal provide a buffer from off-site amenity impacts.
150. Additionally, the subject site is an identified Strategic Redevelopment Site (SRS) within Clause 22.11-1. SRSs can generally be developed in a reasonably robust manner as Council's MSS acknowledges, the municipality is predominantly low rise with 'pockets of higher development'. Strategy 17.2 of Council's Municipal Strategic Statement (MSS) requires that developments on SRS should generally be no more than 5-6 storeys unless a number of factors are included such as significant upper level setbacks, high quality architecture and esd standards. The majority of the proposal is five storeys or below with only the eastern building being above this general height. Council submits that the proposal incorporates a number of these factors to satisfy the requirements of Strategy 17.2.
151. Clause 16.01-4 encourages developments to provide for a variety of housing types, which this proposal does by adding to the wider spread of single dwelling types in the area. There

is strong strategic support within clauses 11.02-1, 16.01-1 and 16.01-2 for the further intensification of such a large site in an inner-city location. Considering the current need for housing in existing urban areas, the proposal satisfies a number of the previously discussed State and Local policies regarding intensification.

152. The importance of urban consolidation, which clauses 16.01-2 and 21.04-1 (amongst others) encourage, was raised in the Tribunal decision *NJJJKT v Whitehouse CC* [2008] VCAT 1410, where Senior Member Liston stated:

[14] I think there needs to be a greater emphasis on the importance of metropolitan policies in relation to urban consolidation, housing diversity, and affordability. I do not say that neighbourhood character is of less importance, rather I say that in each decision consolidation diversity and affordability need to be at the forefront of our thinking, and not merely a background hum.

153. The subject site is located within a General Residential Zone which allows for some multi-unit development in areas with good access to shops, services and public transport. Whilst the subject site and those to its north are within this zone, they are also specifically designated by Clause 22.11 as well as DDO7 as sites where higher density built form is envisaged compared to the surrounding residential land to the west. It has been established that the site is located in an area suitable for redevelopment, with a proposed built form that generally responds to the diverse pattern of urban form in the neighbourhood. However, as identified above, urban consolidation is not the only relevant planning matter to be considered, with quality design, local urban character, and amenity considerations being equally as important. New development must respond to its built form and policy context as outlined at clauses 15.01-1, 15.01-2, 15.01-5, 21.05-2, 22.10, 22.11 and also within DDO7.
154. In summary, the subject site is considered to be appropriate for a higher density development of the nature proposed as there is strong policy support (as has been demonstrated) for the redevelopment of this site given its strategic context.

#### Use

155. The General Residential Zone has a purpose of encouraging residential development, and also *“to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations”*.
156. The food and drinks premise (café) is a section 2 use (planning permit required) within a General Residential Zone. The hours of operation are proposed to be 7am to 5.30pm, 7 days per week. These hours comply with policy at Clause 22.01 with the exception of one additional hour in the morning. This is acceptable as the café is generally facing Burnley Street with only a portion of its sideage facing other dwellings.
157. Policy encourages food and drinks premises to have access to and adjoin a Road Zone, which this does as it abuts Burnley Street. The café will be a low intensity commercial use that will complement the existing commercial and residential uses and development in the surrounding area. The proposed use is located within an established mixed use area characterised by low to high residential development and commercial uses and will provide a required service for the benefit of the community. The proposed use will also complement the diverse land use in the area.
158. Acknowledging the proximity to residential dwellings (particularly D2-101 and D1-105 which has direct abuttal with the café), appropriate conditions will be included on any permit to control the use in terms of hours of operation, number of people on the site and general amenity provisions.
159. It is essential for any use application to take into account any amenity impacts on the surrounding neighbourhood and the Interface Uses Policy at clause 22.05 of the Scheme will

be used in this regard. Clause 22.05 requires that new non-residential development is to be designed to / so that:

- (a) *Minimise the potential for unreasonable overlooking of private open space areas and into habitable room windows of adjoining residential properties, through the use of appropriate siting, setbacks, articulation and possibly screens.*

The proposed café is not built abutting or facing any existing residences within 9m.

- (b) *The location, length and height of any wall built to a boundary not adversely impact on the amenity of any adjoining residential properties in terms of unreasonable overshadowing of private open space, visual bulk or loss of day light to habitable room windows.*

The proposed café is not built abutting any boundaries with existing residences.

- (c) *Where private open space and/or windows to adjoining residential properties are unreasonably affected, appropriate set backs from boundaries are to be provided to address loss of daylight, overshadowing and visual bulk impacts.*

These issues will be discussed within the Off-site amenity section of the report.

- (d) *Provide for a high level of acoustic protection to adjoining residential properties by:*
  - (i) *Locating plant and other service infrastructure (including automatic garage doors) in discrete locations*
  - (ii) *Using masonry wall construction rather than, for example, curtain walling*
  - (iii) *Building in effective acoustic insulation.*

The applicant has submitted an acoustic report which will require some amendments that can be conditioned on any permit , should one be issued.

- (e) *Minimise noise transmission within the building, including from machinery and ventilation systems, between floors or separate units and to adjoining residential properties.*

The noise level from the café will be minimal as there will be no amplified music or any source of noise that is anticipated to exceed normal commercial noise. A condition of any approval will ensure that the noise level from the proposed use will not be detrimental to the amenity of the adjoining sites and will be compliant with relevant EPA guidelines.

- (f) *Minimise the opportunity for views from adjoining residential properties into the site, especially where the storage, preparation, business or industrial activity could present an unsightly appearance.*

The proposed café use is facing the street as other similar businesses typically do and is not unsightly. The proposed cafe will have a separate bin area to those of the residential component located within the basement. The commercial bin areas will be hidden from public view.

- (g) *Minimise the opportunity for light spill due to fixed or vehicular lights, outside the perimeter of the site and on to habitable room windows of nearby residential properties.*

The proposed uses will be operating only during daylight hours and as such, light spill will not affect adjacent properties.

160. The proposal will also not be detrimental to the amenity and safety of the adjoining and surrounding uses. It will provide an opportunity for a low scale café use to be located in an

established mixed use area, so people in the immediate area may be able to utilise the services to be made available by the businesses.

161. Based on the above, there would not be unreasonable conflict between the proposed use and the nearby uses and development.

#### Built form and design

162. The provisions of the Scheme relevant to design and built form are contained at clauses 15 (Built Environment and Heritage), 21.05 (Built Form), 22.10 (Design and Built Form), Clause 22.11 and as supplementary guidance within the Design Guidelines for Higher Density Residential Development (GHDRD). The policy and design guidelines within Design and Development Overlays (Schedule 2 and 7) will also be considered. All of the provisions and guidelines support development that responds to the existing or preferred neighbourhood character.

#### *General*

163. As already outlined extensively within the 'Surrounding Land' portion of this report, the subject site is in a genuinely mixed area. The subject site marks the southern and western ends of areas designated (by local and state policy) for increased higher density development. There is a commercial area to the east as well as lower scale residential and primary schools to the west.  
The majority of buildings are constructed boundary to boundary, with high site coverage, rectilinear forms with garage entrances, balconies and windows facing the street and mixture of roof forms. Some of the residences to the west, north-west and south-west have small front yards and side setbacks also. The subject site is physically separated from the residential built forms to the west and south by Buckingham and Davison Streets. The proposal has incorporated some of these elements within its design as per objectives of clause 15.01-1.
164. The proposed works are an obvious improvement on the existing streetscapes. This is achieved through the removal of a warehouse which does not contribute or activate the streets or laneway in any way, for the construction of a modern and visually interesting building which is in-line with the future character envisaged for this precinct within local policy and DDO7. This shows the proposal has considered both the existing and emerging character of the area as per objectives of clause 15.01-1 as well as clauses 22.11 and 22.10-3.2.
165. The subject site is currently underutilised. It is specifically designated by policy for higher density re-development, is adjacent to an AC, near two tram routes, with no heritage restrictions and no limited direct sensitive interfaces. It would be a reasonable expectation that this site would experience intensification in use and development. Intensification of the area is well underway with a number of recent approvals for taller buildings up to 12 storeys in the nearby area. As the site is specifically designated as a SRS within Clause 22.11, is an island site and is on two corner allotments, there should also be an expectation that the site is developed differently to the surrounding residential land to the west. It is within this context that this proposal must be considered.
166. DDO7 outlines preferred maximum heights within its Building Envelope Diagram. The heights are separated into three sections with the Burnley Street end being 15.9m (RL31), between 12.4m and 12.7m (RL28) and the Davison Street end being 6.4m (RL22). The proposal will exceed these heights by approximately 9.6m, between 3.5 and 3.8m and 3.7m respectively.
167. Whilst the proposed maximum height is taller than abutting existing built form and the preferred maximum heights in DDO7, it is comparable to recent construction in the wider Richmond area which is part of an emerging character towards higher built form. The issue of development which is higher than surrounding built form was further discussed in the 2012



'Red Dot' Tribunal decision, *Pace Developments v Port Phillip CC* (includes Summary) (Red Dot) [2012] VCAT 1277:

[58] We accept that the building will be taller and will be seen, but the notion of respectful development does not mean that new buildings must replicate that which exists nor does it imply that they will not result in change. As we have noted, change must be contemplated in an area where growth is encouraged by the MSS and chance to improve, or perhaps in this case repair, the urban environment.

168. Following on from this, on the topic of the 'visibility' of a proposal within an area, the Tribunal member in *Rowcliffe Pty Ltd v Stonnington CC* [2004] VCAT 46 (29 January 2004) provided the below comments:

[54] If mere visibility becomes the test across metropolitan Melbourne, then it will be virtually impossible to construct buildings above the prevailing scale. This, in turn, would render it impossible to achieve the clearly stated urban consolidation objectives expressed in the Planning Scheme, objectives which Clause 11 requires us "to give effect to". The Tribunal rejects the notion that, because some of the buildings would be visible above the existing built form, they are therefore unacceptable. Rather, the test is whether the proposal is complementary to the surrounding area, and of a scale that can be assimilated without unreasonably disturbing the surrounding built environment.

169. Due to the subject site's location on a large island site, it will be clearly visible from the surrounding area and this is unavoidable. The proposal has responded to the immediate and future height context of this part of Richmond as well as specifically to its three street frontages.

As such, the height and massing is compliant with policy at clauses 15.01-1, 15.01-2, 22.10-3.2 and 22.10-3.3. By acknowledging its existing and emerging context of the area, the proposal has complied with Objective 1.1 and Design Suggestion 2.1.1 of the GHDRD.

170. Strategy 17.2 at clause 21.05-2 of the Scheme states that development should generally be no more than 5-6 levels unless it can be demonstrated that the proposal can achieve specific benefits. Having regard to the specific benefits required to support taller built form, it is considered that the proposal makes a positive contribution to the enhancement of the public domain through the construction of a new building and additional passive surveillance opportunities to each of the three streets and laneway. It will achieve good environmental sustainability objectives in design, high architectural design excellence and significant upper level setbacks from the residential hinterland to the west. As such, the proposal has demonstrated sufficient justifications for the Burnley Street building to go beyond the general 5-6 levels (albeit by one level subject to a condition relating to the sketch plans).

171. The proposal incorporates 'terraced' style massing as a design response to the varied interfaces it interacts with. This allows the proposal to have its 'peak' height towards the Burnley Street end and transitions down towards the lower scale residential land in-line with design objectives within Clause 1.0 and design principles within Clause 2.0 of DDO7. This 'terracing' also generally follows the massing pattern as suggested within DDO7 and also satisfies numerous design objectives within Clause 1.0 of DDO7. This ensures that the eastern end of the development which faces Burnley Street will fit within the height range of approved and constructed developments along Burnley Street with limited views to the proposal from the lower scale residential area to the west.

172. In terms of overall height, the proposal does exceed the preferred maximum heights within DDO7 however these are not mandatory and the overall heights are acceptable, subject to conditions associated with the reduction in one level of the Burnley Street building as per the sketch plans. Council's Urban Design Consultant noted these exceedances and recommended a reduction of two floors for Building D2 only. These matters will be discussed below.

173. The built form discussion regarding the interface to the north will be dealt with in the 'Amenity' section of this report and also within the discussion of the Burnley Street interface.

### *Burnley Street*

174. As already outlined, the 'terraced' massing across the site includes its highest portion towards Burnley Street with an eight storey form proposed, built to all boundaries with balconies and windows providing detailing in the façade. This is reflective of the more robust built form seen within this stretch of Burnley Street including the recently constructed buildings further to the north opposite Victoria Gardens.
175. The Burnley Street building includes a light grey, stone clad, three level 'podium' with a slightly recessed Level 4 (constructed mainly of glass) to provide a break in the form with the four levels above being framed in a white rendered finish with a glazed facade. The framing of the Burnley Street building is such that it disguises the individual levels which reduces the perception of scale. This is achieved by each level not being clearly delineated. The base is vertically separated by stone clad columns with only the black metal balconies and window punctuations providing any indication of floors. The four floors above the glazed break are double banded in height with individual levels being broken up into two sections by the framing. This façade articulation also complies with design principles within Clause 2.0 of DDO7 and urban design policy within Clause 22.11-3.
176. DDO7 whilst not a mandatory control considers a height of RL31 further north of the site. The plans show a façade height of RL39.5. Acknowledging that the proposal is taller than the DDO, Council's Urban Design Consultant suggested two changes to this building to reduce visual bulk. The first is plant enclosures to be setback at least 3m from Burnley and Buckingham Streets.  
The second recommendation is for the removal of the seventh and eighth floors from Building D2 *"to diminish the height of the building to the corner with Buckingham Street and Burnley Street"*.
177. The applicant has provided sketch plans showing compliance with the first recommendation. This can be required by way of condition. With regards to the reduction in height, Council planning officers submit that it is more appropriate to remove an entire level from the Burnley Street building rather than two floors only from Building D2. The reasoning behind this is two-fold. The deletion of a floor will reduce the comparative height variation between the proposal and the building to the north, and also reduce visual bulk at the intersection of Buckingham and Burnley Streets. Council planning officers believe that the design of the building is such that removing a section of Building D2 would not be a good design outcome as the site is on a corner and the robust built form is seen as a positive of the proposal which allows the development to fit into the streetscape. Any erosion of this will disrupt the continuity of the design and Council planning officers submit that an even spread in the height reduction would be more appropriate. Through discussions with the applicant, sketch plans were submitted which showed a deletion of one level from the Burnley Street building reducing the façade height to 21.4m (RL36.5). The parapet height is shown as 22.5m (RL37.60) and this can be required by way of condition. The sketch plans show the top three levels being vertically separated by the light grey rendered finish. This assist in breaking up the massing of the proposal.
178. The streetscape of Burnley Street is varied in terms of overall height with this being a well-established rhythm in the street. The width of Buckingham Street (20m) provides a substantial buffer from visual bulk impacts from the south. In terms of the sites to the north, they are separated by a laneway from the proposal which provides a visual break. There are numerous instances along the western side of Burnley Street where there is a mixture of lower forms adjacent to taller buildings, both to the north and south of the subject site. This proposal follows this established character and subject to conditions being included for the reduction in built form shown in the sketch plans, the overall height and presentation of the Burnley Street building is acceptable.

### *Buckingham Street*

179. The Buckingham Street interface of the development is the most varied as its profile reduces from seven storeys (subject to condition) in the east, down to three storeys to the west. This interface includes Buildings D2, C and A2. As previously stated, the massing pattern of the development is as suggested within DDO7 with the Buckingham Street interface being broken into three sections.
180. In terms of front setbacks with built form above cantilevered over this space, each of these buildings continues to be built to the boundary with an increase in landscaping further to the west. The townhouses along the southern side of Buckingham Street towards the eastern end are all constructed similarly. Those in the western end have a range of front setbacks. Considering there is a variation in the street, and that the site is specifically designated as a SRS, there is an expectation of more robust built form and as such, the proposed front setbacks are acceptable.
181. The southern side of Building D2 is developed similarly to its eastern side and this is acceptable as this allows the building to visually hold the corner. Typically corner allotments are capable to accommodating a greater extent of built form. The building envelope diagram within DDO7 shows that for an approximate distance of 35m, the same height along Burnley Street would also be along the western side of Buckingham Street. Whilst the proposed length of Building D2 is longer than what is shown in this diagram, this development includes a 10.72m wide separation to Building C. The building envelope diagram shows a continuous length of built form. This is a substantial improvement in comparison to the building envelope diagram.
182. The design ethos of the Burnley Street building is followed on throughout the proposal with Building C having the lower three levels vertically separated by stone clad columns and the two levels above being a single dark colour of consistent design. This allows the lower levels to be more prominent through the use of the columns and the greater material and fenestration pattern variations provided through the balcony balustrades and window openings. This serves to anchor the development down into the streetscape as the viewers eyes are drawn down to the lower levels away from the more evenly distributed design of the upper two levels.
183. The southern side of Building A2 is developed in a townhouse–style pattern similar to that of its frontage to Davison Street. This clearly follows the pattern of development and transition envisaged within Clause 22.11 and DDO7 where there would be lower built form.
184. The DDO contemplates a scale of between 15.9m and 6.4m along Buckingham Street with the proposal being between 22.5m (subject to conditions) and 10.1m. The overall heights along Buckingham Street (subject to conditions as per the sketch plans) are acceptable. The site is quite unique as it occupies an entire block of this stretch of the street and as such, allows for a gradual visual transition up towards Burnley Street where greater height and a more robust design is expected. The southern interfaces breaks between buildings are substantial and allow for views to the sky between the buildings which reduce the visual bulk from within the street and complies with design objective 2.5 of the GHDRD and Clause 22.10-3.2. These setbacks are greater then what would be expected if the subject site were separated into separate lots and developed individually where typically there would be a greater extent of boundary to boundary construction. This coupled with the consistent design language and variation in material and design assist in breaking up the massing to ensure it fits in the Buckingham Street streetscape.
185. Off-site amenity discussions regarding the dwellings to the south are within the 'Off-site amenity' section of this report.

#### *Davison Street*

186. The Davison Street building takes a slightly different approach to its streetscape interface. A mixture of stone and darker cladding is used to create framing elements giving the appearance of a group of three storey townhouses. The DDO contemplates a scale of RL22

along Davison Street with the proposal sitting prouder of this height at RL25.9 which equates to three storeys which comfortably sits within the streetscape.

187. Council's Urban Design Consultant raised no concern with the height but was of the opinion that the sites in Davison Street typically have modest transitional setbacks to the street. Council's Urban Design Consultant made the following recommendation:

(a) *Provide a minimum 3m landscape setback to Buildings A1 and A2 from the Davison Street interface for landscaping or alternatively flip the plan arrangement to provide for two projecting north and south wings to Davison Street with a central dividing landscape spine breaking up the perceived extent of built form impacts at this interface and enhance the landscape quality and gateway to the street as a result.*

188. Along the length of Davison Street there is a varied front setback character with some sites being built to the boundary. Additionally the existing building on-site has built form along a portion of its Davison Street frontage. Council planning officers submit that the proposed interface with Davison Street at ground floor is satisfactory and complies with design objective 2.4 of the GHDRD. Ground floor courtyards provide substantial punctuations of up to 2.4m with a strip of landscaping along the street frontage. Above this, the first floor includes some on-boundary walls with in-set balconies of up to 3.4m in width and between 4m and 4.6m length along the frontage. The second floor has less construction along the frontage with a greater extent of balconies along the boundary edge. These elements reduce the extent of perceived visual bulk within the streetscape and increase the openness of the development along Davison Street.

Further to this, through the provision of the sketch plans, the applicant has included a pedestrian entry from Davison Street. This provides a 3m wide entry and further reduces the extent of built form at street level.

189. The sites further to the north which have small front setbacks are within a more restrictive zone including some being within a heritage overlay. Hence their character and development expectations are vastly different to that of the subject site which is earmarked specifically by Clause 22.11 as a strategic redevelopment site and as such, is inevitably going to adopt a different character to land not identified as a strategic redevelopment site.
190. In terms of overall height, the Davison Street building exceeds the preferred maximum heights within DDO7 by RL3.9. This exceedance is acceptable as the height of 10.089m is similar to that of the other three storey buildings located along Davison Street, including that of the building directly to the west and also numerous apartments to the north.

*Public realm, overshadowing to the public realm and pedestrian spaces*

*Public realm and pedestrian spaces*

191. This principle requires the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user. In this respect, the proposal represents a substantial improvement in streetscape, public space quality and perceived safety then what currently exists. The existing façades of the building are industrial in nature, do not encourage passive surveillance to the streets or laneways and cuts off the entire block from the surrounding laneway and street network.
192. The construction of a modern building with a café tenancy and several apartment entries at ground floor is an improvement on the streetscape. Through the activation of the ground floor via multiple entries as well as individual apartments, the building will provide interaction at street level where there currently is not any. This satisfies public realm, pedestrian spaces and street and public space quality policies at clauses 15.01-2, 21.04-2 and 22.10-3.4 as well as design suggestions 3.4.3 and 3.4.4 of the GHDRD. This is also in-line with design objectives within Clause 1.0 of DDO7.

193. The proposal improves the public realm and pedestrian spaces by 'opening' up the subject site increasing its visual permeability through the inclusion of a north-south corridor, particularly as it is linked to the north-south orientated laneway to the north. The applicant has confirmed these will be open to the public, thereby allowing pedestrians to cut through the subject site. This increases the permeability and connectivity of the site to the surrounding street and laneway network. This provides a connection to the public realm between and across public and private spaces. This also allows for views to the sky through the development which provides a pedestrian scale at street level and satisfies design suggestion 2.2.2 of the GHDRD and design guidelines within clause 22.10-3.4. A condition can be included on the permit requiring unfettered public access to this landscaped area at all times.
194. Council's Urban Design Consultant stated that 'the success of food and drink premises for example is dependent in part on the enhanced capacity of Burnley Street to attract customers'. It was recommended that an indentation be provided at ground level to provide for enhanced footpath capacity and amenity in combination with a projecting canopy to the Buckingham and Burnley Street frontages of the premises to provide for an undercover outdoor seating. Council planning officers do not believe either of these recommendations is necessary. The width of the Burnley Street footpath is 3m in width which is reasonable to 'provide for enhanced footpath capacity and amenity'. This section of Burnley Street does not have a streetscape character of projecting canopies. The comments made regarding the potential success of the café being dependant on the enhanced capacity of Burnley Street are not in-line with many other cafes in the inner-city which are located in a variety of constrained areas. Many of the potential customers would be future residents of this and other developments in the area as well as existing residents.

*Overshadowing to the public realm*

195. Due to the orientation of the site, shadows fall on various parts of the public realm at different times of the day.
196. As a result of the 'terraced' building form and the substantial width of Davison and Buckingham Streets, at 9am the proposal does not shade the western side of Davison Street and only shades the southern footpath across approximately seven properties (45m). The eastern and northern sides of the footpaths of Davison and Buckingham Streets (respectively) would be as per existing circumstances due to the existing building also being built along the boundary.
197. Between 10am and 12noon, typically the footpath outside of approximately seven properties on the south side of Buckingham Street is shaded with the location moving further east as the morning progresses. From 1pm onwards the shading to the southern footpath is reduced both in width and in length with no shading from 2pm onwards. From 2pm onwards, there is shading to the eastern side of the Burnley Street footpath outside of commercial premises.
198. This extent of shading is not unreasonable as it is only for approximately 45m of the southern footpath with a substantial reduction from 1pm onwards. Shading to the eastern footpath of Burnley Street is minimal both in extent and duration of the day. Additionally as the subject site is quite unique in the streetscape, with the remainder of the buildings on the northern side of Buckingham Street being single lots of a finer grain subdivision pattern or unit developments with multiple owners, it would be unlikely that other sites further to the west would be developed in a similar manner, and as such, there would be limited possibility of other sections of the southern footpath being shaded. A 'domino' type effect on the southern footpath would be unlikely and as such, a small section of this footpath being shaded for part of the day is not unreasonable.
199. Nevertheless, as part of the sketch plans provided on 31 March 2017, there will be a reduction in height of the Burnley Street building by one level, down to seven. This will assist in reducing shading to the footpath between 10am and 1pm which will have a noticeable reduction in its extent. It is likely that at 1pm, there would be no shading to the footpath and

thus any shading would only occur between 9am and 12noon. This will assist in ameliorating some of the concerns raised by Council's Urban Design Consultant regarding shading to the public realm and of Buckingham Street (which is a tertiary pedestrian path) and constitutes an improvement.

*Landscape architecture*

200. This part of Richmond is not known for extensive areas of landscaping nor do the current conditions of the site include landscaping. The proposal includes extensive areas of landscaping, internally to the site at ground floor (with through connections from the ROW as well as Davison and Buckingham Streets), on roof top terraces and also along the edges of site (with the exception of Burnley Street). This constitutes a significant improvement to existing conditions and will provide a connection to the small garden areas of sites to the south and west. This complies with design objectives in Clause 22.10-3.9. The Burnley Street interface will not include landscaping however this is similar to other sites fronting onto this main arterial road.
201. Council's Open Space Unit supported the proposed communal open space as it would improve permeability through the site and provide connectivity to the surrounding streets and nearby public open spaces. Council's Open Space Unit suggested that shade tolerant species are proposed to the ground floor landscaped area, as the shadow diagrams indicate that the north towers will shade much of the communal open space (especially "social gathering space 2"). Other matters of concern raised related to maintenance of roof top gardens and notes in relation to maintenance (duration, regime) and irrigation will be required.
202. Additionally, Council's Open Space Unit requested a planting plan showing:
  - (a) Details raised planters and terrace/rooftop planting (including planter box materials and dimensions, mulch layer – something that won't blow away, growing media – suitable in weight and content for roof top gardens, filter media, irrigation method, drainage system, root barrier / water proofing layer)
  - (b) Details on proposed method for irrigation and drainage.
  - (c) Plant schedule indicating botanical and common names, quantities, pot size, mature height and spread of species proposed.
  - (d) Details of the proposed catenary system, if vegetation is proposed to grow along these lines, as indicated on the plans.
  - (e) Details of the proposed raingarden.
203. All of these matters can be addressed by way of condition should a planning permit be issued.

*Energy and resource efficiency*

204. Redevelopment of the site located in an existing built up area would make efficient use of existing infrastructure and services, and the proximity of the subject site to numerous public transport modes would reduce the need of occupants relying on private vehicles. Policy at clauses 15.02-1, 21.07, 22.16 and 22.17 of the Scheme, encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management.
205. Originally Council's ESD Advisor had a number of concerns with the proposal as outlined in the *Referral* comments. A number of these matters were addressed within an updated SMP prepared by Simpson Kotzman on the 10 February 2017 (provided to Council on 20 February 2017).

206. The amended report has resolved the majority of issues with the only remaining concern from Council's ESD Advisor being the area of the raingardens entered into STORM totals 764m<sup>2</sup> (2 x 382m<sup>2</sup>), which does not reflect the area marked on the excerpt of the plans that follows (page 11 of the SMP), nor are the raingardens marked on the architectural drawings.
207. Council's ESD Advisor acknowledged that this is a minor issue and can be easily updated. A condition on any permit to be issued will require the STORM report to be consistent with the site plan except on page 11 of the SMP, with the architectural drawings updated to clearly show the same area of raingardens, ensuring that best practice in stormwater management can be met.
208. Subject to the improvements already made and those proposed, the proposal provides a positive response to the environmentally sustainable design policy provisions.

#### *Architectural Quality*

209. The development is considered of high architectural quality and in that regard responds to the design objectives of clause 15.01-2 and 22.10-3.4. The contemporary design is appropriate and responds well to its context, being sandwiched between areas of modern, higher density construction and lower scale buildings. Through the separation of the proposal into separate buildings with variations in design, the development responds to both the finer grain dwellings to the west and south-west, as well as the hard edge industrial and new constructions (completed and those also about to begin) to the north, east and south. As has already been discussed the innovative design of the proposal is such as it descales the development as well as assimilating it into its surrounding context.
210. The proposal includes a mixture of light and dark materials through the incorporation of rendered finishes as well as stone and lightweight darker cladding. Metal fin balustrades and gates are used to provide fine grain detailing. This provides a link to the areas industrial past but in a modern way. The design incorporates a number of elements to create visual interest in a simple and sophisticated way such as stone cladding columns, variations in windows proportions as well as a mixture of wintergardens and typical balconies.
211. The proposed design is considered overall to be of a high architectural standard, offering a modern built form that revitalises the street frontage. The design response is such that it provides articulation and a frontage to each interface. This is achieved through the inclusion of windows, balconies and the various materials and textures. A condition requiring a materials sample board to be provided can be included on any permit to be issued.

#### Off-site amenity

212. The subject site and sites to the north, west and south are all within the General Residential Zone (Schedule 3) and the land to the east is within the Mixed Use and Industrial Zone.
213. The policy framework for amenity considerations is contained within clause 22.05 (Interface uses policy) and the GHDRD. Clause 55 of the Scheme provides some guidance on these matters (although not strictly applicable).
214. In terms of the most directly affected, these would include the two multi-unit developments to the north across the ROW and the dwellings to the west and south, both 20m away in distance.

#### *Setbacks, visual bulk and daylight to windows*

215. As previously stated the sensitive interfaces to the proposal are to the north, south and west, all of which are separated from the proposal either by the width of the laneway or the street thus minimising any visual bulk impact potential. The sites to the east are non-residential and separated by the width of Burnley Street.

### *West*

216. The proposal presents as three storeys (plus a roof terrace) to the west which reduces the potential for visual bulk, particularly as the site to the west is a similar height (three storeys with a pitched roof). Potential visual bulk and impacts on daylight to existing windows is further diminished due to the width of Davison Street (approximately 20m) providing a buffer. The proposal has incorporated design principles from Clause 2.0 of DDO7 by ensuring that the higher elements of the development are closer to Burnley Street and largely obscured by lower intermediate built form located at the rear of the site. The taller portions of this development will form of backdrop to the Davison Street building similar to what is occurring further to the north where the one to three storey buildings on Davison Street are located to the west of seven storey residential buildings.

### *South*

217. The sites to the south are separate by a 20m wide street which reduces the potential for visual bulk and impacts on daylight to existing windows. The sketch plans show a maximum street wall height of 22.5m for D2 with the western building heights remaining at 10.089m. If the proposal were to be considered under Standards B17 (Side and Rear Setbacks) and Standard B20 (North-facing windows) of Clause 55, a wall height of 22.5m would require a setback of 17.59m and 18.58m (respectively) from an abutting boundary. As such, the width of Buckingham Street provides a more than adequate buffer and the proposal would comply even with this more stringent control.

### *North*

218. The sites to the north are separated by the proposal by a laneway. In both instances, No. 47 Davison and No. 52 Burnley Streets have their primary outlooks orientated to the north, away from the proposal. This is clearly evident by the greater setbacks they have provided along their northern sides and by having their private open spaces typically located along the northern side. There are not any private open spaces which face solely towards the proposal (with the exception of a small ground floor courtyard for Unit 4 which is associated with a bedroom). Additionally, in both instances, any habitable room windows which face the subject site are associated with larger, open plan rooms which have windows facing other orientations. Therefore, whilst the proposal is located between 3.3m and 6.5m from the south-facing windows, the habitable rooms which they service continue to receive daylight from other orientations throughout the day and this is acceptable.

### *Overlooking*

219. Objective 2.9 of the GHDRD suggests that windows should be protected against overlooking in accordance with Standard B22 of Clause 55 which prescribes that a habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio.
220. As such, the only potential overlooking considerations are the two sites to the north, across the laneway.
221. As already outlined, the south-facing windows of the apartments within No. 47 Davison Street are typically associated with non-habitable rooms with the exception of kitchen windows. The current conditions for the kitchen windows are such that they are not protected from overlooking as there is no southern boundary fence. Any passers-by are currently able to look into these windows. At ground floor, the proposal includes privacy screening and high on-boundary walls which protect against overlooking. Potential overlooking into these kitchen windows is minimal as they are narrow in height and are located at a height of 1.2m above the finished floor level with a kitchen sink directly behind the window. As such, any views from the proposal would be restricted and would generally be of the kitchen sink. Views from



roof terraces are setback further from the northern boundary which would limit potential views within 9m. Therefore, there is no unreasonable overlooking from the proposal into the habitable room windows of No. 47 Davison Street.

222. With regards to overlooking into No. 52 Burnley Street, at ground floor there are not any habitable room windows facing the subject site. At first floor, there are long (between 3.3m and 3.5m in length and 0.5m in height) windows associated with the open plan living areas and at second floor there are 2.3m high and 0.45m wide bedroom or living room windows. The roof garden of Unit 4 is also located on the second floor (no overlooking screening provided). The third floor consists of sunrooms and roof gardens (with 1.7m high screens). The remainder of all windows are associated with non-habitable rooms such as bathrooms, study nooks adjacent to stairwells and stairwells. It should be noted that Council planning officers have used the endorsed plans associated with No. 52 Burnley Street (PL07/0047) as a guide for their assessment.
223. With regards to the first floor windows, whilst these windows are long and are to habitable rooms, they are located 1m above the finished floor level, are 0.5m in height and have a depth of 0.2m. This reduces the potential for direct views from above and any views would only be of movement in the room. This is a similar situation to the second floor where there are two windows of concern (the secondary living area of Unit 4 and the bedroom window of Unit 3), which due to their limited width do not allow for direct views from above. This is with the exception of the habitable room windows or balconies of the proposal which are directly opposite these windows, which may experience direct views. There is also a second floor balcony associated with Unit 4. Whilst this balcony is screened up to 1.7m along its northern side, it is not along the southern side and there are potential views from the proposal.
224. Insufficient information has been provided by the applicant to ensure that there is no direct and unreasonable overlooking into these windows or second floor balcony. This can be required by way of condition of any permit, should Council be of a mind to issue one.
225. Council's Urban Design Consultant recommended that the proposal should be configured with all north facing habitable room windows organised using the following principles:
  - a) *A landscape setback should be provided for units with a ground level interface to the northern laneway to provide for sufficient buffer from the laneway interface without the need for opaque screens as currently nominated which would in my view unreasonably compromise internal amenity.*
  - b) *Increased capacity for this laneway to the west of the north south spine (i.e for the central and western blocks) should be provided to provide for connectivity from the adjoin street to the northern entry or preferably the entry changed to the Davison Street interface with direct linkages into the internal central landscaped courtyard.*
  - c) *Above ground level apartments habitable room windows should be provided with a minimum separation from habitable rooms opposite of 9m.*
226. As has already been established, there are limited opportunities for overlooking from the proposal to any habitable room windows to the north. The recommendations are considered excessive, particularly as a number of the windows are not associated with habitable rooms and both of these two buildings have their primary outlook to the north, away from the proposal. The internal amenity of the proposed dwellings has been found to be acceptable due to the majority being dual aspect. Council's ESD Advisor has confirmed that daylight and ventilation is satisfactory. The proposal has provided for a narrow landscaped area along the laneway which will improve the conditions compared to existing conditions.
227. In terms of providing for increased capacity of the laneway, the applicant has followed this recommendation through the provision of sketch plans which include an entry with a direct link into the internal landscaped courtyard. This allows for increased connectivity to the surrounding streets and laneway.

228. The windows to the west and south are beyond 9m and therefore overlooking is not considered unreasonable.

*Overshadowing*

229. The Higher Density Residential Guidelines defer to Clause 55 of Recode for consideration of the overshadowing impact. Standard B21 of Clause 55 seeks to ensure buildings do not significantly overshadow existing secluded private open space.
230. As shown by the shadow diagrams provided, the proposal does not result in shading to any secluded private open space areas. Some of the sites to the south have small inset ground floor, front yards and open first floor balconies. These are not secluded private open spaces and the ground floor areas are already shaded by their own built form above.

*Noise*

231. The proposed development is unlikely to generate a noise level above that which is acceptable in a residential area. It is also noted that there are other non-residential premises in the area, which are likely to emit similar noise levels than the proposed cafe/residential development. Additionally, the existing use of the site is non-residential.
232. Any noise levels as a result of the use of the dwellings would be typical of a residence. Also, any noise created by the café use would be during the day when the majority of nearby residents would be at work or awake.
233. As will be discussed within the 'On-site Amenity' section of this report, an amended acoustic report can be required via condition (should a permit be issued) that ensures noise from the any plant and equipment, complies with SEPP N-1 requirements. The applicant provided an acoustic report and this has generally been found to be satisfactory subject to additional matters (mainly related to internal amenity) being addressed.

*Equitable development*

234. In terms of this, as the site is physically separated from other sides by substantial widths to the west, south and east, these will not be impacted. With regards to the sites to the north, they are already developed into separate lots and it would be highly unlikely they would be developed in the future. Nevertheless, they are both smaller (and narrower) lots which tempers development expectations.

On-site amenity

235. Clause 22.10-3.7 *On-Site Amenity* and the GHDRD– Element 4, Circulation and Services and Element 5 – Building Layout and Design and Element 6 – Private and Communal Open Space provide useful guidance with regard to on-site amenity including circulation spaces, site services, dwelling diversity, layout, open space and wind impacts.

*Layout, natural ventilation and daylight*

236. It is considered that the apartments will have an overall good level of internal amenity due to the size, orientation and location of windows thus achieving Objectives 5.3 and 5.4 of the GHDRD. Council's Urban Design Consultant was supportive of the internal layouts of dwellings. There is also a diversity of dwelling types with one, two and three bedroom apartments as well as three, two storey townhouses.
237. Each apartment either faces a street, laneway or the large internal courtyard or includes windows and an outdoor space to allow for solar access and ventilation into the dwelling. The lower levels include open balconies whilst the upper levels have wintergardens.

238. Each apartment has a good layout, with well-planned rooms and long internal corridors being minimised. Within the Davison Street building, all dwellings except for between three and four at each level have dual aspect. All dwellings in Building B and C are dual aspect and all except for five at each level of the Burnley Street building are dual aspect. This ensures that ventilation and daylight opportunities have been maximised through all times of the day.
239. Potentially the most impacted dwellings in terms of on-site amenity impacts due to orientation are the north-facing dwellings along the boundary with the laneway. This is due to the proposal not providing any additional setbacks and built form opposite.
240. With regards to the dwellings opposite No. 47 Davison Street, this building is only two storeys in height and is setback 6.5m from the subject site (with a laneway and car parking spaces in-between). Therefore, only the dwellings on the ground and first floor would potentially be impacted by the existing dwelling. Of these two levels, only two dwellings are not dual aspect. This results in all other dwellings being able to receive light from other orientations. Additionally, 6.5m is considered a reasonable distance from which to receive daylight, particularly from north-facing windows as the sun is usually higher in the sky.
241. With regards to the dwellings to the south of No. 52 Burnley Street, only the ground to third floors could potentially be impacted. The layout of Building D1 has minimised the potential on-site amenity impacts by having the eastern and western-most dwellings being dual aspect (thus not relying solely on their northern aspect) and the three central lots are three, three storey townhouses with the living spaces and balcony being located on the second floor and therefore receiving the most daylight of the three levels.  
The lower two levels are less reliant on daylight as they consist of an office/study and bedrooms. Above this, north-facing dwellings are at the same height as the sunrooms and roof gardens to the north and therefore the least impacted.
242. Council's ESD Advisor was initially concerned that glazing to most dwellings was protected by balcony overhangs/wingwalls/wintergardens to reduce heat gains. It was initially unclear what the thermal performance of the winter gardens' glazing façade would be. The applicant provided more detail on glazing specification within the report on 10 February 2017 and Council's ESD Advisor was satisfied that the summer heat gain of east, west and north-facing dwellings would be managed.

#### *Open Spaces (Private and Communal)*

243. Within Standard B28 of Clause 55 (Rescode) of the Yarra Planning Scheme, a dwelling should have an area of private open space of a minimum area of 8sqm and a minimum width of 1.6m with convenient access from a living room.
244. All balconies and wintergardens meet the minimum area of 8sqm, with at least a portion of the area having a minimum width of 1.6m and are directly accessed from living areas. Where outdoor areas are located at ground floor, the applicant has included sliding gates to ensure that the outdoor area is not compromised by a swinging gate/door. The proposal will result in well-designed balconies with a typical rectangular shape and that are directly accessible from primary living spaces be highly functional.
245. To supplement the private open spaces, the proposal includes substantial communal open spaces, both at ground floor and on roof levels of each building. A variety of spaces have been included such as art, playground equipment, bbqs and lounge areas. This is a substantial area which will benefit future residents. Having open areas both at ground floor and above ensures that residents will access to daylight throughout the day as well as having a variety of spaces to use. Council's Urban Design Consultant was supportive of these areas. A condition can require that the art proposed will be to the satisfaction of the Responsible Authority.

#### *Storage*

246. Each dwelling has been provided with at least one storage cage located within Basement Level 2, however the capacity is unknown. A condition can require these storage cages to be at least 3sqm in area. Whilst this does not satisfy the requirement of Objective 5.5 of the GHDRD which is that each dwelling is to have 6 cubic meters of external storage space, this is acceptable as in this inner suburban setting and without the need for a lawnmower, etc., residents of these apartments would not have the same storage needs as residents in detached dwellings.
247. This minimum was confirmed within the recent Tribunal decision *U1 Stanley Street Pty Ltd v Yarra CC* [2012] VCAT 1455 where the minimum acceptable amount of storage was defined as being 3 cubic meters. At least 1 storage cage should be provided per dwelling, with a minimum dimension of 3 cubic meters, ensuring they are usable spaces.

#### *Safety*

248. Looking at safety, there are four building entrances as well as entrances for individual ground floor apartments which increases the perceived safety, and is compliant with design guidelines within clause 21.05-2. This also complies with design suggestions 3.4.3 and 3.4.4 of the GHDRD to provide individual entries to ground floor dwellings accessed from the street which ensures there is more activity provided to the street. Balconies and windows face the abutting streets, laneway and internal areas adding to the level of perceived safety which is an improvement on existing conditions.
249. A condition can require that there is security lighting adjacent to the pedestrian and vehicular entrances. This will also add to the safety of both of those entering and exiting the premises and pedestrians on the street. A condition can require this.

#### *Internal Views*

250. Due to the layout of the proposal, setbacks provided and the predominant use of wintergardens for balconies, there are minimal opportunities for internal views as a number of these areas face outward.
251. However, there are potential internal views from the private open spaces and windows of the dwellings which face inward or have windows facing the internal area.
252. At ground floor, where distances between courtyards are less than 9m, there are 1.7m high privacy screens with maximum 25 percent transparency. For the levels above, distances are greater than 9m. Where there are windows abutting private open spaces of other apartments, the windows are either screened and/or are located above 1.7m above ground level. Some windows at ground level are 1.9m above the ground level which minimises the opportunities for internal views.

#### *Noise*

253. Clauses 52.43, 13.04 and 22.05 provide specific direction on noise issues and generally require noise generated from the development to comply with relevant policy, and that noise sensitive uses (such as dwellings) be protected from surrounding noise generators such as traffic and adjacent live entertainment venues. There are no live music entertainment venues within 50m of the subject site.
254. It should also be noted that any future residents would be well aware that they were moving into an apartment adjacent to a major arterial road and an AC where there are other commercial uses and heavy vehicular traffic in the surrounding area. Any future residents should temper their expectations in terms of noise levels.
255. However, given that the proposed dwellings will have immediate interfaces with existing residences, and the industrial/commercial uses are located further away, the potential for noise sources to impact the proposed residences is low. Further to this, in regards to the

proposed café, future residents of the dwellings will be well aware that there is a cafe located at ground floor and can make a decision accordingly if this is acceptable to them. The café will only be operating during the day with limited hours which will limit the potential for impacting on the proposed residences.

256. The applicant submitted an acoustic report which was peer reviewed by Council's acoustic consultant, SLR Consulting, who stated that 'the report provides a reasonable overview and is appropriate for a preliminary pre-permit assessment.' A number of matters are needed to be clarified and SLR Consulting suggested that these could be addressed by way of condition on any permit.
257. The matters which need further clarification are outlined within the attached referral comments and related to the following:
- (a) *Confirmation that the Better Apartment Design Standard internal design levels are met, as well as SLR's normally recommended City of Yarra maximum hourly targets, being:*
    - (i) *35 dBA Leq for bedrooms during the night and not more than 40 dBA during the loudest hour.*
    - (ii) *40 dBA Leq to all habitable rooms during the day, and not more than 45 dBA Leq for the loudest hour.*
  - (b) *Review of glazing design to incorporate required minimum Rw (or Rw + Ctr) ratings and any other relevant design information to ensure the façade achieves the internal noise levels (ie wall, ventilation treatments etc.).*
  - (c) *A more detailed review of some of the known sources of noise shown on the development application drawings, and concept advice or specification to address these. This should include the carpark entry door, substation, social gathering area and rooftop terraces. As well as the normal SEPP and BCA requirements, it may be necessary to provide further controls to achieve appropriate amenity levels in affected apartments due to these sources, and to also address structure-borne noise and the like.*
  - (d) *There is no formal assessment of any plant and equipment items associated with the development; only the assessment targets are provided. While this is reasonable given the lack of available information at planning stage, the report should provide a statement that the developer will need to undertake a formal acoustical review of all mechanical plant and equipment on the development to ensure it complies with all EPA policies and guidelines.*
  - (e) *The Food and Drinks premises will need significantly more assessment information, but this may be more appropriate for the future operator to provide as part of their application and once the actual use and operating times and conditions are known.*

258. These matters can be addressed by a permit condition to provide an amended acoustic report addressing all of these matters.

#### *Circulation spaces*

259. As already outlined, there are four building entrances as well as entrances for individual ground floor apartments. This provides for numerous entry points as well as the larger lobby areas. The development is such that multiple lift and stair cores are proposed which result in a better design outcome by reducing the length of internal corridors and by providing entries to a smaller number of residential units. This is encouraged by design suggestion 5.2.2 of the GHDRD
260. Corridors are 1.5m in width with minimal corners and windows providing natural daylight. The area adjacent to the stairwell/lift is 1.8m in width. The width is sufficient and the design complies with Objective 4.3 of the GHDRD.

261. Through sketch plans, the applicant has proposed an entry from Davison Street in-line with the recommendation of Council's Urban Design Consultant. This entry would supplement those from the laneway and from Buckingham Street which provide direct through access to the ground floor landscaped area. This allows future residents direct access through the site in all directions, improves the internal circulation and provides for connectivity and increased capacity of the laneway. This can be required by way of condition.

*Site services*

262. Mail services have not been shown in the residential lobbies. A condition can require this to be shown. The ground floor plan and Basement Level 1 show waste rooms. The roof plan has been provided showing services, plant and equipment. The roof plan shows that the plant areas will be screened using 1.7m high louvre screens.

Development abutting laneways policy

263. The proposal is considered to meet a number of the clause 22.07-3 policy objectives in that:

- (a) The proposal does not include any vehicular traffic on the laneway;
- (b) Pedestrian access is provided from the streets and the laneways;
- (c) Pedestrian entries will be well-lit, subject to conditions;
- (d) Any lighting will be appropriate baffled, subject to condition ensuring light spill is avoided;
- (e) The laneway to the north currently provides pedestrian is illuminated by existing street lights, supporting pedestrian safety; and
- (f) Refuse would not be stored in the laneway (contained within storage areas on-site).

264. A discussion on scale has been provided within the 'Built form and design' section of this report.

Car & Bicycle parking / traffic/access/loading facilities

265. Under clause 52.06 of the Scheme, as outlined within the table included in the Particular Provisions section earlier in the report, the applicant is seeking a partial reduction of the car parking requirements for the café and residential visitors (subject to conditions associated with the sketch plans).

*Parking Availability*

266. The applicant's traffic engineers conducted parking surveys on Thursday 14 April 2016 from 11:00am to 8:00pm and on Saturday 16 April 2016 from 11:00am to 8:00pm. The survey area encompassed sections of Buckingham, Davison, Kent, Somerset, Burnley, Doonside, David, Appleton, North and Clark Streets. Council's Senior Traffic Engineer confirmed that the extent and duration of the surveys are considered appropriate.
267. An inventory ranging from 338 to 377 publicly available spaces was identified. The peak parking occupancy in the study area was observed at 3:00pm on the Thursday, with no fewer than 41 spaces vacant. On the Saturday at 1:00pm, no fewer than 97 vacant spaces were recorded. Council's Senior Traffic Engineer confirmed that the results indicate that vacant spaces could be found within walking distance of the site.

*Parking Demand*

268. For the café, Council's Senior Traffic Engineer confirmed that a parking rate of 3.0 spaces per 100 square metres of floor area could be adopted. Using this rate equates to a total car parking demand of seven spaces. Of this seven, staff parking demand would constitute around a third (in this case around two spaces) with the customer car parking demand (four spaces) being expected to be accommodated on-street which typical of most food and drink

premises abutting a major road or activity centre. Council's Senior Traffic Engineer found the provision of two staff car parking spaces for the café to be satisfactory.

269. Peak parking for residential visitors generally occurs on weekday evenings and at weekends. An empirical peak residential visitor parking rate of 0.12 spaces per dwelling is often quoted in other traffic impact reports of similar scale developments proposed in the City of Yarra. Applying this rate would result in a peak residential visitor parking demand of 24 spaces (this would be reduced to 22 spaces subject to the reduction in the number of dwellings shown within the sketch plans).
270. Council's Senior Traffic Engineer confirmed that during normal business hours, the visitor parking rate would be much less than the 0.12 spaces per dwelling. Off-peak daytime visitor parking would be around 30% of the peak residential visitor parking rate, which would result in a visitor parking demand of around seven spaces.
271. The applicant originally proposed to accommodate all residential visitor spaces off-site. Council's Senior Traffic Engineer confirmed that they were not satisfied with this and stated that a development of this scale should be providing some on-site parking for visitors. In response to this, the applicant has submitted sketch plans which provided for 22 visitor spaces which meets the full empirical demand rate (subject to the reduction in the number of dwellings shown within the sketch plans). This is a substantial improvement and atypical of similar developments in the area. This can form part of any conditions on the planning permit.
272. The reduction being sought by the proposal is supported by the following reasons:
  - (a) The site has excellent access to the public transport network, bicycle facilities and a wide range of retail, dining and commercial services within the Victoria Street and Bridge Road ACs as well as Victoria Gardens, which in turn will reduce the dependence on private vehicle ownership by future residents;
  - (b) The proposal includes secure bicycle parking spaces exceeding rates specified within the Scheme. Future residents would be able to take advantage of the Yarra River bike lanes nearby;
  - (c) Resident or visitor parking permits will not be issued for the development, which will discourage prospective residents of high car ownership and encourage visitors to engage in alternative modes of transport which is a welcomed sustainable option in lieu of on-site car parking and consistent with Clauses 18.02-1 and 21.06-1 of the Scheme;
  - (d) A further benefit of not providing all required on-site car spaces is that pressure on traffic and congestion is not exacerbated through the provision of more car spaces for the new dwellings;
  - (e) Visitors would also be aware of the car parking constraints in the area which would discourage driving for alternative modes such as public transport, cycling or taxis;
  - (f) The café premises would heavily rely on walk-up trade for its primary source of customers, rather than being a specific destination for visitors. It is highly likely that it would attract employees from nearby businesses as well as local residents;
  - (g) A number of car-sharing facilities are located within proximity to the site, these include the following intersections:
    - Griffiths and Highett Street;
    - Burnley and Palmer Street;
    - Several cars and vans within Victoria Gardens; and
    - Shamrock and Flockhart Streets
  - (h) The location of the proposal encourages multi-purpose trips to the area;

### Traffic

273. According to the applicant's traffic report, traffic generation for the overall development would be 3 trips per day per dwelling, resulting in 202 trips per day with 61 vehicle trips in each peak hour. The distribution of arrivals and departures from the site for the residential traffic during each peak hour would be 20% arrivals and 80% departures in the morning peak hour and 60% arrivals and 40% departures in the evening peak hour. For the café component, the two spaces would be expected to generate 2 trips in the AM peak period and 2 trips in the PM peak period. Each peak hour would generate 63 vehicle trips per hour. This volume equates to around to just over one car every minute. It should be noted that these figures would be reduced subject to conditions associated with the sketch plans. Council's Senior Traffic Engineer confirmed this was not a high volume. This also ensures that the safety of the roads is not impacted and can continue as per current conditions.
274. In order to assess the traffic impact of the proposal the applicant's traffic engineers modelled the post development conditions in both the AM and PM peak using a SIDRA analysis. The results show that the Buckingham/Burnley Street intersection is expected to continue operating similar to existing conditions with negligible increases to queues and delays.
275. Considering the number of developments occurring in the nearby area, Council's Senior Traffic Engineer stated that *"although beyond the scope of this planning application, the broader traffic implications of the Buckingham Street-Burnley Street-Doonside Street intersection, especially the traffic that would be generated by the Doonside precinct, need to be looked at on a more strategic basis. VicRoads would be a key player in how this intersection is to be treated/addressed in order to cater for future traffic demands from nearby developments, including the subject site"*. It was also recommended that the intersection of Buckingham Street-Burnley Street-Doonside Street be analysed in its entirety, with the projected traffic volumes from major developments in the Doonside precinct taken into account.
276. The applicant's traffic engineers provided an analysis and stated that in their opinion the *"developments are all located on the east side of Burnley Street and primarily take access via Doonside Street / Burnley Street intersection. As such these developments do not contribute traffic through the Buckingham Street / Burnley Street intersection other than a minor increase in through traffic on Burnley Street."* It was their opinion that *"the relative cumulative impact of these developments and the subject development is negligible."*
277. The applicant's traffic report shows the anticipated traffic generation shows only 4 right hand turns into Buckingham Street from Burnley Street in the AM peak and 11 in the PM peak. These figures are not considered to be high volumes which warrant the analysis of the intersection of Buckingham Street-Burnley Street-Doonside Street in its entirety. The developments (both approved and future) to the east along Doonside Street will have considerably more cars accessing Doonside and Burnley Streets and this will have to be addressed at the Doonside/Burnley Street intersection rather than Buckingham/Burnley Street. Nevertheless, based on Council's Senior Traffic Engineer's comments, planning officers submit that it is appropriate for this development to contribute to the signalisation of the Doonside and Burnley Street intersection. A condition can be included on any permit to be issued.

### Access and layout

278. The development includes 235 on-site spaces (with this decreasing to 230 as a result of sketch plans) with some spaces being provided within mechanical parking devices whilst others are at-grade. Council's Senior Traffic Engineer provide an assessment against the access and layout of the advertised plans and have found them to be generally acceptable



subject to some additional information being provided (with conditions on any permit) as shown below:

Vehicle Crossing	The applicant has the option of (A) either relocating the proposed vehicle crossing and entrance such that it is completely clear of the existing road cushions or (B) retains the position of the proposed crossing and reconstructs the speed cushions as a road hump tapered towards the entrance to Council's satisfaction. The applicant must consult and liaise with Council's Traffic unit. This matter needs to be resolved before a Planning Permit is issued for the site.
Accessible Parking Space	A bollard must be installed in the shared area as per AS/NZS 2890.6:2009.
Column Depths and Setbacks	To be dimensioned on the drawings.
Motorcycle/Scooter Spaces	To be dimensioned on the drawings.

279. It is noted that the sketch plans have not addressed these matters and will be required to do so via condition.
280. It should be noted that with regards to the vehicle crossing the applicant has confirmed they will reconstruct the speed cushions as a road hump tapered towards the entrance to Council's satisfaction.
281. It should also be noted that Council's Engineering Services Unit have recommended improvements to the ROW and surrounding footpaths, with these being able to be included as part of conditions on any permit to be issued. These conditions are appropriate considering the scale of this proposal in terms of it covering an entire block and including new pedestrian entrances to dwellings from along the ROW. This would constitute an improvement to existing conditions.

#### *Bicycle parking and facilities*

282. As outlined earlier in the report the development is required to provide a total 40 resident bicycle spaces and 20 visitor bicycle spaces. The development proposes 205 residential bike racks in Basement Level 2 and 38 visitor bike spaces on the ground floor within the landscaped areas. Therefore, the bicycle provision has been met. The applicant has responded to the importance of State and Local policies place on encouraging low energy forms of transport such as clause 15.02-3, 18.02-1, 18.02-2 and 21.06.
283. The bicycle spaces have also been provided in a convenient location adjacent to the lobby and in an area where there is no potential for conflict. This satisfies the requirements of clause 52.34 of the Yarra Planning Scheme.
284. Council's Strategic Transport Unit found the number of bike spaces to be satisfactory however recommended that the parking could be consolidated. The applicant has confirmed that a condition can be included requiring all resident bike spaces to be allocated. As such this would ensure that future residents were well aware of which bike storage area to go to.
285. Council's Strategic Transport Unit recommended that the visitor spaces be located in the Buckingham Street forecourt. Considering that there are 32 visitor bike spaces to be provided, the Buckingham Street forecourt is not enough area. Additionally cyclist may use the northern laneway and hence access these spaces from that location. In-line with the Strategic Transport Unit's recommendations, a condition can ensure that bike parking areas are well-lit (through the inclusion of lighting) and that there is a mixture of on-ground and

hanging style bike racks with the majority (more than 75%) to be provided as on-ground. All bike spaces are considering being secure and easily accessible. Council's Strategic Transport Unit recommended that bike parking is located undercover, however none of the visitor spaces are. A condition can require the visitor spaces to be covered.

286. Council's Urban Design Consultant did not find the location of the resident bike spaces satisfactory as Basement Level 2 is only accessed via lifts. It was stated that:

(a) *The locations of lifts would require cyclists to access lifts via long corridors within the buildings and quickly result in these areas being compromised in their cleanliness and amenity with the scale of these access areas and lifts also clearly not configured with ground level bicycle access in mind. The removal of development from Building D 1 and 2 will provide opportunities for this bicycle parking to be reconfigured into Basement 1. An alternative cycle ramp access could for example be provided north of the stairwell to D1 directly from Burley Street via the Reconfiguration of the Apartment D1.104 and reallocation of the 13 car-spaces west of the stair and lift-core in B1 to a central bicycle facility.*

287. Council planning officers submit that cyclists will not have to access lifts via long corridors as the development does not include any, with lengths being between 23m and 34.5m. Cyclists will be able to ride down to Basement Level 1, and access their individual building's lift down one level. Following the storage of their bike, they will be able to use the lift directly back to the floor which their apartment is located on.

Council's Strategic Transport Unit found the access of bikes to be satisfactory (save for the consolidation issue which is resolved subject to condition). Additionally a Green Travel Plan will be required by way of condition on any permit to be issued.

#### *Loading*

288. An on-site loading bay has not been provided and the requirements of clause 52.07 are required to be waived. Given the size of the food and drinks premises, it is expected that loading and unloading will be from smaller vehicles (vans and the like). There are loading bays to the east of the proposed car park entrance of the development along Buckingham Street. These can easily be utilised. These will be able to accommodate the loading and unloading needs of the proposed use as it does a number of the surrounding businesses. It is also typical of most inner-city cafes to not have a loading bay and this waiver is appropriate.

#### *Other*

289. It should be noted that Council's Senior Traffic Engineer has recommended the inclusion of a number of conditions which are related to matters (eg public lighting plan) dealt with at later stages through other Council mechanisms. These have only been included as relevant to this application with many of them being unnecessary at this stage.

#### Waste management

290. Six bin store areas are proposed in the basement car park with a bin store for each of the proposed buildings on-site. Residents and staff of the café will be responsible for sorting garbage and recycling directly into the waste storage bins. Bin chutes are provided on each level. A private contractor will pick up all waste from an internal area within the site. Council's Waste Services Unit was supportive of this, and found the Waste Management Plan submitted on 16 December 2016 to be satisfactory.

#### Objector concerns.

291. The majority of the issues which have been raised by the objectors have been addressed within this report.

- (a) The proposal is an overdevelopment and is not responsive to neighbourhood character; (*paragraphs 146-154 and 163-190*)
- (b) Excessive height and scale; (*paragraphs 163-190*)
- (c) Design; (*paragraphs 209-211*)
- (d) Amenity impacts (overlooking/overshadowing/daylight to existing windows/noise); (*paragraphs 212-233*)
- (e) Overshadowing to the public realm; (*paragraphs 195-199*)
- (f) Lack of equitable development opportunities; (*paragraph 234*)
- (g) Hours of the café will be disruptive; (*paragraphs 159 and 255*)
- (h) Inadequate car parking and loading of vehicles and bicycle facilities (including visitor parking) and increased traffic ; (*paragraphs 265-288*)
- (i) Cumulative traffic/parking impacts of other approvals; (*paragraphs 275-277*)
- (j) Safety concerns of roads (particularly as close to schools); (*paragraph 273*)
- (k) Lack of dwelling diversity; (*paragraph 236*)

292. Outstanding concerns will be discussed below, and relate to:

- (a) *The proposal is not responsive to heritage;*

The subject site is not located within a heritage overlay, however has some adjacent buildings within site specific heritage overlays. The proposal will not impact these as they will still be able to be read from their principal view points along Davison Street. Additionally, the proposal is provided with streets and a laneway as buffers ensuring that these buildings continue to be read in the round, without influence from the proposal.

- (b) *Existing walls should be retained;*

There is no requirement to retain these walls as the building has no heritage value.

- (c) *Amenity impacts from substation;*

There is no evidence to suggest that locating a stand-by generator on-site would be a health risk to surrounding residents. By its very nature, the stand-by generator would only be used for emergency services and is likely to be used only a couple of times in a year.

- (d) *Lack of public contribution and lack of green spaces;*

The subject site will provide a central linear park will be open to the public which is a substantial contribution.

- (e) *Wind impacts;*

The proposal is between three and seven storeys in height plus roof terraces. There are building separations within the proposal which will allow for dispersal of wind. There are not anticipated to be any wind impacts from the proposal.

- (f) *Congestion will result in emergency vehicles having difficulty driving through the area;*

There is no evidence of this and this is not a relevant planning consideration.

- (g) *Use of car stackers;*

Council's Senior Traffic Engineers do not have any issues with the proposed car stackers.

- (h) *Infrastructure cannot handle increased population;*

The site is located within the inner-city and adjacent to an AC. Additionally, State and Local policies encourage increase use and development and hence an increase in density of

people. It is considered that existing infrastructure can accommodate this increase. The increase in residents would be a small percentage of the overall population in the area.

(i) *Construction issues (disruption, early starts, traffic and noise)*

This will be dealt with at the Building Permit stage. A Construction Management Plan (CMP) will be required by way of condition and will manage impacts during the construction stage. This will be further considered during the building stage also.

## Conclusion

293. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the State and Local Planning Policy Framework. Notably, the proposal achieves the State Government's urban consolidation objectives, Council's preference to direct higher density residential development in Activity Centres, on strategic redevelopment sites within the Burnley Street West Precinct.
294. The proposal, subject to conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies. Subject to conditions which the applicant has agreed to, the proposal will result in a significant improvement to the public realm and will make a substantial contribution to the streetscape.

## RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN16/1016 for use and development of the land for the construction of a mixed-use building, (permit required for food and drinks premises use), reduction in car parking requirements and waiver of loading bay requirements at 171 Buckingham Street, Richmond, subject to the following conditions:

1. Before the use 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 by Artisan Architects dated 14 December 2016 but modified to show:
  - (a) the ground floor food and drinks premises as a café;
  - (b) deletion of one level for the Burnley Street buildings (D1 and D2) to a maximum height of 7 storeys and subsequent reduction in the number of apartments from 202 to 185 as per sketch plans provided 31 March 2016;
  - (c) the roof plant and equipment above Buildings D1 and D2 setback a total of 3m from Burnley and Buckingham Streets as per sketch plans provided 31 March 2016;
  - (d) a pedestrian link to Davison Street and subsequent amendment of Apartment A1-104 to a 1-bedroom dwelling (previously 3-bedroom) as per sketch plans provided 31 March 2016;
  - (e) the provision of at least 22 resident visitor car spaces, 206 resident car spaces and 2 staff car spaces for the café, with at least 230 car parking spaces being provided as per the sketch plans provided on 20 April 2017;
  - (f) a bollard installed in the shared area as per AS/NZS 2890.6:2009;
  - (g) the reconstruction of the speed cushions to the south of the proposed vehicle crossover as a road hump tapered towards the entrance;
  - (h) the dimensions of the column depths and setbacks and motorcycle/scooter spaces;

- (i) the visitor bike spaces as undercover;
  - (j) sectional diagrams demonstrating that no unreasonable overlooking (within a 9m radius and 45 degree arc) will occur from the north-facing, first and second floor habitable room windows and balconies of Building D1 dwellings into the first and second floor habitable room windows or secluded private open space of the dwellings within No. 52 Burnley Street;
  - (k) at least 1 storage cage provided per dwelling, with a minimum dimension of 3 cubic meters;
  - (l) security lighting adjacent to the pedestrian and vehicular entrances;
  - (m) the location of mail services;
  - (n) confirmation that all resident bike spaces are allocated;
  - (o) any requirement of the endorsed Sustainable Management Plan (condition 6) (where relevant to show on plans);
  - (p) any requirement of the endorsed Waste Management Plan (condition 8) (where relevant to show on plans); and
  - (q) any requirement of the endorsed Acoustic report (condition 10) (where relevant to show on plans).
2. The use and 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. Before the development commences, a materials sample board of external materials and finishes to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the sample board will be endorsed and will then form part of the permit.

### **Café Use**

4. Except with the prior written consent of the Responsible Authority, the food and drink premises (café) use authorised by this permit may only operate between the hours of 7am and 5.30pm, seven days per week.
5. No more than 90 patrons are permitted within the food and drinks premises at any one time.

### **Sustainable Management Plan**

6. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Simpson Kotzman on 10th February 2016, but modified to include or show:
- (a) The correct raingardens as per the architectural drawings; and
  - (b) a STORM report confirming that the development maintains a minimum 100% STORM score, or equivalent MUSIC model demonstrating best practice stormwater management.
7. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Waste Management Plan**

8. The provisions, recommendations and requirements of the endorsed Waste Management Plan

must be implemented and complied with to the satisfaction of the Responsible Authority.

9. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority

### **Acoustic report**

10. Before the development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by ViPac and provided to Council on 10 February 2017, but modified to include (or show, or address):

- (a) Confirmation that the following internal design levels are met:
  - (i) 35 dBA Leq for bedrooms during the night and not more than 40 dBA during the loudest hour.
  - (ii) 40 dBA Leq to all habitable rooms during the day, and not more than 45 dBA Leq for the loudest hour.
- (b) Review of glazing design to incorporate required minimum Rw (or Rw + Ctr) ratings and any other relevant design information to ensure the façade achieves the internal noise levels (ie wall, ventilation treatments etc.);
- (c) A more detailed review of some of the known sources of noise shown on the development application drawings, and concept advice or specification to address these. This should include the carpark entry door, substation, social gathering area and rooftop terraces. As well as the normal SEPP and BCA requirements, it may be necessary to provide further controls to achieve appropriate amenity levels in affected apartments due to these sources, and to also address structure-borne noise and the like;
- (d) A formal assessment of any plant and equipment items associated with the development including (but not limited to) a statement that the developer will need to undertake a formal acoustical review of all mechanical plant and equipment on the development to ensure it complies with all EPA policies and guidelines; and
- (e) An assessment of the noise impacts of the food and drinks premises.

The acoustic report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.

11. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Landscape Plan**

12. Before the development is occupied, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must show:

- (a) shade tolerant species proposed within the communal open space;
- (b) details raised planters and terrace/rooftop planting (including planter box materials and dimensions, mulch layer – something that won't blow away, growing media – suitable in weight and content for roof top gardens, filter media, irrigation method, drainage

system, root barrier / water proofing layer);

- (c) details on proposed method for irrigation and drainage;
  - (d) plant schedule indicating botanical and common names, quantities, pot size, mature height and spread of species proposed.
  - (e) details of the proposed catenary system, if vegetation is proposed to grow along these lines, as indicated on the plans.
  - (f) details of the proposed raingarden
  - (g) to the satisfaction of the Responsible Authority.
13. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
  - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
  - (c) replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.
14. Unfettered public access must be maintained through the central open space area.

#### **Integrated Art Plan**

15. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, details of the public artwork to be provided in the locations shown on the endorsed plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the details of the public artwork will be endorsed and will then form part of the permit. The cost of the public artwork is to be borne by the owner or occupier of the land. The artwork must be installed before any part of the development is occupied except with the prior written consent of the Responsible Authority all the satisfaction of the Responsible Authority. The public artwork as approved must then maintained to the satisfaction of the Responsible Authority.

#### **Road Infrastructure**

16. Prior to the commencement and construction of any new vehicle crossing, or by such later date as approved in writing by the Responsible Authority, the applicant must prepare and submit a 1 in 20 scale cross sectional drawing of the development's vehicular entrance, showing the actual reduced levels to three decimal places (not interpolated levels from the application drawings) of the Buckingham Street road profile (from the centre line to the property line). The required levels include the building line level, top of kerb level, invert level, lip level and road pavement levels. The existing road profile of Buckingham Street and the ramp inside the property (for the first 2.0 metres) must be accurately drawn. The applicant must demonstrate by way of a ground clearance check using the B99 design vehicle that vehicles can traverse the new vehicle crossing and ramp without scraping or bottoming out. The 1 in 20 scale cross sectional drawing must be submitted to Council's Construction Management branch for assessment and approval.
17. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
- (a) in accordance with any requirements or conditions imposed by Council;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.

18. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
19. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the footpath immediately outside the property's Buckingham Street, Davison Street and Burnley Street road frontages must be re-constructed:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
20. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the road pavement outside the property's Buckingham Street, Davison Street and Burnley Street road frontage must be must be profiled and re-sheeted:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, area/s of any damage caused by development works and service trenches in relation to the development in the abutting Right of Way must be reconstructed full width:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
22. 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.
23. All road pavement reinstatements must be consolidated as single full-width areas of reinstatement to reduce further construction joints in the pavement.
24. Prior to the commencement of the development, the permit holder must pay a bank guarantee to the value of \$20,000 to the City of Yarra for traffic improvements including the signalisation of the intersection of Burnley Street/Doonside Street. The bank guarantee will be returned to the permit holder if the traffic improvement works are not commenced by the relevant authority within two years of the occupation of the final stage of the development.

### **Car parking**

25. Before the development is occupied, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
  - (a) the number of car parking spaces allocated to each tenancy and that each space is allocated;
  - (b) details of way-finding, cleaning and security of end of trip bicycle facilities;
  - (c) any policing arrangements and formal agreements as appropriate; and
  - (d) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc.
26. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.



27. 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.
28. 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. The car stackers must be maintained thereafter to the satisfaction of the Responsible Authority.
29. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

### **Green Travel Plan**

30. Before the development is occupied, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:
  - (a) describe the location in the context of alternative modes of transport;
  - (b) the provision of real time passenger information displays for nearby stops within each lobby;
  - (c) employee welcome packs (e.g. provision of Met Cards/Myki);
  - (d) a designated 'manager' or 'champion' responsible for co-ordination and implementation;
  - (e) details of bicycle parking and bicycle routes;
  - (f) details of GTP funding and management responsibilities; and
  - (g) include provisions to be updated not less than every 5 years.
31. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Public Lighting Plan**

32. Before the development commences, a Public Lighting Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Lighting Plan must address lighting along the northern boundary laneway and the entrances to the approved building. When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
  - (a) all pedestrian access to a residential/multipurpose development will be lit by public lighting installations at least to lighting level P4 as specified in the Australian Standard AS 1125.3.1:2005 *Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*;
  - (b) new poles and luminaires will be sourced from CitiPower/Jemena standard energy efficient luminaires list and comply with relevant CitiPower/Jemena technical requirements;

- (c) consultation with affected property owners to be undertaken by the developer with respect to the location of any new pole/s and light/s (if required);
  - (d) light spillage into the windows of existing and proposed residences will be avoided or minimised and should comply with the requirements of Australian Standard AS 4282 — 1997 *Control of the obtrusive effects of outdoor lighting*; and
  - (e) the locations of any new light poles will not obstruct vehicular access into private property;
33. The provisions, recommendations and requirements of the endorsed Public Lighting Plan must be implemented and complied with at no cost to Council and to the satisfaction of the Responsible Authority

### **Lighting**

34. 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 pedestrian and vehicular entrances and internal laneway must be provided on the subject site. Lighting must be:
- (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,
- to the satisfaction of the Responsible Authority.

### **General**

35. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
36. As part of the ongoing consultant team, Artisan Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
  - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.
37. The amenity of the area must not be detrimentally affected by the construction and use, including through:
- (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
38. The use, operation of the car stacker and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
39. 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.
40. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
41. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in

service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

42. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday–Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9am or after 3pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

### **Construction Management**

43. 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;
  - (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;

- (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority.
- (q) In preparing the Noise and Vibration Management Plan, consideration must be given to:
  - (i) using lower noise work practice and equipment;
  - (ii) the suitability of the land for the use of an electric crane;
  - (iii) silencing all mechanical plant by the best practical means using current technology;
  - (iv) fitting pneumatic tools with an effective silencer;
  - (v) other relevant considerations; and
  - (vi) any site-specific requirements.

During the construction:

- (r) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (s) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (t) vehicle borne material must not accumulate on the roads abutting the land;
- (u) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (v) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

### **Time expiry**

44. 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; or
- (c) the use has not commenced within five 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:

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 permitted under the permit.

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

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

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact

Council's Construction Management Branch on 9205 5585 for further information.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5585 for further information.

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.

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

Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the Permit Holder's expense after seeking approval from the relevant authority.

In accordance with the Yarra Planning Scheme, a 4.5 per cent public open space contribution will apply in the event of the subdivision of the land.

A permanent survey marker is located at the east end of Buckingham Street on the footpath. This survey marker must be protected and must not, under any circumstances, be relocated or removed from its current position.

There is an existing sewer vent at the east end of Buckingham Street, directly in front of the subject site. The applicant must liaise and consult with the relevant water authority in relation to the sewer vent with respect to proximity to windows of the new building.

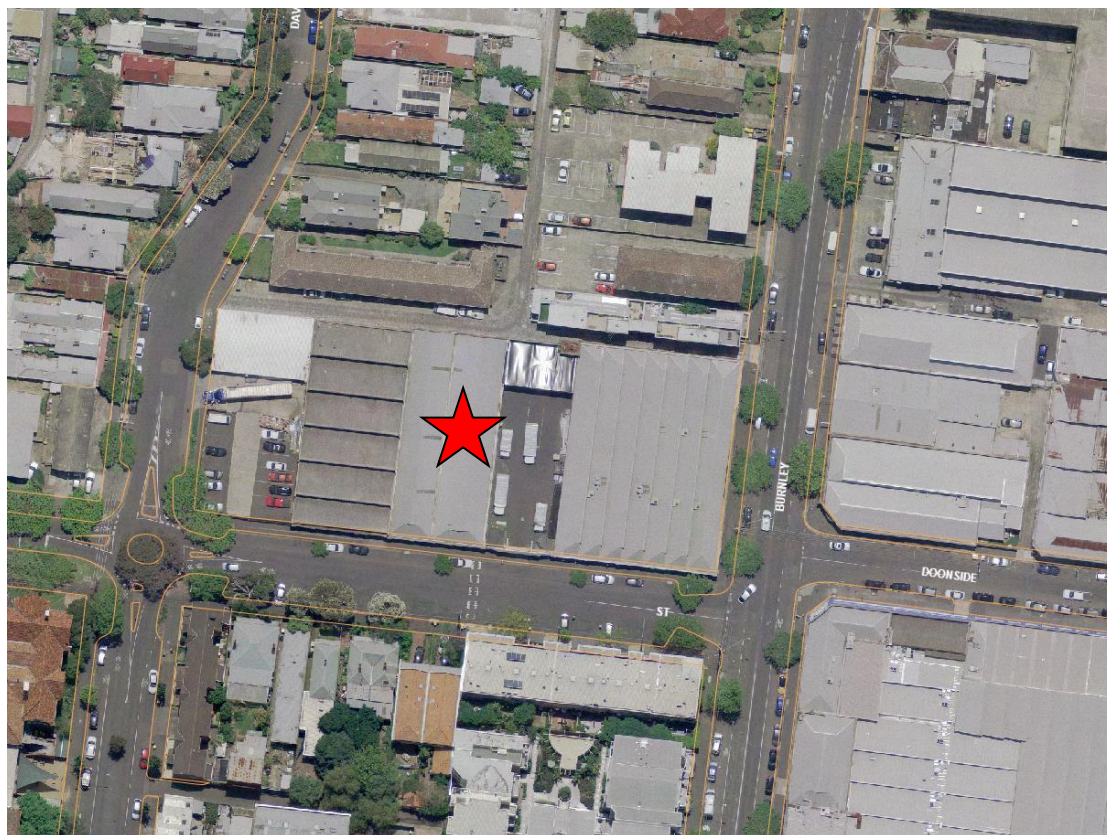
**CONTACT OFFICER:** Vicky Grillakis  
**TITLE:** Coordinator – Statutory Planning Principal Planner  
**TEL:** 92055124

#### **Attachments**

- 1 PLN16/1016-05 - 171 Buckingham Street Richmond - subject land
- 2 PLN16/1016-05 - 171 Buckingham Street Richmond - sketch plans
- 3 PLN16/1016-05 - 171 Buckingham Street Richmond - PTV referral response
- 4 PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments
- 5 PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans
- 6 PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans
- 7 PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plan
- 8 PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans
- 9 PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans and sections
- 10 PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations
- 11 PLN16/1016 - 171 Buckingham Street Richmond - decision plans - elevations
- 12 PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

**Attachment 1 - PLN16/1016-05 - 171 Buckingham Street Richmond - subject land**

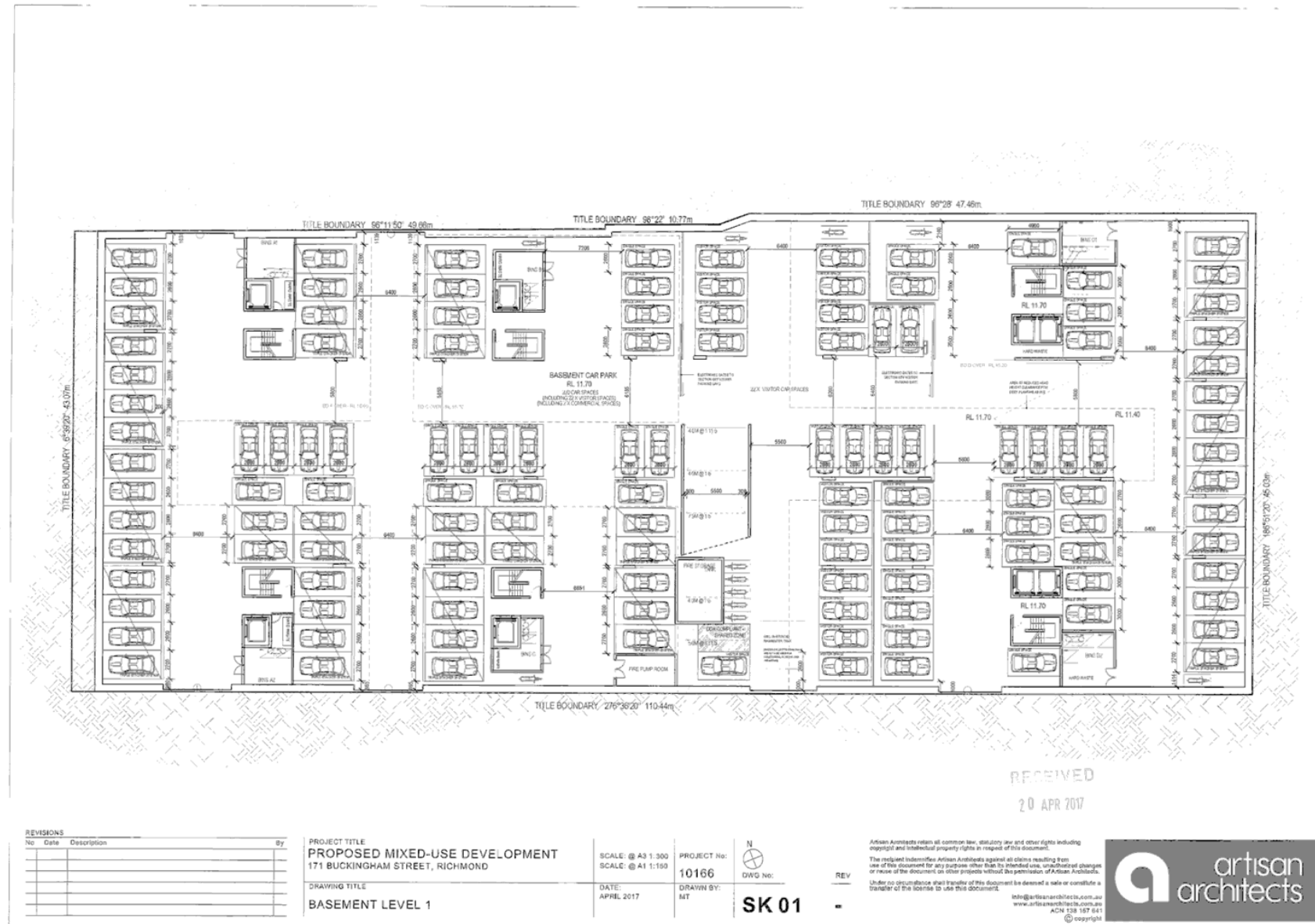
**SUBJECT LAND:**



↑ North

★ Subject Site

Attachment 2 - PLN16/1016-05 - 171 Buckingham Street Richmond - sketch plans

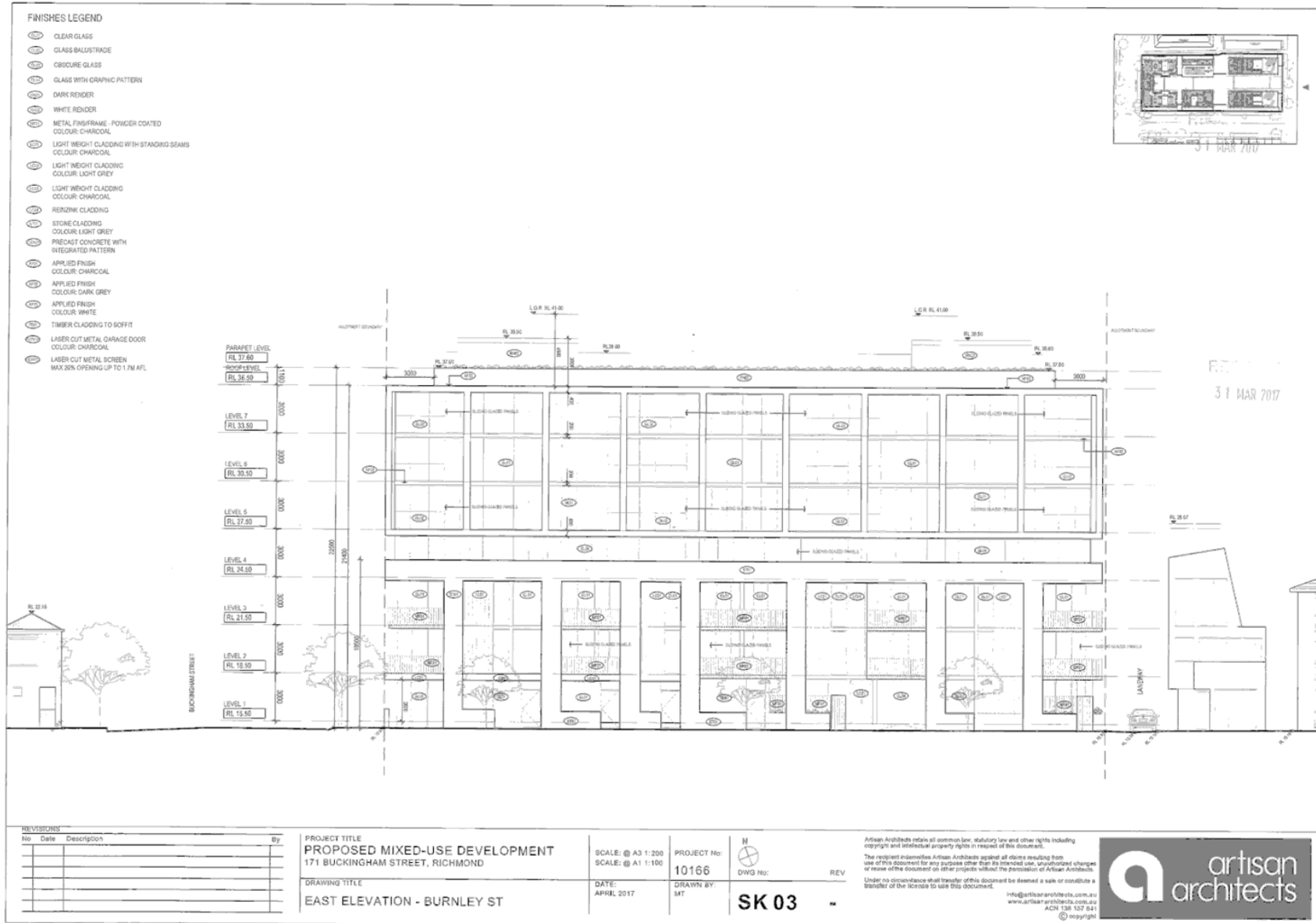


Attachment 2 - PLN16/1016-05 - 171 Buckingham Street Richmond - sketch plans

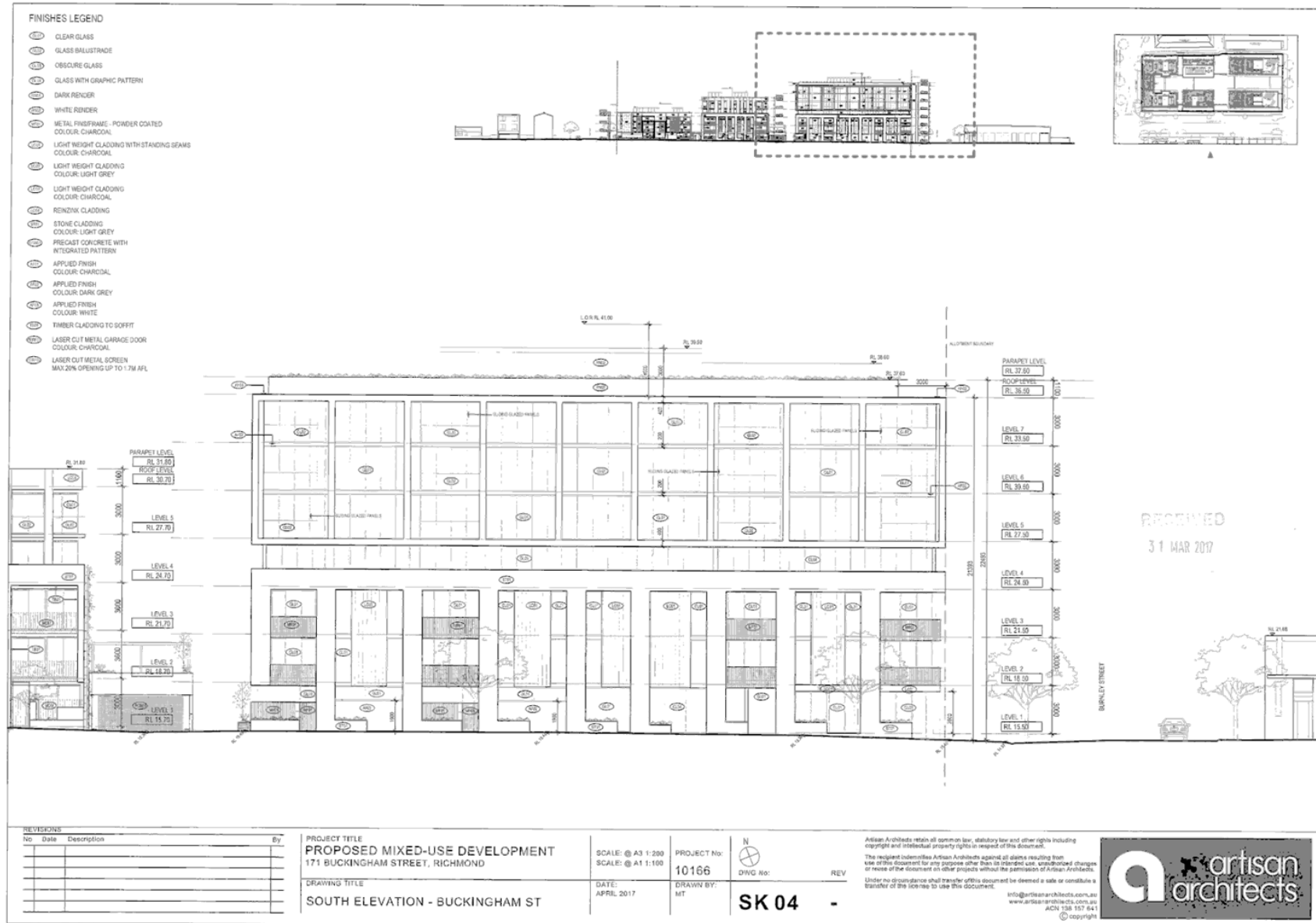




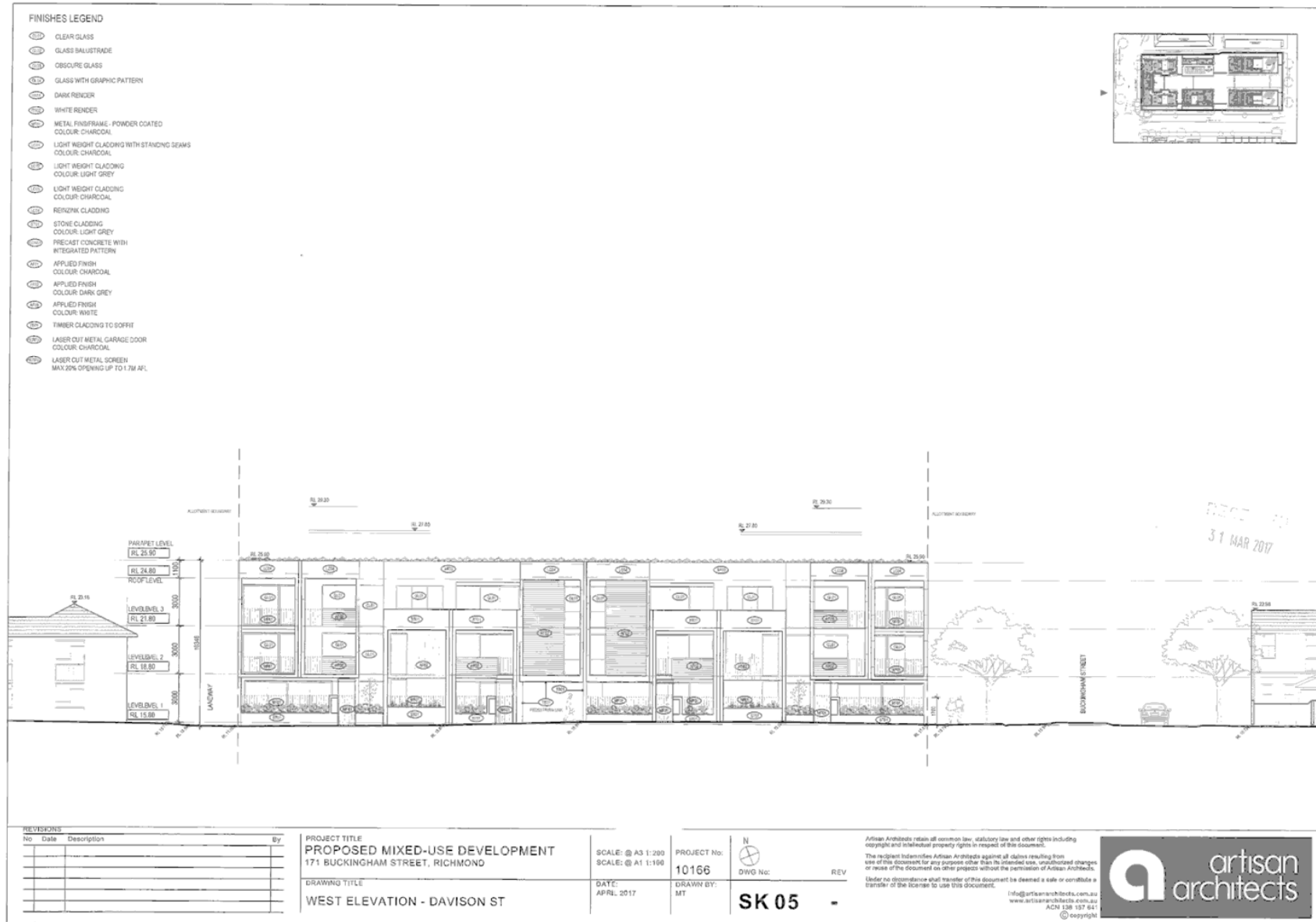
# Attachment 2 - PLN16/1016-05 - 171 Buckingham Street Richmond - sketch plans



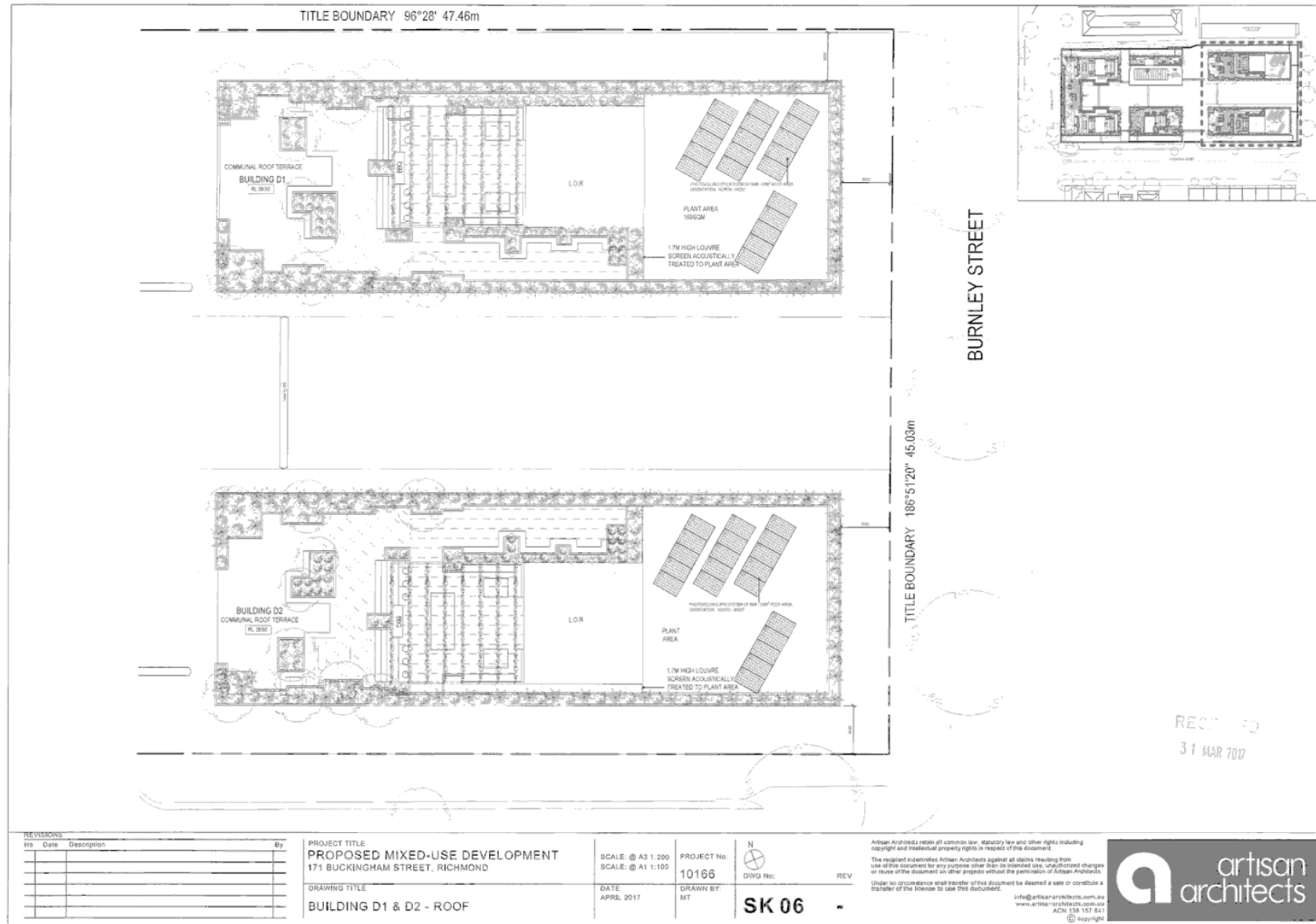
# Attachment 2 - PLN16/1016-05 - 171 Buckingham Street Richmond - sketch plans



# Attachment 2 - PLN16/1016-05 - 171 Buckingham Street Richmond - sketch plans



Attachment 2 - PLN16/1016-05 - 171 Buckingham Street Richmond - sketch plans



**Attachment 3 - PLN16/1016-05 - 171 Buckingham Street Richmond - PTV referral response**



File: FOL/16/54254  
Your ref: PLN16/1016

PO Box 4724  
Melbourne Victoria 3001  
Australia  
  
Telephone 1800 800 007  
ptv.vic.gov.au  
  
DX 210018

Vasiliky Grillakis  
Principal Statutory Planner  
Yarra City Council  
**Via Email: [vasiliky.grillakis@yarracity.vic.gov.au](mailto:vasiliky.grillakis@yarracity.vic.gov.au)**

Dear Vasiliky,

**PLANNING PERMIT APPLICATION NO.: PLN16/1016**  
**ADDRESS: 171 Buckingham Street Richmond**  
**PROPOSAL: Mixed Use Development of Between Three to Eight Stories in Height**

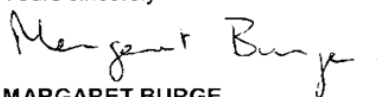
Thank you for your letter dated 21 December 2016, referring the above application to Public Transport Victoria (PTV), pursuant to Section 55 of the *Planning and Environment Act 1987*.

PTV has reviewed the information supplied and, pursuant to Section 56(1) of the *Planning and Environment Act 1987*, **does not object** to the grant of a planning permit.

It is requested that a copy of Council's decision be forwarded to PTV at your earliest convenience.

Should you have any queries regarding the above, please contact Renee De Alwis at [renee.dealwis@ecodev.vic.gov.au](mailto:renee.dealwis@ecodev.vic.gov.au) or alternatively, on (03) 8392 7962.

Yours sincerely

  
**MARGARET BURGE**  
Senior Lawyer  
23 / 01 / 17

**CC: Applicant: [travisf@ratio.com.au](mailto:travisf@ratio.com.au)**

## Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments

### Referrals (in alphabetical order)

#### Acoustic

We have reviewed the provided acoustic report. The report provides a reasonable overview and is appropriate for a preliminary pre-permit assessment. The following items should be clarified / elaborated on, or alternatively form the basis of permit conditions for a future revised report.

- Confirmation that the *Better Apartment Design Standard* internal design levels are met, as well as our normally recommended CoY maximum hourly targets, being:
  - 35 dBA Leq for bedrooms during the night and not more than 40 dBA during the loudest hour.
  - 40 dBA Leq to all habitable rooms during the day, and not more than 45 dBA Leq for the loudest hour.
- Review of glazing design to incorporate required minimum  $R_w$  (or  $R_w + C_{tr}$ ) ratings and any other relevant design information to ensure the façade achieves the internal noise levels (ie wall, ventilation treatments etc.).
- A more detailed review of some of the known sources of noise shown on the development application drawings, and concept advice or specification to address these. This should include the carpark entry door, substation, social gathering area and rooftop terraces. As well as the normal SEPP and BCA requirements, it may be necessary to provide further controls to achieve appropriate amenity levels in affected apartments due to these sources, and to also address structure-borne noise and the like.
- There is no formal assessment of any plant and equipment items associated with the development; only the assessment targets are provided. While this is reasonable given the lack of available information at planning stage, the report should provide a statement that the developer will need to undertake a formal acoustical review of all mechanical plant and equipment on the development to ensure it complies with all EPA policies and guidelines.
- The Food and Drinks premises will need significantly more assessment information, but this may be more appropriate for the future operator to provide as part of their application and once the actual use and operating times and conditions are known.

#### Engineering

##### Car Parking Demand Assessment

In reducing the number of parking spaces required for the proposed development, the Car Parking Demand Assessment would assess the following:

- *Parking Demand for Residential Visitors.* Peak parking for residential visitors generally occurs on weekday evenings and at weekends. An empirical peak residential visitor parking rate of 0.12 spaces per dwelling has been often quoted in other traffic impact reports we have reviewed in the past. Applying this rate would result in a peak residential visitor parking demand of 24 spaces. During normal business hours, the visitor parking rate would be much less than the 0.12 spaces per dwelling. Off-peak daytime visitor parking would be around 30% of the peak residential visitor parking rate, which would result in a visitor parking demand of around seven spaces.

## Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments

The applicant proposes to accommodate all residential visitor spaces off-site. A development of this magnitude should be providing some on-site parking for visitors. Not providing any on-site visitor parking for a large development is not acceptable. It is recommended that the applicant provide some on-site visitor parking.

- *Parking Demand for Food and Drink Premises.* A parking rate of 3.0 spaces per 100 square metres of floor area could be adopted. Using this rate equates to a car parking demand of seven spaces. Staff parking demand would constitute around a third of a food and drink premises' total parking demand (in this case, it would be around two spaces). The customer car parking demand (four spaces) would be accommodated on-street – typical of most food and drink premises abutting a major road or activity centre.
- *Availability of Public Transport in the Locality of the Land.* The site is within walking distance of tram services operating along Victoria Street. Tram services on Church Street and Bridge Road could also be accessed by foot.
- *Convenience of Pedestrian and Cyclist Access.* The site is convenient pedestrian access to shops, businesses, supermarkets, essential services and amenities. The site also has good connectivity to the on-road bicycle network.

### Appropriateness of Providing Fewer Spaces than the Likely Parking Demand

Clause 52.06 lists a number of considerations for deciding whether the required number of spaces should be reduced. For the subject site, the following considerations are as follows:

- *Availability of Car Parking.* Ratio Consultants had undertaken On-street parking occupancy surveys of the streets surrounding the site on Thursday 14 April 2016 from 11:00am to 8:00pm and on Saturday 16 April 2016 from 11:00am to 8:00pm. The survey area encompassed sections of Buckingham Street, Davison Street, Kent Street, Somerset Street, Burnley Street, Doonside Street, David Street, Appleton Street, North Street and Clark Street. The extent and duration of the surveys are considered appropriate. An inventory ranging from 338 to 377 publicly available spaces was identified. The peak parking occupancy in the study area was observed at 3:00pm on the Thursday, with no fewer than 41 spaces vacant. On the Saturday at 1:00pm, no fewer than 97 vacant spaces were recorded. The results indicate that vacant spaces could be found within walking distance of the site.
- *Other Relevant considerations.* Occupants of the residential properties will not be eligible to apply for on-street resident and visitor parking permits.

### Adequacy of Car Parking

From a traffic engineering perspective, the waiver of parking for the food and drink premises is considered appropriate; however, reducing all residential visitor spaces is not supported. The applicant should provide some on-site visitor parking to help reduce the influx of cars parking on-street.

### TRAFFIC GENERATION

#### Residential Traffic

Ratio Consultants have conservatively adopted a rate of 3.0 trips per dwelling per day. The peak hour traffic would be 10% of the daily residential traffic volume. The resulting residential traffic generation equates to 202 vehicle trips per day with 61 vehicle trips in each peak hour.

## Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments

The distribution of arrivals and departures from the site for the residential traffic during each peak hour would be 20% arrivals and 80% departures in the morning peak hour and 60% arrivals and 40% departures in the evening peak hour.

### Retail Traffic

The two spaces allocated to the food and drink premises would be expected to generate 2 trips in the AM peak period and 2 trips in the PM peak period.

### Development Traffic

Each peak hour would generate 63 vehicle trips per hour. This volume equates to around to just over one car every minute.

To assess the traffic impact of the nearby intersection of Burnley Street and Buckingham Street, Ratio Consultants had conducted turning movement counts at the intersection and modelled the intersection using SIDRA analysis for post development traffic conditions. The turning movement counts at the Burnley Street/Buckingham Street intersection were conducted on Thursday 14 April 2016 from 7:30am to 9:30am and from 4:30pm to 6:30pm. The AM peak hour occurred from 7:45am to 8:45am and the PM peak hour occurred from 5:00pm to 6:00pm.

The intersection of Buckingham Street and Burnley Street forms part of a staggered intersection with Doonside Street. Ratio Consultants had only considered the Buckingham Street/Burnley Street part of the intersection. Doonside Street (east approach of the staggered intersection) will accommodate development traffic from a number of recently approved and future mixed use development sites. Once the subject site and the sites within the Doonside precinct are operation, the staggered intersection could potentially cause vehicle conflict for right turn movements into Doonside Street and Buckingham Street. Modelling the intersection without considering the Doonside Street approach and the traffic generated from within the Doonside precinct does not provide a complete overview of traffic conditions at the intersection.

Although beyond the scope of this planning application, the broader traffic implications of the Buckingham Street-Burnley Street-Doonside Street intersection, especially the traffic that would be generated by the Doonside precinct, need to be looked at on a more strategic basis. VicRoads would be a key player in how this intersection is to be treated/addressed in order to cater for future traffic demands from nearby developments, including the subject site.

It is recommended that the intersection of Buckingham Street-Burnley Street-Doonside Street be analysed in its entirety, with the projected traffic volumes from major developments in the Doonside precinct taken into account.

### DEVELOPMENT LAYOUT DESIGN

#### Layout Design Assessment





**Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments**

Access Arrangements	
Development Entrance	The development entrance has a width of 5.5 metres with additional 300 mm kerbs on either side. The entrance allows for simultaneous two-way traffic movements and satisfies Design standard 1 – Accessways of Clause 52.06-8 and the Australian/New Zealand Standard AS/NZS 2890.1:2004.
Sight Triangle	A corner splay can be provided for the exit lane of the entrance. The landscaped area adjacent to the entrance should be maintained at a height of no more than 900 mm.
Headroom Clearance	A headroom clearance of 2.86 metres has been provided, which satisfies AS/NZS 2890.1:2004.
Vehicle Crossing	The new vehicle crossing must be constructed in accordance with Council's Standard Drawings. There is a row of existing speed cushions in Buckingham Street which would impact on the proposed site access.
Car Parking Modules	
At-grade parking spaces	The dimensions of the at-grade car parking spaces satisfy <i>Design standard 2: Car parking spaces</i> .
Aisles	The aisle widths range from 5.8 metres to 6.651 metres and also satisfy <i>Design standard 2</i> .
Accessible Parking Space	With the exception of the length (which satisfies <i>Design standard 2</i> ), the dimensions of the dedicated accessible parking space and the associated shared area satisfy the Australian/New Zealand Standard AS/NZS 2890.6:2009. No bollard has been provided in the shared area as required by the Standard.
Column Depths and Setbacks	Not dimensioned on the drawings.
Vehicle Turning Movements	The submitted swept path diagrams using the B85 design vehicle satisfactorily demonstrate vehicle turning movements into and out of the at-grade parking spaces.
Headroom Clearance	The basement car park has a minimum headroom clearance of 2.86 metres and satisfies AS/NZS 2890.1:2004.
Blind Aisle Extensions	Generally accord with AS/NZS 2890.1:2004. Swept path diagrams using the B85 design vehicle confirm that blind aisle extensions operate satisfactorily.
Motorcycle/Scooter Spaces	Not dimensioned on the drawings.
Ramp Width	The ramp has a width of 5.5 metres and 300 mm kerbs on

**Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments**

	either side. The ramp width satisfies AS/NZS 2890.1:2004.
Gradients	
Ramp Grade for First 5.0 metres inside Property	The ramp grade for the first 5.0 metres inside the building line is 1 in 11.5 and satisfies <i>Design standard 3: Gradients</i> .
Ramp Grades and Changes of Grade	The ramp grades and the changes of grade for the ramped accessway satisfy <i>Design standard 3</i> .
Mechanical Parking	
Car Stacker	The development would be provided with the Nussbaum Uniparker N5303 shuffle type stacker. The stacker model can provide useable platform widths of 2.4 metres and pit lengths of up to 5.6 metres.
Vehicle Turning Movements into and out of Stacker Platforms	The swept path diagrams for the B85 design vehicle demonstrate satisfactory access into and out of the stacker platforms.
Vehicle Height Clearance	The stacker has models that have vehicle height clearances of at least 1.78 metres. The model of stacker should be selected such that at least 25% of spaces have vehicle height clearances of at least 1.8 metres as required by <i>Design standard 4: Mechanical Parking</i> .

**Design Items to be Addressed**

Vehicle Crossing	The applicant has the option of (A) either relocating the proposed vehicle crossing and entrance such that it is completely clear of the existing road cushions or (B) retains the position of the proposed crossing and reconstructs the speed cushions as a road hump tapered towards the entrance to Council's satisfaction. The applicant must consult and liaise with Council's Traffic unit. This matter needs to be resolved before a Planning Permit is issued for the site.
Accessible Parking Space	A bollard must be installed in the shared area as per AS/NZS 2890.6:2009.
Column Depths and Setbacks	To be dimensioned on the drawings.
Motorcycle/Scooter Spaces	To be dimensioned on the drawings.

**IMPACT ON COUNCIL ROAD ASSETS**

The construction of the new buildings, the provision of underground utilities and construction traffic servicing and transporting materials to the site will impact on Council assets.

## Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments

Trenching and areas of excavation for underground services invariably deteriorates the condition and integrity of footpaths, kerb and channel, laneways and road pavements of the adjacent roads to the site.

It is essential that the developer rehabilitates/restores laneways, footpaths, kerbing and other road related items, as recommended by Council, to ensure that the Council infrastructure surrounding the site has a high level of serviceability for residents, employees, visitors and other users of the site.

### ENGINEERING CONDITIONS

The following items must be included in the Planning Permit for this site:

#### Civil Works

- Upon the completion of all building works and connections for underground utility services, the footpath immediately outside the property's Buckingham Street, Davison Street and Burnley Street road frontages must be reconstructed to Council's satisfaction and at the Permit Holder's expense.
- The road pavement of Buckingham Street, between Davison Street and Burnley Street, must be profiled and re-sheeted to Council's satisfaction and at the Permit Holder's expense.
- The kerb and channel along the property's Burnley Street frontage must be reconstructed to Council's satisfaction and at the Permit Holder's expense.
- All redundant vehicle crossings surrounding the site must be demolished and reinstated to Council's satisfaction and at the Permit Holder's cost.

#### Public Lighting

- The existing lights (pole numbers 2241 and 2239 in Buckingham Street and pole number 840546 in Davison Street) must be replaced to minimise light spillage into the habitable windows of new development. The supply and installation of the lights shall be funded by the Permit Holder.
- The existing lights (pole numbers 6901 and 6902 on the east side of Burnley Street) are to be supplied with rear shields to minimise light spillage into the habitable windows of new development. The supply and installation of the shielding shall be funded by the Permit Holder.
- Public Lighting in the Right of Way for the pedestrians must be provided and funded by the Permit Holder. Before the development is occupied, a public lighting plan must be endorsed to the satisfaction of the Responsible Authority showing/confirming:
  - (a) all pedestrian access to a residential/multipurpose development will be lit by public lighting installations at least to lighting level P4 as specified in the Australian Standard AS 1125.3.1:2005 *Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*;
  - (b) new poles and luminaires will be sourced from CitiPower/Jemena standard energy efficient luminaires list and comply with relevant CitiPower/Jemena technical requirements;
  - (c) consultation with affected property owners to be undertaken by the developer with respect to the location of any new pole/s and light/s (if required);

## Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments

(d) light spillage into the windows of existing and proposed residences will be avoided or minimised and should comply with the requirements of Australian Standard AS 4282 — 1997 *Control of the obtrusive effects of outdoor lighting*; and

(e) the locations of any new light poles will not obstruct vehicular access into private property;

### Impact of Assets on Proposed Development

- Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.
- 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.

### Road Asset Protection

- Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the developer's expense.

### Right of Way adjacent to the Development

- Upon the completion of all building works and connections for underground utility services, the area/s of any damage caused development works and service trenches in relation to the development in the abutting Right of Way must be reconstructed full width to Council's satisfaction and at the Permit Holder's expense.

## NON-PLANNING ADVICE FOR THE APPLICANT

### Preparation of Detailed Road Infrastructure Design Drawings

The developer must prepare and submit detailed design drawings of all road infrastructure works and drainage works associated with this development for assessment and approval.

### Legal Point of Discharge

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. 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), or to Council's satisfaction under Section 200 of the *Local Government Act 1989* and Regulation 610.

### Protection of Basement

The Permit Holder/developer is responsible for the management and protection of their building from groundwater.

The developer needs to ensure that the basement car park and any portions of the development at or below natural surface level have a level of protection to minimise the seepage of subterranean water (groundwater) or any rainfall run-off from penetrating the walls or floors of the site.

## Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments

The excavation for the basement would be to a depth of in excess of 6.0 metres and it is possible that groundwater would be encountered.

In the event that any contaminated groundwater seeps through the walls of the basement, this water must not be discharged into Council's stormwater drainage system under any circumstances. Any contaminated groundwater that is present within the site must be treated and disposed of in accordance with a Trade Waste Agreement and as per EPA guidelines and Melbourne Water/City West Water guidelines.

It is also the Permit Holder's onus and responsibility to ensure that rainfall run-off does not enter the property in the event of a heavy storm. Adequate measures should be in place to prevent backwash from entering the property.

### Vehicle Crossing – Cross Sectional Drawing

The applicant must prepare and submit a 1 in 20 scale cross sectional drawing of the development's vehicular entrance, showing the actual reduced levels to three decimal places (not interpolated levels from the application drawings) of the Buckingham Street road profile (from the centre line to the property line). The required levels include the building line level, top of kerb level, invert level, lip level and road pavement levels. The existing road profile of Buckingham Street and the ramp inside the property (for the first 2.0 metres) must be accurately drawn. The applicant must demonstrate by way of a ground clearance check using the B99 design vehicle that vehicles can traverse the new vehicle crossing and ramp without scraping or bottoming out. The 1 in 20 scale cross sectional drawing must be submitted to Council's Construction Management branch for assessment and approval.

### Permanent Survey Marker

A permanent survey marker is located at the east end of Buckingham Street on the footpath. This survey marker must be protected and must not, under any circumstances, be relocated or removed from its current position.

### Sewer Vent at East End of Buckingham Street

There is an existing sewer vent at the east end of Buckingham Street, directly in front of the subject site. The applicant must liaise and consult with the relevant water authority in relation to the sewer vent with respect to proximity to windows of the new building.

### **Environmental Sustainable Design (ESD)**

The standard of the ESD does not meet Council's Environmental Sustainable Design (ESD) standards. Should a permit be issued, the following ESD commitments (1) and deficiencies (2) should be conditioned as part of a planning permit to ensure Council's ESD standards are fully met. *Furthermore, it is recommended that all ESD commitments (1), deficiencies (2) and the outstanding information (3) are addressed in an updated SMP report and are clearly shown on Condition 1 drawings. ESD improvement opportunities (4) have been summarised as a recommendation to the applicant.*

### Applicant ESD Commitments:

- A 60,000 litre rainwater tank connected to all toilets for flushing.
- A minimum 10kWp solar PV array.

## Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments

- Good access to natural ventilation and daylight.
- Energy efficient heating/cooling systems.
- Energy efficient lighting.
- Water efficient fixtures.
- 205 bicycle spaces for residents and additional 38 spaces for visitors.
- Dual waste chutes.
- Extensive landscaping and open space, will improve the ecological value of the site.

### Application ESD Deficiencies:

- SMP states that building fabric of all facades will be 10% above NCC/BCA minimum. However, BESS report includes high heating and cooling loads (110 MJ/m2 and 28 MJ/m2) which far exceed the 114MJ/m2 6 Star maximum average allowed under the NCC/BCA for Melbourne climate zone. Please demonstrate that the proposal will exceed minimum BCA/NCC thermal energy efficiency standards by 10% as stated. Provide sample NatHERS ratings to substantiate this claim.
- Glazing to most dwellings is protected by balcony overhangs/wingwalls/winter gardens to reduce heat gains. It is unclear what the thermal performance of the winter gardens' glazing façade will be. Provide more detail on glazing specification and consider a SHGC to help manage summer heat gain of east, west and north facing dwellings particularly.
- The STORM report that was included in the submission has cropped the assessment details out of the submission, and needs to be re-submitted. A 100% STORM score is quoted in the BESS report but unfortunately the details are missing. The BESS report includes 'permeable' areas above the underground carpark(!) that do not match landscape plans. Landscape plans do not include permeable paving (above underground carpark), but do include large raingardens that are not mentioned in the SMP or BESS report. Please amend stormwater management proposal with consistent documentation and clearly demonstrating best practice, including a STORM report or MUSIC model outputs.

### Outstanding Information:

- SMP erroneously states in the BESS report that there are 51 visitor bicycle parking spaces, please amend to be accurate and consistent with the architectural drawings.

### ESD Improvement Opportunities:

- Consider electric vehicle charging infrastructure.
- Consider providing outdoor lines /racks for each dwelling.

### Supplementary ESD Advice - updated SMP prepared by Simpson Kotzman on the 10th February 2016.

In summary, most of the previous ESD concerns have been addressed in the updated document. There remains one minor issue with their proposed stormwater management system information.

The proposal contains a reasonable response to WSUD and the objectives of Clause 22.16 and 22.17.

## **Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments**

However, the area of the raingardens entered into STORM totals 764m<sup>2</sup> (2 x 382m<sup>2</sup>), which does not reflect the area marked on the excerpt of the plans that follows (page 11 of the SMP), nor are the raingardens marked on the architectural drawings.

This is a minor issue, however, and can be easily updated. Please update the STORM report to be consistent with the site plan excerpt on page 11 of the SMP, and please update the architectural drawings to clearly show the same area of raingardens, ensuring that best practice in stormwater management can be met.

### **Open Space**

Please find comments below in reference to the Landscape Design drawings prepared by ACLA (dated 25/10/16) for the development at 171 Buckingham Street, Richmond.

#### **Communal Open Space**

The proposed communal open space will improve permeability through the development and provide connectivity to the surrounding streets and nearby public open space, and is supported.

Is it intended that the "pocket park" and "social gathering spaces" will be publically accessible? I assume that these open space areas will remain in private ownership, as they do not meet the criteria for open space provision as set out in the Yarra Open Space Strategy.

Ensure shade tolerant species are proposed, as the shadow diagrams indicate that the north towers will shade much of the communal open space (especially "social gathering space 2").

#### **Planting plan**

A planting plan is required showing:

- Details raised planters and terrace/rooftop planting (including planter box materials and dimensions, mulch layer – something that won't blow away, growing media – suitable in weight and content for roof top gardens, filter media, irrigation method, drainage system, root barrier / water proofing layer)
- Details on proposed method for irrigation and drainage.
- Plant schedule indicating botanical and common names, quantities, pot size, mature height and spread of species proposed.
- Details of the proposed catenary system, if vegetation is proposed to grow along these lines, as indicated on the plans.
- Details of the proposed raingarden

Maintenance is a key issue for the success of roof top gardens. Notes in relation to maintenance (duration, regime) and irrigation will be required.

### **Strategic Transport**

Bicycle parking on-site:

In relation to the proposed bicycle parking as per the Advertising Plans (Part 2) pp.TP09 – 10.

1. The number of residential and visitor bicycle parking is satisfactory.

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2. The style of residential and visitor bicycle parking as per Ratio Traffic Impact report p. 26, is satisfactory.
3. The location of the residential bicycle parking satisfactory, but could be improved. The bicycle parking would, ideally, be consolidated. The small number of hoops located in each area may mean riders having to search for an available space in several locations.
4. The location of visitor bicycle parking could not be located. A suggested location would be the forecourt accessed from Buckingham Street.
5. Strategic Transport advises the following elements be considered in location and style of bicycle parking to be provided:
  - a. Easily accessible
  - b. Secure
  - c. Well-lit
  - d. Undercover
  - e. A mixture of on-ground and hanging style bike racks with the majority (more than 75%) to be provided as on-ground.

### **Urban Design – Rob McGauran – MGS Architects**

The redevelopment of the site for land uses of the form proposed is generally speaking supported by policy.

The proposal in its current form exceeds the preferred heights for the Burnley Street interface by approximately 9.6m or 3 levels.

The mid-block scale exceeds preferred heights by 3.8m or in approximately 1.5 residential levels.

Whilst at the western end the heights exceed preferred heights by some 3.9m

The Justification for this additional height is not well argued.

- a) As shown in Section 2.09 Height Analysis the project is taller than the Salta Apartments to the north despite the more modest nature of street interfaces and the immediate smaller neighbouring development to the north and south.
- b) Streetscape views suggest the proposal is taller than the other more significant project to the north on Burnley Street east of the reserve. No height analysis has been provided for the Buckingham Street corridor
- c) The design approach maximises the footprint impact by extruding the built form without setback save for the arcading treatment to its uppermost parapet level to both the Street interfaces.
- d) Shadow diagrams suggest significant overshadowing impacts to the south side of Buckingham Street (a street that should anticipate considerable pedestrian traffic given the adjoining school and its east west connectivity), contrary to policy objectives to enhance rather than diminish streetscape amenity. This shadow impact arises from 9am and continues to impact the major gateway to the street at 10am, 11am, Midday and 1pm with this extending to the eastern side of Burnley Street thereafter.



## **Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments**

- e) The immediate neighbours to the north and their two and three story form do not warrant a design response that seeks greater height at this location away from the primary intersections of arterial roads and the core of the centre.
- f) The location of the plant areas to D1 and D2 highlights the scale of the highest points of the building at the interface with the surrounding streets and further impacts overshadowing although these taller upstands do not appear to be depicted in the shadow diagrams. Desirably these larger plant enclosures should be well setback from the street. In this instance desirably no further south than the lift overrun zone and with greater setbacks to both Burnley and Buckingham Streets with a minimum 3m setback recommended in each instance.

### **Recommendation**

Remove levels 7 and 8 of the proposal to diminish the height of the building to the corner with Buckingham Street and Burnley Street to a maximum height to parapet of 34.6m.

Reconfigure the plant areas to have a minimum 3m setback from Buckingham Street and Burnley Street

The heights for the balance of midblock and western block forms are dependent on the placemaking and setbacks applied to them. In their current form these are in my view inadequate.

### **Setbacks**

The north facing apartments abutting the northern laneway should be configured with all north facing habitable room windows organised using the following principles.

- a) A landscape setback should be provided for units with a ground level interface to the northern laneway to provide for sufficient buffer from the laneway interface without the need for opaque screens as currently nominated which would in my view unreasonably compromise internal amenity.
- b) Increased capacity for this laneway to the west of the north south spine (i.e for the central and western blocks) should be provided to provide for connectivity from the adjoin street to the northern entry or preferably the entry changed to the Davison Street interface with direct linkages into the internal central landscaped courtyard.
- c) Above ground level apartments habitable room windows should be provided with a minimum separation from habitable rooms opposite of 9m.
- d) The absence of setbacks to the street at the interface with Davison Street in particular and Buckingham Street at the transition to the hinterland residential is of concern.
- e) Properties in Davison Street typically have modest transitional setbacks to the street and a smaller scale than that envisaged for the subject site. The perimeter block approach adopted neither provides shared amenity to neighbouring streets save for the north south link, nor relief in the built form impacts arising from the additional scale sought above preferred heights.

### **Recommendation**

## **Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments**

Provide setbacks of 9m from north facing units and the adjoin habitable rooms of properties at no 47 Davison Street and No 52 Burnley Street and delete opaque screening.

Provide direct pedestrian access from Davison Street to Building A1 and B.

Provide a minimum 3m landscape setback to Buildings A1 and A2 from the Davison Street interface for landscaping or alternatively flip the plan arrangement to provide for two projecting north and south wings to Davison Street with a central dividing landscape spine breaking up the perceived extent of built form impacts at this interface and enhance the landscape quality and gateway to the street as a result.

### **Internal layouts**

The internal layouts of units are generally competently handled and the inclusion of semiprivate rooftop zones for occupants is welcome as an addition to the project.

These combination of qualities and through block north south links warrants some departure of modest dimension from preferred heights for midblock buildings B & C and western block A1 and A2 buildings subject to sufficient setbacks being able to be delivered to the interfacing lower scale residential street to the west and the neighbouring existing housing stock to the north.

Reduced reliance on the abutments to the northern neighbour for amenity for adjoin development should also be encouraged where practical. For example bedrooms that have an interface with a balcony which in turn provides an interface with Burnley Street or the north south laneway could be reoriented to this interface rather than its northern neighbour and internal walk-in robes removed along with in some instances second bedrooms to achieve adequate separation to ensure both amenity and to also diminish the impact of visual bulk arising from the combination of proximity and additional height sought over preferred maximums.

### **Common area landscapes & Placemaking**

Within the project considerable effort has been made to invest the project with an ambitious placemaking program for residents and is generally well considered.

The street interface improvements are less ambitious and require more work.

The success of food and drink premises for example is dependent in part on the enhanced capacity of Burnley Street to attract customers. I note too that no protective canopies are proposed for the retail tenancies.

This really requires a more generous capacity for this area and by implication the creation of a usable zone with amenity. Opportunities to achieve this would appear to be as follows:- a) Indent the ground level food and drink premises to provide for enhanced footpath capacity and amenity in combination with a projecting canopy to the Buckingham Street and Burnley frontages of the premises to provide for an undercover outdoor seating.

### **ESD**

Stormwater harvesting

## **Attachment 4 - PLN16/1016-05 - 171 Buckingham Street Richmond - internal referral comments**

The extent of landscape both at ground level and roof level is extensive but the scale of harvesting proposed appears modest with only a 60kl in ground tank shown. More detail of the adequacy of this for the proposed extent to demonstrate resilience of the landscapes on which placemaking is dependent is necessary.

### **Recommendation**

Provide sizing of stormwater harvesting measures demonstrably aligned with the goals to ensure that site landscaping is maintained in the long term.

### **Bike facilities**

The location of bike facilities in large part in second basement zone accessible only by lift is disappointing in the context of a location with such potential for active transport being as it is close to the Capital City trail and regional bike networks. The locations of lifts would require cyclists to access lifts via long corridors within the buildings and quickly result in these areas being compromised in their cleanliness and amenity with the scale of these access areas and lifts also clearly not configured with ground level bicycle access in mind. The removal of development from Building D 1 and 2 will provide opportunities for this bicycle parking to be reconfigured into Basement 1. An alternative cycle ramp access could for example be provided north of the stairwell to D1 directly from Burley Street via the Reconfiguration of the Apartment D1.104 and reallocation of the 13 car-spaces west of the stair and lift-core in B1 to a central bicycle facility.

### **Recommendation**

Remove bicycle parking from Basement level 2 and relocate it to basement level 1 and provide enhanced ramp access capacity for access by cyclists.

## **CONCLUSION**

Whilst there are attributes of the proposal that are well considered there are other elements that in their siting, scale and form undermine the amenity of the area at a time when the amenity from waling will become more critical.

Substantial amendment to scale northern and western interface treatments and setbacks is necessary along with increased priority for cycling and is accessibility.

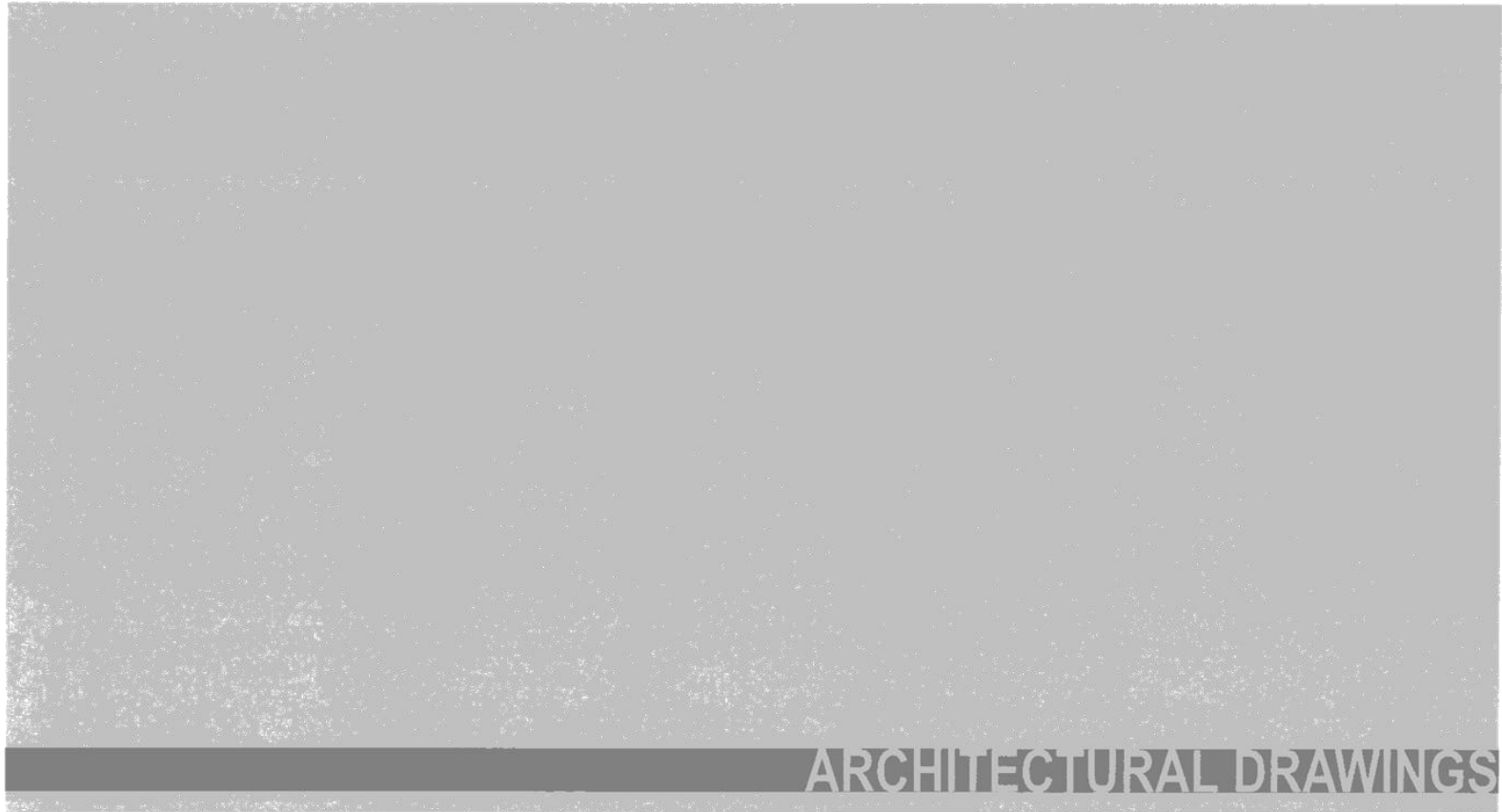
At this stage I am not convinced the changes should be conditioned but rather the applicant given the opportunity to respond to the issues raised failing this I could provide recommendations for the necessary erosion of envelope, and enhanced place making to respond to the issues raised in policy and context.

### **Waste Management**

The Waste Management Plan prepared by Ratio dated 16<sup>th</sup> Dec 2016 for 171 Buckingham Street, Richmond is satisfactory from the City Works Branch's perspective.

**Attachment 5 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans**

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



## Attachment 5 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans

REV:	A
DRAWINGS:	12.12.2016
TP 00 SITE PLAN	REFER TO LIST
TP 01 GROUND FLOOR	REFER TO LIST
TP 02 LEVEL 2	REFER TO LIST
TP 03 LEVEL 3	REFER TO LIST
TP 04 LEVEL 4	REFER TO LIST
TP 05 LEVEL 5	REFER TO LIST
TP 06 LEVEL 6	REFER TO LIST
TP 07 LEVEL 7-8	REFER TO LIST
TP 08 ROOF PLAN	REFER TO LIST
TP 09 BASEMENT LEVEL 1	REFER TO LIST
TP 10 BASEMENT LEVEL 2	/
TP 11 BUILDING A1 & A2 - GROUND	REFER TO LIST
TP 12 BUILDING A1 & A2 - LEVEL 2	REFER TO LIST
TP 13 BUILDING A1 & A2 - LEVEL 3	REFER TO LIST
TP 14 BUILDING A1 & A2 - ROOF	/
TP 15 BUILDING B & C - GROUND	REFER TO LIST
TP 16 BUILDING B & C - LEVEL 2	REFER TO LIST
TP 17 BUILDING B & C - LEVEL 3	REFER TO LIST
TP 18 BUILDING B & C - LEVEL 4	REFER TO LIST
TP 19 BUILDING B & C - LEVEL 5	REFER TO LIST
TP 20 BUILDING B & C - ROOF	/
TP 21 BUILDING D1 & D2 - GROUND	REFER TO LIST
TP 22 BUILDING D1 & D2 - LEVEL 2	REFER TO LIST
TP 23 BUILDING D1 & D2 - LEVEL 3	REFER TO LIST
TP 24 BUILDING D1 & D2 - LEVEL 4	REFER TO LIST
TP 25 BUILDING D1 & D2 - LEVEL 5	REFER TO LIST
TP 26 BUILDING D1 & D2 - LEVEL 6	REFER TO LIST
TP 27 BUILDING D1 & D2 - LEVEL 7 & 8	REFER TO LIST
TP 28 BUILDING D1 & D2 - ROOF	REFER TO LIST
TP 29 SECTION A-A	/
TP 30 SECTION A-A	/
TP 31 SECTION B-B - INTERNAL SOUTH ELEVATION	REFER TO LIST
TP 32 SECTION B-B - INTERNAL SOUTH ELEVATION	REFER TO LIST
TP 33 SECTION C-C	REFER TO LIST
TP 34 SECTION D-D	/
TP 35 SECTION E-E - INTERNAL EAST ELEVATION	/
TP 36 SECTION F-F	/
TP 37 SOUTH ELEVATION - BUCKINGHAM STREET	/
TP 38 SOUTH ELEVATION - BUCKINGHAM STREET	/
TP 39 EAST ELEVATION - BURNLEY STREET	/
TP 40 NORTH ELEVATION - LANE WAY	REFER TO LIST
TP 41 NORTH ELEVATION - LANE WAY	/
TP 42 WEST ELEVATION - DAVISON STREET	/
TP 43 INTERNAL NORTH ELEVATION	REFER TO LIST
TP 44 INTERNAL NORTH ELEVATION	REFER TO LIST
TP 45 BUILDING A1 & A2 - EAST ELEVATION	REFER TO LIST
TP 46 BUILDING B & C - WEST ELEVATION	/
TP 47 BUILDING D1 & D2 - WEST ELEVATION	REFER TO LIST
TP 48 EXISTING NORTH & SOUTH STREET ELEVATION	/
TP 49 EXISTING EAST & WEST STREET ELEVATION	/

\*/ DENOTES NO CHANGES

REVISIONS	No	Date	Description	By
A	12.12.16	Town Planning Rf		MT

PROJECT TITLE	SCALE: @ A3 1: SCALE: @ A1 1:	PROJECT No:	N
171 BUCKINGHAM STREET, RICHMOND		10166	DWG No:
DRAWING TITLE	DATE:	DRAWN BY:	REV
DRAWING SCHEDULE	SEPTEMBER 2016	MT	TP A

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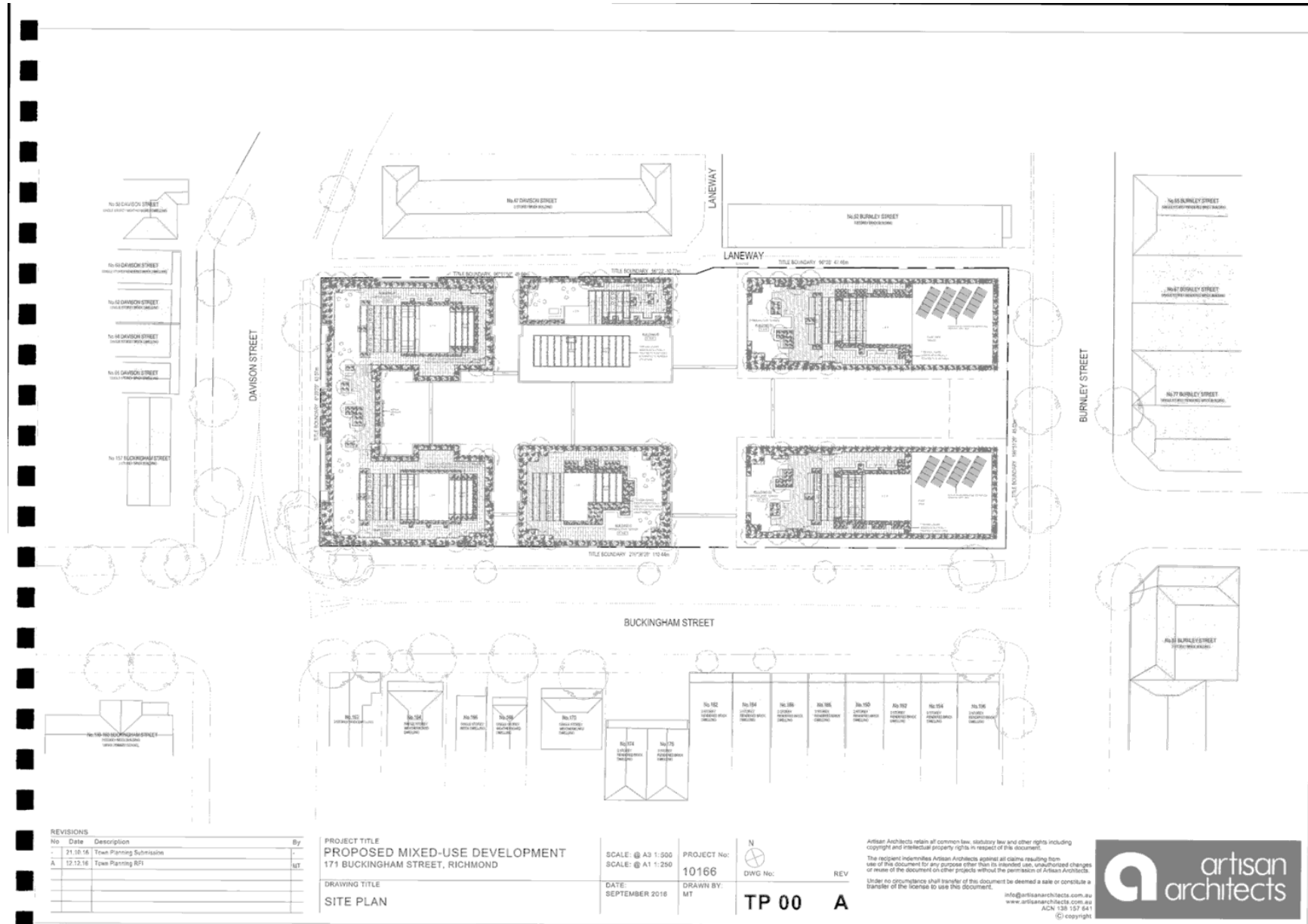
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Attachment 5 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans



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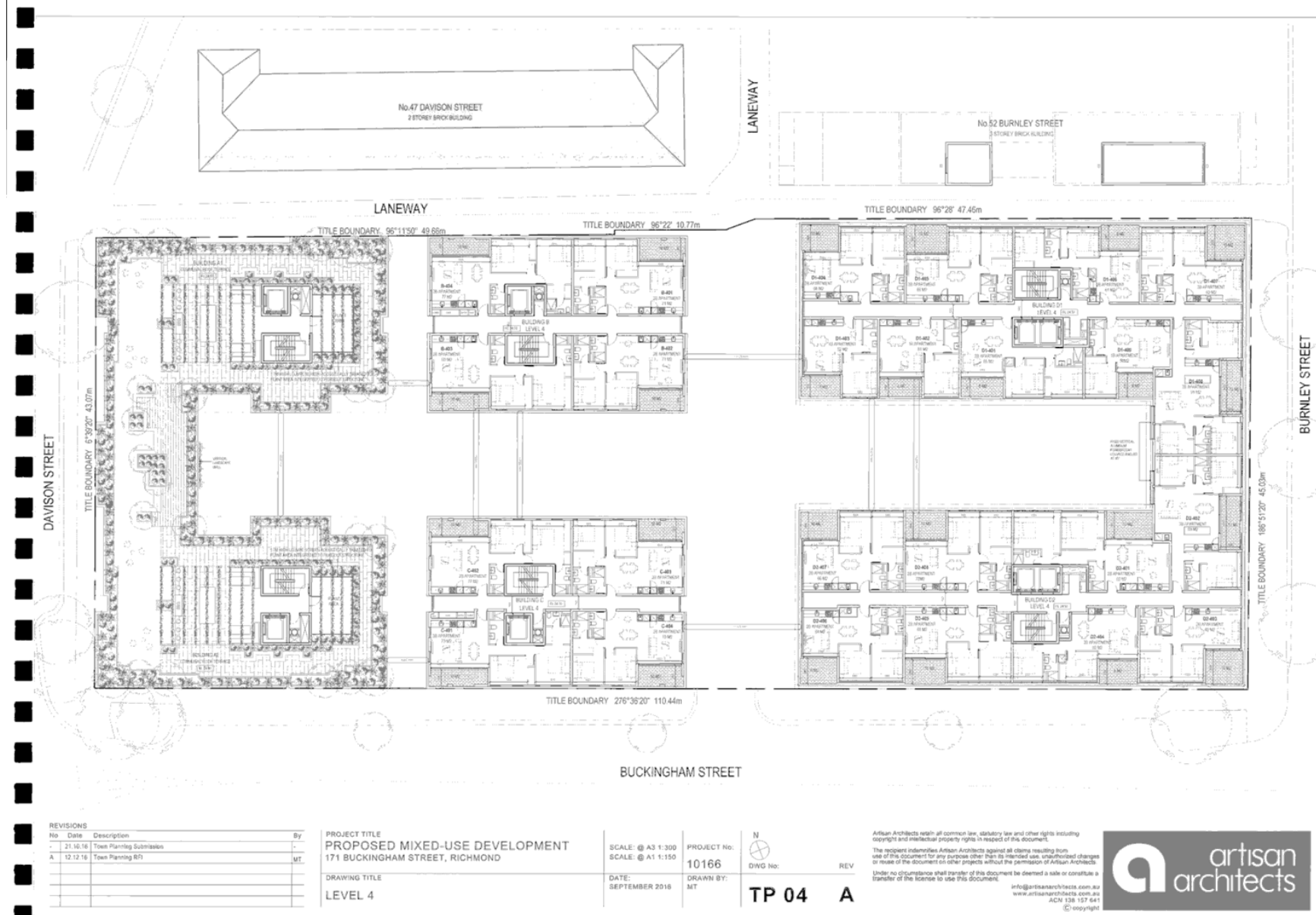




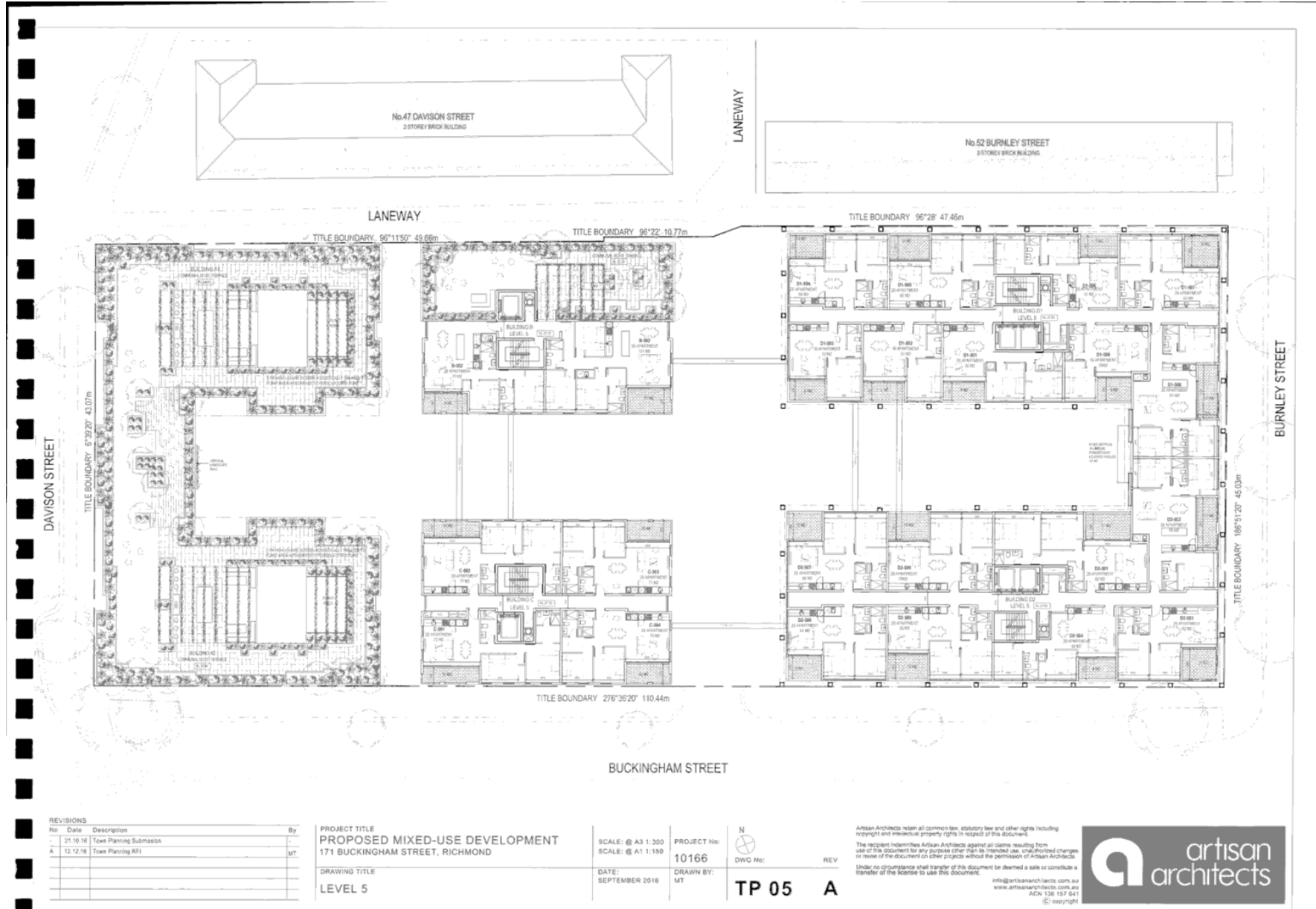
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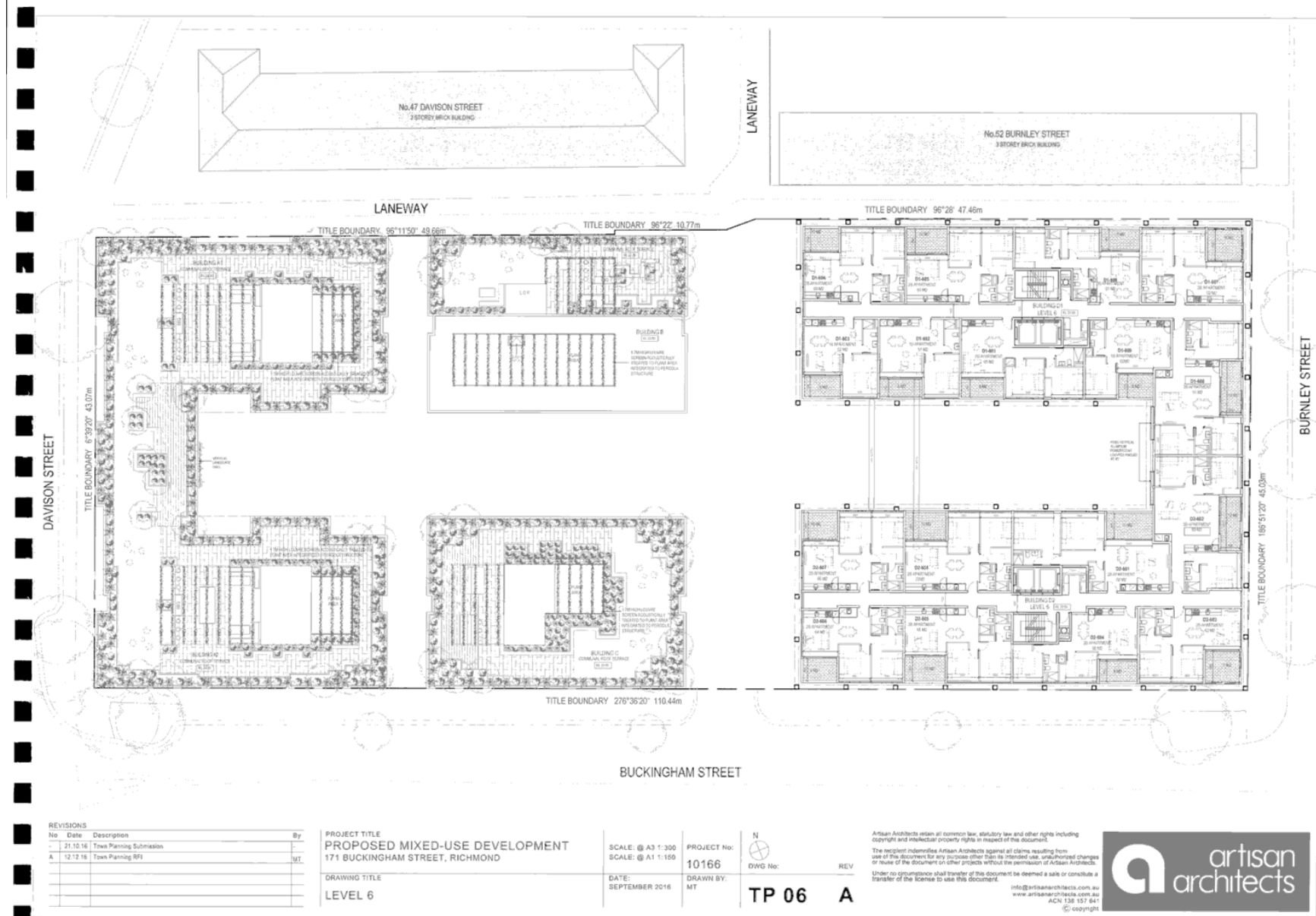
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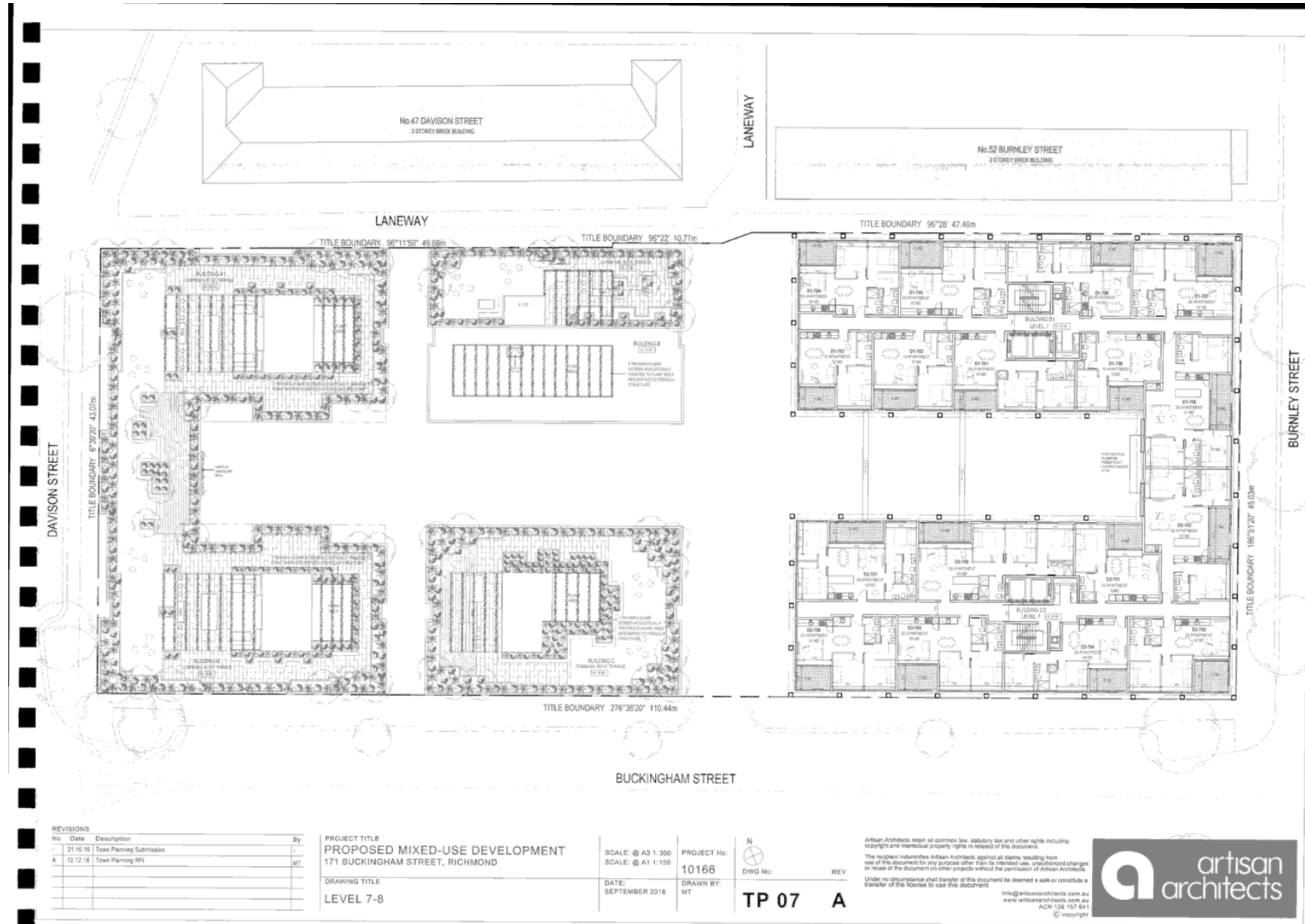
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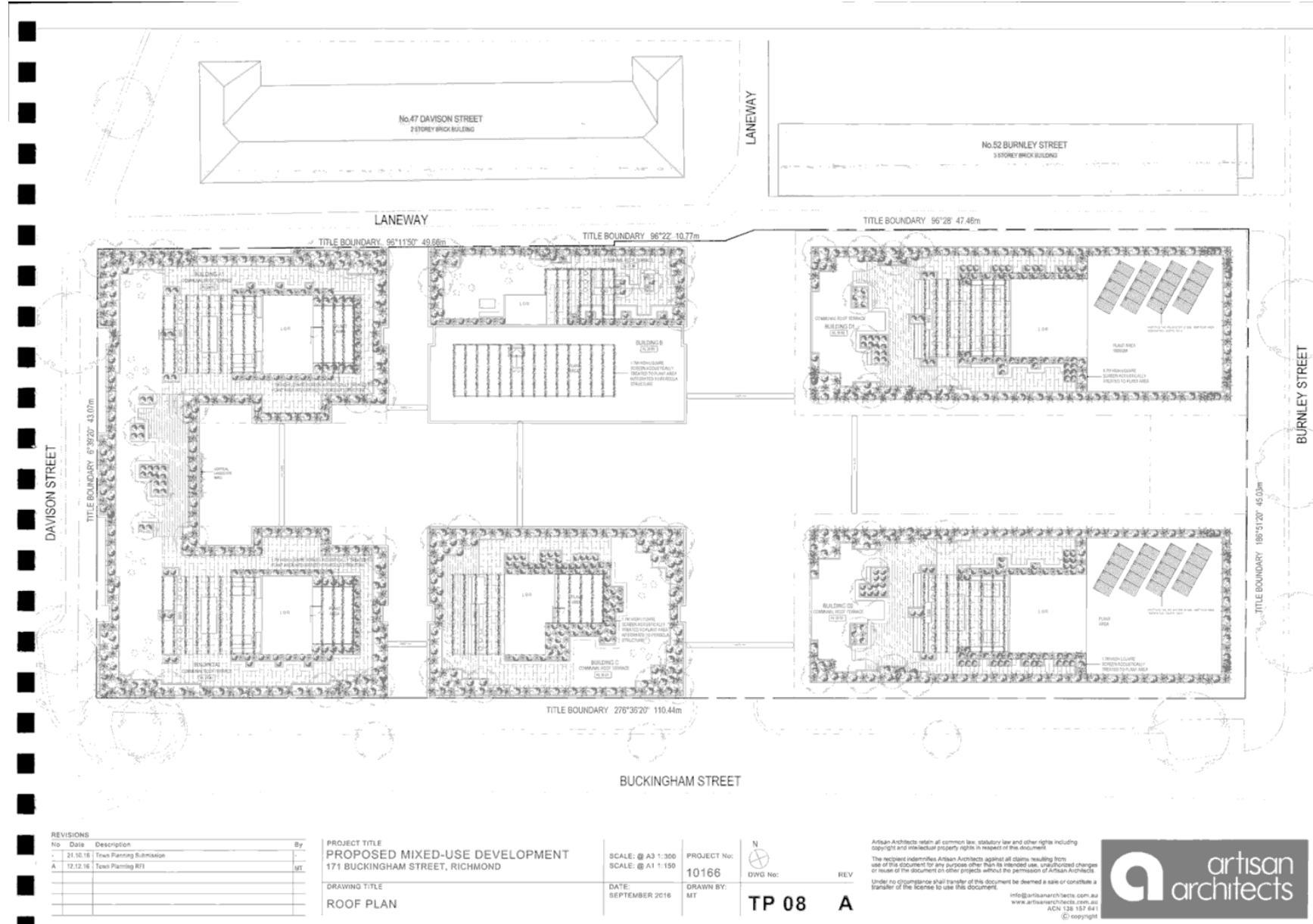
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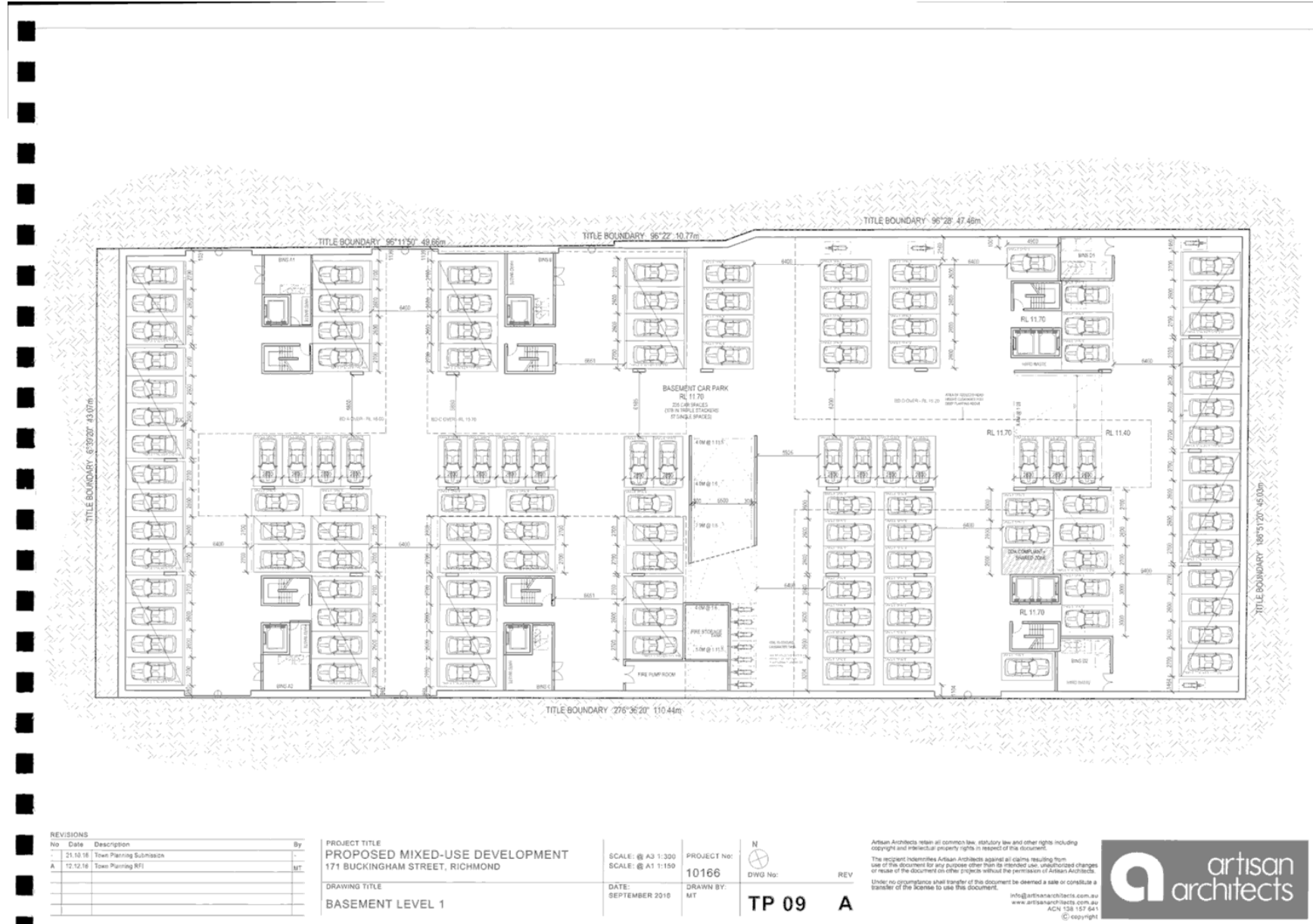
Attachment 6 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans



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**Attachment 6 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans**

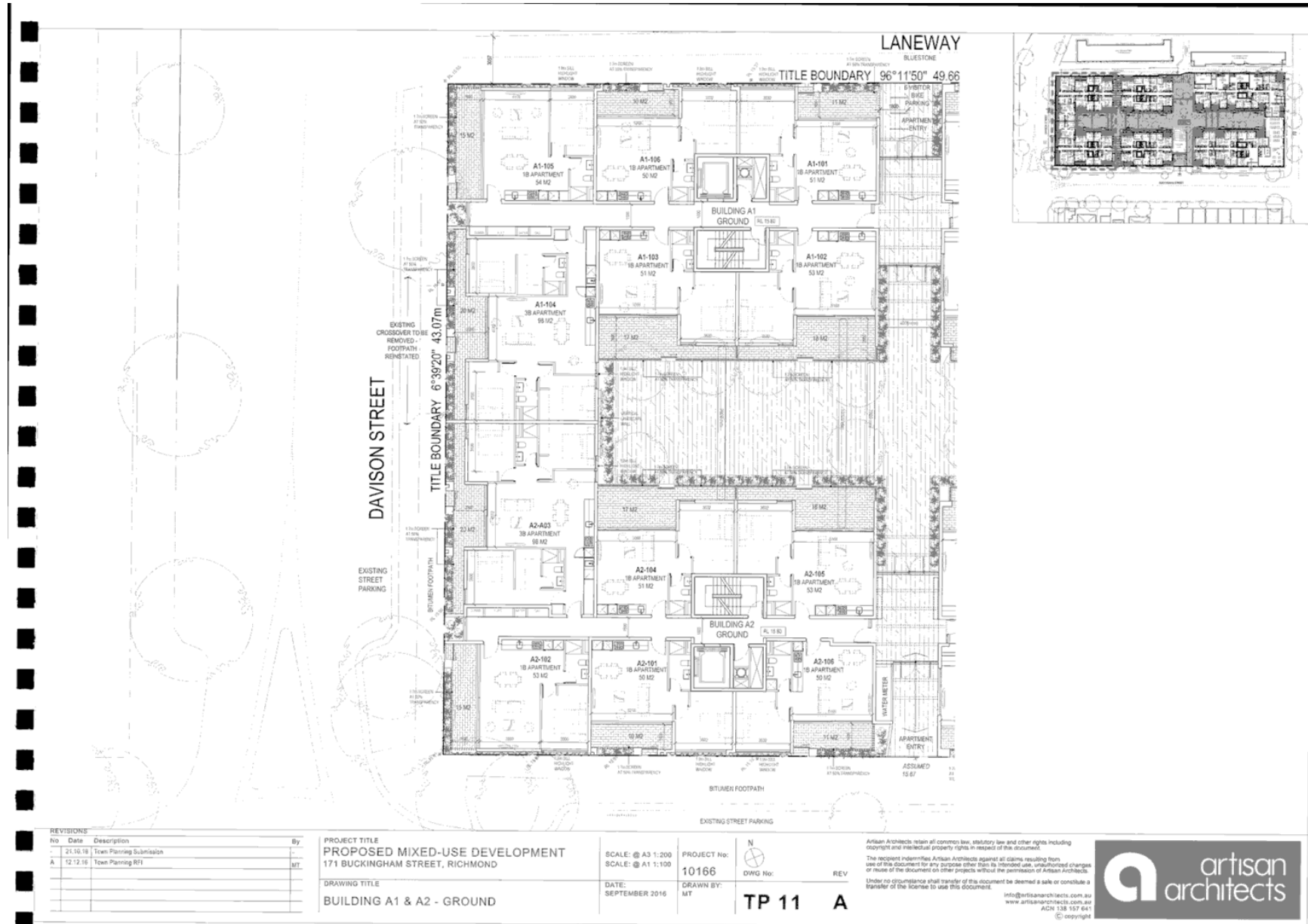


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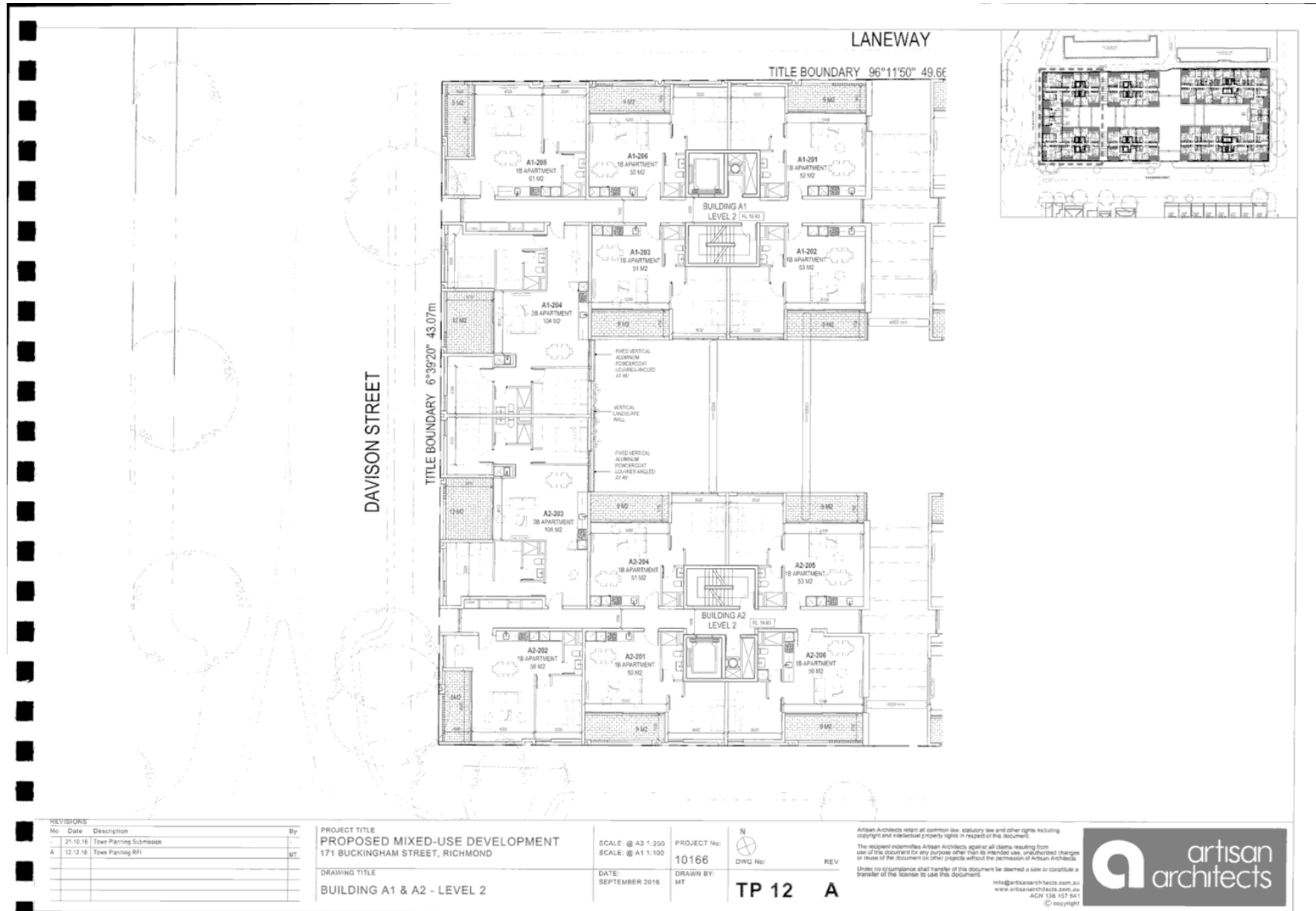




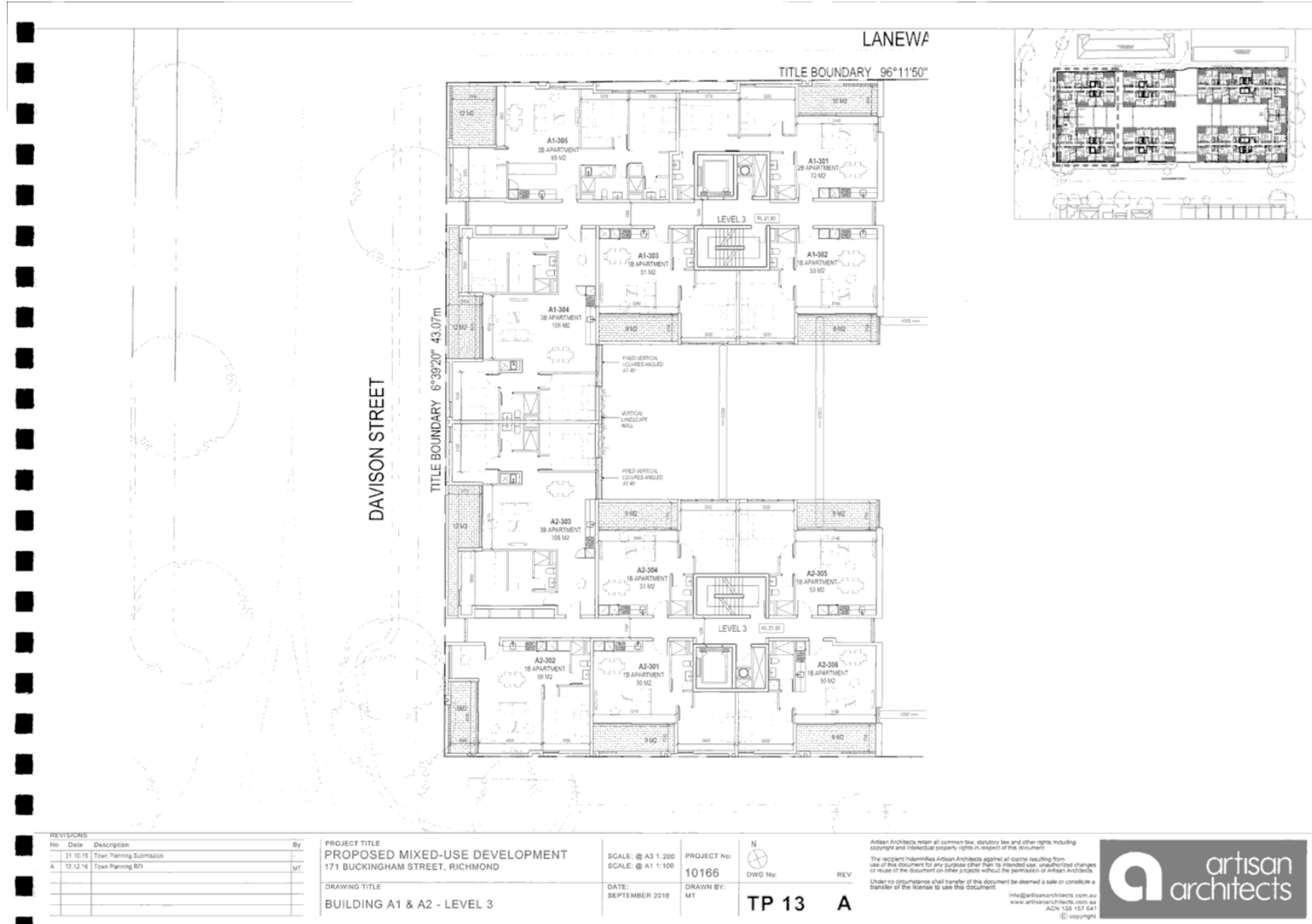
Attachment 7 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plan



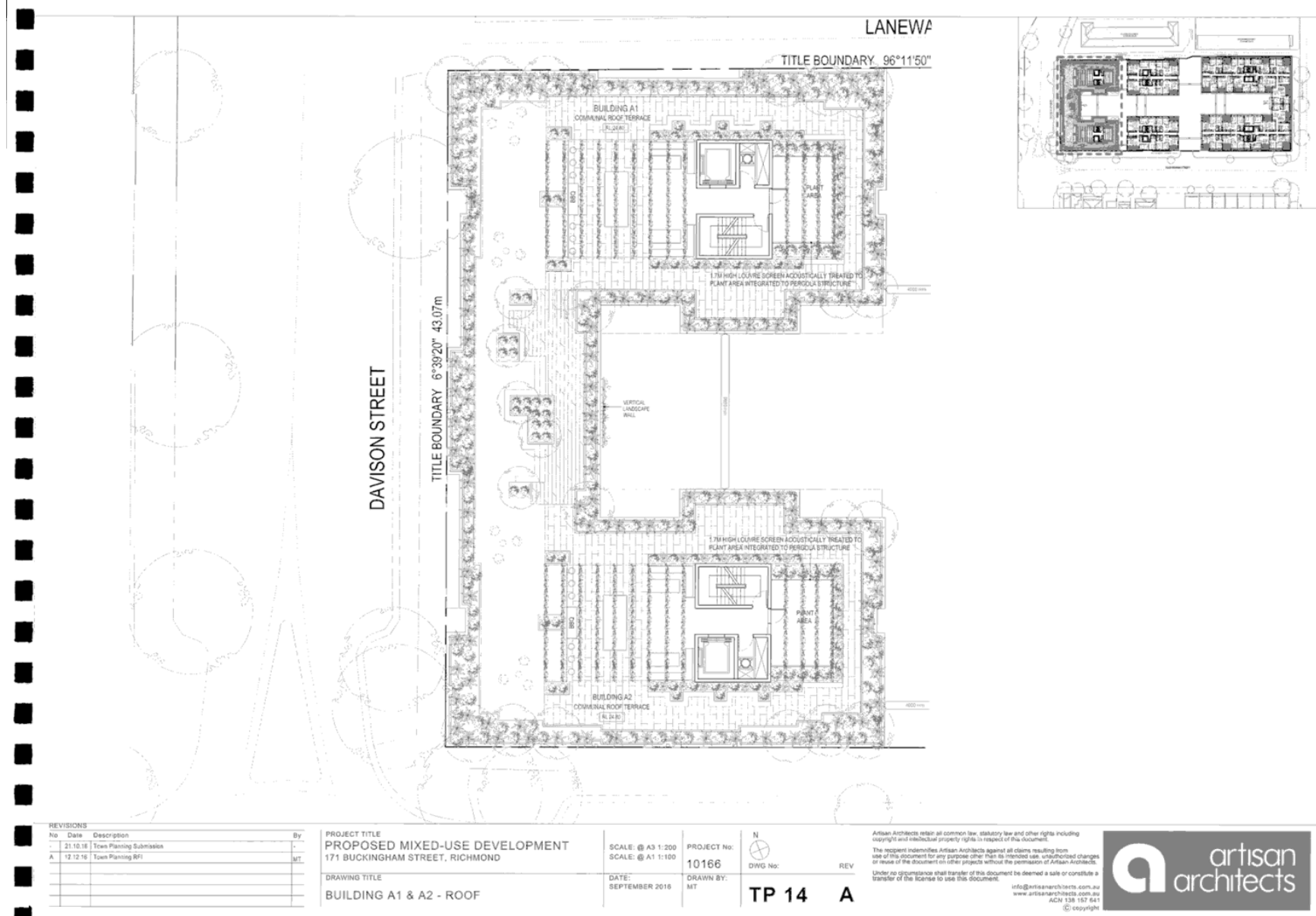
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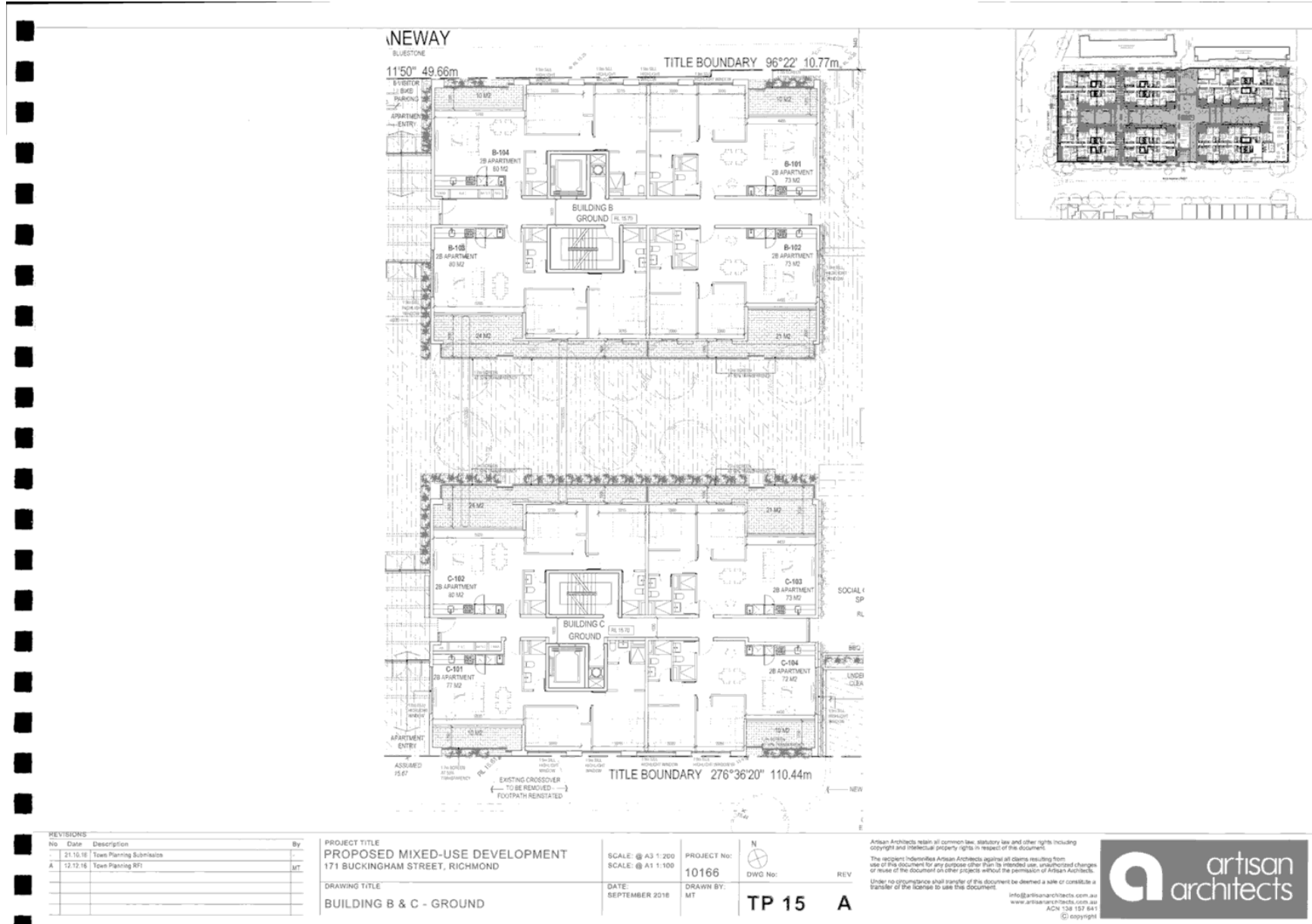
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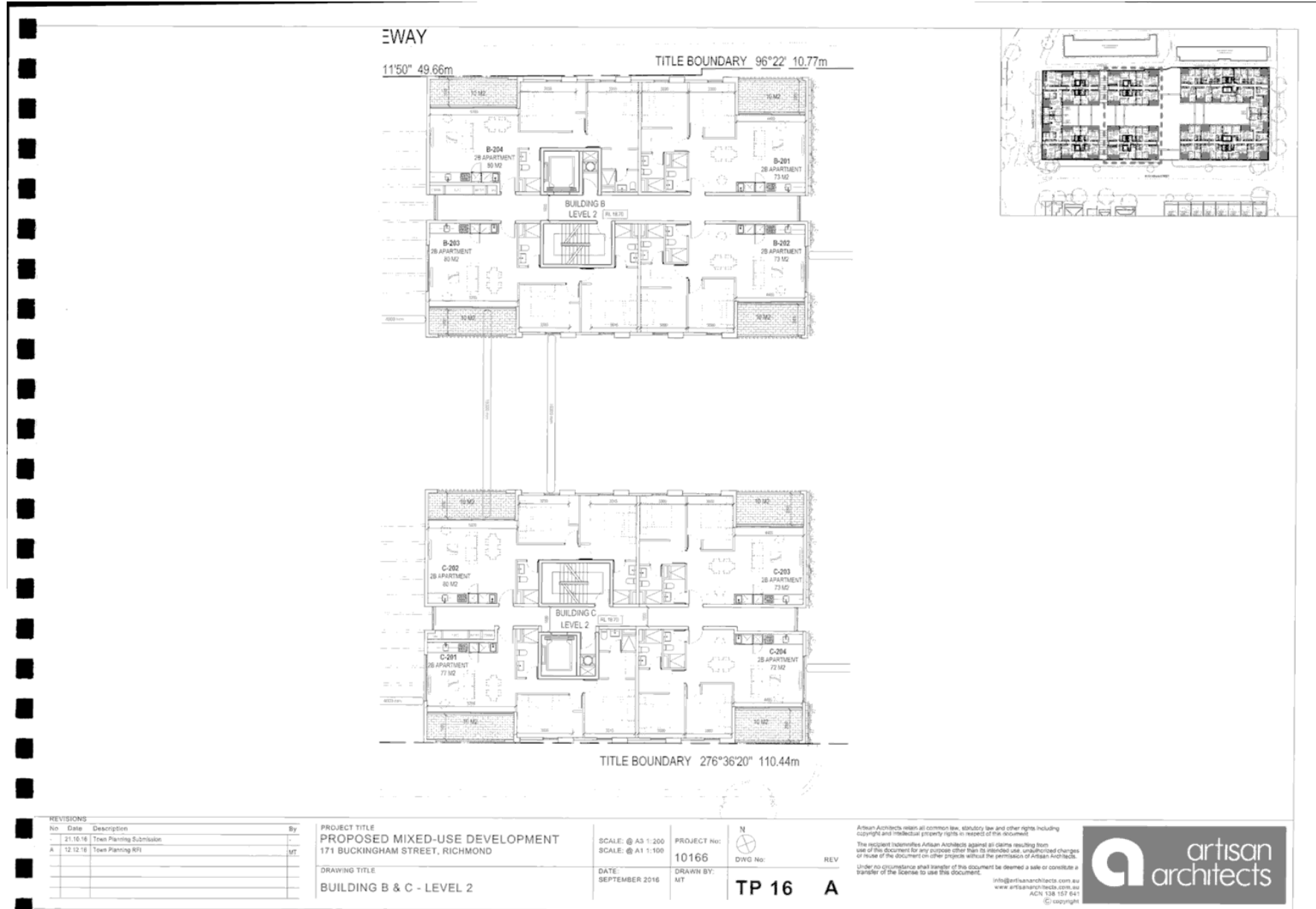
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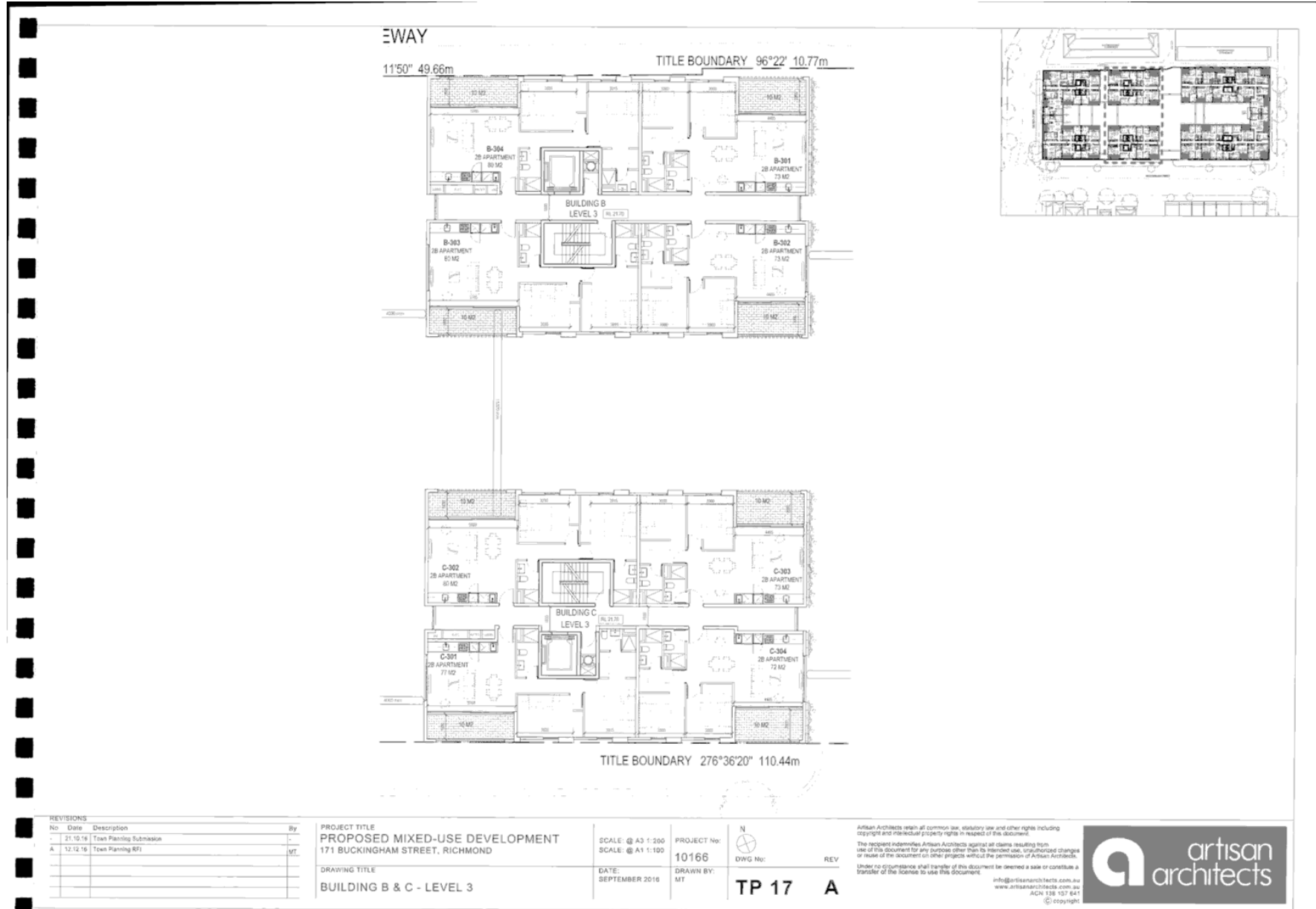
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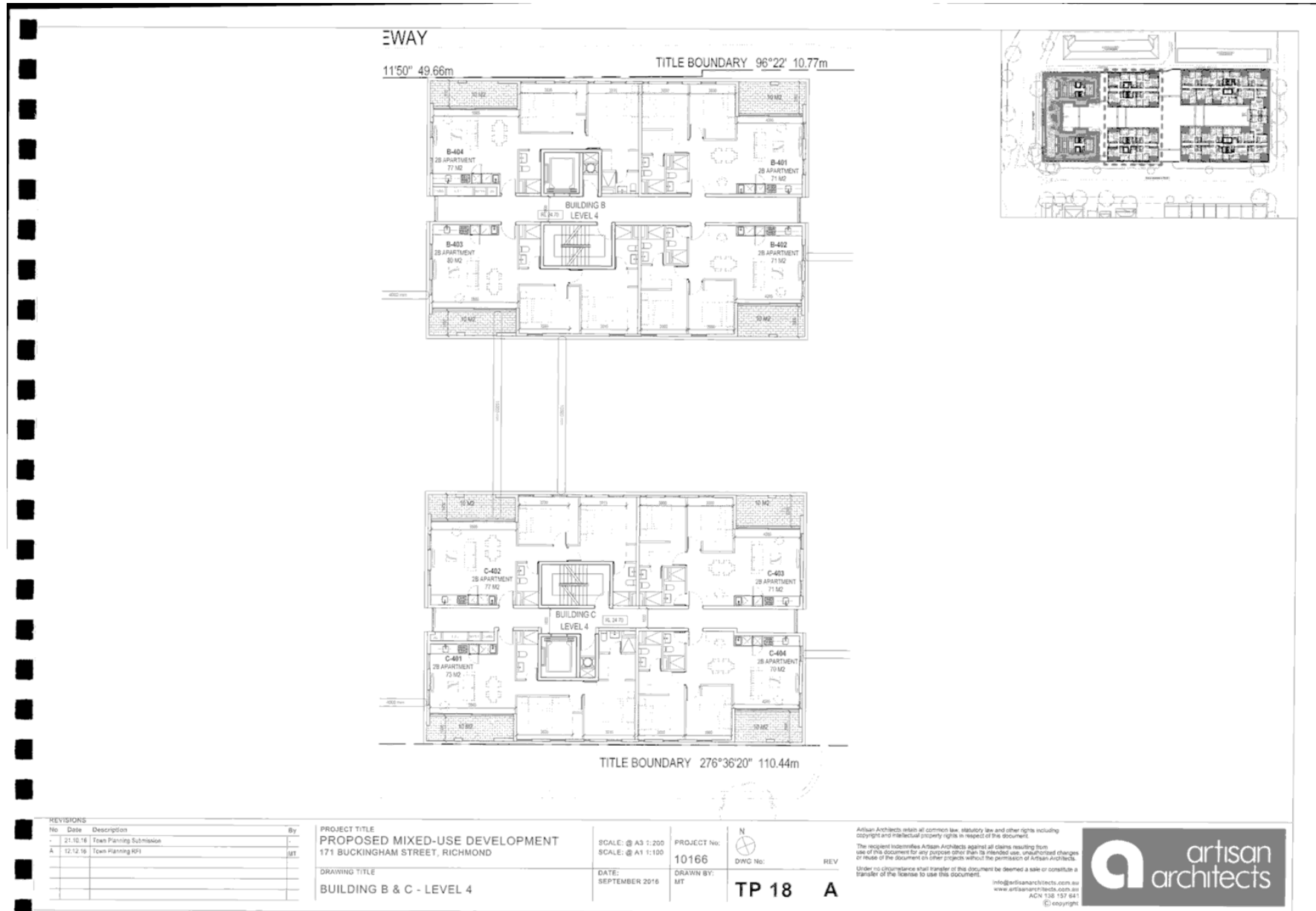
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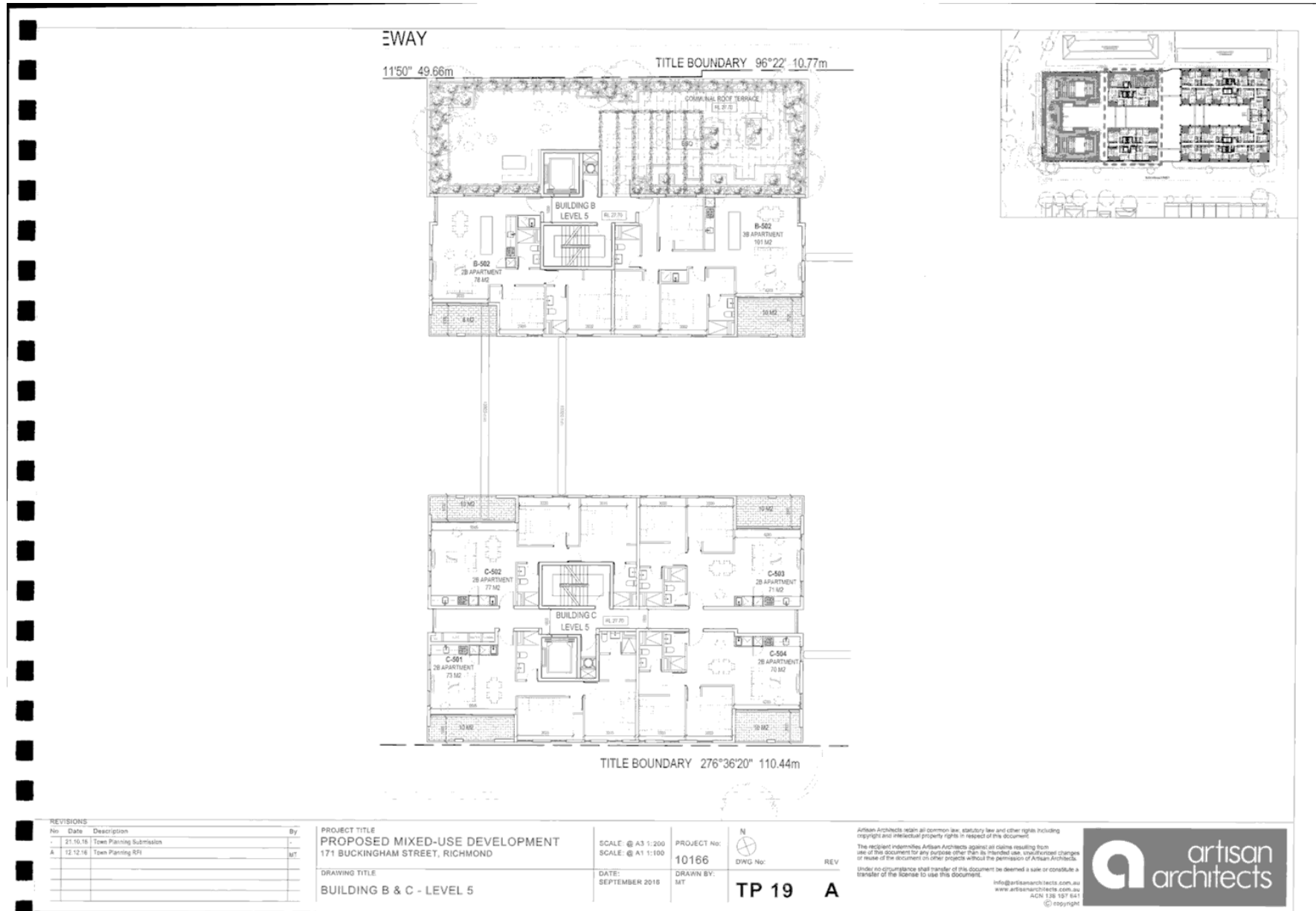


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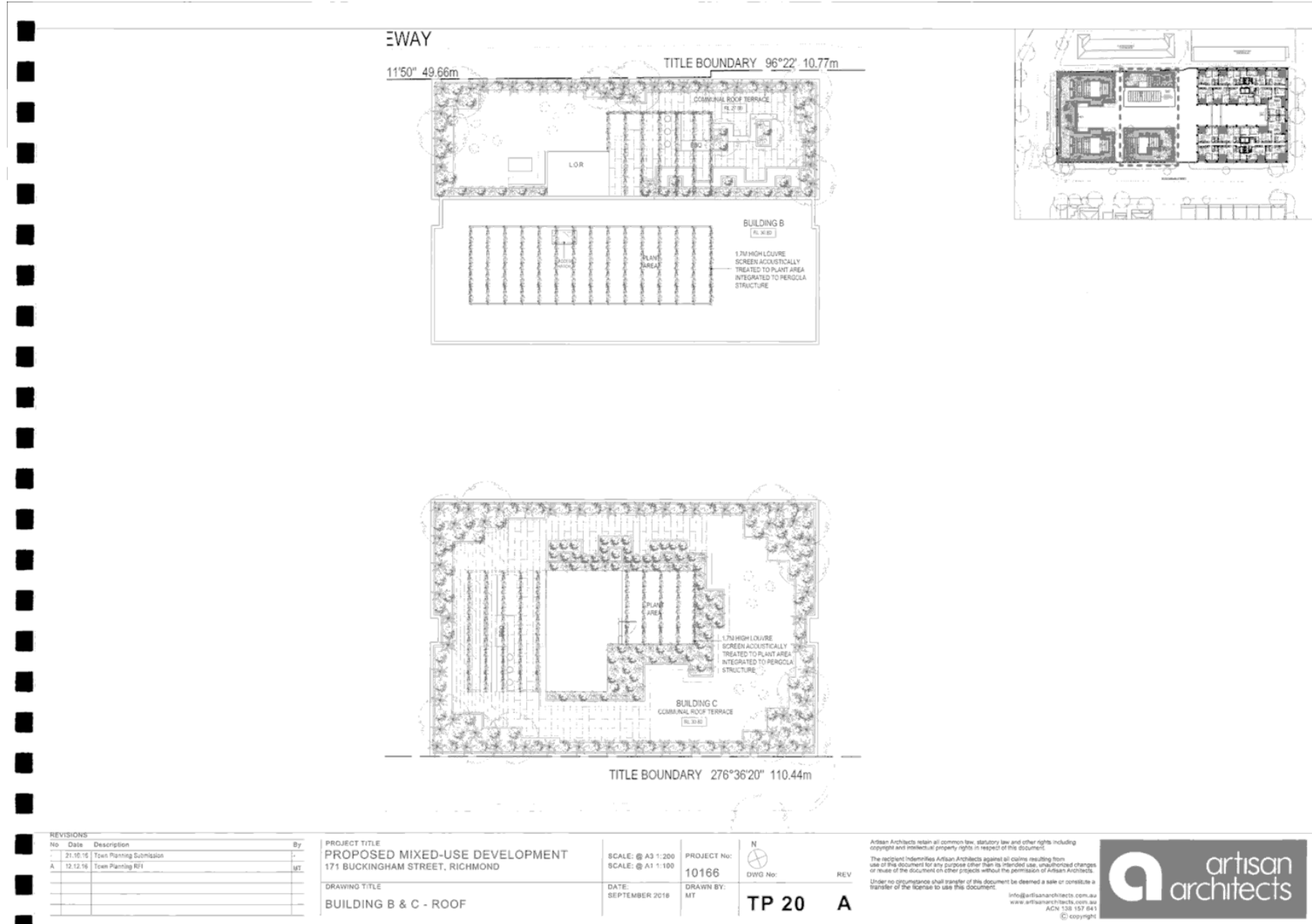




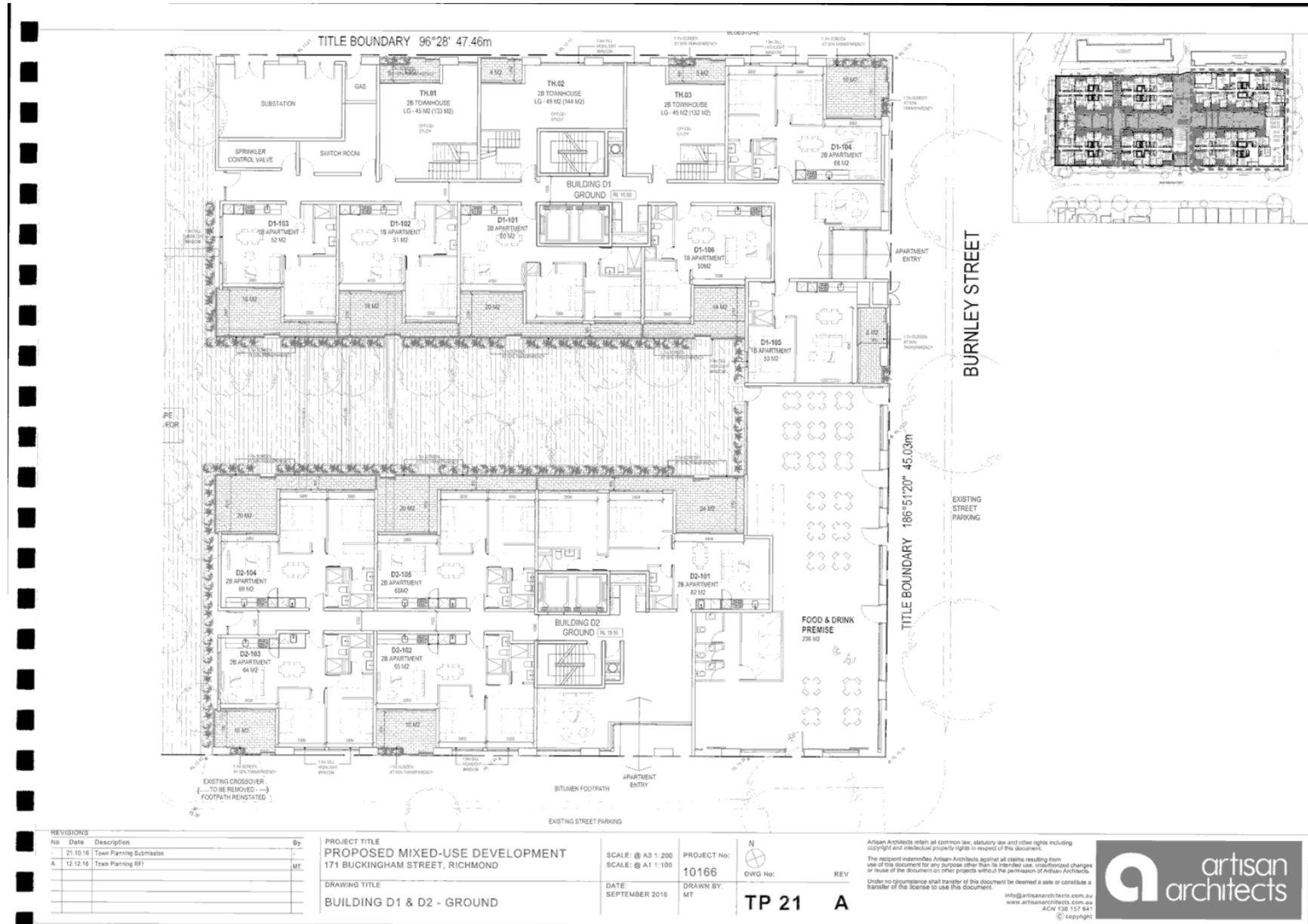
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Attachment 8 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans



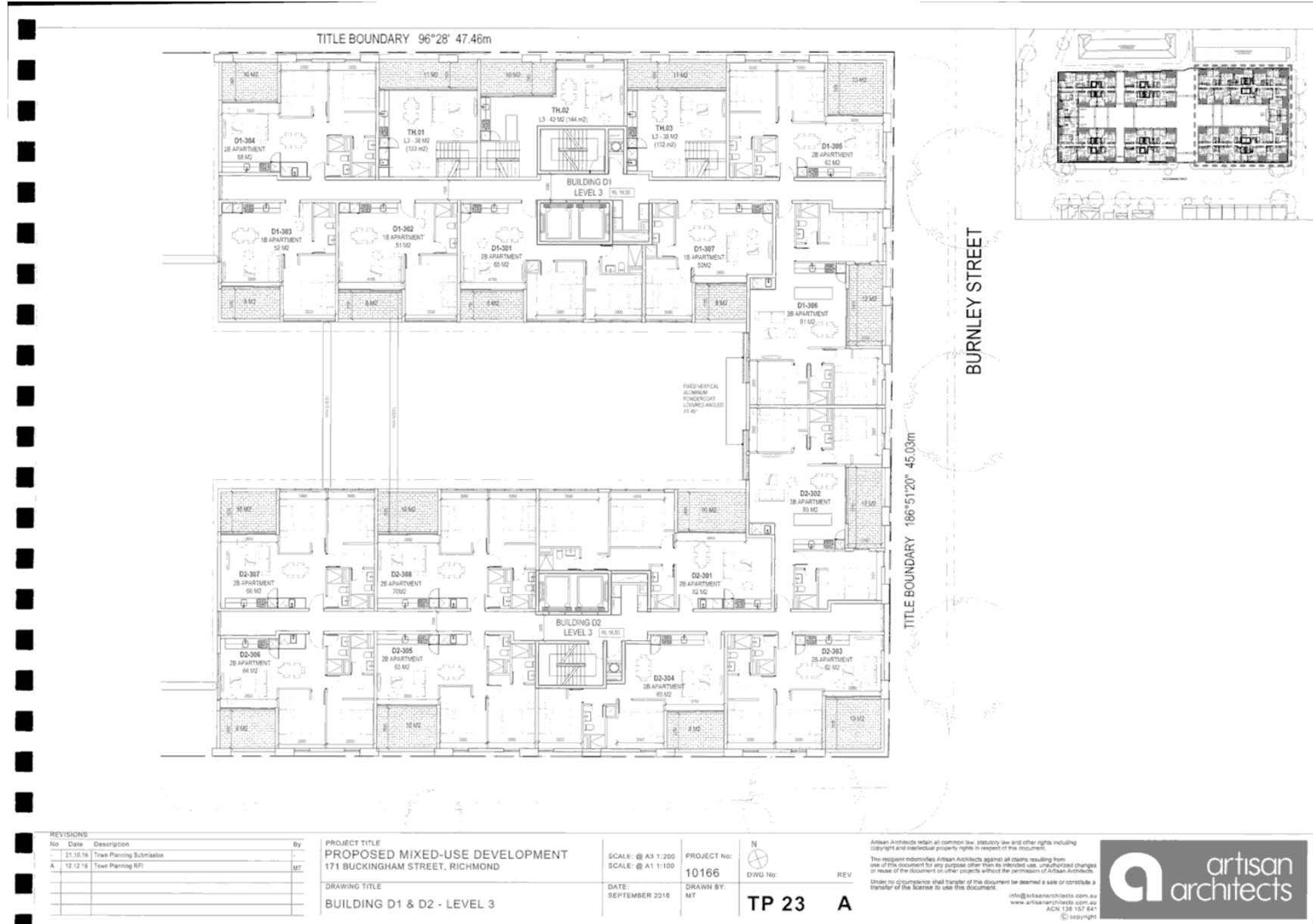
Attachment 8 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans



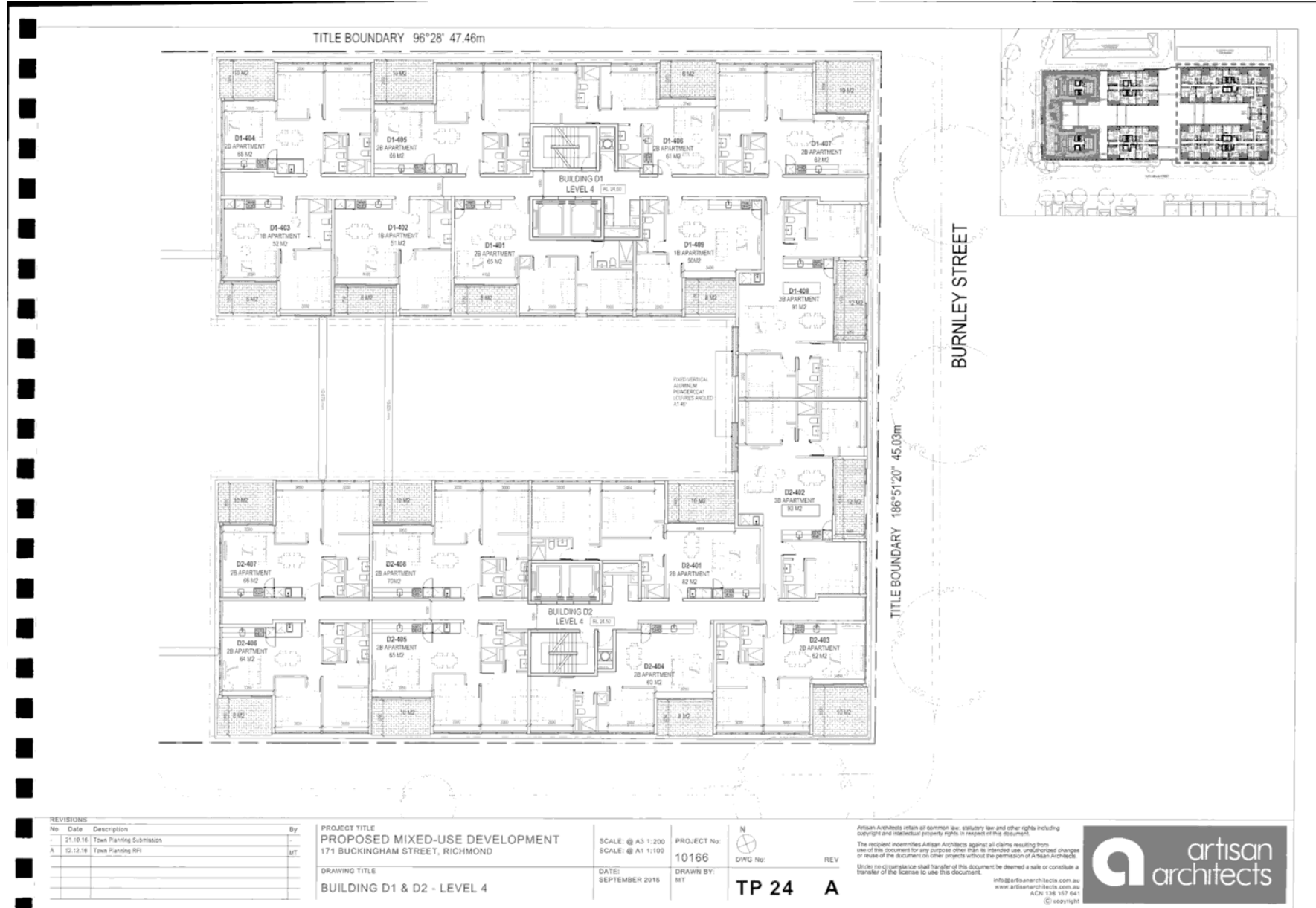
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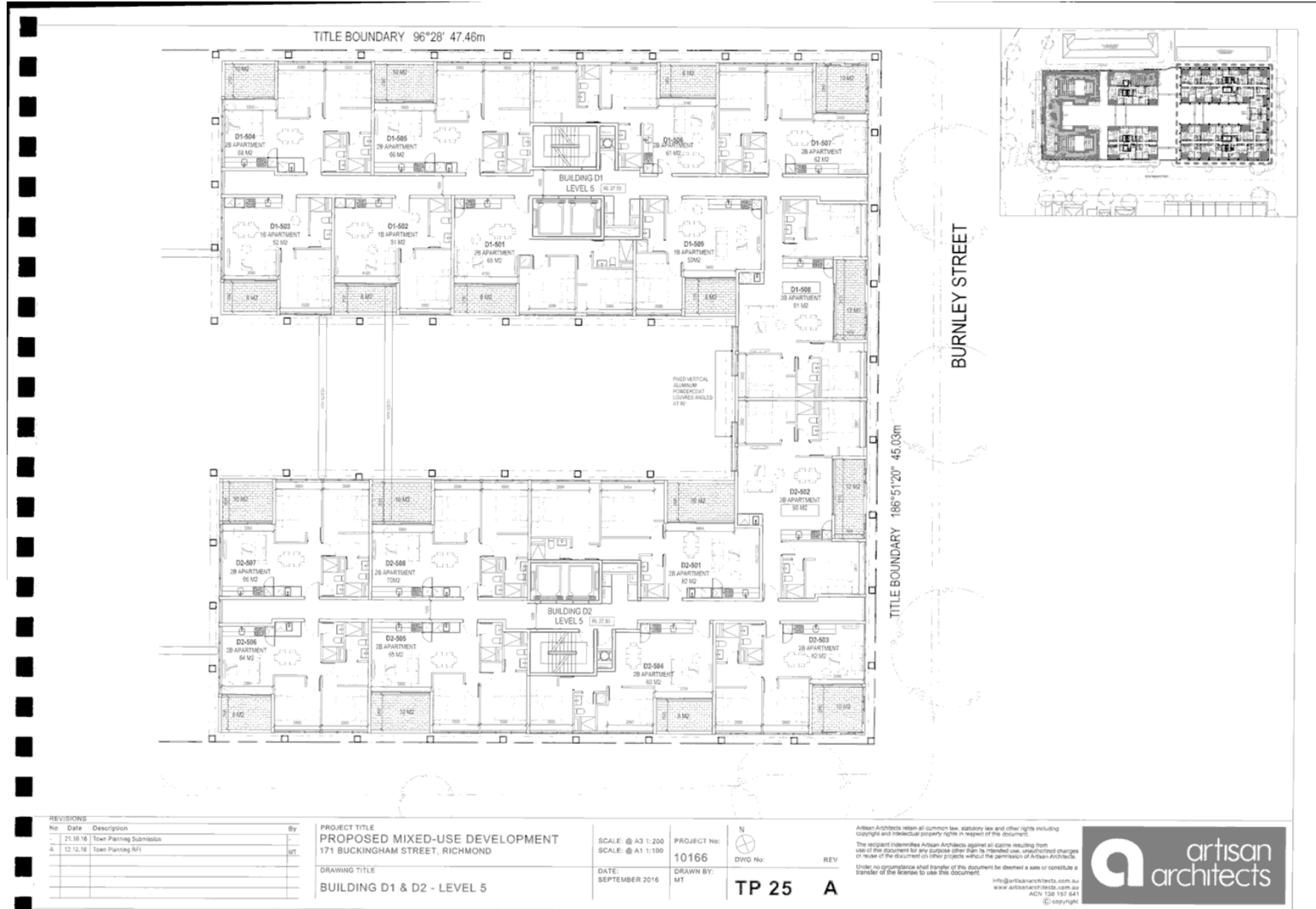
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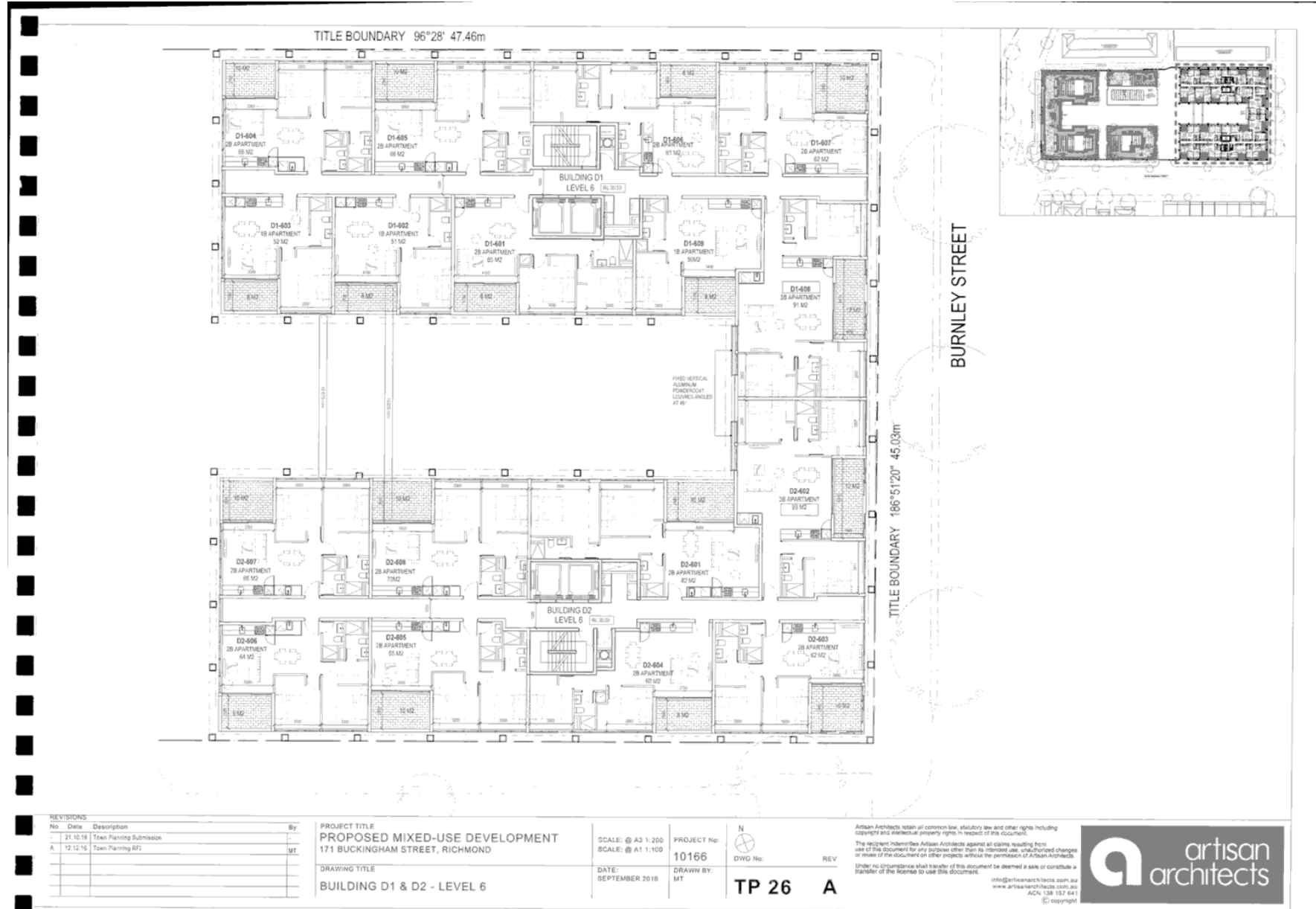
Attachment 8 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans



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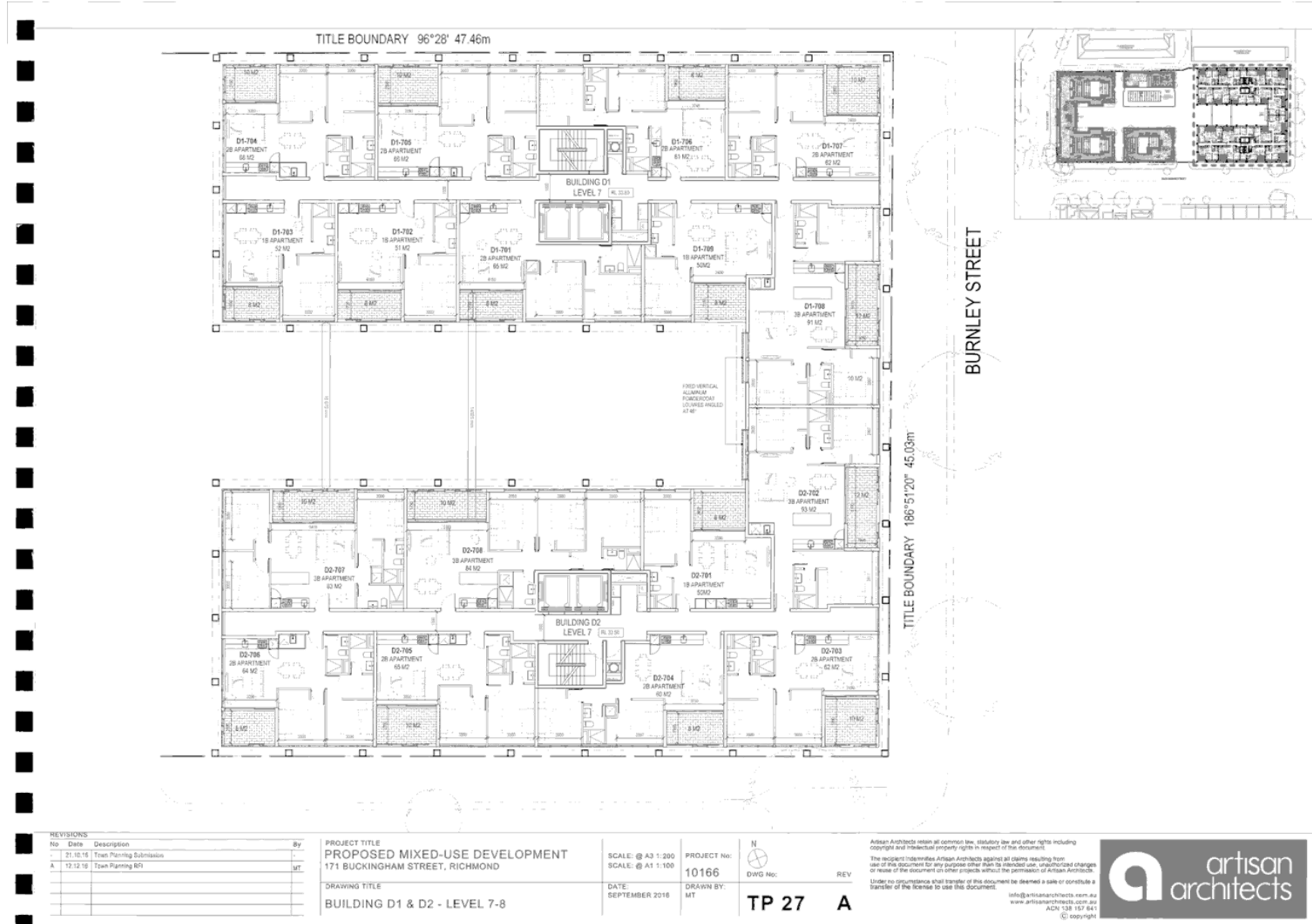


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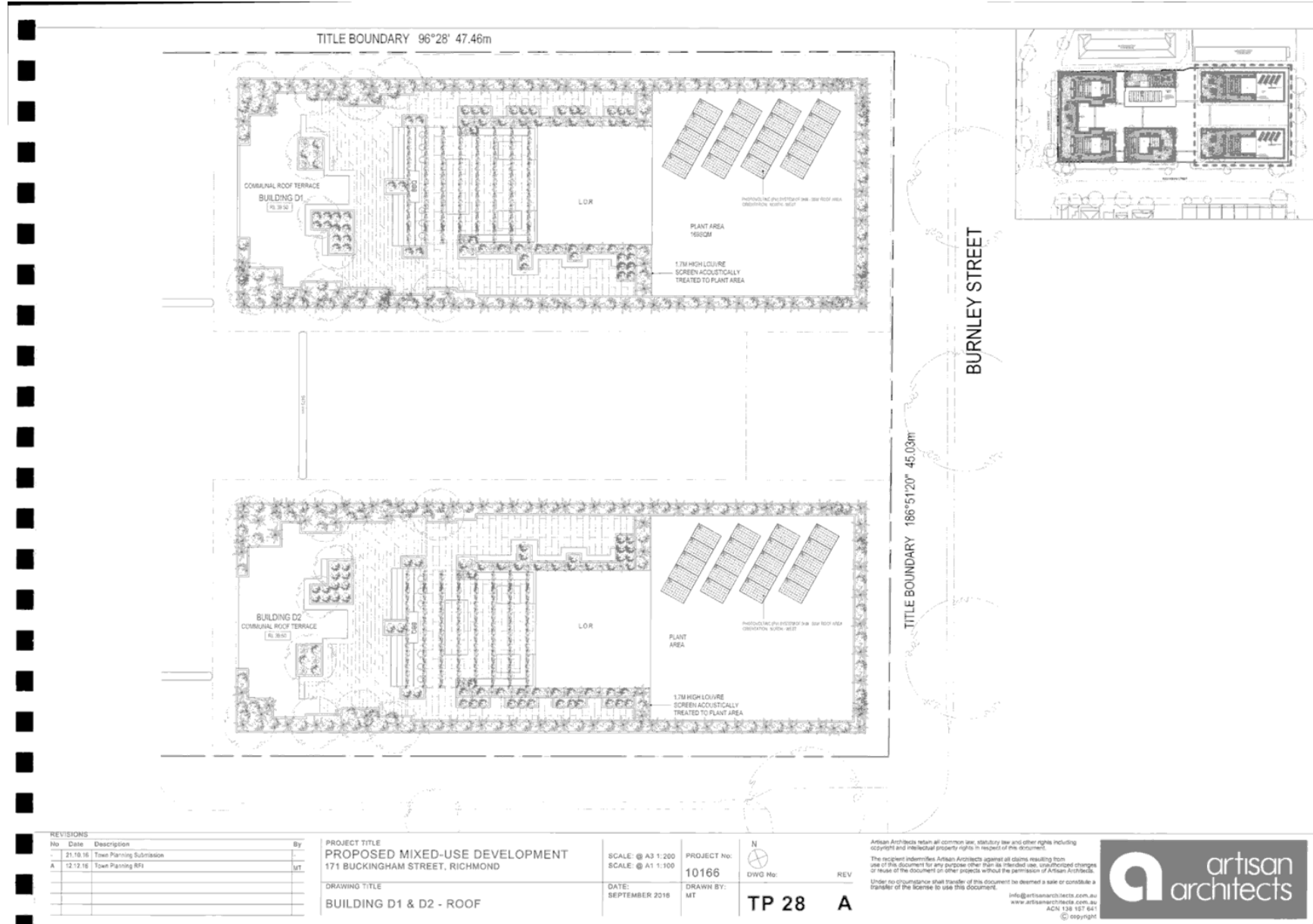




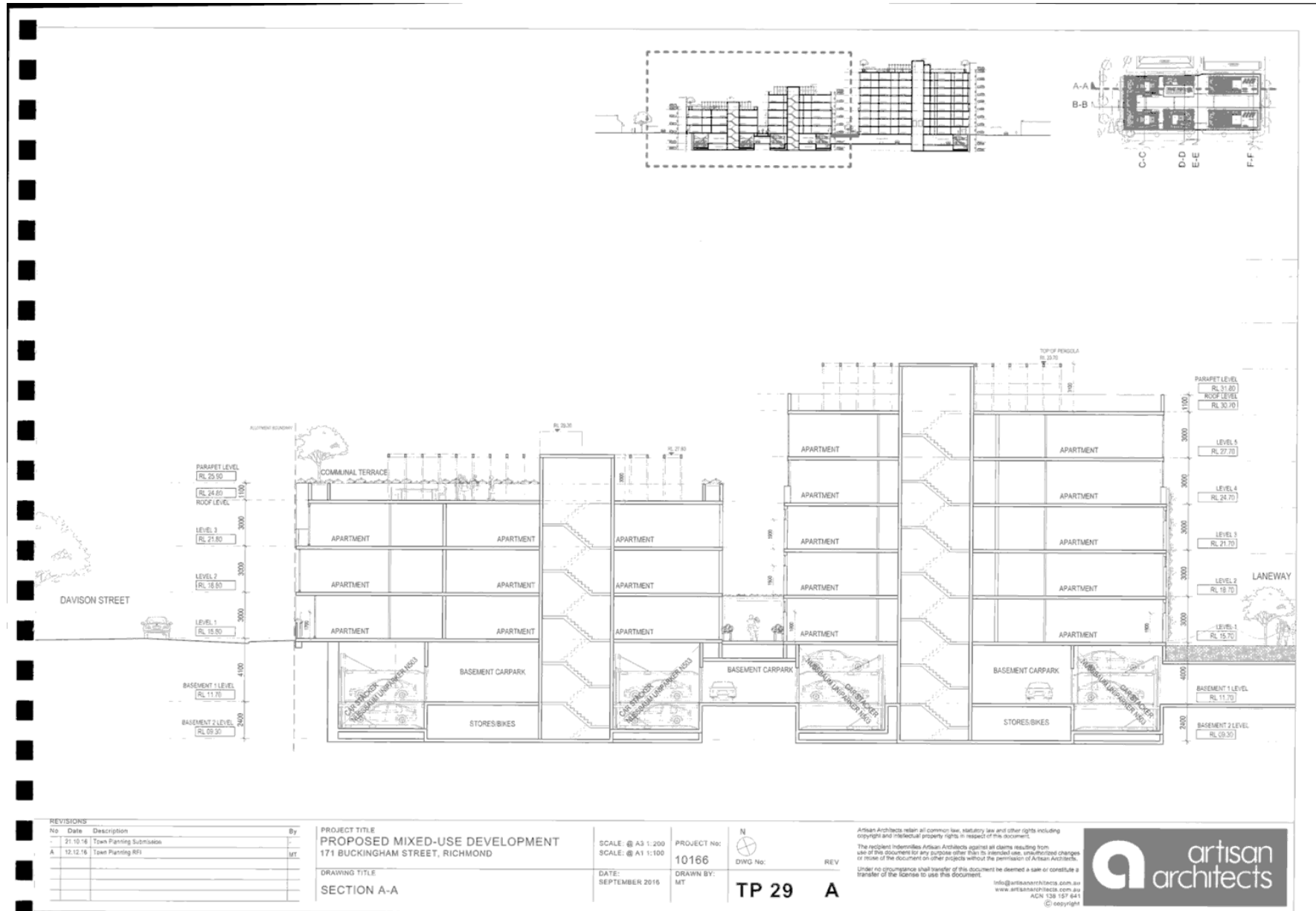
Attachment 9 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans and sections



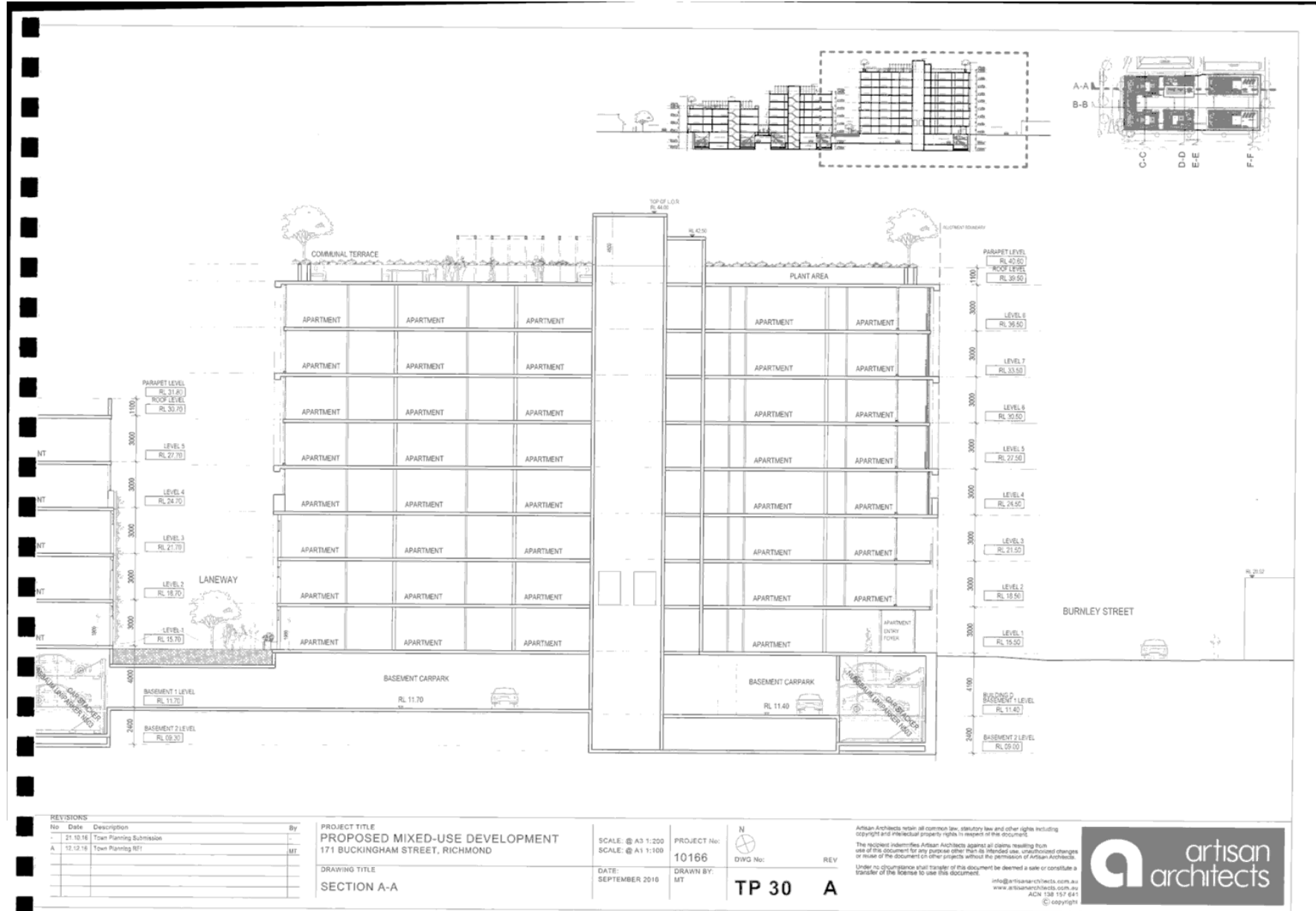
Attachment 9 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans and sections



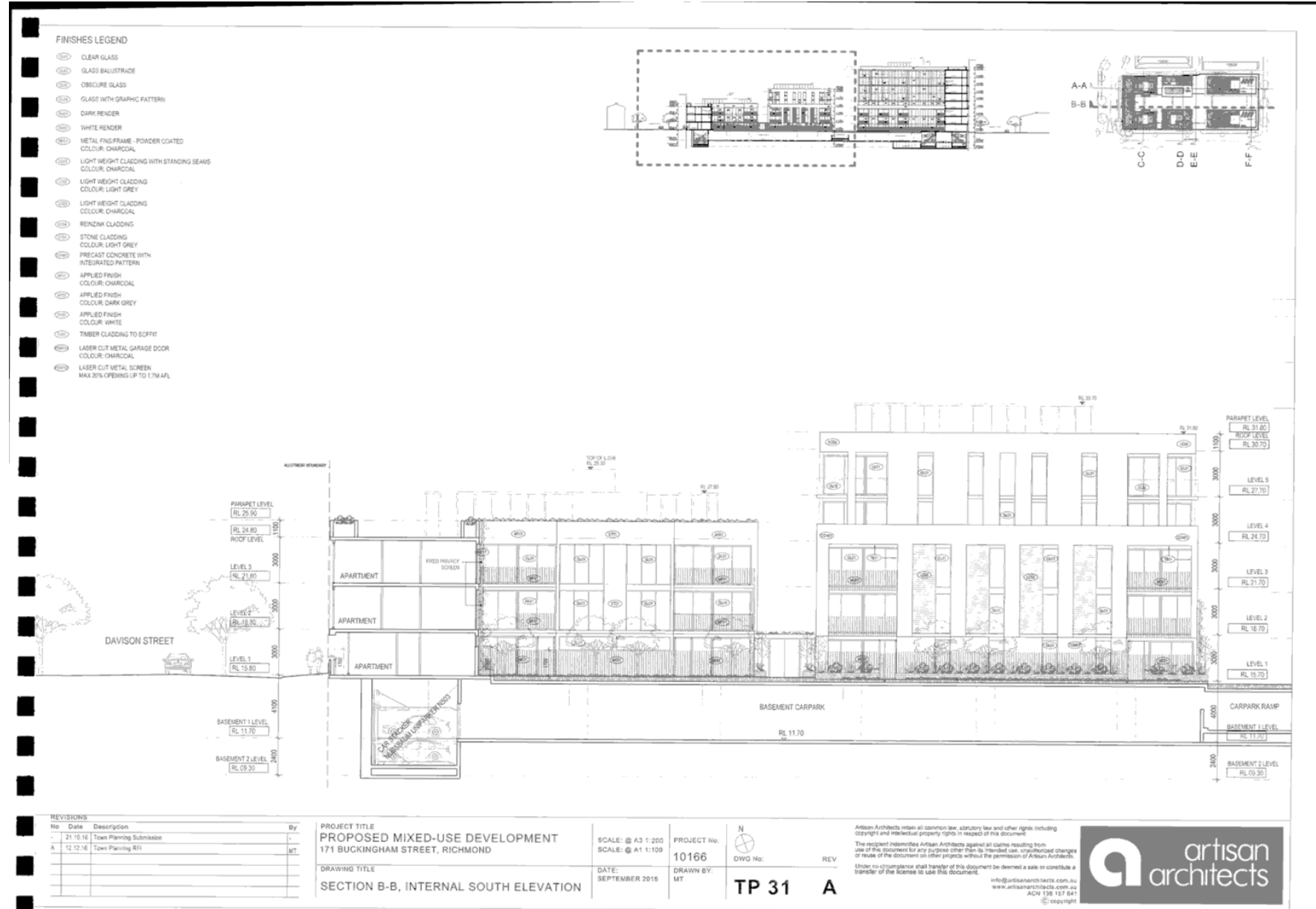
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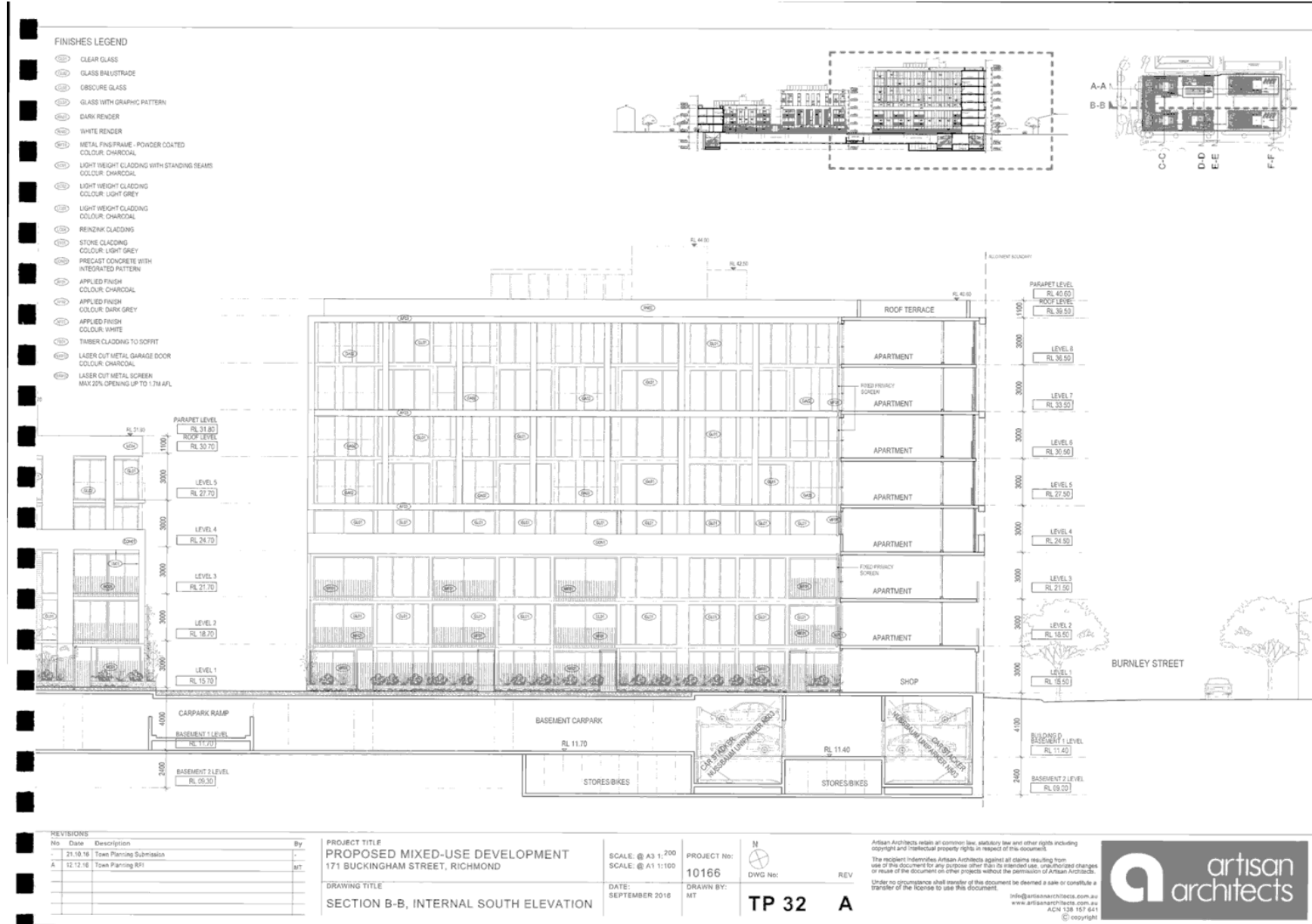
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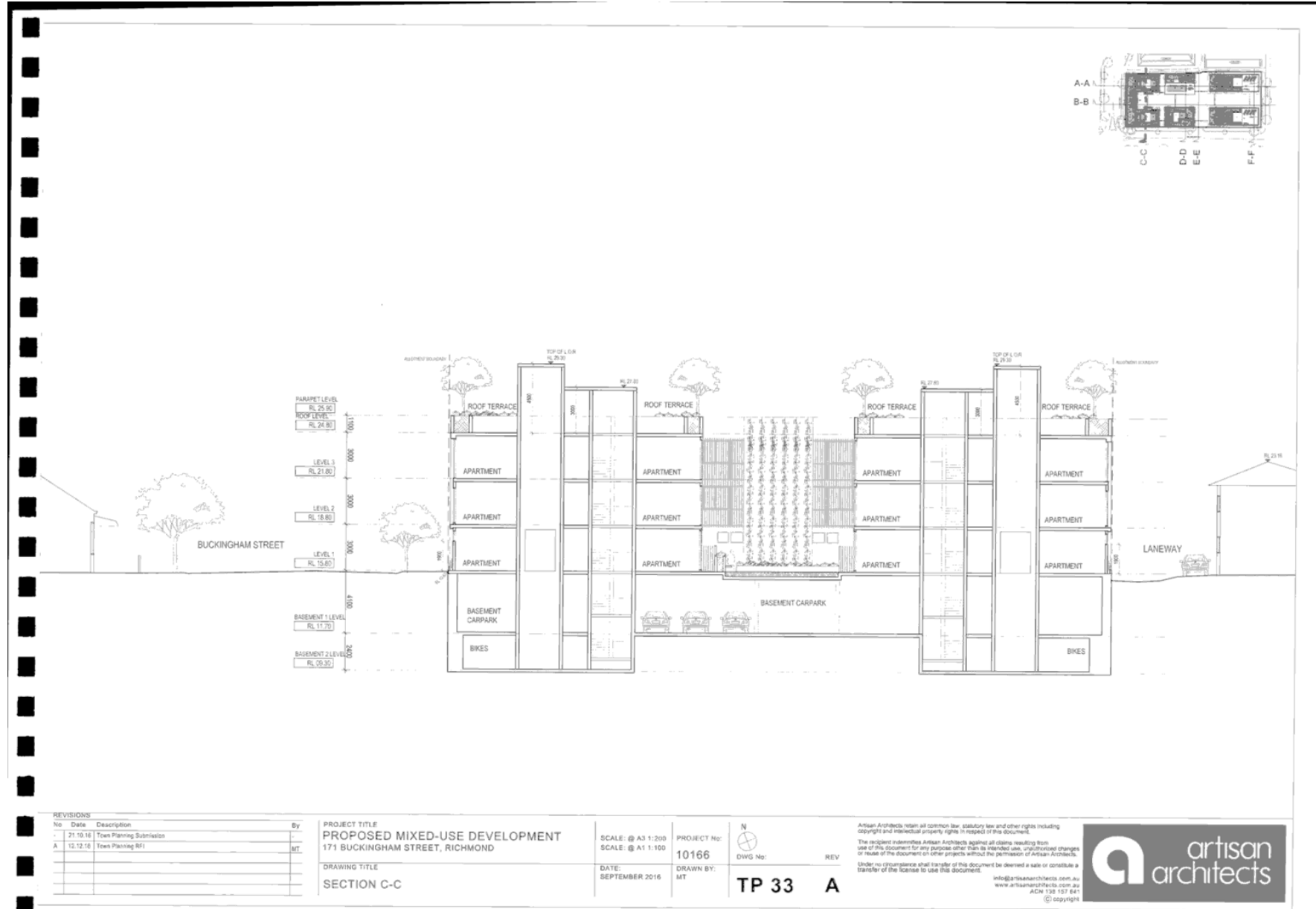
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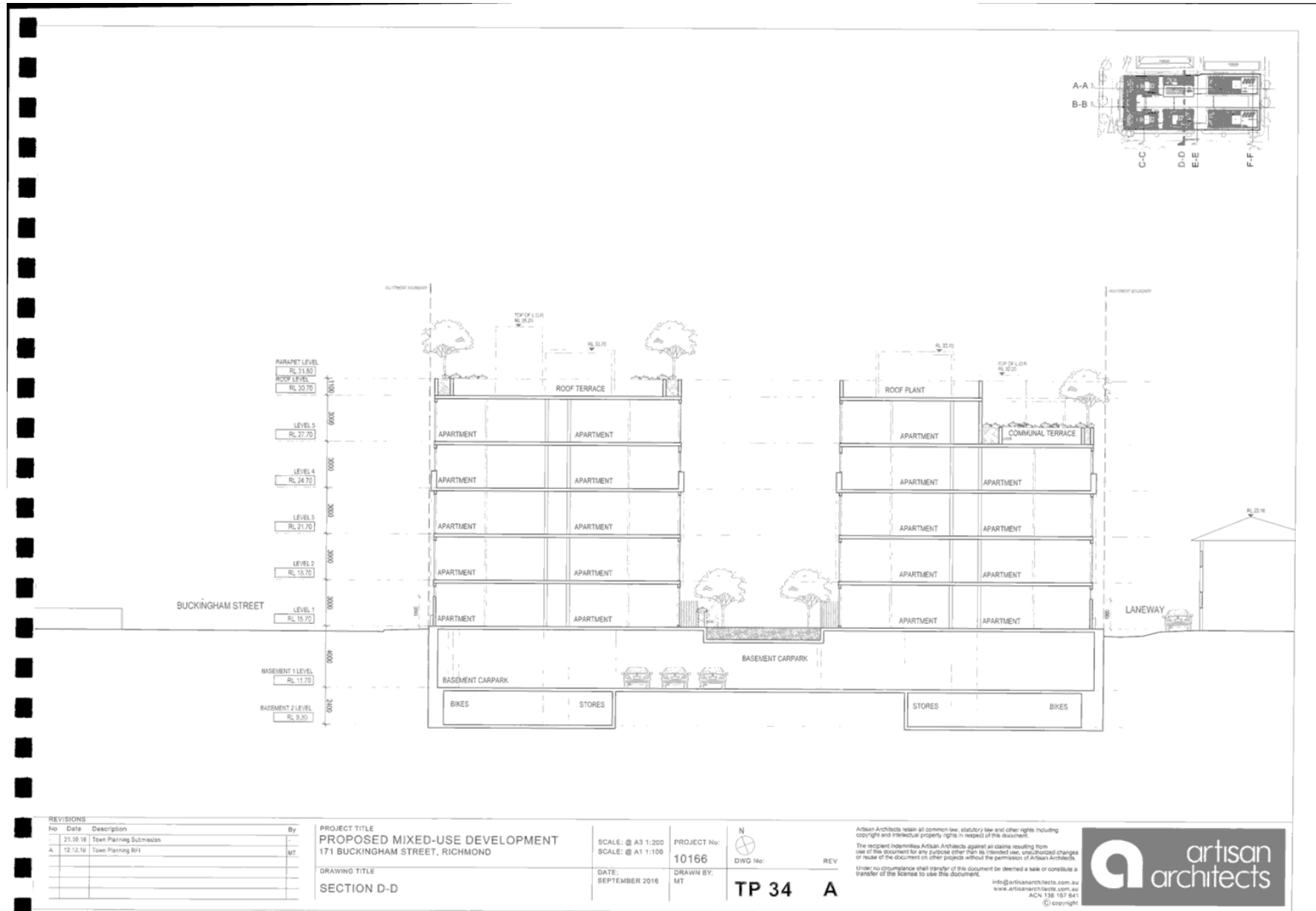
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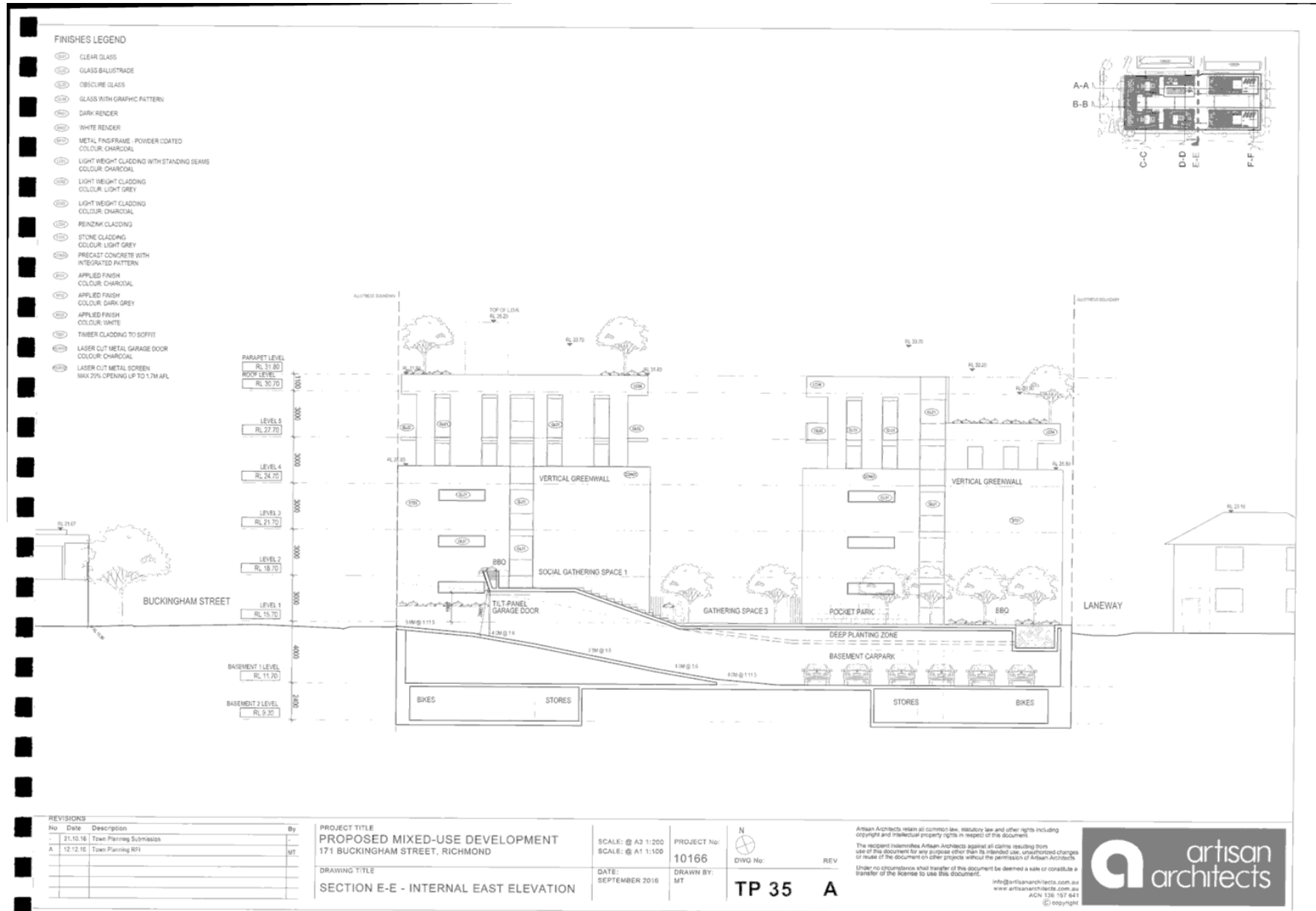


# Attachment 9 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans and sections





# Attachment 9 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - floor plans and sections



Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



2.18 URBAN DESIGN IMAGE



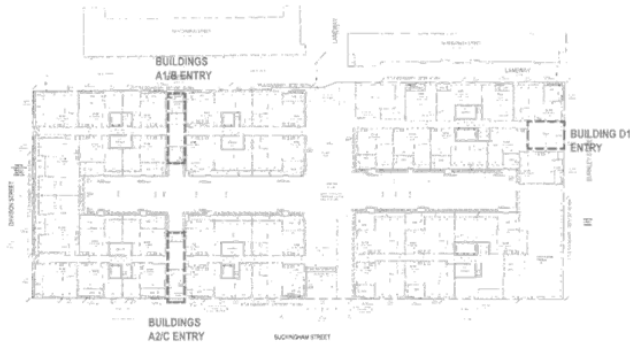
VIEW OF BUILDING D FROM BURNLEY STREET.

Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



2.19 BUILDING ENTRY IMAGES



BUILDING A1 AND B ENTRY



BUILDING A2 AND C ENTRY



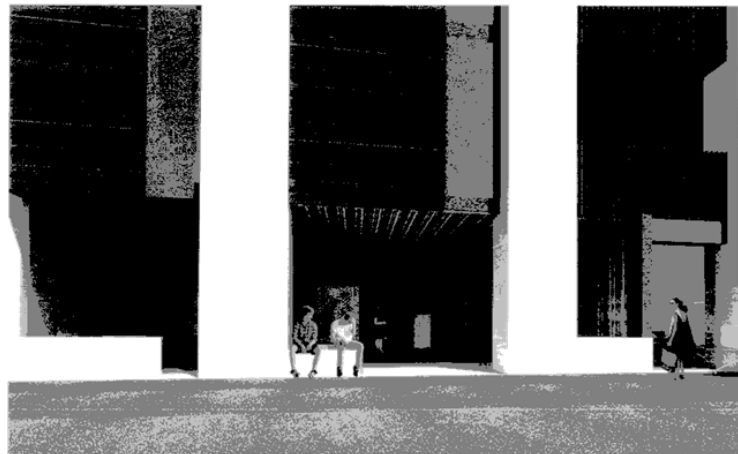
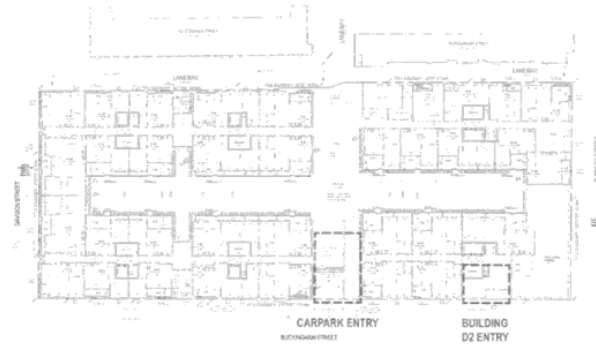
BUILDING D1 ENTRY

Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
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2.20 BUILDING ENTRY IMAGES



BUILDING D2 ENTRY



CAR PARK ENTRY

**Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations**

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016

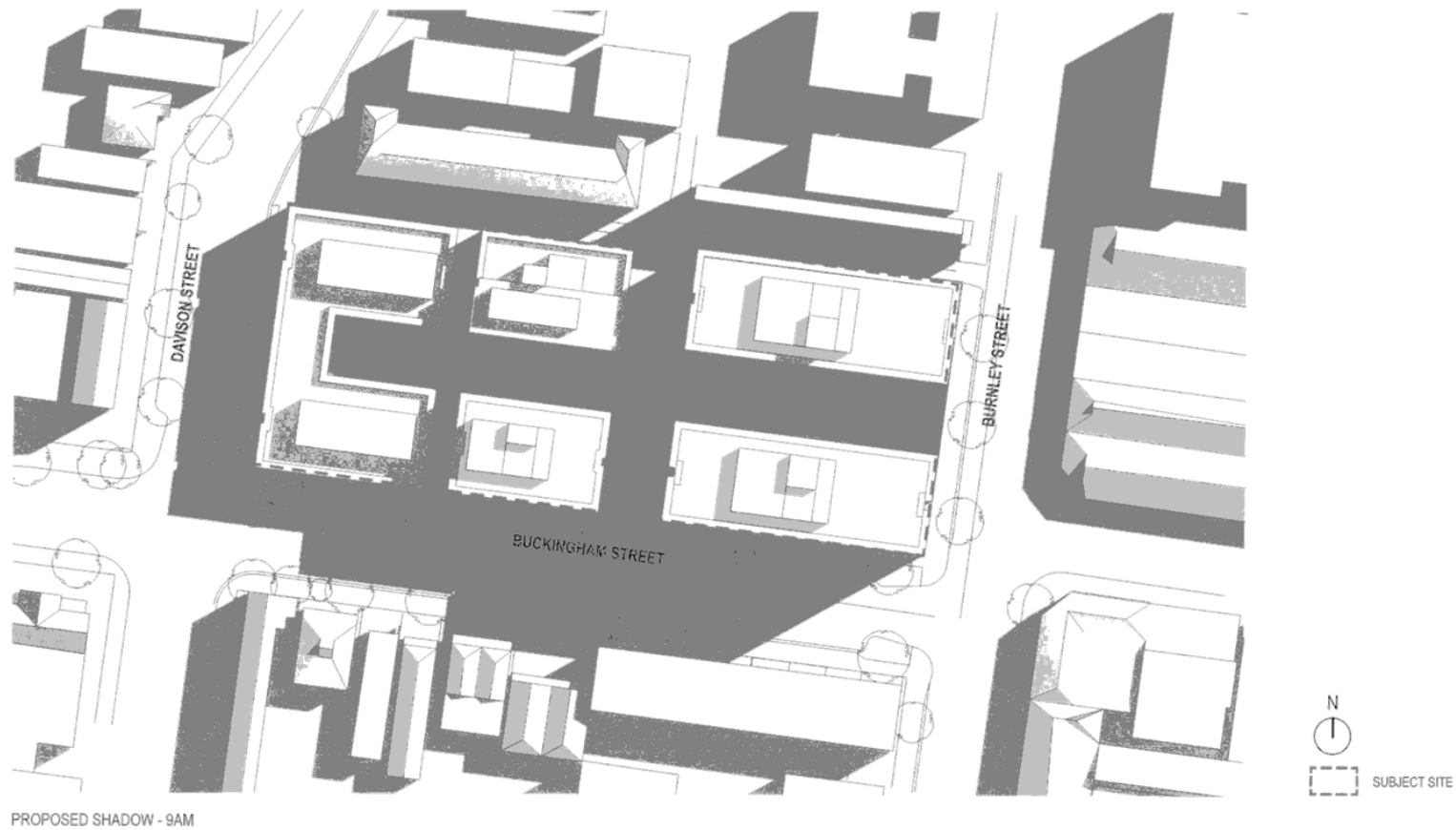


Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.01 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 9AM

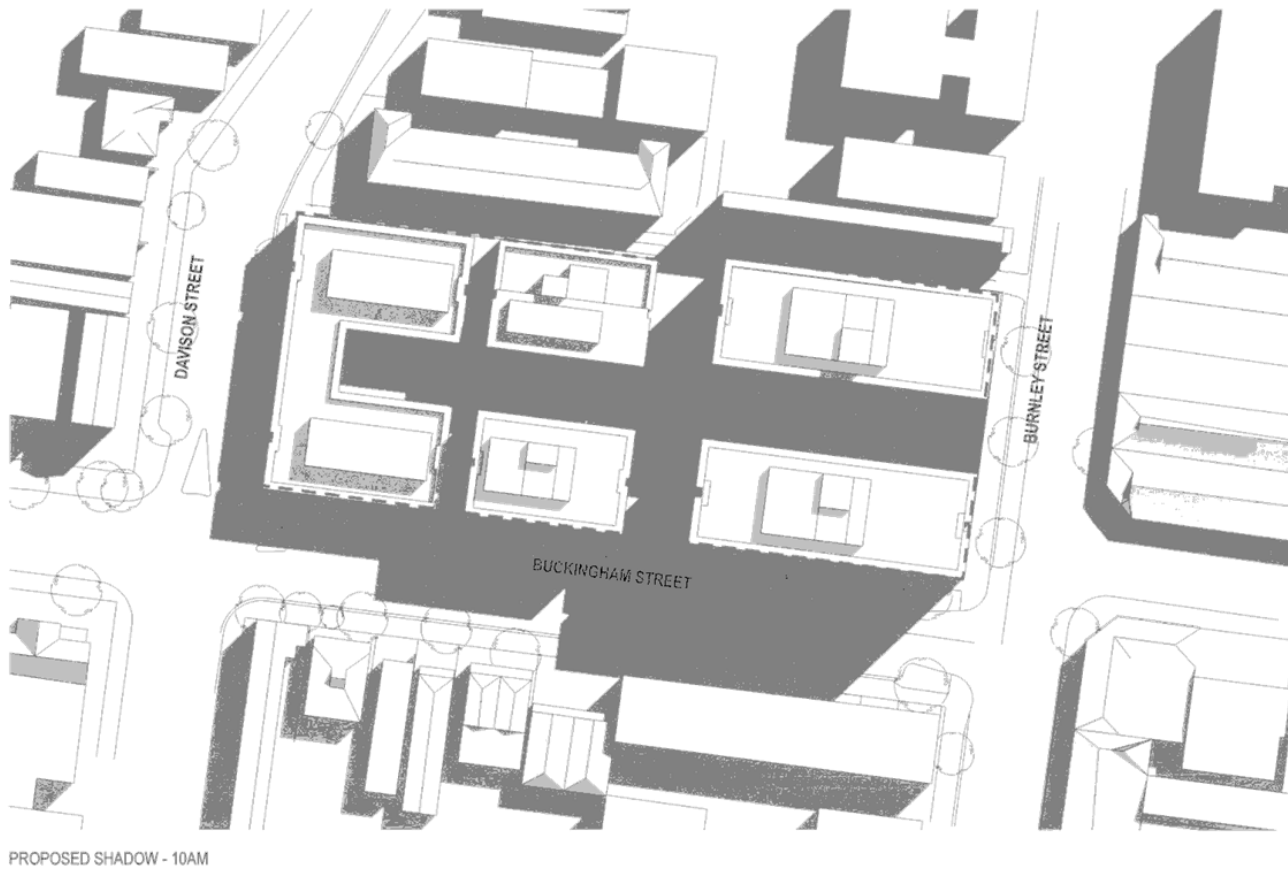


Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.02 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 10AM



Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.03 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 11AM



PROPOSED SHADOW - 11AM



Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.04 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 12PM

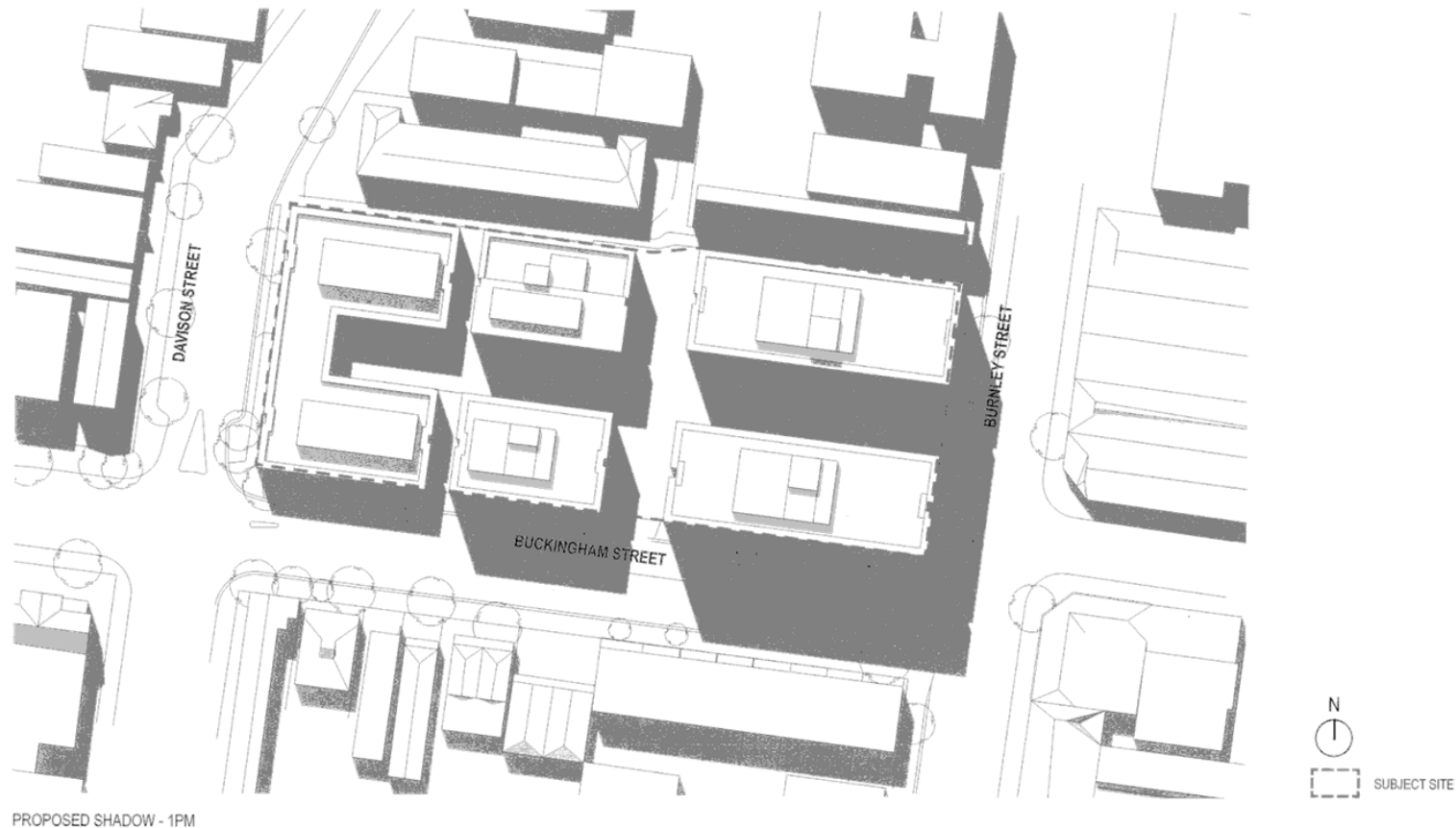


Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.05 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 1PM

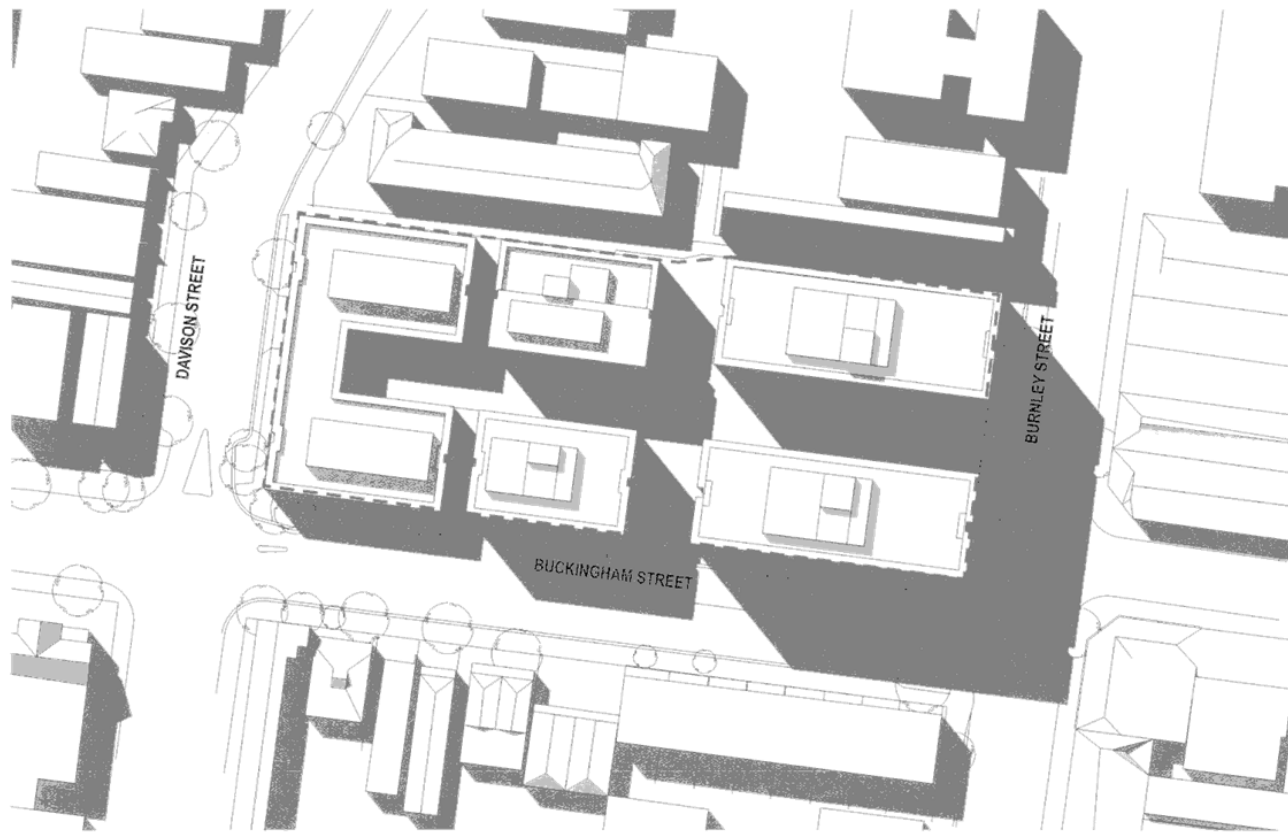


Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.06 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 2PM



PROPOSED SHADOW - 2PM



Attachment 10 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - sections and elevations

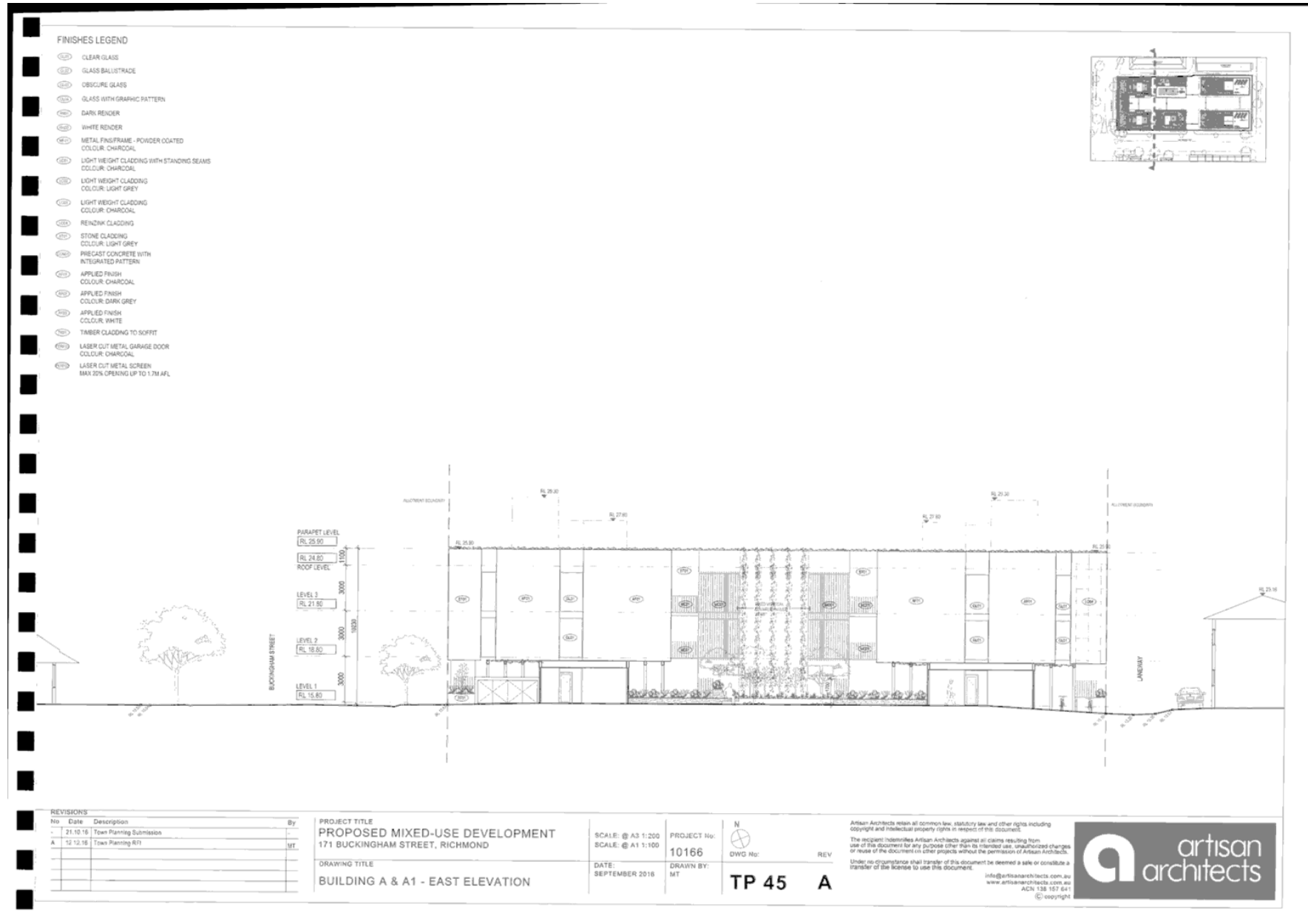
Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



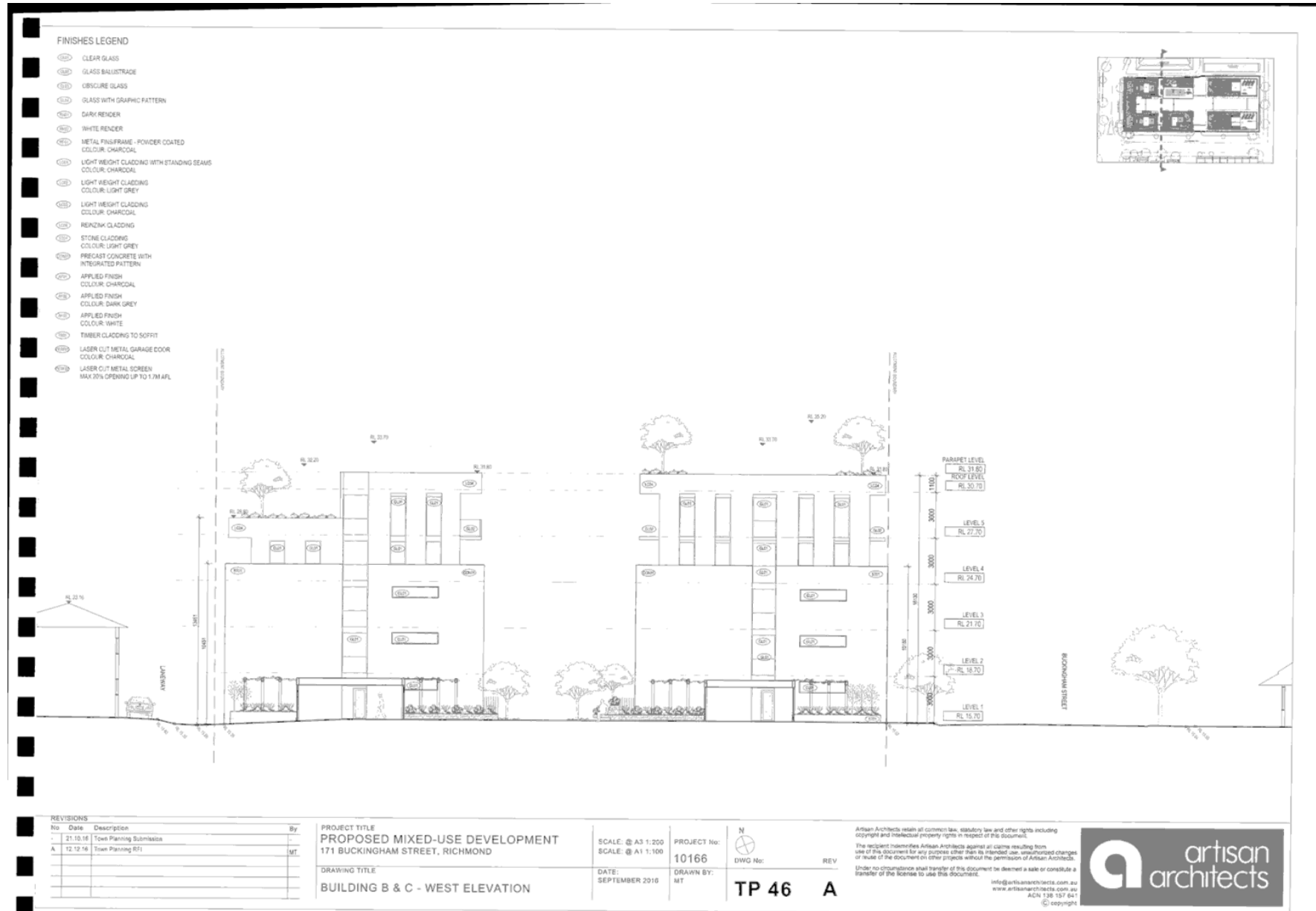
3.07 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 3PM



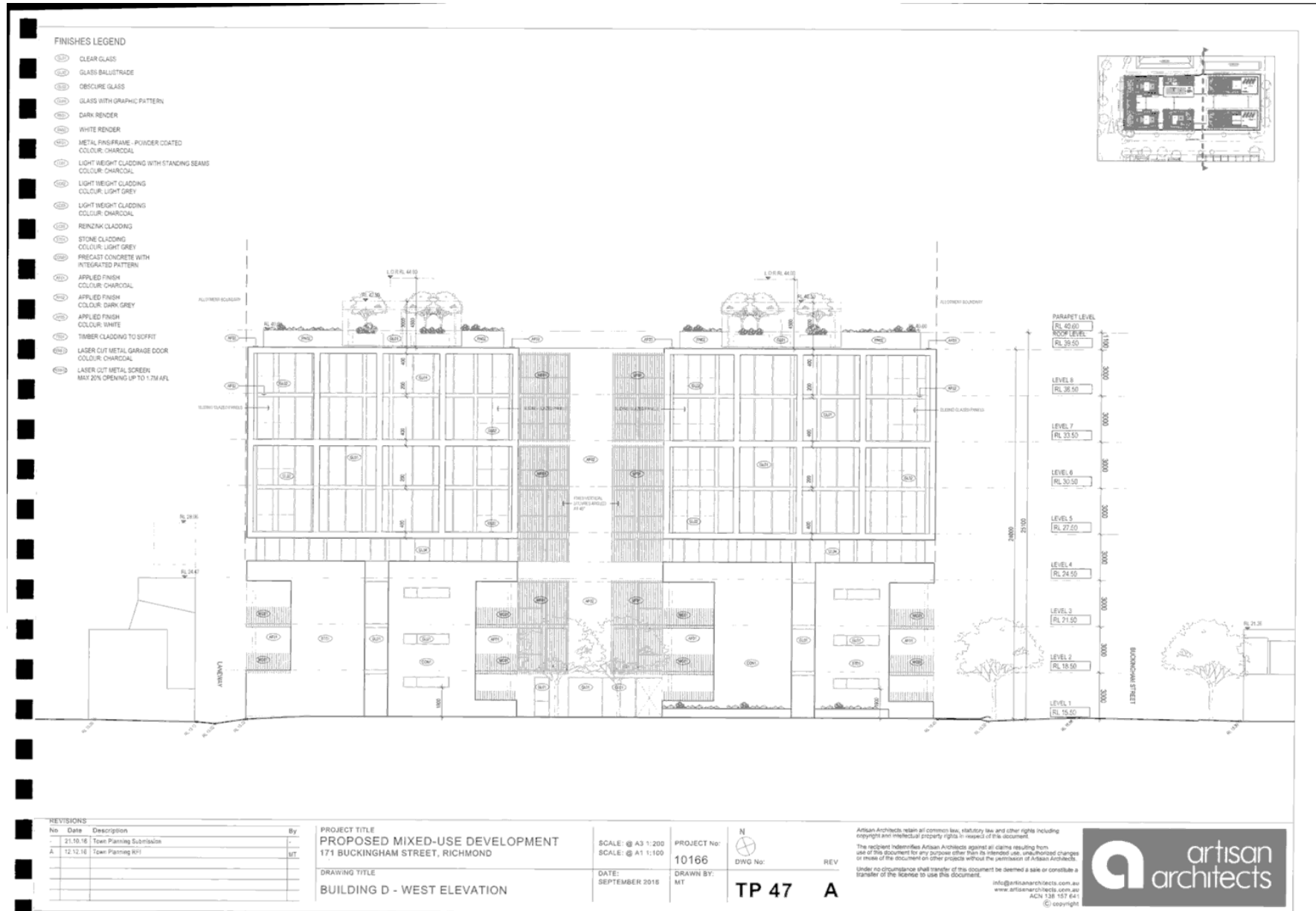
# Attachment 11 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - elevations



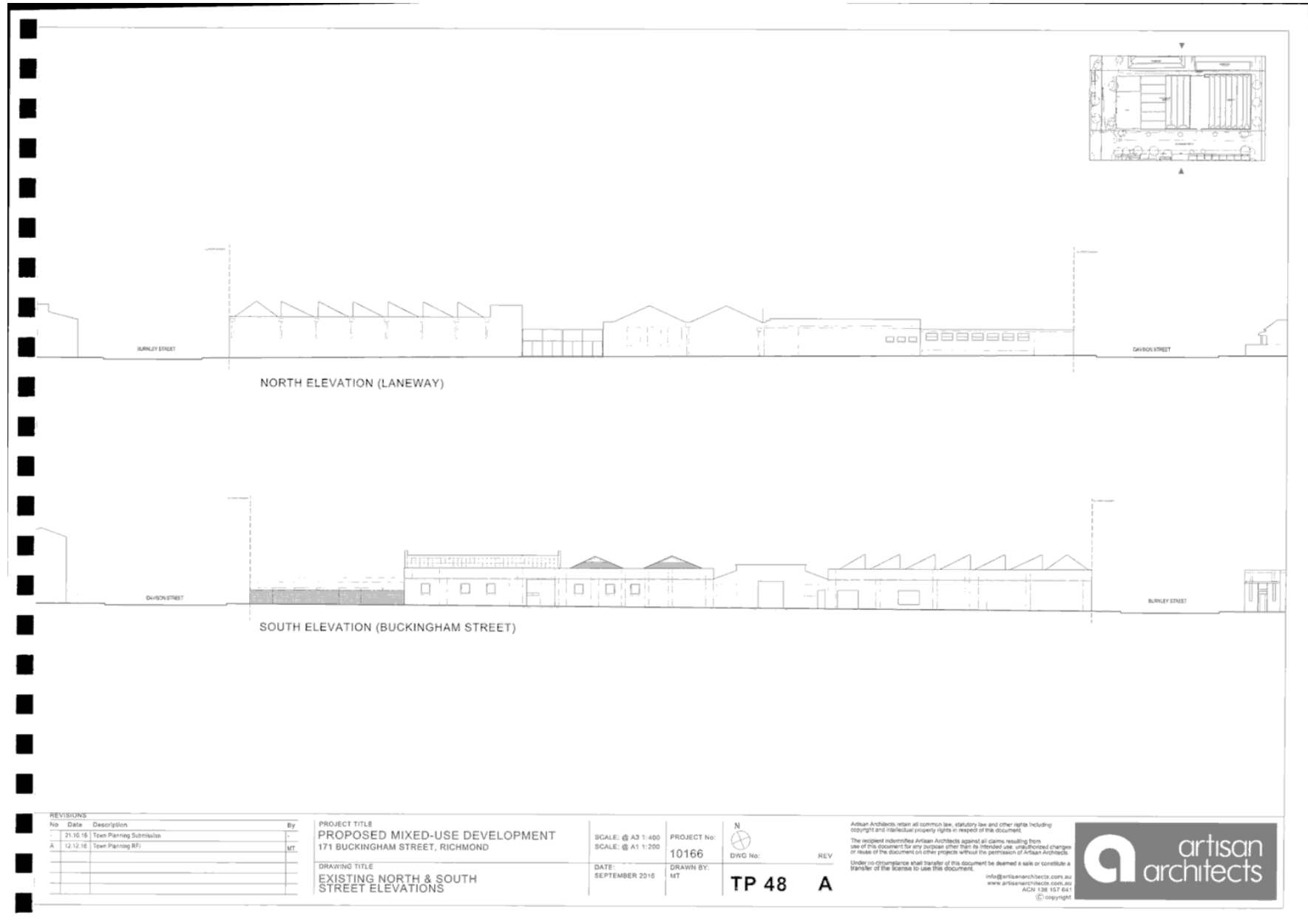
# Attachment 11 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - elevations



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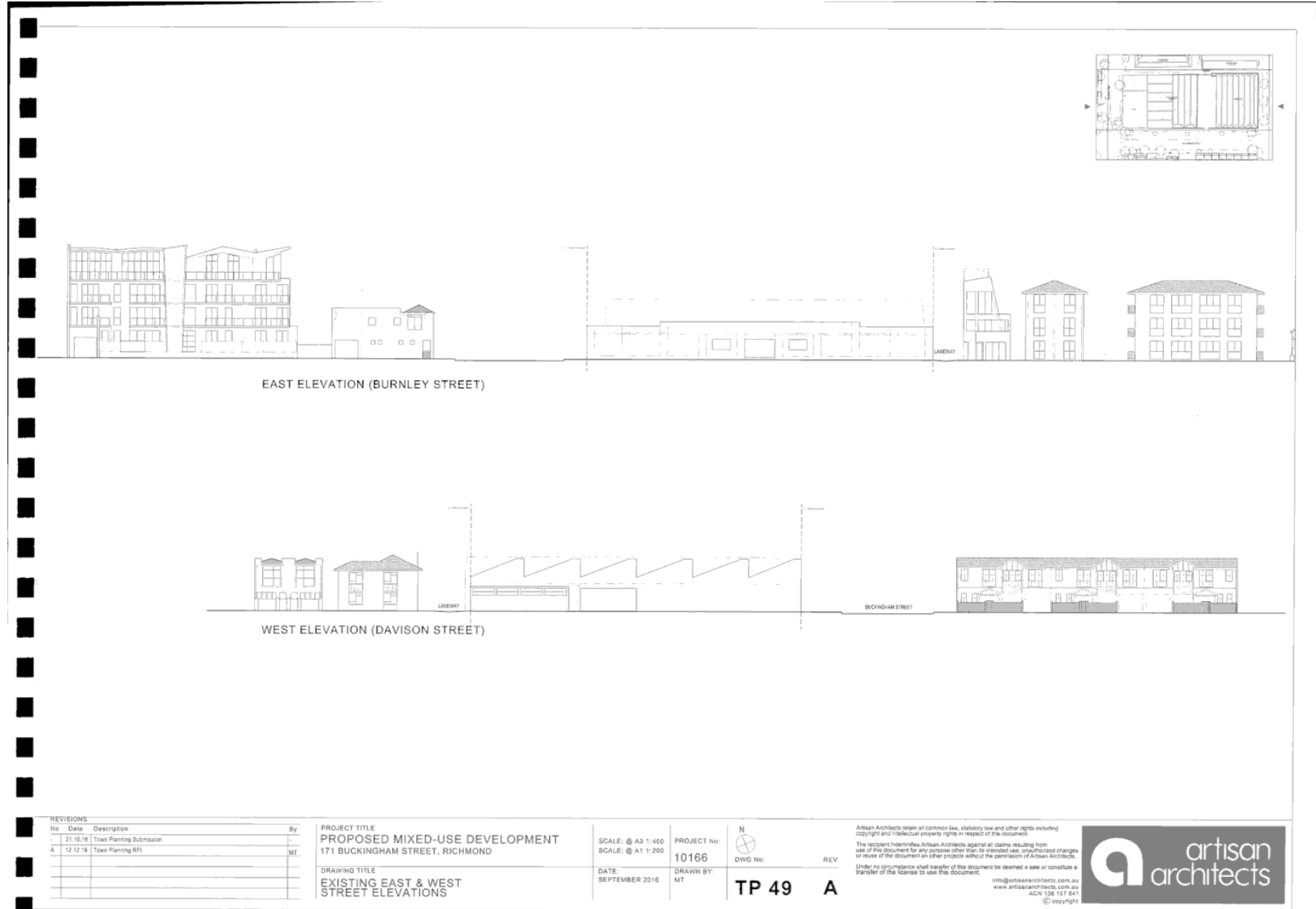


Attachment 11 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - elevations





Attachment 11 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - elevations



Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



2.18 URBAN DESIGN IMAGE



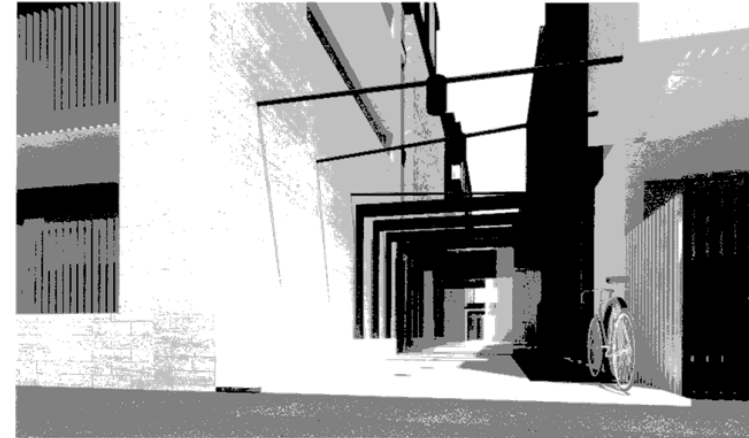
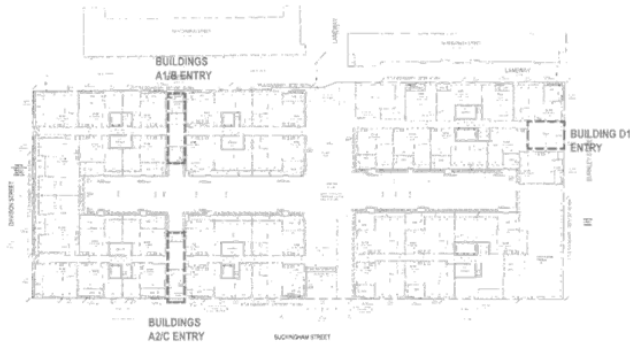
VIEW OF BUILDING D FROM BURNLEY STREET.

Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
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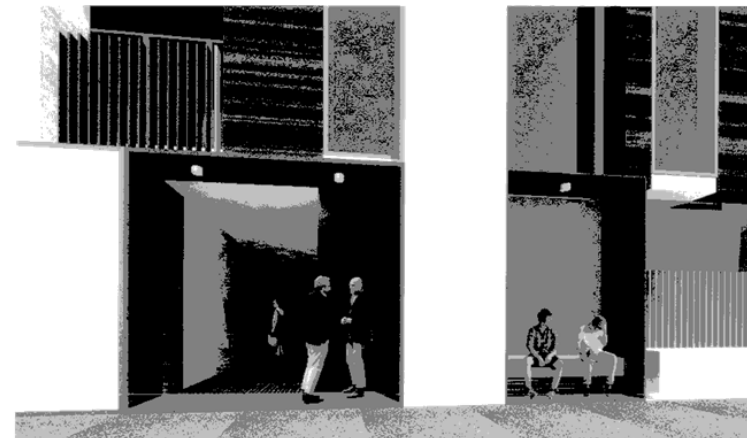
2.19 BUILDING ENTRY IMAGES



BUILDING A1 AND B ENTRY



BUILDING A2 AND C ENTRY



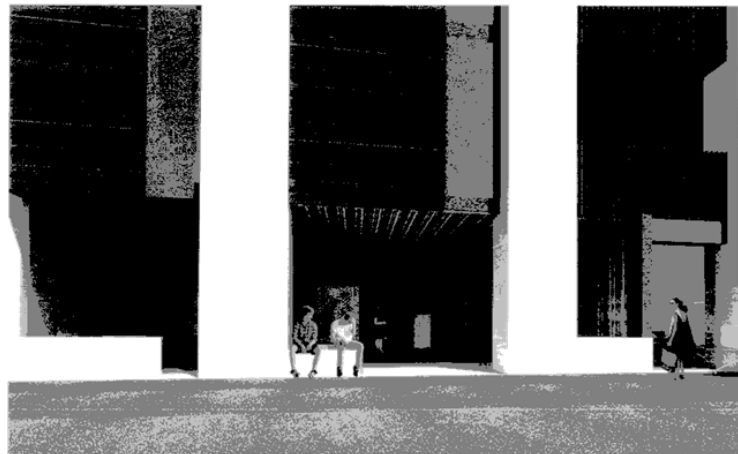
BUILDING D1 ENTRY

Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



2.20 BUILDING ENTRY IMAGES



BUILDING D2 ENTRY



CAR PARK ENTRY

**Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams**

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



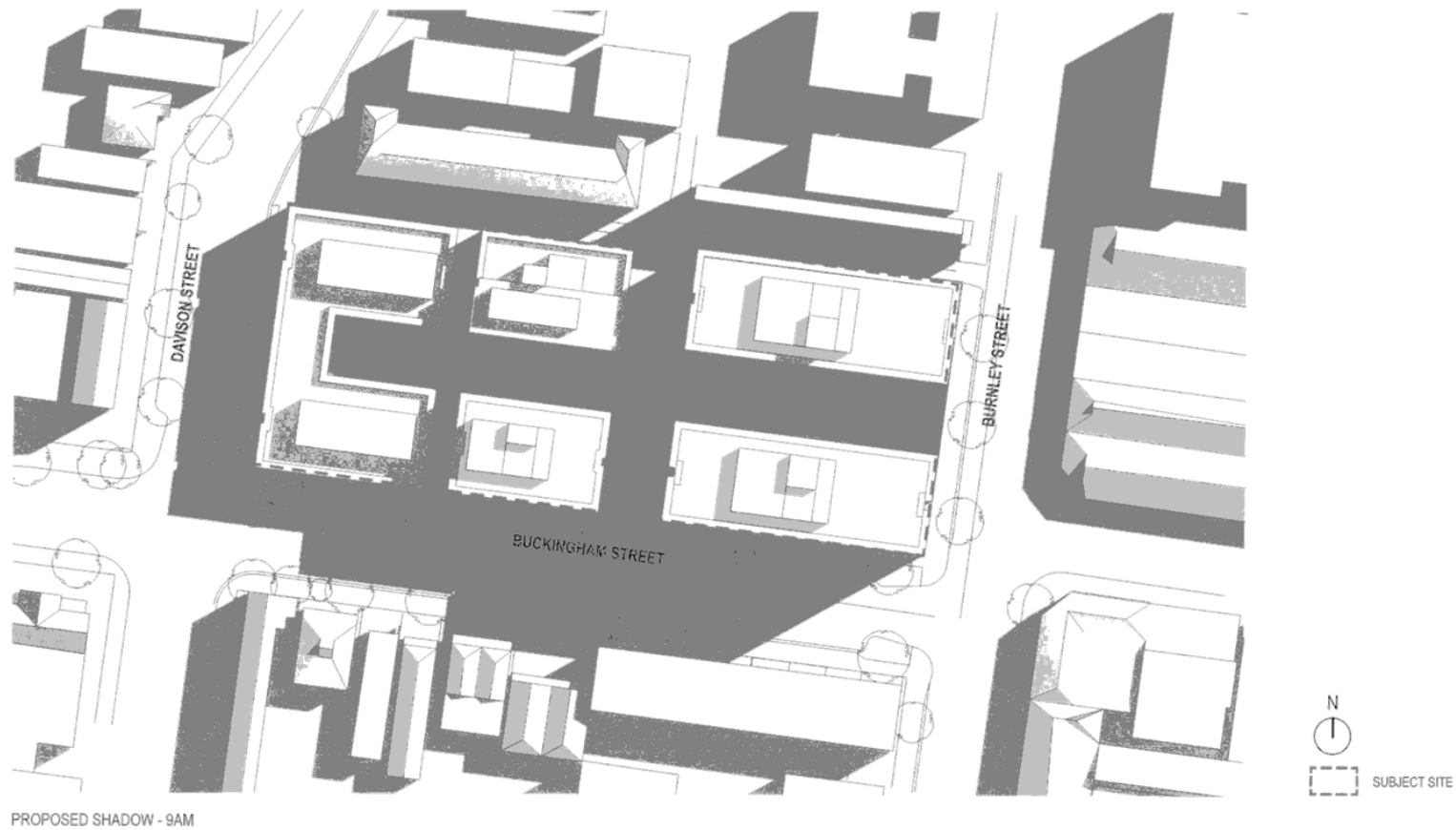
SHADOW DIAGRAMS

Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.01 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 9AM

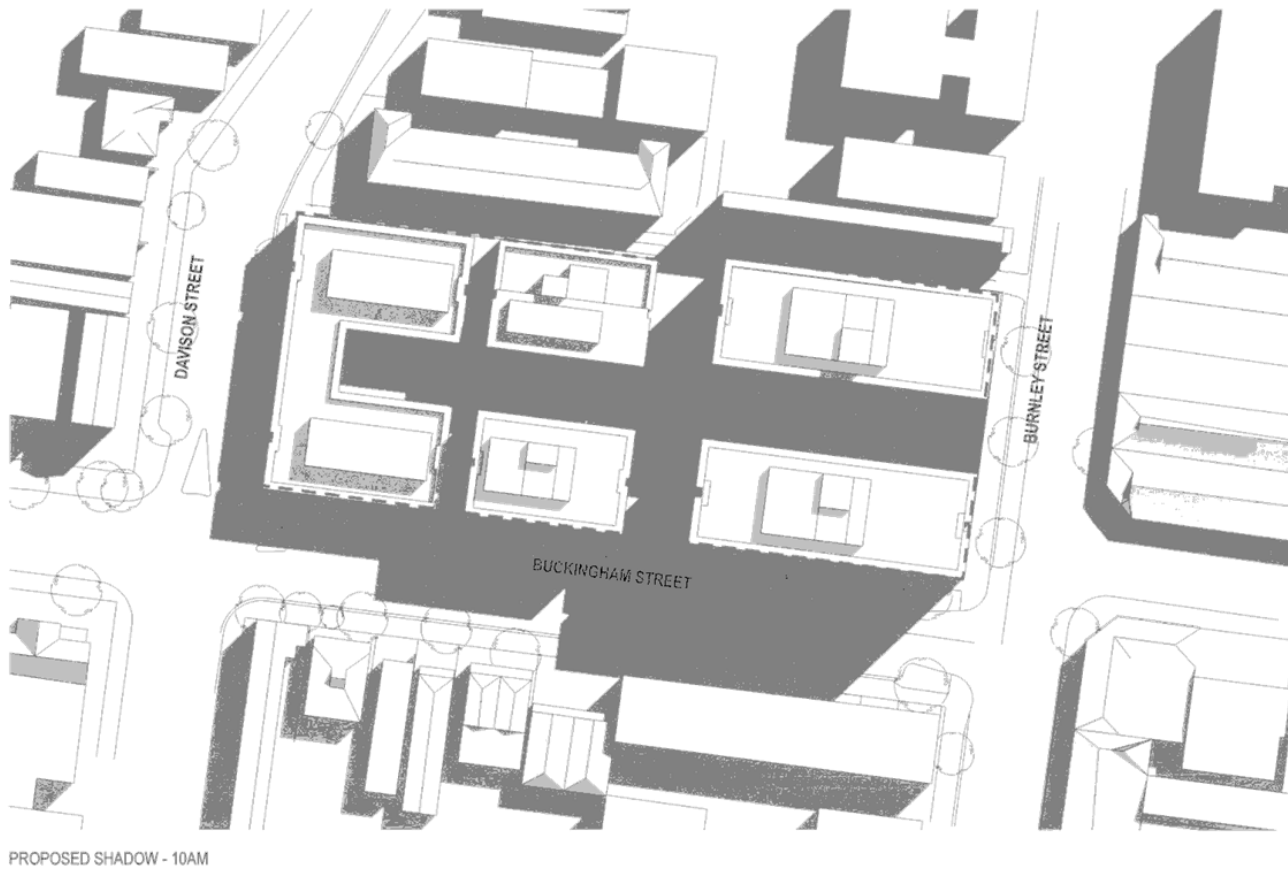


Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.02 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 10AM



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Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.03 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 11AM



PROPOSED SHADOW - 11AM





Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.04 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 12PM

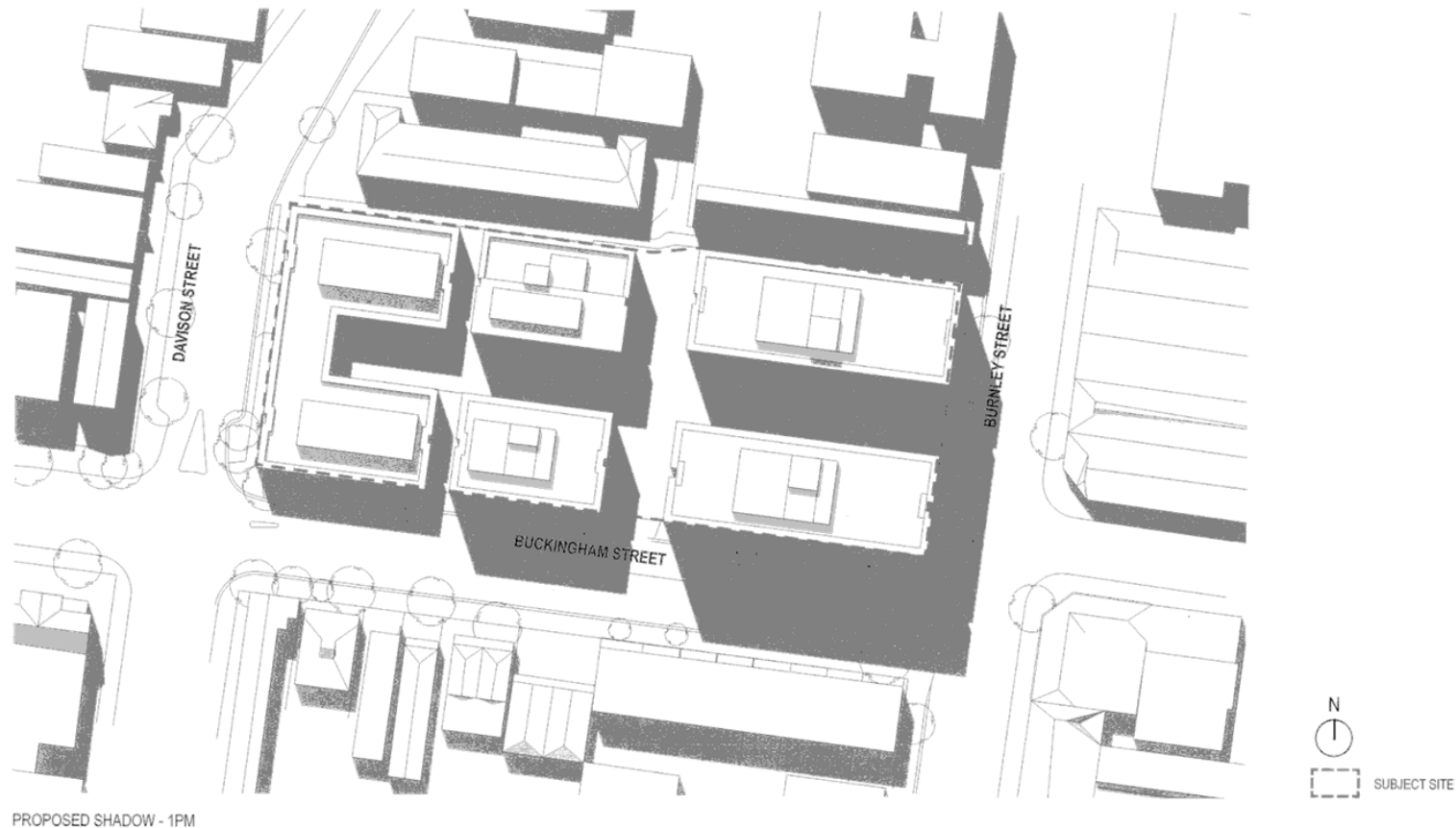


Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.05 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 1PM

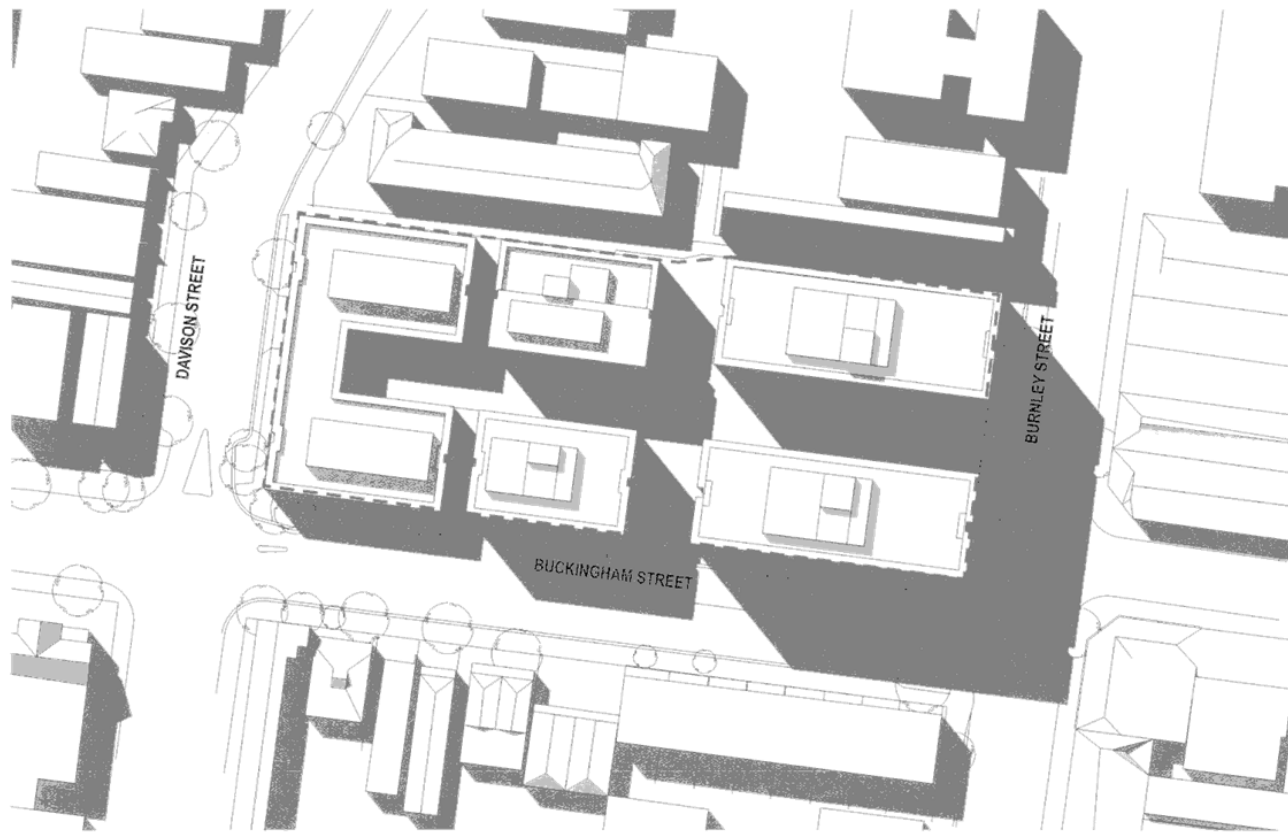


Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.06 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 2PM



PROPOSED SHADOW - 2PM

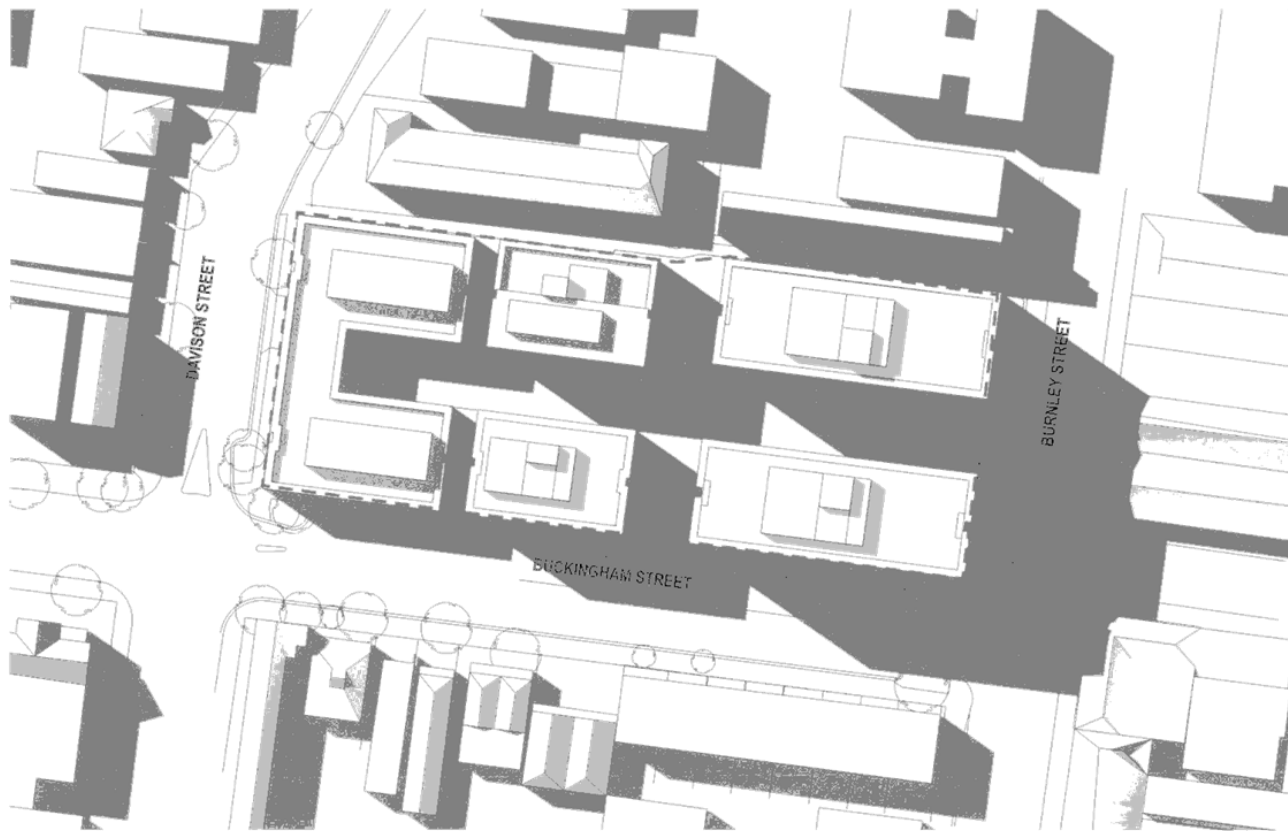


Attachment 12 - PLN16/1016 - 171 Buckingham Street Richmond - decision plans - images and shadow diagrams

Proposed Mixed-use Development  
171 Buckingham Street, Richmond  
November 2016



3.07 SHADOW DIAGRAM - 22<sup>ND</sup> SEPTEMBER 3PM



PROPOSED SHADOW - 3PM



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**1.2      24 - 28 Stanley Street, Collingwood VIC 3066 – Planning Permit Application No. PLN16/0753**

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**Executive Summary**

**Purpose**

1. This report provides Council with an assessment of Planning Application No. PLN16/0753 for the use of the land for a food and drinks premise (other than a hotel, tavern, restaurant and convenience restaurant) and a second food and drinks premise (no permit required for second tenancy) with the associated sale and consumption of liquor (one general licence and one restaurant and café licence) at 24 – 28 Stanley Street, Collingwood.
2. The report recommends approval of the application subject to conditions.

**Key Planning Considerations**

3. Key planning considerations include:
  - (a) Clause 11.03-2 – Activity centre planning;
  - (b) Clause 17.01-1 – Business;
  - (c) Clause 21.04-3 – Industry, office and commercial;
  - (d) Clause 21.08-5 – Collingwood;
  - (e) Clause 22.05 – Interface Uses Policy
  - (f) Clause 22.09 – Licensed Premises;
  - (g) Clause 32.04 – Mixed Use Zone
  - (h) Clause 52.27 – Licensed Premises; and,
  - (i) Clause 65 – Decision Guidelines.

**Key Issues**

4. The key issues for Council in considering the proposal relate to:
  - (a) Use;
  - (b) Licensed Premises – Clause 22.09 and Clause 52.27; and,
  - (c) Objector concerns.

**Objector Concerns**

5. Thirteen (13) objections were received to the application, these can be summarised as:
  - (a) Hours of operation, in particular the hours of tenancy 1 operating under 11pm, 7 days a week;
  - (b) Lack of car parking;
  - (c) Anti-social behaviour;
  - (d) Noise; and
  - (e) Increase in rubbish.

**Conclusion**

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

**CONTACT OFFICER:    Celeste Bonazinga**  
**TITLE:                    Statutory Planner**  
**TEL:                      9205 5363**

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**1.2      24 - 28 Stanley Street, Collingwood VIC 3066 – Planning Permit Application No. PLN16/0753**

---

Trim Record Number: D17/49954  
 Responsible Officer: Principal Planner

**Proposal:** Use of the land for a food and drinks premise (other than a hotel, tavern, restaurant and convenience restaurant) and a second food and drinks premise (no permit required for second tenancy) with the associated sale and consumption of liquor (one general licence and one restaurant and café licence)

**Existing use:** Mixed-use building.

**Applicant:** Contour Consultants

**Zoning / Overlays:** Mixed Use Zone/ Environmental Audit Overlay

**Date of Application:** 25 August 2016

**Application Number:** PLN16/0753

**Planning History**

1. Planning Permit No. 48116 was issued by Council on 01 November 1967 for *No.4 Stanley Street, Collingwood to have buildings and works erected thereon in accordance with the attached endorsed plan and to be used for the purpose of Light Industry.*
2. Planning Permit No. T.P. 78870 was issued by Council on 05 December 1974 for *No. 24 Stanley Street, City of Collingwood, to be used for the purpose of the sale and storage of aluminium windows.*
3. Planning Permit PLN14/0535 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 27 February 2015 for the *construction of a seven storey building containing dwellings; use of the land for two shops; a reduction of the car parking requirements and a waiver of the loading bay requirements.*
4. A Section 72 amendment to Planning Permit PLN14/0535 was approved by Council on 28 June 2016. The following changes were made:
  - (a) Internal and external alterations to the building;
  - (b) Change in the number of dwellings from 41 to 40;
  - (c) Change in dwelling bedroom mix;
  - (d) Deletion and replacement of condition 1 to require further changes to the proposed amended plans.
5. Planning Permit PLN15/0241 was issued by Council on 26 May 2016 for the *erection and display of a floodlit promotion sign.*

**Background**

6. The application was lodged on 25 August 2016. Amended plans and reports were submitted to Council on 26 September 2016 under Section 50(a) of the *Planning and Environment Act 1987* for the following:
  - (a) Change tenancy 1 to a food and drinks premise with a general licence instead of a food and drinks premise/shop with a general licence.
7. The application was then advertised on 29 November 2016 for at least 14 days and attracted thirteen (13) objections.

8. A consultation meeting was held on the 14 March 2017 and as result of the consultation meeting the applicant offered the following revised hours of operation to tenancy 1 on the 22 March 2017:
  - (a) Sunday to Wednesday until 10pm; and
  - (b) Thursday to Saturday until 11pm.

## **Existing Conditions**

### Subject Site

9. The subject site is located on the northern side of Stanley Street, Collingwood between Smith Street to the west and Wellington Street to the east.
10. The subject site is rectangular in shape and comprises of three lots (Nos. 24, 26 and 28 Stanley Street). The site has a frontage of 17.8 metres onto Stanley Street with a depth of 40.43 metres yielding a total site area of 719.65 square metres.
11. The subject site contains a seven-storey multi-residential development as approved under Planning Permit PLN14/0535. Construction of the approved development has since been completed. In particular, this application is in relation to the two ground floor retail tenancies internal to the building.
12. Tenancy 1 is the western tenancy and has a frontage of 4.15 metres onto Stanley Street with a depth of 27.15 metres yielding an overall area of 151 square metres. The tenancy is currently vacant.
13. Within the building to the west of Tenancy 1 is the entrance and service areas to the building that contains the car lift, letterboxes, lift, lobby, bicycle parking.
14. Tenancy 2 is the eastern tenancy and has a frontage of 4.75 metres with a depth of 26.8 metres yielding an area of 122.5 square metres. The tenancy is currently vacant.
15. To the northern rear of both tenancies are three dwellings within the same development with the bedroom of the easternmost dwelling having direct abuttal to Tenancy 2. The remaining two dwellings are separated from Tenancy 1 by a hallway.
16. There are dwellings above these tenancies on the first floor.

### Surrounding Land

17. The adjoining property to the west of the subject site at No. 18 – 22 Stanley Street contains a part four and part five storey building comprising of a ground floor office and thirty dwellings.
18. Located approximately 90 metres to the west of the subject site is the Smith Street Activity Centre (AC) which contains a mixture of commercial uses. Smith Street is well known for its bars, restaurants and night life. There are a number of licensed premises along Smith Street, with these closest to the Stanley Street intersection with Smith Street including:
  - (a) Fonda Mexican at 236 & 238 Smith Street (approximately 65m from the subject site) has a restaurant and café license until 12pm;
  - (b) Masak Masak at 230 Smith Street (approximately 127m from the subject site) has a restaurant and café license until 10pm;
  - (c) The Panama Dining Room and Bar at 231 Smith Street (approximately 113m from the subject site) has on-premise license until 1am;
  - (d) Rock Salt & Vinegar at 258 Smith Street (approximately 147m from the subject site) has a on-premise license until 11pm; and
  - (e) Beer, Wine, Spirits (BWS) at 243 Smith Street (approximately 137m from the subject site) has packaged liquor license until 11pm.

19. The adjoining property to the east of the subject site at No. 30 Stanley Street is a single-storey dwelling.
20. Further to the east are the following:
  - (a) No. 32 Stanley Street is a single-storey building that used as a food and drinks premise (pizza shop). The use operates under Planning Permit PL05/0094 which allows for *development of the land for the purpose of a rear pergola and change of use for the purpose of a food and drinks premise (pizza shop with associated take away component), an on-premises liquor license and change to hours of operation (7.30 am to 11.00 pm Monday to Thursday, 7.30 am to 11.30 pm Friday and Saturday, and 7.30 am to 9.30 pm Sunday)*. The permit allows for up to thirty-four patrons at any one time.
  - (b) Nos. 34 - 44 Stanley Street, Collingwood is occupied by a modern 6 storey building comprising 99 dwellings with two levels of basement car parking, developed under Planning Permit PL07/1215. The building fronts Stanley Street and wraps around the rear of the lots between Nos. 24 and 32 Stanley Street and connects with Bedford Street. Towards the front of the site the building is 6 storeys.
  - (c) No. 58 Stanley Street is a multi-storey mixed use building. In particular, the ground floor contains a tavern and shop. The uses operate under Planning Permit PLN16/0592 granted 18 October 2016 which allows for *use of the land for the sale and consumption of liquor (general licence) associated with a tavern and shop (no permit required for uses), a reduction in the car parking requirement associated with a tavern and development of the land for the display and construction of a business identification sign*. The permit allows for up to forty-five patrons at any one time with the following operating hours:
    - (i) Internal
      - a. Sunday to Wednesday between 10am and 10pm
      - b. Thursday to Saturday between 10am and 11pm
    - (ii) Courtyard
      - c. Sunday between 10am and 8pm
      - d. Monday to Saturday between 10am and 10pm
21. To the south of the subject site at No. 125 Oxford Street is the former Foy and Gibbs complex which has been converted to a five to six storey mixed use development that has a frontage onto Stanley Street to north, Oxford Street to the east and Little Oxford Street to the west. The building contains a ground floor food and drinks premise (café) 'Proud Mary' which operates Monday to Friday 7am – 4pm and Saturday – Sunday 8am – 4pm. No liquor license is associated with the premise.
22. Part of the northern boundary of the subject site, at the rear of the lot is. Nos. 30 and 32 Stanley Street, Collingwood. At the rear adjoining the subject site is No. 34-44 Stanley Street which steps down to three storeys with varying setbacks. Neither of the tenancies have direct abuttal with the adjacent properties to the north of the overall site.

## The Proposal

23. The proposal is for the *use of the land for a food and drinks premise (other than a hotel, tavern, restaurant and convenience restaurant) and a second food and drinks premise (no permit required for second tenancy) with the associated sale and consumption of liquor (one general licence and one restaurant and café licence)*. The proposal is as follows:

### Tenancy 1

24. Tenancy 1 is proposed to be a food and drinks premises (other than a hotel, tavern, restaurant and convenience restaurant).
25. The following hours of operation have been proposed:
  - (a) Monday to Sunday 7.00am to 11.00pm with the sale and consumption of liquor (general license) to operate between 10.00am to 11.00pm Monday to Sunday;



26. A maximum of eighty patrons at any one time.
27. A maximum of five staff on-site at any one time.
28. The licensed 'red-line' area is to the entire ground floor area tenancy.
29. Background music is proposed.

#### Tenancy 2

30. Tenancy 2 is proposed to be a food and drinks premise (cafe).
31. The following hours of operation has been proposed:
  - (a) Monday to Sunday 7.00am – 7.00pm with sale and consumption of liquor (Restaurant and cafe) to operate between 10.00am to 7.00pm Monday to Sunday;
32. A maximum of eighty patrons at any one time.
33. A maximum of five staff on-site at any one time.
34. The licensed 'red-line' area is to the entire ground floor area tenancy.
35. Background music is proposed.

### **Planning Scheme Provisions**

#### Zoning

36. Pursuant to Clause 32.04, use of the site as a food and drinks premise (other than a hotel, tavern, restaurant and convenience restaurant) requires a planning permit as the leasable floor area for tenancy 1 exceeds 150sqm. The site has a total leasable floor area of 151sqm.
37. Pursuant to Clause 32.04, use of the site as a food and drinks premise (café) does not require a planning permit under this zone as the leasable floor area for Tenancy 2 does not exceed 150sqm with a leasable floor area of 122.5sqm.

#### Overlays

38. The subject site is affected by the Environmental Audit Overlay. The following requirement applies:
  - (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.*
39. This is not required as the use is not considered a sensitive use. However an Environmental Audit Report has been submitted to Council (dated 11 November 2015) confirming that the site is suitable for high density residential use. A letter confirming the above was sent by Council on 24 December 2014.

#### Particular Provisions

*Clause 52.06 – Car Parking*

40. Pursuant to Clause 52.06-3A, a permit is not required under Clause 52.06-3 if the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for a new use of land is less than or equal to the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for the existing use of the land.
41. Under Planning Permit PLN14/0535, a car reduction was approved in conjunction with a shop uses. Under Clause 52.06-6, a shop requires four spaces to each 100sqm of leasable floor area which is the same rate for a food and drinks premise. Given that the required car parking requirement of the new use is equal to previously approved land use, a permit is not required for a reduction in car parking spaces.

*Clause 52.27 - License Premises*

42. Pursuant to Clause 52.27 of the Yarra Planning Scheme, a planning permit is required to use land for the sale or consumption of liquor if a license is required under the Liquor Control Reform Act.

General Provisions

*Clause 65 – Decision Guidelines*

43. The Decision Guidelines outlined in 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 the relevant State Planning Policy Frameworks, Local Planning Policy Frameworks and any Local Policy, as well as the purpose of the Zone, Overlay or any other Provision. An assessment of the application against the relevant sections of the Scheme is offered further in this report.

State Planning Policy Framework (SPPF)

44. The following clauses are of relevance to this application:

*Clause 11 Settlement*

*Clause 11.01-1 Settlement networks*

45. The objective is: To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

*Clause 11.02-2 Supply of urban land*

46. The objective is: To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

*Clause 11.03-1 Activity centre networks*

47. The objective is: To build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.

*Clause 11.03-2 Activity centre planning*

48. The objective is: 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.

*Clause 13 Environmental Risks*

*Clause 13.04-1 Noise*

49. The objective is: To assist the control of noise effects on sensitive land uses.

*Clause 17 Economic Development  
Clause 17.01-1 Business*

50. The objective is: To encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Local Planning Policy Framework (LPPF)

51. The following LPPF provisions of the Scheme are relevant:

*Clause 21 – Municipal Strategic Statement (MSS)*

*Clause 21.03 – Vision*

52. Clause 21.03 of the Scheme outlines strategic objectives for land use, built form, transport and environmental sustainability within the City.

*Clause 21.04  
Clause 21.04-2 Activity centres*

53. The objective is: *To maintain the long term viability of activity centres.*

*Strategy 5.3 Discourage uses at street level in activity centres which create dead frontages during the day.*

*Clause 21.04-3 Industry, office and commercial*

54. The objective to this Clause is: *To increase the number and diversity of local employment opportunities. Of particular relevance to this application are the following strategies:*

*Strategy 8.3 Encourage residential and business land use within the Mixed Use Zone to locate on the same site.*

*Clause 21.08 – Neighbourhoods*

55. The subject site is located in the 'Collingwood' neighbourhood at Clause 21.08-5 of the Scheme. The clause states:

- (a) Much of Collingwood is industrial in character with the residential precincts surrounded by or interspersed with industrial buildings.*
- (b) The most outstanding feature of the precinct is the Foy and Gibson complex of retail and warehouse of buildings which belong to the suburb's commercial past. The buildings have large dominating built forms with rhythmic facade design. They are imposing and visually cohesive.*
- (c) 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.*

- (d) *The Activity centre has developed a strong factory outlet focus including a sports retail focus, at the north of the centre between Johnston Street and Alexandra Parade. Between Johnston Street and Gertrude Street the centre provides much of the convenience retailing for the surrounding neighbourhoods. The area also hosts a variety of restaurants and cafes. The southern precinct, south of Gertrude Street is home to an array of galleries and clothing stores.*

#### Relevant Local Policies

##### *Clause 22.05 Interface Uses Policy*

56. This policy applies to applications for or development within:  
(a) Mixed Use, Commercial (formally business) and Industrial Zones.
57. The objectives of the policy states:
- (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.*
- (b) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*
58. The relevant component of the policy is:  
(a) *New non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.*
59. Clause 22.05-4 provides the following guidelines:

##### *Clause 22.05-4.2 Non-Residential Development Near Residential Properties*

60. *New non-residential development is to be designed to / so that:*
- (a) *Minimise the potential for unreasonable overlooking of private open space areas and into habitable room windows of adjoining residential properties, through the use of appropriate siting, setbacks, articulation and possibly screens.*
- (b) *The location, length and height of any wall built to a boundary not adversely impact on the amenity of any adjoining residential properties in terms of unreasonable overshadowing of private open space, visual bulk or loss of day light to habitable room windows.*
- (c) *Where private open space and/or windows to adjoining residential properties are unreasonably affected, appropriate set backs from boundaries are to be provided to address loss of daylight, overshadowing and visual bulk impacts.*
- (d) *Provide for a high level of acoustic protection to adjoining residential properties by:*
- (e) *Locating plant and other service infrastructure (including automatic garage doors) in discrete locations*
- (f) *Using masonry wall construction rather than, for example, curtain walling*

- (g) *Building in effective acoustic insulation.*
- (h) *Minimise noise transmission within the building, including from machinery and ventilation systems, between floors or separate units and to adjoining residential properties.*
- (i) *Minimise the opportunity for views from adjoining residential properties into the site, especially where the storage, preparation, business or industrial activity could present an unsightly appearance.*
- (j) *Minimise the opportunity for light spill due to fixed or vehicular lights, outside the perimeter of the site and on to habitable room windows of nearby residential properties.*

61. *Clause 22.05-4.3 Commercial Waste*

- (a) *Business and industrial use is to ensure that commercial waste (solid, gas and liquid) management practices, storage and disposal are carried out with a minimum of odour and noise disruption to nearby residential properties.*
- (b) *A Waste Management Plan that includes details of proposed waste management practices, storage and disposal will be required where waste disposal, collection or storage may cause unreasonable detriment to the amenity of adjoining residential properties.*

*Clause 22.09 Licensed Premises*

62. The objectives of this policy is:

- (a) *To effectively manage the location, operation and hours of trade of licensed premises, in order to protect the amenity of nearby properties and areas.*
- (b) *To protect residential and other commercial uses from excess noise, traffic and car parking issues.*
- (c) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*

*Amendment C209*

- 63. Council has undertaken a review of its current licenced premises policy to improve the way licenced venues are managed in the City of Yarra. The amendment proposes changes to Council's existing licensed premises policy in the Yarra Planning Scheme in order to provide stronger policy guidance. The revised policy would be used by Council to inform decision making and to guide the assessment of planning applications relating to licensed venues. The revised policy will result in improvements to the assessment of planning applications, and will allow for on and off-site amenity impacts to be better managed.
- 64. Amendment C209 completed public exhibition on 16 December, 2016. During the exhibition stage a number of submissions were received. At its meeting on 21 February, 2017 Council requested the Minister for Planning to appoint an independent planning panel (pursuant to Section 23 of the *Planning and Environment Act 1987*). Council also resolved to accept changes proposed by officers as a result of submissions received.
- 65. The amendment went to a Panel hearing on the 26 and 27 April 2017. Council is currently awaiting the recommendations from the Panel hearing.

## Advertising

66. The application was advertised under the provisions of Section 52 of the Planning and Environment Act (1987) by letters sent to surrounding owners and occupiers and by one (1) sign displayed on the Stanley Street frontage.
67. Council received thirteen (13) objections to the application and issues of concern are summarised as follows:
- (a) Hours of operation, in particular the hours of tenancy 1 operating under 11pm, 7 days a week;
  - (b) Lack of car parking;
  - (c) Anti-social behaviour;
  - (d) Noise; and
  - (e) Increase in rubbish.

## Referrals

### External Referrals

68. The application was not required to be externally referred under any provisions within the Scheme.

### Internal Referrals

69. The application was referred to Council's Community Amenity Unit. Comments are attached as an appendix to this report.

## OFFICER ASSESSMENT

70. The key planning considerations for Council in considering the proposal relate to:
- (a) Use;
  - (b) Licensed Premises (Clause 52.27 Licensed Premises and Clause 22.09 Licensed Premises Policy); and
  - (c) Objectors Concerns.

### Licensed Premises

#### *Clause 22.09-3.1 Location and Access*

71. The subject site is located within a Mixed Use Zone on Stanley Street, approximately 90 metres east of the Smith Street Activity Centre. Along Stanley Street, there are a number of licensed premises within the vicinity of the subject site such as those stipulated within paragraphs 19. Policy outlined under Clause 22.09-3.1 states that *new licensed premises should be located such that they are not in Residential, or Mixed Use zones*. However, the purpose of the Mixed Use Zone is *to provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality and to encourage development that responds to the existing or preferred neighbourhood character of the area*. The use for tenancy 1 requires a planning permit under the zone as the leasable floor area does not meet the condition specified in the table, whilst tenancy 2 does not require a planning permit as the condition is met. Taking this into consideration, the use of the tenancy 1 as a food and drinks premise is considered in line with the purpose of the Mixed Use zone. Particularly as it only requires a permit due to being 1sqm above the 150sqm requirement.

Furthermore, approval was granted under Planning Permit PLN14/0535 for shops which under the planning scheme has the same condition as a food and drinks premise so it would be expected that a similar commercial use would be located within the building. Residential buildings usually contain a retail or food and drinks component at the ground floor which the use of the ground floor tenancies as food and drinks premises is not out of the ordinary.

72. A food and drinks premises (other than a hotel, tavern, restaurant and convenience restaurant) is proposed for tenancy 1. As mentioned above, the use requires a planning permit under the zone. The proposed use does not fit under the definition of a hotel, tavern, restaurant or convenience restaurant. The nature of the use is more in line with café style use with food consumption being the primary focus. The sale and consumption of liquor being a secondary component of the use. Furthermore, the size of the premise and number of patrons proposed is small when compared to other premises along the Smith Street Activity Centre. The proposed use is also consistent with size and patrons numbers of other food and drinks premises within the surrounding area. In particular, two food and drinks premise at 107 Cambridge Street Collingwood which operates under Planning Permit PL10/0231 which allows for the *development of the land to construct a 6 storey building, use of the land for two or more dwellings, use of the land for two food and drink premises (cafes), sale and consumption of alcohol (one general licence and one restaurant and café licence); and a reduction in the associated car parking requirements and a waiver of the loading requirements in accordance with the endorsed plans*. The hours of operation and number of patrons to each premise is identical to this proposal which demonstrates that this type of use is not uncommon within a Mixed Use zone.
73. A food and drinks premise is characteristically associated with food. This applies to the both tenancies as the primary focus is the consumption of the food and not vertical drinking. Both tenancies provide a number of tables and chairs to accommodate the eighty patrons to each premise which supports each tenancies primary focus being food consumption. With food being the primary focus, this further discourages anti-social behaviour.
74. Furthermore, the proposed operating hours to each tenancy will provide an active frontage to Stanley Street as each tenancy commences operation from 7am onwards. The entry and exit point for patrons to and from tenancies 1 and 2 is via the Stanley Street frontage. The large windows to each tenancy will allow for passive surveillance and address public safety such as anti-social behaviour as the windows will act as a deterrent.
75. Outlined under the Noise and Amenity Action Plan, the tenancy will not be marketed as a destination which will not encourage patrons queuing. This will also avoid any anti-social behaviour.
76. Given the above, the new licenced premises are considered acceptable given the purpose of the zone, the context of the surrounding area and the nature of the proposal.

#### *Clause 22.09-3.2 Hours of Operations*

77. The subject site is located in Mixed Use Zone which policy states that *licensed premises in a Residential or Mixed Use Zone or within 30 metres of a residential area not trade beyond 11pm on any night unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area*.
78. The following operating hours have been proposed to Tenancy 1:
  - (a) Monday to Sunday 7am -11pm with the supply and consumption of liquor commencing at 10am – 11pm.
79. In regards to tenancy 1, the applicant has offered the following revised operating hours:
  - (a) Sunday to Wednesday 7am - 10pm with the supply and consumption of liquor commencing at 10am – 10pm; and

- (b) Thursday to Saturday 7am – 11pm with the supply and consumption of liquor remaining as above.
- 80. The following operating hours have been proposed to Tenancy 2:
  - (a) Monday to Sunday 7am – 7pm with the supply and consumption of liquor commencing at 10am – 7pm.
- 81. The operating hours for both proposed licence premises are in accordance with policy outlined above.
- 82. The operating hours for both tenancies is considered acceptable given the nature of the established uses with similar operating hours along Stanley Street. In particular, 'Comptoir' located at 58 Stanley Street has the same hours operating hours as tenancy 1. The reduction to tenancy 1 operating hours between Sunday to Wednesday to 10pm is considered acceptable and is in consistent with policy proposed under Amendment C209. Providing a closing hour of 10pm between Sunday to Wednesday is also when residents would be typically at home and sleeping after 10pm.
- 83. The operating hours for tenancy 1 between Thursday to Saturday are considered appropriate as these are days where people are most likely to go out and come home later. As previously discussed, the primary focus of the tenancy is food consumption and not vertical drinking. Additionally, it is typical to have later closing times on the days. Nevertheless, the closing time of 11pm complies with policy.
- 84. Further to this, the operating hours of tenancy 2 will reduce any potential amenity impacts in terms of noise and anti-social behaviour due to the early close.

*Clause 22.09-3.3 Patron Numbers*

- 85. Tenancy 1 and 2 will each have eighty (80) patrons resulting in a total of one hundred and sixty (160) patrons at any one time. After 7pm, the number of patrons will reduce to eighty (80) patrons at any one time due to Tenancy 2 closing. The number of patrons between the hours of 7am -7pm being up one hundred and sixty (160) is considered acceptable as there will be no unreasonable amenity impacts given the operating hours which are consistent with other food and premises within the surrounding area. The reduced patron numbers after 7pm, will further lessen the number of patrons arriving and leaving resulting in reduced noise emissions from tenancy.
- 86. A building surveyors report provided by the Gardner Group submitted to Council on 26 September 2016 confirmed that each tenancy will be able to accommodate eighty (80) patrons.

*Clause 22.09-3.4 Noise*

- 87. All noise will to be contained within both tenancy 1 and tenancy 2 as there are no outdoor seating areas. The noise level will be further minimised with tenancy 2 having an earlier closing time which will act as a buffer for tenancy 1 with the properties to the east. Tenancy 1 has no abuttal with any residences expect those above on the first floor. Council's Community Amenity Unit has suggested all doors and windows to remain closed after 9pm. This can be addressed via a permit condition which has been discussed the applicant. By the door remaining closed after 9pm, it will ensure that any noise from patrons within tenancy 1 will not travel outside the premise.
- 88. In terms of noise impacts to the dwellings to the rear of the building, the toilets to northern sections of each tenancy will provide a noise barrier between the dwellings and the internal seating area of each tenancy. In particular to the northern dwelling that has direct abuttal to tenancy 2 will have minimal noise impact given the earlier closing time.



89. Any music played will be limited to background levels. Council's Community Amenity Unit recommended that background music to be turned off one hour before closing time for tenancy 1. However, a standard condition can be added to the permit for the background music to comply with the noise requirements of SEPP N-2 which will alleviate any potential noise impacts to the residents.
90. Noise from mechanical and plant equipment will be required to comply with SEPP N-1 requirements as per the standard permit condition. Deliveries to the and from the site will be addressed via a standard condition. Waste collection from the site is managed by the waste management plan in place for the whole building approved under Planning Permit PLN14/0535.

*Clause 22.09-3.5 Car parking*

91. As previously discussed, both tenancies do not require any further car parking reduction as the use is based on leasable floor area which is the same rate as the most recent car parking reduction that was issued under Planning Permit PLN14/0535.
92. As stated above, the tenancies do not require any further car parking reduction as the application meets Clause 52.06-3A of the Scheme. However, given the location of the proposed food and drinks premises, it is considered that there will be no unreasonable impact on car parking as the subject site is within close proximity to the Smith Street Activity which contains a range of public transport options such as Tram route 86 (300m), Tram route 12 (750m), Tram route 109 (950m), Collingwood Station (1.1km); and Victoria Park Station (1.3km). Also given the site's proximity to an activity centre, it would be likely that the subject site will be a part of a multi-purpose trip to Smith Street and the surrounding area. The primary sources of patrons to each tenancy will be from the surrounding residential apartment buildings. Given that patrons are expected to live and work close by transport to the site is likely to be walking or cycling.

*Clause 22.09-3.6 Noise and Amenity Plan*

93. This clause requires that a premise be managed in accordance with a Noise and Amenity Action Plan. This document aims to ensure that business activities associated with the site do not cause adverse impacts to neighbouring residents and sites.
94. The applicant submitted a Noise and Amenity Action Plan for both tenancy 1 and tenancy 2 which confirms the following:
  - (a) Music played at premise will be restricted to background music with No DJ's or live bands playing at the premise. Music provided at the premises will comply at all times with the requirements of the State Environment Protection Policy (SEPP N-2) — Control of Music Noise from Public Premises.
  - (b) A senior member of staff will be in attendance at the premises during all licensed trading hours. Entry to the premises will be made available to Victoria Police, an 'authorised officer' of the City of Yarra, or a Compliance Inspector of the Victorian Commission for Gambling and Liquor Regulation (the VCGLR). Whilst the operator of this business will use its best endeavours to ensure there is no disturbance to the amenity of the area arising from the conduct of this licensed business, any issues or concerns raised by residents or others relating to the conduct of this business will be addressed promptly and efficiently.
  - (c) A complaints handling procedure will be implemented by the operator, with a record made of any complaints regarding the operation of the business and details of action taken in attending to such complaints.
  - (d) A maximum of five staff working at any one time, including a manager at any time.
  - (e) Hours of operation for the sale and consumption of liquor.

- (f) At least one (1) director of the licensee company will have completed the "Victorian Licensee's Training Course" or equivalent training program approved by the VCGLR. A nominee endorsed on the liquor licence issued for the premises will have completed the "Victorian Licensee's Training Course" (or equivalent) and the "Responsible Service of Alcohol" program. All staff involved in the service of liquor at the premises will be required to have evidence of the (current) completion of the "Responsible Service of Alcohol" program.
- (g) Waste management will be in accordance with the waste management plan approved under Planning Permit PLN14/0535. Also any waste will be privately collected.

95. Whilst, the NAAP submitted on the 26 September 2016 is in accordance with policy outlined in Clause 22.09-3.6, a condition can be included to the permit for the NAAP to be updated to include the revised operating hours as discussed with paragraph 62.

#### *Cumulative Impact*

96. An assessment criteria contained at Clause 52.27 not covered above is the cumulative impact of existing licensed premises and the proposed licensed premises on the amenity of the surrounding area. It is acknowledged that the mix of licensed premises in an area can influence potential cumulative impacts, with the extent of large-scale bars or nightclubs within close proximity potentially resulting in negative cumulative impacts to the immediate neighbourhood.
97. The "Corner Hotel" decision (*Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors*) provides an assessment methodology for considering applications that may result in cumulative impact. The decision also acknowledges that depending on the nature of the use (i.e. premise type, patron numbers and operating hours) the required level of assessment will vary.
98. Based on this decision, Council has developed an assessment tool to determine the likelihood of cumulative impact occurring as a result of a proposal based on risk factors associated with the type, size and closing hours of the premises, to help determine what level of assessment is appropriate. This assessment will be in relation to:
99. Tenancy 1:

Type of Premise	Risk Factor
<b>Café / Restaurant</b>	<b>0</b>
Bar / Restaurant / Café	1
Bar	3
Hotel / Tavern	3
Night Club	3
Place of Assembly	2
<b>Size of Premise</b>	<b>Risk Factor</b>
0 – 49 patrons	0
<b>50 – 99 patrons</b>	<b>1</b>
100 – 199 patrons	2
200+	3
<b>Closing hours</b>	<b>Risk factor</b>
<b>11pm</b>	<b>0</b>
12am	1
1am	2
2am	3

3am	3
After 3am	4

## 100. Tenancy 2:

Type of Premise	Risk Factor
<b>Café / Restaurant</b>	<b>0</b>
Bar / Restaurant / Café	1
Bar	3
Hotel / Tavern	3
Night Club	3
Place of Assembly	2
<b>Size of Premise</b>	<b>Risk Factor</b>
0 – 49 patrons	0
<b>50 – 99 patrons</b>	<b>1</b>
100 – 199 patrons	2
200+	3
<b>Closing hours</b>	<b>Risk factor</b>
<b>11pm</b>	<b>0</b>
12am	1
1am	2
2am	3
3am	3
After 3am	4

101. Applying the matrix of risk, a reasonable consideration would suggest a score of 1-3 would be no risk, higher than 2 would be a potential risk. In this instance both tenancy 1 and 2 achieve a score of 1, thus both venues would be of no risk.
102. Practice Note 61 – Licensed premises: Assessing cumulative impact was released by the Department of Planning and Community Development (DPCD) in March 2011, and provides a framework for assessing cumulative impact. The Practice Note outlines the following matters to be considered when assessing the cumulative impact of licensed premises:
- (a) Planning policy context
  - (b) Surrounding land use mix and amenity
  - (c) The mix of licensed premises
  - (d) Transport and dispersal
  - (e) Impact mitigation
103. The practice note states that it 'should' be used for new or expanded licensed premises that will trade past 11pm and are located in a 'cluster' of licensed premises, i.e. where there are three or more licensed premises within a radius of 100m from the subject land; or, 15 or more licensed premises within a radius of 500m from the subject land. Both proposed tenancies will not trade past 11pm; therefore, the practice note does not strictly apply in this application. Given the above, a full cumulative impact assessment was not required to be undertaken.
104. The total number of licensed premises within surrounding area does exceed the recommended number under the 'clustering of licensed premises' within the Cumulative Impact Guidelines. However, it is considered that given the site's inner city context and location to the Smith Street Activity Centre, there are an acceptable number of licensed premises within the area to not constitute a saturation of venues.

Furthermore, the majority of licenced premises are associated with restaurant/food and drink venues, which is consistent within an Activity Centre and a Mixed Use Zone where a wide array of restaurants, bakeries, grocers and cafes are characteristic and sought in this location.

105. Additionally, food and drinks premises have lower amenity impacts due to the consumption of food. Given the type of licence being applied for (including the earlier closing time), the high number of restaurant/café premises within the immediate area, proximity to a Activity Centre and the limited number of potential high risk venues within the immediate area, it is not considered that the proposal will negatively impact the amenity of the area.

#### Objector Concerns

*Hours of operation, in particular the hours of tenancy 1 operating under 11pm, 7 days a week;*

106. Discussed in paragraph 77 – 84.

*Lack of car parking;*

107. Discussed in paragraph 91 – 92.

*Anti-social behaviour;*

108. Discussed in paragraph 73 – 75 and 84.

*Noise; and*

109. Discussed in paragraph 87 – 90.

*Increase in rubbish.*

110. Rubbish from the tenancies will be addressed by the standard conditions of the permit. Any issues in regards to an issue in litter will be handled by Council's Local Laws Department.

#### **Conclusion**

111. Based on the above report, the proposal is considered to substantially comply with the relevant planning policy and therefore should be supported.

#### **RECOMMENDATION**

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN16/0753 be issued for the use of the land for a food and drinks premise (other than a hotel, tavern, restaurant and convenience restaurant) and a second food and drinks premise (no permit required for second tenancy) with the associated sale and consumption of liquor (one general licence and one restaurant and café licence) at 24 – 28 Stanley Street Collingwood, generally in accordance with the plans received by Council on 26 September 2016, and subject to the following conditions:

##### Tenancy 1 (Conditions 1 – 4)

1. The use and sale and consumption of liquor 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.
2. No more than 80 patrons are permitted in tenancy 1 at any one time.

3. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:
  - (a) Sunday to Wednesday 7.00am – 10.00pm; and
  - (b) Thursday to Saturday 7.00am – 11.00pm
4. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor to tenancy 1 may only occur between the following hours:
  - (a) Sunday to Wednesday 10.00am – 10.00pm; and
  - (b) Thursday to Saturday 10.00am – 11.00pm

Tenancy 2 (Conditions 5 – 7)

5. The sale and consumption of liquor 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.
6. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor to tenancy 2 may only occur between the following hours:
  - (a) Monday to Sunday 10.00am – 7.00pm
7. No more than 80 patrons are permitted tenancy 2 at any time liquor is being sold or consumed.

General (Conditions 9 – 20)

8. Before the sale and consumption of liquor commences, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The amended Noise and Amenity and Action Plan must be generally in accordance with the Noise and Amenity Action Plan submitted on 26 September 2016, but modified to include (or show, or address):
  - (a) The hours of operation to tenancy 1 as per Condition 3; and
  - (b) All doors and windows to remain closed after 9pm.
9. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
10. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
11. The amenity of the area must not be detrimentally affected by the use, including through:
  - (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.

to the satisfaction of the Responsible Authority.

12. The uses must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
13. The uses must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
14. Except with the prior written consent of the Responsible Authority, the provision of music and entertainment on the land must be at a background noise level.
15. Except with the prior written consent of the Responsible Authority, speakers external to the building must not be erected or used.
16. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
17. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
18. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.
19. This permit will expire if the use and sale and consumption of liquor is not commenced within two years from 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.

**Notes:**

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

A building permit maybe required before development is commenced. Please contact Council's Building Services on 9205 5585 to confirm.

**CONTACT OFFICER:** Celeste Bonazinga  
**TITLE:** Statutory Planner  
**TEL:** 9205 5363

**Attachments**

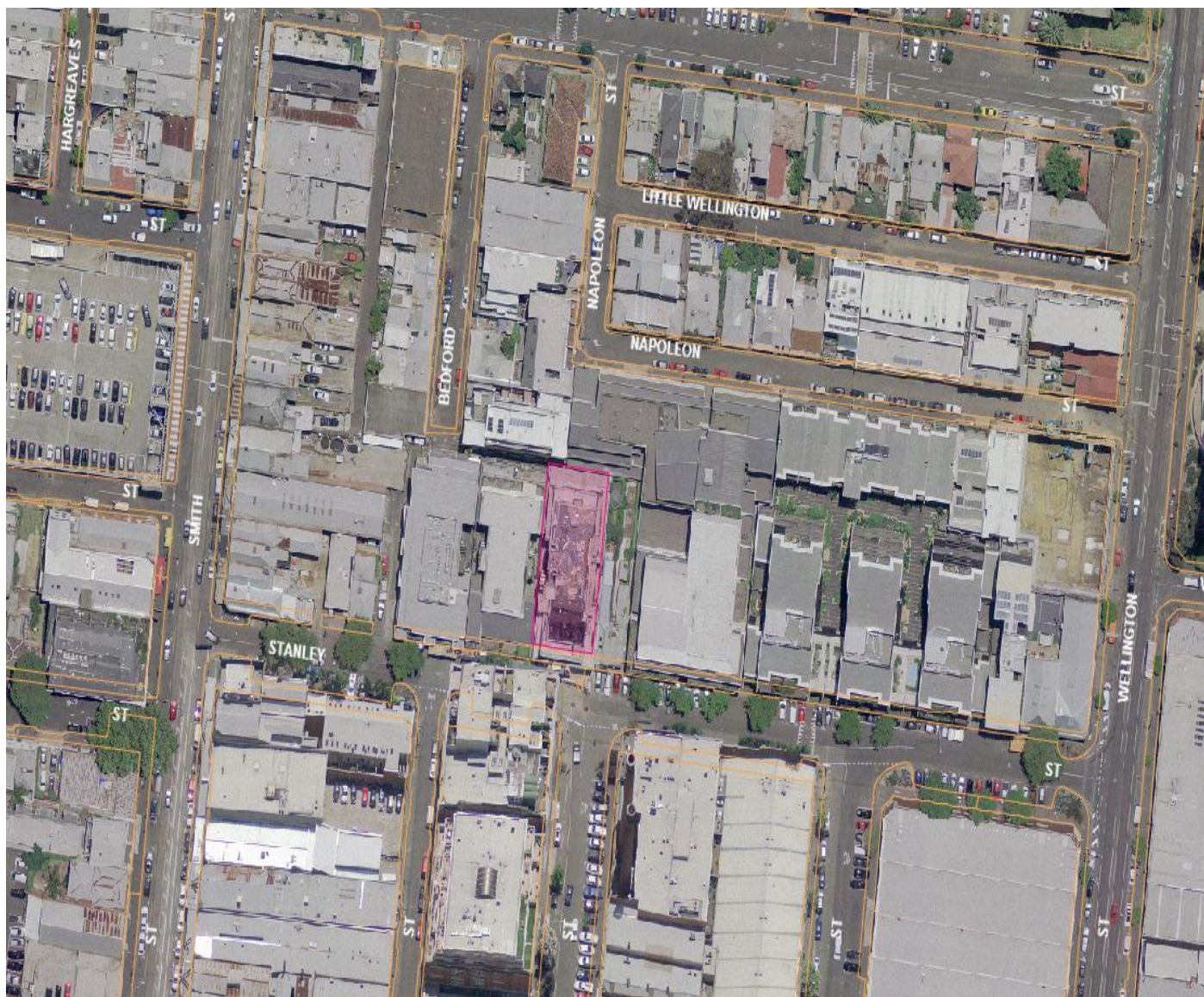
- 1 PLN16/0753- 24 - 28 Stanley Street Collingwood - Site and surrounds
- 2 PLN16/0753 - 24 - 28 Stanley Street Collingwood - Decision Plans
- 3 PLN16/0753 - 24 - 28 Stanley Street Collingwood - Community Amenity Referral



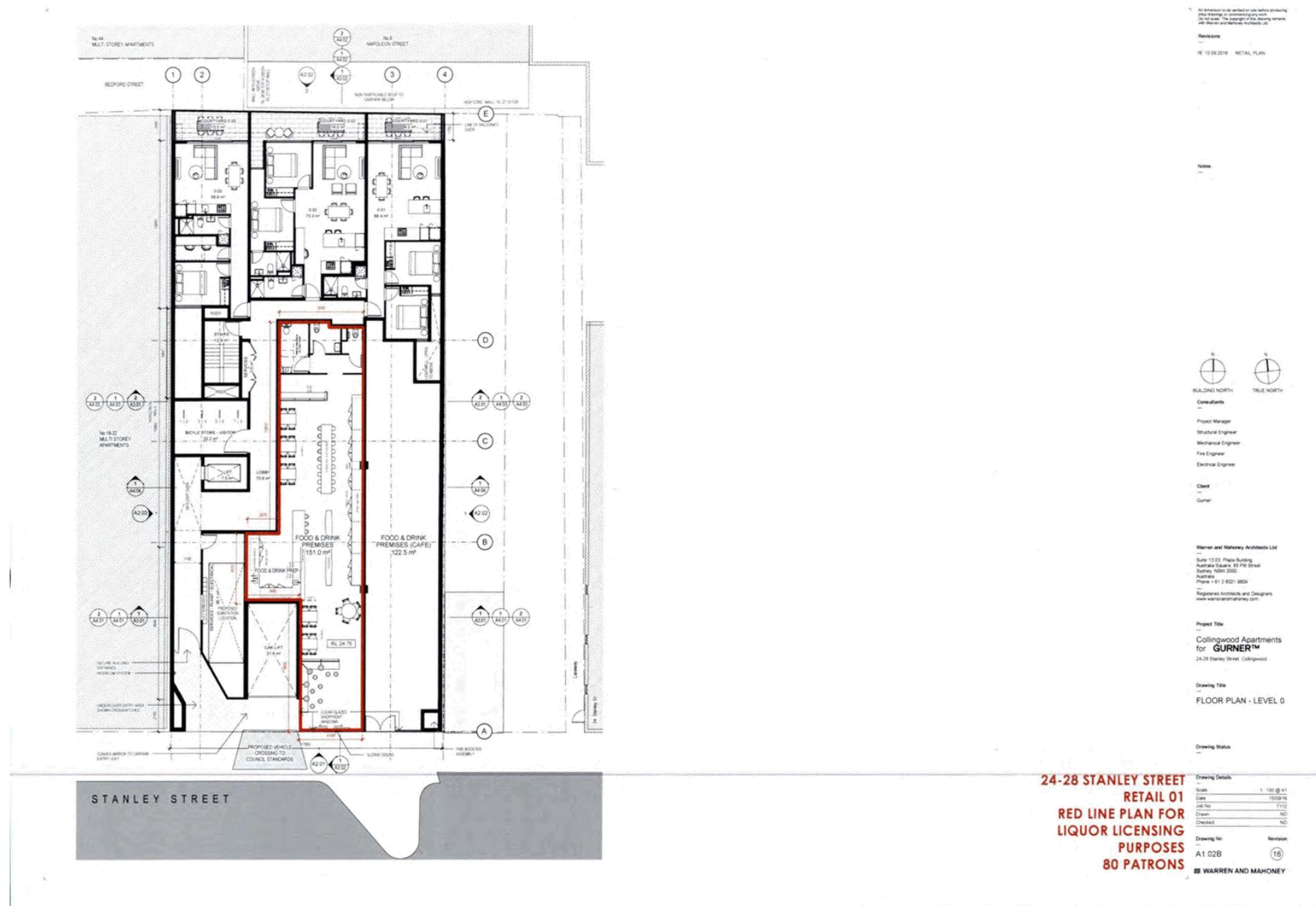
Attachment 1 - PLN16/0753- 24 - 28 Stanley Street Collingwood - Site and surrounds

Attachment 1 - PLN16/0753- 24 – 28 Stanley Street Collingwood - Site and surrounds

## PLN16/0753– 24 – 28 Stanley Street Collingwood – Subject site and surrounds

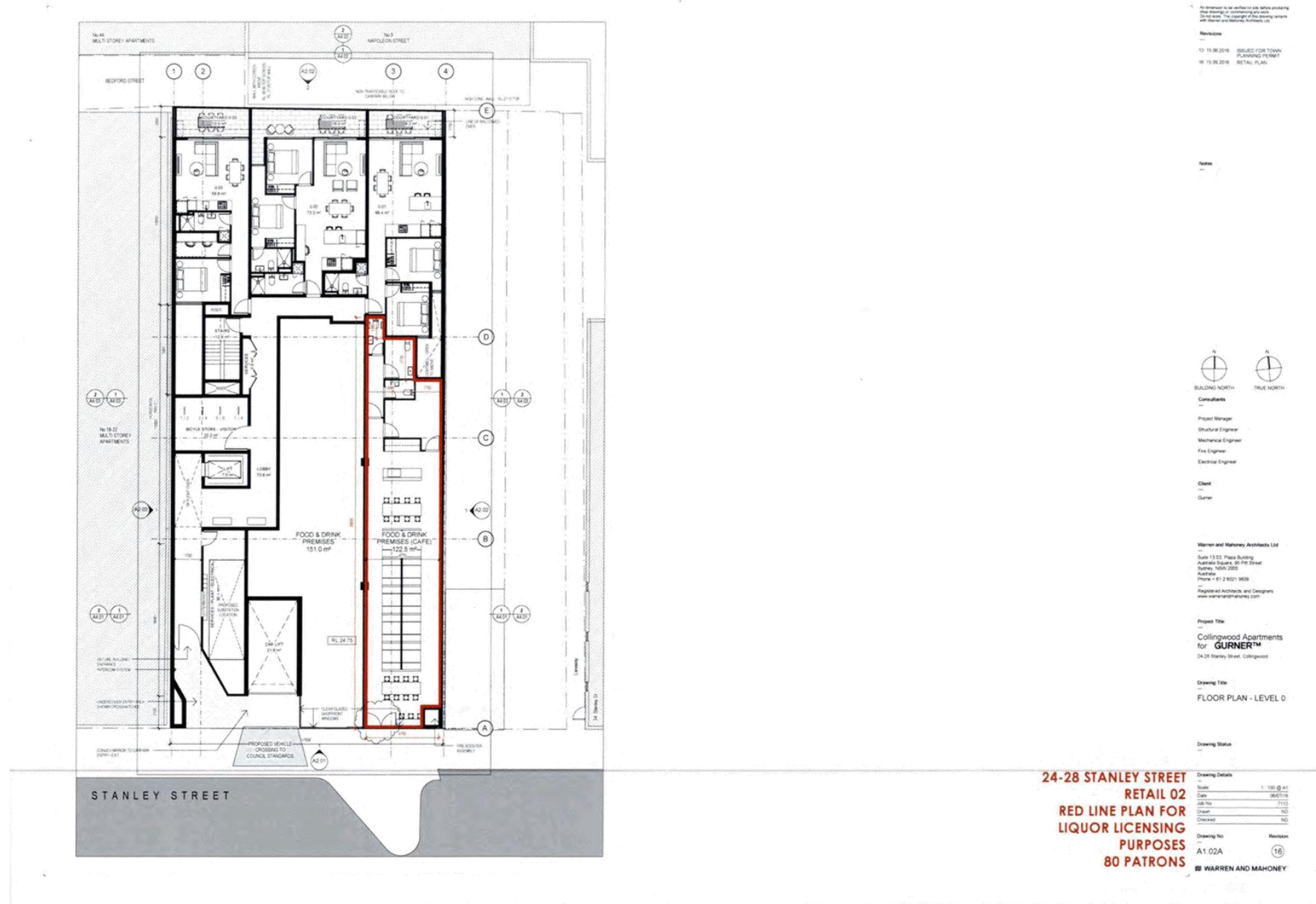


# Attachment 2 - PLN16/0753 - 24 - 28 Stanley Street Collingwood - Decision Plans





# Attachment 2 - PLN16/0753 - 24 - 28 Stanley Street Collingwood - Decision Plans



**Attachment 3 - PLN16/0753 - 24 - 28 Stanley Street Collingwood - Community Amenity Referral**

Referral comments from Council's Community Amenity Unit

From: Steve Alexander  
Date: 01/05/2017  
Application: PLN16/0753

I've had an opportunity to review the application and note this is a new site. In consultation with the Planning enforcement team given the hours do not exceed 11pm the Compliance branch does not have any concern with the application. Given there are a number of residential dwellings in the area and also at the proposed site the Compliance branch recommends strict noise conditions to both tenancies in relation to music. I recommend there is no music allowed after 9pm Sunday to Thursday and no music allowed after 10pm Friday and Saturday. In addition all windows and doors to remain closed after 9pm all days except when entering and exiting the premises.

I would think/suggest background music is only allowed all other times. With the dwellings and our experience even background music can cause issues. It's only 1 hour prior to the latest closing time. If worse comes to worse and depending of feedback and objectors concerns, half hour prior would be acceptable also.

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**1.3 14 Coppin Street, Richmond VIC 3121 - Amendment to Planning Application Permit No. PLN16/0008 - Sale and consumption of liquor in association with two (2) food and drink premises (cafes).**

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**Executive Summary**

**Purpose**

1. This report provides Council with an assessment of an amendment to a planning permit application submitted for 14 Coppin Street, Richmond (the Jacques Development) which seeks approval for the sale and consumption of liquor in association with two (2) food and drink premises.
2. The application is subject to a review at the Victorian Civil and Administrative Tribunal (VCAT). The application is listed for a hearing on 13 June 2017. There are no objector parties to the proceeding.
3. This report recommends Council support the application as amended.

**History / Background**

4. On 14 September 2016, Council refused the application which was for the sale and consumption of liquor in association with four (4) food and drink premises (cafes) on the following ground:
  1. *The proposed sale and consumption of liquor would be in an inappropriate location and would detrimentally affect the amenity of the surrounding area.*
5. Council received notice of an application to review Council's decision at VCAT on 27 October 2016.
6. VCAT listed the matter for a Practice Day hearing on 21 October 2016 to rule that the application should not have been advertised given the site's inclusion in Development Plan Overlay – Schedule 4 (DPO4) under the Yarra Planning Scheme. Under the DDO4, a proposal that is generally in accordance with the Development Plan is exempt from notice and appeal. On the basis that Council did not determine the application was not generally in accordance with the Development Plan, the application is therefore exempt from notice and appeal rights.
7. The Tribunal decision meant that none of the objections received to the application could be considered.
8. To address Council's concerns about the proposal, which relate to issues associated with the scale and intensity of the proposal, the Applicant has amended the proposal to seek approval for the sale and consumption of liquor in association with two (2) instead of four (4) food and drink premises.

**Key Planning Considerations**

9. Key planning considerations include:
  - (a) Clause 13.04-1 – Noise Abatement;
  - (b) Clause 22.09 – Licensed premises; and
  - (c) Clause 52.27 – Licensed premises.

## **Key Issues**

10. The key issues for Council in considering the proposal relate to:

- (a) Strategic context; and
- (b) Liquor licence.

## **Conclusion**

11. 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:** Katrina Thomas  
**TITLE:** Planning Appeals Advocate  
**TEL:** 9205 5306

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**1.3      14 Coppin Street, Richmond VIC 3121 - Amendment to Planning Application  
Permit No. PLN16/0008 - Sale and consumption of liquor in association with two  
(2) food and drink premises (cafes).**

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Trim Record Number: D17/49873

Responsible Officer: Manager Statutory Planning

**Proposal:** Sale and consumption of liquor in association with two (2) food and drink premises (cafes).  
**Existing use:** Mixed Use (staged development site)  
**Applicant:** Urbis Pty. Ltd.  
**Zoning / Overlays:** Mixed Use Zone (MUZ) / Development Plan Overlay (Schedule 4 Jaques Development Site, Richmond) and Environmental Audit Overlay (EAO)  
**Date of Application:** 07 January 2016  
**Application Number:** PLN16/0008

### Planning History

12. The Jaques site has an extensive planning history dating back to early 1998, which has culminated in an approved Development Plan that provides a concept development for the site. The DP was approved on the 13 February 2009 after a review at VCAT.
13. The Development Plan is a 99 page document that covers: urban context and site analysis; redevelopment guidelines and objectives; development plan; and assessment. The residential, office and food and drinks premises / retail uses are identified as well as car parking and bicycle parking for the overall site.
14. Planning permit PL09/0949 issued on 24 May 2010 for Stage 1 of the site (i.e. the northern sector) in accordance with the Development Plan. The permit allowed construction of a part two, part three, part five and part six storey building associated with 115 dwellings. This permit has been acted on.
15. An amendment to the Development Plan was approved at the direction of VCAT on 13 November 2012. The amendment primarily changed the southern sector by the removal of the office use and its conversion to residential.
16. Planning permit PLN11/0420 issued on 29 November, 2012, at the direction of VCAT, for the construction of residential buildings (with 298 dwellings) with uses of, food and drink premises, retail and offices, a four level car park and laneway (Stage 2 – Central Sector – and Stage 3 – Southern Sector). This permit has been acted on.

### Background

17. The application was received by Council on 7 January 2016. The application was advertised in error and twenty one (21) objections were received.
18. A planning consultation meeting was held on 26 July 2016. Following the meeting, the Applicant amended the application pursuant to section 57(A) of the *Planning and Environment Act 1987* (the Act) to reduce the hours for the sale and consumption of liquor on 24 August 2016 from:
  - (a) Monday to Saturday: 9.00am to 11.00pm; and
  - (b) Sundays: 10.00am to 11.00pm.

19. To:
- (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm.
20. Following Council's refusal of the application on 14 September 2016 and VCAT's subsequent ruling that the application was exempt from notice and appeal rights, Council advised all objectors in writing of VCAT's ruling.
21. In light of the fact that the application is generally in accordance with the Development Plan, the key issue is whether the scale and intensity of the proposal use is acceptable in the context.
22. To address Council's concerns, the applicant has reduced the number of food and drink tenancies to two instead of the previously proposed four. It is now proposed that other two retail tenancies will be operated as a dental surgery (a separate planning application will be lodged for this permission as 'office').

## **Existing Conditions**

### Subject Site

23. The subject site is located approximately 120m north of Bridge Road, with street frontages to Griffiths Street to the west, Coppin Street to the east, Highett Street to the north and Palmer Street to the south. The land is a large island with an overall area of 9877sqm.
24. The site is broken into three sectors:
- (a) Northern sector (adjacent Highett Street, known as Stage 1);
  - (b) Central Sector (bounded by Griffiths and Coppin Streets, known as Stage 2); and
  - (c) Southern Sector (triangular portion adjacent Palmer Street, known as Stage 3).
25. The Northern Sector is completed and provides 115 dwellings and associated car parking. Work is almost complete on the Central and Southern Sectors in accordance with planning permit PLN11/0420.
26. The proposed area for the sale and consumption of liquor relates to the tenancies shown as 'Retail 01' (Tenancy 1) and 'Food and drink premises' (Tenancy 5) in the Southern Sector under Planning Permit PLN11/0420. The tenancies are located at ground level, adjacent to Dyer Lane and Palmer Street to the immediate south.

### Surrounding land

27. The surrounding area is developed with a mix of residential, community and commercial / retail uses.

## **The Proposal**

28. The application is for the sale and consumption of liquor in association with the approved commercial tenancies.
29. It is proposed that liquor will be served to patrons within the following hours within each tenancy:
- (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm.

30. The application proposes Tenancy 1 with 106 patrons and 6 staff and Tenancy 5 with 184 patrons and 8 staff designated.
31. The red line plan for the liquor licence shows that liquor will be served within the internal areas of each tenancy, including the outdoor courtyard area associated with the as-labelled 'Food and Drink Premises'.

### Zoning

#### *Mixed Use Zone (MUZ)*

32. The purposes of the zone are (as relevant);
  - (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
  - (b) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
33. Pursuant to Clause 32.04-2 of the Yarra Planning Scheme (the Scheme), a planning permit is required for use of the land for a food and drink premises (café) if the leasable floor area exceeds 150sqm. Each retail tenancy is less than 150sq.m; with Tenancy 5 already approved as a 'Food and Drink Premises' under planning permit PLN11/0420. Accordingly, there is no planning permit requirement for the use.
34. There is no planning permit required for the liquor license under the zone.

### Overlays

#### *Development Plan Overlay – Schedule 4 (DDO4)*

35. Pursuant to 43.04-1 of the Scheme 'a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority'.
36. A development plan has been approved for the site.
37. Schedule 4 does not contain any specific requirements relating to the sale and consumption of liquor.

#### *Environmental Audit Overlay*

38. The requirements of this overlay are not applicable in this instance, as the proposal is not for a sensitive use (i.e. residential use, child care centre, pre-school centre or primary school).

### Particular Provisions

#### *Clause 52.27 – Licensed Premises Policy*

39. A permit is required to use land to sell or consume liquor if (relevantly):
  - (a) *A licence is required under the Liquor Control Reform Act 1998.*
40. The following decision guidelines must be considered;
  - (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
  - (b) *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*

- (c) *The impact of the hours of operation on the amenity of the surrounding area.*
- (d) *The impact of the number of patrons on the amenity of the surrounding area.*
- (e) *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

## General Provisions

### *Clause 65 General Provisions*

- 41. 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, amongst other things, the relevant State Planning Policy Frameworks and Local Planning Policy Framework, as well as the purpose of the Zone, Overlay or any other Provision.

### State Planning Policy Framework (SPPF)

- 42. The following SPPF provisions of the Scheme are relevant:

#### *Clause 13.04-1 Noise abatement*

- 43. The objective of this clause is *'to assist the control of noise effects on sensitive land uses'*.
- 44. The strategy is to *'ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area'*.

#### *Clause 17.01-1 Business*

- 45. The objective is *'to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities'*.

### Local Planning Policy Framework (LPPF)

- 46. The following LPPF provisions of the Scheme are relevant:

#### *Clause 21.04-3 Industry, office and commercial*

- 47. This clause has an objective *'to increase the number and diversity of local employment opportunities'* by applying the following strategy:
  - (a) *Strategy 8.3 – Encourage residential and business land use within the Mixed Use Zone to locate on the same site. As such, the zoning of the land encourages the co-existence of residential and commercial uses.*

## Relevant Local Policies

### *Clause 22.09 – Licensed premises*

- 48. This policy applies to all applications for new licensed premises. The objectives of this clause are:
  - (a) *To effectively manage the location, operation and hours of trade of licensed premises, in order to protect the amenity of nearby properties and areas.*
  - (b) *To protect residential and other commercial uses from excess noise, traffic and car parking issues.*



- (c) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*

49. Relevant policies of this clause are as follows:

(a) *Location and Access*

(i) *New licensed premises should be located such that:*

- *they are not in Residential, or Mixed Use zones*
- *there is appropriate opportunity to manage or buffer potential amenity impacts including ingress by queuing patrons, egress of those who have consumed alcohol on the premises, anti-social behaviour, in relation to more sensitive uses and, in particular, residential use*

(b) *Hours of Operation*

(i) *Assessment of the impact of the hours of operation on the amenity of the surrounding area consider:*

- *The zoning of surrounding land.*
- *The nature of surrounding uses and hours of operation.*
- *Potential noise emissions from the premises.*
- *Licensed premises in a Residential or Mixed Use Zone or within 30 metres of a residential area not trade beyond 11pm on any night unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area.*
- *Licensed premises in a Business or Industrial Zone not trade beyond 1am, unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area.*

(c) *Patron Numbers*

- (i) *The number of patrons not exceed the safe and amenable operating capacity of the premises.*
- (ii) *The number of patrons not adversely affect the amenity of the surrounding area.*

(d) *Noise*

- (i) *The operation of licensed premises have minimal impact on the amenity of the area, in relation to noise.*
- (ii) *Noise emissions from licensed premises comply with the standards specified in the State Environmental Protection Policy.*
- (iii) *On-site noise attenuation measures be considered for licensed premises where amenity impacts on the surrounding area may result from the proposed activities.*

(e) *Car parking*

- (i) *Car parking from new licensed premises not adversely impact on residential areas by way of on-street, over-flow parking or vehicles accessing off-street car parking.*

50. An assessment against this policy is provided in the 'Assessment' section of the report.

## **Advertising**

51. The application is exempt from notice and appeal rights because the application is generally in accordance with the DDO4.

## Referrals

### External

52. The original application was referred to SLR Consulting P/L for acoustic/noise advice in relation to the outdoor area associated with the 'Food and Drink Premises' tenancy. The advice from SLR is contained in the appendices to this report.

### Internal

53. The following internal referrals were made:
- (a) Social Planning - Community Health and Safety Unit ; and
  - (b) Community Amenity / Compliance Unit.
54. Referral responses are contained in appendices to this report.

## OFFICER ASSESSMENT

55. In assessing this application, the primary planning considerations are:
- (a) Strategic context;
  - (b) Liquor licence; and

### Strategic Context

56. Council's earlier decision on this application did not find that the proposal was not generally in accordance the DDO4. This is because the tenancies form part of an existing approval under Planning Permit PLN11/0420 for a mixed use development of the site which includes residential, retail and a food and drink premise. The retail premises do not need planning permission for use as a food and drinks premise because they are under 150sqm. Tenancy 5 is 187sqm however permission for use as a food and drinks premise has already been granted under Planning Permit PLN11/0420.
57. The key consideration is whether the sale and consumption of liquor in association with two of the tenancies will result in these tenancies no longer complementing the approved mixed-use function of the locality.
58. In light of the fact that the service of alcohol will be in association with food, the proposal will be ancillary and complementary to the food focus of the tenancies. The proposal provides people visiting and living in the area with the extra added option of having alcohol with their meal, should they choose. Given the operating hours and nature of a restaurant/café use, the sale and consumption of liquor is very unlikely to result in adverse off-site amenity impacts or alcohol related anti-social behaviour. However, to address Council's previous concerns about any flow on amenity impacts, the application has reduced the number of licenced tenancies from four to two. In addition, the Applicant has signalled it is their intention to lodge a separate application to convert Tenancy 3 and 4 into a dental surgery.
59. In light of the fact that the location and size of the tenancies have already been approved by Council, allowing for food and drinks premises as part of the mix of uses in this development, the proposal enjoys support in this location.

### Liquor Licence

60. The decision guidelines at Clause 52.27 of the Scheme, include the consideration of the impact of the sale or consumption of liquor on the amenity of the surrounding area, the impact of the hours of operation and number of patrons on the amenity of the surrounding area and the cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.
61. The original officer report provided a detailed assessment against the likely cumulative impact associated with the proposal and found the proposal generates a low risk based on the hours of operation ceasing by 11pm and the nature of the use having a food focus. The amended proposal reduces this risk even further.
62. There is no evidence to suggest that the proposal will contribute to any adverse wide-scale off-site amenity impacts and the tenancies will be required to operate in accordance with a Noise and Amenity Action Plan (NAAP) to ensure operational procedures are acceptable.
63. Clause 22.09 (Licensed premises policy) of the Scheme is Council's local policy to guide the assessment of new or extended licensed premises within the municipality. It contains six key elements that will be considered in the following section.

*Clause 22.09-3.1 – Location and Access*

64. The site's location in the Mixed Use Zone means it is in an area where the Scheme encourages a range of uses. As already mentioned, a food and drinks premise under 150sqm is "as-of-right" in the Mixed Use Zone. While Clause 22.09 discourages new licenced premises in the Mixed Use Zone, this is directed at licenced premises which have as their primary focus the service of alcohol (ie. tavern, nightclub) as opposed to a food focus which is low risk in terms of off-site amenity impacts and alcohol related anti-social behaviour.
65. Moreover, in regard to this particular context, it is relevant that the Development Plan has provided for a mix of uses on the site and the size and location of the commercial tenancies have already been approved under a subsequent permit. Subject to a condition restricting the licensed hours to 9pm Sunday to Thursday and to 11pm Friday and Saturday, the reduction in licenced tenancies from four to two ensures that the amenity of the surrounding area will not be adversely affected by the sale and consumption of alcohol in association with the approved tenancies.

*Clause 22.09-3.2 – Hours of Operation*

66. This proposal will cease the service of alcohol from 9pm Sunday to Thursday and from 11pm Friday and Saturday. The proposed hours comply with Clause 22.09-3.2 which states sites in a Mixed Use Zone should not trade beyond 11pm unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area.

*Clause 22.09-3.3 – Patron Numbers*

67. Tenancy 1 is proposed to have 106 patrons and Tenancy 5 is to have 184 patrons. A Building Surveyor's report identifies a permissible maximum 200 patrons at Tenancy 1 and 245 patrons at Tenancy 5. Accordingly, there are no concerns about the operating safety of either tenancy. Of note, this application provides Council with the ability to restrict patron numbers which would not be the case if the premises operate "as-of right".
68. A condition will require floor plans to show seating to at least 75% of the patrons of each tenancy in accordance with the requirements for a café/restaurant liquor licence. It should be noted that this condition will likely result in a reduction in patron numbers. The tenancies will be required to be managed in accordance with the NAAP.

69. In light of Planning Permit PLN11/0420 having approved the size and location of the commercial tenancies as part of the mixed use development of this site, the patron numbers associated with the approved uses are reasonable in this context.

*Clause 22.09-3.4 – Noise*

70. The NAAPs of each tenancy, submitted as part of the application, outline measures to ensure that the sale and consumption of liquor would not be detrimental to the amenity of the area. The plans include measures to be undertaken to identify and address sources of noise.
71. Relevantly, there will be no live music or DJ's associated with the site and music will be limited to background levels. Conditions will require that the noise from the premises must comply with EPA requirements, notably SEPPN-1 and SEPP N-2 which control commercial noise and music from public premises respectively. There are to be no external speakers in the outdoor area.
72. In accordance with the acoustic advice Council commissioned from SLR Consulting, a condition will require the sale and consumption of liquor to cease by 10.00pm in the outdoor / courtyard area associated with Tenancy 5 on Friday and Saturday. Of note, noise compliance with SEPPN-2 evening criteria does not come into effect until 10.00pm thereby ensuring the licensed hours will not impact any operational requirements for compliance with SEPPN-2 in the evening period.
73. It is considered that noise associated with the sale and consumption of liquor will be effectively managed and it is not expected to result in any unreasonable impacts on surrounding residents. Residents choosing to move into this development would have been well aware of the location of the commercial tenancies within the development to make an informed choice about the whether the mix of uses within the development is suited to their lifestyle and amenity expectations. Notwithstanding, the applicant has reduced the scale and intensity of the proposal so that only two of the four tenancies are proposed to be licensed.

*Clause 22.09-3.5 – Car Parking*

74. A car parking reduction was considered as part of the original development plan that allowed the existing use and development on the land. There are no implications or changes to the as-approved car parking layout. There is no evidence that the sale and consumption of liquor will result in an increased demand for car parking. Furthermore, there is convenient access to the site by alternative transport modes, as well as the availability of time restricted on-street parking in the surrounding area.

*Clause 22.09-3.6 – Noise and Amenity Plan (NAAP)*

75. The tenancies will be required to be managed in accordance with a NAPP which will, (amongst other matters) require the following:
- (a) a complaints register be kept to allow for effective action of complaints and monitoring by Council if required;
  - (b) details of staffing arrangements and training of staff to ensure the responsible service of alcohol, including that a manager will always be on-site during the sale and consumption of liquor;
  - (c) all lighting is appropriately designed and baffled so as not to adversely affect the amenity of the surrounding properties.
  - (d) waste management in accordance with the Waste Management Plan (WMP) prepared by WasteTech Services Pty. Ltd, which includes no emptying of bottles into garbage bins after 10.00pm or before 7.00am;

- (e) no music other than background music to be provided. No live music or DJ will perform in the premises. A condition will require music to comply with the standards set out in State Environmental Protection Policy (SEPP N-2) – Control of Music from Public Premises; and
- (f) the corresponding floor plans to show seating to be available to at least 75% of the patrons within the premises with no external seating in the laneway.

76. The NAAP will be required by way of condition and each tenancy will required to operate in accordance with the NAAP at all times.

### **Conclusion**

77. Based on the report, the amended proposal is considered to substantially comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval subject to conditions.

### **RECOMMENDATION**

That having considered all relevant planning policies, the Committee resolves to advise the Applicant and VCAT that it supports the amendment to application for Planning Permit PLN16/0008 for the sale and consumption of liquor in association with two (2) food and drink premises (cafes) as part of the Jaques Development at 14 Coppin Street, Richmond subject to the following conditions:

1. Prior to the liquor licence commencing, amended Noise and Amenity Action Plans (NAAPs) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, each NAAP will be endorsed and will then form part of the permit. The NAAPs must be generally in accordance with the NAAPs received by Council on 02 June 2016, but modified to include:
  - (a) The hours for the sale and consumption of liquor as stipulated for each tenancy under conditions 4-7;
  - (b) Confirmation that a manager will always be on site for each tenancy during the sale and consumption of liquor;
  - (c) Music in the outdoor area associated with Tenancy 5 to cease no later than 10pm;
  - (d) All external lighting to be oriented to prevent direct light spill outside each tenancy;
  - (e) Floor plans to show seating for at least 75% of patrons within both tenancies and no more than 106 patrons within Tenancy 1 and 184 patrons within Tenancy 5.
  - (f) The maximum patron numbers specified as a result of the Condition 1(e)
  - (g) Tenancy 5 to include a plan notation that absorptive material with a minimum absorption coefficient of NRC0.7 be attached to the underside of the slab soffit of the outdoor area.
2. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor must be carried out in accordance with this permit and the endorsed NAAPs and plans.

#### **Tenancy 1 (Conditions 4 and 5)**

4. No more patrons than those specified in the endorsed NAAP are permitted on the land at any time liquor is being sold or consumed.

5. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of:
  - (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm.

Tenancy 5 (Conditions 6 and 7)

6. No more patrons than those specified in the endorsed NAAP are permitted on the land at any time liquor is being sold or consumed.
7. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of:
  - (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm (with the exception of the outdoor area that will cease no later than 10:00pm on these days).
8. Before the sale and consumption of liquor to Tenancy 5 commences, the requirement as per Condition 1(g) must be installed and maintained to the satisfaction of the Responsible Authority.
9. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
10. The amenity of the area must not be detrimentally affected by the use, including through:
  - (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.

to the satisfaction of the Responsible Authority.
11. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
12. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
13. Except with the prior written consent of the Responsible Authority, the provision of music and entertainment on the land must be at a background noise level.
14. Speakers external to the building must not be erected or used.
15. Before the use 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 Waste Tech Services Pty Ltd and dated 12 May 2016, but modified to address:

- (a) Tenancy 1 and Tenancy 5 only;
  - (b) Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
- 16. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
  - 17. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.
  - 18. This permit will expire if the sale and consumption of liquor is not commenced within two years from 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.

**NOTES:**

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

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

**CONTACT OFFICER:** Katrina Thomas  
**TITLE:** Planning Appeals Advocate  
**TEL:** 9205 5306

**Attachments**

- 1 Site location - 14 Coppin Street, Richmond
- 2 14 Coppin Street Richmond - Floor plans
- 3 Section 57Amendment
- 4 Noise and Amenity Action Plans
- 5 Applicant's Acoustic Report
- 6 Building Surveyor Report Tenancy 1
- 7 Building Surveyor Report Tenancy 2
- 8 Building Surveyor Report Tenancy 3
- 9 Building Surveyor Report Tenancy 5
- 10 SLR - Acoustic referral advice
- 11 Community Amenity / Compliance Unit Advice
- 12 Social Planning - Community Health and Safety Unit Advice
- 13 Original IDAC Report 14 September 2016

**Attachment 1 - Site location - 14 Coppin Street, Richmond**

**SUBJECT LAND: 14 Coppin Street, Richmond (Jaques Development)**

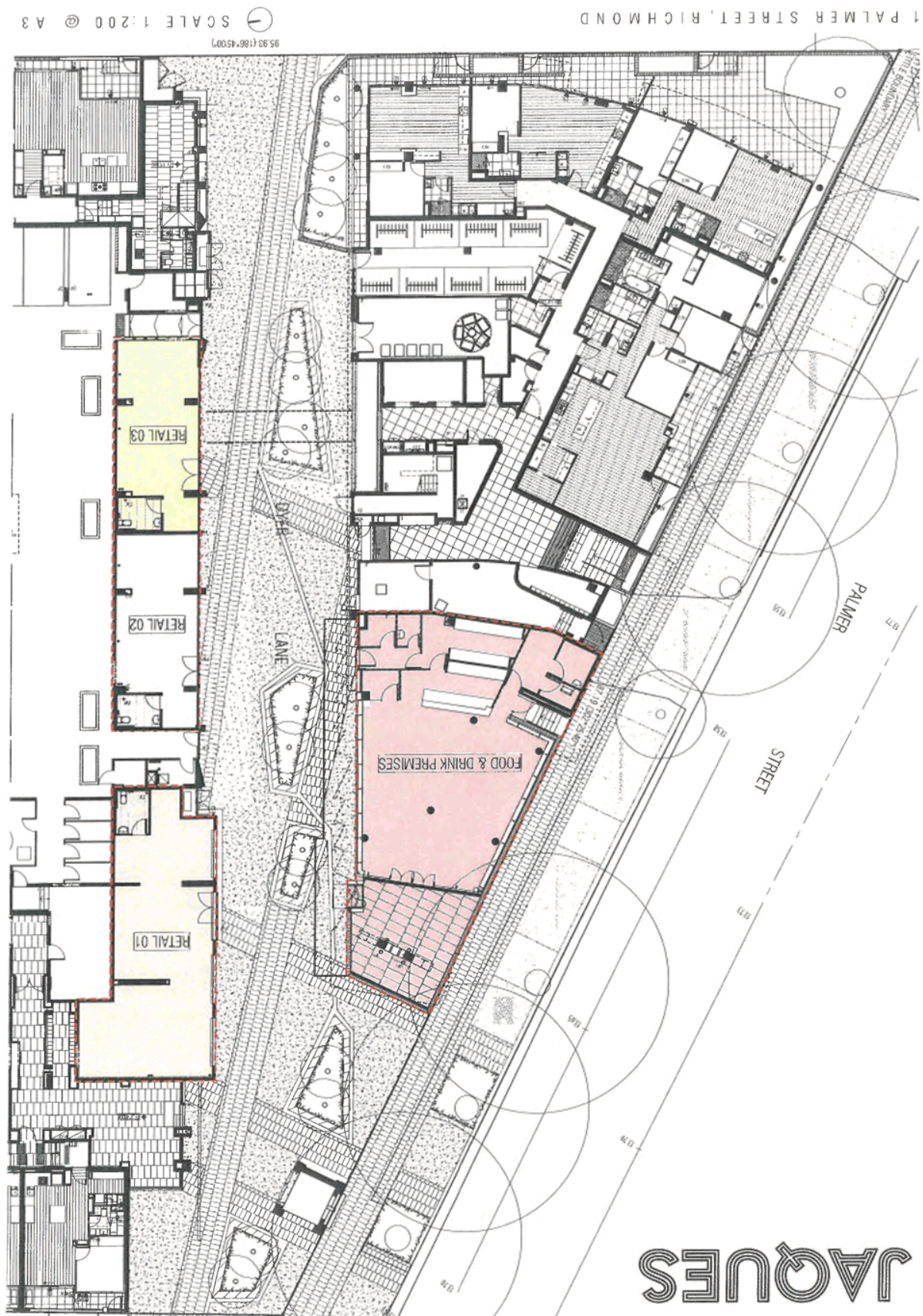


↑ North

★ Subject Site

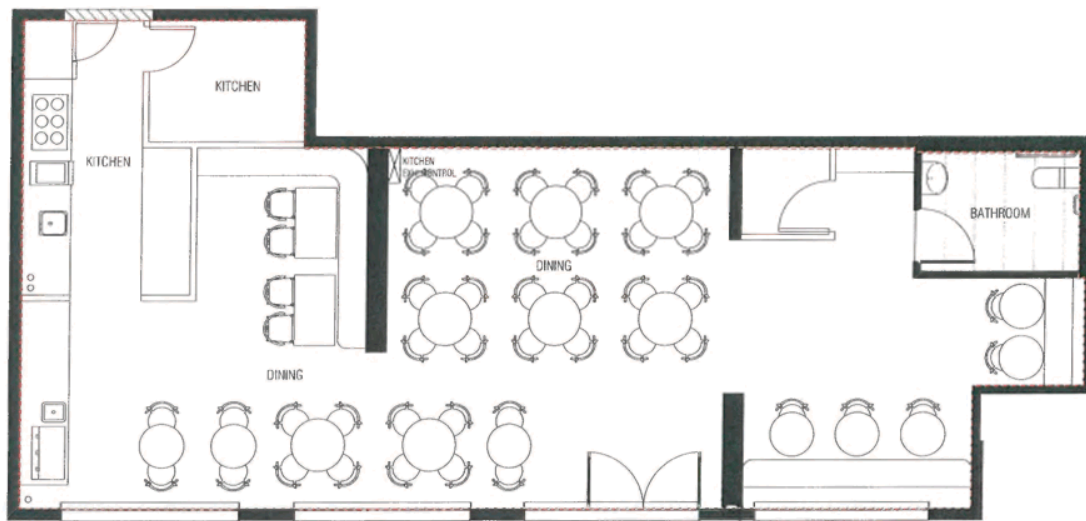


Attachment 2 - 14 Coppin Street Richmond - Floor plans



Attachment 2 - 14 Coppin Street Richmond - Floor plans

# JAQUES



GROUND FLOOR PLAN  
SCALE 1:50

\*\* ALL FURNITURE LAYOUTS & QUANTITIES ARE INDICATIVE AND DO NOT REFLECT NUMBER OF CHAIRS / PATRONS PRESENT WHEN THE BUSINESS IS OPERATIONAL.

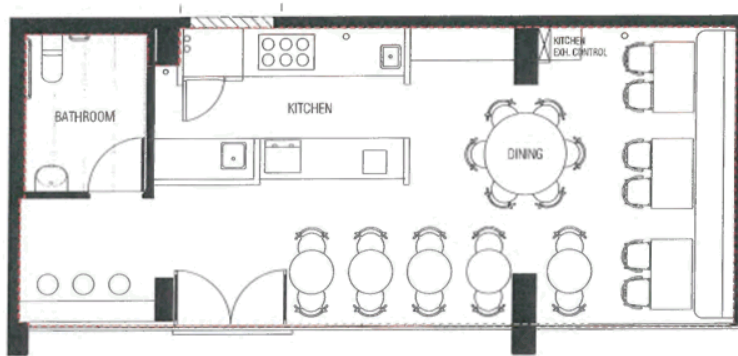


RETAIL 01  
INTERNAL AREA 127m<sup>2</sup>



Attachment 2 - 14 Coppin Street Richmond - Floor plans

JAQUES



GROUND FLOOR PLAN  
SCALE 1:50

\*\* ALL FURNITURE LAYOUTS & QUANTITIES ARE INDICATIVE AND DO NOT REFLECT NUMBER OF CHAIRS / FURNITURE PRESENT WHEN THE BUSINESS IS OPERATIONAL



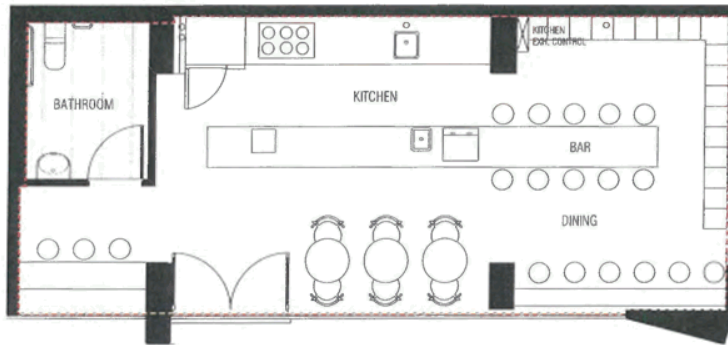
RETAIL 02  
INTERNAL AREA 67m<sup>2</sup>



KEY PLANS & LOCATIONS

# Attachment 2 - 14 Coppin Street Richmond - Floor plans

## JAQUES



GROUND FLOOR PLAN  
SCALE 1:50

\*\* ALL FURNITURE LAYOUTS & QUANTITIES ARE INDICATIVE AND DO NOT REFLECT NUMBER OF CHAIRS / PATRONS PRESENT WHEN THE BUSINESS IS OPERATIONAL

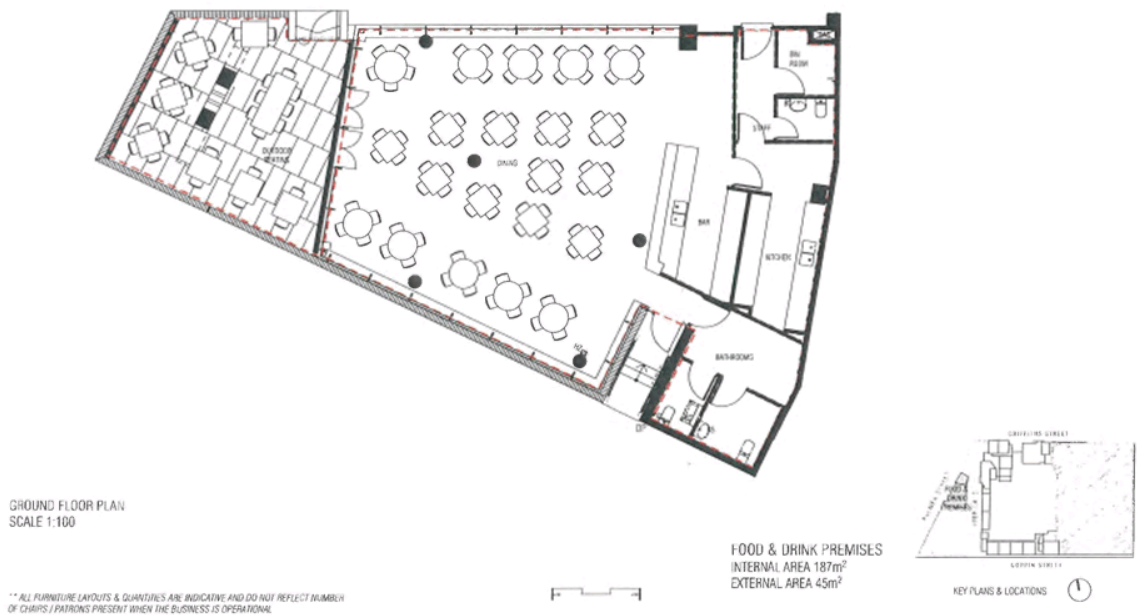
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INTERNAL AREA 67m<sup>2</sup>



KEY PLANS & LOCATIONS

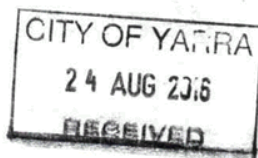
# Attachment 2 - 14 Coppin Street Richmond - Floor plans

## JAQUES





Attachment 3 - Section 57Amendment



**LEVEL 12**  
**120 COLLINS STREET**  
**MELBOURNE VIC 3000**

URBIS.COM.AU  
Urbis Pty Ltd  
ABN 50 105 256 228

18 August 2016

Mr John Theodosakis  
Senior Statutory Planner  
City of Yarra  
Richmond Town Hall  
333 Bridge Road, Richmond, VIC, 3121

Dear John,

## 14 COPPIN STREET, RICHMOND PLN16/0180 - SECTION 57A APPLICATION

Urbis continue to act on behalf of MacRiver Pty Ltd in regard to the abovementioned site and planning permit application.

Following a community consultation session held at Council on 26.07.16, the client has considered seeking an alteration to the hours sought under the application for the sale and consumption of liquor within the four food and drink premises' within Dyer Lane. This amendment is a direct result of the issues voiced at the consultation meeting and will reduce the hours for consumption of liquor.

This amendment is sought via Section 57A or the *Planning and Environment Act 1987* and we enclose a completed form and required fee of \$102.

The proposed amendment to the hours for the sale and consumption of liquor are as below:

- Sunday - Thursday 10:30am to 9:00pm
- Friday – Saturday 10:30am to 11:00pm
- Anzac Day to remain consistent

The original application sought the following hours

- Monday - Saturday 9:00am to 11:00pm
- Sundays 10:00am to 11:00pm
- ANZAC day 12 noon to 11 pm

It is noted that any consumption of alcohol within Dyer Lane and outside the tenancies will be subject to a separate approval under Council's Local Laws. We also note that the tenancies

Our arguments surrounding the appropriateness of licenced premises within this location remain consistent with those submitted with the original application. We note that no objection has been raised by Council's Amenity Enforcement or Community Health and Safety departments.

We understand that objectors will be notified of the amendment at the time the application is to be heard at a Council meeting (scheduled to be 14 September 2016) and that re-advertising of the matter is not required for the reduced hours sought.

MA5701-Lett-LL-S57A-180816

**Attachment 3 - Section 57Amendment**



Should there be any further queries regarding the application please do not hesitate to contact the undersigned on 8663 4948 or [asmith@urbis.com.au](mailto:asmith@urbis.com.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Adelaide Smith".

Adelaide Smith  
Senior Consultant

MA5701-Lett-LL-S57A-180816

2

## Attachment 4 - Noise and Amenity Action Plans

### Tenancy 1

#### Details of Other Licensed premises

Given the nature of the tenancies and their location within the Jaques development; the premises will form a cluster that is secluded from the wider area. The closest proliferation of licensed premises is located south of the site along Bridge Road, approximately 500m.

#### Noise Management

Noise sources associated with the premises include:

- Low level background music
- Patron noise from the entry and exit to the tenancies via the laneway
- Patron noise from outdoor seating areas

All potential noise sources for this development are typically associated with a café or restaurant, and no loud music or excessive noise will be generated by the tenancies. These measures provide and maintain regulated sound emission that is in generally compliance with the required N2 noise level.

#### Procedures to be undertaken by staff in the event complaints are received include the following:

Any complaint made by a member of the public (including customers and residents), the Victoria Police, an 'authorised officer' of Council or an officer of Liquor Licensing Victoria, would be recorded as an incident and provided to the directors/owners of the venue(s) in writing. Reported matters would be immediately dealt with by one or more managers/owners.

#### Staff Management

Staffing arrangements for the tenancies will vary according to days and times of trade and particular tenants and will be typical to any food and drink premises operation. All staff required to serve alcohol will have the appropriate Responsible Serving of Alcohol accreditation and will be monitored by the relevant managerial staff. There will be six staff on site at any given time.

#### Hours of Operation

The hours of operation for the retail tenancies are restricted to 6:30 am to midnight, as per Condition 37 of PLN11/0420.

Whilst the retail operations will cease at midnight, the liquor licence hours will be restricted to 11pm.

#### Patron Numbers

As supported by the submitted building surveyor's report, the maximum number of patrons will be restricted to 106.

#### Lighting

All lighting will be appropriately designed to not adversely affect the amenity of the neighbouring properties.

RECEIVED  
02 JUN 2016



## Attachment 4 - Noise and Amenity Action Plans

### **Music**

Music will be limited to background level, as to not unduly impact on the amenity of nearby residents.

### **Waste Management**

The management of waste collection for the commercial premises will be in accordance with the Waste Management Plan provided. Noting this is generally consistent with that endorsed for the overall development under PLN11/0420.

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## Attachment 4 - Noise and Amenity Action Plans

### Tenancy 2

#### Details of Other Licensed premises

Given the nature of the tenancies and their location within the Jaques development; the premises will form a cluster that is secluded from the wider area. The closest proliferation of licensed premises is located south of the site along Bridge Road, approximately 500m.

#### Noise Management

Noise sources associated with the premises include:

- Low level background music
- Patron noise from the entry and exit to the tenancies via the laneway
- Patron noise from outdoor seating areas

All potential noise sources for this development are typically associated with a café or restaurant, and no loud music or excessive noise will be generated by the tenancies. These measures provide and maintain regulated sound emission that is in generally compliance with the required N2 noise level.

#### Procedures to be undertaken by staff in the event complaints are received include the following:

Any complaint made by a member of the public (including customers and residents), the Victoria Police, an 'authorised officer' of Council or an officer of Liquor Licensing Victoria, would be recorded as an incident and provided to the directors/owners of the venue(s) in writing. Reported matters would be immediately dealt with by one or more managers/owners.

#### Staff Management

Staffing arrangements for the tenancies will vary according to days and times of trade and particular tenants and will be typical to any food and drink premises operation. All staff required to serve alcohol will have the appropriate Responsible Serving of Alcohol accreditation and will be monitored by the relevant managerial staff. There will be five staff members at any given time.

#### Hours of Operation

The hours of operation for the retail tenancies are restricted to 6:30 am to midnight, as per Condition 37 of PLN11/0420.

Whilst the retail operations will cease at midnight, the liquor licence hours will be restricted to 11pm.

#### Patron Numbers

As supported by the submitted building surveyor's report, the maximum number of patrons will be restricted to 53.

#### Lighting

All lighting will be appropriately designed to not adversely affect the amenity of the neighbouring properties.

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02 JUN 2016

## Attachment 4 - Noise and Amenity Action Plans

### **Music**

Music will be limited to background level, as to not unduly impact on the amenity of nearby residents.

### **Waste Management**

The management of waste collection for the commercial premises will be in accordance with the Waste Management Plan provided. Noting this is generally consistent with that endorsed for the overall development under PLN11/0420.

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02 JUN 2016

## Attachment 4 - Noise and Amenity Action Plans

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### Tenancy 3

#### Details of Other Licensed premises

Given the nature of the tenancies and their location within the Jaques development; the premises will form a cluster that is secluded from the wider area. The closest proliferation of licensed premises is located south of the site along Bridge Road, approximately 500m.

#### Noise Management

Noise sources associated with the premises include:

- Low level background music
- Patron noise from the entry and exit to the tenancies via the laneway
- Patron noise from outdoor seating areas

All potential noise sources for this development are typically associated with a café or restaurant, and no loud music or excessive noise will be generated by the tenancies. These measures provide and maintain regulated sound emission that is in generally compliance with the required N2 noise level.

#### Procedures to be undertaken by staff in the event complaints are received include the following:

Any complaint made by a member of the public (including customers and residents), the Victoria Police, an 'authorised officer' of Council or an officer of Liquor Licensing Victoria, would be recorded as an incident and provided to the directors/owners of the venue(s) in writing. Reported matters would be immediately dealt with by one or more managers/owners.

#### Staff Management

Staffing arrangements for the tenancies will vary according to days and times of trade and particular tenants and will be typical to any food and drink premises operation. All staff required to serve alcohol will have the appropriate Responsible Serving of Alcohol accreditation and will be monitored by the relevant managerial staff. There will be five staff members at any given time.

#### Hours of Operation

The hours of operation for the retail tenancies are restricted to 6:30 am to midnight, as per Condition 37 of PLN11/0420.

Whilst the retail operations will cease at midnight, the liquor licence hours will be restricted to 11pm.

#### Patron Numbers

As supported by the submitted building surveyor's report, the maximum number of patrons will be restricted to 42.

#### Lighting

All lighting will be appropriately designed to not adversely affect the amenity of the neighbouring properties.

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02 JUN 2016

## Attachment 4 - Noise and Amenity Action Plans

### **Music**

Music will be limited to background level, as to not unduly impact on the amenity of nearby residents.

### **Waste Management**

The management of waste collection for the commercial premises will be in accordance with the Waste Management Plan provided. Noting this is generally consistent with that endorsed for the overall development under PLN11/0420.

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## Attachment 4 - Noise and Amenity Action Plans

### Tenancy 5

#### Details of Other Licensed premises

Given the nature of the tenancies and their location within the Jaques development; the premises will form a cluster that is secluded from the wider area. The closest proliferation of licensed premises is located south of the site along Bridge Road, approximately 500m.

#### Noise Management

Noise sources associated with the premises include:

- Low level background music
- Patron noise from the entry and exit to the tenancies via the laneway
- Patron noise from outdoor seating areas

All potential noise sources for this development are typically associated with a café or restaurant, and no loud music or excessive noise will be generated by the tenancies. These measures provide and maintain regulated sound emission that is in generally compliance with the required N2 noise level.

#### Procedures to be undertaken by staff in the event complaints are received include the following:

Any complaint made by a member of the public (including customers and residents), the Victoria Police, an 'authorised officer' of Council or an officer of Liquor Licensing Victoria, would be recorded as an incident and provided to the directors/owners of the venue(s) in writing. Reported matters would be immediately dealt with by one or more managers/owners.

#### Staff Management

Staffing arrangements for the tenancies will vary according to days and times of trade and particular tenants and will be typical to any food and drink premises operation. All staff required to serve alcohol will have the appropriate Responsible Serving of Alcohol accreditation and will be monitored by the relevant managerial staff. There will be eight staff members on site at any given time.

#### Hours of Operation

The hours of operation for the retail tenancies are restricted to 6:30 am to midnight, as per Condition 37 of PLN11/0420.

Whilst the retail operations will cease at midnight, the liquor licence hours will be restricted to 11pm.

#### Patron Numbers

As supported by the submitted building surveyor's report, the maximum number of patrons will be restricted to 184.

#### Lighting

All lighting will be appropriately designed to not adversely affect the amenity of the neighbouring properties.

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02 JUN 2016

## Attachment 4 - Noise and Amenity Action Plans

### **Music**

Music will be limited to background level, as to not unduly impact on the amenity of nearby residents.

### **Waste Management**

The management of waste collection for the commercial premises will be in accordance with the Waste Management Plan provided. Noting this is generally consistent with that endorsed for the overall development under PLN11/0420.

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02 JUN 2016

## Attachment 5 - Applicant's Acoustic Report



23 May 2016

Riverside Group Pty Ltd  
1/10-16 Queen Street  
Melbourne VIC 3000

6 Gipps Street  
Collingwood VIC 3066  
Australia  
T: +613 9416 1855  
ABN: 53 470 077 191  
www.marshallday.com

**Attention: Richard Ng**

Dear Richard

### 1 PALMER ST, RICHMOND - PATRON NOISE ASSESSMENT

#### INTRODUCTION

An application for a liquor license has been lodged for a proposed restaurant at 1 Palmer Street, Richmond. The restaurant will have external seating for 26 patrons.

As part of the application, Marshall Day Acoustics Pty Ltd (MDA) has been commissioned to conduct a desktop noise assessment to consider music and patron noise from the outdoor area.

A glossary of acoustic terms used within this report is provided in Appendix A.

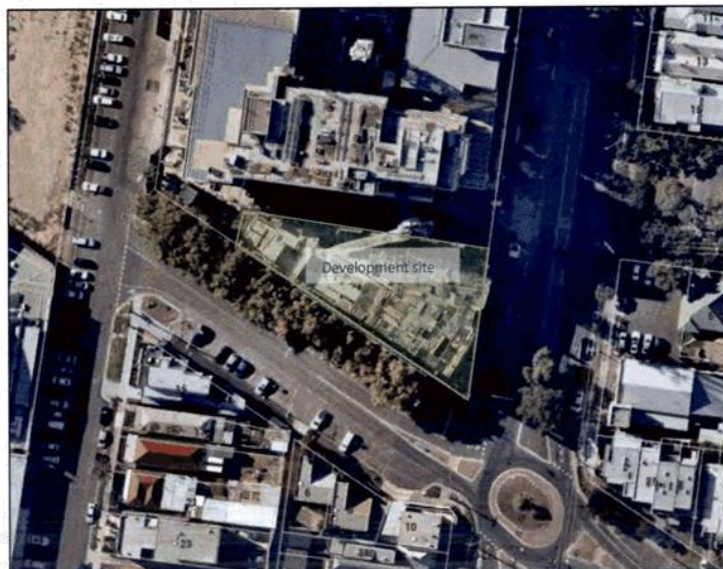
#### SITE DESCRIPTION

The site is bounded by the following:

- Dyer Street (future public thoroughfare) with the Jaques residential development to the north
- Coppin Street to the east with residential dwellings and a place of worship beyond
- Palmer Street to the south with residential dwellings beyond
- Griffiths Street to the west.

The residential building directly to the north, the apartments directly above the gymnasium (which is above the restaurant) and the residences on Palmer Street to the south have been considered as the nearest residential receivers. An aerial photograph of the subject site and surrounds is provided in Figure 1.

Figure 1: Site location and surrounds (Image: Nearmap)





## Attachment 5 - Applicant's Acoustic Report



The City of Yarra has requested the following as part of the application:

*A letter must be provided from an acoustic consultant that the provision of 26 seats in the undercover out door area on title (which can operate until 12 midnight) will not result on adverse noise impacts on all surrounding dwellings*

It is understood that the outdoor area will not operate past 2200 hours and that music noise levels within the outdoor area will be limited to background music only.

### LEGISLATION AND GUIDELINES

A range of guidelines and legislation is used in Victoria to assess and control environmental noise. This section provides an overview of the key documents and guidelines that are applicable to the redevelopment of the venue.

A summary of the relevant legislation and guidelines is provided in Table 1.

**Table 1: Relevant Victorian noise legislation**

Document	Overview
Environment Protection Act 1970 (the Act)	The Act provides the overarching legislative framework for the protection of the environment in Victoria. It establishes obligations for the control of environmental noise and applies to all types of noise sources except rail operations. The legislation does not specify noise limit values, but sets out legal requirements to comply with State environment protection policies and prescribed standards.
State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2)	SEPP N-2 defines mandatory noise limits for music associated with public premises in the State of Victoria, including indoor and outdoor venues. The limits apply to the level of noise occurring at neighbouring sensitive receivers. Noise limits are determined on the basis of background noise levels, and are separately defined for day, evening and night periods. Refer to Appendix C1 for further detail and noise limit derivation.
Marshall Day Acoustics patron noise assessment methodology (MDA design targets)	Noise predominantly related to voices of patrons in outdoor areas is not covered under any State Environment Protection Policy or general Victorian guideline. In lieu of an established state policy or criterion, MDA has developed a set of design targets which have been referenced as part of numerous planning applications and VCAT hearings for proposed external patron noise areas. The design targets are defined separately for day, evening and night periods and are determined on the basis of background noise levels. Refer to Appendix C3 for further detail.

### EXISTING NOISE ENVIRONMENT

MDA have conducted numerous background noise surveys in the vicinity of the subject site. Typical evening period background noise levels in the vicinity of the subject site range from 44 dB  $L_{A90}$  to 47 dB  $L_{A90}$ . For the purpose of this assessment MDA have used the lower of this range for the derivation of evening criteria. It should be noted that for this proposed development compliance with the evening period criteria will result in compliance with the day period limit under the same operational conditions.

## Attachment 5 - Applicant's Acoustic Report



### MUSIC NOISE ASSESSMENT

The following sections present a summary of the music assessment as follows:

- Noise limits applicable to music from the venue
- Data used to represent music levels at the venue
- Conceptual mitigation measures to control music from the venue
- Predicted music levels from the venue.

Refer to Appendix D for details of the prediction methodology.

#### Music noise data

It is understood that music in the outdoor area will be limited to background levels only. The term "background music" was defined in a VCAT decision (Ref B2/2005 Whiting v Hosier Bar Pty Ltd). In this decision, which is reproduced in the Liquor Control Reform Act, a background level requires that music be played at a level enabling normal voice level conversation at a distance of 600 mm.

This is equivalent to a music noise level of approximately 67 dB  $L_{A10}$ , as detailed below in Table 6.

Table 2: Background music levels, dB

Description	Octave Band Centre Frequency (Hz)							
	A	63	125	250	500	1000	2000	4000
Background music, $L_{OCT10}$	67	65	65	65	60	60	60	60

#### Control of music levels

It is recommended that music levels are managed such that the music levels detailed in Table 2 are not exceeded.

#### Predicted Music Noise Levels

The predicted music noise levels from the terrace that are presented in Table 3 have been based upon the music levels detailed in Table 2 and the music noise controls outlined in previous section.

Table 3: Predicted music noise levels from the proposed outdoor dining area, dB  $L_{eq}$

Residence	Predicted music noise level	Evening SEPP N-2 noise limit	Compliance
6 Palmer Street	25	49	Yes
8 Palmer Street	20	49	Yes
10 Palmer Street	19	49	Yes
15 Griffith Street	30	49	Yes
Apartments directly above gymnasium	36	49	Yes
Apartments across Dyer Street	37	49	Yes

Music noise is predicted to be compliant with the applicable SEPP N-2 noise limit during the evening. By extension, the music noise limits will be met during the day.

## Attachment 5 - Applicant's Acoustic Report



### PATRON NOISE ASSESSMENT

MDA has extensive experience in the assessment of patron noise and has developed a set of proposed guidelines. These guidelines have been implemented on many projects to date.

#### Design Targets

The derived evening period design target for patron noise is summarised in Table 4, based on the method defined in Appendix C3 and the background noise data presented previously.

Table 4: Patron noise design targets

Item	Evening
Patron noise target, dB $L_{Aeq, 15 \text{ min}}$	54

#### Control of patron noise

The following noise mitigation measures have been incorporated into the noise modelling:

- Absorptive material should be installed on the underside of the slab soffit. The absorption should have a minimum absorption coefficient of NRC 0.7 and be faced with a protective material.

As outlined previously, the outdoor area will operate until 2200 hours.

#### Derived Sound Power Data

The outdoor is designed to cater for up to 26 patrons. The empirical data for restaurant dining has been adjusted accordingly to account for the maximum number of patrons utilising the space. Refer to Appendix E for further detail.

The sound power level used for the outdoor area is provided in Table 5.

Table 5: Patron sound power level data – 26 patrons, dB

26 patrons	Octave Band Centre Frequency (Hz)							
	63	125	250	500	1k	2k	4k	A
Semi-steady state component, $L_{eq}$	75	77	78	85	83	79	72	87

#### Calculation Method

The calculation method employs the same procedure for music noise and is outlined in Appendix D.

#### Predicted Patron Levels

Table 6 outlines the predicted patron noise levels at nearby residential receivers.

Table 6: Predicted patron noise levels from the outdoor dining area, dB  $L_{eq}$

Residence	Predicted patron noise level	Evening patron noise design target	Compliance
6 Palmer Street	40	54	Yes
8 Palmer Street	37	54	Yes
10 Palmer Street	34	54	Yes
15 Griffith Street	47	54	Yes
Apartment directly above gymnasium	52	54	Yes
Apartments across Dyer Street	53	54	Yes



## Attachment 5 - Applicant's Acoustic Report



The predicted patron noise levels comply with the evening period design targets at all relevant noise sensitive receivers.

### SUMMARY

An application for a liquor license has been lodged for a restaurant at 1 Palmer Street, Richmond. The restaurant will have external seating for 26 patrons.

As part of the application for a liquor license, MDA has been commissioned to conduct a desktop noise assessment considering music, patron noise from the outdoor area.

MDA has carried out an environmental noise assessment of the proposed outdoor area in accordance with the relevant Victorian EPA legislation, guidelines and accepted industry practice.

This assessment has been based on:

- Existing noise conditions determined from measurement surveys at nearby sites;
- Limits determined in accordance with the relevant Victorian EPA legislation, guidelines and accepted industry practice.; and
- Detailed 3-dimensional modelling of the site and surrounding environment, accounting for typical worst case atmospheric conditions which favour the propagation of noise.

It has been demonstrated that compliance with the relevant legislation in terms of music noise can be achieved.

The predicted patron noise level complies with the patron noise design target at all relevant noise sensitive receivers.

It is recommended that:

- Music levels are managed such that the levels detailed in Table 2 are not exceeded
- Absorptive material be added to the underside of the slab soffit of the outdoor area.

We trust the above meets your requirements. If you have any questions or require further clarification please don't hesitate to contact us.

Yours faithfully

**MARSHALL DAY ACOUSTICS PTY LTD**

**Ross Leo**  
**Associate**

## Attachment 5 - Applicant's Acoustic Report



### APPENDIX A GLOSSARY OF TERMINOLOGY

<b>Ambient</b>	The ambient noise level is the noise level measured in the absence of the intrusive noise or the noise requiring control. Ambient noise levels are frequently measured to determine the situation prior to the addition of a new noise source.
<b>A-weighting</b>	The process by which noise levels are corrected to account for the non-linear frequency response of the human ear.
<b>dB</b>	Decibel. The unit of sound level.
<b>Frequency</b>	The number of pressure fluctuation cycles per second of a sound wave. Measured in units of Hertz (Hz).
<b>Hertz (Hz)</b>	Hertz is the unit of frequency. One hertz is one cycle per second. One thousand hertz is a kilohertz (kHz).
<b>L<sub>A90</sub> (t)</b>	The A-weighted noise level equalled or exceeded for 90% of the measurement period. This is commonly referred to as the background noise level.
<b>L<sub>Aeq</sub> (t)</b>	The A-weighted equivalent continuous sound level. This is commonly referred to as the average noise level and is measured in dB.
<b>L<sub>Amax</sub></b>	The A-weighted maximum noise level. The highest noise level which occurs during the measurement period.
<b>L<sub>OCT10</sub></b>	The noise level exceeded for 10% of the measurement period in the octave bands 63Hz-4kHz. Commonly referred to as the average maximum noise level.
<b>L<sub>OCT90</sub></b>	The noise level exceeded for 90% of the measurement period in the octave bands 63Hz-4kHz. Commonly referred to as the background noise level.
<b>Octave Band</b>	A range of frequencies where the highest frequency included is twice the lowest frequency. Octave bands are referred to by their logarithmic centre frequencies, these being 31.5 Hz, 63 Hz, 125 Hz, 250 Hz, 500 Hz, 1 kHz, 2 kHz, 4 kHz, 8 kHz, and 16 kHz for the audible range of sound.
<b>SWL or L<sub>w</sub></b>	<u>Sound Power Level</u> A logarithmic ratio of the acoustic power output of a source relative to 10 <sup>-12</sup> watts and expressed in decibels. Sound power level is calculated from measured sound pressure levels and represents the level of total sound power radiated by a sound source.





## Attachment 5 - Applicant's Acoustic Report



### APPENDIX C LEGISLATION & GUIDELINES

#### C1 SEPP N-2

Music noise from entertainment venues is controlled by *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2* (SEPP N-2). Compliance with SEPP N-2 is mandatory under section 46 of the Environment Protection Act 1970.

Clause 20 of SEPP N-2 provides that:

*Where the level of music noise from indoor or outdoor venues exceeds the noise limit, steps shall be taken by the occupier to reduce those levels to, or below, the noise limit.*

SEPP N-2 sets noise limits that must be achieved in a 'noise sensitive area'. The Policy defines a noise sensitive area as:

*(a) that part of the land within the apparent boundaries of any piece of land which is within a distance of 10 metres outside the external walls of any of the following buildings:*

*Dwelling (except Caretaker's House), [or] Residential Building.*

*(b) that part of the land within the apparent boundaries of any piece of land on which is situated any of the following buildings which is within a distance of 10 metres outside the external walls of any dormitory, ward or bedroom of such buildings:*

*Caretaker's house, Hospital, Hotel, Institutional Home Motel, Reformatory Institution, Tourist Establishment, Work Release Hostel.*

For indoor venues, SEPP N-2 sets noise limits as shown in Table 7.

**Table 7: SEPP N-2 criteria (music on more than 3 nights per week)**

Time period	Noise limit
Day/Evening	
Saturday 1000 - 2200hrs	Music noise ( $L_{Aeq}$ ) not permitted to exceed background noise ( $L_{A90}$ ) plus 5dB
Sunday 1200 - 2100hrs	
Other 0900 - 2200hrs	
Night	
Saturday 2200 - 1200hrs	Music noise ( $L_{OCT10}$ ) is not permitted to exceed the background noise level ( $L_{OCT90}$ ) by more than 8dB in any octave band (63Hz-4kHz) at a noise-sensitive area
Sunday 2100 - 0900hrs	
Other 2200 - 0900hrs	

The derived SEPP N-2 evening period music noise limits are outlined in Table 8.

**Table 8: SEPP N-2 derived evening period noise limit**

Description	Noise limit derivation
Evening period background noise level, $L_{A90}$	44 dB
Plus 5dB	+5 dB
<b>SEPP N-2 evening period noise limit, <math>L_{A10}</math></b>	<b>49 dB</b>

## Attachment 5 - Applicant's Acoustic Report



### C2 Patron Noise

Noise from voices of patrons outdoors is not covered under any State Environment Protection Policy or general Victorian guideline.

There has been extensive discussion between members of the Association of Australian Acoustical Consultants (AAAC) in regards to suitable criteria but consensus between members has not yet been reached.

In lieu of an established state policy or criterion, MDA has developed a set of design targets which have been referenced as part of numerous planning applications and VCAT hearings for proposed external patron noise areas.

The structure of the patron noise design targets is summarised in Table 9.

**Table 9: Recommended design targets for night-time patron noise**

Description	Design Target	Purpose
Semi-steady noise levels - $L_{Aeq}$	Day Period - 50 dB or background noise ( $L_{A90}$ ) + 10 dB, whichever is higher	Amenity protection
	Evening Period - 45 dB or background noise ( $L_{A90}$ ) + 10 dB, whichever is higher	
	Night Period - 40 dB or background noise ( $L_{A90}$ ) + 5 dB, whichever is higher	
Short-term maximum noise levels $L_{Amax}$	60-65 dB	Sleep disturbance protection

For a theoretical assessment of a venue, the purpose of the proposed patron noise criteria is not to provide an absolute limit but to provide an indication of whether a venue has the potential to cause an unreasonable impact.

It is difficult to propose an absolute limit because unlike other noise sources (e.g. mechanical equipment), there is a large variation in patron noise and this variation is not always linked to the number of patrons.



## Attachment 5 - Applicant's Acoustic Report



The results of the analysis are interpreted as follows:

**Table 10: Interpretation of patron noise assessment results**

Predicted noise level	Likely impact
Meets the proposed criteria	No impact likely
Exceeds the proposed criteria by up to 2 dB	No impact likely
Exceeds the criteria by 3-5 dB	There is a possibility of impact and the proposal should be assessed with measurements once it is operational to determine typical crowd noise levels from the venue. Provision should be made to adopt managerial controls and retrofit engineering controls if deemed necessary
Exceeds the criteria by 5-8 dB	There is a strong possibility of impact and engineering controls should be incorporated. Managerial controls should also be considered at the planning stage. Further measurements will be required once the development is operational to determine appropriate managerial controls
Exceeds the criteria by more than 8 dB	There will be noise impact and major changes to the design and/or operation of the proposed outdoor area will be required

## Attachment 5 - Applicant's Acoustic Report



### APPENDIX D NOISE PREDICTION METHODOLOGY

To predict music and patron noise levels to nearby neighbouring residences, the following factors must be considered:

- The amount of music being generated within the venue
- The distance between the sources and receivers
- The presence of obstacles such as buildings or screens that obstruct the noise path
- The ground between the source and receiver
- The presence of hard reflective surfaces that may enable additional noise paths.
- The design target applicable to the use of the outdoor areas
- Noise data used to represent the behaviour of patrons in the outdoor areas
- Conceptual noise mitigation measures to control patron noise
- Predicted noise levels from the proposed arrangement of the outdoor areas.

#### Calculation Method

A 3-dimensional digital model of the venue and surrounding built environment has been created using SoundPLAN proprietary modelling software (version 7.4).

Geometry data for the model has been sourced from public aerial photography, visual inspections of the area, and building heights defined on the basis of standard assumed heights per floor level. The geometries in the model are simplified representations of the built environment that have been configured to a level of detail that is appropriate for noise calculation purposes.

The SoundPLAN digital model has been used to calculate noise levels using the International Standard ISO 9613-2: 1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation (ISO 9613). ISO 9613 is a general environmental noise calculation standard that has been used extensively throughout Australia, New Zealand, and Europe since its publication in 1996.

The implementation of ISO 9613 within proprietary noise modelling software enables multiple sound transmission paths, including reflected and screened paths, to be accounted for in the calculated noise levels. While atmospheric effects are expected to have a negligible effect on the transmission of sound from the venue to neighbouring sensitive receiver locations, it is noted that the ISO 9613 predicts noise levels for conditions which favour the propagation of noise.

## Attachment 5 - Applicant's Acoustic Report

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### APPENDIX E PATRON NOISE DATA

The noise of patron areas associated with dining and licensed venues is highly variable according to a wide range of factors including:

- The type of venue
- The function of the space within the venue (i.e. seated areas for dining or standing areas with a focus on alcohol consumption)
- Total crowd numbers
- The composition of the total patron numbers in terms of demographics and group sizes
- Weather
- Alcohol consumption
- Background noise levels
- The acoustic properties of the space

Based on the above considerations, total patron noise emissions will vary significantly between different venues. Further, for a given venue patron noise emissions will vary from day to day and hour to hour according to these types of factors.

The individual and cumulative effect of these factors cannot be precisely calculated. Accordingly, to provide a practical basis for assessing the noise from proposed external areas, a simplified method has been developed to characterise the noise emissions of four broad categories of venue type for different number of patrons. The method is based on a single representative vocal effort to characterise the range of emissions of all individuals within the crowd.

It is assumed that a portion of the crowd may be speaking at any given point in time.

In practice, the vocal effort of each individual will vary across the crowd and throughout the assessment period. The portion of the crowd will also vary. The selected values are therefore not considered exact representations of a crowd's patterns. The values have been chosen to enable a simple relationship to be formulated which provides close agreement with patron noise measurements conducted at a range of venues.

Marshall Day Acoustics and other acoustic consultants in Melbourne have measured patron noise from several different venues. These measurements indicate a large variation in the noise levels of crowds. Variations are due to a number of factors including the situational context of the crowd.

## Attachment 5 - Applicant's Acoustic Report



For the purpose of predicting noise levels from a venue, external patron areas are categorised according to the descriptions outlined in Table 11. Reference sound power data for one person is detailed in the 2011 Hayne paper<sup>1</sup>.

**Table 11: Patron area use categories**

Area use category	Reference sound power data per one person		Area use definition
	Equivalent	Maximum	
Vertical drinking ('worst-case' crowd)	88 dB L <sub>Aw</sub>	104 dB L <sub>Aw</sub>	Standing patrons drinking and talking Focus of activity on drinking and socialising
Taverns with significant food offerings	83 dB L <sub>Aw</sub>	104 dB L <sub>Aw</sub>	Predominantly seated patrons, drinking, dining and talking Focus of activity on drinking, whilst dining and socialising
Restaurant dining	78 dB L <sub>Aw</sub>	98 dB L <sub>Aw</sub>	Seated patrons, drinking, dining and talking Focus of activity on dining and socialising
Small smoking areas (<40 patrons)	73 dB L <sub>Aw</sub>	98 dB L <sub>Aw</sub>	Patrons using area for smoking Focus of activity on smoking rather than socialising (data also includes outdoor areas with alcohol consumption)

Based on the above reference sound power data and measurements by Marshall Day Acoustics, a simplified empirical relationship to represent the total sound power level for which crowd numbers and character were varied has been derived for determining design equivalent and maximum sound power level as follows:

- Design equivalent sound power level - derived by assuming that one third of the total crowd speaks continuously over the duration of the assessment period, and each of these speakers emit a constant total sound power level over the duration of the assessment period. In practice, the actual number of individuals speaking, the sound power emitted by each individual, and the temporal characteristics of each speaker will vary considerably over the assessment period. The derived values therefore do not represent the actual percentage of patrons speaking, or the emission of each patron, but simply represent the total sound power level for the number of patrons
- Design maximum sound power level - derived by assuming that the maximum noise level occurs as a result of two (2) individuals simultaneously producing a maximum level. Smoking areas and restaurants are considered to have the same maximum sound power level characteristics, as are taverns with significant food offerings and vertical consumption crowds.

<sup>1</sup> Hayne et al 2011, 'Prediction of noise from small to medium sized crowds', in *Acoustics 2011: Breaking New Ground, Proceedings of the Annual Conference of the Australian Acoustical Society, AAS Queensland Division 2011, Gold Coast*, paper number 133.



## Attachment 5 - Applicant's Acoustic Report



Figure 2 provides the total equivalent sound power based on patron numbers.

Figure 2: Total equivalent sound power based on patron number

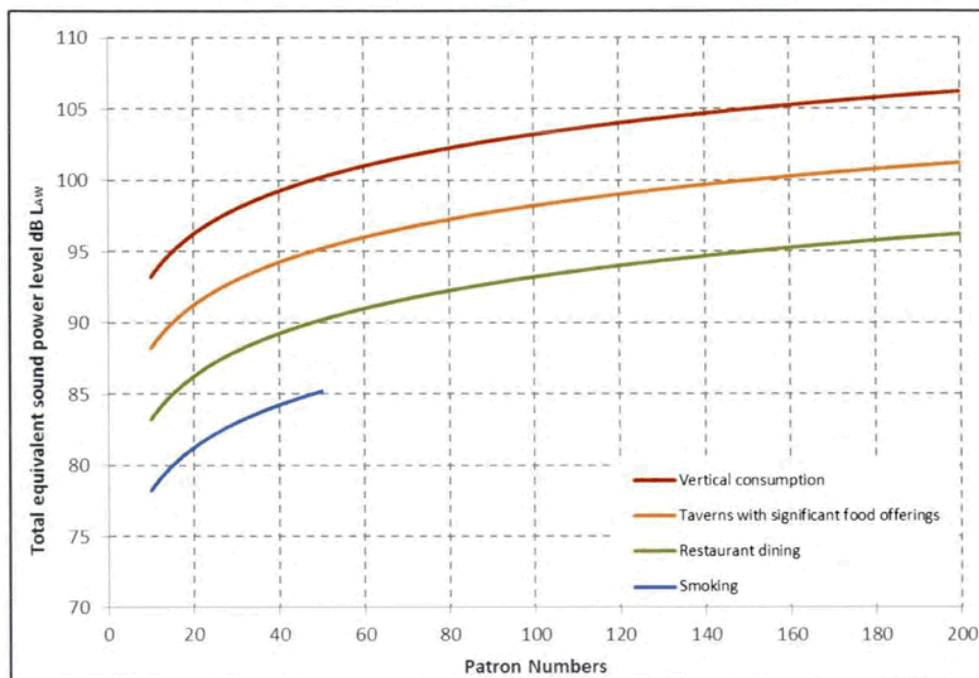


Table 12 provides the octave band spectral correction applied to the calculated patron sound power.

Table 12: Octave band spectral correction

Source	Octave Band Centre Frequency (Hz)						
	63	125	250	500	1000	2000	4000
Spectral Correction	-12	-10	-9	-2	-4	-8	-15

## Attachment 6 - Building Surveyor Report Tenancy 1

26 November 2015

**Riverside Properties  
Level 1, 10-16 Queen St,  
Melbourne VIC 3000**

**checkpoint**  
building surveyors

**Re: Liquor Licence report for,  
Retail 1  
1 Palmer Street, Richmond**

The following is a calculation on the number of occupants for the building located at the above address based on the liquor licencing fact sheet dated February 2012.

Three calculations are required to determine maximum patron capacity pursuant to the liquor licencing fact sheet dated February 2012.

**1. Planning permit specifying a maximum patron capacity.**

We have no knowledge of a planning permit specifying a patron capacity as a planning permit is not applicable for the proposed.

**2. A report from a registered Building Surveyor as stipulated by the Victorian Commission for Liquor and Gambling Regulation (VCGLR);**

**a. The area in square metres available to the public for the whole of the internal premises and for any external areas**

Internal Ground Floor Area:	80m <sup>2</sup>
Total Occupiable Floor Area:	80m <sup>2</sup>

**b. The number of patrons that may be accommodated on both internal and external areas based on a ratio of 0.75 square metres per person.**

Total number of patrons passed on ratio of 0.75/m<sup>2</sup>: **106 persons**

**3. The patron capacity prescribed on an Occupancy Permit**

Any Occupancy Permit will be limited to the calculation for occupancy numbers based on deemed-to-satisfy compliance to the Building Code of Australia (BCA) in which there are four areas of assessment being;

- a) floor area calculation
- b) toilet numbers
- c) egress width
- d) mechanical ventilation

**a) Floor area calculation**

Under BCA Clause D1.13. The base building floor area is excluding spaces specified in D1.13 is as follows

As per the above floor areas the number of occupants based on a gross Ground Floor area of 80m<sup>2</sup> based on ratio of 1 square metre per person = **80 persons.**

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## Attachment 6 - Building Surveyor Report Tenancy 1

**checkpoint**  
building surveyors

### b) Toilet calculations

The combined number of toilets for the ground floor is:

	Closet Pans	Urinals	Washbasins
Male	1	0	1
Female	1	-	1

*Note, toilet for people with disabilities has been counted for both male and female as per F2.2(c)*

Based on the number of available toilets provided, a maximum of **20 persons** (10 male and 10 female) are catered for.

### c) Egress width calculation

Ground Floor egress is via an exit door providing egress to a road or open space. Egress width provided to these exits is 2m which would cater for up to **200 persons** under BCA Clause D1.6.

### d) Mechanical ventilation

No review has been carried out in regards to the existing mechanical ventilation provisions to this space as no details have been provided.

It is noted that an increase in building populations may require an increase in fresh air ventilation rates to satisfy the mechanical ventilation requirements of AS1668.2.

As noted above:

- Sanitary facilities will cater for 10 male and 10 female persons (**20 persons**);
- Aggregate exit width will cater for **200 persons**; and
- Floor area available to public will cater for **80 persons**, based on BCA theoretical populations.

Based on the worst case numbers; the current population for the building is calculated to **20 persons**.

Hence a total population (BCA permitted) of up to **20 persons** is permitted for the proposed licensed premises.

Note a total population (under Department of Justice calculation) of up to **106 persons** is permitted for the proposed licensed premises.

For further discussion, please do not hesitate to contact the undersigned.

Regards



**Gavin Casey - BS-U 1501**  
**Building Surveyor**

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## Attachment 7 - Building Surveyor Report Tenancy 2

26 November 2015

**Riverside Properties  
Level 1, 10-16 Queen St,  
Melbourne VIC 3000**

**checkpoint**  
building surveyors

**Re: Liquor Licence report for,  
Retail 2  
1 Palmer Street, Richmond**

The following is a calculation on the number of occupants for the building located at the above address based on the liquor licencing fact sheet dated February 2012.

Three calculations are required to determine maximum patron capacity pursuant to the liquor licencing fact sheet dated February 2012.

**1. Planning permit specifying a maximum patron capacity.**

We have no knowledge of a planning permit specifying a patron capacity as a planning permit is not applicable for the proposed.

**2. A report from a registered Building Surveyor as stipulated by the Victorian Commission for Liquor and Gambling Regulation (VCGLR);**

**a. The area in square metres available to the public for the whole of the internal premises and for any external areas**

Internal Ground Floor Area:	40m <sup>2</sup>
Total Occupiable Floor Area:	40m <sup>2</sup>

**b. The number of patrons that may be accommodated on both internal and external areas based on a ratio of 0.75 square metres per person.**

Total number of patrons passed on ratio of 0.75/m<sup>2</sup>: **53 persons**

**3. The patron capacity prescribed on an Occupancy Permit**

Any Occupancy Permit will be limited to the calculation for occupancy numbers based on deemed-to-satisfy compliance to the Building Code of Australia (BCA) in which there are four areas of assessment being;

- a) floor area calculation
- b) toilet numbers
- c) egress width
- d) mechanical ventilation

**a) Floor area calculation**

Under BCA Clause D1.13. The base building floor area is excluding spaces specified in D1.13 is as follows

As per the above floor areas the number of occupants based on a gross Ground Floor area of 80m<sup>2</sup> based on ratio of 1 square metre per person = **40 persons.**

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## Attachment 7 - Building Surveyor Report Tenancy 2


**b) Toilet calculations**

The combined number of toilets for the ground floor is:

	Closet Pans	Urinals	Washbasins
Male	1	0	1
Female	1	-	1

*Note, toilet for people with disabilities has been counted for both male and female as per F2.2(c)*

Based on the number of available toilets provided, a maximum of **20 persons** (10 male and 10 female) are catered for.

**c) Egress width calculation**

Ground Floor egress is via an exit door providing egress to a road or open space. Egress width provided to these exits is 2m which would cater for up to **200 persons** under BCA Clause D1.6.

**d) Mechanical ventilation**

No review has been carried out in regards to the existing mechanical ventilation provisions to this space as no details have been provided.

It is noted that an increase in building populations may require an increase in fresh air ventilation rates to satisfy the mechanical ventilation requirements of AS1668.2.

As noted above:

- Sanitary facilities will cater for 10 male and 10 female persons (**20 persons**);
- Aggregate exit width will cater for **200 persons**; and
- Floor area available to public will cater for **40 persons**, based on BCA theoretical populations.

Based on the worst case numbers; the current population for the building is calculated to **20 persons**.

Hence a total population (BCA permitted) of up to **20 persons** is permitted for the proposed licensed premises.

Note a total population (under Department of Justice calculation) of up to **53 persons** is permitted for the proposed licensed premises.

For further discussion, please do not hesitate to contact the undersigned.

Regards



**Gavin Casey - BS-U 1501**  
**Building Surveyor**

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## Attachment 8 - Building Surveyor Report Tenancy 3

26 November 2015

**Riverside Properties**  
**Level 1, 10-16 Queen St,**  
**Melbourne VIC 3000**

**checkpoint**  
 building surveyors

**Re: Liquor Licence report for,**  
**Retail 3**  
**1 Palmer Street, Richmond**

The following is a calculation on the number of occupants for the building located at the above address based on the liquor licencing fact sheet dated February 2012.

Three calculations are required to determine maximum patron capacity pursuant to the liquor licencing fact sheet dated February 2012.

**1. Planning permit specifying a maximum patron capacity.**

We have no knowledge of a planning permit specifying a patron capacity as a planning permit is not applicable for the proposed.

**2. A report from a registered Building Surveyor as stipulated by the Victorian Commission for Liquor and Gambling Regulation (VCGLR);**

**a. The area in square metres available to the public for the whole of the internal premises and for any external areas**

Internal Ground Floor Area:	32m <sup>2</sup>
Total Occupiable Floor Area:	32m <sup>2</sup>

**b. The number of patrons that may be accommodated on both internal and external areas based on a ratio of 0.75 square metres per person.**

Total number of patrons passed on ratio of 0.75/m<sup>2</sup>: **42 persons**

**3. The patron capacity prescribed on an Occupancy Permit**

Any Occupancy Permit will be limited to the calculation for occupancy numbers based on deemed-to-satisfy compliance to the Building Code of Australia (BCA) in which there are four areas of assessment being;

- a) floor area calculation
- b) toilet numbers
- c) egress width
- d) mechanical ventilation

**a) Floor area calculation**

Under BCA Clause D1.13. The base building floor area is excluding spaces specified in D1.13 is as follows

As per the above floor areas the number of occupants based on a gross Ground Floor area of 16m<sup>2</sup> based on ratio of 1 square metre per person = **16 persons.**

16m<sup>2</sup> based on ratio of 0.5 square metre per person for bar standing areas = **32 persons.**

Total number of occupants assessed under D1.13 of **48 persons.**

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## Attachment 8 - Building Surveyor Report Tenancy 3



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building surveyors

**b) Toilet calculations**

The combined number of toilets for the ground floor is:

	Closet Pans	Urinals	Washbasins
Male	1	0	1
Female	1	-	1

*Note, toilet for people with disabilities has been counted for both male and female as per F2.2(c)*

Based on the number of available toilets provided, a maximum of **20** persons (10 male and 10 female) are catered for.

**c) Egress width calculation**

Ground Floor egress is via an exit door providing egress to a road or open space. Egress width provided to these exits is 2m which would cater for up to **200** persons under BCA Clause D1.6.

**d) Mechanical ventilation**

No review has been carried out in regards to the existing mechanical ventilation provisions to this space as no details have been provided.

It is noted that an increase in building populations may require an increase in fresh air ventilation rates to satisfy the mechanical ventilation requirements of AS1668.2.

As noted above:

- Sanitary facilities will cater for 10 male and 10 female persons (**20 persons**);
- Aggregate exit width will cater for **200 persons**; and
- Floor area available to public will cater for **48 persons**, based on BCA theoretical populations.

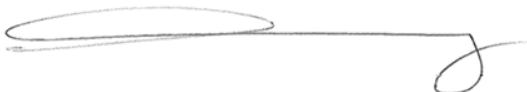
Based on the worst case numbers; the current population for the building is calculated to **20 persons**.

Hence a total population (BCA permitted) of up to **20 persons** is permitted for the proposed licensed premises.

Note a total population (under Department of Justice calculation) of up to **42 persons** is permitted for the proposed licensed premises.

For further discussion, please do not hesitate to contact the undersigned.

Regards



**Gavin Casey - BS-U 1501**  
**Building Surveyor**

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## Attachment 8 - Building Surveyor Report Tenancy 3



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## Attachment 9 - Building Surveyor Report Tenancy 5

26 November 2015

**Riverside Properties  
Level 1, 10-16 Queen St,  
Melbourne VIC 3000**

**checkpoint**  
building surveyors

**Re: Liquor Licence report for,  
Retail 5  
1 Palmer Street, Richmond**

The following is a calculation on the number of occupants for the building located at the above address based on the liquor licencing fact sheet dated February 2012.

Three calculations are required to determine maximum patron capacity pursuant to the liquor licencing fact sheet dated February 2012.

1. Planning permit specifying a maximum patron capacity.

We have no knowledge of a planning permit specifying a patron capacity as a planning permit is not applicable for the proposed.

2. A report from a registered Building Surveyor as stipulated by the Victorian Commission for Liquor and Gambling Regulation (VCGLR);

- a. The area in square metres available to the public for the whole of the internal premises and for any external areas

Internal Ground Floor Area:	103m <sup>2</sup>
External Ground Floor Area:	35m <sup>2</sup>
Total Occupiable Floor Area:	138m <sup>2</sup>

- b. The number of patrons that may be accommodated on both internal and external areas based on a ratio of 0.75 square metres per person.

Total number of patrons passed on ratio of 0.75/m<sup>2</sup>: **184 persons**

3. The patron capacity prescribed on an Occupancy Permit

Any Occupancy Permit will be limited to the calculation for occupancy numbers based on deemed-to-satisfy compliance to the Building Code of Australia (BCA) in which there are four areas of assessment being;

- a) floor area calculation
- b) toilet numbers
- c) egress width
- d) mechanical ventilation

### a) Floor area calculation

Under BCA Clause D1.13. The base building floor area is excluding spaces specified in D1.13 is as follows

As per the above floor areas the number of occupants based on a gross Ground Floor area of 133m<sup>2</sup> based on ratio of 1 square metre per person = **133 persons.**

5m<sup>2</sup> based on ratio of 0.5 square metre per person for bar standing areas = **10 persons.**

Total number of occupants assessed under D1.13 of **143 persons.**

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## Attachment 9 - Building Surveyor Report Tenancy 5



checkpoint  
building surveyors

**b) Toilet calculations**

The combined number of toilets for the ground floor is:

	Closet Pans	Urinals	Washbasins
Male	1	1	1
Female	1	-	1

*Note, toilet for people with disabilities has been counted for both male and female as per F2.2(c)*

Based on the number of available toilets provided, a maximum of **50 persons** (25 male and 25 female) are catered for.

**c) Egress width calculation**

Ground Floor egress is via an exit door providing egress to a road or open space. Egress width provided to these exits is 2.3m which would cater for up to **245 persons** under BCA Clause D1.6.

**d) Mechanical ventilation**

No review has been carried out in regards to the existing mechanical ventilation provisions to this space as no details have been provided.

It is noted that an increase in building populations may require an increase in fresh air ventilation rates to satisfy the mechanical ventilation requirements of AS1668.2.

As noted above:

- Sanitary facilities will cater for 25 male and 25 female persons (**50 persons**);
- Aggregate exit width will cater for **245 persons**; and
- Floor area available to public will cater for **143 persons**, based on BCA theoretical populations.

Based on the worst case numbers; the current population for the building is calculated to **50 persons**.

Hence a total population (BCA permitted) of up to **50 persons** is permitted for the proposed licensed premises.

Note a total population (under Department of Justice calculation) of up to **184 persons** is permitted for the proposed licensed premises.

For further discussion, please do not hesitate to contact the undersigned.

Regards



**Gavin Casey - BS-U 1501**  
**Building Surveyor**

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## Attachment 10 - SLR - Acoustic referral advice



16 August 2016

640.10090.04350-L01-v1.0 1 Palmer Street Review.docx

City of Yarra  
PO Box 168  
Richmond VIC 3121  
T (03) 9205 5171 F (03) 8417 6666

**Attention:** John Theodosakis

Dear John

**1 Palmer Street (14 Coppin Street), Richmond  
Planning Assessment Acoustical Review  
PLN11/0420**

SLR Consulting Pty Ltd (SLR) has been retained by the City of Yarra to provide a review of the acoustic assessment report for the proposed restaurant located on the ground floor of the development at 1 Palmer Street (14 Coppin Street), Richmond.

The report primarily addresses patron and music noise from the outdoor area of the restaurant. Details of the report are as follows:

- Title: 1 Palmer St, Richmond – Patron Noise Assessment
- Reference: Lt 001 R01 201605di
- Date: 23 May 2016
- Prepared by: Marshall Day Acoustics (MDA)

### **1 Preliminary**

The subject outdoor area is located to the western end of the development site (part of the Food and Drinks Premises), and is fully covered (apartments directly above).

The provided report is a response to the City of Yarra's request for information as follows:

*"A letter must be provided from an acoustic consultant that the provision of 26 seats in the undercover outdoor area on title (which can operate until 12 midnight) will not result in adverse noise impacts on all surrounding dwellings."*

MDA state in their letter that the outdoor area will not operate past 2200 h.

## Attachment 10 - SLR - Acoustic referral advice

City of Yarra  
1 Palmer Street (14 Coppin Street), Richmond  
Planning Assessment Acoustical Review  
PLN11/0420

16 August 2016  
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The current permit indicates the restaurant use is allowed from 6.30 am to midnight, Monday to Sunday.

The statement provided by MDA represents a restriction that forms part of their assessment and must be adhered to by the restaurant (the permit should ideally reflect this, or at the very least their noise management plan).

MDA identify existing residential uses to the south along Palmer Street / Griffiths Street and to the east along Coppin Street. There are also residential uses directly above, and to the north of the venue (part of the Jaques development).

## 2 Assessment of Noise

The approach adopted by MDA to assess patron noise is to their 'background +' method which they have adopted on numerous projects.

Their general design target approach is as follows:

- Day Period: Background + 15 dBA (or 50 dBA, whichever is higher)
- Evening Period: Background + 10 dBA (or 45 dBA, whichever is higher)
- Night Period: Background + 5 dBA (or 40 dBA, whichever is higher)

We generally accept these design targets in most situations where there is a commercial interface with a residential use. We have found that the Day and Evening period criteria can at times be too lenient depending on the locality (eg. if there are no regular traffic pass-bys for example).

MDA predict noise from the proposed 26 patron area and compare the results to the 'Background + 10 dBA' criterion given the proposed operating times.

### 2.1 Background Noise Levels

MDA have not conducted background noise level measurements specifically for this site / application but indicate that they have conducted surveys in the vicinity of this site previously. They quote evening period background noise levels of 44 to 47 dBA, and use 44 dBA as the basis of setting their noise criteria.

#### **SLR Comment:**

*The noise assessment targets are entirely based on the background noise levels in the area, and as such it is critical that background levels are appropriate and relevant for the specific area.*

*For the proposed use, the background levels should be measured during the most critical time of their proposed operations; for example the last half hour of operation of the venue during an early weeknight or late Sunday evening period.*

*MDA provide no information in relation to where and exactly when the results of 44 to 47 dBA were observed.*

*We request that either:*

- *MDA provide further details of measurement locations, duration and timing of measurements*
- OR*
- *Undertake appropriate site specific measurements to confirm that a background level of 44 dBA is appropriate.*

*The background levels are also critical in relation to the music noise assessment for the site.*

SLR Consulting Australia Pty Ltd



## Attachment 10 - SLR - Acoustic referral advice

City of Yarra  
1 Palmer Street (14 Coppin Street), Richmond  
Planning Assessment Acoustical Review  
PLN11/0420

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*We note that the provided background levels appear reasonable for the area but we require further transparency on the issue.*

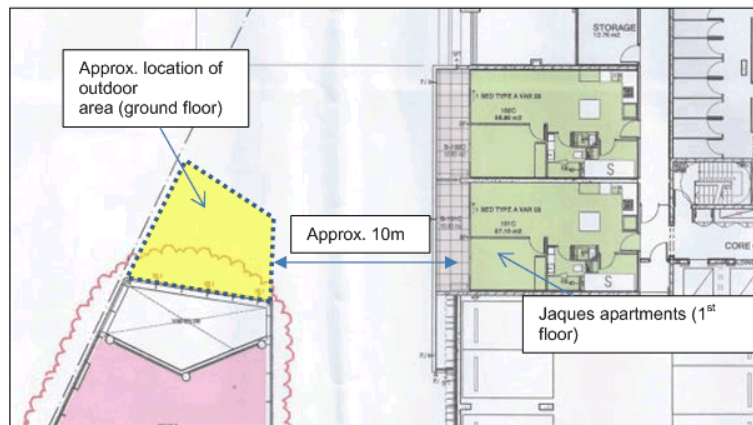
### 2.2 Music Noise Assessment

MDA provide predicted noise levels at the nearest residential receivers based on the assumption of low level 'background music' in the outdoor patron area.

The assumed music spectrum is provided in Table 2, and the results of predictions provided in Table 3 of their letter.

#### SLR Comment:

*We note that the most critical assessment location appears to be the apartments associated with the Jaques Site, directly north of the new Dyer Lane. These apartments would appear to be within 10-15 m of the patron area. Refer to image below.*



*Our indicative calculations suggest slightly higher noise levels could occur at the residential dwellings than what MDA have shown, however, we still calculate noise levels lower than the SEPP N-2 criteria.*

*To ensure that the SEPP N-2 criteria are met, MDA should preferably state at what location the nominated 'background music' levels need to be met (i.e. middle of crowd, 1 m from any speaker etc.).*

### 2.3 Patron Noise

MDA provide predicted noise levels at the nearest residential receivers based on a derived sound power level of 87 dBA for the outdoor patron area (see Table 5).

The results of predictions provided in Table 6 of their letter.

#### SLR Comment:

*We generally agree with the nominated sound power level used as the basis of calculations for 26 patrons in a dining area (with no standing / or vertical drinking). It is critical that this area is used as a seated dining area only (i.e. not as a 'beer garden') to ensure this type of voice level is generated.*

SLR Consulting Australia Pty Ltd

**Attachment 10 - SLR - Acoustic referral advice**

City of Yarra  
 1 Palmer Street (14 Coppin Street), Richmond  
 Planning Assessment Acoustical Review  
 PLN11/0420

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*Our indicative calculation results are slightly higher than those shown by MDA, but appear to meet with the 'background + 10 dBA' criterion at most receivers.*

*Overall, the patron noise assessment appears reasonable on the assumption that appropriate background levels have been used (see comments previously).*

### 3 Summary

A summary of our findings and recommendations with regard to the acoustic report prepared for this application is provided below:

- We request that MDA provide further technical basis or additional measurements to confirm that their background noise data is representative of the most critical time of impact (e.g. the last half hour of operation during an early weeknight / late Sunday evening period). The location and time of measurement of the background data used should be provided as it is critical in the assessment of both the patron and music noise assessments.
- We request that MDA clarify how the music level is to be set in the area (i.e. is it the sound level at 1 m from any speaker, or the average noise level across the entire crowd area). The apartments in the Jaques development (10-15 m away) are particularly close and unless the music is managed carefully there could be a potential SEPP N-2 excess.
- The Jaques development apartments to the north overlook and are only 10-15 m from this outdoor area. There is some potential for patron noise impact due to the close proximity of these apartments, and due to the fact that crowd behaviour can vary (a crowd could be more rowdy than a typical 'dining' crowd when alcohol consumption is involved). Provision or allowance for some sort of shielding along the north of this area may be necessary to minimise this impact.
- The MDA assessment is based on a 10 pm closure of the outdoor area. The venue must not operate this outdoor area beyond this time.

Overall, we do not see the proposed use to represent a high risk given the limited number of patrons, type of use, and that music levels should be practically controllable by the venue.

Yours sincerely



JIM ANTONOPOULOS BAppSc MAAS  
 Principal – Acoustics

Checked by: DW

SLR Consulting Australia Pty Ltd

**Attachment 11 - Community Amenity / Compliance Unit Advice**

**TO:** Christopher Harries  
**cc:**  
**FROM:** Steve Alexander  
**DATE:** 15/06/16  
**APPLICATION:** PLN16/0180  
**SUBJECT:** Amenity Enforcement Referral

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Dear Christopher,

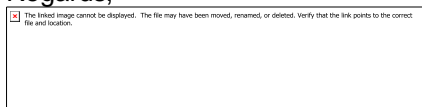
Thank you for your referral dated 08 June 2016 in relation to 14 Coppin Street Richmond.

I note this is a new development and the application is for a total number of four (4) tenancies which are restricted in their general operation of hours until midnight. Considering the proposed liquor application is until 11pm this application poses a low amenity risk.

The Compliance branch does not have any concern with the proposal. In addition I have reviewed the NAAP and do not have any concern with the plan. I note the plan only proposes low background music and addresses a procedure in dealing with complaints which is satisfactory.

Should you wish to discuss the application further, please feel free to contact me on 9205-5166.

Regards,



**Steve Alexander**  
**Coordinator – Civic Compliance**

**Attachment 12 - Social Planning - Community Health and Safety Unit Advice**



# MeMO

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TO: Christopher Harries, Senior Statutory Planner  
 FROM: Erika Russell, Senior Planner (Community Health and Safety)  
 DATE: 30 June 2016  
 ADDRESS: 14 Coppin Street, Richmond  
 APPLICATION NO: PLN16/0008  
 DESCRIPTION: Sale and consumption of liquor in association with four (4) food and drink premises (no permit required for use) as part of the Jaques Development, operating Monday to Sunday 9am to 11pm, Sunday 10am to 11pm

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Social Policy and Research has been requested to make comments on the proposal in relation to:

- Suitability of the location of four licensed premises.

## **PROPOSAL**

The written documentation and plans received 2 June 2016 have informed the comments in this referral. Key aspects of the site and proposal include:

- The site is located in the Mixed Use Zone and forms part of Jacques development. The four premises are to be located on the ground floor.
- Sale and consumption of liquor in association with four (4) food and drink premises (no permit required for the use). A planning permit is required under the Mixed Use Zone for a food and drink premises exceeding 150sqm. Planning permit PLN11/0420 was previously issued and the endorsed plans show Tenancy 5 (over 150sqm) as a food and drink premises. A planning permit condition specified operating hours of Monday to Sunday, 6.30am to 12am (midnight) for the food and drink premises use. The remaining three tenancies are shown as “retail” on the endorsed plans and are each under 150sqm in size and therefore do not require a planning permit for the food and drink premises use.
- The application documentation states that the premises will operate under a Restaurant and Café liquor licence and that tables and chairs will be available for at least 75 per cent of patrons attending the premises.
- The proposed licensed hours are Monday to Sunday 9am to 11pm, Sunday 10am to 11pm for all internal areas across the four premises. Tenancy 5 has an outdoor area which is to be licensed until 10pm.
- Tenancy 1 - 106 patrons (127sqm), Tenancy 2 - 53 patrons (67sqm), Tenancy 3 - 42 patrons (67sqm) and Tenancy 5 - 184 patrons (187sqm internal and 45sqm external). In total this equals 385 patrons.

## **Attachment 12 - Social Planning - Community Health and Safety Unit Advice**

- Three of the premises are to have entrances off Dyer Lane (which is being created as part of the overall development). The largest (Tenancy 5) will have its entrance off Palmer Street.
- Background music only across the four premises.

## **COMMENTS / RECOMMENDATIONS**

- There are ongoing concerns relating to premises with a Restaurants and Café liquor licence operating more like on-premises venues later in the evening. This is due to reduced food provision and increases in alcohol consumption towards closing time.
- A Restaurants and Café licence requires the predominant activity, at all times, to be the preparation and serving of meals for consumption on the premises. It also requires tables and chairs to be available for at least 75 per cent of patrons attending the premises at any one time. Based on the tables and chairs shown on the floor plans, each of the tenancies would fail to achieve seating for at least 75 per cent of patrons attending the premises at any one time. It is noted that the floor plans provided with the application state that “all furniture & quantities are indicative and do not reflect number of chairs / patrons present when the business is operational”. Amended plans should be required to show seating for 75 per cent of patrons. This requirement should further be enforced via a permit condition. Alternatively if 75 per cent of seating cannot be achieved, a reduction in patron numbers is required.
- Licenced hours to 11pm for premises in the Mixed Use Zone is consistent with the Licensed Premises Policy at clause 22.09-3.2 of the Yarra Planning Scheme and 10pm for the outdoor area is consistent with Council’s draft revised Licensed Premises Policy. The draft policy also states that licensed premises should not commence the sale and consumption of liquor before 9am and the proposal is also consistent with this part of the draft policy.
- The food and drink premises use has either been granted already (Tenancy 5) or is not required (tenancies 1-3). The provision of alcohol will complement and be secondary to the food offering and will not be the main focus of the premises. While 385 patrons in total may be considered substantial for the site, the venues are each to operate completely independently of each other. The addition of venues which focus on food provision will further complement those found nearby on Bridge Road which are also primarily operating with Restaurant and Café licenses. The premises are likely to service and attract people from the local area and there are substantial public transport options in the immediate area including trams along Bridge Road. For these reasons the premises are unlikely to result in a negative cumulative impact. Furthermore, given the land use, patrons are likely to leave the premises at different times (i.e. when they have finished their meal), rather than when the venue closes. This limits the potential for the proposal to result in patron dispersal issues.
- The outdoor area has the most potential to cause amenity impacts to nearby residential dwellings. It is noted that the applicant has provided an acoustic report which will be assessed as part of application and used to identify any required noise mitigation.

## Attachment 13 - Original IDAC Report 14 September 2016

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**14 Coppin Street, Richmond VIC 3121 - Planning Application Permit No. PLN16/0008 - Sale and consumption of liquor in association with four (4) food and drink premises (cafes).**

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### Executive Summary

#### Purpose

1. This report provides Council with an assessment of a planning permit application submitted for 14 Coppin Street, Richmond (the Jacques Development) which seeks approval for the sale and consumption of liquor in association with four (4) food and drink premises. The report recommends approval, subject to conditions.

#### Key Planning Considerations

2. Key planning considerations include:
  - (a) Clause 13.04-1 – Noise Abatement;
  - (b) Clause 22.09 – Licensed premises; and
  - (c) Clause 52.27 – Licensed premises.

#### Key Issues

3. The key issues for Council in considering the proposal relate to:
  - (a) Strategic context;
  - (b) Liquor licence; and
  - (c) Objector concerns.

#### Objector Concerns

4. Twenty one (21) objections were received to the application. The issues of concern raised can be summarised as:
  - (a) The location is inappropriate for the sale of liquor (i.e. located in a residential area);
  - (b) The site is located close to a school, a church and a health centre and will have a negative impact;
  - (c) The liquor licences will result in unruly and antisocial behaviour and increase crime and violence in the area;
  - (d) The laneway nature of the site precludes police patrols;
  - (e) The proposal will result in a cumulative impact, leading to a saturation of licenced venues in the area;
  - (f) The application should be limited to one liquor licence;
  - (g) External noise of patrons leaving the venues; and
  - (h) The hours of operation are considered excessive.

#### 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.

**Attachment 13 - Original IDAC Report 14 September 2016**

**CONTACT OFFICER:** John Theodosakis  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5307

## Attachment 13 - Original IDAC Report 14 September 2016

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**1.3      14 Coppin Street, Richmond VIC 3121 - Planning Application Permit No. PLN16/0008 - Sale and consumption of liquor in association with four (4) food and drink premises (cafes).**

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Trim Record Number: D16/126267

Responsible Officer: Coordinator Statutory Planning

<b>Proposal:</b>	Sale and consumption of liquor in association with four (4) food and drink premises (cafes).
<b>Existing use:</b>	Residential / Currently under construction (staged development site)
<b>Applicant:</b>	Urbis Pty. Ltd.
<b>Zoning / Overlays:</b>	Mixed Use Zone (MUZ) / Development Plan Overlay (Schedule 4 Jaques Development Site, Richmond) and Environmental Audit Overlay (EAO)
<b>Date of Application:</b>	07 January 2016
<b>Application Number:</b>	PLN16/0008

### Planning History

6. The Jaques site has an extensive planning history dating back to early 1998, which has culminated in an approved Development Plan (DP) that provides a concept development for the site. The DP was approved on the 13 February 2009 after review at the Victorian Civil and Administrative Tribunal (VCAT).
7. Planning application 991087 was lodged in August 1999 for a mixed use (comprising 15,000sq.m. of office; home offices; dwellings and exhibition and events space) and was abandoned.
8. Planning application PL01/0551 for use and development of the land for office, café, dwellings and partial waiver of car parking was withdrawn by the applicant on 8 August 2001.
9. Planning permit PL01/1132 was issued on 19 February 2002 for the construction of 24 dwellings in accordance with the approved Stage 1 Development Plan.
10. Planning application PL07/1132 was lodged in November 2007 for a Development Plan to be approved over the site. Upon review to VCAT, the Development Plan was approved on the 13 February 2009.
11. Planning permit PL09/0949 was issued on 24 May 2010 for Stage 1 of the site (i.e. the northern sector). This permit gave approval for the construction of a part two, part three, part five and part six storey building associated with 115 dwellings.
12. Planning application PLN12/0350 (second amended Development Plan) was lodged on the 4 May 2012. The amendment proposed a change to the southern sector by the removal of the office use and its conversion to residential, with an increase in the number of dwellings and changes to the car parking layout. In addition, the amendment proposed an increase in height of the central section and a corresponding increase in the apartment yield.



## Attachment 13 - Original IDAC Report 14 September 2016

13. The applicant appealed to VCAT on the 2 of July, 2012, against Council not determining the application within a reasonable timeframe. Council determined at the Internal Development Approvals Committee (IDAC) meeting on the 15 of August, 2012, that if it had been in a position to, it would have approved the amended Development Plan subject to a number of changes.
14. VCAT directed that Council approve the amended Development Plan subject to the changes contained within VCAT Order P1933/2012 (and later a corrected order issued on the 18 of September, 2012). The Development Plan was approved on the 13 of November, 2012. The Development Plan is a 99 page document that covers: urban context and site analysis; redevelopment guidelines and objectives; development plan; and assessment. The food and drinks premises / retail uses were identified as well as car parking and bicycle parking for the overall site. The approval requires 308 car spaces (Central and Southern sector) and 294 bicycle spaces (Central and Southern sector), including 2 car share vehicles (on Griffiths Street) and 7 bicycle shares to cater for the whole site.
15. Planning permit PLN11/0420 was issued on 29 November, 2012, at the direction of VCAT, for the construction of residential buildings (with 298 dwellings) with uses of, food and drink premises, retail and offices, a four level car park and laneway (Stage 2 – Central Sector – and Stage 3 – Southern Sector). The permit was amended on 12 December, 2012, in accordance with the order of VCAT P1776/2012.
16. Planning permit PLN13/0965 was issued on 10 December 2014 for the display of advertising signage.
17. Planning permit PLN13/1111 was issued on 27 February, 2014 for the display of promotional signage (marketing the new dwellings approved under PLN11/0420).
18. Planning permit PLN15/0167 was issued on 13 April 2015 for the display of advertising signage.
19. Planning permit PLN16/0472 was issued on 20 July 2016 for the construction and display of internally illuminated signage.

### Background

20. The application was received by Council on 7 January 2016. Following the submission of further information, the application was advertised and twenty one (21) objections were received.
21. A planning consultation meeting was held on 26 July 2016 and was attended by Council officers, the permit applicant and objectors.
22. Pursuant to Section 57(a) of the *Planning and Environment Act 1987* (the Act), the applicant formally amended the hours for the sale and consumption of liquor on 24 August 2016 from:
  - (a) Monday to Saturday: 9.00am to 11.00pm; and
  - (b) Sundays: 10.00am to 11.00pm.
23. To:
  - (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm.

## Attachment 13 - Original IDAC Report 14 September 2016

24. Discretionary exemption from the notice requirements was granted at Council's internal Development Assessment Panel (DAP) on 30 August 2016 as the changes resulted in reduced hours. However, all objector parties were advised of the reduced hours in their invitation letter to the IDAC meeting.
25. The Section 57A reduced hours received by Council on 24 August 2016 are now the proposed hours for the sale and consumption of alcohol and form the basis of this report.

### Existing Conditions

#### Subject Site

26. The subject site is located approximately 120m north of Bridge Road, between Griffiths Street to the west and Coppin Street to the east. The land is a large island site that comprises four street frontages and is generally rectangular in shape, with a splayed southern boundary. The site has a northern frontage to Highett Street of approximately 77m, an eastern boundary frontage to Coppin Street of 148m, a western boundary frontage to Griffiths Street of 110m and a southern boundary frontage to Palmer Street of 88m. The site has an overall area of 9877sqm.
27. The site is broken into three sectors:
  - (a) Northern sector (adjacent Highett Street, known as Stage 1);
  - (b) Central Sector (bounded by Griffiths and Coppin Streets, known as Stage 2);and
  - (c) Southern Sector (triangular portion adjacent Palmer Street, known as Stage 3).
28. The Northern Sector has completed construction in accordance with planning permit PL09/0949 and a Plan of Subdivision PS 640914E issued allowing for a lot subdivision for 115 dwellings, and their associated car spaces.
29. Work is almost complete on the Central and Southern Sectors in accordance with planning permit PLN11/0420.
30. The area for the sale and consumption of liquor relates to the four commercial tenancies (also known as Retail 01, Retail 02, Retail 03 and Food and Drink Premises on the DP) that form part of the Southern Sector. All tenancies are located at ground level, adjacent to Dyer Lane and Palmer Street to the immediate south.
31. Tenancies 1, 2 and 3 are located on the northern side of Dyer Lane and have floor areas that range between 67sq.m. and 127sq.m. Tenancy 5 is located on the southern side of Dyer Lane and has a floor area of 187sq.m.

#### Surrounding land

32. The surrounding area is developed with a mix of residential, community and commercial / retail uses.
33. To the north of the subject site is the Northern Sector and beyond that is Highett Street which contains a mix of single and double-storey residential properties, of varied architectural forms, and primarily located on land zoned General Residential (Schedule 2).

## Attachment 13 - Original IDAC Report 14 September 2016

34. To the west of the site is Griffiths Street, and on the opposite side is a large parcel of land next to which is the Lynall Hall Community School and the Richmond Recreation Centre accessed from Gleadell Street further west. The Richmond Assembly of God Church is located to the south of the recreation centre and is accessed primarily from Griffiths Street.
35. To the east of the site is Coppin Street which like Highett Street, contains a mix of single and double-storey residential properties, of varied architectural forms, and primarily located on land zoned General Residential (Schedule 2).
36. To the south of the site, across Palmer Street is a mixture of residential properties (also zoned General Residential (Schedule 2), and some more recent, three-storey infill developments are also evident, particularly to the east, along the north side of Palmer Street. Further south is the Bridge Road shopping strip (zoned Commercial 1).
37. The site is located some 345m to the north-east of the Church Street/Bridge Road intersection and some 120m directly north of Bridge Road, where public transport in the form of trams can be easily accessed. Richmond Train Station is located approximately 1km to the west and Victoria Street is located some 620m to the north which also contains tram services.

### The Proposal

38. The application is for the sale and consumption of liquor to patrons of the as-approved commercial tenancies labelled as Retail 01 (identified as Tenancy 1), 02 (identified as Tenancy 2), and 03 (identified as Tenancy 3), and the Food and Drink Premises (identified as Tenancy 5). Liquor will be served to patrons within the following hours within each tenancy:
  - (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm.
39. The application proposes a maximum patronage of 385; with 106 patrons and 6 staff designated to Tenancy 1; 53 patrons and 5 staff designated to Tenancy 2; 42 patrons and 5 staff designated to Tenancy 3; and 184 patrons and 8 staff designated to Tenancy 5.
40. The red line plan for the liquor licence shows that liquor will be served within the internal areas of each tenancy, including the outdoor courtyard area associated with the as-labelled 'Food and Drink Premises'.

### Zoning

#### *Mixed Use Zone (MUZ)*

41. The purposes of the zone are (as relevant);
  - (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
  - (b) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
  - (c) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

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42. Pursuant to Clause 32.04-2 of the Yarra Planning Scheme (the 'Scheme'), a planning permit is required for use of the land for a food and drink premises (café) if the leasable floor area exceeds 150sqm. Each retail tenancy is less than 150sq.m; with Tenancy 5 already approved as a 'Food and Drink Premises' under planning permit PLN11/0420 and therefore there is no planning permit requirement for the use.
43. There is no planning permit required for the liquor license under the zone.

### Overlays

#### *Development Plan Overlay – Schedule 4 (DDO4)*

44. Pursuant to 43.04-1 of the Scheme 'a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority'.
45. A development plan has been approved for the site.
46. Schedule 4 does not contain any specific requirements relating to the sale and consumption of liquor.

#### *Environmental Audit Overlay*

47. The requirements of this overlay are not applicable in this instance, as the proposal is not for a sensitive use (i.e. residential use, child care centre, pre-school centre or primary school).
48. However, the requirements of this overlay have previously been addressed under planning permit PLN11/0420 which considered the residential development.

### Particular Provisions

#### *Clause 52.27 – Licensed Premises Policy*

49. A permit is required to use land to sell or consume liquor if (relevantly):
  - (a) *A licence is required under the Liquor Control Reform Act 1998.*
50. The following decision guidelines must be considered;
  - (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
  - (b) *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
  - (c) *The impact of the hours of operation on the amenity of the surrounding area.*
  - (d) *The impact of the number of patrons on the amenity of the surrounding area.*
  - (e) *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

### General Provisions

#### *Clause 65 General Provisions*

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51. 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, amongst other things, the relevant State Planning Policy Frameworks and Local Planning Policy Framework, as well as the purpose of the Zone, Overlay or any other Provision.

### State Planning Policy Framework (SPPF)

52. The following SPPF provisions of the Scheme are relevant:

#### *Clause 13.04-1 Noise abatement*

53. The objective of this clause is *'to assist the control of noise effects on sensitive land uses'*.
54. The strategy is to *'ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area'*.

#### *Clause 17.01-1 Business*

55. The objective is *'to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities'*.

### Local Planning Policy Framework (LPPF)

56. The following LPPF provisions of the Scheme are relevant:

#### *Clause 21.04-3 Industry, office and commercial*

57. Whilst not strictly applicable as the use of the tenancies has previously been considered under planning permit PLN11/0420, this clause has an objective and strategy *'to increase the number and diversity of local employment opportunities'* by applying the following strategy:
- (a) *Strategy 8.3 – Encourage residential and business land use within the Mixed Use Zone to locate on the same site.* As such, the zoning of the land encourages the co-existence of residential and commercial uses.

### Relevant Local Policies

#### *Clause 22.09 – Licensed premises*

58. This policy applies to all applications for new licensed premises. The objectives of this clause are:
- (a) *To effectively manage the location, operation and hours of trade of licensed premises, in order to protect the amenity of nearby properties and areas.*
- (b) *To protect residential and other commercial uses from excess noise, traffic and car parking issues.*
- (c) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*

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59. Relevant policies of this clause are as follows:

- (a) *Location and Access*
  - (i) *New licensed premises should be located such that:*
    - *they are not in Residential, or Mixed Use zones*
    - *there is appropriate opportunity to manage or buffer potential amenity impacts including ingress by queuing patrons, egress of those who have consumed alcohol on the premises, anti-social behaviour, in relation to more sensitive uses and, in particular, residential use*
- (b) *Hours of Operation*
  - (i) *Assessment of the impact of the hours of operation on the amenity of the surrounding area consider:*
    - *The zoning of surrounding land.*
    - *The nature of surrounding uses and hours of operation.*
    - *Potential noise emissions from the premises.*
    - *Licensed premises in a Residential or Mixed Use Zone or within 30 metres of a residential area not trade beyond 11pm on any night unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area.*
    - *Licensed premises in a Business or Industrial Zone not trade beyond 1am, unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area.*
- (c) *Patron Numbers*
  - (i) *The number of patrons not exceed the safe and amenable operating capacity of the premises.*
  - (ii) *The number of patrons not adversely affect the amenity of the surrounding area.*
- (d) *Noise*
  - (i) *The operation of licensed premises have minimal impact on the amenity of the area, in relation to noise.*
  - (ii) *Noise emissions from licensed premises comply with the standards specified in the State Environmental Protection Policy.*
  - (iii) *On-site noise attenuation measures be considered for licensed premises where amenity impacts on the surrounding area may result from the proposed activities.*
- (e) *Car parking*
  - (i) *Car parking from new licensed premises not adversely impact on residential areas by way of on-street, over-flow parking or vehicles accessing off-street car parking.*

60. An assessment against this policy is provided in the 'Assessment' section of the report.

### Advertising

- 61. The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987 (the Act) by way of 444 letters sent to surrounding owners and occupiers and three signs displayed on site, with one to each street interface. Twenty one (21) objections were received.
- 62. Issues of concern raised by objectors can be summarised as:

## Attachment 13 - Original IDAC Report 14 September 2016

- (a) The location is inappropriate for the sale of liquor (i.e. located in a residential area);
  - (b) The site is located close to a school, a church and a health centre and will have a negative impact;
  - (c) The liquor licences will result in unruly and antisocial behaviour and increase crime and violence in the area;
  - (d) The laneway nature of the site precludes police patrols;
  - (e) The proposal will result in a cumulative impact, leading to a saturation of licenced venues in the area;
  - (f) The application should be limited to one liquor licence;
  - (g) External noise of patrons leaving the venues; and
  - (h) The hours of operation are considered excessive.
63. A planning consultation meeting was held on 26 July 2016 and was attended by Council officers, the permit applicant and objectors. Many of the above concerns were reiterated and in an attempt to address the concerns relating to the hours for the sale and consumption of liquor, the permit applicant has reduced the hours as already discussed.

### External

64. The application was referred to SLR Consulting P/L for acoustic/noise advice in relation to the outdoor area associated with the 'Food and Drink Premises' tenancy. The advice from SLR is contained in the appendices to this report.

### Internal

65. The following internal referrals were made:
- (a) Social Planning - Community Health and Safety Unit ; and
  - (b) Community Amenity / Compliance Unit.
66. Referral responses are contained in appendices to this report.

## OFFICER ASSESSMENT

67. In assessing this application, the primary planning considerations are:
- (a) Strategic context;
  - (b) Liquor licence; and
  - (c) Objector concerns.

### Strategic Context

68. The site is located in a Mixed Use Zone, 120m north of the Bridge Road Major Activity Centre. The purpose of the MUZ is (as relevant):

*'To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality'.*

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69. The key issue is to consider whether the provision of a liquor licence will complement the mixed-use function of the locality. The tenancies form part of the existing approval based on (Planning Permit PLN11/0420), that allowed the mixed use development on this strategic redevelopment site which includes retail and food and drink premises. The permit related to a Development Plan that was also supported by Council and deemed the commercial component appropriate.
70. The proposed sale and consumption of liquor will be associated with four food and drink premises (cafes). The only difference between the current application and the existing planning permits approval relates to the retail tenancies being converted into food and drink premises and the sale and consumption of liquor. As stated earlier in the report, a food and drink premises is "as-of-right" if the premises is less than 150sq.m. in floor area. The retail areas are all less than 150sq.m. (between 67sq.m-127sq.m.) and therefore no approval is required for these areas. The approved food and drink premises (Tenancy 5) under planning permit no. PLN11/0420 is permitted to operate from Monday to Sunday: 6.30am to 12am (midnight).
71. In this context, a liquor licence would be an ancillary component to the previously approved uses. The application is not for a liquor licence for a tavern (ie. restaurant/café liquor licence has been applied for) and this is supportive of the already approved uses on site which is for small scale complimentary commercial activities.

### Liquor Licence

#### *Clause 52.27 – Licensed Premises*

72. The decision guidelines at Clause 52.27 of the Scheme, include the consideration of the impact of the sale or consumption of liquor on the amenity of the surrounding area, the impact of the hours of operation and number of patrons on the amenity of the surrounding area and the cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.
73. Most of the above considerations will be taken into account in the assessment of the proposal against Council's local licensed premises policy (Clause 22.09 – provided later in the report) which provides a local perspective to the ambitions of the planning policy within the State Planning Policy Framework.
74. In addition to the above, it is necessary to give consideration to potential cumulative impacts associated with the proposed amendment to the liquor license. The "Corner Hotel" decision (*Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors*) provides a potential assessment methodology for considering applications that may result in cumulative impact. The decision also acknowledges that depending on the nature of the use (i.e. premise type, patron numbers and operating hours) the required level of assessment will vary.
75. Since the "Corner Hotel" decision Council has developed an assessment tool to determine the likelihood of cumulative impact occurring as a result of a proposal based on risk factors associated with the type of premises, size of premises and closing hours of the premises, to help determine what level of assessment is appropriate, as follows:



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Type of Premise	Risk Factor
<b>Café / Restaurant</b>	<b>0</b>
Bar / Restaurant / Café	1
Bar	3
Hotel / Tavern	3
Night Club	3
Place of Assembly	2
<b>Size of Premise</b>	<b>Risk Factor</b>
0 – 49 patrons	0
50 – 99 patrons	1
100 – 199 patrons	2
<b>200+</b>	<b>3</b>
<b>Closing hours</b>	<b>Risk factor</b>
<b>11pm</b>	<b>0</b>
12am	1
1am	2
2am	3
3am	3
After 3am	4

76. Applying the matrix of risk, a reasonable consideration would suggest a score of 0-3 would be no risk, but that a score higher than 3 would be a potential risk. The proposal generates a potential risk factor of 3 and a cumulative impact assessment is therefore not required.
77. The proposed sale and consumption of liquor in a food and drink premises is further considered to be appropriate because this is not the sole activity but is in association with the serving of food. Patrons are therefore less likely to become intoxicated (compared to a bar or tavern type venue).
78. The above assessment demonstrates that the liquor licence is acceptable as there will be limited impact on the amenity of the surrounding area. The business will operate in accordance with the Noise and Amenity Action Plan (NAAP) associated with each tenancy to reduce any potential detriment on the surrounding area.
79. There is no evidence to suggest that the proposal will contribute to any adverse wide-scale off-site amenity impacts if managed properly and in accordance with Clause 22.09 (Licensed premises policy) of the Scheme which is Council's local policy to guide the assessment of new or extended licensed premises within the municipality. It contains six key elements that will be considered in turn:

*Clause 22.09 - Licensed Premises Policy*

80. Clause 22.09 (Licensed premises policy) of the Scheme is Council's local policy to guide the assessment of new or extended licensed premises within the municipality. It contains six key elements that will be considered in the following section.

*Clause 22.09-3.1 – Location and Access*

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81. As part of Council's policy, new licensed premises should be encouraged away from Residential and Mixed Use Zones, with amenity impacts managed, and high levels of public safety and surveillance of patrons. The liquor licence for each of the 4 tenancies is considered appropriate given that:
  - (a) It is associated with a food and drink premise (café); the predominant activity will be the serving of food and it is anticipated that the serving of alcohol will not unreasonably impact the amenity of the surrounding area by way of queuing patrons or anti-social behaviour. The associated function with food service and 'sit down' meals will be the primary function (i.e. not the sale or consumption of liquor);
  - (b) The land has been zoned Mixed Use, and the commercial uses on site have already been given Council approval. These uses activate Dyer Lane (i.e. rather than just dwelling foyers and back of a car park) and ensure there is a high level of surveillance in the area (i.e. not located down side streets or alleyways). The licensed tenancies are therefore not isolated in the 'centre' of a pure residential area.
  - (c) Clause 22.09 does not make the distinction between a General Residential Zone (GRZ) and MUZ, where the zones themselves clearly do (i.e. GRZ is primarily residential and MUZ supports a mixture of complementary land uses); and
  - (d) Subject to a condition restricting the hours to the amended hours for the sale and consumption of liquor, the amenity of the surrounding area can be appropriately protected.
82. Three of the four tenancies face into Dyer Lane, with one also facing Palmer Street. The outdoor seating area faces onto Palmer Street and Dyer Lane towards the south-west corner of the site (away from the dwellings further north and east). The Applicant has provided an acoustic report (prepared by Marshall Day Acoustics), which makes a number of recommendations having regard to SEPP N-2, in relation to the courtyard area. The report identifies the closest residential properties as being within the development itself and on the north side of Dyer Lane. With this in mind, SLR Consulting P/L recommends that:
  - (a) *MDA provide further technical basis or additional measurements to confirm that their background noise data is representative of the most critical time of impact (e.g. the last half hour of operation during an early weeknight / late Sunday evening period). The location and time of measurement of the background data used should be provided as it is critical in the assessment of both the patron and music noise assessments;*
  - (b) *MDA clarify how the music level is to be set in the area (i.e. is it the sound level at 1 m from any speaker, or the average noise level across the entire crowd area). The apartments in the Jaques development (10-15 m away) are particularly close and unless the music is managed carefully there could be a potential SEPP N-2 excess.*
  - (c) *The Jaques development apartments to the north overlook and are only 10-15 m from this outdoor area. There is some potential for patron noise impact due to the close proximity of these apartments, and due to the fact that crowd behaviour can vary (a crowd could be more rowdy than a typical 'dining' crowd when alcohol consumption is involved). Provision or allowance for some sort of shielding along the north of this area may be necessary to minimise this impact.*
  - (d) *MDA assessment is based on a 10 pm closure of the outdoor area. The venue must not operate this outdoor area beyond this time.*

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83. Since the above comments by SLR, the application has been amended to reduce hours for the sale and consumption of liquor which is a significant improvement on the hours initially proposed. Planning permit PLN11/0420 already permits the as-approved food and drink premises to operate until 12.00am (midnight), seven days a week and as such it is considered unreasonable to request the above items when liquor will cease to be served by 9pm from Sunday to Thursday. However, a condition will require the sale and consumption of liquor to cease by 10.00pm in the outdoor / courtyard area on Friday and Saturday to address the concerns raised by SLR. It is also highlighted that the evening criteria of SEPPN-2 and sleep disturbance criteria do not come into effect until 10pm which further justifies the serving of liquor until 10.00pm. The music levels can also be conditioned, to have only background music.
84. The use of the courtyard area associated with Tenancy 5 can operate until 12 midnight (under planning permit PLN11/0420). However the sale and consumption of alcohol would cease at 10.00pm thereby allowing patrons to finish their meals. A condition will also require the NAAP associated with Tenancy 5 to include a plan notation that absorptive material with a minimum absorption coefficient of NRC0.7 be attached to the underside of the slab soffit of the outdoor area. This was a recommendation by Marshall Day Acoustics (report supplied by the applicant) which wasn't challenged by SLR.

### *Clause 22.09-3.2 – Hours of Operation*

85. The application seeks approval for liquor to be sold and consumed during the operating hours of Sunday to Thursday – 10.30am to 9.00pm and Friday and Saturday – 10.30am to 11.00pm. The proposed trading hours are consistent with clause 22.09-3 for sites in a Mixed Use Zone as the proposed hours do not exceed the applicable 11.00pm trade policy.
86. As discussed previously, due to the outside component of Tenancy 5 and the potential for noise to carry further at night when the surrounds are quieter, conditions will require that the sale and consumption of liquor cease at 10.00pm on Fridays and Saturday with all music limited to background music only.
87. Given the location and limitation of music to background noise levels and additional restrictions on the use of the outdoor area, the proposal is not expected to result in unreasonable noise impacts on surrounding residential properties, both external and internal to the site. Council's Community Amenity / Compliance Unit have also provided comments that are supportive of the Noise and Amenity Action Plans (NAAPs) for each tenancy (discussed later in this assessment).

### *Clause 22.09-3.3 – Patron Numbers*

88. A maximum of 385 patrons are proposed that would be spread across the four tenancies. Four reports prepared by Checkpoint building surveyors were submitted which provide a substantially reduced patronage maximum number when applying the Building Code (i.e. 130 patrons due to the number of toilets). However, the application relates to a maximum patronage of 385, and therefore the assessment will be based on this number. Council's Community Amenity / Compliance Unit did not raise any concerns with this higher number. The application was also referred to Social Planning - Community Health and Safety Unit who were generally supportive.

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89. However concerns were raised in relation to the tables and chairs shown on the floor plans not achieving seating for at least 75 per cent of patrons. As such, a condition will require floor plans to show seating to at least 75% of the patrons of each tenancy. This condition will most likely result in a reduced number of patrons, but in any event the maximum number will not be exceeded. A condition will require the maximum patron numbers to be included in each NAAP based on the 75% seating.
90. In relation to the effect of patron numbers on the amenity of surrounding uses, it is unlikely that patrons will be entering and exiting each tenancy in a concentrated manner and should they do so, movement patterns are limited to Dyer Lane and Palmer Street with patrons residing in the area dispersing throughout the area broadly. Two of the tenancies have 53 patrons or less, with Tenancy 1 and 5 containing larger numbers. However both of these tenancies are located towards the Palmer Street and Griffiths Street end, away from the more residential end near Coppin Street. The tenancies, 120m north of the Bridge Road MAC, are considered to be appropriately located and are not isolated from other commercial uses, nor are they located on land strictly zoned residential.  
Subject to conditions and the implementation of the requirements outlined in the NAAPs it is expected that the tenancies will be effectively managed.
91. In the context of the approved development comprises a large quantity of dwellings (i.e. in excess of 300 dwellings) an additional 385 patrons is not considered to 'tip the balance' and unreasonably impact the amenity of the surrounding area, because patrons will already be in the area.

### *Clause 22.09-3.4 – Noise*

92. The NAAPs of each tenancy, submitted as part of the application, outline measures to ensure that the sale and consumption of liquor would not be detrimental to the amenity of the area. The plan includes measures to be undertaken to identify and address sources of noise. The plan would be endorsed as part of any permit to be issued. There will be no live music or DJ's associated with the site and music will be limited to background levels. Conditions will require that the noise from the premises must comply with EPA requirements, notably SEPPN-1 and SEPP N-2 which control commercial noise and music from public premises. A further condition will require the NAAPs for each tenancy to be updated to include the amended hours for the sale and consumption of liquor as submitted under the Section 57(a) amendment.
93. As outlined previously, a condition will require the sale and consumption of liquor to cease by 10.00pm in the outdoor / courtyard area on Friday and Saturday to address the concerns raised by SLR. It is also highlighted that the evening criteria of SEPPN-2 does not come into effect until 10.00pm which further justifies the serving of liquor until 10.00pm. The music levels will also be conditioned to have only background music and to cease at the same time as the serving of liquor. Although there will be residences within the Mixed Use Zone forming part of this development, such dwellings cannot expect the same level of amenity as those living in purely residential areas. The surrounding streets (i.e. Coppin, Palmer and Griffiths Streets) will serve as a buffer to these commercial tenancies.
94. Therefore, with the outdoor space not serving alcohol after 10.00pm on Fridays and Saturdays and with music also ceasing at this time, it is considered that noise would be effectively managed and it is not expected that this would result in any unreasonable impacts into the typical sleeping hours.

### *Clause 22.09-3.5 – Car Parking*

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95. A car parking reduction was considered as part of the original development plan that allowed the existing use and development on the land. There are no implications or changes to the as-approved car parking layout.
96. It is also worth highlighting that Clause 52.05 (Car Parking) of the Scheme requires 4 spaces to each 100 sq.m. of leasable floor area to both a 'food and drink premises' and 'retail' (shop). As such, the variation to the use (which is as-of-right) does not increase the original parking rate that would have been considered as part of the initial assessment. As evidenced by the surrounding area, there is also convenient access to alternative transport modes as well as the availability of some on-street parking in the surrounding area.

### *Clause 22.09-3.6 – Noise and Amenity Plan (NAAP)*

97. Many of the requirements of clause 22.09-3.6 of the Scheme in relation to the provision of a NAAP have already been addressed in this report. The provisions within the submitted NAAP are considered appropriate to manage the sale and consumption of liquor within each tenancy without causing undue detriment to the amenity of the area. Measures to minimise amenity impacts of the proposal as indicated in the NAAP are as follows:
  - (a) Procedures to be undertaken by staff in the event of complaints:
    - (i) The NAAP states that in the event of complaints being made against the venue either by a member of the public, the police, an authorised officer of Council or an officer of the liquor licencing authority, the complaint will be recorded as an incident and provided to the directors / owners of the venue(s) in writing. Reported matters would be immediately dealt with by one or more managers / owners.
  - (b) Details of staffing arrangements / training of staff:
    - (i) There would be 6 staff associated with Retail 01; 5 staff associated with Retail 02; 5 staff associated with Retail 03; and 8 staff associated with the "Food and Drink premises". All staff required to serve alcohol will have the appropriate 'Responsible Service of Alcohol' accreditation and will be monitored by the relevant managerial staff.
  - (c) Lighting:
    - (i) All lighting will be appropriately designed to not adversely affect the amenity of the neighbouring properties.
  - (d) Waste management:
    - (i) A Waste Management Plan (WMP) prepared by WasteTech Services Pty. Ltd. has also been provided that provides the following method for the collection of refuse. This is consistent with the previous methodology for refuse collection endorsed as part of the WMP associated with planning permit PLN11/0420 for the commercial tenancies:

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*During collection: the collection contractor will park their vehicle along Palmer Street, exit the vehicle and manually move bins from the commercial refuse room to the rear of the collection vehicle and return the emptied bins to the refuse room once emptied. Staff will then return bins to their tenancy. Bins are not to be presented along the kerbside of Palmer Street. The body corporate will manage how the refuse room is used by allocating appropriate days/times for each tenancy (exp. Tenancy 1, 2 to use room on Monday for collections, tenancy 3 to use room on Tuesday etc). Collections will be performed by a private contractor.*

- (ii) No emptying of bottles into garbage bins after 10.00pm or before 7.00am will be required by condition.

(e) Music:

- (i) No music other than background music will be provided. No live music or DJ will perform in the premises. A further condition will require music to comply with the standards set out in State Environmental Protection Policy (SEPP N-2) – Control of Music from Public Premises.

98. A condition will require amended NAAPs to be submitted to address the following:

- (a) Confirmation that a manager will always be on-site during the sale and consumption of liquor to ensure sound management of the premises;
- (b) Use of the outdoor area will cease as per the time discussed previously in this report;
- (c) Music will cease in the outdoor area as per the time discussed previously in this report;
- (d) Confirmation that any external security lights will be oriented to prevent direct light spill outside the site; and
- (e) The corresponding floor plans to show seating to at least 75% of the patrons within the premises with no external seating in the laneway.

99. Overall, these details and the additional information to be provided in the NAAP by way of condition would provide for the sound management of the premises and needs to be adhered to at all times.

### Objector Concerns

100. Some of the issues raised by the objectors have been addressed in the 'Assessment' section of this report. For ease of reference, the concerns raised and corresponding report sections and or paragraph numbers are outlined below as relevant:

- (a) *The location is inappropriate for the sale of liquor (i.e. located in a residential area).*

101. An explanation in relation to the site's context is provided at paragraphs 68-71.

- (b) *The site is located close to a school, a church and a health centre and will have a negative impact.*

102. This is not a planning consideration. Nevertheless, the serving and consumption of alcohol will be associated with the serving of food. A condition will also require the floor plans to show seating to at least 75% of the patrons of each tenancy so that vertical drinking (which is typically attributed to more alcohol consumption) is discouraged.

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- (c) *The liquor licences will result in unruly and antisocial behaviour and increase crime and violence in the area.*
  - (d) *The laneway nature of the site precludes police patrols.*
103. Each premises is proposed to be managed effectively and would need to comply with permit conditions and associated NAAP. Victoria Police has the duty to respond to issues of patron behaviour on the street or in the laneway, and in the area in general.
- (e) *The proposal will result in a cumulative impact, leading to a saturation of licenced venues in the area.*
104. The test to identify whether a cumulative impact would occur has been identified at paragraphs 72 to 79.
- (f) *The application should be limited to one liquor licence.*
105. The number proposed in any application is not a planning consideration.
- (g) *External noise of patrons leaving the venues.*
106. A detailed response in relation to noise and patron numbers is provided at paragraphs 88 to 94.
- (h) *The hours of operation are considered excessive.*
107. The hours of operation have been reduced to the hours as outlined in the 'Proposal' section of this report and are supported based on the findings in the 'Assessment' section.

### Conclusion

108. Based on the report, the proposal is considered to substantially comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval subject to conditions.

### RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN16/0008 for the sale and consumption of liquor in association with four (4) food and drink premises (cafes) as part of the Jaques Development at 14 Coppin Street, Richmond subject to the following conditions:

1. Prior to the liquor licence commencing, amended Noise and Amenity Action Plans (NAAPs) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, each NAAP will be endorsed and will then form part of the permit. The NAAPs must be generally in accordance with the NAAPs received by Council on 02 June 2016, but modified to include:
  - (a) The hours for the sale and consumption of liquor as stipulated for each tenancy (i.e. Conditions 5, 7, 9 and 11);
  - (b) Confirmation that a manager will always be on site during the sale and consumption of liquor;
  - (c) Music in the outdoor area associated with Tenancy 5 to cease no later than 10pm;
  - (d) All external lighting to be oriented to prevent direct light spill outside their tenancy;

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- (e) Floor plans to show seating to at least 75% of patrons within the premises, no external seating in the laneway and appropriately labelled (i.e. Tenancy 1, 2, 3 and 5);
  - (f) The maximum patron numbers specified as a result of the condition above (but not more than that already considered);
  - (g) Tenancy 5 to include a plan notation that absorptive material with a minimum absorption coefficient of NRC0.7 be attached to the underside of the slab soffit of the outdoor area.
2. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
  3. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor must be carried out in accordance with this permit and the endorsed NAAPs and plans.

### Tenancy 1 (Conditions 4 and 5)

4. No more patrons than those specified in the endorsed NAAP are permitted on the land at any time liquor is being sold or consumed.
5. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of:
  - (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm.

### Tenancy 2 (Conditions 6 and 7)

6. No more patrons than those specified in the endorsed NAAP are permitted on the land at any time liquor is being sold or consumed.
7. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of:
  - (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm.

### Tenancy 3 (Conditions 8 and 9)

8. No more patrons than those specified in the endorsed NAAP are permitted on the land at any time liquor is being sold or consumed.
9. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of:
  - (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm.

### Tenancy 5 (Conditions 10 and 11)

10. No more patrons than those specified in the endorsed NAAP are permitted on the land at any time liquor is being sold or consumed.



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11. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of:
  - (a) Sunday to Thursday: 10.30am to 9:00pm; and
  - (b) Friday and Saturday: 10.30am to 11.00pm (with the exception of the outdoor area that will cease no later than 10:00pm on these days).
12. Before the sale and consumption of liquor to Tenancy 5 commences, the requirement as per Condition 1(g) must be installed and maintained to the satisfaction of the Responsible Authority.
13. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
14. The amenity of the area must not be detrimentally affected by the use, including through:
  - (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.to the satisfaction of the Responsible Authority.
15. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
16. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
17. Except with the prior written consent of the Responsible Authority, the provision of music and entertainment on the land must be at a background noise level.
18. Speakers external to the building must not be erected or used.
19. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
20. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
21. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.
22. This permit will expire if the sale and consumption of liquor is not commenced within two years from 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.

### NOTES:

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

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

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