YARRA CITY COUNCIL

Internal Development Approvals Committee

Agenda

to be held on Wednesday 28 March 2018 at 6.30pm in Meeting Rooms 1 & 2 at the Richmond Town Hall

Rostered Councillor membership

Councillor Stephen Jolly
Councillor James Searle
Councillor Mike McEvoy

I. ATTENDANCE
Vicky Grillakis (Co-Ordinator Statutory Planning)
Sarah Thomas (Principal Planner and Advocate)
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

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	PLN17/0448 - 484 - 486 Swan Street Richmond - Use and development of the land for the construction of a mixed-use building (14 storey plus three basement levels), including offices, a restricted retail premises and five food and drink tenancies premises (7am to 11pm, seven days per week - permit required use), reduction of car parking requirements and buildings and works including alteration to access to a Road Zone (Category 1).	5	49
1.2	Interim order response plan assessment - PLN16/0434 - 26-56 Queens Parade, Fitzroy North (Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone and PLN16/0732 - Rear of 26-56 Queens Parade, Fitzroy North Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site))	113	157
1.3	CONFIDENTIAL, WITHOUT PREDJUDICE ITEM - PLN17/0389 - 16A-17A/64 Balmain Street, Cremorne - Development of the land for the construction of a multi storey building (plus basement levels), reduction in the car parking requirement associated with an office	720	738

1.1 PLN17/0448 - 484 - 486 Swan Street Richmond - Use and development of the land for the construction of a mixed-use building (14 storey plus three basement levels), including offices, a restricted retail premises and five food and drink tenancies premises (7am to 11pm, seven days per week - permit required use), reduction of car parking requirements and buildings and works including alteration to access to a Road Zone (Category 1).

Executive Summary

Purpose

1. This report provides Council with an assessment of planning permit application No. PLN17/0448 which affects land at 484-486 Swan Street Richmond.

Key Planning Considerations

2. Key planning considerations include:

   (a) Use (Clauses 34.02-7);
   (b) Interfaces uses policy (Clause 22.05);
   (c) Built form (Clauses 15.01, 21.05, 22.10, 34.02-7, 36.04, 43.02 and 52.29); and
   (d) Car Parking and Bicycle Provision (Clauses 52.06 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;
   (d) Environmentally Sustainable Development (ESD);
   (e) Off-site amenity impacts;
   (f) Car parking, traffic, access and bicycle provision;
   (g) Waste management;
   (h) Other matters; and
   (i) Objector concerns.

Objector Concerns

4. Nine objections were received to the application, these can be summarised as:

   (a) Neighbourhood character/Heritage & Streetscape;
   (b) Height/Massing;
   (c) Car parking/traffic implications;
   (d) Amenity Impacts (overshadowing and visual bulk);
   (e) Insufficient demand for office area; and
   (f) Construction issues.

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**

1.1 PLN17/0448 - 484 - 486 Swan Street Richmond - Use and development of the land for the construction of a mixed-use building (14 storey plus three basement levels), including offices, a restricted retail premises and five food and drink tenancies premises (7am to 11pm, seven days per week - permit required use), reduction of car parking requirements and buildings and works including alteration to access to a Road Zone (Category 1).

Trim Record Number: D18/38100
Responsible Officer: Manager Statutory Planning

Proposal:	Use and development of the land for the construction of a mixed-use building (14 storey plus three basement levels), including offices, a restricted retail premises and five food and drink tenancies premises (7am to 11pm, seven days per week - permit required use), reduction of car parking requirements and buildings and works including alteration to access to a Road Zone (Category 1).
Existing use:	Office
Applicant:	Killara Quest Pty Ltd
Zoning / Overlays:	Commercial 2 Zone/Design and Development Overlay (Schedules 2 and 5)
Date of Application:	8 June 2017
Application Number:	PLN17/0448

Planning History

1. Planning permit PL01/0851 was approved on 30 January 2002 for change of use for a factory/ showroom and associated buildings and works at No. 486 Swan Street.

2. Planning application PL02/0626 for a change of use to an office/ showroom and buildings and works including a partial waiver of the car parking requirement at No. 486 Swan Street was refused on 6 January 2004.

Background

3. The application was lodged on 8 June 2017 and further information subsequently requested later that month. The information was received on 23 August 2017 and the application was then advertised with nine objections being received. A consultation meeting was held on 28 November 2017. The Permit Applicant and Planning Officers were present however none of the objectors attended the meeting.

4. Whilst this process was occurring, Council had sought and received advice from external acoustic, urban design and wind consultants as well as Council internal units including Urban Design, Waste Management, Engineering, Open Space Unit, Strategic Transport and Environmental Sustainable Development (ESD). Referral advice is an attachment to this report.

5. It should be noted that there are inconsistencies in the floor plans, where one set does not include Basement 03 whilst the other set shows Basement 02 and 03 on one plan. The sections also clearly show there are three basement levels. This will be required can be required to be rectified by a permit condition. This issue also highlights that the plans do not have plan page numbers (eg Drawing No. or TP are typically used), this will also be required by way of condition as it allows for easier referencing of plans.

Planning Scheme Amendments

Amendment VC142

6. On 16 January 2018, Planning Scheme Amendment VC142 was gazetted by the Minister for Planning. Among other changes, this amendment removed the permit requirements within clause 52.07 of the Yarra Planning Scheme for a loading bay.

Amendment C191 – Swan Street Activity Centre

7. Amendment C191 proposes to introduce a new Design and Development Overlay for Swan Street into the Yarra Planning Scheme and rezone the Commercial 2 zoned land along the eastern end of Swan Street to a Commercial 1 Zone, along with other changes to the Yarra Planning Scheme. It has been prepared to fulfil the Council resolution from September 2015 and provide much sought after guidance for the future built form along Swan Street.
8. The Amendment has been prepared and informed by a Built Form Framework which refines and builds upon the principles and directions in the Swan Street Structure Plan. The propsed DDO includes a robust and tailored mix of preferred and mandatory controls that will broadly realise the outcomes sought in the Structure Plan.
9. At a Council meeting on 17 October 2017, Council agreed to seek authorisation to exhibit Amendment C191 in accordance with the *Planning and Environment Act 1987,* which implements the Swan Street Structure Plan and the Swan Street Activity Built Form Framework.

10. The exhibition process of the amendment (post 'authorisation') process provides an opportunity for the community to consider the proposed planning controls and associated documents.

11. As this amendment has not progressed to adoption by Council, it is not yet a seriously entertained document, therefore has no statutory weight.

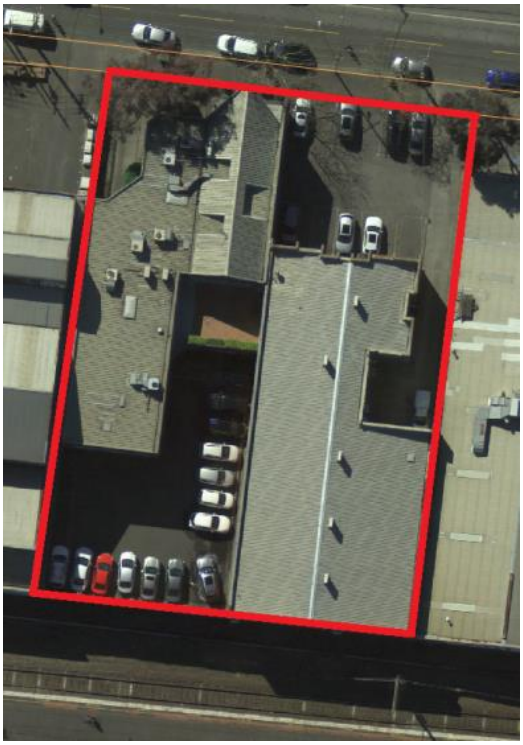
Existing Conditions

Subject Site

12. The subject site is located on the south side of Swan Street, between Burnley Street (west) and Stawell Street (east) in Richmond. The site has a frontage to Swan Street of 40.3m, a depth of approximately 57.91m and a total area of 2,333sqm.

13. The subject site is currently occupied by two, double storey office buildings, both partly constructed along their side boundaries and also setback from the front boundary. Car parking is located within the front setback as well as to the rear of the sites. They both have side access areas along their side boundaries.

14. Below is an image of the subject site:



Title

15. No restrictive covenants apply to the land according to the Certificate of Titles submitted with the application.

Surrounding Land

16. The site is located within a predominantly mixed commercial and light industrial area with residences further to the north and south. The area is quite varied in terms zoning, with the subject site being located within Commercial 2, land to the west and north being within Commercial 1, and land in General and Neighbourhood Residential further to the north and south with various parks being within the Public Park and Recreation Zone. This has also resulted in diverse built form evident as shown below:

17. The site derives much of its context from its location on the Swan Street Major Activity Centre (MAC) and its abuttal to the Burnley Railway Station immediately to the south. The Burnley Street overpass is further to the west which travels over the railway line. The Burnley Street Neighbourhood Activity Centre (NAC) which is to the north-west of the subject site.

18. In the wider area to the north, east and west are recently constructed apartment buildings, dwellings as well as showrooms, warehouses and offices generally constructed to title boundary with high site coverage. The residential pockets (both in built form typology and also zoning) are occupied by dwellings generally on narrow lots, built to their side boundaries and with small private open spaces and front yards (if any).

19. The character of built form and development along Swan Street reflects the uses within the area with a mixture of larger commercial/industrial buildings predominantly along the southern side of Swan Street with finer grain development along the northern side. There are only a handful of buildings in the area with heritage value with the closest two being directly to the north at Nos. 413-415 Swan Street.

20. This part of Richmond area is currently going through a period of transition (and has been for some time) from lower scale buildings to higher density development. Whilst the tallest buildings close to the site are up to eight storeys, there have been a number of recent approvals along this eastern part of Swan Street for larger scale developments. Recent approved developments which are currently under construction or have progressed beyond the planning permit stage and are within proximity to the site are as follows:

    (a) No. 429-437 Swan and 16-26 Farmer Streets Richmond (six storeys - residential)
    (b) No. 370 – 374 Swan Street (11 storeys - office)
    (c) No. 345 Swan Street (six storeys - office)
    (d) No. 462-482 Swan Street (12 storeys - residential)
    (e) No. 314-320 Swan Street and 236 Coppin Street (two, eight storey buildings – one office, one residential)
    (f) No. 395 Swan Street (six storeys – residential)

21. In addition to the above, Burnley Street has had a number of developments approved (and constructed) within the last 10 years. The area has experienced a considerable degree of change.

22. The above developments show there is an increasing trend in this part of Richmond for larger scale built form then what currently exists.

23. Burnley and Swan Streets are also major arterial roads (as illustrated by their Category 1 Road Zone classification) which provide a connection to the Monash Freeway further to the south of the site.

24. The Swan Street MAC and Burnley Street NAC provide a wide range of services including local convenience retailing, bulkier item stores, car showrooms and food and drinks premises.

25. The subject site has excellent access to public transport, in the form of tram routes operating along Swan Street, linking the eastern suburbs and the CBD. Burnley Station is directly to the south of the site with four train lines access Burnley Station, Lilydale, Glen Waverley, Alamein and Belgrave.

26. In terms of public open space, there is access to public parks and recreation areas in the locality including the Yarra River, Richmond Netball Courts, Burnley Oval and the Burnley Golf Course.

27. The direct abuttals of the subject site are as follows:

(a) To the east are two similarly large commercial buildings, also with car parking areas within their front setbacks along Swan Street. Beyond these are finer grain commercial buildings with the café 'Friends of Mine' located at the intersection of Swan and Stawell Street. On the eastern side of the intersection are the Richmond Netball Courts.

(b) To the west of the subject site is the land known as No. 462-482 Swan Street and is occupied by five, brick single storey attached dwellings and a large, single storey timber yard. This land has a current permit (PLN15/0057) for a mixed use development up to 12 storeys. This land is currently zoned Commercial 1 and has a site specific Design and Development Overlay which was facilitated by Amendment C185 as part of a combined re-zoning and development application. Further to the west, (across the Burnley Street rail overpass) are a number of double storey offices, car showrooms, furniture stores and industrial buildings.

(c) Directly to the south of the site is a pedestrian path owned by VicTrack which provides access from Stawell Street to the railway underpass. The railway line associated with Burnley Station is located to the south. Further south, beyond the station and Madden Grove is the residential area of Burnley.

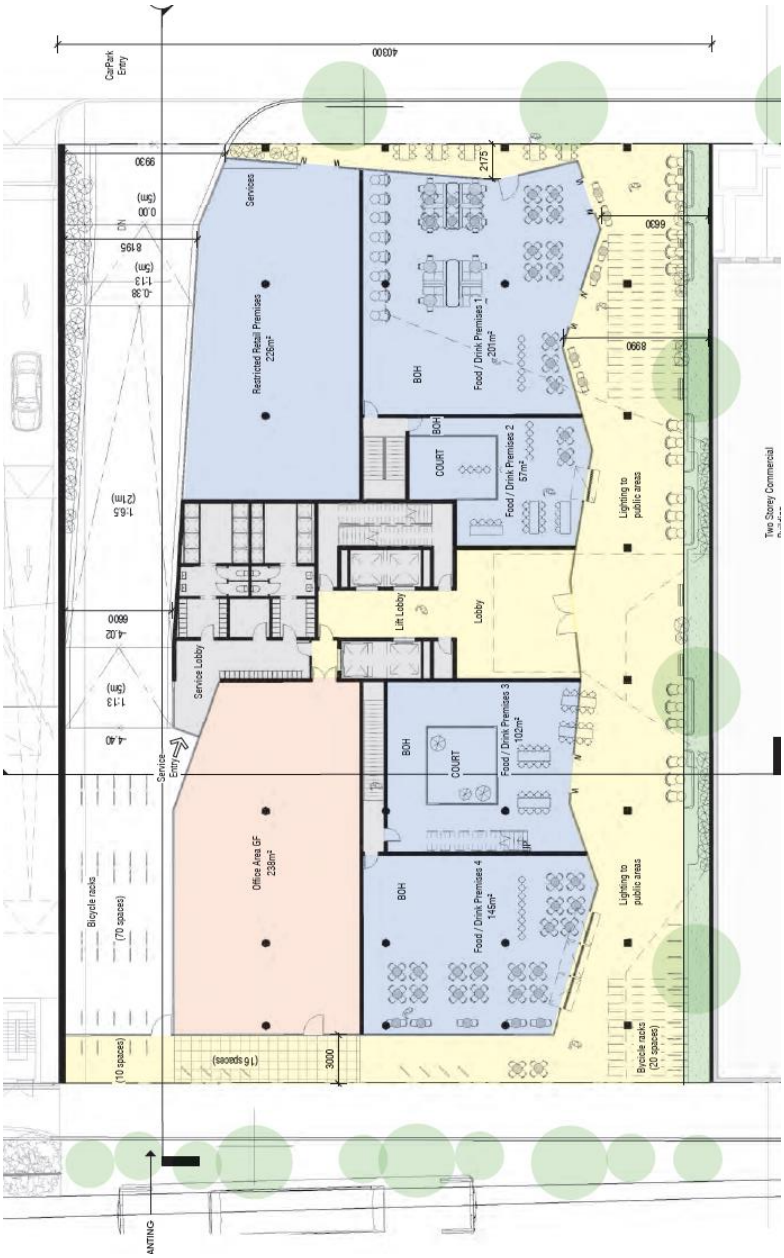
(d) The northern side of Swan Street is located within the Commercial 1 Zone, and the built form reflects a fine grain pattern of development, with a row of single and double storey Victorian-era shop buildings. Planning approvals include a planning permit granted on 11 March 2016 for a six storey building (with a five storey street wall) at No. 429-437 Swan and Nos. 16-26 Farmer Streets Richmond.

The Proposal

28. The proposal is for the construction of a fourteen storey, mixed use building with a part-three, part-four level podium.

29. The proposal is of an irregularly shaped design, incorporating a mixture of curved, jagged and rectilinear elements with an undulating curve western side. The proposal includes partial setbacks along the eastern boundary for the podium levels, whilst above this, levels seven and eight serve as partial negative levels with under-croft terraces.

30. The ground floor includes a side access area which is to be used as a through-link to the pedestrian path to the south. The image below depicts this.



Demolition

(a) All structures on site and existing crossovers (no planning permit required).

Use

(b) Five, food and drinks premises (2,170sqm in net floor area) – four of which are at the ground floor (one facing Swan Street, two facing the side pedestrian path and a fourth facing the side and rear boundaries), and one larger premises at first floor. The four ground floor tenancies will be required to be numbered Tenancy 1 to 4 with Tenancy 1 fronting Swan Street, Tenancy 2 and 3 being the central tenancies and Tenancy 4 being the most southern. Tenancy 5 is the first floor tenancy. This will form a condition of the permit. It should be noted that the traffic report uses various areas, however the applicant has confirmed the floor areas (in sqm) as follows:

(i) Tenancy 1 - 201
(ii) Tenancy 2 - 57
(iii) Tenancy 3 – 102
(iv) Tenancy 4 - 145

(v) Tenancy 5 - 1665

(c) The applicant has confirmed these will be cafés, with the operating hours of 7am to 11pm, seven days per week. This will form conditions on the permit.

(d) The applicant has confirmed the first floor premises will operate similar to a food court type arrangement with various kiosks serving food and drinks. The following maximum number of patrons for each tenancy was also confirmed, with these forming a condition of the permit:

(i) Tenancy 1 - 110
(ii) Tenancy 2 - 30
(iii) Tenancy 3 – 50
(iv) Tenancy 4 - 70
(v) Tenancy 5 - 900

(e) Ground floor, Restricted Retail Premises (226sqm) facing Swan Street (no planning permit required for the use).

(f) The office space has a net floor area of 15,963sqm (no planning permit required for the use).

Construction

(g) Three basement levels built to title boundaries accessed via Swan Street with services and 154 car parking spaces (inclusive of 3 x DDA spaces, 6 x car share spaces and 12 x electric charging bays). There are also two truck spaces, 24 bike spaces on both Basement 02 and 03 Floors and 76 bike spaces on Basement 01 Floor Plan. These bike spaces are for staff only and total 124 across the three basement levels. It should be noted that the traffic report and the development schedule states 155 cars are provided, however the plans show 154. The applicant confirmed that 154 spaces are proposed.

(h) End-of-trip facilities are located centrally at ground floor and are shown as ‘service lobby’. The applicant has confirmed these are end-of-trip facilities and the applicant’s traffic report states that there will be 24 showers and 240 lockers. These can be required to be annotated on the plans by way of condition.

(i) A total of 46 visitor bike spaces are shown in three locations along the southern boundary of the site. An additional 70 staff bike spaces are shown in a secure area in the south-west corner of the site with direct access to the end-of-trip facilities.

(j) The ground floor has irregular eastern setbacks of between 6.63m and 8.99m for the provision of the side pedestrian access lane (as shown in the image above), a front setback to Swan Street of between 1m and 2.175m and a rear setback of 3m. The vehicular ramp from Swan Street is located along the western side.

(k) Four food and drinks premises - one having a frontage to Swan Street, two facing the pedestrian side access and a fourth facing both the rear setback and the side access. Tables and chairs are shown within the front, side and rear setbacks.

(l) The Restricted Retail Premises fronts onto Swan Street whilst a smaller 238sqm office tenancy faces the rear setback.

(m) A large lobby space is located centrally along the side pedestrian access providing entry to the food and drinks premises and offices above. The lift lobby is located centrally in the site.

(n) The first and second floors are constructed wholly or partially along all title boundaries except for the irregularly shaped void areas (setback up to 9m at first floor, and 5m at second floor) above the ground floor side pedestrian access. At first floor, is a food and drinks premises which will operate like a food court with various kiosks.

(o) The third floor is comparable in construction, albeit has a large terrace along the entire eastern side. The lifts, toilets, services and stairs are all located centrally as well as two large void areas.

(p) The fourth to sixth floors are constructed alike with an irregular shape, resulting in setbacks of between 5m and 7.29m from the western boundary, 5m from Swan Street, between 5m and 8.45m from the eastern boundary and between 3m and 5m from the southern boundary. The fourth floor has a terrace along its western side which wraps around to face Swan Street and the southern boundary.

(q) The seventh floor is like the floors below, albeit for an additional 2.945m wide terrace along the eastern boundary which wraps around to 3.13m in width along a portion of the southern boundary. This results in a more regular setback along the eastern and southern sides of the building (8.45m and 6m respectively).

(r) At the eighth floor, the proposal decreases its setback from the southern boundary to 3m and incorporates a jagged building outline in the south-eastern corner which is repeated in the levels above. The 5m setback from Swan Street is maintained, with a 2.415m wide terrace located beyond. The terrace wraps around to the eastern side where this floor has setbacks of between 5m and 8.045m. The western setback is as per the floor below.

(s) The ninth to thirteenth floors are constructed similarly with the same setbacks to the south and west as the floors below. These floors have a staggered setback to Swan Street where the western side of 7.46m and the eastern side is 5m. The eastern side is setback between 5m and 8.095m.

(t) The roof plan does not show any services, and this can be required by way of condition.

(u) The proposal will be constructed using smooth and textured concrete with glazing for the podium, grey coloured glazing for the middle floors and black glazing for the upper levels.

(v) It has a maximum building height of approximately 56m and an additional 4.76m for lift core.

ESD features

(w) 5 Star Green Star rating;

(x) 4.5 Star NABERS Energy Office;

(y) NCC energy efficiency standards exceeded by at least 10%.

Planning Scheme Provisions

Zoning

Commercial 2 Zone

31. Pursuant to clause 34.02-1 of the Yarra Planning Scheme, use of the land as an office and restricted retail premises does not require a planning permit.

32. A 'Food and Drinks Premises' is a Section 1 – no permit required use unless the leasable floor area would exceed 100m^2. The proposed tenancies have a total floor area of 2,170sqm and therefore trigger a permit under the zone.
33. The applicant has confirmed these will be cafes which are proposed to have hours of 7am to 11pm, seven days per week.

34. The applicant has confirmed the first floor premises will operate similar to a food court type arrangement with various kiosks serving food and drinks.

35. The applicant also confirmed the following maximum number of patrons for each tenancy as follows with this forming a condition of the permit:

    (i) Tenancy 1 - 110
    (ii) Tenancy 2 - 30
    (iii) Tenancy 3 – 50
    (iv) Tenancy 4 - 70
    (v) Tenancy 5 - 900

36. Pursuant to clause 34.02-4 of the Yarra Planning Scheme, a planning permit is required to construct a building or construct or carry out works.

    Road Zone

37. The proposal includes works to widen the existing crossover onto Swan Street. Swan Street is categorised as a Road Zone, Category 1. Pursuant to Clause 36.04-2, a planning permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 36.04-1. The proposed uses are not listed in Section 1 or 3 and are therefore a Section 2 use (permit required). The views of the relevant road authority are part of the decision guidelines for this zone.

    Overlays

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

38. Under clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works.

39. 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.*

40. 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 5 (DDO5) City Link Exhaust Stack

41. Pursuant to clause 43.02-2 of the Scheme a permit is not required to construct a building or to construct and carry out works.

42. Schedule 5 (City Link Exhaust Stack Environs) specifically exempts buildings and works from requiring a planning permit. Pursuant to clause 43.02 of the Scheme, where a permit is required to use land or for the construction of a building or the construction or carrying out of works under another provision in this scheme, notice must be given under section 52(1) (c) of the *Planning and Environment Act 1987* to the person or body specified as a person or body to be notified in clause 66.06 or a schedule to that clause. Notice of the application must therefore be given to the Environment Protection Authority, Transurban City Link Limited and the Roads Corporation (VicRoads). Their comments are provided in the *Referrals* attachment to this report.

Particular Provisions

Clause 52.06 – Car Parking

43. Clause 52.06-1 requires that a new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land.

44. A permit is required to reduce (including reduce to zero) the requirement to provide the number of car parking spaces required under this clause.

45. The table below outlines the car parking requirements for the office, restricted retail premises and food and drinks premises tenancies of the development and the allocation of car parking which would be provided in association with each use. Within Clause 52.06-5 policy states that if in calculating the number of car parking spaces the result is not a whole number, the required number of car parking spaces is to be rounded down to the nearest whole number.

46. 154 car spaces are being provided with the allocation as follows:

(a) 6 x car share spaces (not allocated to any particular use)
(b) 9 x visitor spaces (allocated to the office)
(c) 139 x car spaces (inclusive of 3 x DDA spaces and 12 x electric charging bays)

47. The applicant has confirmed that with the exception of the car share and visitor spaces, all other spaces will be for staff only. It has been confirmed that the car share spaces will not be allocated to any specific tenancy. The applicant is unsure if these will be available for the general public or only for those assocaited with the development. This will be required to be confirmed by way of condition.

48. Under clause 52.06-5, the following parking rates are required:

Use	**Area (sqm)**	**Rate**	**No. required**	**No. proposed**	**Reduction sought**
Office	15,963	3.5 car spaces to each 100sqm of net floor area	558	122 (not inclusive of car share spaces)	**436**
Food and drinks	2,170	4 per 100sqm of leasable floor area	86	24	**62**

Restricted Retail	226	3.5 per 100sqm of leasable floor area	7	2	**5**
Total			**651**	**148 (not inclusive of car share spaces)** **154 (inclusive of car share spaces)**	**503 (not inclusive of car share spaces)** **497 (inclusive of car share spaces)**

49. As 154 car spaces are being provided, a total of 497 car spaces are required to be reduced.

Clause 52.29 – Land Adjacent to a Road Zone, Category 1 or a Public Acquisition Overlay for a Category 1 Road.

50. The purpose of this clause is to ensure appropriate access to identified roads and to ensure appropriate subdivision of land adjacent to identified roads.

51. Pursuant to Clause 52.29 a permit is required to create or alter access to a road in a Road Zone, Category 1.

52. Swan Street is a Road Zone, Category 1 and the application proposes to widen the existing crossover, therefore, a planning permit is required for the works.

53. An application to create or alter access to, or to subdivide land adjacent to, a road declared as a freeway or arterial road under the Road Management Act 2004, land owned by the Roads Corporation for the purpose of a road, or land in a Public Acquisition Overlay if the Roads Corporation is the authority responsible for acquiring the land, must be referred to the Roads Corporation under Section 55 of the Act.

54. The decision guidelines for this clause are:

(a) The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
(b) The views of the relevant road authority.
(c) The effect of the proposal on the operation of the road and on public safety.
(d) Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.

Clause 52.34 – Bicycle Facilities

55. Pursuant to clause 52.34, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

56. The purpose of the policy is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces. A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

Land Use	Units/Area proposed	Rate for staff	Rate for visitors/ shoppers	No. required	No. proposed	Reduction sought
Office	15,963sqm	1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm	1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	53 staff 16 visitor	194 staff 46 visitor	0
Retail – **Food and drinks** **Restricted retail**	2,396sqm	1 to each 300sqm of leasable floor area	1 to each 500sqm of leasable floor area	8 staff 5 visitor		
Total				**61 staff** **21 visitor**	**240**	**0**

57. Pursuant to clause 52.34-3, the rate for the provision of showers/change rooms is 1 to the first 5 employee spaces and 1 to each additional 10 employee spaces. Therefore, 7 showers and 7 change rooms are required.

58. The development includes 24 change rooms and 24 showers at ground floor as well as 240 lockers. This requirement is well exceeded.

59. Clause 52.34-4 provides design standard for bicycle spaces and signage.

General Provisions

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

State Planning Policy Framework (SPPF)

61. Clause 11 'Settlement' - *Planning is to recognise the need for, and as far as practicable contribute towards (as relevant);*

(a) Diversity of choice.
(b) Adaptation in response to changing technology.
(c) Economic viability
(d) A high standard of urban design and amenity.
(e) Energy efficiency.
(f) Accessibility
(g) Land use and transport integration

62. *Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.*

63. Clause 11.02 'Urban growth' aims *to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

64. This clause includes several strategies to achieve this objective, including;

    (a) Opportunities for the consolidation, redevelopment and intensification of existing urban areas.
    (b) Neighbourhood character and landscape considerations.

    Clause 11.02-3 'Planning for growth areas'

65. The objective is: *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*.

66. The clause includes several strategies to achieve this objective.

    Clause 11.03-2 (Activity centre planning)

67. 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 11.06-1 (Jobs and investment)

68. The relevant objective of this clause is '*to create a city structure that drives productivity, attracts investment, supports innovation and creates jobs*.*'*

69. Relevant strategies include:

    (a) Improve access to jobs across Melbourne and closer to where people live.
    (b) Support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.
    (c) Plan for new development and investment opportunities on the existing and planned transport network

    Clause 11.06-3 (Integrated transport)

70. The relevant objective of this clause is '*to provide an integrated transport system connecting people to jobs and services, and goods to market*.*'*

71. Relevant strategies include:

    (a) Facilitate high-quality public transport access to job-rich areas;
    (b) Encourage increased diversity and density of development along the Principal Public Transport Network;
    (c) Provide for increased density of development, particularly around transport nodes, to support the viability of services
    (d) Improve local travel options for walking and cycling to support 20 minute neighbourhoods;

(e) Create pedestrian friendly neighbourhoods by supporting development of continuous, high quality walking routes and streets that are safe, pleasant and attractive.

Clause 11.06-4 (Place and identify)

72. The relevant objective of this clause is '*to create a distinctive and liveable city with quality design and amenity*.'

73. Relevant strategies include:

(a) Improve the design quality of public spaces and the interfaces between private development and the public domain.
(b) Support the creation of memorable, well-designed places that are distinctive and liveable.
(c) Promote urban design excellence in the built environment and create places that:

(i) are accessible, safe and diverse
(ii) are enjoyable, engaging and comfortable to be in and move around
(iii) accommodate people of all abilities, ages and cultures
(iv) celebrate of the city's social, cultural and natural heritage.

Clause 13.04-1 (Noise abatement)

74. The objective is:

(a) To assist the control of noise effects on sensitive land uses.

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

Clause 15.01-1 – Urban design

76. The objective of this Clause is:

(a) To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

Clause 15.01-2 – Urban design principles

77. This Clause directs that the following design principles be applied to development proposals for non-residential development.

78. The relevant design principles are as follows:

(a) Context

(i) Development must take into account the natural, cultural and strategic context of its location.
(ii) Planning authorities should emphasise urban design policies and frameworks for key locations or precincts.
(iii) A comprehensive site analysis should be the starting point of the design process and form the basis for consideration of height, scale and massing of new development.

(b) The public realm

(i) The public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.

(c) Safety

(i) New development should create urban environments that enhance personal safety and property security and where people feel safe to live, work and move in at any time.

(d) Landmarks, views and vistas

(i) Landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.

(e) Pedestrian spaces

(i) Design of interfaces between buildings and public spaces, including the arrangement of adjoining activities, entrances, windows, and architectural detailing, should enhance the visual and social experience of the user.

(f) Consolidation of sites and empty sites

(i) New development should contribute to the complexity and diversity of the built environment.
(ii) Site consolidation should not result in street frontages that are out of keeping with the complexity and rhythm of existing streetscapes.
(iii) The development process should be managed so that sites are not in an unattractive, neglected state for excessive periods and the impacts from vacant sites are minimised.

(g) Light and shade

(i) Enjoyment of the public realm should be enhanced by a desirable balance of sunlight and shade.
(ii) This balance should not be compromised by undesirable overshadowing or exposure to the sun.

(h) Energy and resource efficiency

(i) All building, subdivision and engineering works should include efficient use of resources and energy efficiency.

(i) Architectural quality

(i) New development should achieve high standards in architecture and urban design.
(ii) Any rooftop plant, lift over-runs, service entries, communication devices, and other technical attachment should be treated as part of the overall design.

(j) Landscape architecture

(i) Recognition should be given to the setting in which buildings are designed and the integrating role of landscape architecture.

Clause 15.01-4 – Design for safety

79. The objective of this clause is:

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

Clause 15.01-5 – Cultural identity and neighbourhood character

80. The objective of this clause is:

    (a) To recognise and protect cultural identity, neighbourhood character and sense of place.

81. Relevant strategies to achieve this objective include:

    (a) Ensure development responds and contributes to existing sense of place and cultural identity.
    (b) Ensure development recognises distinctive urban forms and layout and their relationship to landscape and vegetation.
    (b) *Ensure development responds to its context and reinforces special characteristics of local environment and place by emphasising:*
        i *The heritage values and built form that reflect community identity.*
        ii *The values, needs and aspirations of the community.*

Clause 15.02-1 – Energy and resource efficiency

82. The Objective of this clause is:

    (a) *To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions..*

83. Relevant strategies to achieve this objective include:

    (a) Ensure that buildings and subdivision design improves efficiency in energy use.
    (b) Promote consolidation of urban development and integration of land use and transport.
    (c) Improve efficiency in energy use through greater use of renewable energy.
    (d) Support low energy forms of transport such as walking and cycling.

Clause 17.01-1 – Business

84. The objective of this clause is:

    (a) 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

85. The objective of this clause is:

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

86. 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) *Connecting activity centres, job rich areas and outer suburban areas through the Principal Public Transport Network.*
(iv) *Providing for bus routes and stops and public transport interchanges in new development areas.*
(v) *Providing safe, convenient and direct pedestrian and cycling access to job rich areas, public transport interchanges and urban renewal precincts.*
(vi) *Promote walking and cycling when planning for new suburbs, urban renewal precincts, greyfield redevelopment areas and transit-oriented development areas (such as railway stations).*

(c) *Integrate public transport services and infrastructure into new development.*

Clause 18.02-1 – Sustainable personal transport

87. The objective of this clause is:

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

Local Planning Policy Framework (LPPF)

88. The relevant policies in the Local Planning Policy Framework (LPPF) can be described as follows:
Municipal Strategic Statement (MSS)

89. Relevant clauses are as follows:

Clause 21.04-3 Industry, office and commercial

90. The objective of this clause is:

(a) *To increase the number and diversity of local employment opportunities.*

Clause 21.05-2 – Urban design

91. 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 21.05-3 – Built form character

92. The general objective of this clause is:

    (a) *To maintain and strengthen the identified character of each type of identified built form within Yarra.*

93. The subject site is located within a non-residential area, where the built form objective is to *"improve the interface of development with the street"*.

94. The strategies to achieve the objective are to:

    (a) Allow flexibility in built form in areas with a coarse urban grain (larger lots, fewer streets and lanes).
    (b) Require new development to integrate with the public street system.

Clause 21.06 – Transport

95. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives. Relevant objectives and strategies of this Clause are as follows:

    (a) Objective 30 – To provide safe and convenient pedestrian and bicycle environments.
        (i) Strategy 30.2 – Minimise vehicle crossovers on street frontages.
        (ii) Strategy 30.3 – Use rear laneway access to reduce vehicle crossovers.
    (b) Objective 31 – To facilitate public transport usage.
    (c) Objective 32 – To reduce the reliance on the private motor car.
    (d) Objective 33 To reduce the impact of traffic.
        (i) Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.

Clause 21.07-1 – Ecologically sustainable development

96. The relevant objectives and strategies of this clause are:

    (a) Objective 34 – To promote ecologically sustainable development.

        (i) Strategy 34.1 – Encourage new development to incorporate environmentally sustainable design measures in the areas of energy and water efficiency, greenhouse gas emissions, passive solar design, natural ventilation, stormwater reduction and management, solar access, orientation and layout of development, building materials and waste minimisation.

Clause 21.08-10 Neighbourhoods (Central Richmond (area between Bridge Road and Swan Street)

97. Clause 21.08-10 - Central Richmond (area between Bridge Road and Swan Street) describes the neighbourhood in which the site is located as a predominantly residential area, with the area closest to Punt Road comprising early to mid- Victorian cottages and terraces, and an increasing amount of Edwardian dwellings towards the east of the neighbourhood.

98. Figure 24 shows the subject site is partly within the '*Main Roads'* area and partly within the '*non-residential areas'.* Therefore, built form character objectives are to mainly the hard edge of the strip and to improve the interface of development with the street.

Relevant Local Policies

Clause 22.05 – Interfaces Uses Policy

99. This policy applies to applications within the Commercial Zones (among others), and aims to reduce conflict between commercial, industrial and residential activities. The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses.

100. The relevant objective is:

    (a) To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.

101. It is policy that:

    (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.

102. A number of decision guidelines for non-residential use and development within the business zones are outlined, including the extent to which the proposal may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.

Clause 22.10 – Built form and design policy

103. This policy applies to all new development not included in a Heritage Overlay. The relevant objectives of this policy are to:

    (a) Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.
    (b) Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.
    (c) Limit the impact of new development on the amenity of surrounding land, particularly residential land.
    (d) Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and 'walkability' of the City's streets and public spaces.
    (e) Create a positive interface between the private domain and public spaces.
    (f) Encourage environmentally sustainable development.

104. The Clause includes various design objectives and guidelines that can be implemented to achieve the above objectives. The design elements relevant to this application relate to:

    (a) urban form and character;
    (b) setbacks and building height;
    (c) street and public space quality;
    (d) environmental sustainability;
    (e) site coverage;
    (f) on-site amenity;
    (g) off-site amenity;
    (h) landscaping and fencing;
    (i) parking, traffic and access; and
    (j) service infrastructure.

Clause 22.16 Stormwater Management (Water Sensitive Urban Design)

105. Clause 22.16-3 requires the use of measures to *"improve the quality and reduce the flow of water discharge to waterways"*, manage the flow of litter from the site in stormwater and encourage green roofs, walls and facades in buildings where practicable.

Clause 22.17 – Environmentally Sustainable Design

106. 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.
Relevant Local Policies

Swan Street Structure Plan (SSSP)

107. The SSSP was adopted by Council at its meeting on 17 December 2013 and is relevant to the site.

108. The site is located within the 'Burnley Station Village' Precinct of the Plan's study area. The Structure Plan prepared for the Swan Street Major Activity Centre [MAC] was in response to the State Government sustainable growth policy, *Melbourne 2030*; a plan for the growth and development of the Melbourne metropolitan area. One of the principal aims of the policy was to provide a network of activity centres throughout Melbourne, with these centres providing a focus for development and urban expansion in areas well serviced by public transport, existing infrastructure and community services. The Swan Street Structure Plan aims to manage this growth within the Swan Street MAC and the surrounding area.

109. Of relevance to this application are proposed revisions to the built form guidelines that will provide guidance on future built form and how that would be in keeping with the longer term vision for Swan Street and surrounds, along with guidance on urban intensification within the precinct. The plan provides guidance on maximum building heights within each precinct, with 7-10 storeys (30m) being the suggested height for this section of the southern part of Swan Street. The site directly to the west was envisaged as being a maximum of 36m. The northern side of Swan Street is noted as being a maximum of between four storeys (13m) directly opposite the subject site, whilst the land at the intersection of Burnley and Swan Streets is five to six storeys (19m).

110. The SSSP states that the station has potential to provide the precinct with excellent access to public transport and offers a major opportunity for redevelopment and improvement to the station and surrounding environs. It also states that the timber yard and adjoining sites located on the South east corner of Swan and Burnley Street are underutilised and offer potential for significant redevelopment and change in the precinct. It also acknowledges that large lot sizes on south side of Swan Street have good separation from existing residential uses to the north and less potential for adverse amenity impacts.

111. Whilst adopted, the SSSP has yet to progress to the formal amendment stage and technically has limited statutory weight.

Advertising

112. The application was advertised in accordance with Section 52 of the *Planning and Environment Act* 1987 [**the Act**] by way of 1088 letters sent to the surrounding property owners/occupiers and by four signs, two signs facing Swan Street and two facing the rear boundary.

113. Nine objections were received to the application, these can be summarised as:

(a) Neighbourhood character/Heritage & Streetscape

(b) Height/Massing
(c) Car parking/traffic implications
(d) Amenity Impacts
(e) Other matters

114. The grounds of objections raised will be considered and addressed where relevant throughout the following assessment.

115. A Consultation Meeting was held on 28 November 2017, with the Permit Applicant and Planning Officers. No objectors attended.

Referrals

116. External Referrals

(a) Head, Transport for Victoria;
(b) VicRoads;
(c) CityLink;
(d) EPA;

117. Internal departments

(a) Urban Design;
(b) Engineering Services Unit;
(c) Strategic Transport;
(d) Open Space;
(e) Arborist
(f) Waste Services;
(g) ESD Advisor;

118. External consultants

(a) Urban Design (MGS Architects);
(b) Acoustics (SLR Consulting); and
(c) Wind (MEL Consultants).

119. Referral comments are attachments to this report.

OFFICER ASSESSMENT

120. 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;
(d) Environmentally Sustainable Development (ESD);
(e) Off-site amenity impacts;
(f) Car parking, traffic, access and bicycle provision;
(g) Waste management;
(h) Other matters; and
(i) Objector concerns.

Policy and physical context

121. In relation to the SPPF and LPPF it is considered that the proposed development achieves the various land use and development objectives outlined earlier in this report and achieves a sound level of compliance with the relevant policies, subject to conditions.

122. The subject site and part of the surrounding area are located within a Commercial 2 Zone which has the purpose of encouraging the integrated development of offices and manufacturing industries and associated commercial and industrial uses. The proposal complies with this strategic direction by continuing the industrial/commercial use of the site in a more intensive form to facilitate greater employment opportunities in the area.

123. The site is directly connected to the public transport systems and road network supporting both cars, walking and cycling. State policy encourages the intensification of employment generating uses in areas with these locational characteristics close to where people live (clause 11.04).

124. Similarly, local planning policy identifies the vibrant and mixed use nature of activity centres as an important attribute of the municipality and seeks to encourage their long term viability through development and land uses that contributes to the adaptation, redevelopment and economic growth. Clause 21.04-3 also seeks to increase the number and diversity of employment opportunities, specifically identifying service industries as an area where opportunities have been created by declines in traditional manufacturing businesses. The proposal complies with this policy and achieves these goals.

125. The proposed density of the development is consistent with both State and Local Policies such as clauses 15.02-1, 17.01-1, 18.01-1 which encourages concentration of development and employment opportunities in and around activity centres and intensifying development on sites well connected to public transport. This ensures efficient use of existing infrastructure. Furthermore, considering this site is generally surrounded by similar uses, any off-site amenity impacts would be minimised (the sites to the west, north and south will be discussed within the *Off-site Amenity* section of this report).

126. The proposal includes a substantial contribution to the surrounding street network through the provision of a pedestrian through-link to the VicTrack owned pedestrian path along the southern boundary which provides direct access to the station. A condition will also require the applicant to provide landscaping works to the pedestrian path, continuing the public benefit achieved with the development to the west.

127. Having regard to the above, the proposed re-development of the site for a mixed use building of this scale is considered to have strategic planning support.

Use

128. The proposed food and drinks premises tenancies trigger a planning permit under the Commercial 2 Zone on the basis of the floor area exceeding 100sqm. In respect of the appropriateness of the use, it is considered that there is support for it where it can be demonstrated that the scale of operation would not result in unreasonable impacts to the surrounding area or erosion of the primary purpose of the Commercial 2 Zone.

129. This consideration is relevant in terms of the objective of the Commercial 2 Zone: *to encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*

130. The site is located within a MAC which is of importance not only to the municipality, but also to the broader metropolitan region given its capacity for change and connections to other Activity Centres, residential areas and transport. The area supports a growing employment base, and the proposed food and drinks premises will support this by providing a venue where the local workers can obtain food and drinks as well as local residents (whose numbers are also increasing). The food and drinks premises will contribute to the mixed use nature of the location which includes other commercial entities. On weekends, there is an expectation that buildings are active and provide for visitors and local residents alike.

131. Again, the food and drinks premises use will play a legitimate role in meeting the needs of the area in this respect and providing seven days a week activation of the area whereas offices are generally closed and can lead to inactivity of an area. This will also assist in ensuring the ground floor through-link feels safe as these tenancies open out onto it.

132. The Commercial 2 Zone also requires consideration of the following matters (as relevant) at clause 34.02-7, each with a response provided below:

    (a) The effect of existing uses on the proposed use – existing uses are either residential (further to the north and south in the residential zones) or commercial/industrial in nature and are not expected to have an adverse impact on the proposed use;
    (b) The drainage of the land – the land is not located in an area with any specific drainage requirement under the Scheme and would have adequate ability to connect to relevant drainage networks;
    (c) The availability and connection to services – the site is in an existing built up urban area with easy connection to all necessary services;
    (d) The effect of traffic to be generated – this is discussed in detail later in this report;

133. In respect of amenity impacts, Clause 22.05 seeks to ensure that new non-residential uses do not unreasonably impact dwellings including through noise, light spill, emissions and rubbish.

134. The closest residentially zoned land is to further to the north and south beyond either Swan Street or the train line respectively and are separated by the proposed food and drink tenancies by at least 54m. The approved (but not yet constructed) development site directly to the west will have dwellings abutting the subject site, however the proposed floor and drinks premises will be aligned with the approved podium levels which are occupied by commercial tenancies.

135. The applicant has confirmed the food and drinks premises tenancies are open from 7am to 11pm, seven days per week. There is limited guidance in the Scheme as to what appropriate opening hours are in the Commercial 2 Zone. These are typical food and drinks premises hours and similar to or less than others located on Swan Street. This use is not expected to have unreasonable impacts on these dwellings and could be managed with appropriate conditions.

136. In terms of the numbers of patrons, the applicant is proposing a total of 1160 across the five tenancies, with the majority (900) being allocated to the first floor premises. These will be split within the overall area of 2,170sqm. Whilst the number of patrons seems quite high, it must be considered that they will be split over a large area, with the majority of these being located within the first floor. The subject site is located quite a significant distance away from residences and this will assist in mitigating amenity impacts.

137. Rubbish would be adequately concealed within the building and any emissions would have an adequate dispersal distance from the dwellings. Conditions can be included to ensure the amenity of the area is not unreasonably compromised due to the proposed food and drinks premises use. These would normally include restrictions on hours of operation, noise, waste disposal, deliveries and emission including light spill.

Built form

138. The following is a detailed assessment of the proposal against the design objectives of Clause 22.10 – Built Form and Design Policy and Schedule 2 of the Design and Development Overlay. The assessment will also consider the decision guidelines of the Commercial 2 Zone, and the urban design principles articulated at Clause 15.01-2. In the interests of providing a concise assessment and avoiding repetition between State and local design principles, the following assessment will group similar themes where applicable.

Character

139. As discussed in the policy section above, the proposal is an appropriate response to the site's strategic context and makes efficient use of relatively under-utilised land. Strategically, the subject site is appropriately located for a higher-density development, being located within an Activity Centre, within a commercial zone with excellent access to public transport, services and facilities and with limited sensitive, residential interfaces. The train line to the south provides a buffer from amenity impacts. It would be a reasonable expectation that this site (as those surrounding it are currently doing) would experience intensification in use and development.

140. The provisions of the Scheme relevant to design and built form are contained at clause 15 (Built Environment and Heritage), clause 21.05 (Built Form), clause 22.10 (Design and Built Form) and Schedule 2 of the Design and Development Overlay. All of the provisions and guidelines support development that responds to the existing or preferred neighbourhood character.

141. The subject site is not located within a heritage overlay, however some sites to the north along Swan Street are. The proposal will not impact these as they will still be able to be read from their principal frontages along Swan Street.

142. As already outlined in the *Surrounding Land* description of this report, the surrounding neighbourhood character is quite mixed. The northern side of Swan Street is a mixture of finer grain commercial buildings with some larger office and warehouses whilst along the southern side there are much 'bulkier 'office buildings and older warehouses. These areas have and will continue to experience an intensification of use and development.

143. Considering the recent approvals of larger scale developments, the street's inclusion within the Swan Street MAC, convenient access to a train station and that the majority of sites are not located within a heritage overlay to restrict development, it would be a reasonable expectation that this site and others in the street, would experience further intensification in use and development. Whilst not a document which Council relies on, the SSSP has designated this area as one which will be vastly transformed.

144. In terms of more specific street interfaces, the proposed works are an improvement on the existing streetscape interface through the demolition of outdated buildings and the removal of at-grade car parking spaces which do not activate the street frontage for the construction of a modern building. The proposal incorporates a part-three, part-four storey street wall built to the western side boundary with a setback from the eastern. This is acceptable as this will fit in with both the existing and emerging street wall heights. As is clearly evident in the north elevation, the podium is at its highest abutting the approved development to the west to match its street wall height, and then it scales down to the east. Additionally, the approved development to the north includes a five storey street wall. The proposed street wall height certainly fits within the already approved range.

145. Above the street wall, the proposal includes a 5m setback from the street which assists in distinguishing between the lower levels and the tower form. It ensures that the street wall will be the visually dominant element in the streetscape.

    This is aided by its rectilinear form and use of heavier materials such as concrete. This is compared to the upper levels which is partially curved and is mainly glazing.

146. Council's external Urban Designer recommended a 5.5m setback above the street wall to match the front setbacks of the development to the west. This is not considered necessary as an additional 0.5m setback would be imperceptible from the ground. Additionally, the proposed setback achieves the desired effect of clear demarcation between the lower and upper forms and is approximately similar to the west.

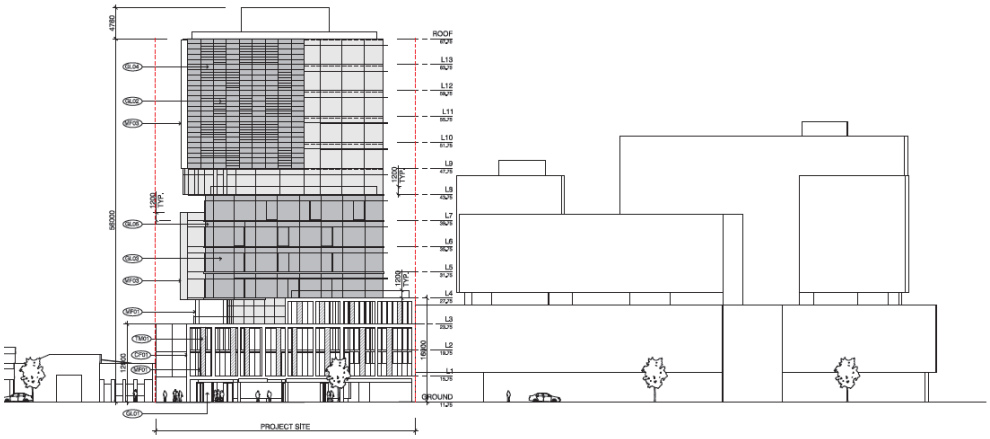
147. As previously discussed, there is a consistent character of boundary-to-boundary development with all of the abutting sites having high site coverage and high walls along the front boundaries with minimal openings. The proposal is continuing the character of high site coverage with improved visual permeability.

Height and Massing

Height

148. The proposal is an overall fourteen commercial storeys in height which equates to 56m, with an additional 4.7m for the lift core. Whilst it is acknowledged that the building will be taller than adjoining developments, there are recent approvals for higher developments in this area, with some having already been constructed. Both the adopted SSSP and the proposed Swan Street DDO include significant height increases to this pocket of Swan with the approved 12 storey mixed use development already approved to the west. There is no doubt significant change will occur here, however it is not to say that any increase is therefore acceptable.

149. Council's external Urban Designer raised concerns with the proposed overall height, particularly in relation to the approved development to the west. The development to the west is located at a major intersection and is a large scale place-making site which marks the station entry. As such, Council's external Urban Designer stated that it should, in an urban design sense, be the major and dominant marker form in these surrounds and any development to its east should scale down in height. The image below depicts the proposal abutting the approved development to the west:



150. Council's external Urban Designer recommended that as a minimum, the three upper-most floors should be deleted and that an eleventh storey should only be considered subject site a number of various factors being agreed to by the applicant. These include:

(a) The pedestrian link being managed by a Section 173 Agreement to ensure it is accessible 24/7.
(b) The inclusion of 5% of the office space for low cost affordable workplaces for the creative industries.
(c) Best Practice ESD outcomes including exemplary end-of-travel facilities for cyclists including shower and change as well as secure cycle storage areas.
(d) Revisions to the built form and articulation of the office building to ensure the north-south pedestrian lane does not require screens to deliver comfort for seating in these areas.
(e) High quality place-making for the full extent of the pedestrian walk to the south and to the kerb line to the north and all terrace areas to the satisfaction of the responsible authority.
(f) Enhanced design quality in the investment into the podium form and pedestrian walk and station interface areas, with the existing design lacking ambition. Presently insufficient detail of the landscaping treatments and materials is provided.

For example the inclusion of trees in renderings whilst welcome implies significant planter zones not yet shown on plans. The depth of planting and details of stormwater harvesting required to enable their successful inclusion will be critical to this realisation. The through-block walk shows trees that have not been coordinated with overhanging terraces. These concepts need to be properly coordinated to the satisfaction of Council.

(g) That a greater level of detail of the proposed detailing of the podium elements and canopies should be provided.

(h) The inclusion of safety by design response should be provided demonstrating how the station walk and links will be enhanced by program, lighting and public realm treatments and signage.

(i) A green travel plan providing real-time public transport information in the open space zone should be provided.

(j) Overshadowing should not occur on the central island platform of the adjoining Burnley station between 9.00am and 2.00pm.

151. Many of the above issues identified by Council's external Urban Designer will be discussed throughout the report, and are either already met or can be easily resolved by way of condition. This is with the exception of the 5 percent affordable office space which does not currently have any policy basis within the Yarra Planning Scheme and whilst certainly an admirable and progressive concept, it will not be required in this instance.

152. Council planning officers agree with the recommendation for a reduction of three levels. It was evident in the assessment of the development to the west that it would be the focal point of this precinct, and as such, this proposal should not exceed its height by so many floors.

153. As such, Council planning officers agree that a reduction in height of three levels is appropriate, with the eleventh storey retained, particularly considering that the suite of factors previously outlined will be met/or addressed. This will result in an overall reduction in building height of 12m (to 44m) and will bring the proposal to approximately in-line with the development to the west.

154. Whilst it is noted that this in 2m in height greater than the development to the west, in comparison to the overall height it would be imperceptible. Additionally, the applicant will be meeting the extensive list outlined by Council's external Urban Designer which warrants the inclusion of the eleventh storey.

155. It cannot be ignored that the proposal is greater in height than the adopted SSSP and the draft DDO. As previously outlined, whilst it is an adopted document, it can only be given very limited weight as it has not progressed to a planning scheme amendment. This has been repeatedly stated by the Tribunal in numerous decisions, one of which being *Barkly Gardens Pty Ltd v Yarra CC* [2017] VCAT 995:

> [19] …. It is not a seriously entertained planning proposal. It has not been subject to public scrutiny. The Tribunal has consistently given limited weight to the structure plan.

156. Additionally, it has been four years since the SSSP was adopted and has not progressed to a planning scheme amendment. Many developments have been approved and constructed which exceed the heights proposed within it, with this including the development to the west which is shown as having a 36m maximum height and was approved at 42m.

157. The proposed building will be amongst the tallest structures within the immediate surrounds, the height of the development is considered to be acceptable (subject to a reduction in height) due to its location in an industrial area, lack of sensitive interfaces, the emerging character of the area and strategic redevelopment potential.

158. The site is located within an area undergoing transition which has resulted in a mixture of heights approved ranging up to 42m in the immediate surrounds. As such, Council's recommended height of eleven storeys is compliant with policy at clauses 15.01-1, 15.01-2 and 22.10-3.3. The height is appropriate within the context of the area in accordance with objectives at clause 22.10-3.3. Due to the lack of heritage development restrictions in the street and the sites location on the Swan Street MAC, it is expected that as time goes on, the area will increasingly become developed with multi-level commercial buildings contributing to the economic viability of the centre. Whilst initially, this development will be prominent, this will lessen over time as surrounding sites are developed, such as the approval to the west.

Massing

159. Council's external Urban Designer also recommended that from levels 8 and above, the proposal should have a front setback of 12m to match the setback of the upper levels of the tower form to the west. Council planning officers do not find this to be necessary. The proposal currently includes setbacks of between 5m and 7.46m from the northern boundary, from level 9 and above. Each application is considered on its own merit, and whilst developments should fit within its existing or emerging context, there is no hard and fast rule that development should match every element of abutting development. The upper level setbacks provided are considered sufficient, particularly as the setbacks increase abutting the site to the west which gives it some primacy in the streetscape. Additionally, the design of the proposal is such that, in addition to the deletion of three levels, additional upper level setbacks would erode the intent of the overall building. The design of the building is not one where terracing would be acceptable and as such, this additional setback will not be required.

160. In terms of side and rear setbacks, the proposal is providing between 3m and 5m from the south and at least 5m from the east and west. This is more than adequate and will sufficiently ensure that the proposal does not dominate the streetscape or the surrounds. The side setbacks ensure that there are views of the sky between buildings and are considered acceptable.

161. By acknowledging its existing context and the agreed aspirations for the future development of the area, the proposal has complied with policies within clauses 15.01-1, 15.01-2 and 22.10-3.3. Overall, the development is in an area where it is appropriate and practicable to provide a building of this height in order to achieve planning objectives, with the scale of the building aligning with all relevant policies and objectives.

Architectural quality

162. The development is considered of high architectural quality and in that regard responds to the design objectives clauses 15.01-2 and 22.10-3.4 as well as Schedule 2 of the Design and Development Overlay. The contemporary design is appropriate and responds well to this part of Richmond.

163. The proposal will be constructed using a mixture of sealed and textured concrete for the podium, and black, grey and clear glazing for the upper levels with charcoal, white and silver metal fins. The podium will be rectilinear in form, whilst the upper levels are a variation of curved, rectilinear and jagged in its design. The heavier materials and robust form of the podium will anchor down the base of the building with the varied and lighter form of the upper levels visible above. This irregular design of the upper levels results in it appearing quite different from various view points in the surrounds as well as from further in the distance. In totality, this creates variation and interest and demonstrates the development has been considered 'in the round'. It is clear the proposal has considered how it presents from all angles, with it also providing an activated and engaging presentation to the south facing the station.

164. Council's external Urban Designer stated that details of metal cladding should be provided given the unsuitability of a number of options. A condition can require that details of the metal cladding are provided. A greater level of detail was requested for the podium elements and canopies and this will be extended to all elevations. This can also be rectified by way of condition and ties in with a condition discussed later in the report requiring the submission of canopy details.

Public Realm

165. 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 significant improvement in streetscape, public space quality and perceived safety. The existing façades of the buildings are industrial in nature and do not encourage passive surveillance to the streets as is typical of former industrial areas. The existing built form's presentation to the street is not part of the future preferred character envisioned by Council's local policy. Additionally there are a number of at-grade car parking areas fronting Swan Street which would be discouraged if they were proposed now.

166. The construction of a modern commercial building with large glazed ground floor lobbies, active tenancies and outdoor spaces is a significant improvement to both the Swan Street streetscape, but also to the land to the south facing the train station. Through the activation of the ground floor, the building will provide interaction at street level where there currently is none. The proposal includes active frontages to the south at the lower levels as well as incorporating glazing thus ensuring perceived safety for users of the pedestrian link and station.

167. Council's Urban Design Unit was complementary with respect to the proposal being effecting in maximising active frontages by having its substation in one of the basement levels and limiting the vehicular access to a single entry. The treatment of the services to the east of the vehicular entry was queried, and this can be required to be confirmed by way of condition. Council's Urban Design Unit also found the ground floor setbacks from the north and south to be positive as they provide covered areas for outdoor dining and bike parking. This satisfies public realm, pedestrian spaces and street and public space quality policies at clauses 15.01-2, 21.04-2, 22.10-3.2 and 22.10-3.4.

168. Council's external Urban Designer was also supportive of the inclusion of activities at ground and first floors that encourage the general public into the development and create a destination for the local area and workforce. Council's external Urban Designer stated that the through-link and the location of a major entry, mid-block adds to the general vibrancy. Council's external Urban Designer suggested that the inclusion of 'safety by design response' be provided demonstrating how the station walk and links will be enhanced by program, lighting and public realm treatments and signage. A condition will require a detailed design plan to be provided for the through-link and this will include details of the proposed materials, landscaping, lighting and safety measures in support of 24-hour public access. This is yet another factor which leads to the acceptability of the eleventh storey.

169. In terms of light and shade to the public realm, due to the orientation of the site, the proposal will result in shadows to the south over Burnley Station however they do not reach Madden Grove. The applicant provided shadow diagrams which show that at 9am, it will result in shadows to the central area of the northern platform and over the roof of the station. As the day progresses, these shadows continue east, however the station will always have some part of both platforms which is free of any shadows.

170. At 10am, the shadows fall over the northern platform, and the central section of the southern platform. However by 12noon, the central section of the southern platform is free of shadow with this being maintained for the rest of the day. The proposed extent of shadowing is not considered unreasonable and ensures there is always some area of the platform which is not impacted by the proposal. Adding to this, with the reduction in height, the shadows will also decrease and will result in an increase in sunlight reaching the southern (and main) platform. This overall achieves one of the requirements of Council's external urban designer with regards to overshadowing not occurring to the central island platform of the station between 9am and 2pm. This will generally be achieved with the reduction in height.

171. In terms of public realm improvements, as already noted, the proposal includes the side access area at ground floor which provides a through-link between Swan Street and the pedestrian path to the south, giving direct access to the station and land further to the south. Council is supportive of the provision of the through-link as well as the 3m setback from the southern boundary which provides for additional movement space.

172. Council's internal Urban Design Unit stated that it could be of "significant value" and that the "quality of the new link will therefore be crucial to attracting users, including its landscaping, aesthetics, wind conditions and activation". Both Council's internal and external urban designers confirmed that it is integral the link remains accessible at all hours with lighting to ensure pedestrian safety, with both of these being required by way of condition. Furthermore, Council's internal Urban Design Unit noted that the placement of the building's main entry and the location of tenancies fronting onto it also contribute to safety.

173. Council's internal Urban Design Unit stated that it was unfortunate that there is no pedestrian crossing opposite the site. Council planning officers believe that through-link is still an improvement and will be utilised nevertheless.

174. Comments were made by Council's internal Urban Design Unit regarding wind impacts along the link and the viability of the proposed plantings. These issues can be addressed via permit conditions (wind issues will be further expanded on, later in the report).

175. Whilst Council's internal Urban Design Unit recommended that discussions be undertaken with the owner of No. 488 Swan Street and that the neighbouring site be provided with pedestrian access rights, this falls outside of the realm of this application and can be potentially considered between the two owners as a civil matter or in relation to any future developments on that site.

176. In addition to the through-link, Council's Urban Design Unit raised the potential for the applicant to provide an upgrade to the pedestrian path to the south, similar to what is occurring to the west. This would constitute a significant improvement to the public realm and will also strongly contribute to the success of the proposed north-south link. This can be required by way of condition. Transport for Victoria confirmed that they were supportive of these works and that any conditions should be subject to VicTrack approval. This can be required by way of condition.

177. The significant public realm improvements this development is incorporating will result in substantial improvements to the accessibility and walkability of the surrounding area and to the train station with this in turn, benefiting the community as a whole. This is an important consideration to the acceptability of the eleventh storey.

178. Council's internal Urban Design Unit found the width of the crossover to be excessive and suggested it to be 10m in width (plus the kerb radius). The sketch plan provided by the applicant on 8 March 2018 shows that the crossover is 9.93m plus the kerb radius. This therefore meets their recommendation. Council's Urban Design Unit questioned whether a canopy was to be provided. A condition can confirm this ensuring one is provided and is coordinated with the location of street trees.

179. Council's internal Urban Design Unit raised concerns that there is no defined building line for sight impaired people to use as a guide and this, coupled with spaced columns on the building line, result in consideration required to ensure that people know that they are entering into a private property that has no continuous path of travel. Council's internal Urban Design Unit recommended that the columns need to prominent to a vision impaired person. A condition can easily resolve this to ensure that details are provided regarding this setback area and to ensure that it is DDA compliant. Nevertheless, this setback area will need the clear delineation of the site's title boundaries along Swan Street through the use of brass discs or a similar type method. Council's Engineering Services Unit supported this.

180. The proposed improvements can be required by condition and is considered a very significant and positive contribution to the public realm and the amenity of this changing part of Richmond.

Site Coverage

181. The level of site coverage proposed is 100 percent and obviously well above the maximum of 80 percent as directed by clause 22.10-3.6. However as the existing level of site coverage in the surrounding (and immediate) area is similar, it is acceptable. Commercial buildings in this precinct traditionally have high levels of site coverage with this characteristic being evident throughout Richmond.

Landscape architecture

182. Landscaping is not a typical feature of commercial buildings in Richmond, however the proposal includes landscaping at ground floor within the side pedestrian walkway and also within the development along the terraces. This is an improvement compared to existing conditions. Council's Open Space Unit provided comments in relation to the landscaping, and these can be incorporated as conditions on any permit to be issued. This satisfies objectives at clauses 22.10-3.2 and 22.10-3.9.

183. Additionally, Council's external Urban Design raised concerns regarding the insufficient detail of the landscaping treatments and materials. By requiring a landscape plan to be provided to the satisfaction of Council's Open Space Unit, this issue will be rectified. Additionally, this will ensure that there is high quality place-making for the full extent of the pedestrian walk to the south and to the kerb line to the north and all terrace areas. This satisfies two of the suite of factors which if met; Council's external Urban Designer confirmed they would be supportive of an eleventh storey.

184. The proposal also includes the removal of a large tree within the front setback of the subject site, Comments were sought from Council's Arborist who stated that the tree is a significant tree (Red Iron Bark), however the tree has previously been pruned away from the high voltage wires and it was confirmed that it was inappropriately located. Council's Arborist supported the removal, subject to sufficient offset planting on the site or a one off, loss of amenity' financial contribution. Council's Arborist confirmed that the proposed design does not allow for offset planting on site and as such, the loss of amenity and ecological value will have to be offset on Council land. Ideally the applicant would design around this tree to ensure retention or design sufficient space to incorporate a large (15m+) native tree in the front.

185. Council's Arborist used the City of Melbourne amenity value calculator for trees which confirmed that the 'loss of amenity' valuation for the Red Iron Bark tree was $26,349. This can be required by way of condition. This cost is supported by the recent Biodiversity Health Survey which identifies the tree due to its height and native Victorian origin as a 'Critical Habitat Tree'.

186. There are also two street trees abutting the subject site. Council's Arborist recommended that a bond of $20,000 should be applied to each tree based on a combined amenity valuation only of $32,868. This can be required by way of condition.

187. Council's Arborist also noted that a maturing Lemon Scented Gum is located on the adjacent property at No. 490 Swan Street. It was recommended that a tree impact and management plan prepared by an appropriately qualified arborist must be submitted to ensure the tree is protected during development. This can be required by way of condition.

Environmentally Sustainable Development (ESD)

188. 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 which reduce employees and visitors from 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.

189. Council's ESD Advisor confirmed that the proposed ESD standard for this development is high, above Council's best practice standard, and which could be considered as "excellence" in ESD based on the Green Building Council of Australia definitions. The development includes several commitments such as 4.5 Star NABERS energy rating and a 5 Star Green Star accredited rating and 6 Car share spaces and 12 electric vehicle charging stations. Best practice ESD outcomes are one of the requirements of Council's external Urban Designer to warrant the inclusion of the eleventh storey. This will be met (amongst others).

190. There are areas of identified deficiencies, outstanding information or improvement opportunities:

    (a) The materials legend includes black tinted glass. This is not consistent with the SMP (min 40% VLT). Strongly recommend that tinting has a minimum VLT of 40% to balance daylight and thermal loading and be consistent with the SMP.

(b) "Preference" to be given to low-VOC products, and SMP "aims to include" low formaldehyde products. Giving "preference" and "aiming to include" are not acceptable terms to use in a SMP for town planning. Please re-word this section to avoid any vague or ambiguous language.

(c) The SMP claims 196 secure bicycle spaces provided, but the architectural drawings appear to have incorporated 170 spaces plus 46 visitor spaces. Please confirm that the 196 secure bike spaces are shown on the architectural drawings.

(d) Please indicate what type of hot water system will be used and its standard of energy efficiency.

(e) No information has been included in the SMP, but on one roof plan, solar panels are noted but not the other roof plan (without adjoining building). Please confirm the system size and location on all roof plans and include some system overview in the SMP. Recommend a solar PV array to contribute to onsite electricity consumption.

(f) Please note the approximate location and size of the rainwater tank is marked on all relevant pages of the architectural drawings.

(g) Green façade elements are clearly identifiable in Figure 6 of the SMP & the architectural Perspectives Render, however they are not included in the landscape plan. Please provide details on the proposed green façade and update relevant documents.

(h) Consider water efficient landscaping provided by rainwater.

(i) Consider onsite energy storage system.

191. These matters are all considered reasonable and conditions can require these to be included in an amended SMP and annotated on the plans (where relevant). It should be noted that the bike spaces have been shown correctly, however there was a discrepancy with the basement floor plans. The condition requiring that basement level 3 be clearly shown will resolve this issue.

192. It is considered that the proposal will achieve a high level of environmentally sustainable design and greater internal amenity for future occupants. This satisfies a number of clauses including 15.02-1, 18.02-1, 21.06 and 21.07.

Off-site amenity impacts

193. The policy framework for amenity considerations is contained within clause 22.05 (Interface uses policy). Clause 55 of the Scheme provides some guidance on these matters (although not strictly applicable).

194. Design objectives at *clause 22.10-3.8* aim to limit the impact of new development on the amenity of surrounding land, particularly residential land, by ensuring that development does not prejudice the rights of adjoining land users. These objectives are largely designed to reduce off-site amenity impacts to land where they interface between land uses. This can include limiting off-site amenity impacts on residential land as well as ensuring that new non-residential use and development within Commercial and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties. Therefore this application must consider both the off-site amenity impacts for residential land as well as any potential impacts to existing commercial/industrial uses.

195. Having regard to amenity impacts on nearby existing residences, policy within clause 22.05 acknowledges that in order to maintain the viability of industrial and business areas, residences which abut business areas should not have unrealistic expectations of the level of amenity which can be achieved. The appropriateness of amenity impacts including setbacks, walls on boundaries, shadowing and overlooking need to be considered within their strategic context, with the site being located within a Commercial 2 Use Zone. In addition, the local character shows a high level of site coverage and boundary-to-boundary development within the subject site and those surrounding it.

196. As previously outlined, the subject site does not directly abut any existing sensitive uses and is located in a zone which prohibits dwellings and where commercial and industrial uses are desired. The site is separated from the closest residential areas further to the north and south by Swan Street and a row of commercial buildings fronting onto it. To the south it is separated by the train line, train station and width of Madden Grove. These distances are 54m and 65m respectively.

197. One consideration is the approved development directly to the west of the site which has recently received a permit for a mixed use development containing dwellings facing the subject site. To address potential amenity considerations to the west, the proposal has incorporated setbacks of between 5m and 7.29m from the shared boundary. The approved development to the west had considered equitable development considerations for the subject site and had ensured that the dwellings above the podium were setback reasonable distances of at least 5.7m. This combined with the proposal results in setbacks of at least 10.7m (with more substantial setbacks also) which ensures that both overlooking and visual bulk impacts are avoided.

198. Whilst the development to the west includes terraces on the third floor which directly abut the podium of the subject site, they are at least 6m in width. The proposal is setback between 5m and 7.29m. The proposal includes a terrace at this floor which directly abuts these areas. These terraces all have a 1.2m high planter which combined with the terrace widths provides a visual buffer both in terms of height and width. This results in future occupants of those terraces not being able to stand right up to the podium edge and are setback at least 1.6m from the shared boundary. Additionally, this would not be drastically different for those future occupants to what is already occurring within their own development where several terraces are located adjacent to each other along this eastern side.

199. The proposal has also considered equitable development to its east through the incorporation of setbacks of at least 5m above the podium. Any development to the east could mirror this which would result in a reasonable building separation.

200. It is also important to note that the shadow diagrams provided by the applicant show that the shadows do not fall over any existing private open space areas between 9am and 3pm. Whilst shading will occur over the approved terraces to the west in the morning, this would be inevitable for any development which was to occur and is ‘part and parcel’ with the expectations of choosing an apartment with a terrace above the podium abutting another site.

Noise and light spill

201. Policy at Clause 22.05 of the Scheme seeks to ensure new commercial development is adequately managed having regard to its proximity to residential uses.

202. The proposal is unlikely to result in unacceptable noise emissions to the nearby residential properties given the majority of the building would be used for offices. Due to the nature of the office use there will be minimal noise generated by pedestrian activity, with this activity largely limited to Swan Street and the pedestrian path and not considered to be detrimental to the amenity of the adjacent properties. The use also ensures that deliveries to the site will be kept to a minimum.

The majority of the office space is enclosed and the use conducted indoors (with the exception of the outdoor terraces). As the office use does not require a planning permit, there is no further control that can be applied in regards to the use of offices.

203. The proposed food and drinks premises are sufficiently separated by residential areas and also primarily indoors, hence their impacts will be further diminished.

204. Light spill will also be limited due to the use primarily operating during the day. Again, this is another area where residents must temper their expectations when they face a zone where these types of uses are encouraged. Whilst the proposed food and drinks premises will also operate at night, these are separated from the residential areas by built form, significant distances, and for those to the south –by the train line.

205. The applicant submitted an acoustic report which was peer reviewed by Council's acoustic consultant, SLR Consulting who confirmed that the report generally addresses the acoustic issues related to the proposal however they suggested the following matters be addressed further, with each of these being discussed individually:

    (a) Indicative advice is provided for controlling noise from mechanical plant, however the development can be expected to include a large amount of equipment and we would consider the risk of non-compliance with SEPP N-1 to be moderately high. For this reason we recommend the report include the statement that the mechanical design must be reviewed by an acoustical consultant during the detailed design phase of the project.

    (b) The noise monitoring data is described as both free field and façade reflected. The reporting of these measurement locations should be reviewed and clarified to ensure that they are correct and consistent.

    (c) Potential voice noise impacts from the ground floor outdoor areas associated with the food and beverage tenancies is largely addressed through orientation of the tenancies, however we agree with Acoustic Logic that separate acoustic reports should be submitted for any significant noise generating use, and particularly for any entertainment premises of restaurants proposing to play music above background levels.

    (d) Potential voice noise impacts from the west facing terrace, which will be overlooked by residential dwellings, is not addressed in the report. While this area appears to be a low risk of nuisance noise, we nevertheless recommend that the report include the requirement that use of this area is limited to the day and possibly early evening only. If the space is used for functions, it should also meet the patron noise limits nominated in the acoustic report.

206. In further correspondence dated 14 March, 2018, Council's acoustic consultant confirmed they did not require the noise monitoring date to be reviewed and clarified. They also confirmed that by including a requirement for an additional acoustic report within three months of the occupation of the building to confirm compliance with SEPP N-1, the mechanical noise issues would be resolved. This can be addressed by way of condition.

207. In terms of the impacts from the outdoor food and drink areas, it was confirmed in follow up discussions that this would be low-risk and additional testing would not be required. Council's acoustic consultant agreed that the approved dwellings to the west would be largely protected from noise due to their location. The final matter remaining is in regards to the office terrace use. The proposed office use does not require a planning permit for the use, therefore Council is unable to restrict the hours of operation (inclusive of hours of use of any outdoor areas associated with the office).

208. Looking specifically at the noise sources, the location of services/plant equipment (plus screening) is proposed to be located on the roof, however this is not shown and a condition can require this. Nevertheless, this is a typical and acceptable location within a commercial area and responds to policy at clause 22.10-3.8. A condition would also require that the noise and emissions from plant equipment must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N1).

209. In respect of car noise, the car park entry and exit are located along Swan Street. Any potential noise and light spill would be limited as these areas are separated from more sensitive uses by reasonable distances and other built form. Conditions can ensure it is constructed and maintained to limit noise impacts as required by State regulations.

Wind

210. The applicant's wind consultant (Aurecon) carried out a desktop assessment with Council's wind consultant (MEL Consultants) confirming that they agreed with the analysis approach, site exposure, and regional wind climate that have been used for the basis of the assessment. It was also confirmed that whilst no wind tunnel testing has occurred, this is a common approach. The desktop assessment identified the adjacent developments and the heights of the existing buildings and Council's wind consultant agreed with the comments on the shielding provided by the surrounding buildings.

211. The particular areas which were considered were the wind conditions along the footpaths, for people within the ground floor side access area (which is shown as having seating) and for those on the terraces.

212. Council's wind consultant made an assessment of each area, and highlighted the following:

    (a) General - there appears to be an error with the Safety criteria as a mean hourly once per annum wind speed of 20 or 15 metres per second would result in gust wind speed of approximately 37 and 28 metres per second, which are well in excess of Melbourne (1978) safety gust wind speed of 23 metres per second once per annum occurrence. Council's wind consultant confirmed that the Melbourne (1978) Safety criterion is an accepted criterion in the wind engineering community.

    (b) Footpaths along Swan Street - Council's wind consultant believe that the wind conditions would be up to the walking criterion along the Swan Street footpath, instead of sitting/standing criteria as outlined by the applicant's wind consultant. Considering the building massing of No. 462-482 Swan Street creates a long frontage of taller buildings the wind conditions would be expected to increase as the through-link is approached due to the wind flow accelerating into the laneway around the building corners. However, there would be an expectation that wind conditions may achieve the short period sitting/standing criterion in the middle of the building face, but local wind break protection would be expected to be necessary for the proposed café (Tenancy 1) to achieve the long period sitting/standing criterion.

    (c) Pedestrian side access lane- the applicant's wind consultant stated that it would be suitable for leisurely walking and recommended additional wind break features (eg glass barriers) if the seating is important. The submitted information provided with the application shows that they intend to use this area as part of outdoor seating for the food and drinks premises. Therefore, additional wind break features will be required. Council's wind consultant agree with this, however recommend that these features be developed with the assistant of wind tunnel model measures and that the measurements will need to include quantified wind speed data. Council's wind consultant has concerns about the wind conditions through the side pedestrian access at ground floor given the images provided by the applicant and the expectations of Council.

Additional wind mitigation strategies would be required to achieve the long period sitting/standing criterion. Council's wind consultant does not support the use of CFD in these situations due to the high turbulence wind conditions of the urban environment and the importance of the pedestrian comfort on the gust wind speeds. (CFD means 'Computation Fluid Dynamics' which is computer simulation of fluid (wind) flow). Council's wind consultant does not support the use of CFD in these situations as the current state of the commercial packages do not correctly capture the effect of wind gustiness (turbulence), which is very important in an urban environment. Research level simulations are getting closer, but require supercomputers and months to run one simulation.

(d) Rear setback area - the applicant's wind consultant's assessment of the Burnley Station Entrance and Bicycle Parking only considered the effects of downwash (the increase in wind speed at the base of a building due to the deflection of horizontal winds in a downward direction upon contact with a building façade), however Council's wind consultant believes that the potential deflection of wind flow (separated shear layers) from the building towards the station entrances and platforms must also be considered. It was confirmed this could be assessed during a wind tunnel study.

(e) Terraces - Council's wind consultant confirmed that they agreed with the applicant's wind consultant that the terrace balustrades would assist with mitigating wind conditions on the terraces and that the conditions can be obtained through wind tunnel modelling. They also agreed that with regards to how these terraces are used, there will be a need to educate employees on the usage of these spaces and the tethering of objects. Council's wind consultant confirmed that any objects that are not tethered should not be left unattended or permanently on the terraces. The wind tunnel model study of the development should quantify the wind conditions in the surrounding streetscapes and on the terraces due to the relative height of the proposed development compared to the surrounding buildings.

213. Council's wind consultant recommended wind tunnel test be conducted in the detailed design stage and that any wind mitigation strategies are presented with and without the reliance existing or future street trees. A condition can require the wind tunnel modelling to be carried out and all of the above concerns addressed within it. Council's wind consultant confirmed that subject to the conditions proposed, the aforementioned issues will be addressed.

214. It should be noted that both Council's internal and external Urban Designer raised concerns with the use of glass screens within the through-link at ground floor to mitigate wind impacts. Through the wind tunnel modelling, the applicant can provide Council with certainty regarding the wind conditions, and will also allow the applicant with an opportunity to find alternatives to avoid using these. Rectifying these issues was one of the suite of conditions which Council's external Urban Designer stated must be achieved to warrant the inclusion of the eleventh storey. Through this condition, this will be met (amongst others).

Car parking, traffic, loading, access and bicycle provision

215. Under clause 52.06 of the Scheme, the applicant is seeking a parking reduction of total of 496 spaces, as outlined within the table included in the *Particular Provisions* section earlier in the report.

216. A recent Red Dot VCAT decision (*Ronge v Moreland CC [2017]* VCAT 550) made numerous statements with regards to car parking reductions. The Member clearly advocated for a reduction in the statutory car parking provision in inner-city sites such as this. Whilst this decision pertains to a site in Brunswick, the context is similar, being located within proximity to train stations and tram routes. In this instance, the subject site is closer to public transport opportunities and the Melbourne CBD than the review site.

217. Throughout the decision there are numerous relevant statements in support of the reduction and also regarding the limited importance that should be placed on car parking demand assessments. Relevant statements within the summary of this decision are applicable to this application, as follows;

    (a) State and local planning policies are already acknowledging the change that is required in the way in which people travel with Plan Melbourne 2017-2050 and State policies referring to 20-minute neighbourhoods and greater reliance on walking and cycling.

    (b) Our roads are already congested and will be unimaginably so if a 'business-as-usual' approach is accepted through until 2050. The stark reality is that the way people move around Melbourne will have to radically change, particularly in suburbs so well served by different modes of public transport and where cycling and walking are practical alternatives to car based travel.

    (c) A car parking demand assessment is called for by Clause 52.06-6 when there is an intention to provide less car parking than that required by Clause 52.06-5.

    (d) However, discussion around existing patterns of car parking is considered to be of marginal value given the strong policy imperatives about relying less on motor vehicles and more on public transport, walking and cycling. Census data from 2011 or 2016 is simply a snapshot in time, a base point, but such data should not be given much weight in determining what number of car spaces should be provided in future, for dwellings with different bedroom numbers.

    (e) Policy tells us the future must be different.

    (f) Oversupplying parking, whether or not to comply with Clause 52.06, has the real potential to undermine the encouragement being given to reduce car based travel in favour of public transport, walking and cycling.

    (g) One of the significant benefits of providing less car parking is a lower volume of vehicle movements and hence a reduced increase in traffic movements on the road network.

218. The *Ronge v Moreland* decision also confirms that in inner city areas where there is access to alternative forms of transport, we need to drastically change how we are currently moving around Melbourne. Providing less car parking spaces encourages people to cycle, walk or use public transport.

219. Given the location of the site on the Swan Street MAC and with direct access to public transport opportunities to access additional services and facilities, the site is considered to be an excellent candidate for the reduction in car parking being sought.

    Parking Availability

220. The applicant's traffic engineers (Ratio Consultants) did not conduct a parking survey however, it is understood that on-street parking demand is very high and close to saturation point. As acknowledged in the *Ronge v Moreland* decision, existing patterns of car parking usage is not useful given policy within Clause 52.06 encourages the use of other forms of transport.
    Parking Demand

221. For the food and drinks premises and the restricted retail components, the applicant's traffic engineers have provided for a staff car parking rate of 1 space per 100sqm. Any visitors would have to park off-site.

222. Turning to the proposed office use, Council's Senior Traffic Engineer confirmed parking associated with such developments is generally long-stay parking for employees and short-stay parking (say up to two hours' duration) for customers and clients. Council's Senior Traffic Engineer confirmed that the actual parking demand generated by the office is expected to be lower than the statutory parking rate of 3.5 spaces per 100sqm of floor space, since the area has very good access to public transport services. Whilst Council's Engineering Services Unit assessed the application as providing 129 car spaces for the office use, the provision is 122. This is due to the car share spaces not being allocated to any particular use (Engineering Services Unit assumed they were for the office) and the floor plans are show 154 spaces, not 155. Therefore, with the provision of 122 spaces for the office, the development would be providing a car parking rate of 0.76 spaces per 100sqm. In comparison, Council has approved other car parking rates of between 0.41 and 0.85 spaces per 100sqm. The proposed office rate falls within these comparisons and is considered acceptable considering the context.

223. Within a recent Tribunal decision (*Grocon (Northumberland St) Developer Pty Ltd v Yarra CC* [2017] VCAT 753) regarding an office development in Collingwood, the Tribunal Member also supported a significantly reduced car parking rate and made the following comments:

> [54] We have concluded that the reduced car parking provision is justified in the circumstances of this application. In doing so, we have had regard to the location within an inner city environment that is earmarked as an employment precinct, with convenient access to a range of alternative transport modes and a constrained supply of on-street parking. We consider that the reduced parking provision will not compromise the viability of the development or precinct, nor will it result in an unacceptable demand for on-street parking, given the saturated conditions that are presently experienced.
>
> [55] We agree that employees who are not allocated a car space will utilise alternative transport modes rather than attempt to seek out long term parking in the surrounding street network. This may well include walking to the site for persons who reside in the nearby residential and mixed-use areas. To constrain development of the land for a purpose that is in accordance with the zone purpose on the basis of car parking provision would not be consistent with the policy framework when read as a whole. This includes policies aimed at fostering economic development, employment and environmental sustainability. We reach this conclusion mindful of the site's strategic and physical context and its accessibility by a range of transport modes. In a different context without the level of policy support and more remote from alternative transport modes, there may be less justification for a reduction of the magnitude proposed here.

224. Accordingly, the reduction being sought by the proposal is supported by the following:
    (a) Objective 32 of Council's MSS facilitates parking reductions by advocating reduced reliance on private motor vehicles.

    (b) The site has excellent access to the public transport network, bicycle facilities and a wide range of retail, dining and commercial services within the Swan Street MAC and along Burnley Street, which in turn will reduce the dependence on private vehicle ownership by future employees;

    (c) The proposal includes secure bicycle parking spaces well in excess of rates specified within the Scheme. The development also has excellent end of trip facilities which will further encourage the use of bicycles. Future employees would be able to take advantage of the bike lanes along the Yarra River;

    (d) Occupant or visitor parking permits will not be issued for the development, which will discourage people from driving to the site given the high utilisation of existing on-street car parking, this 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;

(e) The office land use is particularly conducive to encouraging those without a car to not drive given trips are made in peak public transport availability periods, trips are known and planned in advance, on-site parking availability is known in advance, surrounding parking conditions are known in advance and do not accommodate long term daytime parking associated with an office use. These factors encourage and help facilitate those without a car to use other modes of transport.

(f) 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;

(g) The food and drinks premises and restricted would heavily rely on walk-up trade for its primary source of customers. It is highly likely that it would attract employees from nearby businesses as well as local residents;

(h) The proposal includes the provision of six car share spaces on-site and

(i) The location of the proposal encourages multi-purpose trips to the area.

225. From a traffic engineering perspective, the reduction in car parking spaces is considered appropriate in the context of the development and the surrounding area. The site is very well positioned in terms of public transport services.

226. Engineering Services acknowledged that the on-street parking demand is very high and close to saturation point. Providing a reduced provision would encourage a modal shift from private vehicle use to more sustainable travel. Engineering Services has no objection to the proposed reduction in the car parking requirement.

Traffic

227. In terms of existing conditions, the current use generates around 17 vehicle trips per peak hour. The proposed development would generate an additional 53 vehicle trips per peak hour. For the traffic distribution into and out of the site, Ratio Consultants have adopted an even directional split along Swan Street.

228. The traffic impact of the site's access onto Swan Street was assessed by the applicant's traffic engineers using the SIDRA program, which measures intersection performance. Council's Senior Traffic Engineer stated that SIDRA modelling works well under free flowing traffic conditions and may have limitations, such as queuing of downstream traffic. According to the applicant's traffic engineers, the results of the SIDRA analysis of the site's access point (with Cutter Street as one of the approaches) suggest that the increase in the peak hour traffic of the site can be accommodated without adversely impacting on Swan Street.

229. However, this cannot be considered in isolation. The redevelopment of the site to the west and to a lesser extent, the development to the north, would have a cumulative impact on Swan Street at the junction of Swan Street, Cutter Streets and the subject site's access point. The approved development to the west includes requirements for several traffic mitigation measures such as the installation of signals at their site access along Swan Street (also incorporating Cutter Street) and the removal of some on-street parking on Swan Street.

230. Initially, Council's Engineering Services Unit raised concerns that it is not clear how the subject site's access arrangements would operate if signals were to be installed. Additionally, Council's Senior Engineer initially suggested that an analysis/modelling of the subject site's access point, incorporating the peak hour volumes of No. 462-482 Swan Street and No. 429-437 Swan Street, should be undertaken before further comment is provided on the cumulative traffic impacts on Swan Street. However, since this time, both Transport for Victoria and VicRoads have both required that a condition be placed on any permit that would restrict all movements to left-in, left-out movements only (this will be placed as a condition on any permit to be issued).

As such, Council's Senior Traffic Engineer has confirmed that these turnings restrictions will significantly reduce any traffic impacts that could be generated by the proposed development and as such, traffic modelling is unnecessary.

231. It was highlighted that due to the incorporation of these turning restrictions, there is the potential for conflict with the proposed signals of the site to the west for the left-out movement. The applicant's traffic engineers have outlined in correspondence dated 5 March 2018 that they could provide an additional signal lantern facing the proposed site egress as part of the signalisation works. This would indicate a red arrow when the green phase for Cutter Street and the adjoining property access are running. Council's Senior Traffic Engineer confirmed that these have been installed on roads for private access points located very close to intersections. If a green light is activated for traffic exiting the development to the west and Cutter Street, a red signal light would be simultaneously activated for vehicles wanting to exit the subject site. Council's Senior Traffic Engineer confirmed that this would resolve any potential conflict issues and will be required by way of condition.

232. With regards to the cumulative impact of other developments, the area has repeatedly been acknowledged as being quite constrained. In the recent Red Dot Tribunal decision regarding Stage 1 of the Nylex development (*Caydon Cremorne No.1 Development Pty Ltd v Yarra CC* (Red Dot) [2016] VCAT 423), the Member acknowledged that the issue of congestion is one for Council and VicRoads rather than the applicant. This development has limited the number of car spaces it has provided which is all it can do. The issue of traffic congestion is bigger than this application and is a Metropolitan Melbourne wide issue.

Access and layout

233. The development incudes 154 on-site spaces over three basement levels accessed via Swan Street. It should be noted there are not any car stackers within this development. Council's Senior Traffic Engineer assessed the access arrangements, the car parking modules, gradients and the loading and waste collection. The majority of matters were satisfactory, however the following design items need to be shown:

    (a) Dimensions of the headroom clearance at the entrance and accessways (these should be a minimum of 2.1m and above accessible parking spaces, a minimum of 2.5m headroom clearance is to be provided)
    (b) Numbering of car parking spaces for easy identification;
    (c) Dimensions of the accessible parking spaces. The shared areas can be 2.4 metres in width and are to be provided with bollards as per the Australian/New Zealand Standard AS/NZS 2890.6:2009.
    (d) Dimensions of the column depths and setbacks, lengths of each ramp grade section and truck spaces.
    (e) Clearances to walls to be provided for spaces abutting them with a minimum 300mm shown. Alternatively, spaces adjacent to walls could be widened to comply with minimum requirements of AS/NZS 2890.1:2004.

234. All of these can be required by way of condition should a permit be granted.

235. Additionally, it is unclear if there is a door to the vehicular entry, and this can also be required by way of condition.

Bicycle parking and facilities

236. As outlined earlier in the report the development is required to provide a total of 61 staff and 21 visitor bicycle spaces under clause 52.34 of the Scheme. The development provides 196 bicycle spaces between the various basement levels and the ground floor plan as well as end-of-trip facilities at ground floor.

Through the provision of these spaces, the applicant has responded to the importance that 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.

237. Council's Strategic Transport Unit considered the applicant and confirmed that the proposal exceeds best practice in terms of bicycle space provision. It was noted that all the visitor spaces are well suited for visitor use as they are accessible to the public and are horizontal rails.

238. Council's Strategic Transport Unit did however raise the following concerns regarding the use of the path to the south (which is owned by VicTrack):

    (a) The location and access arrangements of the visitor and employee spaces is inadequate given primary access to the spaces appears to be from the walkway running along the south of the subject site. Despite assertions within the Traffic Impact Assessment, this path is not a shared path. It also appears this path is owned by VicTrack, and therefore permanent access to this path cannot be guaranteed.

    (b) Further, the path is narrow, and links directly to the Burnley Station underpass at its western end. At this point the path is marked with 'No cycling' signage (Figure 1). By locating all bicycle parking at this intersection many cyclists would be encouraged to use this ramp and conflict with pedestrians would significant, especially during peak hours when train passengers would be accessing the station via the underpass.

    (c) If access to cyclists facilities is from the south, a clearly delineated and cycle-able path to Swan Street should be provided within the east-boundary setback discourage cyclists using the underpass ramp, and to ensure ongoing adequate access to cyclists facilities.

239. Council planning officers do not agree with the statements in regards to the inappropriate reliance on the pedestrian strip to the south. As noted previously, Council's internal Urban Design Unit have recommended the strip of land to the south is upgraded. The development to the west also included significant improvements to the pedestrian link. Therefore, Council planning officers consider that it is appropriate for the proposal to provide primary access for bicycles along this strip. It is clear that there is every intention for this land to remain open to the public. Additionally, Transport of Victoria stated that they did not have any issue with this. They confirmed that their requirements to provide additional detailing regarding this interface were sufficient. Transport of Victoria encourages mode shift access to an office development of this type which is located next to a train station and is therefore is ideal for mode change. They also confirmed that they would consider some cyclist dismount signs or beware of pedestrian signs at the interface which is a normal pedestrian/cyclist issue.

240. Further to this, Council's Strategic Transport Unit appeared to rely on the station having a 'no cycling' sign at the intersection of the pedestrian path and the underpass to the station. Council planning officers do not put significant weight on this sign, in that, cyclists may be utilising the site from Stawell Street to the east, or from Burnley Street to the west. Not all cyclists will be coming from the station or the south, and those that do, can dismount as the sign requires. There are numerous locations around Melbourne where cyclists have to dismount, and then mount. This is all part of cycling within the inner city. Further to this, any cyclists arriving from Swan Street may be potentially required to dismount to pass through the side access within the development, and with a width of 8.5m, it is considered there is sufficient spaces for this to occur without causing issues with pedestrians and any people using the outdoor seating.

241. Council's Strategic Transport Unit stated that the employee spaces are inadequately located and designed. It was stated that there are too many bike storage areas and that the two, smaller areas (which provide for 64 spaces) for bike parking are problematic due to the narrow and difficult access.

In relation to the number of locations, Council planning officers submit that over time, staff will become accustomed to having a regular bike parking location and this may only potentially be an issue for a short period of time. It should also be noted, that the proposal provides 29 additional bike spaces above best practice requirements. Therefore, the vast majority of the bike spaces provided (130 out of 196) are conveniently located.

242. In relation to the access for the two smaller bike areas, planning officers agree that their access is difficult and a condition will require improved access for the three smaller parking areas in the basement levels.

243. Council's Strategic Transport Unit stated that the lobby and service lobby should be reconfigured so bicycles can be easily wheeled through this entrance. Council planning officers agree that access to the services lobby (where the end of trip facilities are located) from the lobby is difficult due to the location of various doors and tight turns. Therefore a condition will require this to be revised.

244. Finally, Council's Strategic Transport Unit requested that the dimensions of bicycle storage spaces, spacing, and access-ways; and whether spaces are horizontal or hanging spaces are provided. This can be required by way of condition.

245. The provision of the end-of-trip facilities is not clearly shown on the floor plans and the applicant has confirmed that these will be at the ground floor within the area currently shown as 'services lobby'. This can be rectified by way of condition. The provision of showers and lockers is in excess of the statutory requirement, with the number of bicycle spaces being in excess of best practice. Ensuring best practice end-of-trip facilities for cyclists was one of the suite of conditions which Council's external Urban Designer stated must be achieved to warrant the inclusion of the eleventh storey. Through this condition, this will be met (amongst others).

246. The inclusion of a green travel plan providing real-time public transport information in the open space zone was one of the requirements of Council's external Urban Designer which had to be met to justify the inclusion of the eleventh storey. This can be required by way of condition. Additionally, Council's Strategic Transport Unit made many recommendations regarding the Green Travel Plan and these will be included as part of the condition. This satisfies the requirements of clause 52.34 of the Yarra Planning Scheme.

Other

247. It should be noted that Council's Senior Traffic Engineer has recommended the inclusion of a number of conditions relating to civil works to, road protection, impacts on assets, vehicle crossings and drainage. Many of these have either been included as notes on the permit or can be required by way of condition.

Other matters

248. This application was required (pursuant to Clause 66.02-11 – Integrated Public Transport Planning) to be referred to Transport for Victoria as the floor area of the office is greater than 10,000sqm in leasable floor area. The application was also referred to VicRoads, Transurban and the EPA due to DDO5 and alterations and buildings and works within a Road Zone. None of these referral authorities objected to the application, subject to conditions on the permit. These will all be placed on any permit to be issued. They relate to additional information being provided regarding impacts to the tram, construction management plans, detailed information regarding works at the southern boundary, and most significantly, they restrict vehicle movements to left in, left out. The repercussions of this on the development have already been discussed within the report.

Waste Management

249. The applicant's Waste Management Plan (WMP) prepared on 6 June 2017 by Ratio Consultants has been found to be satisfactory by Council's Waste Management Unit. The WMP confirms that:

    (a) Waste shall be stored within the development (hidden from external view).
    (b) Users shall sort their waste, and dispose garbage and recyclables into bins in each office area with cleaning staff disposing of it into larger bins in the waste room at Basement Level 01.
    (c) The food and drinks tenancies will store their bin within a back of house area with tenants transferring this into the waste room at Basement Level 01.
    (d) Organic waste for the food and drinks premises will be disposed of into two food digesters, one at ground floor and another at first floor. The digester that processes food waste will turn the organics into environmental safe water and it shall be plumbed with municipal sewage system.
    (e) All collections are to be performed by a private contractor.
    (f) Two loading bays are located on Basement Level 01 to facilitate waste collection.

    Objector concerns

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

    (a) Neighbourhood character/Heritage & Streetscape (paragraphs 139-147 & 162-180);
    (b) Height/Massing (paragraphs 148-161);
    (c) Car parking/traffic implications (paragraphs 215-232);
    (d) Amenity Impacts (overshadowing and visual bulk) (paragraphs 193-214);

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

    (a) Insufficient demand for office floor area;

        This is not a relevant planning consideration. The site is located within the inner-city and within an area designated for offices. State and Local policies encourage increased employment opportunities.

    (b) Issues during construction;

        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

252. 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 commercial development in commercial precincts and aligns with the State Policy as well as the direction given by the Tribunal.

253. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies. Additionally, the proposal will result in a significant public realm benefit due to the creation of a through-link which is open to the public and provides access to the land to the south. The pedestrian path is also proposed to be improved.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN17/0448 for use and development of the land for the construction of a mixed use building (permit required for food and drinks premises (café)), reduction in car parking requirements, and alteration of access and building and works to a Road Zone Category 1 Road at 484 – 486 Swan Street, Richmond, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans by Techne Architects received by Council on 23 August 2017 but modified to show:

    (a) an updated basement 3 floor plan;
    (b) numbering of plans;
    (c) a roof plan showing all plant and equipment with screening provided ensuring views from Swan Street and Burnley Station are obscured;
    (d) the five food and drinks premises to be labelled as Food and Drinks Premises (café) and to be numbered Tenancy 1 to 5 with Tenancy 1 fronting Swan Street, Tenancy 2 and 3 being the central tenancies, Tenancy 4 being the southern-most and Tenancy 5 is the first floor premises;
    (e) the ground floor crossover dimensions annotated as per the sketch plan provided on 8 March 2018;
    (f) the deletion of three of the upper-most floors (levels 11-13 - inclusive);
    (g) a materials sample board of external materials and finishes including thumb nail sketches of key elements of the facade system at the ground, middle and upper levels including details of the proposed metal cladding;
    (h) details of the canopy to Swan Street (coordinated with the location of street trees);
    (i) details regarding the treatment of the services to the east of the vehicular entry;
    (j) details of the vehicular entry door;
    (k) details of the ground floor setback area facing Swan Street and confirmation that it is compliant with the *Disability Discrimination Act 1992* (DDA).
    (l) clear delineation of the site's title boundaries along Swan Street through the use of brass discs or a similar type method;
    (m) dimensions of the headroom clearance at the entrance and accessways (these should be a minimum of 2.1m and above accessible parking spaces, a minimum of 2.5m headroom clearance is to be provided);
    (n) numbering of car parking spaces for easy identification;
    (o) dimensions of the accessible parking spaces. The shared areas can be 2.4 metres in width and are to be provided with bollards as per the Australian/New Zealand Standard AS/NZS 2890.6:2009;
    (p) dimensions of the column depths and setbacks, lengths of each ramp grade section and truck spaces;
    (q) clearances to walls provided for spaces abutting them with a minimum 300mm shown. Alternatively, spaces adjacent to walls could be widened to comply with minimum requirements of AS/NZS 2890.1:2004;
    (r) improved bicycle access from the lift area to the bicycle stores on basement floor plans 2 and 3;
    (s) improved access for cyclists to the services lobby on the ground floor (where the end of trip facilities are located) from the lobby;
    (t) confirmation that the end of trip facilities are located within the 'services lobby' on the ground floor and that at least 24 showers and 240 lockers will be provided;
    (u) dimensions of bicycle storage spaces, spacing, and access-ways;

(v) confirmation whether bicycle spaces are horizontal or hanging spaces (with at least 20 percent of employee and all visitor bicycle spaces being horizontal ground level spaces).
(w) the location of the additional signal lantern facing the proposed site egress;
(x) any requirement of the endorsed Sustainable Management Plan (condition 6) (where relevant to show on plans);
(y) any requirement of the endorsed Waste Management Plan (condition 8) (where relevant to show on plans);
(z) any requirement of the endorsed Acoustic Report (condition 10) (where relevant to show on plans;
(aa) any requirement of the endorsed Landscape Plan report (condition 13) (where relevant to show on plans;
(bb) any requirement of the endorsed Wind Report (condition 19) (where relevant to show on plans); and
(cc) any requirement of the endorsed Detailed Design Plan (Through-link between Swan Street and land to the south) (condition 21) (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. As part of the ongoing consultant team, Techne Architecture 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.

Food and Drinks Premises (café)

4. Except with the prior written consent of the Responsible Authority, the café uses authorised by this permit may only operate between the hours of 7am and 11pm, seven days per week.

5. Except with the prior written consent of the Responsible Authority, no more than the following maximum number patrons are permitted on the land at any one time:

(a) Tenancy 1 – 110
(b) Tenancy 2 – 30
(c) Tenancy 3 – 50
(d) Tenancy 4 – 70
(e) Tenancy 5 – 900

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 Arcadis (prepared on 2 June 2017), but modified to include or show:

(a) tinted glass to have a minimum VLT of 40% to balance daylight and thermal loading;
(b) re-worded to avoid ambiguous language such as “preference” and “aiming to include”;
(c) the type of hot water system which will be used and its standard of energy efficiency;
(d) confirm the solar photovoltaic system size and location on all roof plans and include some system overview in the SMP with the solar photovoltaic array to contribute to onsite electricity consumption;
(e) the approximate location and size of the rainwater tank;

(f) green façade elements confirmed;
(g) water efficient landscaping provided by rainwater; and
(h) an on-site energy storage system.

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

11. Within 3 months of the occupation of the building, updated post-occupation Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be generally in accordance with the Acoustic Logic Consultancy report dated 11 August 2017. The report must be submitted to and approved by the Responsible Authority. When approved, the updated post-commencement Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must (assess) address the following:

    (a) Confirm that the recommendations of the endorsed acoustic report required as part of Condition 10 have been implemented;

    (b) Assess mechanical plant noise to SEPP N-1; and

    (c) If non-compliance with Condition 11b is measured, additional acoustic measures as recommended by the amended post-occupation acoustic report are to be implemented within one month of the date of the amended acoustic report.

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

Landscape Plan

13. Before the development commences, 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:

    (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants. Shade tolerant species are recommended for the ground floor;
    (b) show the extent of planters and where the Ronstan X-tend mesh panels are proposed;
    (c) further details of the proposed planters – height, materials, depth and type of planting media, irrigation and drainage. NB, the plan notes indicate that trees will be planted in 1500mm depth soil however the planters shown are 600mm depth;
    (d) confirm any green façade elements;
    (e) show the materiality of the proposed spaces;
    (f) detail the design (including the provision of sections) and layout of the common area, planters and ground level planting areas;
    (g) provide a specification of works to be undertaken prior to planting;

(h) further detail on any sustainable treatments and water harvesting methods ;and
(i) detail plant/planting maintenance schedules and requirements.

to the satisfaction of the Responsible Authority.

14. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the 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.

Street Trees

15. Before the development starts, the permit holder must provide a security bond of $20,000 for each of the two street trees (total of $40,000) to the Responsible Authority. The security bond:

(a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
(b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
(c) in accordance with the requirements of this permit; or
(d) otherwise to the satisfaction of the Responsible Authority.

Significant Tree

16. Before the development commences, the permit holder must make a one off 'loss of amenity' contribution $26,349.00 (calculated using the City of Melbourne amenity value calculator for trees) to the Responsible Authority to be used for the replacement and maintenance of trees within the immediate locale to Council's discretion. All tree planting and maintenance work will be undertaken by City of Yarra Contractors.

Tree Management Plan

17. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for the protection of the maturing Lemon Scented Gum is located on the adjacent property at No. 490 Swan Street:

(a) pre-construction;
(b) during construction; and
(c) post construction
(d) the provision of any barriers;
(e) any pruning necessary; and
(f) watering and maintenance regimes,

to the satisfaction of the Responsible Authority.

18. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority

Wind

19. Before the development commences, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by Aurecon and received by Council on 18 August 2017, but modified to include (or show):

    (a) Wind tunnel model measurements undertaken to verify the findings of the desktop study, and amended to include (the use of CFD is not supported in this instance):

        (i) Wind conditions outside building entries to satisfy the criterion for short period standing/sitting.
        (ii) Wind conditions in outdoor café/retail seating areas to satisfy the criterion for long period standing/sitting. Details of wind mitigation strategies must be provided and be to the satisfaction of the responsible authority.
        (iii) Wind conditions at the Burnley Station entrances and Bicycle parking and on the station platforms to satisfy the short period standing/sitting criterion.
        (iv) Wind conditions in all other areas of the surrounding streetscapes to satisfy the walking criterion.
        (v) Wind conditions on the private terraces to satisfy the walking criterion.
        (vi) Wind conditions in the surrounding streetscapes and private terraces to satisfy the Safety criterion of a gust wind speed 23 ms^{-1} as defined by Melbourne (1978).
        (vii) The Existing wind conditions (prior to the demolition of the existing buildings) provided to allow the wind impacts of the proposed development to be assessed.

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

Detailed Design Plan (Through-link between Swan Street and land to the south)

21. Before the development commences, or by such later date as approved in writing by the Responsible Authority, a detailed design plan for the through-link, between Swan Street and the land to the south (inclusive of the full extent of the pedestrian walk to the south and to the kerb line to the north) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the detailed design plan will be endorsed and will form part of this permit and must then be maintained to the satisfaction of the Responsible Authority. The detailed design plan must include details of the proposed materials, landscaping, lighting and safety measures to provide unfettered 24 hour public access for the through-link, between Swan Street and the land to the south (inclusive of the full extent of the pedestrian walk to the south and to the kerb line to the north).

Section 173 Agreement (Through-link between Swan Street and land to the south)

22. Within six months of the commencement of works, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act* 1987, providing for the following:

(a) The Owner must provide unfettered 24 hour public access over (and inclusive of the provision of lighting) over that part of the land to be used for the ground floor, north-south through-link from Swan Street to the pedestrian path to the south;

(b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 22(a) at the cost of the owners of the site and to the satisfaction of the Yarra City Council;

(c) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, for the public liability and indemnify Yarra City Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 22 (a).

23. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

VicTrack Pedestrian Path

24. Before the development commences, the permit holder must submit detailed plans (inclusive of materials and landscaping) to the satisfaction of and approved by the Responsible Authority and VicTrack, showing interface improvements for the footpath to the south (directly abutting the subject site's boundaries).

25. Before the building is occupied, all works associated with the VicTrack pedestrian path detailed design plan as shown on the endorsed plans must be completed by the permit holder at their full cost to the satisfaction of the Responsible Authority and VicTrack.

Section 173 Agreement (Car Share Agreement)

26. Before the building is occupied, the owner must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 and apply to the Registrar of Titles to have the agreement registered on each of the titles to the land under Section 181 of the Act. Under the agreement, the owner must covenant with the Responsible Authority that provision will be made for six car share vehicles on-site by way of arrangement with a car share operator and/or the future Owners Corporation for a minimum period of 10 years (or for another agreed to period of time, to the satisfaction of the Responsible Authority). The agreement will reflect that any costs associated with ensuring ongoing availability of at least six car share vehicles on site will be borne by the owner. All costs of preparation, execution and registration of the agreement must be borne by the owner of the land, or the future Owners Corporation, including those costs incurred by the Responsible Authority.

Transport for Victoria Conditions (27 to 40)

Pre Construction

27. Before the development commences, or other time agreed to in writing with Head, Transport for Victoria, amended plans to the satisfaction of the Head, Transport for Victoria must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. These plans must be generally in accordance with the plans submitted to the Head, Transport for Victoria with the application but are to be modified to show:

(a) self enforcing left in left out only from Swan Street with associated line marking and signs;
(b) no parking shown across the frontage of the site with associated signs; and
(c) detailed plans / landscaping schedule for the interface with the railway land

to the satisfaction of the Head, Transport for Victoria.

28. Prior to the commencement of the development, detailed construction / engineering plans and computations for the works along the boundary with the railway reserve as shown on the endorsed plans must be submitted and approved by VicTrack and Public Transport Victoria. The Plans must detail all works proposed within the rail environment, including excavation of the site adjacent to the railway corridor and any impact on the rail reserve. The plans must ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety Regulations, to the satisfaction of Vic Track and Public Transport Victoria.

29. Unless otherwise agreed in writing with Head, Transport for Victoria, before the commencement of works, a Construction Management Plan must be submitted to Public Transport Victoria and Vic Track for approval. The Construction Management Plan must designate operating hours and include details of (but not be limited to) management proposals and actions to protect Vic Track assets, rail infrastructure and the operation of the public transport network during construction and must set out objectives, performance and monitoring requirements to the satisfaction of Vic Track & Public Transport Victoria.

30. Unless otherwise agreed in writing with the Head, Transport for Victoria, before the commencement of works, a Traffic Management Plan must be submitted to Public Transport Victoria which outlines how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams. The Traffic Management Plan must be prepared and implemented to the satisfaction of Public Transport Victoria. All traffic management and mitigation costs will be at the full cost of the permit holder.

31. Unless otherwise agreed in writing with Public Transport Victoria, prior to construction commencing including demolition, a construction control and indemnity agreement as required by Public Transport Victoria must to be in place to the satisfaction of Public Transport Victoria at the full cost to the permit holder. Any costs required to review documents for the construction control and indemnity agreement must be met by the permit holder.

General Conditions

32. Prior to the occupation of the development, all works outlined on the endorsed plans for the left in left out access must be completed with associated signs, to the satisfaction of the Head, Transport for Victoria at the full cost to the permit holder.

33. Unless otherwise agreed in writing with VicTrack, permanent or temporary soil anchors must not be installed on railway land.

34. Prior to commencement of works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.

35. Any Rail Operator costs required to review documents or construction plan works within the rail environment must be met by the permit holder.

36. Any damage to public transport infrastructure as a consequence of the construction works must be rectified to the satisfaction of Public Transport Victoria, at the full cost of the permit holder.

37. The permit holder must take all reasonable steps to ensure that disruptions to train and tram operation are kept to a minimum during the construction of the development, and in compliance with the Rail and Tram Safety and Environmental requirements.

38. Building materials (including glass/window/ balcony treatments) likely to have an effect on train driver operations along the rail corridor must be non-reflective and avoid using red or green colour schemes, to the satisfaction of the Rail Operator.

39. No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of signals and the rail lines by train drivers, to the satisfaction of the Rail Operator.

40. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.

VicRoads Condition (No 41)

41. Before the use approved by this permit commences the following roadworks on Swan Street, Richmond must be completed at no cost to and to the satisfaction of the Roads Corporation:

    (a) The installation of signs, line marking, splitter island and associated road works permitting only “left turn in” and “left turn out” vehicular access from Swan Street.
    (b) Modification or removal of any existing car parking spaces, street tree/s and associated road works on the south side of Swan Street to accommodate the new vehicular access arrangement.

Road Infrastructure

42. Before the development commences, 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 Swan 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 Swan Street and the accessway inside the property 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.

43. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the existing side entry pit must be converted to a grated pit and must be constructed with a pipe extension to one side of the new vehicle crossing:

    (a) at the permit holder's cost; and
    (b) to the satisfaction of the Responsible Authority

44. 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) to VicRoads geometric requirements and in accordance with any requirements or conditions imposed by Council;
    (b) to accommodate the ground clearance of the B99 design vehicle;
    (c) at the permit holder's cost; and

(d) to the satisfaction of the Responsible Authority.

45. 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.

46. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, 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:

    (a) at the permit holder's cost; and
    (b) to the satisfaction of the Responsible Authority.

47. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, footpath along the property's Swan Street frontage must be reconstructed:

    (a) with a cross-fall of 1 in 40 or unless otherwise specified by Council;
    (b) at the permit holder's cost; and
    (c) to the satisfaction of the Responsible Authority.

48. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, kerb and channel along the property's Swan Street frontage must be reconstructed:

    (a) at the permit holder's cost; and
    (b) to the satisfaction of the Responsible Authority.

49. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the half-width road pavement (from the central tram reservation to the south kerb) of Swan Street immediately along the property street frontage must be profiled and re-sheeted:

    (a) with all road pavement reinstatements consolidated as single full-width areas of reinstatement to reduce further construction joints in the pavement;
    (b) at the permit holder's cost; and
    (c) to the satisfaction of the Responsible Authority.

50. 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.

Car parking

51. Before the development commences, 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) the location of the additional signal lantern facing the proposed site egress;
(c) details of way-finding, cleaning and security of end of trip bicycle facilities;
(d) policing arrangements and formal agreements;
(e) details of the management of the six car share scheme spaces;
(f) details of the electric car charging points;
(g) 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;
(h) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 8; and
(i) details regarding the management of loading and unloading of goods and materials.

52. 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.

53. 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.

54. 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.

55. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.

Green Travel Plan

56. Before the development commences, 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) a description of the location in the context of alternative modes of transport;
(b) employee welcome packs (e.g. provision of Myki/transport ticketing);
(c) the provision of real time passenger information displays for nearby stops within each lobby;
(d) sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
(e) a designated ‘manager’ or ‘champion’ responsible for coordination and implementation;
(f) details of bicycle parking and bicycle routes (which do not refer to the footpath at the south as a ‘shared path’);
(g) details of GTP funding and management responsibilities;
(h) the types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);

(i) the types of lockers proposed within the change-room facilities, with at least 50% of lockers providing hanging storage space;
(j) security arrangements to access the employee bicycle storage spaces; and
(k) signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3;
(l) provisions for the Green Travel Plan to be updated not less than every 5 years.

57. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Lighting

58. 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 through-link laneway must be provided on the subject site. Lighting must be. Lighting must be:

(a) located;
(b) directed;
(c) shielded; and
(d) of limited intensity,

to the satisfaction of the Responsible Authority.

General

59. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

60. 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.

61. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).

62. 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.

63. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

64. 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.

65. 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 9 am or after 3 pm; or
(c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Construction Management

66. 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. 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
(q) 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

67. 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:

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.

Measures must be taken to ensure that rainfall run-off from Hutchins Street does not enter the development's car park entrance and truck turning area

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 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.

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.

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.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch.

Any on-street parking reinstated as a result of development works must be approved by Council's Parking Management unit.

The removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath. Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

Contaminated ground water seepage into basements from above the water table must be discharged to the sewer system through a trade waste agreement with the relevant authority or in accordance with EPA guidelines.

Contaminated groundwater from below the water table must be discharged to the sewer system through a trade waste agreement from the relevant sewer authority.

Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.

Transport for Victoria notes

Works undertaken within railway land must consider all standards and work practices for work within the railway corridor and conform to all relevant Australian standards including Victorian Rail Industry Operator Group (VRIOG) standards for any interface works and installation of underground utility services to the satisfaction of the Rail Operator and Public Transport Victoria.

Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.

VicRoads Notes

Separate consent may be required from VicRoads (the Roads Corporation) under the Road Management Act 2004 for buildings and works (i.e. canopies and architectural features/ projections) undertaken outside the title boundary within a Road Zone Category 1 (i.e. Swan Street). Please contact VicRoads prior to commencing any works.

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

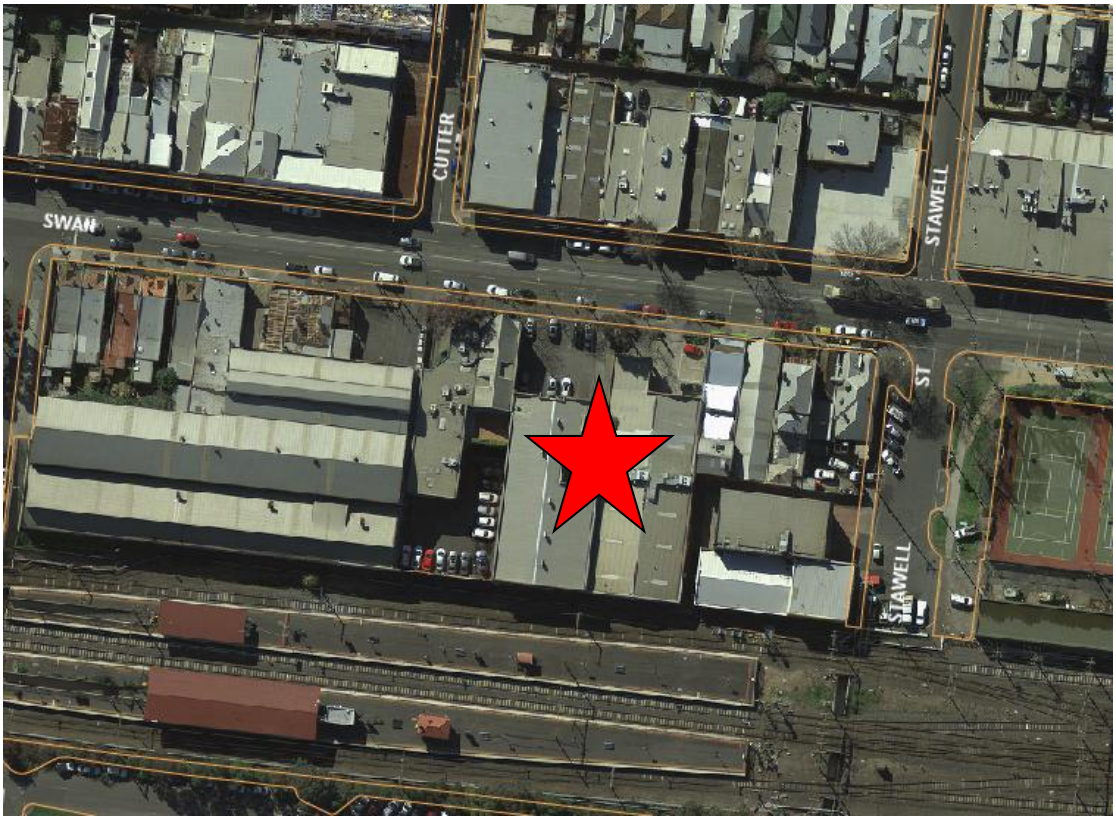
Attachments

1 PLN17/0448-03 - 484 - 486 Swan Street Richmond - subject land - idac attachments
2 PLN17/0448-03 - 484 - 486 Swan Street Richmond - referrals final - idac attachment
3 PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - basements 2 & 3 - idac attachment

4 PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - idac attachment
5 PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - west elevation - idac attachment
6 PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - sections - idac attachment
7 PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment
8 PLN17/0448-03 - 484 - 486 Swan Street Richmond - updated ground floor plan showing crossover - sketch plan

Attachment 1 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - subject land - idac attachments

SUBJECT LAND:



⇧ **North**

Subject Site

Attachment 2 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - referrals final - idac attachment

Referrals

External Referrals

Transport for Victoria

The Head, Transport for Victoria pursuant to Section 56(1) of the Planning an Environment Act 1987 does not object to the grant of a planning permit subject to the following conditions:

Conditions:

Pre Construction

1. *Before the development commences, or other time agreed to in writing with Head, Transport for Victoria, amended plans to the satisfaction of the Head, Transport for Victoria must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. These plans must be generally in accordance with the plans submitted to the Head, Transport for Victoria with the application but are to be modified to show:*

   a) *self enforcing left in left out only from Swan Street with associated line marking and signs;*
   b) *no parking shown across the frontage of the site with associated signs; and*
   c) *detailed plans / landscaping schedule for the interface with the railway land*

   to the satisfaction of the Head, Transport for Victoria.

2. *Prior to the commencement of the development, detailed construction / engineering plans and computations for the works along the boundary with the railway reserve as shown on the endorsed plans must be submitted and approved by VicTrack and Public Transport Victoria. The Plans must detail all works proposed within the rail environment, including excavation of the site adjacent to the railway corridor and any impact on the rail reserve. The plans must ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety Regulations, to the satisfaction of Vic Track and Public Transport Victoria.*

3. *Unless otherwise agreed in writing with Head, Transport for Victoria, before the commencement of works, a Construction Management Plan must be submitted to Public Transport Victoria and Vic Track for approval. The Construction Management Plan must designate operating hours and include details of (but not be limited to) management proposals and actions to protect Vic Track assets, rail infrastructure and the operation of the public transport network during construction and must set out objectives, performance and monitoring requirements to the satisfaction of Vic Track & Public Transport Victoria.*

4. *Unless otherwise agreed in writing with the Head, Transport for Victoria, before the commencement of works, a Traffic Management Plan must be submitted to Public Transport Victoria which outlines how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams. The Traffic Management Plan must be prepared and implemented to the satisfaction of Public Transport Victoria. All traffic management and mitigation costs will be at the full cost of the permit holder.*

5. *Unless otherwise agreed in writing with Public Transport Victoria, prior to construction commencing including demolition, a construction control and indemnity agreement as required by Public Transport Victoria must to be in place to the satisfaction of Public*

Transport Victoria at the full cost to the permit holder. Any costs required to review documents for the construction control and indemnity agreement must be met by the permit holder.

General Conditions

6. *Prior to the occupation of the development, all works outlined on the endorsed plans for the left in left out access must be completed with associated signs, to the satisfaction of the Head, Transport for Victoria at the full cost to the permit holder.*

7. *Unless otherwise agreed in writing with VicTrack, permanent or temporary soil anchors must not be installed on railway land.*

8. *Prior to commencement of works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.*

9. *Any Rail Operator costs required to review documents or construction plan works within the rail environment must be met by the permit holder.*

10. *Any damage to public transport infrastructure as a consequence of the construction works must be rectified to the satisfaction of Public Transport Victoria, at the full cost of the permit holder.*

11. *The permit holder must take all reasonable steps to ensure that disruptions to train and tram operation are kept to a minimum during the construction of the development, and in compliance with the Rail and Tram Safety and Environmental requirements.*

12. *Building materials (including glass/window/ balcony treatments) likely to have an effect on train driver operations along the rail corridor must be non-reflective and avoid using red or green colour schemes, to the satisfaction of the Rail Operator.*

13. *No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of signals and the rail lines by train drivers, to the satisfaction of the Rail Operator.*

14. *No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.*

Notes for the Permit:

Works undertaken within railway land must consider all standards and work practices for work within the railway corridor and conform to all relevant Australian standards including Victorian Rail Industry Operator Group (VRIOG) standards for any interface works and installation of underground utility services to the satisfaction of the Rail Operator and Public Transport Victoria.

Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.

VicRoads & CityLink

VicRoads in consultation with CityLink does not object to the development in its current form.
If Council regards the proposed development favourably, VicRoads would require that the following conditions be included in any Notice of Decision to issue a Planning Permit or Planning Permit:

Before the use approved by this permit commences the following roadworks on Swan Street, Richmond must be completed at no cost to and to the satisfaction of the Roads Corporation:

a) *The installation of signs, line marking, splitter island and associated road works permitting only "left turn in" and "left turn out" vehicular access from Swan Street.*
b) *Modification or removal of any existing car parking spaces, street tree/s and associated road works on the south side of Swan Street to accommodate the new vehicular access arrangement.*

Note: Separate consent may be required from VicRoads (the Roads Corporation) under the Road Management Act 2004 for buildings and works (i.e. canopies and architectural features/ projections) undertaken outside the title boundary within a Road Zone Category 1 (i.e. Swan Street). Please contact VicRoads prior to commencing any works.

EPA

The Environment Protection Authority has reviewed the referral and documents accompanying the application. EPA advises that we do not have concerns with the proposal given the existing development and minor nature of the proposed works with respect to the City Link Exhaust Stack Environs. As such, EPA has no concerns with Council issuing this planning permit according to the information that has been provided.

Internal departments

Urban Design

COMMENTS SUMMARY

The redevelopment of this site is supported in principle, but a number of improvements and clarifications are warranted, including the following:

- *reduce the width of the crossover if possible*
- *provide pedestrian shelter to the Swan St footpath, avoiding conflict with street trees.*

It is also recommended that discussions be undertaken with Vic Track and the owners of 490 Swan St to optimise the pedestrian network and interfaces along the site's south and east boundaries.

There are no known capital works proposed for this area. However, Swan Street Structure Plan advocates an improved pedestrian route along the south boundary of the site. It is therefore recommended that the applicant be required to upgrade this strip, consistent with the works required as part of the development of 476-482 Swan St next door.

Site and Context

The site sits within the Swan St Major Activity Centre.

DDO2 applies to the north half of the site, given its location on a main road. Relevant objective is "To encourage urban design that provides for a high level of community safety and comfort".

The Swan Street Structure Plan, although not referenced in the planning scheme, provides useful guidance – particularly the sections on Urban Design Principles and the Burnley Station Village Precinct.

A large development is proposed at 462-282 Swan St, including a 12-storey tower at the corner of Swan and Burnley Streets and a 10-storey tower immediately west of the subject site.

The site area is 2,334 sqm, currently occupied by unremarkable 1- and 2-storey commercial buildings, including some open carparking at the front. A substantial native tree at the northwest corner of the site is proposed for removal.

Pedestrian Network

The proposed through-block pedestrian link could be of significant value. However, given the lack of a pedestrian crossing opposite the site, there will be a tendency for pedestrians to gravitate to the Burnley St link to access the station. The quality of the new link will therefore be crucial to attracting users, including its landscaping, aesthetics, wind conditions and activation. It is important that the link remain accessible at all hours, so that users are not confronted by a dead-end. Lighting will need to be carefully considered to minimise the risk of crime and ensure that the link feels safe. Pedestrian safety could be further enhanced by requiring long opening hours, such as the anticipated 7am – 11pm (Monday – Sunday). The placement of the building's main entry on the link contributes to pedestrian safety, as do the tenancy and bicycle parking fronting onto the rear lane. The link's width of 6.5 to 8.5m is supported.

The north-south link will be of additional value if activated on its east edge, and provisions should be put in place now to facilitate the future implementation of such activation. To this end, it is recommended that discussions be undertaken with the owner of 488 Swan St and that the neighbouring site be provided with pedestrian access rights.

Trees are proposed along the link, but their growth prospects would be constrained by the limited soil volume resulting from the basement below. To achieve the 1500mm soil depth proposed in the Landscape Management Plan, space would need to be provided in Basement 1 for tree planters. It appears from Section 2 that this is achievable.

The Swan Street Structure Plan proposes that the pedestrian path along the site's south boundary be improved, and I understand that the developer of 462-482 Swan St is being asked to upgrade this path where it adjoins their site. It is recommended that any permit for the subject site also includes a requirement to upgrade the east-west path. Ideally, this would involve the fence being moved further south, providing space for planting and other enhancements to the path. (Consistent with this, the ground floor plan shows notional trees in the public realm adjacent to the east-west pedestrian path, but no clear information is provided.) Enhancement of the east-west path would strongly contribute to the success of the proposed north-south link. The subject proposal includes a 3m setback at ground floor level from the south boundary, which alleviates the minimal width currently available for the east-west path. The tenancies addressing the east-west path will also help significantly.

Urbis's Response To Request For Further Information refers to improvements to the public realm which would balance against the overshadowing impacts. However, it is not clear what these improvements would be.

The wind report indicates that conditions in the pedestrian link are likely to be unsuitable for sitting, leading to the likely installation of screening devices, which would be regrettable. Wind mitigation responses are requested.

The wide 9.915m crossover and large kerb radius are disruptive to pedestrian movement along Swan St. This is discussed below, under Street Interface.

Street Interface

The design is effective in maximising active frontages, with the substation located in the basement and vehicular access limited to a single entry. There is scope for further refinement: The vehicular entry should be narrowed if possible; about 10m wide (plus the kerb radius), it presents a significant break in the footpath and causes the removal of an existing tree pit; also, the large kerb radius may result in vehicles crossing the pedestrian pathway at speed. There appears to be no door or gate to the vehicular entry, and it is unclear how the services immediately east of the vehicular entry are treated.

The ground floor is set back from the front and rear footpaths, with columns and upper podium levels holding the boundary. This is supported, in that it provides for outdoor dining and bike parking. However, consideration should be given to how sight-impaired people would navigate their way past the building.

An awning providing pedestrian shelter would be beneficial along Swan Street. This is shown in perspective, but not on the plans or elevations. Its design should be coordinated with the placement of street trees.

The above advice is limited to public realm and interface urban design issues, and does not address ESD, transport, amenity or heritage, for example.

Engineering Services Unit

CAR PARKING PROVISION

Proposed Development

Under the provisions of Clause 52.06-5 of the Yarra Planning Scheme, the development's parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office	15,963 m^2	3.5 spaces per 100 m^2 of net floor area	558	129
Restricted Retail	226 m^2	3 spaces per 100 m^2 of leasable floor area	6	2
Food and Drink	2,406 m^2	4 spaces per 100 m^2 of leasable floor area	96	24
		Total	660 Spaces	155 Spaces

The development would have a total car parking shortfall of 505 spaces (429 office spaces, four spaces associated with the restricted retail use and 72 spaces associated with the food

and drink use). To reduce the number of car parking spaces required under Clause 52.06-5 (including to reduce to zero spaces), the application for the car parking reduction must be accompanied by a Car Parking Demand Assessment.

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 the Office Use. Parking associated with office type developments is generally long-stay parking for employees and short term parking (say up to two hours' duration) for customers and clients. The actual parking demand generated by the office is expected to be lower than the statutory parking rate of 3.5 spaces per 100 square metres of floor space, since the area has very good access to public transport services.*

  The development would be providing on-site office parking at a rate of 0.81 spaces per 100 square metres (129 spaces for 15,963 square metres of office floor space). In the nearby Cremorne area, which contains a high concentration of office proposals, a number of developments have been approved with reduced office rates as shown in the table below:

Development Site	*Approved Office Parking Rate*
9-11 Cremorne Street PLN16/0171 (Amended) issued 13 June 2017	*0.85 spaces per 100 m² (20 on-site spaces, 2,329 m²)*
33 Balmain Street PLN15/0309 issued 21 October 2015	*0.78 spaces per 100 m² (14 on-site spaces, 1788.1 m²)*
13 Cubitt Street PLN16/1022 issued 20 December 2016	*0.41 spaces per 100 m² (3 on-site spaces, 726.25 m²)*

  The proposed on-site office parking rate of 0.81 spaces is considered appropriate, having regarding to the site's excellent accessibility to public transport services and proximity to Melbourne. Providing a reduced office parking rate for this site as well as other sites within the surrounding area encourages a modal shift from private motor based commuting to using more sustainable forms of transport.

- *Parking Demand for the Restricted Retail and Food and Drink Uses. Ratio Consultants have adopted a staff car parking rate of 1.0 space per 100 square metres of floor area for the restricted retail and food and drink uses. Applying this rate would equate to two staff spaces for the restricted retail use and 24 spaces for the food and drink use. Customers and patrons would park off-site if they choose to drive.*
- *Availability of Public Transport in the Locality of the Land. The site is within walking distance of tram services operating along Swan Street and Church Street. The site has very connectivity to the Burnley railway station.*
- *Multi-Purpose Trips within the Area. Customers, clients and patrons to the development would combine their visit to the development by engaging in other activities or business whilst in the area.*

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. The demand for on-street parking in the surrounding area is very high, and on some occasions, close to saturation point. Much of the on-street parking is short-stay time restricted parking, which enables turnover of parking for customers and visitors to the Swan Street activity centre.*
- *The Future Growth and Development of an Activity Centre. Practice Note 22 – Using the Car Parking Provisions indicates that car parking should be considered on a centre-basis rather than on a site/individual basis. This is applicable to activity centres, such Swan Street, where spare on-street car parking capacity would be shared amongst sites within the centre.*
- *Relevant Local Policy or Incorporated Document. The proposed development is considered to be in line with the objectives contained in Council's Strategic Transport Statement. The site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site car parking would potentially discourage private motor vehicle ownership and use.*
- *Car Parking Deficiency associated with Existing Land Use. The existing land is currently occupied by commercial premises. According to Ratio Consultants, the existing site would have an on-site car parking provision of 1.46 spaces per 100 square metres (based on 34 on-site spaces for an area of 2,320 square metres). This parking provision rate would be less than those specified in Clause 52.06-5. Any parking shortfall from the site would likely be accommodated off-site. Any existing parking deficiency attached to this site could potentially be transferrable to the new development.*

Adequacy of Car Parking

From a traffic engineering perspective, the waiver of the office, restricted retail and food and drink spaces is considered appropriate in the context of the development and the surrounding area. The on-street parking demand is very high and close to saturation point. Providing a reduced provision of on-site parking would encourage a modal shift from private vehicle use to more sustainable travel, such as public transport and bicycle use.

Engineering Services has no objection to the reduction in the car parking requirement for this site.

TRAFFIC GENERATION

Trip Generation

The traffic generation for the site adopted by Ratio Consultants is as follows:

Proposed Use	Adopted Traffic Generation Rate	Daily Traffic	Peak Hour	
			AM	PM
Commercial (Office, Restricted Retail, Food and Drink Employees)	0.5 trips per parking space per peak hour (140 on-site staff spaces)	Not Provided	70	70

The existing site has been estimated to generate around 17 vehicle trips per peak hour. The proposed development would generate an additional 53 vehicle trips per peak hour. For the traffic distribution into and out of the site, Ratio Consultants have adopted an even directional split along Swan Street.

Development Access

The traffic impact of the site's access on Swan Street was assessed using the SIDRA program, which measures intersection performance. SIDRA modelling works well under free flowing traffic conditions and may have limitations, such as queuing of downstream traffic.

In isolation, the results of the SIDRA analysis of the site's access point (with Cutter Street as one of the approaches) suggest that the increase in the peak hour traffic of the site can be accommodated without adversely impacting on Swan Street.

Traffic Impacts from Nearby Developments

The redevelopment of 462-482 Swan Street and to a lesser extent, 429-437 Swan Street, would have a cumulative impact on Swan Street at the junction of Swan Street/Cutter Street/subject site access.

It is understood that 462-482 Swan Street would likely be implementing a number of measures such as the installation of signals at their site access along Swan Street (also incorporating Cutter Street) and the removal of some on-street parking on Swan Street. The subject site's access point is located adjacent to the access point of 462-482 Swan Street. It is not clear how the subject site's access arrangements would operate if signals for Swan Street-Cutter Street-462 Swan Street were to be installed. Clarification on this matter should be provided.

An analysis/modelling of the subject site's access point, incorporating the peak hour volumes of 462-482 Swan Street and 429-437 Swan Street, should be undertaken before further comment is provided on the cumulative traffic impacts on Swan Street.

DEVELOPMENT LAYOUT DESIGN

Layout Design Assessment

Item	Assessment
Access Arrangements	
Development Entrance	*The development entrance has a carriageway width of 6.1 metres and satisfies Design standard 1 – Accessways of Clause 52.06-9 and the Australian/New Zealand Standard AS/NZS 2890.1:2004.*
Visibility	*A visibility splay of 2.0 metres by 2.5 metres has been provided for the exit lane of the main accessway and satisfies Design standard 1.*
Headroom Clearance	*Not dimensioned on the drawings.*
Internal Ramped Accessways	*The widths of the internal ramps have not been dimensioned on the drawings.*
Car Parking Modules	
At-grade Parking Spaces	*The dimensions of the at-grade parking spaces (2.6 metres by 4.9 metres) satisfy Design standard 2: Car parking spaces.*
Numbering of Spaces	*Not provided; making space identification difficult.*
Accessible Parking Space	*The accessible parking spaces and shared areas have not been dimensioned.*
Aisles	*The 6.4 metre aisles satisfy the requirements of Table 2: Minimum dimensions of car parking spaces and accessways of Clause 52.06-9.*
Column Depths and Setbacks	*Not dimensioned on the drawings.*

Clearances to Walls	*Not provided and/or not dimensioned.*
Gradients	
Ramp Grade for First 5.0 metres inside Property	*The ramp grade for the first 5.0 metres inside the building line is horizontal (not 'flat') and satisfies Design standard 3: Gradients.*
Ramp Grades and Changes of Grade	*The ramp grades and the changes of grade for the ramped accessway and the internal ramps satisfy Design standard 3.*
Loading Arrangements	
Truck Spaces	*Not dimensioned on the drawings.*
Swept Path Analysis	
Main Accessway	*The swept path diagrams for the B99 design vehicle and an on-coming 10.2 metre truck into and out of the development entrance via Swan Street are considered satisfactory.*
Vehicle Passing	*The swept path diagrams showing the B99 design vehicle and an on-coming B99 design vehicle travelling in the aisles and internal ramps are also satisfactory.*
Truck Manoeuvres	*The swept path diagrams for the 10.2 trucks entering and entering the truck parking spaces are considered satisfactory.*

Design Items to be Addressed

Item	*Details*
Headroom Clearance	*To be dimensioned at the entrance and accessways. Headroom clearance should be a minimum of 2.1 metres. Above accessible parking spaces, a minimum of 2.5 metres headroom clearance is to be provided.*
Numbering of Spaces	*Spaces should be numbered on the drawings.*
Accessible Parking Space	*To be dimensioned on the drawings. The shared areas can be 2.4 metres in width and are to be provided with bollards as per the Australian/New Zealand Standard AS/NZS 2890.6:2009.*
Column Depths and Setbacks	*To be dimensioned on the drawings.*
Clearances to Walls	*To be provided for spaces abutting walls (minimum 300 mm). Alternatively, spaces adjacent to walls could be widened to comply with minimum requirements of AS/NZS 2890.1:2004.*
Ramp Grade Sections	*The lengths of each ramp grade section are to be dimensioned on the drawings.*
Truck Spaces	*To be dimensioned on the drawings.*

Existing Stormwater Pit in Swan Street

On the south side of Swan Street, there is an existing grated side entry pit in the area to be occupied by the new vehicle crossing. The construction of the new vehicle crossing will necessitate the conversion of the pit to a grated pit and the construction of a new grated side entry pit to the side of the vehicle crossing. The reason for constructing a new grated side entry pit is to compensate for the loss of capacity when converting the existing pit to a grated

pit. The Permit Holder will be required to undertake these minor drainage modification works when vehicle crossing is constructed.

ENGINEERING CONDITIONS

Civil Works

Upon the completion of all building works and connections for underground utility services,

- *The kerb and channel along the property's Swan Street frontage must be reconstructed to Council's satisfaction and at the Permit Holder's cost.*
- *The footpath along the property's Swan Street frontage must be reconstructed to Council's satisfaction and at the Permit Holder's cost. The footpath must have a cross-fall of 1 in 40 or unless otherwise specified by Council.*
- *The half-width road pavement (from the central tram reservation to the south kerb) of Swan Street immediately along the property street frontage must be profiled and re-sheeted to Council's satisfaction and at the Permit Holder's cost. All road pavement reinstatements must be consolidated as single full-width areas of reinstatement to reduce further construction joints in the pavement.*
- *The new vehicle crossing must be constructed to VicRoads geometric requirements and to Council's satisfaction. The vehicle crossing must accommodate the ground clearance of the B99 design vehicle.*
- *To construct the new vehicle crossing, the existing side entry pit must be converted to a grated pit. A new grated side entry pit is to be constructed with a pipe extension to one side of the new vehicle crossing to Council's satisfaction and at the Permit Holder's cost.*
- *The redundant vehicle crossing must be demolished and reinstated to Council's satisfaction and at the Permit Holder's cost.*

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.*

Construction Management Plan

- *A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.*

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.*

Discharge of Water from Development

- *Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.*
- *Contaminated ground water seepage into basements from above the water table must be discharged to the sewer system through a trade waste agreement with the relevant authority or in accordance with EPA guidelines.*
- *Contaminated groundwater from below the water table must be discharged to the sewer system through a trade waste agreement from the relevant sewer authority.*
- *Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.*

Removal, Adjustment, Changing or Relocation of Parking Restriction Signs

- *No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch.*
- *Any on-street parking reinstated as a result of development works must be approved by Council's Parking Management unit.*
- *The removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath.*

NON-PLANNING ADVICE FOR THE APPLICANT

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.

Preparation of Detailed Road Infrastructure Design Drawings
The developer must prepare and submit detailed design drawings of all road infrastructure works associated with this development for assessment and approval.

Vehicle Crossing Design – Matching-in Works

Since the vehicle access point of 462-482 Swan Street is located adjacent to the access point of the subject site, the applicant needs to liaise with the developer of 462-482 Swan Street regarding the matching-in works for the two vehicle crossings. This items would be addressed when detailed road infrastructure design drawings are submitted to Council/

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 Swan 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 Swan Street and the accessway inside the property 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.

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.

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.

Additional Comments Provided By Construction Management

Construction Difficulty Notes:

- *Overhead power lines on Swan Street may restrict crane lifting operations from this frontage.*
- *VicRoads and Yarra Trams restrictions may apply to construction related works and hours of works on Swan Street roadway (including parking bays).*

Other Construction Items

- *Existing street trees on Swan Street overhang into the site. Open Space unit to provide comment.*

Street tree overhanging into subject site (looking east)

Strategic Transport

Bicycle Parking Provision

Statutory Requirement

Under the provisions of Clause 52.34-3 of the Yarra Planning Scheme, the development's bicycle parking requirements are as follows

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office (other than specified in the table)	15,963 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	52 employee spaces	
		1visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	16 visitor spaces.	
Retail premises (other than specified in this table) [Food & Drink and Restriced Retail]	2632 sqm	1 employee space to each 300 sqm of leasable floor area	9 employee spaces	
		1visitor space to each 500 sqm of leasable floor area	5 visitor spaces.	
Bicycle Parking Spaces Total			61 employee spaces	194 resident / employee spaces
			21 visitor spaces	46 visitor spaces
Showers / Change rooms		1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	7 showers / change rooms	24 showers / change rooms

The development provides a total of 133 additional employee spaces, 25 additional visitor spaces, and 17 additional showers/change-rooms above than required by the planning scheme.

Access and safety

The location and access arrangements of the visitor and employee spaces is inadequate given primary access to the spaces appears to be from the walkway running along the south of the subject site. Despite assertions within the Traffic Impact Assessment, this path is not a shared path. It also appears this path is owned by VicTrack, and therefore permanent access to this path cannot be guaranteed.

Further, the path is narrow, and links directly to the Burnley Station underpass at its western end. At this point the path is marked with 'No cycling' signage (Figure 1). By locating all bicycle parking at this intersection many cyclists would be encouraged to use this ramp and

conflict with pedestrians would significant, especially during peak hours when train passengers would be accessing the station via the underpass.

If access to cyclists facilities is from the south, a clearly delineated and cycle-able path to Swan Street should be provided within the east-boundary setback discourage cyclists using the underpass ramp, and to ensure ongoing adequate access to cyclists facilities.

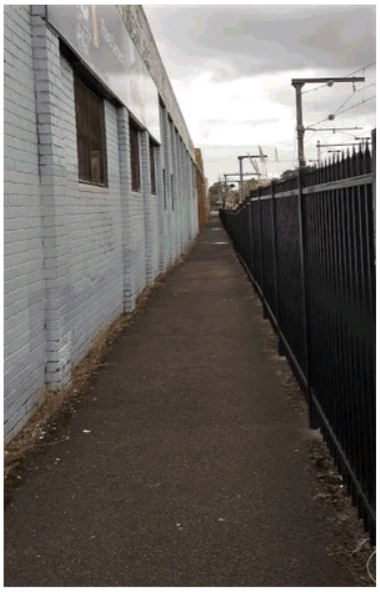


Figure 1 (left) – The path at the rear of the site connects to the Burnley Station underpass at its western end, and is marked with "No cycling" signage.

Figure 2 (right) – The remainder of the path is narrow.

Adequacy of visitor spaces

46 spaces are at ground-floor and described as visitor bicycle parking spaces. The following aspects of the visitor parking is acceptable:

- *Best-practice requires a rate of 1 visitor spaces to each 500sqm of office floor space1, plus the statutory rate for the retail uses; requiring 31 spaces. This requirement is exceeded.*
- *All visitor spaces are at ground-floor in a space accessible to the general public and appear to be at horizontal rails well suited for visitor use.*

Adequacy of employee spaces

Number of spaces

Whilst the proposal includes a surplus of 133 employee spaces above the requirements of the planning scheme, it is noted:

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[1] *Category 6 of the Built Environment Sustainability Scorecard (BESS) offers the following best-practice guidance for office visitor bicycle spaces offices should provide 1 visitor space per 500m2 net lettable area."*

- *A reduction of 505 (based on Engineering comments) car parking spaces is sought (77% of the statutory requirement);*
- *the subject site is located in an inner-urban area with already high cycling-to-work demand, and trends indicate demand will continue to increase; and*
- *both local and state planning policies include objectives to promote sustainable transport modes, including cycling.*
- *Given the above, best-practice requires a rate of 1 space to each 100sqm of office floor space[2], plus the statutory rate for the other uses. Therefore, 167 employee spaces should be provided. This requirement has been exceeded and the number of spaces is acceptable.*

Design and location of employee spaces and facilities

Employee and resident spaces are inadequately located and designed for the following reasons:

- *Employee bicycle storage facilities are located at ground-floor, basement 1 and basement 2, at four separate storage areas. Each storage area appears to be secure. This is not supported as cyclists may have to travel between multiple facilities to find a parking location.*
- *At minimum all spaces should be located within two storage areas, at ground-floor or basement 1, with clear and easy access between the two facilities.*
- *Further, problems with access to the four proposed facilities include:*
  - *24 spaces at basement 2 are not directly accessible from the lift shaft, and cyclists must navigate steep (1:5 ramps) to access the storage area. It appears access could be provided to the lift-shaft, like the proposed access at the smaller level 1 storage area, however this is also inadequate.*
  - *The smaller storage area at basement 1 is directly accessible via the lift shaft, however access includes a narrow (approximately 1.1m walkway), stairs and a right angle-turn; all which will make walking a bicycle to these facilities difficult.*
  - *The larger storage area at basement 1 is directly accessible via the lift shaft access appears generally adequate.*
- *As noted previously, primary access to cyclists facilities is from the footpath at the rear. A clear path should be provided to Swan Street through the site for cyclists access.*
- *It is also suggested reconfiguring the lobby and service lobby so bicycles can be easily wheeled through this entrance.*
- *Dimensions of bicycle storage spaces, spacing, and access-ways; and whether spaces are horizontal or hanging spaces is not indicated. This information must be included for a full assessment.*

Green Travel Plan

It is noted most required information regarding travel options is provided within the Traffic Impact Assessment, however no Green Travel Plan (GTP) has been provided. Given the development has a total non-residential floor area of more than 1,000sqm, pursuant to Clause 22.17-4 a GTP must be provided. This should include:

(a) a description of the location in the context of alternative modes of transport;

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[2] *Category 6 of the Built Environment Sustainability Scorecard (BESS) offers the following best-practice guidance for bicycle parking rates: 'Non-residential buildings should provide spaces for at least 10% of building occupants.' Assuming a floor-space occupancy of 1 staff member to 10sqm (which is the maximum rate allowed under the National Construction Code for fire safety), providing bicycle spaces for 10% of occupants results in a rate of 1 space per 100sqm of floor area*

(b) employee welcome packs (e.g. provision of Myki/transport ticketing);
(c) the provision of real time passenger information displays for nearby stops within each lobby;
(d) sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
(e) a designated 'manager' or 'champion' responsible for coordination and implementation;
(f) details of bicycle parking and bicycle routes (which do not refer to the footpath at the south as a 'shared path');
(g) details of GTP funding and management responsibilities;
(h) the types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
(i) the types of lockers proposed within the change-room facilities, with at least 50% of lockers providing hanging storage space;
(j) security arrangements to access the employee bicycle storage spaces; and
(k) signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3;
(l) provisions for the Green Travel Plan to be updated not less than every 5 years.

Recommendations

The following should be shown on the plans before endorsement:

1. *A clearly delineated and cycle-able path within the east-boundary setback from Swan Street to near cycle parking facilities.*
2. *All employee bicycle parking facilities located at ground-floor, or basement 1; in a maximum of two-storage facilities, with adequate access between the storage facilities and end of trip facilities.*
3. *A minimum of 167 employee bicycle spaces should be provided.*
4. *At minimum 20% of employee bicycle spaces should be horizontal ground-level spaces.*
5. *All visitor spaces should be horizontal ground-level spaces.*
6. *The lift and service lobbies should be reconfigured to provide easy access for cyclists to walk bikes to the ground-floor spaces from the main entrance.*
7. *Notations should be added to plans indicating:*

    a. *Dimensions of bicycle storage spaces and spacing between spaces*
    b. *Accessways to bicycle facilities*
    c. *Whether bicycle spaces are horizontal or hanging spaces.*

A Green Travel Plan should be provided showing the information noted above.

Open Space

- *A landscape plan should be prepared that indicates the location of species proposed and includes a plant schedule identifying the botanical name, mature height and spread, pot size and quantity of all proposed planting. Shade tolerant planting will be an important consideration for planting at the ground level.*
- *The landscape plan should also show extent of planters and where the Ronstan X-tend mesh panels are proposed.*

- *Please provide further details of the proposed planters – height, materials, depth and type of planting media, irrigation and drainage. NB, the plan notes indicate that trees will be planted in 1500mm depth soil however the planters shown are 600mm depth.*

Arborist

- *The proposal will require the removal of one significant tree (Red Iron Bark) located in the front setback of 484 Swan Street Richmond.*
- *The tree has been pruned away from the high voltage wires and is inappropriately located. Its removal is supported subject to sufficient offset planting on the site.*
- *Two (2) Council trees are located adjacent the site within the footpath. A bond of $20,000 should be applied to each tree based on a combined amenity valuation only of $32,868*
- *A maturing Lemon Scented Gum is located on the adjacent property at 490 Swan Street. A tree impact and management plan prepared by an appropriately qualified arborist must be submitted to ensure the tree is protected during development.*

Waste Services

The Waste Management Plan prepared by ratio dated 6th June 2017 for 484-486 Swan Street Richmond is satisfactory from the City Works Branch's perspective.

ESD Advisor

The standard of the ESD meets 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:

- *Project has committed to a 4.5 Star NABERS Energy rating and a 5 Star Green Star accredited rating.*
- *NCC energy efficiency standards exceeded by at least 10%.*
- *High efficiency mixed mode HVAC system with Under Floor Air Delivery, to meet Green Star 15 points GHG and 4.5 NABERS Energy rating.*
- *Mechanical ventilation with fresh air rates exceeding AS1668 rates by at least 50%. Air intake/exhaust separated according to ASHRAE 62.1:2013. Mixed mode ventilation.*
- *Access to daylight is good with at least 40% of the office floor area reaching the target daylight factor of 2% or greater.*
- *Shading incorporated into the façade design as a brise soleil, fins and fixed cantilevered shade.*
- *A STORM score of 107% demonstrating best practice in stormwater management has been provided that relies on a minimum of 1475m2 of roof connected to 50,000 litres of rainwater storage for toilet flushing of all toilets onsite.*
- *LCA analysis of materials to achieve a 10% improvement on the reference building.*

- *Energy efficient lighting system type unknown, but at least a 10% improvement on NCC DTS requirements.*
- *6 Car share spaces and 12 electric vehicle charging stations.*
- *196 bicycle spaces for staff with end of trip facilities, plus 46 visitor bike spaces (see comments below).*
- *Water efficient taps and fixtures.*

Application ESD Deficiencies:

- *The materials legend includes black tinted glass. This is not consistent with the SMP (min 40% VLT). Strongly recommend that tinting has a minimum VLT of 40% to balance daylight and thermal loading and be consistent with the SMP.*

- *"Preference" to be given to low-VOC products, and SMP "aims to include" low formaldehyde products. Giving "preference" and "aiming to include" are not acceptable terms to use in a SMP for town planning. Please re-word this section to avoid any vague or ambiguous language.*

Outstanding Information:

- *The SMP claims 196 secure bicycle spaces provided, but the architectural drawings appear to have incorporated 170 spaces plus 46 visitor spaces. Please confirm that the 196 secure bike spaces are shown on the architectural drawings.*
- *Please indicate what type of hot water system will be used and its standard of energy efficiency.*
- *No information has been included in the SMP, but on one roof plan solar panels are noted but not the other roof plan (without adjoining building). Please confirm the system size and location on all roof plans and include some system overview in the SMP. Recommend a solar PV array to contribute to onsite electricity consumption.*
- *Please note the approximate location and size of the rainwater tank is marked on all relevant pages of the architectural drawings.*
- *Green façade elements are clearly identifiable in Figure 6 of the SMP & the architectural Perspectives Render, however they are not included in the landscape plan. Please provide details on the proposed green façade and update relevant documents.*

ESD Improvement Opportunities

- *Consider water efficient landscaping provided by rainwater.*
- *Consider onsite energy storage system.*

External consultants

Urban Design (MGS Architects)

SUMMARY OF FINDINGS

- *The site is one that can support higher density development sitting as it does adjacent a major transport interchange and separated from established residential areas.*

- *The inclusion of activities at ground and first floor level that invite the community in and create a destination for the local area and workforce. The link through the site and the location of the major entry mid-block will generate an appropriate vibrancy.*

- *The inclusion of upper level workplace areas are a logical inclusion in a transit oriented area providing access to future locations for jobs.*

Scale

- *The proposition that the development should scale up from development to the west is not logical in an urban design sense. The adjoining site is a major corner and placemaking site of larger scale marking the station entry and should in an urban design sense become the major and dominant marker form in the context. The adjoining site should in my view be more modest in scale. Key principles should include as has already been the case the expression of 2 and 3 level podium forms to the street interface extending the development principles that exist both in new development to the west and the older two level Victorian form to the north.*

- *Upper level form should emulate the setbacks of the new development to the west to ensure there is a clear demarcation between the street wall and upper level form i.e. approximately 5.5m.*

- *Heights of the building should in my view approximate to those of the western interface establishing a clear emergent urban for the precinct. This would imply a further modest setback to 12m from the street interface above level 8 with a maximum height capped at level 9 i.e. 47.75m excluding plant.*

- *The inclusion of a 24 hour, 3m minimum width easement of access through the site is desirable and could form the basis for the inclusion of an additional smaller footprint at level 10 marking this as a new pedestrian street.*

CONCLUSION

- *As a minimum, levels 11 to 13 should be deleted.*

- *The inclusion of a level 10 should only be considered subject to a suite selected from the following being agreed by the applicant:*

    - *A 173 Agreement for a publically managed ground level link through the site linking Swan Street and the pedestrian station walk to the south of 3m in width accessible 24/7*
    - *The inclusion of 5% of the office space for low cost affordable workplaces for the creative industries.*
    - *Best Practice ESD outcome including exemplary end of travel facilities for cyclists including shower and change as well as secure cycle storage areas.*
    - *Revisions to the built form and articulation of the office building to ensure the north-south pedestrian lane does not require screens to deliver comfort for seating in these areas (The current Aurecon report indicates screening would be required not currently shown on plans).*
    - *High quality placemaking for the full extent of the pedestrian walk to the south and to the kerb line to the north and all terrace areas to the satisfaction of the responsible authority.*
    - *Enhanced design quality in the investment into the podium form and pedestrian walk and station interface areas, with the existing design lacking ambition. Presently insufficient detail of the landscaping treatments and materials is provided. For example the inclusion of trees in renderings whilst welcome implies significant planter zones not yet shown on plans. The depth of planting and details of stormwater harvesting required to enable their successful inclusion will*

be critical to this realisation. The through-block walk shows trees that have not been coordinated with overhanging terraces. These concepts need to be properly coordinated to the satisfaction of the RA.

- *That a greater level of detail of the proposed detailing of the podium elements and canopies should be provided.*
- *The inclusion of safety by design response should be provided demonstrating how the station walk and links will be enhanced by program, lighting and public realm treatments and signage.*
- *A green travel plan providing real-time public transport information in the open space zone should be provided.*
- *Overshadowing should not occur on the central island platform of the adjoining Burnley station between 9.00am and 2.00pm.*

- *Details of metal cladding should be provided given the unsuitability of a number of options.*

- *Upper level form should emulate the setbacks of the new development to the west to ensure there is a clear demarcation between the street wall and upper level form i.e. approximately 5.5m.*

- *Heights of the building should in my view approximate to those of the western interface establishing a clear emergent urban from for the precinct. This would imply a further modest setback to 12m from the street interface above level 8.*

- *A preferred maximum height capped at level 9 i.e. 47.75m excluding plant will ensure integration with a broader Swan Street transit oriented hub emerging built form narrative. The alternative higher form for this site is not warranted given its poor integration with a sound urban form character established by its western neighbour identifying it as a clear and logical landmark focus as the station entrance form on a much larger development footprint scaling down to lower midblock form to the east.*

- *The proposition that this site should support a building some 14m or nearly 5 levels taller than its western neighbour is not supported on urban design built form, emerging character and offsite impacts grounds.*

- *Subject to a satisfactory response on these issues the project within a reduced scale and footprint could be supported.*

Acoustics (SLR Consulting)

A review of the acoustic report prepared for the office development proposed for 484-486 Swan Street, Richmond is provided above. The report generally addresses the acoustic issues related to the proposal. A summary of our findings and details of the items we would like to see addressed in further detail are summarised below.

- *Indicative advice is provided for controlling noise from mechanical plant, however the development can be expected to include a large amount of equipment and we would consider the risk of non-compliance with SEPP N-1 to be moderately high. For this reason we recommend the report include the statement that the mechanical design must be reviewed by an acoustical consultant during the detailed design phase of the project.*
- *The noise monitoring data is described as both free field and façade reflected. The reporting of these measurement locations should be reviewed and clarified to ensure that they are correct and consistent.*

- *Potential voice noise impacts from the ground floor outdoor areas associated with the food and beverage tenancies is largely addressed through orientation of the tenancies, however we agree with Acoustic Logic that separate acoustic reports should be submitted for any significant noise generating use, and particularly for any entertainment premises of restaurants proposing to play music above background levels.*
- *Potential voice noise impacts from the west facing terrace, which will be overlooked by residential dwellings, is not addressed in the report. While this area appears to be a low risk of nuisance noise, we nevertheless recommend that the report include the requirement that use of this area is limited to the day and possibly early evening only. If the space is used for functions, it should also meet the patron noise limits nominated in the acoustic report.*

Wind (MEL Consultants)

The review of the Aurecon Wind Impact Statement is based on our experience of wind flow around buildings and structures. This experience has been developed from a company experience of more than 40 years of desktop, wind tunnel, and full scale studies of environmental wind conditions in urban and sub-urban areas. No wind tunnel studies have been undertaken to support the review. Our comments are as follows:

- *The Aurecon Wind Impact Statement has been prepared based on the experience of the consultancy and no wind tunnel testing by Aurecon has been carried out to support the report. We have no issue with this approach for a desktop study as this is a common approach to provide architects, developers, and responsible authorities' advice on the wind effects of the design.*
- *We have no issue with the Analysis Approach, Site Exposure, and Regional Wind Climate that have been used as the basis for the assessment. Aurecon has clearly identified the process for the desktop assessment and this is consistent with the approach that MEL Consultants would take to prepare a desktop wind impact assessment. A clear description of the proposed development has been provided along with reference drawings in the Appendix of the report.*
- *The desktop assessment has identified the adjacent developments and the heights of the existing buildings and we agree with the comments on the shielding provided by the surrounding buildings.*
- *The assessment criteria that Aurecon have used is based on mean wind speeds, which in the high turbulence wind environment of urban Richmond would be less important than the gust wind, so comparison with gust criteria would be recommended. However, there appears to be an error with the Safety criteria as a mean hourly once per annum wind speed of 20 or 15 metres per second would result in gust wind speed of approximately 37 and 28 metres per second, which are well in excess of Melbourne (1978) safety gust wind speed of 23 metres per second once per annum occurrence. The Melbourne (1978) Safety criterion is an accepted criterion in the wind engineering community.*
- *The Aurecon assessment for Swan Street indicates an expectation of the sitting/standing criteria along the footpaths. MEL Consultants believe that the wind conditions would be up to the walking criterion, considering the building massing of 462-482 Swan Street creates a long frontage of taller buildings, and the wind conditions would be expected to increase as the through site laneway is approached*

due to the wind flow accelerating into the laneway around the building corners. However, there would be an expectation that wind conditions may achieve the short period sitting/standing criterion in the middle of the building face, but local wind break protection would be expected to be necessary for the proposed café to achieve the long period sitting/standing criterion.

- *Aurecon has assessed the through-block laneway as suitable for leisurely walking and recommend additional wind break features if the seating is important. The town planning documentation submitted by Teche Architecture + Interior Design has provided images of the laneway precedent to support their design. The images show laneways with activation for outdoor dining/café seating suggesting the intention is to use the laneway for long period sitting/standing activation. Additionally, discussions with the City of Yarra about their expectations for the laneway agree with the architect's images. Therefore, MEL Consultants would agree with Aurecon that additional wind break features will be required and would also recommended that these features be developed with the assistance of wind tunnel model measurements. The measurements will need to include quantified gust wind speed data.*

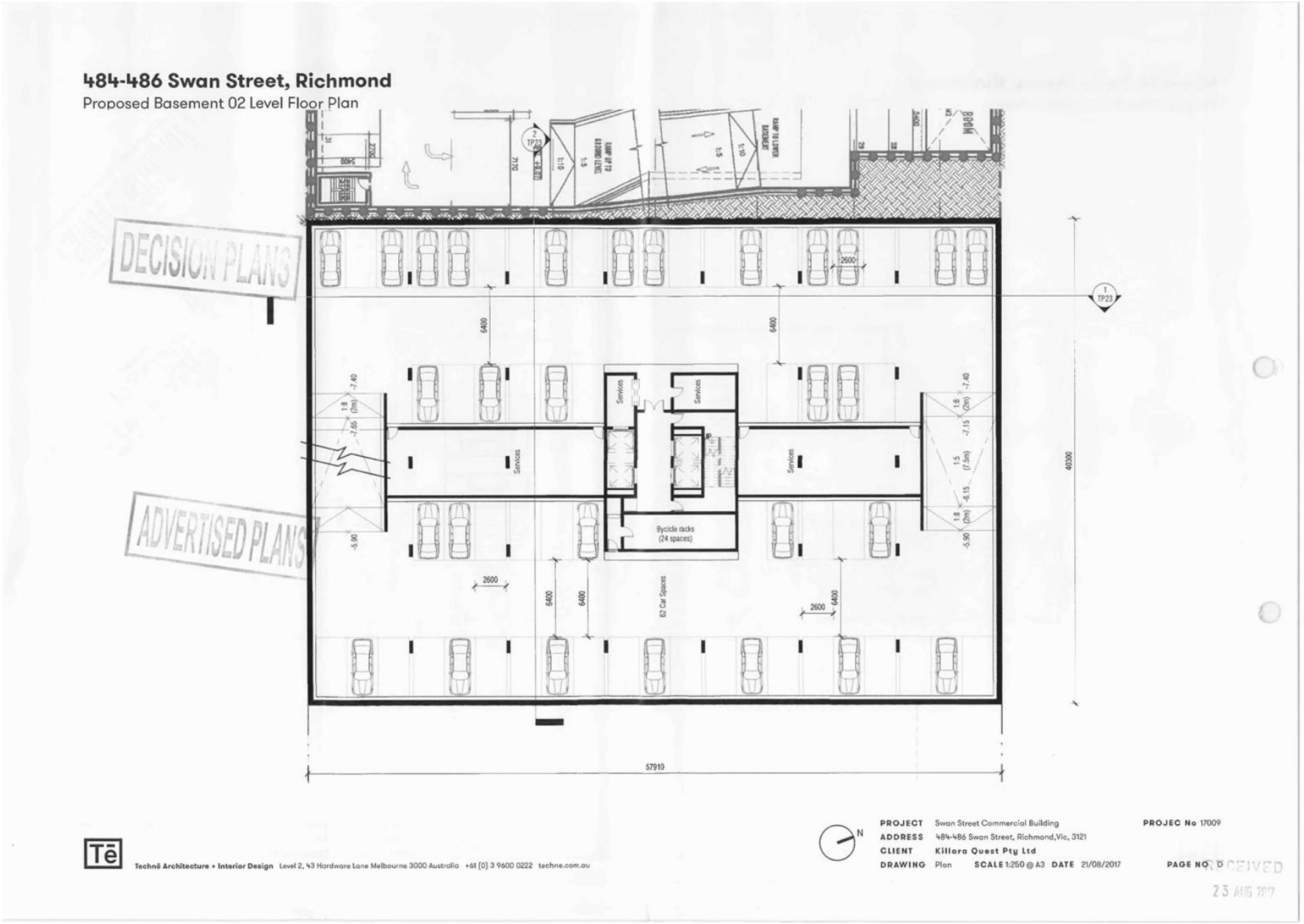
- *Aurecon's assessment of Burnley Station Entrance and Bicycle Parking has only considered the effects of downwash, which MEL Consultants would agree would be mitigated by the tower/podium arrangement. However, the Aurecon assessment has overlooked the potential deflection of wind flow (separated shear layers) from the building towards the station entrances and platforms. This can be assessed during a wind tunnel study.*

- *We agree with Aurecon that the terrace balustrades would assist with mitigating wind conditions on the terraces and that the conditions can be obtained through wind tunnel modelling.*

- *We agree with Aurecon's general commentary on the utilisation of terraces; the need to educate residents on the usage of these spaces, the tethering of objects, and would add that any objects that are not tethered should not be left unattended or permanently on the terraces.*

In conclusion, the Aurecon's Wind Impact Assessment has been prepared based on the consultant's experience of wind flow around buildings and structures. We have no issues with the Analysis Approach, Site Exposure, Regional Wind Climate, and description of the development used in the preparation of the assessment. This is consistent with the approach MEL Consultants would take to prepare a similar desktop environmental wind assessment. We agree with many aspects of the Aurecon Wind Impact Statement for the assessment of the wind conditions. However, MEL Consultants have concerns that the wind conditions through the through-block laneway given the images provided by the architect and the expectations of the City of Yarra would need additional wind mitigation strategies to achieve the long period sitting/standing criterion. It has been recommended that the mitigation strategies be developed with the assistance of wind tunnel model measurements. MEL Consultant do not support the use of CFD in these situations due to the high turbulence wind conditions of the urban environment and the importance of the pedestrian comfort on the gust wind speeds. The wind tunnel model study of the development should quantify the wind conditions in the surrounding streetscapes and on the terraces due to the relative height of the proposed development compared to the surrounding buildings. We would also recommend that any wind mitigation strategies are presented with and without the reliance existing or future street trees.

Attachment 3 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - basements 2 & 3 - idac attachment



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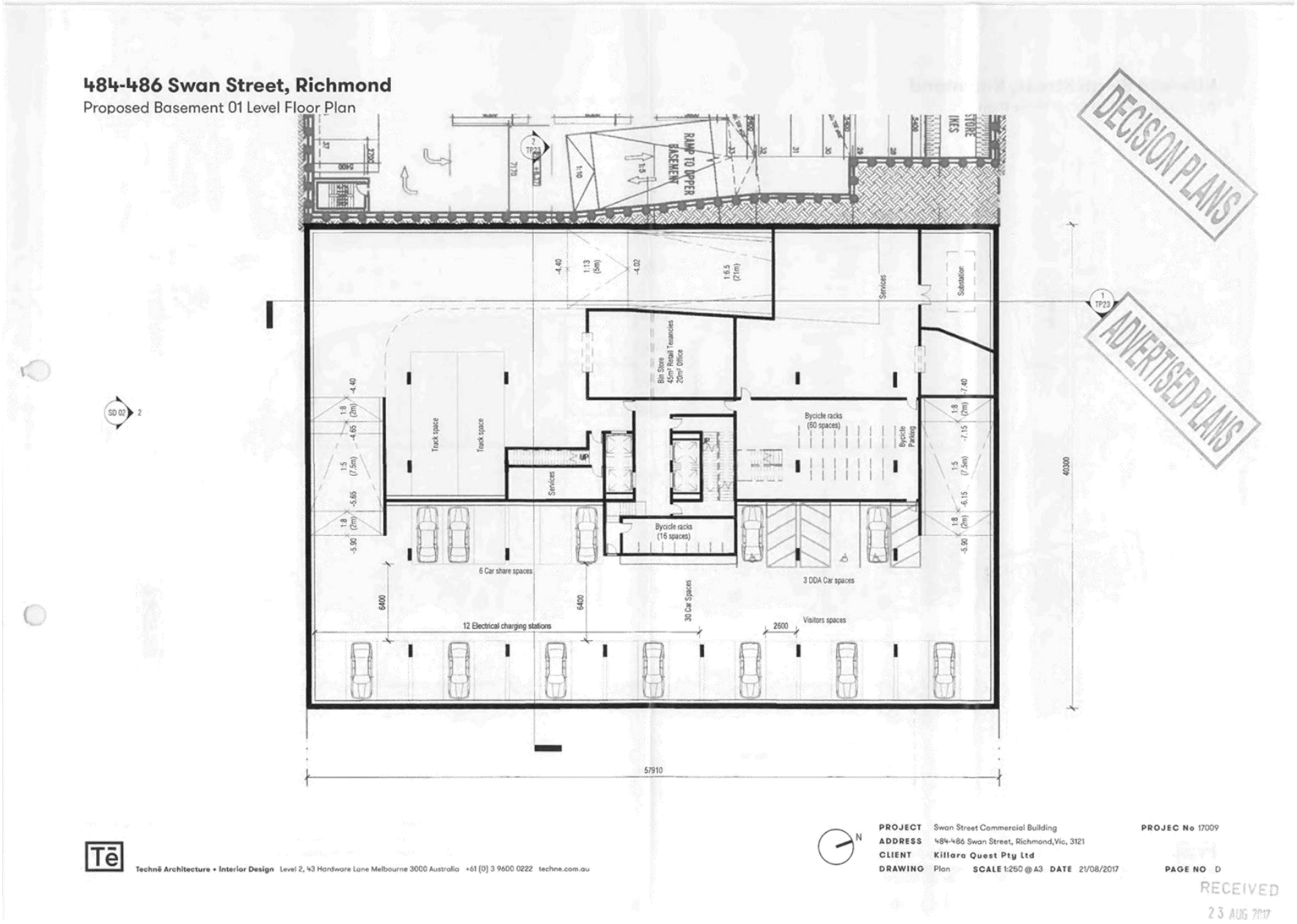

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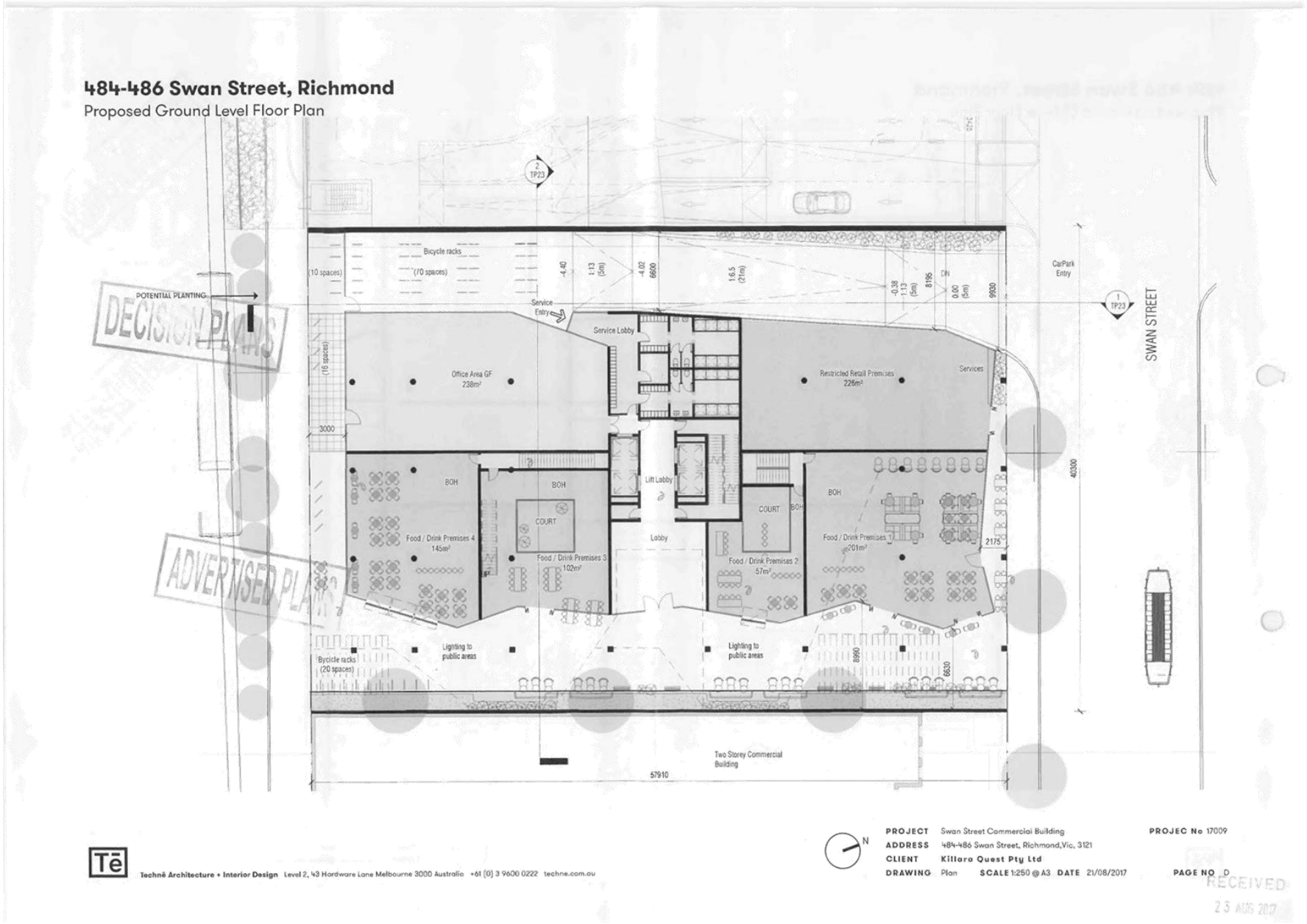
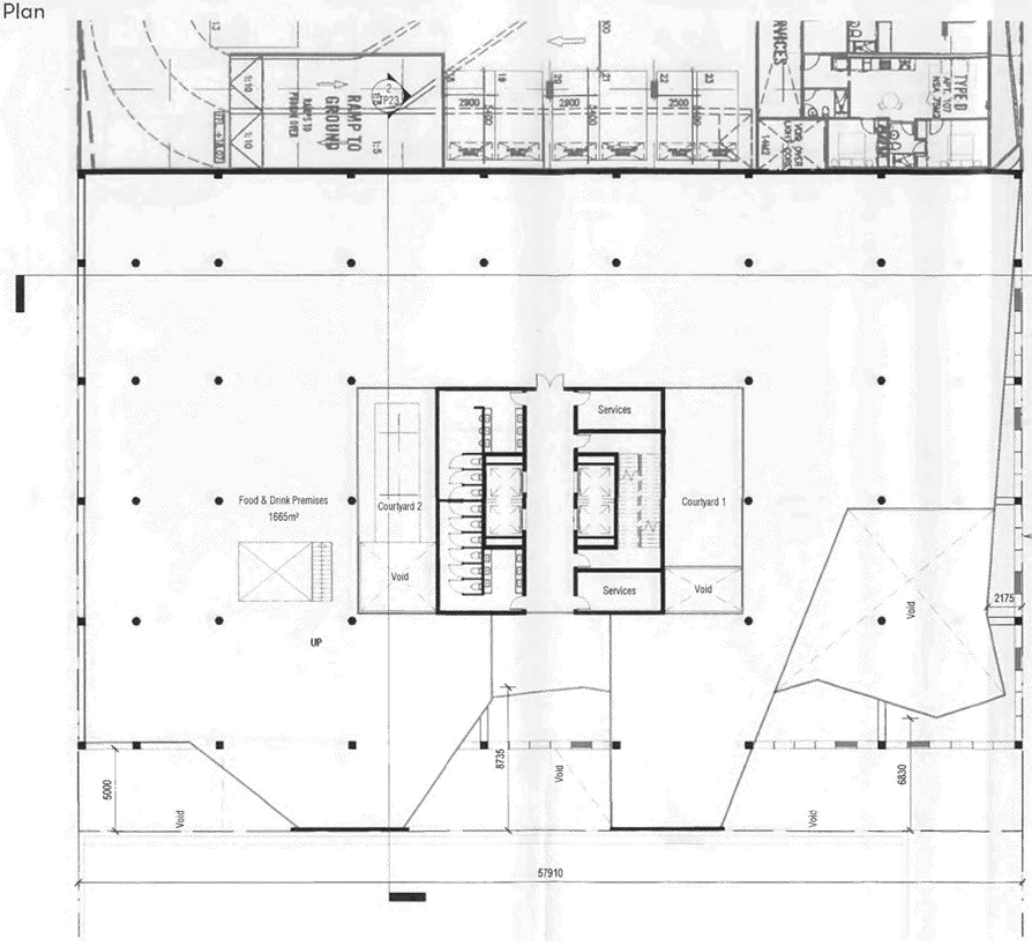


Attachment 4 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - idac attachment

484-486 Swan Street, Richmond

Proposed Level 01 Floor Plan



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CLIENT Killara Quest Pty Ltd
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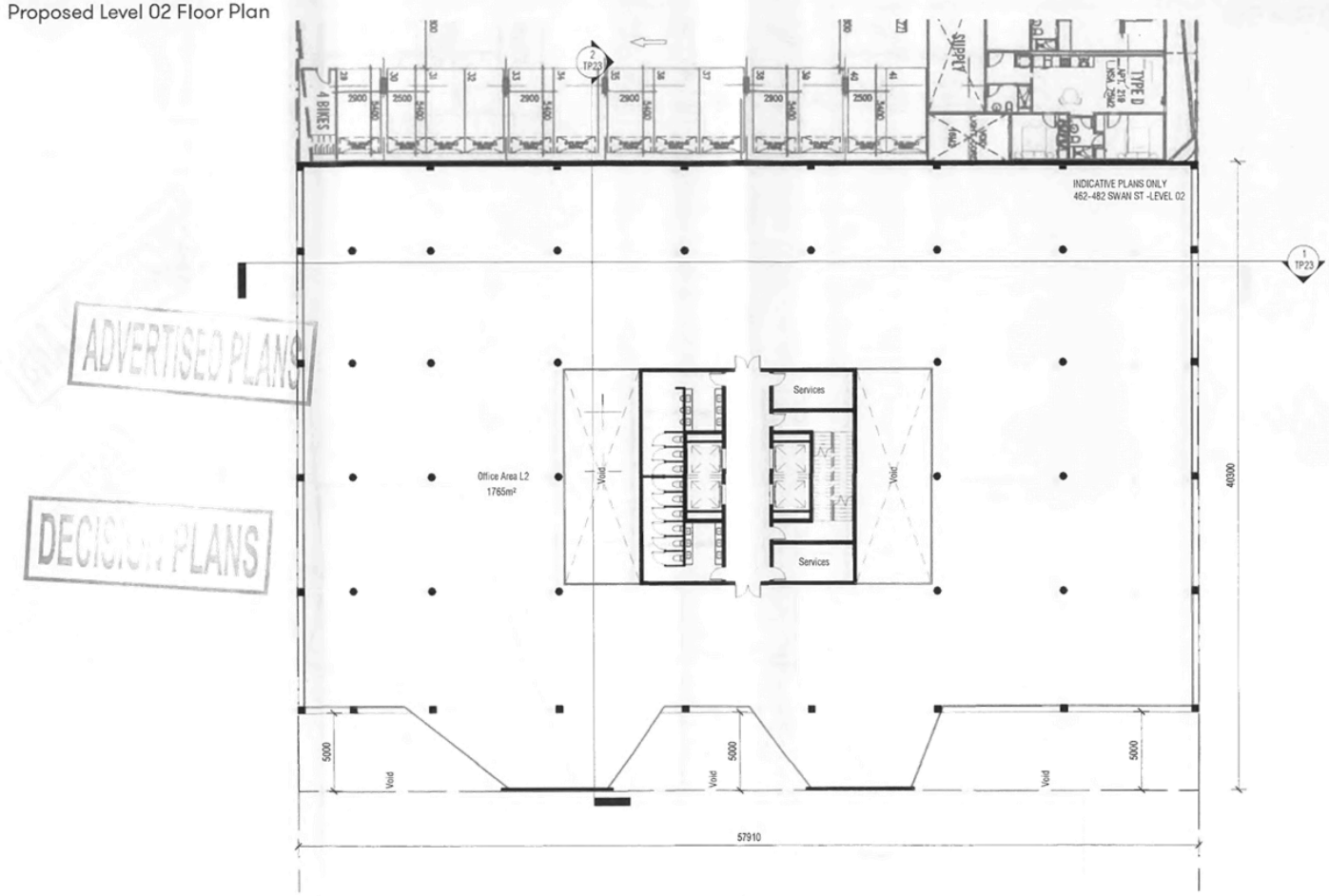
484-486 Swan Street, Richmond

Proposed Level 02 Floor Plan



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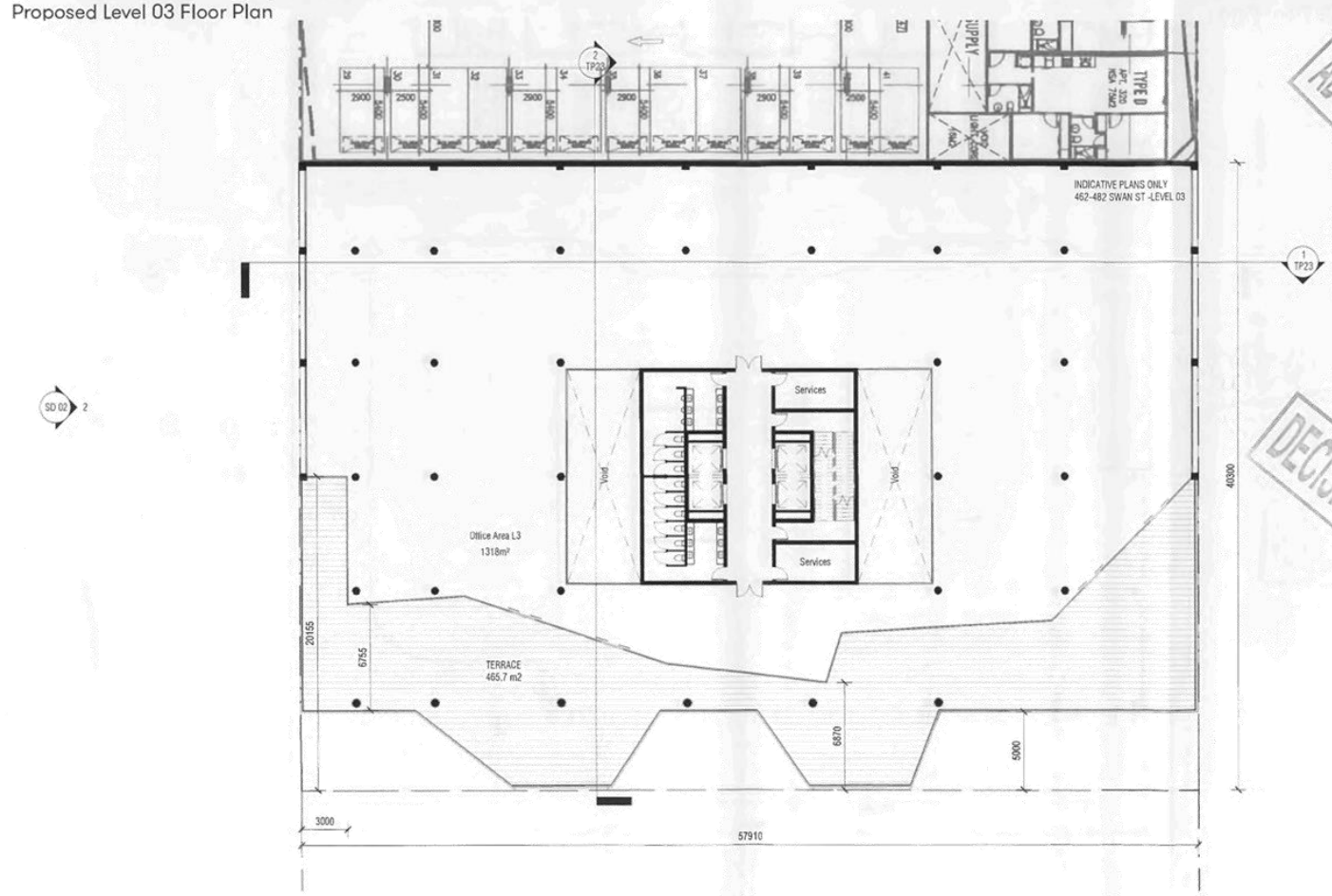
484-486 Swan Street, Richmond

Proposed Level 03 Floor Plan



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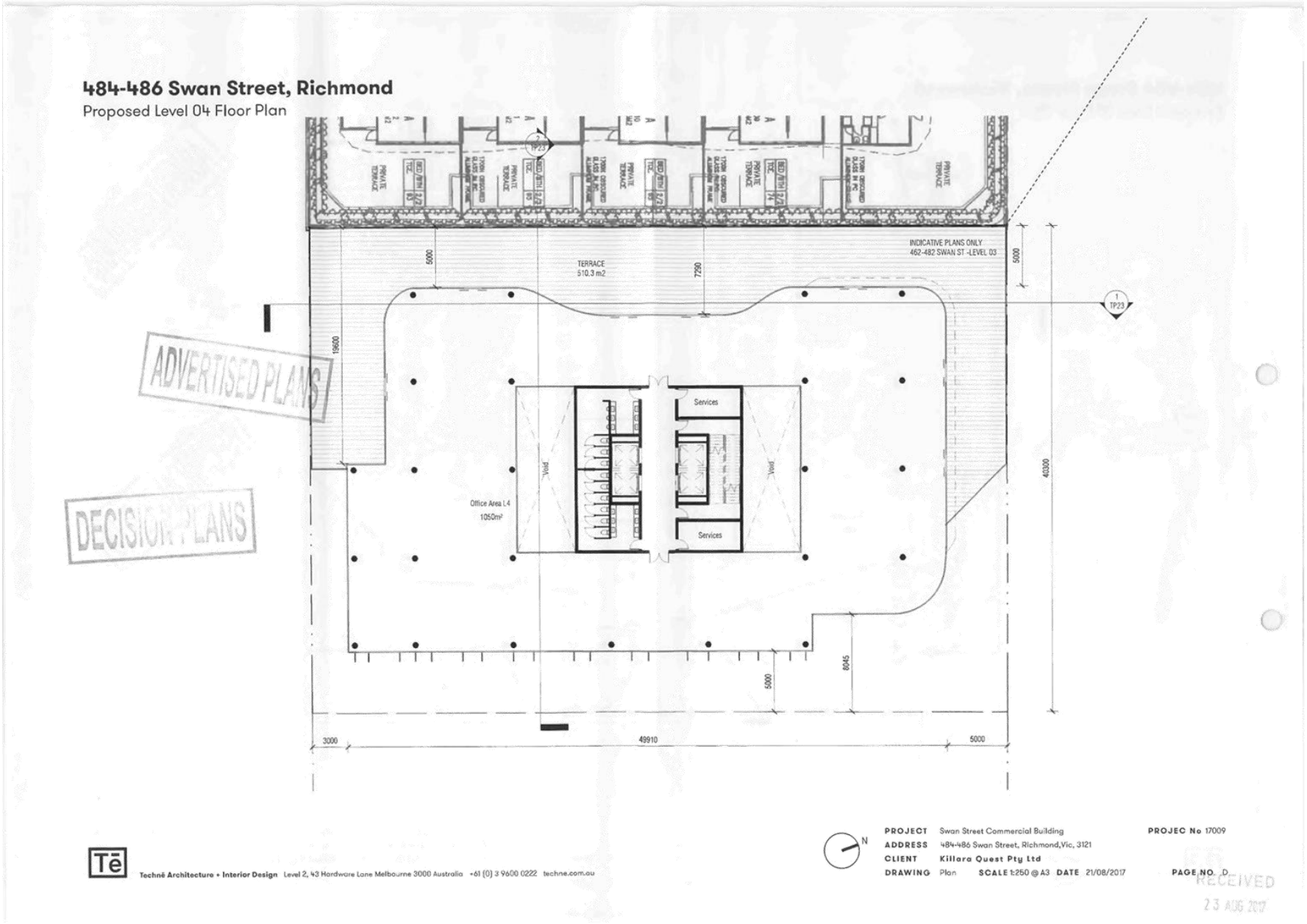

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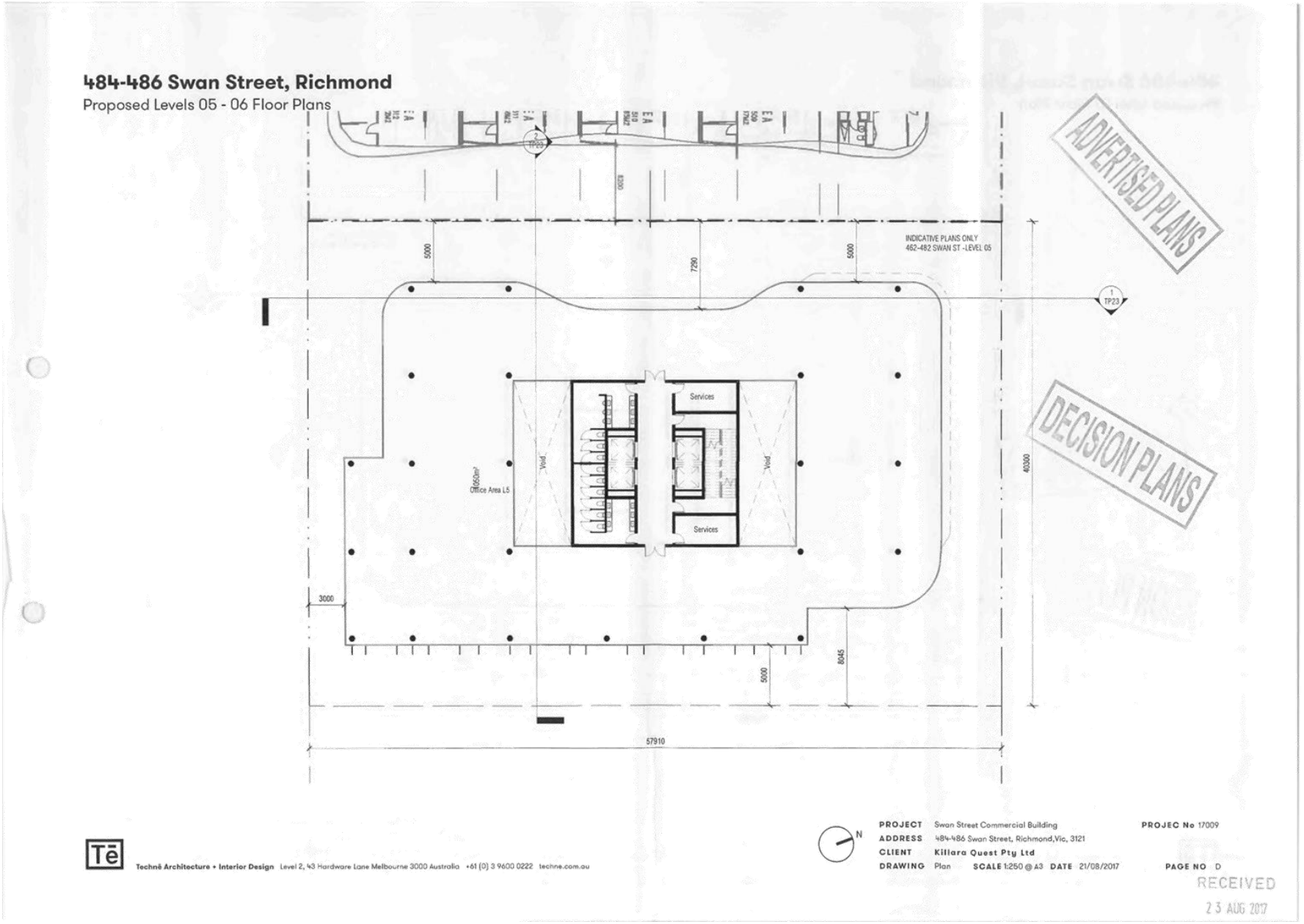

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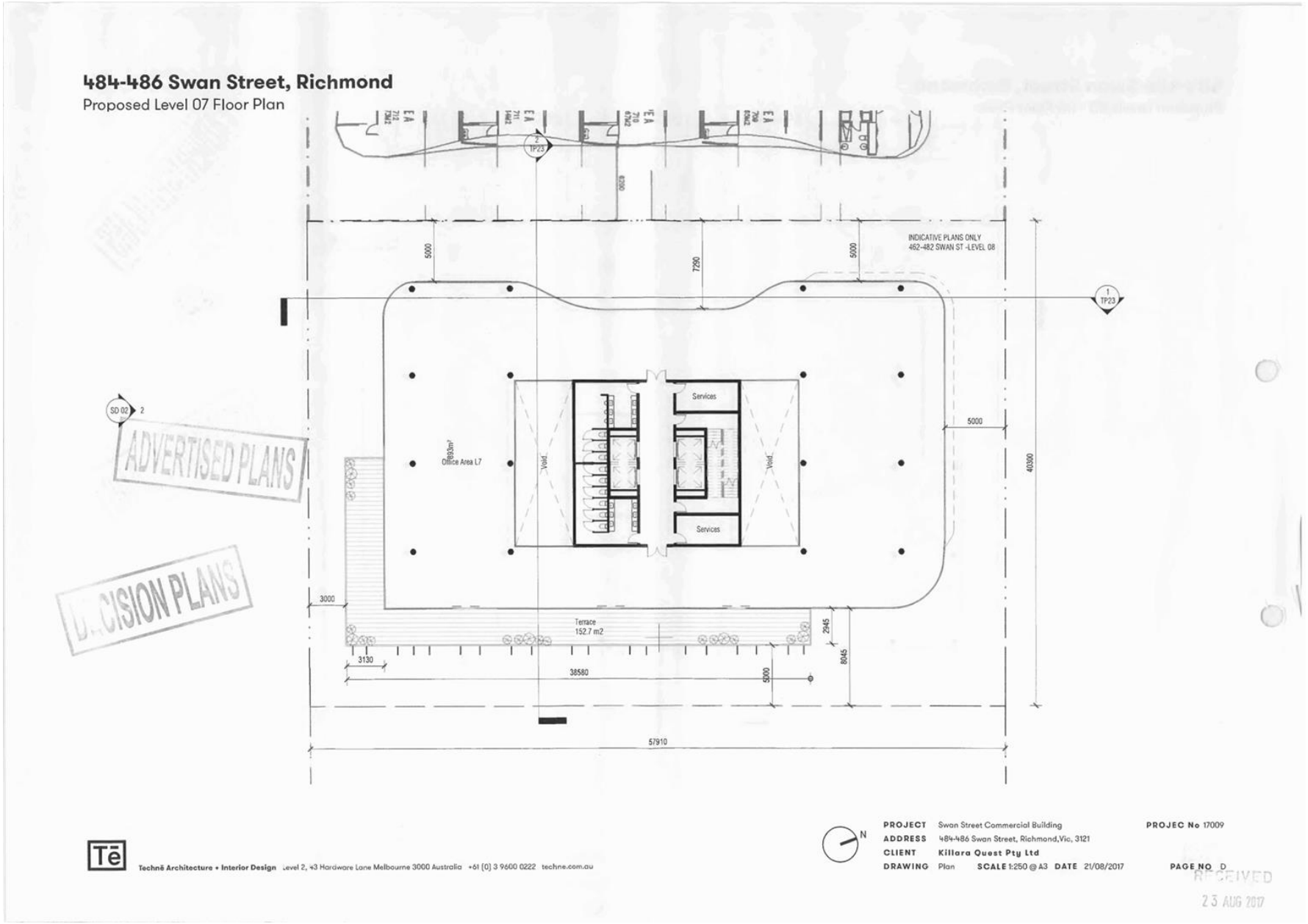

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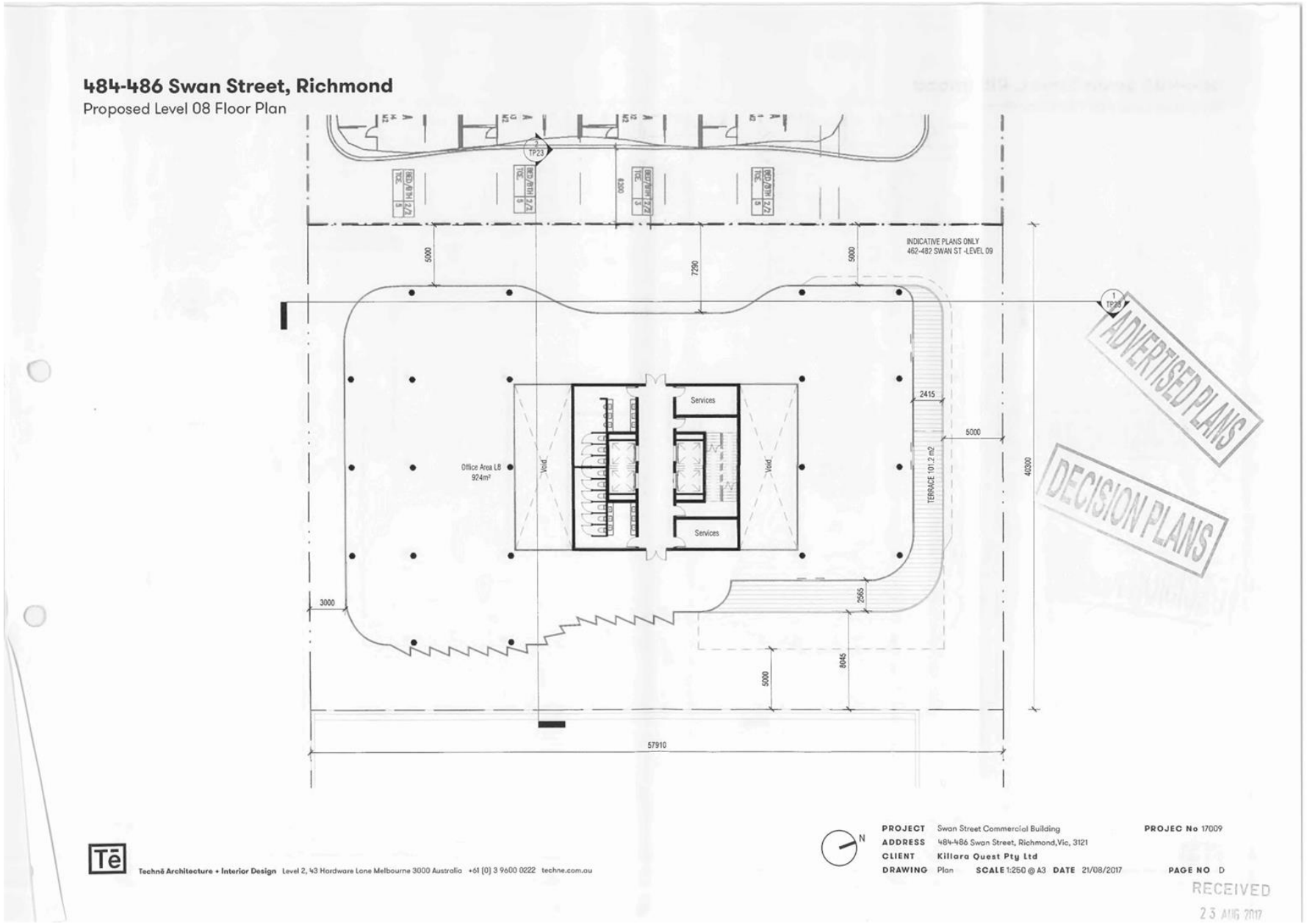

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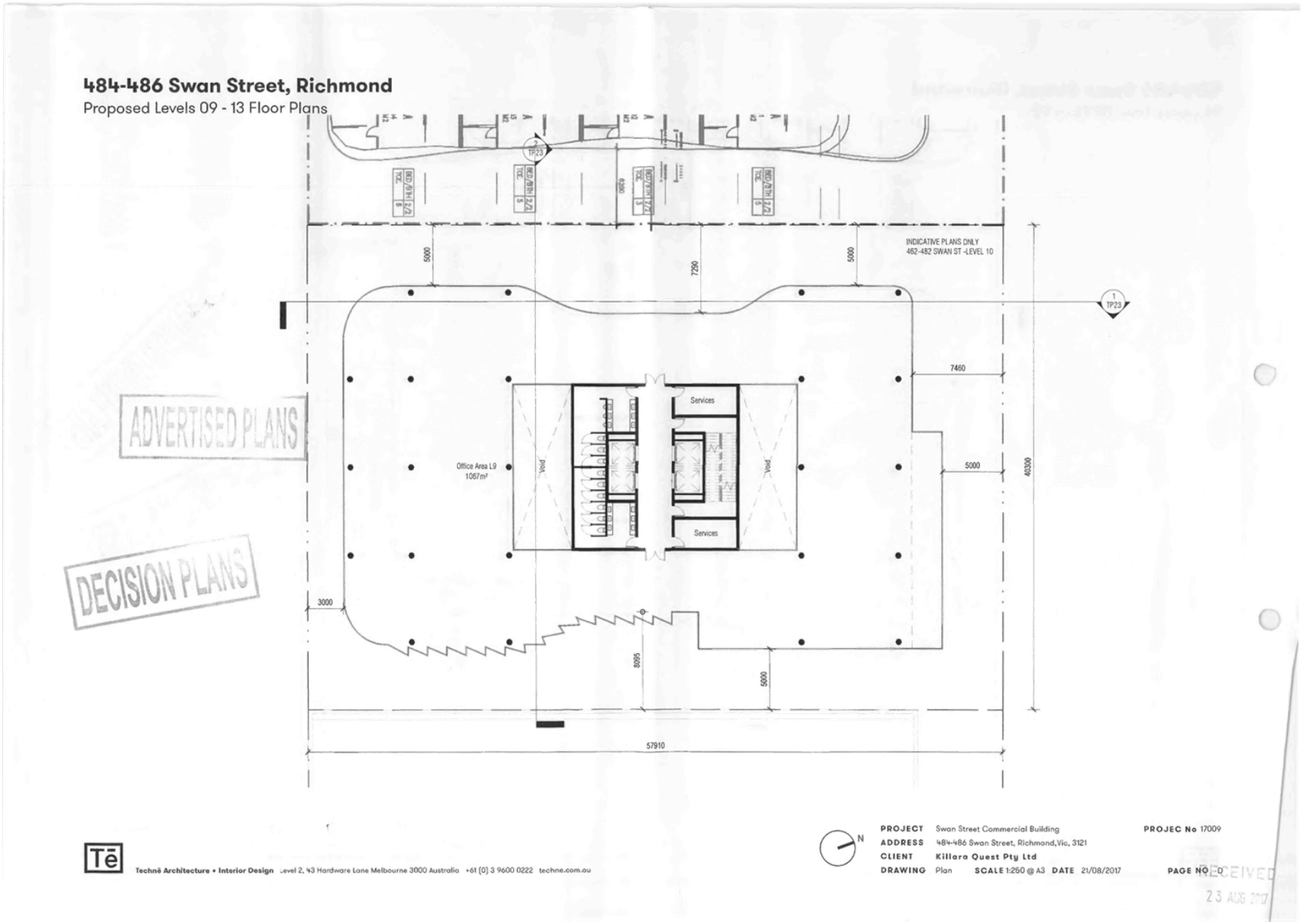
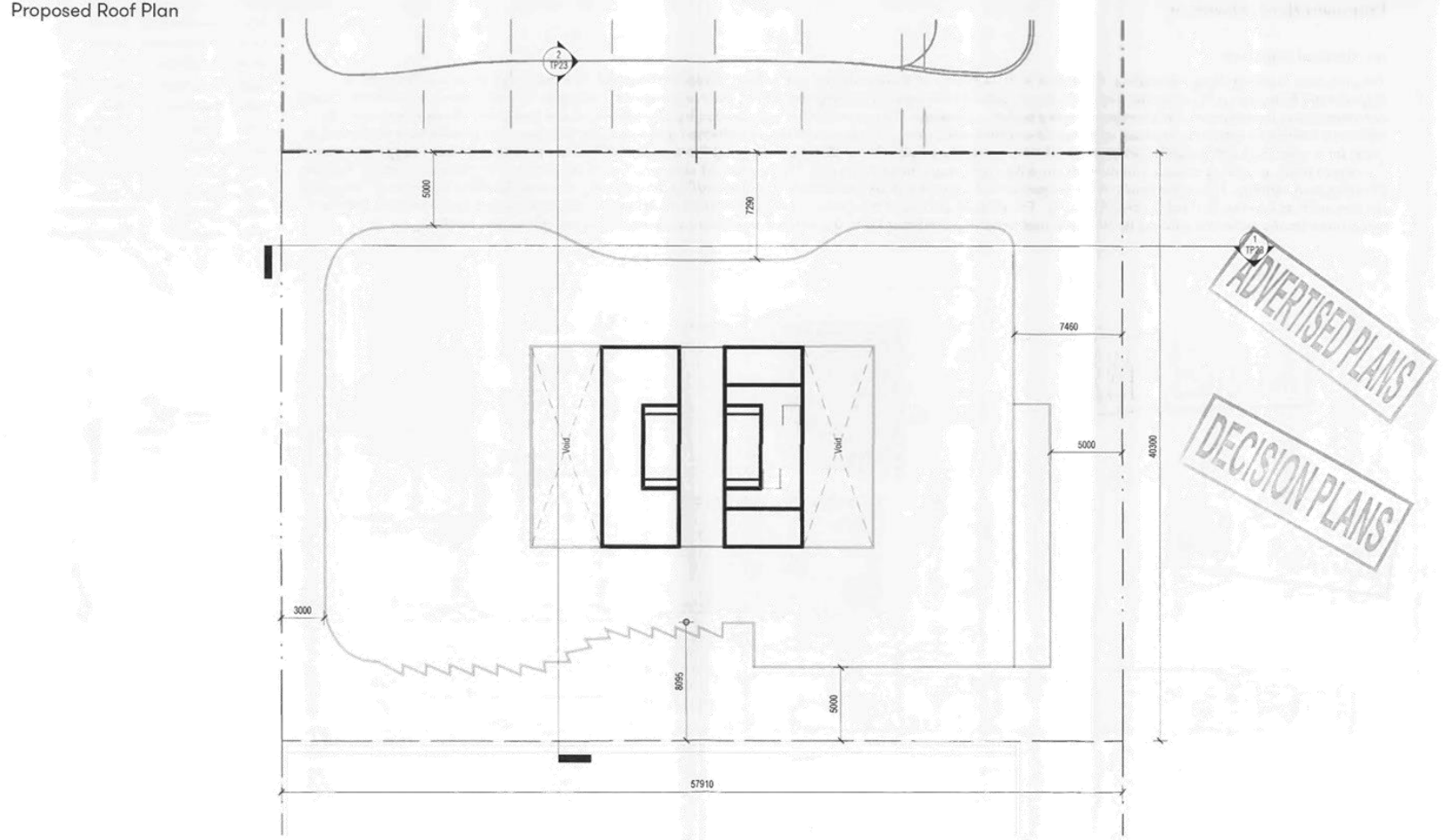


Attachment 4 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - idac attachment

484-486 Swan Street, Richmond

Proposed Roof Plan



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484-486 Swan Street, Richmond

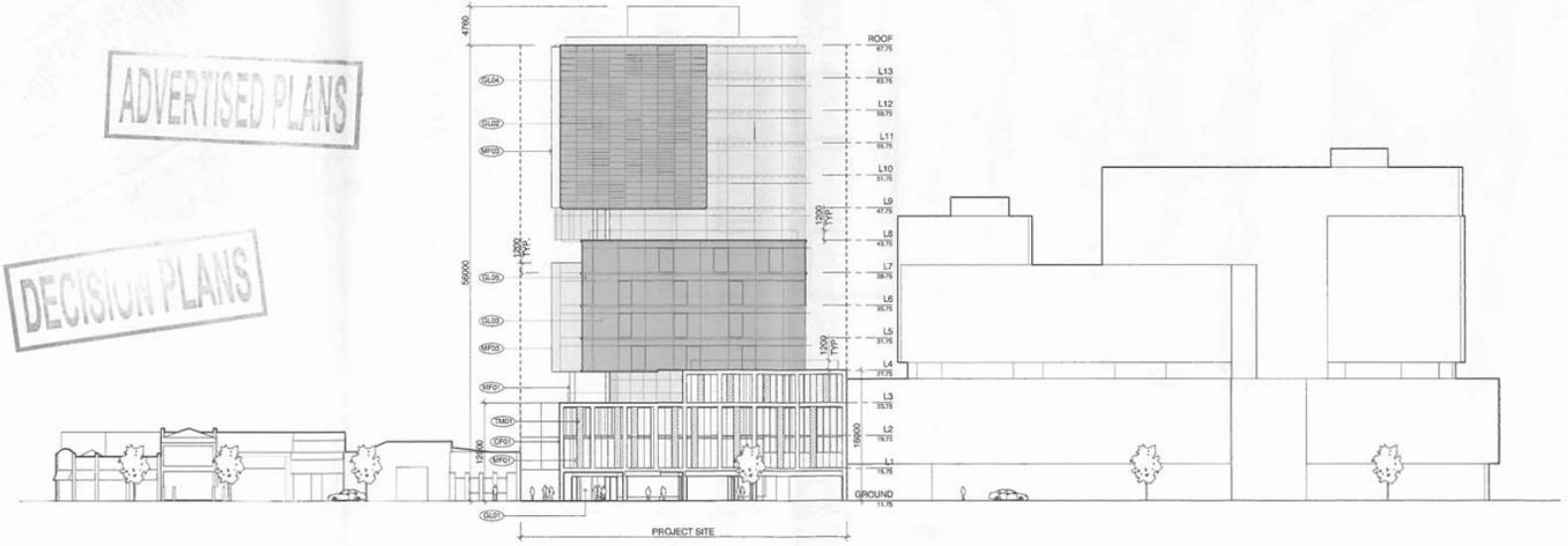
Proposed North Elevation

Architectural Statement:

The proposed building design considers it's context in its aesthetic and presentation to the Swan Street streetscape. The building's mass is articulated to segment the form, into proportionate elements, clearly defined through materiality and detail. Each element responding to its atmospheric orientation, clearly communicating intentions of a performance based building envelope. The development is grounded by a pedestrian scale fine grain, of retail and amenity offerings, contained within an exposed concrete structural frame, providing opportunities for activated and engaging facades. The ground floor is setback to allow for a meaningful and significant cross-block link, connecting Swan Street directly to Burnley Station. This deliberate planning gesture, suggests a sort of "transport hub", providing access and destination driven pathways through the site. These areas of concentrated circulation are emphasized through lighting, planting, and seating. The upper levels of the proposed building present as sustainably oriented and technologically informed facades, by external mitigating devices such as louvres, and solar control glazing. The podium portion of the development presents as an approachable and inviting series of retail spaces, using more tactile materials such as timber, steel and concrete, contributing to the visual and sensory success of this important precinct link.

Materials Legend

CF01	Concrete Finish	Sealed
CF02	Concrete Finish	Textured
MF01	Metal Finish	Charcoal
MF02	Metal Finish	White
MF03	Metal Finish	Silver
TM01	Timber Finish	Sealed
GL01	Glazing	Clear
GL02	Glazing	Black Tinted
GL03	Glazing	Grey
GL04	Glazing	Black Tinted - Spandrel
GL05	Glazing	Grey - Spandrel



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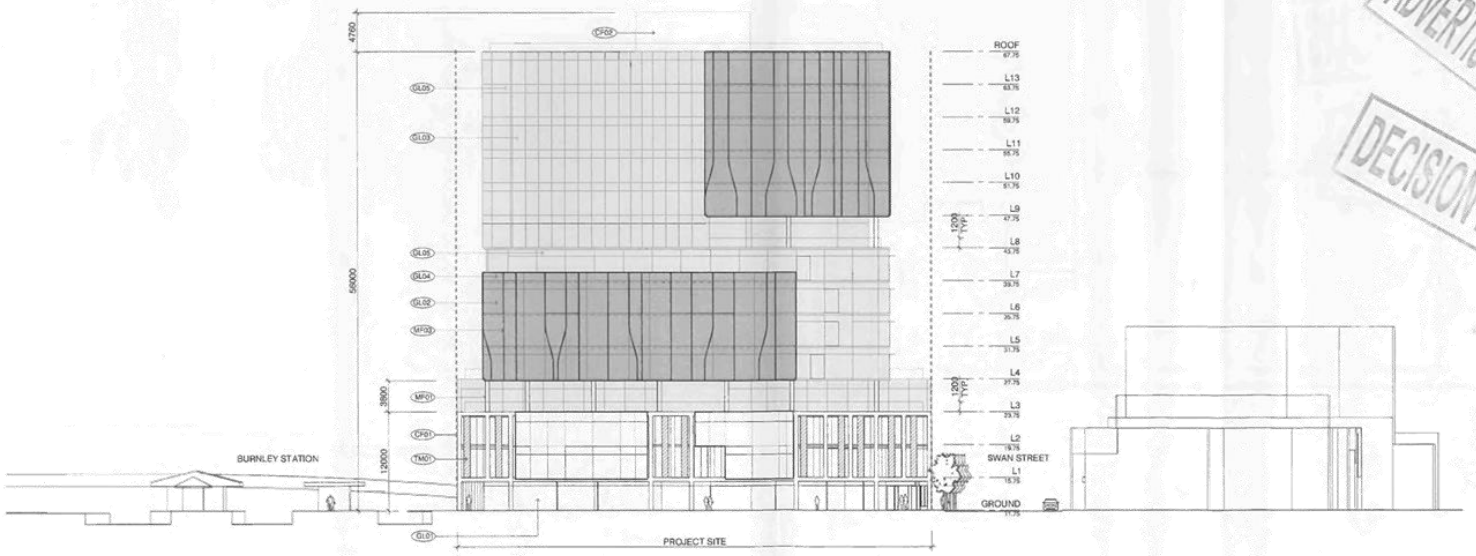
484-486 Swan Street, Richmond

Proposed East Elevation

Materials Legend

CF01	Concrete Finish	Sealed
CF02	Concrete Finish	Textured
MF01	Metal Finish	Charcoal
MF02	Metal Finish	White
MF03	Metal Finish	Silver
TM01	Timber Finish	Sealed
GL01	Glazing	Clear
GL02	Glazing	Black Tinted
GL03	Glazing	Grey
GL04	Glazing	Black Tinted - Spandrel
GL05	Glazing	Grey - Spandrel



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Attachment 4 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - idac attachment

484-486 Swan Street, Richmond

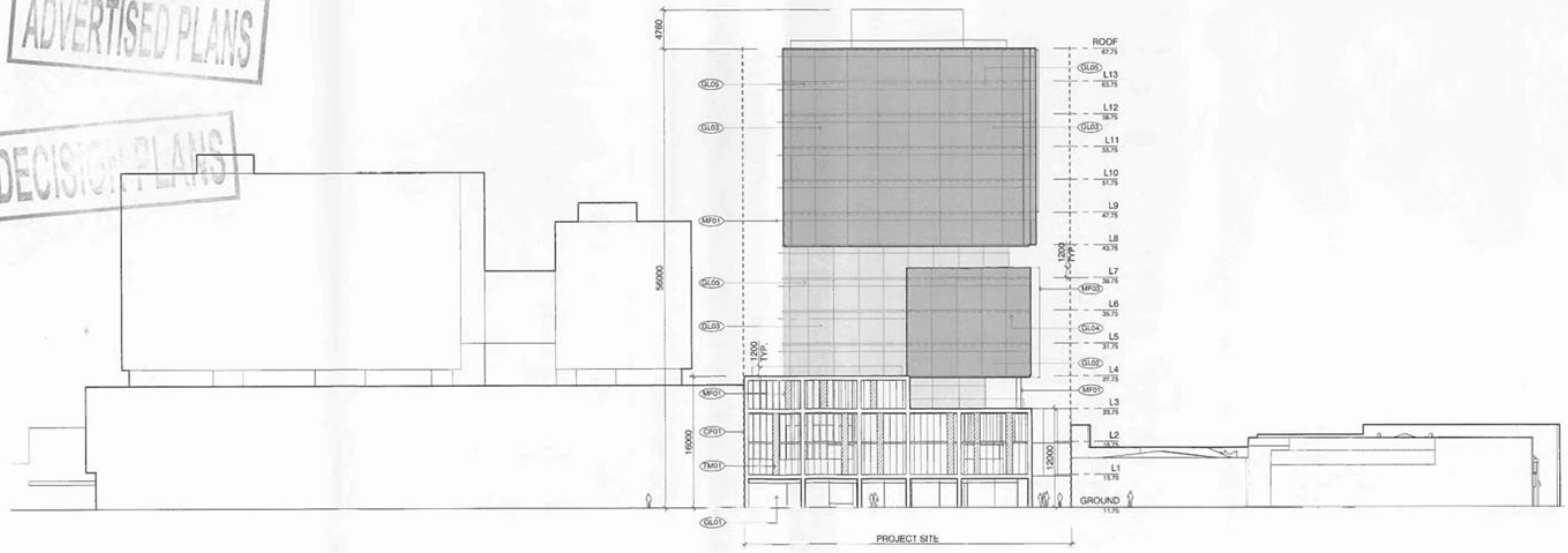
Proposed South Elevation

Materials Legend

CF01	Concrete Finish	Sealed
CF02	Concrete Finish	Textured
MF01	Metal Finish	Charcoal
MF02	Metal Finish	White
MF03	Metal Finish	Silver
TM01	Timber Finish	Sealed
GL01	Glazing	Clear
GL02	Glazing	Black Tinted
GL03	Glazing	Grey
GL04	Glazing	Black Tinted - Spandrel
GL05	Glazing	Grey - Spandrel

ADVERTISED PLANS

DECISION PLANS



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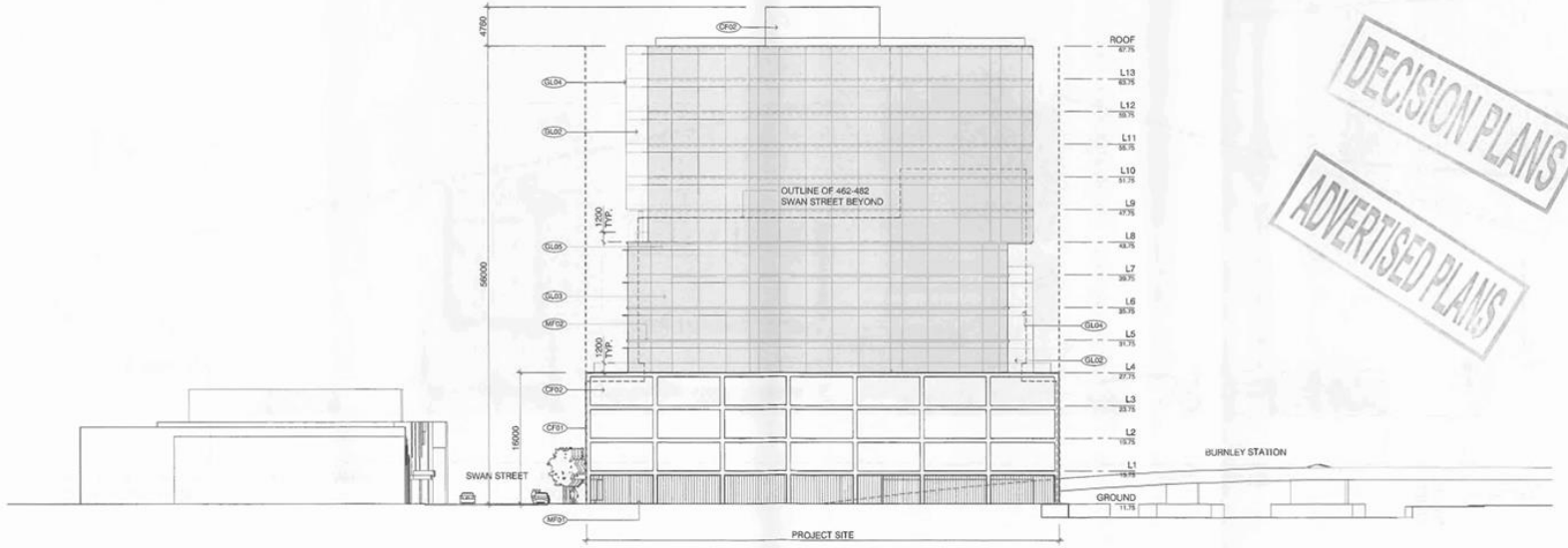
Attachment 5 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - west elevation - idac attachment

484-486 Swan Street, Richmond

Proposed West Elevation

Materials Legend

CF01	Concrete Finish	Sealed
CF02	Concrete Finish	Textured
MF01	Metal Finish	Charcoal
MF02	Metal Finish	White
MF03	Metal Finish	Silver
TM01	Timber Finish	Sealed
GL01	Glazing	Clear
GL02	Glazing	Black Tinted
GL03	Glazing	Grey
GL04	Glazing	Black Tinted - Spandrel
GL05	Glazing	Grey - Spandrel



DECISION PLANS

ADVERTISED PLANS

Tē Technē Architecture + Interior Design Level 2, 43 Hardware Lane Melbourne 3000 Australia +61 (0) 3 9600 0222 techne.com.au

PROJECT Swan Street Commercial Building PROJEC No 17009
ADDRESS 484-486 Swan Street, Richmond,Vic, 3121
CLIENT Killara Quest Pty Ltd
DRAWING Elevations SCALE 1:500 @ A3 DATE 21/08/2017 PAGE NO D

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23 AUG 2017

Attachment 6 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - sections - idac attachment

484-486 Swan Street, Richmond

Proposed Building Sections

DECISION PLANS
ADVERTISED PLANS

Section 1

Section 2

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PROJECT Swan Street Commercial Building
ADDRESS 484-486 Swan Street, Richmond,Vic, 3121
CLIENT Killara Quest Pty Ltd
DRAWING Sections SCALE 1:500 @ A3 DATE 21/08/2017

PROJEC No 17009

PAGE NO D

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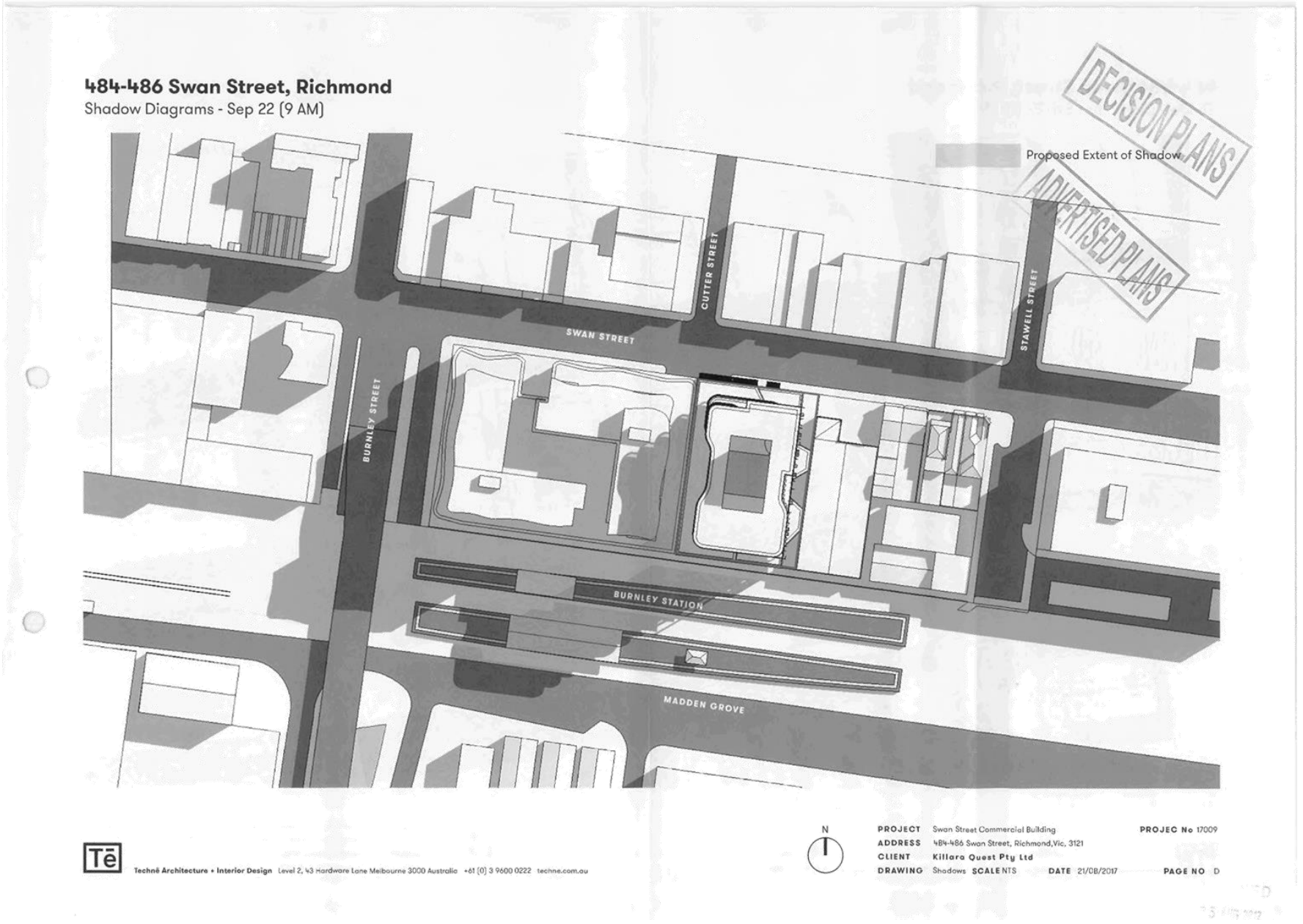
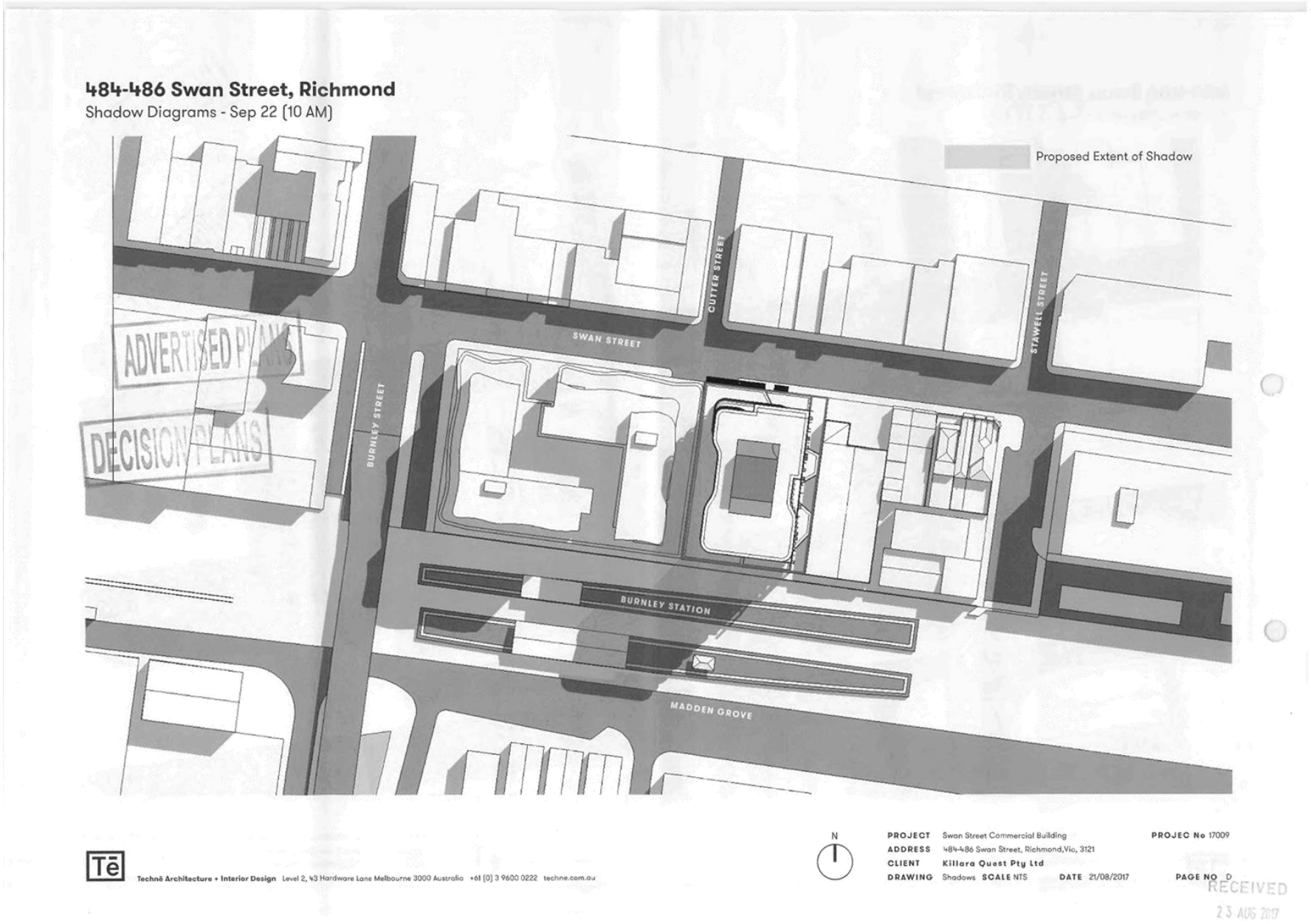
23 AUG 2017

Attachment 7 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment

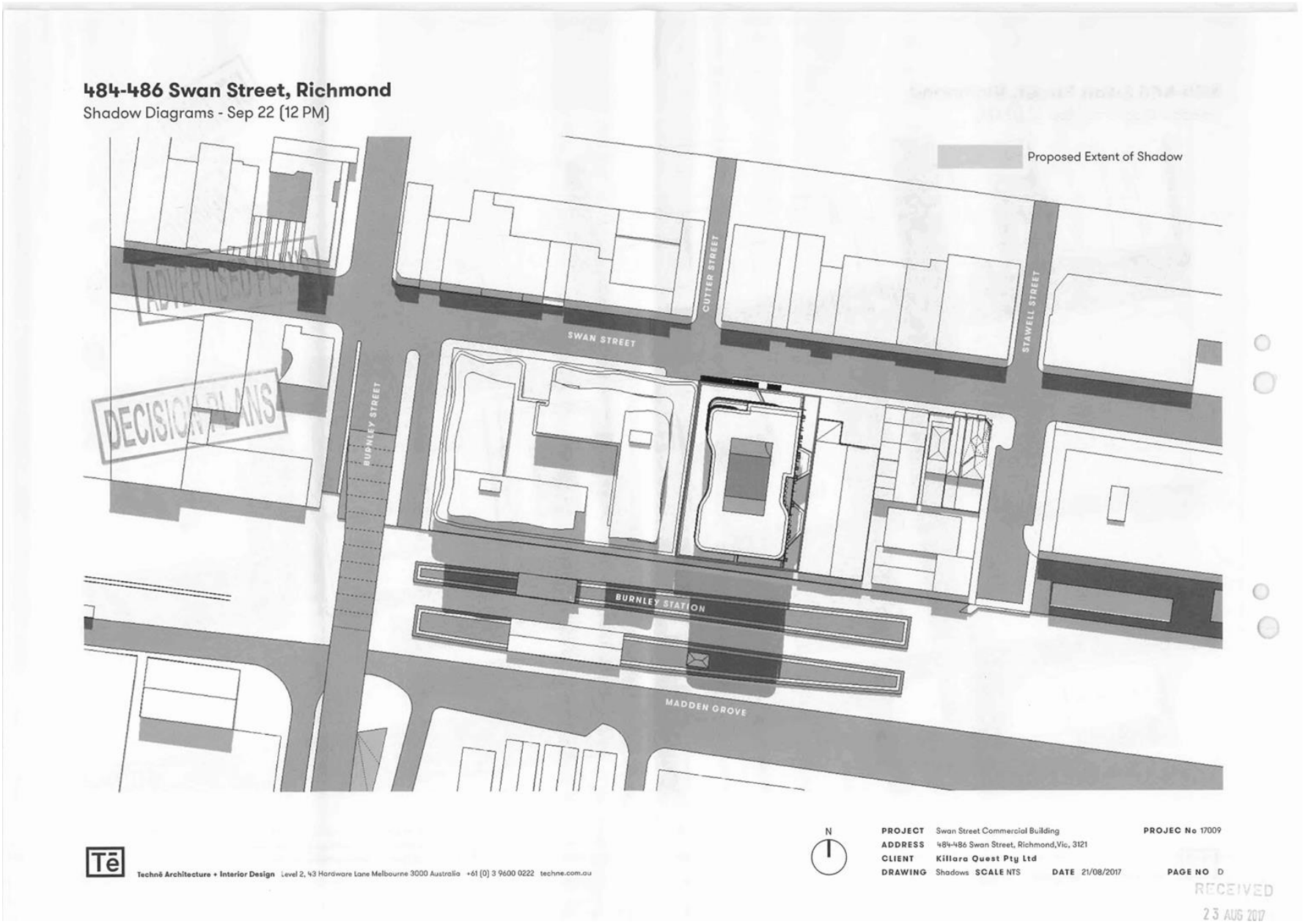


Attachment 7 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment



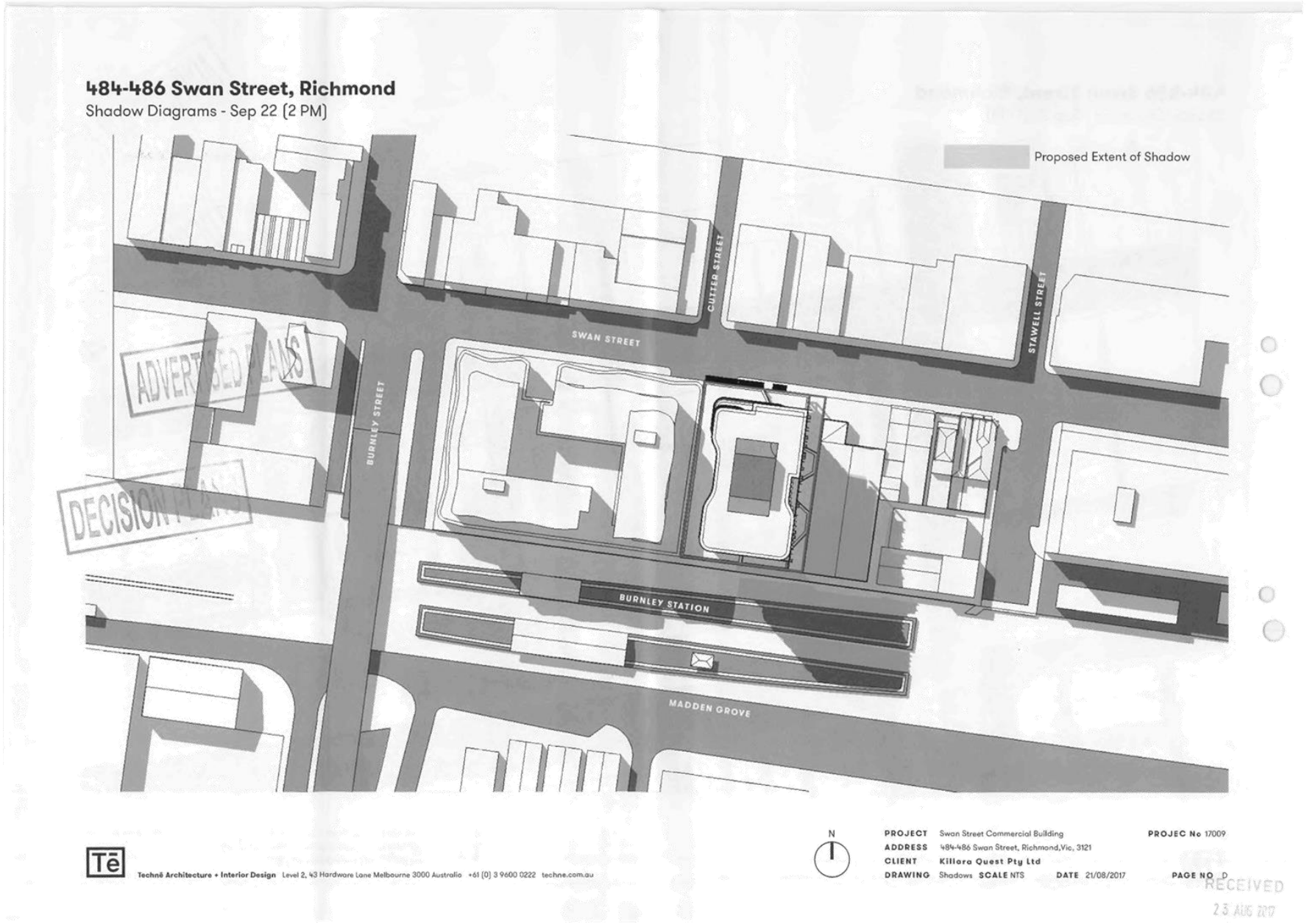
Attachment 7 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment

Attachment 7 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment



Attachment 7 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment

Attachment 7 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment



Attachment 7 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment

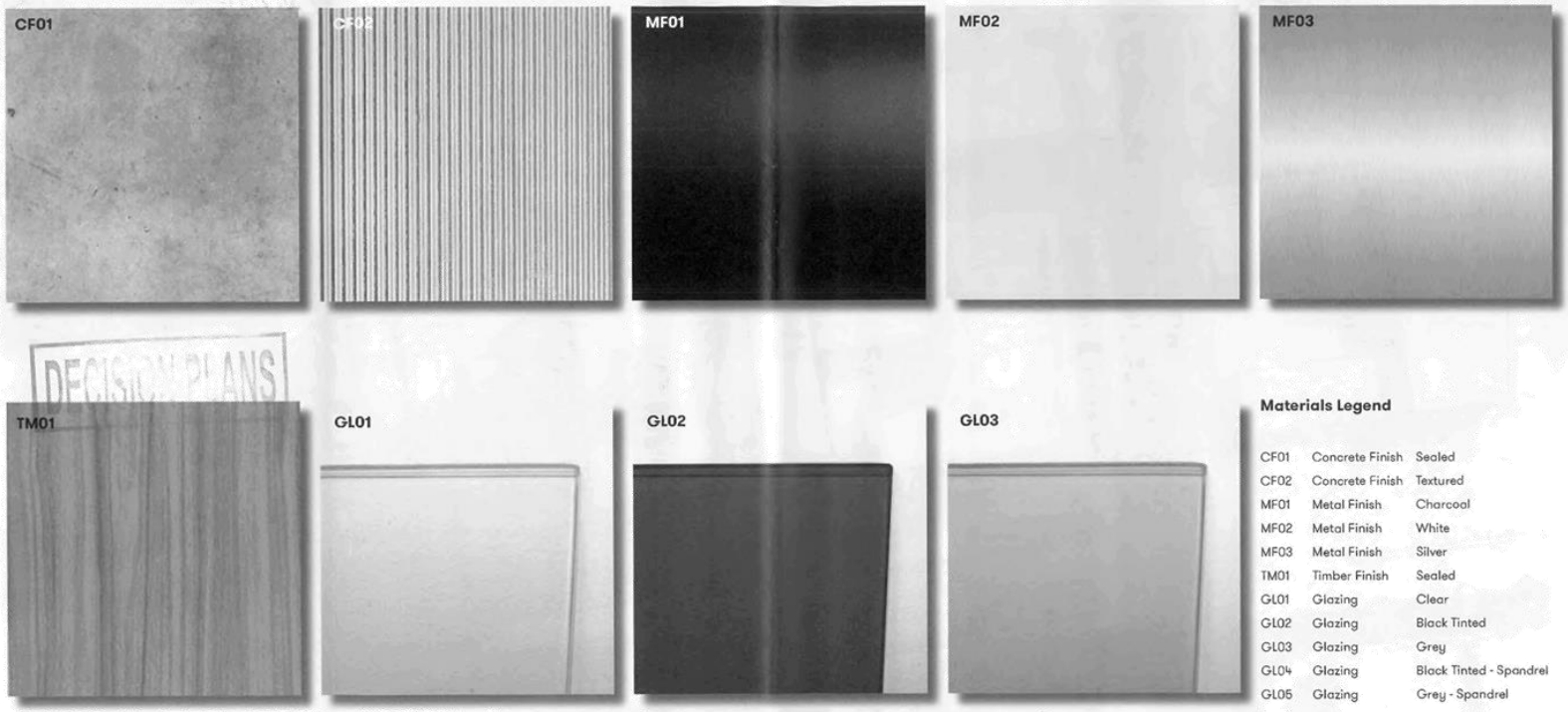
Attachment 7 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment

484-486 Swan Street, Richmond

Materials Schedule

ADVERTISED PLANS

DECISION PLANS



Materials Legend

CF01	Concrete Finish	Sealed
CF02	Concrete Finish	Textured
MF01	Metal Finish	Charcoal
MF02	Metal Finish	White
MF03	Metal Finish	Silver
TM01	Timber Finish	Sealed
GL01	Glazing	Clear
GL02	Glazing	Black Tinted
GL03	Glazing	Grey
GL04	Glazing	Black Tinted - Spandrel
GL05	Glazing	Grey - Spandrel

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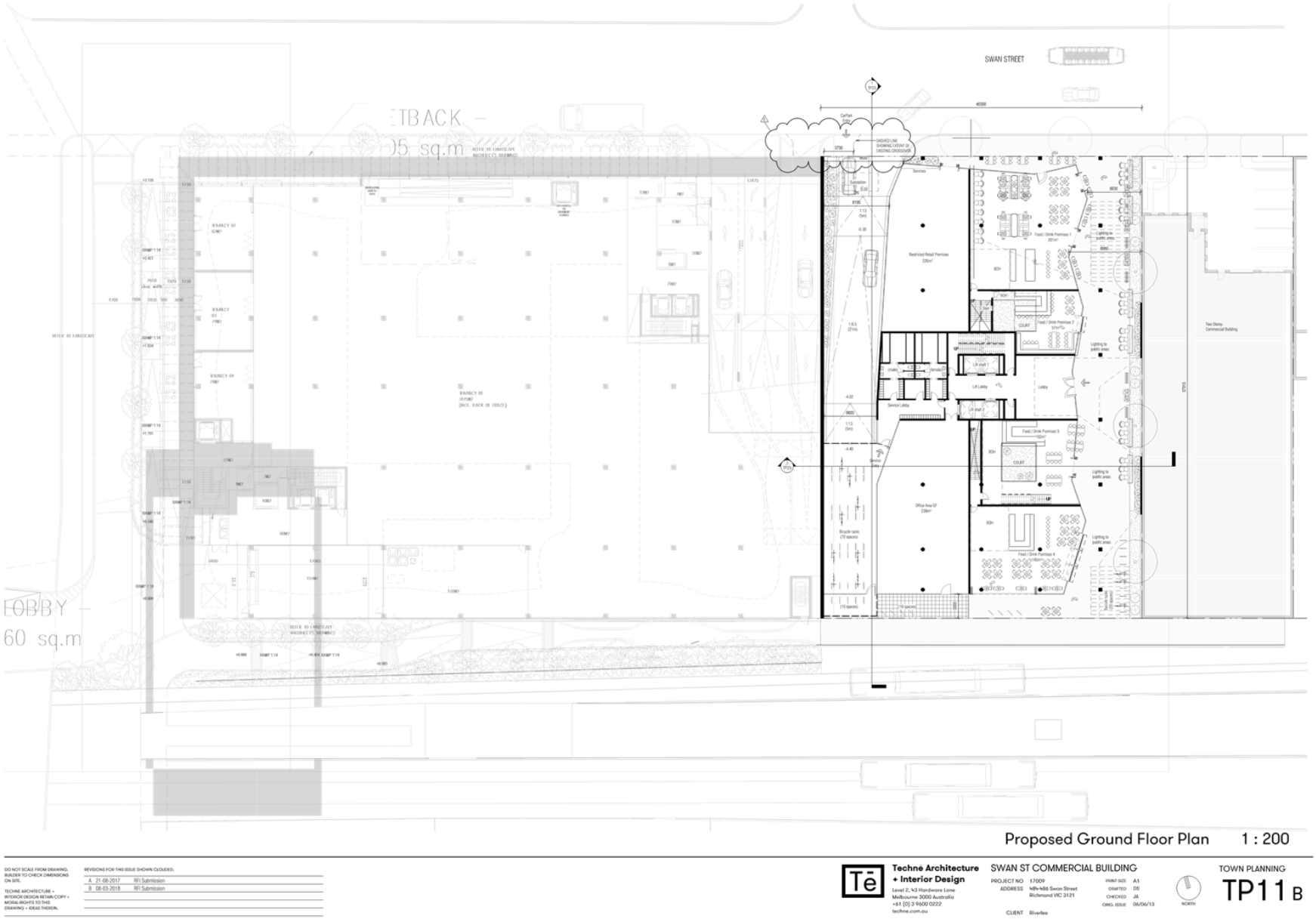
PROJECT Swan Street Commercial Building
ADDRESS 484-486 Swan Street, Richmond, Vic, 3121
CLIENT Killara Quest Pty Ltd
DRAWING SCALE DATE 21/08/2017

PROJEC No 1/009
PAGE NO D

RECEIVED
23 AUG 2017

Attachment 8 - PLN17/0448-03 - 484 - 486 Swan Street Richmond - updated ground floor plan showing crossover - sketch plan



1.2 Interim order response plan assessment - PLN16/0434 - 26-56 Queens Parade, Fitzroy North (Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone and
PLN16/0732 - Rear of 26-56 Queens Parade, Fitzroy North Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site))

Executive Summary

Purpose

1. This report provides an assessment of the plans circulated by the Permit Applicant for the above 2 applications in response to the VCAT interim order dated 26 October 2017.

Key Planning Considerations

2. Key planning considerations include is how the amended plans respond to the VCAT interim order.

Key Planning Issues

3. Council is confined in the interim VCAT order as follows (i.e. not a de novo assessment):

> *6. By no later than **4 April 2018**, the responsible authority may file with the Tribunal and serve on the applicant a written submission in relation to the documents served in accordance with order 1. The submission may include:*
> *(a) an updated set of draft permit conditions for the Tribunal's consideration if the Tribunal ultimately decides to grant a permit that refers to the amended plans in permit conditions, and*
> *(b) a request that the responsible authority be heard in relation to its written submission and the reasons for that request.*

7. Objectors also have an opportunity to send written submissions to VCAT in response to the interim order response plans.

Conclusion

8. Based on the following report, Council raises no additional issues in response to the interim order response plans (noting its original position on both applications remains). Should VCAT grant a permit for one or both applications, the without prejudice draft conditions contained in this report should be imposed.

CONTACT OFFICER: **Sarah Thomas**
TITLE: **Principal Planner and Advocate**
TEL: **9205 5046**

1.2 Interim order response plan assessment - PLN16/0434 - 26-56 Queens Parade, Fitzroy North (Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone and PLN16/0732 - Rear of 26-56 Queens Parade, Fitzroy North Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site))

Trim Record Number: D18/46554
Responsible Officer: Manager Statutory Planning

Proposal:	PLN16/0434 – 26-56 Queens Parade – Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone and PLN16/0732 – Rear of 26-56 Queens Parade - Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site)
Existing use:	Vacant and warehouse/factory buildings
Applicant:	Gurner 26-56 Queens Parade Pty Ltd
Zoning / Overlays:	Mixed Use Zone, abutting a Road Zone (Category 1), Environmental Audit Overlay, Design and Development Overlay (Schedule 16) and part Heritage Overlay (HO327 – North Fitzroy Precinct)
Application Numbers and Date of Applications:	PLN16/0434 – 18 May 2016 and PLN16/0732 – 26 July 2016

Planning History

1. The sites were re-zoned from Business 3 to Mixed Use on 13 November 2003 following amendment C20 to the Yarra Planning Scheme. The amendment was a Section 96A amendment process, with a concurrent planning permit application (PL02/0239) for 26-56 Queens Parade. The re-zoning however, affected a larger area known as 8-72 Queens Parade and 460-500 Brunswick Street.

2. Planning permit application PL02/0239 approved the construction of a 2-5 storey residential development, containing 172 dwellings and 211 car parking spaces. This permit was approved on 19 November 2003. Following 4 extensions of time, this permit expired on 19 November 2009.

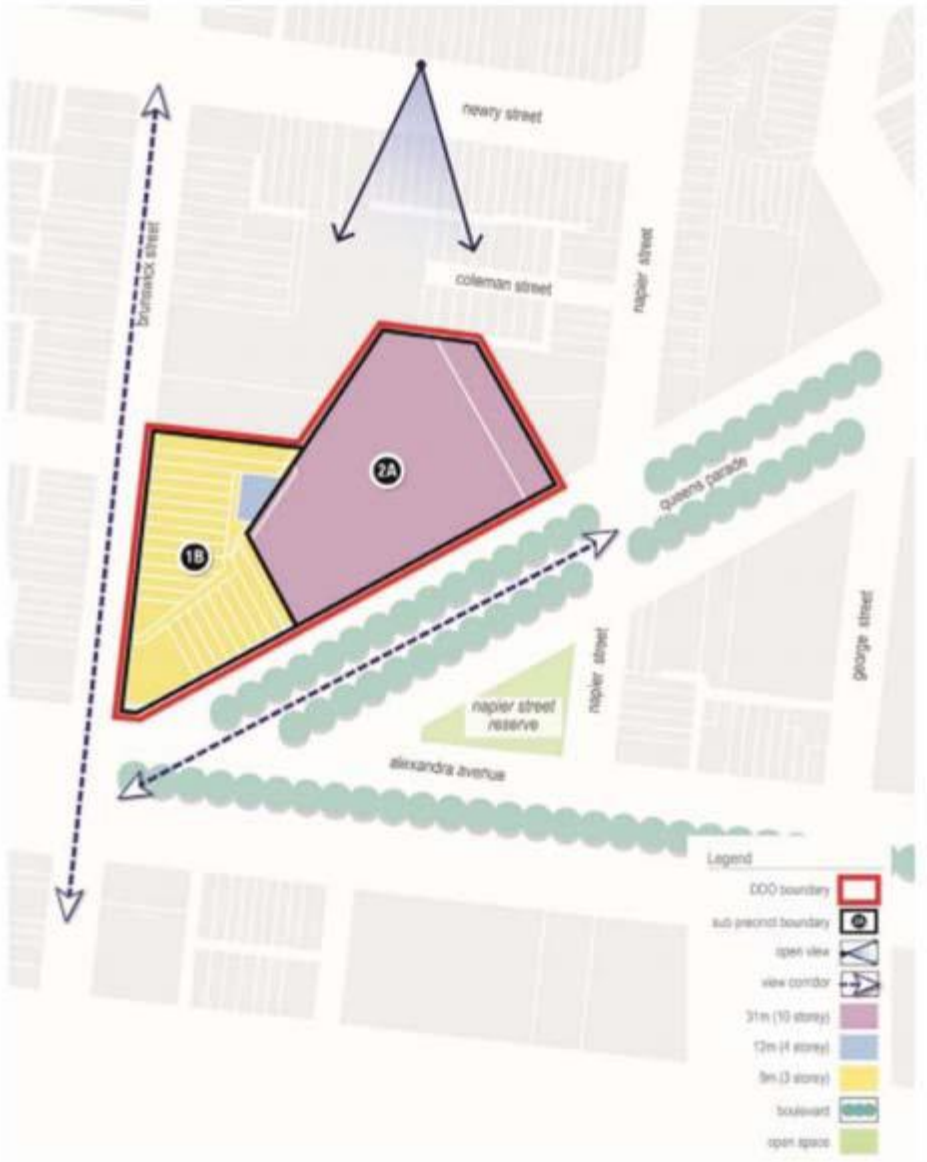
3. On 17 June 2009, Planning Permit PL09/0019 was issued for the use of the site as an education centre (tertiary institution).

4. More recently, a special Council Meeting was held on 14 November 2016. Council discussed developments currently proposed along Queens Parade with Council resolving:

   1. That Council note:
   - *(a) several public meetings held regarding 26-56 Queens Parade, Fitzroy North including a public meeting conv ened by the community on 2 November 2016, attended by some 400 community members with resolutions from this meeting on 26-56 Queens Parade and other planning applications in the precinct including a request for an amendment to the planning scheme to create a Design and Development Overlay for the area of North Fitzroy and Clifton Hill, (attached as Attachment One); and*
   - *(b) the current planning application for a high density residential development for 26-56 Queens Parade, Fitzroy North of up to 16 storeys and its recent referral by the applicant to the Victorian Civil and Administrative Tribunal (VCAT);*

   2. That Council seek a report to be presented to the 22 November 2016 Council meeting providing advice on:
   - *(a) the process of the above planning application and steps leading to a full hearing of this application before VCAT, scheduled in April 2017;*
   - *(b) the likely costs involved in advocacy for Council at VCAT;*
   - *(c) the request for a planning scheme amendment for the precinct, and site, and the basis and requirements for any such amendment;*
   - *(d) the steps, options and timing for such amendment; and*
   - *(e) any other pertinent aspects to inform Council on this matter.*

5. At a Council Meeting on 7 February 2017, Council considered officer's recommended draft DDO guidelines for the western section of Queens Parade. The proposed DDO controls were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:



6. The Council officer recommendation was that the mandatory maximum overall building height for the subject site not exceed 31m or 10 storeys and for the rear site 12m or 4 storeys.

7. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site and 2 storeys for the rear site (subject site).

8. Council resolved (in part) to:
   (e) request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and

9. On 28 March 2017, amendment C229 was gazetted, applying the Design and Development Overlay (Schedule 16) to the western end of Queens Parade (including the subject site). The approved heights as relevant to the subject site and its immediate surrounds can be generally described as a mandatory maximum 10 storeys on the main site and 3 storeys on the rear site.

Background

10. Council was informed on 11 October 2016 that a Section 79 'Failure to determine' appeal had been lodged by the Applicant with VCAT.

11. On 20 December 2016, Council formed a position on the application at its Development Assessment Panel meeting, where it resolved that Council inform VCAT that had it been in a position, it would have issued a Notice of Decision to Refuse to Grant a Permit (PLN16/0434) for 26-56 Queens Parade, Fitzroy North VIC 3068 for the part demolition and development of the land for a maximum 16 storey building, plus 2 basement levels, accommodating 476 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alteration of access to a Road Zone in accordance with the advertised plans (received by Council 15 July 2016) on the following grounds:

    1. *The proposed height, scale and massing does not respond to the existing or preferred character of the area and will dominate the surrounding area.*
    2. *The proposal will result in an unacceptable on-site amenity impact including natural daylight and ventilation.*
    3. *The side setbacks and building will not achieve equitable development for adjoining and adjacent sites.*
    4. *The proposed waste management plan is inadequate for the site.*

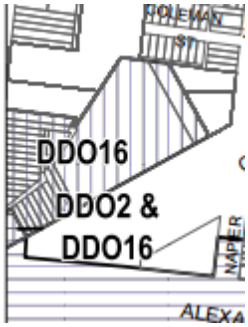
12. A practice day hearing was held at VCAT on 11 November, dealing with procedural matters. At the practice day, the scheduled compulsory conference was vacated and the hearing was confirmed as being 7 days, commencing 3 April 2017.

13. Of the 480 objectors, 98 joined as party to the appeal.

14. On 3 February 2017, a practice day was held at VCAT to consider if this application should be heard at the same time as the Section 79 review for the main site (PLN16/0434). All parties consented and VCAT agreed to join both hearings (PLN16/0732 and PLN16/0434), with the hearing commencing on 3 April 2017 for 7 days. No compulsory conference was scheduled.

15. On 14 March 2017, Council considered the substituted VCAT plans the Applicant had circulated. Council continued to form a position of refusal as per the same grounds.

16. As outlined earlier, on 28 March 2017, the Minister for Planning Gazetted an amended to the Yarra Planning Scheme introducing Schedule 16 to the Design and Development Overlay. The Overlay affects the subject site, along with the site to the rear and the dwellings to the west along Queens Parade and Brunswick Street.



17. Due to the impact of the amendment, VCAT adjourned the hearing that was scheduled for 3 April and set aside 10 days, commencing 4 September 2017. The Applicant was provided with 6 weeks before the hearing to circulate substituted plans.

18. On 9 August 2017, Council considered the substituted plans for the main site application and determined that Council inform VCAT that had it been in a position, it would have issued a Notice of Refusal to Grant a Permit (PLN16/0434) for 26-56 Queens Parade, Fitzroy North for the Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone based on the VCAT substituted plans (received by Council on 25 July 2017) on the following grounds:

    1. *The height, setback, design detailing and massing of the proposal would unreasonably impact the heritage significance and neighbourhood character of the area.*
    2. *The height, setback and massing of the proposal would unreasonably impact the amenity of the area and surrounding dwellings.*

19. At the same meeting, Council considered the substituted plans for the rear townhouse application and determined that Council inform VCAT that had it been in a position, it would have issued a Notice of Refusal to Grant a Permit (PLN16/0732) for rear of 26-56 Queens Parade, Fitzroy North for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site) based on the VCAT substituted plans (received by Council on 25 July 2017) on the following grounds:

    1. *The height, setback and massing of the proposal would unreasonably impact the character and amenity of the area and surrounding dwellings.*
    2. *The site coverage and permeability do not respect the existing or preferred neighbourhood character and does not respond to the features of the site.*

20. The hearing then proceeded for 10 days, commencing 4 September 2017.

21. On 26 October 2017, VCAT issued an interim order, allowing the Applicant to address the following main issues:

    15 Although a wide range of issues arise under each of the relevant provisions, some issues are more central to the determination of the proceeding than others. The two main issues are:
    - *(a) Whether the development of the main site responds appropriately to the significance of the heritage place in which the main site is located.*
    - *(b) Whether the development of the main site, particularly in its presentation to Queens Parade, responds appropriately to the relevant built form objectives in the scheme.*

    16 There are also a number of subsidiary issues that we will also address.

    Main finding

    17 Our main finding is that although the scheme supports a substantial development of the main site and a small but relatively intense development of the rear site, the plans for each site are not a satisfactory response to the relevant provisions of the scheme. Changes to the design response for both sites are necessary. We are unable to frame appropriate conditions for a permit for either site because of the nature of the changes. We acknowledge the validity of the underlying design thesis and we are therefore prepared to give the applicant an opportunity to prepare further amendments to the plans for both sites.

22. Key VCAT commentary on the development included:

(a) Heritage and general tower assessment:
69 We agree with Mr Lovell that while the towers will be prominent and will alter some horizon views, they will not diminish the significance of the precinct.

(b) Impact on the Edinburgh Gardens:
76 At ground level from the southern part of the Gardens, the towers will have no or an imperceptible impact. At ground level from the northern part of the oval in the Gardens, the relevant photomontage shows a barely perceptible visual impact above the trees at the southern edge of the Gardens. From higher points, such as from in the pavilion, an additional one or two storeys of the towers may be visible. We do not consider this to be an unacceptable impact on the heritage significance of the Gardens.

(c) Rear townhouse development in the heritage context:
82 The rear site's new built form is acceptable in heritage significance and character terms, because the site is small, the massing does not overwhelm the single-storey and double-storey character of abutting land in the precinct and the lane separates the new from old built form (but for part of the northern interface). …

(d) General design (curved) commentary:
99 The curvilinear design of towers 1, 2 & 3 behind both the heritage street wall and new street wall emphasises the geometric form of the heritage street wall and avoids a repetitive stepped form as sought by DDO16. Likewise, there is no issue with the form of vertical articulation. This is successfully achieved with the new street wall, in particular.

(e) Tower separation commentary:
100 The prominence of the heritage street wall is, in part, achieved by creating a broad pedestrian entry between the retained façade and the new street wall. The 90 degree return wall, albeit short, into the main site helps give depth to the street wall. The minimum gaps between all the towers of around 11 metres is also a generally satisfactory response to the requirement of separation and ability to see sky.

(f) No general issue when considering the Boulevard Primacy, however this would be further ensured with the additional southern tower setbacks (discussed later).

(g) The impact on the dwellings to the east is acceptable (in particular commentary was provided regarding 58 Queens Parade, which did not adequately future-proof themselves from development on this site).

(h) VCAT was not persuaded by Council's urban design concerns with the rear site (the scale and bulk of the proposal or the interface with 492 Brunswick Street to the north.

(i) There is no unreasonable overlooking.

(j) The proposal does not unreasonably overshadow nearby sites.

(k) A detailed design can address any objector concerns regarding the fan room exhaust.

(l) Conditions can deal with air conditioner noise and appearance.

(m) The daylight levels of apartments are generally satisfactory.

(n) The proposal would not result in unreasonable loss of outlook from nearby dwellings.

(o) VCAT raised no concern with parking or traffic.

(p) VCAT considered fire safety/MFB access:

176 Finally, some respondents opposed the development of the rear site on the grounds of inadequate access through the lane off Brunswick Street for emergency vehicles, especially MFB appliances. Based on recent MFB correspondence tendered by the applicant, there will be adequate access to the rear site from the main site.

(q) In terms of the restaurant/café/sale and consumption of liquor:

191 Subject to appropriate permit conditions about hours and patrons numbers and acoustic impacts, we are satisfied the impact on the surrounding area is acceptable and we would grant a permit to use the main site for the three premises and a permit to sell or consume liquor in the café and restaurant.

(r) VCAT was not persuaded by Objector concerns regarding the proposal being 'a gated community' or likely to be '*young transient people with a predilection towards anti-social 'party' behaviour*'. They found:

202 In conclusion, we have considered claimed social effects but we do not find any of them warrant or justify rejection of the development for the main site or requiring significant modifications to it.

23. The VCAT order then continued to outline a number of issues with the proposal. (These issues will be used to frame the assessment section of this report.)

24. The order concluded that:

WHAT CHANGES ARE NEEDED?

207. It follows that we do not support the grant of a permit for either the main site or the rear site without changes to the plans. We are unable to specify the changes by way of permit condition because we want the applicant to respond to them with further careful design rather than simple observance of prescriptive changes. Prescriptive changes cannot be confidently expressed because of the interrelated consequences of many of the changes and because further professional design input is needed.

208. We have explained in detail our concerns which when aggregated would lead us to refuse to grant of a permit. However, we find the design basis is sound and clearly capable of reconfiguration to address these concerns. We will give the applicant an opportunity to review the plans for both sites in light of our assessment of the submissions and evidence in these reasons. We do not identify our concerns in a list to be 'ticked off'. If the applicant decides to prepare amended plans, we expect all of our concerns to be thoughtfully and thoroughly addressed. For convenience, we broadly describe below the changes the applicant needs to consider.

Main site

209. We have concluded that the towers as proposed fail to moderate their prominence when viewed from Queens Parade to an acceptable degree and do not maintain the primacy of the boulevard trees or the desired prominence of the heritage façade.

210. Primarily, the towers should be set back a greater distance behind the Queens Parade façade to largely align with the discretionary setbacks in DDO16, whilst retaining their undulating curvilinear form. This may also involve further erosion of the third level at the western end of the retained heritage façade than that shown in the informal architectural plans tendered during the hearing,[53] in order to reduce its visual impact above the parapet.

211. Bay 9 of the heritage facade should be included, whilst also retaining a generous ground level entrance to the site. More detail is required about the ground floor south-facing terraces behind the façade, and the built form at the levels above them. Any walls abutting the heritage façade should be at 90 degrees to it. The floor to ceiling heights of the café, restaurant and deli and the undercroft areas should be increased to around four metres.

212. Towers 2 & 4 should be combined, subsuming the dividing terraces and creating an expanded ground level communal open space of around 20 metres between the townhouses and the combined towers. It should be stepped down to the rear by one or two levels. Towers 1 & 3 should be reduced by one level, with the topmost levels designed to be recessive from west and east respectively.

213. The level 3 communal terrace should be removed. This communal open space would be less necessary if the ground floor open space is increased.

214. Access should be provided to the rear lane off Coleman Street from both the abutting townhouses and the ground level open space. The extent and design of screening should be reviewed. Consideration should be given to lower screens with outward horizontal or angled projections. The level 1 balcony screens of townhouses facing the rear of the main site should be set back no less than three metres.

215. There should be a thorough revision of the landscape proposal.

Rear site

216. Our criticism of the townhouses centres on our finding that the dimensions of each of the living areas is inadequate. While accepting the proposed design basis, amended plans should provide for increased living areas by reducing the number of townhouses to three.

NET COMMUNITY BENEFIT

217. If we find that permissions under each of the relevant provisions of the scheme should be given, the scheme requires us to not grant a permit unless we find that the development, subject to any conditions in a permit, would be an acceptable planning outcome after integrating relevant policies and balancing conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.[54]

218. Subject to preparation of acceptable amended plans and inclusion of appropriate permit conditions, we may decide to grant a permit subject to conditions.

25. The Applicant was given an opportunity to select a date in which amended plans could be circulated as per this order. On 17 November 2017 VCAT issued a subsequent order, allowing the Applicant until 28 February 2018 to provide plans in response to the interim order. The order gave Council the following opportunity:

> 6. *By no later than **30 March 2018**, the responsible authority may file with the Tribunal and serve on the applicant a written submission in relation to the documents served in accordance with order 1. The submission may include:*
>
> *(a) an updated set of draft permit conditions for the Tribunal's consideration if the Tribunal ultimately decides to grant a permit that refers to the amended plans in permit conditions, and*
>
> *(b) a request that the responsible authority be heard in relation to its written submission and the reasons for that request.*

26. This is not an opportunity to provide a de novo response to the development and Council's response must be confined to the amendments in the amended plans [**interim order response plans**].

27. A subsequent VCAT order (dated 2 March 2018) has allowed Council to respond by **4 April 2018** due to Public Holidays end of March/start of April 2018.

Existing Conditions

28. The existing conditions of the subject site and surrounding area remain relevant as per the IDAC report dated 9 August 2017 (attached to this report).

The Proposal

PLN16/0732 – Rear townhouse development

29. The following changes have been made to the rear townhouse proposal:
    (a) reduction from 4 to 3 townhouses (dwellings);
    (b) increased north-west setbacks from:
        (i) 1m to between 1.6m-1.7m at ground level;
        (ii) 600mm to1.2m at level 1 to the edge of the balcony; and
        (iii) minor variations at level 2 (up to 200mm increases/decreases).
    (c) increased ground level entry areas along the south-east boundary;
    (d) increased south-east boundary setbacks at levels 1 and 2, reducing the northern boundary wall length from 9m to 8.2m;
    (e) removal of privacy screens from the south-east elevation, with screening to be applied to the adjacent apartments on the main site;
    (f) 1.3m high screen applied to southern edge of level 1 terrace; and
    (g) no change to overall height.

PLN16/0434 – Main site development

30. The following changes have been made to the main site proposal:
    (a) deletion of 1 level from towers 1 and 3 (tower 1 would be 9 storeys including a communal terrace and tower 3 would be 10 storeys including the roof plant (considered as a level as the lift and stair core extend to level 9);
    (b) front (south) setback changes (building line, except where noted):

	Building A (tower 1)		**Building B (tower 2)**		**Building C (tower 3)**	
	VCAT plans	**Interim order plans**	**VCAT plans**	**Interim order plans**	**VCAT plans**	**Interim order plans**
Levels 3 and 4	4.4m	11m	2.7m (terrace)	6.4m	1.9m	3.4m
Level 5	4.4m	11m	2.7m (terrace)	6.4m	1.9m	5.4m
Level 6	2.9m	11m	2.7m (terrace)	6.4m	1.9m (terrace)	5.4m
Level 7	2.9m	11m	2.7m (terrace)	6.6m	1.9m (terrace)	5.4m
Level 8	2.9m	11m	2.7m	6.6m	1.9m (terrace)	6.7m
Level 9			2.7m	6.6m		

    (c) retention of bay 9 of the heritage façade;
    (d) retention of the heritage façade front door canopy;
    (e) terraces behind the retained heritage wall have been 'squared off' (previously some screens or walls were at angles behind the openings);
    (f) towers 2 and 4 have been combined;

Original Scheme (based on final substituted plans before VCAT) – Ground level

Interim order scheme – Ground level

Original Scheme (based on final substituted plans before VCAT) – Level 3

Interim order scheme – Level 3

(g) floor to ceiling height of the café, restaurant and deli/shop have been increased to 3.7m;
(h) level 3 communal terrace has been removed and replaced with a non-accessible planter bed;
(i) level 8 of tower 1 has been deleted and replaced with a communal area (including pool);

(j) direct access has been provided from the north-east of the site to the laneway behind Coleman Street;
(k) modified overlooking screening, albeit the elevations provided do not make this clear;
(l) reconstruction of the lane between the main and rear sites in bluestone; and
(m) additional/revised landscape plans, with increased soil volumes to planter boxes, more shade tolerant planting at ground level and improved irrigation (including an irrigation management plan).

Planning controls

Zoning

*Mixed Use Zone [**MUZ**]*

31. The purpose of the MUZ includes (as relevant):
    (a) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality;*
    (b) *To provide for housing at higher densities;*
    (c) *To encourage development that responds to the existing or preferred neighbourhood character of the area; and*
    (d) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

32. Under clause 32.04-2 of the Scheme, a permit is not required to use the site for dwellings. A permit is not required to use part of the site as a shop (half of the easternmost tenancy [being 138.5m², as the floor area is less than 150m]). However, a permit is required to use part of the site as a food and drinks premises as the leasable floor area exceeds 150m² [76m² cafe and half of the easternmost tenancy, being 138.5m²].

33. A permit is required under clause 32.04-6 of the Yarra Planning Scheme [**the Scheme**] to construct two or more dwellings on a lot. Clause 32.04-13 states that for a development of five or more storeys, excluding a basement, the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment 2004) is a relevant decision guideline.

34. A permit is required under clause 32.04-8 of the Scheme to construct a building or construct or carry out works for a use in section 2 of clause 32.04-2.

Road Zone, Category 1

Queens Parade is a declared Road Zone, Category 1.

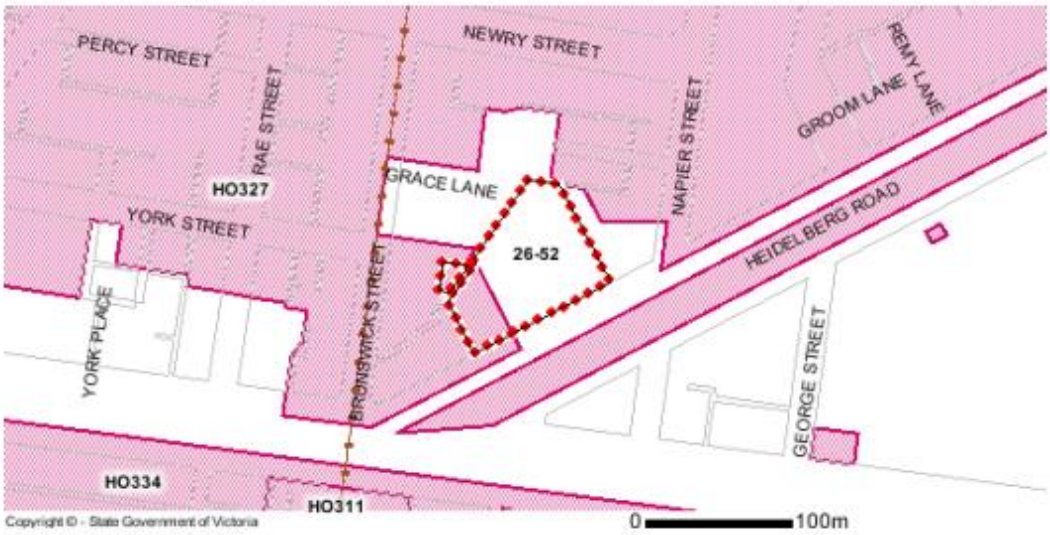
35. The purpose of this zone is:
    (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;*
    (b) *To identify significant existing roads; and*
    (c) *To identify land which has been acquired for a significant proposed road.*

36. Whilst a permit is not required for buildings or works or land use under this clause, a permit is required under clause 52.29 of the Scheme to create and alter access to a Road Zone, Category 1.

Overlays

Part Heritage Overlay (HO327)

HERITAGE OVERLAY SCHEDULE (HO327)



37. All of the rear of 26-56 Queens Parade and a portion of the site at 26-56 Queens Parade can be seen above as being affected by HO327. The overlay inaccurately reflects the location of the heritage buildings on the site with a portion of the building not included in the Heritage Overlay. This mapping error has been identified and provided to our Strategic Planning Department to correct.

38. The relevant purpose of the HO is:
    (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 conserve and enhance heritage places of natural or cultural significance.*
    (c) *To conserve and enhance those elements which contribute to the significance of heritage places.*
    (d) *To ensure that development does not adversely affect the significance of heritage places.*
    (e) *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

39. A planning permit is required to demolish or remove a building and to construct a building or construct or carry out works.

40. Decision guidelines at clause 43.01-4 of the Scheme include (as relevant):
    (a) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
    (b) *Any applicable statement of significance, heritage study and any applicable conservation policy.*
    (c) *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
    (d) *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
    (e) *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
    (f) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

Environmental Audit Overlay

41. It is noted that the EAO affects the main site, but not the rear site. However, the requirements of clause 13.03-1 for dealing with potentially contaminated land still apply and will be addressed in the assessment section of this report.

42. The purpose of this overlay is:
    (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 ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

43. Clause 45.03-1 states it is a requirement that:
    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:
    - *A 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.*

44. With dwellings proposed, this requirement will be addressed by way of a notation on any permit issued for the main site.

Design and Development Overlay – Schedule 16

45. Under clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works. A permit cannot be granted to exceed the 'mandatory control' listed within Tables 1 and 2.

46. The site is located within precinct 2A, with table 2 offering specific height and setback requirements (some mandatory and some discretionary) and table 3 outlining general design requirements.

Particular Provisions

Clause 52.06 – Car parking

47. The purpose of this provision (amongst others) is to ensure the provision of an appropriate number of car spaces are provided having regard to the activities on the land and the nature of the locality. This provision recommends car parking rates at clause 52.06-5. Under clause 52.06-3, a permit may be granted to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 (noting there is no relevant Parking Overlay). Clause 52.06-6 of the Scheme outlines a range of decision guidelines and clause 52.06-8 outlines a range of design standards. The relevant of these will be addressed in the assessment.

Clause 52.27 – Licensed Premises

48. A permit is required under this clause as a license is required under the Liquor Control Reform Act 1998.

Clause 52.29 – Land adjacent to a road zone, category 1, or a public acquisition overlay road a category 1 road

49. The relevant purpose of this provision is 'To ensure appropriate access to identified roads'. A permit is required to create or alter access to a road in a Road Zone, Category 1 (in this instance, the crossover to Queens Parade). An application must be referred to VicRoads under Section 55 of the Act.

Clause 52.34 – Bicycle facilities

50. The purpose of this Clause is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities. Clause 52.34-2 states that a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.

General Provisions

51. Clause 65 (Decision Guidelines) remains relevant.

State Planning Policy Framework (SPPF)

52. The relevant SPPF are outlined in the original officer report.

Local Planning Policy Framework (LPPF)

53. The relevant LPPF (MSS and local policies) are outlined in the original officer report.

Referrals

54. The VCAT order dated 17 November 2017 required the Permit Applicant to provide a copy of the interim order response plans to any referral authorities (being VicRoads, PTV and Melbourne Water – to the main site only – P2079/2016).

55. Council referred the interim order plans to:
    (a) Council's Engineering Services Unit;
    (b) external traffic advisor (Cardno);
    (c) Council's Urban Design Unit;
    (d) external urban design advisor (Tim Biles);
    (e) Council's ESD Advisor;
    (f) Council's Open Space Unit;
    (g) Council's Sustainable Transport Unit;
    (h) Council's Heritage Advisor; and
    (i) external daylight consultant.

Council's Engineering Services Unit

56. *The following advice was received:*

I refer to the amended plans received at this office on 1 March 2018 in relation to the proposed developments at 26-56 Queens Parade and Rear 26-56 Queens Parade, Fitzroy North. Council's Engineering Services unit provides the following information:

MAIN SITE (Off Queens Parade Service Road)

CAR PARKING PROVISION – 26-56 QUEENS PARADE
Proposed Development
According to the information provided by the applicant, the revised proposal's parking requirements are as follows:

Proposed Use	*Quantity/ Size*	*Statutory Parking Rate*	*No. of Spaces Required*	*No. of Spaces Allocated*
One-bedroom dwelling	*103*	*1 space per dwelling*	*103*	*103*
Two-bedroom dwelling	*110*	*1 space per dwelling*	*110*	*110*

Three-bedroom dwelling	*34*	*2 spaces per dwelling*	*68*	*68*
Townhouse	*16*	*As above*	*29*	*32**
Residential visitors	*263 Dwellings*	*1 space per 5 dwellings*	*52*	*9*
Food & Drink (Shop)	*201 m^2*	*4 spaces per 100 m^2 of leasable floor area*	*8*	*7*
Food & Drink (Café)	*95 m^2*	*4 spaces per 100 m^2 of leasable floor area*	*3*	
Restaurant	*200 m^2*	*0.4 spaces to each patron permitted*	*Not Known*	
		Total	*377 Spaces + Restaurant Parking*	*329 Spaces*

** Each townhouse to be allocated two spaces per dwelling.*

Five on-site spaces would be unallocated and are to be sold in the future.

To reduce the number of car parking spaces required under Clause 52.06-5 (including to reduce to zero spaces), the application for the car parking reduction must be accompanied by a Car Parking Demand Assessment.

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 Dwellings. We are satisfied that the on-site car parking provision for the dwellings is appropriate for the scale of development and its proximity to public transport nodes and connectivity to the on-road bicycle network.*
- *Parking Demand for Residential Visitors. The visitor parking rate is consistent with the previous proposal.*
- *Parking Demand for Commercial Uses. The food and drinks premises and the restaurant would be allocating all seven spaces to employees. Customer parking for the uses would be accommodated off-site.*
- *Availability of Public Transport in the Locality of the Land. The site is within walking distance of tram services operating along Brunswick Street and Queens Parade. Bus services also operate along Queens Parade, George Street and Alexandra Parade.*

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. Traffix Group had undertaken on-street parking occupancy surveys in the surrounding area on Friday 18 March 2016 and Saturday 19 March 2016 (at 1:00pm and 8:00pm on both days). The survey area encompassed Queens Parade (Jamieson St to Alexandra Pde), Alexandra Parade (Rae St to George St), Grace Lane, Coleman Street and section of Brunswick Street, Napier Street, Newry Street, George Street and Jamieson Street. The duration and extent of the surveys are considered appropriate. An inventory of up to 380 publicly available parking spaces was identified. The results of the survey indicate that a minimum of 139 vacant on-street car parking spaces was recorded at 8:00pm on the Friday. The surrounding area*

has a supply of vacant on-street car parking and should be able to accommodate any short-stay parking demand from the site.

- *Relevant Local Policy or Incorporated Document. The proposed development is considered to be in line with the objectives contained in Council's Strategic Transport Statement. The site is ideally located with regard to sustainable transport alternatives and the lack of on-site car parking would discourage private motor vehicle ownership and use.*

Adequacy of Car Parking
From a traffic engineering perspective, the waiver of parking is considered appropriate in the context of the development and the surrounding area. The short stay car parking demands could be accommodated on-street as demonstrated from the on-street parking occupancy surveys.

Engineering Services has no objection to the reduction in car parking for this site.

TRAFFIC GENERATION
The slight increase in the on-site parking provision would result in traffic volumes that would be fairly consistent with the previously contemplated proposal.

DEVELOPMENT LAYOUT DESIGN
Layout Design Assessment

Item	***Assessment***
Access Arrangements	
Development Entrance – Queens Parade Service Road	*The proposed 6.4 metre wide vehicle entrance satisfies Design standard 1 – Accessways of Clause 52.06-8. The entrance allows for two-way simultaneous traffic movements into and out of the development.*
Visibility	*A pedestrian sight triangle has not been provided for the exit lane of the access way as it immediately abuts the wall of the adjoining property. There is no objection to the installation of a convex mirror as originally suggested by Traffix Group. The installation of a pedestrian audible device at the entrance is not supported. It the responsibility of a motorist exiting private property to give way to pedestrians along the footpath before entering a Public Highway, and not vice versa. In addition, audible warning devices could be potentially annoying to occupants of nearby dwellings.*
Vehicle Crossing	*The vehicle crossing design must have a lateral clearance of 1.0 metre from power poles or any other roadside objects.*
Ramped Accessway Width	*The ramped accessway has a minimum width of 6.4 metres and satisfies the Australian/New Zealand Standard AS/NZS 2890.1:2004 section 2.5 – Design of circulation roadways and ramps.*
Internal Ramp Width	*The 6.4 metre wall-to-wall widths of the internal ramps satisfy AS/NZS 2890.1:2004.*
Car Parking Modules	
Car Parking Spaces – Ninety-Degree Parking	*The dimensions of the regular car parking spaces satisfy Design standard 2: Car parking spaces or AS/NZS*

	2890.1:2004 (where applicable).
Accessible Parking Space	*The dimensions of the dedicated accessible parking space for people with disabilities and the associated shared area satisfy the Australian/New Zealand Standard AS/NZS 2890.6:2009 Parking facilities Part 6: Off-street parking for people with disabilities.*
Aisles	*The 6.4 metre wide aisles throughout the two levels of basement parking satisfy Design standard 2.*
Column Setbacks and Depths	*Columns have been setback from the aisles by 750 mm and have depths of 1.0 metre (for 5.4 metre long bays). A check of the submitted drawings using the Trapeze plan management tool confirms that the 800 mm dimensions are errors on the drawings.*
Clearances to Walls	*Clearances of 300 mm have been provided to bays abutting walls.*
Blind Aisle Extensions	*The blind aisle extensions of 1.0 metre comply with AS/NZS 2890.1:2004.*

Item	***Assessment***
Car Parking Modules - Continued	
Headroom Clearance	*Headroom clearances have been dimensioned for both basement level car parks. A minimum headroom clearance of 2.5 metres has been provided and 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 20 and satisfies Design standard 3: Gradients.*
Ramp Grades and Changes of Grade	*The ramp grades and the changes of grade for the ramped accessway and the internal ramp satisfy Design standard 3.*
Loading Facilities	
Loading By and Waste Pickup Bay	*Not dimensioned on the drawings. A check using Trapeze indicates that the loading bay measures 4.0 metres by 8.9 metres and satisfies Clause 52.07. Dimensions should be provided before the plans are endorsed.*

ENGINEERING CONDITIONS
The engineering conditions specified in our referral comments of 23 February 2017 are still relevant and still stand.

NON-PLANNING ADVICE FOR THE APPLICANT
The non-planning advice specified in our referral comments of 23 February 2017 is still relevant and still stands.

REAR 26-56 QUEENS PARADE

CAR PARKING PROVISION
Proposed Development
According to the information provided by the applicant, the revised proposal's parking requirements are as follows:

Proposed Use	*Quantity/ Size*	*Statutory Parking Rate*	*No. of Spaces Required*	*No. of Spaces Allocated*
Three-bedroom dwelling	*3*	*2 spaces per dwelling*	*6*	*6*

The development schedule indicates that six spaces would be allocated to the rear 26-56 Queens Parade (the development plans show seven spaces in the car).

ENGINEERING CONDITIONS
Civil Works

- *Upon the completion of all building works and connections for underground utility services, the section of Right of Way in between the subject site and 26-56 Queens Parade must be fully constructed to Council's satisfaction and at the Permit Holder's cost.*
- *The Permit Holder is to make a development contribution of 50 per cent of the cost of reconstructing the bluestone Right of Way from the development to St Georges Road. Council will program the works on the Capital Works Program and pay the balance of the works.*

Public Lighting

- *Lighting for pedestrian access at the property's Cambridge Street frontage must comply with the minimum lighting level of P4 as per the Australian Standard AS/NZS 1158.3.1:2005 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements. The lighting levels of all existing public lights near the site must be measured and checked against the AS/NZS 1158.3.1:2005 to determine whether new or upgraded public lights are required. The supply and installation of any additional or upgraded lighting, poles or other fixtures shall be funded by the Permit Holder and to the satisfaction of the Responsible Authority.*
- *The developer must ensure that lighting from any existing or new lights does not spill into the windows of any new residences or any existing nearby residences. Any light shielding that may be required shall be funded by the Permit Holder.*

Construction Management Plan

- *A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.*
- *The Construction Management Plan for the site must also take the following into account:*
    - *If any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority.*
    - *Existing public lighting could only be disconnected once temporary alternative lighting scheme becomes operational.*
    - *A temporary lighting scheme must remain operational until a permanent lighting scheme is reinstated.*

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.*

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.*

NON-PLANNING ADVICE FOR THE APPLICANT
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.

External traffic advisor (Cardno)

57. The following advice was received:

Loading Bay

(a) *It is understood that access to the loading bay is required for a 6.4 metre Small Rigid Vehicle (SRV). Access to and from the loading bay located on Basement 1 should be confirmed with a swept path analysis and the location and type of gate at the access point to be reviewed.*
(b) *As per AS2890.2 Table 3.1 – the inside curve radius to exit the loading bay is less than 12 metres and hence Cardno recommends that swept path analysis is completed for ingress and egress.*

58. The above should be addressed by way of a permit condition, should a permit issue.

Headroom Clearance

(c) *The following floor to floor headroom clearances are provided, allowing for 300mm of slab, fixtures and fittings:*
    (i) *3.45m headroom clearance at Basement 1 entrance (under the assumption that the RL for the overhand is 24.9) 3.5m clearance height is required for a standard SRV to accord with AS2890.2 Table 2.1 design vehicle dimensions.*
    (ii) *Within the Traffic Evidence statement it is stated that "a minimum headroom of 3.6 metres is provided along the access ramp and 3.0 metres within the loading and waste collection bays, which appropriately allows for deliveries and waste collection by the nominated service vehicle." This indeed may be the case, however we are unable to determine this with certainty given the details provided; and*
    (iii) *2.7m clearance is provided from Basement 2 to Basement 1.*

59. A condition should ensure a minimum headroom of 3.6 metres is provided along the access ramp and 3.0 metres within the loading and waste collection bays.

Circulation

(d) *A small number of matters regarding circulation have been identified to be considered at the following locations:*
    (i) *On the south-eastern side of the building the car parks on Basement 2 could be angled slightly to provide appropriate circulation for vehicles; and*

(ii) *The loading bay at the bottom of the entrance ramp, will require a reverse manoeuvre either on entrance or exit to the loading bay and potentially conflicting with approaching vehicles. Consider the loading bay arrangements and timing of delivers/collections and consider including warning device/s for drivers in the form of lights or equivalent to improve safety in this area.*

60. Conditions should be imposed to address the above circulation matters.

Car Parking

(e) *Standard spaces have been provided in accordance with Table 2 of Design Standard 2 within Clause 52.06-8 of the Yarra Planning Scheme, being at least 2.6m wide, 4.9m long and accessed from 6.4m wide aisles;*

(i) *Spaces adjacent to walls have been provided with appropriate clearances to allow for convenient access and opening of car doors in order to comply with Planning Scheme and Australian Standard requirements;*

(ii) *Columns shown within both basement level car parks are provided in accordance with the requirements of Clause 52.06-8 of the Yarra Planning Scheme; and*

(iii) *One (1) disabled bay is provided to accompany seven (7) commercial spaces in accordance with Part D3 of the Building Code of Australia. It is noted that this space could possibly be relocated closer to the lift core to improve accessibility.*

Bicycle Parking

(i) *The accessway to bicycle spaces on the west side of Basement 1 is less than 1.5m required; and*

(ii) *Otherwise, all other bicycle parking spaces provided appear to be dimensioned in accordance with AS2890.3-2015 with a mixture of wall mounted vertical rails and horizontal rails.*

61. The bicycle access issue can be addressed by way of a permit condition, should a permit issue.

Council's Urban Design Unit

62. The following advice was received:

Publically accessible space fronting Queens Parade

(a) We support the principle of providing publically accessible space along the front of the site. However, the layout of the space and arrangement of buildings around and over it compromise the space in terms of amenity, personal safety, flexibility and solar access. In particular:

(b) A large portion of the space will be undercover, as the first and second floor level of the development are built over the space, connecting the middle tower with the NE tower. Although the ground plane would be open at either end, the head clearance would only be one storey in height (about 3.7 metres). We consider that this arrangement of buildings results in a poor outcome for the space, as it would significantly reduce access to sunlight, and would make the space feel too enclosed and uninviting. We therefore recommend that this portion of the building is removed to create a suitable break between the middle tower and the NE tower.

(c) The arrangement of raised planters and concrete benches further enclose the space and make it less flexible. It is unclear how this space will be used when the café tables/chairs are removed each day. How will it operate a night and how will it be lit? The concrete benches create an opportunity for people to sleep or hide, which would impact on personal safety, particularly for people walking along Queens Parade and residents/visitors accessing the gated entries. Reconsider the arrangement of permanent planters/seating within the space, particularly in relation to any overhanging buildings.

(d) The spacing between the planters and the walkways looks narrow; in particular the north-eastern section between the planter and the deli/shop entry. This planter could be removed or reduced in size.

(e) The arrangement of columns along the frontage (where the deli/shop is situated) creates a number of small alcoves along Queens Parade which could create potential hiding spots or litter traps. Landscaping could be provided in these spaces, and could be raised with an edge to provide space for people to sit/perch.

(f) The architectural and landscape plans should be made consistent in terms of the café area, in particular the entrance to the café and planters located around the building.

(g) Further details are needed to show that adequate space is provided around the bike parking (near the deli/shop), and that bikes would not encroach into the walkway space when parked.

Gated entries

(h) The gated entries comprise 2.4 metre high timber slatted screening (with gates), raised planters, water features, and a black steel arbour over the entry gates with climbing plants. We consider that this arrangement would create opportunities for people to climb over the timber screen/gates, and therefore needs to be reconsidered.

(i) Confirmation is needed on the depth of water in the water feature to demonstrate that it does not create a safety risk. The description notes this as water running over honed black granite panels, but the plans/sections show the entire unit as blue, so wanted to double check.

Connection through to Coleman Street laneway

(j) A new link is proposed at the northern side of the site, connecting to the Coleman Street laneway (as recommended in the VCAT order). There is a discrepancy between the architectural and landscape plans showing the link to the Coleman Street laneway. The architectural plans show this as a room with doors at either side, and the landscape plans show this as a much narrower undercover walkway with a gate at one end. We consider that the amenity and legibility of the link is poor and could be improved.

(k) The position of the link is at the very end of the L-shaped laneway. We note that the laneway is currently a dead end-laneway, fairly narrow, with an uneven surface and no lighting. Given the physical constraints and condition of the laneway, we recommend that the laneway connection is made as short as possible. This could be achieved by relocating the link about 17 metres to the east, where Townhouse 08 is positioned.

(l) The link does not appear as a legible route for people to take, is undercover (with the living spaces for Townhouses 06 and 07 located on top) and is restricted in width. We recommend that the link is more clearly defined by having a break in the buildings (at all levels). To improve the amenity of this link and to prevent the canyon affect, we recommend that the link is widened (at least 4 metres wide). This would allow for a more generous path for people to pass comfortably (of around 2 metres wide), with landscaping provided at either side of the path along the edges of the buildings.

(m) The north-south link through the site will only have limited solar access through the day. We recommend that the 12 building separation is increased to improve solar access.

Connection through to Brunswick Street laneway

(n) This connection through the site has a ramped entrance leading to the bicycle storage room. It is not clear where the entrance is to this room. This should be marked on the landscape plan, demonstrating that there is enough space around the planters to access the door.

(o) The link has a short flight of steps leading up to the gate on the Brunswick Street laneway (towards the rear site). Is it possible to ramp the path leading up to this gate, so that steps do not need to be provided? This would remove the need to have the additional V-shaped ramp alongside the steps, which is less convenient to use.

Upgrading laneways

(p) We note that the laneways leading to Coleman Street and Queens Parade are narrow, have uneven surface and no lighting. There is an opportunity for these laneways to be upgraded through this development, including but not limited to new ground level surface and lighting, to improve the amenity, accessibility and safety of these new pedestrian/cyclist connections.

63. This should be required by way of a permit condition on any permit issued.

Queens Parade footpath

(q) We note that there is an opportunity to resurface the footpath along this section of Queens Parade, particularly as a number of crossovers are proposed to be removed.

64. As Queens Parade is a Road Zone, Category 1 (VicRoads manager), this should be conditioned subject to the approval of VicRoads also.

(r) Further detail is required on the proposed edging detail between the asphalt and the paving within the site.

65. This should be required by way of a permit condition on any permit issued.

Wind assessment

(s) A wind assessment was previously done – has this been updated? It would be useful to understand the wind impacts on the open spaces within the site as a result of the development, and how comfortable these spaces are.

66. This should be required by way of a permit condition on any permit issued.

External urban design advisor (Tim Biles)

67. The following advice was received:

Findings

- *In general, the revised plans appropriately respond to the items included within the Order, though there are some elements which may require further consideration, additional details or notes to ensure they are adequately resolved.*
- *Of note, we highlight the proposed solution with regard to obscuring of floor levels behind the heritage façade. While this may be an acceptable solution, a more well considered design response may provide an enhanced outcome and should be explored.*

68. Extract of unsatisfactory and other items and relevant notes provide by Mr Biles:

- *Re: floor levels visible behind window or terrace openings on level 2: the floor needs to be obscured from the public realm*
  - *Architect should be consulted to determine if more well-considered design response is possible.*

- *Re: finish/es to heritage façade: rendered pilasters to be restored and face brickwork panel between pilaster should be stripped and exposed to reference the original presentation.*
  - *Applicant suggest it is being done, but note/s should be added to heritage façade alterations plan to reflect Tribunal notes. Note: Lovell Chen/COX have requested the option to paint brickwork if in poor condition. Seems like a reasonable approach*

- *Re: reducing potential visual impact of tower/s:*

- *our finding that tower 4 needs to be moved to the south and joined with tower 3 would make that centrally viewed built form more distant further reduce the visual impact.*
- *our finding that tower 4 needs to be moved to the south and joined with tower 3 will further reduce the width of the view cone and reduce the visual impact.*
    - *Tribunal comment doesn't make sense. Assume this meant tower 2 (as later referenced) and/or considered not necessary in light of other recommendation.*

- *Re: location of communal facilities after consolidation of towers: The amenities and yoga studio in tower 2 could be relocated to the north side of the joined tower adjoining the communal open space.*
    - *Configuration seems acceptable*

- *Re: interface to north-east: The interface treatment, as presented, is therefore acceptable but needs to be reconsidered if amended plans are prepared.*

- *Re: internal access to communal areas: there is insufficient detail to determine whether residents have access to all tower cores and, hence, have access to the elevated communal open spaces associated with towers 1 & 4.*
    - *Not clear if additional detail a requirement.*

- *Re: undercroft: There should be an increase in the height of the undercroft*
    - *COX statement makes reference to 3.7m height.*

- *Re: floor to ceiling heights: The floor to ceiling heights of the café, restaurant and deli and the undercroft areas should be increased to around four metres.*
    - *Café is somewhat restricted given its location within the existing heritage building, so perhaps some consideration to be given.*

- *Re: height of combined tower: It should be stepped down to the rear by one or two levels.*
    - *Have included landscaped terrace (presumably to screen / soften built form)*

- *Re: south elevation screens: consideration needs to be given to incorporating lower height screens at levels 1 & 2 on the south elevation.*
    - *Extent of screening reduced, but not lowered in height.*

Council's ESD Advisor

69. The following advice was received:

Stormwater Management

- *The stormwater management proposed relies heavily on the SPEL propriety owned stormwater filtration devices that have not been proven to function effectively in Victoria, in our local rainfall conditions. These products were not designed for the proposed purpose.*
- *Several requests for this information have been made by City of Yarra's drainage engineers and by myself, regarding other development applications relying on SPEL products. To date no response has been received. Unfortunately, until this information can be provided the City of Yarra cannot accept SPEL products to ensure our stormwater quality standards.*
- *I strongly recommend that the applicant chose an alternative stormwater filtration device that has proven evidence to function in our local conditions, or to provide this additional evidence from the SPEL manufacturer that their device operates effectively in Victoria, ensuring that best practice stormwater quality standards will be met.*

- *Furthermore, the 40,000 rainwater tank is connected to pool top up, rather than toilet flushing. This proposed use for the rainwater does not guarantee the use of the stored water, due to operational and seasonal variations in evaporation. This is following the guidance of Melbourne Water.*
- *I strongly recommend that the rainwater tank is connected to toilet flushing to ensure that stormwater quality objectives are met*

Ambiguous Wording

- *There is a disclaimer at the start of the WGE SMP that is not acceptable for a town planning submission and is required to be re-worded. The SMP Disclaimer states; "This is a working document and therefore may be subject to change or modification through the course of the design phase of this project. It is expected that any change or modification will not impact on the overall aim of this document. That is, to provide a strategy for the project which ensures it meets Yarra City Council's planning guidelines on environmentally sustainable design."*
- *The wording needs to state that the sustainability standards, detailed in the report will actually be implemented, rather than give a legal loophole for items to change. I recommend that the following wording, or similar is used to enable this document to become endorsed and a legally binding component of the planning permit. My suggested wording is; "This is a working document and therefore may be subject to change or modification through the course of the design phase of this project. It is expected that any change or modification will not impact on the overall sustainability performance standards detailed in this document. Technology substitution or design changes may be made to the subject to the satisfaction of the responsible authority. This document provides a strategy for the project to ensures it meets Yarra City Council's best practice standard in environmentally sustainable design."*
- *The Disclaimer Statement continues on the state: "…modelling analysis within this report are based on specific criteria outlined in the National Construction Code (NCC) and Built Environment Sustainability Scorecard (BESS), along with best practice guidelines and are not considered to be a true representation of the actual operation of the building…"*
- *This statement is completely unacceptable and I encourage the authors of the report to re-consider the role and requirements of all SMPs they submit to councils for planning approval processes. This statement above should be removed and is unnecessary. I strongly recommend that all ambiguous wordings and potential loopholes are removed from the SMP, and re-submitted for approval.*

Contradictions and Clarification

- *There are four places where the proposed NatHERS thermal energy ratings are included in the SMP written by WGE, but the references are not consistent. Page 5 states; "…the project is targeting an improvement on BCA to achieve a NatHERS 6.5 Star average rating as part of the BESS rating scorecard…"*
- *'Targeting an improvement' appears to give another loophole for the development to avoid reaching the best practice standard committed to in the SMP, and is not acceptable. This is worded like this in Appendix 1 also, and needs to be re-worded as a clear commitment that the development will reach an average of 6.5 Star NatHERS ratings for all dwelling, as a minimum.*
- *Later on the SMP states on page 7 the report states; "…Development to achieve an average NatHERS rating of 6 Stars with no individual dwelling achieving a star rating of less than 5 Stars…"*
- *This clearly sounds as though the 6.5 Star rating is not going to be implemented. All references to NatHERS need to be clarified throughout the report.*
- *I strongly recommend that all ambiguous wordings and potential loopholes are removed from the SMP, and re-submitted for approval.*

Cooling Loads

- *There are large amounts of glazing exposed to summer sun angles and unwanted levels of solar heat gain. The cooling loads submitted in the SMP include dwellings (Type F) with cooling loads higher than the BADS Energy Efficiency standards threshold of 30 MJ/m2 for Melbourne climate zone. Type F dwellings are shown to have a cooling load of 38MJ/m2 .*
- *I recommend that additional external operable shading devices are installed to all east, west and north facing glazing exposed to summer sun angles, or that the applicant demonstrate that no dwellings exceed the 30MJ/m2 cooling loads threshold, using the NatHERS thermal energy rating software.*
- *The following points follow on from previous advice given.*

Daylight

- *The standard of daylight for the development overall is acceptable. The Supplementary Witness Statement prepared by Jan Talako details the extent and limitations of the daylight performance. I support the proposed minor amendments to the apartment layout of C3017 that is detailed in the Supplementary that will improve the standard of daylight to an acceptable standard overall. I note that all dwellings have clear glazing throughout.*

Natural Ventilation

- *Natural ventilation in most dwellings is reliant on single sided ventilation access. Dwellings with inset balconies will be reasonable, but overall the standard of access to natural ventilation across the development is borderline.*
- *I recommend that ceiling fans be provided to all dwellings to encourage airflow and improve thermal comfort and ventilation. I note that all kitchens have proper extraction fans, which will assist this somewhat*

Council's Open Space Unit

70. The following advice was received:

Open Space comments

Ground Level Landscaping – TP01-04

- *The shade diagrams indicate that the ground level planted corridors will receive light for 1-2 hours during midday, and otherwise be shaded. The corridors are located along a north – south axis, though at approximately 12m width the sun access is limited.*
- *The communal lawn will receive sun light for longer periods of the day and would provide suitable community space. The pavers that bisect the lawn area have a significant impact on the usable aspect of the lawn area. Are these necessary and is there a lower impact solution?*
- *Given the scarcity of car parking in the area, and the location of a main north south cycle route directly adjacent to the development, increased bicycle parking would be beneficial for visitors to the businesses and apartments.*
- *Plant selection for the shaded and covered areas of the ground level seems suitable for the conditions.*
- *The tree selection consists of trees that will grow in a columnar shape (not spreading). This will have an impact on the feel of the place, and be unlikely to provide the 'verdant experience' recommended in the VCAT report.*

Level 3 – Private Terrace Gardens – Plan TP05

- *Details and depths of planters showing growing media, irrigation, drainage, water proofing and tree anchors should be provided.*
- *There appear to be no communal gardens on this level. This responds to the VCAT recommendation.*

- *The plant selection for the level 3 garden beds appears suitable for roof top gardens. The plants will require regular maintenance to grow successfully.*
- *Provision will need to be made for safe maintenance access to all of these planters.*

Level 8 - Terrace Roof Gardens (Intensive) – Plans TP06–07

- *Details and depths of planters showing growing media, irrigation, drainage, water proofing and tree anchors should be provided.*
- *The plant selection for the level 8 garden beds appears suitable for roof top gardens. The plants will require regular maintenance to grow successfully.*
- *'Raised metal planter with Juniperus horizontalis – This is shown as being located outside of a perimeter glass balustrade. Provision will need to be made for safe maintenance access to these planters.*

Arboriculture and Streetscape comments

- *A tree management plan showing Tree Protection Zones and methods of tree protection to be implemented for the trees in the nature strip and outer separator will need to be provided. This would need to include the protection of low tree limbs adjacent to construction vehicle access.*
- *One nature strip tree is proposed to be removed. The removal of tree no. 8 (Ulmus) is acceptable. The removal cost to be paid to Council is $8,960 (ex gst) (calculated using a standard amenity value calculator with the species, size & condition (fair) being used from the John Patrick tree report). This price includes complete tree and stump removal and reinstatement of 2 trees after development plus 2 years tree establishment maintenance. All work would be undertaken by City of Yarra contractors.*
- *The removal of the 3 existing vehicle crossovers along Queens Parade provides the opportunity for a further 3 street trees (Ulmus procera 'English Elm'). The cost to the developer of supply, installation and 2yrs maintenance for 3 trees is $2,798 (ex gst) street tree planting. Works would be undertaken by City of Yarra contractors.*
- *The modified building height and setback appears to shade the naturestrip trees from approximately 11:30am onwards and the outer separator trees from 2pm (September shade diagrams). This is an improvement on the previous design and should not significantly impact the existing street trees.*

Council's Sustainable Transport Unit

71. The following advice was received:

It doesn't look like there have been any changes to bicycle parking provision, location or layout since our previous set of comments, except for a minor change at Basement 1, near where the two lift cores have been merged into one: therefore our advice remains consistent with the advice given 27/07/2017.

I've copied and pasted this here for your convenience:

1. *The nominated number and style of residential and visitor bicycle parks is satisfactory. However, the location of the bicycle parking is too dispersed (see; Basement 1 – A21-09) with many parks not located near entries or elevators, and not within secure compounds as per the standards. Strategic Transport recommends consolidating all bike parking in no more than 3 secure compounds on Basement 1.*
2. *The location of visitor bicycle parking satisfactory. There is an area on the ground floor (A21-10); between the deli, café and restaurant; nominated as 'bicycle park' – please provide additional detail on this area.*
3. *The location of the bicycle parking is particularly poor for those residents in the rear site. Additional parking could be provided on ground level near the secure gate between the sites.*

72. Points 2 and 3 above have already been addressed in the draft conditions, however the location of bicycle parking within the basements is generally supported. Although somewhat dispersed around the basements, they are generally near the cores and are reasonably accessible.

Council's Heritage Advisor

73. The following advice was received:

Bay 9

(a) *Retention of Bay 9 is noted and is supported.*

Façade Windows

(b) *Details of the proposed alterations are shown on Drwg. A-61-29 and A-61-40.*
(c) *The openings at the first floor level will be retained but new window frames or screens will be inserted. Retention of the openings is appropriate.*
(d) *At the Ground floor level every opening will be altered. Presently the openings are a visually fragmented arrangement of doors and windows resulting from past ad hoc alterations. However there are three window openings which have not been altered. While a uniform system of fenestration is appropriate from an architectural design perspective, in this case the proposed changes will obliterate all of the evidence of original windows. Changing all the openings again to redress the past only moves further away from the original arrangement as seen in historic photographs included in previous Lovell Chen reports. This is not respectful of the original fenestration and also is an unacceptable degree of change to original historic fabric, moreover in a façade. Consistent application of the heritage policy does not envisage changes to façade fenestration unless for conservation reasons.*
(e) *Further the sill heights already lend a degree of privacy at the Ground floor level. As proposed the sills are to be lowered and semi-opaque glass inserted at the bottom to a height of 1600 mm. The three original openings (3rd, and 7th and 8th bays from the west) should not be altered. New frames can be inserted and semi-opaque glass at the bottom of all Ground floor windows is acceptable.*
(f) *At both levels the awning style windows are acceptable but the openable screen windows are not. First there is no obvious logic the position of these in front of both bedrooms and terraces (similarly for the awning type). Secondly experience has shown that original windows left without frames or with wide openable parts such as the screens in this case, typically give the appearance and impression of holes, where there should be window frames, and unfinished façade elements. All the window frames should be of the awning type.*

Internal walls

(g) *These are now perpendicular to the façade as required by the Tribunal.*

Floor and window junctions

(h) *The proposed treatment is noted and whether in performance this meets the Tribunal's requirements is yet to be seen. In principle it is acceptable.*

Canopy

(i) *Retention of the pedestrian entrance canopy is supported.*

Setbacks

(j) *These are described in the Lovell Chen report and are acceptable.*

Paint removal

(k) *This is discussed in the Lovell Chen report and I agree that there is a risk that the removal of the paint might reveal some unsightly brickwork condition in which case re-painting would seem appropriate. At this stage this is supported only as a permit condition to the satisfaction of the Responsible Authority or another mechanism which ensures that there is a proper assessment of the brickwork, including the potential for appropriate repairs as might be required, and that any new decorative scheme is appropriate in terms of colours and any picking out. At this stage I am not supportive of picking out of pilasters as suggested in the Lovell Chen report. This needs further consideration in the light of the state of the brickwork and in comparison with historical photographs. Nevertheless, looking ahead, it would be appropriate to take some paint samples from the façade before the paint is removed completely and that these samples be microscopically analysed and the evidence considered if and when a new decorative scheme is developed. This must be a permit condition to the satisfaction of the Responsible Authority or another mechanism which ensures that this is achieved.*

Visibly of the Towers in Distant Views and the Street Trees

(a) *The approach described in the Lovell Chen report seems reasonable.*

Street Wall and Boulevard Primacy

(b) The setbacks of Tower 1 of 10.99 metres and 14 metres is reasonable and is comparable to the setbacks achieved in Bridge Road, Richmond for the same purpose – primacy of the heritage façade/street wall and to make the development recessive in varying degrees. This is acceptable. It is up to the Tribunal as to whether this meets its concerns.

Bluestone Lane

(c) *Reconstruction of the bluestone lane must be a permit condition to the satisfaction of the Responsible Authority or another mechanism which ensures that this is done.*

Other Changes

(d) *In my opinion none of the other changes set out in the Statement of Design Changes do not have any measurable bearing on heritage considerations.*

External daylight consultant

74. The following advice was received:

I've firstly reviewed those updated plans and believe that (without doing the modelling myself) they look to provide the opportunity for very good natural light to almost all apartments within the development.

There are very few deep apartment living zones, and those which are quite deep are located away from the inwards facing corners of the building, they are also generally given a full corner of glazing (both outwards and onto the balcony).
All apartments in the corners (inward facing corners that is) are given very shallow rooms with large windows, this means that the design has appropriately compensated for the constrained outlook of these apartments.

All bedrooms will perform well I would think, with the only saddlebacks being located on the street with a clear outlook, all other bedrooms have very large windows and thus will perform fine.

The other aspect which is good to see is that the Ground floor only has a few apartments with inwards facing designs. Those that do are also given very shallow floor plates.

So overall I believe the design looks to provide very good daylight amenity to the apartments within. There may be a few apartments which don't meet the best practice guideline (BESS) but overall I would be very certain that all apartments would meet a minimum standard for daylight, and overall the building will be provided with over 80% of the apartments meeting the best practice standard.

This appears to be confirmed by the evidence addendum provided by Jan Talacko. Whilst I find the way the modelling results are presented slightly confusing at first glance, on further inspection I don't believe these results are presented in a way that deliberately clouds the issue or misrepresents the performance of the building and thus overall I trust that the evidence will provide the tribunal with the information that it needs to determine its position on this issue (daylight amenity).

There is one item that I would seek clarity on though as I could not identify this on the plans, and that is the colour of the glazing. My above analysis is based on this being clear glazing. If a coloured glazing were used then I think a restriction should be provided on the glazing Visual Light Transmission to make sure it is over 60% VLT. The plans just note glazing, and are silent on the colour (from my review).

Finally, the impact on the neighbour which we looked into last time for the original scheme going to the tribunal demonstrated that a significant impact would be generated onto the single aspect apartments in 58 Queens Parade facing the subject site. This appears to still be likely to be the case, but as pointed out in evidence previously, it would be almost impossible to develop the subject site without significantly impacting on those dwellings (or at least those on lower levels), thus I don't believe that this impact should be a limiting factor for the proposed development. They have provided a significant setback already, and certainly much more than what was provided by the neighbouring design at 58 Queens Parade.

So overall I'm satisfied that the internal daylight amenity of the proposed design is in line with council's policy.

Assessment

75. This assessment is framed around the key issues raised in the VCAT order, with a final discussion of any changes to without prejudice, draft conditions.

Key issues VCAT have asked the Applicant to address in their interim order:

- *Paragraph 51 of order - Part of the façade at 42 Queens Parade should be retained (albeit not within the Heritage Overlay).*

76. Bay 9 (the eastern end of the heritage façade) has now been retained, as shown on drawings A-21-10, A30-01 and A-61-29.

- *Paragraph 58 of order – Additional detail of façade alterations are required (including the interaction and visibility of the floors or levels behind).*

77. Plans A-61-29, A-61-30, A-61-31, A-61-32 and A-61-40 have been provided to show:

(a) where level 2 would interest with a window opening, opaque glazing would be used and the internal floor would be setback 400mm behind the front wall to minimise the impact on the façade. A condition should require the level 2 walls behind the windows to be a light colour, so as to not be dominant when read from the street; and
(b) a mixture of bi-fold and awning windows within the podium to Queens Parade.

78. While this is understood from an internal amenity perspective, Council's Heritage Advisor noted that the ground floor openings to bays 3, 7 and 8 should not be modified (although new fenestration to match existing may be installed if required). The Advisor also raised issue with the scattered approach to bi-fold windows along the heritage podium. There does not appear to be any rationale or pattern to this and in any event, the bi-fold windows are at odds to the character of the facade. Officers also have issue with the use of awning style windows at the ground floor as they could be a pedestrian safety risk when opened. To address these points, a condition should require modified glazing treatments to the ground and first floor levels of the heritage façade. Fenestration must be generally as per existing, however sliding glass may be installed behind (not projecting outside title boundaries and still appearing 'framed' when opened).

79. The external urban design advice received by Council continued to raise issue with the proposed treatment for obscuring floors behind the heritage façade. In conjunction with modifications to the glazing (outlined above), it is suggested a condition be imposed to require a design response that further reduces the visibility of the level 2 floor behind the heritage façade.

- *In relation to the walls behind openings in the retained heritage façade: 59 ….Walls should be at right-angles to the façade.*

80. This has been achieved in drawing numbers A-21-10, A-21-11 and A-21-12.

- *Paragraph 60 of order - The central pedestrian canopy to Queens Parade should be retained.*

81. This is shown as being retained on the proposed south elevation, level 1 plan and the heritage façade plans.

- *Paragraphs 61- of order – The tower setback from the south-west corner of the heritage facade should be increased (both ensuring the heritage façade remains prominent and to adequately transition with the properties to the west).*

82. Level 2 of the south-west corner apartment has been modified, with a 4.4m deep terrace behind the heritage façade, to ensure that the heritage façade remains prominent, also serving to provide a transition in height with the 2 storey dwellings further west. This also ensures the retained heritage building is read as a 3-dimensional form and not just a façade.

- *Paragraph 64 of order – The paint to the pilasters should be stripped and left as exposed brick.*

83. The plans have not done this. Instead, the Applicant provided a letter from Lovell Chen which stated (as relevant):

Evidence of the quality of the brickwork, on which basis repainting the façade is argued, is not established and the preference is for the rendered pilaster and face brickwork to be returned in order to reference the original presentation

84. The Applicant indicated that the removal of paint from the façade is generally supported from a heritage perspective, however there is concern as to what condition the brick and render underneath is in. Council's Heritage Advisor generally agrees, however subject to further provision of a decorative scheme to the satisfaction of the Responsible Authority after paint samples are obtained to ascertain the original conditions and condition of the bricks under.

- *Paragraphs 73-77 of order (part of 77 here) – 'Tower 4 needs to be moved south and joined with tower 3 to minimise views from the north'. Paragraph 116 continues to then recommend that 'Tower 4 should be moved further south to join with tower 2 to minimise the impact on the single and double storey dwellings in Coleman St and Grace Lane to the north'.*

VCAT plans

Interim order plans

85. The interim order plans have joined the rear and front/central towers, being towers 2 and 4 to address the above long-range view and side and rear setback/amenity issues raised by VCAT. The result in an increased northern setback of 6.4m (measured at the minimum north-east boundary setback at level 4). As opposed to joining towers 3 and 4, this ensures there would be a reasonable break or separation between building segments, while increasing the northern setback to minimise bulk. The daylight impacts of this are considered further in this assessment.

86. The VCAT order then discussed the curved form of the towers and their setback from Queens Parade. While the curved design was generally supported, the 1-3 towers need to be setback further from Queens Parade:

104 Mr Hutson's opinion is that the prominence of the heritage street wall and new street wall and the impact on the Queens Parade streetscape is nevertheless ultimately harmed by the scale, massing and setbacks of towers 1, 2 & 3. We agree. We prefer his opinion to the contrary opinion of Mr Poole. Mr Poole's opinion was based in part on balancing incursions against setbacks exceeding the minimum discretionary setbacks across the whole of the main site. That form of balancing is not supported by DDO16 provisions as a whole, particularly when the encouragement of gaps between higher built form necessarily means exceeding setbacks across parts of the site.

105 The impact of tower 1 is emphasised by the larger incursions at higher levels at the northeastern end of the tower's façade. These incursions and those in towers 2 & 3 detract from the prominence of the heritage street wall when viewed from further to the northeast along Queens Parade.

106 We therefore find towers 1, 2 & 3 should be setback further from the street wall so that there is general compliance with the mid-level discretionary setback requirement. The incursion at the higher levels for towers 1 & 2 should be minor, around 1.5 metres to two metres. to accommodate a twisted floor plate form. The incursion at the mid-levels and higher levels of tower 3 could be greater towards the corner where the tower adjoins the five-storey form of 58 Queens Parade.

87. This continued into a discussion of Boulevard primacy:

    109 However, if amended plans are prepared showing increased street setbacks, the objective could be met because the relatively narrow width of the towers means that the towers would not appear to exceed the height of the trees from those viewpoints and would remain to the side of the viewshed.

88. The interim order plans have included a dark dotted red line showing the DDO16 setback requirements and a light red line to show the outline of the previous scheme (VCAT plans).

89. The 'towers' emerge at level 3 as shown on drawing number A-21-13 of the interim order response plans. The built form projects into the front setback areas, however this is limited to terraces and a 1.6m deep projection at the eastern end of tower 3. The terrace projections are supported as they do not contribute to unreasonable visual bulk when viewed from the street (1m high glass balustrades) and the building footprint incursion of tower 3 is adjacent to the 5 storey form of the apartment building to the east.

90. A similar incursion occurs at tower 3 on level 4, however the tower 1 and 2 terrace incursions are deleted at this floor. Again, the level 4, 1.6m deep incursion into the discretionary DDO16 front setback is supported as it is adjacent to the 5 storey apartment building to the east and provides an appropriate built form response.

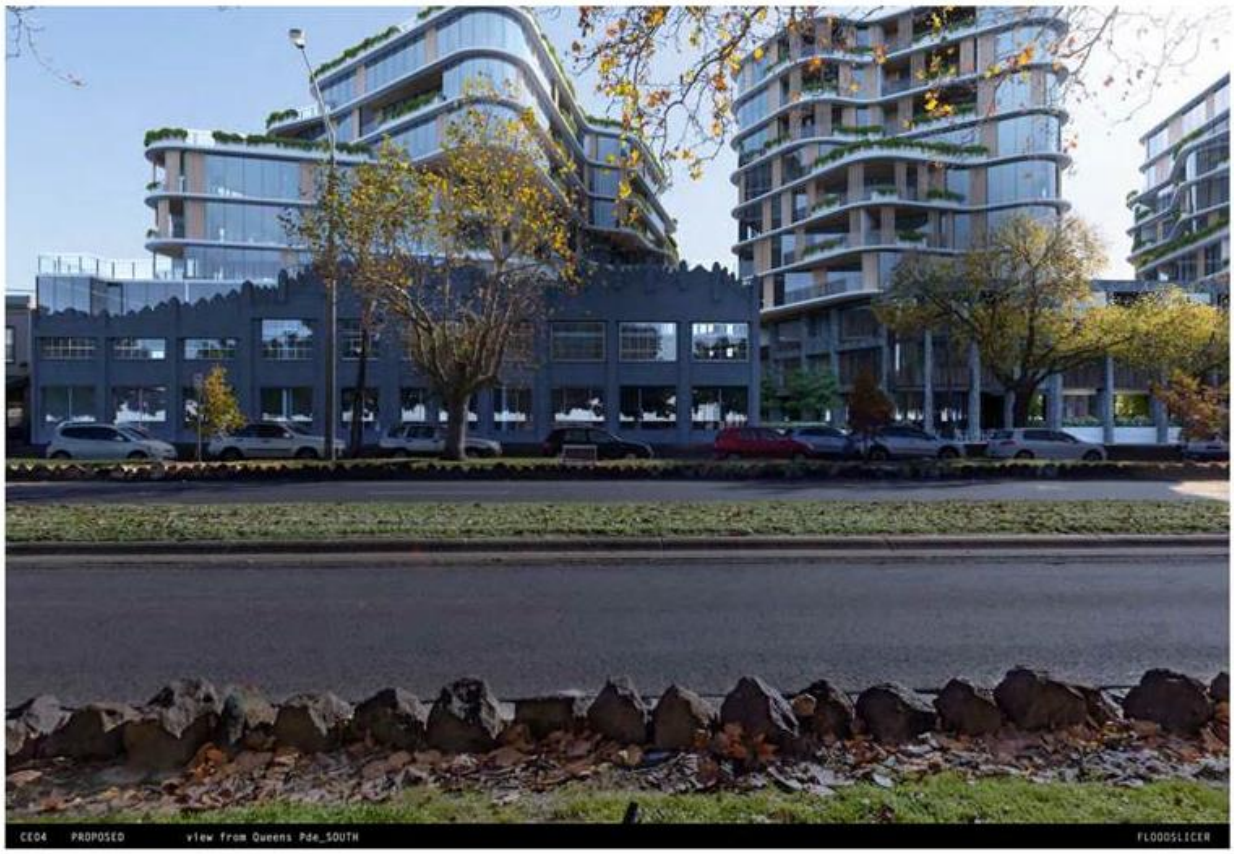
91. At level 5, the discretionary DDO16 front setback requirements increase, and there are minor incursions for towers 1 and 2 (up to 1.6m) and 2.7m at the eastern end of tower 3. Again however, as this segment of built form is adjacent to a 5 storey apartment building, this incursion is supported as still providing a transition with adjacent building stock.

92. At levels 6 and 7 there is no incursion within the discretionary front setback requirement of tower 1 and the tower 2 incursion is limited to 1.3m. The tower 3 incursion remains at 2.7m. At level 8, the tower 2 incursion is reduced to 1.4m and the tower 3 incursion is reduced to 1.3m. A level has been deleted from tower 3 at level 9 and at this point, the tower 2 incursion is limited to 1.4m.

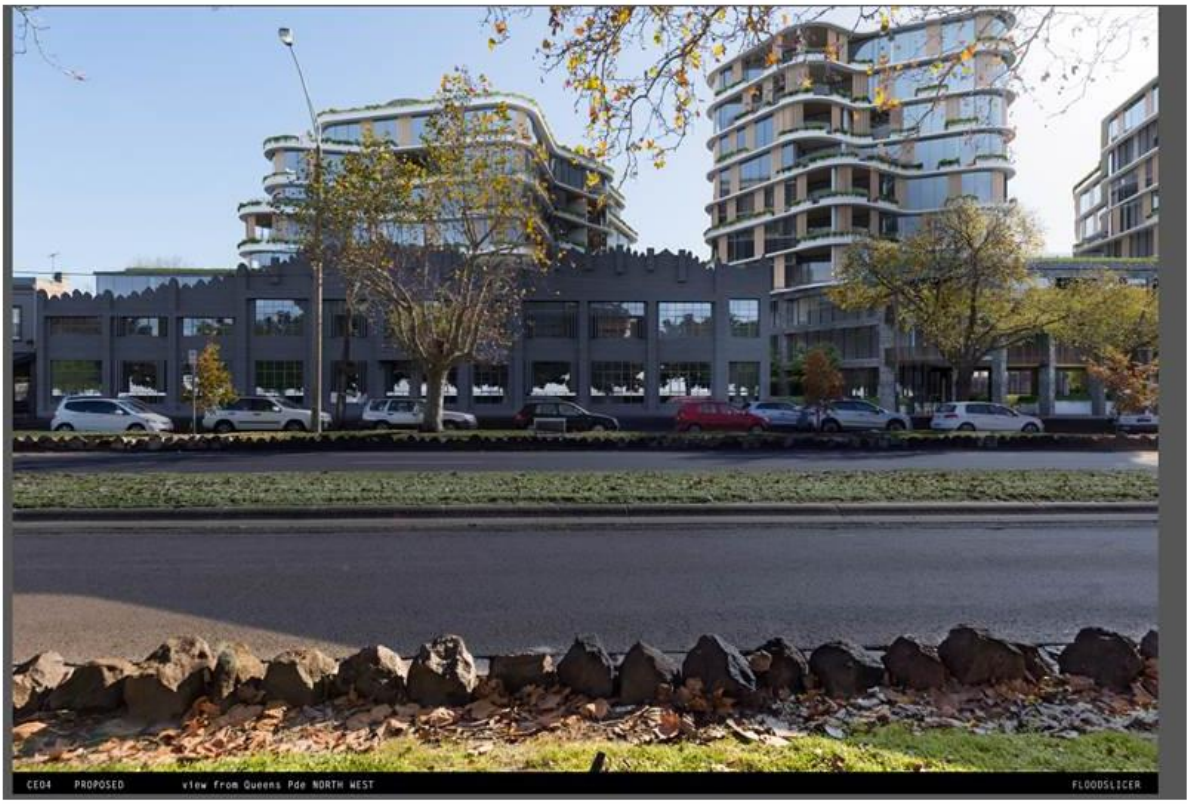
93. It is noted that the front setbacks of towers 1-3 were previously approximately 2.9m (tower 1), 2.7m (tower 2) and 1.9m (tower 3). The interim order response plans have reduced the incursions generally in line with the VCAT Order (except for tower 3, which is supported for the reasons already outlined) and has increased these front setbacks to approximately 11m (tower 1), 6.4m (tower 2) and 3.4m (tower 3). The impact is as follows:

VCAT substituted plans

Interim order response plans



VCAT substituted plans



Interim order response plans

94. Officers are of the view that the issues raised in the VCAT order with the front setbacks have been addressed in the interim order response plans and that the proposal would now not unreasonably dominate the retained heritage building and the Queens Parade/Boulevard streetscape in general.

- *Western interface – side and rear setbacks – Paragraph 115 of VCAT order:*

115 At the western interface, there are some material incursions at levels 4 & 5 and some significant incursions at levels 6, 7 & 8, and both are generally confined to the front half of the land at 24 Queens Parade. This prevents tower 1 achieving an appropriate transition in scale from the two-storey dwelling and two-storey and single-storey dwellings further to the west. An appropriate transition is not a stepped form as that form is expressly discouraged under DDO16. We consider an appropriate transition could be achieved if the tower is set back further from Queens Parade (with the result that the whole of tower 1 moves to the north), is reduced in height by one level. The resulting incursion at level 7 is reduced as a consequence.

95. Tower 1 has been setback further from Queens Parade (outlined previously) and has deleted the communal open space and relocated this to the roof at level 8 (increasing separation to the lower built form adjoining Queens Parade). The modified form is outlined below (previous scheme shown in red) and demonstrates that a more appropriate transition is provided with the dwellings to the west (without being a 'stepped form' as discouraged within the DDO16).

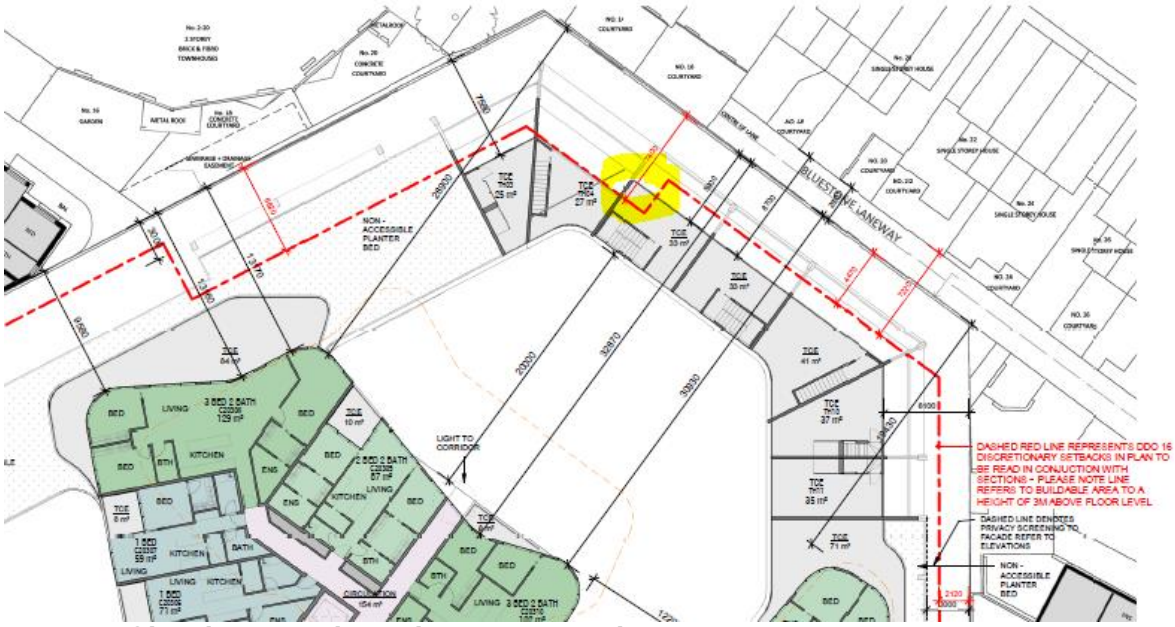
Extract of interim order plans

- *Northern interface – side and rear setbacks – Paragraph 116 of VCAT order:*

116 At the northern interface, there are very minor incursions at levels 2 & 5 and a one-level exceedance to the discretionary eight level maximum building height. Given the proximity of tower 4 to the single-storey and double-storey dwellings in Grace Lane and Coleman Street and the support for moderating mid range views from the north, there is merit in moving tower 4 south to join with tower 2.

96. While the ground floor is generally the same at the north and north-east interface, level 1 has been partially setback a further 1.3m (deletion of terraces at this floor, due to townhouse configuration and terraces generally at level 3).

Level 2 maintains the same envelope and at level 3, an additional 1.6m deep by 2m wide terrace area has been included and would be introduced adjacent to the 16-18 Coleman St POS area and should be deleted as it is a larger envelope at this location than the VCAT plans. This segment also encroaches within the DDO16 side and rear setback requirement at this point:



Extract of level 3 – Interim order response plans

97. While the 'podium' or 'townhouse' levels are generally similar except where otherwise noted above, the tower behind has been setback a further 6.4m from the north-east boundary to a setback of 28.3m (previously 21.9m), also reducing the length of this tower adjacent to the northern boundary and dwellings along Grace Lane. This is supported and these changes are considered to meet the intent of the VCAT interim order.

98. However, in addition to the level 3 townhouse terrace encroachment outlined above, the merged towers 2 and 4 would now extend approximately 4m closer to the northern boundary, adjacent to 496-500 Brunswick Street.

Extract of level 7 – Interim order response plans

99. Where this area was previously setback approximately 13.5m, the interim order response plans show bedrooms and living areas within 9.5m of this boundary. This is contrary to paragraph 131 of the order, which anticipated that the merging of towers 2 and 4 would *increase* the setback of the towers from this boundary. In addition, from a procedural sense, as not all of the owners or occupiers of this building appear to be party to this appeal, the additional floor area adjacent to this boundary should be deleted by way of a permit condition, should a permit issue.

100. It is noted that while the VCAT Order found the DDO16 discretionary side and rear setback encroachments acceptable from the eastern interface, the Applicant has elected to setback some of the curved incursions at levels 2-7, including a deeper light court at level 2, a minimum 4.4m setback at the southern end of levels 3-5 (previously 3.1m) and approximately 1.6m-1.7m at the southern end of levels 6 and 7.

101. The VCAT order then progresses to the rear site. The order stated that the Members were generally confortable with the development being a lowrise infill, and although 'site coverge is very high' it is '*…not unreasonable because it is largely surrounded by lanes and because nearby development (other than the main site) is predominantly single-storey and two-storey fine-grained dwellings on sites about five metres in width which have high site coverages*'.

102. While Council's position of refusal raised issue with the scale and bulk of the proposal, even calling urban design evidence (Mr Andrew Hutson), VCAT were not persuaded that the scale and bulk of the townhouses was unacceptable.

103. However, the VCAT order outlined the following issues:
    (a) the living areas are too small for dwellings of that size;
    (b) the entries need to provide a sense of address and safety within the laneway;
    (c) the rear courtyards should be deeper to at least allow people to sit in them (only 1m wide);
    (d) the full height privacy screens at levels 1 and 2 on the east elevation are unnecessary where screens are provided on the adjacent dwellings (within 9m) on the main site;

(e) lower screens should be provided on levels 1 and 2 at the south elevation to improve passive surveillance of the laneway;
(f) larger windows should be provided in the east facing walls at level 1 of townhouses 1 and 2.

104. These issues have all been addressed in the interim order response plans in the following ways:
(a) the number of dwellings has been reduced from 4 to 3 and the living areas on level 1 have been increased in size;
(b) the ground floor entries have been made larger to provide additional safety and a sense of address;
(c) the rear courtyards (ground level) have been increased from a depth of 1m to 1.6m;
(d) the eastern privacy screens have been deleted. It does not appear that screening to the main site terraces adjacent to the townhouses have then been screened or treated in response, however this could be addressed by way of a permit condition, should a permit issue;
(e) there is no southern terrace at level 2, however the south elevation now shows a lower screen to the south of the level 1 terrace. This however, remains unclear on the floor plans and should be confirmed as a 1m high screen on the floor and elevations (no height is dimensioned on the elevations); and
(f) where horizontal windows were provided at the eastern edge of townhouses 1 and 2 at level 1, these windows have been replaced with floor to ceiling glazing to improve the integration and perceived passive surveillance with the lane.

105. A condition should also be imposed on any permit issued for the rear site to ensure all window and door openings are shown on elevations.

106. The VCAT order then returned to the main site to deal with external amenity. Loss of outlook was generally found to be acceptable as per paragraphs 131 and 132 of the VCAT order. It was specifically noted in paragraph 131 that '*The scheme does not protect outlooks or views, beyond built form outcomes under DDO16 to minimise visual bulk*'.

- *Paragraph 135 of VCAT order: 135 We find this space will create unreasonable amenity impacts that cannot be satisfactorily managed by owners corporation rules. The communal open space should be removed. If the built form beneath the communal open space areas is reconfigured for townhouses, the equivalent space at level 3 could be set aside for private rooftop open space.*

107. The level 3 communal area adjacent to 496-500 Brunswick Street has been replaced by part private terraces and a non-accessible planter bed.

108. In terms of lack of articulation and the overlooking treatments, commentary was provided in paragraphs 139-140 in the VCAT order about providing varied screening approaches '*The edge should be relieved by including greater variety to the presentation by including, for example, lower screens with horizontal or angled projections to maintain restriction on downwards views, or other treatments which introduce variety in height and materials*'. This is not clearly translated in the interim order plans and should be addressed by way of a permit condition, should a permit issue.

109. Commentary was provided at paragraph 141 about requiring detailed acoustic information about a car park exhaust fan adjacent to 24 Queens Parade. This could also be addressed by way of a permit condition, should a permit issue.

110. Paragraph 142 addressed air conditioner units on balconies. The elevation plans provided do not clearly label materials and a schedule has not been provided (confirming if the balcony glazing is clear). However, these matters can also be addressed by way of a permit condition, should a permit issue.

111. Paragraph 143 of the VCAT order continued into internal amenity. The Tribunal found that daylight was generally acceptable, but that any revised proposal must consider the impact on internal amenity/daylight (particularly considering the merging of towers 2 and 4).

112. Council had the interim order response plans reviewed by Council's ESD Advisor and an external daylight expert (Lindsay Richardson).

113. The external daylight expert was generally complementary of the modified design, noting '*So overall I believe the design looks to provide very good daylight amenity to the apartments within. There may be a few apartments which don't meet the best practice guideline (BESS) but overall I would be very certain that all apartments would meet a minimum standard for daylight, and overall the building will be provided with over 80% of the apartments meeting the best practice standard*'. However, it was requested that a condition be imposed to require details of the proposed glazing and if coloured, it must have a Visual Light Transmission of at least 60%.

114. Council's ESD advisor also considered the glazing and reviewed the evidence provided by the Applicant at the hearing. The assumptions made by the applicant were for glazing with a VLT of at least 75%. Council's ESD Advisor therefore suggests that glazing should be at least 70%, which been combined with the requirement in paragraphs 115(d) and (e) below, would result in a reasonable level of energy efficiency and internal amenity.

115. Council's ESD Advisor raised a number of concerns with the proposal, which should be addressed by way of permit conditions:
    (a) a different stormwater management treatment, demonstrating compliance with clause 22.17 of the Scheme;
    (b) the 40,000L rainwater tank used for toilet flushing instead of pool top-ups (due to seasonal demands for pool top-up requirements);
    (c) clear, unambiguous wording with the SMP, including clear commitments and the deletion of disclaimers and statements such as '*This is a working document and therefore may be subject to change or modification through the course of the design phase of this project. It is expected that any change or modification will not impact on the overall sustainability performance standards detailed in this document. Technology substitution or design changes may be made to the subject to the satisfaction of the responsible authority. This document provides a strategy for the project to ensures it meets Yarra City Council's best practice standard in environmentally sustainable design*' and '*…modelling analysis within this report are based on specific criteria outlined in the National Construction Code (NCC) and Built Environment Sustainability Scorecard (BESS), along with best practice guidelines and are not considered to be a true representation of the actual operation of the building…*';
    (d) a commitment to achieve a minimum NatHERS 6.5 star average rating (not 'targeted to achieve;);
    (e) demonstration that no dwellings exceed the 30MJ/m2 cooling loads threshold, using the NatHERS thermal energy rating software; and
    (f) as natural ventilation is 'borderline' due to a number of single sided apartments, a condition should require ceiling fans be provided to all dwellings.

116. Paragraphs 151-156 dealt with site permeability, with the VCAT order suggesting that a pedestrian link be provided through to the rear lane extending to Coleman Street to the north. This has been provided in the interim order response plans (plan A-21-10). However, Council's Urban Design Unit noted this space is problematic for the following reasons, which should be dealt with by way of permit conditions:
    (a) the link should be open (clear to the sky) to encourage use and a sense of safety;
    (b) the link should be repositioned further east (see TH8) to minimise the length of foot traffic along the lane as it is bluestone and not illuminated (a condition should require the lane to be illuminated also); and
    (c) the architectural and landscape plans must correlate in relation to this link (the width of the link does not currently match).

117. While Council's Urban Design Unit raised issue with the limited solar access to this link, this is not considered to be problematic as the space is limited in length and if clear to the sky, would provide a reasonable level of perceived safety.

118. Commentary was provided at paragraph 157 of the VCAT order on the ground level communal open space:
    157 We do not consider the ground level communal open space is sufficiently well designed. It lacks a large enough space with sufficient solar exposure where residents may congregate. Our earlier findings about the need to move tower 4 to the south creates an opportunity for such an area in the northern part of the main site between the townhouses and the relocated tower 4 that is to be joined with tower 2. It needs to be about 20 metres wide along a north-south alignment.

119. The merging of the towers has resulted in 2 approximately 11m wide north-south orientated POS areas and the northern segment is approximately 20m deep. Reviewing the shadow diagrams provided by the Applicant, the revised massing would result in the level 9, tower 1 POS area offering adequate direct sunlight for residents throughout the day, and the 20m deep parcel within the north-east corner of the site would be afforded reasonable direct sunlight between 9am and 3pm. In addition, the two north-south axis corridors would receive reasonable levels of direct sunlight between midday and 2pm. This is considered to be an improvement to the original proposal and would offer a number of direct sunlight opportunities for residents throughout the day. Council's Open Space Unit also support this assessment and this aspect of the interim order response plans.

120. Should a permit issue, as suggested in the urban design advice received by Council, it should be confirmed that all residents will have access to the tower 1, level 8 communal area, ensuring residents have reasonable access to open space areas with reasonable daylight levels throughout the day.

121. Concern was also raised in the VCAT order regarding room design, with the curved forms creating some triangular shaped bedrooms (paragraph 158). It is difficult to scale the plans at 1:200. The main issue with this is with bedrooms, as it needs to at least fit a bed into each room (generally living areas are larger and couches do come in different configurations to offer greater flexibility). While the layouts appear slightly better, a condition should ensure that the bedrooms have a minimum rectangular/square dimension of 3m by 3m, to be absorbed within the building envelope.

122. The VCAT order then dealt with traffic and parking, noting at paragraph 170 '*Waivers or reductions for residents and residential visitors are not uncommon for larger developments in inner suburban environments such as Fitzroy North*'. The Tribunal accepted the Applicant's evidence with regard to both traffic and car parking, finding the arrangement and impacts to be acceptable in this location. No further changes were requested to the plans in this regard.

123. Continuing to landscaping, the interim VCAT order raised issue with the implementation and maintenance of the proposed landscaping, along with soil volumes within planters and irrigation.

124. The interim order plans and landscape plans provided by Jack Merlo were reviewed by Council's Open Space Unit, which provided the following advice:
    (a) delete the stepped pavers that intersect the communal lawn area (they impact the usable space);
    (b) plant selection appears appropriate;
    (c) ground level tree selection should not just be limited to species that grown in a columnar shape ('…*unlikely to provide the 'verdant experience' recommended in the VCAT report*');
    (d) details of depths of planters showing growing media, irrigation, drainage, water proofing and tree anchors should be provided;

(e) a safe maintenance program is required for all planters/green roofs;
(f) a tree management plan showing TPZs for trees in the nature strip and outer separator need to be provided;
(g) *one nature strip tree is proposed to be removed. The removal of tree no. 8 (Ulmus) is acceptable. The removal cost to be paid to Council is $8,960 (ex gst) (calculated using a standard amenity value calculator with the species, size & condition (fair) being used from the John Patrick tree report). This price includes complete tree and stump removal and reinstatement of 2 trees after development plus 2 years tree establishment maintenance. All work would be undertaken by City of Yarra contractors;*
(h) *the removal of the 3 existing vehicle crossovers along Queens Parade provides the opportunity for a further 3 street trees (Ulmus procera 'English Elm'). The cost to the developer of supply, installation and 2yrs maintenance for 3 trees is $2,798 (ex gst) street tree planting. Works would be undertaken by City of Yarra contractors;* and
(i) *the modified building height and setback appears to shade the naturestrip trees from approximately 11:30am onwards and the outer separator trees from 2pm (September shade diagrams). This is an improvement on the previous design and should not significantly impact the existing street trees.*

125. Where recommendations have been made above, they should be imposed by way of permit conditions, should a permit issue.

126. Paragraph 206 of the interim VCAT order required the Applicant to increase the height of the under croft areas. The interim order response plans have increased this by increasing the ground level – first floor height by 250mm to account for services. Council's Urban Design Unit raised concern with the publically accessible spaces within the front setback due to the shade and underside clearance (3.7m), however the plans meet the VCAT interim order requirement in relation to the height of this space.

127. Officers also do not share the Urban Design Unit concerns in relation to safety. While a condition could ensure these areas are adequately illuminated, the planters/seats are a maximum 750mm high and could create unsafe enclaves. A condition should require details as to how this area would be secured or clearer sight lines provided through this space when the restaurant is closed.

128. It is also agreed that the 1m clearance between the external planter and the deli/shop entrance is too narrow and this planter should be deleted by way of a permit condition. A condition should also require planters and/or bench seats in between the columns south of the deli/shop to ensure these do not become unsafe enclaves.

129. Council's Urban Design Unit requested the landscape and architectural plans (in relation to the area around the café) match. However, the layout of the café does match on both plans.

130. The bicycle parking layout west of the shop/deli does not match between the architectural and landscape plans and a condition should address this, along with demonstrating that any parked bicycles would not obscure the adjacent footpath.

131. A condition should also be imposed to ensure that the gated entries are secure (planters and the black steel arbour over the entry gates could allow people to climb over).

132. While Council's Urban Design Unit requested details of the raised water feature to ensure they are safe, this would be dealt with by the relevant building surveyor, should a planning permit issue.

133. Council's Urban Design Unit also noted that there is no door shown to the ground level bicycle storage room at the base of core 1. This can also be addressed by way of a condition.

134. A condition should also require (where possible) the deletion of the stairs to the external pedestrian link in the north-west corner of the site (achieved by ramping the path linking to this area within the site).

Changes to without prejudice, draft conditions

135. In addition to the proposed additional/modified without prejudice, draft conditions recommended above, the following should also be addressed:
    (a) title boundary dimensions must match the certificate of titles;
    (b) the café must be shown as a 'food and drinks premises (café);
    (c) the north-west corner of Tower 2 must not be any closer to the north-west title boundary than the VCAT substituted plans;
    (d) the new street wall must not exceed 10m (unclear from the plans and this is a mandatory requirement of the DDO16);
    (e) a condition should be imposed within the construction management plan to protect the trees along Queens Parade;
    (f) any part of a building above a non heritage street wall height should use materials at the upper levels of the building that are recessive in finish and colour (DDO16 requirement);
    (g) a number of heritage and landscaping conditions are now addressed in these plans and can be deleted;
    (h) the original Council draft conditions referred to side and rear setbacks (B17) and the east boundary setbacks as per the DDO16. However, the VCAT order did not raise a particular issue with these setbacks and these conditions should therefore be deleted;
    (i) it has since come to the attention of officer's that the rear site is not within the EAO. The panel report that considered the re-zoning rationalised this as a dwelling use was not proposed at that time (albeit the amendment would allow residential uses). Therefore, should a permit issue, a condition should require preliminary testing to establish if a full environmental audit is required. This is as per clause 13.03-1 of the Scheme.

Conclusion

136. The interim order response plans address the issues raised in the interim VCAT order, subject to a number of conditions outlined in this assessment.

RECOMMENDATION

It is recommended that the following without prejudice draft permit conditions and this IDAC report be filed with the Tribunal and served on the Applicant in response to the interim order response plans. It is not recommended that Council request for an opportunity to be heard by VCAT in relation to its written submission.

Conditions (changes compared to original draft, without prejudice conditions are in bold):

PLN16/0732 – Rear townhouse development

VCAT REFERENCE NO.	P147/2017
APPLICANT	Gurner 26-56 Queens Parade Pty Ltd
RESPONSIBLE AUTHORITY	Yarra City Council

Draft Permit Preamble

- Construct four, 3-storey dwellings (no permit required for dwelling use) under 32.04-6;
- Partially demolish or remove a building under clause 43.01-1;
- Construct a building or construct or carry out works under clause 43.01-1;

- Construct a building or construct or carry out works under clause 43.02-2;
- Reduce the car parking requirements under clause 52.06-2; and
- Provide all the car parking spaces on another site (being 26-56 Queens Parade, North Fitzroy),

in accordance with the endorsed plans and subject to the following conditions.

Draft Conditions

1 Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the **interim order response plans (received by Council 28 February 2018)** but modified to show:

(a) **title boundary dimensions as per the certificate of title;**
(b) a maximum overall building height of 9m;
(c) the level 2, northern boundary wall to be setback at least 1.3m where it does not abut a boundary wall to the north;
(d) fences/gates adjacent to the dwelling entrances a maximum height of 1.5m and minimum transparency of 50%;
(e) the location of letter boxes and street numbering;
(f) lighting to dwelling entrances;
(g) external, operable, vertical screens to the north and west facing windows;
(h) details of the screens between courtyards/terraces and to habitable room windows, confirming:
    (i) a minimum height of 1.7m;
    (ii) a maximum permeability of 25%; and
    (iii) that they are fixed.
(i) an additional window to the ground floor, eastern elevation of dwelling 1;
(j) a minimum 6m^3 store for each dwelling;
(k) a schedule of colours and materials, including samples (where relevant);
(l) bicycle parking as per clause 52.34 of the Yarra Planning Scheme;
(m) bicycle parking must meet the design requirements at clause 52.34-4 of the Yarra Planning Scheme;
(n) items as per the Sustainable Design Assessment, where relevant to show on the plans;
(o) introduce additional Ground Floor windows facing the south-east lane and lower the entry gates to improve passive surveillance to Townhouses 1 and 2;
(p) distinguish by either a setback or different material treatment the third level of units 1 - 3 from the lower levels;
(q) **a 1m high balustrade to the level 1, southern terrace; and**
(r) **windows and doors to be shown on the elevations.**

2 The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3 Before the construction of the development authorised by this permit commences, an assessment of the land to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The assessment must be prepared by an environmental professional with suitable qualifications to the satisfaction of the Responsible Authority and must include:

(a) a description of previous land uses and activities on the land;
(b) an assessment of the level, nature and distribution of any contamination within, or in close proximity to, the land;
(c) details of any provisions, recommendations and requirements (including but not limited to, clean up, construction, ongoing maintenance or monitoring) required to effectively address and manage any contamination within the land; and

(d) recommendations as to whether the land is suitable for the use for which the land is proposed to be developed and whether an Environmental Auditor should be appointed under section 53S of the *Environment Protection Act* 1970 (EP Act) to undertake an Environmental Audit in accordance with the provisions of the EP Act.

4 If the assessment required by condition 3 does not result in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, all provisions, recommendations and requirements of the assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

5 If the assessment required by condition 3 results in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, before the construction of the development authorised by this permit commences, the Environmental Auditor appointed under section 53S of the EP Act must undertake an Environmental Audit in accordance with the provisions of the EP Act and issue:

(a) a Certificate of Environmental Audit for the land in accordance with section 53Y of the EP Act (Certificate); or

(b) a Statement of Environmental Audit for the land in accordance with section 53Z of the EP Act (Statement),

(c) and the Certificate or Statement must be provided to the Responsible Authority.

6 If, pursuant to condition 5, a Statement is issued:

(a) the development authorised by this permit must not be undertaken unless the Statement clearly states that the land is suitable for the sensitive use for which the land is being developed;

(b) the development authorised by this permit must not be undertaken until compliance is achieved with the terms and conditions that the Statement states must be complied with before the development commences (pre-commencement conditions);

(c) before the construction of the development authorised by this permit commences, a letter prepared by the Environmental Auditor appointed under section 53S of the EP Act which states that the pre-commencement conditions have been complied with must be submitted to the responsible authority.

(d) if any term or condition of the Statement requires any ongoing maintenance or monitoring, the owner of the land (or another person in anticipation of becoming the owner of the land) must enter into an agreement with the Responsible Authority pursuant to section 173 of the *Planning and Environment Act* 1987 (Agreement). The Agreement must:

(i) provide for the undertaking of the ongoing maintenance and monitoring as required by the Statement; and

(ii) be executed before the sensitive use for which the land is being developed commences; and

(e) the owner of the land, or other person in anticipation of becoming the owner, must pay all costs and expenses (including legal expenses) of, and incidental to, the Agreement (including those incurred by the Responsible Authority).

7 Before the development authorised under this permit starts, the following must be provided to the satisfaction of the Responsible Authority on the adjoining site at 26-56 Queens Parade, Fitzroy North as shown in Planning Permit No. PLN16/0434 and plans endorsed under Permit No. PLN16/0434:

(a) 7 car parking spaces constructed and made available for use by the occupiers of the dwellings;

(b) 4 bicycle parking spaces ~~is~~ constructed and made available for use by the occupiers of the dwellings;

(c) 4 stores constructed and made available for use by the occupiers of the dwellings;

(d) the waste storage area is constructed and made available for use by the occupiers of the 4 dwellings; and
(e) the pedestrian link from Queens Parade to the development authorised by this permit is constructed.

8 Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.

9 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.

10 Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

11 Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by WGE and dated 9 September 2016, but modified to reflect the decision plans.

12 The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

13 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 laneways adjoining the site (extending from Brunswick Street and the entrances of the dwellings). When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
(a) a lighting scheme designed for the laneways and within the curtilage of the property that complies with uniformity requirements as per standard AS1158.3.1;
(b) the control of light spillage into the windows of existing and proposed residences to comply with the requirements of AS 4282 – 1997," Control of the obtrusive effects of outdoor lighting";
(c) the locations of any new light poles so as not to obstruct access into private garages/off and on street parking places;
(d) lighting to all primary pedestrian access points to a residential property to satisfy at least level P4 as per AS 1158.3.1;
(e) a maintenance regime for the lighting scheme within the curtilage of the property; and
(f) the use of energy efficient luminaries and/or solar lighting technologies to reduce carbon emission if possible.

14 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.

15 Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
(a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;

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

16 The provisions, recommendations and requirements of the endorsed Construction 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, demolition or construction works must not be carried out:
(a) Monday to 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 9 am or after 3 pm; or
(c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

18 Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

19 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.

20 Prior to the commencement of the development, the developer must prepare and submit detailed design drawings of all road infrastructure works and drainage works associated with this development (outlined in **condition 21**) for assessment and endorsement to the satisfaction of the Responsible Authority.

21 Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, the following works must be carried out to the satisfaction of the Responsible Authority:
   (a) reconstruction of the segment of the laneway to the east of the site in pitched bluestone. The cost of these works must be borne by the Permit Holder; and
   (b) reconstruction of the segment of laneway linking the southern end of the site to Brunswick Street, as per existing conditions. Half (50%) of the cost of these works must be borne by the Permit Holder (with the remaining half to be borne by the Responsible Authority.

22 This permit will expire if:
   (a) the development is not commenced within two years of the date of this permit; or
   (b) the development is not completed within four years of the date of this permit. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

PLN16/0434 – Main site development

VCAT REFERENCE NO.	P147/2017
APPLICANT	Gurner 26-56 Queens Parade Pty Ltd
RESPONSIBLE AUTHORITY	Yarra City Council

Draft Permit Preamble

- Construct a 10 storey building, plus 2 basement levels under 32.04-6;
- Use of part of the land for the sale and consumption of liquor (on-premises) under clause 52.27;
- Partially demolish or remove a building under clause 43.01-1;
- Construct a building or construct or carry out works under clause 43.01-1;
- Construct a building or construct or carry out works under clause 43.02-2;
- Reduce the car parking requirements under clause 52.06-2;
- Reduce the loading bay requirements under clause 52.07; and
- Altering access to a Road Zone Category 1 under clause 52.29,

in accordance with the endorsed plans and subject to the following conditions.

Draft Conditions

1 Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the **interim order response plans (received by Council 28 February 2018)**, prepared by Cox Architecture but modified to show:
   (c) demolition plans and elevations;
   (d) survey information included on all elevations to confirm that the following
      (i) overall building height does not exceed 31m; and
      (ii) the new façade height to Queens Parade (podium element) does not exceed 10m.
   (e) details of the vehicular entrance door, fire booster cupboards and services;
   (f) setbacks to all boundaries meeting the Discretionary Controls of Table 2 – Precinct 2A to Design and Development Overlay 16;
   (g) **no change to the bay 3, 7 and 8 ground floor openings within the heritage façade (fenestration may be replaced to match existing however);**
   (h) **retention of existing framing patterns to the ground and first floor heritage façade. Where required to be open (for windows or terraces/balconies) glazing may be designed to slide behind the framing;**
   (i) **deletion of the level 3 terrace area of dwelling TH06 projecting further north-west than the VCAT substituted plans (dated July 2017);**

(j) **the north-west corner of tower 2 projecting no closer to the north-west boundary than the VCAT substituted plans (dated July 2017);**
(k) **the location of air conditioner units on balconies (where applicable), along with balustrade details to confirm they will be reasonably screened (i.e. not clear glass);**
(l) **the pedestrian link to the laneway behind Coleman Street moved further east (generally to TH8), with the link being open and clear to the sky;**
(m) **architectural and landscape plans to correlate;**
(n) **bedrooms must have a minimum dimension of 3m by 3m, to be absorbed within the building envelope;**
(o) **details of how the seating area south of the restaurant will be illuminated and secured when the restaurant is not open (no unsafe enclaves);**
(p) **deletion of the planter south of the deli/shop entrance;**
(q) **details of the bicycle park west of the deli/shop, confirming the path would not be unreasonably impeded when in use;**
(r) **details of the gated entries (including canopies and planters surrounding), demonstrating they will be secure;**
(s) **a door to the bicycle storage area at the ground floor of building 1;**
(t) **where possible, deletion of stairs to the pedestrian link to the rear site (achieved by ramping the link to the south-east of the gate, where possible);**
(u) **title boundary dimensions as per the certificate of titles;**
(v) **the café as a 'food and drinks premises (café)';**

Screening

(w) screening to habitable room windows, balcony or terrace to address internal and external overlooking within a 9m radius and 45 degree arc of an adjacent habitable room windows or private open space area to the satisfaction of the Responsible Authority **(including the proposed townhouses at rear of 26-56 Queens Parade)**. Screens must be designed and/or of a material to minimise views and still permit reasonable daylight to enter the treated dwellings **and must also provide a variety of heights and treatments to create visual interest**.
(x) treatments to the ground level windows and private open space areas to provide privacy from the communal open space areas;

Materials

(y) a schedule of external colours and materials, including samples (where appropriate). The schedule must show:
    (i) the upper level planter boxes in a light to mid-grey finish;
    (ii) a darker finish to the level 1-2 balcony balustrades of the non-heritage façade;
    (iii) the 'timber' as a durable material;
    (iv) **the level 2 walls behind the windows to the retained heritage façade in a light colour;**
    (v) reconstruction of the eastern return wall to the heritage façade in face brick to match the façade;
    (vi) the heritage façade as a face brick finish (paint removal with no re-painting);
    (vii) details of the plant level screens, to be integrated with the overall design of the building;
    (viii) Exterior glazing to the building to be clear;
    (ix) Variation of materials to each tower to ensure a sense of depth and variation is provided;
    (x) **confirm glazing details (a VLT of at least 70%);**
    (xi) **the 'towers' above the non-heritage street wall must be recessive in finish and colour;**
(z) coloured elevations and perspectives;

Heritage

(aa) retention of the existing ground floor south facade windows. Where balconies are proposed behind, glazing may be removed, however framing must be retained or replaced to match existing;
(bb) detailed drawing showing lowered floor level of level 2 and bulk head as it presents through the deglazed frame of retained window openings in the heritage building;
(cc) **a design response that further reduces the visibility of the level 2 floor behind the heritage façade;**

Internal Amenity

(dd) provision of full height glazing to the following dwellings:
Ground floor
(i) C1GF09
(ii) C4GF04 (rear bedroom), C4GF05, C4GF06,
(iii) C3GF01, C3GF02, C3GF06 (rear bedroom)
(iv) Lower level bedrooms of TH11, TH12, TH13, TH14,
First Floor
(v) C40105, C40106,
(vi) C30101, C30102, C30103, C30104, C30105
Second Floor
(vii) Rear bedrooms to TH11, TH12, TH13, TH14
(viii) C30201, C30202, C30203, C30204, C30205
(ee) dwelling layout changes as per appendix 5 of the internal daylight evidence prepared by Arc Resources, dated 21 August 2017;
(ff) a convex mirror adjacent to the vehicular exit (no alarm systems);
(gg) a lighting plan addressing entries and public spaces within the development;
(hh) all bedrooms to demonstrate layout is practical and viable;
(ii) **sections detailing the edging detail between the footpath and the front setbacks to the site;**
(jj) **a notation confirming all residents will have access to the tower 1, level 8 communal area;**

Landscaping

(kk) a modified landscape plan generally in accordance with the landscape plan prepared by Jack Merlo design and landscape and **dated 31.01.18** but modified to show:
(i) the use of a Crepe Myrtle along apartment terraces;
(ii) larger soil volumes for planters, demonstrating the capability to achieve intended canopy volumes, as per the following:
a rate of 0.8 cubic metres of "soil" per square metre of canopy where single trees are proposed; and
0.6 metres where multiple trees are planted, allowing therefore for the cultivation of ground-covers beneath tree planting;
(iii) planters carrying shrubs must be no less than 600mm deep;
(iv) Crepe Myrtle on the private terraces on level 3 planted in masonry planters with planter depths increased from 500mm to 800mm;
(v) for a tree with a 3m canopy spread where shrubs and ground-covers are also proposed in the planter the provision of a planter with minimum soil volume of 5.5 cubic metres or 4.5 cubic metres for the tree alone. Where larger trees are proposed; a tree with a 4m canopy would require 10 and 7.5 cubic metres of soil in similar situations;
(vi) level 9 planters increased in volume (minimum depth of 600mm) and constructed of masonry;
(vii) any details required by **condition 39** Irrigation Management Plan;
(viii) any specified growing medium in planters must have a high sand component (rather than an organic mix);
(ix) any planters external to terrace screens must include safety devices and must be maintained by the Owners Corporation;
(x) **deletion of the planter in front of the deli/shop entrance;**

(xi) type, location, quantity, pot size, height at maturity and botanical names of all proposed plants. Species within the landscape buffer must be shade tolerant and must provide clear visual links with the pedestrian link (low level shrubs/plants);
(xii) **cross sections showing the depth of planter boxes and planting, including growing media, irrigation, drainage, water proofing and tree anchors;**
(xiii) location of all areas to be covered by lawn, paving or other surface materials;
(xiv) specification of works to be undertaken prior to planting;
(xv) watering and maintenance;
(xvi) garden bed dimensions;
(xvii) areas of paving and proposed materials;
(xviii) location of proposed tree planting – distances from buildings and other infrastructure, planting proposed over the basement levels or under the overhanging built form;
(xix) clear definition of terraced spaces, retaining walls, seating elements and other structures independent of paving treatments;
(xx) water sensitive urban design [WSUD] features; and
(xxi) removal of street tree 8 (Ulmus). A notation must confirm that the Permit Holder will pay the Responsible Authority $8,960 to undertake these works, including the reinstatement of 2 trees after development plus 2 years tree establishment maintenance by City of Yarra contractors;
(xxii) a detailed section of the green roofs, confirming/detailing:
    (i) vegetation layer;
    (ii) growing substrate and depth (plants should not be supplied as 100mm pots, but grown in the media to be used on the green roof);
    (iii) load bearing weights for saturated bulk density have been supported by suitably qualified engineers);
    (iv) irrigation;
    (v) filter sheet;
    (vi) drainage layer (specify the Elmich product, or similar);
    (vii) protection mat;
    (viii) root barrier; and
    (ix) waterproofing.
(xxiii) **deletion of the stepped pavers that intersect the communal lawn area;**
(xxiv) **ground level tree selection should not just be limited to species that grown in a columnar shape;**
(xxv) **a safe maintenance program for all planters/green roofs;**
(xxvi) **a tree management plan showing TPZs for trees in the nature strip and outer separator;**
(xxvii) **a further 3 street trees (Ulmus procera 'English Elm') where the existing crossovers are to be removed. A notation must confirm that the Permit Holder will pay the Responsible Authority $2,798 to undertake these works, including the reinstatement of 2 trees after development plus 2 years tree establishment maintenance by City of Yarra contractors;**

Use

(ll) a red line plan showing the sale and consumption of liquor limited to the internal area of the westernmost food and drinks premises (café);
(mm) the 'café' and 'restaurant' shown as a 'food and drinks premise (café)';
(nn) the shop (deli) with a maximum leasable floor area of 150m²;
(oo) the food and drinks premises (cafes) with a maximum leasable floor area of 150m² in total;
(pp) title boundaries as per the certificate of title;
(qq) toilets for the commercial tenancies;

Access, car park and bikes

(rr) **installation of a convex mirror to service vehicles exiting the driveway (no audible devices are to be installed);**

(ss) 1 in 20 scale cross sectional drawings of the developments vehicular entrances, showing the actual reduced levels (not interpolated levels from the application drawings) of the road profile, the lip of the channel, the invert of the channel, the top of kerb and the existing building line. The existing road profiles of the Queens Parade service lane (from the kerb line to the centre line of the road) and the access ways inside the property must be accurately drawn. The cross section must demonstrate that vehicles can traverse the new vehicle crossing and ramp without scraping or bottoming out, using a B99 design vehicle;
(tt) bicycle signage as per clause 52.34-5 of the Yarra Planning Scheme;
(uu) details of bicycle storage/parking systems, demonstrating they can provide space for a bicycle of minimum dimensions of 1.7m in length, 1.2m in height and 0.7m in width at the handlebars **or as per AS2890.3-2015;**
(vv) **access way to bicycle parking spaces a minimum width of 1.5m;**
(ww) details of the visitor 'bicycle park' at the ground floor;
(xx) at least 25% of the provided bicycle parking must be accessible at ground level (i.e. not hanging systems);
(yy) bicycle parking for the rear site townhouses positioned adjacent to the pedestrian gate in the north-west corner of the site;
(zz) ramp width dimensions (from kerb to kerb);
(aaa) minimum headroom clearances throughout the basement dimensioned;
(bbb) a minimum 1m clearance from the vehicle entry/exit to the adjacent power pole. The east edge of the crossover must be perpendicular to the Queens Parade service road;
(ccc) car park columns setback 750mm from the aisles;
(ddd) loading bay dimensioned on the drawings, including minimum overhead clearance. The plan must also include a note confirming details of the vehicles permitted to use this space, along with swept path diagrams **provided for ingress and egress**;
(eee) the headroom clearance of the vehicular doorway **a minimum headroom of 3.6m provided along the access ramp and 3m within the loading and waste collection bays**;
(fff) visitor intercoms to the pedestrian and vehicular entries to the development;
(ggg) a note confirming the design and construction of the new vehicle crossing must satisfy Council's Infrastructure Road Materials Policy, Council's Standard Drawings and engineering requirements;
(hhh) all redundant vehicle crossings must be demolished and reinstated to Council's satisfaction and at the Permit Holder's expense;
(iii) **dimensions of the loading bay and waste pick up bay;**
(jjj) changes (as necessary) as per the endorsed Acoustic Report, Structural report, Wind Report, SMP, Shared zone management plan and Waste management plan;

Reports
(kkk) any changes as a result of the Structural report pursuant to condition 22;
(lll) any changes as a result of the Wind Assessment report pursuant to condition 27;
(mmm) any changes as a result of the Acoustic report pursuant to condition 29;
(nnn) any changes as a result of the Sustainable Management Plan report pursuant to condition 33;
(ooo) any changes as a result of the Waste Management Plan report pursuant to condition 35.

Melbourne Water
(ppp) any Melbourne Water Changes.

General

2 The development and uses as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3 As part of the ongoing consultant team, Cox Architecture or an architectural firm(s) to the satisfaction of the Responsible Authority must be engaged to:

(iii) oversee design and construction of the development; and
(iv) 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.

4 Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

5 Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority.

6 All screening and other measures to prevent overlooking as shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.

7 Before the buildings are 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.

8 All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

9 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.

10 Before the buildings are occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

11 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the basement car park, pedestrian walkway, laneway and dwelling entrances must be provided. Lighting must be:

(v) located;
(vi) directed;
(vii) shielded; and
(viii) of limited intensity,

all to the satisfaction of the Responsible Authority.

12 The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).

13 The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

Heritage facade

14 Before the development commences, a decorative facade scheme to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the decorative façade scheme will be endorsed and will then form part of this permit. The scheme must include a methodology of paint sampling and sections of paint removal.

15 Before the paint is removed (except for as approved in the decorative façade scheme), the final proposed decorative façade scheme must be submitted to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. This will be subject to the findings of the report endorsed under condition 14. When approved, the decorative façade scheme will be endorsed and will then form part of this permit.

General Use Conditions

16 The amenity of the area must not be detrimentally affected by the development and uses 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.

Use of the land for the sale and consumption of liquor

17 No more than 50 patrons are permitted in the westernmost food and drinks premises (café) at any one time.

18 The sale and consumption of liquor in association with the westernmost food and drinks premises (café) may only occur between the hours of 12 noon to 5pm, any day.

19 Before the use of the land for the sale and consumption of liquor commences, a Noise and Amenity Action Plan **[NAAP]** to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the NAAP will be endorsed and will then form part of this permit. The NAAP must include details as per clause 22.09-4.3 of the Yarra Planning Scheme.

20 The sale and consumption of liquor uses must be managed in accordance with the endorsed NAAP.

21 The sale and consumption of liquor as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies a permit is not required) without the prior written consent of the Responsible Authority.

22 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.

23 Emptying of bottles and cans into bins may only occur between 7am and 5pm on any day.

Structural report requirement

24 Before the demolition commences, a structural report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the structural report will be endorsed and will form part of this permit. The structural report must be prepared by a suitably qualified structural engineer and demonstrate the means by which the retained portions of the buildings on-site will be supported during demolition and construction works to ensure their retention.

25 The provisions, recommendations and requirements of the endorsed structural report must be implemented and complied with to the satisfaction of the Responsible Authority.

Public Art Management Plan

26 Within 6 months of commencement of the development, a Public Art Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Public Art Management Plan will be endorsed and will then form part of this permit. The Public Art Management Plan must include, but not be limited to:

(a) details of the commissioned artist(s);
(b) description of art work, including:
    (i) materials;
    (ii) colours;
    (iii) dimensions;
    (iv) content;
    (v) special features (e.g. lighting);
    (vi) details of the installation process; and
    (vii) details of art work maintenance schedule.

27 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art must be completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.

Section 173 Agreement

28 Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 providing for the following:
(a) the ongoing provision of 7 car parking spaces, 4 bicycle parking spaces, 4 stores and a bin area for the rear of 26-56 Queens Parade, Fitzroy North (Lot 1 on Title Plan 806921X) on this site;
(b) the ongoing pedestrian access and egress through the site for the owners and visitors to rear of 26-56 Queens Parade, Fitzroy North (Lot 1 on Title Plan 806921X).

The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of preparing, reviewing, registering and recording the agreement, including the Responsible Authority's costs and expenses (including legal expenses) incidental to preparing, reviewing, registering, recording and enforcing the agreement.

Wind Assessment report

29 Before the plans are endorsed, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by Windtech and dated 30 June 2016, but modified to:
(a) reflect the decision plans; and
(b) demonstrate acceptable wind levels will result from the development (on and off the site); and
(c) identify which balustrades could be reduced to 1m or 1.7m (dependent on overlooking requirements) and continue to achieve the relevant wind criteria.

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

Acoustic report

31 Before the plans are endorsed, 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 Wood and Grieve Engineers, dated 29 June 2016 and include an assessment of how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade, No. N-1), the State Environment Protection Policy (Control of Music Noise from Public Premises No. N-2) and relevant Australian Standards will be met. The report must:

(a) address the decision plans and any relevant condition 1 requirements;

(b) amended the location and time of road traffic noise measurements as follows:
   (i) noise levels during the afternoon peak hour and the loudest hour of the 'night' period (typically 6 am to 7 am for sites such as this one); and
   (ii) a daytime measurement to assist in the assessment of the daytime average noise level to apartments unless an alternative approach to determining the daytime average is adopted;

(c) the adoption of target indoor noise levels with regard to road traffic as follows:

	Period	**Average Level[2]**	**Loudest Hour[3]**	**Instantaneous Lmax level**
Habitable rooms, including bedrooms	7 am to 10 pm	40 dBA Leq,15h	45 dBA Leq, 1h	
Bedrooms	10 pm to 7 am	35 dBA Leq, 9h	40 dBA Leq, 1h	50-55 dBA Lmax

[2] - The 'average level' is equal to the mid-point between the AS/NZS2107 recommended 'satisfactory' and 'maximum' levels and is equal to the levels allowed in the 2011 NSW Road Noise Policy (Appendix C10) and the WA State Planning Policy (5.4).

[3] - The 'loudest' hour targets are equal to the AS/NZS2107 recommended 'maximum' levels.

(d) 3D modelling must demonstrate how the above targets will be achieved (including any necessary façade upgrades);

(e) target internal noise levels with regard to the impact of voice noise from the communal outdoor areas:
   (i) noise from voice to apartments within the development be designed to achieve not greater than 30 dBA Leq in bedrooms and 35 dBA Leq in living rooms;
   (ii) noise from voice to existing dwellings be assessed to a 'background+10 dB' target during the day/evening period and 'background + 5 dB' at night;
   (iii) a restriction be provided on use of the Level 3 and 4 outdoor areas after 10 pm unless it can be demonstrated that 'background + 5 dB' targets can be met at the existing dwellings;

(f) maximum music noise levels in the food and drinks premises (cafés) and shop, ensuring compliance with SEPP N-2, along with a commitment to install a music noise monitor to ensure that these levels are not exceeded;

(g) an assessment voice noise from patrons within the food and drinks premises (cafés) and shop to the proposed dwellings. Indoor design targets of no greater than 30 dBA Leq must be achieved with windows closed;
   (ii) the impact of airborne noise from within the food and drinks premises (cafés) and shop, with any necessary building upgrades to minimise impacts; and
   (iii) an assessment of the following on the existing (off-site) and proposed dwellings (on-site):
   (i) communal areas (including the theatre, pool are, lounges gym and roof terraces);
   (ii) the driveway along the eastern boundary;
   (iii) the vehicular entry door;
   (iv) lift cores; and
   (v) mechanical plant and equipment (including air conditioner units);
   (vi) the car park exhaust fan.

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

33 Before the development is occupied, an updated acoustic report prepared by a suitably qualified acoustic consultant to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The report must demonstrate the required level of noise attenuation has been achieved. The report must also:
(a) confirm compliance with relevant conditions of the permit; and
(b) provide measurement data taken from inside the dwellings of the development demonstrating compliance with 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 relevant requirement.

34 The recommendations and any works contained in the approved acoustic report must be implemented and completed and where there are recommendations of an ongoing nature must be maintained all to the satisfaction of the Responsible Authority.

Sustainable Management Plan

35 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 Wood and Grieve Engineers dated 17/08/2017, but modified to show/reflect/demonstrate:
(a) the incorporation of any combination of the following:
    (i) extraction fans to all kitchen range hoods and bathrooms;
    (ii) ceiling fans;
    (iii) trickle vents;
    (iv) energy efficient mechanically assisted natural ventilation with flow rates 50% in excess of AS 1668 levels.
(b) **confirm glazing details (a VLT of at least 70%);**
(c) **a different stormwater management treatment (not the SPEL treatment proposed), demonstrating compliance with clause 22.17 of the Yarra Planning Scheme;**
(d) **the 40,000L (minimum) rainwater tank used for toilet flushing;**
(e) **clear, unambiguous wording, with clear commitments and no disclaimers;**
(f) **a commitment to achieve a minimum NatHERS 6.5 star average rating (not 'targeted to achieve); and**
(g) **demonstration that no dwellings exceed the 30MJ/m2 cooling loads threshold, using the NatHERS thermal energy rating software.**

36 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

37 Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by RB Waste Consulting Service and dated 20 November 2015, but modified to include/reflect:
(a) the decision plans;
(b) details on how bin store will operate/be managed by operator;
(c) details on education, tenants information, bin room set up, etc to ensure appropriate management of the waste and recycling;

(d) detail plan of bin store showing path of access, hard waste area, etc.;
(e) details/justification on ensuring recycling collected is compacted to ensure industry standard and not compromise recovery of recyclables;
(f) details on path of access from the street to the bin collection point;
(g) details on how the chutes operate to ensure appropriate use by tenants;
(h) details on how the development will be managed by the operator; and
(i) show how the WMP will work in practice for residents, operator and waste contractors.

38 The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscaping

39 Before the plans are endorsed an Irrigation Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Irrigation Management Plan will be endorsed and will form part of this permit. The Irrigation Management Plan must make recommendations for:
(a) differential demands of the vegetation within the site complying with the provisions, recommendations and requirements of the endorsed Landscape Plan; and
(b) programmed maintenance for the irrigation system including flushing, checking systems integrity, monitoring sensors and calibration settings.

40 Before the building is occupied, or such later date as is approved by the Responsible Authority, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

41 The landscaping shown on the endorsed plans 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,
all to the satisfaction of the Responsible Authority.

42 Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for:
(a) the protection of the nature strip trees adjacent to the site along the Queens Parade frontage:
    (i) pre-construction;
    (ii) during construction; and
    (iii) post construction
(b) the provision of any barriers;
(c) any pruning necessary; and
(d) watering and maintenance regimes,
to the satisfaction of the Responsible Authority.

43 The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

44 Before the development starts, the permit holder must provide a security bond to the Responsible Authority to secure the 8 street trees adjacent to the site along Queens Parade ("bonded works"). The security bond would cover the amenity value of each tree as follows and:
(a) is to be $166,231.00;

(b) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority; and
(c) may be held by the Responsible Authority until the construction works are completed to the satisfaction of the Responsible Authority.

Once the construction works are completed to the satisfaction of the Responsible Authority, the Responsible Authority will inspect the trees and provided they are found to be in good condition, the security bond will be refunded to the permit holder.

45. Prior to the occupation of the building, or by such later date as approved in writing by the Responsible Authority, any damaged street trees must be replaced:
(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.

Car parking

45 Before the development commences, a Car Park Management Plan prepared 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 then form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
(a) the allocation of 7 car parking spaces to the rear of 26-56 Queens Parade, Fitzroy North (planning permit PLN16/0732);
(b) the allocation of 7 car parking spaces for the commercial tenancies, including the number and location of car parking spaces allocated to each commercial tenancy;
(c) management details for residential loading/unloading when moving;
(d) the management of the 9 visitor car parking spaces and security arrangements for occupants of the development, including details on how residential visitors are to access car parking;
(e) details of way-finding, cleaning and security of end of trip bicycle facilities;
(f) any policing arrangements and formal agreements;
(g) 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;
(h) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 35;
(i) details regarding the management of loading and unloading of goods and materials; and
(j) confirmation delivery vehicles onto the site will be restricted to no higher than 3.5m; and
(k) **details of the loading bay use, including hours and potentially using a lighting system to improve the safety of this area.**

46 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.

47 Before the building is occupied, 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,
all to the satisfaction of the Responsible Authority.

Traffic, roads and footpaths

48 All redundant vehicle crossings along the property's road frontages must be demolished and reinstated with paving, kerb and channel to Council's satisfaction and the developer's cost.

49 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.

50 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.

Design Detail

51 Within three months of commencement of the development, Detailed Engineering Documentation to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Detailed Engineering Documentation will be endorsed and will then form part of this permit. The Detailed Engineering Documentation must be drawn to scale with dimensions, and three copies must be provided. The Detailed Engineering Documentation must show the following:

(a) the reconstruction of the laneway, adjacent to the northern boundary of the site, in pitched bluestone;
(b) subject to the approval of VicRoads the reconstruction of the footpath outside the Queens Parade frontage of the site, once all building works and underground utility services have been completed/installed. All pedestrian access must be constructed to a level no steeper than 1 in 40 from the building line;
(c) subject to approval from Melbourne Water, VicRoads and the Responsible Authority, improvements to the Queens Parade and Napier Street intersection also to the satisfaction of Melbourne Water, as follows:
    (i) close the service lane on the north west corner;
    (ii) increased walkability through the installation of splitter islands and kerb extensions;
    (iii) increased cycle safety through decreed crossing distances; and
    (iv) Opportunities for better/greener public spaces;
(d) re-sheeting of the Queens Parade service road as per existing details and materials. The road pavement of Queens Parade service road must be profiled and re-sheeted to the satisfaction of Council after the building works and the provision of underground utility services have been completed;
(e) the nature strips directly outside the property's Queens Parade service road frontage must be cultivated, top dressed and be provided with instant turf;
(f) the kerb and channel outside the development's Queens Parade service road frontage must be constructed in bluestone; and
(g) all redundant property drains must be removed.

52 Unless with the prior written consent of the Responsible Authority, all development referenced in condition 48 must be completed to the satisfaction of the Responsible Authority prior to occupation of any buildings.

53 The details and requirements of the endorsed Detailed Engineering Documentation must be implemented and complied with to the satisfaction of the Responsible Authority, at the expense of the Permit Holder.

54 Before the development commences, the permit holder must make a one off contribution of $8,960 to the Responsible Authority to be used for new street tree plantings that are required as a result of the development (reinstatement of 2 trees after development plus 2 years tree establishment maintenance). All work will be undertaken by City of Yarra contractors.

Green Travel Plan

55 Before the occupation of the development, 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 residential lobby;
   (c) employee / resident 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.

56 The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction

57 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 street tree management plan (including TPZs);
   (b) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
   (c) works necessary to protect road and other infrastructure;
   (d) remediation of any damage to road and other infrastructure;
   (e) 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;
   (f) facilities for vehicle washing, which must be located on the land;
   (g) 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;
   (h) site security;
   (i) a lighting plan which must include:
      (i) details if any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority;
      (ii) confirmation that existing public lighting would only be disconnected once temporary alternative lighting scheme becomes operational;
      (iii) confirmation that the temporary lighting scheme will remain operational until a permanent lighting scheme is reinstated.
   (j) 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;
   (k) the construction program;
   (l) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
   (m) parking facilities for construction workers;
   (n) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;

(o) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
(p) 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;
(q) 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;
(r) 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. 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; and
    (v) other relevant considerations.

58 During the construction:
(a) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
(b) 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;
(c) vehicle borne material must not accumulate on the roads abutting the land;
(d) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
(e) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

59 Before the buildings are 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.

60 Any service poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the Permit Holder's expense, with approval from the relevant authorities and to the satisfaction of the Responsible Authority.

61 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 Permit holder's expense.

62 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the footpaths along the frontages of the site **(subject to approval of the Relevant Authorities)** must be reconstructed:
(a) at the permit holder's cost; and
(b) to the satisfaction of the Responsible Authority.
The cross-fall of the reconstructed footpaths must be no steeper than 1 in 40.

63 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the road pavements outside the site **(subject to approval of the Relevant Authorities)** must be profiled and re-sheeted:
(a) at the permit holder's cost; and

(b) to the satisfaction of the Responsible Authority.

The cross-fall of the reconstructed footpaths must be no steeper than 1 in 40. Any isolated areas of pavement failure will require full depth road pavement reconstruction.

64 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.

65 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossings 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.

66 Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

67 Pit lids and levels are to be readjusted to match the surface of the footpath, to the satisfaction of the Responsible Authority.

68 No parking restriction signs are to be removed, adjusted, changed or relocated without approval or authorisation from the Responsible Authority.

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

Public lighting plan

70 Prior to the commencement of the development, a public lighting plan must be submitted to and approved by the Responsible Authority. When approved, the public lighting plan will be endorsed and will form part of this permit. The public lighting plan must:
(a) **incorporate lighting within the northern laneway linking to Coleman Street;**
(b) confirm that all primary 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;
(c) confirm any new poles and luminaries required for the development will be sourced from CitiPower/Jemena standard energy efficient luminaires list and comply with relevant CitiPower/Jemena technical requirements;
(d) confirm light spillage into the windows of any existing and proposed residences will be avoided or minimised and must comply with the requirements of Australian Standard AS 4282 – 1997 Control of the obtrusive effects of outdoor lighting;
(e) confirm the locations of any new light poles will not obstruct vehicular access into private property;
(f) include a commitment that the Permit Holder will ensure (by contacting relevant power authority) that the existing or proposed power supply conforms to “No Go Zone” requirements from the relevant power authority;
(g) confirm the supply and installation of any additional or upgraded lighting, electrical hardware and poles will be funded by the Permit Holder.

71 The provisions, recommendations and requirements of the endorsed public lighting plan must be implemented and complied with to the satisfaction of the Responsible Authority.

VicRoads conditions

71

Melbourne Water conditions

72

PTV Conditions

73

Expiry

74 This permit will expire if one of the following circumstances applies:
(a) the development is not started within 2 years of the issued date of this permit;
(b) the development is not completed within 4 years of the issued date of this permit;
(c) the uses are not commenced within 5 years from the date of this permit.
In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

CONTACT OFFICER: **Sarah Thomas**
TITLE: **Principal Planner and Advocate**
TEL: **9205 5046**

Attachments

1 Queens Parade Items 9 August 2017_Part1
2 Queens Parade Items 9 August 2017_Part2
3 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)
4 D17 171400 PLN16 0434 - 26 - 56 Queens Parade Fitzroy North - Council s VCAT Submission Only (Main & Rear Site) Only - VCAT interim order
5 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Interim order response plans (main site) - 28 February 2018
6 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Interim order response plans - rear site

1.5 Rear 26 - 56 Queens Parade, Fitzroy North - PLN16/0732 - Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site).

Executive Summary

Purpose

1. This report provides an assessment of the above planning application, which seeks the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site).

2. More specifically, to consider the substituted plans from the applicant in light of the recent approval of Design and Development Overlay – Schedule 16 and to formalise Council's position on these plans prior to the commencement of the forthcoming VCAT hearing scheduled to commence on 4 September 2017.

Key Planning Considerations

3. Key planning considerations include:
   (a) Clause 32.04 – Mixed Use Zone
   (b) Clause 43.01 – Heritage Overlay
   (c) Clause 45.03 – Environmental Audit Overlay
   (d) Clause 43.02 – Design and Development Overlay – Schedule 16
   (e) Clause 52.06 – Car parking
   (f) Clause 52.34 – Bicycle facilities
   (g) Clause 55 – Two or more dwellings on a lot and residential buildings
   (h) Clause 15.01-1 – Urban Design
   (i) Clause 15.01-2 – Urban design principles
   (j) Clause 15.01-4 – Design for safety
   (k) Clause 15.01-5 – Cultural identity and neighbourhood character
   (l) Clause 15.02-1 – Energy and resource efficiency
   (m) Clause 15.03-1 – Heritage conservation
   (n) Clause 16.01-1 – Integrated housing
   (o) Clause 18.02-1 – Sustainable personal transport
   (p) Clause 18.02-5 – Car parking
   (q) Clause 21.05-1 – Heritage
   (r) Clause 21.05-2 – Urban design
   (s) Clause 21.05-4 – Public environment
   (t) Clause 21.06 – Transport
   (u) Clause 21.08-8 – North Fitzroy
   (v) Clause 22.02 – Development guidelines for sites subject to the heritage overlay
   (w) Clause 22.07 – Development abutting laneways
   (x) Clause 22.16 – Stormwater management (water sensitive urban design)
   (y) Clause 22.17 – Environmentally sustainable development

Key Planning Issues

4. The key issues for Council in considering the proposal relate to:
   (a) strategic policy;
   (b) heritage;
   (c) ResCode (clause 55), incorporating clauses 22.05, 22.16 and 22.17;
   (d) traffic and car parking;
   (e) bicycle parking;

(f) waste management;
(g) Objector concerns; and
(h) compliance with proposed DDO.

Objector Concerns

5. A total of 24 objections were received on the following grounds:
   (a) neighbourhood character and impact on heritage;
   (b) excessive height and overdevelopment;
   (c) off-site amenity (visual bulk, overshadowing, noise, overlooking, daylight and airflow);
   (d) poor ESD outcome;
   (e) shadowing of the laneway;
   (f) safety concerns (shared pedestrian/vehicular access along the lane, emergency vehicle access and impact on cyclists);
   (g) impacts during construction phase;
   (h) insufficient car parking;
   (i) unreasonable traffic impacts;
   (j) materials have not been specified; and
   (k) insufficient landscaping detail.

6. 9 objectors have lodged statements of grounds with VCAT and are parties to the VCAT proceedings.

Conclusion

7. 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: **Sarah Thomas**
TITLE: **Principal Planner**
TEL: **92055046**

1.5 Rear 26 - 56 Queens Parade, Fitzroy North - PLN16/0732 - Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site).

Trim Record Number: D17/105278
Responsible Officer: Manager Statutory Planning

Proposal:	Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site).
Existing use:	Vacant
Applicant:	Gurner 26-56 Queens Parade Pty Ltd
Zoning / Overlays:	Mixed Use Zone, Heritage Overlay (Schedule 327), Heritage Overlay, Design and Development Overlay (Schedule 16)
Date of Application:	27 July 2017
Application Number:	PLN16/0732

Background

1. On 25 January 2017, Council was informed that a Section 79 'failure to determine' appeal had been lodged with the Victorian Civil and Administrative Tribunal [**VCAT**].

2. On 3 February 2017, a practice day was held at VCAT to consider if this application should be heard at the same time as the Section 79 review for the main site (PLN16/0434). All parties consented and VCAT agreed to join both hearings (PLN16/0732 and PLN16/0434), with the hearing commencing on 3 April 2017 for 7 days. No compulsory conference was scheduled.

3. On 21 February 2017, the Applicant circulated substituted plans, deleting 1 level from the proposed townhouses, reducing the scale from 4 to 3 storeys, with associated internal re-configurations.

4. On 15 March 2017 at its Internal Development Approval's Committee [**IDAC**] meeting, IDAC determined that:

   …if it were in a position to determine the application, Council would issue a Refusal to Grant a Permit (PLN16/0732) for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site at Rear 26-52 Queens Parade, Fitzroy North on the following grounds:
   1. *The building height does not respect the character of the area.*
   2. *The site coverage, permeability and setbacks do not respect the existing or preferred neighbourhood character and does not respond to the features of the site.*
   3. *The proposal does not provide sufficient car parking.*
   4. *The proposal does not provide for pedestrian safety.*

5. On 28 March 2017, amendment C229 was gazetted, applying the Design and Development Overlay (Schedule 16) to the western end of Queens Parade (including the subject site). Parties called for a Practice day on 31 March 2017 and Deputy President Gibson agreed to vacate the hearing to allow the Permit Applicant to address the new controls applying to the site. The hearing is now scheduled to commence on 4 September 2017 for 10 days.

6. On 25 July 2017, Council received formally substituted VCAT plans from the Applicant. This report provides an assessment of these plans and makes a recommendation for Council's position at the upcoming VCAT hearing.

7. It is noted, that the substituted plans do not make any identifiable changes compared to the already considered set of plans. This report will therefore focus on the policy changes since the previous position was established at IDAC on 15 March 2017, being the introduction of the DDO16 and what effect this has to Council's assessment of the plans.

Planning History

8. The site was re-zoned from the Business 3 Zone to the Mixed Use Zone on 13 November 2003 following amendment C20 to the Yarra Planning Scheme. The amendment was a Section 96A amendment process, with a concurrent planning permit application (PL02/0239) for 26-56 Queens Parade. The re-zoning however, affected 8-72 Queens Parade and 460-500 Brunswick Street.

9. The panel report for the re-zoning of the land recommended that no development occur on the rear parcel (now subject to this application).

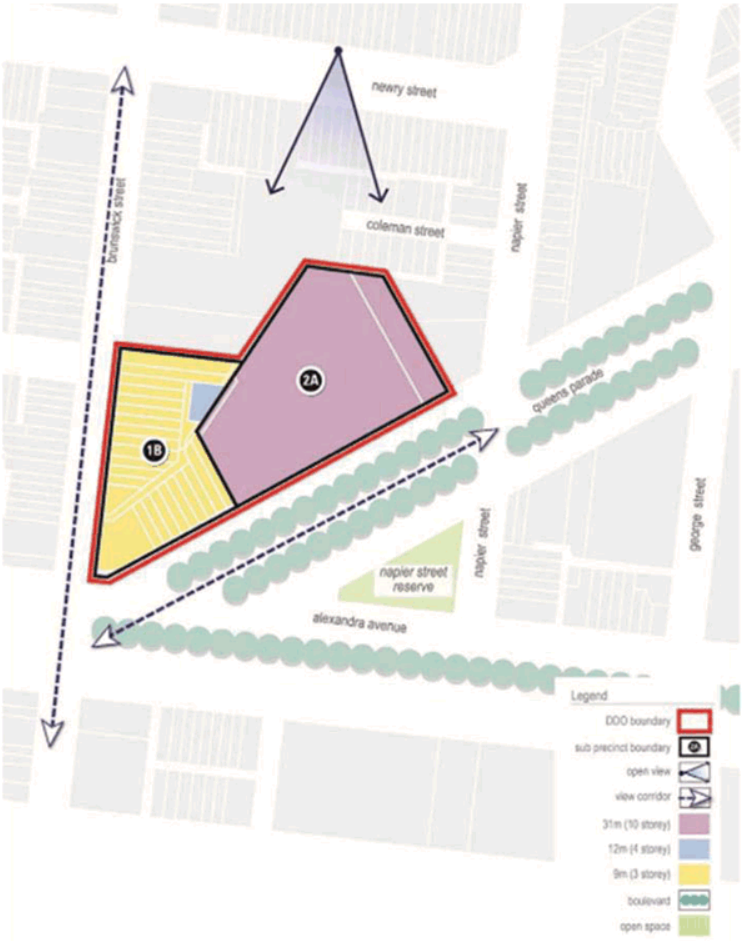
10. More recently, a special Council Meeting was held on 14 November 2016. Council discussed developments currently proposed along Queens Parade with Council resolving:

    1. *That Council note:*
        - (a) *several public meetings held regarding 26-56 Queens Parade, Fitzroy North including a public meeting conv ened by the community on 2 November 2016, attended by some 400 community members with resolutions from this meeting on 26-56 Queens Parade and other planning applications in the precinct including a request for an amendment to the planning scheme to create a Design and Development Overlay for the area of North Fitzroy and Clifton Hill (attached as Attachment One); and*
        - (b) *the current planning application for a high density residential development for 26-56 Queens Parade, Fitzroy North of up to 16 storeys and its recent referral by the applicant to the Victorian Civil and Administrative Tribunal (VCAT);*

    2. *That Council seek a report to be presented to the 22 November 2016 Council meeting providing advice on:*
        - (a) *the process of the above planning application and steps leading to a full hearing of this application before VCAT, scheduled in April 2017;*
        - (b) *the likely costs involved in advocacy for Council at VCAT;*
        - (c) *the request for a planning scheme amendment for the precinct, and site, and the basis and requirements for any such amendment;*
        - (d) *the steps, options and timing for such amendment; and*
        - (e) *any other pertinent aspects to inform Council on this matter.*

11. At a Council Meeting on 7 February 2017, Council considered officer's recommended draft DDO guidelines for the western section of Queens Parade. The proposed DDO controls were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:

Attachment 1 - Queens Parade Items 9 August 2017_Part1



12. The Council officer recommendation was that the mandatory maximum overall building height for the main site at 26-56 Queens Parade not exceed 31m or 10 storeys and for the subject site (rear site), 12m or 4 storeys.

13. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site and 2 storeys for the rear site (subject site).

14. Council resolved (in part) to:

(e) request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and

15. On 28 March 2017, amendment C229 was gazetted, applying the Design and Development Overlay (Schedule 16) to the western end of Queens Parade (including the subject site). The approved heights as relevant to the subject site and its immediate surrounds can be generally described as 10 storeys on the main site and 3 storeys on the rear site.

Existing Conditions

Subject Site

16. Details of the subject site have not changed considerably since the previous IDAC report:

Subject Site

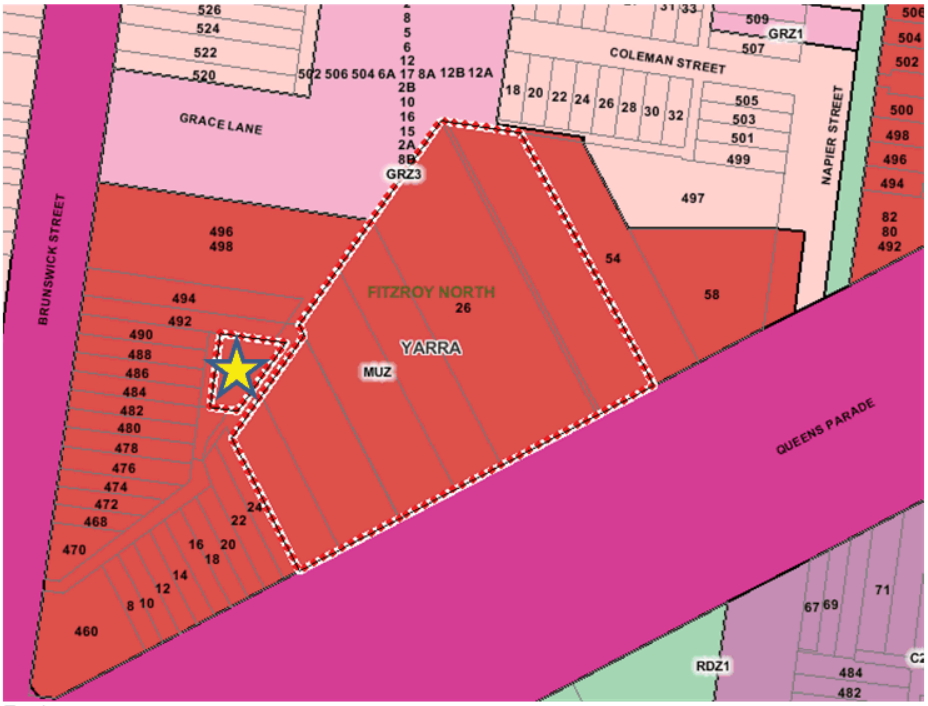
The subject site is located at the rear of 26-56 Queens Parade, an approximately 248m² irregular shaped lot accessed via a lane that extends from Brunswick Street to the west.

The site has a western boundary of 20.3m, a northern boundary of 17.8m, an eastern boundary of 22.8m and a southern boundary of 7.3m.

The site is current vacant and undeveloped.

The site is located within a Mixed Use Zone and is within walking distance of the Brunswick Street AC (149m).

Attachment 1 - Queens Parade Items 9 August 2017_Part1



Zoning map

Subject site

Restrictive Covenants

There are no restrictive covenants shown on the certificates of title provided with the application.

Surrounding Land

South

To the south of the subject site, across the laneway, is a 8,028m² site located on the north side of Queens Parade, approximately 78m east of Brunswick Street and 33m west of Napier Street. The shape is an unusually shaped lot, with 1 main road frontage and 2 separate laneway frontages.

The site has a frontage of 119m to Queens Parade, a western boundary length of 39.2m, a north-west boundary length of 33.6m, leading to an adjoining north-west boundary length of 65.8m. The north-east boundary length is 37.5m and the east boundary length is 65.8m. The site has an overall area of approximately 8,028m².

The site is developed with a series of buildings:

(a) Queens parade, western end – the most distinctive part of the site, being a row of 2 storey buildings with art deco style parapets. The façades have been painted pink with navy highlights. This row extends for a length of approximately 74m and extends the depth of the site, save for a triangular section in the northern end, generally behind the Grace Lane properties;

(b) Queens Parade, eastern end – a single storey warehouse style building, presenting a frontage of approximately 13.6m to Queens Parade and extending for the length of the eastern boundary (terminating at the laneway at the rear of the site;

Between both Queens Parade building segments is an open air carpark, presenting a frontage of approximately 31m to Queens Parade.

Council formed a position of refusal for a development of this site in December 2016. The applicant was seeking approval for the part demolition and development of the land for a maximum 16 storey building, plus 2 basement levels, accommodating 476 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alteration of access to a Road Zone (PLN16/0434). The position of refusal is based on the following grounds:

(a) *The proposed height, scale and massing does not respond to the existing or preferred character of the area and will dominate the surrounding area.*
(b) *The proposal will result in an unacceptable on-site amenity impact including natural daylight and ventilation.*
(c) *The side setbacks and building will not achieve equitable development for adjoining and adjacent sites.*
(d) *The proposed waste management plan is inadequate for the site.*

Also to the south of the subject site, but further west of this larger site, is a row of 9, single and double storey Victorian era terraces. The 4 closest to the subject site are double storey. These properties all enjoy rear access to the lane, accessed via Brunswick Street. These dwellings include rear private open space areas, along with a first floor rear deck at the eastern end of the row.

Further west of these properties, at the corner of Queens Parade and Brunswick Street, is a 2 storey Victorian era building used as a medical centre. This medical centre includes car parking adjacent to the single storey Victorian era terraces on Queens Parade.

West

To the west of the subject site, across the laneway, is a row of primarily single storey dwellings fronting Brunswick Street. These properties also enjoy rear access and utilise the rear laneway which leads to Brunswick Street. These dwellings include rear private open space areas and habitable room windows.

North

To the north of the subject site is the side of a property fronting Brunswick Street to the west. This property presents a segment of private open space and a shed to the immediate north of the subject site.

Further north is another single storey dwelling with a rear private open space area.

Further north again is a recently constructed 6 storey apartment building that fronts Brunswick Street.

The site is well located in terms of bicycle access and public transport:

(a) *2 bus routes along Queens Parade; and*
(b) *2 tram routes along Brunswick Street.*

The Proposal

17. The application is for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site). More specifically:

Built form and massing

(a) construction of 4, 3 storey dwellings;
(b) ground level – the dwellings would be constructed to the northern boundary and mostly constructed to the south and east boundaries, with a minimum 1m western setback. The walls on the southern boundary would extend for a length of 6.3m, 14.6m along the eastern boundary and 17.7m along the northern boundary;
(c) first floor – the dwellings would be partially constructed to the south, east and north boundaries. The walls on the southern boundary would extend for a length of 4m, a total of 8.4m along the eastern boundary and 9m along the northern boundary;
(d) second floor – the dwellings would again, continue to be partially constructed to the south, east and north boundaries. Additional western boundary setbacks would be offered at this floor, to a minimum 3.2m, increasing to 6.2m. The walls on the southern boundary would extend for a length of 4.1m, 8.4m at the eastern boundary and 9m along the northern boundary;
(e) heights – the development would introduce a maximum 9.2m high wall on the north, east and south boundaries (maximum overall height);

Layout

(f) the 4 dwellings would be of the following configuration:
    (i) 2BR plus study – 1;
    (ii) 3BR plus study – 1; and
    (iii) 3BR – 2.
(g) the dwellings would be accessed via the eastern lane;
(h) although not part of this application, the application for the main site (PLN16/0434) proposes to introduce a pedestrian access point through 26-56 Queens Parade to these townhouses;
(i) at the ground level, the dwellings would contain bedrooms, studies and amenities, along with 4m²-5m² west boundary courtyards. The first floor would contain living/dining/kitchen areas, along with 12m² terraces for each dwelling. The second floor would contain additional bedrooms and amenities. The northernmost dwelling would contain a green roof at this level;
(j) the proposal is seeking a site coverage of approximately 87%;

Colours, materials and landscaping

(k) the original plans included a mixture of off white render, off white bricks, clear class balustrades, white aluminum composite panels, clear glazing, dark coloured glazing and perforated metal (natural finish) privacy screens. The substituted plans do not include a material key or schedule of colours and materials. Should a permit issue, this should be addressed by way of a permit condition;

Environmentally sustainable development [**ESD**] features

An updated SMP was not provided with the substituted plans. However, the original application made the following commitments:
(a) NatHERS rating of at least 6 stars;
(b) provision of 4 x 2,000L rainwater tanks;

Car parking and waste

18. An updated planning or traffic report was not provided with the substituted plans. However, the original application made the following commitments:
    (a) 6 car parking spaces would be provided on the 'main site' at 26-56 Queens Parade in the proposed development (Planning permit application PLN16/0434, currently before VCAT); and
    (b) waste storage and collection would be located and occur again on the main site (planning permit application PLN16/0434, again, currently before VCAT).

Planning Scheme Provisions

Zoning

*Mixed Use Zone **[MUZ]***

19. The purpose of the MUZ includes (as relevant):
    (a) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality*;
    (b) *To provide for housing at higher densities*;
    (c) *To encourage development that responds to the existing or preferred neighbourhood character of the area*; and
    (d) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

20. Under clause 32.04-2 of the Scheme, a permit is not required to use the site for dwellings.

21. A permit is required under clause 32.04-6 of the Yarra Planning Scheme [**the Scheme**] to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Overlays

Heritage Overlay (HO327)

22. The relevant purpose of the HO is:
    (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 conserve and enhance heritage places of natural or cultural significance.*
    (c) *To conserve and enhance those elements which contribute to the significance of heritage places.*
    (d) *To ensure that development does not adversely affect the significance of heritage places.*

23. A planning permit is required to demolish or remove a building and to construct a building or construct or carry out works.

24. Decision guidelines at clause 43.01-4 of the Scheme include (as relevant):

    (a) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
    (b) *Any applicable statement of significance, heritage study and any applicable conservation policy.*
    (c) *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
    (d) *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*

(e) *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
(f) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

Environmental Audit Overlay

25. The purpose of this overlay is:
(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 ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

26. Clause 45.03-1 states it is a requirement that:
(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.*

27. With dwellings proposed, this requirement will be addressed by way of a notation.

Design and Development Overlay – Schedule 16 – Queens Parade (West)

28. Under clause 43.02-1 of the Scheme, a permit is required to construct a building or construct or carry out works. Schedule 16 sets out specific policy guidance for this site, which is included in Precinct 1B.

Design objectives
The design objectives for Precinct 1B: Brunswick Street Precinct includes:
- *To encourage low rise additions behind the front sections of the terraced houses of Brunswick Street and Queens Parade that respects the prevailing streetscape character and subdivision grain.*
- *To retain and conserve the heritage values of this low scale Victorian residential area including the front sections of the terraced houses, street setbacks and subdivision pattern.*
- *To retain the visual prominence of the individually significant corner building that forms the southern gateway to Queens Parade and to Fitzroy North more broadly.*
- *To facilitate the appropriate low rise infill of the site located to the rear of residential properties fronting Brunswick Street.*
- *To ensure future vehicle access and services are provided off a rear laneway, where possible.*
- *To ensure upper level elevations that are exposed to the public domain are high quality, visually recessive and do not diminish the appreciation of the heritage building.*

29. The specific controls applying to the site are found at clause 2.0, which specifies both mandatory and discretionary requirements.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Table 1 – Precinct 1B building heights & setbacks

Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
Building Height	▪ Maximum 9m (3 storeys) for properties fronting Brunswick Street & Queens Parade ▪ Maximum 9m (3 storeys) for rear laneway site known as Lot 1 on Title Plan TP806921.		Development that respects the heritage and streetscape value of the precinct.
Façade Height	▪ Retain existing heritage façade. ▪ Development on 460 Brunswick Street adjoining the individually significant corner building must not exceed the parapet height of that building.		Development that: ▪ Reinforces the heritage values of the precinct; ▪ Respects the scale of the existing heritage buildings; ▪ Maintains the existing heritage buildings as the dominant feature in the streetscape; and ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties.
Front Setback from boundary of Brunswick Street/Queens Parade		▪ Development on 460 Brunswick Street adjoining the individually significant corner building should match the setback of that building. ▪ Retain existing front setback.	
Upper Level Setback from front of building		Minimum of 8m setback behind the heritage façade/ new streetwall	
Setback(s) from side boundary		▪ ResCode Standard B17	
Setback(s) from rear boundary		▪ ResCode Standard B17	

30. Decision guidelines at section 4 of the DDO16 include:

Before deciding on an application, the Responsible Authority must consider the following:

- *Whether the design objectives in Section 1.0 and the built form outcomes in Tables 1, 2 and 3 of this Schedule are achieved.*
- *Whether the design requirements for specific areas in Tables 1 and 2 of this Schedule are achieved.*
- *The Queens Parade, Clifton Hill Built Form Review – February, 2017.*
- *The architectural quality of the proposal, including the design, scale, height, materials, mass and visual bulk of the development in relation to the surrounding built form.*
- *The profile and impact of redevelopment along Queens Parade and from Newry Street, Coleman Street and the Edinburgh Gardens.*
- *The design response at the interface with existing low-scale residential properties.*
- *Whether the proposal contributes to and improves the pedestrian environment and other areas of the public realm.*
- *How the proposal responds to the presence of heritage buildings either on, or in close proximity to the development.*
- *The design of the streetscape interface along the primary street frontage and its contribution to an active street environment.*
- *How any proposed buildings and works will impact on solar access to Queens Parade and the Napier Street Reserve.*
- *The suitability of vehicle access and egress arrangements and the location, layout and appearance of areas set aside for car parking.*
- *The extent to which ESD measures are incorporated into the development.*

Particular Provisions

Clause 52.06 – Car parking

31. The purpose of this provision (amongst others) is to ensure the provision of an appropriate number of car spaces are provided having regard to the activities on the land and the nature of the locality. This provision recommends car parking rates at clause 52.06-5. Under clause 52.06-3, a permit may be granted to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 (noting there is no relevant Parking Overlay).

32. The application generates a parking requirement for 7 spaces (1 for the 2BR dwelling and 2 for each of the 3 x 3BR dwellings [6]). It is noted that the studies have not been treated as bedrooms due to their size and configuration, making them unlikely to be converted to bedrooms.

33. The substituted plans have increased the car parking provision on the main site from 6 to 7 (currently before VCAT – PLN16/0434). A planning permit is required under clause 52.06-3 of the Scheme to:
    (a) provide 7 car parking spaces on another site.

34. Clause 52.06-6 of the Scheme outlines a range of decision guidelines and clause 52.06-8 outlines a range of design standards. The relevant of these will be addressed in the assessment.

Clause 52.34 – Bicycle facilities

35. The purpose of this Clause is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities. Clause 52.34-2 states that a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.

36. This application has a requirement to provide 1 bicycle parking space.

37. This is not shown on the plans, however the Applicant has not applied to waive this requirement.

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

38. The purpose of this provision is:
    (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 achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character.*
    (c) *To encourage residential development that provides reasonable standards of amenity for existing and new residents.*
    (d) *To encourage residential development that is responsive to the site and the neighbourhood.*

39. An assessment against ResCode (clause 55) was outlined in the IDAC report of 15 March 2017 as no changes have been to the plans this assessment stands.

General Provisions

Clause 65 – Decision Guidelines

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

State Planning Policy Framework (SPPF)

The following SPPF provisions of the Scheme are relevant:

Clause 11.04-2 – Housing choice and affordability

41. The relevant objective of this clause is '*To provide a diversity of housing in defined locations that cater for different households and are close to jobs and services*'. The relevant strategy is to '*Reduce the cost of living by increasing housing supply near services and public transport*'.

Clause 11.04-4 – Liveable communities and neighbourhoods

42. The objective of this clause is 'To create healthy and active neighbourhoods and maintain Melbourne's identity as one of the world's most liveable cities'. The relevant strategies are to:
    (a) *Create a city of 20-minute neighbourhoods.*
    (b) *Protect Melbourne and its suburbs from inappropriate development.*
    (c) *Create neighbourhoods that support safe communities and healthy lifestyles.*
    (d) *Achieve and promote design excellence.*

Clause 11.04-5 – Environment and water

43. The objective of this clause is '*To protect natural assets and better plan our water, energy and waste management systems to create a sustainable city*'.

Clause 13.03-1 – Use of contaminated and potentially contaminated land

44. The objective of this clause is '*To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely*'.

Clause 13.04-1 – Noise abatement

45. The objective of this clause is '*To assist the control of noise effects on sensitive land uses*'.

Clause 15.01-1 – Urban Design

46. The objective of this clause is '*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

47. 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'*. The strategy of this clause is to apply 11 design strategies. Planning must also consider (as relevant) the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) in assessing the design and built form of residential development of five or more storeys.

Clause 15.01-4 – Design for safety

48. The objective of this clause is '*To improve community safety and encourage neighbourhood design that makes people feel safe*'. The relevant strategy is to '*Ensure the design of buildings, public spaces and the mix of activities contribute to safety and perceptions of safety*'.

Clause 15.01-5 – Cultural identity and neighbourhood character

49. 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

50. 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 15.03-1 – Heritage conservation

51. The objective of this clause is '*To ensure the conservation of places of heritage significance*'.

Clause 16.01-1 – Integrated housing

52. The objective of this clause is '*To promote a housing market that meets community needs*'.

Clause 16.01-2 – Location of residential development

53. 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 16.01-4 – Housing diversity

54. 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

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

Clause 18.01-1 – Land use and transport planning

56. The objective of this clause is '*To create a safe and sustainable transport system by integrating land-use and transport*'. The relevant strategy is:
    (a) *Plan urban development to make jobs and community services more accessible by:*
    i. 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.

Clause 18.02-1 – Sustainable personal transport

57. The objective of this clause is '*To promote the use of sustainable personal transport*'.

Clause 18.02-5 – Car parking

58. It is an objective '*To ensure an adequate supply of car parking that is appropriately designed and located*'. This clause includes the following relevant strategies to achieve this objective:
    (a) *Allocate or require land to be set aside for car parking subject to the existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking.*
    (b) *Prepare plans for the design and location of local car parking to:*
        (i) *Protect the role and function of nearby roads, enable easy and efficient use and the movement and delivery of goods.*
        (ii) *Achieve a high standard of urban design and protect the amenity of the locality, including the amenity of pedestrians and other road users.*
        (iii) *Create a safe environment, particularly at night.*
        (iv) *Facilitate the use of public transport.*
    (c) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

59. In the City of Yarra in 2020 (as relevant):

Land Use
(a) *Yarra will have increased opportunities for employment*
(b) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne*

Transport
(c) *Local streets will be dominated by walkers and cyclists*
(d) *Most people will walk, cycle and use public transport for the journey to work*

Clause 21.04-1 – Accommodation and housing

60. The following is offered in this clause:

    (a) *Yarra is experiencing consistent residential growth. The Metropolitan Strategy, Melbourne 2030, identifies that this trend will continue.*

(b) *Yarra will continue to accommodate its share of the housing growth of the inner Melbourne Metropolitan region (comprising the Cities of Melbourne, Port Phillip, Stonnington and Yarra). However, in order to protect valued character, and particularly its heritage places, the majority of new development will be accommodated on strategic redevelopment sites. These sites are generally located in, abutting, or close to activity centres, or in locations that offer good access to services and transport as required under Melbourne 2030. Other areas such as those in Mixed Use or Business zones will accommodate some population growth, while most established Residential 1 zones are stable and will experience minimal change.*

61. The relevant objectives and standards of this clause are:
    (a) *Objective 1 To accommodate forecast increases in population.*
        (i) *Strategy 1.1 Ensure that new residential development has proper regard for the strategies applicable to the neighbourhood in question identified in clause 21.08.*
        (ii) *Strategy 1.3 Support residual population increases in established neighbourhoods.*
    (b) *Objective 2 To retain a diverse population and household structure.*
    (c) *Objective 3 To reduce potential amenity conflicts between residential and other uses.*
        ii. Strategy 3.1 Ensure new residential development in the Mixed Use, Business 1, Business 2, and Business 5 Zones and near Industrial and Business Zones is designed to minimise the potential negative amenity impacts of existing non-residential uses in the vicinity.

Clause 21.04-2 – Activity Centres

62. The site is approximately 149m to the north-east of the Brunswick Street Activity Centre [**AC**].

63. The relevant objectives and strategies of this clause are:

    (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.*
        i. *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

Clause 21.05-1 – Heritage

64. The relevant objectives and strategies of this clause are:

    (a) *Objective 14 To protect and enhance Yarra's heritage places.*
        (i) *Strategy 14.1 Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
        (ii) *Strategy 14.2 Support the restoration of heritage places.*
        (iii) *Strategy 14.3 Protect the heritage skyline of heritage precincts.*
        (iv) *Strategy 14.4 Protect the subdivision pattern within heritage places.*
        (v) *Strategy 14.5 Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces.*
        (vi) *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas. Strategy 14.8 Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*

Clause 21.05-2 – Urban design

65. The relevant objectives and strategies of this clause are:

    (a) Objective 16 To reinforce the existing urban framework of Yarra.

(i) *Strategy 16.2 Maintain and strengthen the preferred character of each Built Form Character Type within Yarra.*

(b) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern.*
   (i) *Strategy 18.2 Enhance the amenity of laneways by applying the Development Abutting Laneway policy at Clause 22.07.*

(c) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*
   (i) *Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*

(d) *Objective 22 To encourage the provision of universal access in new development.*
   (i) *Strategy 22.1 Encourage applicants to take into account the access needs of all people in the design of new buildings.*

Clause 21.05-4 – Public environment

66. The relevant objective and strategies of this clause are:
   (a) *Objective 28 To a provide a public environment that encourages community interaction and activity.*
      (i) *Strategy 28.1 Encourage universal access to all new public spaces and buildings.*
      (ii) *Strategy 28.2 Ensure that buildings have a human scale at street level.*
      (iii) *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*
      (iv) *Strategy 28.5 Require new development to make a clear distinction between public and private spaces.*
      (v) *Strategy 28.8 Encourage public art in new development.*

Clause 21.06 – Transport

67. This clause builds upon the objectives outlined at clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

Clause 21.08-8 – North Fitzroy

68. The following relevant commentary is offered in this clause:

   (a) *North Fitzroy is known for the beautiful Edinburgh Gardens which combine open space, sportsgrounds, barbecue area, gardens with long-established European elm trees, skate bowl, tennis and basketball courts, bandstand, bowling greens and bocce links, remnants of the old Melbourne rail loop, and a heritage listed grandstand. The neighbourhood is largely residential.*
   (b) *The northern part of North Fitzroy has a low density residential character consisting of late Victorian and early Edwardian double fronted dwellings. Further south dwellings are more likely to be single fronted and one or two storeys.*

Relevant Local Policies

Clause 22.02 – Development guidelines for sites subject to the heritage overlay

69. This policy applies to all land within a Heritage Overlay.

70. The relevant objectives of this clause are:
   (a) *To conserve Yarra's natural and cultural heritage.*
   (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
   (c) *To retain significant view lines to, and vistas of, heritage places.*
   (d) *To preserve the scale and pattern of streetscapes in heritage places.*

(e) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
(f) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
(g) *To ensure that additions and new works to a heritage place respect the significance of the place.*
(h) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*

71. Under clause 22.02-5.7. of the Scheme, the following is offered in relation to new development, alterations and additions:

(a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
  (i) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
  (ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
  (iii) *Be visually recessive and not dominate the heritage place.*
  (iv) *Be distinguishable from the original historic fabric.*
  (v) *Not remove, cover, damage or change original historic fabric.*
  (vi) *Not obscure views of principle façades.*
  (vii) *Consider the architectural integrity and context of the heritage place or contributory element.*
(b) *Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*
(c) *Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.*
(d) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*

72. Clause 22.02-5.7.2 of the Scheme offers more specific requirements (as relevant):

Corner Sites and Sites with Dual Frontages
(a) *Encourage new building and additions on a site with frontages to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place.*
(b) *Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection*

Ancillaries and Services
(c) *Encourage ancillaries or services in new development to be concealed or incorporated into the design of the building.*
(d) *Encourage ancillaries or services to be installed in a manner whereby they can be removed without damaging heritage fabric.*

Clause 22.07 – Development abutting laneways

73. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal. The objectives of this clause are:
(a) *To provide an environment which has a feeling of safety for users of the laneway.*
(b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*

(c) *To ensure that where development is accessed off a laneway, all services can be provided to the development.*
(d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

Clause 22.12 – Public open space contribution

74. This policy applies to all residential proposals, mixed use proposals incorporating residential uses and proposals incorporating residential subdivision. The relevant objectives of this clause are:
(a) *To implement the Yarra Open Space Strategy.*
(b) *To identify when and where land contributions for public open space are preferred over cash contributions.*
(c) *To ensure that where appropriate, land suitable for public open space is set aside as part of the design of a development so that it can be transferred to or vested in Council, in satisfaction of the public open space contribution requirement.*

75. The site is located in an area where land in lieu of cash is the preferred method of contribution. However, as the site is only 248m², the site does not meet the selection criteria in that the land to be contributed should be approximately 300m². Should the site be subdivided, a cash contribution would be required.

Clause 22.16 – Stormwater management (water sensitive urban design)

76. This policy applies to new buildings (amongst others) and aims to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999; promote the use of water sensitive urban design, including stormwater re-use; mitigate the detrimental effect of development on downstream waterways; minimise peak stormwater flows; reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and wellbeing.

Clause 22.17 – Environmentally sustainable development

77. The most relevant objective of this clause is '…that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation'.

78. This policy includes 7 categories in which to assess ESD outcomes. An application of this scale requires the Applicant to submit a Sustainable Management Plan, prepared by a suitably qualified expert. This Applicant has done this.

Advertising

79. The original application plans were advertised by way of 133 letters sent to surrounding property owners and occupiers. A total of 24 objections were received on the following grounds:
(a) neighbourhood character and impact on heritage;
(b) excessive height and overdevelopment;
(c) off-site amenity (visual bulk, overshadowing, noise, overlooking, daylight and airflow);
(d) poor ESD outcome;
(e) shadowing of the laneway;
(f) safety concerns (shared pedestrian/vehicular access along the lane, emergency vehicle access and impact on cyclists);
(g) impacts during construction phase;
(h) insufficient car parking;
(i) unreasonable traffic impacts;
(j) materials have not been specified; and

(k) insufficient landscaping detail.

80. A consultation meeting was held on 15 November 2016 with the Applicant, Objectors and Council Officer's in attendance. Much of the focus was on the interface with this proposal with the adjacent dwellings, the laneway and the proposed development at 25-56 Queens Parade (the 'main site'). At the conclusion of the meeting, the Applicant agreed to engage a building surveyor to assess the safety aspects of access being via a lane (primarily focused on emergency service access).

81. This information was provided to Council on 6 February 2017, with the MFB confirming they had no issue with access to the rear site with regard to emergency access.

82. 9 Objectors have lodged statements of grounds to become party to the VCAT proceedings.

Referrals

External Referrals

83. Having regard to the relevant planning controls and the nature of the application, there are no external Referral Authorities.

Internal Referrals

84. The application was originally referred internally to the following:
(a) Urban Design Unit;
(b) Engineering Services Unit;
(c) ESD Advisor; and
(d) Heritage Advisor.

85. The first set of substituted plans were referred to the above. While re-referrals were undertaken to all of the above as part of the main site assessment (for the sake of completeness), as the rear site proposal has not changed, referral comments for this application are not necessary.

OFFICER ASSESSMENT

86. The primary considerations for this application are as follows:
(a) strategic policy;
(b) heritage;
(c) ResCode (clause 55), incorporating clauses 22.05, 22.16 and 22.17;
(d) traffic and car parking;
(e) bicycle parking;
(f) waste management;
(g) Objector concerns; and
(h) compliance with proposed DDO.

87. A full assessment against the application was offered in the 15 March 2017 IDAC report which forms an attachment to this report. As the proposal has not been altered (albeit plans have been substituted), a full assessment will not be repeated.

88. The 15 March 2017 IDAC report included an assessment against the draft DDO, it is appropriate to undertake another review as notably, the draft DDO called for a 2 storey mandatory height limit on the site and the gazetted DDO imposes a mandatory maximum 9m or 3 storey height limit.

Table 1 – Precinct 1B building heights & setbacks

Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
Building Height	▪ Maximum 9m (3 storeys) for properties fronting Brunswick Street & Queens Parade ▪ Maximum 9m (3 storeys) for rear laneway site known as Lot 1 on Title Plan TP806921.		Development that respects the heritage and streetscape value of the precinct.
	of that building.		existing residential properties.
Front Setback from boundary of Brunswick Street/Queens Parade		▪ Development on 460 Brunswick Street adjoining the individually significant corner building should match the setback of that building. ▪ Retain existing front setback.	
Upper Level Setback from front of building		Minimum of 8m setback behind the heritage façade/ new streetwall	
Setback(s) from side boundary		▪ ResCode Standard B17	
Setback(s) from rear boundary		▪ ResCode Standard B17	

Section 4 – Decision guidelines

(a) *Whether the design objectives in Section 1.0 and the built form outcomes in Tables 1, 2 and 3 of this Schedule are achieved.*
(b) *Whether the design requirements for specific areas in Tables 1 and 2 of this Schedule are achieved.*
(c) *The Queens Parade, Clifton Hill Built Form Review – February, 2017.*
(d) *The architectural quality of the proposal, including the design, scale, height, materials, mass and visual bulk of the development in relation to the surrounding built form.*
(e) *The design response at the interface with existing low-scale residential properties.*

(f) *Whether the proposal contributes to and improves the pedestrian environment and other areas of the public realm.*
(g) *How the proposal responds to the presence of heritage buildings either on, or in close proximity to the development.*
(h) *The design of the streetscape interface along the primary street frontage and its contribution to an active street environment.*
(i) *The extent to which ESD measures are incorporated into the development.*

Building height - Mandatory

89. The mandatory height for the site within the DDO16 is 9m (3 storeys). The substituted plans show an overall height of 9.157m, which is 157mm higher than the mandatory height control now applying to this site. When previously considered at IDAC, the proposal was a full storey above the draft DDO mandatory maximum height control of two storey.

90. Now at only 157mm above the mandatory maximum height control, the proposal is in keeping with the character and preferred future character of the area as outlined in the Planning Scheme. A condition should be imposed on any permit issued reducing the height to a maximum 9m.

91. The change in planning policy is therefore considered to further support the 3 storey height proposed, albeit a condition would be required to reduce the height by 157mm to comply with the mandatory maximum height control in the DDO16.

Building setbacks - Discretionary

92. When re-assessing the proposal against the DDO16 that now applies, the proposed setbacks are considered to be acceptable for the following reasons:
(a) the site is bordered by laneways to the west, south and east, mitigating unreasonable off-site amenity impacts;
(b) the site is located 'behind' Brunswick Street and Queens Parade properties, limiting views to the proposal;
(c) while the proposal does not comply with the side and rear boundary setback requirements along the northern boundary, a condition could be imposed to setback level 2 a minimum of 1.3m from the northern boundary, where it does not adjoin a boundary wall to the north. See previous IDAC assessment where the impact of the Standard B17 ResCode variation was assessed:

> 166. Considering the height and length variation along the northern boundary, the development would generally abut a shed to the north. At the ground floor, the development would abut the full length of the POS area to the north, however the wall would be a height of 3.4m. At the first and second floor, the development would be 1.3m longer than the abutting shed. Whilst the development is to the south of the adjacent private open space area, the variation from this standard is only supported at level 1. It is considered that a 3 storey wall in this location on the northern boundary would unreasonably impact the amenity of the dwelling to the north by virtue of visual bulk. A condition should therefore be imposed on any permit requiring the level 2, northern boundary wall to be setback at least 1m where it does not abut a boundary wall to the north. It is not considered that full B17 side and rear setback compliance is required in this location (4.3m) and given the orientation of the wall, however a 1.3m setback would align with the adjacent green roof and inset of level 1 below. The zoning of the land (MUZ) also supports higher residential densities, further supporting the variation from this ResCode standard, albeit not as far to say that a 3 storey boundary wall is acceptable opposite private open space within a MUZ.

93. Subject to the condition recommended above, the proposed setbacks would not unreasonably impact the character or amenity of the area.

Car paring and access

94. On 15 March 2017 at its Internal Development Approval's Committee **[IDAC]** meeting, IDAC determined that:

…if it were in a position to determine the application, Council would issue a Refusal to Grant a Permit (PLN16/0732) for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site at Rear 26-52 Queens Parade, Fitzroy North on the following grounds:

1. *The building height does not respect the character of the area.*
2. *The site coverage, permeability and setbacks do not respect the existing or preferred neighbourhood character and does not respond to the features of the site.*
3. *The proposal does not provide sufficient car parking.*
4. *The proposal does not provide for pedestrian safety.*

95. In light of the substituted plans for the main site, ground 4 should also be reconsidered. The pedestrian link through the main site has been improved or further delineated as follows:

Original plans

Substituted plans

96. The substituted plans for the main site have offered a clear, 6.6m wide path connecting the larger site to the rear site. This could encourage residents to transverse the main site as opposed to using the laneway from Brunswick Street to access their dwellings. Officers have formed the view that this would achieve an improved, safe pedestrian entry for townhouse residents and that ground 4 should no longer be pursued.

97. Ground 3 was that '*The proposal does not provide sufficient car parking*'. The substituted plans now provide all required car parking for the townhouse development on the main site. A permit is required to provide parking on another site, however as the pedestrian link from the main site to this rear site has been significantly widened, landscaped and generally improved, this is considered to be a suitable arrangement for the townhouse residents to access their car parks. Officer's submit that this ground should no longer be pursued.

Options

98. In light of the above assessment, 3 of the 4 grounds of refusal determined by Council have now been addressed.

99. The options before Council are to either support the substituted plans subject to a number of conditions or maintain its position of refusal however 3 of the 4 ground would need to be revoked, leaving on ground 3 which reads:

    '*The site coverage, permeability and setbacks do not respect the existing or preferred neighbourhood character and does not respond to the features of the site.*'

Conclusion

100. Based on the above report, it is the officer's recommendation that the proposal has addressed most of the position refusal grounds previously determined at the 15 March 2017 IDAC. In light of the gazettal of the DDO16, Council must reconsider the application and based on a number of conditions, should offer conditional support of the townhouse proposal.

101. Based on the above information and the new DDO16 control, officers recommend conditional support for the application be provided subject to a height reduction to accord with the mandatory heights and setbacks to align with amenity impacts.

RECOMMENDATION

1. That having considered all objections and relevant planning policies, the Committee resolves to inform VCAT that had it been in a position, it would have issued a Notice of Decision to Grant a Permit (PLN16/0732) for the rear of 26-52 Queens Parade, Fitzroy North VIC 3068 for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being 26-56 Queens Parade) in accordance with the VCAT substituted plans (received by Council 25 July 2017) and subject to the following conditions:

   Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (received by Council 25 July 2017) but modified to show:
   (a) a maximum overall building height of 9m.
   (b) the level 2, northern boundary wall to be setback at least 1.3m where it does not abut a boundary wall to the north;
   (c) fences/gates adjacent to the dwelling entrances a maximum height of 1.5m and minimum transparency of 50%;
   (d) the location of letter boxes and street numbering;
   (e) lighting to dwelling entrances;
   (f) external, operable, vertical screens to the north and west facing windows;
   (g) details of the screens between courtyards/terraces and to habitable room windows, confirming:
      (i) a minimum height of 1.7m;
      (ii) a maximum permeability of 25%; and
      (iii) that they are fixed.
   (h) larger east facing windows to dwellings 2-4;
   (i) an additional window to the ground floor, eastern elevation of dwelling 1;
   (j) a minimum 6m³ store for each dwelling;
   (k) a schedule of colours and materials, including samples (where relevant);
   (l) bicycle parking as per clause 52.34 of the Yarra Planning Scheme;
   (m) bicycle parking must meet the design requirements at clause 52.34-4 of the Yarra Planning Scheme; and
   (n) items as per the Sustainable Design Assessment, where relevant to show on the plans

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Development must not commence until the development at 26-56 Queens Parade, Fitzroy North (PLN16/0434) commences; alternatively if not permit is granted, this planning permit becomes void.

4. The development must not be occupied until the car parking spaces, bicycle parking spaces, waste storage area and pedestrian link from Queens Parade (for use of this development) are constructed and ready for use at 26-56 Queens Parade, Fitzroy North (PLN16/0434).

5. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.

6. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

8. Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by WGE and dated 9 September 2016, but modified to reflect the decision plans.

9. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

10. 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 laneways adjoining the site (extending from Brunswick Street and the entrances of the dwellings). When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
    (a) a lighting scheme designed for the laneways and within the curtilage of the property that complies with uniformity requirements as per standard AS1158.3.1;
    (b) the control of light spillage into the windows of existing and proposed residences to comply with the requirements of AS 4282 – 1997," Control of the obtrusive effects of outdoor lighting";
    (c) the locations of any new light poles so as not to obstruct access into private garages/off and on street parking places;
    (d) lighting to all primary pedestrian access points to a residential property to satisfy at least level P4 as per AS 1158.3.1;
    (e) a maintenance regime for the lighting scheme within the curtilage of the property.
    (f) the use of energy efficient luminaries and/or solar lighting technologies to reduce carbon emission if possible.

11. 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.

12. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
    (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
    (b) works necessary to protect road and other infrastructure;
    (c) remediation of any damage to road and other infrastructure;
    (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;

(e) facilities for vehicle washing, which must be located on the land;
(f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
(g) site security;
(h) management of any environmental hazards including, but not limited to,:
  (i) contaminated soil;
  (ii) materials and waste;
    (ii) dust;
    (iii) stormwater contamination from run-off and wash-waters;
    (iv) sediment from the land on roads;
    (v) washing of concrete trucks and other vehicles and machinery; and
    (vi) spillage from refuelling cranes and other vehicles and machinery;
(i) the construction program;
(j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
(k) parking facilities for construction workers;
(l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
(m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
(n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced; and
(o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.

13. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

14. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
(a) Monday to 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 9 am or after 3 pm; or
(c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

15. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

16. 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.

17. Prior to the commencement of the development, the developer must prepare and submit detailed design drawings of all road infrastructure works and drainage works associated with this development (outlined in condition 18) for assessment and endorsement to the satisfaction of the Responsible Authority.

18. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, the following works must be carried out, to the satisfaction of the Responsible Authority:

(a) reconstruction of the segment of laneway to the east of the site in pitched bluestone. The cost of these works must be borne by the Permit Holder; and

(b) reconstruction of the segment of laneway linking the southern end of the site to Brunswick Street, as per existing conditions. Half (50%) of the cost of these works must be borne by the Permit Holder (with the remaining half to be borne by the Responsible Authority).

19. This permit will expire if:
    (a) the development is not commenced within two years of the date of this permit; or
    (b) the development is not completed within four years of the date of this permit. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

NOTES:

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

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

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

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

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

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.

Or:

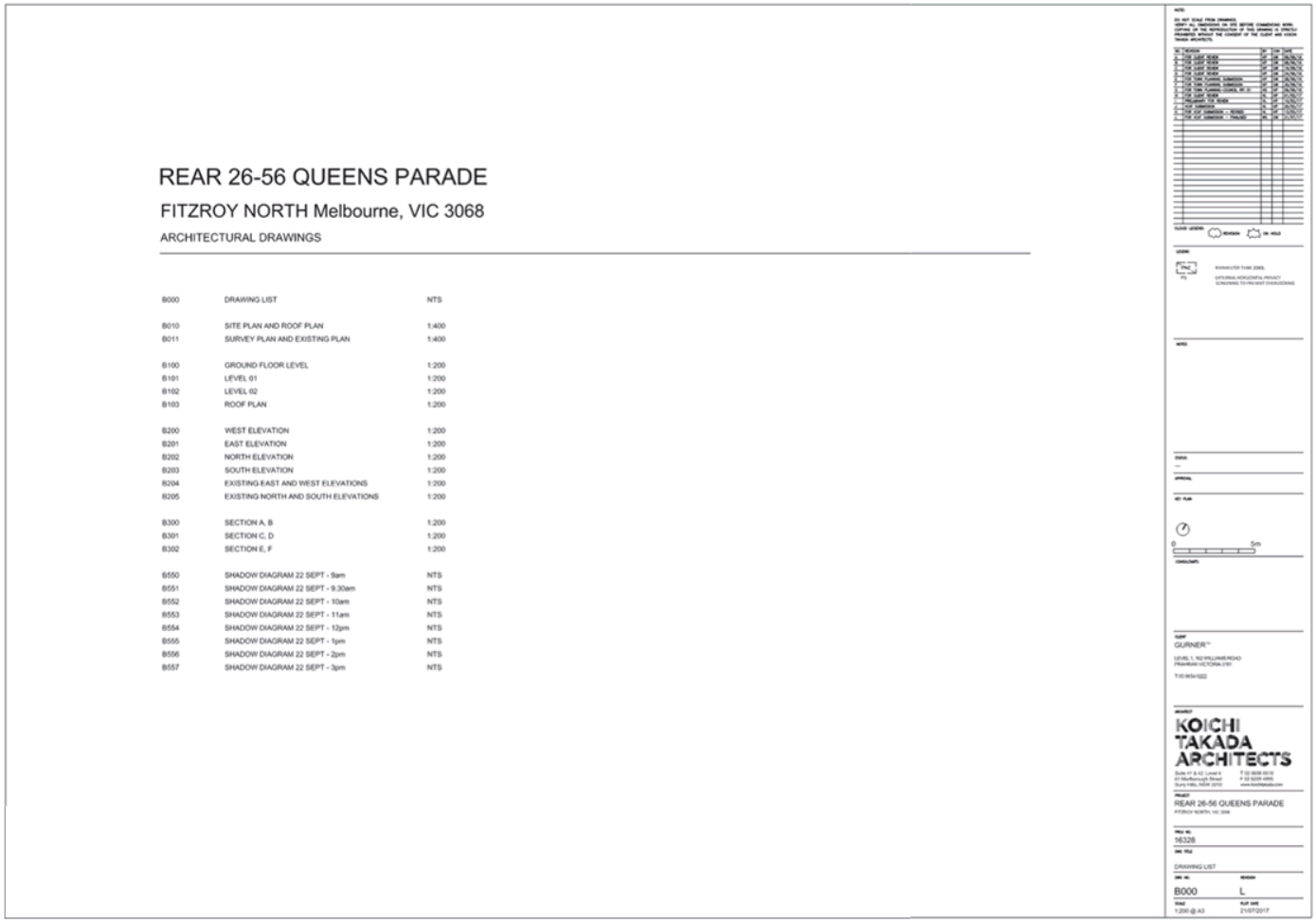
2. Should Council wish to maintain a position of refusal the only outstanding ground is:

    1. *The site coverage and permeability do not respect the existing or preferred neighbourhood character and does not respond to the features of the site.*

CONTACT OFFICER: **Sarah Thomas**
TITLE: **Principal Planner**
TEL: **92055046**

Attachments
1 VCAT Substituted Plans
2 IDAC Application & Attachments 15 March 2017
3 IDAC Minutes 15 March 2017

Attachment 1 - VCAT Substituted Plans



REAR 26-56 QUEENS PARADE

FITZROY NORTH Melbourne, VIC 3068

ARCHITECTURAL DRAWINGS

B000	DRAWING LIST	NTS
B010	SITE PLAN AND ROOF PLAN	1:400
B011	SURVEY PLAN AND EXISTING PLAN	1:400
B100	GROUND FLOOR LEVEL	1:200
B101	LEVEL 01	1:200
B102	LEVEL 02	1:200
B103	ROOF PLAN	1:200
B200	WEST ELEVATION	1:200
B201	EAST ELEVATION	1:200
B202	NORTH ELEVATION	1:200
B203	SOUTH ELEVATION	1:200
B204	EXISTING EAST AND WEST ELEVATIONS	1:200
B205	EXISTING NORTH AND SOUTH ELEVATIONS	1:200
B300	SECTION A, B	1:200
B301	SECTION C, D	1:200
B302	SECTION E, F	1:200
B550	SHADOW DIAGRAM 22 SEPT - 9am	NTS
B551	SHADOW DIAGRAM 22 SEPT - 9.30am	NTS
B552	SHADOW DIAGRAM 22 SEPT - 10am	NTS
B553	SHADOW DIAGRAM 22 SEPT - 11am	NTS
B554	SHADOW DIAGRAM 22 SEPT - 12pm	NTS
B555	SHADOW DIAGRAM 22 SEPT - 1pm	NTS
B556	SHADOW DIAGRAM 22 SEPT - 2pm	NTS
B557	SHADOW DIAGRAM 22 SEPT - 3pm	NTS

KOICHI TAKADA ARCHITECTS

REAR 26-56 QUEENS PARADE

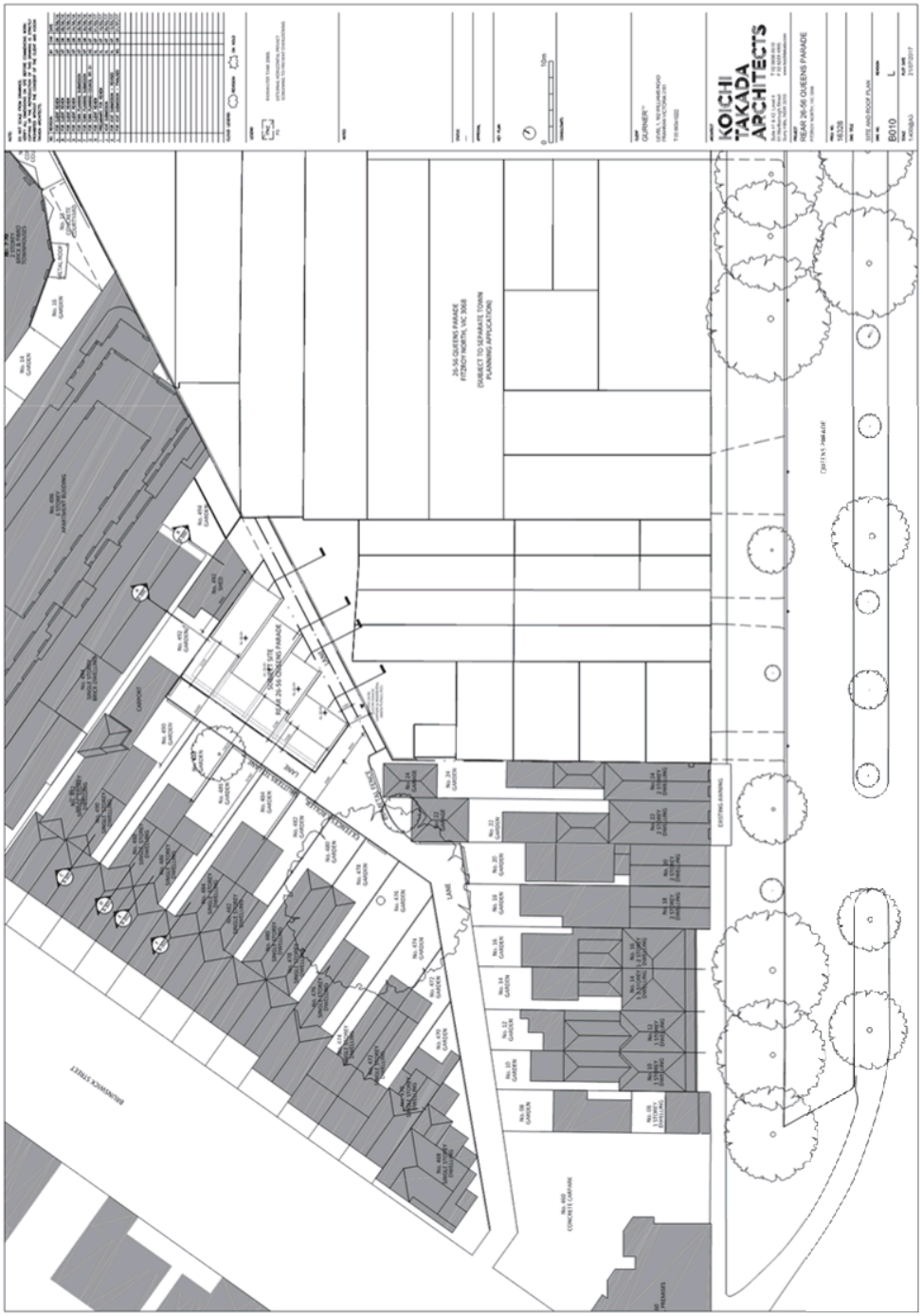
16328

B000 L

1:200 @ A3 21/07/2017

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - VCAT Substituted Plans



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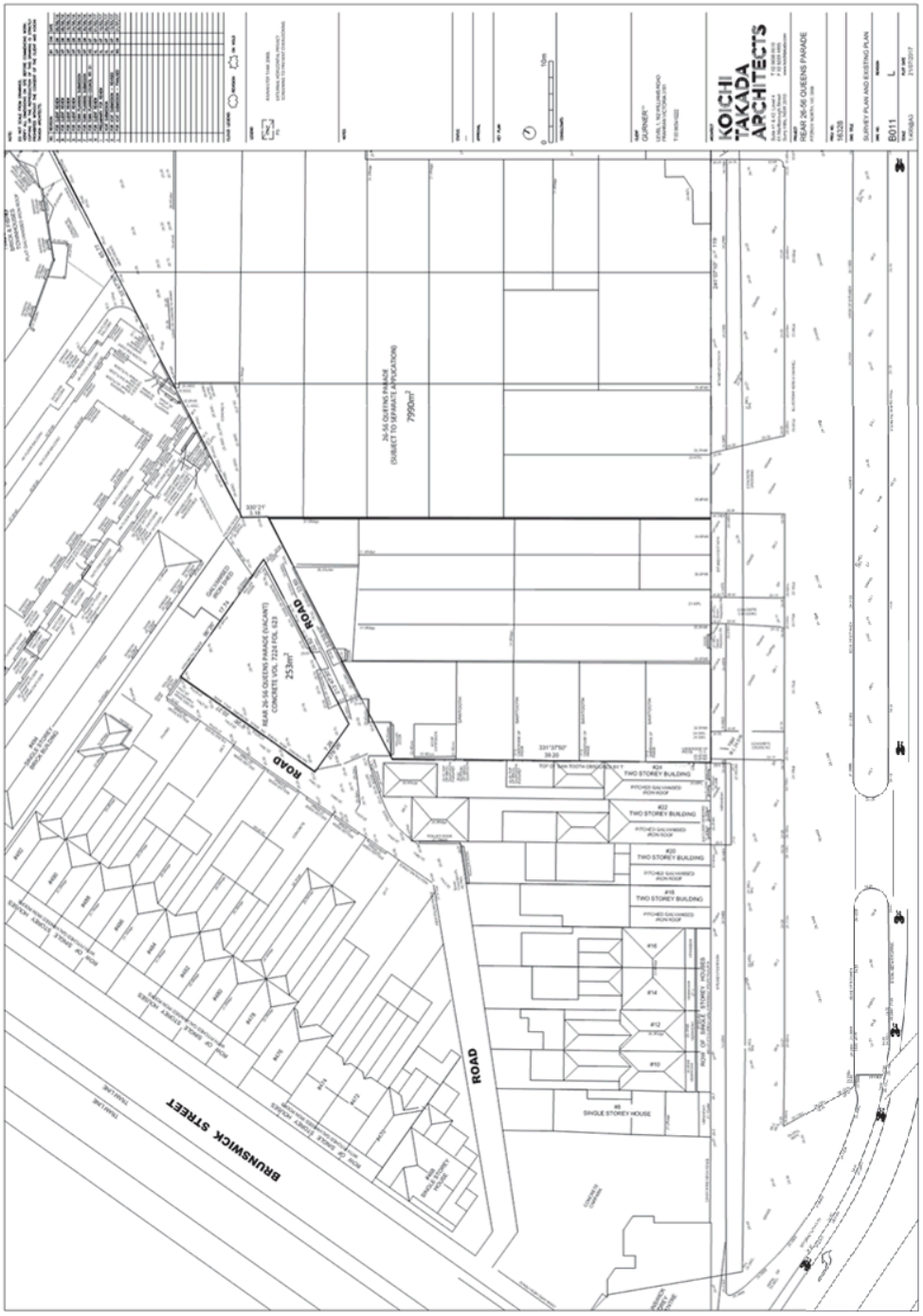

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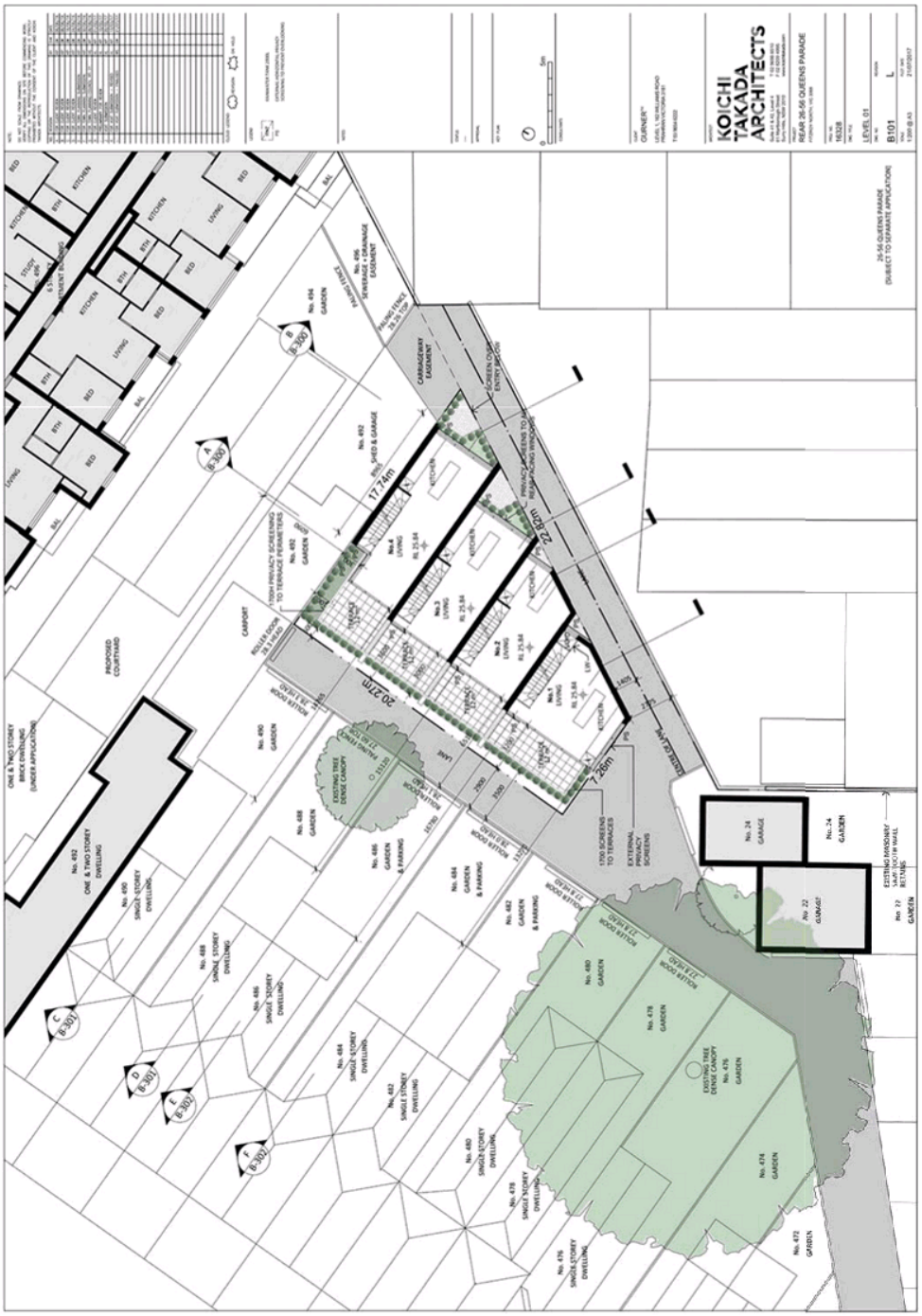

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KOICHI TAKADA ARCHITECTS
REAR 26-56 QUEENS PARADE
ROOF PLAN
B103
17.74m
22.83m
20.21m
7.26m
LANE
CARRIAGEWAY EASEMENT
PROPOSED COURTYARD
ONE & TWO STOREY BRICK DWELLING (UNDER APPLICATION)
No. 492 ONE & TWO STOREY DWELLING
No. 490 SINGLE STOREY DWELLING
No. 488 SINGLE STOREY DWELLING
No. 486 SINGLE STOREY DWELLING
No. 484 SINGLE STOREY DWELLING
No. 482 SINGLE STOREY DWELLING
No. 480 SINGLE STOREY DWELLING
No. 478 SINGLE STOREY DWELLING
No. 476 SINGLE STOREY DWELLING
No. 474 GARDEN
No. 472 GARDEN
No. 24 GARAGE
No. 24 GARDEN
No. 22 GARAGE
No. 22 GARDEN
No. 494 GARDEN
No. 492 GARDEN
No. 490 GARDEN
No. 488 GARDEN
No. 486 GARDEN & PARKING
No. 484 GARDEN & PARKING
No. 482 GARDEN & PARKING
No. 480 GARDEN
No. 478 GARDEN
No. 476 GARDEN
EXISTING TWO STOREY BRICK CHURCH
EXISTING TWO STOREY BRICK CHURCH
No. 494 SINGLE STOREY DWELLING
No. 492 SHED & GARAGE
No. 492 GARDEN
No. 490 GARDEN
No. 488 GARDEN
No. 486 GARDEN & PARKING
No. 484 GARDEN & PARKING
No. 482 GARDEN & PARKING
No. 480 GARDEN
No. 478 GARDEN
No. 476 GARDEN
No. 474 GARDEN
No. 472 GARDEN
No. 24 GARAGE
No. 24 GARDEN
No. 22 GARAGE
No. 22 GARDEN
NO.4 ROOF
NO.3 ROOF
NO.2 ROOF
NO.1 ROOF
KITCHEN
LIVING
BED
BAL
ETH
CARPORT
ROLLER DOOR 23.3 RL
ROLLER DOOR 23.3 RL
ROLLER DOOR 23.3 RL

Attachment 1 - Queens Parade Items 9 August 2017_Part1

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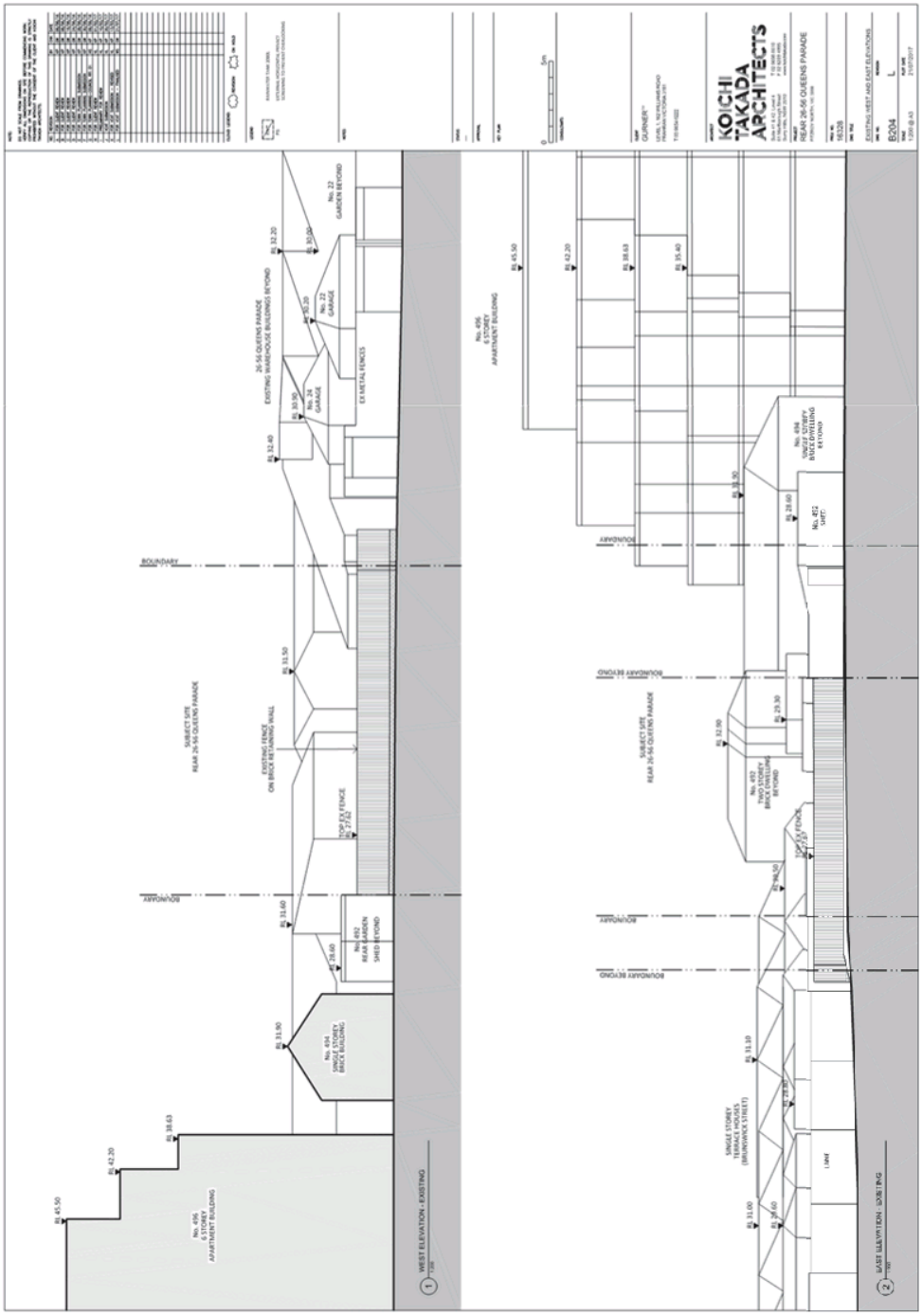

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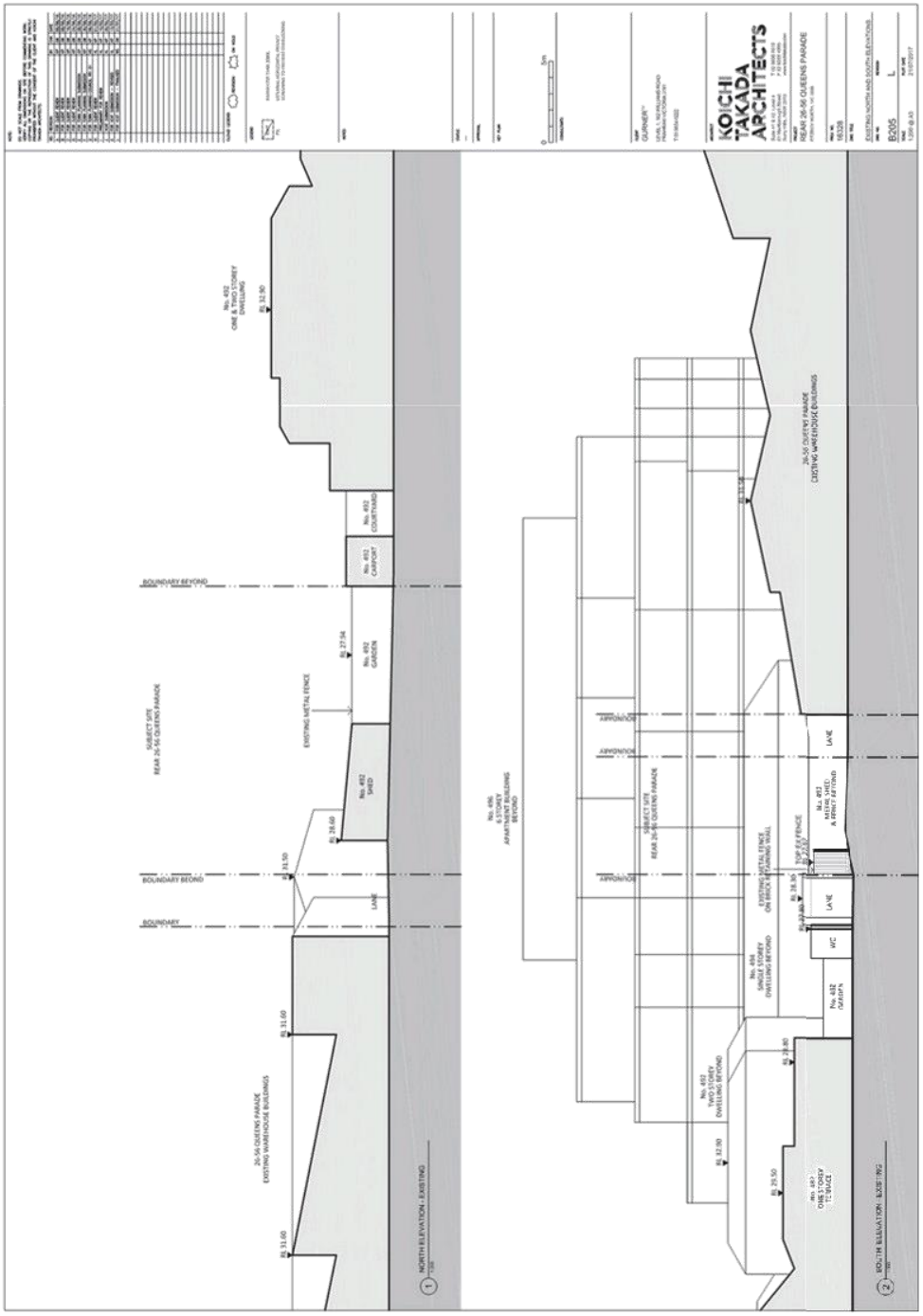

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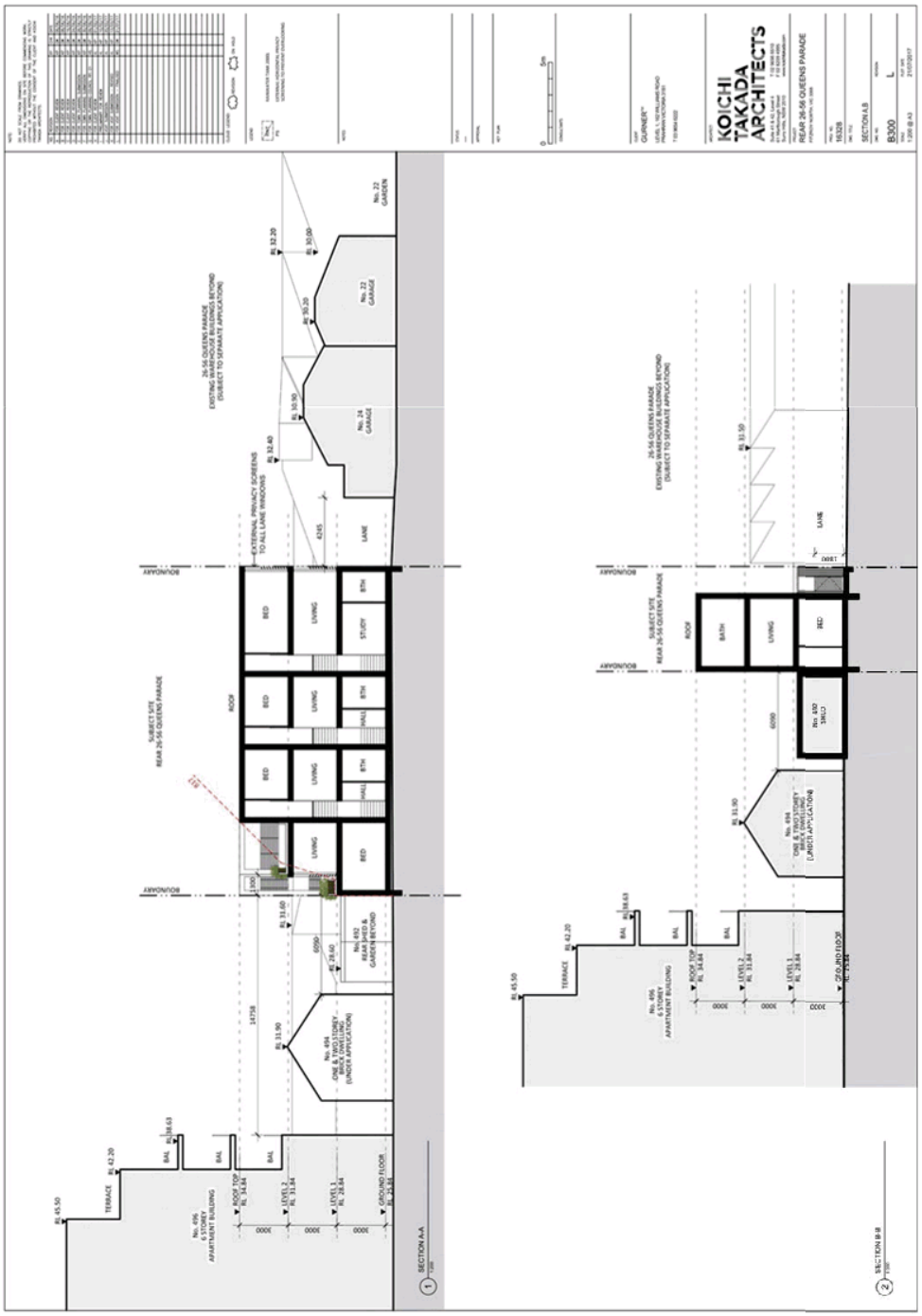

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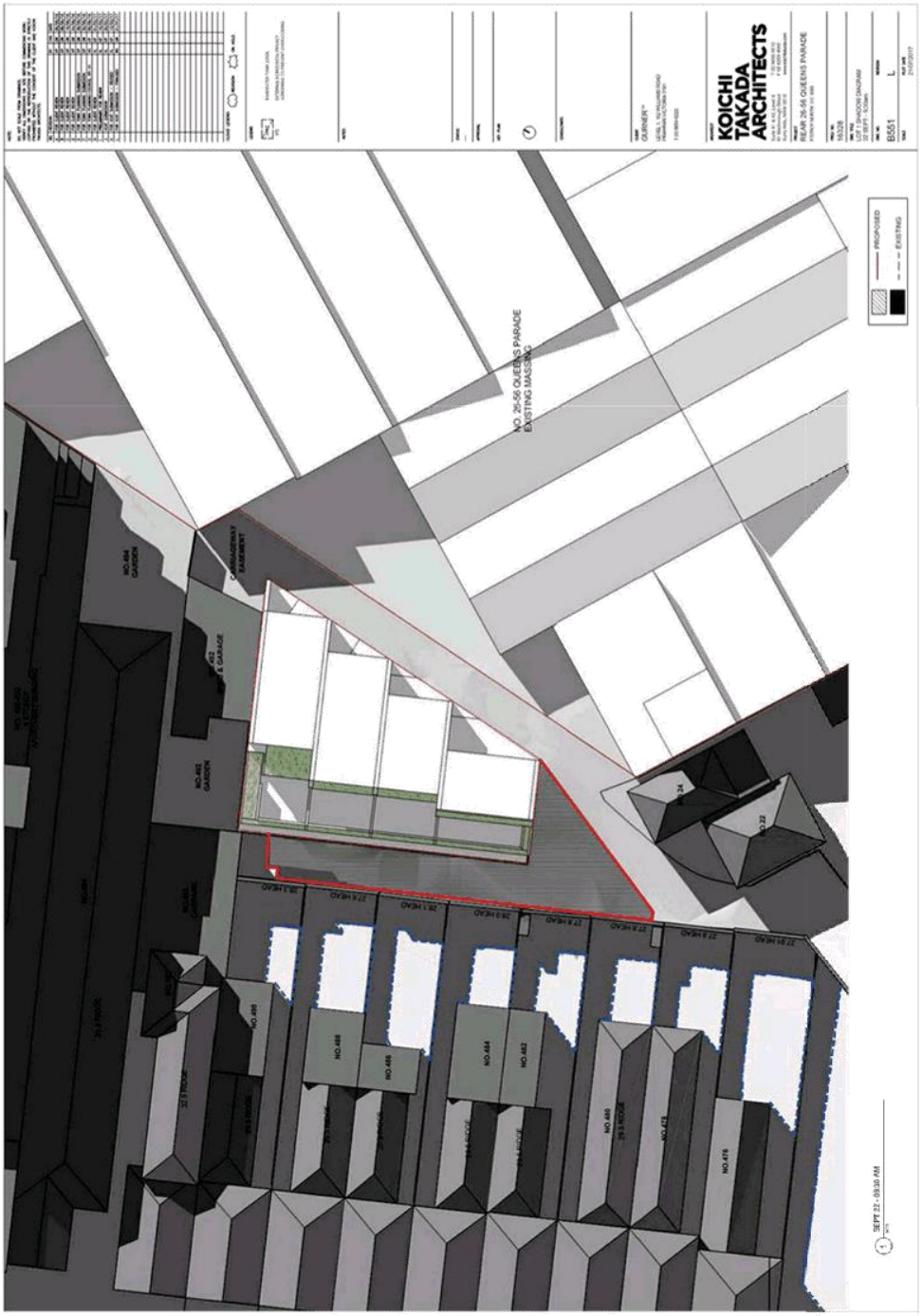

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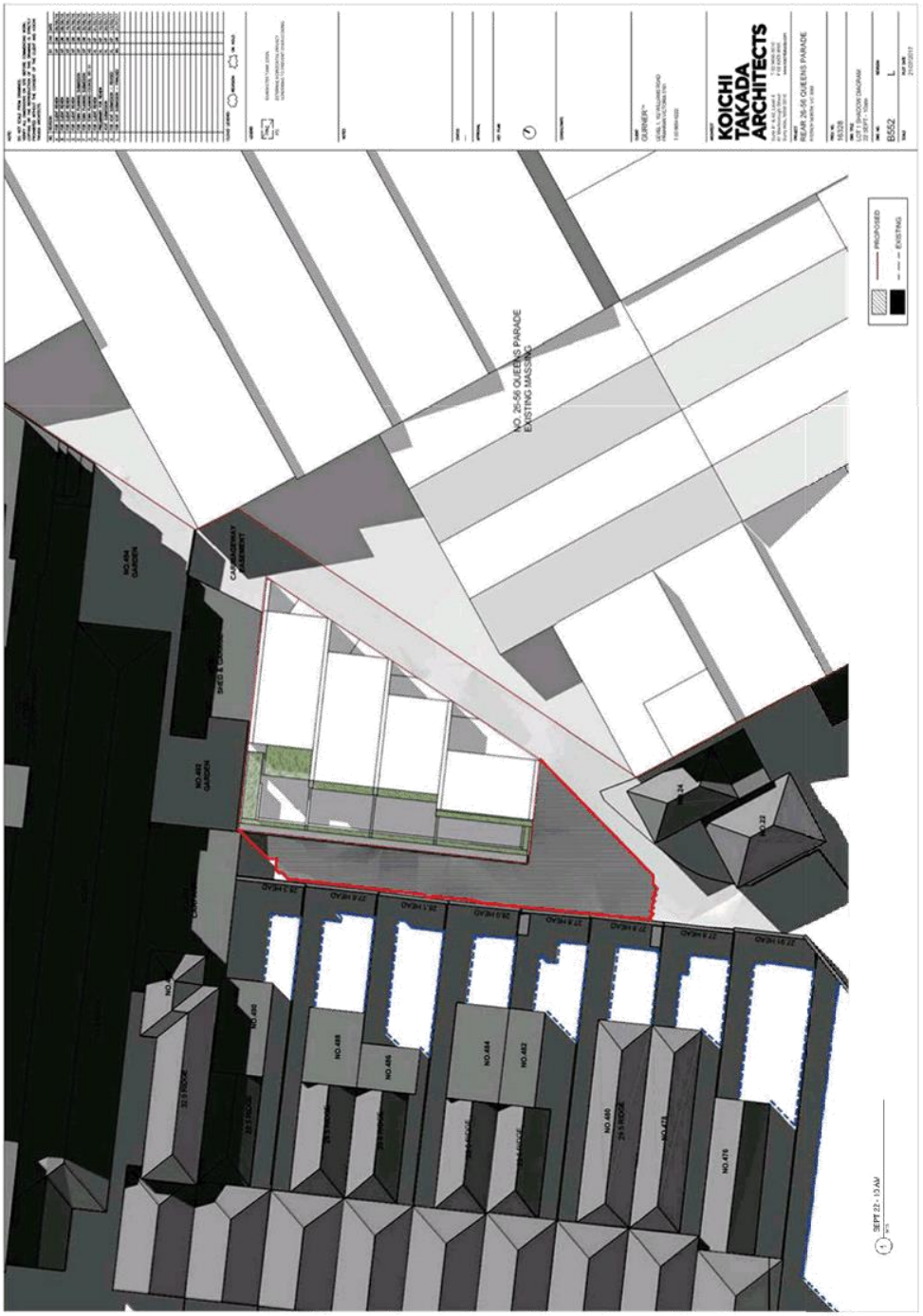

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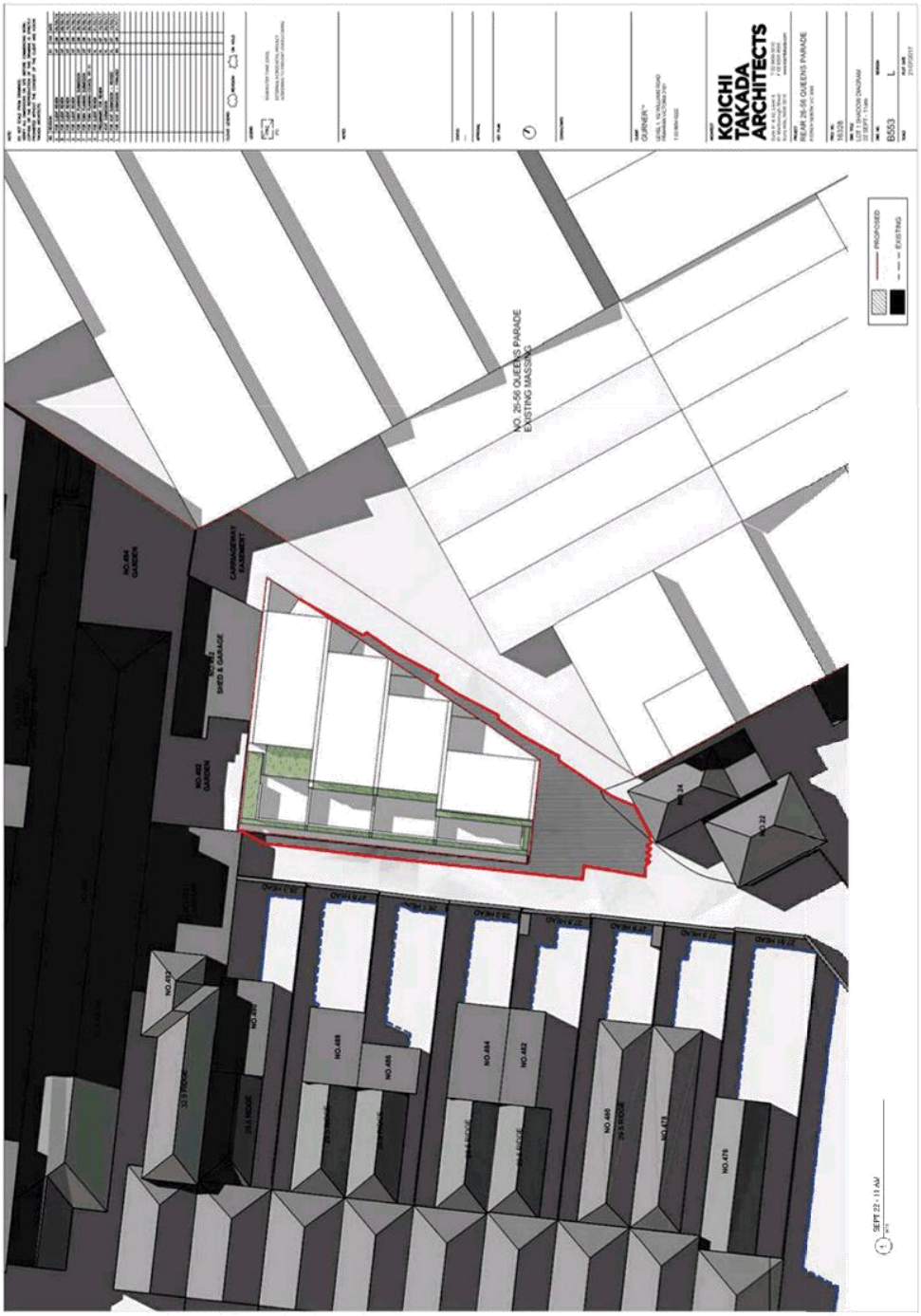

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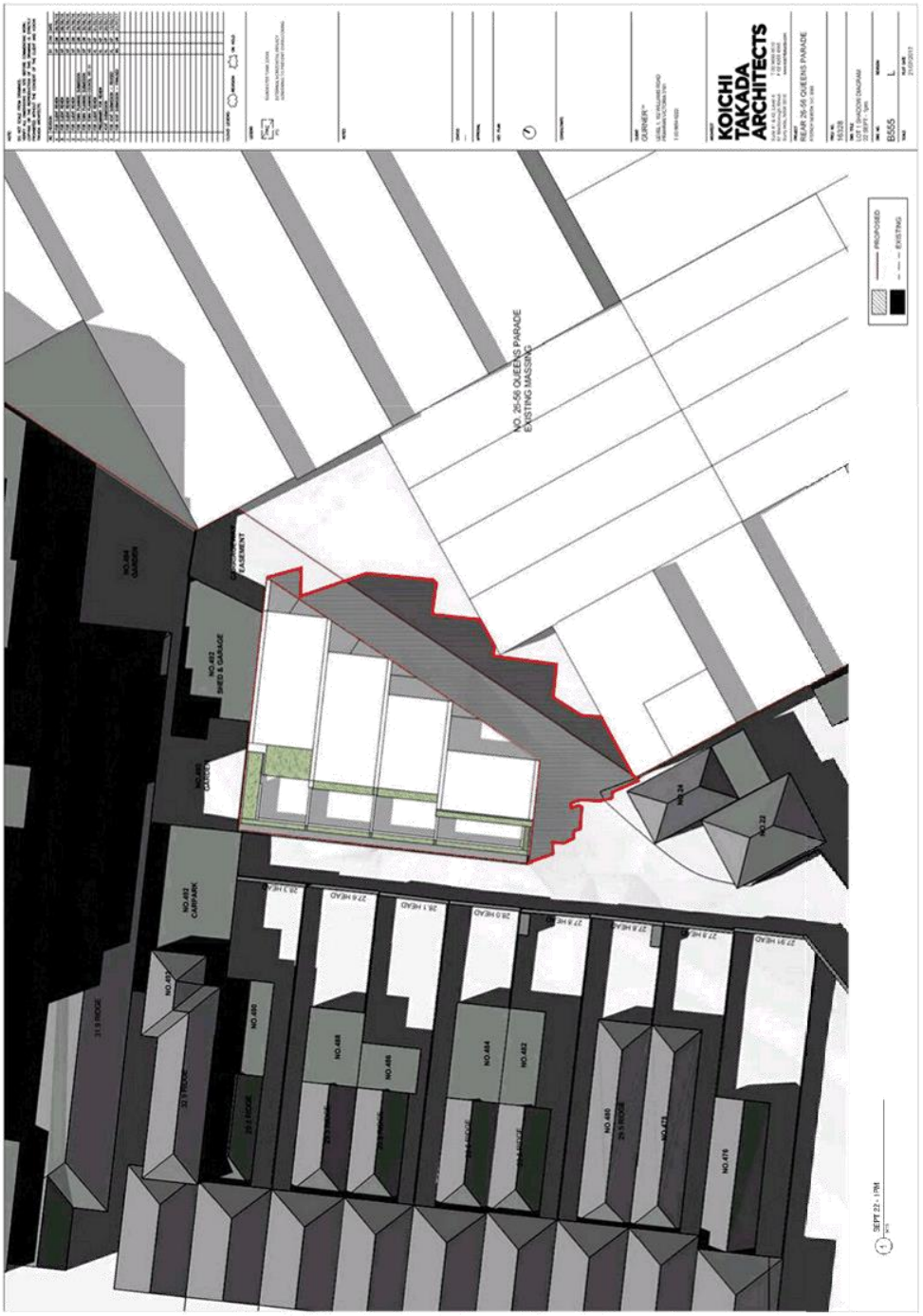

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DEVELOPMENT SUMMARY - VCAT SUBMISSION

SITE AREA: 253 m2
SITE COVERAGE 222 m2 (excludes courtyards)

	LEVEL	GBA - RESI	GFA - RESI	TOTAL GFA	EFFICIENCY NSA/GFA
BUILDING	GROUND	253	222	222	100%
	LEVEL 1	231	184	184	100%
	LEVEL 2	191	112	112	100%
	ROOF	146	0	0	100%
	TOTALS	821	518	518	100%

APARTMENT MIX		
2BED/2BTH+S 75.85m²	3BED/2BTH	SUB-TOTAL
1	3	4
		0
		0
		0
		0
1	3	4

CARPARK	2BED/2BTH+S	3BED/2BTH+S	SUB-TOTAL
AVERAGE RATE	1.0	2	
NO.	1	6	7

*Carparking accommodated in the basement of adjacent site 26-56 Queens Parade, under separate application

Notes:

1. This scheme and schedule have been prepared for planning permission purposes only.
2. The design has been prepared with limit structural and services advice and coordination.
3. Changes to the layouts and associated figures will be made during the design development.

Definitions:

1. NSA Apartment areas have been measured according to the Property Council of Australia method of measurement.
2. GFA has been measured to the external face of the external walls, including areas for vertical circulation, lift, stair and plant rooms and EXCLUDING voids.
4. GBA has been measured to the external face of all built areas, including balconies, roof terraces, and slab extensions accomodating planter boxes and privacy screens. GBA excludes non-trafficable green roofs.

3. Basement GFA has betwen measured to the external face of all shoring walls, including services, plant rooms, vertical circulation, and lifts.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

PLN16/0732 - Rear 26-54 Queens Parade, Fitzroy North - Development of the land for the construction of 4, 3-storey townhouses with a reduction in the car parking requirements and provision of parking on another site

Executive Summary

Purpose

1. This report provides Council with an assessment of planning application PLN16/0712 at (rear) of 26-54 Queens Parade, Fitzroy North and recommends Council adopt a position of support at the upcoming VCAT hearing, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
   (a) clause 32.04 – Mixed Use Zone;
   (b) clause 43.01 – Heritage Overlay;
   (c) Clause 52.06 – Car parking;
   (d) Clause 52.34 – Bicycle facilities;
   (e) Clause 15.01-1 – Urban Design;
   (f) Clause 15.01-2 – Urban design principles;
   (g) Clause 15.01-4 – Design for safety;
   (h) Clause 15.01-5 – Cultural identity and neighbourhood character;
   (i) Clause 15.02-1 – Energy and resource efficiency;
   (j) Clause 15.03-1 – Heritage conservation;
   (k) Clause 16.01-1 – Integrated housing;
   (l) Clause 16.01-2 – Location of residential development;
   (m) Clause 16.01-4 – Housing diversity;
   (n) Clause 16.01-5 – Housing affordability;
   (o) Clause 18.01-1 – Land use and transport planning;
   (p) Clause 18.02-1 – Sustainable personal transport;
   (q) Clause 18.02-5 – Car parking;
   (r) Clause 21.04-1 – Accommodation and housing;
   (s) Clause 21.04-2 – Activity Centres;
   (t) Clause 21.05-1 – Heritage;
   (u) Clause 21.05-2 – Urban design;
   (v) Clause 21.05-4 – Public environment;
   (w) Clause 21.06 – Transport;
   (x) Clause 21.08-8 – North Fitzroy;
   (y) Clause 22.02 – Development guidelines for sites subject to the heritage overlay;
   (z) Clause 22.07 – Development abutting laneways;
   (aa) Clause 22.12 – Public open space contribution;
   (bb) Clause 22.16 – Stormwater management (water sensitive urban design); and
   (cc) Clause 22.17 – Environmentally sustainable development.

Key Issues

3. The key issues for Council in considering the proposal relate to:
   (a) strategic policy;
   (b) heritage;
   (c) ResCode (clause 55), incorporating clauses 22.05, 22.16 and 22.17;
   (d) traffic and car parking;
   (e) bicycle parking;
   (f) waste management;
   (g) Objector concerns; and
   (h) compliance with proposed DDO.

Objector Concerns

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

4. 24 objections were received to the original application plans, these can be summarised as:
   (a) neighbourhood character and impact on heritage;
   (b) excessive height and overdevelopment;
   (c) off-site amenity (visual bulk, overshadowing, noise, overlooking, daylight and airflow);
   (d) poor ESD outcome;
   (e) shadowing of the laneway;
   (f) safety concerns (shared pedestrian/vehicular access along the lane, emergency vehicle access and impact on cyclists);
   (g) impacts during construction phase;
   (h) insufficient car parking;
   (i) unreasonable traffic impacts;
   (j) materials have not been specified; and
   (k) insufficient landscaping detail.

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: **Sarah Thomas**
TITLE: **Principal Planner**
TEL: **92055046**

PLN16/0732 - Rear 26-54 Queens Parade, Fitzroy North - Development of the land for the construction of 4, 3-storey townhouses with a reduction in the car parking requirements and provision of parking on another site

Trim Record Number: D17/25215
Responsible Officer: Manager Statutory Planning

Proposal:	Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site
Existing use:	Vacant
Applicant:	Gurner 26-56 Queens Parade Pty Ltd
Zoning / Overlays:	Mixed Use Zone, Heritage Overlay, Environmental Audit Overlay
Date of Application:	26/7/2016
Application Number:	PLN16/0732

Planning History

1. The site was re-zoned from the Business 3 Zone to the Mixed Use Zone on 13 November 2003 following amendment C20 to the Yarra Planning Scheme. The amendment was a Section 96A amendment process, with a concurrent planning permit application (PL02/0239) for 26-56 Queens Parade. The re-zoning however, affected 8-72 Queens Parade and 460-500 Brunswick Street.

2. The panel report for the re-zoning of the land recommended that no development occur on the rear parcel (now subject to this application).

3. More recently, a special Council Meeting was held on 14 November 2016. Council discussed developments currently proposed along Queens Parade. Council resolved:

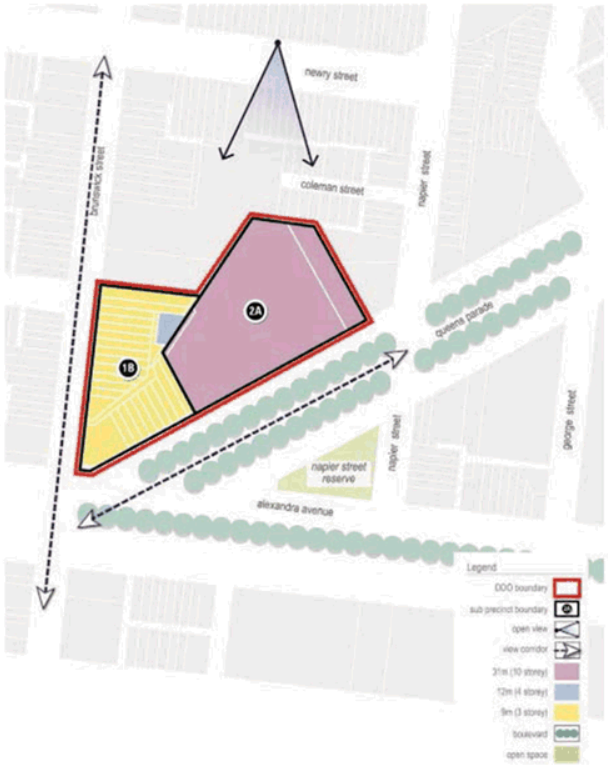
    1. *That Council note:*
        (a) *several public meetings held regarding 26-56 Queens Parade, Fitzroy North including a public meeting convened by the community on 2 November 2016, attended by some 400 community members with resolutions from this meeting on 26-56 Queens Parade and other planning applications in the precinct including a request for an amendment to the planning scheme to create a Design and Development Overlay for the area of North Fitzroy and Clifton Hill (attached as Attachment One); and*
        (b) *the current planning application for a high density residential development for 26-56 Queens Parade, Fitzroy North of up to 16 storeys and its recent referral by the applicant to the Victorian Civil and Administrative Tribunal (VCAT);*

    2. *That Council seek a report to be presented to the 22 November 2016 Council meeting providing advice on:*
        (a) *the process of the above planning application and steps leading to a full hearing of this application before VCAT, scheduled in April 2017;*
        (b) *the likely costs involved in advocacy for Council at VCAT;*
        (c) *the request for a planning scheme amendment for the precinct, and site, and the basis and requirements for any such amendment;*
        (d) *the steps, options and timing for such amendment; and*
        (e) *any other pertinent aspects to inform Council on this matter.*

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

4. At a Council Meeting on 7 February 2017, Council considered officer's recommended draft DDO guidelines for the western section of Queens Parade. The DDO guidelines were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:



5. The Council officer recommendation was that the mandatory maximum overall building height for the main site at 26-56 Queens Parade not exceed 31m or 10 storeys and for the subject site (rear site), 12m or 4 storeys.

6. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site and 2 storeys for the rear site (subject site).

7. Council resolved (in part) to:

(e) request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and

8. At the time of writing, no correspondence has been received in relation to Council's request for interim controls.

Background

9. On 25 January 2017, Council was informed that a Section 79 'failure to determine' appeal had been lodged with the Victorian Civil and Administrative Tribunal [**VCAT**].

10. On 3 February 2017, a practice day was held at VCAT to consider if this application should be heard at the same time as the Section 79 review for the main site (PLN6/0434). All parties consented and VCAT agreed to join both hearings (PLN16/0732 and PLN16/0434), with the hearing commencing on 3 April 2017 for 7 days. No compulsory conference was scheduled.

11. On 21 February 2017, the Applicant circulated substituted plans. These plans will form the basis of the assessment and will be considered at the upcoming VCAT hearing. The plans essentially delete 1 level from the townhouses, reducing the scale from 4 to 3 storeys, with associated internal re-configurations.

Existing Conditions

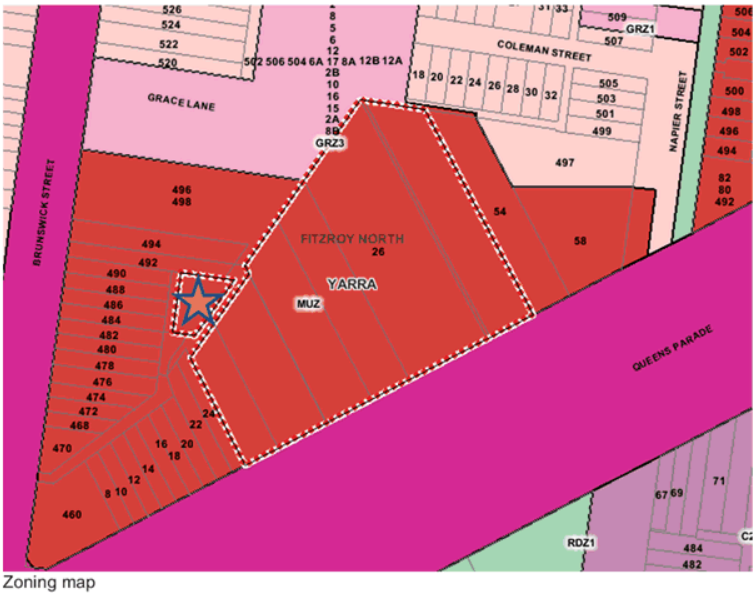
Subject Site

12. The subject site is located at the rear of 26-56 Queens Parade, an approximately 248m² irregular shaped lot accessed via a lane that extends from Brunswick Street to the west.

13. The site has a western boundary of 20.3m, a northern boundary of 17.8m, an eastern boundary of 22.8m and a southern boundary of 7.3m.

14. The site is current vacant and undeveloped.

15. The site is located within a Mixed Use Zone and is within walking distance of the Brunswick Street AC (149m).



Zoning map

Subject site

Restrictive Covenants

16. There are no restrictive covenants shown on the certificates of title provided with the application.

Surrounding Land

South

17. To the south of the subject site, across the laneway, is a 8,028m² site located on the north side of Queens Parade, approximately 78m east of Brunswick Street and 33m west of Napier Street. The shape is an unusually shaped lot, with 1 main road frontage and 2 separate laneway frontages.

18. The site has a frontage of 119m to Queens Parade, a western boundary length of 39.2m, a north-west boundary length of 33.6m, leading to an adjoining north-west boundary length of 65.8m. The north-east boundary length is 37.5m and the east boundary length is 65.8m. The site has an overall area of approximately 8,028m².

19. The site is developed with a series of buildings:
    (a) Queens parade, western end – the most distinctive part of the site, being a row of 2 storey buildings with art deco style parapets. The façades have been painted pink with navy highlights. This row extends for a length of approximately 74m and extends the depth of the site, save for a triangular section in the northern end, generally behind the Grace Lane properties;
    (b) Queens Parade, eastern end – a single storey warehouse style building, presenting a frontage of approximately 13.6m to Queens Parade and extending for the length of the eastern boundary (terminating at the laneway at the rear of the site;

20. Between both Queens Parade building segments is an open air carpark, presenting a frontage of approximately 31m to Queens Parade.

21. Council formed a position of refusal for a development of this site in December 2016. The applicant was seeking approval for the part demolition and development of the land for a maximum 16 storey building, plus 2 basement levels, accommodating 476 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alteration of access to a Road Zone (PLN16/0434). The position of refusal is based on the following grounds:
    (a) *The proposed height, scale and massing does not respond to the existing or preferred character of the area and will dominate the surrounding area.*
    (b) *The proposal will result in an unacceptable on-site amenity impact including natural daylight and ventilation.*
    (c) *The side setbacks and building will not achieve equitable development for adjoining and adjacent sites.*
    (d) *The proposed waste management plan is inadequate for the site.*

22. Also to the south of the subject site, but further west of this larger site, is a row of 9, single and double storey Victorian era terraces. The 4 closest to the subject site are double storey. These properties all enjoy rear access to the lane, accessed via Brunswick Street. These dwellings include rear private open space areas, along with a first floor rear deck at the eastern end of the row.

23. Further west of these properties, at the corner of Queens Parade and Brunswick Street, is a 2 storey Victorian era building used as a medical centre. This medical centre includes car parking adjacent to the single storey Victorian era terraces on Queens Parade.

West

24. To the west of the subject site, across the laneway, is a row of primarily single storey dwellings fronting Brunswick Street. These properties also enjoy rear access and utilise the rear laneway which leads to Brunswick Street. These dwellings include rear private open space areas and habitable room windows.

North

25. To the north of the subject site is the side of a property fronting Brunswick Street to the west. This property presents a segment of private open space and a shed to the immediate north of the subject site.

26. Further north is another single storey dwelling with a rear private open space area.

27. Further north again is a recently constructed 6 storey apartment building that fronts Brunswick Street.

28. The site is well located in terms of bicycle access and public transport:
    (a) 2 bus routes along Queens Parade; and
    (b) 2 tram routes along Brunswick Street.

The Proposal

29. The application is for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site). More specifically:

Built form and massing

(a) construction of 4, 3 storey dwellings;
(b) ground level – the dwellings would be constructed to the northern boundary and mostly constructed to the south and east boundaries, with a minimum 1m western setback. The walls on the southern boundary would extend for a length of 6.3m, 14.6m along the eastern boundary and 17.7m along the northern boundary;
(c) first floor – the dwellings would be partially constructed to the south, east and north boundaries. The walls on the southern boundary would extend for a length of 4m, a total of 8.4m along the eastern boundary and 9m along the northern boundary;
(d) second floor – the dwellings would again, continue to be partially constructed to the south, east and north boundaries. Additional western boundary setbacks would be offered at this floor, to a minimum 3.2m, increasing to 6.2m. The walls on the southern boundary would extend for a length of 4.1m, 8.4m at the eastern boundary and 9m along the northern boundary;
(e) heights – the development would introduce a maximum 9.2m high wall on the north, east and south boundaries (maximum overall height);

Layout

(f) the 4 dwellings would be of the following configuration:
    (i) 2BR plus study – 1;
    (ii) 3BR plus study – 1; and
    (iii) 3BR – 2.
(g) the dwellings would be accessed via the eastern lane;
(h) although not part of this application, the application for the main site (PLN16/0434) proposes to introduce another pedestrian access point through 26-56 Queens Parade to these townhouses;
(i) at the ground level, the dwellings would contain bedrooms, studies and amenities, along with 4m²-5m² west boundary courtyards. The first floor would contain living/dining/kitchen areas, along with 12m² terraces for each dwelling. The second floor would contain additional bedrooms and amenities. The northernmost dwelling would contain a green roof at this level;
(j) the proposal is seeking a site coverage of approximately 87%;

Colours, materials and landscaping

(k) the original plans included a mixture of off white render, off white bricks, clear class balustrades, white aluminum composite panels, clear glazing, dark coloured glazing and perforated metal (natural finish) privacy screens. The substituted plans do not include a material key or schedule of colours and materials. Should a permit issue, this should be addressed by way of a permit condition;

Environmentally sustainable development [**ESD**] features

(l) NatHERS rating of at least 6 stars;
(m) provision of 4 x 2,000L rainwater tanks;

Car parking and waste

(n) 6 car parking spaces would be provided on the 'main site' at 26-56 Queens Parade in the proposed development (Planning permit application PLN16/0434, currently before VCAT); and
(o) waste storage and collection would be located and occur again on the main site (planning permit application PLN16/0434, again, currently before VCAT).

Planning Scheme Provisions

Zoning

*Mixed Use Zone [**MUZ**]*

30. The purpose of the MUZ includes (as relevant):
    (a) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality*;
    (b) *To provide for housing at higher densities*;
    (c) *To encourage development that responds to the existing or preferred neighbourhood character of the area*; and
    (d) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

31. Under clause 32.04-2 of the Scheme, a permit is not required to use the site for dwellings.

32. A permit is required under clause 32.04-6 of the Yarra Planning Scheme [**the Scheme**] to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Overlays

Heritage Overlay (HO327)

33. The relevant purpose of the HO is:
    (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 conserve and enhance heritage places of natural or cultural significance.*
    (c) *To conserve and enhance those elements which contribute to the significance of heritage places.*
    (d) *To ensure that development does not adversely affect the significance of heritage places.*

34. A planning permit is required to demolish or remove a building and to construct a building or construct or carry out works.

35. Decision guidelines at clause 43.01-4 of the Scheme include (as relevant):
    (a) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
    (b) *Any applicable statement of significance, heritage study and any applicable conservation policy.*
    (c) *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
    (d) *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
    (e) *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
    (f) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

Environmental Audit Overlay

36. The purpose of this overlay is:
    (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 ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

37. Clause 45.03-1 states it is a requirement that:
    (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.*

38. With dwellings proposed, this requirement will be addressed by way of a notation.

Particular Provisions

Clause 52.06 – Car parking

39. The purpose of this provision (amongst others) is to ensure the provision of an appropriate number of car spaces are provided having regard to the activities on the land and the nature of the locality. This provision recommends car parking rates at clause 52.06-5. Under clause 52.06-3, a permit may be granted to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 (noting there is no relevant Parking Overlay).

40. The application generates a parking requirement for 7 spaces (1 for the 2BR dwelling and 2 for each of the 3 x 3BR dwellings [6]). It is noted that the studies have not been treated as bedrooms due to their size and configuration, making them unlikely to be converted to bedrooms.

41. Six car parking spaces would be provided within the development at the main site at 26-56 Queens Parade (currently before VCAT – PLN16/0434). A planning permit is required under clause 52.06-3 of the Scheme to:
    (a) reduce (including reduce to zero) the number of car parking spaces required under clause 52.06-5; and
    (b) to provide 6 car parking spaces on another site.

42. Clause 52.06-6 of the Scheme outlines a range of decision guidelines and clause 52.06-8 outlines a range of design standards. The relevant of these will be addressed in the assessment.

Clause 52.34 – Bicycle facilities

43. The purpose of this Clause is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities. Clause 52.34-2 states that a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.

44. This application has a requirement to provide 1 bicycle parking space.

45. This is not shown on the plans, however the Applicant has not applied to waive this requirement.

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

46. The purpose of this provision is:
    (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 achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character.*

(c) *To encourage residential development that provides reasonable standards of amenity for existing and new residents.*
(d) *To encourage residential development that is responsive to the site and the neighbourhood.*

47. An assessment against ResCode (clause 55) will be offered in this assessment.

General Provisions

Clause 65 – Decision Guidelines

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

State Planning Policy Framework (SPPF)

The following SPPF provisions of the Scheme are relevant:

Clause 11.04-2 – Housing choice and affordability

49. The relevant objective of this clause is '*To provide a diversity of housing in defined locations that cater for different households and are close to jobs and services*'. The relevant strategy is to '*Reduce the cost of living by increasing housing supply near services and public transport*'.

Clause 11.04-4 – Liveable communities and neighbourhoods

50. The objective of this clause is 'To create healthy and active neighbourhoods and maintain Melbourne's identity as one of the world's most liveable cities'. The relevant strategies are to:
(a) *Create a city of 20-minute neighbourhoods.*
(b) *Protect Melbourne and its suburbs from inappropriate development.*
(c) *Create neighbourhoods that support safe communities and healthy lifestyles.*
(d) *Achieve and promote design excellence.*

Clause 11.04-5 – Environment and water

51. The objective of this clause is '*To protect natural assets and better plan our water, energy and waste management systems to create a sustainable city*'.

Clause 13.03-1 – Use of contaminated and potentially contaminated land

52. The objective of this clause is '*To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely*'.

Clause 13.04-1 – Noise abatement

53. The objective of this clause is '*To assist the control of noise effects on sensitive land uses*'.

Clause 15.01-1 – Urban Design

54. The objective of this clause is '*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

55. 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'*. The strategy of this clause is to apply 11 design strategies. Planning must also consider (as relevant) the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) in assessing the design and built form of residential development of five or more storeys.

Clause 15.01-4 – Design for safety

56. The objective of this clause is '*To improve community safety and encourage neighbourhood design that makes people feel safe*'. The relevant strategy is to '*Ensure the design of buildings, public spaces and the mix of activities contribute to safety and perceptions of safety*'.

Clause 15.01-5 – Cultural identity and neighbourhood character

57. 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

58. 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 15.03-1 – Heritage conservation

59. The objective of this clause is '*To ensure the conservation of places of heritage significance*'.

Clause 16.01-1 – Integrated housing

60. The objective of this clause is '*To promote a housing market that meets community needs*'.

Clause 16.01-2 – Location of residential development

61. 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 16.01-4 – Housing diversity

62. 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

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

Clause 18.01-1 – Land use and transport planning

64. The objective of this clause is '*To create a safe and sustainable transport system by integrating land-use and transport*'. The relevant strategy is:
    (a) *Plan urban development to make jobs and community services more accessible by:*
    (i) *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.*

Clause 18.02-1 – Sustainable personal transport

65. The objective of this clause is '*To promote the use of sustainable personal transport*'.

Clause 18.02-5 – Car parking

66. It is an objective '*To ensure an adequate supply of car parking that is appropriately designed and located*'. This clause includes the following relevant strategies to achieve this objective:
    (a) *Allocate or require land to be set aside for car parking subject to the existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking.*
    (b) *Prepare plans for the design and location of local car parking to:*
        (i) *Protect the role and function of nearby roads, enable easy and efficient use and the movement and delivery of goods.*
        (ii) *Achieve a high standard of urban design and protect the amenity of the locality, including the amenity of pedestrians and other road users.*
        (iii) *Create a safe environment, particularly at night.*
        (iv) *Facilitate the use of public transport.*
    (c) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

67. In the City of Yarra in 2020 (as relevant):

Land Use
(a) *Yarra will have increased opportunities for employment*
(b) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne*

Transport
(c) *Local streets will be dominated by walkers and cyclists*
(d) *Most people will walk, cycle and use public transport for the journey to work*

Clause 21.04-1 – Accommodation and housing

68. The following is offered in this clause:

    (a) *Yarra is experiencing consistent residential growth. The Metropolitan Strategy, Melbourne 2030, identifies that this trend will continue.*
    (b) *Yarra will continue to accommodate its share of the housing growth of the inner Melbourne Metropolitan region (comprising the Cities of Melbourne, Port Phillip, Stonnington and Yarra). However, in order to protect valued character, and particularly its heritage places, the majority of new development will be accommodated on strategic redevelopment sites. These sites are generally located in, abutting, or close to activity centres, or in locations that offer good access to services and transport as required under Melbourne 2030. Other areas such as those in Mixed Use or Business zones will accommodate some population growth, while most established Residential 1 zones are stable and will experience minimal change.*

69. The relevant objectives and standards of this clause are:
    (a) *Objective 1 To accommodate forecast increases in population.*

(i) *Strategy 1.1 Ensure that new residential development has proper regard for the strategies applicable to the neighbourhood in question identified in clause 21.08.*
(ii) *Strategy 1.3 Support residual population increases in established neighbourhoods.*

(b) *Objective 2 To retain a diverse population and household structure.*
(c) *Objective 3 To reduce potential amenity conflicts between residential and other uses.*
(i) *Strategy 3.1 Ensure new residential development in the Mixed Use, Business 1, Business 2, and Business 5 Zones and near Industrial and Business Zones is designed to minimise the potential negative amenity impacts of existing non-residential uses in the vicinity.*

Clause 21.04-2 – Activity Centres

70. The site is approximately 149m to the north-east of the Brunswick Street Activity Centre [**AC**].

71. The relevant objectives and strategies of this clause are:
(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.*
i. *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

Clause 21.05-1 – Heritage

72. The relevant objectives and strategies of this clause are:

(a) *Objective 14 To protect and enhance Yarra's heritage places.*
(i) *Strategy 14.1 Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
(ii) *Strategy 14.2 Support the restoration of heritage places.*
(iii) *Strategy 14.3 Protect the heritage skyline of heritage precincts.*
(iv) *Strategy 14.4 Protect the subdivision pattern within heritage places.*
(v) *Strategy 14.5 Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces.*
(vi) *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas. Strategy 14.8 Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*

Clause 21.05-2 – Urban design

73. The relevant objectives and strategies of this clause are:

(a) Objective 16 To reinforce the existing urban framework of Yarra.
(i) *Strategy 16.2 Maintain and strengthen the preferred character of each Built Form Character Type within Yarra.*
(b) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern.*
(i) *Strategy 18.2 Enhance the amenity of laneways by applying the Development Abutting Laneway policy at Clause 22.07.*
(c) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*
(i) *Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*

(d) *Objective 22 To encourage the provision of universal access in new development.*

(i) *Strategy 22.1 Encourage applicants to take into account the access needs of all people in the design of new buildings.*

Clause 21.05-4 – Public environment

74. The relevant objective and strategies of this clause are:
    (a) *Objective 28 To a provide a public environment that encourages community interaction and activity.*
        (i) *Strategy 28.1 Encourage universal access to all new public spaces and buildings.*
        (ii) *Strategy 28.2 Ensure that buildings have a human scale at street level.*
        (iii) *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*
        (iv) *Strategy 28.5 Require new development to make a clear distinction between public and private spaces.*
        (v) *Strategy 28.8 Encourage public art in new development.*

Clause 21.06 – Transport

75. This clause builds upon the objectives outlined at clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

Clause 21.08-8 – North Fitzroy

76. The following relevant commentary is offered in this clause:

    (a) *North Fitzroy is known for the beautiful Edinburgh Gardens which combine open space, sportsgrounds, barbecue area, gardens with long-established European elm trees, skate bowl, tennis and basketball courts, bandstand, bowling greens and bocce links, remnants of the old Melbourne rail loop, and a heritage listed grandstand. The neighbourhood is largely residential.*
    (b) *The northern part of North Fitzroy has a low density residential character consisting of late Victorian and early Edwardian double fronted dwellings. Further south dwellings are more likely to be single fronted and one or two storeys.*

Relevant Local Policies

Clause 22.02 – Development guidelines for sites subject to the heritage overlay

77. This policy applies to all land within a Heritage Overlay.

78. The relevant objectives of this clause are:
    (a) *To conserve Yarra's natural and cultural heritage.*
    (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
    (c) *To retain significant view lines to, and vistas of, heritage places.*
    (d) *To preserve the scale and pattern of streetscapes in heritage places.*
    (e) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
    (f) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
    (g) *To ensure that additions and new works to a heritage place respect the significance of the place.*
    (h) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*

79. Under clause 22.02-5.7. of the Scheme, the following is offered in relation to new development, alterations and additions:

(a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
  (i) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
  (ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
  (iii) *Be visually recessive and not dominate the heritage place.*
  (iv) *Be distinguishable from the original historic fabric.*
  (v) *Not remove, cover, damage or change original historic fabric.*
  (vi) *Not obscure views of principle façades.*
  (vii) *Consider the architectural integrity and context of the heritage place or contributory element.*
(b) *Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*
(c) *Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.*
(d) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*

80. Clause 22.02-5.7.2 of the Scheme offers more specific requirements (as relevant):

Corner Sites and Sites with Dual Frontages
(a) *Encourage new building and additions on a site with frontages to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place.*
(b) *Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection*

Ancillaries and Services
(c) *Encourage ancillaries or services in new development to be concealed or incorporated into the design of the building.*
(d) *Encourage ancillaries or services to be installed in a manner whereby they can be removed without damaging heritage fabric.*

Clause 22.07 – Development abutting laneways

81. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal. The objectives of this clause are:
(a) *To provide an environment which has a feeling of safety for users of the laneway.*
(b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
(c) *To ensure that where development is accessed off a laneway, all services can be provided to the development.*
(d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

Clause 22.12 – Public open space contribution

82. This policy applies to all residential proposals, mixed use proposals incorporating residential uses and proposals incorporating residential subdivision. The relevant objectives of this clause are:
(a) *To implement the Yarra Open Space Strategy.*
(b) *To identify when and where land contributions for public open space are preferred over cash contributions.*

(c) *To ensure that where appropriate, land suitable for public open space is set aside as part of the design of a development so that it can be transferred to or vested in Council, in satisfaction of the public open space contribution requirement.*

83. The site is located in an area where land in lieu of cash is the preferred method of contribution. However, as the site is only 248m², the site does not meet the selection criteria in that the land to be contributed should be approximately 300m². Should the site be subdivided, a cash contribution would be required.

Clause 22.16 – Stormwater management (water sensitive urban design)

84. This policy applies to new buildings (amongst others) and aims to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999; promote the use of water sensitive urban design, including stormwater re-use; mitigate the detrimental effect of development on downstream waterways; minimise peak stormwater flows; reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and wellbeing.

Clause 22.17 – Environmentally sustainable development

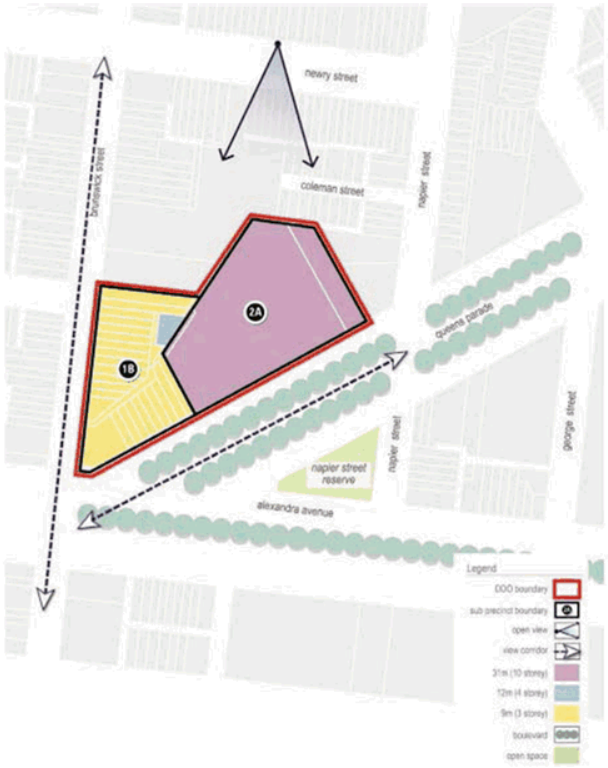
85. The most relevant objective of this clause is '…that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation'.

86. This policy includes 7 categories in which to assess ESD outcomes. An application of this scale requires the Applicant to submit a Sustainable Management Plan, prepared by a suitably qualified expert. This Applicant has done this.

Other documents

Amendment C229

87. As previously identified, at a Council Meeting on 7 February 2017, Council considered officer's recommended draft DDO guidelines for the western section of Queens Parade. The DDO guidelines were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:



88. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site and 2 storeys for the rear site (subject site).

89. Council resolved (in part) to:

    (e) request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and

Advertising

90. The original application plans were advertised by way of 133 letters sent to surrounding property owners and occupiers. A total of 24 objections were received on the following grounds:
    (a) neighbourhood character and impact on heritage;
    (b) excessive height and overdevelopment;
    (c) off-site amenity (visual bulk, overshadowing, noise, overlooking, daylight and airflow);

(d) poor ESD outcome;
(e) shadowing of the laneway;
(f) safety concerns (shared pedestrian/vehicular access along the lane, emergency vehicle access and impact on cyclists);
(g) impacts during construction phase;
(h) insufficient car parking;
(i) unreasonable traffic impacts;
(j) materials have not been specified; and
(k) insufficient landscaping detail.

91. A consultation meeting was held on 15 November 2016 with the Applicant, Objectors and Council Officer's in attendance. Much of the focus was on the interface with this proposal with the adjacent dwellings, the laneway and the proposed development at 25-56 Queens Parade (the 'main site'). At the conclusion of the meeting, the Applicant agreed to engage a building surveyor to assess the safety aspects of access being via a lane (primarily focused on emergency service access).

92. This information was provided to Council on 6 February 2017, with the MFB confirming they had no issue with access to the rear site with regard to emergency access.

Referrals

93. Having regard to the relevant planning controls and the nature of the application, there are no external Referral Authorities.

94. The application was referred internally to the following:
(a) Urban Design Unit;
(b) Engineering Services Unit;
(c) ESD Advisor; and
(d) Heritage Advisor.

95. The substituted plans were also referred to the above. Both sets of advice have been included as attachments to this report.

Assessment

96. The primary considerations for this application are as follows:
(a) strategic policy;
(b) heritage;
(c) ResCode (clause 55), incorporating clauses 22.05, 22.16 and 22.17;
(d) traffic and car parking;
(e) bicycle parking;
(f) waste management;
(g) Objector concerns; and
(h) compliance with proposed DDO.

Strategic policy

97. State and Local Planning Policy direct development close to ACs and well serviced by public transport and infrastructure. Further, the MUZ of the land aims '*To provide for housing at higher densities*' and '*To encourage development that responds to the existing or preferred neighbourhood character of the area*'.

98. As was indicated in the assessment of the development on the 'main site' fronting Queens Parade (planning permit application PLN16/0434), the Yarra Planning Scheme lacks guidance in this regard, in particular on sites in the MUZ (and identified as being a SRS in that instance, although that is not the case for this site given its size).

99. Whilst there is State Policy support for higher residential densities in appropriate locations, there are a number of policy and physical factors that must be considered in this instance. These include the primarily single storey building stock surrounding the site to the west, north and south, the large proposed development site to the south-east and the laneway access that constrains the subject site. The heritage context of the wider area must also be considered.

100. Whilst the 7 February 2017 Council resolution seeking permission from the Planning Minister for interim controls has been outlined in the background section of this report, this resolution has no statutory weight in this planning assessment, unless the Minister determines to approve the interim controls. A brief assessment against this potential controls is found later in this report.

101. Environmentally sustainable design [**ESD**] guidance is offered at clauses 11.04-5, 15.02-1 and 22.16 of the Scheme, encouraging development that reduces energy consumption and minimises storm water runoff. An ESD assessment is offered later in this report.

102. Car parking policy is offered at clauses 18 and 21.06 of the Scheme, with state and local policy encouraging sustainable transport modes such as walking, public transport and cycling. A detailed car parking and traffic assessment is offered later in this report.

Heritage

103. The purpose of the Heritage Overlay includes:
    (a) *To conserve and enhance those elements which contribute to the significance of heritage places.*
    (b) *To ensure that development does not adversely affect the significance of heritage places.*

104. The site is not developed so 'demolition' is not a relevant consideration. This application is therefore concerned with whether the proposed development would adversely affect the significance of the North Fitzroy Heritage Precinct.

105. Local policy at clause 22.02-5.7.1 includes policy guidance that assumes a development site has a main street exposure with adjacent façades to be considered. However, the context of this site is unique, fronting only the laneway with the rear of heritage properties presenting towards the site.

106. The view line requirements of the Scheme (clause 22.02-5.7.1, figure 2) and much of the policy guidance are therefore not relevant to this assessment.

107. Much of the local heritage policy relates to siting new built form to the rear of heritage fabric, for which this application naturally does due to the location of the site.

108. This application was referred to Council's Heritage Advisor, and it was noted that as the site is positioned behind other sites and only accessed via a laneway, any development (within reason, having regard to height) would not contribute to or detract from the heritage character of the area. The 3-storey townhouses would therefore not unreasonably impact the heritage significance of the North Fitzroy Heritage Precinct.

109. Council's Heritage Advisor also commented on the laneway surfaces around the site. It is likely that the western segment and portion linking from Brunswick Street were pitched bluestone. It is likely that the eastern branch was pitched in bluestone too. This eastern branch has been addressed in the main site assessment, with a recommendation that should a permit issue, this segment be reconstructed required prior to occupation. As access would be provided to this development from the laneway linking to Brunswick Street, the remainder of the lane, linking from the site to Brunswick Street should be reconstructed.

This should be required by way of a permit condition.

110. Based on the above assessment, the proposal would not adversely affect the heritage significance of the North Fitzroy Heritage Precinct.

ResCode (clause 55), incorporating clauses 22.05, 22.16 and 22.17

111. This section will incorporate clauses 22.05, 22.16 and 22.17, framed around clause 55 (ResCode).

Standard B1 – Neighbourhood Character Objectives

112. As has been outlined in the previous heritage assessment, the construction of a 3-storey building in this location (with no primary street frontage) would not unreasonably impact the character of the area. The objective of this standard is met.

Standard B2 – Residential Policy Objectives

113. The construction of 4 dwellings on the lot is supported by state and local policies in this location given the site's proximity to the Brunswick Street Activity Centre and proximity to services, amenities and public transport options. The objective of this standard is met.

Standard B3 – Dwelling Diversity Objectives

114. N/A – Applies to developments of 10 or more dwellings.

Standard B4 – Infrastructure Objectives

115. The site is well located to take advantage of existing utility services and infrastructure. Further, the construction of 4 dwellings on the lot would not unreasonably overload the capacity of utility services and infrastructure. The objective of this standard is met.

Standard B5 – Integration with the Street Objective

116. The standard states that it is an objective '*To integrate the layout of development with the street*'. The standard continues to state that '*Developments should provide adequate vehicle and pedestrian links that maintain or enhance local accessibility*'.

117. This is a difficult given the site is only accessed via a laneway. However, the subdivision of the land has already occurred and it would not support '*…the fair, orderly, economic and sustainable use, and development of land*' if no development was permitted to occur on this site (Section 1(a) of the *Planning and Environment Act* 1987).

118. The dwelling entrances are well located and positioned across the site. However, in this instance, the fences adjacent to dwelling entrances would be approximately 1.9m high and would not encourage passive surveillance or promote the positive integration with the lane. This could be addressed by way of a permit condition however, reducing the fence/gate heights adjacent to dwelling entrances to 1.5m (standard front fence requirement as per clause 55.06-2 of the Scheme) with a minimum permeability of 50%. This should be imposed by way of a permit condition, should a permit issue.

119. Council's Urban Design Unit suggested that the southern interface of the development (dwelling 1) should be improved to activate the lane. However, the proposal already includes southern balconies on level 1 to activate this section of the lane and is considered acceptable.

120. Council's urban Design Unit also suggested that the laneway abutting the site should be converted to community space. However, the dwelling to the north of the subject site uses this stretch of lane for vehicular access to a garage.

Standard B6 – Street Setback Objective

121. N/A – The proposal is not adjacent to a street, rather adjoins laneways. The hard edge form of the proposal (along the south, east and northern boundaries) is supported from a neighbourhood character perspective as there are no adjacent dwellings to establish clear cues for setbacks. Rather, setbacks have been offered across the development (primarily from the western boundary) to mitigate off-site amenity impacts (assessed throughout this report).

Standard B7 – Building Height Objective

122. This standard states that buildings should not exceed a height of 9m (albeit exemptions are listed at clause 55.03-2 in circumstances where there is a specified fall to the land) and that the objective is '*To ensure that the height of buildings respects the existing or preferred neighbourhood character*'.

123. It is important to review the purpose of the MUZ and consider the distinction between this zone and other residential zones. These residential zones were introduced by Council in April 2015.

124. Mixed Use Zone:
    (a) purpose includes:
        (i) *To provide for housing at higher densities.*
        (ii) *To encourage development that responds to the existing or preferred neighbourhood character of the area.*
    (b) no mandatory maximum building height specified in the zone or schedule.

125. Neighbourhood Residential Zone:
    (a) purpose includes:
        (i) *To recognise areas of predominantly single and double storey residential development.*
        (ii) *To limit opportunities for increased residential development.*
        (iii) *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics*
    (b) 8m mandatory maximum building height specified in the zone.

126. General Residential Zone:
    (a) purpose includes:
        (i) *To encourage development that respects the neighbourhood character of the area.*
        (ii) *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
    (b) Schedule 1 – mandatory maximum 10.5m building height;
    (c) Schedule 2 – mandatory maximum 9m building height;
    (d) Schedule 3 – no maximum building height specified; and
    (e) Schedule 4 - mandatory maximum 11.5m building height.

127. It is therefore clear that in relation to building heights and preferred neighbourhood character, the NRZ is the most restrictive, followed by the GRZ and that the MUZ is the least restrictive of the residential zones.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

128. Consideration of appropriate building heights in the MUZ therefore rests on neighbourhood character and off-site amenity outcomes. This is as opposed to mandatory height controls as imposed in the GRZ (excluding GRZ3) and the NRZ to preserve single and double storey building stock characteristics.

129. The proposal would be a maximum height of 9.2m. Whilst the MUZ does not specify preferred or mandatory maximum heights, Standard B7 states that the maximum building height should not exceed 9m.

130. Considering the relevant decision guidelines, the proposed 9.2m height (or 200mm variation from the ResCode Standard) is supported as the proposal has responded to the sensitive interface to the west (the rear of dwellings fronting Brunswick Street), and afforded 1m to 6.2m western boundary setbacks, ensuring that the proposed 3 storey height would not unreasonably overwhelm or dominate these dwellings. Considering the impact on the dwelling to the north, the proposal also also afforded a 1m-1.3m setback at level 1, with a green roof introduced adjacent to the private open space area/garden to provide a transition to this space. This will be discussed in greater detail later in this assessment.

131. There are also limited vantage points in which public views to this development would be afforded. As the development is positioned along laneways, the 3-storey height would have limited appreciation from the public realm.

132. The objective of this standard is met

Standard B8 – Site Coverage Objective

133. This Standard states that site coverage should not exceed 60%. The proposal would result in a site coverage of 87%.

134. Considering the Standard B8 decision guidelines, the proposed site coverage would not unreasonably impact the amenity of nearby dwellings as:
    (a) the site is separated from sites to the west and south by way of a laneway and adjoins a shed to the north; and
    (b) the design response has afforded setbacks from the western boundary (ranging from 1m to 6.2m, ensuring the proposal would not result in unreasonable visual bulk when viewed from the dwellings to the west – presenting the closest private open space areas to the subject site).

135. It is also noted that the site is currently impervious (concreted), resulting in this proposal improving existing site permeability.

136. The proposed site coverage is considered to respond to the character of the area and responds to the features of the site.

Standard B9 – Permeability Objective

137. This Standard states that a site should be covered by at least 20% permeable surfaces. The proposal incorporates pavers for 20% of the site, supporting permeability generally as per this standard (albeit the pavers themselves are impervious, the gaps would support some infiltration).

138. Clause 22.16 is also applicable in this instance and is relevant when assessing permeability. The Applicant submitted a STORM report, demonstrating that with an 8000L rainwater tank (or 4 x 2,000L tanks), the application would achieve a 120% STORM rating.

139. Subject to a condition to this effect, the objective of this Standard is met.

Standard B10 – Energy Efficiency Objectives

140. Along with this Standard, clause 22.17 of the Scheme is applicable.

141. The Applicant has committed to the following:
   (a) NatHERS rating of at least 6 stars; and
   (b) provision of 4 x 2,000L rainwater tanks with a STORM rating of 120%;
   (c) energy efficient heating and cooling; and
   (d) water efficient appliances and fixtures.

142. However, Council's ESD Advisor has identified the following deficiencies:
   (a) *There is large amount of exposed north-west facing glazing that will suffer from high levels of summer solar gain and unwanted glare. Strongly recommend that all glazing exposed summer sun angles be protected by some external adjustable awnings, louvers, shutters or similar that can provide shade from summer sun angles.*

143. The above should be addressed by way of a permit condition, should a permit issue, to reduce reliance on cooling in summer.

144. Further, the Applicant has committed to permanent indoor clothes lines for its BESS score. A condition should require all commitments of the SDA to be shown on the plans, where relevant.

145. Council's ESD Advisor also suggested that the Applicant consider improving the NatHERS commitment, include a solar PV array for on-site consumption and consider including a gas boosted solar hot water system. However, considering the scale of the proposal, this is considered onerous and should not be required by way of permit conditions.

146. Subject to the conditions contained in this report, the proposal would achieve a reasonable level of energy efficiency.

Standard B11 – Open Space Objective

147. N/A – The proposal does not include or adjoin any public or communal open space.

Standard B12 – Safety Objective

148. The development ensures that both dwelling entries would be visible via the adjacent laneways. The entries are recessed to offer a pedestrian refuge, without being unreasonably deep to create an unsafe enclave. Should a permit issue, a condition should ensure that lighting is provided to dwellings entries.

149. Council's Urban Design Unit suggested the laneway at the east of the site be converted to community space, if not used by vehicles. However, the dwelling to the immediate north of the subject site uses this section of laneway to access their shed. Nevertheless, only a limited number of garages use the laneways that abut the site, therefore not bringing rise to unreasonable pedestrian safety concerns.

150. However, it is agreed (as per the urban design advice) that the east facing rooms in dwellings 2-4 should be enlarged to both improve internal amenity and perceived passive surveillance within the lane. Further, a condition should require the addition of another window in the ground floor, eastern elevation of dwelling 1 to encourage passive surveillance of the lane.

151. Finally in relation to safety, VCAT decisions have suggested that this is not a valid planning consideration (Ciullo v Yarra CC [2016] VCAT 912 (2 June 2016) and PS Corporation (Aust) Pty Ltd v Moonee Valley CC (Correction) [2016] VCAT 1756 (21 October 2016). In the case of Ciullo v Yarra CC:

Access by emergency services

23. *While I appreciate the concern of objectors to ensure that there is safe access to the site by emergency services vehicles such as the fire brigade, with respect, I regard these concerns as overstated and unproven in the planning process.*

24. *I also note that there are more direct processes by which this issue can be considered. In any event, even if I was to seek to apply the guidelines referred to by objectors (which sit outside the planning scheme and are administered by a specialist authority), there is a process by which consent could be given by the relevant authority even if the preferred parameters were not met.*

25. *In these circumstances, I do not regard this allegation as a reliable reason to refuse to grant a planning process in the absence of a clear indication from the relevant authorities that the site is not accessible to fire fighting apparatus, especially when the site is within an existing urban area, is accessed via a 3 metre bluestone surfaced laneway, is proximate to nearby formed roads and does not exhibit any greater than average susceptibility[5].*

152. Nevertheless, the Applicant provided a letter from the MFB, confirming that they raise no issue with dwellings being located on the laneway in terms of emergency access.

Standard B13 – Landscaping Objectives

153. The character of the area is of limited landscaping with small front gardens, if any. However, the immediate interface is the rear of sites with timber fences and metal roller doors. The proposed layout is supported, with ground level courtyards being offered at the western interface to address massing issues and offer a ground level are of open space, as opposed to responding to the landscape character of the area. The objective of this Standard is met.

Standard B14 – Access Objective

154. N/A – There are no crossovers proposed.

Standard B15 – Parking Location Objectives

155. N/A – There is no parking proposed on this site.

Standard B17 – Side and Rear Setbacks Objective

Wall	Height	Setback	Standard B17 prescribed setback	Complies
Ground floor west	4m	1m	1.12m	No – 120mm variation
First floor west – terrace	5.1m	Minimum 3.2m	1.45m	Yes
First and second floor west	9.1m	Minimum 3.2m	4.19m	No – 990mm variation
First and second floor north	7m	Minimum 1m	2.09m	No – 1.09m variation
Ground to second floor east	9.1m	200mm to 2.4m	4.19m	No – 1.79m to 3.99m variations

156. The ground floor, western variation is only 120mm. Further, the first and second floor variations are less than 1m, being 990mm. Even though there are areas of private open space adjacent to this wall segment, they are separated by a 2.9m wide lane. When considered with the proposed setbacks, this offers a sufficient buffer or separation to ensure that these variations would not unreasonably impact the amenity of the adjacent dwellings.

157. The north-west corner of the proposal would be setback 1m from the north boundary and extend to 2 storeys (plus a green roof). The adjacent site presents part of a garage wall and part of a hardstand/playground area to the site. It is identified that a second garage/carport is located to the west of this playground area, with shade sails over another private open space area further west at the rear of the dwelling.

Source: Google maps

158. The proposal would be constructed to the northern boundary at the ground level, setback 1m-1.3m at the first floor and eroded with a green roof at level 2. This Standard states that the first and second floor (green roof) segment should be setback a further 1.09m from the north boundary. However, the variation from this standard is supported as:
    (a) due to the orientation of the lot, the variation would not result in additional overshadowing of the adjacent open space area;
    (b) walls on boundaries are common in this area, with this built form typology creating established amenity expectations; and
    (c) the dwelling is afforded another private open space area directly to the rear (east) of the existing dwelling (further west of the proposed townhouses).

159. For the above reasons, the 1.09m side and rear setback variation would not unreasonably impact the amenity of the dwelling to the north.

160. Finally, four triangular shaped segments are provided along the eastern boundary. The variations sought for these walls range from 1.79m to 3.99m. However, as this section of wall is adjacent to a 3m wide laneway and the large potential future development site at 26-56 Queens Parade, the variation from this standard would not unreasonably impact the amenity of adjacent dwellings or the development potential of the adjacent site.

161. The objective of this standard is met.

Standard B18 – Walls on Boundaries Objective

162. This standard states that a new wall constructed on or within 200mm of a side or rear boundary should not exceed an average height of 3.2m or maximum height of 3.6m.

163. According to this standard, the total length of walls on the boundaries of this lot should not exceed:
(a) 10m – south
(b) 13m – east
(c) 11.8m – north
(d) 12.4m – west

Wall	Height (maximum)	Wall length on or within 200mm of the boundary	Wall height complies?	Wall length complies?
North	9.2m	17.7m	No	No
East	9.2m	15.4m	No	No
South	9.2m	6.3m	No	Yes

164. For all except the south boundary wall length, the wall height and length along the north, east and western boundaries does not comply with this standard.

165. The east and west boundary variations are supported as they abut 2.9m – 3m wide laneways. The variations would therefore not unreasonably impact the amenity of the dwellings to the west or the development potential of the site to the east.

166. Considering the height and length variation along the northern boundary, the development would generally abut a shed to the north. At the ground floor, the development would abut the full length of the POS area to the north, however the wall would be a height of 3.4m. At the first and second floor, the development would be 1.3m longer than the abutting shed. Whilst the development is to the south of the adjacent private open space area, the variation from this standard is only supported at level 1. It is considered that a 3 storey wall in this location on the northern boundary would unreasonably impact the amenity of the dwelling to the north by virtue of visual bulk. A condition should therefore be imposed on any permit requiring the level 2, northern boundary wall to be setback at least 1m where it does not abut a boundary wall to the north. It is not considered that full B17 side and rear setback compliance is required in this location (4.3m) and given the orientation of the wall, however a 1.3m setback would align with the adjacent green roof and inset of level 1 below. The zoning of the land (MUZ) also supports higher residential densities, further supporting the variation from this ResCode standard, albeit not as far to say that a 3 storey boundary wall is acceptable opposite private open space within a MUZ.

167. The objective of this standard is met.

Standard B19 – Daylight to Existing Windows objective

168. N/A – The development is not within close proximity to any habitable room windows.

Standard B20 – North-facing Windows Objective

169. N/A – There is not a north-facing habitable room window within 3m of a boundary on an abutting lot.

Standard B21 – Overshadowing Open Space Objective

170. Reviewing the shadow diagrams provided by the Applicant, the proposal would only increase overshadowing of the private open space areas to the west until 9.30am at the September Equinox. The objective of this standard is met.

Standard B22 – Overlooking Objective

171. The plans have not addressed overlooking as per this standard. Whilst some screens have been provided, no detail has been given, further, the balconies/roof terraces have not been treated. This can be addressed by way of a permit condition, ensuring the objective of this standard is met.

Standard B23 – Internal Views Objective

172. The plans do not confirm the location or level of transparency for the screens provided between courtyards/terraces. This should be addressed by way of a permit condition, should a permit issue.

Standard B24 – Noise Impacts Objective

173. Having regard to the context, the proposal does not bring rise to noise concerns. The objective of this standard is met.

Standard B25 – Accessibility Objective

174. The entry to 3 of the 4 dwellings would be easily accessible to people of limited mobility (1 entrance would be accessed via stairs). The objective of this Standard is met.

Standard B26 – Dwelling Entry Objective

Whilst the dwelling entries would be visible from the laneway, they would be gated with 1.9m high fences/gates.

175. As has already been suggested, should a permit issue, a condition should require these fences/gates to be a maximum 1.5m high and 50% transparent. Further, the plans should include the location of letter boxes and street numbering to further identify the entries. These items should be addressed by way of permit conditions, should a permit issue. Subject to conditions to this effect, the objective of this standard is met.

Standard B27 – Daylight to new Windows Objective

176. All of the new windows are open clear to the sky for a minimum area of 3m² and dimension of 1m (including the adjacent laneways). The objective of this standard is met.

Standard B28 – Private Open Space Objective

177. Each dwelling would be provided with ground floor courtyards, level 1-2 balconies and level 3 roof terraces. This provides for the reasonable recreation and service needs of residents. The objective of this Standard is met.

Standard B29 – Solar Access to Open Space Objective

178. With a range of open space areas, including roof decks, the open space areas would receive adequate daylight. The objective of this standard is met.

Standard B30 – Storage Objective

179. The plans do not detail storage for the dwellings. This should be addressed by way of a permit condition, ensuring a minimum 6m³ store is provided for each dwelling. It is not considered necessary that this space is externally accessible in this instance, as residents would not need to store gardening supplies, for example. Subject to a condition to this effect, the objective of this standard is met.

Standard B31 – Design Detail Objective

180. The design of dwellings is simple, with the contemporary window proportions and a mixture of brick and metal finishes. Given the dwellings are located within a laneway, there is no immediate streetscape character to respond to. The approach selected, a simple, modern design, is therefore considered to be acceptable. The objective of this standard is met.

Standard B32 – Front Fence Objective

181. N/A – A planning permit is not required under the MUZ for the front fences (heritage permit trigger only).

Standard B33 – Common Property Objectives

182. N/A – There is no identifiable common property.

Standard B34 – Site Services Objective

183. Conditions should require the detail and location of mail boxes and metres. Subject to a condition to this effect, the objective of this standard is met.

Traffic and car parking

184. The relevant decision guidelines at Clause 52.06 will be used to guide this assessment.

Car park layout and access

185. The application is seeking permission under clause 52.06-3 to reduce the car parking requirement by 1 space (from 7 to 6) and provide all of the car parking spaces required under clause 52.06-5 on another site (26-56 Queens Parade).

186. Considering the clause 52.06-6 decision guidelines, the 1 space car parking reduction is supported based on the following:
    (a) the site is well serviced by public transport and can be easily accessed with walking and cycling options; and
    (b) ABS data suggests that three-bedroom flat style dwellings in Fitzroy North have an average car ownership of 1.5 spaces per dwelling. With 6 spaces being provided for 4 dwellings, the proposal matches the ABS anticipated rates.

187. The provision of 6 spaces on the main site for the townhouses is generally supported, provided permit conditions are imposed on any permit issued:
    (a) to ensure that the development does not commence until the development at the main site commences; and
    (b) to ensure that the development is not occupied until the car parking spaces on the main site have been constructed and are ready for use; and
    (c) whilst Council's Engineers suggest that residents parking in the main site would be more likely to walk along Queens Parade and down the laneway than through the main development, a clear, accessible link must be provided through the development at the main site for residents of this development to access the car park.

Traffic

188. A detailed traffic assessment has been undertaken in the officer report for PLN16/0434.

Council's Engineering Services Unit and external traffic advice (Cardno) supported the proposed 438 car parking spaces as originally sought for application PLN16/0434. With 341 car parking spaces now proposed (6 of which would be for the townhouses currently being assessed), the traffic generated by the proposal would be almost ¾ of the original proposal. The original Engineering assessment is therefore maintained, being that '*The traffic generated by the development can be dispersed into the surrounding road network without adversely compromising its operation or safety*'.

189. Engineering conditions have also been recommended in relation to the following, which are considered appropriate given the nature of the application and the access via the ROW:
    (a) reinstatement of any damaged Council infrastructure;
    (b) upon the completion of all building works and connections for underground utility services, the section of Right of Way in between the subject site and 26-56 Queens Parade must be fully constructed to Council's satisfaction and at the Permit Holder's cost;
    (c) the Permit Holder is to make a development contribution of 50 per cent of the cost of reconstructing the bluestone Right of Way from the development to St Georges Road. Council will program the works on the Capital Works Program and pay the balance of the works;
    (d) public lighting requirements, including lights do not unreasonably spill into nearby windows; and
    (e) requirement for a construction management plan (including a temporary lighting plan, if any existing public lighting requires temporary disconnection).

190. Subject to the conditions outlined in this report, the proposed car parking layout, access and traffic impacts would not detrimentally impact the area.

Bicycle parking

191. Council's Urban Design Unit suggested that bicycle parking be provided on-site.

192. Clause 52.34 requires 1 resident bicycle parking space. This requirement should be imposed by way of a permit condition, should a permit issue. Along with condition relating to bicycle parking design as per clause 52.34-4 of the Scheme.

Waste management

193. Waste storage and collection would be via the main site (26-56 Queens Parade). Whilst Council's Services Contracts Unit raised concern with this link (raised in the main site assessment), a condition should be imposed on any permit issued giving it no force or effect unless the development at the main site has commenced. A condition should also state that this development must not be occupied until the adjacent development has been completed, ensuring the waste storage area is ready.

Objector concerns

194. The majority of objector concerns have been considered throughout this report. Alternatively, an assessment/response is provided below.

neighbourhood character and impact on heritage;

195. Addressed at paragraphs 100 to 107 and 109.

excessive height and overdevelopment;

196. Addressed at paragraphs 119 to 129.

off-site amenity (visual bulk, overshadowing, noise, overlooking, daylight and airflow);

197. Addressed at paragraphs 152 to 165. Airflow was not specifically addressed, however as the proposal is bordered by minimum 3m wide lanes, the proposal does not bring rise to airflow concerns.

poor ESD outcome;

198. Addressed at paragraphs 136 to 142.

shadowing of the laneway;

199. Overshadowing of private open space is considered under ResCode. Whilst shadowing of footpaths is a relevant planning consideration, shadowing of a laneway is not considered to be unreasonable.

safety concerns (shared pedestrian/vehicular access along the lane, emergency vehicle access and impact on cyclists);

200. Addressed at paragraphs 144 to 148.

impacts during construction phase;

201. Should a permit issue, a construction management plan should be required by way of a permit condition to mitigate construction impacts.

insufficient car parking;

202. Addressed at paragraphs 179 to 181.

unreasonable traffic impacts;

203. Addressed at paragraphs 182 to 184.

materials have not been specified; and

204. Whilst materials have not been specified, this can be addressed by way of a permit condition, as has been recommended in this report.

insufficient landscaping detail.

205. Given the character of the area and the location of the site (with no primary street frontage) the level of landscaping and detailing provided is acceptable and context appropriate.

Compliance with proposed DDO

206. Whilst the proposed DDO is not a seriously entertained policy and is therefore given no weight in this planning assessment. However, it is considered to be prudent to assess the application against the proposed DDO nevertheless.

207. The site is within Precinct 1B of the proposed DDO (Brunswick Street Precinct). Relevant policy includes (including Council resolution changes/additions), as relevant:

Design Objectives
(a) *To encourage low rise additions behind the front sections of the terraced houses of Brunswick Street and Queens Parade that respects the prevailing streetscape character and subdivision grain.*

(b) *To facilitate the appropriate low rise infill of the site located to the rear of residential properties fronting Brunswick Street.*

Buildings and works

(c) *mandatory maximum 2 storeys. Built form outcome to be achieved 'Development that respects the heritage and streetscape value of the precinct';*
(d) *setback from side and rear boundaries – Standard B17 (discretionary control);*

Table 3 – General Design Requirements

(e) building facades - '*The articulation of new building facades should incorporate vertical articulation to reinforce the prevailing fine grain pattern of subdivision and buildings in the area*' and '*Façade design treatments and the articulation of new buildings should not compete with or mock replicate the detailing of heritage buildings*';

Decision guidelines

(f) *Whether the design objectives in Section 1.0 and the built form outcomes in Tables 1, 2 and 3 of this Schedule are achieved.*
(g) *Whether the design requirements for specific areas in Tables 1 and 2 of this Schedule are achieved.*
(h) *The Queens Parade, Clifton Hill Built Form Review – February, 2017.*
(i) *The architectural quality of the proposal, including the design, scale, height, materials, mass and visual bulk of the development in relation to the surrounding built form.*
(j) *The profile and impact of redevelopment along Queens Parade and from Newry Street and the Edinburgh Gardens.*
(k) *The design response at the interface with existing low-scale residential properties.*
(l) *Whether the proposal contributes to and improves the pedestrian environment and other areas of the public realm.*
(m) *How the proposal responds to the presence of heritage buildings either on, or in close proximity to the development.*
(n) *The design of the streetscape interface along the primary street frontage and its contribution to an active street environment.*
(o) *The extent to which ESD measures are incorporated into the development.*

The application is 1 storey above the proposed mandatory maximum 2 storey height control. However, this assessment has already outlined how the proposed height is supported from a neighbourhood character, heritage and off-site amenity perspective. As the DDO is not part of the Scheme, a permit can still be granted above the proposed mandatory maximum 2 storey height control. In terms of current planning policy and the heritage and character assessment contained in this report, the proposed 3 storey height is supported.

As the land is positioned behind lots with primary street frontages on Brunswick Street and Queens Parade, the site does not have a primary street frontage. However, subject to the conditions contained in this report, the proposal has been designed within its context and would not dominate the surrounding heritage stock or 1-2 storey dwellings.

Further, the proposal includes satisfactory ESD measures, as has been addressed in this report.

Whilst the proposal is 1 storey higher than the proposed mandatory maximum height control, it is considered to meet all other policy elements and design guidelines of the proposed DDO.

Conclusion

208. Based on the above report, the proposal complies with the relevant Scheme provisions and planning policy and is therefore supported.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to inform VCAT that had it been in a position, it would have issued a Notice of Decision to Grant a Permit (PLN16/0732) for 26-52 Queens Parade, Fitzroy North VIC 3068 for the in accordance with the decision plans (received by Council 21 February 2017) subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (received by Council 21 February 2017) but modified to show:

   (a) the level 2, northern boundary wall to be setback at least 1.3m where it does not abut a boundary wall to the north;
   (b) fences/gates adjacent to the dwelling entrances a maximum height of 1.5m and minimum transparency of 50%;
   (c) the location of letter boxes and street numbering;
   (d) lighting to dwelling entrances;
   (e) external, operable, vertical screens to the north and west facing windows;
   (f) details of the screens between courtyards/terraces and to habitable room windows, confirming:
      (i) a minimum height of 1.7m;
      (ii) a maximum permeability of 25%; and
      (iii) that they are fixed.
   (g) larger east facing windows to dwellings 2-4;
   (h) an additional window to the ground floor, eastern elevation of dwelling 1;
   (i) a minimum $6m^3$ store for each dwelling;
   (j) a schedule of colours and materials, including samples (where relevant);
   (k) bicycle parking as per clause 52.34 of the Yarra Planning Scheme;
   (l) bicycle parking must meet the design requirements at clause 52.34-4 of the Yarra Planning Scheme; and
   (m) items as per the Sustainable Design Assessment, where relevant to show on the plans.

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Development must not commence until the development at 26-56 Queens Parade, Fitzroy North (PLN16/0434) commences.

4. The development must not be occupied until the car parking spaces, waste storage area and pedestrian link from Queens Parade (for use of this development) are constructed and ready for use at 26-56 Queens Parade, Fitzroy North (PLN16/0434).

5. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.

6. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

8. Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by WGE and dated 9 September 2016, but modified to reflect the decision plans.

9. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

10. 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 laneways adjoining the site (extending from Brunswick Street and the entrances of the dwellings). When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
    (a) a lighting scheme designed for the laneways and within the curtilage of the property that complies with uniformity requirements as per standard AS1158.3.1;
    (b) the control of light spillage into the windows of existing and proposed residences to comply with the requirements of AS 4282 – 1997," Control of the obtrusive effects of outdoor lighting";
    (c) the locations of any new light poles so as not to obstruct access into private garages/off and on street parking places;
    (d) lighting to all primary pedestrian access points to a residential property to satisfy at least level P4 as per AS 1158.3.1;
    (e) a maintenance regime for the lighting scheme within the curtilage of the property.
    (f) the use of energy efficient luminaries and/or solar lighting technologies to reduce carbon emission if possible.

11. 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.

12. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
    (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
    (b) works necessary to protect road and other infrastructure;
    (c) remediation of any damage to road and other infrastructure;
    (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
    (e) facilities for vehicle washing, which must be located on the land;
    (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;

(g) site security;
(h) management of any environmental hazards including, but not limited to,:
  (i) contaminated soil;
  (ii) materials and waste;
  (iii) dust;
  (iv) stormwater contamination from run-off and wash-waters;
  (v) sediment from the land on roads;
  (vi) washing of concrete trucks and other vehicles and machinery; and
  (vii) spillage from refuelling cranes and other vehicles and machinery;
(i) the construction program;
(j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
(k) parking facilities for construction workers;
(l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
(m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
(n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced; and
(o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.

13. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

14. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
  (a) Monday to 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 9 am or after 3 pm; or
  (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

15. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

16. 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.

17. Prior to the commencement of the development, the developer must prepare and submit detailed design drawings of all road infrastructure works and drainage works associated with this development (outlined in condition 18) for assessment and endorsement to the satisfaction of the Responsible Authority.

18. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, the following works must be carried out, to the satisfaction of the Responsible Authority:
  (a) reconstruction of the segment of laneway to the east of the site in pitched bluestone. The cost of these works must be borne by the Permit Holder; and
  (b) reconstruction of the segment of laneway linking the southern end of the site to Brunswick Street, as per existing conditions. Half (50%) of the cost of these works must be borne by the Permit Holder (with the remaining half to be borne by the Responsible Authority).

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19. This permit will expire if:
    (a) the development is not commenced within two years of the date of this permit; or
    (b) the development is not completed within four years of the date of this permit.
    The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

NOTES:

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

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

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

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

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

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.

CONTACT OFFICER: **Sarah Thomas**
TITLE: **Principal Planner**
TEL: **92055046**

Attachments

1. PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Development Summary
2. PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans
3. PLN16/0732 - Rear 26 - 56 Queens Parade Fitzroy North - Engineering comments on Substituted Plans
4. PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Heritage advice on substituted plans
5. PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Urban Design comments on revised plans
6. PLN16/0732-02: PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - ESD advice on subsituted plans

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Attachment 1 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Development Summary

26-56 QUEENS PARADE,
FITZROY NORTH

VCAT SUBMISSION
DATE:20/02/17
DEVELOPMENT SUMMARY - REV.J (LOT 1)

KOICHI TAKADA ARCHITECTS

DEVELOPMENT SUMMARY - VCAT SUBMISSION

SITE AREA: 253 m2
SITE COVERAGE 222 m2 (excludes courtyards)

	LEVEL	APARTMENT MIX 2BED/2BTH+S 75-85m²	3BED/2BTH	SUB-TOTAL
BUILDING	GROUND	1	3	4
	LEVEL 1			0
	LEVEL 2			0
	ROOF			0
	TOTALS	1	3	4

CARPARK	2BED/2BTH+S	3BED/2BTH+S	SUB-TOTAL
AVERAGE RATE	1.0	1.5	
NO.	1	5	6

*Carparking accommodated in the basement of adjacent site 26-56 Queens Parade, under separate application

Notes:

1. This scheme and schedule have been prepared for planning permission purposes only.
2. The design has been prepared with limit structural and services advice and coordination.
3. Changes to the layouts and associated figures will be made during the design development.

Definitions:
1. NSA Apartment areas have been measured according to the Property Council of Australia method of measurement.
2. GFA has been measured to the external face of the external walls, including areas for vertical circulation, lift, stair and plant rooms and EXCLUDING voids.
4. GBA has been measured to the external face of all built areas, including balconies, roof terraces, and slab extensions accomodating planter boxes and privacy screens. GBA excludes non-trafficable green roofs.
3. Basement GFA has between measured to the external face of all shoring walls, including services, plant rooms, vertical circulation, and lifts.

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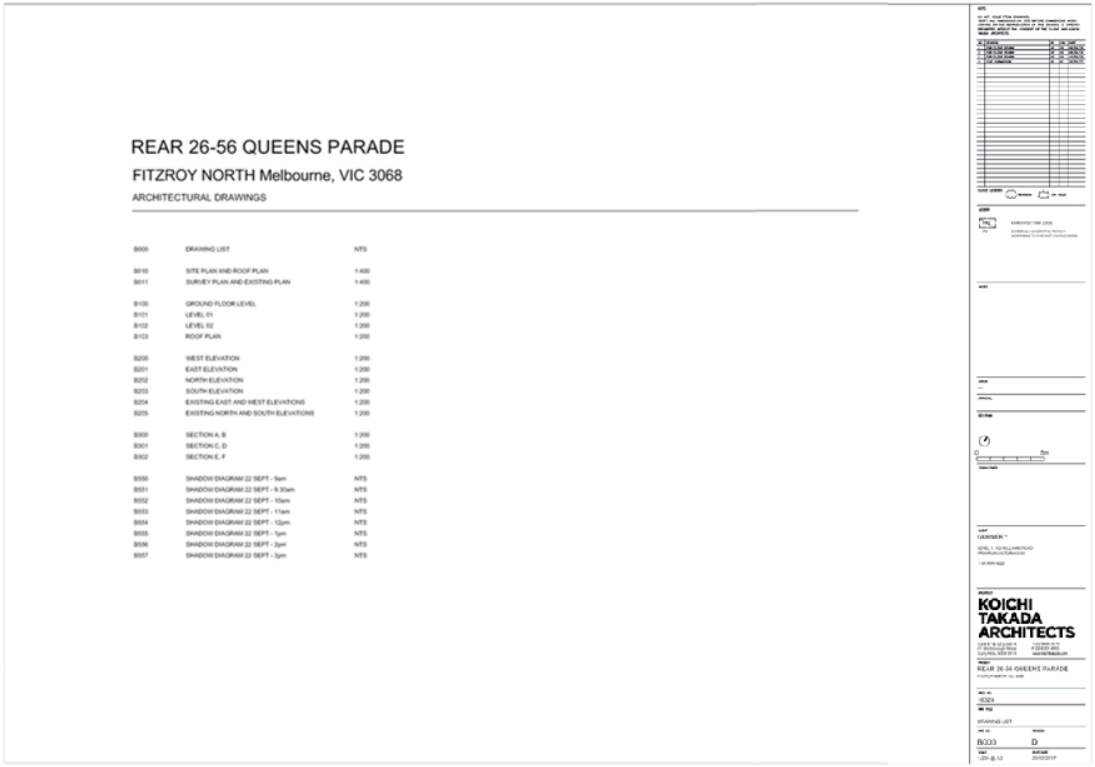

REAR 26-56 QUEENS PARADE

FITZROY NORTH Melbourne, VIC 3068

ARCHITECTURAL DRAWINGS

B000	DRAWING LIST	NTS
B010	SITE PLAN AND ROOF PLAN	1:400
B011	SURVEY PLAN AND EXISTING PLAN	1:400
B100	GROUND FLOOR LEVEL	1:200
B101	LEVEL 01	1:200
B102	LEVEL 02	1:200
B103	ROOF PLAN	1:200
B200	WEST ELEVATION	1:200
B201	EAST ELEVATION	1:200
B202	NORTH ELEVATION	1:200
B203	SOUTH ELEVATION	1:200
B204	EXISTING EAST AND WEST ELEVATIONS	1:200
B205	EXISTING NORTH AND SOUTH ELEVATIONS	1:200
B300	SECTION A, B	1:200
B301	SECTION C, D	1:200
B302	SECTION E, F	1:200
B550	SHADOW DIAGRAM 22 SEPT - 9am	NTS
B551	SHADOW DIAGRAM 22 SEPT - 9.30am	NTS
B552	SHADOW DIAGRAM 22 SEPT - 10am	NTS
B553	SHADOW DIAGRAM 22 SEPT - 11am	NTS
B554	SHADOW DIAGRAM 22 SEPT - 12pm	NTS
B555	SHADOW DIAGRAM 22 SEPT - 1pm	NTS
B556	SHADOW DIAGRAM 22 SEPT - 2pm	NTS
B557	SHADOW DIAGRAM 22 SEPT - 3pm	NTS

KOICHI TAKADA ARCHITECTS

REAR 26-56 QUEENS PARADE

DRAWING LIST

B000 D

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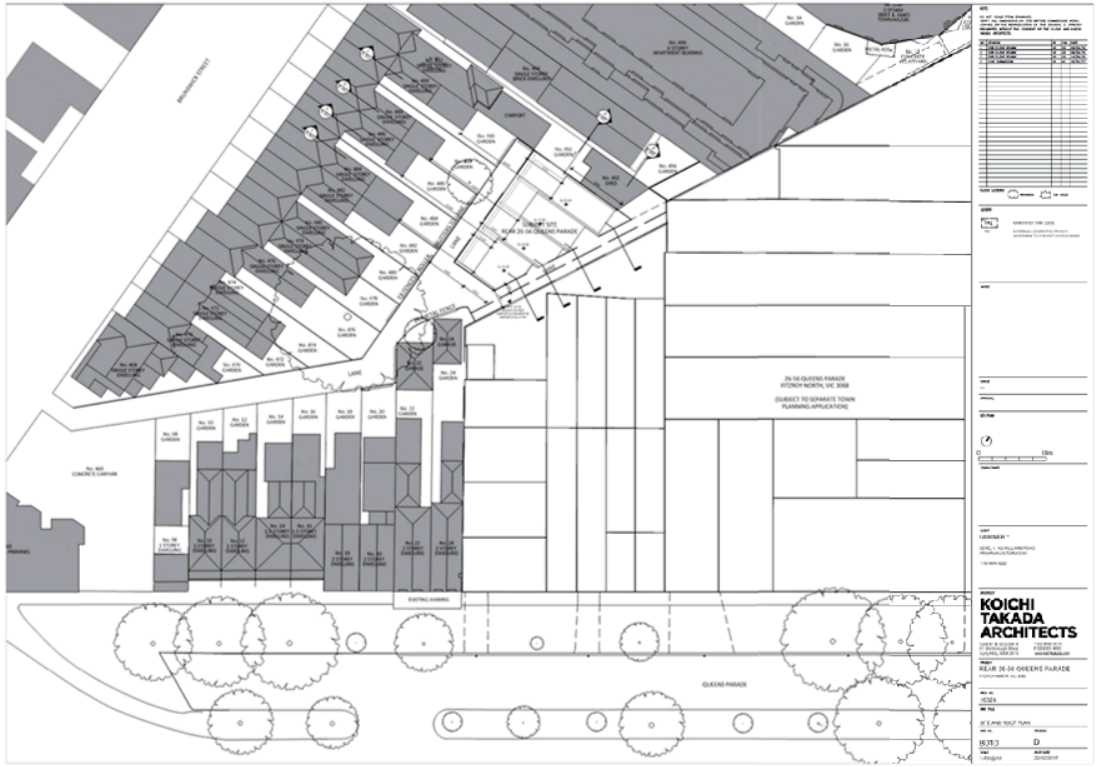
Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans



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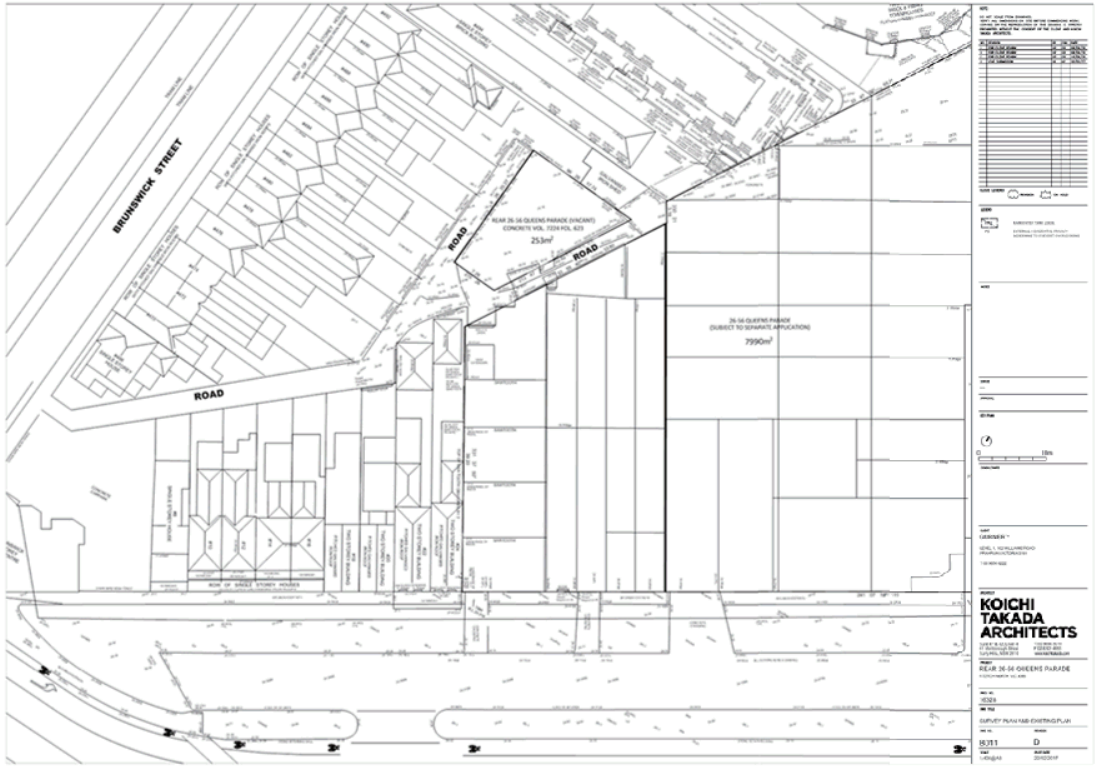
Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans



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Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans

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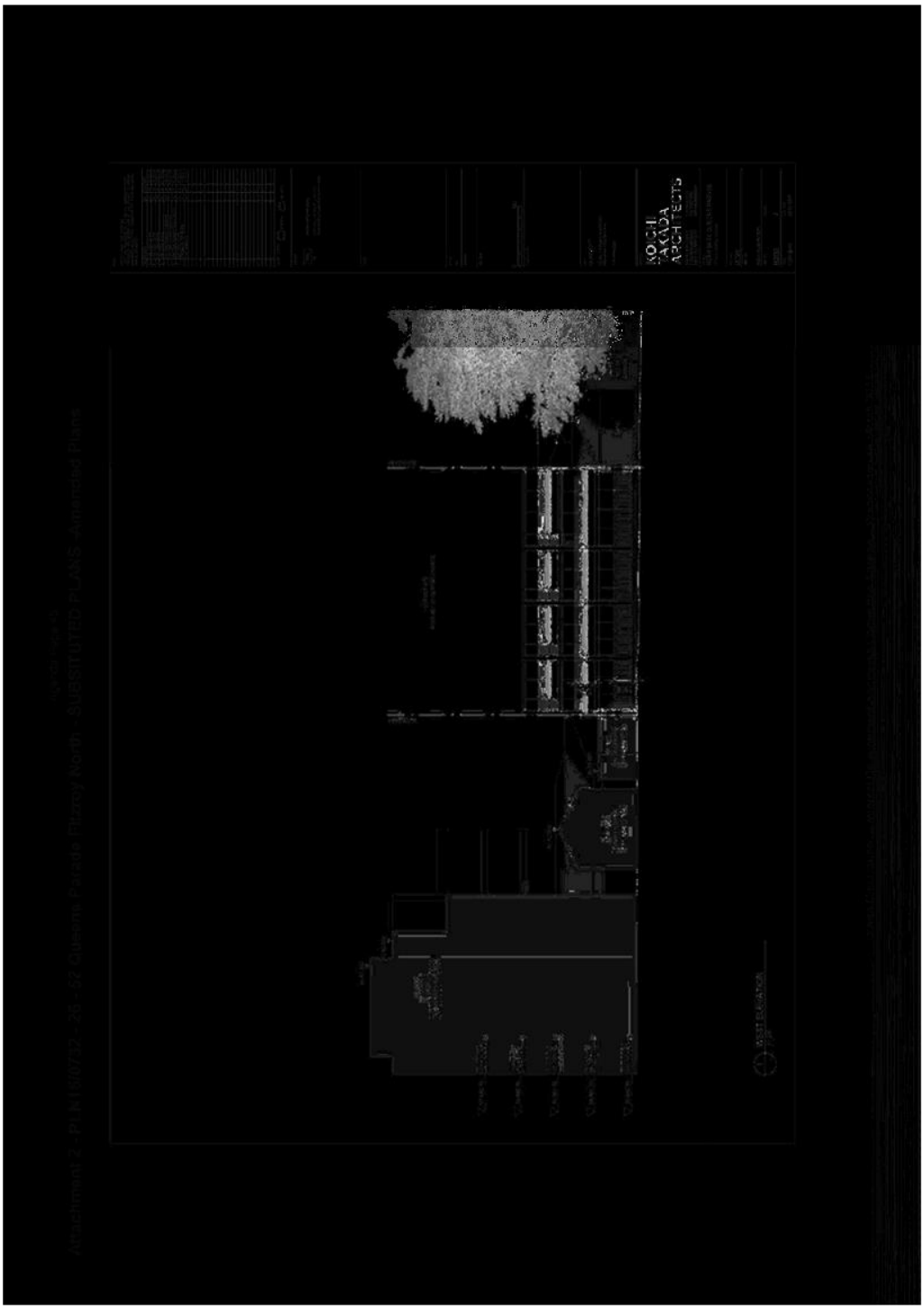

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Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans

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Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans

Yarra City Council – Internal Development Approvals Committee Agenda – Wednesday 15 March 2017

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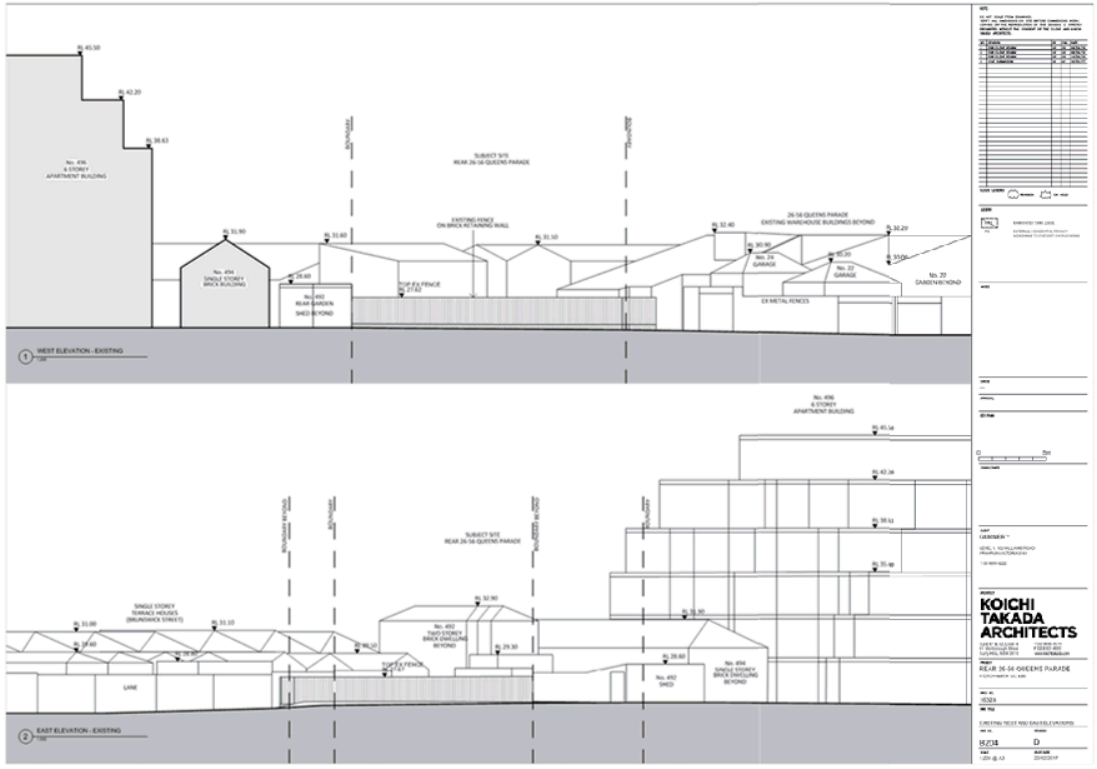
Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans



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Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans

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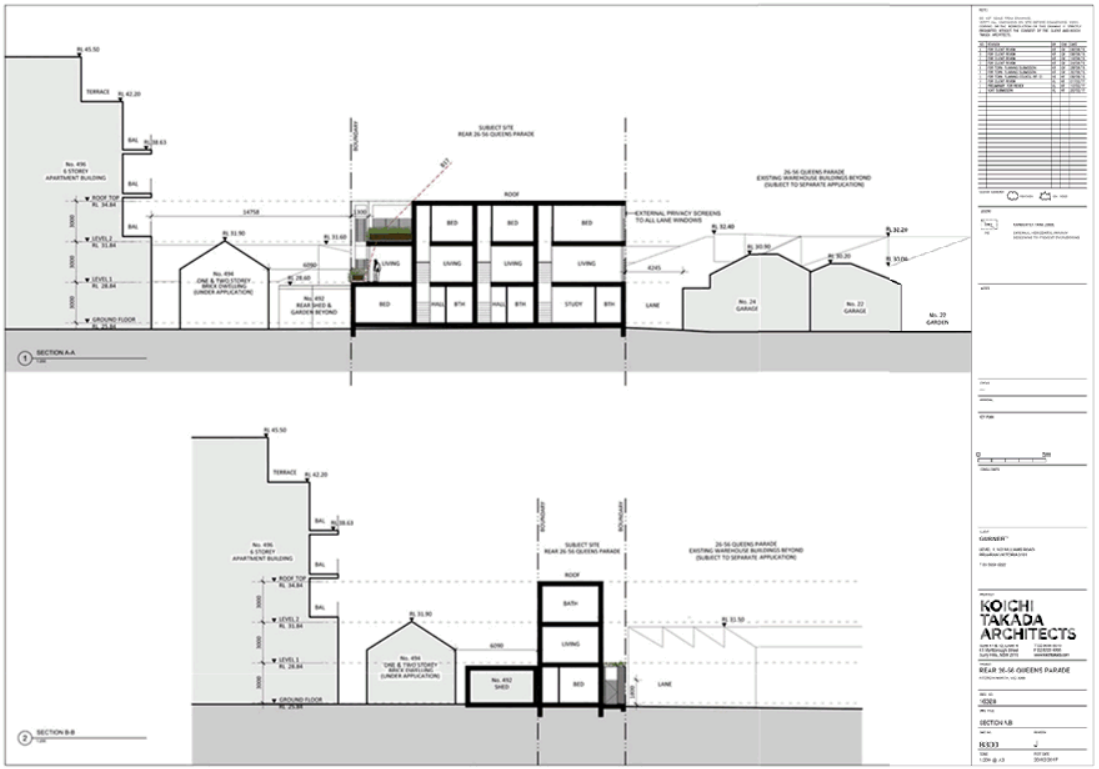
Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans



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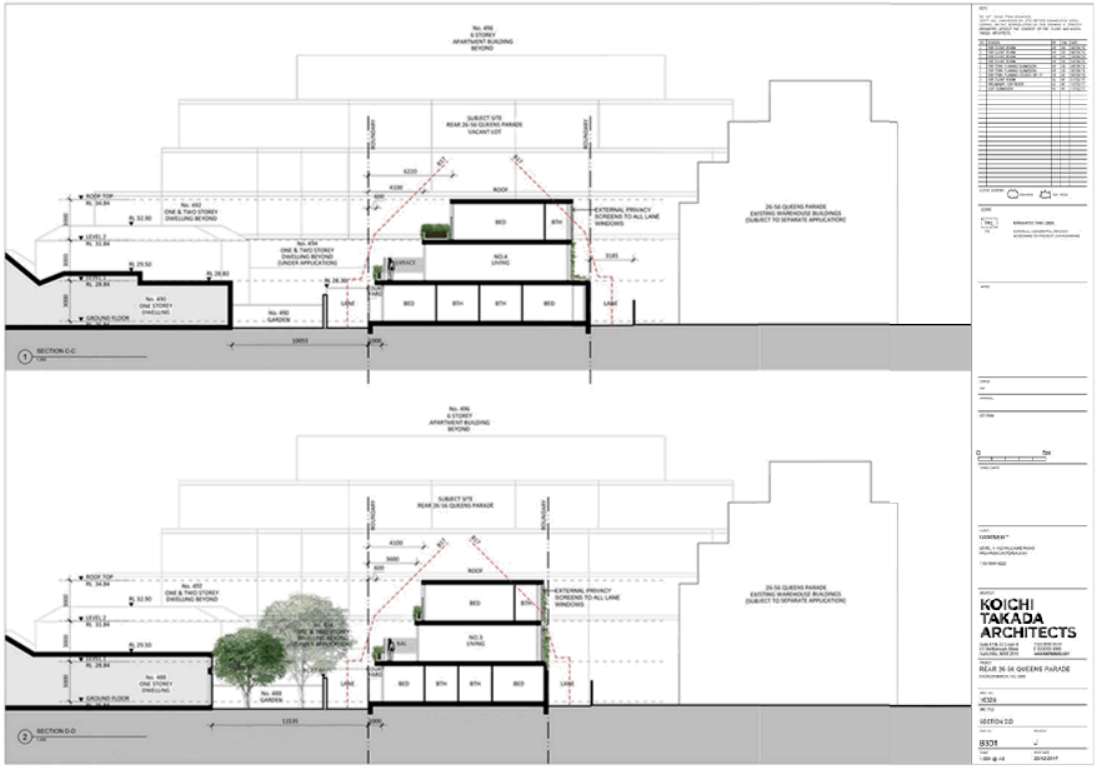

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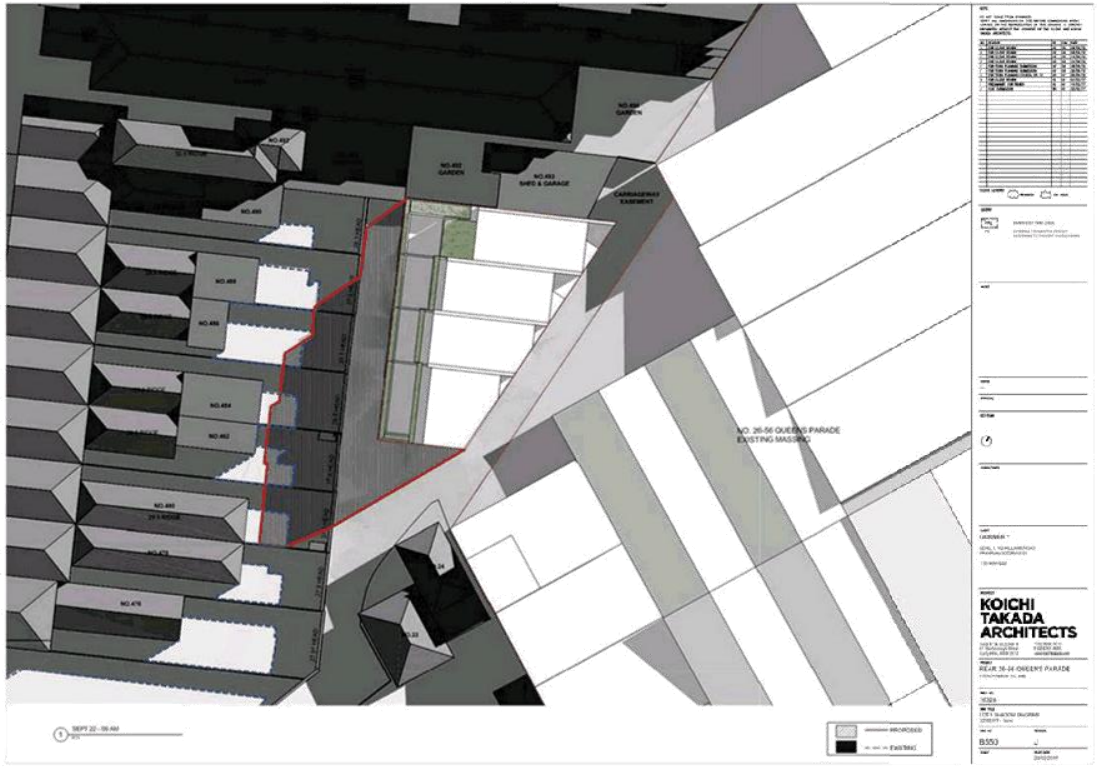

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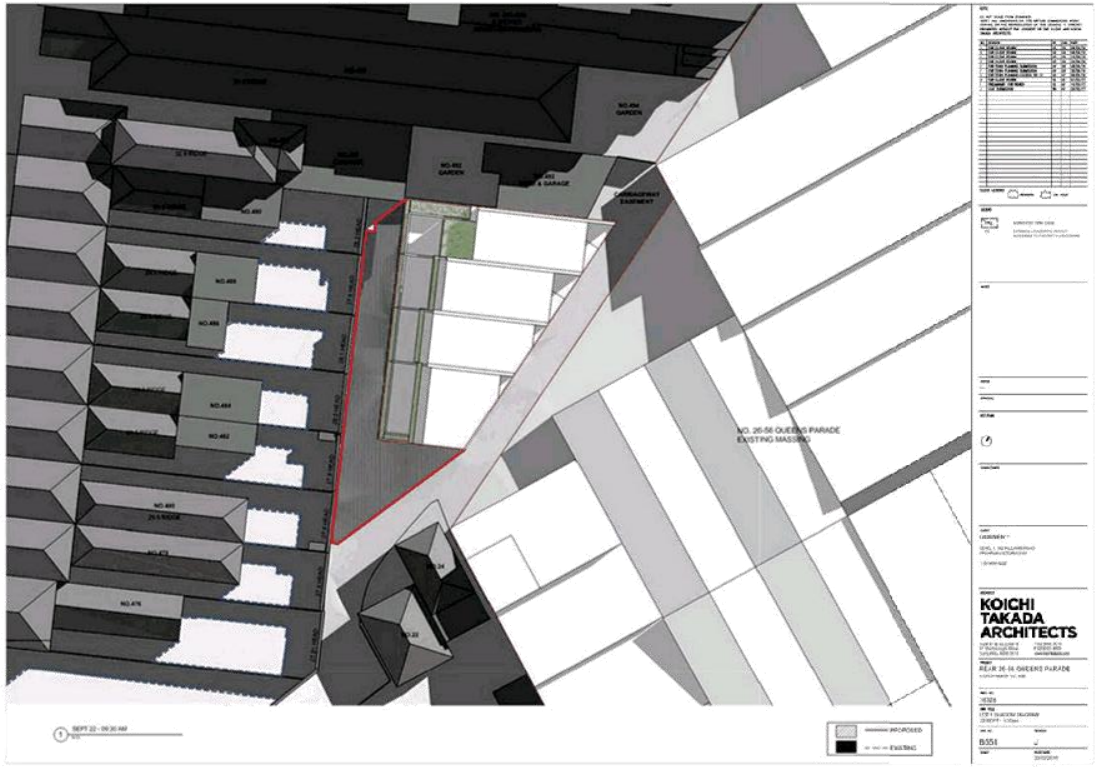

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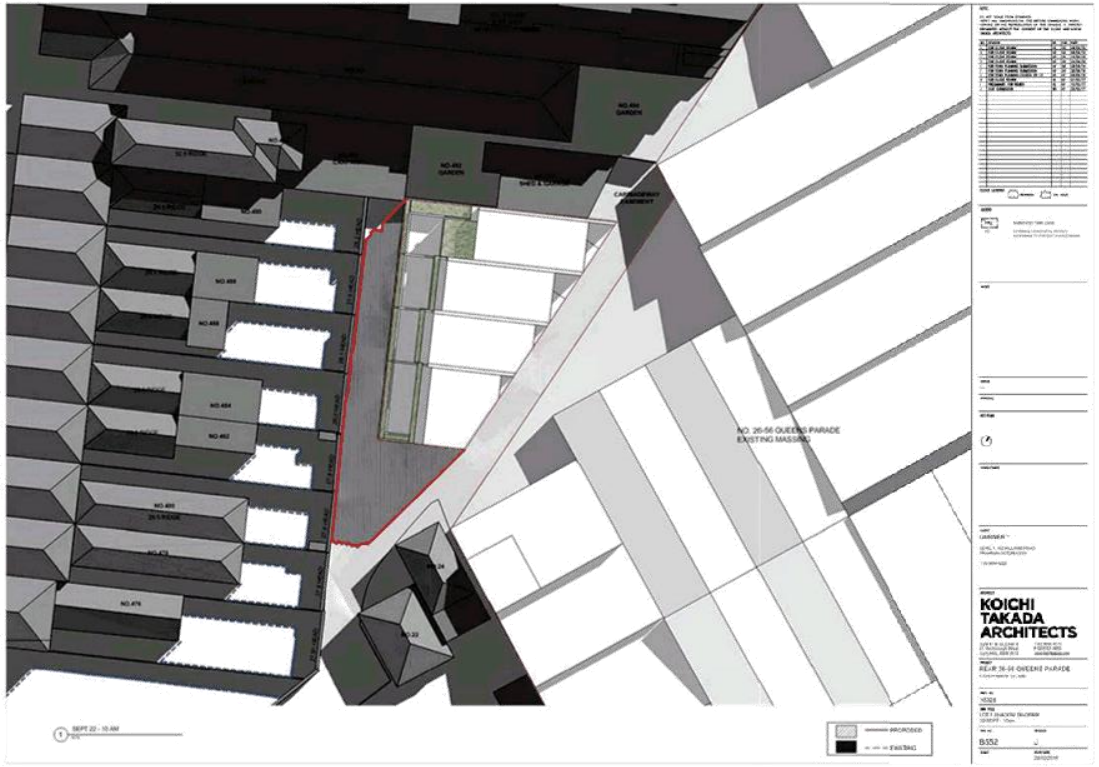

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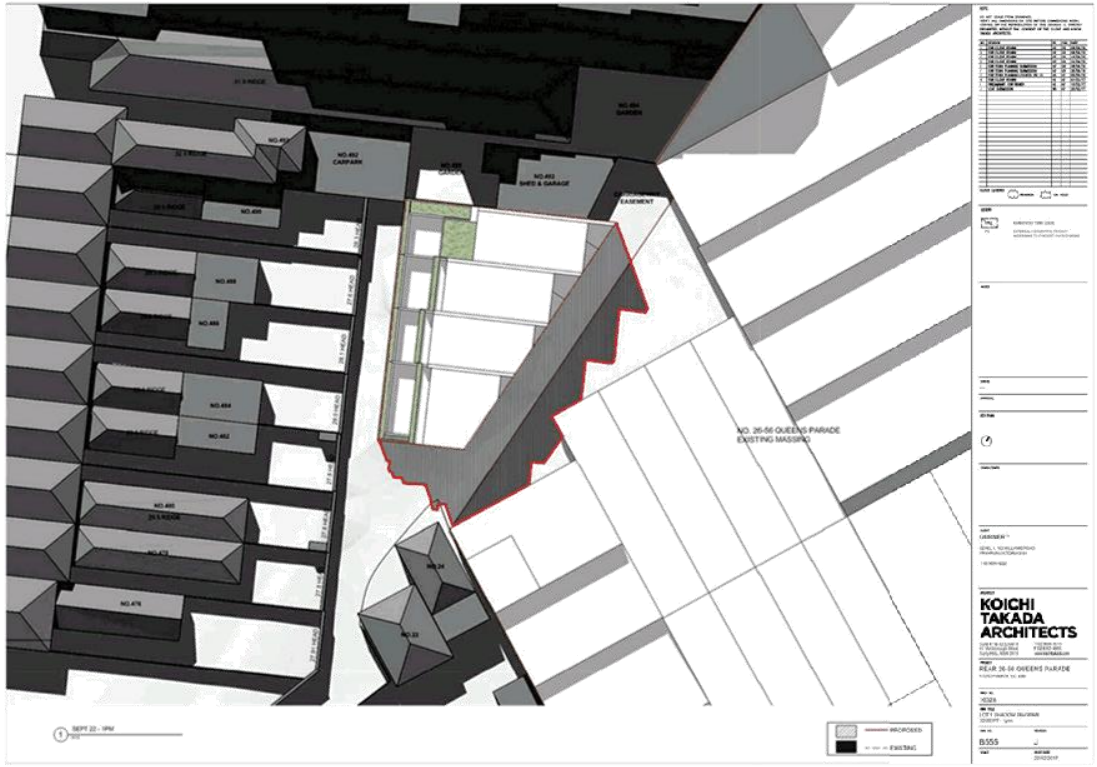

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Attachment 2 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - SUBSITUTED PLANS -Amended Plans

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 3 - PLN16/0732 - Rear 26 - 56 Queens Parade Fitzroy North - Engineering comments on Substituted Plans

CITY OF YARRA

MEMO

To:	**Sarah Thomas**	
From:	**Mark Pisani**	
Date:	**23 February 2017**	
Subject:	**Application No:**	**PLN16/0732**
	Description:	**Substituted Drawings**
	Site Address:	**Rear 26-56 Queens Parade, Fitzroy North**

I refer to the substituted drawings received on 21 February 2017 in relation to the proposed development at Rear 26-56 Queens Parade, Fitzroy North. Council's Engineering Services unit provides the following information:

CAR PARKING PROVISION
Proposed Development
According to the information provided by the applicant, the revised proposal's parking requirements are as follows:

Proposed Use	Quantity /Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Two-bedroom dwelling plus Study	1	1 space per dwelling*	1	1
Three-bedroom dwelling	3	2 spaces per dwelling	6	5
		Total	**7 Spaces**	**6 Spaces**

* The one-bedroom plus study dwelling has been treated the same as regular one-bedroom dwelling due to the small size of the study which is unlikely to be used as an additional bedroom.

Six on-site spaces would be provided for the four townhouse dwellings in the car park at 26-56 Queens Parade. One of the three bedroom dwellings would be allocated one space.

Parking Demand for Three-Bedroom Dwellings
The three-bedroom dwellings have an on-site parking provision of 1.5 spaces per dwelling. The original Traffix Group report dated 9 September 2016 indicated that three-bedroom flat type dwellings in Fitzroy North have an average car ownership of 1.5 vehicles per dwelling, based on data obtained from the 2011 Census conducted by the Australian Bureau of Statistics. The on-site car parking provision is consistent with the statistical average for car ownership of three-bedroom flat type dwellings in Fitzroy North.

Engineering Services has no objection to the reduction of one resident space for this development.

PEDESTRIAN ACCESS
According to Traffix Group report, it is proposed that the development's principal pedestrian access would be via parent site of 26-56 Queens Parade. The pedestrian access plan in the report

indicates that from the subject site persons walking to and from Queens Parade via the parent site would travel approximately 90 metres.
The Right of Way linking the site from Brunswick Street would provide a more expedient way of accessing the street network (approximately 35 metres). Although the applicant is encouraging access via the parent site, pedestrians could be inclined to use the Right of Way, as it is a Public Highway.

IMPACT ON ROAD INFRASTRUCUTRE
Building Works and Impact on Council Road Assets
The construction of the new building, the provision of underground utilities and construction traffic servicing and transporting materials to the site will impact on Council assets. 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 and visitors 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 section of Right of Way in between the subject site and 26-56 Queens Parade must be fully constructed to Council's satisfaction and at the Permit Holder's cost.
- The Permit Holder is to make a development contribution of 50 per cent of the cost of reconstructing the bluestone Right of Way from the development to St Georges Road. Council will program the works on the Capital Works Program and pay the balance of the works.

Public Lighting

- Lighting for pedestrian access at the property's Cambridge Street frontage must comply with the minimum lighting level of P4 as per the Australian Standard AS/NZS 1158.3.1:2005 *Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*. The lighting levels of all existing public lights near the site must be measured and checked against the AS/NZS 1158.3.1:2005 to determine whether new or upgraded public lights are required. The supply and installation of any additional or upgraded lighting, poles or other fixtures shall be funded by the Permit Holder and to the satisfaction of the Responsible Authority.
- The developer must ensure that lighting from any existing or new lights does not spill into the windows of any new residences or any existing nearby residences. Any light shielding that may be required shall be funded by the Permit Holder.

Construction Management Plan

- A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.
- The Construction Management Plan for the site must also take the following into account:
  - If any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 3 - PLN16/0732 - Rear 26 - 56 Queens Parade Fitzroy North - Engineering comments on Substituted Plans

- Existing public lighting could only be disconnected once temporary alternative lighting scheme becomes operational.
- A temporary lighting scheme must remain operational until a permanent lighting scheme is reinstated.

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.

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.

NON-PLANNING ADVICE FOR THE APPLICANT

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.

Regards

Mark Pisani
Senior Development Engineer
Engineering Services Unit

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 4 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Heritage advice on substituted plans

City of Yarra

Heritage Advice – Rear site – Supplementary Advice

Application No.: PLN16/0732

Address of Property: Rear 26 – 56 Queens Parade, Fitzroy North

Planner: Sarah Thomas

Yarra Planning Scheme References: Clauses 43.01, 22.02, 21.05.

Heritage Overlay No. HO 327 **Precinct:** North Fitzroy

Level of significance:

The rear No. 26 - 52 Queens Parade, North Fitzroy, is vacant land behind the K G Luke Pty Ltd electro-plate manufacturers factory, for which a separate application has been submitted for the redevelopment of the which fronts Queens Parade. (PLN16/0434)

Proposal

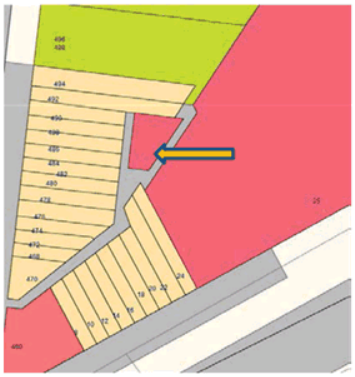
Construction of four triple-storey townhouses.

Drawing Numbers

24 pages of drawings prepared by Koichi Takada, Rev. D and J, dated 20/02/2017 with no Council date stamp.

Context Description

The site has no visible frontage to any street. It abuts a lane and backyards of properties fronting Brunswick Street and Queens Parade.



Council's GIS showing the site arrowed.

Assessment of Proposed Works

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 4 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Heritage advice on substituted plans

I provided heritage advice on 13 November, 2017 in relation to a four-storey proposal. This advice only addresses the salient points of the amended proposal and does not necessarily repeat previous information as the two pieces of advice are intended to be read in conjunction.

Built form (height/setbacks)

I note that one level and the rooftop terraces have been deleted which is acceptable although not necessary from a heritage perspective. One dwelling has a green roof at the Third floor which is also acceptable.

Colours and materials

The principal concern is that despite this being an issue with the original application, there is still no materials and colours schedule provided. The elevations do not appear to have changed from the original application, although I do not have those drawings to hand, and my previous conclusion from the elevations remains that they appear to be mainly clear glass, metal and concrete plus vegetated elements.

I expressed a concern previously about perforated metal screens but I cannot see anything on these drawings which resembles this. My advice was, and is, that because of the seclusion of the site from the heritage precinct proper this is not such of an issue as it would be in a typical heritage streetscape. However, perforated metal screens are hard to maintain in a pristine condition and another materials might be considered.

Louvred external privacy screens to all the lane windows are acceptable because the site is secluded from the heritage precinct proper and such screens in this location will have no impact on any heritage values.

Recommendation / Comments:

Approved subject to provision of a colours and materials schedule and clarification as to whether perforated metals screens or some other material is to be used.

Signed:

Robyn Riddett

Director – Anthemion Consultancies

Date: 21 February, 2017

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 5 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Urban Design comments on revised plans

CITY OF YaRRA

MeMO

TO:	Sarah Thomas (Statutory Planning)
FROM:	Hayley McNicol (Urban Design)
DATE:	2 March 2017
SUBJECT:	Rear of 26-56 Queens Parade, Fitzroy North
APPLICATION NO:	PLN16/0732
DESCRIPTION:	Development of the land for four town houses of three storeys in height

COMMENTS SUMMARY

Urban Design comments have been sought on revised plans for the above site (Drawing Numbers: B100-B103 and B200-203 (Rev J).

In summary, the application is supported in principle provided that the following issues are addressed, which can be dealt with by condition:

- The ground floor interface should be improved to provide an active frontage and greater surveillance of the laneway. This is particularly important for the southern edge of Dwelling 1, which would be the first view of the development coming up the laneway from Brunswick Street.
- As the laneway would be used by occupants of the new development to access Brunswick Street by foot or bicycle, it is recommended that improvements are made to the laneway to improve access for pedestrians. This includes a potential opportunity to create a community space along the stretch of laneway alongside the front of the townhouses and in front of the rear entrance to the main adjacent development site at 26-52 Queens Parade (if no vehicle access is required).
- Cycle parking should be provided within the site to ensure convenient access to cycle parking for the future occupants.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

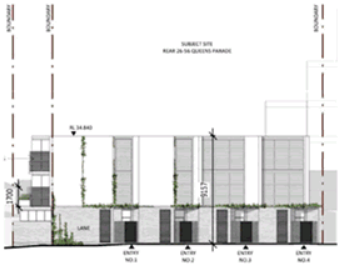
Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 5 - PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - Urban Design comments on revised plans

Proposal

It is proposed to demolish the existing buildings on site and construct four new residential townhouses, of three storeys in height. The development would be primarily accessed from the laneway leading to Brunswick Street by foot, and provides access to the back of the proposed new development at 26-56 Queens Parade for car parking which would be entered and exited from Queens Parade at the front.

Ground floor layout plan



Front (east) elevation

Rear (west) elevation

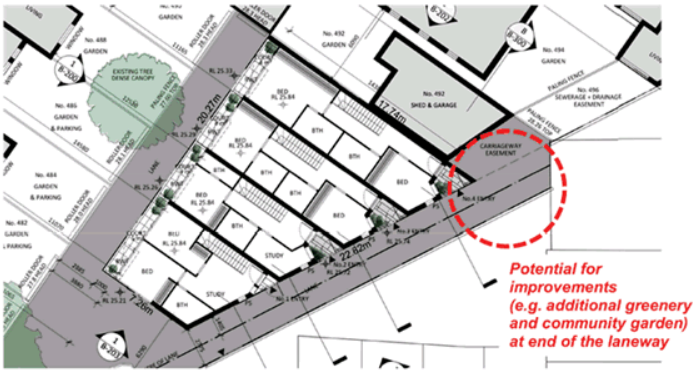
Urban Design feedback

- **Access to the development**

The objectives of the 'Development Abutting Laneways' policy at Clause 22.07 include *"to provide an environment which has a feeling of safety for users of the laneway"* and *"to ensure that development along a laneway is provided with safe pedestrian and vehicular access"*.

The development is configured so that the individual entrances of the buildings are accessed from the laneway to the rear of 26-52 Queens Parade which leads to Brunswick Street. Although the applicant intends for residents to access the townhouses via the main site, realistically residents would be highly likely to use the laneway by foot or bicycle, as the laneway provides a more direct and shorter route, with clear links to the Brunswick Street tram stops and towards the CBD. The surface of the laneway is currently very uneven and accessibility is poor, with no laneway lighting, therefore given its expected increased use, there is a clear need for the laneway to be upgraded to improve pedestrian access and safety.

The northern end of the laneway comprises an odd-shaped space, between the townhouses and the rear entrance of the main development site at 26-52 Queens Parade. If no vehicle access is required to this space (or indeed to the laneway along the front entrances of the proposed townhouses), there is an opportunity to create a small community space (such as a community garden), to activate this space and provide additional greenery.



Opportunities for improving end of laneway

We therefore recommend that the applicant develops a design for the laneway responding to the above issues and opportunities.

The development does not show any provision of cycle parking for the townhouses within the site. It is recommended that cycle parking is provided on the site as cyclists will likely use the most direct route to and from the site, via the laneway leading to Brunswick Street (rather than through the main development site).

- **Building layout and interface**

Clause 22.10-3.4 of the 'Built Form and Design Policy' seeks (amongst other things) *"to ensure ground level façade and boundary treatments interface positively with the street and public domain treatments interface positively with the street and public domain"* and *"to ensure that new development enhances public safety and the pedestrian experience"*.

The development provides limited ground floor windows and high fencing in front of the entrances which results in a poor interface with the laneway. To provide more passive surveillance and improve the amenity of the laneway, it is recommended that some windows are provided at the ground floor, and the fencing at the entrances is reduced in height to give the entrances a greater prominence on the laneway. In particular, the entrance to Dwelling 1 should be more engaging and active as this is the first view of the development when travelling up the laneway (see image below).

West elevation (first view of property from laneway approach)

- **Built form and massing**

Considering the laneway context and the scale of buildings in the wider area (for example the six story building towards the north), it is felt that the bulk and massing is acceptable in this case.

- **Façade design and materials/colours**

The design of the façade is considered to be appropriate, provided some changes are made to improve the entrances and ground floor interface, as discussed above. The proposed materials and colours are generally acceptable.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - IDAC Application & Attachments 15 March 2017

Attachment 6 - PLN16/0732-02: PLN16/0732 - 26 - 52 Queens Parade Fitzroy North - ESD advice on subsituted plans

Sustainable Management Plan (SMP)
Referral Response by Yarra City Council

Assessment Summary:

Responsible Planner:		Sarah Thomas	
ESD Advisor:		Euan Williamson	
Date:	02.03.2017	Planning Application No:	PLN16/0732
Subject Site:		Rear 26-56 Queens Parade, North Fitzroy, VIC, 3068	
Site Area:	Approx. 253m^2	Site Coverage:	100%
Project Description:		Four triple storey townhouses	
Pre-application meeting(s):		No ESD involvement.	

This application nearly meets 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.

(1) Applicant ESD Commitments:
- A STORM rating of 120% has been received which relies on; a minimum of 149m^2 of roof connected to 8,000 litres of storage tank(s) and connected to all toilets onsite for flushing.
- Average 6 Star NatHERS ratings for thermal energy efficiency.
- Energy efficient heating and cooling.
- Water efficient appliances and fixtures.

(2) Application ESD Deficiencies:
- There is large amount of exposed north-west facing glazing that will suffer from high levels of summer solar gain and unwanted glare. Strongly recommend that all glazing exposed summer sun angles be protected by some external adjustable awnings, louvers, shutters or similar that can provide shade from summer sun angles.

(3) Outstanding Information:
- The BESS Energy score is reliant on each dwelling having a permanent indoor clothes line, but it is not marked on the architectural drawings. Please show on plans.

(4) ESD Improvement Opportunities:
- Consider improving the average NatHERS rating for thermal energy efficiency.
- Consider a solar PV array to contribute to onsite electricity consumption.
- Consider gas boosted solar hot water in addition to solar PV arrays for each townhouse.

Further Recommendations:
The applicant is encouraged to consider the inclusion of ESD recommendations, detailed in this referral report. Further guidance on how to meet individual planning conditions has been provided in reference to the individual categories. The applicant is also encouraged to seek further advice or clarification from Council on the individual project recommendations.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 3 - IDAC Minutes 15 March 2017

INTERNAL DEVELOPMENT APPROVALS COMMITTEE RESOLUTION

Moved: Councillor McEvoy **Seconded:** Councillor Jolly

That IDAC resolve that if it were in a position to determine the application, Council would issue a Refusal to Grant a Permit (PLN16/0732) for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site at Rear 26-52 Queens Parade, Fitzroy North on the following grounds:

1. The building height does not respect the character of the area.
2. The site coverage, permeability and setbacks do not respect the existing or preferred neighbourhood character and does not respond to the features of the site.
3. The proposal does not provide sufficient car parking.
4. The proposal does not provide for pedestrian safety.

CARRIED UNANIMOUSLY

1.6 PLN16/0434 - 26-56 Queens Parade, Fitzroy North - Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone

Executive Summary

Purpose

1. This report provides an assessment of the VCAT substituted plans for Planning Permit Application PLN16/0434 affecting land at 26-56 Queens Parade, Fitzroy North and recommends a position of support at the upcoming VCAT hearing.

Key Planning Considerations

2. Key planning considerations include:
   (a) Mixed Use Zone;
   (b) Road Zone, Category 1;
   (c) Design and Development Overlay, Schedule 16;
   (d) Heritage Overlay, Schedule HO327;
   (e) Special Building Overlay;
   (f) Environmental Audit Overlay;
   (g) Clause 52.06 – Car Parking;
   (h) Clause 52.07 – Loading and Unloading of Vehicles;
   (i) Clause 52.27 – Licensed Premises;
   (j) Clause 52.29 – Land adjacent to a road zone, category 1, or a public acquisition overlay road a category 1 road; and
   (k) Clause 52.34 – Bicycle facilities.

Key Issues

3. The key issues for Council in considering the proposal relate to:
   (a) strategic policy;
   (b) use of the land for the sale and consumption of liquor;
   (c) built form;
   (d) on-site amenity;
   (e) off-site amenity/equitable development;
   (f) environmental sustainability;
   (g) traffic and car parking (including alteration to access to a road in a Road Zone);
   (h) bicycle parking;
   (i) loading bay reduction;
   (j) waste management;
   (k) Objector concerns;
   (l) Special Building Overlay;
   (m) Referral Authorities; and
   (n) other matters.

Objector Concerns

4. A total of 480 objections were received to the application, these can be summarised as:
   (a) overdevelopment;
   (b) density of apartments is too high;
   (c) this would create an unreasonable precedent;
   (d) non-compliance with the Yarra Planning Scheme and the Mixed Use Zone;

(e) height (this would be similar to the Housing Commission flat construction)
(f) upper level setbacks are inadequate
(g) design detail does not complement the area (including use of materials and fine grain subdivision) and the building would not age well
(h) this is just for the developer to make a profit;
(i) poor quality design (services, BBQs, AC units and clothes lines will be visible on balconies)
(j) this will destroy the 'community';
(k) use of landscaping is 'laughable' and no maintenance details are provided;
(l) impact on heritage (subject site, nearby 1 and 2 storey terraces, Queens Parade, Coleman Street and Napier Street);
(m) proposed facadism and impact on heritage of the site;
(n) neighbourhood character (other apartment buildings in the area are 3-6 storeys, looks like 'Docklands');
(o) insufficient dwelling diversity (too many 1 and 2 bedroom dwellings, not enough 'family' homes and there will be too many singles);
(p) apartments are too small;
(q) the draft Better Apartment Guide should be considered;
(r) impact on the Edinburgh Gardens;
(s) off-site amenity (daylight, noise [people, parties/people on balconies, cars, communal areas, licenced premises], light pollution, overlooking/privacy, overshadowing [private open space areas and the public realm], visual bulk, obstruct sky and city views, wind tunnel);
(t) poor on-site amenity (long internal corridors, poor sun shading, poor apartment layouts);
(u) there will be more robberies;
(v) construction could impact Fitzroy Gasworks underground contamination plume;
(w) insufficient car parking (the area is already constrained, difficult for guests/visitors to park);
(x) impact on cyclist and pedestrian safety (including the Napier St/Queens Pde bicycle crossing);
(y) traffic impacts;
(z) impact on views from Edinburgh Gardens, Bill Peterson Oval and Brunswick Street oval to the city;
(aa) the development would achieve a poor ESD standard;
(bb) asbestos;
(cc) footprint/site coverage is too high, needs more open space around it;
(dd) structural impact on nearby dwellings;
(ee) increased pressure on infrastructure (including public transport, phone, internet, gyms, pools, libraries, GPs and schools);
(ff) commercial (including licenced) venues should not be approved away from main streets (including Brunswick and Smith Streets);
(gg) construction impacts (noise, traffic, dust and pollution);
(hh) it will upset the dogs in the area;
(ii) no concern for health, safety or DDA;
(jj) property devaluation;
(kk) rear lane should not be used to access Brunswick Street front the site;
(ll) social housing should be included; and
(mm) perspectives have not been provided from the north or Edinburgh Gardens.

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: **Sarah Thomas**
TITLE: **Principal Planner**
TEL: **92055046**

Attachment 1 - Queens Parade Items 9 August 2017_Part1

1.6 PLN16/0434 - 26-56 Queens Parade, Fitzroy North - Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone

Trim Record Number: D17/105802
Responsible Officer: Manager Statutory Planning

Proposal:	Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone
Existing use:	Warehouse/factory
Applicant:	Gurner 26-56 Queens Parade Pty Ltd
Zoning / Overlays:	Environmental Audit Overlay Part Heritage Overlay (HO327 – North Fitzroy Precinct) Design and Development Overlay (DDO16 – Queens Parade [west]
Date of Application:	18 May 2016
Application Number:	PLN16/0434

Planning History

1. The site was re-zoned from Business 3 to Mixed Use on 13 November 2003 following amendment C20 to the Yarra Planning Scheme. The amendment was a Section 96A amendment process, with a concurrent planning permit application (PL02/0239) for 26-56 Queens Parade. The re-zoning however, affected a larger area known as 8-72 Queens Parade and 460-500 Brunswick Street.

2. Planning permit application PL02/0239 approved the construction of a 2-5 storey residential development, containing 172 dwellings and 211 car parking spaces. This permit was approved on 19 November 2003. Following 4 extensions of time, this permit expired on 19 November 2009.

3. On 17 June 2009, Planning Permit PL09/0019 was issued for the use of the site as an education centre (tertiary institution).

4. More recently, a special Council Meeting was held on 14 November 2016. Council discussed developments currently proposed along Queens Parade with Council resolving:

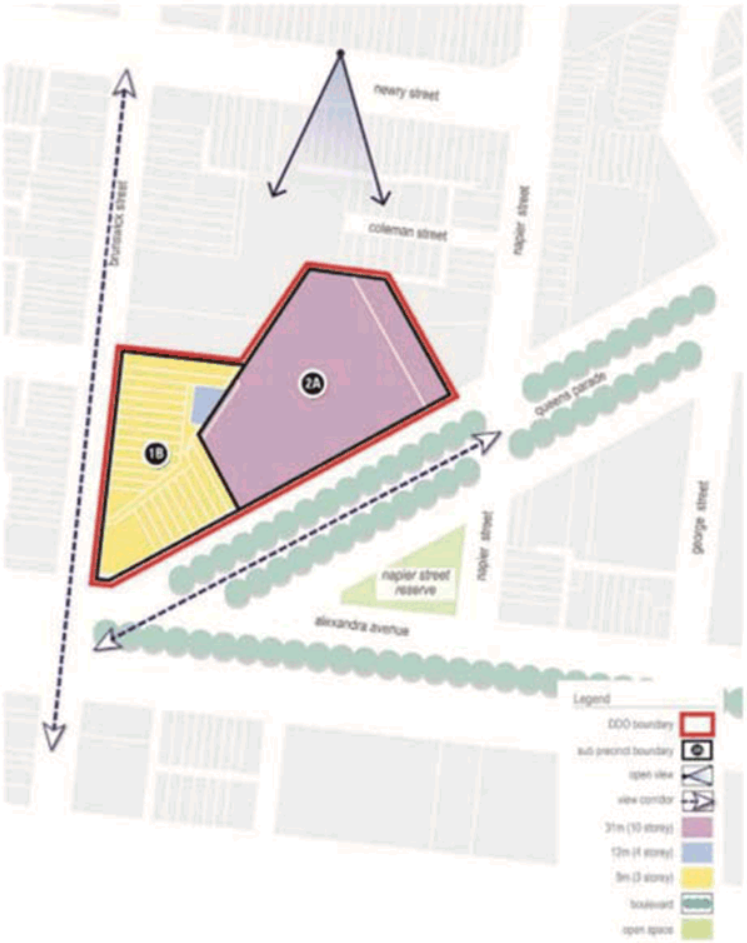
    1. *That Council note:*
        (a) *several public meetings held regarding 26-56 Queens Parade, Fitzroy North including a public meeting conv ened by the community on 2 November 2016, attended by some 400 community members with resolutions from this meeting on 26-56 Queens Parade and other planning applications in the precinct including a request for an amendment to the planning scheme to create a Design and Development Overlay for the area of North Fitzroy and Clifton Hill,*

    (attached as Attachment One); and

(b) the current planning application for a high density residential development for 26- 56 Queens Parade, Fitzroy North of up to 16 storeys and its recent referral by the applicant to the Victorian Civil and Administrative Tribunal (VCAT);

2. That Council seek a report to be presented to the 22 November 2016 Council meeting providing advice on:
(a) the process of the above planning application and steps leading to a full hearing of this application before VCAT, scheduled in April 2017;
(b) the likely costs involved in advocacy for Council at VCAT;
(c) the request for a planning scheme amendment for the precinct, and site, and the basis and requirements for any such amendment;
(d) the steps, options and timing for such amendment; and
(e) any other pertinent aspects to inform Council on this matter.

5. At a Council Meeting on 7 February 2017, Council considered officer's recommended draft DDO guidelines for the western section of Queens Parade. The proposed DDO controls were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:



6. The Council officer recommendation was that the mandatory maximum overall building height for the subject site not exceed 31m or 10 storeys and for the rear site 12m or 4 storeys.

7. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site and 2 storeys for the rear site (subject site).

8. Council resolved (in part) to:

   (e) request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and

9. On 28 March 2017, amendment C229 was gazetted, applying the Design and Development Overlay (Schedule 16) to the western end of Queens Parade (including the subject site). The approved heights as relevant to the subject site and its immediate surrounds can be generally described as 10 storeys on the main site and 3 storeys on the rear site.

Background

10. Council was informed on 11 October 2016 that a Section 79 'Failure to determine' appeal had been lodged by the Applicant with VCAT.

11. On 20 December 2016, Council formed a position on the application at its Development Assessment Panel meeting, where it resolved that Council inform VCAT that had it been in a position, it would have issued a Notice of Decision to Refuse to Grant a Permit (PLN16/0434) for 26-56 Queens Parade, Fitzroy North VIC 3068 for the part demolition and development of the land for a maximum 16 storey building, plus 2 basement levels, accommodating 476 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alteration of access to a Road Zone in accordance with the advertised plans (received by Council 15 July 2016) on the following grounds:

    1. *The proposed height, scale and massing does not respond to the existing or preferred character of the area and will dominate the surrounding area.*
    2. *The proposal will result in an unacceptable on-site amenity impact including natural daylight and ventilation.*
    3. *The side setbacks and building will not achieve equitable development for adjoining and adjacent sites.*
    4. *The proposed waste management plan is inadequate for the site.*

12. A practice day hearing was held at VCAT on 11 November, dealing with procedural matters. At the practice day, the scheduled compulsory conference was vacated and the hearing was confirmed as being 7 days, commencing 3 April 2017.

13. Of the 480 objectors, 98 have joined as party to the appeal.

14. On 3 February 2017, a practice day was held at VCAT to consider if this application should be heard at the same time as the Section 79 review for the main site (PLN16/0434). All parties consented and VCAT agreed to join both hearings (PLN16/0732 and PLN16/0434), with the hearing commencing on 3 April 2017 for 7 days. No compulsory conference was scheduled.

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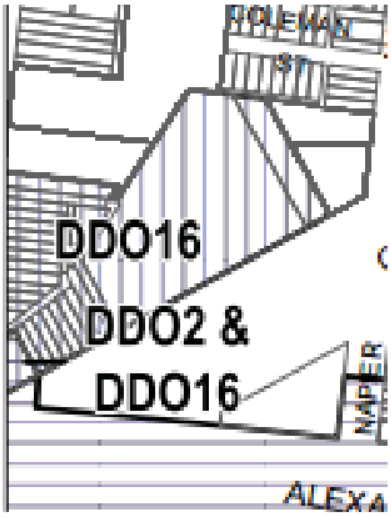
15. On 14 March 2017, Council considered the substituted VCAT plans the applicant had circulated. Council continued to form a position of refusal as per the same grounds.

16. As outlined earlier, on 28 March 2017, the Minister for Planning Gazetted an amended to the Yarra Planning Scheme introducing Schedule 16 to the Design and Development Overlay. The Overlay affects the subject site, along with the site to the rear and the dwellings to the west along Queens Parade and Brunswick Street.



17. Due to this amendment, VCAT adjourned the hearing that was scheduled for 3 April and set aside 10 days, commencing 4 September 2017. The Applicant was provided with 6 weeks before the hearing to circulate substituted plans. This report assesses these plans, which were received by Council on 25 July 2017. The proposal section of this report outlines the changes between the previous and current set of plans.

18. Council is also considering concurrently the application for the construction of 4 x 3-storey townhouses, being PLN16/0732 at the rear of 26-56 Queens Parade, Fitzroy North.

Existing Conditions

Subject Site

19. The original officer report description of the subject site remains relevant:

The subject site is located on the north side of Queens Parade, approximately 78m east of Brunswick Street and 33m west of Napier Street. The site is an unusually shaped lot, with 1 main road frontage and 2 separate laneway frontages.

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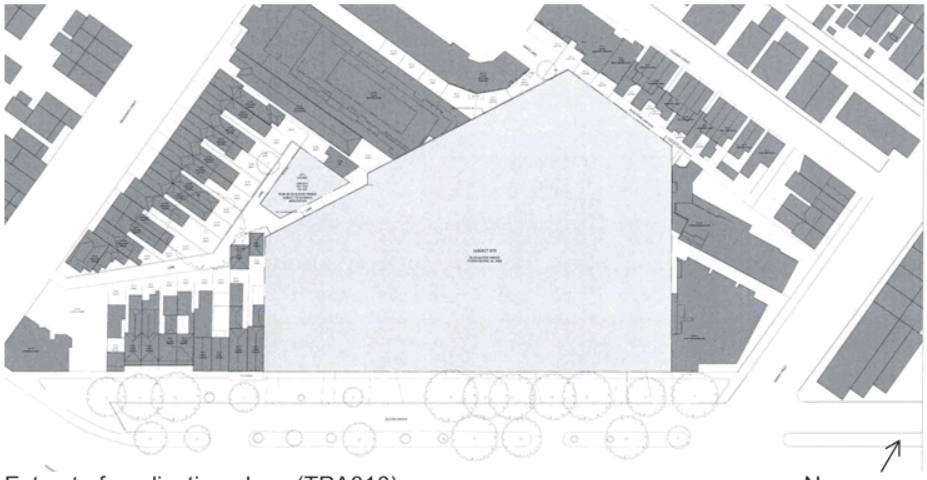

Extract of application plans (TPA010). N

The site is comprised of 8 titles:

- *Volume 5562 Folio 300;*
- *Volume 7224 Folio 622;*
- *Volume 6157 Folio 317;*
- *Volume 6157 Folio 316;*
- *Volume 2637 Folio 268;*
- *Volume 2776 Folio 162;*
- *Volume 5978 Folio 502; and*
- *Volume 5978 Folio 503.*

The site has a frontage of 119m to Queens Parade, a western boundary length of 39.2m, a north-west boundary length of 33.6m, leading to an adjoining north-west boundary length of 65.8m. The north-east boundary length is 37.5m and the east boundary length is 65.8m. All lengths are approximate. Should a permit issue, a condition should require all title boundaries to be shown on the floor plans as per the certificates of title. The site has an overall area of approximately 8,028m².

The site is developed with a series of buildings:

(a) Queens parade, western end – the most distinctive part of the site, being a row of 2 storey buildings with art deco style parapets. The façades have been painted pink with navy highlights. This row extends for a length of approximately 74m and extends the depth of the site, save for a triangular section in the northern end, generally behind the Grace Lane properties;

(b) Queens Parade, eastern end – a single storey warehouse style building, presenting a frontage of approximately 13.6m to Queens Parade and extending for the length of the eastern boundary (terminating at the laneway at the rear of the site;

Between both Queens Parade building segments is an open air carpark, presenting a frontage of approximately 31m to Queens Parade.

Subject site – Aerial extract from Google maps.

Restrictive Covenants

20. The original officer report remains relevant:

> *There are no restrictive covenants shown on the certificates of title provided with the application.*
>
> *A number of easements affect the site (including roads/carriageway, party wall, drainage, water supply, light and air easements). The Applicant has not applied to remove these easements, so a notation alerting any Permit Holder to these easements should be imposed on any permit issued. (It is likely that a separate application would later be made to remove these easements under Clause 52.02 of the Yarra Planning Scheme [**the Scheme**] at the subdivision stage, should a permit issue.*

Surrounding Land

21. The surrounding land description from the original officer report remains relevant:

> *The subject site is located within a Mixed Use Zone and is within walking distance of the Brunswick Street AC (123m).*

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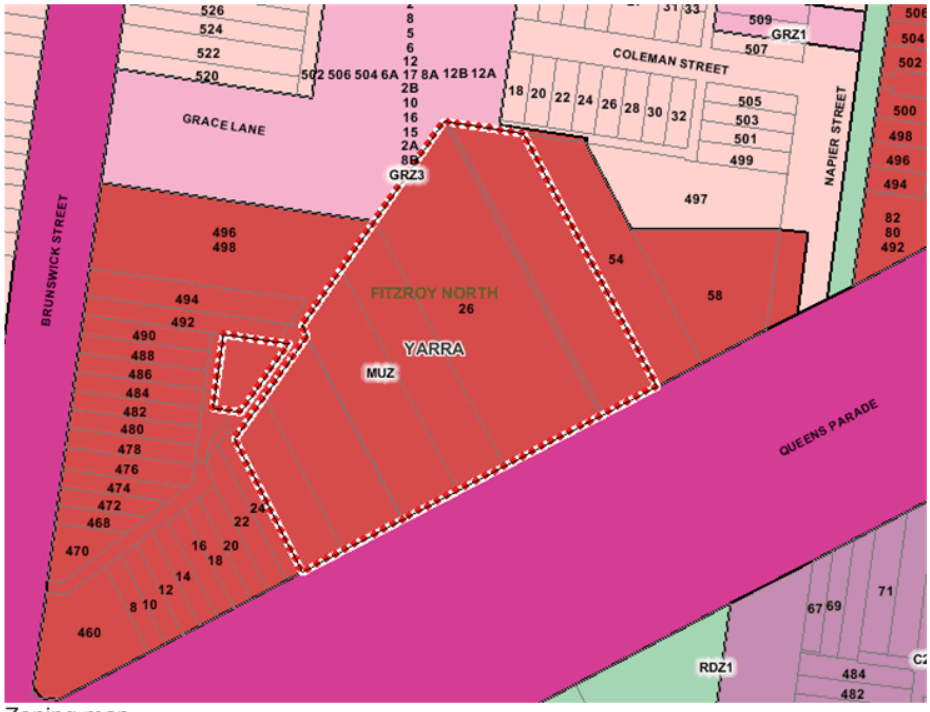


Zoning map

To the west of the subject site is a row of 9, single and double storey Victorian era terraces. The 4 closest to the subject site are double storey .These properties all enjoy access to the lane at the rear of the site, accessed via Brunswick Street. These dwellings include rear private open space areas, along with a first floor rear deck at the adjoining property to the immediate west.

Further west of these properties, at the corner of Queens Parade and Brunswick Street, is a 2 storey Victorian era building used as a medical centre. This medical centre includes car parking adjacent to the single storey Victorian era terraces on Queens Parade.

To the north-west of the subject site (western end), across the laneway, is a generally triangular portion of land also held by the permit applicant for this application. This parcel is also subject to a planning permit application (PLN16/0732) for 4, 4 storey townhouses. The parking for the proposed townhouses is proposed to be within this application. A decision has not yet been made on the townhouse application.

Further north-west of this triangular parcel are the rear of primarily single storey dwellings fronting Brunswick Street. These properties also enjoy rear access and utilise the rear laneway which leads to Brunswick Street. These dwellings include rear private open space areas and habitable room windows orientated towards the subject site.

To the north-west of the subject site (central segment, directly abutting the subject site) is a single storey dwelling fronting Brunswick Street and a recently constructed 6 storey apartment building that fronts Brunswick Street. These dwellings present private open space, balconies and habitable room windows towards the subject site. The apartment building also includes a triangular light court (with associated habitable room windows) on the shared boundary.

To the north-west of the subject site (eastern segment) is the rear of 2 storey townhouses that front Grace Lane further north. These dwellings present ground level private open space areas towards the subject site, along with habitable room windows beyond at a minimum distance of approximately 3m.

To the north-east of the subject site (western end) are 3, 2 storey dwellings with rear private open space areas that have a direct abuttal with the subject site. The rear private open space areas have a minimum depth of approximately 4m, with habitable room windows beyond.

To the north-east of the subject site (eastern end) are the rear of primarily single storey dwellings that face Coleman Street. These dwellings include rear private open space areas and habitable room windows, which are separated from the subject site by an approximately 2.7m wide laneway.

To the east of the subject site is the rear of 2 apartment buildings that present frontages to Napier Street and Queens Parade. The buildings are a maximum height of 3 (northernmost) and 5 (southernmost) storeys. These buildings are partially built to the shared boundary, with minimum 1.5m deep courtyards and adjacent habitable room windows presenting towards the subject site.

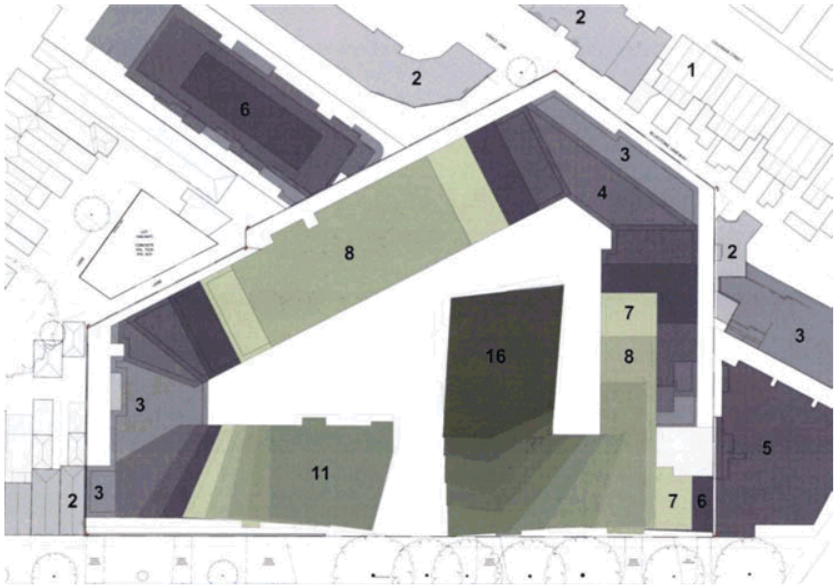
The site is well located in terms of bicycle access and public transport:

- *2 bus routes along Queens Parade; and*
- *2 tram routes along Brunswick Street.*

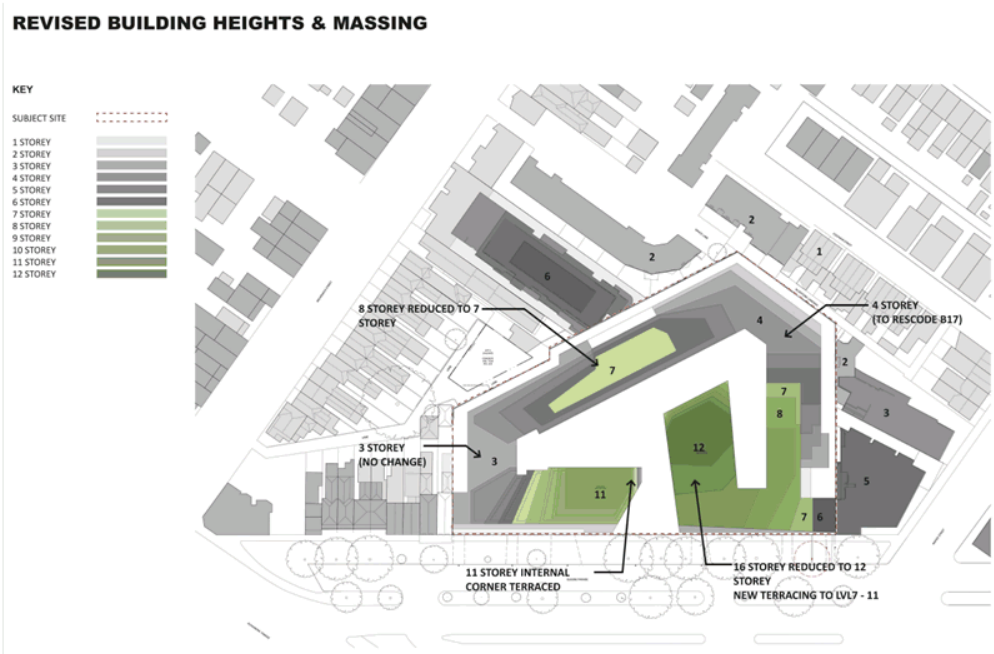
The Proposal

22. The application is for the development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone.

23. The proposal has been amended 2 times since it was originally advertised:



Original heights/massing – extract from Application plans (page 45, Town Planning Submission, Design Report, Koichi Takada Architects)



Revised heights/massing – extract from Applicant's substituted plans (plan A002A, Koichi Takada Architects, dated 20/02/17)

Current proposal (VCAT substituted plans – Cox Architecture – received by Council 25 July 2017)

24. Comparison between the previous set of VCAT plans and current VCAT substituted plans:
    (a) reduction in height from 12 to 10 storeys (from a maximum overall height of 37.4m to 30m);

(b) reduction in the number of dwellings from 341 dwellings to 295 (95 x 1BR, 136 x 2BR, 49 x 3BR,15 x 4BR including townhouses);
(c) reduction in the number of car parking spaces from 341 car parking spaces to 328;
(d) 381 bicycle parking spaces would continue to be provided;
(e) storage cages reduced from 345 to 299;
(f) modified layout from a staggered, rectilinear design to a curved podium/tower form; and
(g) materials have been modified from primarily a brick podium with glazing above to a brick podium, with glazing at the upper levels, accentuated with white powder coated planter boxes and natural timber louvres.

25. More specifically, the current application entails:

Demolition

(a) demolition of all buildings, structures and fences, save for a 45m segment of the Queens Parade, 2 storey façade and the adjacent west boundary wall (including the retention of the sawtooth profile above);

Built form and massing

(b) construction of a 10 storey building, plus 2 basements;
(c) the development would present a 3 storey podium to Queens Parade (maximum height of approximately 9.9m) including retention of the heritage façade of the existing building. Above the podium, 4 towers emerge (3 along the southern end of the site and one positioned in the northern end of the site). The minimum tower setbacks vary from Queens Parade from 1.9m to 8.1m across levels 3 to 9;
(d) the podium would continue to present a 3 storey form to the west, north-west, north-east and eastern boundaries. Setbacks across the ground floor to level 2 vary from zero to 12.7m. As the tower forms emerge at level 3, the setbacks from these boundaries increase, ranging from 3.1m to 30m. A detailed side and rear setback table and Standard B17 assessment is offered in the assessment section of this report;
(e) the maximum overall height of the development would be 30m;
(f) for the purpose of this report, the 3 towers above the 'Queens Parade' will be referred to as Towers A, B and C (from west to east) and the northern towner will be referred to as tower D;

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Layout

(g) the development would contain 295 dwellings:
  (i) 1BR – 95;
  (ii) 2BR – 136;
  (iii) 3BR – 49; and
  (iv) 4BR – 15.

(h) 328 car parking spaces:
  (i) 7 allocated to the rear site townhouse development;
  (ii) 305 to the dwellings in this development;
  (iii) 9 visitors; and
  (iv) 7 to the commercial tenancies.

(i) 381 bicycle parking spaces;

(j) 299 stores (214 x 3m³ and 67 x 6m³) across both basement levels;

(k) provision of a loading bay within basement 1 (eastern end), at a width of 4m and length of 9m;

(l) a 201m² shop (deli) to the east of the Queens Parade pedestrian entry;

(m) a 188m² restaurant in the central segment of the Queens Parade frontage;

(n) a 99m² café to the west of the Queens Parade pedestrian entry;

(o) pedestrian entries would be provided via:
  (i) the main central opening (33m wide) along Queens Parade;
  (ii) a separate residential entry at the eastern end of the Queens Parade frontage; and
  (iii) via the north-west lane which extends to Brunswick Street.

(p) vehicular entry would be provided via the eastern end of the Queens Parade frontage. A 6.8m wide vehicle crossing would provide two way vehicle access into the 2 basement levels;

Uses

(q) there are communal amenities and open space areas within the ground level of the development and communal terraces at level 3 and level 9 (including a pool and terraced areas);

(r) additional information has not been provided in relation to the uses. It appears that the shop/café originally proposed is now a shop (deli). While a food and drinks premises (café) remains, a restaurant has been added as part of the substituted plan set. Officers are concerned that details of the section 2 land uses (restaurant and deli [shop]) have not been provided for a detailed assessment or as part of the substituted plan process. This is also the case for the sale and consumption of liquor. While included in the 'proposal' section of the substituted plan paperwork, the only use it would be in association with that has been advertised is the food and drinks premises (café). Due to this procedural issue and given the lack of supporting information, for the purpose of this report, the following assumptions will be made and will be conditioned as part of this recommendation:
   (a) the leasable floor area of the deli (shop) must not exceed 150m² (making it an as-of-right use in the zone);
   (b) the restaurant must be a food and drinks premise (café) and the total leasable floor area of the food and drinks premises (cafés) on the site must not exceed 150m²;
   (c) the café must be shown on the plans as a 'food and drinks premises (café)';
   (d) the sale and consumption of liquor must only be in accordance with the westernmost food and drinks premises (café); and
   (e) in relation to operating details of the westernmost food and drinks premises (café) (to be licensed):
      i. maximum of 50 patrons at any one time;
      ii. the café would operate from 7am to 5pm, seven days;
      iii. the premises would be licenced with:
         - Sale of liquor for consumption on the premises: Monday – Sunday 12noon to 5pm

Colours, materials and landscaping

(s) the materials include a brick podium, with glazing at the upper levels, accentuated with white powder coated planter boxes and natural timber louvres;

(t) a modified landscape plan has not been provided, however landscaping would be provided within the communal areas at the ground level and levels 3 and 9;

Environmentally sustainable development [**ESD**] features

(u) the substituted plans did not include a new Sustainable Management Plan [**SMP**]. The original ESD commitments will therefore be assumed:
   (i) an average 6.5 Star NatHERS thermal energy rating; and
   (ii) a MUSIC model demonstrating best practice will be achieved.

Planning Scheme Provisions

Zoning

*Mixed Use Zone [**MUZ**]*

26. The purpose of the MUZ includes (as relevant):
   (a) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality*;
   (b) *To provide for housing at higher densities*;
   (c) *To encourage development that responds to the existing or preferred neighbourhood character of the area*; and

(d) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

27. Under clause 32.04-2 of the Scheme, a permit is not required to use the site for dwellings. A permit is required to use part of the site as a shop (the deli is 201m² or more than 150m²).

28. A restaurant and a food and drinks premises (café). However, due to a lack of supporting information for the restaurant and shop (deli) uses, this report recommends that neither are licensed and that the total floor area of each use be reduced to no more than 150m² in area to make them section 1, permit not required uses. Insufficient information has been provided and insufficient notice has been given of these elements should they be section 2, permit required uses.

29. A permit is required under clause 32.04-6 of the Yarra Planning Scheme [**the Scheme**] to construct two or more dwellings on a lot. Clause 32.04-13 states that for a development of five or more storeys, excluding a basement, the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment 2004) is a relevant decision guideline.

30. A permit is required under clause 32.04-8 of the Scheme to construct a building or construct or carry out works for a use in section 2 of clause 32.04-2.

Road Zone, Category 1

31. Queens Parade is a declared Road Zone, Category 1.

32. The purpose of this zone is:
    (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 identify significant existing roads*; and
    (c) *To identify land which has been acquired for a significant proposed road.*

33. Whilst a permit is not required for buildings or works or land use under this clause, a permit is required under clause 52.29 of the Scheme to create and alter access to a Road Zone, Category 1.

Overlays

Design and Development Overlay (Schedule 16 – Queens Parade [west])

34. Under clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works. Schedule 16 states that '*a permit cannot be granted to exceed the 'mandatory control' listed within Tables 1 and 2*'. A detailed assessment against the controls that apply to this precinct (Table 2 of DDO16) is offered in the built form assessment of this report.

35. The subject site is in Precinct 2A: Boulevard Precinct. The design objectives under Schedule 16 of the DDO include:
    (a) *To ensure the redevelopment of the land accommodating the former 'K.G. Luke Pty Ltd Electro Plate Manufacturers' factory contributes positively to the urban character of Fitzroy North.*
    (b) *To retain, enhance and incorporate the existing heritage facade into the redevelopment of the site and to create a consistent parapet height along the streetscape.*
    (c) *To ensure new development does not diminish, or detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade.*

(d) *To moderate the prominence of development above the street wall with respect to mid and long range panoramic and streetscape views and the Yarra skyline from the Edinburgh Gardens (HO213) and Newry Street (HO327- Fitzroy North Precinct).*
(e) *To ensure heritage buildings retain their three-dimensional form as viewed from the public realm to avoid 'facadism'.*
(f) *To ensure an appropriate transition in building scale across the site having regard to the existing and preferred built form to the east, north and west.*
(g) *To recognise the low scale, fine grain format of existing surrounding development.*
(h) *To avoid repetitive stepped built form at upper levels of development.*
(i) *To ensure development appropriately considers the amenity impacts on neighbouring development and achieves a high standard of internal amenity within the development.*
(j) *To encourage the development above the street wall to be designed as a series of separate development parts with building separation to enable views to the sky*
(k) *To encourage permeability within and through the site.*
(l) *To ensure adequate solar access is provided to the Queens Parade boulevard and the adjoining Napier Street Reserve.*

36. The specific controls applying to the site are found at section 2 of Schedule 16, which specifies both mandatory and discretionary requirements:

Table 1 – Precinct 1B building heights & setbacks

Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
Building Height	▪ Maximum 9m (3 storeys) for properties fronting Brunswick Street & Queens Parade ▪ Maximum 9m (3 storeys) for rear laneway site known as Lot 1 on Title Plan TP806921.		Development that respects the heritage and streetscape value of the precinct.
Façade Height	▪ Retain existing heritage façade. ▪ Development on 460 Brunswick Street adjoining the individually significant corner building must not exceed the parapet height		Development that: ▪ Reinforces the heritage values of the precinct; ▪ Respects the scale of the existing heritage buildings; ▪ Maintains the existing heritage buildings as the dominant feature in the streetscape; and ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on

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Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
	of that building.		existing residential properties.
Front Setback from boundary of Brunswick Street/Queens Parade		▪ Development on 460 Brunswick Street adjoining the individually significant corner building should match the setback of that building. ▪ Retain existing front setback.	
Upper Level Setback from front of building		Minimum of 8m setback behind the heritage façade/ new streetwall	
Setback(s) from side boundary		▪ ResCode Standard B17	
Setback(s) from rear boundary		▪ ResCode Standard B17	

Table 2 – Precinct 2A building heights & setbacks

Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
Building Height	▪ Maximum 31m (10 storeys).		Development that: ▪ Respects the scale of existing heritage buildings, both on and adjoining the site; ▪ Ensures projections above the street wall are not dominant in the skyline when viewed from Newry Street, Coleman Street and the Edinburgh Gardens; ▪ Ensures adequate solar access is provided to the Queens Parade boulevard and the adjoining Napier Street Reserve at the equinox (09.00-15.00); and ▪ Maintains the visual dominance of the heritage boulevard trees on Queens Parade over the built form.
Façade Height	▪ Retain existing heritage façade; or ▪ Where no	▪ The street wall of development adjoining the individually significant building should	Development that: ▪ Incorporates the existing heritage street wall into the redevelopment of the site and establishes a

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Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
	heritage façade exists a maximum 10m (3 storeys).	be below the parapet height of the heritage building.	consistent street wall height along the streetscape; ▪ Ensures through a combination of height, massing and materials, the decorative parapet of the individually significant heritage building remains prominent along the street wall; ▪ Ensures the primacy of the landscape boulevard within the Queens Parade viewshed; and ▪ Does not detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade.
Front Setback from boundary of Queens Parade		0m up to maximum 10m (3 storeys).	
Upper Level Setback from front of building		Above existing heritage façade: ▪ Minimum of 8m setback from 10m (3 storeys) to 16m (5 storeys) ▪ Minimum of 11m setback from 16m (5 storeys). Above new street wall (where no existing heritage façade): ▪ Minimum of 5m setback from 10m (3 storeys) to 16m (5 storeys ▪ Minimum of 8m setback from 16m (5 storeys).	
Setback(s) from rear boundaries – North & North West adjacent to NRZ & GRZ		▪ ResCode Standard B17 measured from the rear boundary of adjoining properties up to 10m (3storeys). ▪ Setback within a 45 degree angle line measured from 10m (3 storeys) up to 25m (8 storey).	Development that: ▪ Delivers an appropriate transition in scale of development from the surrounding lower scale heritage residential built form; ▪ Delivers an appropriate interface arrangement to neighbouring properties and minimises visual bulk and mass when viewed from neighbouring properties; ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties; ▪ Avoids repetitive stepped form within the 45 degree profile; and ▪ Ensures the projections above the street wall are
Setback(s) from side boundary – East adjacent to NRZ		▪ 0m setback to match party wall of existing adjoining development up to 10 metres (3 storeys). ▪ Setback within a 45 degree angle line measured from 10m (3	

Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
		storeys) up to 25m (8 storey).	not dominant in the skyline when viewed from Newry Street.
Setback(s) from side boundary – East adjacent to MUZ		▪ 0m setback to match party wall of existing adjoining development or 10m (3 storeys) where no party wall exists. ▪ Minimum of 9m setback from the windows/ balconies of adjoining apartments up to 16m (5 storeys). ▪ Minimum of 15m setback above 16m (5 storeys).	Development that: ▪ Delivers an appropriate interface arrangement and minimise visual bulk and mass when viewed from neighbouring properties; ▪ Delivers an appropriate transition in scale of development to the existing apartments on Napier Street; and ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties.
Setback(s) from side/ rear boundaries – West & North West adjacent to MUZ		▪ 0m setback to match party wall of existing adjoining development to the west or 10m (3 storeys) where no party wall exists. ▪ Setback within a 45 degree angle line measured from 10m (3 storeys).	Development that ▪ Delivers an appropriate interface arrangement and minimise visual bulk and mass when viewed from neighbouring properties ▪ Delivers an appropriate transition in scale of development to the existing apartments and the lower scale heritage residential built form in Brunswick Street; ▪ Avoids repetitive stepped form within the 45 degree profile; and ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties.

Table 3 – General Design Requirements

Design Element	Requirement	Built Form Outcome
Building facades and street frontages	The articulation of new building facades should incorporate vertical articulation to reinforce the prevailing fine grain pattern of subdivision and buildings in the area. Façade design treatments and the articulation of new buildings should respect the detailing of heritage buildings.	Development that: ▪ Recognises the fine grain built form character of heritage streetscapes and minimises the dominance of wide building frontages; and ▪ Delivers high quality façade and architectural

Design Element	Requirement	Built Form Outcome
		detailing that respects the heritage qualities of Queens Parade and Brunswick Street.
Upper Level Development (above the street wall/3 storeys)	Any part of a building above a non heritage street wall height should use materials at the upper levels of the building that are recessive in finish and colour. Development that is visible above or behind the street wall should be designed so that side walls are articulated and read as part of the overall building design. Any part of a building above a heritage facade should: ▪ use visually lightweight materials that are recessive and sympathetic to the heritage facades; ▪ incorporate fenestration patterns and solid to void ratios that respect heritage facades; and ▪ avoid highly articulated facades with recessed and projecting elements.	Development that: ▪ Maintains the dominance of the heritage street wall in the streetscape and the vista along Queens Parade; ▪ Ensures upper level development is visually recessive; and ▪ Ensures upper level development does not detract from the heritage streetscape.
Building Separation	The upper levels of new buildings on sites with frontages wider than 80 metres should provide visual separation and views to the sky between buildings.	Development that: ▪ Avoids continuous built form at upper levels; and ▪ Minimises the visual dominance of upper levels on the streetscape.

Note: *Nominated storeys within Tables 1, 2 & 3 are based on an assumption of 4m floor to ceiling height for a ground level commercial use and 3m floor to ceiling height for residential use above.*

37. Section 4 of the DDO16 outlines decision guidelines:
    (a) *Whether the design objectives in Section 1.0 and the built form outcomes in Tables 1, 2 and 3 of this Schedule are achieved.*
    (b) *Whether the design requirements for specific areas in Tables 1 and 2 of this Schedule are achieved.*
    (c) *The Queens Parade, Clifton Hill Built Form Review – February, 2017.*
    (d) *The architectural quality of the proposal, including the design, scale, height, materials, mass and visual bulk of the development in relation to the surrounding built form.*
    (e) *The profile and impact of redevelopment along Queens Parade and from Newry Street, Coleman Street and the Edinburgh Gardens.*
    (f) *The design response at the interface with existing low-scale residential properties.*
    (g) *Whether the proposal contributes to and improves the pedestrian environment and other areas of the public realm.*
    (h) *How the proposal responds to the presence of heritage buildings either on, or in close proximity to the development.*
    (i) *The design of the streetscape interface along the primary street frontage and its contribution to an active street environment.*
    (j) *How any proposed buildings and works will impact on solar access to Queens Parade and the Napier Street Reserve.*
    (k) *The suitability of vehicle access and egress arrangements and the location, layout and appearance of areas set aside for car parking.*
    (l) *The extent to which ESD measures are incorporated into the development.*

38. The DDO16 will expire after 30 March 2019.

Part Heritage Overlay (HO327)

39. The portion of the site at 26-56 Queens Parade can be seen above as being affected by HO327. The overlay inaccurately reflects the location of the heritage buildings on the site with a portion of the building not included in the Heritage Overlay. This mapping error has been identified and provided to our Strategic Planning Department to correct.

40. The relevant purpose of the HO is:
    (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 conserve and enhance heritage places of natural or cultural significance.*
    (c) *To conserve and enhance those elements which contribute to the significance of heritage places.*
    (d) *To ensure that development does not adversely affect the significance of heritage places.*
    (e) *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

41. A planning permit is required to demolish or remove a building and to construct a building or construct or carry out works.

42. Decision guidelines at clause 43.01-4 of the Scheme include (as relevant):
    (a) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
    (b) *Any applicable statement of significance, heritage study and any applicable conservation policy.*
    (c) *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
    (d) *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
    (e) *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
    (f) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

Environmental Audit Overlay

43. The purpose of this overlay is:
    (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 ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

44. Clause 45.03-1 states it is a requirement that:
    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:
    (a) *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
    (b) *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.*

45. With dwellings proposed, this requirement will be addressed by way of a notation on any permit issued.

Particular Provisions

Clause 52.06 – Car parking

46. The purpose of this provision (amongst others) is to ensure the provision of an appropriate number of car spaces are provided having regard to the activities on the land and the nature of the locality. This provision recommends car parking rates at clause 52.06-5. Under clause 52.06-3, a permit may be granted to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 (noting there is no relevant Parking Overlay).

Use	Number / Area	Clause 52.06 car parking rate	Requirement	Total Requirement	Provision	Reduction sought
Dwelling – 1BR	95	1 space to each 1 or 2 bedroom dwelling	95	359	305	54
Dwelling – 2BR	136	1 space to each 1 or 2 bedroom dwelling	136			
Dwelling – 3BR	49	2 spaces to each 3+ bedroom dwelling	98			
Dwelling – 4BR	15	2 spaces to each 3+ bedroom dwelling	30			
Dwelling – Visitor	295	1 space to each 5 dwellings for developments of 5 of more dwellings	59	59	9	50
Food and drinks	150m²	4 spaces to each 100m²	6	12	7	5

premises (café)		of leasable floor area				
Shop (deli) (to be assessed with a maximum floor area of 150m² as per the 'proposal' section)	150m²	4 spaces to each 100m²	6			
Rear townhouse development not on subject site					7	
TOTAL				**436**	**328**	**108**

47. A permit is therefore required for the 108 space car parking reduction.

48. Clause 52.06-6 of the Scheme outlines a range of decision guidelines and clause 52.06-8 outlines a range of design standards. The relevant of these will be addressed in the assessment.

Clause 52.07 – Loading and unloading of vehicles

49. The purpose of this provision is '*To set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety*'.

50. No building or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless:
    (a) *Space is provided on the land for loading and unloading vehicles as specified in the table below.*

FLOOR AREA OF BUILDING	MINIMUM LOADING BAY DIMENSIONS	
2,600 sq m or less in single occupation	Area	27.4 sq m
	Length	7.6 m
	Width	3.6 m
	Height clearance	4.0 m
For every additional 1,800 sq m or part	Additional 18 sq m	

    (b) *The driveway to the loading bay is at least 3.6 metres wide. If a driveway changes direction or intersects another driveway, the internal radius at the change of direction or intersection must be at least 6 metres.*
    (c) *The road that provides access to the loading bay is at least 3.6 metres wide.*

51. A permit may be granted to reduce or waive these requirements if either:
    (a) *The land area is insufficient.*
    (b) *Adequate provision is made for loading and unloading vehicles to the satisfaction of the responsible authority.*

52. While there is a loading bay exceeding these dimensions provided in basement 1, the height clearance to the basement is less than 4m (approximately 3.5m). A permit is therefore required to reduce this requirement.

Clause 52.27 – Licensed Premises

53. A permit is required under this clause as a license is required under the *Liquor Control Reform Act* 1998.

54. Decision guidelines include:
    (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.*

Clause 52.29 – Land adjacent to a road zone, category 1, or a public acquisition overlay road a category 1 road

55. The relevant purpose of this provision is '*To ensure appropriate access to identified roads*'.

56. A permit is required to create or alter access to a road in a Road Zone, Category 1 (in this instance, the crossover to Queens Parade). An application must be referred to VicRoads under Section 55 of the Act.

57. Decision guidelines include:
    (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
    (b) *The views of the relevant road authority.*
    (c) *The effect of the proposal on the operation of the road and on public safety.*
    (d) *Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.*

Clause 52.34 – Bicycle facilities

58. The purpose of this Clause is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities. Clause 52.34-2 states that a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.

Use	Number / Area	Clause 52.34 bicycle parking rate	Requirement	Provision	Reduction sought
Dwelling - Resident		In developments of 4 or more storeys, 1 to each 5 dwellings	72	319	N/A (247 above statutory minimum requirement)
Dwelling – Visitor		In developments of 4 or more storeys, 1 to each 10 dwellings	36	58	N/A
Food and drinks		1 to each 300m² of	0		

premises (cafe) - Employee		leasable floor area			
Food and drinks premises (café) - Shopper		1 to each 500m² of leasable floor area	0		
Shop - Employee		1 to each 600m² of leasable floor area if the leasable floor area exceeds 1000m²	0		
Shop – shopper		1 to each 500m² of leasable floor area if the leasable floor area exceeds 1000m²	0		
Restaurant – patron	N/A due to conditions modifying this use to a cafe				
Restaurant – staff	N/A due to conditions modifying this use to a cafe				
TOTAL					**N/A no reduction sought**

59. No reduction is sought under this provision.

60. A bicycle space for a visitor, shopper or student must be provided at a bicycle rail.

61. The plans also detail 4 bicycle parking spaces for the rear townhouse development.

Clause 52.35 – Urban context report and design response for residential development of five or more storeys

62. The purpose of this clause is '*To ensure that an urban context report is prepared before a residential development of five or more storeys is designed and that the design responds to the existing urban context and preferred future development of the area*'.

63. The application was provided with an urban context report and design response in accordance with this provision.

Clause 58 – Apartment Developments

64. These provisions apply to an application to construct an apartment development within the CDZ (amongst others). However, clause 37.02-4 of the Scheme introduces transitional provisions in that (as relevant):

    Clause 58 does not apply to:
    - *An application for a planning permit lodged before the approval date of Amendment VC136.*

65. These provisions therefore do not apply to this application.

General Provisions

Clause 65 – Decision Guidelines

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

State Planning Policy Framework (SPPF)

67. The following SPPF provisions of the Scheme are relevant:

Clause 11.01-1 – Settlement networks

68. The objective of this clause is '*To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements*'.

Clause 11.04-1 – Open space planning

69. The objective of this clause is 'To assist creation of a diverse and integrated network of public open space commensurate with the needs of the community'.

Clause 11.06-1 – Jobs and investment

70. The objective of this clause is 'To create a city structure that drives productivity, attracts investment, supports innovation and creates jobs'.

Clause 11.06-2 – Housing choice

71. The objective of this clause is '*To provide housing choice close to jobs and services*'. With a relevant strategy being to:
    Facilitate diverse housing that offers choice and meets changing household needs through:
    - *provision of a greater mix of housing types.*
    - *adaptable internal dwelling design.*
    - *universal design.*

Clause 11.06-3 – Integrated transport

72. The objective of this clause is '*To provide an integrated transport system connecting people to jobs and services, and goods to market*'. With a relevant strategy being to '*Provide for increased density of development, particularly around transport nodes, to support the viability of services*'.

Clause 11.06-4 – Place and identity

73. The objective of this clause is 'To create a distinctive and liveable city with quality design and amenity'. With the relevant strategies being:
    (a) *Improve the design quality of public spaces and the interfaces between private development and the public domain.*
    (b) *Support the creation of memorable, well-designed places that are distinctive and liveable. Integrate place making practices into road space management.*
    (c) *Provide spaces and facilities that encourage and support the growth and development of Melbourne's cultural precincts and creative industries.*
    (d) *Create innovative tourism experiences and encourage investment that meets demand and supports growth in the tourism.*
    (e) *Promote urban design excellence in the built environment and create places that:*
        (i) *are accessible, safe and diverse*
        (ii) *are enjoyable, engaging and comfortable to be in and move around*
        (iii) *accommodate people of all abilities, ages and cultures*
        (iv) *celebrate of the city's social, cultural and natural heritage.*
        (v) *Recognise the value of heritage by carefully managing the ongoing processes of growth and change in the urban environment.*
        (vi) *Respect and protect Melbourne's Aboriginal cultural heritage.*
        (vii) *Support the regeneration of heritage assets through adaptive re-use.*

Clause 11.06-5 – Neighbourhoods

74. The objective of this clause is 'To create a city of inclusive, vibrant and healthy neighbourhoods that promote strong communities, healthy lifestyles and good access to local services and jobs'. With the relevant strategies being:
    (a) *Create a city of 20 minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip of their home.*
    (b) *Create mixed-use neighbourhoods at varying densities that offer more choice in housing, create opportunities for local businesses and jobs and deliver better access to services and facilities.*

Clause 11.06-6 – Sustainability and resilience

75. The objective of this clause is 'To create a more sustainable and resilient city that manages its land, biodiversity, water, energy and waste resources in a more integrated way'. With the relevant strategies being:
    (a) *Improve energy, water and waste performance of buildings through environmentally sustainable development and energy efficiency upgrades.*
    (b) *Facilitate the uptake of renewable energy technologies on a site-by-site and neighbourhood level, including through the consideration of renewable energy opportunities during the master planning of new communities and in green wedge and peri-urban areas.*
    (c) *Require climate change risks to be considered in the siting, design and construction of major infrastructure projects so that they withstand natural hazard risks.*
    (d) *Reduce pressure on water supplies by ensuring development makes the best use of all water sources, including stormwater, rainwater, recycled water and drinking water. Improve alignment between urban water management and planning by adopting an integrated water management approach.*
    (e) *Protect and enhance the health of urban waterways by ensuring new urban development minimises the impact of stormwater.*

Clause 13.03-1 – Use of contaminated and potentially contaminated land

76. The objective of this clause is 'To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely'.

Clause 13.04-1 – Noise abatement

77. The objective of this clause is 'To assist the control of noise effects on sensitive land uses'.

Clause 15.01-1 – Urban Design

78. The objective of this clause is '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

79. 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'. The strategy of this clause is to apply 11 design strategies. Planning must also consider (as relevant) the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) in assessing the design and built form of residential development of five or more storeys.

Clause 15.01-4 – Design for safety

80. The objective of this clause is 'To improve community safety and encourage neighbourhood design that makes people feel safe'. The relevant strategy is to 'Ensure the design of buildings, public spaces and the mix of activities contribute to safety and perceptions of safety'.

Clause 15.01-5 – Cultural identity and neighbourhood character

81. 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

82. 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 15.03-1 – Heritage conservation

83. The objective of this clause is 'To ensure the conservation of places of heritage significance'.

Clause 16.01-1 – Integrated housing

84. The objective of this clause is 'To promote a housing market that meets community needs'.

Clause 16.01-2 – Location of residential development

85. 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

86. 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'.

Clause 16.01-4 – Housing diversity

87. 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

88. The objective of this clause is 'To deliver more affordable housing closer to jobs, transport and services'.

Clause 17.01-1 – Business

89. 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

90. The objective of this clause is 'To create a safe and sustainable transport system by integrating land-use and transport'. The relevant strategy is:
    (a) *Plan urban development to make jobs and community services more accessible by:*
        (i) *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.*

Clause 18.02-1 – Sustainable personal transport

91. The objective of this clause is 'To promote the use of sustainable personal transport'.

Clause 18.02-2 – Cycling

92. The objective of this clause is 'To integrate planning for cycling with land use and development planning and encourage as alternative modes of travel'.

Clause 18.02-5 – Car parking

93. It is an objective '*To ensure an adequate supply of car parking that is appropriately designed and located*'. This clause includes the following relevant strategies to achieve this objective:
    (a) *Encourage the efficient provision of car parking through the consolidation of car parking facilities.*
    (b) *Allocate or require land to be set aside for car parking subject to the existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking.*
    (c) *Prepare plans for the design and location of local car parking to:*
        (i) *Protect the role and function of nearby roads, enable easy and efficient use and the movement and delivery of goods.*
        (ii) *Achieve a high standard of urban design and protect the amenity of the locality, including the amenity of pedestrians and other road users.*
        (iii) *Create a safe environment, particularly at night.*
        (iv) *Facilitate the use of public transport.*
    (d) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

94. In the City of Yarra in 2020 (as relevant):

Land Use

- *Yarra will have increased opportunities for employment*
- *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne*

Transport

- *Local streets will be dominated by walkers and cyclists*
- *Most people will walk, cycle and use public transport for the journey to work*

Clause 21.04-1 – Accommodation and housing

95. The following is offered in this clause:
    (a) *Yarra is experiencing consistent residential growth. The Metropolitan Strategy, Melbourne 2030, identifies that this trend will continue.*
    (b) *Yarra will continue to accommodate its share of the housing growth of the inner Melbourne Metropolitan region (comprising the Cities of Melbourne, Port Phillip, Stonnington and Yarra). However, in order to protect valued character, and particularly its heritage places, the majority of new development will be accommodated on strategic redevelopment sites. These sites are generally located in, abutting, or close to activity centres, or in locations that offer good access to services and transport as required under Melbourne 2030. Other areas such as those in Mixed Use or Business zones will accommodate some population growth, while most established Residential 1 zones are stable and will experience minimal change.*

96. The relevant objectives and standards of this clause are:
    (a) *Objective 1 To accommodate forecast increases in population.*
        (i) *Strategy 1.1 Ensure that new residential development has proper regard for the strategies applicable to the neighbourhood in question identified in clause 21.08.*
        (ii) *Strategy 1.2 Direct higher density residential development to Strategic Redevelopment Sites identified at clause 21.08 and other sites identified through any structure plans or urban design frameworks.*
        (iii) *Strategy 1.3 Support residual population increases in established neighbourhoods.*
    (b) *Objective 2 To retain a diverse population and household structure.*
    (c) *Objective 3 To reduce potential amenity conflicts between residential and other uses.*
        (i) *Strategy 3.1 Ensure new residential development in the Mixed Use, Business 1, Business 2, and Business 5 Zones and near Industrial and Business Zones is designed to minimise the potential negative amenity impacts of existing non-residential uses in the vicinity.*
        (ii) *Strategy 3.2 Apply the Interface Uses policy at clause 22.05.*

Clause 21.04-2 – Activity Centres

97. The site is approximately 123m to the north-east of the Brunswick Street Activity Centre [**AC**].

98. The relevant objectives and strategies of this clause are:
    (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.*
        (i) *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

Clause 21.04-3 – Industry, office and commercial

99. The relevant objective of this clause is: *Objective 8 To increase the number and diversity of local employment opportunities.*

Clause 21.05-1 – Heritage

100. The relevant objectives and strategies of this clause are:
    (a) *Objective 14 To protect and enhance Yarra's heritage places.*
        (i) Strategy 14.1 Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.
        (ii) Strategy 14.2 Support the restoration of heritage places.
        (iii) Strategy 14.3 Protect the heritage skyline of heritage precincts.
        (iv) Strategy 14.4 Protect the subdivision pattern within heritage places.
        (v) Strategy 14.5 Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces.
        (vi) Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas. Strategy 14.8 Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02

Clause 21.05-2 – Urban design

101. The relevant objectives and strategies of this clause are:

    (a) *Objective 16 To reinforce the existing urban framework of Yarra.*
        (i) *Strategy 16.2 Maintain and strengthen the preferred character of each Built Form Character Type within 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.*
        (i) *Strategy 18.2 Enhance the amenity of laneways by applying the Development Abutting Laneway policy at Clause 22.07.*
    (d) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*
        (i) *Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*
        (ii) *Strategy 20.2 Require development of Strategic Redevelopment Sites to take into account the opportunities for development on adjoining land.*
        (iii) *Strategy 20.4 Apply the Built Form and Design policy at clause 22.10.*
    (e) *Objective 22 To encourage the provision of universal access in new development.*
        (i) *Strategy 22.1 Encourage applicants to take into account the access needs of all people in the design of new buildings.*

Clause 21.05-3 – Built form character

102. New development must respond to Yarra's built and cultural character, its distinct residential 'neighbourhoods' and individualised shopping strips, which combine to create a strong local identity. Four Structural elements and thirteen built form character types have been identified for areas that are not covered by the Heritage Overlay. The subject site is within a 'Main Road' area. The relevant objectives of this clause are:

    General Objective

(a) *Objective 23 To maintain and strengthen the identified character of each type of identified built form within Yarra.*

Transport corridors

(b) *Transport corridors offer a window into the City of Yarra seen by thousands of people every day. In Yarra many main roads double as centres of community and commercial activity, and are part of local community identity. In categorising main roads from a built form perspective it is logical to differentiate them by built form character, rather than traffic function.*

(c) *Objective 26 To improve the built form character of transport corridors.*
   (i) *Strategy 26.1 Reinforce the scale and formality of the landscape along boulevards.*
   (ii) *Strategy 26.2 Maintain the dominance of the avenue trees over built form along boulevards.*

Clause 21.05-4 – Public environment

103. The relevant objective and strategies of this clause are:
   (a) Objective 28 To a provide a public environment that encourages community interaction and activity.
      (i) *Strategy 28.1 Encourage universal access to all new public spaces and buildings.*
      (ii) *Strategy 28.2 Ensure that buildings have a human scale at street level.*
      (iii) *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*
      (iv) *Strategy 28.5 Require new development to make a clear distinction between public and private spaces.*
      (v) *Strategy 28.8 Encourage public art in new development.*

Clause 21.06 – Transport

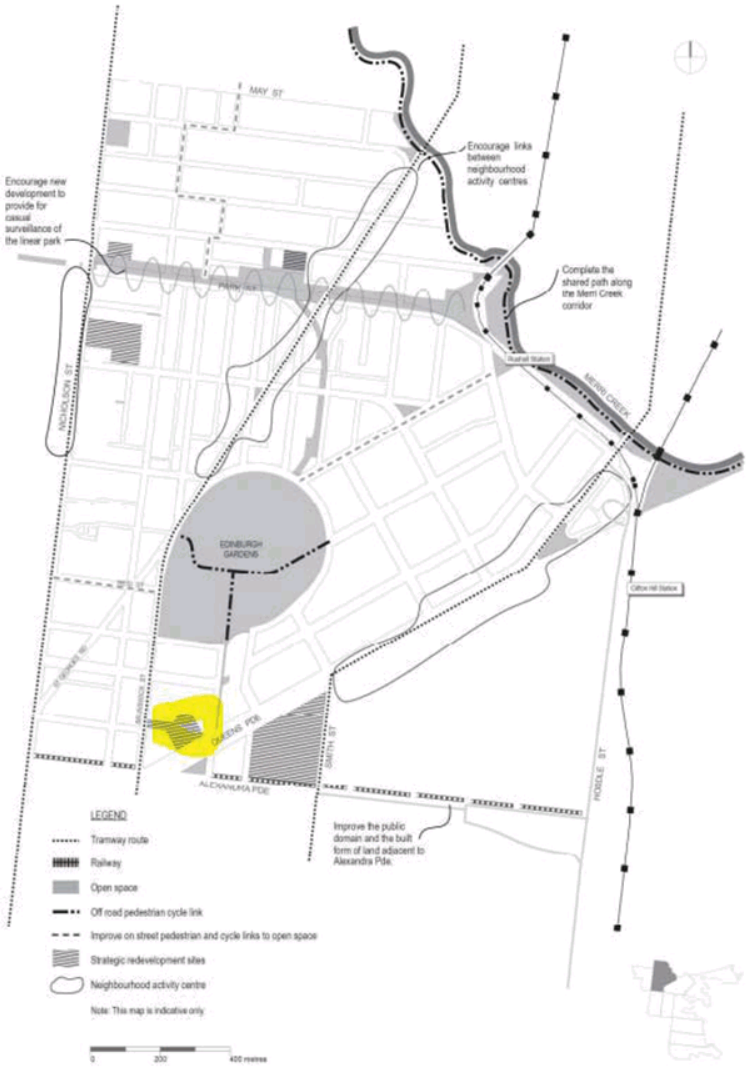
104. This clause builds upon the objectives outlined at clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

Clause 21.08-8 – North Fitzroy

105. The following relevant commentary is offered in this clause:
   (a) *North Fitzroy is known for the beautiful Edinburgh Gardens which combine open space, sportsgrounds, barbecue area, gardens with long-established European elm trees, skate bowl, tennis and basketball courts, bandstand, bowling greens and bocce links, remnants of the old Melbourne rail loop, and a heritage listed grandstand. The neighbourhood is largely residential.*
   (b) *The northern part of North Fitzroy has a low density residential character consisting of late Victorian and early Edwardian double fronted dwellings. Further south dwellings are more likely to be single fronted and one or two storeys.*

106. The site is identified as a strategic redevelopment site on page 29:

FIGURE 19. NEIGHBOURHOOD MAP: NORTH FITZROY



107. Of these identified sites, the policy also has an aim of:
    (a) Encouraging the redevelopment of the following sites in a way that contributes positively to the urban fabric and public domain of Yarra, and where subject to the Heritage Overlay, protects the heritage of the site and of the area:

Relevant Local Policies

Clause 22.02 – Development guidelines for sites subject to the heritage overlay

108. This policy applies to all land within a Heritage Overlay (north-west segment of the site in this instance).

109. The relevant objectives of this clause are:
    (a) *To conserve Yarra's natural and cultural heritage.*

(b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
(c) *To retain significant view lines to, and vistas of, heritage places.*
(d) *To preserve the scale and pattern of streetscapes in heritage places.*
(e) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
(f) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
(g) *To ensure that additions and new works to a heritage place respect the significance of the place.*
(h) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*

110. In relation to part demolition, the following is offered at clause 22.02-5.1 of the Scheme:
(a) *Encourage the removal of inappropriate alterations, additions and works that detract from the cultural significance of the place.*
(b) *Generally discourage the demolition of part of an individually significant or contributory building or removal of contributory elements unless:*
(i) *That part of the heritage place has been changed beyond recognition of its original or subsequent contributory character(s).*
(ii) *For individually significant building or works, it can be demonstrated that the removal of part of the building or works does not negatively affect the significance of the place.*

111. Under clause 22.02-5.7. of the Scheme, the following is offered in relation to new development, alterations and additions:

(a) Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:
(i) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
(ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
(iii) *Be visually recessive and not dominate the heritage place.*
(iv) *Be distinguishable from the original historic fabric.*
(v) *Not remove, cover, damage or change original historic fabric.*
(vi) *Not obscure views of principle façades.*
(vii) *Consider the architectural integrity and context of the heritage place or contributory element.*
(b) Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.
(c) Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.
(d) Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.

112. Clause 22.02-5.7.2 of the Scheme offers more specific requirements (as relevant):

Corner Sites and Sites with Dual Frontages
(a) *Encourage new building and additions on a site with frontages to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place.*
(b) *Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection*

Industrial, Commercial and Retail Heritage Place or Contributory Elements

(a) *Encourage new upper level additions and works to:*
(b) *Respect the scale and form of the existing heritage place or contributory elements to the heritage place by being set back from the lower built form elements. Each higher element should be set further back from lower heritage built forms.*
(c) *Incorporate treatments which make them less apparent.*

Ancillaries and Services

(d) *Encourage ancillaries or services in new development to be concealed or incorporated into the design of the building.*
(e) *Encourage ancillaries or services to be installed in a manner whereby they can be removed without damaging heritage fabric.*

Clause 22.05 – Interface uses policy

113. This policy applies to applications for use or development within Business Zones (albeit now 'commercial zones' amongst others). The relevant objectives of this clause are:
    (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.*

114. At clause 22.05-3 it is policy that:
    (a) *New residential use and development in or near commercial centres and activity centres and near industrial uses includes design features and measures to minimise the impact of the normal operation of business and industrial activities on the reasonable expectation of amenity within the dwellings.*
    (b) *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.*

Clause 22.07 – Development abutting laneways

115. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal. The objectives of this clause are:
    (a) *To provide an environment which has a feeling of safety for users of the laneway.*
    (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
    (c) *To ensure that where development is accessed off a laneway, all services can be provided to the development.*
    (d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

Clause 22.09 – Licenced premises

116. 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.*

Clause 22.10 – Built form and design policy

117. The policy applies to all new development not included in a Heritage Overlay (noting that the eastern section of the site is not within a Heritage Overlay). Clause 22.10-3.1 does not apply to residential development. The objectives of this clause are:
    (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
    (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
    (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
    (d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and 'walkability' of the City's streets and public spaces.*
    (e) *Create a positive interface between the private domain and public spaces.*
    (f) *Encourage environmentally sustainable development.*

Clause 22.12 – Public open space contribution

118. This policy applies to all residential proposals, mixed use proposals incorporating residential uses and proposals incorporating residential subdivision. The relevant objectives of this clause are:
    (a) *To implement the Yarra Open Space Strategy.*
    (b) *To identify when and where land contributions for public open space are preferred over cash contributions.*
    (c) *To ensure that where appropriate, land suitable for public open space is set aside as part of the design of a development so that it can be transferred to or vested in Council, in satisfaction of the public open space contribution requirement.*

119. The site is located in an area where cash in lieu of land is the preferred method of contribution. Should the site be subdivided, a cash contribution would be required.

Clause 22.16 – Stormwater management (water sensitive urban design)

120. This policy applies to new buildings (amongst others) and aims to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999; promote the use of water sensitive urban design, including stormwater re-use; mitigate the detrimental effect of development on downstream waterways; minimise peak stormwater flows; reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and wellbeing.

Clause 22.17 – Environmentally sustainable development

121. The most relevant objective of this clause is '…that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation'.

122. This policy includes 7 categories in which to assess ESD outcomes. An application of this scale requires the Applicant to submit a Sustainable Management Plan, prepared by a suitably qualified expert. This Applicant has done this.

Advertising

123. The application was originally advertised by way of 914 letters sent to surrounding property owners and occupiers and by way of 2 signs on the Queens Parade frontage of the site. A total of 480 objections were received on the following grounds:
    (a) overdevelopment;
    (b) density of apartments is too high;
    (c) this would create an unreasonable precedent;

(d) non-compliance with the Yarra Planning Scheme and the Mixed Use Zone;
(e) height (this would be similar to the Housing Commission flat construction)
(f) upper level setbacks are inadequate
(g) design detail does not complement the area (including use of materials and fine grain subdivision) and the building would not age well
(h) this is just for the developer to make a profit;
(i) poor quality design (services, BBQs, AC units and clothes lines will be visible on balconies)
(j) this will destroy the 'community';
(k) use of landscaping is 'laughable' and no maintenance details are provided;
(l) impact on heritage (subject site, nearby 1 and 2 storey terraces, Queens Parade, Coleman Street and Napier Street);
(m) proposed facadism and impact on heritage of the site;
(n) neighbourhood character (other apartment buildings in the area are 3-6 storeys, looks like 'Docklands');
(o) insufficient dwelling diversity (too many 1 and 2 bedroom dwellings, not enough 'family' homes and there will be too many singles);
(p) apartments are too small;
(q) the draft Better Apartment Guide should be considered;
(r) impact on the Edinburgh Gardens;
(s) off-site amenity (daylight, noise [people, parties/people on balconies, cars, communal areas, licenced premises], light pollution, overlooking/privacy, overshadowing [private open space areas and the public realm], visual bulk, obstruct sky and city views, wind tunnel);
(t) poor on-site amenity (long internal corridors, poor sun shading, poor apartment layouts);
(u) there will be more robberies;
(v) construction could impact Fitzroy Gasworks underground contamination plume;
(w) insufficient car parking (the area is already constrained, difficult for guests/visitors to park);
(x) impact on cyclist and pedestrian safety (including the Napier St/Queens Pde bicycle crossing);
(y) traffic impacts;
(z) impact on views from Edinburgh Gardens, Bill Peterson Oval and Brunswick Street oval to the city;
(aa) the development would achieve a poor ESD standard;
(bb) asbestos;
(cc) footprint/site coverage is too high, needs more open space around it;
(dd) structural impact on nearby dwellings;
(ee) increased pressure on infrastructure (including public transport, phone, internet, gyms, pools, libraries, GPs and schools);
(ff) commercial (including licenced) venues should not be approved away from main streets (including Brunswick and Smith Streets);
(gg) construction impacts (noise, traffic, dust and pollution);
(hh) it will upset the dogs in the area;
(ii) no concern for health, safety or DDA;
(jj) property devaluation;
(kk) rear lane should not be used to access Brunswick Street front the site;
(ll) social housing should be included; and
(mm) perspectives have not been provided from the north or Edinburgh Gardens.

124. Of these objectors, 97 have joined as party to the upcoming VCAT appeal.

Referrals

Original plans

125. The application was required to be referred to PTV (clause 52.36 of the Scheme) under Section 55 of the *Planning and Environment Act* 1987 [**the Act**].

126. The application was also referred to the following:
    (a) Urban Design Consultant (Hansen)
    (b) Council's Urban Design Unit
    (c) Council's Heritage Advisor
    (d) External Acoustic Consultant (SLR)
    (e) Council's Engineering Services Unit
    (f) External Traffic Consultant (Traffix Group)
    (g) Council's ESD Advisor
    (h) Council's Strategic Transport Unit
    (i) Council's Services Contracts Unit
    (j) Wind Consultant (MEL Consultants)
    (k) Council's Open Space Unit
    (l) Council's Community Amenity Unit

127. These referrals relate to the previous 12 storey application and attached for information purposes.

128. Due to the extent of changes sought through the substituted plans, the following referrals were undertaken:
    (a) External Urban Design Advisor;
    (b) Council's Urban Design Unit;
    (c) Council's Heritage Advisor;
    (d) Council's Engineering Services Unit;
    (e) Council's ESD Advisor;
    (f) Council's Strategic Transport Unit;
    (g) Council's Services Contracts Unit; and
    (h) Council's Open Space Unit.

129. Their advice is contained as appendices to this report.

Assessment

130. The primary considerations for this application are as follows:
    (o) strategic policy;
    (p) use of the land for the sale and consumption of liquor;
    (q) built form;
    (r) on-site amenity;
    (s) off-site amenity/equitable development;
    (t) environmental sustainability;
    (u) traffic and car parking (including alteration to access to a road in a Road Zone);
    (v) bicycle parking;
    (w) loading bay reduction;
    (x) waste management;
    (y) Objector concerns;
    (z) Special Building Overlay;
    (aa) Referral Authorities; and
    (bb) other matters.

Strategic policy

131. State and Local Planning Policy direct development towards SRSs, close to ACs and well serviced by public transport and infrastructure. The site 'ticks' many of these boxes. Further, the Mixed Use Zoning of the land aims '*To provide for housing at higher densities*' and '*To encourage development that responds to the existing or preferred neighbourhood character of the area*'.

132. When the original application was considered, the Yarra Planning Scheme lacked guidance in this regard, in particular on sites in the MUZ and identified as being a SRS. The Scheme does not give guidance on the preferred neighbouhood character. In particular, clause 21.05-2 (Strategy 17.2) of the Scheme is that:

    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:
    (a) *Significant upper level setbacks*
    (b) *Architectural design excellence*
    (c) *Best practice environmental sustainability objectives in design and construction*
    (d) *High quality restoration and adaptive re-use of heritage buildings*
    (e) *Positive contribution to the enhancement of the public domain*
    (f) *Provision of affordable housing.*

133. However, the DDO16 now applies to the western end of Queens Parade and offers a built form, height, setback and design detailing vision for the area. This report will outline that subject to the conditions contained in this report, the proposal respects both the preferred and existing character of the area.

134. Whilst there is policy support for higher residential densities, there are a number of policy and physical factors that constrain development on this site. They include the Heritage Overlay (surrounding heritage building stock and buildings on the subject site) and the primarily 1-2 storey dwellings to the immediate west and north of the site (noting there are also 4-6 storey apartment buildings to the north-west and east).

135. Environmentally sustainable design [**ESD**] guidance is offered at clauses 11.04-5, 15.02-1 and 22.16 of the Scheme, encouraging development that reduces energy consumption and minimises storm water runoff. An ESD assessment is offered later in this report.

136. Car parking policy is offered at clauses 18 and 21.06 of the Scheme, with state and local policy encouraging sustainable transport modes such as walking, public transport and cycling. A detailed car parking and traffic assessment is offered later in this report.

Strategic Policy Summary

137. Subject to the conditions contained in this report, the proposal is considered to respond accordingly to the relevant strategic policies applicable to the site and on-balance provide an acceptable outcome for the site.

Use of the land for the sale and consumption of liquor

138. Due to the procedural issues already outlined and in the absence of supporting information from the Applicant, only the westernmost food and drinks premises (café) has been considered as being licensed.

139. Clauses 22.09 and 52.27 are the most relevant to assess this element of the application. Having regard to these policies:
    (a) the tenancy is reasonably small, catering for 50 patrons;
    (b) whilst local policy at clause 22.09 does not generally support new licensed premises in residential or mixed use zones, the size of the site offers a reasonable distance from nearby existing dwellings. The site is over 8,028m², with the proposed licensed venues being over 32m from existing dwellings. Any tenants of this building would be aware of the licensed venues on the site;

(c) whilst clause 22.09 discourages new licensed premises in the MUZ, it is still contemplated by policy, which states that licensed premises within residential or MUZ or within 30m of a residential area not trade beyond 11pm any night, unless the Responsible Authority is satisfied that the use will not adversely affect the amenity of the area. Even though the proposal is over 30m from the nearest existing dwelling, the proposal does not seek the sale or consumption of liquor past 11pm;
(d) it is also likely that patrons would be residents of the subject site or the nearby area, and would be unlikely to filter into surrounding streets to access car parking;
(e) given the tenancy is over 139m from the closest licensed venue (a café on Brunswick Street), the proposal does not bring rise to cumulative impact concerns. Further, with the sale of liquor to be no earlier than 10am, the application does not bring rise to concerns of post-loading (continuing to drink after other licensed premises have closed);
(f) the tenancy would be open during the day to provide an active frontage;
(g) the venue type does not bring rise to queuing, mass exiting upon closure or antisocial behavior concerns. Patrons would be seated with food served, mitigating anti-social behavior commonly associated with alcohol consumed in more vertical drinking type venues with limited food;
(h) being the primary residential entry, there would be an opportunity for a high level of public safety and surveillance of patrons as they enter and leave the premises;
(i) there are no toilets proposed, however this could be addressed by way of a permit condition, should a permit issue;
(j) being a café and food and drinks premises (café), it is considered adequate that patrons would smoke on the footpath, if at all when they ate (as opposed to a higher demand for smoking areas associated with primarily drinking venues where patrons typically stay for a longer period of time);
(k) the Applicant provided an acoustic report. It recommended maximum music noise limits to protect the amenity of the proposed dwellings. Council's Acoustic advice also recommended an amended acoustic report. Should a permit issue, voice noise from the commercial tenancies and communal areas within the development. This is not considered to be fatal to this assessment; and
(l) the Applicant has not yet provided a Noise and Amenity Action Plan [**NAAP**] as required by Clause 22.09-4.3 of the Scheme. However, the application was referred to Council's Community Amenity Unit, which noted that the tenancies would pose a 'low amenity risk'. Should a permit issue, a NAAP should be required by way of a permit condition.

140. In addition to the above comment on the acoustic report, the Acoustic peer review was generally supportive of the application with regard to the commercial tenancy, however it was identified that:
(a) maximum music noise levels should be provided to ensure compliance with SEPP N-2. Music noise monitor should also be installed to ensure that these levels are not exceeded;
(b) voice noise from patrons to the proposed dwellings has not been assessed to indoor targets. Council's Acoustic advisors recommend indoor design targets of no greater than 30 dBA Leq with windows closed;
(c) the impact and airborne noise from with the café should be assessed and building upgrade advice provided in the report to minimise impacts.

141. However, the above issues could all be dealt with permit conditions and are not considered to be fatal to this assessment.

142. Subject to conditions, the proposed sale and consumption of liquor (on-premises) associated with the westernmost food and drinks premises (cafe) would not unreasonably impact the amenity of the area.

Built form

Site Analysis Plan and context

143. The Applicant provided a site analysis plan and urban context report with the original application.

Urban form and character

144. The original officer report and the strategic section of this report identify that the site is well located strategically to accommodate higher densities as the site is:
   (a) within the Mixed Use Zone, where a purpose includes '*To provide for housing at higher densities*';
   (b) an area of 8,023m²; and
   (c) an identified strategic redevelopment site in clause 21.08.

145. However, the site is also bound by constraints, including the surrounding low to mid-rise residential context (1 to 5 storey forms) and the Heritage Overlay.

146. Since the last assessments of the original and February 2017 substituted VCAT plans, the site is now subject to the DDO16. Schedule 16 outlines a number of mandatory and discretionary controls, along with a range of design objectives which will be used as the primary policy to guide the following height and setback assessment.

147. Essentially, while segments of the upper level front setbacks to Queens Parade do not comply with the Schedule (side boundary setbacks will be considered later in the off-site amenity and equitable development assessment), the design approach is considered to achieve the overall design objectives of the DDO16.

Height and setbacks

148. The design objectives for Precinct 2A: Boulevard Precinct include:

- *To ensure the redevelopment of the land accommodating the former 'K.G. Luke Pty Ltd Electro Plate Manufacturers' factory contributes positively to the urban character of Fitzroy North.*

149. The overall approach to the development has been modified from 2 large horizontal masses across the site to a podium/tower typology which presents 4 slender forms to Queens Parade, which are proposed to be articulated with find detailing of glass and timber to respond to the fine grained character of Fitzroy North.

150. In addition, the adoption of a curved forms within each tower component (where previously a more aggressive, rectilinear stacked or tessellating arrangement), serves to soften the appearance of the towers, more appropriately responding to the context of the area.

- *To retain, enhance and incorporate the existing heritage facade into the redevelopment of the site and to create a consistent parapet height along the streetscape.*

151. The heritage façade (western end of the site) is being retained and incorporated into the redevelopment. The new façade (eastern end of the Queens Parade frontage) would generally match the parapet of the heritage façade (excluding higher detailed elements on the heritage facade) and proposes the use of materials which complement the retained heritage fabric.

152. Council's Heritage Advisor is generally supportive of the current application, subject to the following:

(a) Clarify the use of external timber screens and as required change to another material which will not weather and degrade in appearance.

153. This should be imposed on any permit issued to ensure the building is maintained to a high standard.

(b) If the outer edges of the balcony soffits are likely to be affected by rain some non-timber edge strip should be installed on the outer side.

154. A condition should be imposed to ensure that the 'timber' is a durable material with a timber look.

(c) Clarify if the paint is to be removed from the Art Deco façade to expose the original face brickwork. This is the recommendation.

155. This is supported by heritage policy at clause 22.02, restoring the building to its original appearance and should be imposed by way of a permit condition.

(d) Clarify how much of the return of the façade at the east end is to be and integrated in the café? It should be the same as previously as a minimum.

156. The previous design would have incorporated a return segment in the internal wall of the café. While not as long, the return wall would now be external and is a more desirable heritage outcome as this return would now be appreciated.

157. The proposed design composition, fenestration and height is supported as a heritage outcome subject to conditions.

- *To ensure new development does not diminish, or detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade.*

158. Along with the DDO16, clause 22.02 of the Scheme is relevant. In relation to new works and alterations and additions to heritage places, policy directs new works to be distinguishable, yet respect the character of the heritage place. In relation to upper level additions to industrial, commercial and retail heritage places, it is policy to encourage upper level additions and works to:
    (a) *Respect the scale and form of the existing heritage place or contributory elements to the heritage place by being set back from the lower built form elements. Each higher element should be set further back from lower heritage built forms.*
    (b) *Incorporate treatments which make them less apparent.*

159. The podium would be constructed of face brickwork, with similar proportioned openings in the new façade compared to the retained façade bays. However, a condition should require a detailed schedule of colours and materials, along with a darker finish to the level 1-2 'new façade' balcony balustrades, as the proposed light coloured balustrades would fail to offer a 'depth' or appropriate 'weight' to this element to ensure the towers are read as secondary elements.

160. The façade height complies with the DDO16 and while the upper levels encroach upon the discretionary minimum front setback requirement, the curved form and separation of towers into 4 elements would ensure that the proposal would not unreasonably impact the heritage trees along Queens Parade or the streetscape more generally.

161. The proposal is considered to meet the purpose of Council's Local Heritage Policy and the Heritage Overlay.

- *To moderate the prominence of development above the street wall with respect to mid and long range panoramic and streetscape views and the Yarra skyline from the Edinburgh Gardens (HO213) and Newry Street (HO327- Fitzroy North Precinct).*

162. The Schedule does not specify what 'Yarra skyline' views are to be protected. However, given the site is over 213m from the Edinburgh Gardens and at least 20.5m from Newry Street, is below the mandatory maximum height of 31m and is separated into 4 segments or towers, which are spaced to allow for breaks in the massing of the proposal, views from these places would not be unreasonably impacted.

- *To ensure heritage buildings retain their three-dimensional form as viewed from the public realm to avoid 'facadism'.*

163. The plans did not include a demolition plan, which should be imposed by way of a permit condition, should a permit issue. However, it is clear which buildings would be retained given the detail provided on the proposed floor plans.

164. The proposal includes a 2.4m long reconstructed face brick wall along the eastern end of the retained facade. This wall would be integrated into the café entry and would ensure the retained heritage façade is read or appreciated as a 3D form.

- *To ensure an appropriate transition in building scale across the site having regard to the existing and preferred built form to the east, north and west.*

165. The forms generally transition down to the 2-5 storey building heights to the west and east. Taller forms are setback from the boundaries, responding to the lower scale built form adjacent to the site.

- *To recognise the low scale, fine grain format of existing surrounding development.*

166. The following off-site amenity assessment deals with the setbacks from side and rear boundaries in detail. However, subject to conditions, the proposal would adequately transition to the low scale, fine grained character of built form to the side and rear.

- *To avoid repetitive stepped built form at upper levels of development.*

167. The amended plans no longer include repetitive stepped forms at the upper levels, but rather offers curved tower forms sitting above the podium level and spaced to offer breaks in built form.

- *To ensure development appropriately considers the amenity impacts on neighbouring development and achieves a high standard of internal amenity within the development.*

168. Level 3 and above is now significantly setback. A full assessment of off-site amenity impacts is offered later in this report.

- *To encourage the development above the street wall to be designed as a series of separate development parts with building separation to enable views to the sky.*

169. The proposal has been re-massed, breaking the upper level forms from 2 continuous element into 4 segments to enable views to the sky. It is noted that the external urban design advice received by Council was supportive of the tower separation, calling them 'generous', and responds to concerns raised with the earlier scheme.

- *To encourage permeability within and through the site.*

170. The generous opening to the street, along with the approximately 9m-12m building separations, and improved pedestrian connectivity provides adequate permeability within and through the site. The Queens Parade pedestrian entry to the site has also been increased to a width of 37.5m, and the rear opening to the laneway widened to 6.6m improving accessibility also to the proposed dwellings at the rear.

- *To ensure adequate solar access is provided to the Queens Parade boulevard and the adjoining Napier Street Reserve.*

171. While the proposal would overshadow part of the Queens Parade boulevard, the nature strip and trees on the northern footpath are already overshadowed for most of the day by the existing façade. The central medium strip (northernmost adjacent to the slip lane) would experience some additional overshadowing from midday onwards, however the break between tower forms ensures that the shadowing would not be experienced for the whole length.

172. It is noted that the external urban design advice received by Council raised no issue with the overshadowing impact of the proposal.

Building height – mandatory

Table 2 – Precinct 2A building heights & setbacks

Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
Building Height	▪ Maximum 31m (10 storeys).		Development that: ▪ Respects the scale of existing heritage buildings, both on and adjoining the site; ▪ Ensures projections above the street wall are not dominant in the skyline when viewed from Newry Street, Coleman Street and the Edinburgh Gardens; ▪ Ensures adequate solar access is provided to the Queens Parade boulevard and the adjoining Napier Street Reserve at the equinox (09.00-15.00); and ▪ Maintains the visual dominance of the heritage boulevard trees on Queens Parade over the built form.

173. The development appears to achieve this requirement, however it is unclear if tower C (easternmost) is 100mm above this requirement. However, this could be dealt with by way of a permit condition. It is suggested that a condition also require the survey information be transposed on the elevations to ensure this requirement is met.

174. Perspectives from Newry St, Coleman St and Edinburgh Gardens were not provided with the substituted plans. However, as the proposal complies with the mandatory maximum height control (subject to the condition outlined above), has broken the towers into 4 segments with generous separation, has adopted a curved design to erode the building edges it is anticipated that the proposal would not appear as an unreasonably dominant element in Newry St, Coleman St or the Edinburgh Gardens. This is further supported in the later off-site amenity assessment.

175. Overshadowing of the boulevard has been addressed and is considered to be satisfactory.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

built form.

Façade Height	▪ Retain existing heritage façade; or ▪ Where no heritage façade exists a maximum 10m (3 storeys).	▪ The street wall of development adjoining the individually significant building should be below the parapet height of the heritage building.	Development that: ▪ Incorporates the existing heritage street wall into the redevelopment of the site and establishes a consistent street wall height along the streetscape; ▪ Ensures through a combination of height, massing and materials, the decorative parapet of the individually significant heritage building remains prominent along the street wall; ▪ Ensures the primacy of the landscape boulevard within the Queens Parade viewshed; and ▪ Does not detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade.
Front Setback from boundary of Queens Parade		0m up to maximum 10m (3 storeys).	
Upper Level Setback from front of building		Above existing heritage façade: ▪ Minimum of 8m setback from 10m (3 storeys) to 16m (5 storeys) ▪ Minimum of 11m setback from 16m (5 storeys). Above new street wall (where no existing heritage façade): ▪ Minimum of 5m setback from 10m (3 storeys) to 16m (5 storeys ▪ Minimum of 8m setback from 16m (5 storeys).	

176. The proposed new façade segment to Queens Parade may be marginally over the 10m mandatory height, dependent where it is measured from. It is noted that the annotation on plans state 9.9m, however to confirm this (as the natural ground level varies across the site), this could be addressed by way of a permit condition on any permit issued.

Setbacks – discretionary

177. Above heritage façade – Levels 3-5 have a minimum street setback of between 4.3m and 8.1m, not in compliance with the minimum discretionary setback control. Levels 5 and above have a minimum street setback of 4.4m, increasing to 8.2m instead of the 11m minimum discretionary setback control.

178. From levels 6 and above, the setbacks decrease to 2.9m for a small section and then tapers away from the site.

179. While the proposal falls shy of the discretionary upper level setback controls of the DDO16, the design objective or built form outcome sought is to:
    (a) *Incorporates the existing heritage street wall into the redevelopment of the site and establishes a consistent street wall height along the streetscape;*
    (b) *Ensures through a combination of height, massing and materials, the decorative parapet of the individually significant heritage building remains prominent along the street wall;*
    (c) *Ensures the primacy of the landscape boulevard within the Queens Parade viewshed; and*
    (d) *Does not detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade.*

180. The proposal has adopted a design response which reflects the sought built form outcomes by:
    (a) the front setback of the tower varies, with the average setback being generally inline with the DDO16 setback requirements;
    (b) the curved form 'softens' the appearance of the tower;
    (c) the use of timber across the facades provides a fine-grained link to the surrounding area, while not dominating the heritage building forms;
    (d) the tower is approximately 25m wide, compared to the 42m width of the retained heritage façade, ensuring it is a finer or less dominant element above the heritage fabric; and
    (e) the upper levels incorporate lighter materials and the heritage façade would be painted a deep grey, ensuring it reads as the dominant form in the streetscape.

181. Above the new façade, levels 3-5 have a minimum setback of 1.9m, increasing to 3.6m for tower B and 7m for tower C, shy of the minimum 5m minimum discretionary setback control. Levels 5 and above have a minimum street setback of 1.9m with curved forms then pulling away generally from Queens parade, shy of the 8m minimum discretionary setback control.

182. While the setback of towers B and C above the new façade fall short of the discretionary minimum front setback requirements in the DDO16, the front setback of these elements is supported as:
    (a) the front setback of the tower varies;
    (b) the curved form 'softens' the appearance of the towers;
    (c) the towers enjoy an approximately 16m wide separation, assisting in making them a recessive form above the podium (as opposed to a continuous tower above the podium which would have been more dominant); and
    (d) the upper levels incorporate lighter materials and more glazing than the podium, ensuring it reads as the recessive element in the streetscape.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Table 3 – General Design Requirements

Design Element	Requirement	Built Form Outcome
Building facades and street frontages	The articulation of new building facades should incorporate vertical articulation to reinforce the prevailing fine grain pattern of subdivision and buildings in the area. Façade design treatments and the articulation of new buildings should respect the detailing of heritage buildings.	Development that: ▪ Recognises the fine grain built form character of heritage streetscapes and minimises the dominance of wide building frontages; and ▪ Delivers high quality façade and architectural

Design Element	Requirement	Built Form Outcome
		detailing that respects the heritage qualities of Queens Parade and Brunswick Street.
Upper Level Development (above the street wall/3 storeys)	Any part of a building above a non heritage street wall height should use materials at the upper levels of the building that are recessive in finish and colour. Development that is visible above or behind the street wall should be designed so that side walls are articulated and read as part of the overall building design. Any part of a building above a heritage facade should: ▪ use visually lightweight materials that are recessive and sympathetic to the heritage facades; ▪ incorporate fenestration patterns and solid to void ratios that respect heritage facades; and ▪ avoid highly articulated facades with recessed and projecting elements.	Development that: ▪ Maintains the dominance of the heritage street wall in the streetscape and the vista along Queens Parade; ▪ Ensures upper level development is visually recessive; and ▪ Ensures upper level development does not detract from the heritage streetscape.

Building Separation	The upper levels of new buildings on sites with frontages wider than 80 metres should provide visual separation and views to the sky between buildings.	Development that: ▪ Avoids continuous built form at upper levels; and ▪ Minimises the visual dominance of upper levels on the streetscape.

Nominated storeys within Tables 1, 2 & 3 are based on an assumption of 4m floor to ceiling height for a ground level commercial use and 3m floor to ceiling height for residential use above.

183. The new podium to Queens Parade is vertically accentuated through columns that run from the ground up through the façade. The use of brick in the new façade, with a simple parapet form, also compliments the heritage façade without unreasonably dominating or replicating this element. The solid to void ratio of the heritage façade is also respected through the new façade, being more glazing at the ground level and less at the upper.

184. The towers incorporate simple facades, articulated with curves, planter boxes and the incorporation of timber features. The slab elements would extend out from the facades (maximum 600mm) to offer visual relief (without being visually dominant). Again, the use of white to the planter boxes is not supported from both a maintenance perspective and as these forms would draw the eye up to the tower facades. Should a permit issue, a condition should require these elements be a light to mid-grey.

185. Finally, as the frontage is approximately 110m, the proposal has met the final design element of the DDO16, with the towers providing visual separation and views to the sky.

186. From a streetscape and urban design perspective (again noting that off-site amenity and equitable development is assessed later in this report), the proposal has adequately responded to the design objectives of the DDO16. While some of the discretionary upper level setback requirements have not been met, the proposal meets the built form outcomes through the design detailing and is considered the proposal demonstrates an acceptable outcome for the site.

Demolition

187. The extent of demolition proposed has been reduced as part of these substituted plans, with the western saw-toothed roof profile now proposed to be retained. This is supported from a heritage perspective and given the wall adjoins a boundary wall further west, is also supported from an amenity perspective.

188. A structural engineers report will be required as a condition to ensure the retained walls are properly protected.

189. The previous officer assessment of the proposed demolition therefore remains relevant:

In relation to part demolition, clause 22.02-5.1 of the Scheme states that it is policy to generally discourage the demolition of part of an individually significant or contributory building or removal of contributory elements unless:

- *For individually significant building or works, it can be demonstrated that the removal of part of the building or works does not negatively affect the significance of the place.*

The proposal seeks to demolish all buildings, except for the south and west facades of the westernmost building. The top of the west boundary wall however, would be 'evened out' due to the existing saw-toothed profile.

Council's Heritage Advisor has reviewed the proposal and considered the significance of the buildings on the site. The only concern raised with the proposed demolition was that the eastern wall of the retained Art Deco façade should be reconstructed. A site inspection revealed that this wall has already been demolished, so a condition on any permit could require the reconstruction of the eastern wall (in recycled brick to match the facade or which are typical or the era of construction) to give depth to the retained building fabric. This would avoid 'facadism' and give the retained building fabric a sense of depth and context.

190. The substituted plans include a 2.5m wide masonry return wall at the eastern end of the retained heritage building. Council's heritage advisor recommended the length of reconstructed wall be the same as the previous plans, however this wall was going to be internal to the café. Now external, although shorter, this proposal is the preferred heritage outcome in this regard, improving the appreciation of this return wall and supporting the 3D form.

Architectural quality, colours and materials

191. Objective 5.6 of the DSE Guidelines is 'To promote buildings of high architectural quality and visual interest'.

Light and shade

192. An objective of the DSE Guidelines is '*To protect sunlight access to public spaces'*. The previous assessment was offered in the officer report:

Council's Urban Design Unit raised issue with the extent of overshadowing of public space. However, the shadow diagrams provided by the Applicant demonstrate that the southern footpath along Queens Parade would not be overshadowed at the equinox. There is a pocket park south of Queens Parade that also would not be overshadowed at the Equinox.

Whilst the northern footpath would be overshadowed throughout the day at the Equinox, the existing buildings on the site already shadow a large portion. Whilst a segment at the eastern end would experience additional shadow, this is due to the podium, which is considered to be a positive urban design approach, holding the street frontage at the eastern end of the site. This outcome is therefore acceptable.

193. With the substituted plans, the upper level forms have been broken into 4 segments. The overall height has also been reduced from 12 to 10 storeys. The shadowing impacts on the public realm are therefore reduced compared to the original plans and therefore continue to be supported.

Street, public space and safety

194. The original assessment raised issues derived from Council's Urban Design Unit assessment. These included:
    (a) the roller door width and design and presence in the streetscape;
    (b) the commercial tenancies should have a greater presence in the streetscape; and
    (c) the food and drinks premises (café) entrance should be repositioned south of the planter box in the main entrance (improving access).

195. The substituted plans have gone some way to addressing these issues. While Council's urban Design Unit was critical of the amount of publically accessible space within the development, the commercial tenancy frontage has been increased from 15m to 38m of the Queens Parade frontage. The commercial entrances are also all now easily accessible from the property frontage (not positioned behind planter boxes). However, a condition should require the deletion of the 2 shrubs along the property frontage in front of the restaurant and shop to ensure clear views into the site are afforded.

196. The vehicular entrance width has also remained at 7m due to engineering requirements.

However, should a permit issue, a condition should ensure that the roller door and services treatment along the eastern end of the south elevation is appropriately treated and integrated with the design.

197. Council's Urban Design Unit suggested a link be provided through the north-west corner through to Grace Lane. While this may be a 'good' urban design outcome, this recommendation does not form part of any built form recommendations in the Yarra Planning Scheme and is not considered to be necessary.

198. Council's Urban design unit also referenced Clause 58, which his not applicable as the site enjoys transitional provisions.

199. Finally, Council's Urban Design Unit identified that a number of the ground level interfaces with the communal open space areas may require further treatment to achieve a reasonable level of privacy. It is agreed that this should form a permit condition, however this should be a performance based or flexible condition to achieve a reasonable balance between outlook and privacy.

Wind

200. The DSE Guidelines aim '*To ensure new tall buildings do not create adverse wind effects*'. The original officer report did not raise issue with wind impacts. While an amended wind report has not been included as part of this application, this could be addressed by way of a permit condition, should a permit issue.

Landmarks, views and vistas

201. The previous officer report noted:

> *The closest identified landmarks in the Scheme (clause 22.03) to the subject site is the spire of St Marks Church, approximately 643m to the north-east of the site on the south side of Queens Parade. Due to the distance of the site from this landmark and it's positioning on the other side of the street, the proposal would not unreasonably impact views to this landmark.*
>
> *A number of objector's raised concern with the impact of the proposal on views from Edinburgh Gardens and towards the City. However, neither views are protected by the Scheme. The impact of building bulk in general however, is a relevant consideration and has been assessed in this report.*

202. The DDO16 now includes the following design objective:

> *To moderate the prominence of development above the street wall with respect to mid and long range panoramic and streetscape views and the Yarra skyline from the Edinburgh Gardens (HO213) and Newry Street (HO327- Fitzroy North Precinct).*

203. The policy does not go as far as to say what 'moderate the prominence' means or even which viewpoints from the gardens or Newry Street should be protected. In any event, the officer position remains on this consideration, as the proposal complies with the mandatory maximum height control in the DDO and has broken the tower forms into 4 elements, providing views between the towers and breaking up the mass.

Site coverage/Permeability

204. The proposed site coverage (including basement) is approximately 93%. As mentioned in the previous officer report:

Council's local built form policy at Clause 22.10-3.6 envisages site coverages of 80 per cent, unless the site coverage in the area is higher or there is a need to cap the site to deal with contaminants. Whilst the site is within an EAO, it is not being capped (excavated). Whilst the proposal is considered to result in adverse off-site amenity impacts, this is not considered to be due to site coverage, rather the side setbacks, as outlined throughout this report.

Clause 22.16 of the Scheme also requires Applicant's to consider storm water runoff. With 100 per cent site coverage, the proposal includes a 40,000L rainwater tank to deal with runoff. This achieves the MUSIC storm water tool/best practice targets:

Standard	Pollutant	Pollution Reduction Target	Target Achieved
WSUD Best Practice Guiding Principles (CSIRO)	• Gross Pollutants	**70% Reduction**	**Yes**
	• Total Suspended Solids	**80% Reduction**	**Yes**
	• Total Phosphorous	**45% Reduction**	**Yes**
	• Total Nitrogen	**45% Reduction**	**Yes**

Extract of Applicant's SMP

Council's ESD Advisor also raised no issue with the proposal in relation to storm water management.

205. The off-site amenity impacts are now considered to have been addressed (see later section of the report). The proposed levels of site coverage continue to be supported in this context and present as a site responsive massing of the proposal. Further, should a permit issue, a condition should require an amended SMP reflecting the decision plans, with the original commitments at a minimum.

Landscaping

206. The substituted plans did not include revised landscaping plans. However, the substituted architectural plans did indicate the location of landscaping.

207. Council's Open Space Unit noted that their comments in their previous advice (dated 23/09/2016 and 23/02/2017 remains relevant. These outstanding items are:
    (a) details regarding the proposed trees over the basement, including planter depths, irrigation and maintenance;
    (b) a longer maintenance period than originally proposed to establish the roof gardens (typically 1-2 years), with safe maintenance access being provided;
    (c) a detailed drawing should be provided showing the following elements of the 'green roof' or now shown as roof gardens and planter boxes:
        (i) Vegetation layer
        (ii) Growing substrate and depth – plants should not be supplied as 100mm pots, but grown in the media to be used on the green roof. Load bearing weights for the saturated bulk density should be confirmed by structural engineers.
        (iii) Irrigation
        (iv) Filter sheet
        (v) Drainage layer – specify the Elmich product.
        (vi) Protection mat
        (vii) Root barrier
        (viii) Waterproofing
    (d) details and depths of planters, growing media, irrigation and drainage for all landscaped areas;
    (e) removal of street tree 8 (Ulmus) at a cost of **$8,960** (calculated using a standard amenity value calculator with the species, size & condition (fair) being used from the John Patrick tree report originally submitted with the application. This price includes complete tree and stump removal and reinstatement of 2 trees after development plus 2 years tree establishment maintenance. All work would be undertaken by City of Yarra contractors.

208. These issues could all be dealt with via permit conditions and are not considered fatal to this assessment.

209. Finally, Council's Open Space Unit raised issue with the extent of overshadowing of the ground level communal outdoor space area. In their comments, they reference the new clause 58 guidelines. However, this application enjoys transitional provisions and this clause does not apply. Further, with a supplementary communal open space area (including pool and various terraced areas) at levels 3 and 9, there are considered to be sufficient open space areas across the development which would experience varying levels of sun exposure throughout the day.

Service infrastructure

210. The plans include 1.8m high plant zones on the roof of each tower, setback from the parapet walls. This is supported as an approach in this context, however the plans do not clearly show the materiality of the plant screens. This could be addressed by way of a permit condition, should a permit issue, ensuring the plant area is integrated into the design.

Summary

211. Subject to the conditions contained in this report, the proposal is a site responsive design and is supported from an urban design perspective.

On-site amenity

212. The DSE Guidelines are the most relevant when assessing on-site amenity.

Access, layout and circulation

213. Pedestrian access and circulation throughout the site would be achieved by way of the 6.6m to 12m wide separations between buildings. Residential entry cores would be easily identifiable, although the plans show security screens beyond the commercial tenancies adjacent to Queens Parade. Should a permit issue, visitor intercoms would need to be provided at the pedestrian (and vehicular) entries to the development to facilitate visitor access into the development.

214. Wayfinding is not considered to be problematic in this instance due to the cores being clearly visible via the internal courtyard spaces.

Overlooking

215. Objective 2.9 of the DSE Guidelines aims 'To maximise residential amenity through the provision of views and protection of privacy within the subject site and on neighbouring properties'.

216. The plans do not sufficiently deal with internal or external overlooking. For example, internal terraces and windows are not treated or where screens are shown, details of screens have not been provided. Further, in relation to external overlooking, screens have been shown, however details have not been provided. In conjunction with the ESD advice, screens should be opaque glazing or another method to ensure reasonable daylight penetration without unreasonably providing overlooking into adjacent habitable room windows or private open space areas. A performance based condition is therefore recommended to achieve these objectives.

Noise

217. Clause 22.05-4.1 of the Scheme outlines design recommendations to protect new dwellings from unreasonable noise, fumes, vibration, light spillage and other likely disturbances. As the substituted plans were not accompanied by a traffic report, and the proposal generally remains as residential with part commercial at the ground floor, the original officer report assessment on noise remains relevant:

Given the surrounding properties are all residential, the key considerations are:
- *the commercial tenancies proposed;*
- *traffic noise; and*
- *the ancillaries, lifts and vehicular doors proposed as part of this development.*

The commercial tenancies have already been assessed in this report. Should a permit issue, the interface between these tenancies and the proposed dwellings could be addressed by way of permit conditions. Further, should a permit issue, acoustic attenuation of the lift cores, mechanical plant and equipment (such as AC units), the gym and the doors to the vehicular entries/exits could be addressed by way of permit conditions.

Council obtained a peer review of the Applicant's traffic report, which identified that the target indoor noise levels were not clear. It was suggested that the following commitment be made, but preferably lower levels for 'high quality developments':

Table 1 SLR Recommended design goals for road traffic

Area	Period	Average Level[1]	Loudest Hour[2]	Instantaneous L_{max} level
Habitable rooms, including bedrooms	7 am to 10 pm	40 dBA $L_{eq,15h}$	45 dBA $L_{eq,1h}$	
Bedrooms	10 pm to 7 am	35 dBA $L_{eq,9h}$	40 dBA $L_{eq,1h}$	50-55 dBA L_{max}

NOTE 1: The 'average level' is equal to the mid-point between the AS/NZS2107 recommended 'satisfactory' and 'maximum' levels and is equal to the levels allowed in the 2011 NSW Road Noise Policy (Appendix C10) and the WA State Planning Policy (5.4).
NOTE 2: The 'loudest' hour targets are equal to the AS/NZS2107 recommended 'maximum' levels.

This could be addressed by way of a permit condition, should a permit issue, and is not considered to be fatal to this assessment.

Internal noise levels were also recommended by Council's Acoustic advisors for the proposed dwellings, with regard to the impact of voice noise from the communal outdoor areas:
- *noise from voice to apartments within the development be designed to achieve not greater than 30 dBA Leq in bedrooms and 35 dBA Leq in living rooms;*
- *noise from voice to existing dwellings be assessed to a 'background+10 dB' target during the day/evening period and 'background + 5 dB' at night;*
- *a restriction be provided on use of the Level 3 and 4 outdoor areas after 10 pm unless it can be demonstrated that 'background + 5 dB' targets can be met at the existing dwellings.*

These items could be addressed by way of permit conditions and are not fatal to this assessment.

An additional issue was raised in the acoustic peer review, being the location and time of noise measurements that were undertaken by the Applicant. It has been recommended that additional road traffic noise monitoring be undertaken as follows:
- *noise levels during the afternoon peak hour and the loudest hour of the 'night' period (typically 6 am to 7 am for sites such as this one); and*
- *a daytime measurement should be conducted to assist in the assessment of the daytime average noise level to apartments unless an alternative approach to determining the daytime average is adopted. As indicated above, we recommend that the design of the façade ensure that the day and night average levels are no greater than 40 dBA Leq,15h and 35 dBA Leq,9h.*

Again, these issues could be addressed by permit conditions, should a permit issue, and are not considered fatal to this assessment.

Council's acoustic peer review found that road traffic noise predictions to the facades of the building were not included. For developments such as this, a 3D noise model would typically be undertaken to ensure that the development is appropriately treated to ensure a reasonable level of internal amenity for residents. Again, this matter is not fatal to this assessment and is a matter of further acoustic testing and façade design detailing/façade upgrade advice.

218. Subject to conditions as per the above, the proposal would achieve a reasonable level of amenity for residents.

Private and communal open space

219. Objective 6.1 of the DSE Guidelines is '*To ensure access to adequate open space for all residents*'. The guidelines continue to state that '*If a balcony is intended to serve as private open space it should be of sufficient size to accommodate outdoor seating, with good connections between these spaces and the building's interior*'. Further, objective 6.3 is '*To allow solar access to the private and shared open spaces of new high density residential units*'.

220. The proposed balconies and terraces are a minimum 8m² and minimum width of 1.5m. They are all accessible via living areas and would be suitable for outdoor seating.

221. While the orientation and subsequent access to direct solar access of each varies across the development and the proposed 295 dwellings, the building separations now generally afford good daylight levels to these balconies/terraces. Further, communal areas of open space at the ground, level 3 and level 9 offer residents with a range of spaces which would receive direct sunlight throughout the day.

Solar amenity, daylight and natural ventilation

222. Objective 5.4 of the DSE Guidelines is '*To ensure that a good standard of natural lighting and ventilation is provided to internal building spaces*'. The DSE Guidelines also state at objective 5.4 that it is policy '*To ensure that a good standard of natural lighting and ventilation is provided to internal building spaces*'.

223. This issue is considered in the following ESD assessment of this report, where it is found that the substituted plans are an improvement compared to the previous sets of plans. While more substantial improvements could be made, conditions should be imposed to ensure a reasonable daylight, solar amenity and natural ventilation outcome is achieved within the development.

Storage

224. Objective 5.5 of the DSE Guidelines is '*To provide adequate storage space for household items*'.

225. The proposal incorporates 295 storage cages for 295 dwellings (plus 4 for the rear townhouses). Storage cages would range from 3m³ to 6m³ and would be a mixture of floor cages and above bonnet style. Numerous VCAT decisions (including *U1 Stanley Street Pty Ltd v Yarra CC* [2012] VCAT 1455, paragraph 92) have supported at least 3m³ of storage for dwellings in this type of development (e.g. high density apartment style) and this arrangement is therefore supported.

Summary

226. Subject to the conditions contained in this report, the proposal would achieve a reasonable level of on-site amenity for residents.

Off-site amenity/Equitable development

227. Objectives 2.5 and 2.6 of the DSE Guidelines are '*To ensure building separation supports private amenity and reinforces neighbourhood character*' and '*To ensure areas can develop with an equitable access to outlook and sunlight*'.

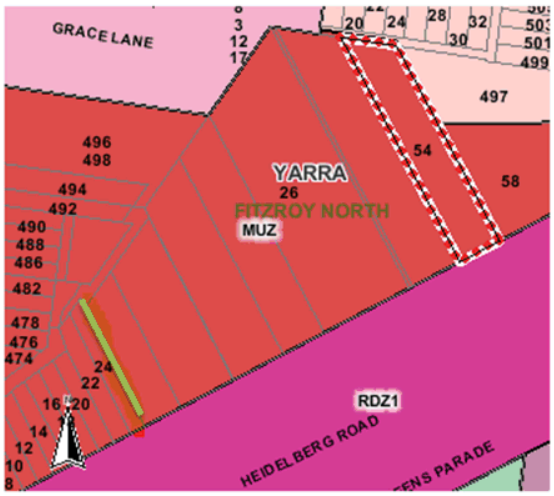
228. In the absence of strict guidance in the Scheme, the following guidance has been offered by VCAT in the past (*Cremorne Corporation Pty Ltd v Yarra CC* [2008] VCAT 1202 (2 July 2008)):

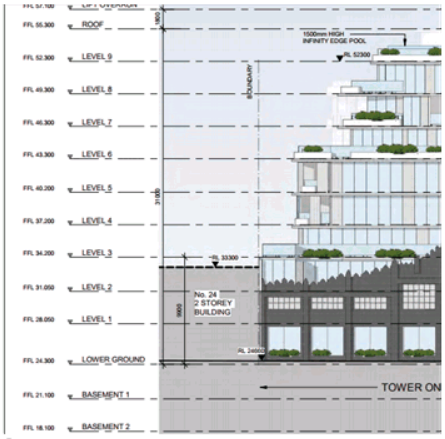
> *63. The council and Richmond Plaza argue that the east side setbacks proposed do not provide for an equitable sharing of development opportunities between the site and the Plaza's land. Essentially it was argued that a 4.5 metre setback to the edge of walls and balconies should be provided on this site, replicated on the Richmond Plaza site so as to achieve the desired 9 metre separation between dwellings, a concept that accords with some of the standards set out in clause 55.*
>
> *64. The Guidelines for higher density residential development include the objective 2.6 which states:*
> *To ensure areas can develop with an equitable access to outlook and sunlight.*
>
> *65. Design Suggestion 2.6.1 under this objective is:*
> *Consider the possible future development of adjoining sites and allow, as best as possible, or [sic] an equitable spread of development potential throughout the area.*
>
> *66. Essentially, the above support the notion of equity with respect to the potential for sunlight access and outlook and that new development not unduly prejudice their availability to another site.*
>
> *67. We have little doubt that the Richmond Plaza site is also ripe for redevelopment given its size, corner location and context. However, save for the balconies at the lowest residential level that come to about 1 metre off the common boundary, we are satisfied that the proposal has made enough effort to setback from its neighbour. As indicated by Ms Ring these balconies can be reduced so as to provide greater separation, to say 3.35 metres, like the levels above.*
>
> *68. The notion of equity does not in itself mean equal. The reality is that expectations as to what can be achieved from site to site varies. For example, we do not apply the standards of clause 54 for the redevelopment of small inner suburban lots in the same way as they may be applied to a larger site. The site size, proportion and context all come into play.*
>
> *69. What is to happen on the Richmond Plaza site is unclear. However, as this is a larger site, much wider than the subject site and having the added benefit of a corner location, we do not think that the development potential of the site would be unreasonably prejudiced by this proposal. There is plenty of room to move. Rather, the expectation that all sites contribute equally, as opposed to equitably, may well stifle the development potential of smaller, narrower sites. We do not accept that this is an outcome that is consistent with the intent of the objectives of the Guidelines for Higher Density Residential Development.*

229. In addition to the above, the DDO16 that now applies has introduced discretionary side setback requirements for the interface at each zone.

230. As per the original officer report, each interface will be considered in-turn, with an assessment against off-site amenity and/or equitable development, as relevant.

West





South elevation extract

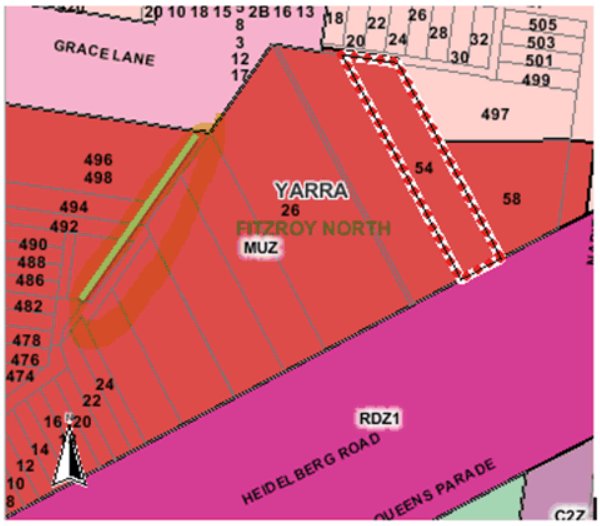
231. DDO16 discretionary control:

Setback(s) from side/ rear boundaries – West & North West adjacent to MUZ	▪ 0m setback to match party wall of existing adjoining development to the west or 10m (3 storeys) where no party wall exists. ▪ Setback within a 45 degree angle line measured from 10m (3 storeys).	Development that ▪ Delivers an appropriate interface arrangement and minimise visual bulk and mass when viewed from neighbouring properties ▪ Delivers an appropriate transition in scale of development to the existing apartments and the lower scale heritage residential built form in Brunswick Street; ▪ Avoids repetitive stepped form within the 45 degree profile; and ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties.

232. The proposal retains part of the west boundary wall (saw-toothed profile) adjacent to the boundary wall to the west and the rear section (where no adjacent party wall exists) is setback 7m (3m shy of the DDO16 discretionary control).

233. Sections have not been provided to ascertain if the second dot point above has been achieved. However, from level 4 and above, the western tower (tower A) is setback adjacent to the private open space areas to the west are increased to 9m. At level 7, this setback increases to 14.3m. While these upper levels would not be invisible, these setbacks are considered to be acceptable:
    (a) within the context of the MUZ;
    (b) given the orientation of the lot, the proposed setbacks do not result in unreasonable overshadowing of the private open space areas to the west;
    (c) the curved form of the building and upper level setbacks would provide adequate visual relief; and
    (d) while 'stepped' the approach is not a repetitive stepped approach across each floor.

North-west (western end adjacent to the Mixed Use Zone)



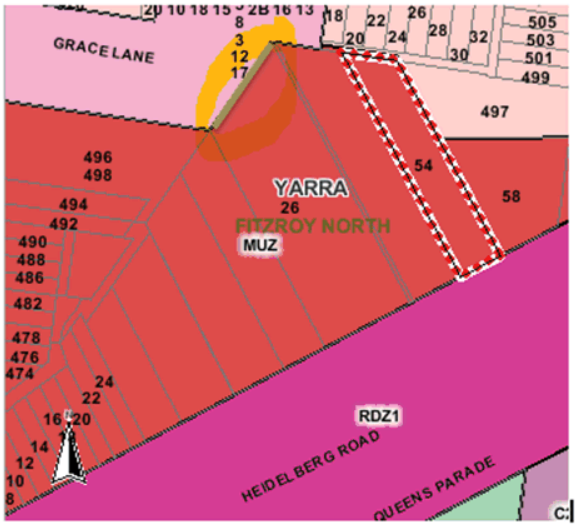
234. DDO16 discretionary control:

Setback(s) from side/ rear boundaries – West & North West adjacent to MUZ	▪ 0m setback to match party wall of existing adjoining development to the west or 10m (3 storeys) where no party wall exists. ▪ Setback within a 45 degree angle line measured from 10m (3 storeys).	Development that ▪ Delivers an appropriate interface arrangement and minimise visual bulk and mass when viewed from neighbouring properties ▪ Delivers an appropriate transition in scale of development to the existing apartments and the lower scale heritage residential built form in Brunswick Street; ▪ Avoids repetitive stepped form within the 45 degree profile; and ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties.

235. Instead of a 10m setback, a 6m north-west setback has been provided (including the width of the lane that extends for a segment of the north-west corner). This setback is increased at level 3, where the tower forms emerge and a gap is provided adjacent to the dwellings that directly abut the subject site. At level 3, the tower would be setback a minimum 10.5m from the closest private open space area. At level 5, the setback further erodes with the introduction of terraces in the northern end of tower A. Setbacks are increased again at level 6 and above, however sections have not been provided to ascertain if the second dot point of the discretionary control above is met.

236. However, the setbacks and massing of the proposal are supported along this interface as:
    (a) the podium is setback at least 6m from the closest abutting lot;
    (b) towers A and D emerge at level 3 and provide a break or visual relief from this level and above;
    (c) the curved forms of the building are peeled away further at level 6 and above, providing further visual relief for adjoining properties to the north-west;
    (d) the design does not include repetitive stepped elements; and
    (e) as the adjacent properties are to the north-west, the setbacks and massing would not unreasonably impact shadows cast over these properties.

North-west (adjacent to GRZ3)



237. DDO16 discretionary control:

Setback(s) from rear boundaries – North & North West adjacent to NRZ & GRZ	• ResCode Standard B17 measured from the rear boundary of adjoining properties up to 10m (3storeys). • Setback within a 45 degree angle line measured from 10m (3 storeys) up to 25m (8 storey).	Development that: • Delivers an appropriate transition in scale of development from the surrounding lower scale heritage residential built form; • Delivers an appropriate interface arrangement to neighbouring properties and minimises visual bulk and mass when viewed from neighbouring properties; • Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties; • Avoids repetitive stepped form within the 45 degree profile; and • Ensures the projections above the street wall are
Setback(s) from side boundary – East adjacent to NRZ	• 0m setback to match party wall of existing adjoining development up to 10 metres (3 storeys). • Setback within a 45 degree angle line measured from 10m (3	

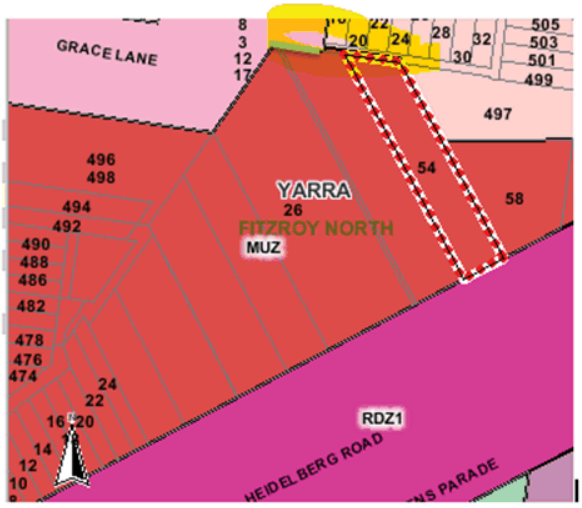
Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
		storeys) up to 25m (8 storey).	not dominant in the skyline when viewed from Newry Street.

238. The proposal would be approximately 9m high at this interface, setback 1.5m to 3m. It is also noted that the level 3 rood deck balustrades have not been shown on the elevations. As per Standard B17 of ResCode, a 9m building should be setback at least 4.1m from a boundary. The variations sought from B17 are the eastern end at level 1 (200mm variation) and the western end at level 2 (1m variation). Although the adjacent properties are to the north (no overshadowing impacts as a result of these setbacks), the subject site is quite large and can accommodate these setbacks (albeit discretionary). The impact on the adjacent private open space area would be greater given their size. Any development on the subject site would impact their outlook, with a B17 setback providing adequate visual relief for the properties to the north-west in the GRZ3. This should be required by way of a permit condition, should a permit issue.

239. Equitable development is not considered to be an issue with this adjacent property as the policy context now calls for B17 setbacks at podium levels and the upper level tower setbacks have increased beyond 4.5m.

240. Again, a section has not been provided along this segment to ascertain if the second dot point above (the 45 degree profile) is achieved. However, at level 4 tower D emerges with a minimum 13.5m setback from the adjacent properties to the north-west in the GRZ3. At level 6, the north-west setback of tower D increases to 17.8m (excluding roof terrace). The upper level setbacks are considered appropriate within this context, would afford adequate visual relief and would not unreasonably impact the amenity of adjacent dwellings by virtue of visual bulk.

North-east (adjacent to properties within the GRZ3 and NRZ1)



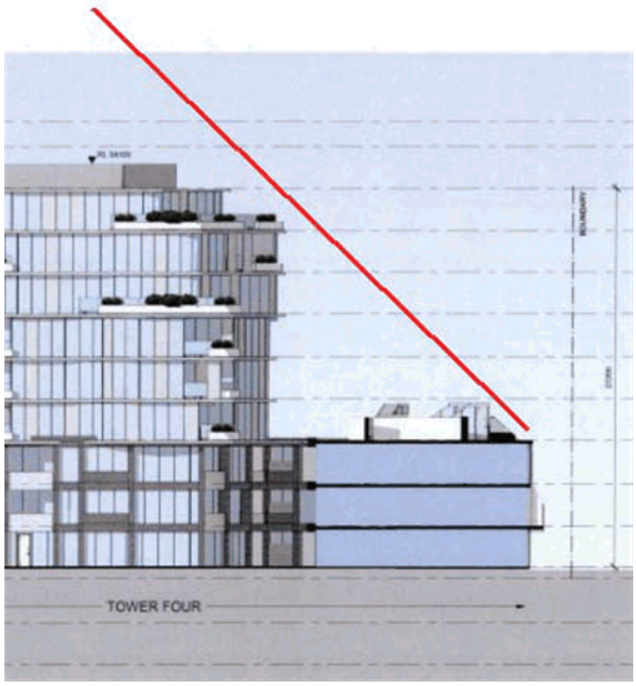
241. Discretionary DDO16 controls:

Setback(s) from rear boundaries – North & North West adjacent to NRZ & GRZ	▪ ResCode Standard B17 measured from the rear boundary of adjoining properties up to 10m (3storeys). ▪ Setback within a 45 degree angle line measured from 10m (3 storeys) up to 25m (8 storey).	Development that: ▪ Delivers an appropriate transition in scale of development from the surrounding lower scale heritage residential built form; ▪ Delivers an appropriate interface arrangement to neighbouring properties and minimises visual bulk and mass when viewed from neighbouring properties; ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties; ▪ Avoids repetitive stepped form within the 45 degree profile; and ▪ Ensures the projections above the street wall are
Setback(s) from side boundary – East adjacent to NRZ	▪ 0m setback to match party wall of existing adjoining development up to 10 metres (3 storeys). ▪ Setback within a 45 degree angle line measured from 10m (3	

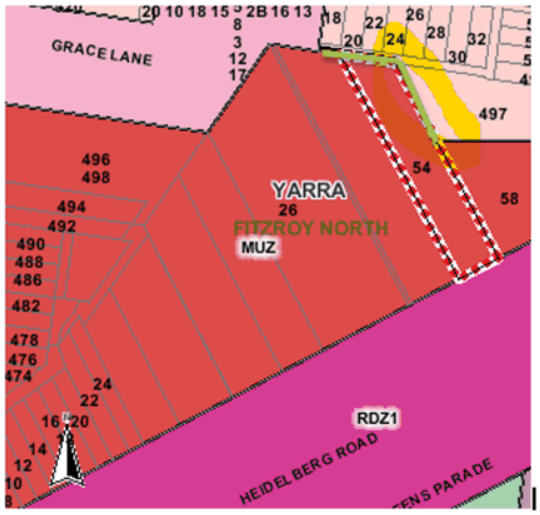
Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
		storeys) up to 25m (8 storey).	not dominant in the skyline when viewed from Newry Street.

242. The ground to level 2 podium adjacent to this elevation complies with Standard B17 (more stringent than the setbacks outlined for development adjacent to the NRZ1), excluding a 1m variation sought where adjacent to the bluestone laneway to the north-east. Given the laneway is approximately 2.5m wide this would provide an adequate visual relief to support the 1m variation sought at this interface. Further, as these properties are positioned to the north-east, the variation sought would not unreasonably impact the amenity of these dwellings by virtue of overshadowing.

243. Considering the impact or setback of tower D, the following section demonstrates that the tower has been setback beyond the 45 degree viewline as outlined in the DDO16:



East (adjacent to the NRZ1)



244. Discretionary DDO16 controls:

Setback(s) from rear boundaries – North & North West adjacent to NRZ & GRZ	▪ ResCode Standard B17 measured from the rear boundary of adjoining properties up to 10m (3storeys). ▪ Setback within a 45 degree angle line measured from 10m (3 storeys) up to 25m (8 storey).	Development that: ▪ Delivers an appropriate transition in scale of development from the surrounding lower scale heritage residential built form; ▪ Delivers an appropriate interface arrangement to neighbouring properties and minimises visual bulk and mass when viewed from neighbouring properties; ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties; ▪ Avoids repetitive stepped form within the 45 degree profile; and ▪ Ensures the projections above the street wall are
Setback(s) from side boundary – East adjacent to NRZ	▪ 0m setback to match party wall of existing adjoining development up to 10 metres (3 storeys). ▪ Setback within a 45 degree angle line measured from 10m (3	

Built Form	Mandatory Control	Discretionary Control	Built Form Outcome
		storeys) up to 25m (8 storey).	not dominant in the skyline when viewed from Newry Street.

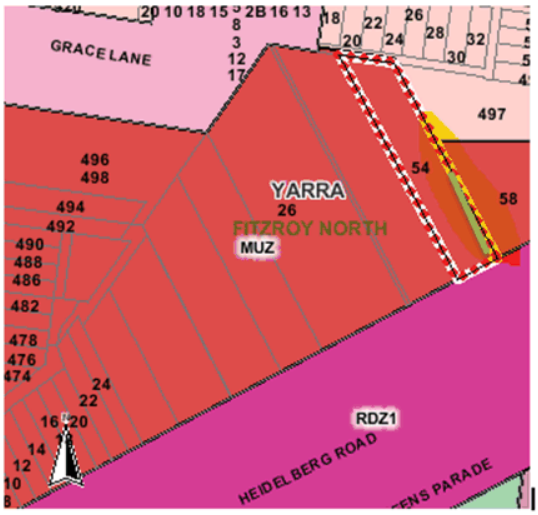
245. The proposal would be setback 3m at the podium (ground to level 2) and at level 3, the proposal incorporates a roof terrace and a 5.3m side boundary setback to tower C adjacent to the NRZ1 land to the east. At level 5 the setback increases to 10m (including terrace) and at level 6 the tower would no longer be in line with this adjacent NRZ1 land.

246. At 9m with a 3m east boundary setback, the proposal falls short of Standard B17 by 1m. however, the neighbouring residential building to the east presents a boundary wall to the subject site for the majority of its length. At level 2, balconies and secondary daylight sources are introduced to the east, along with a terrace which projects to the north-west. However, given the angled orientation of the terraces and as it is a secondary daylight source for an adjacent dwelling, the 1m variation from the Standard B17 setback requirement is supported at this interface.

247. Again, sections have not been provided to ascertain if the 45 degree sightline is met. However, tower D incorporates reasonable upper level setbacks and at level 6, would not be directly in line with the NRZ1 land to the north-east. The massing at this interface is supported and would not unreasonably impact the amenity of the existing dwellings.

248. Further, given this site and the site further to the south-east are already developed, these side setbacks are not considered to unreasonably impact these properties by way of equitable development.

East (adjacent to the MUZ)



249. Discretionary DDO16 controls:

Setback(s) from side boundary – East adjacent to MUZ	▪ 0m setback to match party wall of existing adjoining development or 10m (3 storeys) where no party wall exists. ▪ Minimum of 9m setback from the windows/ balconies of adjoining apartments up to 16m (5 storeys). ▪ Minimum of 15m setback above 16m (5 storeys).	Development that: ▪ Delivers an appropriate interface arrangement and minimise visual bulk and mass when viewed from neighbouring properties; ▪ Delivers an appropriate transition in scale of development to the existing apartments on Napier Street; and ▪ Limits amenity impacts of building bulk, overlooking and overshadowing on existing residential properties.

250. The proposal would be partially constructed to the eastern boundary at the ground and first floor, abutting the existing boundary wall of the residential building to the east.

251. At level 2, a central segment of the boundary wall to the east ceases to expose a light court for the sole outlook of dwellings across 3 levels (6 dwellings in total). Opposite these sole outlook apartments to the east, the proposal would be setback:
   (a) 5m to 10.2m at levels 2 and 3 (including terraces) – DDO16 discretionary control of 9m;
   (b) 10.9m at level 4 – DDO16 discretionary control of 9m;
   (c) 9m to 9.7m at level 5 – DDO16 discretionary control of 9m;
   (d) 13m at levels 6-8 – DDO16 discretionary control of 9m; and
   (e) 12m at level 9– DDO16 discretionary control of 9m.

252. In the absence of perspectives (it is anticipated these will be circulated by the Applicant in the form of evidence for the upcoming VCAT hearing), this assessment is focused on the immediate off-site amenity impact for these sole outlook apartments to the east. Given these adjacent dwellings rely on daylight from the west, compliance with the DDO16 is considered necessary to achieve reasonable daylight levels and outlooks for these dwellings. Should a permit issue, a condition should require the level 2-9 eastern setbacks adjacent to the light court of 58 Queens Parade to be as per the DDO16 setback requirements. Provided these setbacks are achieved, the long-range views would also be improved from further east along Napier Street, although this is difficult to ascertain from the information provided.

South

253. Queens Parade is to the south of the site, with this application not bringing rise to unreasonable off-site amenity or equitable development concerns at this interface.

Summary

254. Subject to the conditions contained in this report, the proposal has adequately massed and would not unreasonably impact the amenity of adjoining and adjacent dwellings or development potential of surrounding sites. It is noted that overlooking has not been assessed again in this section as it was dealt with holistically in the on-site amenity assessment (combining both on and off-site overlooking assessments).

Environmental sustainability

255. The Applicant originally provided a Sustainable Management Plan, prepared by Wood and Grieve Engineers Limited and dated 29 June 2016. Specifically, the following commitments were made:
    (a) an average 6.5 Star NatHERS thermal energy rating;
    (b) a MUSIC model demonstrating best practice has been received which relies on 450m2 of roof connected to a 40,000 litre tank which is connected to garden irrigation and swimming pool top-up, and the remaining 7,470m2 of terrace and landscaping filtered by a SPEL hydro-system (or equivalent); and
    (c) extensive green roofs and landscaping has potential to marginally improve the ecological value of this site.

256. An amended SMP has not been submitted with the substituted plans.

257. Council officers originally had concerns with the layout of the proposal, bringing rise to daylight and ventilation concerns (in terms of building separation and single sided layouts). However, through the modified design, while issues still remain, these could be addressed by way of permit conditions to ensure a high standard ESD outcome as per clause 22.17 and BESS. The outstanding items as per the ESD Advisor response to the substituted plans are:
    (a) daylight – Some of the habitable rooms may fall below the best practice standard of access to daylight. This should be addressed by way of:
        (i) clear glazing to all habitable rooms of dwellings;
        (ii) privacy screens and devices made of obscured glazing instead of solid materials;
        (iii) provision of full height glazing to lower level dwellings such as:
            - C1GF09, C4GF05, C4GF06, C3GF02, C3GF01;
            - lower level bedrooms of TH14, TH13, TH12, TH11 on the ground floor; and
            - C40105, C40106, C30202, C30203, C30204, C20103 on the first floor.
    (b) shading – Balconies and wing wall projections are now considered to be satisfactory for shading windows.
    (c) natural ventilation – Most of the floor plates are deeper than 5m. While Council's ESD Advisor suggests the building layout be modified to improve natural ventilation, they also suggest that this could also be improved (albeit not in a positive passive ESD response) through the incorporation of any of the following or combination of the following:
        (i) extraction fans to all kitchen range hoods and bathrooms;
        (ii) ceiling fans;
        (iii) trickle vents;
        (iv) energy efficient mechanically assisted natural ventilation with flow rates 50% in excess of AS 1668 levels.

258. The above could be addressed by way of an amended SMP, should a permit issue and would offer a reasonable level of energy efficiency for occupants.

Traffic and car parking (including alteration to access to a road in a Road Zone)

259. The decision guidelines at Clause 52.06 will be used to guide this assessment, along with clause 52.29 as Queens Parade is a Road Zone, Category 1.

Car parking provision

260. The application is seeking a 108 space car parking reduction. Clauses 18, 21.06 and 52.06 will be used to guide this assessment.

261. The site is well serviced in terms of public transport and also amenities given the walking distance to activity centres of Brunswick Street and Smith Street and also the neighbourhood centre of St Georges Road. State and local policy support reduced car parking rates in these locations, favoring sustainable transport modes (walking, cycling and public transport).

262. The reduced car parking rates are supported, having regard to clause 52.06-6 for the following reasons:
    (a) The Applicant's original traffic report included on-street surveys (Friday 18 March 2016 and Saturday 19 March 2016 at 1pm and 8pm both days). The survey found 380 publicly available spaces in the area. During survey times, there were at least 139 vacant on-street spaces.
    (b) Dwelling – The application is seeking a 54 space reduction associated with the dwellings. It is likely that residents would use public transport, walking or cycling options given the nature of the locale. Further, ABS data suggests (2011 ABS data as taken from the Applicant's traffic report submitted with the original application) that the car parking needs of residents in North Fitzroy are:
        (i) Studio – 0.5 cars per dwelling
        (ii) 1 and 2 bedroom – 0.6 cars per dwelling
        (iii) 3 bedroom – 1.5 cars per dwelling

        Using ABS data, this proposal would therefore have a demand for 234 residential parking spaces (using the 3 bedroom ABS data for the 4BR townhouses). Extrapolating ABS data, the proposal exceeds the anticipated parking demand by 71 spaces. The proposal would therefore not unreasonably impact parking demand on-street.
    (c) Dwelling visitor – Visitors may visit the site via public transport, walking or cycling, where possible. Further, the availability of on-street parking would be suitable for the short-stay needs of visitors. In any event, 9 spaces would be provided in the basement for the needs of any dwelling visitors who need to drive to the site.
    (d) Food and drinks premises (café), restaurant and shop – Many patrons would already be in the area or living or visiting the proposed development. It is not anticipated that the size of the 3 non-residential tenancies would create a 'destination' encouraging people to drive. In any event, patrons who do wish to drive to the site would be able to use the on-street spaces identified as vacant in the Applicant's traffic report. Staff of these tenancies would also be likely to use public transport, walking or cycling to get to/from work. However, 7 car parking spaces would be provided on-site for any staff who need to drive.

263. Council's Engineering Services Unit reviewed the proposed car parking provision and were supportive of the proposal.

Traffic

264. The traffic impact of the proposal was considered in detail in the previous officer report. The amended plans reduce the on-site parking provision and therefore reduce the anticipated traffic generation. This was reviewed by Council's Engineering Services Unit and they raised no objection or issue with the proposed traffic generation.

Car park layout and access

265. Council's Engineering Services Unit generally support the car park layout, subject to conditions (civil work matters from the February 2017 comments remain relevant). These are:
    (a) a convex mirror adjacent to the vehicular exit, with no audible device (would be too noisy for nearby residents);
    (b) 1 minimum 1m clearance from the vehicle entry/exit to the adjacent power pole. The east edge of the crossover must be perpendicular to the Queens Parade service road;
    (c) car park columns setback 750mm from the aisles;
    (d) loading bay dimensioned on the drawings, including minimum overhead clearance. Details of the vehicles permitted to use this space, along with swept path diagrams are required;
    (e) the headroom clearance of the vehicular doorway must be dimensioned on the drawings;
    (f) the design and construction of the new vehicle crossing must satisfy Council's *Infrastructure Road Materials Policy*, Council's Standard Drawings and engineering requirements;
    (g) a detailed cross sectional drawing of the new vehicle crossing, the actual road profile of Queens Parade service road and the new ramp (for the first 2.0 metres inside the property) must be provided to the satisfaction of the Responsible Authority;
    (h) all redundant vehicle crossings must be demolished and reinstated to Council's satisfaction and at the Permit Holder's expense;
    (i) the headroom clearances must be dimensioned on the drawings throughout the car park;
    (j) kerbs on either side of the internal ramp must be dimensioned;
    (k) upon the completion of all building works and connections for underground utility services, the footpath immediately outside the property's Queens Parade service road frontage must be reconstructed to Council's satisfaction and at the Permit Holder's expense;
    (l) all pedestrian access must be constructed to a level no steeper than 1 in 40 from the building line;
    (m) the nature strips directly outside the property's Queens Parade service road frontage must be cultivated, top dressed and be provided with instant turf to the satisfaction of Council's Open Space and at the Permit Holder's expense;
    (n) the kerb and channel outside the development's Queens Parade service road frontage must be constructed in bluestone to the satisfaction of Council and at the Permit Holder's cost;
    (o) all redundant property drains must be removed;
    (p) prior to the occupation of the development, the road pavement of Queens Parade service road is to be profiled and re-sheeted to the satisfaction of Council after the building works and the provision of underground utility services have been completed. The cost of these road infrastructure works must be borne by the Permit Holder;
    (q) the developer must ensure that light projected from any existing, new or modified public lights does not spill into the windows of any new dwellings or any existing nearby residences. Any light shielding that may be required shall be funded by the Permit Holder;
    (r) 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;
    (s) A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties. The Construction Management Plan for the site must also take the following into account:
        (i) If any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority.
        (ii) Existing public lighting could only be disconnected once temporary alternative lighting scheme becomes operational.

(iii) A temporary lighting scheme must remain operational until a permanent lighting scheme is reinstated.

(t) 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;

(u) 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;

(v) 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; and

(w) 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.

266. It is noted that the previous officer report flagged issues with the car park layout and access as identified by Cardno (Council's external traffic engineers). While the amended plans were not re-referred to Cardno (they were referred to Council's Engineering Services Unit), the previous issues are considered to have been met or could be conditioned as follows:
    (a) ramp widths have been increased. However, a condition should still be imposed to require detail of the kerb to kerb dimension;
    (b) car parking spaces adjacent to walls have been increased to a width of 2.9m;
    (c) while Council's Engineering Services Unit did not raise issue with headroom clearances, this was originally a concern for Cardno with the previous plans. This could be addressed by way of a permit condition, ensuring headroom clearances are clearly shown.

Road Zone

267. A permit is required to alter and create vehicular access to Queens Parade under clause 52.29 of the Scheme. The application was referred to VicRoads under this provision, and the following decision guidelines are relevant:
    (a) The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
    (b) The views of the relevant road authority.
    (c) The effect of the proposal on the operation of the road and on public safety.
    (d) Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.

268. As per the previous report, officers have no issue with the modified access to Queens parade. Again, with less parking provided on-site, any traffic impact would be reduced by way of the substituted plans.

269. VicRoads have also been provided with a copy of the substituted plans. Their position is unknown at the time of preparing this report, however if they object, VCAT (as the Responsible Authority) is required to consider their objection.

Bicycle parking

270. The application is not seeking to reduce the bicycle parking provision under clause 52.34.

271. Council's Strategic Transport Unit raised issue with the layout of bicycle parking, or the number of separate bicycle stores in basement 1 and their distance from the lift cores.

However, the spaces are all generally within 30m of lifts. Further, as they are residential bicycle stores, not visitors, it is considered that the grouping of spaces is not necessary (residents will know where their allocated bicycle space is). The layout of the bicycle parking spaces is considered acceptable.

272. Council's Strategic Transport Unit were generally supportive of the visitor 'bicycle park' at the ground floor, however a condition should be imposed on any permit issued requiring more detail of this area.

273. Finally, comments were provided in relation to the bicycle parking spaces for the rear townhouse development. Council's Strategic Transport Unit suggested these spaces would be better located adjacent to this lot (yet still on the subject site), along the rear pedestrian link to this site. Given there is a reasonable landscaped area in this north-west corner, this would be more appropriate for these rear townhouse residents and should be imposed by way of a permit condition.

274. Conditions should also be imposed on any permit issued ensuring the bicycle parking can provide a space for a bicycle of minimum dimensions of 1.7 metres in length, 1.2 metres in height and 0.7 metres in width at the handlebars. Signage should also be required by way of a condition on any permit issued, as per clause 52.34-5 of the Scheme.

275. Subject to the conditions contained in this report, bicycle parking would be satisfactory.

276. Finally, in relation to general bicycle safety around the site due to the increased traffic volumes, the following as recommended in the previous report should continue to be imposed by way of a condition on any permit issued:

Council's Urban Design and Strategic Transport Units have raised concern with the impact of the proposal on the Queens Parade and Napier Street intersection and pedestrian and cyclist safety. Both units have suggested improvements to this intersection, should a permit issue:

1. *Close the service lane on the north west corner*
2. *Increased walkability through the installation of splitter islands and kerb extensions*
3. *Increased cycle safety through decreed crossing distances*
4. *Opportunities for better/greener public spaces*

The blue parts are those that we would seek to turn into footpath, verge or separated islands.

With an additional anticipated 121 peak hour and 1,209 daily movements as a result of this development, and given the scale of the project, should a permit issue, these road improvements are considered to have a reasonable nexus and should be imposed by way of permit conditions.

277. Given the increased traffic movements, it is considered appropriate to require these changes by way of a permit condition to ensure cyclist safety around the site.

Loading bay reduction

278. The original Council delegate report raised issue with no on-site loading bay. Officers suggested at least one standard car parking space be set aside for deliveries. Instead, the substituted plans incorporated a full-sized loading bay. The only variation now sought is for the 3.5m clearance instead of a 4m minimum clearance.

279. Given the size of the commercial tenancies, this clearance is considered to be reasonable.

Waste management

280. Council's Services Contracts Unit were re-referred the substituted plans. It is noted that the substituted plans were not accompanied by a modified waste management plan [**WMP**].

281. While a number of the issues previously identified have been addressed, the following remain, but could be addressed by way of a permit condition, should a permit issue:
    (a) details on how bin store will operate/be managed by operator;
    (b) details on education, tenants information, bin room set up, etc to ensure appropriate management of the waste and recycling;
    (c) detail plan of bin store showing path of access, hard waste area, etc.;
    (d) details/justification on ensuring recycling collected is compacted to ensure industry standard and not compromise recovery of recyclables;
    (e) details on path of access from the street to the bin collection point;
    (f) details on how the chutes operate to ensure appropriate use by tenants;
    (g) details on how the development will be managed by the operator; and

(h) show how the WMP will work in practice for residents, operator and waste contractors.

Objector concerns

282. The following objector concerns have been addressed throughout this report:
   (a) non-compliance with the Yarra Planning Scheme and the Mixed Use Zone;
   (b) height (this would be similar to the Housing Commission flat construction;
   (c) upper level setbacks are inadequate;
   (d) design detail does not complement the area (including use of materials and fine grain subdivision) and the building would not age well;
   (e) use of landscaping is 'laughable' and no maintenance details are provided;
   (f) impact on heritage (subject site, nearby 1 and 2 storey terraces, Queens Parade, Coleman Street and Napier Street);
   (g) proposed facadism and impact on heritage of the site;
   (h) neighbourhood character (other apartment buildings in the area are 3-6 storeys, looks like 'Docklands');
   (i) impact on the Edinburgh Gardens;
   (j) off-site amenity (daylight, noise [people, parties/people on balconies, cars, communal areas, licenced premises], light pollution, overlooking/privacy, overshadowing [private open space areas and the public realm], visual bulk, obstruct sky and city views, wind tunnel);
   (k) poor on-site amenity (long internal corridors, poor sun shading, poor apartment layouts);
   (l) insufficient car parking (the area is already constrained, difficult for guests/visitors to park);
   (m) impact on cyclist and pedestrian safety (including the Napier St/Queens Pde bicycle crossing);
   (n) traffic impacts;
   (o) impact on views from Edinburgh Gardens, Bill Peterson Oval and Brunswick Street oval to the city;
   (p) the development would achieve a poor ESD standard;
   (q) footprint/site coverage is too high, needs more open space around it; and
   (r) commercial (including licenced) venues should not be approved away from main streets (including Brunswick and Smith Streets).

283. The following will be addressed now:

(a) Overdevelopment / density of apartments is too high;

284. Revisiting the strategic policies that apply to the site and area, along with the site being an identified strategic redevelopment site, the proposal is not considered to be an overdevelopment or be too high in terms of residential density.

(b) this would create an unreasonable precedent;

285. Each application must be considered on its own merits.

(c) this is just for the developer to make a profit;

286. This is not a relevant consideration to this planning assessment.

(d) poor quality design (services, BBQs, AC units and clothes lines will be visible on balconies)

287. The design is considered to be of a high quality, as was supported in the external urban design advice received by Council.

(e) this will destroy the 'community';

288. The incorporation of commercial uses at the ground floor would positively engage the public realm, along with the addition of new residents into this ideally positioned area in close proximity to amenities and services.

(f) insufficient dwelling diversity (too many 1 and 2 bedroom dwellings, not enough 'family' homes and there will be too many singles);

289. The substituted plans include a reasonable dwelling mix, including 49 x 3BR and 15 x 4BR dwellings.

(g) apartments are too small;

290. Apartments are considered to be of a reasonable size for the needs of residents. No concern has been raised in this report in relation to their layout. This issue was also not raised in the external urban design advice received by Council.

(h) the draft Better Apartment Guide should be considered;

291. As identified, transitional provisions apply and clause 58 is not applicable.

(i) there will be more robberies;

292. Increasing the residential tenancy and introducing ground level commercial/active frontages is considered to be a positive safety outcome.

(j) construction could impact Fitzroy Gasworks underground contamination plume;

293. The site is subject to an EAO and any appointed environmental auditor would need to deal with this issue.

(k) Asbestos/structural impact on nearby dwellings/no concern for health, safety or DDA;

294. These issues would be dealt with through the building permit process by the relevant building surveyor.

(l) increased pressure on infrastructure (including public transport, phone, internet, gyms, pools, libraries, GPs and schools);

295. The introduction of 295 dwellings in this area is not considered to unreasonably tip the balance in terms of community service facilities.

(m) construction impacts (noise, traffic, dust and pollution);

296. Should a permit issue, a condition should be imposed to mitigate construction impacts as best as practicable (acknowledging that some impacts are reasonable considering a development of this scale).

(n) it will upset the dogs in the area;

297. It is not understood what is meant by this objection ground. However, this report has included a detailed urban design assessment to support the proposal in this context.

(o) property devaluation;

298. This is not a relevant planning consideration.

(p) rear lane should not be used to access Brunswick Street front the site;

299. As the lane is one way, this is not a suitable option given the basement would accommodate 328 car parking spaces.

(q) social housing should be included; and

300. While desirable, this is not a requirement of the Yarra Planning Scheme.

(r) perspectives have not been provided from the north or Edinburgh Gardens.

301. While desirable, officers have been able to undertake a detailed assessment of the application in the absence of this information.

Special Building Overlay

302. Considering the decision guidelines at clause 44.05-6 of the Scheme, the considerations are specialised to flooding. Melbourne Water is the relevant Referral Authority as the crossover extends into the SBO.

303. Melbourne Water have not yet provided comments on the substituted plans, however if a permit is issued, the Act requires those conditions to be imposed.

Referral Authorities

304. It is noted that Melbourne Water, PTV and VicRoads are Section 55 Referral Authorities under the Scheme. They have been provided with a copy of the substituted plans by the Permit Applicant as per the VCAT process. This report therefore has not incorporated their comments (their views on the substituted plans are unknown at the time of writing this report). However, Council is still required to inform VCAT of its position on the amended plans, as are these Referral Authorities.

Other matters

305. The following conditions were also recommended in the previous officer report and continue to be recommended in response to the substituted plans:

(a) retention of the existing ground floor south facade windows. Where balconies are proposed behind, glazing may be removed, however framing must be retained or replaced to match existing;
(b) details of how the framing and glazing to the existing façade windows (including adjacent to balconies where glazing would be removed but framing would remain or be replaced to match existing);
(c) retention of the existing front canopy detail;
(d) reconstruction of the eastern wall (within the western café) in recycled brick to match the façade or similar;
(e) details of the paint removal method to the retained façade (a low-pressure water and chemical or a poultice system is suggested);
(f) minimum 100mm dwelling entry door recesses;
(g) resident bicycle parking within secured, well-lit lockers.

Conclusion

306. Based on the above report and subject to the conditions outlined below, the proposal is considered to comply with the relevant Planning Scheme provisions and planning policy and is therefore supported.

RECOMMENDATION

That Council inform VCAT that had it been in a position, it would have issued a Notice of Decision to Grant a Permit (PLN16/0434) for 26-56 Queens Parade, Fitzroy North VIC 3068 for the development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the land for the sale and consumption of liquor (on-premises), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone in accordance with the substituted plans (received by Council 25 July 2017) subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the substituted plans, prepared by Cox Architecture and received by Council 25 July 2017) but modified to show:

    (a) demolition plans and elevations;
    (b) survey information included on elevations to confirm that the maximum:
        (i) overall building height does not exceed 31m; and
        (ii) the new façade height to Queens Parade (podium element) does not exceed 10m.
    (c) details of the vehicular entrance door, fire booster cupboards and services;
    (d) screening to habitable room windows, balcony or terrace to address internal and external overlooking within a 9m radius and 45 degree arc of an adjacent habitable room windows or private open space area to the satisfaction of the Responsible Authority. Screens must be designed and/or of a material to minimise views and still permit reasonable daylight to enter the treated dwellings;
    (e) treatments to the ground level windows and private open space areas to provide privacy from the communal open space areas;
    (f) north-west built form segment adjacent to the General Residential Zone, Schedule 3, setback as per Standard B17 of Clause 55 of the Yarra Planning Scheme;
    (g) levels 2 to 9 of the eastern setback adjacent to the light court of 58 Queens Parade setback as per the requirements at table 2 of Schedule 16 to the Design and Development Overlay of the Yarra Planning Scheme;
    (h) a schedule of external colours and materials, including samples (where appropriate). The schedule must show:

        (i) the upper level planter boxes in a light to mid-grey finish; and
        (ii) a darker finish to the level 1-2 balcony balustrades of the non-heritage façade.
        (iii) the 'timber' as a durable material;
        (iv) reconstruction of the eastern return wall to the heritage façade in face brick to match the façade;
        (v) the heritage façade as a face brick finish (paint removal with no re-painting); and
        (vi) details of the plant level screens, to be integrated with the overall design of the building.
    (i) details of the paint removal method to the retained façade (a low-pressure water and chemical or a poultice system is suggested);
    (j) retention of the existing ground floor south facade windows. Where balconies are proposed behind, glazing may be removed, however framing must be retained or replaced to match existing;
    (k) details of how the framing and glazing to the existing façade windows (including adjacent to balconies where glazing would be removed but framing would remain or be replaced to match existing);
    (l) retention of the existing front canopy detail;
    (m) coloured elevations and perspectives;
    (n) clear glazing to all habitable rooms of dwellings;

(o) provision of full height glazing to the following dwellings:
Ground floor
- C1GF09
- C4GF04 (rear bedroom), C4GF05, C4GF06,
- C3GF01, C3GF02, C3GF06 (rear bedroom)
- Lower level bedrooms of TH11, TH12, TH13, TH14,

First Floor
- C40105, C40106,
- C30101, C30102, C30103, C30104, C30105

Second Floor
- Rear bedrooms to TH11, TH12, TH13, TH14
- C30201, C30202, C30203, C30204, C30205

(p) a convex mirror adjacent to the vehicular exit (no alarm systems);
(q) a lighting plan addressing entries and public spaces within the development;
(zz) a landscape plan which shows the:
(i) deletion of the 2 shrubs/plants along the property frontage in front of the easternmost commercial tenancies;
(ii) type, location, quantity, pot size, height at maturity and botanical names of all proposed plants. Species within the landscape buffer must be shade tolerant and must provide clear visual links with the pedestrian link (low level shrubs/plants);
(iii) cross sections showing the depth of planter boxes and planting;
(iv) location of all areas to be covered by lawn, paving or other surface materials;
(v) specification of works to be undertaken prior to planting;
(vi) watering and maintenance;
(vii) garden bed dimensions;
(viii) areas of paving and proposed materials;
(ix) location of proposed tree planting – distances from buildings and other infrastructure, planting proposed over the basement levels or under the overhanging built form;
(x) clear definition of terraced spaces, retaining walls, seating elements and other structures independent of paving treatments;
(xi) water sensitive urban design [WSUD] features; and
(xii) removal of street tree 8 (Ulmus). A notation must confirm that the Permit Holder will pay the Responsible Authority $8,960 to undertake these works, including the reinstatement of 2 trees after development plus 2 years tree establishment maintenance by City of Yarra contractors;
(i) a detailed section of the green roofs, confirming/detailing:
- vegetation layer;
- growing substrate and depth (plants should not be supplied as 100mm pots, but grown in the media to be used on the green roof);
- confirmation that load bearing weights for saturated bulk density have been considered and supported by suitably qualified engineers);
- irrigation;
- filter sheet;
- drainage layer (specify the Elmich product, or similar);
- protection mat;
- root barrier; and
- waterproofing.

(r) a red line plan showing the sale and consumption of liquor limited to the internal area of the westernmost food and drinks premises (café);
(s) the 'café' and 'restaurant' shown as a 'food and drinks premise (café)';
(t) the shop (deli) with a maximum leasable floor area of 150m²;
(u) the food and drinks premises (cafes) with a maximum leasable floor area of 150m² in total;
(v) title boundaries as per the certificate of title;
(w) toilets for the commercial tenancies;

(x) 1 in 20 scale cross sectional drawings of the developments vehicular entrances, showing the actual reduced levels (not interpolated levels from the application drawings) of the road profile, the lip of the channel, the invert of the channel, the top of kerb and the existing building line. The existing road profiles of the Queens Parade service lane (from the kerb line to the centre line of the road) and the access ways inside the property must be accurately drawn. The cross section must demonstrate that vehicles can traverse the new vehicle crossing and ramp without scraping or bottoming out, using a B99 design vehicle;
(y) bicycle signage as per clause 52.34-5 of the Yarra Planning Scheme;
(z) details of bicycle storage/parking systems, demonstrating they can provide space for a bicycle of minimum dimensions of 1.7m in length, 1.2m in height and 0.7m in width at the handlebars;
(aa) details of the visitor 'bicycle park' at the ground floor;
(bb) at least 25% of the provided bicycle parking must be accessible at ground level (i.e. not hanging systems);
(cc) bicycle parking for the rear site townhouses positioned adjacent to the pedestrian gate in the north-west corner of the site;
(dd) ramp width dimensions (from kerb to kerb);
(ee) minimum headroom clearances throughout the basement dimensioned;
(ff) a minimum 1m clearance from the vehicle entry/exit to the adjacent power pole. The east edge of the crossover must be perpendicular to the Queens Parade service road;
(gg) car park columns setback 750mm from the aisles;
(hh) loading bay dimensioned on the drawings, including minimum overhead clearance. The plan must also include a note confirming details of the vehicles permitted to use this space, along with swept path diagrams;
(ii) the headroom clearance of the vehicular doorway;
(jj) visitor intercoms to the pedestrian and vehicular entries to the development;
(kk) a note confirming the design and construction of the new vehicle crossing must satisfy Council's *Infrastructure Road Materials Policy*, Council's Standard Drawings and engineering requirements;
(ll) all redundant vehicle crossings must be demolished and reinstated to Council's satisfaction and at the Permit Holder's expense;
(mm) changes (as necessary) as per the endorsed Acoustic Report, Structural report, Wind Report, SMP, Shared zone management plan and Waste management plan;
(nn) **any Melbourne Water Changes.**

General

2. The development and uses as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. As part of the ongoing consultant team, Cox Architecture or an architectural firm(s) 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.

4. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

5. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority.

6. All screening and other measures to prevent overlooking as shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.

7. Before the buildings are 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.

8. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

9. 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.

10. Before the buildings are occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

11. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the basement car park, pedestrian walkway, laneway and dwelling entrances must be provided. Lighting must be:
    (a) located;
    (b) directed;
    (c) shielded; and
    (d) of limited intensity,
    all to the satisfaction of the Responsible Authority.

12. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).

13. The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

General Use Conditions

14. The amenity of the area must not be detrimentally affected by the uses, 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.

Use of the land for the sale and consumption of liquor

15. No more than 50 patrons are permitted in the westernmost food and drinks premises (café) at any one time.

16. The sale and consumption of liquor in association with the westernmost food and drinks premises (café) may only occur between the hours of 12 noon to 5pm, any day.

17. Before the use of the land for the sale and consumption of liquor commences, a Noise and Amenity Action Plan [**NAAP**] to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the NAAP will be endorsed and will then form part of this permit. The NAAP must include details as per clause 22.09-4.3 of the Yarra Planning Scheme.

18. The sale and consumption of liquor uses must be managed in accordance with the endorsed NAAP.

19. 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.

20. 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.

21. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.

Structural report requirement

22. Before the demolition commences, a structural report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the structural report will be endorsed and will form part of this permit. The structural report must be prepared by a suitably qualified structural engineer and demonstrate the means by which the retained portions of the buildings on-site will be supported during demolition and construction works to ensure their retention.

23. The provisions, recommendations and requirements of the endorsed structural report must be implemented and complied with to the satisfaction of the Responsible Authority.

Public Art Management Plan

24. Before the buildings are occupied, a Public Art Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Public Art Management Plan will be endorsed and will then form part of this permit. The Public Art Management Plan must include, but not be limited to:
    (a) details of the commissioned artist(s);
    (b) description of art work, including:
        (i) materials;
        (ii) colours;
        (iii) dimensions;
        (iv) content;
        (v) special features (e.g. lighting);
    (c) details of the installation process; and
    (d) details of art work maintenance schedule.

25. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art must be completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.

Section 173 Agreement

26. Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act* 1987, providing for the following:
    (a) the ongoing provision of 7 car parking spaces, 4 bicycle parking spaces, 4 stores and a bin area for the rear of 26-56 Queens Parade, Fitzroy North (Lot 1 on Title Plan 806921X) on this site.

    The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the Responsible Authority's costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement.

Wind Assessment report

27. Before the plans are endorsed, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by Windtech and dated 30 June 2016, but modified to:
    (a) reflect the decision plans; and
    (b) demonstrate that acceptable wind levels would be resultant from the development (on and off the site); and
    (c) identify which balustrades could be reduced to 1m or 1.7m (dependent on overlooking requirements) and continue to achieve the relevant wind criteria.

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

Acoustic report

29. Before the plans are endorsed, 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 Wood and Grieve Engineers, dated 29 June 2016 and include an assessment of how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade, No. N-1), the State Environment Protection Policy (Control of Music Noise from Public Premises No. N-2) and relevant Australian Standards will be met. The report must:

    (a) the decision plans and any relevant condition 1 requirements;
    (b) amended location and time of road traffic noise measurements as follows:
        (i) noise levels during the afternoon peak hour and the loudest hour of the 'night' period (typically 6 am to 7 am for sites such as this one); and
        (ii) a daytime measurement to assist in the assessment of the daytime average noise level to apartments unless an alternative approach to determining the daytime average is adopted;
        (iii) the adoption of target indoor noise levels with regard to road traffic as follows:

	Period	**Average Level[2]**	**Loudest Hour[3]**	**Instantaneous Lmax level**
Habitable rooms, including bedrooms	7 am to 10 pm	40 dBA Leq,15h	45 dBA Leq, 1h	
Bedrooms	10 pm to 7 am	35 dBA Leq, 9h	40 dBA Leq, 1h	50-55 dBA Lmax

[2] - The 'average level' is equal to the mid-point between the AS/NZS2107 recommended 'satisfactory' and 'maximum' levels and is equal to the levels allowed in the 2011 NSW Road Noise Policy (Appendix C10) and the WA State Planning Policy (5.4).
[3] - The 'loudest' hour targets are equal to the AS/NZS2107 recommended 'maximum' levels.

    (d) 3D modelling must demonstrate how the above targets will be achieved (including any necessary façade upgrades);
    (e) target internal noise levels with regard to the impact of voice noise from the communal outdoor areas:
        (i) noise from voice to apartments within the development be designed to achieve not greater than 30 dBA Leq in bedrooms and 35 dBA Leq in living rooms;

(ii) noise from voice to existing dwellings be assessed to a 'background+10 dB' target during the day/evening period and 'background + 5 dB' at night;
(iii) a restriction be provided on use of the Level 3 and 4 outdoor areas after 10 pm unless it can be demonstrated that 'background + 5 dB' targets can be met at the existing dwellings.

(f) maximum music noise levels in the food and drinks premises (cafés) and shop, ensuring compliance with SEPP N-2, along with a commitment to install a music noise monitor to ensure that these levels are not exceeded;
(g) an assessment voice noise from patrons within the food and drinks premises (cafés) and shop to the proposed dwellings. Indoor design targets of no greater than 30 dBA Leq must be achieved with windows closed;
(h) the impact of airborne noise from within the food and drinks premises (cafés) and shop, with any necessary building upgrades to minimise impacts; and
(i) an assessment of the following on the existing (off-site) and proposed dwellings (on-site):
(i) communal areas (including the theatre, pool are, lounges gym and roof terraces);
(ii) the driveway along the eastern boundary;
(iii) the vehicular entry door;
(iv) lift cores; and
(v) mechanical plant and equipment (including air conditioner units).

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

31. Prior to the occupation of the development, an updated acoustic report prepared by a suitably qualified acoustic consultant to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority demonstrating that the required level of noise attenuation has been achieved. The report must:
(a) confirm compliance with relevant conditions of the permit; and
(b) provide measurement data taken from inside the dwellings of the development demonstrating compliance with 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 relevant requirement.

32. The recommendations and any works contained in the approved acoustic report must be implemented and completed and where there are recommendations of an ongoing nature must be maintained all to the satisfaction of the Responsible Authority.

Sustainable Management Plan

33. 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 Wood and Grieve Engineers dated 29 June 2016, but modified to show/reflect/demonstrate:
(a) the decision plans;
(b) the incorporation of any combination of the following:
(c) extraction fans to all kitchen range hoods and bathrooms;
(d) ceiling fans;
(e) trickle vents;
(f) energy efficient mechanically assisted natural ventilation with flow rates 50% in excess of AS 1668 levels.

34. 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

35. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by RB Waste Consulting Service and dated 20 November 2015, but modified to include/reflect:
    (a) the decision plans;
    (b) details on how bin store will operate/be managed by operator;
    (c) details on education, tenants information, bin room set up, etc to ensure appropriate management of the waste and recycling;
    (d) detail plan of bin store showing path of access, hard waste area, etc.;
    (e) details/justification on ensuring recycling collected is compacted to ensure industry standard and not compromise recovery of recyclables;
    (f) details on path of access from the street to the bin collection point;
    (g) details on how the chutes operate to ensure appropriate use by tenants;
    (h) details on how the development will be managed by the operator; and
    (i) show how the WMP will work in practice for residents, operator and waste contractors.

36. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscaping

37. Before the building is occupied, or such later date as is approved by the Responsible Authority, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

38. The landscaping shown on the endorsed plans 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;
    all to the satisfaction of the Responsible Authority.

39. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for:
    (a) the protection of the nature strip trees adjacent to the site along the Queens Parade frontage:
        (i) pre-construction;
        (ii) during construction; and
        (iii) post construction
    (b) the provision of any barriers;
    (c) any pruning necessary; and
    (d) watering and maintenance regimes,
    to the satisfaction of the Responsible Authority.

40. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

Car parking

41. Before the development commences, a Car Park Management Plan prepared 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 then form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
    (a) the allocation of 7 car parking spaces to the rear of 26-56 Queens Parade, Fitzroy North (planning permit PLN16/0732);
    (b) the number and location of car parking spaces allocated to each commercial tenancy;
    (c) management details for residential loading/unloading when moving;
    (d) the management of visitor car parking spaces and security arrangements for occupants of the development, including details on how residential visitors are to access car parking;
    (e) details of way-finding, cleaning and security of end of trip bicycle facilities;
    (f) any policing arrangements and formal agreements;
    (g) 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;
    (h) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 54; and
    (i) details regarding the management of loading and unloading of goods and materials.

42. 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.

43. Before the building is occupied, 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.

Traffic, roads and footpaths

44. All redundant vehicle crossings along the property's road frontages must be demolished and reinstated with paving, kerb and channel to Council's satisfaction and the developer's cost.

45. 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.

46. 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.

Design Detail

47. Within three months of commencement of the development, the owner of the site must submit Detailed Engineering Documentation to the satisfaction of the Responsible Authority and be approved by the Responsible Authority. When approved, the Detailed Engineering Documentation will be endorsed and will then form part of this permit. The Detailed Engineering Documentation must be drawn to scale with dimensions, and three copies must be provided. The Detailed Engineering Documentation must showing the following, to be provided to the satisfaction of the Responsible Authority and at the expense of the Permit Holder:

(a) the reconstruction of the laneway, adjacent to the northern boundary of the site, in pitched bluestone;
(b) the reconstruction of the footpath outside the Queens Parade frontage of the site, once all building works and underground utility services have been completed/installed. All pedestrian access must be constructed to a level no steeper than 1 in 40 from the building line;
(c) subject to approval from Melbourne Water, VicRoads and the Responsible Authority, improvements to the Queens Parade and Napier Street intersection also to the satisfaction of Melbourne Water, as follows:
    (i) close the service lane on the north west corner;
    (ii) increased walkability through the installation of splitter islands and kerb extensions;
    (iii) increased cycle safety through decreed crossing distances; and
    (iv) Opportunities for better/greener public spaces;
(d) re-sheeting of the Queens Parade service road as per existing details and materials. The road pavement of Queens Parade service road must be profiled and re-sheeted to the satisfaction of Council after the building works and the provision of underground utility services have been completed;
(e) the nature strips directly outside the property's Queens Parade service road frontage must be cultivated, top dressed and be provided with instant turf;
(f) the kerb and channel outside the development's Queens Parade service road frontage must be constructed in bluestone; and
(g) all redundant property drains must be removed.

48. Unless with the prior written consent of the Responsible Authority, all development referenced in condition 58 must be completed to the satisfaction of the Responsible Authority prior to occupation of any buildings.

49. The details and requirements of the endorsed Detailed Engineering Documentation must be implemented and complied with to the satisfaction of the Responsible Authority, at the expense of the Permit Holder.

50. Before the development commences, the permit holder must make a one off contribution of $8,960 to the Responsible Authority to be used for new street tree plantings that are required as a result of the development (reinstatement of 2 trees after development plus 2 years tree establishment maintenance). All work will be undertaken by City of Yarra contractors.

Green Travel Plan

51. Before the occupation of the development, 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 residential lobby;
    (c) employee / resident 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.

52. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction

53. 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) a lighting plan which must include:
    (i) details if any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority;
    (ii) confirmation that existing public lighting would only be disconnected once temporary alternative lighting scheme becomes operational;
    (iii) confirmation that the temporary lighting scheme will remain operational until a permanent lighting scheme is reinstated.
(i) 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;
(j) the construction program;
(k) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
(l) parking facilities for construction workers;
(m) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
(n) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
(o) 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;
(p) 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;
(q) 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. 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; and
    (v) other relevant considerations.

54. During the construction:
    (a) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
    (b) 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;
    (c) vehicle borne material must not accumulate on the roads abutting the land;
    (d) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
    (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

55. Before the buildings are 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.

56. Any service poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the Permit Holder's expense, with approval from the relevant authorities and to the satisfaction of the Responsible Authority.

57. 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 Permit holder's expense.

58. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the footpaths along the Gough and Cremorne Street frontages of the site must be reconstructed:
    (a) at the permit holder's cost; and
    (b) to the satisfaction of the Responsible Authority.
    The cross-fall of the reconstructed footpaths must be no steeper than 1 in 40.

59. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the road pavements outside the site must be profiled and re-sheeted:
    (a) at the permit holder's cost; and
    (b) to the satisfaction of the Responsible Authority.
    The cross-fall of the reconstructed footpaths must be no steeper than 1 in 40. Any isolated areas of pavement failure will require full depth road pavement reconstruction.

60. 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.

61. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossings 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.

62. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

63. Pit lids and levels are to be readjusted to match the surface of the footpath, to the satisfaction of the Responsible Authority.

64. No parking restriction signs are to be removed, adjusted, changed or relocated without approval or authorisation from the Responsible Authority.

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

Public lighting plan

66. Prior to the commencement of the development, a public lighting plan must be submitted to and approved by the Responsible Authority. When approved, the public lighting plan will be endorsed and will form part of this permit. The public lighting plan must:
    (a) confirm that all primary 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) confirm that any new poles and luminaries required for the development will be sourced from CitiPower/Jemena standard energy efficient luminaires list and comply with relevant CitiPower/Jemena technical requirements;
    (c) confirm that light spillage into the windows of any existing and proposed residences will be avoided or minimised and must comply with the requirements of Australian Standard AS 4282 – 1997 Control of the obtrusive effects of outdoor lighting;
    (d) confirm that the locations of any new light poles will not obstruct vehicular access into private property;
    (e) include a commitment that the Permit Holder will ensure (by contacting relevant power authority) that the existing or proposed power supply conforms to "No Go Zone" requirements from the relevant power authority;
    (f) confirm that the supply and installation of any additional or upgraded lighting, electrical hardware and poles will be funded by the Permit Holder.

67. The provisions, recommendations and requirements of the endorsed public lighting plan must be implemented and complied with to the satisfaction of the Responsible Authority.

VicRoads conditions

68.

Melbourne Water conditions

69.

PTV Conditions

70.

Expiry

71. This permit will expire if one of the following circumstances applies:
    (a) the development is not started within 2 years of the issued date of this permit;
    (b) the development is not completed within 4 years of the issued date of this permit;
    (c) the uses are not commenced within 5 years from the date of this permit.
    In accordance with Section 69 of the *Planning and Environment Act* 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

NOTES:

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

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

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

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

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

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

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 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.

Any changes to on-street parking conditions will need separate approval from Council's Parking Services Unit (9205 5299).

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and metres. No private pits, valves or metres on Council property will be accepted.

CONTACT OFFICER: **Sarah Thomas**
TITLE: **Principal Planner**
TEL: **92055046**

Attachments

1 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application
2 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans
3 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - External urban design review of subsituted plans
4 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North (Main & Rear) - Engineering comments on substituted plans
5 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - ESD Advice on substituted plans
6 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - ESD Memo2 - 26-56 Queens Parade
7 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Heritage review of subsituted plans
8 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Services Contracts Unit advice on substituted plans
9 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Open spaceadvice on substituted plans
10 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - PLN16-0434 (July Amendment) - Strategic Transport Advice on substituted plans

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

CITY OF YARRA
25 JUL 2017
RECEIVED - CRU

PLANNING & PROPERTY **PARTNERS**
LAWYERS & CONSULTANTS

Planning & Property Partners Pty Ltd
ABN 63 343 015 948
Duckboard House
Level 2, 91-93 Flinders Lane
Melbourne VIC 3000

Telephone: +61 3 8626 9000
Facsimile: +61 3 8626 9001
admin@pppartners.com.au

24 July 2017

To the addressee

Dear Sir/Madam,

26-56 QUEENS PARADE, NORTH FITZROY
VCAT REFERENCE NO. P2079/2016

We act for Gurner 26-56 Queens Parade Pty Ltd, Permit Applicant/Applicant for Review.

In accordance with the Tribunal's Order dated 6 April 2017, we **enclose** the following by way of service:

i. PNPE9 Form A - Notice of an Amendment of an Application;
ii. Blank Statement of Grounds form; and
iii. Amended Plans prepared by Cox Architects.

Yours faithfully

Mark Naughton
Planning & Property Partners Pty Ltd

Encl

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

VCAT victorian civil & administrative tribunal

STATEMENT OF GROUNDS

Use this form to set out your reasons for contesting a planning and environment case at VCAT.
These written reasons are called your statement of grounds.

CASE DETAILS

Date that statement of grounds must be received by VCAT This is on the notice you received or the sign at the site.	18 AUGUST 2017
VCAT reference number	P2079/2016
Site address	26-56 Queens Parade, North Fitzroy

YOUR DETAILS

Name (objector, authority, company, other)	
Contact person if different to above	
Telephone/Mobile	

Give us an email and another address for serving documents
We email copies of orders, including the final decision, if you are a party. We do not send a printed copy as well.
If you do not give us an email, printed orders may arrive after the decision is published and after other parties get it by email.
If you give us your email address, it will be available on VCAT's records. These may be inspected by other parties and media.
We do not accept any responsibility for emails not received due to changes in address, firewall or other security measures attached to your email account.

Email	
Other address (this must be in Victoria)	

YOUR PARTICIPATION IN HEARINGS

☐ I intend to appear and present a submission at the hearing. **Fees apply.**

☐ I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds. **No fee applies.**

If you choose this, **you will not be a party** to the proceeding. VCAT considers your statement of grounds in any contested hearing but will not send you further correspondence.

FEES

Fees apply if you intend to appear or present a submission at the hearing. If you do not pay the fee at the time of lodging this form, you will not be a party and will not be entitled to take part, even if you indicated that you wanted to participate. For information about fees and fee relief, visit www.vcat.vic.gov.au.
You do not have to pay a fee if you are a permit applicant or holder, the determining or recommending referral authority, a person responding to an enforcement order application, or an applicant for a works authority or licence.

PRESENTING AT THE HEARING

If you intend to present at the hearing, tell us:

Time required to present your complete case at the hearing (submissions plus witnesses)	
Number of expert witnesses I intend to call (if any)	
Witness area/s of expertise	

For information about witnesses and evidence, visit **vcat.vic.gov.au** and see Practice Note PNVCAT2 – Expert Evidence.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

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WHO IS MAKING THIS STATEMENT?

This statement of grounds is lodged by or on behalf of:

Objector/s

- ☐ A person who objected to the original application to the council
- ☐ A person who did not object to the original application to the council but now wants to object
- ☐ A person responding to an application to amend plans or make other changes to an existing application
- ☐ A person responding to a notice by a permit holder to amend a permit

Permit applicant or permit holder

- ☐ A permit applicant responding to an objector's application for review
- ☐ A permit holder responding to a non-permit holder's application to amend or cancel a permit

Referral authority

- ☐ Determining referral authority
- ☐ Recommending referral authority

Enforcement orders

- ☐ A person responding to an application for an enforcement order

Environment applications

- ☐ Objector/s to a works approval application made to the Environment Protection Authority
- ☐ A works approval applicant
- ☐ An objector to an application made for a licence to take or use water or for works under the *Water Act* 1989
- ☐ An applicant for a licence to take and use water
- ☐ An applicant for a works licence or licence for underground disposal using a bore

Other

- ☐ Specify _____

JOINT STATEMENT OF GROUNDS

Complete this section if you are a spokesperson for people lodging a joint statement of grounds.

☐ Attach a list of the names and addresses of all the people you represent, showing whether you have their individual consent.

☐ Be aware you may be asked to provide VCAT with a copy of their written consent.

I certify that I have consent to act as spokesperson for the attached list of people where this is a joint statement of grounds:

☐ Yes ☐ No

We will only communicate with the nominated representative for a joint statement of grounds.

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street Melbourne VIC 3000
GPO Box 5408 Melbourne VIC 3001
Ausdoc DX 210576 Melbourne

Website www.vcat.vic.gov.au
Email vcat-admin@vcat.vic.gov.au

Telephone 9628 9777
Facsimile 9628 9789

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

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YOUR STATEMENT OF GROUNDS

A short summary of my reasons for contesting the VCAT application is

☐ in the box below
☐ attached.

SERVE A COPY

You must serve a copy of your statement of grounds on both the responsible or relevant authority and the applicant by the date that appears in the notice you received and on the sign at the site – the same date on the front of this form. If not, we may not be able to hear your views or consider your objections.

You must certify that you have done so and complete the acknowledgement on this form.

CERTIFICATION

I certify that I have served a copy of this statement of grounds

☐ on _____ (insert date dd/mm/yyyy) on the applicant

☐ on _____ (insert date dd/mm/yyyy) on the respondents (responsible/relevant authority)

ACKNOWLEDGEMENT

I understand and acknowledge that:

- to the best of my knowledge, all information provided in this form is true and correct
- it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act* 1998 to knowingly give false or misleading information to VCAT.

Full name of person completing this statement of grounds form: _____

Date: _____

Victorian Civil and Administrative Tribunal (VCAT)

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Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

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Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

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ABOUT VCAT FEES

VCAT fees are charged according to three levels:

- **corporate fees** for businesses and companies with a turnover of more than $200,000 in the previous financial year, corporate entities and government agencies
- **standard fees** for individuals, not-for-profit organisations, and small businesses and companies with a turnover of less than $200,000 in the previous financial year. Companies must provide a statutory declaration to support this claim
- **concession fees** for people who hold the Australian Government Health Care Card. You must provide a copy of your card with your application.

To find out if you need to pay an application fee and how much it costs, visit the fees page at www.vcat.gov.au

FEE RELIEF

We can reduce or not charge (waive) a VCAT fee in certain circumstances.
Some people are automatically entitled to a full fee waiver. You can also apply for fee relief if paying the fee would cause you financial hardship.
Visit www.vcat.vic.gov.au for more information about fee relief.

Are you applying for fee relief?

☐ No – complete **Fee payment** section
☐ Yes – complete **Fee relief form** and attach it to this application form

FEE PAYMENT

Complete this section unless you are applying for fee relief or no fee is payable.

Choose the fee level:

☐ Standard ☐ Corporate ☐ Concession

Fee amount charged: _____

CARD DETAILS

Cards Accepted: * ☐ VISA ☐ MasterCard

Cardholder Name: * _____

Card Number: * _____

Card Expiry: * _____

Signed: * _____

Date: _____

REMOVE THIS PAGE WHEN SENDING A COPY OF THIS APPLICATION TO OTHER PARTIES

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street Melbourne VIC 3000
GPO Box 5408 Melbourne VIC 3001
Ausdoc DX 210576 Melbourne

Website www.vcat.vic.gov.au
Email vcat-admin@vcat.vic.gov.au

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Attachment 1 - Queens Parade Items 9 August 2017_Part1

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PLANNING AND ENVIRONMENT LIST

NOTICE OF AN AMENDMENT OF AN APPLICATION – PNPE9 FORM A

Subject Land	26-56 Queens Parade, North Fitzroy	**VCAT Ref:** P2079/2016

DATE BY WHICH A STATEMENT OF GROUNDS MUST BE LODGED WITH VCAT	18 AUGUST 2017

- **A proceeding has been lodged with VCAT about this land and allocated the above VCAT reference number. Please quote this number when communicating with VCAT about this matter.**
- **The applicant has applied to amend its application, which is the subject of this proceeding, in the manner set out below.**
- **You may wish to respond to this application for amendment. If so, please read the important information accompanying this notice.**
- **If the proceeding is an application for review concerning a permit application, the permit application, the proposed amendment, relevant plans and supporting material can be inspected at the office of the responsible authority.**
- **If the proceeding is an application for review concerning a works approval or licence, the application for works approval or licence, the proposed amendment and supporting material can be inspected at the office of the EPA or other primary decision maker.**
- **If you have any queries about the amendment, you should contact the Applicant. The Tribunal cannot assist you with this information.**
- **The proposed dates for the hearing of the proceeding and any compulsory conference are set out below.**

NAME OF APPLICANT	Gurner 26-56 Queens Parade Pty Ltd
CONTACT DETAILS FOR APPLICANT **Name of contact person and Telephone or mobile number**	Mark Naughton Planning & Property Partners Pty Ltd 03 8626 9000
NAME OF RESPONSIBLE AUTHORITY OR PRIMARY DECISION-MAKER	Yarra City Council
PERMIT APPLICATION NUMBER	PLN16/0434
BRIEF DESCRIPTION OF PROPOSAL WHICH IS THE SUBJECT OF THIS PROCEEDING	Part demolition and development of the land for the construction of a multi storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), a café, food and drinks premises, shop, use of part of the land (food and drinks premises and café) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alteration of access to a Road Zone.

TYPE OF PROCEEDING

Place X in relevant box. Note that a permit application cannot be amended in a proceeding for review of conditions under section 80 Planning and Environment Act 1987 where a permit has been granted

	Review refusal to grant a permit under section 77 *Planning and Environment Act* 1987

Victorian Civil and Administrative Tribunal (VCAT)
Administrative Division: Planning and Environment List
55 King Street , Melbourne VIC 3000 Website www.vcat.vic.gov.au Telephone 03 9628 9777
GPO Box 5408, Melbourne VIC 3001 Email vcat-admin@justice.vic.gov.au Facsimile 03 9628 9789
Ausdoc DX 210576 Melbourne

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

x	Review failure to grant a permit under section 79 *Planning and Environment Act* 1987
	Review notice of decision to grant permit under section 82 *Planning and Environment Act* 1987
	Amend permit under section 87A *Planning and Environment Act* 1987

NATURE OF PROPOSED AMENDMENT TO THE APPLICATION Full details of the proposed amendment are provided in the accompanying material *Place X in relevant box.*	
x	Amendment to plans
	Amendment to the development proposal
	Amendment of the proposed use or other reason for which a permit is required
	Other – *Please specify briefly*

PROPOSED DATE/S OF HEARING & COMPULSORY CONFERENCE All hearings and compulsory conferences will be held at 55 King Street, Melbourne unless otherwise notified	
Date/s of hearing	4 September 2017 (10 days)
Date of compulsory conference (where relevant)	
Date of practice day hearing (where relevant)	

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

PLANNING AND ENVIRONMENT LIST

INFORMATION ABOUT NOTICE OF AN AMENDMENT OF AN APPLICATION

HOW TO RESPOND IF YOU ARE A PARTY TO THE PROCEEDING

If you are already a party to the proceeding, you may amend your statement of grounds at any time prior to the hearing or you may choose to continue to rely on the statement of grounds you have already lodged with VCAT and do nothing. If you have already paid a fee in respect of your statement of grounds, you do not need to pay a further fee.

If you wish to amend your statement of grounds, you must file a copy of your amended statement of grounds with VCAT and serve a copy on the applicant and the responsible authority or other primary decision-maker.

HOW TO RESPOND IF YOU ARE NOT A PARTY TO THE PROCEEDING

Person wishes to be heard and become party to proceeding
If you are not already a party to the proceeding and you wish to be heard in relation to this application, **by no later than the date specified in the notice** you must:

- Serve a copy of the **Statement of Grounds** on which you intend to rely on the person making this application (the Applicant).
- Serve a copy of the **Statement of Grounds** on the responsible authority or other primary decision-maker.
- Lodge a copy of the **Statement of Grounds** with VCAT, indicating that a copy was served on the applicant and the responsible authority or other primary decision-maker and the date(s) this was done.
- Pay the relevant fee.

If you comply with these requirements, you will become a party to the proceeding.

Person who does not wish to be heard
If you are not already a party to the proceeding and you wish to contest the proceeding but in your statement of grounds state that you do not intend to participate in the hearing of the proceeding, **by no later than the date specified in the notice** you must:

- Serve a copy of the **Statement of Grounds** on which you intend to rely on the person making this application (the Applicant).
- Serve a copy of the **Statement of Grounds** on the responsible authority or other primary decision-maker.
- Lodge a copy of the **Statement of Grounds** with VCAT, indicating that a copy was served on the applicant and the responsible authority or other primary decision-maker and the date(s) this was done.

If you comply with these requirements, the Tribunal will consider your statement of grounds at any contested hearing of the proceeding, but you will not be sent any further correspondence by the Tribunal. You will not be a party to the proceeding. This means that you cannot participate in any compulsory conference or be heard at the hearing unless the Tribunal gives you leave.

Failure to comply with requirements
If there is a fee payable and you do not pay the fee, or if you do not return a statement of grounds by the due date, even if you pay the relevant fee, the Tribunal may still consider your statement of grounds but you will not be a party to the proceeding. This means that you cannot participate in any compulsory conference or be heard at the hearing unless the Tribunal gives you leave. You will not be sent further correspondence by the Tribunal.

If you are not a party and you subsequently wish to be heard,you must file and serve a statement of grounds which states you intend to appear and present a submission at the hearing, and must pay the relevant fee not less than 48 hours before the hearing. You must attend the hearing and seek leave from the Tribunal to be heard. Generally, the Tribunal will consider the views of the applicant and the responsible authority or primary decision-maker before deciding whether to grant leave. However, this does not mean that you will necessarily become a party to the proceeding unless the Tribunal makes an order to join you as a party.

STATEMENT OF GROUNDS:

You should use the attached statement of grounds form. When completing the Statement, you should provide sufficient information so that the issues you intend to raise can be identified clearly. A statement of grounds form is available on the VCAT website.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 1 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT(P2079/2016) - PNPE9 - Notice of an Amendment of an Application

WITHDRAWING YOUR OBJECTION

If you wish to withdraw your statement of grounds at any time, please inform VCAT, the Applicant and the Responsible Authority in writing. You will then be removed from VCAT's record and receive no further correspondence.

COMMUNICATING WITH VCAT

A person who communicates in writing with VCAT must serve a copy of that communication on all other parties at the same time and notify VCAT this has been done. The communication should state a copy was sent to the other parties and list the parties it was sent to. This applies to communications sent by letter, fax or email.

INSPECTING VCAT'S FILE

Any party to the proceeding may inspect a file without a fee; however, other persons must pay a fee. Charges are made for photocopying. To arrange an inspection time, complete the 'File and Document Access Request Form', on the website or by contacting VCAT.

ENQUIRIES

Should you have any further enquiries, please contact VCAT on the numbers below. Please quote VCAT's reference number. Guidelines and information on VCAT's procedures are on VCAT's website at www.vcat.vic.gov.au or available from VCAT on request.

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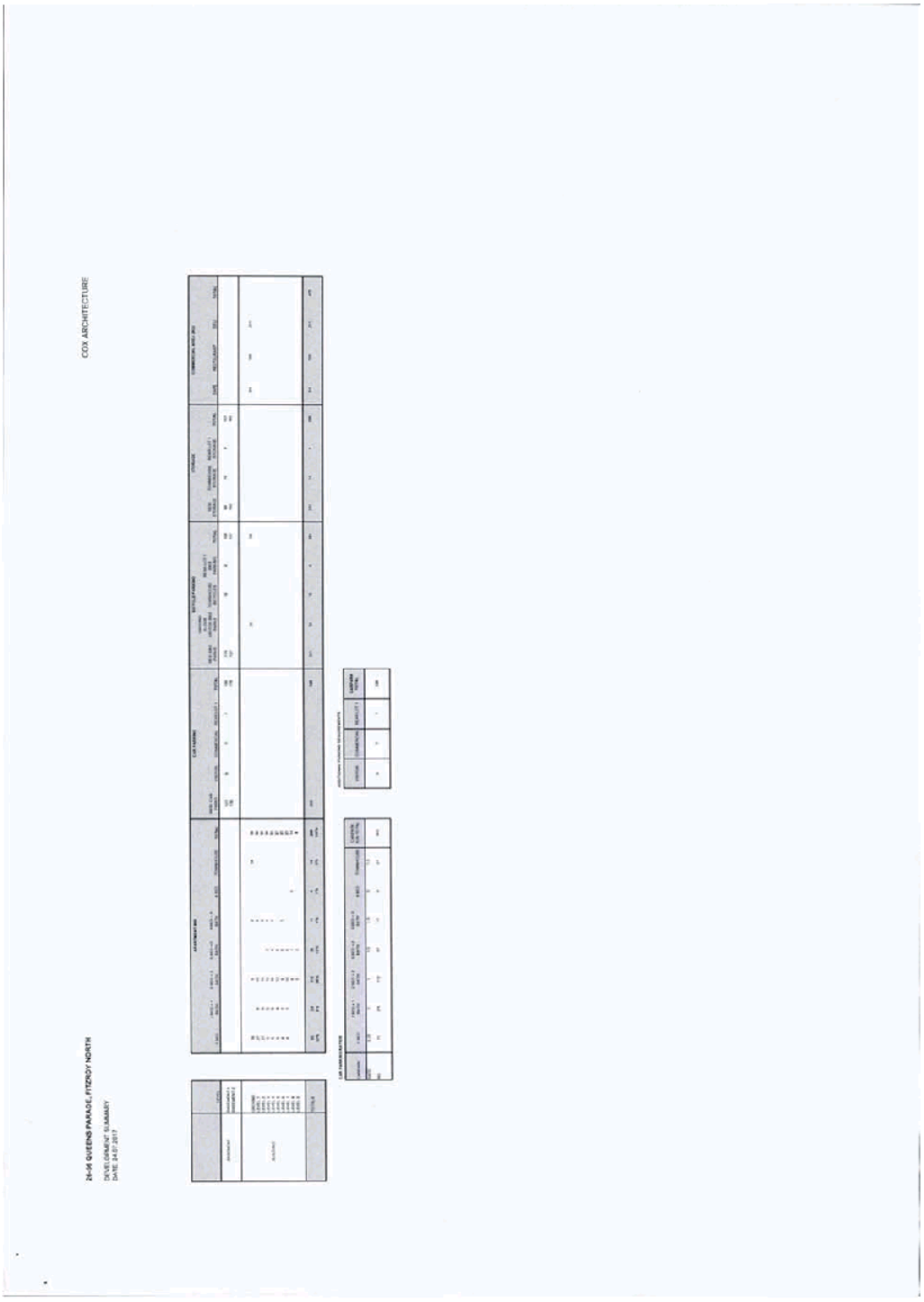

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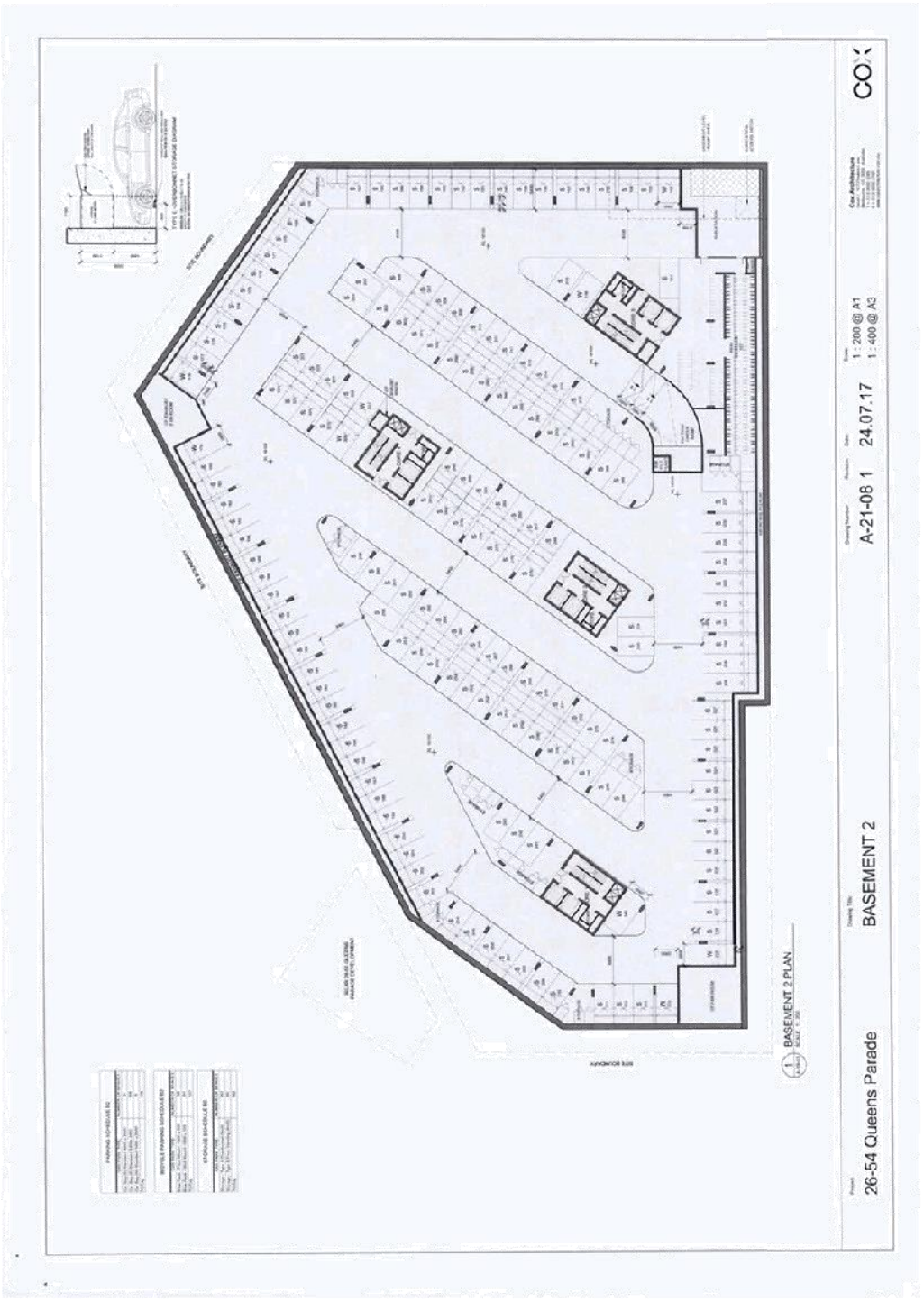

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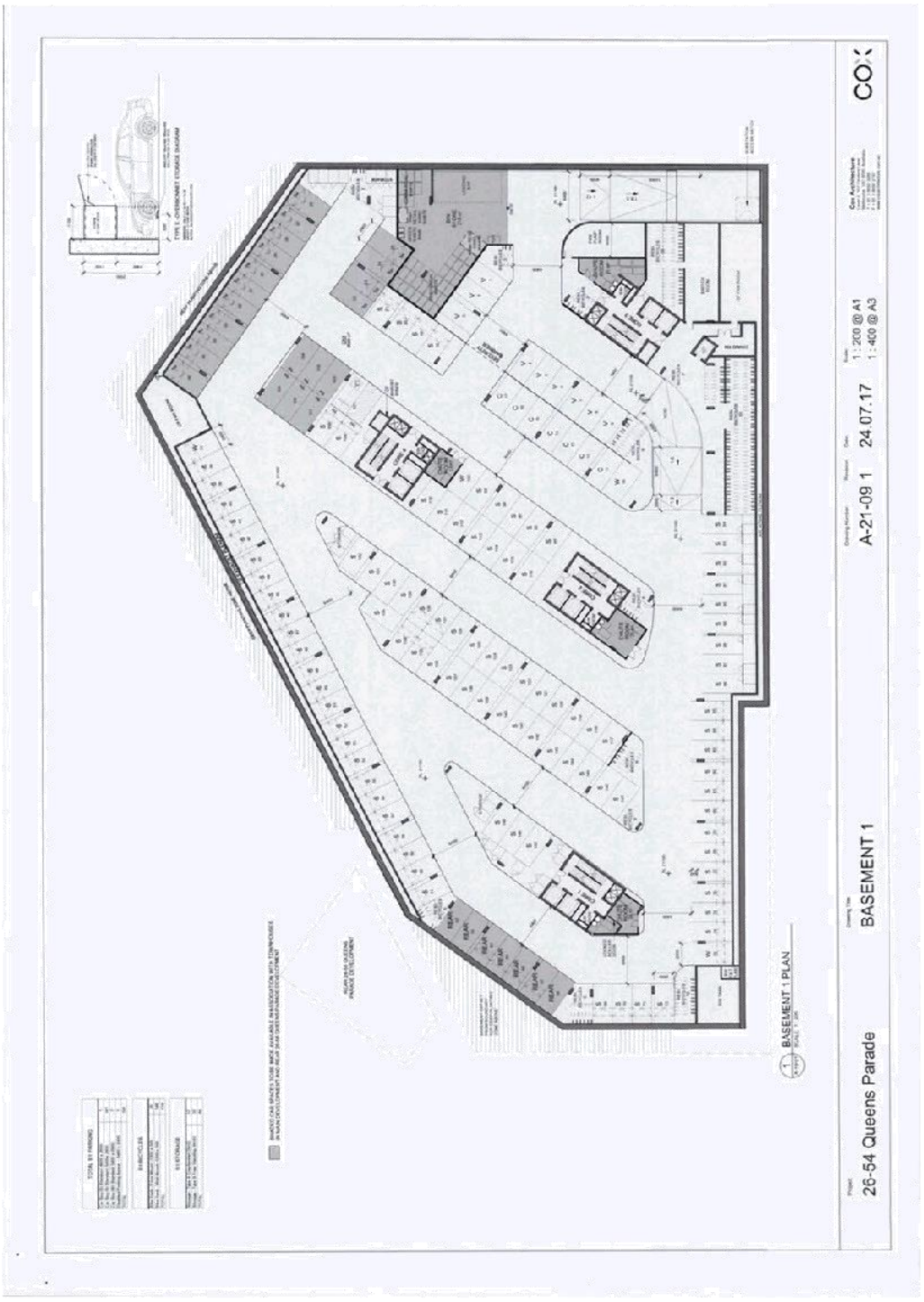

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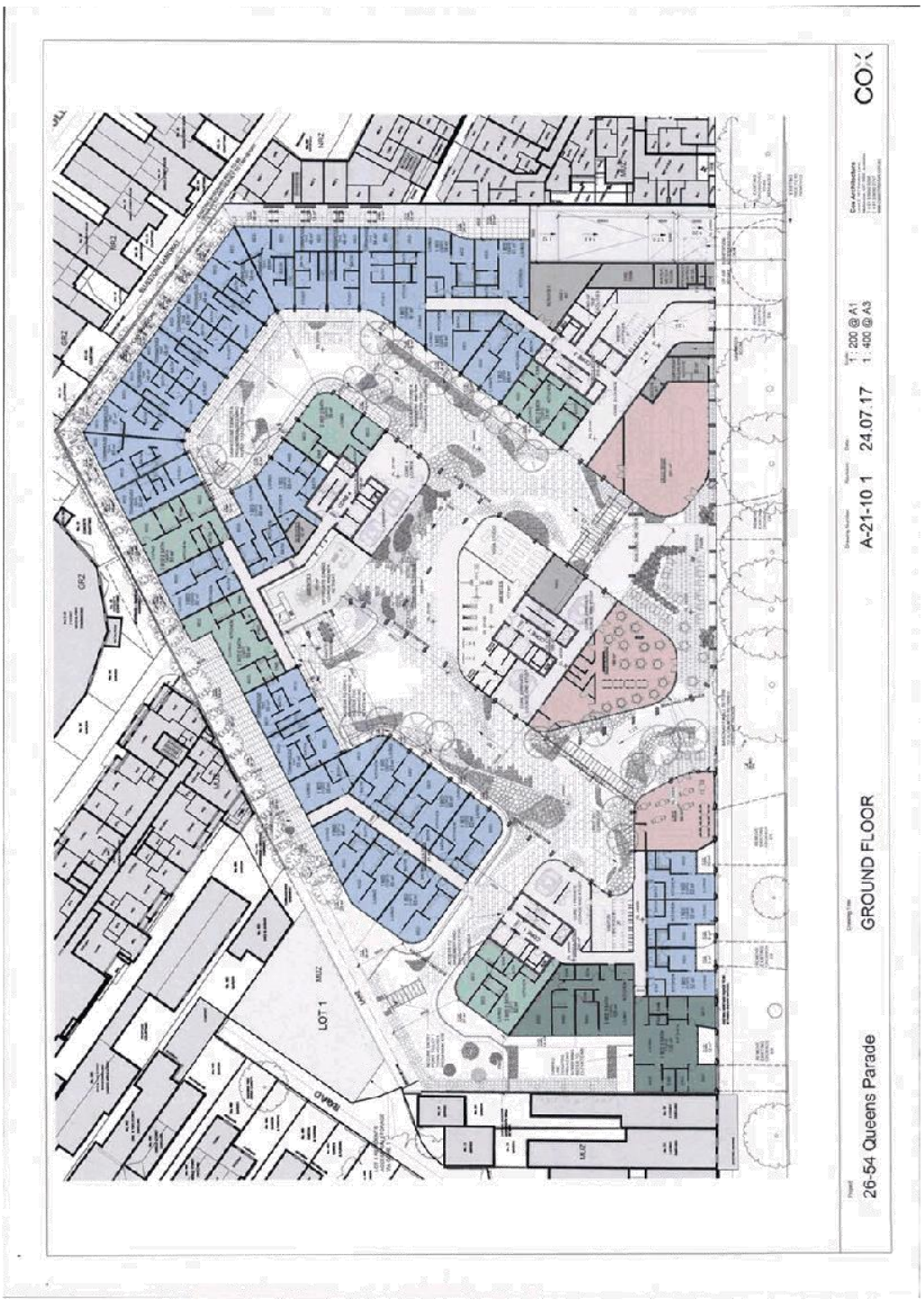

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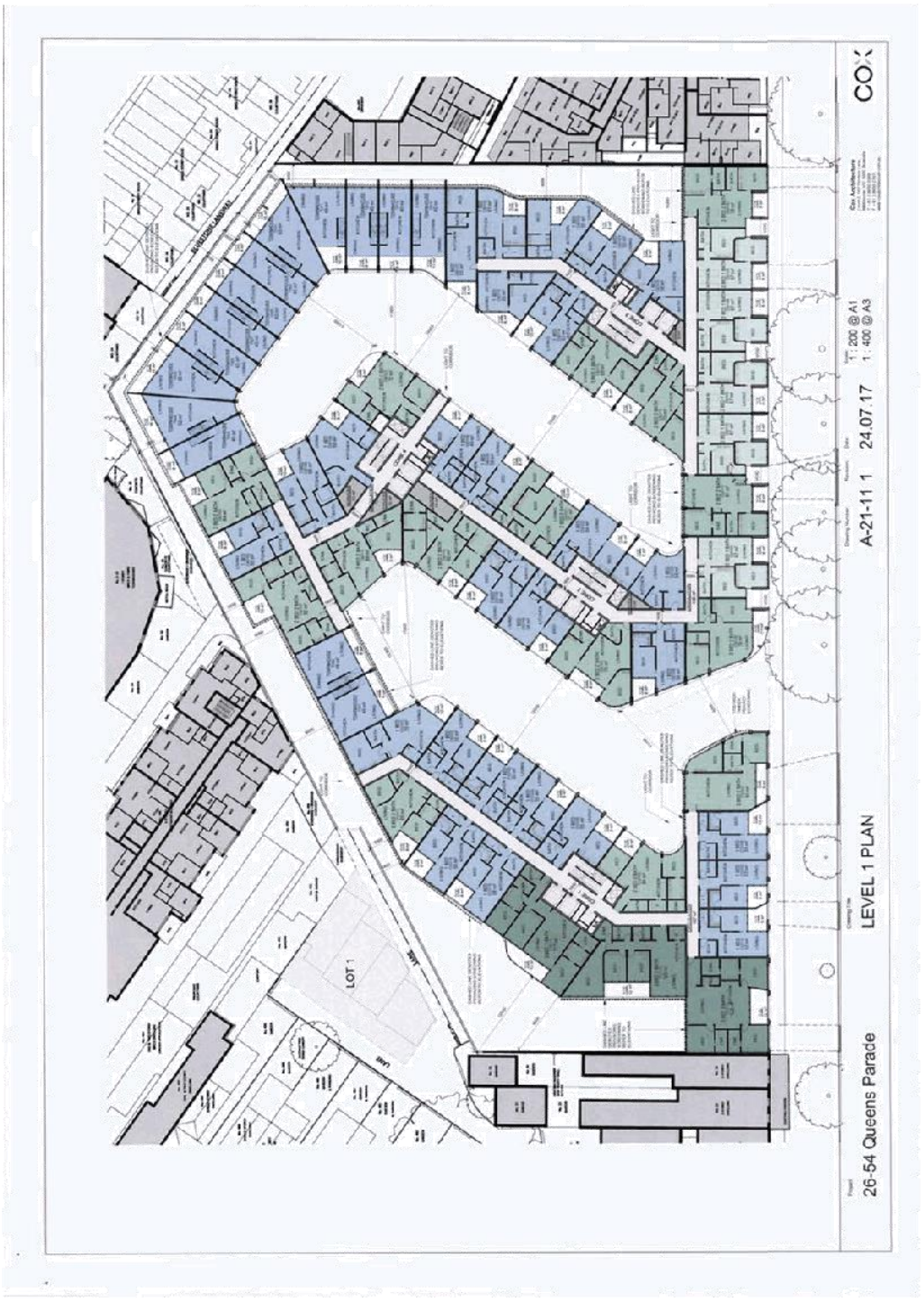

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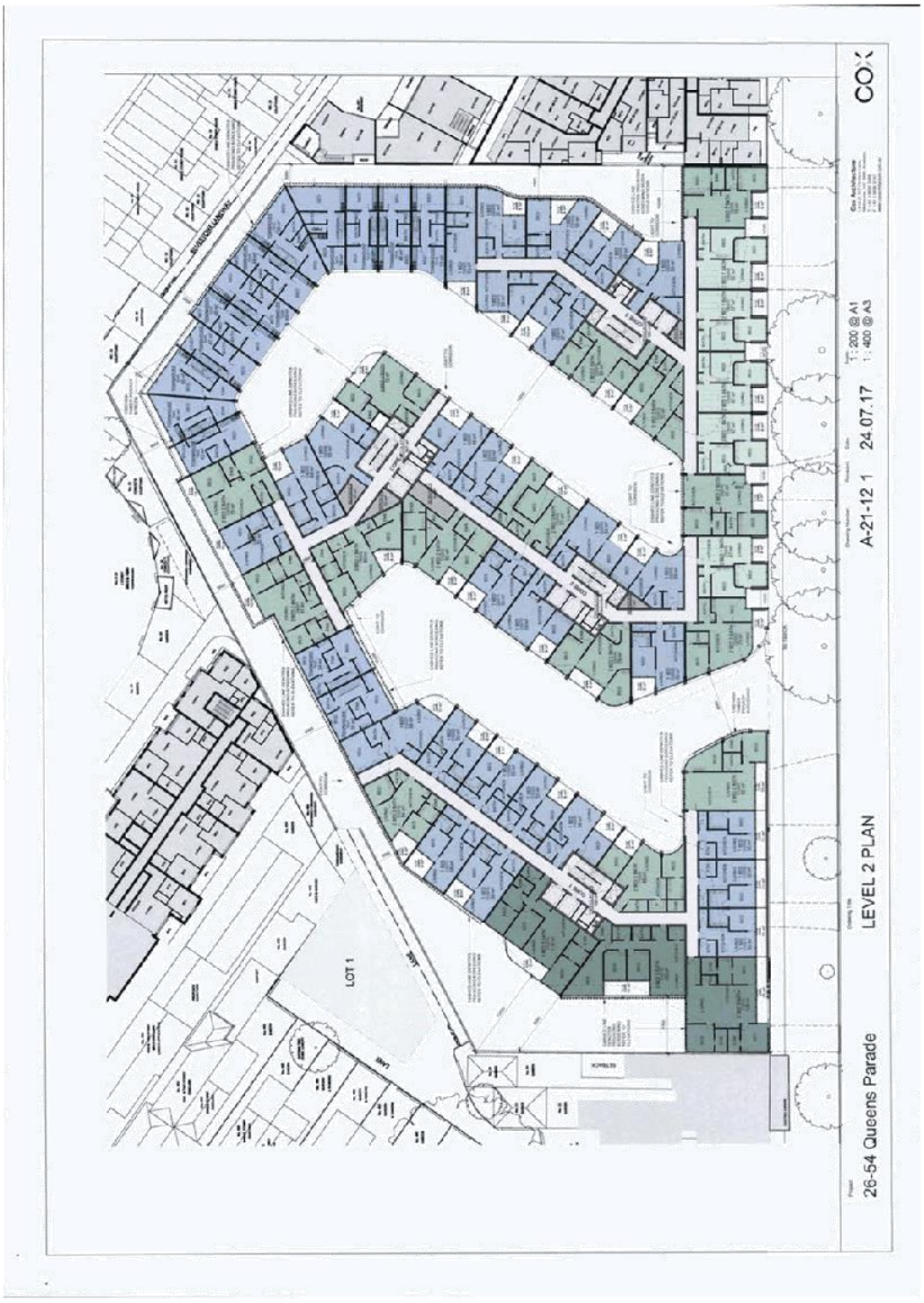

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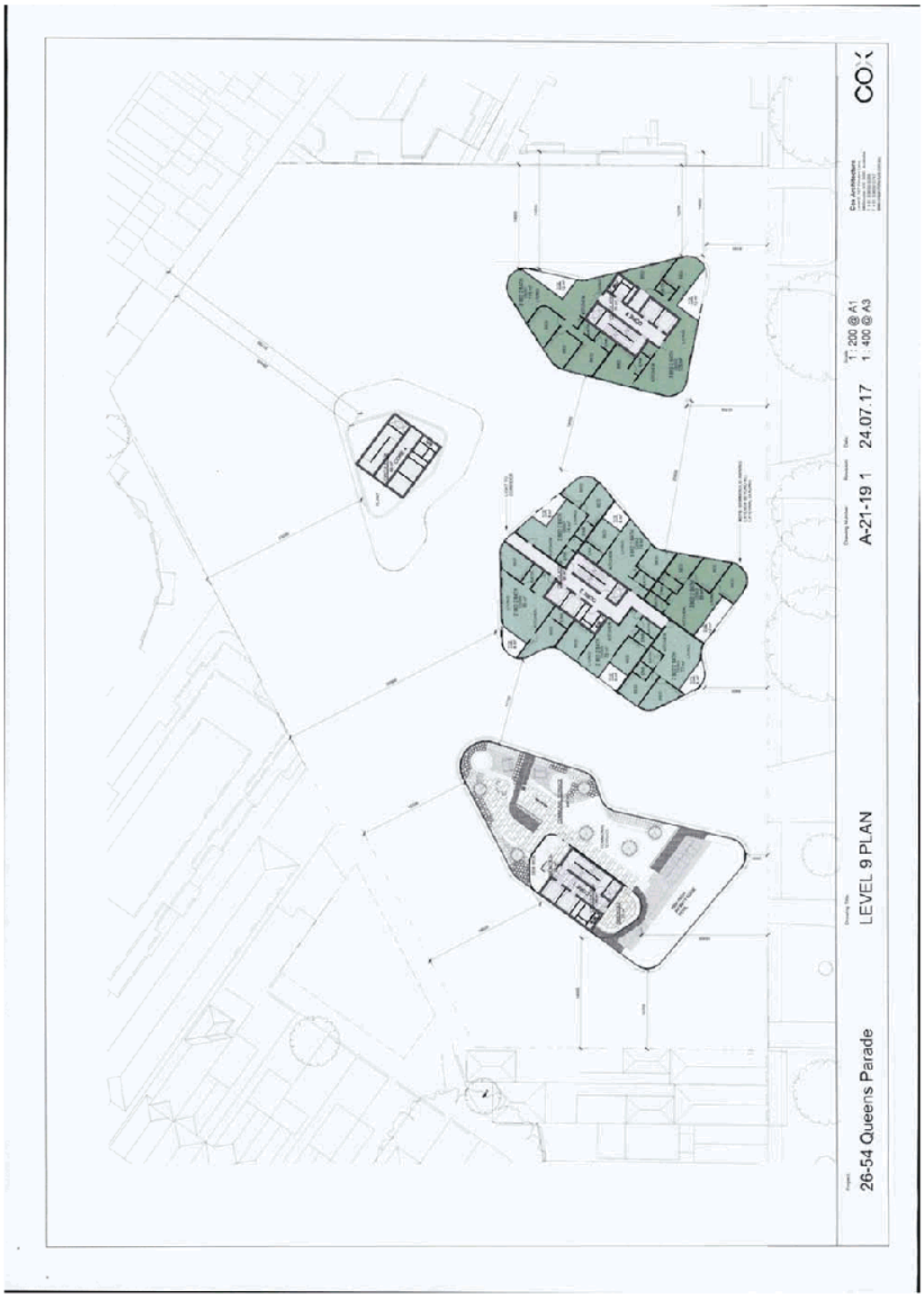

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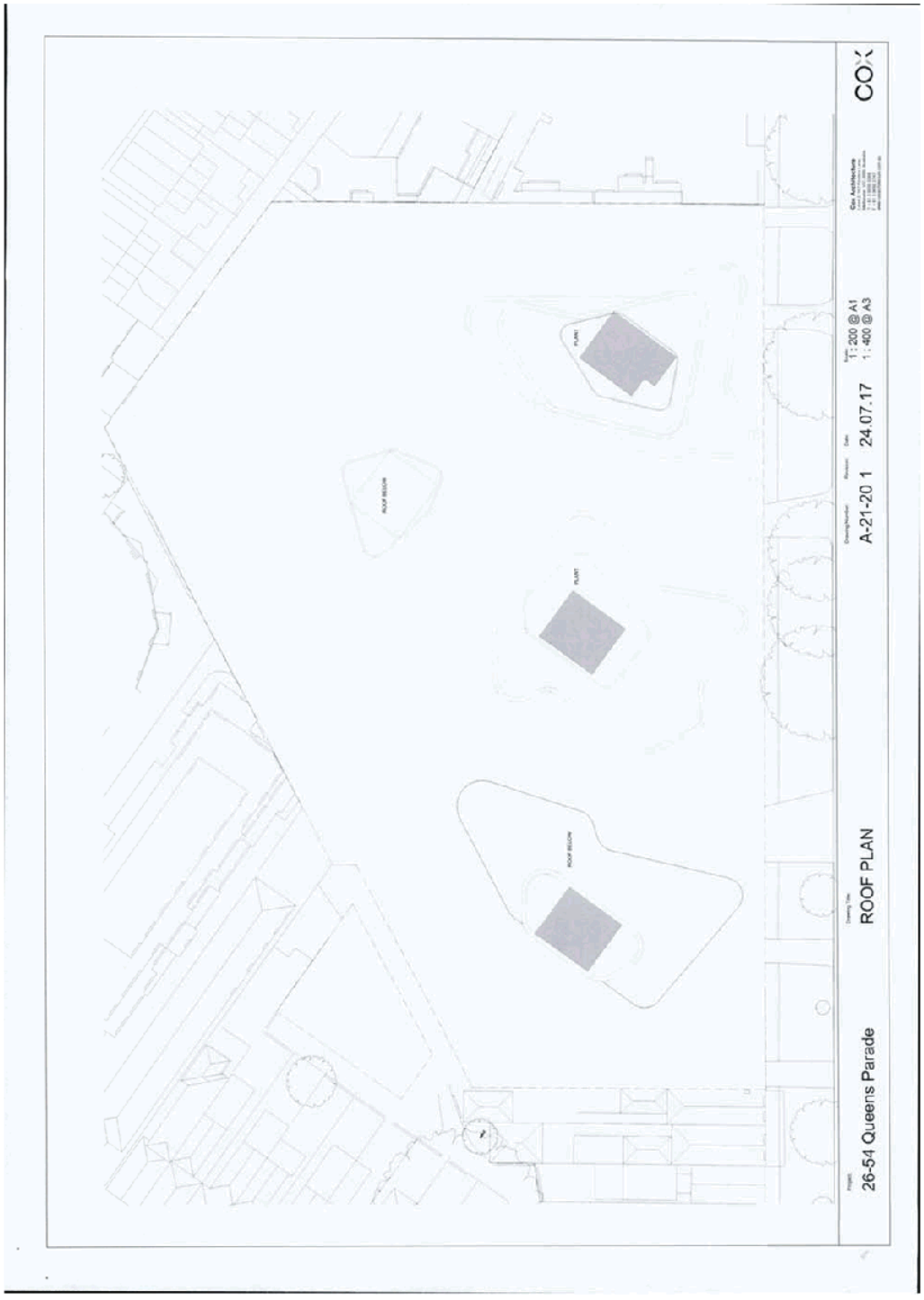

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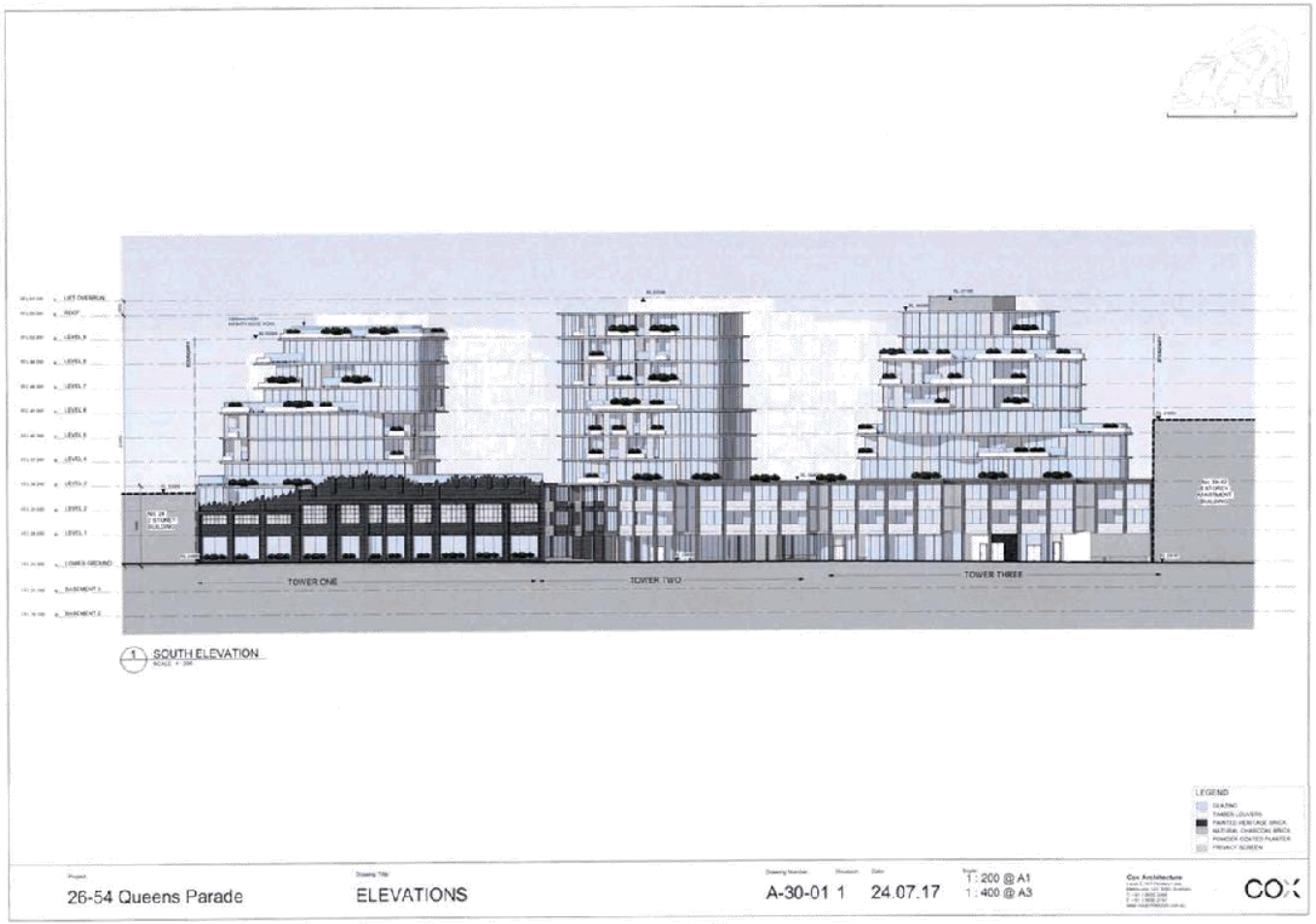

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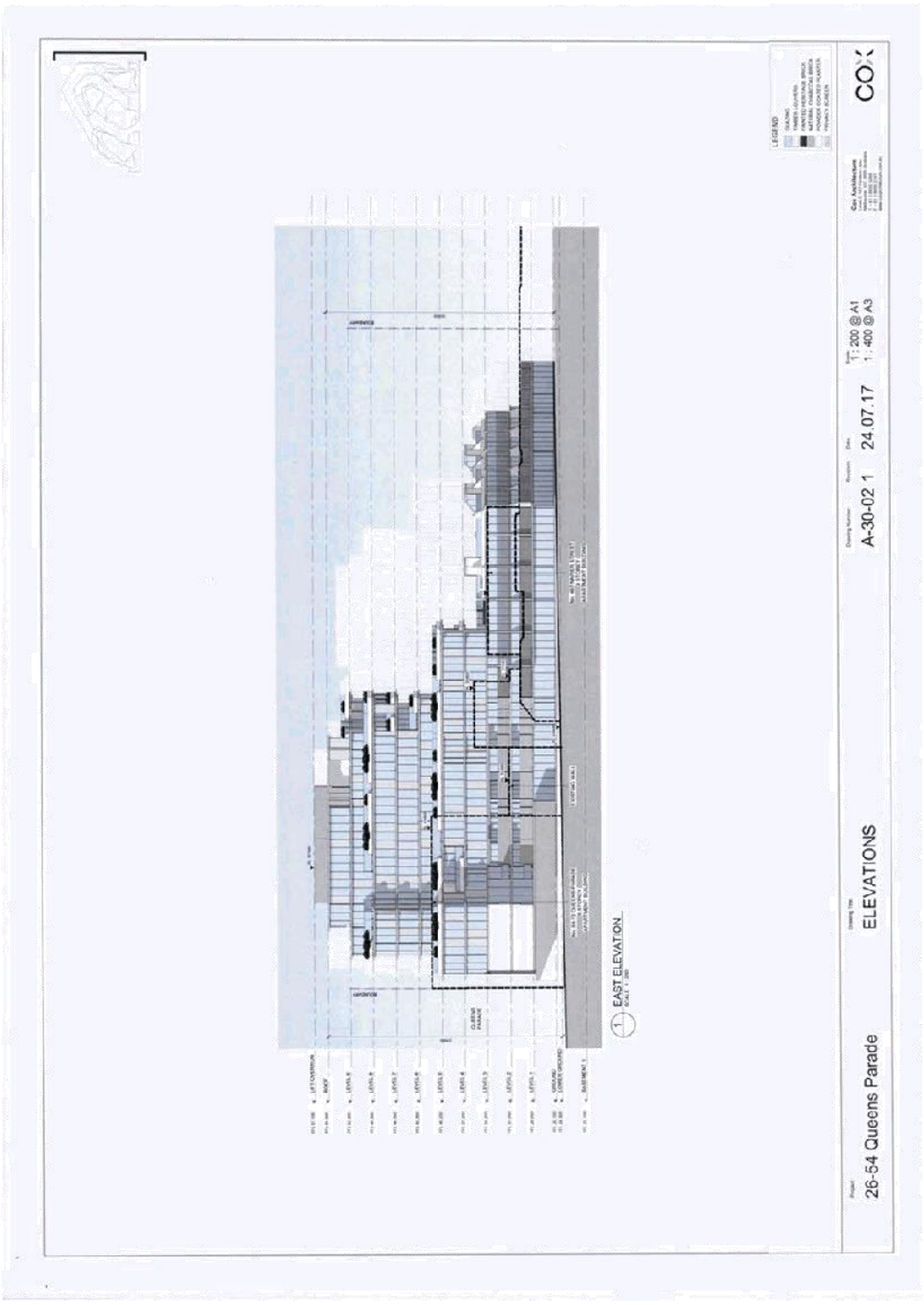

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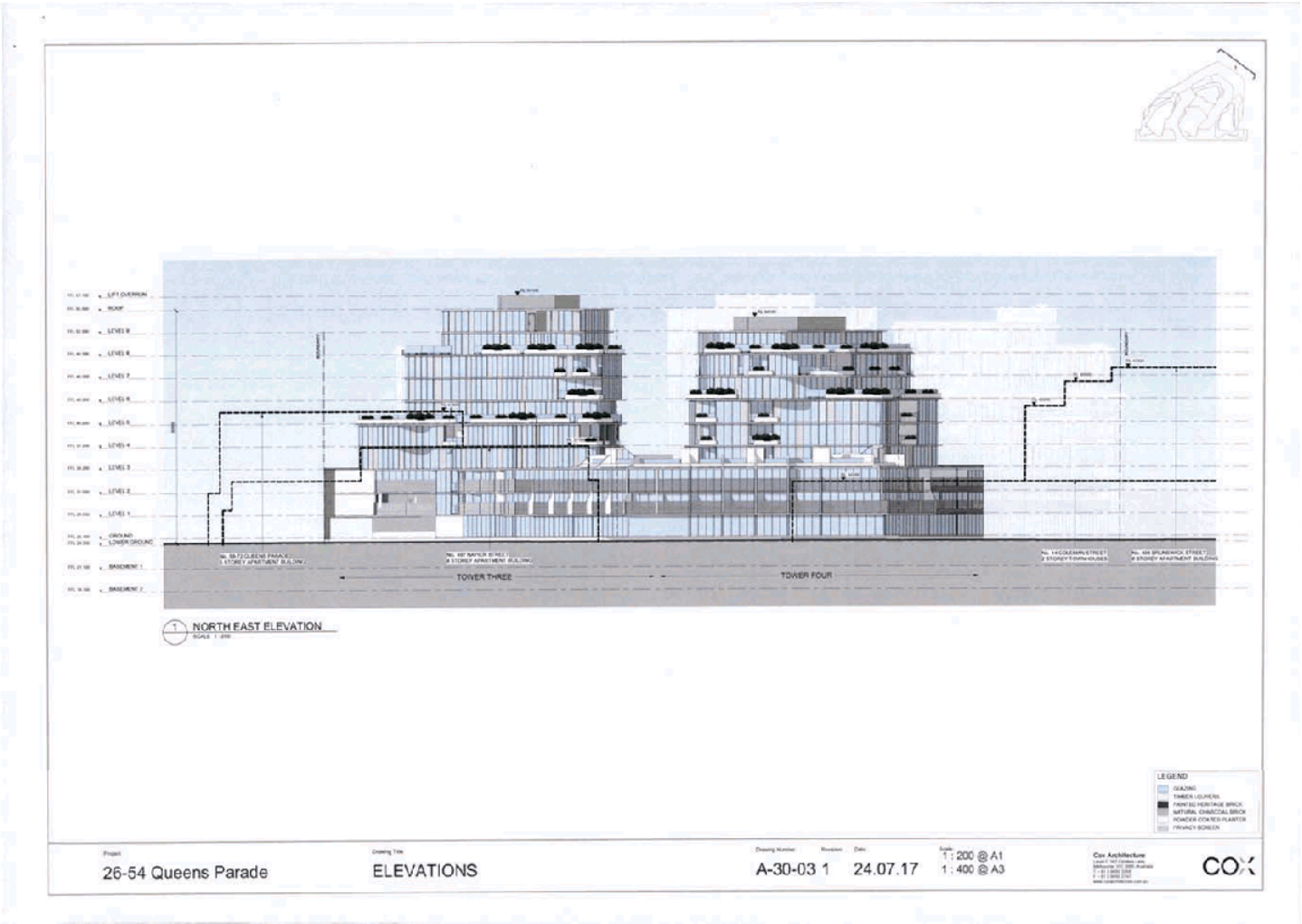
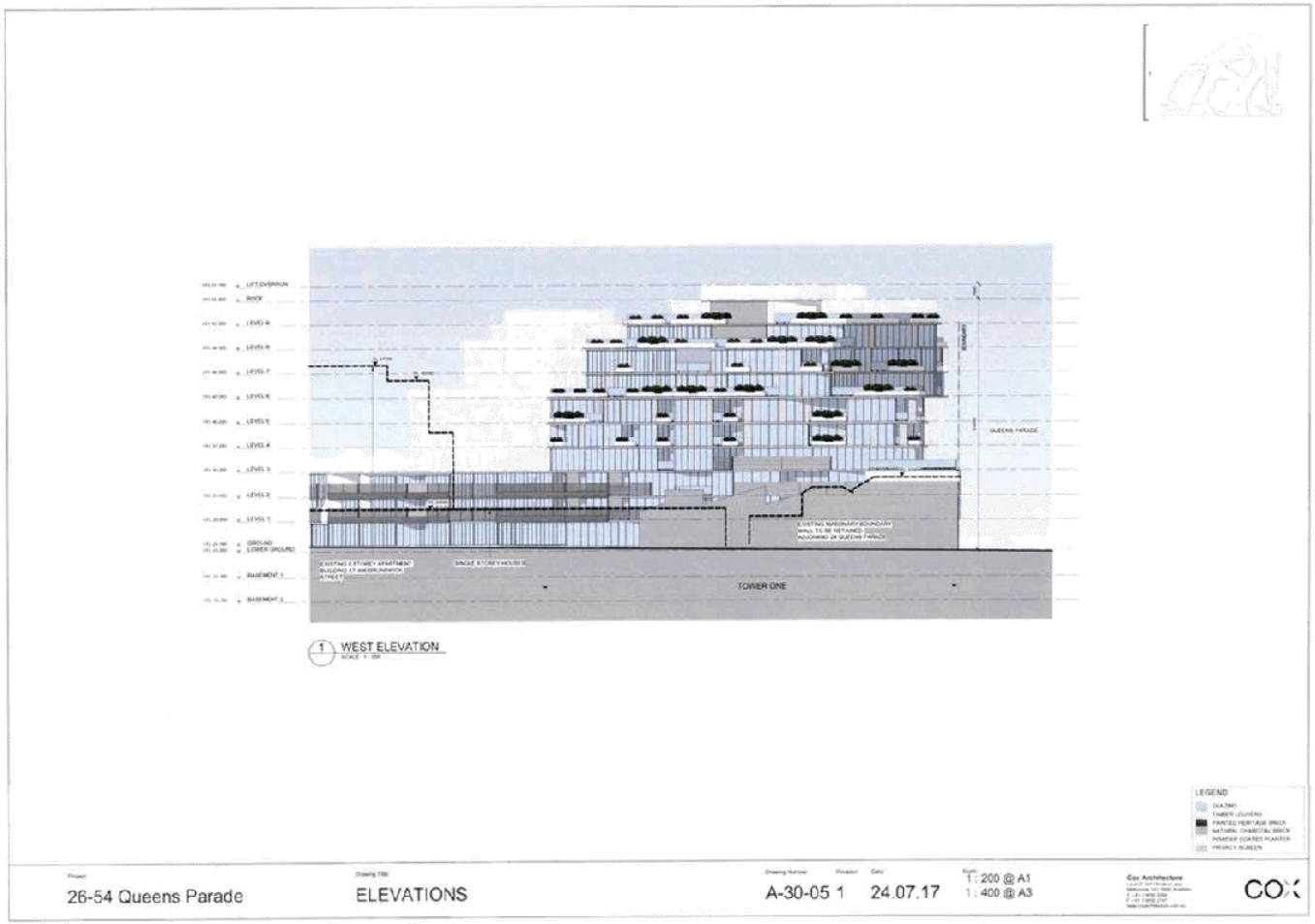
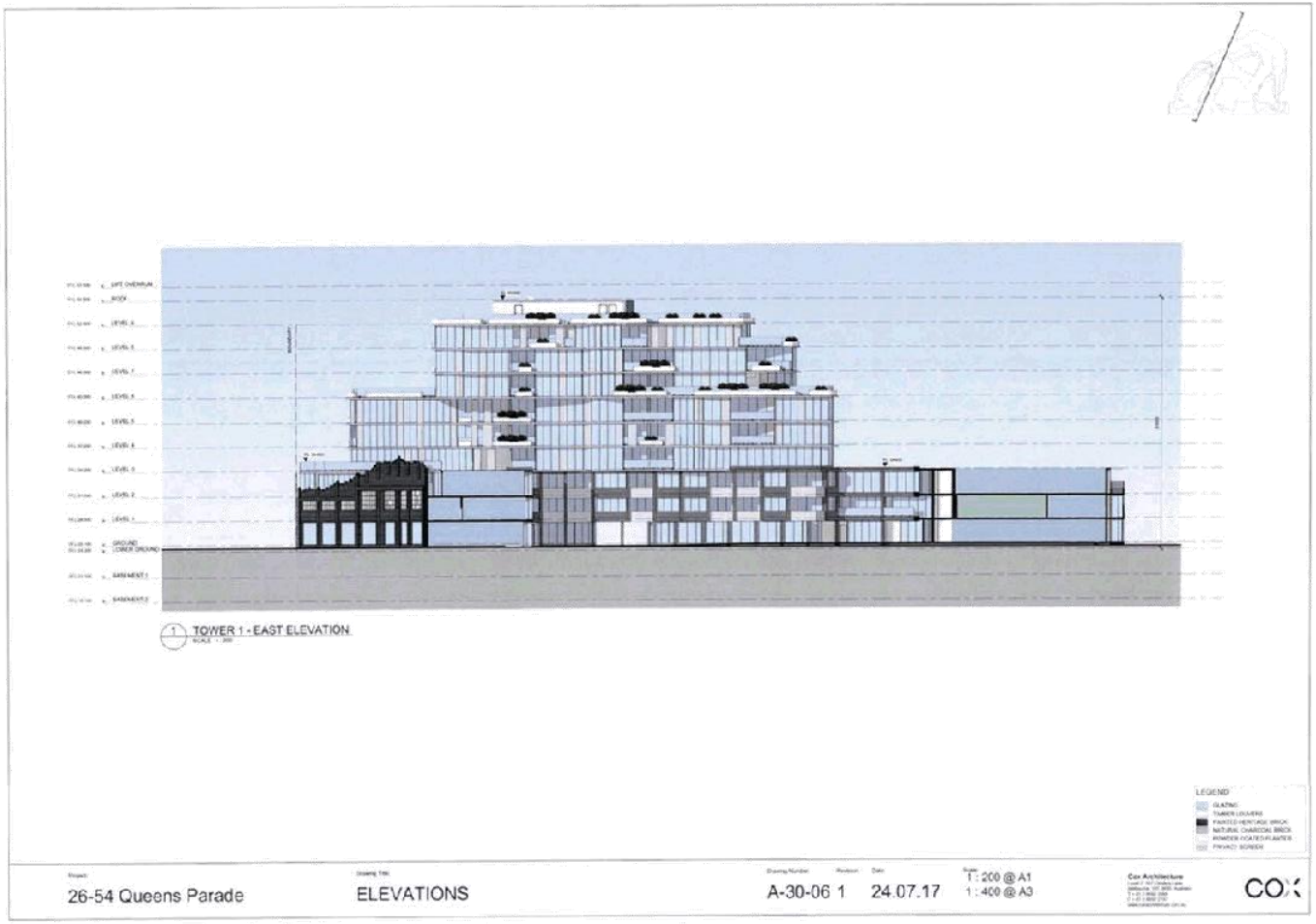


Attachment 1 - Queens Parade Items 9 August 2017_Part1

TOWER FOUR
TOWER ONE
1 NORTH WEST ELEVATION
LEGEND
26-54 Queens Parade
ELEVATIONS
A-30-04 1
24.07.17
1 : 200 @ A1
1 : 400 @ A3
Cox Architecture
COX



Yarra City Council – Internal Development Approvals Committee Agenda – Wednesday 28 March 2018



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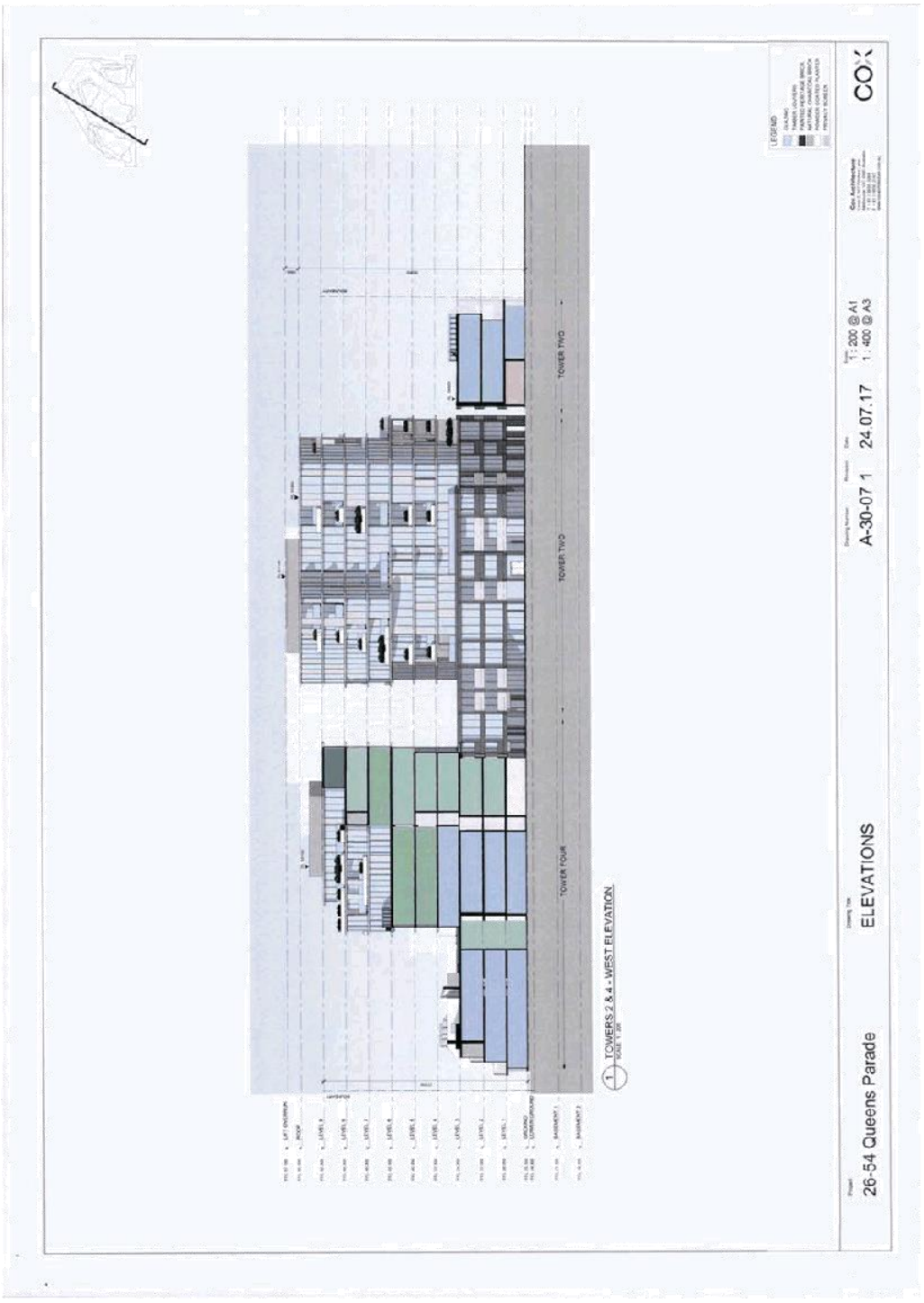

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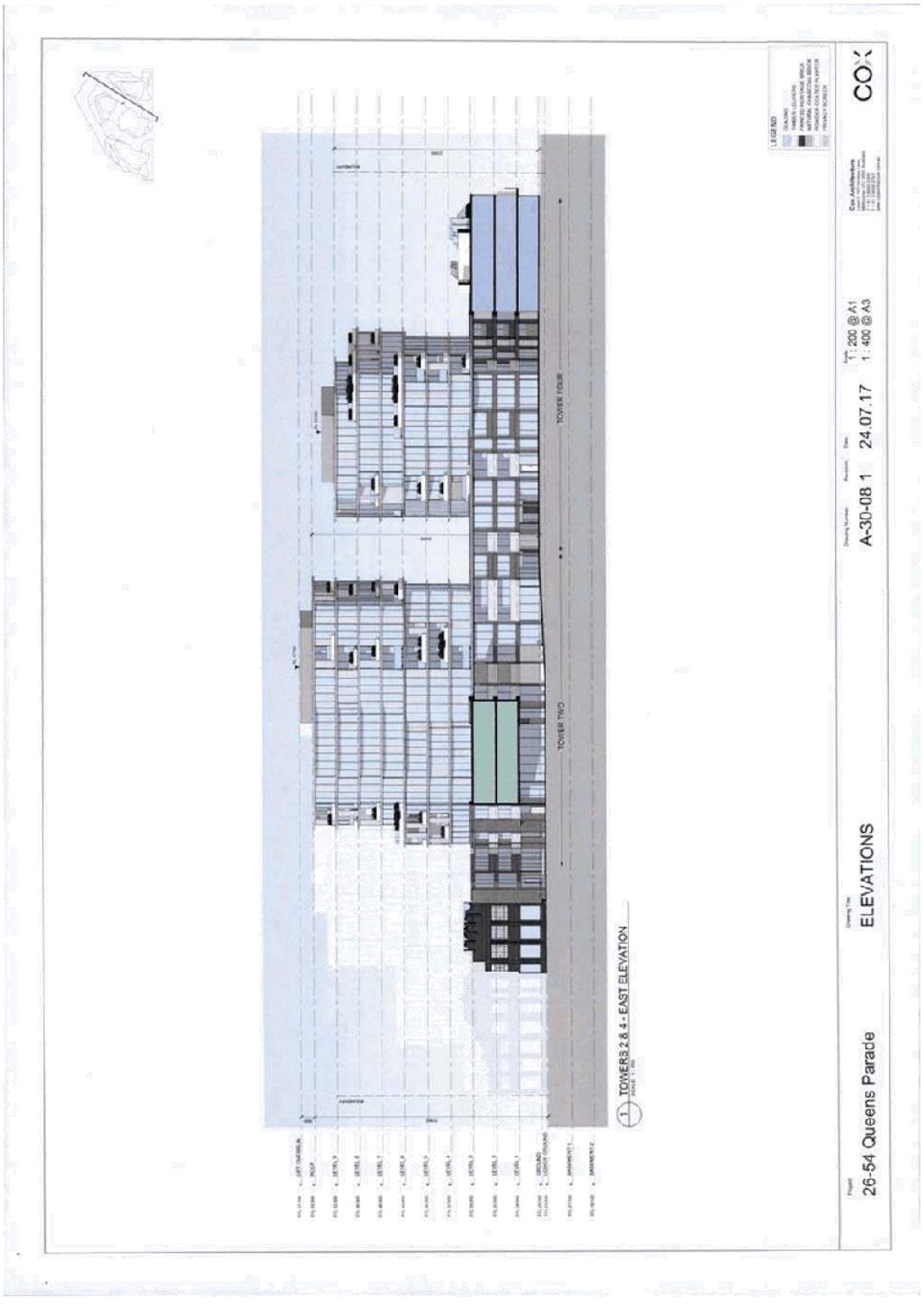

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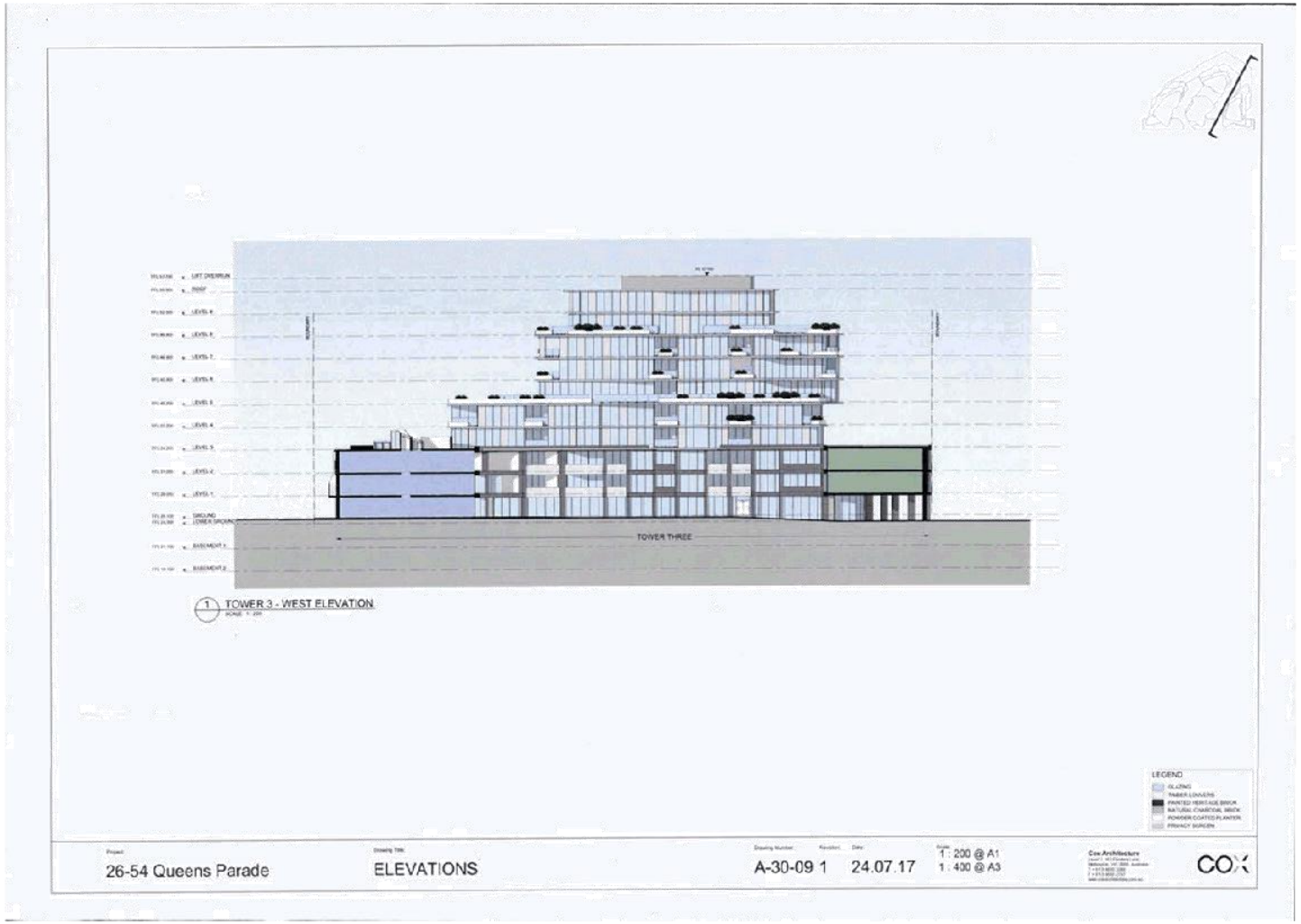

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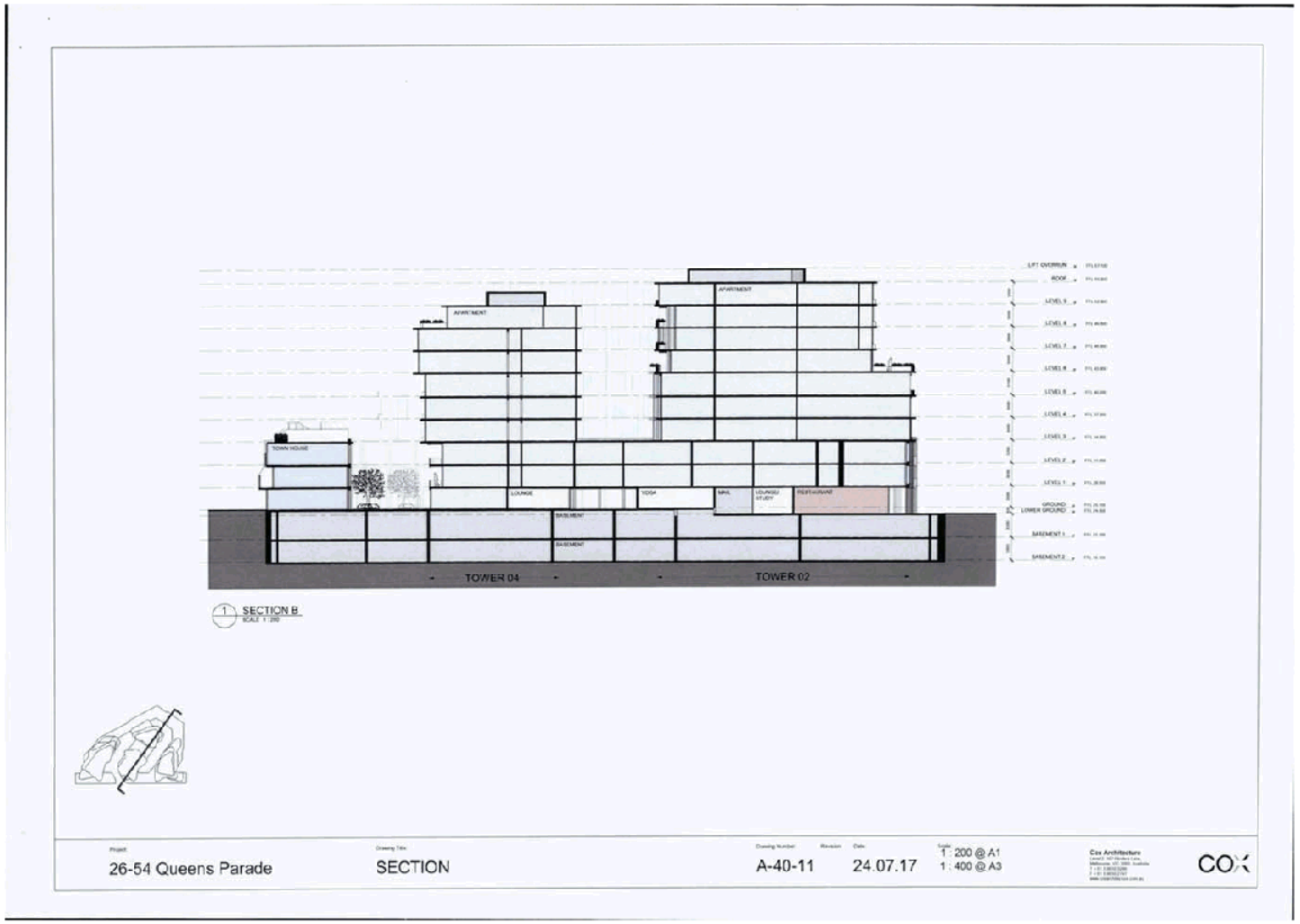

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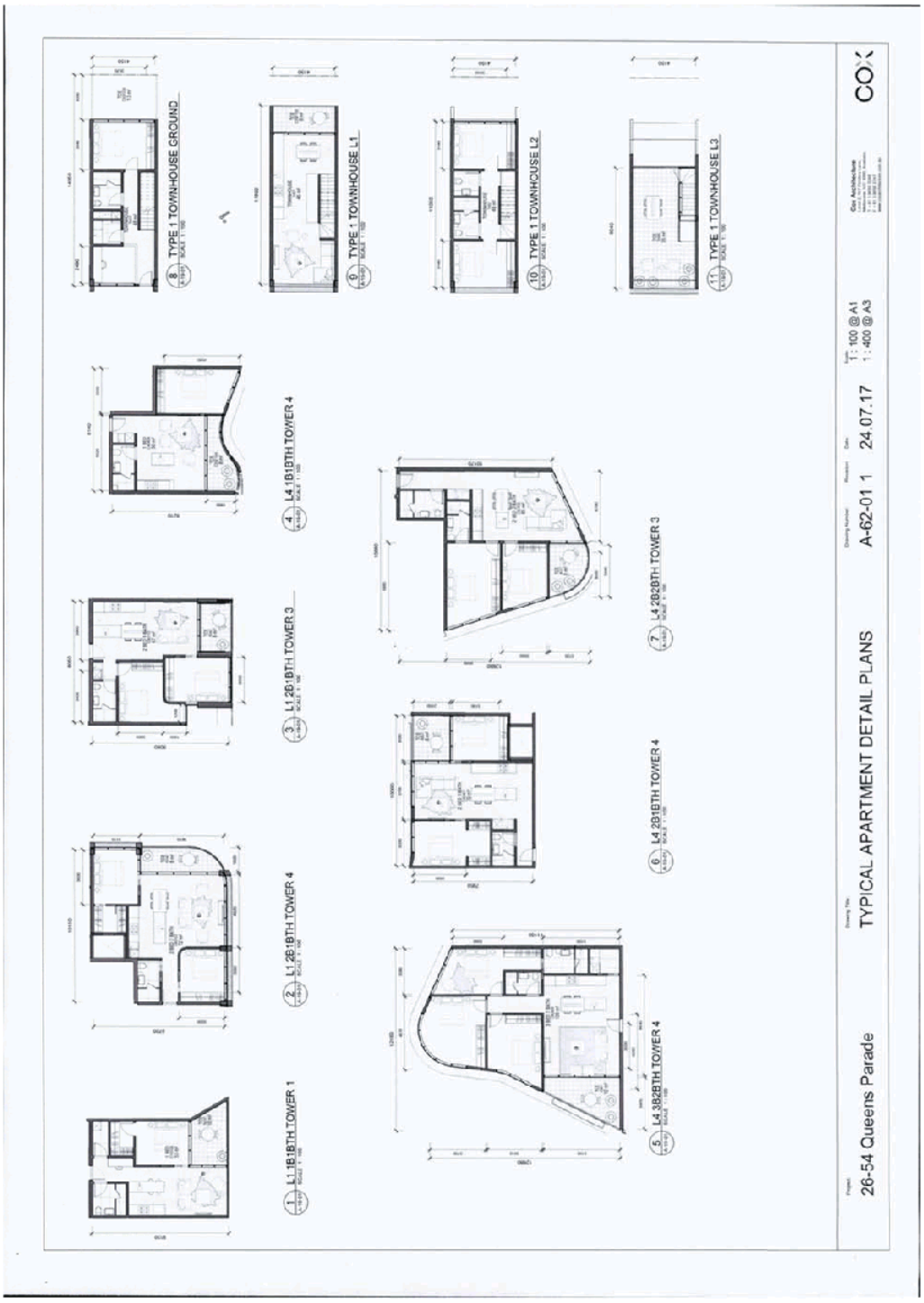

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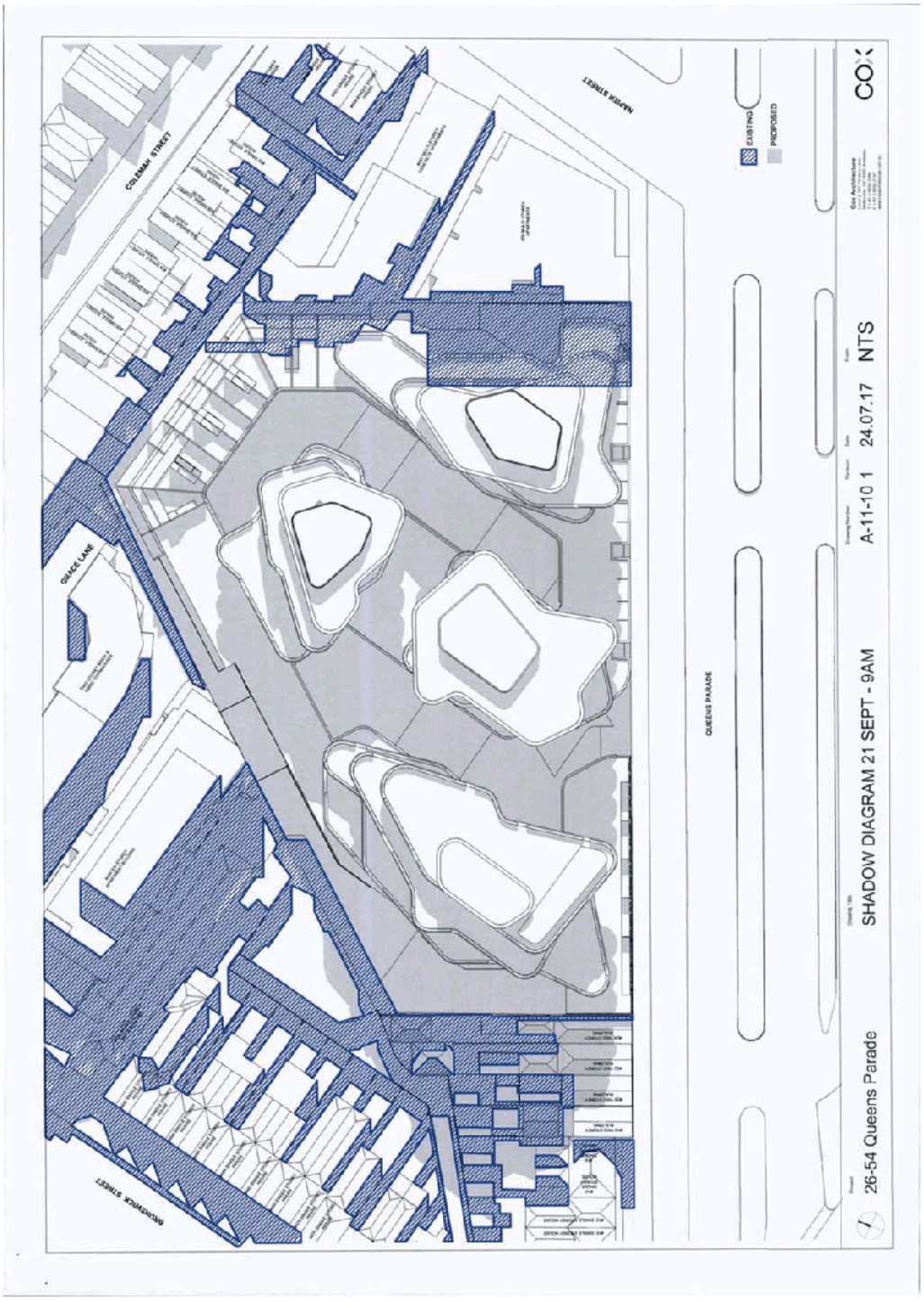

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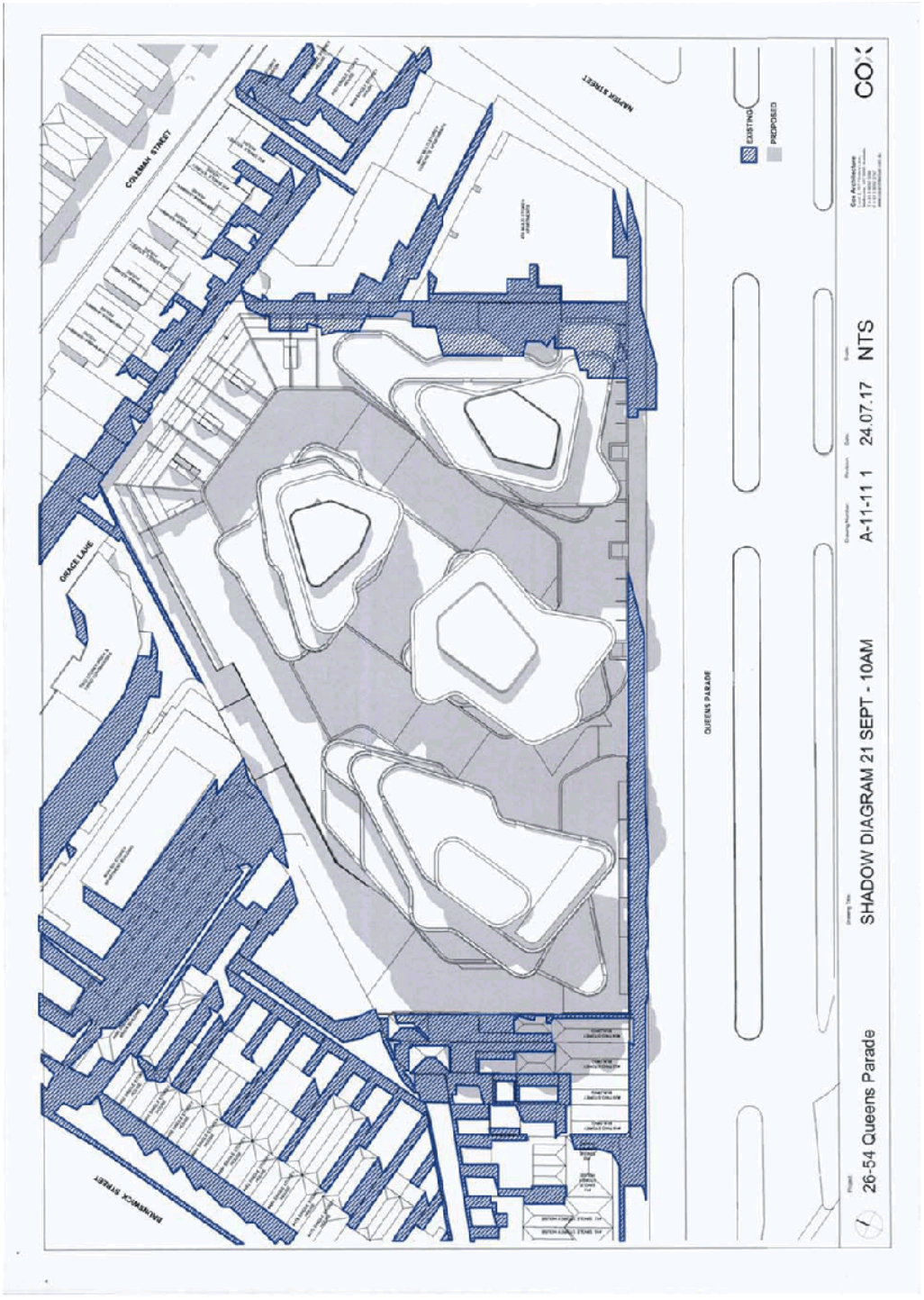

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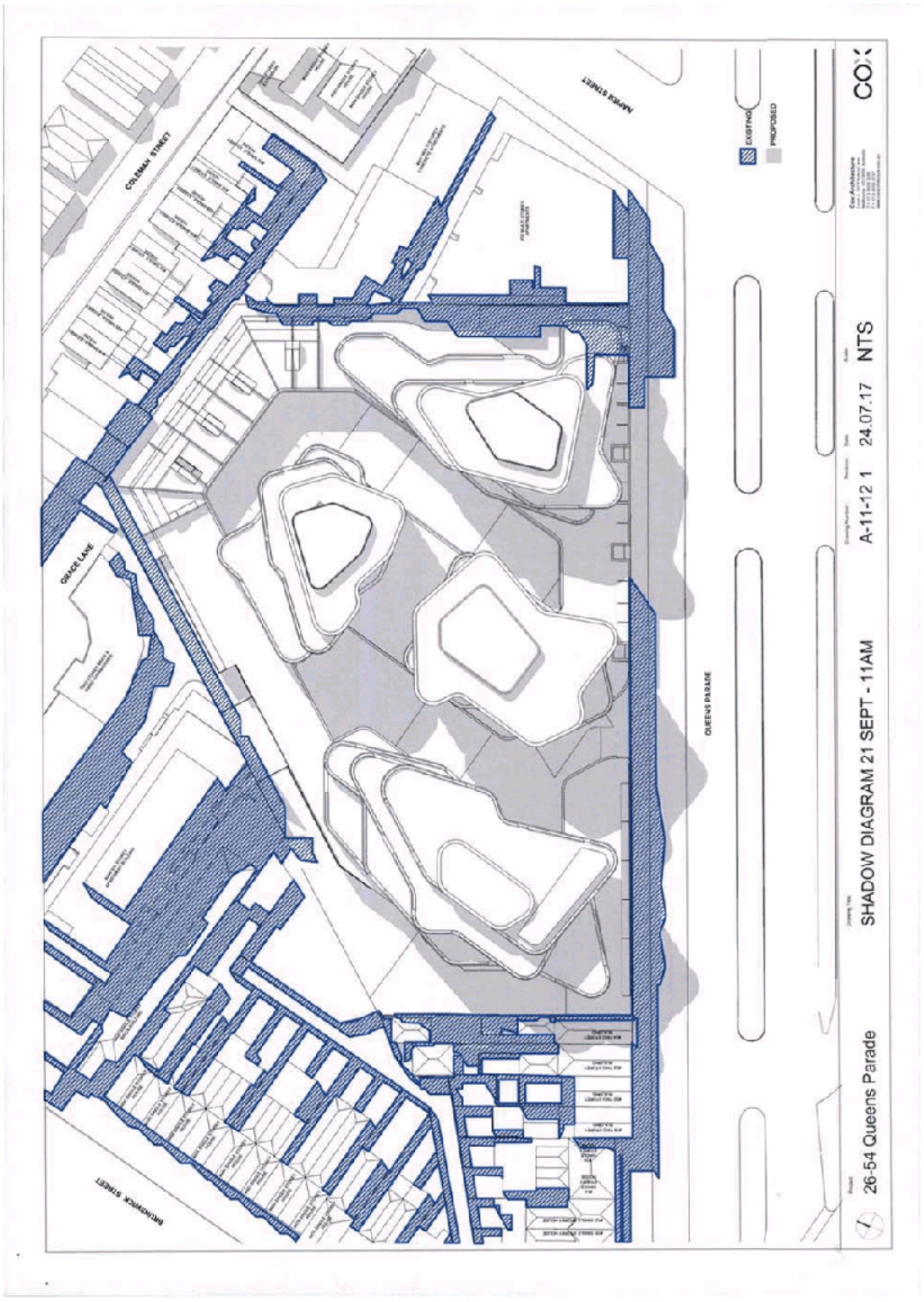

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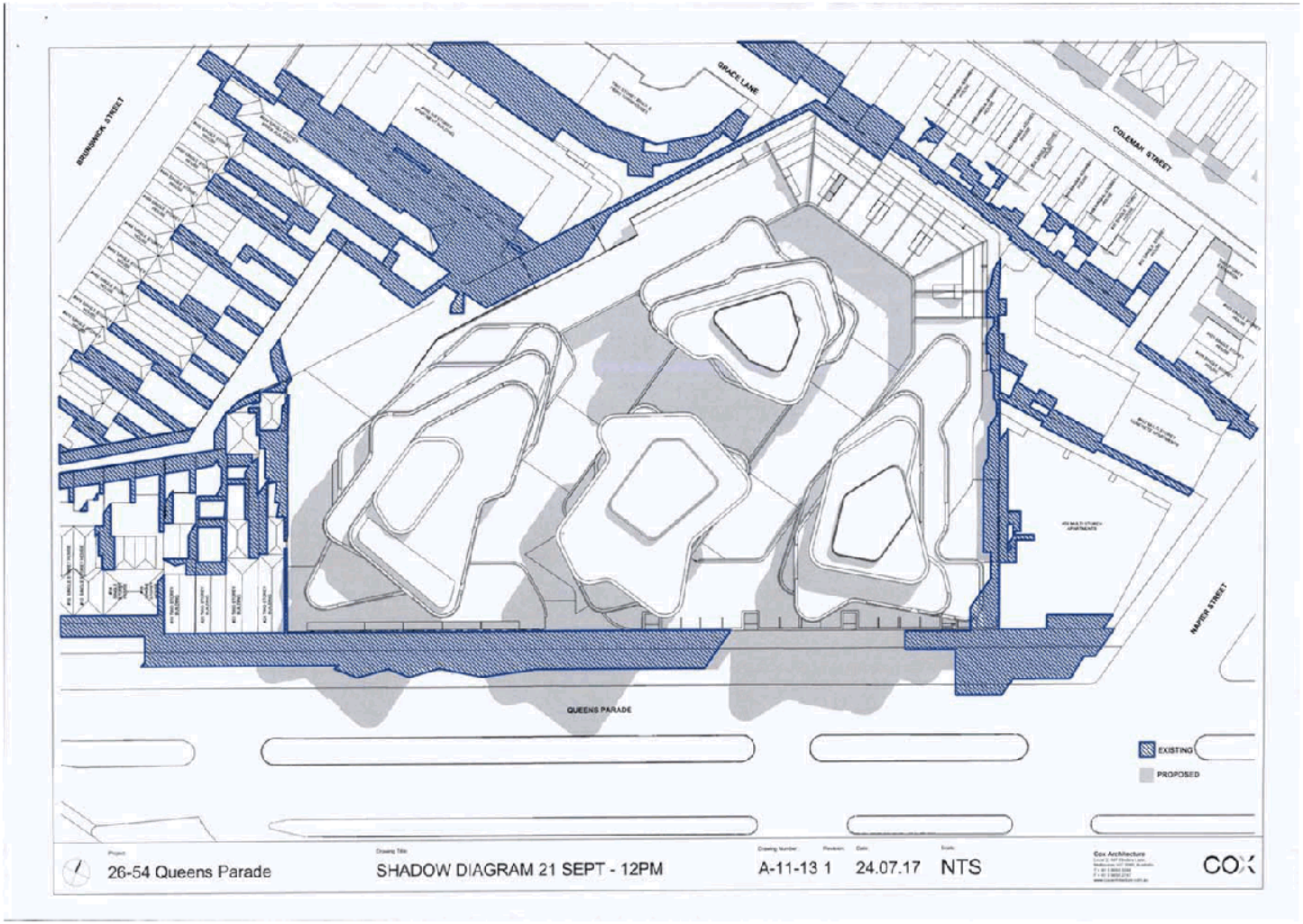

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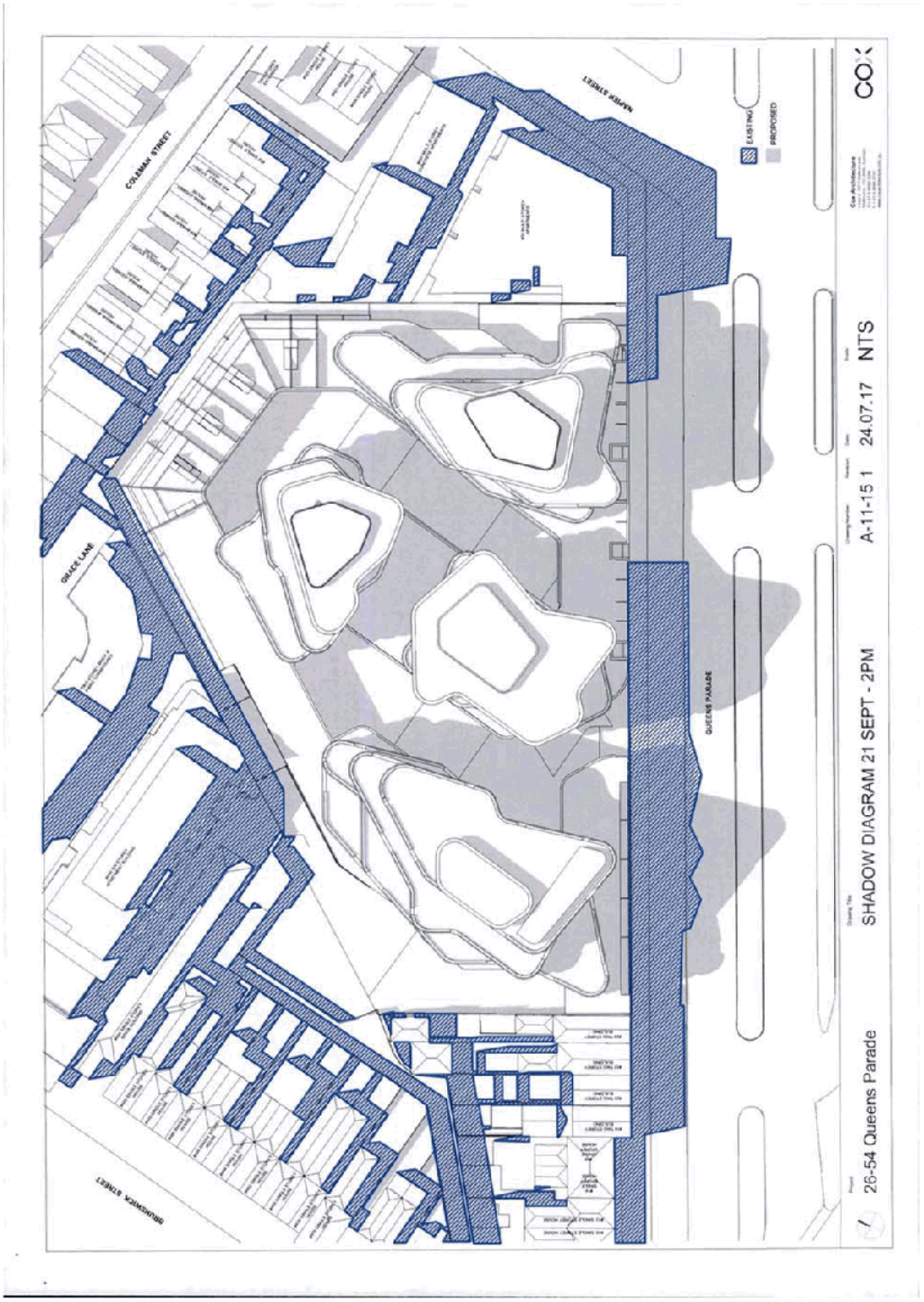

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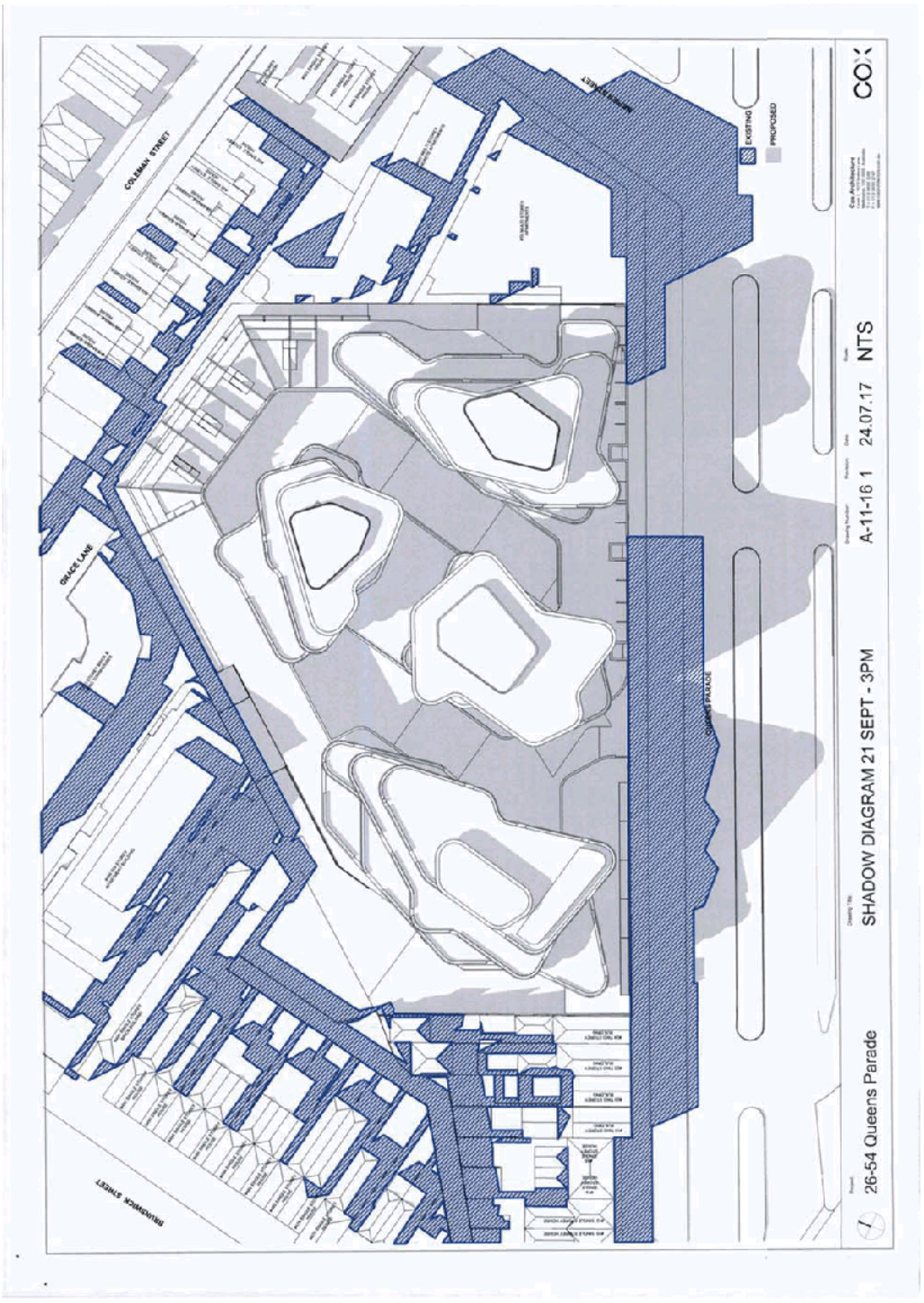

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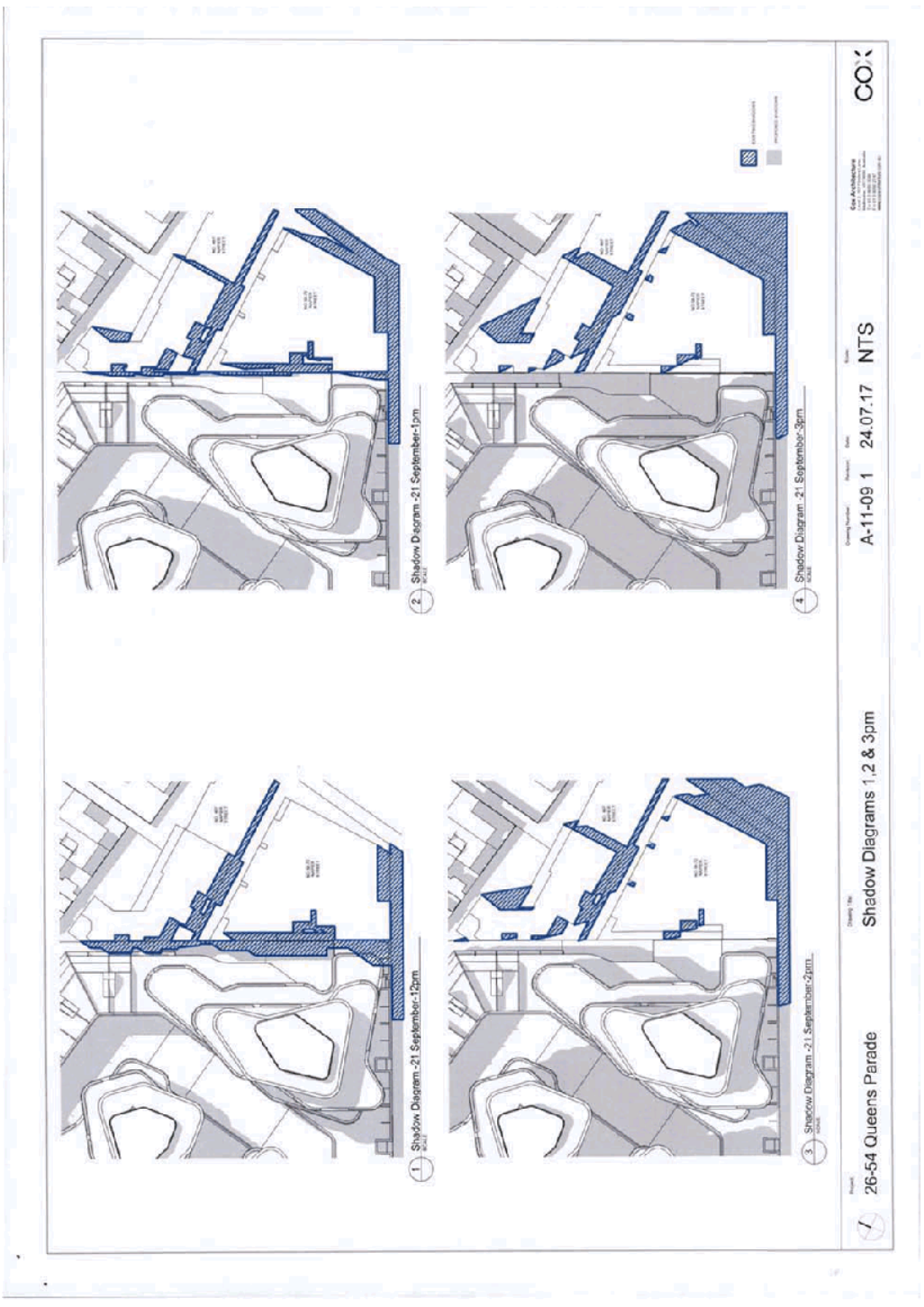


Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Application for Planning Permit
Report by Delegate of the City of Yarra

Land Address:	**26-56 Queens Parade, Fitzroy North VIC 3068**
Application No:	**PLN16/0434**
VCAT Reference No:	**P2079/2016**
Zoning:	**Mixed Use Zone** **Queens Parade is a Road Zone, Category 1**
Overlays:	**Environmental Audit Overlay** **Part Heritage Overlay (HO327 – North Fitzroy Precinct)**
The Proposal:	**VCAT SUBSTITUTED PLANS** **Part demolition and development of the land for a maximum 12 storey building, plus 2 basement levels, accommodating 341 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, reduction in the loading bay requirements and alteration of access to a Road Zone.**
How is the land used now:	**Warehouse/factory**
Planning Officer:	**Sarah Thomas**
Date Received:	**18 May 2016**
Acknowledgment Letter Sent:	**20 May 2016**
Further Information Sent:	**14 June 2016**
Further Information Received:	**26 July 2017**
Application Advertised:	**24 August 2016**
Advertising Closed:	**23 September 2016**
Objections/Submissions:	**480 objections**
Objector parties to the appeal:	**298**

Assessment Type	Date	By
DAP	10 March 2017	Sarah Thomas

Previous Applications

1. The site was re-zoned from Business 3 to Mixed Use on 13 November 2003 following amendment C20 to the Yarra Planning Scheme. The amendment was a Section 96A amendment process, with a concurrent planning permit application (PL02/0239) for 26-56 Queens Parade. The re-zoning however, affected a larger area known as 8-72 Queens Parade and 460-500 Brunswick Street.

2. Planning permit application PL02/0239 approved the construction of a 2-5 storey residential

development, containing 172 dwellings and 211 car parking spaces. This permit was approved on 19 November 2003. Following 4 extensions of time, this permit expired on 19 November 2009.

3. On 17 June 2009, Planning Permit PL09/0019 was issued for the use of the site as an education centre (tertiary institution).

4. More recently, a special Council Meeting was held on 14 November 2016. Council considered the development on the site. Council resolved:

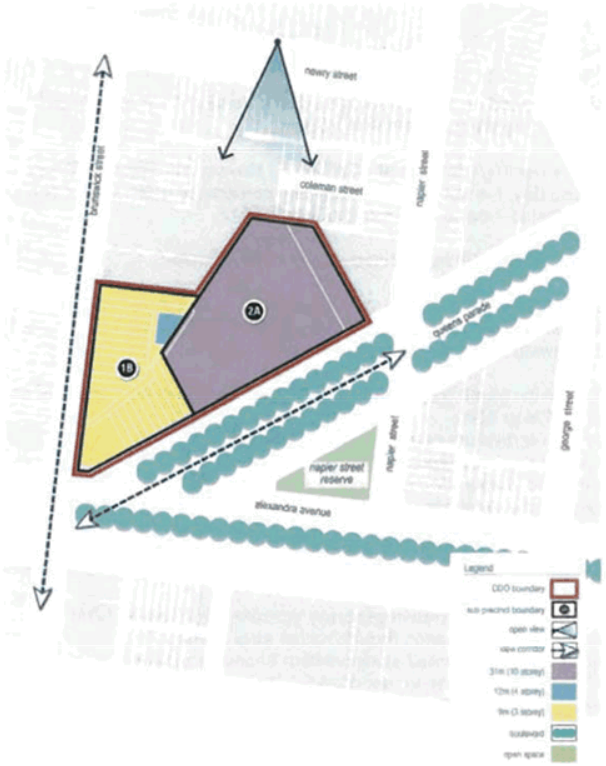
   1. *That Council note:*
      - (a) *several public meetings held regarding 26-56 Queens Parade, Fitzroy North including a public meeting convened by the community on 2 November 2016, attended by some 400 community members with resolutions from this meeting on 26-56 Queens Parade and other planning applications in the precinct including a request for an amendment to the planning scheme to create a Design and Development Overlay for the area of North Fitzroy and Clifton Hill (attached as Attachment One); and*
      - (b) *the current planning application for a high density residential development for 26-56 Queens Parade, Fitzroy North of up to 16 storeys and its recent referral by the applicant to the Victorian Civil and Administrative Tribunal (VCAT);*

   2. *That Council seek a report to be presented to the 22 November 2016 Council meeting providing advice on:*
      - (a) *the process of the above planning application and steps leading to a full hearing of this application before VCAT, scheduled in April 2017;*
      - (b) *the likely costs involved in advocacy for Council at VCAT;*
      - (c) *the request for a planning scheme amendment for the precinct, and site, and the basis and requirements for any such amendment;*
      - (d) *the steps, options and timing for such amendment; and*
      - (e) *any other pertinent aspects to inform Council on this matter.*

5. At a Council Meeting on 7 February 2017, Council considered officer's recommended draft DDO guidelines for the western section of Queens Parade. The DDO guidelines were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans



6. The Council officer recommendation was that the mandatory maximum overall building height for the main site at 26-56 Queens Parade not exceed 31m or 10 storeys and for the rear site (subject to planning permit application PLN16/0732), 12m or 4 storeys.

7. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site (subject site) and 2 storeys for the rear site.

8. Council resolved (in part) to:

   (e) request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and

9. At the time of writing, no correspondence has been received in relation to Council's request for interim controls.

Attachment 1 - Queens Parade Items 9 August 2017_Part1

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Background

10. Council was informed on 11 October 2016 that a Section 79 'Failure to determine' appeal had been lodged by the Applicant with VCAT.

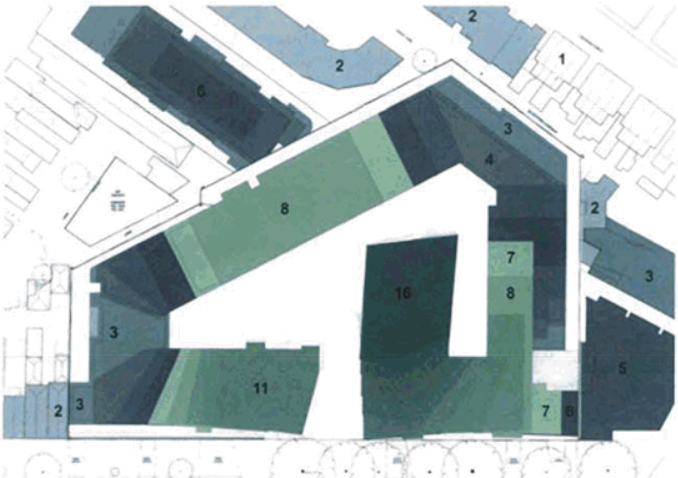
11. A practice day hearing was held at VCAT on 11 November, dealing with procedural matters. At the practice day, the scheduled compulsory conference was vacated and the hearing was confirmed as being 7 days, commencing 3 April 2017.

12. Of the 480 objectors, 298 have joined as party to the appeal.

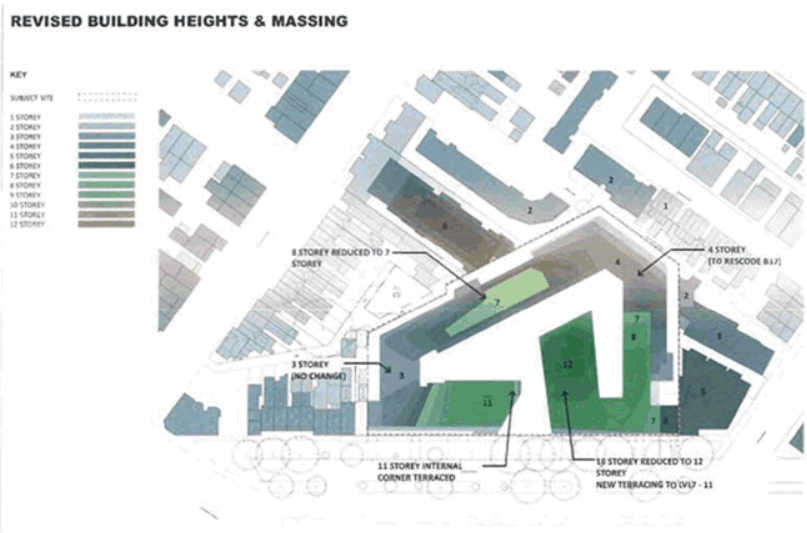
13. On 21 February 2017, the Applicant circulated substituted plans. These plans will form the basis of the assessment and will be considered at the upcoming VCAT hearing. The plans make the following changes to the previous plans:

    (a) reduction in overall height from 16 to 12 storeys (retaining 2 levels of basement) or from 53.7m to 37m;
    (b) reduction in dwelling numbers from 476 to 341;
    (c) car parking spaces reduced from 438 to 341;
    (d) ground floor visitor bicycle parking spaces reduced from 50 to 32;
    (e) staging of the development is no longer proposed (previously 2 stages);
    (f) setback from the east boundary increased from 3m to 4.5m;
    (g) setbacks from the north-east and north-west boundaries generally increased to a minimum 3m, guided by Standard B17 envelopes (clause 55 of the Yarra Planning Scheme);
    (h) internal building separation generally increased from 9m to 12m;
    (i) 'village green' on Queens Parade nature strip deleted;
    (j) existing saw-toothed wall along western boundary retained;
    (k) rear pedestrian access to rear of 26-56 Queens Parade shifted further west;
    (l) internal layout changes;
    (m) northern residential communal terrace deleted on level 3;
    (n) northern residential communal terrace on level 4 reduced in size;
    (o) addition of a residential communal terrace on level 9;
    (p) residential corridors generally increased from a width of 1.4m to 1.6m;
    (q) balconies increased in size:
        (i) 1 and 2BR apartments – minimum 8m²; and
        (ii) 3BR – 12m².
    (r) basement ramp revised to 1:20 gradient;
    (s) modified basement size (reduced), layout and car parking allocation;
    (t) addition of a bin chute for rear of 26-56 Queens Parade (townhouse) residents; and
    (u) re-massing to achieve the following:
        (i) no additional overshadowing after 9am of 22-24 Queens Parade;
        (ii) reduction in overshadowing of 476-490 Brunswick Street and 2-20 Grace lane, with no increase between 9.00 am and 3.00 pm; and
        (iii) no increase in overshadowing of adjacent balconies at 58-72 Queens Parade.

14. By way of comparison:



Original heights/massing – extract from Application plans (page 45, Town Planning Submission, Design Report, Koichi Takada Architects)



Revised heights/massing – extract from Applicant's substituted plans (plan A002A, Koichi Takada Architects, dated 20/02/17)

15. These substituted plans will form the basis of this assessment.

5

Existing Conditions

Subject Site

16. The description offered in the original DAP report remains relevant:

The subject site is located on the north side of Queens Parade, approximately 78m east of Brunswick Street and 33m west of Napier Street. The site is an unusually shaped lot, with 1 main road frontage and 2 separate laneway frontages.

Extract of application plans (TPA010).

The site is comprised of 8 titles:

- *Volume 5562 Folio 300;*
- *Volume 7224 Folio 622;*
- *Volume 6157 Folio 317;*
- *Volume 6157 Folio 316;*
- *Volume 2637 Folio 268;*
- *Volume 2776 Folio 162;*
- *Volume 5978 Folio 502; and*
- *Volume 5978 Folio 503.*

The site has a frontage of 119m to Queens Parade, a western boundary length of 39.2m, a north-west boundary length of 33.6m, leading to an adjoining north-west boundary length of 65.8m. The north-east boundary length is 37.5m and the east boundary length is 65.8m. All lengths are approximate. Should a permit issue, a condition should require all title boundaries to be shown on the floor plans as per the certificates of title. The site has an overall area of approximately 8,028m².

The site is developed with a series of buildings:

(a) Queens parade, western end – the most distinctive part of the site, being a row of 2 storey buildings with art deco style parapets. The façades have been painted pink with navy highlights. This row extends for a length of approximately 74m and extends the depth of the site, save for a triangular section in the northern end, generally behind the Grace Lane properties;

(b) Queens Parade, eastern end – a single storey warehouse style building, presenting a frontage of approximately 13.6m to Queens Parade and extending for the length of the eastern boundary (terminating at the laneway at the rear of the site;

Between both Queens Parade building segments is an open air carpark, presenting a frontage of approximately 31m to Queens Parade.

Subject site – Aerial extract from Google maps.

Restrictive Covenants

There are no restrictive covenants shown on the certificates of title provided with the application.

*A number of easements affect the site (including roads/carriageway, party wall, drainage, water supply, light and air easements). The Applicant has not applied to remove these easements, so a notation alerting any Permit Holder to these easements should be imposed on any permit issued. (It is likely that a separate application would later be made to remove these easements under Clause 52.02 of the Yarra Planning Scheme **[the Scheme]** at the subdivision stage, should a permit issue.*

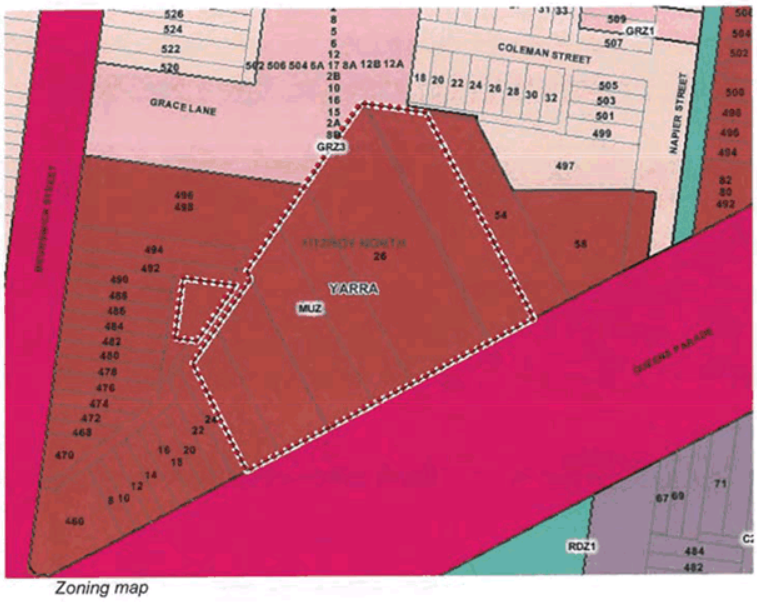
Surrounding Land

17. The surrounding land description offered in the original DAP report remains relevant:

The subject site is located within a Mixed Use Zone and is within walking distance of the Brunswick Street AC (123m).

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans



Zoning map

To the west of the subject site is a row of 9, single and double storey Victorian era terraces. The 4 closest to the subject site are double storey .These properties all enjoy access to the lane at the rear of the site, accessed via Brunswick Street. These dwellings include rear private open space areas, along with a first floor rear deck at the adjoining property to the immediate west.

Further west of these properties, at the corner of Queens Parade and Brunswick Street, is a 2 storey Victorian era building used as a medical centre. This medical centre includes car parking adjacent to the single storey Victorian era terraces on Queens Parade.

To the north-west of the subject site (western end), across the laneway, is a generally triangular portion of land also held by the permit applicant for this application. This parcel is also subject to a planning permit application (PLN16/0732) for 4, 4 storey townhouses. The parking for the proposed townhouses is proposed to be within this application. A decision has not yet been made on the townhouse application.

Further north-west of this triangular parcel are the rear of primarily single storey dwellings fronting Brunswick Street. These properties also enjoy rear access and utilise the rear laneway which leads to Brunswick Street. These dwellings include rear private open space areas and habitable room windows orientated towards the subject site.

To the north-west of the subject site (central segment, directly abutting the subject site) is a single storey dwelling fronting Brunswick Street and a recently constructed 6 storey apartment building that fronts Brunswick Street. These dwellings present private open space, balconies and habitable room windows towards the subject site. The apartment building also includes a triangular light court (with associated habitable room windows) on the shared boundary.

To the north-west of the subject site (eastern segment) is the rear of 2 storey townhouses that front Grace Lane further north. These dwellings present ground level private open space

areas towards the subject site, along with habitable room windows beyond at a minimum distance of approximately 3m.

To the north-east of the subject site (western end) are 3, 2 storey dwellings with rear private open space areas that have a direct abuttal with the subject site. The rear private open space areas have a minimum depth of approximately 4m, with habitable room windows beyond.

To the north-east of the subject site (eastern end) are the rear of primarily single storey dwellings that face Coleman Street. These dwellings include rear private open space areas and habitable room windows, which are separated from the subject site by an approximately 2.7m wide laneway.

To the east of the subject site is the rear of 2 apartment buildings that present frontages to Napier Street and Queens Parade. The buildings are a maximum height of 3 (northernmost) and 5 (southernmost) storeys. These buildings are partially built to the shared boundary, with minimum 1.5m deep courtyards and adjacent habitable room windows presenting towards the subject site.

The site is well located in terms of bicycle access and public transport:
- *2 bus routes along Queens Parade; and*
- *2 tram routes along Brunswick Street.*

The Proposal

18. The application is for the part demolition and development of the land for a maximum 12 storey building, plus 2 basement levels, accommodating 341 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, reduction in the loading bay requirements and alteration of access to a Road Zone.

19. More specifically:

Demolition

(a) demolition of all buildings, structures and fences, save for a 45m segment of the Queens Parade, 2 storey façade and the adjacent west boundary wall (including the retention of the sawtooth profile above);

Built form and massing

(b) construction of upto12 storeys, plus 2 basements;
(c) **south** – the development would present a 2-3 storey podium to Queens Parade (maximum height of approximately 10.5m) including retention of the heritage façade of the existing building, with south boundary (front) setbacks ranging from zero to 3.5m being introduced across levels 2 to 9. The westernmost tower would extend to level 10 (11 storeys), with minimum setbacks of 5.2m at the upper most level and a maximum height of 34m.
The easternmost tower would extend to level 11 (12 storey). The upper most levels introduce deep 12.4m setback to large terraced areas with the building beyond being setback a minimum 22m from the southern boundary. This segment would be a maximum height of 37m;
(d) **west** – the development would be 3 storeys adjacent to the western boundary (plus a roof terrace), constructed to the western boundary for a length of approximately 10m at a height of 10.3m, with the remainder being setback approximately 4.6m. it is noted that the existing west boundary wall (approximately 3.9m-4.3m high) would be retained

and incorporated as part of this development (including the saw-toothed profile). From level 3 and above, the setback from this boundary increases;

(e) **north-west** – the development would extend from 3 to 7 storeys adjacent to the north-west boundary, setback 3m to approximately 12m from the boundary, at heights ranging from 1.7m (fence line) to 20.9m;

(f) **north-east** – the development would be 4 storeys (plus a roof deck) adjacent to the north-east boundary, setback 3m to 9m from the boundary, at heights ranging from 2.3m (fence line) to 13.5m;

(g) **east** – the development would be 3 to 9 storeys (plus roof terrace) adjacent to the eastern boundary, with setbacks ranging from 0 to 12.4m, at heights ranging from approximately 2.5m (fence line) to 29m;

(h) the maximum overall height of the development would be 37.4m. The maximum overall height would be located at the central portion of the site, or within the eastern arm of the 'U'. The western arm of the 'U' would be 11 storeys or 34.4m;

Layout

(i) the development would contain 341 dwellings (the following does not include 'studies' as bedrooms as the majority are too small or positioned within corridors):
   i. 1BR – 138;
   ii. 2BR – 160;
   iii. 3BR – 37; and
   iv. 4BR – 6.

(j) 345 stores located within the basement levels. Stores would range from 3m to 6m³:
   i. 3m³ - 138;
   ii. 4m³ - 160; and
   iii. 6m³ - 47.

(k) 345 resident bicycle parking spaces (106 floor mounted and 239 'Ned Kelly' style), 32 ground floor visitor bicycle parking spaces and 4 bicycle parking spaces allocated to the proposed townhouses (rear development, PLN16/0732);

(l) provision of a loading bay within basement 1 (eastern end), at a width of 4.2m and length of 9m;

(m) 341 car parking spaces, of which 10 would be within stackers:
   i. 321 spaces would be allocated to dwellings;
   ii. 14 would be allocated to visitors/retail;
   iii. 6 spaces would be allocated to the townhouse development at rear 26-54 Queens Parade (Planning Permit application PLN16/0732);

(n) a 273m² food and drinks premises/shop to the east of the Queens Parade pedestrian entry;

(o) a 77m² café to the west of the Queens Parade pedestrian entry;

(p) pedestrian entries would be provided via:
   i. the main central opening (20.5m wide) along Queens Parade;
   ii. a separate residential entry at the eastern end of the Queens Parade frontage; and
   iii. via the north-west lane which extends to Brunswick Street.

(q) vehicular entry would be provided via the eastern end of the Queens Parade frontage. A 6.1m wide vehicle crossing would provide two way vehicle access into the 2 basement levels;

Uses

(r) there are communal open space areas within the ground level of the development, 1 area at level 3, 1 area at level 4 and 1 area at level 9;

(s) shop/food and drinks premises:
   (i) the premises would include the service of food for consumption on the premises and the sale of packaged food;
   (ii) maximum of 100 patrons at any one time;

(iii) food and drink premises hours would be the same as the licenced component below;
(iv) the premises would be licenced with:
- Sale of liquor for consumption on the premises:
  Monday – Sunday 10am to 11pm
  ANZAC Day and Good Friday 12noon to 11pm
- Sale of liquor for consumption off the premises:
  Monday – Sunday 10am to 9pm
  ANZAC Day and Good Friday 12noon to 9pm

(t) Food and drinks premises (café):
(i) the premises would trade as a café;
(ii) maximum of 50 patrons at any one time;
(iii) the café would operate from 7am to 5pm, seven days;
(iv) the premises would be licenced with:
- Sale of liquor for consumption on the premises:
  Monday – Sunday 12noon to 5pm

Colours, materials and landscaping

(u) the development would include a mixture of materials and finishes, including clear glass balustrades, white aluminum composite panels (slab edge and planter boxes), dark colour aluminum (glazing frames), perforated metal privacy screens (maximum 25% transparent to a height of 1.7m, then opening up higher), dark grey bluestone and concrete look pavers and off-white brick podium façade frames. No material schedule has been provided with the substituted plans, making it difficult to confirm the materials for the proposal.
(v) the design incorporates vertical green wires, mesh and planter boxes, along with substantial ground level planting around the communal areas;

Environmentally sustainable development [**ESD**] features

(w) an average 6.5 Star NatHERS thermal energy rating;
(x) a MUSIC model demonstrating best practice has been received which relies on 450m2 of roof connected to a 40,000 litre tank which is connected to garden irrigation and swimming pool top-up, and the remaining 7,470m2 of terrace and landscaping filtered by a SPEL hydro-system (or equivalent); and
(y) extensive green roofs and landscaping.

Planning Scheme Provisions

Zoning

*Mixed Use Zone **[MUZ]***

20. The purpose of the MUZ includes (as relevant):
(a) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality;*
(b) *To provide for housing at higher densities;*
(c) *To encourage development that responds to the existing or preferred neighbourhood character of the area*; and
(d) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

21. Under clause 32.04-2 of the Scheme, a permit is not required to use the site for dwellings. A permit is not required to use part of the site as a shop (half of the easternmost tenancy [being 138.5m², as the floor area is less than 150m]). However, a permit is required to use part of the site as a food and drinks premises as the leasable floor area exceeds 150m² [76m² cafe and half of the easternmost tenancy, being 138.5m²].

22. A permit is required under clause 32.04-6 of the Yarra Planning Scheme [**the Scheme**] to construct two or more dwellings on a lot. Clause 32.04-13 states that for a development of five or more storeys, excluding a basement, the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment 2004) is a relevant decision guideline.

23. A permit is required under clause 32.04-8 of the Scheme to construct a building or construct or carry out works for a use in section 2 of clause 32.04-2.

Road Zone, Category 1

24. Queens Parade is a declared Road Zone, Category 1.

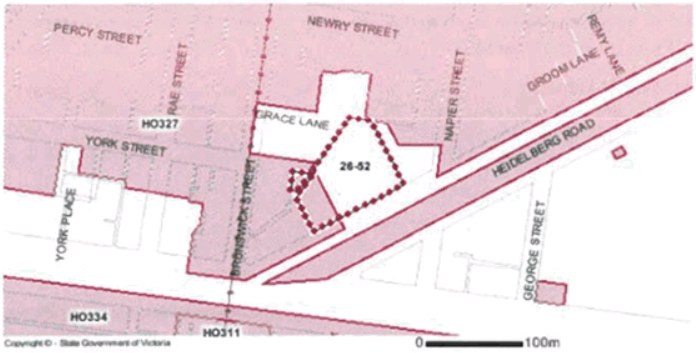
25. The purpose of this zone is:
    (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;*
    (b) *To identify significant existing roads*; and
    (c) *To identify land which has been acquired for a significant proposed road.*

26. Whilst a permit is not required for buildings or works or land use under this clause, a permit is required under clause 52.29 of the Scheme to create and alter access to a Road Zone, Category 1.

Overlays

Part Heritage Overlay (HO327)

HERITAGE OVERLAY SCHEDULE (HO327)



27. The portion of the site at 26-56 Queens Parade can be seen above as being affected by HO327. The overlay inaccurately reflects the location of the heritage buildings on the site with a portion of the building not included in the Heritage Overlay. This mapping error has been identified and provided to our Strategic Planning Department to correct.

28. The relevant purpose of the HO is:
    (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 conserve and enhance heritage places of natural or cultural significance.*
    (c) *To conserve and enhance those elements which contribute to the significance of heritage places.*
    (d) *To ensure that development does not adversely affect the significance of heritage places.*
    (e) *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

29. A planning permit is required to demolish or remove a building and to construct a building or construct or carry out works.

30. Decision guidelines at clause 43.01-4 of the Scheme include (as relevant):
    (a) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
    (b) *Any applicable statement of significance, heritage study and any applicable conservation policy.*
    (c) *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
    (d) *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
    (e) *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
    (f) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

Environmental Audit Overlay

31. The purpose of this overlay is:
    (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 ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

32. Clause 45.03-1 states it is a requirement that:

    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:
    (a) *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
    (b) *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.*

33. With dwellings proposed, this requirement will be addressed by way of a notation on any permit issued.

<u>Particular Provisions</u>

Clause 52.06 – Car parking

34. The purpose of this provision (amongst others) is to ensure the provision of an appropriate number of car spaces are provided having regard to the activities on the land and the nature

of the locality. This provision recommends car parking rates at clause 52.06-5. Under clause 52.06-3, a permit may be granted to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 (noting there is no relevant Parking Overlay).

Use	Number / Area	Clause 52.06 car parking rate	Requirement	Provision	Reduction sought
Dwelling – 1BR and 2BR	298	1 per dwelling	298	321	23
Dwelling – 3BR +	43	2 per dwelling	86		
Dwelling – Visitor		1 per 5 dwellings (where more than 5)	68	14	68
Food and drinks premises	351m²	4 per 100m² of leasable floor area	14		
Shop					
TOTAL			**466**	**335**	**91**

35. A permit is therefore required for the 91 space car parking reduction (noting the original application was for a 223 space reduction). Further, there would be 341 spaces provided on the land, with the remaining 6 (not included in table) being allocated to the proposed townhouse development at the rear (PLN16/0732).

36. It is noted that whilst the original car parking assessment included studies as bedrooms, the substituted plans include a majority of small studies or studies position in corridors. For the purpose of this report, studies have not been included as bedrooms.

37. Clause 52.06-6 of the Scheme outlines a range of decision guidelines and clause 52.06-8 outlines a range of design standards. The relevant of these will be addressed in the assessment.

Clause 52.07 – Loading and unloading of vehicles

38. The purpose of this provision is '*To set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety*'.

39. No building or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless:
    (a) *Space is provided on the land for loading and unloading vehicles as specified in the table below.*
    (b) *The driveway to the loading bay is at least 3.6 metres wide. If a driveway changes direction or intersects another driveway, the internal radius at the change of direction or intersection must be at least 6 metres.*
    (c) *The road that provides access to the loading bay is at least 3.6 metres wide.*

40. A permit may be granted to reduce or waive these requirements if either:
    (a) *The land area is insufficient.*
    (b) *Adequate provision is made for loading and unloading vehicles to the satisfaction of the responsible authority.*

41. With no loading bay provided for the retail premises, a permit is required to waive this requirement.

Clause 52.27 – Licensed Premises

42. A permit is required under this clause as a license is required under the *Liquor Control Reform Act* 1998.

43. Decision guidelines include:
    (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.*

Clause 52.29 – Land adjacent to a road zone, category 1, or a public acquisition overlay road a category 1 road

44. The relevant purpose of this provision is '*To ensure appropriate access to identified roads*'.

45. A permit is required to create or alter access to a road in a Road Zone, Category 1 (in this instance, the crossover to Queens Parade). An application must be referred to VicRoads under Section 55 of the Act.

46. Decision guidelines include:
    (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
    (b) *The views of the relevant road authority.*
    (c) *The effect of the proposal on the operation of the road and on public safety.*
    (d) *Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.*

Clause 52.34 – Bicycle facilities

47. The purpose of this Clause is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities. Clause 52.34-2 states that a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.

Use	Number / Area	Clause 52.34 bicycle parking rate	Requirement	Provision	Reduction sought
Dwelling	341	In developments of 4 or more storeys, 1 per 5 dwellings	68	345	None
Dwelling – Visitor	341	In developments of 4 or more storeys, 1 to each 10 dwellings	34	32	3

Food and drinks premises - Employee	213.5m²	1 to each 300m² of leasable floor area	1		
Food and drinks premises - Shopper	213.5m²	1 to each 500m² of leasable floor area	0	0	0
Shop - Employee	137.5m²	1 to each 600 sq m of leasable floor area if the leasable floor area exceeds 1000 sq metres	0	0	0
Shop - Shopper	137.5m²	1 to each 500 sq m of leasable floor area if the leasable floor area exceeds 1000 sq metres	0	0	0
TOTAL			**103**	**377**	**3**

48. The proposal is seeking a 3 space dwelling visitor/food and drink employee bicycle parking reduction. The application has a surplus of 277 bicycle parking spaces allocated to residents under this provision.

49. A bicycle space for a visitor, shopper or student must be provided at a bicycle rail.

Clause 52.35 – Urban context report and design response for residential development of five or more storeys

50. The purpose of this clause is '*To ensure that an urban context report is prepared before a residential development of five or more storeys is designed and that the design responds to the existing urban context and preferred future development of the area*'.

51. The application was provided with an urban context report and design response in accordance with this provision.

General Provisions

Clause 65 – Decision Guidelines

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

State Planning Policy Framework (SPPF)

The following SPPF provisions of the Scheme are relevant:

Clause 11.04-2 – Housing choice and affordability

53. The relevant objective of this clause is '*To provide a diversity of housing in defined locations that cater for different households and are close to jobs and services*'. The relevant strategy is to '*Reduce the cost of living by increasing housing supply near services and public transport*'.

Clause 11.04-4 – Liveable communities and neighbourhoods

54. The objective of this clause is '*To create healthy and active neighbourhoods and maintain Melbourne's identity as one of the world's most liveable cities*'. The relevant strategies are to:
    (a) *Create a city of 20-minute neighbourhoods.*
    (b) *Protect Melbourne and its suburbs from inappropriate development.*
    (c) *Create neighbourhoods that support safe communities and healthy lifestyles.*
    (d) *Respect heritage while building for the future.*
    (e) *Achieve and promote design excellence.*

Clause 11.04-5 – Environment and water

55. The objective of this clause is '*To protect natural assets and better plan our water, energy and waste management systems to create a sustainable city*'.

Clause 13.03-1 – Use of contaminated and potentially contaminated land

56. The objective of this clause is '*To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely*'.

Clause 13.04-1 – Noise abatement

57. The objective of this clause is '*To assist the control of noise effects on sensitive land uses*'.

Clause 15.01-1 – Urban Design

58. The objective of this clause is '*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

59. 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*'. The strategy of this clause is to apply 11 design strategies. Planning must also consider (as relevant) the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2004) in assessing the design and built form of residential development of five or more storeys.

Clause 15.01-4 – Design for safety

60. The objective of this clause is '*To improve community safety and encourage neighbourhood design that makes people feel safe*'. The relevant strategy is to '*Ensure the design of buildings, public spaces and the mix of activities contribute to safety and perceptions of safety*'.

Clause 15.01-5 – Cultural identity and neighbourhood character

61. 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

62. 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 15.03-1 – Heritage conservation

63. The objective of this clause is '*To ensure the conservation of places of heritage significance*'.

Clause 16.01-1 – Integrated housing

64. The objective of this clause is '*To promote a housing market that meets community needs*'.

Clause 16.01-2 – Location of residential development

65. 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 – Strategic redevelopment sites

66. The objective of this clause is '*To identify strategic redevelopment sites for large residential development in Metropolitan Melbourne*'. The relevant strategies are to:
    (a) *Identify strategic redevelopment sites that are:*
        (i) *In and around Central Activities Districts.*
        (ii) *In or within easy walking distance of Principal or Major Activity Centres.*
        (iii) *In or beside Neighbourhood Activity Centres that are served by public transport.*
        (iv) *On or abutting tram, train, light rail and bus routes that are part of the Principal Public Transport Network and close to employment corridors, Central Activities Districts, Principal or Major Activity Centres.*
        (v) *In or near major modal public transport interchanges that are not in Principal or Major Activity Centres.*
        (vi) *Able to provide 10 or more dwelling units, close to activity centres and well served by public transport.*

Clause 16.01-4 – Housing diversity

67. 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

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

Clause 17.01-1 – Business

69. 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

70. The objective of this clause is '*To create a safe and sustainable transport system by integrating land-use and transport*'. The relevant strategy is:
    (a) *Plan urban development to make jobs and community services more accessible by:*
        (i) *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.*

Clause 18.02-1 – Sustainable personal transport

71. The objective of this clause is '*To promote the use of sustainable personal transport*'.

Clause 18.02-2 – Cycling

72. The objective of this clause is '*To integrate planning for cycling with land use and development planning and encourage as alternative modes of travel*'.

Clause 18.02-5 – Car parking

73. It is an objective '*To ensure an adequate supply of car parking that is appropriately designed and located*'. This clause includes the following relevant strategies to achieve this objective:
    (a) *Encourage the efficient provision of car parking through the consolidation of car parking facilities.*
    (b) *Allocate or require land to be set aside for car parking subject to the existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking.*
    (c) *Prepare plans for the design and location of local car parking to:*
        (i) *Protect the role and function of nearby roads, enable easy and efficient use and the movement and delivery of goods.*
        (ii) *Achieve a high standard of urban design and protect the amenity of the locality, including the amenity of pedestrians and other road users.*
        (iii) *Create a safe environment, particularly at night.*
        (iv) *Facilitate the use of public transport.*
    (d) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

74. In the City of Yarra in 2020 (as relevant):
    Land Use
    (a) *Yarra will have increased opportunities for employment*
    (b) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne*
    Transport
    (a) *Local streets will be dominated by walkers and cyclists*
    (b) *Most people will walk, cycle and use public transport for the journey to work*

Clause 21.04-1 – Accommodation and housing

75. The following is offered in this clause:
    (a) *Yarra is experiencing consistent residential growth. The Metropolitan Strategy, Melbourne 2030, identifies that this trend will continue.*

(b) *Yarra will continue to accommodate its share of the housing growth of the inner Melbourne Metropolitan region (comprising the Cities of Melbourne, Port Phillip, Stonnington and Yarra). However, in order to protect valued character, and particularly its heritage places, the majority of new development will be accommodated on strategic redevelopment sites. These sites are generally located in, abutting, or close to activity centres, or in locations that offer good access to services and transport as required under Melbourne 2030. Other areas such as those in Mixed Use or Business zones will accommodate some population growth, while most established Residential 1 zones are stable and will experience minimal change.*

76. The relevant objectives and standards of this clause are:
    (a) *Objective 1 To accommodate forecast increases in population.*
        (i) *Strategy 1.1 Ensure that new residential development has proper regard for the strategies applicable to the neighbourhood in question identified in clause 21.08.*
        (ii) *Strategy 1.2 Direct higher density residential development to Strategic Redevelopment Sites identified at clause 21.08 and other sites identified through any structure plans or urban design frameworks.*
        (iii) *Strategy 1.3 Support residual population increases in established neighbourhoods.*
    (b) *Objective 2 To retain a diverse population and household structure.*
    (c) *Objective 3 To reduce potential amenity conflicts between residential and other uses.*
        (i) *Strategy 3.1 Ensure new residential development in the Mixed Use, Business 1, Business 2, and Business 5 Zones and near Industrial and Business Zones is designed to minimise the potential negative amenity impacts of existing non-residential uses in the vicinity.*
        (ii) *Strategy 3.2 Apply the Interface Uses policy at clause 22.05.*

Clause 21.04-2 – Activity Centres

77. The site is approximately 123m to the north-east of the Brunswick Street Activity Centre **[AC]**.

78. The relevant objectives and strategies of this clause are:
    (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.*
        (i) *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

Clause 21.04-3 – Industry, office and commercial

79. The relevant objective of this clause is: *Objective 8 To increase the number and diversity of local employment opportunities.*

Clause 21.05-1 – Heritage

80. The relevant objectives and strategies of this clause are:
    (a) *Objective 14 To protect and enhance Yarra's heritage places.*
        (i) *Strategy 14.1 Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
        (ii) *Strategy 14.2 Support the restoration of heritage places.*
        (iii) *Strategy 14.3 Protect the heritage skyline of heritage precincts.*
        (iv) *Strategy 14.4 Protect the subdivision pattern within heritage places.*
        (v) *Strategy 14.5 Protect the significant landscape and heritage within streets, parks, gardens, waterways or other open spaces.*

(vi) *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas. Strategy 14.8 Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02*

Clause 21.05-2 – Urban design

81. The relevant objectives and strategies of this clause are:
    (a) *Objective 16 To reinforce the existing urban framework of Yarra.*
        (i) *Strategy 16.2 Maintain and strengthen the preferred character of each Built Form Character Type within 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.*
        (i) *Strategy 18.2 Enhance the amenity of laneways by applying the Development Abutting Laneway policy at Clause 22.07.*
    (d) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*
        (i) *Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*
        (ii) *Strategy 20.2 Require development of Strategic Redevelopment Sites to take into account the opportunities for development on adjoining land.*
        (iii) *Strategy 20.4 Apply the Built Form and Design policy at clause 22.10.*
    (e) *Objective 22 To encourage the provision of universal access in new development.*
        (i) *Strategy 22.1 Encourage applicants to take into account the access needs of all people in the design of new buildings.*

Clause 21.05-3 – Built form character

82. New development must respond to Yarra's built and cultural character, its distinct residential 'neighbourhoods' and individualised shopping strips, which combine to create a strong local identity. Four Structural elements and thirteen built form character types have been identified for areas that are not covered by the Heritage Overlay. The subject site is within a 'Main Road' area. The relevant objectives of this clause are:

    General Objective
    (a) *Objective 23 To maintain and strengthen the identified character of each type of identified built form within Yarra.*
    Transport corridors
    (b) *Transport corridors offer a window into the City of Yarra seen by thousands of people every day. In Yarra many main roads double as centres of community and commercial activity, and are part of local community identity. In categorising main roads from a built form perspective it is logical to differentiate them by built form character, rather than traffic function.*
    (c) *Objective 26 To improve the built form character of transport corridors.*

(i) *Strategy 26.1 Reinforce the scale and formality of the landscape along boulevards.*
(ii) *Strategy 26.2 Maintain the dominance of the avenue trees over built form along boulevards.*

Clause 21.05-4 – Public environment

83. The relevant objective and strategies of this clause are:
(a) *Objective 28 To a provide a public environment that encourages community interaction and activity.*
(i) *Strategy 28.1 Encourage universal access to all new public spaces and buildings.*
(ii) *Strategy 28.2 Ensure that buildings have a human scale at street level.*
(iii) *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*
(iv) *Strategy 28.5 Require new development to make a clear distinction between public and private spaces.*
(v) *Strategy 28.8 Encourage public art in new development.*

Clause 21.06 – Transport

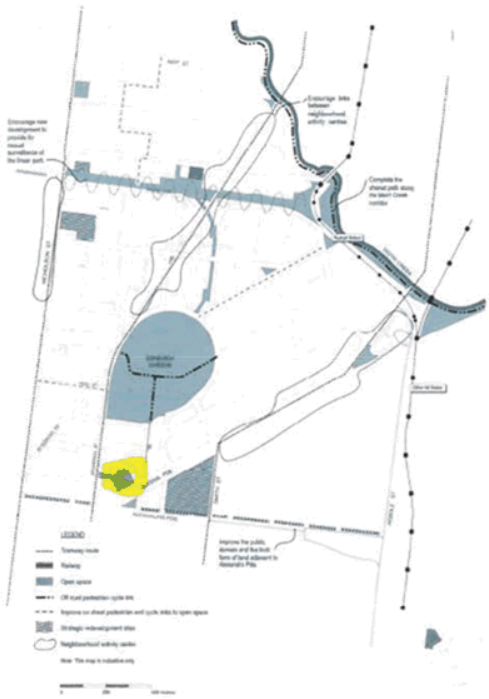
84. This clause builds upon the objectives outlined at clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

Clause 21.08-8 – North Fitzroy

85. The following relevant commentary is offered in this clause:
(a) *North Fitzroy is known for the beautiful Edinburgh Gardens which combine open space, sportsgrounds, barbecue area, gardens with long-established European elm trees, skate bowl, tennis and basketball courts, bandstand, bowling greens and bocce links, remnants of the old Melbourne rail loop, and a heritage listed grandstand. The neighbourhood is largely residential.*
(b) *The northern part of North Fitzroy has a low density residential character consisting of late Victorian and early Edwardian double fronted dwellings. Further south dwellings are more likely to be single fronted and one or two storeys.*

86. The site is identified as a strategic redevelopment site on page 29:

FIGURE 19: NEIGHBOURHOOD MAP: NORTH FITZROY



87. Of these identified sites, the policy also has an aim of:
    (a) *Encouraging the redevelopment of the following sites in a way that contributes positively to the urban fabric and public domain of Yarra, and where subject to the Heritage Overlay, protects the heritage of the site and of the area:*

Relevant Local Policies

Clause 22.02 – Development guidelines for sites subject to the heritage overlay

88. This policy applies to all land within a Heritage Overlay (north-west segment of the site in this instance).

89. The relevant objectives of this clause are:
    (a) *To conserve Yarra's natural and cultural heritage.*
    (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
    (c) *To retain significant view lines to, and vistas of, heritage places.*
    (d) *To preserve the scale and pattern of streetscapes in heritage places.*
    (e) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
    (f) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*

23

(g) *To ensure that additions and new works to a heritage place respect the significance of the place.*
(h) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*

90. In relation to part demolition, the following is offered at clause 22.02-5.1 of the Scheme:
(a) *Encourage the removal of inappropriate alterations, additions and works that detract from the cultural significance of the place.*
(b) *Generally discourage the demolition of part of an individually significant or contributory building or removal of contributory elements unless:*
(i) *That part of the heritage place has been changed beyond recognition of its original or subsequent contributory character(s).*
(ii) *For individually significant building or works, it can be demonstrated that the removal of part of the building or works does not negatively affect the significance of the place.*

91. Under clause 22.02-5.7. of the Scheme, the following is offered in relation to new development, alterations and additions:

(a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
(i) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
(ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
(iii) *Be visually recessive and not dominate the heritage place.*
(iv) *Be distinguishable from the original historic fabric.*
(v) *Not remove, cover, damage or change original historic fabric.*
(vi) *Not obscure views of principle façades.*
(vii) *Consider the architectural integrity and context of the heritage place or contributory element.*
(b) *Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*
(c) *Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.*
(d) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*

92. Clause 22.02-5.7.2 of the Scheme offers more specific requirements (as relevant):

Corner Sites and Sites with Dual Frontages
(a) *Encourage new building and additions on a site with frontages to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place.*
(b) *Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection.*

Industrial, Commercial and Retail Heritage Place or Contributory Elements
(c) *Encourage new upper level additions and works to:*
(i) *Respect the scale and form of the existing heritage place or contributory elements to the heritage place by being set back from the lower built form elements. Each higher element should be set further back from lower heritage built forms.*

(ii) *Incorporate treatments which make them less apparent.*

Ancillaries and Services

(d) *Encourage ancillaries or services in new development to be concealed or incorporated into the design of the building.*
(e) *Encourage ancillaries or services to be installed in a manner whereby they can be removed without damaging heritage fabric.*

Clause 22.05 – Interface uses policy

93. This policy applies to applications for use or development within Business Zones (albeit now 'commercial zones' amongst others). The relevant objectives of this clause are:
    (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.*

94. At clause 22.05-3 it is policy that:
    (a) *New residential use and development in or near commercial centres and activity centres and near industrial uses includes design features and measures to minimise the impact of the normal operation of business and industrial activities on the reasonable expectation of amenity within the dwellings.*
    (b) *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.*

Clause 22.07 – Development abutting laneways

95. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal. The objectives of this clause are:
    (a) *To provide an environment which has a feeling of safety for users of the laneway.*
    (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
    (c) *To ensure that where development is accessed off a laneway, all services can be provided to the development.*
    (d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

Clause 22.09 – Licenced premises

96. 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.*

Clause 22.10 – Built form and design policy

97. The policy applies to all new development not included in a Heritage Overlay (noting that the eastern section of the site is not within a Heritage Overlay). Clause 22.10-3.1 does not apply to residential development. The objectives of this clause are:
    (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*

(b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
(c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
(d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and 'walkability' of the City's streets and public spaces.*
(e) *Create a positive interface between the private domain and public spaces.*
(f) *Encourage environmentally sustainable development.*

Clause 22.12 – Public open space contribution

98. This policy applies to all residential proposals, mixed use proposals incorporating residential uses and proposals incorporating residential subdivision. The relevant objectives of this clause are:
    (a) *To implement the Yarra Open Space Strategy.*
    (b) *To identify when and where land contributions for public open space are preferred over cash contributions.*
    (c) *To ensure that where appropriate, land suitable for public open space is set aside as part of the design of a development so that it can be transferred to or vested in Council, in satisfaction of the public open space contribution requirement.*

99. The site is located in an area where land in lieu of cash is the preferred method of contribution. However, as the site is only 2,356m² (including the central lane on the road register), the site does not meet the selection criteria in that the land to be contributed should be approximately 300m². Should the site be subdivided, a cash contribution would be required.

Clause 22.16 – Stormwater management (water sensitive urban design)

100. This policy applies to new buildings (amongst others) and aims to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999; promote the use of water sensitive urban design, including stormwater re-use; mitigate the detrimental effect of development on downstream waterways; minimise peak stormwater flows; reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and wellbeing.

Clause 22.17 – Environmentally sustainable development

101. The most relevant objective of this clause is '*…that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation*'.

102. This policy includes 7 categories in which to assess ESD outcomes. An application of this scale requires the Applicant to submit a Sustainable Management Plan, prepared by a suitably qualified expert. This Applicant has done this.

Better Apartments Design Standards

103. Council was recently made aware of the release of the Department of Environment, Land, Water and Planning's 'Better Apartments Design Standards'. Planning Schemes in Victoria will be amended in March 2017 to introduce these Standards. However, the Standards state that there will transitional provisions, meaning they do not apply to an application lodged before the provisions come into operation being March 2017. The Standards therefore do not apply to this application.

Advertising

104. The original planning permit application application was advertised by way of 914 letters sent to surrounding property owners and occupiers and by way of 2 signs on the Queens Parade frontage of the site. A total of 480 objections were received on the following grounds:
   (a) overdevelopment;
   (b) density of apartments is too high;
   (c) this would create an unreasonable precedent;
   (d) non-compliance with the Yarra Planning Scheme and the Mixed Use Zone;
   (e) height (this would be similar to the Housing Commission flat construction)
   (f) upper level setbacks are inadequate
   (g) design detail does not complement the area (including use of materials and fine grain subdivision) and the building would not age well
   (h) this is just for the developer to make a profit;
   (i) poor quality design (services, BBQs, AC units and clothes lines will be visible on balconies)
   (j) this will destroy the 'community';
   (k) use of landscaping is 'laughable' and no maintenance details are provided;
   (l) impact on heritage (subject site, nearby 1 and 2 storey terraces, Queens Parade, Coleman Street and Napier Street);
   (m) proposed facadism and impact on heritage of the site;
   (n) neighbourhood character (other apartment buildings in the area are 3-6 storeys, looks like 'Docklands');
   (o) insufficient dwelling diversity (too many 1 and 2 bedroom dwellings, not enough 'family' homes and there will be too many singles);
   (p) apartments are too small;
   (q) the draft Better Apartment Guide should be considered;
   (r) impact on the Edinburgh Gardens;
   (s) off-site amenity (daylight, noise [people, parties/people on balconies, cars, communal areas, licenced premises], light pollution, overlooking/privacy, overshadowing [private open space areas and the public realm], visual bulk, obstruct sky and city views, wind tunnel);
   (t) poor on-site amenity (long internal corridors, poor sun shading, poor apartment layouts);
   (u) there will be more robberies;
   (v) construction could impact Fitzroy Gasworks underground contamination plume;
   (w) insufficient car parking (the area is already constrained, difficult for guests/visitors to park);
   (x) impact on cyclist and pedestrian safety (including the Napier St/Queens Pde bicycle crossing);
   (y) traffic impacts;
   (z) impact on views from Edinburgh Gardens, Bill Peterson Oval and Brunswick Street oval to the city;
   (aa) the development would achieve a poor ESD standard;
   (bb) asbestos;
   (cc) footprint/site coverage is too high, needs more open space around it;
   (dd) structural impact on nearby dwellings;
   (ee) increased pressure on infrastructure (including public transport, phone, internet, gyms, pools, libraries, GPs and schools);
   (ff) commercial (including licenced) venues should not be approved away from main streets (including Brunswick and Smith Streets);
   (gg) construction impacts (noise, traffic, dust and pollution);
   (hh) it will upset the dogs in the area;
   (ii) no concern for health, safety or DDA;
   (jj) property devaluation;
   (kk) rear lane should not be used to access Brunswick Street front the site;

(ll) social housing should be included; and
(mm) perspectives have not been provided from the north or Edinburgh Gardens.

105. To date, 298 parties have lodged statement of grounds with VCAT.

Referrals

106. The application was originally required to be referred to PTV (clause 52.36 of the Scheme) under Section 55 of the *Planning and Environment Act* 1987 **[the Act]**. The original application plans were also referred to the following:

Appendix 1.	Council's Urban Design Unit
Appendix 2.	Council's Heritage Advisor
Appendix 3.	External Acoustic Consultant (SLR)
Appendix 4.	Council's Engineering Services Unit
Appendix 5.	External Traffic Consultant (Traffix Group)
Appendix 6.	Council's ESD Advisor
Appendix 7.	Council's Strategic Transport Unit
Appendix 8.	Council's Services Contracts Unit
Appendix 9.	Wind Consultant (MEL Consultants)
Appendix 10.	Council's Open Space Unit
Appendix 11.	Council's Community Amenity Unit

107. Their advice is contained as appendices to the original DAP report (attached to this report).

108. The substituted plans were also referred to all of the above, excluding the external urban design consultant. The advice based on the substituted plans is contained as attachments to this report.

Assessment

109. The primary considerations for this application remain as follows:
(a) strategic policy;
(b) urban design (including heritage);
(c) food and drink premises use;
(d) use of the land for the sale and consumption of liquor;
(e) on-site amenity;
(f) off-site amenity;
(g) environmental sustainability;
(h) traffic and car parking (including alteration to access to a road in a Road Zone);
(i) bicycle parking;
(j) loading bay waiver;
(k) waste management;
(l) Objector concerns; and
(m) compliance with proposed interim DDO.

110. This assessment will be structured around each of these categories, commencing with a position statement based on the original plans. Any new matters or matters that change the original officer position will then be outlined.

Strategic policy

111. The original assessment generally supported increased residential density in this location, referring to the MUZ, State and Local Policies (in particular, clause 21.05-2). However, it was identified that the Scheme does not give specific guidance on mandatory or preferred maximum heights in this location.

112. This site has a number of policy and physical factors that constrain development, these include:
   (a) the Heritage Overlay (surrounding heritage building stock and buildings on the subject site);
   (b) the primarily 1-2 storey dwellings to the immediate west and north of the site (noting there are also 4-6 storey apartment buildings to the north-west and east); and
   (c) boarding zones include the Mixed Use Zone, General Residential Zone 3 and Neighbourhood Residential Zone 1. The interfaces with the site are complex and introduce varying degrees of sensitivity or amenity expectations for neighbours.

113. The original officer strategic policy review concluded that:

   Whilst the site is generally well suited for a high density residential development, the proposal has failed to adequately consider off-site amenity, on-site amenity, equitable development and general urban design principles with regard to the height, setbacks and massing of the proposal. These issues are outlined in the following assessment.

114. For the reasons outlined in this report, whilst a range of on and off-site amenity and equitable development issues have been partially addressed by the substituted plans, the application still fails to provide an appropriate height and massing response in its policy and physical context. The proposal would continue to result in unreasonable on and off-site amenity outcomes (including daylight and outlook) and an unreasonable urban design outcome (height transition and design response) in the streetscape.

Food and drinks premises use

115. The substituted plans do not significantly impact the proposed use or layout of the food and drinks premises.

116. Officer's maintain that the proposed food and drinks premises would be acceptable, subject to the conditions recommended in the previous DAP report.

Use of the land for the sale and consumption of liquor

117. Again, the substituted plans do not impact the sale and consumption of liquor component of the application.

118. Officer's therefore maintain the position established in the original DAP report, that subject to conditions, the proposed sale and consumption of liquor (on and off-premises) associated with a café and food and drinks premises (cafe)/shop would not unreasonably impact the amenity of the area.

Urban design

Site Analysis Plan and context

119. The Applicant provided a site analysis plan and urban context report with the initial application.

Urban form and character

120. The original DAP report 'set the scene' in which the application was to be assessed from an urban form and character perspective:

The policy context of the site has already been outlined, being a MUZ where housing is to be provided at higher densities, yet also needs to respond to the existing or preferred neighbourhood character of the area.

Physically, the site is located in an area dominated by 1-2 storey built forms, along with newer 3-6 storey residential buildings. In the absence of detailed preferred neighbourhood character guidance in the Scheme, each application must be considered on its merits and in its context, with regard to the full suite of policy guidance (including on and off site amenity and ESD, for which assessments are offered later in this report).

Many applications at Yarra are guided by Council's Local Policy at clause 21.05-2, which states that developments on SRSs should not exceed 5-6 storeys unless a number of benefits can be met (although the list is not exhaustive). This is evident in the 3-6 storey residential buildings recently constructed within close proximity of the site.

By way of contrast, sites in the Municipalities' ACs have recently been around the 10-12 storey mark (including the Thomas Dux site at 153 Bridge Road), relying on the public realm benefits outlined at clause 21.05-2 of the Scheme and the state policy in regard to higher residential densities in ACs.

This site is nominated in clause 21.08 of the Scheme as a Strategic Redevelopment site. That does not automatically allow developments above the 5-6 storey mark. That classification and the 8,023m² size of the site of the does suggest that a development above this mark could be possible, even though the site is not within an AC.

Constraints imposed on the site however, are the Heritage Overlay and the adjoining 1-2 storey building stock, along with a number of habitable room windows and private open space areas adjoining or adjacent to the site. These sensitive interfaces will be addressed later in this report, however this built form assessment will incorporate heritage considerations.

Heritage Policy at clause 22.02-5.7.2 (industrial, commercial and retail heritage place or contributory elements) states that it is policy to:

- *Encourage new upper level additions and works to:*

- *Respect the scale and form of the existing heritage place or contributory elements to the heritage place by being set back from the lower built form elements. Each higher element should be set further back from lower heritage built forms.*
- *Incorporate treatments which make them less apparent.*

The DSE Higher Density Guidelines offer the following design suggestion, however specific guidance is not offered:

> *DESIGN SUGGESTION 2.2.2: SET BACK UPPER LEVELS OF TALL BUILDINGS OR USE A PODIUM AND TOWER FORM TO HELP CREATE A PEDESTRIAN SCALE AT STREET LEVEL.*

There are a number of factors at play in this regard, which must be carefully balanced.

Height and setbacks

121. As per the original assessment, the height and setback from the west, north-west, north-east and eastern boundaries will be considered in detail in the later 'off-site amenity' assessment. However, this section will focus on the height and setbacks from Queens Parade and those further afield.

122. The substituted plans have reduced the proposal from a maximum 16 to 12 storeys. Again, whilst the site is well positioned in terms of being a nominated SRS and within close proximity to an AC, this proposal must be assessed in its own built form context.

123. The original Hansen advice was that while a 16 storey building may be appropriate, the massing of the proposal was not site responsive. In particular, criticisms were made of the stepped 'wedding cake' approach, the absence of clear towers to break the upper levels or provide visual relief and that the layout with a central courtyard pushed the built form to sensitive interfaces.

124. The substituted plans continue to adopt a similar 'wedding cake' approach with a central courtyard but has removed the rotating form of the upper levels exacerbating the 'wedding cake' appearance of the proposed building.. Whilst the lowered height and increased side boundary setbacks have improved the appearance and off-site impact of the proposal, the design remains unacceptable. At 12 storeys to Queens Parade, the proposal still fails to provide an appropriate transition down to the primarily 1 and 2 storey Victorian era terraces west of the site, with the western 'tower' segment remaining at 11 storeys, as per the original plans.

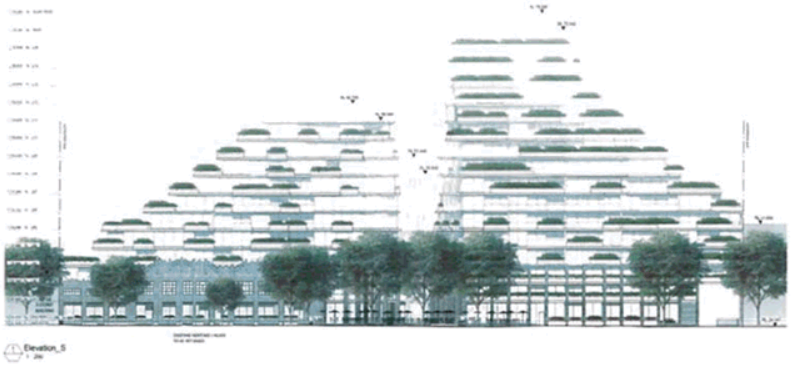
125. The reduction in the eastern tower height and the retention of the 11 storey western tower height only serves to increase the perceived bulk of the upper levels, which would appear more monolithic due to the similar heights now proposed.

126. In the absence of perspectives for the substituted plans, the southern elevations will need to be analysed to consider the streetscape impacts.

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Original plans



Substituted plans

127. As can be seen, whilst the 'peak' element of the eastern tower has been removed, the east and west segments continue to appear as a 'wedding cake', which is accentuated now with the amended plans and continues to be at odds with the building heights on surrounding sites and those proposed.

128. Reviewing the above, the design continues to introduce a solid width of 'tower' forms to Queens Parade, with only a minimum 9.2m central separation, which would not be appreciated for the majority of the oblique vantage points along Queens Parade by an observer (be it a cyclist, driver or pedestrian).

129. Again, these issues are not rooted in heritage concerns, but rather remain urban design issues.

130. Council's Heritage Advisor again, raised no issue with the building height or form from a heritage perspective. However, Council's Urban Design Unit offered the following:

    (a) *The overall height and massing of the development is excessive and does not relate to its surrounding environment, would visually impact the boulevard trees along Queens Parade and cause extensive overshadowing of Queens Parade and the surrounding area.*

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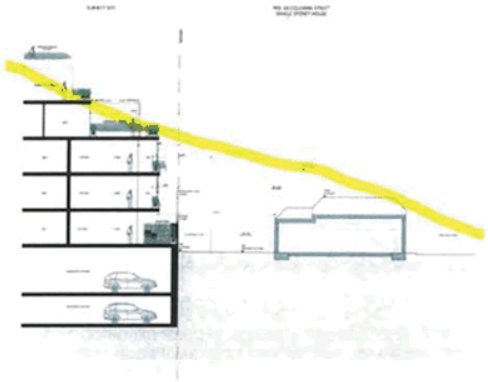
(b) *The accentuated terraced style of the building and minimal building separation makes the building appear monolithic in its surroundings.*
(c) *The façade design and materials/detailing is very repetitive makes the overall mass and bulk of the building appear even more prominent.*

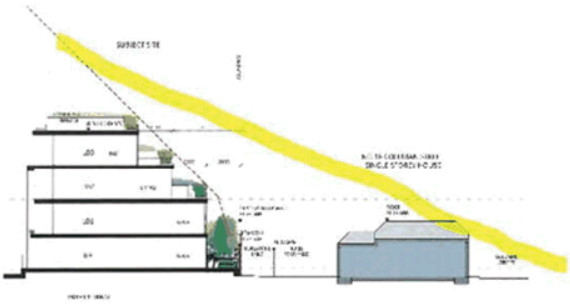
131. Again, the proposal must also be considered from the northern residential hinterland.

132. Comparing the original and the substituted plans, it is evident that the reduced height and increased setbacks have reduced the impact of the proposal from the north.

Original Plans



Substituted Plans



133. This is a rather crude method of assessing the impact to the north or from Coleman Street, however it appears that the northern segment of the development may now be acceptable from a streetscape perspective to the north.

134. Officer's note that it is difficult to assess the impact of the proposal in the absence of perspectives from the north. In particular, the impact of the 11 and 12 storey forms.

135. Again, whilst officer's do not raise issue with the impact on more distant views (e.g. Edinborough Gardens), it may appear that the mid-range views from Newry Street and

potentially Freeman Street may still be unacceptable when viewed from the primarily 1-2 storey built form context or residential hinterland to the north.

136. In its current form, officers still cannot support the height or setbacks of this proposal.

Demolition

137. The only issue raised in the original assessment in regard to demolition was that Council's Heritage Advisor requested the eastern wall of the retained Art Deco building segment be retained (within the proposed western café). This has been achieved in the new plans, with a notation confirming the wall would be reconstructed in 'face brick'. However, should a permit issue, a condition should confirm this would be constructed in recycled brick to match the façade or which are typical to the era of construction.

138. In terms of demolition, the western saw-toothed wall was going to be leveled with the removal of the top of the saw-toothed profile. However, through negotiations with neighbors, this wall would be retained as-is. With less demolition proposed, the proposed demolition works remain appropriate in a heritage context and would not adversely affect the heritage significance of the place, remaining in accordance with the Heritage Overlay and clause 22.02 of the Scheme.

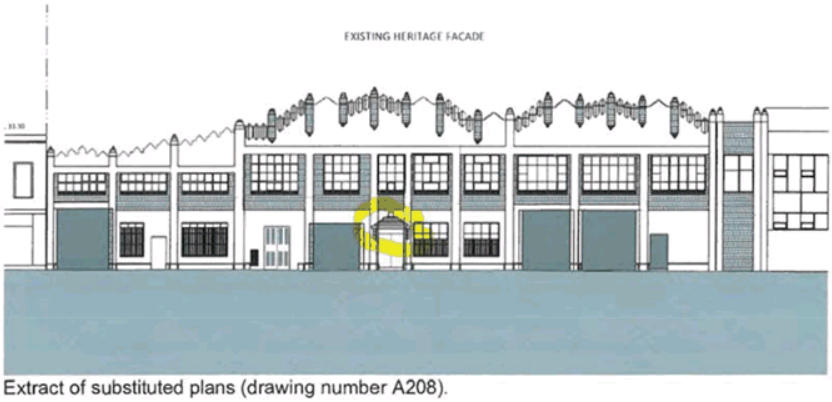
139. Further to the above, Council's Heritage Advisor also suggested the following:

    (a) *remove painting over the brick façade by an approved contractor who should provide methodology and a materials schedule (suggesting a low-pressure water and chemical or a poultice system is used);*

140. The above is supported by clause 22.02-5.4, in that the removal of paint from previously unpainted surfaces is supported. This can be imposed by way of a permit condition, should a permit issue.

    (b) *clarify if the proposed façade treatment (e.g. lower level and canopy) is the same as originally proposed; and*

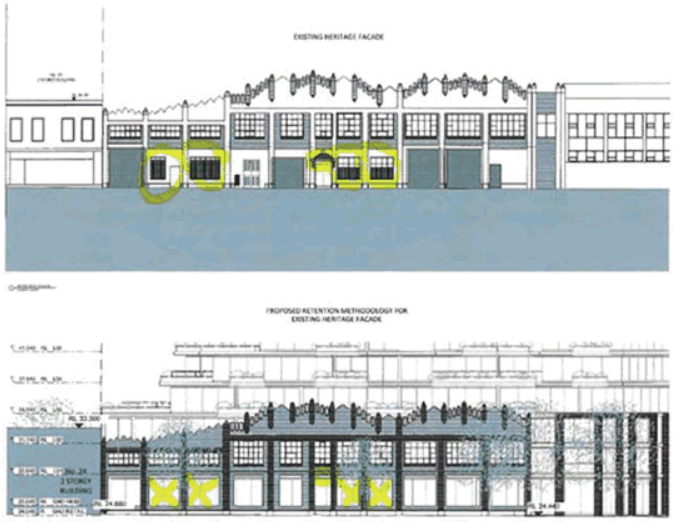
141. The façade treatment is as per the original plans, however a condition should require the retention of the front, central canopy.



Extract of substituted plans (drawing number A208).

(c) *request details of the framing and glazing to the façade windows, confirming that while the removal of roller doors is acceptable, existing façade wall panels should not be removed.*

142. Whilst the removal of the roller doors is acceptable, 4 of the existing windows should be retained to preserve the heritage fabric, or at least the window framing where balconies are proposed behind. The following marked elevations identify the elements which should be retained to ensure the significance of the heritage place is not unreasonably impacted. This could be addressed by way of a permit condition, should a permit issue.



Extract of substituted plans (drawing number A208)

Light and shade

143. Council's Urban Design Unit and Open Space Unit have and continue to raise issue with the extent of overshadowing of the public realm. However, the original DAP report did not raise issue with the proposal. As the height of the building has been reduced, the following extract from the DAP report remains relevant:

Council's Urban Design Unit raised issue with the extent of overshadowing of public space. However, the shadow diagrams provided by the Applicant demonstrate that the southern footpath along Queens Parade would not be overshadowed at the equinox. There is a pocket park south of Queens Parade that also would not be overshadowed at the Equinox.

Whilst the northern footpath would be overshadowed throughout the day at the Equinox, the existing buildings on the site already shadow a large portion. Whilst a segment at the eastern end would experience additional shadow, this is due to the podium, which is considered to be a positive urban design approach, holding the street frontage at the eastern end of the site. This outcome is therefore acceptable.

Street, public space and safety

144. The street presentation and impact on the public realm is still generally considered to be positive, however the following issues continue to be identified:

(a) the basement garage door should be better integrated into the building design. The design of the door could be addressed by way of a permit condition, should a permit issue; and
(b) the food and drink premises/shop entrance door be relocated further south of the planter to improve access (it currently reads as a drafting error as the door appears to enter into the garden bed). Should a permit issue, this could be addressed by way of a permit condition to improve access to this tenancy, positively activating the public realm.

Wind

145. The original plans were forwarded to Vipac, an external wind consultant. Vipac raised no issue with the original application from a wind perspective. In fact, they suggested that the 2m high solid balustrades to various private balconies (as recommended by the Applicant's wind Expert []) was excessive and not necessary. Should a permit issue, an amended wind report should be required, with balcony balustrades lowered to 1 or 1.7m (if required for overlooking purposes), provided they would achieve acceptable wind conditions.

146. Vipac also reviewed the substituted plans and confirmed that '*The revised design would be expected to achieve an improved wind environment over the original design*'.

Landmarks, views and vistas

147. The original DAP report remains relevant on this assessment criteria:

> *The closest identified landmarks in the Scheme (clause 22.03) to the subject site is the spire of St Marks Church, approximately 643m to the north-east of the site on the south side of Queens Parade. Due to the distance of the site from this landmark and it's positioning on the other side of the street, the proposal would not unreasonably impact views to this landmark.*
>
> *A number of objector's raised concern with the impact of the proposal on views from Edinburgh Gardens and towards the City. However, neither views are protected by the Scheme. The impact of building bulk in general however, is a relevant consideration and has been assessed in this report.*

Site coverage/Permeability

148. The site coverage proposed and site permeability do not significantly change as a result of the substituted plans. Whilst this report identifies a number of built form issues with regards to on and off-site amenity, these do not necessarily derive from site coverage or permeability. Further, the rainwater tanks continue to be shown on the plans. The original SMP detailed compliance with MUSIC storm water tool/best practice targets. Should a permit issue, a condition should ensure that an amended SMP is provided, reflecting the amended plans but generally as per the original SMP so these commitments are maintained.

Architectural quality, colours and materials

149. Objective 5.6 of the DSE Guidelines is '*To promote buildings of high architectural quality and visual interest*'.

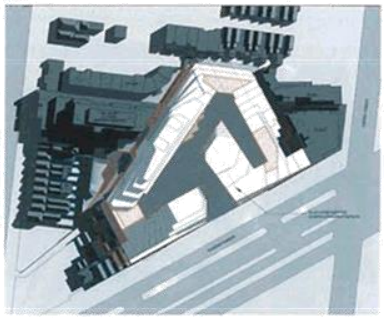
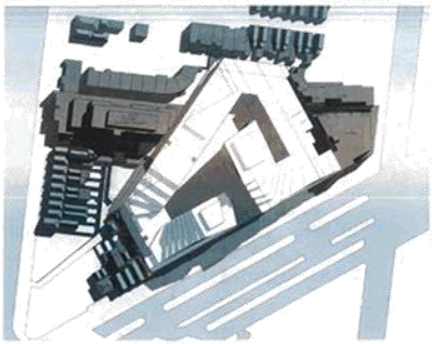
150. The initial external urban design advice was that '*The freeform building typology with an expanse of clear glazing makes the building difficult to 'read' and therefore appear out of context. The inclusion of some dark materials, especially at the lower levels, will assist in anchoring the building to the site and surrounding context*'. The amended plans have not

improved the upper level design treatment, rather the amendments have 'simplified' and flattened the design detailing and massing of the upper levels of the proposal which further exacerbates the incongruous design response selected for the site.

Landscaping

151. Council's Urban Design Unit and Open Space Unit raised issue with the proposed landscaping, of which a number of issues could be addressed by way of permit conditions.

152. Concerns were also originally raised regarding the extent of overshadowing of the central open space area.

	Original proposal	**Substituted plans**
9AM		
10AM		
11AM		

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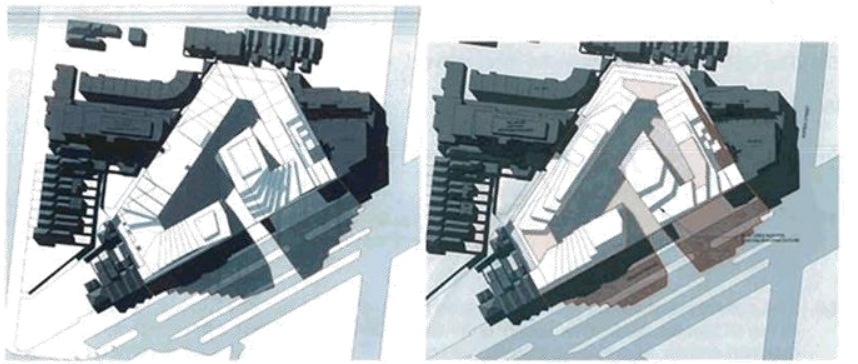
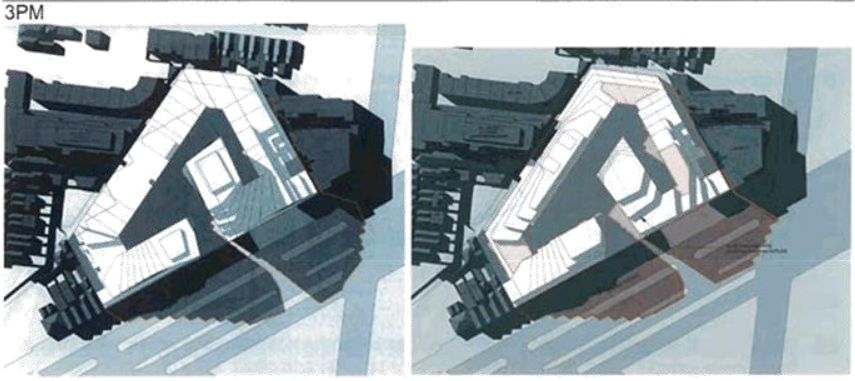


3PM



153. However, given the proposal includes 3 upper level communal terraces (levels 3, 4 and 9) and a larger area of the ground level communal courtyard would receive direct sunlight, this is considered to tip the balance and now be acceptable.

154. The original officer assessment of the impact of the proposal on the street trees on Queens Parade is also maintained. Whilst the amended plans introduce a wider shadow across the road reserve, the length of shadows has been reduced due to the reduction in building height. The impact on the street trees is therefore considered to be acceptable given that they would not be fully shadowed at the Equinox by this development (excluding the northernmost row immediately adjacent to the development).

Service infrastructure

155. The substituted plans continue to adequately provide areas for services, letter boxes, pits and metres.

39

On-site amenity

156. The DSE Guidelines remain the most relevant when assessing on-site amenity.

Access, layout and circulation

157. The development would continue to provide a reasonable layout and circulation spaces for residents with a large central communal area.

158. Although there would be 5 lift cores, the unique layout of the development (primarily due to the triangular configuration of the land) ensures that residents and visitors alike would find the development easy to navigate.

159. The substituted plans have also increased the corridor widths from 1.4m to 1.6m and 2-2.1m at the lift lobbies. Minimum 100mm entry door recesses were also initially recommended for dwelling entries, to provide a transitional space and easy access along the corridors. This could be addressed by way of a permit condition, should a permit issue.

Overlooking

160. Objective 2.9 of the DSE Guidelines aims '*To maximise residential amenity through the provision of views and protection of privacy within the subject site and on neighbouring properties*'.

161. The plans are very difficult to read at A3 and it is difficult to assess overlooking. This is not considered to be fatal to this assessment and should a permit issue, a general internal and external overlooking conditions is recommended to ensure unreasonable views are not provided into habitable room windows or secluded private open space areas of dwellings adjacent to and within the development.

Noise

162. Clause 22.05-4.1 of the Scheme outlines design recommendations to protect new dwellings from unreasonable noise, fumes, vibration, light spillage and other likely disturbances.

163. Given the surrounding properties are all residential, the key considerations remain:
    (a) the commercial tenancies proposed;
    (b) traffic noise; and
    (c) the ancillaries, lifts and vehicular doors proposed as part of this development and
    (d) the impact of the proposed communal areas (including the theatre on the eastern boundary) should also be considered.

164. The substituted plans were re-referred to Council's external acoustic advisor (SLR). They confirmed that the extent of changes to the plans would not impact their original review. Provided a condition requires an amended acoustic report to address the following, the proposal would not unreasonably impact nearby dwellings and would achieve a reasonable level of on-site amenity:
    (a) interface between the commercial tenancies and the proposed dwellings;
    (b) interface between the dwellings to the east and the proposed driveway;
    (c) impact of the proposed communal areas on the dwellings on and off the site;
    (d) adoption of the internal dwelling targets outlined in the original DAP;
    (e) calculations to include road traffic noise predictions to the facades of the buildings (typically through a 3D noise model);
    (f) additional noise testing to address Council's external acoustic advisor's concern that the location and time of testing was not appropriate:
        (i) *noise levels during the afternoon peak hour and the loudest hour of the 'night' period (typically 6 am to 7 am for sites such as this one)*; and

(ii) *a daytime measurement should be conducted to assist in the assessment of the daytime average noise level to apartments unless an alternative approach to determining the daytime average is adopted. As indicated above, we recommend that the design of the façade ensure that the day and night average levels are no greater than 40 dBA Leq,15h and 35 dBA Leq,9h.*

165. These issues remain non-fatal to this assessment and could be addressed by way of permit conditions, should a permit issue.

Private and communal open space

166. The original assessment raised issue with balcony sizes, particularly as the communal open space area could be overshadowed throughout the day, failing to provide a reasonable supplementary space.

167. However, the supplementary plans afford each 1 and 2BR dwelling with a minimum 8m² balcony and the 3BR+ dwellings would be provided with minimum 12m² balconies. These balcony sizes are reasonable and supported. Whilst some of these balconies would not receive direct sunlight throughout the day, the improved sunlight to the central courtyard provides reasonable recreation opportunities in sunlight throughout the day.

Solar amenity, daylight and natural ventilation

168. The original DAP report raised issue with the daylight and ventilation to be afforded to dwellings. In particular, due to the massing and 'pinch points' across the development.

169. The amended plans have gone some way to improve daylight and ventilation concerns, however the proposal would still result in unreasonable levels of daylight for a significant proportion of dwellings.

170. Council's ESD Advisor stated that '*The proposed development does not have sufficient building separation within it's proposed built form to allow daylight to the future dwellings. Applicants should aim to meet BESS building separate as a guide, (http://www.bess.net.au/tool-notes/) or demonstrate the development meets our daylight factor standards using daylight modelling. No daylight modelling or additional information to demonstrate best practice has been submitted. My previous advice, therefore, still stands'.*

171. As a guide, BESS suggests that 9+ storey buildings should have minimum 18m separation from buildings within sites, where from living/main balcony outlooks (Indoor Environment Quality section, table 3). This application incorporates minimum 9m separations for a range of bedroom and living/main balcony outlooks. Without daylight modelling from the Applicant, this is a good indication as to the deficiency in daylight standards that would be afforded to these apartments (particularly the central or inward looking apartments within or adjacent to the 11 and 12 storey forms) at the lower levels.

Storage

172. The proposal continues to provide at least 1 store per dwelling (rather, 345 stores provided for 341 dwellings). Whilst the storage cages continue to be 3m³ to 6m³, this continues to be acceptable as the needs of residents in apartment style dwellings would be different to those in stand-alone dwellings (e.g. not needing storage for lawn mowers, etc.). The provision of at least 3m³ of storage per dwelling in this style of high density development was also supported by VCAT in *U1 Stanley Street Pty Ltd v Yarra CC* [2012] VCAT 1455, paragraph 92).

Internal circulation/way finding

173. The proposal does not raise concern with regard to internal circulation or wayfinding. The layout of the central courtyard would continue to ensure that wayfinding would be easy for residents and visitors.

Summary

174. The proposal has been poorly massed and would result in a poor level of natural daylight and for residents. Considering the substituted plans the proposed standard of amenity for a development on a reasonably unencumbered 8,028m² site is still unacceptable and is not supported.

Off-site amenity/Equitable development

175. Off-site amenity and equitable development remains a concern with this application.

176. Council's ESD Advisor's assessment of the substituted plans noted that:

> *The impact of the proposed development on the neighbouring dwellings, particularly to existing primary aspects from living rooms, remains a serious concern. As previously stated: Recommend: increase setbacks to boundaries where existing buildings are reliant on access to daylight & improve the access to daylight of proposed dwellings…Demonstrate that changes to the building design can meet a best practice standard through daylight modelling.*

177. Objectives 2.5 and 2.6 of the DSE Guidelines are '*To ensure building separation supports private amenity and reinforces neighbourhood character' and 'To ensure areas can develop with an equitable access to outlook and sunlight*'.

178. The original DAP report referred to *Cremorne Corporation Pty Ltd v Yarra CC* [2008] VCAT 1202 (2 July 2008), where minimum 4.5m side boundary setbacks should be provided to afford equitable development across sites (obviously greater setbacks where taller buildings are proposed).

179. Each interface will again be considered in-turn, with an assessment against off-site amenity and/or equitable development, as relevant.

West

180. The original western interface assessment remains relevant. While the top of the west boundary saw-toothed wall is now proposed to be retained, this would not impact existing conditions experienced by adjacent residents and is supported.

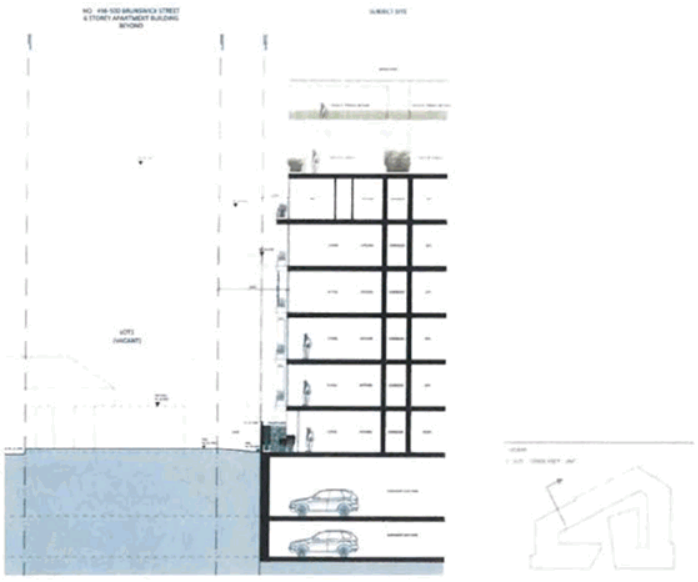
> *To the west of the site is a row of 1-2 storey dwellings. The dwelling to the immediate west incorporates a first floor balcony.*
>
> *The proposal would utilise the existing west boundary wall, albeit the saw-toothed elements on top would be removed. Beyond this, the proposal would incorporate a 3 storey, 11m boundary wall element, adjacent to the existing on-boundary wall to the west. These setbacks therefore do not raise off-site amenity concerns.*
>
> *Shifting further north, west boundary setbacks would range from 4.6m to 7.2m at a height of 5 storeys. Where the proposal is adjacent to the rear private open space area of adjacent dwellings, the building 'opens up' to provide visual relief at level 3. Whilst the external urban design advice received by Council raised issue with the extent of overshadowing at 24 Queens Parade, the Applicant has prepared detailed shadow diagrams of this area, demonstrating that the additional shadowing impact at the September equinox would be*

limited to before 9.30am. This impact is considered to be acceptable in this context and would not unreasonably impact the amenity of the dwellings to the east.

North-west (western end)

181. The original officer assessment did not raise any concern with this interface.

Original proposal



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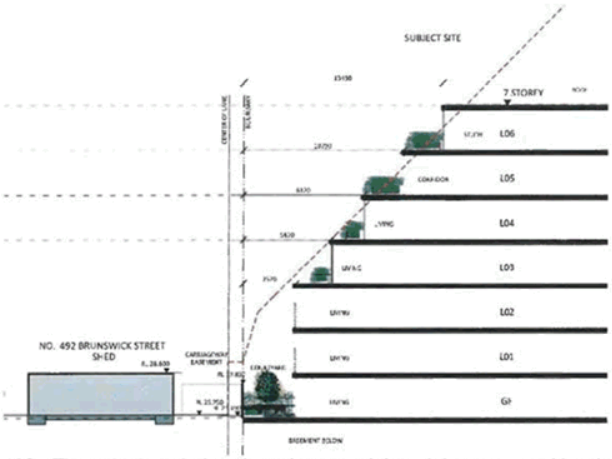
Substituted plans



182. The substituted plans have increased the minimum ground level setback from 1.7m-2m to a minimum of 3m and stepped the built form from level 3 above, further improving this interface, albeit officers did not raise concern with this original massing.

North-west (central)

Original proposal

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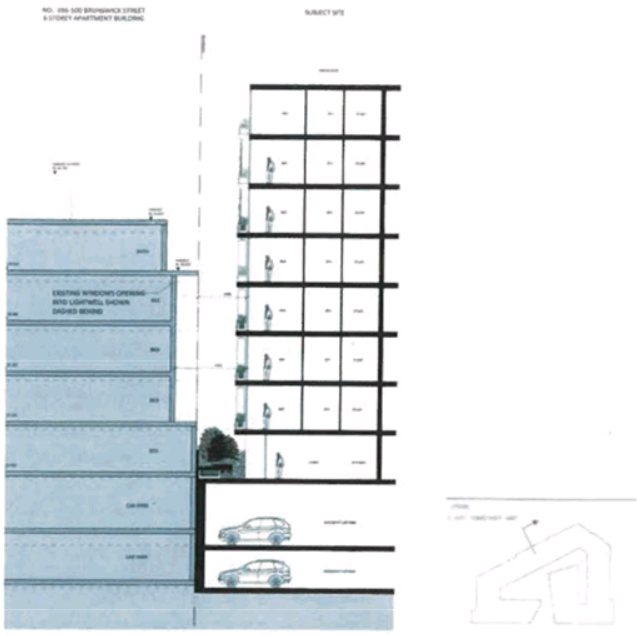
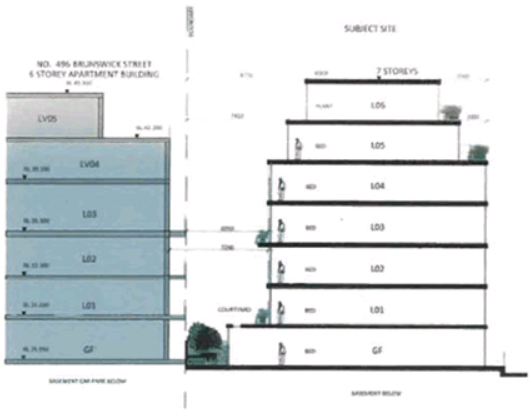


Substituted plans



(Drawing number A315)

45

183. At this interface, adjacent to 496-500 Brunswick Street (Aquila), the proposal was found to result in unreasonable internal amenity outcomes by virtue of the minimum 2m setback. The proposal is now setback a minimum 3m from this interface, increasing to 6m at level 1 and above. This segment has also been reduced in height from 8 to 7 storeys.

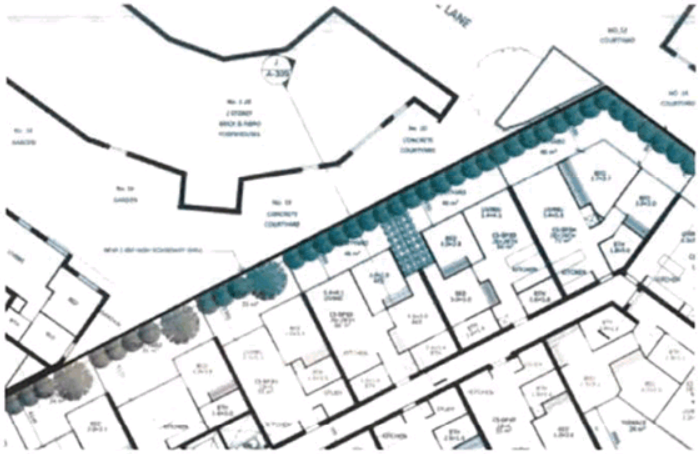
184. The substituted plans have modified the ground floor layout of the proposed development orientating the living areas to the north-west and north-east of the Aquila development. This ensures that while the ground floor of the proposal is setback 3m from the boundary, the residents would enjoy a reasonable level of amenity.

185. Again, the adjacent living areas of the Aquila apartments are generally orientated to the north or south, ensuring that the siting of the proposal does not unreasonably impact daylight or the outlook afforded to these dwellings.

186. The reduced height, increased setbacks and internal reconfiguration of apartments is considered to result in a reasonable level of on and off-site amenity for residents.

North-west (eastern end)

Original plans



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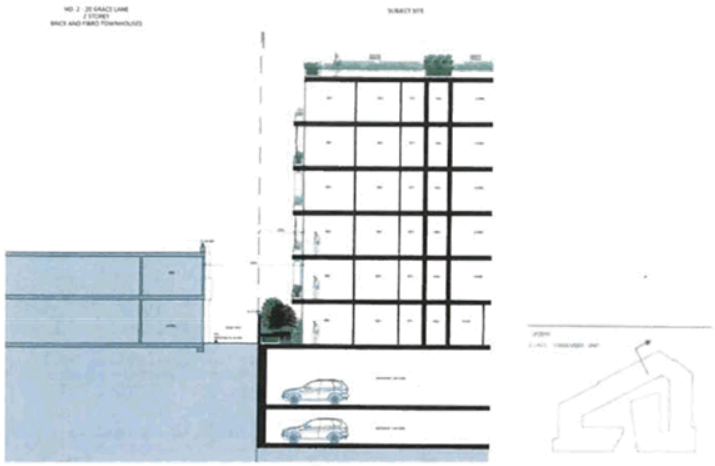
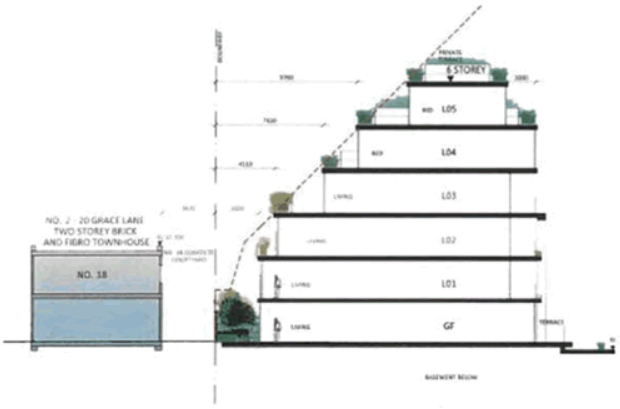


Substituted plans



Extract of drawing A314

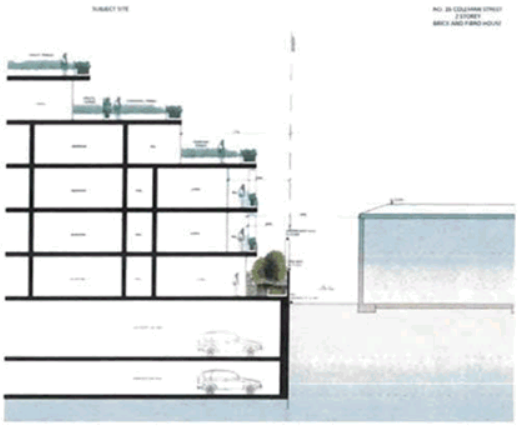
187. This section of the proposal was originally 6 storeys, plus a roof deck, with setbacks of approximately 3.2m. The original officer assessment was that given this section is adjacent to a 2 storey block of townhouses with private open space areas on the boundary, the 3.2m setback for a 7 storey form (6 storeys plus a roof terrace) was not acceptable and would unreasonably impact the amenity of the adjoining dwellings by virtue of visual bulk.

188. The substituted plans have a minimum ground and level 1 setback of 3m, however levels 2 and above are setback 4.1m, 7.4m and further, as guided by a 45 degree angle.

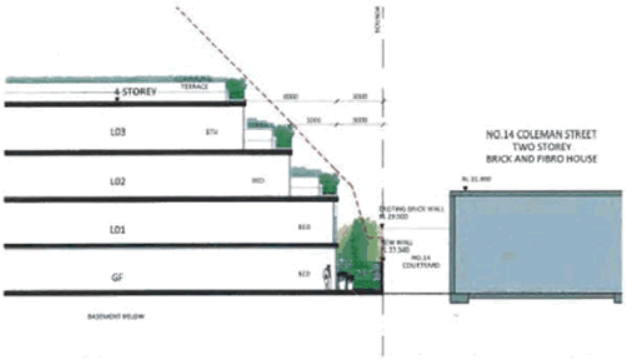
47

189. The substituted plans are considered to now appropriately respond to the 2 storey dwellings to the north along Grace Lane. These dwellings would now not be unreasonably impacted by virtue of visual bulk and could be reasonably developed in the future (equitable development opportunities) due to the reduced heights and increased setbacks.

North-east (direct abutting properties)



Superseded plans



Extract of drawing A312

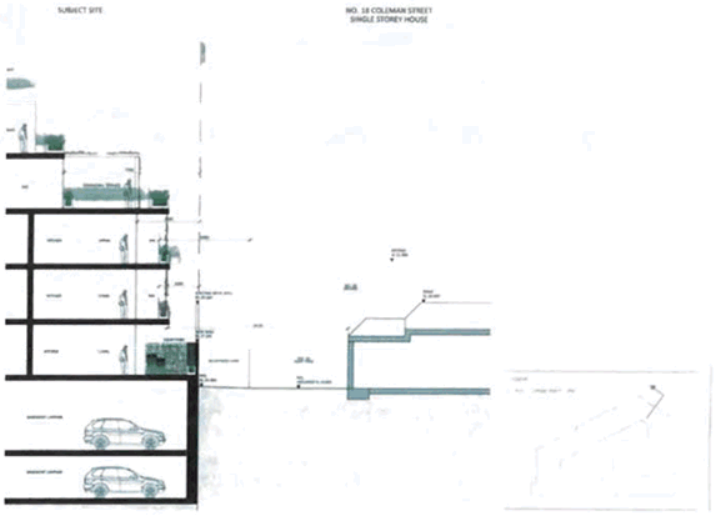
190. In this segment, the proposal was originally proposed as 5 storeys, with roof terraces beyond. The main building bulk was proposed as 3 storeys adjacent to this boundary however, with a setback of 3m. This type of setback was not acceptable given the adjacent sensitive interfaces, being a direct abuttal with private open space areas, with habitable room windows beyond. It was considered that this would result in an unacceptable level of visual bulk when viewed from these adjoining dwellings.

191. The superseded plans have reduced the interface of this section to 2 storeys, albeit maintaining a 3m minimum setback. However, the overall height of this section has been reduced to 4 storeys (plus a roof terrace), with levels 2-3 setback as per B17 of ResCode. The reduced height and increased setbacks from this boundary are therefore supported and would not result in unreasonable visual bulk when viewed from these dwellings.

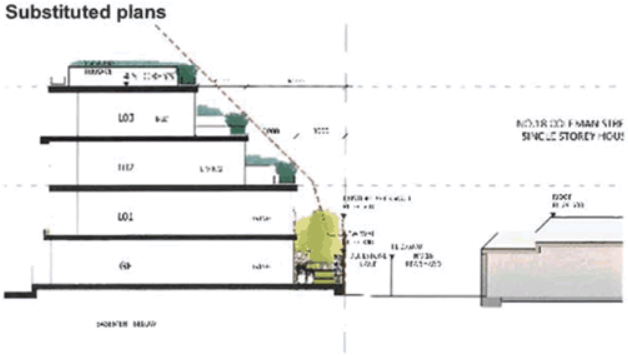
North-east (properties separated by laneway)

Original plans

49



Substituted plans



Extract of drawing A310

192. Similar to the directly abutting properties in Coleman Street, the proposal is opposite more dwellings to the north-east, albeit these dwellings are separated by a 2.5 laneway. Whilst this would provide some additional relief, the original proposal was still considered to be an inadequate setback from these adjacent dwellings. Again, it is noted that these dwellings are within Neighbourhood Residential 1 Zone, where the purpose is to identify areas of predominantly 1 and 2 storey residential development. Whilst this does not apply to the subject site, it does give an indication of the level of amenity expected to be afforded to these residents.

193. The substituted plans have reduced the height of this interface to 2 storeys, at a setback of 3m from the boundary. A storey has been removed, with levels 2 and 3 setback as per B17. Again, this is considered to be a sufficient height reduction and setback increase to afford a reasonable level of amenity for residents in the adjacent NRZ1.

East

Original Plans

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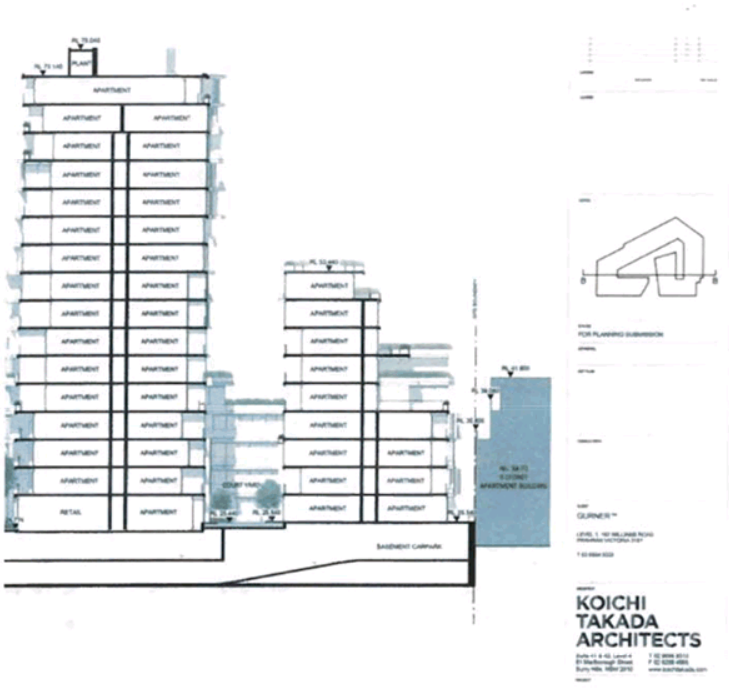
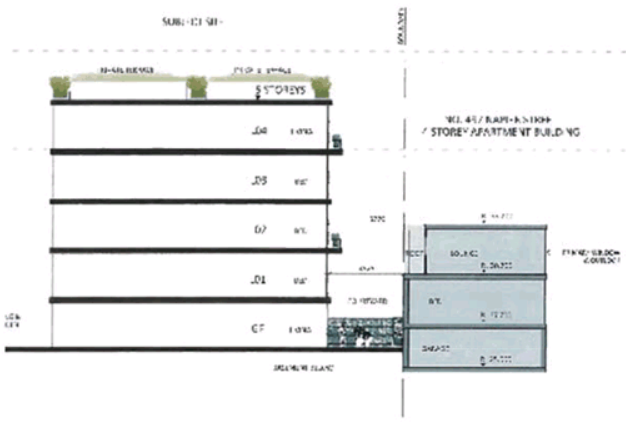


Substituted Plans

Interface with 497 Napier Street apartment building #1



Extract of drawing A306

52

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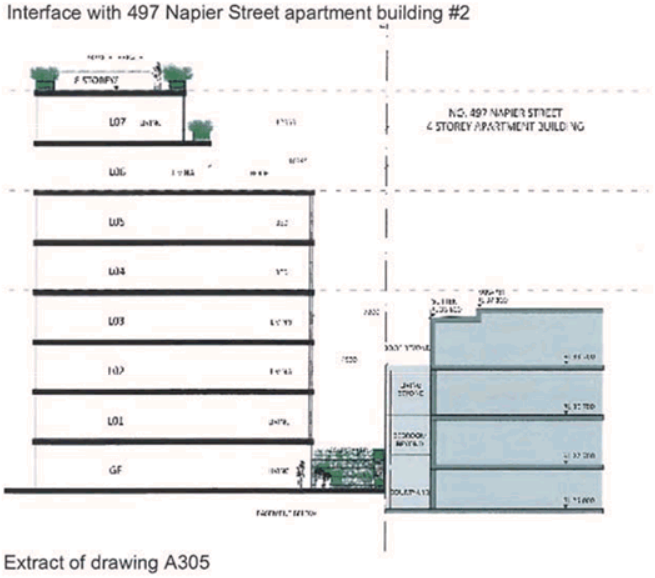
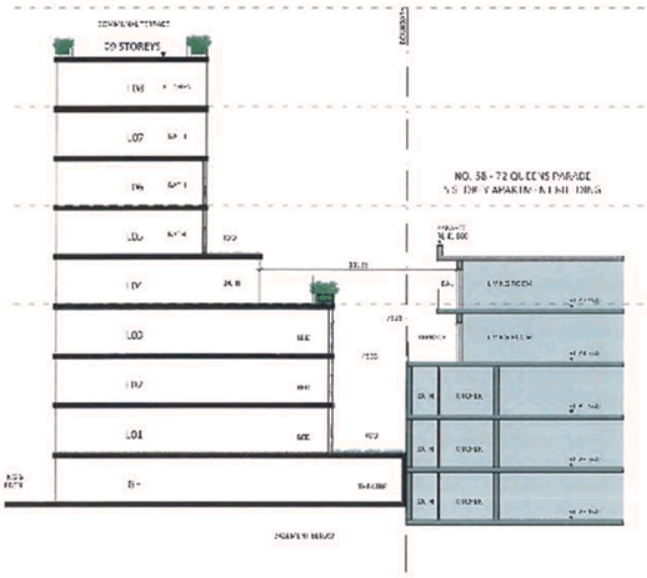
Interface with 497 Napier Street apartment building #2



Extract of drawing A305

Interface with 56-72 Queens Parade



Extract of drawing A304

53

194. The original proposal was as high as 9 storeys, plus a roof deck, adjacent to the eastern boundary. The closest 'pinch point' was a 2.3m setback. This was considered inadequate for a building of this height, and are unacceptable given the site is over 8,000m².

195. The substituted plans have increased the east boundary setbacks, however the proposal remains as high a 9 storey building adjacent to the apartment building within the MUZ (56-72 Queens Parade). The segment adjacent to the NRZ apartment building (497 Napier Street) would be 5 storeys.

196. Whilst setbacks would generally be 4.5m, this setback is typically afforded or accepted for 4-5 storey built forms. Council's BESS standards suggest that apartment with a main living room outlook should be setback at least 9m from the boundary where the building heights are 5-8 storeys (Indoor Environment Quality, table 1). For building heights of 9+ storeys, this side boundary setback should be increased to a minimum of 12m. Whilst officers are not suggesting this be applied as a rudimentary figure, it does indicate the level of daylight the proposed and existing dwellings would experience as a result of these heights and setbacks. This continues to be unacceptable at this interface.

South

197. Queens Parade is to the south of the site, with this application not bringing rise to unreasonable off-site amenity or equitable development concerns at this interface.

Summary

198. Whilst some improvements have been made, the proposal has been poorly massed and has not adequately considered it's context. The proposal would unreasonably impact the amenity of adjoining and adjacent dwellings, unreasonably compromise the development potential of surrounding sites and would achieve a poor level of on and off-site amenity as a result.

Environmental sustainability

199. Considering the original application, Council's ESD advisor raised the following issues:
   (a) the development has a poor standard of natural ventilation; only 10% of apartments when BESS best practice is a minimum of 60%;
   (b) single sided dwellings should be no deeper than 5m (some are over 8m deep, single sided and south facing), bringing rise to natural daylight and ventilation concerns;
   (c) a '*significant number of dwellings*' have primary aspects to boundaries. These setbacks are generally insufficient, and include deep balcony overhangs. Council's ESD Advisor noted that these dwellings are unlikely to meet a best practice standard in access to daylight. The massing is also likely to unreasonably impact existing neighboring buildings;
   (d) the proposal incorporates large amounts of east, west and northern glazing with a poor shading strategy to deal with unwanted summer solar heat gains. This can be dealt with by way of a permit condition, however the extent of glazing along these elevations may result in a highly modified urban design outcome should they all be screened. It would be preferable that this issue is dealt with before the granting of any permit (i.e. sketch plans), although this is not considered to be fatal to this assessment;
   (e) end of trip facilities (showers and lockers) should be provided for staff (preferably in the facilities in the core on the ground floor, including the disabled access WC). This could be addressed by way of a permit condition, should a permit issue;
   (f) on-site waste management facilities should be provided for green and hard waste. This could be addressed by way of a permit condition, should a permit issue, along with a reference to these facilities in the WMP;

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200. The following additional items were also recommended:
   (a) consider a solar PV array to contribute to common area electricity consumption;
   (b) recommend split ACs within one star of the most energy efficient available for the suitable capacity at the time of construction;
   (c) recommend 90% efficiency gas boiler and solar thermal pre-heating collectors be applied to the hot water system; and
   (d) recommend a Building Users Guide detailing the sustainability features of the building be developed and given to building users.

201. The original DAP assessment found that '*The layout of the dwellings, side setbacks and extent of exposed glazing would unreasonably impact adjacent dwellings and would result in a poor level of amenity for residents, who would need to rely on electricity and gas for heating and cooling to an unreasonable degree'.*

202. The substituted plans have made some improvements through the deletion of 4 storeys from the eastern tower, however the daylight issues remain systemic throughout the development, rooted in the layout and height combination proposed (i.e. buildings with the separation proposed should generally be lower to afford reasonable daylight levels or buildings of this height should be afforded greater setbacks or separation distances).

203. Along with internal and external daylight and ventilation issues raised (noting that officers are of the position that minimal cross-ventilation is a secondary issue compared to the significance of the daylight concerns), the following issues remain with the substituted plans:
   (a) *external views are not possible from a significant number of dwellings with internal outlook.*
   (b) *Large amounts of exposed glazing to the east, west and northern facades across the development. This poor shading strategy will result in high cooling loads and reliance on air conditioning for thermal comfort. Recommend exterior adjustable shading to all exposed glazing on the east, west and north facing facades exposed to summer sun angles, through louvers, fins, retractable awnings or sliding screens, etc. "solar screens" are mentioned in the SMP but it is unclear what this refers to on the plans.*

204. The following was also recommended by Council's ESD Advisor, albeit not fatal to this assessment or able to be addressed by way of conditions:
   (a) *…provide end of trip facilities (showers and lockers) for staff. It appears there will be space in the facilities in the core on the ground floor, including the disabled access WC;*
   (b) *recommend providing onsite waste management facilities for green waste and hard waste also. It appears that space has been provided in the waste room but it was not been mentioned in the SMP;*
   (c) *please check the WMP to ensure that the waste management provisions are sufficient, and if "green" and "bulk" waste facilities are also included;*
   (d) *consider a solar PV array to contribute to common area electricity consumption.*
   (e) *recommend split ACs within one star of the most energy efficient available for the suitable capacity at the time of construction;*
   (f) *recommend 90% efficiency gas boiler and solar thermal pre-heating collectors be applied to the hot water system; and*
   (g) *recommend a Building Users Guide detailing the sustainability features of the building be developed and given to building users.*

205. For a development of this scale, the Applicant should have included or should adopt many of these suggested ESD items.

Traffic and car parking

Car parking provision

206. The original application sought a 128 space dwelling and a 95 space dwelling visitor/food and drinks premises/shop car parking reduction (223 spaces in total) under clause 52.06 of the Scheme.

207. The substituted plans now seek a 23 space dwelling and a 68 space dwelling visitor/food and drinks premises/shop car parking reduction (91 spaces in total).

208. The original DAP report supported the reduction of 223 spaces based on a number of factors, having regard to clause 52.06. These included:
   - *(a) the site is well positioned to encourage sustainable transport modes (walking, cycling and public transport);*
   - *(b) the site is within walking distance of the Brunswick Street Ac;*
   - *(c) there are 2 car share pods within 150m of the site;*
   - *(d) dwelling residents – applying ABS statistics for the suburb of Fitzroy north to the development, the proposal would have a parking demand for 210 cars associated with the dwelling component (the proposal allocates 234 spaces to these apartments);*
   - *(e) residential visitors – car parking surveys of similar developments in Port Melbourne have been undertaken. They established a peak visitor demand of 0.1 space per dwelling compared to a weekday demand of 0.06 spaces per dwelling. This would equate to a visitor demand for 29 spaces during the day and 48 spaces on weekends and evenings. With 10 being provided on-site, 19 and 38 spaces would be demanded on-street;*
   - *(f) commercial premises – whilst the Scheme generates a parking rate for 4 spaces, Traffix Group note that the reduced parking overlay rate of the Scheme aligns with empirical evidence of similar tenancies within close proximity of ACs and public transport. This equates to an anticipated demand for 4 staff and 8 visitor parking spaces;*
   - *(g) considering the anticipated parking demand holistically, Traffix Group anticipate a standard demand for 27 on-street parking spaces (during business hours) and a peak demand for 46 car parking spaces (evenings and weekends);*
   - *(h) Council's Strategic Transport Statement (April 2006) has the following transport sustainable hierarchy:*
     - (i) *Pedestrians*
     - (ii) *Cyclists*
     - (iii) *Tram*
     - (iv) *Bus/train*
     - (v) *Taxi users/car shares*
   - *(i) car parking surveys were undertaken on Friday 18 March 2016 (1pm and 8pm) and on Saturday 19 March 2016 (1pm and 8pm). The surveys found no fewer than 139 available parking spaces during peak car parking times. This suggests that the area could accommodate the anticipated 27 and 46 space shortfall parking demand; and*
   - *(j) the existing warehouse use would have a car parking 'credit of 20 spaces.*

209. Both Council's external and internal traffic advice supported the 223 space parking reduction sought.

210. Now at a 91 space reduction, the application continues to be supported and is considered to continue to support sustainable transport modes, without unreasonably impacting parking conditions in the area.

211. Both Council's Engineers and the external traffic consultant (Cardno) reviewed the substituted plans and support the proposed car parking provision and allocation.

Car park layout and access

212. Council's external traffic advisors and Council's Engineers have reviewed the car park layout and access made the following comments:
   (a) *Columns have been set back from the aisles by 300 mm and 750 mm. The positions of the columns do not comply with Diagram 1 Clearance to car parking spaces in Clause 52.06-8. In Diagram 1, columns are set back from the aisle by 250 mm and columns have a maximum depth of 1000 mm. For columns set back from the aisles by 300 mm, the encroachment into the parking envelope is marginal (by 50 mm) and should not adversely impact on rear car doors from opening. However, the columns that are set back from the aisle by 750 mm encroach into the parking envelop by 500 mm and could potentially impact rear car door opening.*
   (b) *Clearances for Spaces adjacent to Walls, Bicycle Parking Cages and Storage Cages – have not been dimensioned on the drawings.*
   (c) *Loading By and Waste Pickup Bay– have not been dimensioned on the drawings.*
   (d) *As was stated in our previous review, Cardno is of the view that it will be necessary to install a convex mirror and / or a signal system to warn pedestrians of exiting vehicles given a pedestrian sight triangle is not intended to be provided. This is largely due to the anticipated level of pedestrian activity along the Queens Parade site frontage.*

213. The above can be addressed by way of permit conditions and are not fatal to this assessment.

214. A number of standard conditions and notations relating to construction management, drainage, pits and meters and no damage to Council assets were recommended by Council's Engineers. Along with a condition relating to the re-sheeting of the Queens Parade service road. These conditions/notations should continue to be provided should a permit issue.

Traffic

215. The original assessment suggested anticipated traffic volumes of 3 3 movements per day for each 1, 2 and 3 BR apartment and 4 movements (total) per day for the commercial spaces. This was supported by Council's Engineers and external traffic consultant.

216. With the proposed dwelling numbers being reduced from 476 to 341, the anticipated traffic volumes would be less.

217. Therefore, it follows that the original conclusions on traffic are maintained:

   (a) Council's external traffic consultant '*…agreed that due to the variety of access routes available to the site from all directions, accessibility to the site and surrounding area will be readily accommodated post-development, with development traffic being well dispersed across the road network without detrimental impacts*';
   (b) Council's Engineering Services Unit found that '*The traffic generated by the development can be dispersed into the surrounding road network without adversely compromising its operation or safety*'.

Road Zone

218. A permit is required to alter and create vehicular access to Queens Parade under clause 52.29 of the Scheme. The application was referred to VicRoads under this provision, and the following decision guidelines are relevant:

   (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
   (b) *The views of the relevant road authority.*

(c) *The effect of the proposal on the operation of the road and on public safety.*
(d) *Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.*

219. Council's external and internal engineering advice has already been outlined as not raising issue with traffic generated by this application.

220. VicRoads are a determining Referral Authority under the Scheme. Their comments on the original application were that they do not object to the proposal, subject to the imposition of the following conditions on any permit issued:

1. Before the development starts, amended plans must be submitted to and approved by the Responsible Authority. When approved by the Responsible Authority, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with Drawing number A100 Revision N dated 07/07/2016 but modified to show:
   a) A flashing light/sound device be implemented at the vehicle entry/exit to warn pedestrians of vehicle movements and/or
   b) A convex mirror or similar device to be installed to the satisfaction of the Responsible Authority at the entry to the car park to increase motorist visibility of pedestrians when exiting the site.

2. The crossover is to be constructed to the satisfaction of the Responsible Authority and at no cost to VicRoads (the Roads Corporation) prior to the commencement of the use hereby approved.

3. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to VicRoads prior to the occupation of the building hereby approved.

NOTES:
a) The proposed development requires reinstatement of a disused crossover to kerb and channel. Separate approval under the Road Management Act 2004 for this activity may be required from VicRoads (the Roads Corporation). Please contact VicRoads prior to commencing any works.
b) Separate Consent may be required from VicRoads (the Roads Corporation) under the Road Management Act 2004 for all buildings and works (including canopies and projections) undertaken outside the title boundary within a Roads Zone Category 1 (Queens Parade). Please contact VicRoads prior to commencing any works.

221. VicRoads are a party to the VCAT proceedings and will inform the Tribunal of their position on the substituted plans.

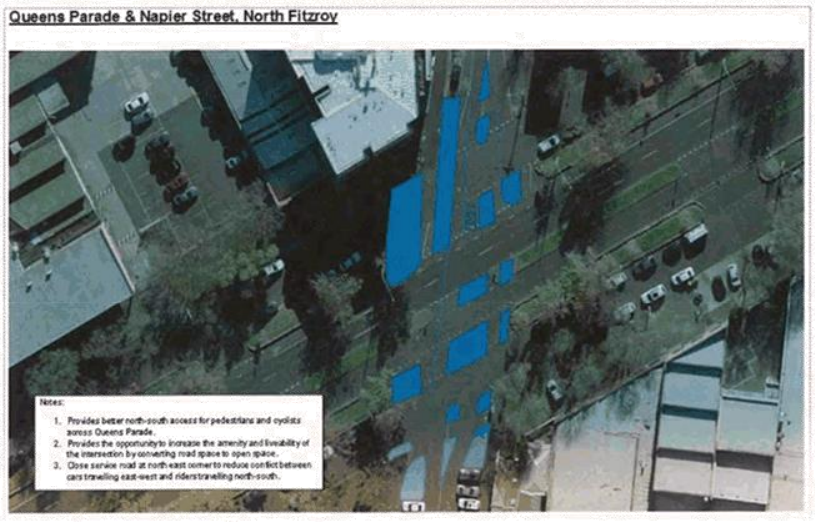
222. For the purpose of an officer assessment, the alteration of access to the Road Zone continues to be supported subject to the above conditions.

Bicycle parking

223. The original application sought a 39 space bicycle parking reduction for dwelling visitors and food and drink visitors. The substituted plans now seek a 3 space dwelling visitor and food and drinks premises employee reduction.

224. The original 39 space reduction was supported and it therefore follows that a 3 space reduction would also be supported and is seen as an improvement to the original application (with regard to bicycle parking provision).

225. A range of conditions were recommended in the previous DAP report (following from Council's Strategic Transport Unit, Urban Design Unit, Engineering Services Unit and external traffic advice) and continue to be recommended, should a permit issue:
   (a) bicycle parking must be secure and well-lit;
   (b) at least 75% of bicycle parking spaces must be on-ground and not hanging style (currently, 31% of bicycle parking spaces would be on-ground). This would improve accessibility;
   (c) bicycle parking spaces with a minimum 1.2m storage area and minimum 1.5m access aisle (some issues arise in the irregularly configured storage areas;
   (d) improvements to the Napier Street and Queens Parade intersection through the:
      (i) closure of the the service lane on the north west corner;
      (ii) installation of splitter islands and kerb extensions;
      (iii) decreed crossing distances for cyclists; and
      (iv) opportunities for better/greener public spaces. (See below.)



226. Officer's maintain that with an additional anticipated 121 peak hour and 1,209 daily movements as a result of this development, and given the scale of the project, should a permit issue, these road improvements are considered to have a reasonable nexus and should be imposed by way of permit conditions.

227. Again, as per the original report, signage has not been detailed as per clause 52.34-5 of the Scheme. However, a condition could also be imposed however on any permit issued to ensure that bicycle signage is provided in accordance with clause 52.34-5 of the Scheme.

Loading bay waiver

228. The Applicant was originally seeking a waiver of the loading bay requirement associated with the food and drink/shop and cafe premises. However, the substituted plans include a loading bay in the eastern end of basement level 1.

229. These plans therefore address Council's Engineering Services Unit's original concern that for a large scale development such as this, at least one on-site car parking space should be allocated for loading by vans or small vehicles.

230. The width and length of the loading bay exceeds the minimum clause 52.07 requirements (9m length and 4.2m width), however the minimum height clearance of 4m would not be achieved in the basement (minimum 2.5m clearance heights). This is supported given the size of the commercial tenancies, being able to be serviced by small vans or vehicles. This should be imposed by way of a permit condition (deliveries may only be made by small vans or vehicles).

Waste management

231. The substituted plans did not include an amended Waste Management Plan **[WMP]**.

232. Council's Services Contracts Unit has reviewed the WMP prepared by Leigh Design, dated 27 June 2016. The WMP proposes on-site waste collection within a dedicated loading bay by a private contractor.

Council's Services Contracts Unit raised the following issues with the submitted WMP:

- *This is a very large development and what has been proposed does not appear practical and is somewhat problematic. There are major practical difficulties due to the scale. The WMP needs to be clear on how waste will be managed in practice for residents/tenants, businesses, operator and waste contractors to ensure compliance with up to date waste minimisation practices. Lessons learnt over time includes that the operator must be involved in the planning stage to ensure reasonable outcomes for all concerned.*
- *the plan is generally deficient in detail;*
- *the bin store is too small and need isles between bins;*
- *details are needed on:*
    - *how the bin store will operate/be managed by operator;*
    - *education, tenants information, bin room set up, etc. to ensure appropriate management of the waste and recycling;*
    - *ensuring recycling collected is compacted to ensure industry standard and not compromise recovery of recyclables;*
    - *the path of access from the street to the bin collection point;*
    - *chute rooms;*
    - *how the chutes operate to ensure appropriate use by tenants;*
    - *how the development will be managed by the operator;*
    - *the bin store, clearly showing bins, aisles, path of access, hard waste area,* etc.; and
    - how the WMP will work in practice for residents, operator and waste contractors.

233. In the absence of an amended WMP to address these concerns, this remains a ground in officer's recommended position of refusal.

234. Council's external engineering advice identified that swept paths need to show the mini rear-lift loader enter the site via the Queens Parade roadway (not just within title boundaries). The swept paths should also include 600mm clearance lines. As opposed to the previously identified waste management issues, these matters could be addressed by way of permit conditions.

Objector concerns

235. Objector concerns were addressed in the original DAP report. This assessment remains relevant in light of the substituted plans:

The following objector concerns have been addressed throughout this report:

- *non-compliance with the Yarra Planning Scheme and the Mixed Use Zone;*
- *height (this would be similar to the Housing Commission flat construction);*
- *upper level setbacks are inadequate;*
- *design detail does not complement the area (including use of materials and fine grain subdivision) and the building would not age well;*
- *use of landscaping is 'laughable' and no maintenance details are provided;*
- *impact on heritage (subject site, nearby 1 and 2 storey terraces, Queens Parade, Coleman Street and Napier Street);*
- *proposed facadism and impact on heritage of the site;*
- *neighbourhood character (other apartment buildings in the area are 3-6 storeys, looks like 'Docklands');*
- *apartments are too small;*
- *the draft Better Apartment Guide should be considered;*
- *impact on the Edinburgh Gardens;*
- *off-site amenity (daylight, noise [people, parties/people on balconies, cars, communal areas, licenced premises], light pollution, overlooking/privacy, overshadowing [private open space areas and the public realm], visual bulk, obstruct sky and city views, wind tunnel);*
- *poor on-site amenity (long internal corridors, poor sun shading, poor apartment layouts);*
- *insufficient car parking (the area is already constrained, difficult for guests/visitors to park);*
- *impact on cyclist and pedestrian safety (including the Napier St/Queens Pde bicycle crossing);*
- *traffic impacts;*
- *impact on views from Edinburgh Gardens, Bill Peterson Oval and Brunswick Street oval to the city;*
- *the development would achieve a poor ESD standard;*
- *footprint/site coverage is too high, needs more open space around it;*
- *perspectives have not been provided from the north or Edinburgh Gardens;*
- *construction impacts (noise, traffic, dust and pollution);*
- *overdevelopment;*
- *density of apartments is too high;*
- *commercial (including licenced) venues should not be approved away from main streets (including Brunswick and Smith Streets);*

The following objector concerns will now be addressed:

- *this would create an unreasonable precedent;*

Each application must be considered on its own merit.

- *poor quality design (services, BBQs, AC units and clothes lines will be visible on balconies)*

Permit conditions can deal with these issues, should a permit issue.

- *this will destroy the 'community';*

This assessment has not revealed any 'community' based issues with the application (limited to built form, amenity and ESD.

- *this is just for the developer to make a profit;*

This is not a relevant planning consideration.

- *insufficient dwelling diversity (too many 1 and 2 bedroom dwellings, not enough 'family' homes and there will be too many singles);*

The development incorporates 59 3BR and 17 4BR dwellings, with 16% being of this 'larger' type. The Scheme does not provide guidance on how many 3+BR apartments should be provided, this proportion is considered to be acceptable in this instance.

- *there will be more robberies;*

No evidence has been provided to support this claim.

- *construction could impact Fitzroy Gasworks underground contamination plume;*

The site is located within an EAO which will require the appointment of an auditor who will be qualified to deal with these issues.

- *asbestos;*
- *structural impact on nearby dwellings;*

These are building matters and not dealt with at the planning stage.

- *increased pressure on infrastructure (including public transport, phone, internet, gyms, pools, libraries, GPs and schools);*

There is no information to indicate that the amenities in the area could not accommodate an additional 476 dwellings.

- *it will upset the dogs in the area;*

There is no information to support this claim.

- *no concern for health, safety or DDA;*

These issues will be considered at the building permit stage, should a planning permit issue.

- *property devaluation;*

This is not a valid planning consideration.

- *rear lane should not be used to access Brunswick Street front the site;*

This space would be a secondary access, primarily used for the proposed townhouses on the rear triangular section of land to the north (subject to a separate application)

- *social housing should be included.*

Council cannot require the Applicant to include social housing.

Compliance with proposed interim DDO

236. The proposed DDO offers the following:

The design objectives for Precinct 2A: Boulevard Precinct includes:

(a) *To ensure the redevelopment of the land accommodating the former 'K.G. Luke Pty Ltd Electro Plate Manufacturers' factory contributes positively to the urban character of Fitzroy North.*
(b) *To retain, enhance and incorporate the existing heritage facade into the redevelopment of the site and to create a consistent parapet height along the streetscape.*
(c) *To ensure new development does not diminish, or detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade.*
(d) *To moderate the prominence of development above the street wall with respect to mid and long range panoramic and streetscape views and the Yarra skyline from the*

Edinburgh Gardens (HO213) and Newry Street (HO327- Fitzroy North Precinct).

(e) *To ensure heritage buildings retain their three-dimensional form as viewed from the public realm to avoid 'facadism'.*
(f) *To ensure an appropriate transition in building scale across the site having regard to the existing and preferred built form to the east, north and west.*
(g) *To recognise the low scale, fine grain format of existing surrounding development.*
(h) *To avoid repetitive stepped built form at upper levels of development.*
(i) *To ensure development appropriately considers the amenity impacts on neighbouring development and achieves a high standard of internal amenity within the development.*
(j) *To encourage the development above the street wall to be designed as a series of separate development parts with building separation to enable views to the sky.*
(k) *To ensure adequate solar access is provided to the Queens Parade boulevard and the adjoining Napier Street Reserve.*
(l) *To encourage permeability within and through the site.*

237. Decision guidelines in section 4 include:

(a) *Whether the design objectives in Section 1.0 and the built form outcomes in Tables 1, 2 and 3 of this Schedule are achieved.*
(b) *Whether the design requirements for specific areas in Tables 1 and 2 of this Schedule are achieved.*
(c) *The Queens Parade, Clifton Hill Built Form Review – February, 2017.*
(d) *The architectural quality of the proposal, including the design, scale, height, materials, mass and visual bulk of the development in relation to the surrounding built form.*
(e) *The profile and impact of redevelopment along Queens Parade and from Newry Street and the Edinburgh Gardens.*
(f) *The design response at the interface with existing low-scale residential properties.*
(g) *Whether the proposal contributes to and improves the pedestrian environment and other areas of the public realm.*
(h) *How the proposal responds to the presence of heritage buildings either on, or in close proximity to the development.*
(i) *The design of the streetscape interface along the primary street frontage and its contribution to an active street environment.*
(j) *How any proposed buildings and works will impact on solar access to Queens Parade and the Napier Street Reserve.*
(k) *The suitability of vehicle access and egress arrangements and the location, layout and appearance of areas set aside for car parking.*
(l) *The extent to which ESD measures are incorporated into the development.*
(m) *ensure consideration of the visual dominance of development on the skyline when viewed from Coleman Street;*

238. An assessment against the DDO is offered as an appendix to this report (appendix 12).

239. The assessment found:
(a) the proposal does not meet the mandatory maximum height control, being 4 storeys above;
(b) the new street wall height would be 400mm above the mandatory maximum 10m street wall height control;
(c) the upper level setbacks behind both the heritage and new facades encroach upon the mandatory minimum setback standards. Variations range from 4.5m to 8m;
(d) the proposal does not comply with the mandatory side and rear setbacks where adjacent to the MUZ to the east, the NRZ1 to the north-east, the GRZ to the north-west and the MUZ to north-west and west;
(e) the street wall is vertically articulated to respect the fine grain pattern of subdivision and buildings in the area;
(f) the proposal does not attempt to replicate heritage forms;

(g) the proposal is not visually recessive by virtue of the massing and insufficient upper level setbacks; and
(h) the upper levels would be read as 2, approximately 52m wide built forms, with a minimal (9.1m) separation which would not be appreciated from the majority of oblique views.

240. However, it is stressed that limited weight has been given to the assessment against the DDO given it is not a seriously entertained document.

Conclusion

Based on the above report, the proposal does not comply with the relevant Planning Scheme provisions and planning policy and is therefore not supported.

RECOMMENDATION

That Council inform VCAT that had it been in a position, it would have issued a Notice of Decision to Refuse a Permit (PLN16/0434) for 26-56 Queens Parade, Fitzroy North VIC 3068 for the Part demolition and development of the land for a maximum 12 storey building, plus 2 basement levels, accommodating 341 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, reduction in the loading bay requirements and alteration of access to a Road Zone in accordance with the substituted plans (received by Council 21 February 2017) on the following grounds:

1. The proposed height, scale and massing does not respond to the existing or preferred character of the area and will dominate the surrounding area.
2. The proposal will result in unacceptable levels of on-site amenity, including natural daylight and ventilation.
3. The side setbacks and building will not achieve equitable development or reasonable levels of amenity for adjoining and adjacent sites.
4. The proposed waste management plan is inadequate for the site.

Signed: ..... **Dated:** 14/03/2017

Mary Osman
Manager Statutory Planning

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 1. Council's Urban Design Unit

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Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

CITY OF YARRA

MEMO

TO:	Sarah Thomas (Statutory Planning)
FROM:	Hayley McNicol (Urban Design)
DATE:	2 March 2017
SUBJECT:	26-56 Queens Parade, Fitzroy North
APPLICATION NO:	PLN16/0434
DESCRIPTION:	Construction of a 12 storey building accommodating 341 residential dwellings, a café and a food/drinks premises / shop

COMMENTS SUMMARY

The above proposal is currently being considered at VCAT, and revised plans have been recently submitted by the applicant. The original proposal submitted was for a 16 storey development accommodating 476 residential dwellings – this has now been reduced to 12 storeys accommodating 341 units. Statutory Planning has requested Urban Design comments on this revised proposal, on whether the proposal (including its height, massing, setbacks, design detailing, massing, colours and materials, pedestrian experience) is acceptable from an Urban Design perspective.

In summary, we do not support the proposed development for the following reasons:

- The overall height and massing of the development is excessive and does not relate to its surrounding environment, would visually impact the boulevard trees along Queens Parade and cause extensive overshadowing of Queens Parade and the surrounding area.
- The accentuated terraced style of the building and minimal building separation makes the building appear monolithic in its surroundings.
- The façade design and materials/detailing is very repetitive makes the overall mass and bulk of the building appear even more prominent.
- Inadequate setbacks have been provided at the side and rear properties, in particular where they sit alongside the adjoining five and six storey buildings.
- As the site is very large, opportunities to provide a pedestrian connection through the site need to be explored to improve permeability and connections through the site and to the wider area, as required under Strategy 28.6 of Clause 21.05.
- The development should provide an improved interface at the laneway to the west by fronting this part of the development towards the laneway (to face the adjacent townhouse development which is currently proposed).

- A number of the units facing the courtyard would have poor amenity given the limited building separation provided.
- Whilst the provision of a public plaza is supported, the amenity of the plaza is poor (in particular it would be overshadowed for most of the day) due to the location of the plaza and the form and height of the development around it.
- The development does not consider the impact of the additional vehicles (for potential improvements) on the intersection of Queens Parade and Napier Street, which is a prominent walking and cycling route.

Furthermore, we consider that 3D modelling needs to be submitted to show the development from a number of viewpoints as discussed below, and allow for the visual impact of the development to be assessed further.

Site and context

Zones, Overlays and other relevant planning policies

The site is located in the Mixed Use Zone (MUZ) and is covered by two overlays:

- Heritage Overlay Schedule 327 (HO327) – North Fitzroy Precinct, which covers the south-western part of the site, and includes the existing heritage building on the land which is identified as an 'Individually Significant' building.
- Environmental Audit Overlay (EAO).

Site and surrounding area

The site is located on the north side of Queens Parade and currently occupied by a number of warehouse buildings and car parking. One of the buildings at the south-western end of the site is listed as an 'Individually Significant' heritage building and the front façade comprises a distinctive and decorative parapet.

The area surrounding the site is characterised by fine grain low-scale heritage buildings, mixed with some slightly larger sites which have been redeveloped for residential led development.

To the south-west of the site are a row of intact terraced houses and cottages of one and two storeys in height. The site backs onto a number of other low-scale single and double storey houses, including those to the west which front onto Brunswick Street, and those to the north which front onto Coleman Street, and are listed at 'Contributory' heritage buildings.

There are a couple of newer residential redevelopments located adjacent to the site – a six storey building to the west fronting Brunswick Street and a five storey building to the east on the corner of Napier Street and Queens Parade.

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Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

The site has an extensive frontage (120 metres) onto Queens Parade, which is a wide tree lined boulevard with separate service roads at either side with grassed nature strips. The site is positioned in an exposed location at the south-western end of Queens Parade, opposite the Napier Street Reserve and the intersection of Queens Parade and Alexandra Parade. At this location, clear views of the site can be gained from several vantage points.

Revised proposal

The revised development proposes to demolish the existing buildings on the site (retaining the heritage façade) and construct a new 12 storey development. The development would be generally arranged along the perimeter of the site around a central courtyard, with a public plaza provided at the front of the site directly accessible from Queens Parade. The development would provide two levels of basement car parking accessed from the service road which runs alongside Queens Parade via a crossover at the north-eastern end of the site frontage.

Queens Parade elevation

Urban Design feedback

- **Built form and massing**

  The 'Built Form and Design Policy' at Clause 22.10-2 seeks to *"ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character"*.

  Under Clause 21.05-3 ('Built Form Character'), Objective 26 seeks *"to improve the built form character of transport corridors"*, and is supported by Strategy 26.2 which seeks to *"maintain the dominance of the avenue trees over built form along boulevards"*.

  As mentioned in the previous section, the area immediately around the site is characterised by low-scale fine grain heritage buildings (of one and two storeys in height), mixed with slightly larger sites that have been developed with five-six storey residential buildings.

  We have set out our comments below and note that as no 3D testing / images have been provided, our comments are based on the elevations, plans and sections provided. We consider that the 3D images are necessary to fully understand the impact of the proposal; therefore we recommend that these are submitted.

3

Massing and height

Under the 'Built Form and Design Policy', Clause 22.10-3.2 (Urban form and character) seeks:

- *"To retain and extend the City's fine grain of street pattern and urban form.*
- *To ensure that developments contribute positively to the urban fabric and public realm.*
- *To improve the transparency and legibility of the city's urban form and structure.*
- *To achieve continuity in the built form having regard to rhythm and spacing of buildings and any distinctive street pattern (as identified in the Site Analysis Plan and Design Response)."*

Under the 'Decision Guidelines it states that *"new development on large remnant sites should respect any existing prevailing subdivision pattern (as identified in the Site Analysis Plan and Design Response) by providing adequate separation between buildings and modular building bulk rather than unbroken mass".*

We consider that the form of the development presents as one giant building mass, does not provide adequate building separation and does not respond adequately to the fine grain character of its immediate surroundings, and therefore does not meet the above policy, as discussed below.

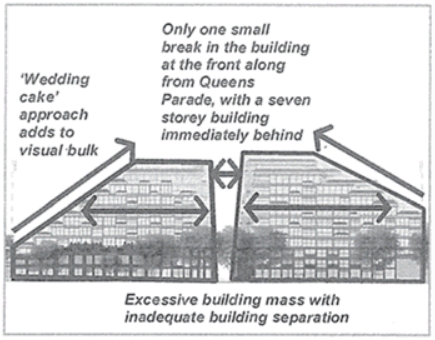
The proposed building extends around the perimeter of the site and has a gradual stepping back from the side and rear boundaries. It is understood that this has likely been done to provide setbacks from the surrounding residential sites and position the greatest height in the centre of the site, whilst maximising the development potential of the site.

As a result the development has an accentuated terraced form and 'wedding cake' like appearance and presents as one monolithic building when viewed from along Queens Parade, Alexandra Parade, and a number of other surrounding streets and properties (refer to image overleaf).

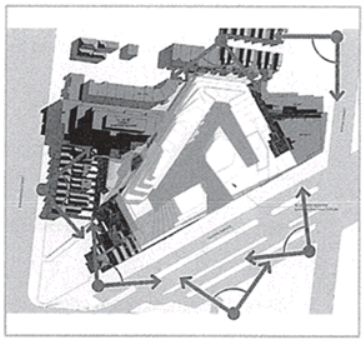
The site frontage along Queens Parade is 120 metres in length, however only one narrow break has been provided between these two buildings at the front (between 7.5 metres and 11.9 metres from the first storey up to the 11th storey), which we consider will not provide any visual relief (refer to image overleaf). The distance is too narrow and will only be seen from one vantage point – looking directly front-on towards the site as shown in the front elevation. Even from this view, one would be able to see the proposed seven storey building behind.

Given the proposed arrangement and design of the building, there will not be any visible break in the building and the building will present as one big building mass from the majority of views along Queens Parade. This is also the case from other viewpoints – a number of examples are shown on the image overleaf however there are a number of other points further afield (for example along Alexandra Parade and from the north).

Considering the abovementioned policy at Clause 22.10-3.2, it is advised that the development should be broken up into a series of smaller parts, so that these parts can more adequately respond to the character and constraints of the surrounding properties, and contribute better to the fine grain of urban form. The buildings within each part should be appropriately designed and provide adequate building separation so that each building can be read separately.



Comments on building massing



Any oblique views (such as the examples above) will not show any building separation

In terms of the height, given the surrounding fine grain residential context (with smaller pockets of redevelopment) and taking into account that the site is highly visible from a number of locations, it is considered that the proposed 12 storey development is too high and does not appropriately respond to the character of the surrounding area, which is mainly made up of low-scale fine grain heritage dwellings with some small pockets of five and six storey residential development. The development would be overly prominent with the bulk of the higher form at the front of the site, bear no relation to its neighbours (with no appropriate transition in the built form) and would visually dominate the boulevard (including the established trees), therefore does not comply with Clauses 22.10-2 and 21.05-3. In addition it would create extensive overshadowing of Queens Parade.

Whilst we recognise that the site is considerably larger than its direct neighbours, we consider that any development on the site, and in particular any additional height must be sensitively incorporated within the site to minimise its visual impact on its neighbours (providing an appropriate transition in height), on the street (including the trees along Queens Parade) and the surrounding area.

We acknowledge that there has been recent strategic work undertaken for the subject site which has led to the submission of interim Design and Development Overlay (DDO) controls to the Minister for Planning (awaiting a decision). This interim DDO includes a proposed mandatory height limit of eight storeys. We also note that the nearby site bound by Queens Parade, Napier Street, George Street and Alexandra Parade is covered by an Urban Design Framework (UDF) for the North Fitzroy Gasworks Precinct (dated 2008). This requires this

site to have maximum height of 20 metres (roughly six storeys) along the Napier Street and Queens Parade frontages, and allows some additional height as long as it is adequately set back to not be visible from the street.

In summary and considering the points above, we do not support the height of the proposed 12 storey development as it is out of scale with the immediate context, does not provide the appropriate transition in built form to the neighbouring properties, is not adequately recessed so would be visually prominent from Queens Parade and the surrounding area, and does not align with the strategic direction for this site.

Setbacks

With regards to the presentation of the building at the front of the site, Clause 21.05-4 seeks under Strategy 28.2 to *"ensure that buildings have a human scale at street level"*. Furthermore, Clause 21.02-5.7.1 under 'Development Guidelines for Sites Subject to the Heritage Overlay' state that new additions should *"be visually recessive and not dominate the heritage place"*.

The development retains the heritage façade and provides a setback of 3.5 metres from the heritage façade and the building (from the fourth storey upwards). From the fifth storey up, some elements of the building protrude out, which reduces the setback to approximately 2.3 metres.

We consider that this setback is inadequate as it does not provide enough distinction between the heritage façade and the new building. Furthermore the lack of setback for the upper levels with the protruding façade elements would make the development feel even more visually dominant, particular for people walking along the site on Queens Parade. We recommend that the building setback from the heritage façade is increased to at least 8 metres. This figure is based on the interim DDO control which we consider would provide a meaningful setback of the upper levels.

For the section of the frontage not covered by heritage (between the plaza and the five storey residential building), the site has a three storey street wall and the upper floors are aligned on an angle with varying setbacks from the façade. We consider that the upper floors should provide a consistent setback from the street wall to reduce the visual impact of the upper levels and reinforce the street wall to create more of a human scale to the street. We recommend a setback of at least 5 metres is provided.

In terms of the setbacks from the rear and side, Clause 22.10-2 (Built Form and design Policy) seeks to *"limit the impact of new development on the amenity of surrounding land, particularly residential land"*. It is considered that the development does not provide adequate setbacks from the adjoining six storey development to the west nor the five storey development to the north-east, as shown in Sections E-G and P. As a result the dwellings within the site (which are single aspect and have their primary outlook towards these site boundaries), as well as some of the adjoining dwellings, would not have adequate privacy and amenity. To address this, we recommend that at least 9 metres building separation is provided (as reflected in the interim DDO) to ensure adequate privacy (without the need for

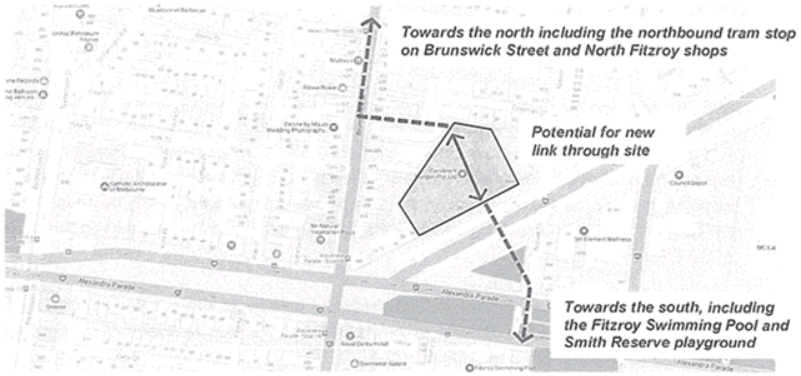
excessive screening) and amenity for these dwellings; however more may be required in some parts to address any overshadowing impacts.

The applicant has incorporated the ResCode B17 setback to the properties to the north, which will deal with some of the impacts of the development, however will not address the issue of visual bulk created by the terraced form proposed.

- **Building layout and interface**

Clause 21.05 (Built Form) seeks under Strategy 28.6 to *"require new development to consider the creation of public access through large development sites"*.

The site is very large, and access is predominately gained from Queens Parade. We consider that there would be a benefit from providing a link through the development as this would improve permeability through the site, make the development feel less like a gated community, make the ground floor café/shops more inviting/accessible and enhance links to the north towards Brunswick Street and St Georges Road. The link could potentially extend through the middle of the site and connect to Grace Lane, as illustrated on the map below. This would require some discussion with the Department of Health and Human Services, who we understand owns Grace Lane and the adjoining land.



Potential for a link to be provided through the site

In terms of the front of the site, it is considered that the development has provided active uses along the Queens Parade frontage to provide an active interface to the street. We recommend that this is improved by relocating or providing additional entrances to the café/shop units directly from Queens Parade, as they are currently accessed from within the Plaza space.

At the rear of the site, it is noted that the development backs onto the western boundary of the site, where there is a related proposal for a three storey townhouse development. We consider that the proposal should also front onto this laneway to face this townhouse development and improve the laneway environment. The building should provide an

adequate setback from the boundary to allow for a comfortable laneway width and separation between the two buildings.

- **Façade design and materials/colours**

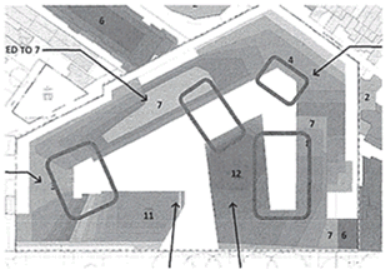
  As mentioned in the 'Massing' section above, the terraced approach to the building form and lack of building separation has created an overly prominent building, and it is considered that the repetition of the design detailing of the building also accentuates the overall mass of the development. It is noted that although the front façade of the building has tried to reflect the rhythm and spacing of the heritage building, the overall detailing is very repetitive on all façades of the building, which accentuates the building as one large mass. As recommended above, the development needs to separate the site into smaller parts and adopt a block design approach. This should include appropriate changes in the design and materials/colours to help the buildings to read as separate.

  The development is designed in the same manner and has the same materials and colours throughout. We consider that the materials/colours should provide more distinction between the various parts of the site to help these buildings read as separate. In addition we recommend that there is some contrast between the street wall as presented to Queens Parade and the upper floors to help reinforce the street wall break up the overall mass of the building.

- **Internal/external amenity**

  The development extends around the perimeter of the site around a central courtyard, and is configured with double loaded apartments. Given the layout of the building and considering that many dwellings facing the courtyard will have only one aspect into the courtyard, there are a number of pinch points where dwellings will not receive adequate daylight/solar access, as highlighted by the red markings on the plan below. This will particularly be an issue for the dwellings at the lower levels. We assume that further detail may be provided on this as part of the ESD assessment.

  To address this, we consider that the site should be broken up into a series of smaller parts providing adequate building separation to ensure that units receive adequate daylight/solar access as well as privacy and outlook.



Examples of the pinch points that will impact on the amenity of courtyard facing dwellings (particularly at lower levels)

- **Public realm**

  The principle of providing public space within the site is welcomed. However to ensure that this space provides an attractive, inviting and useable environment for occupants and visitors, we consider that the following issues need to be addressed:

  - The plaza does not lead anywhere and therefore could feel like a space purely for residents. As mentioned above, we consider that there is a community benefit from providing a link through the site, which would allow for better public access to the ground floor café/shops and plaza.
  - As the plaza is located on the south-east side of the site and given the scale and form of the development, the public space would be overshadowed for most of the day (with only a limited section of the space receiving a couple of hours of solar access in the afternoon). It is recommended that changes are made to the development by reducing the height and increasing setbacks to reduce the extent of overshadowing of this space.
  - A Wind Impact Assessment dated 30 June 2016 was submitted with the application. It noted that wind is expected to be funnelled through the plaza and recommended that the existing trees on Queens Parade be retained to help provide a buffer for this space. It also noted that although the proposed landscaping within the space may help to deal with the wind if the hedge planting reaches 1.5 metres in height, further planting/screening may still be required (to be confirmed with further wind tunnel testing). It is recommended that further work be undertaken to investigate potential planting options that would provide an adequate buffer for this space whilst ensuring that it does not result in secondary issues such as the creation of hiding spots.

- **Impact of development on surrounding cyclist/pedestrian network**

  The development proposes to have all vehicle access via a crossover directly off the Queens Parade service road along the frontage of the site, which is expected to result in significant increases in vehicle movements on this service road and turning movements at its intersection with Napier Street. Napier Street is a well-used cycle and pedestrian route, and given the openness of the intersection, there is currently the potential for conflict between drivers, cyclists and pedestrians. As the increased vehicle movements resulting from the development are expected to exacerbate this issue, there is an opportunity for the development to contribute to improving the safety of this intersection and rationalise the various movements (this can be discussed with Strategic Planning in more detail).

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Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 2. Council's Heritage Advisor

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

City of Yarra
Heritage Advice – Supplementary Advice

Application No.: PLN16/0434

Address of Property: 26 – 56 Queens Parade, Fitzroy North

Planner: Sarah Thomas

Yarra Planning Scheme References: Clauses 43.01, 22.02, 21.05.

Heritage Overlay No. Only partly in HO327 **Precinct:** North Fitzroy

Level of significance:

No. 26, 28 – 58 Queens Parade, North Fitzroy, is listed as electro plate K G Luke Pty Ltd electro-plate manufacturers factory, former (part), constructed 1938, 1937, is graded as "Individually significant" in Appendix 8, *City of Yarra Review of Heritage Overlay Areas 2007*. (Rev. Sep 2015) but it is not in a Heritage Overlay.

I provided advice previously on 15 October, 2016 and earlier in relation to the height of the proposed tower and the retained return wall of the façade. As this current advice addresses amended plans I have not necessarily repeated information from the previous advice as both sets of advice are intended to be read in conjunction.

Proposal

Construction of a large development behind the retained Art Deco façade.

Drawing Numbers

65 sheets of drawings and tables, prepared by Koichi Takada Architects, Rev. A, O and/or Q, W and X, dated 20/02/2017 and with no Council date stamp.

Schedule of Amendments by Koichi Takada Architects, dated 20 February, 2017 and with no Council date stamp

Assessment of The Proposed Built Form

Is it too Bulky and Out-of-Scale?

Given the nature of the site I considered originally that the bulk and scale was acceptable. I note that now the overall building height has been reduced by 16.7 metres i.e. from 53.7 metres to 37 metres or reduced from 16 storeys to 12 storeys. While the original proposal was acceptable in this location, and not necessarily elsewhere in a heritage streetscape in Yarra, the reduction in height improves the fit for the area.

I also note that the building massing has been reduced "to ensure visibility from surrounding areas is significantly reduced" and again while I found the original proposal to be acceptable in this location, the changes are a better fit.

The terracing to the tallest building form, containing Core 1, has been increased "to reduce bulk and scale when viewed from adjacent streets and recreation areas" i.e. presumably the Edinburgh Gardens. I had concerns with Levels 11, 12 and 13 at the south-west corner of the eastern block (Core 1) which appeared too high. While undoubtedly there is probably an improvement as a consequence of the reduction in height, the elevations supplied are not sufficient to be able to gain an accurate understanding of how these levels (i.e. Levels 10 and 11 on A110, rev. X and A11, rev. X) will present now. Some accurate photomontages are required to confirm whether or not this element is now acceptable.

Façade and Sawtooth Wall (west elevation)

I note that it is now proposed to retain the sawtooth wall. This is acceptable.

The existing heritage façade is shown on Drwg. A208, Rev. O together with the "Proposed retention methodology for the existing heritage façade". While the upper level windows appear to be retained all of the lower panels between the pilasters are shown as being altered i.e. large glazed elements inserted. While the lower level has been altered by the insertion of roller doors and the like, which can all be removed, I don't recall that it was proposed to alter all of the ground floor wall panels. The original drawings are not to hand, nor are the files available, so I am not in a position to check this now. No details of the framing or the glazing are indicated on the drawings and this needs clarification. Also why is the entrance canopy being removed?

Recommendation / Comments:

If the following matters are not resolved before the foreshadowed VCAT Hearing, then they should be the subject of permit conditions to the satisfaction of the Responsible Authority:

Submit some accurate photomontages to confirm whether or not Levels 10 and 11 at the south-west corner of the eastern block (Core 1) are now acceptable.

Remove the overpainting from the retained brick façade by an approved contractor who should provide a methodology and materials schedule. It is intended that either a low-pressure water and chemical or a poultice system is used.

Clarify if the proposed façade treatment re the lower level and canopy is the same as proposed originally. If it is then I am satisfied.

Request details of the framing and the glazing to the façade windows.

Signed:

Robyn Riddett
Director – Anthemion Consultancies

Date: 23 February, 2017

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 3. External Acoustic Consultant (SLR)

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

MEMORANDUM

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TO:	Sarah Thomas	FROM:	Dianne Williams	DATE:	27 February 2017
COMPANY:	City of Yarra				
EMAIL:	Sarah.Thomas@yarracity.vic.gov.au				
SUBJECT:	**26-56 Queens Parade, Clifton Hill PLN 16/0434**				

CONFIDENTIALITY
This document is confidential and may contain legally privileged information. If you are not a named or authorised recipient you must not read, copy, distribute or act in reliance on it. If you have received this document in error, please telephone our operator immediately and return the document by mail.

Dear Sarah,

I have reviewed the architectural drawings for 26-56 Queens Parade Clifton Hill, dated 20 February 2017 with a view to identifying any implications of changes made to the drawings for the conclusions drawn in our review of the acoustical report for that project.

Our review dated 14 December 2016 was based on the drawings issued 7 July 2016.

The revised drawings show changes to the northern façade of the building on levels 3 and 4, and a reduction in overall height from 16 to 12 storeys. There are also changes to the location of the ground floor gym.

The proposed changes do not have any implications for the findings and recommendations presented in my review of the acoustic report.

Yours faithfully,

Dianne Williams
Associate - Acoustics

Checked/
Authorised by: JA

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ABN 29 001 584 612

Attachment 2 - Queens Parade Items 9 August 2017_Part2

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Appendix 4. Council's Engineering Services Unit

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

CITY OF YARRA

MEMO

To: Sarah Thomas

From: Mark Pisani

Date: 23 February 2017

Subject: Application No: PLN16/0434
Description: Substituted Drawings
Site Address: 26-56 Queens Parade, Fitzroy North

I refer to the substituted drawings received on 21 February 2017 in relation to the proposed development at 26-56 Queens Parade, Fitzroy North. Council's Engineering Services unit provides the following information:

CAR PARKING PROVISION – 26-56 QUEENS PARADE
Proposed Development
According to the information provided by the applicant, the revised proposal's parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
One-bedroom dwelling	138	1 space per dwelling	138	96
Two-bedroom dwelling	160	1 space per dwelling	160	160
Three-bedroom dwelling	37	2 spaces per dwelling	74	56
Four-bedroom dwelling	6	2 spaces per dwelling	12	9
Residential visitors	341 Dwellings	1 space per 5 dwellings	68	11
Food & Drink (Shop)	275 m²	4 spaces per 100 m² of leasable floor area	11	3
Food & Drink (Café)	76 m²	4 spaces per 100 m² of leasable floor area	3	0
		Total	466 Spaces	335 Spaces

A number of dwellings have been provided with studies. The study areas provided in these dwellings are small in size and are unlikely to be used as bedrooms.

For the 26-56 Queens Parade site, a total of 335 spaces would be provided (six additional spaces in the car park have been allocated to Rear 26-56 Queens Parade). The site would have a parking shortfall of 131 spaces (63 resident spaces, 57 residential visitor spaces and 11 commercial spaces).

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To reduce the number of car parking spaces required under Clause 52.06-5 (including to reduce to zero spaces), the application for the car parking reduction must be accompanied by a Car Parking Demand Assessment.

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 the One-Bedroom Dwellings.* The one-bedroom dwellings would have an on-site parking provision of 0.7 spaces per dwelling (96 spaces for 138 dwellings). Traffix Group, who had provided the original traffic impact study for this site, had sourced the 2011 Census data from the Australian Bureau of Statistics for car ownerships rates for *flats units and apartments* in the suburb of Fitzroy North. The ABS Census data for Fitzroy North recorded an average car ownership of 0.6 cars per dwelling. The car parking provision for the one-bedroom dwellings is fairly consistent with the statistical car ownership for this type of dwelling in Fitzroy North.
- *Parking Demand for the Three- and Four-Bedroom Dwellings.* Both the three- and four-bedroom dwellings have an on-site parking provision of 1.5 spaces per dwelling. The Traffix Group report indicated that three-bedroom flat type dwellings in Fitzroy North have an average car ownership of 1.5 vehicles per dwelling. We consider the proposed on-site parking provision for the three- and four-bedroom dwellings to be satisfactory.
- *Parking Demand for Residential Visitors.* Peak parking for residential visitors generally occurs on weekday evenings and at weekends. Traffix Group had quoted studies conducted by Cardno consulting engineers of two apartment complexes in Beacon Cove (127 and 147 Beach Street, Port Melbourne). The studies identified had that the peak visitor parking demand was 0.1 spaces per dwelling and an off-peak visitor parking demand of 0.06 spaces per dwelling (daytime on a Friday). Applying the empirical peak visitor parking rate to the 341 dwellings would result in a visitor parking demand of 34 spaces (and 20 spaces off-peak). With 11 dedicated on-site visitor spaces, the peak parking overflow would be 23 spaces and the off-peak parking overflow would be 9 spaces.
- *Parking Demand associated with the Food and Drink Premises – Shop and Café.* In their report, Traffix Group had adopted a rate of 3.5 spaces per 100 square metres based on the rates used for Parking Overlays. Applying this rate to the two commercial premises would result in a car parking demand of 12 spaces (351 square metres at 3.5 spaces per 100 square metres). Staff parking demands at these uses would be 1 space per 100 square metres, which would be a total of four spaces. Customers would account for the balance of the parking demand.
- *Availability of Public Transport in the Locality of the Land.* The site is within walking distance of tram services along Brunswick Street and bus services operating along Queens Parade, George Street and Alexandra Parade.
- *Convenience of Pedestrian and Cyclist Access.* The site has good pedestrian connectivity to the Queens Parade activity centre and the Brunswick Street activity centre. The site also has very 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:

- Traffix Group had undertaken on-street parking occupancy surveys in the surrounding area on Friday 18 March 2016 and Saturday 19 March 2016 (at 1:00pm and 8:00pm on both days). The survey area encompassed Queens Parade (Jamieson St to Alexandra Pde), Alexandra Parade (Rae St to George St), Grace Lane, Coleman Street and section of Brunswick Street, Napier Street, Newry Street, George Street and Jamieson Street. The duration and extent of the surveys are considered appropriate. An inventory of up to 380 publicly available parking spaces was identified. The results of the survey indicate that a minimum of 139 on-street car parking spaces was recorded at 8:00pm on the Friday. The surrounding area has a supply of

vacant on-street car parking and should be able to accommodate any short-stay parking demand from the site.

- *Car Parking Deficiency associated with Existing Land Use.* According to Traffix group, the existing site is occupied by a warehouse and has a floor area of around 5,545 square metres. Under clause 52.06-5, warehouse use has a car parking rate of 2 spaces plus 1 space per 100 square metres. The resulting car parking generation would be 51 spaces. The site has an on-site car parking provision of 31 spaces. Therefore the car parking deficiency of the existing site would be 20 spaces. These spaces would be accommodated on-street. The car parking credit could potentially be transferrable to the new site.
- *Other Relevant Considerations.* All residents of the new dwellings will not be eligible to apply for on-street residential and visitor car parking permits.

Adequacy of Car Parking
From a traffic engineering perspective, the waiver of parking is considered appropriate in the context of the development and the surrounding area. The short stay car parking demands could be accommodated on-street as demonstrated from the on-street parking occupancy surveys.

Engineering Services has no objection to the reduction in car parking for this site.

TRAFFIC GENERATION
Residential Traffic
For the traffic generation of the dwellings, Traffix Group had conservatively adopted a rate of 3 trips per dwelling per day (for dwellings that have a parking space). The peak hour traffic would be 10 % of the daily residential traffic volume. The resulting residential traffic generation equates to 963 vehicle trips per day with 96 vehicle trips in each peak hour.

Food and Drink Premises/Shop and Café Traffic
Each staff space could potentially generate 1 trip in the AM peak hour and 1 trip in the PM peak hour. It is assumed that there would be 3 trips in the AM peak hour and 3 trips in the PM peak hour.

Traffic Distribution
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.

Development Traffic
Development would have an AM peak traffic volume of 22 arrival trips and 77 departure trips and the PM peak hour would have 58 arrival trips and 42 departure trips.

The principal vehicular access for the site is located on the Queens Parade service road which has a one-way traffic operation in the north-east direction. The access into and out of the site would be left-in/left-out. To access Alexandra Parade from the site, traffic would be inclined to travel via George Street or Smith Street. It is agreed that traffic generated by the development can be easily dispersed and distributed within the surrounding road network. The morning peak hour traffic generation of 99 vehicle trips is equivalent to an average of one vehicle trip every 35 seconds.

The traffic generated by the development can be dispersed into the surrounding road network without adversely compromising its operation or safety.

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DEVELOPMENT LAYOUT DESIGN
Layout Design Assessment

Item	Assessment
Access Arrangements	
Development Entrance – Queens Parade Service Road	The proposed 6.3 metre wide vehicle entrance satisfies *Design standard 1 – Accessways* of Clause 52.06-8. The entrance allows for two-way simultaneous traffic movements into and out of the development.
Visibility	A pedestrian sight triangle has not been provided for the exit lane of the access way as it immediately abuts the wall of the adjoining property. There is no objection to the installation of a convex mirror as originally suggested by Traffix Group. The installation of a pedestrian signal audible device at the entrance is not supported. It the responsibility of a motorist exiting private property to give way to pedestrians along the footpath before entering a Public Highway, and not vice versa. In addition, audible warning devices could be potentially annoying to occupants of nearby dwellings.
Vehicle Crossing	The revised vehicle crossing design has now provided a lateral clearance of 1.0 metre from the power pole to the east edge of the crossing. The east edge has not been aligned perpendicular to the Queens Parade service road.
Ramped Accessway Width	The ramped accessway has a minimum width of 6.3 metres and satisfies the Australian/New Zealand Standard AS/NZS 2890.1:2004 section 2.5 – *Design of circulation roadways and ramps*.
Internal Ramp Width	The 6.0 metre width, with additional 30 mm wide kerbs on either side of the carriageway, satisfies AS/NZS 2890.1:2004.
Car Parking Modules	
Car Parking Spaces – Ninety-Degree Parking	The dimensions of the regular car parking spaces (minimum 2.6 metres by 4.9 metres) satisfy *Design standard 2: Car parking spaces*.
Car Parking Spaces – Parallel Parking	The parallel parking spaces measure 6.0 metres by 2.4 metres. The dimensions of the parallel bays satisfy the requirements of AS/NZS 2890.1:2004 section 2.4.4 - *Parallel parking in parking aisles*. The swept path diagrams originally provided by Traffix Group of a B85 design vehicle entering and exiting the parallel parking bays are considered satisfactory.
Tandem Parking Spaces	Tandem parking spaces have lengths of 5.4 metres and are considered satisfactory.
Accessible Parking Space	With the exception of the length (which satisfies *Design standard 2*), the dedicated accessible parking space for people with disabilities and the associated shared area satisfy the Australian/New Zealand Standard AS/NZS 2890.6:2009 *Parking facilities Part 6: Off-street parking for people with disabilities*.
Aisles	The 6.4 metre wide aisles throughout the two levels of basement parking satisfy *Design standard 2*.

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Item	Assessment
Car Parking Modules - Continued	
Column Setbacks	Columns have been set back from the aisles by 300 mm and 750 mm. The positions of the columns do not comply with *Diagram 1 Clearance to car parking spaces* in Clause 52.06-8. In *Diagram 1*, columns are set back from the aisle by 250 mm and columns have a maximum depth of 1000 mm. For columns set back from the aisles by 300 mm, the encroachment into the parking envelope is marginal (by 50 mm) and should not adversely impact on rear car doors from opening. However, the columns that are set back from the aisle by 750 mm encroach into the parking envelop by 500 mm and could potentially impact rear car door opening.
Clearances for Spaces adjacent to Walls, Bicycle Parking Cages and Storage Cages	Have not been dimensioned on the drawings.
Blind Aisle Extensions	The blind aisle extensions have now been dimensioned on the drawings and are a minimum of 1.0 metres as required by AS/NZS 2890.1:2004
Headroom Clearance	Headroom clearances have been dimensioned for both basement level car parks. A minimum headroom clearance of 2.5 metres has been provided and 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 20 and satisfies *Design standard 3: Gradients*.
Ramp Grades and Changes of Grade	The ramp grades and the changes of grade for the ramped accessway and the internal ramp satisfy *Design standard 3*.
Loading Facilities	
Loading By and Waste Pickup Bay	Have not been dimensioned on the drawings.

Design Items to be Addressed

Item	Details
Column Setbacks	The columns that are set back 750 mm from the aisle should be set back and positioned in accordance with Diagram 1 Clearance to car parking spaces of Clause 52.06-8.
Clearances for Spaces adjacent to Walls, Bicycle Parking Cages and Storage Cages	To be dimensioned on the drawings (space Nos 8, 89, 161, 162, 171, 232, 268, 268, 277, 278, 293 and 305). These spaces should be provided with a minimum clearance of 300 mm.

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. 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.

Re-sheeting of Queens Parade Service Road
The construction works on site would result in the transportation of heavy vehicles, plant and equipment to the site via the Queens Parade service road. In addition, it is highly likely that underground services connections to the site would be made within Queens Parade service road. The pavement surface of Queens Parade service road will deteriorate after all construction and utility works for the site have been completed.

Once the development is complete, the addition of daily, repetitive traffic movements from the development will further impact on the condition and serviceability of the Queens Parade service road. Therefore, it is vital that the applicant profiles the existing wearing course of the Queens Parade service road pavement and re-sheet it to Council's satisfaction and at the Permit Holder's cost.

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

Civil Works – Queens Parade service road

- Upon the completion of all building works and connections for underground utility services, the footpath immediately outside the property's Queens Parade service road frontage must be reconstructed to Council's satisfaction and at the Permit Holder's expense.
- All pedestrian access must be constructed to a level no steeper than 1 in 40 from the building line.
- The nature strips directly outside the property's Queens Parade service road frontage must be cultivated, top dressed and be provided with instant turf to the satisfaction of Council's Open Space and at the Permit Holder's expense.
- The kerb and channel outside the development's Queens Parade service road frontage must be constructed in bluestone to the satisfaction of Council and at the Permit Holder's cost.
- All redundant property drains must be removed.
- Prior to the occupation of the development, the road pavement of Queens Parade service road is to be profiled and re-sheeted to the satisfaction of Council after the building works and the provision of underground utility services have been completed. The cost of these road infrastructure works must be borne by the Permit Holder.

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.

Construction Management Plan

- A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.
- The Construction Management Plan for the site must also take the following into account:
  - If any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority.
  - Existing public lighting could only be disconnected once temporary alternative lighting scheme becomes operational.
  - A temporary lighting scheme must remain operational until a permanent lighting scheme is reinstated.

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.

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.

NON-PLANNING ADVICE FOR THE APPLICANT
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.

The excavation for the basement would be to a depth of in excess of 7.0 metres and it is possible that groundwater would be encountered. It is also quite probable that any groundwater discovered by the developer would be contaminated.

In the event that 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.

Regards

Mark Pisani
Senior Development Engineer
Engineering Services Unit

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Appendix 5. External Traffic Consultant (Traffix Group)

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Cardno
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Our Ref: V161619: RJ
Contact: Rodney Jude

24 February 2017

City of Yarra
PO Box 168
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Attention: Sarah Thomas

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Dear Sarah,

26-56 AND REAR 26-56 QUEENS PARADE, FITZROY NORTH
TRAFFIC ENGINEERING ASSESSMENT REVIEW

This letter has been prepared to review the amended Town Planning Drawings prepared for VCAT submission by Koichi Takada Architects (dated 20/02/2017) in relation to the proposed mixed use development at 26-56 and Rear 26-56 Queens Parade, Fitzroy North.

Cardno previously undertook a review of traffic advice provided by Traffix Group (Ref: G20374R2B, dated 5 July 2016) which referenced original Town Planning drawings prepared by Koichi Takada Architects (Project No. 16328, Drawing No.'s A098 – A115 dated 07/07/2016).

1.1 Review of Amended Town Planning Drawings

This letter contains a review of the amended Town Planning Drawings prepared for VCAT submission by Koichi Takada Architects (dated 20/02/2017) and provides commentary on various design aspects from a traffic engineering perspective.

1.1.1 Existing Conditions & Proposed Amendments

Based on revised plans prepared by Koichi Takada Architects dated 20/02/2017, amendments include reductions in the overall height of the main development (from 16 to 12 storeys) and the rear development (from 4 to 3 storeys), resulting in the net reduction of 135 apartment dwellings.

Proposed changes also include an overall reduction in the on-site parking supply from 445 to 341 spaces, within the two basement car park levels retained from the previous proposal.

A comparative summary between the previous and amended proposal is provided in Table 1.

Table 1 Development Schedule

Use	Description	Number of Dwellings / Size		
		Previous Proposal	Amended Proposal	Change
Residential Apartments	One bedroom studio	2	Nil	- 2
	One bedroom	243	138	- 105
	Two bedroom	188	160	- 28
	Three bedroom	39	37	- 2
	Four bedroom	4	6	+2
Total Residential Apartments		**476**	**341**	**- 135 Apartments**
Residential Townhouses	Two bedroom	1	1	Nil
	Three bedroom	3	3	Nil
Total Residential Townhouses (Rear)		**4**	**4**	**Nil**
Commercial Tenancies	Food & drink premises	76m²	*77m²	+1m²
	Food & drink premises / shop	277m²	*273m²	- 4m²

Minor discrepancy noted between NLA's stated on plans & those in the development schedule. Sizes quoted directly off amended plans.

A review of the amended plans indicates that the development summary prepared by Koichi Takada Architects appears to accurately represent what is shown on the plans. It is agreed that a reduced total of 341 car parking spaces are to be supplied on-site within 2 basement levels.

Additionally, it is agreed that the revised layout accurately demonstrates a total of 377 vertical and floor-mounted bicycle parking rails, with 341 of these provided across the two basement levels and a further 32 spaces at ground level within a visitor bike store and the remaining four (4) spaces servicing the rear development.

1.1.2 Car Parking Considerations

1.1.2.1 Statutory Car Parking Requirements

Based on the size and number of the intended uses as outlined within Table 1 above, the proposed development generates the statutory requirement to provide a revised total of:

- 461 spaces for the proposed residential component of the development, comprising 392 spaces for residents and 69 spaces for residential visitors;
- 10 spaces for the proposed Food & Drink (Shop) premises; and
- 3 spaces for the proposed Café (Food & Drink) premises.

Based on the provision of on-site parking, the application seeks a revised statutory car parking reduction for a total of 133 spaces.

1.1.2.2 Car Parking Demand Assessment

The development schedule contemplated within the amended application now seeks a statutory car parking reduction for a total of 133 on-site car parking spaces. We note that the application of resident and retail staff parking demand rates previously contemplated by Traffix Group and supported by Cardno *have remained consistent* in the revised application, with the proposed car parking allocation deemed appropriate. As was noted in our previous review, accommodating the majority of residential visitors and all retail patrons on-street is reasonable given the short term on-street parking availability in the vicinity of the subject site, without the risk of causing adverse impacts to existing conditions.

The revised bicycle parking supply being contemplated comfortably exceeded the statutory requirement (a surplus supply in the order of 271 spaces). We are of the opinion that the generous on-site bicycle parking supply will encourage development residents, staff and visitors to utilise bicycles as an alternative travel mode to and from the site.

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Furthermore, Cardno's previous review acknowledged that the site has excellent access to public transport, with a number of sustainable transport options available within the immediate vicinity of the site.

1.1.2.3 Car Parking Allocation

In referencing the above, Cardno is of the opinion that the 341 spaces proposed on-site will satisfactorily accommodate resident and retail staff car parking demands on-site.

1.1.3 Car Parking Layout and Access Arrangements

Revised plans indicate that 341 on-site car parking spaces are to be provided in the form of 307 standard spaces, four (4) parallel spaces and 15 tandem pairs (30 spaces).

Cardno has reviewed the development's revised car park layout and access arrangements, offering the following comments for consideration:

- Standard spaces have been provided in accordance with Table 2 of Design Standard 2 within Clause 52.06-8 of the Yarra Planning Scheme, being 2.4m wide, 4.9m long and accessed from 6.4m wide aisles;
- Car spaces designed in tandem pairs have been designed 2.6 metres wide and 10.3 metres long, adhering to the need for an additional 500mm in length to be provided between each vehicle space;
- Parallel parking spaces have been designed in accordance with Table 2 of Design Standard 2 within Clause 52.06-8 of the Yarra Planning Scheme, being 2.4m wide, 6.7m long and accessed from aisles wider than 3.6m;
- Sections of two-way circulation aisles previously shown as being narrowed to 4.2m widths have since been redesigned with widths of 5.5m between kerbs in order to comply with Figure 2.8 of Clause 2.5.2 within AS/NZS 2890.1:2004;
- Spaces adjacent to walls have been provided with appropriate clearances to allow for convenient access and opening of car doors in order to comply with Planning Scheme and Australian Standard requirements;
- Columns shown within both basement level car parks are provided in accordance with the requirements of Clause 52.06-8 of the Yarra Planning Scheme;
- Cardno is satisfied that the disabled space located on Basement Level 1 with a shared area inclusive of a bollard provided to the side of the bay, is in accordance with the Australian Standard for off-street parking for people with disabilities (AS/NZS 2890.6);
- Based on nominated RLs shown on revised plans, the minimum headroom available accords with Australian Standard requirements and is considered appropriate;
- Revised plans now indicate 1m wide aisle extensions are to be provided at the ends of blind parking aisles across both basement levels, in accordance with the requirements of AS/NZS 2890.1:2004;
- Cardno is satisfied that, despite changes made to grades and transition lengths as shown in the revised plans, the design of the access ramp and internal ramps is consistent with the guidelines within the Yarra Planning Scheme and Australian Standards and is considered appropriate; and
- As was stated in our previous review, Cardno is of the view that it will be necessary to install a convex mirror and / or a signal system to warn pedestrians of exiting vehicles given a pedestrian sight triangle is not intended to be provided. This is largely due to the anticipated level of pedestrian activity along the Queens Parade site frontage.

1.1.4 Bicycle Facilities Considerations

It is viewed that the bicycle facilities are adequate and remain comfortably in excess of the Yarra Planning Scheme requirements, with all visitor and staff bicycle parking provided at ground level and the remainder provided across the two basement levels.

The majority of bicycle storage rooms within basement levels appear to be designed to include vertical rails in accordance with the specifications specified within Bicycle Network's Bicycle Parking Handbook.

We note that amended plans now show a total of 106 *'Delta CBR (Floor Mount)'* racks distributed across both basement levels. As the associated manufacturer's specifications sheet has not been provided and it is not clear as to who the manufacturer is from the information provided, it is not possible to assess the appropriateness of the proposed layout for these particular spaces.

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1.1.5 Loading Considerations

Cardno is satisfied that a dispensation of the loading bay requirements associated with the commercial tenancies is acceptable in this instance.

1.1.6 Waste Considerations

Although Cardno has not been provided with swept path diagrams showing access to the revised 'Waste Pickup Bay', it would appear that the proposed waste collection vehicle would be able to access the designated pickup bay on Basement Level 1 to undertake waste collection. Sufficient manoeuvring area is provided adjacent to the loading bay to allow for forward in and forward out access.

As was noted in Cardno's previous review of The Traffix report, the swept path for the waste vehicle was shown commencing within the title boundary. Although the new access crossover is designed with a revised width of 6.14m (Drawing No. A100), it is suggested a swept path of the desired waste vehicle be shown accessing the site from the Queens Parade service road, inclusive of 600mm clearance lines.

1.1.7 Traffic Considerations

1.1.7.1 Traffic Generation, Distribution and Impact

As was noted in Cardno's previous review, the variety of access routes available to the site from all directions ensures that accessibility to the site and surrounding area will be readily accommodated post-development, with development traffic being well dispersed across the road network without detrimental impacts. This argument is further strengthened due to the substantial decrease in apartment yield as part of the proposed amendments.

We trust you find the above information satisfactory. Please feel free to get in touch should you require further clarification.

Yours sincerely,

Rodney Jude
Senior Engineer - Traffic Transport & Parking for Cardno
Direct Line: 8415 7768
Email: rodney.jude@cardno.com.au

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Appendix 6. Council's ESD Advisor

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CITY OF YARRA

MeMO

TO:	**Sarah Thomas**
cc:	
FROM:	**Euan Williamson, ESD Advisor**
DATE:	**01.03.2017**
FILE:	**PLN16/0434 – 26-56 Queens Parade, North Fitzroy**
SUBJECT:	**ESD response to updated building design**

Sarah,

I have reviewed the substituted architectural drawings prepared by *Koichi Takada Architects* prepared on the 20.02.2017. In summary, most of the previous ESD concerns are still outstanding.

Daylight and Natural Ventilation

Despite a decease in the scale of the proposal and other minor changes to the building design that have improved, access to daylight and natural ventilation of the proposed dwellings is still poor and will not meet Council's best practice standards. The proposed development does not have sufficient building separation within it's proposed built form to allow daylight to the future dwellings. Applicants should aim to meet BESS building separate as a guide, (http://www.bess.net.au/tool-notes/) or demonstrate the development meets our daylight factor standards using daylight modelling. No daylight modelling or additional information to demonstrate best practice has been submitted. My previous advice, therefore, still stands:

> *Significant number of dwellings with primary aspects facing boundaries to existing multi-level buildings, impacting on daylight access to both existing and proposed. Significant number of dwellings are single aspect with room depths of 8m and greater, with deep balcony overhangs, unlikely to meet a best practice standard in access to daylight. The standard of access to daylight of proposed dwellings is poor.*
>
> *A poor standard of natural ventilation, predominantly single sided dwellings deeper than 5m. Approximately 10% of dwellings have cross ventilation. Strongly recommend re-designing the building to facilitate better natural ventilation, with at least 60% of dwellings to be cross ventilated. Single sided dwellings should have room depths no greater than 5m. A project of this scale is required to demonstrate best practice.*
>
> (Also) *The proposed building has insufficient building separation within the development and also in consideration of neighbouring buildings. Demonstrate that changes to the building design can meet a best practice standard through daylight modelling.*

Neighbouring Dwellings
The impact of the proposed development on the neighbouring dwellings, particularly to existing primary aspects from living rooms, remains a serious concern. As previously stated:

> *Recommend: increase setbacks to boundaries where existing buildings are reliant on access to daylight & improve the access to daylight of proposed dwellings…Demonstrate that changes to the building design can meet a best practice standard through daylight modelling.*

Additional outstanding ESD Concerns
The previous issues identified in my previous advice, based on the previous version of the building design, still stand:

- *External views are not possible from a significant number of dwellings with internal outlook.*
- *Large amounts of exposed glazing to the east, west and northern facades across the development. This poor shading strategy will result in high cooling loads and reliance on air conditioning for thermal comfort. Recommend exterior adjustable shading to all exposed glazing on the east, west and north facing facades exposed to summer sun angles, through louvers, fins, retractable awnings or sliding screens, etc. "solar screens" are mentioned in the SMP but it is unclear what this refers to on the plans.*

(3) Outstanding Information:
- *Please provide end of trip facilities (showers and lockers) for staff. It appears there will be space in the facilities in the core on the ground floor, including the disabled access WC.*
- *Recommend providing onsite waste management facilities for green waste and hard waste also. It appears that space has been provided in the waste room but it was not been mentioned in the SMP.*
- *Please check the WMP to ensure that the waste management provisions are sufficient, and if "green" and "bulk" waste facilities are also included.*

(4) ESD Improvement Opportunities:
- *Consider a solar PV array to contribute to common area electricity consumption.*
- *Recommend split ACs within one star of the most energy efficient available for the suitable capacity at the time of construction.*
- *Recommend 90% efficiency gas boiler and solar thermal pre-heating collectors be applied to the hot water system.*
- *Recommend a Building Users Guide detailing the sustainability features of the building be developed and given to building users.*

If you or the applicant would like to discuss my comments or recommendation further, please contact me.

Euan.

Euan Williamson
Environmental Sustainable Development Advisor
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W www.yarracity.vic.gov.au

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Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 7. Council's Strategic Transport Unit

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Memo

To: Sarah Thomas

Cc: Simon Exon; Jane Waldock;

From: Kate Simnett

Date: 23/02/2017

Subject: 26-56 Queens Parade, North Fitzroy (PLN16-0434)

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inclusive

We have received the plans for the development in North Fitzroy (PLN16-0434) and provide the following feedback:

Bicycle parking on-site:

In relation to the proposed bicycle parking as per the Traffic Assessment Report p.26 and Plans (Part 6) pp.A98-100.

1. The style and number of residential bicycle parking is satisfactory, though more on-floor style bicycle parking for visitors (even via sacrificing the number of spaces) is strongly recommended.
2. The location of visitor bicycle parking satisfactory, though more on-floor style bicycle parking for visitors (even via sacrificing the number of spaces) is strongly recommended.
3. 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.

See Council's ESD Guidelines (p.25) for more information on bicycle parking.

Napier St/Queens Parade Intersection

Strategic Transport is concerned about the traffic generation at the intersection of Queens Parade and Napier Street as there are significant bicycle movements in the area and Napier St is a key bicycle route for the City of Yarra. Strategic Transport suggests a treatment of the intersection involving the below concepts:

1. Close the service lane on the north west corner
2. Increased walkability through the installation of splitter islands and kerb extensions
3. Increased cycle safety through decreed crossing distances
4. Opportunities for better/greener public spaces

Please note: There are no known capital works planned in the area.

If you require any further input, or would like to discuss these comments in more detail, please don't hesitate to contact me on 9205 5734.

Regards

Kate Simnett
Sustainable Transport Officer
Strategic Transport

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 8. Council's Services Contracts Unit

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Thomas, Sarah

From: Agostino, Joe
Sent: Friday, 24 February 2017 3:29 PM
To: Thomas, Sarah
Cc: Valente, Enzo
Subject: RE: 26-56 Queens Pde - Substituted plans for PLN16/0732 and PLN16/0434

Hi Sarah

From a City Work's perspective the comments regarding the Waste Management Plan remain the same. There are no further comments from the City Work's perspective.

Kind Regards

Joseph Agostino
Project Officer
City Works
Yarra Operations Depot, Clifton Hill

City of Yarra PO Box 168 Richmond 3121
T(03) 9205 5540 **F**(03) 8417 6666
E Joe.Agostino@yarracity.vic.gov.au W www.yarracity.vic.gov.au

Please consider the environment before you print this email!

From: Thomas, Sarah
Sent: Tuesday, 21 February 2017 1:23 PM
To: Swarup, Richa; Williamson, Euan; Engineering Referral Unit; Simnett, Kate; Valente, Enzo; Lindsay, Carrie; Alexander, Steve; Robyn Riddett (rgrd@bigpond.com); Riddett, Robyn
Cc: Connell, Danielle; Osman, Mary
Subject: 26-56 Queens Pde - Substituted plans for PLN16/0732 and PLN16/0434

Hi all

We have received amended plans for both of the above applications, affecting the main site and the rear site at 26-56 Queens Pde.

Essentially, the main development has been reduced from 16 to 12 storeys (plus basement) and the rear development has been reduced from 4 to 3 storeys.

I am after your advice in your respective fields based on these substituted plans.
Based on VCAT deadlines, I will need your advice by **Friday, 24 February 2017.**
I apologise for the short notice, however we only received the plans last night.

ROBYN – please see me for a set of plans when you are in next.

The plans are in TRIM:

PLN16/0434 (Main site)
D17/21368
D17/21367
D17/21365

1

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

D17/21364
D17/21363

PLN16/0732 (Rear site)
D17/21375
D17/21374
D17/21373
D17/21371
D17/21370

Thanks

Sarah Thomas
Principal Planner
(Monday, Tuesday, Thursday and Friday)
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E Sarah.Thomas@yarracity.vic.gov.au **W** www.yarracity.vic.gov.au

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Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 9. Wind Consultant (MEL Consultants)

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Thomas, Sarah

From: Sophie Lamande <SophieL@Vipac.com.au>
Sent: Thursday, 23 February 2017 10:44 AM
To: Thomas, Sarah
Subject: RE: 26-56 Queens Pde - Substituted plans for PLN16/0732 and PLN16/0434

Hi Sarah,

We've reviewed the changes to the plans. The main alterations that would affect the pedestrian wind environment are the reduction in building height, the increases to setbacks and building separation, and the increased terracing. These changes would all be expected to improve the wind environment by assisting to reduce downwash and channelling effects. The revised design would be expected to achieve an improved wind environment over the original design.

Let me know if you require further information or clarification.

Kind regards,

Sophie Lamande
Wind Group Leader

ViPAC

Vipac Engineers & Scientists Ltd
279 Normanby Road, Port Melbourne VIC 3207 Australia
Private Bag 16, Port Melbourne VIC 3207 Australia
t. +61 3 9647 9827 **m.** +61 4 0198 3286
e. sophiel@vipac.com.au **w.**www.vipac.com.au

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From: Thomas, Sarah [mailto:Sarah.Thomas@yarracity.vic.gov.au]
Sent: Tuesday, 21 February 2017 1:27 PM
To: Sophie Lamande
Subject: 26-56 Queens Pde - Substituted plans for PLN16/0732 and PLN16/0434

Hi Sophie

We have received amended plans for both of the above applications, affecting the main site and the rear site at 26-56 Queens Pde.

Essentially, the main development has been reduced from 16 to 12 storeys (plus basement) and the rear development has been reduced from 4 to 3 storeys.

I am after your advice from a wind perspective on these substituted plans.
Based on VCAT deadlines, I will need your advice by **Friday, 24 February 2017.**
I apologise for the short notice, however we only received the plans last night.

https://www.dropbox.com/sh/ar5wgphj3zsygvk/AACAPLN1vw98Rq7CVCEpqYhla?dl=0

1

Thanks

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Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 10. Council's Open Space Unit

CITY OF YARRA

Memo

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To: Sarah Thomas

Cc: Carrie Lindsay; Kevin Ayrey; Glen Williames

From: Julia Mardjuki

Date: 23 February 2017

Subject: 26-56 Queens Parade, North Fitzroy

Dear Sarah

I refer to the substituted plans and reports submitted for the proposed development at 26-52 Queens Parade, North Fitzroy and provide the following comments:

- The proposed ground level courtyard areas will still be significantly overshadowed for most of the day. Accordingly, proposed planting in this area will struggle to thrive and the space will be inhospitable. This is not a good design outcome.
- The new "Better Apartments Draft Design Standards" guidelines recommend that "*at least 50% of the communal outdoor space area should receive sunlight for a minimum of two hours between 9am and 3pm on 21 June*." This proposal does not achieve this minimum requirement for the ground level central garden.
- Whilst the proposed building heights have been reduced, the nature strip along Queens Parade will still be overshadowed for most of the day and this will impact future growth rates; potentially compromising the integrity of the boulevard.
- We appreciate the removal of seating and paving along Queens Parade as per Council's recommendation.
- Updated landscape plans will need to be provided for comment. They will need to address the items raised previously and provide details for new elements such as new green roofs on several floors and the garden light well.

If you require any further input, or would like to discuss these comments in more detail, please don't hesitate to contact me on 9205 1427.

Yours sincerely

Julia Mardjuki
OPEN SPACE PLANNING & DESIGN

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 11. Council's Community Amenity Unit

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Thomas, Sarah

From: Alexander, Steve
Sent: Wednesday, 22 February 2017 8:44 AM
To: Thomas, Sarah
Subject: RE: 26-56 Queens Pde - Substituted plans for PLN16/0732 and PLN16/0434

Hi Sarah, thanks for your email. There's not much there for me to comment re: the development proposed changed from an amenity perspective. Construction management may have a comment. Please feel free to contact me if you wish to discuss further.

Thank you.

Steve Alexander
Coordinator, Civic Compliance
City of Yarra.
PO Box 168 RICHMOND 3121
(T): (03) 9205 5166 (F): (03) 8417 6666
E: steve.alexander@yarracity.vic.gov.au
W: www.yarracity.vic.gov.au

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From: Thomas, Sarah
Sent: Tuesday, 21 February 2017 1:23 PM
To: Swarup, Richa; Williamson, Euan; Engineering Referral Unit; Simnett, Kate; Valente, Enzo; Lindsay, Carrie; Alexander, Steve; Robyn Riddett (rgrd@bigpond.com); Riddett, Robyn
Cc: Connell, Danielle; Osman, Mary
Subject: 26-56 Queens Pde - Substituted plans for PLN16/0732 and PLN16/0434

Hi all

We have received amended plans for both of the above applications, affecting the main site and the rear site at 26-56 Queens Pde.

Essentially, the main development has been reduced from 16 to 12 storeys (plus basement) and the rear development has been reduced from 4 to 3 storeys.

I am after your advice in your respective fields based on these substituted plans.
Based on VCAT deadlines, I will need your advice by **Friday, 24 February 2017.**
I apologise for the short notice, however we only received the plans last night.

ROBYN – please see me for a set of plans when you are in next.

The plans are in TRIM:

1

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

PLN16/0434 (Main site)
D17/21368
D17/21367
D17/21365
D17/21364
D17/21363

PLN16/0732 (Rear site)
D17/21375
D17/21374
D17/21373
D17/21371
D17/21370

Thanks

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Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 2 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Officer report on previous substituted plans

Appendix 12. Assessment against proposed DDO

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - External urban design review of subsituted plans

PLANNING URBAN DESIGN COMMUNICATION

MESSAGE

Memorandum

Date: 2 August 2017 **Our ref.:** 16268P

To: Mimi Marcus, Maddocks

From: Tim Biles, Message Consultants

Re: 26-56 Queens Parade, Fitzroy North

As requested I have undertaken a preliminary review of the circulated amended plans, as provided on the 25 July 2017, namely;

- **Plans by Cox Architects- 26-56 Queens Parade**
- **Plans by Koichi Takada Architects - rear of 26-56 Queens Parade**

I have undertaken this assessment in response to the recently approved interim DDO16 policy requirements.

Please note that I have not undertaken a detailed assessment of the internal amenity of the proposal. This can be done if required.

In summary, I consider that the 2 proposals have appropriately responded to the DDO16 requirements and the site context.

1. Plans by Cox Architects: 26-56 Queens Parade

The proposal in the amended plans by Cox Architects is an acceptable response to the DDO16-2A policy requirements for the following reasons:

- It provides a 3 storey street wall with a series of 4 towers on the site, reaching no more than 31m in height plus plant, which is consistent with the DDO16 mandatory provisions.
- The setbacks of the towers from the street and side boundaries is adequate.
- The separation between towers is generous and at no point less than 10m.
- The façade detailing at the podium demonstrates a fine grain patterning and is respectful of the heritage façade. Notwithstanding heritage advice, I consider the heritage parapet detail will be an interesting design element in the Queen Parade streetscape.
- The interface to the rear provides an appropriate 3 storey form, with the tower forms adequately setback so as not to appear visually dominant to the neighbouring adjacent sites.

The table on page 3 provides a brief summary of the assessment of the proposal against the DDO16 Area 2A discretionary requirements.

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info@messageconsultants.com www.messageconsultants.com

MESSAGE

In terms of other general comments about the proposal I note the following;

- The shadow consequences off site appear to be acceptable.
- The apartments appear to have functional layouts.
- There seems to be a large number of privacy screens applied to the podium of proposal along the rear interfaces. The details of these screens should be provided. In some instances I consider that they are not necessary and could be applied in a more discretionary manner. The screening could be openable, and certainly permeable to 25% to allow residents to adjust the extent of screening.

2. Plans by Koichi Takada Architects: Rear of 26-56 Queens Parade

I consider that the amended plans by Koichi Takada Architects is an acceptable response to the DDO16-1B policy requirements for the following reasons:

- It provides a row of 4 attached 3 storey townhouses, reaching no more than 10m, on the site.
- The setbacks to the neighbouring interfaces are adequate.
- The apartments appear to have functional layouts.
- The provision of car parking is provided within the basement of the neighbouring site, which is an interesting design response.

Yours sincerely

Tim Biles

Director
Message Consultants Australia Pty Ltd

tim@messageconsultants.com

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - External urban design review of subsituted plans

MESSAGE

Discretionary Controls				
Built Form	**Discretionary Control**	**Cox Plans**	**Meet the Control**	**T Biles comments**
Front Setback from boundary of Queens Parade	• 0m up to maximum 10m (3 storeys).	0m up to L2 (3 storeys)	Complies.	Acceptable
Above existing heritage façade Upper Level Setback from front of building	• Minimum of 8m setback from 10m (3 storeys) to 16m (5 storeys) • Minimum of 11m setback from 16m (5 storeys).	A variety of setbacks to the 3 towers fronting Queens Parade are employed above the 3 storey street wall.	Does not comply	The setbacks to the towers above the podium are acceptable. The variation in setbacks, tower separation and curved built form setbacks will ensure that the street wall will read separately from the towers. Towers employ adequate separation from one another and apartment floor plates are 'juxtaposed' adding interest to the building form.
Above new street wall Upper Level Setback from front of building	• Minimum of 5m setback from 10m (3 storeys) to 16m (5 storeys) • Minimum of 8m setback from 16m (5 storeys).			
Setback(s) from rear boundaries – North & North West adjacent to NRZ & GRZ	• ResCode B17 measured from the rear boundary of adjoining properties up to 10m (3storeys). • Setback within a 45 degree angle line measured from 10m (3 storeys) up to 25m (8 storey).	The proposal appears to comply with the B17 and 45 degree angle line above 10m from ground level.	Appears to generally comply. The building is 'organic' in shape, unlike the DDO requirements which encourage a more regular setback treatment. It would be useful for the architectural plans to demonstrate the areas of compliance and non-compliance with these provisions.	In terms of visual bulk and massing, I consider the side and rear interface condition of the podium and the tower setbacks above the podium are a suitable response to the intent of the DDO and the local context.
Setback(s) from side boundary – East adjacent to NRZ	• 0m setback to match party wall of existing adjoining development up to 10 metres (3 storeys). • Setback within a 45 degree angle line measured from 10m (3 storeys) up to 25m (8 storey).	The proposal applies a series of different setbacks to the 3 storey podium and to the eastern tower		
Setback(s) from side boundary – East adjacent to MUZ	• 0m setback to match party wall of existing adjoining development or 10m (3 storeys) where no party wall exists. • Minimum of 9m setback from the windows/ balconies of adjoining apartments up to 16m (5 storeys). • Minimum of 15m setback above 16m (5 storeys).	The proposal applies a variety of setbacks to the 3 storey podium and the eastern tower.		
Setback(s) from side/ rear boundaries – West & North West adjacent to MUZ	• 0m setback to match party wall of existing adjoining development to the west or 10m (3 storeys) where no party wall exists. • Setback within a 45 degree angle line measured from 10m (3 storeys).	The proposal applies a range of different setbacks from 0m near the Queens Parade frontage to a maximum of 9.8m.		

|3/3

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 4 - PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North (Main & Rear) - Engineering comments on substituted plans

CITY OF YaRRA

MEMO

To:	**Sarah Thomas**	
From:	**Mark Pisani**	
Date:	**28 July 2017**	
Subject:	**Application No:**	**PLN16/0434 & PLN16/0732**
	Description:	**Substituted Drawings; Major Development**
	Site Address:	**26-56 Queens Parade and Rear 26-56 Queens Parade, Fitzroy North**

I refer to the substituted plans received at this office on 25 July 2017 in relation to the proposed developments at 26-56 Queens Parade and Rear 26-56 Queens Parade, Fitzroy North. Council's Engineering Services unit provides the following information:

MAIN SITE (Off Queens Parade Service Road)

CAR PARKING PROVISION – 26-56 QUEENS PARADE

Proposed Development

According to the information provided by the applicant, the revised proposal's parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
One-bedroom dwelling	95	1 space per dwelling	95	71
Two-bedroom dwelling	138	1 space per dwelling	138	136
Three-bedroom dwelling	57	2 spaces per dwelling	114	74
Four-bedroom dwelling	5	2 spaces per dwelling	10	8
Residential visitors	295 Dwellings	1 space per 5 dwellings	59	9
Food & Drink (Shop)	201 m^2	4 spaces per 100 m^2 of leasable floor area	8	7
Food & Drink (Café)	99 m^2	4 spaces per 100 m^2 of leasable floor area	3	
Restaurant - Patron numbers unknown	188 m^2	0.4 spaces to each patron permitted	Insufficient information	
		Total	**427 Spaces + restaurant parking**	**305 Spaces**

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 4 - PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North (Main & Rear) - Engineering comments on substituted plans

Of the residential mix, 14 townhouses are included in the total of 295 dwellings.

To reduce the number of car parking spaces required under Clause 52.06-5 (including to reduce to zero spaces), the application for the car parking reduction must be accompanied by a Car Parking Demand Assessment.

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 Dwellings*. We are satisfied that the on-site car parking provision for the dwellings is appropriate for the scale of development and its proximity to public transport nodes and connectivity to the on-road bicycle network.
- *Parking Demand for Residential Visitors*. In the previous revision of the development we had reviewed, the site was providing 11 residential visitor spaces for 341 dwellings (a rate of 0.032 spaces per dwelling). By comparison, the revised proposal would be providing nine spaces for 295 dwellings, which equates to a rate of 0.031 spaces per dwelling. The visitor parking rate is consistent with the previous proposal.
- *Parking Demand for Commercial Uses*. The food and drinks premises and the restaurant would be allocating all seven spaces to employees. Customer parking for the uses would be accommodated off-site.
- *Availability of Public Transport in the Locality of the Land*. The site is within walking distance of tram services operating along Brunswick Street and Queens Parade. Bus services also operate along Queens Parade, George Street and Alexandra Parade.

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*. Traffix Group had undertaken on-street parking occupancy surveys in the surrounding area on Friday 18 March 2016 and Saturday 19 March 2016 (at 1:00pm and 8:00pm on both days). The survey area encompassed Queens Parade (Jamieson St to Alexandra Pde), Alexandra Parade (Rae St to George St), Grace Lane, Coleman Street and section of Brunswick Street, Napier Street, Newry Street, George Street and Jamieson Street. The duration and extent of the surveys are considered appropriate. An inventory of up to 380 publicly available parking spaces was identified. The results of the survey indicate that a minimum of 139 vacant on-street car parking spaces was recorded at 8:00pm on the Friday. The surrounding area has a supply of vacant on-street car parking and should be able to accommodate any short-stay parking demand from the site.
- *Relevant Local Policy or Incorporated Document*. The proposed development is considered to be in line with the objectives contained in Council's *Strategic Transport Statement*. The site is ideally located with regard to sustainable transport alternatives and the lack of on-site car parking would discourage private motor vehicle ownership and use.

Adequacy of Car Parking

From a traffic engineering perspective, the waiver of parking is considered appropriate in the context of the development and the surrounding area. The short stay car parking demands could be accommodated on-street as demonstrated from the on-street parking occupancy surveys.

Engineering Services has no objection to the reduction in car parking for this site.

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 4 - PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North (Main & Rear) - Engineering comments on substituted plans

TRAFFIC GENERATION

Compared with the previous revision, the current proposal will contain a slightly reduced on-site car parking provision (335 spaces to 305 spaces).

In our previous referral comments of 23 February 2017, we were satisfied with the traffic generation of the site. Similarly, the current proposal's traffic generation is considered acceptable.

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 4 - PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North (Main & Rear) - Engineering comments on substituted plans

DEVELOPMENT LAYOUT DESIGN
Layout Design Assessment

Item	Assessment
Access Arrangements	
Development Entrance – Queens Parade Service Road	The proposed 6.4 metre wide vehicle entrance satisfies *Design standard 1 – Accessways* of Clause 52.06-8. The entrance allows for two-way simultaneous traffic movements into and out of the development.
Visibility	A pedestrian sight triangle has not been provided for the exit lane of the access way as it immediately abuts the wall of the adjoining property. There is no objection to the installation of a convex mirror as originally suggested by Traffix Group. The installation of a pedestrian signal audible device at the entrance is not supported. It the responsibility of a motorist exiting private property to give way to pedestrians along the footpath before entering a Public Highway, and not vice versa. In addition, audible warning devices could be potentially annoying to occupants of nearby dwellings.
Vehicle Crossing	The revised vehicle crossing design has now provided a lateral clearance of 1.0 metre from the power pole to the east edge of the crossing. The east edge has not been aligned perpendicular to the Queens Parade service road.
Ramped Accessway Width	The ramped accessway has a minimum width of 6.4 metres and satisfies the Australian/New Zealand Standard AS/NZS 2890.1:2004 section 2.5 – *Design of circulation roadways and ramps.*
Internal Ramp Width	The 6.4 metre wall-to-wall widths of the internal ramps satisfy AS/NZS 2890.1:2004.
Car Parking Modules	
Car Parking Spaces – Ninety-Degree Parking	The dimensions of the regular car parking spaces satisfy *Design standard 2: Car parking spaces* or AS/NZS 2890.1:2004 (where applicable).
Accessible Parking Space	The dimensions of the dedicated accessible parking space for people with disabilities and the associated shared area satisfy the Australian/New Zealand Standard AS/NZS 2890.6:2009 *Parking facilities Part 6: Off-street parking for people with disabilities.*
Aisles	The 6.4 metre wide aisles throughout the two levels of basement parking satisfy *Design standard 2.*
Column Setbacks and Depths	Columns have been setback from the aisles by 800 mm and have depths of 1.0 metre (for 5.4 metre long bays). AS/NZS 2890.1:2004 requires 1.0 metre long columns to be set back from the aisle by 750 mm. We recommend the columns be repositioned 750 mm from the aisles as required by the Standard.
Clearances to Walls	Clearances of 300 mm have been provided to bays abutting walls.
Blind Aisle Extensions	The blind aisle extensions are a minimum of 1.0 metre as required by AS/NZS 2890.1:2004.

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 4 - PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North (Main & Rear) - Engineering comments on substituted plans

Item	Assessment
Car Parking Modules - Continued	
Headroom Clearance	Headroom clearances have been dimensioned for both basement level car parks. A minimum headroom clearance of 2.5 metres has been provided and 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 20 and satisfies *Design standard 3: Gradients.*
Ramp Grades and Changes of Grade	The ramp grades and the changes of grade for the ramped accessway and the internal ramp satisfy *Design standard 3.*
Loading Facilities	
Loading By and Waste Pickup Bay	Have not been dimensioned on the drawings. Swept path diagrams demonstrating entry and exit movements into and out of this facility should be submitted.

ENGINEERING CONDITIONS

The engineering conditions specified in our referral comments of 23 February 2017 are still relevant and still stand.

NON-PLANNING ADVICE FOR THE APPLICANT

The non-planning advice specified in our referral comments of 23 February 2017 is still relevant and still stands.

Attachment 4 - PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North (Main & Rear) - Engineering comments on substituted plans

REAR 26-56 QUEENS PARADE

CAR PARKING PROVISION

Proposed Development

According to the information provided by the applicant, the revised proposal's parking requirements are as follows:

Proposed Use	Quantity /Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Two-bedroom dwelling plus Study	1	1 space per dwelling*	1	1
Three-bedroom dwelling	3	2 spaces per dwelling	6	6
Total			**7 Spaces**	**7 Spaces**

* The two-bedroom plus study dwelling has been treated the same as regular two-bedroom dwelling due to the small size of the study which is unlikely to be used as an additional bedroom.

Seven on-site spaces would be provided for the four townhouse dwellings in the car park at 26-56 Queens Parade. The proposed car parking provision satisfies the statutory car parking requirement.

PEDESTRIAN ACCESS

According to Traffix Group report, it is proposed that the development's principal pedestrian access would be via parent site of 26-56 Queens Parade. The pedestrian access plan in the report indicates that from the subject site persons walking to and from Queens Parade via the parent site would travel approximately 90 metres.

The Right of Way linking the site from Brunswick Street would provide a more expedient way of accessing the street network (approximately 35 metres). Although the applicant is encouraging access via the parent site, pedestrians could be inclined to use the Right of Way, as it is a Public Highway.

ENGINEERING CONDITIONS

Civil Works

- Upon the completion of all building works and connections for underground utility services, the section of Right of Way in between the subject site and 26-56 Queens Parade must be fully constructed to Council's satisfaction and at the Permit Holder's cost.
- The Permit Holder is to make a development contribution of 50 per cent of the cost of reconstructing the bluestone Right of Way from the development to St Georges Road. Council will program the works on the Capital Works Program and pay the balance of the works.

Public Lighting

- Lighting for pedestrian access at the property's Cambridge Street frontage must comply with the minimum lighting level of P4 as per the Australian Standard AS/NZS 1158.3.1:2005 *Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements*. The lighting levels of all existing public lights near the site must be measured and checked against the AS/NZS 1158.3.1:2005 to determine whether new or upgraded public lights are required. The supply and installation of any additional or upgraded lighting, poles or other fixtures shall be funded by the Permit Holder and to the satisfaction of the Responsible Authority.

Attachment 4 - PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North (Main & Rear) - Engineering comments on substituted plans

- The developer must ensure that lighting from any existing or new lights does not spill into the windows of any new residences or any existing nearby residences. Any light shielding that may be required shall be funded by the Permit Holder.

Construction Management Plan

- A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.
- The Construction Management Plan for the site must also take the following into account:
  - If any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority.
  - Existing public lighting could only be disconnected once temporary alternative lighting scheme becomes operational.
  - A temporary lighting scheme must remain operational until a permanent lighting scheme is reinstated.

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.

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.

NON-PLANNING ADVICE FOR THE APPLICANT

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.

Regards

Mark Pisani
Senior Development Engineer
Engineering Services Unit

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 5 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - ESD Advice on substituted plans

CITY OF YARRA

MeMO

TO:	**Sarah Thomas**
FROM:	**Euan Williamson, ESD Advisor**
DATE:	**26.07.2017**
FILE:	**26-52 Queens Parade, North Fitzroy**
SUBJECT:	**ESD Response – Amended Plans for VCAT Hearing**

Sarah,

I have reviewed the amended plans prepared by Cox Architecture, dated the 24.07.2017. In summary, the amended plans address some of the major concerns raised in my previous advice concerning access to daylight and shading from summer heat gain. Some other items remain outstanding and should be addressed by an amended SMP.

Daylight
Some habitable rooms on lower levels are likely to fall just beneath our best practice standards for access to daylight, but overall the standard is likely to be acceptable. To maximise opportunities for access to daylight I recommend;

- Clear glazing to all habitable rooms of dwellings.
- All privacy screens and devices to be made of obscured glazing or similar, rather than a solid material that will restrict access to daylight.
- Full height glazing to lower level dwellings with compromised access to daylight, such as;
  - C1GF09, C4GF05, C4GF06, C3GF02, C3GF01
  - Lower level bedrooms of TH14, TH13, TH12, TH11 on the ground floor,
  - C40105, C40106, C30202, C30203, C30204, C20103 on the first floor, and

Although the amended design will still have an impact on adjoining neighbours' access to daylight and sunlight, the design has improved considerably. The increased setback from the existing dwellings and building articulation will assist in improving the access to daylight to the adjoining properties.

Shading
Reasonable shading is given through balcony overhangs and wingwalls and through the extended 600mm solid awning that is cantilevered over exposed external glazing.

Natural Ventilation
As noted in my previous advice, there remains a poor of natural ventilation to single sided dwellings deeper than 5m. Strongly recommend re-designing the building to facilitate better natural ventilation, with at least 60% of dwellings to be cross ventilated. This could be achieved through various means including;

- Extraction fans to all kitchen range hoods and bathrooms
- Ceiling fans

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 5 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - ESD Advice on substituted plans

- Trickle vents
- Energy efficient mechanically assisted natural ventilation with flow rates 50% in excess of AS 1668 levels.

I recommend that an updated SMP for this project is submitted that addresses an effective ventilation strategy for all dwellings that do not have access to cross ventilation.

If you or the applicant would like to discuss this development further, please contact me.
Regards,

Euan Williamson
Environmental Sustainable Development Advisor
City of Yarra PO Box 168 Richmond 3121
T (03) 9205 5366 F (03) 8417 6666
E Euan.Williamson@yarracity.vic.gov.au
W www.yarracity.vic.gov.au

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 6 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - ESD Memo2 - 26-56 Queens Parade

CITY OF YARRA

MeMO

TO:	**Sarah Thomas**
FROM:	**Euan Williamson, ESD Advisor**
DATE:	**02.08.2017**
FILE:	**26-52 Queens Parade, North Fitzroy**
SUBJECT:	**ESD Response – Full height glazing to dwellings**

Sarah,
I have prepared a list of dwellings where full height glazing is recommended to assist maximise access to daylight, namely;

Ground floor
- C1GF09,
- C4GF04(*rear bedroom*), C4GF05, C4GF06,
- C3GF01, C3GF02, C3GF06 (*rear bedroom*)
- Lower level bedrooms of TH11, TH12, TH13, TH14,

First Floor
- C40105, C40106,
- C30101, C30102, C30103, C30104, C30105

Second Floor
- Rear bedrooms to TH11, TH12, TH13, TH14
- C30201, C30202, C30203, C30204, C30205?
  (*please note current plans have two dwellings marked as C30203, refer to marked up plans*)

I have prepared marked up plans for these three levels in accompanying pdf documents.
If you or the applicant would like to discuss this development further, please contact me.
Regards,

Euan Williamson
Environmental Sustainable Development Advisor
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E Euan.Williamson@yarracity.vic.gov.au
W www.yarracity.vic.gov.au

Attachment 7 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Heritage review of subsituted plans

City of Yarra
Heritage Advice – Revised Design (Cox)

Application No.: PLN16/0434

Address of Property: 26 – 56 Queens Parade, Fitzroy North

Planner: Sarah Thomas

Yarra Planning Scheme References: Clauses 43.01, 22.02, 21.05 and Schedule DDO 16.

Heritage Overlay No. Only partly in HO327 **Precinct:** North Fitzroy

Level of significance:

No. 26, 28 – 58 Queens Parade, North Fitzroy, is listed as electro plate K G Luke Pty Ltd electro-plate manufacturers factory, former (part), constructed 1938, 1937, is graded as "Individually significant" in Appendix 8, *City of Yarra Review of Heritage Overlay Areas 2007*. (Rev. Sep 2015) but it is not in a Heritage Overlay.

I have provided comments on several occasions in relation to the Koichi Takada drawings. The basic premise in relation to context remains the same for this assessment of the Cox design.

Proposal

Construction of a large development behind the retained Art Deco façade.

Drawing Numbers

60 sheets of drawings, photomontages and the like by prepared by Cox Architecture and with Council date stamp 25 Jul 2017.

Context

I have provided comments on several occasions in relation to the Koichi Takada drawings. The basic premise in relation to context remains the same for this assessment of the Cox design.

The following strategies are the relevant context in which to consider this proposal.

> **Strategy 14.3** Protect the heritage skyline of heritage precincts;
> **Strategy 14.6** Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining Areas;
> **Objective 17** To retain Yarra's identity as a low-rise urban form with pockets of higher development;
> **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 [inter alia]: Significant upper level setbacks [and] High quality restoration and adaptive re-use of heritage buildings (Cl. 21.05).

In addition the relevant part of the heritage policy is:

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 7 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Heritage review of subsituted plans

Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:

- Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.
- Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.
- Be visually recessive and not dominate the heritage place.
- Consider the architectural integrity and context of the heritage place or contributory element.

I commented previously that "The application of the Heritage Policy and the Strategies must in this case be tempered by the nature of the site and its context and in my opinion it is important to assess the development in toto and in a 3 dimensional sense rather than a formulaic consideration of setbacks, height, materials etc. That said I emphasise that this site, regardless of its present listing is almost in a green fields context and with only part of the façade having heritage value while also noting the heritage dwellings abutting to the west and those to the east which are separated by the very long frontage of the development site".

Schedule 16 to The Design and Development Overlay specifically applies to Queens Parade (west). Included in the Design Objectives for Precinct 2A: Boulevard Precinct are:

- To ensure the redevelopment of the land accommodating the former 'K.G. Luke Pty Ltd Electro Plate Manufacturers' factory contributes positively to the urban character of Fitzroy North.
- To retain, enhance and incorporate the existing heritage facade into the redevelopment of the site and to create a consistent parapet height along the streetscape.
- To ensure new development does not diminish, or detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade.
- To moderate the prominence of development above the street wall with respect to mid and long range panoramic and streetscape views and the Yarra skyline from the Edinburgh Gardens (HO213) and Newry Street (HO327- Fitzroy North Precinct).
- To ensure heritage buildings retain their three-dimensional form as viewed from the public realm to avoid 'facadism'.
- To ensure an appropriate transition in building scale across the site having regard to the existing and preferred built form to the east, north and west.
- To recognise the low scale, fine grain format of existing surrounding development.
- To avoid repetitive stepped built form at upper levels of development.
- To ensure development appropriately considers the amenity impacts on neighbouring development and achieves a high standard of internal amenity within the development.
- To encourage the development above the street wall to be designed as a series of separate development parts with building separation to enable views to the sky.

- To encourage permeability within and through the site.
- To ensure adequate solar access.

I have not repeated the Building heights & setbacks requirements of table 2 but have noted them.

Assessment of Proposed Works

Demolition

There are no heritage concerns with the demolition of all of the fabric, including the shop at the east end, other than for the Art deco façade which will be retained.

The Proposed Built Form

What are the principal differences between the Koichi Takada design and the Cox design?

The previous proposal included retention of the Art Deco façade to Queens Parade.

Behind and beside it to the east two cores were proposed which had the highest parts adjacent to each other either side of a central break. The outer edges cascaded down to street level which was approximately 3 storeys. The general design was of straight horizontal lines alleviated by the vertical lines of the balcony balustrades.

The Cox design includes retention of the Art Deco façade to Queens Parade.

It has 3 curvilinear free-form pods/cores variously fronting Queens Parade behind and beside the façade and separated by two breaks at the Ground floor but by only one at Levels 1 and 2 above. The façade is thus comprised of two sections, and with the eastern section also wrapping around the east and north boundaries of the site and connecting to the rear of the portion behind the Art Deco façade. Thus the greatest concentration of built form is at the lower levels. This is positive.

The height of the podium is commensurate with the height of the Art Deco façade and is lower than the highest portion of it but is higher than the lower portion at the west end. DDO 16 has a discretionary height of below the parapet. I consider that the proposed height meets the intent of the DDO which is to retain the prominence of the heritage façade.

The DDO has a discretionary setback above the existing heritage facade of 8 metres above 10 metres in height (3 storeys) which equates to the top of the parapet of the Art Deco façade) and a minimum of 11 metres above 16 metres in height (5 storeys). The setback at Level 3 ranges from 4.3 metres at the western end to 8.1 metres at the eastern corner of the core/pod behind the façade and then considerably deeper further east thot h east end of the façade. The setbacks at Levels 4 – 5 are the same or similar. The intent of this is to "not detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade". I consider that this Built Form Outcome has been met. The setbacks at Levels 6 – 9 do not literally comply i.e. approximately 15-16 metres at the west end and 2.9 metres at the east end, noting also a terrace in the setback at level 6. However they are deemed to meet the Built Form Outcome objective because in sq m area created by the angled façade they will enable the prominence of the Art Deco wall to have primacy in the foreground.

Levels 3 – 9 are separated into 3 core/pods along Queens Parade and with another core/pod behind in the centre of the site. From Level 4 – 9 there is no built form along the east and north boundaries and as a result there is likely to be less visual impact on the Edinburgh Gardens and the residential interface to the north.

Attachment 7 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Heritage review of subsituted plans

Through the gaps between the cores/pods the core/pods at the rear, depending upon one's viewpoint, are visible but as recessive elements in the background.

Is it Too Bulky and Out-of-Scale?

While I found the bulk and scale of the Koichi Takada design to be acceptable because of the nature and location of the site, the visual bulk has been reduced in the Cox design by separating the built form into separate elements and is also acceptable.

Is the Proposed Built Form Too High?

The height complies with the mandatory requirements of DDO16 and is acceptable.

Are the Colours and Materials Acceptable?

Extensive glazing is proposed with the edges of the floor plates and soffits being the only solid elements other than for what appears to be external timber screens. No timber should be in any location where it is exposed to the weather. Extensive experience in Yarra has shown that stained or natural external timber soon develops an unsightly and stained appearance and is seldom maintained, often because of the inaccessibility of its location. If screen are required another material should be used. As drawn it is unlikely that the outer edges of the balcony soffits will be affected by rain but if this is possible then some non-timber edge should be installed on the outer side.

I note the dark brickwork to the new street wall. Of itself it is acceptable and attractive but it seems to have been chosen on the premise that the Art Deco façade will be charcoal in colour. In my previous advice, I had understood that the paint was to be removed from the façade to expose the original face brickwork and commented that this would be "a most positive boon to the area". This needs clarification.

Art Deco Façade

The issue of paint removal has been discussed above.

It is not abundantly clear from the drawings as to how much of the return of the façade at the east end is to be retaned i.e. is it the same as in the Koichi Takada design where it was to be integrated in the café? This is definetly the preference. From the montage at least some of the wall is retained.

Recommendation / Comments:

Subject to the clarification of the items above, I find this proposal acceptable also, in this location and context, and I find it to be a design which also exhibits the architectural excellence as envisaged by the Built Form Strategy.

It meets the requirements of the Heritage Policy and complies with the mandatory and discretionary requirements of DDO 16.

Clarify the use of external timber screens and as required change to another material which will not weather and degrade in appearance.

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 7 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Heritage review of subsituted plans

If the outer edges of the balcony soffits are likely to be affected by rain some non-timber edge strip should be installed on the outer side.

Clarify if the paint is to be removed from the Art Deco façade to expose the original face brickwork. This is the recommendation.

Clarify how much of the return of the façade at the east end is to be and integrated in the café? It should be the same as previously as a minimum.

Signed:

Robyn Riddett

Director – Anthemion Consultancies

Date: 3 August, 2017

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 8 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Services Contracts Unit advice on substituted plans

From: Agostino, Joe
Sent: Friday, 28 July 2017 10:10 AM
To: Thomas, Sarah
Cc: Valente, Enzo
Subject: RE: VCAT P2079/2016 & P147/2017 : Amended Plans : 26 -56 QUEENS PARADE

Hi Sarah

From a City Works Branch's perspective a number of issues regarding the Waste Management Plan have been addressed. Items highlighted below in yellow are satisfactory:

- *More details in general*
- *Bin store considered too small and need isles between bins*
- *Details on how bin store will operate/be managed by operator*
- *Details on education, tenants information, bin room set up, etc to ensure appropriate management of the waste and recycling*
- *Detail plan of bin store clearly showing bins, aisles, path of access, hard waste area, etc*
- *Details/justification on ensuring recycling collected is compacted to ensure industry standard and not compromise recovery of recyclables*
- *Details on path of access from the street to the bin collection point*
- *Details on chute rooms*
- *Details on how the chutes operate to ensure appropriate use by tenants*
- *Details on how the development will be managed by the operator*
- *Show how the WMP will work in practice for residents, operator and waste contractors.*

If you have any queries please give me a call.

Kind Regards

Joseph Agostino
Project Officer
City Works
Yarra Operations Depot, Clifton Hill

City of Yarra PO Box 168 Richmond 3121
T(03) 9205 5540 **F**(03) 8417 6666
E Joe.Agostino@yarracity.vic.gov.au **W** www.yarracity.vic.gov.au

Please consider the environment before you print this email!

From: Valente, Enzo
Sent: Tuesday, 25 July 2017 3:50 PM
To: Agostino, Joe
Cc: Thomas, Sarah
Subject: FW: VCAT P2079/2016 & P147/2017 : Amended Plans : QUEENS PARADE
Importance: High

Hi Joe

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 8 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Services Contracts Unit advice on substituted plans

Please assess and advise Sarah accordingly.

Regards

Enzo

Enzo Valente

Waste Management and Cleansing Services Coordinator
City of Yarra PO Box 168 Richmond 3121
T (03)9205 5475 F(03)8417 6666
E enzo.valente@yarracity.vic.gov.au
W www.yarracity.vic.gov.au

From: Thomas, Sarah
Sent: Tuesday, 25 July 2017 3:48 PM
To: Swarup, Richa; Simnett, Kate; Williamson, Euan; Engineering Referral Unit; 'Robyn Riddett (rgrd@bigpond.com)'; Riddett, Robyn; Valente, Enzo; Lindsay, Carrie
Cc: Connell, Danielle; Mimi Marcus; Osman, Mary
Subject: FW: VCAT P2079/2016 & P147/2017 : Amended Plans : QUEENS PARADE
Importance: High

Hi all

We have just received the substituted plans for these applications.
(The rear townhouse development and the main site at 26-56 Queens Parade, Fitzroy North.)

I am after your urgent advice on the substituted plans for both applications from your respective fields.
Advice would be sufficient in 1 memo for both applications.

Due to VCAT deadlines, can I please have your comments by **Monday, 31 July 2017?**

We didn't receive any reports or perspectives, just the attached plans.

Thanks

Sarah Thomas
Principal Planner and Advocate
(Monday, Tuesday, Thursday and Friday)
City of Yarra PO Box 168 Richmond 3121
T 9205 5046 **F** (03) 8417 6666
E Sarah.Thomas@yarracity.vic.gov.au **W** www.yarracity.vic.gov.au

bess

BESS is now live!
If you're applying for a planning permit, use the Built Environment Sustainability Scorecard to prepare your sustainable design assessment.

Visit www.bess.net.au to get started.

From: Anastasia Hatzis [mailto:hatzis@pppartners.com.au]
Sent: Monday, 24 July 2017 7:25 PM
To: Thomas, Sarah

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 8 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Services Contracts Unit advice on substituted plans

Cc: mimi.marcus@maddocks.com.au; Mark Naughton
Subject: VCAT P2079/2016 & P147/2017 : Amended Plans : QUEENS PARADE

Dear Ms Thomas,

26-56 QUEENS PARADE, NORTH FITZROY & REAR 26-56 QUEENS PARADE, NORTH FITZROY
VCAT REFERENCES P2079/2016 & P147/2017

We act for Gurner 26-56 Queens Parade Pty Ltd, Permit Applicant/Applicant for Review.

In accordance with the Tribunal's Order dated 6 April 2017, we **attach in the below link** the following to be published on Council's website:

i. PNPE9 Form A - Notice of an Amendment of an Application for P2079/2016 & P147/2017;
ii. Blank Statement of Grounds form for P2079/2016 & P147/2017;
iii. Amended Plans prepared by Cox Architects; and
iv. Amended Plans prepared by Koichi Takada Architects.

https://www.dropbox.com/sh/uh24ee64bww49tk/AAD5oA6xgxeOypPRdthO3Ydfa?dl=0

Hard copies of the above have been sent to you.

Should you have any queries regarding this email, please do not hesitate to contact me.

Regards,

Anastasia Hatzis

PLANNING & PROPERTY PARTNERS
LAWYERS & CONSULTANTS

P: 03 8626 9025 | M: 0419 487 926
E: hatzis@pppartners.com.au

Planning & Property Partners Pty Ltd
Duckboard House
Level 2, 91-93 Flinders Lane
Melbourne VIC 3000

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Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 9 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Open spaceadvice on substituted plans

CITY OF YARRA

Memo

diverse
vibrant
exciting
inclusive

To: Sarah Thomas

Cc: Kevin Ayrey; Glen Williames

From: Carrie Lindsay

Date: 26 July 2017

Subject: 26-56 Queens Parade, North Fitzroy

Dear Sarah

I refer to the substituted plans and reports submitted for the proposed development at 26-52 Queens Parade, North Fitzroy and provide the following comments:

- The proposed ground level courtyard areas will still be significantly overshadowed for most of the day. Accordingly, proposed planting in this area will struggle to thrive and the space will be inhospitable. This is not a good design outcome.
- The new "Better Apartments Draft Design Standards" guidelines recommend that "*at least 50% of the communal outdoor space area should receive sunlight for a minimum of two hours between 9am and 3pm on 21 June*." This proposal does not achieve this minimum requirement for the ground level central garden.
- It is noted that the new configuration of the upper levels somewhat reduces the impact of overshadowing of the central median of Queens Parade.
- Updated landscape plans will need to be provided for comment. They will need to respond to the items raised previously (in correspondence dated 23/9/2016 and 23/2/2017) and not yet addressed.

If you require any further input, or would like to discuss these comments in more detail, please don't hesitate to contact me on 9205 5725.

Yours sincerely

Carrie Lindsay
COORDINATOR OPEN SPACE PLANNING & DESIGN

Attachment 2 - Queens Parade Items 9 August 2017_Part2

Attachment 10 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - PLN16-0434 (July Amendment) - Strategic Transport Advice on substituted plans

Memo

To: Sarah Thomas

Cc: Simon Exon; Jane Waldock;

From: Kate Simnett

Date: 27/07/2017

Subject: 26-56 Queens Parade, North Fitzroy (PLN16-0434)

diverse

vibrant

exciting

inclusive

We have received the plans for the development in North Fitzroy (PLN16-0434) and provide the following feedback:

Bicycle parking on-site:

In relation to the proposed bicycle parking as per the Amended Plans pp.A21-08 – A21-10;

1. The nominated number and style of residential and visitor bicycle parks is satisfactory. However, the location of the bicycle parking is too dispersed (see; Basement 1 – A21-09) with many parks not located near entries or elevators, and not within secure compounds as per the standards. Strategic Transport recommends consolidating all bike parking in no more than 3 secure compounds on Basement 1.
2. The location of visitor bicycle parking satisfactory. There is an area on the ground floor (A21-10); between the deli, café and restaurant; nominated as 'bicycle park' – please provide additional detail on this area.
3. The location of the bicycle parking is particularly poor for those residents in the rear site. Additional parking could be provided on ground level near the secure gate between the sites.

Please note: There are no known capital works planned in the area.

If you require any further input, or would like to discuss these comments in more detail, please don't hesitate to contact me on 9205 5734.

Regards

Kate Simnett
Sustainable Transport Officer
Strategic Transport

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)

CITY OF YARRA
25 JUL 2017
RECEIVED - CRU

PLANNING & PROPERTY **PARTNERS**
LAWYERS & CONSULTANTS

Planning & Property Partners Pty Ltd
ABN 63 343 015 948
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Melbourne VIC 3000

Telephone: +61 3 8626 9000
Facsimile: +61 3 8626 9001
admin@pppartners.com.au

24 July 2017

To the addressee

Dear Sir/Madam,

26-56 QUEENS PARADE, NORTH FITZROY
VCAT REFERENCE NO. P2079/2016

We act for Gurner 26-56 Queens Parade Pty Ltd, Permit Applicant/Applicant for Review.

In accordance with the Tribunal's Order dated 6 April 2017, we **enclose** the following by way of service:

i. PNPE9 Form A - Notice of an Amendment of an Application;
ii. Blank Statement of Grounds form; and
iii. Amended Plans prepared by Cox Architects.

Yours faithfully

Mark Naughton
Planning & Property Partners Pty Ltd

Encl

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)

VCAT victorian civil & administrative tribunal

STATEMENT OF GROUNDS

Use this form to set out your reasons for contesting a planning and environment case at VCAT.
These written reasons are called your statement of grounds.

CASE DETAILS

Date that statement of grounds must be received by VCAT This is on the notice you received or the sign at the site.	18 AUGUST 2017
VCAT reference number	P2079/2016
Site address	26-56 Queens Parade, North Fitzroy

YOUR DETAILS

Name (objector, authority, company, other)	
Contact person if different to above	
Telephone/Mobile	

Give us an email and another address for serving documents
We email copies of orders, including the final decision, if you are a party. We do not send a printed copy as well.
If you do not give us an email, printed orders may arrive after the decision is published and after other parties get it by email.
If you give us your email address, it will be available on VCAT's records. These may be inspected by other parties and media.
We do not accept any responsibility for emails not received due to changes in address, firewall or other security measures attached to your email account.

Email	
Other address (this must be in Victoria)	

YOUR PARTICIPATION IN HEARINGS

☐ I intend to appear and present a submission at the hearing. **Fees apply.**

☐ I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds. **No fee applies.**

If you choose this, **you will not be a party** to the proceeding. VCAT considers your statement of grounds in any contested hearing but will not send you further correspondence.

FEES

Fees apply if you intend to appear or present a submission at the hearing. If you do not pay the fee at the time of lodging this form, you will not be a party and will not be entitled to take part, even if you indicated that you wanted to participate. For information about fees and fee relief, visit www.vcat.vic.gov.au.
You do not have to pay a fee if you are a permit applicant or holder, the determining or recommending referral authority, a person responding to an enforcement order application, or an applicant for a works authority or licence.

PRESENTING AT THE HEARING

If you intend to present at the hearing, tell us:

Time required to present your complete case at the hearing (submissions plus witnesses)	
Number of expert witnesses I intend to call (if any)	
Witness area/s of expertise	

For information about witnesses and evidence, visit **vcat.vic.gov.au** and see Practice Note PNVCAT2 – Expert Evidence.

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)

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WHO IS MAKING THIS STATEMENT?

This statement of grounds is lodged by or on behalf of:

Objector/s

- ☐ A person who objected to the original application to the council
- ☐ A person who did not object to the original application to the council but now wants to object
- ☐ A person responding to an application to amend plans or make other changes to an existing application
- ☐ A person responding to a notice by a permit holder to amend a permit

Permit applicant or permit holder

- ☐ A permit applicant responding to an objector's application for review
- ☐ A permit holder responding to a non-permit holder's application to amend or cancel a permit

Referral authority

- ☐ Determining referral authority
- ☐ Recommending referral authority

Enforcement orders

- ☐ A person responding to an application for an enforcement order

Environment applications

- ☐ Objector/s to a works approval application made to the Environment Protection Authority
- ☐ A works approval applicant
- ☐ An objector to an application made for a licence to take or use water or for works under the *Water Act* 1989
- ☐ An applicant for a licence to take and use water
- ☐ An applicant for a works licence or licence for underground disposal using a bore

Other

- ☐ Specify _____

JOINT STATEMENT OF GROUNDS

Complete this section if you are a spokesperson for people lodging a joint statement of grounds.

☐ Attach a list of the names and addresses of all the people you represent, showing whether you have their individual consent.

☐ Be aware you may be asked to provide VCAT with a copy of their written consent.

I certify that I have consent to act as spokesperson for the attached list of people where this is a joint statement of grounds:

☐ Yes ☐ No

We will only communicate with the nominated representative for a joint statement of grounds.

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street Melbourne VIC 3000
GPO Box 5408 Melbourne VIC 3001
Ausdoc DX 210576 Melbourne

Website www.vcat.vic.gov.au
Email vcat-admin@vcat.vic.gov.au

Telephone 9628 9777
Facsimile 9628 9789

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)

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YOUR STATEMENT OF GROUNDS

A short summary of my reasons for contesting the VCAT application is

☐ in the box below
☐ attached.

SERVE A COPY

You must serve a copy of your statement of grounds on both the responsible or relevant authority and the applicant by the date that appears in the notice you received and on the sign at the site – the same date on the front of this form. If not, we may not be able to hear your views or consider your objections.

You must certify that you have done so and complete the acknowledgement on this form.

CERTIFICATION

I certify that I have served a copy of this statement of grounds

☐ on _____ (insert date dd/mm/yyyy) on the applicant

☐ on _____ (insert date dd/mm/yyyy) on the respondents (responsible/relevant authority)

ACKNOWLEDGEMENT

I understand and acknowledge that:

- to the best of my knowledge, all information provided in this form is true and correct
- it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act* 1998 to knowingly give false or misleading information to VCAT.

Full name of person completing this statement of grounds form: _____

Date: _____

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ABOUT VCAT FEES

VCAT fees are charged according to three levels:

- **corporate fees** for businesses and companies with a turnover of more than $200,000 in the previous financial year, corporate entities and government agencies
- **standard fees** for individuals, not-for-profit organisations, and small businesses and companies with a turnover of less than $200,000 in the previous financial year. Companies must provide a statutory declaration to support this claim
- **concession fees** for people who hold the Australian Government Health Care Card. You must provide a copy of your card with your application.

To find out if you need to pay an application fee and how much it costs, visit the fees page at www.vcat.gov.au

FEE RELIEF

We can reduce or not charge (waive) a VCAT fee in certain circumstances.
Some people are automatically entitled to a full fee waiver. You can also apply for fee relief if paying the fee would cause you financial hardship.
Visit www.vcat.vic.gov.au for more information about fee relief.

Are you applying for fee relief?

☐ No – complete **Fee payment** section
☐ Yes – complete **Fee relief form** and attach it to this application form

FEE PAYMENT

Complete this section unless you are applying for fee relief or no fee is payable.

Choose the fee level:

☐ Standard ☐ Corporate ☐ Concession

Fee amount charged: _____

CARD DETAILS

Cards Accepted: * ☐ VISA ☐ MasterCard

Cardholder Name: *

Card Number: *

Card Expiry: *

Signed: * _____

Date: _____

REMOVE THIS PAGE WHEN SENDING A COPY OF THIS APPLICATION TO OTHER PARTIES

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street Melbourne VIC 3000
GPO Box 5408 Melbourne VIC 3001
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PLANNING AND ENVIRONMENT LIST

NOTICE OF AN AMENDMENT OF AN APPLICATION – PNPE9 FORM A

Subject Land	26-56 Queens Parade, North Fitzroy	**VCAT Ref:** P2079/2016

DATE BY WHICH A STATEMENT OF GROUNDS MUST BE LODGED WITH VCAT	18 AUGUST 2017

- **A proceeding has been lodged with VCAT about this land and allocated the above VCAT reference number. Please quote this number when communicating with VCAT about this matter.**
- **The applicant has applied to amend its application, which is the subject of this proceeding, in the manner set out below.**
- **You may wish to respond to this application for amendment. If so, please read the important information accompanying this notice.**
- **If the proceeding is an application for review concerning a permit application, the permit application, the proposed amendment, relevant plans and supporting material can be inspected at the office of the responsible authority.**
- **If the proceeding is an application for review concerning a works approval or licence, the application for works approval or licence, the proposed amendment and supporting material can be inspected at the office of the EPA or other primary decision maker.**
- **If you have any queries about the amendment, you should contact the Applicant. The Tribunal cannot assist you with this information.**
- **The proposed dates for the hearing of the proceeding and any compulsory conference are set out below.**

NAME OF APPLICANT	Gurner 26-56 Queens Parade Pty Ltd
CONTACT DETAILS FOR APPLICANT **Name of contact person and Telephone or mobile number**	Mark Naughton Planning & Property Partners Pty Ltd 03 8626 9000
NAME OF RESPONSIBLE AUTHORITY OR PRIMARY DECISION-MAKER	Yarra City Council
PERMIT APPLICATION NUMBER	PLN16/0434
BRIEF DESCRIPTION OF PROPOSAL WHICH IS THE SUBJECT OF THIS PROCEEDING	Part demolition and development of the land for the construction of a multi storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), a café, food and drinks premises, shop, use of part of the land (food and drinks premises and café) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alteration of access to a Road Zone.

TYPE OF PROCEEDING

Place X in relevant box. Note that a permit application cannot be amended in a proceeding for review of conditions under section 80 Planning and Environment Act 1987 where a permit has been granted

	Review refusal to grant a permit under section 77 *Planning and Environment Act* 1987

Victorian Civil and Administrative Tribunal (VCAT)
Administrative Division: Planning and Environment List
55 King Street , Melbourne VIC 3000 Website www.vcat.vic.gov.au Telephone 03 9628 9777
GPO Box 5408, Melbourne VIC 3001 Email vcat-admin@justice.vic.gov.au Facsimile 03 9628 9789
Ausdoc DX 210576 Melbourne

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x	Review failure to grant a permit under section 79 *Planning and Environment Act* 1987
	Review notice of decision to grant permit under section 82 *Planning and Environment Act* 1987
	Amend permit under section 87A *Planning and Environment Act* 1987

NATURE OF PROPOSED AMENDMENT TO THE APPLICATION Full details of the proposed amendment are provided in the accompanying material *Place X in relevant box.*	
x	Amendment to plans
	Amendment to the development proposal
	Amendment of the proposed use or other reason for which a permit is required
	Other – *Please specify briefly*

PROPOSED DATE/S OF HEARING & COMPULSORY CONFERENCE All hearings and compulsory conferences will be held at 55 King Street, Melbourne unless otherwise notified	
Date/s of hearing	4 September 2017 (10 days)
Date of compulsory conference (where relevant)	
Date of practice day hearing (where relevant)	

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)

PLANNING AND ENVIRONMENT LIST

INFORMATION ABOUT NOTICE OF AN AMENDMENT OF AN APPLICATION

HOW TO RESPOND IF YOU ARE A PARTY TO THE PROCEEDING

If you are already a party to the proceeding, you may amend your statement of grounds at any time prior to the hearing or you may choose to continue to rely on the statement of grounds you have already lodged with VCAT and do nothing. If you have already paid a fee in respect of your statement of grounds, you do not need to pay a further fee.

If you wish to amend your statement of grounds, you must file a copy of your amended statement of grounds with VCAT and serve a copy on the applicant and the responsible authority or other primary decision-maker.

HOW TO RESPOND IF YOU ARE NOT A PARTY TO THE PROCEEDING

Person wishes to be heard and become party to proceeding
If you are not already a party to the proceeding and you wish to be heard in relation to this application, **by no later than the date specified in the notice** you must:

- Serve a copy of the **Statement of Grounds** on which you intend to rely on the person making this application (the Applicant).
- Serve a copy of the **Statement of Grounds** on the responsible authority or other primary decision-maker.
- Lodge a copy of the **Statement of Grounds** with VCAT**,** indicating that a copy was served on the applicant and the responsible authority or other primary decision-maker and the date(s) this was done.
- Pay the relevant fee.

If you comply with these requirements, you will become a party to the proceeding.

Person who does not wish to be heard
If you are not already a party to the proceeding and you wish to contest the proceeding but in your statement of grounds state that you do not intend to participate in the hearing of the proceeding, **by no later than the date specified in the notice** you must:

- Serve a copy of the **Statement of Grounds** on which you intend to rely on the person making this application (the Applicant).
- Serve a copy of the **Statement of Grounds** on the responsible authority or other primary decision-maker.
- Lodge a copy of the **Statement of Grounds** with VCAT**,** indicating that a copy was served on the applicant and the responsible authority or other primary decision-maker and the date(s) this was done.

If you comply with these requirements, the Tribunal will consider your statement of grounds at any contested hearing of the proceeding, but you will not be sent any further correspondence by the Tribunal. You will not be a party to the proceeding. This means that you cannot participate in any compulsory conference or be heard at the hearing unless the Tribunal gives you leave.

Failure to comply with requirements
If there is a fee payable and you do not pay the fee, or if you do not return a statement of grounds by the due date, even if you pay the relevant fee, the Tribunal may still consider your statement of grounds but you will not be a party to the proceeding. This means that you cannot participate in any compulsory conference or be heard at the hearing unless the Tribunal gives you leave. You will not be sent further correspondence by the Tribunal.

If you are not a party and you subsequently wish to be heard,you must file and serve a statement of grounds which states you intend to appear and present a submission at the hearing, and must pay the relevant fee not less than 48 hours before the hearing. You must attend the hearing and seek leave from the Tribunal to be heard. Generally, the Tribunal will consider the views of the applicant and the responsible authority or primary decision-maker before deciding whether to grant leave. However, this does not mean that you will necessarily become a party to the proceeding unless the Tribunal makes an order to join you as a party.

STATEMENT OF GROUNDS:

You should use the attached statement of grounds form. When completing the Statement, you should provide sufficient information so that the issues you intend to raise can be identified clearly. A statement of grounds form is available on the VCAT website.

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)

WITHDRAWING YOUR OBJECTION

If you wish to withdraw your statement of grounds at any time, please inform VCAT, the Applicant and the Responsible Authority in writing. You will then be removed from VCAT's record and receive no further correspondence.

COMMUNICATING WITH VCAT

A person who communicates in writing with VCAT must serve a copy of that communication on all other parties at the same time and notify VCAT this has been done. The communication should state a copy was sent to the other parties and list the parties it was sent to. This applies to communications sent by letter, fax or email.

INSPECTING VCAT'S FILE

Any party to the proceeding may inspect a file without a fee; however, other persons must pay a fee. Charges are made for photocopying. To arrange an inspection time, complete the 'File and Document Access Request Form', on the website or by contacting VCAT.

ENQUIRIES

Should you have any further enquiries, please contact VCAT on the numbers below. Please quote VCAT's reference number. Guidelines and information on VCAT's procedures are on VCAT's website at www.vcat.vic.gov.au or available from VCAT on request.

Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)

26-56 QUEENS PARADE, FITZROY NORTH

COX ARCHITECTURE

DEVELOPMENT SUMMARY
DATE: 24.07.2017

		APARTMENT MIX								CAR PARKING					BICYCLE PARKING					STORAGE				COMMERCIAL AREA (M2)			
	LEVEL	1 BED	2 BED + 1 BATH	2 BED + 2 BATH	3 BED + 2 BATH	3 BED + 3 BATH	4 BED	TOWNHOUSE	TOTAL	RESI CAR PARKS	VISITOR	COMMERCIAL	REAR LOT 3	TOTAL	RESI BIKE PARKS	GROUND FLOOR VISITOR BIKE PARKS	TOWNHOUSE BICYCLES	REAR LOT 1 BIKE PARKING	TOTAL	RESI STORAGE	TOWNHOUSE STORAGE	REAR LOT 1 STORAGE	TOTAL	CAFE	RESTAURANT	DEU	TOTAL
BASEMENT	BASEMENT 1 BASEMENT 2									127 178	9	7	7	150 178	174 127		18	4	196 127	89 162	14	4	107 162				
BUILDING	GROUND LEVEL 1 LEVEL 2 LEVEL 3 LEVEL 4 LEVEL 5 LEVEL 6 LEVEL 7 LEVEL 8 LEVEL 9	18 27 27 5 5 5 4 4	5 5 5 5 4 1 1 0 0	5 10 10 10 10 12 10 8 8 3	2 3 3 2 4 6 6 7 3	2 3 3 1 1 1	1	14	39 55 55 35 31 27 23 23 14 8							58			58					84	186	201	
	TOTALS	95 32%	24 8%	112 38%	34 12%	11 4%	1 0%	14 5%	295 100%	305				328	301	58	18	4	381	251	14	4	269	84	186	201	473

CAR PARKING RATIOS

CARPARK	1 BED	2 BED + 1 BATH	2 BED + 2 BATH	3 BED + 2 BATH	3 BED + 3 BATH	4 BED	TOWNHOUSE	CARPARK SUB-TOTAL
RATE	0.75	1	1	1.5	1.5	2	1.5	
NO.	71	24	112	51	17	2	21	305

ADDITIONAL PARKING REQUIREMENTS

VISITOR	COMMERCIAL	REAR LOT 3	CARPARK TOTAL
9	7	7	328

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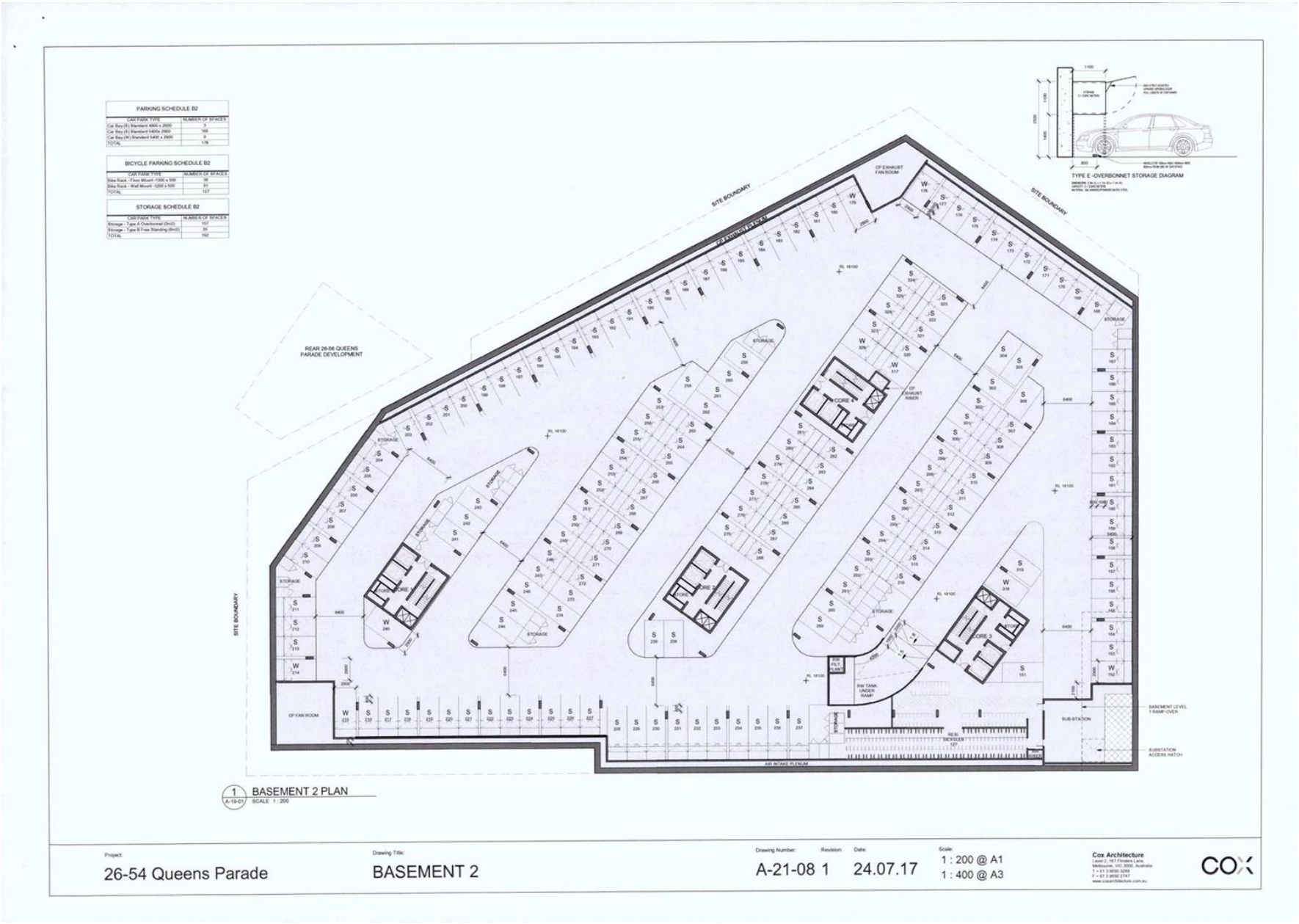

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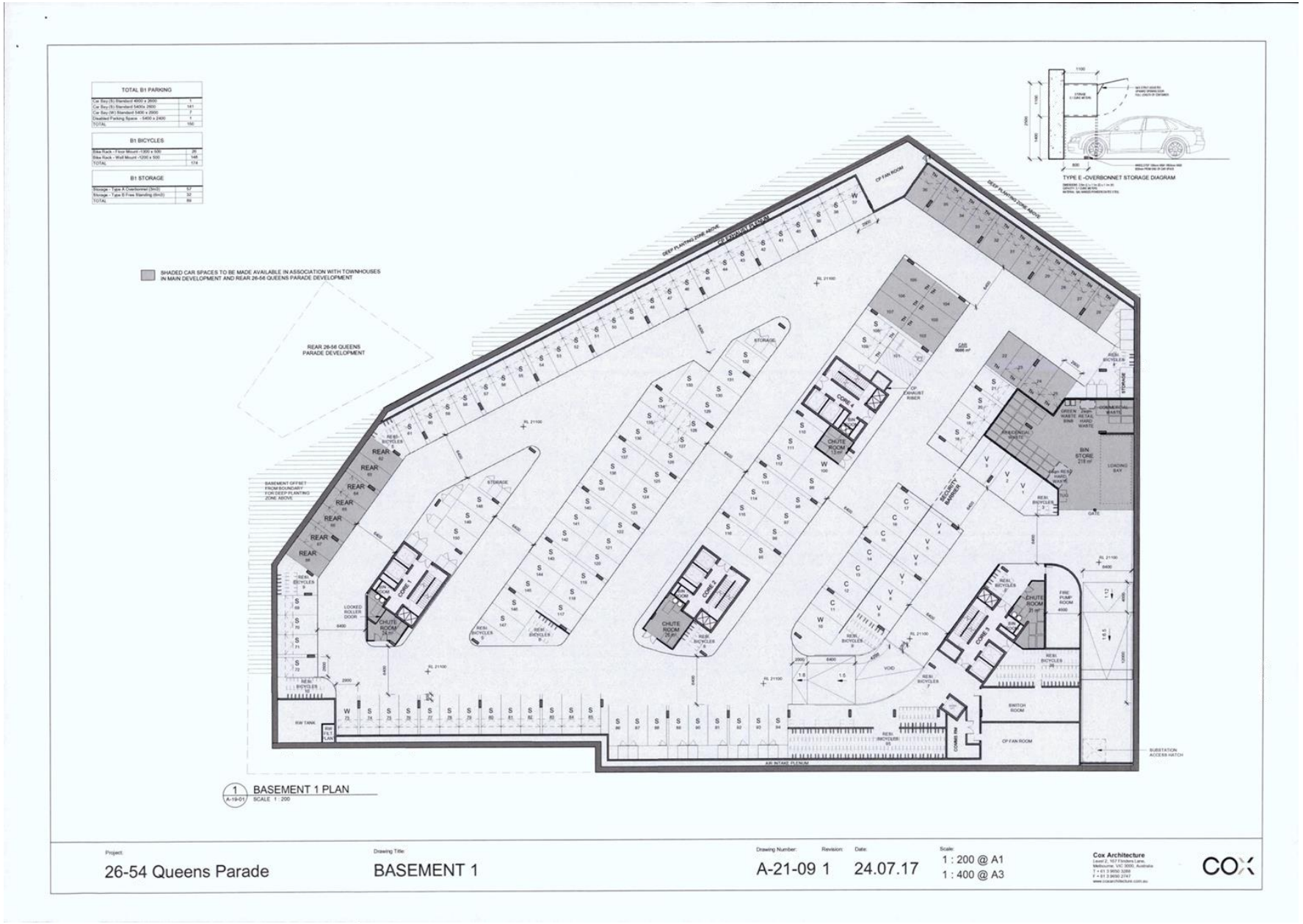

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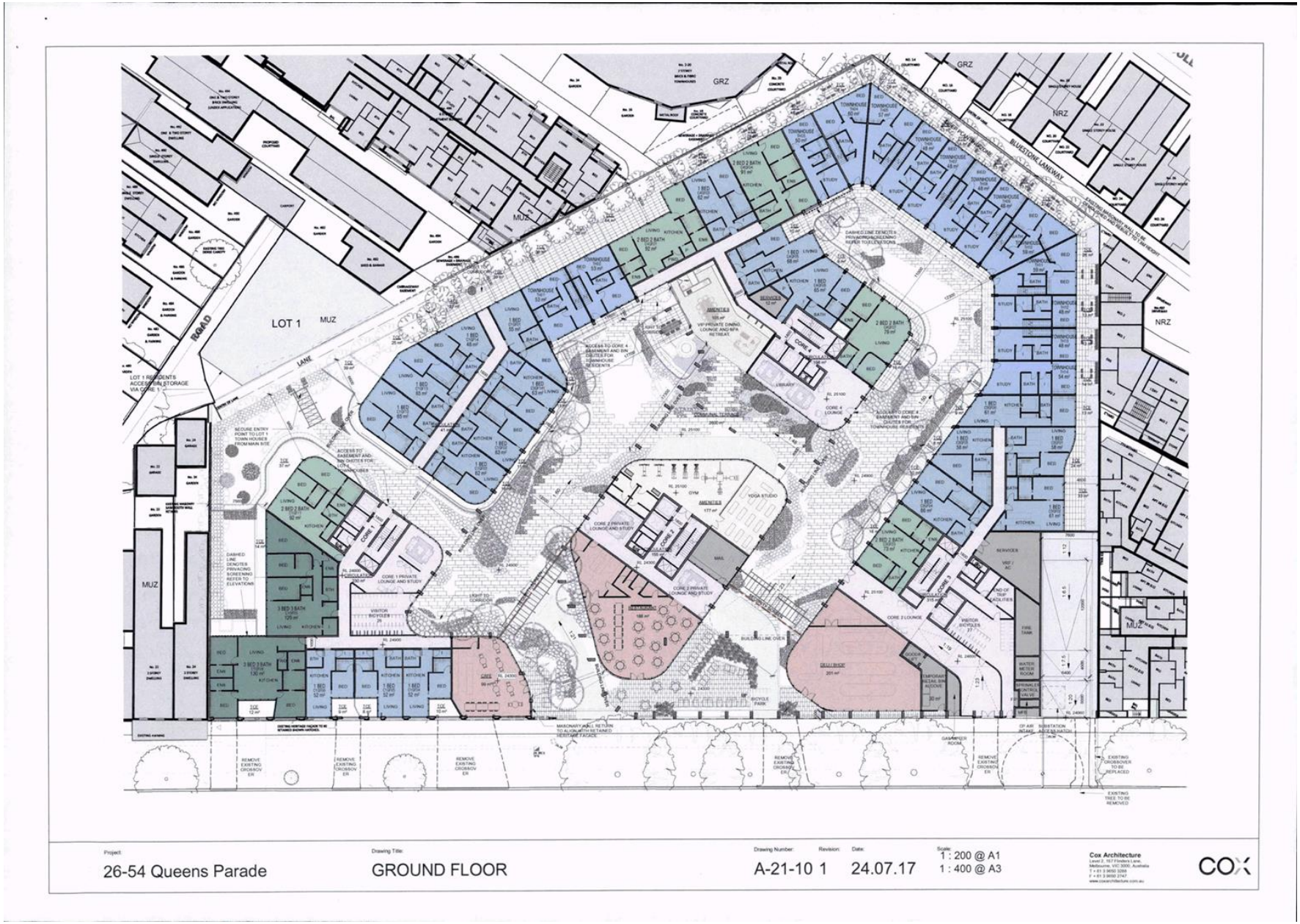

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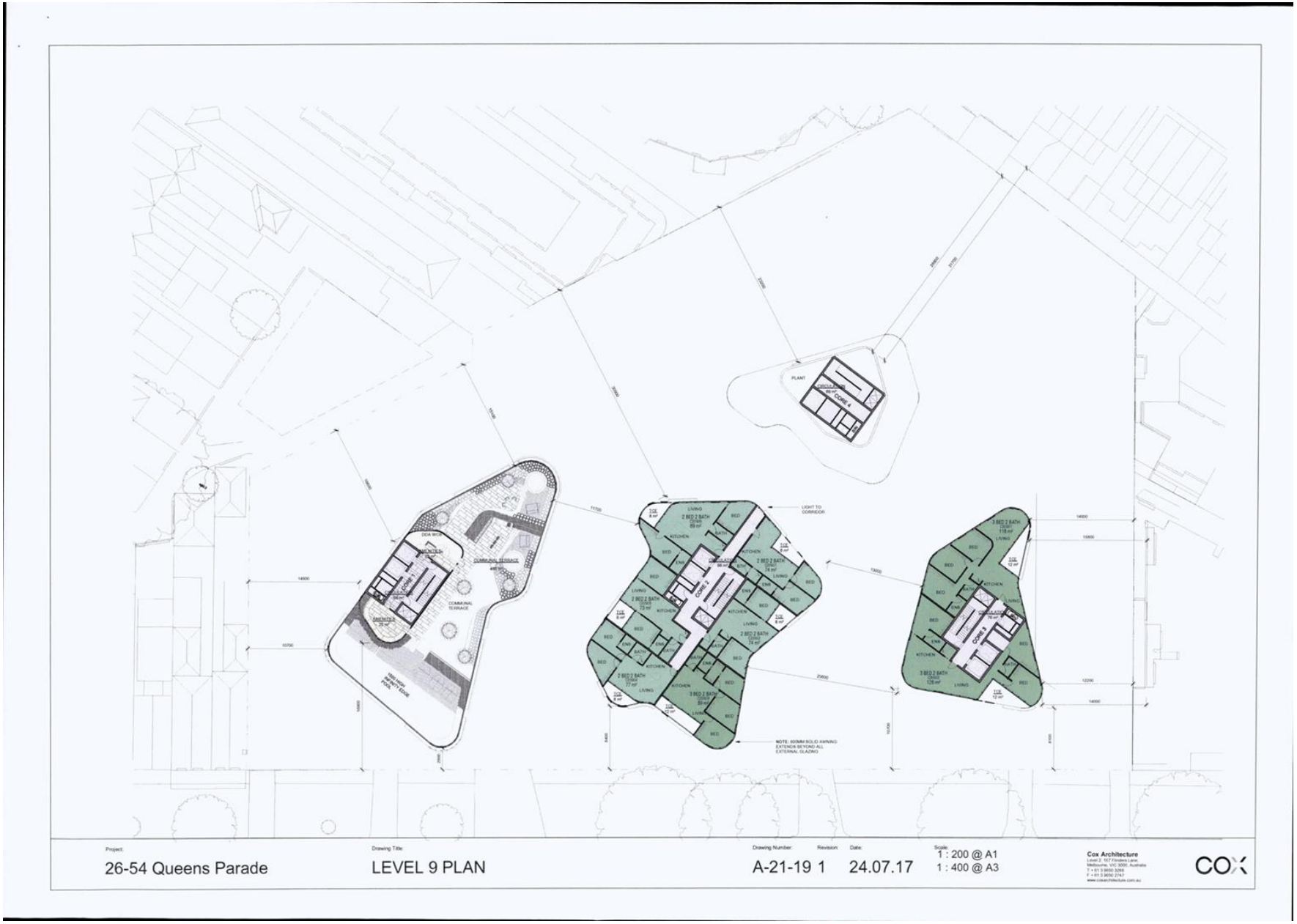

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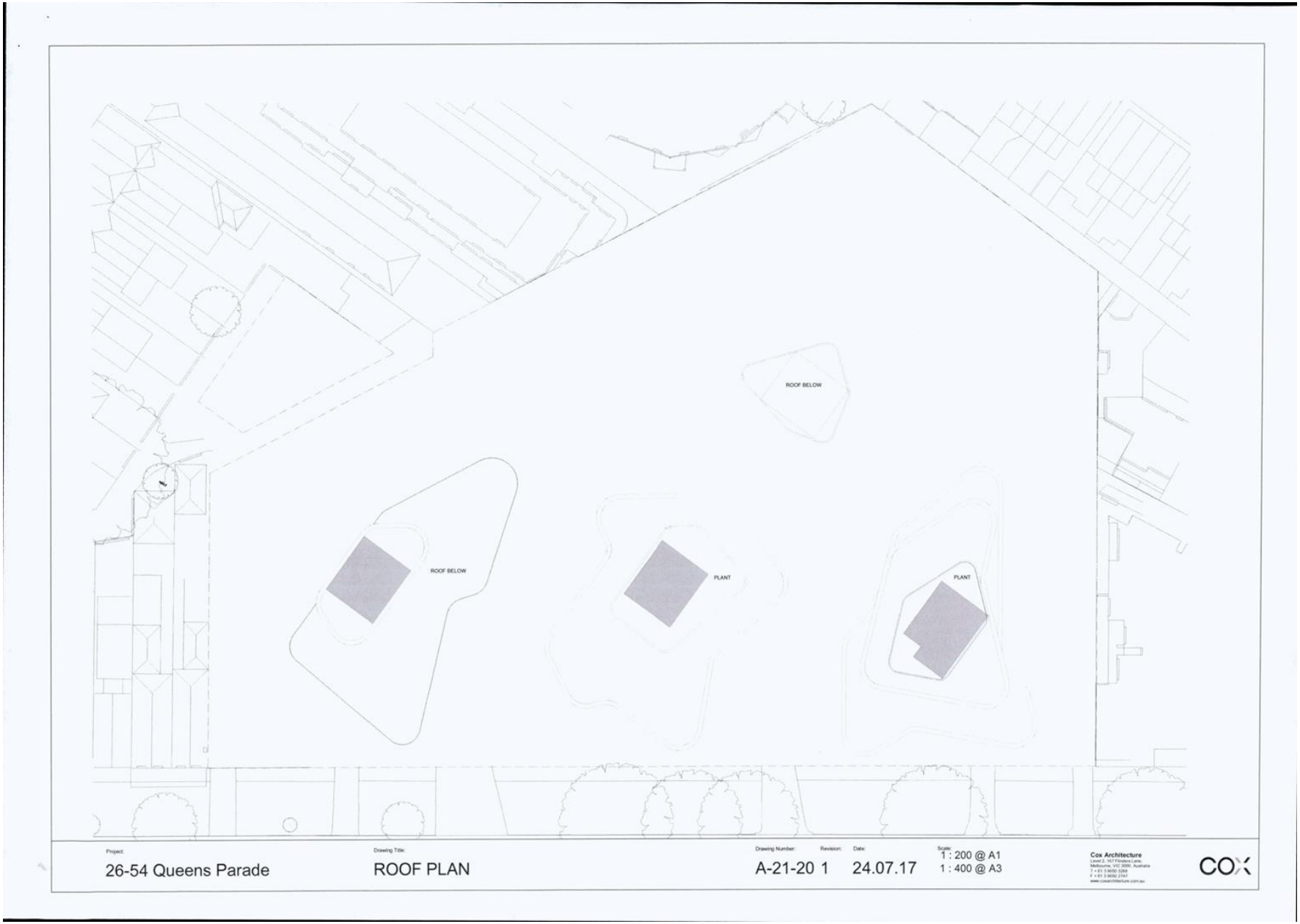

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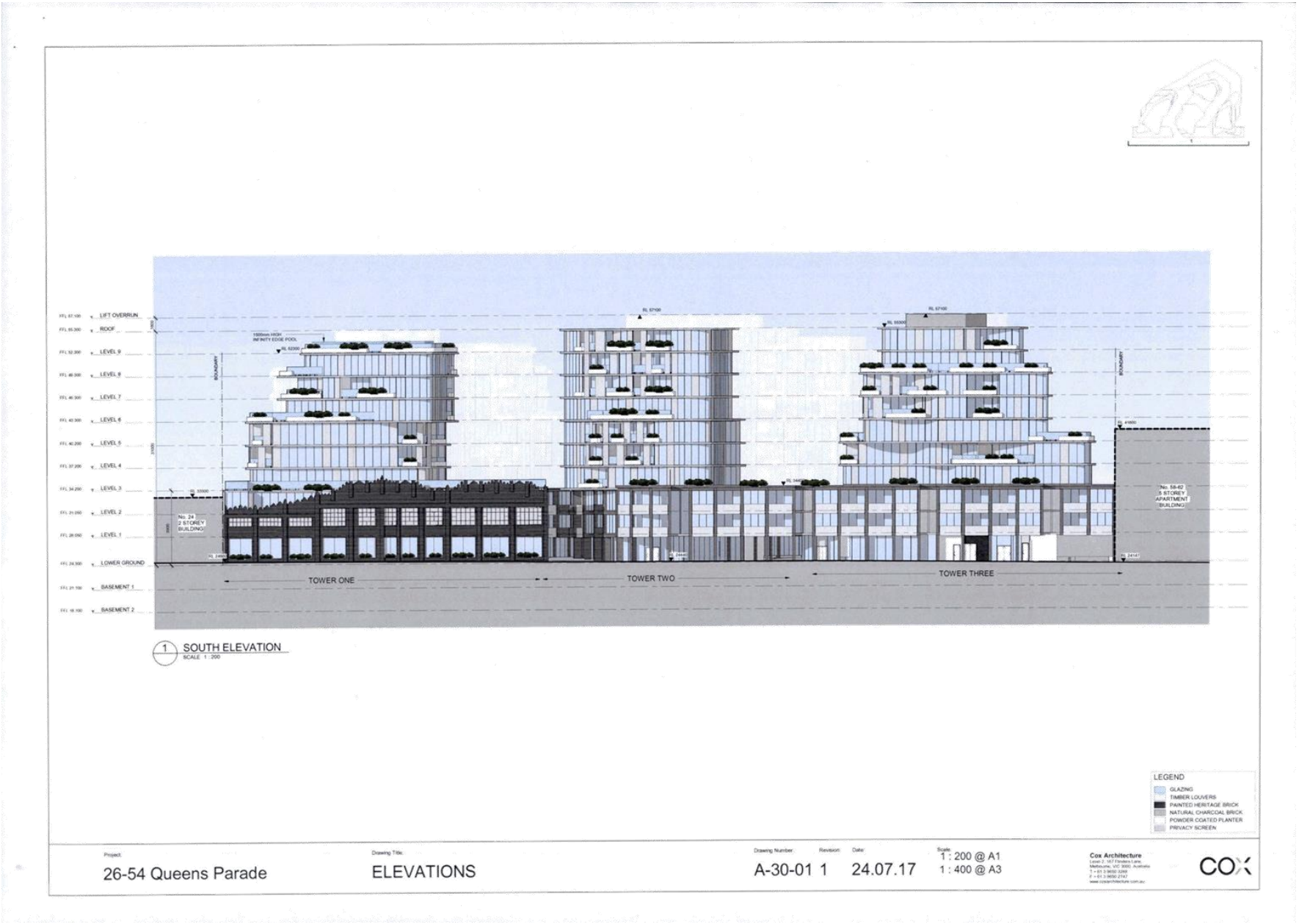

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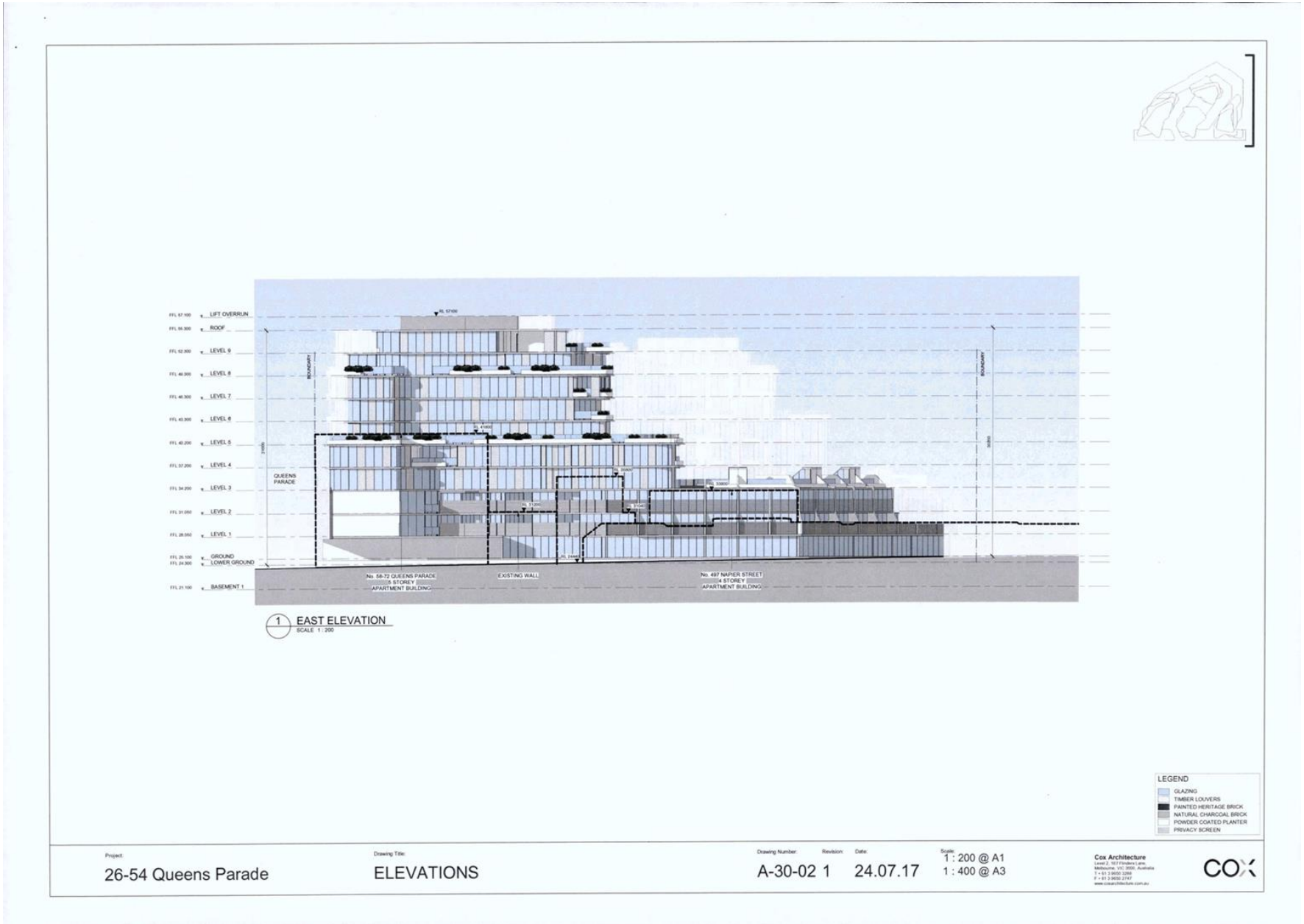

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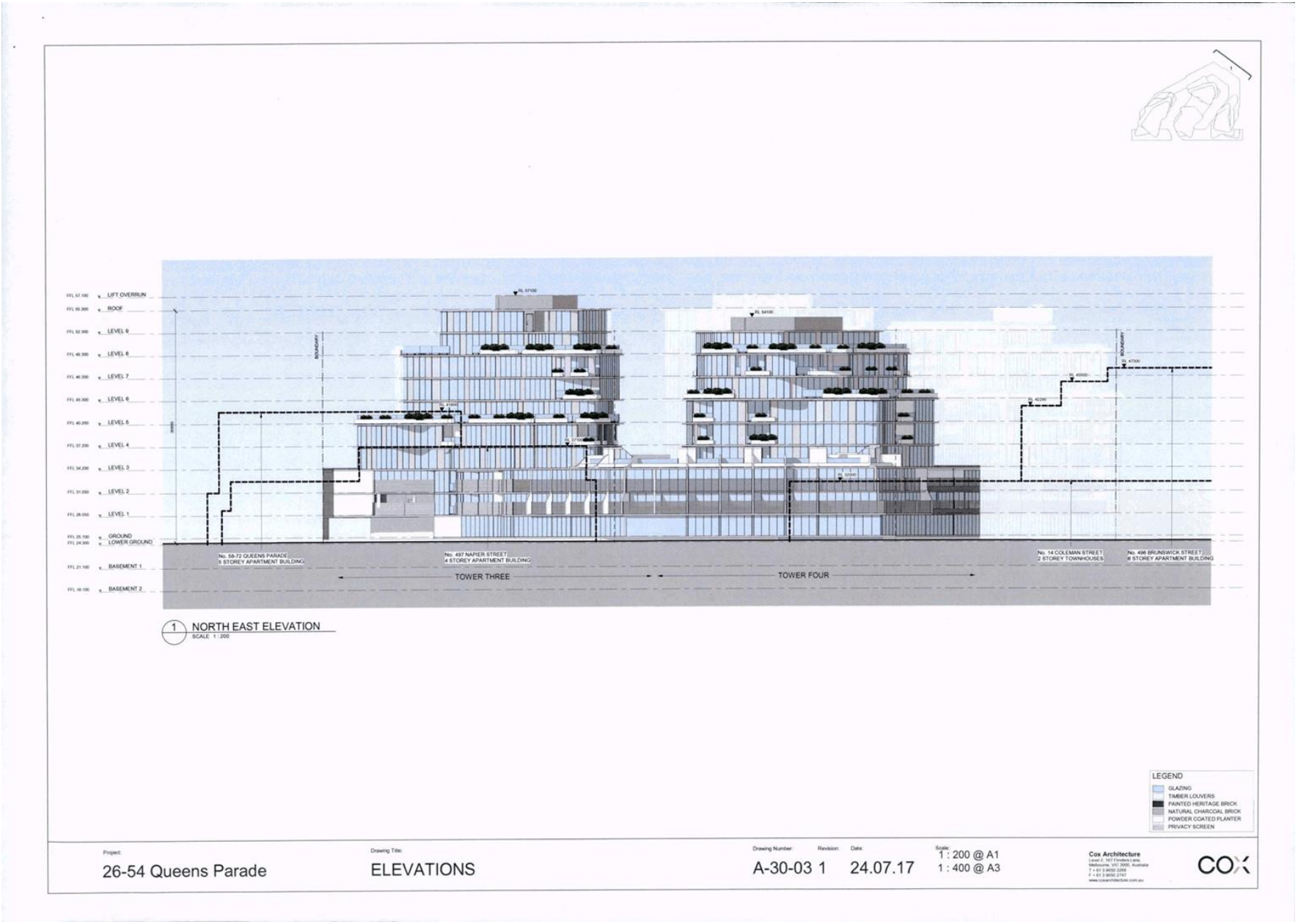

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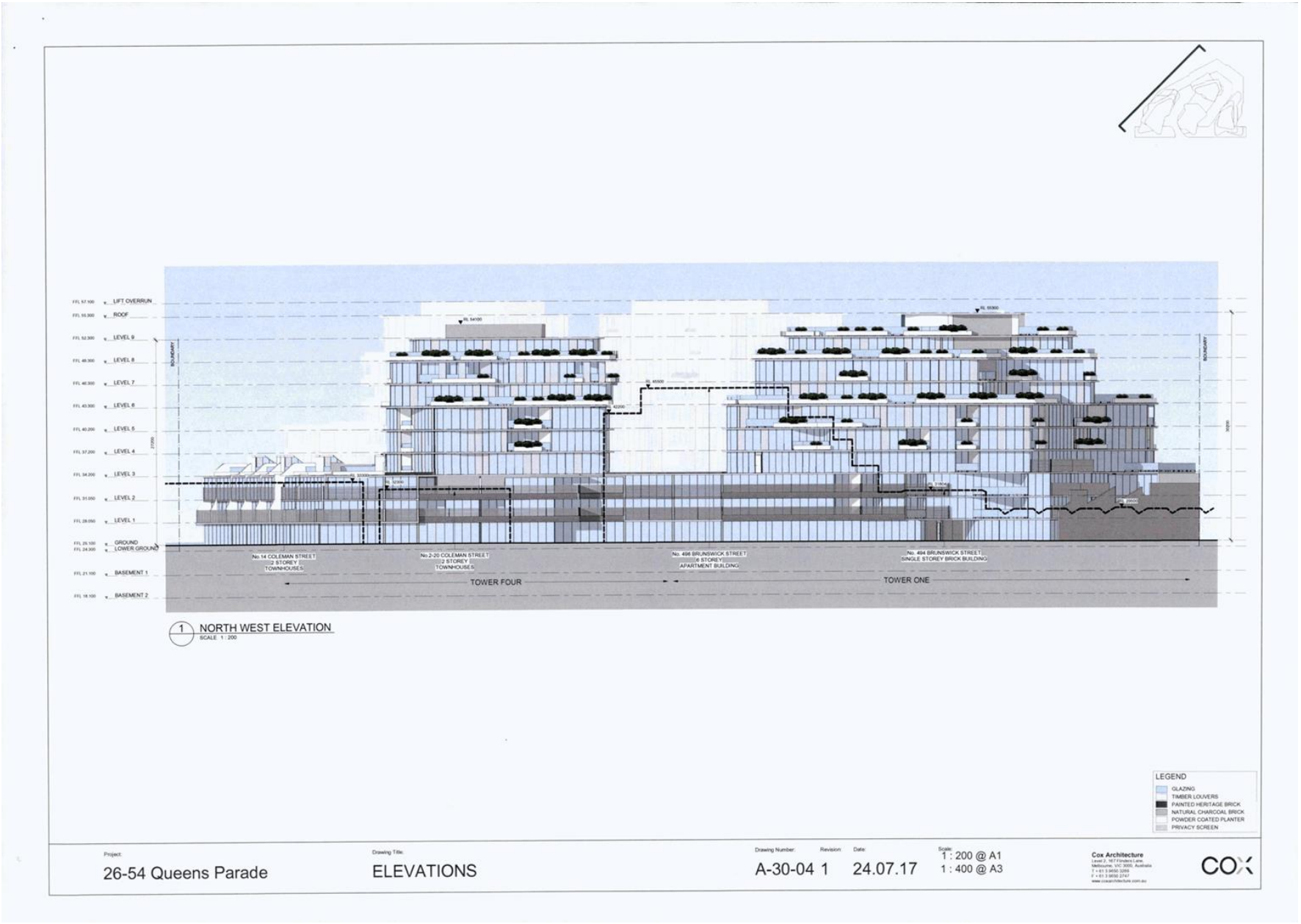

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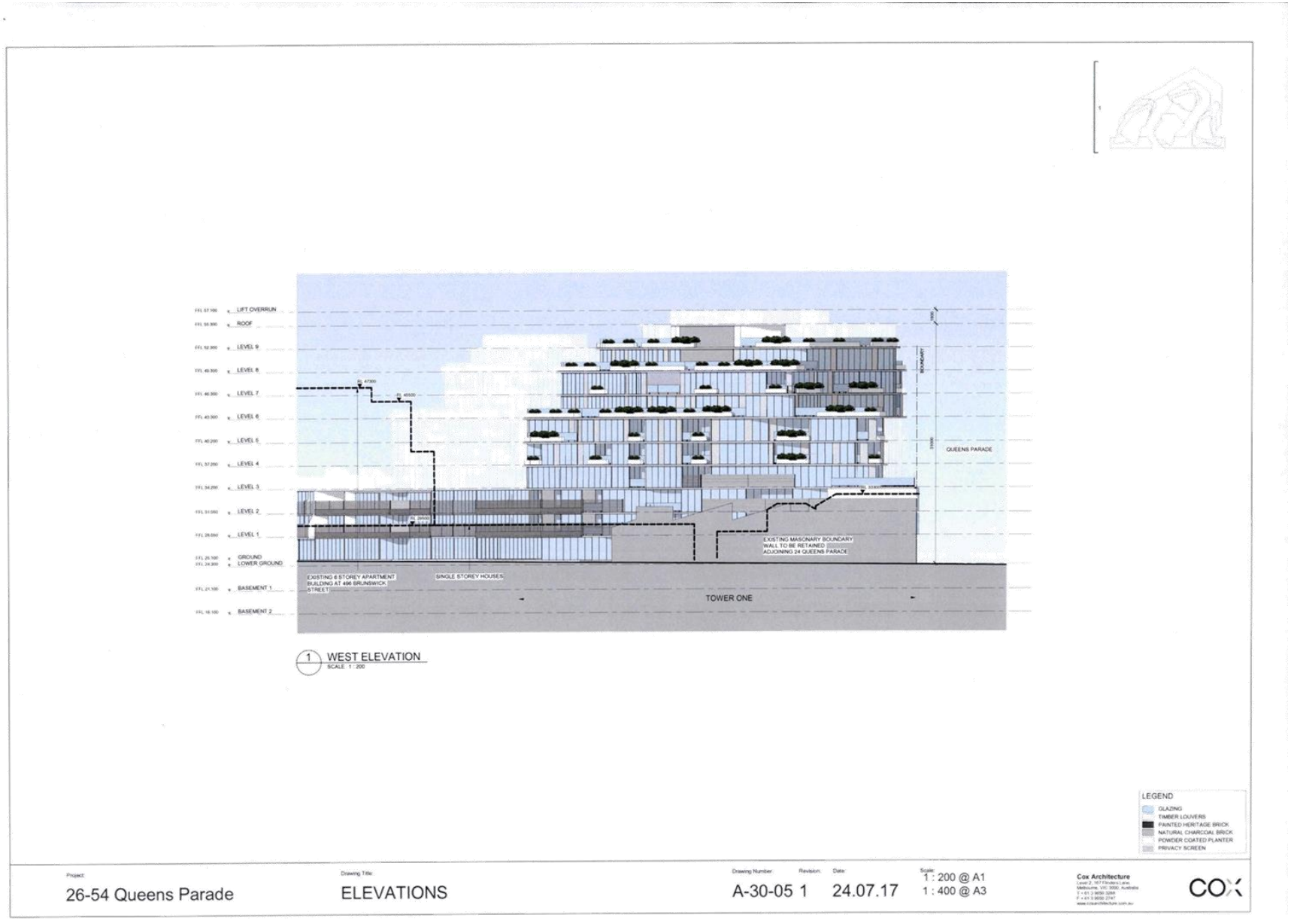

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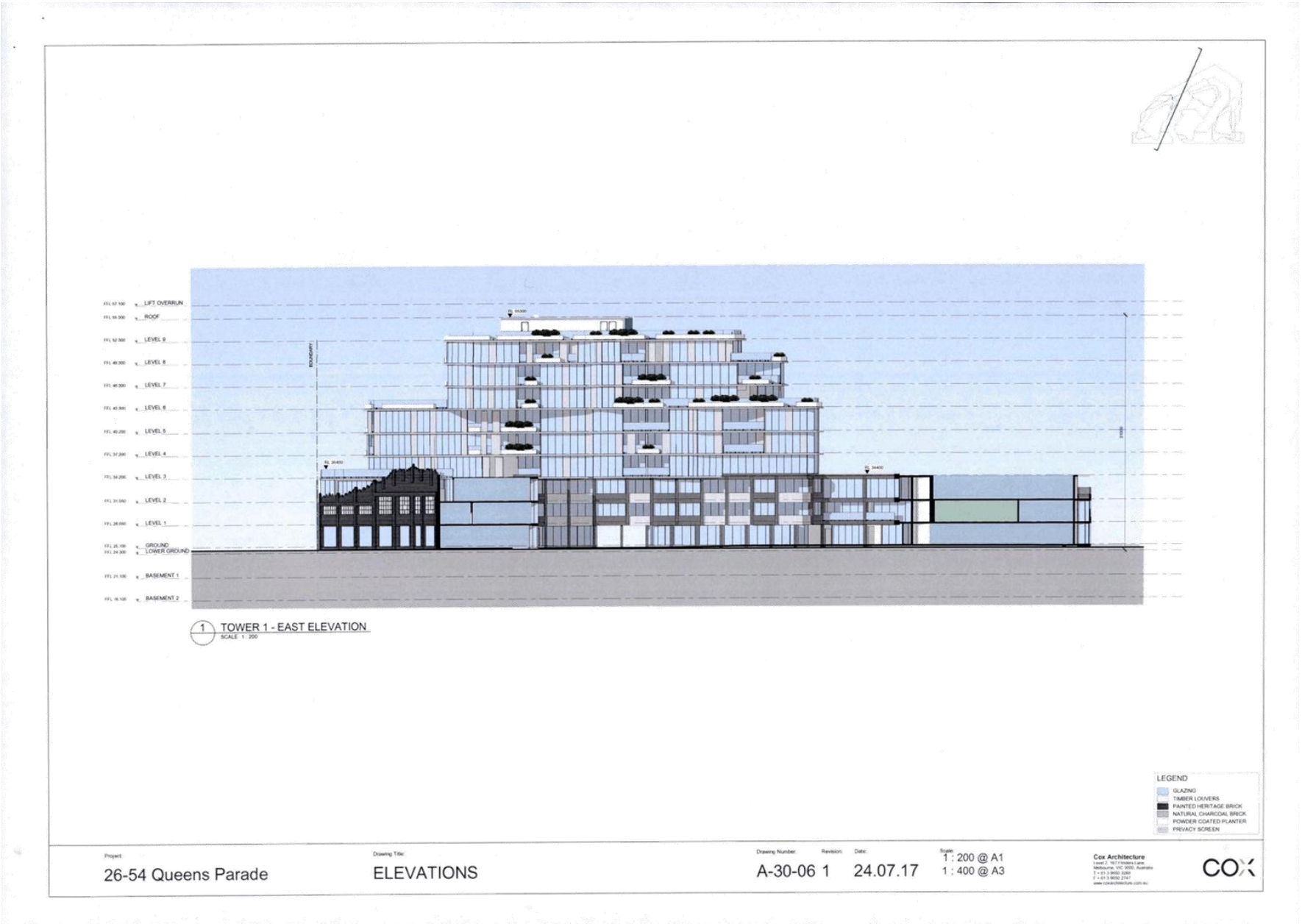

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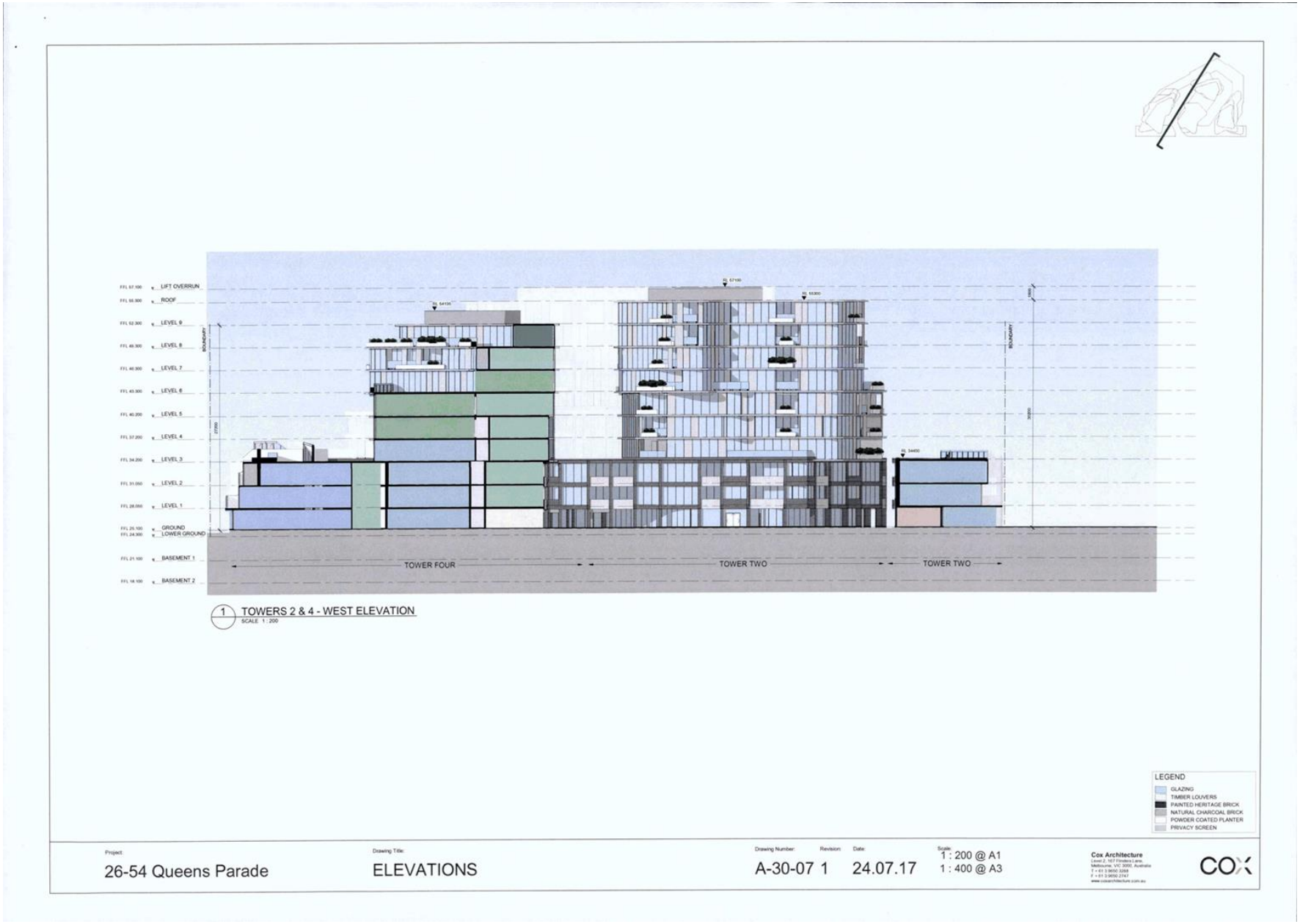

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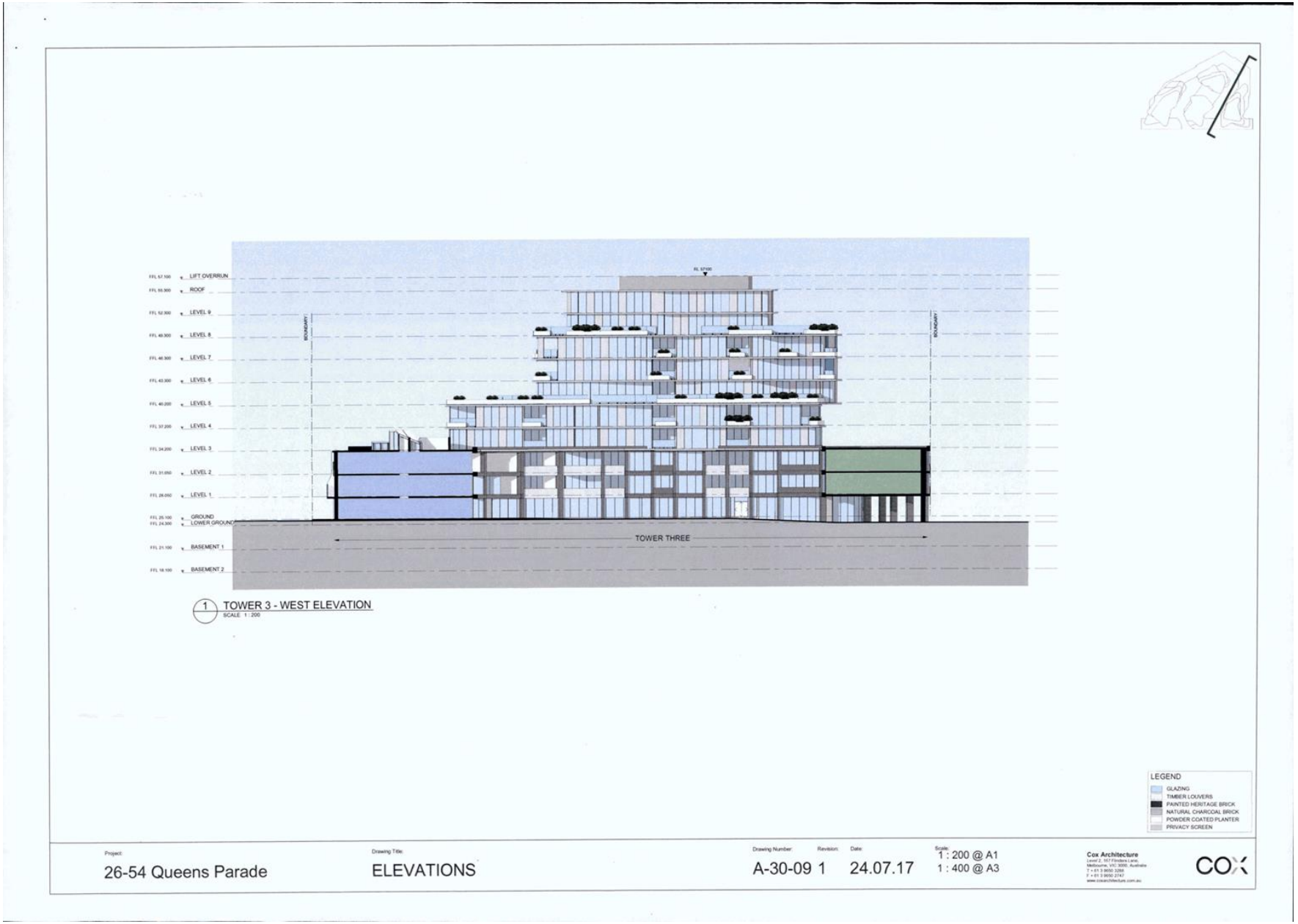

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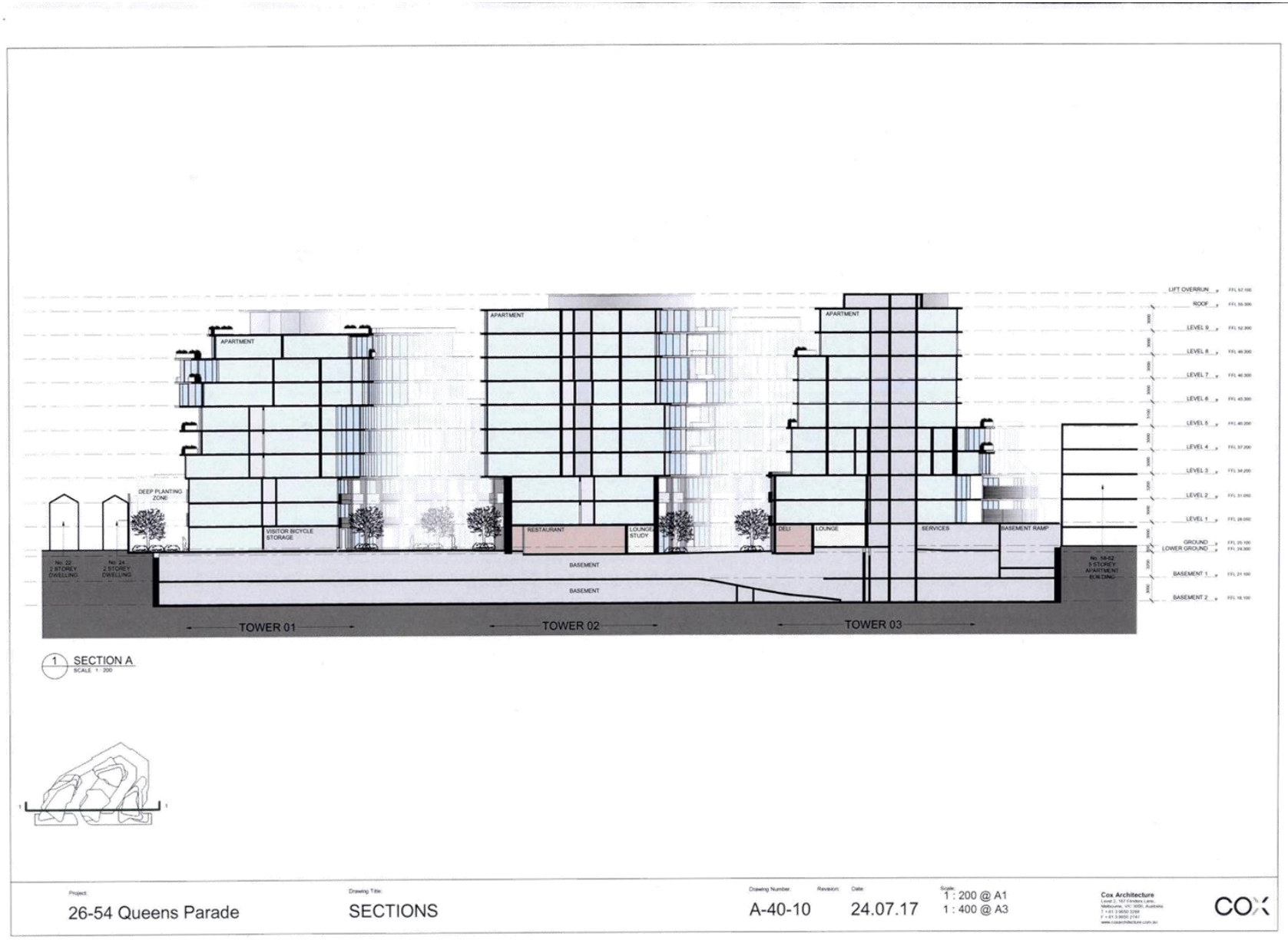

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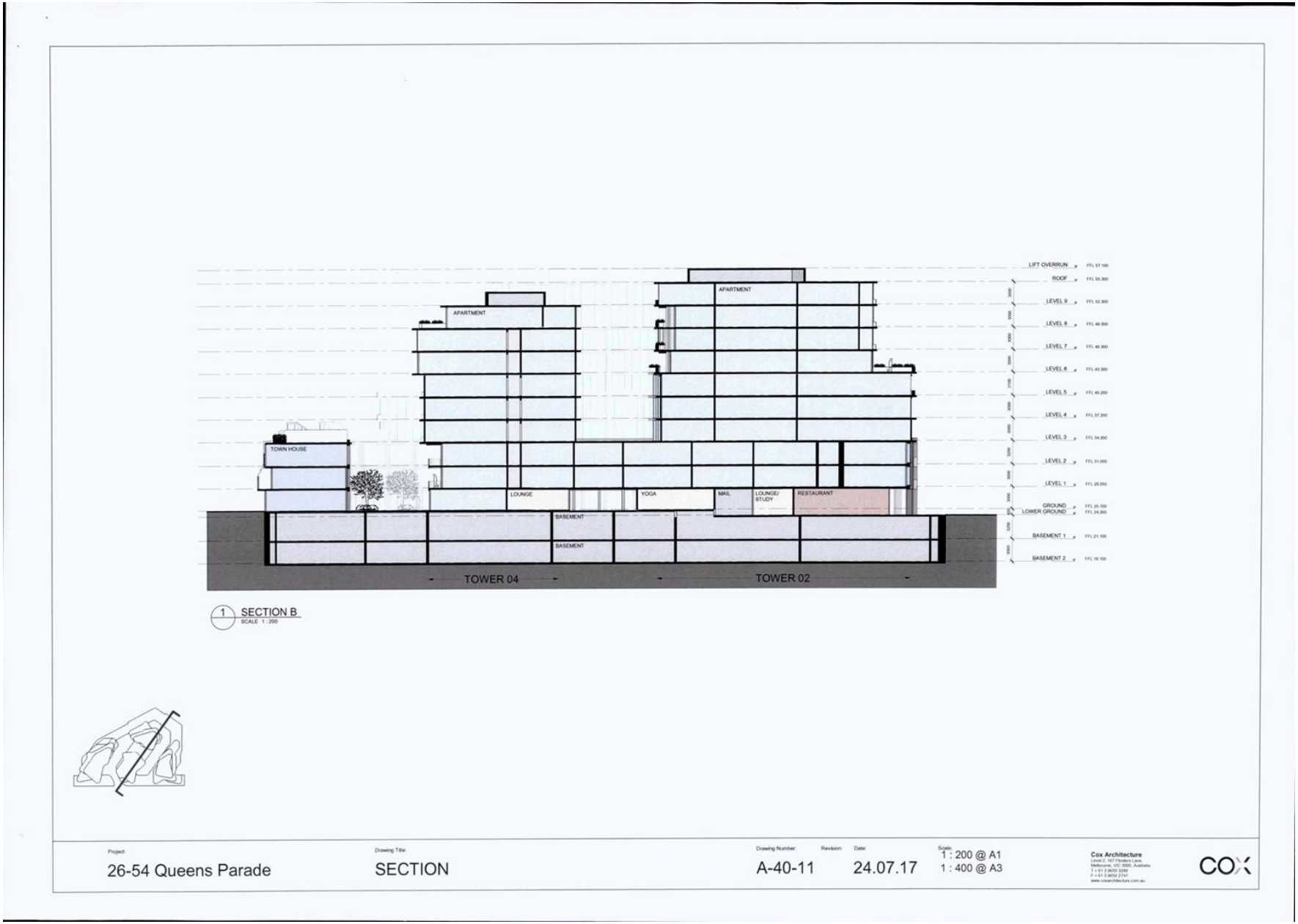
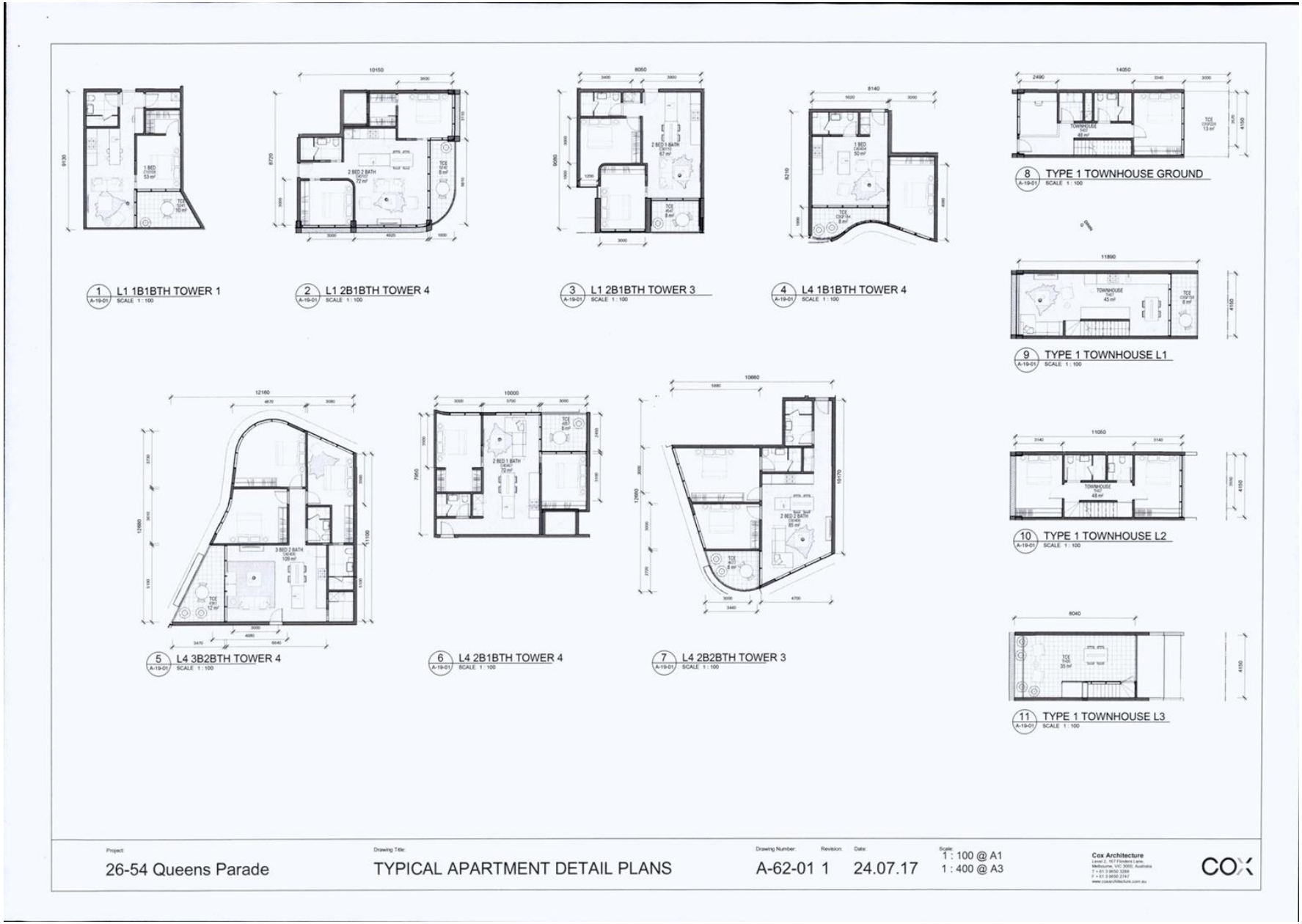


Attachment 3 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)



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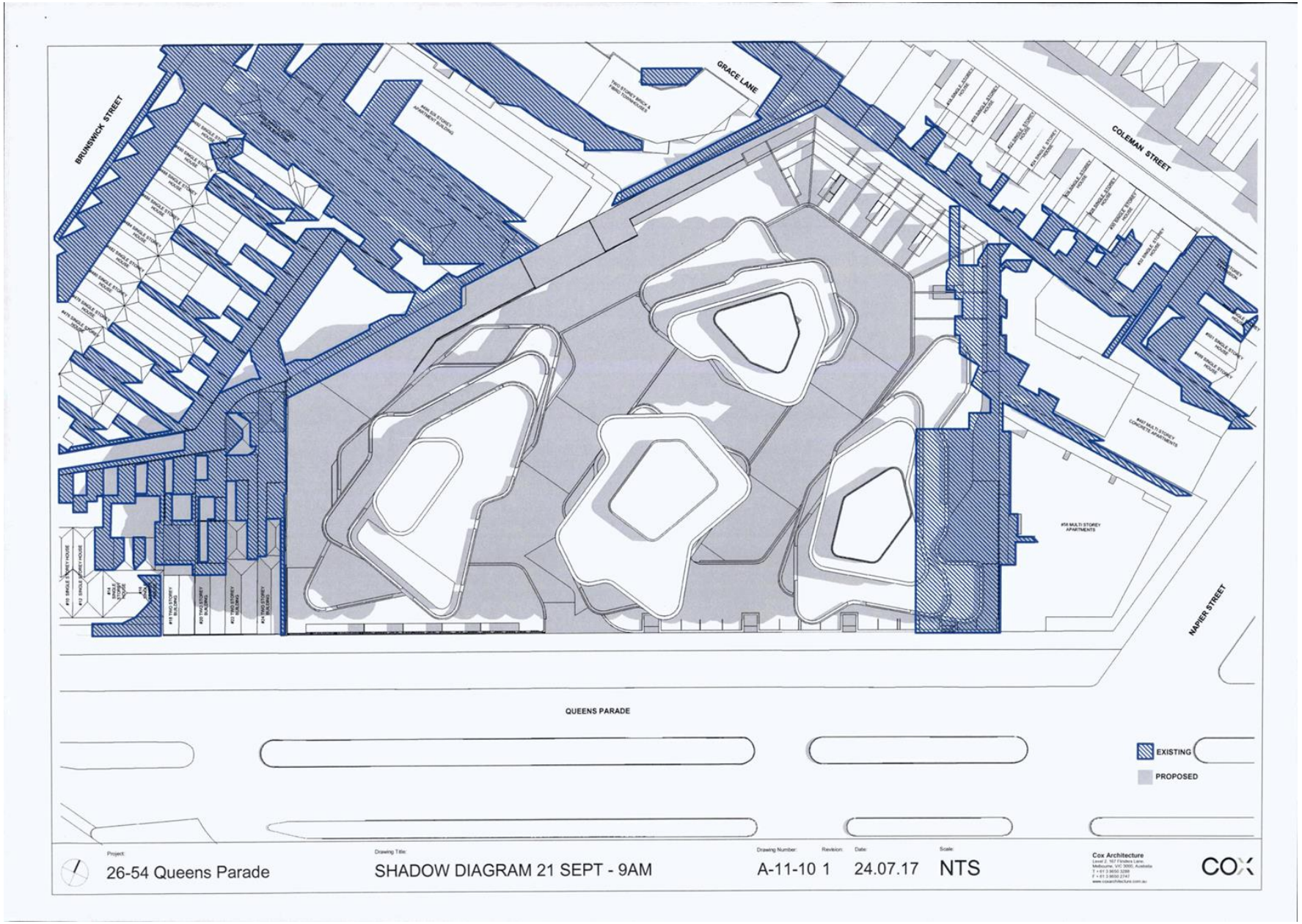

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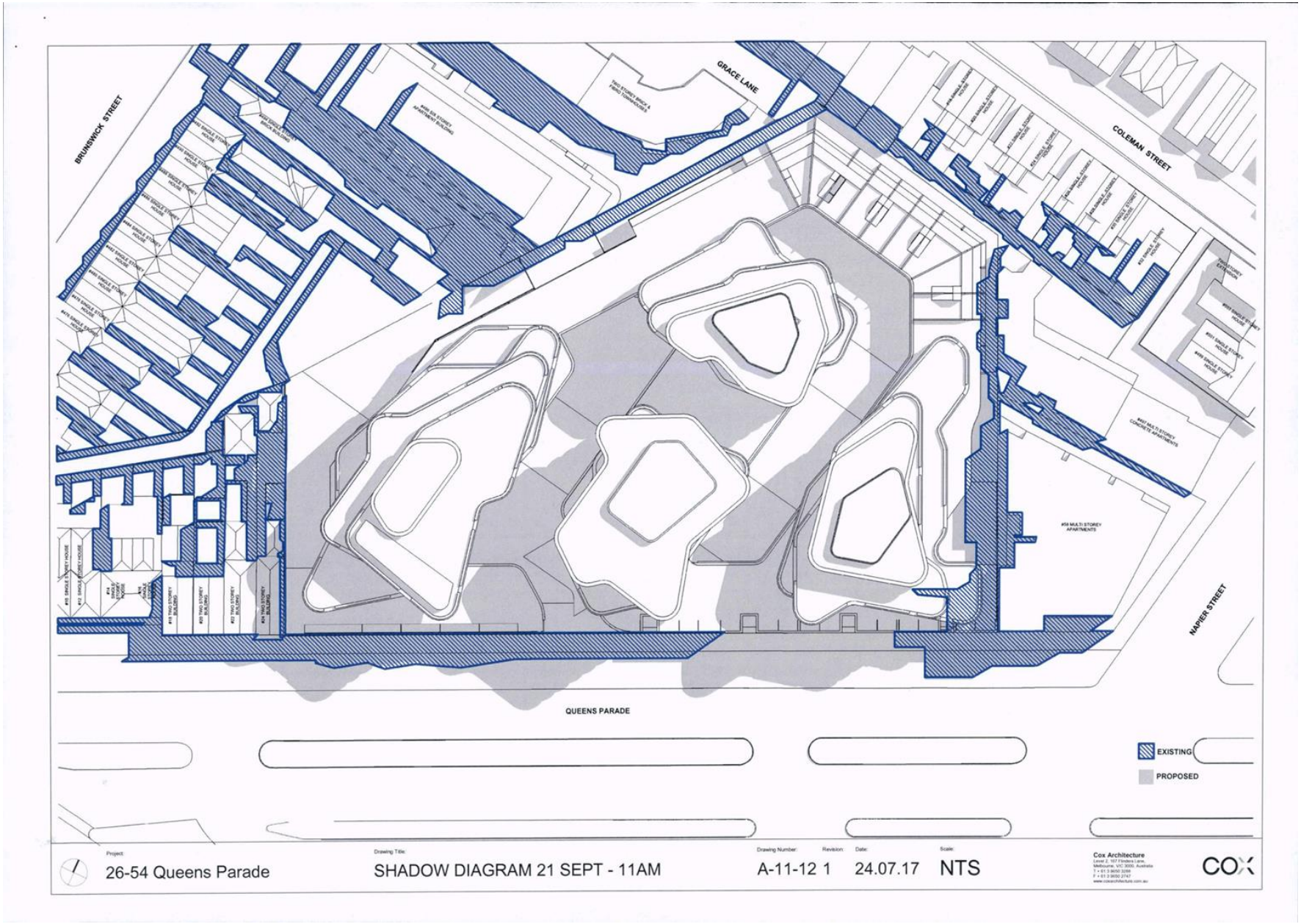

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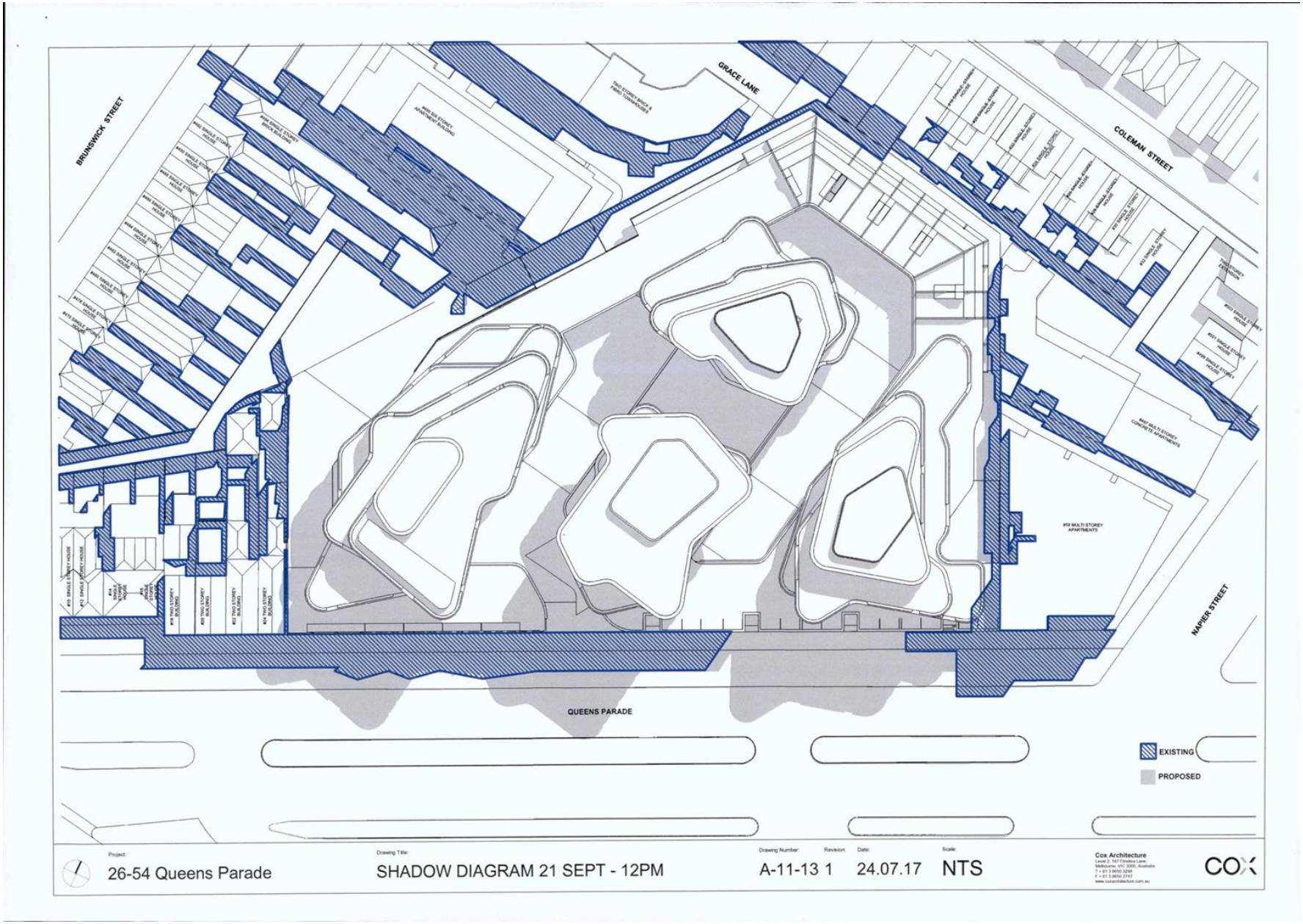

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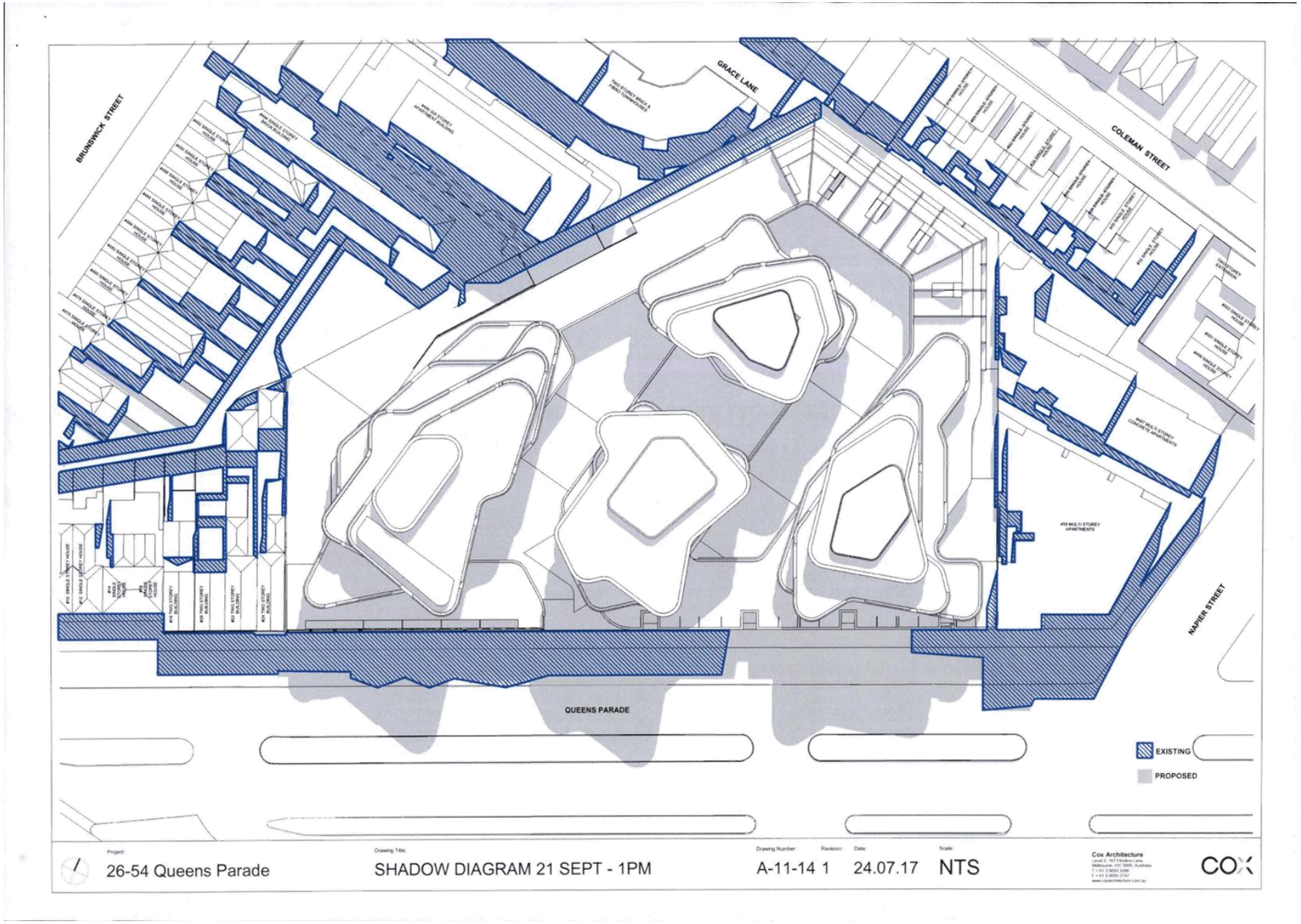

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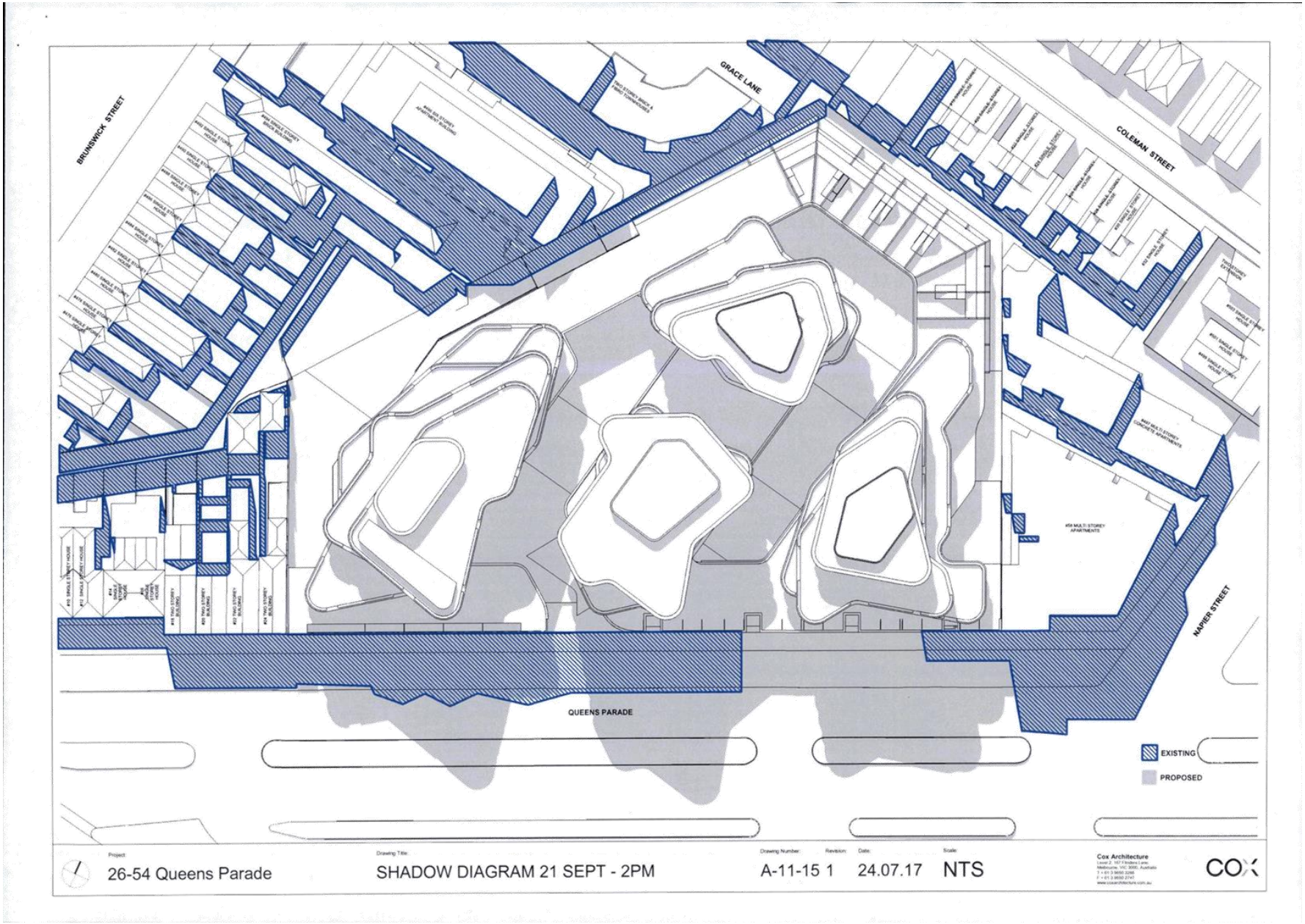

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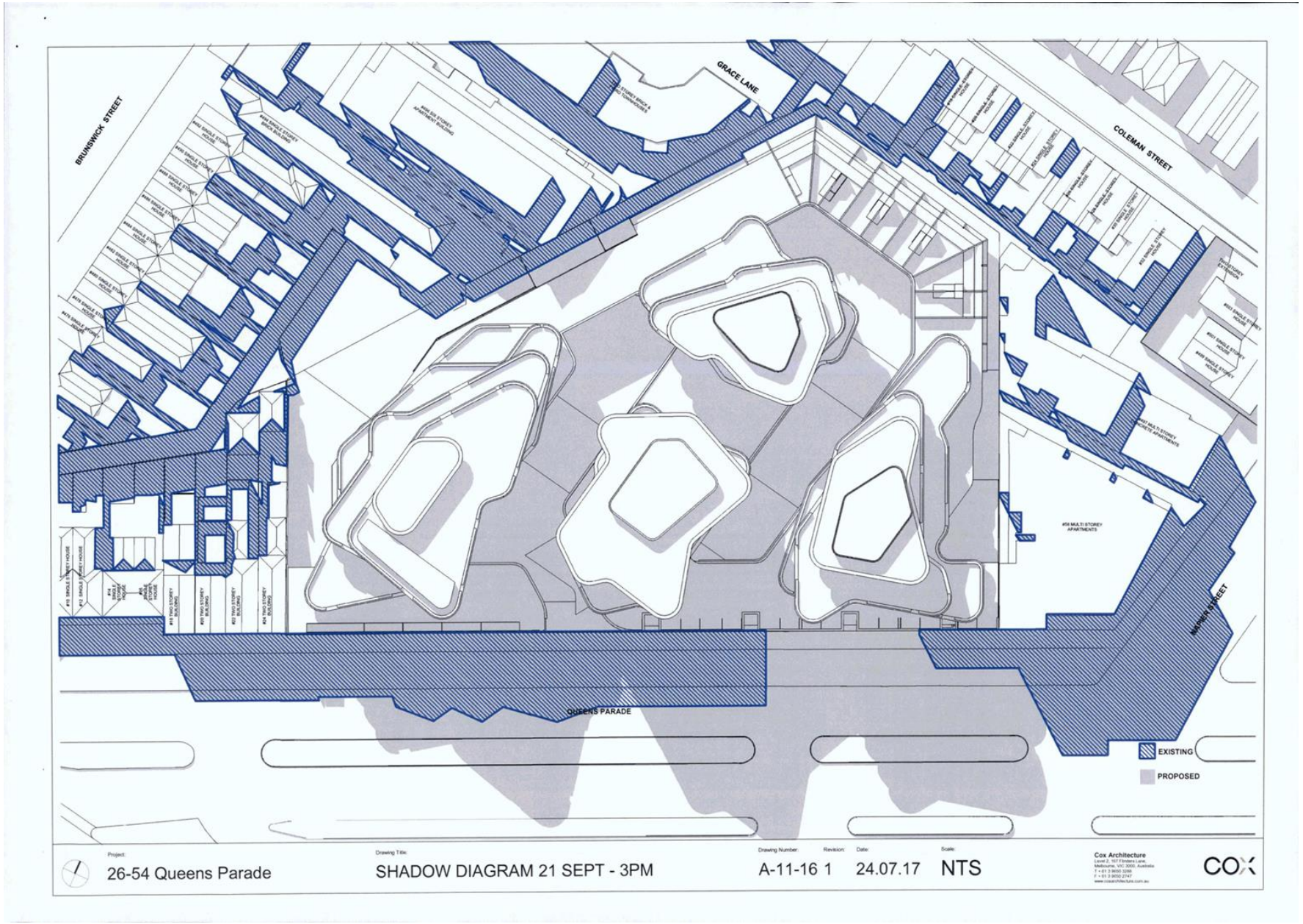

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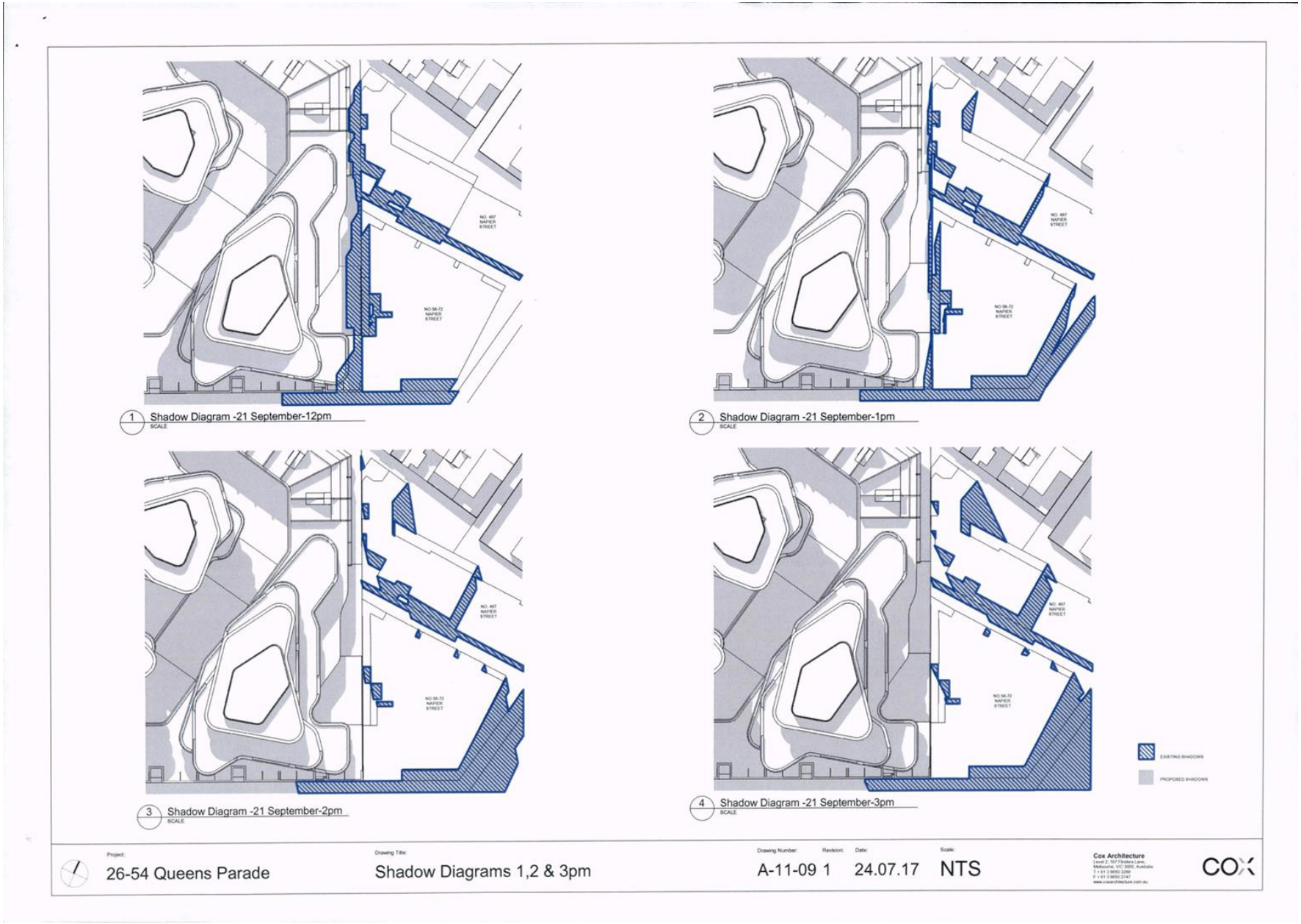

Attachment 4 - D17 171400 PLN16 0434 - 26 - 56 Queens Parade Fitzroy North - Council s VCAT Submission Only (Main & Rear Site) Only - VCAT interim order

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NOS. P2079/2016 & P147/2017
PERMIT APPLICATION NOS. PLN16/0434 & PLN16/0732.

CATCHWORDS

Section 79 of the Planning & Environment Act 1987; Yarra Planning Scheme; Mixed Use Zone; Heritage Overlay; Design & Development Overlay; Construction of 295 dwellings in a ten-storey building; Construction of four three-storey townhouses; Heritage; Built form

APPLICANT	Gurner 26-56 Queens Parade Pty Ltd
RESPONSIBLE AUTHORITY	Yarra City Council
REFERRAL AUTHORITIES (P2079/2016)	Public Transport Victoria VicRoads Melbourne Water
RESPONDENTS (P2079/2016)	Each of the persons listed in Appendix A
RESPONDENTS (P147/2017)	Nicholas Hutchins & Victoria Politoff, Marlene Hayhoe, John Hayhoe, Julie Contole, Glen A McCallum, Diana Carroll & Linda Woo, Colin Riess, Anne Coveny, Colin Hopkins
SUBJECT LAND (P2079/2016)	26-56 Queens Parade, North Fitzroy
SUBJECT LAND (P147/2017)	Rear 26-56 Queens Parade, North Fitzroy
WHERE HELD	Melbourne
BEFORE	Geoffrey Code, Senior Member Ann Keddie, Member
HEARING TYPE	Hearing
DATES OF HEARING	4, 5, 6, 7, 8, 11, 12, 13, 14 & 15 September 2017
DATE OF ORDER	26 October 2017
CITATION	Gurner 26-56 Queens Parade Pty Ltd v Yarra CC [2017] VCAT 1745

ORDER

APPLICATION P2079/2016

Permit application PLN16/0434 amended

1 Pursuant to section 127 and clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

- Prepared by: Cox Architecture
- Drawing numbers: A-21-08; A-21-09; A-21-10; A-21-11; A-21-12; A-21-13; A-21-14; A-21-15; A-21-16; A-21-17; A-21-18; A-21-19; A-21-20; A-30-01; A-30-02; A-30-03; A-30-04; A-30-05; A-30-06; A-30-07; A-30-08; A-30-09; A-40-10; A-40-11; A-62-01; A-11-10; A-11-11; A-11-12; A-11-13; A-11-14; A-11-15; A-11-15; A-11-08 & A-11-09 (all Revision 1)
- Dated: 24 July 2017

Leave to prepare amended plans

2 Leave is given to the applicant to prepare amended plans incorporating the changes referred to in the reasons for this order.

Applicant must notify Tribunal

3 By no later than **13 November 2017**, the applicant must notify the Tribunal and the parties if it wishes to prepare amended plans in accordance with order 2 and, if so, by what date amended plans will be prepared.

APPLICATION P147/2017

Permit application PLN16/0732 amended

4 Pursuant to section 127 and clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

- Prepared by: Koichi Takada Architects
- Drawing numbers: B010; B011; B100; B101; B102; B103; B200; B201; B202; B203; B204; B205; B300; B301; B302; B550; B551; B552; B553; B554; B555; B556 & B557 (all revision L)
- Dated: 21 July 2017

Leave to prepare amended plans

5 Leave is given to the applicant to prepare amended plans incorporating the changes referred to in the reasons for this order.

Applicant must notify Tribunal

6 By no later than **13 November 2017**, the applicant must notify the Tribunal and the parties if it wishes to prepare amended plans in accordance with order 5 and, if so, by what date amended plans will be prepared.

Geoffrey Code
Senior Member

Ann Keddie
Member

APPEARANCES

For Gurner 26-56 Queens Parade Pty Ltd	Mr Jeremy Gobbo QC and Mr Andrew Walker of Counsel, instructed by Planning & Property Partners Pty Ltd, Lawyers and Consultants They called the following witnesses: • Mr Stuart McGurn, town planner, Urbis Pty Ltd • Mr Jason Walsh, traffic engineer, Traffix Group Pty Ltd • Mr John Patrick, landscape architect, John Patrick Pty Ltd • Mr Bryce Raworth, conservation consultant & architectural historian, Bryce Raworth Pty Ltd • Mr Mark Sheppard, urban designer, David Lock Associates Pty Ltd • Mr Jan Talacko, environmental scientist, Ark Resources Pty Ltd • Mr Peter Lovell, heritage consultant, Lovell Chen Pty Ltd They tendered a statement of evidence containing photomontages prepared by Mr Daniel Flood of Flood Slicer Pty Ltd, but Mr Flood was not called to give evidence
For Yarra City Council	Ms Susan Brennan SC and Ms Jane Sharp of Counsel, instructed by Maddocks Lawyers They called the following witness: • Mr Andrew Hutson, architect
For Public Transport Victoria	No appearance
For VicRoads	No appearance
For Melbourne Water	No appearance

For David Moore, Diana Carroll & Linda Woo, Melissa Scheele, Bridget Smith, Kelvin Adams, Kylie Tennyson, Lucille Wirtz Bourdel, Marianne Van Leeuwen, Nicholas Hutchins & Violeta Politoff, Giles Robert Ingram, Michael Murphy, Michael Rumpff, Artemisia Kousis, Sarrah Coffey, Bruce Field, Sallee McLaren, Adam Skidmore, Sara Phillips, Lauren Burgess, Gabrielle Pound & Joe Palmieri, Scott Walkenhorst, Victoria Duckett, Christopher McAlpine, Suzi Riess, Susan Marino, Raymond Liggett, Melissa Marino, Ric Begg, Linda Young, Alison King, Bruna Evans, Mark Landy, Dean Courtenay, Anne Horrigan-Dixon, Hanna Schotten, Adam Malcolm Stead, Robyn Smith, Margaret Cross, David Bryant, Margaret Temelkovski, Bernadette McGrath, Simon Pender, Laura Pender, Catherine Kilpatrick, Luke Delaney, Graeme Willingham, Rebecca Davey, Barry Coley, Susan Mahar[1]	Mr Ian Munt of Counsel and Mr Daniel Epstein of Counsel[2]
For Michael Bonadio	Ms Louise Hicks of Counsel
For Glen A McCallum, William Robb, Simon Peter Evans, Sharron M Bourke, Robert Niall, John Michael Hayhoe, Marlene Maree Hayhoe, Anne Coveny[3]	Each in person

[1] The list of parties tendered by Mr Munt that he and Mr Epstein represented included Greg Reidy, Kylie McAlpine and Andrew McDonald. Each of these persons filed statements of grounds stating they did not intend to participate in the hearing and were therefore not parties. We have not included them in the list of parties. The list also included Roslyn Ingram but Ms Ingram, according to the Tribunal's records, did not file a statement of grounds. We have not therefore included her in the list. The Tribunal's records also show that two people with similar surnames (ie Jill Ingram and Jane Ingram) filed statements of grounds stating they did not intend to participate in the hearing and both are not parties.

[2] Mr Epstein appeared at the hearing on 13, 14 & 15 September 2017.

[3] Mr Glen McCallum's and Ms Anne Coveny's written submissions were either printed on paper that was headed 'Protect Fitzroy North Inc' or at various points in the submission stated the submission was on behalf of Protect Fitzroy North Inc or its 'Heritage Group'. We infer that Group is a committee of the members of Protect Fitzroy North Inc. Protect Fitzroy North Inc is not a party to the proceeding. Ms Coveny's submission was said to have been prepared by Elaine

For Jennifer Clark	Mr Ken Gomez
For Chela Niall & Rob Sweetten	Ms Chela Niall
For Julie Contole & Alison Hart	Dr Julie Contole
For Grace Adams, Suzana Bolton, Beverley Thomas, Yvonne Beard, Leigh Lester, Philip Gardner & Louise Clayton, Stephen Bowditch, Julian Nash, Susan Shedda, Greg Taylor, Shane Simpson, John O'Meara, Colin Hopkins, Lucia Macali, Lisa Magnusson, Bianca Levis, Kristian Scott, Nicholas Lanyon, Raffaele Controneo, Narelle Craig, Molly Hunter, Brian Dixon, Marcella Wells, The 3068 Group Inc, Wendy Hayes, Elizabeth Sime, Ilona Topolcsanyi, Charles W Young, Jill Blackmore, Colin Riess, Paul Maguire & Jane Rowlands, Meredith, Mark & Callum Stone	No appearance

Holstein and Susan Mahar as well as Ms Coveny. Susan Mahar was represented by Mr Munt, not Ms Coveny. Elaine Holstein is not a party. We have therefore accepted the two submissions as having been made by Mr McCallum and Ms Coveny as individuals.

INFORMATION

Brief and informal description of proposal in the substituted plans (Application P2079/2016)	Mixed use development containing 295 dwellings (281 apartments and 14 townhouses) in a ten-storey building comprising four tower elements above a three-storey podium, plus two basement levels
Brief and informal description of proposal (Application P147/2017)	Four townhouses in a three-storey building
Nature of proceeding (Application P2079/2016)	Application under section 79 of the *Planning and Environment Act 1987* to review the failure to grant a permit within the prescribed time[4] Section 4(2)(d) of the *Victorian Civil and Administrative Tribunal Act 1998* states a failure to make a decision is deemed to be a decision to refuse to make the decision
Nature of proceeding (Application P147/2017)	Application under section 79 of the *Planning and Environment Act 1987* – to review the failure to grant a permit within the prescribed time Section 4(2)(d) of the *Victorian Civil and Administrative Tribunal Act 1998* states a failure to make a decision is deemed to be a decision to refuse to make the decision
Planning scheme	Yarra Planning Scheme

[4] Section 4(2)(d) of the *Victorian Civil and Administrative Tribunal Act 1998* states a failure to make a decision is deemed to be a decision to refuse to make the decision.

Zone and overlays (Application P2079/2016 & Application P147/2017)	Mixed Use Zone (**MUZ**) Design & Development Overlay Schedule 16 (**DDO16**) (*Queens Parade (West))* Heritage Overlay Schedule 327 (**HO327**) (*North Fitzroy Precinct)* Environmental Audit Overlay (**EAO**) Special Building Overlay (**SBO**)[5] The scheme provides that DDO16 expires on 30 March 2019 The land in Application P2079/2016 adjoins a road in a Road Zone Category 1 (**RDZ1**) (*Queens Parade*)
Permit requirements (Application P2079/2016)	Clause 32.04-1 (use of land in MUZ for food and drink premises with a floor area exceeding 150 square metres) Clause 32.04-2 (use of land in MUZ for a shop (shown as a 'deli') with a floor area greater than 150 square metres Clause 32.04-6 (construction of two or more dwellings on a lot in MUZ) Clause 32.04-8 (construction of buildings and works for a shop on a lot in MUZ) Clause 43.01-1 (demolition of a building in HO327) Clause 43.01-1 (construction of buildings and works in HO327) Clause 43.02-2 schedule 16 clause 2.0 (construction of buildings and works in DDO16) Clause 52.06 (reduction in parking requirements for food and drinks premises & shop) Clause 52.06 (reduction in parking requirements for dwellings) Clause 52.07 (loading and unloading of vehicles) Clause 52.27 (sale or consumption of liquor) Clause 52.29 (alteration to access to a road in RDZ1)

[5] The SBO only applies to that part of Queens Parade affected by the proposed vehicle crossover. Otherwise, the SBO does not affect either site.

Permit requirements (Application P147/2017)	Clause 32.04-6 (construction of two or more dwellings on a lot in MUZ) Clause 43.01-1 (construction of buildings and works in HO327) Clause 43.02-2 schedule 16 clause 2.0 (construction of buildings and works in DDO16) Clause 52.06 (provision of parking requirements on other land)
Relevant scheme policies and provisions (both applications, combined)	Clauses 9, 10, 11, 13, 15, 16, 17, 18, 21.02, 21.03, 21.04, 21.05, 21.06, 21.07, 21.08, 22.02, 22.03, 22.05, 22.07, 22.09, 22.10, 22.12, 22.16, 22.17, 32.04, 43.01, 43.02, 52.06, 52.07, 52.27, 52.29, 52.34, 55 & 65 Under clause 21.04, the land in both applications forms part of a 'strategic redevelopment site'
Main relevant reference and incorporated documents (both Applications)	Yarra City Council, *Review of Heritage Areas* (2007) Yarra City Council, *Stormwater Management Plan* (2000) Yarra City Council, *Development Guidelines for Heritage Places* (1999) Yarra City Council, *Clifton Hill Built Form Review* (2017) Department of Environment, Land, Water & Planning, *Urban Design Guidelines for Victoria* (2017) Department of Environment, Land, Water & Planning, *Apartment Design Guidelines for Victoria* (2017)
Land description (Application P2079/2016)	The land (in these reasons, the **main site**) is on the northwest side of Queens Parade, mid-block between Brunswick Street and Napier Street, and about 78 metres east of Brunswick Street. It is irregular in shape with a frontage of about 119 metres to Queens Parade and an area of about 7,990 square metres. It comprises eight separate titles. It is developed in part with a brick, part single-storey and part double-storey factory/warehouse building. There is an at-grade car park. It has two laneway frontages to the rear. One separates the main site from the rear site. The other runs behind Coleman Street. The western end contains a 74 metres long row of two-storey buildings with art deco style parapets.

Land description (Application P147/2017)	The land (in these reasons, the **rear site**) abuts a no-through laneway that is about 120 metres from Brunswick Street. It is irregular in shape with three of the five sides of the land abutting lanes. It has an area of about 233 square metres. It is vacant. Opposite one arm of the lane is the main site.
Tribunal inspection	In the afternoon on day 1 of the hearing on 4 September 2017, the Tribunal inspected the immediate surrounds of the subject land in both applications (accompanied by the parties) and dwellings occupied by several parties in both applications (accompanied by the parties) and inspected the broader surrounds of both applications, including the Edinburgh Gardens (unaccompanied by the parties). The Tribunal inspected the surrounds of both applications again on 27 September 2017.

REASONS[6]

WHAT IS THIS PROCEEDING ABOUT?

The permit applications

1 Gurner 26-56 Queens Parade Pty Ltd (in these reasons, the **applicant**) wants to develop two adjoining parcels of land in North Fitzroy. The details of the land and a brief description of the proposals for both parcels are referred to in the information section at the start of these reasons.

2 The larger parcel has an area of about 7,990 square metres (in these reasons, the **main site**). The smaller parcel has an area of about 233 square metres and is located to the rear of the larger parcel and abuts a lane that divides both parcels (in these reasons, the **rear site**).

3 The applicant made two applications to the Yarra City Council for permits under the *Yarra Planning Scheme* (in these reasons, the **scheme**) to develop the main site and the rear site. After public notice was given, the Council received 480 objections against the grant of a permit for the main site and 24 objections against the grant of a permit for the rear site.

The review application

4 The Council did not decide the permit applications within the prescribed period and the applicant made an application to the Tribunal to review the deemed refusal of each of the permits. The Council subsequently resolved to oppose the grant of permits. Shortly before the hearing of both applications, the scheme was amended.[7] The hearing was adjourned to enable the applicant to consider amendments to both permit applications to address the amended provisions of the scheme.

Substituted plans

5 The applicant applied to amend the permit applications by substituting plans. We granted that application at the start of the hearing. Hence, these are the plans we have considered in this proceeding (in these reasons, the **substituted plans**).

6 The Council's planning staff recommended to the Council that the Council support the Tribunal's grant of a permit subject to conditions in respect of the substituted plans in both applications.

7 The Council decided that if it had been able to decide the application for the main site, it would have refused a permit on the following grounds:

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[6] The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

[7] *Yarra Planning Scheme* Amendment C229, in operation 28 March 2017.

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> The height, setback, design detailing and massing of the proposal would unreasonably impact the heritage significance and neighbourhood character of the area.
>
> The height, setback and massing of the proposal would unreasonably impact the amenity of the area and surrounding dwellings.

8 The Council also decided that if it had been able to decide the application for the rear site, it would have refused a permit on the following grounds:

> The height, setback and massing of the proposal would unreasonably impact the character and amenity of the area and surrounding dwellings.
>
> The site coverage and permeability do not respect the existing or preferred character and does not respond to the features of the site.

9 The Council maintains those grounds in respect of the amended plans.

Respondents

10 As a result of notice having been given of the application to amend the permit application and according to a list generated by the Tribunal's registry, there are 103 objectors who are parties to the proceeding and about 242 objectors who are not parties to the proceeding because, in their statements, they elected to not participate in the proceeding or did not pay the prescribed fee to the Tribunal.[8]

11 The respondents rely on grounds similar to those of the Council plus other grounds such as traffic and parking impacts and social effects.

Permissions required

12 In the information section at the start of these reasons, we list the provisions of the scheme under which permission is required for the use and development of both sites. Before a permit could be granted, we must be satisfied that permission should be granted under all the relevant provisions. Permission under the heritage overlay is required for both sites, although the rear site does not require permission for demolition of buildings because it is vacant.

13 If permission should be granted under each relevant provision, we must then decide whether the grant of a permit is an acceptable planning outcome having regard to the 'integrating policies' provision in the scheme.[9]

14 Our task is fundamentally the same for the rear site, although it is apparent from the information section at the start of these reasons that permission under fewer provisions of the scheme is required.

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[8] The reference to 242 objectors is a reference to the raw number of statements of grounds. As some statements were made by more than one person, the actual total number of persons who objectored would be more than 242.

[9] *Yarra Planning Scheme* cl 10.04. We discern this approach to our task is consistent with the reasoning in *Boroondara City Council v 1045 Burke Road Pty Ltd* [2015] VSCA 27.

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Main issues

15 Although a wide range of issues arise under each of the relevant provisions, some issues are more central to the determination of the proceeding than others. The two main issues are:

(a) Whether the development of the main site responds appropriately to the significance of the heritage place in which the main site is located.

(b) Whether the development of the main site, particularly in its presentation to Queens Parade, responds appropriately to the relevant built form objectives in the scheme.

16 There are also a number of subsidiary issues that we will also address.

Main finding

17 Our main finding is that although the scheme supports a substantial development of the main site and a small but relatively intense development of the rear site, the plans for each site are not a satisfactory response to the relevant provisions of the scheme. Changes to the design response for both sites are necessary. We are unable to frame appropriate conditions for a permit for either site because of the nature of the changes. We acknowledge the validity of the underlying design thesis and we are therefore prepared to give the applicant an opportunity to prepare further amendments to the plans for both sites.

PROPOSAL

18 In the information section at the start of these reasons, we briefly describe the proposed development in the substituted plans for the main site and the rear site.

19 We described the main site proposal as a mixed use development containing 295 dwellings (281 apartments and 14 townhouses) in a ten-storey building comprising four tower elements above a three-storey podium, plus two basement levels.

20 Three of the four towers face Queens Parade. One is located to the rear of the main site. In these reasons, we refer to tower at the southern part of the Queens Parade frontage as **tower 1**, the central tower as **tower 2**, the northern tower as **tower 3**, and the rear tower (behind tower 2) as **tower 4**.

21 The development's other main features may be summarised as follows:

(a) The demolition of all buildings on the main site, other than the heritage façade to Queens Parade and the adjacent west boundary sawtooth wall.

(b) Of the 295 dwellings, 95 have one-bedroom, 136 have two-bedrooms, 49 have three-bedrooms and 15 have four-bedrooms.

(c) 328 car spaces and 299 storage cages and a loading bay in the two basements, accessed from the northern end of the Queens Road frontage, plus 381 bicycle spaces.

(d) A publicly-accessible 201 square metre shop (deli), a 188 square metre (91 seat) restaurant and a 99 square metre café, all in the central area of the Queens Road frontage.

(e) Pedestrian access from a central location along Queens Road and from a rear lane that abuts the rear site, enabling access to the rear site from the basements and shorter access to and from Brunswick Street via the lane.

(f) A contemporary design with the towers in an undulated curvilinear form.

22 We described the rear site proposal as four townhouses in a three-storey building. Two of the townhouses have three bedrooms, one has three bedrooms plus study, and one has two bedrooms and a study.

23 A distinguishing feature of the proposals for both sites is the functional connection. The four dwellings on the rear site have no on-site parking but are provided with resident parking spaces at statutory rates in the upper basement of the main site development. Hence, if we are minded to refuse to grant a permit for the main site, we would refuse a permit for the rear site because it would not have any required parking. It also follows that if a permit is granted for the main site, a permit could be either granted or refused for the rear site.

PROCEDURAL ISSUES & RULINGS

24 We record three procedural issues and rulings.

The application to amend the permit application

25 Mr McCallum claimed the applicant failed to comply with the Tribunal's practice note in its application to amend the permit application relating to the main site. He claimed the three-storey townhouses along the northwest, north and northeast rear boundaries of the main site were closer to those boundaries in the substituted plans and did not comply with the practice note's guiding principle to not 'materially increase the scale or intensity of a proposal'.[10] He also claimed the applicant failed to include a statement of changes in its application.[11]

26 Mr McCallum made these claims as part of his submissions on day 6 (11 September 2017) of the hearing. He failed to raise them with us at the start of the hearing when we heard and granted the application. It was too late for Mr McCallum to raise them after we had made the relevant ruling.

[10] Practice Note PNPE9 (Amendment of Plans and Applications) paragraph 3.
[11] Practice Note PNPE9 (Amendment of Plans and Applications) paragraph 12; Tribunal's order dated 6 April 2017.

27 We also reject the claim on its merits. The Tribunal has discretion to vary the operation of a practice note. In an earlier practice day hearing, at which there was no appearance by or on behalf of Mr McCallum, the Tribunal gave the applicant leave to apply to amend the permit application. The Tribunal acknowledged that the scheme had recently changed and that significant changes would be required to the permit application to respond to those changes. Hence, a statement of changes was neither useful nor relevant because it would distract the parties from the need to examine the amended plans afresh rather than via a list of changes.

Addendum to Mr Raworth's statement of evidence

28 When the hearing on 9 September 2017 finished, the applicant sought to file and serve on the parties then represented and at the bar table an addendum to Mr Raworth's statement of evidence. The parties opposed this action. On 12 September 2017 we heard argument in relation to the objection and ruled we would not accept the addendum and allow Mr Raworth to rely on it unless it was circulated to the parties with ten business days' notice before Mr Raworth was called to give evidence. This form of notice is required under the Tribunal's relevant practice note.[12] About 50 of the respondents in the application concerning the main site, or their representatives, were not at the hearing at that time.

29 The applicant subsequently elected to not serve the addendum in accordance with practice note requirements and call Mr Raworth at a later date after the scheduled hearing days in this proceeding. Accordingly, Mr Raworth adopted his original statement and not the addendum when he was called on 14 September 2017.

30 Our ruling underscores the importance of an expert witness filing and serving a complete statement of evidence before the start of a hearing and not seeking to change his or her evidence statement during the running of a hearing, particularly in circumstances when all parties may not be participating on a particular day or days of the hearing. Our ruling also underscores the importance of the practice note requirement for a party to file with the Tribunal, and serve on all parties, notice of a change of opinion of an expert retained by the party and setting out the reasons for the changed opinion, together with the changed statement of evidence.[13]

Architects' images

31 Mr Sheppard included an image in his statement prepared by the architects of the buildings on the main site viewed from Queens Parade.[14] When cross-examined on 12 September 2017, he agreed other images were prepared and seen by him but not included in the statement. He agreed to

12 PNVCAT2 *Expert Evidence*, paragraph 24.
13 PNVCAT2 *Expert Evidence*, paragraph 15.
14 Mark Sheppard, statement of evidence, page 14.

produce them and told the Tribunal he had sent them electronically to his client's instructing solicitors before he was excused.

32 Despite at least one subsequent request, the images were not produced until the morning of the final day on 15 September 2017. Ms Brennan submitted there was no good reason for the delay which adversely affected her preparation for her closing submissions. Ms Brennan did not, nonetheless, object to the images being tendered.

PHYSICAL CONTEXT

33 The physical context of the main site and the rear site are complex, due to the main site being a large, former industrial site. It is bordered by a combination of:

(a) fine grained single-storey and double-storey Victorian era dwellings in Coleman Street, Brunswick Street and, to the southwest, Queens Parade,

(b) narrow lanes (often bluestone paved) being the lanes separating the main and rear sites and Coleman Lane,

(c) other former industrial sites now developed for four-storey to six-storey apartment developments at 496 Brunswick Street, 58 Queens Parade and 497 Napier Street,

(d) two-storey public housing in townhouse format in Grace Lane, and

(e) a major tree-lined boulevard (Queens Parade).

34 The variety in the surrounds and the nature of the built form provisions based on the particular interfaces to the main site has added complexity to our assessment. Fortunately, the applicant anticipated this complexity and assisted us with over 20 sections across side and rear boundaries showing existing buildings on adjoining land and proposed buildings on the main site.

35 The Council also referred us to its recent built form review for Queens Parade.[15] That review refers to anticipated development of other former large industrial sites in the vicinity of the main site, such as the North Fitzroy Gasworks Precinct extending from Queens Parade south to Alexandra Parade.

POLICY CONTEXT

36 We do not need to dwell on this context. There is no real dispute between the parties. There is strong support for intensive development of both sites. There is broad support under State policy in the latest form of *Plan Melbourne*. The main site is a strategic redevelopment site under local policy, where much new redevelopment in Yarra is encouraged. Both sites

[15] Yarra City Council, *Queens Parade, Clifton Hill Built Form Review* (Prepared by Hansen Partnership Pty Ltd, February 2017).

are in a Mixed Use Zone. The main site is unusually large, it is on a wide boulevard, and has good access to public transport and services, including shops in Brunswick Street and Smith Street, and open space at the Edinburgh Gardens. It is in DDO16, where built form to ten storeys is contemplated.

HERITAGE

37 A part of the main site is in *Heritage Overlay* HO327 known as the North Fitzroy Precinct (in these reasons, the **precinct**). The relevant part is about one quarter of the area of the main site, being the area behind the frontage of the main site in its southwest corner. The whole of the rear site is in the precinct. The precinct covers a broad area of Fitzroy North that is north of Queens Parade and both sites are in a sub-area located south of Holden Street.

38 The contributory elements in the sub-area are, in general terms, detached and semi-detached Victorian era and Edwardian era houses and shops. They also include some pre-World War 2 buildings (such as some of the buildings on the main site), the Edinburgh Gardens (about 250 metres north of the main site),[16] some church spires and street trees, mainly planes and elms.

39 There is one adjoining and different heritage place. HO93 applies to the land in the median strip in Queens Parade opposite the main site and is separated from the main site by the footpath, nature strip and service lane. The main features of HO93 are the mature plane and elm trees and the associated bluestone kerbing around the medians.

Significance

40 The Council's 2007 heritage review citation for 26-58 Queens Parade relates to the former K G Luke Pty Ltd electroplate manufacturing factory complex, developed in the interwar period.[17] The significance is stated to be 'an unusually large Art Deco (or Moderne style) factory/warehouse that has a very intact façade of architectural merit especially in its parapet profile'. This applies to that part of the main site at the southwest end of the Queens Parade frontage. The painting of the brick façade is noted in the citation. The façade is stated to have 'fair integrity to its creation date'.

41 The citation states that the former factory complex is individually significant in an aesthetic, historic, scientific and/or social sense. Under the

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16 The Edinburgh Gardens are in a separate heritage place identified as HO213.

17 If the factory originally included 58 Queens Parade, it does not now include it. 58 Queens Parade is on the corner with Napier Street and has been developed for apartments. As the citations do not identify the land within the factory complex, it is unclear whether the rear site is also individually significant. Both Mr Lovell and Mr Raworth proceeded on the basis that the rear site was included in the citation and, because it is vacant and cleared of buildings, we agree with them that it has lost most of its significance.

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scheme, a place of individual significance is a heritage place in its own right and is a contributory element within the wider place, ie HO327.[18]

42 We agree with Mr Lovell that the 47 metres long, decorative façade to the three, double-storey 1930s buildings at 26-42 Queens Parade in the southernmost part of the factory complex comprises principally what is of significance.[19] In an apparent mapping error, the easternmost of the three buildings behind the façade (at 42 Queens Parade) is not in HO327. Mr Lovell and Mr Raworth are experienced expert heritage consultants and both agree the three buildings behind the façade are 'reasonably generic warehouse forms'.

43 The façade combines face and textured brickwork, rendered surfaces, with pilasters rising through both levels creating an irregular arrangements of bays. The windows are mainly steel-framed with central hoppers and brick sills. There are some subsequent openings for vehicles and pedestrians and later installation of services including air conditioning units. The 1965 architectural drawings show two canopies. The canopy on the easternmost bay in the façade (in these reasons, **Bay 9**) has since been removed.[20] The whole façade is now overpainted in a prominent pink colour with the castellated features decorating the parapet painted charcoal grey.

44 There are various buildings in the immediate vicinity of the main site and rear site in Queens Parade, Brunswick Street, Coleman Street and Napier Street that are graded 'contributory', including the abutting buildings at 22-24 Queens Parade. None are individually significant.

Relevant heritage provisions

45 The provisions of the heritage overlay and heritage policy are, of course, relevant. However, in this case, DDO16 also has some relevant heritage related provisions. We have considered all of them.

Demolition

46 We will first assess the proposed demolition. There is no demolition required for the rear site because it is vacant. There are a number of buildings on the main site. It is proposed that all buildings will be demolished, except for the façade at 26-42 Queens Road, in general terms, and the brick southwest-facing boundary wall with a sawtooth profile that abuts the double-storey terrace dwelling at 24 Queens Parade.

47 We have referred to the retention of the façade 'in general terms' because it became apparent during the hearing that the substituted plans infer the

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18 *Yarra Planning Scheme* cl 22.02.

19 Nonetheless, Mr Lovell considers the parapet a 'crude device', constructed in stages over existing facades, now overpainted and of little architectural merit, and altered by new openings for pedestrians and vehicles and by removal of porches. However, this amounts to a difference of opinion of the level of significance ascribed in 2007 and the latter is recognised by the scheme and to which we therefore give greater weight.

20 Peter Lovell, statement of evidence, p 23.

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demolition of Bay 9. Neither the Council, Mr Lovell, Mr Raworth nor any objector parties identified the demolition of Bay 9 in their statements or submissions.

48 Ms Coveny seeks further heritage assessment of the main site to identify whether any other parts of the three buildings are of such significance as should not be demolished. We cannot require more heritage studies. We need to decide the applications on the submissions and evidence about, among other things, the existing and previous heritage assessments. Ms Coveny alternatively seeks retention of 'two bays' depth to the existing buildings to improve the appreciation of the significance of the façade. If Bay 9 were to be retained, Ms Coveny speculates that the northeast facing return wall, originally exposed but now covered by the 1960s building now abutting the wall, could be of significance.

49 Mr Lovell now supports the retention of Bay 9, although Mr Raworth is less supportive. The curious fact is that the apparent error in the mapping of HO327 means there is no demolition control over Bay 9 under the heritage overlay.

50 Local policy provides that partial demolition of an individually significant building is acceptable if it does not 'negatively affect' its significance.[21] Provided the new building behind and above the façade is respectful of the façade's significance and allows it to be read as having an appropriate sense of depth, the demolition of that part of the building behind the façade is acceptable. We will mainly address this issue in the next section of these reasons.

51 In conclusion, we agree with Mr Lovell and Mr Raworth that the partial demolition of that part of the main site that is in HO327 is acceptable. Even though that part of the façade at 42 Queens Parade is not part of the heritage place (by apparent error) and is not subject to demolition control, it is part of the heritage citation and we would prefer that it be retained in the development to conserve all the significant facade.

New development

52 There are two aspects to the heritage assessment of new development – how the decorative façade is incorporated into the redevelopment of the main site and the new built form on the two sites.

Alterations to the façade

53 The built form outcomes include making sure that the decorative façade is successfully incorporated into the redevelopment and that the parapet of the decorative façade remains prominent along the street wall.[22]

54 The plans provide insufficient detail to assess the façade alterations. Mr Lovell and Mr Raworth agreed further detail is necessary and could be

21 *Yarra Planning Scheme* cl 22.02-5.1.
22 *Yarra Planning Scheme* cl 43.02 schd 16 cl 2.0 table 2 'façade height' dot points 1 & 2.

specified in permit conditions. We have been assisted by further informal architectural detail provided by the parties during the hearing.[23]

55 Three new levels of apartments are proposed to the immediate rear of the façade. The non-retention of any floor area behind the façade led some respondents to characterise the new development as 'facadism'. DDO16 design objectives include:

> To ensure heritage buildings retain their three-dimensional form as viewed from the public realm to avoid 'facadism'[24]

56 New development abutting the heritage fabric may therefore be acceptable if it enables appreciation of the fabric's three-dimensional form. We will return to this issue.

57 The substituted plans together with the informal architectural details show new or enlarged openings in the lower part of the façade for ground level apartment windows and terraces but retention of the upper level openings. The existing steel framed windows are referenced with sympathetic new metal-framed windows at both levels. The ground floor of the apartments is about 700 mm above the Queens Parade footpath and the four ground floor terraces have steel framed bi-fold screens above 1000 mm high etched privacy glass to create winter-garden terraces.

58 The floor between levels 1 & 2 is behind nine window or terrace openings at about the level of mid height of the opening in the upper level of the façade. The informal architectural detail shows fixed glass in front of the floor with an awning window (where to a room) or bi-fold windows (to a winter-garden terrace) below it. In our opinion, the floor needs to be obscured from the public realm. More detail is needed, but we are confident a satisfactory solution can be found.

59 The informal architectural detail shows walls between apartments and between rooms in apartments behind the façade largely behind solid elements of the façade rather than openings. However, there are some instances where walls are behind openings eg the wall between the living room and terrace in apartment C1GF05. There are also some instances where walls are angled away from connections with solid elements eg the angled wall between the terraces for apartments C1GF05 & C1GF06. We do not support these instances. Walls should be at right-angles to the façade.

60 The informal architectural detail shows the removal of the one remaining centrally-located awning. There is no pedestrian access in the building from that location, which is a recessed terrace. The canopy forms parts of the original fabric and it should not be removed.

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[23] Exhibits A58 and A75.

[24] *Yarra Planning Scheme* cl 43.02 schd 16 cl 1.0 dot point 11.

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61 DDO16 has a discretionary control that new street wall adjoining the 'existing heritage façade' should be below the façade parapet. At the southwestern end of the heritage wall, adjoining 24 Queens Parade, level 2 projects above the façade. One of the three bedrooms in apartment C10212 abuts the façade and only the lowest 800 mm or so of the bedroom wall is behind the façade. The relevant photomontage also shows the level 3 terrace upstand immediately above the bedroom wall.[25] Another bedroom and the living area of that apartment is setback 1.6 metres behind the façade.

62 Mr Lovell agreed the extent of projection above the heritage façade should be reduced. The informal architectural detail shows all of the apartment set back 4.4 metres behind the parapet with a terrace upstand marginally above the parapet.

63 The extent of projection or visual intrusion is unsatisfactory given policy support for massing of new development to correspond to the contributory elements ie the façade.[26] It is also unacceptable under the DDO16 discretionary control because it reduces the prominence of the decorative parapet which is the relevant built form outcome,[27] and because it fails to give the façade an acceptable three-dimensional form at this location, which is the relevant design objective.[28] The additional setback is an improvement, but we find the apartment needs also to be setback from 24 Queens Parade to achieve an acceptable level of recession from the façade and from the heritage place at 24 Queens Parade.

64 Mr Lovell supports the replacement of the prominent pink paint on the façade with a charcoal grey paint, as shown in the photomontages, because in his opinion the brickwork has been found to be of variable quality. The evidence of quality is not established and we prefer the rendered pilasters to be restored and face brickwork panel between pilasters should be stripped and exposed to reference the original presentation.[29]

New built form

65 We consider the new built form having regard to both the heritage overlay and heritage provisions of DDO16.

66 Under the heritage overlay, the main consideration is whether the new built form will affect the significance of the main site or the precinct and is in keeping with the character and appearance of adjacent buildings and the precinct. Heritage policy provides guidance.

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25 Daniel Flood, statement of evidence, photomontage CEO4.
26 *Yarra Planning Scheme* cl 22.02.
27 *Yarra Planning Scheme* cl 43.02 schd 16 cl 2.0 table 2 'façade height', built form outcome, dot point 2.
28 *Yarra Planning Scheme* cl 43.02 schd 16 cl 1.0 dot point 11.
29 Australian Glass Manufactures, *Decoration and Glass*, 1 April 1938 (Volume 3 Number 12) p 2[illegible] (Exhibit A23).

67 As stated, the precinct comprises mainly low scale residential structures from the Victorian and Edwardian era. The land on the east side (the five-storey apartment building at 58 Queens Parade) and on the north side (two-storey townhouses in Grace Lane and the six-storey apartment building at 496 Brunswick Street) is not in the precinct. The northeast and west sides abut or are adjacent to the precinct. To the northeast is a non- contributory four-storey apartment building at 497 Napier Street and non-contributory four single-storey Victorian era cottages in Coleman Street (across Coleman Lane). To the west is single-storey or two-storey dwellings in Brunswick Street and Queens Parade.

68 The new three-storey street wall on the main site is sympathetic with heritage character and significance. The four towers behind the street wall of up to ten storeys do not accord with this character.[30] However, given State and local policy and DDO16, maintaining the heritage character of the land that abuts the main site in the precinct and the heritage character of the wider precinct cannot be expected.

69 We agree with Mr Lovell that while the towers will be prominent and will alter some horizon views, they will not diminish the significance of the precinct.

70 Newry Street is in the precinct. DDO16 calls for particular consideration of impacts from this street. The relevant DDO16 built form outcome is that taller built form is not 'dominant in the skyline' when viewed from Newry Street and the design objective is to 'moderate the prominence [of taller built form regarding] mid and long range panoramic views … from … Newry Street'.[31]

71 We visited Newry Street on more than one occasion to assess impact. We had the benefit of a photomontage.[32] From the footpath on the south side of Newry Street, there is no visual impact from the proposal. From the footpath on the north side at a mid-point along the street, part of the top four levels of tower 3, part of the top three levels of tower 4 and a small part of the top level of tower 1 would be perceptible above the parapets of the single-storey cottages on the south side of the street.

72 The built form outcome and the design objective is achieved because the prominence is moderated due to the narrowness of tower 3 from the angle in the street, the appreciable visible gap between tower 3 and tower 4 (that enables the sky to meet the relevant cottage parapet in Newry Street) and the diminishing form of towers 4 & 1 given the angle and increasing distance.

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30 In a technical sense, only one of the four towers (tower 1) is in the precinct and the heritage impact of the other three towers is therefore not relevant.

31 *Yarra Planning Scheme* cl 43.02 schd 16 cl 1.0 dot point 10.

32 Daniel Flood, statement of evidence, photomontage CEO9.

73 Although towers 3 & 4 are in the forefront of the view cone from Newry Street, our finding that tower 4 needs to be moved to the south and joined with tower 3 would make that centrally viewed built form more distant and further reduce the visual impact.

74 Ms Coveny asked us to assess the impact from the corner of Newry Street and Brunswick Street. Although the angle from this position brings more of the width of the new development into view (in particular, it would be likely to include part of tower 1), the extra distance of about 150 metres from the nearest point of tower 4 and a wider appreciation of gaps between towers 1 & 4 and between towers 3 & 4 would moderate its prominence.

75 It is relevant to also consider impacts on nearby heritage places. Some respondents were passionate in their concerns about the impact on the heritage significance of the Edinburgh Gardens (HO213) and the Council remained concerned about the impact on the heritage significance of the Queens Parade median strip (HO93). We have carefully considered both precincts and assessed the impact after more than one visit to those precincts.

76 At ground level from the southern part of the Gardens, the towers will have no or an imperceptible impact. At ground level from the northern part of the oval in the Gardens, the relevant photomontage shows a barely perceptible visual impact above the trees at the southern edge of the Gardens. From higher points, such as from in the pavilion, an additional one or two storeys of the towers may be visible. We do not consider this to be an unacceptable impact on the heritage significance of the Gardens.

77 The relevant DDO16 built form outcome is that taller built form is not 'dominant in the skyline' when viewed from the Gardens and the design objective is to 'moderate the prominence [of taller built form regarding] mid and long range panoramic views … from [the Gardens]'.[33] Against other incursions into the views, mainly the city skyline and floodlight towers, the built form is not dominant, any prominence is muted and the impact is acceptable. Although towers 3 & 4 are in the forefront of the view cone from the Gardens, our finding that tower 4 needs to be moved to the south and joined with tower 3 will further reduce the width of the view cone and reduce the visual impact.

78 We do not agree with Mr Lovell that the impact on the significance of the Queens Parade heritage precinct (HO93) is not relevant because the two precincts do not abut. He is correct that they do not abut, and the Queens Parade footpath, nature strip and service lane separate the two precincts. If abuttal was required for relevance, an assessment of impact from the Edinburgh Gardens would be unnecessary. In HO93, a key feature is the heritage mature plantings.

[33] *Yarra Planning Scheme* cl 43.02 schd 16 cl 1.0 dot point 10.

79 There are two relevant built form outcomes. The first is to maintain the 'visual dominance' of the heritage boulevard trees over built form. The second is to ensure the built form does not detract from the heritage values of the heritage trees.[34]

80 The separation distance between taller built form and the heritage trees is significant. As well, in relation to potential impact on health and therefore significance of the trees, the shadow analysis shows new shadows from the towers reach the ground in HO93 early in the afternoon. However, even by 3 pm, the median is not wholly shadowed and we infer from the angle of the sun and the height of the mature trees that most of the canopy would be in sun during the afternoon. Accordingly, we find the built form outcome is achieved.

81 We hasten to add these are heritage considerations and are different from the built form outcome of ensuring 'the primacy of the landscape boulevard within the Queens Parade viewshed'.[35] We consider that impact later in these reasons.

82 The rear site's new built form is acceptable in heritage significance and character terms, because the site is small, the massing does not overwhelm the single-storey and double-storey character of abutting land in the precinct and the lane separates the new from old built form (but for part of the northern interface). The bluestone paving in the lane between the two sites has long been removed and there is an unsympathetic, unlevelled part asphalt and part concrete surface. If we were minded to grant a permit we would require reconstruction of the lane because that section would be largely only used by the occupants of the two sites.

BUILT FORM

83 In this part of the reasons, we separately address the built form response to both sites. DDO16 is the principal built form control for development of both sites. We have considered various policies and other provisions relating to built form but it is unnecessary to reproduce them here.

Features of DDO16

84 Under DDO16, the main site is in precinct 2A and the rear site is in precinct 1B. There are 12 design objectives for precinct 2A and six design objectives for precinct 1B. In both precincts, a permit is required to construct any buildings or works, but not to demolish buildings or works. A permit cannot be granted to exceed the mandatory controls in tables 1 & 2.

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[34] *Yarra Planning Scheme* cl 43.02 schd 16 cl 2.0 table 2 'building height' built form outcome 4 & 'façade height' built form outcome 4.

[35] *Yarra Planning Scheme* cl 43.02 schd 16 cl 2.0 table 2 'façade height' built form outcome 3.

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85 In this section of the reasons, we will focus on the non-heritage related requirements, because we have addressed heritage-related requirements in the previous section of these reasons.

86 Precinct 2A has two mandatory controls. The first is a maximum building height of '31 m[etres] (10 storeys)'. The second is a façade height which requires retention of the 'existing heritage façade' or, where the frontage does not contain a heritage façade, the façade must not exceed '10 m[etres] (3 storeys)'.[36] 'Existing heritage façade' is not defined. As we state in the heritage section in these reasons, we take that to mean the whole of the façade of the significant buildings identified in the 2007 heritage citation.

87 Precinct 1B has one mandatory control, being a maximum building height of '9 m[etres] (3 storeys)'.

88 The need for compliance with these mandatory controls is not in dispute. However, as stated in the heritage section in these reasons, there is an issue about retention of Bay 9 at its eastern end.

89 DDO16 also has 'general' requirements that apply in both precincts and which can also be varied with the grant of a permit. These general requirements relevantly relate to façade design, upper level design and building separation.

90 In both precincts 1B & 2A, there are discretionary controls. These can be varied with the grant of a permit. The discretionary controls for precinct 2A mainly relate to building setbacks from Queens Parade and setbacks from specified side and rear boundaries.

91 The combination of the building height and building setback controls creates a three-dimensional envelope within which buildings and works should remain, except to the extent that variations to the discretionary controls may be allowed in the grant of a permit.

92 In deciding an application, consideration must be given to whether the design requirements (ie the mandatory and discretionary controls and the general requirements), the design objectives and the built form outcomes are 'achieved'.[37] Consideration must be also be given to eleven other specified matters.

93 The drafting of this provision makes it clear that the design objectives and built form outcomes are relevant considerations in any application, regardless of whether the design requirements are met. Hence, even if all of the mandatory and discretionary controls and all of the general requirements are met, consideration must still be given to whether the design objectives and the built form outcomes are achieved.

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[36] There may be a question about the validity of the requirement to retain the heritage façade because clause 43.02 of the scheme provides that the scope of a DDO provision is 'specific requirements relating to the design and built form of **new** development' (our emphasis). However, this issue was neither raised nor argued at the hearing and we make no finding about it.

[37] *Yarra Planning Scheme* cl 43.02 schd 16 cl 4.0 dot point 1.

94 Consequently, we do not accept the narrower propositions about the operation and effect of DDO16 as adopted by Mr McGurn, Mr Sheppard and Mr Poole in their assessments and oral evidence.[38] Of course, in any event, expert evidence cannot be given about the meaning and effect of a statutory instrument. That is a matter for the Tribunal.

95 The development proposed for the main site relies on variations to the discretionary controls. We heard extensive submissions and evidence about the merits of the variations. In the next sub-sections of these reasons, we set out our findings about the built form for both sites. For the main site, this includes the merit of those variations.

Main site

96 The key issues are how the design of the new development manages its impact on the heritage street wall and on Queens Parade and its impact on its complex interfaces on side and rear boundaries.

Street wall

97 The built form outcomes in relation to upper level setbacks from the street include incorporating the heritage street wall, ensuring the parapet of the heritage façade remains prominent, and ensuring the primacy of the landscaped boulevard and its heritage values.[39]

98 The general requirements in relation to upper level setbacks also seek to maintain the dominance of the heritage street wall and to ensure upper level development is recessive.[40] The general requirements also seek vertical articulation of facades to respond to 'prevailing fine grain' buildings in the area. They also seek to ensure visual separation and views to the sky between the tower forms to minimise visual dominance.[41] Nevertheless, there is a tension between these requirements and it is difficult to see how dominance of the street wall can be maintained within the envelope with a height of up to ten storeys created by DDO16.

99 The curvilinear design of towers 1, 2 & 3 behind both the heritage street wall and new street wall emphasises the geometric form of the heritage street wall and avoids a repetitive stepped form as sought by DDO16. Likewise, there is no issue with the form of vertical articulation. This is successfully achieved with the new street wall, in particular.

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38 Mr McGurn's oral opinion was that compliance with the built form requirement (ie the mandatory and discretionary controls) is *prima facie* evidence that the design objectives and built form outcomes are met. Mr Sheppard's opinion was that only the encroachments outside the three-dimensional envelope require assessment against the design objectives (section 3.2 of his statement). Mr Poole's oral opinion was that the encroachments are acceptable because they compensate the applicant for potential floor area not developed within the three-dimensional envelope.

39 *Yarra Planning Scheme* cl 43.02 schd 16 cl 2.0 table 2, façade height, dot points 1, 2, 3 & 4.

40 *Yarra Planning Scheme* cl 43.02 schd 16 cl 2.0 table 3, General requirements, Upper level development, dot points 1, 2 & 3.

41 *Yarra Planning Scheme* cl 43.02 schd 16 cl 2.0 table 3, General requirements, building facades & building separation.

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100 The prominence of the heritage street wall is, in part, achieved by creating a broad pedestrian entry between the retained façade and the new street wall. The 90 degree return wall, albeit short, into the main site helps give depth to the street wall. The minimum gaps between all the towers of around 11 metres is also a generally satisfactory response to the requirement of separation and ability to see sky.

101 It is true that depending on viewing location, there may be no ability to see sky between towers. It is likely that cannot be avoided. However, it is desirable to have the long gaps oriented north-south as proposed for solar penetration reasons and for opportunities to appreciate gaps from Newry Street and the Edinburgh Gardens. From within Queens Parade, the modulated built form will be apparent due to its changing depth, even if there are no sky views from a particular viewpoint.

102 Above the heritage street wall, DDO16 includes discretionary front setbacks requirements of 8 metres for the two floor levels above the street wall for level 3 & 4 and then 11 metres for level 5 and above. Above the new street wall, the discretionary front setbacks requirements are less, at 5 metres and 8 metres, respectively.

103 The undulating form shows some curves intruding into those setbacks in each tower. For example, in tower 1 behind the heritage street wall, the setbacks are a minimum of 4.3 metres at the mid-levels and 2.9 metres at the higher levels. In tower 2, behind the new street wall, the setbacks are a minimum of 2.7 metres at both the mid-levels and higher levels. In tower 3, also behind the new street wall, the setbacks are a minimum of 1.9 metres at both the mid-levels and higher levels.

104 Mr Hutson's opinion is that the prominence of the heritage street wall and new street wall and the impact on the Queens Parade streetscape is nevertheless ultimately harmed by the scale, massing and setbacks of towers 1, 2 & 3. We agree. We prefer his opinion to the contrary opinion of Mr Poole. Mr Poole's opinion was based in part on balancing incursions against setbacks exceeding the minimum discretionary setbacks across the whole of the main site. That form of balancing is not supported by DDO16 provisions as a whole, particularly when the encouragement of gaps between higher built form necessarily means exceeding setbacks across parts of the site.

105 The impact of tower 1 is emphasised by the larger incursions at higher levels at the northeastern end of the tower's façade. These incursions and those in towers 2 & 3 detract from the prominence of the heritage street wall when viewed from further to the northeast along Queens Parade.

106 We therefore find towers 1, 2 & 3 should be setback further from the street wall so that there is general compliance with the mid-level discretionary setback requirement. The incursion at the higher levels for towers 1 & 2 should be minor, around 1.5 metres to two metres. to accommodate a twisted floor plate form. The incursion at the mid-levels and higher levels

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of tower 3 could be greater towards the corner where the tower adjoins the five-storey form of 58 Queens Parade.

Boulevard primacy

107 As we have stated, the relevant built form outcome is to ensure 'the primacy of the landscape boulevard within the Queens Parade viewshed'.[42] We have considered the photomontages and our own observations. From viewshed locations close to the main site, the landscape will remain prominent, at least at times of the year when the trees are in leaf, because the viewing angle will ensure the trees occupy most of the foreground.

108 The parties made most of their submissions about the viewshed from the north along Queens Parade. The towers will clearly be more prominent than the five-storey apartment building at 58 Queens Parade in mid range and long range views. We therefore doubt achievement of the built form objective.

109 However, if amended plans are prepared showing increased street setbacks, the objective could be met because the relatively narrow width of the towers means that the towers would not appear to exceed the height of the trees from those viewpoints and would remain to the side of the viewshed.

110 Consequently, we find the built form outcome is not achieved, but could be achieved.

Side and rear interfaces

111 DDO16 is seeking a number of built form outcomes. They include an appropriate transition in scale from surrounding lower scale heritage built form and from surrounding apartment buildings, avoiding repetitive stepped form, minimising visual bulk, and limiting amenity impacts of overlooking and overshadowing.

112 DDO16 includes discretionary setbacks from these interfaces. In summary:

(a) From the land containing the Grace Lane two-storey townhouses and the dwellings on the south side of Coleman Street, setbacks should comply with *ResCode* B17 standards from the rear boundary of that land to a height of 10 metres (3 storeys) and then within a 45 degree angle to 25 metres (8 storeys) (in these reasons, the **northern interface**).

(b) From the apartments at 497 Napier Street, setbacks should be zero to match a party wall to 10 metres (3 storeys) and then within a 45 degree angle to 25 metres (8 storeys) (in these reasons, the **northeastern interface**).

(c) From the apartments at 58 Queens Parade, setbacks should be zero to match a party wall or to 10 metres (3 storeys) if there is no party wall, 9 metres from windows/balconies up to 16 metres (5 storeys), and 15

[42] *Yarra Planning Scheme* cl 43.02 schd 16 cl 2.0 table 2, façade height, dot point 3.

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metres above 16 metres (5 storeys) (in these reasons, the **eastern interface**).

(d) From 24 Queens Parade and 478 to 494 Brunswick Street, setbacks should be zero to match a party wall or to 10 metres (3 storeys) if there is no party wall and then within a 45 degree angle (in these reasons, the **western interface**).

113 To assist our analysis, the applicant tendered the 20 sections, plus plans showing the relevant setback line at each floor level, and the Council tendered a three-dimensional massing model. The applicant objected to the massing model. We are aware of the massing model's limitations. For example, one of the eye-level perspectives was from a similar location in Newry Street as one of Mr Flood's photomontages. We give more weight to the photomontage in that instance. Overall, we have not given the massing model great weight but it has assisted us in generally identifying parts of the development that require careful consideration. We also have had the benefit of the opinions of the expert witnesses.

114 Our findings are summarised as follows.

115 At the western interface, there are some material incursions at levels 4 & 5 and some significant incursions at levels 6, 7 & 8, and both are generally confined to the front half of the land at 24 Queens Parade. This prevents tower 1 achieving an appropriate transition in scale from the two-storey dwelling and two-storey and single-storey dwellings further to the west. An appropriate transition is not a stepped form as that form is expressly discouraged under DDO16. We consider an appropriate transition could be achieved if the tower is set back further from Queens Parade (with the result that the whole of tower 1 moves to the north), is reduced in height by one level. The resulting incursion at level 7 is reduced as a consequence.

116 At the northern interface, there are very minor incursions at levels 2 & 5 and a one-level exceedance to the discretionary eight level maximum building height. Given the proximity of tower 4 to the single-storey and double-storey dwellings in Grace Lane and Coleman Street and the support for moderating mid range views from the north, there is merit in moving tower 4 south to join with tower 2.

117 This change would assist with ensuring an appropriate transition. It would also have other advantages. It would create greater visual permeability. It would delete the shadowed and windswept terraces at level 3 and a broad and low undercroft at ground level, both on the south side of tower 4. It would create a larger communal open space area on the north side of a joined tower that has better solar access. The amenities and yoga studio in tower 2 could be relocated to the north side of the joined tower adjoining the communal open space. The communal open space needs to be about 20 metres deep between townhouses 4 to 7 and the tower.

118 At the eastern interface, the boundary conditions with the apartments at 58 Queens Parade are in three parts. There is a five-storey section at the front and at the rear is a three-storey section on boundary with a fourth and fifth storey setback from the boundary. Between them are two on-boundary terraces (at ground level) and two terraces set back 1.8 metres at each of levels 1, 2, 3 & 4.

119 The design of the building at 58 Queens Parade did not provide an equitable sharing of amenity and has exposed those terraces to future detriment with the discretionary setback on the main site able to match party walls and otherwise set back nine metres from windows and balconies up to 16 metres in height and set back 15 metres above 16 metres. There are some proposed variations from the discretionary setbacks.[43] We find them acceptable.

120 Finally, at the northeastern interface, there is compliance with the discretionary setbacks. The interface treatment, as presented, is therefore acceptable but needs to be reconsidered if amended plans are prepared.

Rear site

121 The rear site has an unusual setting in that it does not have a street frontage. It abuts an 80 metres long dead-end lane that extends northeast from Brunswick Street at a point about 30 metres north of Alexandra Parade. The lane changes direction with an angle to the north about halfway along its length. It ends in a 'Y' shape and the rear site is between the two prongs of the Y. The rear site has an irregular shape with a perimeter of about 68 metres. Three of the four sides front the lane and the fourth side, of about 18 metres, abuts the rear of a dwelling at 492 Brunswick Street.

122 The strategic and physical context supports the proposed built form envelope. The envelope meets the DDO16 objective of 'low rise infill' and complies with the mandatory height limit of nine metres or three storeys for area 1B. Site coverage is very high, but is not unreasonable because it is largely surrounded by lanes and because nearby development (other than the main site) is predominantly single-storey and two-storey fine-grained dwellings on sites about five metres in width which have high site coverages.

123 The Council relies on Mr Hutson's two main concerns. We find those concerns unpersuasive.

124 Mr Hutson's first concern is unreasonable scale and bulk from rear open spaces of dwellings to the west from a lack of varied setbacks at level 2. We find the setbacks have acceptable variety from the west or rear boundary. They are 3.2 metres for townhouse 1, 4.2 metres for townhouses 2 & 3, and 6.2 metres for townhouse 4. From the lane midpoint, there is a

[43] For example, although the party wall zero setback to the front section and the nine metre setback to the middle section complies, there is a variation at levels 3 & 4 where the setback is two metres opposite the front section of the party wall. There are also variations of about 1.8 metres at levels 5 to 7 and up to three metres at levels 8 & 9 from the discretionary 15 metres setback.

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satisfactory response to *ResCode* setback standards and visual bulk impacts are acceptable given the existing and emerging character.

125 Mr Hutson's second concern is with the interface of the northern townhouse 4 with the rear of the dwelling at 492 Brunswick Street. The townhouse has a nine metre long, three-storey high wall on boundary. Of the nine metres, seven metres abut a rear shed and garage. The remaining two metres abut a section of secluded private open space. Mr Hutson's opinion is that the two metres long section should be set back at level 2 and articulated to reduce visual bulk. We find the wall on boundary is acceptable because the two metres long section does not abut the core of the open space but a small section adjacent to a corner of the rear shed. Hence, the overall visual bulk is acceptable.

126 Nonetheless, the design response for the townhouses is unacceptable on other grounds. Two of the townhouses have three bedrooms, one has three bedroom plus study and one has two bedrooms plus study. We find the living areas at level 1 too small for dwellings of this size. Each has an effective living room width of three metres. The length varies from between four and about six metres. These spaces will not accommodate furniture, including seating and possibly a dining table, for potentially four residents. Accordingly, we find the internal amenity of each townhouse is unacceptable. We would refuse a permit on that ground.

127 We will therefore invite the applicant to prepare amended plans in tandem with the invitation to prepare amended plans for the main site.

128 The amended plans will need to increase the width of the living areas by removing one of the townhouses and providing greater width in each of the remaining three townhouses. Amended plans will also enable five other design shortcomings to be addressed.

129 First, the entries do not respond adequately to policy that seeks a good sense of address and safety in lane settings.[44] Second, the rear courtyards are only one metre wide and should be made deeper to enable at the very minimum a person to sit in them. Third, the full-height privacy screens at levels 1 & 2 on the east elevation are unnecessary if privacy screens are included in dwellings opposite on the main site and within nine metres of the townhouses. Fourth, to improve surveillance of the lane to the south, consideration needs to be given to incorporating lower height screens at levels 1 & 2 on the south elevation. Fifth, we agree with Mr Sheppard that larger windows should be provided in the east facing walls at level 1 of townhouses 1 & 2.

[44] *Yarra Planning Scheme* cl 22.07.

EXTERNAL AMENITY

130 We have already addressed visual bulk issues as part of the built form analysis. We need to briefly deal with the following other external amenity issues.

Loss of outlook

131 Mr Bonadio owns five apartments in the top levels of the five-storey building at 496 Brunswick Street. One of the grounds on which he relies is an unreasonable loss of outlook or views across the main site from some of his apartments. The scheme does not protect outlooks or views, beyond built form outcomes under DDO16 to minimise visual bulk. Mr Bonadio is not entitled to expect anything but a significant loss of outlook across the main site given the policy context and DDO16. Tower 4 is closest to 496 Brunswick Street. Our proposed change to the location of tower 4 will further minimise visual bulk from that location.

132 Ms Bourke opposed the loss of a northern outlook from her roof terrace at 20 Queens Parade across the main site. The loss is material but, again it is not protected by the scheme, and is reasonable in the relevant policy context. There will continue to be extensive and high amenity outlooks from the terrace, particularly southwards towards the city.

Communal open space

133 Some respondents oppose potential noise impacts from elevated communal open space.

134 At level 3, between towers 1 & 4 and generally along the northwestern boundary, there is communal open space of about 50 metres by eight metres in size. The landscaping plans show a swimming pool, BBQ areas and three private dining areas (with indoor and outdoor dining options plus outdoor spas) in that space. The space is located about six metres from balconies at the 496 Brunswick Street apartments.

135 We find this space will create unreasonable amenity impacts that cannot be satisfactorily managed by owners corporation rules. The communal open space should be removed. If the built form beneath the communal open space areas is reconfigured for townhouses, the equivalent space at level 3 could be set aside for private rooftop open space.

136 Level 9 in tower 1 is set aside wholly for communal open space. It is a large area of about 20 metres by 30 metres. The landscaping plan shows a pool closest to Queens Parade, three spas, BBQs and private dining areas. The area is closest to Mr & Mrs Hayhoe's dwelling at 24 Queens Parade. We find the space is acceptable given the degree of elevation and the location of the core of the tower between the main parts of the communal open space and the private open space at 24 Queens Parade.

Overlooking

137 Some respondents oppose downwards overlooking from elevated balconies and habitable room windows. We are guided by the *ResCode* standard that, in effect, provides that downwards overlooking into secluded private open space within a specified arc outside a distance of nine metres is acceptable. This is a reasonable provision and we find there is no unreasonable overlooking.

Overshadowing

138 There are additional shadow impacts from 9 am at the equinox on some secluded private open spaces in dwellings to the southwest of the main site at 12 to 24 Queens Parade. Ms Bourke, in particular, was strongly opposed to additional shadow to her roof terrace. The applicant's shadow analysis shows those impacts disappear between 10 am and 11 am. As there is no impact in both the middle of the day and the afternoon, the impacts are not unreasonable given the main site's policy context.

Lack of articulation

139 We find it unacceptable that along the northeastern, northern and northwestern boundaries of the podium at levels 1 & 2 there is continuous 1.7 metres high privacy screens to windows and balconies for a distance of over 150 metres at each level.

140 This creates a hard unarticulated edge to the podium's built form. The edge should be relieved by including greater variety to the presentation by including, for example, lower screens with horizontal or angled projections to maintain restriction on downwards views, or other treatments which introduce variety in height and materials.

Exhaust fan

141 Mr & Mrs Hayhoe opposed the location of a basement fan room exhaust on the landscape plans close to the boundary shared with 24 Queens Parade. They were concerned about acoustic and air quality impacts. We do not have a serious concern about this location because it abuts a solid wall on boundary with no openings. The detailed design can address those issues.

Balcony condensors

142 Some respondents were concerned about the acoustic and visual impact of balcony air conditioning condensors. Such impacts can be mitigated by appropriate permit conditions.

INTERNAL AMENITY

143 There are a number of internal amenity issues we must determine. We summarise our findings as follows.

Daylight

144 The Council's ESD policy seeks the achievement of best practice in environmentally sustainable development.[45] The policy does not require outcomes or standards for specific ESD issues, but instead lists a variety of different assessment tools which may be used. In relation to this development, BESS, GreenStar, MUSIC and STORM are nominated. BESS, the built environment sustainable scorecard, sets a standard of at least 80% of dwellings achieving a daylight factor greater than 1% to 90% of the floor area of each living area, and greater than 0.5% to 90% all the bedroom floor areas.

145 Mr Talako's interpretation of the nomination that 80% of apartments achieve best practice is an acknowledgement of other factors influencing daylight penetration such as surrounding existing built form, orientation, and built form controls. He therefore argues that in the remaining 20% of apartments 'adequate' levels of daylight should be expected. 'Adequate', is not defined but he says the key test should be related to the functions most likely to be performed within the space. He uses daylight modelling as a basis for his analysis.

146 The Council's ESD advisor raised concerns in relation to daylight access to some of the dwellings on the ground floor and level 1. Mr Talako modelled all bedrooms and open plan living areas of apartments on the first three levels of the proposed development. The modelling of these levels showed that 80% (113 out of 139) of the living/dining/kitchen areas exceeded a 1% factor and 98% (226 out of 230) bedrooms exceeded the 0.5% daylight factor. Thus both meet the best practice benchmark.

147 For those rooms, four bedrooms and 26 living rooms, which did not meet best practice, Mr Talako proposed layout changes.[46] When these apartments were remodelled 16 did not meet best practice standards in their kitchens which would need to be supplemented with effective task lighting

148 We find this acceptable for these 16 rooms. We also agree with Mr Talako that although daylight is an important component of amenity, an overly narrow view of a single element may lead to adverse outcomes. In addition, in the amended plans we are inviting the applicant to prepare, the layout of dwellings will change. Daylight considerations should inform any revised proposal.

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45 *Yarra Planning Scheme* cl 22.17.

46 Jan Talako, statement of evidence, 21 August 2017, appendix 5.

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Loss of outlook

149 We have already referred to extensive use of 1.7 metre high privacy screens to podium windows and balconies. This is also an internal amenity issue given the restrictive access to the sky from those balconies and rooms. The greater inclusion of different screening, to which we have already referred, is also needed to address this concern. This is partly a function of the reverse living format of the townhouses that have living areas at level 1.

150 The Tribunal has regularly held this format can result in excessive screening, resulting in a feeling of enclosure and poor internal amenity outcomes for such living areas, and we agree. However, we note that of the four screened outward facing dwellings identified by Mr Talako as having reduced daylight in this initial modelling, a change of layout could address the deficit.

Access through the site

151 We need to consider whether the design response satisfactorily responds to the DDO16 design objective to encourage permeability within and through the site. We infer that the objective is seeking capacity for residents of the main site to exit and enter the main site from multiple points, as well as move around within the main site.

152 The café, restaurant and deli are all accessible to the public because they are located at the pedestrian entrance mid-way along the Queens Parade frontage, between the heritage façade and the new podium street wall. Security measures are beyond those facilities to restrict public access to the rest of the main site.

153 Residents may enter and exit the main site from a secondary access point along the northwestern boundary, near the rear site. This access point enables residents of the rear site to enter and exit the main site when using their vehicles parked on the main site. However, it also enables residents of the main site to enter from and exit to the rear lane and onto Brunswick Street. We agree with Mr Sheppard that this access is unlikely to be attractive after dark because of poor lighting and the alignment in the lane. However, it would not be unattractive during the day as a means of going to or from a tram in Brunswick Street.

154 We find this degree of permeability insufficient and unsatisfactory. We find the main site needs an access point to the north and onto Coleman Street, Napier Street and the Edinburgh Gardens. A secured access point from the northern communal open space and through a passage between or under the townhouses should be provided, possibly near townhouse 10. We suggest this location because it connects to Coleman Lane at a point closest to Coleman Street.

155 Permeability would also be enhanced if the townhouses abutting Coleman Lane had direct access to that lane from their ground level open space. This could be achieved from the townhouses along this interface.

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156 We cannot be sure about the degree to which residents can move around within the main site. Based on the drawings, it appears all residents would have access to the ground level open areas and indoor communal spaces such as the amenities rooms and the yoga studio. However, there is insufficient detail to determine whether residents have access to all tower cores and, hence, have access to the elevated communal open spaces associated with towers 1 & 4.

Communal open space

157 We do not consider the ground level communal open space is sufficiently well designed. It lacks a large enough space with sufficient solar exposure where residents may congregate. Our earlier findings about the need to move tower 4 to the south creates an opportunity for such an area in the northern part of the main site between the townhouses and the relocated tower 4 that is to be joined with tower 2. It needs to be about 20 metres wide along a north-south alignment.

Room design

158 We observe the apartments include some rooms with odd shapes, partly as a result of the curvilinear tower forms. These rooms include some triangular shaped bedrooms. These rooms should be redesigned to have more functional and efficient dimensions and shapes.

TRAFFIC AND PARKING

159 A number of respondents submitted the development of the two sites will cause significant parking congestion in the surrounding area and will cause adverse traffic impacts.

160 The respondents' concerns are not shared by the Council (and its traffic engineers), as the road authority for the local roads in the area and are not shared by VicRoads, as the road authority for Queens Parade and other major roads in the area.

161 In relation to car parking, the development provides a single entry from the northern end of the Queens Parade frontage to the double basement, where 328 car spaces are provided. The entry is from the Queens Parade service road so traffic movements will be left-in and left-out.

162 305 of these spaces will be allocated to apartment and townhouse residents of the main site, seven will be allocated to townhouse residents of the rear site, nine will be allocated to residential visitors, and seven will be allocated to the café, restaurant and deli. Of the 312 spaces for residents, the provision amounts to 0.75 spaces per one-bedroom apartment, one space per two-bedroom dwelling, 1.5 spaces per three-bedroom dwelling and 1.8 spaces per four-bedroom dwelling.

163 Based on the allocations, the applicant is seeking a reduction, for the main site, of 24 spaces for one-bedroom dwellings, no reduction for two-bedroom dwellings, 30 spaces for three-bedroom dwellings, 50 residential visitor spaces and 40 spaces for the commercial premises. This is an overall reduction of 144 spaces. No reduction is sought for the rear site, although consent is sought for resident parking to be provided on the main site.

164 Ms Chela Niall, Mr Robert Niall and Ms Jennifer Clark were the leading respondents on this issue and made detailed submissions.

165 First, they were critical of Mr Walsh's opinion that a rate of 0.75 was acceptable for one-bedroom dwellings in North Fitzroy even though (as Mr Walsh reasoned) it exceeded actual ownership rates at the 2011 Census. They claimed rising affluence, based on household income and dwelling values, has resulted in rising car ownership since that census. We find Mr Walsh's opinion is reasonable because, at the hearing, he produced the recently-available rates from the 2016 Census which did not show any material change. We are also not persuaded there is a direct correlation between change in dwelling value and household income and car ownership in Fitzroy North.

166 Second, Mr Niall relied on a complex 'probabilistic analysis' which he said showed 82 cars owned by residents of both sites could not be parked on the main site and would have to be parked outside the site on nearby streets. In other words, he submitted a person owning a car will not be dissuaded from buying an apartment with no car space. Mr Niall did not explain the methodology but appended what was described as the 'algorithm for calculating the mean values of the distribution being explored' and the relevant formulae and equations.

167 We do not understand the methodology. We doubt the other parties understood it. We accept that census data is helpful but not determinative. We prefer to accept the proposition that if an apartment does not have a car space, an occupier will be dissuaded from acquiring or retaining a car, given the accessibility of Fitzroy North and general difficulties in finding parking. This behaviour is supported by the Council's policies and efforts to shift transport modes away from private cars.

168 Third, in relation to residential visitors, Mr Walsh relies on empirical peak demand on a Friday evening of 0.1 space per apartment or 30 spaces, equating to need for parking of 30 spaces in the vicinity of the main site. In relation to commercial visitors/customers, Mr Walsh's opinion is a demand for eight on-street short term spaces for the café and deli and for ten daytime spaces (but more in the evening) for the restaurant. Mr Walsh's opinion is that all staff parking demands would be met on site, relying on census journey to work data.

169 Hence, Mr Walsh concludes the overall shortfalls will be 27 spaces during weekday business hours, 39 spaces during the weekend and 48 spaces in the evening.[47] Based on his surveys showing between 92 and 110 available spaces (day and evening) within 300 metres of the main site, these shortfalls could be accommodated. Although Mr Walsh used a 200 metres distance in earlier surveys, they did not involve restaurant demand and, in his opinion, a wider area is justified for restaurant patrons.

170 Waivers or reductions for residents and residential visitors are not uncommon for larger developments in inner suburban environments such as Fitzroy North.

171 Ms Niall criticised this practice as a 'tragedy of the commons' (ie a failure to equitably use shared resources) and as a 'tyranny of small decisions' (ie a consequence of limiting future choices) but we are tasked to decide reduction or waivers within the context of and evidence presented in this proceeding. We need to consider the consequences of requiring all demand to be met by increasing on site supply. We do not take this to be a sustainable outcome or one supported by policy as a whole, including policy supporting more affordable housing.

172 In relation to traffic generation, Mr Walsh's opinion is that the dwellings and commercial facilities will generate in total around 87 vehicle movements in each peak hour, based on the number of apartments with at least one car space. In the morning peak, 66 of those will be departures and in the evening peak, 50 will be arrivals. In his opinion, there are a variety of access routes and traffic generation of this nature will disperse well in the network.

173 Ms Clark's submission is that 87 vehicles is too conservative and would be closer to 99, based on factors such as NSW Government traffic guides, tram congestion, distance to train services, affluence and higher rates of car ownership. Mr Walsh did not accept the higher generation rate for reasons we accept, including that the NSW guide related to different forms of development.

174 Ms Clark's submissions also referred to unreasonable added congestion with cars doing city bound morning right hand turns from Queens Parade into George Street and conflict with vehicles and bicycles at the intersection of the Queens Parade service land and Napier Street. We are not persuaded the scale of the problem is so great as to justify refusal of a permit when mitigating traffic management measures can be implemented by the road authorities if considered necessary.

175 Ultimately, we must decide whether we prefer the reasoning and opinions of Mr Walsh, an experienced traffic engineer, and the lack of objection on traffic and parking grounds by both road authorities (and their qualified

[47] The figure of 48 spaces factors in 4 extra on site spaces outside the main site being created by closing three crossovers along the Queens Parade frontage.

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traffic staff) or the reasoning in the submissions of the respondents. We have decided we prefer the reasoning of Mr Walsh.

176 Finally, some respondents opposed the development of the rear site on the grounds of inadequate access through the lane off Brunswick Street for emergency vehicles, especially MFB appliances. Based on recent MFB correspondence tendered by the applicant, there will be adequate access to the rear site from the main site.

LANDSCAPING

177 If a large contemporary building is being inserted into existing lowrise suburban fabric on a site such as the main site, landscape will play an important role in its successful integration. In addition, it is an important element in the amenity of new residents. A detailed landscape plan was presented at the hearing. It proposes extensive paving and planting to the communal open spaces at both ground level and at level 3. It also addresses the private open space associated with the townhouses and apartments.

178 Mr Patrick reviewed the architectural and landscape plans prepared by the applicant. These plans incorporate some previous advice and opinions that he had provided to the applicant. He says that the heights and configurations of the buildings proposed create a series of complex microclimates. This is reflected in the pattern of exposure and shading revealed by the shadow diagrams. The north-south ground floor areas will have brief periods of full sun balanced by extended periods of shade. The upper floor terraces at levels 3 and 9 will be exposed to full sun and desiccating winds.

179 Mr Patrick supports the intent of the landscape proposed, but his evidence reveals considerable misgivings about its implementation and continuing maintenance. At ground level, he describes the proposed pedestrian entries to the communal green spaces as inviting, although his review of the proposed planting identifies little prospect of successful grass cultivation or of the resident vegetable garden. In his opinion, the implementation of shade tolerant planting on this level is essential and an 'indoor' planting scheme for the three bridged walkway areas would be necessary. He supports the choice of species selected around the edge of the main site, but suggests that the footings of the proposed boundary retaining wall would restrict the soil volumes available.

180 Mr Patrick's opinion is that the proposed soil volumes generally are inadequate, and in particular where individual planters on terraces are nominated. He recommends that adequate irrigation will be required with close attention to its maintenance for the landscape to flourish. His analysis of the proposal for levels 3 and 9 identifies the need for soil volumes that are appropriate where hot winds will be funnelled between buildings. Mr Patrick also notes most trees are to be clipped below their potential mature

size, and he recommends that larger trees would provide a more verdant experience.

181 We accept Mr Patrick's evidence. Our finding is that the landscape as proposed is an unacceptable response to site conditions. The amount of change necessary in the provision of adequate soil volumes alone would affect the way in which the buildings would be constructed. However, in view of the amount of built form change required for the other reasons we have outlined, we anticipate that a revised landscape plan would accompany any proposal, if the applicant chooses to prepare amended plans. It should address all the matters raised in Mr Patrick's evidence.

182 The protection of street trees along the front of the site and within Queens Parade proper was raised by a number of parties, particularly in relation to construction works and the effect on their health as a consequence of overshadowing from the proposal. DDO16 seeks to maintain the visual dominance of the trees over built form in Queens Parade, reinforcing the character of the boulevard. There is a clear expectation that the trees will remain dominant and healthy. Mr Patrick's evidence was that they would. Although overshadowing may have some effect on slowing the rate of growth of the plantings, in his opinion a repaired avenue would continue to be a dominant landscape element.

183 The construction of the new crossover providing access to the car park from Queens Parade at the eastern end of the site will result in the removal of an English Elm. The Council does not oppose its removal on condition that it is replaced by two new trees. As well, we observe that the removal of three existing crossovers to the western end of the frontage has the potential to provide at least four new trees. We agree with Mr Patrick that a management plan is necessary to protect trees during construction.

CAFÉ, RESTAURANT AND DELI

184 As we have already stated, the development of the main site includes a 201 square metre shop (deli), a 188 square metre (91 seat) food and drink premises (restaurant) and a 99 square metre food and drink premises (café), all in the central area of the Queens Road frontage. Each is publicly accessible.

185 Permission is required under the scheme to use the main site for the café and restaurant because the total floor area for food and drink premises exceeds 150 square metres. Permission is also required under the scheme to sell or consume liquor in the food and drink premises (both café and restaurant). The original permit application did not seek this latter permission in relation to the restaurant. The applicant is now seeking that permission.

186 The original application did not include a restaurant. As a result, and in the MUZ, permission was not required to therefore use the main site for food and drink premises. A restaurant was included under the substituted plans.

For reasons that are unclear to us, the Council's officers assessed the substituted plans as if the shop (deli) was less than 150 square metres (and hence, use for that purpose did not require a permit) and as if the only premises in which liquor would be sold or consumed would be in the café.

187 Despite the changes in the substituted plans and despite the Council officers' assessment, the use of the three commercial premises and the sale and consumption of liquor from two of them is not a key issue in the proceeding. Other than some issues about parking, to which we have already referred, the respondents raised no serious concerns.

188 The Council's primary submission is that it does not oppose the use of the premises for the shop (deli) or the sale or consumption of liquor from the café subject to suitable patron number and operating hours conditions, but does oppose the sale or consumption of liquor from the restaurant because of insufficient information.

189 In relation to the sale and consumption of liquor, the main relevant considerations are about the impact on the amenity of the surrounding area, including in relation to numbers of patrons and hours of operation, and the cumulative impact of any existing licensed premises and, in this case, the café and restaurant on the amenity of the surrounding area. We have considered the relevant local policy.[48]

190 The main amenity impacts will be on the residents of the main site and not surrounding residents. The amenity impacts will not be significant for existing dwellings because the site is large and the location is central. The premises are not intended to be and are unlikely to become high risk licensed premises. They are about 140 metres distant from the nearest licensed premises (a café) in Brunswick Street. They are not in an area with many late night licensed premises, particularly those characterised by 'vertical' drinking ie little in the way of seating and provision of food. The café and restaurant themselves are not that form of premises and permit conditions can reinforce that intended form.

191 Subject to appropriate permit conditions about hours and patrons numbers and acoustic impacts, we are satisfied the impact on the surrounding area is acceptable and we would grant a permit to use the main site for the three premises and a permit to sell or consume liquor in the café and restaurant.

SOCIAL EFFECTS

192 Dr Contole was one of a number of respondents that submitted the development of the main site would have an adverse social impact.

193 The social effects claimed by the respondents were around two themes. The first is that the development has the character of a 'gated luxury community likely to be targeted towards relatively wealthy owners and

[48] *Yarra Planning Scheme* cl 22.09.

tenants'[49] and that character is inconsistent with North Fitzroy's 'sense of community', 'village feeling', 'friendly atmosphere' and 'diverse population'.[50] The second was that the residents of the development would mostly be young transient people with a predilection towards anti-social 'party' behaviour. We discern some overlap but some contradiction between the two themes.

194 Dr Contole ascertained social impacts by a voluntary on-line survey conducted by Dr Contole and her associates that was publicised by social media, flyers and letterbox drops. We find the sampling was neither random nor independent. The survey in relation to the development in the substituted plans elicited 367 responses. 80 per cent of respondents stated they were residents of North Fitzroy. They were asked about valued physical aspects of the suburb with many referring to heritage values.

195 Many expressed concern that the development of the main site would not 'fit' with existing neighbourhood character. Many expressed concern about a gated community, short term tenants, isolation from the local community inherent in a high density complex, overtaxed local health, education and recreation services, and an adverse effect on liveability. The survey asked what built form would be a satisfactory fit and many responded that the Council's general policy for a maximum five to six storey built form was preferred.

196 We acknowledge the sincerity of respondents making these submissions and relying on these social surveys, but we do not accept the respondents have demonstrated the likelihood, probability and severity of the effects, that all are properly characterised as a social effect, that all are significant and that those that may be a significant social effect are not outweighed by social benefits.[51]

197 In deciding whether the use or development may have a significant social effect, we must have regard to the number of objections.[52] The Council received about 480 objections to the original application for the main site. As we have stated, in this proceeding there were 103 objectors who participated as parties and about 242 who objected without seeking to participate. Raw numbers are relevant but not determinative.

198 The substance of the claimed effects are unclear. As we have stated, they are inconsistent in part. The concern about a 'gated' community is more a concern about the different pattern of development. It is not fine grained terrace dwellings all facing a public street that those surveyed value about the suburb. The concern about multiple households living in a secure complex of one or more buildings is a concern that should equally apply to apartment buildings or most forms of multiple dwellings.

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49 Submission, Ms Chela Niall, p 8.
50 Submission, Dr Julie Contole, p 11.
51 *Backman & Company Pty Ltd v Boroondara CC* [2015] VCAT 1836 [33].
52 *Planning and Environment Act 1987* s 84(2)(jb).

199 It is therefore no surprise that the scheme does not include policy discouraging development that might fit the description of a gated complex. We put the concern about transient tenants or short term 'AirBnb' customers as unfounded in the sense that such occupancy could equally exist in existing dwellings in the suburb.

200 Consequently, the claimed social effects reduces to an objection to the scale of the development of the main site. This is not a valid or significant social effect. To the extent that it might be properly characterised as a social effect, the effect carries little weight because the scheme anticipates and facilitates a development of a significant scale of up to ten storeys. To that extent, the claimed social effects amount to a rejection of the amendment to the scheme approved in March this year. We cannot consider any submission amounting to a rejection of the amendment or a request that it be modified.

201 We have already made findings about the level 3 communal open space and the potential for unreasonable anti-social behaviour. To the extent that respondents were relying on such behaviour in support of social effects, we acknowledge that social effect.

202 In conclusion, we have considered claimed social effects but we do not find any of them warrant or justify rejection of the development for the main site or requiring significant modifications to it.

BUILDING ISSUES

203 We wish to address some of the building-related issues relied on by Mr Evans. He referred to the undulating curvilinear form of the towers and submitted that the plans' depiction of 200 mm thick concrete floors (both internal and external to the glazing line) will be insufficient to carry the loads. Mr Evans submitted that, in his opinion as an architect, the floors would need to be at least 500 mm deep, especially to support the weight of the pool on level 9 of tower 1. If the floorslabs were thicker, he submitted the projecting elements in tower 1 above the heritage façade would further dominate the façade.

204 Although Mr Poole disagreed with Mr Evans' submissions, it is not a matter on which we must make a finding, even though if he is correct that this would increase floor to floor heights and hence overall height.

205 Mr Evans also submitted the design of the three undercrofts was unsatisfactory because, making allowance for structure, services and ceiling assemblies, the clear height to the ceiling underside could be as low as two metres. He submitted this is partly because the floor to floor dimension at each level was only three metres, when the DDO16 general requirement was for a minimum of four metres at ground level and 3.2 metres for levels above.

206 Mr Poole disagreed with the submission and relied on the floor of the undercroft (or, as we understood him, at least the undercroft beneath tower 1) being lower than the level of the ground floor, thus creating additional height. We remain unsatisfied that the substituted plans provide for sufficient ceiling height given the extent of the undercrofts. There should be an increase in the height of the undercroft.

WHAT CHANGES ARE NEEDED?

207 It follows that we do not support the grant of a permit for either the main site or the rear site without changes to the plans. We are unable to specify the changes by way of permit condition because we want the applicant to respond to them with further careful design rather than simple observance of prescriptive changes. Prescriptive changes cannot be confidently expressed because of the interrelated consequences of many of the changes and because further professional design input is needed.

208 We have explained in detail our concerns which when aggregated would lead us to refuse to grant of a permit. However, we find the design basis is sound and clearly capable of reconfiguration to address these concerns. We will give the applicant an opportunity to review the plans for both sites in light of our assessment of the submissions and evidence in these reasons. We do not identify our concerns in a list to be 'ticked off'. If the applicant decides to prepare amended plans, we expect all of our concerns to be thoughtfully and thoroughly addressed. For convenience, we broadly describe below the changes the applicant needs to consider.

Main site

209 We have concluded that the towers as proposed fail to moderate their prominence when viewed from Queens Parade to an acceptable degree and do not maintain the primacy of the boulevard trees or the desired prominence of the heritage façade.

210 Primarily, the towers should be set back a greater distance behind the Queens Parade façade to largely align with the discretionary setbacks in DDO16, whilst retaining their undulating curvilinear form. This may also involve further erosion of the third level at the western end of the retained heritage façade than that shown in the informal architectural plans tendered during the hearing,[53] in order to reduce its visual impact above the parapet.

211 Bay 9 of the heritage facade should be included, whilst also retaining a generous ground level entrance to the site. More detail is required about the ground floor south-facing terraces behind the façade, and the built form at the levels above them. Any walls abutting the heritage façade should be at 90 degrees to it. The floor to ceiling heights of the café, restaurant and deli and the undercroft areas should be increased to around four metres.

[53] Exhibit A75.

212 Towers 2 & 4 should be combined, subsuming the dividing terraces and creating an expanded ground level communal open space of around 20 metres between the townhouses and the combined towers. It should be stepped down to the rear by one or two levels. Towers 1 & 3 should be reduced by one level, with the topmost levels designed to be recessive from west and east respectively.

213 The level 3 communal terrace should be removed. This communal open space would be less necessary if the ground floor open space is increased.

214 Access should be provided to the rear lane off Coleman Street from both the abutting townhouses and the ground level open space. The extent and design of screening should be reviewed. Consideration should be given to lower screens with outward horizontal or angled projections. The level 1 balcony screens of townhouses facing the rear of the main site should be set back no less than three metres.

215 There should be a thorough revision of the landscape proposal.

Rear site

216 Our criticism of the townhouses centres on our finding that the dimensions of each of the living areas is inadequate. While accepting the proposed design basis, amended plans should provide for increased living areas by reducing the number of townhouses to three.

NET COMMUNITY BENEFIT

217 If we find that permissions under each of the relevant provisions of the scheme should be given, the scheme requires us to not grant a permit unless we find that the development, subject to any conditions in a permit, would be an acceptable planning outcome after integrating relevant policies and balancing conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.[54]

218 Subject to preparation of acceptable amended plans and inclusion of appropriate permit conditions, we may decide to grant a permit subject to conditions.

CONDITIONS

219 We have considered the submissions made by the parties on the draft permit conditions for both sites tendered by the Council, as required by the Tribunal's practice notes. It is unnecessary to determine conditions in these reasons because we do not intend to grant a permit in this order. If the applicant chooses to prepare amended plans, we may subsequently reach a point where we would determine them as part of a decision to grant a permit.

[54] *Yarra Planning Scheme* cl 10.04.

CONCLUSION

220 For the above reasons, we will give the applicant leave to prepare amended plans for our further consideration that respond to the issues referred to in these reasons.

221 If the applicant chooses to prepare amended plans, we will require the applicant to notify the Tribunal of that choice and of a date when the amended plans will be prepared. We will then consider issuing further orders about filing and service of the amended plans, about the making of further written submissions, and about whether any further hearing is required.

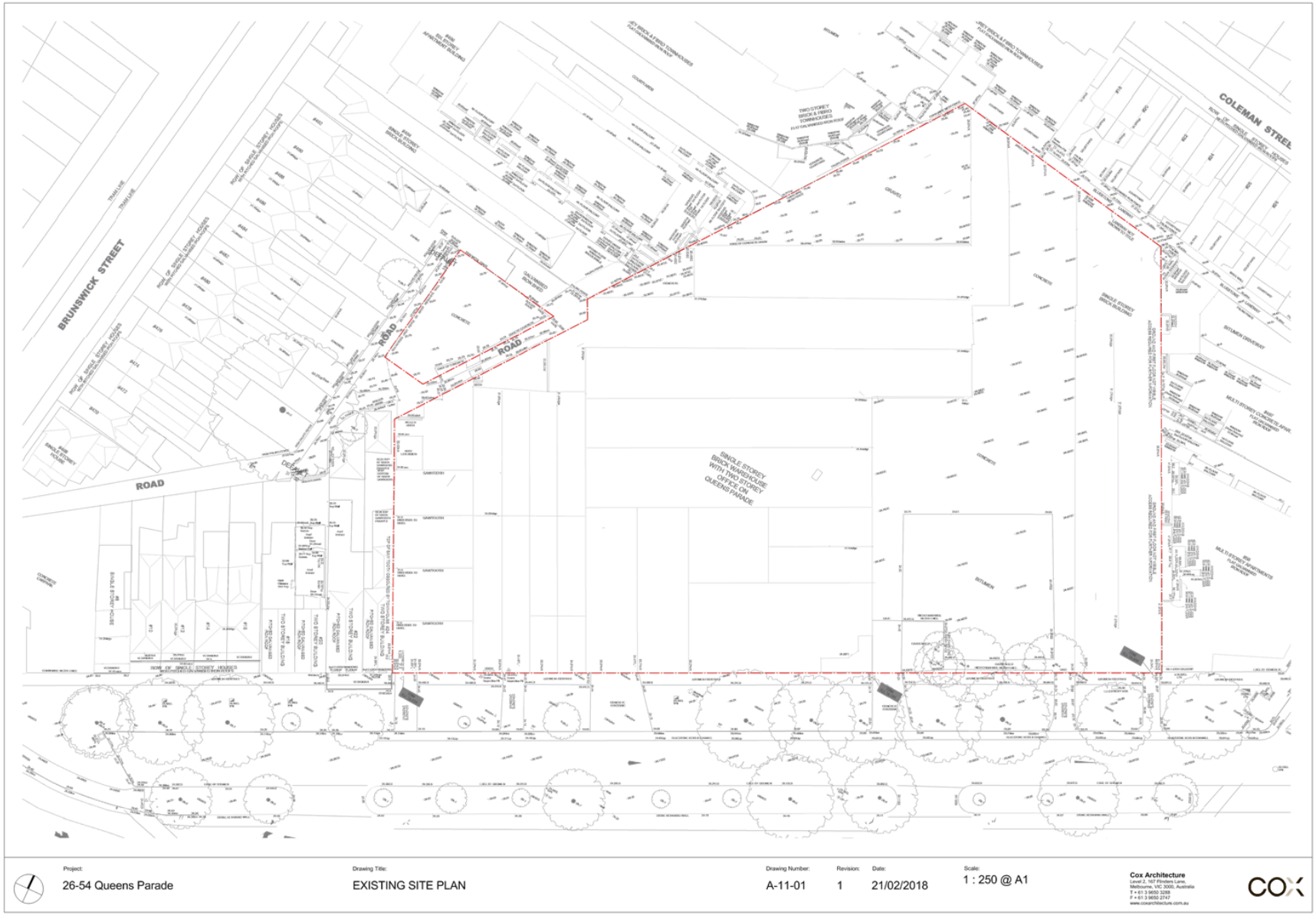
Geoffrey Code
Senior Member

Ann Keddie
Member

APPENDIX A

David Moore
Diana Carroll & Linda Woo
Melissa Scheele
Suzana Bolton
Bridget Smith
Julie Contole
John Hayhoe
Marlene Hayhoe
Colin Riess
Kelvin Adams
Kylie Tennyson
Lucille Wirtz Bourdel
Marianne Van Leeuwen
Nicholas Hutchins & Violeta Politoff
Giles Robert Ingram
Anne Coveny
Michael Murphy
Beverley Thomas
Michael Rumpff
Artemisia Kousis
Sarrah Coffey
Glen A McCallum
Yvonne Beard
Leigh Lester
William Robb
Simon Peter Evans
Bruce Field
Paul Maguire & Jane Rowlands
Sallee McLaren
Michael Bonadio
Adam Skidmore
Sara Phillips
Lauren Burgess
Grace Adams
Philip Gardner & Louise Clayton
Stephen Bowditch
Gabrielle Pound & Joe Palmieri
Scott Walkenhorst
Victoria Duckett
Julian Nash
Jennifer Clark
Christopher McAlpine
Susan Shedda
Suzi Riess
Susan Marino
Raymond Liggett
Melissa Marino
Greg Taylor
Ric Begg
Linda Young
Sharron M Bourke
Shane Simpson
John O'Meara
Colin Hopkins
Alison King
Bruna Evans
Mark Landy
Dean Courtenay
Anne Horrigan-Dixon
Hanna Schotten
Adam Malcolm Stead
Charles W Young
Lucia Macali
Robyn Smith
Lisa Magnusson
Bianca Levis
Kristian Scott
Sallee McLaren
Margaret Cross
David Bryant
Margaret Temelkovski
Alison Hart
Nicholas Lanyon
Rob Sweetten
Raffaele Controneo
Narelle Craig
Molly Hunter
Bernadette McGrath
Simon Pender
Laura Pender
Brian Dixon
Chela Niall
Marcella Wells
The 3068 Group Inc
Catherine Kilpatrick
Meredith, Mark & Callum Stone
Wendy Hayes
Luke Delaney
Graeme Willingham
Rebecca Davey
Barry Coley
Susan Mahar
Elizabeth Sime
Ilona Topolcsanyi
Colin Hopkins
Jill Blackmore
Robert Niall

Attachment 5 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Interim order response plans (main site) - 28 February 2018



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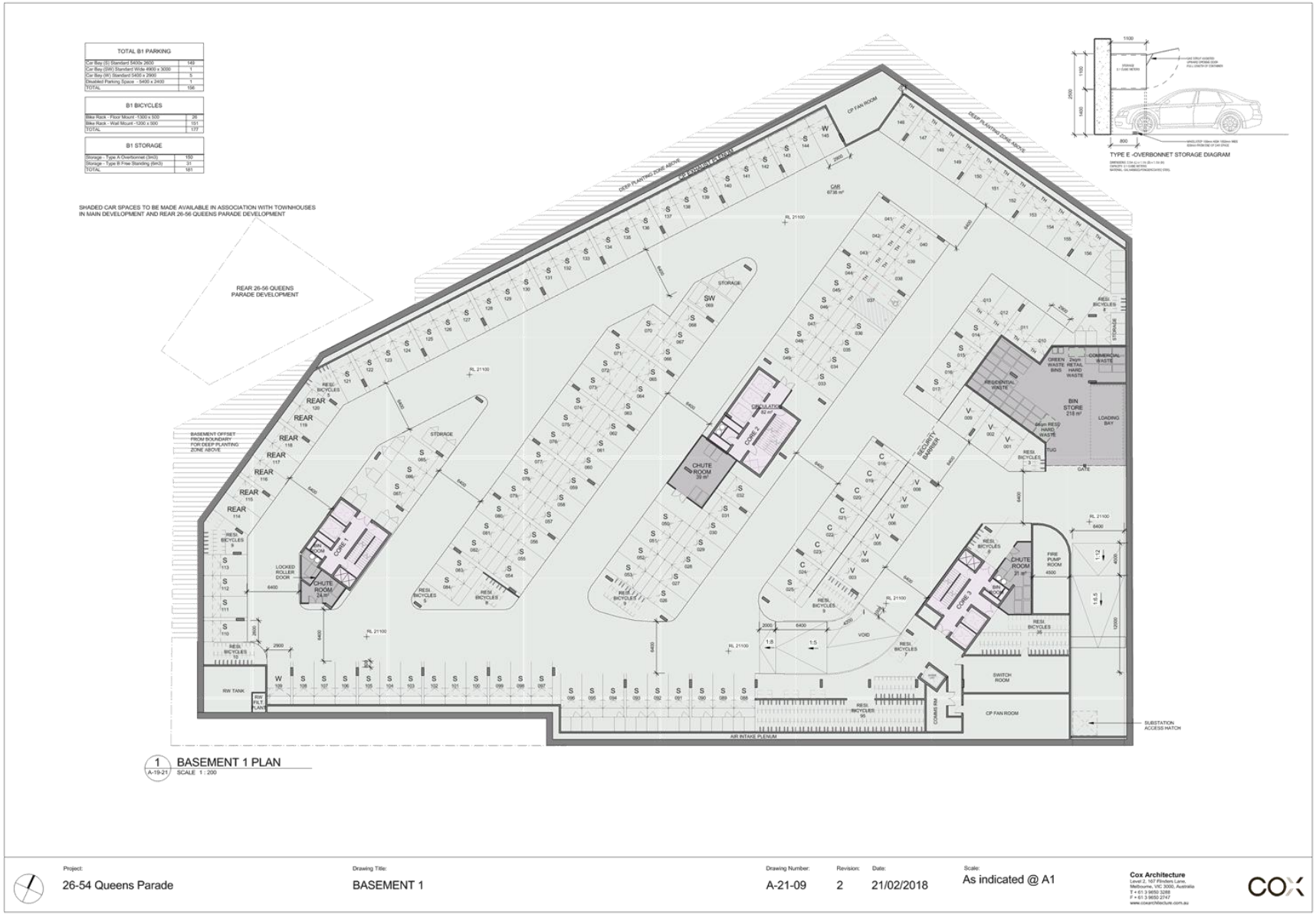

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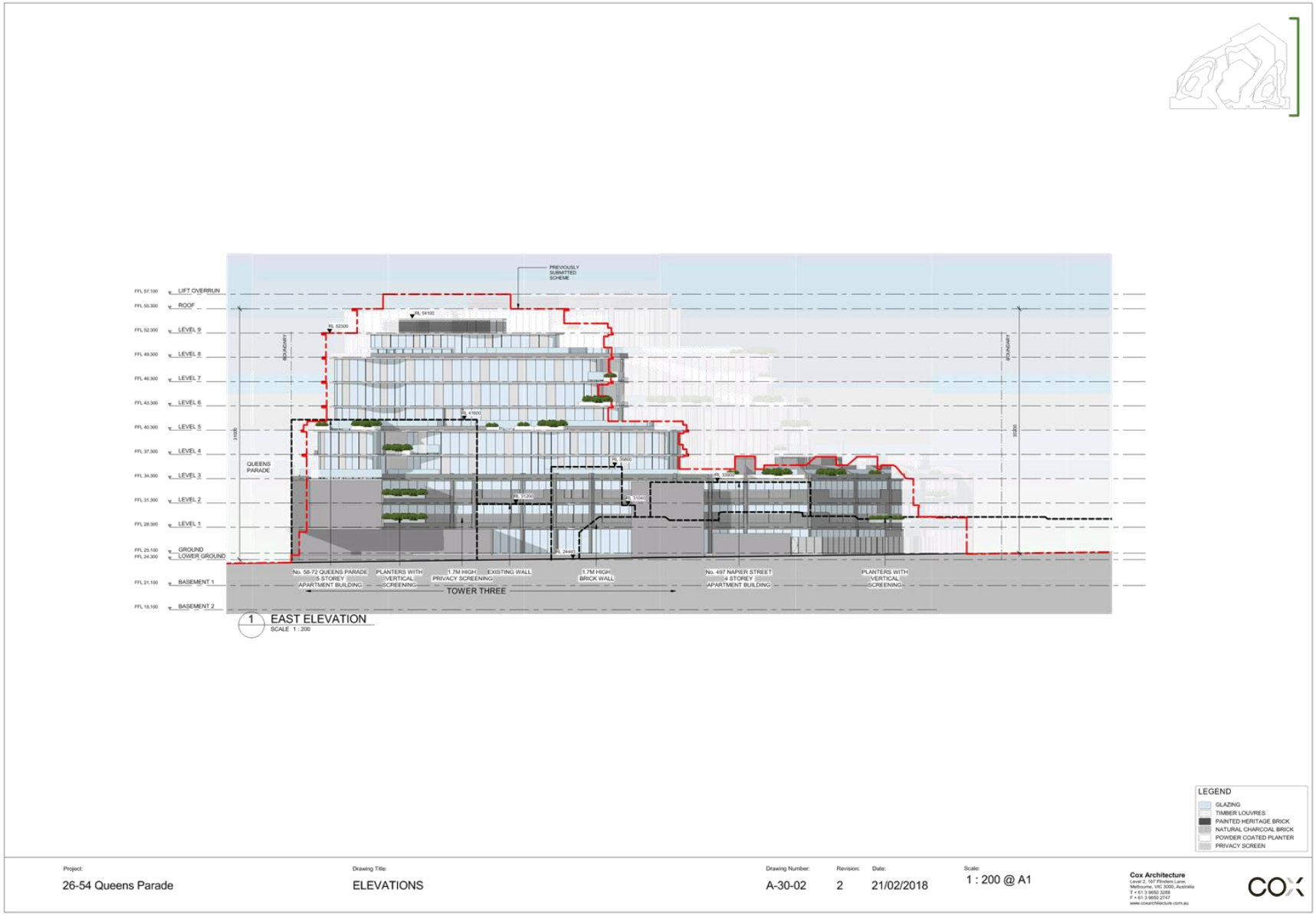

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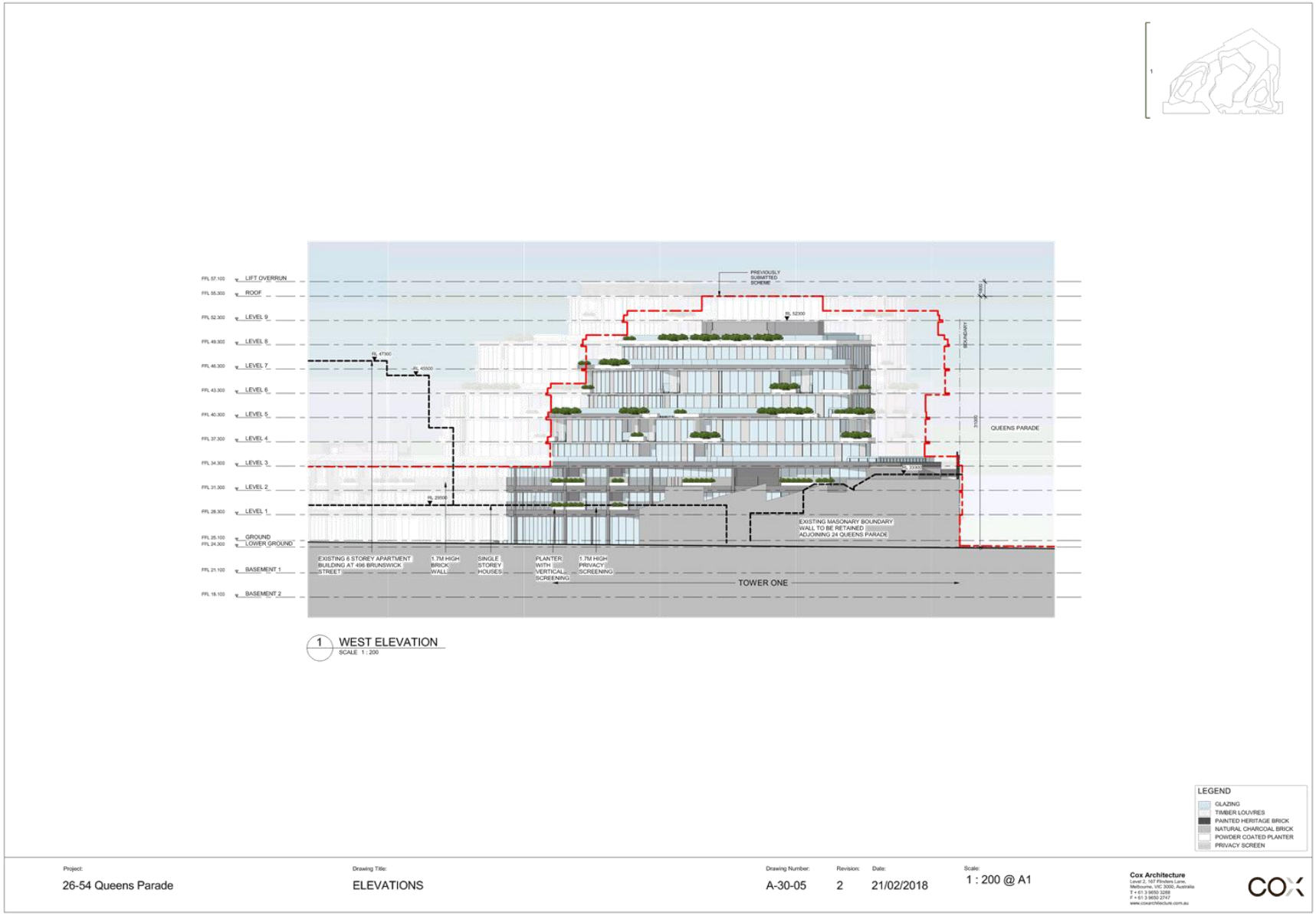

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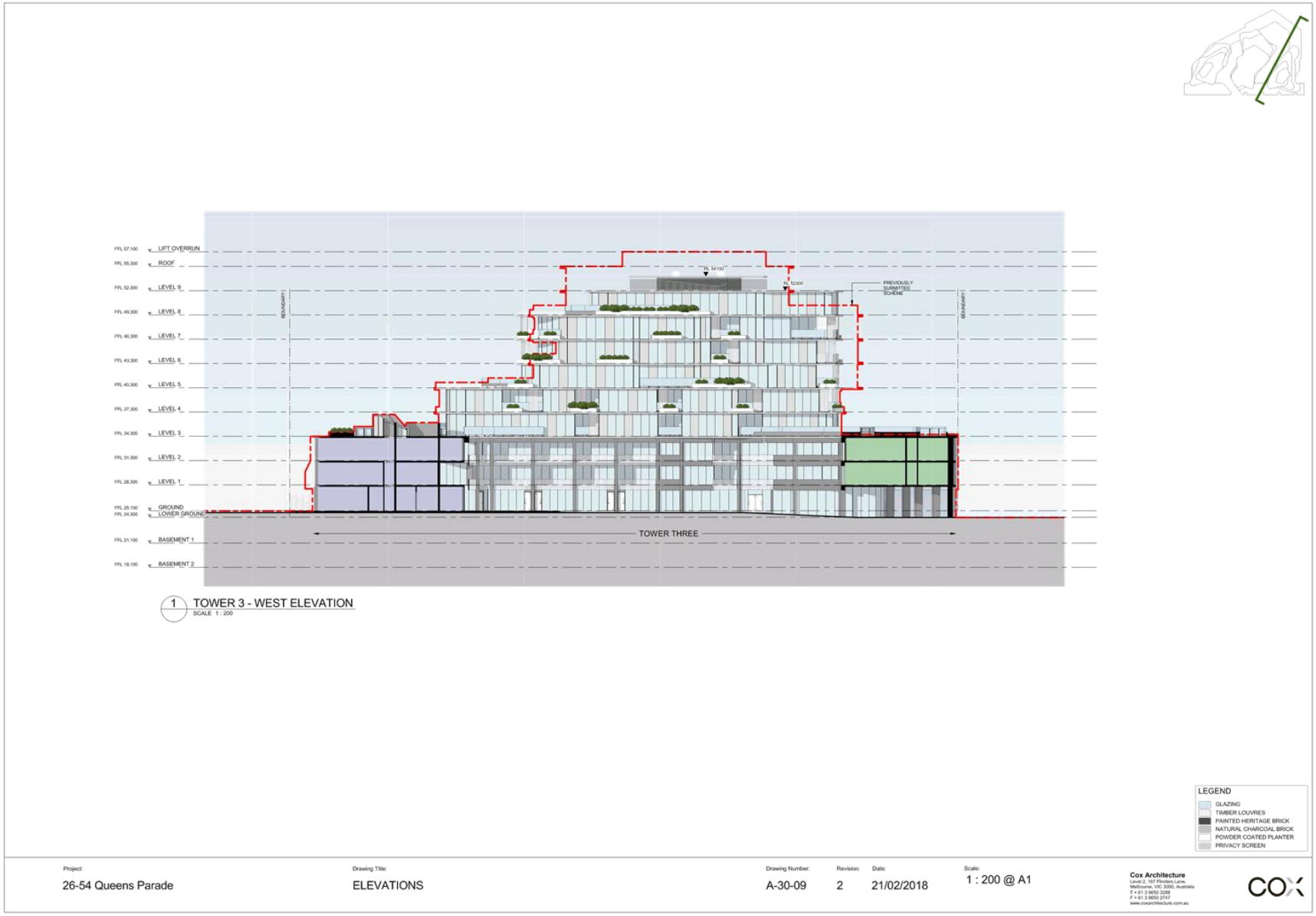

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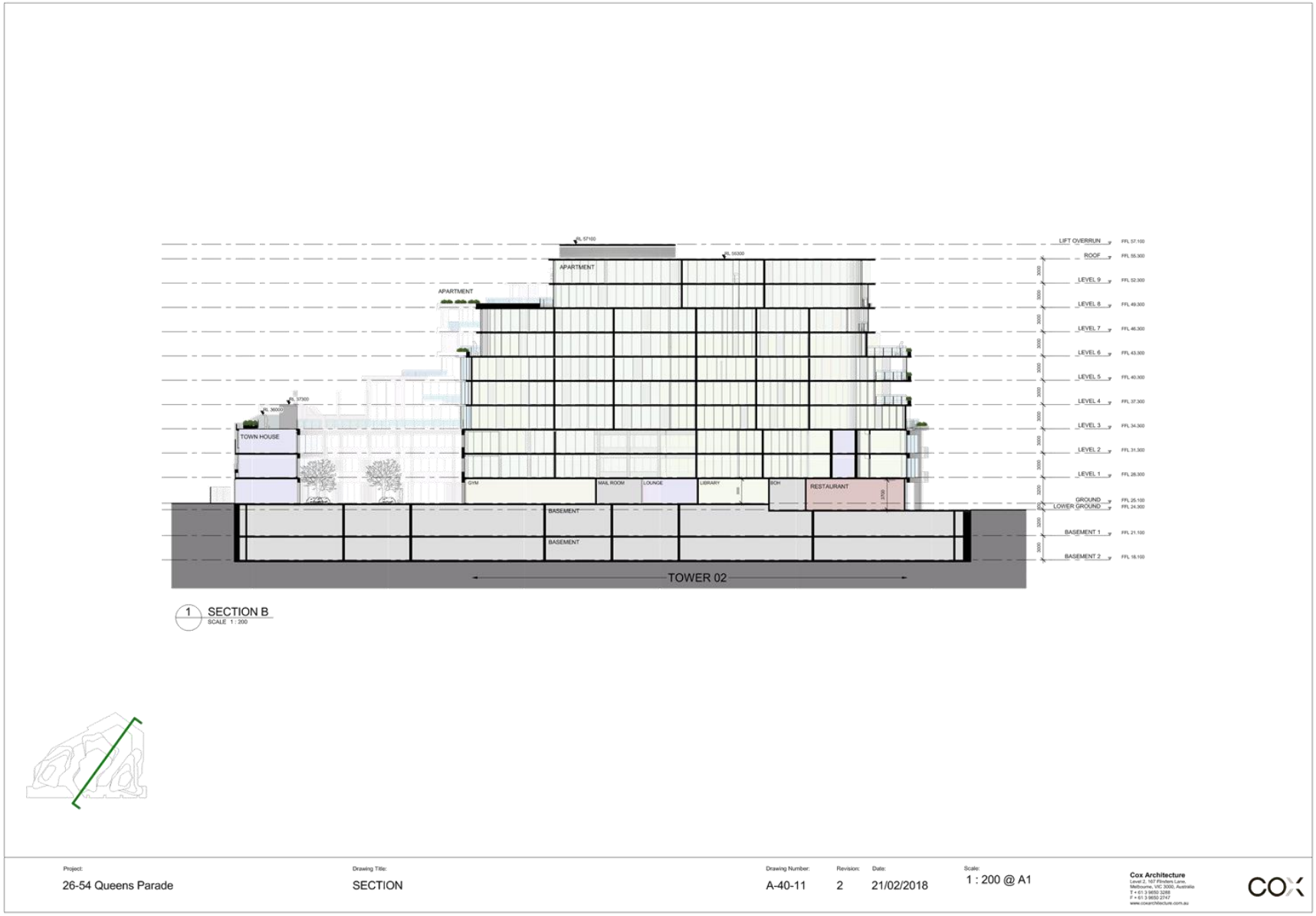

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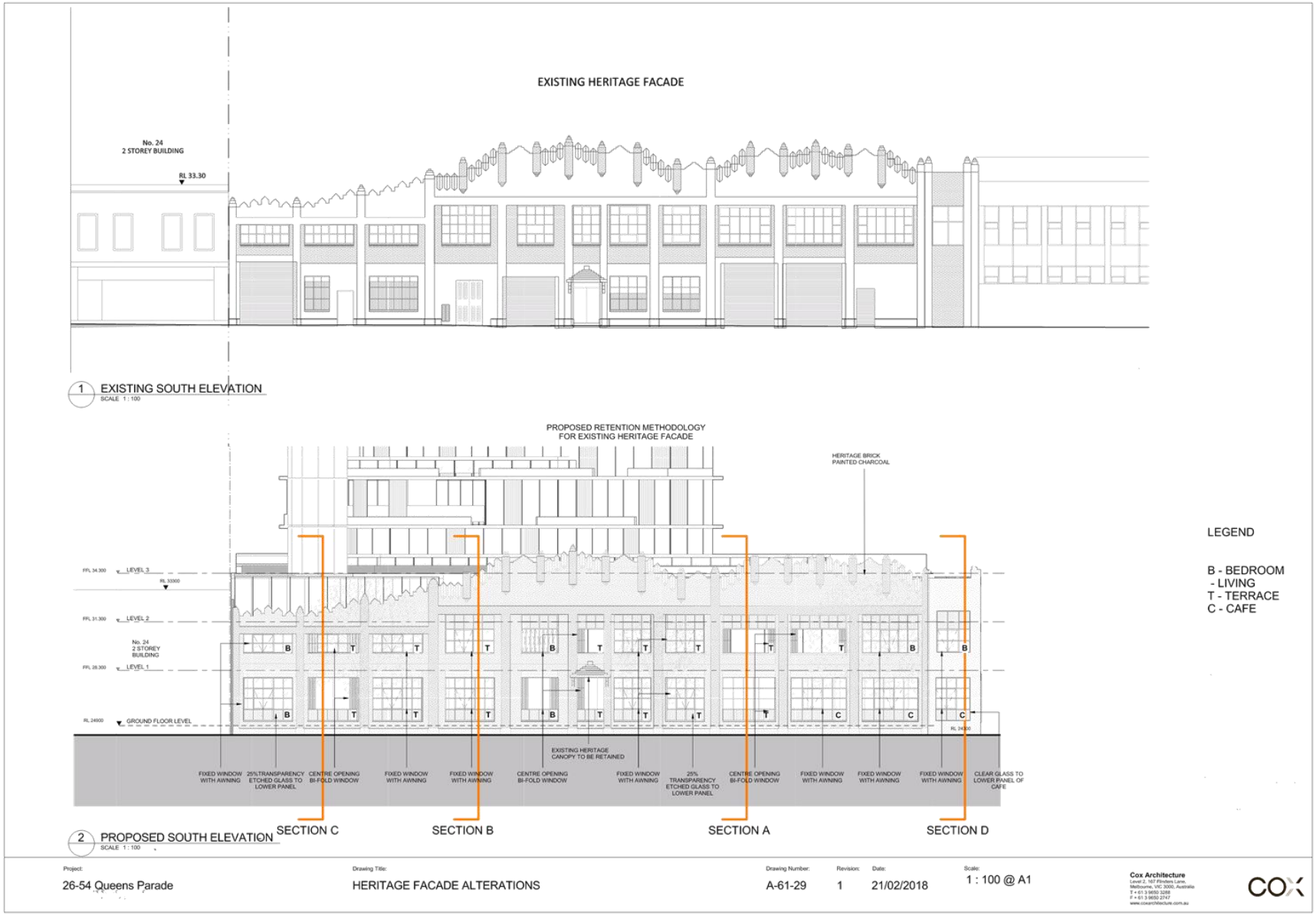

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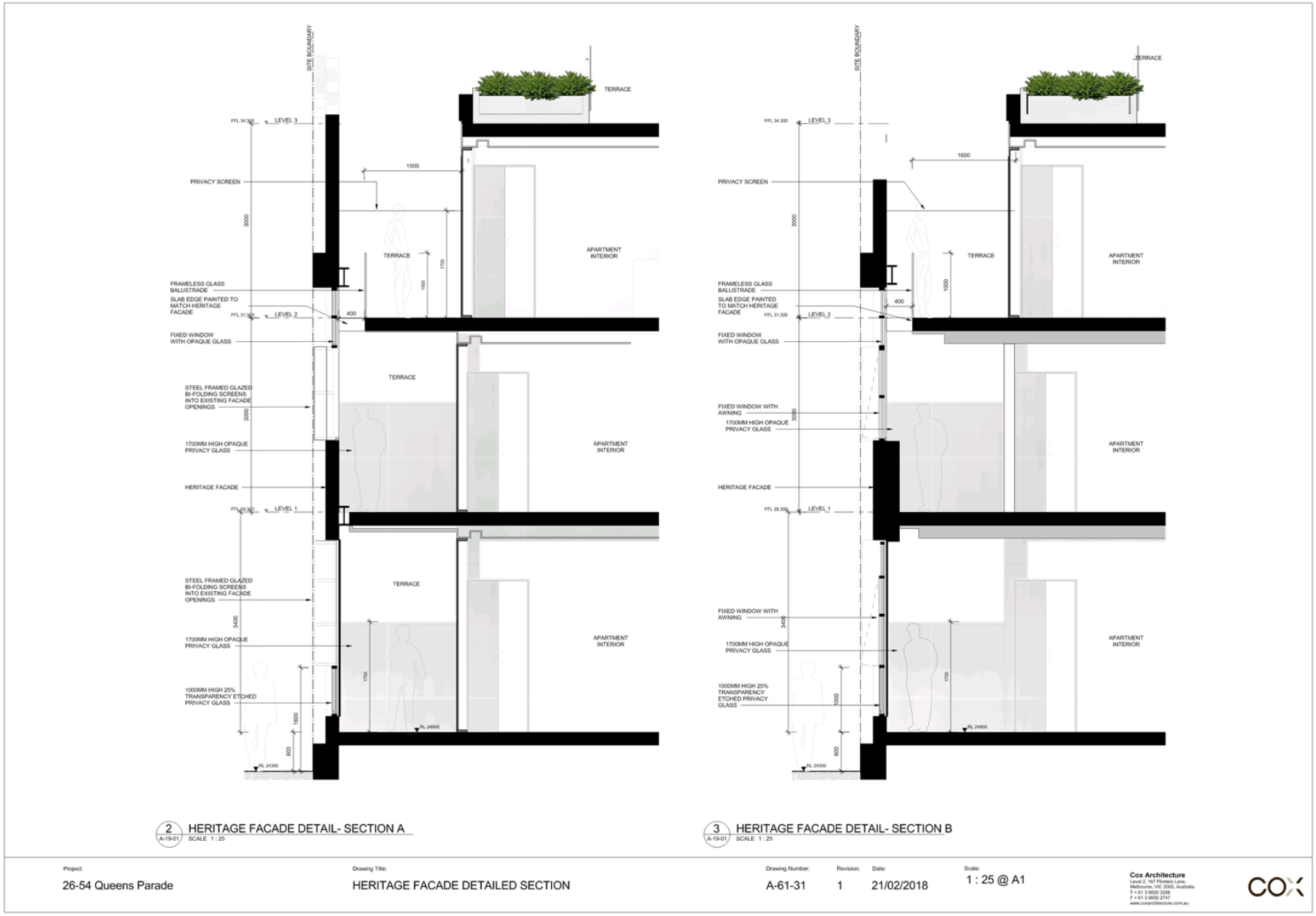

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SCALE 1 : 25

3 A-19-01 HERITAGE FACADE DETAIL- SECTION B
SCALE 1 : 25

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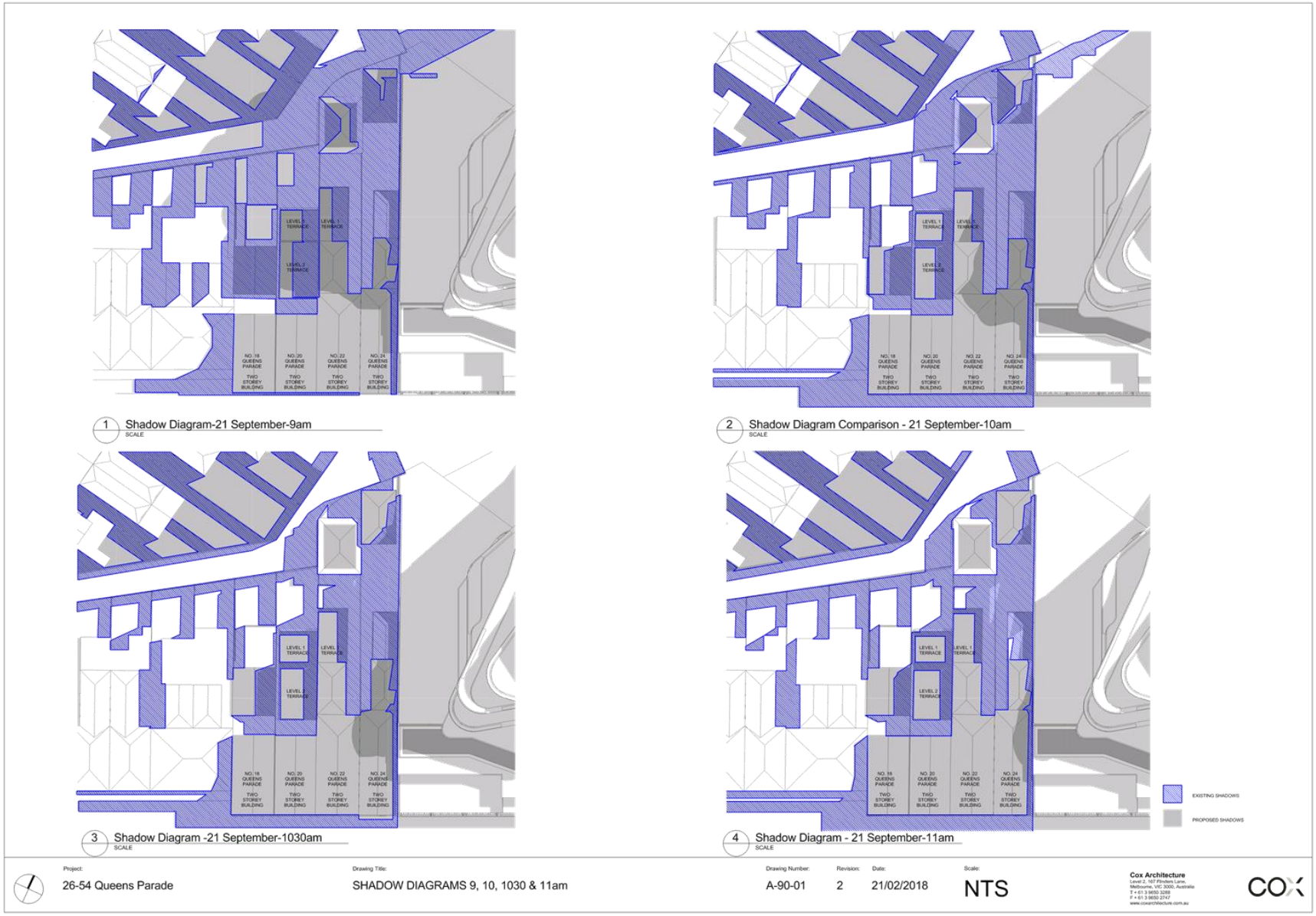

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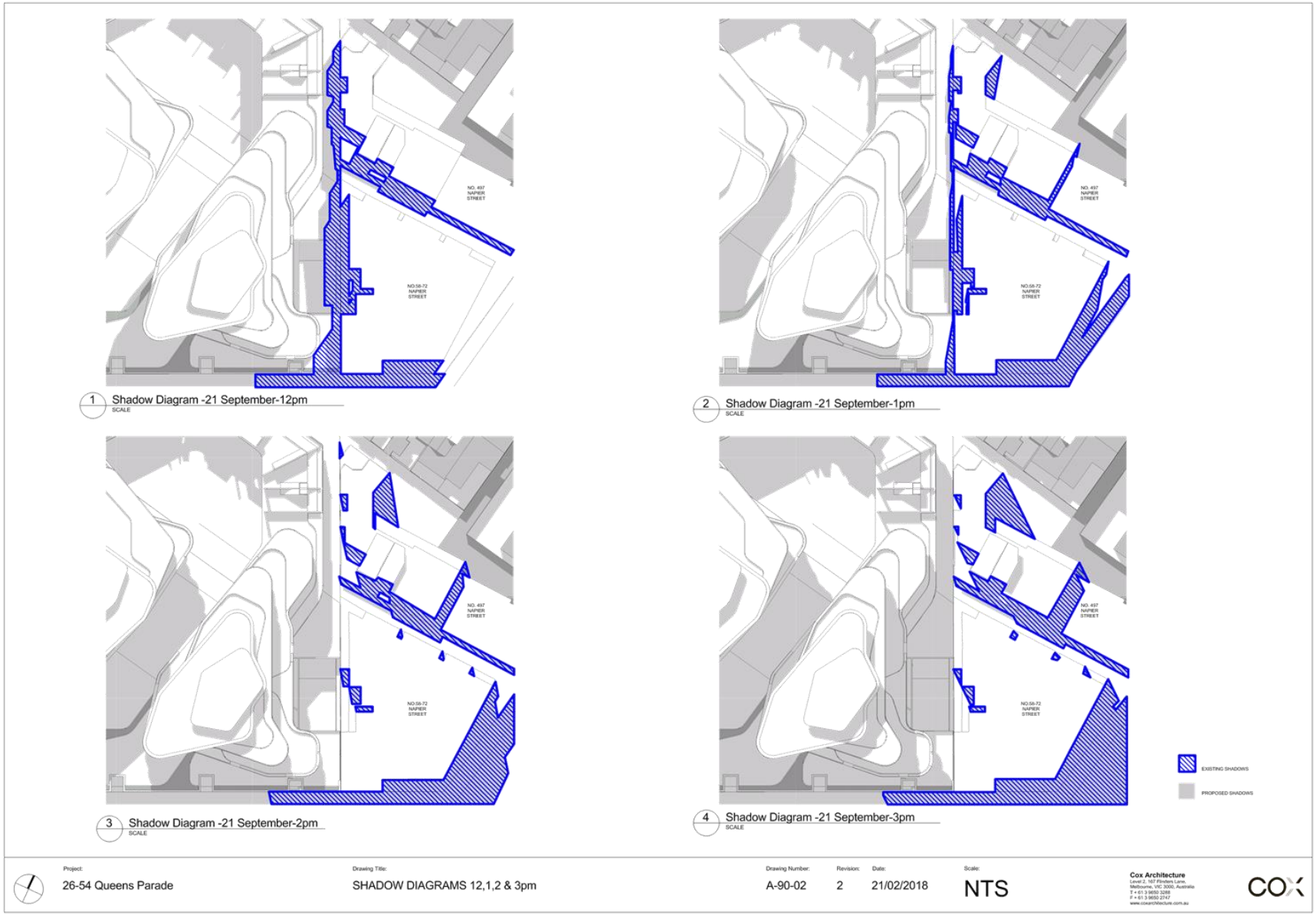

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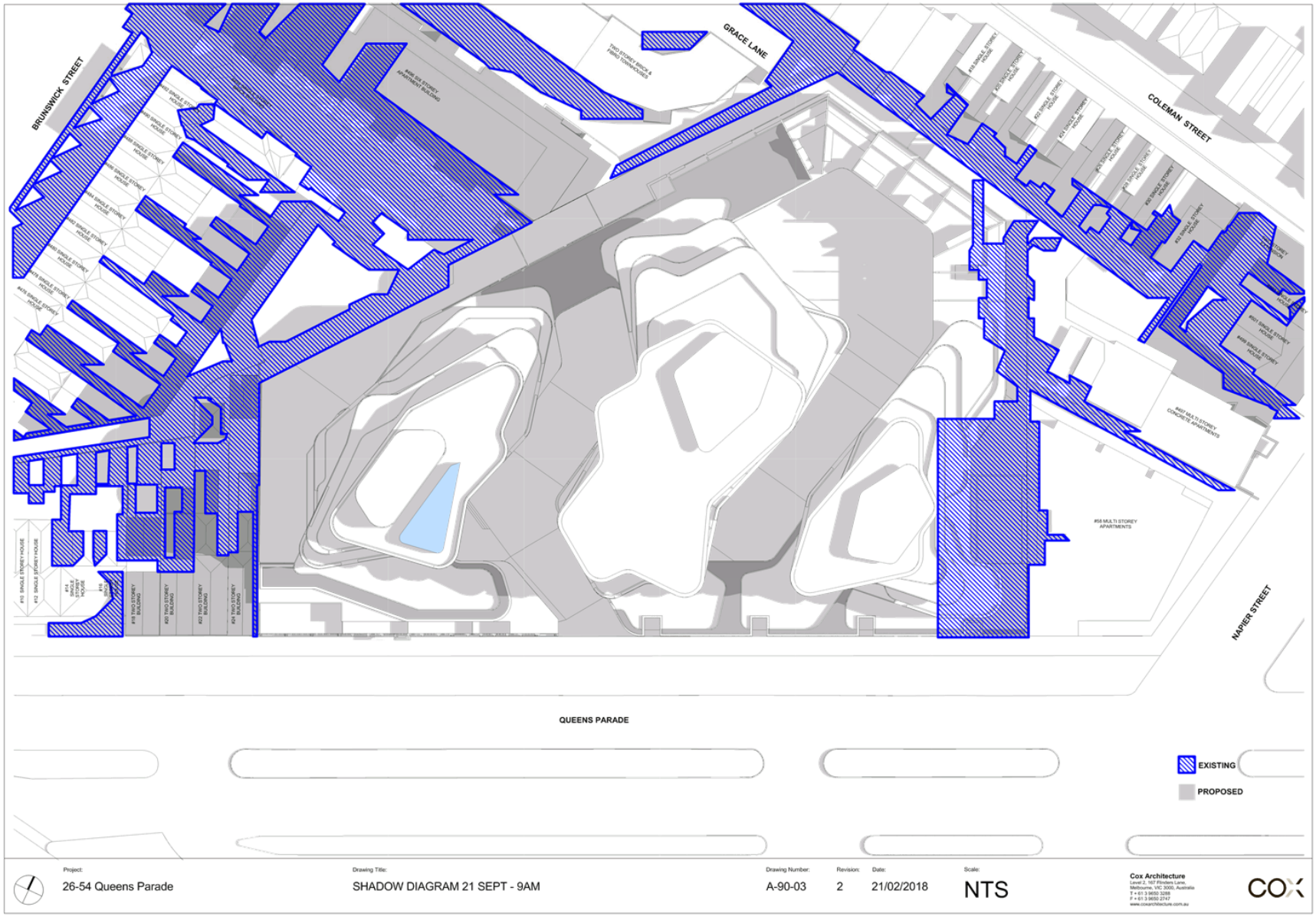

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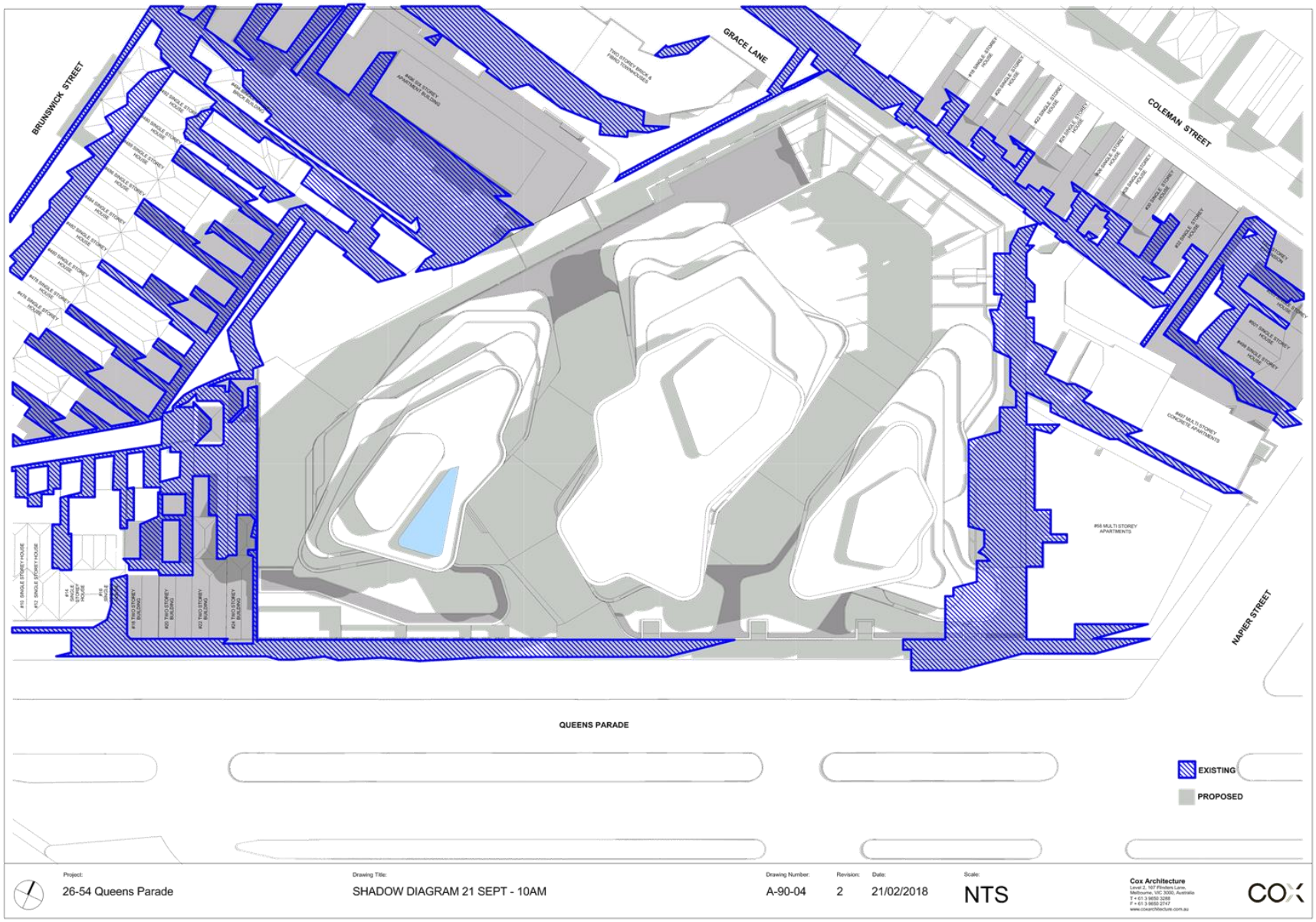

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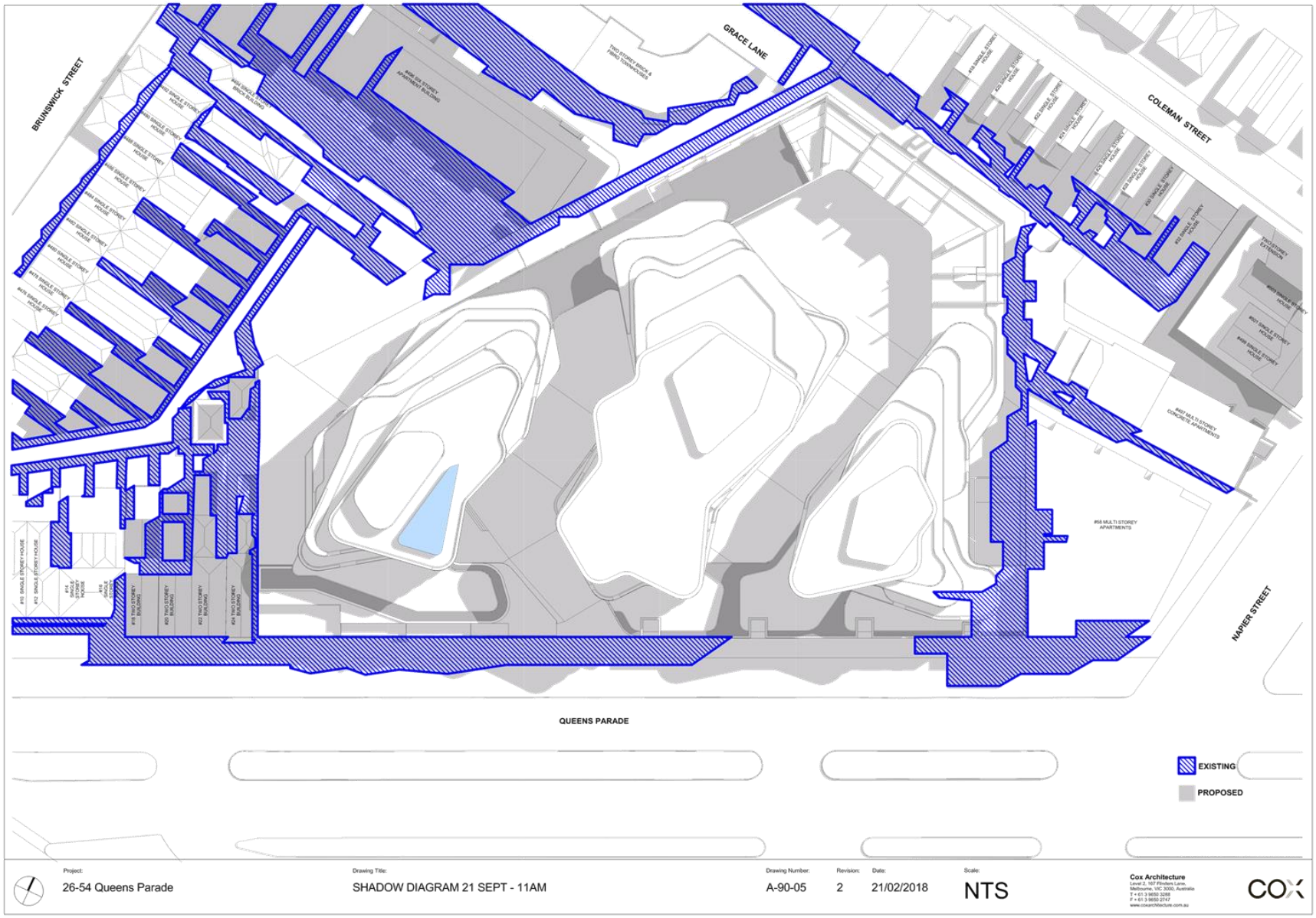

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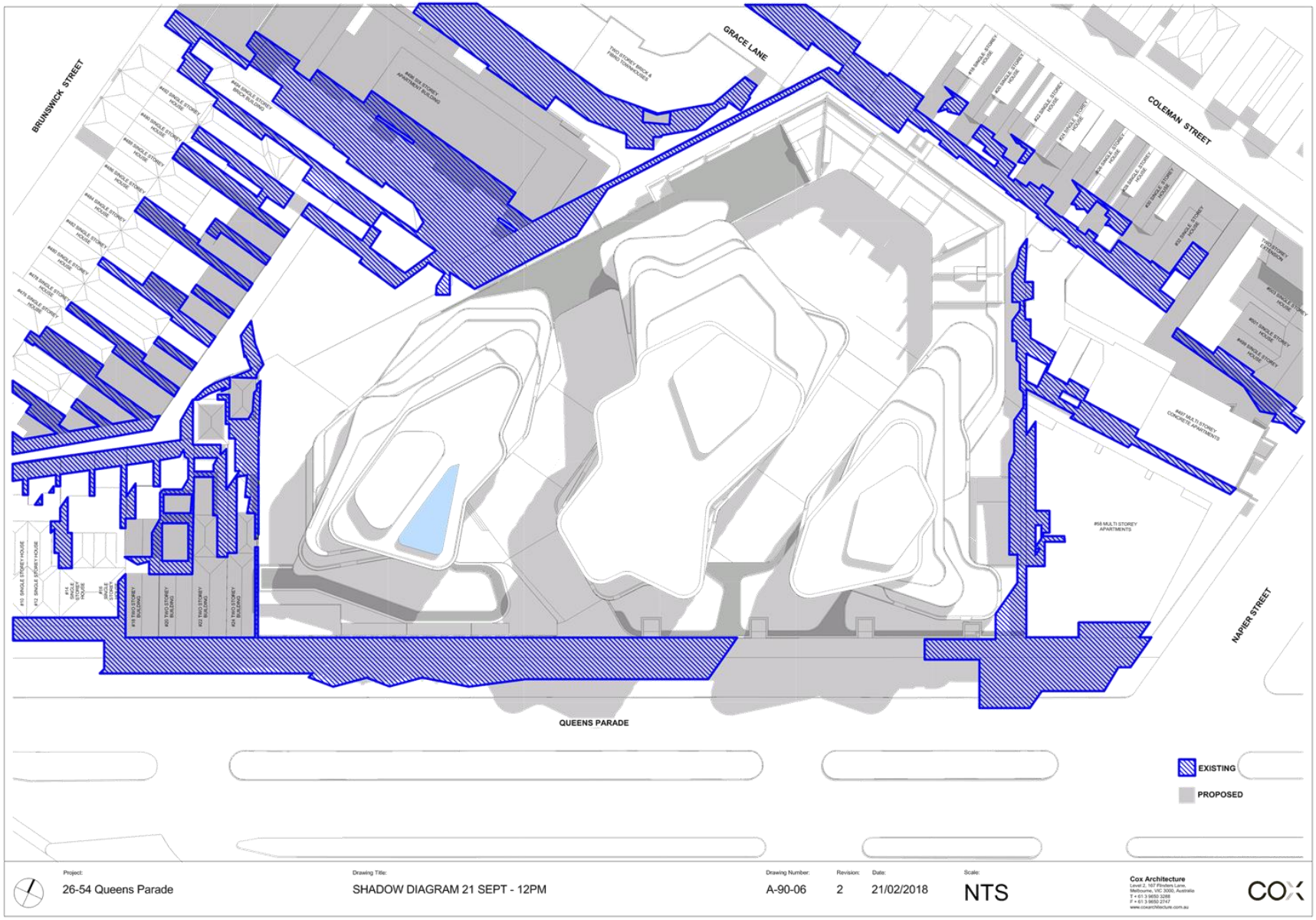

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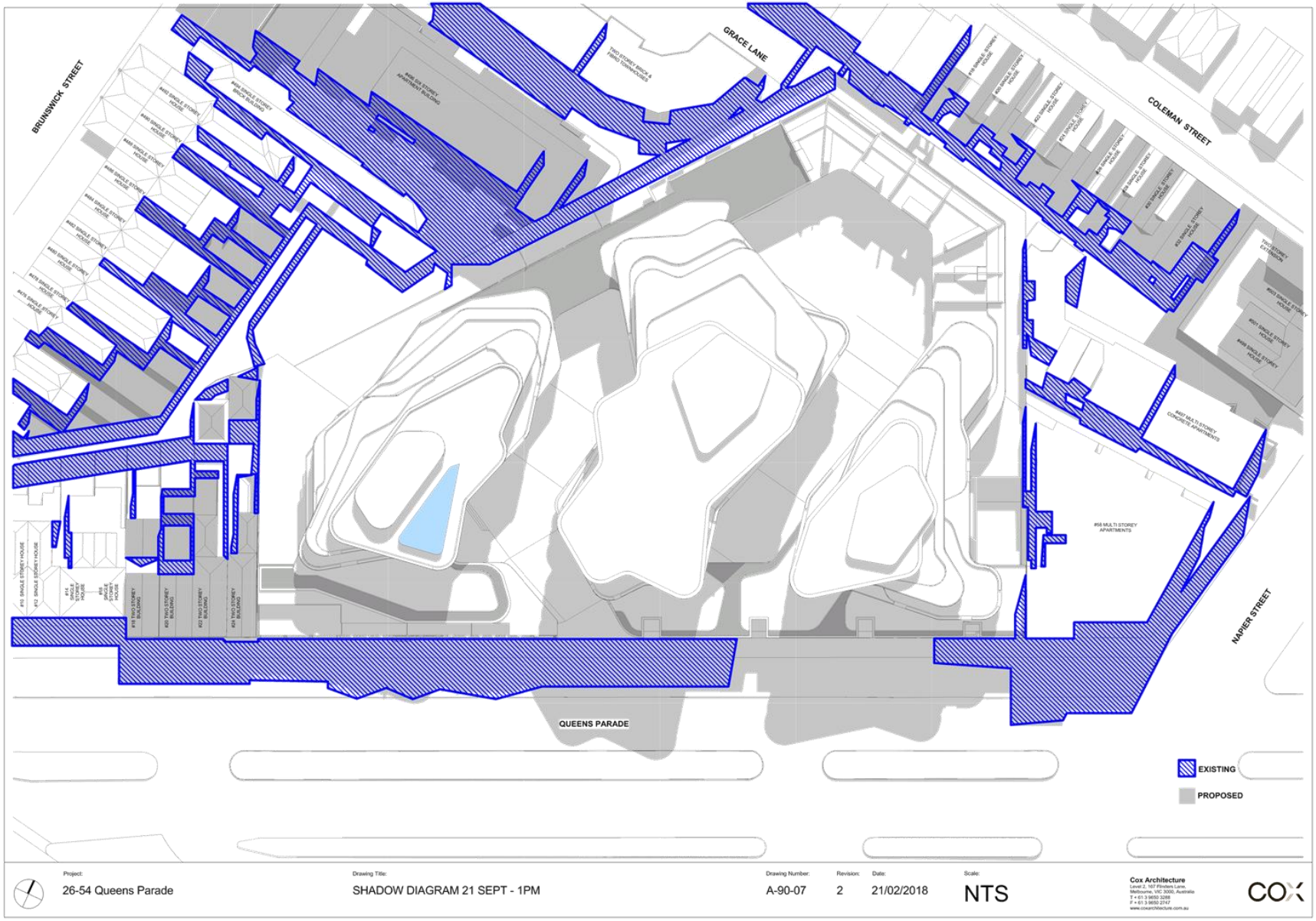

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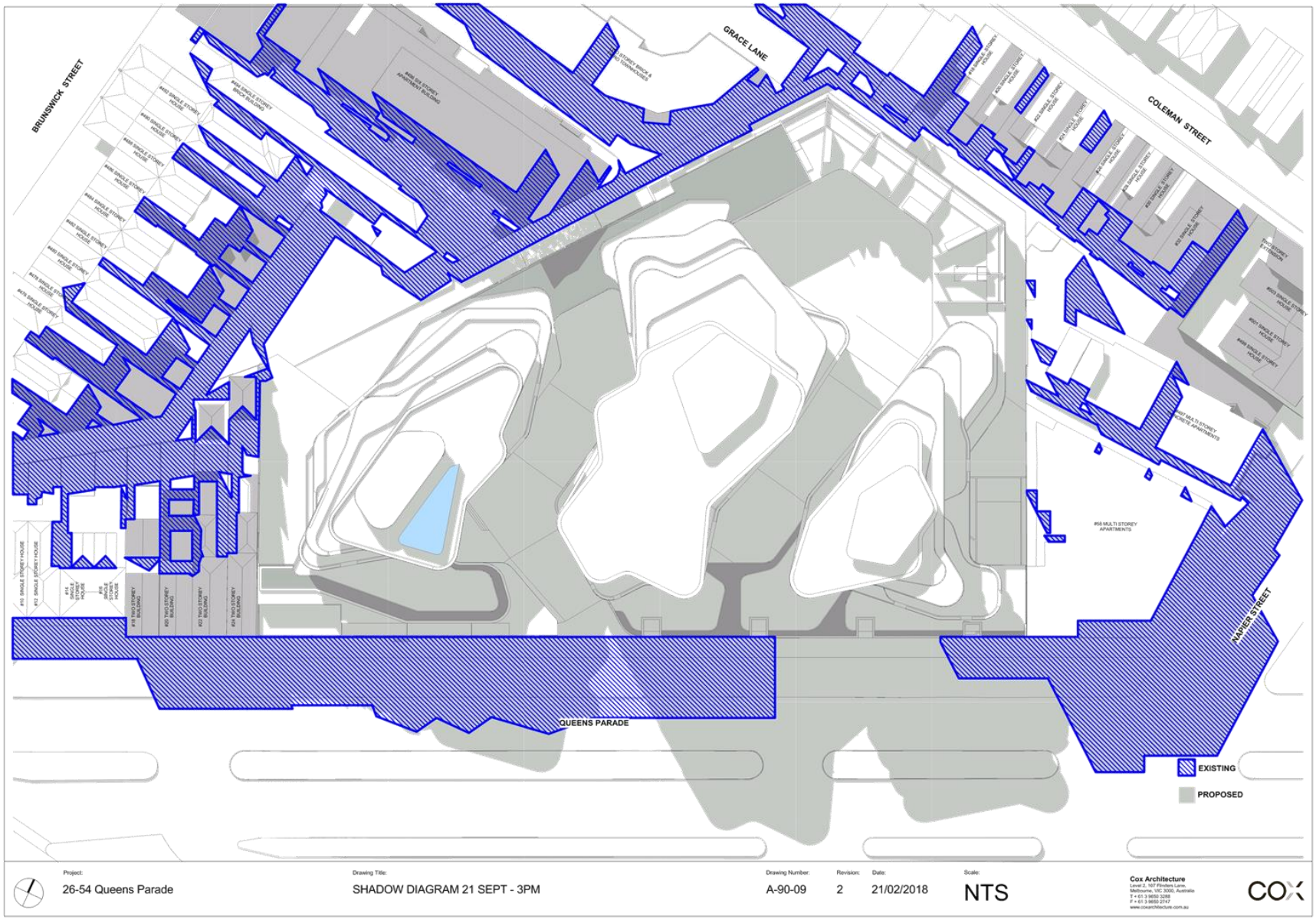

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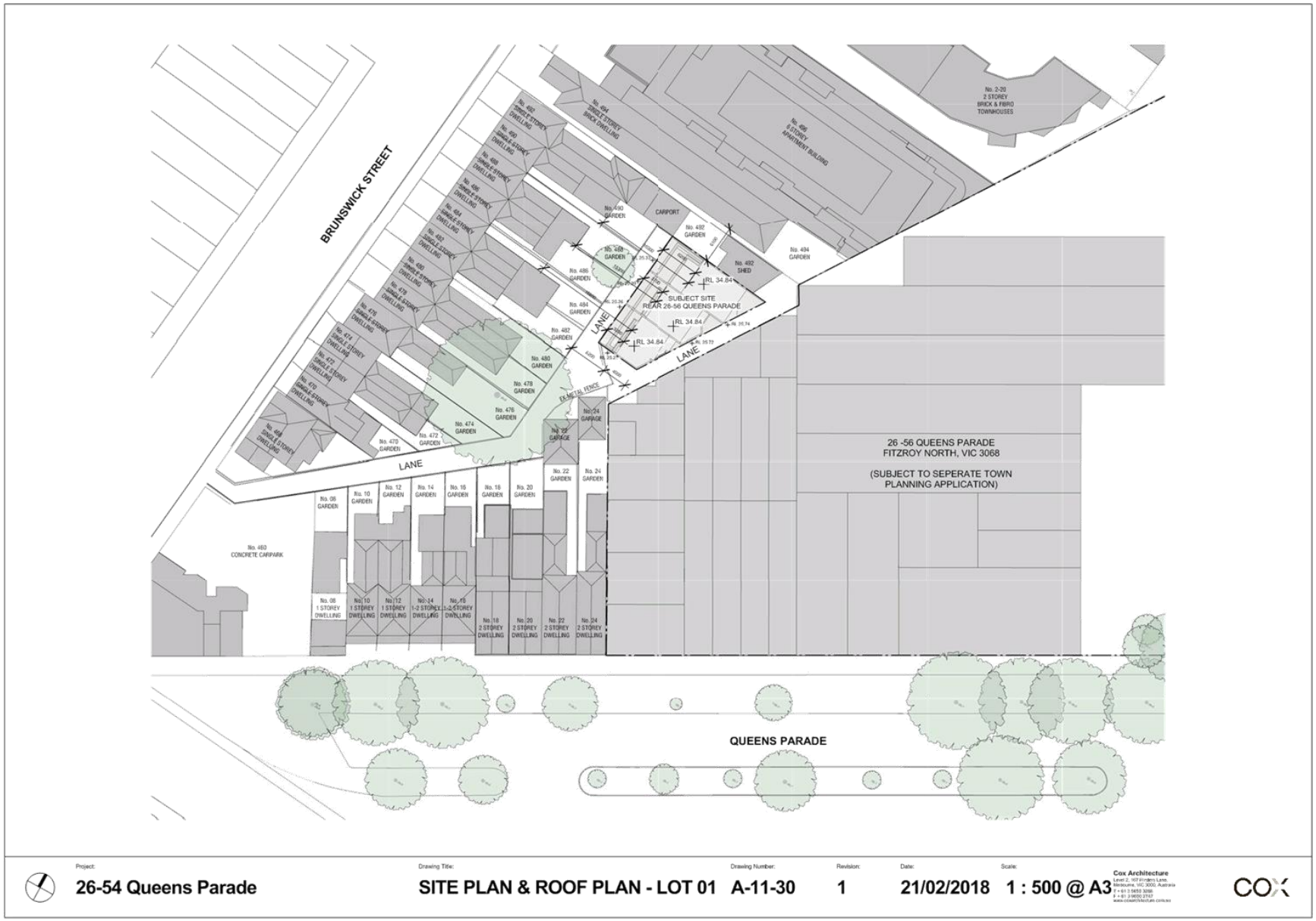

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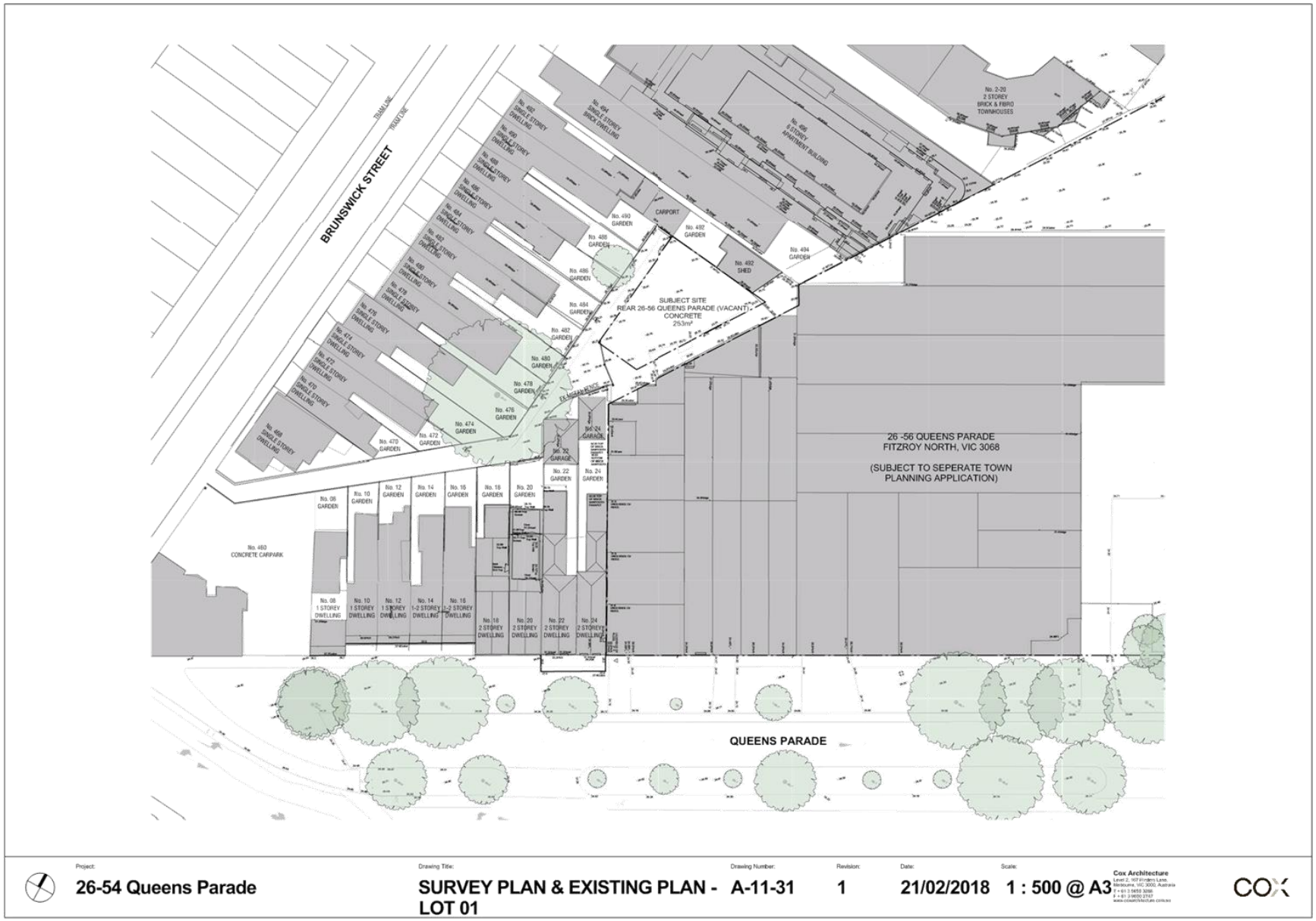

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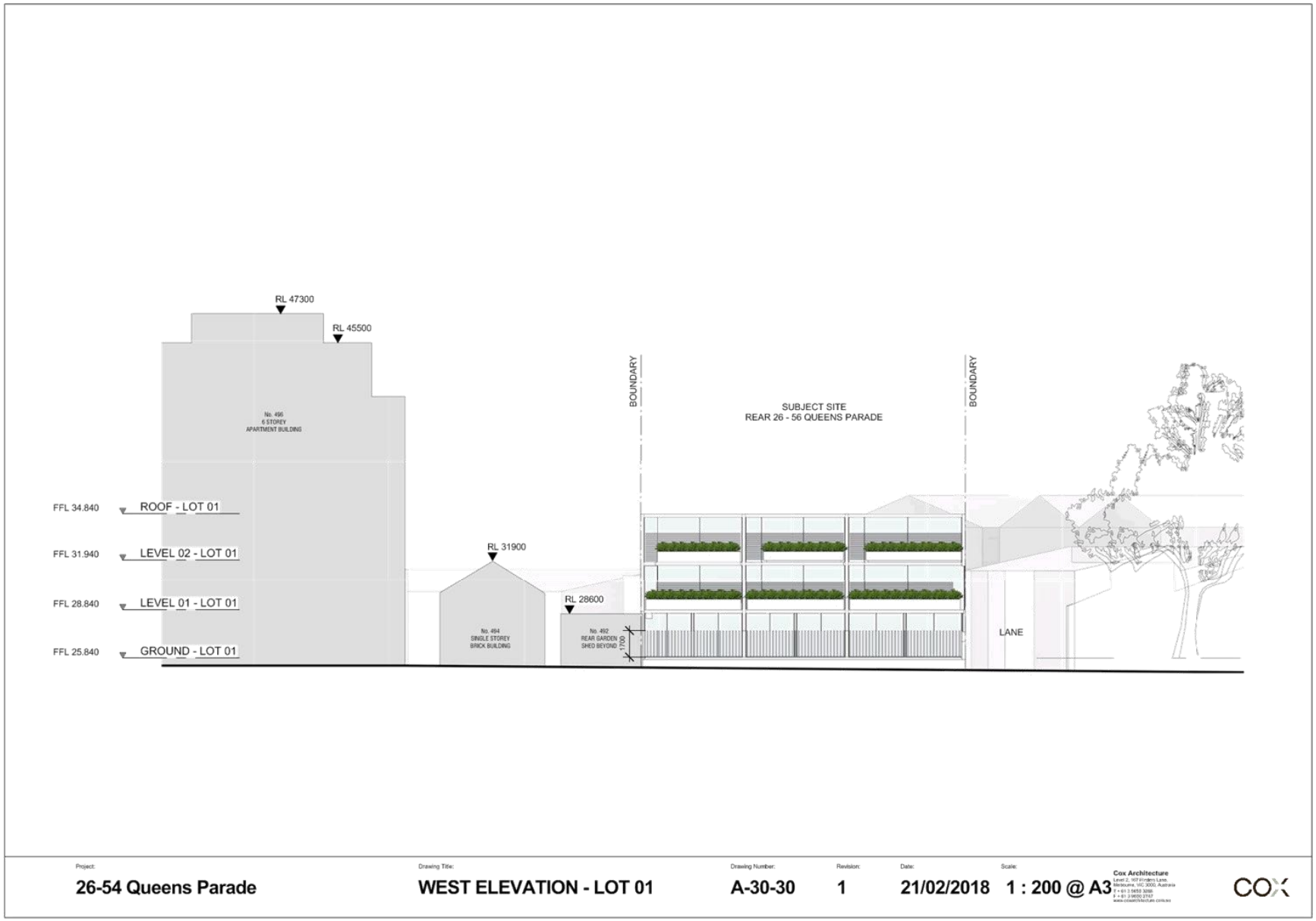

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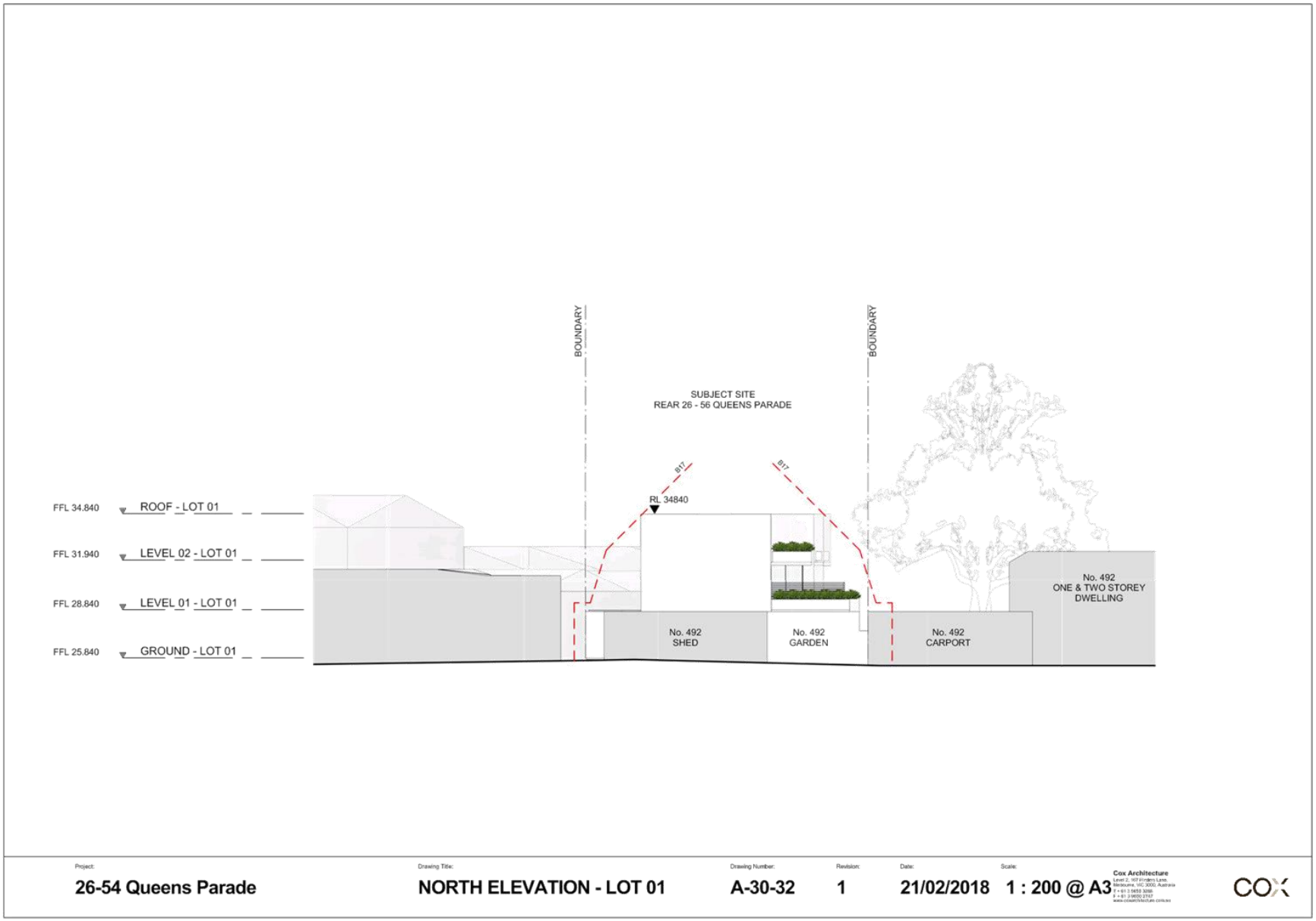

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Project:	Drawing Title:	Drawing Number:	Revision:	Date:	Scale:
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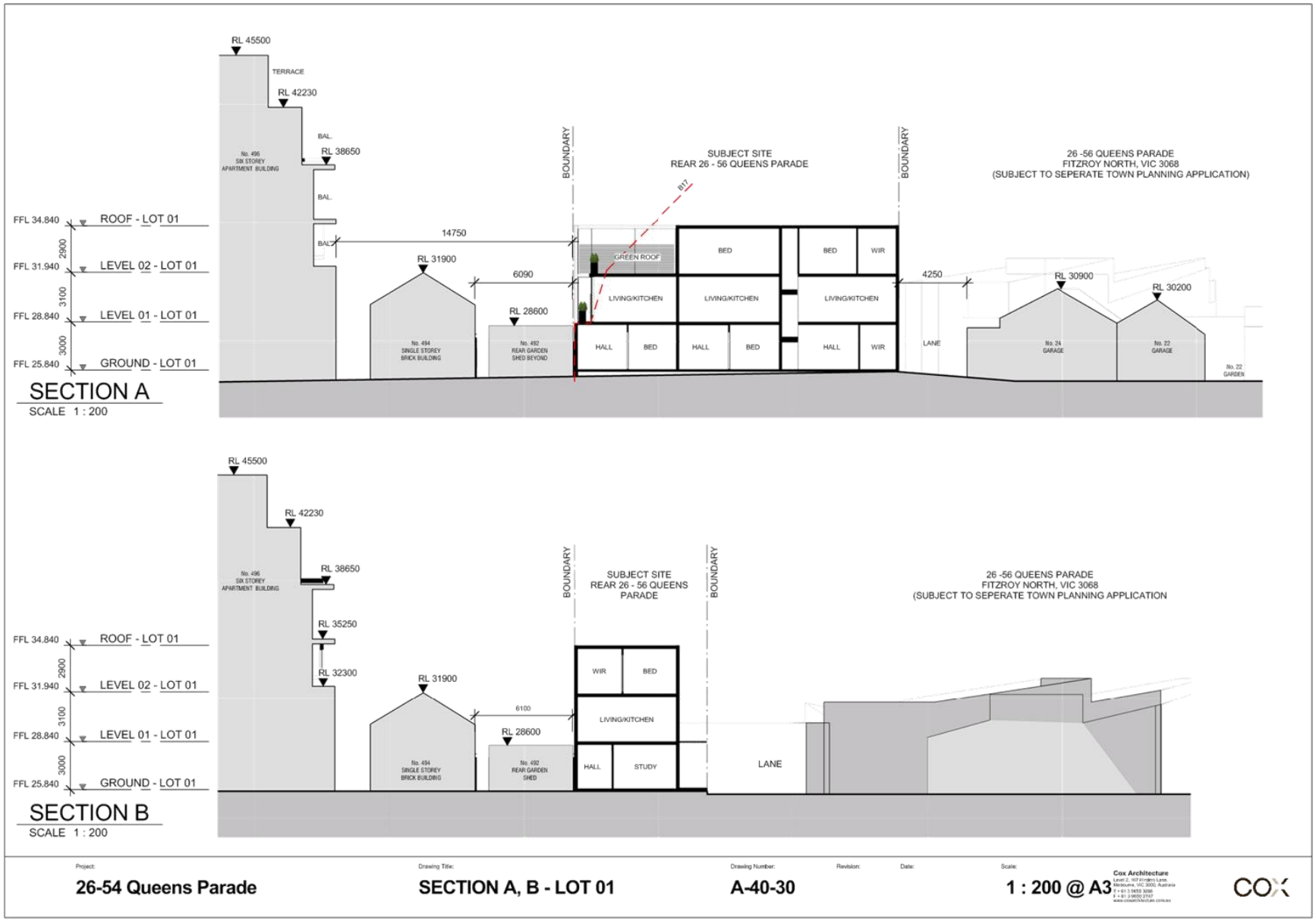

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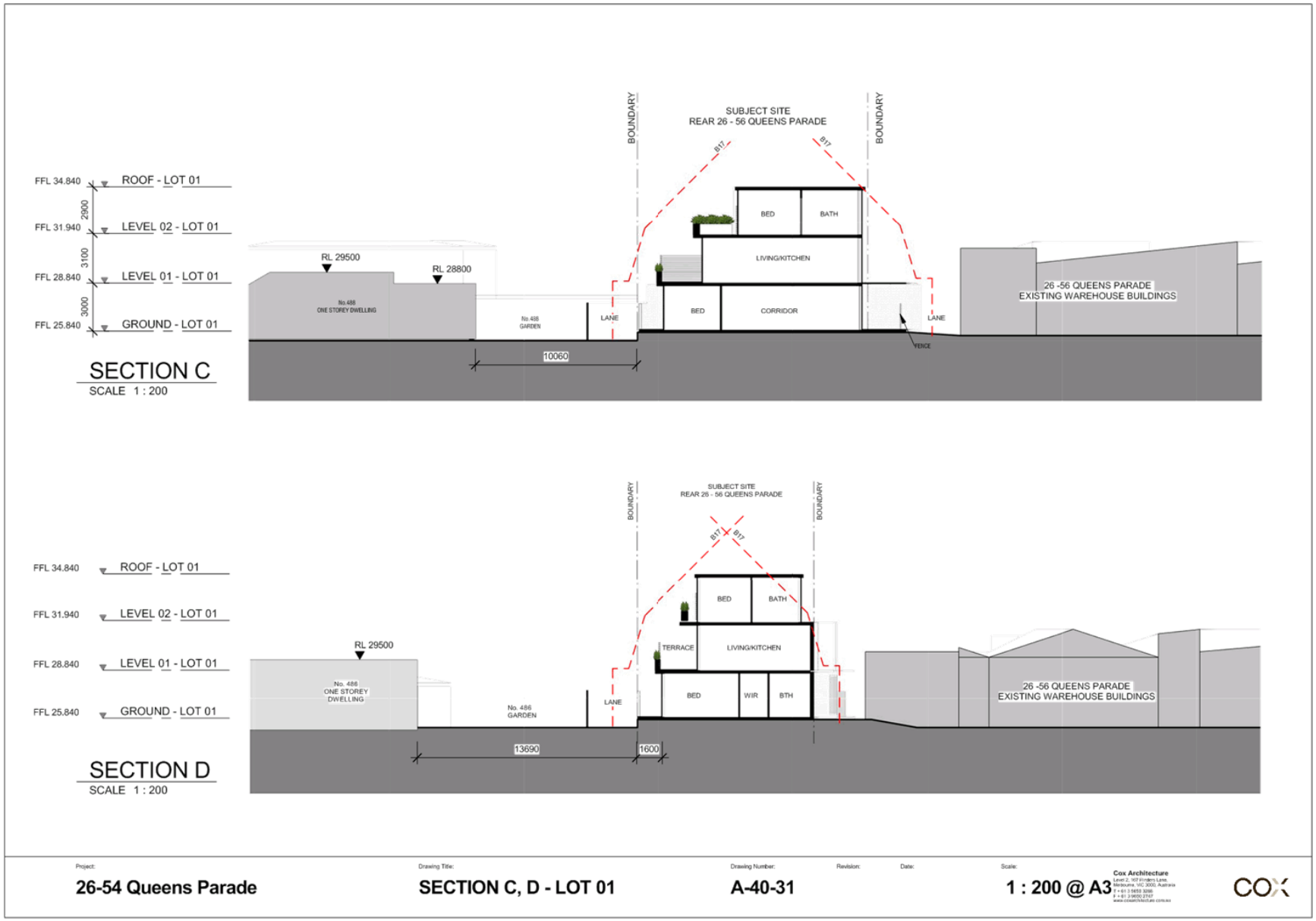

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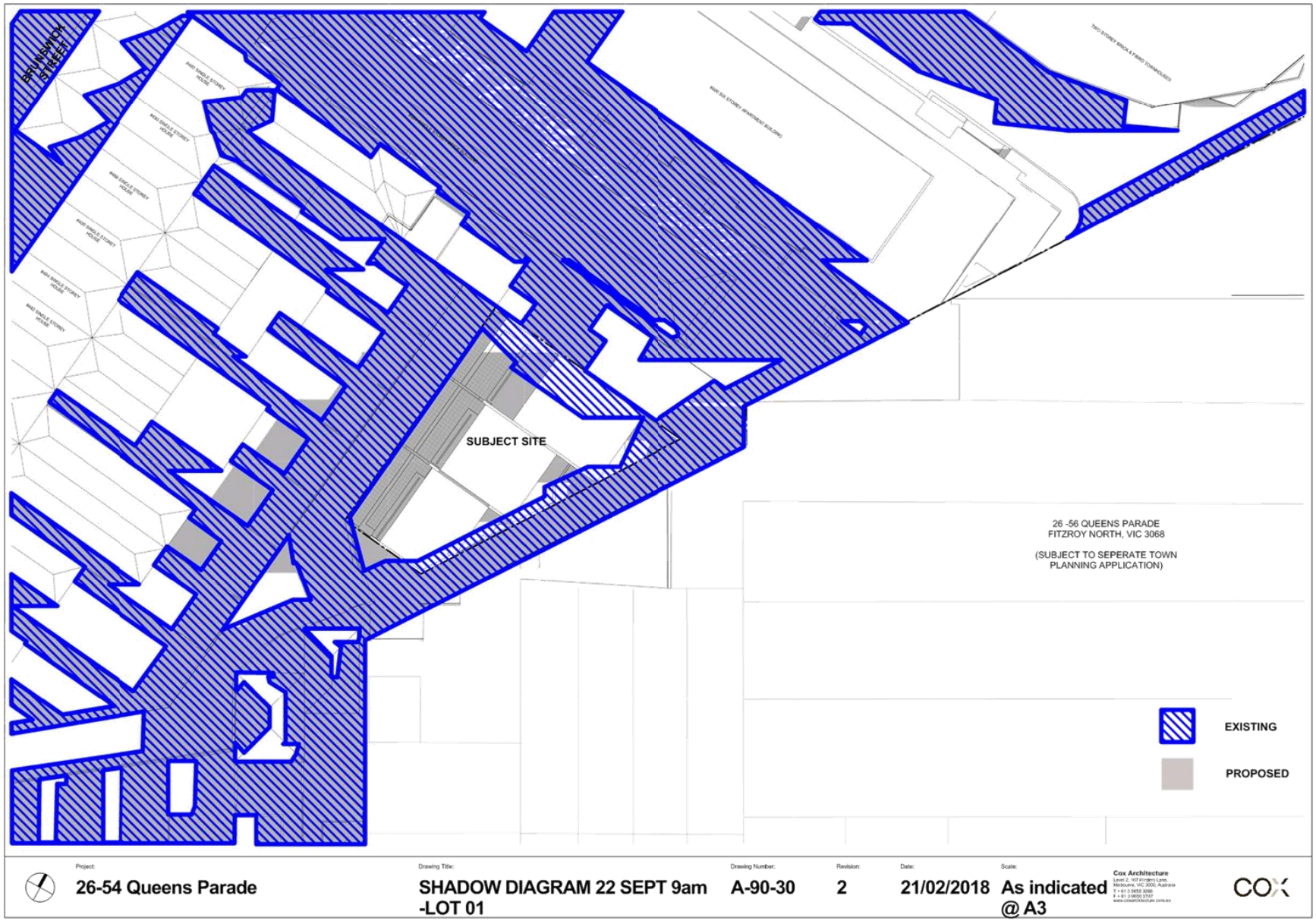

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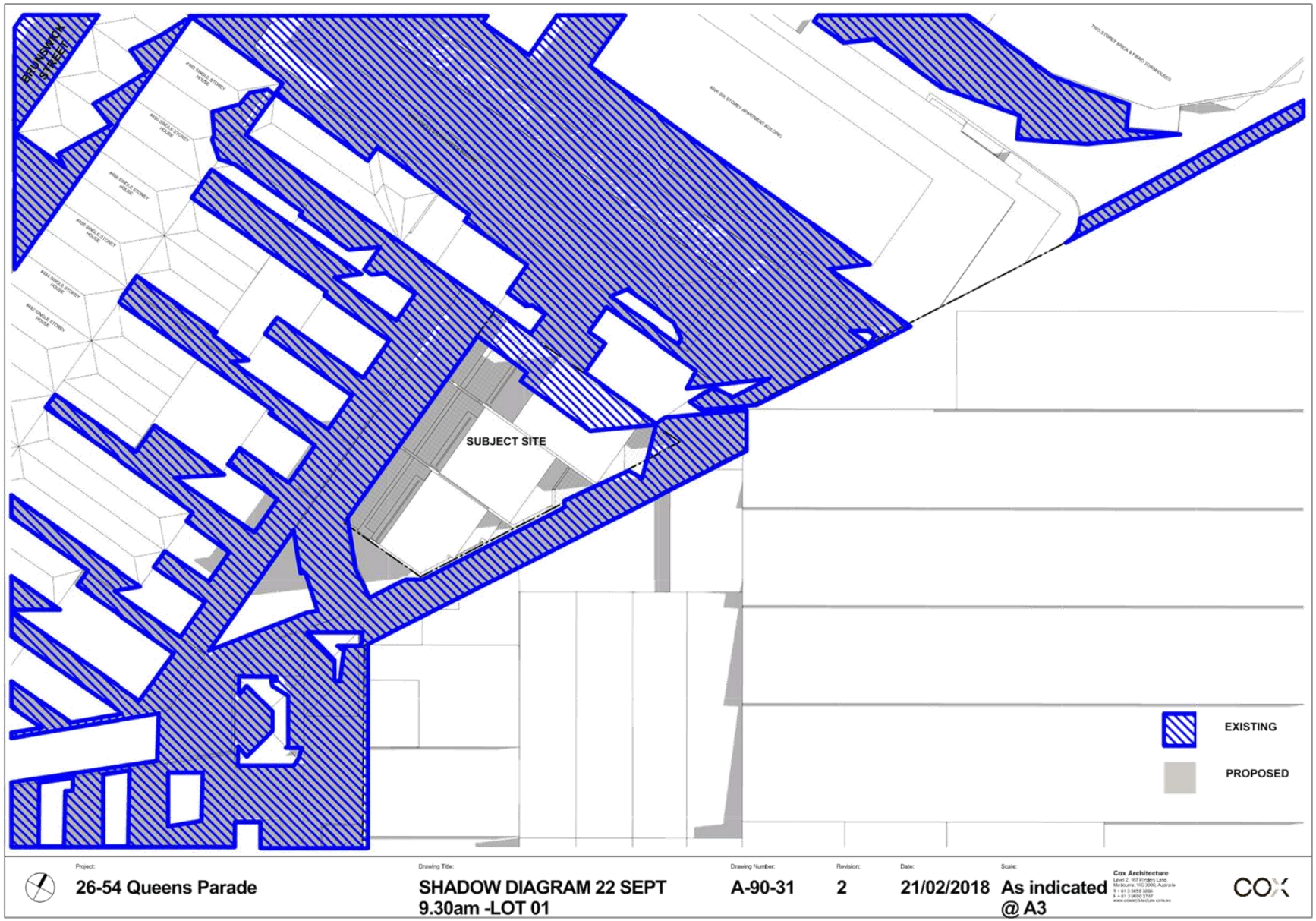

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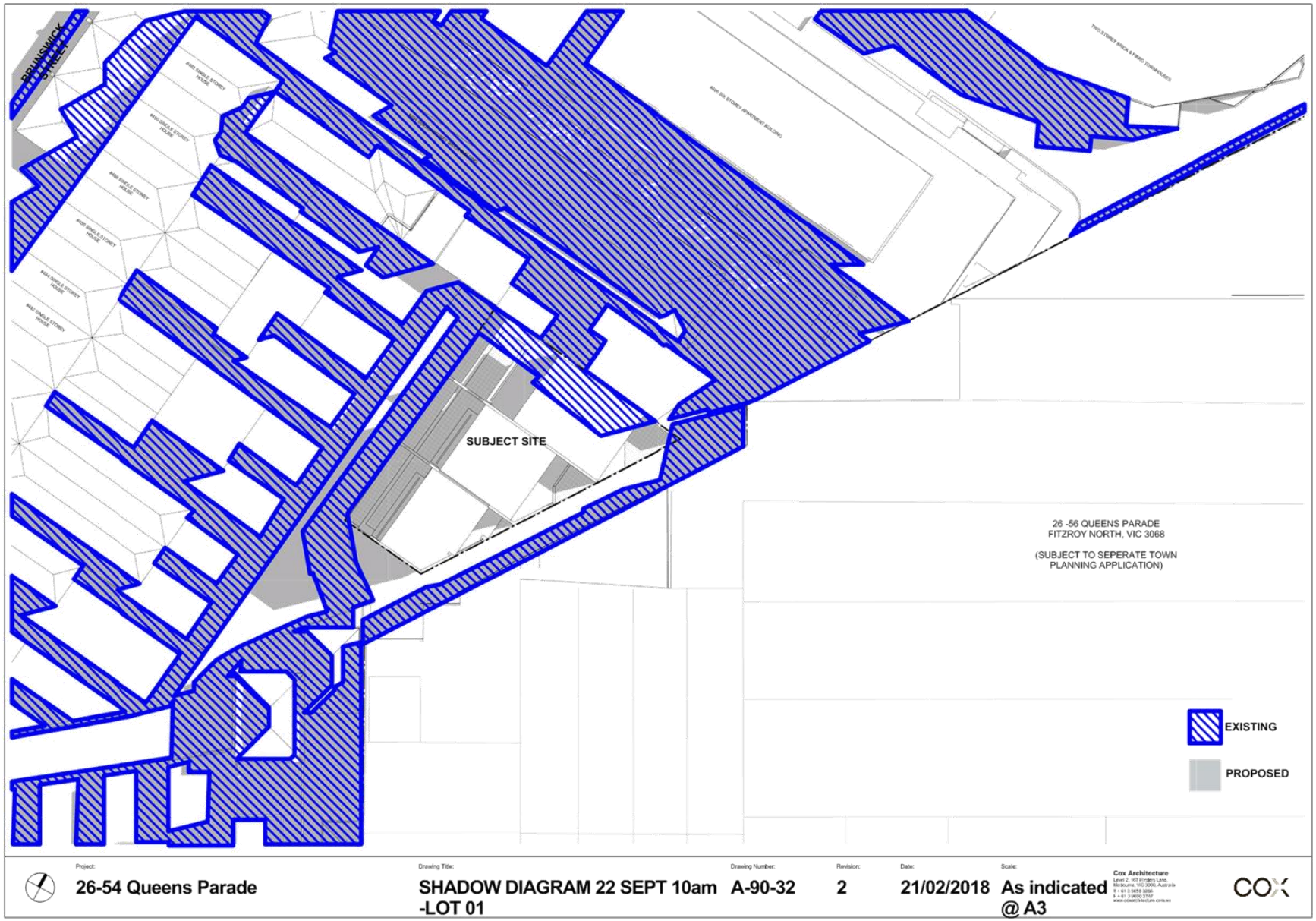

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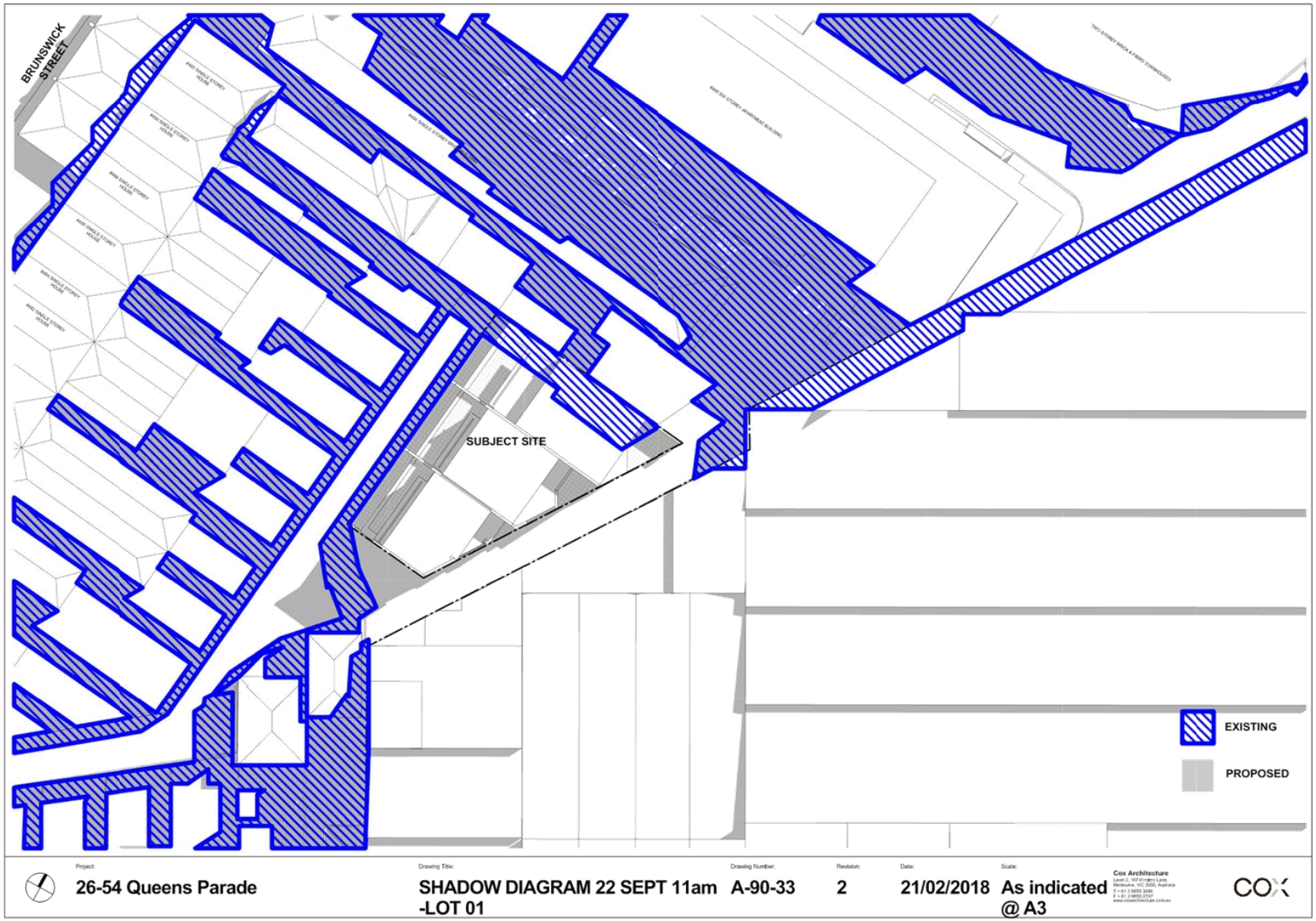

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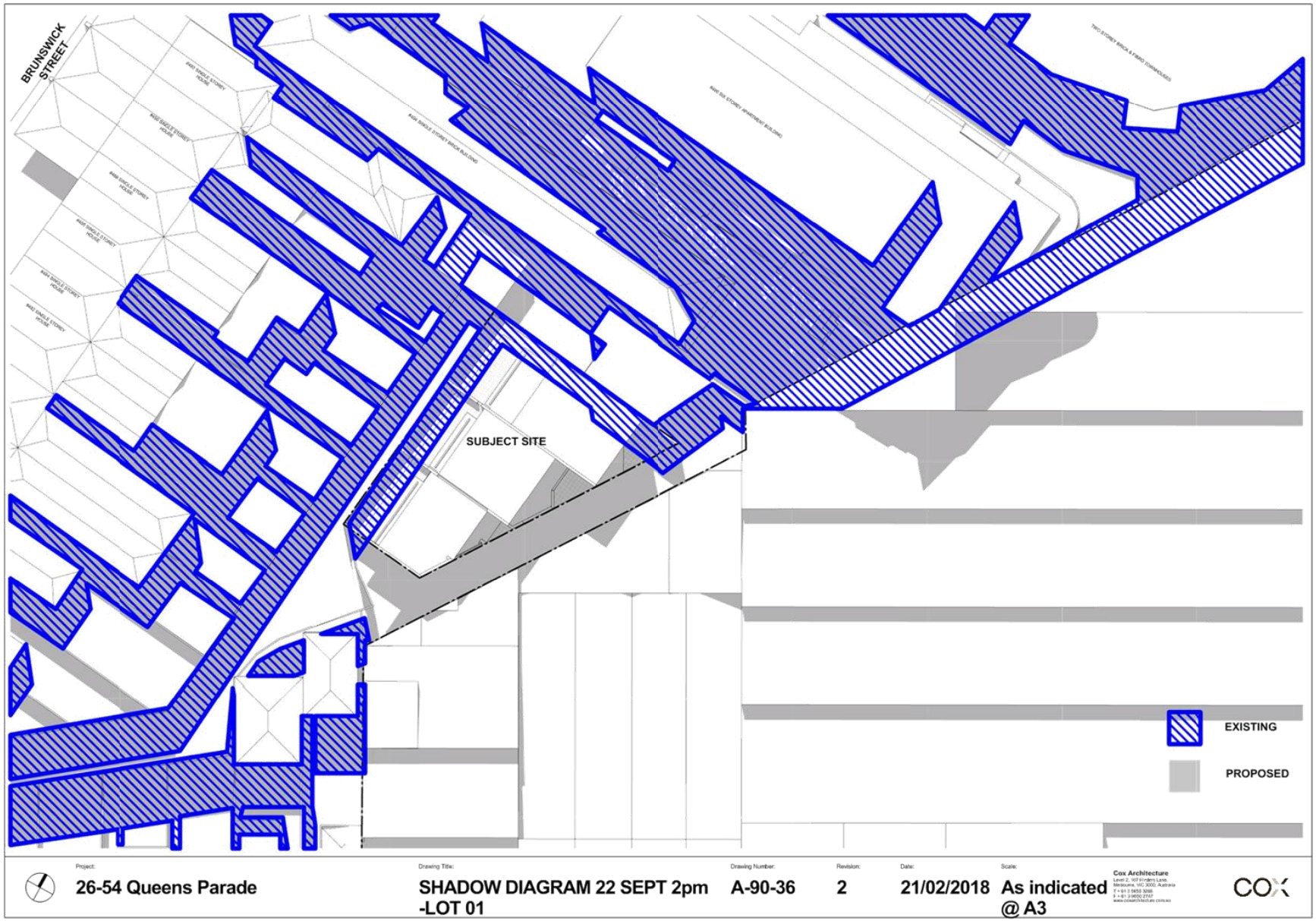

Attachment 6 - PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Interim order response plans - rear site