



**Moreland**  
City Council

## **COUNCIL AGENDA**

### **PLANNING AND RELATED MATTERS**

**Wednesday 24 August 2022**

**Commencing 6.30 pm**

**Council Chamber, Moreland Civic Centre, 90 Bell Street, Coburg**

#### **Language Link**

This is the Agenda for the Council meeting.  
For assistance with any of the agenda items,  
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ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਦਾ ਏਜੰਡਾ ਹੈ।  
ਏਜੰਡੇ ਦੀ ਕਿਸੇ ਆਈਟਮ ਬਾਰੇ ਮਦਦ ਲਈ,  
ਕ੍ਰਿਪਾ ਕਰਕੇ 9280 0751 ਤੇ ਟੈਲੀਫੋਨ ਕਰੋ।

## **Acknowledgement of the traditional custodians of the City of Moreland**

Moreland City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Moreland, and pays respect to their elders past, present, and emerging, as well as to all First Nations communities who significantly contribute to the life of the area.



- 1. WELCOME**
- 2. APOLOGIES**
- 3. DISCLOSURES OF CONFLICTS OF INTEREST**
- 4. MINUTE CONFIRMATION**

The minutes of the Planning and Related Matters Meeting held on 27 July 2022 be confirmed.

**5. COUNCIL REPORTS**

- |     |   |     |
|-----|---|-----|
| 5.1 | CITY DEVELOPMENT ACTIVITY REPORT JUNE QUARTER 2022  | 4   |
| 5.2 | 251-265 LYGON STREET & 1A PITT STREET, BRUNSWICK EAST -<br>PLANNING PERMIT APPLICATION MPS/2022/4                                   | 19  |
| 5.3 | 53-57 ALBERT STREET, BRUNSWICK EAST - PLANNING<br>APPLICATION MPS/2021/1029   | 109 |
| 5.4 | PART CP1, 22, 24-26 AND 28 PENTRIDGE BOULEVARD AND PART<br>27 URQUHART STREET, COBURG VIC 3058 - PLANNING PERMIT<br>MIN/2011/12837A | 181 |

**6. URGENT BUSINESS**

## **5. COUNCIL REPORTS**

### **5.1 CITY DEVELOPMENT ACTIVITY REPORT JUNE QUARTER 2022**

**Director Place and Environment, Joseph Tabacco**

#### **City Development**

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#### **Officer Recommendation**

That Council notes the City Development Activity Report – June Quarter 2022.

<b>REPORT</b>
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#### **Executive Summary**

The City Development Urban Planning and Planning Enforcement teams are managing to produce reasonably good results in the face of increases in the numbers of incoming applications, increased compliance requests, and a high outstanding caseload. The planning application outstanding caseload, and the planning compliance caseloads are areas to continue to monitor closely.

Planning permit activity levels increased by 6 per cent in the 2021/22 financial year when compared to the previous financial year which is indicative of some sign of recovery in the development sector. The data clearly indicates that planning activity levels are once again increasing after remaining steady at reduced levels throughout the majority of the COVID 19 pandemic. The number of applications determined was up by 11 per cent from the previous year which is a pleasing result.

Timeframes to determine most planning applications were still below the metropolitan average largely due to staff turnover and staff illness. There have been small improvements particularly in Vic Smart timeframes, but this remains an area to monitor and improve.

Planning compliance had new case numbers which were more around the average expected for the quarter. The number of cases closed in the quarter also remained steady. This had a positive impact on the outstanding caseload which is reducing while still not at an ideal level.

VCAT activity, while much reduced, was slightly higher in the June 2022 quarter compared to the previous year but is still well below pre-COVID-19 levels.

#### **Previous Council Decisions**

**City Development Activity Report March Quarter 2021 – 25 May 2022**

*That Council notes the City Development Activity Report – March Quarter 2022.*

#### **1. Policy Context**

The City Development Branch administers Council's town planning, building and environmental health decision making and compliance responsibilities under the Moreland Planning Scheme, *Planning and Environment Act 1987*, *Building Act 1993*, *Building Regulations 2018*, *Building Code of Australia 2006*, *Food Act 1984*, and *Public Health and Wellbeing Regulations 2009*.

## 2. Background

This report shows the key operational performance and activity of the Urban Planning Unit and Planning Enforcement Unit within the City Development Branch, from VCAT decisions to how many planning applications were determined and the timeframe for decision-making. The report contains comparisons of the June 2022 quarter of planning activity compared to the June 2021 quarter.

## 3. Issues

The report at **Attachment 1** details:

- Analysis of planning applications received, determined and outstanding
- Analysis of planning application decision-making
- Analysis of streamlined services
- Planning enforcement caseload
- VCAT analysis
- Analysis of planning investment.

An analysis of the key findings of the data is discussed in this report.

### Planning permit activity

A total of 347 planning applications were received for the June quarter. This compared with 359 for the same quarter in 2021. A total of 331 planning applications were decided in the June quarter compared to 314 for the same quarter in 2022 up slightly by 5 per cent as shown in figure 1 at **Attachment 1**. Overall, for the financial year planning applications were up 6 per cent from 1305 to 1379. With higher than normal staff turnover in 2021 now replaced, the number of planning applications determined increased by 11 per cent from 1205 to 1337.

The majority of applications lodged for the quarter were building alterations (32 per cent), followed by multi-unit development (32 per cent) and subdivisions (17 per cent) as shown in figure 2 at **Attachment 1**.

The current backlog of applications awaiting a decision stands at 551. Figure 3 at **Attachment 1** shows how the backlog has changed over time. The current backlog appears to have reached a peak but requires further work to ensure caseloads for staff return to more manageable levels for ideal service delivery.

The percentage of applications determined within statutory timeframes for all inner metropolitan Councils averaged 58 per cent in the June quarter. Moreland's average was slightly lower at 51 per cent. This figure is much lower than usual across the sector indicating most Councils are seeing increased timeframes. This may also be indicative of increased staff leave and staff turnover which is also affecting other Councils during the pandemic. See figure 4 at **Attachment 1**.

Councils streamlined planning services include Vic Smart and Fast Track (minor permit applications that do not qualify as Vic Smart) as well as the Commercial Priority Service, which is a service to assist businesses setting up or expanding in Moreland. Figure 5 in **Attachment 1** shows the performance of the VicSmart part of streamlined services which fell to an average of 69 per cent of VicSmart applications determined within 10 days compared to the inner metropolitan average of 83 per cent. This is something the team is working on to maintain service levels during periods of staff absence or turnover.

## **Heritage Victoria Permit Applications and Planning Proposals Under Consideration by the Minister for Planning**

The Victorian Planning System provides the ability for the Minister for Planning to intervene in VCAT or Council decisions in certain circumstances. In 2020 the Development Facilitation Program (DFP) was established by the Minister for Planning to assess and determine planning applications for priority projects in Victoria. New planning provisions making the Minister for Planning responsible for deciding State Projects were also introduced in March 2021. These projects are referred to Council for comments to help inform the decision by the Minister for Planning. In the second quarter of 2022 Council was consulted on two proposals:

- 807 Sydney Road, Brunswick, Brunswick Tram Depot Precinct Upgrade Project
- 699-701 Park Street, 182-192 Brunswick Road and 2-4 Sydney Road, Brunswick - Construction of a mixed-use, eight-storey development

Council may also be requested by DELWP to provide advice on other planning proposals for private school development or affordable housing development as part of the Big Housing Build that the Minister for Planning is now responsible for deciding, or by Heritage Victoria for input to heritage permit applications for sites on the Victorian Heritage Register.

In the June quarter of 2022 advice was provided on the following applications for a Heritage Permit referred from Heritage Victoria;

- 28 Whitby Street, Brunswick - Permit Application P36446 - Whitby House (H0546)
- 340-350 Sydney Road, Brunswick - Permit Application P36765 - Former Wesleyan Church and Model Sunday School (H1144)
- 42 Ross Street, Coburg - Permit Application P35027 - Arundel, 42 Ross Street Coburg (H1948)
- Permit Application P36842 - HM Prison Pentridge, Champ Street and Murray Road and Urquhart Street and Pentridge Boulevard and Wardens Walk and Sentry Lane and Industry Lane and Stockade Avenue and Via Roma, Coburg (H1551)

### **Planning enforcement**

Figure 7, in **Attachment 1**, shows the outstanding caseload at 171 which is now pleasingly 27 per cent lower than the peak during 2021 of 235 outstanding cases.

The number of complaints from the community in respect to compliance with either planning permits or the Moreland Planning Scheme increased slightly in the June quarter by 7 per cent in comparison to the same quarter in 2021. Figure 6, in **Attachment 1**, shows the number of cases lodged per quarter.

Of the cases closed during the June 2022 quarter, 41 per cent were investigated with a finding that no contravention of a permit or planning scheme provision had occurred. A further 39 per cent did have compliance issues and were brought into compliance through Council's actions. A smaller number were referred to other areas of Council for action and some had a breach that was so minor that formal action was not warranted. There were three others to note, one was a fine issued and paid, one complied with an enforcement order and the third was issued a penalty by the Magistrates Court as shown in Figure 8 in **Attachment 1**.

The proactive planning enforcement program targets planning permits issued by the Planning and Related Matters (PARM) Council meeting, decisions overturned by VCAT and around 80 multi-dwelling residential developments annually. Figure 9 in **Attachment 1** shows that ESD requirement breaches continue to be high at 39 per cent. These included non-provision of rain gardens, no bike storage and installation of single rather than double glazing. Landscaping and absence of privacy screening were the other main breaches detected.

## **Council's performance at VCAT**

In the June quarter 9 applications for review of decisions were lodged at VCAT, which was two less than in the same quarter in 2021. The number of appeals was around average for the Covid-19 pandemic period over the last two years, while still well below averages of the pre-pandemic years, as shown in Figure 10 in **Attachment 1**.

Figure 11, in **Attachment 1** shows that of the 9 appeals lodged against permit application decisions, 3 were by objectors against decisions to grant a permit, 3 were applicants appealing against Council's failure to make a decision within the 60 day statutory time period, one appeal was lodged by an applicant against a refusal decision, and one by an applicant against conditions of the permit. In addition to the appeals against decisions on permit applications there was also one appeal lodged requesting VCAT make a declaration on a procedural matter.

**Attachment 2** is a more detailed list of all appeals lodged in the June 2022 quarter.

Only 10 VCAT decisions were handed down in the June quarter 2022 as shown in Figure 12 in **Attachment 1**.

Figure 13, **Attachment 1** shows the breakdown of the VCAT decisions handed down in June 2022 quarter compared to the June 2021 quarter as they are reflected in Local Government Performance Reporting. Notably however "Decisions Set Aside" include decisions which differ from the original decision of Council and may therefore include those decisions where a mediated outcome is agreed through the VCAT process.

For the purposes of Figure 14, at **Attachment 1**, VCAT success is defined as the number of Council decisions that were upheld by VCAT (not set aside) or that were negotiated to an outcome satisfactory to Council (consented). This graph indicates a win/loss ratio for the June 2022 quarter compared to the June 2021 quarter. The results reflect that in the June quarter, Council won (or successfully mediated), 40 per cent or 4 out of 10 appeals against decisions. The majority of the decisions lost were Council delegate decisions to refuse an application that were overturned. As part of the VCAT process proposals are often amended to address some of the grounds of refusal and improve planning outcomes. In these circumstances it may appear that Council's decision has been overturned when in fact a better outcome has been achieved through amendments to the plans.

**Attachment 3** is a more detailed list of all appeals determined in the June 2022 quarter.

## **Human Rights Consideration**

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities and it was found that it does not contravene any of these sections and supports the following rights

- Section 18: Taking part in Public Life
- Section 13: Privacy and Reputation
- Section 20: Property Rights.

## **4. Community consultation and engagement**

No consultation was required to inform the preparation of this report.

## **5. Officer Declaration of Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

## **6. Financial and Resources Implications**

In terms of overall development in Moreland during the June quarter developments to the value of \$388 million have been approved by planning permits issued by the Urban Planning Unit, compared to a much lower \$152 million during the same quarter in 2021. The results are indicative of the increased development approval activity in the second year of the pandemic.

## **7. Implementation**

The performance of Urban Planning and Planning Enforcement Units within Council's City Development Branch will continue to be monitored with the activity report for the next quarter to be presented to the November, Planning and Related Matters Council meeting.

### **Attachment/s**

- |                   |   |            |
|-------------------|---|------------|
| <a href="#">1</a> | City Development Activity Report Graphs June quarter 2022 | D22/324084 |
| <a href="#">2</a> | VCAT Appeals Lodged June 2022                             | D22/324082 |
| <a href="#">3</a> | VCAT Appeals Determined June 2022                         | D22/324083 |



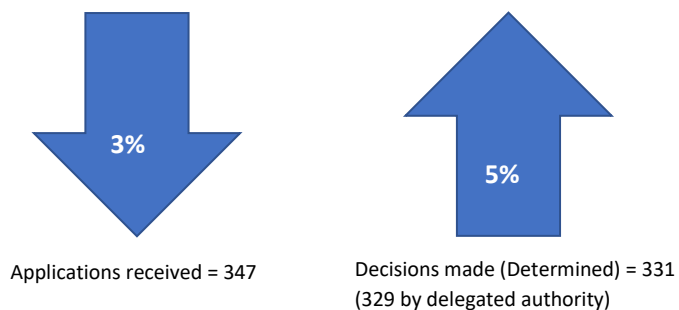
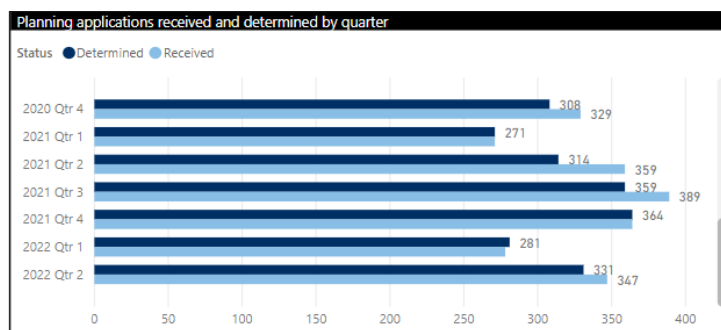
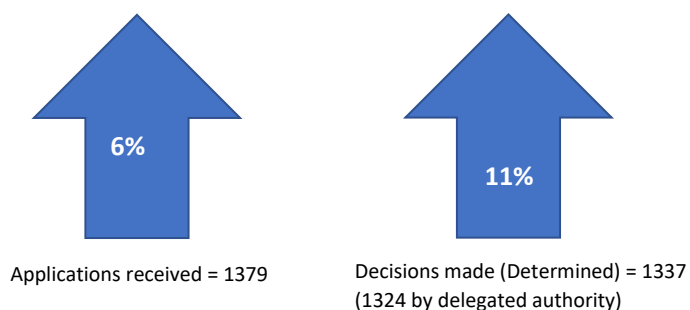
**ATTACHMENT 1 – City Development Activity Report****Planning permit applications received, and decisions made****June 2021 quarter comparison to June 2022****Financial year comparison to 2021/22 to 2020/21 – source PPARS**

Figure 1 – Planning applications received and determined by quarter

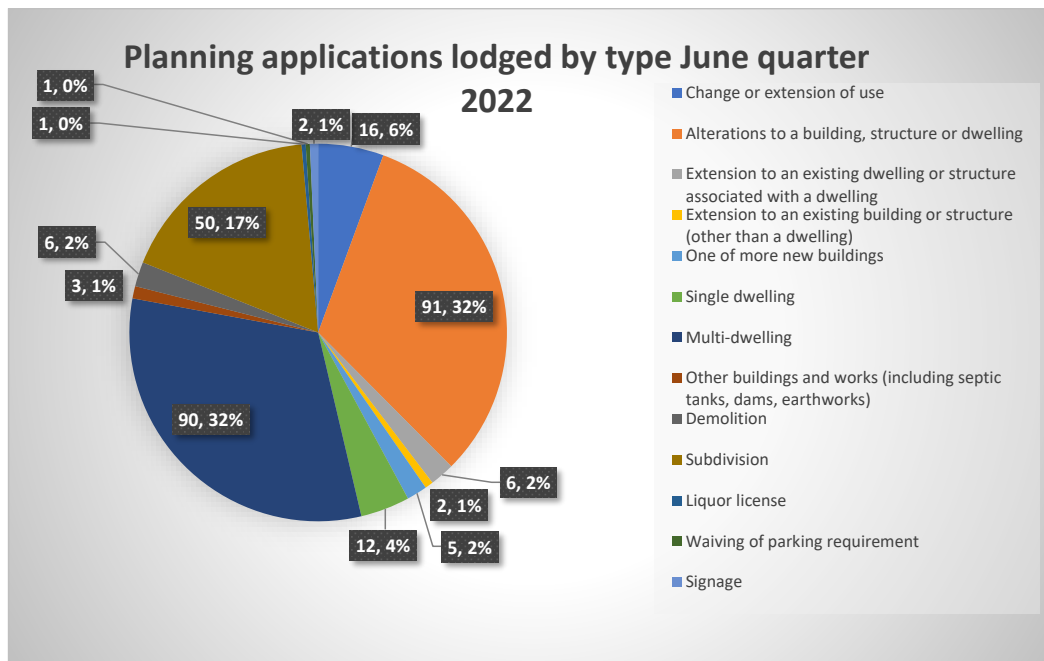
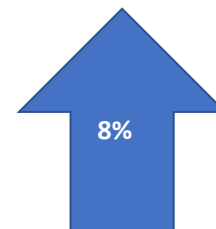
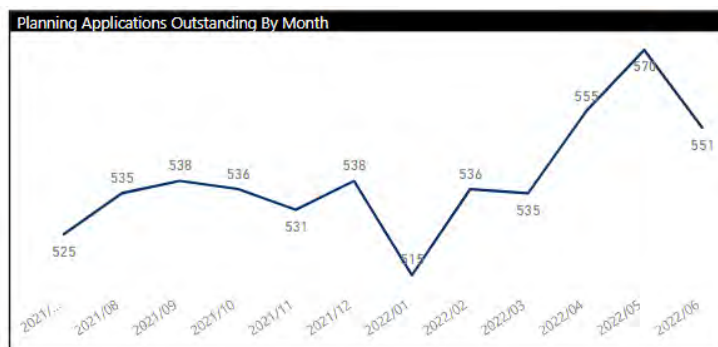
**ATTACHMENT 1 – City Development Activity Report**

Figure 2 – Planning applications lodged by type



Outstanding  
caseload = 551 up  
8% since June 2021

Figure 3 – Planning applications awaiting determination (outstanding)

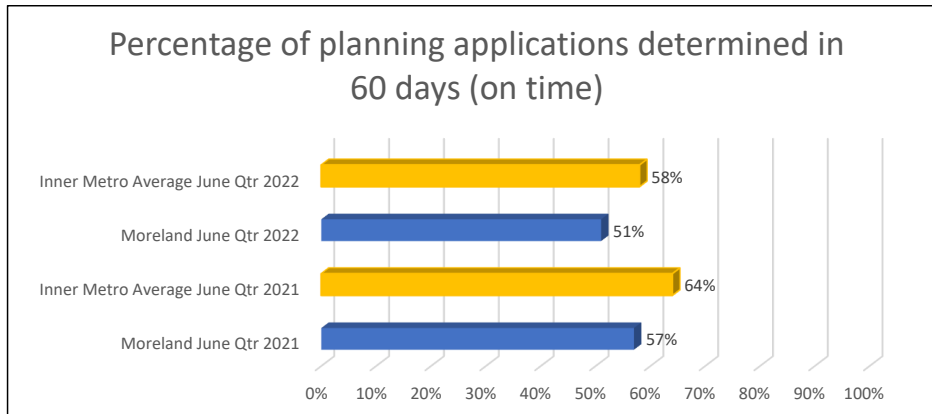
**ATTACHMENT 1 – City Development Activity Report****Timeframes for planning decisions**

Figure 4 – Percentage of Planning applications determined within 60 days

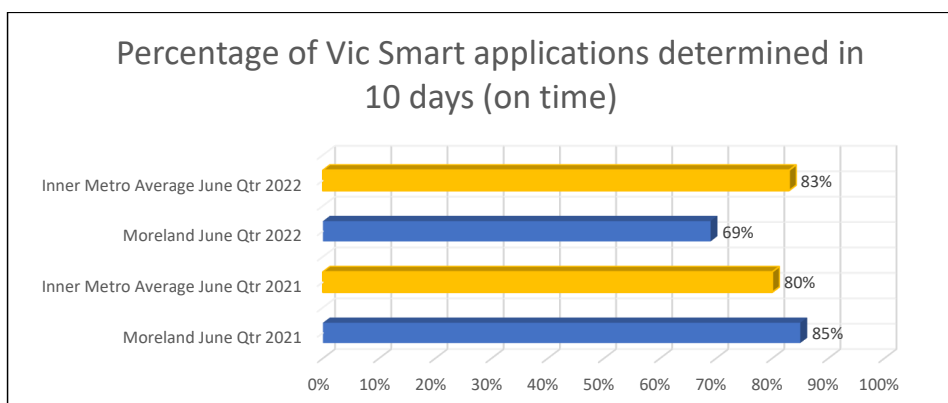
**Streamlined Services**

Figure 5 – Percentage of Vic Smart Planning applications determined within 10 days

**Planning Enforcement**

Reactive planning enforcements are as a result of complaints

**ATTACHMENT 1 – City Development Activity Report**

Figure 6 – Reactive planning enforcement cases received and closed by quarter



Figure 7 – Outstanding reactive planning enforcement cases by month

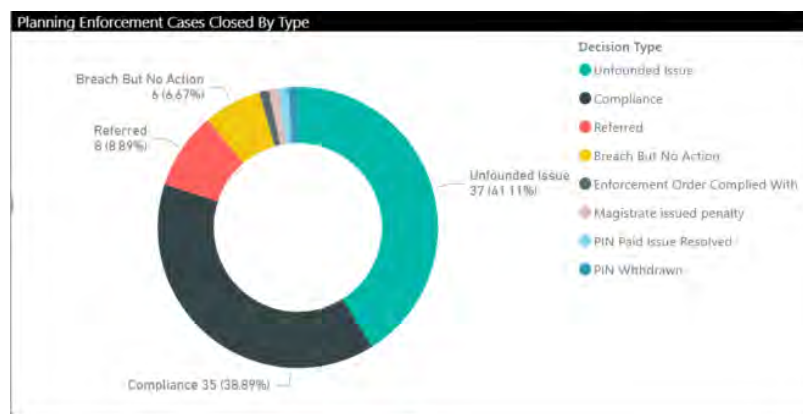
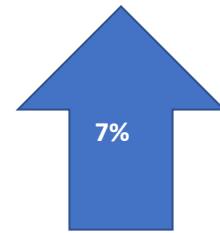
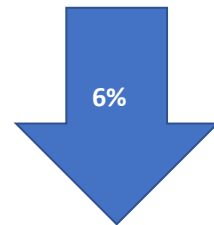


Figure 8 – Reactive planning enforcement cases closed by type



Cases received  
=94 up 7% since  
June 2021



Reactive Enforcement  
Cases Outstanding =  
171 down 6% since  
June 2021

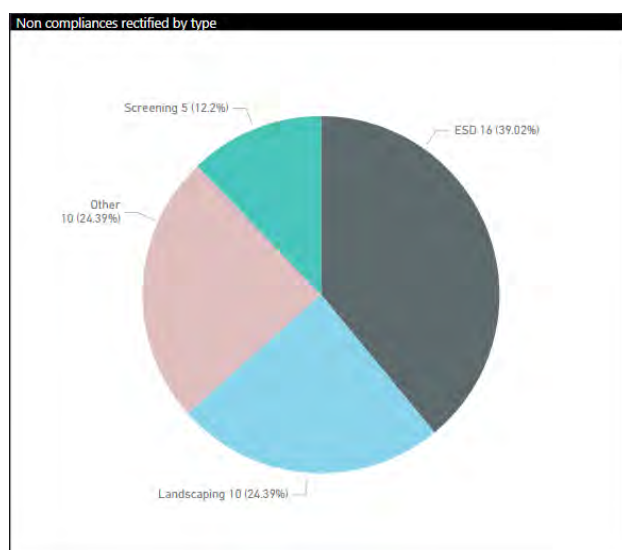
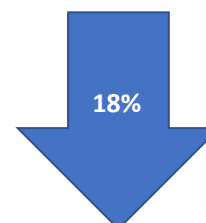
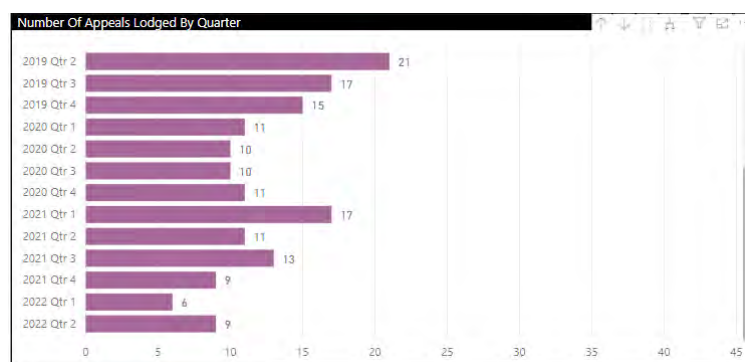
**ATTACHMENT 1 – City Development Activity Report****Proactive Enforcement**

Figure 9 – Proactive planning enforcement cases with issues rectified

**VCAT Results****Appeal Lodged**

Appeals down  
since June 2021

Figure 10 – Planning appeals lodged at VCAT by quarter

**Breakdown this quarter:**

Against refusals – 1	Failure to decide in time – 3
Against conditions – 1	By objectors – 3
S149 declaration – 1	

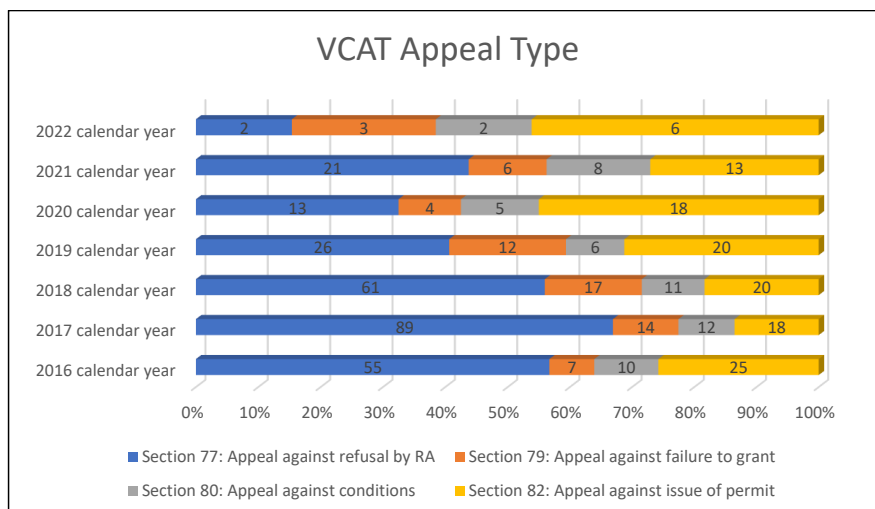
**ATTACHMENT 1 – City Development Activity Report**

Figure 11 – Planning appeals lodged at VCAT by type

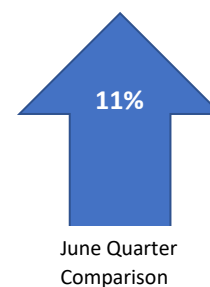
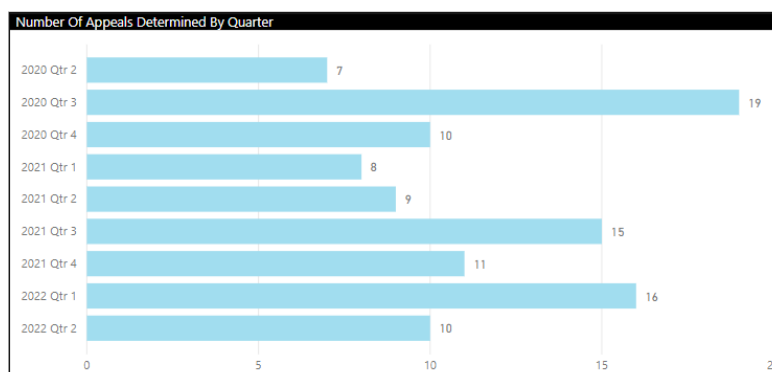
**Appeals Determined**

Figure 12 – Planning appeals determined by VCAT by quarter



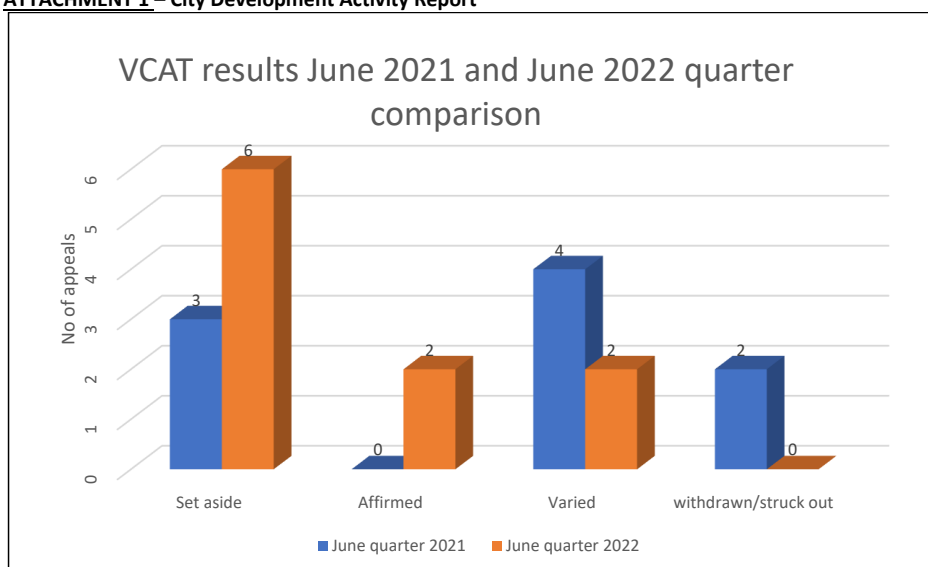
**ATTACHMENT 1 – City Development Activity Report**

Figure 13 –VCAT results by quarter comparison (note this data includes consented outcomes)

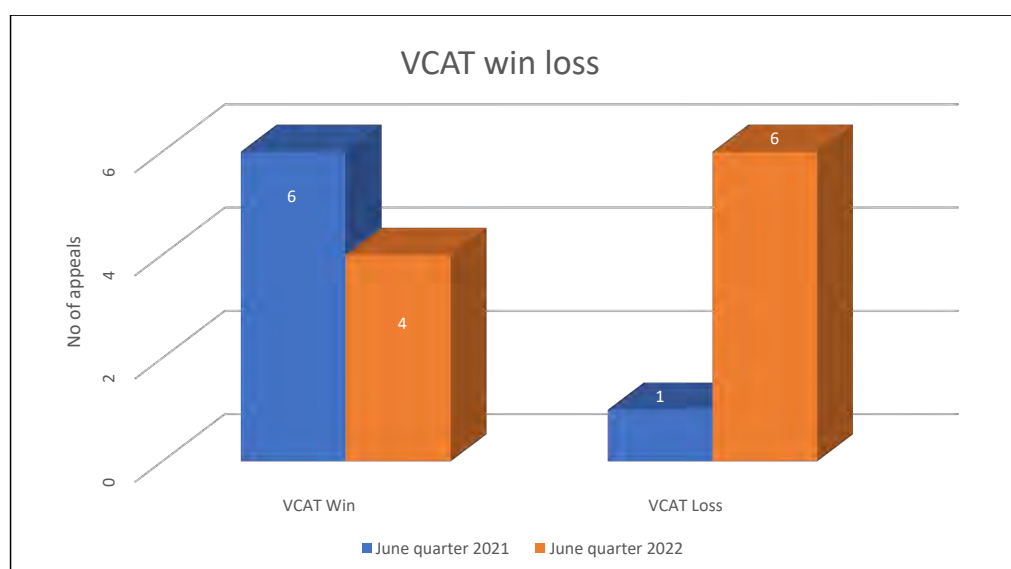
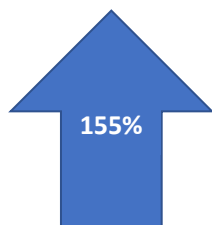


Figure 14 - VCAT Success June Quarter comparison (40% were successful in June 2022)

**ATTACHMENT 1 – City Development Activity Report****Value of works approved**

Works approved during period = \$388 million up  
from \$152 million during the same period last year

## ATTACHMENT 2

## VCAT report appeals lodged

Application number	Appeal grounds	Date Lodged	Property	Original decision	Original decision made by	Description
MPS/2020/530	S.80 Conditions of a Planning Permit PPARS	29/04/2022	52 Hope Street BRUNSWICK VIC 3056	Planning Permit	Delegate	Construction of a three storey building (with roof top terraces) with commercial tenancy and three dwellings and a reduction in the statutory rate of car parking
MPS/2021/334	S.82 Decision to Grant a Permit PPARS	9/06/2022	86A Union Street BRUNSWICK VIC 3056	Notice of decision	Delegate	Construction of alterations and additions to existing dwelling
MPS/2021/367	82 Decision to Grant a Permit PPARS	31/05/2022	5 Chapman Avenue GLENROY VIC 3046	Notice of decision	Delegate	Development of two double storey dwellings
MPS/2021/443	.77 Decision to Refuse to Grant a Permit PPARS	2/06/2022	19 Barry Street BRUNSWICK VIC 3056	Refusal	Delegate	Partial demolition and development of a double storey rear extension to the existing dwelling
MPS/2021/612	S.82 Decision to Grant a Permit PPARS	1/06/2022	7 Danin Street PASCOE VALE VIC 3044	Notice of decision	Delegate	Construction of four double storey dwellings
MPS/2021/685	S.79 Failure to Grant a Permit Within Time PPARS	25/05/2022	81A Bell Street COBURG VIC 3058	Failure appeal no decision made	Failure appeal no decision made	Buildings and works to construct multi storey buildings containing dwellings, use of the land for the purposes of food and drink premises, reduction to the statutory car parking rates associated with residents and food and drink premises, alterations and creation of the access in a Transport Zone 2
MPS/2021/961	S.79 Failure to Grant a Permit Within Time PPARS	1/06/2022	20 Henley Street PASCOE VALE SOUTH VIC 3044	Failure appeal no decision made	Failure appeal no decision made	Construction of two double storey dwellings
MPS/2022/4	S.79 Failure to Grant a Permit Within Time PPARS	21/06/2022	251-265 Lygon Street, BRUNSWICK EAST VIC 3057 and 1A Pitt Street, BRUNSWICK VIC 3057	Failure appeal no decision made	Failure appeal no decision made	Construction of an eight storey building and five storey building above two levels of basement for dwellings and retail and a reduction in the car parking requirements

## ATTACHMENT 3

## VCAT report appeals determined

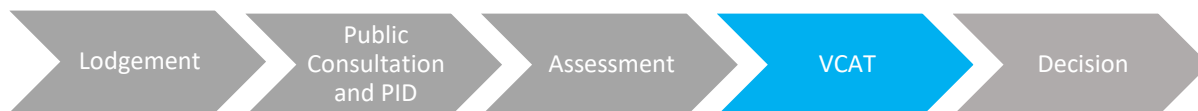
Application number	Appeal grounds	Date Lodged	Property	Original decision	Original decision made by	Description	Consent Order	VCAT decision	Date VCAT decision
MPS/2007/773/B	S.82 Decision to Grant a Permit PPARS	9/12/2021	598-608 Sydney Road COBURG VIC 3058	Notice of decision	Delegate	Use and development of land for a take away food premises (drive thru coffee shop) and alterations of access to a Category 1 Road Zone	Yes	Permit Granted	07-Jun-2022
MPS/2018/202	S.77 Decision to Refuse to Grant a Permit PPARS	29/07/2019	141-153 Lygon Street BRUNSWICK EAST VIC 3057	Refusal	Delegate	Partial demolition of a building in a heritage overlay and construction of a six storey building over basement car parking consisting of shops and use of the land for dwellings, and a reduction in the standard car parking requirement for the retail component	No	Permit Granted	12-Apr-2022
MPS/2018/949	S.82 Decision to Grant a Permit PPARS	24/11/2020	29 White Street & 40 Linda Street COBURG VIC 3058	Notice of decision	Delegate	Construction of five dwellings and a reduction of the car parking requirement	No	Permit Granted	23-Jun-2022
MPS/2019/752	S.77 Decision to Refuse to Grant a Permit PPARS	17/08/2021	60 Pleasant Street PASCOE VIC 3044	Refusal	Delegate	Development of the land to construct four dwellings and vegetation removal in an Erosion Management Overlay	No	Permit Granted	03-May-2022
MPS/2019/793/A	S.77 Decision to Refuse to Grant a Permit PPARS	3/09/2021	5-7 Louvain Street COBURG NORTH VIC 3058	Amended Refusal	Delegate	Use of the land for a function centre, the sale and consumption of liquor, building and works, and a reduction in car parking (to zero)	No	Permit Granted	22-Jun-2022
MPS/2020/219	S.77 Decision to Refuse to Grant a Permit PPARS	11/11/2021	4 Moray Street FAWKNER VIC 3060	Refusal	Delegate	Construction of three double storey dwellings	No	Permit Granted	29-Jun-2022
MPS/2020/260	S.79 Failure to Grant a Permit Within Time PPARS	29/10/2020	145 Glenlyon Road & 6 Pitt Street BRUNSWICK VIC 3056	Failure appeal no decision made	Failure appeal no decision made	Use of the land for trade supplies and restricted retail premises (Bunnings), buildings and works including the construction of a two storey building with mezzanine, display of signs, reduction in the bicycle requirements and creation of an easement	No	Permit Refused	03-May-2022
MPS/2020/531/A	S.82 Decision to Grant a Permit PPARS	17/12/2021	1 Allan Street BRUNSWICK VIC 3056	Notice of decision	Delegate	Part demolition of the existing dwelling, and buildings and works for the construction of an extension to the existing dwelling in a Heritage Overlay and on a lot less than 300 square metres	Yes	Permit Granted	09-Jun-2022
MPS/2020/674	S.79 Failure to Grant a Permit Within Time PPARS	27/05/2021	429 Albert Street BRUNSWICK VIC 3056	Failure appeal no decision made	Failure appeal no decision made	Construction of one eight and one nine storey apartment building (with roof top terraces) containing dwellings, shop and food and drink premises and four, three storey dwellings, over two basement levels and a reduction in the standard car parking requirements	No	Permit Granted	05-May-2022
MPS/2021/526	S.77 Decision to Refuse to Grant a Permit PPARS	31/03/2022	31 Mathieson Street COBURG NORTH VIC 3058	Refusal	Delegate	Construction of a double storey dwelling at the rear of an existing dwelling	No	Permit Granted	08-Jun-2022

## 5.2 251-265 LYGON STREET & 1A PITT STREET, BRUNSWICK EAST - PLANNING PERMIT APPLICATION MPS/2022/4

Director Place and Environment, Joseph Tabacco

City Development

### Executive Summary



<b>Property:</b>	251-265 Lygon Street, BRUNSWICK EAST 1A Pitt Street, BRUNSWICK EAST			
<b>Proposal:</b>	Construction of an eight and five storey mixed use building above two levels of basement, and a reduction in the car parking requirements			
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"> <li>Commercial 1 Zone (C1Z)</li> <li>Design and Development Overlay Schedule 19 (DDO19)</li> <li>Parking Overlay 1 (PO1)</li> <li>Development Contributions Plan Overlay (DCPO1)</li> </ul>			
<b>Strategic setting:</b>	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
<b>Objections:</b>	A total of 96 objections with key issues being: <ul style="list-style-type: none"> <li>Building Height and overshadowing</li> <li>Street wall and upper level setbacks</li> <li>Car parking and traffic impacts</li> </ul>			
<b>Planning Information and Discussion (PID) Meeting:</b>	Date: 5 July 2022 Attendees: 21 objectors, the applicant, Council officers, and Cr Riley, Cr Yildiz and Cr Bolton No changes were agreed to, however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report			
<b>ESD:</b>	<ul style="list-style-type: none"> <li>Minimum average NatHERS rating of 7 stars</li> </ul>			
<b>Accessibility:</b>	<ul style="list-style-type: none"> <li>Adaptable apartments comprise 55 per cent of the proposal</li> </ul>			
<b>Key reasons for refusal</b>	<ul style="list-style-type: none"> <li>Excessive building height and visibility of upper levels contrary to DDO19</li> <li>The proposal does not maintain solar access to the Lygon Street footpath</li> </ul>			
<b>Recommendation:</b>	Council's submission to VCAT be that no planning permit should be issued for the proposal, based on the grounds outlined in the recommendation.			

## Officer Recommendation

That Council's submission to Victorian Civil and Administrative Tribunal (VCAT) be one that no planning permit be issued for Planning Application MPS/2022/4 for the construction of an eight and five storey mixed used building above two levels of basement and a reduction in the car parking requirements at 251-265 Lygon Street and 1A Pitt Street, Brunswick East, subject to the following grounds of refusal:

1. The development fails to satisfy the following requirements and objectives of Schedule 19 to the Design and Development Overlay at Clause 43.02 of the Moreland Planning Scheme because the development fails to:
  - a) Create a new mid rise built form character that provides a built form transition between the Lygon Activity Corridor and adjoining low-rise residential areas such as Evan Street.
  - b) Ensure highly visible development is limited to identified key redevelopment sites.
  - c) Ensure the street wall remains the visually dominant element in Lygon Street.
  - d) Ensure that the levels above the street wall are visually recessive, subservient and does not dominate the streetscape appearance to Lygon Street and Evans Street.
  - e) Protect and enhance the amenity and maintain solar access to key pedestrian street (Lygon Street).
2. The proportions of the development would enclose the public space within the adjoining streets due to building height and minimal upper level setbacks failing to contribute to the urban design outcomes sought by the objectives at Clause 15.01-1S Urban Design, 15.01-1L Urban Design in Moreland and 15.01-2S Building design and Clause 15.01-5S – Neighbourhood Character.
3. The siting of the stair on the northern side of the five storey building would compromise the internal amenity of the dwellings and would not maximise passive energy efficiency and create a quality living environment for residents, failing to meet the strategies and objective of Clause 15.01-2L – Apartment developments in Moreland and Clause 15.01-2L-04 – Energy Efficiency in Moreland.
4. The siting of the upper levels to the north-western boundary would impact on the future development opportunities of the adjoining land due to inadequate building separation, failing to meet the building setback and separation strategies of Clause 15.01-2L – Apartment developments in Moreland.
5. The development fails to satisfy the following standards and objectives of Clause 58 (Apartment Developments) of the Moreland Planning Scheme:
  - a) Clause 58.02-1 – Urban Context Objectives (Standard D1) – The design fails to contribute to the preferred future development of the area or respond to the features of the site and surrounding area, including the low-rise residential (Evan Street), and is not appropriate to the urban context and the site.



## REPORT

### 1. Background

#### Subject site

The site combines 251-265 Lygon Street and 1A Pitt Street, Brunswick. The frontage to Lygon Street is 53.15 metres and 52.20 metres to Evans Street and the total combined site area is 2,476 square metres.

251- 265 Lygon Street is currently occupied by three attached double storey buildings with frontages to Lygon Street to the east and Evans Street to the north and a car park at the rear which is accessed from Pitt Street. 1A Pitt Street is occupied by a single storey building which is also accessed from Pitt Street via the laneway.

There are no restrictive covenants indicated on the Certificate of Title. A 3.65 m wide laneway (carriageway easement) accessed from Pitt Street traverses part of the site.

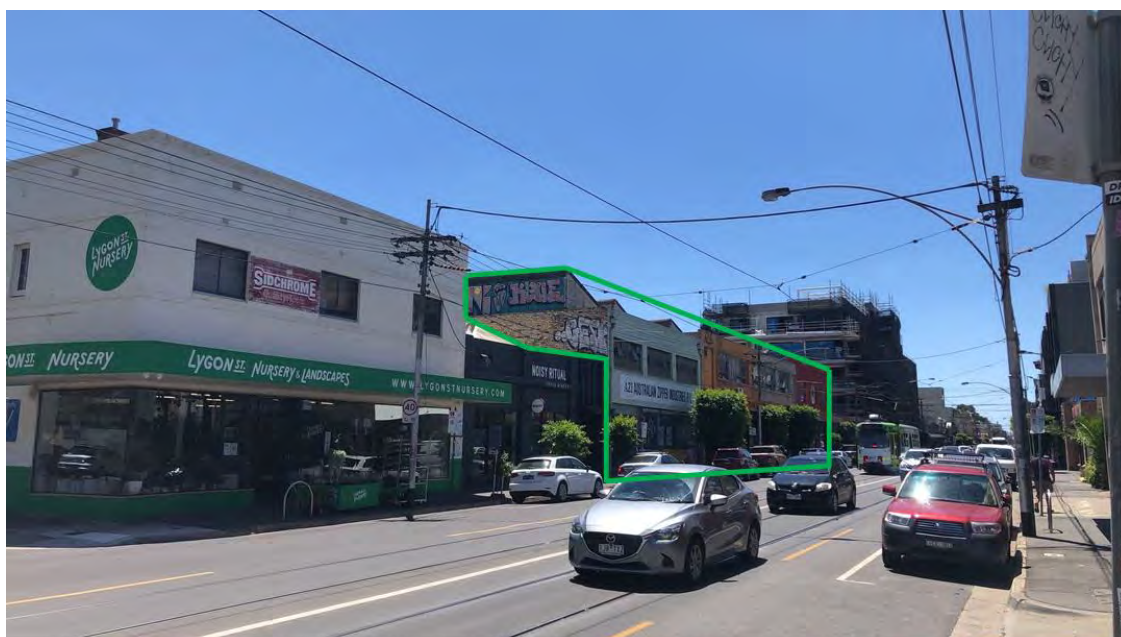


Image 1 – Subject site Lygon Street frontage (outlined in green)



Image 2 – Subject site viewed from Pitt Street

## Surrounds

The site and surrounding area forms part of a strip shopping centre that is currently undergoing substantial change, given its designation as part of the Brunswick Activity Centre. Broadly building heights range between 1 and 8 storeys along Lygon Street, whereas to the west the scale is of modest 1 and 2 storey residential properties. The immediate context includes:

- To the north of the site is a 5 storey mixed use building (267 Lygon Street) which is nearing completion.
- Abutting the site to the west is vacant land (126 Evans Street) and a single storey building used for a dance studio (3 Pitt Street).
- Directly opposite the site are two eight storey mixed used buildings.
- To the south of the site are commercial uses including live music (Noisy Ritual) and a dwelling (249 and 245 – 247 Lygon Street and 1 Pitt Street).

A location plan forms **Attachment 1**.

## The proposal

The proposal is for an eight and five storey building, summarised as follows:

- A maximum building height of 27.9 metres at the centre of the site frontage (excluding service equipment)
- 109 dwellings, comprising 25 x 1-bedrooms, 75 x 2-bedrooms, 9 x 3-bedrooms
- Six retail tenancies totalling 1453.4 square metres
- Provision of 112 car spaces within two levels of basement
- Provision of 133 bicycle parking spaces
- Vehicle and pedestrian access via Evans Street and the laneway from Pitt Street

The development plans form **Attachment 2**.

## Process of application

On the understanding that Council officers were not supportive of the proposal, the permit applicant has lodged an application for review with the Victorian Civil and Administrative Tribunal (VCAT) under section 79 of the Act for Council failing to determine the application within 60 statutory days.

The matter will be considered by VCAT in November 2022 and a compulsory conference has been set for September 2022.

## Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Commercial 1 Zone	Clause 34.01-4: Permit is required to construct a building or construct or carry out works. Dwelling and Retail Premises are Section 1 uses in the zone provided the conditions are met, meaning that a permit is not required for the use.
Design and Development Overlay	Clause 43.02-2: A permit is required to construct a building or construct or carry out works Schedule 19 outlines (preferred): <ul style="list-style-type: none"><li>• Building height (maximum)- 17m at the front and 15m at the rear</li><li>• Street wall height- between 11m – 14m</li><li>• Upper level setback- between 3 – 5m</li></ul>

Control	Permit Requirement
Particular Provisions	Clause 52.06-3: A permit is required for a reduction in the standard car parking requirements from 168 spaces to 112 spaces

The following Particular Provisions of the Moreland Planning Scheme are also relevant to the consideration of the proposal:

- Clause 45.06: Development Contributions Plan Overlay
- Clause 45.09: Parking Overlay
- Clause 52.34: Bicycle Facilities
- Clause 53.06: Live Music Entertainment Venues
- Clause 58: Apartment Developments.

## 2. Internal/External Consultation

### Public notification

Notification of the application has been undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* by:

- Sending notices to the owners and occupiers of adjoining and nearby land; and
- Placing signs on the Lygon Street and Evans Street frontages of the site.

Council has received 96 objections. A map identifying the location of objectors forms **Attachment 3**.

The key issues raised in objections are:

- Building and street wall height
- Upper level setbacks
- Loading and unloading/Waste collection
- Traffic impacts
- Car parking
- Overshadowing
- Overlooking
- Impacts on nearby businesses
- Outlook/views from abutting balconies
- Natural ventilation
- Building footprint/No deep soil planting
- Impacts on heritage values

A Planning Information and Discussion meeting was held on 5 July 2022 and attended by Councillors, Council Planning Officers, the applicant and approximately 21 objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond. No resolutions arose from the meeting.

### Internal/external referrals

The proposal was referred to the following external agencies or internal branches/business units:

External Agency	Objection/No objection
Transport for Victoria	No objection subject to conditions which will be included in the without prejudice conditions that form part of the VCAT process.
Internal Branch/Business Unit	Comments
Urban Design Unit	<p>Does not support the proposal for the following issues:</p> <ul style="list-style-type: none"> <li>• Unacceptable, proportions of the building due to the excessive upper floor height in relation to the street wall</li> <li>• 3m upper level setback not appropriate for an eight storey building</li> <li>• Poor outlook/daylight/ventilation for apartments in 5 storey building</li> <li>• Lack of daylight access to landscaping at podium</li> <li>• Safety issues and lack of activation for pedestrians using the laneway for access</li> </ul> <p>Provided the following suggestions:</p> <ul style="list-style-type: none"> <li>• Reduce building height and increase upper level setback, particular given its corner location</li> <li>• Consider a textured or patterned concrete and or commission of a mural, instead of blank or painted flat pre-cast wall on boundary</li> </ul> <p>The concerns and suggestions are detailed further in Section 4 of this report.</p>
Transport - Development Engineering Team	<p>Supports the traffic engineering aspects of proposal. Matters to be resolved via conditions include:</p> <ul style="list-style-type: none"> <li>• Labelling of bicycle and car parking</li> <li>• Public works within Evans Street</li> <li>• Protection of existing street tree</li> <li>• Undergrounding of existing cables to site</li> </ul> <p>Recommended changes could be addressed by conditions were a permit to issue.</p>
Sustainability and Climate-ESD Team	<p>Supports the ESD aspects of the proposal, provided the following issues are addressed:</p> <ul style="list-style-type: none"> <li>• Details of all ESD initiatives shown on plans</li> <li>• Highlight/clerestory window to kitchen/dining of Apt 7.03</li> <li>• Amended SMP increasing the NatHERS ratings for Apt 4.07, 5.07 &amp; 6.07 to a min. of 6 stars and BESS IEQ 1.1 &amp; 1.2 including daylight models for the retail spaces and dwellings at Level 1 &amp; all dwellings facing the communal open space</li> <li>• Amended stormwater catchment plan</li> </ul> <p>Recommended changes could be addressed by conditions were a permit to issue.</p>

Open Space Design and Development Unit	<p>Supports the landscape design, provided further details are provided for:</p> <ul style="list-style-type: none"> <li>• soil volume for each tree, aiming for greater than 20m<sup>3</sup> per tree</li> <li>• detailed maintenance and irrigation details of all planters and planting spaces</li> </ul> <p>Recommended changes could be addressed by conditions were a permit to issue.</p>
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### 3. Policy Implications

#### Planning Policy Framework (PPF):

The following policies are of most relevance to this application:

- Municipal Planning Strategy (Clause 2)
- Settlement (Clause 11)
- Environmental Risks and Amenity (Clause 13)
- Built Environment (Clause 15.01), including:
  - Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
  - Vehicle Access Design in Moreland (Clause 15.01-1L)
  - Building Design (Clause 15.01-2S & 15.01-2L)
  - Apartment developments in Moreland (Clause 15.01-2L)
  - Energy efficiency (Clause 15.01-2L)
  - Neighbourhood character (15.01-5S)
- Sustainable Development (Clause 15.02), including:
  - Energy and resource efficiency (Clause 15.02-1S)
  - Environmentally Sustainable Development (Clause 15.02-1L)
  - Energy efficiency in Moreland (Clause 15.02-1L)
- Residential Development (Clause 16.01), including:
  - Housing Supply (Clause 16.01-1S and 16.01-1R)
  - Homes in Moreland (Clause 16.01-1L)
  - Housing for People with Limited Mobility (Clause 16.01-1L)
  - Housing Affordability (Clause 16.01-2S & 16.01-2L)
- Economic Development (Clause 17)
- Transport (Clause 18)
- Infrastructure (Clause 19.02)

#### Building Regulations

Flood mapping has been undertaken by Council and the land has been designated as liable to flooding pursuant to regulation 5(2) of the Building Regulations 2018. Whilst not currently identified in the Moreland Planning Scheme this flood mapping has a declaration under the Building Regulations.

## Human Rights Consideration

This application has been processed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006, including Section 18 (Taking part in public life)*. In addition, the assessment of the application has had particular regard to:

- Section 12: Freedom of movement
- Section 13: Privacy and Reputation
- Section 20: Property rights

The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement. The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme. The privacy of nearby residents has also been considered as part of the application process.

## 4. Issues

In considering this application, regard has been given to the Planning Policy Framework, the provisions of the Moreland Planning Scheme, objections received and the merits of the application.

### Does the proposal have strategic policy support?

Both State and Local planning policies support increased residential densities and a mix of retail/commercial uses in locations that can take advantage of excellent access to public transport and other services within and in proximity to Activity Centres. Whilst the site provides a suitable location for midrise building heights, this proposal fails to provide an acceptable built form which responds appropriately to State and Local policy and in particular, the objectives of the Design and Development Overlay Schedule 19, as set out in this report.

Without a reduction in the building height and overall mass of the development the proposal would not have strong strategic policy support at neither State and Local level.

### Does the proposal meet the design objectives of the DDO19?

Preferred built form outcomes for the site and surrounds are guided by Schedule 19 of the Design and Development Overlay (DDO19). Building heights, street wall heights and upper level setbacks are the key components of the DDO. This assessment considers each in detail.

#### Building height

The eight storey and 28.3 metre building height exceeds the 17 metre preferred maximum building height of the DDO by 11.3 metres. Whilst there are existing eight storey developments on the opposite side of Lygon Street, those developments are located within a separate building height provision under the DDO19 whereby a higher built form outcome being a 23 metre maximum building height is preferred. These developments were not supported by Council but were approved at the direction of VCAT and some predate the completion of the Brunswick Structure Plan and current planning controls.

With construction underway at 267 Lygon Street for a five storey building and multiple approvals for six storey buildings nearby, there is no reasonable justification for the proposed building to exceed the preferred height control on the site which is also not identified as a key redevelopment site. The prominence of the additional building height above the DDO19 would be further heightened by its corner location. The issue of building height is exacerbated by the limited upper level setbacks which are proposed, which is discussed later in this report.



The land abutting the site to the west has a preferred maximum height of 11 metres where it fronts Evans Street and 14 metres where it fronts Pitt Street. The residentially zoned land located approximately 30 metres to the west of the site has a maximum height limit of 9 metres. An objective of the DDO seeks to create a new midrise built form character that provides a built form transition between the Lygon Activity Corridor and adjoining low-rise residential areas by designating the site with a preferred maximum height of 17 metres. As the development would exceed the building height by 11.3 metres, the proposal would not provide a suitable transition from the site to the low-rise residential land failing to meet the objective of the DDO.

The eight storey building and 28.3 metre building height fails to meet the objectives of the DDO19 as detailed in the grounds of refusal.

The five storey and 17 metre building height to Pitt Street would exceed the 14 metre preferred maximum building height of the DDO by 3 metres. However, the impact to Lygon Street and Pitt Street is reduced by the proposed eastern building as well as any future development of 1 Pitt Street to the south and is therefore less likely to be perceived from the public realm.

#### Upper level setbacks

A 3 metre upper level street setback is provided to Lygon Street and Evans Street which is the minimum sought by the DDO19. The DDO seeks upper level setbacks between 3-5 metres for the site. Setbacks between 3-5 metres are considered appropriate to provide 'recessive' upper levels if the preferred maximum building height is not exceeded. To achieve the DDO19 design objective, heights above the preferred maximum will need substantially greater upper level setbacks to ensure that the street wall remains the visually dominant element and that any height above the street wall is visually recessive, subservient and does not dominate the streetscape. The 3 metre setback proposed provides minimal visual relief for the upper levels and do not achieve the DDO19 objective.

#### Street wall

The DDO outlines a preferred maximum street wall height of four storeys, between 11-14 metres for Lygon Street and Evans Street. At the Lygon Street frontage the street wall ranges between 15.3 – 15.6 metres whilst the street wall to the Evans Street frontage ranges between 14.8 – 15.3 metres. Each street wall is four storeys in height. Overall, the street walls project above the preferred street wall height by 1.6 metres to Lygon Street and 1.3 metres to Evans Street. The five storey building has no frontage to Pitt Street.

Contributing factors to the height of the street wall are the 1.1 metre high parapet at Level 4 providing balustrades for the balconies; the 3.4m high ceiling at ground floor providing for a greater variety of commercial uses; a higher street wall at Lygon Street due to the slope of the land; the raising of the ground floor finished floor level to prevent flooding impacts to the site; lower footpath level at the south-eastern corner due to the existing crossover; and the 3.4m ceiling height to Level 3. Each of these factors are justifiable with the exception of the Level 3 ceiling height. This level's ceiling height may be reduced to 3.2m in line with the remaining residential levels to reduce the street wall height.

The existing street walls in this context provides justification for the proposed height above 14 metres. The development to the north at 267 Lygon Street has a street wall of 15.0 metres to Lygon Street and 15.1 metres to Evans Street. Subject to the reduction to the ceiling height at Level 3 which will reduce the street wall height by 200mm, the street wall can be supported as it will only be a minor exceedance and will be in keeping with the street wall heights in the surrounding context.

## **Does the proposal provide for adequate activation and pedestrian amenity?**

### Street interfaces

The proposal provides for active frontages to Lygon and Evans Street with retail tenancies presented to each of these streets and residential access from Evans Street. This complies with the DDO requirements.

Pedestrian access to the apartments are provided via the Evans Street frontage. The front walls at the ground floor have been setback from Evans Street between 1.6 – 4.1 metres. This has been done to increase the area of public space along Evans Street and to activate this space which is currently restricted by a narrow footpath. Further improvements can be made to the footpath on the southern side of Evans Street including undergrounding powerlines and removing crossovers and reinstating footpaths which could be included as conditions should a permit be issued.

Council's Development Engineer also considers the use of the rear laneway which is connected to Pitt Street an acceptable route to the site for waste truck access, bicycle access and pedestrian access given this laneway is appropriately surfaced. However, user safety can be improved within the laneway through additional windows and lighting. These changes could be included as conditions should a permit be issued.

All building services requiring access are located within the façade to Evans Street ensuring the Lygon Street façade maximises active street edges and passive surveillance for pedestrian safety in accordance with the DDO guidelines. The location of the vehicle access to Evans Street is supported by the DDO which seeks to minimise the impact of vehicle access on the public realm by locating vehicle access at the rear of buildings where possible and on secondary frontages provided to the side of corner properties away from the front façade.

Awnings are provided above the footpaths to Lygon Street and Evans Street for weather protection for pedestrians, however these awnings have not been designed to Council standards and require changes. This change could be conditioned should a permit be issued.

The proposal fails to provide adequate pedestrian amenity due to excessive height and minimal setback of the upper levels within the adjoining streets. The proportions of the development would enclose the public space within Lygon Street and Evans Street, failing to provide an appropriate balance of open space to built form pursuant to Clause 15.01-1L – Urban Design in Moreland. This is evident in the 3D render images included in the architectural drawings.

Furthermore, the western footpath of Lygon Street is affected by shadow at 1pm, 2pm and 3pm whilst the eastern footpath is in shadow at 3pm. The impact of shadow on Lygon Street is contributed by the 28.3 metre height of the building, 11.3 metres above the preferred building height. In the absence of specific tests for the building to meet the relevant DDO objective for overshadowing, the consideration of building height is key. The extent of shadow created by the development within Lygon Street is beyond the expectations of the DDO for a key pedestrian street and is considered unreasonable.

## **Does the proposal result in any unreasonable off-site amenity impacts?**

### Overshadowing

The DDO19 design objectives and decision guidelines note overshadowing to residential properties outside of the Activity Centre as a relevant planning consideration. The shadow diagrams demonstrate that the building would overshadow adjoining properties to the west and south as well as Lygon Street between 9am – 3pm at the equinox, which includes land that is zoned commercial and mixed use. The shadowing impact at the equinox does not extend beyond the boundaries of the Activity Centre and is therefore considered acceptable.

For completeness an objector has informed Council that a dwelling is located above the nursery at 245 Lygon Street. Whilst not shown on the plans it appears that this dwelling would have windows facing Lygon Street, Pitt Street and to the west. The shadow diagrams demonstrate that the windows facing the street and the west facing windows would not be impacted by overshadowing.

**Does the proposal provide adequate internal amenity and equitable development opportunities?**

The requirements of Clause 15.01-2L (Apartment Developments in Moreland) are only applicable to the west facing apartments as all other apartments face internally to the site or to the street. The 4.5 metre west side setback at Levels 5-7 comply with the boundary setbacks sought by Clause 15.01-2L for bedrooms, but fall short of the 9 metre requirement sought for living areas and main balcony outlooks. It is acknowledged that the impacted apartments have a dual aspect ensuring amenity for these apartments is acceptable. Despite this, it is considered that equitable development opportunities of the land to west would be impacted as a result of the reduced upper level side setbacks. DDO19 outlines a maximum building height of 11 metres for the adjoining property to the west fronting Evans Street which is 6 metres less than the 17 metres stipulated for the site. Therefore, any development on this adjoining land would be constrained in its outlook and amenity as a result of inadequate building separation. This does not respond to the strategies at Clause 15.01-2L which seeks to ensure that new developments allow for equitable development opportunities of adjoining sites.

The siting of the stair on the northern side of the five storey building creates a number of impacts for the development. The internal amenity of these dwellings is compromised as result, impacting on the northern outlook, daylight and ventilation. The setbacks included in Clause 15.01-2L seek appropriate building separation to achieve the internal amenity strategies included in this policy. The stair would essentially provide no separation for this building, failing to satisfy the strategies of the policy. Furthermore, the building would not maximise passive energy efficiency and create a quality living environment for residents, failing to meet the strategies and objective of Clause 15.01-2L-04 – Energy Efficiency in Moreland

**Does the proposal provide an appropriate site layout and onsite amenity and facilities?**

The following standards of Clause 58 relating to site layout and onsite amenity are met, noting that:

- Communal open space of approximately 875 square metres, which exceeds the 250 square metres of communal open spaces required by Standard D7.
- The development includes 60 adaptable dwellings equal to 55 per cent of the total number of dwellings exceeding the 50 per cent requirement of Standard D18.
- All 1-bedroom and 2-bedroom apartments have balconies of at least 8.4 square metres and 3-bedroom apartments have balconies exceeding 11.6 square metres.

Landscaping – Clause 58.03-5 Standard D10

The species of canopy trees do not meet the requirements of Standard D10 for landscaping however, the quantity of trees would provide canopy cover exceeding the requirements of the standard. Solar access to the landscaping at podium level would be compromised as a result of the highest built form being located to the north, as demonstrated by the shadow diagrams. This would impact on the viability of the landscaping which questions the suitability of the proposed landscaping in communal outdoor open space. Given this space would also serve as communal open space the height and massing of the building should be reconsidered to increase solar access to this communal space.

### Noise impacts – Clause 58.04-3 Standard D16

The Acoustic Assessment considers the noise impacts emitting from the nearby venue at 249 Lygon Street (Noisy Ritual) and the noise associated with Lygon Street. The acoustic report also considers the noise impacts generated by building services within the proposed development. The noise modelling determines that noise impacts to the residential dwellings would not be unreasonable, provided that windows are appropriately sealed and satisfy the glazing requirements included in the report. These measures could be ensured as a condition of any permit issued.

### **Has adequate car and bicycle parking been provided?**

The table below outlines the car parking requirements for the development based on the provisions of Clause 52.06-5 of the Moreland Planning Scheme.

<b>Use</b>	<b>Total spaces required</b>	<b>Total spaces provided</b>	<b>Reduction sought</b>
Dwellings (25 x 1-bed, 75 x 2-bed 9 x 3-bed)	118	106	12
Retail (1,453sqm)	50	6	44
<b>Total</b>	<b>168</b>	<b>112</b>	<b>56</b>

In considering the matters at Clause 52.06-7, the reduction of 56 car spaces is considered acceptable for the following reasons:

- The site is located in the Brunswick Activity Centre with excellent access to a range of public transport options.
- The reduction of car parking is predominantly associated with the retail tenancies, while the residential component is limited to 12 of the 1-bedroom dwellings not being provided with a car space.
- The development provides 133 bicycle spaces, exceeding the 41 spaces required by Clause 52.34-5.

### **What impact does the proposal have on car congestion and traffic in the local area?**

Council's Development Engineer considers the additional traffic generated from this development would be less than 40 vehicle movements into and out of the basement during each peak hour. These vehicles will move along Evans Street (a local access street). Based on this data the additional vehicles are not expected to cause unacceptable congestion at the nearby intersections. The Development Engineer has accepted the analysis of the Traffic Impact Assessment in respect to traffic generation, road network capacity and vehicle movements inclusive of private waste trucks.

### **Are adequate loading/unloading facilities provided?**

Clause 65.01 requires consideration of the adequacy of loading and unloading. There are opportunities for loading via the business owner's car space and nearby (Pitt Street) on street loading zone. Parking is also available in front of the site across all three frontages.

### **Does the proposal incorporate adequate Environmental Sustainable Design (ESD) features?**

ESD features of the development include:

- Minimum average NatHERS rating of 7 stars
- BESS score of 66 per cent
- Net-zero carbon strategies including an all electrical building with no connection to gas

Should a planning permit be issued, conditions are recommended to ensure that the development would meet best practice in environmentally sustainable development.

### **Is the land potentially contaminated?**

The applicant has identified the previous uses of the land as retail, warehouse and manufacturing. In the absence of an Environmental Audit Overlay for the land, the practice note for potentially contaminated land recommends where a sensitive use is proposed (residential) a preliminary risk screen assessment is required to determine the need for an audit. This could be included as a condition should a permit be issued.

## **5. Response to Objector Concerns**

The following issues raised by objectors are addressed in section 4 of this report:

- Building height
- Street wall height
- Upper level setbacks
- Loading and unloading/Waste collection
- Basement access
- Car parking
- Traffic increase
- Overshadowing

Other issues raised by objectors are addressed below.

### **Overlooking**

The north-western apartments at Levels 4 – 7 of the eight storey building have windows and balconies with a western orientation facing the residential properties along Evans Street. Standard D14 of Clause 58.04-1 provides the assessment criteria for overlooking and requires *the impact of overlooking on the amenity of existing and proposed dwellings* to be considered.

The balconies of these apartments with a western outlook have 1.0 – 1.5 metre wide planter boxes along the edge to limit views from the balcony into existing dwellings private open space and habitable room windows. The west facing windows of these apartments are also setback between 2.7 – 4.9 metres from the balcony edge to also obscure views into the adjoining properties.

The balconies with a dual aspect at Level 1-3 of the north-western apartments facing Evans Street are not considered to contribute to overlooking given they would not have direct views into adjoining private open space and habitable room windows. The west facing corridor windows are not habitable rooms and therefore need not be screened. The remaining west facing windows within the development are located at least 22 metres from the west boundary and would not have direct views into neighbouring properties.

### **Loss of views**

While the Victorian Civil and Administrative Tribunal has recognised that views can be a relevant amenity consideration, it has also held that there is no right to a view and that the weight to be given to the amenity impact of loss of views is diminished where no planning control applies encouraging retention or sharing of views. There is no specific policy or provision regarding views within the Moreland Planning Scheme. In this activity centre context, where significant change is expected, any loss of views from private residences is not considered to warrant the amendment or refusal of the application.

Nevertheless, the amenity impacts associated with the proposed building height and siting of the upper levels are considered unreasonable and is not supported.

### **Natural ventilation**

Standard D29 of Clause 58.07-4 provides the assessment criteria for the consideration of natural ventilation and requires at least 40 per cent of dwellings to provide efficient cross ventilation that has:

- A maximum breeze path through the dwelling of 18 metres.
- A minimum breeze path through the dwelling of 5 metres.
- Ventilation openings with approximately the same area.

The breeze path is measured between the ventilation openings on different orientations of the dwelling.

Of the various apartment types 51.4 per cent have effective cross ventilation, satisfying the requirements of Standard 29 and subsequently meeting the objectives of Clause 58.07-4.

### **Impacts on nearby businesses**

There are a number of businesses operating nearby, including the plant nursery, wine bar, tattoo studio, health and well being studio and a dance studio. Consideration has been given to the impacts of overshadowing to the neighbouring businesses and the impacts of car parking demand in section 4 of this report. The impacts created by the development in each matter are deemed to be acceptable based on the information accompanying the application.

Shadows created by the development would extend into the nearby properties with the key consideration being the impact on the plant nursery at 245-247 Pitt Street, which has a glazed roof. The extent of shadow within the glazed area wouldn't exceed 33 per cent during daylight hours at the equinox. These are considered to be acceptable impacts on a site that is located within an activity centre which is identified for significant change.

### **Car parking survey data**

Car parking surveys informing the Traffic Impact Assessment were carried out on Thursday 18<sup>th</sup> November between 9am – 7pm and Saturday 13<sup>th</sup> November 2021 between 10am – 3pm. Objectors are concerned that the parking survey does not accurately reflect car parking demand given at the time the surveys were undertaken the impacts and flow on effects of covid-19 restrictions were still in play. It is somewhat unknown what level of impact the restrictions had on the survey data, however it does still provide useful information to inform the assessment. The consideration of the car parking reduction does factor in the survey data but also relies on a number of other factors in determining whether it is appropriate or not. With the support for the reduction of car parking provided by Council's Development Engineer and the policy at Clause 18.02-4L, the consideration of car parking impacts has been adequately assessed as acceptable in this instance. Concerns with the timing of the surveys can be raised through submissions as part of the VCAT review process.

### **Impacts on heritage values**

An objector is concerned with the impacts the development will have on the heritage values of 3 Pitt Street and 236 and 238 Lygon Street in regards to overshadowing and overlooking. Firstly, these properties are not identified in a Heritage Overlay. The assessment in Section 4 also considers the impacts of overshadowing on the neighbouring properties and that overshadowing within Lygon Street is unacceptable. Impacts of overlooking are also considered above, resolving there will be no unreasonable overlooking into 3 Pitt Street.

### **Building footprint/No deep soil planting**

Standard D10 of Clause 58.03-5 provides requires 247sqm of deep soil and 345sqm of canopy cover (including two Type B trees or one Type C tree) for the development. Deep soil planting does not need to be provided at ground level as this would be difficult for most apartment developments. The proposed landscaping would satisfy the canopy cover and deep soil requirements, however it would not meet the minimum dimensions required for the tree species. When considering the number of trees provided for the development is 34, the development would provide appropriate canopy cover ensuring the objectives of Clause 58.03-5 are met.

### **Waste collection**

Two separate waste rooms are provided for the development, one is located in the basement for the residential component and one is located at the rear of the retail tenancies accessed via the rear laneway. A Waste Management Plan (WMP) has been provided specifying waste volumes, method of collection, bin washing facilities and details of ventilation. Council's Development Engineer is satisfied with the WMP.

Swept paths included in the Traffic Report confirm private waste vehicles can enter and exit the site/basement in a forwards direction. Waste vehicles utilising the laneway are not able to exit the site in a forward direction, however this is not considered unreasonable for a laneway with no through road. Three other buildings have access to the laneway and are not expected to be impacted by the collection of waste which would occur once a week.

## **6. Officer Declaration of Conflict of Interest**

Council Officers involved in the preparation of this report do not have a conflict of interest in this matter.

## **7. Financial and Resources Implications**

There are no financial or resource implications.

## **8. Conclusion**

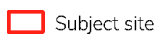
On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Council's submission to VCAT be to not support the application for the reasons detailed in the recommendation.

### **Attachment/s**

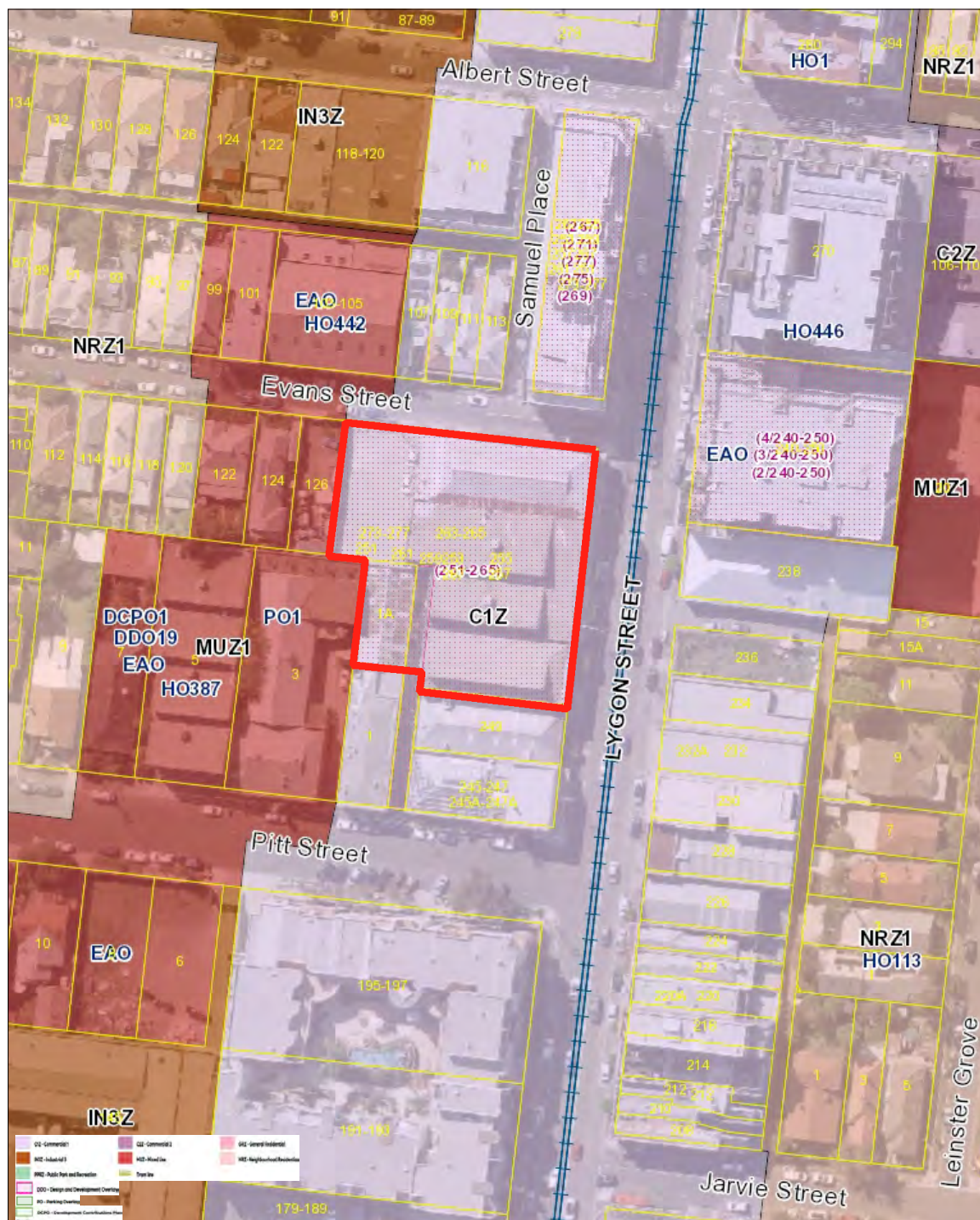
<a href="#">1</a>	Location Plan	D22/323344
<a href="#">2</a>	Development Plans	D22/323124
<a href="#">3</a>	Location of Objectors	D22/323551



## Location Plan



Moreland City Council



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50.8	0	25.40	50.8
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Meters

Date Map Generated: 8/8/2022

Map Scale: 1,000.00





# 21037 - BRUNSWICK EAST DEVELOPMENT

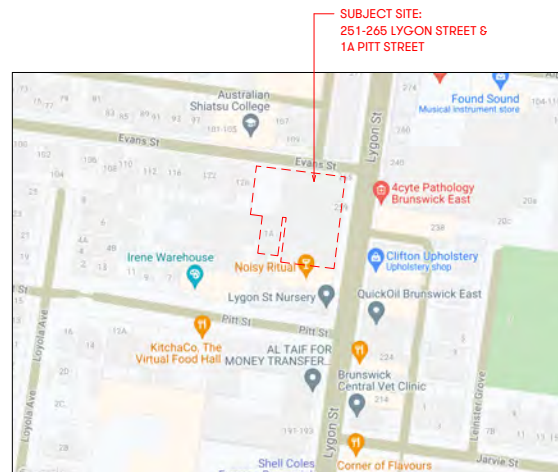
251-265 LYGON STREET & 1A PITT STREET  
BRUNSWICK EAST/BRUNSWICK  
VIC 3057/3056

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advised Document  
Advised Plan Sheet: 1 of 73  
Application No: MPS/2022/4  
Date: 2/05/2022



1 AERIAL PHOTOGRAPH  
NOT TO SCALE



2 SITE MAP  
NOT TO SCALE

EXECUTIVE SUMMARY	
SITE AREA (Excluding subterranean basement area)	2476 m <sup>2</sup>
SUBTERRANEAN BASEMENT AREA	1444 m <sup>2</sup>
<b>RETAIL AREA</b>	<b>1444 m<sup>2</sup></b>
<b>TOTAL NUMBER OF DWELLINGS</b>	<b>108</b>
3 BEDROOM APARTMENTS	9
2 BEDROOM APARTMENTS	75
1 BEDROOM APARTMENTS	25
<b>TOTAL NUMBER OF CARPARKS</b>	<b>112</b>
STANDARD CAR PARKS	105
TANDEN CAR PARKS	3/2
ACCESSIBLE CAR PARKS	1
<b>TOTAL NUMBER OF MOTORCYCLE PARKS</b>	<b>6</b>
<b>TOTAL NUMBER OF BICYCLE PARKING SPACES</b>	<b>139</b>
RESIDENTIAL BICYCLE PARKING SPACES	115
VISITOR BICYCLE PARKING SPACES	10
EMPLOYEE BICYCLE PARKING SPACES	8

TP DRAWING LIST		
DRAWING NUMBER	DRAWING NAME	REVISION
TP00	LOCATION PLAN AND DRAWING LIST	A
TP01	SITE PLAN	A
TP02	EXISTING & DEMOLITION PLANS	
TP03	EXISTING & DEMOLITION ELEVATIONS	
TP04	EXISTING & DEMOLITION ELEVATIONS	
TP05	PROPOSED BASEMENT 1 PLAN	A
TP06	PROPOSED BASEMENT 2 PLAN	A
TP07	PROPOSED LEVEL 1 PLAN	A
TP08	PROPOSED LEVEL 2 PLAN	A
TP09	PROPOSED LEVEL 3 PLAN	A
TP10	PROPOSED LEVEL 4 PLAN	A
TP11	PROPOSED LEVEL 5 PLAN	A
TP12	PROPOSED LEVEL 6 PLAN	A
TP13	PROPOSED LEVEL 7 PLAN	A
TP14	PROPOSED LEVEL 8 PLAN	A
TP15	PROPOSED NORTH ELEVATION	A
TP16	PROPOSED EAST ELEVATION	A
TP17	PROPOSED SOUTH ELEVATION	A
TP18	PROPOSED WEST ELEVATION	A
TP19	PROPOSED INTERNAL ELEVATION - SOUTH	A
TP20	PROPOSED INTERNAL ELEVATION - WEST	A
TP21	PROPOSED INTERNAL ELEVATION - WEST	A
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TP99	PROPOSED INTERNAL ELEVATION - WEST	A
TP00	COMPLIANCE MATRIX	A

## LOCATION PLAN AND DRAWING LIST

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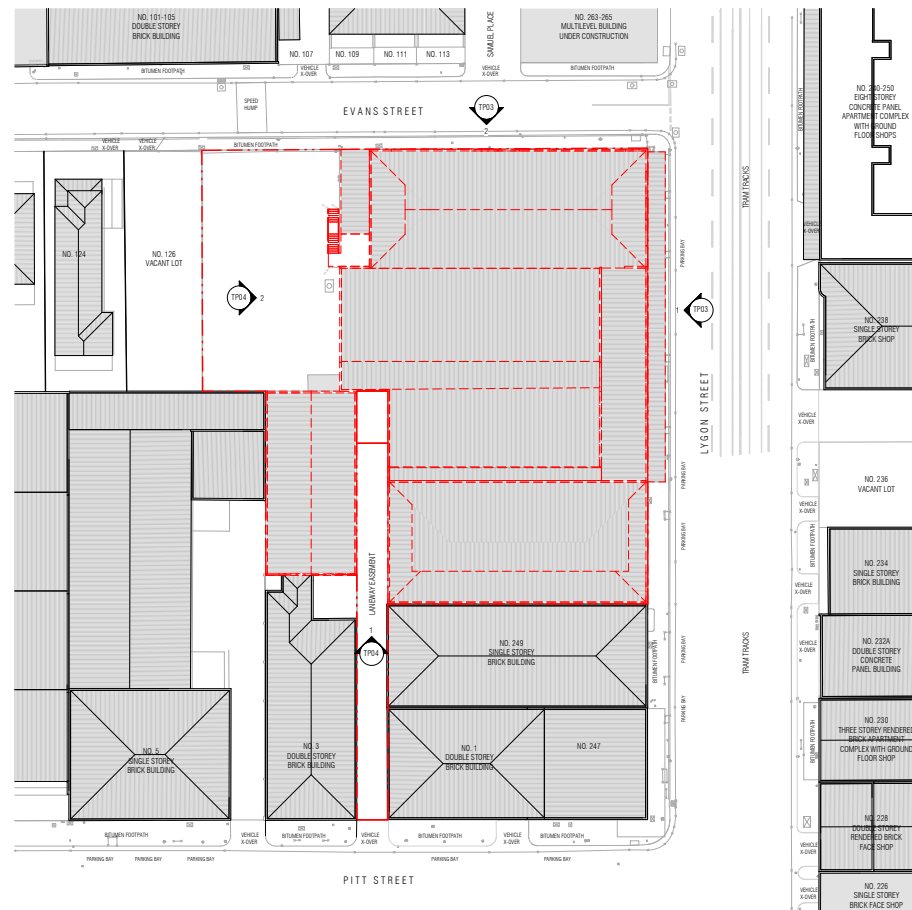
### Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE  
PRINT SIZE A2  
DRAFTED MC  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP00 A**





PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 3 of 73  
Application No: MPS/2022/4  
Date: 2/05/2022



Scale @ A2 1:350  
Scale @ A0 1:175

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## EXISTING & DEMOLITION PLANS

### Pace of Brunswick East

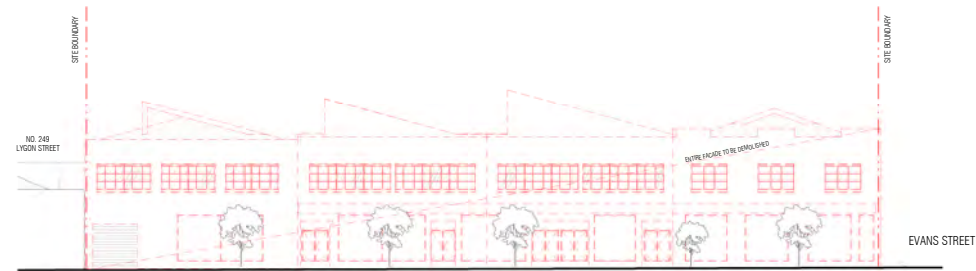
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CLIENT	PACE	ORIG. ISSUE	21/12/21



TOWN PLANNING  
**TP02**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 4 of 73  
Application No: MPS/2022/4  
Date: 2/05/2022



1 EXISTING & DEMOLITION EAST ELEVATION  
TP03 1:200



2 EXISTING & DEMOLITION NORTH ELEVATION  
TP03 1:200

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Scale @ A2 1:200  
Scale @ A0 1:100

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PROJECT NO	21037	PRINT SIZE	A2
ADDRESS	251-245 Lygon St 6 1A Pitt St Brunswick East 3057	DRAFTED	MC
		CHECKED	SM
CLIENT	PACE	ORIG. ISSUE	21/12/21

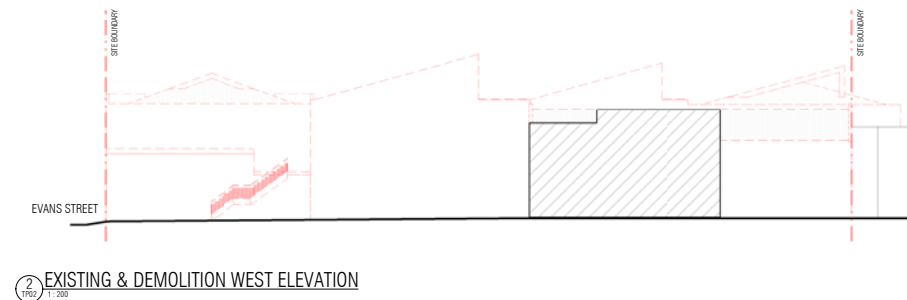
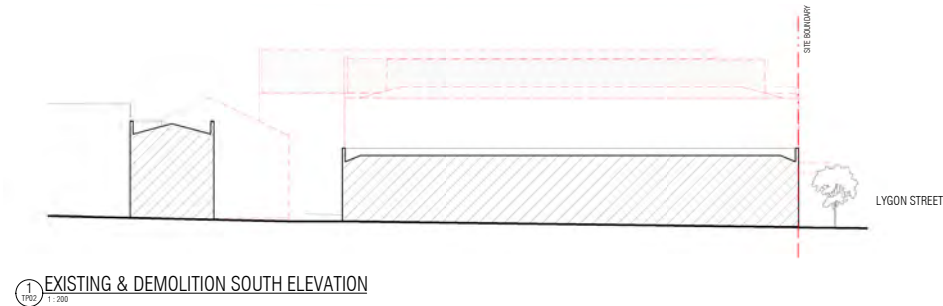


NORTH

TOWN PLANNING  
**TP03**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 5 of 73  
Application No: MPS/2022/4  
Date: 2/05/2022



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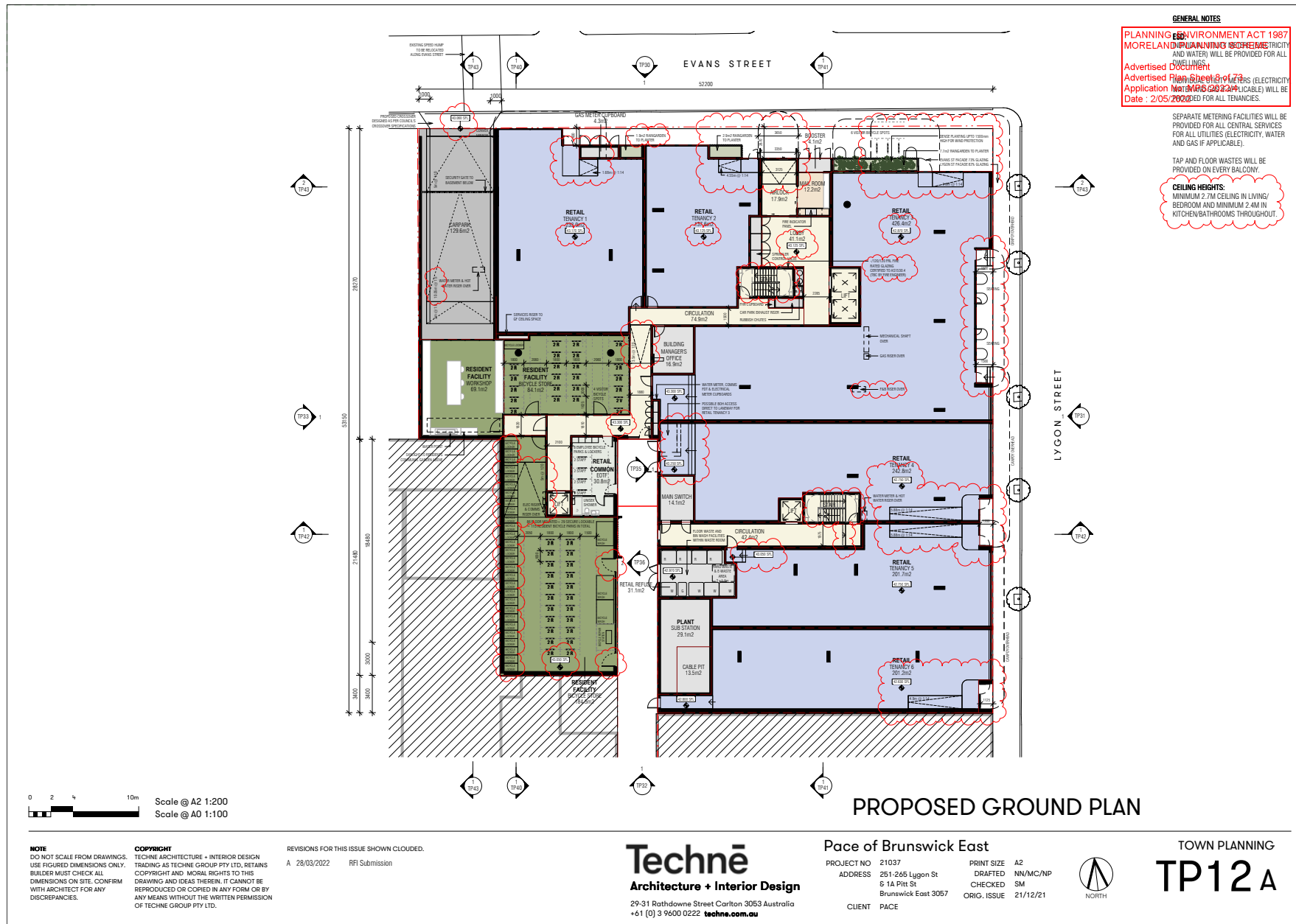
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CLIENT	PACE	ORIG. ISSUE	21/12/21



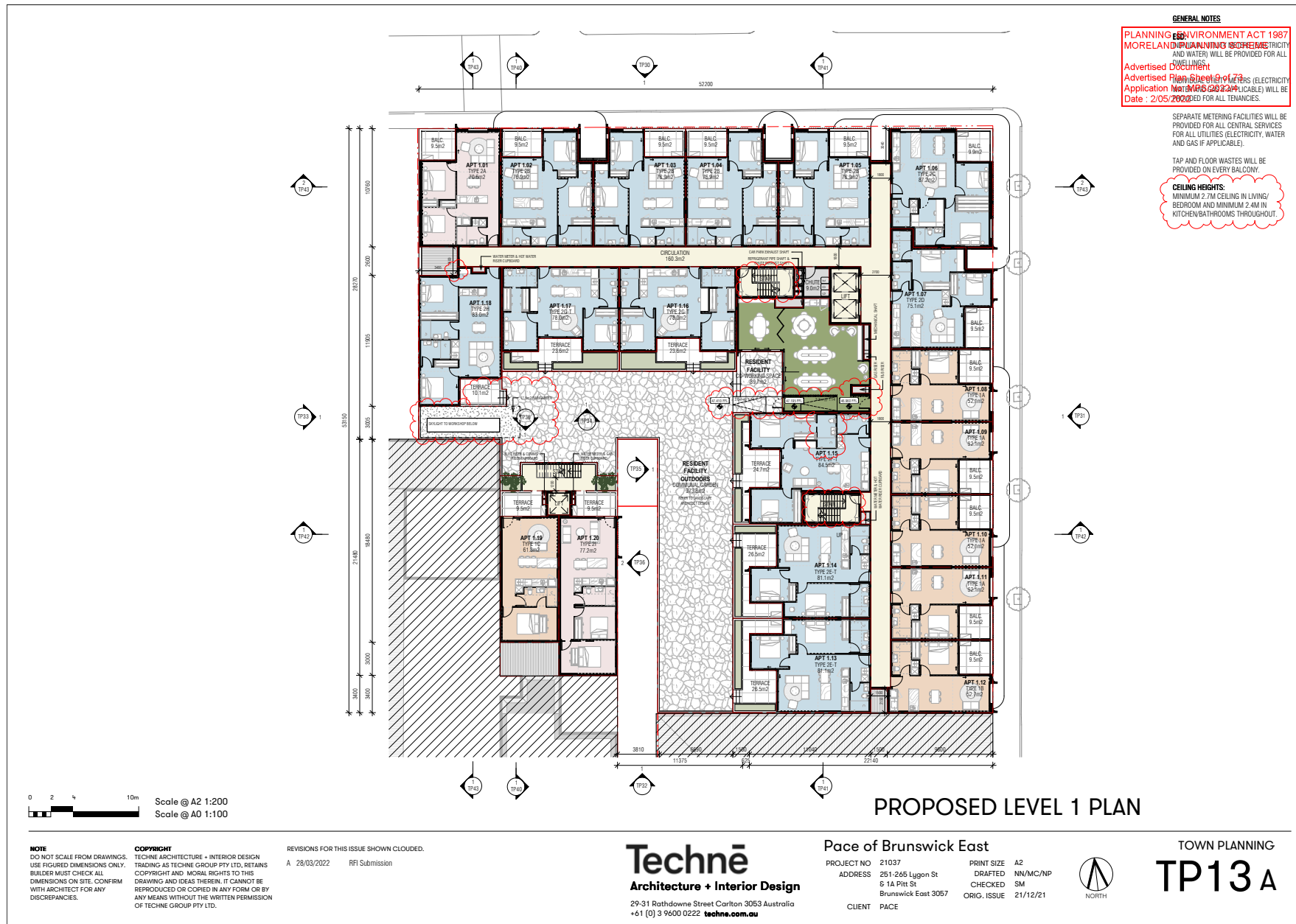
TOWN PLANNING  
**TP04**



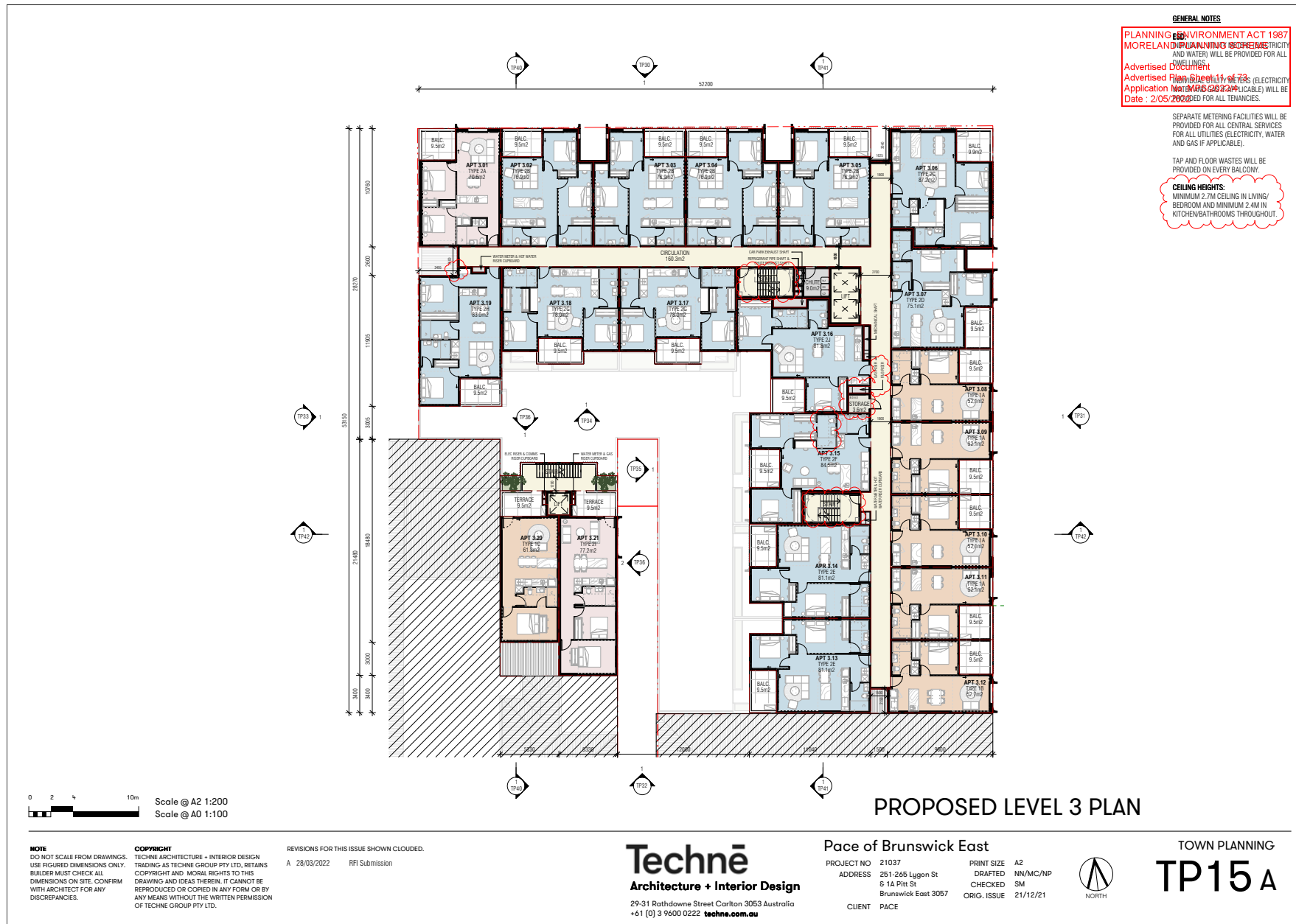


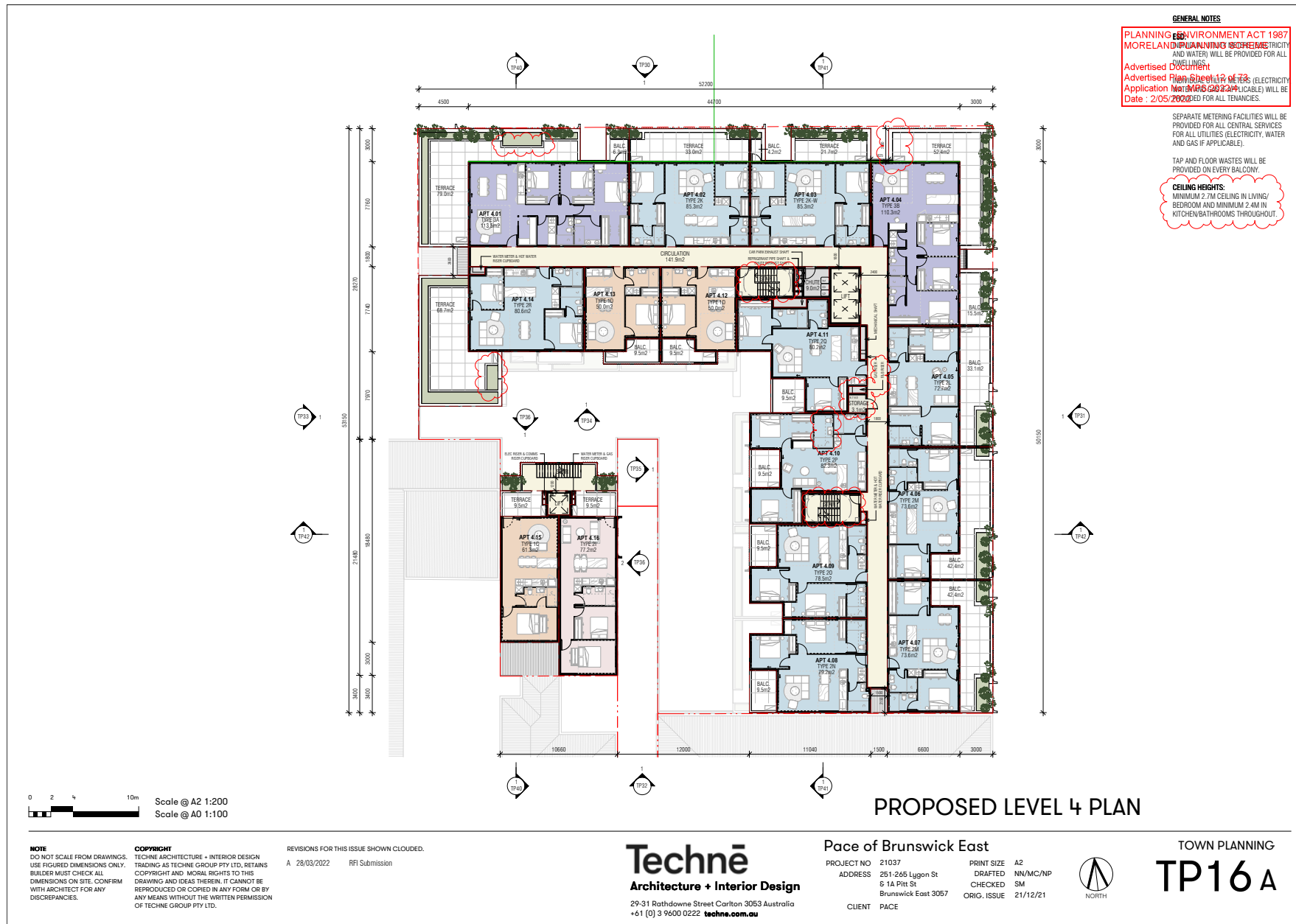




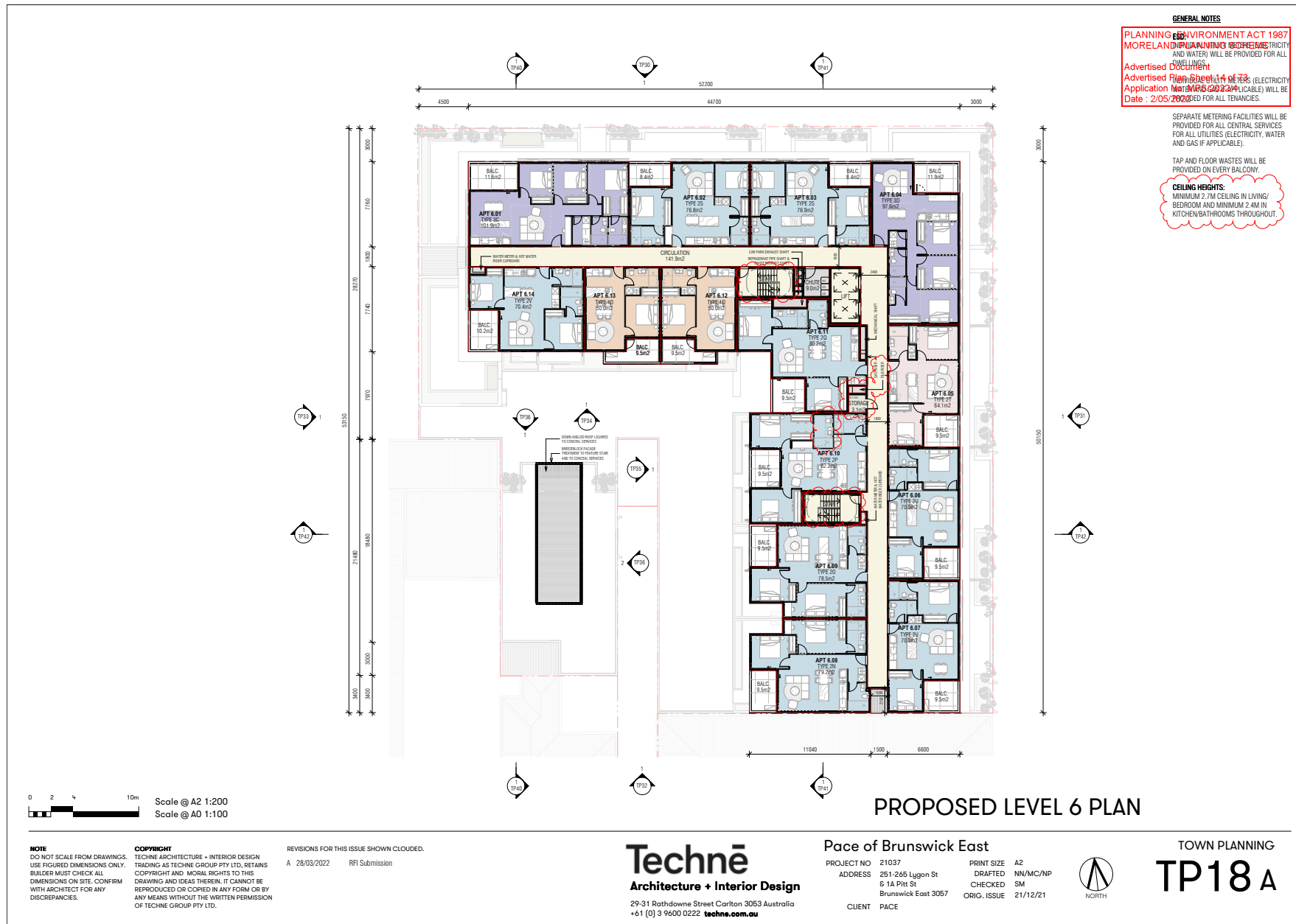




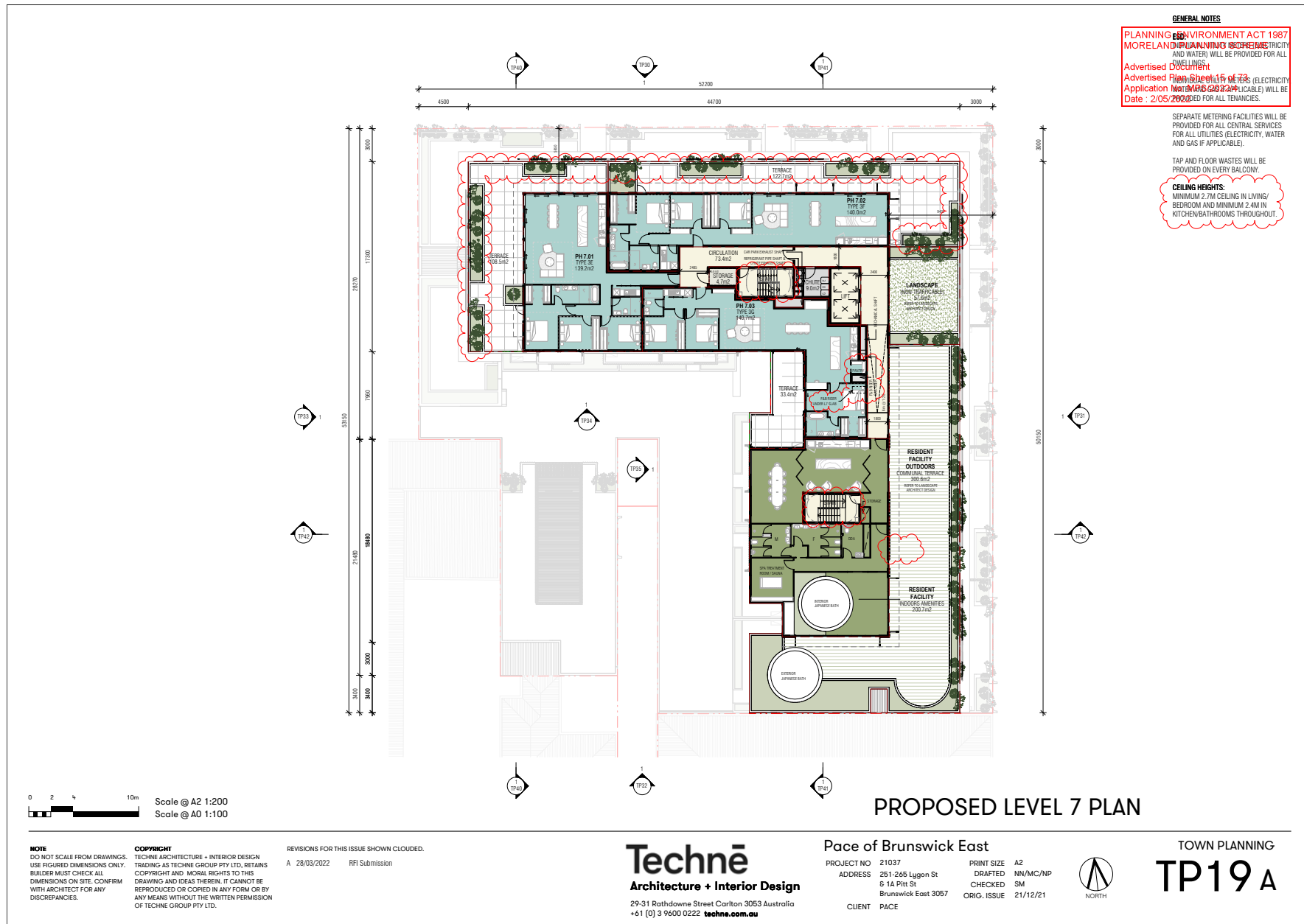


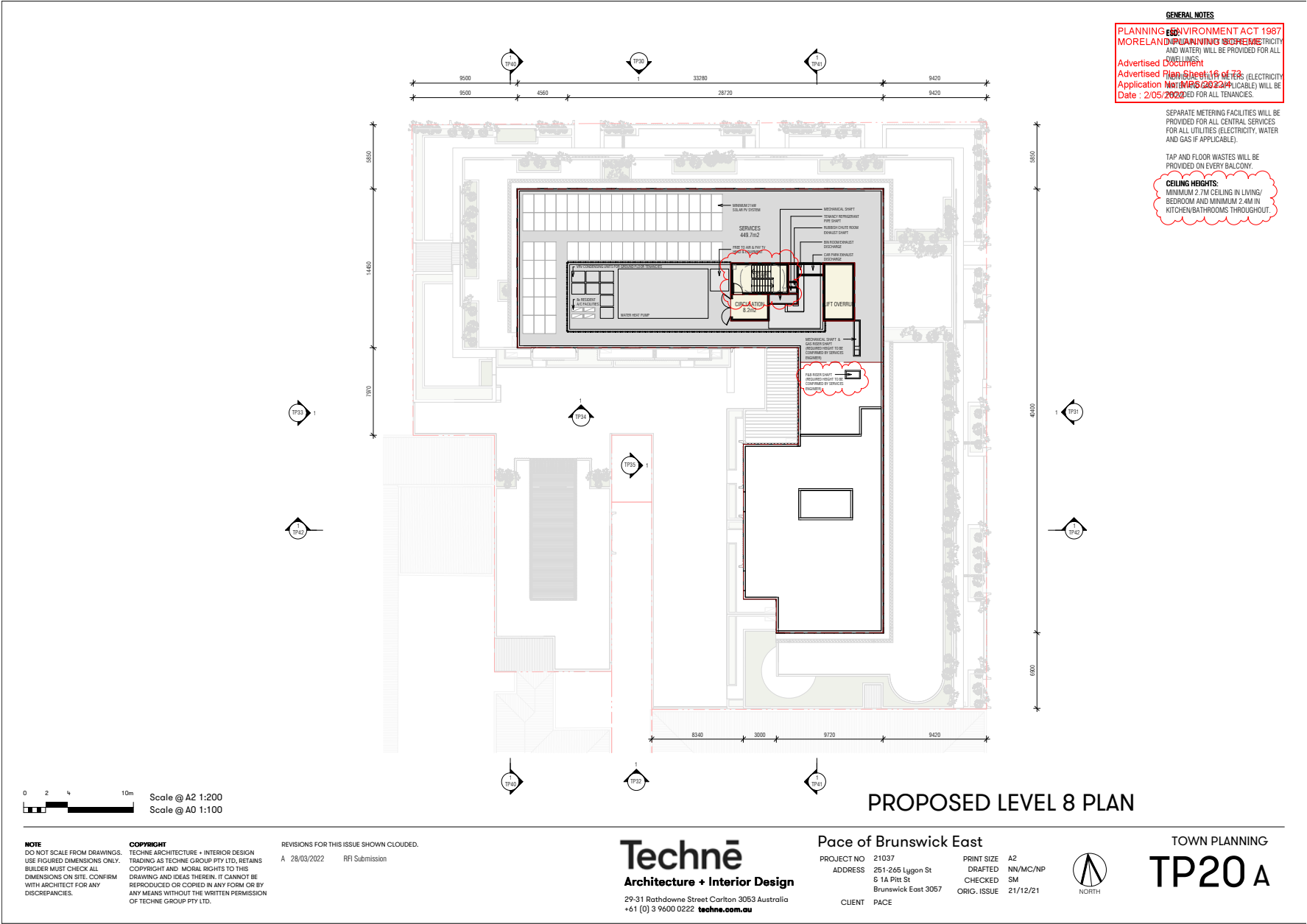








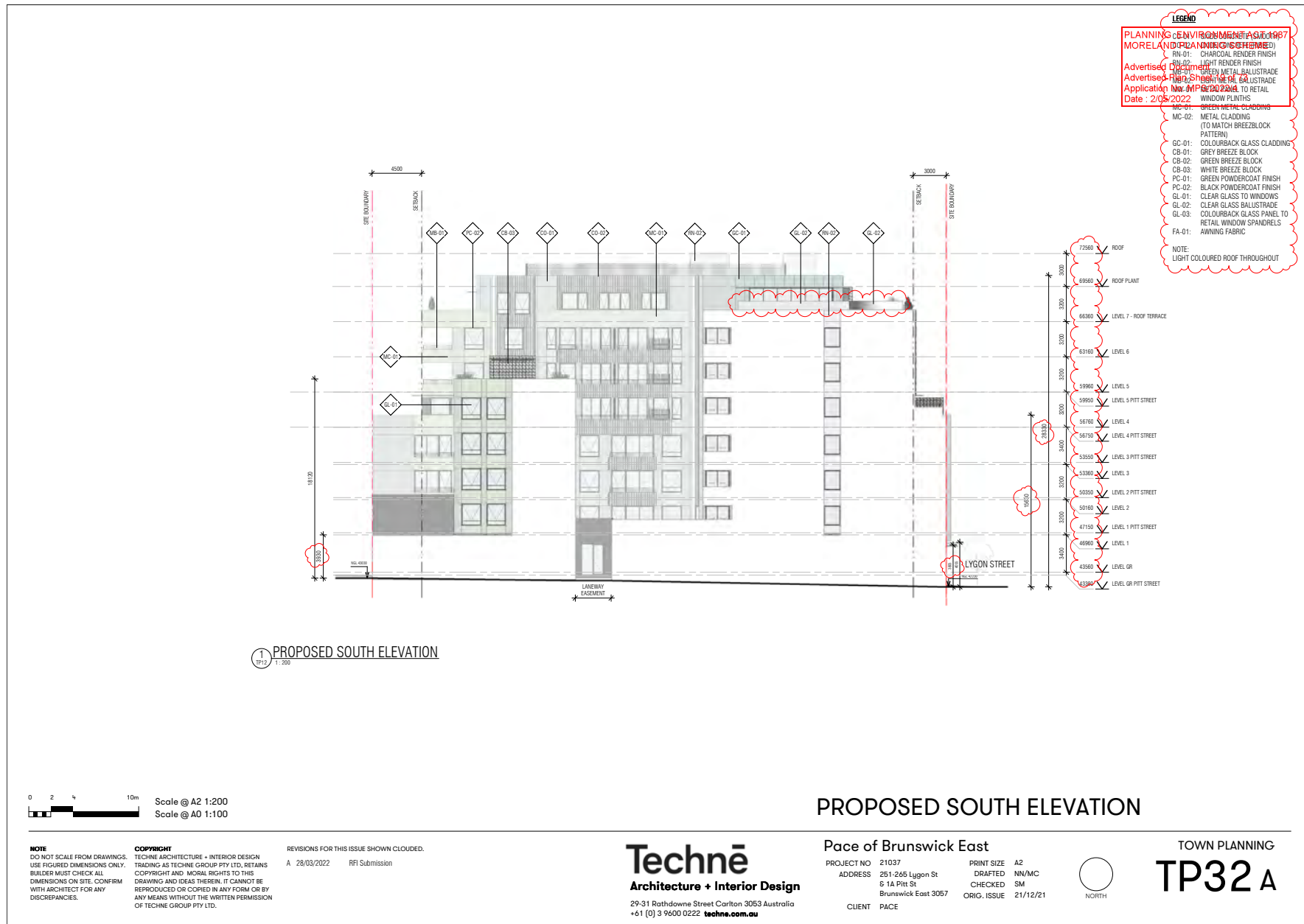




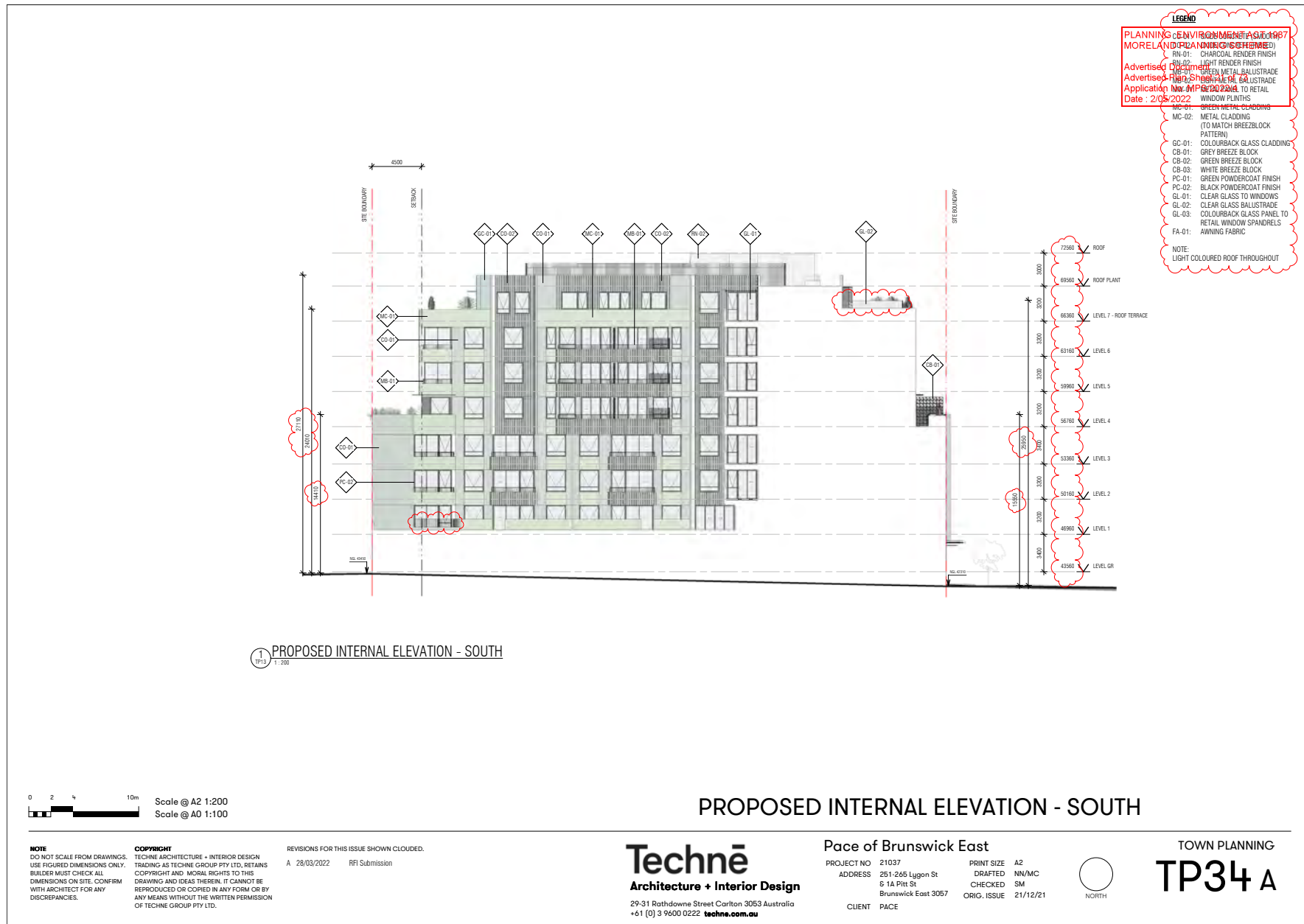


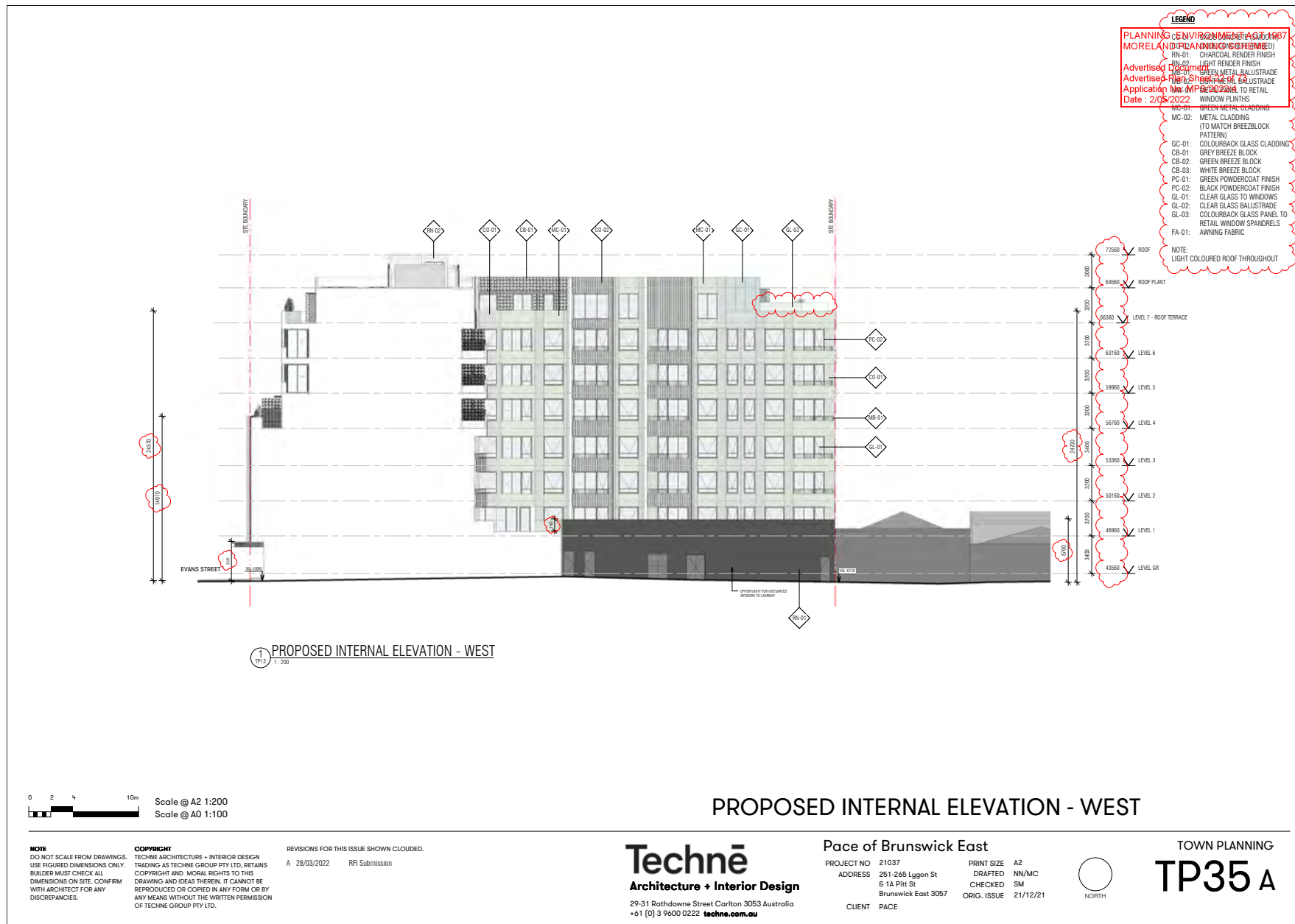
















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### Pace of Brunswick East


PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
& 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/MC  
CHECKED SM  
ORIG. ISSUE 21/12/21

TOWN PLANNING  
TP36 A

PLANNING ENVIRONMENT ACT 1987  
 MORELAND PLANNING SCHEME  
 Advised Document  
 Advised Plan Sheet: 24 of 73  
 Application No. MPR/2022/4  
 Date: 2/05/2022

						
CO-01 Oxide concrete (smooth)	CO-02 Oxide concrete (ribbed)	RN-01 Charcoal render finish	RN-02 Light render finish	MB-01 Green metal balustrade	MB-02 Light metal balustrade	MW-01 Metal panel to retail windows plinths
						
MC-01 Green metal cladding	MC-02 Metal cladding, matching pattern to breeze blocks	GC-01 Colourback glass cladding	CB-01 Grey breeze block	CB-02 Green breeze block	CB-03 White breeze block	PC-01 Green powdercoat finish
						
PC-02 Black powdercoat finish	GL-01 Clear glass to windows	GL-02 Clear glass balustrade	GL-03 Colourback glass panel to retail windows spandrels	FA-01 Awnings fabric		



Scale @ A2 1:50  
 Scale @ A0 1:25

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**Pace of Brunswick East**

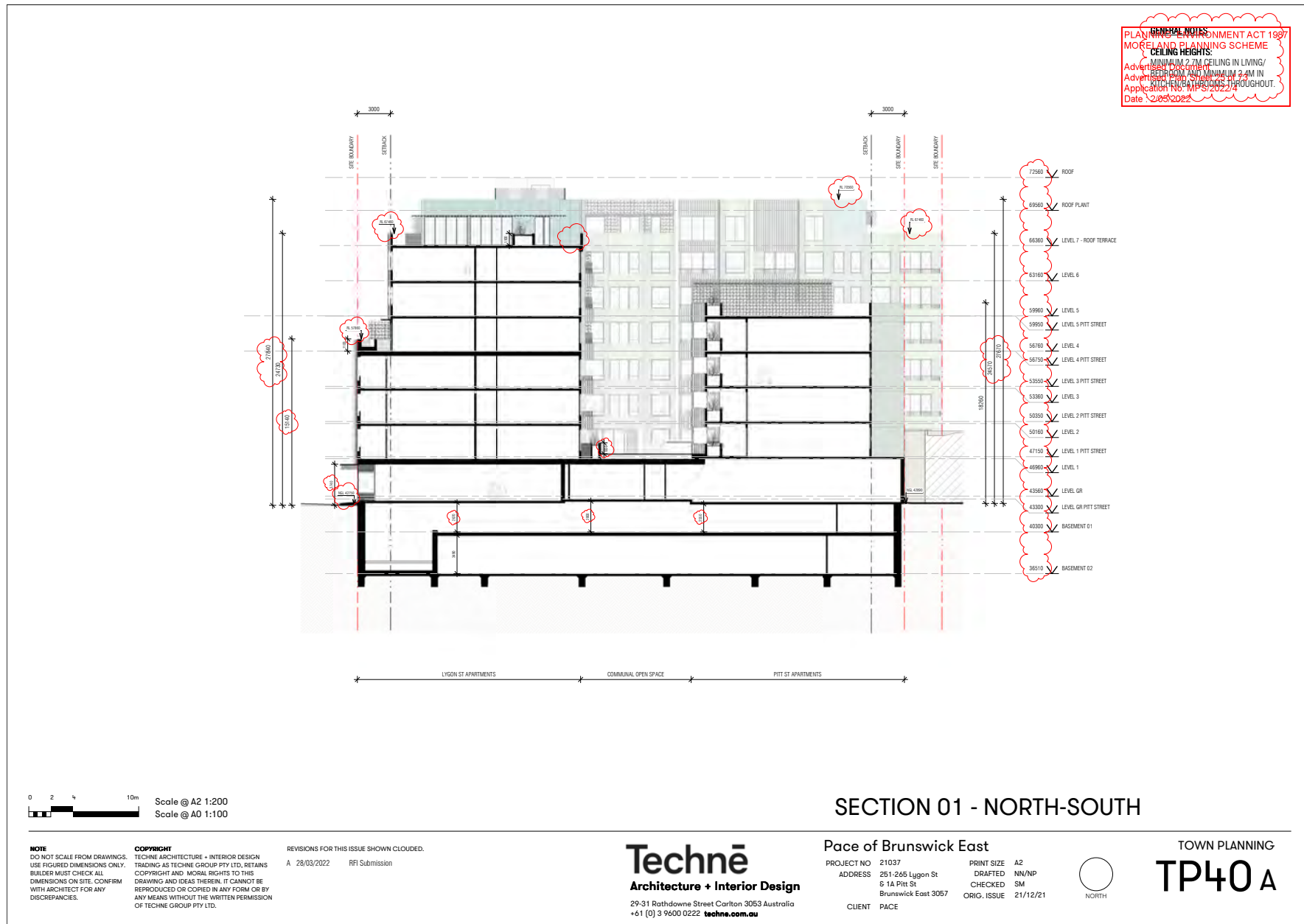
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ADDRESS	251-265 Lygon St 6 1A Pitt St Brunswick East 3057	DRAFTED	NP/NN
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CLIENT	PACE	ORIG. ISSUE	17/03/22

  
 NORTH

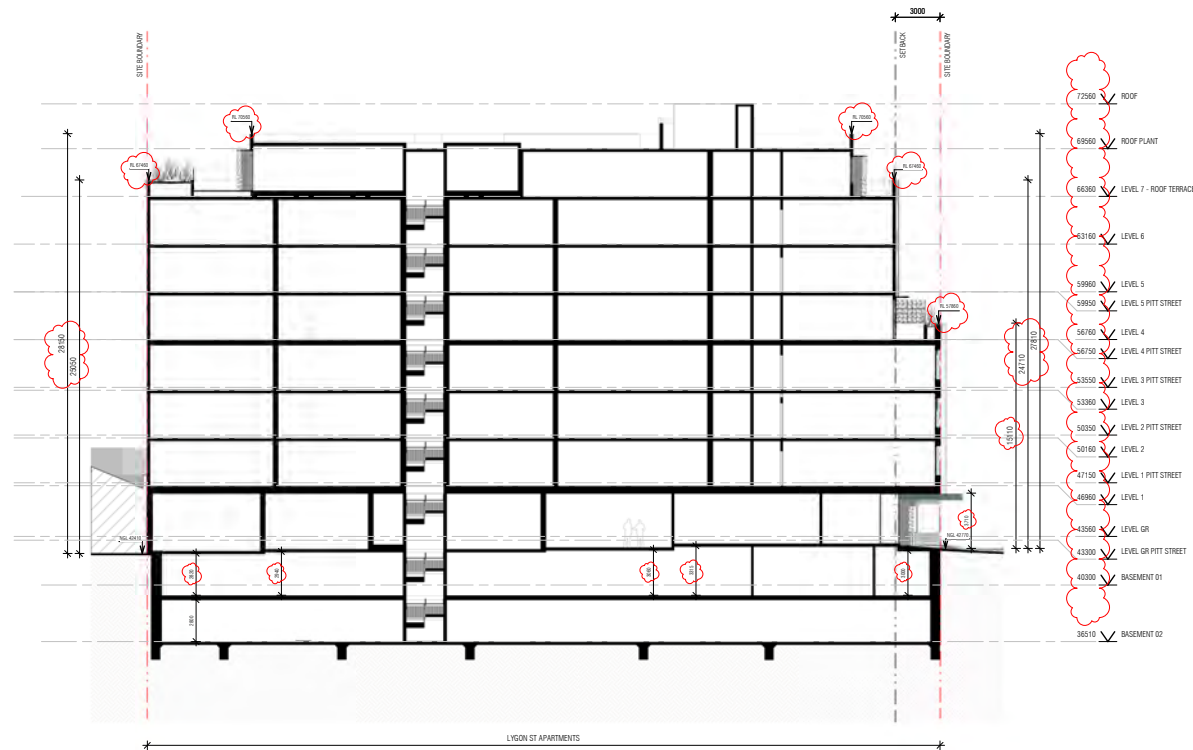
TOWN PLANNING

**TP37**





**GENERAL NOTES**  
 PLANNING ENVIRONMENT ACT 1987  
 MORELAND PLANNING SCHEME  
**CEILING HEIGHTS:**  
 MINIMUM 2.7M CEILING IN LIVING/  
 Advertisements: 2.0M  
 Advertisements: 2.0M  
 Advertisements: 2.0M  
 Application No. MP-82-2224  
 Date 2/05/2022



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 Scale @ A0 1:100

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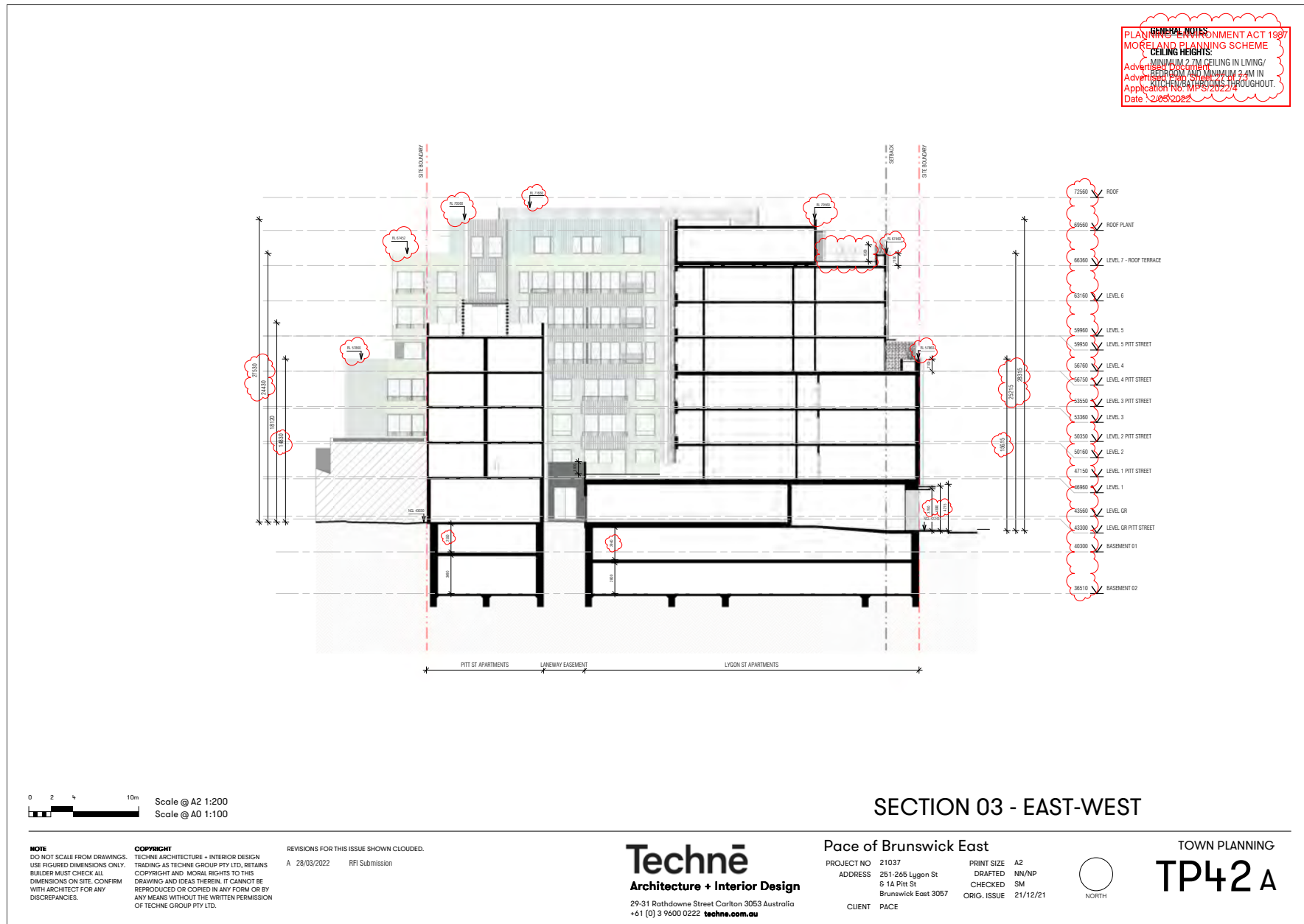
Pace of Brunswick East

PROJECT NO 21037  
 ADDRESS 251-245 Lygon St  
 6 1A Pitt St  
 Brunswick East 3087  
 CLIENT PACE  
 PRINT SIZE A2  
 DRAFTED NN/NP  
 CHECKED SM  
 ORIG. ISSUE 21/12/21

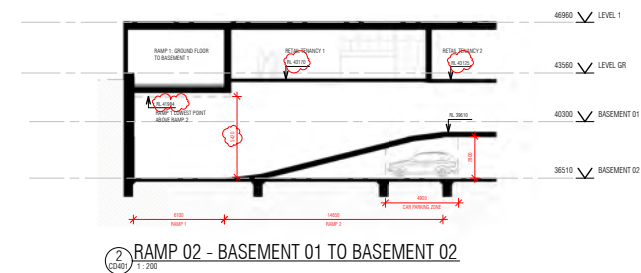


NORTH

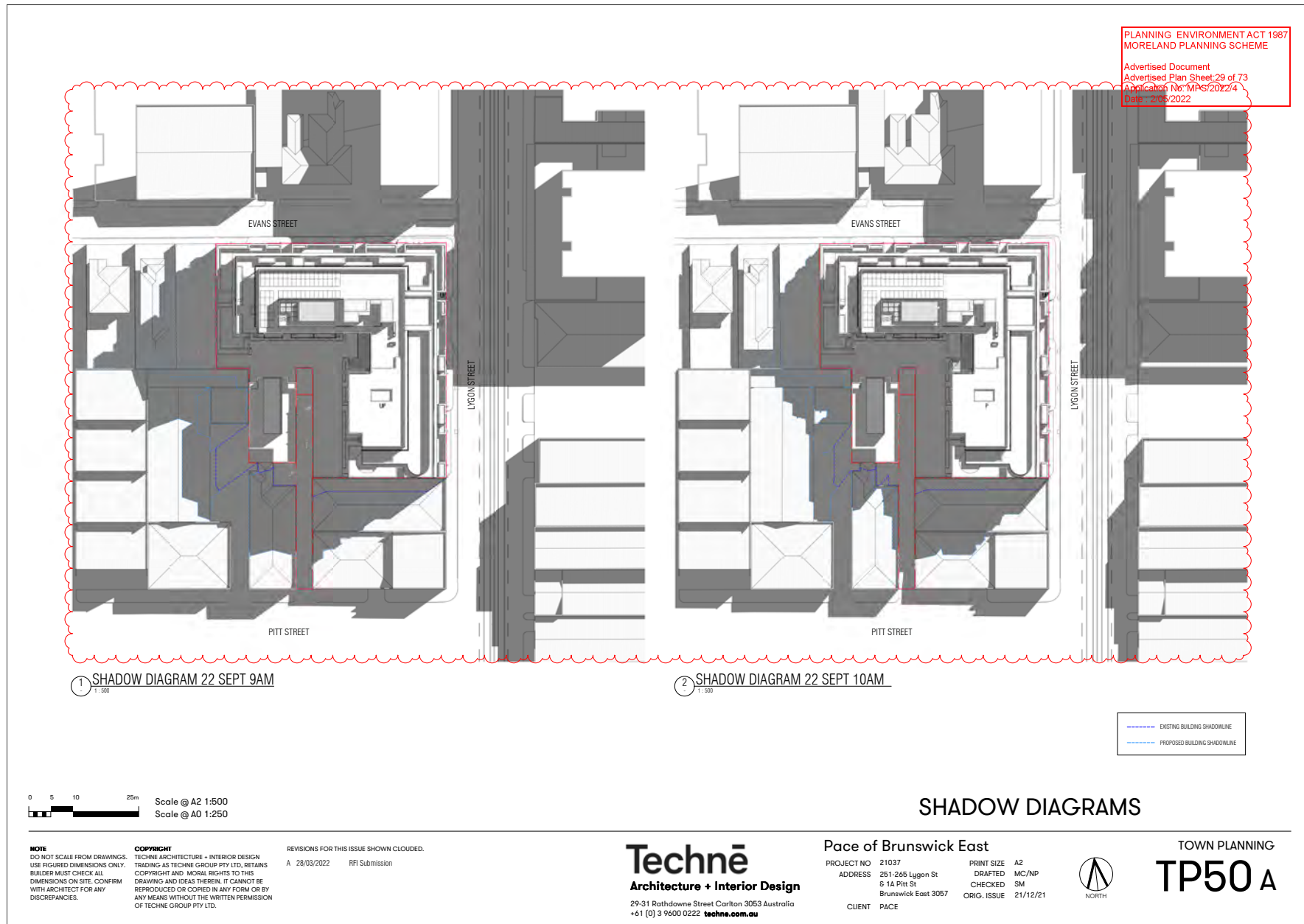
TOWN PLANNING  
**TP41 A**

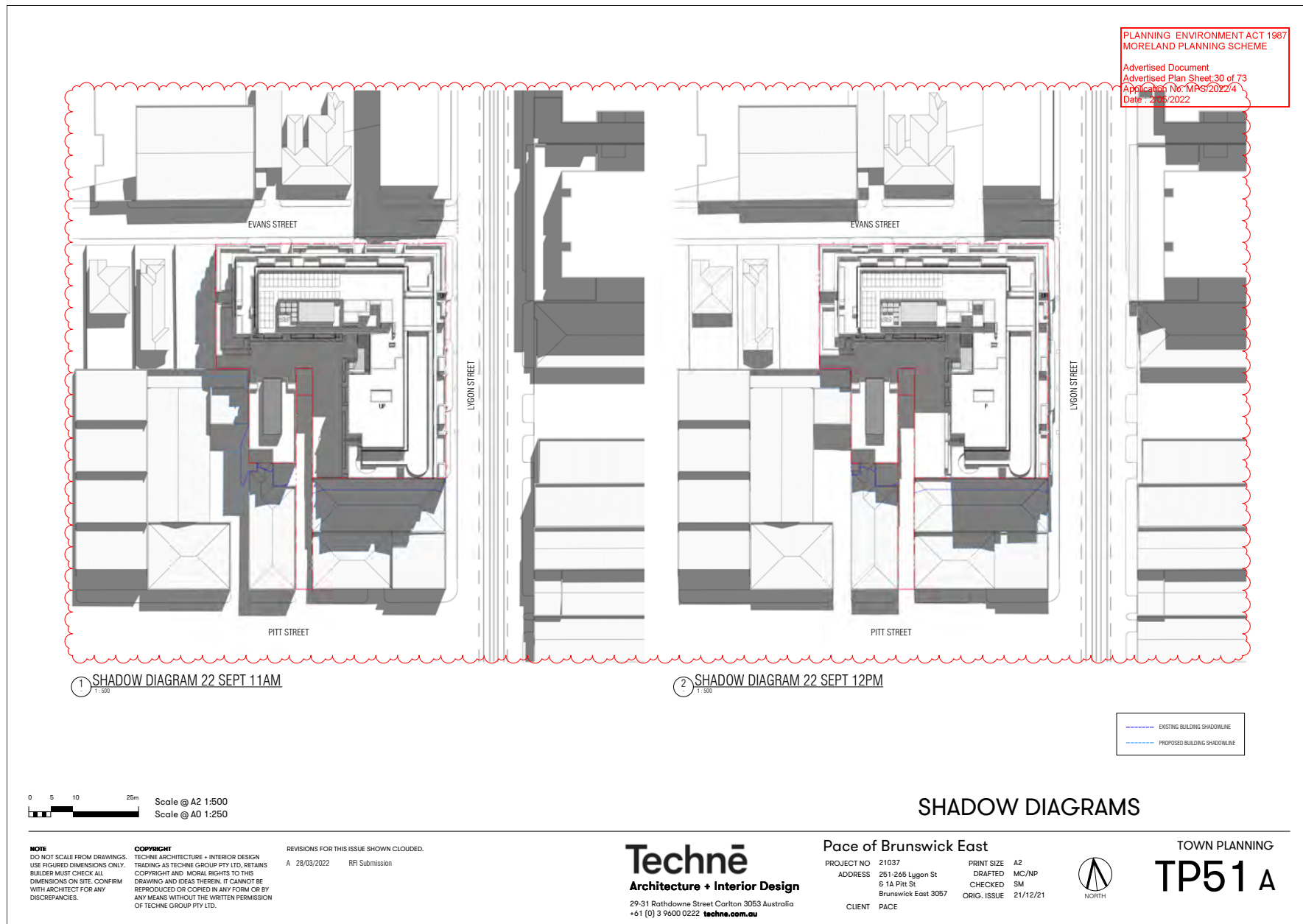


Advertised Document  
Advertised Plan Sheet:28 of 73  
Application No: MPS/2022/4  
Date : 2/05/2022

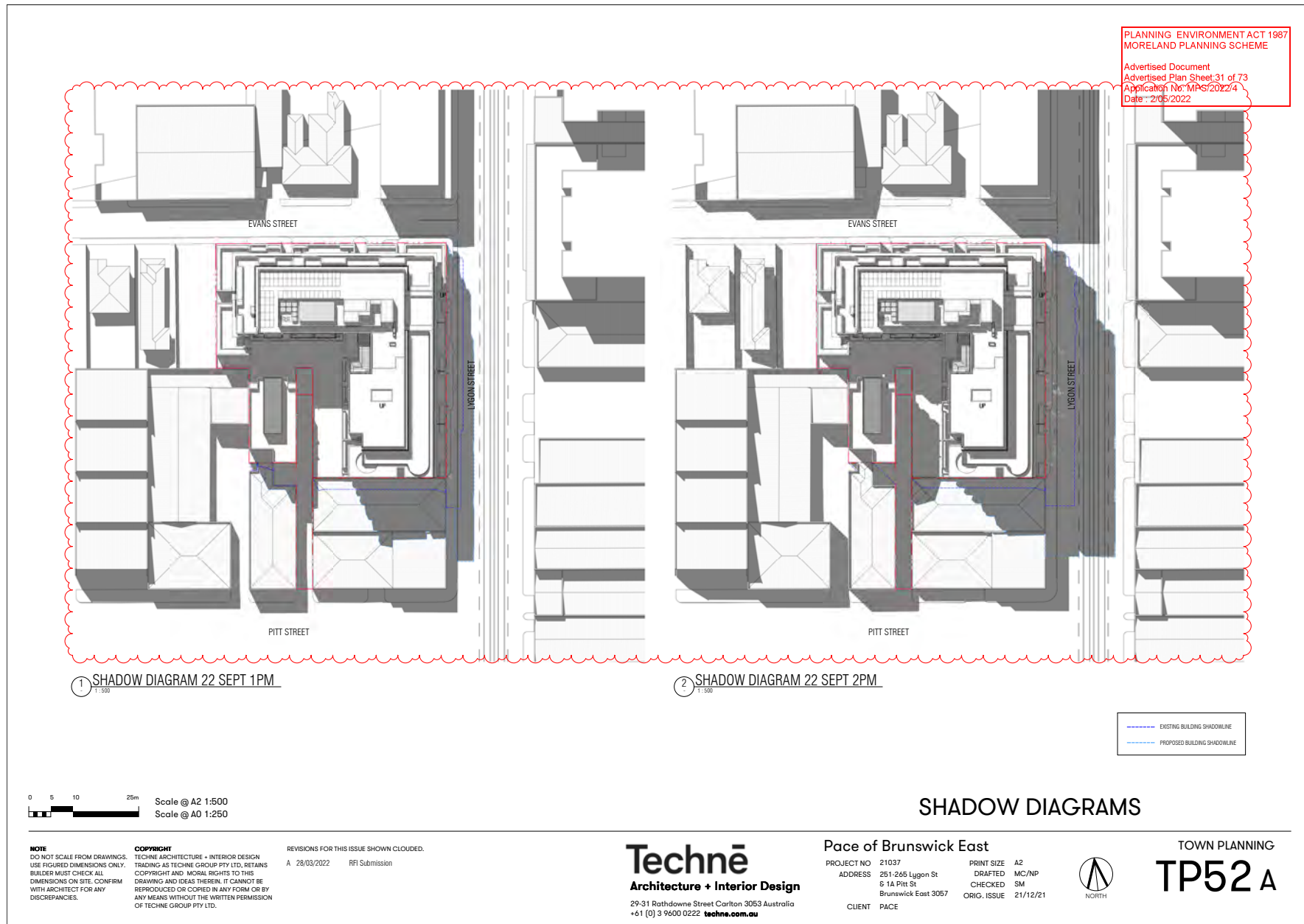


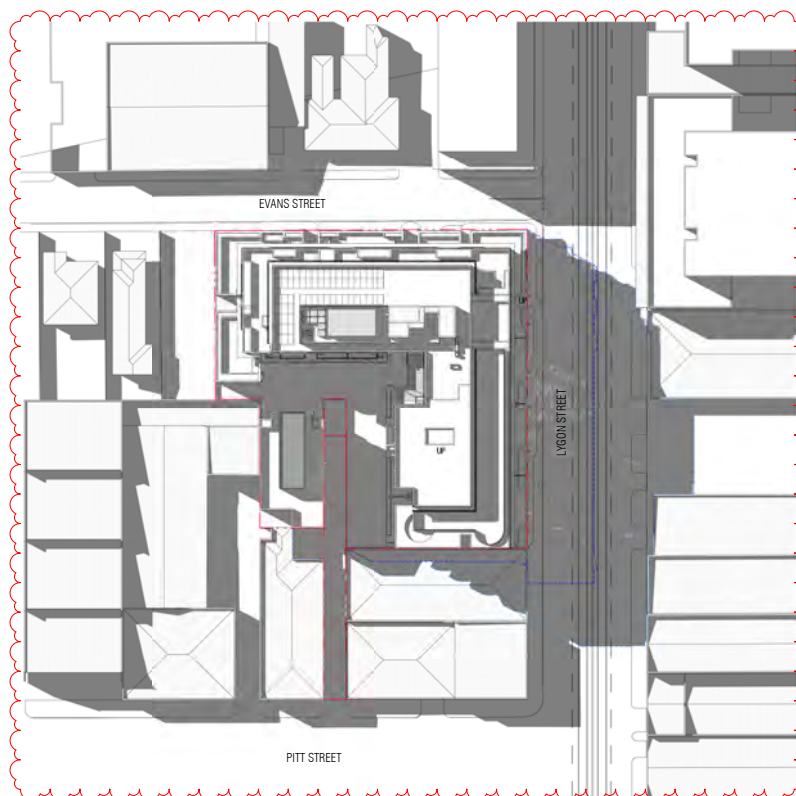
TOWN PLANNING  
TP43 A











1 SHADOW DIAGRAM 22 SEPT 3PM  
1:500

0 5 10 25m  
Scale @ A2 1:500  
Scale @ A0 1:250

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### Pace of Brunswick East

PROJECT NO	21037	PRINT SIZE	A2
ADDRESS	251-265 Lygon St 6 1A Pitt St Brunswick East 3057	DRAFTED	MC/NP
		CHECKED	SM
CLIENT	PACE	ORIG. ISSUE	21/12/21



TOWN PLANNING  
**TP53 A**

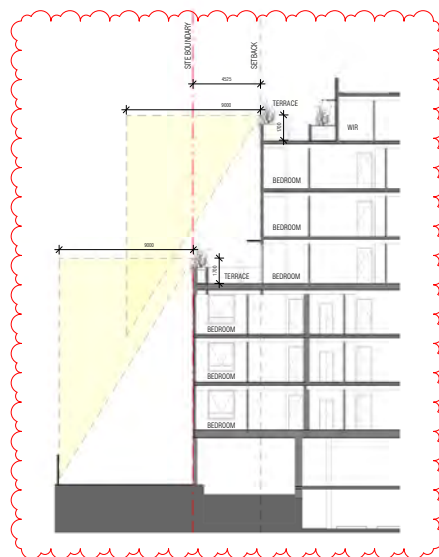
PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 32 of 73  
Application No: MPS/2022/4  
Date: 2/05/2022

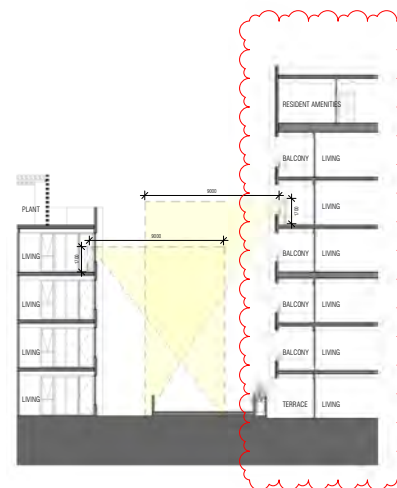
----- EXISTING BUILDING SHADOWLINE  
----- PROPOSED BUILDING SHADOWLINE

## SHADOW DIAGRAMS

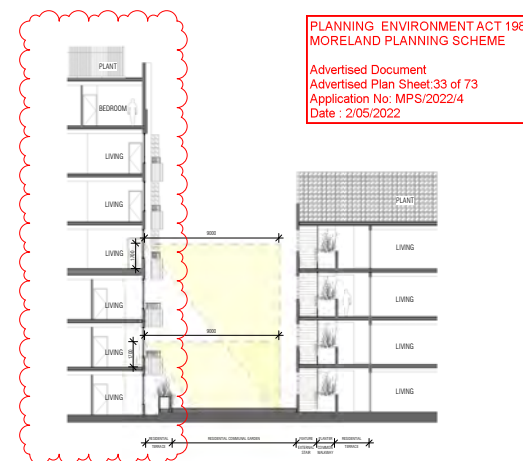




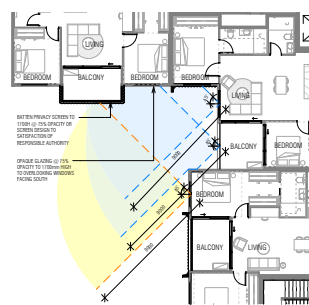
7 OVERLOOKING WEST  
1:200



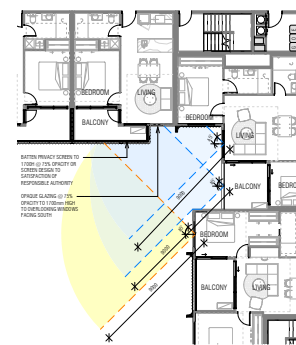
4 OVERLOOKING TO PITT ST WEST-EAST  
1:200



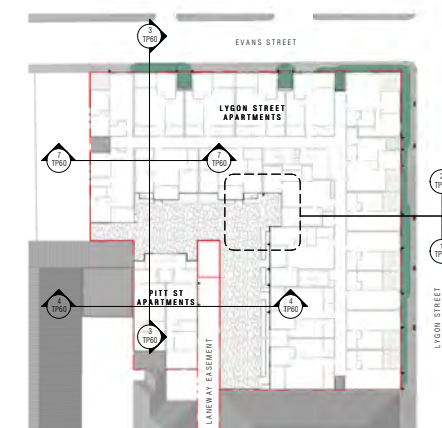
3 OVERLOOKING TO PITT ST NORTH-SOUTH  
1:200



1 OVERLOOKING PLAN LEVEL 2  
1:200



2 OVERLOOKING PLAN LEVEL 5  
1:200



8 OVERLOOKING KEY PLAN  
1:500

0 2 4 10m  
Scale @ A2 1:200  
Scale @ A0 1:100

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#### Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE  
PRINT SIZE A2  
DRAFTED NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



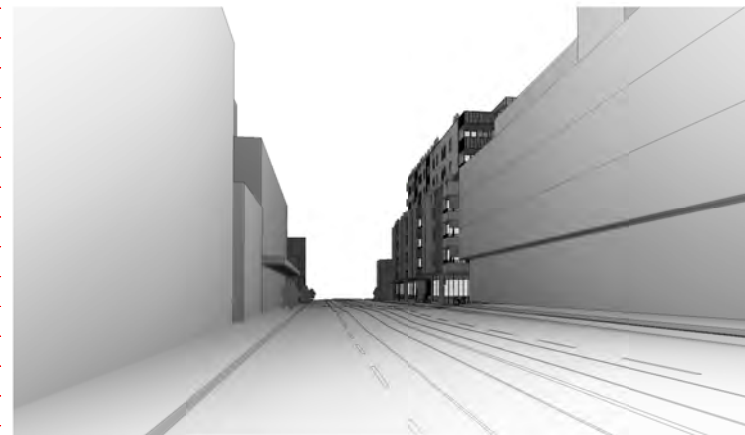
NORTH

TOWN PLANNING  
**TP60 A**

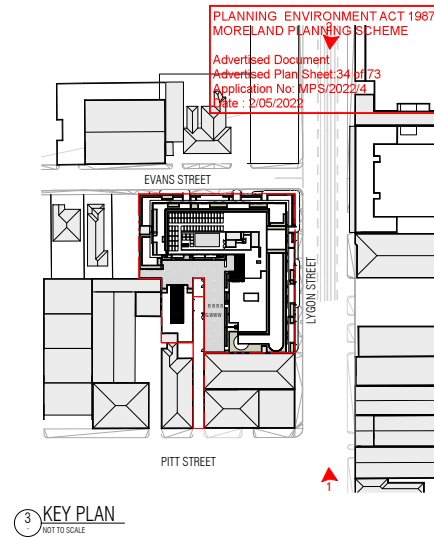
## OVERLOOKING DIAGRAMS



① LYGON STREET VIEW LOOKING NORTH



② LYGON STREET VIEW LOOKING SOUTH



## PERSPECTIVE VIEWS

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### Pace of Brunswick East

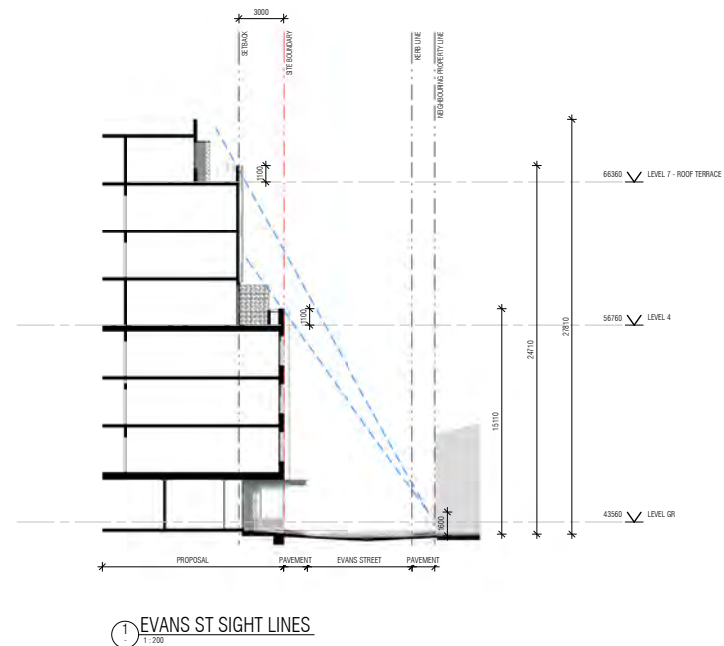
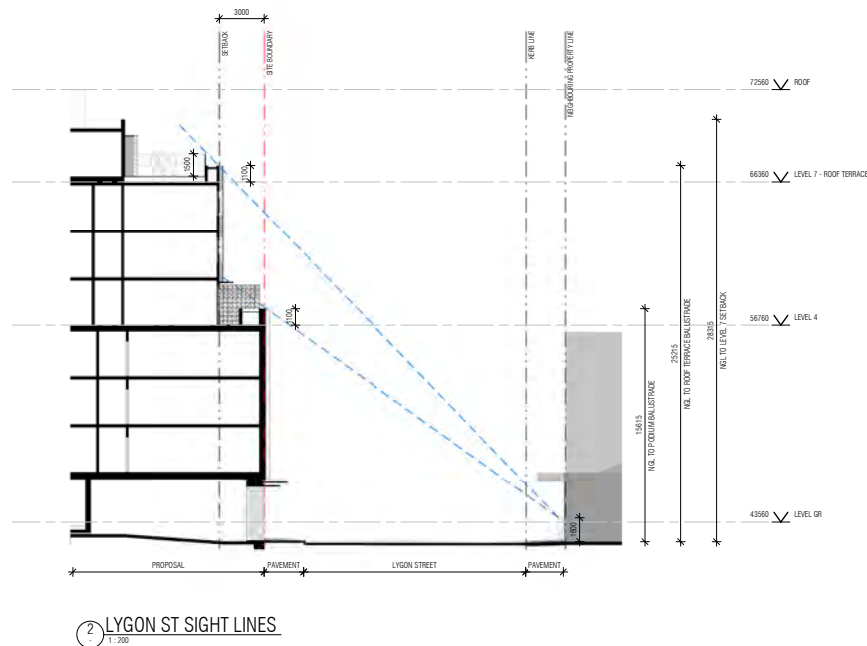
PROJECT NO	21037	PRINT SIZE	A2
ADDRESS	251-265 Lygon St 6 1A Pitt St Brunswick East 3067	DRAFTED	MC
		CHECKED	SM
CLIENT	PACE	ORIG. ISSUE	21/12/21



TOWN PLANNING  
**TP70A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 35 of 73  
Application No: MPS/2022/4  
Date: 2/05/2022



0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE  
PRINT SIZE A2  
DRAFTED NP  
CHECKED SM  
ORIG. ISSUE 17/03/22



TOWN PLANNING  
**TP80**

## SIGHT LINE DIAGRAMS

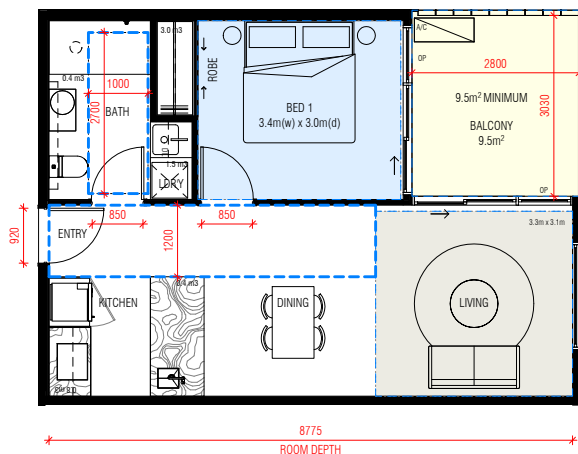
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 1A**  
Advised Document  
Application No. MP/3/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 1.08	APT 2.08	APT 3.08
APT 1.09	APT 2.09	APT 3.09
APT 1.10	APT 2.10	APT 3.10
APT 1.11	APT 2.11	APT 3.11



1 APT TYPE 1A  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 1A

**Pace of Brunswick East**  
PROJECT NO: 21037  
ADDRESS: 251-265 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT: PACE  
PRINT SIZE: A2  
DRAFTED: NN/NP  
CHECKED: SM  
ORIG. ISSUE: 21/12/21



TOWN PLANNING  
**TP100 A**

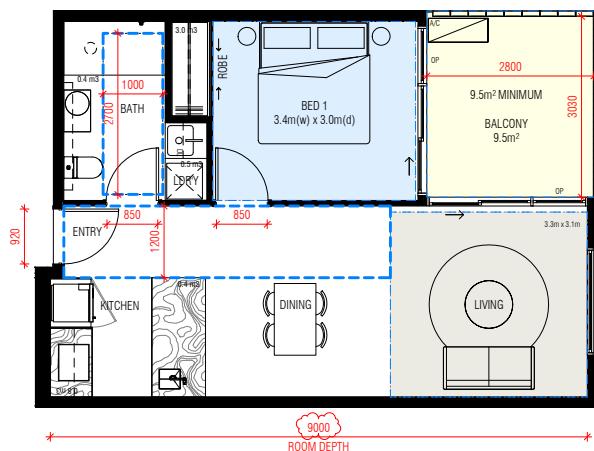
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 1B**  
Advised Document  
Application No. MP/3/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 1.12    APT 2.12    APT 3.12



1 APT TYPE 1B  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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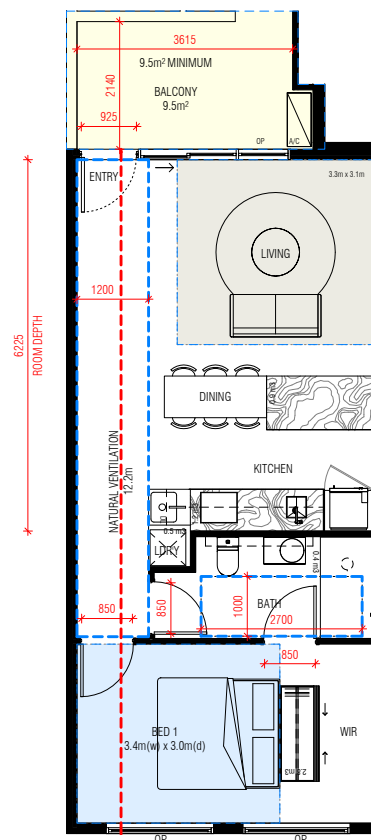
## COMPLIANCE PLANS - TYPE 1B

**Pace of Brunswick East**  
PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE  
PRINT SIZE A2  
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ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP101 A**

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 1C  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 1C

Pace of Brunswick East

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ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP102A**

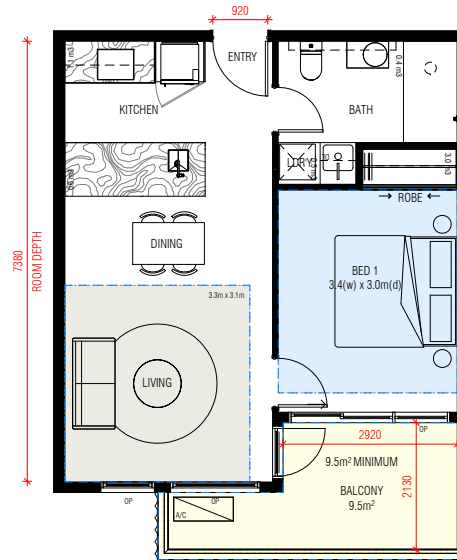
PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 1C**  
(1 BEDROOM)  
Advised Document  
Application No. MPS/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 1.19 APT 2.20 APT 3.20  
APT 4.15

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 1D  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## Pace of Brunswick East

PROJECT NO: 21037  
ADDRESS: 251-265 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT: PACE

PRINT SIZE: A2  
DRAFTED: NN/NP  
CHECKED: SM  
ORIG. ISSUE: 21/12/21



TOWN PLANNING  
**TP103 A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 1D**  
(1 BEDROOM)  
Advised Document  
Application No. MP/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION -

## APARTMENT NUMBERS

APT 4.12 APT 5.12 APT 6.12  
APT 4.13 APT 5.13 APT 6.13

## COMPLIANCE PLANS - TYPE 1D

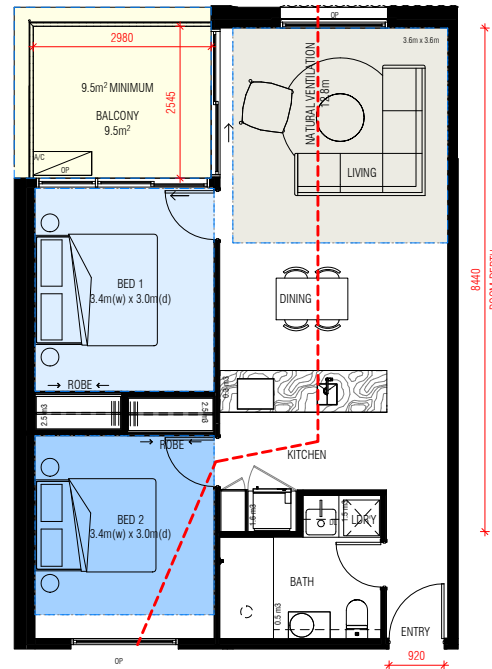
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2A  
Advised Document  
Application No. MPS/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 1.01    APT 2.01    APT 3.01



1 APT TYPE 2A  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2A

## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

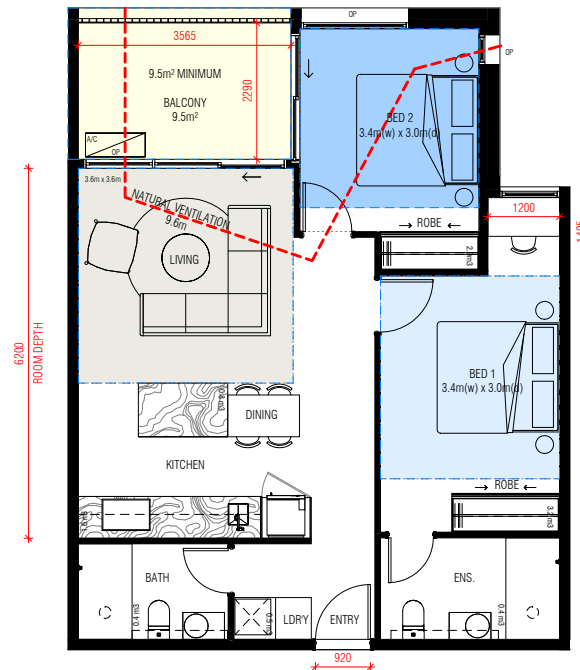
PRINT SIZE A2  
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TOWN PLANNING  
**TP104 A**



## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2B  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP105 A**

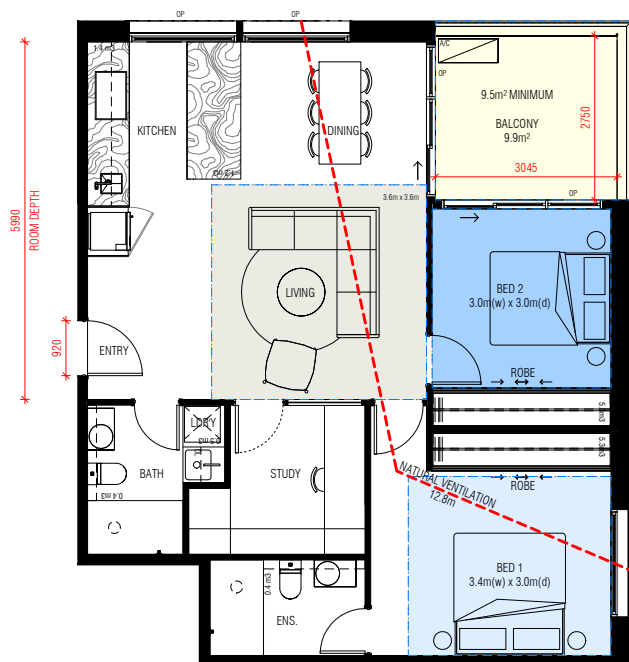
PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 2B**  
(2 BEDROOM)  
Advised Document  
Application No. MP/3/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 1.02	APT 2.02	APT 3.02
APT 1.03	APT 2.03	APT 3.03
APT 1.04	APT 2.04	APT 3.04
APT 1.05	APT 2.05	APT 3.05

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2C  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2C

## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP106 A**

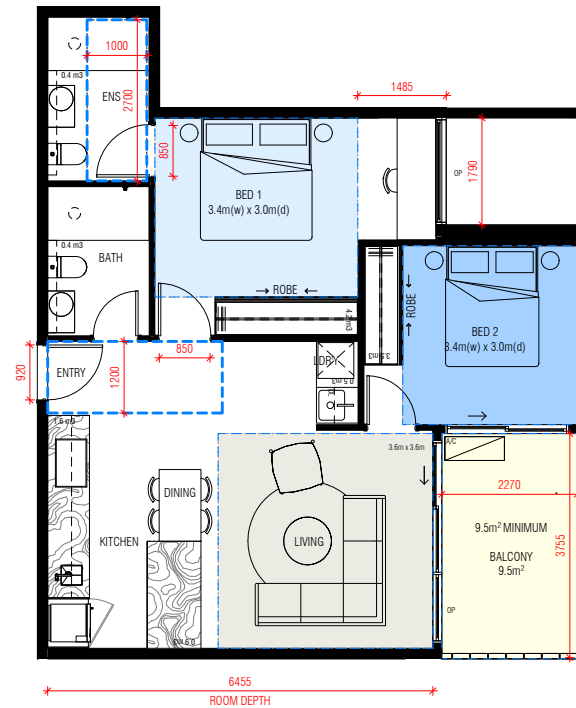
PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2C  
Advised Document  
Application No. MP/3/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 1.06 APT 2.06 APT 3.06

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2D  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2D

## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP107A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2D  
(2 BEDROOM)  
Advised Document  
Application No. MPS/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 1.07 APT 2.07 APT 3.07

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2E  
Advertised Document  
Authorised Plan Sheet 44 of 73  
Application No: MPS/2022/4  
Date : 2/05/2022

- APARTMENT NUMBERS

**6435**  
ROOM DEPTH

3675  
9.5m<sup>2</sup> MINIMUM  
BALCONY  
9.5m<sup>2</sup>  
2215

3.6m x 3.6m  
LIVING

KITCHEN

DINING

BATH

ENTRY

BED 2  
3.4m(w) x 3.0m(d)

BED 1  
4.1m(w) x 3.0m(d)

ENS

ROBE

880

1200

1000

2700

1280

1320

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PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
8 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21

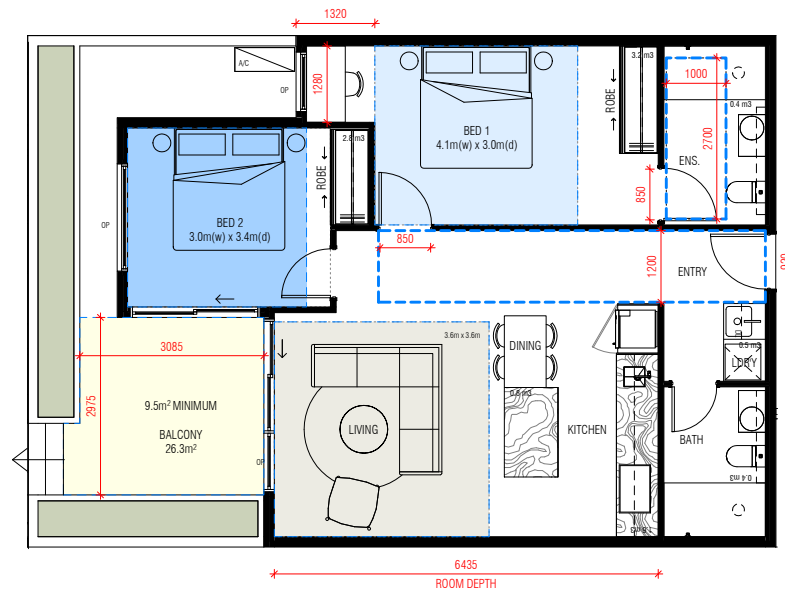
NORTH

TP108 A

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2E-T  
Advertised Document  
Application No: MPS/2022/4  
Date : 2/05/2022

- |     |                       |   |   |
|-----|-----------------------|---|---|
| D17 | - ACCESSIBILITY       | - | ✓ |
| D19 | - PRIVATE OPEN SPACE  | - | ✓ |
| D20 | - STORAGE             | - | ✓ |
| D25 | - FUNCTIONAL LAYOUT   | - | ✓ |
| D26 | - ROOM DEPTH          | - | ✓ |
| D28 | - NATURAL VENTILATION | - |   |

APT 1.13  
APT 1.14



1 APT TYPE 2E-T  
- 1:50



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## COMPLIANCE PLANS - TYPE 2E-T

### Pace of Brunswick East

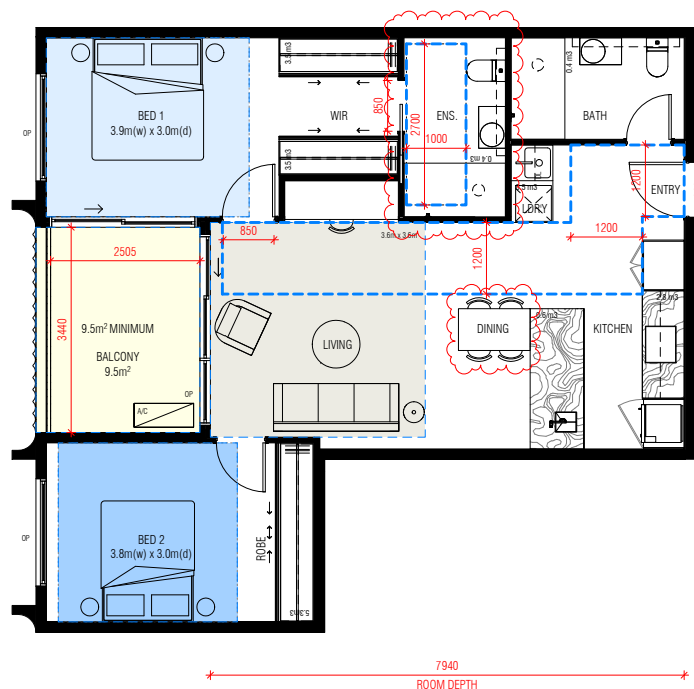
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ADDRESS	251-265 Lygon St	DRAFTED	NN/NP
	8 1A Pitt St	CHECKED	SM
	Brunswick East 3057	ORIG. ISSUE	21/12/21
CLIENT	PACE		

TOWN PLANNING

NORTH

TP109<sub>A</sub>

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2F  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2F

Pace of Brunswick East  
PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP110A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2F  
Advised Document  
Application No. MP/2022/4  
Date: 2/05/2022

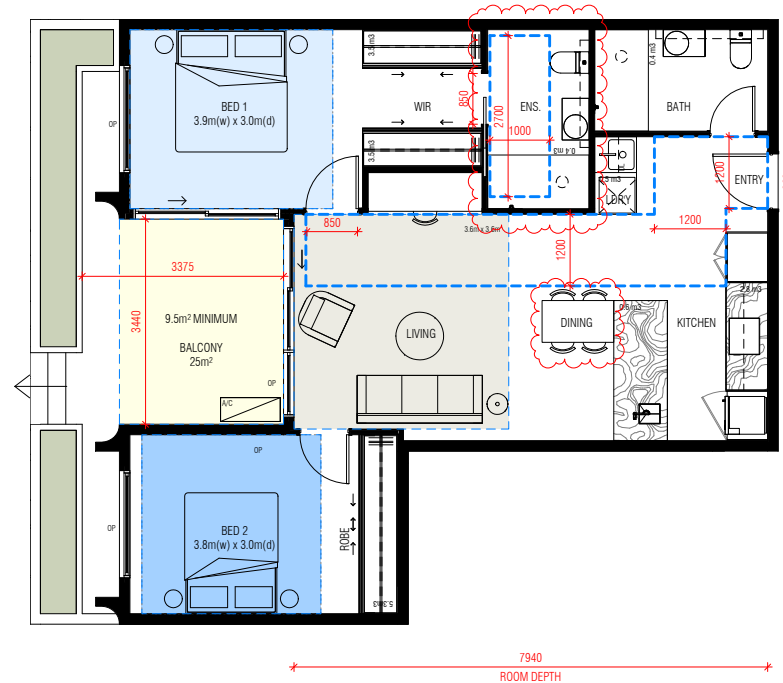
- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 2.15 APT 3.15

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2F-T  
Advertised Document  
Application No: MPS/2022/4  
Date : 2/05/2022

- APT 1.15



1 APT TYPE 2F-T  
- 1:50



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COMPLIANCE PLANS - TYPE 2F-T

### Pace of Brunswick East

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ADDRESS 251-265 Lygon St  
8 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
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ORIG. ISSUE 21/12/21

TOWN PLANNING



NORTH

TP111A

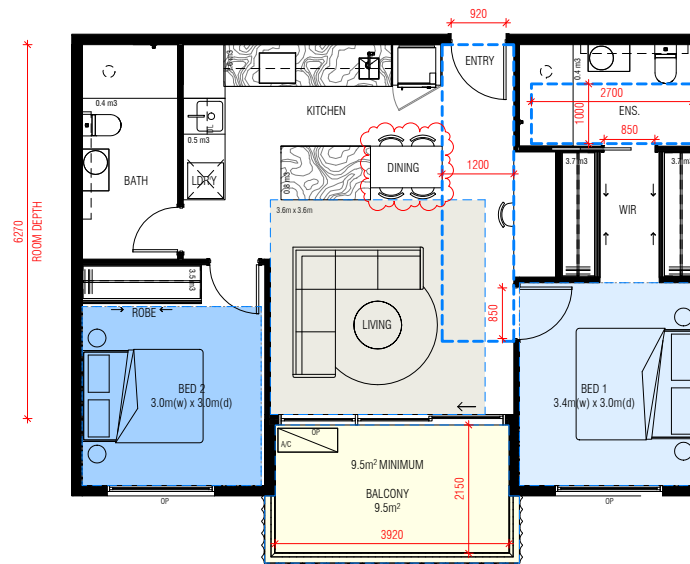
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2G  
Advised Document  
Application No. MP/3/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 2.17 APT 3.17  
APT 2.18 APT 3.18



1 APT TYPE 2G  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2G

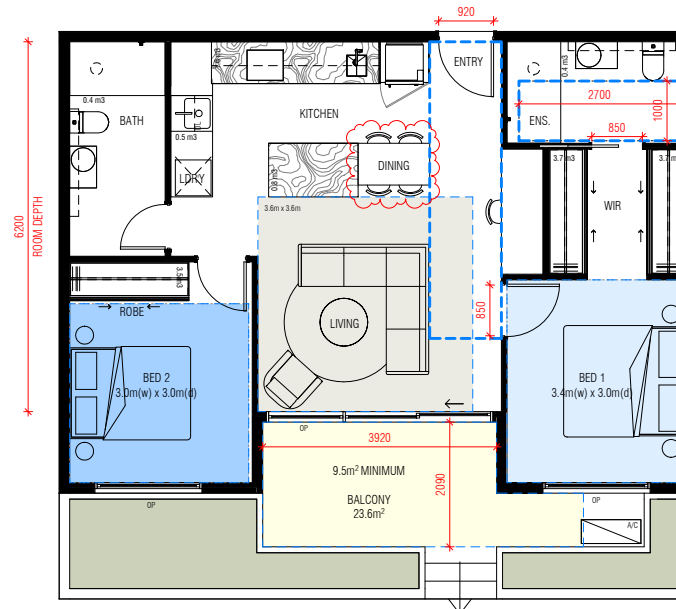
**Pace of Brunswick East**  
PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE  
PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21

TOWN PLANNING  
TP112A  
NORTH



PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2G-T  
Advertised Document  
Advertised for 28 days from 14/05/2022  
Application No. MPS/2022/4  
Date : 2/05/2022

- APT 1.16  
APT 1.17

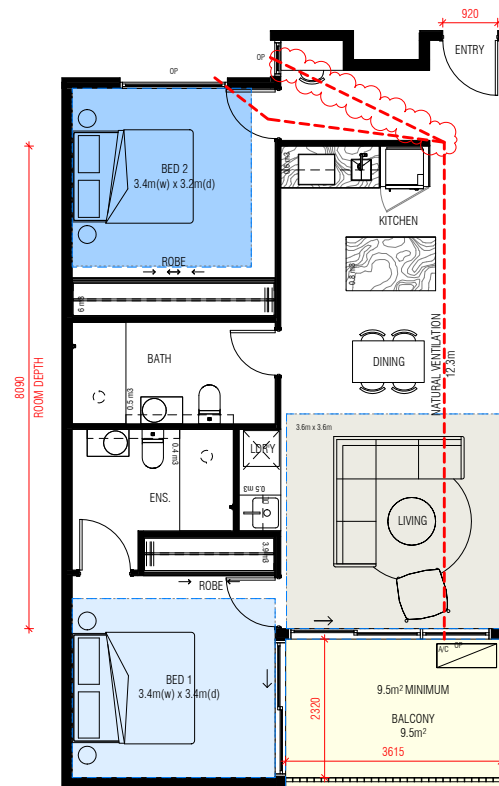


1 APT TYPE 2G-T  
- 1:50



TOWN PLANNING  
**TP113A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2H  
Advertised Document  
Advertised (2000M) 150 of 73  
Application No: MPS/2022/4  
Date : 2/05/2022



- |     |                       |   |   |
|-----|-----------------------|---|---|
| D17 | - ACCESSIBILITY       | - | ✓ |
| D19 | - PRIVATE OPEN SPACE  | - | ✓ |
| D20 | - STORAGE             | - | ✓ |
| D25 | - FUNCTIONAL LAYOUT   | - | ✓ |
| D26 | - ROOM DEPTH          | - | ✓ |
| D28 | - NATURAL VENTILATION | - | ✓ |

APT 1.18      APT 2.19      APT 3.19

1 APT TYPE 2H  
- 1:50



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## COMPLIANCE PLANS - TYPE 2H

### Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
8 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

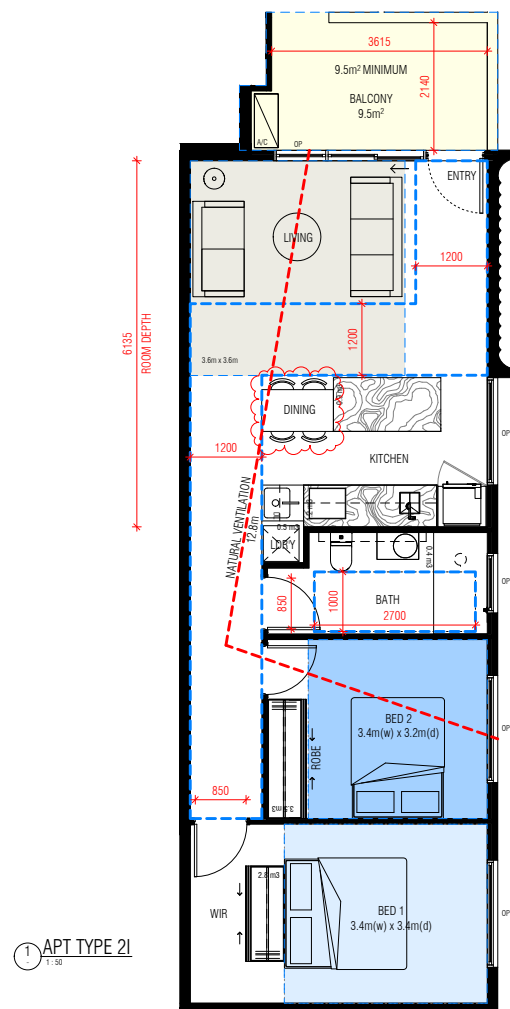
PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21

TOWN PLANNING



TP114A

## CLAUSE 58.00 ASSESSMENT



PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
Advertised Document  
Application No. MP/2022/4  
Date: 2/05/2022

### APARTMENT TYPE 21 (12 BEDROOM)

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

### APARTMENT NUMBERS

APT 1.20    APT 2.21    APT 3.21  
APT 4.16

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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### COMPLIANCE PLANS - TYPE 21

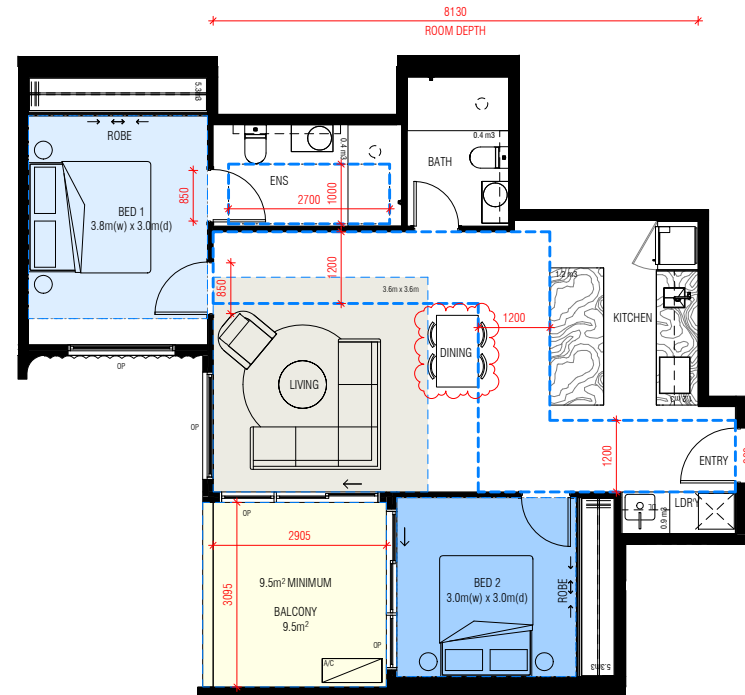
PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3087  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP115A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2J  
(2 BEDROOM)  
Advertised Document  
Advertised Plan Sheet 52 of 73  
Application No: MPS/2022/4  
Date : 2/05/2022



- |     |                       |   |   |
|-----|-----------------------|---|---|
| D17 | - ACCESSIBILITY       | - | ✓ |
| D19 | - PRIVATE OPEN SPACE  | - | ✓ |
| D20 | - STORAGE             | - | ✓ |
| D25 | - FUNCTIONAL LAYOUT   | - | ✓ |
| D26 | - ROOM DEPTH          | - | ✓ |
| D28 | - NATURAL VENTILATION | - | ✓ |

## APARTMENT NUMBERS

APT 2.16      APT 3.16

1 APT TYPE 2J  
1 : 50



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## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
& 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

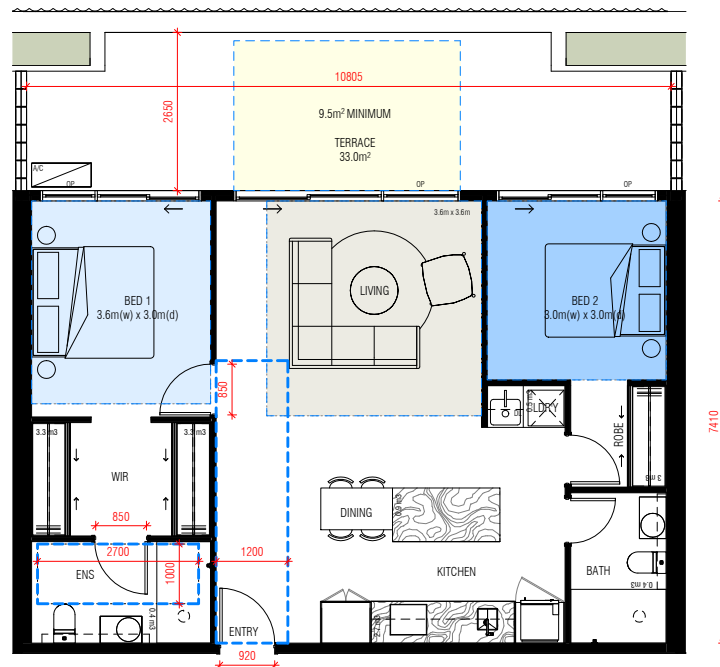
PRINT SIZE	A2
DRAFTED	NN/NP
CHECKED	SM
ORIG. ISSUE	21/12/21

TOWN PLANNING



TP116A

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2K  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE

PRINT SIZE A2  
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ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP117A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2K  
Advised Document  
Application No. MP/3/2022/4  
Date : 2/05/2022

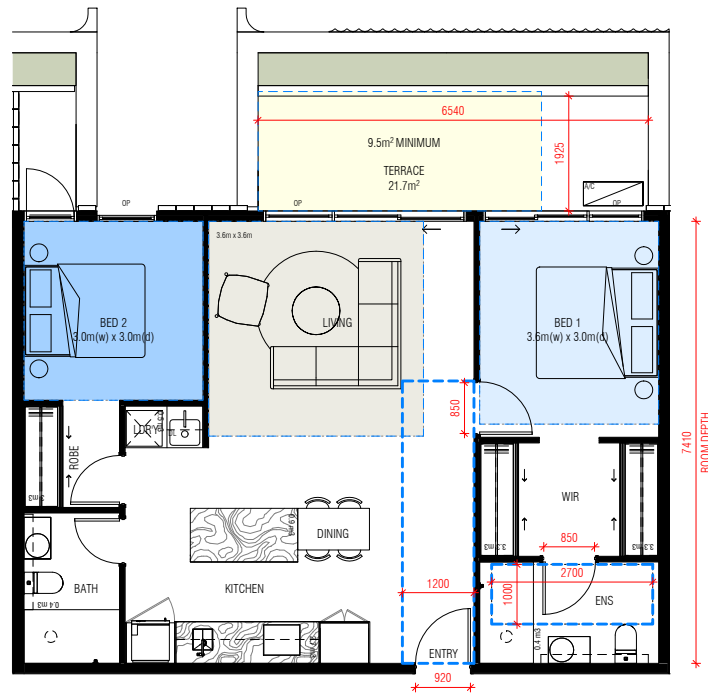
- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 4.02

## COMPLIANCE PLANS - TYPE 2K

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2K-W  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP118A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2K-W  
Approved Document  
A2 (2 BEDROOM)  
Application No. MP/3/2022/4  
Date : 2/05/2022

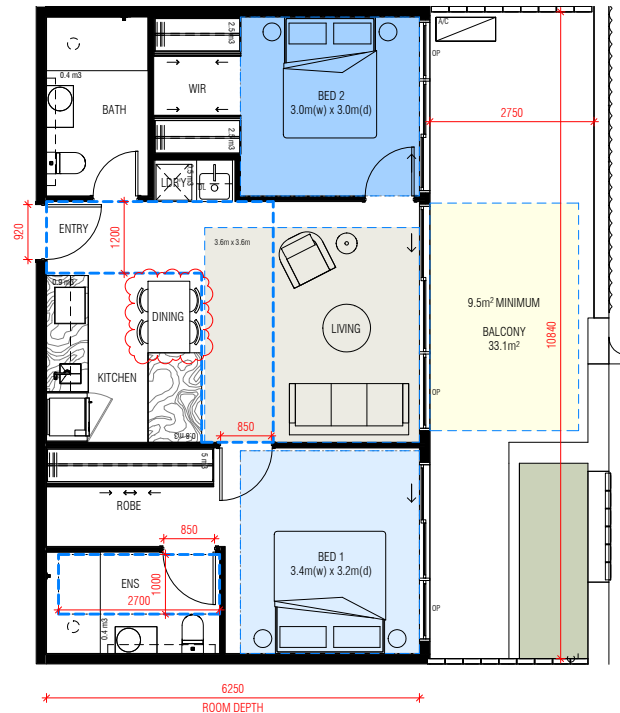
- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 4.03

## COMPLIANCE PLANS - TYPE 2K-W

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2L  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

**NOTE**  
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## COMPLIANCE PLANS - TYPE 2L

**Pace of Brunswick East**  
PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE  
PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP119A**

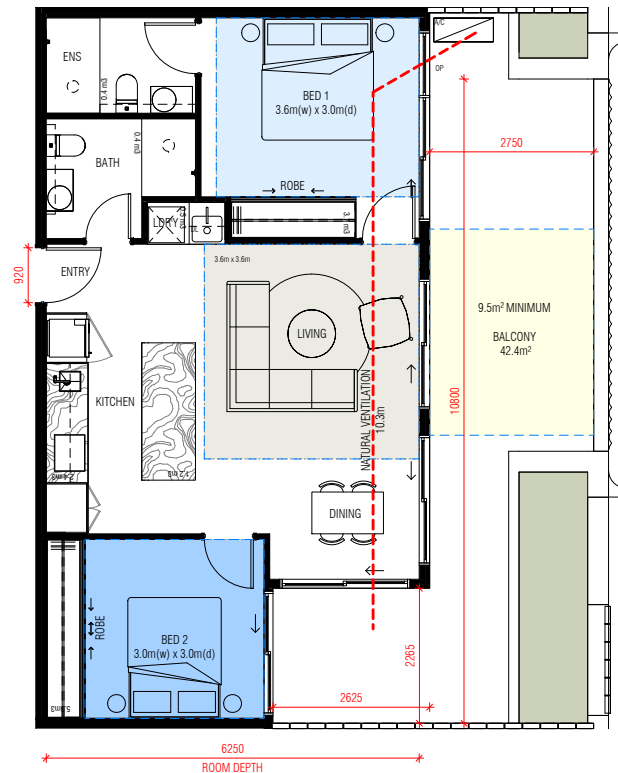
PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2L  
Approved Document  
12 BEDROOM  
Application No. MPS/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 4.05

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2M  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2M

## Pace of Brunswick East

PROJECT NO: 21037  
ADDRESS: 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT: PACE

PRINT SIZE: A2  
DRAFTED: NN/NP  
CHECKED: SM  
ORIG. ISSUE: 21/12/21



TOWN PLANNING  
**TP120A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
Advised Document  
Application No. MP/3/2022/4  
Date: 2/05/2022

## APARTMENT TYPE 2M

2 BEDROOM

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE -
- D20 - STORAGE -
- D25 - FUNCTIONAL LAYOUT -
- D26 - ROOM DEPTH -
- D28 - NATURAL VENTILATION -

## APARTMENT NUMBERS

APT 4.06  
APT 4.07



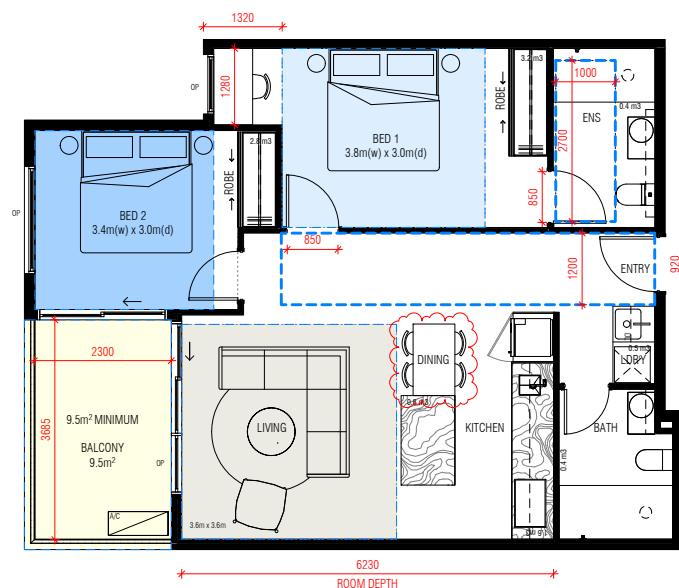
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2N  
Advertised Document  
Application No. MP/3/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 4.08 APT 5.08 APT 6.08



1 APT TYPE 2N  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP121 A**

## COMPLIANCE PLANS - TYPE 2N

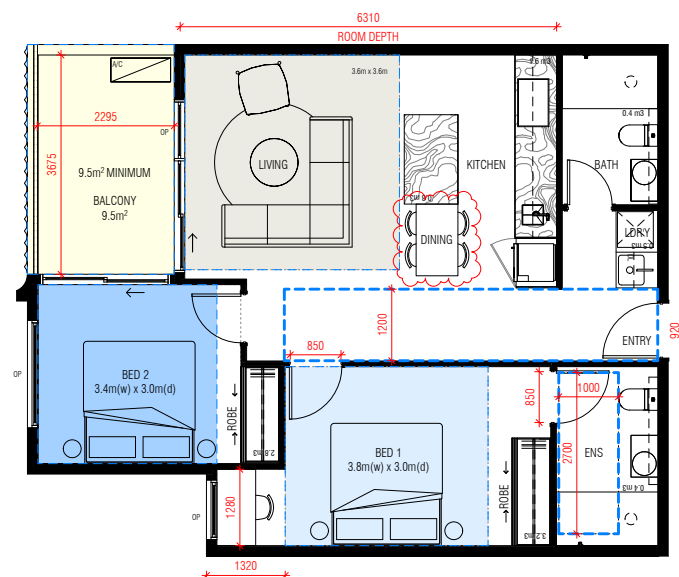
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 20  
Advised Document  
Application No. MP/3/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 4.09    APT 5.09    APT 6.09



1 APT TYPE 20  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 20

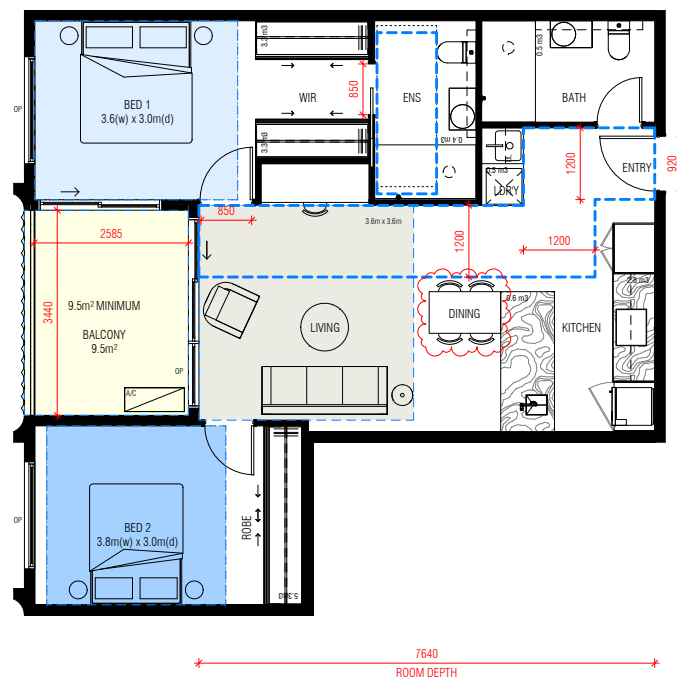
## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE  
PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP122 A**

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2P  
1:50

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2P  
Advised Document  
Application No. MP/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 4.10 APT 5.10 APT 6.10

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2P

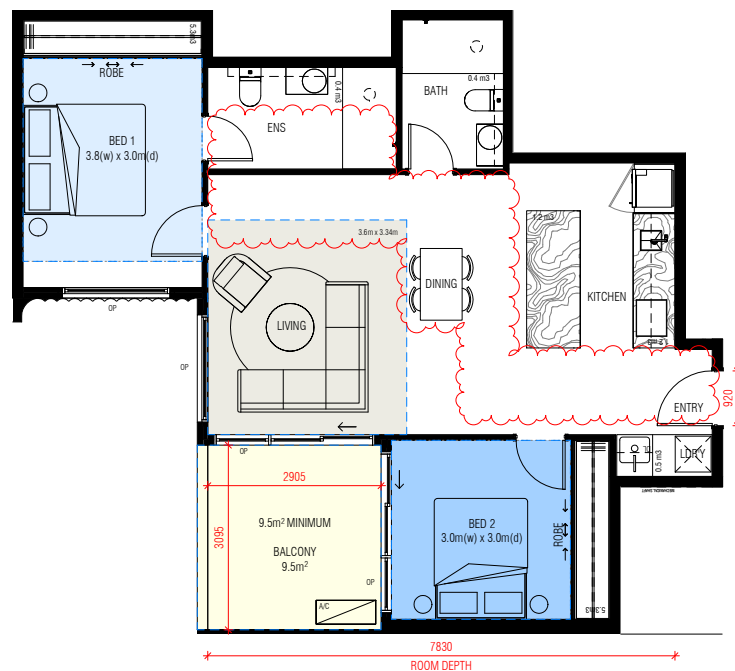
## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE  
PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP123 A**

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2Q  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2Q

**Pace of Brunswick East**  
PROJECT NO: 21037  
ADDRESS: 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT: PACE  
PRINT SIZE: A2  
DRAFTED: NN/NP  
CHECKED: SM  
ORIG. ISSUE: 21/12/21



TOWN PLANNING  
**TP124 A**

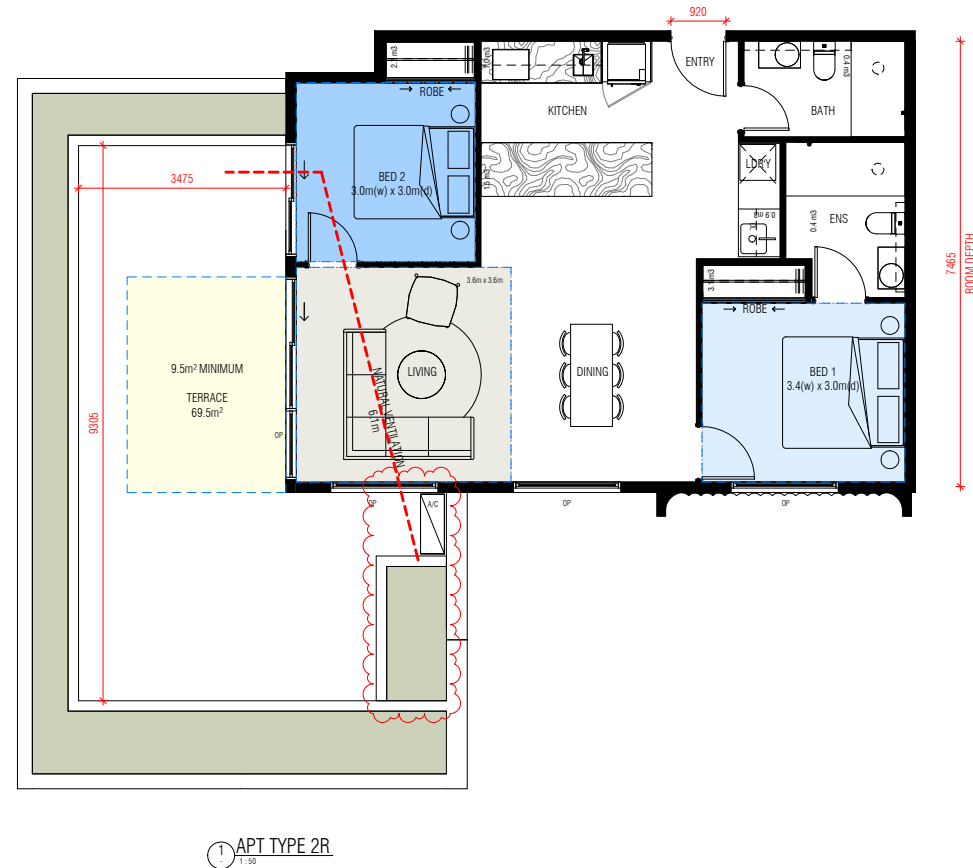
PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 2Q**  
Advertised Document  
Application No. MP/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 4.11 APT 5.11 APT 6.11

## CLAUSE 58.00 ASSESSMENT



PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2R  
Advised Document  
Application No. MP/3/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 4.14

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 2R

## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP125 A**

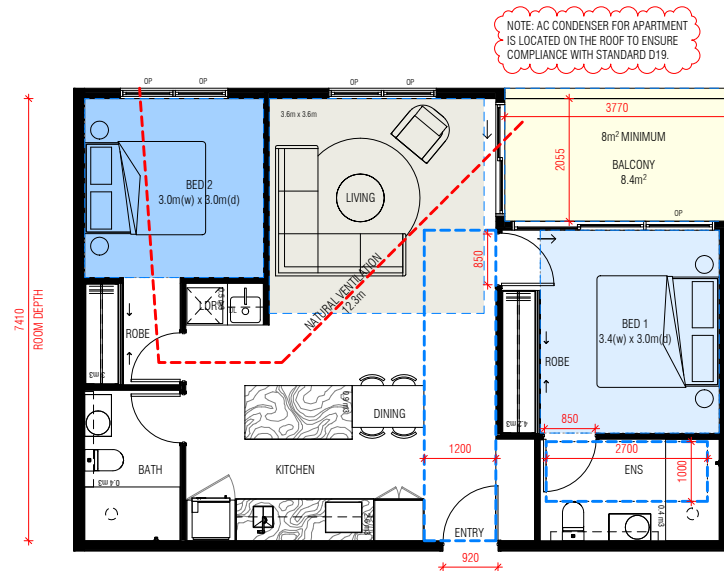
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2S  
Advised Document  
Application No. MP/3/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 5.02 APT 6.02  
APT 5.03 APT 6.03



1 APT TYPE 2S  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## Pace of Brunswick East

PROJECT NO: 21037  
ADDRESS: 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT: PACE

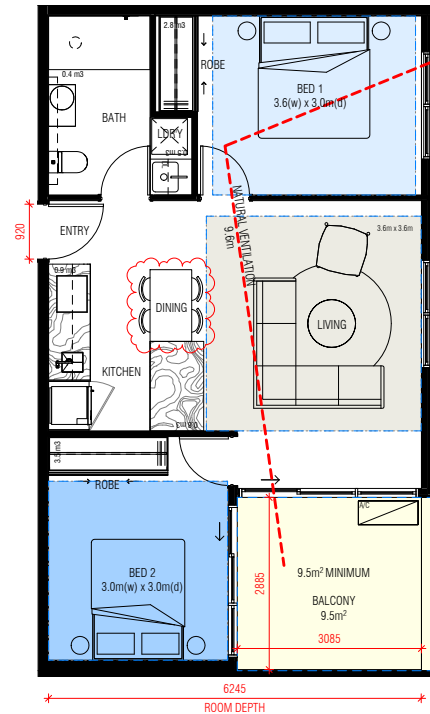
PRINT SIZE: A2  
DRAFTED: NN/NP  
CHECKED: SM  
ORIG. ISSUE: 21/12/21



TOWN PLANNING  
**TP126A**

## COMPLIANCE PLANS - TYPE 2S

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2T  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP127 A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2T  
Approved Document  
A2 (2 BEDROOM)  
Application No. MPS/2022/4  
Date : 2/05/2022

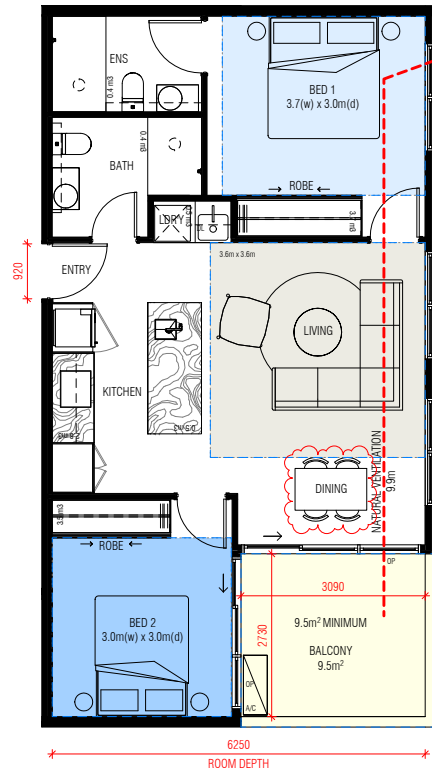
- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 5.05 APT 6.05

## COMPLIANCE PLANS - TYPE 2T

## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 2U  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP128 A**

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 2U**  
Advised Document  
**(2 BEDROOM)**  
Application No. MP/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 5.06 APT 6.06  
APT 5.07 APT 6.07

## COMPLIANCE PLANS - TYPE 2U



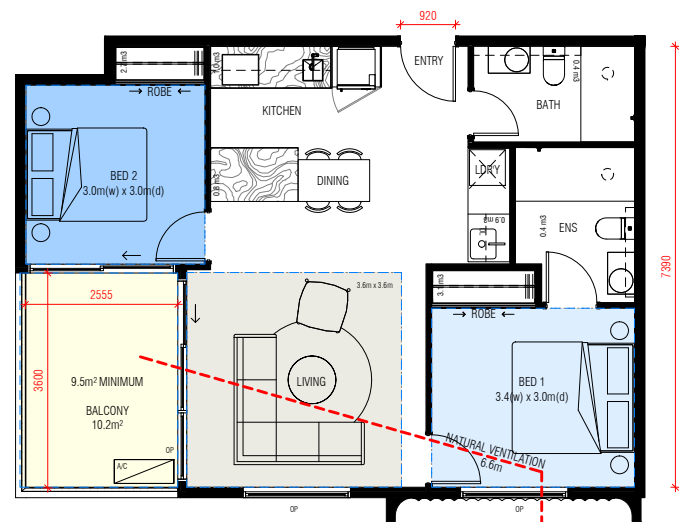
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 2V  
Advised Document  
Application No. MP/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 5.14 APT 6.14



1 APT TYPE 2V  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE

PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



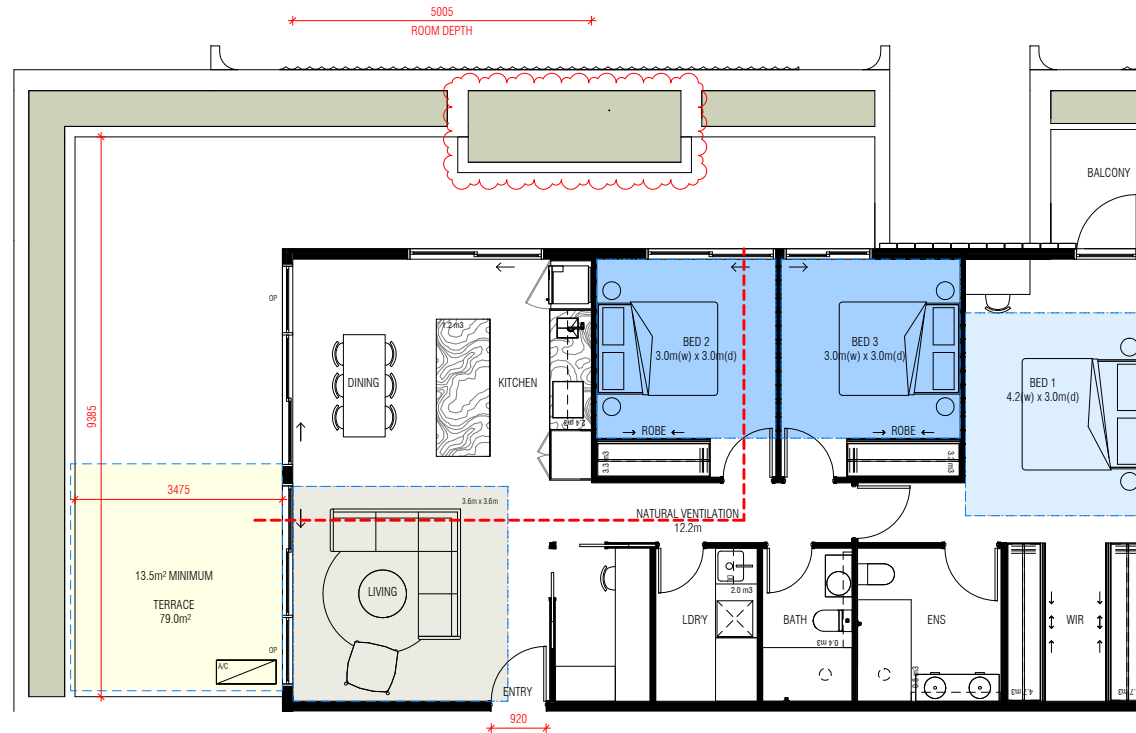
TOWN PLANNING  
**TP129 A**

## COMPLIANCE PLANS - TYPE 2V

## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 3A**  
(3 BEDROOM)  
Advised Document  
Application No. MP/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY - ✓  
D19 - PRIVATE OPEN SPACE - ✓  
D20 - STORAGE - ✓  
D25 - FUNCTIONAL LAYOUT - ✓  
D26 - ROOM DEPTH - ✓  
D28 - NATURAL VENTILATION - ✓
- APARTMENT NUMBERS**  
APT 4.01



1 APT TYPE 3A  
1:50

0 0.5 1 2.5m  
Scale @ A2 1:50  
Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 3A

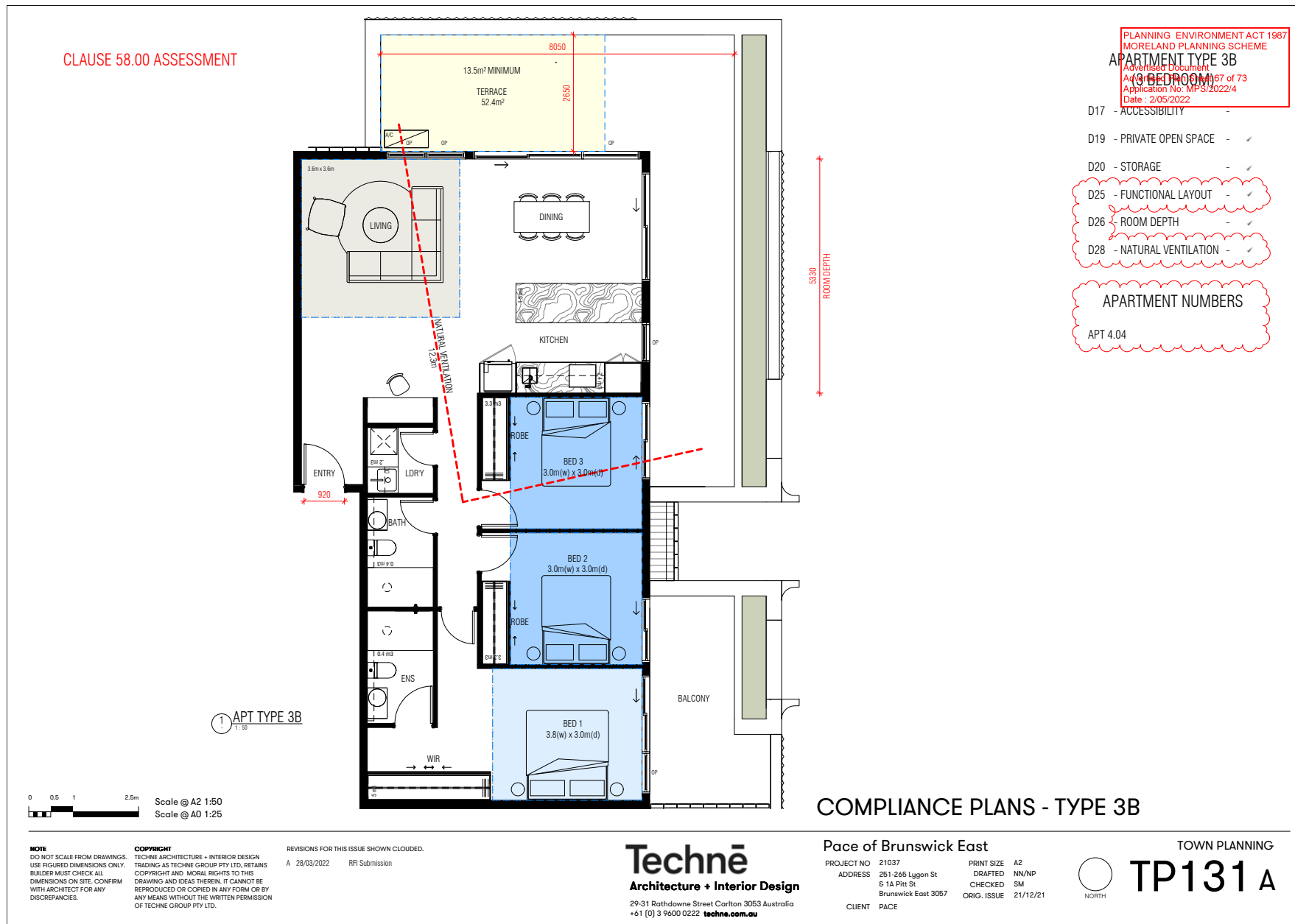
Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

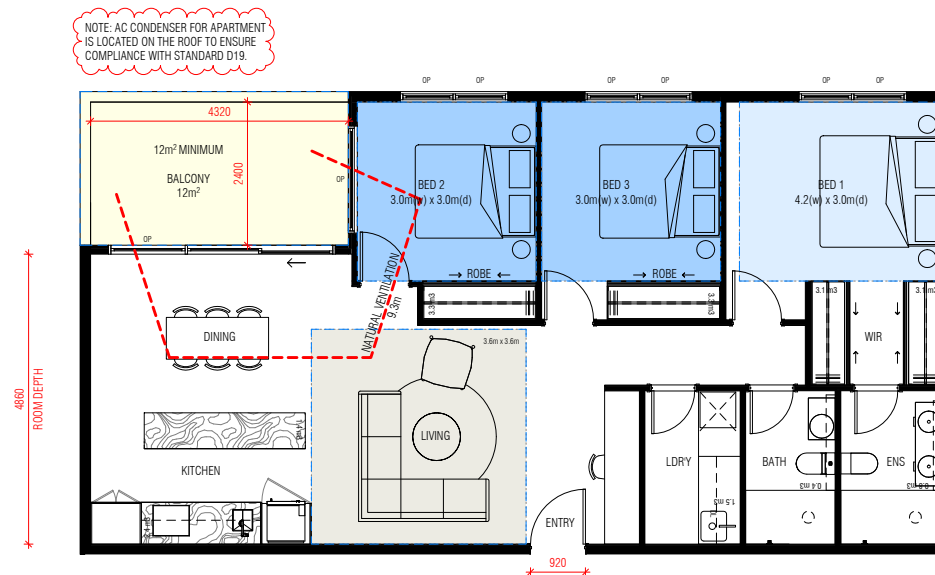
PRINT SIZE A2  
DRAFTED NN/NP  
CHECKED SM  
ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP130A**



## CLAUSE 58.00 ASSESSMENT



1 APT TYPE 3C  
1:50

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## COMPLIANCE PLANS - TYPE 3C

## Pace of Brunswick East

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ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
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ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP132 A**

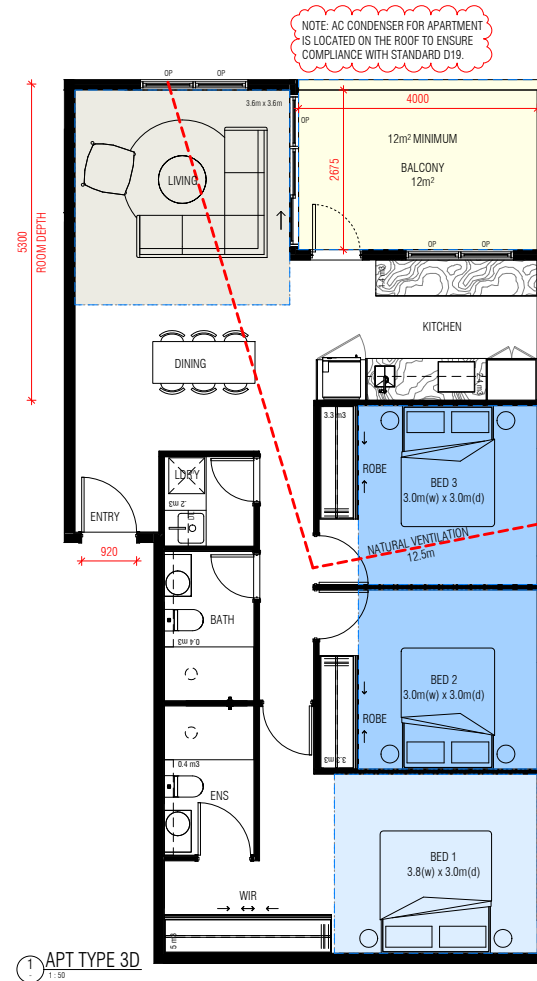
PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
**APARTMENT TYPE 3C**  
(3 BEDROOM)  
Advertised Document  
Application No. MP/3/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 5.01 APT 6.01

## CLAUSE 58.00 ASSESSMENT



PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 3D  
(3 BEDROOM)  
Advised Document  
Application No. MP/3/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 5.04 APT 6.04

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Scale @ A0 1:25

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## COMPLIANCE PLANS - TYPE 3D

## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-265 Lygon St  
6 1A Pitt St  
Brunswick East 3057  
CLIENT PACE

PRINT SIZE A2  
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ORIG. ISSUE 21/12/21



NORTH

## TOWN PLANNING

**TP133 A**

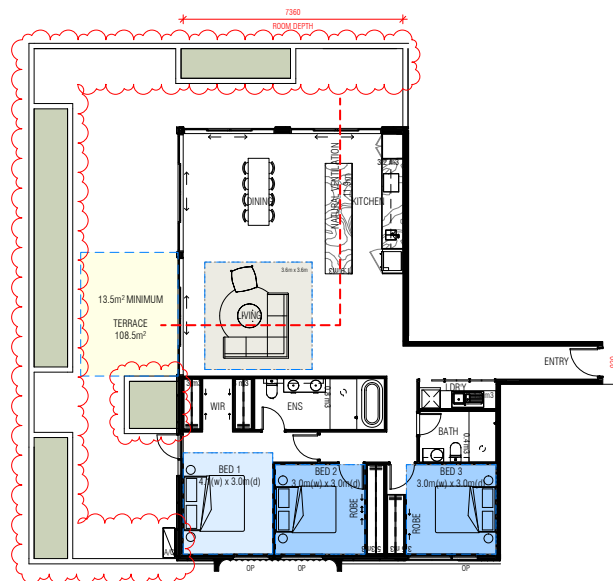
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 3E  
(3 BEDROOM)  
Advised Document  
Application No. MP/3/2022/4  
Date : 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 7.01



1 APT TYPE 3E  
1:100

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Scale @ A0 1:50

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## Pace of Brunswick East

PROJECT NO 21037  
ADDRESS 251-245 Lygon St  
6 1A Pitt St  
Brunswick East 3067  
CLIENT PACE

PRINT SIZE A2  
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ORIG. ISSUE 21/12/21



TOWN PLANNING  
**TP134 A**

## COMPLIANCE PLANS - TYPE 3E

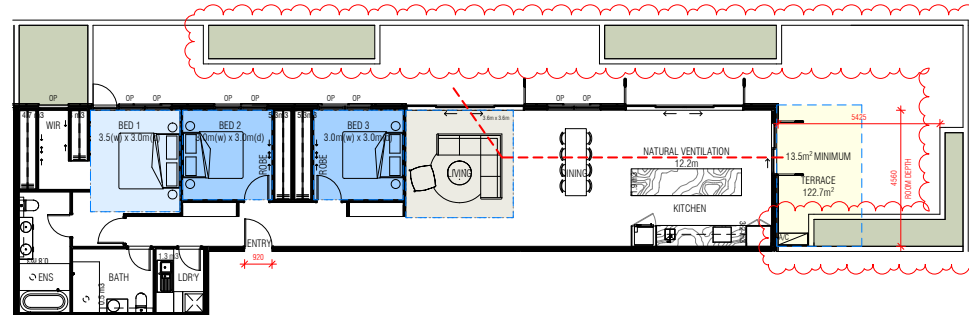
## CLAUSE 58.00 ASSESSMENT

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME  
APARTMENT TYPE 3F  
(3 BEDROOM)  
Advised Document  
Application No. MP/2022/4  
Date: 2/05/2022

- D17 - ACCESSIBILITY -
- D19 - PRIVATE OPEN SPACE - ✓
- D20 - STORAGE - ✓
- D25 - FUNCTIONAL LAYOUT - ✓
- D26 - ROOM DEPTH - ✓
- D28 - NATURAL VENTILATION - ✓

## APARTMENT NUMBERS

APT 7.02



1 APT TYPE 3F  
1:100

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Scale @ A0 1:50

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## COMPLIANCE PLANS - TYPE 3F

**Pace of Brunswick East**

PROJECT NO	21037	PRINT SIZE	A2
ADDRESS	251-265 Lygon St 6 1A Pitt St Brunswick East 3057	DRAFTED	NN/NP
		CHECKED	SM
CLIENT	PACE	ORIG. ISSUE	21/12/21



TOWN PLANNING  
**TP135 A**





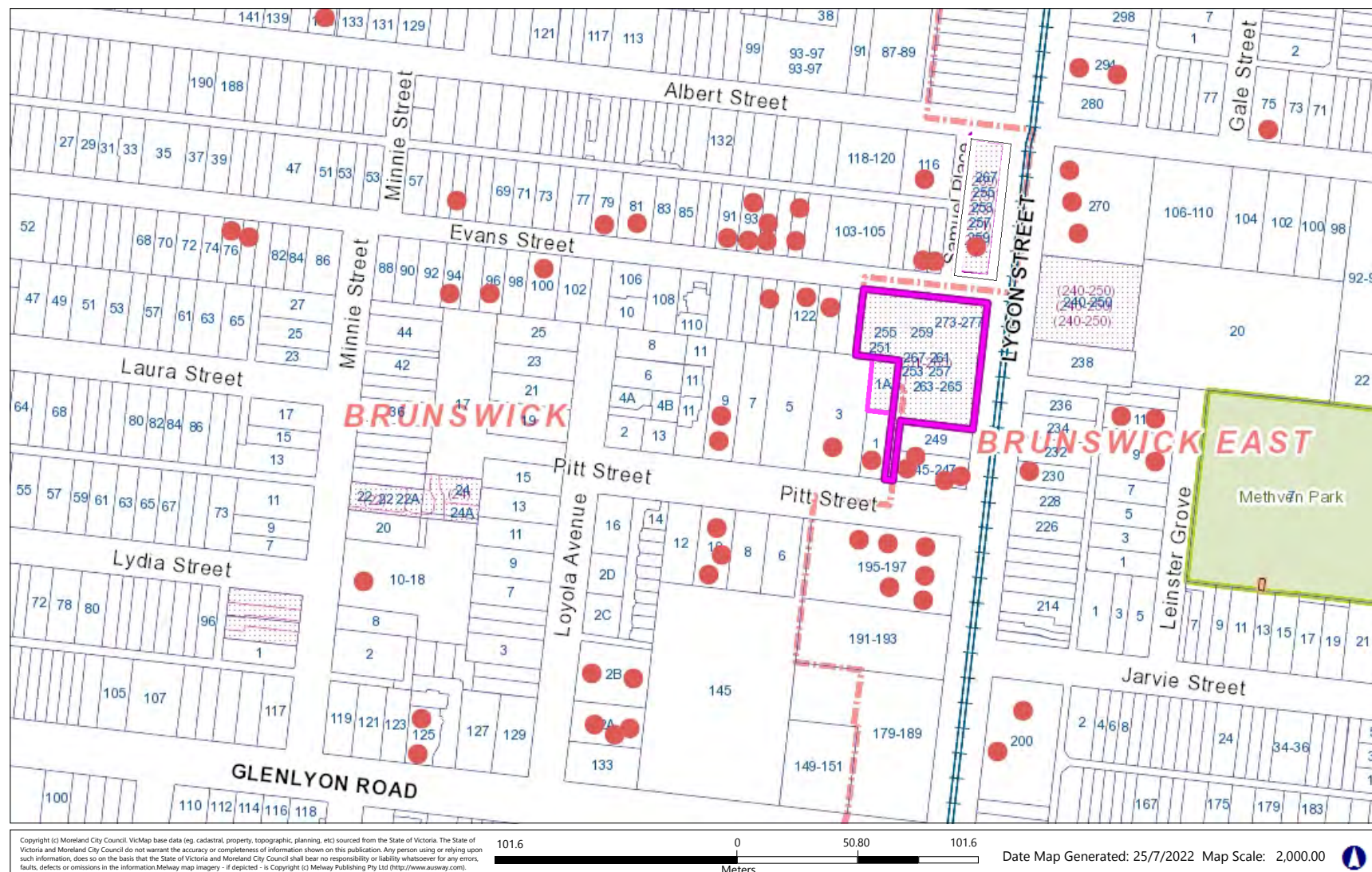
TOWN PLANNING  
**TP200 A**

## Location of Objectors

38 objectors outside of map

Subject site

Objectors



## 5.3 53-57 ALBERT STREET, BRUNSWICK EAST - PLANNING APPLICATION MPS/2021/1029

Director Place and Environment, Joseph Tabacco  
City Development

### Executive Summary



<b>Property:</b>	53-57 Albert Street, BRUNSWICK EAST
<b>Proposal:</b>	Construction of a six storey apartment building and a reduction in the car parking requirement
<b>Zoning and Overlay/s:</b>	Mixed Use Zone (MUZ) Design and Development Overlay Schedule 19 (DDO19) Environmental Audit Overlay (EAO) Parking Overlay 1 (PO1) Development Contributions Plan Overlay (DCPO)
<b>Strategic setting:</b>	<div>Minimal housing growth</div> <div>Incremental housing growth</div> <div>Increased house densities encouraged</div> <div>Significant housing growth</div>
<b>Objections:</b>	6 objections received with the key issues: <ul style="list-style-type: none"> <li>• Building height</li> <li>• Overshadowing impacts</li> <li>• Car parking reduction</li> </ul>
<b>Planning Information and Discussion (PID) Meeting:</b>	Date: 19 July 2022 Attendees: 0 objectors, the applicant, 2 Council officers, and Councillor Harte and Mayor Riley
<b>ESD:</b>	Minimum average NatHERS rating of 8 stars.
<b>Accessibility:</b>	Adaptable apartments comprise 73 per cent of the proposal.
<b>Key reasons for refusal</b>	<ul style="list-style-type: none"> <li>• The overall building height exceeds that of the DDO19 and does not provide for a transition in built form</li> <li>• The proposal does not maintain solar access to the Albert Street footpath and overshadows Fleming Park</li> <li>• The design provides compromised internal amenity including daylight to habitable rooms and private open space areas.</li> </ul>
<b>Recommendation:</b>	Council's submission to VCAT be that no planning permit should be issued for the proposal, based on the grounds outlined in the recommendation.

## Officer Recommendation

That Council's submission to the Victorian Civil and Administrative Tribunal (VCAT) be that no planning permit should be issued for the construction of a six storey apartment building and a reduction in the car parking requirement at 53-57 Albert Street, Brunswick East, subject to the following grounds:

1. The development fails to satisfy the following requirements and objectives of Schedule 19 to the Design and Development Overlay at Clause 43.02 of the Moreland Planning Scheme by:
  - a) Not providing a built form transition between the Lygon Street Corridor and adjoining low-rise residential areas and Fleming Park;
  - b) Proposing a highly visible development that exceeds the preferred building height on a site not identified as a key redevelopment site;
  - c) Not protecting or enhancing the amenity nor maintaining solar access to Albert Street, an identified key pedestrian street;
  - d) Not maintaining solar access to Fleming Park; and
  - e) Not maintaining reasonable amenity for residential properties near the site.
2. The proposal results in overshadowing of the Albert Street footpath and Fleming Park, contrary to and 15.01-1L (Urban Design in Moreland).
3. The proposal does not satisfy the following objectives and standards of Clause 58 (Apartment Developments) of the Moreland Planning Scheme:
  - a) Clause 58.02-1 – Urban Context Objectives (Standard D1) – The design fails to contribute to the preferred future development of the area or respond to the features of the site and surrounding area, particularly the heritage context, and is not an appropriate design response to the urban context and the site;
  - b) Clause 58.02-5 – Integration with the Street (Standard D5) – The design utilises high solid front fencing (walls) to the street that limits the activation at the ground level;
  - c) Clause 58.05-3 – Private Open Space (Standard B20) – The design includes insufficient dimensioned ground floor secluded private open space areas that do not allow for the reasonable recreation and service needs to residents; and
  - d) Clause 58.07-3 – Windows (Standard D28) – The design includes habitable rooms with poorly located windows that have poor access to daylight and result in compromised internal amenity.

## **1. Background**

### **Subject site**

The subject site is a corner lot, bounded by Albert Street to the south, Cross Street to the east and Sedgman Street to the west. With Lygon Street located approximately 160 metres to the west, the site is located on the edge of the Brunswick Activity Centre – Lygon Street Local Area. The site is regular in shape and has an overall area of 1,779 square metres.

A single storey commercial (warehouse) building that is built nearly across the entire land parcel currently occupies the land. Two crossovers on Cross Street and one on Sedgman Street provide vehicular access.

There are no restrictive covenants or other encumbrances indicated on the Certificate of Title, formally referred to as Lot 2 on Plan of Subdivision 057536.

### **Surrounds**

The surrounding area is highly mixed in character incorporating a mix of commercial, industrial, residential and recreational uses, with built form ranging up to six storeys in height. The immediate context includes:

- A single storey brick commercial building to the north (wholesaler/warehouse).
- To the west, single storey terraces along Sedgman Street and double storey terraces along Albert Street, being part of the Albert Street Heritage Precinct.
- A double storey office building, single storey commercial building and six storey apartment development to the south, on the opposite side of Albert Street.
- Fleming Park to the east, home to various facilities including the single storey senior citizens centre in the south-western corner of the park, opposite the subject site.

A location and zoning map forms **Attachment 1**.

### **The proposal**

The proposal is for a six-storey building, including

- One basement level containing 50 car spaces, storage areas and bin room;
- A communal garden (195.8sqm), communal amenities room and secure storage space for 152 bikes and associated workshop at ground level;
- 71 dwellings across all six levels comprising of:
  - 17 one-bedroom dwellings
  - 38 two-bedroom dwellings
  - 16 three-bedroom dwellings;
- A maximum building height of 21.315 metres; and
- A mix of materials including brick, textured concrete, textured cement sheets, exposed aggregate and metal cladding.

The advertised development plans form **Attachment 2**.

### **Process of application**

An application has been lodged with the Victorian Civil and Administrative Tribunal (VCAT) under section 79 of the Act for Council failing to determine the application within the prescribed time.



The matter will be considered by VCAT in December 2022 and a compulsory conference has been set for October 2022.

### Statutory Controls – why is a planning permit required?

Control	Permit Requirement
Mixed Use Zone	Dwelling is a Section 1 use in the zone, therefore a permit is not required for the use of the land. Clause 32.04-6 - A permit is required to construct two or more dwellings on a lot.
Design and Development Overlay Schedule 19	Clause 43.02-2 - A permit is required to construct a building or construct or carry out works. DDO19 establishes a preferred overall building height of 14 metres with no preferred street wall heights or upper level setbacks specified.
Clause 52.06	A permit is required to reduce the car parking requirement from 87 spaces to 50 spaces.

The following Particular Provisions of the Moreland Planning Scheme are also relevant to the consideration of the proposal:

- Clause 45.03: Environment Audit Overlay. A condition of any permit granted will require an Environmental Audit to be undertaken before the development commences, to ensure that the site is remediated to EPA required standard.
- Clause 45.06: Development Contributions Plan Overlay
- Clause 45.09: Parking Overlay
- Clause 52.34: Bicycle Parking.
- Clause 58: Apartment Developments

## 2. Internal/External Consultation

### Public notification

Notification of the application has been undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* by:

- Sending notices to the owners and occupiers of adjoining and nearby land; and
- Placing a sign on each of the three frontages of the site (3 signs total).

Council has received 6 objections to date.

A map identifying the location of objectors forms **Attachment 3**.

The key issues raised in objections are:

- The building height exceeding the preferred height of the DDO19
- Overshadowing of the park
- Car parking reduction and impact on on-street parking.

A Planning Information and Discussion meeting was held on 19 July 2022 and attended by Cr Harte and Mayor Riley, two Council Planning Officers, and the applicants. No objectors elected to attend.

### Internal referrals

The proposal was referred to the following internal branches/business units:

Internal Branch/Business Unit	Comments
Urban Design Unit	Largely supportive of the proposal except for the poor amenity outcome for the bedroom windows to the communal corridors.
Transport - Development Engineering Team	Supports the proposal including the reduction in the statutory car parking requirement subject to recommended changes to end of aisle parking bays and reduction in the width of the vehicle crossover off Cross Street. The site is identified as being subject to flooding. Satisfactory finished floor levels are provided.
Sustainability and Climate - ESD Team	Supports the proposal subject to the provision of additional shading.
City Development - Heritage Advisor	Does not support the proposal due to the impact the development will have on the values and significance of adjoining heritage places.
Open Space Design and Development Unit	Supports the landscape design.

### 3. Policy Implications

#### Planning Policy Framework (PPF):

The following policies are of most relevance to this application:

Municipal Planning Strategy (Clause 2), including:

- Vision (Clause 2.02)
- Settlement (Clause 2.03-1)
- Environmental and Landscape Values (Clause 2.03-2)
- Environmental Risks and Amenity (Clause 2.03-3)
- Built Environment and Heritage (Clause 2.03-4)
- Housing (Clause 2.03-5)
- Transport (Clause 2.03-7)
- Infrastructure (Clause 2.03-8)

Settlement (Clause 11)

Environmental Risks and Amenity (Clause 13):

- Floodplain management (Clause 13.03-1S)
- Contaminated and Potentially Contaminated Land (Clause 13.04-1S)

Built Environment (Clause 15.01), including:

- Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
- Vehicle Access Design in Moreland (Clause 15.01-1L)
- Building Design (Clause 15.01-2S & 15.01-2L)
- Apartment developments in Moreland (Clause 15.01-2L)
- Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)

- Neighbourhood Character (Clause 15.01-5S)
- Environmentally Sustainable Development (Clause 15.02-1L)
- Energy efficiency in Moreland (Clause 15.02-1L)

Heritage (Clause 15.03), including:

- Heritage conservation (Clause 15.03-1S)
- Heritage in Moreland (Clause 15.03-1L)

Residential Development (Clause 16.01), including:

- Housing Supply (Clause 16.01-1S and 16.01-1R)
- Homes in Moreland (Clause 16.01-2L)
- Housing for People with Limited Mobility (Clause 16.01-1L)
- Housing Affordability (Clause 16.01-2S & 16.01-2L)

Transport (Clause 18), including:

- Sustainable and safe transport (Clause 18.01-3S & 18.01-3R)
- Movement networks (18.02)
- Sustainable Transport in Moreland (Clause 18.02-2L)
- Car parking in Moreland (Clause 18.02-4L)

Infrastructure (Clause 19.02), including:

- Energy supply (Clause 19.01-1S & 19.01-1L)
- Development infrastructure (Clause 19.03)

### **Building Regulations**

Flood mapping has been undertaken by Council and the land has been designated as liable to flooding pursuant to regulation 5(2) of the Building Regulations 2018. Whilst not currently identified in the Moreland Planning Scheme this flood mapping has been declared under the Building Regulations.

### **Human Rights Consideration**

This application has been processed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006, including Section 18 (Taking part in public life)*. In addition, the assessment of the application has had particular regard to:

Section 12: Freedom of movement

Section 13: Privacy and Reputation

Section 20: Property rights

The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement. The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme. The privacy of nearby residents has also been considered as part of the application process.

## **4. Issues**

In considering this application, regard has been given to the State and Local Planning Policy frameworks, the relevant provisions of the Moreland Planning Scheme, objections received and the merits of the application.



### **Does the proposal have strategic policy support?**

Both State and Local planning policies support increased residential densities in Activity Centres, to take advantage of the excellent access to public transport and other services within these locations.

The proposal has policy support to accommodate increased residential densities and a change from the existing character. However, the built form design response does not respond appropriately to its interfaces and the objectives of the DDO19, as set out in this report.

### **Does the built form respond to the preferred character of the area?**

The DDO19 which affects the site outlines the preferred built form outcomes and design objectives that are to be achieved on the site. The site has a preferred maximum building height of 14 metres. No preferred street wall heights or setback requirements are outlined for this site.

#### **Building Height**

The DDO19 includes the following design objective:

- *To create a new mid rise built form character that provides a built form transition between the Lygon Activity Corridor and adjoining low-rise residential areas.*

In order to achieve this transition, built form controls are nominated throughout the DDO19. The nominated height for the site sits at the lower end of the height range throughout activity centre, namely because it is located at the edge of the activity centre. Additionally, unlike the properties at the edge of the activity centre on the southern side of Albert Street, the site abuts the more sensitive and highly valued public open space of Fleming Park. It is also separated from the higher built forms encouraged along Lygon Street by the low scale, fine grain heritage dwellings that front Albert Street and Sedgman Street. Notwithstanding that these properties have an 11 metre preferred height under the DDO19, future development of these properties is limited due to their heritage status and small lot sizing, significantly constraining development potential.

These unique locational attributes were recognised in the Panel Report for the Planning Scheme Amendment C164 (relating to the implementation of DDO19), which contemplated a 17 metre preferred height for the site. The Panel made the following comments:

*The Panel does have a concern that a height of 17 metres does not provide for the stepping down of built form to its periphery nor give sufficient consideration to Fleming Park to the east and the residential area in a HO to the west of Sedgman Street. ... a performance based approach to development in Cross Street may indicate that a height of 17 metres can only be achieved in the middle of the site (if at all) with lower form at the edges. The Panel is conscious that 17 metre height is the same as the BSP Addendum.*

*...In light of the need for lower forms in the off-corridor areas, the proximity of Fleming Park and residential terraces in Sedgman Street, the Panel considers a height of 14 metres would be more suitable in this context.*

The proposed development has a maximum height of 21.315 metres, exceeding the preferred 14 metre height control by 7.315 metres. Unlike the greater building heights specified in the DDO for the Lygon Street Corridor the lower overall preferred building height for this site does not provide for preferred street wall height and upper level setbacks. The proposed street wall heights and upper level setbacks of this application, across the three street interfaces are tabled below.

	<b>Sedgman Street</b>	<b>Albert Street</b>	<b>Cross Street</b>
<b>Street wall height</b>	3 storeys (11.6m max)	4 storeys (15m max)	5 storeys (18.5m max)
<b>Upper level setback</b>	3 metres	3 metres	10.47m

With the exception of the generous setback to Cross Street at the fifth level, the development employs limited upper level setbacks to the street. Consequently, the built form above the 14 metre height control is highly visible and dominating. The DDO19 seeks to limit highly visible development to identified key redevelopment sites, of which the site is not. The Panel Report did consider that development over 14 metres could be achievable on the site but argued that if it were to be achievable at all it would be in the middle of the site. By virtue of the “U-shaped” layout of the building only a limited amount of upper level recession is possible. Consequently, rather than a centralised upper built form the design provides only 3 metre setbacks to the south and the west above the podium level.

In order to achieve the objective of the DDO19 – to provide a built form transition down from Lygon Street, the Panel considered that a 14 metre height for the site would be more appropriate. This is within the context of the preferred heights nominated elsewhere within the activity centre, including the preferred height along the eastern side of Lygon Street between Albert Street and Victoria Street which is only 23 metres and 20 metres on the north and south corner lots. This development, by contrast, proposes an overall height that is more suitable to the outcomes sought along Lygon Street itself. It exceeds the height of the six-storey building on the corner of Lygon and Albert Streets (280-294 Lygon Street - 20.085 metres) as well as that of the six-storey building opposite at 92-96 Albert Street (18.4 metres).

These two developments are particularly relevant because they also face Albert Street and form part of the same streetscape. They form part of the view up and down Albert Street where the scaling down of built form from Lygon Street to the edge of the activity centre is more readable than it would be through mid-block sites.

In exceeding the preferred height for the site and the heights of the aforementioned nearby developments, the highly visible nature of the upper levels of the proposal will result in a built form outcome that disrupts the streetscape and fails to achieve the built form transition sought.

Whilst the proposal is a high quality design in terms of its architectural detailing, accessibility and sustainability outcomes, its gross exceedance above the preferred height and in particular the visibility of this extra height cannot be ignored. As observed in the Panel Report, *“The height of development should not always be bargained away to achieve a good design outcome for land.”*

#### Overshadowing of footpath and Fleming Park

Another relevant design objective of DDO19 is

- *To protect and enhance the amenity and maintain solar access to existing and proposed public open spaces and key pedestrian streets and maintain reasonable amenity for residential properties adjacent to or within the activity centre.*

The Brunswick Structure Plan identifies Albert Street as a “high amenity east-west pedestrian link”. The objective refers to “maintaining” solar access, indicating that any development should preserve existing or close to existing levels of solar access to both Albert Street, as a key pedestrian street, and Fleming Park, as an existing public open space.

Overshadowing of the footpath on the northern side of Albert Street is inevitable from any development on the site, and indeed is overshadowed by the existing building. However, it is feasible and realistic that the site could be developed in a manner that does not unreasonably cast shadow across the footpath on the southern side of the Albert Street road reserve.

The submitted shadow diagrams indicate that the southern footpath will be at least partially overshadowed at the equinox until 2:00 PM. The building will cast a shadow across the south-western corner of Fleming Park at 3:00 PM. A single storey brick building (Clarrie Wohlers Senior Citizens Centre) is currently located within this corner, however under the Fleming Park Masterplan this building will be removed and a new entrance into the park will be constructed in the corner. This new entrance will be overshadowed by the proposal. Furthermore, the shadow impacts will be even more severe at other times of the year, such as during the winter months.

This shadowing is, at least in part, due to the exceedance of the building above the preferred 14 metre height control and the limited upper level setbacks. The building has not been designed with appropriate regard for the impact it will have on the solar access of the footpath and the future park entry. Consequently, it does not maintain solar access to these spaces and does not meet the design objective.

In addition to limiting the shadow impacts to public spaces this objective also seeks to maintain a reasonable level of amenity for nearby residential properties. Levels of amenity currently experienced by nearby dwellings to the west will be reduced by the visual bulk impacts of the proposal. Given the strategic setting the redevelopment of the site with a larger built form is reasonable and to be expected. However, the design execution, whereby the building exceeds the preferred height with only minimal upper level setbacks to the Sedgman Street frontage is not reasonable. The 3 metre setback of Levels 3, 4 and 5 do little to minimise the appearance, and associated bulk, of the exceedance above the preferred 14 metre height. As a result, the building towers above the existing dwellings on Sedgman Street and has a dominant presence in the street that is detrimental to the outlook and amenity enjoyed by these dwellings.

#### **Does the proposal provide appropriate onsite amenity and facilities?**

An assessment against the requirements of Clause 58 has been undertaken with the proposal found to be generally compliant, with the exception of the following areas:

##### **Clause 58.02-1 Urban Context (Standard D1)**

As detailed earlier in the report, the strategic context encourages a higher density built form outcome for the site and surrounding area. However, the outcome proposed exceeds that envisioned for this specific site. In doing so, it fails to contribute to the preferred future development of the area, and to adequately respond to the specific locational attributes which necessitate a lower built form outcome (as reflected by the DDO19 controls).

This includes the poor design response to the heritage context of Albert and Sedgman Streets. The overall scale far exceeds the single and double storey height of the heritage dwellings and the limited 3 metre setback of levels 3, 4 and 5 from Sedgman Street does little to mitigate the visibility or impact of the excessive height on the heritage streetscape.

##### **Clause 58.02-5 Integration with the Street (Standard D5)**

The proposal contains nine ground floor apartments that have their secluded private open space facing the street. The associated fencing is a combination of solid brick and metal posts. Heights vary but include a maximum height of 1.8 metres above the footpath. Along Cross Street in particular, fencing consists of a solid 1.5 metre high brick wall with 0.3 metres metal posts atop. This high solid fencing is not reflective of the surrounding character and limits the activation of the building at pedestrian level resulting in a poor outcome as viewed from the street.

#### Clause 58.05-3 Private Open Space (Standard B20)

Apartments G02 and G03 are 2 bedroom apartments, requiring a balcony with a minimum dimension of 2 metres and area of 8 square metres. The courtyards of these dwellings are 8.5 square metres, however this includes the gate and pathway from the street. Omitting these, there is only 5.3 square metres of useable space with only a 1.835 metre width. This does not reasonably provide for the recreation and service needs of future residents and needs to be addressed.

#### Clause 58.07-3 Windows (Standard D28)

18 apartments include bedrooms that have windows that open and look onto the central communal corridor. "Tilt & turn" privacy windows are proposed which afford some daylight and visual privacy. However, they do not accommodate a reasonable outlook and level of privacy as an external facing window does, and they do not provide the same degree of noise protection that an internal wall would provide. The internal amenity and privacy of these bedrooms is therefore compromised. This poor internal amenity outcome for over 25 per cent of the apartments is not supportable.

#### **Has adequate car and bicycle parking been provided?**

A total of 87 car spaces are required for the dwellings. The development provides 50 on-site spaces. Clause 18.02-4L (Car parking in Moreland) supports reduced car parking rates in developments:

- within and close to activity centres
- with excellent access based on frequency and location to a range of public transport options
- with increased provision of bicycle parking above the rates specified in Clause 52.34.

The proposal is located within the Lygon Street Activity Centre and is within 560 metres of three tram routes, two bus routes and seven car share vehicles. Furthermore, the development provides bicycle parking for 152 bikes, which is more than one for every bedroom.

Vehicles, whether related to this or other developments in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on-street car spaces.

#### **Are adequate loading/unloading facilities provided?**

Clause 65.01 requires consideration of the adequacy of loading and unloading. There is an existing loading zone on the southern side of Albert Street opposite the site. Parking is also available in front of the site across all three frontages. Given that the proposal is only residential in nature it is not anticipated to generate a high demand for loading facilities and that the demand can be accommodated within the existing options available.

#### **What impact does the proposal have on car congestion and traffic in the local area?**

In relation to traffic impacts, Council's Development Engineers have assessed the proposal and consider that the development will result in 20 additional vehicle movements each peak hour. In this location vehicles can enter Lygon Street or Nicholson Street at two different locations each, or they can enter Blyth Street or Glenlyon Road. The likely dispersal of the traffic means that the additional vehicles are not expected to cause unacceptable congestion at any intersection.

## **Does the proposal incorporate adequate Environmental Sustainable Design (ESD) features?**

ESD features of the development include:

- Minimum average NatHERS rating of 8 stars
- No fossil fuels including natural gas. 100 per cent all-electric building supplied with renewable energy through an embedded network.
- BESS score of 73 per cent

The proposal has been assessed by Council's expert ESD engineers and is supported.

## **5. Response to Objector Concerns**

The following issues raised by objectors are addressed in section 4 of this report:

- Building height exceeding the preferred height of the DDO19
- Overshadowing of the park
- Car parking reduction

Other issues raised by objectors are addressed below.

### Access for emergency services

The additional vehicles associated with the proposed development are not anticipated to result in unreasonable congestion levels in the surrounding area that would impede emergency services.

### Existing building should be retained and used for a community purpose

The site is within the Mixed Use Zone and the Lygon Street Activity Centre, both of which seek to provide higher density residential development. The demolition of the building and replacement with a multi-storey apartment building is consistent with the vision for the area.

## **6. Officer Declaration of Conflict of Interest**

Council Officers involved in the preparation of this report do not have a conflict of interest in this matter.

## **7. Financial and Resources Implications**

There are no financial or resource implications.

## **8. Conclusion**

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Council's submission to VCAT be to not support the application No. MPS/2021/1029 for the reasons detailed in the recommendation.

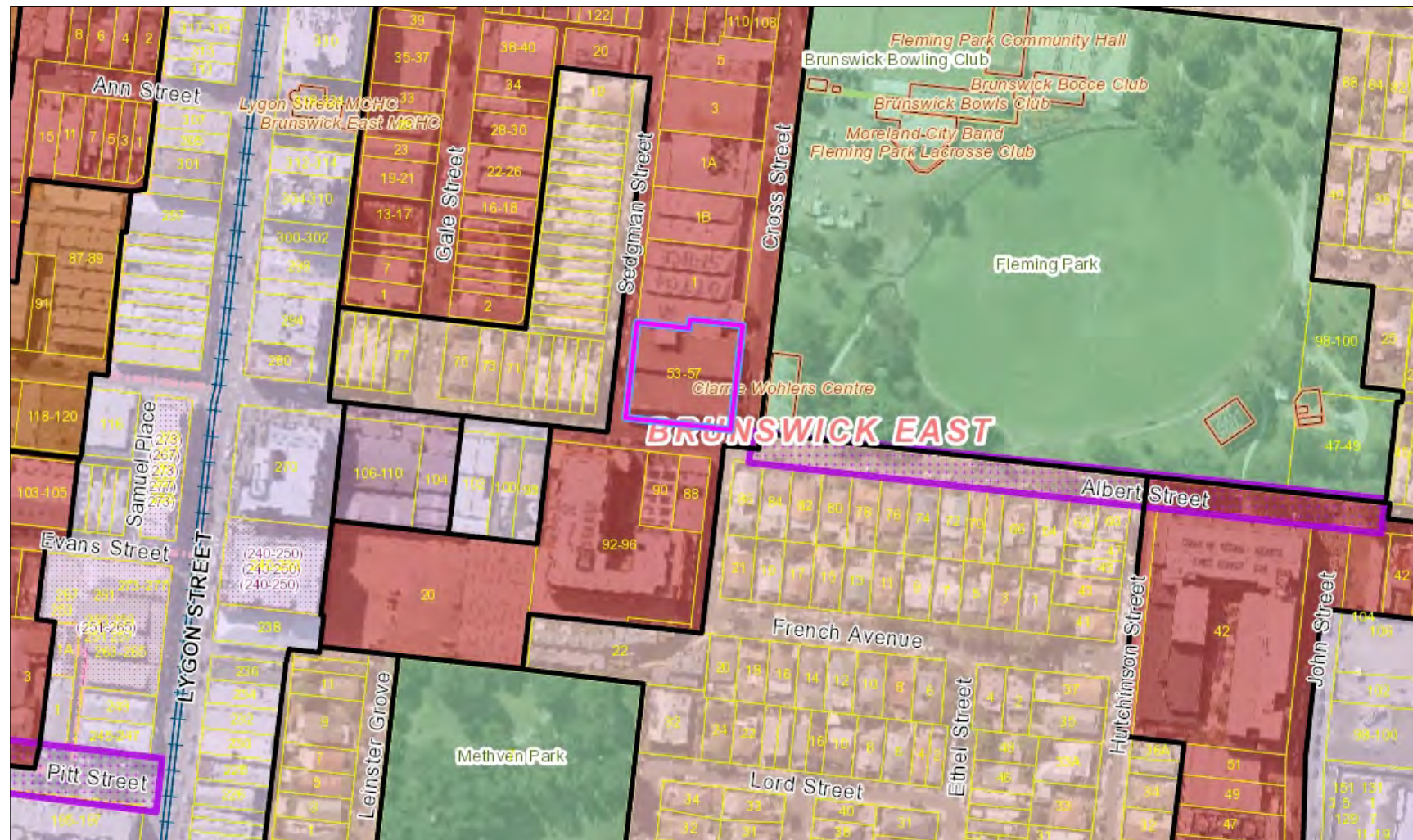
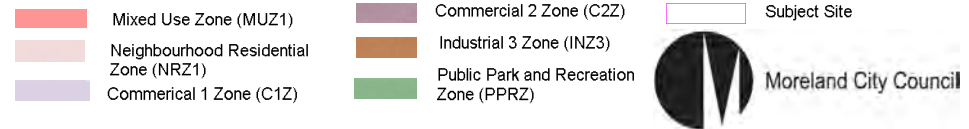
## **Attachment/s**

<a href="#">1</a>	53-57 Albert Street, Brunswick East - Location and Zoning Map	D22/331433
<a href="#">2</a>	53-57 Albert Street, Brunswick East - Advertised Plans	D22/331443
<a href="#">3</a>	53-57 Albert Street, Brunswick East - Objector Map	D22/331463

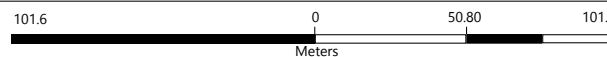


## 53-57 Albert Street, Brunswick East

### Zoning Map



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Date Map Generated: 29/7/2022 Map Scale: 2,000.00



**ALBERT ST BRUNSWICK EAST****53-57 ALBERT STREET, BRUNSWICK EAST****MARCH 2022  
TOWN PLANNING**

03/03/2022

**53-57 ALBERT ST BRUNSWICK EAST**

DRAWING NUMBER	DRAWING TITLE	STATUS	REV
TP0-000	COVER PAGE	TOWN PLANNING	B
TP0-001	SURVEY PLAN	TOWN PLANNING	A
TP0-201	EXISTING SITE PLAN	TOWN PLANNING	B
TP0-202	EXISTING / DEMOLITION ROOF PLAN	TOWN PLANNING	B
TP0-203	EXISTING / NORTH AND SOUTH ELEVATION	TOWN PLANNING	B
TP0-204	EXISTING / EAST AND WEST ELEVATION	TOWN PLANNING	B
TP1-101	PROPOSED SITE PLAN	TOWN PLANNING	B
TP1-102	B1 - BASEMENT PLAN	TOWN PLANNING	B
TP1-103	GROUND FLOOR PLAN	TOWN PLANNING	B
TP1-104	LEVEL 01 PLAN	TOWN PLANNING	B
TP1-105	LEVEL 02 PLAN	TOWN PLANNING	B
TP1-106	LEVEL 03 PLAN	TOWN PLANNING	B
TP1-107	LEVEL 04 PLAN	TOWN PLANNING	B
TP1-108	LEVEL 05 PLAN	TOWN PLANNING	B
TP1-109	ROOF PLAN	TOWN PLANNING	B
TP2-101	NORTH ELEVATION	TOWN PLANNING	B
TP2-102	SOUTH ELEVATION	TOWN PLANNING	B
TP2-103	EAST ELEVATION	TOWN PLANNING	B
TP2-104	WEST ELEVATION	TOWN PLANNING	B
TP2-105	INTERNAL ELEVATION	TOWN PLANNING	B
TP2-106	INTERNAL ELEVATION	TOWN PLANNING	B
TP2-107	INTERNAL ELEVATION	TOWN PLANNING	B
TP2-108	EAST ELEVATION - BOOSTER CALLOUT	TOWN PLANNING	A
TP3-101	SECTION - EAST WEST	TOWN PLANNING	A
TP3-102	SECTION - EAST WEST	TOWN PLANNING	A
TP3-103	SECTION - EAST WEST	TOWN PLANNING	A
TP3-104	SECTION - NORTH SOUTH	TOWN PLANNING	B
TP3-105	SECTION - CARPARK RAMP	TOWN PLANNING	B
TP3-110	OVERLOOKING DIAGRAMS	TOWN PLANNING	B
TP10-101	BADS ASSESSMENT - BASEMENT 01	TOWN PLANNING	B
TP10-102	BADS ASSESSMENT - GROUND	TOWN PLANNING	B
TP10-103	BADS ASSESSMENT - LEVEL 01	TOWN PLANNING	B
TP10-104	BADS ASSESSMENT - LEVEL 02	TOWN PLANNING	B
TP10-105	BADS ASSESSMENT - LEVEL 03	TOWN PLANNING	B
TP10-106	BADS ASSESSMENT - LEVEL 04	TOWN PLANNING	B
TP10-107	BADS ASSESSMENT - LEVEL 05	TOWN PLANNING	B
TP10-210	SHADOW STUDY 9AM 23/09	TOWN PLANNING	B
TP10-211	SHADOW STUDY 10AM 23/09	TOWN PLANNING	B
TP10-212	SHADOW STUDY 11AM 23/09	TOWN PLANNING	B
TP10-213	SHADOW STUDY 12PM 23/09	TOWN PLANNING	B
TP10-214	SHADOW STUDY 1PM 23/09	TOWN PLANNING	B
TP10-215	SHADOW STUDY 2PM 23/09	TOWN PLANNING	B
TP10-216	SHADOW STUDY 3PM 23/09	TOWN PLANNING	B
TP10-220	COURTYARD SHADOW STUDY 9AM 21/06	TOWN PLANNING	A
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TP10-231	COURTYARD SHADOW STUDY 2 30PM 21/06	TOWN PLANNING	A
TP10-232	COURTYARD SHADOW STUDY 3PM 21/06	TOWN PLANNING	A
TP10-300	BADS SUMMARY	TOWN PLANNING	B
TP10-400	MATERIALS	TOWN PLANNING	B
TP10-900	DEVELOPMENT SUMMARY	TOWN PLANNING	B

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21-026

DATE  
03/03/2022

PROJECT  
ALBERT ST BRUNSWICK EAST  
53-57 ALBERT STREET, BRUNSWICK EAST  
STATUS  
TOWN PLANNING

DRAWING TITLE  
COVER PAGEDRAWING NUMBER  
TP0-000REVISION  
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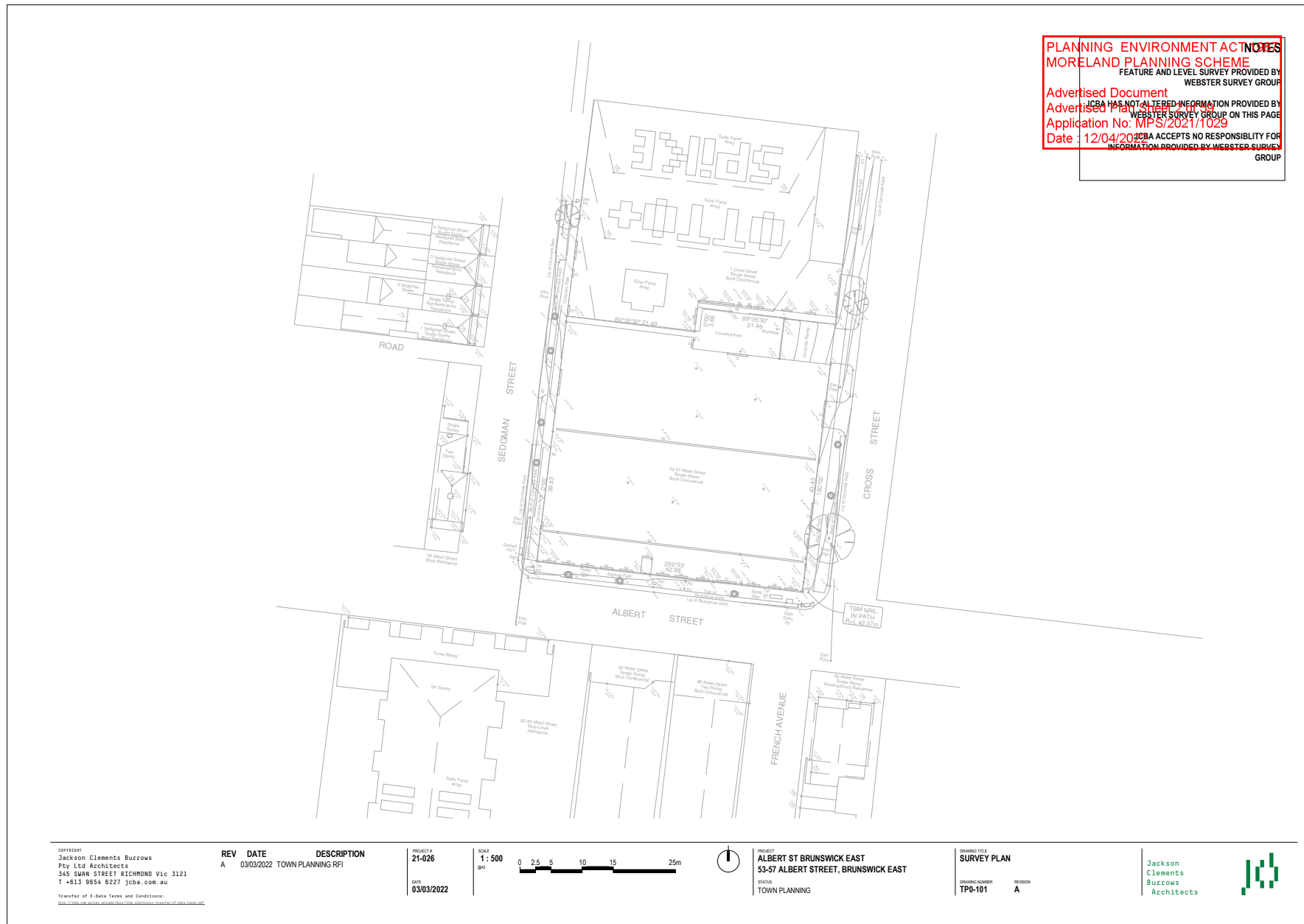


FLEMINGTON PARK, BRUNSWICK EAST

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

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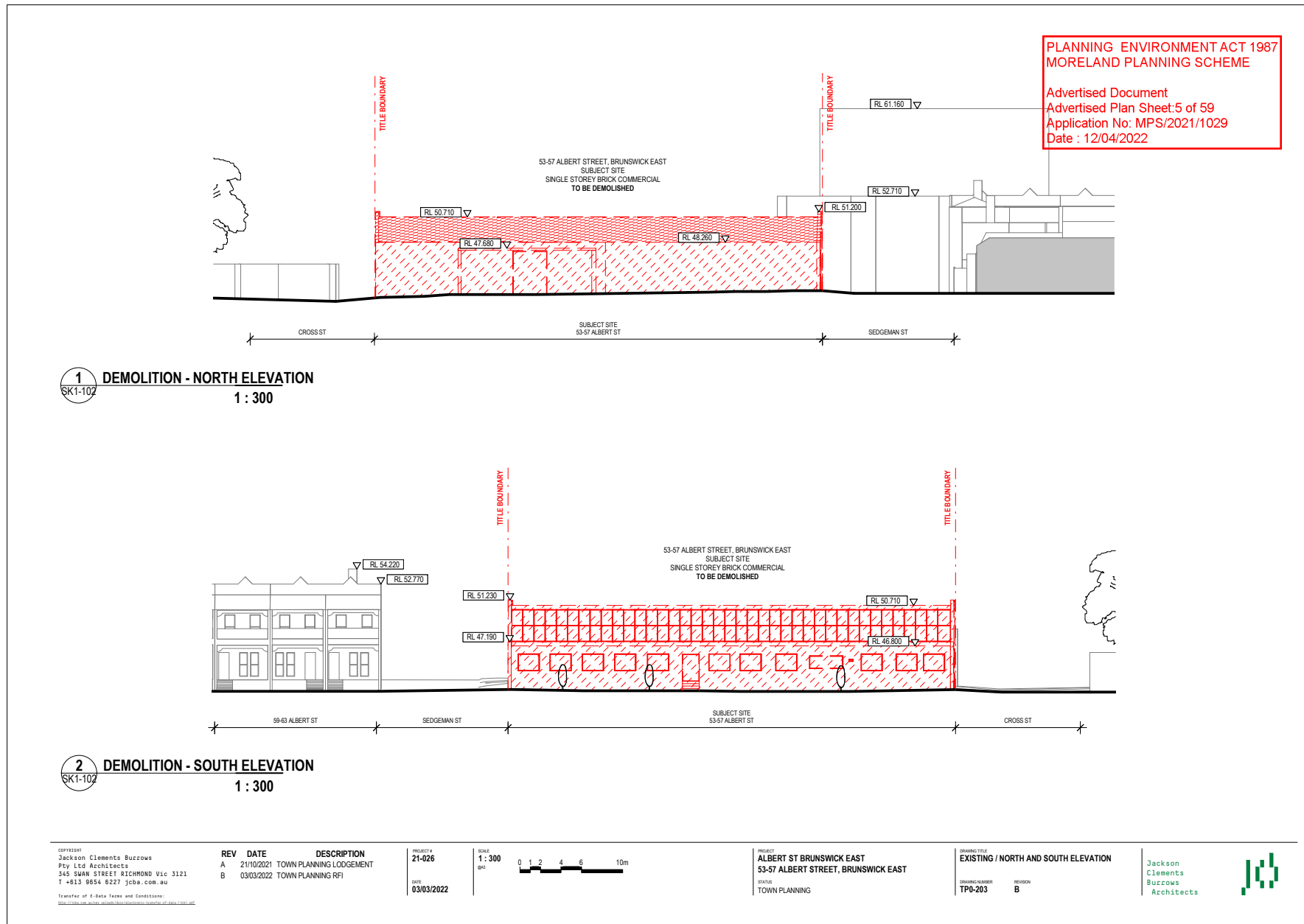


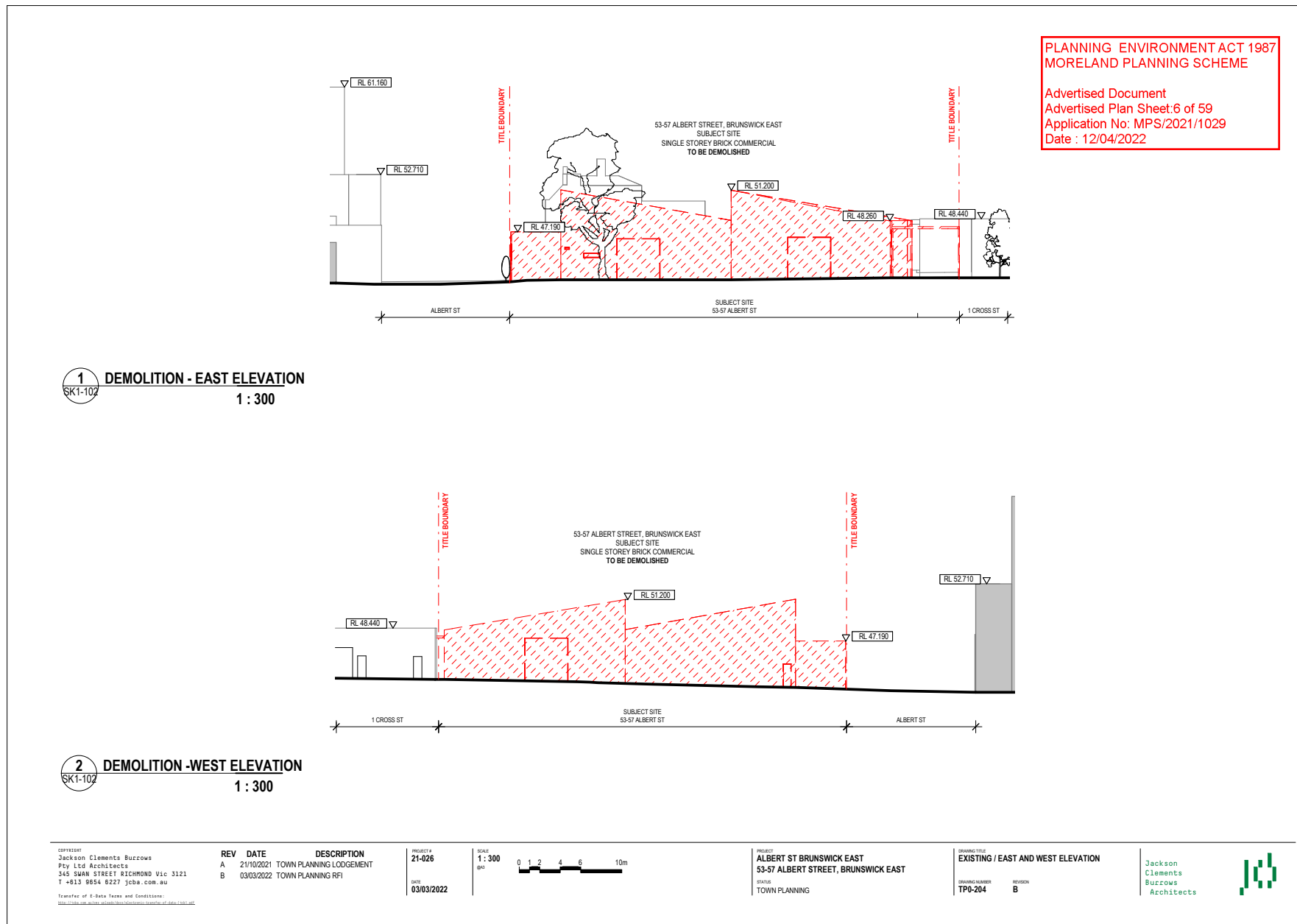




























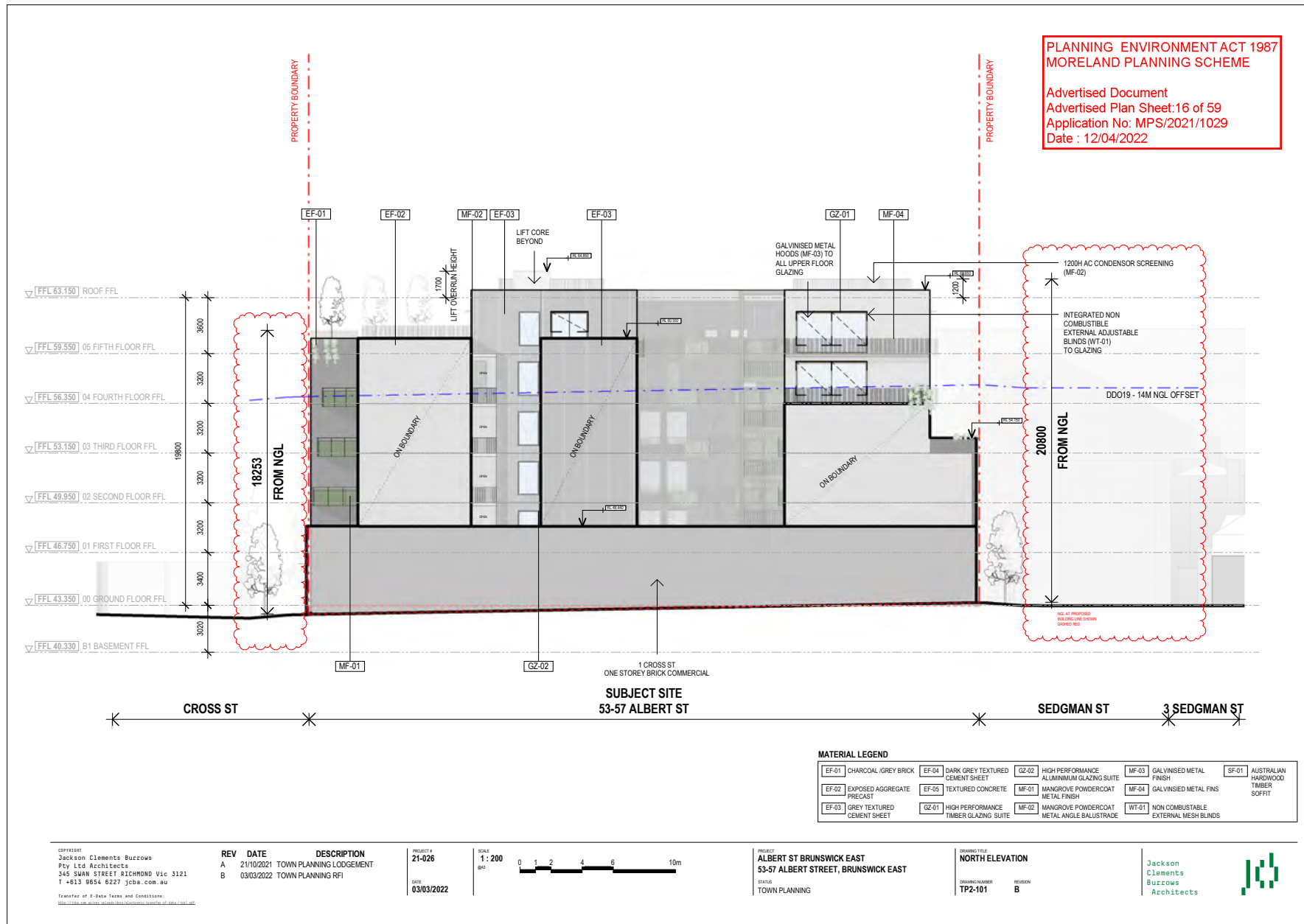


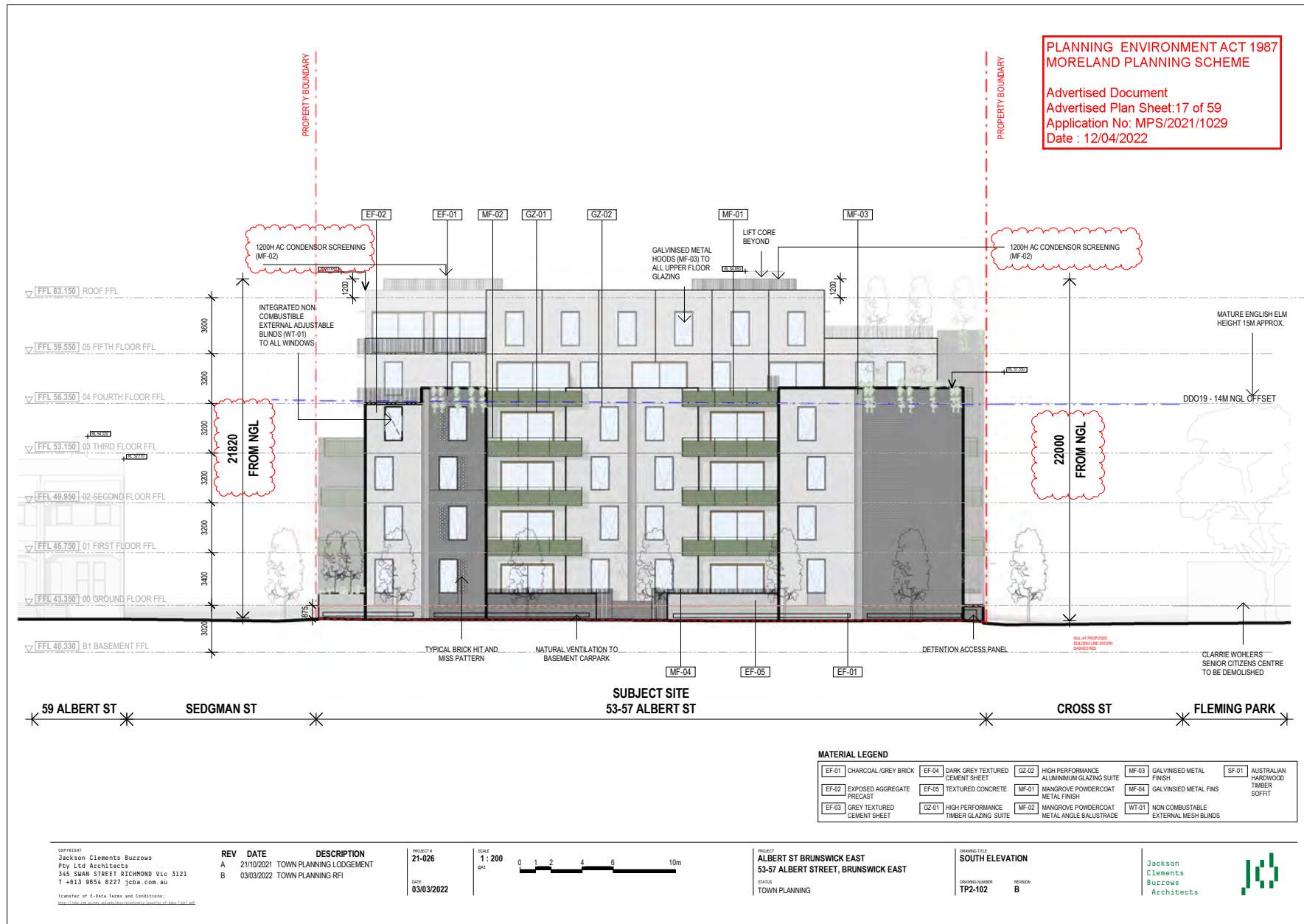


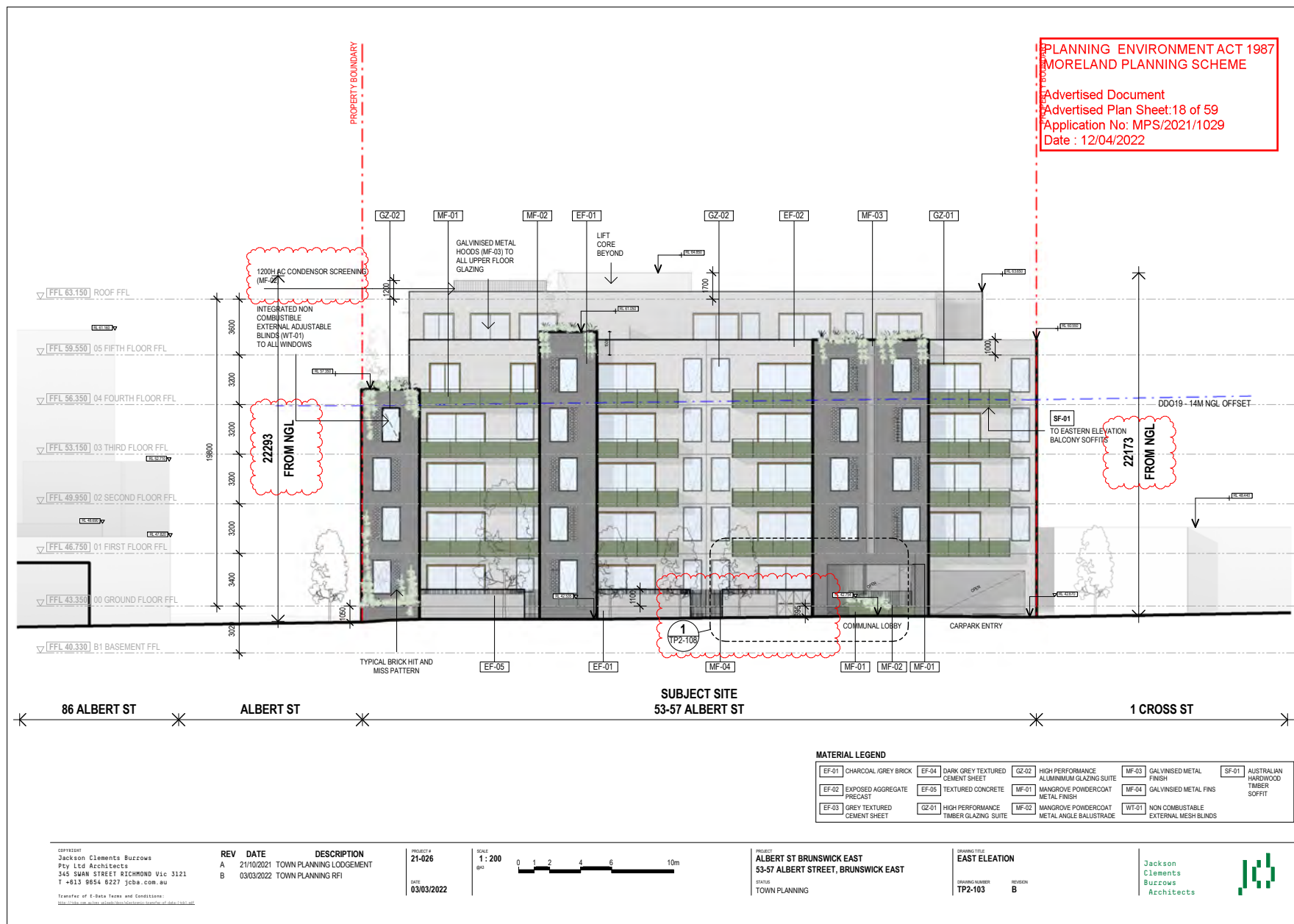




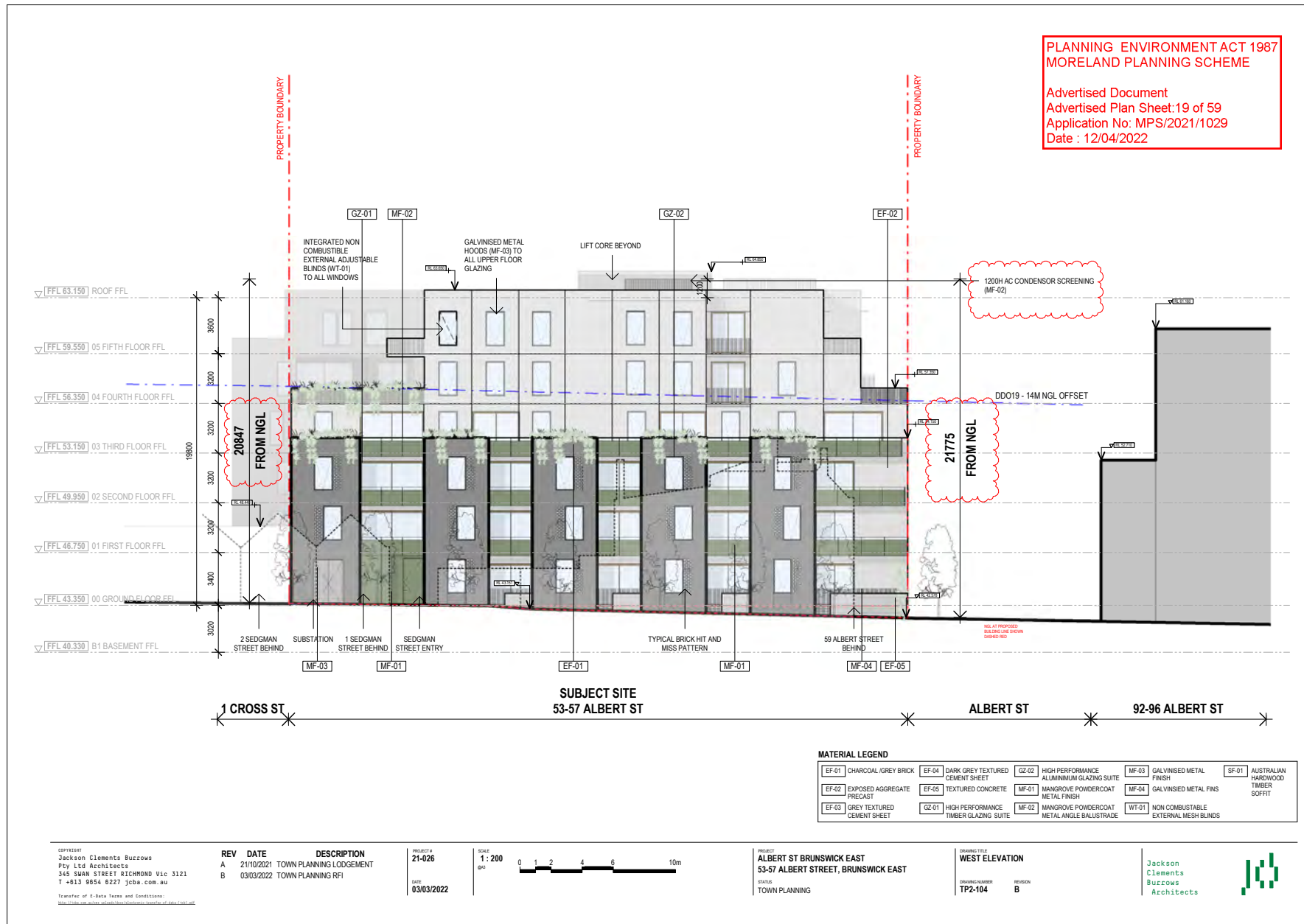


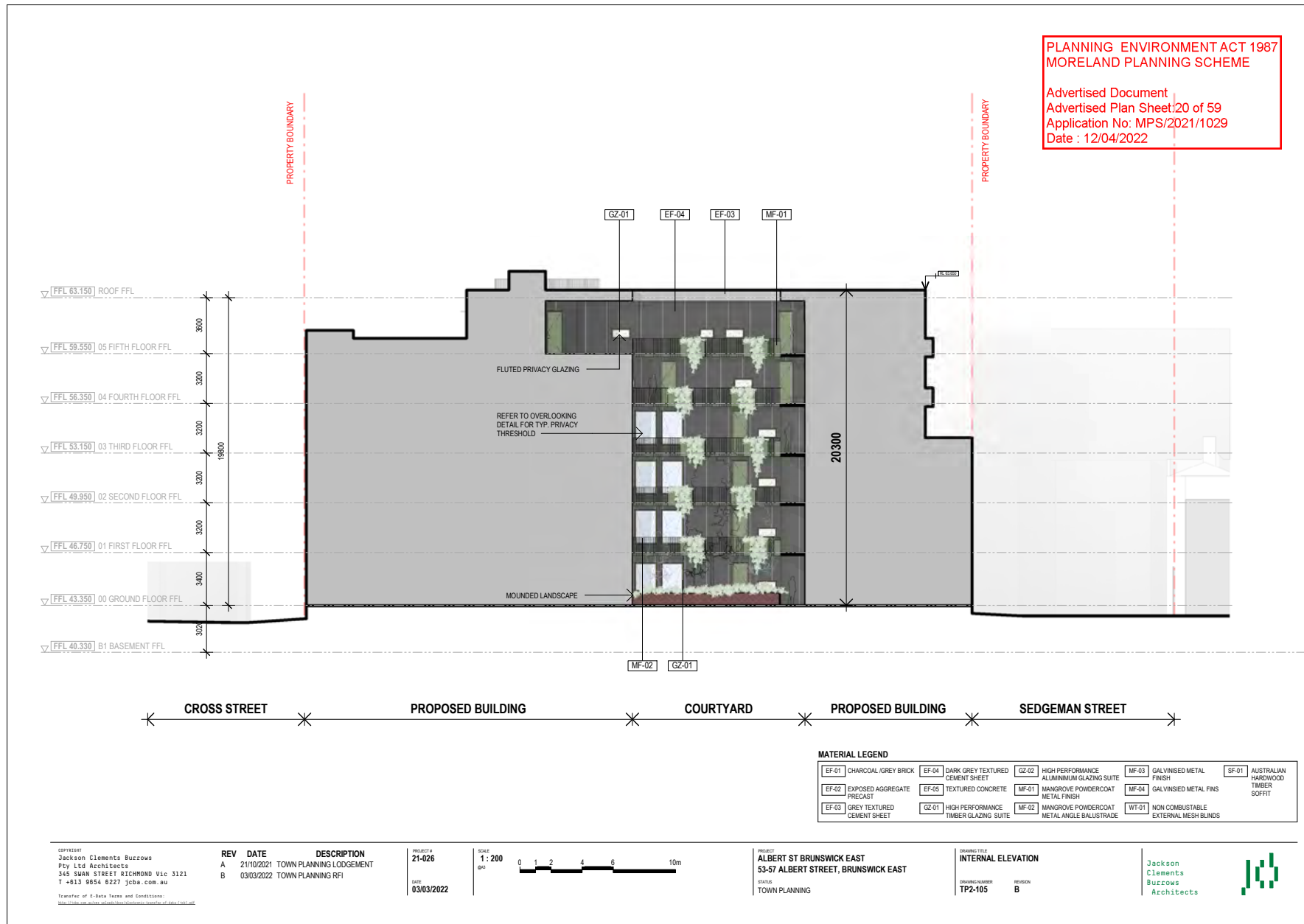


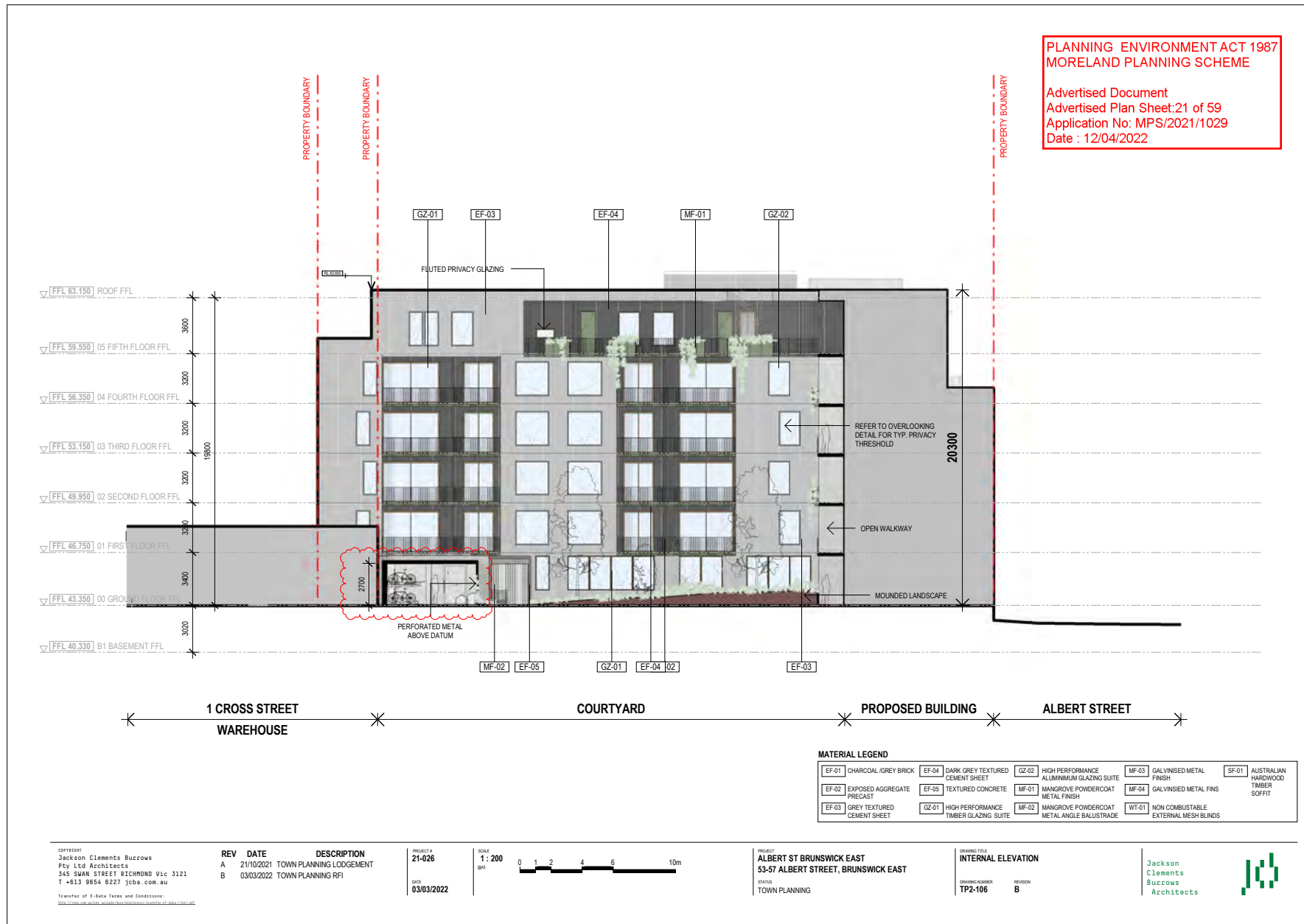


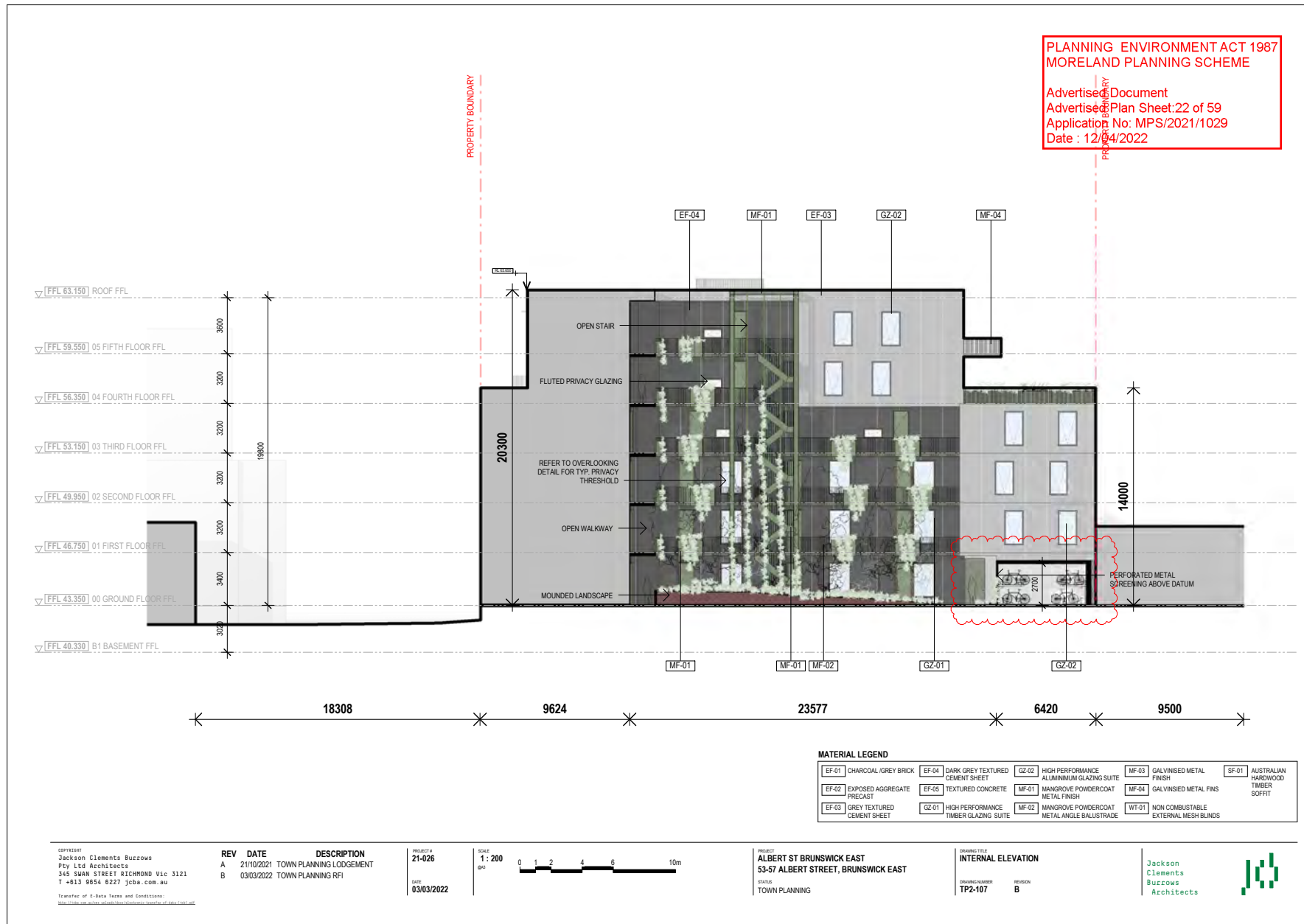












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1 BOOSTER CUPBOARD CALLOUT  
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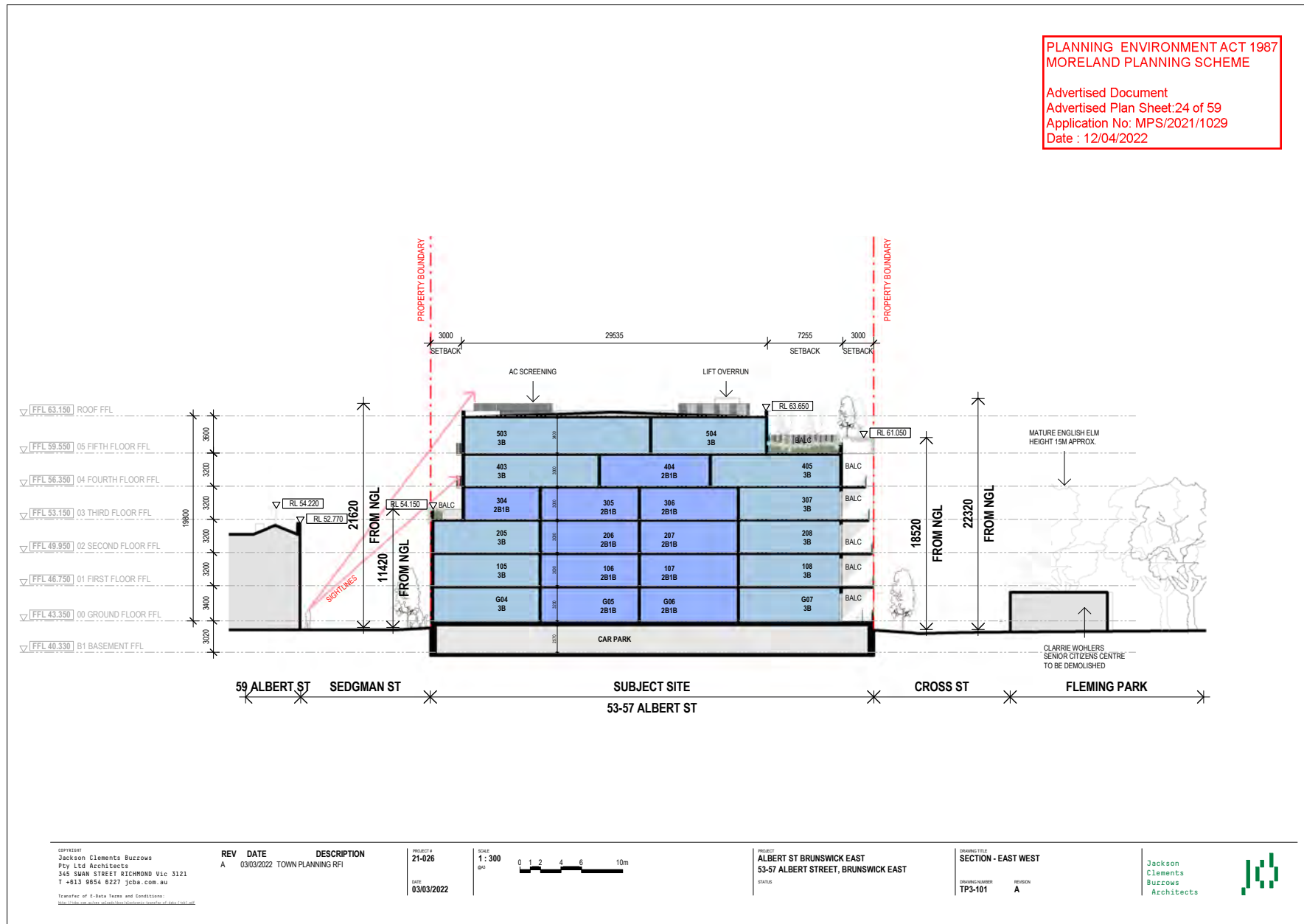
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53-57 ALBERT STREET, BRUNSWICK EAST  
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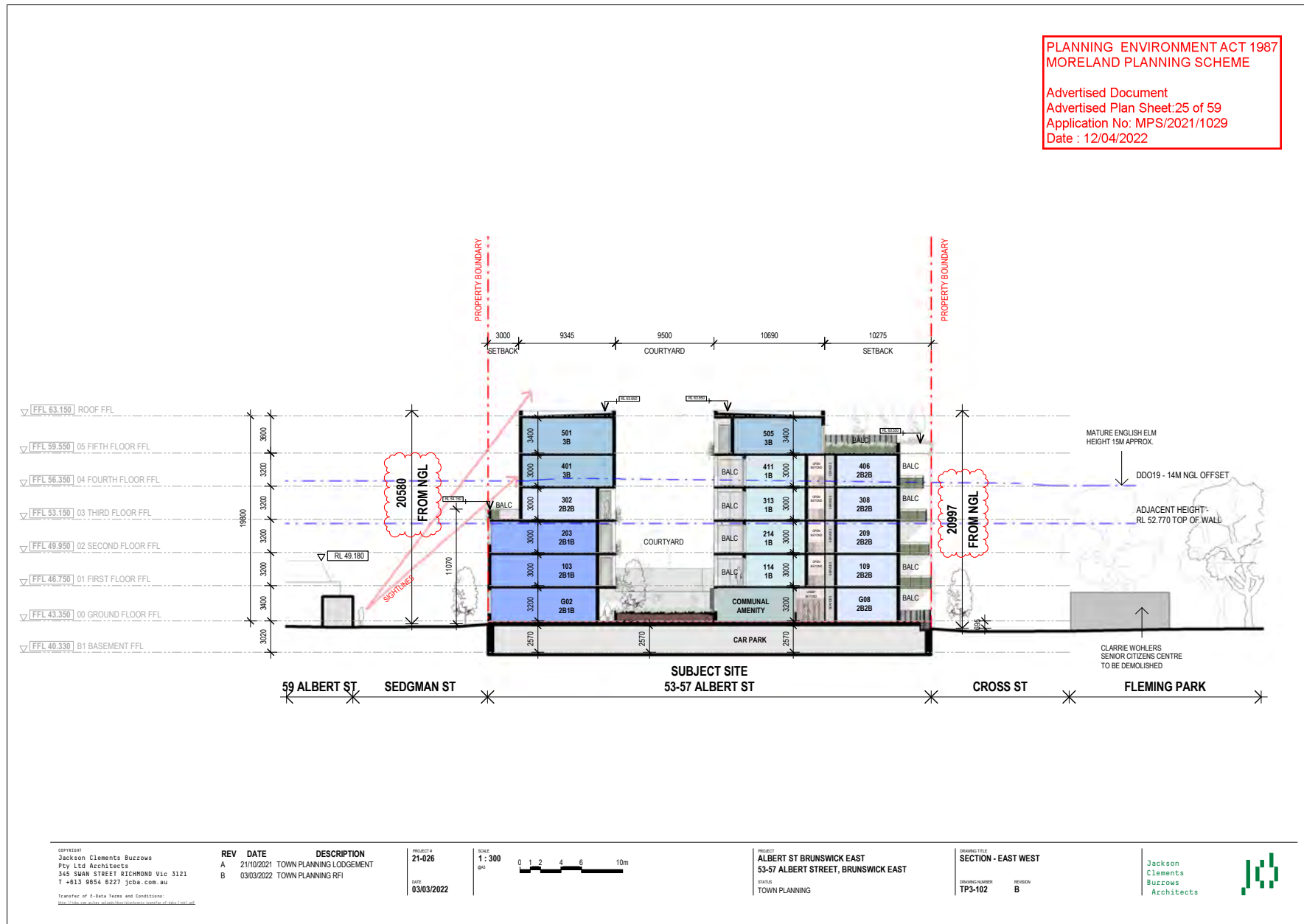
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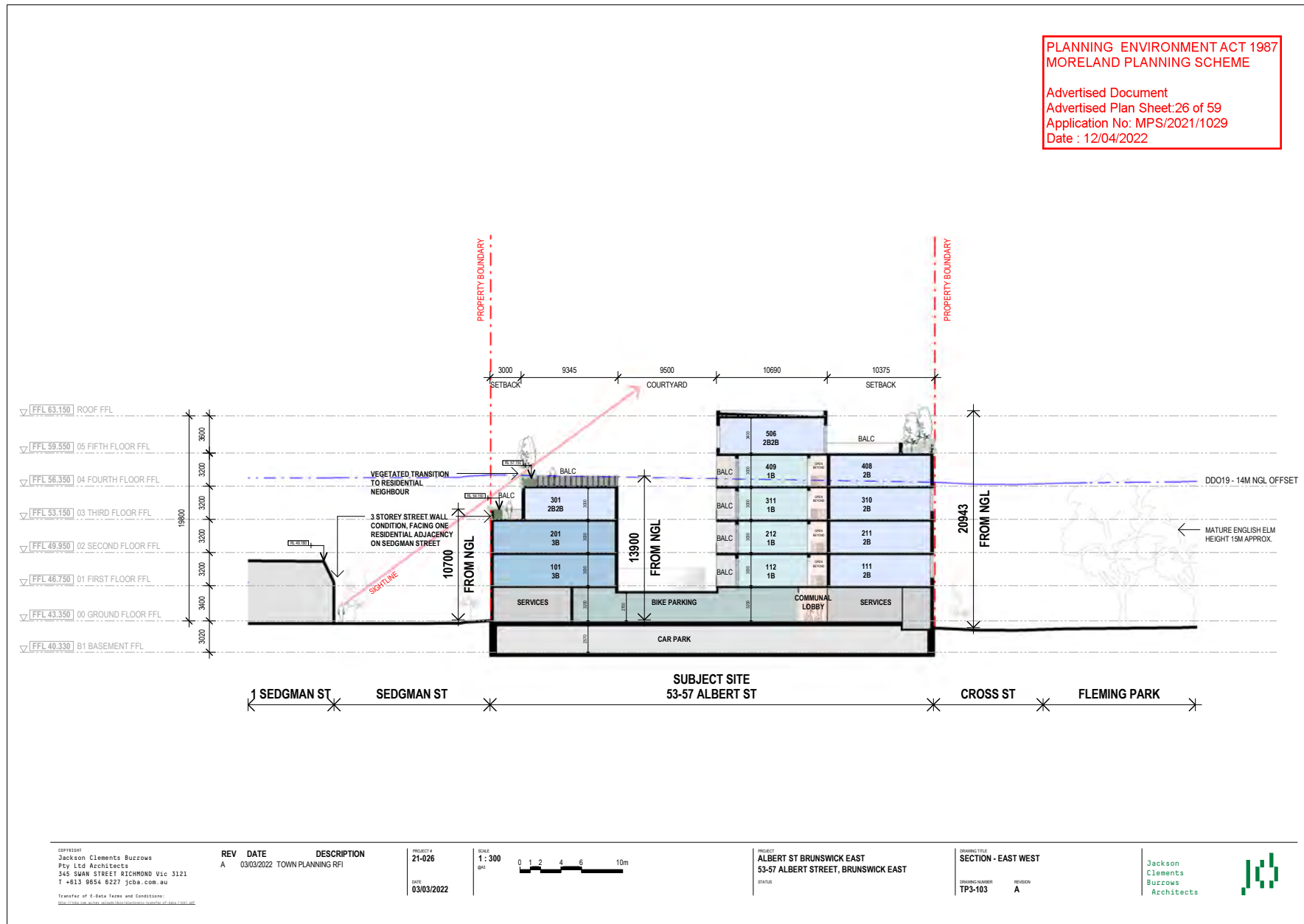
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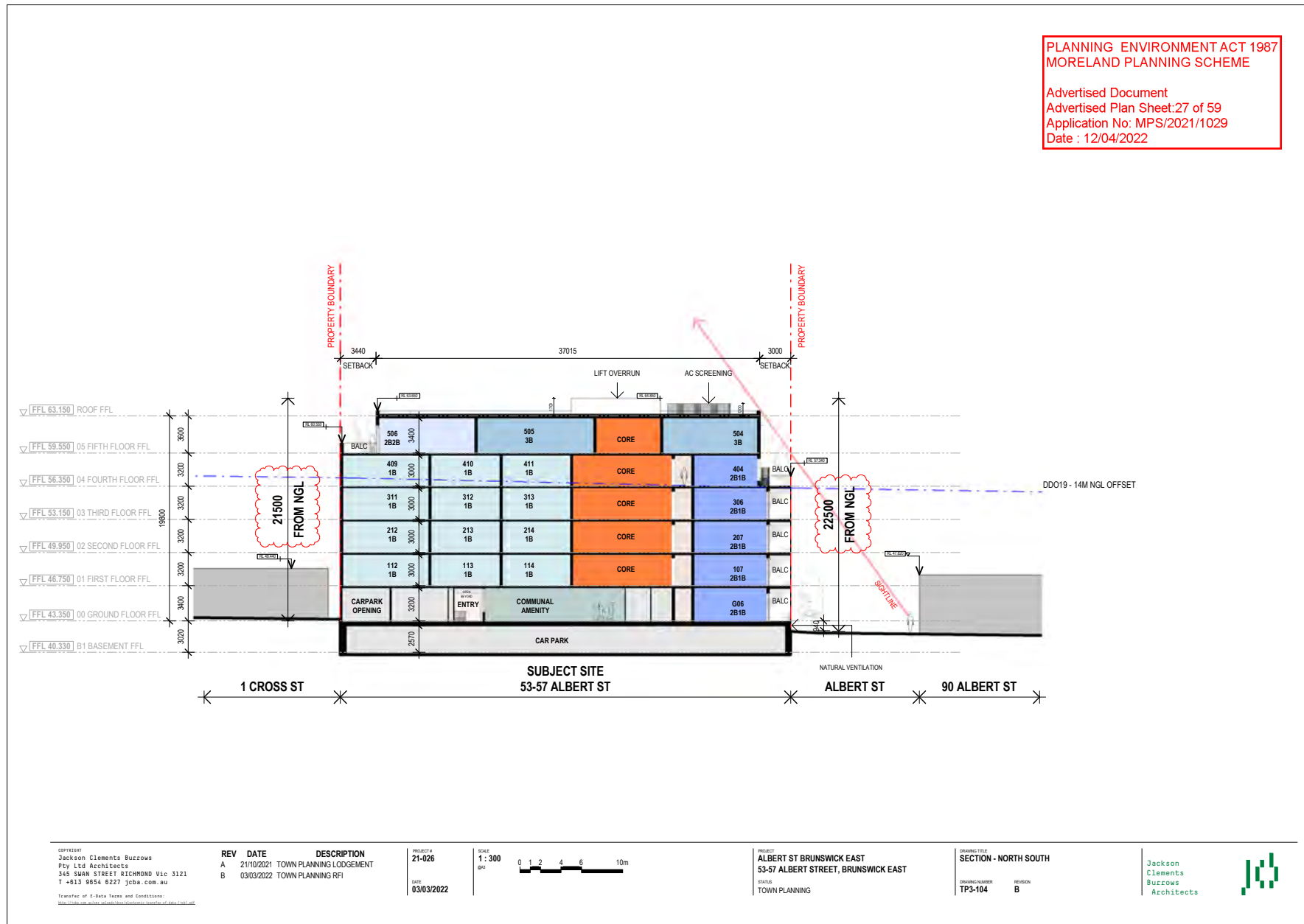


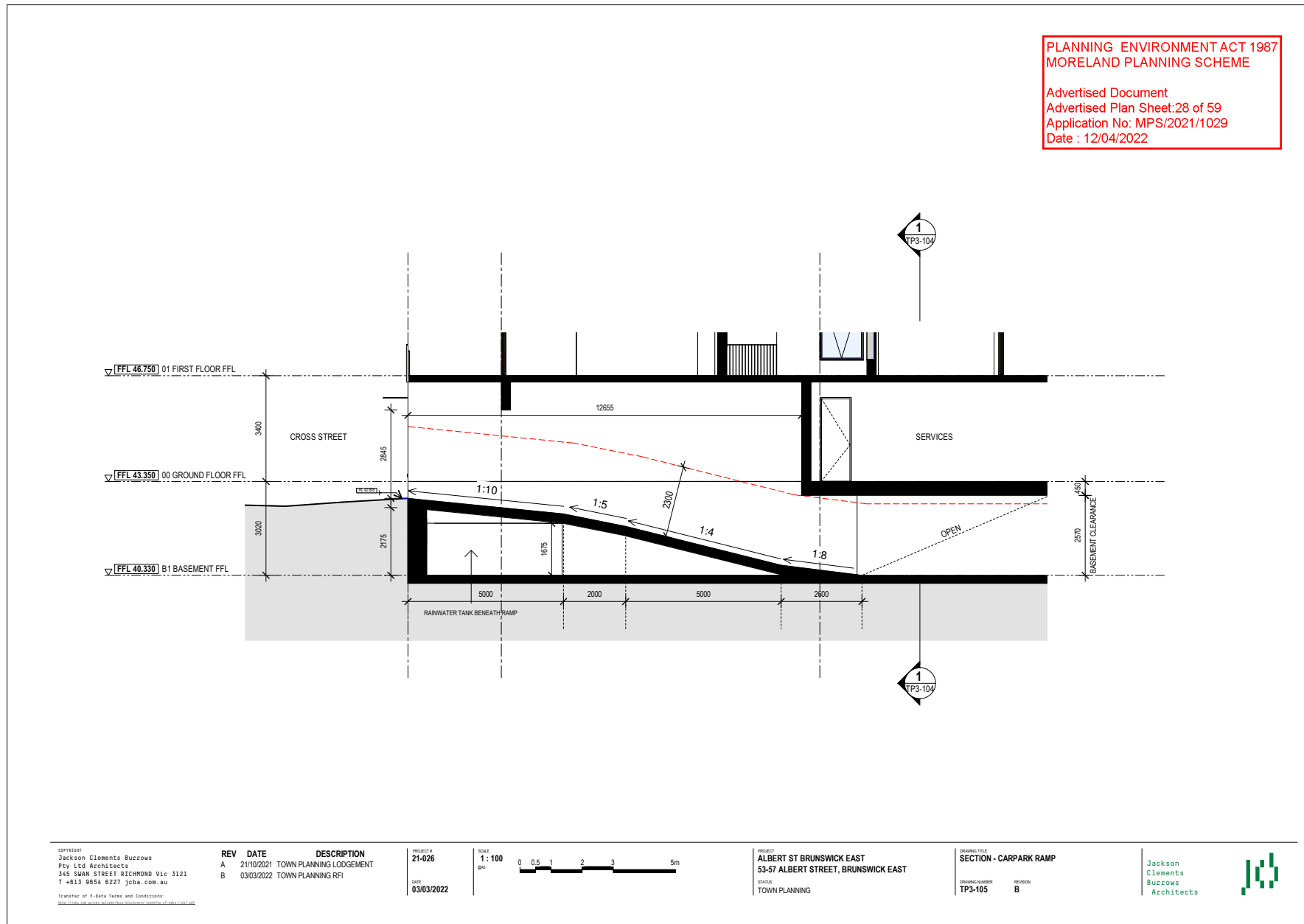


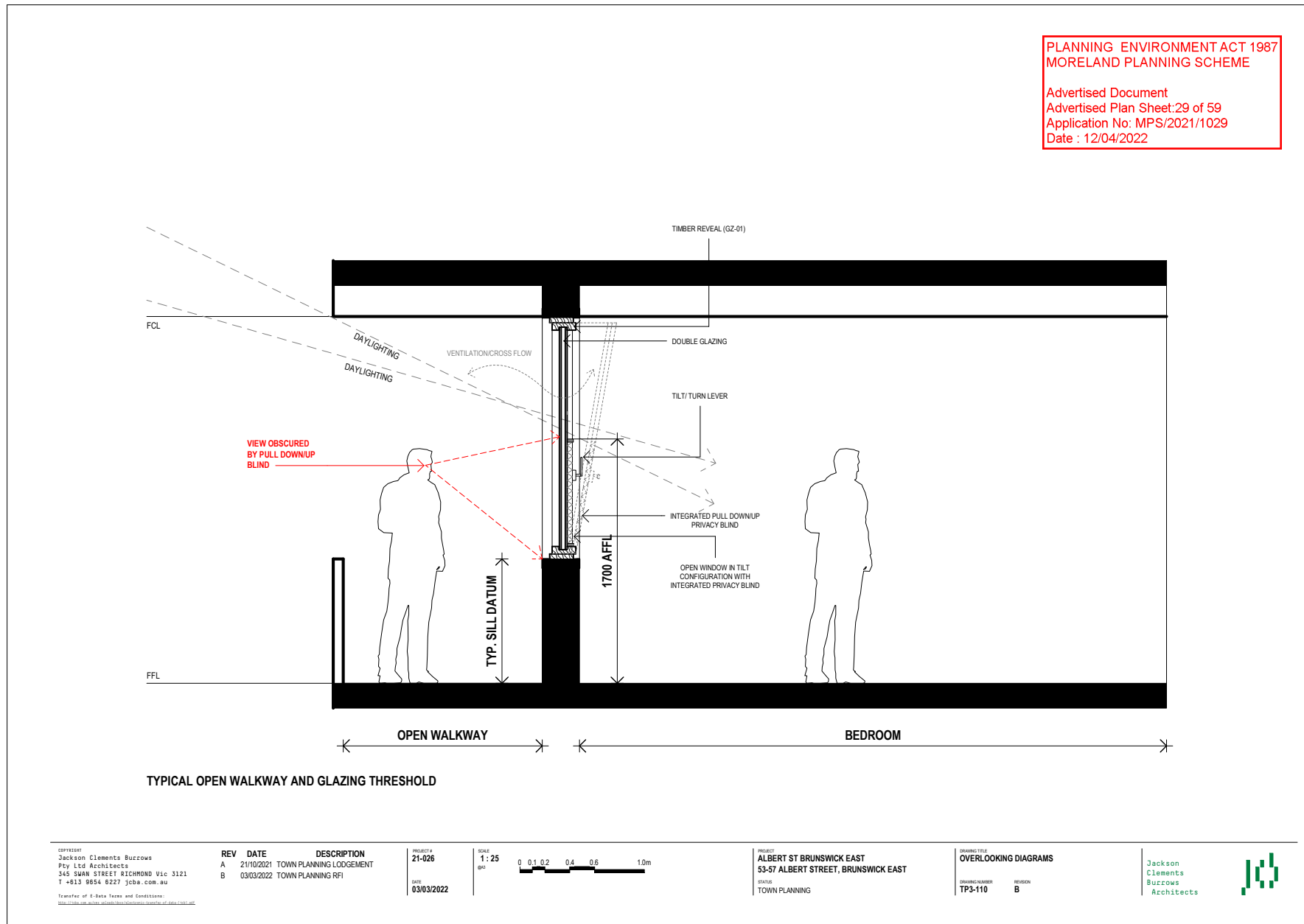




























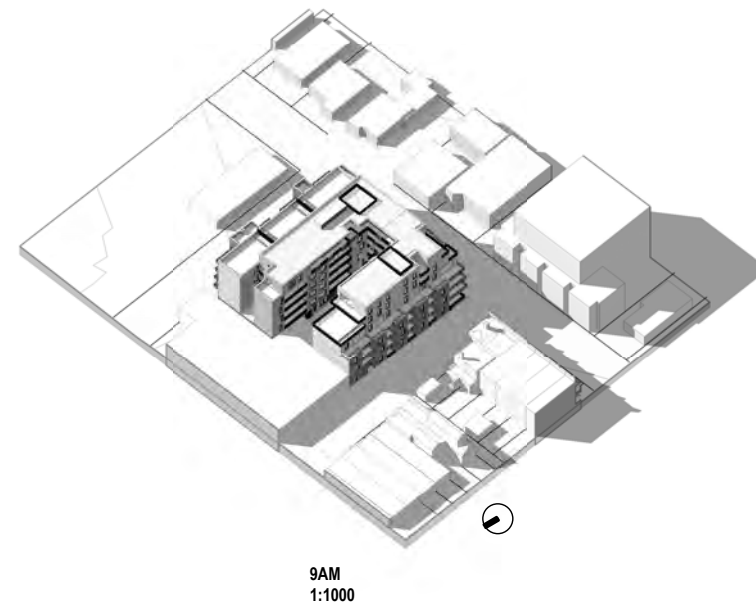
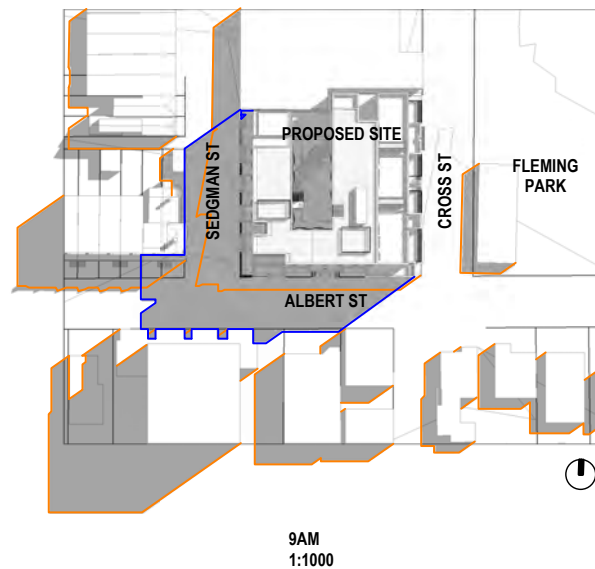


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DATE  
03/03/2022

PROJECT  
ALBERT ST BRUNSWICK EAST  
53-57 ALBERT STREET, BRUNSWICK EAST  
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DRAWING TITLE  
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DRAWING NUMBER  
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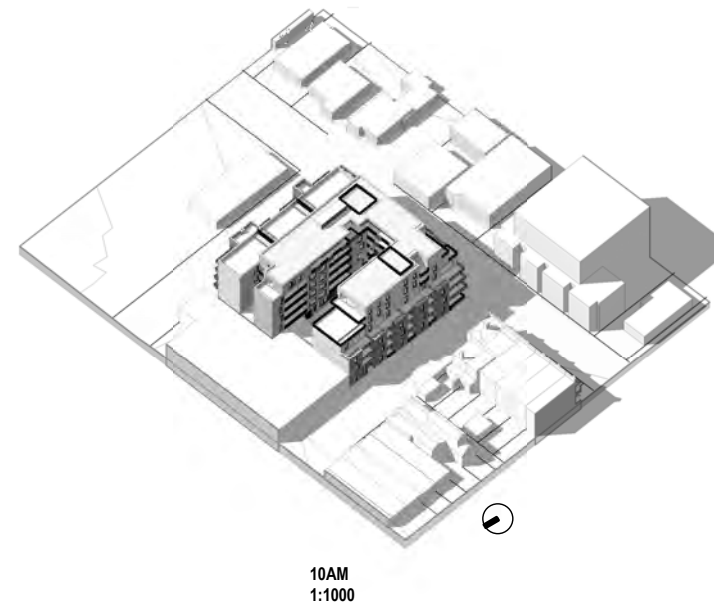
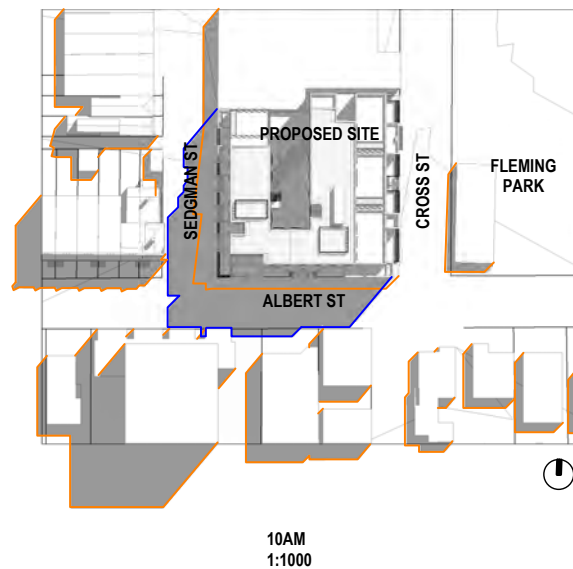


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ALBERT ST BRUNSWICK EAST  
53-57 ALBERT STREET, BRUNSWICK EAST  
STATUS  
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DRAWING TITLE  
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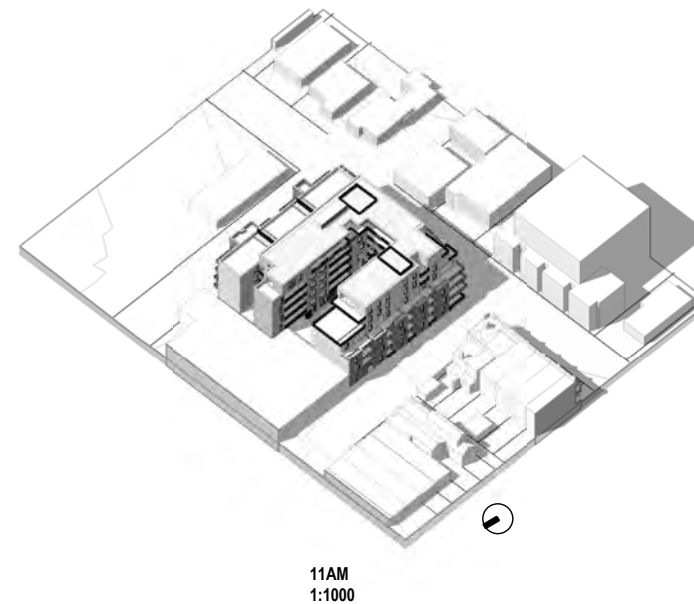
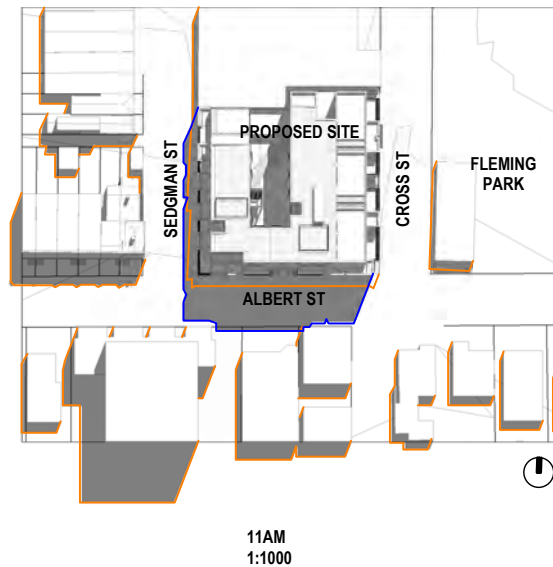


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PROPOSED SCHEME

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PROJECT  
ALBERT ST BRUNSWICK EAST  
53-57 ALBERT STREET, BRUNSWICK EAST  
STATUS  
TOWN PLANNING

DRAWING TITLE  
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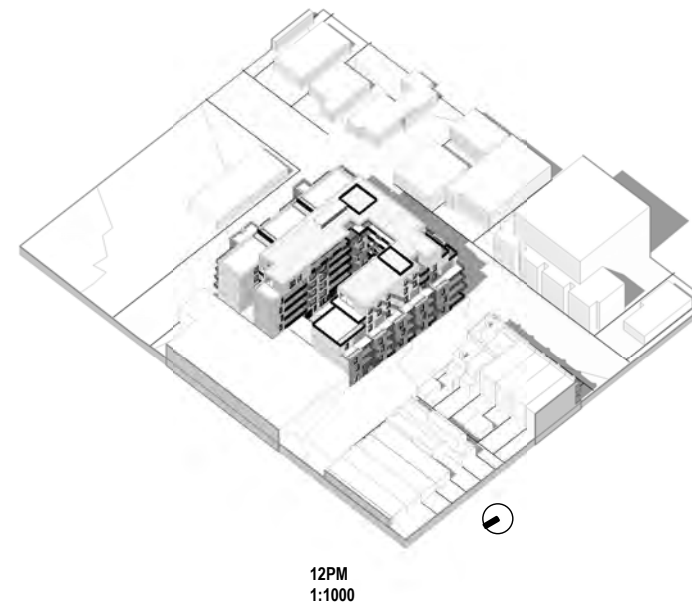
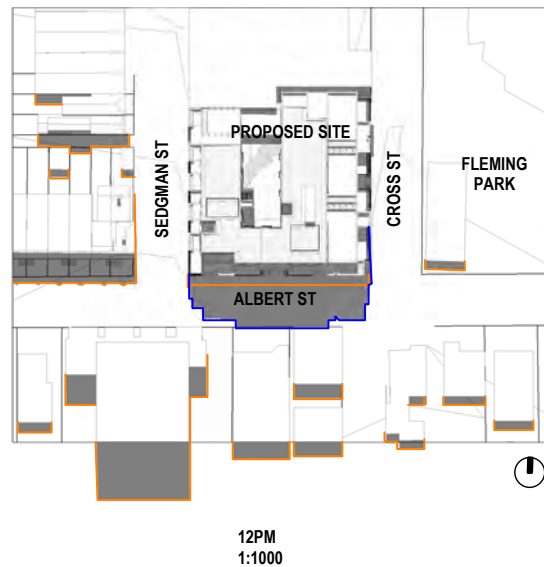


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PROPOSED SCHEME

PLANNING ENVIRONMENT ACT 1987  
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ALBERT ST BRUNSWICK EAST  
53-57 ALBERT STREET, BRUNSWICK EAST  
  
STATUS  
TOWN PLANNING

DRAWING TITLE  
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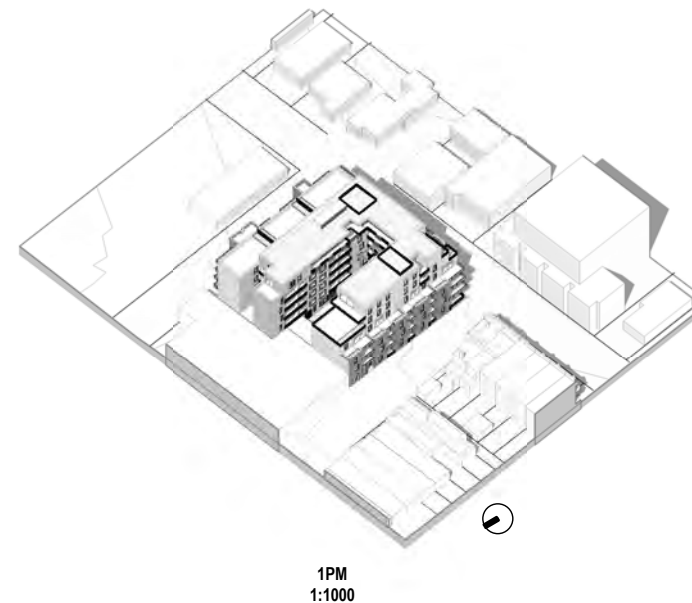
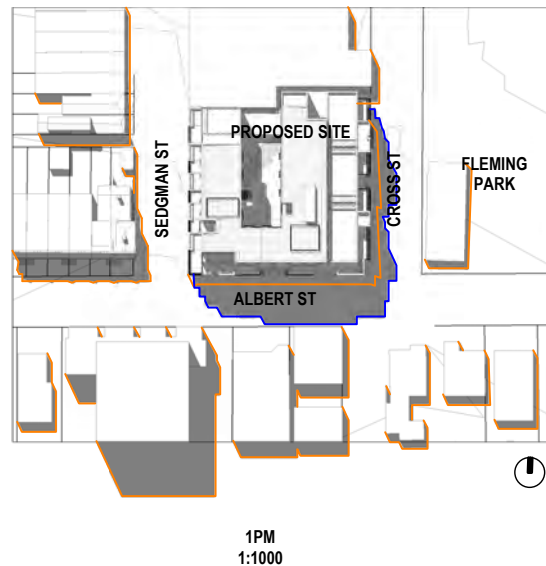


23RD SEPTEMBER (EQUINOX)

PROPOSED SCHEME

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 41 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



## LEGEND:

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PROPOSED SHADOW —

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REV	DATE	DESCRIPTION
A	21/10/2021	TOWN PLANNING LODGEMENT
B	03/03/2022	TOWN PLANNING RFI

PROJECT #  
21-026  
DATE  
03/03/2022

PROJECT  
ALBERT ST BRUNSWICK EAST  
53-57 ALBERT STREET, BRUNSWICK EAST  
STATUS  
TOWN PLANNING

DRAWING TITLE  
SHADOW STUDY 1PM 23/09  
DRAWING NUMBER  
TP10-214  
REVISION  
B

Jackson  
Clements  
Burrows  
Architects

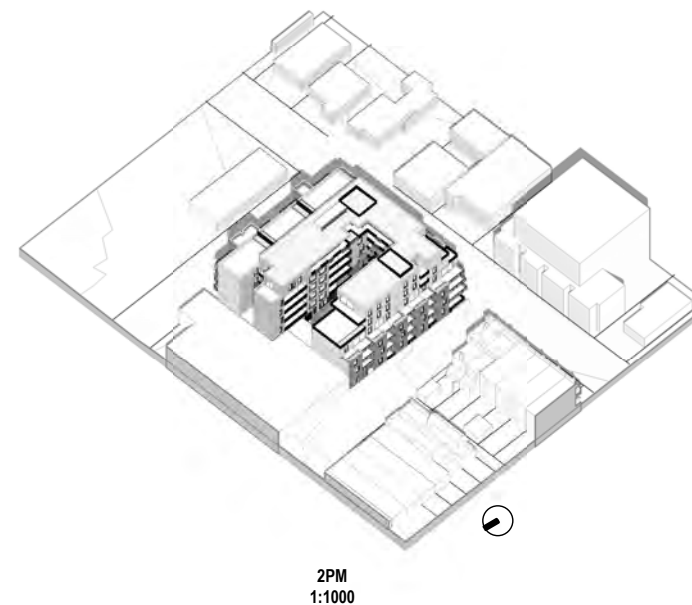
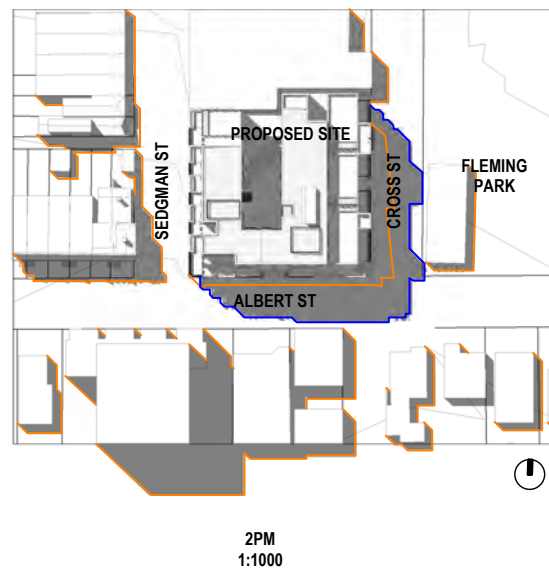


23RD SEPTEMBER (EQUINOX)

PROPOSED SCHEME

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 42 of 59  
Application No: MPS/2021/1029  
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REV	DATE	DESCRIPTION
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B	03/03/2022	TOWN PLANNING RFI

PROJECT #  
21-026  
DATE  
03/03/2022

PROJECT  
ALBERT ST BRUNSWICK EAST  
53-57 ALBERT STREET, BRUNSWICK EAST  
STATUS  
TOWN PLANNING

DRAWING TITLE  
SHADOW STUDY 2PM 23/09  
DRAWING NUMBER  
TP10-215  
REVISION  
B

Jackson  
Clements  
Burrows  
Architects

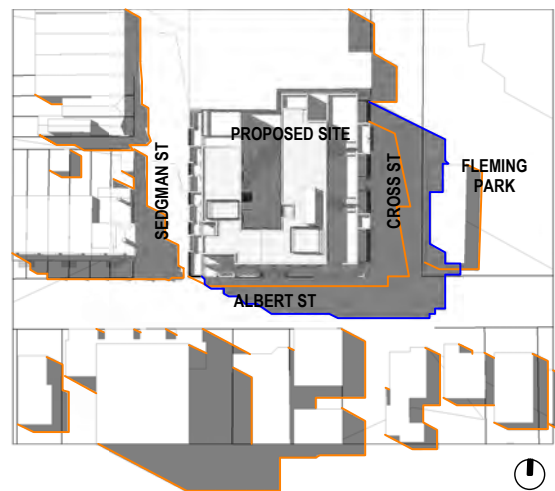


23RD SEPTEMBER (EQUINOX)

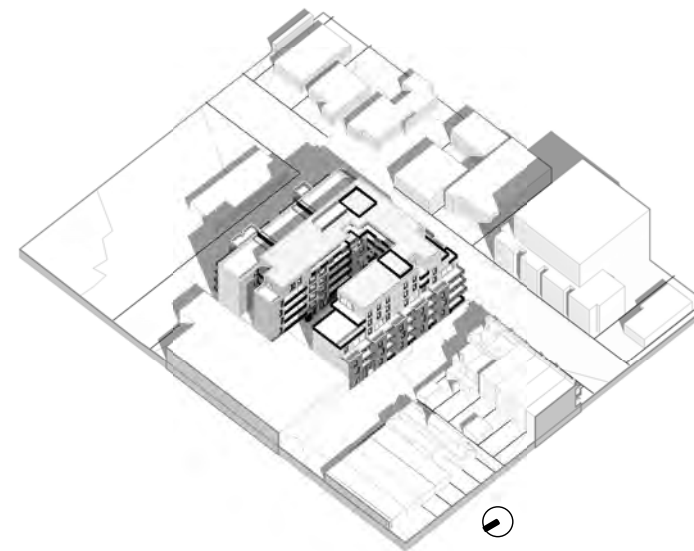
PROPOSED SCHEME

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 43 of 59  
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Date : 12/04/2022



3PM  
1:1000



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A	21/10/2021	TOWN PLANNING LODGEMENT
B	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	SHADOW STUDY 3PM 23/09
DRAWING NUMBER	TP10-216
REVISION	B

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

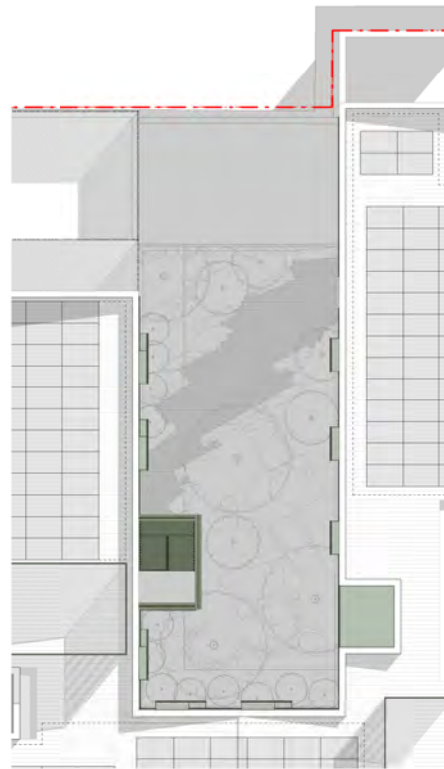
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: N.A

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 44 of 59  
Application No: MPS/2021/1029  
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9AM  
1:200

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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 9AM 21/06
DRAWING NUMBER	TP10-220
REVISION	A

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

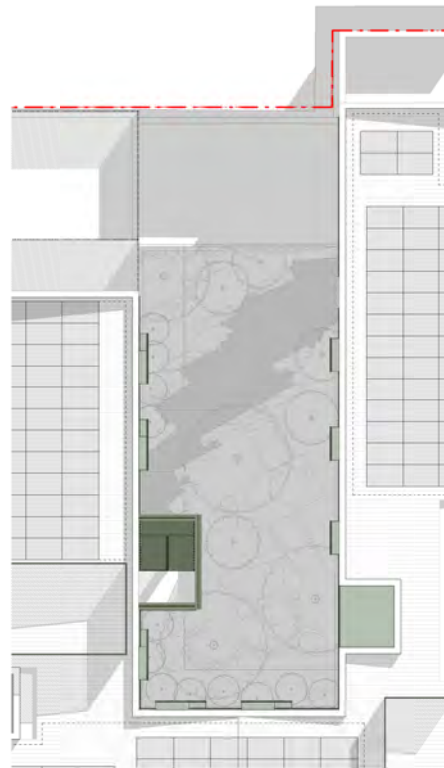
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: N.A

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 45 of 59  
Application No: MPS/2021/1029  
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9:30AM  
1:200

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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 9 30AM 21/06
DRAWING NUMBER	TP10-221
REVISION	A

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

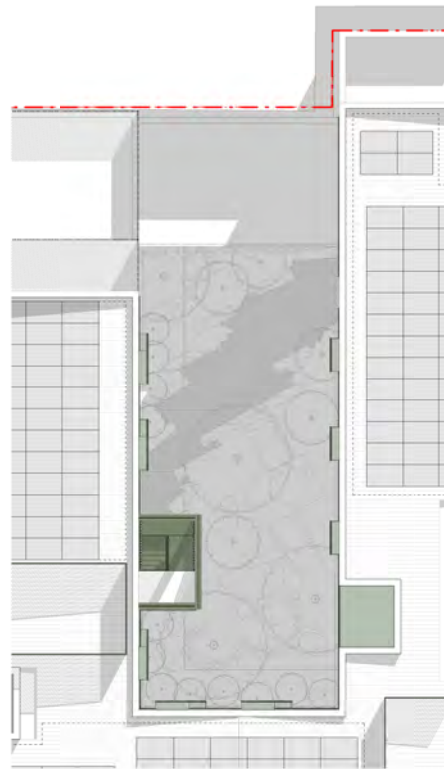
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: N.A

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 46 of 59  
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Date : 12/04/2022



10AM  
1:200

**LEGEND:**

PROPOSED SOLAR ACCESS



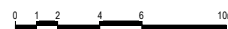
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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 10AM 21/06
DRAWING NUMBER	TP10-222
REVISION	A

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

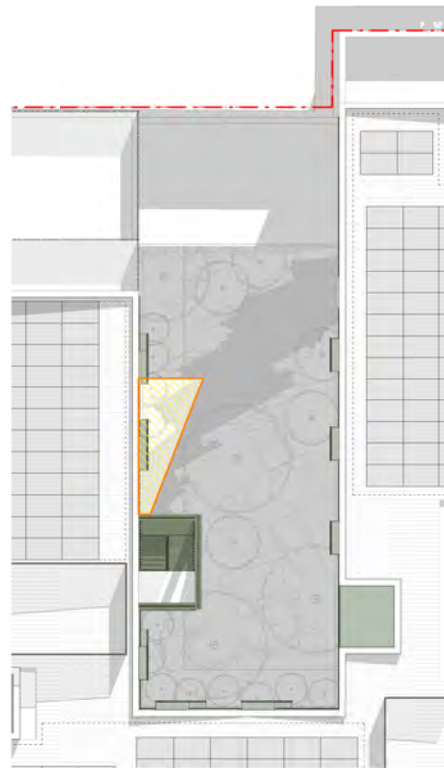
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: 11.7m<sup>2</sup>

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 47 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



10:30AM  
1:200

**LEGEND:**

PROPOSED SOLAR ACCESS



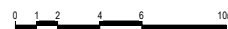
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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 10 30AM 21/06
DRAWING NUMBER	TP10-223
REVISION	A

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Clements  
Burrows  
Architects





21ST JUNE (WINTER SOLSTICE)

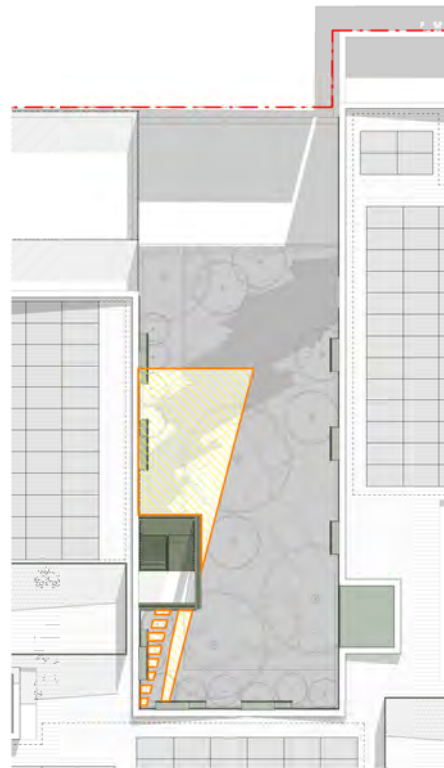
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: 36.5m<sup>2</sup>

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 48 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



11AM  
1:200

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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 11AM 21/06
DRAWING NUMBER	TP10-224
REVISION	A

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

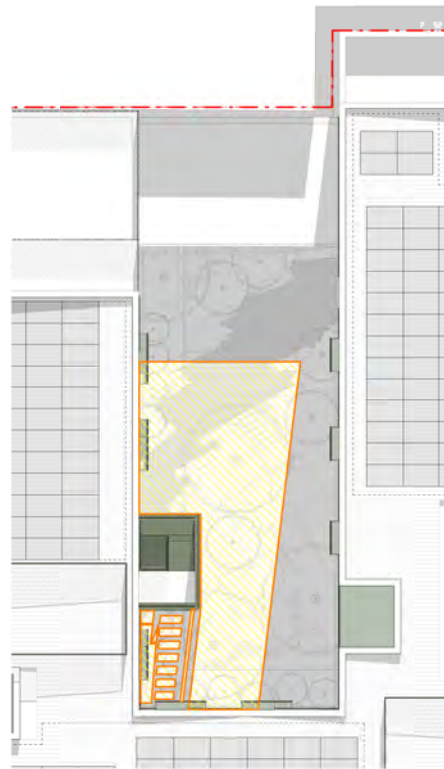
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: 89.5m<sup>2</sup>

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 49 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



11:30AM  
1:200

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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE	1:200
GRAPHIC SCALE	0 0.5 1 2 3 5m



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 11 30AM 21/06
DRAWING NUMBER	TP10-225
REVISION	A

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

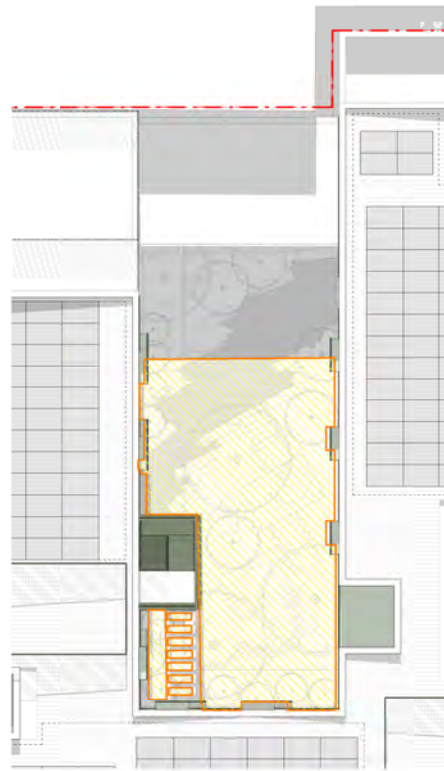
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: 131.1m<sup>2</sup> (67%)

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 50 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



**LEGEND:**

PROPOSED SOLAR ACCESS



12PM  
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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(B4)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 12PM 21/06
DRAWING NUMBER	TP10-226
REVISION	A

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: 106.8m<sup>2</sup> (55%)

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 51 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 12 30PM 21/06
DRAWING NUMBER	TP10-227
REVISION	A

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

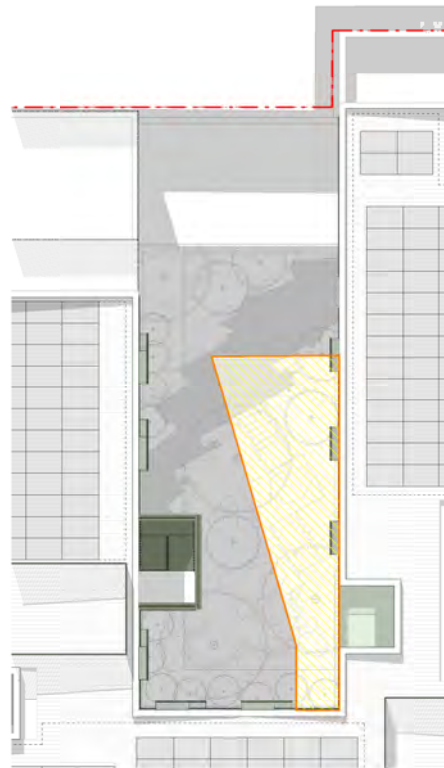
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: 61.7m<sup>2</sup>

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 52 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



1PM  
1:200

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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 1PM 21/06
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DRAWING NUMBER	TP10-228
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REVISION	A
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Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

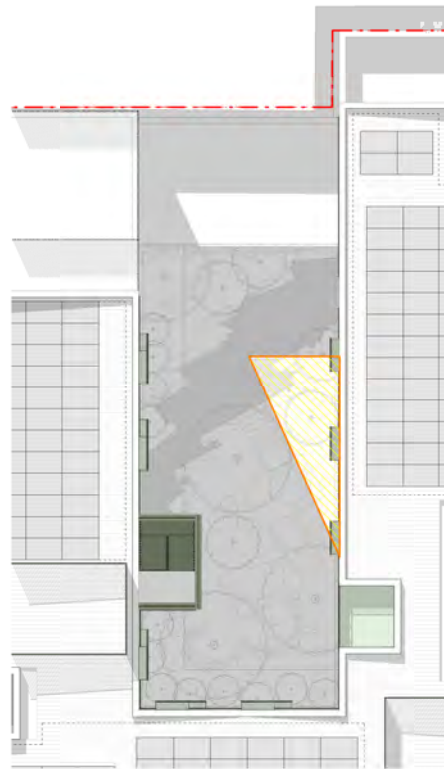
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: 20.4m<sup>2</sup>

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 53 of 59  
Application No: MPS/2021/1029  
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1:30PM  
1:200

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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 1 30PM 21/06
DRAWING NUMBER	TP10-229
REVISION	A

Jackson  
Clements  
Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: 4.2m<sup>2</sup>

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 54 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



2PM  
1:200

**LEGEND:**

PROPOSED SOLAR ACCESS



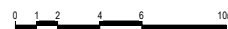
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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE  
1:200  
(M)



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 2PM 21/06
---------------	----------------------------------

DRAWING NUMBER	TP10-230
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REVISION	A
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Jackson  
Clements  
Burrows  
Architects





21ST JUNE (WINTER SOLSTICE)

**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: N.A

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 55 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



2:30PM  
1:200

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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE	1:200				
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PROJECT	ALBERT ST BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 2 30PM 21/06
DRAWING NUMBER	TP10-231
REVISION	A

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Burrows  
Architects



21ST JUNE (WINTER SOLSTICE)

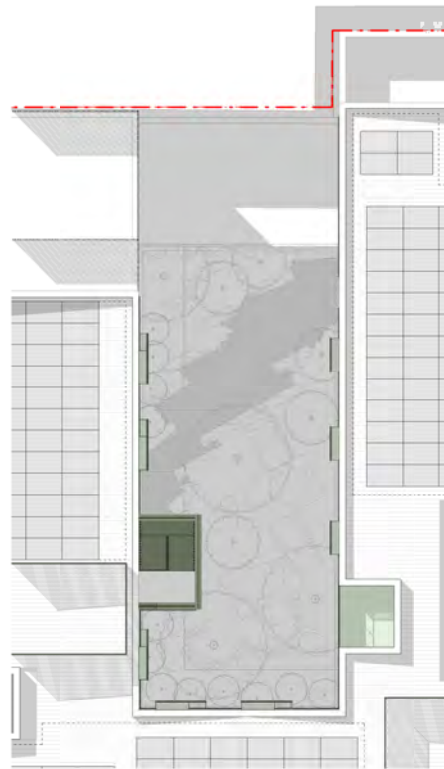
**PROPOSED SCHEME**

COURTYARD AREA: 195.8m<sup>2</sup>

SOLAR ACCESS: N.A

PLANNING ENVIRONMENT ACT 1987  
MORELAND PLANNING SCHEME

Advertised Document  
Advertised Plan Sheet: 56 of 59  
Application No: MPS/2021/1029  
Date : 12/04/2022



3PM  
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REV	DATE	DESCRIPTION
A	03/03/2022	TOWN PLANNING RFI

PROJECT #	21-026
DATE	03/03/2022

SCALE	1:200				
0	1	2	4	6	10m



PROJECT	ALBERT ST BRUNSWICK EAST 53-57 ALBERT STREET, BRUNSWICK EAST
STATUS	TOWN PLANNING

DRAWING TITLE	COURTYARD SHADOW STUDY 3PM 21/06
DRAWING NUMBER	TP10-232
REVISION	A

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Burrows  
Architects



## BADS SCHEDULE

PROJECT 53-57 Albert St, Brunswick East Town  
 STAGE Planning  
 DATE 03.03.2022  
 NOTES REV 8  
 SITE AREA 1779sqm

PLANNING ENVIRONMENT ACT 1987  
 MORELAND PLANNING SCHEME

Advertised Document  
 Advertised Plan Sheet:57 of 59  
 Application No: MPS/2021/1029  
 Date : 12/04/2022

APARTMENT TYPE	ROOMS		AREA	
	BEDROOMS	BATHROOMS	INTERIOR	EXTERIOR (USABLE AREA)
			M <sup>2</sup>	M <sup>2</sup>

01	2 BED	1 BATH	67.8	8.2(6011/ 8.3102)/8.0(202)
02	2 BED	1 BATH	66.7	5.3(602)/8.3103/8.0(203)
03	2 BED	1 BATH	66.4	5.3(603)/8.3104/8.0(204)
04	3 BED	1 BATH	88.5	12.0(604)/17.4(105)/15.7(205)
05	2 BED	1 BATH	73.7	10.3(605)/10.5
06	2 BED	1 BATH	75.4	10.3(606)/10.5
07	3 BED	2 BATH	117.4	16.1(607)/22.2(108)/20.8(109)/19.1(307)
08	2 BED	2 BATH	81.6	15.4(608)/15.2(109)/14.4(209)/12.8(308)/11.3(408)
09	1 BED	1 BATH	52.3	12.1
10	2 BED	2 BATH	87.9	15.2(110)/14.4(210)/12.8(309)/11.3(407)
11	2 BED	2 BATH	88.7	15.2(111)/14.4(211)/12.8(310)/11.3(408)
12	1 BED	1 BATH	51.5	8.1
13	1 BED	1 BATH	54	8.1
14	2 BED	2 BATH	80.8	10.4
15	1 BED	1 BATH	50.9	8.1
16	3 BED	2 BATH	94	12
17	2 BED	2 BATH	81.2	13.4
18	2 BED	2 BATH	80.3	18.6
19	2 BED	1 BATH	76.2	11.3
20	3 BED	2 BATH	99.3	66.9(401)/22.2(501)
21	2 BED	1 BATH	70.7	10.5
22	3 BED	2 BATH	91.5	15.2
23	2 BED	1 BATH	70.7	13.1
24	3 BED	2 BATH	99	12.1
25	3 BED	2 BATH	105.7	18.5
26	3 BED	2 BATH	108.4	85.5
27	3 BED	2 BATH	104.2	69.5
28	2 BED	2 BATH	89.2	73.9

ROOM/DWELLING REQUIREMENTS										NUMBER OF APARTMENTS
PRIVATE OPEN	MIN ROOM	ACCESSIBILITY	NATURAL	STORAGE						
MINIMUM AREA & DEPTH	SINGLE ASPECT (9M)	CLEAR PATH	CROSSFLOW	1 BEDROOM DWELLING (10M²)		2 BEDROOM DWELLING (14M²)		3 BEDROOM DWELLING (18M²)		
		ADAPTABLE BATHROOM	5-18M PATH	INTERNAL (MIN 6M²)	EXTERNAL REQ. (CAGE)	INTERNAL (MIN 9M²)	EXTERNAL REQ. (CAGE)	INTERNAL (MIN 12M²)	EXTERNAL REQ. (CAGE)	
		850MM DOOR OPENING								
✓	✓	✗	✓			16.4m3	✗			3
✗(602)/✓	✓	✗	✓			16.8m3	✗			3
✗(603)/✓	✓	✗	✓			16.4m3	✗			3
✓	✓	✓	✓					14.0m3	4.3m3	3
✓	✓	✓	✓			14.2m3	✗			4
✓	✓	✓	✓			14.1m3	✗			4
✓	✓	✓	✓					20.9m3	✗	4
✓	✓	✓	✗			14.8m3	✗			5
✓	✓	✓	✗	9.9m3	4.3m3					1
✓	✓	✓	✗			15.3m3	✗			4
✓	✓	✗	✓			14.1m3	✗			4
✓	✓	✗	✓	9.1m3	4.3m3					4
✓	✓	✗	✗	10.1m3	✗					8
✓	✓	✗	✗			16.7m3	✗			1
✓	✓	✗	✗	7.0m3	4.3m3					4
✓	✓	✗	✓					15.6m3	4.3m3	2
✓	✓	✓	✓			15.3m3	✗			1
✓	✓	✓	✓			16.3m3	✗			1
✓	✓	✓	✓			14.4m3	✗			1
✓	✓	✓	✓					18.4m3	✗	2
✓	✓	✓	✓			17.1m3	✗			2
✓	✓	✓	✓					18.8m3	✗	1
✓	✓	✓	✓			14.2m3	✗			1
✓	✓	✓	✓					18.7m3	✗	1
✓	✓	✓	✓					20.9m3	✗	1
✓	✓	✓	✓					21.8m3	✗	1
✓	✓	✓	✓					22.0m3	✗	1
✓	✓	✓	✓			14.2m3	✗			1

TOTAL 71

NUMBER COMPLIANT	% COMPLIANT	BADS MINIMUM	BADS COMPLIANT
ACCESSIBILITY	52	73.2%	50.00%
CROSS VENTILATION	49	69.0%	40.00%
STORAGE	71	100.0%	100.00%
PSS	69	97.0%	100.00%
ROOM DEPTH	71	100.0%	100.00%

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REV DATE DESCRIPTION  
 A 21/10/2021 TOWN PLANNING LODGEMENT  
 B 03/03/2022 TOWN PLANNING RFI

PROJECT # 21-026  
 DATE 03/03/2022


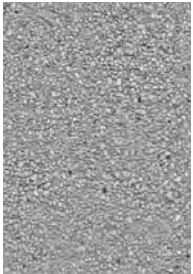


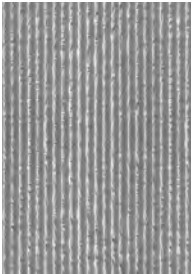


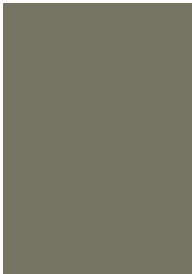


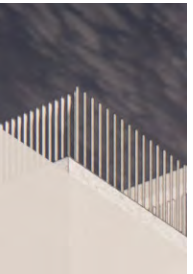
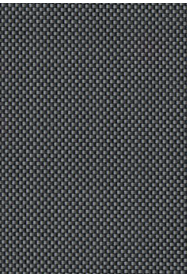

PROJECT ALBERT ST BRUNSWICK EAST  
 53-57 ALBERT STREET, BRUNSWICK EAST  
 STATUS TOWN PLANNING

DRAWING TITLE  
 BADS SUMMARY  
 DRAWING NUMBER TP10-300  
 REVISION B

Jackson  
 Clements  
 Burrows  
 Architects



PLANNING ENVIRONMENT ACT 1987  
 MORELAND PLANNING SCHEME  
  
 Advertised Document  
 Advertised Plan Sheet: 58 of 59  
 Application No: MPS/2021/1029  
 Date: 12/04/2022

						
<b>EF-01</b> CHARCOAL / GREY BRICK	<b>EF-02</b> EXPOSED AGGREGATE PRECAST	<b>EF-03</b> GREY TEXTURED CEMENT SHEET	<b>EF-04</b> DARK GREY TEXTURED CEMENT SHEET	<b>EF-05</b> TEXTURED CONCRETE	<b>GZ-01</b> HIGH PERFORMANCE TIMBER GLAZING SUITE	<b>GZ-02</b> HIGH PERFORMANCE ALUMINIUM GLAZING SUITE
						
<b>MF-01</b> MANGROVE POWDERCOAT METAL FINISH	<b>MF-02</b> MANGROVE POWDERCOAT METAL ANGLE BALUSTRADE	<b>MF-03</b> GALVANISED METAL FINISH	<b>MF-04</b> GALVANISED METAL FINS	<b>WT - 01</b> NON COMBUSTABLE EXTERNAL MESH BLINDS	<b>SF-01</b> AUSTRALIAN HARDWOOD TIMBER SOFFIT	

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REV	DATE	DESCRIPTION
A	21/10/2021	TOWN PLANNING LODGEMENT
B	03/03/2022	TOWN PLANNING RFI

PROJECT #  
**21-026**

DATE  
**03/03/2022**

PROJECT  
**ALBERT ST BRUNSWICK EAST**  
**53-57 ALBERT STREET, BRUNSWICK EAST**


STATUS  
TOWN PLANNING

DRAWING TITLE  
**MATERIALS**

DRAWING NUMBER  
**TP10-400**

REVISION  
**B**

Jackson  
Clements  
Burrows  
Architects



## DEVELOPMENT SUMMARY

PROJECT 53-37 ALBERT STREET BRUNSWICK EAS  
 STAGE PLANNING  
 DATE 03.03.2022  
 NOTES REV B  
 SITE AREA 1779sqm

PLANNING ENVIRONMENT ACT 1987  
 MORELAND PLANNING SCHEME

Advertised Document  
 Advertised Plan Sheet: 59 of 59  
 Application No: MPS/2021/1029  
 Date : 12/04/2022

LEVEL	NSA	NLA	SERVICES	COMMUNAL SPACE	CIRCULATION	CORE	GFA	POS	CARPARK	BIKE PARKS	CARS	1B	2B 1B	2B 2B	3B+
BASEMENT	0.0	0	0.0	0.0	0.0	20.6	20.6	0.0	1647.4	0	50	0	0	0	0
GROUND	689.7	0	100.6	459.1	248.2	33.5	1531.1	133.4	0	152	0	1	5	1	2
LEVEL 01	1117.2	0	6.1	0.0	110.9	33.5	1276.7	181.6	0	0	0	4	5	3	3
LEVEL 02	1117.2	0	6.1	0.0	110.9	33.5	1276.7	175.2	0	0	0	4	5	3	3
LEVEL 03	1053.9	0	6.1	0.0	110.9	33.5	1213.4	203.5	0	0	0	4	3	6	1
LEVEL 04	899.5	0	6.1	0.0	101.5	33.5	1040.6	265.3	0	0	0	4	2	3	3
LEVEL 05	577.5	0	3.7	0.0	84.4	33.5	689.1	319.9	0	0	0	0	1	1	4
TOTAL	5455.0	0	128.7	459.1	793.8	221.6	7058.2	1278.9	1647.4	152	50	17	21	17	16
PERCENTAGE OF PROJECT												23.94%	29.58%	23.94%	22.54%

71

0.7

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PROJECT #  
 21-026  
 DATE  
 03/03/2022

PROJECT  
 ALBERT ST BRUNSWICK EAST  
 53-57 ALBERT STREET, BRUNSWICK EAST  
 STATUS  
 TOWN PLANNING

DRAWING TITLE  
 DEVELOPMENT SUMMARY  
 DRAWING NUMBER  
 TP10-900  
 REVISION  
 B

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 Burrows  
 Architects



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## 53-57 Albert Street, Brunswick East

### Objector Map

- Objector Location
- Subject Site



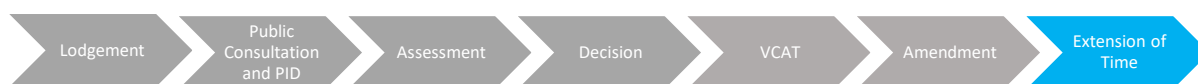


## 5.4 PART CP1, 22, 24-26 AND 28 PENTRIDGE BOULEVARD AND PART 27 URQUHART STREET, COBURG VIC 3058 - PLANNING PERMIT MIN/2011/12837A

Director Place and Environment, Joseph Tabacco

City Development

### Executive Summary



<b>Property:</b>	Part CP1, 22, 24-26 and 28 Pentridge Boulevard and Part 27 Urquhart Street, COBURG VIC 3058			
<b>Proposal:</b>	<p>Extend the expiry date of Planning Permit MIN/2011/12837A by two years (both commencement and completion dates).</p> <p>The Group Manager is referring the request to Council in light of previous Council decision-making on this site.</p>			
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"> <li>• Activity Centre Zone (ACZ1)</li> <li>• Parking Overlay (PO1)</li> <li>• Environmental Audit Overlay (EAO)</li> <li>• Development Contributions Plan Overlay (DCPO1)</li> <li>• Heritage Overlay (HO47) – that part of 22 and 24-26 Pentridge Boulevard within 3 metres of the bluestone walls on the adjoining properties to the west.</li> </ul>			
<b>Strategic setting:</b>	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
<b>Key reasons for support</b>	<ul style="list-style-type: none"> <li>• There has been no significant change in planning policy since the most recent extension of time approval.</li> <li>• Since the previous extension of time, factors mitigating against a timely commencement include the submission of significant amendment proposals, complex site history and a change in ownership and the Covid19 pandemic.</li> <li>• It is likely that a planning permit would be issued if a fresh application were lodged today.</li> </ul>			
<b>Recommendation:</b>	It is recommended that a two year extension of time be granted to Planning Permit MIN/2011/12837A so that the development must commence by 30 June 2024 and be completed by 30 June 2028.			



## Officer Recommendation

That an extension is granted to Planning Permit MIN/2011/12837A at part CP1, 22, 24-26, 28 Pentridge Boulevard and part 27 Urquhart Street, Coburg (more specifically known as part CP1, lots S32, S33, S34 and part S38 on PS543333) so that the development must commence by 30 June 2024 and be completed by 30 June 2028.

### REPORT

## 1. Background

### Subject site

The subject site comprises several parcels primarily located on Pentridge Boulevard, between Stockade Avenue to the north and Urquhart Street to the south.

Located within the Activity Centre Zone (ACZ), the approved development is sited across three sub-precincts to Precinct 10 of the ACZ (sub-precincts 10, 12 and 14).

The Site exhibits a significant fall-of-land of between 4m and 5m from the west to the east.

All of the land is currently vacant, save for a portion of 22 Pentridge Boulevard which is currently used and developed as a site office and display home suite for an approved development at No. 9S Wardens Walk.

### Surrounds

To the west of the Site are the historic D & F Division and Laundry buildings of the former Pentridge Prison and a more recently constructed multi-storey, mixed-use development at 41-43 Stockade Avenue. This land is located within the Heritage Overlay (HO47) and listed on the Victorian Heritage Register (Ref No. 1551).

To the north, east and south, the site's immediate context is characterised by a mix of vacant land, townhouse developments and mixed-use apartment developments up to 16-storeys in height. A number of the vacant parcels benefit from existing planning permits, including approval for a 16-storey residential tower to the south-east. Additionally, construction has commenced on a mixed-use development immediately north-west of the site. This development is made up of two towers, one at 13-storeys in height, the other at 15-storeys.

To the south of the site are vacant properties fronting Urquhart Street owned by Council and earmarked for a future health hub that will service the Moreland community.

Further south on the opposite side of Urquhart Street is the Coburg Town Hall, Municipal Offices and associated open car parking area.

A location plan forms **Attachment 1**.

### Site ownership, heritage context and associated works

The subject land forms part of the former Pentridge Prison and sits adjacent to other sites of heritage significance, including the D & F Division and Laundry buildings. Due to a recent change in ownership, the new owners of the site also own the F Division and until very recently the laundry buildings to the west.

The Heritage Overlay and extent of Heritage Victoria's registration extends 3 metres into Nos. 22 and 24-26 Pentridge Boulevard from the bluestone walls on the adjoining properties. It is noted that the new buildings approved by Planning Permit MIN/2011/12837A do not encroach on the registered areas, and that none of the sites making up the land subject to the current request are affected by the Heritage Victoria Heritage Covenant.

Heritage Victoria has issued two Notices to Show Cause that require the various site owners and Owners Corporation to complete maintenance and repair works set out in the 2017 and 2020 Heritage Infrastructure Audit Reports (HIAR) prepared by Lovell Chen.

Officers understand that the new owners of the subject site together with the Owners Corporation have acted to address this intervention from Heritage Victoria, with works scheduled for practical completion in September 2022.

Further, the new site owner has engaged the same heritage conservation architect to work in partnership with Artcare to commence restoration and conservation works on the Ronald Bull Mural in F Division. It is understood these works sit outside those required by the Notices to Show Cause.

It is noted the works related to D & F Division buildings that are included on the Victorian Heritage Register are not located within the land that is the subject of this application for an extension of time to a planning permit.

### **The proposal**

A request has been made by Contour Pty Ltd on behalf of Salvo Property Group (owners of the Site) on 30 June 2022 to extend both the commencement and completion expiry dates set out in Condition 34 of the aforementioned Planning Permit by two years.

The request has been made within the allowable timeframe.

### **Current permit details**

The existing approval permits the construction of a mixed-use development of four buildings ranging in height from six to 10 storeys (including a mezzanine to Level 1; not including one basement level). 352 dwellings are located across the four buildings, while 2279m<sup>2</sup> of retail area is approved to front Pentridge Boulevard and the central piazzale. The retail space is to be located within Buildings B, C and D. The most recent plans considered by VCAT (approved subject to conditions) form **Attachment 2**.

### **Planning Permit and site history**

The following Planning Permit and site history is relevant to this proposal:

Date	Event	Description
30 January 2012	Planning Permit No. MIN/2011/12837 issued by the Minister for Planning	The permit allowed a mixed-use development comprising 8 buildings ranging in height from 6 to 16-storeys across the sites now known as numbers 27, 29 and 31 Urquhart Street and 22, 24-26, 28 and 30 Pentridge Boulevard.
5 March 2013	Amendment to Planning Permit No. MIN/2011/12837/A issued by the Minister for Planning	The amendment reworded condition 1 and introduced conditions 1A – 1H which allowed the submission of amended plans for each building separately in order to facilitate development in stages.
15 October 2015	Planning Scheme Amendment C123 gazettal.	Amendment C123 consolidated the planning controls that applied to the Coburg Activity Centre. The amendment implemented the land use and built form directions from the Central Coburg 2020 Structure Plan (2006), Colours of Coburg Place Framework and Strategies (2010), the community framework of The Coburg Initiative (TCI), and Pentridge Precinct master plans.

Date	Event	Description
		Importantly, this amendment also saw the Minister for Planning return Responsible Authority status back to Council for the former Pentridge Prison Precinct.
27 April 2016	Extension of time request considered by the Urban Planning Committee	<p>An extension of time request determined by VCAT.</p> <p>Council's Urban Planning Committee resolved that its position at VCAT be that the extension to the permit should not be granted. Council's grounds related to:</p> <ul style="list-style-type: none"> <li>• The validity of the request to extend the permit;</li> <li>• Changes in ownership to the subject land;</li> <li>• Building design issues in relation to Moreland Apartment Design Code (MADC) and streetscape activation.</li> </ul>
26 April 2017	<p>Urban Planning Committee meeting to consider the following:</p> <p>An application made to VCAT to amend the permit pursuant to section 87 of the <i>Planning and Environment Act 1987 (the Act)</i>; and</p> <p>Council's position on the extension of time request in light of the proposed amendment.</p>	<ul style="list-style-type: none"> <li>• An application was made to VCAT to amend the permit. The amendments can be summarised as follows:</li> <li>• Removal of several lots no longer forming part of the permit, including those that had been purchased by Moreland City Council. The four buildings to be deleted as a result ranged in height from 9 to 16-storeys.</li> <li>• Modifications to proposed car parking and increased retail space fronting Pentridge Boulevard.</li> <li>• Council resolved that its revised position at VCAT should be that the extension of time should not be granted, but that if the extension was granted, then the amendment to the permit should be supported (subject to conditions).</li> <li>• The revised grounds for not supporting the extension of time related to the following: <ul style="list-style-type: none"> <li>• That there had been a change in planning policy;</li> <li>• That the landowner was seeking to 'warehouse' the permit;</li> <li>• That there were no intervening circumstances; and</li> <li>• That there was a low probability that a permit would issue should a fresh application be made.</li> </ul> </li> </ul>

Date	Event	Description
11 May 2017	VCAT hearing considering both the extension of time request and section 87 amendment.	In its order dated 19 June 2017, VCAT approved both the extension of time of one year and the amendment to the permit. This Order forms <b>Attachment 3</b> .
28 March 2018	The Urban Planning Committee resolved to grant a second extension of time to the permit.	In a letter dated 4 April 2018, the development was allowed to commence by 30 June 2020 and be completed by 30 June 2024 (a further two year extension)
16 December 2020	Through the Planning and Related Matters Council meeting, Council resolved to grant a third extension of time to the permit.	In a letter dated 18 December 2020, the development was allowed to commence by 30 June 2022 and be completed by 30 June 2026 (a further 2 year extension). This approval forms <b>Attachment 4</b> .
13 July 2021	An application to amend the permit and endorsed plans via Section 72 of <i>the Act</i> lodged by the (now) former owner of the site. The proposal also sought to amend the land parcels to which the permit applies. Application number: MPS/2011/12837/B.	In its Further Information letter dated 7 August 2021, Council raised significant concerns with the proposed amended development and requested further information be provided to enable a full and proper assessment.
8 February 2022	A request to extend the Lapse Date referred to in the above Further Information letter is received from the Permit Applicant of the above application. It's noted two previous requests had been approved in October and December 2021.	In its letter dated 1 March 2022, Council refused to extend the time in which the further information could be provided.
5 April 2022	Permit applicant lodges a Section 81(2) review with the Tribunal, challenging Council's refusal to grant an extension to the time in which further information can be provided.	A VCAT Merits Hearing is set down for 22 September 2022 to hear and determine this review.

## 2. Internal/External Consultation

### Public notification

*The Act* does not include public notice provisions for a request for an extension of time to a planning permit.

### Internal/external referrals

*The Act* does not require any statutory referrals for a request for an extension of time to a planning permit.

The request was not referred to any internal departments for comment as the extension of time request does not provide an opportunity to review the merits of the application or to modify the nature of the proposal through new or modified permit conditions.

## 3. Policy Implications

### Planning Policy Framework (PPF)

The following policies are of most relevance to the assessment of this application:

- Municipal Planning Strategy (Clause 2), including:
- Settlement (Clause 11)
- Environmental Risks and Amenity (Clause 13):
- Built Environment (Clause 15.01), including:
- Sustainable Development (Clause 15.02), including:
- Residential Development (Clause 16.01), including:
- Transport (Clause 18), including:
- Infrastructure (Clause 19.02), including:

### Human Rights Consideration

This application has been assessed in accordance with the requirements of *the Act* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the Victorian Charter of *Human Rights and Responsibilities Act 2006*. Of relevance to this application is section 20: Property rights. In considering whether to grant an extension to the permit, relevant planning case law has been taken into account.

## 4. Issues

The ‘tests’ set out by the Supreme Court in *Kantor v Murrindindi Shire Council*, 18 AATR 285 guide the consideration of whether an extension of time to a planning permit should be granted. The Court held that a Responsible Authority should consider the following matters when exercising its discretion to extend a permit:

- The applicant is obliged to advance some reason or material in support of the grant of an extension;
- Whether there has been a change of planning policy;
- Whether the landowner is seeking to “warehouse” the permit;
- Intervening circumstances as bearing upon grant or refusal;
- The total elapse of time;
- Whether the limit originally imposed was adequate;
- The economic burden imposed on the landowner by the permit; and
- The probability of a permit issuing should a fresh application be made.

A request was made by Contour Pty Ltd c/o Salvo Property Group on 30 June 2022 to extend the commencement and completion time of the Planning Permit for a further two years. The request has been made within the timeframe allowed.

### **Applicant Submission in support of the grant of an extension**

The Permit Applicant has set out the following reasons in support of their request:

- The chief factors mitigating against a timely commencement to construction include the complex constraints and history of the site, the scale of the approved development, and changes in site ownership (including as recently as late last year).
- The significant time that has elapsed since the issue of original permit *'is a function of the complexity of the site, the complex planning history, and the scale of the approved development'*.
- The new site owner is *'committed to the future redevelopment of the site and realisation of a broader vision for this part of Pentridge Village'*.
- The new site owner *'has also provided undertakings to invest in a variety of interim maintenance, repair and upgrade works to facilitate a range of outcomes on site and some of this work has already commenced, including engagement of Lovell Chen to work with Artcare on the protection of the Ronald Bull memorial, heritage protection works and site clean-up works'*.
- The extension requested would enable the owner of the property to properly consider potential future design options for the site.

### **Whether there has been a change of Planning Policy**

The VCAT decision in relation to the first extension of time request in 2017 considered several planning policy changes, including:

- The change in zoning from Comprehensive Development Zone to the Activity Centre Zone (Schedule 1).
- The introduction of Clause 22.08– Environmentally Sustainable Development
- The introduction of the Development Contributions Plan Overlay
- The Moreland Apartment Design Code (MADC), which was a proposed Planning Scheme Amendment with the Minister for Planning (Amendment C142) at the time.
- Changes to car parking rates in Clause 52.06.
- The introduction of the Better Apartment Design Standards at Clause 58 of the Moreland Planning Scheme.

In its deliberations, the Tribunal made the following finding:

*the approval would not offend or be inconsistent with current controls or policies of the scheme'.*

When the second extension of time request was considered in 2018, the only significant and relevant change to planning policy was the introduction of building separation and light well requirements at Clause 22.07. Officers concluded that these requirements are derived from MADC and therefore have, in effect, been considered previously by VCAT and found not to warrant refusal of the extension of time request. Since the third and most recent extension of time request was approved in 2020, there have been no significant changes in planning policy of relevance to this site. It is noted that Planning Scheme Amendment C200 was gazetted on 14 January 2021. The amendment was a policy-neutral translation of the Local Planning Policy Framework (LPPF) to the new Planning Policy Framework (PPF) format at Clauses 11-19 of the Scheme. Being a broadly policy-neutral amendment, the amendment does not affect the approved development's response to relevant policies and controls.

### **Whether the landowner is seeking to 'warehouse' the permit**

This is the fourth request to extend the expiry dates of the Planning Permit.

Since the most recent extension approved in December 2020, the former owner of the site lodged an application to amend the permit and endorsed plans via Section 72 of *the Act*. Notwithstanding concerns held by Council Officers regarding the nature of this proposal, the submission indicated an intent to progress the development and obtain amended approvals prior to the commencement of works.

Since that application was lodged, Officers have been made aware of a change in ownership of the site. The new owners acquired the site in late 2021 and have proactively engaged Council Officers to discuss further prospective applications and amendments.

Given the above, it is considered both the former and current owners of the site have demonstrated intent to progress the development in some form since the previous extension. There is no evidence to suggest the current owner seeks to 'warehouse' the permit.

### **Intervening circumstances as bearing upon grant or refusal**

Since the previous extension, the site has changed ownership, with the current owners acquiring the property in late 2021. The new owner has not had sufficient time to commence the development, and is currently in the process of reviewing the site's extensive and complex planning history. Officers have been advised the new owner is working towards a reimagining of the amended proposal. Several site visits and phone discussions held in recent months support this.

The applicant states factors mitigating against a timely commencement to construction include the submission of significant amendment proposals, complex site history and a change in ownership. Officers consider these to be sufficient intervening circumstances in favour of an extension.

### **The total elapse of time**

The total elapse of time since the original permit was issued is approximately ten years and six months. While this is arguably a significant and sufficient length of time, support for a further extension is not considered unreasonable given the size and constraints of the site, the scale of the approved development and the detailed design work that is required by conditions of the Planning Permit.

### **Whether the time limit originally imposed was adequate**

It is considered that the original time limit of 4 years was adequate to allow the landowner or developer to discharge all permit obligations to allow the development to commence. However, it is not uncommon for Council to receive multiple requests for permit extensions associated with developments of this significant scale.



### **The economic burden imposed on the landowner by the permit**

The approved buildings comprise a major mixed-use development requiring significant site remediation, as well as extensive marketing and presale campaigns to secure the viability of the project through financing. These factors result in a recognisable economic burden placed on the landowner, which favours the grant of an extension.

### **The probability of a permit issuing should a fresh application be made**

The extension of time process is not an opportunity for Council to undertake a new assessment of the application against the same planning provisions. The assessment required of Council is whether the planning provisions have in any way changed such that when considered against any changes in planning policy or controls, there is a probability that the permit would not be issued should a fresh application be submitted.

In this instance, the factors which weigh in favour of a permit being issued if a fresh application were made include:

- Council, through its Municipal Planning Strategy and Planning Policy Framework, seeks to encourage higher density housing in Activity Centres to take advantage of the excellent access to public transport and other services within these locations. This site is located in the Coburg Activity Centre.
- The proposal was originally considered by the Minister for Planning as being consistent with the Pentridge Village Design Guidelines and Masterplan (August 2009). This Masterplan continues to apply to the site, with an excerpt comprising the requirements of Precinct 10 of the Coburg Activity Centre Zone.
- Although the approved building heights vary from those depicted in the Masterplan and Activity Centre Zone Schedule, the relevant height controls are not mandatory and the original assessment of the application determined that the heights were appropriate given the strategic and physical context of the site. Furthermore, the approved amendment to the Planning Permit removed the tallest buildings from the proposal, leaving buildings that range in height from six to 10 storeys, which more closely aligns with the building heights depicted in the Masterplan and Activity Centre Zone Schedule (see Figure 1).

## **6. Officer Declaration of Conflict of Interest**

Council Officers involved in the preparation of this report do not have a conflict of interest in this matter.

## **7. Financial and Resources Implications**

There are no financial or resource implications.

## **8. Conclusion**

Balancing all of the 'tests' set out by the Supreme Court in *Kantor v Murrindindi Shire Council*, 18 AATR 285, it is considered that they generally favour the grant of an extension of time. Considering the scale of the development and extensive detailed design work required by conditions of the permit, a 2 year extension to the Planning Permit is considered to be reasonable to enable the new site owner to progress to commencement of the development. Furthermore, it is noted that there has been no significant change in planning policy since the previous extension of time requests were considered and approved by VCAT which provides strong reasons to support a further extension of a reasonable timeframe. The total elapse time since the original permit was issued, however, is noted and is considered lengthy. Granting a further two year extension would bring the total elapse of time to twelve years and 6 months, should works not commence in a timely manner. This would weigh heavily against any future application for a further extension of time submitted two years from now.

It is therefore recommended that Council resolve to issue an extension to Planning Permit No. 2011/012837 so that the development must commence by 30 June 2024 and be completed by 30 June 2028.

### **Attachment/s**

- |   |   |            |
|---|---|------------|
| 1 | <a href="#">Location and Zoning Map</a>   | D22/358682 |
| 2 | <a href="#">Most recent plans considered by VCAT</a>  | D22/358681 |
| 3 | <a href="#">June 2017 VCAT Order approving previous Extension of Time request and amendment to permit</a> | D22/358679 |
| 4 | <a href="#">Council approval of most recent previous Extension of Time request</a>                        | D22/358653 |

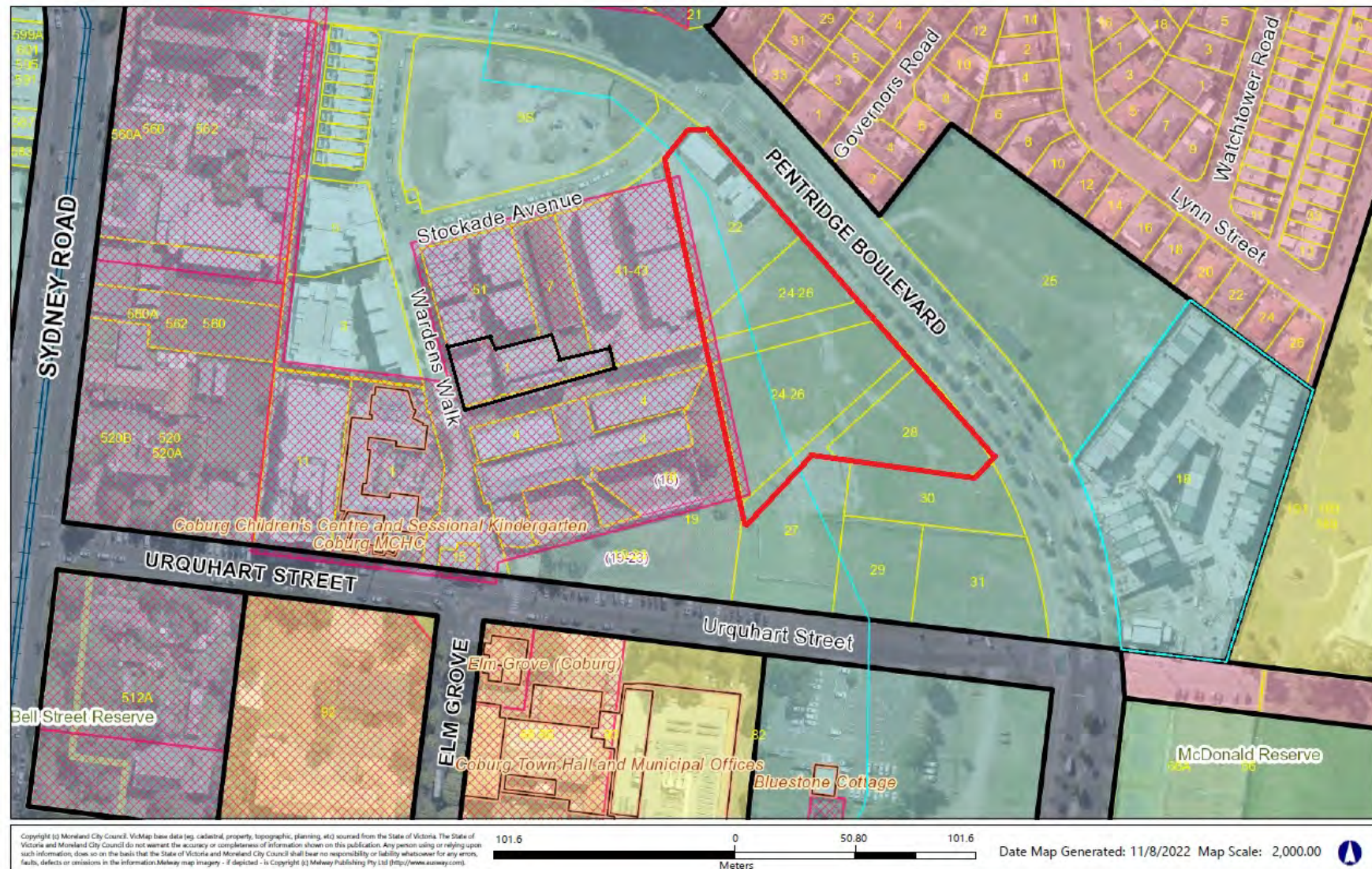
## Attachment 1 - Location and Zoning Map

Part CP1, 22, 24-26 and 28 Pentridge Boulevard and Part 27 Urquhart Street, COBURG

ACZ1 - Activity Centre Zone 1  
Subject site  
F Division  
Heritage Overlay

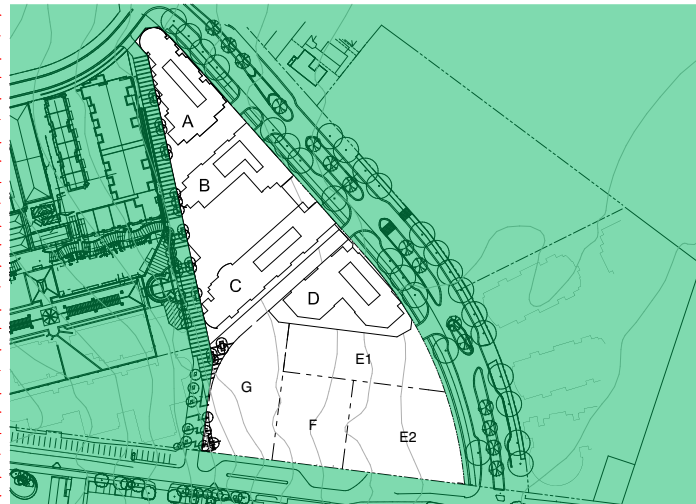


Moreland City Council





**PRECINCTS 10, 12 AND 14**



LAND AREA: 9140 SQM (LOTS S32, S33, S34) 8300 SQM (LOTS 35, 36, 37, 38)

GENERAL AREAS:								
BUILDING	No. STOREYS	GROSS AREA	COMMON AREA	CARPARK AREA	No. CARS	RESIDENTIAL AREA	No. APARTMENTS	RETAIL AREA
A - S32	9	11980 SQM	1364 SQM	3450 SQM	97	7166 SQM	96	0 SQM
B - S33	6	9355 SQM	749 SQM	4900 SQM	155	2996 SQM	52	710 SQM
C - S33	8	15150 SQM	1395 SQM	6790 SQM	226	5880 SQM	96	1085 SQM
D - S34	10	14285 SQM	1849 SQM	3596 SQM	102	8356 SQM	108	484 SQM
E1 - S35	FUTURE DEVELOPMENT							
E2 - S36	FUTURE HOSPITAL SITE							
F - S37	FUTURE HOSPITAL SITE							
G - S38	FUTURE DEVELOPMENT							
TOTAL	-	50770 SQM	5357 SQM	18736 SQM	580	24398 SQM	352	2279 SQM

TP 00 COVER SHEET  
TP 01 SITE PLAN  
TP 02 BASEMENT FLOOR PLAN RL 47.25  
TP 03 LEVEL 1 FLOOR PLAN- BOULEVARD LEVEL RL 50  
TP 04 MEZZANINE TO LEVEL 1 RL 52.75  
TP 05 LEVEL 2 FLOOR PLAN - PIAZZALE  
TP 06 LEVEL 3 FLOOR PLAN  
TP 07 LEVEL 4 FLOOR PLAN  
TP 08 LEVEL 5 FLOOR PLAN  
TP 09 LEVEL 6 FLOOR PLAN  
TP 10 LEVEL 7 FLOOR PLAN  
TP 11 LEVEL 8 FLOOR PLAN  
TP 12 LEVEL 9 FLOOR PLAN  
TP 13 LEVEL 10 FLOOR PLAN  
TP 14 LEVEL 11 FLOOR PLAN  
TP 15 LEVEL 12 FLOOR PLAN  
TP 16 LEVEL 13 FLOOR PLAN  
TP 17 LEVEL 14 FLOOR PLAN  
TP 18 LEVEL 15 FLOOR PLAN  
TP 19 LEVEL 16 FLOOR PLAN  
TP 20 EQUINOX SHADOW DIAGRAM  
TP 21 SOUTH ELEVATION  
TP 22 EAST ELEVATION  
TP 23 SECTION A/A  
TP 24 SECTION B/B & C/C

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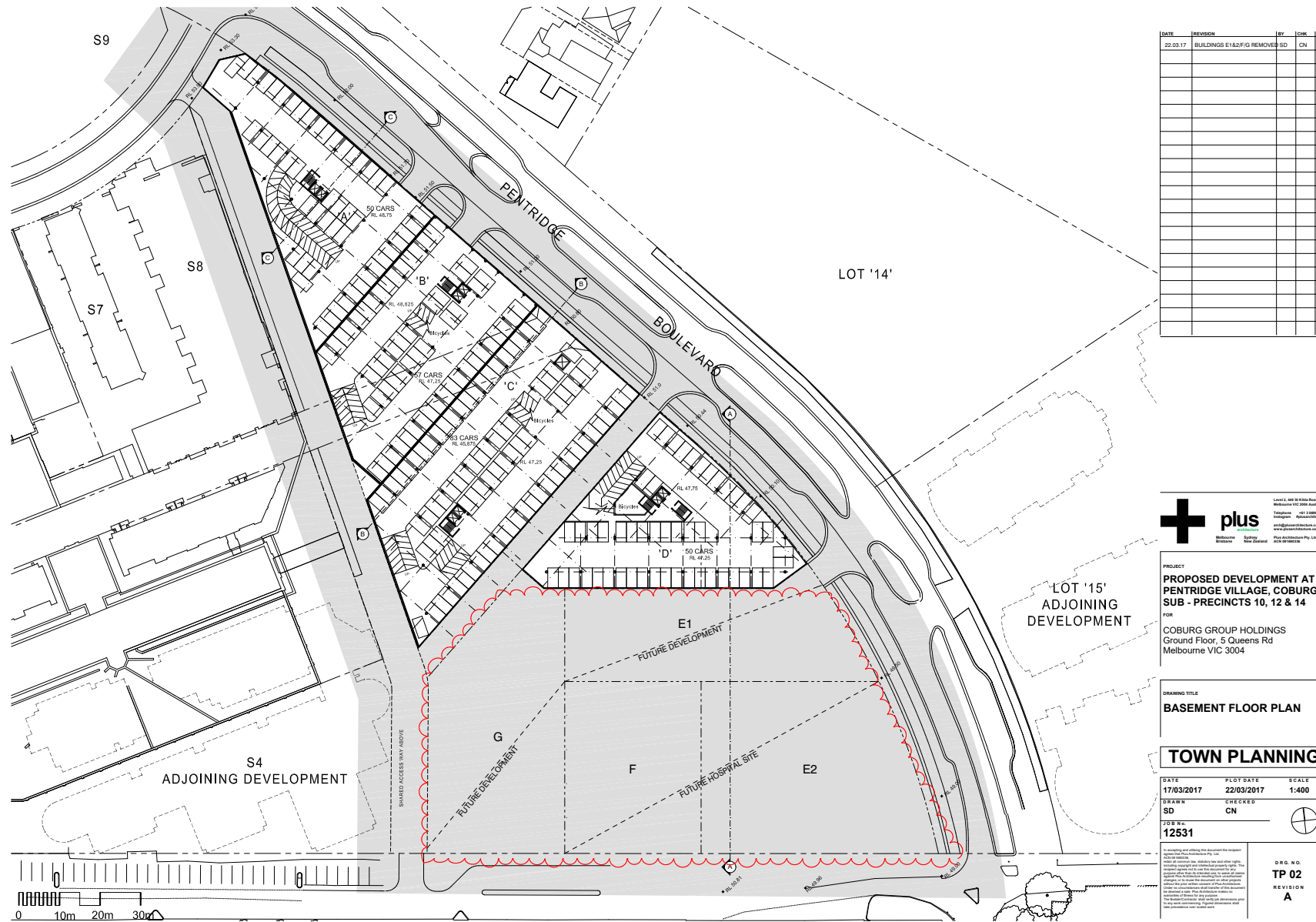
**PROJECT**  
**PROPOSED DEVELOPMENT AT**  
**PENTRIDGE VILLAGE, COBURG**  
**SUB - PRECINCTS 10, 12 & 14**  
**FOR**  
**COBURG GROUP HOLDINGS**  
Ground Floor, 5 Queens Rd  
Melbourne VIC 3004

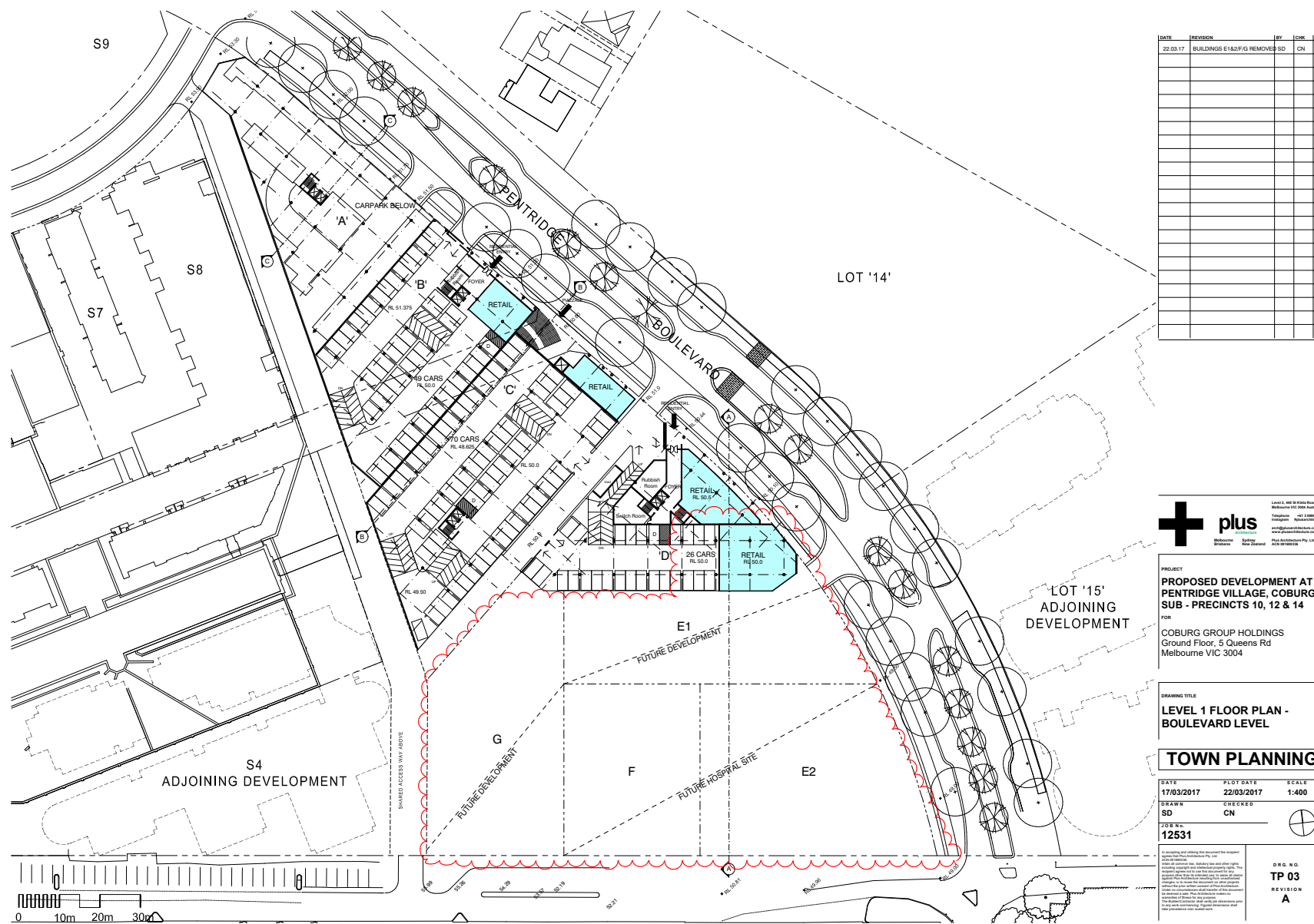
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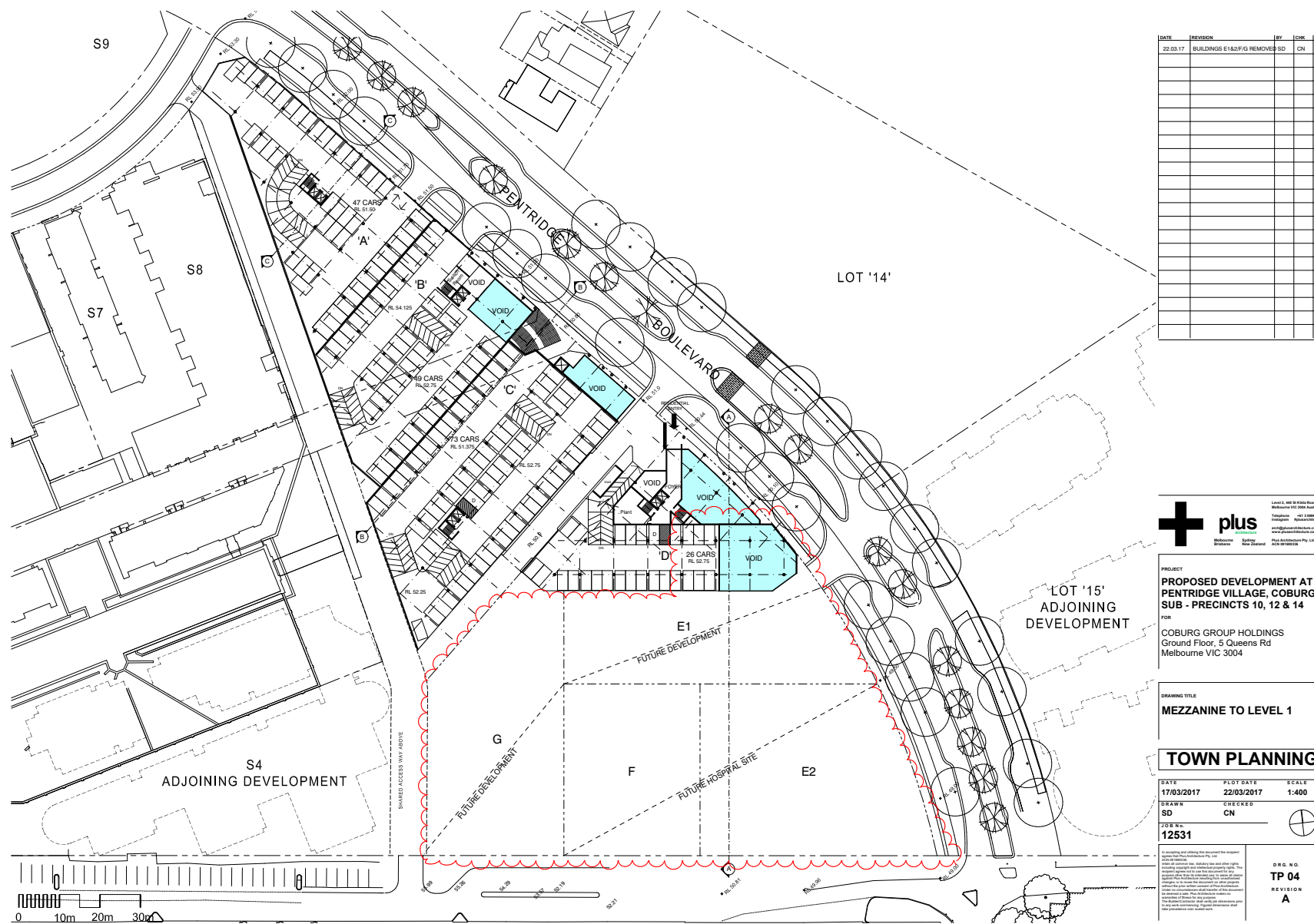
**COVER SHEET**

## TOWN PLANNING

<b>DATE</b> <b>17/03/2017</b>	<b>PLOT DATE</b> <b>22/03/2017</b>
<b>DRAWN</b> <b>LT</b>	<b>CHECKED</b> <b>CN</b>
<b>JOB No.</b> <b>12531</b>	
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	<p><b>DRG. NO.</b> <b>TP 00</b> <b>REVISION</b> <b>B</b></p>

































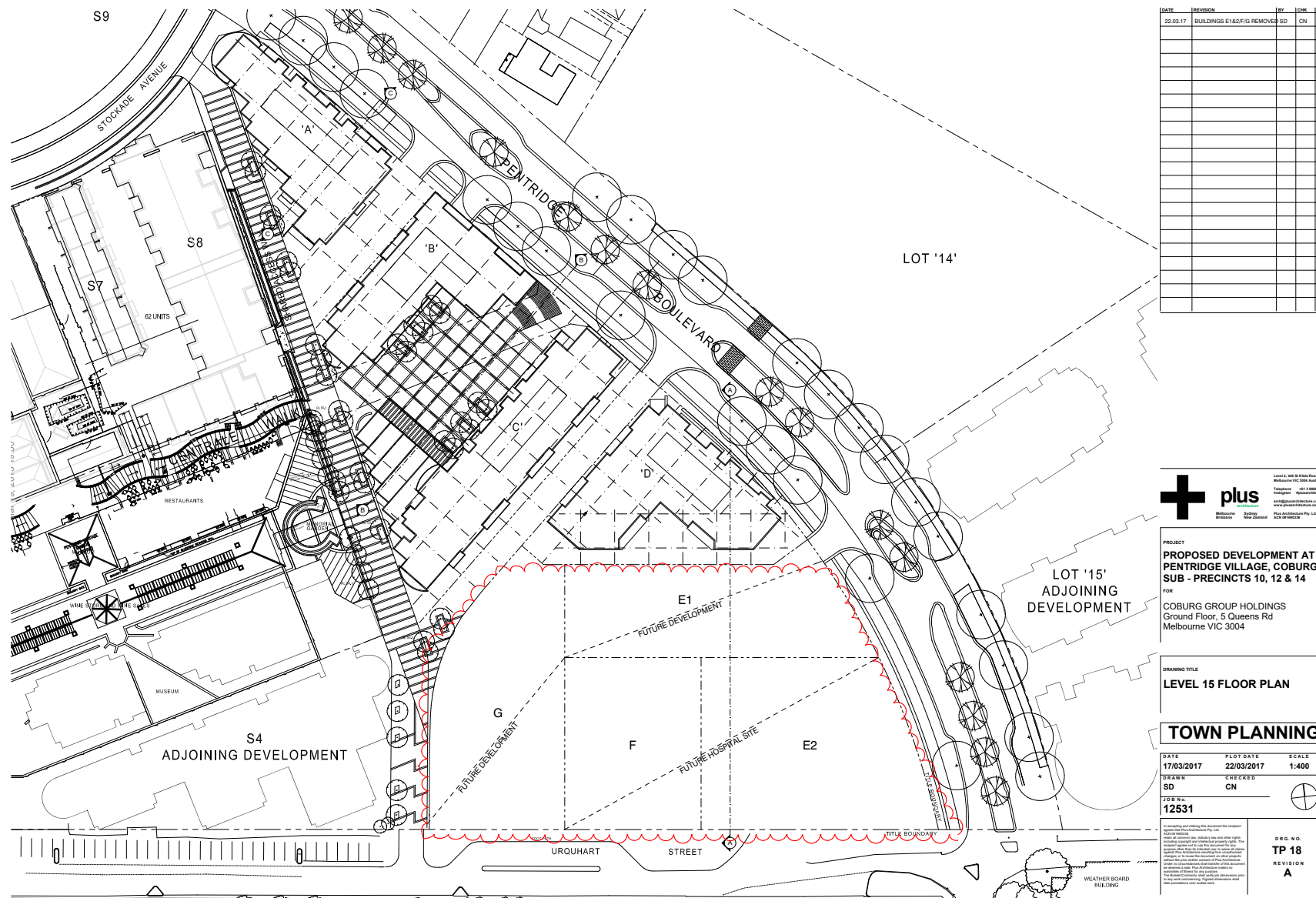






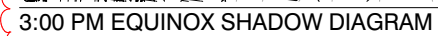
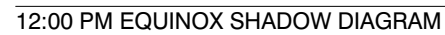
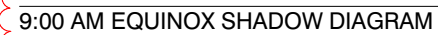










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**PROJECT**  
**PROPOSED DEVELOPMENT AT**  
**PTENRIDGE VILLAGE, COBURG**  
**SUB - PRECINCTS 10, 12 & 14**  
**FOR**  
**COBURG GROUP HOLDINGS**  
Ground Floor, 5 Queens Rd  
Melbourne VIC 3004

DRAWING TITLE

**SOUTH ELEVATION**

## TOWN PLANNING


DATE	PLOT DATE	SCALE
17/03/2017	22/03/2017	1:400
DRAWN	CHECKED	
IT	CN	

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PROJECT

PROPOSED DEVELOPMENT AT  
ROBINSON VILLAGE, COBURG  
SUB - PRECINCTS 10, 12 & 14

FOR

COBURG GROUP HOLDINGS  
Ground Floor, 5 Queens Rd  
Melbourne VIC 3004

DRAWING TITLE

EAST ELEVATIONS

# TOWN PLANNING

# SCALE

DATE	PLOT DATE	SCALE
17/03/2017	22/03/2017	1:400

DRAWN LT	CHECKED CN	
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TP 22

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**PROJECT**

**PROPOSED PROJECT AT  
PENTRIDGE VILLAGE, COBURG  
SUB - PRECINCTS 10, 12 & 14**

**FOR**

**COBURG GROUP HOLDINGS  
Ground Floor, 5 Queens Rd  
Melbourne VIC 3004**

**DRAWING TITLE**

**SECTION A-A**

TOWN PLANNING

DATE	PLOT DATE	SCALE
17/03/2017	23/03/2017	1:400

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**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**ADMINISTRATIVE DIVISION**

**PLANNING AND ENVIRONMENT LIST**

VCAT REFERENCE NOS. P550/2016 & P665/2017  
PERMIT NO. 2011/012837A

<b>APPLICANT</b>	Coburg Quarter Holdings Pty Ltd
<b>RESPONSIBLE AUTHORITY</b>	Moreland City Council
<b>SUBJECT LAND</b>	Part CP1 (Via Roma), 22, 24-26, 28 Pentridge Boulevard and part 27 Urquhart Street (more specifically known as part CP1, lots S32, S33, S34 and part S38 on PS543333) COBURG VIC 3058
<b>WHERE HELD</b>	Melbourne
<b>BEFORE</b>	Dalia Cook, Member
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	11 May 2017
<b>DATE OF ORDER</b>	19 June 2017
<b>CITATION</b>	Coburg Quarter Holdings Pty Ltd v Moreland CC [2017] VCAT 879

**ORDER**

**P550/2016**

- 1 The decision of the responsible authority is set aside.
- 2 Pursuant to section 85(1)(f) of the *Planning and Environment Act 1987*, I direct that:
  - a the time within which the development described in Permit No. 2011/012837A is to be started is extended to 30 June 2018.
  - b the time within which the development is to be completed is extended to 30 June 2022.

**P665/2017**

- 3 The application is allowed.
- 4 Pursuant to section 87 of the *Planning and Environment Act 1987*, Planning Permit No. 2011/012837A is amended as follows.
- 5 By agreement of the parties, the permit is amended by correcting the address of the subject land. The subject land for the purposes of this proceeding is amended in the same way for consistency.



- 6 What the permit allows is amended to read as follows:  
Buildings and works (in stages), creation of access to a road in a Road Zone Category 1, and a reduction in the number of car parking spaces required by the planning scheme, generally in accordance with the endorsed plans.
- 7 Conditions in the permit are amended in accordance with the conditions set out in Appendix A to this order.
- 8 The responsible authority is directed to amend the permit and issue an amended permit to the owner of the subject land pursuant to section 91 of the *Planning and Environment Act 1987*.
- 9 Liberty is granted in respect of administrative changes made to the permit in this suite of amendments, including cross referencing.

**Dalia Cook**  
**Member**

#### **APPEARANCES**

For Coburg Quarter Holdings Pty Ltd	Mr Stuart Morris QC instructed by HWL Ebsworth. He called Mr Craig Czarny, Urban Designer, Hansen Partnership Pty Ltd to give expert evidence.  He also called Mr Walter McIvor, Senior Development Manager, Future Estate Group Pty Ltd <sup>1</sup> to give evidence on behalf of the applicant.
For Moreland City Council	Mr William Bartley, Solicitor, Russell Kennedy

---

<sup>1</sup> A subsidiary company of the applicant.

**INFORMATION**

Description of proposal	Extension of time to commence a substantial mixed use redevelopment of the subject land. Proposed amendment of permit to delete buildings E1, E2, F & G, modifications to enable basement parking with retail uses proposed at ground level with ancillary changes to activate building frontages.
Nature of proceeding	P550/2016 - Application under section 81(1)(a) of the <i>Planning and Environment Act 1987</i> – to review the refusal to extend time to commence a development.  P665/2017 - Application under section 87 of the <i>Planning and Environment Act 1987</i> – to amend planning permit No. 2011/012837A.
Planning scheme	Moreland Planning Scheme
Zone and overlays	Activity Centre Zone (Schedule 1) (ACZ) Development Contributions Plan Overlay (Schedule 1) Heritage Overlay (Schedule 47) – part Parking Overlay (Schedule 1) Environmental Audit Overlay

## REASONS<sup>2</sup>

### INTRODUCTION

- 1 Pentridge Village is emerging as a significant urban renewal area within the municipality of Moreland. This application concerns the remaining 'wedge' of land bounded by Urquhart Street, Pentridge Boulevard and a shared accessway to the west.
- 2 The Minister for Planning issued a planning permit for this land on 30 January 2012, allowing a complex of mid to higher rise buildings for mixed use including retail and residential development. The permit was amended on 5 March 2013.
- 3 In November 2013 Moreland City Council purchased two lots on the corner of Urquhart Street and Pentridge Boulevard (Lots S36 and S37 on PS 543333S, previously ear-marked for the highest buildings). At this stage, it has expressed an indication to develop and use these lots for a healthcare or other community facility. As at the date of the hearing, the proposal for these sites and the form it may take were unknown.
- 4 The former owners of the remainder of the site ran into financial difficulty and the applicant took ownership of the northern and central parts of the land in July 2015.
- 5 Development under the planning permit was required to start by 30 January 2016. The current owner sought an extension of time from the responsible authority to commence the approved development.
- 6 The responsible authority determined to refuse the request on the basis that there has been a change of planning policy, a commitment to proceed with the development has not been demonstrated and intervening circumstances do not favour an extension of time. It further considered that there was a low probability of a fresh permit being granted for the development as approved.
- 7 The applicant has sought review of this decision. In addition, it applied to amend the planning permit under section 87 of the *Planning and Environment Act 1987* (PE Act), in the event that it may be extended.
- 8 The amendments propose to remove the two corner lots purchased by the Council from the scope of the permit, in addition to the two adjacent lots owned by the applicant. This was intended to facilitate a comprehensive review of the built form and land use interface between the two excluded sites in private ownership and the two corner lots in council ownership in the future. The amendments also seek to modify the format for car parking and to provide increased activation to specific building frontages.

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<sup>2</sup> 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.

- 9 At the commencement of the hearing, the responsible authority indicated that if the Tribunal considered it appropriate to extend the permit, it would support its amendment in the manner sought.

#### CONSIDERATION OF THE APPLICATIONS

- 10 I indicated at the conclusion of the hearing that I had determined that it was appropriate to extend the time to commence development under the planning permit.
- 11 Following its extension, I supported the application to amend the planning permit as an improved planning outcome.
- 12 I reserved my reasons for these decisions, which now follow.

#### **Was the request to extend time made validly? Can the Tribunal determine the application for review?**

- 13 The parties identified a question of law for determination by the Tribunal as a preliminary issue. Section 69 of the PE Act provides that:
- (1) Before the permit expires or within 6 months afterwards, the owner or the occupier of the land to which it applies may ask the responsible authority for an extension of time.
  - (1A) The owner or occupier of land to which a permit for a development applies may ask the responsible authority for an extension of time to complete the development or a stage of the development if—
    - (a) the request for an extension of time is made within 12 months after the [permit](#) expires; and
    - (b) the [development](#) or stage started lawfully before the [permit](#) expired.
- 14 The responsible authority submitted that the request to amend time was not made in accordance with section 69 of the *Planning and Environment Act* 1987 (PE Act) because the applicant was not “the owner or the occupier of the land to which it [the permit] applies”. Rather, it was the owner of only part of the land, rather than the land in its entirety (i.e. being partly owned by Council, which was not a co-applicant for the extension of time).
- 15 The permit applicant submitted that the responsible authority’s interpretation of this part of the provision was misguided. It urged the Tribunal to conclude that an application could be made validly under section 69 of the PE Act since Coburg Quarter Holdings Pty Ltd or a subsidiary company is “the owner of land to which the permit applies”, meeting the pre-condition. It submitted that this position is not negated simply because there is another owner of the land to which the permit applies.
- 16 The more usual situation a responsible authority is faced with is where there is a single owner or occupier of a parcel of land that is the subject of a

permit and that owner/occupier applies to extend time under that permit. However, it is conceivable that there may be more than one owner or occupier of land that is subject to a permit.

- 17 There is no express requirement in section 69 that *all* relevant owners or occupiers make such a request jointly. In my opinion, it appears to be sufficient that a relevant owner or occupier of land to which the permit applies makes such a request to enable it to be considered.<sup>3</sup>
- 18 Irrespective of any potential technical non-compliance with the preconditions of section 69, the fact remains that the responsible authority has failed to grant an extension of time and an application for review has been lodged in respect of it. By virtue of section 4(2) of the *Victorian Civil and Administrative Tribunal Act 1998*, the decision is reviewable in this proceeding since it provides:
- For the purposes of this Act or an enabling enactment—
- ...
- (c) a refusal by a decision-maker to make a decision under an enactment because the decision-maker considers that the decision cannot lawfully be made is deemed to be a decision made under that enactment to refuse to make the decision;
- (d) a failure by a decision-maker to make a decision under an enactment within the period specified by that enactment is deemed to be a decision by the decision-maker at the end of that period to refuse to make the decision.
- 19 If necessary, I would have exercised the power in clause 64 of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998* (VCAT Act) to disregard any non-compliance with the precondition for a request to extend time. The purpose of the provision is to enable the Tribunal to consider the substantive issues in a proceeding, to enable justice to be done, irrespective of irregularities in the application to the responsible authority at first instance.<sup>4</sup>
- 20 In this regard, I would find that there would be no prejudice to Moreland City Council in allowing the application to proceed to independent determination. It is also not contested that it was unaware of the request as a co-owner. There are also strong policy reasons to facilitate the Tribunal's independent determination of whether an extension of time is justified for commencement of this major project in all the circumstances.

---

<sup>3</sup> In this circumstance, if there is any doubt, a responsible authority may potentially require a declaration that all other owners have been notified of the request, in a generally similar way to the requirement in section 48 of the PE Act.

<sup>4</sup> Complementary provisions are provided in section 4(2) of the PE Act to confirm that the Tribunal can 'uplift' the primary decision under review even if it was flawed or lacking in power.

**Is it appropriate to extend the time to commence the approved development under the permit?**

Potential inter-relationship between extending a permit and amending a permit

- 21 The Tribunal's power to amend a permit is predicated on it having a current permit before it that is capable of being amended. Both parties accepted that the Tribunal would need to make a positive finding on this issue before it could grant the request to amend the permit.<sup>5</sup> This has been achieved.
- 22 There is a legitimate question as to whether the Tribunal is entitled to have regard to the fact that there is a request to amend the permit 'on foot' before it as a relevant factor in determining whether it is appropriate to *extend* the permit.
- 23 The issue is potentially relevant in the case before me because it might be considered to be inappropriate to extend time for the development of all buildings under the permit in light of the change in ownership of the two corner properties to council. Likewise, the two tallest buildings are nominated on this corner.
- 24 In terms of the exercise of discretion, there may only be a matter of seconds between the exercise of the power to extend the permit and the exercise of the power to amend it. However, these are powers exercised under separate legislative provisions, notwithstanding the joint hearing of both applications for review in this case.
- 25 I accept the submission by Mr Morris QC on behalf of the applicant that the Tribunal can take into account and give weight to the proposal to amend the permit in deciding whether to exercise its discretion to extend the permit. This finding is consistent with the reasoning of Deputy President Gibson in *Vile*.<sup>6</sup> She held that to do otherwise would be 'highly artificial' and observed that the principles from *Kantor v Murrindindi SC*<sup>7</sup> are guidelines, not mandatory requirements. The overriding requirement pertaining to the Tribunal is contained in section 97 and 98 of the *Victorian Civil and Administrative Tribunal Act 1998*, obliging the Tribunal to act according to the substantial merits of the case in all proceedings having regard to all relevant matters before it.
- 26 Mr Morris referred to the circumstance when the Minister for Planning may determine to grant a planning scheme amendment in contemplation of granting a permit that would otherwise be prohibited in a joint process under section 96A of the PE Act. No doubt the Minister could not grant the permit without first granting the amendment, although it is in his contemplation that one would immediately follow the other and that the grant of the permit would be appropriate.

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<sup>5</sup> *Vile v Stonnington CC* [2011] VCAT 234.

<sup>6</sup> As above [31-32].

<sup>7</sup> (1997) 18 AATR 285, a decision of Ashley, J.

- 27 To my mind, the more pressing question when a permit is sought to be extended and amended is whether the Tribunal should entertain granting an extension to a permit if it is *dependent* on the permit being amended. This issue has been considered by the Tribunal in *Sgarlata v Mornington SC*<sup>8</sup> and I, for one, have followed its reasoning in comparable cases.
- 28 In that case, DP Gibson held that it was not appropriate to extend a permit to allow it to be amended in a manner to address new permissions required for the development under the planning scheme controls (in that case, the addition of the Bushfire Management Overlay), and where the form and nature of the development would be subject to potentially substantial (undetermined) amendments as a result.
- 29 I consider the facts before me are more aligned with those in *Vile* – if not more favourable to an extension of time in the current circumstances. In *Vile* the Tribunal made a decision to both extend and amend a planning permit where a new permission was required under the planning controls but the form of the amendment had been agreed between the parties and the relevant referral authority.
- 30 Unlike *Sgarlata* or *Vile*, I regard the facts of this case as less controversial. There are no additional planning permissions that would be required for the proposal to progress under the current planning controls. In fact, the amendment seeks to remove permission for the use of the land for Shop, which is now an as-of-right use in the ACZ. It also seeks to confine the scope of the permit by removing land with four formerly approved buildings and associated uses. The responsible authority would consent to the proposed amendments if it was found to be appropriate to extend the permit.
- 31 For the reasons I address below even if the permission granted was considered as a whole i.e. including the four buildings approved for the southern part of the site, there is nothing to suggest that this outcome is so far from the aspirations of the current planning controls and policies that it would necessarily be inappropriate.
- 32 If the two corner lots now owned by Council were taken out of this equation, in my opinion, there would still be scope to allow an extension of time for the development of the two adjacent buildings by the applicant. Although the modelling and treatment of the direct interface between these buildings and the council land may need to be revisited in this scenario, the capacity to develop the entirety of the Council land for a community or health related use would still arguably be preserved in line with current planning scheme provisions. In any case, the applications before me represent a more conservative position.
- 33 Although it is notionally still possible for the permit to be extended and to be developed in the form depicted in the application plans (subject to

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<sup>8</sup> (Red Dot) [2011] VCAT 786, a decision of DP Gibson.



excluding relevant buildings no longer proposed), this does not appear to be the current intention of the applicant.

- 34 The applicant was candid about its proposal to further re-work the floor plates of the approved buildings, with feasibility plans having been proposed by the current project architect. Having heard the evidence of Mr McIvor, I do not regard this as an indication that the essential components of the approval are no longer pursued. Rather, it seems to represent a genuine interest in progressing, albeit refining, the approval granted.
- 35 It seems likely that these changes (some not yet proposed in a formal way) could be achieved within the auspices of the current approval under the permit, in line with the proposed amended conditions. They would represent an improvement to the proposal concomitant with current development aspirations expressed in the planning scheme.

Kantor considerations for extending time

- 36 I proceed to evaluate the remainder of the request in line with conventional case law considerations for extending time. *Kantor* established case law principles to be considered in the exercise of the Tribunal's discretion whether to extend a permit.<sup>9</sup>
- 37 The first issue identified in *Kantor* is whether the applicant has advanced an adequate reason for the delay. The reason for the delay in this case was that the applicant only took ownership of the land in mid 2015. The request for the extension of time was made soon after in December 2015. The new owner had a very limited opportunity to act on the permit before it expired in early 2016.
- 38 The second consideration is whether there has been a change in planning policy. The responsible authority emphasised that this was a key reason why it opposed the extension of time.
- 39 The subject land was included in the Comprehensive Development Zone (Schedule 1) and was in part subject to the Heritage Overlay (Schedule 47) when the permit was granted. It was since rezoned to Activity Centre Zone (Schedule 1).
- 40 The responsible authority submitted that there would be very different application requirements if a comparable permit application was made under the current planning provisions. In addition, it emphasised changes to policies such as environmentally sustainable development (ESD) and apartment liveability standards, which have been enhanced since the grant of the permit.
- 41 In my opinion, it is only indirectly relevant that the application requirements would be more fulsome today. The more relevant question is

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<sup>9</sup> These principles have been expanded or refined further in decisions that were referred to by the parties in the hearing, and I have had regard to these cases although I do not quote them in my reasons.

whether relevant changes to the planning controls and applicable policies within the planning scheme have rendered the permission granted inappropriate in the current context, which would weigh against the grant of the extension.

42 For reasons I explain below:

- a the nature of the permission granted to date is highly relevant to this question;
- b I find that the fundamental components of the approval would not offend or be inconsistent with current controls or policies of the scheme; and
- c the permit establishes substantial requirements for the approval of further plans as part of the permission granted. In determining whether to approve such plans, the responsible authority can (and should) reasonably take account of relevant planning policies as they apply at the time approval is sought.

43 In general, I regard the extent of approval granted to date under the permit as an 'outline approval'. The only plan that has been approved to date is a site concept plan showing the site layout, building footprint, proposed land use and maximum number of levels for each building.

44 To the extent that the conditions currently require the plans for each building be 'generally in accordance with' the application plans, these plans are extremely basic in their level of detail. For example, I consider that they would provide sufficient flexibility for the reduction in depth of floorplate as is proposed to increase access to daylight.

45 Likewise, the external presentation of the building is somewhat schematic in the application plans, rather than detailed and, in my opinion, this too would provide ample scope to document and refresh the façades of all buildings.

46 The way that the permit conditions are structured contemplates a set of more detailed plans to be provided in respect of each building. These components of the plans are achievable even as formulated at present, but they are capable of further refinement via the related amendment proceeding.

47 In addition, a series of plans need to be prepared under the permit, such as plans pertaining to environmental management. I put it to the parties at the hearing that there is nothing in the current permit that would prevent the responsible authority from applying current standards in determining whether it is appropriate to approve any of these plans under the permit.

48 Mr Morris QC confirmed that the permit holder would agree to this assessment being undertaken by reference to current planning policies in the planning scheme. This approach is confirmed by section 60 of the PE Act and clause 65 of the planning scheme which require consideration of

relevant policies ‘of the day’ (in addition to seriously entertained policies) when determining whether to approve a plan under a permit.

- 49 Fundamentally, I accept the position advanced by the permit applicant, that the proposal remains generally consistent with the objectives and built form outcomes sought for this land under the Activity Centre Zone. A relevant purpose of the zone is:

To facilitate use and development of land in accordance with the Development Framework for the activity centre [per the zone Schedule].

Likewise, the development would facilitate the broad outcomes contemplated by clauses 2.0 and 5.10-2 of the Schedule pertaining to land use and development outcomes to be achieved.

- 50 Although the zoning of the land has changed since the grant of the permit and the subject land has been included within a different designated precinct under the scheme provisions<sup>10</sup>, it is highly significant in my opinion that the current planning controls remain grounded in the *Pentridge Village Design Guidelines and Masterplan 2009*<sup>11</sup>. This is precisely the same document that formed the basis of the planning controls that applied at the date the permit was issued.
- 51 Equally relevant is that the heights of the four proposed buildings to be retained and developed within the permission granted remain generally consistent with those sought in the Design Guidelines and Master Plan and associated controls. They would represent a mid-rise complex of developments of between 6-10 storeys stepping up towards the corner of Urquhart Street and Pentridge Boulevard, which is supported by current planning controls and policies in the scheme, especially those addressing this Activity Centre in Precinct 10 of Schedule 1 to the ACZ.
- 52 I accept that the decision guidelines or assessment ‘tools’ referred to in the planning scheme may be more detailed or explicit in their current form. However, in this case I find that they do not represent a change in planning policy per se. Rather, they pertain more to the manner in which a new permit application should be made and considered.
- 53 To the extent that there have been associated changes in local planning policy such as the deletion of clause 22.06 which related expressly to the Pentridge Precinct, its contents have been picked up elsewhere in the scheme for the most part. Although new policies have emerged, including clauses 22.07 (Development of Five or More Storeys) and 22.08 (Environmentally Sustainable Design), I consider that the approval either represents generally acceptable response when compared against these policy objectives or provides scope for greater alignment with current

<sup>10</sup> Now precinct 10, compared with sub-precinct B. There is no material change in respect of the development outcomes proposed for the subject land as between these precincts.

<sup>11</sup> An Incorporated Document in the planning scheme.

standards (i.e. via the preparation of more detailed plans under the permit as it is implemented).

- 54 Although the Municipal Strategic Statement within the planning scheme has been reworked since the grant of the permit, I accept the submission on behalf of the permit applicant that the relevant changes are more nuanced rather than material.
- 55 The responsible authority submitted that the planning scheme has changed the way that the broader tract of land is to be treated in respect of access or movement, but it is not clear to me from reading the relevant documents that there is a material change in this regard. This site forms part of a broader precinct that has largely been developed to date, and the approval would provide for functional and reasonable movement networks that are entirely consistent with and link into those established for the broader precinct, including those represented in the Master Plan that is included in the Schedule to the ACZ.
- 56 I am also not persuaded that changes to car parking rates in clause 52.06 or the introduction of the Development Contribution Plan Overlay are reasons that would weigh strongly against an extension of time on the facts before me.
- 57 Another change in circumstance is that the administrative control over planning decisions has been restored to Moreland City Council, instead of the Minister for Planning. Ultimately, I do not regard this as consequential in determining whether it is appropriate to extend the permit on its merits. It is the permit that is to be scrutinised against the current planning context, not the decision maker's stance per se.
- 58 It is also of limited weight in evaluating the ongoing acceptability of the permit that the responsible authority regards the permit as 'outdated' and has a preference for the development proposal to be reassessed afresh. The question is whether the changes to the planning scheme or other circumstances have rendered this reasonably necessary. In this case, I find that they have not.
- 59 Applying the remaining *Kantor* considerations, the Tribunal commonly questions whether the applicant is seeking to 'warehouse' the permit. There is no evidence of this before me. In fact the evidence of Mr McIvor appears to point in the direction of a genuine intention to act on the permit if it were to be extended and amended.<sup>12</sup>
- 60 The economic burden imposed by the permit is relevant. I was advised that the development which is intended to be pursued under the permit at this stage (i.e. the modified site referred to as the subject land in this proceeding) has a total value of approximately \$300m.

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<sup>12</sup> This is supplemented by the architectural and other work on the current 'feasibility plans' which were referred to in evidence and represent the development of more conventional floor plans, elevations and specifications. The related company also has a positive history of delivering other developments within the Pentridge Precinct.

- 61 It would represent a significant investment to complete the redevelopment of this part of Pentridge Village and it is expected to be undertaken in a staged way. The permission granted would also include requirements to develop substantial, integrated areas for open space and community respite as well as providing enhanced movement networks.
- 62 I am unaware of the expenditure incurred by the current permit holder to date under the permit<sup>13</sup>, but it appears that it has been generally limited to consulting fees including architectural work in connection with the current request to amend the permit.
- 63 I have also considered the total elapse of time since the permit was granted. This is a first extension of time request under the permit and the permit was issued some five years ago. The permit was current for four of these years, and the current permit holder had approximately six months within which it was 'live'. In a practical sense, given the state of the land at purchase, it would needed to have removed the approximate 11,000 cubic metres of building and other waste and fill<sup>14</sup> before starting significant remediation works then commencing development. These were significant practical obstacles to commencement in a timely way.
- 64 Finally, the *Kantor* decision suggests that a decision maker should consider the overall probability of a permit being granted for the same development if a fresh application was made.
- 65 It is difficult to make an assessment of the likelihood whether a fresh permit would be granted for the development as approved. However, I consider that there is potential justification for the proposed building heights within the Master Plan, which remains the guiding document underpinning the current planning scheme provisions.
- 66 There is also scope for general compliance with the new apartment guidelines in clause 58 of the scheme<sup>15</sup>, since the building floorplates that have been provided in the application material are sufficiently flexible and the apartment layout, design and features are yet to be resolved. To the extent that Amendment C142 proposes more stringent assessment tools to be used, although this has been adopted by the responsible authority in a redacted form, it remains to be seen as to whether it will ultimately be approved by the Minister, or whether it is considered to extend beyond state-wide guidelines.
- 67 In light of the proposal to delete the council-owned land from the auspices of the permit, there is also potential to give full effect to current zone purposes and policies in respect of the proposed health or community use for that land.

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<sup>13</sup> I.e. excluding preparatory work such as the removal of waste and fill from the property.

<sup>14</sup> Which is being removed at present in line with an enforcement order issued by VCAT in P2736/2015 with the consent of the parties. This is expected to be completed shortly.

<sup>15</sup> Introduced by Amendment VC136 to state-wide planning schemes.

- 68 Although the current approval contemplates above ground parking for most buildings, this had been addressed in the design of these buildings to ensure a generally appropriate streetscape and pedestrian interface. Sufficient parking would be provided, with scope to reduce this upon amendment of the permit, if consistent with encouragement of a shift to alternative modes of transport under current planning policies.
- 69 Balancing all of these matters, I consider that the *Kantor* considerations almost universally lean in favour of granting the extension of time sought. Arguably, the most significant in this case is the absence of any material or significant change in the outline development outcomes sought for the land under the control of the applicant.
- 70 In conclusion, I consider that there is a strong case for the ‘currency’ of the permit, especially in so far as it provides for a site layout, building footprint, spacing between building forms and maximum number of levels for each building.

Timing of the extension

- 71 I record that the permit applicant, having obtained experienced professional advice, has sought an extension of time to commence the development by 30 June 2018. I queried Mr McIvor about the capacity of the permit holder to meet this timeframe in his evidence and was advised that commencement of development is expected to follow the removal of waste, building materials and fill from the subject land.
- 72 In reality, if the permit holder needs more time to commence the development, it would be entitled to seek a further extension of time from the responsible authority using the standard procedure in the PE Act, and this would be assessed using the *Kantor* principles.
- 73 I accept that a development of this scale may take more than four years to complete, especially in a staged way. I have provided an extension of time for completion of the approved development to the date sought by the applicant. Once again, there is capacity for an extension of time to be granted to complete the development, which raises modified considerations as elaborated in *Hotel Windsor v Minister for Planning & Ors*<sup>16</sup>.

**Is it appropriate to amend the permit as proposed?**

- 74 The responsible authority did not contest the sufficiency of the grounds for the amendment, being a material change in circumstances under section 87(1)(d) of the PE Act. I accept that the change in ownership from the former owner to Coburg Quarter Holdings Pty Ltd and, perhaps more significantly, the change in ownership of the two corner lots to Council constitute a material change in circumstances since the permit was granted initially.

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<sup>16</sup> (Red Dot) [2016] VCAT 351, a decision of DP Dwyer.

- 75 To the extent that modifications are sought via the section 87 amendment request, I accept the evidence of Mr Czarny that they represent improvements to the approved proposal. The main changes to be facilitated via this amendment are:
- deletion of the two buildings from land now owned by the council and the two adjacent buildings proposed in private ownership;
  - to relocate above ground parking into multi level basements and to reallocate parking with a total reduction in 20 spaces; and
  - to provide retail and more active frontages to roadways and pedestrian areas.
- 76 I accept the evidence of Mr Czarny that these changes are worthy of support, since they would result in a more activated presentation of buildings to adjacent streets and open space/movement networks. They would not have any negative off site impacts and would improve parking efficiency.
- 77 A significant part of the amendment is to delete four buildings from the parcel comprising the subject land. It is sensible to remove the two sites now owned by Council since there is no longer a current intention to act on the permission to construct a 13 storey and 16 storey apartment building on the corner lots.
- 78 The remaining challenge for this applicant is that the Council does not have any current development plans for its two lots, and the applicant is unable to propose a development that would respond suitably in urban design and built form terms. On this basis, Mr Czarny advised that he recommended to the applicant that it remove the two adjacent lots from the approval granted. I support this approach as the preferable one, since it would facilitate fulsome consideration of the proposed built form, layout and interface between the remaining lots and the corner property in the future.

#### **AMENDED PERMIT CONDITIONS**

- 79 I provided an opportunity for the parties to suggest amendments to the conditions of the permit. The permit applicant provided a suggested draft, with submissions in response received from the responsible authority. The permit applicant then provided a final reply in writing.
- 80 I have finalised the amended permit conditions having regard to the submissions of both parties. I make brief comments for the record pertaining to limited aspects which remained in dispute.
- 81 I agree with the permit holder that, for a permit of this nature and level of detail, it is appropriate to refer to the grant of the permit being “generally in accordance with” the endorsed plans. This is also reflected in the conditions agreed to by the responsible authority throughout the permit and is in line with standard industry practice. ‘General accordance’ between a



development and approved plans is a concept that is capable of being applied in line with relevant case law.

- 82 In the absence of consent from the permit holder, I am reluctant to require the amended plans to be compliant with various requirements of the new clause 58 of the planning scheme. It is also generally relevant that there are transitional provisions in the scheme, and that this is an existing permit that pre-dates this provision. In any event, there are other policies and measures within the planning scheme and the permit which will guide the assessment of whether appropriate levels of daylight, ventilation and the like will be provided to the apartments in their final layout and design.
- 83 I have not deleted the VicRoads requirement for a functional layout plan for Urquhart Street at present. VicRoads was not a party to the proceeding and it would not be reasonable to take such action without hearing from it on this proposition, even if the plans had been amended to appear to potentially remove the need for this condition. This could be the subject of a discrete further amendment of the permit at a later stage if need be.
- 84 Although there may be practical benefits in seeking to allow buildings and works at the same time as remediation, I agree with the responsible authority that I am obliged to use the wording of the requirement in the planning scheme when specifying the wording of environmental audit condition.
- 85 Finally, I find that it is appropriate for the permit to reflect Moreland City Council as the current responsible authority, being the administrator of the permit and from whom further approvals would be required. Although the permit was issued by the Minister for Planning originally, this could be noted in the table of amendments for the record.
- 86 I have provided a consolidated set of amended permit conditions in the appendix to this order accordingly.

#### **CONCLUSION**

- 87 For the reasons above, I have determined to grant an extension of time for the commencement and completion of the approved development. In addition, I have directed the amendment of the permit in the manner sought.

**Dalia Cook**  
**Member**

## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT NO.</b>	2011/012837A
<b>LAND</b>	Part CP1, 22, 24-26 and 28 Pentridge Boulevard and part 27 Urquhart Street (more specifically known as part CP1, lots S32, S33, S34 and part S38 on PS543333)
<b>RESPONSIBLE AUTHORITY</b>	Moreland City Council

### WHAT THE PERMIT ALLOWS

Buildings and works (in stages), creation of access to a road in a Road Zone, Category 1, and a reduction in the number of car parking spaces required by the scheme, generally in accordance with the endorsed plans.

### CONDITIONS

#### Amended Plans

- 1 Notwithstanding the requirements of Conditions 2-5, prior to the commencement of development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, a site plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the site plan will be endorsed and then form part of this permit. The site plan must be drawn to scale with dimensions and three copies must be provided. The site plan must be generally in accordance with the plans prepared by Plus Architecture dated 17 March 2017 (plot date 22 March 2017, job no. 12531, drawing nos. TP00 (Rev. B), TP02-TP24 (Rev. A) (Amended Plans) submitted with the amendment application but modified to show the outline of buildings within the lot boundaries of Plan of Subdivision 543333S, issued in conjunction with Planning Permit SP/2012/263 and modified to show:
  - (a) The deletion of buildings E1, E2, F and G;
  - (b) The stages in which the development is to be constructed, including the construction of the shared access way;
  - (c) The land shown clouded in the Amended Plans being lots S35, S36, S37 and part of lot S38 must be shown marked “Adjacent land not subject to permit”; and
  - (d) Building A must be shown marked “9 storey building mixed uses comprising residential, retail and associated car parking”.

Amended Plans Building A

- 2 Prior to the commencement of development of Building A, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, separate 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 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 Amended Plans and the endorsed Site Plan but modified to show:
- (a) Detailed layout of all dwellings/commercial tenancies, ensuring that all dwellings have adequate daylight and ventilation;
  - (b) Full elevations of the building;
  - (c) Provision of bicycle parking spaces, in accordance with Clause 10.0 of Schedule 1 to the Activity Centre Zone Clause 52.34 of the Moreland Planning Scheme;
  - (d) The provision of adequate storage to each dwelling;
  - (e) Any changes as set out in the Sustainability Management Plan required by condition 10 of this permit;
  - (f) Any changes as a result of the Wind Assessment required by condition 31 of this permit;
  - (g) The design and location of any air conditioning units and other plant equipment, including any screening and located in accordance with condition 16 of this permit;
  - (h) Public realm improvements relative to Building A in accordance with the 'Public Realm Masterplan required by condition 8 of this permit, including any changes to built form;
  - (i) The cross-sections of public space/streets showing the details of changes in levels, relative to building A;
  - (j) Glazing and shop entrances clearly indicated for all commercial tenancies;
  - (k) A schedule of all proposed exterior decorations, materials, finishes and colours (4 copies in a form that can be endorsed and filed); and
  - (l) Notation indicating that access from any category 1 road will meet the requirements of VicRoads.
  - (m) The deletion of level 10 shown on drawing TP13 of the Amended Plans.

Amended Plans Building B

- 3 Prior to the commencement of development of Building B, excluding demolition, bulk excavation, site preparation, soil removal, site remediation,

retention works, piling, footings, ground beams and ground slab, separate 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 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 Amended Plans and the endorsed Site Plan but modified to show:

- (a) Detailed layout of all dwellings/commercial tenancies, ensuring that all dwellings have adequate daylight and ventilation;
- (b) Full elevations of the building;
- (c) Provision of bicycle parking spaces, in accordance with Clause 10.0 of Schedule 1 to the Activity Centre Zone;
- (d) The provision of adequate storage to each dwelling;
- (e) Any changes as set out in the Sustainability Management Plan required by condition 10 of this permit;
- (f) Any changes as a result of the Wind Assessment required by condition 31 of this permit;
- (g) The design and location of any air conditioning units and other plant equipment, including any screening and located in accordance with condition 16 of this permit;
- (h) Public realm improvements relative to Building B in accordance with the 'Public Realm Masterplan required by condition 8 of this permit, including any changes to built form;
- (i) The cross-sections of public space/streets showing the details of changes in levels, relative to building B;
- (j) Glazing and shop entrances clearly indicated for all commercial tenancies;
- (k) A schedule of all proposed exterior decorations, materials, finishes and colours (4 copies in a form that can be endorsed and filed); and
- (l) Notation indicating that access from any category 1 road will meet the requirements of VicRoads.

#### Amended Plans Building C

- 4 Prior to the commencement of development of Building C, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, separate 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 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 Amended Plans and the endorsed Site Plan but modified to show:

- (a) Detailed layout of all dwellings/commercial tenancies, ensuring that all dwellings have adequate daylight and ventilation;
- (b) Full elevations of the building;
- (c) Provision of bicycle parking spaces, in accordance with Clause 10.0 of Schedule 1 to the Activity Centre Zone;
- (d) The provision of adequate storage to each dwelling;
- (e) Any changes as set out in the Sustainability Management Plan required by condition 10 of this permit;
- (f) Any changes as a result of the Wind Assessment required by condition 31 of this permit;
- (g) The design and location of any air conditioning units and other plant equipment, including any screening and located in accordance with condition 16 of this permit;
- (h) Public realm improvements relative to Building C in accordance with the 'Public Realm Masterplan required by condition 8 of this permit, including any changes to built form;
- (i) The cross-sections of public space/streets showing the details of changes in levels, relative to building C;
- (j) Glazing and shop entrances clearly indicated for all commercial tenancies;
- (k) A schedule of all proposed exterior decorations, materials, finishes and colours (4 copies in a form that can be endorsed and filed); and
- (l) Notation indicating that access from any category 1 road will meet the requirements of VicRoads.

#### Amended Plans Building D

- 5 Prior to the commencement of development of Building D, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, separate 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 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 Amended Plans and the endorsed Site Plan but modified to show:
  - (a) Detailed layout of all dwellings/commercial tenancies, ensuring that all dwellings have adequate daylight and ventilation;
  - (b) Full elevations of the building;

- (c) Provision of bicycle parking spaces, in accordance with Clause 10.0 of Schedule 1 to the Activity Centre Zone;
- (d) The provision of adequate storage to each dwelling;
- (e) Any changes as set out in the Sustainability Management Plan required by condition 10 of this permit;
- (f) Any changes as a result of the Wind Assessment required by condition 31 of this permit;
- (g) The design and location of any air conditioning units and other plant equipment, including any screening and located in accordance with condition 16 of this permit;
- (h) Public realm improvements relative to Building D in accordance with the 'Public Realm Masterplan required by condition 8 of this permit, including any changes to built form;
- (i) The cross-sections of public space/streets showing the details of changes in levels, relative to building D;
- (j) Glazing and shop entrances clearly indicated for all commercial tenancies;
- (k) A schedule of all proposed exterior decorations, materials, finishes and colours (4 copies in a form that can be endorsed and filed);
- (l) Notation indicating that access from any category 1 road will meet the requirements of VicRoads;
- (m) 108 car parking spaces to be provided for the 108 dwellings in Building D; and
- (n) Alterations to level 1 and level 1 mezzanine including the additional retail tenancy facing Pentridge Boulevard and an associated reduction in car parking spaces.

**Layout not altered and satisfactory completion**

- 6 The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
- 7 Once the development has started it must be continued and completed to the satisfaction of the responsible authority.

**Public Realm Improvements**

- 8 Prior to commencement of the development, excluding demolition, bulk excavation; site preparation; soil removal; site remediation; retention works; piling; footings; ground; beams; ground slab; basements; and the like, the 'Public Realm Masterplan - prepared by Fitzgerald Frisby landscape architecture', must be amended to reflect the pattern of development shown on the endorsed Site Plan and the Amended Plans and to show the following, to the satisfaction of the Responsible Authority:

- (a) A public lighting strategy;
- (b) Detail of the hard landscaping treatments and any traffic calming devices at the cinema/service road entry to minimise vehicle and pedestrian conflicts;
- (c) Tree planting and other hard and soft landscaping in accordance with the approved Landscaping Plan for Pentridge Boulevard endorsed on 16 February 2010;
- (d) Any modifications to the Pentridge Boulevard road reserve approved by Moreland City Council; and
- (e) The details of hard and soft landscaping treatments and street furniture to all public spaces. A consistent and simple palette of materials must be used to clarify the purpose of each space and how dual purpose areas (i.e. vehicles and pedestrians) will be managed.

#### **Materials and finishes**

- 9 Prior to commencement of the development excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, a sample board including a colour rendered and notated plan/elevation that illustrates the location and details of all external materials and finishes must be submitted to and be to the satisfaction of the responsible authority and when approved will form part of the endorsed plans. All finishes and surfaces of all external buildings and works, including materials and colours must be in conformity with the approved schedule to the satisfaction of the responsible authority.

#### **Sustainability Management Plan**

- 10 Prior to the commencement of the development excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings ground beams and ground slab, a Sustainability Management Plan (SMP) must be prepared which satisfies best practice for the following:
- (a) Energy performance
  - (b) Water management
  - (c) Indoor environment quality
  - (d) Stormwater management
  - (e) Transport
  - (f) Waste management
  - (g) Urban ecology.

The SMP must be submitted to the responsible authority for approval. The recommendations of the SMP must be incorporated into the design and



layout of the development and must be implemented to the satisfaction of the responsible authority prior to the occupation of the development.

**Landscape Plan**

- 11 Prior to the commencement of the development excluding demolition, bulk excavation site preparation, soil removal, site remediation, retention works, piling, footings, ground' beams and ground slab, excluding demolition, bulk excavation, site preparation soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, a Landscape Plan must be submitted to and be to the satisfaction of the responsible authority. The landscape plan must show:
  - (a) A schedule of all soft and hard landscape materials and treatments including planting species schedule, paving, lighting and fittings, seating, bollards, street furniture and arrangements for pedestrian, bicycle circulation in the development; and
  - (b) All water sensitive design elements including rainwater tanks, filtration systems water retention etc.
- 12 Plant selection should be based on species recommended in the Moreland City Council Landscape Guidelines and Technical Notes. When approved, the landscape plan shall form part of the endorsed plans under this permit.
- 13 The landscape plans must include relevant details of the interface with all building plant and equipment including fire booster pumps, exhaust vents and supply equipment including taps etc to be coordinated with the landscape design and the architectural package of information. The landscape plan must place an emphasis on:
  - (a) Appropriate paving treatments which limit the amount of hard surface area and increase permeable space as to sustain significant tree planting in outdoor areas and increase opportunities for on-site infiltration;
  - (b) Mature planting of suitable trees and shrubs, including a mixture of deciduous and evergreen tree planting depending upon the orientation of open space and habitable rooms;
  - (c) An automatic watering/irrigation system to garden areas using recycled water. Each garden area and plant shown on the endorsed plan must be to the satisfaction of the responsible authority constructed and planted prior to the occupation of the development allowed by this permit and then maintained.
- 14 The approved landscape plan must be completed within three (3) months of the completion of the development or stages thereof, or as may otherwise be agreed with the responsible authority and the area(s) concerned must be subsequently maintained to the satisfaction of the responsible authority.

**Environmental Audit / Environmental Management Plan**

- 15 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 1XD 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.

**Building Appurtenances/Appearance etc.**

- 16 All building plant and equipment are to be concealed to the satisfaction of the responsible authority. The construction of any additional plant machinery and equipment, including but not limited to all air-conditioning equipment, ducts, exhaust and communications equipment must be to the satisfaction of the responsible authority.
- 17 Glazing materials used on all external walls must be of a type that does not reflect more than 20% of the visible light when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the responsible authority.

**Construction Management Plan**

- 18 Prior to the commencement of the development including demolition, a detailed construction and demolition management plan must be submitted to and be approved by the responsible authority. This construction management plan is to consider the following:
- (a) public safety, amenity and site security;
  - (b) operating hours, noise and vibration controls;
  - (c) air and dust management;
  - (d) stormwater and sediment control;
  - (e) waste and materials reuse; and
  - (f) traffic management during construction.
- 19 All buildings and works must be carried out in accordance with the approved Construction Management Plan.

**Car parking, traffic and access**

- 20 The areas set aside for the parking of vehicles and access ways to the car parks must be constructed, clearly delineated and maintained to the satisfaction of the responsible authority.
- 21 Except with the written consent of the responsible authority, the parking areas and loading and unloading areas must be kept available for that use at

all times and the car parking spaces and access-ways must not be obstructed or otherwise rendered inaccessible to the satisfaction of the responsible authority.

- 22 The loading or unloading of vehicles of goods, plant and materials or other items delivered to or dispatched from the land must take place within the boundary of the land to the satisfaction of the responsible authority
- 23 The areas set aside for parking on the endorsed plans are to be used in connection with the lawful uses carried out on the site and must not be operated as a public car-parking facility.
- 24 Bicycle parking must be provided and located in accordance with the approved plans to the satisfaction of the responsible authority.

**Waste management**

- 25 Prior to commencement of the development excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, or otherwise to the satisfaction of the responsible authority, a Waste Management Plan must be submitted to and approved by the responsible authority. The Waste Management Plan must include:
  - (a) Dimensions of waste areas;
  - (b) The number of bins to be provided;
  - (c) Method of waste and recyclables collection;
  - (d) Hours of waste and recyclables collection;
  - (e) Method of presentation of bins for waste collection; and
  - (f) Strategies for how the generation of waste and recyclables from the development will be minimised.
- 26 When approved, the Waste Management Plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan to the satisfaction of the responsible authority.

**Services, Street levels and crossovers**

- 27 The owner or developer of this subject land must construct all necessary vehicle crossings and demolish and make good all unnecessary vehicle crossings adjacent the subject land at the cost of owner of the land /developer, in accordance with plans and specifications prepared to the satisfaction of and first approved by the responsible authority.
- 28 The owner or developer must reconstruct and/or relocate kerb and channel and relocate all services points and covers as necessary at the cost of owner of the land /developer, in accordance with plans and specifications prepared to the satisfaction of and first approved by the responsible authority.

- 29 Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.
- 30 All services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the responsible authority.

**Wind Assessment**

- 31 Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, piling, footings, ground beams and ground slab, a Wind Assessment report by an accredited professional provided to the satisfaction of the responsible authority. Any modifications required to the development in order to ensure acceptable wind conditions to the surrounding streets and public areas, must be submitted to and be approved by the responsible authority.

**VicRoads conditions**

- 32 Prior to the commencement of any works on the site, a functional layout plan of Urquhart Street must be submitted to VicRoads for approval showing:
  - (a) The proposed vehicle access to the development including all entry and egress points and one way movements; and
  - (b) The car parking lane/service road along the street frontage to include a traffic island to physically separate the parking manoeuvres.

**Car Parking Management Plan**

- 33 The Car Parking Management Plan which forms part of the section 173 agreement relating to the land must be modified to the satisfaction of the responsible authority to:
  - (a) reflect the 108 car parking spaces required for the 108 dwellings in Building D; and
  - (b) remove reference to those parcels of land which are no longer the subject of the permit.

The Owner must pay all costs in respect of the amendment of the section 173 agreement, including Council's reasonable legal costs.

**Expiry of Permit**

- 34 In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
  - (a) The development is not started before 30 June 2018.
  - (b) The development is not completed before 30 June 2022.

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

**– End of conditions –**



Moreland City Council

18 December 2020

Municipal Offices  
90 Bell Street  
Coburg  
Victoria 3058

Postal Address  
Locked Bag 10  
Moreland  
Victoria 3058

Telephone: 9240 1111  
Facsimile: 9240 1212

Future Estate (C/- Urbis Pty Ltd)  
Level 10  
477 Collins Street  
MELBOURNE VIC 3000

Dear Sir/Madam,

**Planning Permit No: MIN/2011/12837**

**Proposal:** The use of the site as a Shop (having a floor area greater than 300m for each shop tenancy), buildings and works (instages), including a variation to the building height in the table to the Sub-Precinct B; Creation of access to road in a Road Zone, Category 1; and a reduction in the number of car parking spaces required by the scheme.

**Property:** 22, 24-26, 28 & 30 Pentridge Boulevard, COBURG VIC 3058

At its meeting of 16 December 2020, the Councillors resolved to grant an extension of time to the above permit.

The development must now commence by 30 June 2022 and be completed by 30 June 2026. These dates supersede the time specified in the planning permit.

Please retain this letter on file as evidence of the extension granted.

You are entitled to apply for a further extension of time in accordance with the times specified under [Section 69](#) of the Planning and Environment Act.

Should you have any queries regarding this matter, please contact me on [REDACTED].

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#### Moreland Language Link

廣東話	9280 1910	हिंदी	9280 191E
Italiano	9280 1911	普通话	9280 075C
Ελληνικά	9280 1912	मराठी	9280 0751
عربي	9280 1913		
Türkçe	9280 1914	All other languages	
Trống Việt	9280 1915	9280 1919	

Yours sincerely



**RENEE RAGOZZINO**  
Senior Urban Planner