

Report to the Future Melbourne Committee**Agenda item 6.1****Planning Permit Application: TP-2022-23
204-208 Albert Street, East Melbourne****24 October 2023****Presenter:** Marjorie Kennedy, Acting Director Planning and Building**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of planning permit application TP-2022-23 for the land at 204-208 Albert Street, East Melbourne (refer Attachment 2 – Locality Plan).
2. The proposal seeks to retain the three adjoining heritage terraces on Albert Street and demolish a non-heritage two-storey rear addition. A six-storey building is proposed to be constructed to the rear of the heritage building for an office and food and drinks premises (no permit required for the use) (refer to Attachment 3 – Selected Plans).
3. The applicant and owner is Whitehaven Property Development Pty Ltd, and the architect is Jackson Clements Burrows Architects.
4. The land is located within the Commercial 1 Zone (C1Z) and is affected by Heritage Overlay Schedule 2 (East Melbourne and Jolimont Precinct – HO2) and Design and Development Overlay Schedule 20 (Victoria Parade and Albert Street Area – DDO20). The site is a 'Contributory' heritage place under the *Heritage Places Inventory March 2022 (Amended May 2023)*.
5. The proposal was formally amended prior to public notice in respond to Council's request for further information and preliminary advice. Changes made by the applicant included removal of the cantilever above the retained heritage building, relocation of core to the west and increase in upper level eastern setbacks.
6. Public notice of the proposal was given and a total of 107 objections were received. The objections raise concern with the height, massing, extent of demolition, amenity impacts, traffic, parking and commercial use.
7. Following public notice, the proposal was formally amended to respond to objections and urban design issues raised by planning officers which resulted in a reduction in height from seven storeys to six storeys including reduced height of plant services screening and change to materiality of the lift core. The amendment also reduced the upper level eastern setback of the top two levels. Public notice of these amendments was given to surrounding properties and objectors.

Key issues

8. A previous proposal for this site for a ten-storey building (TP-2018-801) was refused by Council and was upheld by the Victorian Civil and Administrative Tribunal (Tribunal). The plans were amended as part of the Tribunal proceedings to a nine-storey building. The previous proposal included a cantilever over heritage terraces and similar side and rear setbacks.
9. The Tribunal found that the previous proposal was of a scale that was incompatible with the surrounding built form scale and heritage setting, and that the amenity impacts to the east were unacceptable with regard to overshadowing and visual bulk.
10. The current proposal now successfully addresses the Tribunal's findings and grounds of refusal related to the previous proposal, particularly with regard to a reduced height of six storeys and the removal of the cantilever, associated reduction in shadow and subsequent reduction of amenity impact to nearby properties.
11. Having considered all relevant provisions of the Melbourne Planning Scheme, in addition to the matters required under section 60 of the *Planning and Environment Act 1987* (the Act) and matters raised by objections, the proposal is supported subject to recommended conditions.

Recommendation from management

12. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Planning Permit subject to the conditions outlined in the delegate report (refer to Attachment 4 of the report from management).

Attachments:

1. Supporting Attachment (Page 2 of 90)
2. Locality Plan (Page 3 of 90)
3. Selected Plans (Page 4 of 90)
4. Delegate Report (Page 40 of 90)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the Act sets out the requirements in relation to application for permits pursuant to the relevant planning scheme.
2. As objections have been received, sections 64 and 65 of the Act provide that the responsible authority must give the applicant and the objectors notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The responsible authority must not issue a permit to the applicant until the end of the period in which the objectors may apply to the Tribunal for a review of the decision or, if an application for review is made, until the application is determined by the Tribunal.

Finance

3. There are no direct financial issues arising from the recommendations contained within this report.

Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

Health and Safety

5. Relevant planning considerations such as traffic and waste management, potential amenity impacts that could impact on health and safety have been considered within the planning permit application and assessment process.

Stakeholder consultation

6. Public notice of the application has been undertaken to surrounding owners and occupiers, pursuant to sections 52 and 57B of the Act.
7. Two rounds of formal notice were conducted as part of the application process. A consultation meeting with local residents was also held.

Relation to Council policy

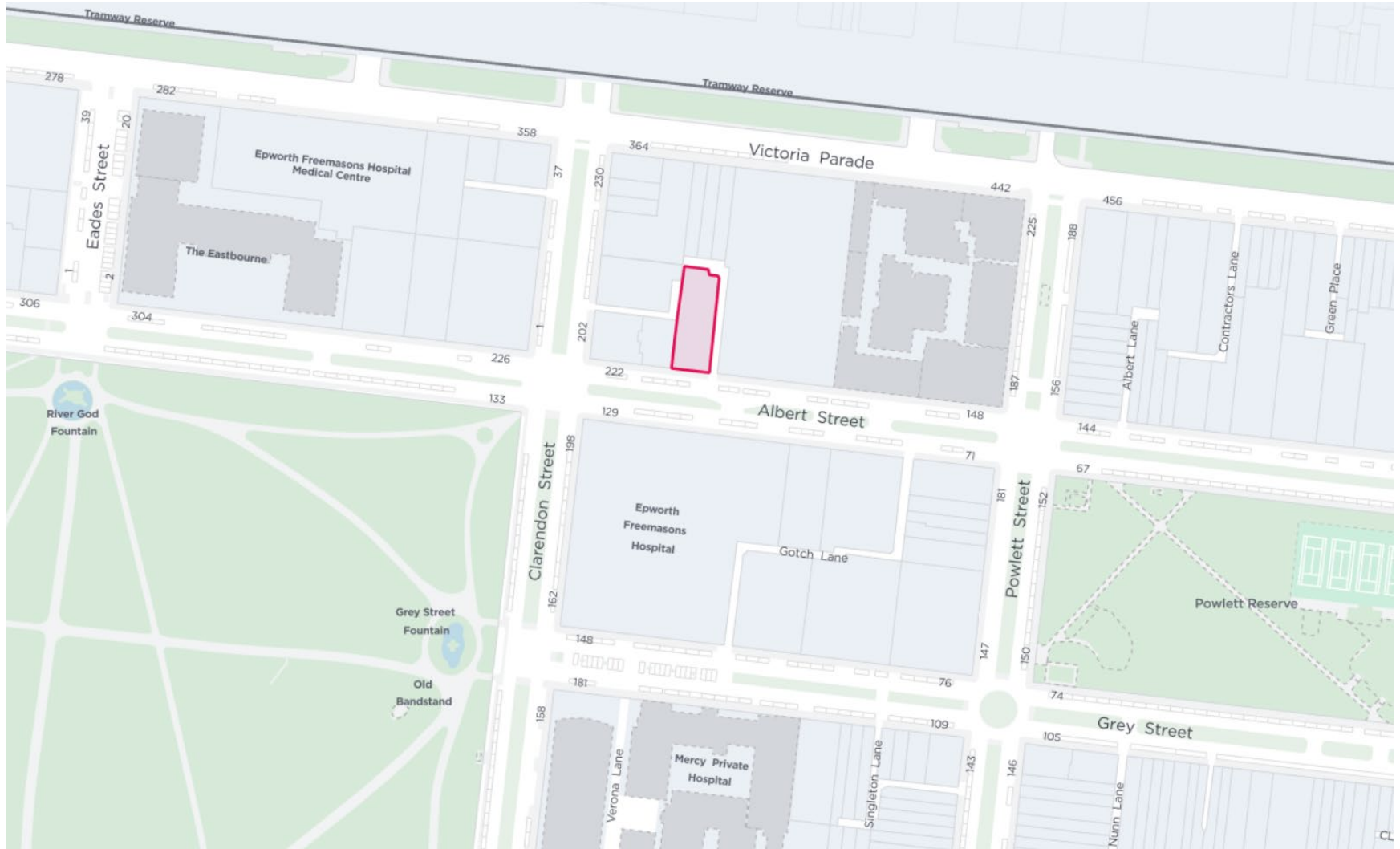
8. Relevant Council policies are discussed in the attached delegate report (refer Attachment 4).

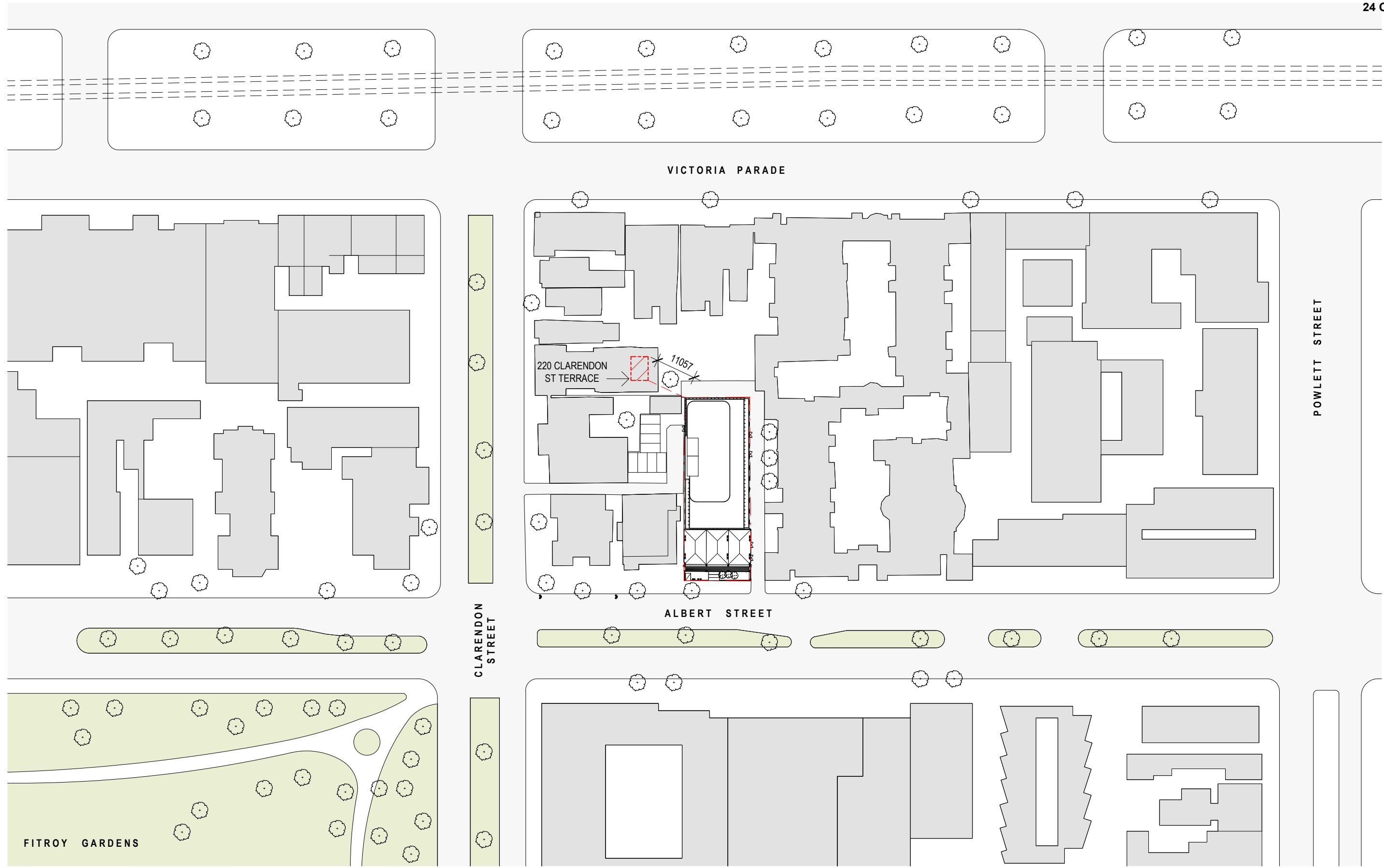
Environmental sustainability

9. The Environmentally Sustainable Design (ESD) report submitted with the application confirms the development will achieve the relevant performance measures set out in Clauses 15.01-2L-01 (Energy and resource efficiency) and 19.03-3L (Stormwater management (water sensitive urban design)) of the Melbourne Planning Scheme.
10. Implementation of the ESD statement is required via recommended permit conditions.

Locality Plan

204-208 Albert Street, East Melbourne





FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au

Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

PROJECT #
 19-101

DATE
 2019/12/01

SCALE
 1 : 1000
 @A3

PROJECT
 204 ALBERT STREET
 204-208 ALBERT STREET, EAST MELBOURNE VIC 3002

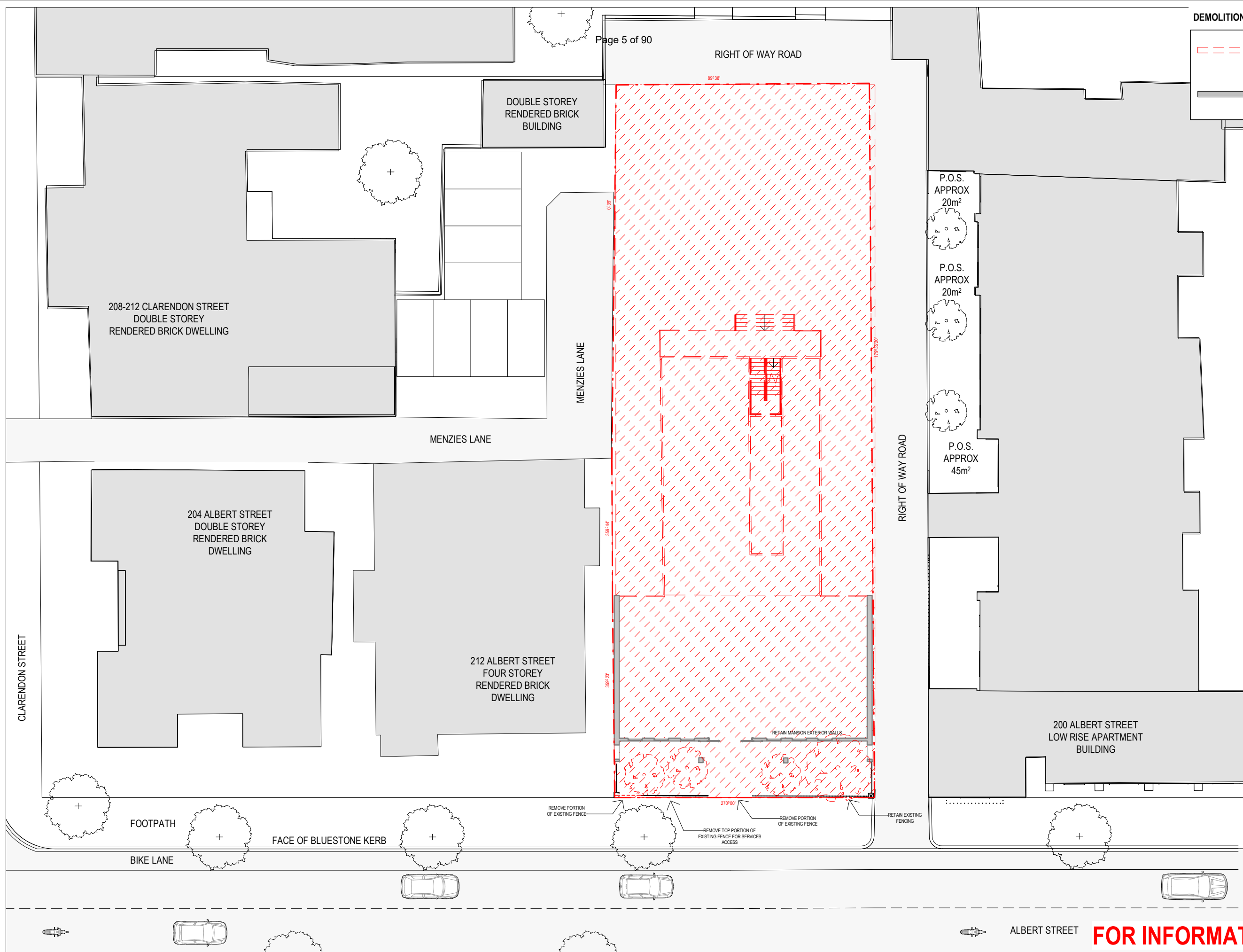
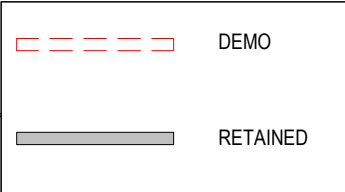
STATUS

DRAWING TITLE
 SITE PLAN

DRAWING NUMBER
 TP 0-002

REVISION
 5

Jackson
 Clements
 Burrows
 Architects



FOR INFORMATION ONLY

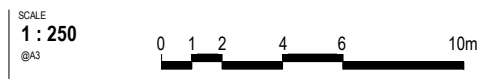
COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au

Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2023.02.01	TP APPLICATION
4	2023.09.15	COUNCIL RFI

PROJECT #
19-101

DATE
2019/12/01



PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002

STATUS

DRAWING TITLE
DEMOLITION - GROUND

DRAWING NUMBER
TP 0-201

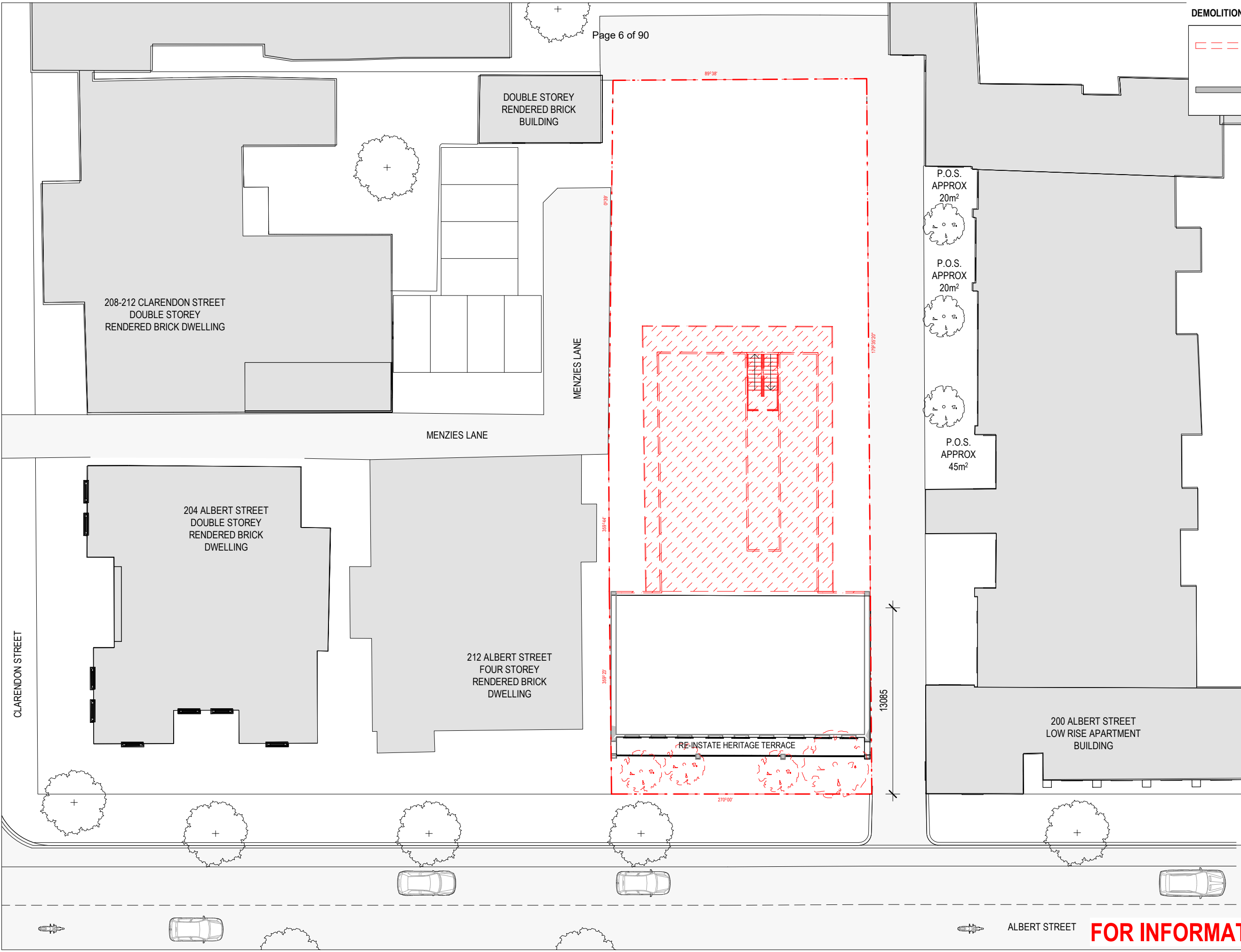
REVISION
4



DEMOLITION LEGEND

--- DEMO

— RETAINED



FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au

Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2023.02.01	TP APPLICATION
4	2023.09.15	COUNCIL RFI

PROJECT #
19-101

DATE
2019/12/01

SCALE
1 : 250
@A3

PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002

STATUS

DRAWING TITLE
DEMOLITION - LEVEL 01

DRAWING NUMBER
TP 0-202

REVISION
4

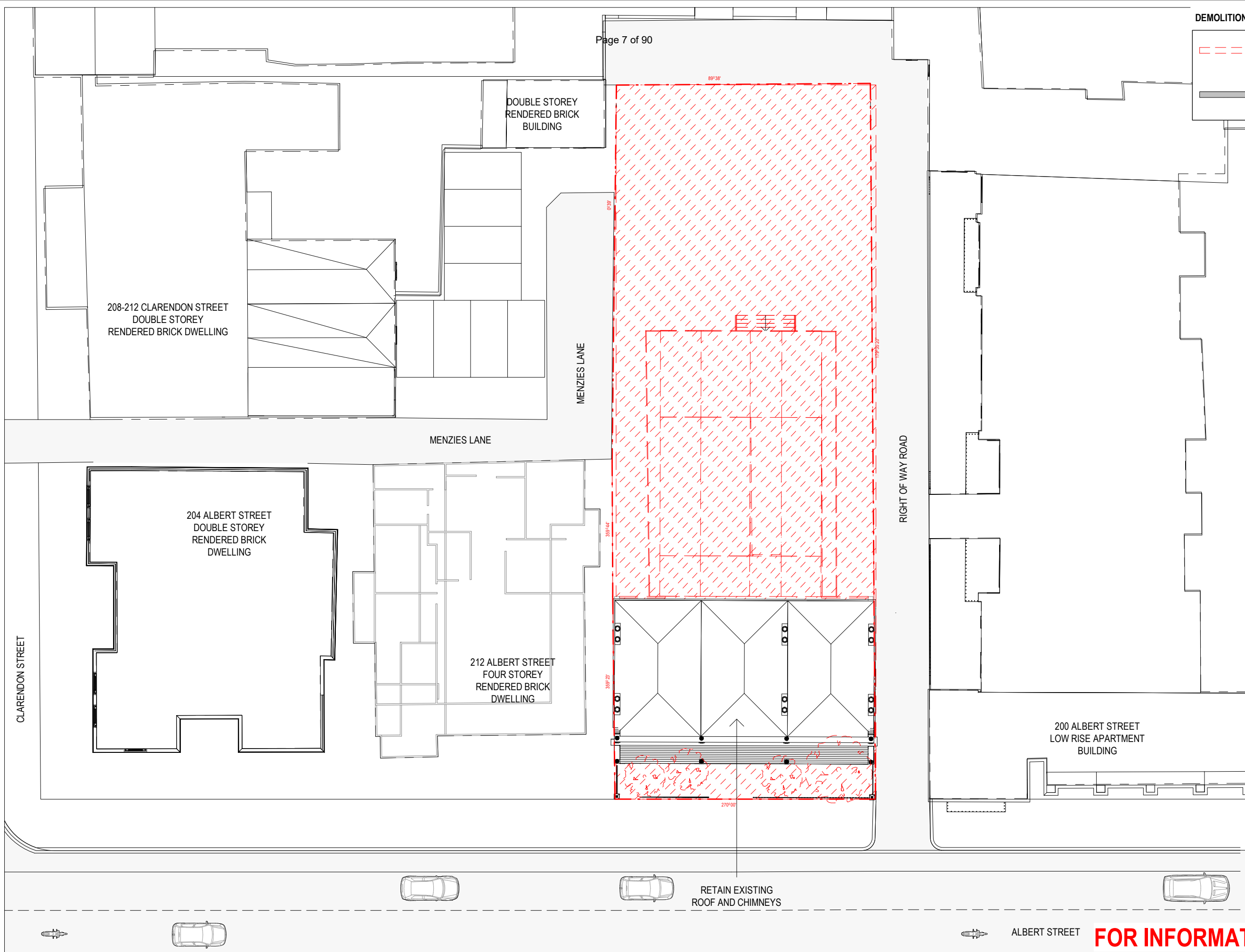
Jackson
Clements
Burrows
Architects



DEMOLITION LEGEND

--- DEMO

— RETAINED



FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au

Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2023.02.01	TP APPLICATION
4	2023.09.15	COUNCIL RFI

PROJECT #
19-101

DATE
2019/12/01

SCALE
1 : 250
@A3

PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002

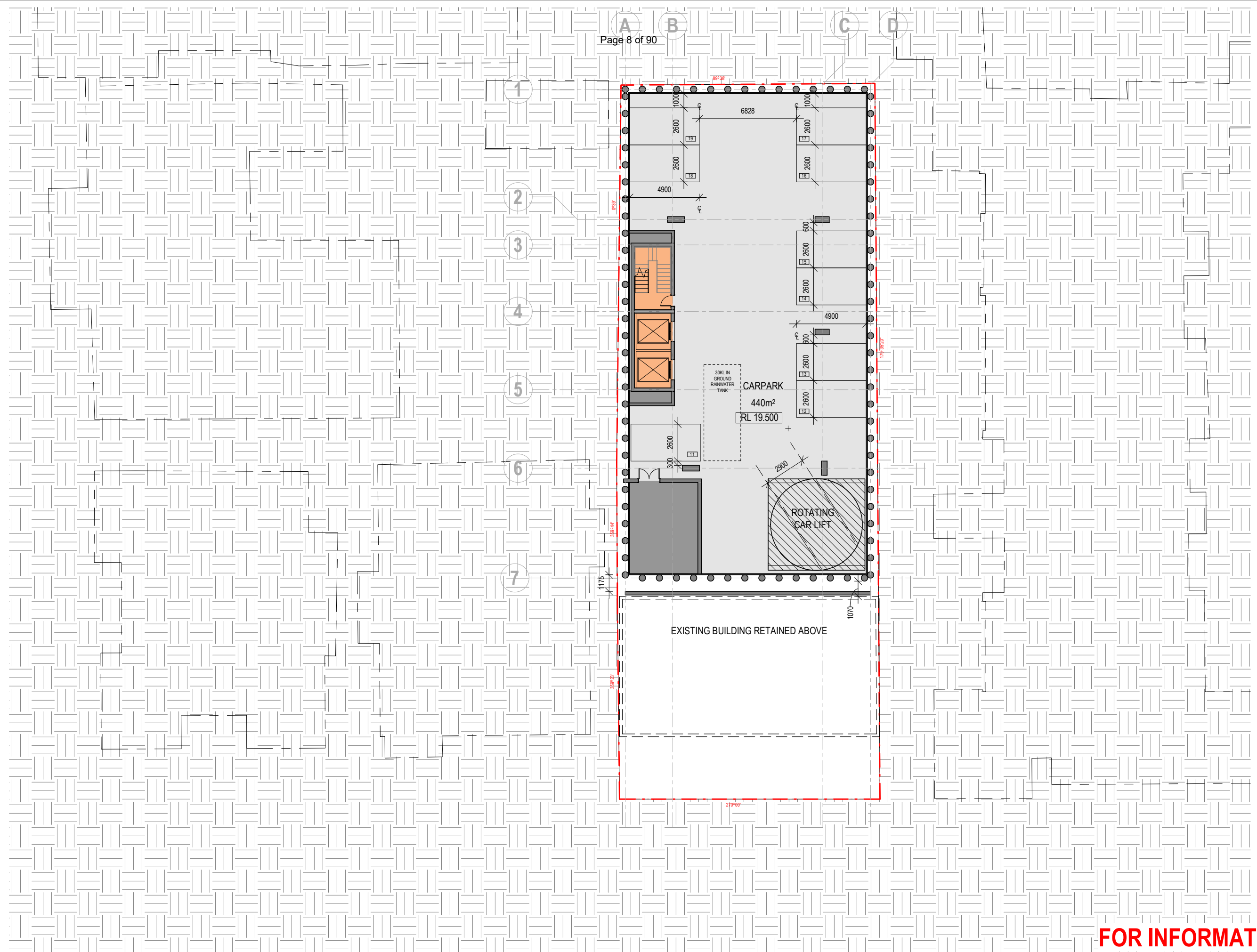
STATUS

DRAWING TITLE
DEMOLITION - ROOF

DRAWING NUMBER
TP 0-203

REVISION
4

Jackson
Clements
Burrows
Architects



FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au
 Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

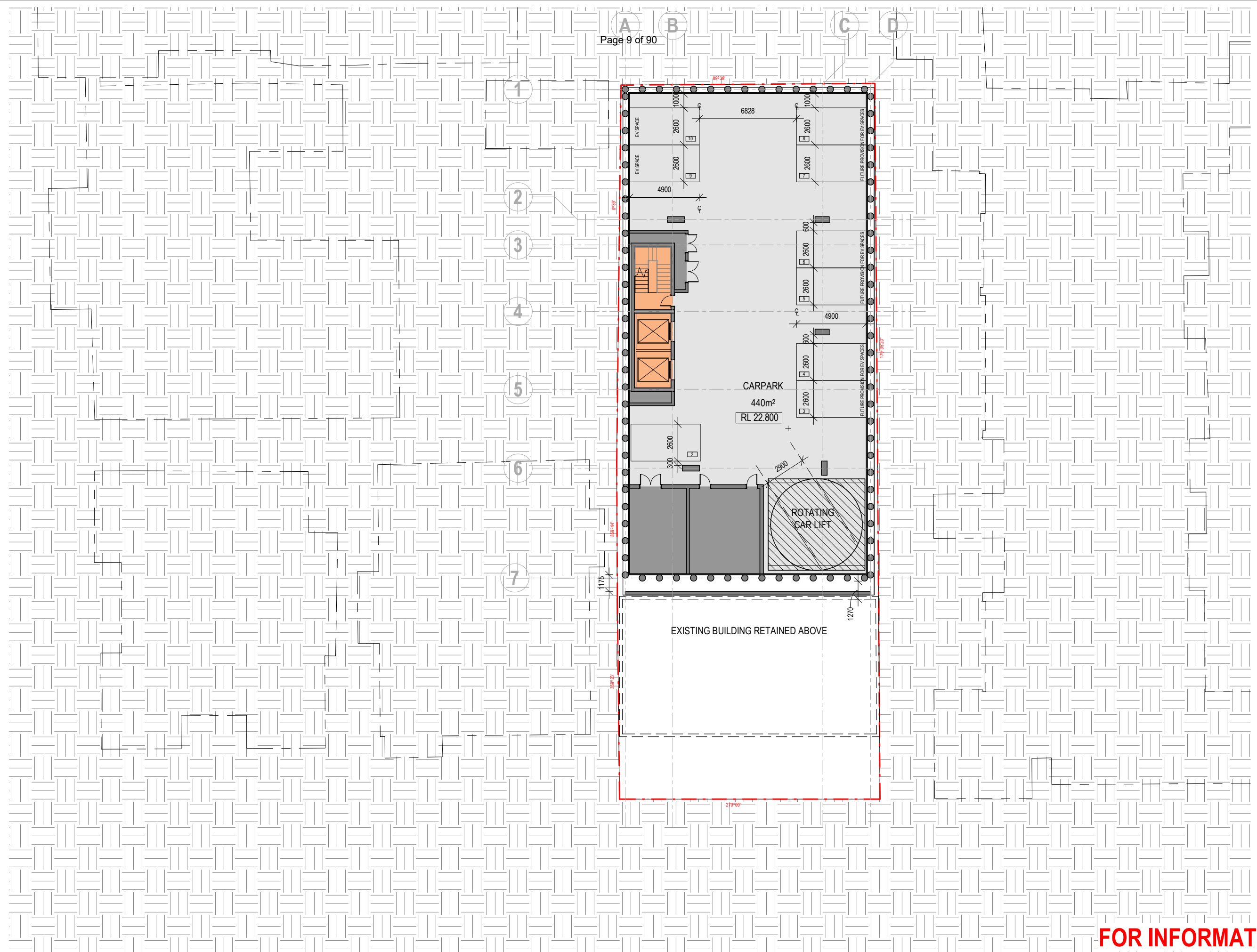
PROJECT #
 19-101
DATE
 2019/12/01

SCALE
 1 : 250
 @A3

PROJECT
 204 ALBERT STREET
 204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
STATUS

DRAWING TITLE
 PROPOSED - BASEMENT 03
DRAWING NUMBER
 TP 1-101
REVISION
 5

Jackson
 Clements
 Burrows
 Architects



FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au
 Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

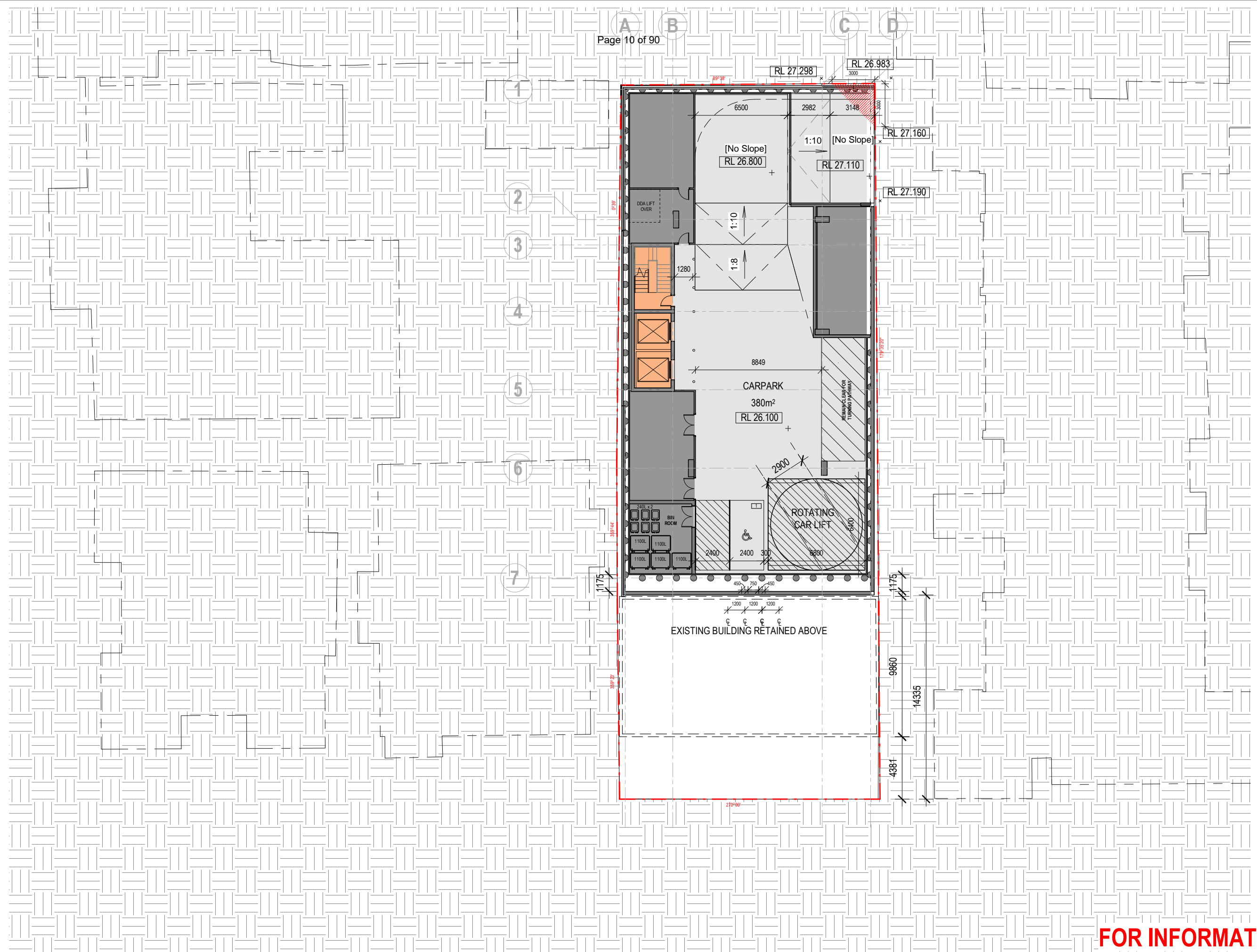
PROJECT #
19-101
 DATE
2019/12/01

SCALE
1 : 250
 @A3

PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
 STATUS

DRAWING TITLE
PROPOSED - BASEMENT 02
 DRAWING NUMBER
TP 1-102
 REVISION
5

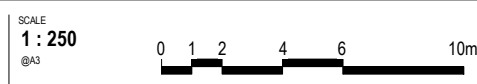
Jackson
 Clements
 Burrows
 Architects



FOR INFORMATION ONLY

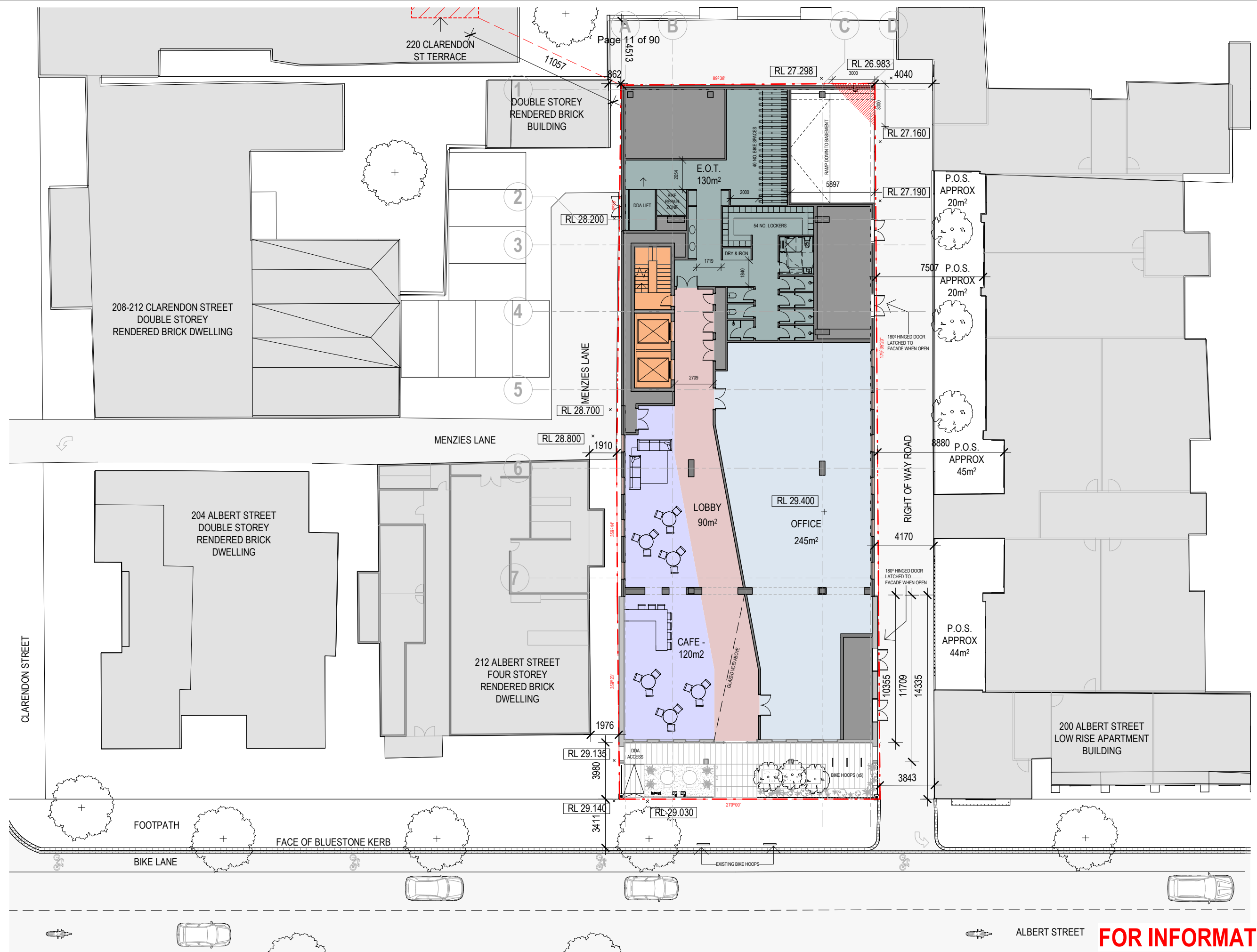
REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

PROJECT #	19-101
DATE	2019/12/01



PROJECT	204 ALBERT STREET
	204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
STATUS	

DRAWING TITLE	PROPOSED - BASEMENT 01
DRAWING NUMBER	TP 1-103
REVISION	5



FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

PROJECT #
19-101
 DATE
2019/12/01

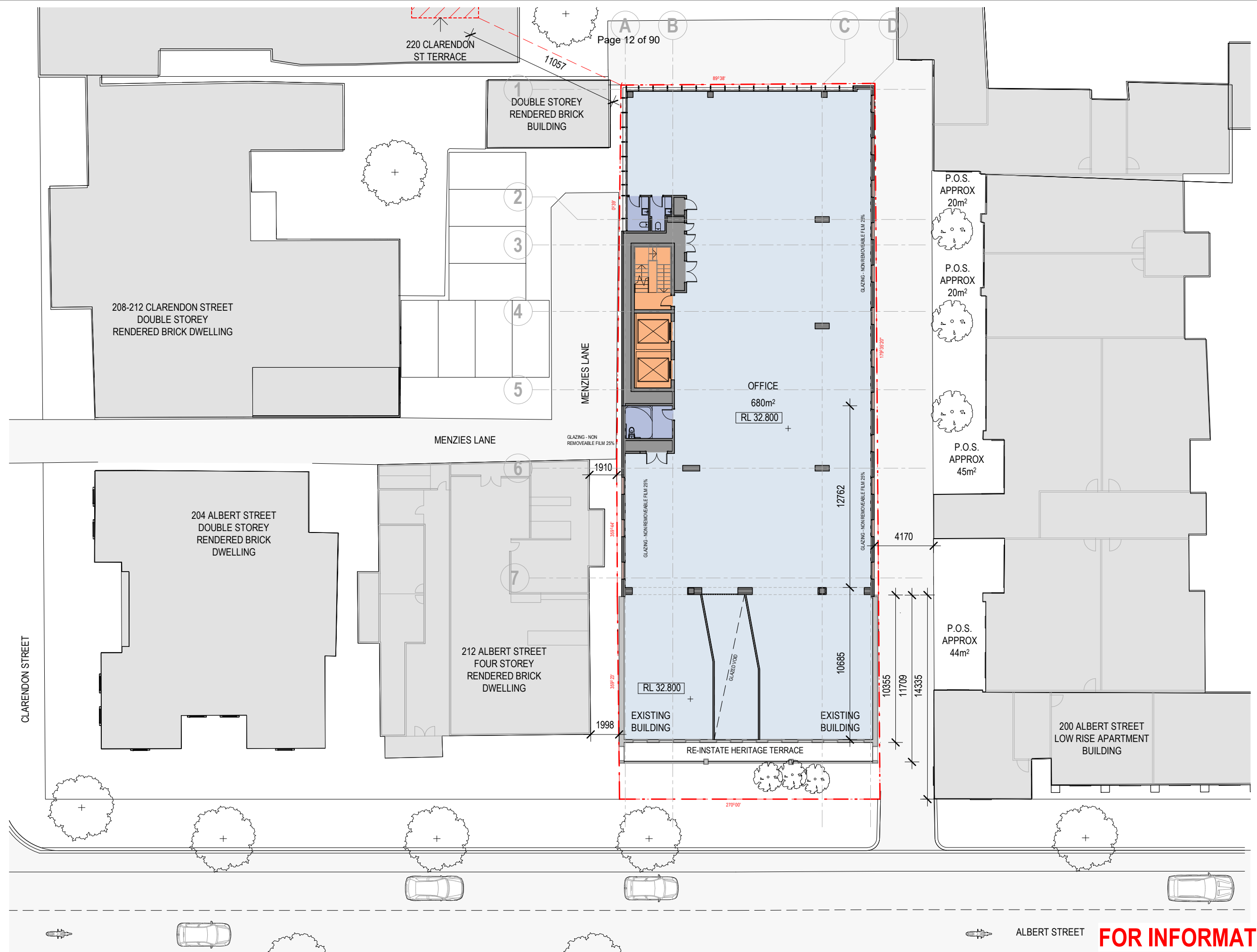
SCALE
1 : 250
 @A3

PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
 STATUS

DRAWING TITLE
PROPOSED - GROUND
 DRAWING NUMBER
TP 1-104
 REVISION
5

Jackson
 Clements
 Burrows
 Architects





FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au
 Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

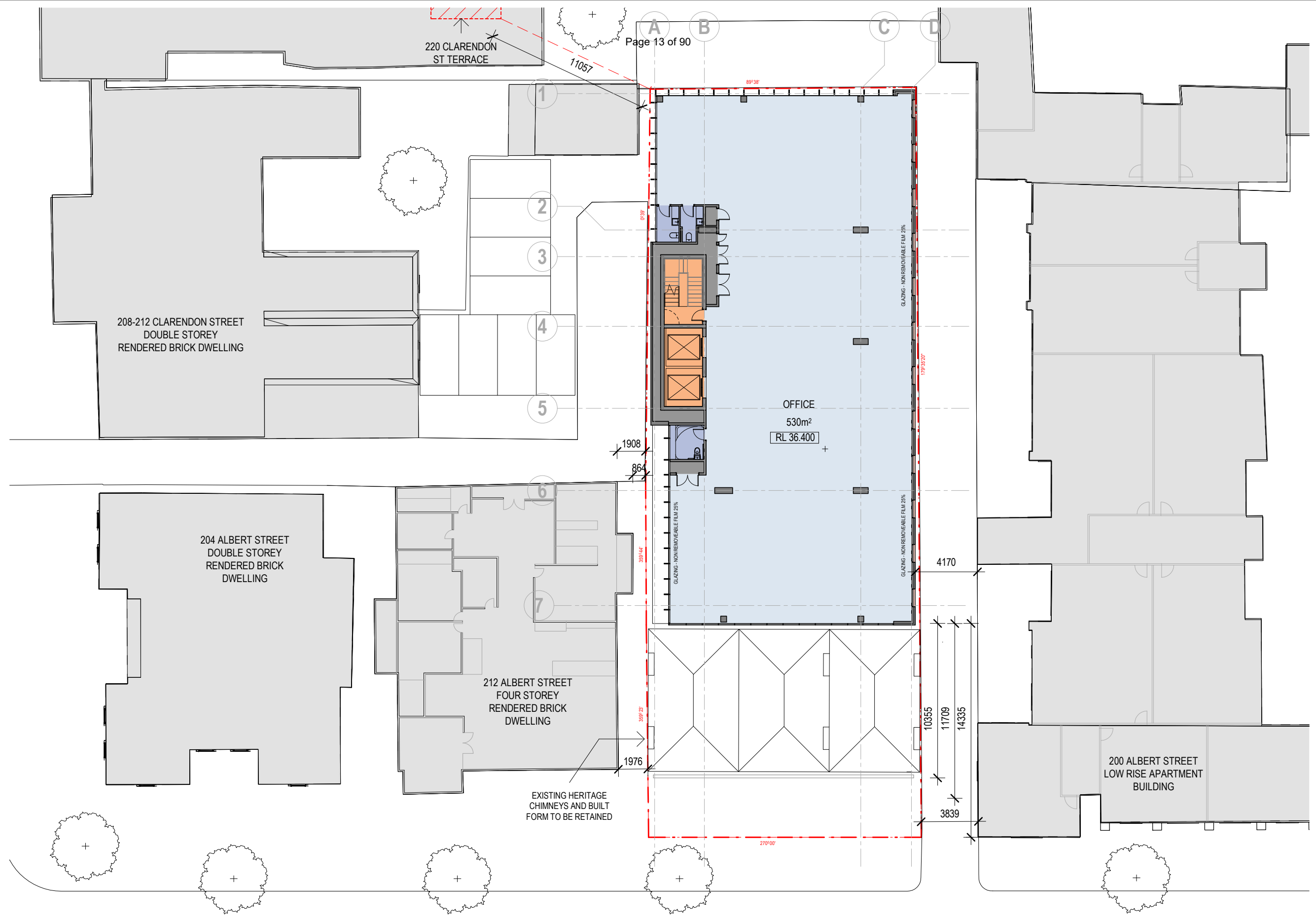
PROJECT #
19-101
 DATE
2019/12/01

SCALE
1 : 250
 @A3

PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
 STATUS

DRAWING TITLE
PROPOSED - LEVEL 01
 DRAWING NUMBER
TP 1-105
 REVISION
5

Jackson
 Clements
 Burrows
 Architects



FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au
 Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

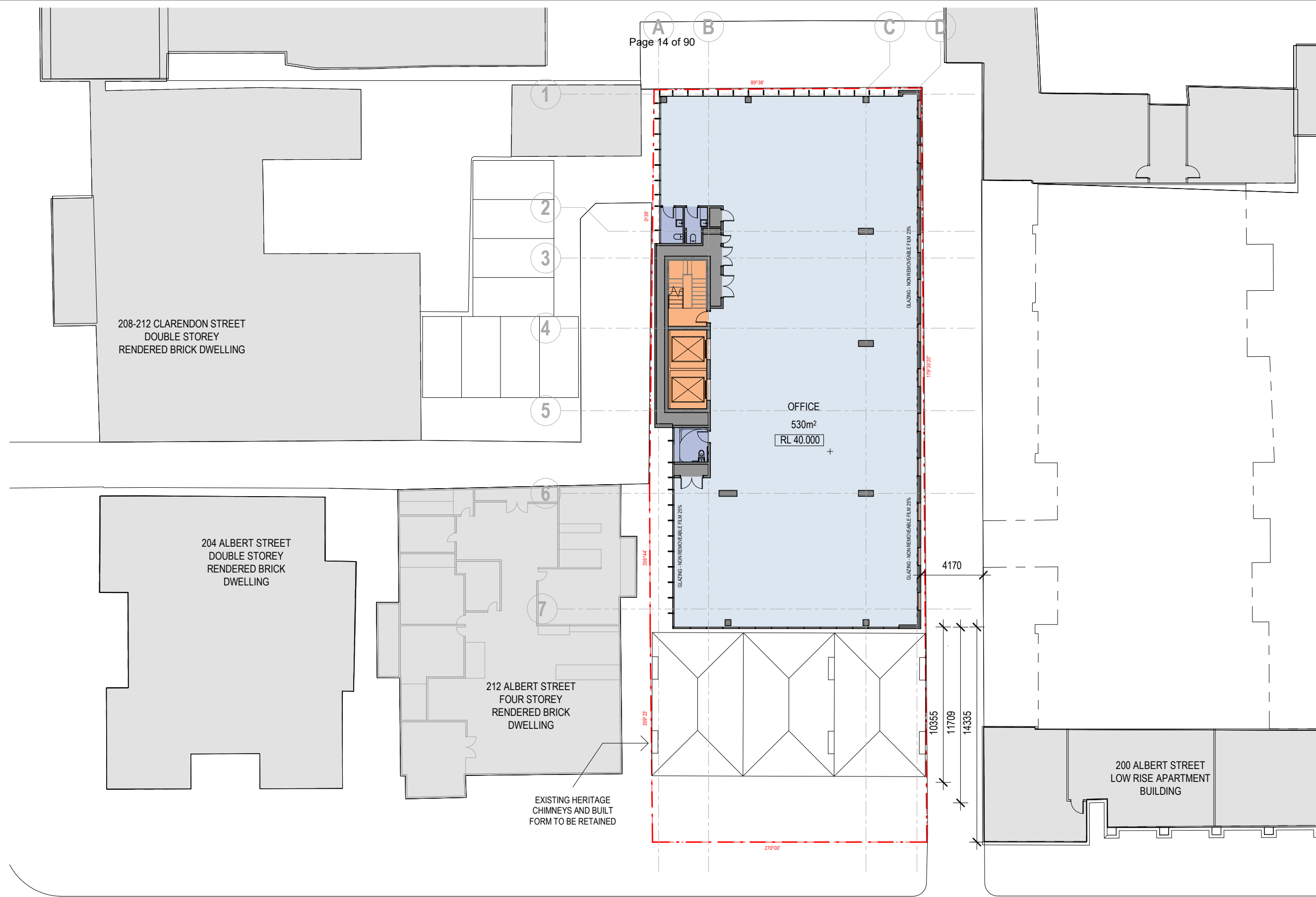
PROJECT #
19-101
 DATE
2019/12/01

SCALE
1 : 250
 @A3

PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
 STATUS

DRAWING TITLE
PROPOSED - LEVEL 02
 DRAWING NUMBER
TP 1-106
 REVISION
5

Jackson
 Clements
 Burrows
 Architects



FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au

Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

PROJECT #
 19-101

DATE
 2019/12/01

SCALE
 1 : 250
 @A3

PROJECT
 204 ALBERT STREET
 204-208 ALBERT STREET, EAST MELBOURNE VIC 3002

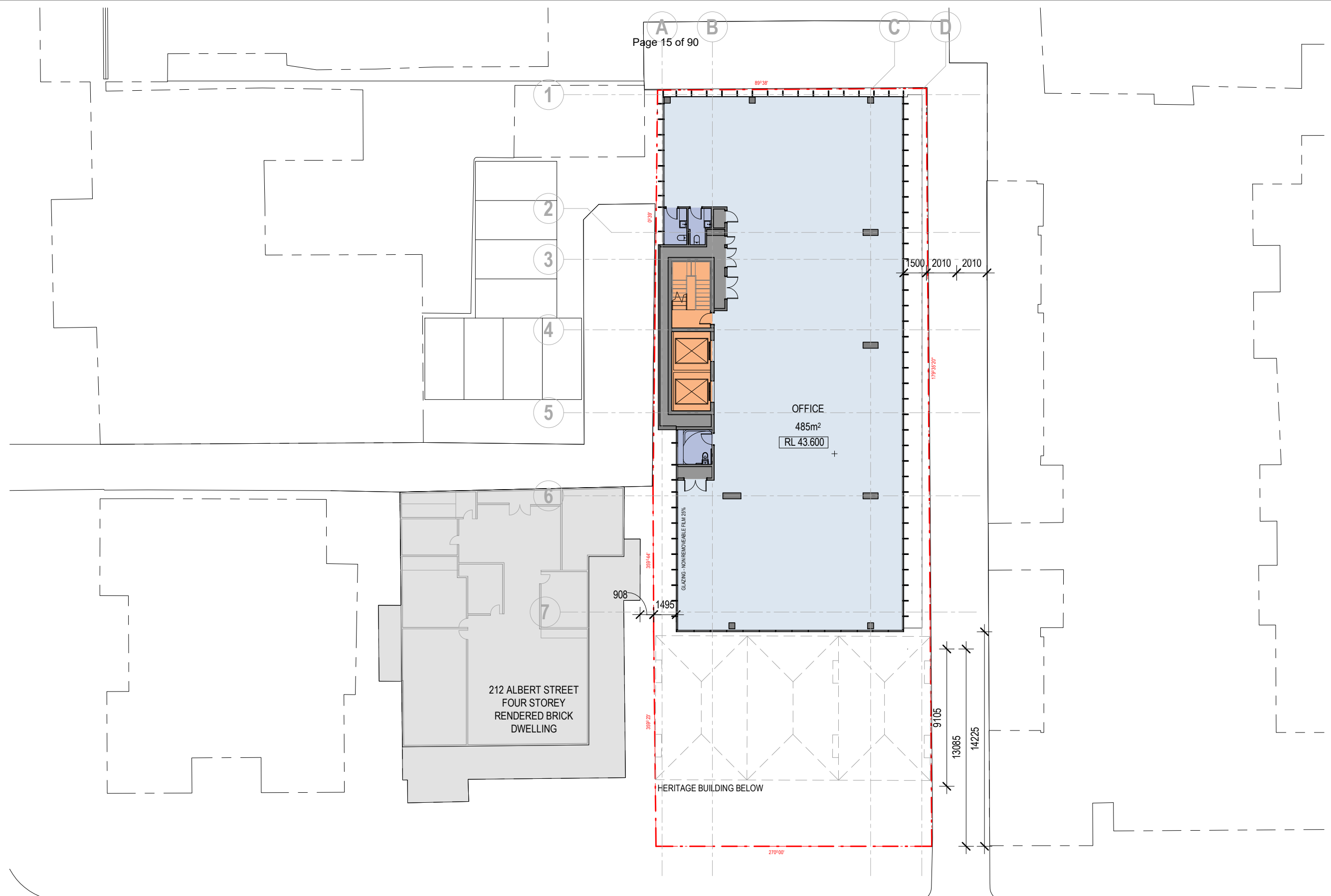
STATUS

DRAWING TITLE
 PROPOSED - LEVEL 03

DRAWING NUMBER
 TP 1-107

REVISION
 5

Jackson
 Clements
 Burrows
 Architects



FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au

Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

PROJECT #
19-101

DATE
2019/12/01

SCALE
1 : 250
 @A3

PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002

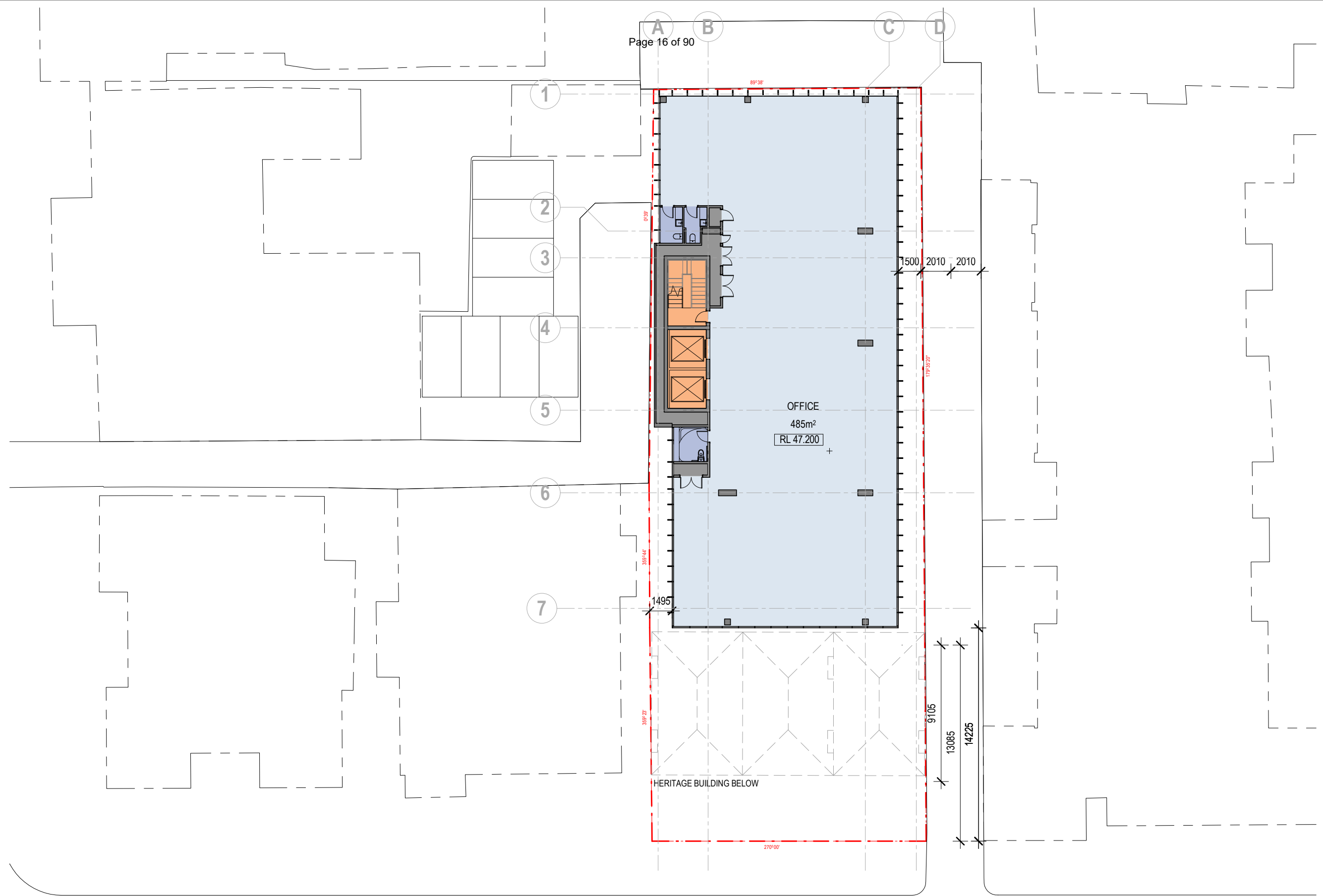
STATUS

DRAWING TITLE
PROPOSED - LEVEL 04

DRAWING NUMBER
TP 1-108

REVISION
5

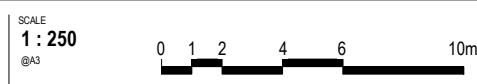




FOR INFORMATION ONLY

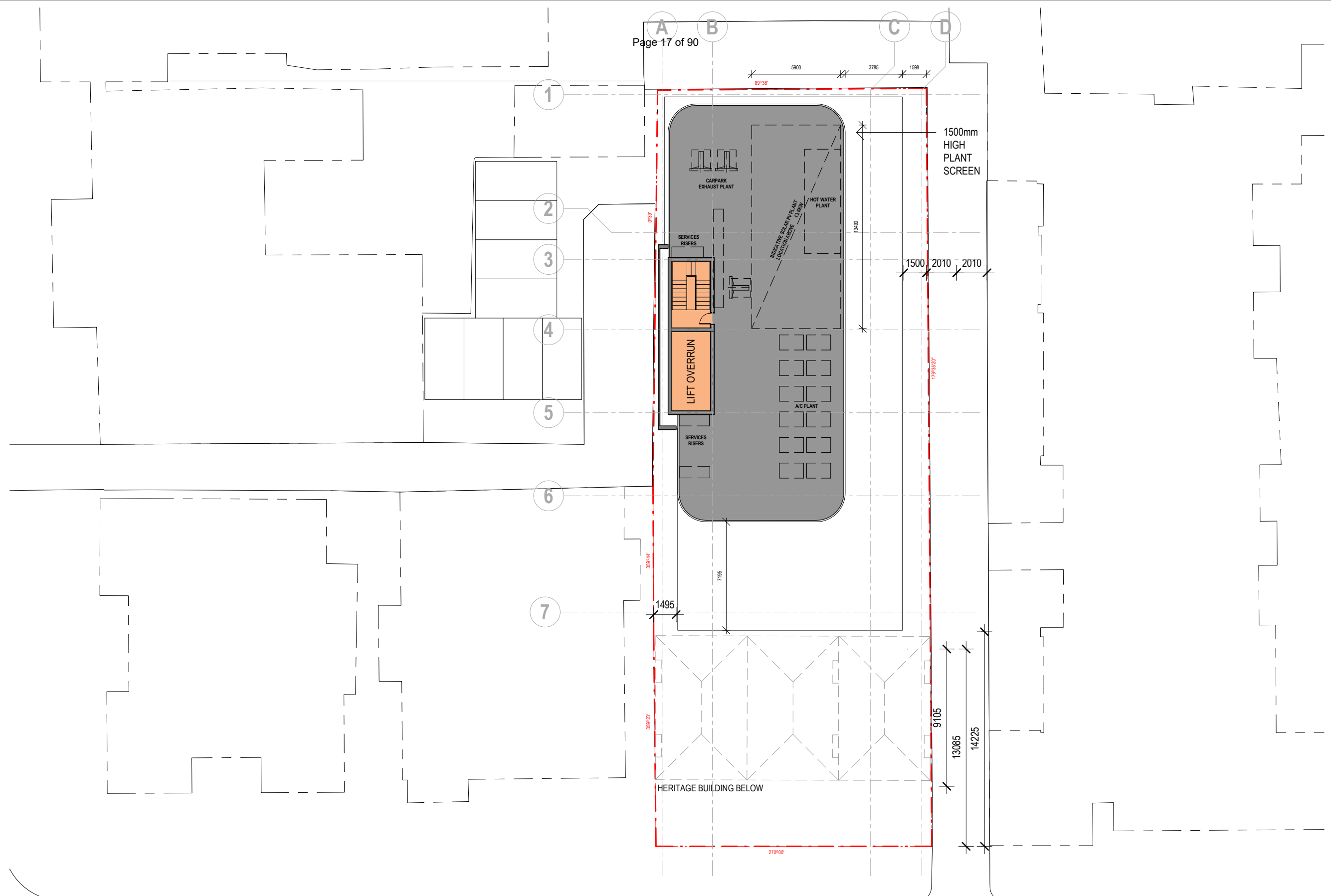
REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

PROJECT #	19-101
DATE	2019/12/01



PROJECT	204 ALBERT STREET
	204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
STATUS	

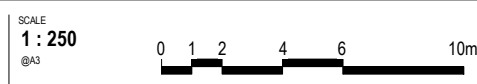
DRAWING TITLE	PROPOSED - LEVEL 05
DRAWING NUMBER	TP 1-109
REVISION	5



FOR INFORMATION ONLY

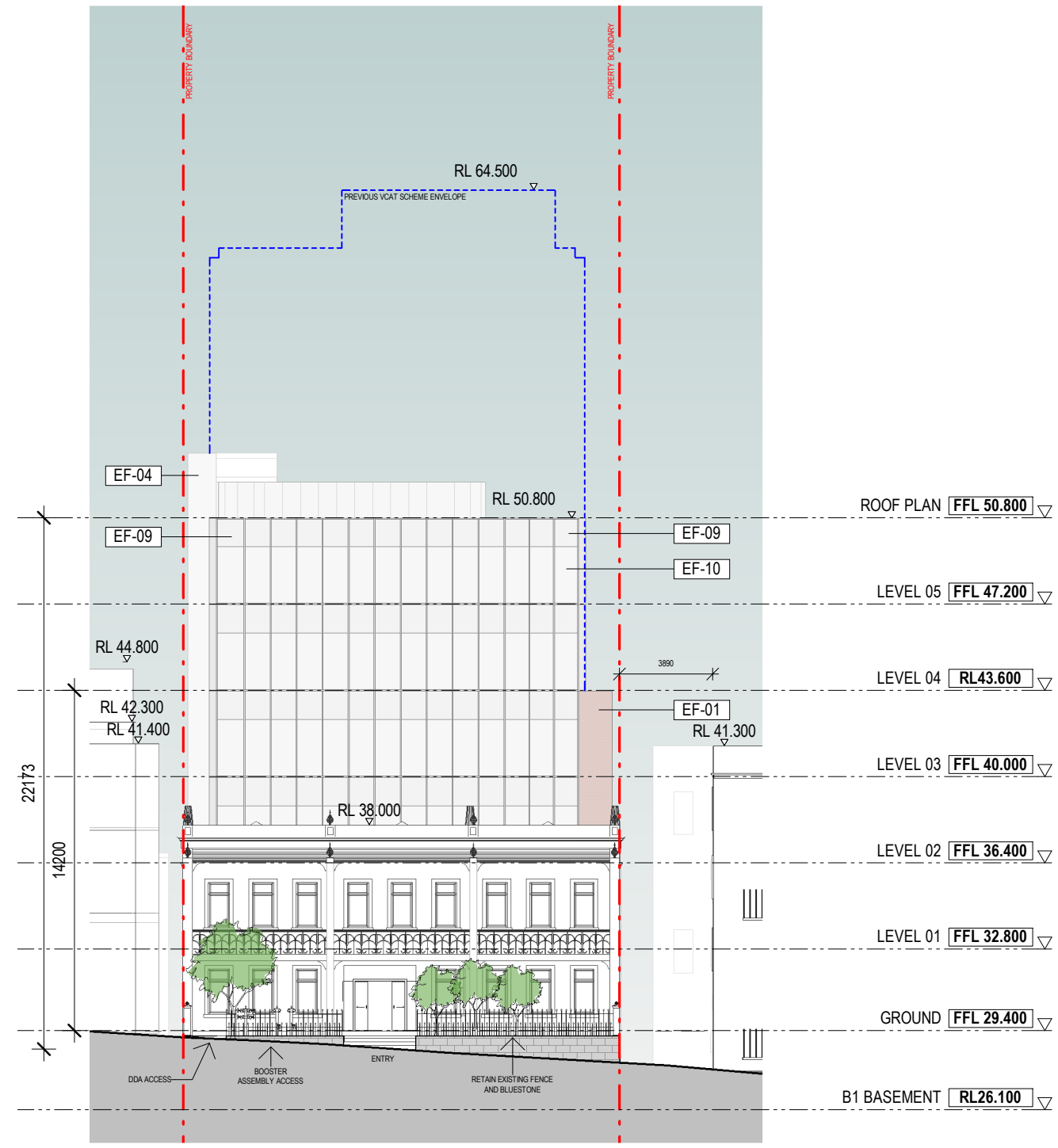
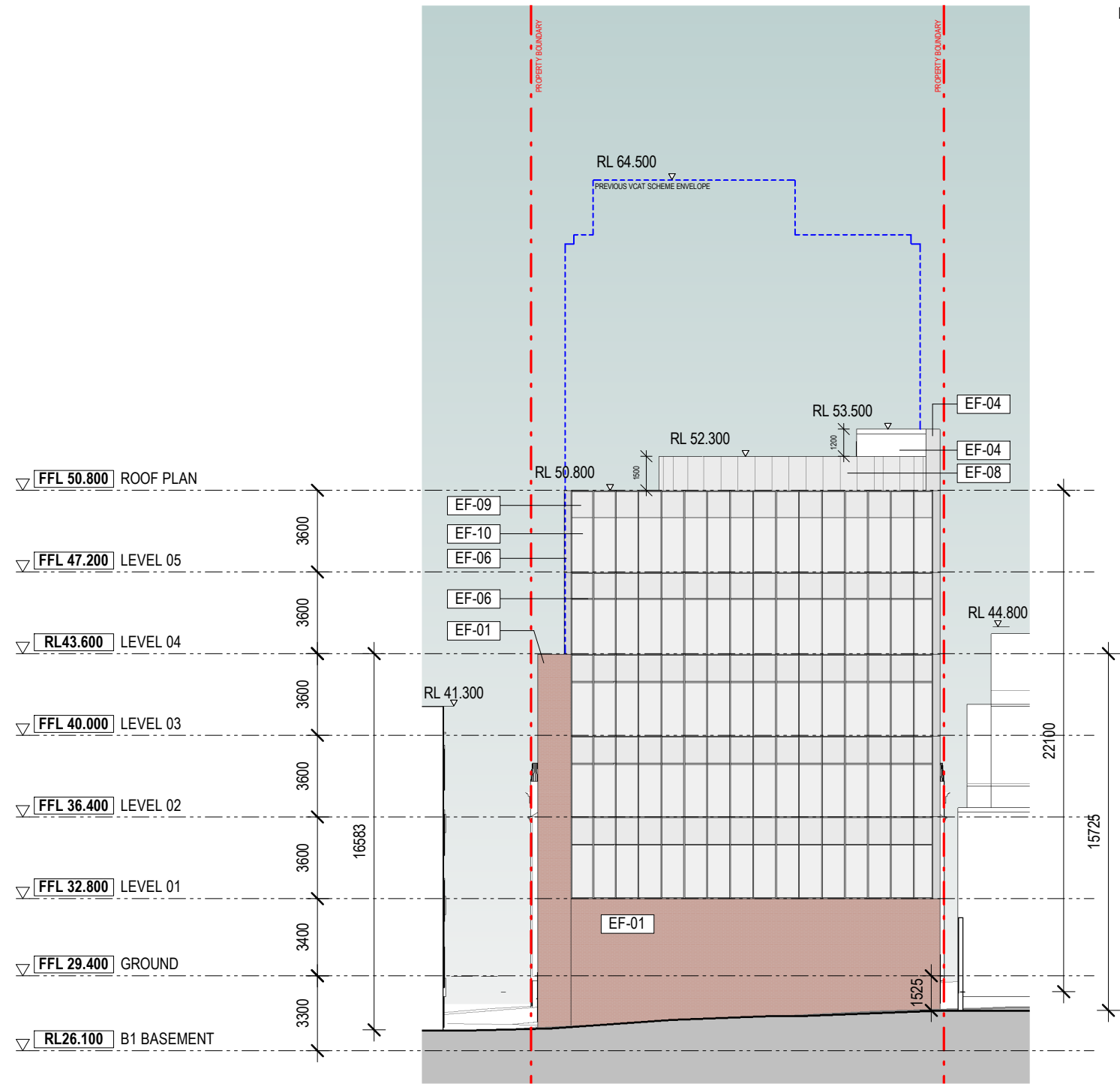
REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2022.12.06	PRE APPLICATION
4	2023.02.01	TP APPLICATION
5	2023.09.15	COUNCIL RFI

PROJECT #	19-101
DATE	2019/12/01



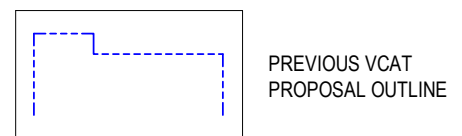
PROJECT	204 ALBERT STREET 204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
STATUS	

DRAWING TITLE	PROPOSED - ROOF
DRAWING NUMBER	TP 1-110
REVISION	5



LEGEND - EXTERNAL FINISHES

- EF - 01 BRICK - TRADITIONAL RED
- EF - 02 BRICK - GREY
- EF - 03 BLUESTONE PAVERS
- EF - 04 CONCRETE NATURAL - LIGHT GREY
- EF - 05 METAL - DARK GREY
- EF - 06 METAL - NATURAL ANODIZED ALUMINIUM
- EF - 07 PAINT - WHITE
- EF - 08 PERFORATED METAL PLANT SCREEN
- EF - 09 COLOUR BACKED GLASS SPANDREL - GREY
- EF - 10 GLAZING - CLEAR
- EF - 11 GLAZING - NON REMOVEABLE FILM - 25%
- EF - 12 GLAZING - NON REMOVEABLE FILM - 0%

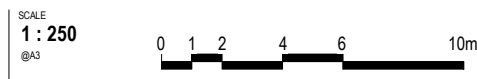


FOR INFORMATION ONLY

COPYRIGHT
Jackson Clements Burrows
Pty Ltd Architects
345 SWAN STREET RICHMOND Vic 3121
T +613 9654 6227 jcba.com.au

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2023.02.01	TP APPLICATION
4	2023.09.15	COUNCIL RFI

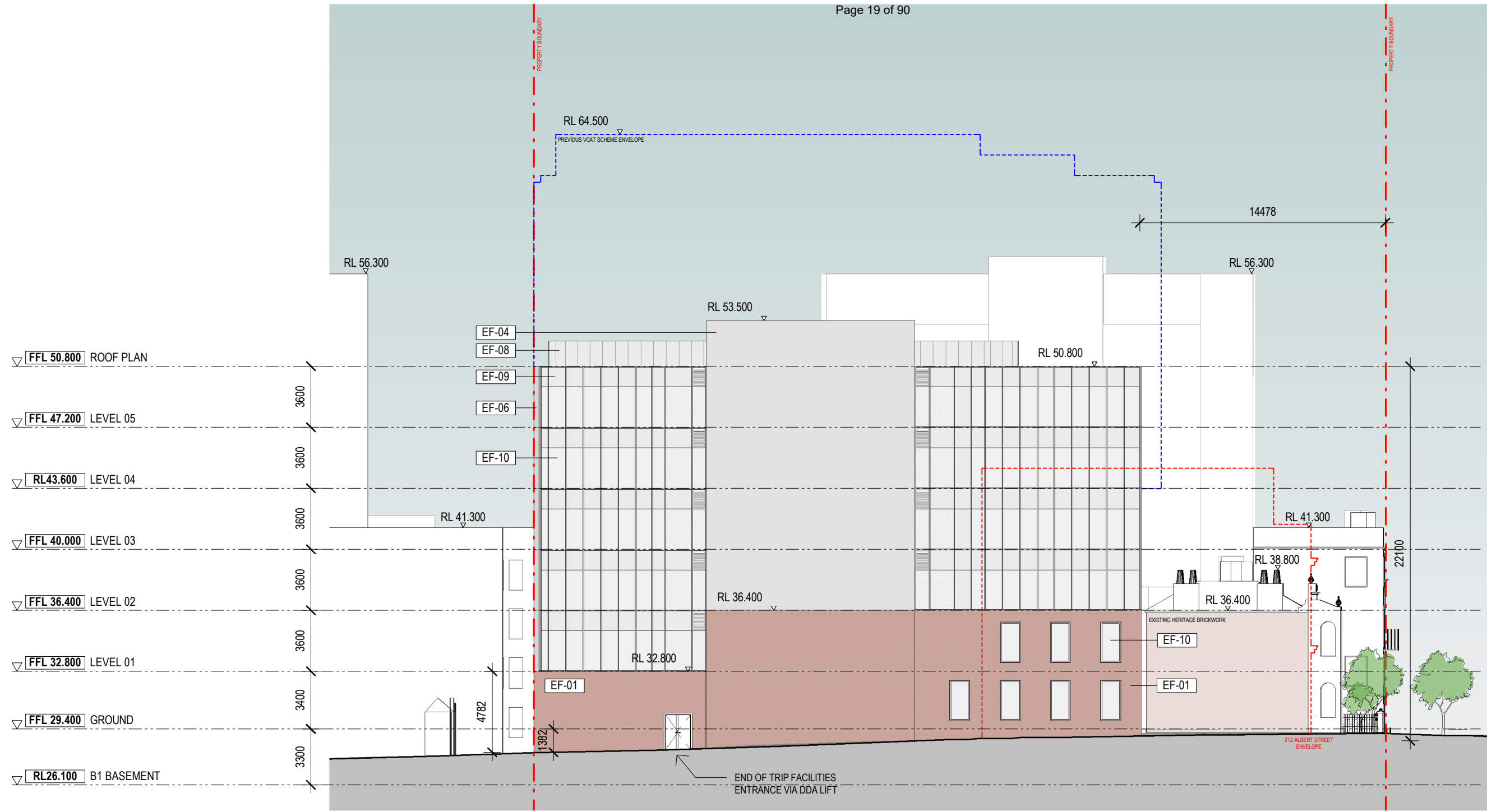
PROJECT #
19-101
DATE
2019/12/01



PROJECT
**204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002**
STATUS

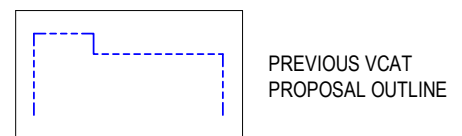
DRAWING TITLE
ELEVATIONS - N/S
DRAWING NUMBER
TP 2-101
REVISION
4





LEGEND - EXTERNAL FINISHES

- EF-01 BRICK - TRADITIONAL RED
- EF-02 BRICK - GREY
- EF-03 BLUESTONE PAVERS
- EF-04 CONCRETE NATURAL - LIGHT GREY
- EF-05 METAL - DARK GREY
- EF-06 METAL - NATURAL ANODIZED ALUMINIUM
- EF-07 PAINT - WHITE
- EF-08 PERFORATED METAL PLANT SCREEN
- EF-09 COLOUR BACKED GLASS SPANDREL - GREY
- EF-10 GLAZING - CLEAR
- EF-11 GLAZING - NON REMOVEABLE FILM - 25%
- EF-12 GLAZING - NON REMOVEABLE FILM - 0%

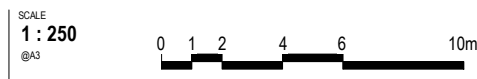


FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au
Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2023.02.01	TP APPLICATION
4	2023.09.15	COUNCIL RFI

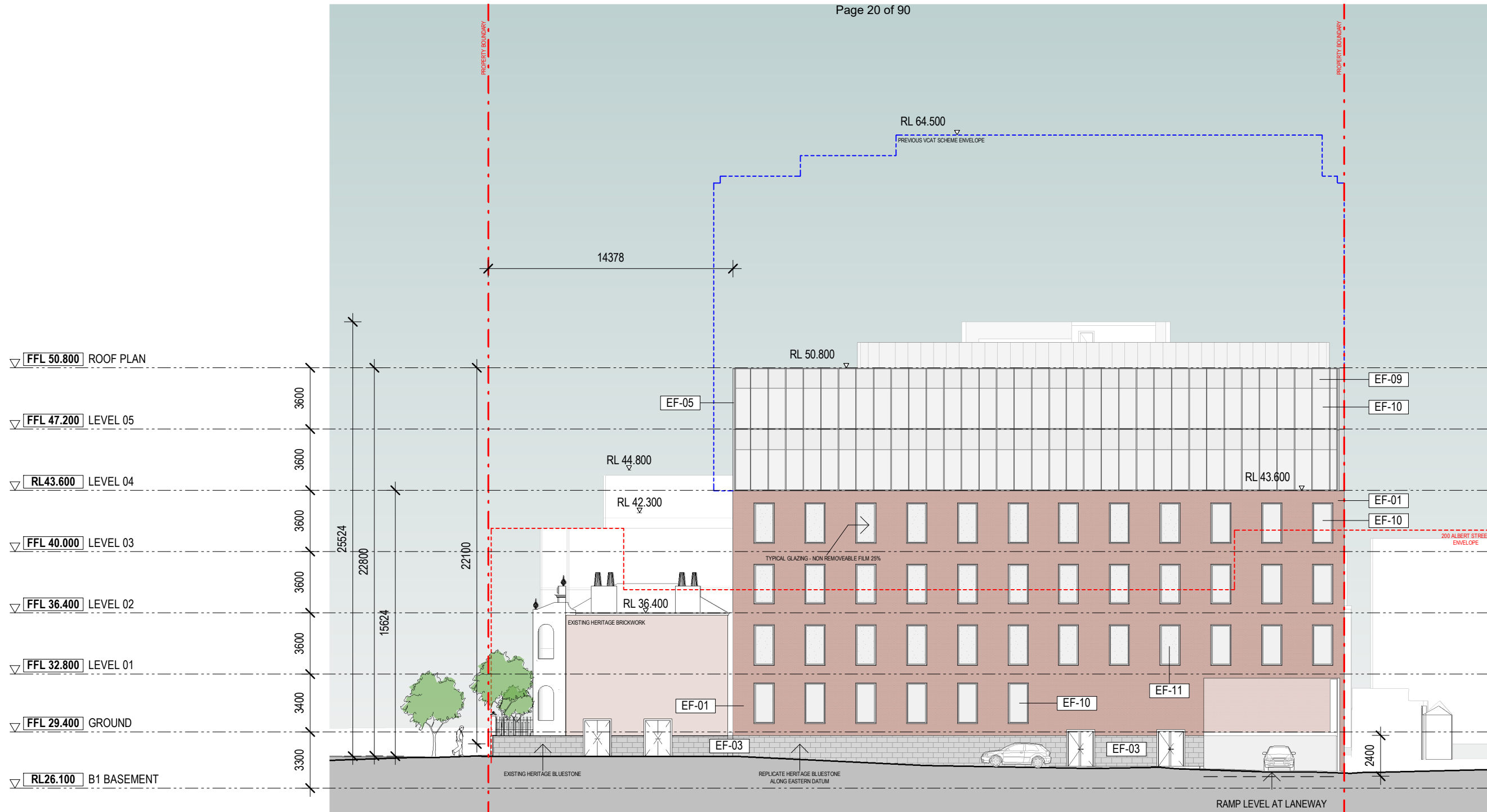
PROJECT #
19-101
 DATE
01/15/20



PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
 STATUS

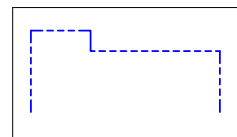
DRAWING TITLE
ELEVATIONS - WEST
 DRAWING NUMBER
TP 2-102
 REVISION
4

Jackson
 Clements
 Burrows
 Architects



LEGEND - EXTERNAL FINISHES

- EF-01 BRICK - TRADITIONAL RED
- EF-02 BRICK - GREY
- EF-03 BLUESTONE PAVERS
- EF-04 CONCRETE NATURAL - LIGHT GREY
- EF-05 METAL - DARK GREY
- EF-06 METAL - NATURAL ANODIZED ALUMINIUM
- EF-07 PAINT - WHITE
- EF-08 PERFORATED METAL PLANT SCREEN
- EF-09 COLOUR BACKED GLASS SPANDREL - GREY
- EF-10 GLAZING - CLEAR
- EF-11 GLAZING - NON REMOVEABLE FILM - 25%
- EF-12 GLAZING - NON REMOVEABLE FILM - 0%



PREVIOUS VCAT PROPOSAL OUTLINE

FOR INFORMATION ONLY

COPYRIGHT
 Jackson Clements Burrows
 Pty Ltd Architects
 345 SWAN STREET RICHMOND Vic 3121
 T +613 9654 6227 jcba.com.au
Transfer of E-Data Terms and Conditions:
<http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-ficb.pdf>

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2023.02.01	TP APPLICATION
4	2023.09.15	COUNCIL RFI

PROJECT #
19-101
DATE
2019/12/01

SCALE
1 : 250
@A3

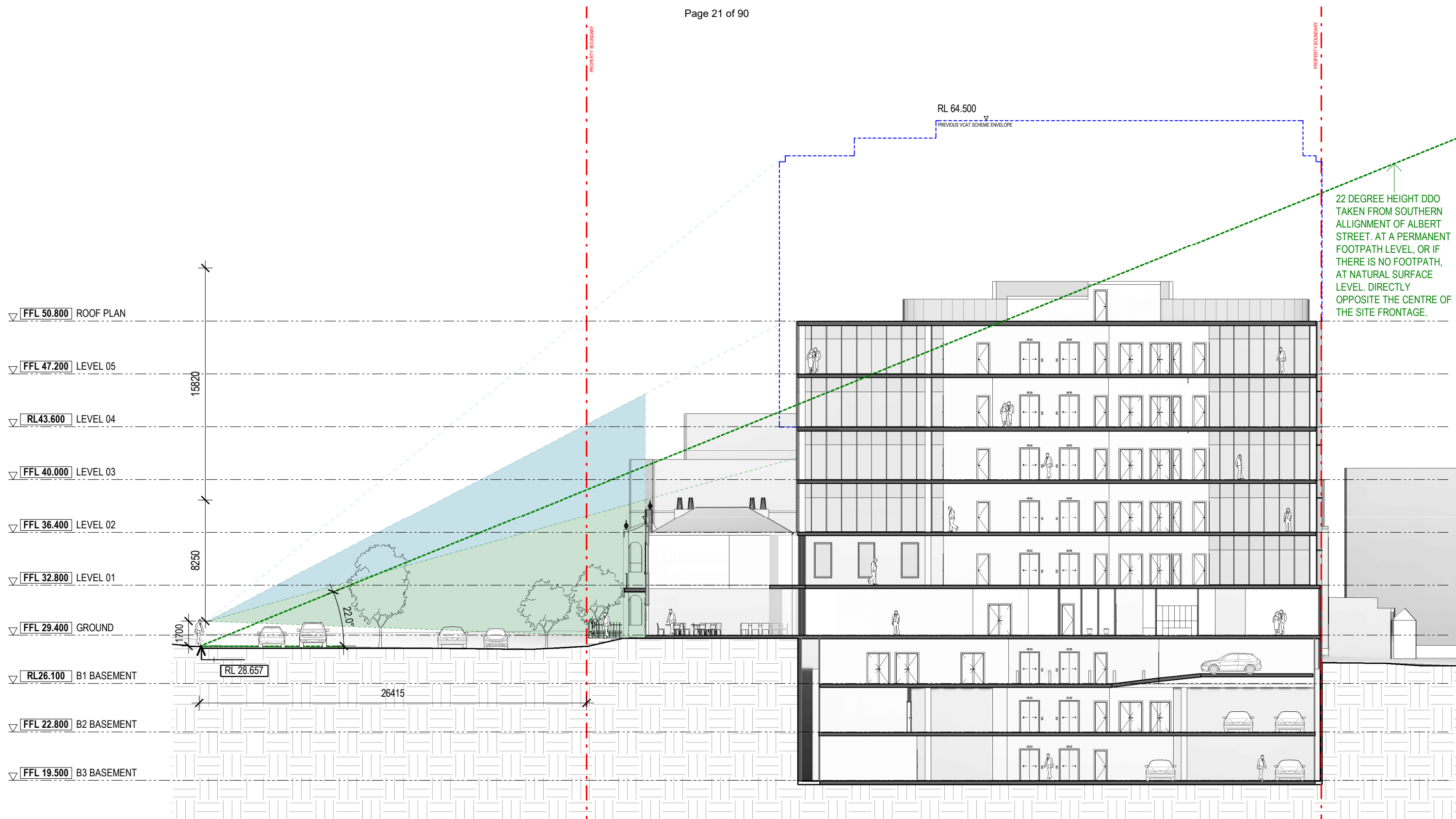


PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002
STATUS

DRAWING TITLE
ELEVATIONS - EAST
DRAWING NUMBER
TP 2-103
REVISION
4

Jackson
 Clements
 Burrows
 Architects





FOR INFORMATION ONLY

COPYRIGHT
Jackson Clements Burrows
Pty Ltd Architects
345 SWAN STREET RICHMOND Vic 3121
T +613 9654 6227 jcba.com.au

Transferec of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transferec-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transferec-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2021.12.17	TOWN PLANNING SUBMISSION
2	2023.02.01	TP APPLICATION
3	2023.09.15	COUNCIL RFI

PROJECT #
19-101

DATE
05/13/21

SCALE
1 : 250
@A3



PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002

STATUS

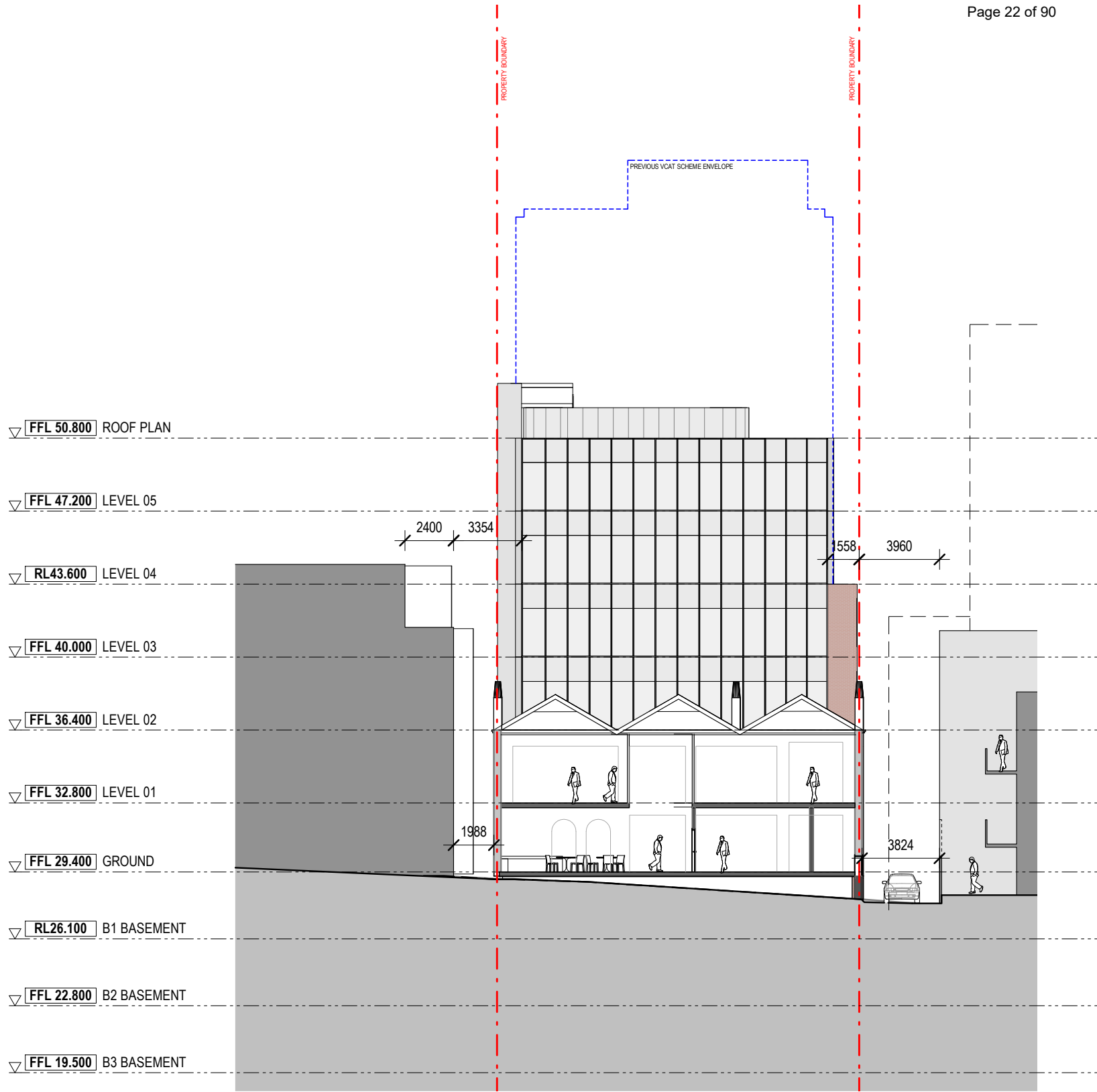
DRAWING TITLE
SECTIONS N/S EXTENTS

DRAWING NUMBER
TP 3-100

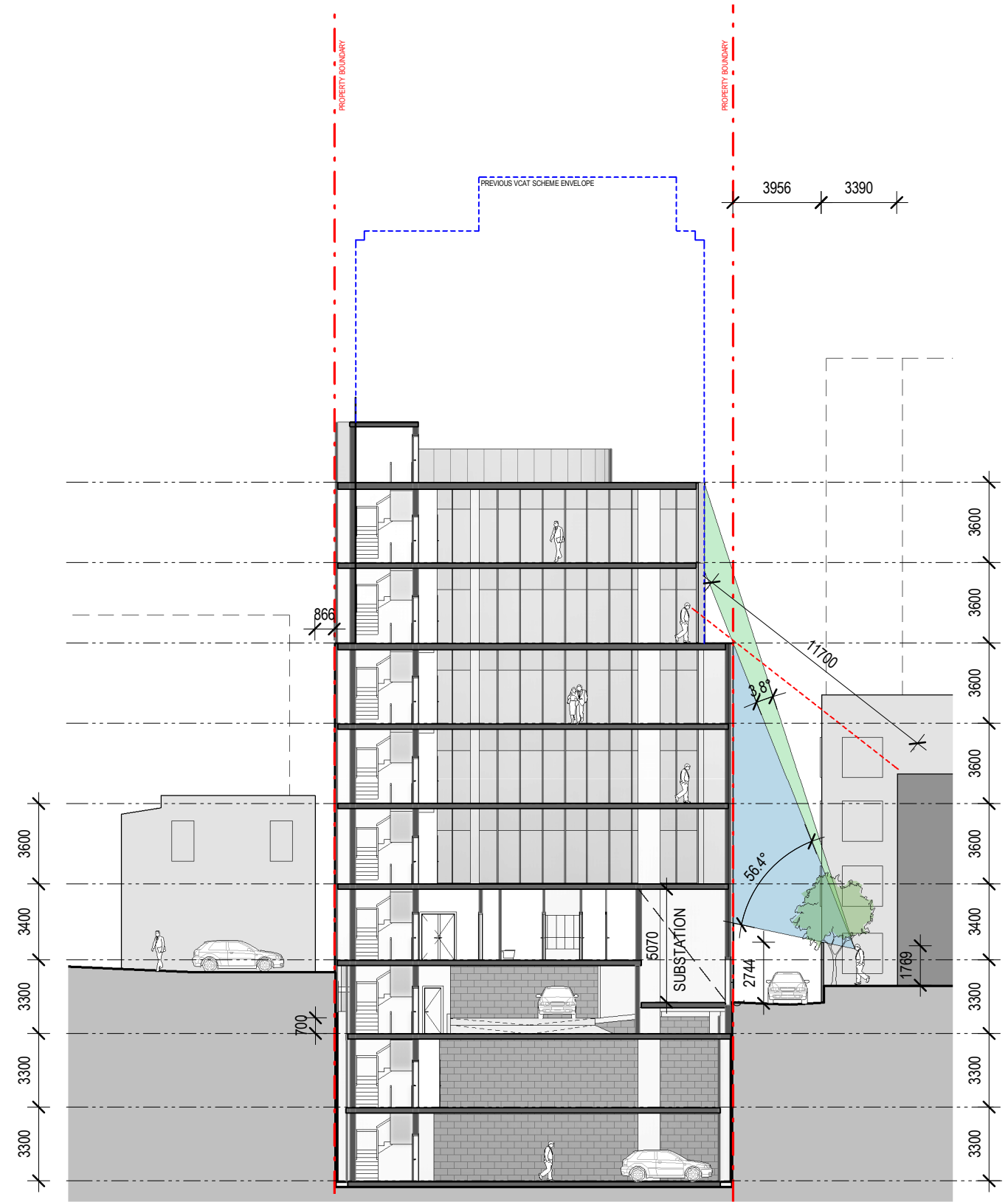
REVISION
3

Jackson
Clements
Burrows
Architects





2 EAST WEST SECTION 03 - TP
1 : 250



1 EAST WEST SECTION 01 - TP
1 : 250

FOR INFORMATION ONLY

COPYRIGHT
Jackson Clements Burrows
Pty Ltd Architects
345 SWAN STREET RICHMOND Vic 3121
T +613 9654 6227 jcba.com.au

Transfer of E-Data Terms and Conditions:
[http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-\(tcb\).pdf](http://jcba.com.au/cms/uploads/docs/electronic-transfer-of-data-(tcb).pdf)

REV	DATE	DESCRIPTION
1	2020.03.23	TOWN PLANNING ISSUE
2	2021.12.17	TOWN PLANNING SUBMISSION
3	2023.02.01	TP APPLICATION
4	2023.09.15	COUNCIL RFI

PROJECT #
19-101

DATE
2019/12/01



PROJECT
204 ALBERT STREET
204-208 ALBERT STREET, EAST MELBOURNE VIC 3002

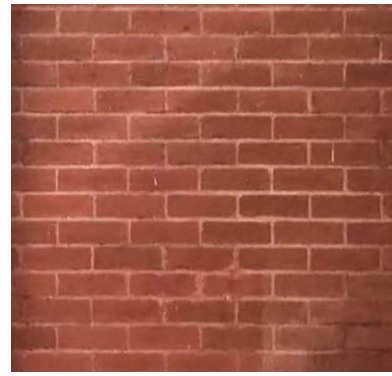
STATUS

DRAWING TITLE
SECTIONS - E/W

DRAWING NUMBER
TP 3-103

REVISION
4

Jackson
Clements
Burrows
Architects



EF - 01
BRICK - RED



EF - 02
BRICK - GREY



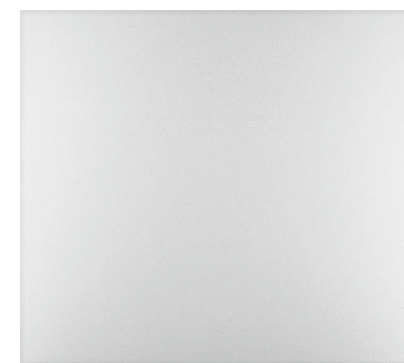
EF - 03
BLUESTONE



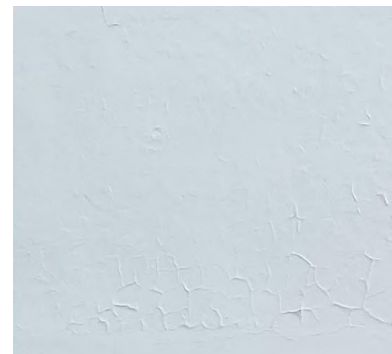
EF - 04
CONCRETE NATURAL
LIGHT GREY



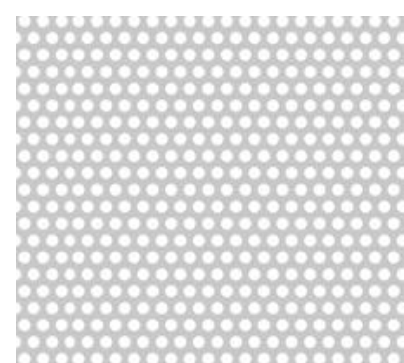
EF - 05
METAL - DARK GREY



EF - 06
METAL - ALUMINIUM BLADE



EF - 07
WHITE PAINT



EF - 08
PLANT SCREEN -
PERFORATED METAL



EF - 09
SOLID COLOUR BACKED
GLASS - LIGHT GREY

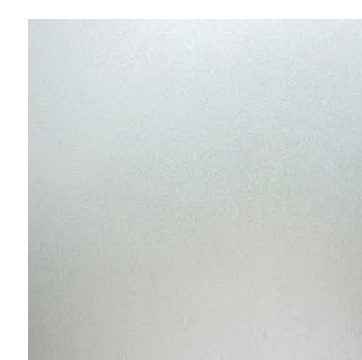


EF - 10
GLAZING - CLEAR



EF - 11
GLAZING - NON
REMOVEABLE FILM
25% TRANSPARENCY

INDICATIVE ONLY*



EF - 12
GLAZING - NON
REMOVEABLE FILM
0% TRANSPARENCY

LEGEND - EXTERNAL FINISHES	
EF - 01	BRICK - TRADITIONAL RED
EF - 02	BRICK - GREY
EF - 03	BLUESTONE PAVERS
EF - 04	CONCRETE NATURAL - LIGHT GREY
EF - 05	METAL - DARK GREY
EF - 06	METAL - NATURAL ANODIZED ALUMINIUM
EF - 07	PAINT - WHITE
EF - 08	PERFORATED METAL PLANT SCREEN
EF - 09	COLOUR BACKED GLASS SPANDREL - GREY
EF - 10	GLAZING - CLEAR
EF - 11	GLAZING - NON REMOVEABLE FILM - 25%
EF - 12	GLAZING - NON REMOVEABLE FILM - 0%

FOR INFORMATION ONLY

Area Schedule (REVISED TP - GFA)		
Level	Name	Area
B3 BASEMENT	CARPARK	490.7 m ²
B3 BASEMENT	SERVICES	33.6 m ²
B3 BASEMENT	CORE	32.9 m ²
B3 BASEMENT	SERVICES	2.8 m ²
B3 BASEMENT	SERVICES	3.2 m ²
		563.2 m ²
B2 BASEMENT	CARPARK	461.4 m ²
B2 BASEMENT	SERVICES	58.8 m ²
B2 BASEMENT	CORE	32.9 m ²
B2 BASEMENT	SERVICES	7.0 m ²
B2 BASEMENT	SERVICES	3.2 m ²
		563.2 m ²
B1 BASEMENT	CARPARK	389.3 m ²
B1 BASEMENT	SERVICES	48.6 m ²
B1 BASEMENT	SERVICES	34.6 m ²
B1 BASEMENT	CORE	31.5 m ²
B1 BASEMENT	SERVICES	59.2 m ²
		563.2 m ²
GROUND	LOBBY	96.9 m ²
GROUND	SERVICES	21.8 m ²
GROUND	SERVICES	38.0 m ²
GROUND	SERVICES	18.6 m ²
GROUND	END OF TRIP	145.9 m ²
GROUND	OFFICE	247.4 m ²
GROUND	CAFE	121.1 m ²
GROUND	CORE	30.7 m ²
GROUND	SERVICES	37.2 m ²
GROUND	SERVICES	4.6 m ²
		762.2 m ²
LEVEL 01	OFFICE	701.6 m ²
LEVEL 01	CORE	30.7 m ²
LEVEL 01	SERVICES	19.5 m ²
LEVEL 01	WC	7.6 m ²
LEVEL 01	WC	9.3 m ²
LEVEL 01	SERVICES	3.3 m ²
		772.1 m ²

Area Schedule (REVISED TP - GFA)		
Level	Name	Area
LEVEL 02	OFFICE	545.7 m ²
LEVEL 02	CORE	31.5 m ²
LEVEL 02	SERVICES	19.1 m ²
LEVEL 02	WC	7.6 m ²
LEVEL 02	SERVICES	2.3 m ²
LEVEL 02	WC	6.3 m ²
		612.5 m ²
LEVEL 03	OFFICE	545.7 m ²
LEVEL 03	CORE	31.5 m ²
LEVEL 03	SERVICES	19.1 m ²
LEVEL 03	WC	7.6 m ²
LEVEL 03	WC	6.3 m ²
LEVEL 03	SERVICES	2.3 m ²
		612.5 m ²
LEVEL 04	OFFICE	493.5 m ²
LEVEL 04	CORE	31.5 m ²
LEVEL 04	SERVICES	19.1 m ²
LEVEL 04	WC	7.6 m ²
LEVEL 04	WC	6.3 m ²
LEVEL 04	SERVICES	2.3 m ²
		560.3 m ²
LEVEL 05	OFFICE	493.6 m ²
LEVEL 05	CORE	30.7 m ²
LEVEL 05	SERVICES	19.8 m ²
LEVEL 05	WC	7.7 m ²
LEVEL 05	WC	6.3 m ²
LEVEL 05	SERVICES	2.3 m ²
		560.4 m ²
ROOF PLAN	SERVICES	282.8 m ²
ROOF PLAN	CORE	31.9 m ²
ROOF PLAN	ROOFTOP	241.9 m ²
		556.7 m ²
		6126.1 m ²

TOTAL GFA - 6126m²

Area Schedule (CARSPACES)		
Level	Name	Quantity
BASEMENT 03	CARSPACE	9
BASEMENT 02	CARSPACE	9
BASEMENT 01	CARSPACE	1
GROUND	CARSPACE	0
LEVEL 01 - ROOF	CARSPACE	0
		19

TOTAL CARSPACES - 19 SPACES

Area Schedule (BICYCLE)		
Level	Name	Quantity
BASEMENT 03	BICYCLE SPACE	0
BASEMENT 02	BICYCLE SPACE	0
BASEMENT 01	BICYCLE SPACE	0
GROUND	BICYCLE SPACE	46 (6 horizontal)
LEVEL 01 - ROOF	BICYCLE SPACE	0
		46

TOTAL BICYCLE SPACES - 46 SPACES

Use	Car Parking		Bicycle Parking	
	Required	Provided	Required	Provided
Office NFA = 2951m ²	89	19	Employee: 10 1 to each 300sqm of net floor area Visitor: 3	Employee = 40 Visitor = 6
Cafe LFA = 125m ²	4	3.5 to each 100 sqm of LFA	Employee: 1 1 to each 300sqm of net floor area Visitor: 1	Employee = 1 Visitor = 1

Area Schedule (REVISED TP - NLA)		
Level	Name	Area
GROUND	OFFICE	244.2 m ²
LEVEL 01	OFFICE	682.9 m ²
LEVEL 02	OFFICE	527.5 m ²
LEVEL 03	OFFICE	529.7 m ²
LEVEL 04	OFFICE	483.3 m ²
LEVEL 05	OFFICE	483.3 m ²
		2951.0 m ²

TOTAL OFFICE NLA - 2951m²

Area Schedule (REVISED TP - DEV GFA)		
Level	Name	Area
GROUND		762.2 m ²
LEVEL 01		772.1 m ²
LEVEL 02		612.5 m ²
LEVEL 03		612.5 m ²
LEVEL 04		560.3 m ²
LEVEL 05		560.4 m ²
		3879.9 m ²

TOTAL OFFICE GFA - 3880m² 76%

FOR INFORMATION ONLY

PERSPECTIVE IMAGERY- Southern Facade, Albert Street



PERSPECTIVE IMAGERY- Southern Facade, Albert Street



PERSPECTIVE IMAGERY- Southern Facade, Albert Street



PERSPECTIVE IMAGERY- South West Facades, Fitzroy Gardens



PERSPECTIVE IMAGERY- East Podium, Laneway



Shadow Analysis

9:00AM - 22nd September

- EXISTING SHADOWS
- NEW OVERSHADOWING OF PROPOSAL



Shadow Analysis

10:00AM - 22nd September

- EXISTING SHADOWS
- NEW OVERSHADOWING OF PROPOSAL



Shadow Analysis

11:00AM - 22nd September

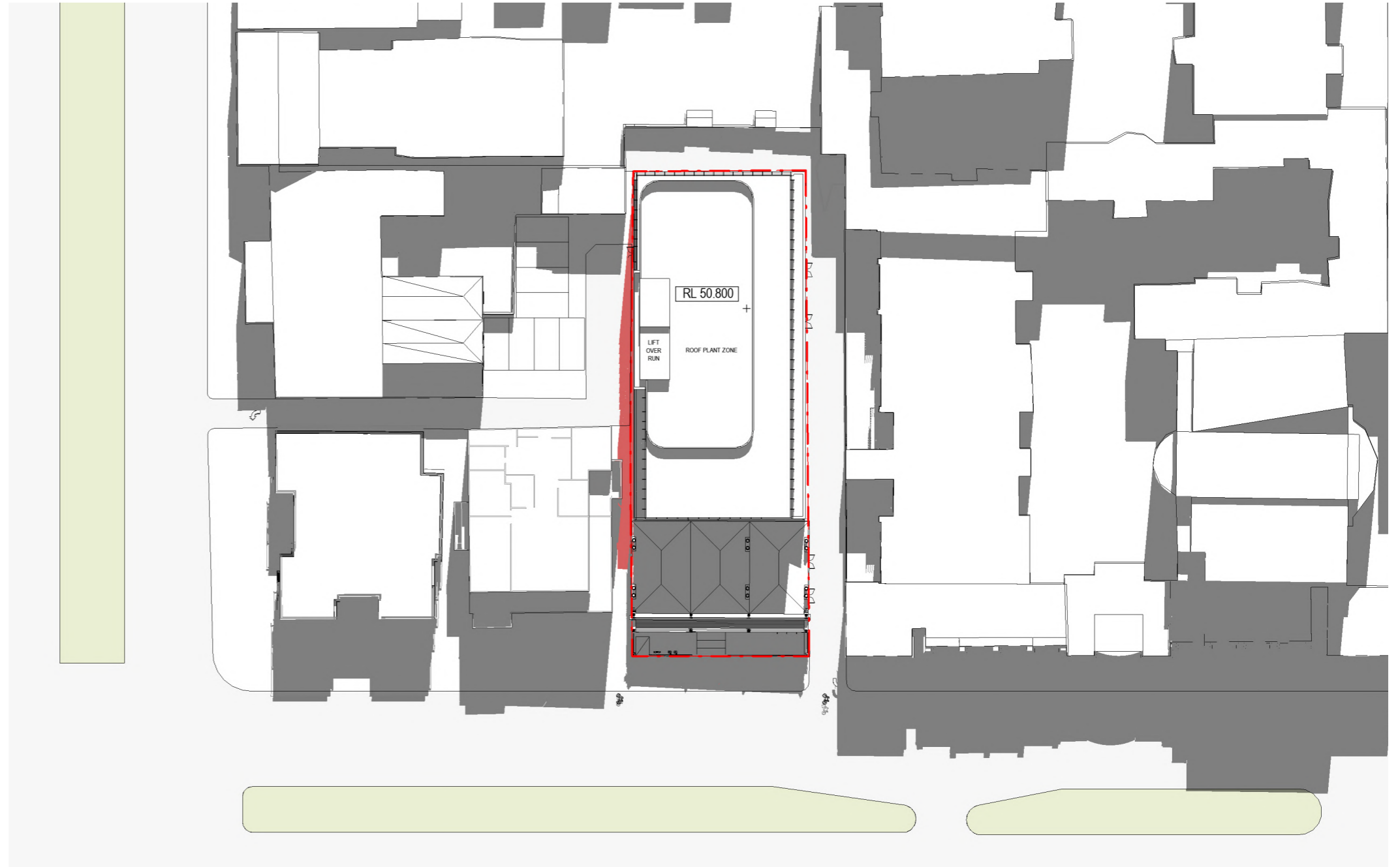
- EXISTING SHADOWS
- NEW OVERSHADOWING OF PROPOSAL



Shadow Analysis

12:00PM - 22nd September

- EXISTING SHADOWS
- NEW OVERSHADOWING OF PROPOSAL



Shadow Analysis

1:00PM - 22nd September

- EXISTING SHADOWS
- NEW OVERSHADOWING OF PROPOSAL



Shadow Analysis

2:00PM - 22nd September

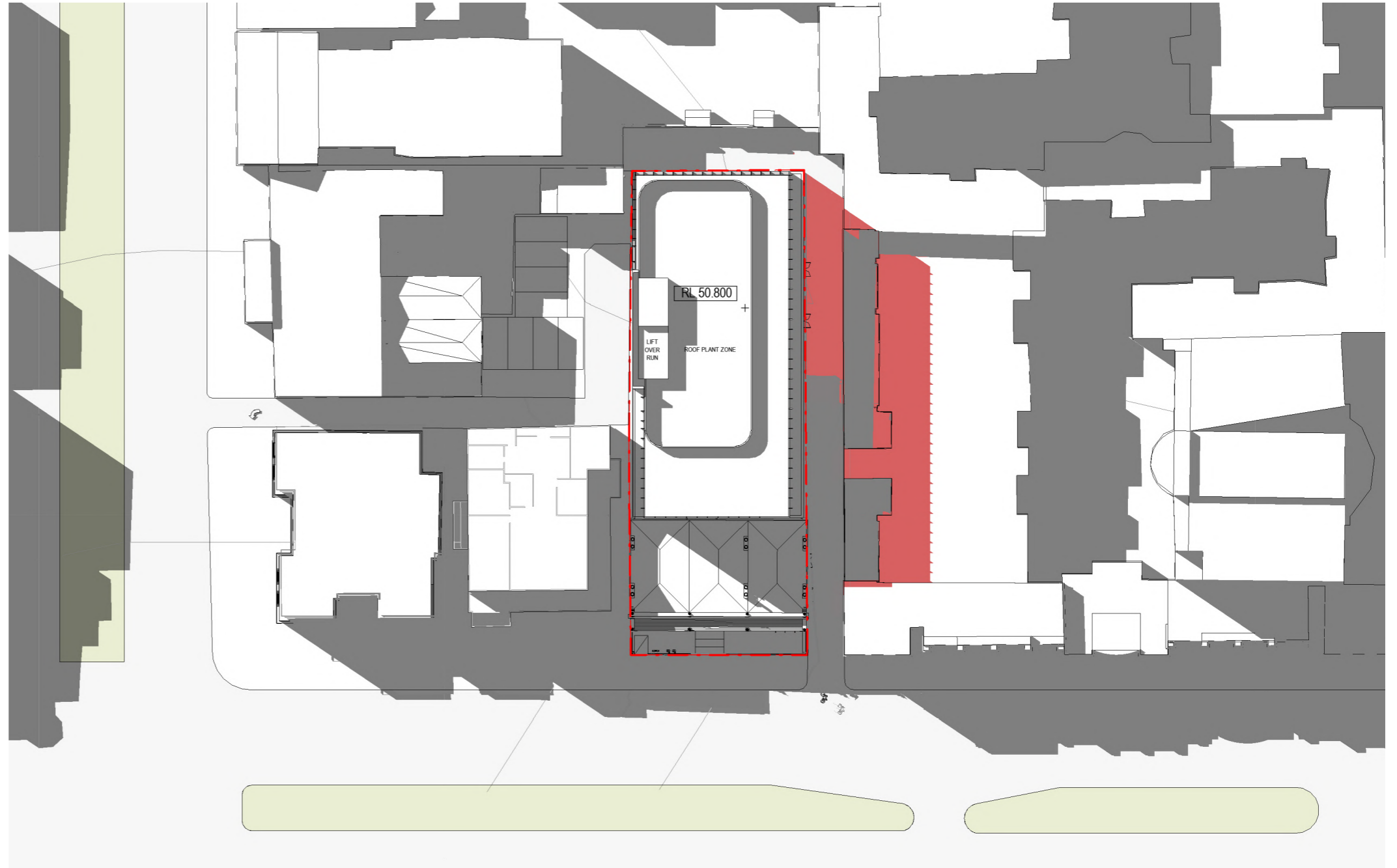
- EXISTING SHADOWS
- NEW OVERSHADOWING OF PROPOSAL



Shadow Analysis

3:00PM - 22nd September

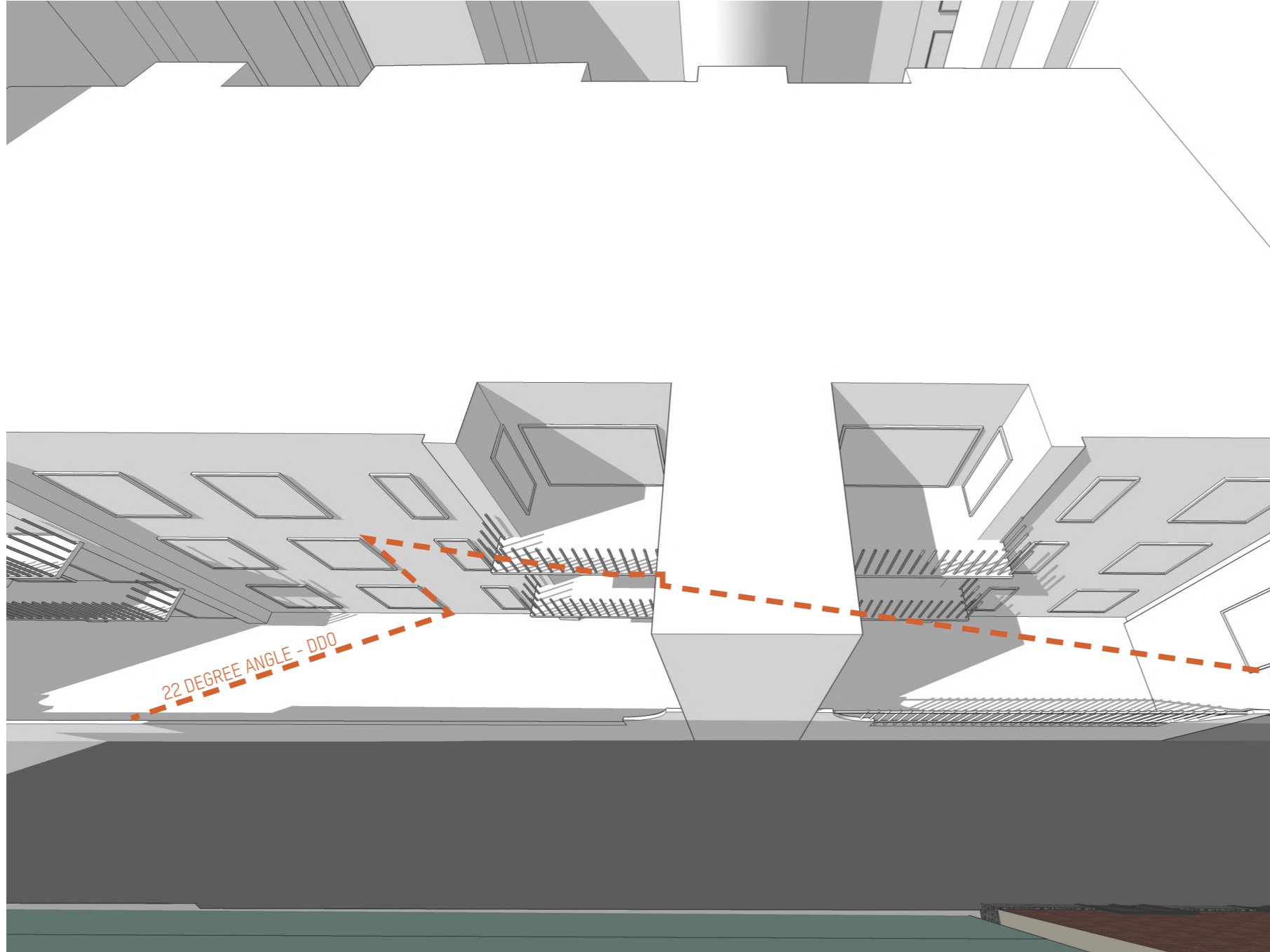
- EXISTING SHADOWS
- NEW OVERSHADOWING OF PROPOSAL



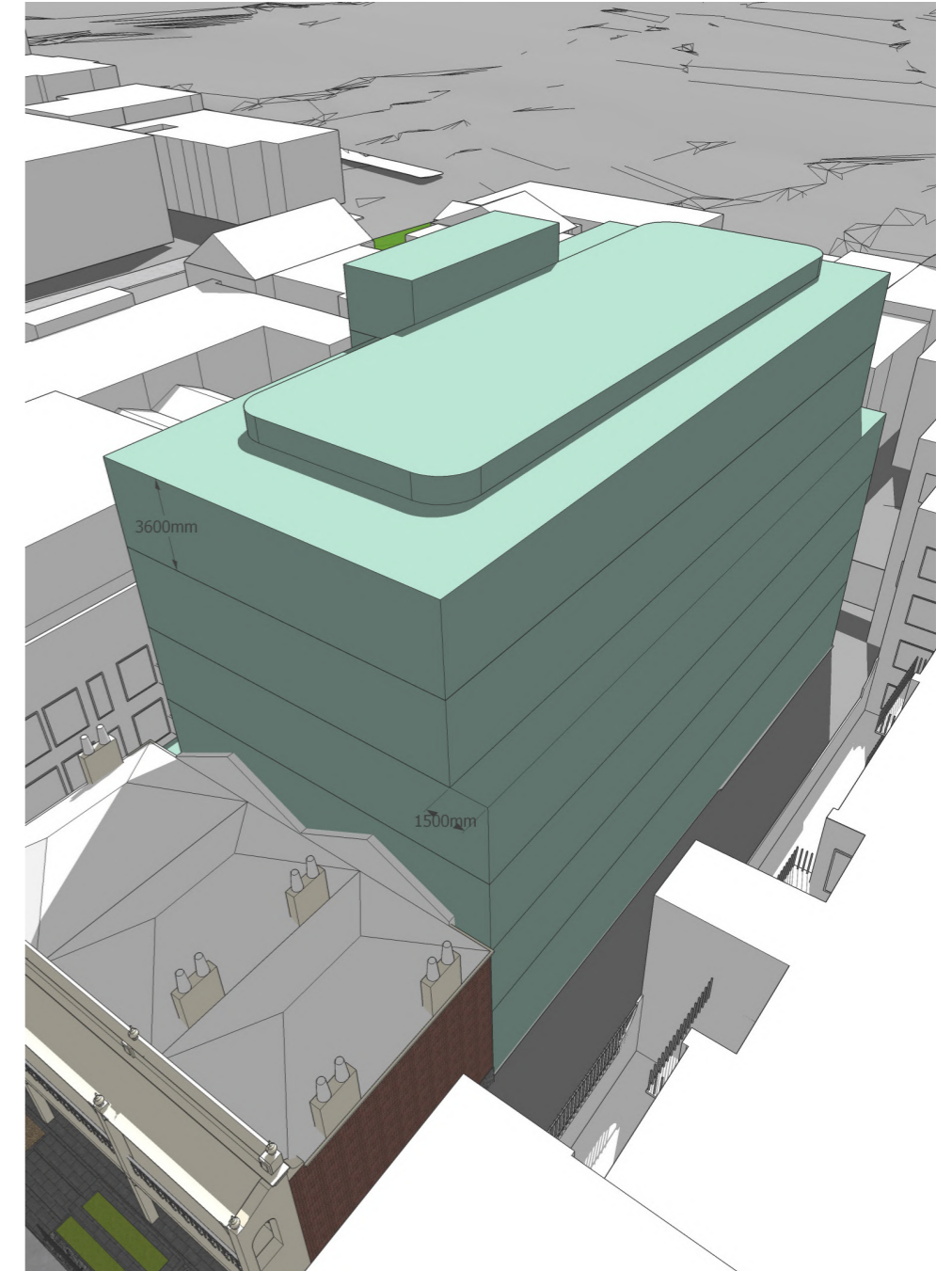
SHADOW STUDY

6 LEVELS, 1500mm EAST SETBACK

REDUCED SETBACK SHADOWS TO EASTERN RESIDENTS - 12:45



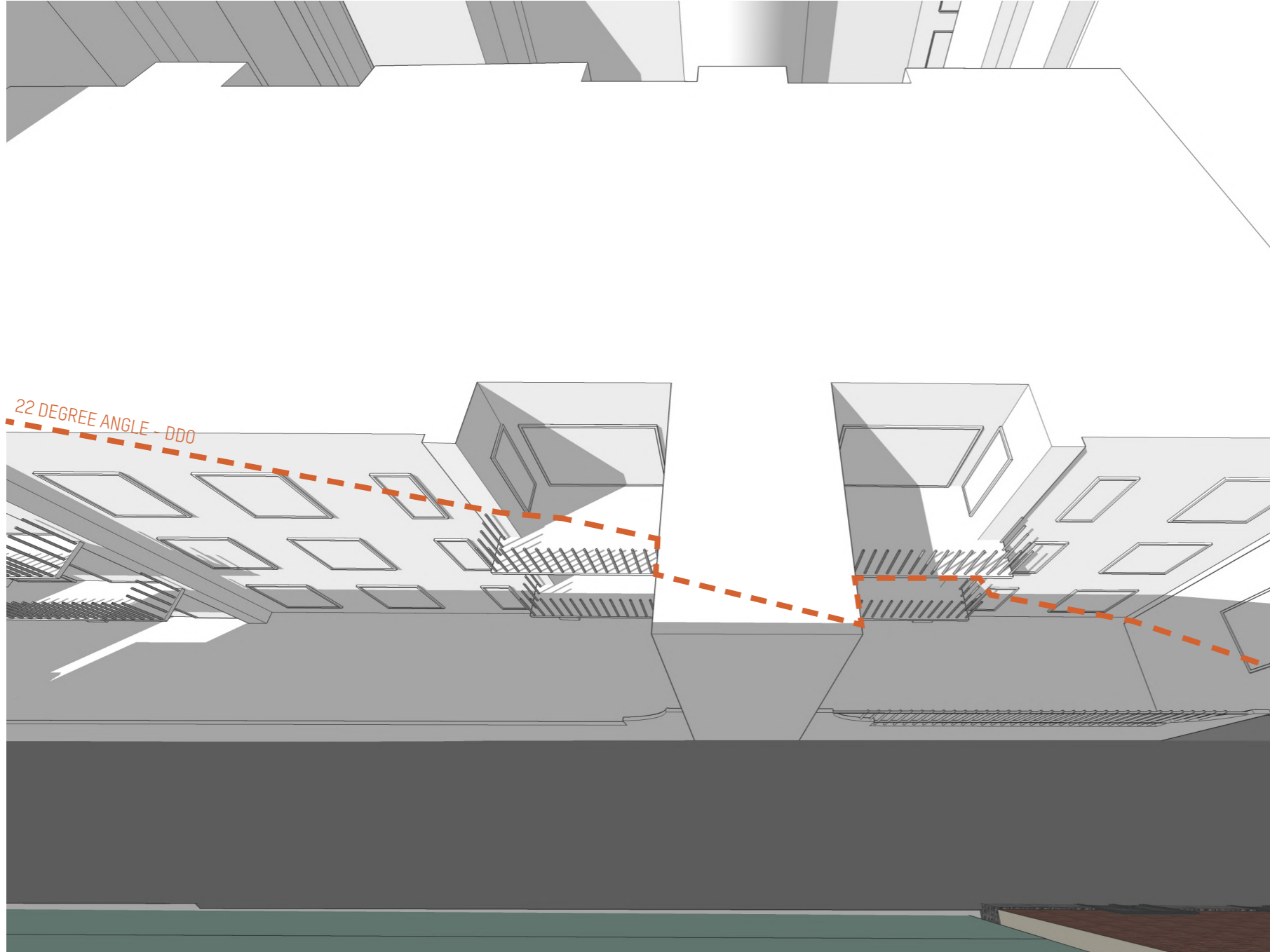
REDUCED SETBACK MASSING - 12:45



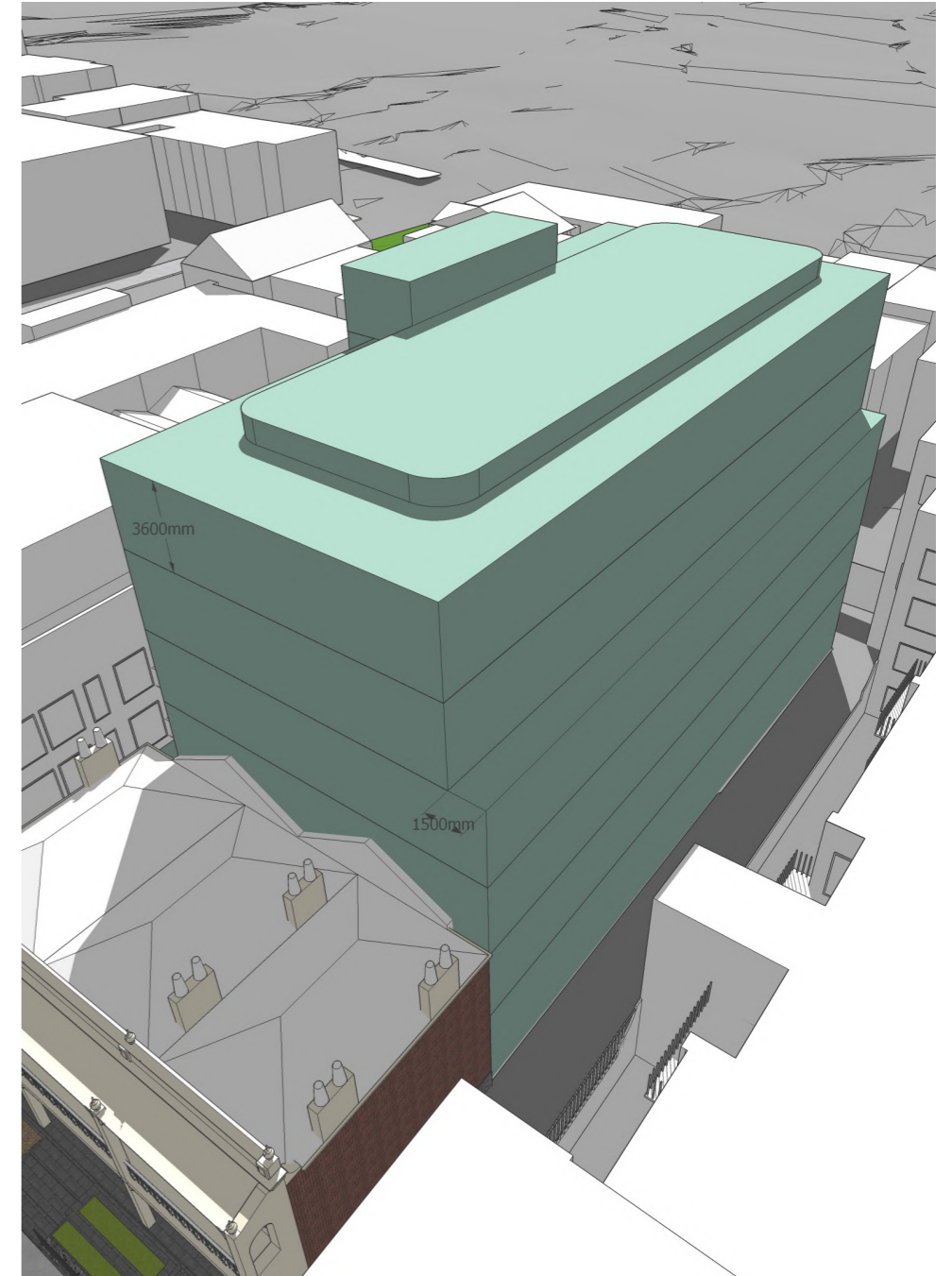
SHADOW STUDY

6 LEVELS, 1500mm EAST SETBACK

REDUCED SETBACK SHADOWS TO EASTERN RESIDENTS - 1:15



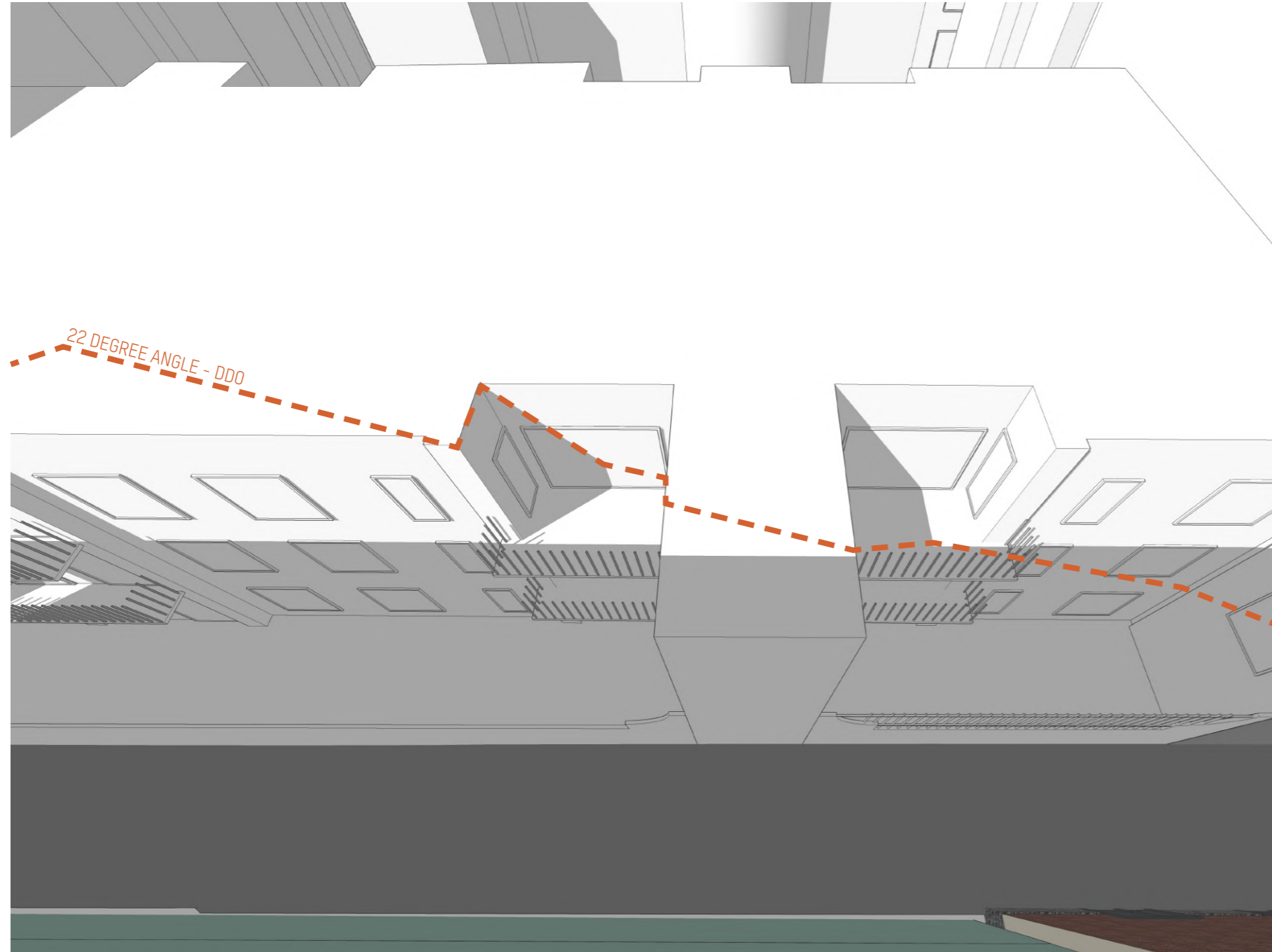
REDUCED SETBACK MASSING - 1:15



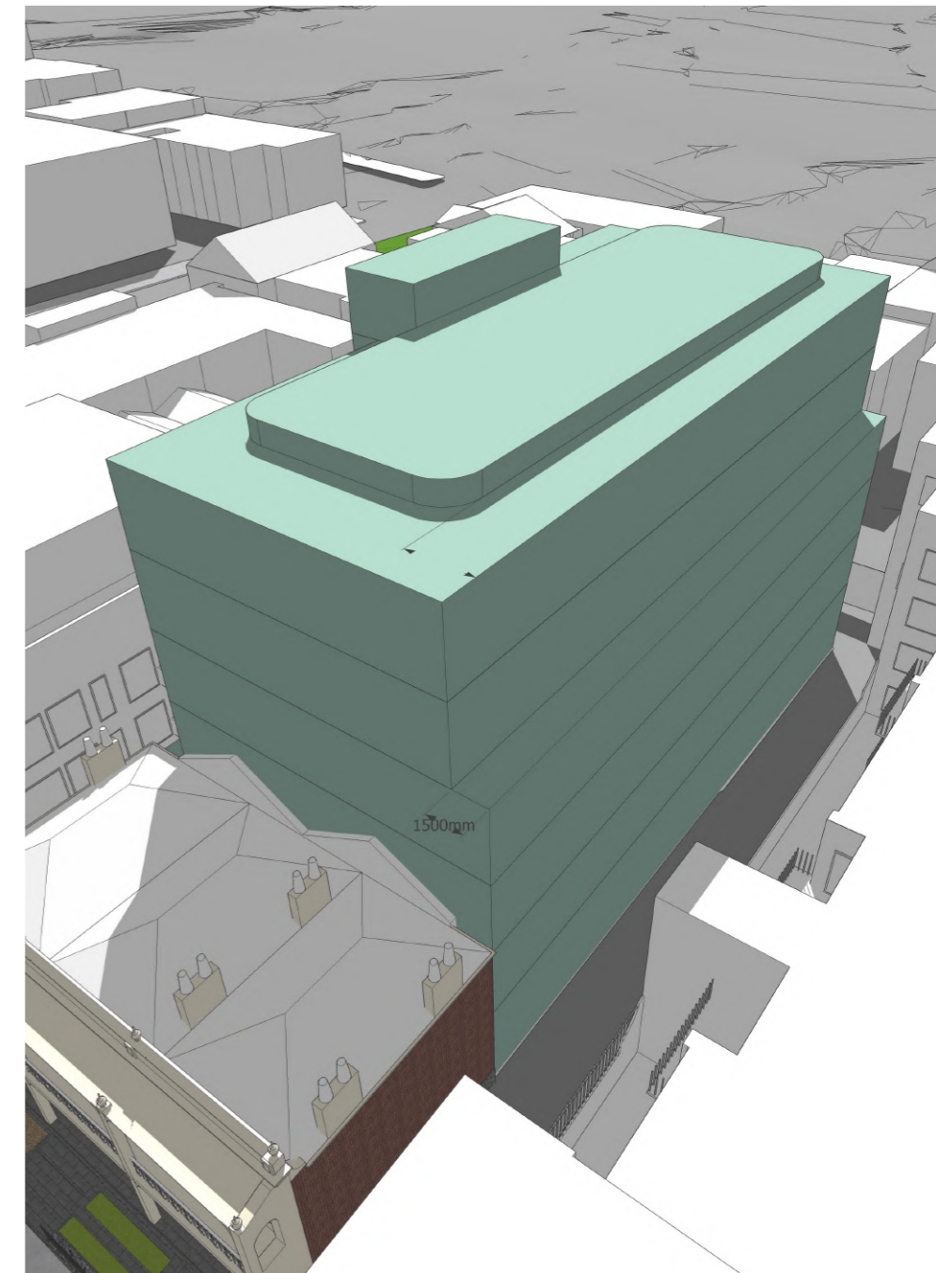
SHADOW STUDY

6 LEVELS, 1500mm EAST SETBACK

REDUCED SETBACK SHADOWS TO EASTERN RESIDENTS - 1:30



REDUCED SETBACK MASSING - 1:30



PLANNING PERMIT APPLICATION

DELEGATE REPORT

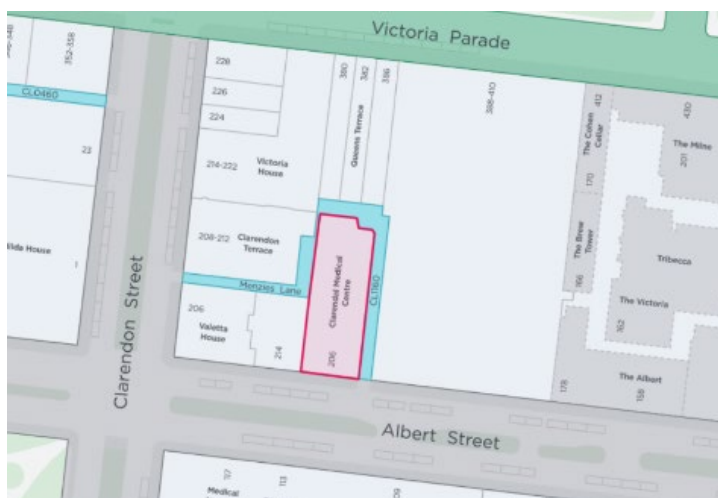
Application number:	TP-2022-23
Applicant:	Whitehaven Property Development Pty Ltd
Owner:	Whitehaven Property Development Pty Ltd
Architect:	Jackson Clements Burrows Architects
Address:	204-208 Albert Street, EAST MELBOURNE VIC 3002
Proposal:	Partial demolition of the existing building, and the development of a multi-storey commercial building and associated works, and a reduction of the car parking requirement
Estimated cost of development:	\$15,000,000
Date received:	21 January 2022
Date amended:	15 September 2023
Responsible officer:	Rochelle Fleming, Senior Urban Planner

1 SUBJECT SITE AND SURROUNDS

1.1 Subject Site

Planning Application TP-2022-23 ('the Application') concerns the land known as:

- 204-208 Albert Street, East Melbourne.
- Lot 1 on Registered Plan of Strata Subdivision 010482 (Vol. 09230, Fol.271).



Above: Locality Plan (Source: CoMPASS)

A summary of the relevant site details and dimensions is given below.

Table: Planning Unit Details / Dimensions	
Street Frontage:	<p>South: Albert Street 18.3 metres to Albert Street, a 29 metre wide dual carriageway.</p> <p>West: Corporation Lane 1160 (Council Owned) 50.2 metres to Corporation Lane 1160, a ~3.8 metre wide service laneway. Access to Corporation Lane 1160 is only via Albert Street.</p> <p>North: Corporation Lane 1160 (Council Owned) 17.8 metres to Corporation Lane 1160.</p> <p>East: Menzies Lane (Council Owned) 26.5 metres to Menzies Lane, a ~0.9-4.7 metre wide service laneway. Access to Menzies Lane is only via Clarendon Street. Vehicle access is not possible between Menzies Lane and Corporation Lane 1160.</p>
Site Area:	918 m ²
Topography:	The slope of the land falls by approximately 1.5 metres to the north-east.
Heritage Status:	<p>East Melbourne & Jolimont Heritage Precinct.</p> <p>Contributory Grading.</p> <p>Significant Streetscape.</p>

The subject site ('the Site') is a generally rectangular shaped lot with the exception of land designated as a Road that chamfers the north-east corner of the lot. The Site is located on the northern side of Albert Street, approximately 75 metres north-east of Fitzroy Gardens. The Site has an 18 metre frontage to the north of Albert Street, sited approximately 40 metres east of Clarendon Street.

The Site is currently occupied by a two-storey Victorian building originally constructed as three terrace houses in 1859. The existing building on Site is graded 'Contributory' under the Melbourne Planning Scheme Incorporated Document '*Heritage Places Inventory March 2022 (Amended May 2023)*' ('the Inventory'). Since its original construction as three dwellings, the building on Site has been altered including modern extensions to the rear added when the building was converted to a medical centre in the 1960s. The Site also sits within a Significant Streetscape, under the Inventory, which extends to the east along Albert Street. The building on Site is currently vacant.

To the rear of the Site is an area of hard standing including a private car park comprising 11 spaces. The Site and this car park is accessible via Corporation Lane (CL1160) which extends along the eastern and northern property boundaries. To the west is Menzies Lane which is accessible via Clarendon Street.

Part of the north-western corner of the Site is designated as an easement. It adjoins the chamfered edge of the Site which is designed as a Road that forms part of Council Lane 1160. The easement benefits the land itself, not public or adjoining land owners.

The Site is not included in the Victorian Heritage Inventory. Nor is the Site included in an area of legislated cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2018*.



As Above: The Site and adjoining properties as viewed from Albert Street (Captured 1 June 2023)



As Above: The Site as viewed from CL1160 (Captured 1 June 2023)

1.2 Surrounds

The surrounding area is characterised by a mix of generally low-scale heritage and more modern infill additions, some of which feature higher elements setback from Albert Street.

To the north, across CL1160, are three two-storey Victorian terraces fronting Victoria Parade. These three terraces are graded as Contributory within the Inventory. These buildings are in use as offices and medical centre.

To the east, across CL1160, is an interconnected apartment complex referred to as the Victorian and Albert Town Residences (VATR). The VATR complex is located in

the General Residential Zone, Schedule 1 which is a different zone to the subject site which sits within the Commercial 1 Zone. The VATR complex ranges in heights. Immediately adjoining the Site fronting Albert Street the VATR complex is four-storeys in height, it steps down to three-storeys for the majority of the length of the building adjoining CL1160 where adjacent to the subject site. The VATR complex then steps up again to four-storeys in height opposite the rear section of the subject site. The three-storey section of the VATR complex adjoining the subject site includes windows facing towards the Site and areas of private open space in the form of ground floor courtyards and upper level balconies facing the subject site. A boundary wall separates the ground floor courtyards from CL1160.

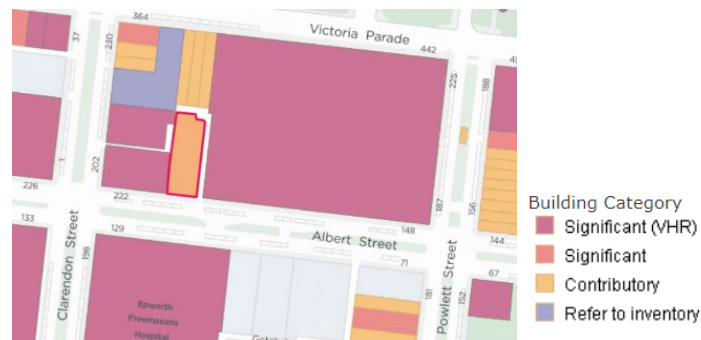
The VATR complex also includes two, nine storey towers, one approximately 37 metres from the edge of the subject site, directly east. The other tower is located approximately 20 metres to the north-east of the subject site. Both of the towers are setback from their respective street frontages behind five-storey built form directly fronting the street. The VATR complex includes areas of communal open space central within the site which provide separation between the buildings. The VATR complex forms part of the Former Victorian Brewery Site which is on the Victorian Heritage Register (ref. H0624). The buildings that comprise the VATR complex are also graded 'Significant' under City of Melbourne's Inventory.

Further to the east, adjoining the VATR complex is the Victorian Brewery Site at 412-442 Victoria Parade which is located within the Mixed Use Zone. The Victorian Brewery Site comprises a number of buildings including a centrally located 13-storey building.

South of Albert Street, is part of the Epworth Freemans Hospital complex, which is also listed on the Victorian Heritage Inventory (ref. H1972). The Hospital Complex is located within the Public Use Zone 3 (Health and Community). The Epworth Freemans Hospital complex is also listed as Significant within Council's Inventory. Immediately opposite the subject site the Epworth Freemans Hospital has a five storey built form fronting Albert Street. There is also an extant permit for an 11 storey building on the Epworth Freemans Hospital complex fronting Albert Street, which will be located to the south-east of the subject site.

Directly adjoining the Site to the west is a four storey modern apartment building that fronts Albert Street but forms part of the Victorian Heritage Register listing for 202-206 Clarendon Street (ref. H0028). Both properties are also listed as 'Significant' within Council's Inventory. The apartment building includes windows and areas of private open space in the form of balconies that face towards the subject site.

To the north-west of the Site is Clarendon Terrace which is two storey Victorian building also on the Victorian Heritage Register (ref. H0029) and graded Significant within Council's Inventory. Vehicle access and parking associated with Clarendon Terrace is located to the rear where the site adjoins Menzies Lane.



Above: Heritage grading of the and immediate surrounds (Source: NearMap/ CoMPASS)



Above: Aerial photograph of site and immediate surrounds (Source: NearMap/ CoMPASS)



Above: View of the interface between the Site and the VATR complex looking towards Albert Street (Left) and View of the interface between the Site and 214 Albert Street looking towards Albert Street (Right)

2 BACKGROUND AND HISTORY

2.1 Subject Site

2.1.1 Planning Application TP-2018-801

Planning Application No. TP-2018-801 for partial demolition of the existing building and construction of a multi-storey office building and reduction of car parking requirements was submitted to Council on 17 September 2018. The proposal comprised a ten storey building above the retained front section of the heritage building fronting Albert Street.

The permit applicant sought review of Council's failure to grant the permit within the prescribed time pursuant to Section 79 of the *Planning and Environment Act 1987* on 22 November 2019. The proposal was subsequently amended as part of the VCAT proceedings to a nine storey building that cantilevered over, rather than extending onto the retained heritage building.

Council under Section 84(3) of the *Planning and Environment Act 1987* having considered the proposal, advised the Tribunal and Applicant that it would have refused the proposal. This position was based on a total of five grounds, which can be summarised as follows:

- The proposed development would impact upon the visual amenity of Fitzroy Gardens and would be incompatible with the existing scale and character of adjoining buildings contravening the design objectives of Schedule 20 to the Design and Development Overlay.
- The proposed extent of demolition, scale, height, bulk, visibility of the addition and external materials, was inconsistent with Council's Heritage and Urban Design Policies.
- Amenity impacts relating to loss of outlook, overshadowing and overlooking on adjoining residential properties to the east and west.

The Tribunal supported Council's decision in *Whitehaven Property Development Pty Ltd v Melbourne CC [2021] VCAT 690*, where it identified the following concerns with the proposal:

- *From our review of the relevant provisions of the planning scheme, notably the need to balance the competing directions of the planning scheme for development of this site, we find the balance weighs heavily toward a more modest building for this site than the building that is the subject of this application. We find the combined heritage and design directions for this site require a significantly lower building that can better respect the heritage streetscape of Albert Street and its broader heritage and urban design context. We are also concerned that the proposal has not adequately addressed its amenity impacts on its neighbours. We therefore have determined to affirm the council's deemed refusal to grant a planning permit. No permit is granted. (Paragraph 6).*
- *The proposed exposed lantern [form] create a strong and exposed vertical presence that is at odds with the surrounding small heritage sites to the north and west and existing lower rise buildings that have different proportions in the immediate surrounds. (Paragraph 90).*
- *[...] a lower form that is less visible, and therefore more compatible to the low rise nature of the immediate heritage surrounds of Albert Street we find is needed. This will have the consequential effect of diminishing any adverse*

impact on the broader heritage surrounds, including the significant streetscape of Clarendon Street. (Paragraph 98).

- *In conclusion of the design considerations of the Melbourne Planning Scheme that are directed by reading both DDO20 and HO2 with their relevant policy, we find that the proposal fails when tested against the objectives and decision guidelines of both DDO20 and HO2. This is principally because we find the proposed building additions are not a scale we find appropriate to the site's heritage and character setting, as directed by these two planning provisions. (Paragraph 103).*
- *Our finding is broader, that the nine storey form proposed results in a large and rapid loss of sunlight to the entire west side of the VATR building when there is already limited outlook and sunlight available to these dwellings. This has impacts to both direct loss of sunlight but also the sense of visual bulk and enclosure to these spaces, particularly the lower level dwellings. The impact reduces to dwellings higher up the building, but again at nine storeys the change in shadow and outlook is significant. (Paragraph 117).*
- *A lower form is needed to address amenity issues to the east. The starting point to this should be a form consistent with our findings about the design of the building in the street as already set out. (Paragraph 118).*



Above: Render of the building considered by VCAT (left) and cross section through the front section of the retained building (right) (Source: Amended VCAT plans)

2.1.2 Pre-application Meeting

The proposal was discussed with the permit applicant and their representatives prior to lodgement of the application.

2.1.3 Section 50 Amended Application

The application was amended pursuant to Section 50 of the *Planning and Environment Act 1987* on 15 February 2023. Key changes to the submitted plans included:

- Removal of the cantilever above the retained heritage fabric.
- Relocation of the core to the west.

- An increase to upper-level setbacks from the eastern boundary.
- Revision to the architectural treatment and design.

The Section 50 Amendment plans were those subject to advertising in April 2023.

2.1.4 Section 57A Amended Application

On 15 September 2023, the Applicant formally amended the application pursuant to Section 57A of the *Planning and Environment Act 1987*.

The submitted plans accompanying the Section 57A amended Application are the application documents informing Planning's assessment in this report (decision plans).

Key changes made to the development in the S.57A amended Application include:

- A reduction in building height to 6 storeys and 22.8 metres to top of parapet (25.5 metres to top of lift overrun).
- Height of plant services screening reduced in height to 1.5 metres (previously 2.5 metres).
- A reduction in the upper level setback of the top two levels (levels 4 and 5) from the eastern boundary from 3.4 metres to 1.5 metres.
- Materiality of lift core changed from red brick to concrete.

The changes made to the development in the S.57A Amended Application have directly addressed Council's urban design advice to reduce the building's prominence within the streetscape, particularly as viewed from the east and Fitzroy Gardens.



Section 50 Amended Application – View from Fitzroy Gardens



Section 57A Amended Application – View from Fitzroy Gardens



2.2 Planning application history of surrounds

2.2.1 Epworth Freemasons Hospital

As discussed above, the Epworth Freemasons hospital precinct is located immediately to the south of the Site at 130-132 Clarendon Street, 166 Clarendon Street, 124-128 Grey Street and 97-103 Albert Street. The Epworth Freemasons site benefits from a planning permit (ref. TP-2020-838) granted on 18 August 2021 for “buildings and works associated with a Section 2 Use (Hospital) and in a Heritage Overlay”. The permit allows for an 11 storey building fronting Albert Street to the south-east of the subject site. Plans are yet to be endorsed following the issue of the planning permit.



As above: Render of development approved by TP-2020-838

2.3 Planning Scheme Amendment

Amendment C409 was gazetted into the Melbourne Planning Scheme on 21 September 2022. This amendment replaced the Municipal Strategic Statement at Clause 21 and Local Planning Policies at Clause 22 with a Municipal Planning Strategy and local policies within the Planning Policy Framework, consistent with the structure introduced by Amendment VC148, and made other consequential changes. While the clauses within the Melbourne Planning Scheme have been updated, the content remains generally consistent.

3 PROPOSAL

3.1 Plans / Reports considered in assessment

The plans which have been considered in this assessment are indicated in the Table below:

Table: Documents considered in assessment		
Plan / Report Title	Drawing / Report Author	Drawing / Report Date
Drawing Package	Jackson Clements Burrows Architects	15 September 2023
Heritage Memo	Michael Taylor Architecture and Heritage	11 July 2023
Town Planning and Urban Context Report	Contour	February 2023
Traffic Engineering Assessment	Traffix Group	7 February 2023
Environmentally Sustainable Design Statement and Water Sensitive Urban Design Response	Ark Resources	8 February 2023
Waste Management Plan	Traffix Group	7 February 2023

3.2 Summary of proposed development

The Application seeks planning permission for the following:

- Partial demolition of existing building, comprising demolition of non-original two-storey rear addition and all hard standing to the rear.
- Retain original two-storey section of the building to the front of the Site including existing roof and chimneys for a depth of approximately 11.3 metres (including front terrace).
- Development of a six storey building featuring a maximum height of approximately 25.5 metres, and a rectangular floorplate with greater setbacks to the east and west at the upper levels.
- Three levels of basement built to the boundaries of the Site incorporating car parking, bin store and services. Accessible via a rotating car lift. Basement Level 1 would be located partially above natural ground level to the rear of the Site due to the slope of the land.
- Café, office, lobby, services and end of trip facilities including bicycle parking at ground floor. Vehicle access provided via CL1160.
- Office floor space on Levels 1 through to 5. Access to all levels via lifts and two stairways.
- Rooftop plant and lift overrun.
- Materials proposed comprise large expanses of glazing and use of masonry (brick) to the lower levels and a cement finish to the core.

The key change from the previous proposal considered by VCAT (Application No. TP-2018-801) is therefore the reduction in height from nine (33.4 m¹) to six storeys (22.8 m²).

Specific details of the proposal are contained in the following table:

Table: Specific details of the proposal	
Building Height	22.8 metres
Maximum Height	25.5 metres (including plant)
Setbacks	Building setback zero to 0.4 metres to the north (excluding architectural features). Building setback zero to 1.5 metres to the west (excluding architectural features). Building setback 14.2 metres to the south (Albert Street). Building setback zero to 1.5 metres to the east (excluding architectural features).
Gross Floor Area (GFA)	6,126 m ²
Retail GFA	121 m ²
Office GFA	3,880 m ²
Access	Ramp access provided on eastern side of the building at ground floor accessed via CL1160
Car Parking Spaces	19 (including 1 DDA space)
Bicycle Parking Spaces / Facilities	46 bicycle spaces including 6 horizontal 54 lockers and 5 showers

¹ Excluding plant

² Excluding plant



As Above: Render of Proposed Development from Albert Street (Source: Applicant's submission)



As Above: Render of Proposed Development from Albert Street (Source: Applicant's submission)



As Above: Render of Proposed Development from Fitzroy Gardens (looking east) (Source: Applicant's submission)

4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme require a planning permit for this proposal:

Clause	Permit Trigger
Controls	
Clause 34.01 Commercial 1 Zone	Pursuant to Clause 34.01-1, Office and Retail premises (other than Shop) are Section 1 – Permit not required uses. Pursuant to Clause 34.01-4, a permit is required to construct a building or construct or carry out works.
Clause 43.01 Heritage Overlay HO2 East Melbourne and Jolimont Precinct	Pursuant to Clause 43.01-1, a permit is required to demolish or remove a building, construct a building or construct or carry out works and externally alter a building by structural work, rendering, sandblasting or in any other way.
Clause 43.02 Design and Development Overlay Schedule 20 Victoria Parade and Albert Street	Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works. This does not apply: <ul style="list-style-type: none"> If a schedule to this overlay specifically states that a permit is not required. Schedule 20 to Clause 43.02 does not include any permit exemptions and therefore, a permit is required for the proposed buildings and works.
Particular Provisions	
Clause 52.06 Car Parking	Clause 52.06 applies to: <ul style="list-style-type: none"> A new use; or An increase in the floor area or site area of an existing use. Pursuant to Clause 52.06-3 a permit is required to 'reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5'. Table 1 to Clause 52.06-5 provides the following rate at which car spaces must be provided for use of land for 'Office' and 'Food and drink premises. Column B applies as the land is within the Principal Public Transport Network (PPTN) Area. Statutory car parking rate for Office = 3 to each 100 m ² of net floor area. The net floor area of the proposed Office use is 2,951 m ² , resulting in a statutory car parking rate of 89 spaces. Statutory car parking rate for Food and Drink premises = 3.5 to each 100 m ² of leasable floor area. The leasable floor area of the proposed café is 125 m ² , resulting in a statutory car parking rate of 4 spaces. The proposed provision of 19 car parking spaces is below the statutory requirements above. Accordingly, a permit is required for a reduction in car parking requirements.
Clause 52.34 Bicycle Parking	Pursuant to Clause 52.34-1, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

	<p>In relation to the proposed development, Clause 52.34 requires the following number of bicycle parking spaces:</p> <ul style="list-style-type: none"> • Office – 1 to each 300 m² for employees and 1 to each 1000 m² of net floor area for visitors. • Restaurant – 1 to each 100 m² of floor area available to the public for employees. <p>The proposal has a statutory requirement of 10 employee spaces and 3 visitor spaces associated with the Office use and 1 employee space associated with the Restaurant use.</p> <p>The proposal includes a total of 46 bicycle spaces which exceeds the statutory requirement.</p> <p>The proposal also carries a requirement to provide a total of 1 shower / change room facility. The proposal includes a total of 5 separate end of trip facilities.</p> <p>As the minimum requirements of this clause have been exceeded, a permit is not required.</p>
--	--

5 STRATEGIC FRAMEWORK

5.1 Planning Policy Framework (PPF)

The relevant provisions of the PPF include:

- Clause 02.01 – Context
- Clause 02.03-1 – Settlement
- Clause 02.03-4 – Built environment and heritage
- Clause 02.03-5 – Economic development
- Clause 11 – Settlement
- Clause 11.03 – Planning for Places
- Clause 11.03-6L-04 – East Melbourne and Jolimont
- Clause 15 – Built Environment and Heritage
- Clause 15.01 – Built Environment
- Clause 15.01-1L-05 – Urban design outside the Capital City Zone
- Clause 15.01-2S – Building design
- Clause 15.01-2L-01 – Energy and resource efficiency
- Clause 15.03 – Heritage
- Clause 15.03-1L-02 – Heritage
- Clause 17.02-1S – Business
- Clause 19.03-3L – Stormwater management (Water sensitive urban design)

6 PARTICULAR PROVISIONS

The following particular provisions apply to the application:

- Clause 52.06 - Car Parking
- Clause 52.34 - Bicycle Facilities

7 GENERAL PROVISIONS

The following general provisions apply to the application:

Clause 65, Decision Guidelines, which includes the matters set out in Section 60 of the *Planning and Environment Act 1987*.

8 PUBLIC NOTIFICATION

The application was subject to public notification twice. The Section 50 Amended Application was advertised across April and May 2023. Notice of the Section 50 Amended Application was given by ordinary mail to the owners and occupiers of surrounding properties and by posting one notice on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

A signed statutory declaration confirming the permit applicant had erected the public notice sign in accordance with Council's requirements was returned on 8 May 2023.

Notice of the Section 57A Amended Application was subsequently given in September 2023 by ordinary mail to the owners and occupiers of surrounding properties and objectors to the Section 50 Amended Application. No site notice was displayed.

9 OBJECTIONS

A total of 107 objections were received in response to the Section 50 Amended Application. A range of issues were raised but the primary concerns of the objectors are summarised as follows:

- Failure to respond to the previous VCAT decision.
- Overdevelopment of the site.
- Height too tall and out of character of the area.
- Insufficient setbacks.
- Extent of visibility of the addition in a heritage context.
- The proposal would result in facadism of the retained heritage building.
- Modern design is not in keeping with the heritage streetscape.
- Failure to meet the decision guidelines of Design and Development Overlay, Schedule 20.
- Rooftop plant creates an 8th storey.
- Amenity impacts including overlooking, overshadowing, visual bulk.
- Wind impacts.
- Increase in traffic, conflicts of users of the Council lane and impacts on safety of bicycle lane.
- Impact on on-street parking.
- Queuing resulting from car lift access.
- Proposed development involves building over land designated as Road.
- Site should be retained for residential use.
- Noise impacts including noise from plant.
- Glare from glazing.
- Impact on trees at 214 Albert Street.

10 CONSULTATION

Redacted copies of the objections received to the Section 50 Amended Application were provided to the permit applicant who provided a response to the objections

received on 7 June 2023. The permit applicant did not seek to make any changes to the proposed plans in response to the objections received.

Subsequently, City of Melbourne Officer's arranged a consultation meeting with local residents which was held on 12 May 2023. The purpose of the consultation meeting was for attendees to gain an understanding of the history of the project and to summarise the key changes of the development from that considered by VCAT. The meeting was attended by five (5) objectors.

Several discussions were also held with the permit applicant to discuss objections and referral comments received.

In response to referral comments received, the permit applicant sought to amend the proposal which is reflected in the Section 57A Amended Application.

11 REFERRALS

11.1 Internal

11.1.1 Heritage Advisor

Referral Response

Council's Heritage Advisor reviewed and provided comments on the originally submitted application as well as the Section 50 Amended Application. In both sets of comments Council's Heritage Advisor raised concerns with the proposal. The comments provided on the Section 50 Amended Application can be summarised as follows:

Demolition

- *Retention of 10.355 metres plus the front verandah wing walls is the minimum depth of front wing retention set out in the VCAT decision. TP-2022-23 would demolish the northern part of the north wall of the front wing including the roof. The retention depth shown on the TP-2022-23 application drawings is short by 0.495metres.*
- *Demolition of the double hung timber windows, the majority of which are likely to be original/early, is not supported.*
- *Demolition of the bluestone wall along CL1160 to form two services openings would be visible from Albert Street and would similarly affect heritage fabric.*
- *Proposed demolition of parts of the roof parapets would remove elements that contribute to three-dimensional form.*
- *Demolition of the interior walls and floors could result in loss of support for the prominent chimneys. A structural engineering report showing how the chimneys would be retained insitu is not included in the application documents.*

Alterations

- *The 1885 verandah should be reconstructed. Lowering the first floor level, adding a balcony without a roof, constructing columns rather than wing walls and extending the wing wall height would not respect the heritage fabric and would alter the appearance of the contributory building. Adding urns to the parapet is not appropriate without evidence.*

Addition

- *The height does not comply with the requirements of DDO20-A43. West of the Site is characterised by low scale heritage buildings. To achieve compliance with maximum building height the upper 2.5 storeys would be required to be removed.*

- *A scheme that removed the upper two floors – Level 05 and Level 06 could be support with conditions.*

Planner's response

Heritage matters are discussed at Section 12.1 and 12.2 below. The reduction in height from 7 storeys to 6 storeys as part of the Section 57A Amended Application is considered to result in an improved outcome with regard to heritage and concealment of the addition.

11.1.2 Urban Design

Referral Comments

Given the previous VCAT history of the Site, external Urban Design comments were sought. This was on the basis that Ms Julia Bell provided Urban Design advice as an Expert Witness on behalf of the City of Melbourne at the Tribunal proceedings. The Urban Design referral comments on the Section 50 Amended Application Plans which can be summarised as follows:

- *Height at 7-storeys considered to be unacceptable on the basis that it represents a substantial change from the prevailing scale to the west. When viewed from Fitzroy Gardens, the height would not sit within the 'transition' space as sought by the Tribunal.*
- *The upper form remains visually dominant above the heritage building.*
- *At 7-storeys the proposed scheme would remain a substantial change from the prevailing scale and character and would dominate skyline views from the surrounding public realm.*
- *A 6-storey development would be more responsive to DDO20.*
- *Impact on outlook and overshadowing to 212 Albert Street considered to be acceptable. Overlooking should be addressed via use of opaque glass where interfacing with adjacent east facing balconies.*
- *The visual bulk and outlook is considered acceptable in relation to the apartments at 200 Albert Street (VATR).*
- *Overshadowing impact to apartments at 200 Albert Street would be fully resolved if building height is reduced to 6-storeys.*
- *The composition of glazing and vertical fins, and the absence of additional upper-level steps results in an elegant and light weight built form composition.*
- *To reduce the prominence of the lift core, it is recommended that the red brick is replaced with the grey brick applied to the podium.*

Planner's response

The Urban Design advice was provided to the permit applicant. In response to the referral comments and advice received from Officers the permit applicant amended the scheme to reduce the height to 6 storeys via a Section 57A Amendment. The material to the lift core was also replaced with a concrete finish in response to the Urban Design referral comments. It is considered that a grey brick would be more appropriate for the lift core than the concrete proposed, given its prominence. This can be addressed via condition.

As part of the Section 57A Amended Application the setback to the east of the Site has been reduced from 3.4 metres to 1.5 metres at the upper two levels. This will have a revised visual bulk and outlook impact on the apartments at 200 Albert Street, which is discussed at Section 12.3.1 below.

11.1.3 Green Infrastructure and Environmentally Sustainable Design (ESD)

Referral comments

Council's Green Infrastructure and Environmentally Sustainable Design (ESD) Officer provided comments on the Section 50 Amended Application Plans and Environmentally Sustainable Design (ESD) Statement submitted with the application. The ESD Statement was not updated as part of the Section 57A Amended Application.

Council's ESD Officer advised that the development commits to a level of sustainability that meets the objectives of Clause 15.01-2L-01 (Energy and resource efficiency) and Clause 19.03-3L (Stormwater management (Water sensitive urban design)) of the Melbourne Planning Scheme. However, it was identified that additional information was required to provide confidence that the development can achieve the aspirations outlined in the ESD Statement and a condition requiring submission of an amended ESD statement was recommended, in addition to a condition relating to implementation.

Planner's response

The assessed ESD Statement has committed to a level of sustainability in the development that meets the objectives of *Clause 15.01-2L-01 (Energy and resource efficiency)* and *Clause 19.03-3L (Stormwater management (Water sensitive urban design))*, but has been identified as missing a few key details. Conditions have therefore been recommended for inclusion on any permit being granted to acknowledge the commitments and strategies advanced by the submitted ESD Statement, but require an amended and updated report to be submitted post-permit, providing the additional detail required to support these commitments and strategies.

11.1.4 Traffic Engineer

Referral Comments

The original submission as well as the Section 50 Amended Application were referred to Council's Transport Engineering Team for comment. A revised Transport Report was not submitted with the Section 57A Amended Application and the changes to the plans do not have any impacts on the access, parking or bicycle parking arrangements.

A summary of the comments provided is set out below:

- *The car parking dispensation is considered significant. Any overflow car parking demand should not be expected to be accommodated onsite to the detriment of residential amenity.*
- *No concerns with the internal design of the car park, including rotating lift.*
- *Despite the VCAT decision it would be desirable to provide some form of traffic control to avoid vehicles meeting in the lane. This could include the provision of a convex mirror within the property boundary to enable existing motorists to view oncoming traffic.*
- *There is also an opportunity to provide a passing lane further north along the lane to minimise any need for a vehicle to reverse when entering or exiting the lane at Albert Street.*
- *Limited information has been provided regarding how many vehicles currently use CL1160.*
- *Bicycle parking provision and layout is acceptable.*

Planner's response

Car parking and traffic impacts are discussed further at Section 12.4 below. Notwithstanding, it is considered that the Tribunal's decision (*Whitehaven Property Development Pty Ltd v Melbourne CC [2021] VCAT 690*) provides a clear direction with regard to traffic, parking and pedestrian use of the lane, noting the following comments provided in the Tribunal decision:

- *We are also satisfied that the additional car parking and traffic that would arise from the development can be accommodated by the lane and the broader road network. (Paragraph 129)*
- *We are aware that there may be times in using the lane that cars need to yield while there is oncoming traffic as there is no passing point in the lane. We also understand there is some waste collection from the lane that may add to these times. This is part of the functioning of a small rear service lane. We do not see that adding up to 17 vehicles into this environment will create unreasonable amenity problems through unreasonable additional traffic conflicts. (Paragraph 131).*

It is noted that the scheme considered by the Tribunal included 28 car parking spaces (17 additional vehicles compared with the existing 11 spaces). This application proposes less car parking spaces (19). On the basis that the previous additional car parking and traffic that would arise from the development was accepted by the Tribunal, the revised scheme is considered acceptable as the proposed development will result in less movements than the scheme considered by the Tribunal.

It is also noted that the car parking dispensation sought by this application (74) is less than that sought by the scheme considered by the Tribunal (110).

The proposed development currently involves building over land designated as road. A permit condition will be included on any permit issued requiring the built form be redesigned to sit outside of the land designated as road, unless the land is subject to discontinuation and sale. A revised built form, sitting outside the land designated as road is unlikely to provide a suitable place for a convex mirror within the property boundary. However, a condition requiring a Road Safety Audit prior to commencement will be included on any permit issued which will assess the vehicular, bicycle and pedestrian access arrangements. This will allow any access issues to be resolved prior to commencement of the development.

11.1.5 Civil Engineer

Referral comments

The original submission as well as the Section 50 Amended Application were referred to Council's Civil Engineering Team for comment, who recommended standard conditions in addition to the following comments (summarised):

- *The proposed development includes construction over a portion of road known as CL1160. Prior to the commencement of any works on site the portion of road to be built on should be formally discontinued and purchased by the developer. The discontinued portion of road should be consolidated with the subject land.*
- *The proposed 3m x 3m splay at the north-east corner of CL1160 should be vested in Council as a road. The road should have a minimum clearance of 5m above and 1.5m below the surface pavement. The building should be redesigned so it is not located within the lower and upper level of the road.*
- *The proposed building impacts on the existing Council drainage along the western boundary towards the north of the Site. A minimum 1.5m wide, 1.5m deep and 9m long drainage easement must be created to facilitate future maintenance. The building should be redesigned so it is not located within the easement.*
- *Outward opening service doors projecting into CL1160 shall be designed to comply with Council's road encroachment guidelines.*

- *The proposed development has impact on wall-mounted street lights attached to the existing building on the eastern façade in CL1160. The building shall be designed to allow installation of power conduits and street lights on the external walls of the building.*
- *The outward opening access door to Menzies Lane must be redesigned so that the doors do not project beyond the street alignment when open, when closed or when being opened or closed.*

Planner's response

The Section 57A Amended Application has no impact on the comments made above, and as such it was not re-referred to Civil Engineering for comment.

Since providing the above comments, Council's Senior Civil Engineer has confirmed that they would offer no objection to the creation of a limited in height (5 m above) and depth (1.5 m below) drainage easement along with a S173 agreement to indemnify Council against any claims arising from the existence of the above stormwater drain. This approach has been reviewed and agreed by Council's Legal Team.

A condition will also be included on any permit issued, requiring the building be redesigned to sit entirely outside CL1160, unless agreement can be reached for sale and discontinuation of this land. This does not apply to the land identified on the decision plans as a 3 m x 3 m splay.

Conditions will also be included on any permit issued requiring the service doors comply with Council's road encroachment guidelines. The outward opening access doors to Menzies Lane will also need to be re-designed as part of an amended plans condition. Finally, a condition will also be included requiring a public lighting strategy be prepared.

11.1.6 Waste Engineering

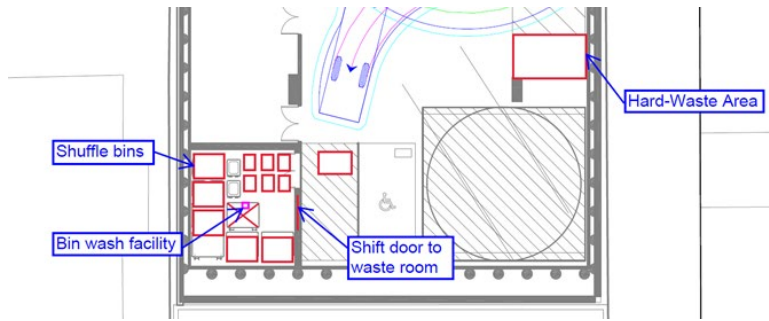
Referral comments

Council's Waste Planning Engineer reviewed a copy of the Section 50 Amended Application Plans and the submitted Waste Management Plan and provided the following comments (summarised):

- The bin room is not large enough. Tenants will be required to have access to an 1100L bin for garbage, recycling and paper/cardboard. The submitted plans show only immediate access available to 2x1100L bins.
- Plans are required to show bin wash facility and communal storage space for hard waste.
- Swept path diagrams are required to include the waste vehicles entry/exit manoeuvres from/to street level.

Planner's response

A copy of the above comments were provided to the permit applicant who requested the outstanding information be conditioned. While it is considered possible to condition the outstanding information, a marked up plan was requested from the permit applicant to demonstrate that there is sufficient space to accommodate all required bins and facilities. The below mark-up was subsequently provided by the permit applicant and has been reviewed by Council's Waste Planning Engineer who confirmed the mark up is acceptable. As such, the above requirements will be dealt with via an amended plan and amended WMP condition.



As Above: Mark up of revised bin room provided by the Applicant

It was also reaffirmed by Council's Waste Planning Engineer that communal hard waste storage is required for commercial developments. As such, this requirement will be included in the amended WMP condition.

The changes made to the application via the Section 57A Amended Application have not sought to make any changes to the waste storage or collection arrangement. The amended scheme has resulted in a reduction in Office floor area by approximately 290 m² and as such will have a negligible impact on waste storage requirements. As such, the application was not re-referred to Council's Waste Planning Engineer.

11.1.7 Land Survey

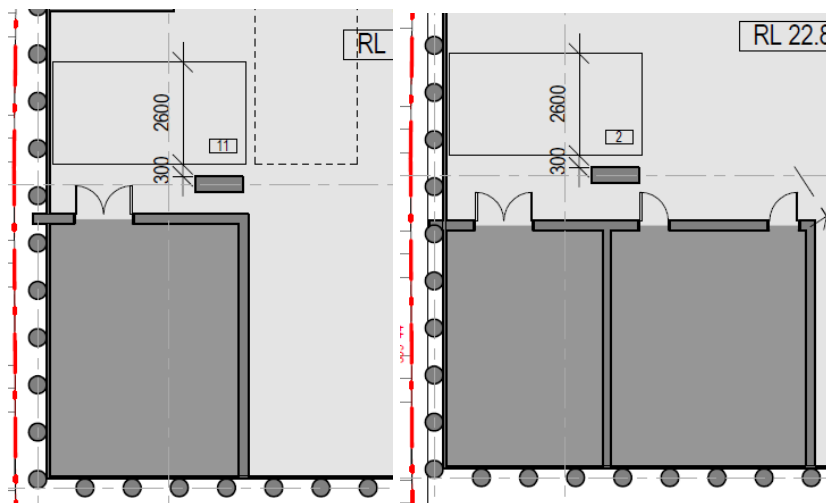
Referral comments

The Section 50 Amended Application Plans were reviewed by Council's Land Surveyor who provided the following comments:

- Any car park which restricts access into a service cupboard must be deleted.
- Consideration should be given to windows on boundary.
- Removal of easement required prior to commencement of works if building is proposed over the easement.

Planner's response

Access to a service cupboard at Basement 03 appears to be restricted by a car parking space. It appears possible to relocate the access doors to allow for unrestricted access. As such this could be resolved via condition. There is a similar issue at Basement 02 where it does not appear possible to relocate the doors. However, as there is greater space between the doors and car space at Basement 02 this is considered acceptable.



As Above: Car park/service cupboard at Basement 03 (Left) and Car park/service cupboard at Basement 02 (Right) (Source: Applicant's submission)

A suitably worded condition will be included on the permit requiring the windows built to the western boundary with 210-214 Albert Street to be required to be enclosed in the event that the adjoining Site is redeveloped in the future.

The easement on Site adjoining the land designed as Road only benefits the land itself, not public or adjoining land owners. The previous right of way afforded by the easement was extinguished as part of the consolidation and re-subdivision of the Site. As such, the easement should be removed prior to commencement of the development. This requirement will be secured via condition.

11.1.8 Urban Forest and Ecology

Referral comments

The Section 50 Amended Application was referred to Council's Urban Forest and Ecology Team who recommended conditions relating to street tree protection and provided the following comments (summarised):

- *The proposal involves removal of privately owned trees within the front yard of the existing property. The loss of canopy cover is regrettable. The applicant should be encouraged to consider tree retention where possible.*

Planner's response

While it is regrettable that the trees located within the title boundary to the front of the property are to be removed, this is considered acceptable as there is no mechanism in the planning scheme requiring retention of, or a permit for their removal. It is also noted that planting is indicated on the proposed Site Plan. Details of landscaping could be secured via condition.

The recommended tree protection conditions will be included on any permit issued to ensure nearby street trees are protected during construction.

11.2 External

The application was not required to be referred externally.

12 ASSESSMENT

The key issues for consideration in the assessment of this application include the following:

- Heritage and Built form
- Amenity impacts on neighbouring properties
- Access, car and bicycle parking
- Concerns raised by objectors.

12.1 Heritage – Demolition and Alterations

12.1.1 Demolition

The proposal seeks partial demolition of the existing 'Contributory' heritage building. Relevant demolition strategies at Clause 15.03-1L-02 state:

- *Partial demolition in the case of significant buildings and of significant elements or the front or principal part of contributory buildings will not generally be permitted.*

Melbourne Planning Scheme Incorporated Document 'Heritage Places Inventory March 2022 (Amended May 2023)' defines 'front or principal part of a building' as:

- *The front or principle part of the building is generally considered to be the front two rooms in depth, complete with the structure and cladding to the roof; or that part of the building associated with the primary roof form, whichever is*

the greater...For most non-residential buildings, the front or principle part is generally considered to be one full structural bay in depth complete with the structure and cladding to the roof or generally 8-10 metres in depth.

The submitted plans indicated that it is proposed to retain the two storey former terrace houses fronting Albert Street. An annotation on the plans indicate that this includes the existing roof and chimneys. The later rear addition will be demolished as well as the internal walls and floors and all external hard standing. No demolition elevations have been provided.

As such, it is understood that, with the exception of new openings for service cupboards to the eastern elevation, no further demolition is proposed than that associated with the scheme determined by the Tribunal. However, as part of the Tribunal decision it was acknowledged by the Tribunal that the demolition plans provided lacked sufficient detail to clarify the extent of demolition. Demolition was dealt with by the Tribunal decision at paragraphs 35-46 which is considered to be directly relevant to the proposed scheme under assessment. Key findings made by the Tribunal in relation to demolition include:

- *Mr Raworth clarified that the proposal is to fully retain the double-storey volume of the 'front parts' of the heritage building (to a depth of 10.355 metres from the front façade, and a greater depth from the front of the verandah wing walls). We understand this includes the original façade windows, although it is not specifically notated on the plans. We also understand that in retaining the roof, the exposed parapet elements will also be retained. The permit applicant also accepts a potential permit condition to clarify the elements of heritage façade to be retained. (Paragraph 37).*
- *We are not opposed to the removal of the north, rear facing elements of the original building as these are not seen from Albert Street[...]* (Paragraph 38).
- *We are also not opposed to any removal of elements internal to the building[...]* (Paragraph 39).

At the hearing it was clarified by Mr Raworth (Heritage Expert Witness) on behalf of the permit applicant that the proposal is to fully retain the double-storey volume of the 'front parts' of the heritage building (to a depth of 10.355 metres from the front façade, and a greater depth from the front of the verandah wing walls). The Tribunal noted that this was understood to include the original façade windows, although similarly to the Decision Plans under assessment, this was not specifically notated on the plans. It was also understood by the Tribunal that in retaining the roof, the exposed parapet elements will also be retained.

Council's Heritage Advisor raised concerns regarding the level of detail provided with regard to the extent of demolition shown on the proposed plans. Concerns were raised that the depth of retention of the front part of the building did not extent for the required 10.355 metre depth (excluding the front verandah). Concerns were also raised that the proposed south elevation showed a revised front window design which indicated that the existing windows would be replaced. As established by the Tribunal decision, the whole front section of the building, including south facing windows for a depth of 10.355 metres must be retained. No objection is raised to the demolition of the north face of the retained heritage building but the side walls and roof must be retained to this depth. It is considered that these matters can be addressed via an amended plans condition requiring clear annotations with regard to the extent of demolition proposed.

Council's Heritage Advisor has also raised concerns with the proposed partial demolition of the bluestone wall along CL1160 to form two services openings. These openings would be visible from Albert Street and it is considered that the openings

would detract from the character and appearance of the heritage building. Relevant services and ancillary fixtures strategies state that *“services and ancillary fixtures may be permitted on any visible part of contributory buildings where it can be demonstrated there is no feasible alternative”*. It is noted that the previous iterations of the proposed development all included services within the rear portion of the building. This includes the plans considered by the Tribunal which included the fire booster, gas and water metres outside of the principal part of the building. As such, it is considered appropriate to require the services to be relocated outside of the retained principal part of the building in order to mitigate the impact on the significance of the retained heritage building, this will be included as condition should any permit be issued.

Clause 43.01 does not afford any protections for internal walls. However, it is considered that demolition of internal walls and floors could result in loss of support for the roof and prominent chimneys of the retained portion of building. To ensure the retained portion of the building is appropriately protected throughout construction, a structural engineering report demonstrating how the chimneys will be retained insitu will be required via condition.

12.1.2 Alterations

It is also proposed to construct a new two storey verandah to the principal façade of the building. This matter was also discussed at the VCAT Hearing, however no definitive findings were made regarding the proposed verandah.

Relevant alterations strategies at Clause 15.03-1L-02 include:

- *Support reconstruction of an original awning or verandah where it is based on evidence of the original form, detailing and materials.*
- *Support new awnings or verandahs that are an appropriate contextual design response, compatible with the location on the heritage place and that can be removed without the loss of fabric.*

The proposed verandah is not supported by Council’s Heritage Advisor, nor is the removal of the existing verandah. Additionally, limited details of the proposed verandah have been provided on the Proposed South Elevation Plan.

The original 1859 building had no verandah. During remodelling of the building in 1883 a first floor verandah comprising cast iron and timber was constructed to the principal façade. However, the existing verandah on Site dates from 1964 when the 1883 verandah was replaced with double-height paired columns. The images below show a 1950/59 photo of the 1883 verandah and a photo of the existing verandah.



As Above: Photo showing the 1883 verandah taken in 1950/59 (Left) (Source: SLV) and Photo of existing verandah (Right) (Source: Google Streetview 2019)

It is Council's Heritage Advisor's view that the 1883 verandah form could be reconstructed with new material added. Council's heritage strategies support reconstruction of an original verandah where it is based on evidence of the original form, detailing and materials.

The design of the proposed verandah has not changed from the plans presented at and considered by the Tribunal. As such, it is understood that the permit applicant considers that the proposed verandah is an interpretive approach to the reconstruction of the 1883 verandah.

Council's Statement of Significance for the East Melbourne and Jolimont Precinct sets out that significant and contributory development (which contributes to significance of the area) dates from the 1850s through to the interwar period, although Victorian development predominates. As such, it is considered that the significance of the East Melbourne and Jolimont Precinct largely derives from its earlier developments. Therefore, it is considered acceptable to introduce an interpretive reconstruction of the 1883 verandah as the 1964 verandah is not of an era that significantly contributes to the significance of the Heritage Precinct.

While the demolition of the existing verandah and replacement with a new verandah is accepted, it is not considered that there is sufficient detail of the replacement verandah within the application documents. As such, a condition is recommended to be included on any permit issued requiring further details of the proposed verandah to be submitted for approval prior to any works commencing.

Council's Heritage Advisor has also raised concerns regarding adding conjectural urns to the parapet without sufficient historical evidence. It is considered that this could also be addressed via condition, requiring submission of details of the proposed façade restoration works.

12.2 Heritage and Built Form

In this location, the built form context and heritage context of the site and surrounds are inextricably linked. Assessment is therefore required as to whether the proposed six storey building provides an acceptable response to the site's location within the C1Z as well as the DDO20 and HO2 overlays applying to the land. Consideration must also be given to how the proposal has addressed matters raised in the Tribunal decision.

The key relevant purpose of the Commercial 1 Zone is *"to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses"*. While the local area strategies for East Melbourne and Jolimont include ensuring *"development respects the scale of the surrounding residential area, heritage buildings and Fitzroy Gardens"*. As such, the proposed office development is considered to be proposed in a suitable location subject to the built form being of a scale and height suitable for the context of the Site.

The relevant building height requirement at DDO20 (Area 43) is that:

No buildings may be constructed that protrude above a plane inclined at an angle of 22 degrees from a point that:

- *On the southern alignment of Albert Street.*
- *At a permanent footpath level, if there is no footpath, at natural surface level.*
- *Directly opposite the centre of the site frontage.*

As such, DDO20 required buildings to be setback at a 22 degree line based from a point on the south side of Albert Street. However, it has been accepted through previous VCAT decisions that this is not a mandatory control and noncompliance does not automatically lead to refusal of the application. As such, consideration needs to be given to the requirements of DDO20 as a whole.

In addition to the requirement for buildings to be setback at a 22 degree line, DDO20 sets out the following design objectives:

- *To minimise the visual impact of buildings on the Fitzroy Gardens and to preserve the amenity of the gardens.*
- *To ensure that the enjoyment of the Fitzroy Gardens is not excessively diminished by overshadowing from any new building or works.*
- *To ensure that any new development or redevelopment is compatible with the existing scale and character of adjoining buildings and the area.*
- *To protect and enhance the appearance of Victoria Parade as a major boulevard.*

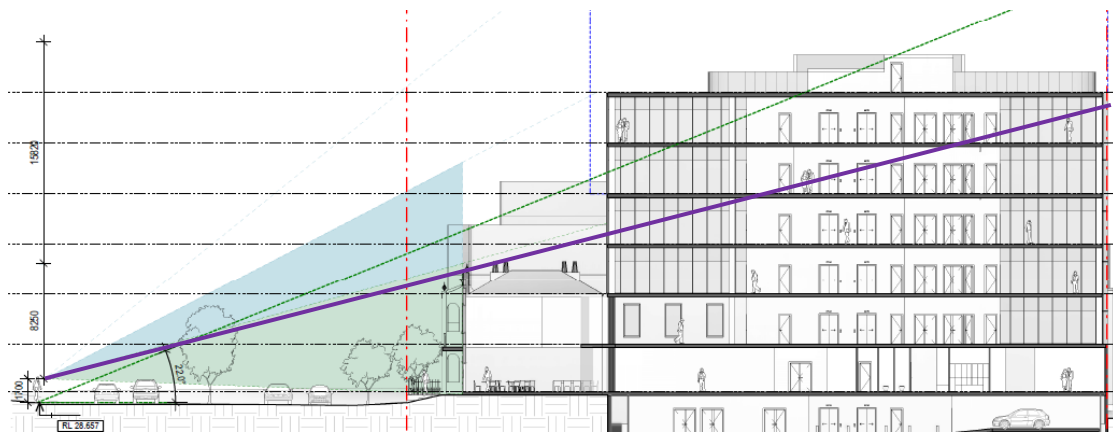
With regard to the HO and built form, Clause 15.03-1L-02 requires additions are concealed in significant streetscapes for significant or contributory buildings.

The relevant decision guidelines associated with the HO include:

- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

As set out above, ensuring the proposed addition is compatible with the scale, character and appearance of the streetscape and surrounds is a key consideration for both the DDO20 and HO2.

The decision plans include a cross-section of the proposed building with the 22 degree line required by DDO20 set out in green. A purple line has also been annotated by Council officers demonstrating the point where concealment of the addition would be achieved with regard to Clause 15.03-1L-02.



As Above: Section indicating 22 degree line (green) (DDO20) and concealment of addition line (purple)

A key consideration of the appropriateness of the proposed development is therefore the proposed form, mass and height of the addition. These matters were considered at length as part of the previous Tribunal decision.

The proposed development has progressed significantly since the previous Tribunal decision, where a 9 storey extension was proposed and rejected by the Tribunal. Through the course of the assessment of this planning application the height of the building has also reduced further from the 7 storeys originally submitted, to the decision plans which propose a 6 storey addition.

Turning firstly to the matter of concealment within the context of the requirements of Clause 15.03-1L-02. On this point, the Tribunal concluded at paragraph 71 that “we have not refused the proposal simply because the extension is not concealed”. This was on the basis that “there are other protrusions visible in the area and that the streetscape as a whole has some visible modern forms”. However, the Tribunal also went on to note at paragraph 71 that:

“[...]we find the extent of visibility vastly out of scope of what the policy and provisions call for and the surrounding built form scale of the immediate area. This is because of the dominance of the proposed upper section that we find will draw the eye, rather than allowing the retained heritage form to dominate as part of the consistently lower heritage streetscape of this section of Albert Street.”

Since the Tribunal decision the height and visibility of the addition has been reduced through the reduction in height to 6 storeys and in relation to the extent of visibility in the context of Clause 15.03-1L-02 only, it is considered that the Tribunal’s findings can still be relied upon and full concealment is not required.

However, consideration still needs to be given to the extent of visibility, form and dominance of the addition in the context of the streetscape and surrounds which was a key factor in the Tribunal’s decision to refuse the previous proposal. Firstly, it should be noted that the Tribunal found that “*simply meeting the numeric 22 degree line of DDO20 on the site is not an appropriate outcome*” (Paragraph 104). In this location it is agreed that a tiered or ‘wedding cake’ approach to setbacks would result in an inappropriate and incongruous addition. Additionally, in this location a built form exceeding the 22 degree line height may be acceptable, subject to ensuring it is appropriate in height and scale to the context of the surrounds.

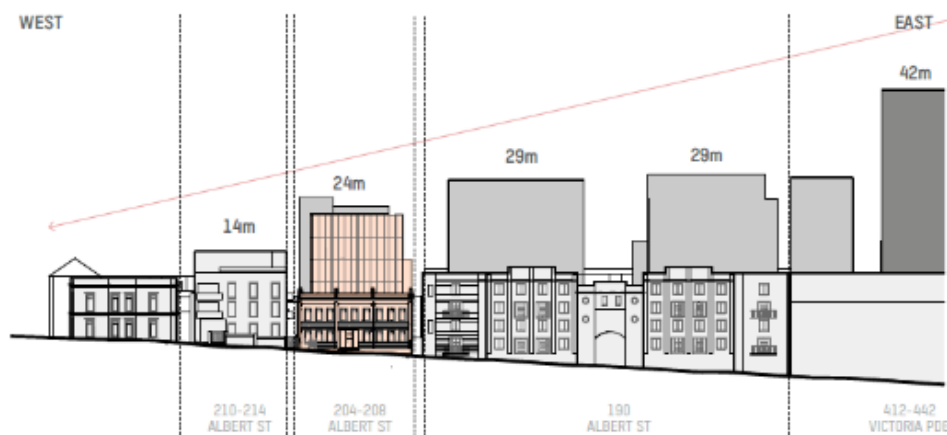
The key design objective at DDO20 that relates to built form and scale requires new development or redevelopment be compatible with the existing scale and character of adjoining buildings and the area. Also relevant is the design objective to minimise the visual impact of buildings on the Fitzroy Gardens and to preserve the amenity of the gardens. Specifically, the Tribunal found that in views towards the Site from the north-east edge of Fitzroy Gardens that the Site falls within a ‘transitional space’ with taller forms in the backdrop and lower forms in the foreground. At paragraph 98 of the decision the Tribunal found that “...a lower form that is less visible, and therefore more compatible to the low rise nature of the immediate heritage surrounds of Albert Street” was needed.

The proposed scheme has been reduced to 6 storeys in height or approximately 22.2 metres in height from the footpath at the centre of the Site to the top of the roof. Rooftop services and screening extend for a height of 1.7 metres above this while the lift overrun extends to 2.7 metres above the roof of the building.

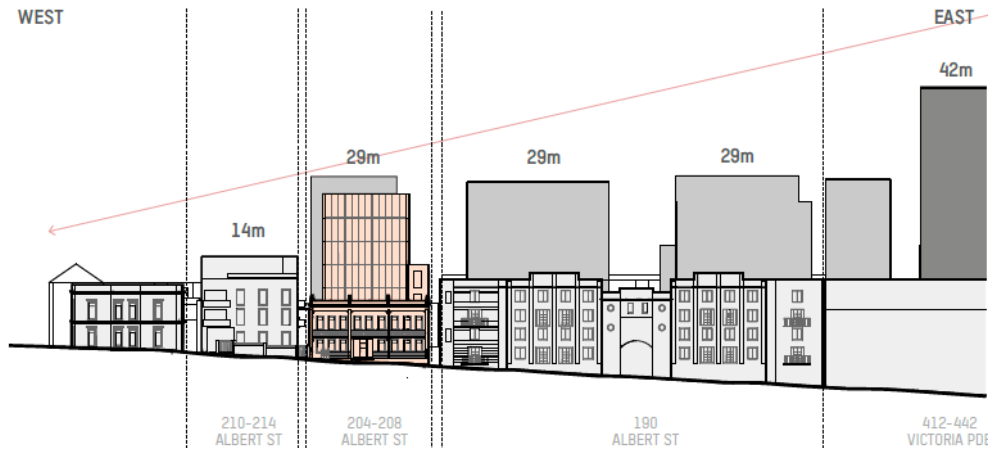
As demonstrated in the scale transition diagram below, the revised built form at a height of approximately 24 metres (to the top of the plant screening) results in a built form that provides an appropriate transition in height from the lower built form to the west to the taller built form to the east. As such, the revised proposal is considered to be of a height and scale compatible with the streetscape and adjoining built form.

Through the Section 57A Amended Application the permit applicant has also successfully reduced the height of the plant screening (from 2.5 metres to 1.7 metres). The plant screening is also setback 7.1 metres from the southern building line of the proposed addition, which ensures the plant appears as a subservient addition at roof level.

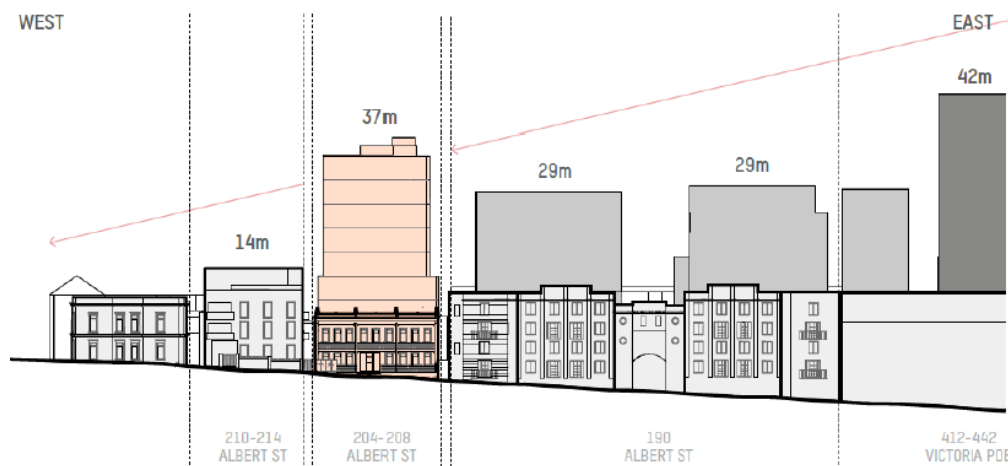
The progression of the proposed development is demonstrated in diagrams below, which show how a reduction in height to 6 storeys allows for a clear visual transition in heights and ensures that the proposed addition will not dominate the Albert Street streetscape. It is considered that the 6 storey addition shown on the decision plans appropriately responds to the adjoining scale and heritage streetscape, thereby addressing the concerns raised by the Tribunal in their decision.



Above: Indicative built form transition on Albert Street associated with the proposed 6-storey addition (Source: Applicant’s submission)



Above: Indicative built form transition on Albert Street associated with a 7-storey addition as per the originally advertised plans (Source: Applicant's submission)



Above: Indicative built form transition on Albert Street considered by the Tribunal (Source: Applicant's submission)

The reduction in height to 6 storeys also ensures that the visual impact of the buildings on the Fitzroy Gardens is minimised, in accordance with the design objectives at DDO20. As demonstrated in the images below, the originally advertised scheme when viewed from the corner of Fitzroy Gardens nearest the Site appeared to be taller in height than the built form at the VATR site in the background. The resultant built form was considered to dominate views from this location in Fitzroy Gardens, with the use of red brick to the lift core further exacerbating the impact.

In addition to the reduction in height to 6 storeys the height of the plant screening has also reduced and the red brick proposed to the lift core has been replaced with a cement finish. As demonstrated in the renders below, the revised built form now sits clearly below the built form in the background and results in a less dominant form. The replacement of the red brick with a cement finish to the core also reduces the prominence of the lift core which previously drew the eye due to the use of red brick. While a lighter grey finish is considered more appropriate than the red brick previously proposed, it is considered that given the prominence of this elevation that a grey brick would be more appropriate in this location. As such, a condition will be included on any permit issued requiring submission of a Façade Strategy to provide further details of the materials proposed.



Above: Render of previously proposed 7-storey development as viewed from Fitzroy Gardens (Source: Applicant's submission)



Above: Render of proposed 6-storey development as viewed from Fitzroy Gardens (Source: Applicant's submission)

Turning to the two remaining design objectives for DDO20. The permit applicant has demonstrated through the submitted shadow diagrams that the proposed development will not overshadow Fitzroy Gardens. Additionally, given the limited height of the development and its location fronting Albert Street, the proposed addition will not adversely impact on the appearance of Victoria Parade.

DDO20 also requires an 8 metre building setback to Albert Street, which is achieved by the proposed development.

Finally, it is also noted that DDO20 includes a decision guideline stating:

In Area 43, before deciding on an application, the responsible authority must be satisfied that the building or works would not protrude above a plane elevated from the same point to the highest southern parapet of a building fronting Victoria Parade north of the site.

This line is not met by the proposed development, however it is also noted that the existing building on Site would also not meet this test given the two-storey height of the buildings fronting Victoria Parade north of the site. While it is accepted that the proposed development does not meet the above requirements the above test is not a mandatory requirement and therefore consideration needs to be given to compliance with DDO20 as a whole, which includes the design objectives as discussed in detail above.

12.3 Potential Amenity Impacts

The surrounding area contains a number of residential uses, with apartments located to the east and west of the Site as well as to the north-west and north-east.

To the direct east are a number of dwellings across a 3.8 metre wide lane within the VATR complex. While these dwellings are in the GRZ1, the zone boundary between the Site and the VATR is aligned with the centre of the lane. Therefore, as established at the Tribunal, the Decision Guideline at Clause 34.01-8 (C1Z) relating to 'consideration of overlooking and overshadowing as a result of building or works affecting *adjoining* (emphasis added) land in a GRZ' does not apply. Nevertheless, Clause 65 also applies and requires consideration be given to the effect of buildings and works on the amenity of the area before deciding on an application. Relevant policy including Clauses 15.01-2S and 11.03-6L-04 also direct that:

- *Building design should minimise the detrimental impact of development on neighbouring properties (Clause 15.01-2S - Building Design); and*
- *Development respects the scale of the surrounding residential area, heritage buildings and Fitzroy Gardens (Clause 11.03-6L-04 – East Melbourne and Jolimont).*

However, it is also acknowledged that there needs to be some difference in consideration of the amenity impacts to dwellings to the east that are in the GRZ1 and more clearly identifiable as being in a stable residential policy setting. While land to the west and north-west which also contains residential uses, is in the C1Z where amenity expectations must be more tempered given the land has different primary purposes, consistent with C1Z.

12.3.1 Amenity impacts to the east

As with the previous application, a number of owners and occupiers of the VATR complex to the east object to the application on the grounds of visual bulk, loss of sunlight, loss of daylight and overlooking.

The most impacted dwellings within the VATR site are those directly to the east of the Site which only have a west orientation towards the Site, across CL1160. A copy of the development plans for the VATR complex were provided to the Tribunal thereby enabling easy identification of the most impacted dwellings. These dwellings comprise the following:

- Nos. A15 and A16, at ground level.
- Nos. A19 and A20 at first floor level.
- Nos. A23 and A24 at second floor level.

The above dwellings are all setback between 7.4 – 7.8 metres from the Site's eastern boundary. The orientation of these dwellings, as well as an adjoining air vent which abuts the property boundary, means that these dwellings have limited sunlight in the morning as well limited access to direct sunlight in the afternoon, this has also been observed by the Tribunal when considering the previous application.



As Above: Aerial of the subject site and VATR complex (left); Floor Plan of A15 and A16 (centre) and Floor Plan of A19 and A20 (right). Floor Plan of A23 and 24 mirror floor plans of A19 and A20.

The Tribunal made the following findings regarding amenity impacts to the dwellings to the east:

- *We accept Ms Bell's starting point of using the numerical 22 degree line set in DDO20 as a useful starting point as a crude numerical basis of what neighbours could reasonably have expected to occur when they moved into the VATR site. We reiterate this is a crude measure only and one that does not consider the broader design expectations that putting aside that the HO2 also needs to be considered. (Paragraph 115).*
- *We find it an unreasonable and unjustifiable outcome that as a result of the nine storey building dwelling A15 goes from currently receiving limited direct sunlight between 12pm and 2pm to retaining the same limited sunlight only between 12pm and 12.30 only, and then having all direct sunlight removed from its private open space from 12.45pm onward. By 1pm the nine storey building casts a shadow across the entire west façade of dwellings A15, A19 and A23 above, as well the facades of dwellings A16, A20 and A24. (Paragraph 116).*
- *This shadow highlights the impact of visual bulk and loss of outlook from these dwellings. This is particularly to the private open space areas of dwellings A15 and A16 at ground level. It is not simply that these dwellings' open space areas will be in shadow, or that a conventional clause 55 type test should apply. Our finding is broader, that the nine storey form proposed results in a large and rapid loss of sunlight to the entire west side of the VATR building when there is already limited outlook and sunlight available to these dwellings. This has impacts to both direct loss of sunlight but also the sense of visual bulk and enclosure to these spaces, particularly the lower level dwellings. (Paragraph 117).*

Shadow diagrams submitted within the Section 57A Amended Application show the impact of the proposed 6 storey building between 9am and 3pm on 22 September. A

more detailed shadow study has also been provided demonstrating the shadowing as a result of the 6 storey building in comparison with shadowing that would occur as a result of a built form designed to comply with the 22 degree angle sought by DDO20. This shadow analysis indicates that the proposal would begin overshadowing the VATR building from 1pm. By 1.15pm the windows and POS of A15, A16 and A19 are in shadow, however it is noted that the shadow to A19 is caused by the adjoining air vent. The overshadowing is less than that which would occur as a result of a building built to a 22 degree line. At 1.30pm only the dwellings at level two (A23 and A24) remain free from overshadowing and the submitted shadow diagrams indicate that shadowing to A23 would be greater from a building designed using the 22 degree line. By 2pm the whole eastern side of the VATR building facing the Site will be overshadowed by the proposed building.

A comparison of the overshadowing impacts to each most affected dwellings between 1pm and 1.30pm compared with the scheme considered by the Tribunal is set out below.

Table: Shadow comparison between VCAT scheme and decision plans

	A15		A16		A19		A20		A23		A24	
	V	P	V	P	V	P	V	P	V	P	V	P
1pm	Y	N	Y	N	Y	N	Y	N	Y	N	Y	N
1.15pm	Y	Y	Y	Y	Y	N	Y	N	Y	N	Y	N
1.30pm	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N
Key:	VCAT = V		Proposal = P		Overshadowed = Y		No overshadowing = N					

As a result of the proposed 6 storey building, dwelling A15 goes from currently receiving limited direct sunlight between 12pm and 2pm to retaining the same limited sunlight between 12pm and 1.15pm (noting that some overshadowing of A15 begins at 1pm). The reduction in height to 6 storeys means that the dwelling receives an additional 45 minutes (approximate) of sunlight compared with the 9 storey scheme considered by the Tribunal. Currently dwelling A15 has access to 2 hours of sunlight. The proposed development would result in dwelling A15 having access to approximately 1.25 hours of sunlight, thereby retaining more than half of the dwellings existing access to sunlight. The overshadowing would also be less than that from a scheme informed by a DDO20 22 degree line built form outcome which was established by the Tribunal to form a useful starting point to establish what neighbours could reasonably have expected to occur on the Site when they moved into the VATR site. The Tribunal also accepted that redevelopment of the Site would result in additional overshadowing to the east and that this overshadowing is not subject to a conventional Clause 55 type test and it is thereby expected that with any redevelopment of the Site that these most impacted dwellings will receive less daylight between 12pm and 2pm. As such, on balance the proposed overshadowing impact to dwelling A15 is considered to be acceptable given the context of the Site.

The overshadowing impact is also reduced to A16, A19, A20, A23 and A24 between 1pm and 2pm when compared with the 9 storey scheme considered by the Tribunal. Similar to dwelling A15, dwelling A16 will now retain access to sunlight between 12pm and 1.15pm (noting overshadowing will start to occur from 1pm) which is retaining more than half its current access to sunlight and is more sunlight access than would be retained by a DDO20 22 degree line built form. The shadowing impacts to A19 and A20 are also reduced compared with the proposal considered by the Tribunal. The revised proposal at 6 storeys ensures that A19 and A20 retains existing daylight access between 12pm and 1.30pm thereby resulting in

approximately 30 minutes of additional sunlight to these dwellings when compared with the scheme considered by the Tribunal.

Between 1pm and 1.30pm the revised 6 storey built form has the most significant impact on reducing overshadowing to the second floor dwellings (A23 and A24) whereby the proposed scheme will no longer overshadow these dwellings at all between 12pm and 1.30pm.

Overall, given the context of the Site within the Commercial 1 Zone, and taking into consideration the built form that could be anticipated under DDO20 as well as the Tribunal's findings, the overshadowing as result of the proposal at 6 storeys is not considered to be an unacceptable impact on the adjoining VATR properties.

The revised building height at 6 storeys also means that there will be no additional overshadowing to the communal open space areas at the VATR complex between 9am and 3pm on 22 September.

Consideration is also required to be given to visual bulk and sense of enclosure to these properties, given their only outlook is towards the Site. The proposal has been reduced in height from 9 storeys, as considered by the Tribunal, to 6 storeys as currently proposed. However, as a result of the Section 57A Amended Application, the upper level setback to levels 4 and 5 has been reduced to 1.5 metres. The setback to the upper floors considered by the Tribunal was 1.26 metres. It is considered that, despite the change to the eastern setback, that the reduced building height at 6 storeys, with plant and the lift overrun set to the western side of the building, that the proposed scheme will not have an unacceptable impact with regard to visual bulk and outlook. The setback and 6 storey height is considered sufficient to ensure the dwellings maintain a reasonable outlook and aspect, given the context of the Site.

With regard to overlooking, Levels 1-3 of the building will include non-removable privacy film to the east facing windows. Levels 4 and 5 will be set above the height of the adjoining VATR complex windows and as confirmed by the Tribunal these levels are sufficiently away from immediate view and at such an angle that views would be limited. However, no screening is proposed to the ground floor windows, which are raised above the natural ground level in this location due to the slope of the Site. As such, it appears that overlooking could occur from ground floor to the adjoining VATR building. To ensure no unacceptable overlooking occurs, a condition will be included on any permit issued requiring a privacy treatment also be applied to the ground floor windows facing the adjoining VATR site, unless it can be demonstrated that the existing boundary fence to the VATR site is sufficient to mitigate potential overlooking.

12.3.2 Amenity impacts to the west and north-west

Immediately adjoining the Site to the west is 214 Albert Street which comprises a four storey apartment development with windows and areas of POS orientated towards the Site. 214 Albert Street is located in the C1Z. With regards to amenity impact to 214 Albert Street, the Tribunal found the following:

- *This adjoining building to the west is in a C1Z and therefore there must be some expectation that a commercial building could abut the boundary close to the review site. These adjoining dwellings have a number of opportunities for daylight and outlook. This includes living spaces that look south and east toward the gardens as well as toward and over the roof of the heritage building, retaining a view east and south-east. There will be some loss of daylight to the bedrooms on the eastern side of these dwellings but we find it should not be unreasonable, particularly with a lower form required for other reasons. (Paragraph 121).*

The overshadowing impacts to 214 Albert Street are no greater than that of the 9 storey scheme considered by the Tribunal. As such, given the context within the C1Z the overshadowing caused by the proposal in the morning is not considered to result in an unacceptable amenity impact.

Windows are proposed directly overlooking 214 Albert Street on all levels of the proposed addition. A non-removable privacy film is proposed to Levels 1-4 which will mitigate the potential for any overlooking. There is no privacy treatment to the windows at Level 5, however, given this level will be set above the height of 214 Albert Street, this is considered sufficient to mitigate any potential overlooking.

Windows are also proposed at ground floor level. It is unclear from the information provided whether there is an adjoining boundary fence that would be sufficient to mitigate potential overlooking from this level. As such, a condition will be included on any permit issued ensuring there will be no overlooking at ground floor level.

Additionally, as the ground floor and first floor windows directly abut the title boundary, a condition will also be included requiring the applicant enter into a Section 173 Agreement requiring that these windows be enclosed in the event that the adjoining site at 214 Albert Street is redeveloped in a manner that would require the boundary windows be enclosed.

208-212 Clarendon Street is located to the west, separated from the Site by Menzies Lane and is used as an office building. The windows proposed in this location are not privacy treated, but given the adjoining use this is not considered necessary.

Victoria House at 214-222 Clarendon Street is located to the north-west of the Site, within the C1Z and is in residential use. With regard to overlooking and visual bulk the Tribunal found that the impact to 214-222 Clarendon Street correlates with their findings for 214 Albert Street. The Tribunal concluded at paragraph 122 of the Order that:

- *There must be an expectation of some change on the review site and this may compromise some of the amenity currently afforded. In general, we consider the issues of overlooking and overshadowing to these sites are acceptable. It is a question of visual bulk and scale that we find unreasonable more as a question of character. A consequence of reducing the building height to address the HO2 and DDO20 objectives is that it should also reduce any visual bulk impacts to these nearby dwellings within the C1Z.*

The height of the building has significantly reduced from the 9 storeys considered by the Tribunal to the 6 storey scheme shown on the decision plans. The visual bulk and scale of the building has also been reduced as a result of the reduction in height. While there is private open space, including a terrace at 214-222 Clarendon Street that faces east towards the Site, the addition is not of a scale that would result in unacceptable visual bulk to the dwellings at 214-222 Clarendon Street. Additionally, the setback between the edge of the Site and the terrace at 214-222 Clarendon Street is in excess of 11 metres, thereby ensuring the proposed new windows in this location would not cause any unacceptable overlooking.

Non-residential uses are located immediately to the north of the Site. As such, the proposed north facing windows will not cause any unacceptable overlooking.

12.4 Access, car and bicycle parking

Traffic related matters associated with the proposed development have been considered below, having regard to Council's Traffic Engineer's advice and the findings of the Tribunal.

12.4.1 Access

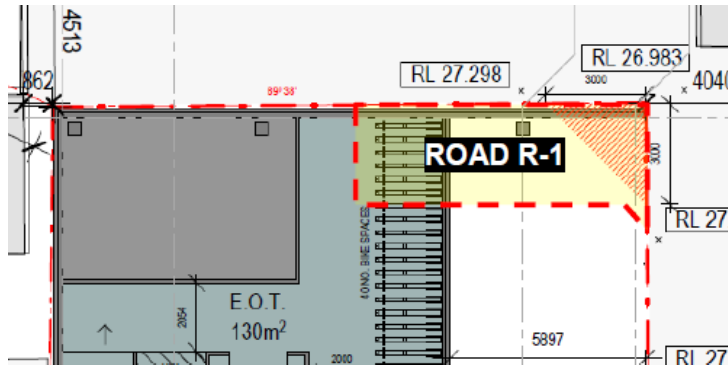
Vehicle access to the Site is provided via the north-eastern corner of the Site with access via CL1160. Objectors have raised concerns regarding access to the Site from CL1160. This matter was also considered by the Tribunal who found that:

- *The existing laneway has a clearly functional purpose that is primarily directed as car access to the rear of the review site and sites at 380 - 386 Victoria Parade, 220-222 Clarendon Street (that we understand also services 376 and 378 Victoria Parade). It is not a pedestrian thoroughfare between two streets but rather a service environment. (Paragraph 127).*
- *Firstly, we therefore are not concerned that the proposed wall to the boundary of the lane somehow diminishes the environment of the lane itself. As a site that is in C1Z it is common to have a wall on boundary to such an environment. Indeed, the existing heritage building on the site already has a wall that is over eight metres high and 12 metres long adjacent to the west side of the lane. The VATR complex also has sections of three storey wall to boundary. The proposed building to four storeys at the boundary is not an unreasonable expectation for the usability of the laneway as a pedestrian space, particularly noting that it is not a major pedestrian route. (Paragraph 128).*
- *We are also satisfied that the additional car parking and traffic that would arise from the development can be accommodated by the lane and the broader road network [...] (Paragraph 129).*
- *We are aware that there may be times in using the lane that cars need to yield while there is oncoming traffic as there is no passing point in the lane. We also understand there already is some waste collection from the lane that may add to these times. This is part of the functioning of a small rear service lane. We do not see that adding up to 17 vehicles into this environment will create unreasonable amenity problems through unreasonable additional traffic conflicts. (Paragraph 131).*

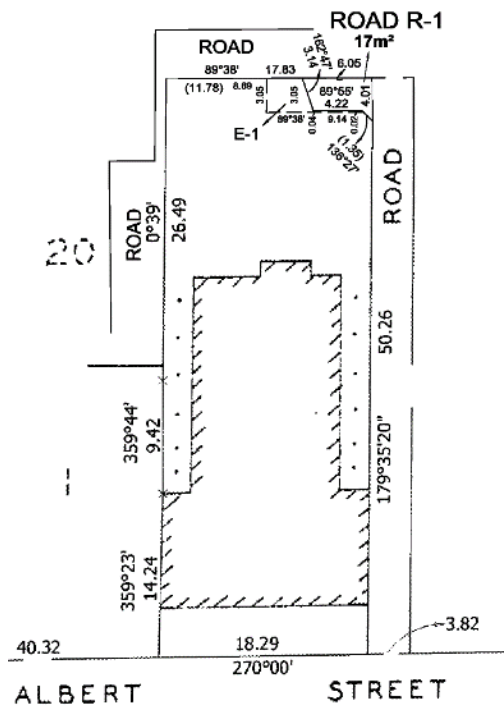
The proposal considered by the Tribunal included car parking provision for 28 vehicles. The revised scheme under consideration by this planning application includes provision for 19 car parking spaces. The existing building on Site has parking provision for 11 vehicles. In accordance with the findings by the Tribunal it is considered that a minor uplift of 8 additional vehicles accessing CL1160 as a result of the proposed development can be safely accommodated by the laneway and the broader road network.

In their comments, Council's Traffic Engineer advised that it would be desirable to provide some form of traffic control to avoid vehicles meeting in the lane and that there is an opportunity to provide a passing lane further north along the lane to minimise the need for a vehicle to reverse when entering or exiting the lane at Albert Street. While it may be desirable to provide a passing lane within the boundary of the Site, it is not considered reasonable to impose this requirement on the permit applicant given the limited increase in movements as a result of this development. The current proposal includes a reduction in additional cars accessing the Site from the lane when compared with the scheme considered by the Tribunal. The Tribunal's findings are also very clear in that a small increase in vehicles, in this case 8, can be accommodated by the lane. The Tribunal also acknowledged that there may be times in using the lane that cars need to yield while there is oncoming traffic but did not find that this would be an unacceptable arrangement. Vehicles accessing the Site via CL1160 as well as other users of the lane will be using the lane at low speed, considering the nature of the lane itself. As such, it is considered that any vehicle conflicts could be safely managed without the need to construct a passing lane.

A second issue in relation to access is the applicant's proposal to construct the building over land to the north-eastern corner of the Site that is designated on title as a road. The plan of strata subdivision has been updated since the previous scheme was considered by the Tribunal and the plan of subdivision now includes land designated as a road within the title boundary for the Site.



As Above: Land designated as Road overlaid on proposed Ground Floor Plan



As Above: Plan of Strata Subdivision for 204-208 Albert Street

Council's City Infrastructure Team have raised concerns regarding the proposal to build over the north-eastern corner of the Site which is designated as a road. Additionally, they have advised that the proposed 3 m x 3 m splay at the north-east corner of CL1160 should be vested in Council as a road under the provision of the Subdivision Act 1988. The splay designated as a road should have a minimum clearance of 5.0 metres above and 1.5 metres below the surface pavement.

It is understood that the permit applicant has entered into discussions with City of Melbourne seeking sale and discontinuation of the land marked as Road on the Plan of Strata Subdivision. This process is yet to be resolved. As such, given the land marked Road is currently a road, a condition will be included on any permit issued requiring the building be redesigned to sit outside of the land marked road (including minimum clearance of 5.0 metres above and 1.5 metres below) unless the land marked road has been discontinued and sold to the permit applicant prior to

commencement of the development. Notwithstanding the above, the splay required for access must be retained as a road with a minimum clearance of 5.0 metres above and 1.5 metres below. The requirement to retain the splay forms part of proposed sale and discontinuation currently subject to discussion.

12.4.2 Car Parking

As discussed in Section 4 of this report, the proposed development seeks a reduction of the car parking requirement under Clause 52.06 Car Parking of the Melbourne Planning Scheme. The proposal seeks a reduction of the car parking requirement by 74 spaces. The proposed reduction of the car parking requirements is considered acceptable, having regard to the decision guidelines of Clause 52.06-7, noting the following:

- The proposal includes in excess of the required number of bicycle spaces, providing 46 spaces (16 required) under Clause 52.38 Bicycle Facilities.
- The subject site is located approximately 850 metres from Jolimont Station and approximately 300 metres from tram lines (12 and 109) on Victoria Parade, and is considered to be well served by public transport.
- The development will provide 19 car parking spaces which is considered sufficient to accommodate vehicle users of the Site.
- Council's Traffic Engineer has confirmed that there are no issues with the internal design of the car park.

Subject to conditions, it is considered that traffic impacts posed by the development are acceptable, and the proposed reduction of the car parking requirement is supported.

12.4.3 Bicycle parking

As discussed in Section 4 of this report, the proposed development seeks to provide bicycle parking in excess of that required under Clause 52.34-1. The proposed development provides a total of 46 bicycle parking spaces (16 required). End of trip facilities and lockers are also provided at ground floor. Council's Traffic Engineer has confirmed that the bicycle parking provision and layout is acceptable.

12.5 Drainage

Council's Civil Engineers have advised that there is a stormwater drain beneath the Site which could be impacted by the proposed development. The drain, indicatively shown below, would be located under the north-western corner of the building with the development located above the drain on all floors.



As Above: Indicative location of 300mm stormwater drain beneath Site (Source: CoMPASS)

Feedback on the proposal from Council's Civil Engineers requires that the building be redesigned so it does not encroach over the drain. Council's Civil Engineers have also provided a range of conditions, including a requirement for a legal agreement to create an easement over the drain, to ensure the development does not compromise ongoing access to the drain.

These conditions will be included on any permit to issue and are sufficient to ensure there are no ongoing issues in regards to access.

12.6 Environmentally Sustainable Design

Council's ESD Advisor has confirmed that the assessed ESD Statement prepared by Ark resources commits to a level of sustainability that meets the objectives of Clause 15.01-2L-01 (Energy and resource efficiency) and Clause 19.03-3L (Stormwater management (water sensitive urban design)) of the Melbourne Planning Scheme.

However, a number of issues have been identified in the submitted documentation that will need to be resolved to ensure that the commitments and strategies outlined in the submitted ESD Statement will translate to outcomes in the completed development.

Conditions have therefore been recommended for inclusion on any permit being granted requiring an updated ESD Statement to be provided, with the additional detail requested by Council's ESD Advisor.

12.7 Concerns raised by objectors

The permit applicant was provided with copies of the submissions received by objectors for their consideration and response.

The concerns raised by objectors have been considered in the assessment of the application. However, the following matters raised by objectors have not been considered specifically in the above assessment. These matters are individually addressed below. This includes matters raised during the advertising of the Section 50 Amended Application, in addition to the Section 57A Amended Application.

Site should be retained for residential use

The proposed use for Office and Retail is consistent with the purpose of the C1Z, which is reflected in their classification as Section 1 (Permit not required) uses.

Wind

The controls affecting the Site do not require submission of a wind report. Additionally, the 9 storey scheme considered by the Tribunal was found to have acceptable wind impacts. As such, it is expected that the revised scheme, at 6 storeys in height, will also have acceptable wind impacts.

Noise impacts including noise from plant

The proposed use and associated traffic movements are not expected to generate noise impacts beyond those that could be reasonably expected in an inner-urban context and are not expected to cause any unreasonable impact on residential amenity. Additionally, plant noise will need to comply with relevant Environmental Protection Act Guidelines.

Glare from glazing

The potential for glare will be managed via condition.

Impact on trees at 214 Albert Street

The development's impact on any adjoining trees outside the property boundary is a civil matter.

12.8 Equitable development

It is considered that the layout of the proposed development will reasonably allow equitable development opportunities for its immediate neighbours, noting the following:

- The proposed development is setback from the adjoining properties to the north and east by CL1160.
- Ground and first floor windows immediately adjoining the boundary with 210-214 Albert Street will be required to be bricked in, in the event of redevelopment of 210-214 Albert Street. This will be required via condition. In the event of these windows being bricked in the Site still retains outlook to the south. This would allow for 210-214 Albert Street to be built up to the boundary in a similar way at the lower floors. A setback at the upper floors could mirror that of the proposal.
- 208-212 Clarendon Street is separated from the Site between 0.8-5.5 metres. Any future residential development on this Site could be designed in a way to manage overlooking from the office proposal on the subject site. The proposed office building on the subject site cannot assume that development to the west will retain light and outlook from west facing windows. In the event of such a redevelopment at 208-212 Clarendon Street the proposed office would retain light and outlook to the north and south.

12.9 Conclusion

Having considered all relevant provisions of the Melbourne Planning Scheme, in addition to the matters required under Section 60 of the *Planning and Environment Act 1987*, it is recommended that the Future Melbourne Committee resolves that a Notice of Decision to Grant a Permit be issued for the proposal subject to the following conditions:

13 RECOMMENDATION

That a Notice of Decision to Grant a Permit be issued subject to the following conditions:

Amended Plans

1. Prior to the commencement of the development, including demolition and bulk excavation, an electronic set of plans drawn to scale, must be submitted to the Responsible Authority generally in accordance with the plans prepared by Jackson Clements Burrows Architects accompanying the s.57A Amendment Application dated 15 September 2023, but amended to show:
 - a) Deletion of the built form located within the land identified as 'Road R-1' on Plan of Strata Subdivision 010482 for a minimum height of 5.0 metres above the surface pavement and 1.5 metres below ground, unless the land identified as 'Road R-1' is formally discontinued, purchased and consolidated with the subject land.
 - b) Deletion of the built form located within the land identified as the proposed 3 metre x 3 metre splay at the north-east corner of the Site including a minimum clearance of 5.0 metres above and 1.5 metres below the surface pavement.
 - c) Location of the existing 300 mm diameter Council stormwater drain along the western boundary towards the north of the Site.
 - d) Deletion of the built form located within the land affected by the Council stormwater drain along the western boundary in accordance with the drainage easement required to be created by Condition 10.
 - e) Location of drainage asset should be verified prior to commencing detailed design.
 - f) Concrete finish to lift core on the West Elevation replaced with a grey brick.
 - g) Retention of the original two-storey heritage building fronting Albert Street to a depth of 10.355 metres (minimum) including east and west walls and roof.
 - h) Retention of south facing timber, double hung windows to south elevation (Albert Street façade).
 - i) Retention of the roof level parapets between 204 and 206 Albert Street and 206 and 208 Albert Street.
 - j) Relocation of the proposed service access doors on the eastern elevation of the retained two-storey heritage building to be setback a minimum of 10.355 metres from the Albert Street frontage.
 - k) Detailed elevation drawings for the proposed front verandah. The proposed verandah must demonstrate an interpretive approach to the original verandah constructed in 1883.
 - l) Measures to prevent overlooking from ground floor east and west facing windows.
 - m) Any doors to surrounding laneways redesigned so that they do not project beyond the street alignment when open, when closed or when being opened or closed.

- n) Any outward opening service doors projecting into CL1160 designed to comply with City of Melbourne's Road Encroachment Guidelines.
- o) Relocate doors to services room at Basement 03 so as to not open onto the car parking space labelled 11.
- p) Any changes required by the structural engineering report required by Condition 5.
- q) Any changes required by the Fabric Management Plan and Work Method Statement required by Condition 6.
- r) Any changes required by the Façade Strategy required by Condition 7.
- s) Any changes required as a result of Condition 9 (Disability Glare).
- t) Any changes required by the Road Safety Audit required by Condition 15.
- u) Any changes required by the ESD and WSUD Statement(s) required by Condition 17.
- v) Any changes required by the Waste Management Plan required by Condition 22.

The amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.

Endorsed plans

- 2. The development as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.
- 3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 4. Prior to the occupation of the development hereby approved, all buildings and works required by this permit must be completed to the satisfaction of the Responsible Authority.

Heritage Retention

- 5. Prior to the commencement of the development, including demolition and bulk excavation, a cross certified structural engineering report prepared by a suitably qualified Structural Engineer, or equivalent, must be submitted to Responsible Authority, demonstrating the means by which the retained portion of the buildings at 204-208 Albert Street will be supported during demolition and construction works to ensure their retention, to the satisfaction of the Responsible Authority. This must include details demonstrating how the chimneys and the roof elements will be retained in situ during and at completion of the works. The recommendations contained within this report must be implemented at no cost to the Responsible Authority.
- 6. Prior to the commencement of the development, including demolition and bulk excavation, a Fabric Management Plan and a Work Method Statement for the existing buildings, prepared by a suitably qualified and experienced conservation architect, must be submitted to and be approved by the Responsible Authority. The Fabric Management Plan and the Work Method Statement must include:
 - a) Details of how the retained portion of the building is going to be supported during demolition, excavation and construction works;

- b) Details of the proposed front verandah;
- c) Details of proposed urns at locations consistent with historical data;
- d) Details of the restoration to the retained parts of the building; and
- e) Detailed construction drawings.

When approved, the Fabric Management Plan will form part of the permit. Works to the retained building, approved under this permit must be undertaken in accordance with the Fabric Management Plan to the satisfaction of the Responsible Authority.

Façade Strategy

7. Concurrent with the endorsement of plans pursuant to Condition 1, a Façade Strategy and Materials and Finishes must be submitted to and be approved by the Responsible Authority. All materials, finishes and colours must be in conformity with the approved Façade Strategy to the satisfaction of the Responsible Authority. The Façade Strategy must be generally in accordance with the development plans and must detail:
- a) A concise description by the architect(s) of the building design concept and how the façade works to achieve this.
 - b) Elevation details generally at a scale of 1:50 illustrating typical lower level details, entries and doors, and utilities and any special features which are important to the building's presentation.
 - c) Cross sections or another method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and / or material.
 - d) Information about how the façade will be accessed and maintained and cleaned, including any planting if proposed.
 - e) Example prototypes and / or precedents that demonstrate the intended design outcome as indicated on plans and perspective images, to produce a high quality built outcome in accordance with the design concept.
 - f) A schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance. Materials and finishes must be of a high quality, contextually appropriate, durable and fit for purpose. This can be demonstrated in coloured elevations or renders from key viewpoints, to show the materials and finishes linking them to an electronic sample board with coding.

Once approved, the Façade Strategy will be endorsed to form part of this permit.

Features above roof level

8. No architectural features, plant and equipment or services other than those shown on the endorsed plans are permitted above roof level, unless with the prior written consent of the Responsible Authority.

Glare

9. Specular light reflectance must be less than 15 per cent for all external building glazing and cladding materials and finishes when measured at an angle of 90 degrees to the surface of the material (normal incidence), except with the written consent of the Responsible Authority.

External glazing and cladding materials and finishes must avoid disability glare to public transport operators, road users and aircraft, to the satisfaction of the Responsible Authority.

Legal Agreement – Road and Easement

10. Prior to the commencement of the development, including demolition and bulk excavation, on the subject land, the owner/s of the subject land must enter into an agreement with the City of Melbourne, pursuant to Section 173 of the Planning and Environment Act 1987. The owner of the land must pay all of the City of Melbourne's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title. The agreement must provide for the following unless agreed otherwise by the Responsible Authority:
- a) The existing 300 mm diameter Council stormwater drain along the western boundary towards the north of the subject land must be upgraded and reconstructed in accordance with plans and specifications first approved by the Responsible Authority – City Infrastructure.
 - b) A drainage easement a minimum 1.5 metres wide, 1.5 metres deep and 9 metres long must be created over the reconstructed stormwater drain to the satisfaction of the City of Melbourne's Manager, Infrastructure and Team Leader, Land Survey. The drainage easement must be in favour of the Council. The drainage easement is to have an upper level at least 5.0 metres above finished ground level and 1.5 metres below ground.
 - c) Indemnify the City of Melbourne against any claims arising from the existence of the above stormwater drain, structures above and below the road. The agreement must require the owner to maintain and repair all structures above or below the subject land at their cost and to the satisfaction of the City of Melbourne.

Legal Agreement for openings on boundary

11. Prior to the commencement of the development (excluding any demolition and bulk excavation) on the land, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987*. The agreement must provide the following:
- a) The windows / openings on the western boundary with 210-214 Albert Street must be removed when the adjoining property is further developed in a manner that the Responsible Authority considers would affect these windows / openings.

The owner of the land must pay all of the City of Melbourne's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

Building Over Easements

12. Prior to the commencement of the development, including demolition and bulk excavation, the permit holder must obtain planning permission to remove or vary the location of the easement identified as E-1 on Plan of Strata Subdivision 010482, unless otherwise agreed by the Responsible Authority.

3D Model

13. Prior to the commencement of the development (excluding any demolition and bulk excavation) a 3D digital model of the approved development must be submitted to the Responsible Authority, and must be to the satisfaction of the Responsible Authority. The model should be prepared having regard to the Advisory Note - 3D Digital Modelling Melbourne City Council. Digital models provided to the City of Melbourne may be shared with other government organisations for planning purposes. The City of Melbourne may also derive a representation of the model which is suitable for viewing and use within its own 3D modelling environment. In the event that substantial modifications are made to the building envelope a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.

Bicycle facilities

14. The design and dimensions of the bicycle parking spaces must comply with the relevant Australian Standards or Bicycle Network Guidelines to the satisfaction of City of Melbourne – City Infrastructure.

Car parking layout and access

15. Concurrent with the submission of plans pursuant to Condition 1, a formal Road Safety Audit prepared by a suitably qualified professional must be provided to the satisfaction of City of Melbourne – City Infrastructure. The Road Safety Audit must address the following matters:
 - a) Vehicular / bicycle / pedestrian access arrangements.When provided to the satisfaction of City of Melbourne – City Infrastructure, the Road Safety Audit will be endorsed to form part of this permit.
16. All spaces, ramps, grades, transitions, accessways, height clearances must be designed in accordance with the Melbourne Planning Scheme and / or relevant Australian Standards, to the satisfaction of City of Melbourne – City Infrastructure.

Amended ESD statement

17. Prior to the commencement of the development, including demolition and bulk excavation, an amended Environmentally Sustainable Design Statement (ESDS) to the satisfaction of the Responsible Authority and prepared by a suitable qualified person must be submitted to and approved by the Responsible Authority. When approved, the amended ESDS will be endorsed and form part of this permit. The amended ESDS must be generally in accordance with the ESDS report prepared by Ark Resources (8th February 2023), but modified to include or show:
 - a) Evidence to the satisfaction of the Responsible Authority, that demonstrates the project has been registered to seek a minimum 5 Star Green Star Buildings rating (or equivalent) with the Green Building Council of Australia.
 - b) An air barrier schematic as per the requirements of Credit 3.
 - c) Waste management plan to support the claim of Credit 4.
 - d) Evidence to demonstrate tenant agreements will be used to achieve relevant credits e.g. Credit 11: Artificial Lighting.
 - e) Acoustic report detailing on how Credit 12 is achieved within the context of the design.

- f) A copy of the pre-screening climate change checklist and evidence that a change risk and adaptation assessment has been conducted.
 - g) Evidence that shows at least 75% of the whole site area comprises of one or a combination of strategies that reduce the heat island effect.
 - h) Evidence that the development can achieve the minimum requirements for up front carbon emissions. Modelling or calculations via the Upfront Emissions Calculator need to be provided.
 - i) NABERS Base Build Energy modelling input details and energy end uses.
 - j) A Zero Carbon Action Plan or a commitment to the Climate Positive Pathway.
 - k) The Movement and Place calculator completed to demonstrate points achieved under Credit 27.
 - l) A needs analysis that confirms the development can achieve the requirements of the credit.
 - m) Evidence to support Credit 35.
18. Prior to the commencement of the development, including demolition and bulk excavation, evidence must be submitted to the satisfaction of the Responsible Authority, that demonstrates the project has been registered to seek a minimum 5 Star Green Star Buildings V1 rating (or equivalent) with the Green Building Council of Australia.

Incorporation of Sustainable Design Initiatives

19. The performance outcomes specified in ESDS must be achieved in the completed development to the satisfaction of the Responsible Authority.
- Any change during detailed design, which prevents or alters the attainment of the performance outcomes specified in the endorsed ESDS, must be documented by the author of the endorsed ESDS in an addendum to this report, which must be provided to the satisfaction of the Responsible Authority prior to the commencement of construction.

Implementation of ESD statement

20. Prior to the occupation of any building approved under this permit, a report from the author of the endorsed ESDS, or similarly qualified persons or companies, outlining how the performance outcomes specified in the amended ESDS have been implemented must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm and provide sufficient evidence that all measures specified in the approved ESDS have been implemented in accordance with the relevant approved plans.
21. Within 12 months of occupation of the building, certification must be submitted to the satisfaction of the Responsible Authority, that demonstrates that the building has achieved a minimum 5 Star Green Star Buildings V1 rating (or equivalent).

Waste Management

22. Prior to the commencement of the development, excluding demolition and bulk excavation a Waste Management Plan (WMP) must be submitted to

and approved by the City of Melbourne – Waste and Recycling. The WMP must be generally in accordance with the WMP prepared by Traffix Group dated 7 February 2023, but modified to include the following:

- a) A revised bin room arrangement ensuring tenants will have immediate access to a 1100 L bin for garbage, recycling and paper / cardboard.
 - b) Bin wash facility.
 - c) Communal storage space for hard waste.
 - d) Swept path diagrams to include the waste vehicle's entry / exit manoeuvres from / to street level.
23. Waste storage and collection arrangements as shown in the endorsed WMP must not be altered without the prior consent of the Responsible Authority – Waste and Recycling.
24. No garbage bin or waste materials generated by the development may be deposited or stored outside the site and bins must be returned to the garbage storage area as soon as practical after garbage collection, to the satisfaction of the Responsible Authority.

Construction Management Plan

25. Prior to the commencement of the development, including demolition or bulk excavation, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority - Construction Management Group. This construction management plan must be prepared in accordance with the Melbourne City Council - Construction Management Plan Guidelines and 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.
 - f) traffic management.

Tree Protection Plan

26. Prior to the commencement of any works, including demolition, a Tree Protection Plan (TPP) must be provided to the satisfaction of the City of Melbourne. The TPP must identify all impacts to public trees, be in accordance with AS 4970-2009 - Protection of trees on development sites and include:
- a) City of Melbourne asset numbers for the subject trees (found at <http://melbourneurbanforestvisual.com.au>).
 - b) Reference to the finalised Construction and Traffic Management Plan, including any public protection gantries, loading zones and machinery locations.
 - c) Site specific details of the temporary tree protection fencing to be used to isolate public trees from the demolition and or construction activities or details of any other tree protection measures considered necessary and appropriate to the works.

- d) Specific details of any special works methodologies to be used within the Tree Protection Zone of any public trees. These must be provided for any utility connections or civil engineering works.
- e) Full specifications of any pruning required to public trees with reference to marked images.
- f) Any special arrangements required to allow ongoing maintenance of public trees for the duration of the development.
- g) Details of the frequency of the Project Arborist monitoring visits, interim reporting periods and final completion report (necessary for bond release).

Public Tree Removal / Pruning

- 27. No public tree adjacent to the site can be removed or pruned in any way without the written approval of the City of Melbourne.

Public Tree Protection

- 28. All works (including demolition), within the Tree Protection Zone of public trees must be undertaken in accordance with the endorsed Tree Protection Plan and supervised by a suitably qualified Arborist where identified in the report, except with the further written consent of the Responsible Authority.
- 29. Following the approval of a Tree Protection Plan (TPP), a bond equivalent to the combined environmental and amenity values of public trees that may be affected by the development will be held against the TPP for the duration of construction activities. The bond must be lodged by the Principle contractor. The bond value will be calculated by City of Melbourne. Should any tree be adversely impacted by the works, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works incurred.

Lighting Strategy

- 30. Prior to the commencement of the development, excluding demolition and bulk excavation, or as may otherwise be agreed with the City of Melbourne, a lighting plan must be prepared to the satisfaction of Council. The lighting plan should be generally consistent with Council's Lighting Strategy, and include the provision of public lighting in the streets adjacent the subject land. The lighting works must be undertaken prior to the commencement of the use / occupation of the development, in accordance with plans and specifications first approved by the Responsible Authority – City Infrastructure.

Civil Engineering

- 31. Prior to the commencement of the development, a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the Responsible Authority – City Infrastructure. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system.
- 32. All groundwater and water that seeps from the ground adjoining the building basement (seepage water) and any overflow from a reuse system which collects groundwater or seepage water must not be discharged to the Council's drainage network. All contaminated water must be treated via a suitable treatment system and fully reused on site or discharged into a

sewerage network under a relevant trade waste agreement with the responsible service authority.

33. Prior to the commencement of the use / occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the Responsible Authority – City Infrastructure.
34. All portions of roads and laneways affected by the building related activities of the subject land must be reconstructed together with associated works including the reconstruction or relocation of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – City Infrastructure.
35. The road adjoining the site known as CL1160 must be reconstructed including the crossing at Albert Street together with associated works including drainage, lighting and the modification of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – City Infrastructure.
36. The footpath adjoining the site along Albert Street must be reconstructed together with associated works including the renewal of kerb, reconstruction of channel and modification of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – City Infrastructure.
37. Existing street levels in roads adjoining the site must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – City Infrastructure.
38. All street lighting assets temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has been ceased. Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – City Infrastructure.
39. Existing street furniture must not be removed or relocated without first obtaining the written approval of the Responsible Authority – City Infrastructure.

Works abutting CoM laneways

40. The title boundaries for the property may not exactly agree with the road alignments of the abutting City of Melbourne laneway(s). The approved works must not result in structures that encroach onto City of Melbourne's laneways.

Landscaping

41. Prior to the commencement of the development (excluding any demolition and bulk excavation), a detailed landscape plan prepared by a suitably qualified landscape architect must be submitted and approved by the Responsible Authority. This plan must include:
 - a) A schedule of all soft and hard landscaping and treatments.
 - b) Urban design elements including, but not limited to, paving, lighting, seating, and clear demarcation of public realm and private spaces, including arrangements for pedestrian, bicycle and vehicular circulation.

- c) Location of buildings and trees on neighbouring properties within three metres of the boundary, including street trees.
- d) Planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

This landscape plan must be to the satisfaction of the Responsible Authority and when approved shall form a part of the endorsed plans of this permit.

- 42. Except with the prior written consent of the Responsible Authority the approved landscaping must be implemented prior to the occupation of the development.
- 43. The landscaped areas must be maintained to the satisfaction of the Responsible Authority.

Development time limit

- 44. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within three years of the date of this permit.
 - b) The development is not completed within five years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the development if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.

NOTES

Building Approval Required

- This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Registered Building Surveyor.

Building Works to Accord with Planning Permit

- The applicant / owner will provide a copy of this planning permit and endorsed plans to any appointed Building Surveyor. It is the responsibility of the applicant / owner and the relevant Building Surveyor to ensure that all building (development) works approved by any building permit are consistent with this planning permit.

Drainage Point and Method of Discharge

- The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the Responsible Authority prior to the commencement of any buildings or works.

Other Approvals May be Required

- This Planning Permit does not represent the approval of other departments of Melbourne City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.

Tree Protection

- A tree protection bond can be provided as a bank guarantee or by EFT. A bank guarantee must be:
 1. Issued to City of Melbourne, ABN: 55 370 219 287.
 2. From a recognised Australian bank.
 3. Unconditional (i.e. no end date)
 4. Executed (i.e. signed and dated with the bank stamp)
- If the bond is to be lodged as an EFT, Council's bank details will be provided on request.
- An acceptable bank guarantee is to be supplied to Council House 2, to a representative from Council's Urban Forest and Ecology Team. Please email trees@melbourne.vic.gov.au to arrange a suitable time for the bank guarantee to be received. A receipt will be provided at this time.
- Any pruning works identified in the Tree Protection Plan will be undertaken once the Tree Protection Bond is lodged, all permits issued and works are ready to commence.
- On completion of the works, the bond will only be released when evidence is provided of Project Arborist supervision throughout the works and a final completion report confirms that the public trees have not been affected by the works.