

PLANNING REPORT

MINISTERIAL REFERRAL

Application number:	TPM-2013-30/C
DELWP Application number:	2013009634-4
Applicant:	88 Queens Bridge Pty Ltd C/- Urbis
Owner:	88 Queens Bridge Pty Ltd & Melbourne Live Pty Ltd
Architect:	Elenberg Fraser
Address:	84-90 Queens Bridge Street & 15-23 Kings Way, SOUTHBANK VIC 3006
Proposal:	<p>Amendment of Ministerial Permit 2013009634-3 under Section 72 of the Planning and Environment Act 1987 by way of</p> <ul style="list-style-type: none"> ▪ Amending the address of the permit. ▪ Amending the design of the development ▪ Amending conditions of the permit
Cost of works:	\$200 Million
Date received by City of Melbourne:	2 October 2020
Responsible officer:	Markus Tschech
Report Date:	22 November 2021
DM# 15045262	

1. SUBJECT SITE AND SURROUNDS

1.1. The Site

The site is located within a mixed use area comprising apartment and commercial buildings.

A site inspection on 19 September 2021 confirmed that, since the drafting of the original FMC Officer Report on 7 March 2014, the buildings on the site have been demolished and replaced with an open basketball court.

The immediate surrounds have not significantly altered since the drafting of the above report.

It is worth noting, however, that Council is undertaking a rejuvenation of the adjacent Kings Way Undercroft which seeks to convert this into a recreation space for the local community, including the potential for flexible courts, landscaping, active areas and urban plazas.

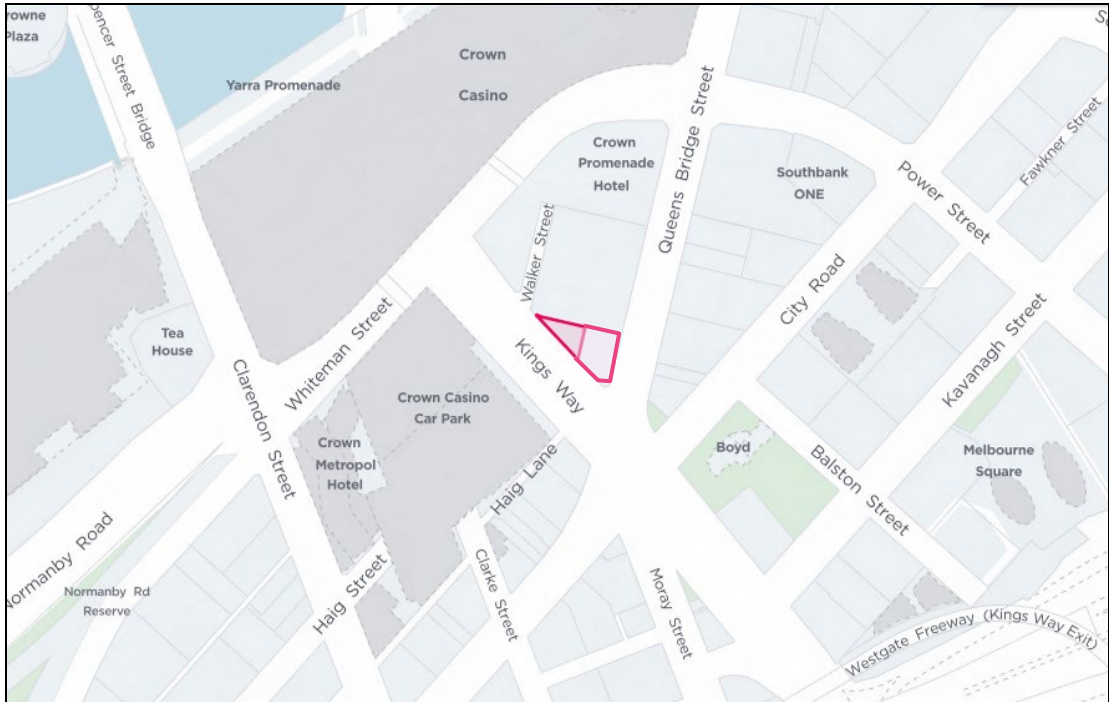


Figure 1 - Site Locality Plan

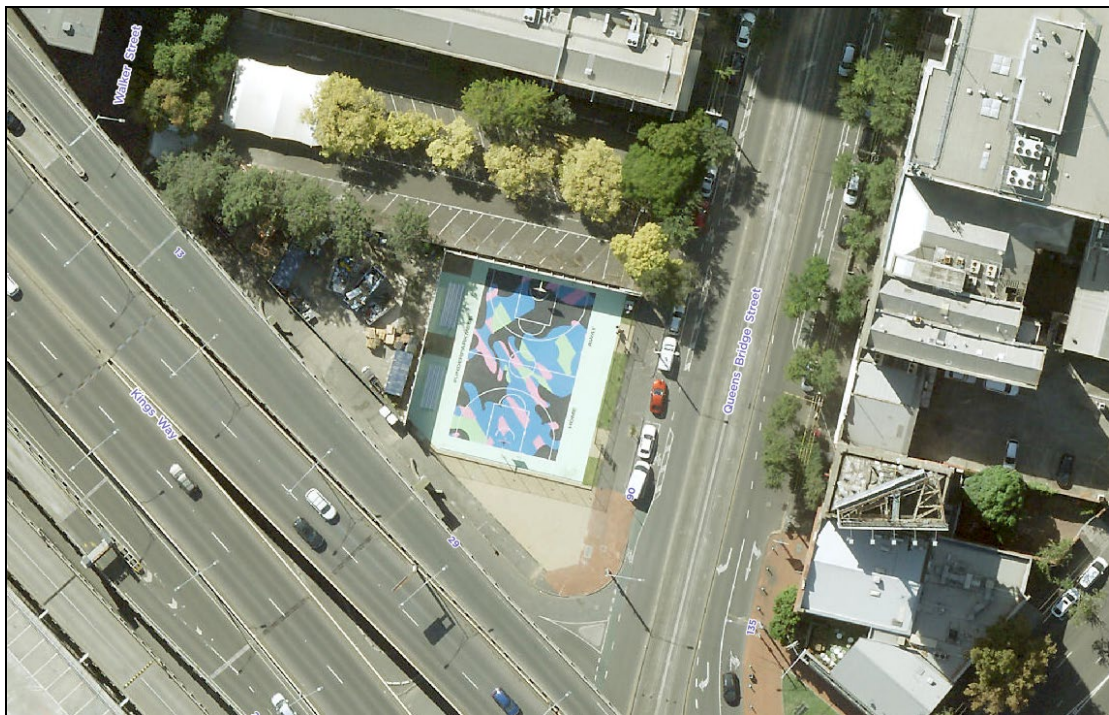


Figure 2 - Aerometrex Aerial Photo. Captured 4 April 2021



Figure 3 - Photo of site from Queens Bridge Street. Captured 19 September 2021



Figure 4 - Photo of site from Kings Way Undercroft. Captured 19 September 2021

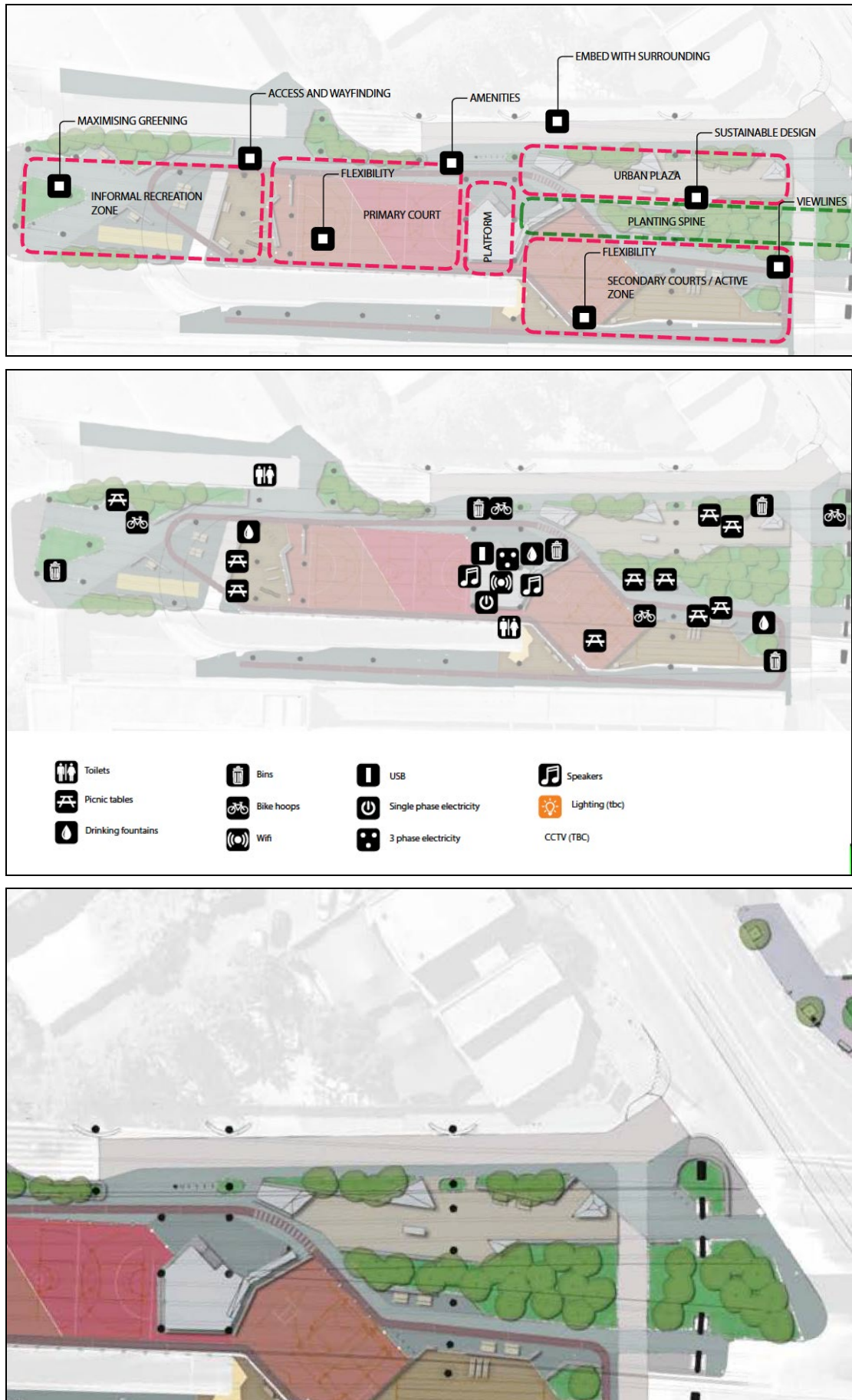


Figure 5 - Extracts from the Northern Undercroft Masterplan, 17 February 2021, identifying the site

2. BACKGROUND AND HISTORY

2.1. Pre-application discussions

The permit applicant met with DELWP and Council Officers on 8 April 2020 and again on 20 August 2020 to discuss the application. Council Officers were tentatively supportive of the revised façade design and street presentation. Key issues raised by Council at the time included:

- The increase in Floor Area Ratio (FAR) and how required public benefits would be achieved.
- Reduced street setbacks are not supported.
- Amenity of apartments located directly opposite Kings Way.
- Orientation of apartments and location of windows along the western boundary.
- Equitable development opportunities for 15-23 Kings Way.
- Location of bicycle facilities in the basement.

2.2. Amendments during the process

The application was amended pursuant to Section 50 of the *Planning and Environment Act 1987* on 8 April 2021.

This followed the permit applicant's purchase of the adjacent land to the west at No.15-23 Kings Way and integration of this parcel of land into an amended development. The amended design has been expanded to include a 10 storey podium across both parcels of land.

Although permits are not commonly amended to incorporate additional land, it is consistent with the requirements of the *Planning and Environment Act 1987*.

The amalgamated site now comprises No.15-23 Kings Way and 84-90 Queens Bridge Street.

2.3. Planning Application History

Ministerial Planning Permit 2013/009634 was issued by DELWP (formerly DTPLI) on 4 June 2014. This permit allowed the:

'Demolition of the existing building and the use and development of the land for dwellings and retail premises with associated parking and variation of loading requirements in accordance with the endorsed plans.'

The permit was amended on 23 May 2016 to, inter alia, increase the height of the building by six storeys, reduce the number of dwellings from 295 to 252, introduce a car stacker system, remove commercial tenancies from the podium levels and introduce a food and beverage tenancy at ground level. It is noted that Council objected to the changes sought as part of the amendment application.

The permit was amended a second time on 23 May 2018. This amendment involved changes to the internal layout resulting in the loss of two motorcycle spaces, an increase in the retail tenancy and activation of the façade.

The permit was amended a third time on 19 October 2018. This amendment involved changes to the internal layout of the building.

It is understood that all conditions that require further approval prior to commencement, including condition 1 plans, have been satisfied. As all structures on the site have been demolished, it is considered that the permit has been activated.

The permit will expire if works are not completed by 4 June 2024.

3. PROPOSAL

The application seeks approval to amend Ministerial Permit 2013009634-4 under Section 72 of the Planning and Environment Act 1987. The Minister has accepted that a Section 72 Amendment is appropriate and formally referred the matter to the City of Melbourne. The proposed amendment includes the following key changes:

- Address of the permit to include 15-23 Kings Way.
- Design of the development.
- Conditions of the permit to reflect the amended design.

The revised plans are those prepared by Elenberg Fraser, dated 6 April 2021 (Drawings A0000 – A0963) and contemplate a larger building footprint (incorporating land at 15-23 Kings Way), accommodating a residential hotel in a ten level podium, revised apartment layouts and an entirely redesigned façade expression.

The revised design includes a separate residential hotel entry via the Kings Way undercroft, and hotel amenities (including conference and recreation facilities) on levels 1, 2 and 10. Above the ten level podium, the building would retain a similar footprint (with a slight reduction in the setback to the east) and maintain the approved building height.

Key changes to the approved development are as follows:

- Expansion of building onto the land at 15-23 Kings Way, following acquisition of this land by the applicant.
- Introduction of a residential hotel on levels 1-10, incorporating 190 hotel rooms plus amenities, including a hotel bar, conference facilities and recreation rooms.
- Substantial layout changes across every level of the building, resulting in an increase in the number of apartments from 252 to 367.
- Creation of an outdoor terrace for use by residents, above the 10 storey podium, thereby increasing the total communal facilities for residents from 748 m² to 2,845m²
- Increase in the number of bicycle spaces from 77 to 150 spaces.
- Reduction in the total number of carparking spaces provided within the mechanical parking system from 198 to 113 spaces.
- An increase in the number of storeys from 60 to 65, without altering the approved height; achieved via a substantial reduction in the extent of rooftop plant and changes to floor levels across the building.
- An increase in the Gross Floor Area (GFA) of the building from 39,888m² to 46,455m².
- A decrease in the overall Floor Area Ratio (FAR) from 42.43:1 to 32.93:1 as a result of the increased site area.

A table summarising the approved and proposed development is provided below.

	Approved	Proposed
Site area	947m ²	1,408m ²
Dwellings	27 x 1 Bed 176 x 2 Bed 47 x 3 Bed 2 x 4 Bed	139 x 1 Bed 160 x 2 Bed 68 x 3 Bed 0 x 4 Bed

		252 Total	367 Total
Hotel Rooms		0	190
Retail / Commercial		233 m ²	3,372 m ²
Building height	Top of services	208.4 metres / 60 storeys	208.4 metres / 65 storeys
	DDO10 definition	208.4 metres / 60 storeys	204.8 metres / 65 storeys
Street wall height		29.62 metres	35.4 metres
Min. tower setbacks		<u>Level 10 onwards:</u> North: 7 metres South: 1.5 metres East: 4.5 metres West: 0 metres	<u>Level 12 onwards:</u> North: 5 metres South: 1.5 metres East: 4.5 metres West: 38.8 metres
GFA above ground		39,888 m ² *	46,455 m ²
Floor Area Ratio (FAR)		42.43: 1	32.93 : 1
Communal Space		1,449 m ²	2,154 m ²
Car parking spaces		198	113
Bicycle facilities and spaces		51 resident spaces 26 visitor spaces 0 end of trip facilities	74 resident spaces 37 visitor spaces 38 hotel staff spaces 3 E-Scooter spaces Separate male and female end of trip facilities
Motorcycle space		0	A 41m ² motorcycle storage room
Vehicle access		Via Queens Bridge Street	Via Queens Bridge Street (Residential) Via Kings Way (Hotel)
Loading/unloading		Via Queens Bridge Street	No change

* The Development Summary for the approved development provides an incorrect GFA figure. This was reviewed by the project architect together with a quantity surveyor, who confirmed the revised figure. The key difference is the previous GFA appears to have been measured from the inside, rather than outside, of the glazing line and walls.

Relevant extracts of the approved and proposed development are provided on the following pages.



Figure 6 - Endorsed (left) and proposed (right) 3D render of the development, from Kings Way



Figure 7 - Endorsed (above) and proposed (below) 3D render of the podium levels of the development, from Queens Bridge Street



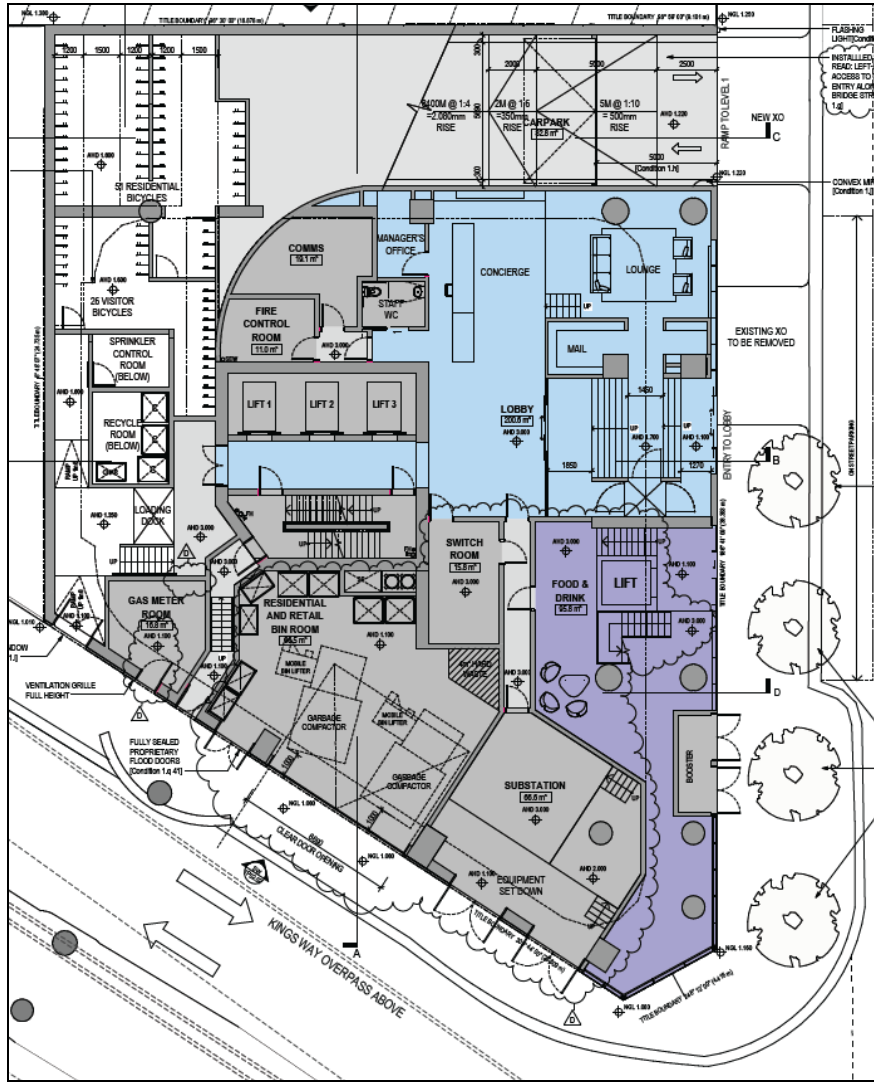
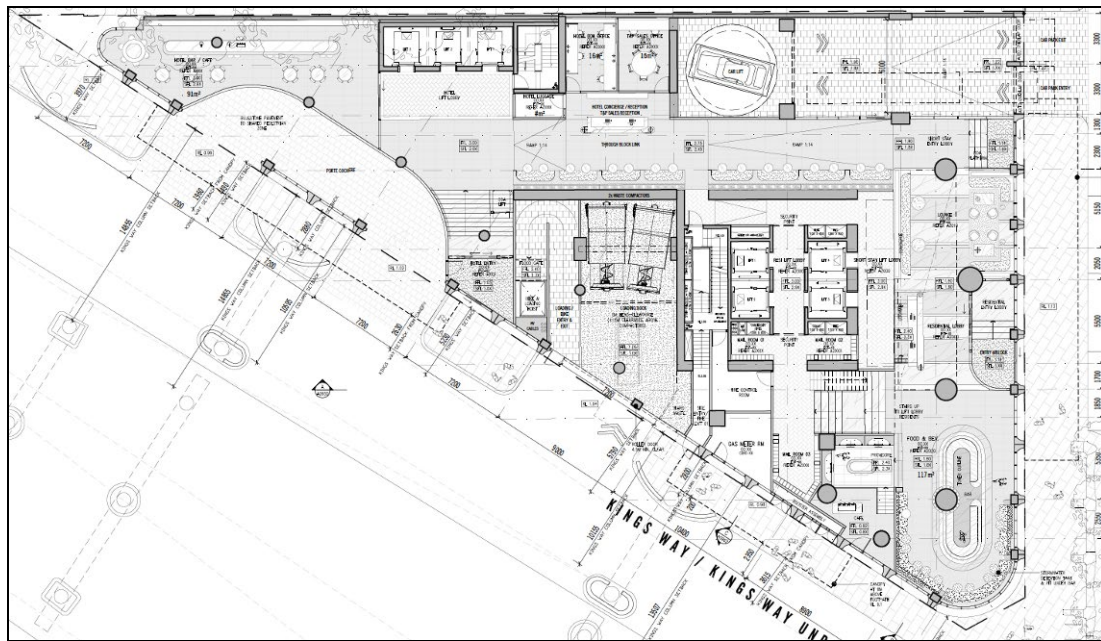


Figure 9 - Endorsed (above) and proposed (below) Ground Level Plan. From Drawings TP01.01 & A0100L



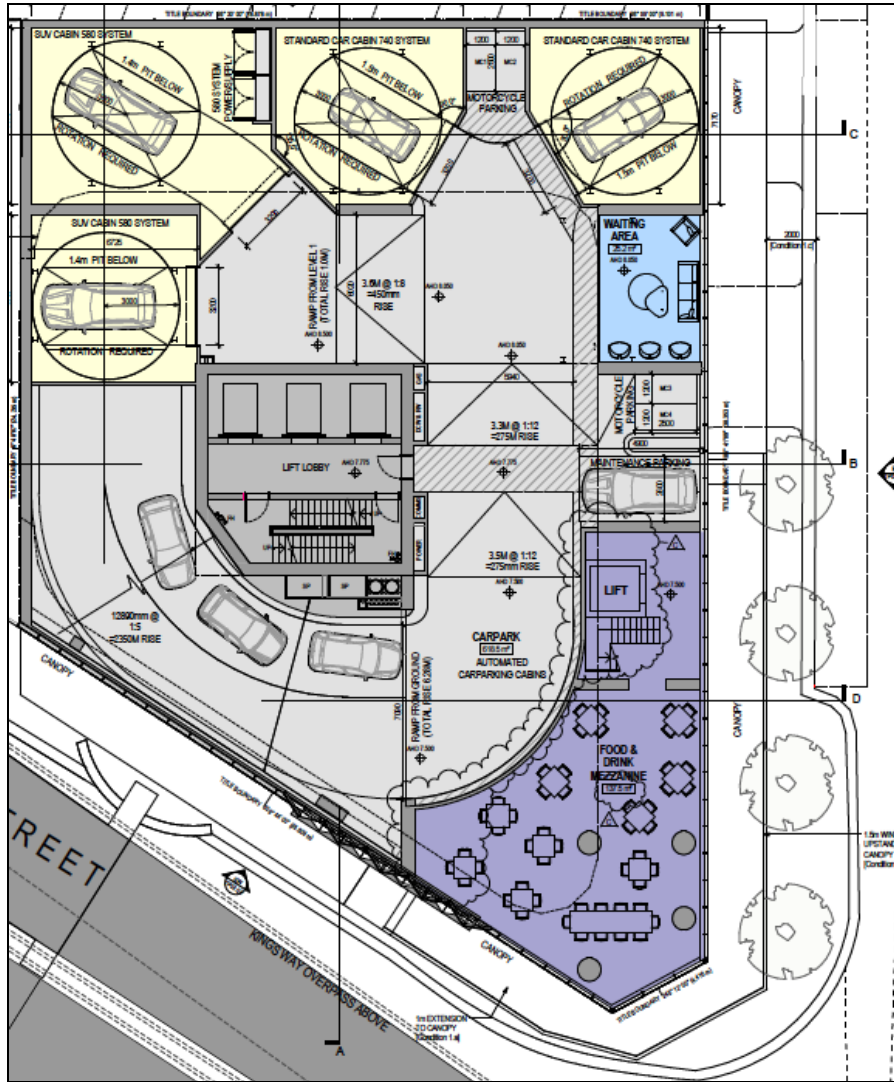
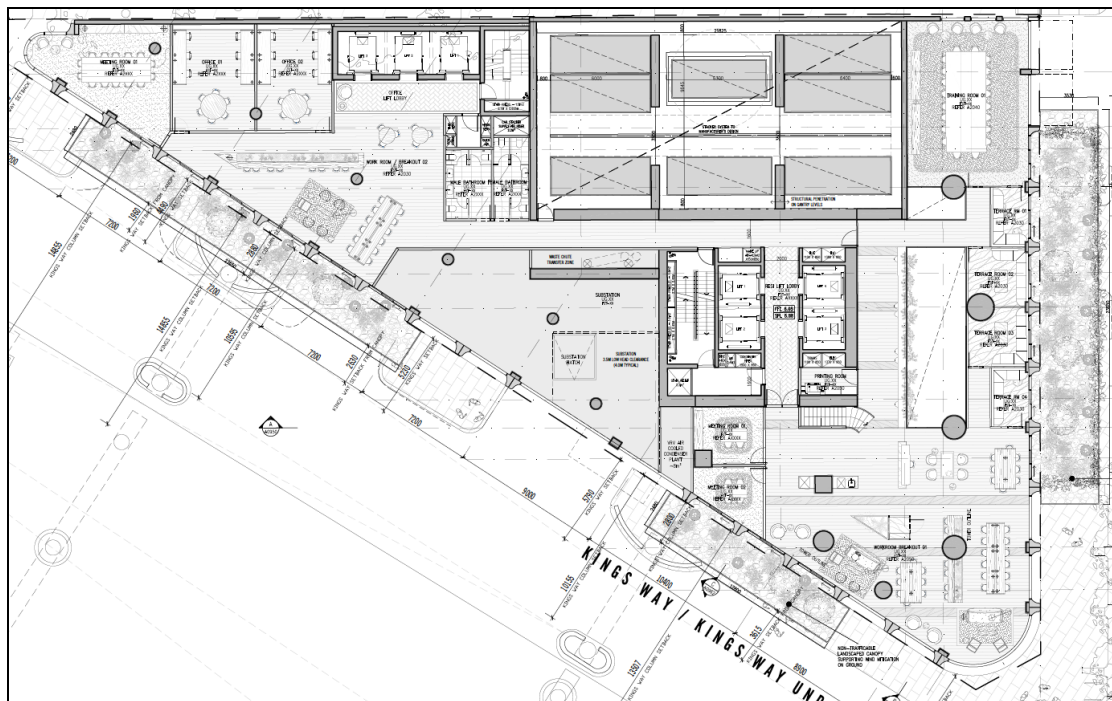


Figure 10 - Endorsed (above) and proposed (below) Level 1 Plan. From Drawings TP01.03 & A0100U



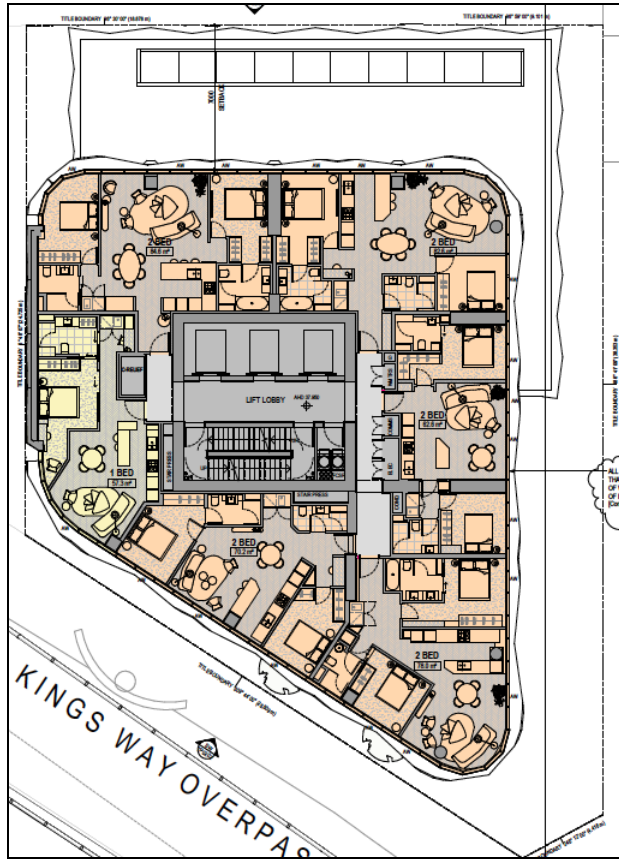
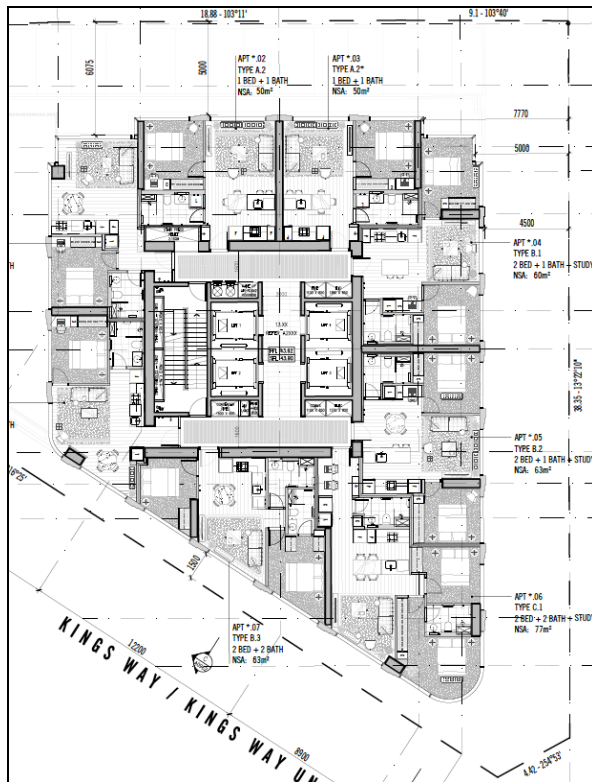


Figure 12 - Endorsed Level 10-26 Plan (above) and Level 12-34 Plan (below). From Drawings TP01.12 & A0112



4. PLANNING SCHEME PROVISIONS

4.1. Statutory controls

The Future Melbourne Committee (FMC) Officer Report on file dated 7 March 2014 lists all relevant permit triggers. The following important changes have, however, occurred since March 2014.

4.1.1. Schedule 3 to the Capital City Zone

Schedule 3 to the Capital City Zone (CCZ3), which continues to apply to the site, was amended pursuant to Planning Scheme Amendment C262, and introduced, inter alia, a mandatory Floor Area Ratio (FAR) control; stating at Section 3.0 that:

'A permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) to construct a building or construct or carry out works with a floor area ratio in excess of 18:1 on land to which schedule 10 to the Design and Development Overlay applies.'

Section 3.0 also states that:

'Habitable rooms of new dwellings adjacent to high levels of external noise should be designed to limit internal noise levels to a maximum of 45dB in accordance with relevant Australian Standards for acoustic control.'

The current application does not benefit from the Transitional Provisions at Section 6.0 of the Schedule, and the FAR and acoustic provisions of the CCZ3 therefore apply.

In this instance, due to the annexation of the adjacent land at 15-23 Kings Way, the FAR of the approved building would actually be reduced from 42.43:1 to 32.93:1. The proposal is therefore compliant with this requirement.

4.1.2. Schedule 1 to the Design and Development Overlay

The original application was assessed against the provisions of Schedules 1, 3 and 4 to the Design and Development Overlay (DDO1, DDO3 & DDO4) that applied to the site prior to the gazettal of Planning Scheme Amendment C308 on 30 September 2021.

Key changes made to the Planning Scheme as part of this Amendment include:

- Deleting Clause 22.01 (Urban Design within the Capital City Zone).
- Replacing Schedule 1 to the Design and Development Overlay (Active Street Frontages) with a new Schedule 1 (Urban Design within the Central City and Southbank).
- Deleting Schedule 3 (Traffic Conflict) and 4 (Weather Protection) to the Design and Development Overlay and incorporating these provisions into the new DDO1.

In terms of the new DDO1 controls, it is pertinent to note that:

- The site is not in 'Special Character Area' on Map 1
- This section of Queens Bridge Road is identified as a 'Traffic Conflict Frontage' on Map 2.

Importantly, the amended DDO1 does not include Transitional Provisions and therefore applies to this application.

4.1.3. Schedule 10 to the Design and Development Overlay

The original application was assessed against the provisions of Schedule 60 to the Design and Development Overlay (DDO60) that applied to the site prior to the gazettal of (interim) Planning Scheme Amendment C262 on 1 September 2015.

Amendment C262 applied the new Schedule 10 to the Design and Development Overlay (DDO10) to the site, replacing DDO60 in that instance.

DDO10 was updated as part of Amendment C270 and again as part of Amendment C311. The current application does not benefit from the Transitional Provisions at Section 7.0 of the Schedule, and the requirements of DDO10 therefore apply.

The following aspects of DDO10 now apply and are of particular relevance:

- Removal of the discretionary overall maximum building height of 160 metres.
- Maximum podium height varied from a discretionary 30 metres to a preferred 20m and a mandatory 40 / 80 metres depending on certain criteria being met.
- Reduction of the minimum front, side and rear boundary setback (above the street wall / podium) as follows:
 - A preferred ten / mandatory five metres minimum street setback for towers.
 - Preferred side and rear setbacks equivalent to six percent of the total height with the option to adjust to five metre side and rear setbacks provided no increase in floorplate area above the control conditions.
- Introduction of the following wind requirements:
 - A permit must not be granted for buildings and works with a total building height in excess of 40 metres that would cause unsafe wind conditions in publicly accessible areas adjoining the site.
 - A permit should not be granted for buildings and works with a total building height in excess of 40 metres that do not achieve comfortable wind conditions in publicly accessible areas adjoining the site.
- Introduction of the following overshadowing requirements:
 - A permit must not be granted for buildings and works which would cast any unreasonable additional shadow across specified public and private spaces, including Sturt Street Reserve and any public space, public parks and gardens, public squares, open spaces associated with a place of worship and privately owned public spaces accessible to the public.

4.2. Strategic policy framework

The FMC Officer Report on file dated 7 March 2014 lists all relevant provisions of the Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF) including Municipal Strategic Statement (MSS). Since the issuing of the permit the following changes have been made where relevant.

Amendment VC148 was gazetted on 31 July 2018 and implemented changes to the Victoria Planning Provisions (VPP) and planning schemes. The amendment sought to add clarity to schemes by simplifying and improving their structure, function and operation. It is not considered that this amendment has any substantial impact on the amended proposal.

Additionally, as set out at Section 4.1.2, Amendment C308 (gazetted on 30 September 2021) deleted Clause 22.01 (Urban Design within the Capital City Zone) in part to strengthen the urban design requirements of the amended DDO1.

4.3. Particular / General Provisions

The original application was assessed against the requirements at Clause 52.07 (Loading and unloading of vehicles). Amendment VC142, gazetted on 16 January 2018 deleted Clause 52.07 and introduced new Decision Guidelines at Clause 65 in relation to the loading and unloading of vehicles.

It is worth noting that Amendment VC136 was gazetted on 13 April 2017 and replaced Clause 52.35 (Urban Context Report and Design Response for Residential Development of Four or More Storeys) with a new Clause 58 (Apartment Developments).

Pursuant to Clause 37.04-4 of the Capital City Zone, an apartment development must meet the requirements of Clause 58.

This does not apply to an application for an amendment of a permit under Section 72 of the Act, if the original permit application was lodged before the approval date of Amendment VC136. The original application was lodged in 2013, and therefore is exempt from these requirements.

The FMC Officer Report on file dated 7 March 2014 lists all other relevant Particular / General Provisions.

4.4. Responsible Authority

Pursuant to Clause 61.01 (Administration and enforcement of this scheme) the Minister for Planning is the Responsible Authority for this planning permit application as the total floor area of the development exceeds 25,000 square metres.

5. PUBLIC NOTIFICATION

Public notification of the application is the responsibility of the Minister for Planning. It is noted, however that:

- Pursuant to Schedule 3 of the Capital City Zone, this application is exempt from the notice requirements of Section 52 (1) (a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82 (1) of the Act.
- Pursuant to Schedules 1 and 10 of the Design and Development Overlay an application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.
- Pursuant to Schedule 1 of the Land Subject to Inundation Overlay an application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

The City of Melbourne is a Recommending Referral Authority pursuant to Section 55(1) of the *Planning and Environment Act 1987* and the Schedule to Clause 66.04 of the Melbourne Planning Scheme.

6. REFERRALS

Referral of the application to referral authorities is the responsibility of the Minister for Planning.

The application was referred to the following areas of the City of Melbourne for comment with the responses provided below.

6.1. Urban Design

Council's Urban Designer reviewed and provided comment during a meeting with DELWP and in response to the originally submitted application. General support was expressed for the revised façade composition, materiality and streetscape interface.

Concerns were however raised in relation to:

- Acoustic impacts to the hotel rooms within the podium levels from traffic on Kings Way, noting that the approved podium comprises primarily above ground carparking.
- Adverse wind conditions on levels 11 and 63.
- Poor response to context and internal amenity for apartments along the western boundary which are built to the boundary, and would need to have their windows fully enclosed should the neighbouring site to the west be redeveloped.
- The shared bicycle and vehicle access to the site, and potential for safety impacts and compromised legibility.
- Lack of outdoor private open space for dwellings, noting that this remains consistent with the approved development.

Council's Urban Designer continued to review and provide comment on various iterations of the development plans throughout the assessment process, including those submitted as part of the Section 50 Amendment (which incorporated the land to the west), and in response to Council's subsequent RFI.

As noted in their comments of 16 July 2021:

'The acquisition of the adjoining site has resolved the fundamental issues originally raised and this further iteration has also addressed additional concerns recently identified. However reconfiguration of the Kings Way under-croft interface to respond to a future public space, alongside completion of a wind study and façade strategy should still be required and offer satisfactory response.'

This Kings Way under-croft interface concern was the subject of several meetings with both DELWP and the permit applicant. Initially, Council encouraged the applicant to investigate relocation of the hotel pick-up / drop-off to Queens Bridge Street. This arrangement was not, however, supported by Council's (nor the Applicant's) Traffic Engineer, who advised that this would lead to significant conflicts with the Queens Bridge Street bicycle lane, and that the porte-cochere (as proposed) was the best option from a cycling and traffic safety perspective.

The set of Discussion Drawings dated 18 October 2021 incorporated a range of improvements to this interface, including openable windows between the porte-cochere and hotel bar, reduction in crossover widths, and reduction of structures within the central part of the porte-cochere.

Based on the improvements depicted in the above Discussion Drawings, Council's Urban Designer advised that they were in a position to support the proposal on 29 October 2021.

A recommended condition that all changes shown in the Discussion Drawings dated 18 October 2021 be adopted in the approved development will form part of the recommendation.

A suggested revised façade strategy will also be recommended.



Figure 13 - 3D Render of the proposed porte-cochere, incorporating all changes supported by Council's Urban Designer

6.2. ESD

Council's Green Infrastructure & ESD Officer reviewed and raised concerns in relation to several versions of the development plans and accompanying ESD reports.

Following review of a NatHERS Assessment Report and Green Star GHG Emissions Report prepared by IGS, dated 7 October 2021, Council's Green Infrastructure & ESD Officer advised that the only outstanding matters were relatively minor and could be suitably addressed via permit conditions.

A condition will therefore recommend the inclusion of these matters on any amended permit issued.

6.3. Green Infrastructure

Following review of the final set of landscape drawings prepared by Openwork, dated 18 February 2021, Council's Green Infrastructure & ESD Officer advised that:

'The proposed landscape plans show a considered approach to the design of perimeter planting at ground level, green-roof canopies at upper ground level, perimeter planters on level 9, provision of a small tree on the landscaped external deck on level 10 and small trees and perimeter planters on the external deck on level 11.

No landscape maintenance details have been provided so this is required to be addressed by condition.'

The provided condition will be recommended for inclusion in any amended permit issued.

6.4. Traffic Engineering

Council's Traffic Engineer reviewed and raised concerns in relation to several versions of the development plans and accompanying traffic reports.

Following review of a written response to traffic comments prepared by Stantec, dated 29 July 2021, Council's Traffic Engineer advised that they were satisfied with the development and had no further comments.

It is noted that the above comments are based on a set of Discussion Drawings dated 23 July 2021, which showed details of the end-of-trip facilities in accordance with Clause 52.23 (Bicycle Facilities). It is therefore recommended to add a condition that all changes shown in the Discussion Drawings dated 23 July 2021 be adopted in the approved development.

6.5. Waste Engineering

Following review of several revisions of a Waste Management Plan (WMP), Council's Waste Engineer confirmed that the final WMP prepared by Salt3, dated 30 July 2021 was acceptable and provided recommended conditions.

It is noted that the above comments are based on a set of Discussion Drawings dated 23 July 2021, which showed several changes to the layout and dimensions of waste storage rooms and access to these spaces.

Council will therefore recommend a condition that all changes shown in the Discussion Drawings dated 23 July 2021 be adopted in the approved development, in addition to the recommended waste conditions.

6.6. Civil Design

Council's Infrastructure Engineer commented on multiple occasions during the assessment of the proposal.

They advised on 4 August 2021 that they had no outstanding concerns, and requested that the conditions set out in their advice dated 27 May 2021 be included on any amended permit issued.

The above mentioned conditions do not vary substantially from the conditions of the current permit, and were not challenged by the permit applicant following their review.

7. ASSESSMENT

The key issues in the consideration of this amendment application are:

- Land use modifications.
- Built form and urban design response.
- Amenity impacts, including wind, overshadowing and overlooking
- Internal amenity, including apartment layouts and acoustic comfort.
- Sustainability.
- Bicycle facilities, car parking and traffic impacts.
- Equitable development.
- Amended conditions.

These matters are addressed separately below.

7.1. Land use

The proposal seeks to introduce a residential hotel component within the (substantially expanded) podium levels of the approved buildings. The residential hotel would comprise:

- Back-of-house facilities within the basement level.

- A lobby, hotel bar / café, hotel lobby, and separate entries off both Queens Bridge Street and adjacent to a new porte-cochere off Kings Way at ground level.
- Conference and meeting room facilities at the upper ground level.
- A total 190 hotel rooms spread across levels one to eight.
- Hotel guest facilities, including two pools, two gyms, a pet play area, café/bar, change room and terrace on level 9.
- Hotel breakfast room / bar and terrace on level 10.

Pursuant to Schedule 3 to the Capital City Zone, a permit is not required for the use of the land for a residential hotel, as the ground level exceeds four metres in height. Furthermore, as it has more than 20 rooms, it may include the sale of liquor for consumption on, or off, the premises, function or conference rooms and entertainment without requiring separate planning approval.

The inclusion of the residential hotel is considered to be a substantial improvement to the approved development, as:

- The ground and first levels of the building will have a significant increase in activity, not only from hotel guests, but also visitors to the conference facilities and hotel bar.
- The podium levels of the building, as they face the adjoining streets, will be completely sleeved by hotel rooms, rather than consist primarily of above-ground carparking.
- The proposal will provide a more active frontage opposite the future upgraded Kings Way undercroft.
- The site is ideally located within close proximity to a range of services and attractions within Southbank and the central city, as well as public transport.
- The site does not immediately adjoin any sensitive interfaces which would be adversely impacted by the residential hotel and associated facilities.
- The residential hotel and associated facilities will provide additional job opportunities within the city.

7.2. Built Form

7.2.1. Layout Changes

Basement

The approved building has a very small basement accommodating a small number of services.

The amended development has a full level basement accommodating back-of-house facilities for the hotel, bicycle, e-scooter and motorcycle spaces, end-of-trip facilities, waste storage areas and a staff training room.

Although the relocation of bicycle spaces from ground level to a basement is not typically supported, a separate entry with a lift to the basement is provided directly off the Kings Way frontage.

The revised basement layout is therefore considered to be acceptable.

Ground Level

The proposal involves extensive changes at ground level, including the:

- Addition of the land at 15-23 Kings Way.

- Introduction of a hotel bar / café and lift lobby towards the western corner of the site.
- Introduction of a porte-cochere for hotel pick-up / drop-off along Kings Way, adjacent to the new hotel entry.
- Introduction of a centrally located hotel lobby.
- Increase in the number of residential lifts from three to four.
- Introduction of three hotel lifts.
- Redesign of the residential lobby and lounge.
- Conversion of the vehicle ramp into a car lift.
- Redesign of the loading dock.
- Relocation of all building services away from the Queens Bridge Street frontage.

The redesigned ground level is considered to be a significant improvement to the approved development, due to its increase in active frontages, introduction of new uses and reduction in services along the street frontages.

As noted at Section 6.1 of this report, the only concerns raised by Council's Urban Designer at ground level was in relation to the design of the porte-cochere. Based on a substantial amount of time negotiating an improved design, Council's Urban Designer is now satisfied with all aspects of the revised ground level.

Podium Levels

The podium level of the approved development is almost exclusively occupied by a car stacker system and building services.

The proposal would include a redesigned car stacker system across all podium levels; though it would be completely sleeved by hotel facilities (including conference facilities) at level 1, and single bedroom hotel rooms along both street frontages on levels 2-8. These hotel rooms are well set-out and would benefit from good levels of daylight access and outlook.

Extensive recreation facilities for hotel guests, including pools, gyms, change rooms and relaxation areas as well as a hotel restaurant are provided on levels 9 & 10 and exceed what is often provided for hotels of this size.

The design and layout of the podium levels are also considered to be a substantial improvement to the approved development.

Typical Tower Levels

The proposal adopts a new tower layout, with four, one bedroom and four, two bedroom apartments per floor. This would replace the one, one bedroom and five, two bedroom apartments per floor on a typical tower level.

Despite being slightly smaller than those approved, the revised layouts represent an efficient use of space, enjoy good daylight access and outlook. Importantly, there are no longer any apartments built to the western boundary and their outlook is guaranteed into the future.

7.2.2. Street Wall Height

Table 3 to DDO10 sets a preferred street wall height of 20 metres and mandatory maximum of 40 metres (noting that the criteria to achieve an 80 metre corner height are relevant).

The relevant Built Form Outcomes, which are of increased importance where the preferred height is exceeded, are as follows:

- *Street wall height is scaled to ensure:*
 - *a human scale.*
 - *an appropriate level of street enclosure having regard to the width of the street with lower street wall heights to narrower streets.*
 - *consistency with the prevalent parapet height of adjoining buildings.*
 - *height that respects the scale of adjoining heritage places.*
 - *adequate opportunity for daylight, sunlight and skyviews in the street.*
 - *definition of main street corners and/or public space where there are no significant impacts on the amenity of public spaces.*
 - *maintenance of the prevailing street wall height and vertical rhythm on the street.*

The proposal seeks to increase the street wall height (fronting both streets) from 29.62 to 35.4 metres. As such, it exceeds the preferred height requirement, and it is incumbent on the permit applicant to demonstrate how the proposal meets the relevant Design Objectives and Built Form Outcomes. These have been grouped and addressed under the following headings.

Human Scale and Pedestrian Amenity

Pedestrian amenity at a human scale is presently informed by an at-grade carpark and double storey buildings with an austere frontage to the north and the Kings Way underpass to the south.

The approved design, as depicted in Figure 14 below, includes an apartment lobby and food and drink premises at ground level. The podium interface is, however, characterised primarily by a patterned wall concealing an above ground carpark.

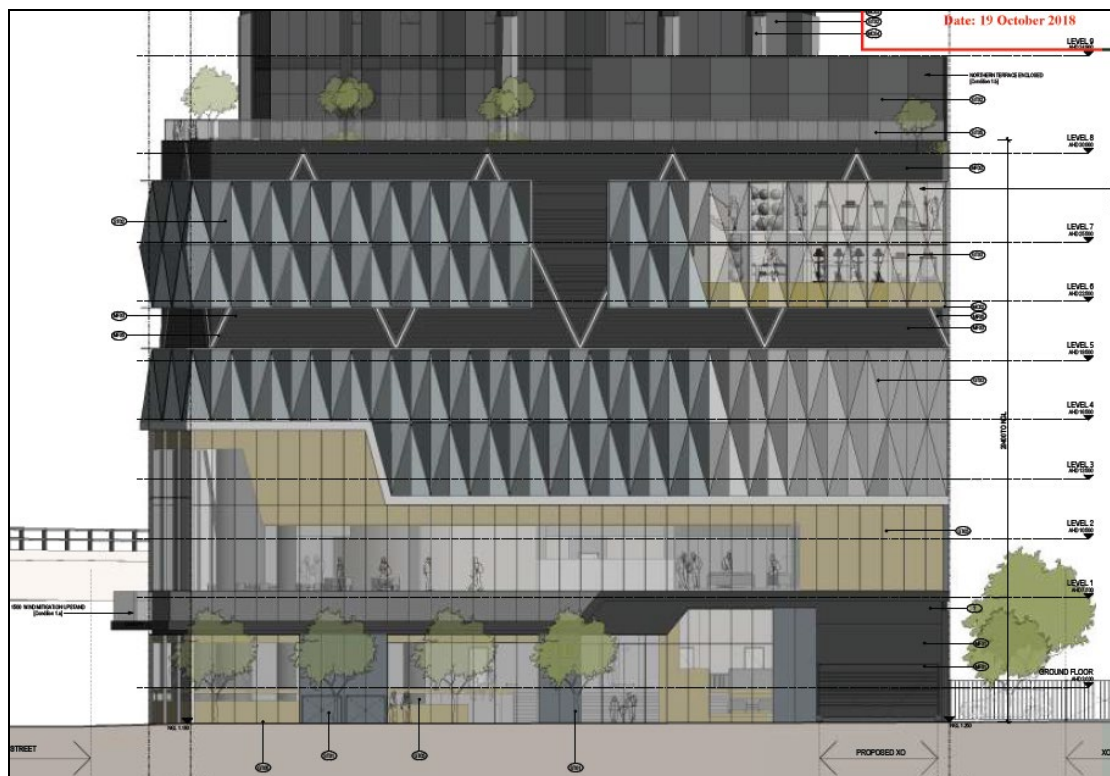


Figure 14 - Endorsed Queens Bridge Street elevation extract. From Drawing TP02.07

Although the amended design would maintain above ground carparking, it would be sleeved by hotel rooms across levels 1-8 along both street frontages. At ground level, the amended design removes all services along Queens Bridge Street, and includes separate residential and hotel entries, in addition to a redesigned and larger food and drinks premises.

The amended design also presents a more refined architectural response, with a grid pattern of black/bronze metal framed windows replacing broad expanses of curtain-wall glazing and monotone metal cladding.



Figure 15 - 3D Render of the proposed Queens Bridge Street interface

The increased activation of the street frontages, together with a finer grain material response would improve the sense of human scale and pedestrian amenity, despite a taller street wall height.

Street Enclosure

The site fronts Queens Bridge Street which is a 30 metre wide roadway accommodating one lane of traffic in each direction, as well as a separated tram line in the middle, kerbside parking and bicycle lanes between the car spaces and car lanes.

The site has a secondary frontage to Kings Way which is an elevated Freeway accommodating a total of eight traffic lanes in this location, above a service lane and carparking.

Although the proposed street wall would be taller than that of buildings within immediate proximity of the site, it would be considerably lower than the 29 storey street wall height of the building at 83 Queens Bridge Street, and would not unduly 'enclose' the local streetscape.

Consistency with Adjoining Parapets

The site adjoins a single property, which contains an at-grade carpark. As such, there is no adjoining parapet for this development to match.

Contribution to the Public Realm

The amended proposal is considered to positively contribute to the surrounding public realm based on:

- The introduction of a larger food and beverage premises fronting Queens Bridge Street, a hotel bar fronting Kings Way, an improved apartment lobby and two separate hotel entries at ground level.
- The provision of large landscaped awnings which would provide wind and weather protection and visual interest for pedestrians.
- A high quality built form response to the streetscape.

Relationship to Adjoining Heritage Places

The subject site does not adjoin any heritage places.

Daylight, Sunlight and Skyviews

Although the proposed street wall would reduce the extent of daylight and sunlight to, and skyviews from, the adjoining footpaths, the extent that they are reduced are fairly limited given the ~208 metre height of the approved building is not sought to be altered.

Definition of the Main Street Corners / Public Spaces

The subject site is located at the intersection of Queens Bridge and Kings Way, and the street wall will be particularly prominent when viewed from Kings Way.

The amended design adopts a consistent façade design along both street frontages, and offers a high degree of visual interest due to its fine detail and curved elements as it turns the corner.

It is therefore considered that the podium suitably responds to its highly visible corner context.



Figure 16 - 3D Render of the proposal, from the Queens Bridge Street & Kings Way intersection

Maintenance of the Prevailing Street Wall Height

As noted in the discussion relating to street enclosure, Queens Bridge Street does not have a consistent street wall height and the proposed 35.4 metre street wall height would sit comfortably within the streetscape.

7.2.3. Total building height

The proposal seeks to increase the number of storeys from 60 to 65 without varying the maximum height (to the top of building services) of AHD 209.63 metres (208.4 metres above natural ground level).

This has been achieved through the reduction in some floor-to-floor heights and substantial reduction in extent of rooftop services, as illustrated in Figures 17 and 18.

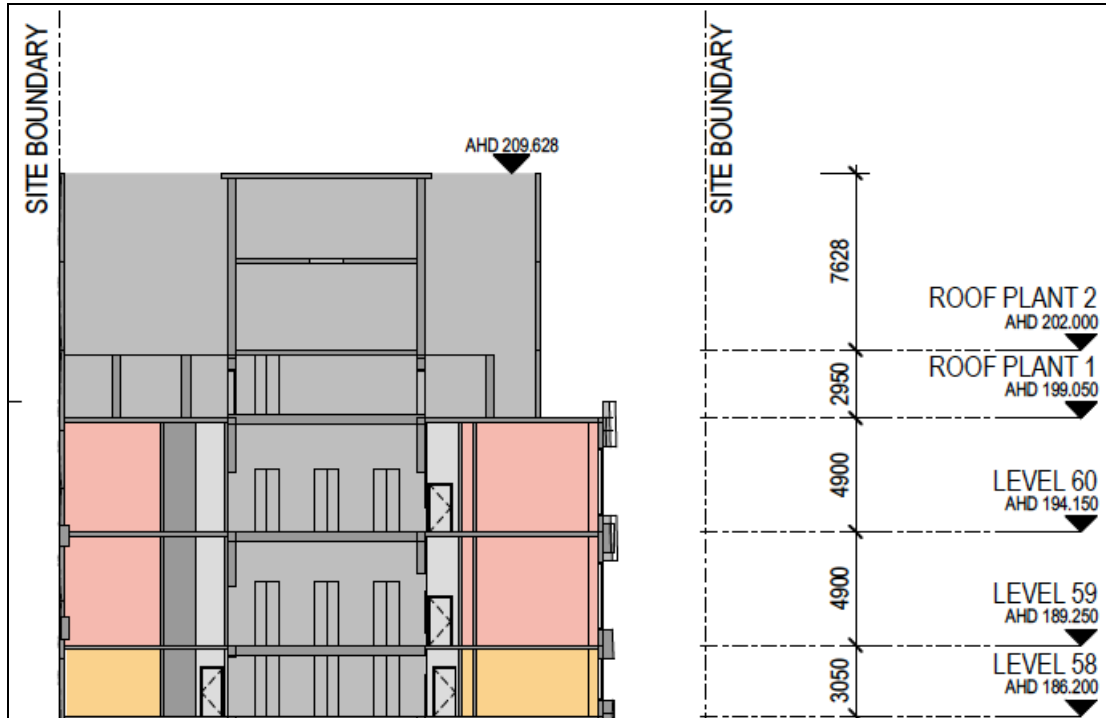


Figure 17 - Endorsed Section showing the use of the top 20 metres of the tower

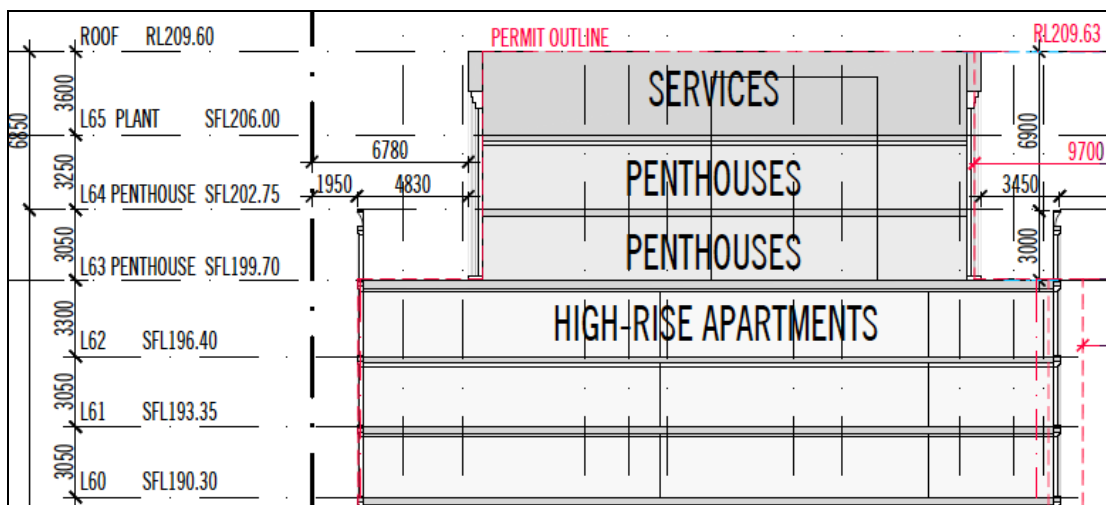


Figure 18 – Proposed Section showing the use of the top 20 metres of the tower

Pursuant to the definitions at DDO10, total building height is defined as:

'The vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the façade.'

The building services of the approved building were set back approximately 2.7 metres from the Queen Bridge Street façade, and therefore contributed to the building's total height, as defined by DDO10. The proposed building's services are now set back 3.3 metres from the front facade and therefore not considered part of the overall height. As such, the height of the building as defined by DDO10 has actually reduced from 208.4 to 204.8 metres.

Given the above, the proposal does not involve a technical, nor visual, increase in building height. Furthermore, the topmost part of the building will have a reduced extent of visible services, which is considered to be a positive outcome.



Figure 19 - 3D Render of the topmost levels of the proposed building

7.2.4. Building Setbacks

DDO10 encourages a robust, boundary-to-boundary built form at lower levels, and provides recommended setbacks for buildings that include a tower component above the street wall.

The setback requirements for towers exceeding 80 metres in height are depicted in the diagram from DDO10, as reproduced at Figure 20.

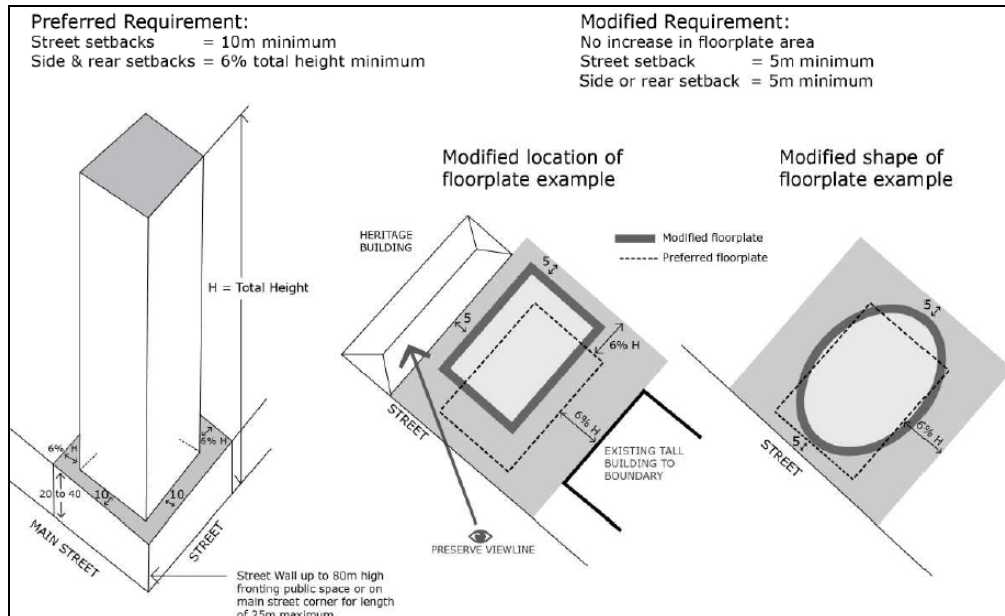


Figure 20 - DDO10 Setback requirements for towers greater than 80 metres in height

Given the 208.4 metre height of the building, the **preferred setbacks** are as follows:

- 10 metres from Queens Bridge Street.
- 12.3 metres from all other boundaries.

The requirements which set the mandatory maximum floorplate are as follows:

- 5 metres from Queens Bridge Street and Kings Way.
- 12.3 metres from side/rear boundary; and
- Therefore the size of the floorplate must not exceed approximately 340m².

The approved building was assessed prior to the gazettal of DDO10, and its setbacks to all boundaries do not comply with the mandatory requirements for towers exceeding 80 metres in height. The approved tower floorplate was 580m²,

Although DDO10 now applies to the site, Section 2.3 of DDO10 states that:

'A permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) for buildings and works that do not meet the Modified Requirement for any relevant Design Element specified in Table 3 to this schedule.'

As such, in order to comply with the requirements of DDO10, the amended proposal must not further increase the extent of non-compliance.

Although the proposal varies the building's setbacks, it does not increase the extent of non-compliance based on the following:

- The 1.5 metre setback to the south (Kings Way) is maintained.
- The 4.5 metre setback to the east (Queens Bride Street) is maintained.
- The setback to the western boundary is increased from zero to 38.8 metres, which satisfies the requirement for at least one side boundary to be set back at least 12.5 metres.
- The setback to the northern boundary is reduced from seven to five metres, which complies with the minimum five metre setback.
- The size of the floorplate has not been increased.

7.2.5. Gross Floor Area

As noted at Section 4.1.1 of this report, Schedule 3 to the Capital City Zone (CCZ3), has a mandatory Floor Area Ratio (FAR) cap of 18:1, above which public benefits, agreed to by the Responsible Authority, must be provided.

Relevantly, Section 3.0 of the CCZ3 states that:

'A permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) to construct a building or construct or carry out works with a floor area ratio in excess of 18:1 on land to which schedule 10 to the Design and Development Overlay applies.'

(emphasis added)

The proposal involves an increase in the Gross Floor Area (GFA) of the building from 39,888m² to 46,455m² as a result of the expanded podium.

As the amended application now incorporates the land at 15-23 Kings Way, it has effectively reduced the total Floor Area Ratio (FAR) from 42.43:1 to 32.93:1. The proposal is therefore compliant with this requirement.

From a merits-based perspective, the increase in floor area can be supported, as the form and design of the revised podium is an improvement on the approved design.

7.2.6. Façade Design and Materiality

The proposal involves a complete redesign of the building's façade, including its shape, materiality, colours and extent of articulation.

The approved façade consists primarily of blue-tinted curtain wall glazing with bands of light and mid-grey metal cladding. The amended design would replace this with a finer grain of recessed rectangular windows framed by solid 'frames' comprising bronze and mate black powder coated cladding.

The revised façade is considered to represent a simpler, more elegant, form which better responds to its site context and is supported by Council's Urban Designer, subject to the provision of a Façade Strategy to the satisfaction of the City of Melbourne.



Figure 21 - Detailed 3D Render of the proposed façade

7.2.7. Compliance with DDO1

The updated Schedule 1 to the Design and Development Overlay (DDO1) now applies to the site, and includes revised design objectives and requirements. These are particularly relevant for the ground and podium levels of a development.

It is considered that the amended design meets the requirements of the amended DDO1 based on the following:

- Other than the porte-cochere, the building is aligned with the street.
- It avoids creating entrapment spaces and has been designed to accommodate anticipated pedestrian volumes.
- The location of the approved vehicle entry point is not sought to be varied.
- Adopts an interesting roof profile.
- The street wall height responds appropriately to this part of Southbank.
- It has a predominantly active frontage, comprising multiple building entries, lobby spaces, a food and beverage premises and hotel bar.
- It has a ground level floor-to-ceiling height of between approximately 3.9 and 8.1 metres.
- Services have been reduced to a small portion of the total site and comprise approximately 19 per cent of the ground level area, which is less than half the 40 per cent maximum.
- Approximately 77 per cent of the site frontage is active which falls just 3 per cent short of the 80 percent preferred.
- The carparking areas are sleeved by hotel rooms to both street frontages, and at 3.05 metres are only marginally below the 3.2 metre preferred minimum.
- Clear glazing is proposed at the lowest two levels.
- Architectural features protruding beyond the façade line are limited to approximately 100mm in depth.
- Canopies incorporating landscaping, with clearance heights of at least 4.5 metres are proposed along both street frontages, where they would not interfere with vehicle access requirements.
- The revised façade (including at ground and podium levels) has been designed to strike a better balance between transparency and solidity, through the deletion of all curtain wall glazing, and adoption of solid framing around recessed window elements.
- Materials at all levels are suitably robust and visually interesting.



Figure 22 - 3D Render of the proposed streetscape interface

7.3. Amenity impacts,

7.3.1. Wind

Section 2.3 of DDO10 includes both mandatory and preferred requirements to minimise wind effects on public areas surrounding development sites. These are set out below:

A permit must not be granted for buildings and works with a total building height in excess of 40 metres that would cause unsafe wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all façades, or half the total height of the building, whichever is greater as shown in Figure 1.

A permit should not be granted for buildings and works with a total building height in excess of 40 metres that do not achieve comfortable wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all façades, or half the total height of the building, whichever is greater as shown in Figure 1.

(emphasis added)

As highlighted above, the development should maintain comfortable wind conditions, and must not cause unsafe conditions within close proximity of the subject site. What constitutes 'unsafe' and 'comfortable' wind conditions is defined at Section 2.1 of DDO10.

The submitted Pedestrian Wind Study, prepared by RWDI, dated 25 June 2021 is based on a wind tunnel study and adopts the DDO10 criteria. The results of the study are illustrated in the extract at Figure 24 and described in the report as follows:

'With the incorporation of the proposed building to the existing site and surroundings, wind speeds are found to be similar to those on and around the site in the existing configuration at majority of the locations and are comfortable for sitting or standing in general. Wind speeds at the main entrances to the

proposed development (Locations 3, 4 and 5) would be suitable for the intended pedestrian use with conditions comfortable for sitting throughout the year. Isolated walking conditions found at the northeast corner of the proposed building location 11) are suitable for footpaths but unsuitable for pedestrians lingering around. As this location is representative of a footpath in front of vehicular access, these conditions are appropriate.

The wind speeds at all areas assessed at the grade level are found to meet the safety criterion.'

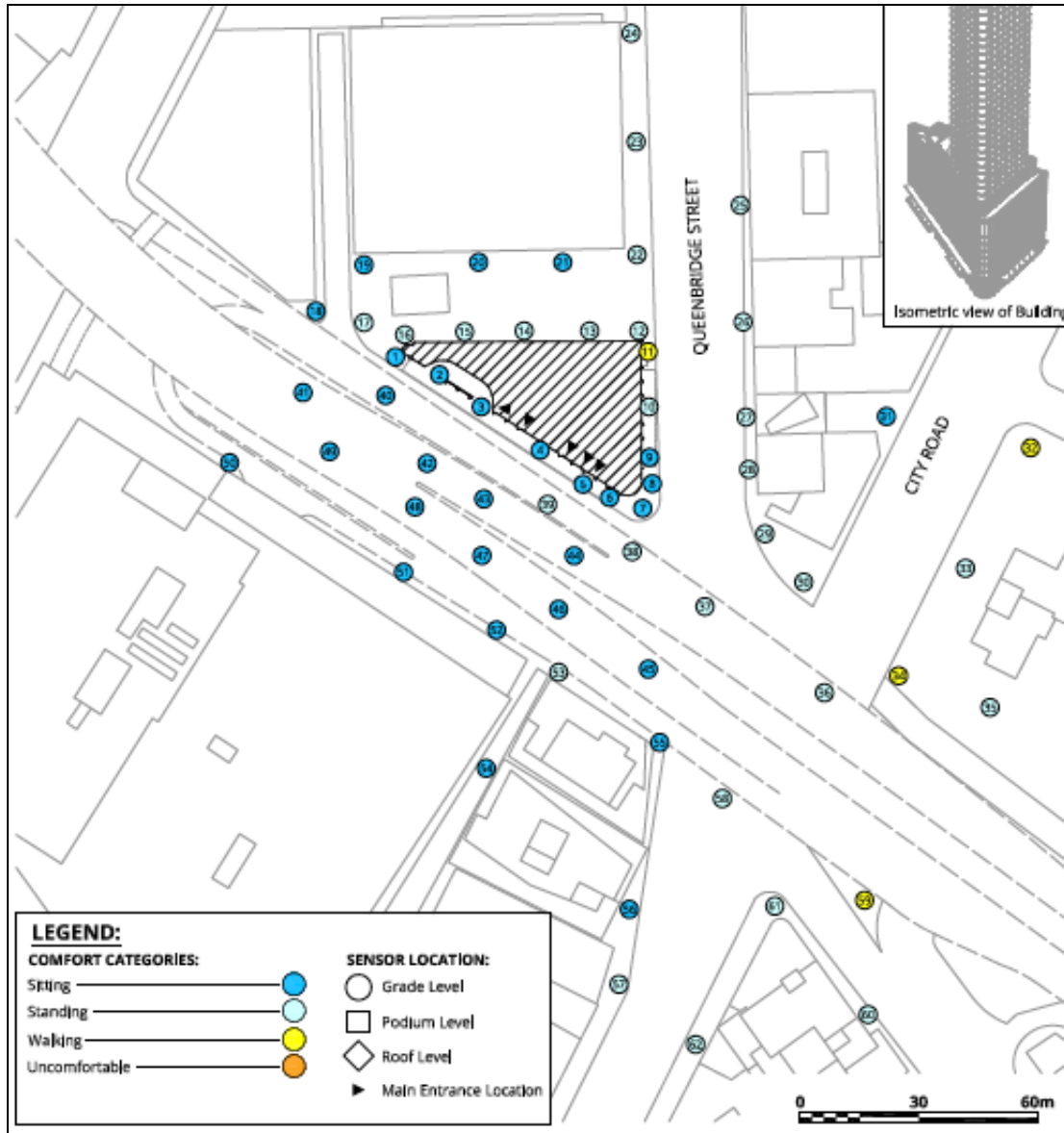


Figure 23 - Extract from the RWDI Wind Report illustrating expected wind conditions

A review of the above results indicates that the only public area which would not achieve at least the standing criterion, is the driveway to the car stacker, which is considered appropriate. It also does not recommend any changes to the architectural drawings to achieve these wind comfort levels.

Although the Study Area shown in the diagram does not extend the full 104 metres required to the north-west of the site, the Wind Report Author advised that:

Walker Street finishes in a dead end at the northern aspect of the street. As such, any increase in the wind conditions within this street would be noted be an increase in conditions at the entrance to the street (locations 18 and 19). Both of

these locations however were noted to have reduced wind conditions with the inclusion of the development due to the shielding provided by the development.

Lastly, it is worth noting that, through the assessment process, Council's Urban Designer raised concerns with some of the proposed wind mitigation measures proposed in the development plans for both the private and communal areas of the building. These concerns have been suitably addressed in the decision plans.

The proposal is therefore considered to meet the preferred wind requirements of DDO10 and therefore not unreasonably impact on the surrounding public realm.

7.3.2. Overshadowing

Section 2.3 of DDO10 includes a mandatory provision that Boyd Park, which is located to the south-east of the site does not receive any additional overshadowing between 12pm and 2pm on the Equinox.

As depicted in the submitted shadow diagrams, the main difference in shadow impact is a result of the expanded podium. The amended development would cast a greater shadow over the surrounding road network, though would not alter the approved extent of shadow over nearby parks, including Boyd Park. To that end, it is noted that the building's (approved and proposed) shadow does not reach the identified section of Boyd Park until after 2pm on the Equinox.

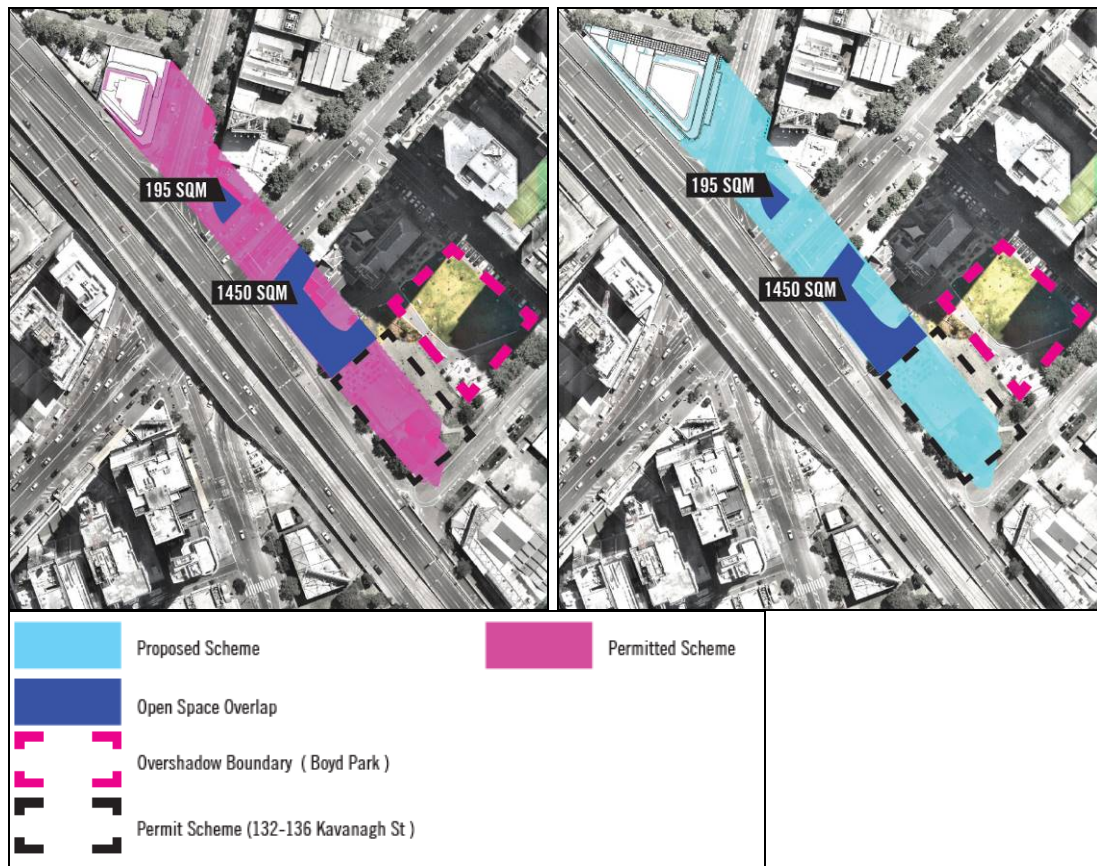


Figure 24 - Shadow Diagrams depicting the approved (left) and proposed (right) extent of overshadowing

The amended development therefore complies with the mandatory overshadowing requirements of DDO10.

7.3.3. Overlooking

The subject site does not directly adjoin any residential buildings, and there is no potential for overlooking.

Furthermore, given the minimum five metre setback to the north, if the setback were to be replicated in any future redevelopment of the land, the ten metre building separation would negate the need for any overlooking mitigation on either site.

7.4. Internal amenity

7.4.1. Hotel layouts

All hotel rooms are adequately sized, are provided with a bathroom, separate sink and cupboard. All rooms face an external wall of the building, have excellent daylight access and outlook.

7.4.2. Apartment layouts

The proposal introduces all new apartment types throughout the tower levels. The revised apartments would enjoy an acceptable level of internal amenity, noting in particular that:

- No bedrooms rely on borrowed light or 'snorkels' for daylight access and outlook.
- Habitable rooms are limited in depth and would enjoy a good level of daylight access.
- Nearly all bedrooms have a minimum dimension of 2.9 metres.
- Generous boundary setbacks secure an outlook without relying on borrowed amenity.
- All dwellings have a floor-to-floor height of 3.05 metres.
- Most dwellings do not have access to any private open space. Although this would not be supported in a new permit application, it is consistent with the approved development.
- The lack of secluded private open space is somewhat compensated for by an increase in the communal areas available to residents from 1,449m² to 2,154m² (including 415m² of outdoor terraces). This equates to 5.75m² per apartment.
- It should also be noted that the useability of any balconies (on the southern elevation on particular) would be reduced as a result of proximity to Kings Way and associated noise impacts.
- Clause 58 (Apartment developments) does not apply, as the proposal benefits from Transitional Provisions (refer Section 4.1 of this report).
- Council's Urban Designer has not raised any concerns in relation to internal amenity, beyond the non-provision of balconies to most dwellings.

7.4.3. Acoustic comfort

Pursuant to Section 3.0 of the CCZ3, an application for a residential building must be accompanied by an acoustic assessment, which shows the proposal meets the following requirement:

'Habitable rooms of new dwellings adjacent to high levels of external noise should be designed to limit internal noise levels to a maximum of 45dB in accordance with relevant Australian Standards for acoustic control.'

The 45dB maximum is considerably higher than 35/40dB(A) maximum set out at Clause 58.04 (Apartment Developments), which does not apply to this application due to applicable Transitional Provisions.

The submitted Acoustic Report, prepared by WatsonMossGrowcott, dated 8 March 2021 notes that traffic along Kings Way is a significant noise source for the development. In particular the hotel rooms within the podium, which are constructed very close to the roadway and would be subject to noise levels up to 75 db(A).

The report makes a number of recommendations which would result in apartments achieving the more onerous Clause 58 criteria and hotel rooms achieving equivalent levels.

Conditions will be recommended that require the development to be undertaken in accordance with the recommendations of the submitted Acoustic Report.

7.5. Sustainability

Clause 22.19 (Energy, Water and Waste Efficiency) requires residential developments over 5,000 m² to achieve:

- A 5 star rating under a current version of Green Star – Multi Unit Residential rating tool or equivalent.
- 1 point for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star – Office rating tool or equivalent.
- A Waste Management Plan prepared in accordance with the current version of the City of Melbourne's Guidelines for Waste Management Plans.

Clause 22.23 (Stormwater Management (Water Sensitive Urban Design)) requires the use of stormwater treatment measures that improve the quality and reduce the flow of water discharged to waterways.

As confirmed by Council's Green Infrastructure & ESD Officer, the NatHERS Assessment Report and Green Star GHG Emissions Report prepared by IGS, dated 7 October 2021 meet the minimum requirements at Clauses 22.19 (Energy, Water and Waste Efficiency) and 22.23 (Stormwater Management (Water Sensitive Urban Design)) subject to minor outstanding matters that can be resolved via conditions.

Council will therefore recommend the inclusion of these conditions on any amended permit issued.

7.6. Traffic

The proposal involves the reconfiguration of the car and bicycle parking area, an increase in bicycle parking and decrease in car parking. The approved vehicle access and egress arrangements would remain unchanged. These aspects of the proposal are addressed separately below.

7.6.1. Traffic Impacts

The reduction in car parking spaces, despite an increase in the number of dwellings and introduction of a residential hotel would reduce the traffic impact on the surrounding road network as a result of reduced vehicle trips.

7.6.2. Bicycle facilities

Bicycle parking requirements are at Clause 52.34 (Bicycle Facilities) and are as follows:

Use	Size / No.	Rate		Rate	
		Employee / Resident	Visitor / Shopper	Employee / Resident	Visitor / Shopper
Dwelling	367	1 space per 5 dwellings	1 space per 10 dwellings	73 spaces	37 spaces
Residential Hotel	190	1 space per 10 rooms	1 space per 10 rooms	19 spaces	19 spaces
Retail	115m ²	1 space per 300m ²	1 space per 500m ²	0 spaces	0 spaces
Office	642m ²	1 space per 300m ² if over 1,000m ²	1 space per 300m ² if over 1,000m ²	0 spaces	0 spaces
Total				92 spaces	56 spaces

Additionally, Table 2 to Clause 52.34 stipulates that the following facilities should be provided:

- *If 5 or more employee bicycle spaces are required, 1 shower for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter.*
- *1 change room or direct access to a communal change room to each shower. The change room may be a combined shower and change room.*

With a requirement for 19 employee bicycle spaces, the amended development should provide two showers and two change rooms.

A total of 74 resident, 37 resident visitor and 38 hotel spaces (for employees and guests) would be provided in the revised development, in addition to the inclusion of sufficient end-of-trip facilities.

This satisfies the minimum requirements of Clause 52.34 for all uses, other than for hotel visitors. The submitted Traffic Report states that the 38 hotel bicycle parking spaces satisfies the relevant requirements; however, they are all labelled 'staff bikes' on the Basement Plan.

This has been corrected in the Discussion Drawings dated 30 July 2021, which show them being available to both employees and guests of the residential hotel.

Conditions will therefore be recommended to bring those changes into effect.

7.7. Equitable development

The approved development is set back at least seven metres from a large (5830m²) potential future redevelopment site to the north at 58 Queens Bridge Street to the north and zero metres to 15-23 Kings Way to the west.

Although the approved configuration provides adequate opportunities for the neighbouring site to the north, it is considered that it detrimentally impacts the opportunity for 15-23 Kings Way to be redeveloped independently.

The proposed development would reduce the setback to the north from seven to five metres, which would still allow for a ten metre building separation, should the site to the north replicated this setback. Given existing planning controls, in particular the requirements of DDO10, this is considered to be an acceptable outcome.

Furthermore, the inclusion of land at 15-23 Kings Way resolves any outstanding concerns in relation to that property's opportunities for redevelopment.

7.8. Amended conditions

Given the comprehensive amendment proposed to the approved development, the application will necessitate several changes to the planning permit. Notable changes, that is, those which go beyond referencing updated reports, are discussed below:

7.8.1. Condition 1 – Amended Plans

In addition to updating the references to the Architect and Architectural Drawings, sub-conditions will be recommended which require the plans to be updated to show:

- All changes shown in the Discussion Drawings dated 30 July 2021.
- All changes to the ground level in the Discussion Drawings dated 18 October 2021.

In terms of the existing sub-conditions:

- Parts a-c can be deleted, as the final wind report does not recommend any design changes.
- Parts d-j, o & s can be deleted, as Council's Traffic Engineer did not recommend any design changes.
- Part k can be deleted as the only service door opening across the title boundary is for the fire exit stair, which is appropriate.
- Part l can be deleted, as it relates to the previous design.
- Part m can be deleted, as there is no longer a street tree adjacent to the site, and replacement trees are shown on the final plans.
- Parts n & t can be deleted, as the Waste Management Plan at Condition 19 does not require any changes to the Discussion Drawings dated 30 July 2021 (which will be implemented via a new sub-condition).
- Part p should remain, given the recommendations of the final acoustic report at Condition 16.
- Part q should remain as it relates to Melbourne Water conditions.
- Part r should remain, as the ESD Reports at Condition 10 require further updates.

It is also understood that the Department of Transport, as a Determining Referral Authority will provide updated conditions. If these conditions require design changes, Condition 1 should include a sub-condition requiring these to be shown on updated drawings.

7.8.2. Condition 4 – Façade Strategy

Condition 4 requires the submission of a Façade Strategy consistent with the approved development. The following condition, prepared by Council's Urban Designers is recommended to replace Condition 4.

Still waiting for this.

7.8.3. Condition 6 – Retention of Architect

Condition 6 refers to the Architect of the approved development. As the development plans have been prepared by Elenberg Fraser, rather than RotheLowman, this should be updated accordingly.

7.8.4. Condition 8 – Wind Report

Condition 8 requires the submission of an updated Wind Assessment. As the submitted Wind Assessment does not indicate any issues, or recommend design changes, this condition can be deleted. Should the development be amended in a manner that has the potential to alter the local wind environment, a new wind report will need to accompany such an application.

7.8.5. Condition 10 - Environmentally Sustainable Design (ESD)

Condition 10 requires the submission of an updated ESD Report, which had been submitted in relation to the approved development. The condition should be updated to reflect the changes to the most recent ESD Report, as recommended by Council's ESD Officer.

7.8.6. Conditions 21-31 – Infrastructure Engineering

Council's Infrastructure Engineer has recommended a number of new / varied permit conditions, which should be updated.

7.8.7. Condition 47 – Traffic Management Report

Condition 47 requires the submission of an amended traffic report. As Council's Traffic Engineer has no outstanding concerns with respect to the submitted traffic report and subsequent letter, the condition should be updated to refer to both documents.

7.8.8. Multiple Conditions – Early Works

In addition to the above, the permit applicant has requested the timing of conditions 1 (Amended Plans), 3 (Materials and Finishes), 4 (Sample Board), 7 (Wind Assessment), 17 (Waste Management Plan) and 43 (3D Model) be amended to allow for 'early works' to commence on site prior to the conditions being satisfied.

This would be achieved by inserting the following sentence after the words 'Before the development starts':

“excluding site preparation works, temporary sheds or structures for construction purposes, bulk excavation and retention works, soil remediation, piling, footings and ground beams”

This is considered to be acceptable, as:

- The current permit remains valid and has been acted upon by the applicant.
- The amended timing would not permit the construction of the basement, which is sought to be varied as part of this application.
- Changes to the endorsed plans at condition 1 are relatively straightforward, and relate primarily to changes already shown in discussion drawings.
- Conditions 3 and 4 relate to the detail of the façade, which is only relevant at ground level and above.
- It is Council's view that Condition 7 can be deleted.
- The WMP at Condition 17 does not require any amendments and can be endorsed.
- Submission of the 3D Model at Condition 43 is relatively straightforward.

8. CONCLUSION

The proposal is considered to be generally consistent with the relevant sections of the Melbourne Planning Scheme.

9. OFFICER RECOMMENDATION

That a letter be sent to DELWP advising that the City of Melbourne offers in principle support for the proposal subject to the following conditions, with all amendments to existing conditions shown in red.

9.1. New / Amended Conditions

Amended Plans

1. Before the development starts, ~~including demolition, excluding site preparation works, temporary sheds or structures for construction purposes, bulk excavation and retention works, soil remediation, piling, footings and ground beams,~~ amended plans must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally be in accordance with the plans submitted with the application prepared by ~~Rothe Lowman Elenberg Fraser~~ dated ~~and RFI plans dated 13.11.2015~~ 6 April 2021 (Drawings A0000 – A0963), but modified to show the following:
 - a) All changes shown in the Discussion Drawings prepared by Elenberg Fraser dated 30 July 2021.
 - b) All changes to the ground level in the Port Cochere Design Proposal prepared by Elenberg Fraser dated 18 October.
 - c) Any modifications to the plans required as a result of permit Condition 16 relating to Acoustic Attenuation.
 - d) Any modifications to the plans required as a result of permit Conditions 37 to 41 relating to Melbourne Water.
 - e) Any modifications to the plans required as a result of permit Conditions [TBC] relating to the Department of Transport.

Layout not altered

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Demolition

3. Demolition must not commence unless the Responsible Authority is satisfied that the permit holder has made substantial progress towards obtaining the necessary building permits for the development of the land generally in accordance with the development proposed under this permit and the permit holder has entered into a bona fide contract for the construction of the development, or otherwise as agreed with the Responsible Authority.

Materials and Finishes

4. ~~Before the development starts, excluding site preparation works, temporary sheds or structures for construction purposes, bulk excavation and retention works, soil remediation, piling, footings and ground beams, a Façade Strategy must be submitted to and 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 Facade Strategy must be~~

generally in accordance with the drawings referred to at Condition 1 (including all typical façade details and materials in the plans and renders) unless otherwise agreed with the Responsible Authority. The Façade Strategy must detail:

- a) A concise description by the architect of the building design concept and how the façade works to achieve this.
 - b) A schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance. This can be demonstrated in coloured elevations or renders from key viewpoints, to show the materials and finishes linking them to a physical sample board with clear coding.
 - c) Elevation details generally at a scale of 1:50 illustrating typical podium details, entries and doors, typical glazing units, framing, utilities, typical tower detail, and any special features which are important to the building's presentation.
 - d) Cross sections or other method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and/or material
 - e) Information about how the façade will be accessed and maintained and cleaned, including planting where proposed.
 - f) Example prototypes and/or precedents that demonstrate the intended design outcome indicated plans and perspective images to produce a high quality built outcome in accordance with the design concept.
5. Before the development starts, ~~excluding demolition~~ excluding site preparation works, temporary sheds or structures for construction purposes, bulk excavation and retention works, soil remediation, piling, footings and ground beams, a sample board including a colour rendered and notated plan /elevation that illustrates the location and details of all external materials and finishes must be submitted to and be to the satisfaction of the Responsible Authority and when approved will form part of the endorsed plans. All finishes and surfaces of all external buildings and works, including materials and colours must be in conformity with the approved schedule to the satisfaction of the Responsible Authority.
 6. Except with the consent of the Responsible Authority, ~~Rothe Lowman Architects Elenberg Fraser~~ must be retained to complete and provide architectural oversight during construction of the detailed design as shown in the endorsed plans and endorsed schedule of materials to the satisfaction of Responsible Authority.
 7. Except with the consent of the Responsible Authority, all external glazing must be of a type that does not reflect more than 20% of visible light when measured at an angle of incidence normal to the glass surface.

Wind Assessment

8. Deleted

Construction Management

9. Before the development starts, including demolition, a detailed Demolition and Construction Management Plan must be submitted to, and approved by, the City of Melbourne (Construction Management Group). This Demolition and Construction Management Plan may be staged and is to be prepared in

accordance with the City of Melbourne- 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 material reuse; and
- f) Traffic management.

The demolition and construction management plan must be to the satisfaction of the City of Melbourne and once endorsed will form part of the permit.

Environmentally Sustainable Design (ESD)

10. Before the development starts, including demolition, bulk excavation and site preparation works, an **amended** Environmentally Sustainable Design (ESD) Statement **shall be submitted to the satisfaction of the Responsible Authority. The ESD Statement must demonstrate that the building has the preliminary design potential to achieve the following:** When approved, the amended ESD Statement Report will be endorsed and form party of this permit. The amended ESD Statement Report must be generally in accordance with the ESD Statement Report prepared by IGS (on 7 September 2021), but modified to include or show:
 - ~~a) A 5 star rating under a current version of Green Star Multi Unit Residential rating tool or equivalent assessment demonstrating that the building meets the eco city goals and policy objectives referred to in clauses 22.19-1 and 22.19-2 of the Melbourne Planning Scheme.~~
 - ~~b) 1 point for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star Multi Unit Residential rating tool or equivalent.~~
 - a) A Climate Change Action Plan (CAP) as outlined in section 4.1.5 of the ESD Statement Report
 - b) A copy of the Sustainable Procurement Framework outlining purchasing in line with Green Star requirements to support innovation credit 30E
- ~~11. The performance outcomes specified in the Environmentally Sustainable Design (ESD) Statement for the development must be implemented prior to occupancy to the satisfaction of the Responsible Authority. Any change during detailed design, which affects the approach of the endorsed ESD Statement, must be assessed by an accredited professional. The revised statement must be endorsed by the Responsible Authority prior to the commencement of construction.~~

Prior to the occupation of any building approved under this permit, a report from the author of the endorsed ESD report, or similarly qualified persons or companies, outlining how the performance outcomes specified in the amended ESD report 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 ESD report have been implemented in accordance with the relevant approved plans.

Potentially Contaminated Land

12. Prior to the commencement of the development (excluding demolition), the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended use(s). This PEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development (excluding demolition). The PEA should include:

- a) Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.
- b) A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials.

Should the PEA reveal that further investigative or remedial work is required to accommodate the intended use(s), then prior to the commencement of the development (excluding demolition), the applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the intended use(s).

This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development (excluding demolition). The CEA should include:

- a) Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This includes details of how long the uses occupied the site.
- b) A review of any previous assessments of the site and surrounding sites, including details of any on-site or off-site sources of contaminated materials. This includes a review of any previous Environmental Audits of the site and surrounding sites.
- c) Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 44582.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.
- d) An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.
- e) Recommendations regarding what further investigate and remediation work, if any, may be necessary to ensure the site is suitable for the intended use(s).

Prior to the occupation of the building, the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the CEA.

Should the CEA recommend that an Environmental Audit of the site is necessary then prior to the occupation of the building the applicant must provide either:

- a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or
- b) A Statement of Environmental Audit in accordance with Section 53Z of the Environment Protection Act 1970. This Statement must confirm that the site is suitable for the intended use(s).

Where a Statement of Environmental Audit is provided, all the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority and prior to the occupation of the building. Written confirmation of compliance must be provided by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or other person acceptable to the Responsible Authority. In addition, the signing off of the Statement must be in accordance with any requirements in it regarding the verification of works.

If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and/or monitoring, the applicant must enter into a legal agreement in accordance with Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. This Agreement must be executed on title prior to the occupation of the building. The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

Street Trees

13. Prior to the commencement of the development (including any demolition, bulk excavation, construction or carrying out of works), a Tree Protection Plan must be prepared by a suitably qualified and experienced Arborist and submitted to the City of Melbourne – Urban Landscapes. The Tree Protection Plan must include recommendations to ensure the viability of the street tree adjacent to the proposed lobby before, during and after construction to the satisfaction of the City of Melbourne.
14. Prior to the commencement of development (including any demolition, bulk excavation construction or carrying out of works), a bond of \$7,452.55 for the protection of the tree must be submitted to the City of Melbourne. The bond is equal to the combined tree amenity and tree ecosystem services value. The bond will be returned when the works are completed to the satisfaction of the City of Melbourne.
15. Prior to the commencement of development (including any demolition, bulk excavation, construction or carrying out of works), owner of the land must pay \$6,716.37 to the City of Melbourne for the costs in connection with the removal, relocation or replacement of the street tree, including the amenity value of the tree to be removed and reinstatement greening costs.

Acoustic Attenuation

16. The recommendations contained within the ~~Acoustic Logic report, Revision 1, Reference No. 20130781.1/1209A/R1/BAW, dated 20 September 2013~~ Acoustic Report prepared by WatsonMossGrowcott, dated 8 March 2021 must be implemented at no cost to, and to the satisfaction of the City of Melbourne.

Building appurtenances

17. All building plant and equipment on the roofs and public through fares must be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant machinery and equipment, including but not limited to all air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment shall be to the satisfaction of the Responsible Authority.
18. Any satellite dishes, antennas or similar structures associated with the development must be designed and located at a single point on each building in the development to the satisfaction of the Responsible Authority, unless otherwise approved to the satisfaction of the Responsible Authority.

Waste Management

19. ~~Prior to the commencement of development, including demolition, a revised Waste Management Plan (WMP) shall be prepared and submitted to the Melbourne City Council (Engineering Services). The WMP should detail waste storage and collection arrangements and comply with Council's 'Guidelines for Preparing a Waste Management Plan 2015'. Waste storage and collection arrangements must not be altered without the prior approval of the Council.~~

The waste storage and collection arrangements must be in accordance with the Waste Management Plan (WMP) prepared by Salt dated 30 July 2021. The submitted WMP must not be altered without prior consent of the City of Melbourne – Waste and Recycling.

20. Glass bins are to be collected by a private operator until such time that Council can provide a glass collection service.
21. No garbage bin or surplus materials generated by the permitted use may be deposited or stored outside the site and bins must be returned to the garbage storage areas as soon as practicable after garbage collection.

Infrastructure Engineering

22. All projections over the street alignment must be drained to a legal point of discharge in accordance with plans and specifications first approved by the City of Melbourne — Engineering Services.

23. ~~The owner of the subject land must construct a drainage system, incorporating integrated water management design, within the development and make provision to connect this system to the City of Melbourne's stormwater drainage system in accordance with plans and specifications first approved by the City of Melbourne — Engineering Services.~~

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 – Infrastructure and Assets. 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.

24. ~~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.~~
25. Provision must be made for disabled access into the building in accordance with the Disability (Access to Premises-Buildings) Standards 2010, to the satisfaction of the City of Melbourne.
26. ~~Prior to the commencement of the use/occupation of the development, all necessary vehicle crossings adjacent to the subject land must be constructed and all unnecessary vehicle crossings demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the City of Melbourne — Engineering Services.~~
27. ~~The existing footpath/road levels in Queensbridge Street and Kings Way / Hannah Street street levels in roads adjoining the site must not be altered for the purpose of constructing new vehicle or pedestrian entrances without first obtaining the written approval of City of Melbourne — Engineering Services.~~

28. 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 – Infrastructure and Assets.
29. The footpath(s) adjoining the site along Kings Way, Hannah Street and Queens Bridge Street must be reconstructed in sawn bluestone together with associated works including the ~~reconstruction~~ renewal of kerb and channel ~~and/or services~~, provision of street furniture and modification of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the City of Melbourne – Engineering Services.
30. 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 City of Melbourne – Engineering Services.
31. Prior to the commencement of the development, excluding preliminary site works, demolition and any clean up works, 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 adjacent streets of the development. 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 – Infrastructure and Assets.
32. The areas for the parking of vehicles must be clearly indicated on the floor and the boundaries of all car parking spaces and access lanes and the direction in which vehicles should proceed along the access lanes must be in conformity with the endorsed plans.

The car parking spaces must not be used for any other purpose and all access aisles must be kept clear. Priority should be given to pedestrians on the street over vehicles entering/ exiting the building.
33. The areas set aside for car-parking in the building must be restricted to the parking of vehicles by owners and occupiers of, or visitors to, the building. The areas set aside for the parking of vehicles within the site must not be operated as a public car parking facility.
34. All mechanical exhaust systems to the car park hereby approved must be sound attenuated to prevent noise nuisance to the occupants of the surrounding properties, to the satisfaction of the City of Melbourne.
35. Bicycle parking must be provided, located and appropriately signed generally in accordance with Clause 52.34 of the Melbourne Planning Scheme to the satisfaction of the City of Melbourne.

Public Transport Victoria

TBC by DELWP

Department of Transport

TBC by DELWP

Melbourne Water

TBC by DELWP

3D Model

45. Before the development starts, ~~excluding site preparation works, temporary sheds or structures for construction purposes, bulk excavation and retention works, soil remediation, piling, footings and ground beams,~~ or as otherwise agreed with the Responsible Authority an updated 3D digital model of the development and its immediate surrounds which reflects the required modifications under condition 1 of this permit, as appropriate, must be submitted to the Responsible Authority and be to the satisfaction of the Responsible Authority in conformity with the Department of Environment, Land, Water and Planning Advisory Note 3D Digital Modelling.

In the event that further 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.

No Advertising Displayed on Building

46. No advertising signs shall be erected, painted or displayed on the land without the permission of the City of Melbourne unless in accordance with the provisions of the Melbourne Planning Scheme.

Traffic Management Report

- ~~47. Before the development starts, including demolition and bulk excavation, the applicant must submit a revised traffic management report to the Council (Engineering Services). The report must be generally in accordance with the report submitted with the amended application by GTA Consultants dated 18 August 2015 and to the satisfaction of the Council. The revised traffic management report and plans should address:~~

- ~~a) — The internal design of the car park, the positioning of boom gates, card readers, control equipment, including car park control points, and ramp grades must be generally in accordance with the requirements of Clause 52.06 of the Melbourne Planning Scheme.~~
- ~~b) — Confirmation the at the number of car parking spaces to be accommodated within the parking systems can be catered for, and the vehicle dimensions to be accommodated.~~
- ~~c) — Swept paths showing access to the systems and circulation of the access area, taking into consideration the queuing areas.~~
- ~~d) — An assessment of the queuing issues that may arise within the car parking area.~~

~~The traffic arrangements must be in accordance with the Transport Impact Assessment report dated 1 April 2021 and Letter of 29 July 2021 prepared by Stantec.~~

Expiry of the Permit

48. In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
- The development is not started within five years of the date of this permit.
 - The development is not completed within seven years of the date of this permit.
 - The use is not commenced within two years of the completion of the development

In accordance with section 69 of the *Planning and Environment Act 1987*, 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.

A handwritten signature in black ink, appearing to read 'Markus Tschech', written in a cursive style.

Markus Tschech
Principal Urban Planner

22 November 2021