

Report to the Future Melbourne (Planning) Committee

Agenda item 6.6

**Planning Permit Application: TP-2015-567,
80-82 Lothian Street, North Melbourne**

17 May 2016

Presenter: Evan Counsel, (Acting) Planning Coordinator

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of an application that was called in by Councillor Watts at 80-82 Lothian Street, North Melbourne (refer Attachment 2 – Locality Plan). The Council is the Responsible Authority for the application. The application was advertised and received 20 objections (11 of which were identical). The applicant is Contour Consultants Australia Pty Ltd, the owner of the land is Lothian Street NM Pty Ltd and the architect is Breathe Architects.
2. The subject site is located within the Mixed Use Zone and is affected by the Heritage Overlay (HO3 North and West Melbourne), the Design and Development Overlay Schedule 26 (noise) and Schedule 32 (height controls) and the Parking Overlay Schedule 12 (maximum residential rate).
3. The application seeks approval for demolition of the existing building and construction of a new building containing residential apartments.

Key issues

4. The key issues for consideration of this application are scale (building height and setbacks), neighbourhood character, amenity impacts (overlooking, overshadowing, noise) and internal amenity (access to daylight).
5. A community consultation meeting was held and the applicant has submitted draft amended plans to address some of the concerns raised, these changes are reflected in conditions of permit to formalise the proposed amendments.
6. Conditions of permit require amendments to the plans for endorsement, which address overlooking, internal amenity and building height and setbacks.
7. The design of the building, including minimal on-site parking, and the proposed selection of materials and architectural expression is supported subject to conditions.

Recommendation from management

8. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit subject to the conditions outlined in the Delegates Report (Attachment 4).

Attachments

1. Supporting Attachment (Page 2 of 33)
2. Locality Plan (Page 3 of 33)
3. Selected Plans (Page 4 of 33)
4. Delegate Report (Page 14 of 33)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (Act) sets out the requirements in relation to applications 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 each objector 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 an objector may apply to the VCAT for a review of the decision or, if an application for review is made, until the application is determined by the VCAT.

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 direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

5. Council officers have given notice of the application to adjoining properties and all objectors were invited to a community consultation meeting which was well attended. Draft amended plans were circulated to all objectors for further comment. Ongoing consultation has occurred with the applicant to address outstanding concerns.

Relation to Council policy

6. Relevant Council policies are considered in the attached Delegate Report (refer to Attachment 4).

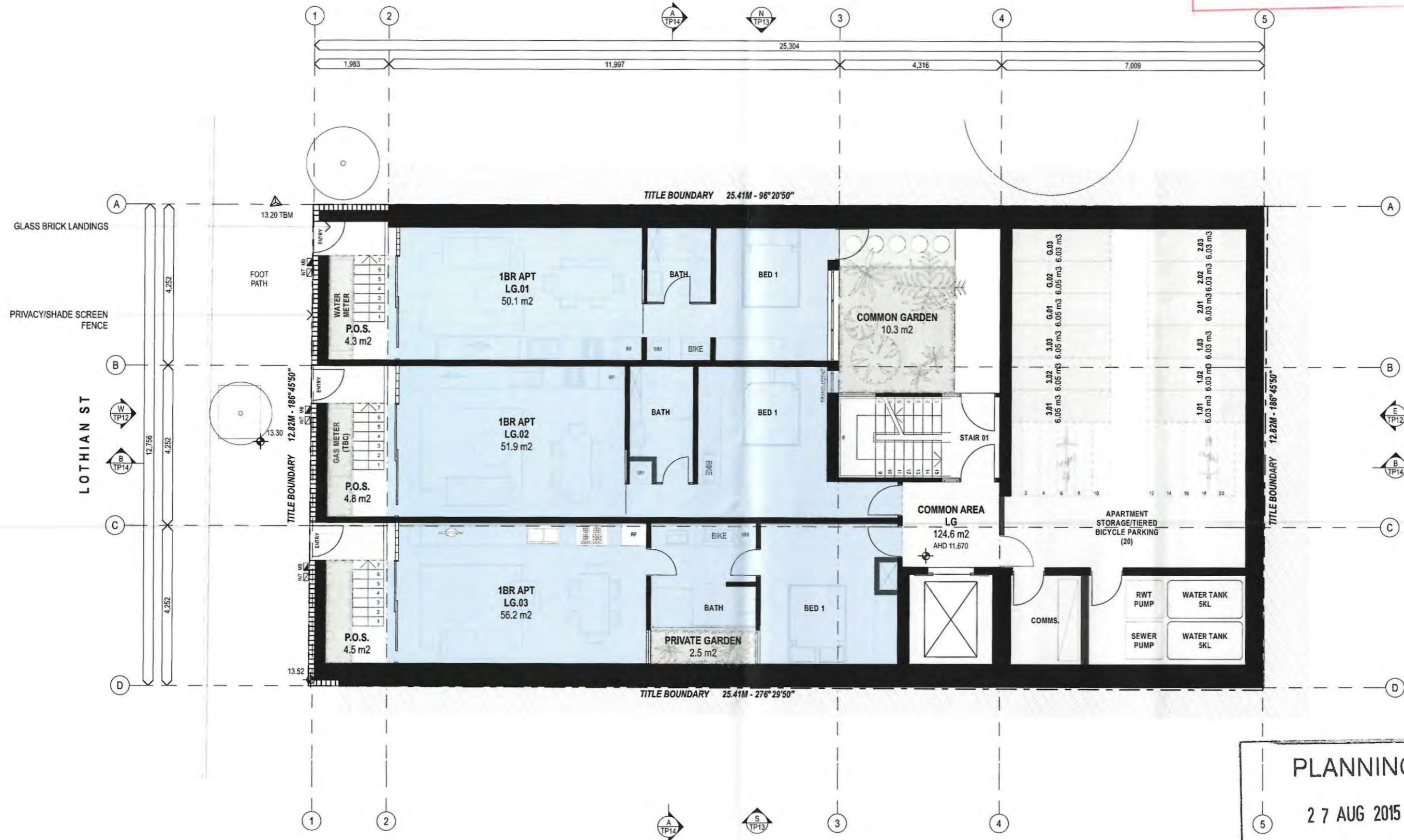
Environmental sustainability

7. Breath Architecture specialises in sustainable building practices. A Green Travel Plan forms part of the application documentation. A Sustainability Statement demonstrates that the development will achieve 1 point for Wat-1 credit under the Green Star Design and As Built 2014 Certified Rating, and the proposal achieves 100% STORM score to satisfy the requirements of Clause 22.19 Energy, Water and Waste Efficiency and 22.23 Stormwater Management (Water Sensitive Urban Design).

Locality Plan

80-82 Lothian Street, North Melbourne



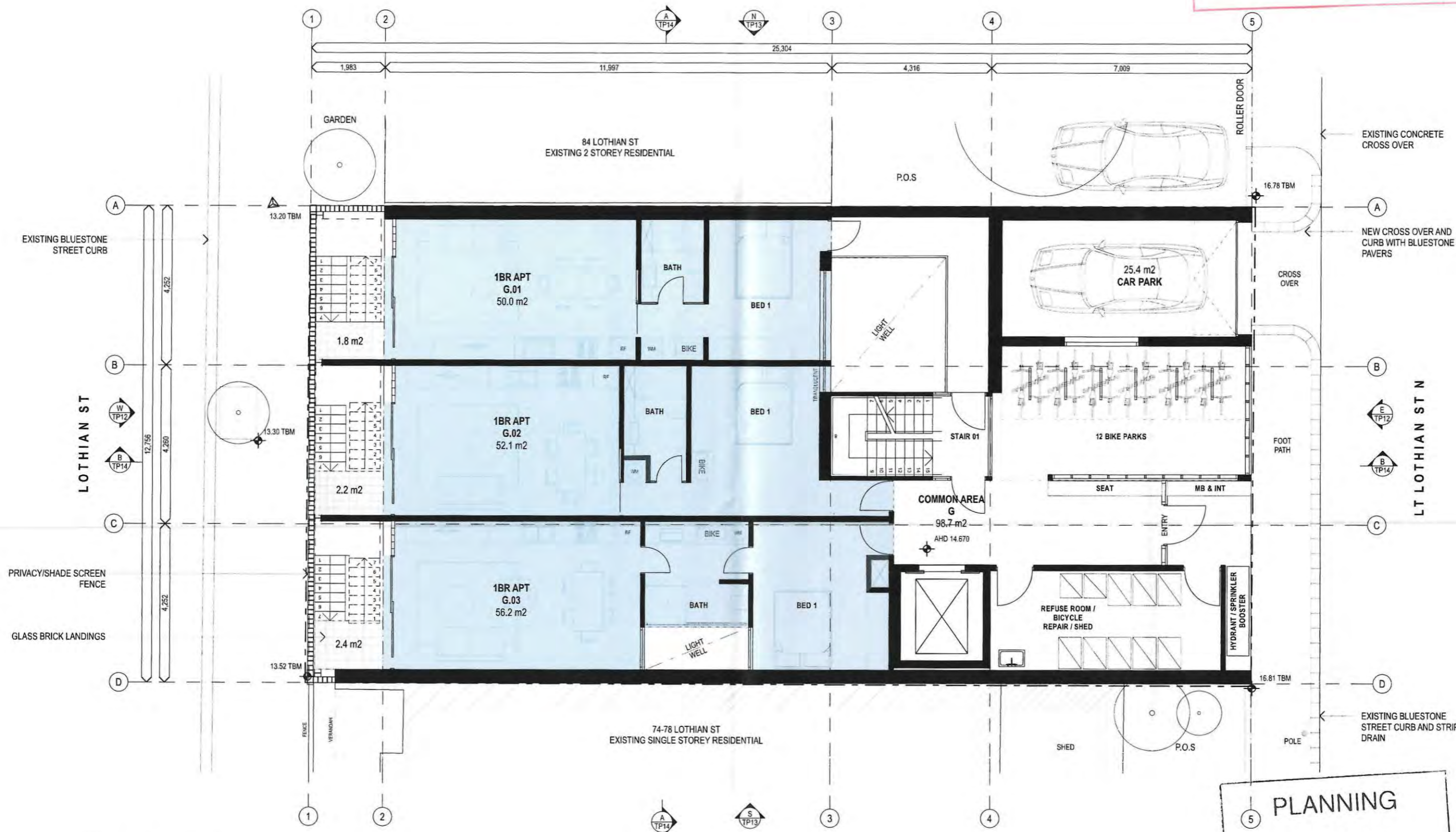


PLANNING
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PLAN Lower Ground
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			<p>TOWN PLANNING</p>	<p>FILE PATH \Volumes\Breathe HQ\Projects\2015\1501_80-82 Lothian St. North Melbourne\05 Design_Research_Tendering\5d_Town Planning\02 Working drawings\1501_TP_150526.pln</p>	<p>JOB 1501</p>	<p>PLOT DATE 25.06.2015</p>		<p>ARCHITECT JM</p>	<p>CAD BH</p>

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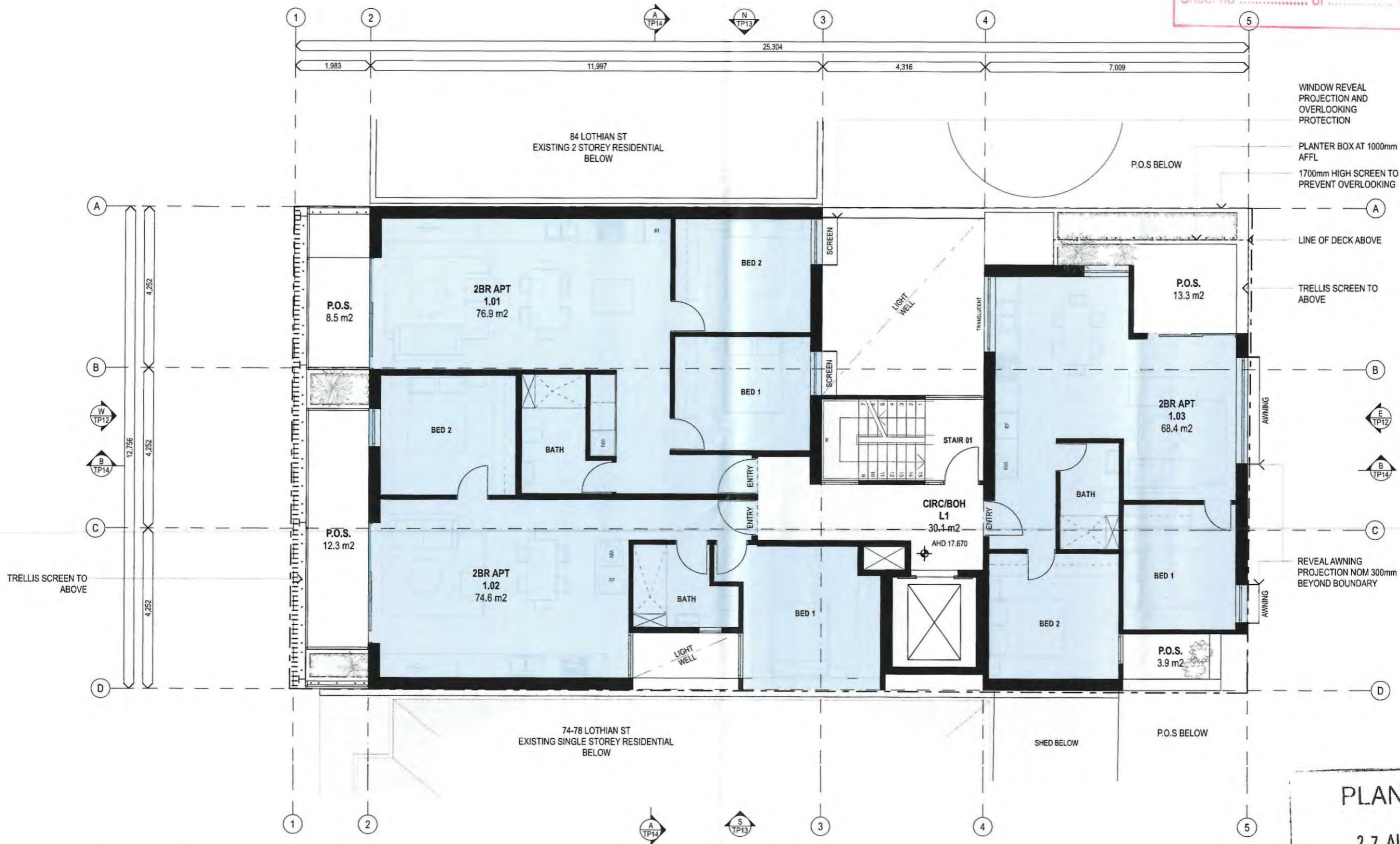
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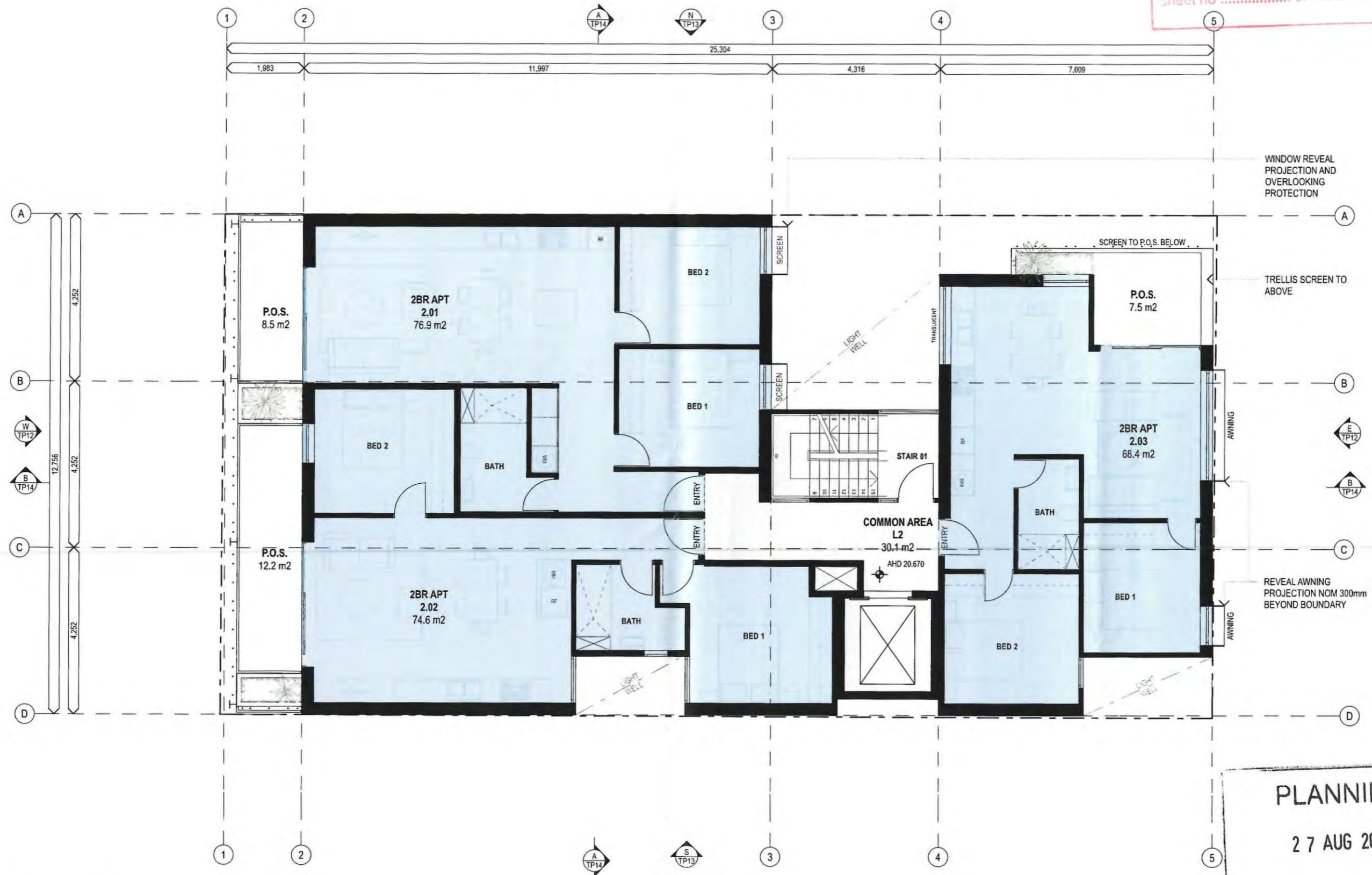
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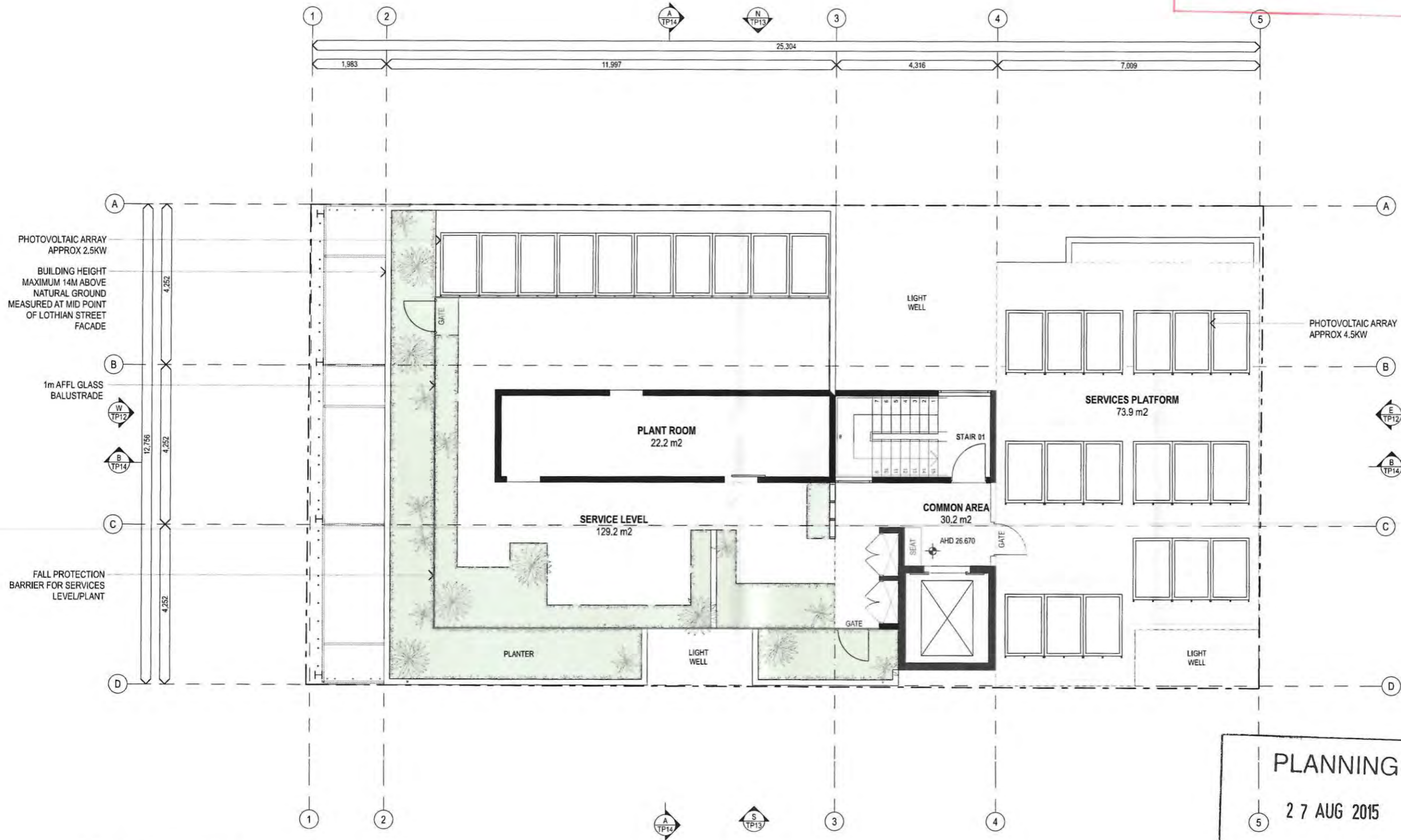
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 North Melbourne, VIC 3051

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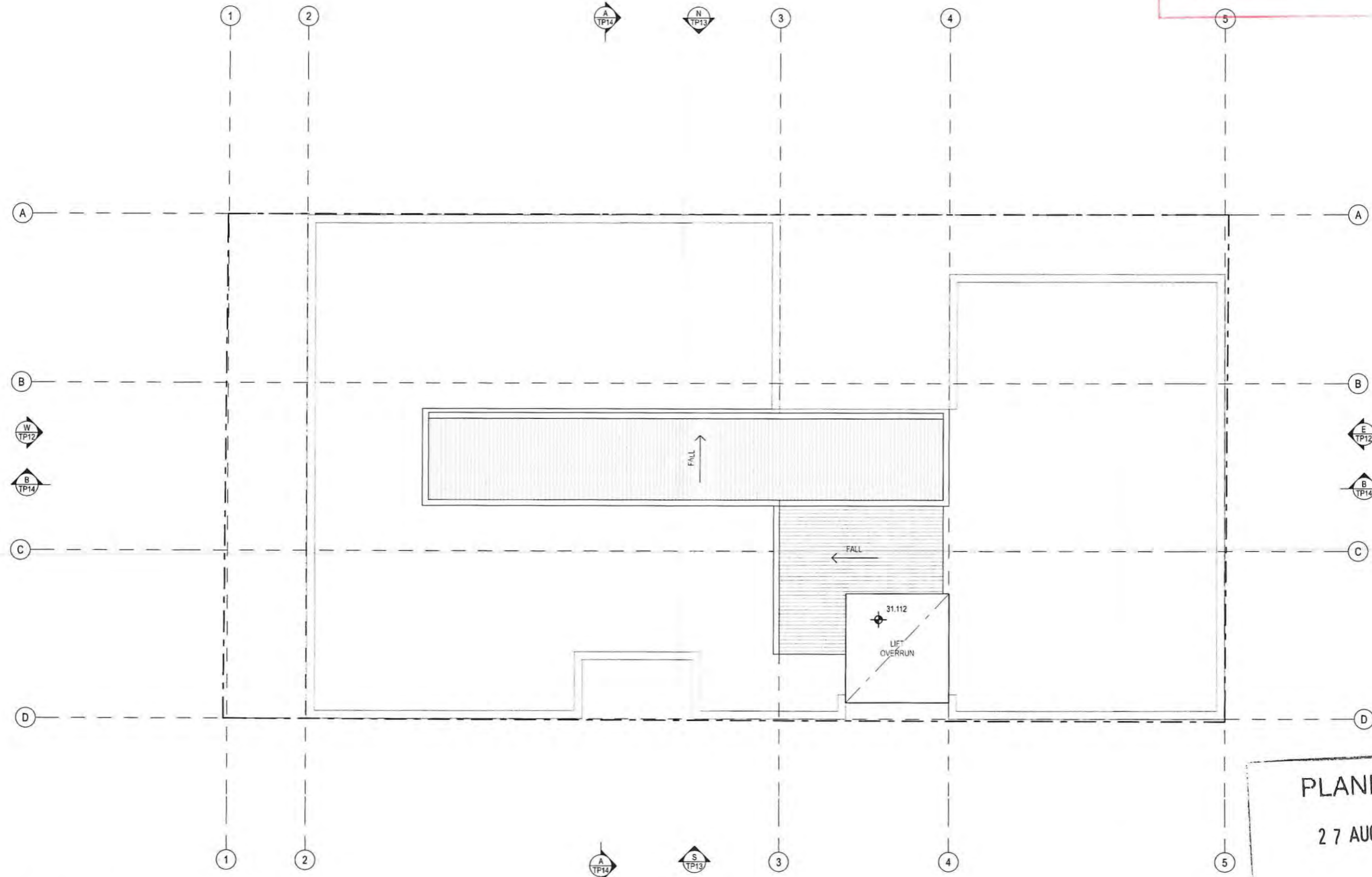
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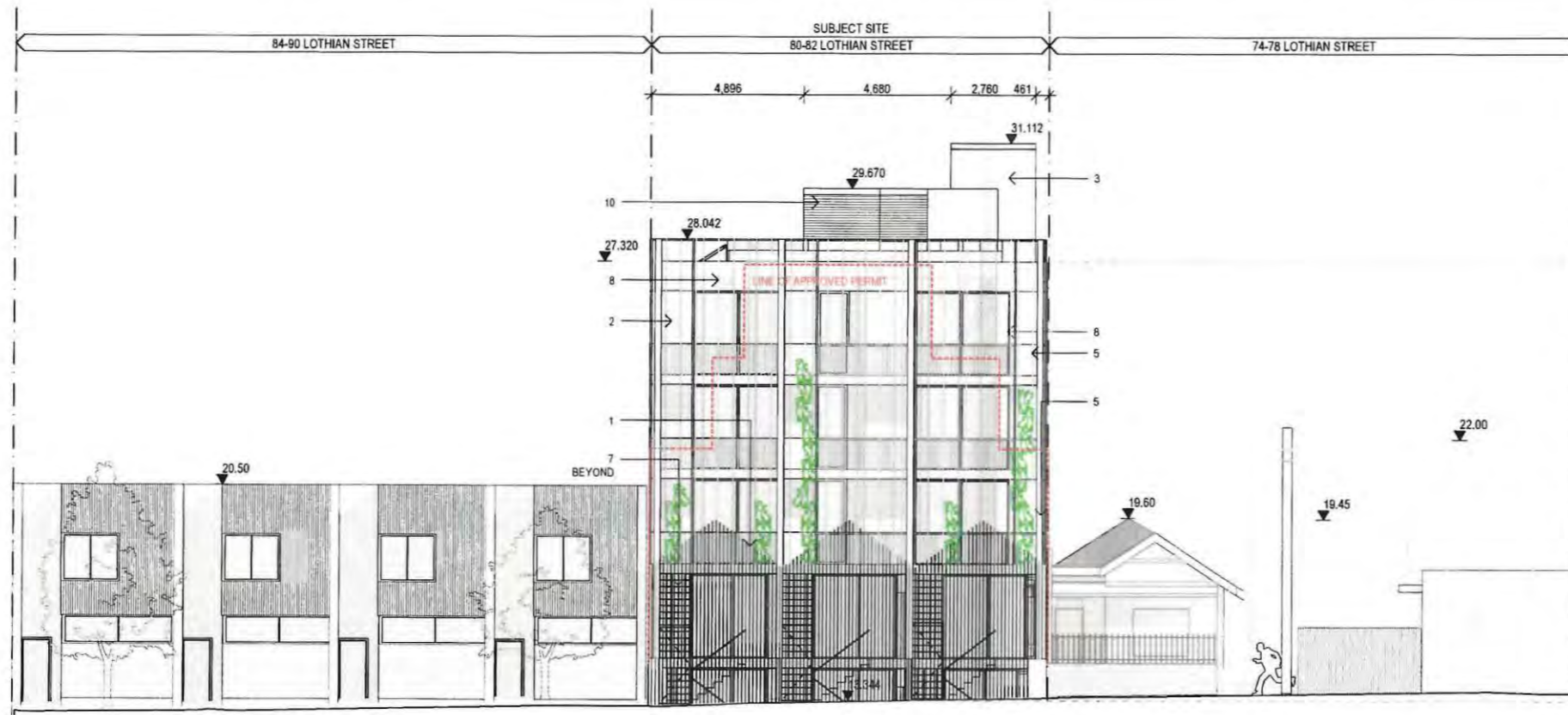
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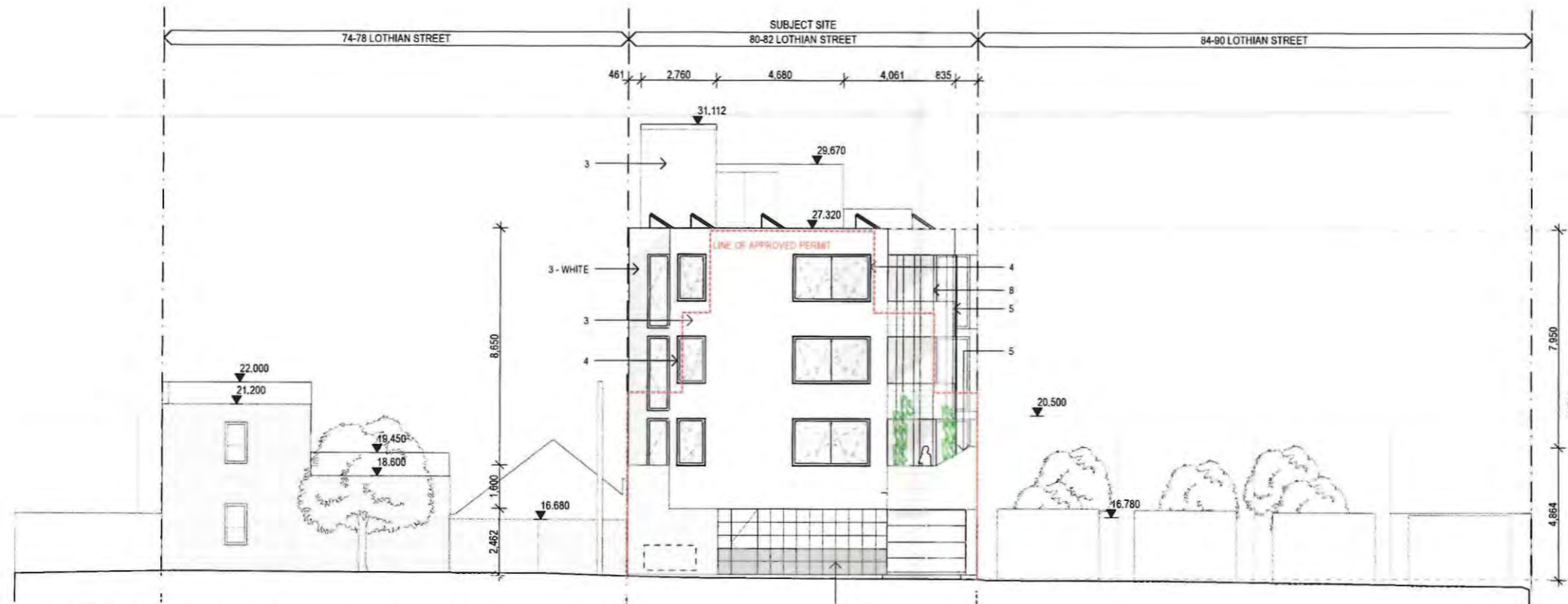


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ELEVATION West Elevation - Proposed
1:200



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- MATERIAL LEGEND**
- 1 WHITE FIN SCREENING
 - 2 WHITE PAINTED RECYCLED BRICKS
 - 3 PRECAST CONCRETE (NATURAL & WHITE STAIN)
 - 4 PROJECTED WINDOW AWNING / SHADE SCREEN
 - 5 BLACK STEEL LOUVERS
 - 6 STEEL WORK & SHOP FRONT GLAZING
 - 7 GLASS BRICK
 - 8 CHAIN TRELLIS
 - 9 BLUESTONE SETTS
 - 10 AUSTRALIAN HARDWOOD TIMBER BATTENS

ELEVATION East Elevation - Proposed
1:200

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PROJECT
GEMINI HOUSE
80-82 Lothian Street
North Melbourne, VIC 3051

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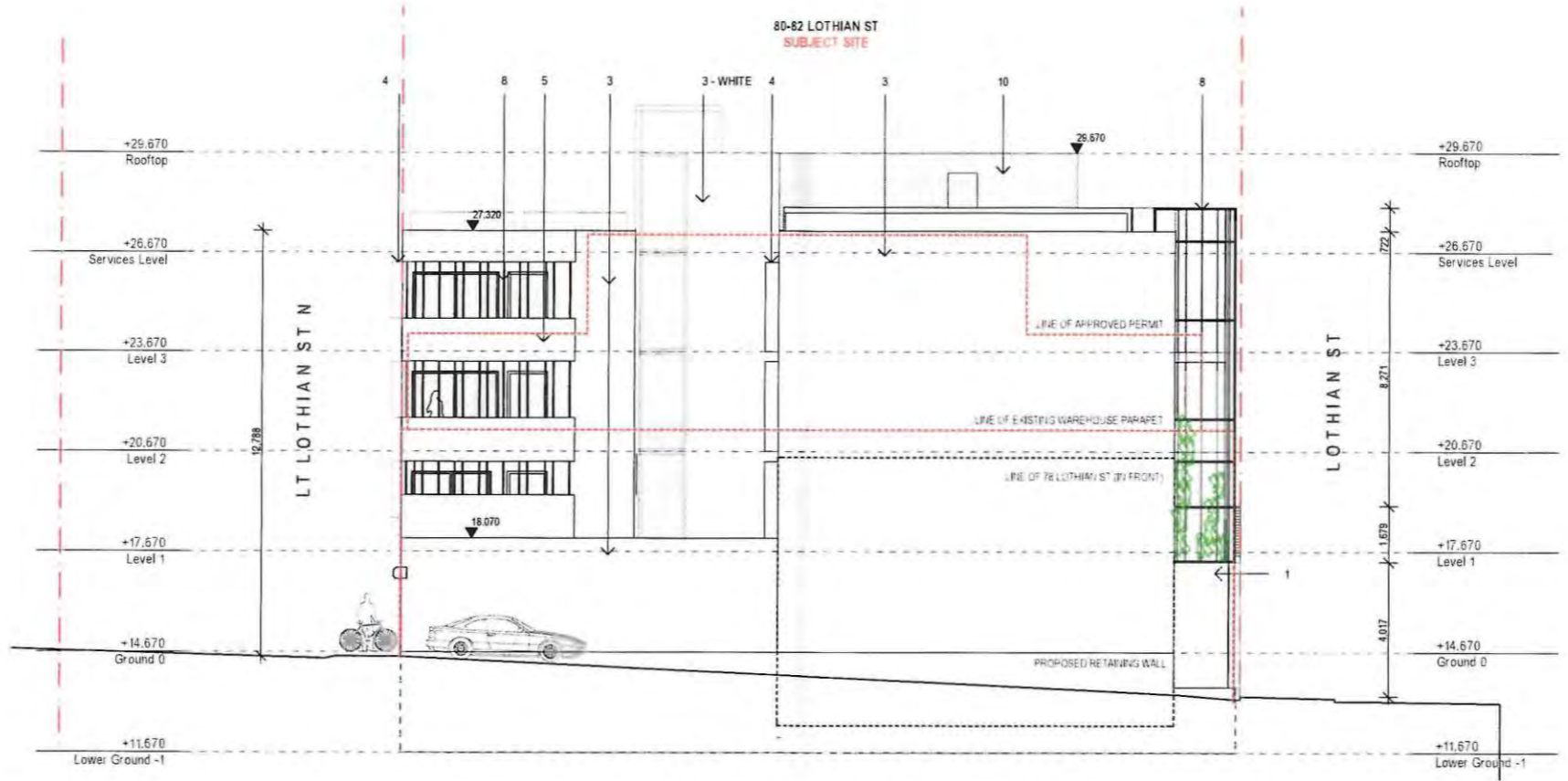
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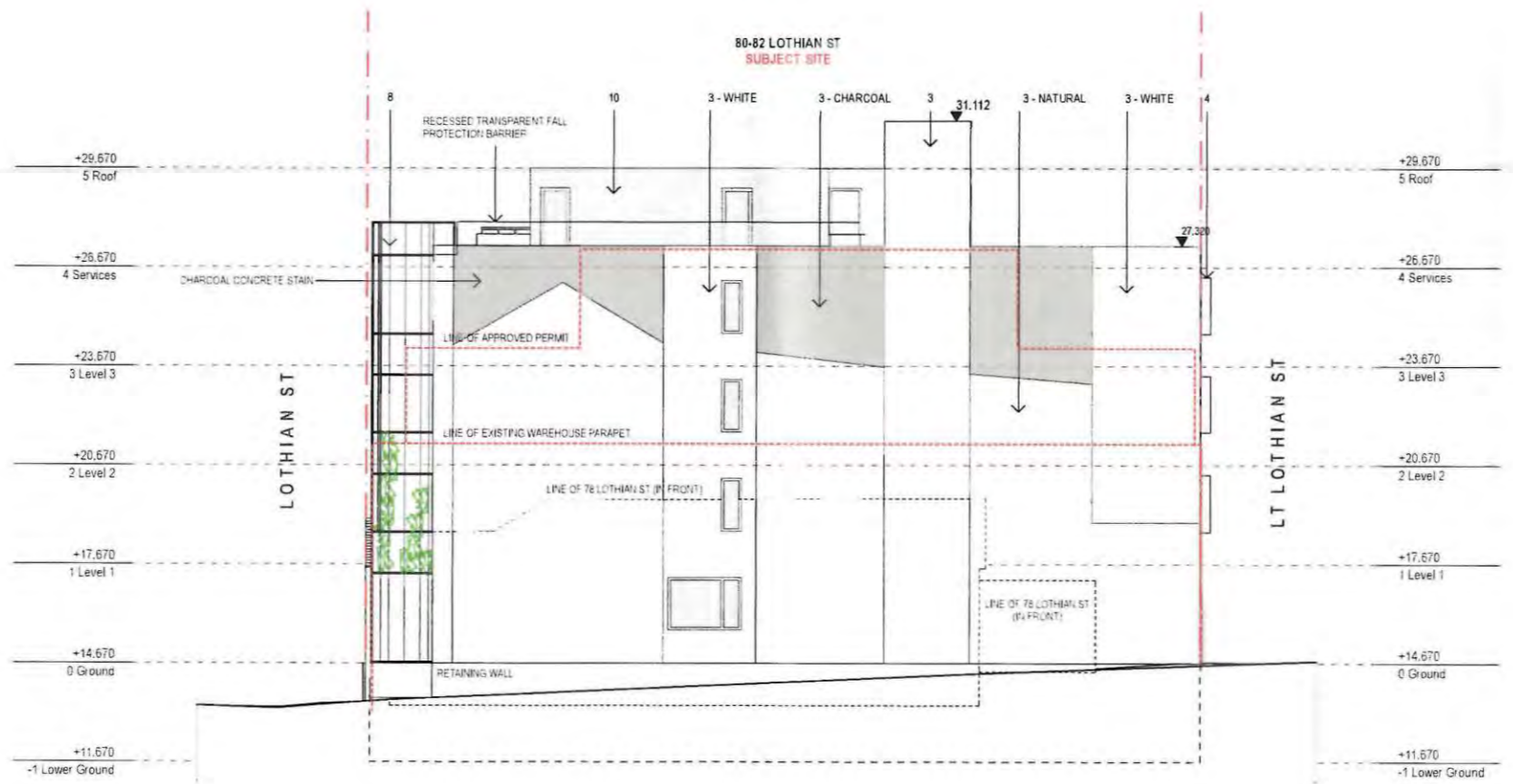
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ELEVATION North Elevation
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ELEVATION South Elevation
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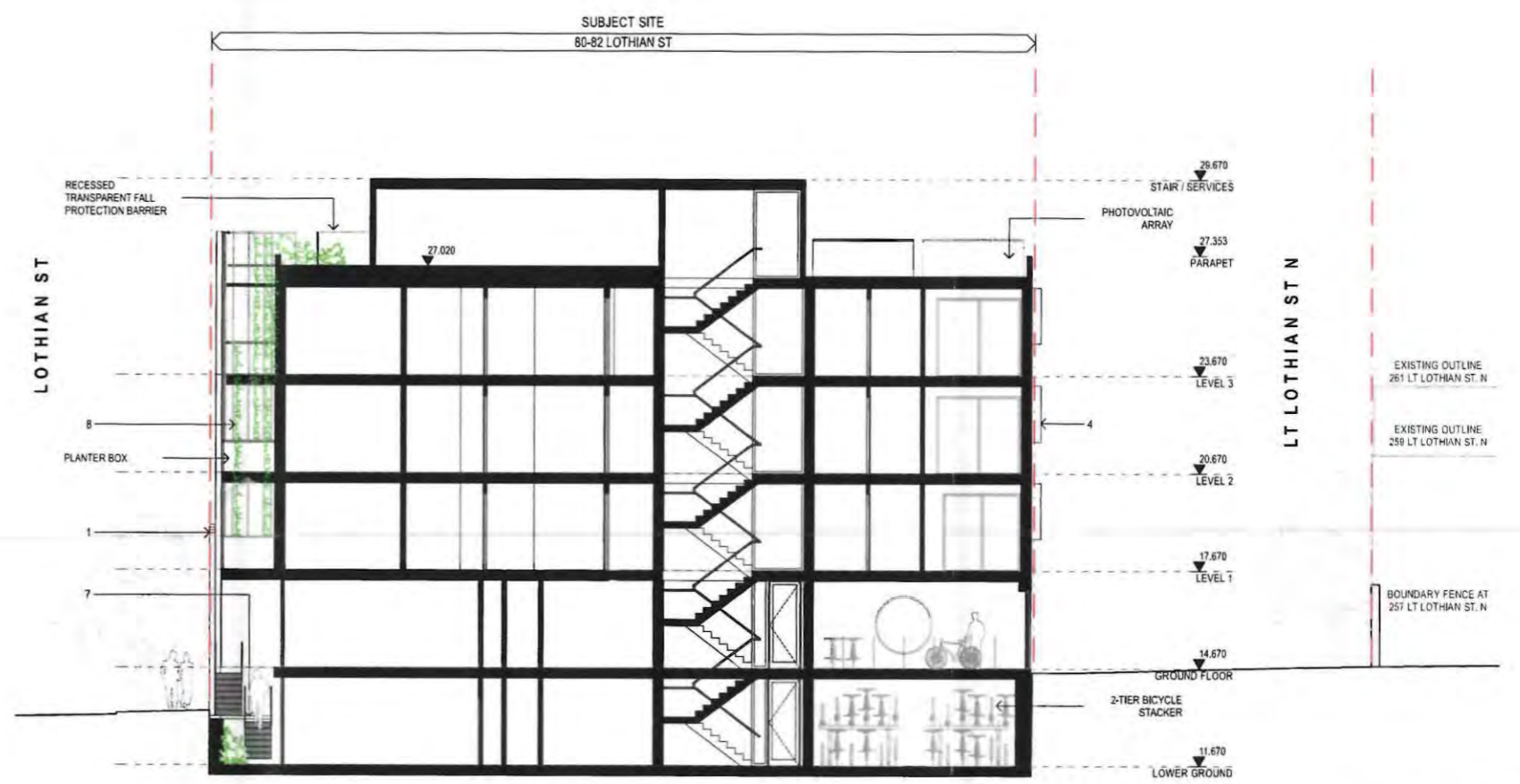
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SECTION Section A
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SECTION Section B
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DELEGATED PLANNING APPLICATION REPORT

Application number:	TP-2015-567
Applicant:	Contour Consultants Australia Pty Ltd
Address:	80-82 Lothian Street, NORTH MELBOURNE VIC 3051
Proposal:	Demolition of the existing building and construction of a new building containing residential apartments
Date of application:	26 June 2015
Responsible officer:	Dianne King

1 SUBJECT SITE AND SURROUNDS

The subject site is a rectangular lot located between Lothian Street (to the west) and Little Lothian Street North (to the east). The site has a total area of 326 square metres and a site frontage of 13 metres to each street.

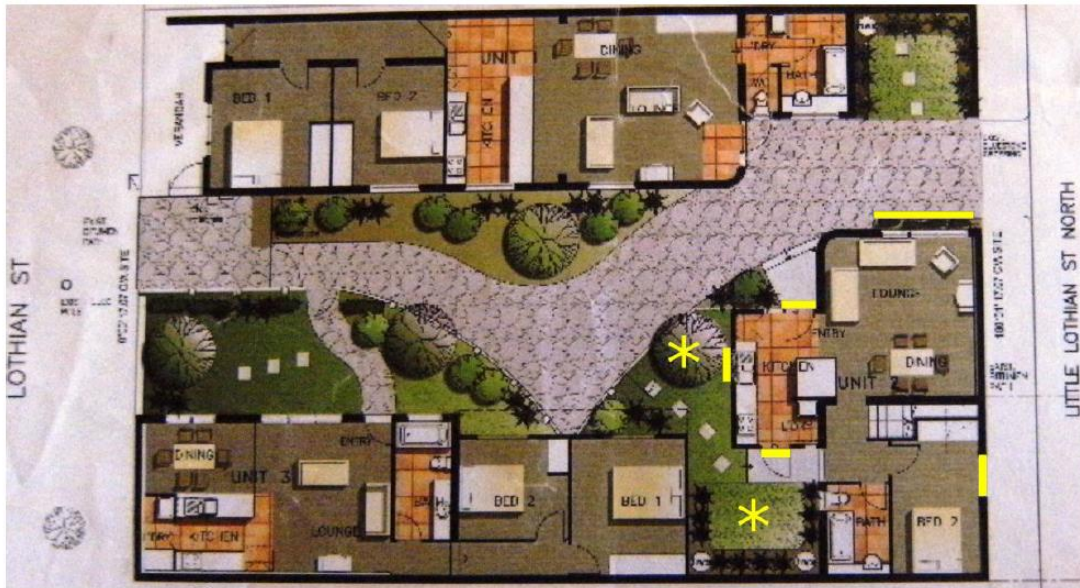
The site contains an existing two storey yellow brick industry building built which covers 100% of the site and is ungraded in the City of Melbourne's Heritage Places Inventory.

The surrounds are made up of a variety of residential and industrial/commercial land uses of varying scale.

Immediately south of the subject site is a single storey terrace which is built to the common boundary for a majority of the site, and with a small 3 metres x 2 metres courtyard to the rear (east).

Further south is a landscaped private walkway and dwellings at 70-74 Lothian Street, including private open space and solar panels on the single storey roof form, oriented north towards the subject site.

Floor Plan 70-74 Lothian Street

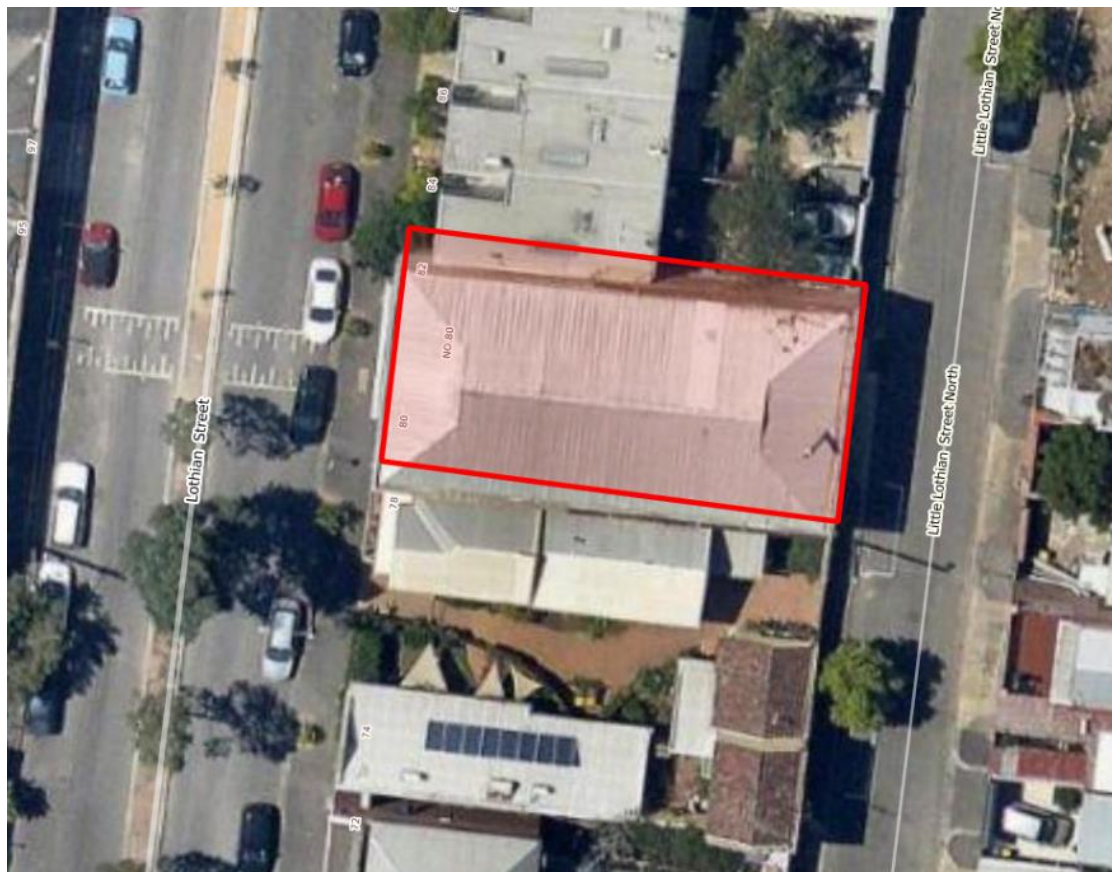


Directly north of the site is a row of two storey terraces with secluded private open space and car parks to the rear.

Across Lothian Street to the west is a single storey warehouse.

Across Little Lothian Street to the east is the rear access and open space of a row of 'D' graded dwellings which front Abbotsford Street.

Aerial Photo



2 BACKGROUND AND HISTORY

2.1 Pre-application discussions

A per-application meeting occurred prior to lodgement of the application. Advice was provided with regards to maximum building height and what rooftop services and facilities could exceed the maximum building height.

2.2 Planning Application History

The following applications, listed as considered relevant to the current proposal, have previously been considered for the subject site and/or adjoining sites:

TP number	Description of Proposal	Decision & Date of Decision	Officer Comment
TP-2011-894	Construction of two storey addition to accommodate new dwellings at 80-82 Lothian Street, North Melbourne	Permit Issued 7 January 2013	Extension of time approved. Permit will now expire if construction has not commenced by 7 January 2017.
TP-2010-361	Three storey residential building comprising 12 apartments and basement car park at 89-5 Lothian Street, North Melbourne	Permit Issued 12 September 2011.	Extension of time approved. Permit will now expire if construction has not commenced by 12 September 2017.
TP-2012-261/A	Demolition of the existing building and construction of a four storey building containing dwellings at 97-101 Lothian Street, North Melbourne	Permit Issued 13 May 2014.	Permit will expire if construction has not commenced by 12 May 2016.

3 PROPOSAL

The Plans considered in the assessment of this application are the advertised plans, date stamped 29 June 2015. It is proposed to demolish the existing building and construct a new four storey building containing residential apartments with rooftop deck. Details of the proposal are as follows:

- Maximum building height of 13.976 metres with architectural features, balustrades, stairwells and lift overrun protruding beyond that height to an overall maximum height of 17.8 metres.
- The proposal will result in 15 apartments, 20 bicycle parking spaces and 12 storage cages.
- The Lothian Street façade includes a 'white fin fence' which mimics the form of a single storey terrace with pitched roof. The building façade includes chain trellis over balconies to allow for climbing plants.
- Lower ground level comprises three one-bedroom apartments fronting Lothian Street, a central common garden on the northern boundary, 6m³ of storage and 10 bicycle parking spaces at the eastern boundary and building services, stair and lift.

Parking Overlay Schedule 12	spaces in excess of the maximum number specified in the schedule. The maximum number specified is 1 to each dwelling. The proposal does not exceed this rate, therefore no permit is required pursuant to this clause.
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5 STRATEGIC FRAMEWORK

5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are summarised as follows:

- Clause 15.01-2, Urban design principles, which seeks to achieve outcomes that 'contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties'. It includes relevant design principles for development proposals and references the *Design Guidelines for Higher Density Residential Development* (Department of Sustainability and Environment, 2004).
- Clause 16 'Housing' seeks to encourage housing diversity, and ensure the efficient provision of supporting infrastructure. New housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, schools and open space.

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

Clause 21.07-1 'Residential Development' has the following relevant strategies and objectives:

- In areas outside the Central City and Urban Renewal Areas, increase housing quantity and density consistent with the existing character of the area.
- Ensure that new residential development achieves high standards of amenity including access to sunlight and daylight and protection from overlooking.
- Ensure that the reasonable expectations of amenity for existing residential uses are maintained. To support a range of housing tenures, types and options to meet the diverse of housing needs.
- Ensure that in areas where a new built form character is sought, new residential development adds to the vitality, amenity, comfort and safety of the area.'

Clause 21.16-5 relates to North and West Melbourne and has the following relevant strategies:

Housing

- Support residential development in the Hoddle Grid fringe. In this area, increased residential densities should be balanced with the strategic role of this area in providing for small to medium enterprises that support the Hoddle Grid and Docklands.
- Support limited residential development that maintains the low scale nature of heritage buildings and streetscapes in the Residential Zone (stable residential areas).

Heritage

- Maintain the predominantly low scale of residential areas and the Mixed Use Zone in North Melbourne.

5.2.2 Local Policies

Clause 22.05 'Heritage Places outside the Capital City Zone' provides a mechanism to conserve and enhance places and areas of architectural, social or historic significance and aboriginal archaeological sites and to encourage development which is in harmony with the existing character and appearance of designated heritage places and areas. The relevant objectives of this policy are:

'To conserve all parts of buildings of historic, social or architectural interest which contribute to the significance, character and appearance of the building, streetscape or area.

To ensure that new development, and the construction or external alteration of buildings, make a positive contribution to the built form and amenity of the area and are respectful to the architectural, social or historic character and appearance of the streetscape and the area.'

Clause 22.17 'Urban Design Outside the Capital City Zone' includes objectives that seek to ensure that the scale, siting, massing and bulk of development complements the scale, siting, massing and bulk of adjoining and nearby built form. In addition, this clause encourages unacceptable bulk in new development to be reduced and that the height of buildings relates to the prevailing patterns of height and scale of existing development in the surrounding area.

Clause 22.19 'Energy Waste and Water' was introduced to the Melbourne Planning Scheme on 4 April 2013. The policy applies to all applications for the construction of buildings for (inter alia) accommodation purposes. The objectives of this policy are:

'To ensure buildings achieve high environmental performance standards at the design, construction and operation phases.

To minimise the city's contribution to climate change impacts by reducing greenhouse gas emissions.

To improve the water efficiency of buildings and encourage the use of alternative water sources.

To minimise the quantity of waste going to landfill and maximise the recycling and reuse of materials.

To minimise the impacts of waste on the community.

To encourage the connection of buildings to available or planned district energy, water and waste systems in urban renewal areas in order to achieve additional energy, water & waste efficiency arising from a precinct-wide approach to infrastructure where appropriate.

6 ZONE

The subject site is located within the Mixed Use Zone which includes the following relevant objectives: To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.

- To provide for housing at higher densities.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.

7 OVERLAY(S)

Heritage Overlay

The subject site is affected by Heritage Overlay Schedule 3 (North and West Melbourne Precinct). The purpose of this overlay is:

- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.

Design and Development Overlay

The subject site is affected by the Design and Development Overlay Schedule 26 which relates to noise attenuation and requires any new building that will accommodate residential uses....:

‘Be designed and constructed to include noise attenuation measures. These noise attenuation measures must achieve a maximum noise level of 35dB(A)Leq in unfurnished and uncarpeted habitable rooms, with all windows and doors closed, unless there is no suitable air conditioning and/or mechanical ventilation, in which case the maximum noise level of 35dB(A)Leq in unfurnished and uncarpeted habitable rooms must be achieved with all the windows half open and the doors closed.

Be fitted with suitable air conditioning and /or mechanical ventilation system to the satisfaction of the responsible authority unless the maximum noise level of 35dB(A)Leq in unfurnished and uncarpeted habitable rooms can be achieved with all the windows half open and the doors closed.

Have walls, roof, windows, doors and external glazing and the air conditioning or ventilation system designed by a qualified acoustical consultant who must certify that the incorporation of the design features recommended by the consultant will achieve a maximum noise level in unfurnished and uncarpeted habitable rooms of 35dB(A)Leq, based on the external noise levels measured by the consultant as part of a noise level assessment conducted to the satisfaction of the responsible authority.’

The overlay requires testing to ensure acceptable noise attenuation has been designed and implemented.

The site is also affected by the Design and Development Overlay Schedule 32 which specifies a mandatory maximum building height of 14 metres, with the following relevant built form outcomes:

- New development respects existing built form especially low scale of the existing older building stock in the street.
- Development in streets with higher typical built form provides a transition in scale to the lower building forms.

With regards to the maximum building height, the policy states:

‘Building height is 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 architectural features and building services.’

Parking Overlay

The subject site is affected by the Parking Overlay Schedule 12, the objective of this schedule is:

- To identify appropriate car parking rates for residential development in specific inner city areas of Melbourne.

8 PARTICULAR PROVISIONS

The following particular provisions apply to the application:

- Clause 52.06, Car Parking
- Clause 52.34, Bicycle Facilities
- Clause 52.35, Urban context report and design response for residential development of five or more stories.

9 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.
- Clause 66, Referral and Notice Provisions

10 PUBLIC NOTIFICATION

It was determined that the proposal may result in material detriment. Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties and by posting two notices on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

11 OBJECTIONS

A total of 20 objections were received, and raised the following concerns with the proposal:

- Visual bulk, building height and setbacks
- Lack of on-site car parking
- Overlooking
- Overshadowing open space, habitable rooms windows and solar panels
- Lothian Street 'fence' is out of keeping with neighbourhood character
- Design response and neighbourhood character
- Noise
- Construction impacts
- Noise/vibrations caused by lift shaft.

Note: Of the 20 objections, 11 were identical. However, all issues raised in all objections will be given due consideration in the following assessment.

12 CONSULTATION

Given the receipt of the above objections, a consultation meeting was held. Approximately 15 residents attended the consultation meeting to discuss the proposal with the applicant. At the conclusion of the meeting, the applicant offered to

provide revised plans with an alternative rooftop scheme that complies with the height control, and greater details regarding screening and shadows.

Draft amended plans were submitted on 3 December 2015 and were circulated informally to all objectors of the application.

Six written objections were received directly in response to the revised plans, generally maintaining the concerns listed above.

13 REFERRALS

13.1 Internal

The application was referred internally to the following departments for comment (summarised):

13.1.1 Urban Design

The design is architecturally resolved and has chosen high quality materials.

The activation of Little Lothian Street is a welcome contribution to the laneway.

The proposed massing and building design will not negatively impact on the streetscape due to the relatively small height difference, design resolution of the façade and additional passive surveillance of the street.

13.1.2 Engineering Services

Traffic

The proposal contemplates the provision of 1 parking space for the site, which accords with the requirements of the Melbourne Planning Scheme.

The existing double width crossover to Little Lothian Street North is to be demolished and reinstated with kerb and channel, which should provide for one additional on-street parking space adjacent to the subject site.

The car park space is provided with a length and width which exceeds the maximum requirements of the scheme. Sight triangles are not provided in this case, however, given the limited supply of car parking and provision of a roller door to alert pedestrians of impending vehicles, this arrangement is satisfactory.

The statutory requirement for bicycle parking is 3 spaces for residents and 2 spaces for visitors. The total bicycle parking provision exceeds the requirements of the Planning Scheme and is appropriate.

Waste

Initial waste referral comments required a number of changes to the plans. The draft amended plans submitted in December address many of the concerns raised by Waste Services. Subject to the plans being amended in accordance with the draft plans, the following comments are relevant:

‘Due to the size of the development separate cardboard collection will not be offered. The cardboard will need to be collected via fully commingled recycling collection. Therefore this development will have garbage bins and recycling bins (no cardboard bins).’

An amended Waste Management Plan is required to the satisfaction of Engineering Services.

Civil

A number of conditions are recommended should a permit be issued.

13.1.3 Land Survey

13.2 External

The application was not required to be referred externally.

14 ASSESSMENT

The application seeks approval for demolition of the existing building and construction of a new part 4 and part 5 storey building containing residential apartments. The key issues for consideration in the assessment of this application are heritage and neighbourhood character, potential amenity impacts, built form and objector concerns. Many of these issues are interrelated; an assessment against the Heritage Overlay the Design and Development Overlay and the Guidelines for Higher Density Residential Development follows.

14.1 Heritage

The existing building has no heritage significance. The proposed demolition of the existing building is supported.

Lothian Street and Little Lothian Street are graded level 3 in the City of Melbourne's Heritage Places Inventory 2014. A Level 3 grading is applied to streets that:

'May contain significant buildings, but they will be from diverse periods or styles, and of low individual significance or integrity.'

With regards to building height, for new buildings, Clause 22.05 states:

The height of a building should respect the character and scale of adjoining buildings and the streetscape. New buildings or additions within residential areas consisting of predominantly single and two-storey terrace houses should be respectful and interpretive.'

It is noted that the area surrounding the immediately surrounding properties are ungraded, with some 'D' graded properties further south and across Little Lothian Street to the east.

The existing scale of surrounding properties is one and two stories. Permits have been issued (yet to be constructed) for three and four storey developments directly across Lothian Street. The site immediately adjoins a two storey built form to the north, and a single storey built form to the south. The front façade includes a single storey 'white fin fence' which references the single storey form to the south. The four storey built form is setback 2 metres from the western boundary (with the exception of balcony projections into this space) and has no side setbacks.

The proposed building height adequately respects the neighbouring building to the north, with the differentiation in height being two stories. The differentiation in height from the single storey form to the south is not ideal. Additional setbacks of the upper level fronting Lothian Street would provide an improved relationship between these two buildings when viewed from the streetscape.

Rear car parks and open space and modern additions typically front Little Lothian Street North. The relationship between the proposed building height and existing buildings therefore has no appreciable impact on the heritage significance of this street.

14.2 Building Height

14.2.1 Mandatory provisions

The site is affected by the Design and Development Overlay Schedule 32 which specifies a mandatory maximum building height of 14 metres.

With regards to the maximum building height, the policy states:

‘Building height is 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 architectural features and building services.’

Given the site front both Lothian and Little Lothian Street, it can be argued that the 14 metre height control should be measured from both street frontages, to the centre point of the block.

Council has submitted to the Minister for Planning on 23 July 2015 a prescribed amendment C256 to define ‘architectural features’ and ‘building services’ in DDO’s with mandatory height controls. This amendment is yet to be gazetted.

The amendment is sought pursuant to Section 20(A) of the Planning and Environment Act 1987 and was undertaken by Council following the Supreme Court decision (2014) VSC 238. This decision delivered by Judge Emerton allowed certain ‘architectural features’ above a mandatory height limit as it serviced the function of a barrier. This decision is now considered the leading case law in regards to the issue allowing ‘architectural features’ above mandatory height limits.

The development as originally proposed is designed in accordance with the supreme court decision, with ‘barriers’ and other architectural features and services above the mandatory height. The draft amended plans reconfigure the rooftop in order to provide no ‘barriers’ to habitable space projecting beyond the 14 metres height limit when measured from the street each street frontage to the midpoint of the block, in accordance with amendment C256. Building services, including stair and lift project beyond the mandatory height limit. Whilst it can be argued that the stair is essential for access to building services, the proposed lift access to the rooftop is a non-essential access service, projecting significantly above the 14 metre height control. This projection appears as a foreign element, and has flow on amenity impacts to the dwellings to the south. It is recommended that a condition of permit require deletion of the lift access to rooftop, so that lift overrun only projects above the height control.

14.2.2 Built Form Outcomes

The mandatory height limits of the Design and Development Overlay are not a given preferred height, but a maximum height. A development must also achieve the relevant built form outcomes, namely:

- New development respects existing built form especially low scale of the existing older building stock in the street.
- Development in streets with higher typical built form provides a transition in scale to the lower building forms.

An objector drew reference to a recent VCAT decision in support of their argument that the proposal provided insufficient setbacks and is too tall for the site. The relevant decision related to refusal for a four storey building immediately adjoining a single storey ‘D’ graded heritage building to the south, directly across Lothian Street to the subject site. Whilst Member Naylor discusses what an appropriate transition would be in the VCAT decision (Paull v Melbourne CC [2015] VCAT 1344) the assessment is not directly comparable. The refused development did not respond to the context in detail and adjoined a heritage dwelling.

The proposed building is arguably achieving the maximum possible building height in the locality, considering the projections beyond the mandatory height controls. The existing dwelling to the south is the minimum building height of the street (single storey).

The proposed development has provided reference to the single storey dwelling to the south, by way of the single storey white fin fence. However, the proposal will result in a 4.5 storey blank wall on boundary immediately adjacent the single storey dwelling. Minimal side setbacks have been provided, including a light-court, side balcony and lift core recess.

Considering the provision of a transition in height only (overshadowing and visual bulk are considered below in chapter 14.3), the proposal should provide some setback at the upper floor to Lothian Street to provide a transition in scale to the single storey dwelling to the south.

It is recommended a condition of permit require a setback of 1.64 metres from the southern boundary (in line with the light court) up until the depth of the light court. This will result in the fourth floor southern corner having limited visibility directly across Lothian Street, and provide a transition of two stories at the Lothian Street end when viewed from oblique angles before stepping up to the maximum height limit.

The proposed lift extends significantly beyond the mandatory height limit, and presents as a foreign element from the public realm and private property. It is recommended that lift access finish at the upper residential level (Level 3 as notated on the plans) and any projection beyond the roof level be minimised as lift overrun only. This will result in a reduction in the lift projection by approximately 3 metres.

With regards to the Little Lothian Street North elevation, this street is typically characterised by vehicle access, car parking/garages high fences and open space. The proposed transition in height is less sensitive, given the reduced pedestrian traffic. The proposal provides some setbacks at both the northern and southern corner of the eastern façade to provide variation in the form rather than a hard four storey block. Given the change in levels, the maximum building height at this end is 12.8 metres. The proposed building height and transition in scale to the eastern elevation is acceptable.

Subject to the changes to the rooftop layout shown in the draft amended plans and the above recommendations, the proposed height responds to the built form outcomes of the Design and Development Overlay and complies with the mandatory height controls.

14.3 Higher Density Residential Development

Clause 15.01 references the Urban Design Guidelines for Higher Density Residential Development, which should be applied in the consideration of developments for five or more stories (excluding basement). The Melbourne Planning Scheme defines a 'basement' as:

'A storey below ground level, or that projects no more than 1.2 metres above ground level.'

The proposed lower ground level projects 1.7 metres above natural ground level at Lothian Street, and the development is therefore considered to be five stories. Consideration of the application against the guidelines follows:

14.3.1 Element 1 - Urban Context

The proposed development provides activation to both streetscapes, with a residential foyer to Little Lothian Street North and private dwelling entrances to 6 apartments fronting Lothian Street. Whilst the proposal includes a high front fence, this is a feature of the design response which addresses the single storey form within the heritage streetscape. The proposed fence is semi-transparent, ensuring an activated frontage which provides visual surveillance to the street.

14.3.2 Element 2 - Building Envelope

2.2.1 The proposed four-five storey building is in keeping with the preferred neighbourhood character as identified in the Design and Development Overlay Schedule 32. The building height, subject to the draft amended plans, complies with the mandatory maximum building height. The white fin fence to Lothian Street responds to the single storey heritage form of single dwellings scattered throughout the streetscape.

2.2.2 Given the proposed building is four-five stories tall, a tower/podium form is not appropriate to the context of the site and streetscape.

2.2.3 There are no immediately adjoining heritage buildings. The design response respects the heritage streetscape with the inclusion of the white fin fence which references the single storey heritage dwellings scattered throughout Lothian Street.

2.2.4 In addition to the proposed Lothian Street fence, the recommended setbacks of the upper level at the south-west corner will address this design suggestion, which seeks to increase setbacks to create sensitive interfaces with adjoining buildings. It is recommended that greater detail be placed on the southern boundary wall, which is highly visible, to provide articulation to that façade. The site adjoining to the south is an existing single storey dwelling. This site could be developed in the future, to a maximum height of four stories, however is likely to be developed to a maximum height of 2-3 stories given the narrowness of the site and proximity to habitable room windows and open space to the south.

2.3.1 There are no public spaces within close proximity to the site, with the exception of Lothian and Little Lothian Street North. The shadow to these spaces is acceptable, roads reserves.

2.4.1 The proposed building is built almost to street edge, in keeping with the streetscape character.

2.4.2 The proposal includes a 'white fin fence' built to the boundary, which is supported by Urban Design. The building form behind the fence is setback 2 metres from the Lothian Street façade, generally in line with the neighbouring properties to the north and south. Balconies project beyond that alignment.

The existing built is built to the Lothian Street boundary, and existing warehouse/commercial buildings and new residential development are typically built to the street boundary. The proposed design response responds to the streetscape character.

2.4.3 The proposed development provides activation to both streetscapes, with a residential foyer to Little Lothian Street North and private dwelling entrances to 6 apartments fronting Lothian Street. Whilst the proposal includes a high front fence, this is a feature of the design response which addresses the single storey form within the heritage streetscape. The proposed fence is semi-transparent, ensuring an activated frontage which provides visual surveillance to the street.

2.5.1 Lothian Street is characterised by terraces and warehouses with no separation. The proposal maintains this lack of separation.

2.5.2 This design suggestion is not relevant to the application.

2.5.3 Side setbacks are not essential to the private amenity of the dwelling to the south, which is built to the common boundary and has all habitable windows facing south, east and west. Small light-courts are proposed along the southern boundary to provide internal amenity to the proposed dwellings, and visual articulation to the building form. It is recommended that the proposed light-court to the south-west

dwellings be increased to a minimum area of 3 square metres in order to improve internal amenity.

2.6.1 As previously stated, the site to the north could be developed in the future to a maximum height of 14 metres, but more likely to a height of two or three stories. The proposal includes a light-court on the southern boundary which habitable room windows rely on for access to daylight and air. In order to protect the amenity of the proposed dwellings, a development to the south would need to match the location and size of the light-court to the north. This would result in an overall light-court dimension of approximately 6 square metres subject to the recommendation to increase the proposed light-court to 3 square metres. Given the depth of the light-court is likely to be a maximum of three stories, the proposed dimension is acceptable. The width of the property to the south, being approximately 5 metres, suggests that a light-court mid-block would be required for future development.

2.6.2 The site is a standalone tall building, however as generous internal light-court on the northern boundary has been provided to improve internal outlook and daylight access.

2.6.3 The proposed building height of four – five stories would not require ‘tower separation’ between buildings.

2.6.4 The proposal will result in good access to sunlight and daylight for most apartments with the exception of the southern lower ground floor apartment. This dwelling has reduced access to light at the western end, due to being sunk below ground level, and a small south facing light-court for the bedroom to the rear.

A daylight assessment was provided which shows the development achieved best practice for all apartments. However the lower ground southern apartment requires ‘helio’ treatment to the light-court and a highly reflective skylight in order to achieve best practice.

It is recommended that the lower ground bedroom be deleted and the front rooms be incorporated into the middle apartment so as to ensure there are no habitable rooms which rely solely on the light-court for access to daylight.

It is also recommended that the light-court be increased to a minimum area of 3 square metres to improve internal amenity for the upper level apartments. Furthermore, materials for the proposed stairs should achieve maximum permeability to allow light to filter to the lower ground floor.

The proposal is to be constructed immediately adjoining open space to the north. The development provides articulation to the northern façade including a significant light-court to reduce visual bulk, and screening to prevent overlooking into this open space.

2.7.1 The proposed development has generally been designed ‘in the round’ however the southern wall on boundary lacks the same level of articulation as the other elevations. It is recommended that a condition of any permit issued required further design detail in the form of materials and finishes, to improve the outlook to this elevation. Additional setbacks at the upper floor will air in providing greater detail to the façade.

2.8.1 The proposal is activated to both street frontages.

2.8.2 Living areas are orientated to the public realm.

2.8.3 Visual surveillance is possible from all units to the public realm.

2.9.1 There is limited opportunity for overlooking within 9 metres of habitable rooms and open space. It is recommended screening to a height of 1.7 metres be provided on the southern boundary of balcony to bedroom 2 of apartment 1.03 and the eastern

bedroom window to apartment G.01. This would allow the ground floor light-court to be utilised as open space for LG.01. A notation should also be provided to the translucent kitchen windows of apartment 3 on all levels to ensure they do not allow internal views.

2.10 The proposed building will not result in unreasonable wind impacts given the height and articulation of the built form, particularly on the northern and eastern elevations.

2.11 The proposed roof space is utilised by both communal areas and plant.

14.3.3 Element 3 - Street Pattern and Street Edge Quality

3.1 The proposal activates both street frontages, increasing pedestrian use to both streets.

3.2 The proposal improves the activation of Little Lothian Street North and provides private entrances to Lothian Street with a semi-transparent fence. The building is generally built hard to the street edge to prevent alcoves which would be used for concealment.

3.3 The proposal provides a single garage door which is in keeping with the Little Lothian Street North streetscape character.

3.4 Address identification has not been provided to the Lothian Street entrances. It is recommended that street numbers appropriate to the fence design be shown on any plans for endorsement as well as building identification to the Little Lothian Street North entrance.

3.5 The proposed car park design is appropriate to the streetscape as discussed above.

3.6-7 As previously discussed, the proposed Lothian Street fence provides reference to the heritage streetscape and is permeable to allow partial views through to the building beyond. Urban Design support the proposed fence style in this instance.

4.1-2 The proposal provides limited parking as supported by the Parking Overlay affecting the site. As identified by Engineering Services, pedestrians will be notified of a potential car reversing out of the space by the opening garage door. This arrangement is in keeping with the streetscape character. The proposed bike parking spaces are split over the lower ground and ground floor and are easily accessible from the foyer.

4.3 The proposed foyer is generous in dimension; the stairwell has good access to natural light to encourage use and internal amenity.

4.4-6 The applicant has submitted a Sustainability Statement include assessment of water efficiency, and a waste management plan to comply with Clause 22.19.

14.3.4 Element 5 – Building Layout and Design

5.1 The proposal will result in a variety of one and two bedroom dwellings. Given the lack of parking proposed on site, a three bedroom dwelling, likely to attract families, may not be appropriate to this style of development.

5.2 The proposed housing stock is designed to attract occupiers who do not own a car. The building design ensures almost all units have access to cross ventilation and private space is supplemented by basement storage and rooftop communal open space.

5.3 The lower floors of the Lothian Street apartments include an entrance at the rear to provide a secondary entrance to access buildings services including bike and personal storage and mail collection.

5.4 All habitable rooms have direct access to natural light. As previously mention, the southern light court should be increased in improve internal amenity at lower levels.

5.5 Storage is provided in the lower ground for 12 apartments. It is recommended a condition of permit increase the number of storage cages to 15. This may result in a reduction in bicycle parking spaces. However, this is acceptable given the generous provision of bicycle parking.

5.6 The proposed building is of high architectural quality and will make a positive contribution to the streetscape. As previously advised, greater articulation to the southern façade and setbacks to respond to the lower built form to the south will improve the overall relationship of the building with the streetscape and adjoining properties.

14.3.5 Element 6 - Open Space and Landscape Design

The proposed design response is in keeping with the neighbourhood character, with limited ground floor open space. The development includes courtyards, balconies and climbing plants, as well as a landscaped communal rooftop. The proposed extent of landscaping and proposed communal space is supported by Urban Design and is appropriate to the site and streetscape.

14.4 Contaminated Land

The application material included an Environmental Assessment Report prepared by Beveridge Williams dated 24 August 2015 which concludes:

‘Beveridge Williams considers the site suitable for redevelopment as high density residential as per the supplied Development Plans provided the UST is decommissioned in accordance with AS4976-2008 (refer section 11.3) and a concrete slab currently covering the site is maintained.

14.5 Objector Concerns

It is considered the assessment above considers objector concerns. Proposed amendments to the setbacks of the upper floor will address concerns in part, and the applicant has provided additional details of screening to address overlooking. Concerns regarding overlooking beyond 9 metres go beyond the requirements of the Melbourne Planning Scheme however have been addressed in part by the applicants draft amended plans.

14.6 Conclusion

It is considered that the proposal is consistent with the relevant sections of the Melbourne Planning Scheme, as discussed above, and that a Notice of Decision to Grant a Permit be issued for the proposal subject to the following conditions:

15 RECOMMENDATION

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

1. Prior to the commencement of the development on the land (excluding demolition), two copies of plans, drawn to scale must be submitted to the Responsible Authority generally in accordance with the advertised plans but amended to show:
 - a) Deletion of the bedroom to the southern apartment of the lower-ground floor and amalgamation of this apartment with the central apartment, where no habitable rooms rely solely on access to daylight from the southern light-court.

- b) Setback of the level 1 balconies one metre from the western boundary.
- c) Re-arrangement of the rooftop deck and services space generally in accordance with draft plans dated 22 February 2016.
- d) Screening to all windows looking into the northern common garden (excluding lower ground floor) generally in accordance with draft plans dated 22 February 2016.
- e) Greater detail to the southern boundary wall where visible from the public realm.
- f) Provision of external storage for 15 units on lower ground floor plan generally in accordance with draft plans dated 22 February 2016.
- g) Setback the kitchen/living/dining room of apartment 3.02 on level three a minimum of 1.64 metres from the southern boundary.
- h) Deletion of lift access to the rooftop.
- i) Any changes required by the waste management plan required by Condition 3 and the Acoustic Report required by Condition 5.
- j) Increase the dimensions of the southern light-court to a minimum dimension of 3 square metres.
- k) Provision of building identification/street numbering to both Lothian Street and Little Lothian Street North entrances.

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

- 2. The development as shown on the endorsed plan(s) must not be altered or modified unless with the prior written consent of the Responsible Authority.
- 3. Prior to the commencement of the development (excluding demolition) an amended Waste Management Plan must be submitted. The WMP should detail waste storage and collection arrangements and be prepared with reference to the City of Melbourne Guidelines for Preparing a Waste Management Plan. Waste storage and collection arrangements must not be altered without prior consent of the City of Melbourne - Engineering Services.
- 4. 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 - Engineering Services. 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 stormwater drainage system.
- 5. Prior to the commencement of the development (excluding demolition), an acoustic report prepared by a qualified acoustic consultant must be submitted to and be to the satisfaction of the Responsible Authority. The report must provide for noise attenuation measures to achieve a maximum noise level of 35dB(A)Leq in unfurnished and uncarpeted habitable rooms with all windows and doors closed, unless there is no suitable air conditioning and/or mechanical ventilation, in which case the maximum noise level of 35dB(A)Leq in unfurnished and uncarpeted habitable rooms must be achieved with all the windows half open and the doors closed. The report must be based on external noise levels measured as part of a noise level assessment representative of the noise from industrial operations

which occur in the vicinity of the Laurens Street, North Melbourne Industrial Area. The recommendations in the approved acoustic report must be implemented, at no cost to the Responsible Authority, prior to the occupation of the dwelling(s).

6. Prior to the commencement of the development a schedule and samples of all external materials, colours and finishes including a colour rendered and notated plan /elevation must be submitted to, and approved by the Responsible Authority. The schedule must incorporate the recommendations of the Daylight Analysis prepared by Nick Bishop ESD dated 16 March 2015 with the exception of the heliobus treatment and lighttube.
7. Prior to the 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 – Engineering Services.
8. The footpaths adjoining the site along Lothian Street and Little Lothian Street must be reconstructed together with associated works including the reconstruction or relocation of kerb and channel and/or services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
9. Existing street levels in Lothian Street and Little Lothian Street must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services
10. Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.
11. All projections over the street alignment must conform to Building Regulations 2006, Part 5, Sections 505 to 514 as appropriate.
12. Prior to the commencement of construction (excluding demolition), the underground tank and all residual full material below the existing concrete slab (as well as clean underlying natural soils) must be removed in accordance with EPA guidelines and the report prepared by Beveridge Williams dated 24 August 2015.
13. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within two years of the date of this permit.
 - b) The development is not completed within four 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

All necessary approvals and permits are to be first obtained from the City of Melbourne and the works performed to the satisfaction of the responsible authority – Manager Engineering Services Branch.

Council will not change the on-street parking restrictions to accommodate the access, servicing, delivery or parking needs of this development and reserves the right to change/introduce restrictions to on-street parking in the future. Furthermore, any increase in residential density automatically removes any entitlement for resident parking permits. Residents of the proposed development would therefore not be eligible for parking permits.

