

## DELEGATE REPORT MINISTERIAL PLANNING REFERRAL

<b>City of Melbourne file reference:</b>	<b>TPM-2019-4/A</b>
<b>DELWP Application No.</b>	PA1800480-2
<b>Applicant:</b>	BEG Projects Pty Ltd
<b>Owner:</b>	BEG Projects Pty Ltd
<b>Architect:</b>	CHT Architects
<b>Address:</b>	102-108 Jeffcott Street, West Melbourne (Stage 1) 355-369 and 371-383 Spencer Street, West Melbourne (Stage 2)
<b>Proposal summary:</b>	<p>Amending Permit PA1800480-1 in the following manner:</p> <ul style="list-style-type: none"> <li>• Amending the conditions of the permit to facilitate staging of the approved development, where Stage 1 will include development of the land at 102-108 Jeffcott Street, and Stage 2 will include development of the land at 355-369 Spencer Street and 371-383 Spencer Street, West Melbourne.</li> <li>• Altering the tower at 102-108 Jeffcott Street, West Melbourne from a 'Residential Hotel' use functionally integrated with the development at 355-371 Spencer Street, to a functionally independent apartment tower, and associated reconfiguration of the internal floor layout and refinements to the tower design.</li> </ul> <p>The maximum height and minimum setbacks of the tower and FAR across the site are generally unchanged.</p>
<b>Cost of works:</b>	\$57.3 million
<b>Date received by DELWP</b>	22 March 2021
<b>Date received by City of Melbourne:</b>	30 June 2021
<b>City of Melbourne Status</b>	Notice received under S.52(1)(b) of the <i>Planning and Environment Act 1987</i>
<b>Responsible officer:</b>	Colin Charman, Principal Urban Planner

## 1 SUBJECT SITE AND SURROUNDS

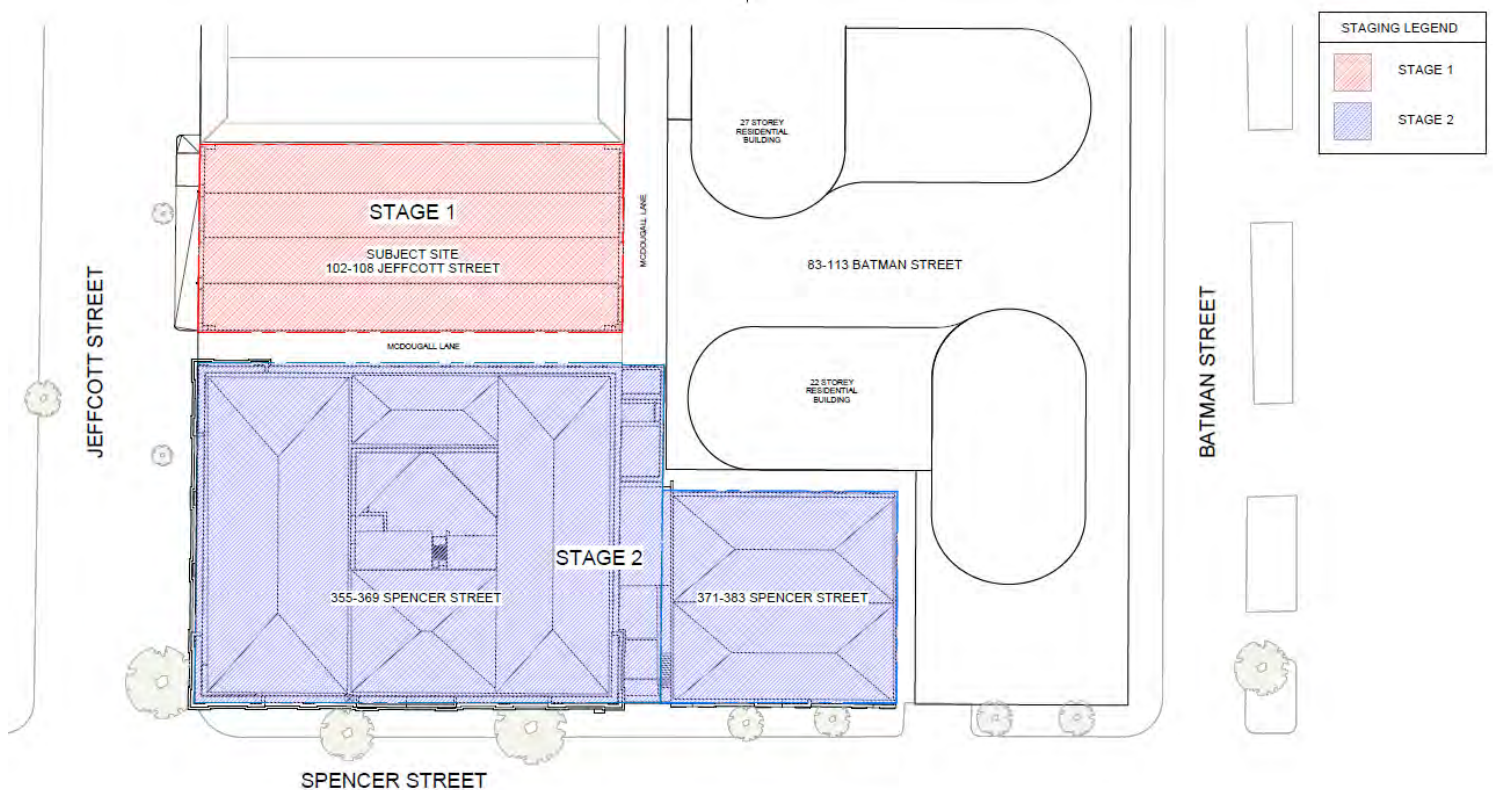
### 1.1 Subject Site

Planning Permit PA1800480-1 includes the following properties (the 'planning unit') in the description of the land:

- 102-108 Jeffcott Street, West Melbourne.
- 355-369 Spencer Street, West Melbourne.
- 371-383 Spencer Street, West Melbourne.

Application PA1800480-2 proposes to amend the permit to facilitate staging of the development, by dividing the planning unit drawing the benefit from Permit PA1800480-1 in the following manner:

- **Stage 1: 102-108 Jeffcott Street, West Melbourne**
- **Stage 2: 355-369 and 371-383 Spencer Street, West Melbourne**



**Excerpt from 'Staging Diagram', Drawing No.TP0.102 (Revision C)**

A description of the existing site conditions for the above properties is provided below, noting that Application PA1800480-2 seeks to make changes to the authorised development specifically in relation to the tower at 102-108 Jeffcott Street, West Melbourne.

#### 1.1.1 Stage 1: 102-108 Jeffcott Street, West Melbourne

**Lot 1 on Plan of Subdivision 744960S (Vol. 11835, Fol. 057)**, occupied by 1914 two-storey brick industrial building featuring a hipped roof with double gabled façade, currently in use as a car park at the ground floor, accessed via roller-door to Jeffcott Street and panel lift door to McDougall Lane.

The existing building at this property is classified as a 'Contributory' heritage place in the 'Heritage Places Inventory February 2020 Part A (Amended May 2021)'.



*Google Street View photograph of Jeffcott Street frontage facing east, captured July 2019*

**1.1.2 Stage 2: 355-369 Spencer Street, West Melbourne, ‘the Sands and McDougall Manufactory’**

**Lot 2 on Plan of Subdivision 744960S (Vol. 11835, Fol. 058)**, occupied by the main wing and publishing manufactory for the former Sands and McDougall complex. Originally constructed in circa 1888 to the design of Thomas Watts and Sons, the main wing of the Sands and McDougall complex presents prominently to the intersection of Spencer Street and Jeffcott Street as a grand, six-storey, factory building in red brick with stucco detailing. There is evidence of painted advertising signage on all facades of the building.

The existing building at this property is classified as a ‘Significant’ heritage place in the ‘Heritage Places Inventory February 2020 Part A (Amended May 2021)’.

It is noted that Lot 2 on Plan of Subdivision 744960S includes McDougall Lane, which is connected to this property via a vinculum on the Title Plan.

**1.1.3 Stage 2: 371-383 Spencer Street, West Melbourne, ‘the Sands and McDougall Warehouse’**

**Lot 2 on Plan of Subdivision 744961Q (Vol. 11835, Fol. 061)**, occupied by a warehouse for the former Sands and McDougall complex. Originally constructed circa 1900 in a comparable (albeit simpler) style to the adjacent main and publishing manufactory wing at 355-369 Spencer Street, the warehouse at 371-383 Spencer Street presents as a three-storey factory building in red brick with stucco detailing. There is a narrow infill structure between the main wing at 355 Spencer Street and the warehouse at 371-383 Spencer Street, West Melbourne.

The existing building at this property is classified as a ‘Significant heritage place in the ‘Heritage Places Inventory February 2020 Part A (Amended May 2021)’.





*Google Street View photograph of Spencer Street frontage facing west, captured July 2019*

**Table: Subject Site Details / Dimensions**

<b>Street Frontage:</b>	<p><b>Jeffcott Street Frontage</b></p> <p>60 metres to Jeffcott Street (south), including:</p> <ul style="list-style-type: none"> <li>• 20.195 metres: 102-108 Jeffcott Street, West Melbourne.</li> <li>• 3.730 metres: McDougall Lane.</li> <li>• 36.310 metres: 355-369 Spencer Street, West Melbourne.</li> </ul> <p>Jeffcott Street is a 20 metre wide street with a single carriageway.</p> <p>Two English Elm street trees are planted on the road reserve adjacent to the Jeffcott Street frontage of the site (Asset ID: 1584828 &amp; 1584827).</p> <p>Three mature English Elm trees are located at the intersection of Spencer Street and Jeffcott Street, between 10-20 metres from the site frontage. These trees are of heritage significance and are protected by Heritage Overlay HO1185, affecting the south-west corner of the site.</p> <p><b>Spencer Street Frontage</b></p> <p>75.6 metres to Spencer Street, broken up as follows:</p> <ul style="list-style-type: none"> <li>• 45.730 metres to 355-369 Spencer Street, West Melbourne.</li> <li>• 5.675 metres to in-fill foyer between 355-369 &amp; 371-383 Spencer Street, West Melbourne.</li> <li>• 24.320 metres to 371-383 Spencer Street, West Melbourne.</li> </ul> <p>Spencer Street is a 30 metre wide boulevard style street with a central reserve dividing the road reservation into two carriageways.</p> <p>Two London Plane trees are planted on the Spencer Street road reserve adjacent to the frontage of 355-369 Spencer Street (Asset ID: 1013409 &amp; 1013408), and two Cyprus Plane trees are located on the Spencer Street road</p>
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	reserve adjacent to the frontage of 371-383 Spencer Street, West Melbourne (Asset ID: 1440680 & 1440679).
<b>Site Depth:</b>	45.745 metres (102-108 Jeffcott Street & 355-369 Spencer Street) 22.755 metres (371-383 Spencer Street)
<b>Site Area:</b>	Overall site area: 3,352 m <sup>2</sup> Stage 1 site area: 926.4 m <sup>2</sup>
<b>Topography:</b>	The slope of the land falls by approximately 1 metre (north to south), and approximately 2 metres (east to west).
<b>Heritage Status:</b>	The subject site is affected by: <ul style="list-style-type: none"> <li>• Schedule HO771 to the Heritage Overlay, a Precinct Heritage Overlay introduced by Amendment C258, gazetted 10 July 2020.</li> <li>• Schedule HO1185 an Individual Heritage Overlay introduced by Amendment C258, gazetted 10 July 2020.</li> </ul>

## 1.2 Site Photographs

### 1.2.1 Jeffcott Street frontage



*Google Street View Photograph of Jeffcott Street Frontage, captured July 2019*



### 1.2.2 CoMPASS Maps / Aerials



**CoMPASS Base Plan with proposed stages highlighted**



**CoMPASS Aerial Photo (captured 3 November 2020) with proposed stages highlighted**



### 1.3 Surrounding Context

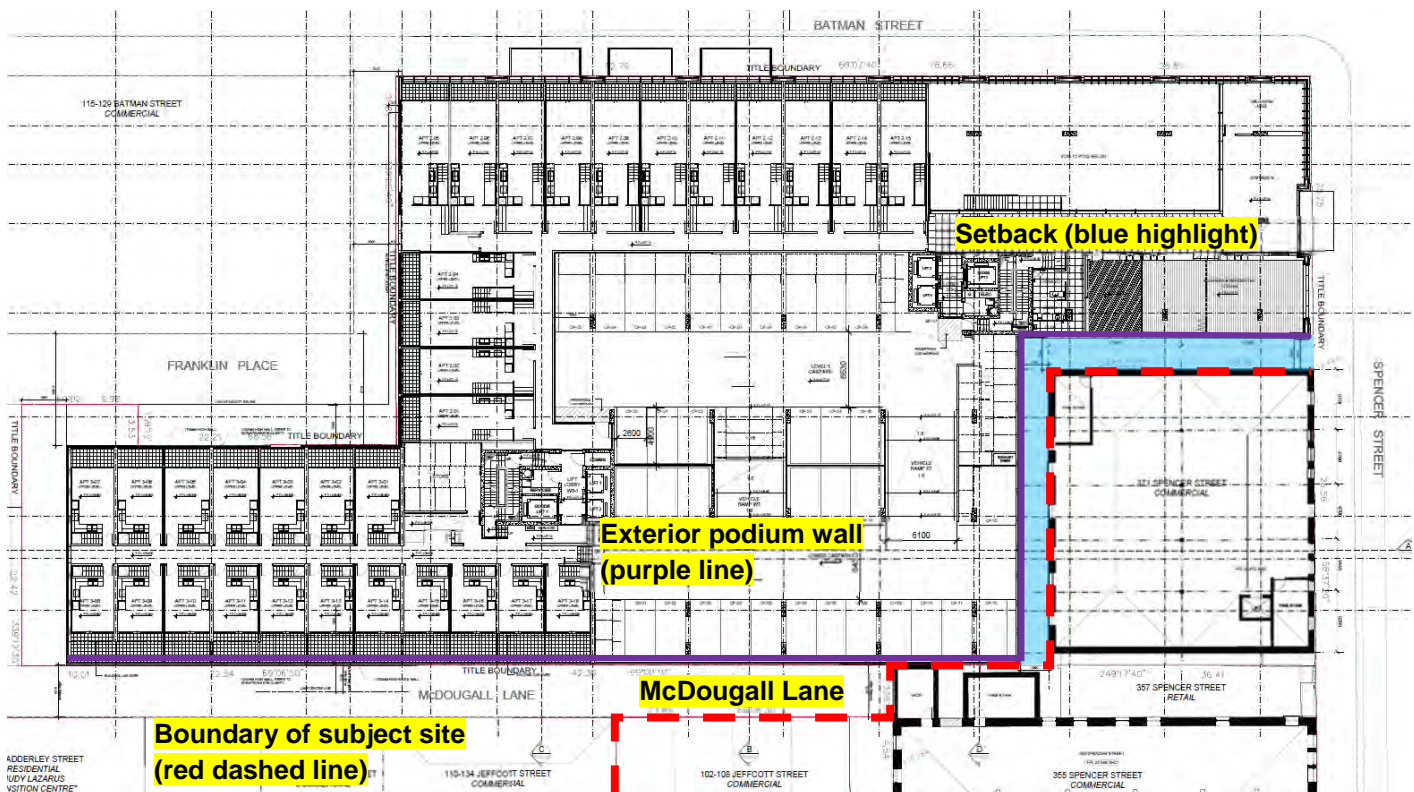
#### 1.3.1 83-113 Batman Street, Melbourne

102-108 Jeffcott Street (proposed Stage 1) shares a direct interface with 83-113 Batman Street, West Melbourne to the north, which is occupied by two recently completed towers authorised by Planning Permit 2012/000444-1.

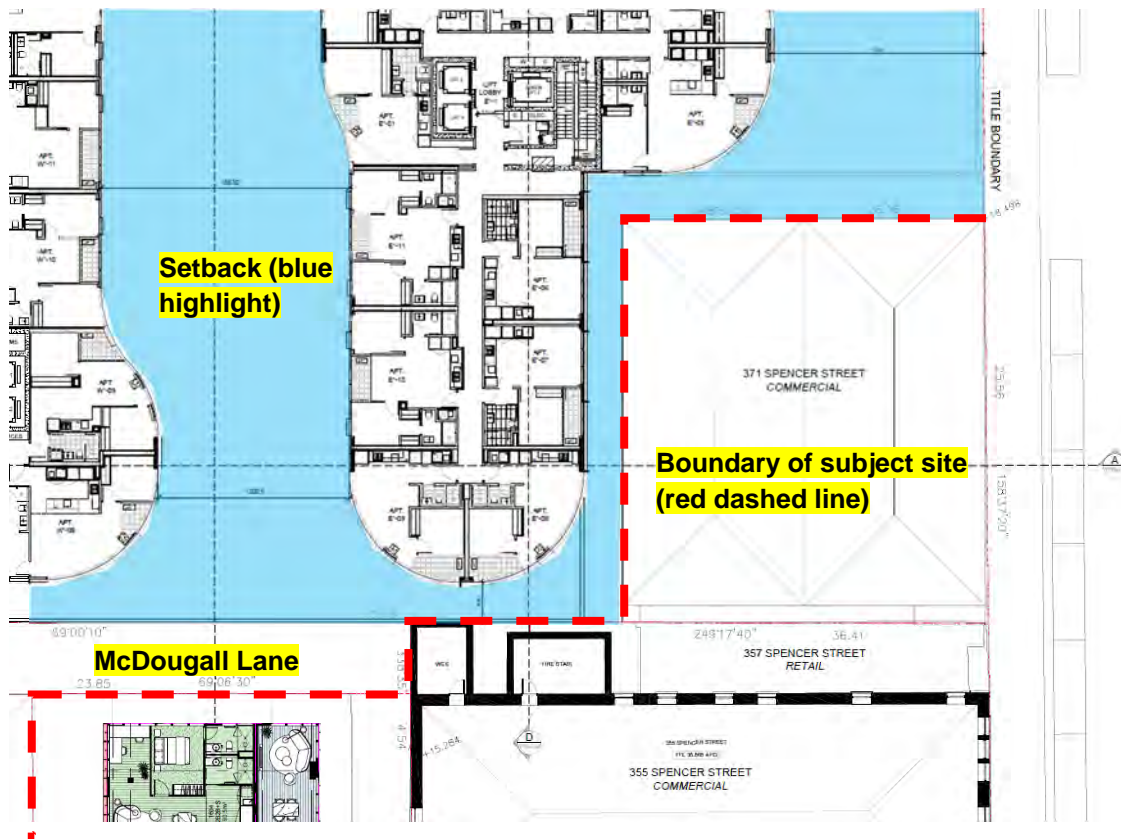
The interface between the site at 83-113 Batman Street, West Melbourne and 102-108 Jeffcott Street is characterised by:

- The podium of 83-113 Batman Street (with a maximum height of AHD 31.5 metres (approximately 15 metres tall, as measured from the surface of McDougall Lane), which is occupied by car parking and services, and is setback the following distances from the subject site:
  - 2.650 metres to the north boundary of 371-383 Spencer Street.
  - 2.425 metres to the west boundary of 371-383 Spencer Street.
  - 0 metres to the north boundary of 355-369 Spencer Street.
  - Separation from 102-108 Jeffcott Street via McDougall Lane (a 4.515 metre wide laneway).
- Above the podium, the south wing of the eastern tower at 83-113 Batman Street (with a maximum height of AHD 73.950 metres (approximately 58 metres above the pavement surface level of McDougall Lane)), is occupied by apartments, and features variable setbacks generally consistent with the setbacks to the podium.

This interface represents a sensitive interface for the subject site, as at least two apartments per floorplate (across 14 floors) in the neighbouring tower authorised under Planning Permit 2012/000444-1 are single aspect, with habitable room windows and balcony interfaces located a minimum distance of less than 4.5 metres from the subject site.



Excerpt from plans endorsed under Permit 2012/000444-1 showing the podium footprint



**Excerpt from 'Tower' plans endorsed under Permit 2012/000444-1 showing relationship between completed development at 83-113 Batman Street, West Melbourne and proposed Stage 1 apartment Tower at 102-108 Jeffcott Street.**

### **1.3.2 Melbourne Assessment Prison (MAP) (317 Spencer Street, West Melbourne) and Judy Lazarus Transition Centre (JLTC) 45-58 Adderley Street, West Melbourne**

Across Jeffcott Street to the immediate south of the subject site is the Melbourne Assessment Prison (MAP), an Australian remand and reception prison operated by the Department of Justice.

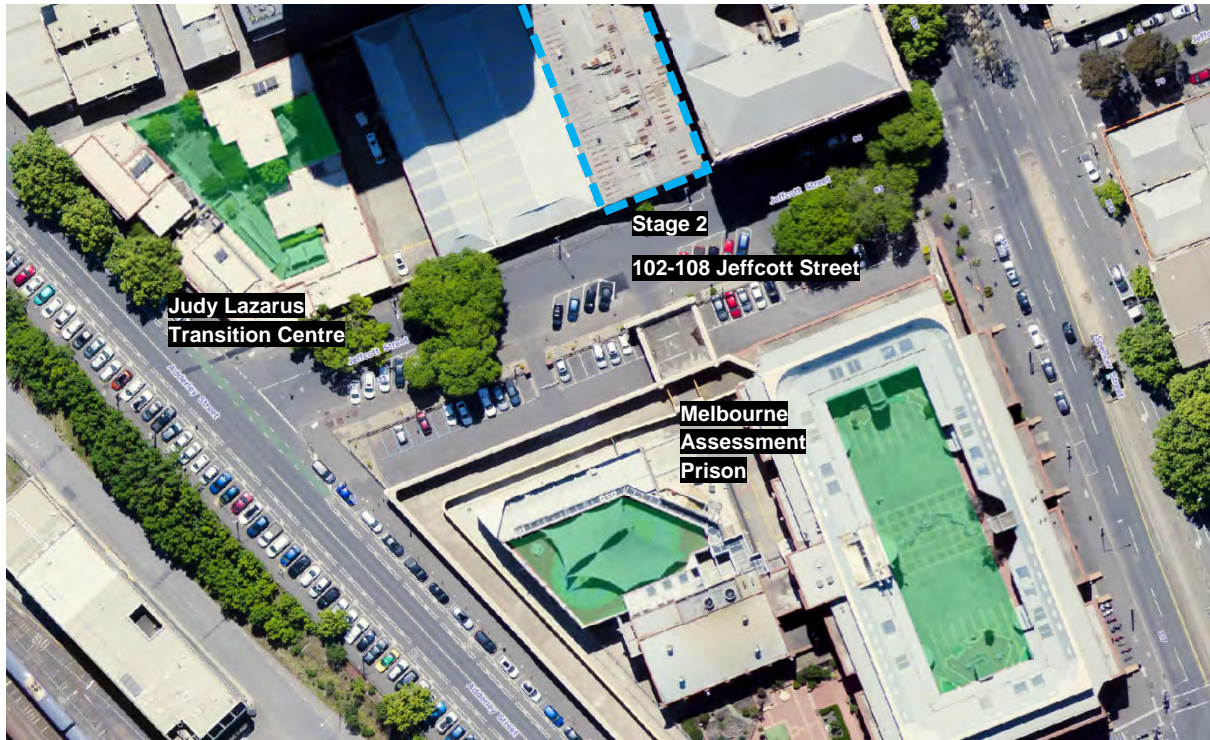
Immediately west of the subject site is the Judy Lazarus Transition Centre (JLTC).

Both the MAP and JLTC complexes contain outdoor recreation yards, into which views would potentially be obtainable by occupants of any tower authorised for construction at 102-108 Jeffcott Street, West Melbourne.

It is noted that the Department of Justice (DoJ) participated in the original VCAT proceeding that resolved with Permit PA1800480 being granted, raising concerns related to the availability of views from the tower at 102-108 Jeffcott Street into the MAP outdoor recreation areas.

It is understood that these concerns were generally resolved via the inclusion of a number of conditions on Permit PA1800480 requiring screening measures to prevent views of the outdoor recreation areas of the MAP.





**CoMPASS aerial photograph (captured 3 November 2020) highlighting outdoor recreation areas (green) at MAP and JLTC**

**1.4 Restrictions and Easements**

**1.4.1 Restrictive Covenants / S.173 Agreements**

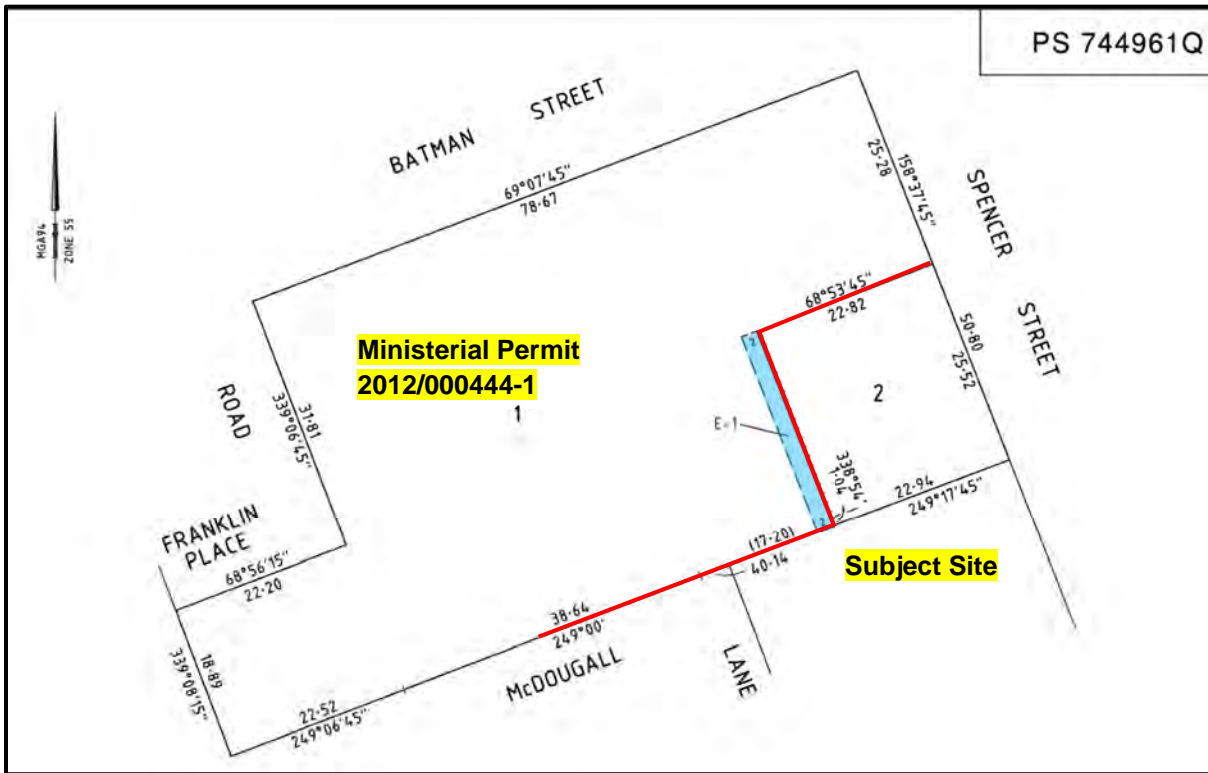
The register search statement for the Certificates of Title listed below identify that these properties are not burdened by any restrictive covenant or Section 173 Agreement:

- Lot 1 on Plan of Subdivision 744960S (Vol. 11835, Fol. 057)
- Lot 2 on Plan of Subdivision 744960S (Vol. 11835, Fol. 058)
- Lot 2 on Plan of Subdivision 744961Q (Vol. 11835, Fol. 061)

**1.4.2 Easements in favour of subject site**

**Easement E-1 on Plan of Subdivision PS744961Q**

371-383 Spencer Street, West Melbourne, benefits from a 2 metre wide light and air easement (highlighted blue in the below map), which encumbers the neighbouring site at 83-113 Batman Street, West Melbourne.

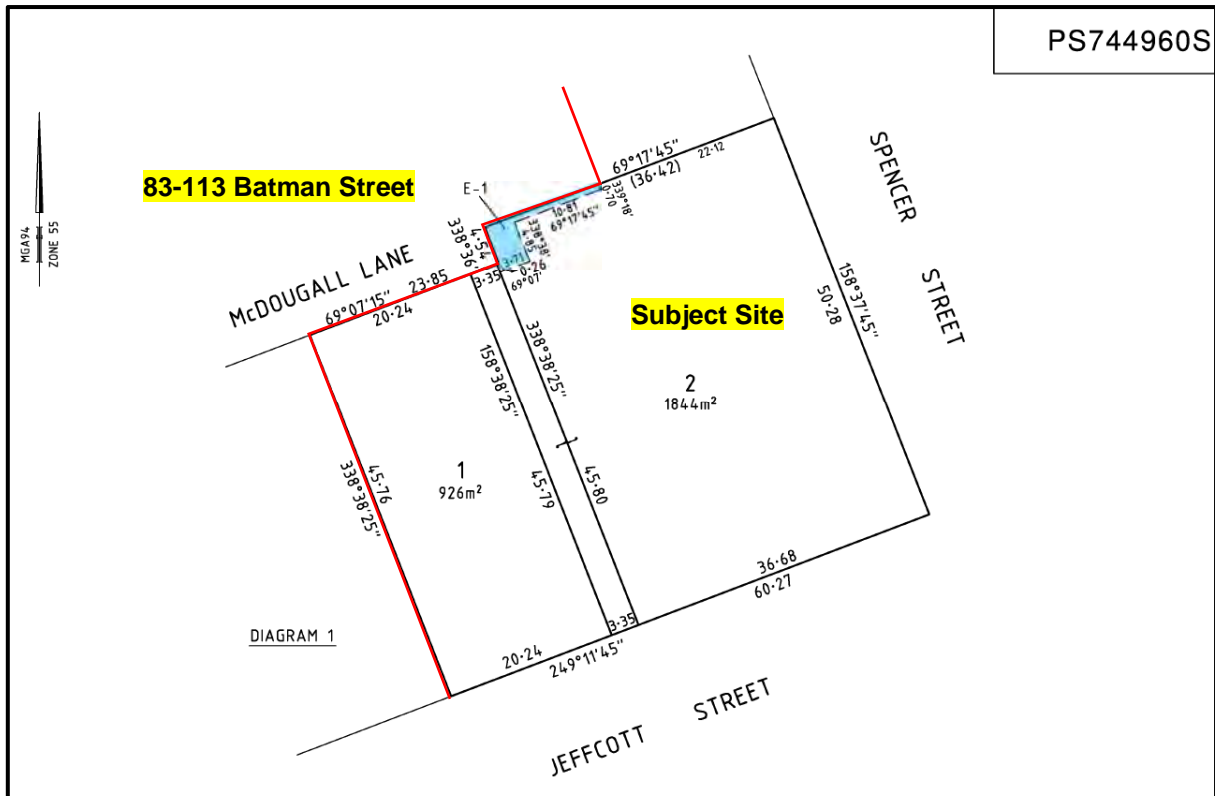


**1.4.3 Easements encumbering subject site**

**Easement E-1 on Plan of Subdivision PS744960S**

355-369 Spencer Street, West Melbourne, is encumbered by a fire access easement (highlighted blue in the below map) to its north-west corner. This easement is in favour of the land contained in Vol. 11577, Fol. 993. Certificate of Title documentation has not been provided by the applicant to confirm full details of the land benefited by the easement, but it appears to benefit the neighbouring site at 83-118 Batman Street, and the site forming part of Application PA1800480; 371-383 Spencer Street, West Melbourne.





#### 1.4.4 Status of McDougall Lane

The section of McDougall Lane between 102-108 Jeffcott Street and 355-369 Spencer Street, West Melbourne labelled, 'R-1' on Plan of Subdivision PS744960S (highlighted blue in the below map) is limited in height to RL 21.15 (approximately 6 metres above the surface level of McDougall Lane).

#### 1.5 Archaeology and Heritage Inventory

The subject site is not included in the [Victorian Heritage Inventory](#).

#### 1.6 Aboriginal Cultural Heritage

The subject site is not included in an area of legislated cultural heritage sensitivity.

## 2 BACKGROUND AND HISTORY

### 2.1 Planning Permit PA1800480

#### 2.1.1 Pre-application meetings

Several pre-application meetings were held prior to Application PA1800480 being lodged with the Department of Environment, Land, Water and Planning (DELWP).

Notably, a key attribute of Application PA1800480 (recorded in minutes from the pre-application meeting held on 30 January 2019), was that the development had been designed to achieve a floor area ratio (FAR) of 6.1 across the site and was therefore consistent with the built form requirements envisioned for the site in the West Melbourne Structure Plan 2018.

#### 2.1.2 Application Assessment

On 19 December 2018, Application PA1800480 was received by DELWP, seeking planning permission for the following:

*Part demolition of the existing buildings, use and development of the site for a residential hotel, office, food and drink premises, licensed restaurant, tavern, and shop, and a reduction of car parking.*

DELWP gave notice of Application PA1800480 to Melbourne City Council pursuant to S.52(1)(c) of the *Planning and Environment Act 1987* on 24 January 2019.

Feedback given by City of Melbourne throughout consultation on Application PA1800480 highlighted the following key considerations relevant to the proposed development:

- The heritage response of the development.
- The functional integration and commercial use of each building comprising the planning unit for a Residential Hotel.
- The achievement of a floor area ratio (FAR) of ~6.2:1, which was generally consistent with the built form requirements for the site envisioned by the West Melbourne Structure Plan 2018<sup>1</sup>

It was established early in the assessment of Application PA1800480 that the development exhibited a positive use of the FAR, as the FAR facilitated an improved heritage response across the site (where the most intense built form was located above the least sensitive heritage building).

Application material and consultant reports supporting Application PA1800480 verified that the proposal achieved a FAR of 6:1, complying with the mandatory requirement proposed by PSA C309melb, which at the time had completed public exhibition but had not been reviewed by an independent Panel.

On 28 June 2019, the applicant filed an Application for Review of the Responsible Authority's failure to grant a permit within the prescribed time period pursuant to Section 79 of the *Planning and Environment Act 1987*.

A copy of the S.79 Failure Application was served on Council by the permit applicant on 22 July 2019 in accordance with VCAT's initiating order (dated 4 July 2019).

City of Melbourne filed a statement of grounds identifying that it intended to participate in the VCAT hearing on 5 August 2019.

<sup>1</sup>Planning Scheme Amendment C385melb, which implements the West Melbourne Structure Plan 2018, is seriously entertained, and seeks to apply Schedule 33 (Flagstaff Precinct) to the Design and Development Overlay to the subject site.

DDO33 seeks to apply a discretionary **Floor Area Ratio of 6:1** to the subject site, which may be increased up to 7:1 where either the development contains only non-accommodation uses, or a Section 173 Agreement is entered into to provide 6% affordable housing as part of the development.



On 3 September 2019, management's report and recommendation in relation to Application PA1800480 was presented to Melbourne City Council's Future Melbourne Committee meeting.

The Future Melbourne Committee resolved as follows:

*That the Future Melbourne Committee resolves to advise all parties to the VCAT proceeding that the Melbourne City Council does not object to the application subject to the conditions outlined in the Delegate's Report (refer to Attachment 4 of the management report).*

Management's report to the Future Melbourne Committee identified that PSA C309melb had not attained the status of being 'seriously entertained', but acknowledged the adopted status of the West Melbourne Structure Plan 2018 and gave weight to the development's achievement of a FAR consistent with the built form expectations for the site set out in the Structure Plan in assessing the appropriateness of the height of the development, which sought a variation to the discretionary requirements.

VCAT Application P1269/2019 did not proceed to a full hearing as the parties to the hearing were able to reach agreement on the recommended form of the Planning Permit through an alternative dispute resolution process.

### **2.1.3 Issue of Planning Permit**

Planning Permit PA1800480 was subsequently issued by the Minister for Planning at the direction of VCAT on 16 October 2019.

Planning Permit PA1800480 authorises the following:

*Use of the land for Residential Hotel, Food and Drink Premises, Office (other than Medical Centre) and Shop (other than Adult sex product shop), development of a residential hotel tower and alterations and additions to the existing buildings with associated partial demolition works, operation of a licenses premises, a reduction of the car parking requirement and the alteration of access to a road in a Road Zone, Category 1.*

Planning Permit PA1800480 included conditions generally reflecting the recommended form of conditions in management's report to Council's Future Melbourne Committee meeting of 3 September 2019.

The original approval under Permit PA1800480 provided a 21,714 m<sup>2</sup> (GFA – excluding basement levels) (~6:1 FAR) development containing:

- A functionally integrated 190-guest room residential hotel spanning the three buildings comprising the planning unit.
- 8,589 m<sup>2</sup> of office floor area.
- Several retail / café commercial tenancies, predominantly occupying the ground floor of the building at 102-108 Jeffcott Street, West Melbourne.

New built form (a 22-storey residential hotel tower) authorised by this approval was consolidated above 102-108 Jeffcott Street, representing the least heritage sensitive building across the site and the most appropriate location for further development intensification.

## **2.2 Amended Permit PA1800480-1**

On 28 August 2020, Planning Permit PA1800480 was amended by the Minister for Planning by creating an additional 'Function Room' level in the originally authorised 22-storey residential hotel tower above 102-108 Jeffcott Street. This was achieved by compressing floor to floor levels to achieve a 23-storey building in the same envelope as the original 22-storey building.

DELWP did not give notice of Amendment Application PA1800480-1 to Melbourne City Council, however verbal advice was provided by City of Melbourne at officer-level indicating it was unlikely City of Melbourne's Planning Team would have any concerns with the proposal.

## 2.3 Application PA1800480-2

### 2.3.1 Original Section 72 Application

DELWP gave notice of Application PA1800480-2 to Melbourne City Council pursuant to S.52(1)(b) of the *Planning and Environment Act 1987* on 30 June 2021.

City of Melbourne subsequently undertook a preliminary review of the application, and provided advice from its internal experts on Application PA1800480-2 to DELWP and the permit applicant on 22 November 2021<sup>2</sup>.

The following **key** concerns were raised with Application PA1800480-2 in the advice shared with DELWP and the applicant on 22 November 2021 and in earlier consultation:

- **Legal status of Application PA1800480-2**

The permit applicant for the Application PA1800480-2 represented the owner of only one of the three separately owned land parcels comprising the planning unit for Permit PA1800480.

The proposed changes to the permit under Application PA1800480-2, while generally seeking to specifically alter the development at 'Stage 1' 102-108 Jeffcott Street, West Melbourne, would result in changes to the permit (i.e. by staging the development) that would impact on the future permitted development of the land parcels not represented in the application.

City of Melbourne identified that the changes proposed under Application PA1800480-2 would therefore necessitate that Planning Permit PA1800480-2 be amended (again) in future, to facilitate the development of 'Stage 2' 355-369 and 371-383 Spencer Street, West Melbourne, by showing how these buildings will be functionally separated and reprogrammed<sup>3</sup> so that they can operate in accordance with the permit and independently of 'Stage 1' 102-108 Jeffcott Street, West Melbourne.

It is accepted that management of the permit and application in accordance with the *Planning and Environment Act 1987* are matters for the Department to resolve / satisfy itself of.

- **Maintenance of the original 'planning unit' under Permit PA1800480-1**

Application PA1800480-2 included a lack of clarity regarding whether the originally achieved floor area ratio (FAR) under Permit PA1800480 would be maintained across the site, and whether Application PA1800480-2 was in fact seeking to detach the development at 102-108 Jeffcott Street from the broader planning unit.

Notably, if Permit PA1800480-1 was amended in a manner that excluded 'Stage 2' from the planning unit, or, if 'Stage 2' was abandoned after 'Stage 1' was completed under the permit (and the permit ceased to have force and effect over 355-369 and 371-383 Spencer Street, West Melbourne), the FAR for the 23-storey tower development above 102-108 Jeffcott Street, West Melbourne, would be altered as follows:

Approved FAR for planning unit under permit PA1800480-1		FAR for 'Stage 1' if excised from planning unit under Permit PA1800480-1	
Site Area:	3,505 m <sup>2</sup> See footnote <sup>4</sup>	Site Area:	926.4 m <sup>2</sup>

<sup>2</sup> Due to an error with City of Melbourne's Pathway system, referral responses on Application PA1800480-2 were delayed by several months, leading to advice on the 30 June 2021 application only being received/circulated in November 2021.

<sup>3</sup> E.g. the decision plans accompanying management's report to Melbourne City Council's Future Melbourne Committee on 3 September 2019 show that the original, functionally integrated, residential hotel authorised by Permit PA1800480 included a sky bridge connecting 'Stage 1' and 'Stage 2'. Application PA1800480-2 does not include plans showing how 'Stage 2' would be redesigned/internally reconfigured to remove the sky bridge.

<sup>4</sup> 3,505m<sup>2</sup> is inclusive of 102-108 Jeffcott (926m<sup>2</sup>), 355-369 Spencer Street (1,844m<sup>2</sup>), 371-383 Spencer Street (582m<sup>2</sup>), and the portion of McDougall Lane included in Lot 2 on Plan of Subdivision 744960S (Vol. 11835, Fol. 058).

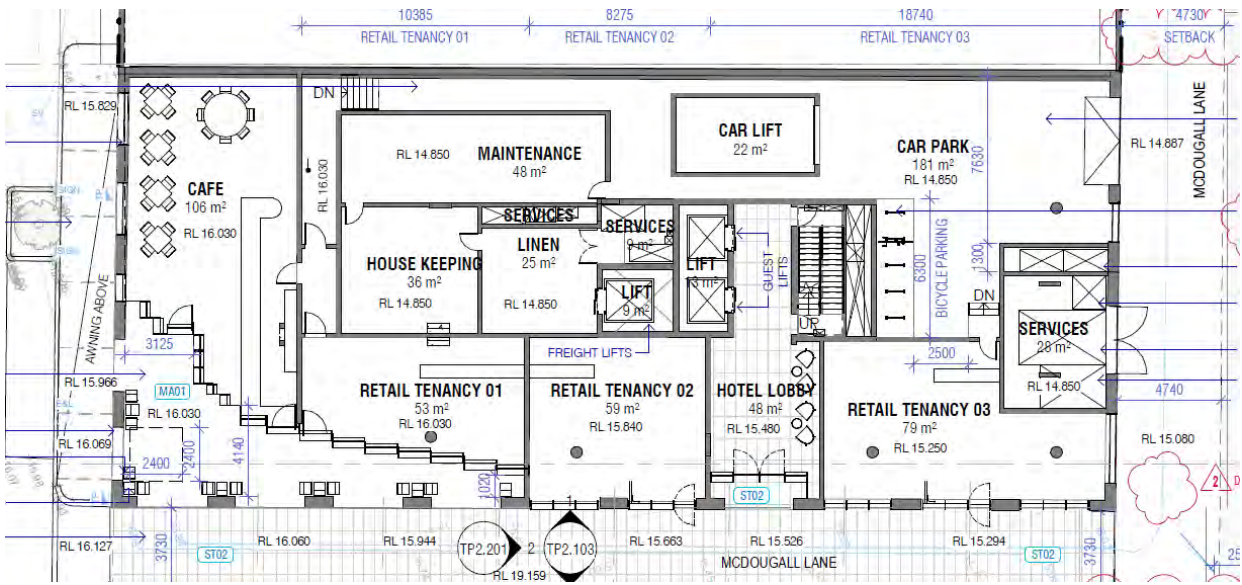


<b>Gross Floor Area:</b>	22,156 m <sup>2</sup>	<b>Gross Floor Area:</b>	11,730 m <sup>2</sup>
<b>FAR:</b>	6.32:1	<b>FAR:</b>	12.66:1

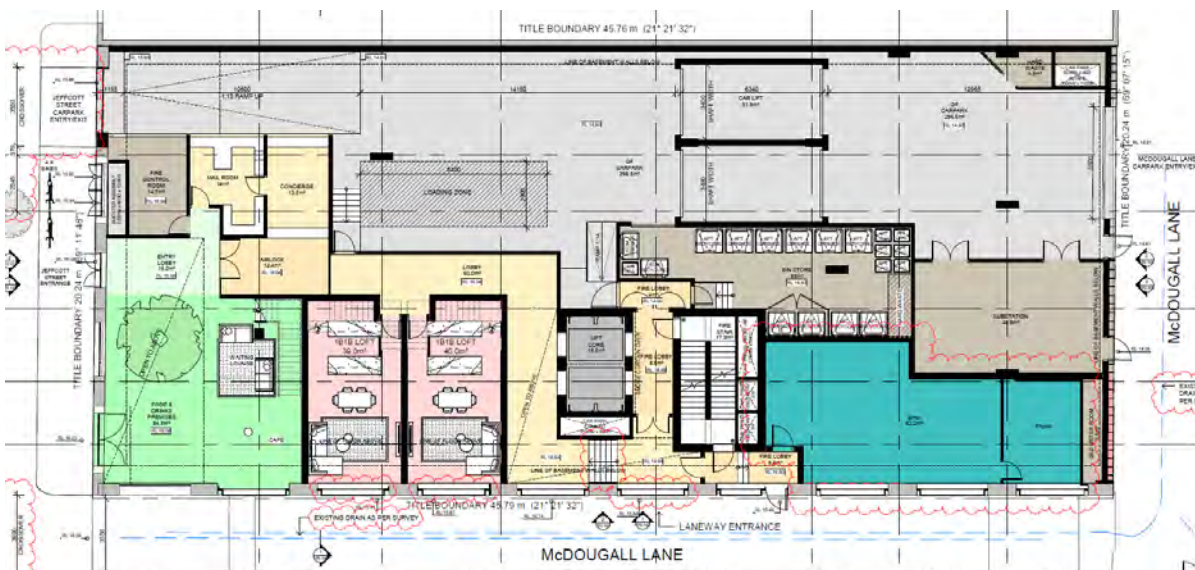
Maintaining the integrity of the planning unit under Permit PA1800480-1, the combined site area of which contributed to the original FAR of ~6:1, supporting the increased height of the tower above 102-108 Jeffcott Street, West Melbourne in management’s report to the Future Melbourne Committee on 3 September 2019, remains a key consideration for Application PA1800480-2.

- **Reduction of active / commercial uses at ground level**

Significant changes to the ground plane of the tower above 102-108 Jeffcott Street, West Melbourne, including the provision of an additional access to Jeffcott Street, resulted in the removal of three fine-grain retail tenancies that made a strong contribution to the building’s activation with Jeffcott Street and McDougall Lane.



**Excerpt from ‘Overall Plan – Ground’ Drawing No.TP1.104 (Revision 2), the decision plans accompanying management’s recommendation to FMC1 September 2019**



**Excerpt from ‘Overall Plan – Ground’ Drawing No.TP1.104 (Revision B), the plans submitted with Application PA1800480-2**

- **Reduced building setbacks**

The tower above 102-108 Jeffcott Street was altered by increasing the size of the tower floorplate and modifying setbacks. Notably, the revised tower floorplate reduced setbacks to the west title boundary (Judy Lazarus Transition Centre land) from 6.09 metres to 4.5 metres, and to the south title boundary (Jeffcott Street frontage) from 5.9 metres to 5.5 metres.

The 6 metre side setback to the neighbouring Judy Lazarus Transition Centre (JLTC) land (44-58 Adderley Street, West Melbourne) achieved in the original proposal was viewed as important, as this setback complied with the preferred built form requirement in both DDO33 and the West Melbourne Structure Plan 2018, and provided a necessary visual break between the taller tower form at 102-108 Jeffcott Street and lower-scale JLTC centre.

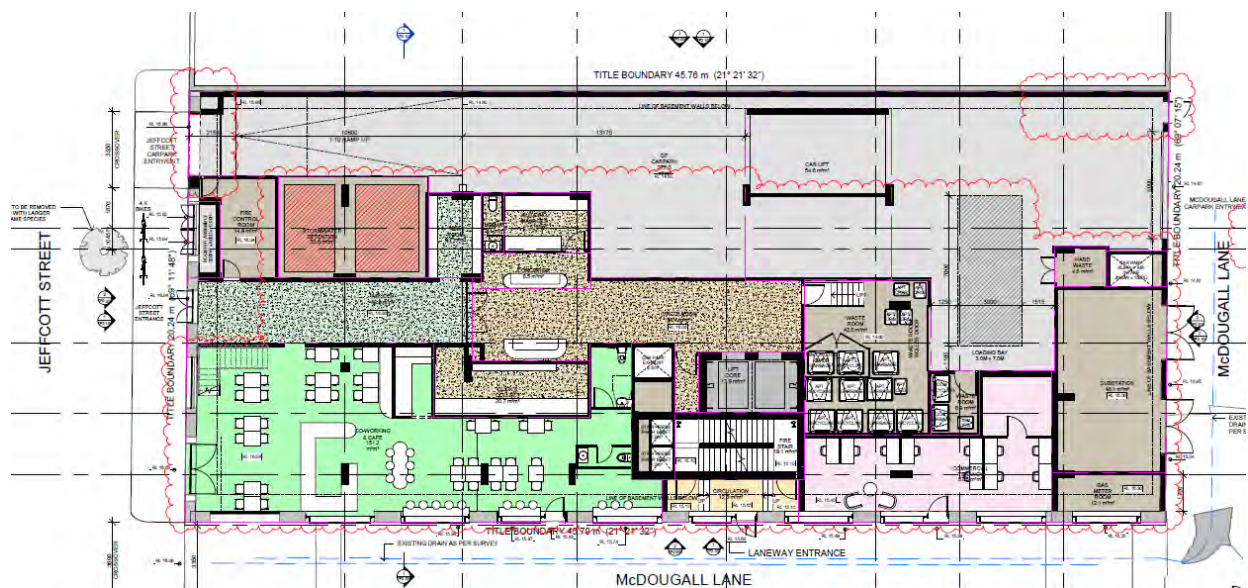
### 2.3.2 S.57A Amendment Application

On 15 March 2022, Application PA1800480-2 was amended pursuant to S.57A of the *Planning and Environment Act 1987* by making changes to the proposed tower above 102-108 Jeffcott Street to address feedback and concerns raised by City of Melbourne and the Department.

The amended application package addresses concerns (3) and (4) raised by City of Melbourne and discussed in section 2.3.1 of this report above, as follows:

#### 3. Reduction of active / commercial uses at ground level

The plans accompanying the S.57A Amendment reintroduce meaningful and substantive active commercial uses at the ground floor of the proposed tower to 102-108 Jeffcott Street, as identified in the below excerpt from plans.



**Excerpt from 'Overall Plan – Ground' Drawing No. TP1.104 (Revision C), the plans submitted with the S.57A Amendment to Application PA1800480-2**

#### 4. Reduced building setbacks

The plans accompanying the S.57A Amendment reintroduce the 6 metre building setback to the west title boundary.

A table comparing building setbacks between the 'decision plans' accompanying management's report to Council's Future Melbourne Committee meeting on 3 September 2019, the plans submitted with Application PA1800480-2, and the plans accompanying the S.57A Amendment is provided below.

An updated assessment of the apartments within the tower against the standards and objectives of *Clause 58 Apartment Development* was supplied with the S.57A Amendment, confirming that

the revised tower floorplate setbacks did not compromise compliance of the development with applicable apartment requirements.

	<b>FMC1 September 2019 Plans</b>	<b>Application PA1800480-2 Plans (as submitted)</b>	<b>Application PA1800480-2 Plans (as amended on 15 March 2022)</b>
<b>North (McDougall Lane)</b>	2.33 metres	2.17 metres	2.17 metres
<b>DDO33 setback: 2 metres</b>	Complies DDO33	Complies DDO33	Complies DDO33
<b>South (Jeffcott Street)</b>	5.90 metres	5.5 metres	5.5 metres
<b>DDO33 setback: 6 metres</b>	0.1m variation DDO33	0.5m variation DDO33	0.5m variation DDO33
<b>East (McDougall Lane / facing Stage 2)</b>	1.59 metres	2 metres	2 metres
<b>DDO33 setback: 2 metres</b>	0.41m variation DDO33	Complies DDO33	Complies DDO33
<b>West (Judy Lazarus Transition Centre land)</b>	6.09 metres	4.5 metres	6.0 metres
<b>DDO33 setback: 6 metres</b>	Complies DDO33	1.5 m variation DDO33	Complies DDO33

## 2.4 Current Permit Status

### 2.4.1 Endorsement of Plans

Plans were never endorsed under Permit PA1800480-1.

The development as depicted in the architectural drawings prepared by Hachem dated 29 March 2019 (Revision 2) and accompanying management's report to Council's Future Melbourne Committee meeting on 3 September 2019 generally represent the 'decision' plans (and the plans referred to in Condition 1 of the permit), with the exception of the changes made in Amended Permit PA1800480-1.

### 2.4.2 Permit Expiry

Planning Permit PA1800480-1 will expire if the following criteria are met:

- The development has not commenced by 16 October 2022.
- The development is not completed by 16 October 2024.
- The use has not commenced by 16 October 2026.



### 3 PROPOSAL

#### 3.1 Plans / Reports Considered in Assessment

<b>Table: Assessed Application Documents</b>			
<b>#</b>	<b>Plan / Report Title</b>	<b>Plan / Report Author</b>	<b>Plan / Report Date</b>
<b>S.57A Amendment Application Documents</b>			
1.	Cover Letter	Tract Pty Ltd	15 March 2022
2.	Architectural Drawings (Revision C)	CHT Architects	11 March 2022
3.	Clause 58 Better Apartment Design Standards report	Tract Pty Ltd	15 March 2022
<b>Application Documents provided prior to S.57A Amendment</b>			
1.	Planning Report	Tract Pty Ltd	30 April 2021
2.	Architectural Drawings (Revision B)	CHT Architects	10 May 2021
3	Conservation Management Plan	Trethowan Architecture	22 December 2020
4	Heritage Impact Statement	Trethowan Architecture	16 March 2021
5	Landscape Report	Tract Pty Ltd	8 February 2021
6	Sustainability Management Plan and Water Sensitive Urban Design Response	Ark Resources	15 March 2021
7	Acoustic Assessment (Revision 1)	Acoustic Logic	21 January 2021
8	Traffic Impact Assessment Report	GTA Consultants	22 December 2020
8A	Appendix A: Swept-path diagrams		
9	Waste Management Plan	Leigh Design Pty Ltd	12 January 2021
10	Wind Impact Report	Vipac Engineers and Scientists Limited	22 January 2021

### 3.2 Summary of Proposed Development

#### 3.2.1 Staging of development (and changes to permit conditions to facilitate this)

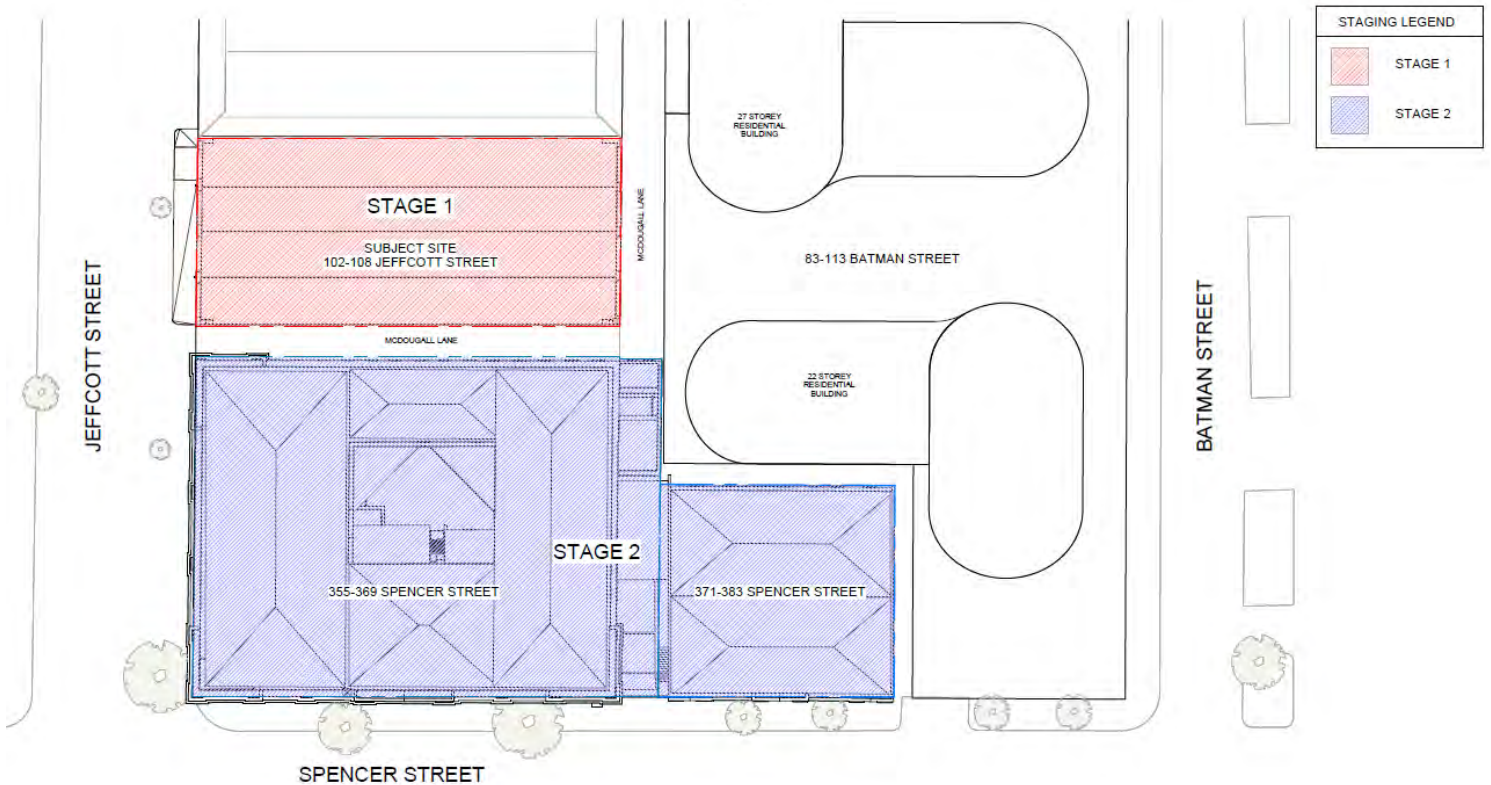
Application PA1800480-2 proposes to stage the development authorised by Permit PA1800480-1.

This is to be achieved by altering the development of 102-108 Jeffcott Street (now ‘Stage 1’), so that it is functionally independent of the broader planning unit under Permit PA1800480-1 comprising the following properties:

- 102-108 Jeffcott Street, West Melbourne.
- 355-369 Spencer Street, West Melbourne.
- 371-383 Spencer Street, West Melbourne.

The rationale for this change provided by the applicant is as follows (excerpt from Planning Report prepared by Tract Pty Ltd (p.7 of 80):

*The amendment seeks to stage the development, given that the Planning Permit applies also to 355 Spencer Street and 371 Spencer Street (with 102 Jeffcott Street, these form ‘the broader Site’). The ownership of the broader Site is now fragmented (as each parcel is owned separately). As such, the staging allows BEG Projects Pty Ltd to commence development of the Site without needing to satisfy permit conditions which relate to the other land parcels which they do not own or control.*



*Excerpt from ‘Staging Diagram’, Drawing No.TP0.102 (Revision C)*

#### 3.2.2 Change of use of the tower above 102-108 Jeffcott Street, West Melbourne

Application PA1800480-2 proposes to alter the use of the tower at 102-108 Jeffcott Street, West Melbourne from Accommodation (Residential Hotel), a ‘Section 2 – permit required’ land use in the Mixed Use Zone, to Dwellings, a ‘Section 1 – permit not required’ land use in the Mixed Use Zone.

This change in use is associated with comprehensive reprogramming of the tower floorplate layout.

### **3.2.3 Changes to the internal programming and design of the tower above 102-108 Jeffcott Street, West Melbourne**

Application PA1800480-2 proposes to make the following changes to the proposed tower at 102-108 Jeffcott Street authorised by Permit PA1800480-1:

#### **Internal layout**

- Internal rearrangement of the basement:
  - Reducing the number of car parking spaces provided from 59 spaces to 50 spaces.
  - Increasing the number of bicycle spaces provided from 66 spaces to 80 spaces.
- Reconfiguring the ground plane by creating new building service areas, including by retaining the existing Jeffcott Street vehicle access, and rationalising and rearranging the commercial tenancies activating Jeffcott Street and McDougall Lane.
- Internally reconfigure the tower floorplate above ground level by replacing 180 guest rooms (originally intended to serve the broader use of the planning unit for Residential Hotel), with 108 dwellings.

#### **Tower design**

- Demolishing the rear (north) brick wall facing McDougall Lane, and constructing a black powdercoated aluminium clad contemporary façade to this boundary.
- Modifying setbacks per the table provided in Section 2.3.2 of this report, resulting generally in adjustments to the originally approved tower floorplate, which will improve (+0.4 m) separation to McDougall Lane (east), and slightly reduce (-0.4 m) the setback to the Jeffcott Street title boundary.
- Removal of the proposed sky bridge connecting Level 4 of the tower above 102-108 Jeffcott Street with Level 3 of the refurbished Sands and McDougall Manufactory (355-369 Spencer Street, West Melbourne).

Notably, Application PA1800480-2 **does not**:

- Seek to increase the height of the tower above 102-108 Jeffcott Street, which will remain the same height (RL 91.89) as the tower as detailed in the 'decision plans' accompanying management's report to Council's Future Melbourne Committee meeting on 3 September 2019.
- Meaningfully change the FAR across the planning unit for Permit PA1800280-1, which remains 6.32:1 and is generally consistent with the FAR built form requirement proposed for the site under West Melbourne Structure Plan PSA C385melb, now seriously entertained.



### 3.3 3D Renders and Visualisations



*Excerpt from '3D Views', Drawing No.TP5.005 (Revision C), tower as viewed within Jeffcott Street*



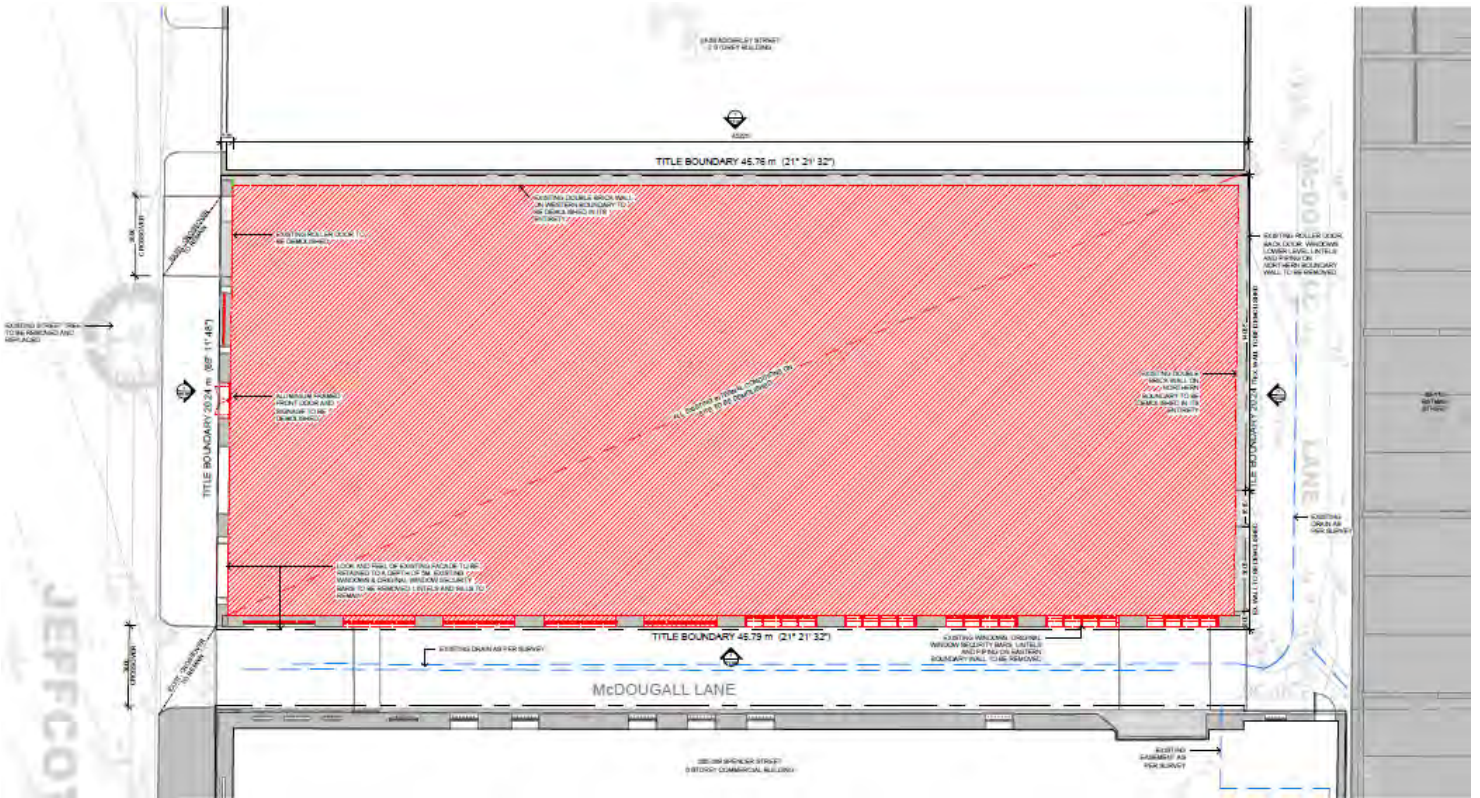
*Excerpt from '3D Views', Drawing No.TP5.006 (Revision C), tower as viewed from Spencer Street (left), and Batman Street (right)*



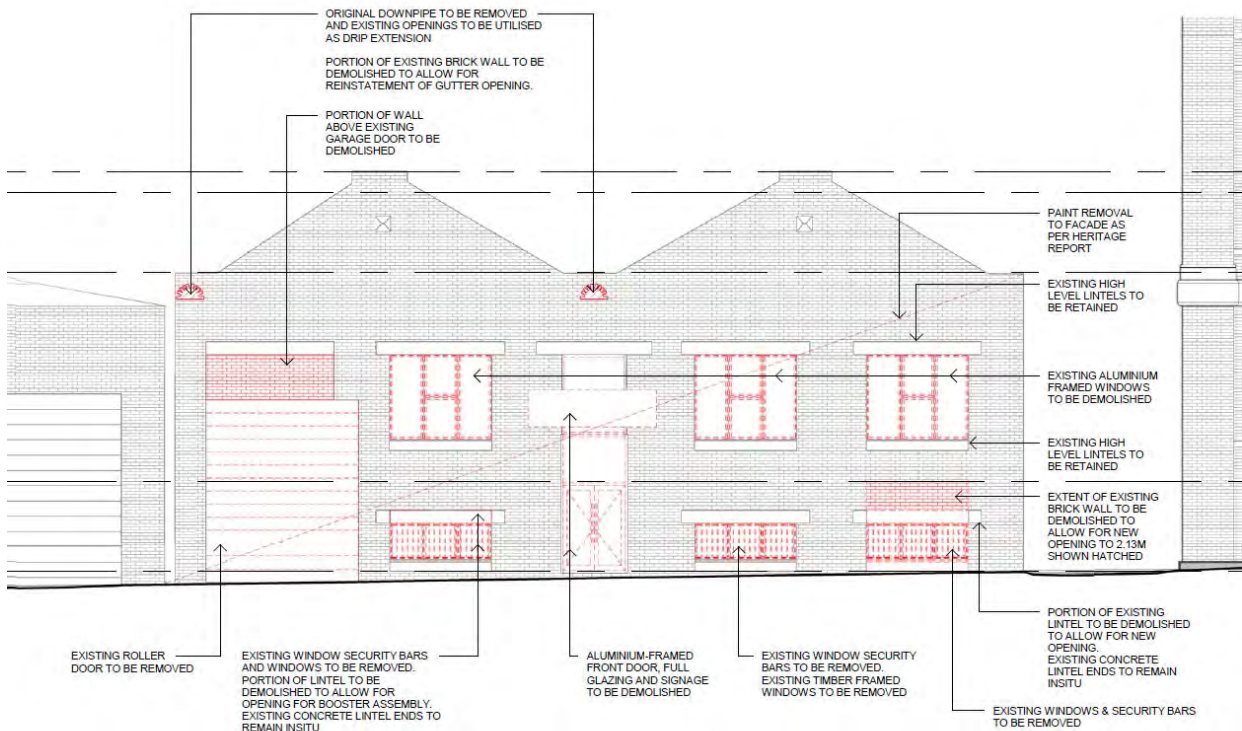
*Excerpt from '3D Views', Drawing No.5.007 (Revision C), tower as viewed from Adderley Street*



### 3.4 Proposed Demolition

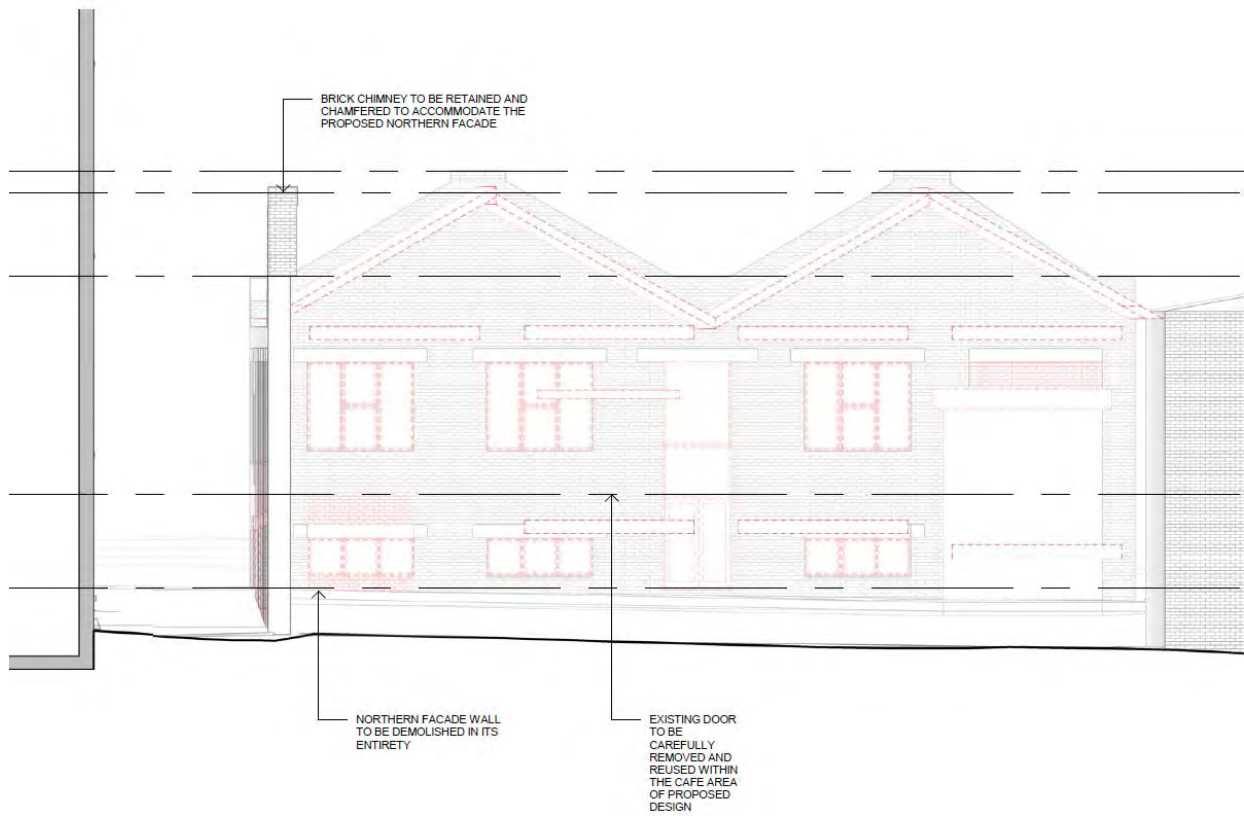


Excerpt from 'Existing & Demolition Plan – Ground Floor', Drawing No.TP1.003 (Revision C)



Excerpt from 'Heritage Elevations – South', Drawing No.TP2.001 (Revision C)





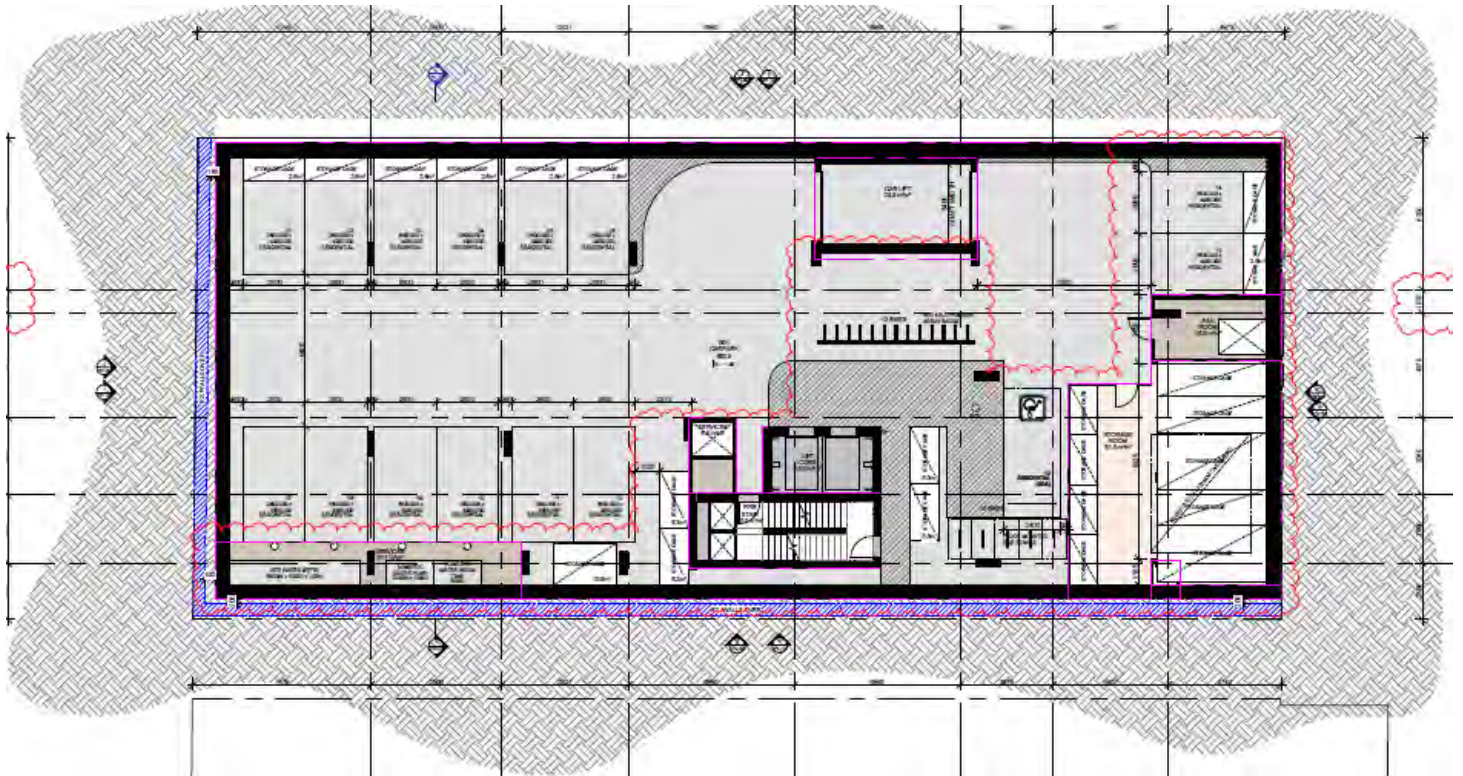
**Excerpt from 'Heritage Elevations – North', Drawing No.TP2.002 (Revision C)**



**Excerpt from 'Heritage Elevations – East', Drawing No.TP2.003 (Revision C)**

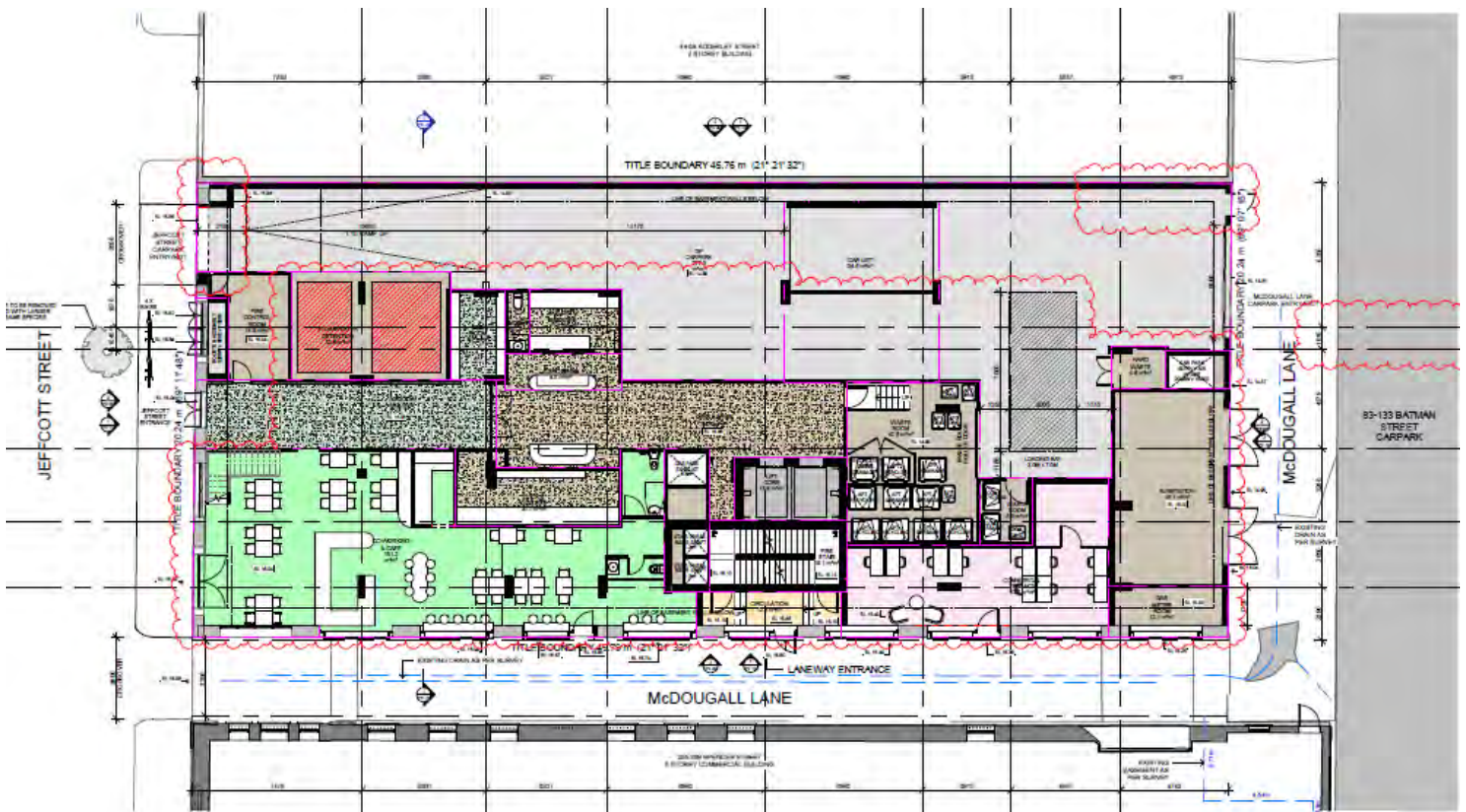


### 3.5 Excerpts from Plans: Typical Basement Floor Plans



Excerpt from 'Overall Plan - Basement 01', Drawing No.TP1.103 (Revision C)

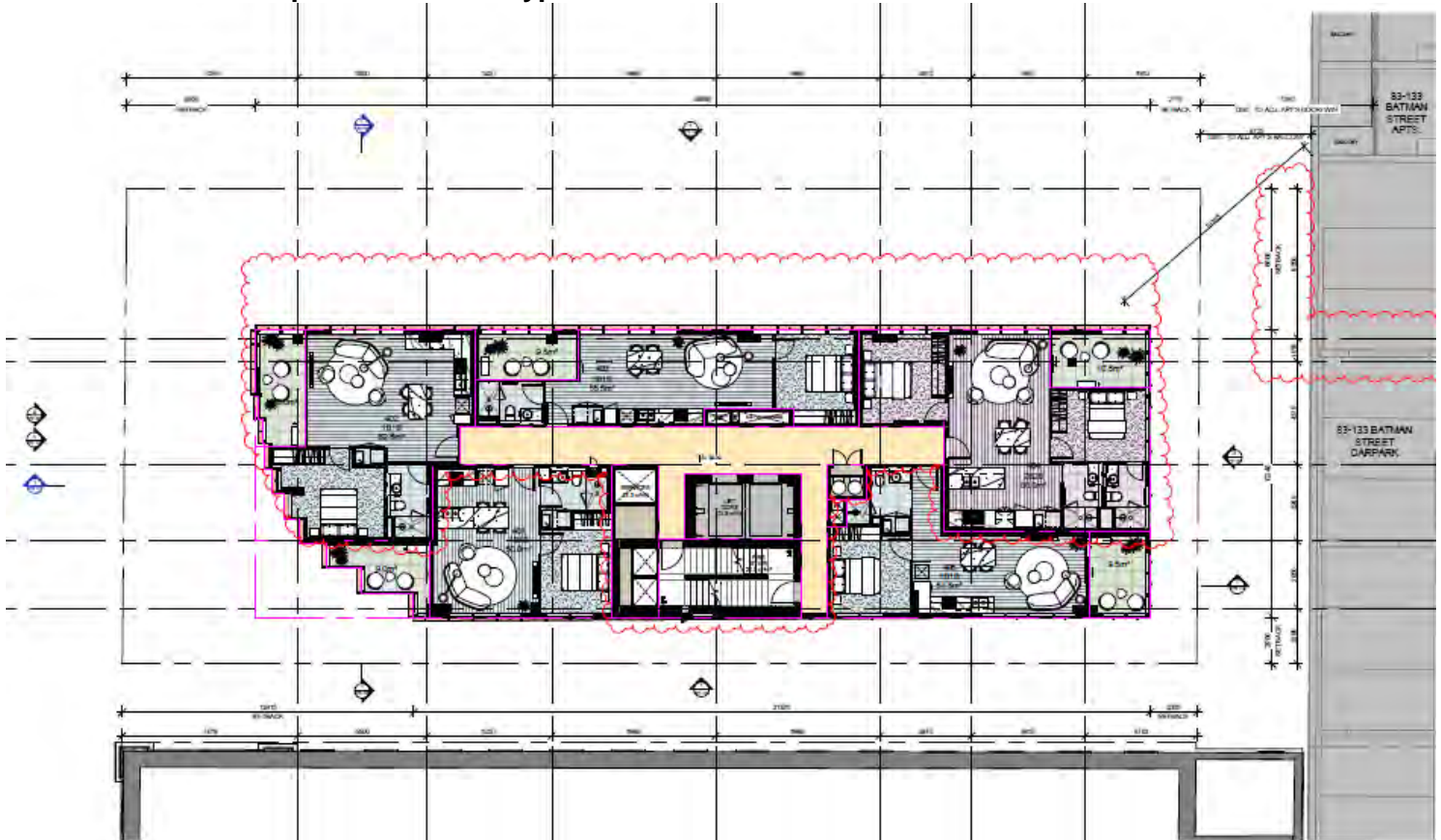
### 3.6 Excerpts from Plans: Ground Floor Plans



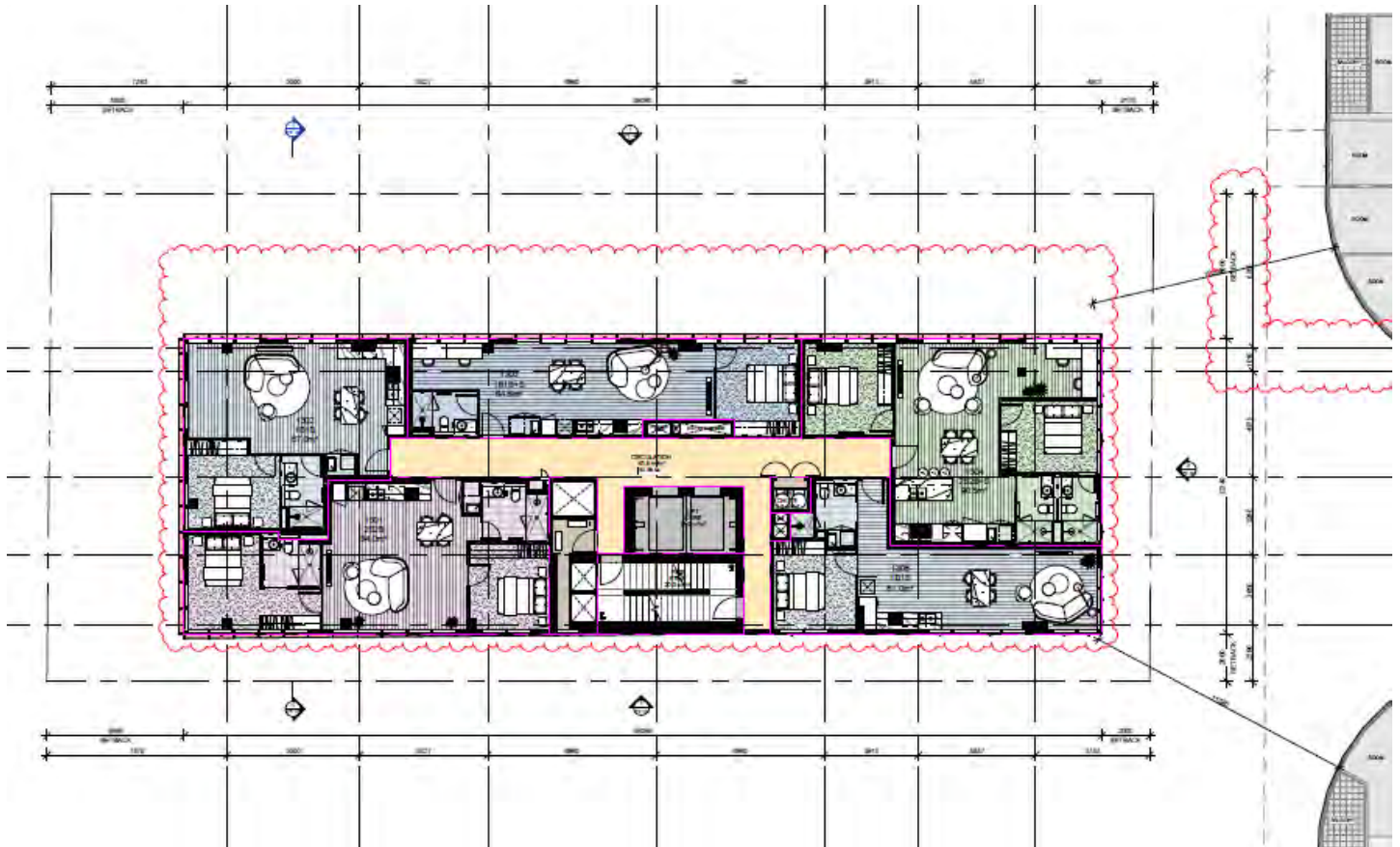
Excerpt from 'Overall Plan - Ground', Drawing TP1.104 (Revision C)



### 3.7 Excerpts from Plans: Typical Tower Floor Plans



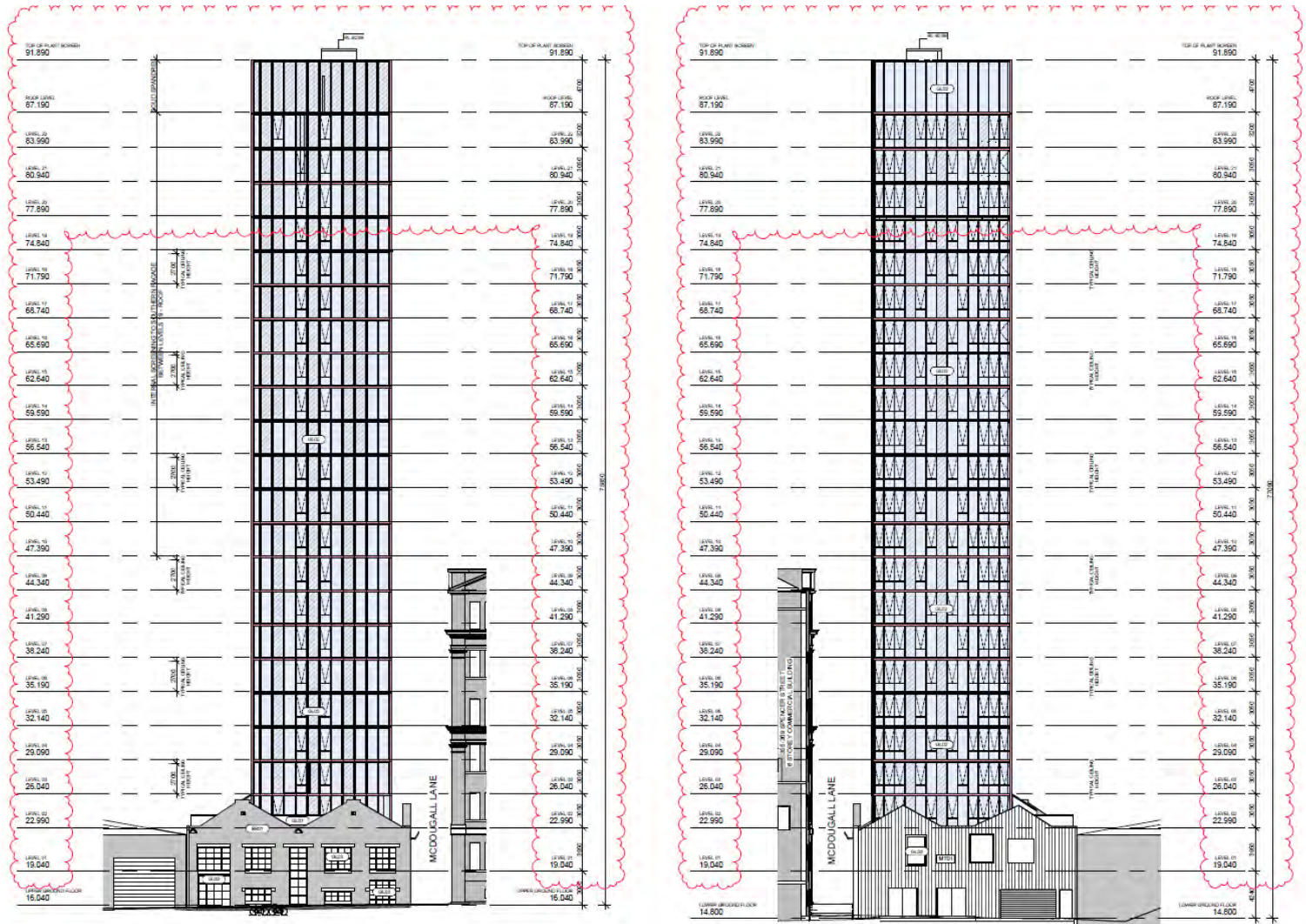
*Excerpt from 'Overall Plan – Level 04', Drawing No.TP1.107 (Revision C)*



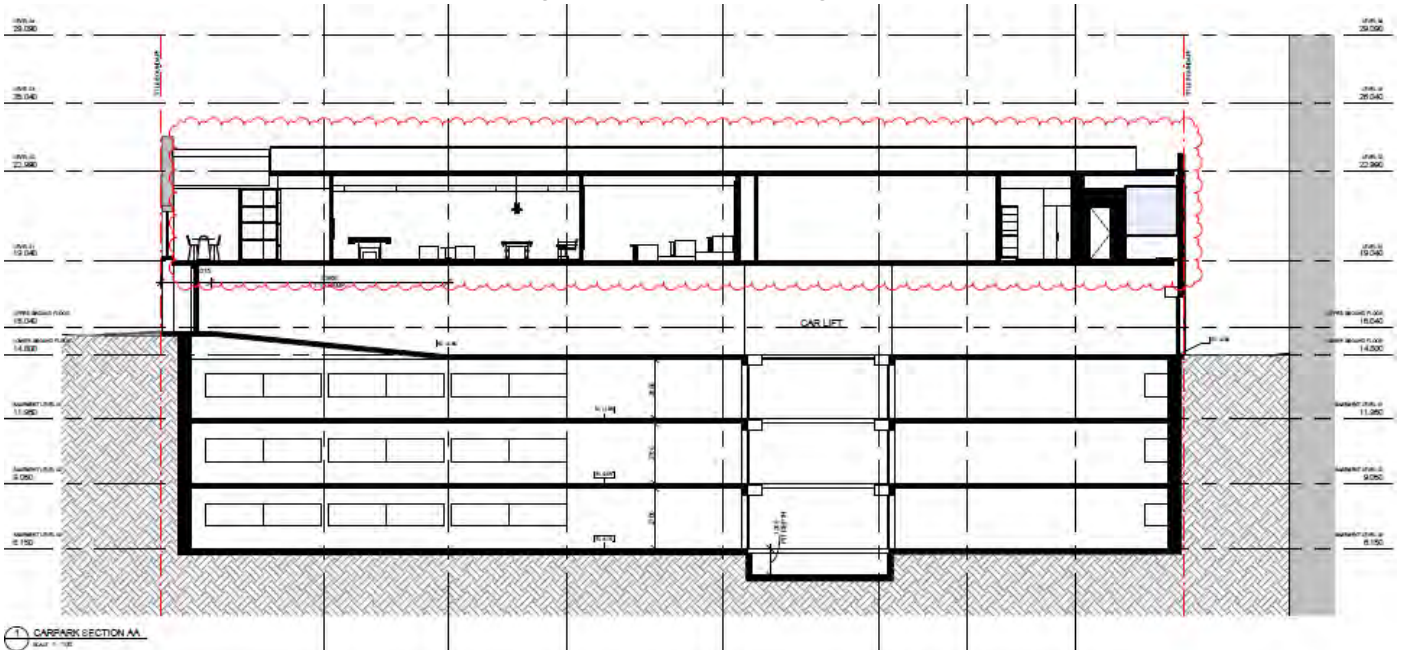
*Excerpt from 'Overall Plan – Level 13', Drawing No.TP1.116 (Revision C)*



### 3.8 Excerpts from Plans: Elevations & Sections

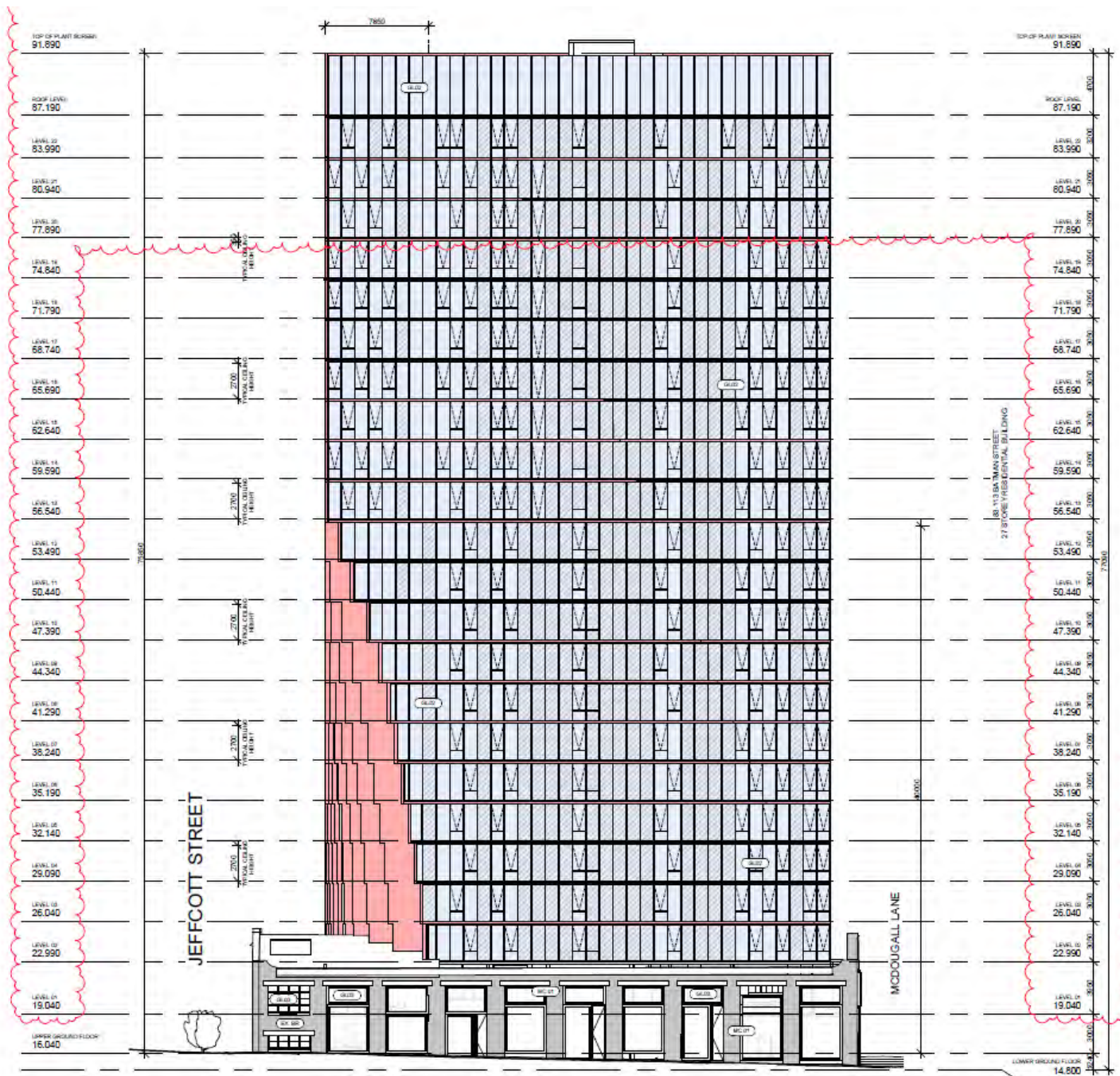


*Excerpt from 'Building Elevations', Drawing No.TP2.101 (Revision C)*



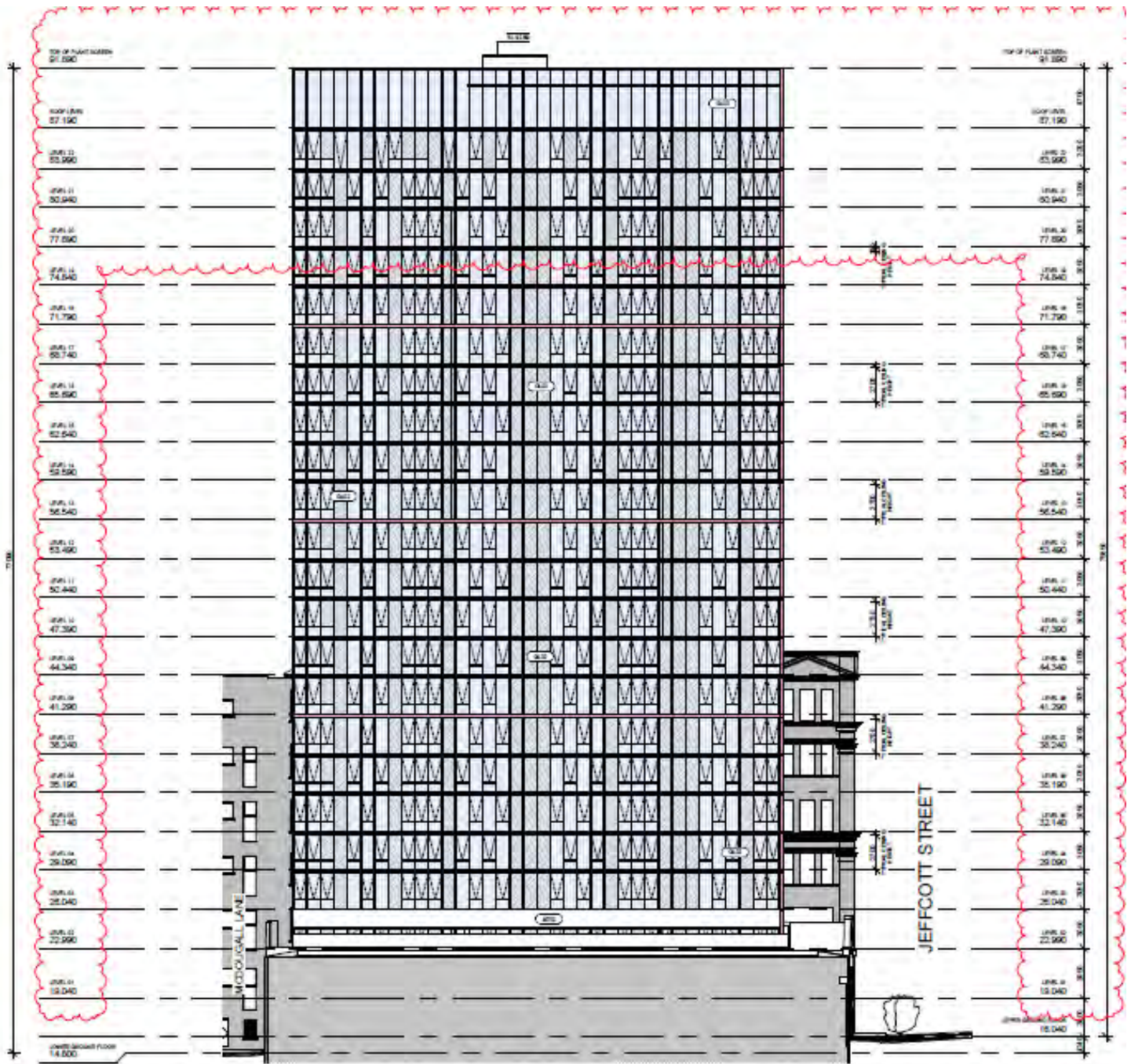
*Excerpt from 'Carpark Section', Drawing No.TP2.301 (Revision C)*





Excerpt from 'Building Elevations', Drawing No.TP2.102 (Revision C)





Excerpt from 'Building Elevations', Drawing No.TP2.103 (Revision C)



### 3.9 Detailed Information: Built Form

#### 3.9.1 Overall Development Summary (includes Stage 1 and Stage 2)

<b>102-108 Jeffcott Street:</b>	926 m <sup>2</sup>	<b>Total GFA (excluding basement areas):<sup>5</sup></b>	22,156 m <sup>2</sup>
<b>355-369 Spencer Street:</b>	1,844 m <sup>2</sup>		
<b>371-383 Spencer Street:</b>	582 m <sup>2</sup>		
<b>'R-1' McDougall Lane:</b>	153 m <sup>2</sup>		
<b>Total Site Area:</b>	3,505 m <sup>2</sup>	<b>Non-accommodation GFA:</b>	7,779 m <sup>2</sup> (35% of GFA)
<b>Floor Area Ratio (excluding basement areas):</b>	6.32:1	<b>Floor area uplift sought:</b>	N/A, Application PA1800480-2 does not propose to increase the FAR authorised by Permit PA1800480-1

#### 3.9.2 Area Summary Stage 1: 102-108 Jeffcott Street, West Melbourne

<b>GFA (excluding basement areas):</b>	11,730 m <sup>2</sup>	<b>Basement Levels</b>	3
<b>Retail NLA:</b>	57.5 m <sup>2</sup>	<b>Food and Drink NLA:</b>	151.2 m <sup>2</sup>
<b>Car Parking Spaces:</b>	50	<b>Bicycle Spaces:</b>	80
<b>Dwellings:</b>	<b>1BR: 74</b>	<b>2BR: 30</b>	<b>3BR: 4</b>
			<b>Total: 108</b>

#### 3.9.3 Area Summary Stage 2: 355-369 Spencer Street and 371-383 Spencer Street, West Melbourne

<b>GFA (excluding basement areas):</b>	10,426 m <sup>2</sup>	<b>Basement Levels:</b>	1
<b>Office NLA:</b>	7,571 m <sup>2</sup>	<b>Residential Hotel NLA:</b>	3,174 m <sup>2</sup>
<b>Retail NLA:</b>	N/A	<b>Food and Drink NLA:</b>	N/A
<b>Car Parking Spaces:</b>	2	<b>Bicycle Spaces:</b>	45

#### 3.9.4 Proposed Stage 1 (Jeffcott Street) Tower Height and Setbacks

<b>Maximum number of storeys above ground level</b>	24 storeys	<b>Maximum number of basement levels:</b>	3
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<sup>5</sup> Application PA1800480-2 was not accompanied by a comprehensive development summary for all properties forming part of the planning unit for the permit. All area calculations (including GFA) has been derived from the architectural drawings prepared by Hachem dated 22 October 2018 (Revision 2) (the 'decision plans' accompanying management's report to FMC1 September 2019).

<b>Maximum Building Height:</b> (All heights measured from the top of the parapet) Spot level at centre of Jeffcott Street frontage: RL16.04		RL91.89 75.85 metres	<b>Street Wall Height:</b> Spot level at centre of Jeffcott Street frontage: RL16.04	RL25.46 <sup>6</sup> 9.42 metres
<b>Minimum setbacks</b>	<b>North McDougall Lane</b>	2.17 metres	<b>East McDougall Lane / facing Stage 2</b>	2 metres
	<b>South Jeffcott Street</b>	5.5 metres	<b>West Judy Lazarus Transition Centre land</b>	6.0 metres

<sup>6</sup> Representing the ridge-line of the upper parapet of the heritage street wall to 102-108 Jeffcott Street.

## 4 PLANNING SCHEME PROVISIONS

### 4.1 Strategic context for subject site in West Melbourne Structure Plan 2018

The Structure Plan identifies that West Melbourne has a distinct character with a dynamic mix of residential, business and industrial uses. It also identifies a number of precincts each with their own character, in terms of built form and the range of existing and future expected activities.

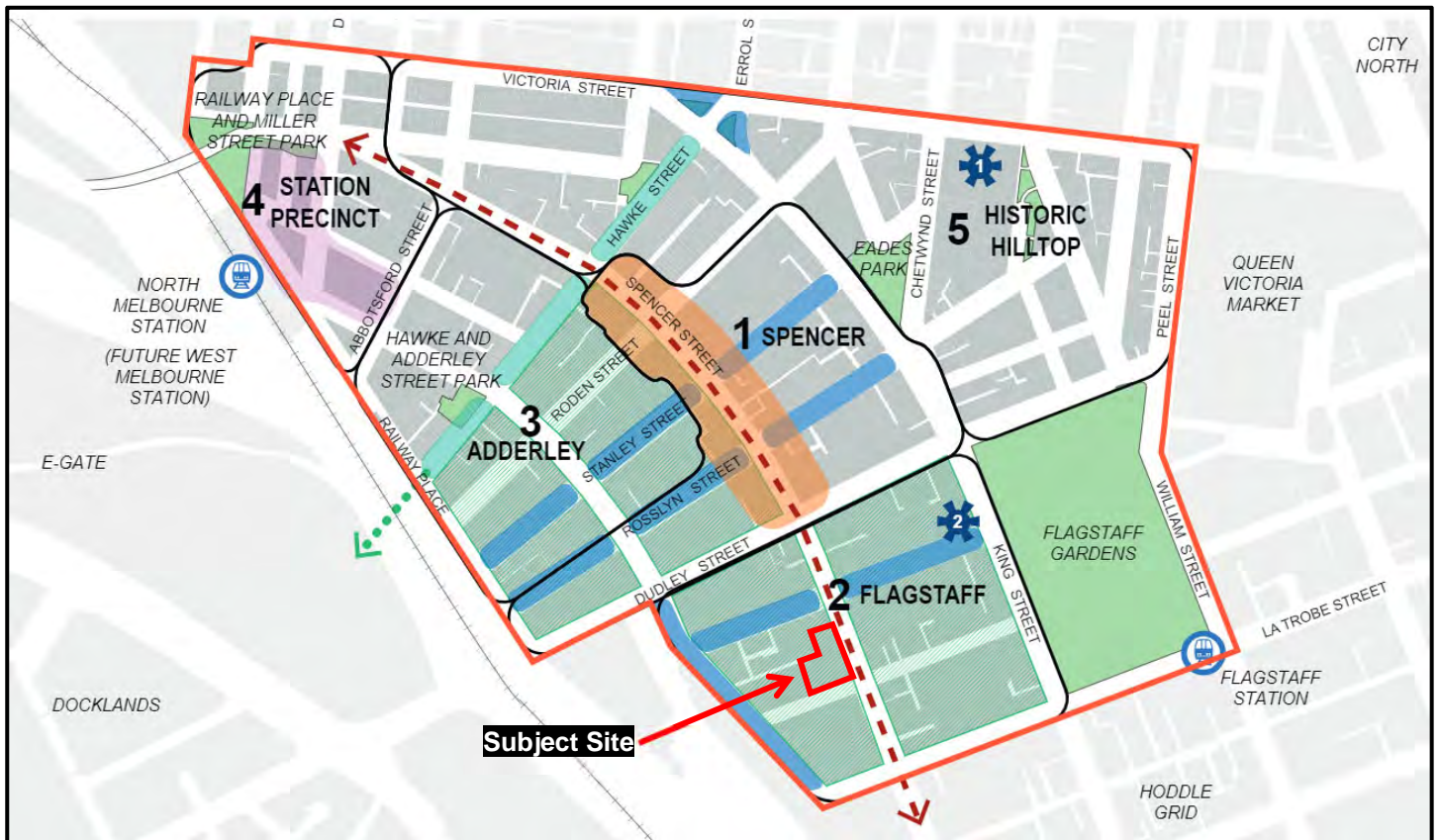
The subject site is located in the **Flagstaff Precinct**.

The Flagstaff Precinct, located to the west of Flagstaff Gardens and bounded by King, La Trobe, Adderley and Dudley Streets, is a distinct area within West Melbourne by virtue of its intensive built form character and proximity to Flagstaff Gardens and the central city. Many of the buildings that make up its built form character are larger institutional building, industrial warehouses, residential towers and office buildings. It is also the home to large iconic brick buildings such as the Sands and McDougall Building, Australian Red Cross building and Melbourne Assessment Prison.

The vision for the Flagstaff Precinct articulated in the Structure Plan is:

*Flagstaff will be a busy, diverse area of mostly residential and commercial buildings that is well connected to the iconic Flagstaff Gardens. The area will be distinct from the central city, characterised by large historic brick buildings, contemporary developments and warehouse restorations.*

*Local streets will be home to small parks, recreation spaces and broad canopy trees, while a variety of shops and services will be found on Spencer, King and La Trobe Streets. A sense of proximity to Flagstaff Gardens permeates the area and streets are sheltered and green at pedestrian level due to the avenues of canopy trees.*



**Map identifying location of the subject site within the West Melbourne Structure Plan 2018 area**



## 4.2 Amendment C385: West Melbourne Structure Plan

### 4.2.1 Status of West Melbourne Structure Plan 2018 and Melbourne Planning Scheme Amendment C309melb (C385melb)

West Melbourne is an area undergoing rapid change due in part to its proximity to the central city, Queen Victoria Market, Flagstaff Gardens and Errol Street. To manage this growth, Melbourne City Council has prepared the West Melbourne Structure Plan 2018 (the Structure Plan), adopted by the Future Melbourne Committee in February 2018.

Melbourne Planning Scheme Amendment C309 (PSA C309melb), prepared to implement the recommendations of the West Melbourne Structure Plan was publicly exhibited between 22 November 2018 and 4 February 2019, and an independent Panel hearing was subsequently held in July 2019 to consider submissions received in relation to the Amendment.

Management's assessment and recommendations in relation to the independent Panel's report for PSA C309melb, and the preferred form of the Amendment for adoption, could not be considered at a Council meeting on 7 May 2019 due to a loss of quorum.

PSA C309melb was therefore unable to be adopted by Melbourne City Council.

Planning Scheme Amendments cannot be adopted under delegation, due to the operation of S.188(2) of the *Planning and Environment Act 1987*.

To progress PSA C309melb, a special committee of the Council was convened; the Amendment C309 West Melbourne Structure Plan Committee, to consider a separate report from management seeking a resolution that the Minister for Planning prepare and approve the Amendment pursuant to section 20(4) of the *Planning and Environment Act 1987*.

The Amendment C309 West Melbourne Structure Plan Committee resolved to make this request on 28 April 2020.

Management has acted on this resolution and submitted a request to the Minister for Planning to prepare and approve PSA C309melb (now with a new reference number, PSA C385melb) under S.20(4) of the *Planning and Environment Act 1987*.

PSA C385melb is considered to be a seriously entertained Planning Scheme Amendment.

### 4.2.2 Consideration of proposed changes against PSA C385melb

The changes proposed in Application PA1800480-2 will not alter the authorised development's general compliance with the planning controls proposed for the site under PSA C385melb.

A summarised assessment of Application PA1800480-2 against the key controls sought to be introduced for the site under PSA C385melb (as presented to the Amendment C309 West Melbourne Structure Plan Committee on 28 April 2020) is set out below:

- **Schedule 6 to Clause 37.01 Special Use Zone (SUZ6)**

- **Affordable Housing Requirement**

Clause 2.0 of SUZ6 seeks to introduce a requirement for developments of 10 or more dwellings to provide affordable housing. This requirement would not apply to the reconfigured apartment tower above 102-108 Jeffcott Street proposed in Application PA1800480-2, as the recommended form of SUZ6 includes transitional arrangements for permits authorising buildings and works granted prior to the approval date of Amendment C309.

- **Minimum Non-Accommodation Floor Area**

Clause 2.0 of SUZ6 seeks to introduce a minimum floor area requirement for uses other than accommodation, where at least 16.6% of the floor area (excluding car parking,

bicycle and loading and unloading facilities) of a development in the Flagstaff precinct must be a non-accommodation land use.

The proposed development achieves a non-accommodation land use floor area of 7,779 m<sup>2</sup> (35%) when measured across the entire planning unit for Permit PA1800480-1.

- **Schedule 33 to Clause 43.02 Design and Development Overlay (DDO33)**

- **Floor Area Ratio**

Application PA1800480-2 does not propose to increase the FAR achieved in the originally authorised development, which (at the time the application was considered), was generally in accordance with the preferred FAR for the site under the West Melbourne Structure Plan 2018, and which is now reflected in DDO33 (6:1).

- **Setbacks**

The changes proposed under Application PA1800480-2 maintain general compliance with the preferred setback requirements in DDO33, noting that the revised tower above 102-108 Jeffcott Street:

- Provides a 5.5 metre setback from the front title boundary, which complies with the preferred minimum front title boundary setback requirement of 3 metres in DDO33.
    - Provides a 6 metre setback to the west (side) boundary, which complies with the preferred minimum side boundary setback requirement of 6 metres in DDO33.
    - Does not alter setbacks to the north and east (laneway) boundaries in a manner that would meaningfully reduce compliance with the preferred minimum laneway setback requirement of 4 metres in DDO33, and in fact increases the setback to the east laneway boundary by 0.4 metres.

- **Schedule 14 to the Parking Overlay (PO14)**

The changes proposed under Application PA1800480-2 seek to reduce the number of car parking spaces within the development, which will support the ambition for the site under PO14 to provide a maximum car parking requirement (to replace the current minimum requirement at Clause 52.06).

Conditions have been recommended for inclusion on any amended permit being granted, which will contribute to the further reduction of car parking spaces in the development, in a manner that is generally consistent with the maximum car parking requirement entertained for the site in proposed PO14 under PSA C385melb (38 spaces).

- **Environmental Audit Overlay (EAO)**

Subject to the conditions of Permit PA1800480-1 being updated to reflect the intended application of the Environmental Audit Overlay to the site (and the expectation that an audit will be undertaken for the development, noting that the project now seeks to construct residential dwellings which will support long-term accommodation), the proposed EAO under PSA C385melb will have been addressed by the development.

### 4.3 Strategic Framework

A list of the relevant policies in the Planning Policy Framework (PPF), Municipal Strategic Statement (MSS) and Local Planning Policy Framework have been set out in Attachment 1 to this report.

Regard has been given to key policies relevant to the proposed development in Section 7 of this report.

### 4.4 Zone / Overlays

The following planning requirements in the zone and overlays affecting the land apply to the changes to the authorised development at 102-108 Jeffcott Street, West Melbourne proposed by Application PA1800480-2.

Zone	Requirement
<p><b>Clause 32.04</b> <b>Mixed Use Zone</b> <b>MUZ</b></p>	<p><u>Land Use</u></p> <p>The revised development is composed of the following land uses:</p> <ul style="list-style-type: none"> <li>• Dwellings – permit not required Use of land for Dwellings in the Mixed Use Zone is a ‘Section 1 – permit not required’ land use in the Mixed Use Zone.</li> <li>• Food and Drink Premises – <b>permit required</b> Use of land for ‘Food and Drink Premises’ is a ‘Section 1 – permit not required’ land use in the Mixed Use Zone provided the leasable floor area does not exceed 150 square metres. The leasable floor area of the proposed Food and Drink Premises exceeds 150 square metres, and is therefore a ‘Section 2 – permit required’ land use in the Mixed Use Zone.</li> <li>• Shop – permit not required Use of land for ‘Shop’ (other than Adult sex product shop) is a ‘Section 1 – permit not required’ land use in the Mixed Use One provided the leasable floor area does not exceed 150 square metres. The leasable floor area of the proposed Shop does not exceed 150 square metres, and is therefore a ‘Section 1 – permit not required’ land use in the Mixed Use Zone.</li> </ul> <p>Permit PA1800480-1 includes authorisation for the use of land for Food and Drink premises. The changes to the use of land proposed by Application PA1800480-2 therefore do not require any new primary consent under the scheme.</p> <p><u>Buildings and Works</u> – <b>permit required</b></p> <p>A permit is required to construct or extend a residential building.</p> <p>An apartment development of five or more storeys, excluding a basement, must meet the requirements of Clause 58.</p>
Overlay	Requirement
<p><b>Clause 43.01</b> <b>Heritage Overlay</b> <b>Schedule HO771:</b> <b>Sands &amp; McDougall</b> <b>precinct 83-113,</b> <b>115, 135 Batman</b> <b>Street, 23 Franklin</b> <b>Place, 102 Jeffcott</b></p>	<p><u>Demolition</u>- <b>permit required</b></p> <p>A permit is required to demolish or remove a building in the Heritage Overlay.</p> <p><u>Buildings and Works</u> – <b>permit required</b></p> <p>A permit is required to construct a building or construct or carry out works in the Heritage Overlay.</p>



<p><b>Street, 355 and 371 Spencer Street, West Melbourne</b></p> <p><b>Schedule HO1185: Elm (x6) street trees, near 81-141 Jeffcott Street, West Melbourne</b></p>							
<p><b>Clause 43.02 Design and Development Overlay</b></p>	<p>Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works, except if a Schedule to the overlay specifically states that a permit is not required.</p>						
<p><b>Schedule 12: Noise Attenuation Area DDO12</b></p>	<p><i><b>Buildings and Works – permit required</b></i></p> <p>Schedule 12 to the Design and Development Overlay (DDO12) provides that a permit is required to construct a building or construct or carry out works.</p> <p>DDO12 specifies a number of requirements that apply to an application for a planning permit under the overlay.</p>						
<p><b>Schedule 33: CBD Fringe DDO33</b></p>	<p><i><b>Buildings and Works – permit required</b></i></p> <p>Schedule 33 to the Design and Development Overlay (DDO33) provides that a permit is required to construct a building or construct or carry out works.</p> <p>The Table to DDO33 sets out the following discretionary building height, podium height and minimum building setback requirements that apply to the proposed development under Application PA1800480-2.</p> <table border="1" data-bbox="475 1131 1516 1937"> <thead> <tr> <th data-bbox="475 1131 603 1265">Area</th> <th data-bbox="606 1131 1061 1265">Maximum Building Height, Podium Height and Minimum Building Setback</th> <th data-bbox="1064 1131 1516 1265">Built Form Outcomes</th> </tr> </thead> <tbody> <tr> <td data-bbox="475 1270 603 1937">DDO33</td> <td data-bbox="606 1270 1061 1937"> <p><b>Height</b></p> <p>40 metres</p> <p><b>Podium Height</b></p> <p>Podium height of 16 metres or an appropriate lesser height where the site is adjacent to a heritage building.</p> <p><b>Setbacks</b></p> <p>Setbacks above podium:</p> <ul style="list-style-type: none"> <li>▪ 6 metres from all front, side and rear boundaries.</li> <li>▪ 2 metres from laneways.</li> </ul> </td> <td data-bbox="1064 1270 1516 1937"> <p>Built form which provides a visual transition between the taller prevailing heights of the CBD and the lower scale built form of West Melbourne.</p> <p>Development provides a transition to adjoining lower scale heritage buildings be the use of podiums and upper level setbacks.</p> <p>Development that does not overshadow Flagstaff Gardens between 11am and 2pm on 22 September and 22 June.</p> <p>Building setbacks that strengthen the pedestrian scale and focus of the area and maintain a sense of open outlook from the Flagstaff Gardens.</p> </td> </tr> </tbody> </table>	Area	Maximum Building Height, Podium Height and Minimum Building Setback	Built Form Outcomes	DDO33	<p><b>Height</b></p> <p>40 metres</p> <p><b>Podium Height</b></p> <p>Podium height of 16 metres or an appropriate lesser height where the site is adjacent to a heritage building.</p> <p><b>Setbacks</b></p> <p>Setbacks above podium:</p> <ul style="list-style-type: none"> <li>▪ 6 metres from all front, side and rear boundaries.</li> <li>▪ 2 metres from laneways.</li> </ul>	<p>Built form which provides a visual transition between the taller prevailing heights of the CBD and the lower scale built form of West Melbourne.</p> <p>Development provides a transition to adjoining lower scale heritage buildings be the use of podiums and upper level setbacks.</p> <p>Development that does not overshadow Flagstaff Gardens between 11am and 2pm on 22 September and 22 June.</p> <p>Building setbacks that strengthen the pedestrian scale and focus of the area and maintain a sense of open outlook from the Flagstaff Gardens.</p>
Area	Maximum Building Height, Podium Height and Minimum Building Setback	Built Form Outcomes					
DDO33	<p><b>Height</b></p> <p>40 metres</p> <p><b>Podium Height</b></p> <p>Podium height of 16 metres or an appropriate lesser height where the site is adjacent to a heritage building.</p> <p><b>Setbacks</b></p> <p>Setbacks above podium:</p> <ul style="list-style-type: none"> <li>▪ 6 metres from all front, side and rear boundaries.</li> <li>▪ 2 metres from laneways.</li> </ul>	<p>Built form which provides a visual transition between the taller prevailing heights of the CBD and the lower scale built form of West Melbourne.</p> <p>Development provides a transition to adjoining lower scale heritage buildings be the use of podiums and upper level setbacks.</p> <p>Development that does not overshadow Flagstaff Gardens between 11am and 2pm on 22 September and 22 June.</p> <p>Building setbacks that strengthen the pedestrian scale and focus of the area and maintain a sense of open outlook from the Flagstaff Gardens.</p>					

## 4.5 Particular Provisions

The following particular provisions are relevant to the changes to the authorised development at 102-108 Jeffcott Street, West Melbourne proposed by Application PA1800480-2.

### 4.5.1 Clause 52.05 Signs

Application PA1800480-2 has not sought permission / proposed advertising signage to any of the commercial tenancies shown in the plans.

It is envisioned that separate permission will be sought in future.

### 4.5.2 Clause 52.06 Car Parking

#### **Car parking plan requirement**

Clause 52.06 Car Parking provides that car parking plans must be prepared to the satisfaction of the responsible authority before a new use commences, or the floor area or site area of an existing use is increased.

Application PA1800480-2 was accompanied by car parking plans and a traffic impact assessment report prepared by GTA Consultants Pty Ltd, which have been reviewed by Council's Traffic Engineer.

The advice of Council's Traffic Engineer is set out in section 6 of this report.

#### **Minimum car parking space requirement**

Clause 52.06 Car Parking sets out the following car parking rate relevant to the changes proposed under Application PA1800480-2, noting that the subject site is located in the Principal Public Transport Network Area, and the rate at Column B of the Table therefore applies:

Use	Rate Column A	Rate Column B	Car Parking Measure Column C	Calculation
Dwelling	1	1	To each one or two bedroom dwelling, plus	74 1BR dwellings = 74 spaces
	2	2	To each three or more bedroom dwelling (wit studies or studios that are separate rooms counted as a bedroom) plus	34 2BR&3BR dwellings = 68 spaces
	1	0	For visitors to every 5 dwellings for developments of 5 or more dwellings	N/A
Food and Drink Premises other than listed in this table	4	3.5	To each 100 sqm of leasable floor area	$\frac{151.2sq.m}{100sq.m} \times 3.5 spaces$ = 5.29 spaces = 5 spaces
Shop – other than listed in this table	4	3.5	To each 100 sqm of leasable floor area	$\frac{57.5sq.m}{100sq.m} \times 3.5 spaces$ = 2.01 spaces = 2 spaces

<b>Total Required::</b>	<b>149 spaces</b>
<b>Total proposed:</b>	<b>50 spaces</b>
<b>Required car parking reduction:</b>	<b>99 spaces</b>

#### 4.5.3 Clause 52.34 Bicycle Facilities

The changes proposed to the development authorised by Permit PA1800480-1 by Application PA1800480-2 comply with the following requirements of *Clause 52.34 Bicycle Facilities*:

- The minimum bicycle parking spaces requirement.
- The shower requirements for end of trip facilities where bicycle parking is provided.
- The change room requirements for end of trip facilities where bicycle parking is provided.

A planning permit would therefore not be required under *Clause 52.34 Bicycle Facilities*.

#### Minimum bicycle parking spaces requirement:

*Clause 52.34 Bicycle Facilities* sets out the following bicycle parking rate as bearing on the proposed development.

Use	Employee / Resident	Visitor / Shopper / Student	Requirement
<b>Dwelling</b>	In developments of four or more storeys, 1 to each 5 dwellings	In developments of four or more storeys, 1 to each 10 dwellings	Proposed no. of dwellings: <b>108 dwellings</b> $\left(\frac{108}{5}\right)$ = 21.6(22) <i>resident spaces</i> $\left(\frac{108}{10}\right)$ = 10.8(11) <i>visitor spaces</i>
<b>Food and Drink Premises</b>	1 to each 300 m <sup>2</sup> of leasable floor area	1 to each 500 m <sup>2</sup> of leasable floor area	Proposed floor area: <b>151.2 sq. m</b> $\left(\frac{151.2 \text{ sq m}}{300 \text{ sq m}}\right)$ = 0.5 (0) <i>employee spaces</i> $\left(\frac{151.2 \text{ sq m}}{500 \text{ sq m}}\right)$ = 0.3 (0) <i>visitor spaces</i>
<b>Shop</b>	1 to each 600 m <sup>2</sup> of leasable floor area if the leasable floor area exceeds 1000 m <sup>2</sup>	1 to each 500 m <sup>2</sup> of leasable floor area if the leasable floor area exceeds 100 m <sup>2</sup>	N/A the leasable floor area of the proposed Shop tenancy does not exceed 100 m <sup>2</sup> or 1000 m <sup>2</sup>
<b>Total Required</b>			22 <i>resident spaces</i> 11 <i>visitor spaces</i>
<b>Total Provided</b>			80 bicycle spaces



The proposed development Application PA1800480-2 therefore complies with the minimum bicycle spaces requirement of *Clause 52.34 Bicycle Facilities*.

**Shower requirement:**

*Clause 52.34 Bicycle Facilities* sets out the following shower requirement relevant to the proposed development.

Overall Development			
Use	Employee / Resident	Visitor / Shopper / Student	Requirement
Any use listed in Table 1	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.	None	$1 \text{ shower} + \left(\frac{33 - 5}{10}\right)$ = 3.8 (4) showers
		<b>Total Required</b>	4 showers
		<b>Total Provided</b>	0 showers

The proposed reconfigured tower in Application PA1800480-2 does not include any end of trip facilities.

The ‘decision plans’ prepared by Hachem and referred to in Condition 1 of Permit PA1800480-1 detailed end of trip facilities (including showers, changing rooms and lockers) in the basement of the refurbished building at 371-383 Spencer Street, West Melbourne associated with the Residential Hotel use.

As Application PA1800480-2 proposes to functionally separate the tower at 102-108 Jeffcott Street, West Melbourne from the ‘Stage 2’ properties, it is appropriate that the basement layout be revised to include appropriate end of trip facilities meeting the requirements of *Clause 52.34 Bicycle Facilities*.

Conditions have been recommended for inclusion on any permit being granted requiring end of trip facilities meeting the requirements of Clause 52.34 to be shown on the plans.

**Changing room requirement:**

*Clause 52.34 Bicycle Facilities* sets out the following changing room requirement relevant to the proposed development.

Use	Employee / Resident	Visitor / Shopper / Student
Any use listed in Table 1	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.	None

As set out above, the ‘decision plans’ prepared by Hachem and referred to in Condition 1 of Permit PA1800480-1 detailed end of trip facilities (including showers, changing rooms and lockers) in the basement of the refurbished building at 371-383 Spencer Street, West Melbourne.

As Application PA1800480-2 proposes to functionally separate the tower at 102-108 Jeffcott Street, West Melbourne from the ‘Stage 2’ properties, it is appropriate that the basement layout be revised to include appropriate end of trip facilities meeting the requirements of *Clause 52.34 Bicycle Facilities*.

Conditions have been recommended for inclusion on any permit being granted requiring end of trip facilities meeting the requirements of Clause 52.34 to be shown on the plans.

#### **4.5.4 Clause 53.18 Stormwater Management in Urban Development**

*Clause 53.18 Stormwater Management in Urban Development* applies to Amendment C401.

The Water Sensitive Urban Design (WSUD) Statement prepared by Ark Resources Pty Ltd addresses how the proposed development will meet the requirements of Local Planning Policy *Clause 22.23 Stormwater Management (Water Sensitive Urban Design)*, therefore meeting the objectives of *Clause 53.18 Stormwater Management in Urban Development*.

Permit PA180480-1 includes conditions that were recommended by Council's ESD Officer and Principal Engineer – Infrastructure, relating to the original approval to ensure that the requirements of *Clause 22.23 Stormwater Management (Water Sensitive Urban Design)* are met.

Updates to these conditions have been recommended to reflect the staging of the development and the new technical reports and feedback provided by Council's ESD officer, discussed in Section 6 of this report.

#### **4.5.5 Clause 58 Apartment Developments**

Application PA1800480-2 has been assessed against the requirements of *Clause 58 Apartment Developments*.

### **4.6 General Provisions**

#### **4.6.1 Clause 65 Decision Guidelines**

Before deciding on an application or approval of a plan, the responsible authority must consider the matters set out in *Clause 65 Decision Guidelines*, as appropriate.

## **5 PUBLIC NOTIFICATION**

Public notice of Application PA1800480-2 is the responsibility of the Minister for Planning, the responsible authority for the application.

Melbourne City Council has been given notice of Application PA1800480-2 under S.52(1)(b) of the *Planning and Environment Act 1987*.

## 6 CoM Internal Advisor Comments

### 6.1 Urban Design

#### 6.1.1 Referral Comments / Discussion

Council's Urban Design Team provided comments on 22 November 2021.

A summary of the key issues raised by Council's Urban Design Team with Application PA1800480-2 (red text), in addition to the permit applicant's response to these comments (blue text) provided on 22 December 2021 is provided below

#### **Urban Design Issue:**

*We require clarification of the floor area ratio (FAR), considering the detachment from adjacent sites previously included in the scheme. We note that this may result in a change in acceptable heights to this site, with consideration of the West Melbourne Structure Plan maximum FAR of 6:1 for the precinct.*

#### **Applicant response:**

*This amendment application does not seek to remove the redevelopment of 355 and 371 Spencer Street, West Melbourne from the planning permit.*

*Rather, the amendment seeks to stage the development so that the redevelopment of 102 Jeffcott Street, West Melbourne can commence.*

*The City of Melbourne will be aware that since the planning permit was issued, the three sites that form part of the singular planning permit have been sold to different owners. As such the project will now be delivered in stages – in that each owner will deliver their own portion of the project. It is not proposed to remove any of the other properties within the site from this approval.*

*We would respectfully disagree that as the sites are being delivered separately, the FAR should be calculated for each individual property rather than the broader site. As noted above, the redevelopment is still covered by a single planning permit and as such the planning unit for the purposes of assessing FAR and the like remains the entirety of the site.*

*Whilst the elements of the proposal will be delivered by different land owners this still forms part of an overall approval.*

*In terms of the West Melbourne Structure Plan, we note that Planning Scheme Amendment C309 was lapsed due to a quorum not being able to be achieved by Council. Whilst we understand the Minister for Planning may prepare, exhibit and gazette a new Planning Scheme Amendment in future, there is at this stage no certainty that this will occur.*

*Notwithstanding this, the site already has an approval which allows a FAR of 12.7: 1<sup>7</sup> – this planning permit amendment does not seek an increase to this accrued right (noting there are no changes proposed to the GFA as part of this amendment).*

#### **Urban Design Issue:**

*The detachment of the site from adjoining properties has also resulted in the increase of site services. We require the reinstatement of a high level of activation and passive surveillance, particularly to McDougall Lane (north).*

#### **Applicant response**

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<sup>7</sup> Planning Permit PA1800480-1 authorises a development across a planning unit with an overall site area of 3,505m<sup>2</sup>. The FAR for the development authorised by Permit PA1800480-1 is 6.32:1. Any accrued right under the permit to exceed the maximum FAR requirement of 6:1 under DDO33, in the event that PSA C385melb is approved, would be for the development as approved by the permit across the entire planning unit. Any rights enshrined by the permit cannot be 'carved-off' in the manner being suggested.



*The Discussion Plans<sup>8</sup> make a number of key changes to the Ground Floor interface to McDougall Lane, including:*

- *Deletion of the loft dwellings at the ground floor.*
- *Expansion of the food and drink / café tenancy so that it extends from Jeffcott Street to the core of the building (and includes a co-working office space).*
- *Replacement of the gym / physio with a commercial tenancy (likely an office space).*

*These uses are considered to provide a good and active interface to the laneway.*

*The laneway offers limited connectivity to other properties in the area, as well as limited usefulness from a pedestrian point of view. The large, blank wall associated with the development to the rear does not assist in creating a better sense of ambiance along the laneway. Notably it was also left off Planning Scheme Amendment C308<sup>9</sup> which sought to improve interfaces to laneways in the CBD and Southbank.*

*Notwithstanding the above, we believe the amended proposal delivers a practical option for activating the laneway. The previous proposal to have retail and food and drink facing the laneway would not have been economically viable given the limited usage of the laneway for pedestrians. The provision of an office space to the rear still encourages people to use the laneway to access the office, but remains viable from an economic perspective as there are many office uses that do not need 'passing trade' in order to be viable.*

#### **Urban Design Issue:**

*The introduction of a secondary vehicle entry from Jeffcott Street impacts street activation, as well as the safety of the pedestrian network. We recommend this is removed, and that vehicle access is limited to the rear laneway as per the endorsed proposal.*

#### **Applicant Response**

*The provision of a vehicle entrance from the Jeffcott Street façade is a result of a number of key challenges and considerations in the design of the building. This includes:*

- *Condition 1(f) and 27, which requires a Road Safety Audit to assess / reduce the number of vehicle movements proposed to use McDougall Lane.*
- *The change in use which means that more parking spaces are required compared to the approval (but with the need to ensure vehicle movements along the lane are not increased).*
- *The need to provide an ability to enter and exit the Site in a forward direction.*

*Please refer to the memo provided by GTA provides for further detail.*

*It is also noted that the crossover and vehicle access is existing and that the building historically has been provided with vehicle access from this point.*

*We also highlight that only 10 vehicle movements will be generated from this access point in peak hour (with another 10 to the laneway), which will not unreasonably impact the pedestrian environment along Jeffcott Street.*

*Having regard to the above it is respectfully submitted that the maintenance of the existing access point from Jeffcott Street is reasonable.*

#### **Urban Design Issue:**

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<sup>8</sup> Changes shown in discussion plans accompanying the applicant's response to Council's Urban Design Team's advice were ultimately expanded upon and incorporated into updated architectural drawings submitted with the S.57A Amendment Application on 15 March 2022. These changes generally reinstate the level of active frontages shown to the ground floor of the tower to 102-108 Jeffcott Street, West Melbourne in the 'decision plans' prepared by Hachem referred to in Condition 1 of Permit PA1800480-1.

<sup>9</sup> The subject site and McDougall Lane were not included in PSA C308melb Urban Design in the Central City and Southbank, not because high quality laneways are not valued in West Melbourne, but because this part of the city (Flagstaff) is not included in the 'Central City' (the project area for PSA C308melb).

*We require the provision of further façade details and material specification to the proposed tower to ensure a high level of design quality will be achieved.*

**Applicant response**

*This detail can be provided as part of the Façade Strategy which forms Condition 15 of the planning permit.*

**Urban Design Issue**

*We require the reinstatement of a highly robust, textured and human scale material to the north laneway interface, and do not support the broad application of a bronze metal panel.*

**Applicant response**

*This is a matter that could be addressed by a condition on the amended planning permit requiring the provision of brick along the rear interface (if required).*

**Urban Design response**

On 20 January 2022, Council's Urban Design Team provided the following further comments addressing the applicant's response to their earlier advice:

**Mass**

- We note the applicant's confirmation that the redevelopment of 355 and 371 Spencer Street, West Melbourne will continue to be included within the planning permit; however, defer to City of Melbourne planning and DELWP for assessment around this matter.

**Site Layout**

- The reconfigured ground floor plan improves activation to McDougall Lane
- We question whether a connection between the primary entrance from Jeffcott Street and McDougall Lane will be maintained (across the fire stair) to maintain site permeability.
- Our query around why a substation has been incorporated in the amendment proposal, and services have increased, has not been addressed.
- The removal of all activation to McDougall Lane has not been addressed.
- We continue to have concerns with the secondary vehicle entry proposed to Jeffcott Street and its impact on street activation in comparison to the original design; however, we accept the outlined technical restrictions.

**Design quality**

- We require the reinstatement of a highly robust, textured and human scale material to the north laneway interface, and do not support the broad application of a bronze metal panel.  
This must be addressed before urban design can recommend approval.
- We continue to require the provision of further façade details and material specification to the proposed tower to ensure a high level of design quality will be achieved. This matter can be addressed by a permit condition, once other critical matters around site layout are resolved.

**6.1.2 Planner Response**

Council's Urban Design Team's advice has informed the assessment of the proposed development under Application PA1800480-1 set out in Section 7 of this report.

It is noted that plans submitted to accompany the S.57A Amendment Application received on 15 March 2022 are considered to have resolved Council's Urban Design Team's concerns regarding the level of activation to McDougall Lane, and generally reinstate a level of activation to this laneway that is

consistent with the 'decision plans' prepared by Hachem referred to in Condition 1 of Permit PA1800480-1.

It is further noted that conditions have been recommended for inclusion on any amended permit being granted:

- To provide assurance that the planning unit is maintained under Permit PA1800480-1, to ensure that the development at 102-108 Jeffcott Street, West Melbourne is not 'carved off' (i.e. in a manner that would authorise an FAR of 12.7:1 for this property, and release the properties at 355-369 and 371-383 Spencer Street, West Melbourne, from the FAR of 6.32:1 achieved across the site in the permit).
- To reintroduce a respectful, interpretive, brick façade to the north laneway interface that uses recycled bricks from the demolished portions of the building (where practicable) and includes human-scale detailed design features.
- To require further specific information regarding the façade design for the revised Jeffcott Street tower, including details and material specification, to ensure a high level of design quality will be achieved.

## **6.2 Environmentally Sustainable Design & Green Infrastructure**

### **6.2.1 Referral Comments**

Council's ESD advisor provided comments on 10 November 2021.

Broadly, Council's ESD advisor found that the ESD commitments for the proposed revised tower to 102-108 Jeffcott Street were in accordance with the requirements of *Clause 22.19 Energy, Water and Waste*, however identified that additional information would be required prior to endorsement of the Sustainable Management Plan & Water Sensitive Urban Design Response prepared by Ark Resources, dated 15 March 2021.

### **6.2.2 Planner Response**

Conditions have been recommended for inclusion on any amended permit being granted to address the comprehensive feedback provided by Council's ESD advisor on Application PA1800480-2.

## **6.3 Civil Engineering**

### **6.3.1 Referral Comments**

Council's Principal Engineer (Infrastructure) provided comments on 23 November 2021:

*The Infrastructure team would like to provide the following comments regarding the proposed amendment of the town planning permit PA1800480-2.*

*We recommend including new conditions into the town planning permit to reflect changes in management of the public realm and ground water accumulating within the basement of the building. We also recommend replacing references from Engineering Services to City Infrastructure in the permit.*

*We would like to provide the following civil design comments on the drawings prepared by CHT Architects, dated 10 May 2021.*

*We object to the outward opening doors projecting into the public roads adjoining the site. The doors shall be redesigned such that they do not project beyond the street alignment when open, when closed or when being opened or closed. We have no objection to remain the outward opening doors for service rooms such as the fire control room and substation.*

*All projections over the street alignment must conform to Building Regulations 2018, Part 6, Sections 98 to 110 as appropriate. Reference can be made to the City of Melbourne's Road*



*Encroachment Operational Guidelines with respect to clearances from face of kerb and surface pavement.*

*The proposed vehicle crossing in Jeffcott Street shall be redesigned as a radial type of crossing in alignment with the driveway. A minimum of 2.0 metres long pedestrian refuge island shall be provided between the vehicle crossings adjoining the site and the neighbouring property at 44-58 Adderley Street.*

*The development shall include the provision of surface pavement compliant with DDA requirements and public lighting in McDougall Lane. The design of the building shall allow the installation of power conduits and street lights on the external walls of the building. The new street lights shall provide a minimum vertical clearance of 5.0 m above the finished service pavement.*

### **6.3.2 Planner Response**

Conditions have been recommended for inclusion on any amended permit to implement the recommendations of Council's Principal Engineer (Infrastructure), noting that, in addition to the above specific comments, City Infrastructure also recommended the inclusion of a number of updated / revised conditions on any amended permit.

## **6.4 Traffic Engineering**

### **6.4.1 Referral Comments**

Council's Traffic Engineer provided comments on 26 November 2021.

Generally, Council's Traffic Engineer advised that they had no concerns in relation to the changes to the development proposed by Application PA1800480-2, with the exception of the following items:

- The parking provision for the proposed apartment building exceeded the maximum requirement proposed to be applied to the site by PO14 in PSA C385melb (38 car parking spaces). It was suggested that the number of car parking spaces in the development be reduced to address this concern.
- Swept-path diagrams for the basement parking spaces showed that some parking spaces would require multiple vehicle manoeuvres to access (and would be unusable). It was suggested that these spaces be removed.
- The proposed single-width crossover arrangement to Jeffcott Street was found to be unacceptable, as it would have resulted in entering vehicles having to reverse onto the footpath / road in the event that another car was existing, causing safety concerns. Council's Traffic Engineer recommended a double-width crossover be provided to enable vehicles to concurrently enter and exit the site.

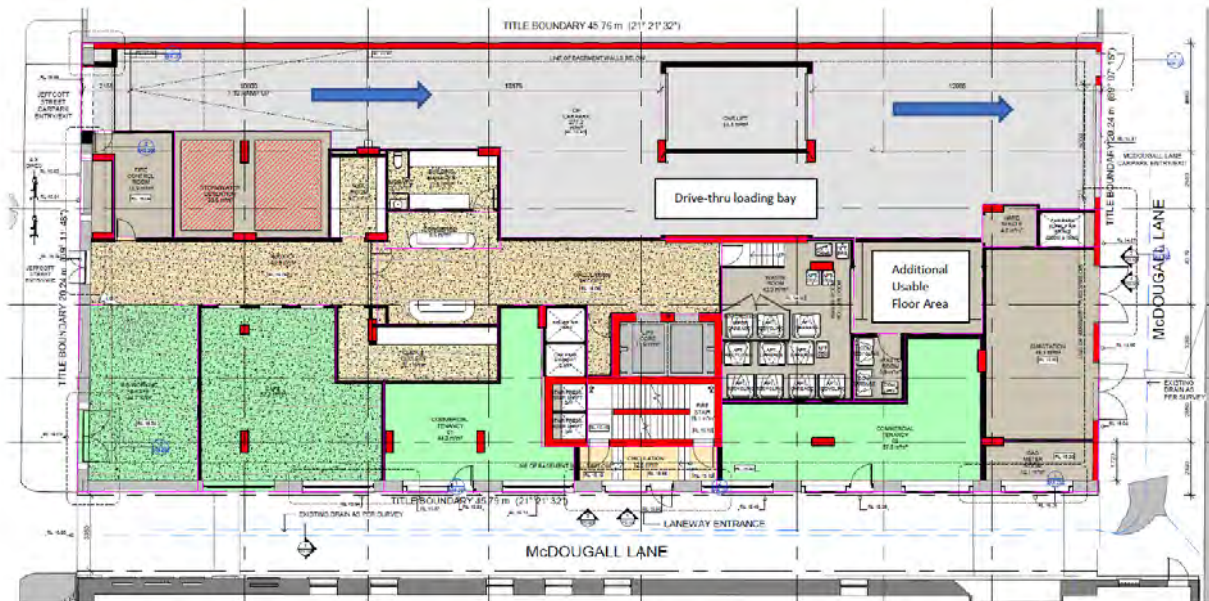
Consultation was undertaken between the project Traffic Engineer and Council's Traffic Engineer to resolve this concern, noting that provision of a double-width crossover would have resulted in the removal of additional (substantial) heritage fabric to the Jeffcott Street façade and contributed to the further erosion of the ground floor's capacity to deliver active uses and commercial floor area.

On 1 March 2022, the permit applicant supplied an updated plan detailing alternative for the development, which would result in the following vehicle movements through the site:

*All vehicles will enter the site from Jeffcott Street and drive north to access the car lift in a forward direction. Once in the basement, vehicles will exit the car lift forward to the north and then turn right to access the car parking spaces. This may require a three-point turn, depending on the size of the vehicle. To exit the basement, vehicles will drive forward into the car lift from the south. Once at ground level, vehicles will exit the car lift forward to the north and then exit the site by turning into McDougall Lane. Small waste collection trucks will access the site from the Jeffcott Street entrance and park in the loading bay adjacent to the car lift. They will then exit*

forwards to McDougall Lane. The loading bay will also act as a bypass lane if vehicles access the site and are unable to use the car lift.

## Ground Floor



**Excerpt from drawing accompanying applicant's response to Council's Traffic Engineer dated 1 March 2022**

Upon reviewing the updated plan (excerpt above), Council's Traffic Engineer supported the proposal.

### 6.4.2 Planner Response

Conditions have been recommended for inclusion on any amended permit being granted to:

- Require provision of end of trip facilities in the basement of the development complying with the requirements of Clause 52.34 by replacing existing car parking spaces, and require the deletion of any car parking spaces that would be rendered unusable by virtue of an excessive number of vehicle movements being required for cars to access spaces.

The above requirement will contribute to the further reduction of the number of car parking spaces within the development (currently 50), bringing the car parking provision closer to the maximum number entertained for the site by proposed PO14 in PSA C385melb (38).

- Give force and effect to the proposed access plan supplied by the permit applicant on 1 March 2022 to address Council's Traffic Engineer concerns relating to the single-width vehicle crossing to Jeffcott Street.

## 6.5 Waste Engineering

### 6.5.1 Referral Comments

Council's Waste Planning Engineer provided the following comments on 7 December 2022:

*The following items need to be addressed:*

- *All ratepayers are entitled to a municipal waste collection service. Whilst this building is heritage listed, there is a requirement to accommodate a Council MRV on site for the purpose of waste collections for the residential component of waste. If the widening of the current vehicle opening and the use of a turntable will facilitate this service, then these design options need to be implemented.*
- *Commercial and residential waste needs to be stored separately.*

- Council will collect the residential organic waste. Accordingly, the residential garbage entitlement can be reduced by 25%, and only 4x1100 L garbage bins will be required to be collected twice per week.
- Up to 4 m<sup>3</sup> of residential hard waste will be collected per month by Council.
- If residents will be required to walk through the carpark to deposit their hard waste, risks should be mitigated with the installation of zebra crossings.
- The enclosure around the bins under the chutes is not a workable solution. The door arrangement won't allow for 2 bins to be placed in the enclosure.
- The third dot point under Table 2 is not valid. All changes to bin sizes and configurations are STCA.
- The Melbourne Colour Coding for organics bins are lime green lids.
- It is recommended that the development provide storage for residential glass bins in order to align with the State Government's intention to mandate the separation of glass.

### 6.5.2 Planner Response

In this scenario, retention of heritage fabric to the Jeffcott Street façade, in addition to the capacity for the ground plane of the Jeffcott Street tower to deliver floor area for active uses, represents the dominant planning consideration for the site.

The applicant's proposal to provide private collection is accepted in this instance due to the site constraints.

## 6.6 Heritage

### 6.6.1 Referral Comments

Council's Heritage Advisor provided the following comments on the original proposal (in relation to the tower proposal for 102-108 Jeffcott Street, West Melbourne), which remain relevant to the proposed changes under Application PA1800480-2:

*The proposal would effectively turn the three-dimensional building into a fence. There would appear to be alternatives which would produce a better heritage outcome, consistent with the retention of a "contributory" heritage structure, allowing the existing building to be interpreted in a three-dimensional form.*

*Recommendations are:*

- *Retain the original window joinery to the majority of the windows along McDougall Lane.*
- *Retain enclosing door / window joinery along Jeffcott Street (leading to more café and retail space).*
- *Retain the existing gable roof west of the tower and the double gable roof for 6 metres in depth from Jeffcott Street.*
- *Provide a program of conservation works which includes removal of paint from the brickwork.*

### 6.6.2 Planner Response

Permit PA1800480-1 includes conditions that largely specify the heritage outcomes anticipated for the site as part of the original approval.

The changes proposed under Application PA1800480-2 generally align with the extent of originally permitted demolition, and are consistent with the conditions of Permit PA1800480-1, with the exception of the demolition of the rear (north) façade to McDougall Lane.



The demolition of this element of the building, and consideration of appropriate replacement treatment, has been assessed in Section 7 of this report.

## 7 ASSESSMENT

### 7.1 Key Issues

The key issues for consideration in the assessment of Application PA1800480-2, having regard to the relevant planning controls affecting the site, include:

- Whether the changes proposed in Application PA1800480-2 are of consequence, having regard to the authorised development's compliance with Council's Heritage Policy *Clause 22.05 Heritage Places outside the Capital City Zone*.
- Whether the changes proposed in Application PA1800480-2 are of consequence, having regard to the authorised development's compliance with the built form requirements and outcomes of Schedule 33 to the Design and Development Overlay.
- Whether the internal reconfiguration of the building for an apartment development proposed in Application PA1800480-2 meets the requirements of *Clause 58 Apartment Developments*.
- Whether staging of the development in the manner proposed in Application PA1800480-2 is appropriate, having regard to the decision guidelines of *Clause 65.01 Approval of an Application or Plan*.

Other relevant matters that have been considered below include the traffic impacts of the proposed use / development, contaminated land and sustainability.

### 7.2 Heritage

The changes proposed in Application PA1800480-2 relate to 102-108 Jeffcott Street, West Melbourne, a 'Contributory' heritage building to the Sands and McDougall Heritage Precinct affected by HO771.

The key changes to the originally permitted tower at 102-108 Jeffcott Street, West Melbourne relevant to the originally permitted development's compliance with Council's Heritage Policy *Clause 22.05 Heritage Places outside the Capital City Zone*, include:

#### Internal layout

- Reconfiguring the ground plane by creating new building service areas, including by retaining the existing Jeffcott Street vehicle access, and rationalising and rearranging the commercial tenancies activating Jeffcott Street and McDougall Lane.

#### Tower design

- Demolishing the rear (north) brick wall facing McDougall Lane, and constructing a black powdercoated aluminium clad contemporary façade to this boundary.
- Modifying setbacks per the table provided in Section 2.3.2 of this report, resulting generally in adjustments to the originally approved tower floorplate, which will improve (+0.4 m) separation to McDougall Lane (east), and slightly reduce (-0.4 m) the setback to the Jeffcott Street title boundary.
- Removal of the proposed sky bridge connecting Level 4 of the tower above 102-108 Jeffcott Street with Level 3 of the refurbished Sands and McDougall Manufactory (355-369 Spencer Street, West Melbourne).

Relevant policies in *Clause 22.05 Heritage Places outside the Capital City Zone*, having regard to the above proposed changes in Application PA1800480-2, include:

#### **Demolition**

*It is policy that:*

- Partial demolition in the case of significant buildings, and of significant elements or the front or principal part of contributory buildings will not generally be permitted.
- The adaptive reuse of a heritage place is encouraged as an alternative to demolition.

**Additions**

It is policy that:

- Additions to significant or contributory buildings:
  - Do not visually dominate or visually disrupt the appreciation of the building as it presents to the street.
  - Maintain the prominence of the building by setting back the addition behind the front or principal part of the building, and from other visible parts and moderating height.
  - Do not build over or extend into the air space directly above the front or principal part of the significant or contributory building.
  - Are distinguishable from the original fabric of the building.

**Assessment**

Subject to conditions, the proposed changes under Application PA1800480-2 are not considered to be of consequence to the originally permitted development’s compliance with *Clause 22.05 Heritage Places outside the Capital City Zone*, noting the following:

- Demolition of the rear façade of 102-108 Jeffcott Street, West Melbourne is acceptable, noting that this façade does not present to the primary street frontage (Jeffcott Street) or form part of the front or principal part of the existing ‘Contributory’ heritage building.

Demolition of the rear façade is necessary to facilitate development of the tower at 102-108 Jeffcott Street, West Melbourne, including the additional servicing requirements for the apartment tower and vehicle access, contributing to the adaptive reuse of the building and long term conservation of the external retained heritage fabric.

Subject to conditions requiring this façade to be reconstructed in brick (including use of recycled bricks where practicable) in lieu of the bronze metal clad façade design proposed, the proportions and design of this façade are considered to be sympathetic and respectful to the original form of the heritage building and achieve an appropriate built form outcome in McDougall Lane (noting the service-orientation of the rear, east-west, alignment of this lane).



Excerpt from ‘Building Elevations’, Drawing No.TP2.101 (Revision C)



- The proposed revisions to the ground plane and tower floorplate of the tower, as depicted in the drawings accompanying the S.57A Amendment Application, maintain the key planning outcomes achieved in the originally permitted development by meaningfully retaining the Jeffcott Street facade and return to McDougall Lane, such that this heritage building will retain an impression of its visual integrity when viewed at street level.

Minor adjustments to the setback of the tower above the heritage building will shift the tower floorplate so that it is located further away from the east McDougall Lane façade (2 metres), and slightly closer to the Jeffcott Street façade. These changes in the tower floorplate location will not meaningfully alter presentation of the tower above the retained heritage building from Jeffcott Street.

The additional setback to the east McDougall Lane façade will however provide greater separation from the Sands and McDougall Manufactory, a 'Significant' heritage building, improving the development's overall response to the most sensitive heritage fabric forming part of the planning unit for the site.



*Excerpt from '3D Views', Drawing No.TP5.005 (Revision C)*

### 7.3 DDO33 – Flagstaff Precinct

The changes proposed to the tower form above 102-108 Jeffcott Street, West Melbourne, are not considered to be of consequence to the originally permitted development’s assessed compliance with the design objectives and built form requirements of DDO33.

An assessment of the revised tower against the requirements of DDO33 is set out below.

Area	Maximum Building Height, Podium Height and Minimum Building Setback	Built Form Outcomes
DDO33	<p><b>Height</b></p> <p>40 metres</p> <p><b>Podium Height</b></p> <p>Podium height of 16 metres or an appropriate lesser height where the site is adjacent to a heritage building.</p> <p><b>Setbacks</b></p> <p>Setbacks above podium:</p> <ul style="list-style-type: none"> <li>▪ 6 metres from all front, side and rear boundaries.</li> <li>▪ 2 metres from laneways.</li> </ul>	<p>Built form which provides a visual transition between the taller prevailing heights of the CBD and the lower scale built form of West Melbourne.</p> <p>Development provides a transition to adjoining lower scale heritage buildings be the use of podiums and upper level setbacks. Development that does not overshadow Flagstaff Gardens between 11am and 2pm on 22 September and 22 June.</p> <p>Building setbacks that strengthen the pedestrian scale and focus of the area and maintain a sense of open outlook from the Flagstaff Gardens.</p>
<b>Assessment:</b> Variation acceptable		
<p><b>Height</b></p> <p>DDO33 provides the following definition for building height:</p> <p><i>Building height is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the higher point of the building, with the exception of architectural features and building services.</i></p> <p>The height of the proposed tower is consistent with the originally permitted design, representing a variation of approximately 33 metres above the height requirement envisioned by DDO33.</p> <p>The original reasons given for supporting this variation in management’s report to FMC1 September 2019 remain relevant to Application PA1800480-2, and have been quoted below for reference:</p> <p><i>The height of the proposed development does not comply with the maximum building height requirement sought by DDO33, however, it is understood that the reason for the height sought under the application is a product of two key considerations, which differentiate the proposed development from other applications that typically seek to vary a maximum height requirement under a DDO:</i></p> <p><i>The proposed development is located approximately 10 metres away from an existing (currently under construction) 85.6 metre tall tower, representing the immediate urban context for the site and backdrop to the development.</i></p> <ol style="list-style-type: none"> <li>1. <i>The proposed development is associated with a broader site occupied by several heritage assets of varying degrees of heritage significance, and has sought to</i></li> </ol>		

*consolidate and intensify development in one location to minimise the impact on the individually significant heritage buildings forming part of the subject site.*

2. *Notably, the floor area ratio sought by the development is 6.2:1, which is generally consistent with the floor area ratio sought for the Flagstaff Precinct by the West Melbourne Structure 2018 Plan (6:1) (which also contemplates a preferred maximum building height of 16 storeys for the Flagstaff Precinct).*

### **Podium Height**

The proposed development continues to utilise the existing historic building at 102-108 Jeffcott Street as its podium.

### **Setbacks**

The proposed development maintains (and improves) the setbacks achieved in the originally permitted tower design. A comparative assessment of the tower setbacks is provided in Section 2.3.2 of this report.

### **Built Form Outcomes**

The proposed development (by virtue of the height and setbacks of the tower generally being maintained) continues to meet all of the built form outcomes specified in DDO33, namely:

- The proposed development provides a visual transition between the taller prevailing heights of the CBD, and the lower scale built form of West Melbourne (largely a product of the contribution made by the multi-tower development to the rear (north) of the site).
- The proposed development provides an appropriate transition to the lower scale historic buildings forming part of the subject site, by setting back the tower form approximately 42 metres from the Spencer Street façade of the Manufactory and Warehouse (Sands and McDougall precinct), and 6 metres from the west boundary shared with the Judy Lazarus Transition Centre land.
- The proposed development does not overshadow Flagstaff gardens between 11am and 2pm on 22 September and 22 June.
- The proposed development provides appropriate setbacks that will strengthen the pedestrian scale and focus of the area, and is of sufficient distance from Flagstaff Gardens to ensure that open outlook will not be interrupted.

## **7.4 Clause 58 Apartment Developments**

In the intervening period between when Planning Permit PA1800480 was granted and the date of this report, the following planning scheme amendments have been gazetted, introducing and updating the requirements of *Clause 58 Apartment Developments* (aka the Better Apartment Design Standards):

- Planning Scheme Amendment VC136, gazetted on 24 July 2019.
- Planning Scheme Amendment VC174, gazetted on 20 December 2021.

Clause 32.04-6 provides that Clause 58 does not apply to:

1. 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.

Application PA1800480 was lodged with DELWP on 19 December 2018, prior to the approval date of Amendment VC136.<sup>10</sup>

<sup>10</sup> As Application PA1800480-2 seeks to introduce Dwellings as a new use to the authorised development (where the original application did not include dwellings), it may be argued that the original permit does not provide an accrued right to develop apartments in accordance with the above transitional provisions.

Notwithstanding this, the requirements of *Clause 58 Apartment Developments* provide the relevant planning framework of objectives and standards for assessing whether an appropriate level of internal amenity has been achieved in apartment buildings, and the permit applicant has undertaken a full assessment of the proposed development against the requirements of Clause 58.

An updated Clause 58 assessment accompanied the S.57A Amendment Application received on 15 March 2022, which included consideration of the development against the revised and updated Better Apartment Design Standards introduced by Planning Scheme Amendment VC174.

A full assessment of Application PA1800480-2 has been undertaken against the requirements of *Clause 58 Apartment Developments*.

Excerpts from this assessment, documenting where Application PA1800480-2 seeks to vary the Standard D19 and Standard D25 of *Clause 58 Apartment Developments*, have been provided below to demonstrate how the relevant Objectives for each Standard continue to be met.

Subject to conditions the proposed apartment building at 102-108 Jeffcott Street, West Melbourne, is considered to meet the requirements of *Clause 58 Apartment Buildings*.



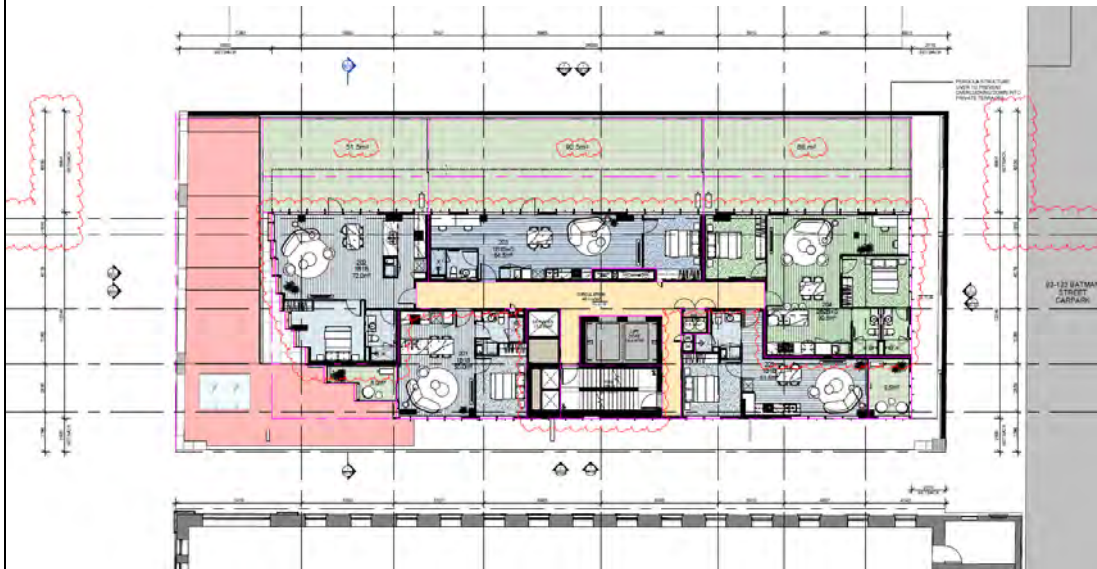
**58.05-3 – PRIVATE OPEN SPACE OBJECTIVE**

*To provide adequate private open space for the reasonable recreation and service needs of residents.*

<b>Standard D19</b>	<p>A dwelling should have private open space consisting of at least one of the following:</p> <ul style="list-style-type: none"> <li>• An area of 25 square metres, with a minimum dimension of 3 metres and convenient access from a living room.</li> <li>• A balcony with at least the area and dimensions specified in Table D8 and convenient access from a living room.</li> <li>• An area on a podium or other similar base of at least 15 square metres, with a minimum dimension of 3 metres and convenient access from a living room.</li> <li>• An area on a roof of 10 square metres, with a minimum dimension of 2 metres and convenient access from a living room.</li> </ul> <p>If a cooling or heating unit is located on a balcony, the minimum balcony area specified in Table D8 should be increased by at least 1.5 square metres.</p> <p>If the finished floor level of a dwelling is 40 metres or more above ground level, the requirements of Table D8 do not apply if at least the area specified in Table D9 is provided as living area or bedroom area in addition to the minimum area specified in Table D11 or Table D12 in Standard D25.</p> <p><b>Table D8 Balcony size</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Dwelling type</th> <th style="text-align: center;">Minimum area</th> <th style="text-align: center;">Minimum dimension</th> </tr> </thead> <tbody> <tr> <td>Studio or 1 bedroom dwelling</td> <td style="text-align: center;">8 square metres</td> <td style="text-align: center;">1.8 metres</td> </tr> <tr> <td>2 bedroom dwelling</td> <td style="text-align: center;">8 square metres</td> <td style="text-align: center;">2 metres</td> </tr> <tr> <td>3 or more bedroom dwelling</td> <td style="text-align: center;">12 square metres</td> <td style="text-align: center;">2.4 metres</td> </tr> </tbody> </table> <p><b>Table D9 Additional living area or bedroom area</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Dwelling type</th> <th style="text-align: center;">Additional area</th> </tr> </thead> <tbody> <tr> <td>Studio or 1 bedroom dwelling</td> <td style="text-align: center;">8 square metres</td> </tr> <tr> <td>2 bedroom dwelling</td> <td style="text-align: center;">8 square metres</td> </tr> <tr> <td>3 or more bedroom dwelling</td> <td style="text-align: center;">12 square metres</td> </tr> </tbody> </table>			Dwelling type	Minimum area	Minimum dimension	Studio or 1 bedroom dwelling	8 square metres	1.8 metres	2 bedroom dwelling	8 square metres	2 metres	3 or more bedroom dwelling	12 square metres	2.4 metres	Dwelling type	Additional area	Studio or 1 bedroom dwelling	8 square metres	2 bedroom dwelling	8 square metres	3 or more bedroom dwelling	12 square metres
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<p>Of the 108 dwellings in the development, 106 dwellings include private open space that complies with Standard D19.</p> <p>Apartments 201 and 205, located directly above the podium (renovated 102-108 Jeffcott Street heritage building) include private open space that falls short of the requirement under the Standard (15 m<sup>2</sup> / minimum dimension 3 m), providing balconies of 8 m<sup>2</sup> and 9.5 m<sup>2</sup>, respectively.</p>																							

The variation requested to Standard D19 for the private open space to these dwellings is supported, noting that the reduction in the area of each balcony is associated with providing a setback to the tower form above the retained Jeffcott Street façade, sufficient to partially conceal these structures from view at street level.

Partial concealment of the balustrading to the balconies of Apartment 201 and 205 will contribute to the impression of the visual integrity of the retained heritage form, addressing Council's Heritage Policy *Clause 22.05 Heritage Places Outside the Capital City Zone*.

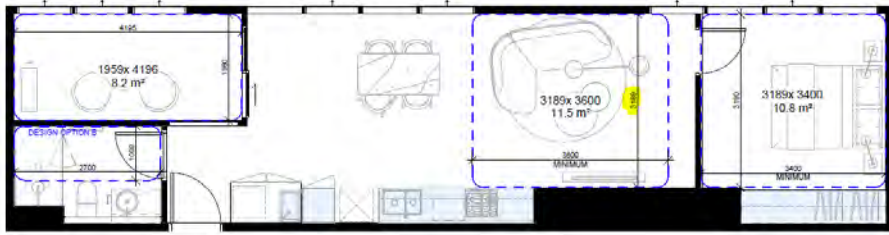


**Excerpt from 'Overall Plan – Level 2', Drawing N.TP1.105 (Revision C)**

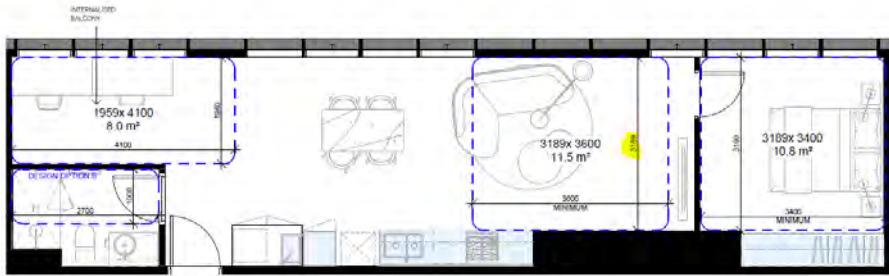
**58.07-1 – FUNCTIONAL LAYOUT OBJECTIVE**

*To ensure dwellings provide functional areas that meet the needs of residents.*

<b>Standard D25</b>	<p>Bedrooms should:</p> <p>Meet the minimum internal room dimensions and area specified in Table D11.</p> <p>Provide an area in addition to the minimum internal room dimensions and area to accommodate a wardrobe.</p> <p>Living areas (excluding dining and kitchen areas) should meet the minimum internal room dimensions specified in Table D12.</p> <p><b>Table D11 Bedroom dimensions</b></p> <table border="1"> <thead> <tr> <th>Bedroom type</th> <th>Minimum width</th> <th>Minimum depth</th> <th>Minimum area</th> </tr> </thead> <tbody> <tr> <td>Main bedroom</td> <td>3 metres</td> <td>3.4 metres</td> <td>10.2 square metres</td> </tr> <tr> <td>All other bedrooms</td> <td>3 metres</td> <td>3 metres</td> <td>9 square metres</td> </tr> </tbody> </table> <p><b>Table D12 Living area dimensions</b></p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Minimum width</th> <th>Minimum area</th> </tr> </thead> <tbody> <tr> <td>Studio and 1 bedroom dwelling</td> <td>3.3 metres</td> <td>10 square metres</td> </tr> <tr> <td>2 or more bedroom dwelling</td> <td>3.6 metres</td> <td>12 square metres</td> </tr> </tbody> </table>	Bedroom type	Minimum width	Minimum depth	Minimum area	Main bedroom	3 metres	3.4 metres	10.2 square metres	All other bedrooms	3 metres	3 metres	9 square metres	Dwelling type	Minimum width	Minimum area	Studio and 1 bedroom dwelling	3.3 metres	10 square metres	2 or more bedroom dwelling	3.6 metres	12 square metres
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	<p>Apartment layouts within the tower floorplate generally provide bedroom and living area dimensions that meet the minimum requirements of Standard D25.</p> <p>Several apartment types require what are considered to be minor variations to the minimum bedroom and living area dimensions (generally between 50 mm and 110 mm, with one outlier ‘Apartment 7’ typology seeking a maximum 200 mm variation to the master bedroom minimum dimension requirement, due to the characteristic splayed architectural treatment to the building’s Jeffcott Street profile).</p> <p>Where apartment typologies seek variations to the minimum dimension requirements, the loss in the interior area of the apartment has been compensated with additional floor area across the apartment.</p> <p>The variations to Standard D25 requested by the proposed development are acceptable, and the apartment layouts will continue to meet the objective of <i>Clause 58.07-1</i>.</p> <p>Conditions have been recommended for inclusion on any amended permit being granted requiring individual apartments on the floor plans to be labelled, corresponding to the apartment typology.</p>																					

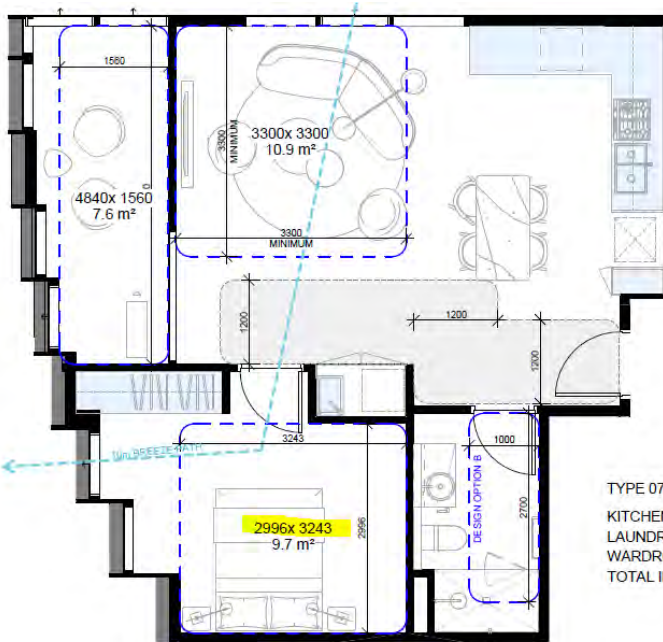


3 BADS ASSESSMENT - APT TYPE 08  
SCALE 1:50



4 BADS ASSESSMENT - APT TYPE 08 B  
SCALE 1:50

**Excerpt from 'Better Apartment Design Standard Assessment', drawing TP1.304 (Revision C)**



1 BADS ASSESSMENT - APT TYPE 07  
SCALE 1:50

**Excerpt from 'Better Apartment Design Standard Assessment', drawing TP1.123 (Revision C)**

TYPE 07 INTERNAL STORAGE SCHEDULE

KITCHEN BENCH	3.59 m <sup>2</sup>
LAUNDRY	2.52 m <sup>2</sup>
WARDROBE	3.21 m <sup>2</sup>
<b>TOTAL INTERNAL STORAGE</b>	<b>9.32 m<sup>2</sup></b>



## 7.5 Development Staging

The land included in the planning unit for Permit PA1800480-1 comprises the following three land parcels:

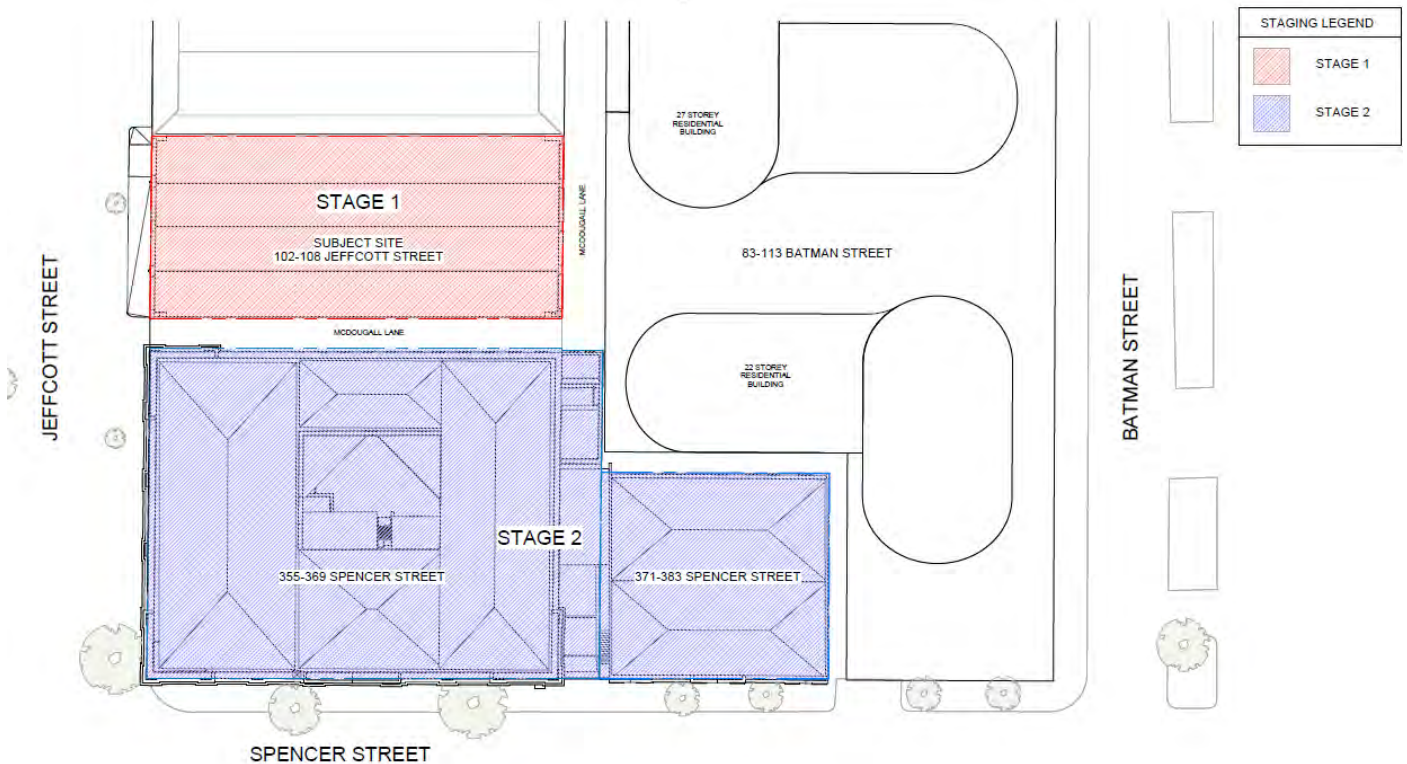
- 102-108 Jeffcott Street, West Melbourne.
- 355-369 Spencer Street, West Melbourne.
- 371-383 Spencer Street, West Melbourne.

In the intervening period between when the permit was first granted and Application PA1800480-2 was lodged ownership of these land parcels has fragmented from a single owner at the time Permit PA1800480 was granted, to three separate owners.

Application PA1800480-2 proposes to stage development (or rather, redesign the development so that it is no longer functionally integrated and contains two independent projects) under the permit so that each owner can deliver part of the development authorised by the permit on their own land.

The owner of 102-108 Jeffcott Street, West Melbourne (the applicant for Application PA1800480-2), wishes to proceed with the development of a tower at their property in accordance with the permit ahead of development proceeding on the remaining land (which would be at the discretion of the separate owners of these land parcels).

Application PA1800480-2 proposes to stage development under Permit PA1800480-2 in the manner set out in the below diagram:



*Excerpt from 'Staging Diagram', Drawing No.TP0.102 (Revision C)*

### 7.5.1 Key issues with staging of development

In considering whether it is appropriate to facilitate staging of the development in the manner proposed, the following issues are highlighted:

1. **Issue: No guarantee or statement of intent that owners of Stage 2 wish to proceed has been provided**

Application PA1800480-2 was not accompanied by a statement of intent, or any other supporting information from the owners of the properties in proposed Stage 2 of the development, confirming whether these owners:

- a) Maintain an interest in proceeding with development of their land in accordance with the permit.
- b) Agree to amendment of the permit and staging of the development under the permit in the manner proposed in Application PA1800480-2.
- c) Accept that they will need to make further amendments to the permit to functionally separate the component of the development authorised by the permit on their land, from the development in Stage 1 (which is to proceed ahead of development of the remaining land).

In the event the owners of the land in proposed Stage 2 do not wish to proceed with development of their land under the permit (or wish to pursue an alternative proposal for redeveloping 355-369 and 371-383 Spencer Street, West Melbourne), there is a question as to what regulative power Permit PA1800480-2 will have over the land in Stage 2, if the development of Stage 1 proceeds and 'takes the benefit' of the permit (including the additional yield granted by application of the West Melbourne Structure Plan FAR to the site) and the permit then expires, because development has not been completed within the permit expiry period.

**2. Issue: No indicative plan or detail of how Stage 2 would need to be redesigned to functionally separate this component of the development from Stage 1 has been provided**

Application PA1800480-2 was not accompanied by a detailed explanation or indicative plans identifying how Stage 2 of the development would need to be modified (both internally and externally), to functionally separate this component of the development from Stage 1.

Examples of elements that would need to be revisited / investigated in Stage 2 include:

- Removal of the proposed skybridge and associated eastern façade treatment to the Sands and McDougall Manufactory at 355-369 Spencer Street, West Melbourne, including internal layout changes to remove this accessway.
- Investigation of the viability of the proposed Residential Hotel use in Stage 2, noting that the number of guest rooms for this use will be reduced from 190 rooms, to 10 rooms, and the internal layout of buildings in Stage 2 will remain consistent with the plans prepared by Hachem (the decision plans for Permit PA1800480-1) showing extensive subordinate infrastructure / services intended to cater to the Residential Hotel use now potentially made redundant by the revised development in Stage 1.

**3. Issue: Proposed revisions to permit conditions have not clearly separated compliance streams for Stage 1 and Stage 2 of the development**

*Issue Summary:*

The applicant's recommended revisions to the conditions in the amended permit adopt a mixed approach of substituting references to the decision plans that informed the originally permitted development with the plans accompanying Application PA1800480-2, and in other instances revising conditions to refer to both the original decision plans and plans accompanying Application PA1800480-2.

The following staging condition is proposed, which is highly unusual and has no precedent (that CoM is aware of):

***Staging (Condition 6)***

a) *Prior to the commencement of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab and temporary structures, a Staging Plan must be submitted to and be approved to the satisfaction of the Responsible Authority and Melbourne City Council. This Staging Plan must include, but is not limited to, plans and information detailing any public realm works, proposed temporary treatment and use of vacant land. The development must proceed in the order of the stages as shown on the endorsed plan(s), unless otherwise agreed to in writing by the Responsible Authority.*

b) *With the exception of condition 6a above, any references to 'development', 'buildings and works', or 'land use' and any requirement for endorsement of documents or plans in this permit is to be read as relating to each stage independantly [sic] as identified in the endorsed staging plan under condition 6a.*

The proposed revisions to the permit conditions may lead to disordered administration of the permit and a lack of clarity regarding when conditions have been fully complied with and when development of Stage 1 can proceed.

The recommended conditions attached to this report include a number of suggested changes to improve the legibility of compliance streams for the submission of amended plans for endorsement.

### **7.5.2 Assessment**

The issues highlighted above do not directly relate to the planning merits of the proposal as detailed in the drawings accompanying Application PA1800480-2, and are primarily legal / administrative in nature, and therefore ultimately matters for the responsible authority (the Minister for Planning) to satisfy themselves of. City of Melbourne communicated a summary of these concerns to the Department and permit applicant in October 2021.

To fully resolve concerns regarding the fragmentation of ownership of the planning unit for Permit PA1800480-2, and to mitigate risks associated with the planning permit only being partly acted on and potentially expiring (e.g. by completing Stage 1, and Stage 2 being abandoned), it is recommended that a condition be imposed on the amended permit requiring a S.173 Agreement to be entered into by the owners of all land referred to in the permit

This S.173 Agreement is needed to ensure that the owners of the land comprising the planning unit for the permit are covenanted to develop their land in accordance with the permit, providing a guarantee that the key planning outcomes achieved under the permit (including the FAR achieved across the entire planning unit) are maintained in the event that Stage 2 is abandoned and the permit expires.

This condition is considered to be justified by the decision guidelines of *Clause 65.01 Approval of an Application or Plan*, which require the responsible authority to consider (amongst other things) the orderly planning of the area, and is consistent with the requirements of S.174 of the *Planning and Environment Act 1987*.

### **7.6 Traffic**

As discussed in section 6.4 of this report, conditions have been recommended for inclusion on any amended permit being granted to:

- Require provision of end of trip facilities in the basement of the development complying with the requirements of Clause 52.34 by replacing existing car parking spaces, and require the deletion of any car parking spaces that would be rendered unusable by virtue of an excessive number of vehicle movements being required for cars to access spaces.

The above requirement will contribute to the further reduction of the number of car parking spaces within the development (currently 50), bringing the car parking provision closer to the maximum number entertained for the site by proposed PO14 in PSA C385melb (38).

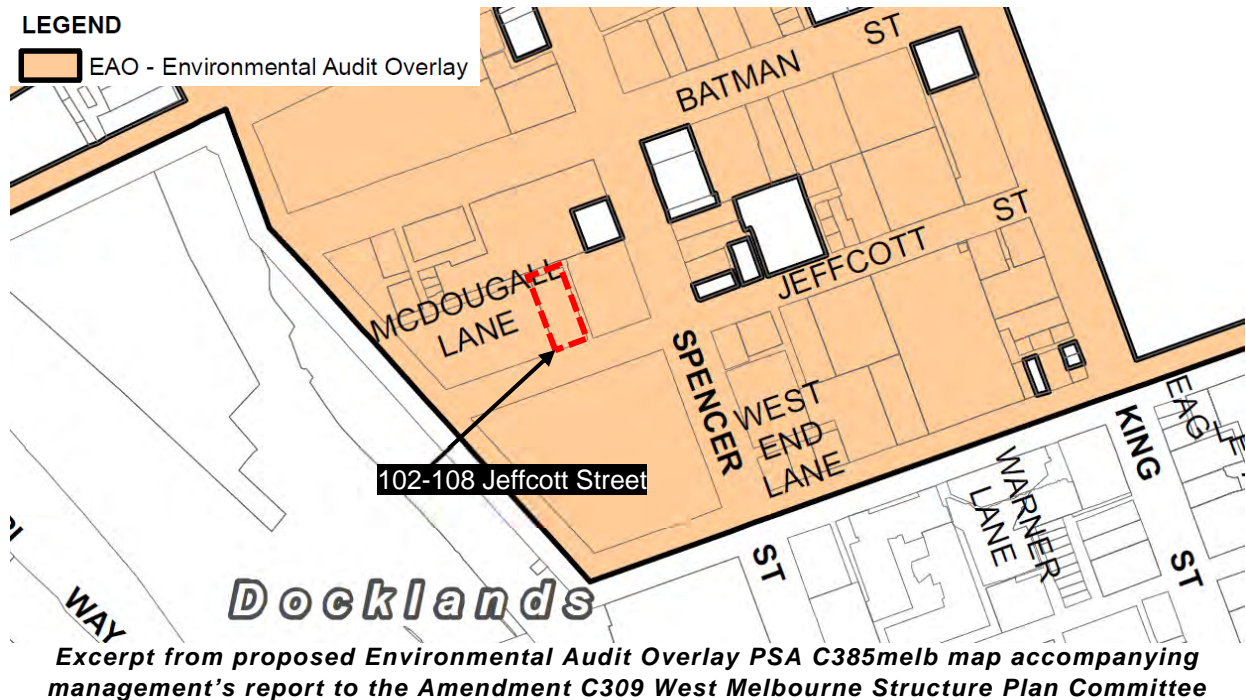
- Give force and effect to the proposed access plan supplied by the permit applicant on 1 March 2022 to address Council's Traffic Engineer concerns relating to the single-width vehicle crossing to Jeffcott Street.

Subject to the above issues being resolved by conditions, it is considered that the concerns raised by Council's Traffic Engineer will be adequately resolved in the proposed development.

## 7.7 Contaminated Land

PSA C385melb proposes to apply an Environmental Audit Overlay to the subject site.

As PSA C385melb is considered to be seriously entertained, and as Application PA1800480-2 seeks to reconfigure the tower at 102-108 Jeffcott Street, West Melbourne to allow a sensitive use (dwellings), updated conditions have been recommended for inclusion on the amended permit to ensure an environmental audit is performed for the land in accordance with current legislative requirements.



## 7.8 Sustainability

### 7.8.1 Energy, Water and Waste Efficiency

Clause 22.19 Energy, Water and Waste Efficiency provides that it is policy to encourage buildings that:

- Minimise greenhouse gas emissions and maximise energy efficiency.
- Minimise mains potable water consumption and encourage the use of alternative water sources, such as rainwater and grey water.
- Provide the facilities that will enable building users and occupants to reduce waste sent to landfill, maximise the recycling and reuse of materials and support the municipality's progress towards becoming a resource and material-efficient city.

Subject to conditions being included in any amended permit being granted to give force and effect to the recommendations of Council's ESD Advisor, it is considered that the proposed development will meet relevant requirements of Clause 22.19 Energy, Water and Waste Efficiency.



### **7.8.2 Stormwater Management (Water Sensitive Urban Design)**

*Clause 22.23 Stormwater Management (Water Sensitive Urban Design)* sets out the following objectives:

- *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
- *To promote the use of water sensitive urban design, including stormwater re-use.*

Subject to conditions being included in any amended permit being granted to give force and effect to the recommendations of Council's ESD Advisor, and Council's Director – City Infrastructure it is considered that the proposed development will meet relevant requirements of *Clause 22.23 Stormwater Management (Water Sensitive Urban Design)*.

## 7.9 Conclusion

Subject to the form of the amended permit being altered in the manner recommended in Attachment 2 of this report, to ensure that the staging of development for the site is strategically managed to avoid future administrative issues with the permit and broader planning unit, the proposed development will maintain the important planning outcomes achieved as part of the original approval.

Specifically, subject to conditions, the proposed development:

- Maintains a FAR for the site which is generally consistent with the Flagstaff Precinct built form requirements in the West Melbourne Structure Plan 2018 and proposed controls for the site under PSA C385melb.
- Maintains a height that is consistent with the originally permitted building envelope.
- Maintains (and in some cases improves) setbacks, complying with the existing planning controls and improving the tower's response to the proposed planning controls under PSA C385melb.
- Meaningfully retains the heritage fabric of the 'Contributory' heritage building at 102-108 Jeffcott Street, West Melbourne, in a manner generally consistent with the original approval, ensuring that this building will continue to make an important contribution to the Sands and McDougall Heritage Precinct in West Melbourne.

Furthermore, the reconfiguration of the approved residential hotel development to an apartment building has been tested against the relevant standards and objectives of *Clause 58 Apartment Developments*, and subject to conditions, will achieve an appropriate level of internal amenity for future occupants.

## **8 OFFICER RECOMMENDATION**

That the Future Melbourne Committee resolves to advise the Minister for Planning of its support for Application PA1800480-2, subject to the revised recommended conditions in Attachment 2 to this report being included in any amended permit being granted.

## ATTACHMENT 1: RECOMMENDED CONDITIONS

Planning and Environment Regulations 2015

Form 4

Sections 63, 64, 64A and 86



**Permit No.: PA1800480-1**

**Melbourne Planning Scheme**

**Responsible Authority: Minister for Planning**

**ADDRESS OF THE LAND:**

102-108 JEFFCOTT STREET, 355-369 AND 371-383  
SPENCER STREET WEST MELBOURNE VIC 3003

**THE PERMIT ALLOWS:**

Use of the land for a Residential Hotel, Food and Drinks Premises, and Office (other than Medical Centre), ~~and Shop (other than Adult sex product shop)~~, staged development of a residential ~~hotel~~ tower and residential hotel, and alterations and additions to the existing buildings with associated partial demolition and works, operation of licensed premises, a reduction of the car parking requirement and the alteration of access to a road in a Road Zone, Category 1, in accordance with the endorsed plans.

### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

#### Amended Plans – Stage 1

1A. Prior to the commencement of the development, including demolition and bulk excavation an electronic set of plans drawn to scale, must be submitted to the Responsible Authority generally in accordance with the plans prepared by CHT Architects dated 11 March 2022 (Revision C), but amended to show:

- a) Indicative public tree replacement plots to the Jeffcott Street frontage in front of the “Jeffcott Street Building”.
- b) Integrated permanent design treatment(s) in accordance with the plan prepared by CHT Architects dated 11 March 2022 (Revision C) to the southern elevation of levels 9 and above (excluding the roof level) of the building at 102-108 Jeffcott Street (“the Jeffcott Street building”) to prevent views of the outdoor recreation areas of the Melbourne Assessment Prison.
- c) The roof top façade of the Jeffcott Street building must be non-transparent to prevent views of the outdoor recreation areas of the Melbourne Assessment Prison.



- d) Reinstatement of original window openings, as determined by a suitably qualified heritage professional, to the Jeffcott Street retained façade and McDougall Lane retained façade (to a depth of one window bay), of the Jeffcott Street building and integration of these openings with the internal layout of the development. The window bays to the Jeffcott Street façade and McDougall Lane façade, immediately at the corner of McDougall Lane and Jeffcott Street, may be altered subject to the retention/reinstatement of a band of original brickwork inclusive of the lower window sill of each first floor window and brickwork beneath. The extent of the retained/reinstated band of original brickwork is to provide a maximum clearance height of 2.5 metres above the Jeffcott Street pavement level.
- e) Retention or reinstatement of the original roof form, as determined by a suitably qualified heritage professional, behind the Jeffcott Street facade of the Jeffcott Street building to the extent practicable and to integrate with the residential hotel tower.
- f) Further exploration of:
  - i. Alternatives to closing off the footpath level (basement level) windows along Jeffcott Street (i.e. by closing off the windows from the inside only and leaving the original openings in the exterior facing wall).
- g) All apartments on the floor plans labelled corresponding to the apartment typology reference (e.g. "APT TYPE 11") in the BADS assessment.
- h) Replacement of the 'bronze' metal cladding to the north McDougall Lane podium façade with a brick façade, using recycled bricks from the demolished portions of the building (where practicable).
- i) Provision of end of trip facilities meeting the requirements of Table 2 to Clause 52.34-5 (Showers) and Table 3 to Clause 52.34-5 (Change Rooms). Car parking spaces that are unusable, by virtue of the number of vehicle movements required to access them, should be removed to create additional space within the basement to accommodate required end of trip facilities.
- j) The ground floor plan updated to show the access arrangements detailed in the discussion plan provided 1 March 2022 to address Melbourne City Council's Traffic Engineer concerns relating to the single-width vehicle crossing to Jeffcott Street, with the accompanying statement:

"All vehicles will enter the site from Jeffcott Street and drive north to access the car lift in a forward direction. Once in the basement, vehicles will exit the car lift forward to the north and then turn right to access the car parking spaces. This may require a three-point turn, depending on the size of the vehicle. To exit the basement, vehicles will drive forward into the car lift from the south. Once at ground level, vehicles will exit the car lift forward to the north and then exit the site by turning into McDougall Lane. Small waste collection trucks will access the site from the Jeffcott Street entrance and park in the loading bay adjacent to the car lift. They will then exit forwards to McDougall Lane. The loading bay will also act a bypass lane if vehicles access the site and are unable to use the car lift."
- k) Any additional changes as required as a result of the Road Safety Audit.
- l) Any changes as required as a result of the Façade Strategy.
- m) Any changes as required as a result of the Loading Management Plan.
- n) Any changes as required as a result of the revised Wind report.
- o) Any changes as required as a result of the revised Waste Management Plan.

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

## Amended Plans (Stage 2)

1. Prior to the commencement of the development, including demolition and bulk excavation, an electronic set of plans drawn to scale, must be submitted to the Responsible Authority generally in accordance with the plans prepared by Hachem dated 6 June 2021 ~~Hachem dated 6 June 2020 (Rev 3)~~, but amended to show:
  - ~~a) Indicative public tree replacement plots.~~
  - ~~b) The skybridge over McDougall Lane located entirely within the Certificate of Title for Lot 2 on Plan of Subdivision PS744960S.~~
  - ~~c) Integrated permanent design treatment(s) in accordance with the plan prepared by CHT Architects dated 21 January 2021 (Revision A) Hachem SK119 (Rev 4, dated 9/10/19) to the southern elevation of levels 9 and above (excluding the roof level) of the building at 102-108 Jeffcott Street ("the Jeffcott Street building") to prevent views of the outdoor recreation areas of the Melbourne Assessment Prison.~~
  - ~~d) The roof top façade of the Jeffcott Street building must be non-transparent to prevent views of the outdoor recreation areas of the Melbourne Assessment Prison.~~
  - ~~e) Reinstatement of original window openings, as determined by a suitably qualified heritage professional, to the Jeffcott Street retained façade and McDougall Lane retained façade (to a depth of one window bay), of the Jeffcott Street building and integration of these openings with the internal layout of the development. The window bays to the Jeffcott Street façade and McDougall Lane façade, immediately at the corner of McDougall Lane and Jeffcott Street, may be altered subject to the retention/reinstatement of a band of original brickwork inclusive of the lower window sill of each first floor window and brickwork beneath. The extent of the retained/reinstated band of original brickwork is to provide a maximum clearance height of 2.5 metres above the Jeffcott Street pavement level.~~
  - ~~f) Retention or reinstatement of the original roof form, as determined by a suitably qualified heritage professional, behind the Jeffcott Street facade of the Jeffcott Street building to the extent practicable and to integrate with the residential hotel tower.~~
  - a) Changes to the plans to adjust the development in Stage 2, reflecting the separation and functional independence of Stage 1 of the development as detailed in the plans endorsed under Condition 1A of this permit.
  - b) Further exploration of:
    - ~~i. Alternatives to closing off the footpath level (basement level) windows along Jeffcott Street (i.e. by closing off the windows from the inside only and leaving the original openings in the exterior facing wall).~~
    - i. The reinstatement of the slate slabs above the internal quadrangle courtyard service stairs of the building at 355-369 Spencer Street, West Melbourne.
    - ii. The retention of a greater proportion of the window openings along the ground level of 355-369 Spencer Street, West Melbourne.
  - ~~c) Reconfiguration of the car parking area under the Jeffcott Street building for alternative uses that support the use / development (e.g. motorcycle, bicycle spaces or storage), or a reduction in the number of basement levels, to reduce in the number of on-site car parking spaces to ensure a safe volume of vehicle movements per hour in McDougall Lane, as informed by a Road Safety Audit.~~
  - d) Any additional changes as required as a result of the Road Safety Audit.
  - e) Any changes as required as a result of the Façade Strategy.
  - f) Any changes as required as a result of the Loading Management Plan.
  - g) Any changes as required as a result of the revised Wind report.
  - h) Any changes as required as a result of the revised Waste Management Plan.

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

#### Layout not altered

2. The development and land uses as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
3. The design treatments required by ~~the Site Security Reports prepared by ARUP conditions 1(c) and (d) of this permit~~ must be maintained at all times to:
  - a) prevent views from levels 9 and above (including the roof top) of the Jeffcott Street building into the outdoor recreation areas of the Melbourne Assessment Prison; and
  - b) prevent the use of any device from levels 9 and above (including the roof top) of the Jeffcott Street building to obtain a view, image or recording of the outdoor recreation areas of the Melbourne Assessment Prison.
4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
5. Prior to the occupation of the development hereby approved, all buildings and works required by this permit must be completed to the satisfaction of the Responsible Authority.

#### Staging Plan and Section 173 Agreement

6. Prior to the commencement of the development, ~~including demolition and bulk excavation, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab and temporary structures~~, a Staging Plan must be submitted to and be approved to the satisfaction of the Responsible Authority ~~and in~~ **consultation with** Melbourne City Council. This Staging Plan must include, but is not limited to, plans and information detailing any public realm works, proposed temporary treatment and use of vacant land. The development must proceed in the order of the stages as shown on the endorsed plan(s), unless otherwise agreed to in writing by the Responsible Authority.

**Unless expressly stated in a permit condition that the condition only applies to Stage 1 or Stage 2, all references to 'development', 'buildings and works', or 'land use' and any requirement for endorsement of documents or plans in this permit are to be read as relating to each stage of the development independently as shown in the approved Staging Plan, with the exception of Condition 6 (Staging Plan) and Condition 6A (Section 173 Agreement).**

- 6A. Prior to the commencement of the development, including demolition and bulk excavation, the owner(s) of all land included in this permit must enter into an agreement with the Responsible Authority, pursuant to Section 173 of the *Planning and Environment Act 1987* providing for the following:
  - a) All land subject to this agreement must be developed in accordance with Permit PA1800480 (or as amended from time to time), including:
    - i. 102-108 Jeffcott Street, West Melbourne (Lot 1 on Plan of Subdivision PS744960S, Vol.11835, Fol.057);
    - ii. 355-369 Spencer Street, West Melbourne (Lot 2 on Plan of Subdivision 744960S (Vol.11835, Fol.058);
    - iii. 371-383 Spencer Street, West Melbourne (Lot 2 on Plan of Subdivision 744961Q (Vol.11835, Fol.061).
  - b) Registration of the agreement on the titles to the affected lands as applicable.

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

## Heritage Conservation

7. Prior to the commencement of the development, including demolition, a detailed heritage conservation plan must be submitted to and be approved by the Responsible Authority in consultation with Melbourne City Council. The plan must be prepared by a suitably qualified heritage professional and a suitably qualified structural engineer and include detailed recommendations for the protection and integration of the historic buildings across the site, including salvaging and reuse of bluestone pitcher pavers from McDougall Lane to the extent possible, to ensure the heritage integrity of all buildings and McDougall Lane is protected and demonstrate the means by which the heritage buildings and fabric will be supported during demolition and construction works to ensure their retention.
8. Prior to the commencement of the development, including demolition and bulk excavation: ~~a bank guarantee or bond to the value of \$200,000.00 must be deposited with the Responsible Authority to ensure that the Jeffcott Street building, and the 355-369 and 371- 383 Spencer Street buildings are not demolished, except to complete the development in accordance with the endorsed plans. The bank guarantee or bond will be returned when the development is completed to the satisfaction of the Council.~~
  - a) A bank guarantee or bond to the value of \$70,000.00 must be deposited with the Responsible Authority to ensure that the Jeffcott Street building is not demolished, except to complete the development in accordance with the endorsed plans. The bank guarantee or bond will be returned when the development is completed to the satisfaction of the Council.
  - b) A bank guarantee or bond to the value of \$70,000.00 must be deposited with the Responsible Authority to ensure that the 355-369 Spencer Street building is not demolished, except to complete the development in accordance with the endorsed plans. The bank guarantee or bond will be returned when the development is completed to the satisfaction of the Council.
  - c) A bank guarantee or bond to the value of \$70,000.00 must be deposited with the Responsible Authority to ensure that the 371-383 Spencer Street building is not demolished, except to complete the development in accordance with the endorsed plans. The bank guarantee or bond will be returned when the development is completed to the satisfaction of the Council.
9. The buildings and works associated with the approved development must be planned and constructed in a manner which prevents damage to the heritage building and fabric to be retained in accordance with the endorsed heritage conservation plan. Where hidden and original or inaccessible details of the buildings are uncovered, works are to cease until the appropriate further record has been made. Where unanticipated original detail is discovered, the Responsible Authority and the Council is also to be notified prior to re- commencement of the works.
10. Prior to the commencement of the development, including demolition and bulk excavation, the permit holder must provide evidence to the Responsible Authority that progress has been made toward obtaining the necessary building permits for the development of the land generally in accordance with the development hereby approved, and that the permit holder is actively procuring the construction services for the development, or as otherwise agreed with the Responsible Authority.

## Security Management Plan

11. Prior to the commencement of the development (including demolition and bulk excavation), a detailed Security Management Plan must be submitted to and be approved by the Responsible Authority.



The Security Management Plan must be prepared in consultation with the Department of Justice and Community Safety and must include site management practices to avoid and minimise risks and potential impacts on the operation of the Melbourne Assessment Prison, including:

- a) During construction:
  - i. A site induction program, which provides the Department of Justice and Community Safety with a process for obtaining contact information for all relevant personnel who are inducted on-site associated with construction activities. The site induction program must also include appropriate procedures to implement during construction to avoid and minimise risks and potential impacts on the operation of the Melbourne Assessment Prison; and
  - ii. Use of temporary hoarding and screening at levels 9 and above to prevent views and prevent the use of any device to obtain a view, image or recording of the outdoor recreation areas of the Melbourne Assessment Prison during construction.
- b) For use and operation of the Jeffcott Street building:
  - i. Ensure that access to the roof top level is only available to approved personnel that require access to the roof top for maintenance or operational purposes. The approved personnel must complete a site induction program and follow procedures to avoid and minimise risks and potential impacts on the operation of the Melbourne Assessment Prison;
  - ii. Ensure that access to the roof top level is only available through a secure door under management supervision;
  - iii. Maintain a log book to record all access to the roof top, a copy of which must be produced to the Department of Justice and Community Safety upon written request.

### **Construction Management Plan**

12. Prior to the commencement of the development, including demolition and bulk excavation, a detailed construction and demolition management plan (CMP) must be submitted to and be approved by Melbourne City Council – Construction Management Group.

The Construction Management Plan must 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 materials reuse.
  - f) traffic management.
  - g) protection of street trees.
13. If a Construction Management Plan or Traffic and Loading Management Plan change any of the tree protection methodologies or impacts on public trees in ways not identified in the endorsed Tree Protection Plan (TPP) approved under this permit, a revised TPP must be submitted to and approved by, Melbourne City Council - Urban Forestry and Ecology.

### **External Materials, Colours and Finishes**

14. Prior to the commencement of the development, excluding demolition and bulk excavation, a schedule of all external materials, colours and finishes, including a colour rendered and notated set of elevations, must be submitted to the Responsible Authority.

When provided to the satisfaction of the Responsible Authority, the schedule of materials will be endorsed by the Responsible Authority to form part of this permit.

### Façade Strategy (Stage 1)

15. Prior to the commencement of the development of Stage 1, excluding demolition and bulk excavation, a facade strategy and material and finishes 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. Unless otherwise approved by the Responsible Authority, the Facade Strategy must be **generally in accordance with the development plans prepared by CHT Architects and dated 11 March 2022 (Revision C) and amended in accordance with Condition 1A of this Permit and must detail: ~~generally in accordance with the development plans prepared by Hachem and dated 29 March 2019 and amended in accordance with condition 1 of this Permit and must detail:~~**
- a) Elevations generally at a scale of 1:50 illustrating typical podium details, entries and doors, and utilities, typical tower detail, and any special features which are important to the building's presentation. The drawings must demonstrate the:
    - i. Finished floor levels and ceiling levels.
    - ii. Further evolution and detail of the façade design of the tower, **demonstrating how solid elements and windows intersect, and demonstrating how a high level of articulation and façade depth across the tower will be achieved. ~~to ensure the delivery of a high quality, textured, modulated form, as viewed from key vantage points in West Melbourne.~~**
    - ~~iii. The design of the canopy to the façade of the Jeffcott Street building, which must be informed by the advice of a suitably qualified heritage professional and wind engineer, to ensure it provides appropriate wind amelioration whilst also achieving a sensitive design response to the heritage building.~~
    - iii. Detailed design information regarding external materials, colours and finishes, glazing, services, security doors and lighting at the ground level, **including consideration of the use of a matt, PVDF coating finish to aluminium panels to achieve a high quality, robust look with a matt, textured finish (similar to terracotta), or a visually interesting and natural looking anodised aluminium finish. Use of a highly shiny and flat bronze powder coated metal is to be avoided.**
    - iv. Details of external painting and conservation works to the retained portions of the heritage buildings including the authenticity of any brickwork on the buildings and any corbelling or pattern that is to be employed. Detail in regard to the retention of the steel framed windows is to be provided.

### Glare

16. External building materials and finishes must not result in hazardous or uncomfortable glare to pedestrians, public transport operators and commuters, motorists, aircraft, or occupants of surrounding buildings and public spaces, to the satisfaction of the Responsible Authority.

### Reflectivity

17. Light reflectivity from external materials and finishes must not reflect more than 20% of specular visible light, to the satisfaction of the Responsible Authority.

### Land Use - Licensed Premises

18. Prior to the occupation of the development, a licensed premises management plan for the licensed premises hereby permitted must be prepared and submitted to the satisfaction of the Responsible Authority in consultation with Melbourne City Council. The licensed premises management plan must:
- a) Provide 'red line' plans identifying the licensed area for each licensed premises authorised under this permit;

- b) Identify the maximum patron capacity, generally in accordance with the population capacity assessment prepared by PLP Building Surveyors & Consultants Pty Ltd, dated 28 March 2019;
- c) Identify the operating hours for all licensed premises authorised under this permit, which are to be limited to ordinary trading hours, being:
  - 7am to 11pm on each day other than Sunday, Good Friday and ANZAC Day;
  - 10am to 11pm on Sunday;
  - Midday to 11pm on Good Friday and ANZAC Day.

When provided to the satisfaction of the Responsible Authority, the licensed premises management plan will be endorsed to form part of this permit. The licensed premises management plan must not be amended except with the prior written consent of the Responsible Authority.

19. Prior to the occupation of the development, a Patron Management Plan for each of the licensed premises within the development listed below must be provided to the satisfaction of the Responsible Authority in consultation with the Council. Each Patron Management Plan must address the matters required under Clause 22.22 "Policy for Licensed Premises that require a Planning Permit" of the Melbourne Planning Scheme, including detail of the means by which patron noise will be reasonably controlled. When provided to and approved to the satisfaction of the Responsible Authority, the Patron Management Plan must be endorsed to form part of this permit. The Patron Management Plans must not be amended except with the prior written consent of the Responsible Authority.

The licensed premises requiring a patron management plan include:

- a) 355-369 Spencer Street (Sands and McDougall Manufactory):
  - i. Ground level: Wine Bar / Café
  - ii. Level 3: Tavern / Bar associated with Residential Hotel.
- b) 371-383 Spencer Street (Sands and McDougall Warehouse):
  - i. Tavern / Bar.

#### **Land Use - General**

20. The uses hereby permitted must at all times comply with the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, and State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority.
21. Except with a further permit, the development / uses hereby permitted must not include:
- a) A live music entertainment venue;
  - b) Amplified music or entertainment, which exceeds background music levels; and
  - c) Any loudspeaker, amplified, relay or other audio equipment installed outside a building.
22. Any music entertainment provided as part of the uses hereby permitted must at all times be limited to background music levels only. For the purpose of this condition 'background music level' has the same meaning as in the *Liquor Control Reform Act 1998*.

#### **Traffic Engineering**

##### **Bicycle facilities**

23. The design and dimensions of the bicycle parking spaces must generally comply with the relevant Australian Standards or Bicycle Network Guidelines.

##### **Car parking layout and access**

24. All spaces, ramps, grades, transitions, accessways, height clearances and car lift must be designed in accordance with the Melbourne Planning Scheme and/or AS/NZS 2890.1:2004, to the satisfaction of Melbourne City Council—~~Engineering Services~~.
25. Pedestrian sight triangles of 2.0 metres x 2.5 metres must be provided at the exits from the Jeffcott Street building car park, as required by the Melbourne Planning Scheme. Columns should be located between 0.25 metres - 1.25 metres from the open end and  $\leq 1.75$  metres from the closed end of the relevant standard car spaces, as required by the Melbourne Planning Scheme.
26. The areas set aside for car parking, the access of vehicles and access ways must be constructed, delineated and clearly lined marked to indicate each car space, the access ways and the direction in which vehicles must proceed along the access ways, in conformity with the endorsed plans. Parking areas and access ways must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

### Road Safety Audit

27. Prior to the commencement of the development, including demolition and bulk excavation, a desktop Road Safety Audit prepared by a suitably qualified professional must be provided to the satisfaction of the Responsible Authority in consultation with Melbourne City Council—~~Engineering Services~~. The Road Safety Audit must address the following matters:
  - a) The extent to which car parking must be reduced in order to achieve a level of vehicle movements per hour (which must not be greater than 30 vehicle movements per hour) generated by the use / development hereby permitted, which will present a safe environment for pedestrians and vehicles accessing McDougall Lane, without presenting the potential for traffic conflicts;
  - b) Vehicular / bicycle / pedestrian access arrangements;
  - c) Loading arrangements;
  - d) Internal circulation / layout;
  - e) The need to ensure vehicles entering the site do not queue in Jeffcott Street or McDougall Lane and obstruct pedestrians / bicycles / traffic;
  - f) How appropriate sightlines/ protection can be achieved for pedestrians / vehicles at the intersection of McDougall Lane and Jeffcott Street, whilst preserving the heritage integrity of the Jeffcott Street building and 355-369 Spencer Street, West Melbourne.

When provided to the satisfaction of Melbourne City Council—~~Engineering Services~~, the Road Safety Audit will be endorsed to form part of this permit.

### Traffic and Loading Management Plan (“TLMP”)

28. Prior to the commencement of the development, including demolition and bulk excavation, a comprehensive TLMP must be prepared in consultation with the Department of Justice and Community Safety, to the satisfaction of Melbourne City Council, specifying how the traffic associated with the permitted uses and development including access / egress of loading vehicles is to be managed during construction and operation, ensuring that:
  - a) All vehicle types expected to service the site are capable of being accommodated within the loading area / bays. Compliance with this requirement is to be demonstrated by the submission of appropriate swept path diagrams accompanying the TLMP.
  - b) Loading bays are designed in accordance with relevant Australian and New Zealand Standards or other relevant standards as determined by a suitably qualified traffic engineer.
  - c) The delivery needs of the various components of the uses and development can be accommodated.
  - d) Vehicles do not queue on-street.



- e) Vehicles are able to both access / egress the site in a forward direction.
- f) Any potential conflicts between various vehicles (and other road users) are satisfactorily addressed; and
- g) Times for deliveries are limited insofar as possible to minimise potential amenity impacts on nearby sensitive land uses, including the guest rooms within the Residential Hotel use approved under this permit (e.g. by limiting vehicle deliveries to ordinary trading hours).
- h) Vehicles do not:
  - i. stop, park, load or unload at a clearway; or
  - ii. in any way obstruct or inhibit access or egress to or from the Melbourne Assessment Prison.
- i) Access (including for deliveries, prisoner transportation and in emergencies) to the Melbourne Assessment Prison from Jeffcott Street is maintained at all times (24 hours per day).

The TLMP is to be submitted to and approved by Melbourne City Council—~~Engineering Services~~. The owner must reimburse the Council for all costs associated with any off-site parking changes that may be required as a result of the development.

### Wind Test Modelling (Stage 1)

29. Prior to the commencement of the development of Stage 1, excluding demolition and bulk excavation, an updated Wind Tunnel Test and Wind Analysis Report of the development must be submitted.

The updated report must be generally in accordance with the Wind Study prepared by [Vipac Engineers & Scientists dated 22 January 2021](#), ~~RWDI Anemos Pty Ltd, dated 11 February 2019~~, but must be prepared on the basis of updated plans for consideration under Condition 1 of this permit. The updated Wind Tunnel Test and Wind Analysis Report must set out any recommended design revisions necessary to achieve the comfort criterion identified in the report prepared by [Vipac Engineers and Scientists and dated 22 January 2021](#) ~~RDWI and dated 11 February 2019, and must not rely on existing or proposed vegetation for this purpose.~~

When provided to the satisfaction of the Responsible Authority, the Wind Tunnel Test and Wind Analysis Report submitted in accordance with this condition will be endorsed to form part of this permit.

### Waste Management

30. Prior to the commencement of the development, excluding demolition and bulk excavation, an amended Waste Management Plan (WMP) must be submitted generally in accordance with the WMP prepared by Leigh Design and [dated 12 January 2021 \(relevant to Stage 1\) and the WMP prepared by Leigh Design dated 17 December 2018 \(relevant to Stage 2\)](#), but amended to ensure consistency with the plans referred to in Condition 1 (Amended Plans), Condition 24 (Road Safety Audit) and Condition 25 (Loading Management Plan). The WMP must be in accordance with Melbourne City Council's Guidelines for Preparing a Waste Management Plan to the satisfaction of Melbourne City Council—~~Engineering Services~~. When provided to the satisfaction of Melbourne City Council—~~Engineering Services~~, the WMP will be endorsed to form part of this permit.
31. The waste storage and collection arrangements must be in accordance with the endorsed Waste Management Plan (WMP). Waste storage and collection arrangements must not be altered without the prior consent of the Melbourne City Council—~~Engineering Services~~.
32. No garbage bin or waste materials generated by the development may be deposited or stored outside the site and bins must be returned to the garbage storage area as soon as practical after garbage collection, to the satisfaction of the Council.

## **Environmentally Sustainable Design**

### **Amended SMP (Stage 1)**

- 33A. Prior to the commencement of the development, excluding demolition and bulk excavation, an amended Sustainability Management Plan (SMP), generally in accordance with the Sustainability Management Plan and Water Sensitive Urban Design Statement prepared by Ark Resources dated 15 March 2021 must be submitted to and approved by the Responsible Authority.

The amended SMP must be prepared by Ark Resources or a similarly qualified person / company and provide:

- i. Further details on the targets included in the SMP dated 28 March 2019 (including all calculations, modelling reports, specification extracts, architectural drawing excerpts that have been produced to demonstrate compliance with the identified targets).
- ii. Evidence that the project has been registered with the GBCA for a 5 Star Green Star project using the Green Star Design & As-Built tool V1.3 prior to December 2021, alternatively registration of the Green Star Buildings tool can also be provided.

Copies of the final GBCA certification of the project's Green Star Design & As-Built rating must be submitted to the responsible authority.

When provided to the satisfaction of the Responsible Authority the amended SMP will be endorsed to form part of this permit.

### **Amended SMP (Stage 2)**

33. Prior to the commencement of the [development of Stage 2](#), excluding demolition and bulk excavation, an amended Sustainability Management Plan (SMP), generally in accordance with the Sustainability Management Plan prepared by WSP and dated 28 March 2019 must be submitted to and approved by the Responsible Authority. The amended SMP must be prepared by WSP or a similarly qualified person / company and provide further details on the targets included in the SMP dated 28 March 2019 (including all calculations, modelling reports, specification extracts, architectural drawing excerpts that have been produced to demonstrate compliance with the identified targets). When provided to the satisfaction of the Responsible Authority the amended SMP will be endorsed to form part of this permit.

### **Compliance with SMP**

34. Prior to the occupation of the development, a report from the author of the endorsed SMP, or similarly qualified person or company, outlining how the performance outcomes specified in the amended SMP 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 SMP report have been implemented in accordance with the relevant approved plans. The report must include all final calculations and modelling reports, commissioning and testing reports, building user guides and other supplementary materials, that have been produced to demonstrate compliance with the relevant targets included in the endorsed SMP.

## **Protection of Public Trees and Public Realm Civil Works (Tree Plots)**

### **Tree Protection Plan (TPP)**

35. Prior to the commencement of the development, including demolition and any excavation, a Tree Protection Plan (TPP), for any public trees that may be affected by the development, must be provided to the satisfaction of Melbourne City Council - Urban Forestry and Ecology. When provided to the satisfaction of Melbourne City Council – Urban Forestry and Ecology, the TPP will

be endorsed to form part of this permit. The TPP must be in accordance with 'AS 4970-2009 – Protection of trees on development sites' and include:

- a) City of Melbourne asset numbers for the subject trees (found at <http://melbourneurbanforestvisual.com.au>).
  - b) Reference to the finalised Construction and Traffic Management Plan, including any public protection gantries.
  - c) Site specific details of the temporary tree protection fencing to be used to isolate publicly owned trees from the demolition and construction activities or details of any other tree protection measures considered necessary and appropriate to the site.
  - d) Specific details of any special construction methodologies to be used within the Tree Protection Zone of any publicly owned tree. These must be provided for any utility connections or civil engineering works.
  - e) Full specifications of any pruning required to publicly owned trees.
  - f) Any special arrangements required to allow ongoing maintenance of publicly owned trees for the duration of the development.
  - g) Details of the frequency of the Project Arborist monitoring visits, interim reporting periods and final completion report (necessary for bond release). Interim reports of monitoring must be provided to Council's email via [trees@melbourne.vic.gov.au](mailto:trees@melbourne.vic.gov.au).
36. All works (including demolition) within the Tree Protection Zone of public trees must be undertaken in accordance with the endorsed TPP and supervised by a suitably qualified arborist where identified in the report, except with the further written consent of the Council.
37. Following the approval of a TPP, a bank guarantee equivalent to the combined environmental and amenity values of public trees that may be affected by the development will be held against the TPP for the duration of construction activities. The bond amount will be calculated by the Council and provided to the applicant / developer / owner of the site. Should any tree be adversely impacted on, the Council will be compensated for any loss of amenity, ecological services or amelioration works incurred.

#### **Public Realm Civil Works (Tree Plots)**

38. Prior to the commencement of the development (excluding demolition) Public Realm Civil Works (Tree Plots) Engineering Plans must be provided to the satisfaction of Melbourne City Council – Urban Forestry and Ecology detailing all proposed replacement public tree plots. When provided to the satisfaction of Melbourne City Council – Urban Forestry and Ecology, the Public Realm Civil Works (Tree Plots) Engineering Plans will be endorsed to form part of this permit.
39. Prior to the occupation of the development, the civil works shown on the Public Realm Civil Works (Tree Plots) Engineering Plans must be carried out at no cost to, and completed to the satisfaction of, the Council.

#### **Potentially Contaminated Land and Remediation (Stage 2)**

40. Prior to the commencement of the development (excluding any works necessary to undertake the assessment), a Preliminary Risk Screen Assessment (PRSA) of the site must be conducted by a suitably qualified environmental auditor. The PRSA statement and report must be submitted to the Responsible Authority in accordance with section 205 of the Environment Protection Act 2017 and respond to the matters contained in Part 8.3, Division 2 of the Environment Protection Act 2017 to the satisfaction of the Responsible Authority.
41. If the PRSA requires an Environmental Audit be undertaken, then prior to the commencement of the development (excluding any works necessary to undertake the audit), an Environmental Audit of the site must be carried out by a suitably qualified environmental auditor. On

completion of the Environmental Audit, an Environmental Audit Statement (EAS) and report must be submitted to the Responsible Authority in accordance with section 210 of the Environment Protection Act 2017 responding to the matters contained in Part 8.3, Division 3 of the Environment Protection Act 2017 to the satisfaction of the Responsible Authority. The EAS must either:

- state the site is suitable for the use and development allowed by this permit;
- state the site is suitable for the use and development allowed by this permit if

the recommendations contained within the EAS are complied with.

42. All the recommendations of the Environmental Audit Statement (EAS) must be complied with to the satisfaction of the Responsible Authority for the full duration of any buildings and works on the land in accordance with the development hereby approved, and must be fully satisfied prior to the occupation of the development. Written confirmation of compliance must be provided by a suitably qualified environmental auditor in accordance with any requirements in the EAS.
43. If any of the conditions of the EAS require ongoing maintenance or monitoring, prior to the commencement of the use and prior to the issue of a statement of compliance under the Subdivision Act 1988 the owner of the land must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority to the effect that all conditions of the EAS issued in respect of the land will be complied with.
44. ~~Prior to the commencement of the development, excluding demolition and including bulk excavation, the permit holder or owner 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.~~

~~The PEA should include:~~

- ~~• 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.~~
- ~~• A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials.~~
- ~~• Identification of the likelihood of the site being potentially contaminated.~~

45. ~~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 and any works necessary to undertake the assessment) the permit holder or owner 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. The CEA should include: 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.~~
  - ~~• 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.~~
  - ~~• 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.~~

- ~~• An appraisal of the data obtained following soil sampling in accordance with ecological, health based and waste disposal guidelines.~~
- ~~• Recommendations regarding what further investigative and remediation work, if any, may be necessary to ensure the site is suitable for the intended use(s).~~
- ~~• Recommendations regarding whether, on the basis of the findings of the CEA, it is necessary for an Environmental Audit in accordance with Section 53Y of the *Environment Protection Act 1970* to be performed or a Statement of Environmental Audit in accordance with Section 53Z of the *Environment Protection Act 1970* is required, to ensure the site is suitable for the intended use(s).~~

~~46. The recommendations of the CEA must be complied with to the satisfaction of the Responsible Authority for the full duration of any buildings and works on the land in accordance with the development hereby approved, and must be fully satisfied prior to the occupation of the development.~~

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

~~47. Should the CEA recommend or the Responsible Authority consider that an Environmental Audit of the site is necessary, then prior to the commencement of the development, excluding demolition and any works necessary to undertake the assessment, the permit holder or owner 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 of the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority for the full duration of any buildings and works on the land, and must be fully satisfied 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 regarding the verification of remedial works.~~

~~If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and /or monitoring, the permit holder or owner 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.~~

## **Noise Attenuation**

44. Noise attenuation measures (including external glazing and doors and any air conditioning or ventilation system) designed by a recognised acoustic consultant must be included in any new, refurbished or converted building or part of a building used for residential use (including residential hotel) to ensure that the maximum noise level does not exceed 45dB in habitable rooms with windows closed when music noise is emitted from the Docklands stadium, to the satisfaction of the Responsible Authority. If the development is within 400 metres of the centre point of the stadium, the building must be fitted with ducted air-conditioning. The

recommendations contained in the acoustic report must be implemented, at no cost to the Responsible Authority, prior to the occupation of the residential hotel.

### 3D Digital Model

45. Prior to the occupation of the development, a 3D digital model of the approved development must be submitted to, and must be to the satisfaction of, Melbourne City Council. The model should be prepared having regard to Advisory Note – 3D Digital Modelling Melbourne City Council. Digital models provided to the Council may be shared with other government organisations for planning purposes. The Council may also derive a representation of the model which is suitable for viewing and use within its own 3D modelling environment. In the event that substantial modifications are made to the building envelope a revised 3D digital model must be submitted to, and be to the satisfaction of, the Council.
46. Before the development starts, excluding demolition, bulk excavation and site preparation works, or as otherwise agreed with the Responsible Authority, a 3D digital model of the development and its immediate surrounds, 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.

### Building Appurtenances and Services

47. All building plant and equipment on the roofs, balcony areas and common areas are to be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant machinery equipment, including but not limited to air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment, shall be to the satisfaction of the Responsible Authority.
48. Any satellite dishes, antennae or similar structures associated with the development must be designed and located at a single point in the development to the satisfaction of the Responsible Authority.
49. All service pipes, apart from roof down pipes and those already on the existing heritage buildings, must be concealed from the view of a person at ground level within common areas, public thoroughfares and adjoining properties.

### Melbourne City Council lane

50. The title boundaries for the property may not exactly agree with the road alignments of the abutting Melbourne City Council lane(s). The approved works must not result in structures that encroach onto any Council lane.

### Drainage

51. All projections over the street alignment must be drained to a legal point of discharge in accordance with plans and specifications first approved by Melbourne City Council—~~Engineering Services~~.
52. Prior to the commencement of the development, excluding demolition and bulk excavation, a stormwater drainage system, incorporating best practice integrated water management design principles to the satisfaction of Melbourne City Council—~~Engineering Services~~, must be submitted to and approved by Melbourne City Council—~~Engineering Services~~. This system must be constructed prior to the occupation of the development and provision made to connect this system to the Council's underground stormwater drainage system.

### Demolish and Construct Access

53. 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 Melbourne City Council—~~Engineering Services~~.

54. All pedestrian paths and access lanes shown on the endorsed plans must be constructed and maintained to the satisfaction of the Melbourne City Council—~~Engineering Services~~.

#### **Reconstruction of Roads and Footpaths**

55. The road adjoining the site along McDougall Lane must be reconstructed together with associated works including the modification of services as necessary at the cost of the owner / developer, in accordance with plans and specifications first approved by Melbourne City Council—~~Engineering Services~~.
56. The footpath(s) adjoining the site along Spencer Street and Jeffcott Street must be reconstructed together with associated works including the renewal/reconstruction of kerb and channel and modification of services as necessary at the cost of the owner / developer, in accordance with plans and specifications first approved by Melbourne City Council—~~Engineering Services~~.
57. Existing street levels in Spencer Street, Jeffcott Street and McDougall Lane must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from Melbourne City Council—~~Engineering Services~~.

#### **Street Lighting**

58. 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 Melbourne City Council—~~Engineering Services~~.

#### **Street Furniture**

59. Existing street furniture must not be removed or relocated without first obtaining the written approval of Melbourne City Council—~~Engineering Services~~.
60. All street furniture such as street litter bins, recycling bins, seats and bicycle rails must be supplied and installed on Spencer Street and Jeffcott Street footpaths outside the proposed building to plans and specifications first approved by Melbourne City Council—~~Engineering Services~~.

#### **Pedestrian Ramps**

61. All pedestrian ramps must be designed and constructed in accordance with AS 1428:2009 Design for Access and Mobility and should be fitted with ground surface tactile indicators (TGSI's). Details of the TGSI's must be submitted to and approved by ~~Melbourne City Council~~~~City of Melbourne~~—~~Engineering Services~~ prior to their installation.

#### **Public Lighting**

62. 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 Melbourne City Council, a lighting plan must be prepared to the satisfaction of the Council. The lighting plan should be generally consistent with the Council's Lighting Strategy. The lighting works must be undertaken prior to the occupation of the development, in accordance with plans and specifications first approved by Melbourne City Council—~~Engineering Services~~.

#### **Transport for Victoria**

63. The permit holder must take all reasonable steps to ensure that disruption to bus operations along Spencer Street is kept to a minimum during the construction of the development.
- Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria eight (8) weeks prior by telephoning 1800 800 007 or emailing [customerservice@ptv.vic.gov.au](mailto:customerservice@ptv.vic.gov.au).

#### **Permit Expiry**

64. This permit will expire if one of the following circumstances applies:

- a) The development is not started within three years of the date of this permit.
- b) The development is not completed within five years of the date of this permit.
- c) The use has not commenced within two years off the completion of the development.
- d) The use is discontinued for a period of two years.

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.

### **Landscape Plan (Stage 1)**

65. Prior to the commencement of the development of Stage 1, excluding demolition, bulk excavation and site preparation works, an updated Landscape Plan, generally in accordance with the Landscape Plan prepared by Tract dated 8 February 2021 (Revision 3) must be provided to the Responsible Authority. The Landscape Plan must be updated to include:

- a) Details of all surface finishes including pathways, driveways, terrace or decked areas.
- b) Clear demarcation of public realm and private areas including arrangements for pedestrian, bicycle and vehicular circulation.
- c) A comprehensive plant species list developed by a qualified horticulturalist including plant specs, planting size, height at maturity, amounts and proposed locations.
- d) All Green Infrastructure (GI) (i.e. tree planters; size including depth, geo textiles, drainage and irrigation) (including any additional GI identified in the updated Sustainability Management Plan (SMP)).
- e) Detail on potting substrate to be used in GI.
- f) Identification of all deep soil planting areas.
- g) An irrigation and maintenance plan for all landscaped areas within the development.
- h) How the development responds to water sensitive urban design principles, including how storm water will be mitigated, captured, cleaned and stored for onsite use and the location and type of irrigation systems to be used, including the location of any rainwater tanks to be used for irrigation.

When provided to the satisfaction of the Responsible Authority in consultation with Melbourne City Council, the Landscape Plan will be endorsed to form part of this permit. The endorsed Landscape Plan must not be modified or altered without the prior consent of the Responsible Authority.

66. Prior to the commencement of all landscaping works as detailed in the condition above, a landscape management plan detailing the maintenance regime and management responsibilities must be prepared and submitted to the satisfaction of the Responsible Authority in consultation with Melbourne City Council.