Report to the Future Melbourne (Planning) Committee

Planning Permit Application: TP-2014-1061 146 Toorak Road West, South Yarra

Presenter: Jane Birmingham, Practice Leader Statutory Planning

Purpose and background

- 1. The purpose of this report is to advise the Future Melbourne Committee of a planning permit application for 146 Toorak Road West, South Yarra (refer Attachment 2 Locality Plan).
- 2. The application seeks approval to carry out development including demolition, construction of a 4 storey building (above 2 basement levels), reduce the car parking requirement and create/alter access to a road in a Road Zone Category 1. The proposed building is to be occupied by 37 apartments and 54 associated car spaces. The plans also show an existing tram stop on the footpath in front of the subject site being relocated to the footpath in front of the adjoining property to the east.
- 3. Notice of the application was given and 102 objections were received in response. A consultation meeting was held on 7 September 2015. On 1 October 2015, amended plans were received, seeking to address some of the matters raised by objectors. The application was formally amended on 6 October 2015 and notice of the amended plans was given to all objectors. A further 47 objections were received in response.

Key issues

- 4. The key issues to consider are consistency with Clause 55 (Rescode), traffic and car parking, internal amenity and the proposed relocation of the tram stop. The application has been assessed against the Melbourne Planning Scheme, including Clause 55 (Rescode) and having regard to the concerns raised by objectors.
- 5. The proposed development is generally an appropriate response to the site in terms of matters assessed under Rescode. Council's traffic engineers have concluded that the proposed car parking provision is adequate. Internal amenity is generally of an acceptable to high standard. The height of the proposed building is appropriate to its context, noting the substantial setback of the top floor level, the Toorak Road location of the site and the fact that heights of nearby buildings are generally 2-4 storeys. The matter of whether the tram stop can be removed/relocated will be determined by Public Transport Victoria/ Yarra Trams. If it cannot be, the plans for the proposed development will have to be amended to address this.
- 6. Subject to conditions to address matters including a need for additional privacy screening and improvements to internal amenity, the proposed development is appropriate and will not result in unreasonable amenity impacts. A further condition requires the land to be removed from the City of Melbourne Resident Parking Scheme so that occupiers of the dwellings will not be eligible for Resident Priority Parking Permits.

Recommendation from management

 That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit to Planning Application TP-2014-1061, subject to conditions included in the delegate's report (Refer Attachment 4 – Delegate's Report).

Attachments:

- 1. Supporting Attachment
- 2. Locality Plan
- 3. Selected plans
- 4. Delegate Report.

Supporting Attachment

Legal

- 1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (Act) sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme.
- 2. As objections have been received, sections 64 and 65 of the Act provide that the responsible authority must give the applicant and each objector notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The responsible authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the VCAT for a review of the decision or, if an application for review is made, until the application is determined by the VCAT.

Finance

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

Conflict of interest

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

Stakeholder consultation

5. Formal notification of the application was carried out in July 2015 by notices to owners and occupiers of adjoining properties and a notice on site. Notice of the amended application was given to all objectors in October 2015.

Relation to Council policy

6. Relevant Council policies are discussed in the attached Delegate's Report (refer Attachment 4).

Environmental sustainability

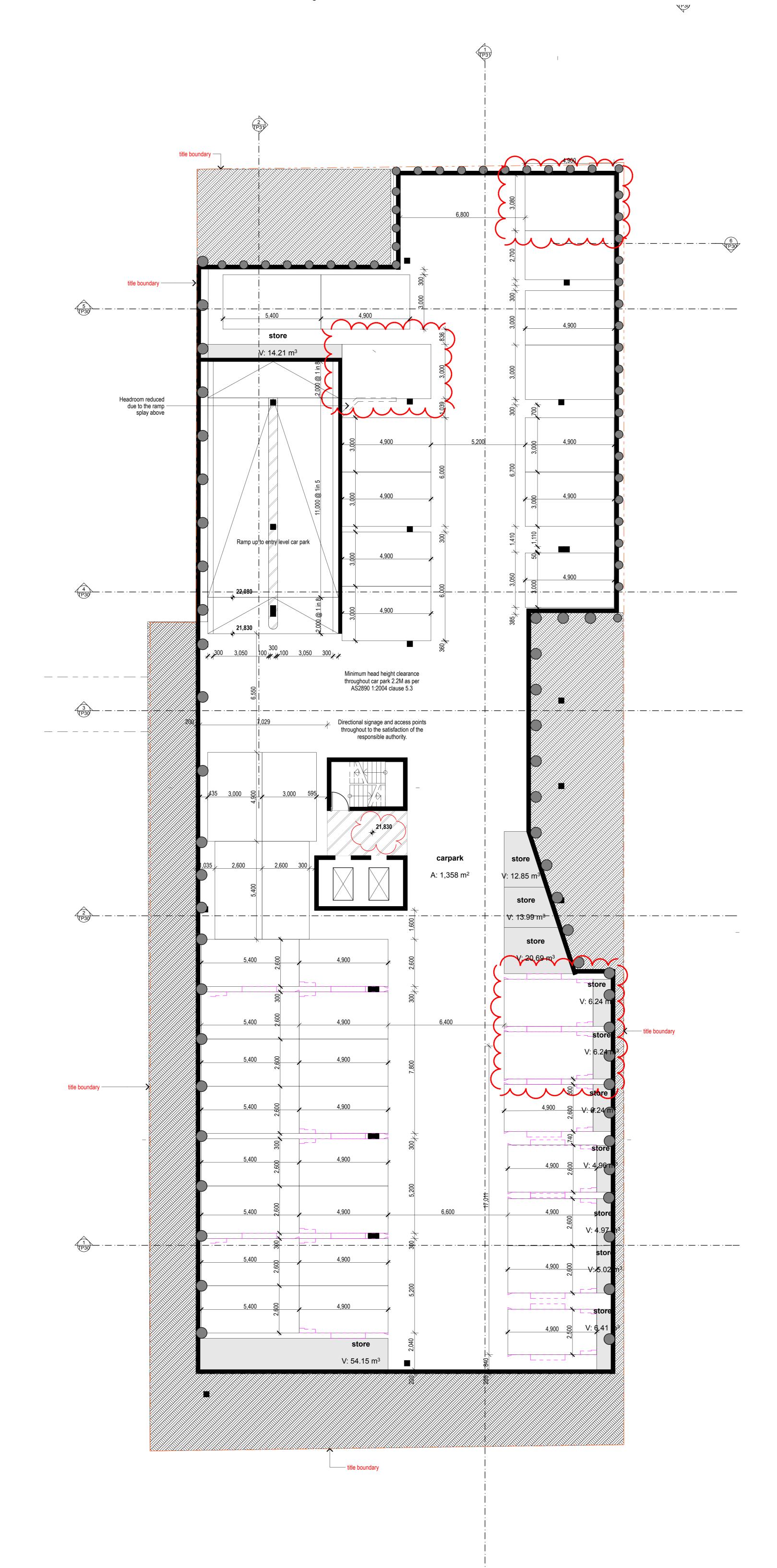
 An ESD report forms part of the original application submission. It does not address all requirements of Clause 22.19 – Energy, Water and Waste Efficiency. A condition in the Delegate's Report addresses this. Page 3 of 48

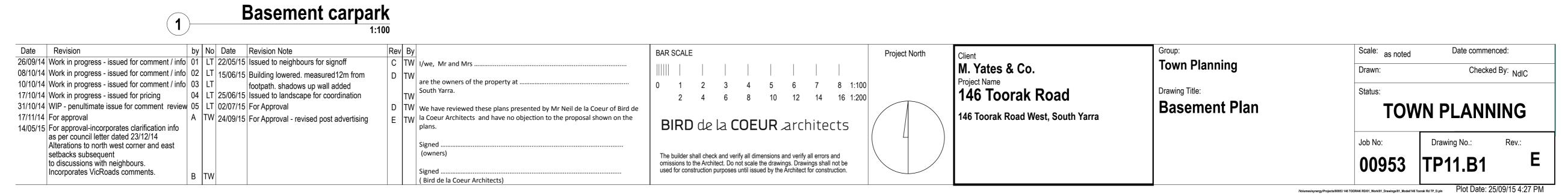
Attachment 2 Agenda item 6.8 Future Melbourne Committee 1 December 2015

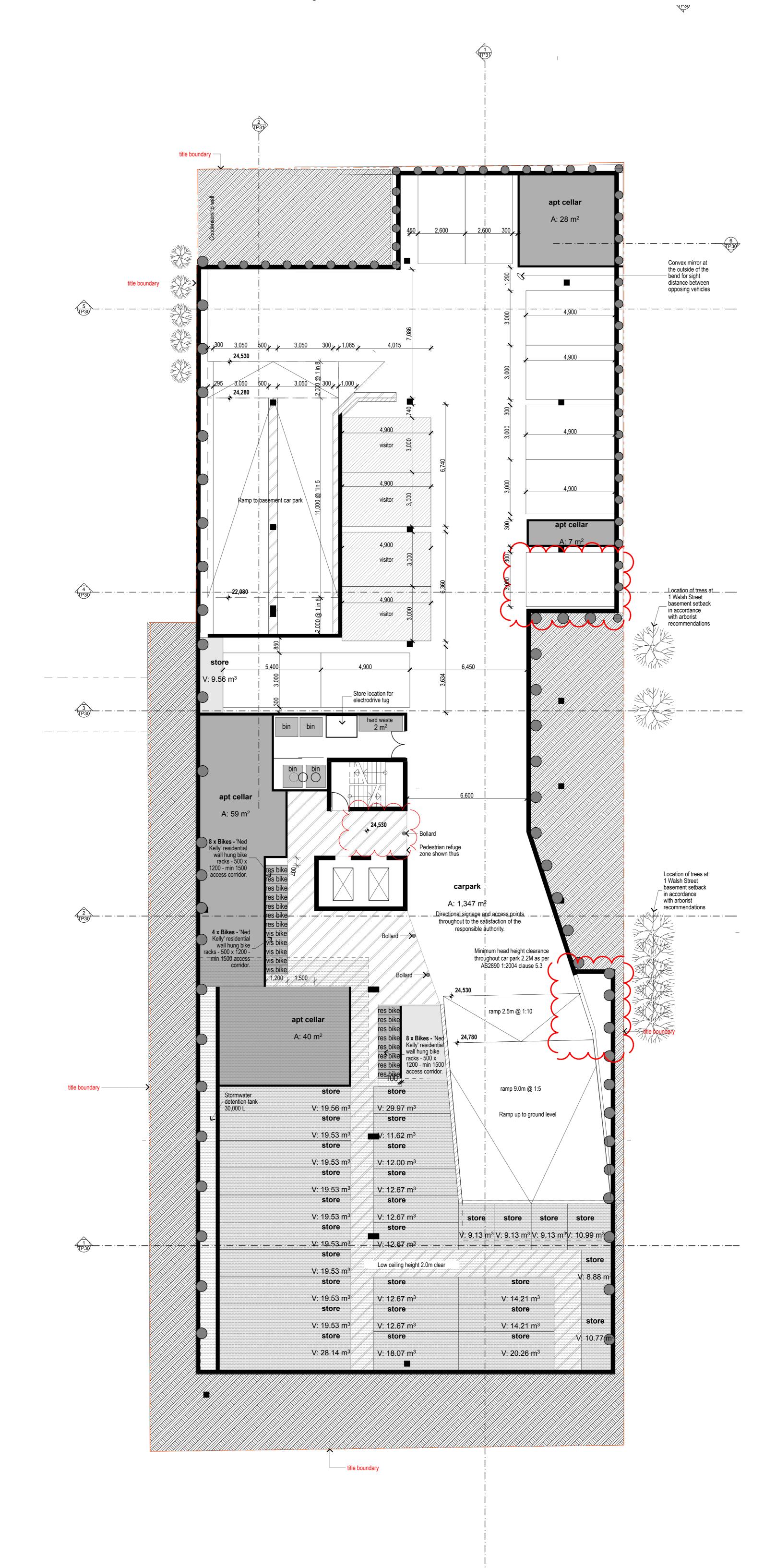
Locality Plan

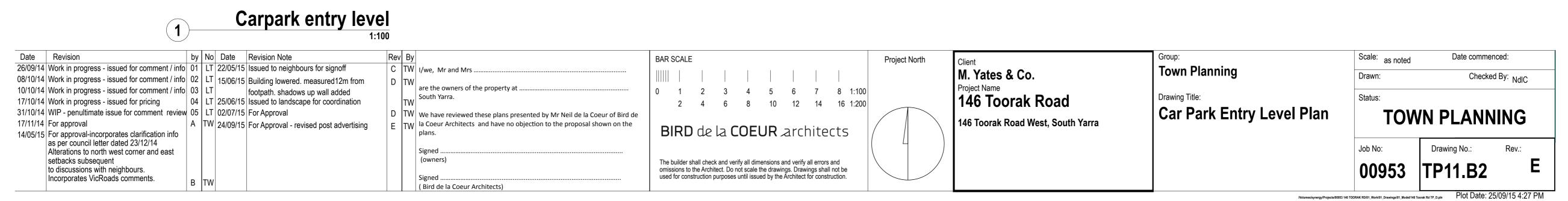
146 Toorak Road West, South Yarra



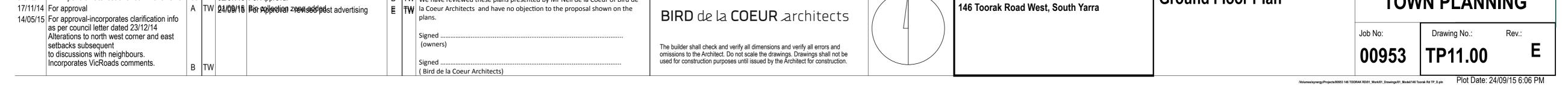


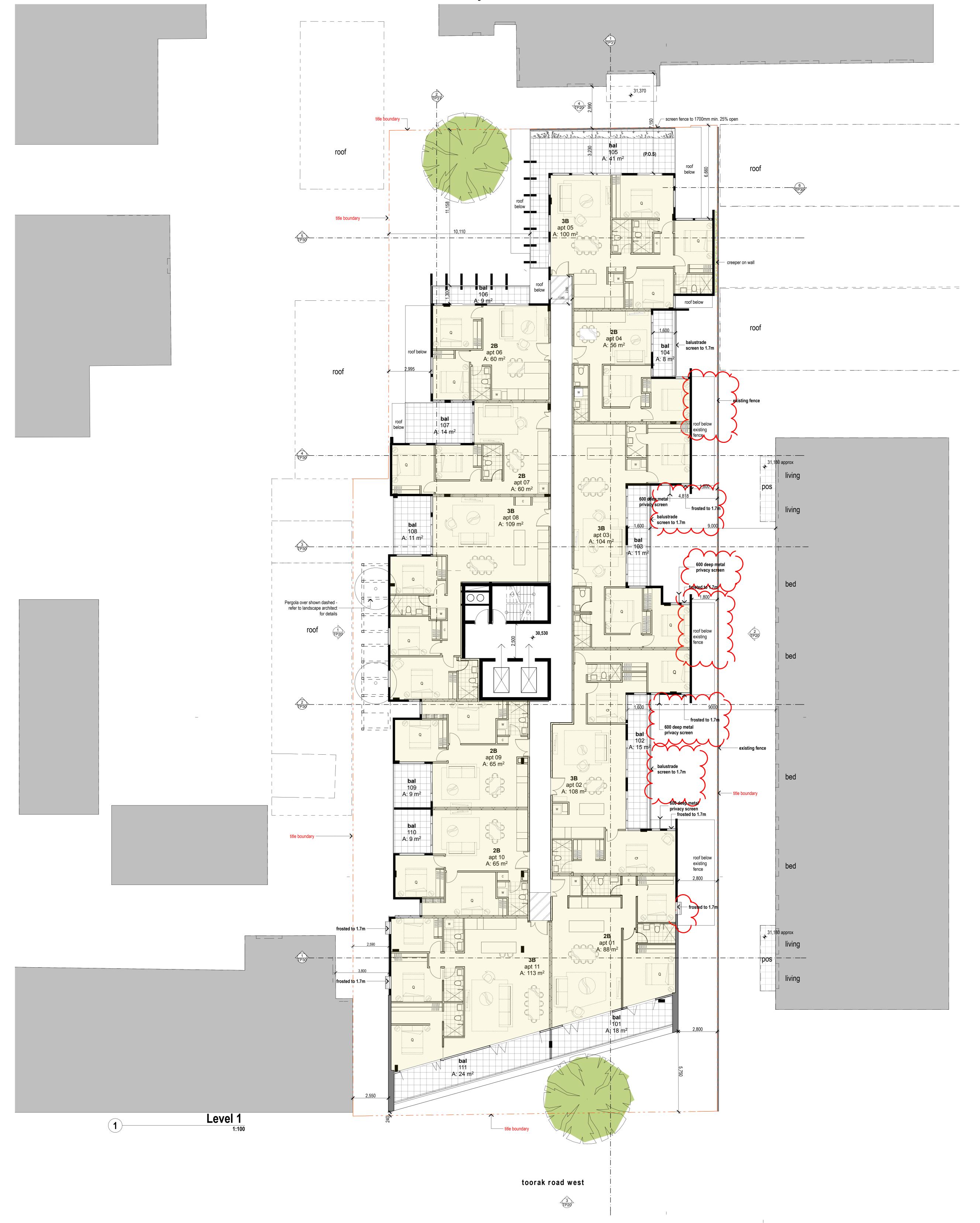








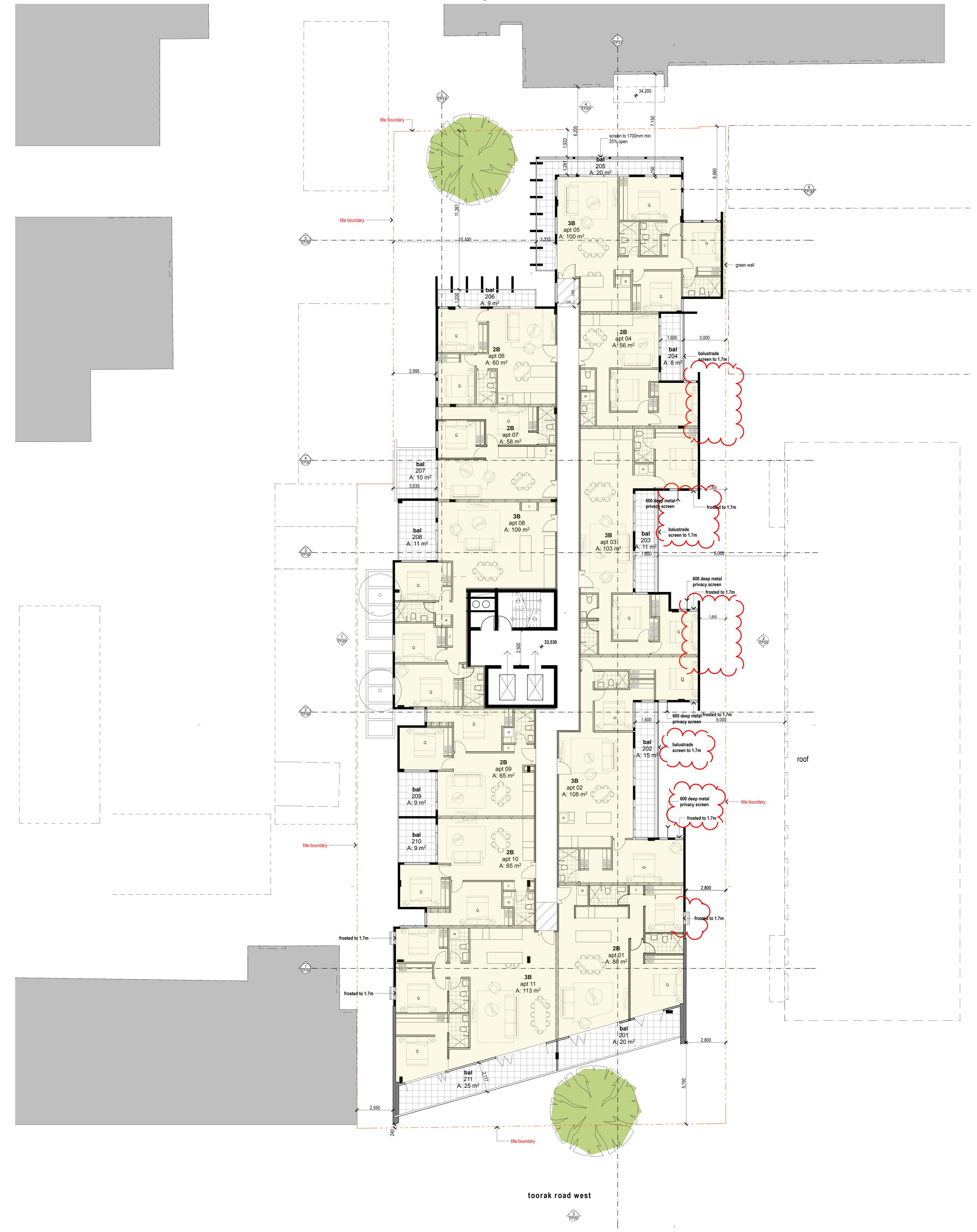




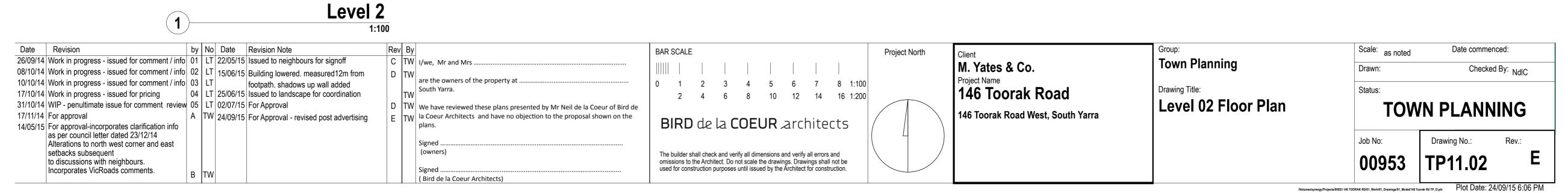
Page 7 of 48

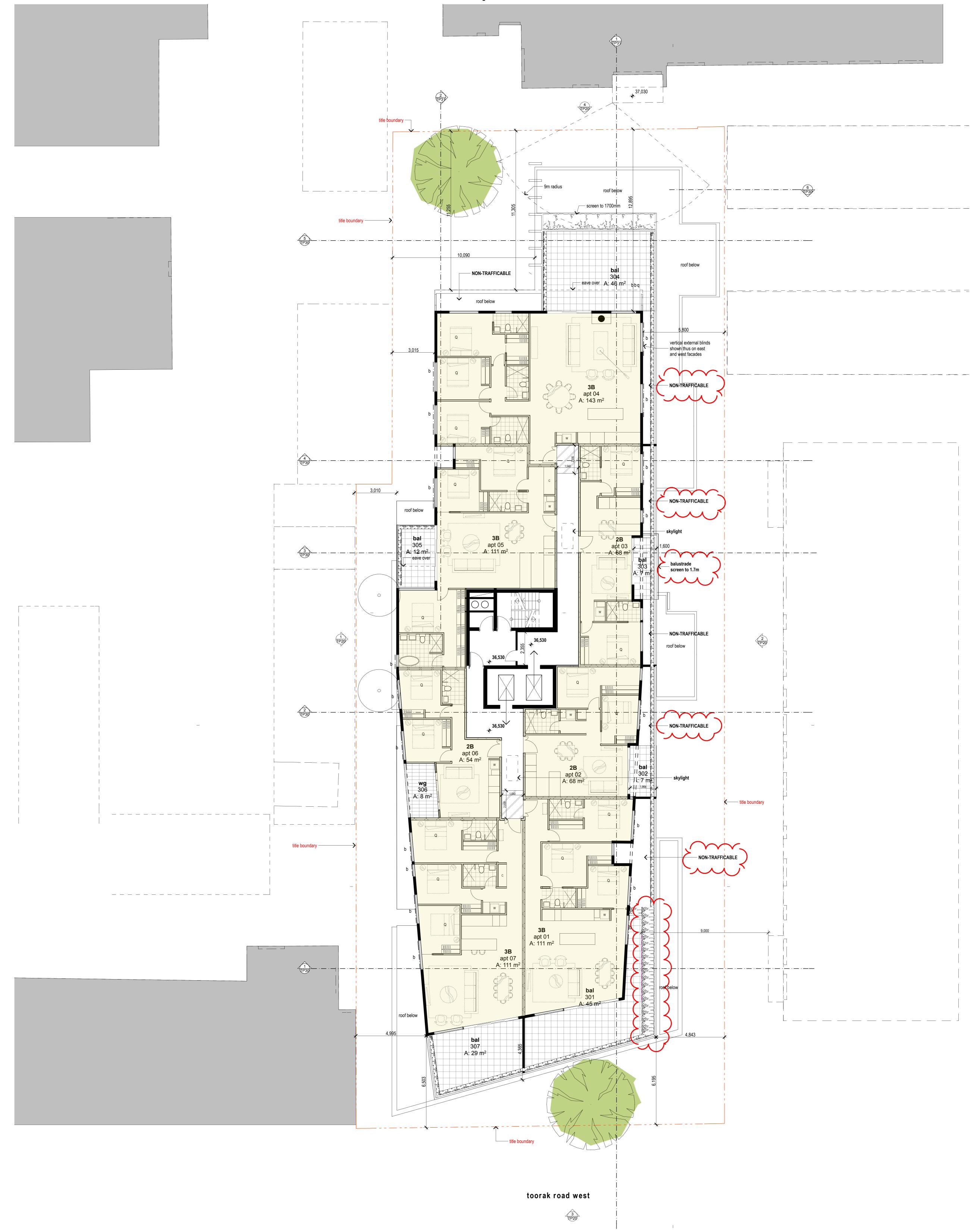
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31/10/14 WIP - penultimate issue for comment review 05 LT	02/07/15 For Approval	D TW	We have reviewed these plans presented by Mr Neil de la Coeur of Bird de								Level 01 Floor Plan		PLANNING
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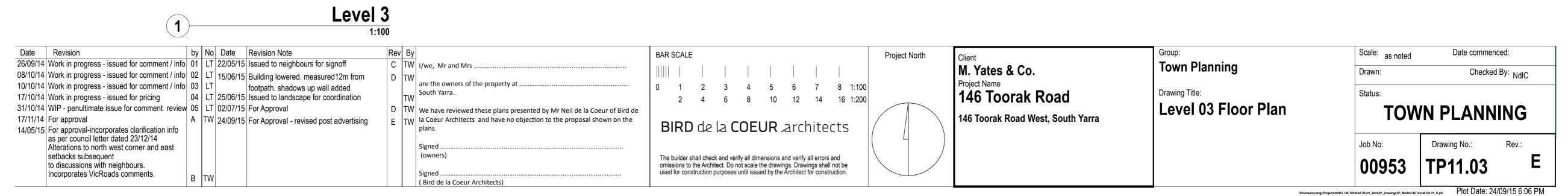


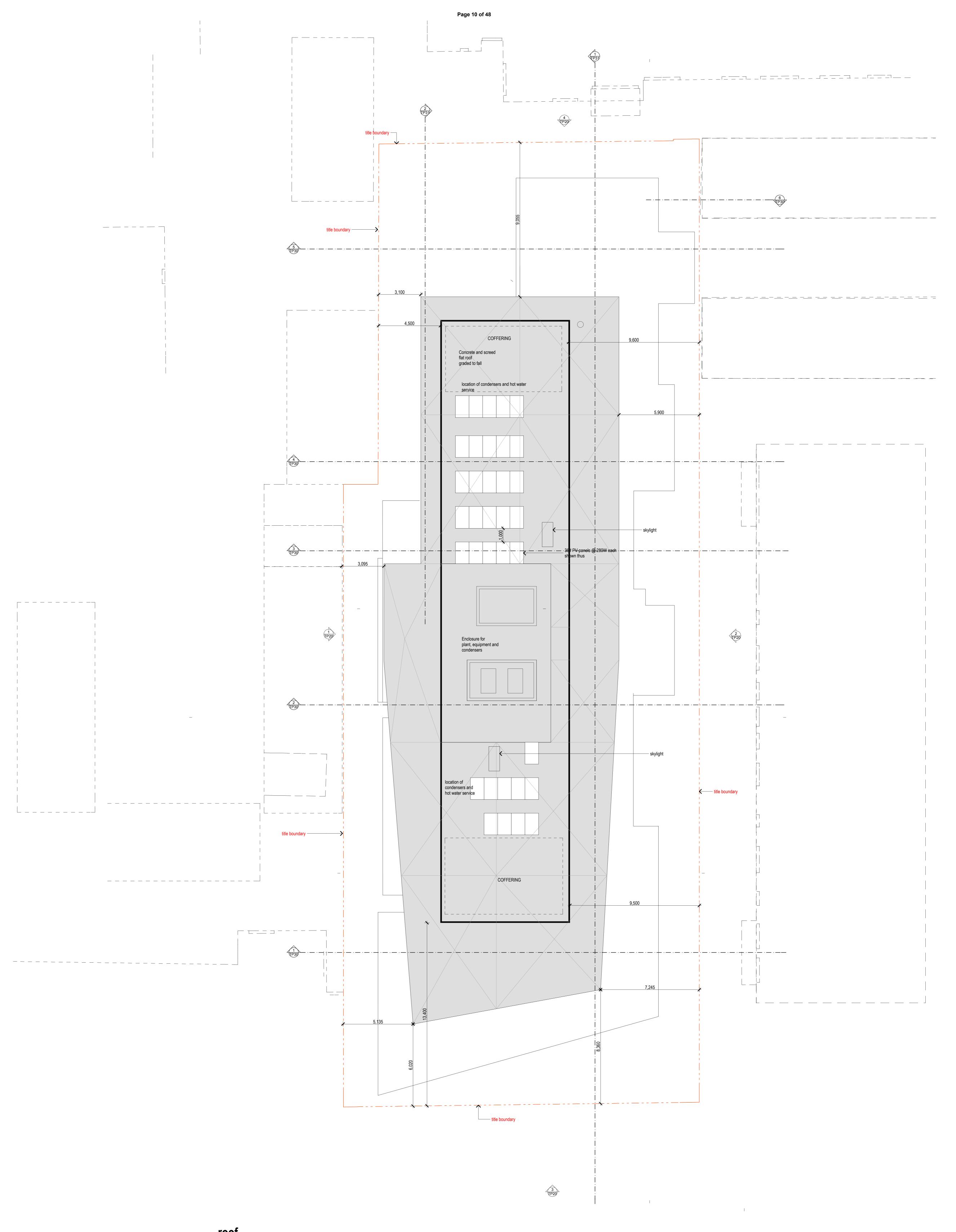
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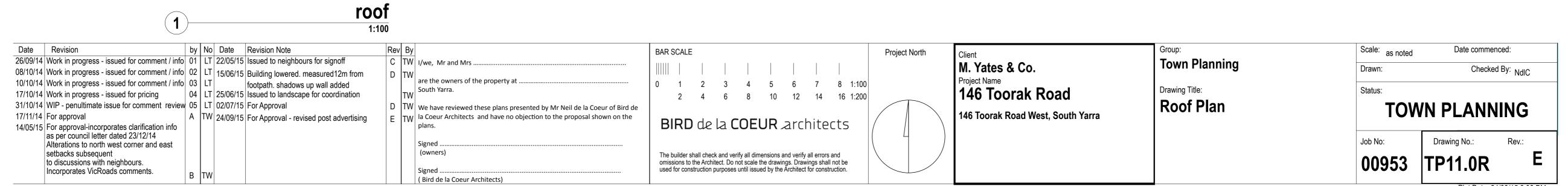




Page 9 of 48





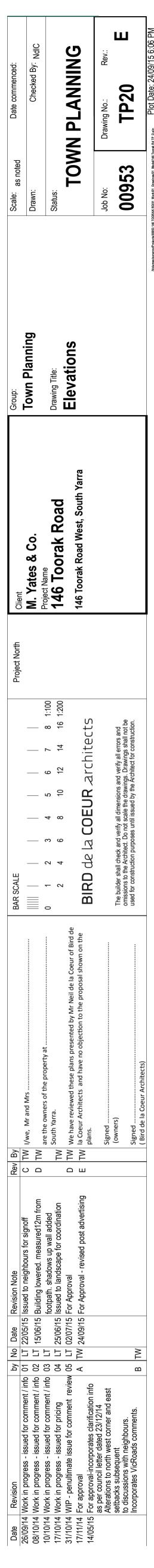


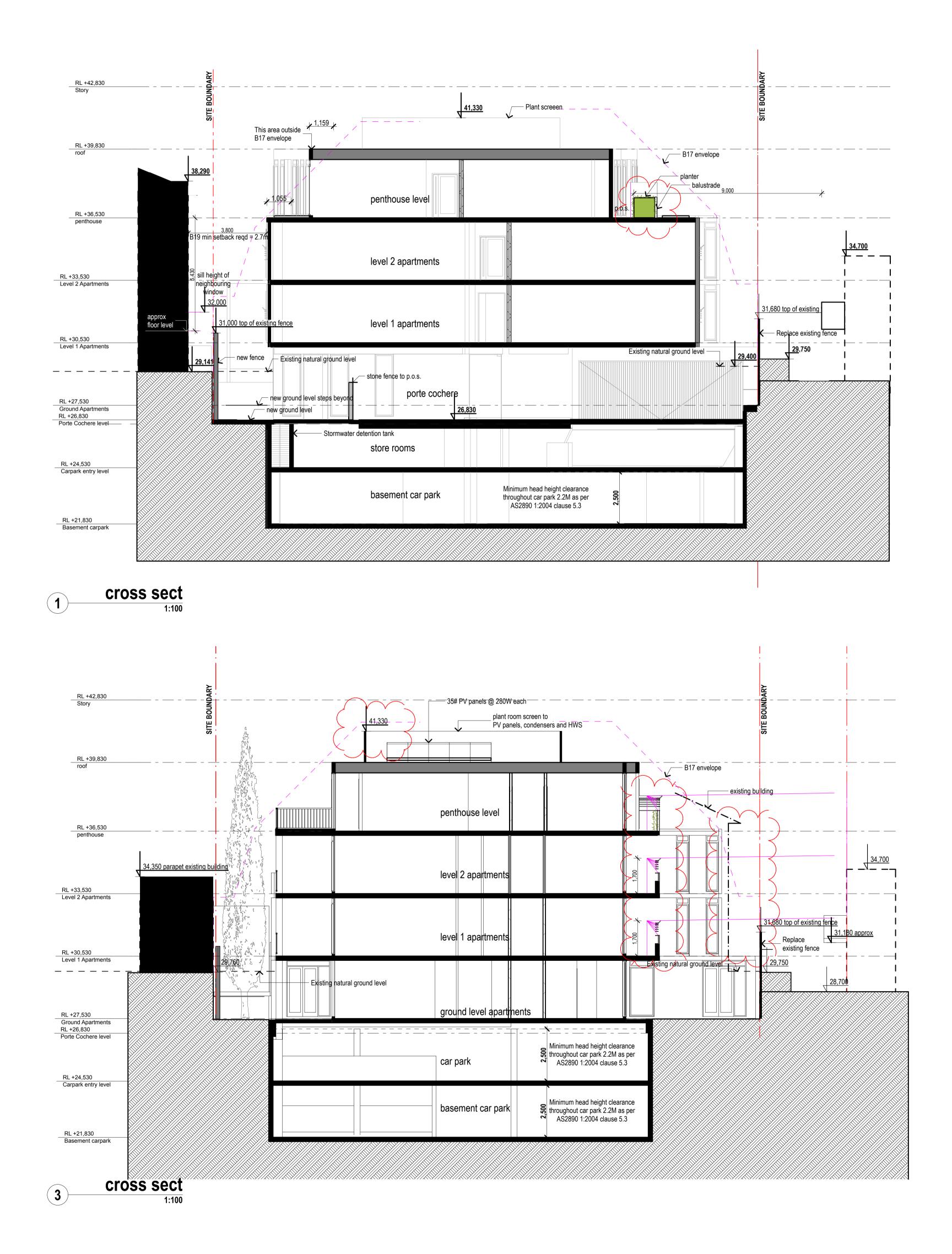
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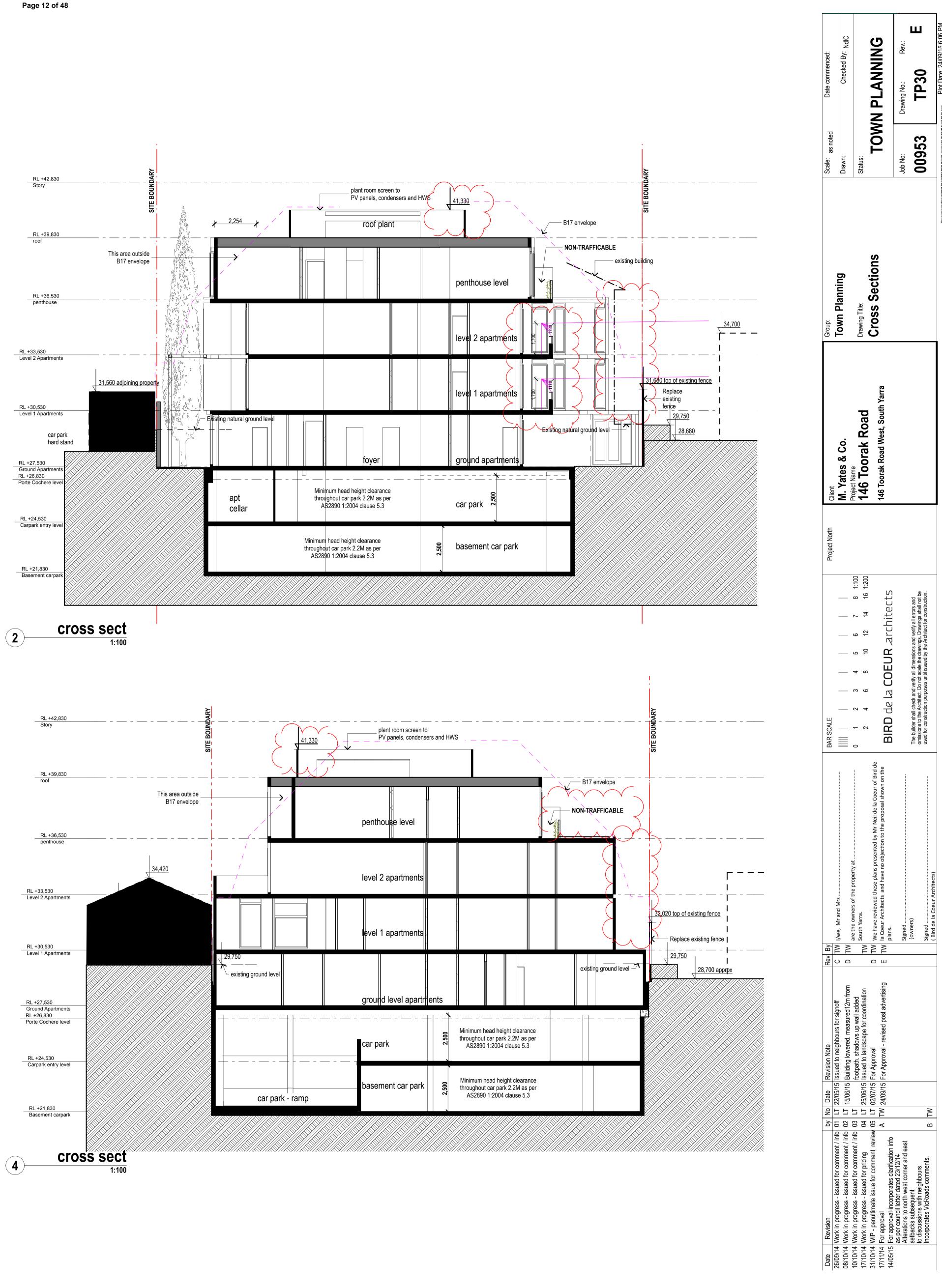


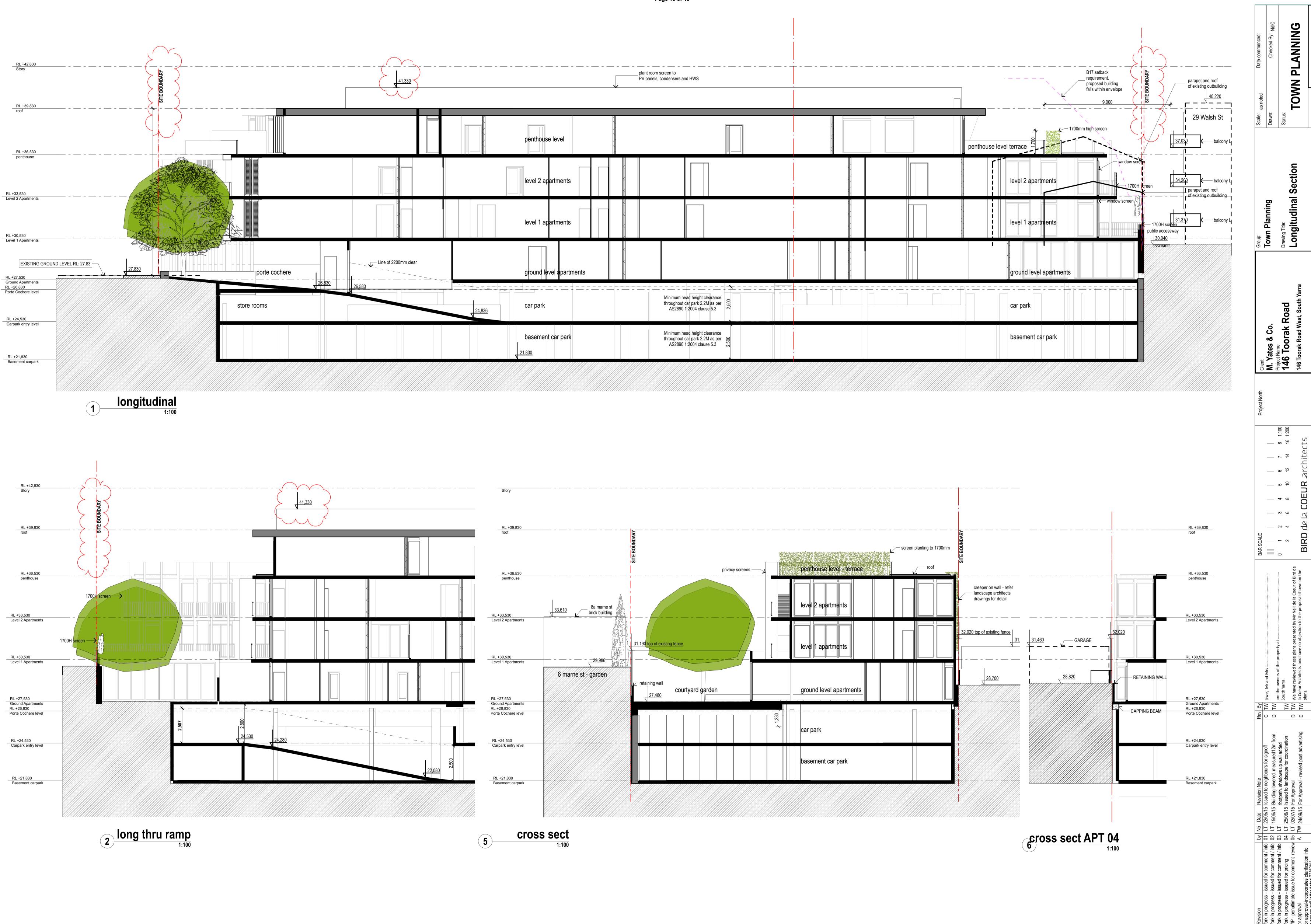
Page 11 of 48

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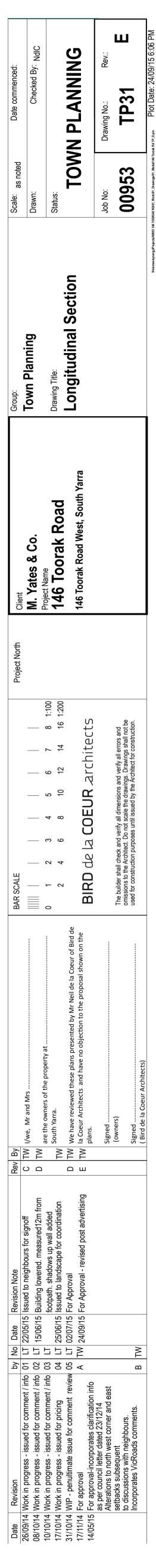




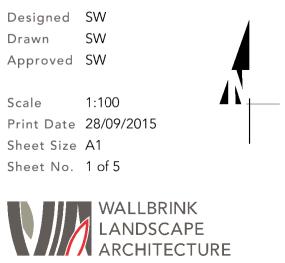


)		plant room screen to PV panels, condensers and HWS	
	penthouse level		
	level 2 apartments		
	level 1 apartments		
	ground level apartments		
	24,836 car park	Minimum head height clearance throughout car park 2.2M as per AS2890 1:2004 clause 5.3 ∾	
	basement car park	Minimum head height clearance throughout car park 2.2M as per Br AS2890 1:2004 clause 5.3	

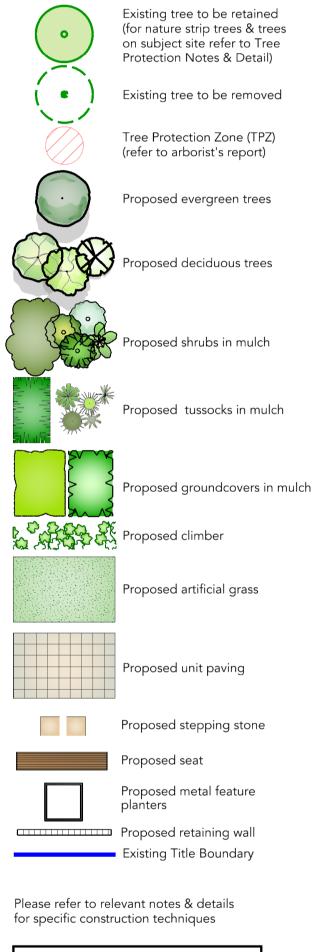
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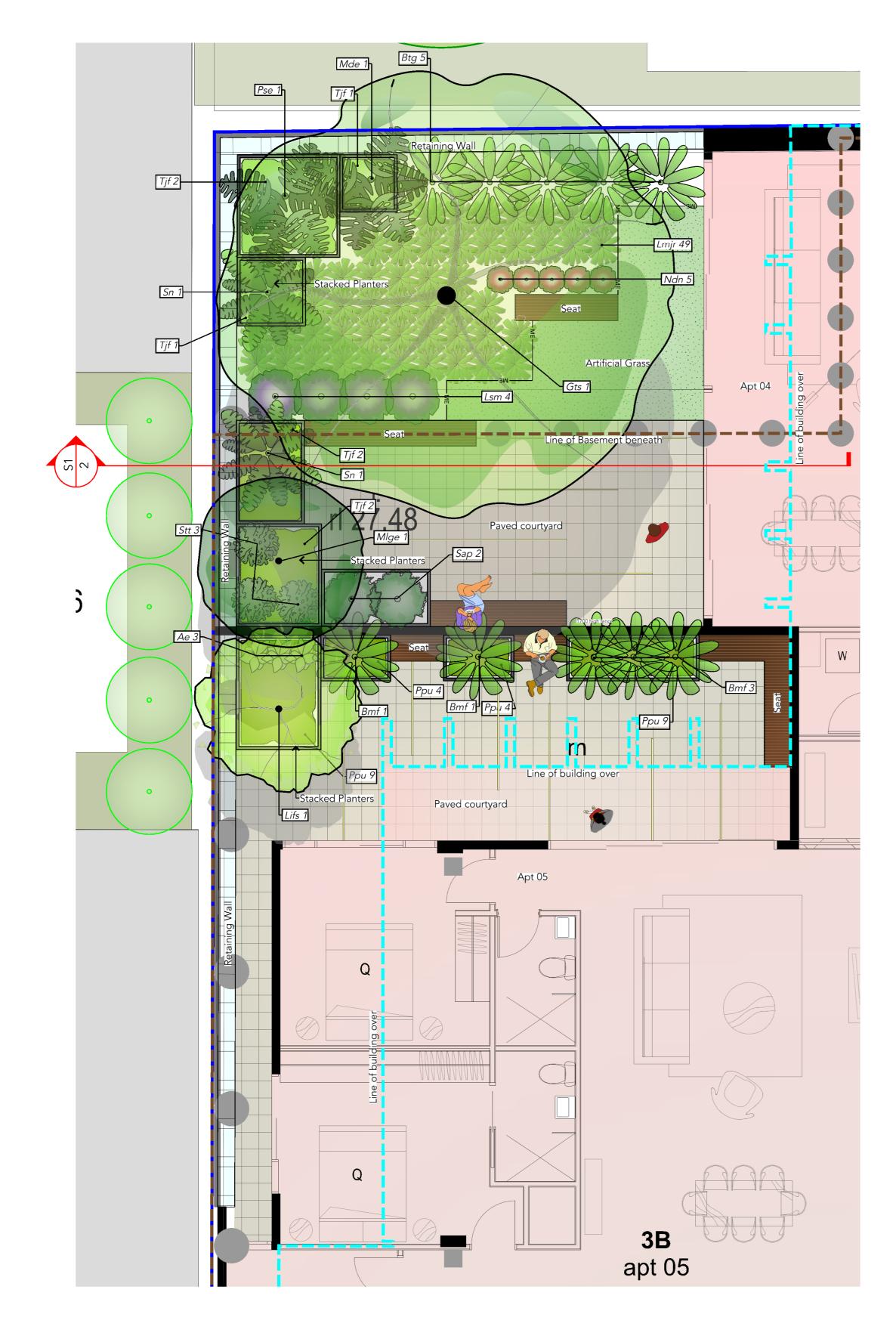
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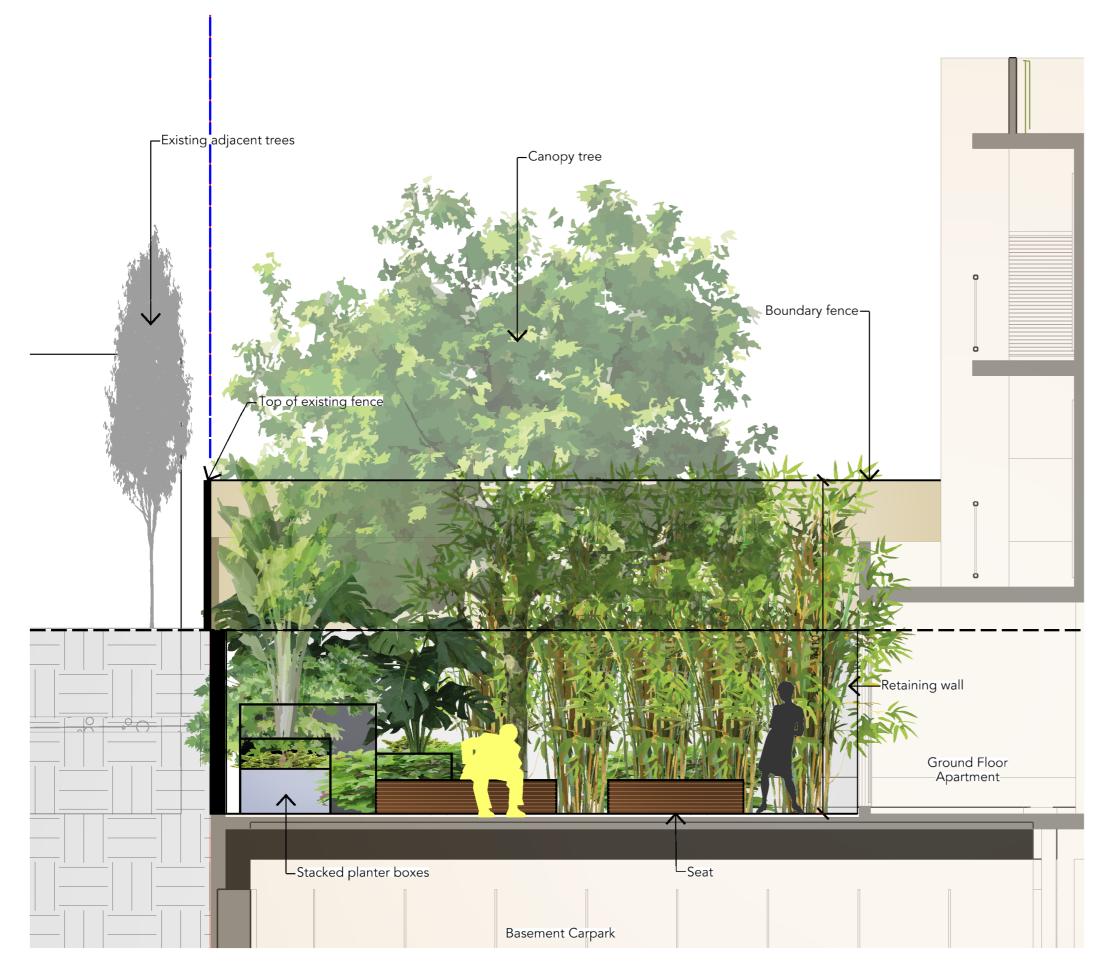
- P1 23-06-15 Preliminary Issue

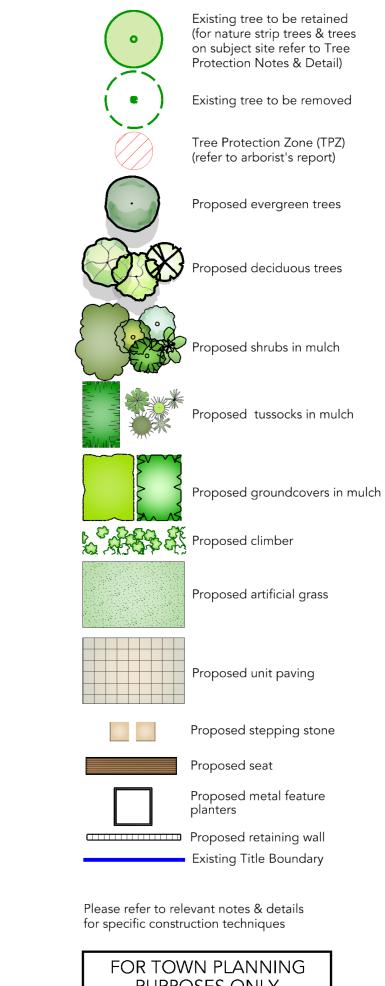
- A 30-06-15 Council Submission Issue
 B 10-09-15 Plant Labels & planting Design
 C 25-09-15 Updated Architectural Base



Existing tree schedule

Tree No	Botanical name	Common name	Size (HxW)	Origin	Location	Reason for retention or removal
1	Arecastrum romanzoffianum	Cocos Palm	7x2	Exotic	Subject site	Removed - within building works area
2	Cupressus sempervirens 'Stricta'	Pencil Cypress	7x2	Exotic	Subject site	Removed - within building works area
3	Cupressus sempervirens 'Stricta'	Pencil Cypress	9x3	Exotic	Subject site	Removed - within building works area
4	Pittosporum undulatum	Sweet Pittosporum	7x6	Native	Subject site	Removed - weed & within building works area
5	Pittosporum undulatum	Sweet Pittosporum	8×8	Native	Subject site	Removed - weed & within building works area
6	Platanus Orientalis	Oriental Plane	6x4	Exotic	Street tree	Removed - within drive access
7	Pittosporum 'James Stirling'	James Stirling	Group 9H	Exotic	Adjacent	Retained - tree in adjacent property
8	Pittosporum 'James Stirling'	James Stirling	7x6	Exotic	Adjacent	Retained - tree in adjacent property
9	Pittosporum 'James Stirling'	James Stirling	7x6	Exotic	Adjacent	Retained - tree in adjacent property
10	Melaleuca armillaris	Bracelet Honey Myrtle	10x12	Native	Subject site	Removed - within building works area
11	Syzigium smithii	Lilly Pilly	10x12	Native	Subject site	Removed - within building works area
12	Cupressus sempervirens	Pencil Cypress	8 x 1	Exotic	Subject site	Removed - within building works area
13	Cupressus sempervirens	Pencil Cypress	13x2	Exotic	Subject site	Removed - within building works area
14	Cupressus sempervirens	Pencil Cypress	10x6	Exotic	Subject site	Removed - within building works area
15	Cupressus torulosa	Bhutan Cypress	Group 12H	Exotic	Subject site	Removed - within building works area
16	Cupressus torulosa	Bhutan Cypress	Group 15H	Exotic	Subject site	Removed - within building works area
17	Cupressus sempervirens	Pencil Cypress	15x3	Exotic	Subject site	Removed - within building works area
18	Cupressus sempervirens	Pencil Cypress	15x4	Exotic	Subject site	Removed - within building works area
19	Phoenix caneriensis	Canary Island Date	3x3	Exotic	Subject site	Removed - within building works area
20	Pyrus sp	Ornamental Pear	Group 5H	Exotic	Adjacent	Retained - tree in adjacent property
21	Melaleuca sp		7x6	Native	Adjacent	Retained - tree in adjacent property







Courtyards 04 & 05 1:50 Section 1

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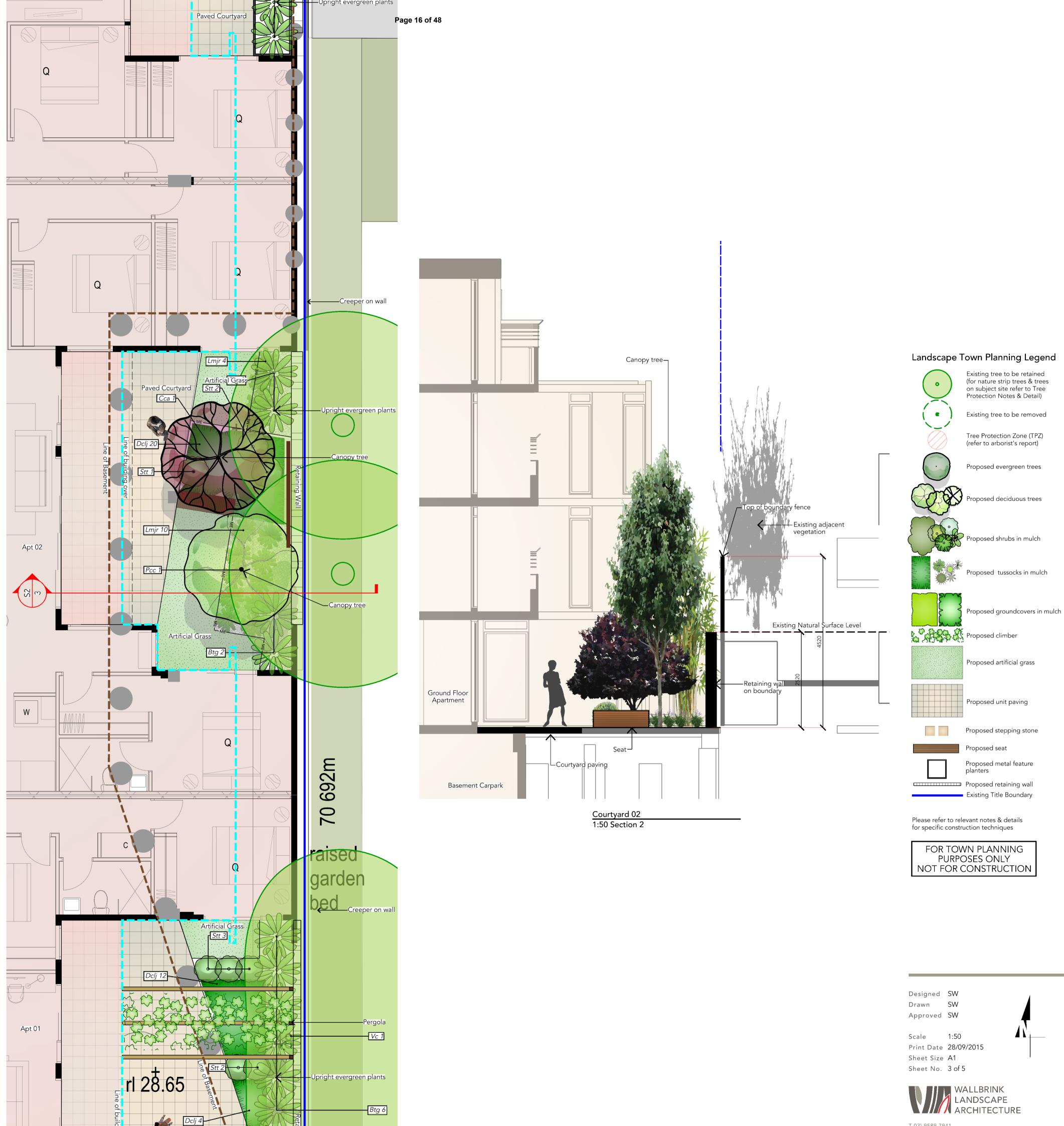
T 03) 9589 7941 609 Balcombe Rd, Black Rock 3193 www.wallbrink.com.au

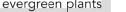
^{Client} 146 Toorak Rd Pty Ltd

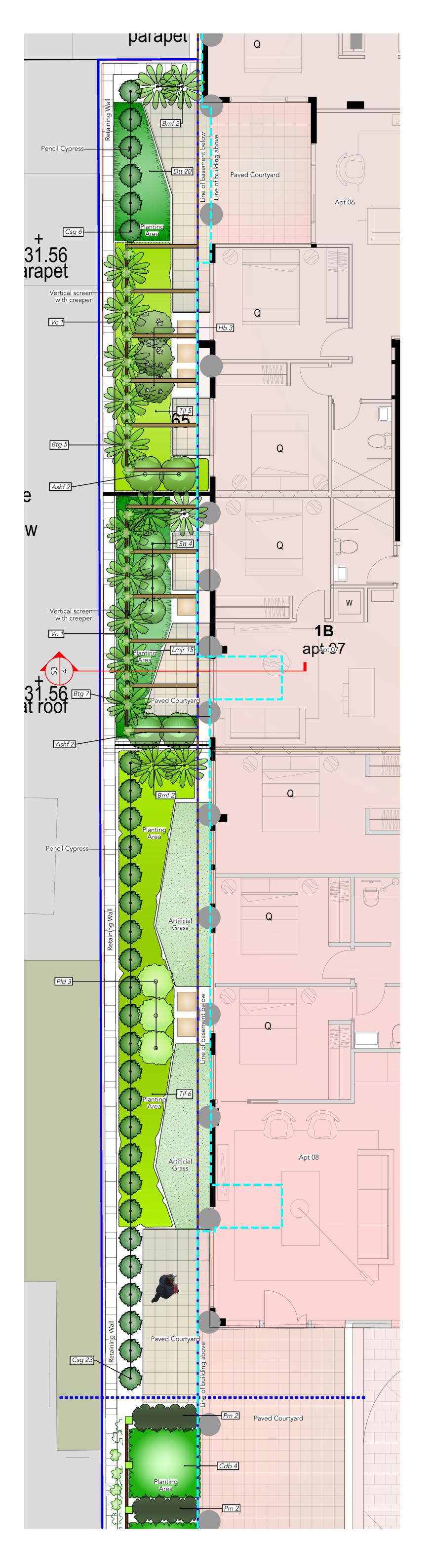
Job Proposed Development 146 Toorak Rd South Yarra

Title Landscape Town Planning Plan Courtyards 04 & 05

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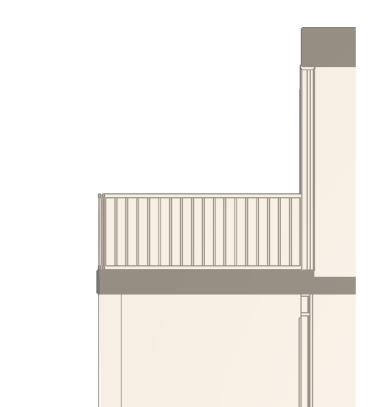
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A 30-06-15 Council Submission Issue

B 10-09-15 Plant Labels & planting Design

C 25-09-15 Updated Architectural Base

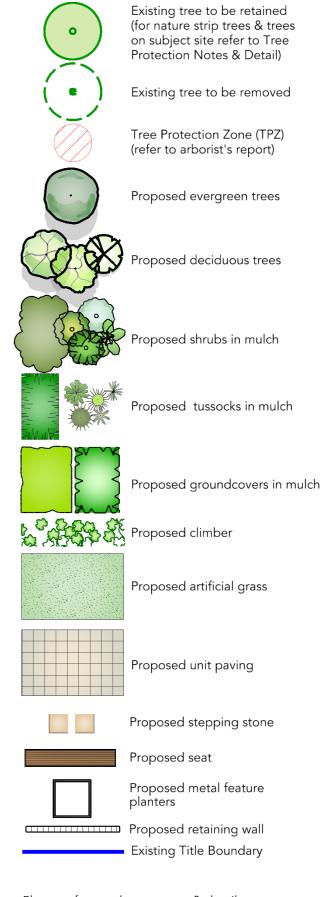


Landscape Town Planning Legend

Page 17 of 48



Courtyards 06, 07 & 08 1:50 Section 03



Please refer to relevant notes & details for specific construction techniques



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^{Client} 146 Toorak Rd Pty Ltd

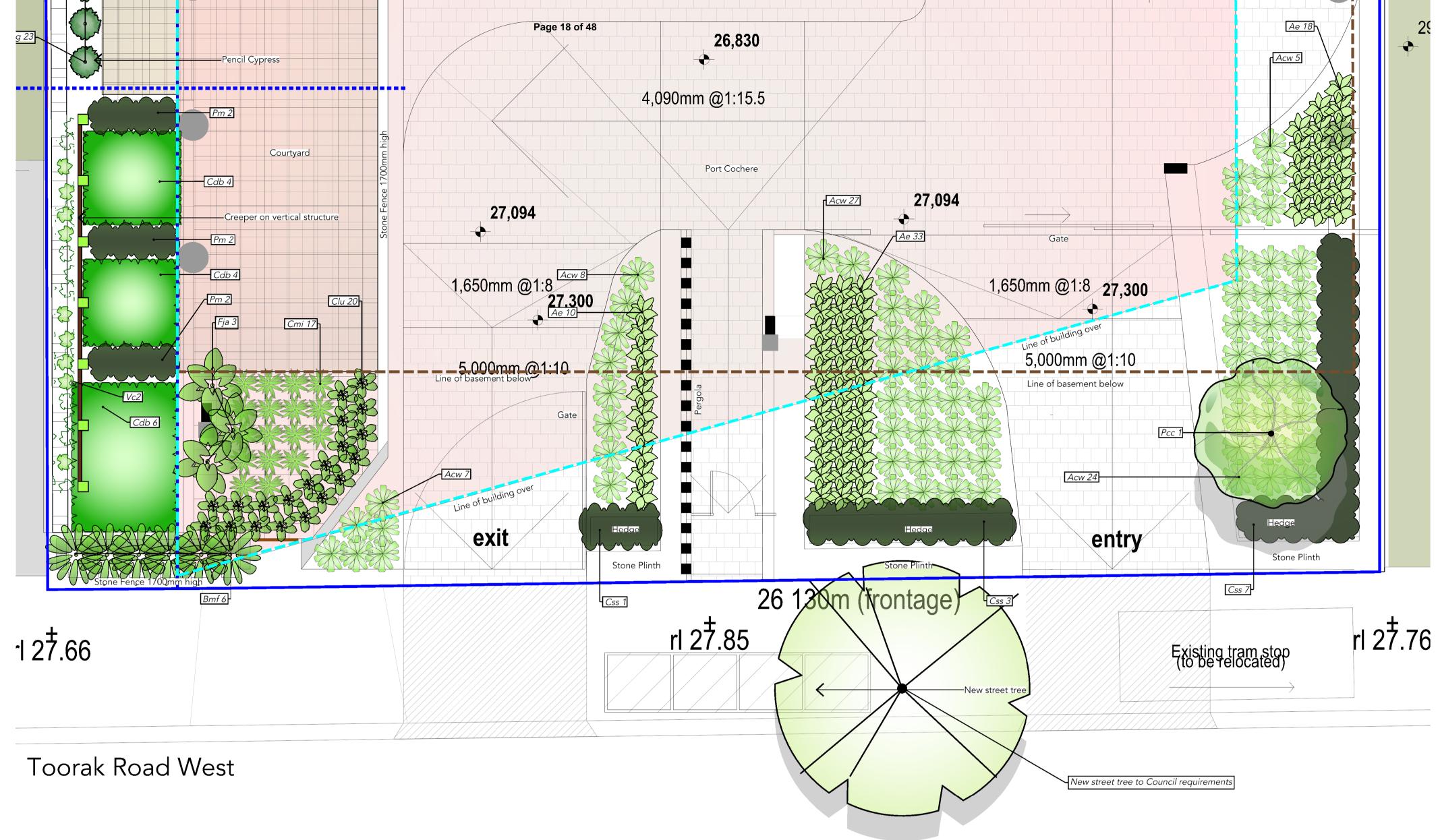
Job Proposed Development 146 Toorak Rd South Yarra

^{Title} Landscape Town Planning Plan Courtyards 06, 07 & 08

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Landscape Town Planning Legend

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Existing tree to be retained (for nature strip trees & trees on subject site refer to Tree Protection Notes & Detail)

Existing tree to be removed

Tree Protection Zone (TPZ) (refer to arborist's report)

Proposed evergreen trees

Proposed deciduous trees

Proposed shrubs in mulch

Proposed tussocks in mulch

Proposed groundcovers in mulch

Proposed climber

Proposed artificial grass

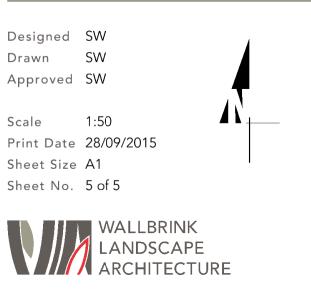
Code	Botanical Name	Common Name	Plant S Container Size	upply Size Min. Height		Approx Mature Size (m) (HxW)	Totals
	Small Trees - Exotic Evergreen (<6m)						
Mlge	Magnolia 'Little Gem'	Little Gem Dwarf Magnolia	400 m m	2m	25mm	4.0x3.0	1
	Large Trees - Exotic Deciduous (>9m)						
Gts	Gleditsia triacanthos var. inermis 'Shademaster'	Honey Locust Hybrid	100 litre	2m	30mm	10.0×8.0	1
Pcc	Pyrus calleryana 'Capital'	Ornamental Pear	100 litre	2m	30mm	9.0x3.5	2
	Small Trees - Exotic Deciduous (<6m)						
Cca	Cercis chinensis 'Avondale'	Forest Pansy	75 litre	2m	30mm	3.0x2.0	1
Lifs	Lagerstroemia indica x L. fauriei 'Sioux'	Crepe Myrtle	75 litre	2m	30mm	4.0x3	1
	Bamboo (clumping)						
Bmf	Bambusa multiplex 'Fernleaf Stripestem'	Fernleaf Stripestem Bamboo	200 m m	1m		3.0x1.0	21
Btg	Bambusa textilis 'Gracilis'	Gracilis Bamboo	200 m m	1m		5.0x1.0	33
	Conifers						
Csg	Cupressus sempervirens 'Glauca'	Italian Pencil Pine	52 litre			12x1	29
	"Tropical Looking"- Exotic						
Ae	Aspidistra elatior	Cast Iron Plant	200 m m			0.8×0.5	64
Fja	Fatsia japonica	Aralia	200 m m			2.5x2.0	3
Mde	Monstera deliciosa	Fruit Salad Plant	200 m m			2.0x2.0	1
Pse	Philodendron selloum	Tree Philodendron	200 m m			3.0x3.0	1
Sn	Strelitzia nicholai	Giant Bird of Paradise	3 00 m m			3.5x2.0	3
	"Upright & Strappy" - Exotic						
Clu	Ctenanthe lubbersiana	Hockey Stick Plant	140 mm			0.6x0.3	20
	Large Shrubs - Native (>2m)						
Sap	Syzygium australe 'AATS Pinnacle'	Pinnacle Pencil Lilly Pilly	300 m m			5.0x1.0	2
	Large Shrubs - Exotic (>2m)	· · ·					
Css	Camellia sasangua 'Setsugekka'	Setsugekka White Camellia	200 m m			2.5x2.0	11
	Medium Shrubs - Native (1-2m)	<u> </u>					
Ashf	Acmena smithii 'Hedgemaster'	Hedgemaster Lilly Pilly	3 00 m m			1.5x1.0	4
Pld	Philotheca 'Lime Delight' (Eriostemon)	Lime Delight Wax Flower	200 m m			1.0x1.0	3
	Medium Shrubs - Exotic (1-2m)						-
Hb	Hebe brachysiphon 'Snowdrift'	Snowdrift Veronica	200 m m			1.0x1.0	3
Lsm	Lavandula stoechas 'Major'	Major Lavender	200 mm			1.0x1.0	4
Pm	Philadelphus mexicanum	Mock Orange	200 m m			1.0x1.0	6

toorak road west

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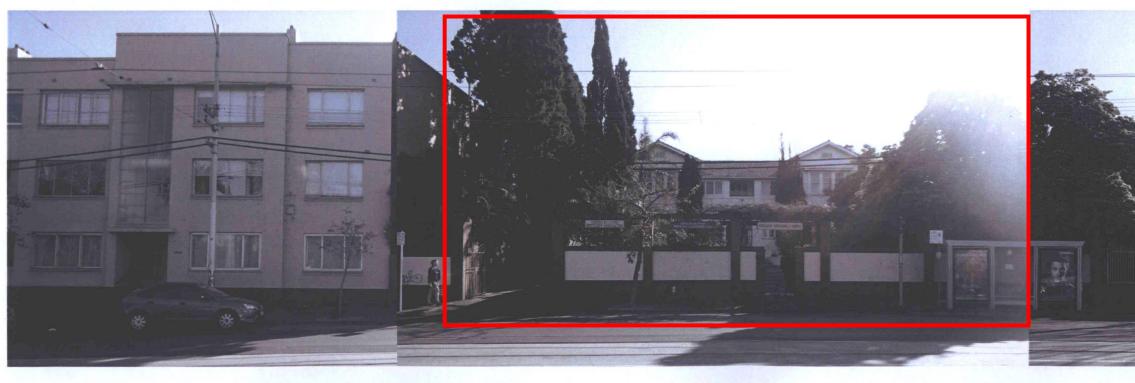
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Page 19 of 48

146 Toorak Road West South Yarra



BIRD de la COEUR architects



Page 20 of 48

DELEGATED PLANNING APPLICATION REPORT

Application number:	TP-2014-1061
Applicant:	Meinhardt Group
Address:	146 Toorak Road West, SOUTH YARRA VIC 3141
Proposal:	Carry out development including demolition, construction of a 4 storey building (above 2 basement levels), reduce the car parking requirement and create/alter access to a road in a Road Zone Category 1
Date of application:	27 November 2014. Application amended on 6 October 2015
Responsible officer:	Stephen Vecris

1 SUBJECT SITE AND SURROUNDS

An inspection of the site and surrounding area was undertaken on 9 November 2015. The site has a total area of 1779 m2 and is developed with a detached two storey inter-war building, graded 'D' in a level 3 streetscape. This building is currently occupied by the English Speaking Union.

The site is made up of two titles and two covenants apply to one of the titles. One does not allow the construction of any building, including shop, factory or dwelling over a narrow strip along the west boundary of the site (Lot 1). The plans for the proposed development show minor works to be carried out in this area, including pergolas, fences and window projections at levels 1 and 2, as well as basements beneath this space. Advice has been received from Council's Team Leader Land Survey that these works (other than the window projections) do not breach the covenant. If a permit is issued, it should include a condition stating that no development is permitted within Lot 1, other than fences, pergolas and basements.

The second covenant states that '... no shop, factory, public motor garage...shall be built...; and further that one residential building or dwelling house only... shall or may at any time be built...'

This part of Toorak Road is a level 3 streetscape pursuant to Council's Heritage Places Inventory. However the subject site is not within a Heritage Overlay, except that a narrow strip of the site along the west boundary is within Heritage Overlay 6 (South Yarra). This Heritage Overlay covers much of South Yarra, including Marne Street, which is west of the subject site.



Surrounding uses and developments are summarised below.

<u>North</u>

The land to the north of the subject site, at 35 Walsh Street is occupied by a 3-4 storey apartment building, which appears to have been built during the 1970s. A walkway and landscaped area lie between this building and the boundary it shares with the subject site. This is a common area. The face of the building is set back a minimum of approximately 3 metres from the common boundary. Balconies within the setback area are located approximately 2 metres from the common boundary.

<u>East</u>

The land to the east of the subject site, at 1 Walsh Street is occupied by a two storey apartment building. Along much of the length of the common boundary, the apartment building is located approximately 4 metres from the boundary. There are balconies approximately 1 metre wide within the setback area. At ground level, most of the setback area is used as secluded private open space by two apartments (one at the north end of the building and one at the south end). These open spaces are 'L' shaped and wrap around the front and rear of the building. The rear portion of 1 Walsh Street is occupied by garages and a car park hard stand area.

<u>West</u>

The subject site shares its western boundary with three properties. These are numbers 2-4, 6 and 8-10 Marne Street.

No 2-4 Marne Street adjoins the subject site for a length of approximately 44 metres. This site is occupied by a 3 storey apartment building. Within a distance of approximately 8 metres from Toorak Road, this building extends to the common boundary. North of this is a narrow area of open space (approximately 1 metre wide) adjoining the subject site. Windows face this space. These include north and east facing windows at ground, first and second floor levels, except that there appears to be no window facing east at ground floor level. It is understood that the north facing windows are to bathrooms and the east facing windows are to bedrooms.

North of this 1 metre wide strip, the open space widens into a much larger common garden area, the eastern part of which adjoins the common boundary. North of this, the area along the boundary to the subject site is occupied by garages.

North of 2-4 Marne Street is at 2 storey building at 6 Marne Street. The east boundary of this site adjoins the subject site for a length of approximately 20 metres. This building is occupied by 4 apartments. A garage/studio building and an area of secluded private open space abut the subject site. A car park hard stand area lies to the west of the garage/studio.

North of 6 Marne Street is 8-10 Marne Street, which is occupied by a house and 2 apartments. Approximately 5 metres of the length of the rear boundary of this site adjoins the subject site. The area along the common boundary is occupied by a garage. West of this is a hard stand area.

The wider area includes a mix of single dwellings and apartments of varying ages, generally 2-3 storeys in height.

2 BACKGROUND AND HISTORY

2.1 **Pre-application discussions**

On 12 August 2014, a meeting was held. Attendees included Council officers and representatives of the applicant. Matters discussed include the following:

- Council would not wish to see the land left vacant. An approved scheme for redevelopment should be in place, prior to demolition.
- Applicant to work with Council officers during design process.'
- Areas of non-compliance with Planning Scheme will require justification.

Another meeting was held on 8 September 2014. Attendees included Council officers and the architect for the development. Matters discussed include:

- The applicant advised that the proposed development would comply with Melbourne Planning Scheme requirements, other than in relation to site coverage and setbacks.
- Development cannot exceed 12 metres in height, other than services and architectural features.
- Major matters to be considered during assessment process will include front setback and neighbourhood character.

2.2 Background to Submission of Current Plans

On 23 December 2014 a request for further information was sent to the applicant. One of the matters raised in this letter was that the proposed building appeared to exceed the mandatory 12 metre height control applicable to this area pursuant to Design and Development Overlay 15. In May and June 2015, a number of meetings between Council officers and the applicant were held. Matters discussed at these meetings include interpretation of the 12 metre height control and the amenity of a number of saddle-bag rooms.

On 1 July and 15 July 2015, plans were submitted in response to the further information request and the meetings referred to above. These plans differ from the plans originally submitted in areas including the following:

• Development complies with 12 metre height control.

- Number of apartments reduced from 40 to 37.
- Number of car spaces reduced from 64 to 52.

In response to numerous objections, a consultation meeting and a further meeting with Council officers (described below), the application was amended on 6 October 2015.

2.3 Planning Application History

Subject Site

Two applications made under Section 29A of the Building Act provide relevant background information.

Application 29A-2013-140 was received on 1 November 2013, seeking to demolish the existing building. As the building was not within a Heritage Overlay, no planning permit was required for the demolition.

On 15 November 2013, the applicant was advised that:

- While the building was not within a Heritage Overlay, it was graded 'D' under Council's Heritage Inventory.
- It had been recently inspected by Council's Heritage Consultant who advised that the building was individually significant and that the Melbourne Planning Scheme should be amended to include the building in a Heritage Overlay.
- Council would apply to the Minster for such an amendment.

On 20 November 2013, a briefing paper to Councillors was prepared, advising of Management's recommendation not to pursue interim heritage protection for the building. The briefing paper included the following advice:

- Consideration needs to be given to the fact that previous Councils chose not to apply heritage controls to the site for nearly 30 years and the current owner is acting on that basis.
- Officers do not intend to apply to the Minister for interim protection, unless Council determines otherwise.

On 21 November 2013, the Building Permit and Section 29A application were cancelled by the applicant.

On 26 November 2014, a further Section 29A application was received.

On 4 December 2014, Council responded to this, advising that as a permit was not required for the proposed demolition, consent was given.

120 Toorak Road West

Planning Application TP-2013-1054 was received on 24 December 2013. This application relates to 120 Toorak Road West, which is approximately 100 m west of the subject site. It seeks a permit for use and development of the land as a childcare (early learning) centre and an education centre (primary school), including partial demolition, alterations and additions, vegetation removal and altering access to Toorak Road. The application was advertised and 104 objections were received. Concerns raised by objectors include traffic and car parking implications. A Notice of Decision was issued on 9 September 2015. An application for review of the decision has been lodged by objectors. Matters raised in the Statement of Grounds include concerns regarding traffic and car parking. The application is scheduled to be heard at VCAT on 11 April 2016.

3 PROPOSAL

On 1 July and 15 July 2015, plans were submitted in response to the further information request of 23 December 2014 and subsequent meetings between Council officers and the applicant. Numerous objections were received in response, a consultation meeting was held and a further meeting was held between Council officers and the applicant. This led to the submission of amended plans on 1 October 2015 and the application being formally amended on 6 October 2015. The major differences between the plans of July 2015 and those of 1 October 2015 are summarised as follows:

- Removal of walls along the east boundary at levels 1 and 2.
- Additional privacy screening.
- Modification to part of level 3 balcony to make it non-trafficable.
- Addition of 5 car spaces.
- Amended landscape plans showing proposed species selections.

The development shown on the plans of 1 October is summarised below.

All existing structures are to be demolished. This demolition does not require a planning permit, except for a narrow strip along the western boundary, which is within Heritage Overlay 6. A boundary fence within this area is to be demolished and reinstated.

A four storey building is to be built above two basement levels. The two basement levels are occupied by a total of 54 car spaces, storage areas, 20 bicycle spaces, cellars and rubbish bin storage.

At ground floor level to Toorak Road is a porte cochere, accessed/egressed via two new crossovers (an existing crossover is to be removed). The porte cochere and associated landscaping occupy most of the site frontage to a depth of approximately 12 metres back from Toorak Road. This area includes a pergola structure over a pedestrian entry to the site, and gates. Beyond the porte cochere, on the east side of the site is the ramp to the car park levels. An existing tram stop is proposed to be relocated from the footpath in front of the subject site to the east, in front of the adjoining property at 1 Walsh Street.

Ground floor and levels 1-3 are occupied by a total of 37 apartments, summarised as follows: 20×3 bedrooms; 16×2 bedrooms and 1×1 bedroom.

Ground floor

Ground floor level is occupied by 8 apartments, accessed via a central hallway. Each has open space in the form of a courtyard. These range in area from 20 square metres to 115 square metres. Most courtyards are located along the north, east or west boundaries of the site and as a result, much of the building is set back from these boundaries. A number of walls are set back approximately 0.2 metres from the east boundary, to allow creepers to be planted along these walls.

First floor

First floor level is occupied by 11 apartments, generally set back from the north, east and west boundaries. Setback distances range from approximately 0.2 metres, where creepers are to grow on walls up to approximately 11 metres from the rear boundary at the north-west corner. All apartments have balconies, ranging in size form 8 m2 to 41m2. There are 2 saddle-bag bedrooms to two west facing apartments.

The building facade to Toorak Road is at an angle, resulting in a minimum balcony setback of 0.24 m at the west end, increasing to 5.75 m at the east end. The facade

is set back approximately 3 m from Toorak Road at the west end and approximately 8.4 m at the east end.

Second floor

Level 2 is occupied by 11 apartments. The floor plan of this level is similar to that of level 1.

Level 3

Level 3 is occupied by 7 apartments. At this level the building is set back a minimum of 5.8 m from the east boundary. Balconies within the setback area extend to approximately 5 m from the east boundary. At this level the building is set back a minimum of 3 metres from the west boundary and 12.9 m from the rear boundary. A balcony and associated privacy screening are located within this setback area and are set back 6 m from the rear boundary.

The level 3 facade is set back between 6.5 m and approximately 9 m from Toorak Road. Balcony setbacks from Toorak Road range from approximately 2.4 m to 6 m.

Roof level

Services including PV panels are located at roof level, concealed by screening.

Height/finishes /landscaping

Measured from Toorak Road, the building is 12 m in height to the rooftop. Screening to plant increases this height to 14.5 m.

Finishes to the building include white render, timber panels, metal cladding and clear and grey glazing.

A landscape plan includes planting within the front setback area, along much of the west boundary, in the north –west corner of the site and along part of the east boundary.

4 STATUTORY CONTROLS

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

Clause	Permit Trigger
Clause 32.08 General Residential Zone, Schedule 1	Pursuant to Clause 32.08-4, a permit is required to construct two or more dwellings on a lot. A permit is required under this provision.
Clause 43.01 Heritage Overlay (Precinct 6, South Yarra)	A narrow portion of the site, along the west boundary is within HO 6.Pursuant to Clause 43.01-1, a permit is required to demolish or remove a building and to construct a building or construct or carry out works.A permit is required under this provision.
Clause 43.02 Design and Development Overlay	Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works, unless exempted by the relevant schedule. Schedule 15 does not exempt the

Schedule 15, Area 1	buildings and works from requiring a permit. A permit is required under this provision.
Clause 52.06 Car parking	Pursuant to Clause 52.06, the proposed dwellings generate a requirement for 57 car spaces for residents and 8 spaces for visitors. A permit is required to reduce these numbers. The plans show 50 spaces to be provided for residents and 4 for visitors. A permit is required to reduce the car parking requirement.
Clause 52.29 Land adjacent to a Road Zone Category 1	Pursuant to Clause 52.29, a permit is required to create or alter access to a road in a Road Zone Category 1

5 STRATEGIC FRAMEWORK

5.1 State Planning Policy Framework (SPPF)

Key provisions of the SPPF are set out below.

Clause 15.01-1 relates to Urban Design. The objective of the clause is:

'To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity'.

Strategies set out under this objective include:

'Promote good urban design to make the environment more liveable ad attractive.'

'Require development to respond to its context...'

'Encourage retention of existing vegetation or revegetation...'

Clause 15.01-2 'Urban Design Principles'_seeks to achieve outcomes that 'contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties'. Developments are considered against a range of design principles including: context; the public realm; landmarks, views and vistas; pedestrian spaces; heritage; consolidation of sites and empty sites; light and shade; energy resource efficiency; architectural quality; landscape architecture.

Clause 15.01-5 relates to cultural identity and neighbourhood character. The objective of this clause is:

'To recognise and protect cultural identity, neighbourhood character and sense of place'.

Strategies to achieve this objective include ensuring development responds and contributes to existing sense of place and cultural identity.

Clause 15.02-1 relates to energy and resource efficiency. The relevant objective is to encourage use and development that is consistent with efficient energy use and minimisation of greenhouse gas emissions.

Clause 15.03-1 'Heritage Conservation' seeks 'to ensure the conservation of places of heritage significance'.

Clause 15.03-2 relates to Aboriginal cultural heritage and seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.

Clause 16 relates to housing. Strategies set out under Clause 16.01-1 (Integrated housing) include:

'Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations...'

Encourage housing that is water and energy efficient.

Clause 16.01-4 relates to housing diversity and seeks to provide for a range of housing types to meet diverse needs. It encourages well-designed medium-density housing which achieves objectives including respecting neighbourhood character and making better use of existing infrastructure.

Clause 16.01-5 relates to housing affordability and seeks to deliver more affordable housing closer to jobs, transport and services.

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

Key provisions of the MSS are set out below.

Clause 21.06 relates to Built Environment and Heritage. Objectives set out under this clause include:

Ensure the height and scale of development is appropriate to identified or preferred built form character of an area.

Create an environmentally sustainable urban environment with reduced greenhouse gas emissions.

Clause 21.07 relates to housing. Objectives of this clause include:

Providing for new housing while preserving valued characteristics of existing neighbourhoods.

Ensure the amenity of existing residential uses is protected. The strategy set out under this objective refers to ensuring reasonable expectations of amenity are maintained.

Clause 21.16-1 relates to the St Kilda Road and South Yarra local area. Policies set out under the heading 'Built Environment and Heritage include:

Encourage low rise sympathetic infill redevelopment... that complements the architecture, scale and character of the residential areas in South Yarra'.

5.2.2 Local Policies

Key polices are set out below.

Clause 22.02 - Sunlight to Public Spaces

This clause seeks 'to ensure that overshadowing from new buildings or works does not result in significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians.'

It is policy that development does not reduce the amenity of public spaces by casting any additional shadows on public parks and gardens between 11.00am and 2.00pm on 22 September.

Clause 22.05 – Heritage Places outside the Capital City Zone

This policy is of limited relevance, given that only a small area of the site falls within Heritage Overlay 6. This policy seeks among other things:

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

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

Clause 22.17 - Urban Design outside the Capital City Zone

This section seeks among other things:

To ensure that development uses design and detail to ensure all visible facades (including the rear and sides of buildings) provide a rich and positive contribution to the public realm.

Clause 22.19 – Energy Waste and Water

The Clause applies to the assessment of applications for the construction of buildings for the use of accommodation. The objectives of this policy are:

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

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

Clause 22.23 – Stormwater Management (Water Sensitive Urban Design)

The objectives of this policy are:

To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines.

To promote the use of water sensitive urban design, including stormwater re-use.

6 ZONE

The subject site is located within the General Residential Zone 1. The purpose of this zone includes:

To encourage residential development that respects the neighbourhood character.

Decision guidelines provided in Clause 32.08-10 include the objectives, standards and decision guidelines of Clause 55.

7 OVERLAYS

The subject site is affected by Schedule 15 to the Design and Development Overlay (Royal Botanic Gardens), Area 1 and Heritage Overlay 6 (South Yarra).

Design objectives of DDO 15 include protecting the amenity of the Royal Botanic Gardens and:

• Ensuring that development is compatible with the existing scale and character of buildings in the area.

• Protection of residential amenity.

Pursuant to Table 1, a permit cannot be granted for a building more than 12 metres in height (with the exception of architectural features and building services).

A narrow strip of the site, along the west boundary is within Heritage Overlay 6. Development to be carried out within this area is limited to demolition of a fence, construction of a new fence and construction of pergolas. Therefore, the provisions of this overlay are of limited relevance to the assessment of this application.

The purpose of the Heritage Overlay includes conserving and enhancing heritage places and ensuring that development does not adversely affect the significance of heritage places.

8 PARTICULAR PROVISIONS

The following particular provisions apply to the application:

Clause 52.06, Car Parking

Clause 52.29, Land adjacent to a Road Zone Category 1, or a Public Acquisition Overlay for a Category 1 Road

Clause 52.34, Bicycle Facilities. The proposal provides the required number of bicycle spaces, pursuant to Table 1 to Clause 52.34.

Clause 55, Two or More Dwellings on a Lot.

9 GENERAL PROVISIONS

The following general provisions apply to the application:

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

Clause 66, Referral and Notice Provisions

10 PUBLIC NOTIFICATION

It was determined that the proposal may result in material detriment. Notice of the proposal was given on 27 July 2015 by ordinary mail to the owners and occupiers of surrounding properties and by posting one notice on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

Notice of the amended application was given on 9 October 2015, to all objectors.

11 OBJECTIONS

A total of 102 objections were received to the initial notification. At the time of writing, a further 44 objections had been received in response to the amended application. A number of the objections raise the same concerns. Key issues raised are summarised below and will be addressed in Section 14.

- Will exacerbate existing problem of insufficient on-street car parking.
- Will result in loss of on-street parking spaces.
- Provides inadequate on-street car parking.
- Applicant's traffic surveys were not carried out at the appropriate times.
- Will increase traffic congestion.

- Additional on-street resident parking permits should not be issued.
- Overshadowing (including overshadowing of clothes lines).
- Overlooking, excessive site coverage, overdevelopment.
- Loss of light to windows.
- Loss of garden character, including loss of trees along west boundary.
- Established trees should be planted along east boundary to soften visual impact of proposed building. Inadequate space provided along this boundary to allow meaningful landscaping.
- Visual bulk, excessive height. Apartments and open space at 1 Walsh Street are at a lower level than the subject site, which will exacerbate the visual impact of the proposed development.
- Loss of light as a result of the proposed development.
- Impact on views.
- Inadequate boundary setbacks.
- Impact on development potential of adjoining property.
- Relocation of tram stop will adversely impact on residents of adjoining building.
- Amenity impacts during construction.
- Inconsistent with Melbourne Planning Scheme policy including Clause 15, which seeks development which contributes positively to local character and minimises detrimental impact on neighbouring properties.
- Query liveability of proposed apartments, particularly those at ground floor which sit well below ground level.

12 CONSULTATION

All objectors and the permit applicant were invited to a consultation meeting held at the Melbourne Town Hall on 7 September 2015. Fourteen objectors signed an attendance sheet circulated at the meeting. Key matters discussed at the meeting are summarised below.

Objectors asked whether resident parking permits would be issued for this development. A Council officer advised that this is not a matter considered via the planning permit process. It is generally a matter addressed by Permits and Review. In some cases, input is also provided by Engineering Services.

In response to a query regarding landscaping, the architect advised that new trees are intended to be about 2 storeys in height, at the time of planting.

The applicant engaged traffic engineers Traffix to carry out surveys and recommend the number of car spaces which should be provided for the proposed development.

Objectors to the east expressed concern regarding proposed boundary walls and pointed out that their site is lower than subject site.

Objectors expressed concerns including the following:

- Overshadowing and overlooking.
- Query amenity of proposed ground floor apartments which will have their outlook towards tall boundary walls.
- Inadequate on-site car parking.

- Applicant's traffic surveys were carried out at wrong times.
- Concern regarding removal of tram stop.
- Excessive site coverage and number of apartments.
- Has applicant considered use of car stackers?
- Impact on habitable room windows in adjoining building to west, which are about 1 metre form common boundary.
- Overdevelopment.
- Loss of trees.
- Amenity impacts during construction period.
- How will visitors know that car spaces are available on site?

The meeting concluded with advice that the applicant would prepare a response to the objections, which Council would pass on to the objectors. This was received on 1 October 2015, in the form of the amended plans.

On 17 September 2015, the applicant met with Council officers. Matters discussed at the meeting include the following:

- Amended plans will be prepared, showing one additional car space and more detailed landscaping plan.
- Applicant is not sure whether Public Transport Victoria will consent to removal of tram stop.
- Boundary setbacks.
- Overshadowing.
- Relocation of tram stop.
- Amenity of saddle-bag rooms.

13 REFERRALS

13.1 Internal

The application was referred internally to the following areas, with key comments set out/summarised below. The comments relate to the plans received on 1 October 2015 other the advice from Engineering Services - Infrastructure, whose comments relate to the plans initially received with the application on 27 November 2014. The relevant officer confirmed that the plans of July 2015 raised no new issues. Comments in response to the plans of 1 October 2015 have not been received from Engineering Services – Infrastructure. These plans do not appear to raise any new issues relevant to that work area. In addition, the response from Public Transport Victoria relates to the plans of July 2015.

Urban Design

Response to Context

Predominant landscape character in the area is typified by sites with less than 50% site coverage. Established trees are significant components of landscape character.

Proposed site coverage is excessive and is a departure from predominant landscape character of immediate area.

Majority of west facing apartments include 'saddle-bag' rooms which will result in poor internal amenity.

Building Alignment

Proposed development comprises two main components including ground floor which is significantly set back and upper levels which are offset at an angle facing Toorak Road. This is a well-considered design response as it responds to the alignment of surrounding buildings at ground level and the upper levels contribute a strong architectural form to the neighbourhood.

<u>Scale</u>

Development is over scaled and does not reflect the landscape character of the area.

Setbacks and Spacing

Proposed building does not allow for equitable development.

Facade and side elevations

Presentation to the street is generally considered to be high quality.

Public realm

Concerns regarding passive surveillance and impact on streetscape. Concerned with number of proposed crossovers. Do not support more than one crossover, due to impacts on public realm.

Recommendation

Recommend decreased site coverage, reduced building depth, appropriate setbacks form boundaries, greater ground permeability and large canopy trees.

Land Survey.

The two titles covering the subject site should be consolidated prior to commencement of development.

Engineering Services.

Traffic Engineering

Car parking Provision

The development attracts a statutory requirement for 64 car spaces (57 resident and 7 visitor) and proposes 50 resident spaces and 4 visitor spaces.

Parking is to be allocated such that all dwellings will be allocated at least 1 car space, while a total of 13 of 20 three-bedroom dwellings are provided with 2 spaces each.

Applicant's traffic report assessed the appropriateness of reducing the car parking provisions below the statutory requirement. Included was an assessment of 2011 ABS car ownership data for 1, 2 and 3 bedroom apartments in South Yarra and the City of Melbourne, which demonstrated that a reduction in the statutory requirements was warranted in this case.

The data suggests that average car ownership for the development is expected to be in the order of 34-39 spaces. Individually, all dwelling types are allocated on-site car parking equivalent to, or in excess of average car ownership rates. As a whole, the development is to provide at least 15 spaces in excess of average car ownership rates.

Given the site's excellent public transport accessibility and relevant local policies, Engineering Services is satisfied that an appropriate level of car parking is provided on-site.

With regard to the use of tandem spaces, advice including the following is provided:

The use of tandem car parking may lead to residents parking on street on some occasions to avoid anticipated inconvenience. This is not expected to have an adverse impact on local on-street parking supplies.

Residents of this development will be entitled to up to two on-street parking permits. However, consideration could be given to allowing residents of this development to be entitled to parking permits for the frontage of the subject site only. Engineering Services would support this if Development Planning considers it necessary. The application documentation indicates that the applicant would consent to this.

The provision of 4 on-site visitor spaces meets anticipated demand and is considered acceptable.

A note must be placed on the permit stating that Council will not change on-street parking restrictions to accommodate the needs of this development.

Car park layout

Car park layout is acceptable.

Access Arrangements

A range of detailed comments are provided, raising matters which can be addressed by conditions, if a permit is issued.

Bicycle Parking

Bicycle parking arrangements are considered acceptable.

Traffic Generation

Site-generated traffic is expected to have minimal impact on the operation of Toorak Road West, considering the left in/left out only access limitation imposed on the site.

Comments regarding signage, line-marking and tram separation kerbing are provided. These matters can be addressed by conditions, if a permit is issued.

Engineering Services – Infrastructure

A number of standard conditions have been provided. (Refer conditions set out in this report).

Engineering Services – Waste Services

A Waste Management Plan (WMP) has been provided and is generally satisfactory. However, a revised WMP is required, clearly showing the location of bins for collection, to ensure they can be accommodated without interference to public space uses.

Further information was subsequently provided in response to this comment, showing proposed location of bins. Advice received in response was that more detailed plans are required, showing street furniture. Such plans should be added to the WMP.

Urban Sustainability.

Removal of a street tree is proposed, to allow construction of a crossover. This must be approved by Urban Sustainability once a planning permit has been issued. A replacement tree will be required and must be shown on plans. Urban Sustainability supports the proposal and provides a list of conditions. (Refer conditions set out in this report).

Water Sensitive Urban Design Co-ordinator

This application satisfies Clause 22.23 requirements, subject to the stormwater detention tank matching the volume stated in the ESD report of 30,000 litres. This is addressed by a condition, set out in this report.

13.2 External

The application was referred externally to Vic Roads and Public Transport Victoria.

Vic Roads

The application was referred to Vic Roads in February 2015, pursuant to Clause 52.29, which requires referral of applications to create or alter access to a road in a Road Zone, Category 1. A response was received, advising that no objection was offered to the proposal, subject to a number of conditions (refer conditions set out in this report). The letter includes advice that Council should ensure that appropriate clearance heights and swept paths are provided. Council's Traffic Engineers have confirmed that the plans satisfactorily address these matters.

The letter also advises that relocation of the tram shelter needs to be considered and determined in consultation with Public Transport Victoria (PTV) and Yarra Trams. This was subsequently discussed with the relevant officer at PTV, who advised that a separate referral to Yarra Trams was not necessary.

After the current plans were received on 1 October 2015, the application was rereferred to Vic Roads. Advice received in response is summarised below.

The amended plans have addressed conditions set on the intitial response from Vic Roads.

No objection is offered to the amended plans. A number of notes are provided, to be included on any Notice of Permit Decision which may issue.

Public Transport Victoria (PTV)

The plans show the relocation of an existing tram stop in front of the site. Therefore, the application was referred to PTV, pursuant to Clause 52.36-1, which requires referral of applications proposing alteration or development of public transport infrastructure or stops. PTV responded, advsing that no objection was offered to the application, subject to a number of conditions appearing on any permit issued. This letter did not advise whether PTV would approve relocation of the tram stop.

The plans show the tram stop to be relocated so as to allow for a new crossover. If the tram stop cannot be removed/relocated, the development will not be able to proceed as proposed. Therefore, clarification was requested from PTV as to whether consent would be provided to relocate the tram stop. Advice received in response was that PTV was willing to consider relocation, subject to design, safety and other performance criteria being met to the satisfaction of PTV. The onus is on the applicant to satisfy PTV.

Yarra Trams

The application was not referred to Yarra Trams as advice had been received from PTV in July 2015 that such referral was not necessary.

However, on 6 November 2015 an officer of Yarra Trams contacted Council, requesting a copy of the plan showing the proposed relocation of the tram stop. This plan was sent to the officer, with a request that any comments in response be provided as a matter of urgency. No response had been received at the time of writing this report.

14 ASSESSMENT

The key issues for consideration in the assessment of this application are consistency with Clause 55, traffic and car parking, internal amenity, energy efficiency, waste and water, relocation of the tram stop and the cultural heritage sensitivity of site.

14.1 Clause 55

As the application relates to the construction of two or more dwellings on a lot, an assessment against Clause 55 is required.

14.1.1 Clause 55.02 - Neighbourhood Character and Infrastructure

The existing neighbourhood character is mixed, made up of buildings of varying ages and heights. The adjoining property to the west (2-4 Marne Street) is occupied by a rather plain three storey apartment building built to the Toorak Road boundary, during the inter-war period. This building is graded 'D' pursuant to Council's Heritage Places Inventory and is within Heritage Overlay 6 (South Yarra). It has been substantially altered.

The land to the east of the subject site, at 1 Walsh Street is occupied by a 2 storey apartment building with significant garden areas. This building appears to have been constructed during 1970s. Council's Heritage Places Inventory indicates that this is a 'C' graded building in a level 3 streetscape. However, this grading appears to relate to the base of the fence only, which is all that remains of an earlier building.

The property to the rear of the subject site (35 Walsh Street) is occupied by a 3-4 storey apartment building which also appears to have been built during the 1970s.

To the west and north-west of the subject site, at 6 and 8-10 Marne Street are 2 storey buildings occupied by apartments. Number 6 Marne Street is a 'D' graded building in a Level 1 streetscape, built during the inter-war period, in the Spanish Mission Revival style.

Other buildings at the southern ends of Walsh and Marne Streets include 3 storey apartment buildings on the east side of Walsh Street and an 4 storey apartment building on the west corner of Marne Street and Toorak Road. North of this building is a 2 storey dwelling, at 3 Marne Street

On Toorak Road, immediately east of Walsh Street are apartment buildings, at 158 and 168 Toorak Road West. Both appear to have been built during the 1970s. Number 158 is 3 storeys in height and number 168 is a 7 storey building.

In this mixed context, a clearly modern building of the proposed height is a suitable design response, noting its location on a wide main road, which offers greater scope for the construction of a taller building than would a small street. It will read as a 3 storey building with a recessed fourth level.

The proposed building is appropriate in light of the Residential Policy objective of Clause 55.02-2 which supports medium density in areas where development can take advantage of public transport and community infrastructure and services.

The proposal is consistent with the dwelling density objective of Clause 55.02-3 in that it includes a mix of 2 and 3 bedroom apartments and a single bedroom apartment.

The proposed building is generally well integrated with the street in that it is oriented to face Toorak Road and includes pedestrian and vehicle entries.

14.1.2 Clause 55.03 – Site Layout and Building Massing

Pursuant to Table B1 at Clause 55.03-1 the proposed building should be set back from the street the average of the front walls of the adjoining buildings. The ground floor level setback is significantly greater than that of its neighbours. At the upper levels, the facade is angled, providing small setbacks at the west end, where the adjoining building extends to the Toorak Road frontage. At the east end, the setback is significantly greater, similar to that of the adjoining building to the east. The proposed setbacks from Toorak Road are appropriate. The proposed height is consistent with Standard B7 in that it does not exceed 12 metres in height, consistent with DDO 15.

The visual impact of the building from Toorak Road will not be unreasonable, given the generous width of Toorak Road, the fact that nearby buildings range in height from 2-7 storeys, the angled setback of the upper levels and the substantial setback of level 3. This setback ranges from between approximately 2.4 m to 6 m to balconies and 6.5 m to approximately 9 m to the facade.

The relationship between the height of the proposed building and that of the adjoining buildings as seen from Toorak Road will not be uncomfortable. While the building will be taller than its neighbours, its visual impact will be substantially moderated by the facade of the top floor being set well back from Toorak Road. In addition, the height of the building adjoining the 2 storey building at 1 Walsh Street steps down to 3 levels.

The visual impact of the building as seen from the adjoining private open space at 1 Walsh Street will be significant. This impact will be exacerbated by the fact that the ground level of this space is significantly lower than that of the boundary fence. However this impact will also be moderated by the fact that the proposed building effectively has 2 large light courts at levels 1 and 2, where it is set back 5 metres from the common boundary. It is also relevant to note that the 2 affected areas of ground level open space at 1 Walsh Street are not limited to the area immediately adjoining the subject site. These open space areas also wrap around the front and rear of the building at 1 Walsh Street. As a result, significant proportions of these spaces do not immediately adjoin the subject site. As seen from these areas, the building will have less visual impact than from those parts of these spaces immediately adjoining the subject site.

Viewed from the communal open space area to the west, at 2-4 Marne Street, the visual impact of the proposed building will not be unreasonable, noting that a significant proportion of this space is located a substantial distance west of the subject site.

Pursuant to Standard B 8, site coverage should not exceed 60%. Proposed site coverage is 75%. Adjoining properties have site coverages of between 38% and 78%. The proposed level of site cover is not excessive in an inner suburban context, where site coverage often exceeds 60%.

Pursuant to Clause 55.03-4, the site area covered by pervious surfaces should be 20%. Approximately 15% of the site will be pervious. This is acceptable in this instance, noting that the development satisfies the requirements of Clause 22.23 (Stormwater Management – Water Sensitive Urban Design), provided that a 30,000 litres stormwater detention tank is provided, in accordance with the ESD report submitted.

Proposed apartments have north facing living areas where possible, consistent with Clause 55.03-5 (Energy Efficiency objectives). Given the nature of the development and site constraints, only a small proportion of the apartments can have north-facing living areas.

The proposed development will not unreasonably reduce the energy efficiency of adjoining dwellings.

The building will provide a good level of safety and security for residents, consistent with Clause 55.03-7. The car park will not be accessible to the general public. There are no private spaces which will be accessible to people other than residents/visitors.

Landscaping objectives set out under Clause 55.03-8 include encouraging development that respects the landscape character of the neighbourhood and encouraging the retention of mature vegetation on site.

The landscape character of the area is mixed. The adjoining property at 2-4 Marne Street includes garden areas behind the existing building, which is built to the Toorak Road and Marne Street boundaries. This site also has garages and a car park hard stand area. The majority of the total area of the site is occupied by a combination of buildings, the car park hard stand and a driveway.

The site to the east, at 1 Walsh Street includes significant garden areas. The rear of this site is occupied by garages and a car park hard stand.

Overall, the landscape character of the area varies, from sites with minimal to significant landscaping.

An arborist's report relating to existing plants on the subject site has been provided by the applicant. This report includes an assessment of which trees are worthy of retention. A Worthiness of Retention (WOR) rating was given to each tree. Any tree with a WOR of 3 or less should be seriously considered for removal before development begins and trees rated 4-6 are of some significance. Trees rated 7 or higher are of high significance. Ratings given to existing trees include a WOR of 6 for 2 rows of trees along the west boundary of the site.

It appears unlikely that these trees could be retained during construction, given the scale of the proposed development and the fact that it includes basement levels. The proposed landscaping plans show that some replacement trees are to be planted in this area, but a smaller number than existing. Other landscaping is also proposed in locations including the front setback area and at the north-west corner of the site. The proposed landscaping plan is acceptable in the neighbourhood context.

14.1.3 Clause 55.04 – Amenity Impacts

Diagram B1 under Standard B17 provides an envelope for side and rear setbacks.

Adjoining the east boundary, a part of the building towards the rear of the site is built to distance of approximately 0.2 metres from the site boundary at levels 1 and 2, which is non-compliant with Diagram B1. However, that part of the neighbouring site adjoining this wall (1 Walsh Street) is occupied by a hard stand area between garages. This being the case, this non-compliance is acceptable.

South of the garages at 1 Walsh Street are secluded private open spaces attached to two apartments. The proposed building complies with Diagram B 1 at this point.

With regard to the north (rear boundary) the proposed setbacks comply with Diagram B1.

For much of its length along the west boundary, the proposed building does not comply with Diagram B1. However the non-compliant areas adjoin either outbuildings at 2-4 and 6 Marne Street or an area of communal open space at 2-4 Marne Street. The degree of non-compliance adjoining this open space area is not significant.

Clause 55.04-2 relates to length and height of boundary walls. The proposed development complies with the relevant standard.

Clause 55.04-3 relates to daylight to existing windows. The proposed development complies with the relevant standard.

Clause 55.04-4 relates to heights and setback of new walls opposite existing northfacing windows. It is not relevant to the assessment of the current application as the proposed building is not opposite any north-facing windows.

Clause 55.04-5 relates to overshadowing. The proposed building will not comply with the relevant standard but is considered consistent with the objective.

Shadows cast by the proposed building between 9 am and 3 pm on 22 September will affect three adjoining properties – 2-4 Marne Street, 6 Marne Street and 1 Walsh Street.

The impact on 6 Marne Street will be minimal. There will be minor additional overshadowing of a car park hard stand area and open space at 9 am and 10 am. This will have little impact on the amenity of this property.

At 9 am the building will increase overshadowing to communal open space at 2-4 Marne Street. At 10 am, a relatively small proportion of the total area of this space will be affected by additional overshadowing. At 11 am the proposed building will not overshadow 2-4 Marne Street.

The shadow impact on the two areas of secluded private open space at 1 Walsh Street are summarised below.

Secluded private open spaces at 1 Walsh Street which will be affected by the proposed development are located in the space between the subject site and the existing building at 1 Walsh Street. These spaces also wrap around the front and rear of the building.

Until midday these spaces will not be overshadowed by the proposed building. At 1 pm, the proposed building will reduce the existing extent of overshadowing to that part of the open space west of the building at 1 Walsh Street.

At 2 pm, the proposed building will result in less overshadowing to the adjoining open spaces at some points and a small amount of additional overshadowing at other points.

At 3 pm, the proposed building will result in significant additional overshadowing to adjoining open space.

Overall, the increase in the extent of overshadowing is consider to be reasonable, particularly given the inner suburban context.

Clause 54.04-6 relates to overlooking to existing secluded private open spaces and habitable room windows. The relevant objective is:

'To limit views into existing secluded private open space and habitable room windows'.

The current plans show extensive privacy screening to the east elevation. At level 3, screening is provided by way of a combination of landscaping and fixed screens. It appears that the type of screening proposed will not adequately protect the privacy of adjoining occupiers. This can be addressed by condition if a permit is issued.

Screening to a number of west facing balconies and habitable room windows is required in order to protect the privacy of adjoining private open spaces.

The plans include a near of references to windows being 'frosted to 1.7'. Such windows should be fixed, as well as frosted to 1.7. This can be addressed by condition, if a permit is issued.

Clause 55.04-7 relates to internal views and seeks to limit views into secluded private open spaces and habitable room windows of dwellings within a proposed development.

A number of balconies and habitable room windows require screening in order to limit such views. This can be addressed by condition, if a permit is issued.

Clause 55.04-8 relates to noise impacts and states that noise sources such as mechanical plant should not be located near bedrooms of immediately adjacent

existing dwellings. The plans for the proposed development show rooftop plant, located well away from the site boundaries.

This clause also states that dwellings close to busy roads should be designed to limit noise levels in habitable rooms. This can be addressed by condition, if a permit is issued.

14.1.4 Clause 55.05 – On-site Amenity and facilities

Clause 55.05-1 relates to accessibility. The plans show no stairs leading to the ground floor level and show a ramp with a gentle slope leading to the foyer. The development is consistent with the accessibility objective.

Clause 55.05-2 relates to providing visible, easily identifiable entries to dwellings, with shelter and a sense of personal address around the entry. The development achieves this by providing separate pedestrian and vehicular entry from Toorak Road as well as shelter over the building entry.

Clause 55.05-3 relates to allowing adequate daylight into new habitable room windows. While the development complies with the relevant standards, it is noted that the windows to 2 ground floor bedrooms to one apartment have a particularly poor outlook, to a 4.5 m high wall, across a 1 metre wide courtyard. This could be improved either by increasing the width of this courtyard or by providing a skylight to these rooms and incorporating a design treatment to the wall, to create visual interest. This can be addressed by condition, if a permit is issued.

Clause 55.05-4 relates to the dimensions of areas of private open space and states that they should be conveniently accessible from living rooms. The open space areas shown on the plans generally comply with the relevant standards, with exceptions as set out below.

Apartment 3 at ground floor level has a courtyard with an area of 22 m2, rather than 40m2, specified under the relevant standard. However, this is a well-proportioned space, with access from 3 habitable rooms and will meet the open space needs of future residents.

Apartment 07 at ground floor level has a 3 m wide courtyard, 20m2 in area. The outlook from this courtyard will be to a 4 m high wall. The amenity of this space could be improved by its width being increased. However, this change would further reduce the area of this apartment which is currently 41m2. If a permit is issued, this apartment should be deleted.

At level 2, apartment 05 has a balcony approximately 1.3 m in width, rather than 1.6 m, as specified by the relevant standard. However, this balcony is 'L' shaped, facing both north and west and has an area of 20m2. These features adequately compensate for the fact the width does not comply with the standard.

At level 3, balconies to two apartments are 7m2 in area, with usable widths of less than 1.6 m. These balconies should be increased in area and width, so as to improve their usability.

Clause 55.05-5 relates to solar access and states that the south boundary of secluded private open space should be set back from any wall to the north of the space a distance of at least 2 m plus 90% of the height of the wall to the north.

The courtyard to apartment 3 will have a 3 storey wall to its north. Solar access to this space will be poor.

However, seven of the eight ground level apartments have ground level open spaces that either comply with this formula or are close to compliant. Overall, the proposed development achieves an acceptable level of compliance with the relevant standard.

Standard B30 under Clause 55.05-6 states that each dwelling should have convenient access to at least 6m3 of externally accessible, secure storage space.

The plans show 40 storage spaces within the car park levels. All but three have areas of at least 6m3.

14.1.5 Clause 55.06 - Detailed Design

Clause 55.06-1 encourages design details that respect existing or preferred neighbourhood character. A stated above, the neighbourhood character is mixed. It includes buildings of various ages and styles. In this context, the modern design proposed will sit comfortably. It is noted that while Urban Design comments do not support the application, the advice also includes the statement that presentation to the street is considered to be of high quality.

The visual bulk of the building from Toorak Road will not be unreasonable, given the angled setbacks of levels 1 and 2, the significant setback of level 3 and the stepping down of the building where it adjoins 1 Walsh Street.

The front fences objective under Clause 55.06-2 encourages front fence design that respects existing or preferred neighbourhood character and includes Table B3 which states that fences to a street in a Road Zone Category 1 should not exceed 2 m in height.

The adjoining property to the west, at 2-4 Marne Street has no front fence, as the building extends to the frontages of both Marne Street and Toorak Road. The property to the east (1 Walsh Street) has a quite a tall metal picket fence on a brick base. Typically, other nearby properties in Toorak Road have low masonry fences.

As seen from Toorak Road, the proposed front fence ranges in height from 1.4 m to 1.8 m and is formed of a combination of stone, hedging and timber. It is complementary to the proposed building and respectful of the neighbourhood character.

Pursuant to Clause 55.06-6, site services (including rubbish bin storage areas) must be installed and easily maintained, accessible, adequate and attractive.

Rubbish bins are to be stored at basement level. Details of mailboxes have not been provided. This can be addressed by condition if a permit is issued.

14.2 Traffic and car parking

Many objectors raised concerns regarding traffic and inadequate provision of on-site car parking.

The applicant has provided traffic reports and these have been reviewed by Council's traffic engineers. As stated above, the comments conclude:

- The proposed car parking provision is appropriate.
- Traffic generated by the development will have minimal impact on Toorak Road.

It is also noted that Vic Roads have reviewed the application and offered no objection.

A related concern expressed by objectors is that occupiers of each apartment will be entitled to two on-street parking permits. To address this, it is likely the applicant will accept a condition stating that they will apply to the City of Melbourne to remove the site from the Resident Parking Scheme, so that occupiers of the dwellings will not be eligible to obtain Resident Priority Parking Permits.

14.3 Internal Amenity

Internal amenity is generally of an acceptable to high standard. The smallest apartment has an area of 41m2. As stated above, it is considered that this apartment should be deleted. Two bedroom apartments have minimum areas of 54m2, while 3 bedroom apartments are at least 95m2 in area. All apartments have private open space in the form of either a courtyard or balcony.

There are a number of 'saddle-bag' bedrooms within the development. Most are fairly short and wide (approximately 1.8 m long and 0.9 m in width). These will provide adequate natural lighting. One however (to apartment 07 at level 2) is approximately 3.4 m in length. This will not provide adequate lighting and is not supported.

14.4 Energy, Water and Waste Efficiency

Clause 22.19 (Energy, Water and Waste Efficiency) requires that applications be accompanied by:

- A Waste Management Plan.
- An ESD Statement demonstrating how the development meets relevant policy objectives and requirements.

For buildings over 2,000 square metres in gross floor area the Sustainable Design Statement must include a statement from a suitably qualified professional verifying that the building has the preliminary design potential to achieve the relevant Performance Measures set out in Clause 22.19-5. These include a 5 star rating under a current version of Green Star – Multi Unit Residential rating tool or equivalent for residential development with a gross floor area of more than 5,000 m2. With regard to water efficiency, retail premises with a floor area of up to 2,000 square metres should achieve 5 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star Retail rating tool or equivalent.

An ESD report forms part of the original application submission. It includes the following advice:

- The proposed dwellings achieve the standard of building envelope energy efficiency required by the Building Code of Australia.
- The combination of design features and services initiatives meets all the standards of the STEPS sustainability assessment tool.
- The residential component achieves 1 point for Green Star Credit Wat-1.
- The building has the ability to meet the energy performance requirements of the Building Code of Australia.
- It has the ability to attain at least one point against the 'Wat-1 Occupant Amenity Water credit'.

The report submitted does not address all requirements of Clause 22.19. This can be addressed by condition, if a permit is issued.

As stated above, a Waste Management Plan has been received and is satisfactory, subject to provision of some additional information.

14.5 Relocation of Tram Stop

Many objectors have expressed concern about this. Whether the tram stop can be relocated/removed is a matter which will be decided by Public Transport Victoria/Yarra Trams. If removal/relocation is not approved, the plans for the proposed development will have to be amended to address this.

14.6 Cultural Heritage Sensitivity of Site

In early 2015, it came to Council's attention that the subject site was located in an area considered to be a registered cultural heritage place (the Yarra Mission registered Heritage Place). Therefore the applicant was asked to prepare a Cultural Heritage Management Plan (CHMP). This was received on 6 July 2015 and has been approved by the Office of Aboriginal Affairs.

The relevant map showing areas of cultural sensitivity has been amended and the subject site is no longer identified as such a place.

15. Conclusion

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

16. **RECOMMENDATION**

That a Notice of Decision to Grant a Permit be issued for development including demolition, construction of a 4 storey building (above 2 basement levels), reduction of the car parking requirement and creation/alteration of access to a road in a Road Zone Category 1 subject to the following conditions:

1.Prior to the commencement of the development on the land, two copies of plans, drawn to scale must be submitted to the Responsible Authority generally in accordance with the plans received on 1 October 2015 but amended to show:

- a) Screening to the following, to achieve compliance with Clause 55.04-6:
 - bedroom window and balcony to apartment 10 at first floor level;
 - balcony to apartment 4 at first floor level;
 - bedroom window and balconies to apartments 9 and 10 at second floor;
 - west facing bedroom windows to apartment 6 at second floor;
 - balcony to apartment 204 at second floor;
 - privacy screening shown clouded on levels 1 and 2;
 - bedroom windows to apartment 07 at second floor level;
 - balcony and southern bedroom window to apartment 06 at second floor;
 - north-facing window to the bedroom to apartment 04 at second floor;
 - west facing window of the central bedroom to apartment 04 at second floor;
 - East-facing balconies and habitable room windows at level 3.
- b) Screening to the following, to achieve compliance with Clause 55.04-7:

- West elevation of balcony to apartment 05 at level 1.
- North elevation of balcony to apartment 06 at first floor.
- Balcony 109 at level 1.
- West facing bedroom windows to apartment 08 at first floor.
- West elevation of balcony to apartment 05 at second floor.
- North elevation of balcony to apartment 06 at second floor.
- Bedroom windows and balcony to apartment 207 on second floor.
- Bedroom windows and balcony to apartment 208 at second floor.
- Balcony and bedroom window to apartment 209 at second floor.
- West elevation of balcony 304 at second floor level.
- Balcony and west facing bedroom windows to apartment 05 at second floor level.
- c) The east facing bedrooms to apartment 04 at ground floor level set either set back a further 1 metre from the east boundary or to incorporate skylights and a design treatment to the wall opposite these windows, to create visual interest.
- d) Apartment 07 at ground floor level deleted. The adjoining apartments may be increased in size, to occupy this space.
- e) Balconies to apartments 2 and 3 at third floor increased in area to not less than 8m2, with trafficable widths of not less than 1.6 metres.
- f) Improved natural lighting to the 'saddle-bag' bedroom to apartment 07 at second floor.
- g) Signage to advise motorists of the clearance beneath the porte cochere.
- Appropriate signage/linemarking to inform drivers that the western crossover is to be used for exit only, with entering vehicles directed to the east crossover.
- i) A street tree to replace that being removed.
- j) Location of mailboxes.
- k) No development (other than demolition and construction of fencing, pergolas and basement levels) to be carried out within or over Lot 1, as shown on the title submitted with the application.
- I) A 30,000 litre stormwater detention tank

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

Public Transport Victoria condition

2. Before the development stars, amended plans to the satisfaction of the Responsible Authority and Public Transport Victoria must be submitted to and approved by these same bodies. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:

a) Vehicular access and egress for the site modified so that vehicles can only enter from Toorak Road by turning left into the site and can only exit by turning left out of the site. This is to ensure a minimum of interruption to tram services and to further the interests of safety.

3. The development as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.

4. Prior to the commencement of the development a schedule and samples of all external materials, colours and finishes including colour rendered and notated elevations must be submitted to, and approved by the Responsible Authority.

5. Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

6. Prior to commencement of development, a scheme for landscaping and planting in connection with the proposed development generally in accordance with the plans received on 1 October 2015 must be submitted to, and be approved by the Responsible Authority. The scheme must include trees of a substantial height at the time of planting, along the west boundary. The scheme must incorporate water sensitive urban design features to the satisfaction of the Responsible Authority. Except with the prior written consent of the Responsible Authority the approved landscaping must be implemented prior to the occupation of the development. The landscaped areas must be maintained to the satisfaction of the Responsible Authority.

7. Prior to the commencement of all landscaping works associated with the 'green walls' a landscape management plan detailing the ownership, maintenance regime and management responsibilities of these walls must be prepared and submitted to the satisfaction of the Responsible Authority prior to the commencement of all landscaping works associated with the 'green walls'.

If the 'green walls' fail, details of an alternative treatment must be submitted to, and approved by, the Responsible Authority. The alternative treatment must be implemented within three months of approval at no cost to Council and to the satisfaction of the Responsible Authority.

8. The site must be landscaped within 6 months of the completion of the development to the satisfaction of the Responsible Authority and the areas concerned must be subsequently maintained to the satisfaction of the Responsible Authority.

9. Prior to removal of the street tree, this must be approved by the City of Melbourne (Urban Sustainability Branch). The associated costs for removal and replacement (including any payment for the amenity and ecological services value of the tree) will then be determined by the City of Melbourne and must be paid by the applicant/developer/landowner prior to commencement of development. The Urban Sustainability Branch will be responsible for the procurement, species selection, planting and maintenance of new trees.

10. All construction and development works near Council owned and managed trees must abide by the protection and retention requirements outlined in Council's Tree Retention and Removal Policy.

11. Council trees must not be pruned in any form. No branches or roots may be removed without the prior written consent of the City of Melbourne (Urban Sustainability).

12. Prior to the commencement of the development, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group. This construction management plan must be prepared in accordance with the 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.

13. Prior to the commencement of development and Environmentally Sustainable Design (ESD) Statement must be prepared by a suitably qualified professional and submitted to the satisfaction of the Responsible Authority. The ESD Statement must demonstrate that the building has the preliminary design potential to achieve the following:

- a) 1 point for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star Multi Unit Residential rating tool or equivalent.
- b) A 5 star rating under a current version of Green Star- Multi Unit Residential rating tool or equivalent.

14. Except with the consent of the Responsible Authority, Bird de la Coeur Architects must be retained to complete and provide architectural oversight during the construction of the detailed design as shown in the endorsed plans and endorsed schedule of materials, to the satisfaction of the Responsible Authority.

15. The porte cochere exit crossover gate may only be opened when egressing vehicles trigger a detector loop, to discourage potential misuse as an entry point.

16. No Right Turn signs must be installed to face both the traffic exiting and entering the site, Left Turn line marking installed within the site (at both crossings) and yellow tram separation kerbing installed both north and south of the tram reserve in the vicinity of the site, to the satisfaction of the City of Melbourne (Engineering Services), Vic Roads, Yarra Trams and Public Transport Victoria.

17. Car parking must be allocated such that all dwellings will be allocated at least one car space, thirteen of the 3 bedroom dwellings are provided with two spaces each and four spaces are set aside for visitors.

18. Prior to the commencement of the development, the landowner/applicant must provide evidence that the landowner has applied to the City of Melbourne to remove the land from the City of Melbourne Resident Parking Scheme without the creation of a new area (the occupiers of the dwellings approved by this permit will not be eligible for Resident Priority Parking Permits) to the satisfaction of the Responsible Authority.

19. Prior to the commencement of the development, a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the City of Melbourne – Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system.

20. Prior to the commencement of occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the City of Melbourne – Engineering Services.

21. All new or altered portions of road (including the provision of footpaths, public lighting, street trees, pavement marking and signage) in Toorak Road must be constructed prior to the occupation of the development, in accordance with plans and specifications first approved by the City of Melbourne – Engineering Services.

22. The footpath adjoining the site along Toorak Road must be reconstructed together with associated works including the reconstruction or relocation of kerbs and/or services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the City of Melbourne – Engineering Services.

23. Existing street levels in Toorak Road must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the City of Melbourne – Engineering Services.

24. A revised Waste Management Plan (WMP) generally in accordance with the WMP by Leigh Design dated 27 May 2015 must be prepared, showing the location of bins for collection. This must be submitted to the City of Melbourne - Engineering Services. Waste storage and collection arrangements must not be altered without prior consent from the City of Melbourne – Engineering Services.

Public Transport Victoria (conditions 25-28)

25. Detailed traffic and construction management plans are to be prepared and to be to the satisfaction of the Responsible Authority, with the concurrence of PTV, together with Yarra Trams, prior to the commencement of buildings and works. These are to include the elements below relating to bus and tram services, together with any other elements specific to the site, the nature of works or which are required for safe conduct of works.

26. The existing public transport passenger shelter and stop area must not be altered without the prior consent of Public Transport Victoria. Any alterations including temporary works or damage during construction must be rectified to the satisfaction of Public Transport Victoria and at the full cost of the permit holder.

27. The permit holder must take all reasonable steps to ensure that disruption to public transport operation along the frontage of the site is kept to a minimum during the construction of the development. Foreseen disruptions to operations and mitigation measures must be communicated to Public Transport Victoria 14 days prior. If a temporary stop in an alternative location is required during construction, the temporary stop must be provided in consultation with, and to the satisfaction of Public Transport Victoria and the relevant public transport operators. Once the new stop is deemed suitable for operation, the temporary stop must be removed in consultation

with Public Transport Victoria. No such relocation and/or changes to bus stops is to occur until the written agreement of Public Transport Victoria is obtained.

28. The permit holder must take all reasonable steps and actions to provide for the safe movement of passengers and pedestrians along Toorak Road. Protrusions into the footpath area, damage to the footpath area and movements of vehicle and machinery must always be conducted in the safest way possible and at a time of the least passenger and pedestrian movement.

29. The two titles to the site must be consolidated prior to commencement of development.

30. Prior to the commencement of the development, an acoustic report prepared by a qualified acoustic consultant must be submitted to and be to the satisfaction of the Responsible Authority. The report must provide for noise attenuation measures to achieve a maximum noise level of 45dB(A)Leq in unfurnished and uncarpeted habitable rooms with all windows and doors closed, unless there is no suitable air conditioning and/or mechanical ventilation, in which case the maximum noise level of 45dB(A)Leq in unfurnished and uncarpeted habitable rooms must be achieved with all the windows half open and the doors closed. The report must be based on average external noise levels measured as part of a noise level assessment. The recommendations in the approved acoustic report must be implemented, at no cost to the Responsible Authority, prior to the occupation of the dwellings.

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

- a) The development is not started within two years of the date of this permit.
- b) The development is not completed within four years of the date of this permit.

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

Notes

Vic Roads

- a) The proposed development requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act for this activity <u>may</u> be required from Vic Roads (the Roads Corporation). Please contact Vic Roads prior to commencing any works.
- b) Separate consent <u>may</u> be required from Vic Roads (the Roads Corporation) under the Road Management Act for all buildings and works (including the relocation of the LED speed sign and vehicle crossovers) undertaken outside the title boundary within a Road Zone Category 1 (i.e. Toorak Road West). Please contact Vic Roads prior to commencing any works.
- c) Vic Roads does not object to waste collection on Toorak Road West or alternatively collection by small truck accessing the basement of the property provided waste collection is carried out during off peak traffic periods.

Public Transport Victoria

d) The applicant is reminded that the provisions of the Commonwealth Disability Discrimination Act 1992 must be satisfied.

City of Melbourne

- e) Council will not change the on-street parking restrictions to accommodate the access, servicing, delivery and parking needs of this development.
- f) All necessary approval and permits for works outside the title boundaries are to be first obtained for the City of Melbourne - Manager Engineering Services Branch and Vic Roads and the works performed to the satisfaction of the City of Melbourne – Manager Engineering Services Branch and Vic Roads.
- g) This permit does not constitute approval to relocate the Toorak Road tram stop

15 DECISION

The Lord Mayor, Deputy Lord Mayor and Councillors were notified of the above recommendation on 11 November 2015.

The signature and date below confirms that the Lord Mayor, Deputy Lord Mayor and Councillors affirmed this recommendation as the Council's decision.

Signature:

Date affirmed:

Stephen Vecris Senior Planning Officer