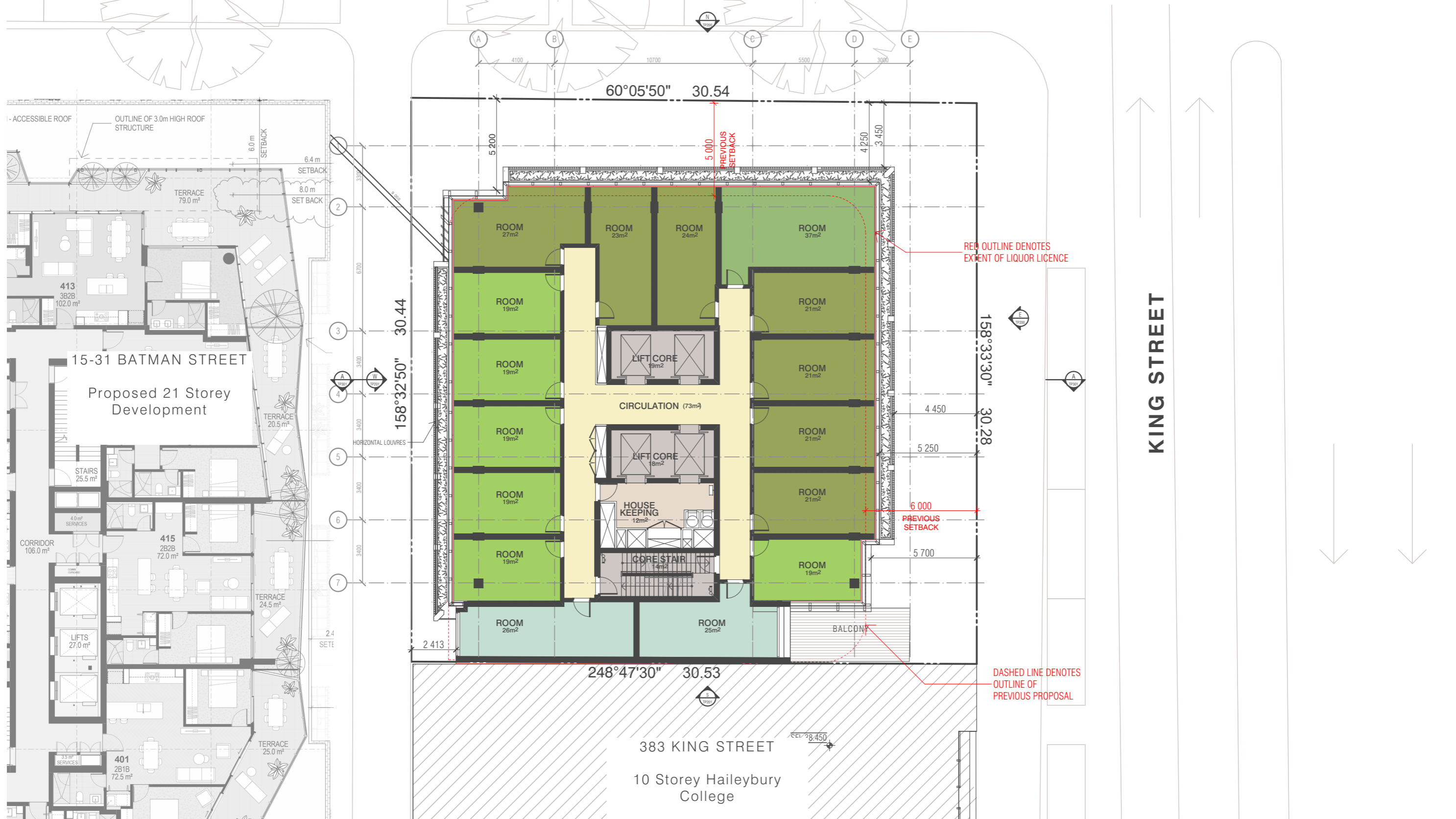


BATMAN STREET



BIM Server: Bimserver9 - BIM Server 20\17049 407-411 King Street\17049 King Street General

REVISION	DATE	REVISION
01	21.09.2017	AB
02	11.01.2018	SI
03	13.04.2018	SI

AMENDED TO COUNCIL ADVISE

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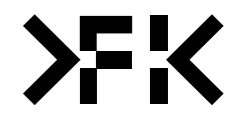
DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	13.04.2018	AB	16.04.2018	17049	1:200@A3

PROJECT
 17049
 407-411 KING STREET
 WEST MELBOURNE VICTORIA 3003

DRAWING TITLE
 LEVEL 03 FLOOR PLAN

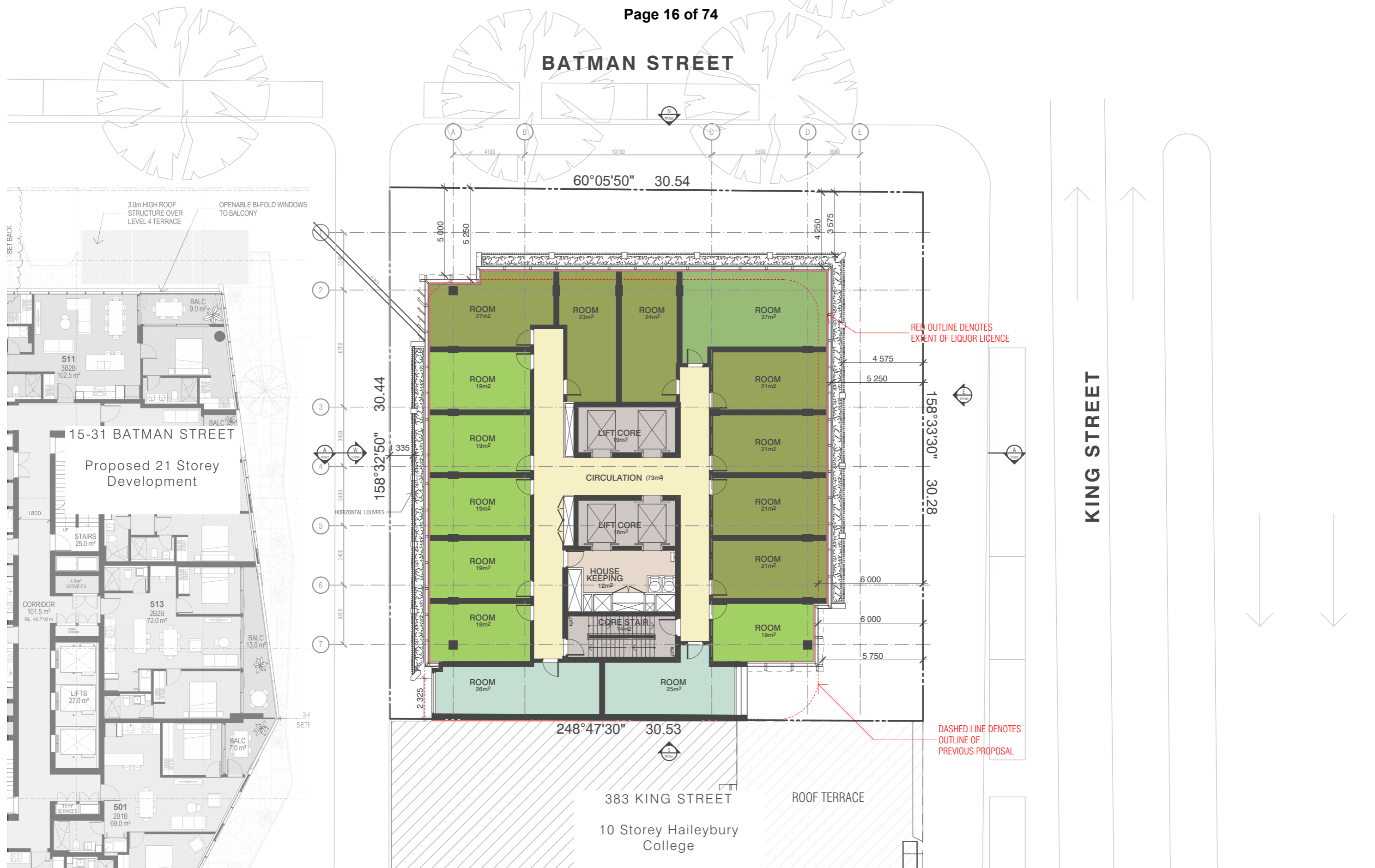
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 VICTORIA 3006 AUSTRALIA
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 FENDER KATSAIDIS (AUST) PTY LTD ACN 092 943 032

ISSUE PURPOSE
 TOWN PLANNING



REV. 02 **DRAWING NO.** TP103

BATMAN STREET



BIM Server: Bimserver9 - BIM Server 20\17049 407-411 King Street\17049 King Street General

REVISION	REVISION
01 TOWN PLANNING	AB 21.09.2017
02 TOWN PLANNING	SI 11.01.2018
03 AMENDED TO COUNCIL ADVISE	SI 13.04.2018

QUALITY ASSURANCE (FK IS A CERTIFIED COMPANY TO ISO 9001)
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PROJECT
17049
407-411 KING STREET
WEST MELBOURNE VICTORIA 3003

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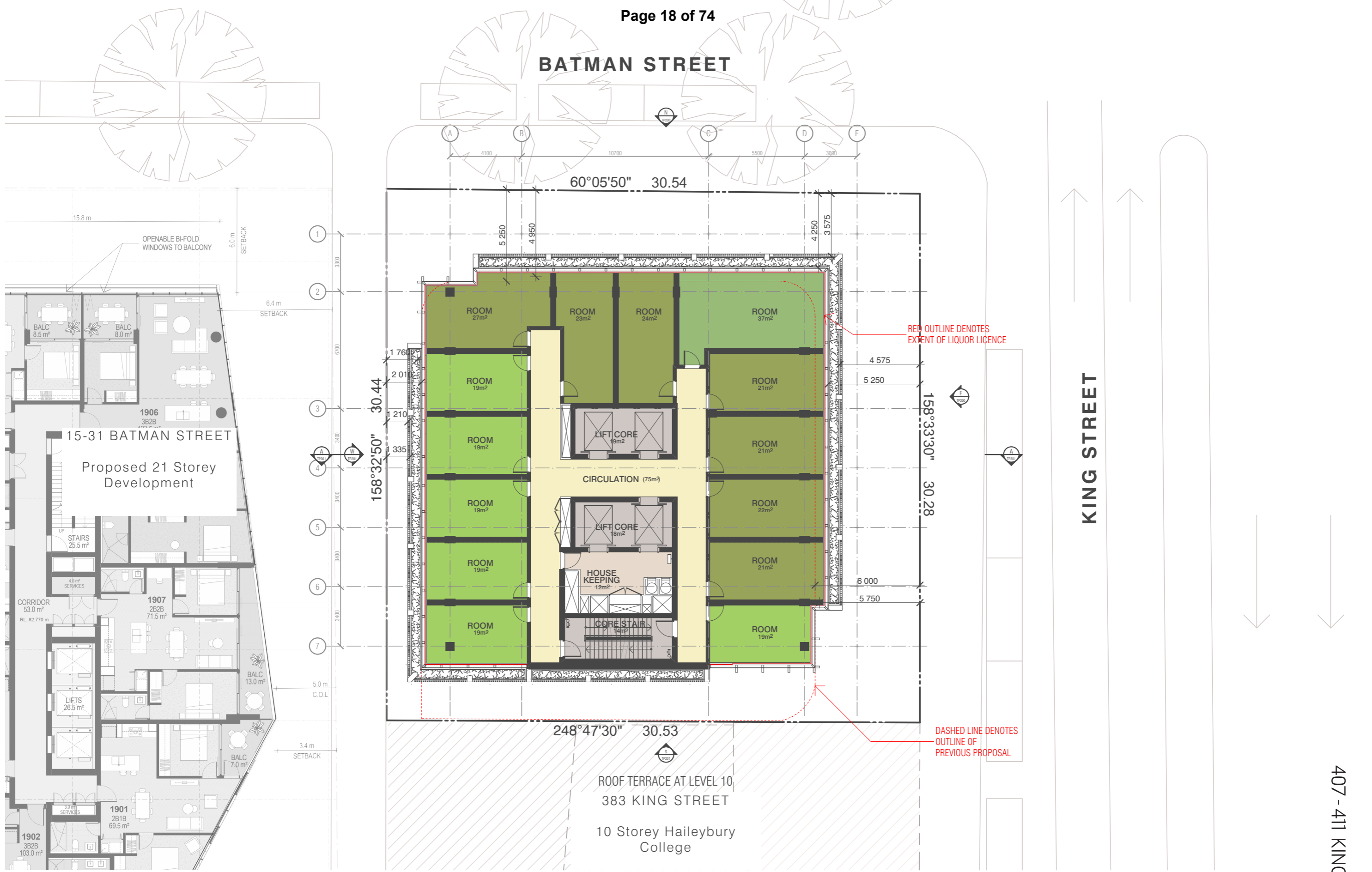


DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE	DRAWING TITLE
SI	13.04.2018	AB	16.04.2018	17049	1:200@A3	LEVELS 04-05 FLOOR PLAN

ISSUE PURPOSE
TOWN PLANNING

REV. 02
DRAWING NO. TP104

BATMAN STREET



FENDER KATSAIDIS

407 - 411 KING STREET

BIM Server: Bimserver9 - BIM Server 20/17049 407-411 King Street/17049 King Street General

REVISION	REVISION
01 TOWN PLANNING	AB 21.09.2017
02 TOWN PLANNING	SI 11.01.2018
03 AMENDED TO COUNCIL ADVISE	SI 13.04.2018

QUALITY ASSURANCE (FK IS A CERTIFIED COMPANY TO ISO 9001)
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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	13.04.2018	AB	16.04.2018	17049	1:200@A3

PROJECT
 17049
 407-411 KING STREET
 WEST MELBOURNE VICTORIA 3003

DRAWING TITLE
 LEVELS 10-17 FLOOR PLAN

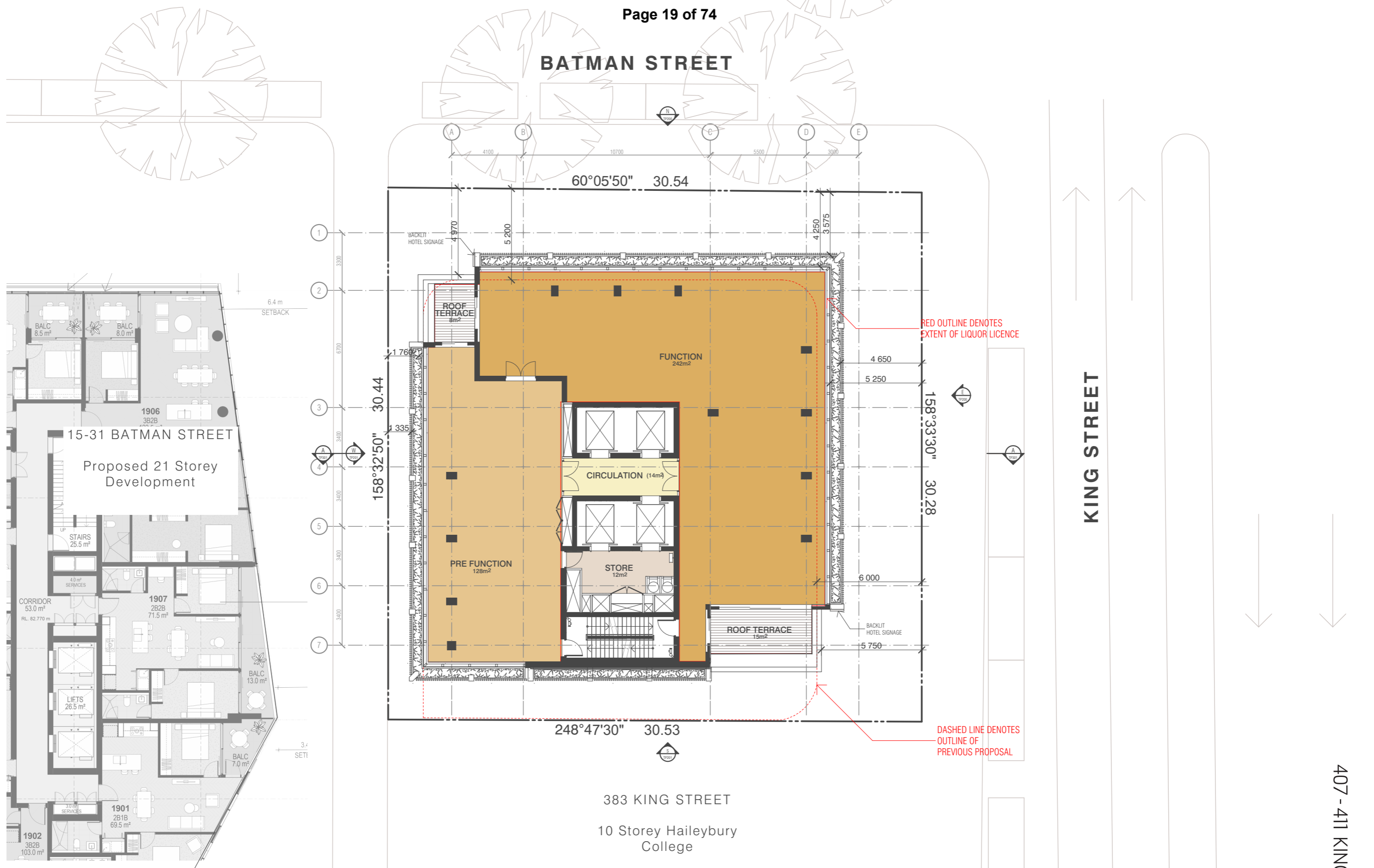
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ISSUE PURPOSE
 TOWN PLANNING



REV. 02 **DRAWING NO.** TP106

BATMAN STREET



BIM Server: Bimserver9 - BIM Server 20\17049 407-411 King Street\17049 King Street General

REVISION	REVISION
01 TOWN PLANNING	AB 21.09.2017
02 TOWN PLANNING	SI 11.01.2018
03 AMENDED TO COUNCIL ADVISE	SI 13.04.2018

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PROJECT
 17049
 407-411 KING STREET
 WEST MELBOURNE VICTORIA 3003

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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE	DRAWING TITLE
SI	13.04.2018	AB	16.04.2018	17049	1:200@A3	LEVEL 18 FLOOR PLAN

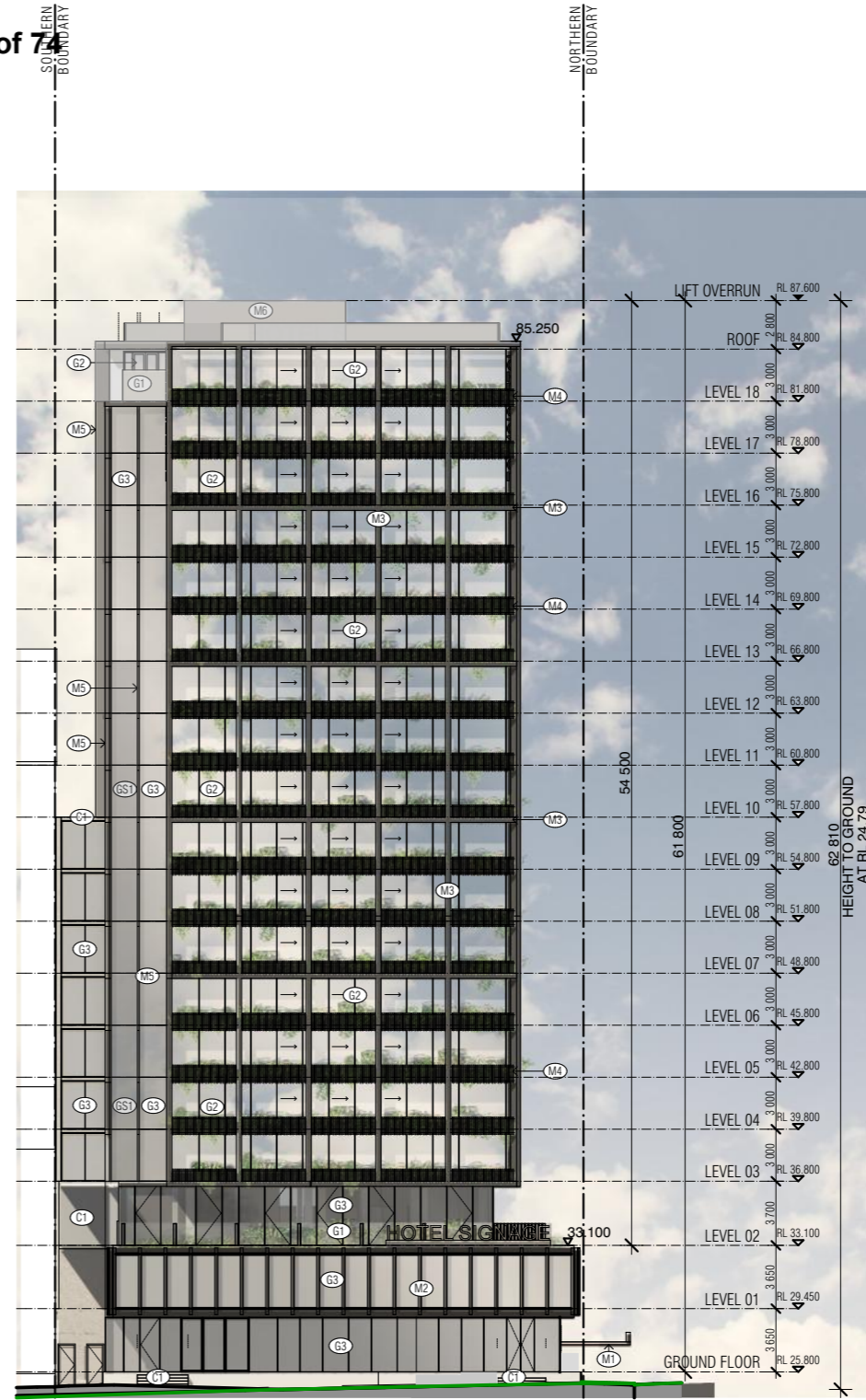
ISSUE PURPOSE
 TOWN PLANNING

REV. 02 **DRAWING NO.** TP107





NORTH ELEVATION
SCALE 1:400@A3



EAST ELEVATION
SCALE 1:400@A3

MATERIALS KEY

- (G1) CLEAR GLASS BALUSTRADE
- (G2) BLUE/GREY GLASS
- (G3) GLASS GREY TO MATCH ORIGINAL HERITAGE FACADE
- (G3S) GREY SPANDREL GLASS
- (M1) BRONZE COLOURED METAL CANOPY
- (M2) BLACK-PAINTED STEEL FINISH RESTORED TO ORIGINAL HERITAGE FINISH
- (M3) 300UC STEEL WITH PAINT FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
- (M4) BLACK ANODIZED ALUMINIUM BATTENS WITH FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
- (M5) BLACK POWDERCOATED SATIN METAL
- (M6) CHARCOAL POWDERCOATED METAL LOUVRE SCREEN
- (C1) LIGHT GREY CONCRETE

Revised: BIMserver® - BIM Server 20/17049 407-411 King Street/17049 King Street General

REVISION	DATE	BY
TOWN PLANNING	21.09.2017	AB
TOWN PLANNING	11.01.2018	SI
COUNCIL ADVICE	04.03.2018	SI
AMENDED TO COUNCIL ADVISE	13.04.2018	SI

REVISION

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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	13.04.2018	-	16.04.2018	17049	1:400@A3

PROJECT

17049
407-411 KING STREET
WEST MELBOURNE VICTORIA 3003

DRAWING TITLE
NORTH & EAST ELEVATIONS

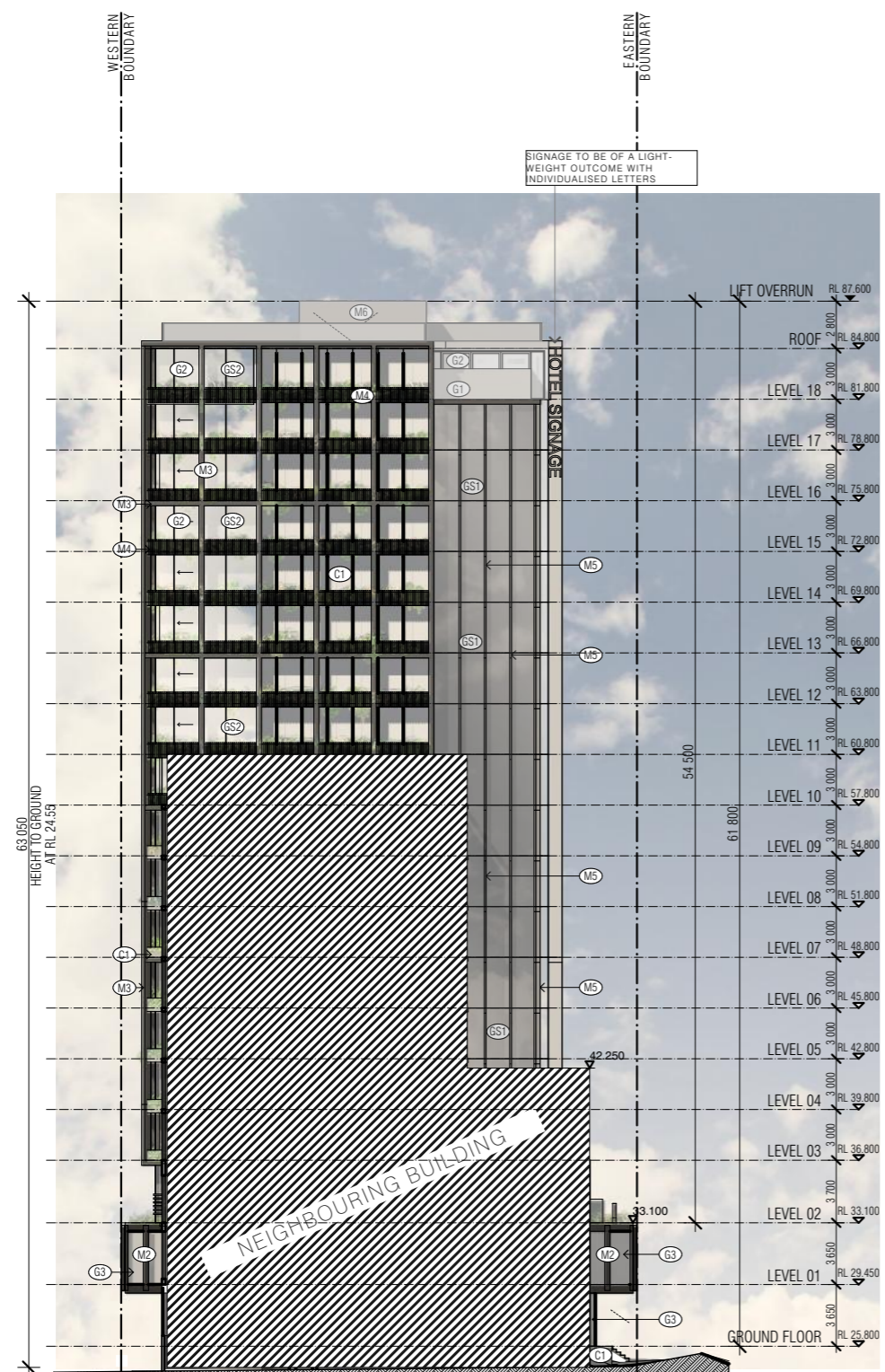
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VICTORIA 3006 AUSTRALIA
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FENDER KATSALIDIS (AUST) PTY LTD ACN 092 943 032

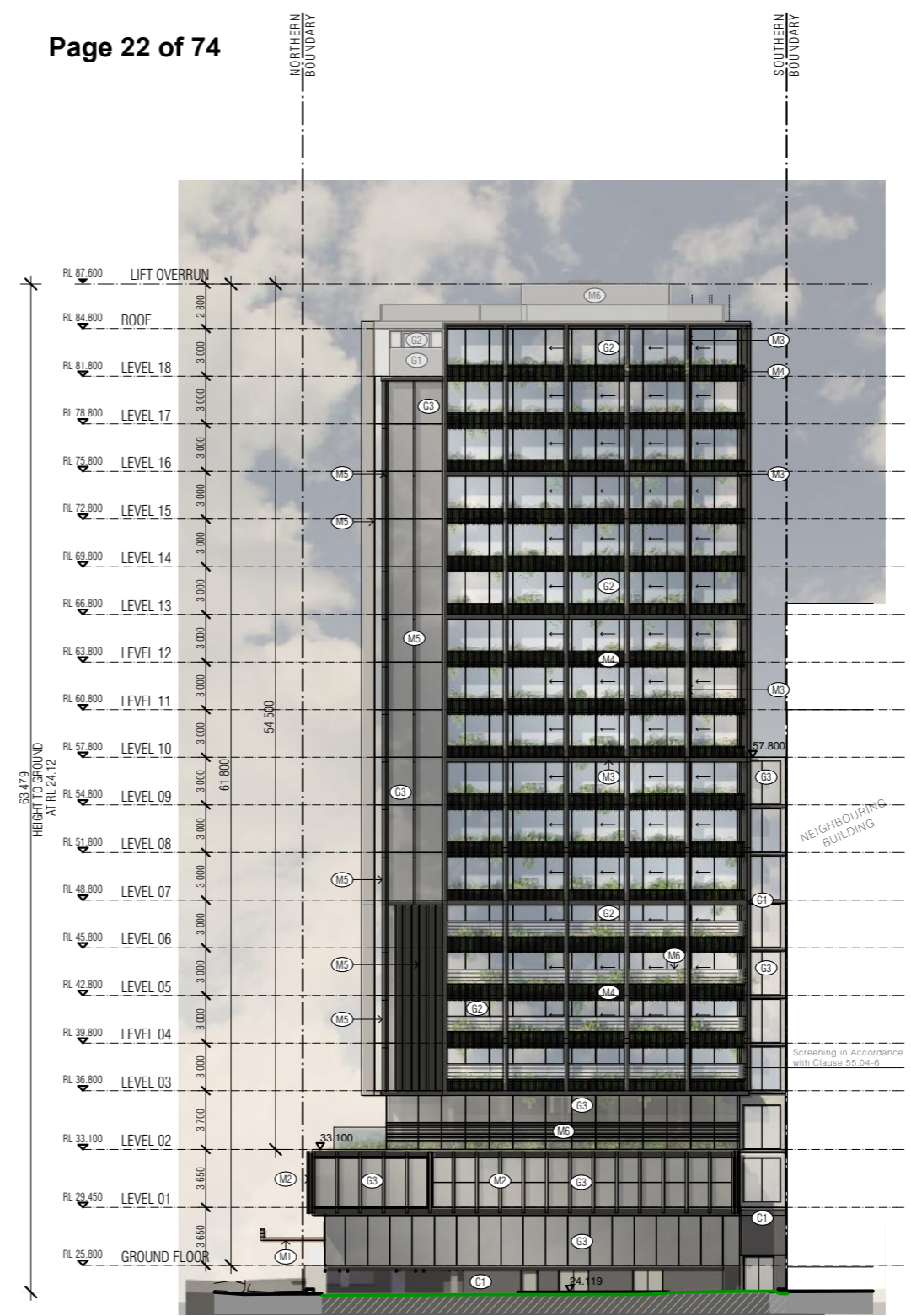
ISSUE PURPOSE
TOWN PLANNING



REV.	DRAWING NO.
03	TP200



SOUTH ELEVATION
SCALE 1:400@A3



WEST ELEVATION
SCALE 1:400@A3

MATERIALS KEY

(G1) CLEAR GLASS BALUSTRADE	(M3) 300UC STEEL WITH PAINT FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
(G2) BLUE/GREY GLASS	(M4) BLACK ANODIZED ALUMINIUM BATTENS WITH FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
(G3) GLASS GREY TO MATCH ORIGINAL HERITAGE FACADE	(M5) BLACK POWDERCOATED SATIN METAL
(G5) GREY SPANDREL GLASS	(M6) CHARCOAL POWDERCOATED METAL LOUVRE SCREEN
(M1) BRONZE COLOURED METAL CANOPY	(C1) LIGHT GREY CONCRETE
(M2) BLACK-PAINTED STEEL FINISH RESTORED TO ORIGINAL HERITAGE FINISH	

FENDER KATSALIDIS 115

Revision

NO.	REVISION	DATE
01	TOWN PLANNING	21.09.2017
02	TOWN PLANNING	11.01.2018
03	COUNCIL ADVICE	04.03.2018
04	AMENDED TO COUNCIL ADVISE	13.04.2018

QUALITY ASSURANCE (FK IS A CERTIFIED COMPANY TO ISO 9001)

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SI	13.04.2018	-	16.04.2018	17049	1:400@A3

PROJECT

17049
407-411 KING STREET
WEST MELBOURNE VICTORIA 3003

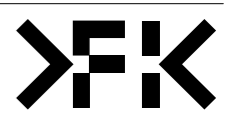
DRAWING TITLE

SOUTH & WEST ELEVATIONS

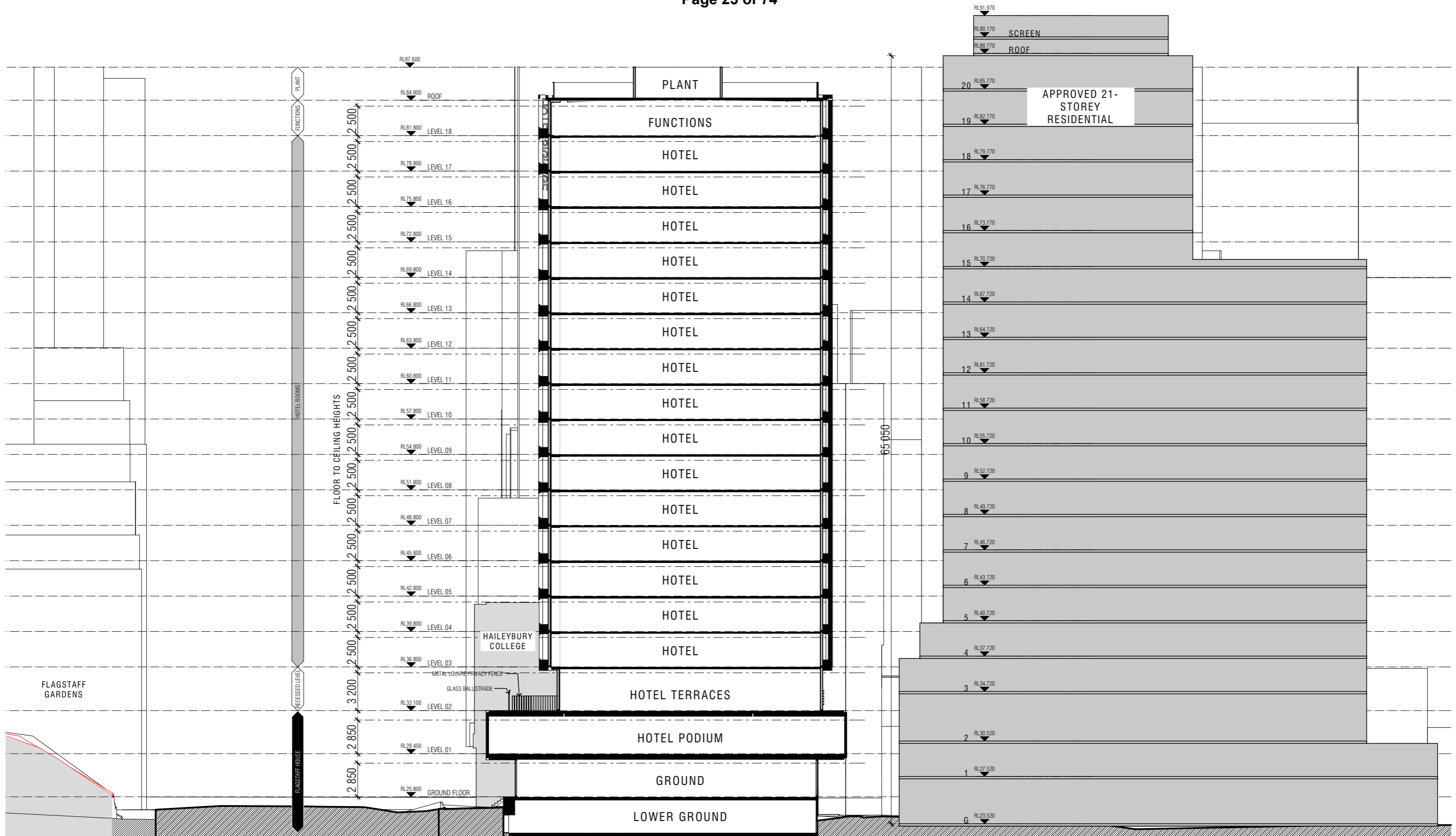
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ISSUE PURPOSE

TOWN PLANNING



REV. 03
DRAWING NO. TP201



Server: Bimserver9 - BIM Server 20/17049 407-411 King Street/17049 King Street General

REVISION	NO.	DATE
TOWN PLANNING	AB	21.09.2017
TOWN PLANNING	SI	11.01.2018

REVISION	NO.	DATE
TOWN PLANNING	AB	21.09.2017
TOWN PLANNING	SI	11.01.2018

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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	12.01.2018	AB	16.04.2018	17049	1:300@A3

PROJECT
 17049
 407-411 KING STREET
 WEST MELBOURNE VICTORIA 3003

DRAWING TITLE
SECTION CC

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 VICTORIA 3006 AUSTRALIA
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ISSUE PURPOSE
TOWN PLANNING



REV.	DRAWING NO.
01	TP300

F KATSALIDIS 117

MATERIALS KEY			
G1	CLEAR GLASS BALUSTRADE	M3	300UC STEEL WITH PAINT FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
G2	BLUE/GREY GLASS	M4	BLACK ANODIZED ALUMINIUM BATTENS WITH FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
G3	GLASS GREY TO MATCH ORIGINAL HERITAGE FACADE	M5	BLACK POWDERCOATED SATIN METAL
GS1	GREY SPANDREL GLASS	M6	CHARCOAL POWDERCOATED METAL LOUVRE SCREEN
M1	BRONZE COLOURED METAL CANOPY	C1	LIGHT GREY CONCRETE
M2	BLACK-PAINTED STEEL FINISH RESTORED TO ORIGINAL HERITAGE FINISH		



FENDER KATSALIDIS 119

BIM Server: Bimserver9 - BIM Server 20/17049 407-411 King Street/17049 King Street General

REVISION		REVISION	
-	TOWN PLANNING	SI	11.01.2018
> 01	AMENDED TO COUNCIL ADVISE	SI	13.04.2018

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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	13.04.2018	AB	16.04.2018	17049	1:200@A3

PROJECT
 17049
 407-411 KING STREET
 WEST MELBOURNE VICTORIA 3003

DRAWING TITLE
 EAST PODIUM ELEVATION

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 VICTORIA 3006 AUSTRALIA
 TELEPHONE: +61 3 8696 3888
 FENDER KATSALIDIS (AUST) PTY LTD ACN 092 943 032

ISSUE PURPOSE
 TOWN PLANNING



REV. 01
DRAWING NO. TP250

MATERIALS KEY

(G1) CLEAR GLASS BALUSTRADE	(M3) 300UC STEEL WITH PAINT FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
(G2) BLUE/GREY GLASS	(M4) BLACK ANODIZED ALUMINIUM BATTENS WITH FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
(G3) GLASS GREY TO MATCH ORIGINAL HERITAGE FACADE	(M5) BLACK POWDERCOATED SATIN METAL
(S1) GREY SPANDREL GLASS	(M6) CHARCOAL POWDERCOATED METAL LOUVRE SCREEN
(M1) BRONZE COLOURED METAL CANOPY	(C1) LIGHT GREY CONCRETE
(M2) BLACK-PAINTED STEEL FINISH RESTORED TO ORIGINAL HERITAGE FINISH	



FENDER KATSALIDIS 121

BIM Server: Bimserver9 - BIM Server 20/17049 407-411 King Street/17049 King Street General

REVISION		SI	DATE	REVISION
	TOWN PLANNING	SI	11.01.2018	
> 01	AMENDED TO COUNCIL ADVISE	SI	13.04.2018	

QUALITY ASSURANCE (FK IS A CERTIFIED COMPANY TO ISO 9001)
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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	13.04.2018	AB	16.04.2018	17049	1:200@A3

PROJECT
 17049
 407-411 KING STREET
 WEST MELBOURNE VICTORIA 3003

DRAWING TITLE
 NORTH PODIUM ELEVATION

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 VICTORIA 3006 AUSTRALIA
 TELEPHONE: +61 3 8696 3888
 FENDER KATSALIDIS (AUST) PTY LTD ACN 092 943 032

ISSUE PURPOSE
 TOWN PLANNING



REV. 01 **DRAWING NO.** TP251

MATERIALS KEY

- (G1) CLEAR GLASS BALUSTRADE
- (G2) BLUE/GREY GLASS
- (G3) GLASS GREY TO MATCH ORIGINAL HERITAGE FACADE
- (G5) GREY SPANDREL GLASS
- (M1) BRONZE COLOURED METAL CANOPY
- (M2) BLACK-PAINTED STEEL FINISH RESTORED TO ORIGINAL HERITAGE FINISH
- (M3) 300UC STEEL WITH PAINT FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
- (M4) BLACK ANODIZED ALUMINIUM BATTENS WITH FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
- (M5) BLACK POWDERCOATED SATIN METAL
- (M6) CHARCOAL POWDERCOATED METAL LOUVRE SCREEN
- (C1) LIGHT GREY CONCRETE



FENDER KATSALIDIS 123

BIM Server: Bimserver9 - BIM Server 20/17049 407-411 King Street/17049 King Street General

REVISION	DATE	REVISION
TOWN PLANNING	SI 11.01.2018	
AMENDED TO COUNCIL ADVISE	SI 13.04.2018	

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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	13.04.2018	AB	16.04.2018	17049	1:200@A3

PROJECT
 17049
 407-411 KING STREET
 WEST MELBOURNE VICTORIA 3003

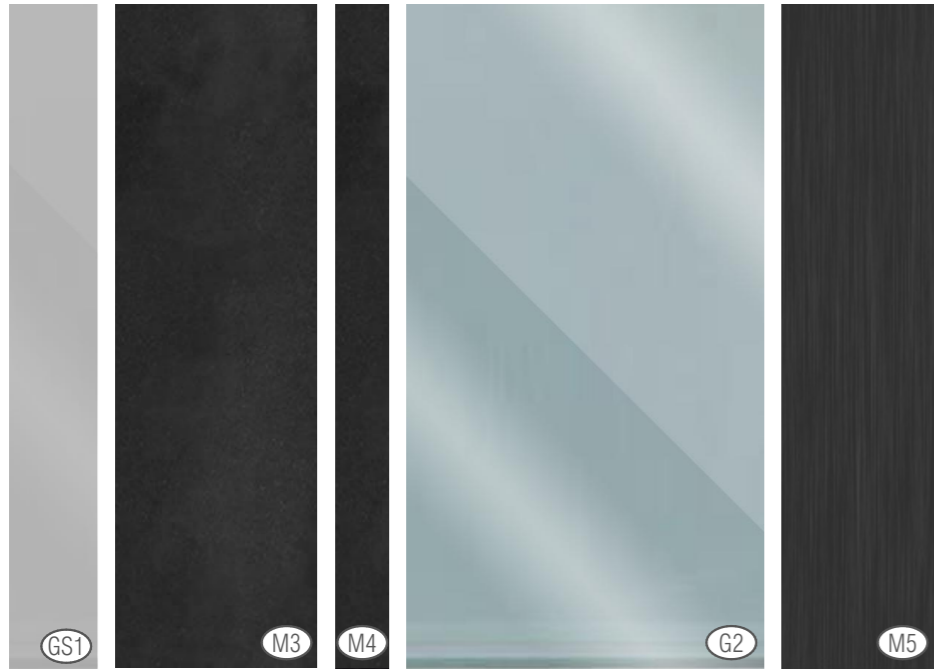
DRAWING TITLE
 WEST PODIUM ELEVATION

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 FENDER KATSALIDIS (AUST) PTY LTD ACN 092 943 032

ISSUE PURPOSE
 TOWN PLANNING



REV. 01
DRAWING NO. TP252



MATERIALS KEY	
G1) CLEAR GLASS BALUSTRADE	M5) 300UC STEEL WITH PAINT FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
G2) BLUE/GREY GLASS	M4) BLACK ANODIZED ALUMINIUM BATTENS WITH FINISH SYMPATHETIC TO HERITAGE STEEL PAINT FINISH
G3) GLASS GREY TO MATCH ORIGINAL HERITAGE FACADE	M6) BLACK POWDERCOATED SATIN METAL
GS1) GREY SPANDREL GLASS	M2) BLACK-PAINTED STEEL FINISH RESTORED TO ORIGINAL HERITAGE FINISH
M1) BRONZE COLOURED METAL CANOPY	C1) LIGHT GREY CONCRETE

REVISION	REVISION
SI	12.04.2018

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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	12.04.2018	AB	16.04.2018	17049	N.T.S.@A3

PROJECT
 17049
 407-411 KING STREET
 WEST MELBOURNE VICTORIA 3003

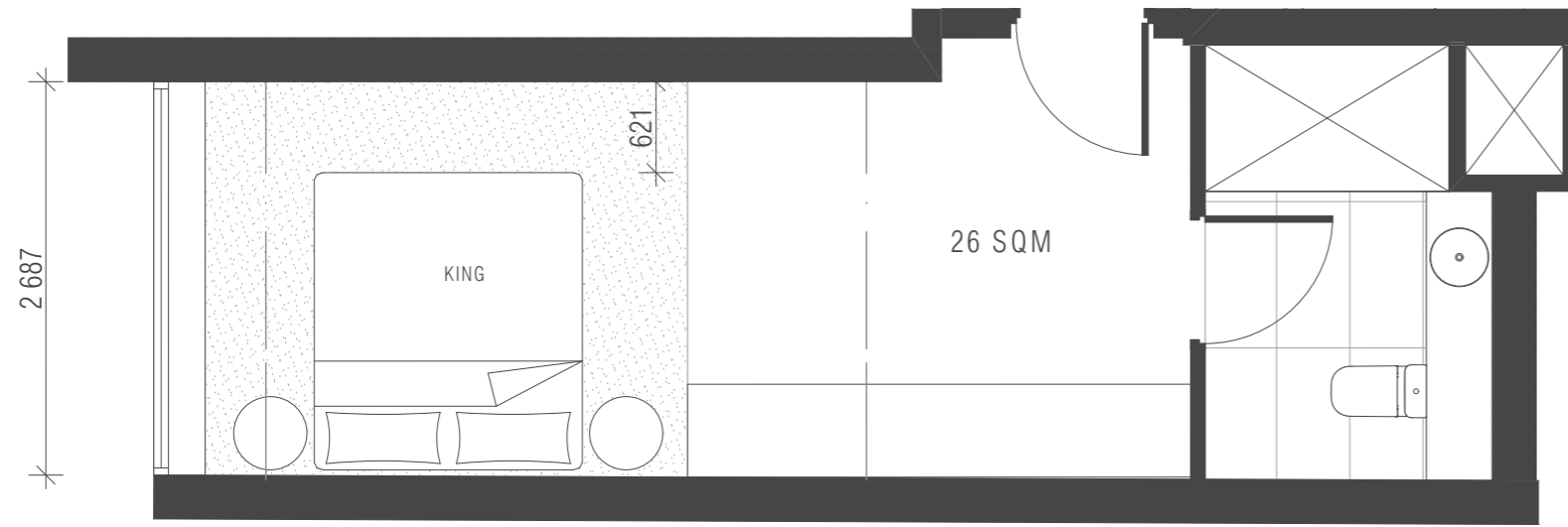
DRAWING TITLE
 EXTERIOR MATERIAL PALETTE

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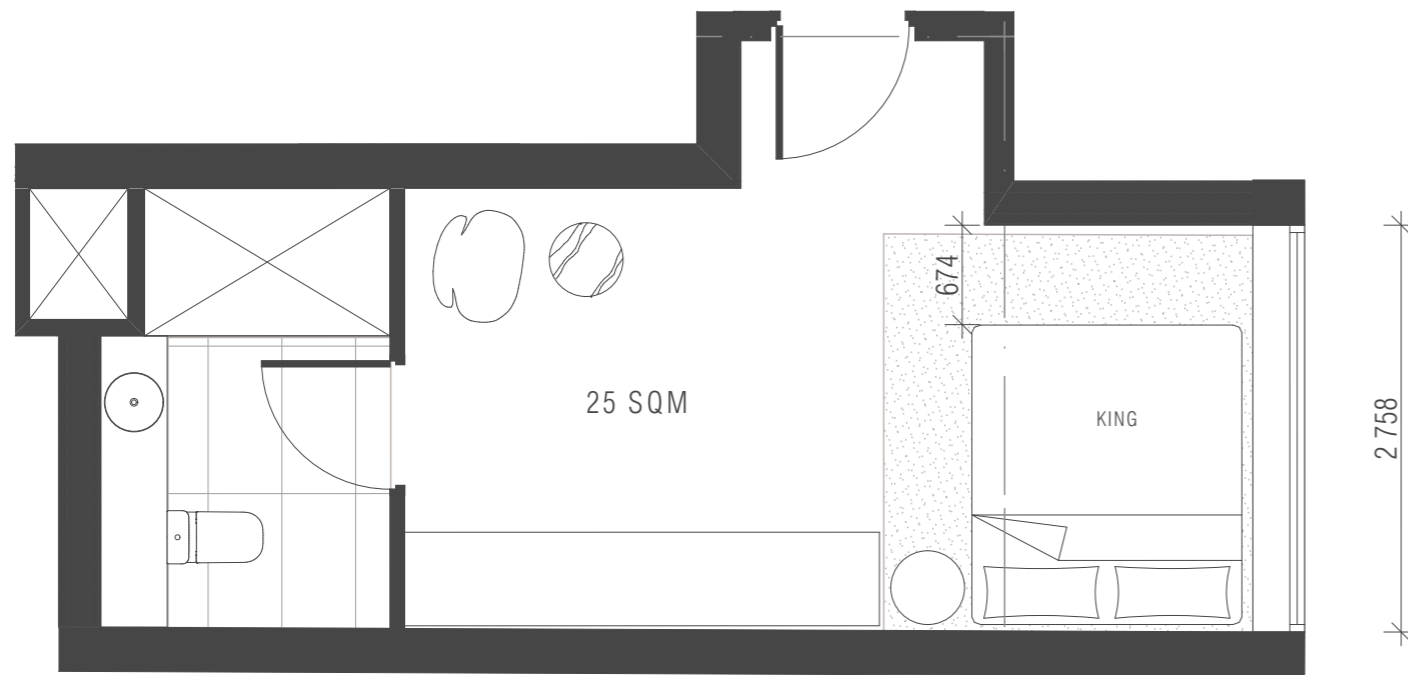
ISSUE PURPOSE
 TOWN PLANNING



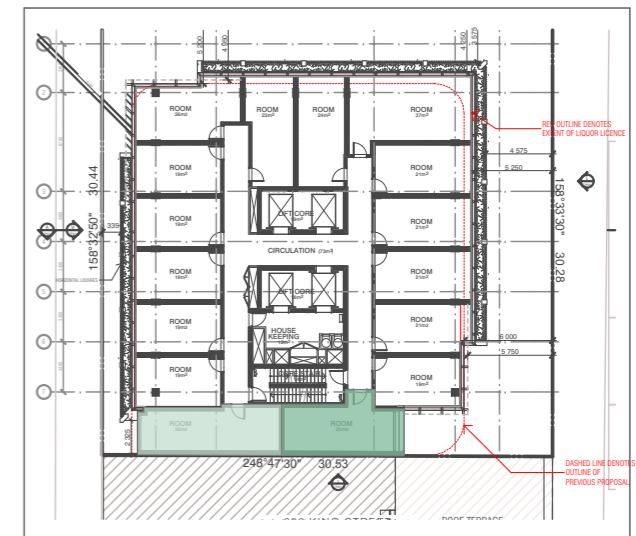
REV. - **DRAWING NO.** TP270



HOTEL ROOM A
SCALE 1:50@A1



HOTEL ROOM B
SCALE 1:50@A1



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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
SI	12.01.2018	AB	16.03.2018	17049	1:50@A3



PROJECT
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407-411 KING STREET
WEST MELBOURNE VICTORIA 3003

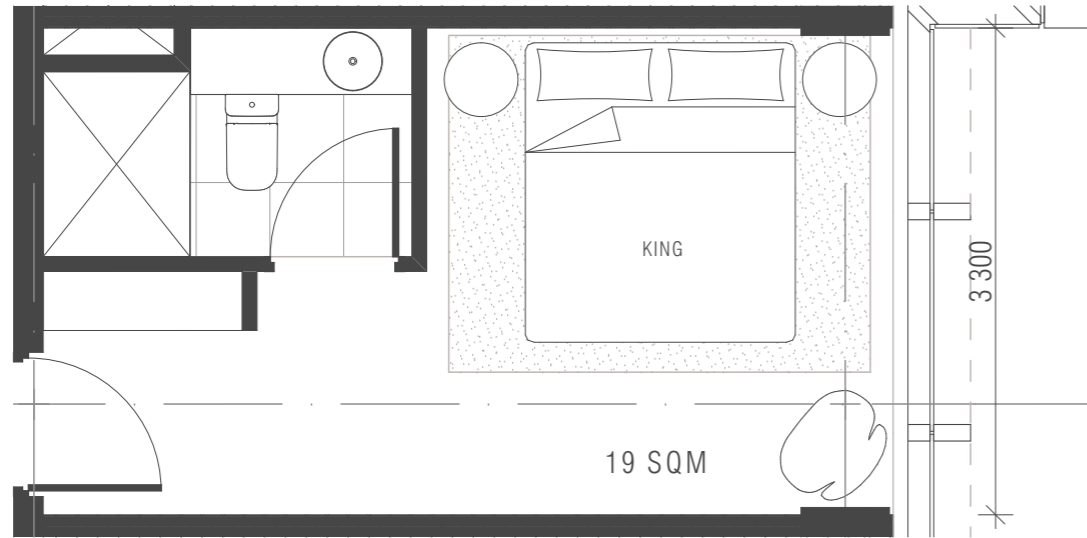
DRAWING TITLE
HOTEL ROOM PLANS

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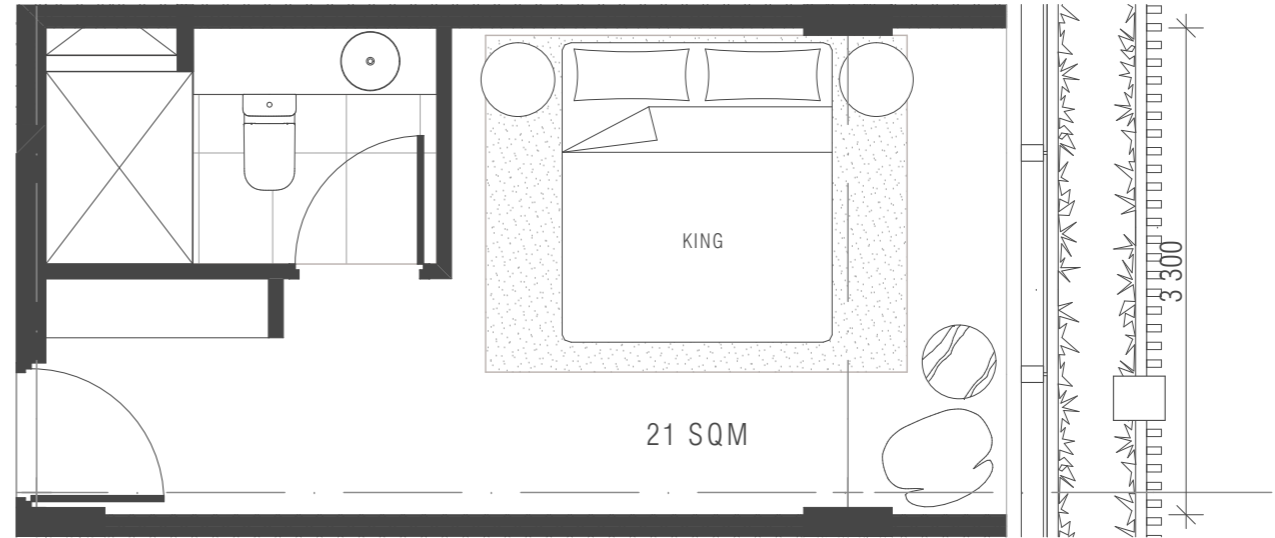
ISSUE PURPOSE
SCHEMATIC DESIGN



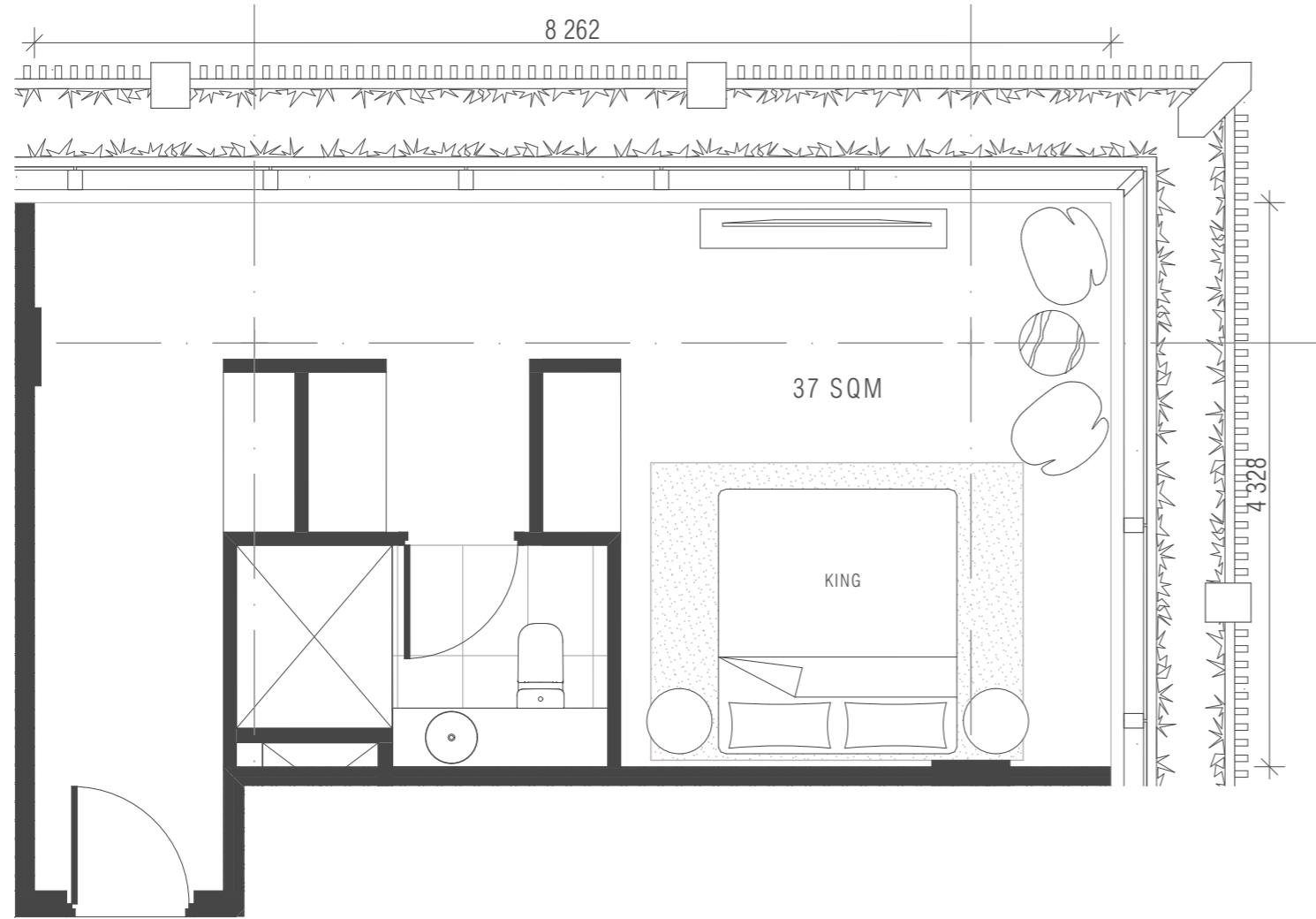
REV. -
DRAWING NO. SK001



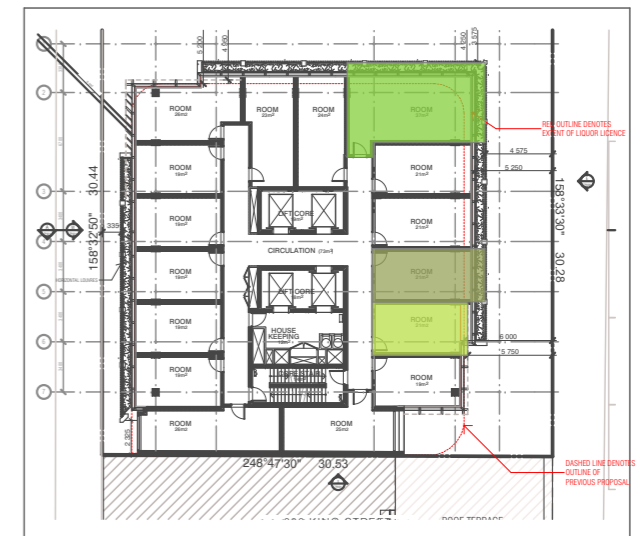
HOTEL ROOM C
SCALE 1:50@A1



HOTEL ROOM D
SCALE 1:50@A1



HOTEL ROOM E
SCALE 1:50@A1



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SI	12.01.2018	AB	16.03.2018	17049	1:50@A3



PROJECT
17049
407-411 KING STREET
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DRAWING TITLE
HOTEL ROOM PLANS

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ISSUE PURPOSE
SCHEMATIC DESIGN



REV. **DRAWING NO.**
- **SK002**

DELEGATE REPORT

Application number:	TP-2017-931
Applicant / Owner / Architect:	DCF 407 King Street Developing Entity Pty Ltd c/o Tract Consultants / DCF 407 King Street Developing Entity Pty Ltd / Fender Katsalidis
Address:	407-415 King Street, WEST MELBOURNE VIC 3003
Proposal:	Partial demolition, construction of a multi storey building for use as a Residential Hotel, Food and Drink Premises (Restaurant), Function centre (Place of Assembly), sale and consumption of liquor (On-Premises Licence), construction and display of illuminated business identification signage, and dispensation of the car and bicycle parking requirements
Cost of works:	\$30 million
Date of original submission:	8 November 2017
Date of amended application:	27 April 2018
Responsible officer:	Esha Rahman

1 SUBJECT SITE AND SURROUNDS**1.1 Site**

The subject site is located on the south-west corner of Batman and King Streets in West Melbourne. A Council Lane identified as 'CL1302' abutts the western boundary of the subject site. This lane provides a through connection between Batman and Jeffcott Streets to the south of the site.

The site is generally square in shape, has frontages of approximately 30.33m to King Street, approximately 30.55m to Batman Street, a depth of approximately 30m and a total site area of approximately 930m². The site has a north-south and east-west orientation. The site has a slight fall downwards from the north to the south.

The site currently contains a two storey vacant office building. In the City of Melbourne's Heritage Places Inventory, the subject building has been given a B grading. Vehicular access to the site is currently provided via the Council Lane.

Aerial Photo / Locality Plan

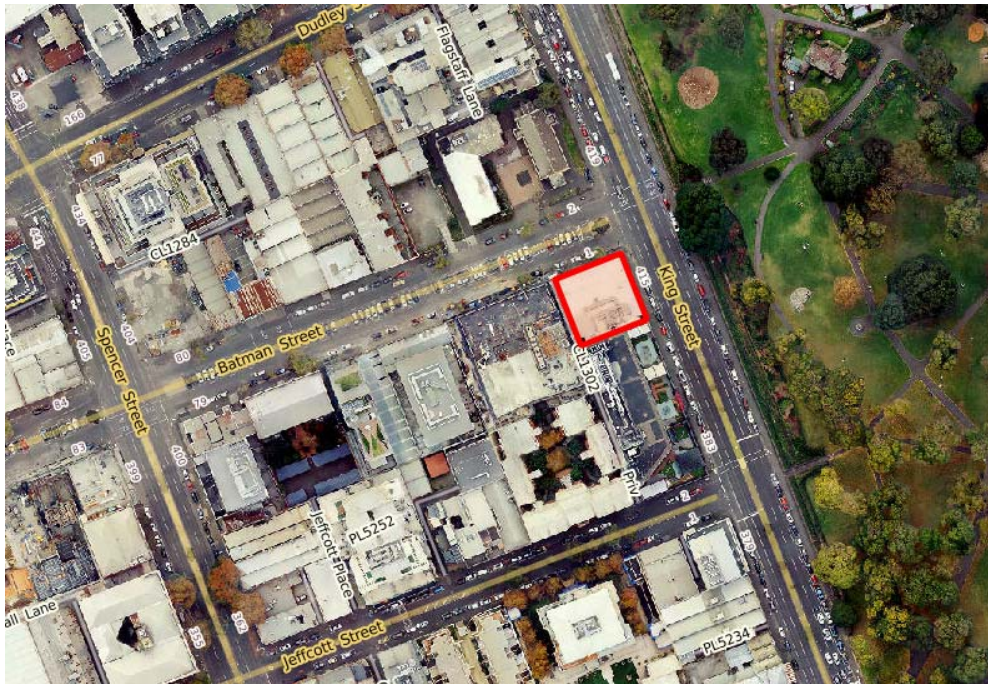


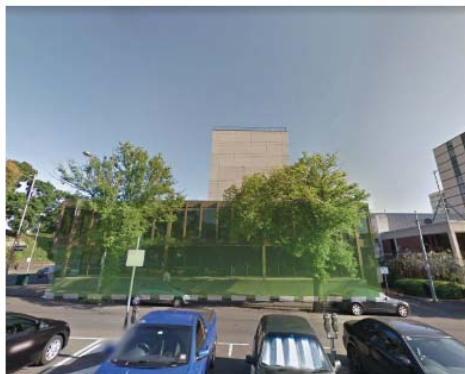
Figure 1: Aerial Map showing the subject site.



VIEW 3
Looking towards subject site from the edge of Flagstaff Gardens.



VIEW 5
Looking towards subject site along Batman St.



VIEW 4
Looking towards subject site from Batman St.



VIEW 6
Looking South at subject site along King St.

Figure 2: Photos of the existing B graded heritage building as viewed from King and Batman Streets.

1.2 Surrounds

The surrounding area comprises a mixture of residential, commercial and educational land uses. The subject site has the following immediate interfaces:

- To the north of the site is Batman Street and across this is the single storey St James Old Cathedral which is included in the Victorian Heritage Register. To the immediate west of this church are single and double storey buildings which are used for residential and commercial purposes.
- Directly to the south is a 10 storey building which is occupied by Haileybury College. This building is constructed to the northern boundary/ common boundary with the subject site. Outdoor recreation spaces associated with the school are located in the front setback above street level. A roof space/ terrace exist at the rooftop level of the building.
- To the east is King Street and across this is the Flagstaff Gardens.
- To the west is the Council Lane and across this is the property at 15 Batman Street which is currently a construction site. This property has a Ministerial permit to construct a tower comprising of dwellings with a maximum overall building height of 67 metres. Further to the west are properties occupied by residential apartment buildings which are constructed to a height of between 40 to 43 m.

2 BACKGROUND AND HISTORY

2.1 Pre-application discussions

A pre-application meeting was held on 6 July 2017 with Council officers prior to the lodging of this planning application.

2.2 Planning Application History

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

TP number	Description of Proposal	Decision & Date of Decision	Officer Comment
TP-2016-398	Partial demolition, buildings and works to construct a multi storey building to be used for the purposes of residential hotel, dwellings and licensed food and drink premises (restaurant and cafe licence) (excluding hotel and tavern) on ground level, reduction in car parking and bicycle facilities requirements, waiver of the loading bay requirements and construction and display of business identification signage	Refusal 13 April 2017	<p>Proposal sought approval to carry out partial demolition and construct a contemporary 19 level building above to an overall height of 69.4 metres.</p> <p>An application under Section 79 of the <i>Planning and Environment Act 1987</i> was lodged by the permit applicant at VCAT against Council's failure to grant a permit within the prescribed time.</p> <p>Council formed the view that had a failure appeal not been lodged, Council would have refused the application as a result of significant concerns raised relating to heritage, built form and design matters.</p>

2.3 Amendments During the process

On 27 April 2018, the applicant formally amended the application by submitting amended plans showing changes to the composition of the proposed tower and its alignment with the heritage building. The amendment was submitted in response to issues raised by Council's Planning Team, including comments provided by Council's Urban Design team and the Heritage Advisor.

3 PROPOSAL

The proposal seeks approval for the following:

- Partial demolition of the heritage building;
- Construction of a multi storey building (and basement);
- Use of the land as a Residential Hotel, Food and Drink Premises (Restaurant) and Function Centre (Place of Assembly);
- Use of part of the land for the sale and consumption of liquor (On-Premises Licence);
- Construction and display of illuminated business identification signage; and
- Dispensation of the car and bicycle parking requirements.

The plans which have been considered in this planning assessment are the advertised plans prepared by Fender Katsalidis dated 13.04.2018 and are identified as drawings numbers:

- TP099
- TP100 to TP108
- TP200
- TP201
- TP300
- TP250
- TP251
- TP252
- TP270
- SK001
- SK002

Details of the proposed use are as follows:

Hotel	Total number of rooms: 258
Restaurant.	<p>Located on ground level.</p> <p>Total of 177m² of leasable floor area, capable of seating 120 patrons.</p> <p>Hours of operation: 6am to 1am (the following day)</p> <p>Restaurant will be owned and operated by the hotel. As well as serving hotel guests it will also be open to the public.</p>
Function areas:	<p>Located on the rooftop.</p> <p>Function rooms and outdoor terraces will be used both by public and guests of the hotel through a pre-booked service.</p> <p>These spaces will operate from 11am until 11pm each night of the week (when functions occur).</p> <p>The maximum number of patrons allowed within these</p>

	spaces will be 255 at any one time. Only background music to be played during functions.
Liquor License	<p>Restaurant:</p> <ul style="list-style-type: none"> Liquor to be consumed in the restaurant until 1.00am. <p>Room service:</p> <ul style="list-style-type: none"> Service of alcohol to the hotel rooms via room service until 1.00am each morning. Liquor will be available within the hotel rooms via a mini bar at all hours of each day and restocked at the start of each day. <p>Roof top function spaces:</p> <ul style="list-style-type: none"> Liquor will be consumed in the roof top function and outdoor terrace areas until 11pm each night of the week.

The specific details of the proposal are as follows:

Building height	62.876 metres to the top of lift overrun (19 storeys)
Podium height	Existing two storey heritage building to be retained.
Front, side and rear setbacks (approximates)	<p>North (fronting Batman Street):</p> <ul style="list-style-type: none"> Level 2: 1.35m (to external glass balustrade) Level 3: between 3.45m (to the external planter facade) to 5.2m. Levels 4 to 17: between 3.575m (to the external planter facade) to 5.2m. Level 18: between 3.575m (to the external planter facade) to 4.97m (to the outdoor roof terrace) <p>South (rear):</p> <ul style="list-style-type: none"> Up to levels 9 built to the boundary Levels 10 to 18: 2.215m (to the external planter facade) <p>East (fronting King Street):</p> <ul style="list-style-type: none"> Level 2: 1.7m (to external glass balustrade) Level 3: between 4.45m (to the external planter facade) to 5.7m. Levels 4 to 17: between 4.575m (to the external planter facade) to 5.7m. Level 18: between 4.65m (to the planter facade) to 5.75m (to the outdoor roof terrace) <p>West (side):</p> <ul style="list-style-type: none"> Level 1 built to boundary Levels 2: 2m. Levels 3 to 18: 1.335m (to the external planter

	facade).
Extent of demolition of existing building	All existing internal slabs, walls, columns and roof slabs to be demolished. Only external façade to be retained.
Gross floor area (GFA)	11,478.8m ²
Car parking spaces	Three on-site parking spaces.
Bicycle spaces	43 bicycle spaces on the lower ground floor (basement) accessed from the lift lobby
Pedestrian access	Access to the hotel provided from Batman Street. Access to the restaurant provided from Batman and King Street.
Vehicle access	From the Council lane off Batman Street.
Materials and architectural details	The key materials used are: <ul style="list-style-type: none"> • Clear glass balustrade • Blue/grey glass • Grey spandrel glass • Bronze coloured metal canopy • Black anodized aluminium battens • Light grey concrete • Black powdercoated satin metal • Charcoal powdercoated metal louvre screen
Signs	Hotel signage to be constructed to the King Street and Batman Street frontage of the building. Details of this sign are as followings: <ul style="list-style-type: none"> • Batman Street sign proposed above a new bronze metal canopy in front of the hotel entrance. The sign will have a black powdercoated metal backing with individualised letter outlining the hotel name. • Batman Street sign will measure 6.1m in width by 0.55m in height, and will have a depth of 0.25m. • King Street sign proposed on level 2, on top of existing heritage building. • King Street sign will measure 9.5m in width by 1.13m in height, and will have a depth of 0.2m. • Signs are to be constructed of light weight materials and will consist of individualised letters. • King Street sign will be setback approximately 1m from the title boundary. High wall hotel signage to be constructed vertically on the southern elevation . <ul style="list-style-type: none"> • This sign will be a backlit metal sign. • Sign will measure 0.8m in width by 7.8m in height, and will have a depth of 0.1m. • Sign to be of a visually light outcome. • Sign to consist of individualised letters.



Figure 3: Proposed elevation plans depicting the proposed tower above the existing heritage building.

4 STATUTORY CONTROLS

The following provisions of the Melbourne Planning Scheme apply:

Planning Policy Framework	<p>Clause 11 – Settlement</p> <p>Clause 13 – Environmental Risks and Amenity</p> <p>Clause 15 – Built Environment and Heritage</p> <p>Clause 16 – Housing</p> <p>Clause 18 – Transport</p> <p>Clause 19 – Infrastructure</p>
Municipal Strategic Statement	<p>Clause 21.04 – Settlement</p> <p>Clause 21.06 – Built Environment and Heritage</p> <p>Clause 21.07 – Housing</p> <p>Clause 21.09 – Transport</p> <p>Clause 21.10 – Infrastructure</p> <p>Clause 21.16 – Other Local Areas (North and West Melbourne)</p>
Local Planning Policies	<p>Clause 22.17 – Urban Design Outside the Capital City Zone</p> <p>Clause 22.19 – Energy, Water and Waste Efficiency</p> <p>Clause 22.23 – Stormwater Management</p>

Statutory Controls	
Clause 32.04	The table to Clause 32.04-2 outlines that a permit is required for the following uses:

<p>Mixed Use Zone</p>	<ul style="list-style-type: none"> • Accommodation (other than Dwelling). As such, the proposed use of the site as a residential hotel requires a planning permit. • Food and drink premises if the leasable floor area exceeds 150 square metres. The total leasable area of the proposed food and drink premises (restaurant) exceeds 150sqm and therefore, a permit is required. • Place of Assembly. As such, the proposed use of part of the site as a function centre requires a permit. <p>Pursuant to Clause 32.04-6, permit is required to carry out buildings and works associated with a section 2 use (Permit required use).</p> <p>Pursuant to Clause 32.04-14, advertising sign requirements are in Category 3 of Clause 52.05 where a planning permit is required to construct the following signs:</p> <ul style="list-style-type: none"> • Business identification sign. • Internally illuminated sign.
<p>Clause 43.01 Heritage Overlay Schedule 842 (HO842)</p>	<p>Pursuant to Clause 43.01-1, a planning permit is required for the following:</p> <ul style="list-style-type: none"> • Demolish or remove a building. • Construct a building or construct or carry out works. • Construct or display a sign.
<p>Clause 43.02, Design and Development Overlay – Schedule 33 (CBD Fringe)</p>	<p>Pursuant to Clause 43.02-2, a permit is required for buildings and works unless exempted by the schedule.</p> <p>Schedule 32:</p> <ul style="list-style-type: none"> • Does not exempt the buildings and works from requiring a permit. • Outlines a maximum height limit of 40m (discretionary) with the following podium height and setback: • Podium height: 16m or an appropriate lesser height where the site is adjacent to a heritage building. • Setbacks above podium: 6m from all front, side and rear boundaries and 2m from laneways. • Outlines the following relevant built form outcome: <ul style="list-style-type: none"> ○ Built form which provides a visual transition between the taller prevailing heights of the CBD and the lower scale built form of West Melbourne. ○ Development provides a transition to adjoining lower scale heritage buildings by the use of podiums and upper level setbacks. ○ Development that does not overshadow Flagstaff Gardens between 11am and 2 pm on 22 September and 22 June. ○ Building setbacks that strengthen the pedestrian scale and focus of the area and maintain a sense of open outlook from the Flagstaff Gardens.

Particular Provisions	
Clause 52.06 Car Parking	<p>Pursuant to Clause 52.06-2, a new use must not commence until the required car spaces have been provided on the land.</p> <p>Pursuant to Clause 52.06-3 a permit is required to reduce (including reduce to zero) the requirement to provide the number of car parking spaces required under the clause. .</p> <p>There is no car parking requirement outlined in the table at Clause 52.06-5 for Residential Hotel. As such, pursuant to Clause 52.06-5A, car parking spaces for the hotel must be to the satisfaction of Council.</p>
Clause 52.34 Bicycle Parking	<p>Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities have been provided on the land. The Clause states that a permit may be granted to reduce, vary or waive the number of bicycle spaces required by the table.</p> <p>Clause 52.34-3 outlines the following number of bicycle spaces to be provided:</p> <ul style="list-style-type: none"> o Residential building staff: 1 to each 10 lodging rooms. o Residential building visitors: 1 to each 10 lodging rooms. . o Restaurant employees: 1 to each 100 sqm of floor area available to the public. o Restaurant visitors: 2 <p>Pursuant to the above, the proposal is therefore required to provide a total of 54 bicycle spaces: 26 for hotel guests, 26 for staff, 2 for restaurant employees and 2 for restaurant visitors.</p> <p>The proposal seeks to provide 42 spaces on site. This is less than the requirements and therefore, a planning permit is required for the reduction.</p>
Clause 52.27 Licensed Premises	<p>Pursuant to Clause 52.27, a planning permit is required to use land to sell and consume liquor.</p>

General Provisions	
Clause 65 Decision Guidelines	<p>The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause, which include the matters set out in Section 60 of the Planning and Environment Act 1987.</p>
Clause 66 Referral and Notice Provisions	<p>Pursuant to Clause 66.02-11, an application to construct a building or construct or carry out works for a residential development comprising 60 or more dwellings must be referred to Transport for Victoria (determining authority).</p>

4.1 Planning Scheme Amendments

C309 West Melbourne Structure Plan

The site is affected by Amendment C309 West Melbourne Structure Plan.

Future Melbourne Committee (FMC) endorsed the West Melbourne Structure Plan on 6 February 2018. On 17 April 2018, FMC endorsed the request to seek authorisation from the Minister for Planning to prepare and exhibit the amendment.

The amendment is currently with the Minister for Planning for authorisation to exhibit.

With regards to the subject site, the new structure plan seeks to rezone the site from Mixed Use Zone to Special Use Zone and outlines the following specific built form controls:

- Maximum floor area ratio (FAR) of 6:1
- Preferred maximum building height of 16 storeys
- Street wall height range between 3 and 10 storeys
- Ground floor setback of 3m from the laneway centre line
- Minimum 6 m setback above the podium from laneways and all side and rear boundaries
- Minimum 3m setback from the podium from front boundary
- Minimum floor-to-ceiling height of 3.3 m for non-residential uses or 4m if ground floor.

5 PUBLIC NOTIFICATION

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

6 OBJECTIONS

A total of nine objections were received, and raised the following concerns:

- Excessive height.
- Inappropriate setbacks.
- Visual bulk.
- Overdevelopment of site.
- Unreasonable impacts on the amenity of the adjoining residential apartments to the west at 15 Batman Street by way of overlooking.
- Concerns re wind impacts.
- 24/7 operation of the hotel is a concern as it will result in increase in vehicular traffic impacting on the already congested local traffic.
- Insufficient car parking spaces provided.
- High-rise developments in the area do not contribute to the history and character of the area.
- Height and setback of proposed development is inappropriate having regards to the Design and Development Overlay Schedule 33.
- Proposed development will have impacts on the visual amenity of the Flagstaff Gardens.
- Proposed development will have unreasonable impacts on the outdoor roof space of the school located to the immediate south by way of overshadowing.

- The use of the hotel terraces on the rooftop will have an unreasonable impact on the school by way of noise, overlooking and child safety concerns whereby hotel guests could potentially drop items into the school's open spaces.
- The use of the outdoor terraces on the roof as a licensed function area will have impacts on the surrounding residents by way of noise.
- The location of the drop-off zone on Batman Street could create awkward traffic movements which could potentially impact on pedestrian movement on that corner.

7 CONSULTATION

Given the receipt of the above objections, the applicant undertook meetings with some of the objectors to discuss the concerns raised. The applicant also circulated a formal response to the objectors concerns.

8 REFERRALS

8.1 Internal

The application was referred internally to Council's Heritage, Urban Design, Urban Forest and Engineering Departments. The following comments were provided (summarised):

8.1.1 Heritage

Council's Heritage Advisor was generally supportive of the proposal and provided the following comments:

'The new tower form can, in my view, be accommodated upon the existing heritage building. The proposal now presents legibly as respecting and responding to the heritage host. The proposed design is evidently in keeping with and a complement to the heritage host. As a form of a contrasting scale, of considerably greater bulk and presence than the host, the evident response to the host building should enable the new presence to be seen as following from the host and so to a degree as secondary to the host. Whilst a smaller building, it is my expectation that the original building will retain a primacy of presence given the responsive composition of the new, which follows directly from that of the heritage host.

It is my expectation that the development brief, to ensure that the existing building retains its primacy as the defining presence on the site, will generally be seen to have been met. The architectural treatment of the 'addition' is one that is very evidently responsive and deferential to the heritage character of the host building.

Recommendation:

The effectiveness of both the conservation of the heritage building and the respectful visual relationship of the new to the original is very dependent upon the detail.

I recommend that, with the approval, a condition be applied requiring submission for endorsement of the construction detail for conservation works and of the works affecting the external appearance of the additions. This documentation would need to be submitted prior to commencement of the relevant component of the works, desirably with a two week timeframe for endorsement or response prior to the intended date for commencement of the relevant component of the works.

I also recommend the application of the following condition in relation to the protection of the original fabric:

The buildings and works associated with the approved development must be planned and constructed in a manner which prevents damage to the heritage fabric that is to be retained. Where hidden original or inaccessible details of the buildings are uncovered, works are to cease until the appropriate further record has been made. Where unanticipated original detail is discovered the Responsible Authority is also to be notified prior to re-commencement of the works.

8.1.2 Urban Design

The application, as originally submitted on 8 November 2017, was referred to Council's Urban Design team for comments. They were generally supportive of the design development of the proposal from the refused scheme. However, they required further refinements to be made to the design, massing and height of the proposed development. Council's Urban Design team provided the following recommendations:

'We note that this subject site and existing form presents both a series of challenges and opportunities. We strongly support the design development of the proposal from the previous refused scheme and commend the design team on progressing a concept with a stronger response to Flagstaff House.

Broadly, we support the reduction in building height, deletion of curves, finessed building composition, reconfiguration of the ground floor and response/integration with the existing heritage building. We require the following to be resolved prior to recommending approval:

- Centralise the composition of the tower form relative to the proportions of Flagstaff House (see Figure 02)
- A further minor reduction in height to respond to the VCAT determination.
- Glass facing to planter box edge to be re-considered in favour of verticality and filigree.
- Party wall design to be further explored.
- Material palette to be detailed in finishes schedule, to ensure design quality.
- Clarify design of wintergardens on Level 1.
- Signage to explicitly state individual lettering requirements.
- Clarify need for access ramp to King Street interface and design detail if required.



(Left) Figure 02: *East Elevation, Centralising tower form to align with base.*

(Right) Figure 01: *Agnes Street Apartments, Jackson Clements Burrows – Balustrade detail.*

In response to the above concerns, the applicant formally submitted amended plans which are dated 13.04.2018 and are the current plans forming part of the subject application. The plans were reviewed by Council's Urban Design team who is now supportive of the proposal. They provided the following comments:

'We are pleased with the amendments as made by the applicant and do believe they satisfy the items outlined within the round 2 comments issued April 17th 2018.

- **Symmetry of façade:** The additional 'bay' to the upper floor façade(s) present symmetrically to the building base and in the round.
- **Louvres:** Positive to note louvres have been removed from King and Batman Street. 2-pane vertical sliders to the laneway interface are on the right track.
- **Height:** From an urban design perspective, we have no issues with the height of the proposed built form.'

8.1.3 Urban Forest

Council's Urban Forest Department outlined the following:

'There are two mature public tree assets (Elm species – assets 1013433 and 1013432) growing in road plots on Batman Street, adjacent to the northern elevation of the application site. Both trees are shown for retention on renders but not on detailed plans submitted with the application. A proposed building canopy / entry awning projecting towards Batman Street seems to be located between both trees but further detail will be required to fully assess the potential impact.

Construction constraints are likely to determine the feasibility for retaining these public trees assets, especially as construction access and loading zones are likely to be from Batman Street. A Tree Protection Plan submitted at Construction Management stage will be required. The Tree Retention and Removal Policy will ensure tree retention is prioritised but if removal is sought, also ensure all options for retention have been exhausted.

The North and West Melbourne Urban Forest Precinct Plan identifies King Street identified for priority planting. As such, the development could scope and where feasible, construct new tree plots on King Street as part of public realm upgrades.'

Council's Urban Forest recommended standard tree protection conditions be imposed, should a permit be issued.

8.1.4 Engineering

Council's traffic engineering department provided the following comments (summarised):

Car Parking

- A survey undertaken at 3pm on Thu 2 Feb 2017 (*following the opening of Haileybury City*) indicates that 107 of the total of 199sp were occupied (54% occupancy rate). A survey undertaken at 10am on Thu 17 Aug 2017 indicates that 130 of the total of 199sp were occupied (65% occupancy rate). The surveys indicate that the parking availability is generally adequate to accommodate demand likely to be generated by the proposed uses. Accordingly, ES has no objection to the proposed provision.
- The car parking layout should generally comply with the MPS and/or relevant Australian Standards.

Bicycle Parking

- ES has no objection to the proposed provision. The design/dimensions of the bicycle parking should comply with the relevant Australian Standards and/or Bicycle Network guidelines.

Loading

- Given the Clearway restrictions in King St & the parking demand that could be generated by the Haileybury Campus in the future, the availability of suitable short-term on-street parking in the vicinity of the site cannot be guaranteed. The Traffix Group report indicates that deliveries can be undertaken within the setback of the RoW, which is considered to be appropriate. It is also suggested that pick up/set down activities could be undertaken within this setback, to cater for taxis, guest pick up/drop offs, etc. This setback area should be carefully managed/supervised by the hotel operator, to ensure that there is no conflict between loading vehicles, vehicles picking up/dropping off guests, vehicles entering/exiting the site, other vehicles using the RoW & pedestrians. It is recommended that a formal Road Safety Audit be undertaken of the access/egress, loading & pick up/drop off arrangements prior to occupation, to ensure that likelihood of conflict among all road users is minimised. The findings of the audit should be incorporated into the design at the developer's expense.'

Council's Waste Department reviewed the Waste Management Plan (WMP) prepared by Leigh Design dated 2nd November 2017 submitted with the application and found this to be acceptable.

Council's Civil Engineering Department outlined the following:

- 'Pursuant to the *Road Management Act 2004* (the Act) any works within the road reserve of King Street, an arterial road, require the written consent of VicRoads, the Coordinating Road Authority. Footpaths of such roads fall under the City of Melbourne's control although the Act. Subsequently our conditions for non-road works on footpaths of arterial roads are listed below.
- The architectural drawings shows that the building structures at Ground Level of the building are not in alignment with the adjacent building in King Street. The building shall be redesigned in alignment with the building line of 383 King Street.
- All projections over the street alignment must conform to Building Regulations 2006, Part 5, Sections 505 to 514 as appropriate. Reference

may be made to the City of Melbourne's Road Encroachment Operational Guidelines with respect to projections impacting on street trees and clearances from face of kerb.'

They recommended that should a permit be issued, standard civil engineering conditions be imposed.

8.2 External

The application was externally referred to Public Transport Victoria (PTV) pursuant to Section 55(1) of the Planning and Environment Act 1987. PTV had no objection to the proposal.

9 ASSESSMENT

The proposal seeks approval for the following:

- Partial demolition of the heritage building;
- Construction of a multi storey building (and basement);
- Use of the land as a Residential Hotel, Food and Drink Premises (Restaurant) and Function Centre (Place of Assembly);
- Use of part of the land for the sale and consumption of liquor (On-Premises Licence);
- Construction and display of illuminated business identification signage; and
- Dispensation of the car and bicycle parking requirements.

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

- Heritage.
- Built form and scale
- Sunlight to public spaces
- Wind Impacts
- Environmental Sustainable Design
- Potential amenity impacts; internal and external
- Appropriateness of the proposed uses; residential hotel, licensed restaurant, function centre
- Car parking, bicycle, loading and waste
- Appropriateness of proposed signs

9.1 Heritage

The subject site is affected by an individual heritage overlay (HO842). In the Melbourne City Council's Heritage Places Inventory, the existing building on the subject site is graded B.

One of the key considerations of VCAT when determining the previous refused scheme (planning application no: TP-2016-398) was that any redevelopment on the subject site must provide for a design that is an acceptable response to Flagstaff House, the B graded building.

The relevant policies in considering the appropriateness of developments in the Heritage Overlay are in Clauses 22.05 and 43.01 of the Melbourne Planning Scheme.

The relevant objectives of both policies are:

- To conserve and enhance heritage places of natural or cultural significance.
- Ensure that new developments 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 or the area.

The heritage policies at Clause 22.05 outline a series of performance standards relating to demolition, form, height and materials which new developments are required to be assessed against.

The proposal seeks to carry out internal demolition including demolition of the roof to construct a 60.46 metre (19 storey) building.

The extent of demolition currently proposed is less than that previously proposed under the refused scheme. The current proposal seeks to retain the buttress elements and the features that were considered notable by VCAT in paragraphs 18 to 20 of the order *DCF 407 King Street Developing Entity V Melbourne CC [2017] VCAT 423*, VCAT reference no: P19950/2016, dated 13 April 2017. Council's Heritage Advisor has raised no concerns with the extent of proposed demolition.

The VCAT order at paragraph 13 outlined that "subject to design, a tower form above the retained heritage was acceptable". Furthermore, in relation to the previous proposal which was for a tower at 69.4 m in height, VCAT outlined in paragraph 24 of the order that they agree that "the height of the tower is acceptable from a heritage perspective". Their concerns about the height related to urban design and amenity considerations. This will be discussed in greater detail below. Therefore, the key issue when considering the appropriateness of the proposed tower from a heritage perspective relates to its design and its response to the B graded building.

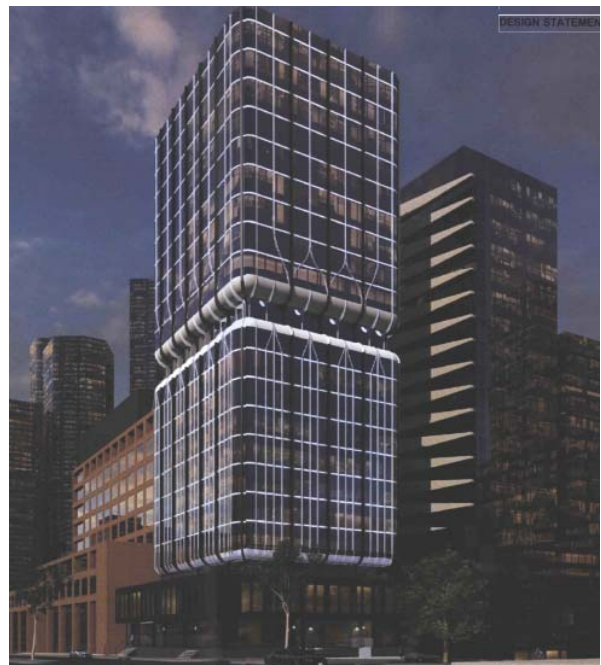
As depicted in Figures 4 and 5 below, unlike the previous proposal TP-2016-398, the proposed tower sits in a singular form above the existing heritage building. It is setback from the heritage building and sits proportionally above. It allows the heritage building to read as a strong element therefore allowing for the real appreciation of it's form.

The design and materials of the proposed tower is respectful as it carries through the 'Modernist' style architecture of the heritage building. Unlike the previous proposal, the proposed tower is not 'top-heavy' and does not unreasonably dominate or overwhelm the existing heritage building.

The application has been reviewed by Council's Heritage Advisor who is supportive of the current proposal and considers that it achieves the objectives and the relevant performance standards as outlined in Clause 22.05 of the Melbourne Planning Scheme.

his current planning

9.2 Built form and scale



9.2.1 Height

The subject site is located on the fringe of the Capital City Zone in West Melbourne. Clause 21.16-5 seeks to “maintain the predominantly low scale of the Mixed Use Zone in West Melbourne, south of Hawke and Roden Streets and ensure the area bounded by Latrobe Street, south west of the Flagstaff Gardens provides a contrast in scale between the lower built form of West Melbourne and the higher scale of the Hoddle Grid”. The subject site is affected by the Design and Development Overlay Schedule 33 (DDO33) which regulates the height and form of developments in West Melbourne.

DDO33, among other things, specifies a discretionary maximum building height of 40 metres. Relevant to the subject site, DDO33 identifies the following design objectives for the area:

- To provide a transition between the taller built form of the central city and the lower scale built form of West Melbourne.
- To maintain the heritage characteristics of the area by ensuring new development respects the scale of, and provides a transition to, adjoining heritage buildings.
- To ensure development limits impact on the amenity and outlook from Flagstaff Gardens.

DDO33 outlines a discretionary maximum podium height of 16 metres; with setbacks above podium of 6m from all front, side and rear boundaries; and 2 metre setbacks from laneways. The specified heights and setbacks are provided in order to achieve built form outcomes as follows:

- Built form which provides a visual transition between the taller prevailing heights of the CBD and the lower scale built form of West Melbourne.
- Development provides a transition to adjoining lower scale heritage buildings by the use of podiums and upper level setbacks.
- Development that does not overshadow Flagstaff Gardens between 11am and 2 pm on 22 September and 22 June.
- Building setbacks that strengthen the pedestrian scale and focus of the area and maintain a sense of open outlook from the Flagstaff Gardens.

The key concern raised by VCAT in the previously refused proposal was in relation to the views of the tower from Flagstaff Gardens which directed VCAT to determine “that the proposal is too high and that a lower height is required together with the consideration to the heaviness of the building form when viewed from the gardens. We find that a building height of 50m or less is in the order of acceptability for this site in the context of the DDO which has a preferred height of 40m” (paragraph 46 of VCAT order).

Batman and King Streets include a mix of building forms. There are recent developments in the surrounding area within DDO33 that exceed preferred heights in the DDO. These include the adjoining property to the immediate west at 15 Batman Street which was approved at 66.3 metres. Other approvals include 50 Batman Street at 52.9 metres and two larger developments at 371- 379 Spencer Street and 420 Spencer Streets. VCAT at paragraph 37 of the order outlined that “these examples demonstrate that not all sites within DDO33 will be capable of achieving the 40m preferred height and not every site will be limited to this height. Each case must be considered on its merits with regards to its specific site context”.

The subject site sits directly opposite the Flagstaff Gardens and is on a corner making it highly visible from key places within the gardens including Flagstaff Hill. The following design objective and the built form outcome of DDO33 are of particular relevance:

- To ensure development limits impact on the amenity and outlook from Flagstaff Gardens.
- Building setbacks that strengthen the pedestrian scale and focus of the area and maintain a sense of open outlook from the Flagstaff Gardens.

Given the location of the subject site, it is inevitable that the construction of any tower on the subject site will have a significant profile when viewed from Flagstaff Gardens. The key issue is to consider whether the “sense of openness” from Flagstaff Gardens is maintained, and whether the above mentioned objectives of DDO33 are met. VCAT at paragraph 43 of the order considers that the sense of openness “relies on the elevation above King Street, views between buildings and to the sky”.

The proposed tower has an overall height of 60.46m excluding the lift overrun. This exceeds the discretionary height control of DDO33 by 20.46m, and the VCAT recommendation by 10.46m. As per VCAT’s previous consideration, a building in the order of 50m high is considered to be an acceptable outcome for this site in the context of the DDO. A 60.46m high building cannot be supported.

Compared to the previous refused scheme, the proposed architecture and design response is of a ‘superior’ quality’. However, it is the height at 60m which is considered excessive and will appear visually dominating when viewed from Flagstaff Gardens. This is inconsistent with the objectives of DDO33 which specifically intended “that the Flagstaff Gardens should maintain an open vista to its north and west away from the Hoddle Grid as opposed to the higher forms to the east and south where it directly interfaces it” (paragraph 47 of VCAT order *DCF 407 King Street Developing Entity V Melbourne CC [2017] VCAT 423, VCAT reference no: P19950/2016, dated 13 April 2017*).

It is therefore recommended that the height of the tower be reduced to a maximum overall height of 53m excluding the lift overrun. This will require the removal of two levels from the tower excluding the lift overrun. The construction of a 2.8m high lift overrun above the roof height of 53m which is setback from the boundaries will have minimal visual impact. While VCAT considered a 50m high building to be an appropriate response to the site, given the ‘high quality’ of the proposed tower when compared with the previous refused scheme, the additional 3m can be supported. It is considered that, when comparing the views to a 50m high building and a 53m high building from Flagstaff Gardens, there will be negligible difference in the visual impact.

Furthermore, the reduction in the height to 53m will also ensure that the proposed tower steps down from the adjoining residential tower to the immediate west at 15 Batman Street which is at a height of approximately 66m. This will ensure that an appreciable height differentiation is achieved and a ‘sense of openness’ to the sky and the outlook from Flagstaff Gardens is maintained. Should a permit be issued, the reduction in the overall height of the tower will be included as a condition.

In addition, and as will be discussed below, when compared to the previously refused scheme, the proposed tower will have lesser setbacks from Batman and King Streets. While these setbacks are supported due to the high quality architecture, design response and the corner location of the subject site, this further justifies the need for a reduction in the height.

9.2.2 Setbacks

The proposed tower will contain a planter façade treatment to the front in the round which will be setback approximately 4.57m from King Street and approximately 3.575m from Batman Street. The building behind will be setback 5.25m from King Street and 4.25m from Batman Street. The previous tower subject to application TP-2016-398 was setback 5m from Batman Street and 6m from King Street which was considered appropriate by VCAT.

The proposed setbacks are less than the previous development and the 6m required under DDO33. However the setbacks proposed from King and Batman Streets are considered appropriate, largely due to the design of the tower; a singular, lightweight element sitting proportionately and symmetrically above the heritage façade. As can be seen in figures 4 and 5 above, the design response of the proposed tower differs vastly from the previous design which was considered by VCAT to be bulky, heavy and have no reference to its heritage context.

Furthermore, King and Batman Streets are approximately 30 metre wide. Subject to the height of the tower being reduced to a maximum of 53m for reasons described above, both King and Batman Streets could accommodate the tower with the proposed setbacks due to their width.

To the west from the lane, the proposed tower will be setback approximately 1.3m to the planter façade and 2m to the building behind. Objectors have raised concerns with this side setback not being appropriate and impacting on the amenity of the future residents of the neighbouring building at 15 Batman Street.

The 2m setback to the building behind the planter façade complies with the requirements of DDO33. The 2m setback is also consistent with the setback proposed in the previous refused scheme which VCAT considered to be appropriate. The 1.3m setback to the planter façade will result in the proposed tower providing the following minimum separations between the proposed building and the neighbouring residential apartments at 15 Batman Street:

- On level 3, approximately 7m.
- From levels 4 and above, between 8m approx. to 9m approx.

The separation is considered adequate and, coupled with a reduction in the height to 53m, will ensure that any impacts on the amenity of the adjoining residents by way of visual bulk are limited. Furthermore, the planter façade will be constructed of louvre screens with planters in between. This would assist in softening the appearance of this elevation and further minimise bulk when viewed from the neighbouring residential properties.

To the southern boundary, from levels 10 and above, the proposed tower behind the planter façade will be setback 3m from the boundary. VCAT, when considering the previous scheme, recommended a 50m high tower with a 3m setback from the southern boundary to limit amenity impacts on the school. This further justifies the recommendation to reduce the height of the proposed tower which would assist in minimising amenity impacts to the school's outdoor areas. This will be discussed in greater detail below.

Furthermore, the previous development proposed a blank wall to this boundary. In response to this, VCAT suggested that the building be designed in the round (paragraph 50). The southern elevation of the proposed tower has been articulated and has been designed to be consistent with the appearance of the other elevations.

9.3 Sunlight to public spaces

Council's Local policy at Clause 22.02 of the Melbourne Planning Scheme outlines the following:

'Developments should not reduce the amenity of public spaces by casting additional shadows on public parks and gardens, public squares, major pedestrian routes including streets and lanesbetween 11.00am and 2.00pm on 22 September'.

In addition, DDO33 seeks to ensure that development do not overshadow Flagstaff Gardens between 11am and 2 pm on 22 September and 22 June.

The submitted shadow diagrams indicate that between 11am and 2pm on 22 September and 22 June, the proposed development will not cast shadows into Flagstaff Gardens. This is consistent with the above policies.

The submitted shadow diagrams highlights that at 2pm, the proposed development will cast shadows into King Street. This is consistent with the above policy as there are no shadows cast into major pedestrian routes between 11am and 2.00pm on 22 September.

9.4 Wind impacts

The VCAT decision for the previous application at paragraph 66 of the order noted that "a new wind report would be required to be submitted with any new application. Such a report should properly address wind comfort levels at the street level and that a future application should include a wind tunnel model study to street levels and the under croft of the heritage building".

A Wind Assessment Report titled 'DCF 407 King Street Developing Entity Pty Ltd 407 – 411 King Street, Melbourne Pedestrian Level Winds- Wind Tunnel Test' dated 25 October 2017 prepared by Vipac Engineers and Scientist has been submitted which confirmed that a wind tunnel model study of the development has been undertaken. The report concluded that:

- With the proposed design the proposed development fulfils the recommended safety criterion in all pedestrian level areas.
- With the proposed design, the proposed development fulfils the recommended criterion for standing in the building entrance areas.
- With the proposed design, the proposed development fulfils the recommended criterion for walking in the surrounding footpath locations.
- The terraces on the podium roof and rooftop (levels 2 and 19) met the recommended walking criterion with the proposed design. This is the recommended criterion for outdoor balcony/terrace as these are not public spaces; use of these areas are optional; and many similar developments in Melbourne and other Australian capital cities experience conditions on balconies and elevated deck areas in the vicinity of the criterion for walking.
- The proposed development would not generate a significant adverse wind impact on the adjacent areas.

The VCAT decision for the previous application also identified at paragraph 70 of the order that "a future proposal should have regard to the wind impact to the school terraces".

The submitted wind report concludes the following in relation to this consideration:

- For the terraces on the Haileybury College rooftop, the areas close to the proposed development are significantly improved by the tower shielding the area from northerly winds. Otherwise, there are no significant changes to the wind environment in the rooftop terraces with the inclusion of the proposed development.

Given the above recommendations in the submitted wind report, the proposed development would result in acceptable wind impacts for the both the realm and the school to the south.

However, it has been recommended that the height of the tower be reduced to a maximum overall height of 53m for reasons detailed above. This may result in changes to the wind impacts. Should a permit be issued, a condition will be included requiring a revised wind impact statement to be submitted showing acceptable wind conditions.

9.5 Environmentally Sustainable Design (ESD)

An Environmentally Sustainable Design Statement prepared by WSP Parsons Brinckerhoff dated 2 November 2017 was submitted with the application which highlights that the proposal will demonstrate compliance with the requirements of Clause 22.19 of the Melbourne Planning Scheme.

9.6 Potential Amenity Impacts

9.6.1 Internal amenity

The proposed tower will be occupied with a residential hotel. With hotel rooms, the same level of internal amenity cannot be expected when compared with a dwelling given the short-term occupation. Nevertheless, all hotel rooms have windows that allow for adequate daylight, outlook and ventilation.

9.6.2 External amenity

15 Batman Street

To the west, the subject site will adjoin the residential development at 15 Batman Street which is currently under construction. One of the key issues raised by the future residents of this neighbouring building is that the proposed development does not allow for adequate separation between the two towers thus impacting on the amenity of the dwellings by way of overlooking and loss of daylight.

The previous tower proposed on the subject site, which was refused, was setback 2m from the western side boundary. VCAT at paragraph 43 of the order considered the interface between these two properties to be generally acceptable.

Consistent with the previous application, the proposed tower is also setback 2m from the title boundary to the building line. There is a planter façade proposed to the front of the building which is setback 1.335m from the boundary. It is considered that the construction of the planter façade will assist in softening the appearance of this elevation thus minimising bulk when viewed from the neighbouring residential properties. In addition, the proposed development has been designed to provide a minimum separation of 8m on the lower levels and 9m on the upper levels between the two buildings.

With regards to overlooking, there is potential to overlook from the proposed hotel rooms on level 1 into the neighbouring dwellings at 15 Batman Street. No screens have been proposed to prevent overlooking. From levels 2 to 6, permanent metal horizontal louvre screens are proposed to prevent overlooking into the neighbouring dwellings. However, it is not clear whether these louvres will be constructed at a height of 1.7m above floor level. Above level 6, there is no potential for overlooking

as there is a minimum separation of 9m between the habitable room windows/balconies of the neighbouring dwellings to the proposed hotel rooms. Should a permit be issued, a condition will be included requiring screening to hotel room windows to prevent overlooking into the habitable room windows and balconies of the neighbouring dwellings at 15 Batman Street which are within a distance of 9m, which complies with the overlooking requirements of Standard B22 at Clause 55.04-6 of the Melbourne Planning Scheme.

One of the concerns raised by the objectors at 15 Batman Street relates to loss of daylight and overshadowing. The submitted shadow diagrams prepared by Fender Katsalidis for both a 50m and a 62m high building highlight that at the solstice (June) and at the equinox (September) there will be no difference in the amount of sunlight to the private terraces of the dwellings due to the length of the shadows cast by a 50m high building being so large. However, for reasons mentioned above, it has been recommended that the overall building height be reduced to 53m. While this will not result in a difference to the amount of shadows cast, it will certainly improve the amenity particularly for the upper level neighbouring apartments by reducing visual bulk.

Haileybury 383 King Street

A 10 storey building occupied by Haileybury College adjoins the subject site to the south. The school has open spaces in the form of roof terraces located on levels 3, 4 and 10.

One of the key considerations by VCAT when assessing the previous proposal was the impact the previous development had on these outdoor areas by way of visual bulk and shadowing. At paragraph 56 of the order (*DCF 407 King Street Developing Entity V Melbourne CC [2017] VCAT 423, VCAT reference no: P19950/2016, dated 13 April 2017*), VCAT acknowledged that “such spaces must be fit for purpose for the school’s use and that these spaces should be protected from unacceptable amenity impacts”.

The previous refused scheme proposed a 69m high blank wall to be constructed to the southern boundary. Both the school and VCAT raised a concern with regards to the impact this would have on the school’s outdoor area by way of visual bulk and shadowing. To address these issues, VCAT at paragraph 84 recommended a setback of 3m or greater from the southern boundary and to design the tower in the round.

The proposed tower has responded to this by providing a 3m setback on the upper levels (levels 10 and above) from the boundary to the building line. The southern elevation also incorporates a planter façade as per the front and side elevations thus being designed in the round and which also assists in minimising the bulk when viewed from the school’s outdoor areas.

One of the key matters discussed in great length in the VCAT order relates to shadowing of the school’s outdoor areas.

VCAT at order 58 states that “it is not reasonable to expect that there will be no additional shadow or that the status quo will remain in the context of a school in an urban environment”. Furthermore, at paragraph 60 of the order VCAT accepts “that it would be difficult to imagine a proposal to the north of the school under the DD033 that did not increase overshadowing to the outdoor recreation areas”.

The submitted shadow diagrams prepared by Fender Katsalidis for both a 50m and a 62m high building highlights that at the solstice (June) there will be no difference in the amount of sunlight to the open spaces of Haileybury.

However, at the equinox (September), the proposed tower will cast more shadows than a 50m high building. The following table shows the difference:

<i>SEPTEMBER 12 PM</i>		
LEVEL 10 North Outdoor Space		
	Unshaded Area	Unshaded %
Proposed	23 m ²	15.3%
50 M	35.14 m ²	23.4%

- The proposed development will cast 12m² of additional shadow when compared to a 50m high tower.
- It is noted that shadows cast at 1pm and 2pm by the proposed tower and a 50m high tower on the level 10 outdoor space will be the same.

<i>SEPTEMBER 12 PM</i>		
LEVEL 4 Outdoor Space		
	Unshaded Area	Unshaded %
Proposed	429.62 m ²	96.5%
50 M	432.1 m ²	97.1%

- The proposed development will cast 3m² of additional shadow when compared to a 50m high tower.

<i>SEPTEMBER 1 PM</i>		
LEVEL 4 Outdoor Space		
	Unshaded Area	Unshaded %
Proposed	275.0 m ²	61.7%
50 M	286.1 m ²	64.3%

- The proposed development will cast 11m² of additional shadow when compared to a 50m high tower.

<i>SEPTEMBER 2 PM</i>		
LEVEL 4 Outdoor Space		
	Unshaded Area	Unshaded %
Proposed	0.0 m ²	0%
50 M	2.2 m ²	0.5%

- The proposed development will cast 2.2m² of additional shadow when compared to a 50m high tower.

An analysis of the shadows cast by the proposed tower and a 50m high tower at the equinox (September), as detailed above, highlights that a greater amount of shadow will be cast at 12pm to the level 10 outdoor area and at 1pm to the level 4 outdoor

area. These are the hours when typically students are on their lunch break and likely to use these outdoor areas. A reduction to the height of tower to 53m will ensure that this is reduced to an acceptable outcome.

A concern which was previously and is currently raised relates to overlooking from the proposed hotel rooms to school's levels 4 and 10 outdoor terraces. VCAT at paragraph 62 of the order recommended that "Visual privacy should be addressed in any redesign". As is depicted in the figure 6 below, the hotel rooms have been designed to prevent overlooking. It is noted that the materials and finishes in the proposed southern elevation plans has not been clearly depicted i.e. the glass spandrel panels has not been identified as being opaque as has been outlined in the submitted urban context report and as shown in the figure below. As such, should a permit be issued condition will be included requiring the privacy screening to be detailed on the southern elevation plans.



The school to the west of the subject site has 2 significant outdoor spaces; one on level 4 and one on level 10 which is yet to be constructed. A combination of opaque spandrel glazing and façade blades mitigate any overlooking from the hotel to these outdoor spaces.

Figure 6: The hotel rooms have been designed to prevent overlooking into the outdoor terraces of the adjoining school to the south.

9.7 Appropriateness of proposed uses - residential hotel, licensed restaurant and function centre

The proposal seeks approval to use the site as a Residential Hotel, licensed restaurant and function centre. The proposed mixed of uses is consistent with the purpose of the Mixed Use Zone to, 'provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality'.

The subject site is ideally located for visitors as it is in close proximity to the Hoddle Grid, the iconic Flagstaff Gardens on the opposite site, the Queen Victoria market to the north-east, Etihad Stadium and Southern Cross Station, a short distance to the south-west.

The location of the site and the internal layout of the hotel as shown on the plans indicate that the hotel will be of high quality.

In addition, an On-Premises licence is sought for the restaurant, to allow mini bars in the hotel rooms and for the function centre located on level 18 of the proposed tower. The following hours of operation are proposed:

Liquor License	<p>Restaurant:</p> <ul style="list-style-type: none"> Liquor to be consumed in the restaurant until 1.00am. <p>Room service:</p> <ul style="list-style-type: none"> Service of alcohol to the hotel rooms via room service until 1.00am each morning. Liquor will be available within the hotel rooms via a mini bar at all hours of each day and restocked at the start of each day. <p>Roof top function spaces:</p> <ul style="list-style-type: none"> Liquor will be consumed in the roof top function and outdoor terrace space until 11pm each night of the week.
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The local policy providing guidance for assessing licensed premises application is at Clause 22.22 of the Melbourne Planning Scheme. In relation to hours of operation, the policy outlines that in the Mixed Use Zone, the hours of operation of licensed premises should be limited to 11pm.

The proposed 1am closing time for the restaurant and room service to the hotel rooms is not consistent with the policy but, in this instance, is considered appropriate for the following reasons:

- The liquor consumption is associated with a restaurant where consumption will be associated with a meal.
- The restaurant is located internally on ground level and does not directly abut any sensitive uses.
- The liquor consumption in the hotel rooms is typical of hotel use. Liquor will be confined internally within the rooms and therefore, is not considered to result in significant off-site amenity impacts.

With regards to cumulative impacts, it is noted that the types of licences in the surrounding area are mostly restaurant and café licences and limited licences with operating hours till 11pm. As a result, it is considered that the sale and consumption of liquor associated with a restaurant and inside the hotel rooms will not have negative cumulative impacts on the surrounding area by way of unreasonable behaviour or noise.

The previous scheme also sought approval for a licensed restaurant on ground level with hours until 1am. This was considered appropriate by VCAT (paragraph 63).

As depicted in figure 7 below, the licensed function centre use proposed on the rooftop comprises a pre-function space and outdoor spaces located in close proximity to sensitive uses; a residential apartment building located to the immediate west at 15 Batman Street, and the school located to the immediate south at 383 King Street.

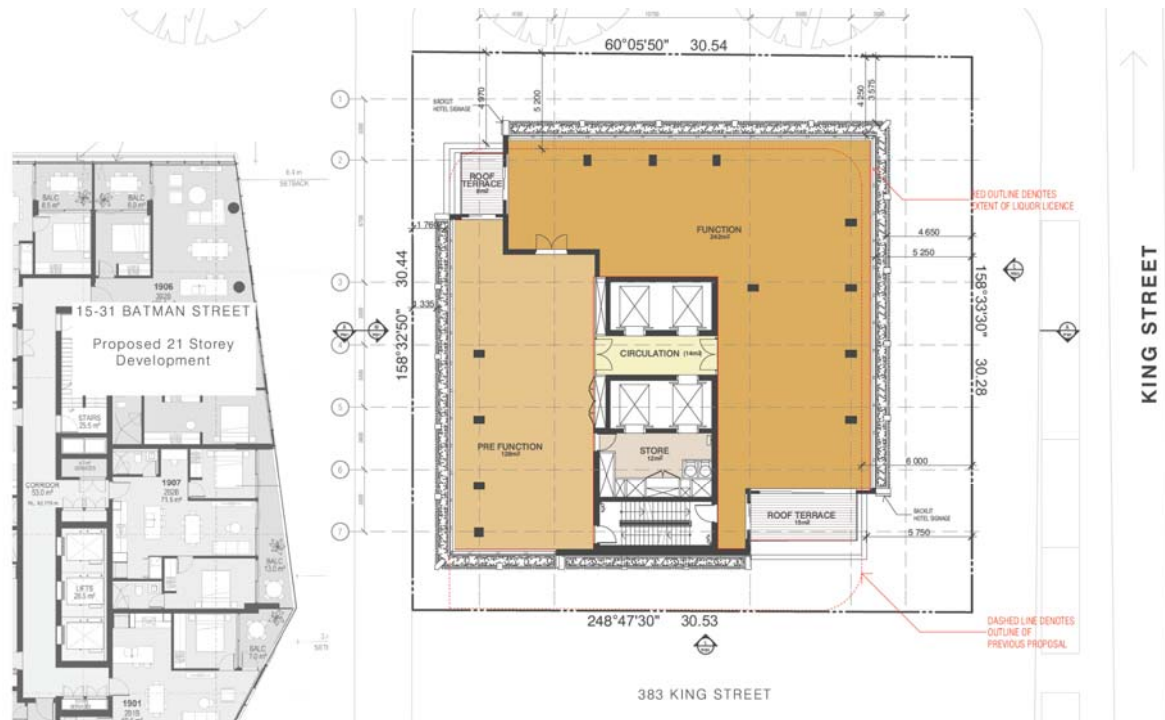


Figure 7: Proposed level 18 floor plan

It is proposed to consume liquor in these function spaces until 11pm and the maximum number of patrons allowed will be 255 at any one time. The 11pm closing time is consistent with the hours outlined in Clause 22.22. However, the policy discourages new licensed premises in the Mixed Use Zone where the predominant surrounding use is residential. While it can be argued that the surrounding uses are not predominantly residential, as mentioned above, the subject site has direct abuttal to a residential use.

The residents at 15 Batman Street have objected to the proposed function centre use. These adjoining dwellings have private balconies and habitable room windows directly interfacing the function centre. Concerns are raised with regards to the potential amenity impacts that the proposed function centre and associated on-premises licence may have on the neighbouring dwellings from the 255 patrons and the noise particularly in the outdoor terrace areas. The current application does not provide any details as to how patrons and noise will be managed to mitigate the amenity impacts to these adjoining sensitive uses. In addition, the internal layouts of these spaces are not shown.

It is therefore recommended that the function centre use which is currently ambiguous due to the lack of details be removed from the application.

Should an application be made for the function centre use in the future, details would be required as to how the amenity impacts are to be mitigated. Regardless, such an application will be assessed on its merits.

9.8 Car parking, bicycle, loading and waste

9.8.1 Car parking

The car parking requirements at Clause 52.06-5 do not provide any car parking rates for a residential hotel. Rather it states that an adequate number of car spaces must be provided to the satisfaction of the responsible authority.

The proposal seeks to provide three on-site car parking spaces for staff which will be accessed via the existing lane to the west. This lane will also be used to service the proposed hotel.

A drop-off/pick-up point is proposed to the front of the hotel entry on Batman Street.

Objections have been received raising concerns that the proposed use will generate parking demands that will have impacts on the surrounding street network which is already congested and does not have sufficient on-street parking spaces.

Council's Traffic Engineering Department have reviewed the proposal which includes a parking survey being undertaken. Council's Traffic Engineering Department has no objections to the parking and access arrangements.

In this instance, the proposed parking arrangement is considered satisfactory for the following reasons:

- The nature of the use as a hotel means that the majority of the guests attending the hotel are unlikely to have cars. It is more common for hotel guests to be dropped off/picked up which is being provided on Batman Street.
- The site is located within walking distance to of the CBD, public transport and easily accessible by taxis.
- There are private car parks located within walking distance of the site which would be suitable to accommodate any guests or staff that did require short-term parking.
- Off-site car parking demands will generally be limited to the restaurant customer or public to events held in the function centre. As demonstrated in the submitted parking surveys, there is adequate parking available nearby to the site to accommodate these demands.

9.8.2 Bicycle

The bicycle facilities and requirements at Clause 52.34 do not outline a rate for 'residential hotel'. However, this use is commonly included under the broader category of 'residential building' under the land use definitions set out at Clause 74 of the Planning Scheme.

Pursuant to Clause 52.34 the proposal has a statutory requirement to provide a total 54 bicycle spaces: 26 for hotel guests, 26 for staff, two for restaurant employees and two for restaurant visitors. The proposal seeks to provide 42 spaces on site. Although this is less than the requirements, Council's Traffic Engineering Department has raised no concerns with regards to this.

The 42 bicycle spaces are considered to be sufficient to adequately accommodate for the staff of the hotel and restaurant. As mentioned above, the nature of the hotel use means that guests attending the hotel are unlikely to have any transport of their own and more likely to be dropped off/picked up which is proposed on Batman Street.

9.8.3 Loading

Council's Traffic Engineering Department considers the use of the existing setback area in the lane for loading and unloading appropriate for the development. They recommend the following:

"This setback area should be carefully managed/supervised by the hotel operator, to ensure that there is no conflict between loading vehicles, vehicles picking up/dropping off guests, vehicles entering/exiting the site, other vehicles using the RoW & pedestrians. It is recommended that a formal Road Safety Audit be undertaken of the access/egress, loading & pick up/drop off arrangements prior to occupation, to ensure that likelihood of conflict among all road users is minimised. The findings of the audit should be incorporated into the design at the developer's expense"

Should a permit be issued, this will be imposed as a condition in the permit.

9.8.4 Waste

Council's Waste Department reviewed the Waste Management Plan (WMP) prepared by Leigh Design dated 2nd November 2017 submitted with the application and found this to be acceptable.

9.9 Appropriateness of proposed sign

The proposal seeks approval to construct three business identification signs identifying the hotel at the following locations:

- On the Batman Street frontage of the building above the proposed canopy.
- On the King Street frontage of the building on level 2, on top of the existing heritage façade.
- A high wall sign constructed vertically on the southern elevation.

Details of the signs are outlined in Section 3 of this report.

These signs have been reviewed by Council's Urban Designer and the Heritage Advisor who has no objections to the design and style of the signs. The signs are considered to be of high quality, provide for the appropriate identification of the business and are consistent with the Advertising Signage policy outlined in Clause 22.07 of the Melbourne Planning Scheme.

The dimensions of the signs which are detailed in the submitted Urban Context Report are not shown in the architectural plans. Should a permit be issued, a condition will be imposed requiring the details to be shown on the plans.

9.10 Conclusion

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

10 RECOMMENDATION

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

Partial demolition, construction of a multi storey building for use as a Residential Hotel, Food and Drink Premises (Restaurant), sale and consumption of liquor (On-Premises Licence), construction and display of illuminated business identification signage, and dispensation of the car and bicycle parking requirements

Permit conditions:

1. Prior to the commencement of the development, including demolition and bulk excavation, two copies of plans, which are drawn to scale, must be submitted to the Responsible Authority generally in accordance with the plans prepared by Fender Katsalidas dated 13.04.2018, drawings no: TP099, TP100 to 108, TP200, TP201, TP300, TP250, TP251, TP252, TP270, SK001, SK002 but amended to show:
 - a. An overall reduction in building height by two levels (to a maximum of RL 78.800 excluding building services and lift overrun)
 - b. Removal of the function centre use.
 - c. Screening to the windows on the western elevation to prevent overlooking into the habitable room windows and balconies of the dwellings at 15 Batman Street that are within a distance of 9 metres to demonstrate compliance with Standard B22 at Clause 55.04-6 of the Melbourne Planning Scheme.
 - d. Overlooking diagrams/sections demonstrating how the screens to the windows as required by conditions 1c) prevent overlooking into the neighbouring habitable room windows and balconies within 9 metres of the subject site.
 - e. Permanent opaque glazing to the glass spandrel panels on the southern elevation to prevent overlooking into the outdoor spaces of the school to the south at 383 King Street, West Melbourne.
 - f. Details including materials and finishes, dimensions (height, width and depth) and level of illumination of the signs to be constructed on the northern, southern and eastern elevations.
 - g. The awning/canopy over the building entrance on Batman Street to be constructed at a minimum height of 2.7m above footpath level and setback 750 mm from the face of the footpath kerb. The awning/canopy must be designed to have no impacts on existing public trees and or future tree growth.
 - h. Any changes as required by condition 5- façade strategy
 - i. Any changes as required by condition 8 – wind test.

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

2. The development and land use as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
4. Prior to the occupation of the development hereby approved, all buildings and works required by this permit must be completed to the satisfaction of the Responsible Authority.

External materials, colours and finishes

5. Prior to the commencement of the development, excluding demolition and including bulk excavation, a facade strategy must be submitted to and approved by the Responsible Authority. The facade strategy for the redevelopment must be generally in accordance with plans prepared by Fender Katsalidas dated 13.04.2018 and detail:
 - a. A schedule of materials, finishes and details, including but not limited to the colour, type and quality of materials showing their application and appearance.
 - b. Construction details of the conservation works to the retained portions of the existing heritage building.
 - c. Detailed design information regarding external materials, colours and finishes, glazing, services, security doors and lighting at the ground level.
 - d. Information about how the façade will be accessed and maintained and cleaned, including the provision of maintenance and up keeping of planting where proposed.

6. Glazing materials used on all external walls must be of a type that does not reflect more than 20% of visible light, when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

Retain architects

7. Except with the written consent of the Responsible Authority, MSG Architects

must be retained to complete and provide architectural oversight during construction of the detailed design as shown in the endorsed plans and endorsed schedule of materials to the satisfaction of the Responsible Authority.

Wind Tests

8. Prior to the commencement of the development (excluding any demolition, bulk excavation) wind tests carried out by a suitably qualified consultant, must be carried out on a model of the approved building. A report, generally in accordance with the wind assessment report titled 'DCF 407 King Street Developing Entity Pty Ltd 407 – 411 King Street, Melbourne Pedestrian Level Wind- Wind Tunnel Test' dated 25 October 2017 prepared by Vipac Engineers and Scientist, detailing the outcome of the testing must be submitted to and be to the satisfaction of the Responsible Authority. The report must also recommend any modifications which must be made to the design of the building to reduce any adverse wind conditions in balconies/terraces, areas used by pedestrians, communal open spaces on the subject site and the outdoor areas located on levels 4 and 10 of the school to the immediate south at 383 King Street to the satisfaction of the Responsible Authority. The recommendations of the report must be implemented at no cost to the Responsible Authority and must not include reliance on street trees.

Demolition

9. Prior to the commencement of the development, including demolition, a report prepared by a suitably qualified Structural Engineer, or equivalent, must be submitted to the Responsible Authority, demonstrating the means by which the retained portions of buildings will be supported during demolition and construction works to ensure their retention, to the satisfaction of the Responsible Authority. The recommendations contained within this report must be implemented at no cost to City of Melbourne and be to the satisfaction of the Responsible Authority.
10. Prior to the commencement of the development, including demolition and bulk excavation, the permit holder must provide evidence to the Responsible Authority that progress has been made toward obtaining the necessary building permits for the development of the land generally in accordance with the development hereby approved, and that the permit holder is actively procuring the construction services for the development, or otherwise agreed with the Responsible Authority.
11. The buildings and works associated with the approved development must be planned and constructed in a manner which prevents damage to the heritage fabric that is to be retained. Where hidden original or inaccessible details of the buildings are uncovered, works are to cease until the appropriate further record has been made. Where unanticipated original detail is discovered the Responsible

Authority is also to be notified prior to re-commencement of the works.

Construction Management Plan

12. Prior to the commencement of the development, including demolition and bulk excavation, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group.

This construction management plan must be prepared in accordance with the City of Melbourne - Construction Management Plan Guidelines and is to consider the following:

- a. public safety, amenity and site security.
- b. operating hours, noise and vibration controls.
- c. air and dust management.
- d. stormwater and sediment control.
- e. waste and materials reuse.
- f. traffic management.
- g. protection of street trees.

Protection of Street Trees

13. A Tree Protection Plan (TPP) must be provided with a Construction Management Plan application to the satisfaction of the Responsible Authority (Urban Forestry & Ecology). The TPP must be in accordance with AS 4970-2009 – Protection of trees on development sites and include:

- a. City of Melbourne asset numbers for the subject trees (found at <http://melbourneurbanforestvisual.com.au>).
- b. Reference to the finalised Construction and Traffic Management Plan, including any public protection gantries.
- c. Site specific details of temporary tree protection fencing to be used to isolate publicly owned trees from the demolition and construction activities or details of any other tree protection measures considered necessary and appropriate to the site.
- d. Specific details of any special construction methodologies to be used within the Tree Protection Zone of any publicly owned tree.

These must be provided for any utility connections or civil engineering works.

- e. Full specifications of any pruning required to publicly owned trees.
 - f. Any special arrangements required to allow ongoing maintenance of publicly owned trees for the duration of the development.
 - g. Name and contact details of the project arborist who will monitor the implementation of the Tree Protection Plan for the duration of the development (including demolition).
 - h. Details of the frequency of the Project Arborist monitoring visits, interim reporting periods and final completion report (necessary for bond release). Interim reports of monitoring must be provided to Council's email via trees@melbourne.vic.gov.au.
14. Following the approval of a Tree Protection Plan (TPP) a bank guarantee equivalent to the combined environmental and amenity values of public trees that may be affected by the development will be held against the TPP for the duration of construction activities. The bond amount will be calculated by council and provided to the applicant/developer/owner of the site. Should any tree be adversely impacted on, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works incurred.
15. If any public trees are proposed for removal at any stage of the development under a Tree Protection Plan endorsed under this permit, then prior to the commencement of the development (including demolition and bulk excavation), the applicant must submit a Street Tree Plot Replacement Strategy to the Responsible Authority, which shows replacement and/or additional tree plots in accordance with Council's Tree Retention and Removal Policy. When provided to the satisfaction of the Responsible Authority (Urban

Forest & Ecology), the Street Tree Plot Replacement Strategy will be endorsed to form part of this permit.

16. Prior to the occupation of the development, the replacement and/or additional street tree plots shown on the Street Tree Plot Replacement Strategy endorsed under this permit must be constructed at no cost to Melbourne City Council and be to the satisfaction of the Responsible Authority (Urban Forest & Ecology).
17. Prior to the occupation of the development the applicant must construct three new street tree plots on King Street (abutting the title boundary). The plots must be identified on Engineering drawings submitted for endorsement and meet City Of Melbourne specification

Landscaping

18. Prior to commencement of development (excluding demolition), a scheme for landscaping and planting in connection with the proposed development must be submitted to, and be approved by the Responsible Authority. 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.
19. Prior to the commencement of all landscaping works

associated with the development a landscape management plan detailing the ownership, maintenance regime and management responsibilities of the landscaping associated with the development must be prepared and submitted to the satisfaction of the Responsible Authority.

If the landscaping fails, 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.

Waste Management

20. The waste storage and collection arrangements must be in accordance with the Waste Management Plan (WMP) prepared by Leigh Design dated 2nd November 201. Waste storage and collection arrangements must not be altered without prior consent of the City of Melbourne Engineering Services.
21. No garbage bin or waste materials generated by the development may be deposited or stored outside the site and bins must be returned to the garbage storage area as soon as practical after garbage collection, to the satisfaction of the Responsible Authority.

Environmentally Sustainable Design Statement

22. The performance outcomes specified in the Environmentally Sustainable Design (ESD) Statement prepared by (WSP Parsons Brinckerhoff and dated 2 November 2017 for the development must be implemented prior to occupancy at no cost to the City of Melbourne and be to the satisfaction of the Responsible Authority.

23. Any change during detailed design, which affects the approach of the endorsed ESD Statement, must be assessed by an accredited professional. The revised statement must be endorsed by the Responsible Authority prior to the commencement of construction.
24. Within six months of the occupation of the development, a report from the author of the endorsed ESD Statement or other suitably qualified consultant must be provided to the satisfaction of the Responsible Authority, which details design initiatives implemented within the completed development that achieve the performance outcomes specified in the endorsed ESD Statement.

3D Digital Model

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

and be to the satisfaction of, the Responsible Authority.

Building Appurtenances and Services

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

Traffic

29. Prior to the commencement of the development (excluding demolition), a formal Road Safety Audit must be undertaken of the access/egress, loading & pick up/drop off arrangements to ensure that likelihood of conflict among all road users is minimised. The audit must be undertaken by a suitable qualified person to the satisfaction of the Responsible Authority. The

findings of the audit should be incorporated into the design at the developer's expense.

30. The on-site car parking spaces, including access arrangements, must be generally in accordance with the relevant Australian Standards or meet the Planning Scheme requirements to the satisfaction of the City of Melbourne- Engineering Services.
31. The areas set aside for parking on the endorsed plans must not be operated as a public car parking facility.
32. The bicycle spaces, as shown on the endorsed plans, must be in accordance with the relevant Australian Standards or meet the Planning Scheme requirements to the satisfaction of the City of Melbourne Engineering Services

Advertising Signage

33. The signs, including their structure and advertising material as shown on the endorsed plan, must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.
34. The location, size, material of construction, colours, wording and degree of illumination of the signs shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
35. The signs must not be animated or contain any flashing light.
36. The lighting of the signs must be so positioned that no direct light or glare shall be

visible from any roadway or from any adjoining property, to the satisfaction of the Responsible Authority.

Civil Works

37. Prior to the commencement of the development, a stormwater drainage system incorporating integrated water management design principles must be submitted to, and approved, by the Responsible Authority - Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's stormwater drainage system.
38. Prior to the commencement of the use/occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
39. The road adjoining the site along the corporation lane CL1302 must be reconstructed together with associated works including the reconstruction or relocation of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
40. The footpaths adjoining the site along King Street and Batman Street must be reconstructed together with associated works including

the renewal of kerb and channel and reconstruction or relocation services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

41. Existing street levels in roads adjoining the site must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services.

42. All street lighting assets temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has been ceased. Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.

43. Existing street furniture must not be removed or relocated without first obtaining the written approval of the Responsible Authority – Engineering Services.

Drainage

44. All projections over the street alignment must be drained to a legal point of discharge in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

Use

45. The use of any land or building or part thereof as shown on the endorsed plan(s) must not be altered or modified unless with the prior

written consent of the Responsible Authority.

Licensed premises

46. The noise generated by the premises must at all times comply with the requirements of the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority.
47. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, to the satisfaction of the Responsible Authority.
48. No amplified live music or entertainment is permitted on the premises without the prior written consent of the Responsible Authority.
49. The Responsible Authority, with just cause, may at any time request lodgement of an acoustic report, prepared by a suitably qualified acoustic consultant. The report must be to the satisfaction of the Responsible Authority and identify all potential noise sources and sound attenuation work required to address any noise issues and to comply with *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2*. The recommendations of the report must be implemented by the applicant to the satisfaction of the Responsible Authority.
50. The maximum number of patrons in the restaurant hereby approved must be no more than 120 at any one time unless with the prior

written consent of the Responsible Authority.

51. Except with the prior written consent of the Responsible Authority, the restaurant must only be open for the use between the following hours:
 - a. Monday to Sunday: 6am – 1am (the following day)
52. The predominant activity carried on at the restaurant, hereby approved, during all trading hours must be the preparation and serving of meals for consumption on the premises at all times.
53. In the restaurant tables and chairs must be placed in position so as to be available for at least 75 percent of patrons attending the premises at any time.

Permit Expiry

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

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards.

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

55. This permit, in relation to the signs expires 15 years from the date of issue, at which time the signs and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority

Notes

Building Approval Required

This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant

must apply for and obtain appropriate building approval from a Registered Building Surveyor.

Building Works to Accord with Planning Permit

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

Projections

All projections over the street alignment must conform to Building Regulations 2006, Part 5, Sections 505 to 514 as appropriate, unless with the report and consent of the Municipal Building Surveyor.

Reference may be made to the City of Melbourne's Road Encroachment Operational Guidelines with respect to projections impacting on street trees and clearances from face/back of kerb, which can be located at the following website:

<https://www.melbourne.vic.gov.au/SiteCollectionDocuments/road-encroachment-guidelines.pdf>

Traffic Engineering

Council will not change the on-street parking restrictions to accommodate the access, servicing, delivery or parking needs of this development, as the restrictions are designed to cater for a number of other competing demands and access requirements. The residents who will occupy this development will not be eligible to receive parking permits and will not be exempt from any on-street parking restrictions.

Civil Engineering

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

Other Approvals May be Required

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

Urban Forestry – Bank Guarantee Execution

In accordance with the Tree Retention and Removal Policy a bank guarantee must be:

1. Issued to City of Melbourne, ABN: 55 370 219 287.
2. From a recognised Australian bank.
3. Unconditional (i.e. no end date)
4. Executed (i.e. signed and dated with the bank stamp)

Please note that insurance bonds are not accepted by the City Of Melbourne. An acceptable bank guarantee is to be supplied to Council House 2, to a representative from Council's Urban Forest and Ecology Team. Please email trees@melbourne.vic.gov.au to arrange a suitable time for the bank guarantee to be received. A receipt will be provided at this time.

At the time of lodgement of the bank guarantee written confirmation that identifies the name of the Project Arborist who will supervise the implementation of the Tree Protection Plan will be required in writing. On completion of the works the bank guarantee will only be released when evidence is provided of Project Arborist

supervision throughout the project and a final completion report confirms that the health of the subject public trees has not been compromised.

Approval for any tree removal is subject to the Tree Retention and Removal Policy, Council's Delegations Policy and requirements for public notification, and a briefing paper to councillors. It should be noted that certain tree removals including but not limited significant or controversial tree removals, may be subject to decision by Council or a Committee of Council.

If tree removal is approved, all costs in connection with the removal and replacement of public trees, including any payment for the amenity and ecological services value of a tree to be removed, must be met by the applicant/developer/owner of the site. The costs of these works will be provided and must be agreed to before council remove the subject trees.