

# 572-574 Lonsdale Street and 248-250 and 256-260 King Street, MELBOURNE

Planning Permit Application No. PA1900742



Officer Assessment Report  
Development Approvals & Design



Environment,  
Land, Water  
and Planning

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# Summary

Key information	Details		
Application No.:	PA1900742		
Received:	19 December 2019		
Applicant:	572 Lonsdale Street Pty Ltd C/- Tract Consultants		
Planning Scheme:	Melbourne Planning Scheme		
Land Address:	572-574 Lonsdale Street and 248-250 and 256-260 King Street, Melbourne		
Proposal:	Part demolition of 248-250 King Street, demolition of buildings, construction of a building and alter access to a Road Zone, Category 1		
Total site area:	1,759 m²		
Gross Floor Area:	37,808 m²		
Floor Area Ratio:	18.66:1 (Gross Floor Area above ground level 32,828 m² / site area 1,759 m²)		
Development value:	\$110 m		
Height:	21	Storeys excluding plant	
	80	Metres excluding building parapet and plant	
	109.5	Metres (highest point to Australian Height Datum for PANS OPS)	
Setbacks:	Corner	7 metres	
	West	0 metres	
	East	6 metres from the east side of Manton Lane (level 10 to 21)	
	North	0 metres	
	South	0 metres	
Office:	24,016 m²		
Retail:	800 m²		
Parking:	Cars	Motorcycles	Bicycles
	57	8	162 (126 staff and 36 visitor)
Zone:	Capital City Zone – Schedule 1 (Outside the Retail Core)		
Overlays:	Heritage Overlay 679 (248-250 King Street, Melbourne)		
	Design and Development Overlay – Schedule 3 (Traffic Conflict Frontage – Capital City Zone) <i>King Street frontage only</i>		
	Design and Development Overlay – Schedule 10 (General Development Area – Built Form)		
	Parking Overlay – Schedule 1 (Capital City Zone – Outside the Retail Core)		
Particular Provisions:	52.06 – Car Parking		
	52.29 – Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road		
	52.34 – Bicycle Facilities		

Key information	Details
<b>Why is a permit required?</b>	<p>A permit is required to construct a building or construct or carry out works under the Capital City Zone.</p> <p>A permit is required to demolish or remove a building or works under the Capital City Zone.</p> <p>A permit is required to demolish or remove a building or works under the Heritage Overlay.</p> <p>A permit is required to construct a building or construct or carry out works under the Heritage Overlay.</p> <p>A permit is required to construct a building or construct or carry out works under the Design and Development Overlay.</p> <p>A permit is required to create or alter access to a road in a Road Zone, Category 1.</p>
<b>Referral authorities/ Notice</b>	<p>Melbourne City Council (formal Section 55 – recommending authority)</p> <p>Roads Corporation (formal Section 55 – determining authority)</p> <p>Transport for Victoria (formal Section 55 – determining authority)</p>
<b>Public Notification</b>	<p>The application <b>is not exempt</b> from notice and review provisions of the <i>Planning and Environment Act 1987</i> under the Heritage Overlay. Notice of the application was undertaken in December 2020 and 21 objections were received.</p>

# Background

1. In accordance with the schedule to Clause 72.01 of the Melbourne Planning Scheme, the Minister for Planning is the Responsible Authority for this application as it has a gross floor area exceeding 25,000 square metres.
2. On 19 December 2019, Planning Permit Application No. PA1900742 was received for part demolition of 248-250 King Street, demolition of buildings, construction of a building and alter access to a Road Zone, Category 1. The key milestones in the process of the application were as follows:

Milestone	Date
Pre-application meeting (Department and Melbourne City Council)	12 December 2018
Application lodgement	<b>19 December 2019</b>
 <p>TP - Original Submission December 2019</p> <p>TP Original (Dec 2019)</p> <p>GFA (above ground) <b>31,462 m<sup>2</sup></b></p>	
Further information requested	24 December 2019
Further information received	11 June 2020

**Figure 1: Lodgement plans (Source: 3 August 2020 presentation prepared by Cox Architecture)**



TP - RFI Submission  
May 2020

TP RFI (May 2020)

GFA (above ground)

**32,160m<sup>2</sup>**

**Figure 2: RFI plans (Source: 3 August 2020 presentation prepared by Cox Architecture)**

Further plans submitted (formally under section 50 of the Act)

6 November 2020

The formally substituted plans include a revised design proposal in response to feedback provided the Department and the council. The amendments include:

- Retention of both street facades, external side walls to a depth of 7 metres and part of the roof of the Kilkenny Inn.
- Increased setback of the building from the corner of Lonsdale and King Streets to 7 metres with no cantilever over the main part of the heritage building.
- Modifications to the architectural expression.

Refer below for further details including images.

Further informally substituted indicative plans submitted (20 and 26 April 2021)

20 April 2021

The indicative plans submitted for discussion include a revised vehicle access plan from one-way to two-way off Lonsdale Street to address objector concerns raised by the owners and tenants at 10-22 Manton Lane. The plans also indicate a future scenario whereby the widened accessway from Lonsdale Street could be reclaimed as pedestrian / retail space should Manton Lane be made one-way in the future.



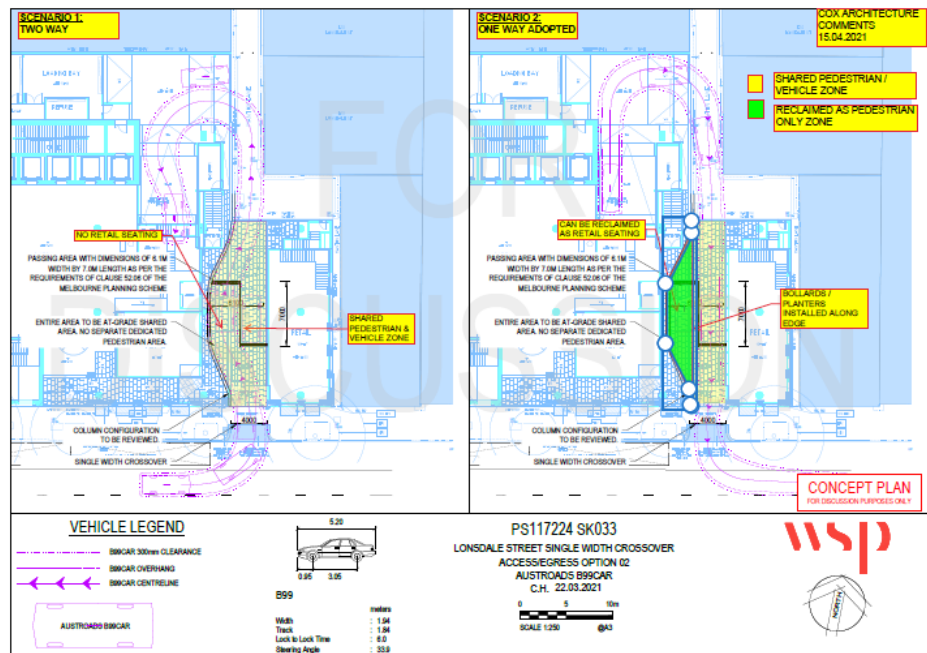


Figure 3: Indicative plans 20 April 2021 (Source: Applicant)

26 April 2021

The indicative plans submitted for discussion include a revised extent of demolition for Kilkenny Inn based on historical information and site inspection. The plans indicate the retention of rooms and internal walls fronting the corner and King Street.

Ground - Kilkenny Inn  
Drawing Indicative Only

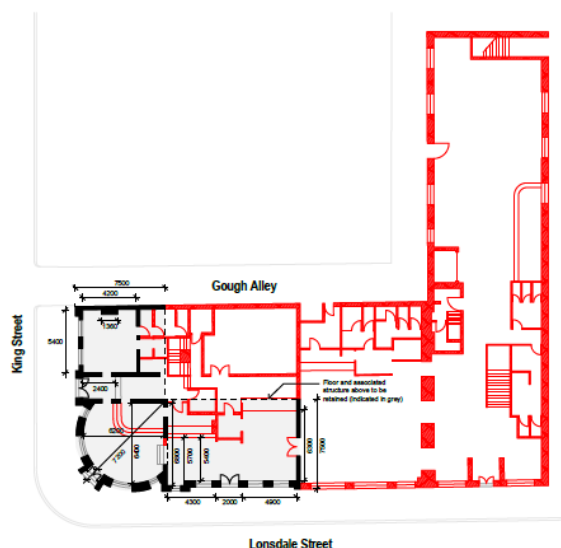


Figure 4: Indicative plans 26 April 2021 (Source: Applicant)





# Subject Site and Surrounds

## Site Description

4. The subject site is located on the north east corner of Lonsdale Street and King Street, Melbourne. The site is irregular in shape with a frontage to Lonsdale Street of 51.06 metres, a frontage to King Street of 38.16 metres and three frontages to Manton Lane of 18.14 metres, 10.73 metres and 20.12 metres. The overall site area is 1,759 m<sup>2</sup>.
5. The site comprises five lots described as follows:
  - 572 Lonsdale Street comprises two titles formally known as Lot 1 on Registered Plan of Strata Subdivision 002416, Volume 11374 Folio 223 and Lot 2 on Plan of Subdivision 002416, Volume 11374 Folio 224. A carriageway and drainage easement are located along the northern boundary and two light and air easements along the eastern boundary. This site is occupied by a two storey office building and it is not a graded building.
  - 248-250 King Street is located on the corner of King Street and Lonsdale Street and comprises two titles:
    - The corner building, formally known as Lot 1 on Title Plan 596529M, Volume 03646 Folio 100. No covenants or easements affect this land. The site is occupied by a two storey brick hotel building (the 'Kilkenny Inn'), currently used as a nightclub. It is affected by site-specific Heritage Overlay 679 and is identified as significant.
    - The building fronting Lonsdale Street (also known as 576 Lonsdale Street), formally known as Lot 1 on Title Plan 529511M, Volume 06250 Folio 988. This land has 'full free and uninterrupted use privilege and enjoyment through and along' Gough Alley. The site is occupied by a two storey building, currently used as a nightclub accessed via the Kilkenny Inn building.
  - 256-260 King Street: formally known as Lot 1 on Title Plan 117297J, Volume 09785 Folio 313. This land has a right of carriageway over Gough Alley. This site is occupied by a two storey brick former factory, currently used as an office and it is not a graded building.
  - Gough Alley is a council lane, formally known as Corporation Lane 17. The purchase of this laneway has been negotiated with the Melbourne City Council, subject to the issue of a permit.
6. There is one crossover to the site, specifically to Gough Alley along King Street. There is a fall in the land from the north east to the south west of approximately 2.0 metres.



Figure 6: Site Plan (Source: Melbourne City Council Maps <http://maps.melbourne.vic.gov.au/>)



Figure 7: Aerial of subject site and immediate context (Source: Melbourne City Council Maps <http://maps.melbourne.vic.gov.au/>)

## Site Surrounds

7. The surrounding development comprises a mixture of small scale 1-3 storey buildings, many of which are heritage buildings, and tower developments. Land uses are varied and include retail, office, nightclub and residential among other uses.
8. The site is located at the intersection of two busy roads with King Street being in a Road Zone Category 1. It enjoys excellent access to public transport with tram services along Spencer Street, La Trobe Street, William Street and Bourke Street, local and regional train services through Southern Cross Railway Station and a number of bus routes along Lonsdale Street.
9. Development surrounding the site can be described as follows:
  - To the **north** of the site, at 270 King Street, is a 16 storey residential building with a blank wall along most of the common boundary. This building interfaces with 256-260 King Street and part of 248-250 King Street. To the north of 572 Lonsdale Street is Manton Lane, formally known as Corporation Lane 35. This lane runs between Little Lonsdale Street and Lonsdale Street and around the northern and eastern boundaries of 572 Lonsdale Street. It measures approximately 4.0 metres wide from Little Lonsdale Street, approximately 5.0 metres wide when it runs east-west and approximately 1 metre wide along the eastern boundary of 572 Lonsdale Street. To the north and east of the site is 568-570 Lonsdale Street, three co-joined warehouses of single and double storey that extend from Lonsdale Street through to Manton Lane and are used as offices.
  - To the **east** of the site is 568-570 Lonsdale Street as described above. To the east of this building is 560-566 Lonsdale Street, a recently completed 59 storey residential building with ground level retail. The podium is built to the boundary with the tower setback 5.0 metres from its western boundary, which includes dwellings orientated to the west.
  - To the **south** of the site is Lonsdale Street, a 30 metre wide road with four lanes of traffic and parking. On the southern side of Lonsdale Street, at the corner of King Street, is a three storey bluestone former warehouse building known as 234-244 King street and 579-585 Lonsdale Street, which is covered by an individual heritage overlay 677 and included on the Victorian Heritage Register (Ref No. H66). To the east of this site is a two storey bluestone former warehouse building known as 573-577 Lonsdale Street, which is covered by an individual heritage overlay 721 and included on the Victorian Heritage Register (Ref No. H68). To the east of this site is a 10 storey court and legal office building. The southern side of Lonsdale Street includes a number of laneways and the Merritts Place Reserve located at 22 Brown Alley.
  - To the **west** of the site is King Street, a 30 metre wide arterial road (Road Zone, Category 1) with six lanes of traffic. On the north west corner of Lonsdale and King Streets is 600 Lonsdale Street, a three storey office building with a central courtyard. On 4 June 2020 Planning Permit PA1900615 was issued by the Minister for Planning for the construction of a 41 storey mixed use building comprising hotel, office and retail on this site. On the south west corner of Lonsdale and King Streets is 239-241 King Street, a two storey brick former bank building, covered by an individual heritage overlay 678 and currently used as a nightclub.
10. There are a number of developments existing, approved or proposed in the surrounding area as illustrated in the figure below:



## 572 Lonsdale St - Context Map



Figure 8: Proposal and approved buildings in the vicinity of the site (Source: DELWP 3D model)

# Proposal

11. The application proposes to:

- Retain the principal part of the Kilkenny Inn, including the original side walls, to a depth of 7.0 metres.
- Demolish all other buildings on the site.
- Demolish / build over Gough Alley.
- Construct a 21 storey building, plus three levels of basement.
- Use the land for retail and office (no planning permit required for the uses).
- Alter access to a Road Zone, Category 1.

12. The applicant has provided a concept image of the proposal:



Figure 9: Concept image of proposal (Source: Application)

13. Specific details of the application include:
  - Retail (800 m<sup>2</sup> GLRA)
  - Office (24,016 m<sup>2</sup> GFA).
  - 57 car spaces and 8 motorcycle spaces
  - 162 bicycle spaces
  - Total GFA of 37,808 m<sup>2</sup>
14. A detailed description of the building envelope is as follows:
  - Basement Levels 1-3 are generally built to all boundaries, with the exception of the corner of Lonsdale and King Street which incorporates the retained heritage building.
  - The Ground Level is generally built to all boundaries with the exception of the corner of Lonsdale and King Streets which incorporates the retained heritage building. There are also setbacks to the loading bay along Manton Place and the shared pedestrian and vehicle zone from Lonsdale Street to Manton Lane.
  - Level 1 is generally built to all boundaries with the exception of the corner of Lonsdale and King Streets, which incorporates the retained heritage building, and the shared pedestrian and vehicle zone from Lonsdale Street to Manton Lane.
  - Level 2 is built to the Manton Lane boundaries but incorporates terraces of 3.275 metres in depth to King Street, 5.41 metres in depth to Lonsdale Street and 7 metres in depth above the retained heritage building at the corner of Lonsdale and King Street.
  - Levels 3-5 are generally built to all boundaries, with the exception recesses of 7 metres in depth on either side of the retained heritage building on the corner of Lonsdale and King Street.
  - Level 6 has an equivalent layout to levels 3-5 but with additional setback in the form of terraces to King Street and Lonsdale Street to create horizontal recesses as a notional podium of between 23.6 and 23.8 metres.
  - Levels 7-9 are generally built to all boundaries, with the exception recesses of 7 metres in depth on either side of the retained heritage building on the corner of Lonsdale and King Street.
  - Level 10 continues the floorplate of level 9 below but incorporates a terrace on the east boundary fronting Manton Lane setback 6 metres from the east side of Manton Lane.
  - Levels 11-20 are generally built to all boundaries, with the exception recesses of 7 metres in depth on either side of the retained heritage building on the corner of Lonsdale and King Street and a setback from the east boundary fronting Manton Lane of 6 metres from the east side of Manton Lane.
  - The Plant levels 1 and 2 are setback 3.0 metres from the levels below. The façade materials for the plant level are different to the materials of the tower itself.
15. Basement Levels 1-3 include 57 car spaces, 8 motorcycle spaces, 154 bicycle spaces, end of trip facilities, substation and plant and services.
16. The Ground Level includes four retail tenancies, a shared pedestrian and vehicle zone from Lonsdale Street to Manton Lane, an office lobby accessed separately from Lonsdale Street and King Street, a loading bay accessed from Manton Lane, waste storage areas, access to the basement levels from Manton Lane, a separate end of trip entry to the basement 1 level, 8 visitor bicycle spaces and plant and services. It is proposed to build over Gough Alley, remove the existing crossover to King Street and create a new 4 metre wide crossover to Lonsdale Street.
17. Level 1 includes the two upper level retail spaces, the existing terrace of the retained heritage building and office use.
18. Levels 1-20 are for the office use.



19. The notional podium created by horizontal recesses at level 6 will have a height of between 23.6 and 23.8 metres (41.3 metres AHD) and the tower will have a height of 80 metres (97.5 metres AHD), excluding the plant, as measured from the centre of the Lonsdale Street frontage (17.5 metres AHD). The plant has a maximum height of 12 metres, measuring 92 metres (109.5 metres AHD).
20. The materials and finishes include silver grey curtain wall façade, brickwork, metal soffit cladding and aluminium fins.
21. The application is supported by consultant reports including a planning report, heritage impact assessment, urban context report, landscape plans, wind tunnel assessment, traffic report, waste management report, arborist report, ESD design statement and stormwater management report.
22. The proposal under consideration in this report is based on the plans prepared by Cox Architecture known as the decision plans and dated 6 November 2020.

# Planning Policies and Controls

## Planning Policy Framework

23. The Planning Policy Framework (PPF) provides the broad policy direction within the Victoria Planning Provisions. The planning principles set out under the PPF are to be used to guide decision making on planning proposals across the state. The following policies are considered relevant to this application:
- Clause 11 – Settlement
    - Clause 11.01-1S – Settlement
    - Clause 11.01-1R – Settlement – Metropolitan Melbourne
    - Clause 11.03-1S – Activity Centres
    - Clause 11.03-1R – Activity Centres – Metropolitan Melbourne
  - Clause 15 – Built Environment and Heritage
    - Clause 15.01-1S – Urban Design
    - Clause 15.01-1R – Urban Design – Metropolitan Melbourne
    - Clause 15.01-2S – Building Design
    - Clause 15.01-4S – Healthy Neighbourhoods
    - Clause 15.01-4R – Healthy Neighbourhoods – Metropolitan Melbourne
    - Clause 15.01-5S – Neighbourhood Character
    - Clause 15.02-1S – Energy and Resource Efficiency
    - Clause 15.03-1S – Heritage Conservation
  - Clause 17 – Economic Development
    - Clause 17.01-1S – Diversified Economy
    - Clause 17.01-1R – Diversified Economy – Metropolitan Melbourne
    - Clause 17.02-1S – Business
  - Clause 18 – Transport
    - Clause 18.02-1S – Sustainable Personal Transport
    - Clause 18.02-1R – Sustainable Personal Transport – Metropolitan Melbourne
    - Clause 18.02-2S – Public Transport
    - Clause 18.02-2R – Principal Public Transport Network
    - Clause 18.02-4S – Car Parking
  - Clause 19 – Infrastructure
    - Clause 19.03-5S – Waste and Resource Recovery
24. For a full outline of the relevant state planning policy for the proposal see Appendix 1.

## Local Planning Policy Framework

25. The Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) within Planning Schemes across Victoria outline principal characteristics of a given municipality (municipal profile) and provide specific visions, goals, objectives, strategies and implementation plans.
26. The MSS within the Melbourne Planning Scheme identifies the objectives and strategies for the municipality as a whole are set out under the themes of settlement, environment and landscape, built environment and heritage, housing, economic development, transport and infrastructure.

27. The following clauses are relevant:
- Clause 21.03 (Vision)
  - Clause 21.04 (Settlement)
  - Clause 21.06 (Built Environment and Heritage)
  - Clause 21.08 (Economic Development)
  - Clause 21.09 (Transport)
  - Clause 21.11 (Local Areas)
  - Clause 21.12 (Hoddle Grid)
28. Relevant local planning policies include:
- Clause 22.01 (Urban Design within the Capital City Zone)
  - Clause 22.02 (Sunlight to Public Spaces)
  - Clause 22.03 (Floor Area Uplift and Delivery of Public Benefits)
  - Clause 22.04 (Heritage Places in the Capital City Zone)
  - Clause 22.19 (Energy, Water and Waste Efficiency)
  - Clause 22.20 (CBD Lanes)
  - Clause 22.23 (Stormwater Management)
29. For a full outline of the relevant local planning policy for the proposal see Appendix 1.

## **Statutory Planning Controls**

30. A planning permit is triggered for the proposal pursuant to the following:

### Capital City Zone – Schedule 1 (Clause 37.04)

31. Pursuant to Clause 37.04-1 a permit is not required to use the land for retail and office.
32. Pursuant to Clause 37.04-4 a permit is required to demolish or remove a building and to construct a building or construct or carry out works.

### Heritage Overlay 679 (Clause 43.01)

33. Pursuant to Clause 43.01-1 a permit is required to demolish or remove a building and to construct a building or construct or carry out works.

### Design and Development Overlay – Schedule 10 (Clause 43.02)

34. Pursuant to Clause 43.02-2 a permit is required to construct a building or construct or carry out works.
35. Schedule 10 to the overlay includes a number of design requirements which are detailed at Appendix 2.

### Parking Overlay - Schedule 1 (Clause 45.09)

36. Pursuant to Clause 45.09-3 a permit is required to provide more than the maximum parking provision specified in the schedule.
37. The Parking Overlay requires a maximum of 124 car spaces and the proposal provides 57 car spaces. Accordingly, a permit is not required under this overlay.
38. Pursuant to Clause 3.0 of Schedule 1 to the overlay, all buildings that provide car parking must provide motorcycle parking at a minimum rate of 1 motorcycle parking space for every 100 car parking spaces. The proposal provides 8 motorcycle spaces, which exceeds the minimum requirement.

#### Car Parking (Clause 52.06)

39. Pursuant to Clause 52.06-3 a permit is required to provide more than the maximum parking provision specified in a schedule to the Parking Overlay. The Parking Overlay requires a maximum of 124 car spaces and the proposal provides 57 car spaces. Accordingly, a permit is not required under this overlay.
40. Plans prepared in accordance with Clause 52.06-8 must meet the design standards of Clause 52.06-9, unless the responsible authority agrees otherwise.

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

41. Pursuant to Clause 52.29-2 a permit is required to create or alter access to a road in a Road Zone, Category 1.

#### Bicycle Parking (Clause 52.34)

42. Pursuant to Clause 52.34-2 a permit may be granted to vary, reduce or waive the bicycle requirements. The proposal triggers a requirement for a minimum of 83 staff and 26 visitor bicycle spaces. The proposal provides 126 staff and 36 visitor bicycle parking spaces and therefore does not require a permit under Clause 52.34.
43. For a full description of the zone and overlay controls, planning permit requirements and notice and appeal exemptions for the proposal see Appendix 2.

### **Plan Melbourne**

44. Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Department of Environment, Land, Water and Planning, 2017) outlines the long term plan to manage growth in the city and suburbs to the year 2050. It seeks to integrate long term land use, infrastructure and transport planning, and in doing so, meet the city's future environmental, population, housing and employment needs. The following are relevant:
  - Direction 1.1: Create a city structure that strengthens Melbourne's competitiveness for jobs and investment.
    - Policy 1.1.1: Support the central city to become Australia's largest commercial and residential center by 2050.
    - Policy 1.1.2: Plan for the redevelopment of major urban renewal precincts in and around the central city to deliver high-quality, distinct and diverse neighbourhoods offering a mix of uses.
  - Direction 4.3: Achieve and promote design excellence.
    - Policy 4.3.1: Promote urban design excellence in every aspect of the built environment.
  - Direction 4.4: Respect Melbourne's heritage as we build for the future.
    - Policy 4.4.1: Recognise the value of heritage when managing growth and change.
    - Policy 4.4.3: Stimulate economic growth through heritage conservation. Promote urban design excellence in every aspect of the built environment.
  - Direction 6.1: Transition to a low-carbon city to enable Victoria to achieve its target of new zero greenhouse gas emission by 2050.
    - Policy 6.1.1: Improve energy, water and waste performance of buildings through environmentally sustainable development and energy efficiency upgrades.

### **Amendment C308**

45. Amendment C308 (Urban Design in the Central City and Docklands) and the Central Melbourne Design Guide were adopted by the council on 26 November 2019 and as such is considered to be seriously entertained. This amendment seeks to introduce a new urban design policy (Schedule 1 to the DDO) into the Melbourne Planning Scheme along with an illustrative guide detailing policy objectives. The overarching objective of the amendment is to improve the quality of design and development in the central city and Southbank. The amendment was sent to the Minister for Planning on 12 December 2019 for final approval to be included in the Melbourne Planning Scheme.

### **Amendment C387 and Amendment C386**

46. Amendment C387 is seeking permanent heritage controls for 256-260 King Street, Melbourne. The owners / developers for this site have lodged an opposing submission to Amendment C387. The council also sought interim heritage controls for the site under Amendment C386. However, the site was excluded by the Minister given there is a live application for redevelopment.

# Referrals and Notice

47. The application was referred to the following referral authorities:

Referral/ Notice	Provision/ Clause	Organisation	Response Received (date)
<i>Section 55 Referral – Determining</i>	52.29 66.02-11	Department of Transport (on behalf of Transport for Victoria and including VicRoads considerations)	24 May 2021
<i>Section 55 Referral - Recommending</i>		Melbourne City Council	18 May 2021
<i>Internal Referral</i>	N/A	DELWP Design	16 June 2020

## Department of Transport

48. Department of Transport reviewed the application on behalf of Transport for Victoria and offered no objection subject to the inclusion of conditions and notes on any permit to issue requiring a Traffic Management Plan, no disruption to bus operations during demolition and construction of the development and reinstatement following the removal of redundant vehicle crossings (refer letter dated 24 May 2021).

## Melbourne City Council

49. The Melbourne City Council considered the application at their Future Melbourne Committee (FMC) on 18 May 2021 and resolved to not object to the application, subject to conditions.
50. The council and applicant have been in negotiations post the FMC to formulate an agreed set of amended conditions, which were circulated by the applicant on 25 May 2021. The agreed conditions relate to detailed design matters and standard conditions. These include, but are not limited to, changes shown in the indicative plans dated 20 and 26 April 2021, further clarification and refinement regarding the extent of demolition of the Kilkenny Inn building, ground floor layout, façade strategy, minimum 5 metres setback from the centre line of Manton Lane above 40 metres in height, and section 173 Agreements to secure the office use and continuous public access (pedestrian and vehicular) over the extension of Manton Lane.

## DELWP Design

51. DELWP Design reviewed the plans received 20 June 2020 in response to the further information request and provided detailed comments including concerns relating to heritage retention, cantilever of the building and façade treatment and details. These comments, together with feedback from the council, led to the revised design proposal presented in the formally substituted plans received 6 November 2020.

## Notification

52. The application **is exempt** from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the *Planning and Environment Act 1987* pursuant to the following provisions:
- Pursuant to Schedule 1 of the Capital City Zone: an application to construct a building or construct or carry out works and demolish or remove a building or works.
  - Pursuant to Schedules 3 and 10 of the Design and Development Overlay: construct a building or construct or carry out works.
  - Pursuant to Clause 52.29-5: any application.

53. The application **is not exempt** from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the *Planning and Environment Act 1987* pursuant to the following provision:
- a. Heritage Overlay: demolish or remove a building and construct a building or construct and carry out works.
54. As such, notice of the application was given in accordance with Section 52 of the Act. Notice was given by the display of signs on the site and letters to adjoining owners and occupiers. This was carried out by the applicant in December 2020 for 14 days and a statutory declaration returned on 21 December 2020.
55. 21 objections were received with the majority raising heritage concerns particularly regarding the extent of demolition of Kilkenny Inn, Paramount House and Gough Alley and the unsympathetic design of the proposed building. In addition, one of the objections from 10-22 Manton Lane raised specific concerns regarding access, egress and safety on Manton Lane given the proposed one-way traffic movement.



# Assessment

## Key Policy

### Planning Policies

56. The planning policies encourage appropriate land use and development which enhances the built environment, supports economic growth, meets the community expectations on retail and commercial provision, and integrates transport and infrastructure planning.
57. The proposal is considered to respond appropriately to a number of relevant overarching policies by providing commercial (employment) uses on the land and by locating higher density development close to public transport.
58. The proposal will:
  - provide a large floorplate office building in the Central City to support it becoming Australia's largest commercial centre by 2050;
  - create visually interesting, good quality architecture and urban design, contributing to the design vision for the Hoddle Grid and the public realm including the continuation of Manton Lane;
  - provide a pleasant and substantially improved pedestrian experience with dramatically improved surveillance and safety for pedestrians provide cycling infrastructure and an adequate supply of bicycle parking spaces to encourage sustainable transport; and
  - provide cycling infrastructure and an adequate supply of bicycle parking spaces to encourage sustainable transport.

### Municipal Strategic Statement (MSS)

59. Clause 21.02 recognises that Central Melbourne is the premiere location for many of the State's economic activities in the Central City.
60. Clause 21.03 recognises the diverse roles of the city and local areas and their important contribution to the economic prosperity of the state. The proposed development responds to this by facilitating a new commercial development within a high quality, sustainable building with excellent access to public transport.
61. The proposal responds to Clause 21.12, Hoddle Grid, through:
  - protecting the regular grid layout, laneways, and identified significant public open spaces;
  - linking laneways, streets and development in the Hoddle Grid; and
  - ensuring tower buildings are well spaced and sited to provide equitable access to an outlook and daylight for future occupants and surrounding towers.

### Local Policies

62. The proposal is considered to respond appropriately to a number of relevant local planning policies as follows:
  - The proposal is sited and designed to respond to the physical constraints of the site and is responsive to its context, which includes a mix of building scales to address the different site interfaces (Clause 22.01).
  - The proposal responds appropriately to Clause 22.02, Sunlight to Public Spaces, by ensuring that the proposal allows adequate sun penetration to public spaces and achieves comfortable and attractive street environments for pedestrians. Discretionary overshadowing controls apply to nearby public spaces which will be discussed later in the report.
  - The proposal is consistent with Clause 22.03, Floor Area Uplift and Delivery of Public Benefits, as the development delivers a public benefit (office use) to support the proposed Floor Area Uplift.

- The proposal responds appropriately to Clause 22.19, Energy, Water and Waste Efficiency with the submitted ESD Design Statement prepared by Floth Sustainable Building Consultants and dated 21 October 2020.
- The proposal responds appropriately to Clause 22.23, Stormwater Management (Water Sensitive Urban Design) with the submitted Stormwater Management Report prepared by AECOM and dated 29 October 2020.
- Detailed discussion of Clause 22.04, Heritage Places in the Capital City Zone, and Clause 22.20, CBD Lanes, will be provided later in report.

## Land Use and Built Form

### Land Use

63. A permit is not required for use of the site for office or retail.
64. The purpose of the zone has been considered and it is noted that the proposed use for retail and office is consistent with the mixed-use activity encouraged within the Central City and supports the Capital City zoning. The development responds appropriately to the broad strategic intent for the Central City to provide for a mix of uses that service the office workers within the development and the needs of residents, workers and visitors in the surrounding area and complements the capital city function.

### Heritage

65. The Kilkenny Inn building is affected by site-specific Heritage Overlay 679 (248-250 King Street, Melbourne) and is identified as significant. The decision plans include the retention of the street facades, external side walls to a depth of 7 metres and part of the roof.
66. In response to concerns raised by the Department and the council, the applicant provided indicative plans dated 26 April 2021 for discussion with a revised extent of demolition based on historical information and a site inspection. The plans indicate the retention of rooms and internal walls fronting the corner and King Street (refer Figures 4 and 5).



Figures 4 and 5: Indicative plans 26 April 2021 (Source: Applicant)

67. The indicative plans seek for the retention of the three dimensional form of the front or principal part of the Kilkenny Inn building, being the first room in depth. Clause 22.04, Heritage Places in the Capital City Zone expectation is that the full demolition of significant buildings will not generally be permitted. This extent of demolition, together with the recommended conditions from the council, is supported and provides greater compliance with Clause 22.04.

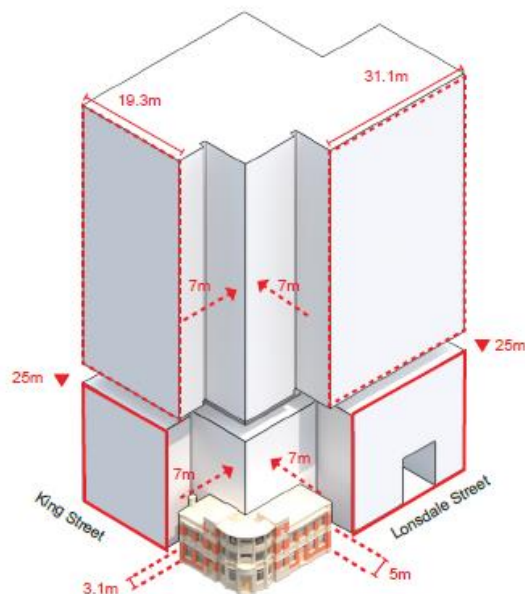


Figure 10: Heritage setbacks (Source: Applicant)

68. The new building is also considered to be acceptable with regard to policy for additions at Clause 22.04. In particular, it is acknowledged that the design has evolved from application lodgement on 19 December 2019 with a tower overhang to the decision and indicative plans with the removal of the overhang and the abovementioned 7 metres setback above the retained Kilkenny Inn building. The proposed 7 metres setback together with articulation measures including the notional podium and respectful palate of materials and finishes will respond to the details and prominence of the retained heritage building. An assessment of the height, setbacks and building form against DDO10 built form controls is discussed in the following section of the report.
69. As part of the negotiations between the council and applicant post the FMC, the proponent requested that condition 1a) ii. (no basement beneath retained Kilkenny Inn) be amended. This request was not supported by the council due to the complexity of constructing structural walls below a retained heritage building and the resulting significant risk of lost heritage buildings / fabric.
70. On 26 May 2021, the council separately emailed DELWP and the applicant to recommend an additional condition for a Structural Report to ensure demonstration of the means by which the retained portions of building will be supported during demolition and construction works to ensure their retention. This condition is supported and will be included on any permit to issue.
71. On 28 May 2021, the applicant requested DELWP consider a further amendment to condition 1a) ii. as follows:
  - 'no basement beneath retained Kilkenny Inn, unless the Structural Report required by Condition xx demonstrates that the construction of the basement (including require excavation) will not adversely impact on retention of the Kilkenny Inn.'
72. This request to further amend condition 1a) ii. is not supported given the risk of losing the retained corner of the Kilkenny Inn building, including internal fabric to a depth of 7 metres. It is important to protect the agreed extent of retention to avoid a facadism scenario.

### Height/setbacks/building form

73. The application seeks approval for the construction of a tower development over three basement levels with a notional podium at level 6 achieved with the addition of horizontal recesses in the form of terraces. The notional podium created by horizontal recesses at level 6 will have a height of between 23.6 and 23.8 metres and the tower will have a height of 80 metres (97.5 metres AHD), excluding the

plant, as measured from the centre of the Lonsdale Street frontage 17.5 metres AHD). The plant has a maximum height of 12 metres, measuring 92 metres (109.5 metres AHD).

74. The DDO10 built form controls that affect the site seek to ensure that development respects the built form scale and urban structure of the Central City and provides both preferred (discretionary) and modified (mandatory) requirements and built form outcomes to be achieved as follows:

Design Element	Preferred Requirement	Modified Requirement	Built Form Outcomes
<b>Street wall height</b>	Up to 20 metres	<p>The street wall height must be no greater than:</p> <ul style="list-style-type: none"> <li>40 metres; or</li> <li>80 metres where it: <ul style="list-style-type: none"> <li>defines a street corner where at least one street is a main street and the 80 metre high street wall should not extend more than 25 metres along each street frontage, and/or</li> <li>fronts a public space including any road reserve wider than 80 metres</li> </ul> </li> </ul>	<p>Street wall height is scaled to ensure:</p> <ul style="list-style-type: none"> <li>a human scale.</li> <li>an appropriate level of street enclosure having regard to the width of the street with lower street wall heights to narrower streets.</li> <li>consistency with the prevalent parapet height of adjoining buildings.</li> <li>height that respects the scale of adjoining heritage places.</li> <li>adequate opportunity for daylight, sunlight and sky views in the street.</li> <li>definition of main street corners and/or public space where there are no significant impacts on the amenity of public spaces.</li> <li>maintenance of the prevailing street wall height and vertical rhythm on the street.</li> </ul>
<b>Response</b>			
<p>The proposed building has a street wall height 80 metres (97.5 metres AHD) to Lonsdale Street and King Street. This is consistent with the modified requirement for 80 metres and built form outcomes for the following reason:</p> <ul style="list-style-type: none"> <li>The 7 metres setback above the retained Kilkenny Inn building together with the 80 metres street wall defines the street corner of Lonsdale Street and King Street.</li> <li>The proposed street wall is higher than that of the adjoining properties but is consistent with that of recent approvals at 600 Lonsdale Street (93.6 metres AHD) and 230 King Street (94.2 metres AHD).</li> <li>Whilst the street wall extends further than the specified 25 metres on Lonsdale Street, this requirement is not mandatory.</li> <li>The proposed design, articulation and recesses at ground and level 2 achieves a human scale on Lonsdale Street and King Street.</li> <li>The proposed notional podium created by horizontal recesses at level 6 will have a height of between 23.6 and 23.8 metres (41.3 metres AHD) reduces the perception of height and bulk.</li> <li>All visible elevations are activated, and the facades are articulated with a variety of materials and architectural expression.</li> <li>Opportunities for daylight, sunlight (where possible) and sky views will be adequate, given the orientation of the site and the width of adjacent streets. Overshadowing will be discussed later in the report.</li> </ul>			

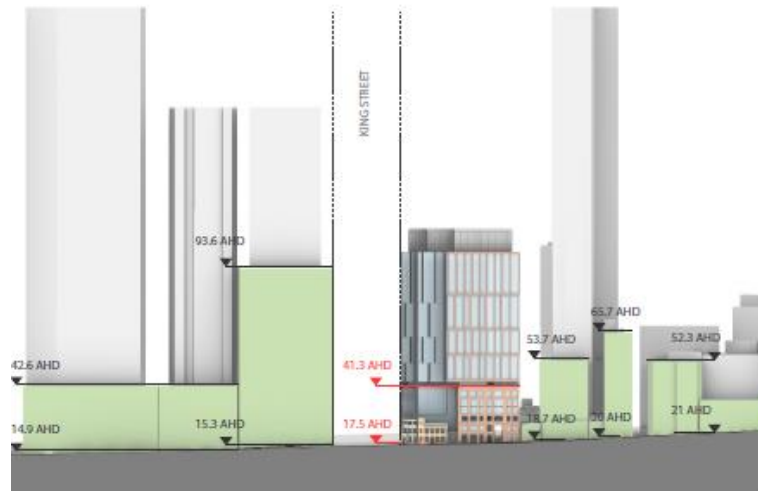


Figure 11: Lonsdale Street streetscape response (Source: Application)

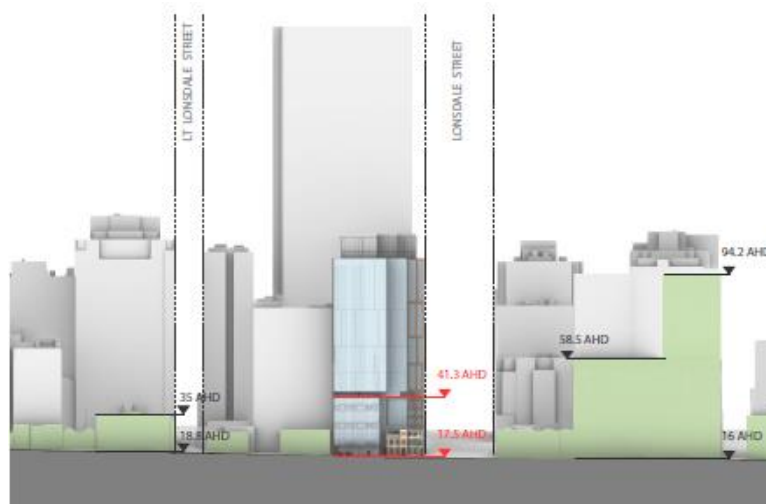


Figure 12: King Street streetscape response (Source: Application)

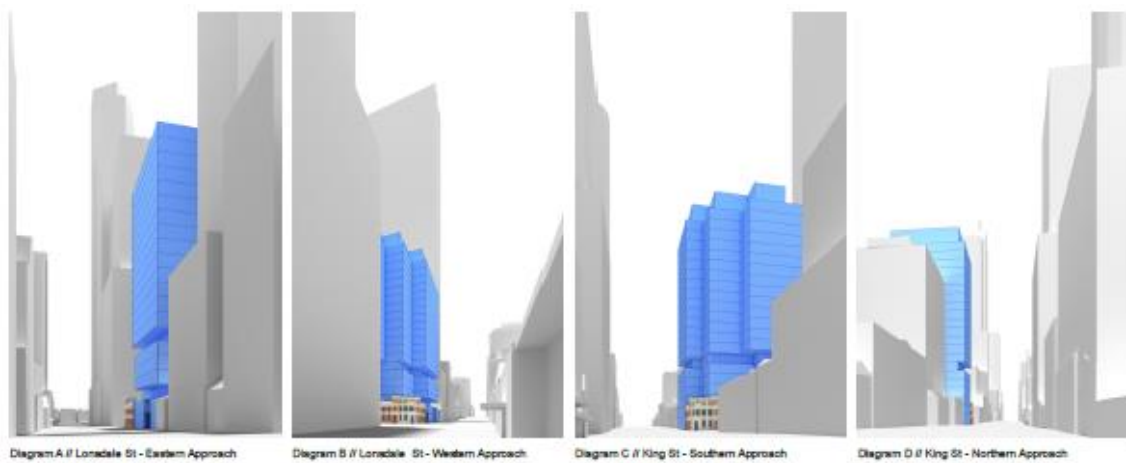


Figure 13: Streetscape views (Source: Application)

Design Element	Preferred Requirement	Modified Requirement	Built Form Outcomes
<b>Building setback(s) above street wall</b>	Above the street wall, towers and additions should be setback 10 metres from the title boundary.	Above the street wall, towers must be setback a minimum of 5 metres from the title boundary.	Towers and additions are setback to ensure: <ul style="list-style-type: none"> <li>large buildings do not visually dominate the street or public space.</li> <li>the prevalent street wall scale is maintained.</li> <li>overshadowing and wind impacts are mitigated.</li> <li>The tower or addition includes a distinctly different form or architectural expression.</li> </ul>
<b>Response</b>			
Not applicable as there are no setbacks above the street wall to Lonsdale Street and King Street.			

Design Element	Preferred Requirement	Modified Requirement	Built Form Outcomes
<b>Building setbacks from side boundaries and rear boundaries (or from the centre line of an adjoining laneway) and tower separation within a site</b>	Above the street wall or 40 metres (where there is no street wall), towers and additions should be setback a minimum of 5 metres or 6% of the total building height whichever is greater.	<p><b>Towers and additions up to 80 metres in height:</b></p> <p>Above the street wall or 40 metres (where there is no street wall), towers and additions must be setback a minimum of 5 metres. Towers and additions of no more than 80 metres in height may be constructed up to one side or rear boundary, excluding a laneway, if an existing, approved, proposed or potential building on an adjoining site is built to that boundary and if a minimum setback of 5 metres is met to all other side and rear boundaries and the centre line of any adjoining laneway. Buildings of no more than 80 metres in height, may be constructed to a second side or rear boundary if an adjoining site cannot, by legal restriction benefitting the application site, be developed above the street wall height.</p> <p><b>Towers exceeding 80 metres in total height:</b></p> <p>Above the street wall or 40 metres (where there is no street wall), towers and additions must be setback a minimum of 5 metres and must meet the design element requirements for tower floorplate</p> <p><b>Tower separation within a site:</b></p> <p>Towers must be separated by a minimum of 10 metres.</p>	Towers and additions are designed and spaced to ensure: <ul style="list-style-type: none"> <li>sun penetration and mitigation of wind impacts at street level.</li> <li>provision of reasonable sunlight, daylight, privacy and outlook from habitable rooms, for both existing and potential developments on adjoining sites.</li> <li>floorplate layout or architectural treatment limits direct overlooking between habitable rooms.</li> <li>buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them.</li> <li>buildings do not visually dominate heritage places and streetscapes, nor significant view lines.</li> </ul>
<b>Response</b>			
<p>The proposal does not include a street wall / tower configuration and as such the setback requirements are not applicable. However, the following is noted with regard to the north and east boundaries:</p> <ul style="list-style-type: none"> <li>The proposed building is built to the north boundary. This is consistent with the modified requirement given that towers of no more than 80 metres in height may be constructed up to a boundary if an</li> </ul>			

existing building on an adjoining site is built to that boundary. 272-274 King Street is built to that boundary.

- Above the 10 storey street wall to Manton Lane (56.18 metres AHD or approximately 39 metres), the built form is setback 6 metres from the east side of Manton Lane or 570 Lonsdale Street. Based on a laneway width of approximately 4 metres, this equates to 4 metres from the centre line of Manton Lane. To comply with the modified requirement, it is recommended that above 40 metres this setback be increased to 5 metres from the centre line of Manton Lane. This is reflected in the conditions agreed between the council and applicant post the FMC meeting dated 18 May 2021.

The proposed setbacks are consistent with the built form outcomes for the following reasons:

- Overshadowing and wind impacts will be discussed later in the report.
- Reasonable provision is made for sunlight, daylight, privacy and outlook, given the surrounding street network and land uses.
- There are no direct sensitive abutments with 272-274 King Street presenting as a blank wall to the shared boundary and no habitable rooms at 570 Lonsdale Street on the opposite side of Manton Lane. Therefore, there is no direct overlooking impacts.
- The proposed articulation, recesses and varied façade materials will ensure that the building will not appear as a continuous wall.
- Heritage considerations are discussed earlier in the report.

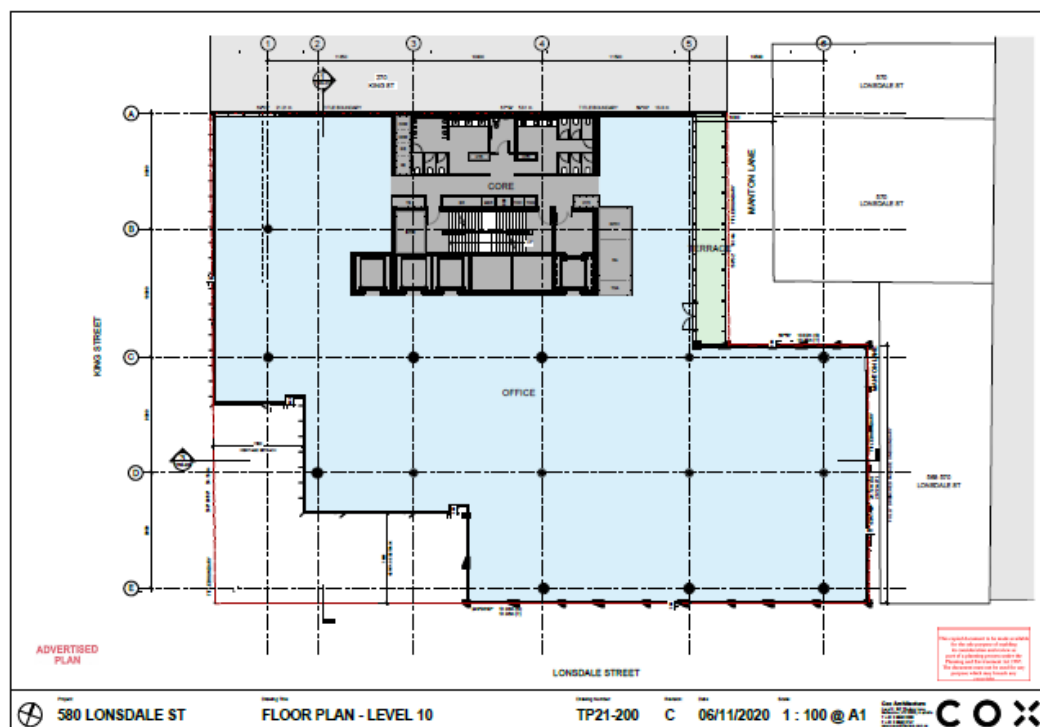


Figure 14: Setback from Manton Lane at level 10 (Source: Application)



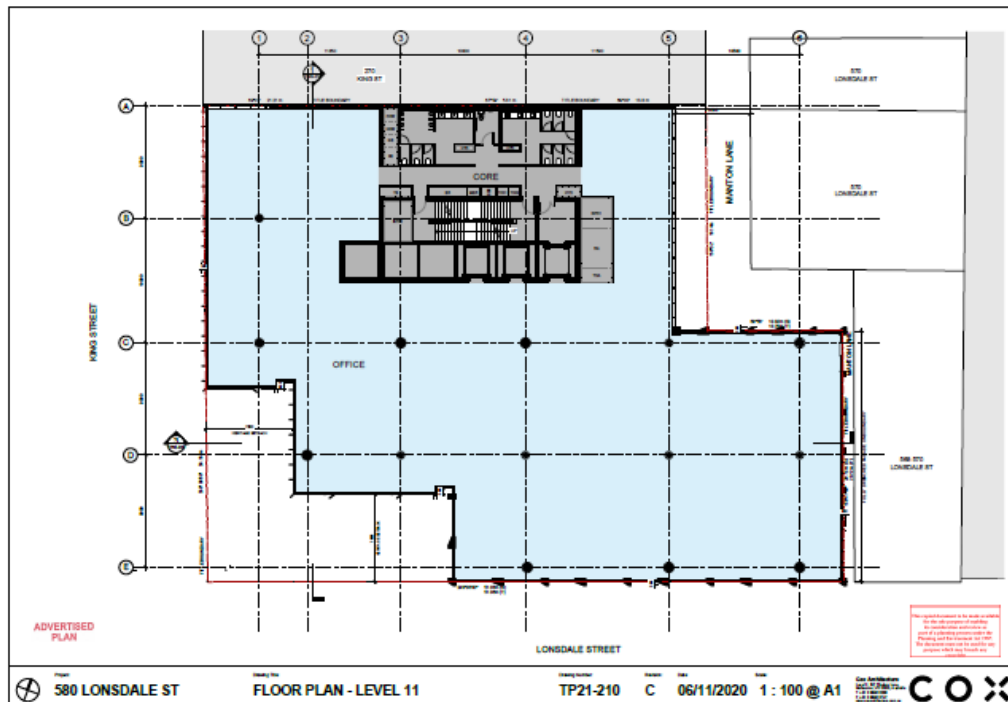


Figure 15: Setback from Manton Lane at level 11 (Source: Application)

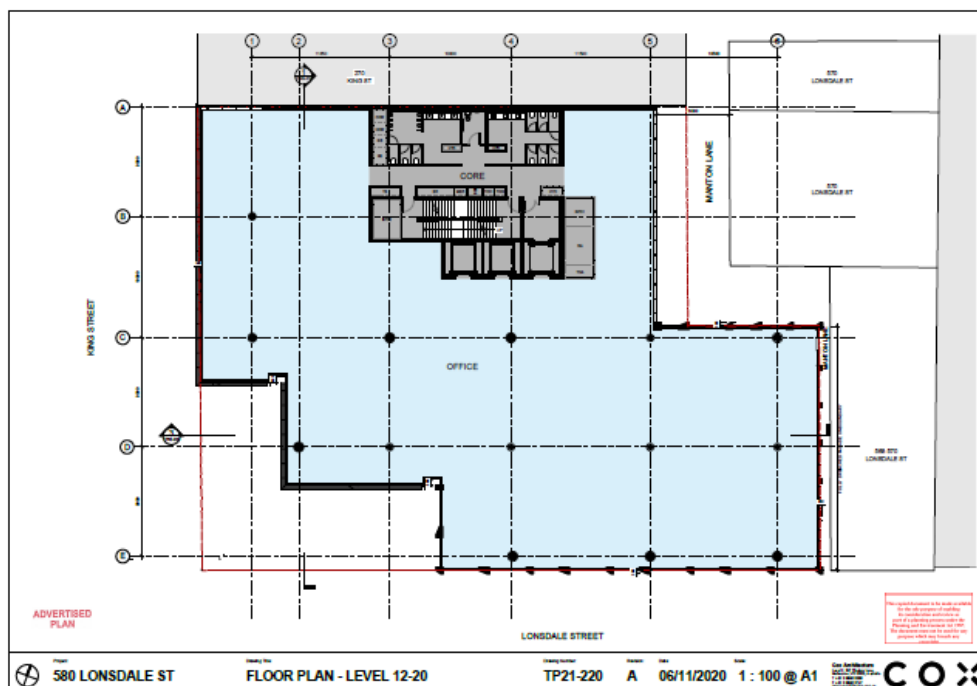


Figure 16: Setback from Manton Lane at levels 12-20 (Source: Application)

Design Element	Preferred Requirement	Modified Requirement	Built Form Outcomes
<b>Tower Floorplate/s</b>	The tower floorplate is determined by	The tower floorplates above the street wall for a tower above 80 metres in height	<p>The adjusted floorplate is designed and spaced to:</p> <ul style="list-style-type: none"> <li>• reduce impact on existing and potential</li> </ul>

	the preferred requirement for building setbacks from side and rear boundaries and tower separation within a site, and the modified requirement for building setback(s) above the street wall	may be adjusted in terms of location and/or shape but must not: <ul style="list-style-type: none"> <li>Result in an increase in the floorplate area;</li> <li>be situated less than 5 metres from a side or rear boundary (or from the centre line of an adjoining laneway);</li> <li>be less than 5 metres to a street boundary;</li> <li>be less than 10 metres to an adjoining tower on the site</li> </ul>	neighbours in terms of privacy, outlook, daylight and sunlight access. <ul style="list-style-type: none"> <li>minimise visual bulk.</li> <li>reduce impact on public spaces, including overshadowing and wind effects and reduced visual dominance.</li> <li>buildings do not visually dominate heritage places and streetscapes, nor significant view lines.</li> <li>buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them.</li> </ul>
<b>Response</b>			
Not applicable the proposed building is 80 metres in height excluding plant.			

### Façade treatment and architectural expression

75. It is considered that all street frontages are of high quality and achieve a human scale. Lonsdale Street, King Street and Manton Lane elevations are highly activated through glazing and architectural treatments. This is a significant improvement to the existing conditions and will transform this underutilised site into a site responsive and visually interesting building to its surrounding context.
76. The lower street wall responds to the retained Kilkeny Inn building by referencing the street wall datum with recesses at level 2 comprising a landscaped terrace. The vertical openings and masonry of this retained building is also referenced in the façade treatment of the lower street wall with vertical grid brickwork on the Lonsdale Street elevation and glazing with steel framed extrusions on the King Street elevation. The proposed continuation of Manton Lane as an internal through-block link and façade treatment details at ground floor to Lonsdale Street will be discussed in the following section in the report.



Figure 17: Lonsdale Street elevation (Source: Application)



Figure 18: King Street elevation (Source: Application)

77. The massing at upper levels is broken up via the 7 metres setback above the retained Kilkenny Inn building together with recesses at level 2 and the proposed notional podium created by horizontal recesses at level 6. The façade treatment of the street wall to Lonsdale Street wrapping around part of the east elevation continues the vertical grid brickwork referring the retained Kilkenny Inn building. The street wall to King Street and the north end of Manton Lane comprises a silver grey curtain wall façade with aluminium fins also providing a vertical grid pattern.
78. The recesses at level 2 and level 6 also provide an opportunity for landscaping, which when matured will assist in breaking down the massing. The details and maintenance of landscaping can be ensured via the condition recommended by the council.
79. The architectural expression is considered an appropriate design response to the streetscape and the surrounding context as it respects the rhythm and scale of the existing streetscape and engages with the pedestrian experience.
80. The council has recommended a condition requiring a façade strategy including further details of materials and finishes. The condition is supported to ensure that the proposal achieves the façade treatment presented in the submitted renders.



Figure 19: Render of the corner of Lonsdale Street and King Street (Source: Application)

### Ground Floor Plane

81. The ground floor plane is a significant improvement compared with the existing conditions. The proposed continuation of Manton Lane as an internal through-block link will introduce site permeability as supported by policy at Clause 22.01, Urban Design within the Capital City Zone, and Clause 22.20, CBD Lanes. It will have activated frontages with retail uses and an entry to the office lobby and provide shared vehicle / pedestrian access indicated with paving consistent with other proposed entries. The details of vehicle access from Lonsdale Street will be discussed later in the report with reference to the indicative plans dated 20 April 2021.
82. The proposal also provides activated frontages to Lonsdale Street and King Street with retail uses and recesses on either side of the Kilkenny Inn building providing pedestrian entries to the office lobby. end of trip bicycle facilities. As such, the proposal responds to policy at Clause 22.01, Urban Design within the Capital City Zone, and DDO1 by ensuring that the new facades engages the eye of the pedestrian and buildings address both street frontages on corner sites.
83. With regard to Lonsdale Street, a DDA path is proposed between the office lobby entry and Manton Lane. It is located between the vertical grid brickwork façade and a retail premises. The council has raised concerns regarding this section of 'false façade' and recommended opening this interface as a

colonnade. This recommendation and the resulting permit conditions are supported to encourage use of the DDA path.

84. The car park and loading bay entries are combined via Manton Lane allowing the removal of an existing crossover to King Street. This has allowed for the abovementioned recess providing pedestrian entry to the office lobby and responds appropriately to the design intent of DDO3.

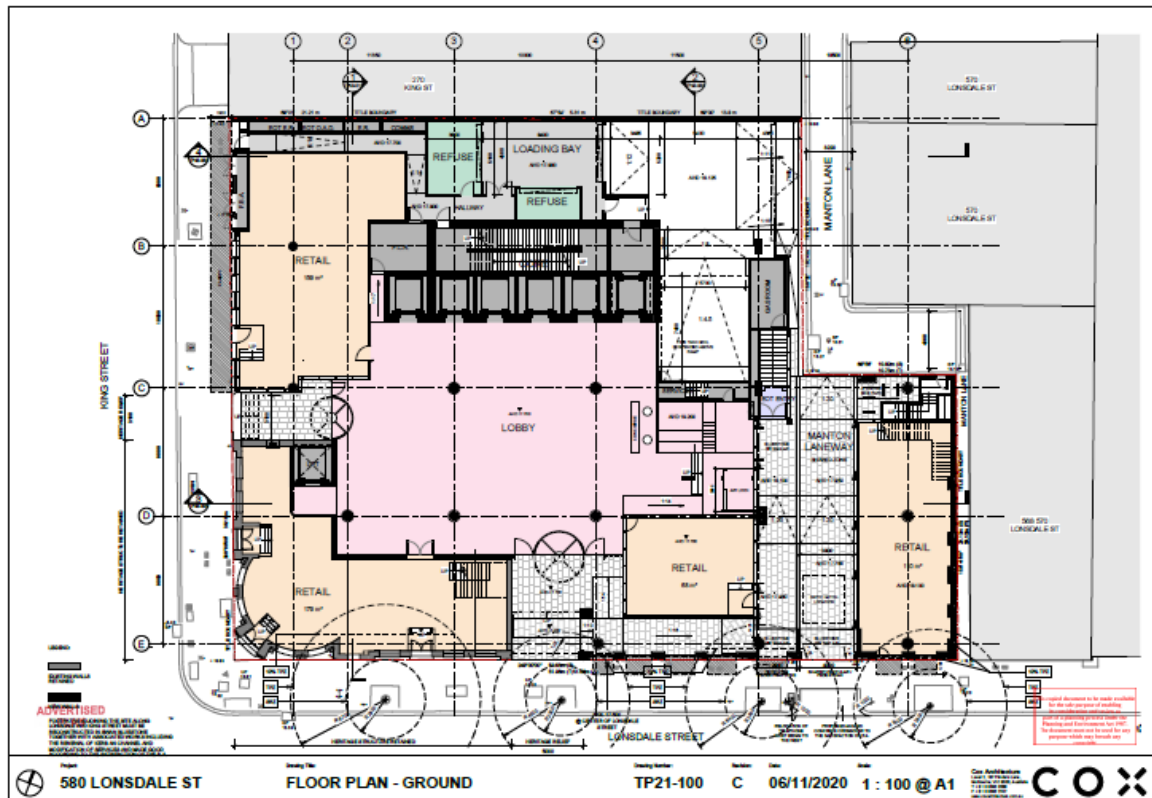


Figure 20: Ground Floor Plan (Source: Application)

### Amendment C308

85. The proposal is consistent with key aspects of this proposed amendment as follows:
- The addition of an internal through-block link with active frontages.
  - A mixture of activation at ground level with multiple entry points and active and attractive frontages along Lonsdale Street and King Street that engages pedestrians.
  - High quality materials and fine grain design to the street wall.
  - The location of limited car parking in the basement.
  - The concentration of vehicle entrances to one location limiting impact on the pedestrian experience.
86. It is also noted by the council that there is no aspect of the proposal that raises concerns in relation to this seriously entertained planning control.

## Floor Area Ratio and Public Benefits

### Floor Area Ratio

87. Clause 22.03, Floor Area Uplift and Delivery of Public Benefits, is relevant to the proposal given that the proposed building has a plot ratio of 18.66:1 (based GFA above ground level of 32,828 m<sup>2</sup> and site area 1,759 m<sup>2</sup>), which exceeds the floor area ratio of 18:1 specified in Capital City Zone, Schedule 1. Any Floor Area Uplift must be appropriately matched by the public benefit to be provided.



88. The subject site is located within the Flagstaff Precinct as identified in DELWP's *How to Calculate Floor Area Uplifts and Public Benefits* document dated November 2016. The gross realisation value (GRV) for commercial in this precinct is \$5,500, whilst the value for residential is \$7,000.
89. Refer to the table below for the relevant calculations.

**Table 1: Floor Area Uplift and Public Benefits**

Step	Calculation	Details
<b>1. Base Gross Floor Area (i.e. floor area available based on a floor area ratio of 18:1)</b>	Site Area x 18	1,759 m <sup>2</sup> x 18 = 31,662 m <sup>2</sup>
<b>2. Proposed Development Gross Floor Area</b>	Floor Area calculated in accordance with Schedule 1 of the Capital City Zone (above ground floor)	= 32,828 m <sup>2</sup> (GFA above ground level)
<b>3. Floor Area Uplift (FAU) sought in square metres</b>	Proposed Gross Floor Area (from Step 2) minus Base Gross Floor Area (from Step 1)	32,828 m <sup>2</sup> - 31,662 m <sup>2</sup> = 1,166 m <sup>2</sup>
<b>4. Base data for valuing FAU</b>	GRV/m <sup>2</sup> associated with applicable use of FAU as derived from the applicant's valuation.	Commercial use in Flagstaff = \$5,500/m <sup>2</sup>
<b>5. Value of each square metre of FAU</b>	10% of applicable GRV/m <sup>2</sup> (from Step 4)	The FAU value is: \$5,500/m <sup>2</sup> x 10% = \$550/m <sup>2</sup>
<b>6. Total value of FAU</b>	FAU sought (from Step 3) x value of each square metre of FAU (from Step 5)	1,166 m <sup>2</sup> x \$550/m <sup>2</sup> = \$641,300
<b>7. Value of Public Benefit to be provided</b>	Equal to (or greater than) the total value of FAU (from Step 6)	At least <b>\$641,300</b>
<b>8. Agreed Public Benefit to be provided</b>	Total value of each component as specified in Table 2. There may be a mix of Benefits from different categories and a combination of components from each category (e.g. land and works)	Difference in GRV/m <sup>2</sup> between commercial and residential uses from: Residential = \$7,000/m <sup>2</sup> Commercial = \$5,500/m <sup>2</sup> Difference = \$1,500/m <sup>2</sup> Proposed new office GFA: 24,016m <sup>2</sup> x \$1,500 Value of the Office Public Benefit Proposed = <b>\$36,024,000</b>

90. The proposed public benefit (office use) is significantly more than the Floor Area Uplift sought and as such it is considered acceptable. The DELWP guidelines also identify office use as a public benefit secured by legal agreement for a period of at least 10 years. This will be included as a condition on permit via a Section 173 Agreement with the Responsible Authority (with the Minister for Planning being a party to the agreement), to be registered on title.

## Microclimate (Wind, Weather Protection, Overshadowing and Landscaping)

91. Clause 22.01, Urban Design within the Capital City Zone, Clause 22.02, Sunlight to Public spaces and DDO10 are relevant to the proposal and include policies relating to wind, weather protection and sunlight to public spaces.

### Wind

92. Clause 22.01-7, Wind and Weather Protection includes design standards for wind and weather protection including: *'towers should be appropriately setback from all street frontages above the street wall or podium to assist in deflecting wind downdrafts from penetrating to street level'*.

93. DDO10 states that:

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

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

94. The application was supported by a Pedestrian Wind Environment Study, prepared by Windtech Consultants and dated 13 November 2020. The report concludes that:

*The results indicate that with the inclusion of these treatments, wind conditions for all outdoor trafficable areas within and around the development will be safe for their intended uses, or will be equivalent to the existing site wind conditions. However, some areas will experience strong winds which will exceed the relevant criteria for comfort and/or safety.*

95. The suggested treatments include a ground level awning on King Street setback 750mm from the kerb, level 2 impermeable blade wall, balustrade and screen and level 6 impermeable blade and balustrade. With these treatments, Windtech Consultants expects that 'wind conditions for all outdoor trafficable areas within and around the development will be suitable for their intended uses'.
96. The council's assessment was based on a Pedestrian Wind Environment Statement, prepared by Windtech Consultants and dated 27 October 2020, which did not include wind tunnel testing but did recommend the inclusion of ground level awnings on Lonsdale Street and King Street setback 750mm from the kerb. The council raised concerns that such awnings are not shown on the plans and would not be consistent with the building or streetscape. As such, the council has recommended a condition requiring a revised wind tunnel modelling report with testing that 'only rely on approved canopies over the footpaths of Lonsdale Street and King Street' and a related condition 1 requirement for any changes required by the wind tunnel modelling report. The Pedestrian Wind Environment Study, prepared by Windtech Consultants, dated 13 November 2020 does not meet this condition as the suggested treatments are not shown on the plans. For example, the proposed canopy on King Street extends only 1.5 metres. Therefore, the condition recommended by the council is supported.

### Weather Protection

97. Clause 22.01-7, Wind and Weather Protection, includes design standards for wind and weather protection including 'canopies, verandahs and awnings should be partly or fully transparent to allow light penetration to the footpath and views back up the building facade, and should be designed to avoid an adverse impact on street trees, allowing for future growth'.
98. The proposal includes multiple ground floor canopies extending 1.25 metres and positioned at the openings between brickwork along Lonsdale Street and one ground floor canopy to King Street extending 1.5 metres. The canopies are considered to provide an appropriate balance between



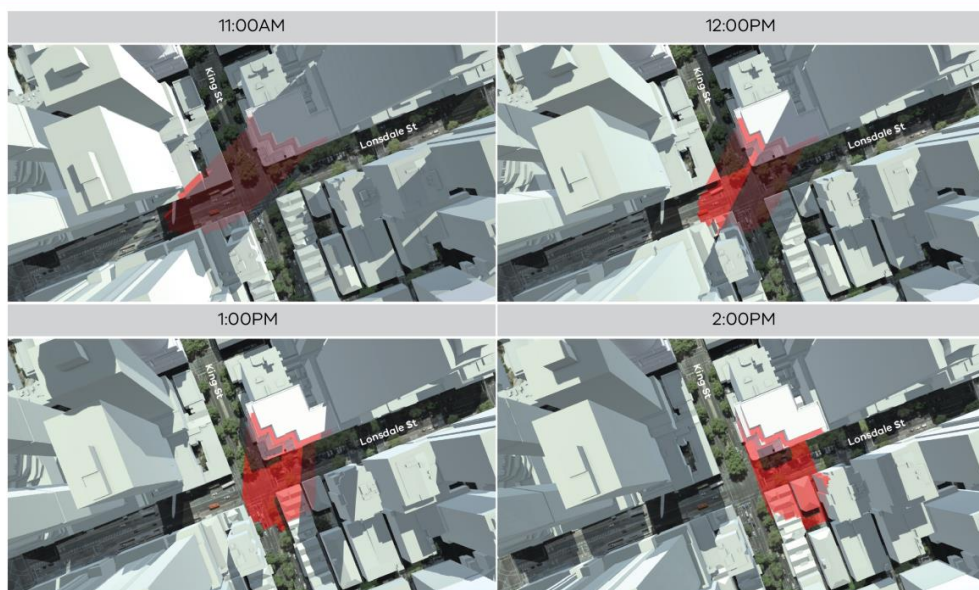
effective weather protection and responding to the rhythm of the façade. For instance, an extended canopy along Lonsdale Street would not be consistent with the ground level façade treatment and architectural expression. However, the details of the design and materials of the proposed awnings has not provided. In addition, as identified in the previous section, the King Street canopy does not extend to 750mm from the kerb as suggested in the Pedestrian Wind Environment Study, prepared by Windtech Consultants, dated 13 November 2020. Therefore, it is considered appropriate to include a condition 1 requirement consistent with that recommended by the council for further details of canopies.

99. The application includes an Arboricultural Report, prepared by Melbourne Arborist Reports and dated 20 November 2020, which concludes that existing street trees on Lonsdale Street are retainable subject to tree protection measures. In addition, the council has recommended a condition for the submission and approval of a Tree Protection Plan. It is considered that the proposed condition will ensure that there are no adverse impacts on existing street trees on Lonsdale Street.

### Overshadowing

100. Clause 22.02, Sunlight to Public Spaces, and DDO10 lists key locations that development should not cast additional shadow across at key times of the year. Of relevance to this application, a permit must not be granted for buildings and works which would cast any additional shadow across the following spaces unless the overshadowing will not unreasonably prejudice the amenity of the space:
  - Any public space, public parks and gardens, public squares, open spaces associated with a place of worship and privately owned public spaces accessible to the public between 11.00am and 2.00pm on 22 September.
101. The closest public space to the site is Merritts Place Reserve, which is an informal outdoor space of approximately 315 m<sup>2</sup> located approximately 60 metres to the south, at the rear of 573 Lonsdale Street.
102. The following shadow studies have been undertaken for the various times of the day at 22 September for the proposed development on the site:

**572 Lonsdale St - September 22 Shadow Analysis**



Red indicates shadow cast by 572 Lonsdale St

Date of plans: 06/11/2020  
Date Generated: 01/06/2021  
Document Prepared by: ZD

**Figure 21: Shadow Study 11.00am – 2.00pm – 22 September (Source: DELWP 3D Model)**

103. The shadow diagrams prepared by DELWP's 3D Visualisation Team, with the 3D model provided by the applicant, demonstrate that the proposed development will create additional shadows to Merritts Place Reserve between 1 and 2pm.
104. The additional overshadowing is not considered to unreasonably prejudice the amenity of Merritts Place Reserve given that the overshadowing impact is restricted to the final hour of the time period specified in Clause 22.02 and DDO10. In addition, the reserve is surrounded by built form and so is already affected by significant overshadowing, particularly in the winter months. Finally, the proposed height of 80 metres is not excessive particularly considering the height of surrounding built form (refer Figure 8). This indicates that the proposal is acceptable with respect to overshadowing impact as any viable development on the subject site would create some additional overshadowing of Merritts Place Reserve.

### **Landscaping**

105. The application included a Landscape Concept Report, prepared by Tract and dated 22 October 2020. The report includes the plans and the materials palette of soft and hard landscaping.
106. The council has reviewed the report and recommended that there should be no visible planting above the Kilkenny Inn building. The deletion of trees at level 2 is supported on heritage grounds given they would be planted on retained sections of the exiting roof.
107. The council has also recommended a complete landscape package and maintenance plan be submitted for endorsement including detailed planter sections and the maintenance regime beyond the fifty two week period following practical completion. This condition is supported given the importance of landscaping in the effective articulation of the street wall.

### **Parking, Loading, Bicycle Storage & Other Services**

108. The proposal includes the removal of Gough Alley (to be incorporated into the site) and the associated vehicle crossover to King Street and the extension of Manton Lane to Lonsdale Street as an internal through-block link for shared pedestrian and vehicle use. Vehicle access to the onsite basement car parking and loading bay is proposed to be via Manton Lane.
109. The decision plans indicate that the extension of Manton Lane will operate as one-way in a southerly direction to accommodate vehicle access to Lonsdale Street via a new single vehicle crossover.
110. In response to objector concerns, the applicant provided indicative plans dated 20 April 2021 for discussion with a revised vehicle access plan from one-way to two-way off Lonsdale Street. The plans also indicate a future scenario whereby the widened accessway from Lonsdale Street could be reclaimed as pedestrian / retail space should Manton Lane be made one-way in the future (refer Figure 3).

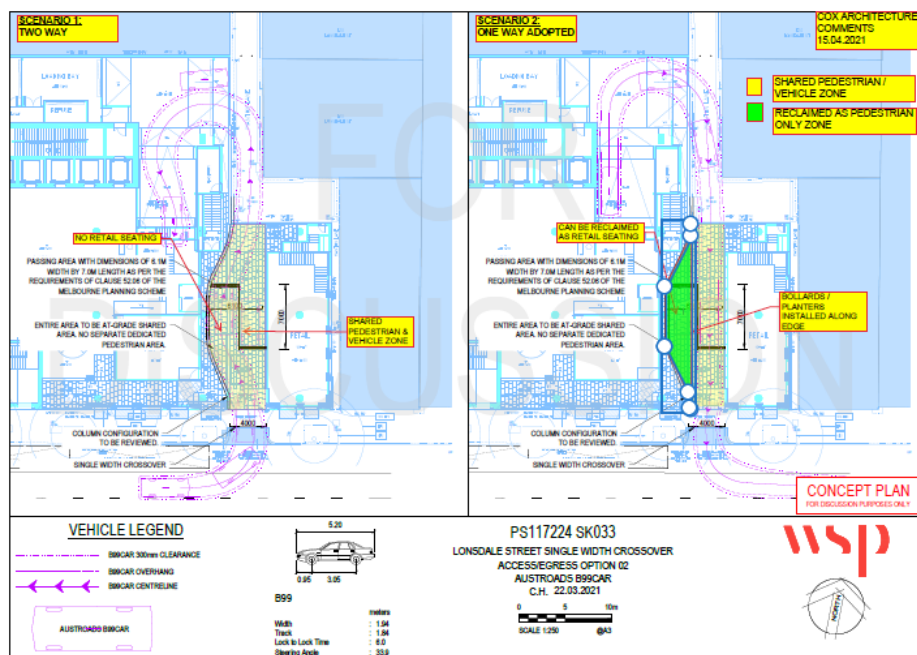


Figure 3: Indicative plans 20 April 2021 (Source: Applicant)

111. The council supports the revised arrangement in the indicative plans subject to a double vehicle crossover on Lonsdale Street and the proposed installation of bollards on Manton Lane being replaced with alternative traffic measures. This position is supported and can be achieved with conditions on any permit to issue. In addition, the adaptability of the design is commended in terms of the future scenario should Manton Lane be made one-way in the future.

### Car Parking

112. The subject site is within the Parking Overlay (PO1), pursuant to Clause 45.09 of the Planning Scheme. The proposal provides car parking as follows:

Use	Rate	Maximum car parking requirement	Amount provided
<b>Office and retail (24, 816 m<sup>2</sup>)</b>	Maximum spaces = 5 x net floor area of buildings on the site in sq m / 1000 sq m	124	57
<b>Motorcycle parking</b>	Minimum rate of one motorcycle parking space for every 100 car parking spaces	1	8

113. The application includes 57 car parking spaces and 8 motorcycle spaces, which is less than the maximum car parking requirement and exceeds the minimum motorcycle parking.
114. The council has no objection to the number of car parking spaces provided on site or the resulting additional traffic generation. However, a condition has been recommended to require the applicant to undertake a Road Safety Audit to address vehicle / bicycle / pedestrian access arrangements, loading arrangements and internal circulation / layout. This condition can be included on any permit to issue.

### Bicycle Facilities

115. Clause 52.34-1 of the Scheme requires bicycle parking facilities as follows:

Proposed Use	Purpose	Bicycle Parking Rate	No. Spaces Required	Provided
Office	Employee	1 to each 300 sq m of net floor area if the net floor area exceeds 1000 sq m	80	
	Visitor	1 to each 1000 sq m of net floor area if the net floor area exceeds 1000 sq m	24	
Retail	Employee	1 space / 300 sq m of leasable floor area	3	
	Visitor / Shopper	1 space / 500 sq m of leasable floor space	2	
<b>TOTAL</b>			<b>83 employee and 26 visitor spaces</b>	<b>126 employee and 36 visitor spaces</b>
	Showers	Employee	1 shower for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter.	9 female 9 male
	Change rooms	Employee	1 change room or direct access to a communal change room to each shower.	1 female 1 male

116. The application provides 126 employee and 36 visitor bicycle spaces, which exceeds the requirement for 83 employee and 26 visitor spaces.
117. The proposed end of trip facilities for the office use also complies with Clause 52.34-5 with separate female and male change rooms, each with 9 showers.
118. The above-mentioned condition recommended by the council for a Road Safety Audit includes consideration of bicycle access arrangements. The condition is considered reasonable and can be included on any permit to issue.

### Loading

119. The application includes an onsite loading bay on the Ground Floor accessed via Manton Place. The proposed minimum dimensions of the loading bay (4 metres in width, 8.4 metres in length and 5 metres in height) allows for a large truck or waste collection vehicle with additional space for refuse.
120. The area and size of the loading bay has not been highlighted as a concern by the council. The above-mentioned condition recommended by the council for a Road Safety Audit includes consideration of loading arrangements. The condition is considered reasonable and can be included on any permit to issue.

### Waste

121. The application was supported by a Waste Management Plan (WMP), prepared by WSP and dated 5 November 2020. The WMP has been reviewed by the council's waste team with no concerns raised. A standard condition can be included on any permit to issue requiring that the waste storage and collection arrangements are in accordance with the submitted WMP.

## Environmental

### Environmentally Sustainable Design (ESD)

122. The application was supported by an ESD Design Statement prepared by Floth Sustainable Building Consultants and dated 21 October 2020, which considers Clause 22.19, Energy, Water and Waste

Efficiency. The report states that the proposal is targeting 5 star Green Star – Design and As-Built v1.2.

123. The council considers that the sustainability aspirations are of a high standard and have recommended conditions to ensure the ESD intentions achieve compliance with Clause 22.19. The conditions are considered reasonable and can be included on any permit to issue.

**Water Sensitive Urban Design (WSUD)**

124. The application was supported by a Stormwater Management Report prepared by AECOM and dated 29 October 2020, which considers 22.23, Stormwater Management (Water Sensitive Urban Design). The report states that MUSIC modelling confirms that proposed WSUD measures (including 75kL tank and propriety water treatment) will achieve required targets.
125. The above-mentioned ESD conditions recommended by the council include reference to Clause 22.23.

## Conclusion

126. The proposed development is consistent with the relevant planning policies of the Melbourne Planning Scheme and will contribute a significant office use in the Central City with a built form response appropriate to the site's urban context. In particular, the proposal is of a design, scale and massing that responds appropriately to the Heritage Overlay 679 and DDO10, with appropriate street wall heights and setbacks from the retained corner of the Kilkenny Inn building, a high degree of ground floor activation and will not adversely impact the amenity of the public realm.
127. The proposal delivers a nominated public benefit (the office floor space) and will deliver a significant and high amenity employment hub for the city. Furthermore, the proposed continuation of Manton Lane as an internal through-block link will introduce site permeability providing additional public benefit.
128. The proposal is supported, subject to conditions, including those recommended by the council and the various referral agency.
129. It is recommended that **Notice of Decision to Issue Planning Permit PA1900742**, for part demolition of 248-250 King Street, demolition of buildings, construction of a building and alter access to a Road Zone, Category 1 be issued, subject to conditions.





# Appendix 1: Relevant State & Local Planning Policies

The following state and local planning policies are relevant to the application:

Planning Scheme provision	Key Objectives
Clause 11 <i>Settlement</i>	<ul style="list-style-type: none"> <li>• <b>Settlement:</b> Anticipate and respond to the needs of existing and future communities.</li> <li>• <b>Settlement – Metropolitan Melbourne:</b> Focus growth in the central city.</li> <li>• <b>Activity Centres:</b> To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.</li> <li>• <b>Activity Centres – Metropolitan Melbourne:</b> Support development with a broad range of land uses, appropriate infrastructure, access to public transport, and high levels of amenity.</li> </ul>
Clause 15 <i>Built Environment and Heritage</i>	<ul style="list-style-type: none"> <li>• <b>Urban design:</b> To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.</li> <li>• <b>Urban Design – Metropolitan Melbourne:</b> To create a distinctive and liveable city with quality design and amenity.</li> <li>• <b>Building Design:</b> To achieve building design outcomes that contribute positively to the local context and enhance the public realm.</li> <li>• <b>Healthy Neighbourhoods:</b> To achieve neighbourhoods that foster healthy and active living and community wellbeing.</li> <li>• <b>Healthy Neighbourhoods – Metropolitan Melbourne:</b> Create a city of 20 minute neighbourhoods that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.</li> <li>• <b>Neighbourhood Character:</b> To recognise, support and protect neighbourhood character, cultural identity, and sense of place.</li> <li>• <b>Energy and resource efficiency:</b> To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.</li> <li>• <b>Heritage conservation:</b> To ensure the conservation of places of heritage significance.</li> </ul>
Clause 17 <i>Economic Development</i>	<ul style="list-style-type: none"> <li>• <b>Diversified Economy:</b> To strengthen and diversify the economy.</li> <li>• <b>Diversified Economy – Metropolitan Melbourne:</b> Support the Central City to become Australia's largest commercial and residential centre by 2050, by planning for office, retail, residential, education, health, entertainment and cultural activity spaces.</li> <li>• <b>Business:</b> To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.</li> </ul>
Clause 18 <i>Transport</i>	<ul style="list-style-type: none"> <li>• <b>Sustainable personal transport:</b> To promote the use of sustainable transport.</li> <li>• <b>Sustainable personal transport – Metropolitan Melbourne:</b> Improve local travel options for walking and cycling to support 20 minute neighbourhoods and develop local cycling networks and new cycling facilities that support the development of 20-minute neighbourhoods and that link to and complement the metropolitan-wide network of bicycle routes - the Principal Bicycle Network.</li> <li>• <b>Public Transport:</b> To facilitate greater use of public transport and promote increased development close to high-quality public transport routes.</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Principle Public Transport Network:</b> Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.</li> <li>• <b>Car Parking:</b> To ensure an adequate supply of car parking that is appropriately designed and located.</li> </ul>
Clause 19 <i>Infrastructure</i>	<ul style="list-style-type: none"> <li>• <b>Waste and resource recovery:</b> To reduce waste and maximise resource recovery so as to reduce reliance on landfills and minimise environmental, community amenity and public health impacts.</li> </ul>

Planning Scheme provision	Key Objectives
Clause 21.03 (Vision)	Clause 21.03 (Vision) recognises the diverse roles of the city and local areas, with a vision being 'a bold, inspirational and sustainable city'.
Clause 21.04 (Settlement)	Clause 21.04 (Settlement) recognises the need for the city to grow and develop whilst retaining the valued characteristics of the city. This policy also identifies the original city centre (the Hoddle Grid) as an area that will be managed to facilitate continued growth where appropriate and limit change or the scale of development in identified locations to preserve valued characteristics. A strong emphasis will be placed on a quality public realm and good pedestrian amenity and connectivity.
Clause 21.06 (Built Environment and Heritage)	Clause 21.06 (Built Environment and Heritage) identifies Melbourne's character as a 'distinctive urban structure, historic street pattern, boulevards and parks, heritage precincts, and individually significant heritage buildings'. This Clause identifies the need to ensure that the height and scale of development is appropriate to the identified preferred built form character of an area; to increase the vitality, amenity, comfort, safety and distinct City experience of the public realm; to improve public realm permeability, legibility and flexibility; to create a safe and comfortable public realm; to conserve and enhance places and precincts of identified cultural heritage significance; to create an environmentally sustainable urban environment with reduced greenhouse emissions; and to encourage environmentally sustainable building design innovation.
Clause 21.08 (Economic Development)	Clause 21.08 (Economic Development) seeks to support central city and local retail uses and to reinforce the City's role as Victoria's principal centre for commerce.
Clause 21.09 (Transport)	Clause 21.09 (Transport) seeks to integrate transport and urban growth; to maximise access to the City; to develop and maintain a comprehensive, safe, comfortable and convenient pedestrian network throughout the municipality; to develop a comprehensive, safe and convenient cycling network throughout the Municipality; and to encourage more efficient use of private motor vehicles.
Clause 21.11 (Local Areas)	Clause 21.11 (Local Areas) identifies the site as being located within the Hoddle Grid to which Clause 21.12 applies.
Clause 21.12 (Hoddle Grid)	<p>Clause 21.12 (Hoddle Grid) includes policies relating to Housing, Economic Development, Built Environment and Heritage and Transport, which specifically relate to the unique and valued characteristics of the Hoddle Grid. Policies include:</p> <ul style="list-style-type: none"> <li>• Encourage the development of a range of complementary precincts within the Hoddle Grid that offer a diverse range of specialist retail, cultural and entertainment opportunities.</li> <li>• Protect the regular grid layout, laneways, tree-lined boulevards and identified significant public open spaces.</li> </ul>

Planning Scheme provision	Key Objectives
	<ul style="list-style-type: none"> <li>• Ensure that the design of tall buildings in the Hoddle Grid promote a human scale at street level especially in narrow lanes, respects the street pattern and provides a context for heritage buildings.</li> <li>• Ensure that new tall buildings add architectural interest to the city's sky line.</li> <li>• Ensure tower buildings are well spaced and sited to provide equitable access to an outlook and sunlight for all towers.</li> <li>• Encourage arcade and laneway links between streets and public spaces.</li> <li>• Ensure development fronting streets creates a continuous building edge and integrated streetscape.</li> <li>• Ensure that security treatments for shop fronts allow for views into the premises at night and positively contribute to the streetscape.</li> <li>• Ensure sunlight penetration in the middle of the day to key public spaces, appropriate to their role and function.</li> <li>• Ensure that pedestrian use is given priority in the Hoddle Grid.</li> <li>• Ensure that developments provide weather protection along key pedestrian routes and areas, where this does not conflict with building or streetscape integrity.</li> </ul>
Clause 22.01 Urban Design within the Capital City Zone	Clause 22.01 (Urban Design within Capital City Zone) seeks to create and enhance public spaces within the Capital City Zone to provide sanctuary, visual pleasure and a range of recreation and leisure opportunities. The surrounding area is undergoing regeneration and it is acknowledged that any design must be an exemplar for the area and of outstanding architectural quality.
Clause 22.02 Sunlight to Public Spaces	Clause 22.02 (Sunlight to Public Spaces) seeks to achieve a comfortable and enjoyable public realm; to ensure new buildings and works allow good sunlight access to public spaces; to ensure that overshadowing from new buildings or works does not result in significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians; to protect, and where possible increase the level of sunlight to public spaces during the times of the year when the intensity of use is at its highest; and to create and enhance public spaces to provide sanctuary, visual pleasure and a range of recreation and leisure opportunities.
Clause 22.03 Floor Area Uplift and Delivery of Public Benefits	Clause 22.03 (Floor Area Uplift and Delivery of Public Benefits) seeks to ensure that a development delivers a commensurate public benefit when Floor Area Uplift is sought.
Clause 22.04 Heritage Places in the Capital City Zone	<p>Clause 22.04 (Heritage Places in the Capital City Zone) is divided into two parts. Part A applies to properties categorised significant, contributory or non-contributory in an incorporated document to this scheme. Part B applies to properties graded A to D within the <i>Heritage Places Inventory February 2020 Part B</i>, and those properties within the suburb of Melbourne that are referred to in the Central City Heritage Study Review, 1993 and not categorised significant or contributory by an incorporated document to this Scheme.</p> <p>Part A applies to 248-250 King Street, Melbourne that is identified as a 'significant' building in the Incorporated Document titled <i>'Heritage Places Inventory February 2020 Part A (Amended July 2020)</i>.</p> <p>Part A seeks to conserve and enhance Melbourne's heritage places; to retain fabric, which contributes to the significance, character or appearance of heritage places and precincts; to recognise and conserve the assessed significance of heritage places and streetscapes, as referenced in this policy or incorporated into this planning scheme as the basis for consideration of development and works. Further information may be considered, including in</p>

Planning Scheme provision	Key Objectives
	relation to streetscapes, where there is limited information in the existing citation or council documentation; to ensure new development is respectful of the assessed significance of heritage places; to ensure new development is respectful of the character and appearance of heritage places; to encourage high quality contextual design for new development, which avoids replication of historic forms and details; to encourage retention of the three dimensional fabric and form of a building; to discourage facadism; to encourage the adaptive reuse of heritage places; to ensure new development is consistent with the conservation principles, processes and practices of the <i>Australia ICOMOS Burra Charter</i> ; to enhance the presentation and appearance of heritage places through restoration and, where evidence exists, reconstruction of original or contributory fabric; to protect significant views and vistas to heritage places; and to promote the protection of Aboriginal cultural heritage.
Clause 22.19 Energy, Water and Waste Efficiency	Clause 22.19 (Energy, Water and Waste Efficiency) seeks to ensure buildings achieve high environmental performance standards at the design, construction and operation phases; to minimise the city's contribution to climate change impacts by reducing greenhouse gas emissions; to improve the water efficiency of buildings and encourage the use of alternative water sources; to minimise the quantity of waste going to landfill and maximise the recycling and reuse of materials; to minimise the impacts of waste on the community; and to encourage the connection of buildings to available or planned district energy, water and waste systems in urban renewal areas in order to achieve additional energy, water & waste efficiency arising from a precinct-wide approach to infrastructure where appropriate.
Clause 22.20 CBD Lanes	Clause 22.20 (CBD Lanes) seeks to ensure that the unique and valued characteristics of Melbourne's laneways are maintained and enhanced through appropriate built form outcomes of future development; to maintain and improve the city's lane way network and encourage the creation of new lanes and connections; to enhance the climatic conditions and amenity of the laneway to encourage more intensive pedestrian use and social activity; to encourage activity, vitality and interaction between public laneways and adjacent private uses; to protect and where possible create views along lanes that provide a visual link to other streets and lanes in the pedestrian network, or which terminate at notable buildings or landmarks; and to recognise lanes that provide for essential servicing and vehicular access and to ensure that new development does not adversely affect or impede the operation of these functions.
Clause 22.23 Stormwater Management (Water Sensitive Urban Design)	Clause 22.23 (Stormwater Management (Water Sensitive Urban Design)) seeks to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended); to promote the use of water sensitive urban design, including stormwater re-use; to mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design for new development; to minimise peak stormwater flows and stormwater pollutants to improve the health of water bodies, including creeks, rivers and bays; and to reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community.

## Appendix 2: Statutory Planning Controls

The table below provides a full outline of the zone and overlay controls, planning permit requirements and notice and appeal exemptions for the proposal:

Planning Control	Application requirements
<b>Capital City Zone – Schedule 1 (Outside the Retail Core) (CCZ1)</b> <b>Clause 37.04</b>	<p>Purpose of the Zone:</p> <ul style="list-style-type: none"> <li>• <i>To implement the Municipal Planning Strategy and the Planning Policy Framework.</i></li> <li>• <i>To enhance the role of Melbourne's central city as the capital of Victoria and as an area of national and international importance.</i></li> <li>• <i>To recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.</i></li> <li>• <i>To create through good urban design an attractive, pleasurable, safe and stimulating environment.</i></li> </ul> <p>Purpose of Schedule 1:</p> <ul style="list-style-type: none"> <li>• <i>To provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.</i></li> </ul> <p>A <b>permit is not required</b> for retail or office use.</p> <p>A <b>permit is required</b> to construct a building or construct or carry out works and demolish or remove a building.</p> <p>A permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) to construct a building or construct or carry out works with a floor area ratio in excess of 18:1 on land to which schedule 10 to the Design and Development Overlay applies unless:</p> <ul style="list-style-type: none"> <li>• a public benefit as calculated and specified in a manner agreed to by the responsible authority is provided; and</li> <li>• the permit includes a condition (or conditions) which requires the provision of a public benefit to be secured via an agreement made under section 173 of the <i>Planning and Environment Act 1987</i>.</li> </ul> <p>An application to construct a building or construct or carry out works for a use in Section 1 of Clause 37.04-1 and to demolish or remove a building is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.</p>
<b>Heritage Overlay – Schedule 679 (248-250 King Street, Melbourne)</b> <b>(HO)</b> <b>Clause 43.01</b>	<p>Purpose of the Overlay:</p> <ul style="list-style-type: none"> <li>• <i>To implement the Municipal Planning Strategy and the Planning Policy Framework.</i></li> <li>• <i>To conserve and enhance heritage places of natural or cultural significance.</i></li> <li>• <i>To conserve and enhance those elements which contribute to the significance of heritage places.</i></li> <li>• <i>To ensure that development does not adversely affect the significance of heritage places.</i></li> <li>• <i>To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.</i></li> </ul> <p>A <b>permit is required</b> to demolish or remove a building and construct a building or construct or carry out works.</p> <p>There are no exemptions from the notice requirements for this application.</p>
<b>Design and Development Overlay (DDO)</b>	<p>Purpose of the Overlay:</p> <ul style="list-style-type: none"> <li>• <i>To implement the Municipal Planning Strategy and the Planning Policy Framework.</i></li> <li>• <i>To identify areas which are affected by specific requirements relating to the design and built form of new development.</i></li> </ul>



## Clause 43.02

A **permit is required** to construct a building or construct or carry out works.

A schedule to this overlay may specify that an application is exempt from the notice, decision and review requirements of the Act.

**Schedule 3 (Traffic Conflict Frontage – Capital City Zone)**

*King Street frontage only*

DDO3 applies to the King Street boundaries of the Site.

Schedule 3 is identified as being relevant to 'Traffic Conflict Frontage – Capital City Zone'. The objectives of Schedule 3 include:

- *To promote pedestrian flow, safety, and amenity.*
- *To improve opportunities for the enhancement of roads for pedestrian use by discouraging further access to off-street car parking across traffic conflict frontages.*
- *To minimise conflict between pedestrians and vehicles on footpaths.*

Schedule 3 includes the following requirements:

- *Vehicular ingress or egress points, excluding loading and unloading bays, should not be constructed on a traffic conflict frontage or in a lane leading off a traffic conflict frontage.*
- *Vehicular ingress or egress points must not be constructed on a traffic conflict frontage, or in a lane leading off a traffic conflict frontage within the Retail Core Area - Schedule 2 to the Capital City Zone.*

A **permit is not required** under Schedule 3 to:

'Construct a building or carry out works other than those associated with the creation or alteration of a crossover or vehicle access way'. As the proposal does include the creation or alteration of a crossover or vehicle access way within the DDO3; a planning permit is required under this overlay.

**Schedule 10 (General Development Area – Built Form)**

Design objectives:

- *To ensure development achieves a high quality of pedestrian amenity in the public realm in relation to human scale and microclimate conditions such as acceptable levels of sunlight access and wind.*
- *To ensure that development respects and responds to the built form outcomes sought for the Central City.*
- *To encourage a level of development that maintains and contributes to the valued public realm attributes of the Central City.*
- *To ensure that new buildings provide equitable development rights for adjoining sites and allow reasonable access to privacy, sunlight, daylight and outlook for habitable rooms.*
- *To provide a high level of internal amenity for building occupants.*
- *To ensure the design of public spaces and buildings is of a high quality.*
- *To encourage intensive developments in the Central City to adopt a podium and tower format.*

Schedule 10:

**Built Form**

- Buildings and works:
  - must meet the Design Objectives specified in this schedule;
  - must satisfy the Built Form Outcomes specified for each relevant Design Element in Table 1 to this schedule; and
  - should meet the Preferred Requirement specified for each relevant Design Element in Table 1 to this schedule.
- An application to vary the Preferred Requirement for any Design Element specified in Table 1 to this schedule must document how the development will achieve the relevant Design Objectives and built Form Outcomes.
- An application which does not meet the Preferred Requirement, must be considered under the Modified Requirement for each relevant Design Element. A permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) for buildings and works that do not meet the Modified Requirement

for any relevant Design Element specified in Table 3 to this schedule.

Table 1 includes the following Preferred Requirements:

- Street wall height – up to 20 metres;
- Building setback(s) above street wall – above the street wall, towers and additions should be setback 10 metres from the title boundary;
- Building setbacks from side boundaries and rear boundaries (or from the centre line of and adjoining laneway) – above the street or 40 metres whichever is lesser, towers and additions should be setback a minimum of 5 metres or 6% of the total building height whichever is greater.
- Tower floorplate – the tower floorplate is determined by the preferred requirement for building setbacks from side and rear boundaries and tower separation within a site, and the modified requirement for building setback(s) above the street wall.

Table 1 includes the following Modified Requirements:

- Street wall height – The street wall height must be no greater than:
  - 40 metres; or
  - 80 metres where it:
    - defines a street corner where at least one street is a main street and the 80 metre high street wall should not extend more than 25 metres along each street frontage, and/or
    - fronts a public space including any road reserve wider than 80 metres.
- Building setback(s) above street wall – Above the street wall, towers must be setback a minimum of 5 metres from the title boundary.
- Building setbacks from side boundaries and rear boundaries (or from the centre line of and adjoining laneway) – Towers exceeding 80 metres in total height:
  - Above the street wall or 40 metres (where there is no street wall), towers and additions must be setback a minimum of 5 metres and must meet the design elements requirements for tower floorplate.
- Tower floorplate – the tower floorplates above the street wall for a tower above 80 metres in height may be adjusted in terms of location and/or shape but must not:
  - Result in an increase in the floorplate area;
  - be situated less than 5 metres from a side or rear boundary (or from the centre line of an adjoining laneway);
  - be less than 5 metres to a street boundary;

Table 1 includes the following Built Form Outcomes:

- Street wall height – Street wall height is scaled to ensure:
  - a human scale;
  - an appropriate level of street enclosure having regard to the width of the street with lower street wall heights to narrower streets;
  - consistency with the prevalent parapet height of adjoining buildings;
  - height that respects the scale of adjoining heritage places;
  - adequate opportunity for daylight, sunlight and skyviews in the street;
  - definition of main street corners and/or public space where there are no significant impacts on the amenity of public spaces;
  - maintenance of the prevailing street wall height and vertical rhythm on the street.
- Building setback(s) above street wall – Towers and additions are setback to ensure:
  - large buildings do not visually dominate the street or public space;
  - the prevalent street wall scale is maintained;
  - overshadowing and wind impacts are mitigated;
  - the tower and addition includes a distinctly different form or architectural expression.
- Building setback(s) above street wall – Towers and additions are design and spaced to ensure:
  - sun penetration and mitigation of wind impacts at street level;

## Planning Control

## Application requirements

- provision of reasonable sunlight, daylight, privacy and outlook from habitable rooms, for both existing and potential developments on adjoining sites;
- floorplate layout or architectural treatment limits overlooking between habitable rooms;
- buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky view between them;
- buildings do not visually dominate the heritage places and streetscapes not significant view lines.
- Tower floorplate – The adjustable floorplate is designed and spaces to:
  - reduce impact on existing and potential neighbours in terms of privacy, outlook, daylight and sunlight access;
  - minimise visual bulk;
  - reduce impact on public spaces, including overshadowing and wind effects and reduced visual dominance;
  - minimise visual dominance of heritage places and streetscapes, as well as significant view lines.;
  - buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them.

### Wind Effects

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

### Overshadowing

- A permit must not be granted for buildings and works which would cast any additional shadow across a space listed below during the hours and date(s) specified, unless the overshadowing will not unreasonably prejudice the amenity of the space:
  - Any public space, public parks and gardens, public squares, open spaces associated with a place of worship and privately owned public spaces accessible to the public between 11.00am and 2.00pm on 22 September.

An application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

## Parking Overlay

Purpose of the Overlay:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To facilitate an appropriate provision of car parking spaces in an area.*
- *To identify areas and uses where local car parking rates apply.*
- *To identify areas where financial contributions are to be made for the provision of shared car parking.*

This overlay operates in conjunction with Clause 52.06.

A schedule to this overlay **may specify that a permit must not be granted** to provide more than the maximum parking provision specified in a schedule to this overlay.

A schedule to this overlay **may vary the car parking rate** and measure for any use listed in Table 1 of Clause 52.06-5.

## Schedule 1

### (Capital City Zone –

Purpose of the Overlay:

To identify appropriate car parking rates for various uses within the Capital City Zone.

Planning Control	Application requirements
<b>Outside the Retail Core)</b>	<p>Schedule 1 specifies that a permit is required to provide car parking spaces in excess of the car parking rates in Clause 3.0 of this schedule.</p> <p>Clause 3.0 specifies that where no part of the site is used for dwellings the number of car parking spaces must not exceed the number calculated using one of the following formulas:</p> <p>Maximum spaces =</p> <ul style="list-style-type: none"> <li>○ <math>(5 \times \text{net floor area of buildings on the site in sq m}) / 1000 \text{ sq m}</math>; or</li> <li>○ <math>(12 \times \text{site area in sq m}) / 1000 \text{ sq m}</math>.</li> </ul> <p>On this basis, the parking provision is as follows:</p> <ul style="list-style-type: none"> <li>○ <math>(5 \times 24,747 \text{ sq m}) / 1000 \text{ sq m} = 124 \text{ parking spaces (maximum)}</math>.</li> </ul> <p>All buildings that provide on-site car parking must provide motor-cycle parking for the use of occupants and visitors, at a minimum rate of one motor-cycle parking space for every 100 car parking spaces, unless the responsible authority is satisfied that a lesser number is sufficient. This equates to a minimum of 1 motorcycle space.</p> <p>The proposal seeks to provide 57 car parking spaces and as such a planning permit is not required. The proposal includes 8 motorcycle spaces, which exceeds the above requirement.</p>
<b>Car Parking Clause 52.06</b>	<p>Before a new use commences, the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority.</p> <p>A permit is required to provide more than the maximum parking provision specified in a schedule to the Parking Overlay. As the proposal provides a rate of car parking less than the maximum requirement, no permit is required under this clause.</p>
<b>Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road Clause 52.29</b>	<p>A <b>permit is required</b> to create or alter access to a road in a Road Zone, Category 1.</p> <p>An application to create or alter access to, or to subdivide land adjacent to, a road declared as a freeway or arterial road under the Road Management Act 2004, land owned by the Roads Corporation for the purpose of a road, or land in a Public Acquisition Overlay if the Roads Corporation is the acquiring authority for the land, must be referred to the Roads Corporation under section 55 of the Act.</p> <p>An application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.</p> <p>Department of Transport reviewed the application on behalf of Transport for Victoria and offered no objection subject to the inclusion of a conditions and notes on any permit to issue requiring a Traffic Management Plan, no disruption to bus operations during demolition and construction of the development and reinstatement following the removal of redundant vehicle crossings (refer letter dated 24 May 2021).</p>
<b>Bicycle Facilities Clause 52.34</b>	<p>A new use must not commence until the required bicycle facilities and associated signage has been provided on the land.</p> <p>A <b>permit may be granted to vary, reduce or waive</b> these requirements.</p> <p>Bicycle facilities are required at a rate of:</p> <ul style="list-style-type: none"> <li>• One employee space to each 300 sq m of net floor area if the net floor area exceeds 1000 sq m for office (80 spaces);</li> <li>• One visitor space to each 1000 sq m of net floor area if the net floor area exceeds 1000 sq m for office (24 spaces);</li> <li>• One employee space to each 300 sq m of leasable floor area for retail (3 spaces); and</li> <li>• One visitor/shopper space to each 500 sq m of leasable floor space for retail (2 spaces).</li> <li>• If 5 or more employee bicycle spaces are required, one shower for the first 5 employee bicycle spaces, plus one to each 10 employee bicycle spaces, thereafter (9 showers).</li> <li>• One employee change room or direct access to a communal change room to each</li> </ul>

Planning Control	Application requirements
	<p>shower. The change room may be a combined shower and change room (1 change room).</p> <p>The application provides for 126 employee and 36 visitor bicycle spaces, which exceeds the requirement for 83 employee and 26 visitor spaces. As such, no permit is required under this clause.</p>
<b>Stormwater Management in Urban Development</b> <b>Clause 53.18</b>	<p>An application must be accompanied by details of the proposed stormwater management system, including drainage works and retention, detention and discharges of stormwater to the drainage system.</p>
<b>Integrated Public Transport Planning</b> <b>Clause 66.02-11</b>	<p>An application must be referred in accordance with Section 55 of the Act to the Head, Transport for Victoria for an office development of 10,000 or more square metres of leasable floor area.</p> <p>Department of Transport reviewed the application on behalf of Transport for Victoria and offered no objection subject to the inclusion of a conditions and notes on any permit to issue requiring a Traffic Management Plan, no disruption to bus operations during demolition and construction of the development and reinstatement following the removal of redundant vehicle crossings (refer letter dated 24 May 2021).</p>
<b>Administration and Enforcement of This Planning Scheme</b> <b>(Clause 72.01-1)</b>	<p>As the proposal is for development of land as part of a single project or multiple related projects, if it involves construction of a new building or buildings containing a total gross floor area of more than 25,000 square metres the Minister for Planning is the Responsible Authority under the Melbourne Planning Scheme for determining the permit application.</p>

