

6.3 [313-317 KINGS WAY, SOUTH MELBOURNE - PDPL/01035/2021](#)

LOCATION/ADDRESS: 313-317 KINGS WAY, SOUTH MELBOURNE

EXECUTIVE MANAGER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: ANITA ROZANKOVIC-STEVENSON, MAJOR PROJECTS & APPEALS ADVISOR

1. PURPOSE

1.1 To provide Council's position for an upcoming Victorian Civil and Administrative Tribunal (VCAT) compulsory conference and hearing for planning permit PDPL/01035/2021 for:

- the construction of a 19-storey mixed use tower;
- the use of the land for office that exceeds 250 square metres in leasable floor area;
- to construct a building or construct or carry out works for an office that exceeds 250 square metres in leasable floor area;
- to construct a building or construct or carry out works in the Design and Development Overlay (DDO26);
- to construct a building or construct or carry out works in Special Building Overlay (SBO);
- to reduce the number of car parking spaces required under Clause 52.06-5; and
- to create or alter access to a road in a Transport Zone 2.

2. EXECUTIVE SUMMARY

WARD:	Gateway
TRIGGER FOR DETERMINATION BY COMMITTEE:	A planning permit application that exceeds six storeys in height in the area covered by Sub Precinct 2 in Schedule 26 to the Design and Development Overlay in the Port Phillip Planning Scheme, for the St Kilda Road North Precinct.
APPLICATION NO:	PDPL/01035/2021
APPLICANT:	KW Tower Pty Ltd C/- Ratio Consultants Pty Ltd
EXISTING USE:	Three-storey building with 15 short-stay apartments.
ABUTTING USES:	Commercial and Residential
ZONING:	Mixed Use Zone (MUZ)
OVERLAYS:	Design and Development Overlay, Schedule 26 (DDO26-2) Special Building Overlay (SBO1) Specific Controls Overlay (SCO15)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

2.1 This report relates to an application for a planning permit to construct a 19-storey mixed use tower comprising 5,542 square metres of gross office floor area with identical floor plates over levels 1 to 17,

a roof top terrace at level 19; four (4) levels of basement (car lift/car stackers, services and lift core etc); and a reduction in the statutory car parking spaces.

- 2.2 The applicants lodged an application for review (Ref: P382/2022) with VCAT for failure to determine the application within the prescribed time (60 days) and the purpose of this report is to establish Council's position at the Tribunal (failure appeal under Section 79 of the Planning and Environment Act 1987).
- 2.3 The appeal is listed for a Practice Day hearing on 1 July 2022; a Compulsory Conference on 4 July 2022; and a three day hearing on 8, 9 & 12 September 2022.
- 2.4 Following notice of the current VCAT application, four (4) statement of grounds were lodged with the Tribunal. The concerns raised in the statements of grounds duplicate the concerns raised in the objections.
- 2.5 This report provides the basis of Council's position in the upcoming VCAT compulsory conference and/or subsequent hearing.
- 2.6 Council received thirty (30) objections to the application following advertising of the application. The majority of the objections related to inappropriate height and bulk, traffic and parking impacts, amenity impacts, lack of onsite loading and inconsistencies with the provisions of the Design and Development Overlay (DDO).
- 2.7 Whilst the site is strategically located for an office development, concerns are raised with a number of aspects of the proposal including;
 - The protrusions into the landscape setbacks at the ground and upper level would not meet the precinct wide and sub-precinct objectives of the DDO
 - The lack of upper level setback to Kings Place and Cobden Street would not meet the precinct wide and sub-precinct objectives of the DDO.
 - The proposed height would be excessive given the limited site constraints and would be an overdevelopment of the site and would not meet the precinct wide and sub-precinct objectives of the DDO.
 - An insufficient urban design response and architectural excellence.
 - The development would not meet the access requirements and would generate unacceptable queuing, circulation and traffic safety impacts to Kings Way and the sites local traffic network and immediate area.
 - The creation of a newly proposed on street loading bay for the exclusive use of the development that is currently a public resource.
 - Unsatisfactory Environmentally Sustainable Design (ESD) and (Water sensitive urban design) WSUD response.
- 2.8 It is considered that the development as proposed is not acceptable and therefore should not be supported. It is recommended that Council advise VCAT that, had it been the Responsible Authority for the determination of the application, it would have issued a Notice of Refusal to Grant a Permit.

3. RECOMMENDATION

3.1 That Council adopt Recommendation "Part A" and "Part B" to advise VCAT that:

- It would have issued a Notice of Refusal to Grant a Permit.
- Authorise the Manager City Development to instruct Council's Statutory Planners and/or Council Solicitors on the VCAT application for review.

RECOMMENDATION "PART A"

3.2 That the Responsible Authority, having caused the application to be advertised and having

received and noted the objections, advise VCAT that, had it been the Responsible Authority for determination of the application, would have issued a Notice of Refusal to Grant a Planning Permit for the construction of a mixed use office building over four basement levels, and a reduction in the car parking requirements at 313 - 317 Kings Way, South Melbourne and Crown Allotment 28A Section 68 City of South Melbourne Parish of Melbourne South Volume 10043 Folio 105 on the following grounds:

1. The proposal does not adequately satisfy the relevant objectives and strategies of the Local Planning Policy Framework (LPPF), specifically:
 - a. Clause 21.05-2 - Built Form - Urban Structure and Character;
 - b. Clause 21.05-3 - Built Form - Urban Design and the Public Realm;
 - c. Clause 21.06-7 - Neighbourhoods - St Kilda Road North Precinct; and
 - d. Clause 22.06-3 - Urban Design Policy for Non-Residential Development and Multi Unit Residential Development of the Port Phillip Planning Scheme.
 - e. Clause 43.02 - Design and Development Overlay, Schedule 26 of the Port Phillip Planning Scheme.
2. The proposal fails to respond to the Design and Development Overlay – Schedule 26 including the objectives of Sub Precinct 2 - North-West Corner of DDO26; by:
 - a. exceeding the discretionary building height limit of height of 40 metres;
 - b. exceeding the mandatory height of 60 metres;
 - c. failing to achieve urban design and architectural excellence;
 - d. failing to provide a sufficient landscape response;
 - e. failing to provide an appropriate built form, scale and mass;
 - f. failing to provide a 3-metre front setback and an integrated design response to the frontage to contribute to a high-quality public realm;
 - g. failing to successfully integrate grade differences with the public realm;
 - h. failing to adequately demonstrate how light and noise pollution will be managed to not unreasonably affect the amenity of public areas and nearby residences.
3. The development does not meet the requirements of Clause 52.06 and the Access Driveway Locations Standards in AS2890.1 and will generate unacceptable queueing, circulation and safety impacts to Kings Way, a Primary State Arterial road and the surrounding traffic network.
4. The removal of public on-street parking for an on-street private loading bay to accommodate waste and loading activities that cannot be provided on site, will generate unacceptable impacts to the surrounding traffic network and conflicts with Clause 52.06 Car Parking.
5. The proposal fails to provide a satisfactory response to Clause 22.12 Stormwater Management (Water sensitive urban design) and Clause 22.13 Environmentally Sustainable.
6. Fails to demonstrate the impacts of wind on the amenity and usability of nearby public open spaces, streetscapes or the public realm including any appropriate mitigation measures, to achieve safe and comfortable wind conditions.
7. The proposal is an overdevelopment of the subject site and would not be in keeping with the orderly planning of the area.

RECOMMENDATION “PART B”

- 3.3 Authorise the Manager City Development to instruct Council’s Statutory Planners and/or Council’s solicitors on the VCAT application for review.

4. RELEVANT BACKGROUND

4.1 The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
248/2009	The erection and display of internally illuminated major promotion sky signs	Permit issued	23 June 2009
421/2010	Alterations and additions to the existing building and reduce the number of car spaces required for the conversion of the existing offices into 14 (No.) bed-sit dwellings	Permit issued	7 October 2010
PDPL/0111/2021	Construct and display one (1) Business Identification Promotion sign, one (1) Internally illuminated Business Identification Promotion sign and three (3) Promotion signs	Permit issued	31 May 2022

5. PROPOSAL

5.1 The application proposes the construction of a 19-storey mixed-use office tower comprising 5,542 square metres of gross office floor area with identical floor plates over levels 1 to 17, a roof top terrace at level 19; mezzanine comprising a substation and switch room over four (4) basement levels.

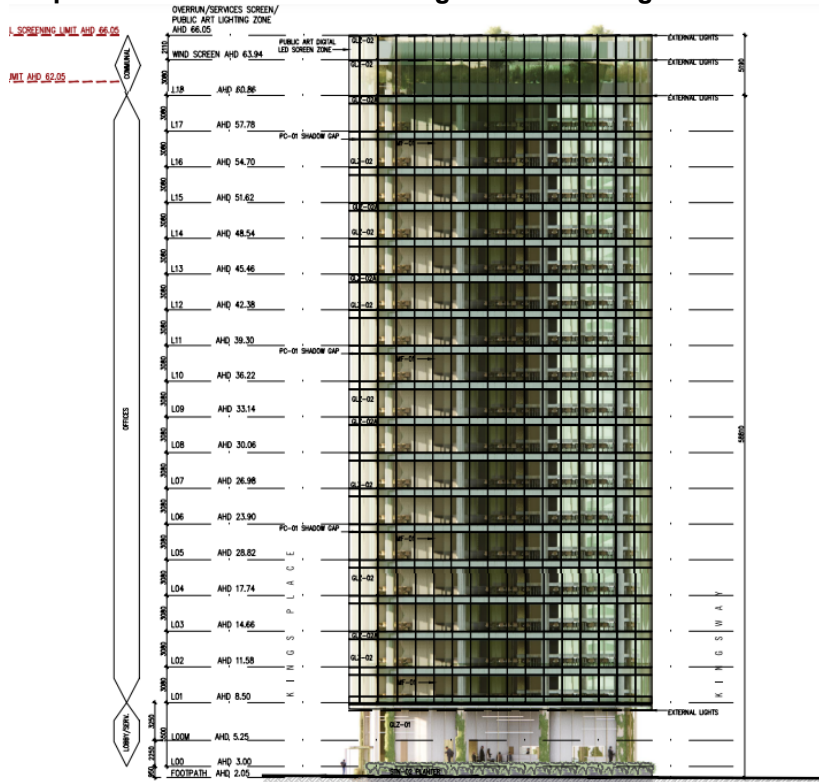
5.2 The plans which are the subject of this report are those drawn by Elenberg Fraser entitled "313-317 Kings Way South Melbourne" project no 21035, Plan no's A000, A0001, A0002, A0003, A0004, A0005, A0096, A0097, A0098, A0099, A0100, A0100M, A0101, A0118, A0119, A0900, A0901, A0902, A0910, A0911, A0912, A0950, A0951, A0952, A0960, A0961 and A0962 all revision B, dated 5.11.21 and date received 15 November 2021

5.3 A summary of the application is set out in the Table 2 below:

Detail	
Site Area	Title Area: 297 m ² Abutting Crown Allotment Area: 38 m ² Total development area: 335 m ²
Land uses	Office: 5,542 m ² GFA (4,607 m ² NLA)
Demolition	Demolition of all existing buildings and works on site (no permit required.)
Building Height	19 storeys with the following heights: <u>Rooftop level</u> maximum height of 58.81m (60.86m AHD)

Solar panel canopy
 maximum height of 61.89m (63.94m AHD)
Roof top screen
 maximum height of 64.00m (66.05m AHD).

Proposed north elevation outlining the overall height and scale

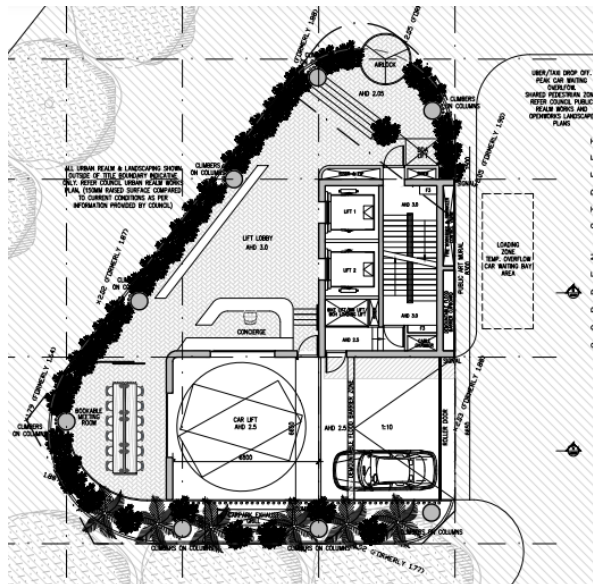


Podium height

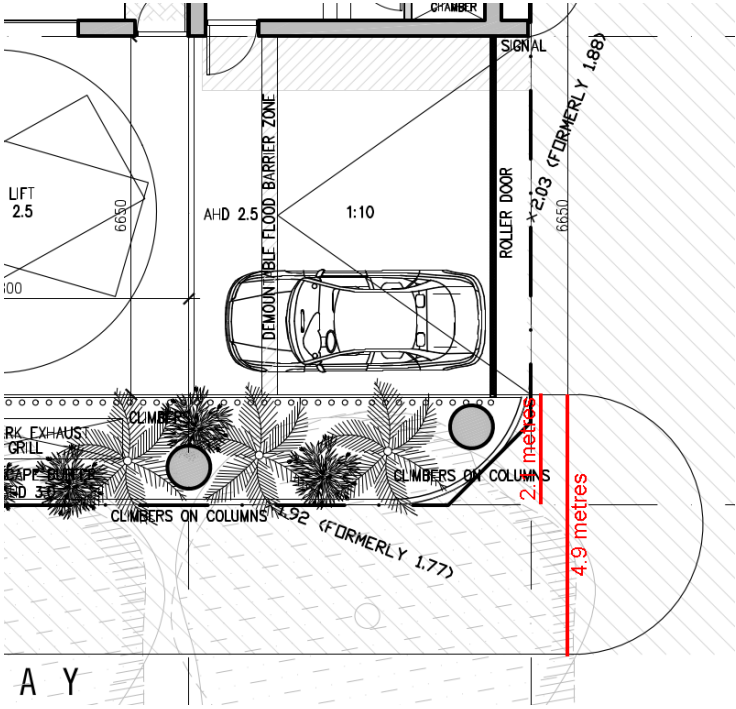
No podium proposed.

Setbacks

- Kings Way: 0 metres to 2 metres
- Cobden Street: 0 – 700 millimetres
- Kings Place: 0 – 700 millimetres



General ground floor layout

Materials	<p>Anodized bronze metal elements White textured stone Clear and teal glazing coloured glazing Double height emphasis- vertical columns In stone look off form concrete finish with bronze metal inlay Anodized vertical metal mullions Australian timbers</p>
Retail / office access	<p>Office access at corner of Kings Place and Cobden Street via steps up or DDA lift. Note 1: Access/egress via DDA lift would be blocked if fire exit door from stair well was open.</p>
Existing vehicle access	<p>Two (2) existing crossings removed. Kings Place 1 x crossover setback in excess of 10 metres from Kings Way. Cobden Street 1 x crossover ~ 10.8 metres from Kings Way.</p>
Proposed Vehicle access	<p>Cobden Street 1 x new 6.65m (w) crossing Setback ~ 2 metres from the Kings Way pedestrian path. Setback ~ 4.9 metres and the edge of the Kings Way carriageway.</p> 
Car parking	<p>A total of 28 car parking spaces are proposed within the basement levels 3 and 4 in the form of a car stacker arrangement.</p>
Bicycle Access	<p>Via Cobden Street crossing and door and steps up from the office entry at corner of Kings Place and Cobden Street.</p>
Bicycle parking	<p>Twenty-five (25) bicycle spaces, located in basement level 3.</p>
Waste Access	<p>No on-site loading area for waste.</p>
Loading bay	<p>One (1) x on street loading bay located adjacent to the proposed Cobden Street crossover. Located ~ 1.4 metres form the edge of the proposed accessway.</p>

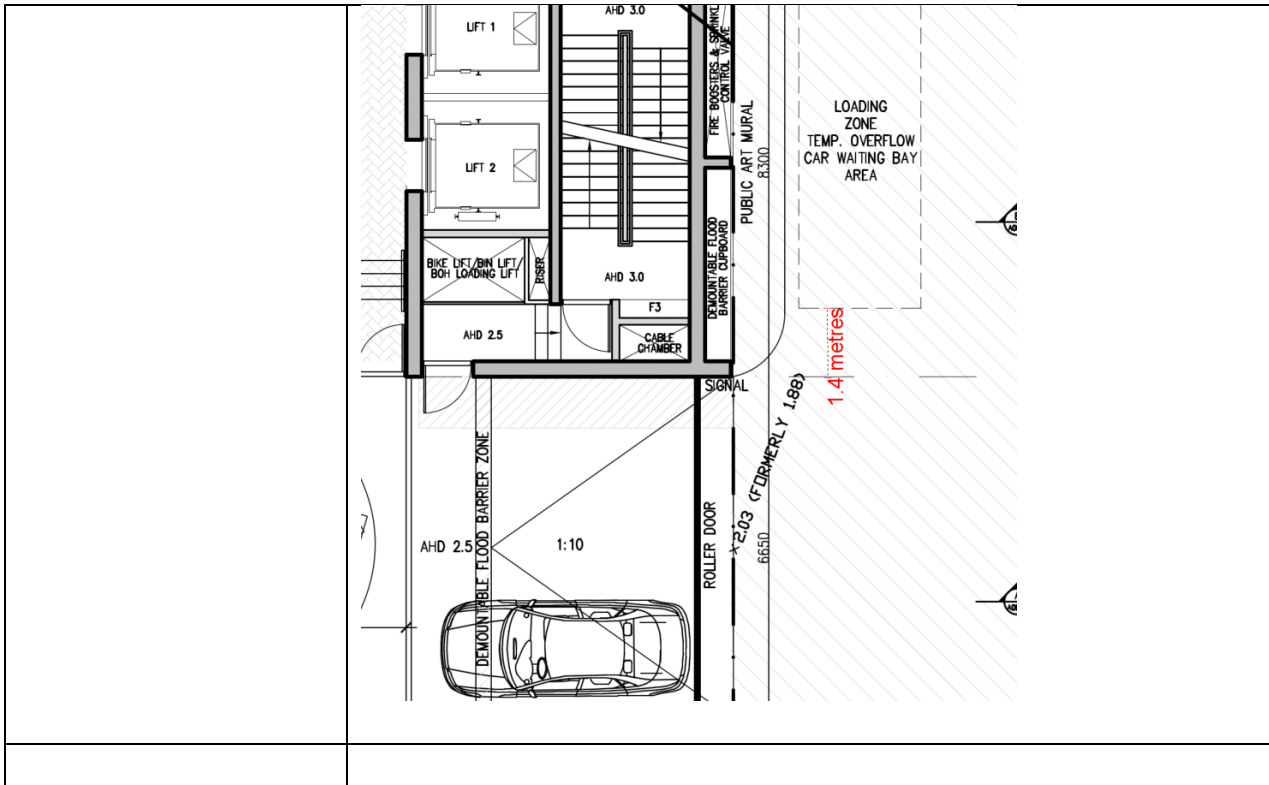


Table 2: Application Summary

The built form of the development is described as follows:

Basement 4 and 3

- Car stacker parking spaces and building services and stairs to levels above.

Basement 2:

Twenty-five bicycle parking spaces, bike repair/workstation, end-of-trip facilities, car stacker parking spaces, and lifts and stairs to levels above.

Basement 1 (upper)

- Waste Bin room and building services including fire services and tanks. Substation and car lift to B2, 3 and 4 and lifts and stairs to levels above and level 2 below.

Level 0 (Ground floor level)

- Office lobby accessed via steps and DDA lift at corner of Kings Place and Cobden Street, meeting room, vehicle entry/exit via new 6.65 metre (w) crossing off Cobden Street to turntable and car lift to basement Level 2, 3 and 4 to 28 car spaces in mechanical car stacker, and building services.

Mezzanine

- Building services including a substation, communications room and switch room.

Levels 1 to 17

- Single office tenancy with 326 square metres gross floor area per floor (x17) for a total of 5,542 square metres.

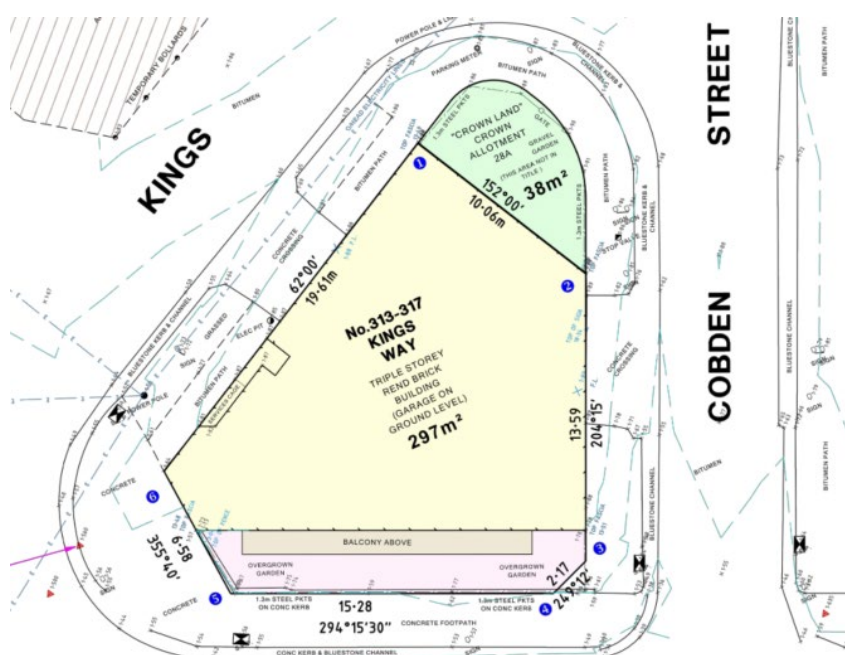
Roof top

- 276 square metre rooftop terrace including outdoor meeting pod, yoga/drinks/event space, BBQ/bar area, bathroom, lift overruns, and solar panel pergola structure.

6. TITLE INFORMATION / COVENANTS

6.1 The development unit comprises two adjoining titles as follows:

- Volume 09694 Folio 400, legally known as land in Plan of Consolidation 162715D or 313-317 Kings Way (Land coloured yellow in plan below).
- This lot is owned or controlled by the proponent;
- The development area includes an additional 38 square metres of land, legally known as Crown Allotment 28A Section 68 City of South Melbourne Parish of Melbourne South Volume 10043 Folio 105. (Land coloured green in plan below).
- This lot is Crown Land owned by the State Government.
- The proponents are negotiating with the State Government to purchase the Crown Land parcel.
- The Crown Land was previously sold by the State Government in 1991 subject to conditions that within two (2) years of the Grant, the grantee must submit an application to consolidate the land with 313-317 Kings Way and register a plan of consolidation with the Registrar of Titles.
- These conditions were not complied with and subsequently, the applicant has completed a declaration that the subject land, being all that land contained within Volume 09694 Folio 400, commonly known as land in Plan of Consolidation 162715D is not encumbered by a restrictive covenant or Section 173 Agreement or other obligation such as an easement or building envelope. A review of the Title confirms this.
- A review of the Title for the Crown Allotment shows that it is also not encumbered by a restrictive covenant or Section 173 Agreement or an easement or building envelope. This Title is however subject to reservations with regards to mining rights and leases.



7. SITE AREA & DEVELOPMENT IMPLICATIONS

- 7.1 As detailed above, the 'development area' relies upon the outcome of the acquisition of the additional 38 square metres of land, legally known as Crown Allotment 28A Section 68 City of South Melbourne Parish of Melbourne South Volume 10043 Folio 105.
- 7.2 In the event that the acquisition of this parcel of land is not successful, the proposal will require a significant redesign as critical core services are accommodated within this allotment. This would require substantial changes to accommodate any proposed amended scheme.

8. SUBJECT SITE AND SURROUNDS

Surrounds	
Site Area	Title Area: 297 m ² Abutting Crown Allotment Area: 38 m ² Total development area: 335 m ²
Subject site	<p>An irregular triangle shaped allotment, the subject site is an 'island site', with no direct abuttals formed by the sites junction at Kings Way, Kings Place and Cobden Street.</p> <p>The development site has a frontage to Kings Way of 15.28 metres, a frontage to Kings Place of 22.12 metres, and a frontage to Cobden Street of 17.11 metres, for an overall site area of approximately 336sqm. This is inclusive of the Crown Allotment 28.</p> <p>Site access is provided via a single-width crossover connecting to/from Cobden Street to Kings Way and to/from Kings Place to Kings Way.</p>
Surrounds/neighbourhood character	<p>The surrounding allotments are zoned Mixed Use Zone and feature a mix of single to five storey existing commercial buildings that contain a range of commercial, residential and office uses contained within low to medium rise buildings.</p> <p>When viewed from within the sites immediate internal street network, the surrounds retain a sense of openness due to the siting of the existing buildings that predominantly feature small to medium setbacks and grassed verges that encourage oblique views through the site.</p> <p>Located 80 metres south east of Park Street, and 280m south west of St Kilda Road, the immediate surrounds are undergoing substantial change and three towers located approximately 200 metres North West of Albert Road, form a backdrop to the subject site when viewed from the Kings Way frontage.</p> <p>To the north, an 18-storey building has been approved and construction has commenced at 8 Palmerston Crescent at the corner of Kings Place, Millers Lane and Cobden Street.</p> <p>To the east at 1-13 Cobden Street, the development for a 19-storey mixed-use building has commenced.</p> <p>To the west, one, two and three-storey retail and commercial buildings are situated and form a transitional backdrop in height to the recently constructed 20-storey mixed-use tower at 37-43 Park Street.</p>

	<p>On the opposite side of Kings Way and to the southwest of the subject site, a four-storey Motel and one to two-storey commercial buildings are sited, backing onto the core residential precinct of South Melbourne.</p> <p>The subject site is approximately 500m east of Clarendon Street Major Activity Centre which includes a range of supermarkets, South Melbourne Market, health services etc. The site is also in close walking distance of extensive parks and gardens at Kings Domain and Albert Park.</p>
Proximity to Public Transport, PPTN and any relevant parking controls	<p>The subject site is within the PPTN.</p> <p>The site is in walking distance of trams on Park Street, Kings Way, St Kilda Road, with Clarendon Street approximately 500m east.</p> <p>On-street parking is not allowed on Kings Way.</p> <p>Parking on Kings Place and Cobden Street is ticketed and time limited.</p> <p>Anzac Railway Station (currently under construction) is located 450 metres east of the site.</p>

9. PERMIT TRIGGERS

The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?
Clause 32.04 Mixed Use Zone (MUZ)	<p>A planning permit is required for the use of the land for office because it exceeds the leasable floor area of 250m².</p> <p>A planning permit is required to construct a building and carry out works.</p>
Clause 43.02 Design and Development Overlay (DDO) Schedule 26 – St Kilda Road North Precinct Sub-Precinct 2: Northwest Corner (DDO26-2)	<p>A planning permit is required to construct a building or construct or carry out works pursuant to Cause 43.02-2.</p>
Clause 44.05 Special Building Overlay -Schedule 1 (SBO1)	<p>A planning permit is required to construct a building or construct or carry out works.</p>
Clause 52.06 Car Parking	<p>Pursuant to Clause 52.06-3, a planning permit is required to reduce (including reduce to zero) the number of car parking spaces required under Table 1 of Clause 52.06-5 or in a schedule to the Parking Overlay.</p> <p>For the purposes of assessment under Clause 52.06, the subject site is in the Principle Public Transport Network Area (PPTN) and the rates in Column B of Table 1 to Clause 52.06 apply.</p> <ul style="list-style-type: none"> The site is located within the PPTN. Column B rates apply. <p><u>*No. of Car Parking Spaces Required</u></p>

	<p><i>*If in calculating the number of car parking spaces the result is not a whole number, the required number of car parking spaces is to be rounded down to the nearest whole number</i></p> <p>The proposal generates the following car parking requirements:</p> <p>Office 3 spaces per 100sqm of net floor area</p> <ul style="list-style-type: none"> Office: $\frac{4,607 \text{ sqm net floor area} \times 3}{100} = 138$ <hr/> <ul style="list-style-type: none"> TOTAL = 138 car parking spaces <u>required</u>. <p>28 spaces provided on site.</p> <p>A planning permit is required for the statutory reduction of 110 car spaces associated with the use of the land for office.</p>
<p>Clause 52.29 Land adjacent to the Principal Road Network</p>	<p>Kings Way is a Transport Zone 2 Road.</p> <p>Although no direct access to Kings Way is proposed, vehicle access to the site is sought to be reduced (from two to one), the crossover to Cobden Street altered; and the land use intensified.</p> <p>A planning permit is required to create or alter access to Kings Way, a Transport 2 Road Zone pursuant to Clause 52.29-2.</p>
<p>Clause 52.34 Bicycle Facilities</p>	<ul style="list-style-type: none"> Table 1 to Clause 52.34-5 Bicycle spaces, sets out the number and type of bicycle facilities required for a new use. The use of the land for office attracts a statutory requirement for bicycles. The submitted Transport Impact report by Ratio consultants, nominates the requirement of a total of twenty-four (24) spaces for the use of the land as an office. Fifty (50) bicycle spaces are provided across the development. The proposal has a requirement for two showers and two change rooms (or direct access to a single communal change room). Four (4) showers and changerooms are located in Basement 2. A planning permit is not required under this clause.

10. PLANNING SCHEME PROVISIONS

10.1 State Planning Policy Frameworks (SPPF)

The following State Planning Policies are relevant to this application:

Clause 11 Settlement, including:

- Clause 11.01-1R Settlement - Metropolitan Melbourne
- Clause 11.02 Managing Growth
- Clause 13 Amenity, Human health and safety
- Clause 13.07-1S Land use compatibility
- 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 15.01-5S Neighbourhood character
- Clause 15.02-1S Energy and resource efficiency
- Clause 17 Economic Development, including:
 - Clause 17.01-1R Diversified economy - Metropolitan Melbourne
 - Clause 17.02-1 Business
- Clause 18 Transport, including:
 - Clause 18.01-1S Land use and transport integration
 - Clause 18.02-2R Cycling - Metropolitan Melbourne
 - Clause 18.02-3R Principal Public Transport Network
 - Clause 18.02-4S Roads

10.2 **Local Planning Policy Framework (LPPF)**

The following local planning policies are relevant to this application:

- | | |
|--------------|---|
| Clause 21 | Municipal Strategic Statement, including: <ul style="list-style-type: none"> - Clause 21 Vision and approach - Clause 21.03-1 Environmentally Sustainable Land Use and Development - Clause 21.03-2 Sustainable Transport - Clause 21.04-3 Office and Mixed Activity Areas - Clause 21.05-2 Urban Structure and Character - Clause 21.05-3 Urban Design and the Public Realm - Clause 21.06-7 St Kilda Road North Precinct |
| Clause 22.06 | Urban Design Policy for Non-residential Development and Multi Unit Residential Development |
| Clause 22.12 | Stormwater Management (Water sensitive urban design) |
| Clause 22.13 | Environmentally Sustainable Development |

10.3 **Other relevant provisions**

- | | |
|----------------|--|
| Clause 52.06 | Car Parking |
| Clause 52.29 | Land adjacent to the Principal Road Network Transport Zone |
| Clause 52.34 | Bicycle facilities |
| Clause 65 | Decision Guidelines |
| Clause 66 | Referral and notice provisions |
| Clause 71.02-3 | Integrated decision making |

10.4 **Relevant Planning Scheme Amendment/s**

Amendment C203port

Amendment C203port (Planning Scheme Review) is a targeted review of local content in the planning scheme to improve its usability and enable better decision making. In particular, the Amendment proposes to:

- Implement the Port Phillip Planning Scheme Audit 2018 and the land use and development directions of Council’s adopted strategies and documents, including Act and Adapt – Sustainable Environment Strategy 2018-28, Art and Soul – Creative and Prosperous City Strategy 2018-22; Don’t Waste It! – Waste Management Strategy 2018-28, In Our Backyard – Growing Affordable Housing in Port Phillip 2015-25, and Move, Connect, Live – Integrated Transport Strategy 2018-28.
- Update the Port Phillip Planning Scheme to comply with Victorian Government changes to planning schemes regarding language, format and structure introduced by Amendment VC148, including relocating content from Clause 21 and 22 to the appropriate theme-based clauses in the PPF, MPS and relevant local schedules.
- Update local heritage policy to implement new Heritage Design Guidelines, which provide detailed and illustrated guidance on eleven development themes, informed by extensive consultation undertaken in 2019.
- Introduce new local VicSmart planning provisions to enable quicker assessments of some minor types of planning permit applications.
- Remove eleven Incorporated Documents from the Port Phillip Planning Scheme as they are obsolete.

10.5 Amendment C203port is currently in progress. At 2 March 2021 Council Meeting, Council referred written submissions to an independent Planning Panel Hearing, which took place on Monday 6 June 2022 and heard submissions. A decision is still pending.

10.6 Amendment 203 does not impact upon the assessment of this application.

11. REFERRALS

11.1 Internal referrals

The application was referred to the following areas of Council for comment. The comments are discussed in detail in Section 9.

See Appendix 7 for a complete response to all referrals below.

Internal Department	Referral comments (summarised)
Urban Design Advisor	<p>From an urban design perspective, the proposal is <u>not supported</u>.</p> <p>To gain full support the proposal should:</p> <ul style="list-style-type: none"> • Amend the overall height and form of the building including ground and upper level setbacks to better respond to the requirements of the DDO • Confirm that the curved expression as shown will be delivered in the final building • Confirm the extent of and commitment to public realm works • Improve access to the ground floor for people using mobility aids • Review access for vehicles to avoid queuing into Kings Way • Wind tunnel modelling is required to demonstrate that siting conditions can be achieved adjacent to the building at ground level

	<ul style="list-style-type: none"> Confirm the parameters of the proposal should the application for possession of the adjacent Crown land be unsuccessful.
Landscape Architect	<p><u>The landscaping response is not supported</u></p> <p>To gain full support the proposal should:</p> <ul style="list-style-type: none"> Increase the landscape setback on Kings Way to 3 metres Clarify and confirm the extent of works, including hard and soft materials and finishes, to be undertaken within the public realm Incorporate measures within the building to moderate wind effects at ground level to meet sitting criteria. Any wind mitigation measures should not be within the public realm.
CITY STRATEGY	<ul style="list-style-type: none"> DDO26 applies discretionary setback controls. Specifically, podium height and tower setbacks, side and rear setbacks and front setback to Kings Way <i>should be discretionary so that future developments can respond to an integrated building form throughout Sub-precinct 2. (7.4.3)</i> The proposal will need to ensure the sub-precinct objectives are met, particularly where requirements are varied that allow an integrated design that is responsive to the site's specific circumstances. This is a highly constrained site. A careful assessment of the amenity impacts of the proposal, particularly on the proposed adjoining new public realm, will be required.
WASTE MANAGEMENT	<ul style="list-style-type: none"> Please specify the bin collection times as per Council Local Law No.1 Need to specify who is responsible for all hard/e-waste that are stored in the storage and how that will be collected and disposed of. Collection of bins outside the building might be problematic in future due to other new developments in the area. The road could get busier and may not be ideal to have the truck to turn around too.
ENVIRONMENTAL SUSTAINABLE DEVELOPMENT	<ul style="list-style-type: none"> The application has yet to demonstrate an acceptable outcome for ESD. ESD improvements required prior to decision For a development of this size, it should meet a 70% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS to demonstrate excellence in sustainable design. Considering the response to the points below, should any category fall short of the minimum targets, improvements will need to be made.
TRAFFIC/PARKING	Key Issues:

- Vehicle crossing location
- Queueing
- Sight triangles
- Loading and Waste collection
- Bicycle visitor parking provision

Access ways:

- Access to the car stackers is proposed via a new crossover on Cobden Street. The existing crossover on Cobden Street is proposed to be removed.
- The proposed vehicle crossing is located within 5m from the intersection of Kings Way. This does not meet the requirements of Access Driveway Locations in AS2890.1 and is not considered an appropriate design considering the nature of the site, queueing expected and location off a Primary State Arterial road.
- Sight triangles are not provided for exiting motorists. This is not considered an acceptable design response for a new development. Safety for vulnerable road users (i.e. pedestrians) is critical. There are existing pedestrian facilities abutting the site on Cobden Street and the Domain Precinct Public Realm Master Plan proposes to convert Cobden Street into a Shared Zone.
- The development's lack of pedestrian sight lines is not in-line with objectives of providing a safe shared space / pedestrian connection with opportunities for community events (i.e., increased pedestrian movements in the area).

Car parking spaces:

- Detailed mechanical parking information has not been provided. Notwithstanding, it is understood the stackers can cater for a vehicle with a maximum height of 1.8m which meets the vehicle height requirement in the Planning Scheme.
- Further, it is understood that the mechanical parking facility will be fully automatic and therefore parked vehicles can be independently accessed.
- However, it appears that B99 vehicles cannot be accommodated by the parking system. While the swept path analysis demonstrated B99 vehicles can access the site, B99 vehicles will not be able to park within the site, limiting the usability of the parking spaces. This is a poor design outcome, and it is highly recommended the site can cater for B99 vehicles.

Loading and Waste Collection

- Waste and loading activities are proposed to be catered on-street abutting the subject site.
- It is noted in the traffic report that Council advised during a pre-application meeting that we would not support the use of an on-street Loading Zone.

- On-street parking is a public resource and is not intended to cater for any one use only. Removing a public resource from the community is not considered appropriate especially in response to a lack of appropriate facilities on-site. Furthermore, the installation of parking restrictions requires a consultation process and the consideration of a Loading Zone cannot be guaranteed.
- With Kings Way providing a pedestrian barrier between local on-street parking opportunities, short-term parking surrounding the subject site is needed for visitors to the area.
- The on-street Loading Zone would also likely require the removal of paid on-street parking opportunities to not obstruct access to the development's accessway. The removal of on-street paid parking spaces is not supported.
- Removal of paid parking for user restricted parking is not in-line with Council's Parking Management Policy.

Traffic Generation and Impact:

- The traffic report has adopted a traffic generation rate of 0.38 parking spaces in the AM peak period and 0.43 parking spaces in the PM peak period. Application of these rates equates to 11 movements and 12 movements in the AM / PM peak respectively.
- The split between inbound and outbound movements for the AM peak is 90% in and 10% out. The split between inbound and outbound movements for the PM peak is 10% in and 90% out.
- The service rate for the car lift / parking stackers has been assumed at 157 seconds accounting for the 1 outbound movement in the AM peak.
- The site is estimated to produce a 98%ile queue of 2 vehicles external to the site. This is not considered acceptable and does not accord with the requirements of the Australian Standard as noted in the traffic report. It is not acceptable to rely on the public road network for queueing to the development and will result in traffic issues / illegal parking / complaints from the community.
- There are further concerns raised with respect to queueing. The traffic generation rate of 0.38 movements per parking space in the AM peak period is considered low. Even with a low rate adopted, it is anticipated that two vehicles will queue external to the site. A higher traffic generation rate needs to be considered for the development and this will only increase the amount of vehicles queueing on the public road network which is again not considered acceptable.
- With Cobden Street proposed to be closed, all traffic will enter exit the street via Kings Way. The property on the opposite side of the road proposes to have access from Cobden Street and is expected to generate 67 vehicle

	<p>movements per peak hour. Queueing associated with the subject site would conflict with the traffic generation anticipated for the development on the opposite side of the road.</p> <p>Parking overlay and parking provisions:</p> <ul style="list-style-type: none"> • Clause 52.06 of the planning scheme requires 138 off-street parking spaces to be provided for the proposed development. • It is proposed to provide 28 off-street car parking spaces for employees within a stacker system throughout four basement levels. • The proposal therefore results in a net shortfall of 110 parking spaces. • The application has not detailed the requirements of the BCA for provision of accessible parking spaces for the development. An analysis of the BCA for accessible parking spaces is required. • The site is located well with a number of alternative transport options available. Further, the creation of Anzac Station will provide an additional sustainable transport option for commuting to / from the subject site. • Notwithstanding, a parking shortfall of 110 parking spaces appears excessive and we would like additional considerations to offset the shortfall to be implemented (i.e. revise design to provide additional bicycle facilities or provide car share spaces onsite that can be accessed by all carshare members). • Commercial use is generally accepted to be the easiest use to accept modal change away from vehicles where parking is not available or free. • Noting that the assessment for the appropriate rate for car parking provision lies with Statutory Planning. Reference should be made to CoPP's sustainable parking objectives. We also suggest comparing previous approved parking provision rates of adjacent developments as part of the Planning team's assessment / determination.
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11.2 External referrals

Notice and referral was provided to the following referral authorities:

Referral Authority	Response
Melbourne Water	<p>No objection subject to conditions placed on any planning approval (refer to full referral advice which is placed on the planning file).</p> <p>Advice</p> <p>Melbourne Water has undertaken modelling for this catchment which considers increased rainfall intensity due to climate change. The flood level for this property by the year</p>

	<p>2100 is estimated to be 2.36 metres to Australian Height Datum (AHD).</p> <p>The site has also been identified as subject to flooding as a result of storm surge/tidal inundation associated with Sea Level Rise (SLR). The predicted year 2100 1% Annual Exceedance Probability (AEP) flood level for tidal storm surge is 2.4 metres (m) to Australian Height Datum (AHD). This assumes a SLR of 0.8m on the existing 1.6m to AHD level by the year 2100.</p>
Department of Transport (DoT)	<p>The application was referred to DoT on 27 January 2022.</p> <p>The prescribed period for DoT to respond is:</p> <ul style="list-style-type: none"> • 21 days to advise the responsible authority that it needs more information; and • 28 days from the day on which the referral authority is given a copy of the application (or further information) to make a decision. <p>A request for further information was not made by DoT and at the time of this report, DoT has not provided a response.</p>
Shrine of Remembrance Trustees	<p>The proposal was referred to the Shrine of Remembrance Trustees. No response has been provided</p>

12. PUBLIC NOTIFICATION/OBJECTIONS

It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties and directed that the applicant give notice of the proposal by posting three notices on the site for a 28 day period, in accordance with Section 52 of the Planning and Environment Act 1987.

The application has received thirty (30) objections. The key concerns raised are summarised below (officer comment will follow in *italics* where the concern is not addressed at Section 11 – internal referrals and 13 – officer assessment of this report).

Amenity Impacts
<ul style="list-style-type: none"> • Excessive height
<ul style="list-style-type: none"> • Insufficient setbacks
<ul style="list-style-type: none"> • Overlooking <p>There is no opportunity for overlooking due to the sites locational context and distances between buildings</p>
<ul style="list-style-type: none"> • Loss of view <p>Officer comment: <i>The Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. In the absence of particular planning controls which might require the protection of, or sharing of views, loss of views is usually afforded very limited weight. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control. In this case the development is not considered to intrude unreasonably upon the skyline to reduce the amenity of neighbours through their outlook or access to daylight.</i></p>

<i>Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view.</i>
<ul style="list-style-type: none"> • Overdevelopment • Light spill/glare from digital art screen
Traffic
<ul style="list-style-type: none"> • Traffic congestion • Reduction of statutory car parking requirement • Absence of visitor parking / loading bay • Traffic impacts to Cobden Street, King Road
Planning Scheme
<p>Non-compliance with DDO26-2 including:</p> <ul style="list-style-type: none"> • 3 metre front landscaped setback • Side setbacks • Height
<ul style="list-style-type: none"> • Digital art screen (sign) improper and distraction for motorists
DDA compliance
<ul style="list-style-type: none"> • Failure to provide DDA accessible parking bay • Failure to provide DDA accessible on street parking bay <p>Officer comment:</p> <p><i>Councils are responsible for the delivery of on street parking.</i></p>
<ul style="list-style-type: none"> • Proposed DDA accessible lift arrangement/circulation unachievable
Other
<ul style="list-style-type: none"> • Appropriation of Crown Land and Cobden Street Public pocket park for the exclusive use of the development • Encroachment of development outside title boundaries <p>Officer comment:</p> <p><i>The plans advertised with the application have removed all building elements that encroached outside title boundaries.</i></p>
<ul style="list-style-type: none"> • Desktop environmental wind impact insufficient for assessment • False statements regarding subject land location within 150 metres of the South Melbourne Activity Zone <p>Officer comment:</p> <p><i>This assessment as contained within the report, considers all relevant matters as required by the Planning Scheme and the Planning and Environment Act 1987.</i></p>
<ul style="list-style-type: none"> • Council providing insufficient and misleading planning advice to developers <p>Officer comment</p> <p><i>Pre-application advice is given at officer level and does not form a formal response or decision of the Council with regard to future lawful development application(s) or other formal approaches.</i></p>
<ul style="list-style-type: none"> • Discrepancies between the Planning Report, Traffic report and Architectural plans • A contribution to the greening of Kings Place and it being converted to will significantly impede any new developments in Park Street, Cobden Street and Palmerston Crescent • Construction management, timing, and road closures • Disturbances during construction <p>Officer comment:</p> <p><i>Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and not justification to withhold development of the site.</i></p>

This is covered by other sections of Council, generally covered by our City Permits area and covered by Local Laws.

Some noise and other off-site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

It is considered that the objectors do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

A Consultation Meeting was not held.

13. OFFICER ASSESSMENT

13.1 The key matters raised in the assessment of this application along with the submitted grounds for objection are considered to be as follows:

- Is the application consistent with the Planning Policy Framework (PPF)?
- Are the proposed uses consistent with the Mixed Use Zone?
- Is the proposed built form acceptable to its context including the requirements of Design and Development Overlay Schedule 26 and Clause 22.06 Urban Design Policy for Non-Residential Development and Multi Residential Development?
- Would the proposal result in any unreasonable amenity impacts to surrounding properties?
- Are the proposed car parking and access arrangements acceptable?
- Are the waste management arrangements acceptable?
- Does the proposal achieve best practice water sensitive urban design and environmentally sustainable design?

Is the application consistent with the Planning Policy Framework (PPF)?

- 13.2 Clause 11 of the planning scheme outlines how Planning is to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.
- 13.3 Strategies to implement this include to facilitate opportunities for urban renewal and infill development (Clause 11.01-1S) through orderly planning to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses (Clause 11.02-1S).
- 13.4 Policies at Clause 13.07-1S recognises the tension in facilitating appropriate commercial uses with potential off-site effects to community amenity.
- 13.5 The Planning Policy Framework contains guidance on Urban design principles in Metropolitan Melbourne at Clause 15 (Built Environment and Heritage) and amongst other objectives, the Clause seeks to assist in creating a distinctive and liveable city with quality design and amenity (Clause 15.01-1R); by the provision of development that appropriately responds to its surrounding landscape and character, and contributes positively to the local context and enhance the public realm (Clause 15.01-2S).
- 13.6 Strategies to promote economic development are found within Clause 17 that seeks to encourage development that meets the community's needs for retail, entertainment, office and other commercial services that are to assist in providing for a strong and innovative economy, where all sectors are critical to economic prosperity.

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- 13.7 To ensure that a safe, integrated and sustainable transport system Clause 18 outlines strategies that broadly concern social, economic opportunities and prosperity, whilst promoting the efficient, coordinated and reliable movements of people and goods in an environmentally sustainable ways.
- 13.8 In response to these policies and strategies, it is noted that the subject site is located near jobs and services being near the Melbourne CBD and South Melbourne Major Activity Centre and has excellent access to public transport. However, the proposal fails on a number of policy objectives and requirements related to building, urban design, accessibility and streetscapes.
- 13.9 Council's vision and strategic approach to the use and development of land within the City of Port Phillip is contained within the Municipal Strategic Statement (MSS). The MSS is a critical part of the integrated planning framework for the city; and is structured around three key themes in which all of the overarching objectives and strategies for the municipality are laid out and further expanded upon within the Local Planning Policies, building upon the objectives of the PPF.
- 13.10 These three themes are Environmentally Sustainable Land Use and Development (21.03), Land Use (Clause 21.04) and Built Form (Clause 21.05).
- 13.11 Specific strategies for the development of the site are detailed at Sub-Precinct 2: Northwest Corner in the St Kilda Road North Precinct (Clause 21.06-7). This policy is further contextualised and refined at Schedule 26 of the Design and Development Overlay. A full assessment of the proposal against the DDO26 is provided later in this report.
- 13.12 Clause 22.06 Urban Design Policy for Non-Residential Development and Multi-Residential Development builds on the objectives and strategies as contained within the MSS and in the same way seeks to reinforce high quality urban design outcomes.
- 13.13 Clause 22.13 – Environmentally Sustainable Development which applies to non-residential development with a gross floor area above 1000sqm. Clause 22.13 broadly seeks to achieve practice environmentally sustainable development.
- 13.14 This report will outline the key reasons why Council will advise VCAT, that were Council in a position to make a decision, it would not have supported the grant of a permit and would have refused the application.

Are the proposed uses consistent with the Mixed Use Zone?

- 13.15 The purpose of the zone is, amongst other things:
- *to provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
 - *to provide for housing at higher densities.*
 - *to encourage development that responds to the existing or preferred neighbourhood character of the area.*
- 13.16 A planning permit is required to use the land for office with a leasable floor area in excess of 250 square metres.
- 13.17 The proposal is for the construction of an 19 storey mixed-use building within the St Kilda Road North Precinct.
- 13.18 It is considered to be an appropriate location to accommodate an increase in commercial density, subject to compliance with the urban design state and local policies and more specifically, the DDO26 requirements.
- 13.19 When having regard to the recently approved developments within the precinct that provide housing, there is no doubt that the proposed uses will contribute to and promote in the creation of a vibrant residential and mixed-use environment.

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- 13.20 The proposed commercial use would provide a net community benefit and meet part of the needs of the emerging residential population within the immediate locality and capitalises on the potential opportunity for employment in this dense residential precinct.
- 13.21 A 5.9 m floor to ceiling height will allow for future adaption of the ground floor.
- 13.22 This combination of uses is highly consistent with State Planning Policy and the Local Planning Policy framework and strategically encouraged to establish within this area.

Is the proposed built form acceptable to its context including the requirements of Design and Development Overlay Schedule 26 and Clause 22.06 Urban Design Policy for Non-Residential Development and Multi Residential Development?

- 13.23 Other relevant Urban Design policies to this proposal include 22.06 Urban Design Policy for Non-Residential Development and Multi-Unit New Residential Development of the Local Planning Policy Framework (LPPF).
- 13.24 The Urban Design Policy includes consideration for the impact on any landmarks, views or vistas. The proposed application would not affect any special or protected landmarks, views or vistas. As already noted in this report the application was referred to the Shrine Trustees, but no response has been provided. Given the distance of the site from the Shrine and the typology of the land, the proposal would not have any impact on the Shrine Vista.
- 13.25 The provision of Urban Art is a requirement of the Urban Design Policy. The plans identify an area for Urban Art as a public art mural to be located on the Cobden Street frontage, but no specific details have been provided of the artwork. Further, the applicant submits that the LED lighting to the top of the tower forms part of the urban art provision, which is not supported.
- 13.26 Should a permit be issued a condition will need to be included requiring details of an Urban Art contribution in line with the requirements of this provision of the Urban Design Policy.
- 13.27 The Urban Design Policy includes specific policy for car parking, pedestrian access and loading facilities. A detailed consideration of these matters is provided further in this report.
- 13.28 The site is covered by the Design and Development Overlay – Schedule 26 (St Kilda Road North Precinct) and contains precinct-wide design objectives and general requirements. The DDO26 operates by prescribing design objectives both precinct and sub-precinct wide; moving on to built form requirements, also both precinct and sub-precinct wide.
- 13.29 The site is identified as been located within Sub-Precinct 2: Northwest Corner and contains specific objectives relating to built form and setback requirements. The Northwest Corner Sub-Precinct has a mixed character and role and presents considerable opportunity for development and change as a higher density residential and mixed-use enclave, based around lively, pedestrian focussed streets.
- 13.30 The objectives for Sub-Precinct 2 are:

Design Objectives	Assessment
To ensure that new development creates a vibrant residential and mixed-use environment, through an increased scale and density of development.	Achieved in part No residential use is proposed; however, the proposal seeks an increase in scale and density of the use of the land for office, and given the sites unique features, will provide a supporting function more broadly to the precinct.
To reinforce the primacy of the St Kilda Road boulevard by ensuring development provides a gradual visual and physical transition from the higher scale development of St Kilda Road, across the Sub-Precinct to Kings Way.	Not applicable Site is not on St Kilda Road.
To ensure that development provides for a fine grain character in the form and articulation of new buildings.	Not achieved The resulting design attempts to approach a fine grain response as a consequence of the small lot size rather than architecture. In this regard, the proposal ignores the policy outcomes sought on the constrained site, pushing the limits of the site beyond its capabilities in design. A symptom of this is the overwhelming volumetric density of the proposal.
To create a high quality public realm through additional tree planting and maintaining access to sunlight along the key pedestrian streets of Bank and Park Streets.	Not applicable Site is not on Bank or Park Street.
To improve the streetscape environment of Kings Way through high quality built form and consistent landscaped setbacks.	Not achieved The building design does not include a sufficient landscape setback, or podium or intermediate tower setback. Refer to discussion below.
To ensure the development in Kings Way creates a landscaped boulevard through high quality architectural design and a landscaped public realm interface	Not achieved The lack of building setback from Kings Way compromises the canopy width of future boulevard street planting. The proposed 2 metre ground floor level rebate from Kings will not achieve a satisfactory landscaped public realm interface. The sheer wall on the boundary facing Kings Way, and the absence of a podium or intermediate tower setback would not achieve a high-quality architectural response.
To ensure that podium design and heights create and reinforce a 'human scale' to provide visual interest and activity for the pedestrian at street level along Kings Way.	Not achieved No podium is proposed facing Kings Way and a sense of human scale is not achieved to promote activation along Kings Way.
To improve the streetscape environment of the Northwest Corner Sub-Precinct through high quality-built form.	Not achieved Refer discussion below.

To ensure that buildings are scaled to maintain a respectful setting and backdrop for the Shrine of Remembrance.	Achieved The site features and proximity to the Shrine, and its allotment size censors a response that could impact upon the shrine's environs.
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- 13.31 In addition to the sub-precinct objectives of the Northwest corner, the following specific objectives apply to Sub-Precinct 2: Northwest Corner.
- 13.32 The proposal is assessed against the objectives for Sub-Precinct 2 within the table below and it is noted that all requirements in this table are discretionary unless otherwise stated within the requirement section of the table.

2.2 Sub-Precinct Requirements	
Sub-Precinct 2 - North-West Corner	
Requirement	Assessment
<p>Development <u>should</u> be generally in accordance with Map 3 and Cross section BB of this schedule as shown above.</p> <p>The requirements are detailed here and discussed below:</p> <p><u>Kings Way</u> 3 metre landscape setback.</p> <p><u>Height</u> 40 metre podium to Kings Way for a depth of 10 metres. 18 metre podium to Cobden and Kings Place. 60 metre maximum height.</p>	<p>Not achieved</p> <p>The proposal has ignored the built form requirements and outcomes sought for this site, seeking a design that stretches the site beyond its capabilities.</p> <p>Insufficient consideration is given to the sites unique attributes and locational context as a maximum building envelope it pursues, significantly eroding the policy intent of the DDO26.</p> <p>Higher density does not mean maximising a site's building envelope with no regard to preferred building setbacks and massing and height. A considered design is needed to respond to the design opportunities and constraints and achieve a satisfactory level of street activation.</p>
<p>A 3-metre landscape setback should be provided to the direct frontage or abuttal to Kings Way.</p>	<p>Not Achieved</p> <p>The plans show a 2-metre setback rather than the required 3 metre setback at the ground floor Kings</p>

	<p>Way frontage, with all floors above provided with a zero setback to cantilever over the floors below.</p> <p>The importance of this landscape setback is emphasised in the relevant precinct wide objectives and those of sub-precinct 2:</p> <p><u>Precinct wide:</u></p> <ul style="list-style-type: none"> <i>To develop a high quality landscape setting which enhances the key view corridors and public realm of Albert Road, Bowen Crescent and Kings Way, between Domain/St Kilda Road and Albert Park Lake Reserve.</i> <i>To enhance the role of Kings Way as an important commercial precinct and gateway to the municipality and the central city area, by improving the quality of the built form and landscaping.</i> <p><u>Sub Precinct 2:</u></p> <ul style="list-style-type: none"> <i>To improve the streetscape environment of Kings Way through high quality built form and consistent landscaped setbacks.</i> <i>To ensure the development in Kings Way creates a landscaped boulevard through high quality architectural design and a landscaped public realm interface.</i> <p>Furthermore, the 2m ground level setback at Kings Way is inconsistent with the approved planning permit (and endorsed plans) for the adjacent site at 1-13 Cobden Place and the latest Kings Place/Cobden St Plaza Concept plan, reducing the opportunity for a consistent landscape setting required to enhance this important gateway to the city and municipality.</p> <p>In addition, the incorporation of 950mm high raised planters within the limited setback area, negates the provision of corner splay and the applicant's contention that pedestrian activity along the eastern boundary of the site (adjacent to the vehicle access point) is expected to be lower when having regard to the urban realm works surrounding the site, are unfounded.</p> <p>The proposed setbacks do not accord with the DDO and are, therefore, not supported.</p>
<p>Development within 13 metres (inclusive of the 3-metre landscape setback) of a direct frontage or abuttal to Kings Way <u>should</u> not exceed a height of 40 metres.</p>	<p>Not Achieved</p> <p>The proposal does not observe the discretionary height controls, failing to adapt a human scale transition from Kings Way to the proposed building and turning its back to the primary frontage.</p> <p>The importance of this setback is emphasised in the relevant precinct wide objectives and those of sub-precinct 2:</p> <p><u>Precinct wide:</u></p> <ul style="list-style-type: none"> <i>To enhance the role of Kings Way as an important commercial precinct and gateway to the municipality and the central city area, by</i>

	<p><i>improving the quality of the built form and landscaping.</i></p> <p><u>Sub Precinct 2:</u></p> <ul style="list-style-type: none"> • <i>To improve the streetscape environment of Kings Way through high quality-built form and consistent landscaped setbacks.</i> • <i>To ensure that podium design and heights create and reinforce a 'human scale' to provide visual interest and activity for the pedestrian at street level along Kings Way.</i> <p>The absence of setbacks at the upper levels combined with excessive heights exacerbates the hard-inactivated edge to Kings Way eroding the key design objective and intent of the DDO by disallowing sufficient landscaped setbacks and overwhelming the human scale for pedestrians when on either the frontage or side streets.</p> <p>This design is therefore is not acceptable.</p>
<p>Development with a direct frontage or abuttal to any road, excluding Kings Way, <u>should</u>:</p> <ul style="list-style-type: none"> • be built to the boundary, and • not exceed 18 metres in height within 5 metres of any street frontage. 	<p>Not Achieved</p> <p>The site has an abuttal to both Kings Way and Cobden place.</p> <p>In this instance, the building should be built to the boundary and not exceed 18 metres in height within 5 metres of the title boundaries.</p> <p>The application proposes setbacks of zero to 700 millimetres at various sections across the ground floor for both Kings Way and Cobden Place.</p> <p>Above, the ground floor and mezzanine, the building is proposed on the boundary (zero setback) for the remaining 59.6 metres (to AHD).</p> <p>It remains difficult to unravel the impacts of the additional heights to the reduced setback requirements.</p> <p>However, the effect of this combined outcome is a domineering tower that will impact upon the site immediate environs, and the pedestrian experience at ground level.</p> <p>The massing of the proposal is inappropriate in this instance.</p>
<p>Development beyond the setbacks identified above <u>must</u> not exceed a height of 60 metres.</p> <p>A permit <u>may not be granted</u> to construct a building or construct or carry out works which are not in accordance with this requirement unless allowed by Clause 2.3 of this schedule.</p>	<p>Not Achieved</p> <p>The tower proposes a maximum height of 58.81m (60.86m AHD) to the rooftop level and a maximum height of 64.00m (66.05m AHD) to the Roof top screen.</p> <p>Within Sub-Precinct 2, a permit may be granted to allow architectural features such as domes, towers, masts and building services that do not exceed the maximum height by more than 4 metres and do not exceed 10% of the gross floor area of the top building level or 50 square metres (whichever is the greater). (No gross floor area limit applies to the installation of solar panels.)</p> <p>It is considered that the top of the roof screen plant is not an architectural feature and does not benefit</p>

	<p>from the exemption provided for the following reasons:</p> <ul style="list-style-type: none"> The lighting halo and digital screen is a skin or accessory that can be removed and will not compromise the proposed tower by way of form or function. <p>It is also noted that the top floor does not meet the requirement of not exceeding 10% of the gross floor area of the top building level or 50 square metres (whichever is the greater).</p> <p>Although the design detail lacks insufficient justification to maximize the potential development yield by ignoring the ground and upper level setback requirements, building height and setback requirements on an island site, the test to vary the mandatory requirements have not been met.</p>
<p>Building facades should follow the alignment of the street frontage to follow the distinctive curvilinear street pattern.</p>	<p>Architectural plans and renders detail a distinctive curvilinear façade supplemented by a simple and limited pallet, with perfectly curved corners. As advised fully glazed faces as a critical component of the building's formal and material expression.</p> <p>We are not convinced that this effect will be translated within the built outcome but is more likely to end up with faceted flat planes of glass, an entirely different visual result.</p> <p>We recommend a requirement that the expression depicted in the renders must be realised in the ultimate building.</p>
<p>Development should maintain the existing levels of solar access to the southern footpaths of Bank and Park Streets when measured between 10am and 2pm at the Equinox.</p>	<p>Not applicable No shadow impact to Bank and Park Street.</p>
<p>Development should not overshadow the adjoining dwellings in residential areas south west of Kings Way and comply with the objectives of Clause 55.04-5 - Overshadowing.</p>	<p>Not applicable Shadow impacts are confined to the mixed-use building at 308-310 Kings Way South Melbourne.</p>
<p>Development should reinforce the fine grain pattern of the Sub-Precinct.</p>	<p>Not achieved</p> <p>The applicant submits that the development presents a fine grain pattern due to its small lot size and irregular shape.</p> <p>However, this is not supported by the design response that includes 60 metres/17 storeys of cantilevered floors above the ground floor and mezzanine level with zero setbacks, resulting in a building that despite its small size, maximises its volumetric density with a design response that provides no justification for the extent of departure from the design requirements.</p>
<p>Large redevelopment and proposals that consolidate smaller sites should incorporate through-block pedestrian links and express the historic fine grain subdivision into their design.</p>	<p>Not applicable</p>

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- 13.33 The proposal fails to meet the design objectives as outlined above. The absence of setbacks at the upper levels combined with excessive heights exacerbates the hard-inactivated edge to Kings Way eroding the key design objective and intent of the DDO by disallowing sufficient landscaped setbacks and overwhelming the human scale for pedestrians when on either the frontage or side streets. This is further supported in *100 Park St Pty Ltd v Port Phillip CC [2018] VCAT P1958/2017* where Tribunal Members outline the following from paragraph 44;

“As a consequence of the building’s intrusion into the specified setbacks, these design objectives fail to be achieved to an acceptable degree. Rather than a staggered form, with the associated landscape setback, the building will have the appearance of largely sheer glazed elevations ‘sleeved’ by the more solid forms associated with the projecting balconies. While we accept that the curved and staggered balcony forms add visual interest, they also add to the impression of a continuous vertical form that steps forward rather than back.

We agree with the Council that the landscape setback will appear subservient to the projecting built form, and that the overhanging balconies have the effect of diluting the intent of the landscape setting. We are concerned that the end result will not achieve the intended outcome of consistent landscape setbacks.

As a result, we find that the building will have an undue prominence within its context and will not contribute to the achievement of the vision for Kings Way as a thoroughfare with defined landscaped setbacks as edges and with podium forms. A more moderated response, with greater reference to the built form requirements of DDO26 in respect to setbacks, is necessary”.

- 13.34 The relevant precinct-wide objectives of the DDO26 include:

General

- *To provide for the future development of the St Kilda Road North Precinct, as a Precinct integrated with its urban and landscape surrounds.*
- *To ensure development is environmentally sustainable.*
- *To ensure development does not dominate or obstruct view corridors to key landmark and civic buildings, including the Shrine of Remembrance.*
- *To encourage building design that minimises adverse amenity impacts upon residential properties, Albert Park Reserve, the Shrine of Remembrance and other open space, streets and public places in the area as a result of overshadowing, wind tunnelling or visual bulk.*

- 13.35 Shrine **Setting**

To protect the Shrine of Remembrance as a significant historic and cultural landmark and place of reverence by:

- *Maintaining the scale of development within its setting and backdrop.*
- *Preserving important views and vistas to and from the Shrine.*
- *Ensuring that external building materials and finishes are selected to minimise solar reflectivity and glare impacts, particularly on ANZAC Day and Remembrance Day.*
- *Ensuring that signs do not adversely affect the significance of the Shrine of Remembrance as a place providing contemplation and reflection.*

The proposal was referred to the Shrine of Remembrance Trustees. No response has been provided, notwithstanding, it is contemplated that the application will not impact upon the Shrine, or its setting. The objective has been met.

- 13.36 City Beautiful

- *To enhance the role of Kings Way as an important commercial precinct and gateway to the municipality and the central city area, by improving the quality of the built form and landscaping.*

To reinforce the sites strategic role in this precinct and improve the quality of the built form and landscaping for any proposed building on this unique 'island' site requires a high-quality built form, consistent landscaped setbacks, and human scale to provide visual interest and activity at street level.

The proposal will need to ensure the sub-precinct objectives are met, particularly where variations provide room for a specific integrated design to the site's context. Having regard to this, it is considered that even where variations are sought, the proposal fails to meet the objectives, for reasons further discussed below in this report.

13.37 Landscape **Setting**

To develop a high-quality landscape setting which enhances the key view corridors and public realm of:

- *Albert Road, Bowen Crescent and Kings Way, between Domain/St Kilda Road and Albert Park Lake Reserve.*

Given the sites unique features, a treed landscape response is not expected, however, the failure to provide the minimum 3 metre landscape setback is not sufficient to contribute to enhancing the key view corridors or public realm as sought by policy. This objective has therefore not been met.

13.38 **Streets for People**

- *To ensure new development enhances the public realm and contributes to a network of pedestrian friendly streets*
- *To create an active, high quality pedestrian environment at street level.*

The proposal does not incorporate a podium design and the varied response proposed fails to create and reinforce a 'human scale' to provide visual interest and activity for the pedestrian at street level along Kings Way.

- Objective not met. See table

13.39 Private Amenity **and Outlook**

- *To ensure development does not unreasonably impact on the amenity of adjoining residential areas.*

It is considered that the proposal does not unreasonably impact on the amenity of adjoining residential areas and does not unreasonably overshadow adjoining residential properties south/west of Kings Way.

13.40 An assessment of the precinct-wide general requirements is contained below (relevant to this application).

2.0 Buildings and works	
2.1 General Requirements	
Design Quality	
New developments should achieve urban design and architectural excellence.	Not achieved The site does not include St Kilda Road, Albert Road or a Queens Road frontage. The site shares two corners with Kings Way and proposes a tower typology.
Developments on corner sites with a St Kilda Road, Albert Road, Kings Way or Queens Road frontage or abuttal should not express the side street podium requirement to those roads.	

<ul style="list-style-type: none"> • Where a podium / tower typology is not proposed for a corner site, a high quality architectural response is required which achieves an appropriate transition to podium / setback requirements on adjoining sites, including through building articulation/massing, building materials, finishes and design detail. 	<p>The proposal does not attempt to transition to development, existing and under construction, to any of its immediate interfaces beyond Kings Place and Cobden Street.</p> <p>The proposal would not achieve design excellence by virtue of its failure to provide a site responsive design and Council's Urban Designer has raised concerns regarding the realisation of key design elements such as the curved nature of the façade.</p>
<ul style="list-style-type: none"> • Developments on large sites should minimise building bulk and promote vertical articulation in their design. 	<p><i>"The drawings and renders show a sheer glass curtain wall, teal silver colour with teal silver opaque spandrels. The renders and plans depict the corners with perfectly curved, fully glazed faces as a critical component of the building's formal and material expression. We are not convinced that this effect will be translated within the built outcome but is more likely to end up with faceted flat planes of glass, an entirely different visual result. We recommend a requirement that the expression depicted in the renders must be realised in the ultimate building."</i></p> <p>A 2-metre ground floor setback and a 700-millimetre setback partially to Cobden Street and Kings Place, will result in levels 1-17 cantilevering above the ground floor that erodes the policy intention of providing a response that is of a human scale.</p> <p>The overall height and scale of the building will be commensurate with the larger buildings in the area, despite significant difference in site area and context.</p>

Separation Distances / Side and Rear Setbacks	
<p>For Sub-Precincts 1, 2, 3 and for properties in Sub-Precinct 4 without a primary frontage to St Kilda Road:</p> <ul style="list-style-type: none"> • Development above the podium height (including balconies) should be set back a minimum of 4.5 metres from common side and rear boundaries and at least 9 metres from existing towers. • Where no podium is proposed as part of the development, a setback of 4.5 metres to the common boundary should be provided. <p>A permit may not be granted to construct a building or construct or carry out works which are not in accordance with this requirement unless allowed by Clause 2.3 of this schedule.</p>	<p>Not applicable</p> <p>As the subject site is an 'island site', the only common boundary is shared to a parcel of Crown land. The site therefore does not share any common side or rear boundaries.</p>
<p>For all Sub-Precincts:</p> <p>Additional side and rear setbacks and/or separation distances may be required to ensure buildings are designed and spaced to:</p> <ul style="list-style-type: none"> • Respect the existing urban character and pattern of development. • Equitably distribute access to an outlook, daylight and achieve privacy from primary living areas for both existing and proposed development. 	

<ul style="list-style-type: none"> • Achieve sky views between towers, ensure adequate sun penetration to street level and mitigate wind effects. • Avoid windows of primary living areas and balconies that directly facing one another. • Maintain the equitable development potential of adjoining lots. 	
Landscaped Setbacks	
<p>Frontages along St Kilda Road and Queens Road should be retained as open space for substantial landscaping and pedestrian activity:</p> <ul style="list-style-type: none"> • St Kilda Road frontages should function as a forecourt for public, private and communal use. Public seating areas should be provided in these forecourts. • Queens Road frontages should be designed to provide substantial landscaping, including, where appropriate, large scale canopy trees. 	<p>Not applicable</p> <p>The site is not on St Kilda Road or Queens Road.</p>
<p>Clear sightlines should be provided from the footpath to the building façade to increase perceptions of pedestrian safety.</p>	<p>Not achieved</p> <p>Please refer to matters relating to traffic and access at Section 11 and 13 of this report.</p>
<p>Water sensitive urban design treatments should be incorporated into frontage design to manage and reduce stormwater runoff.</p>	<p>Not achieved</p> <p>Please refer to matters relating to ESD and WSUD at Section 13.63 of this report of this report.</p>
<p>Exhaust stacks from underground car parks should be located away from main pedestrian areas and incorporated into the building design or adequately screened.</p>	<p>Achieved in part</p> <p>The application proposes to incorporate exhaust stacks / grills within the 2m landscaped setback to Kings Way. These elements are suitably screened if the landscaping in this area can suitably establish noting the southern orientation coupled with windy and polluted environment in this area will need require a resilient vegetation response to this environ.</p>
<p>Grade differences between the ground floor level and natural ground level should be kept to a minimum.</p>	<p>Not achieved</p> <p>The required finished floor level would be 0.95m above the natural ground level. The level difference to the street is proposed to be managed by a plinth and planter box arrangement to the site perimeter but for the pedestrian entry via a single revolving door. The entry is provided from the highest part of the land and level differences to the minimum finished floor levels required by Melbourne Water are proposed to be negotiated by stairs and a platform lift for people using mobility aids. The revolving door will not be suitable for people with mobility aids and so a by-pass door should be provided alongside / amended to an accessible design response which provides a sense of address and is clearly legible within the street scene.</p> <p>There would also be conflict between the DDA lift and the stairwell door. The level of circulation space in the lobby area and clear lines of sight</p>
<p>Where level differences cannot be avoided (for example, due to the Special Building Overlay), stairs, terraces, disabled access ramps should be designed to not visually dominate the frontage setback space or significantly reduce the area for landscaping.</p>	

	<p>to the lift core do not assist with wayfinding within the ground floor layout.</p> <p>The delivery of the significant public realm works detailed in the architectural plans and landscaping package would provide an opportunity to minimise the required level differences external to the site but as such works have not been committed to, the substantive requirement is to assess the use of plinth and mechanical measures to the vehicular ramp is not ideal.</p> <p>Managing level differences and providing well activated frontages are inherently difficult, acknowledging this is further constrained by the need to respond to three site frontages however the measures adopted are considered to unreasonably compromise the street activation.</p> <p>Activation of the ground floor is minimal confined to the Kings Place frontage with the entry and lift lobby and a bookable meeting room. The Kings Way frontage is effectively blank with a slatted screen concealing the driveway and car lift as is Cobden Place with the garage entry and service booster cupboards.</p> <p>The necessary servicing at upper floor levels also limits opportunities for activation to occur from upper floor levels that would be appreciated from the street.</p> <p>The proposed planting around the base of the building may also obscure internal activity from the public realm.</p>
Street Wall / Podium Level	
<p>The design of podiums should create a 'human scale' providing visual interest and activity for pedestrians at the street edge, ameliorate wind effects and provide access to sunlight and sky views.</p>	<p>Not achieved</p> <p>The proposal seeks to maximise the potential development yield by ignoring the ground and upper level setback requirements, building beyond the mandatory maximum height at the top of the façade of 60m.</p> <p>The built form is considered to overwhelm and dominate the public realm rather than facilitate a human scale to provide or provide visual interest and activity at street level.</p> <p>In this case a podium level building height is considered consistent with the DDO requirements for human scale with the lower building height expected to achieve more comfortable ground level wind conditions.</p> <p>Also refer to above.</p>
<p>The design of buildings should reinforce the pattern of the street by aligning their façade with the curvature of the street frontage.</p>	<p>Achieved in part</p> <p>The proposed triangular floorplate and curved corner undeniably respond to the profile of the site (inclusive of the eastern portion of crown land) however as discussed above, Council's Urban Designers have expressed concerns regarding the delivery of the curved glazed curtain wall.</p> <p>It is anticipated that the corners will be delivered as faceted, flat planes of glass rather than as</p>

	<p>illustrated with smooth 'radiused' glazing. This is expected to present a less refined or successful façade expression than promised by the illustrations and supporting text.</p> <p>Should this application be supported, a condition confirming the delivery of these elements would be critical to demonstrating compliance with this requirement,</p>
Active Frontages	
<p>New development should provide integrated community and active space at street level that contributes to a high quality public realm.</p> <p>All building frontages (except on laneways and service streets) should:</p> <ul style="list-style-type: none"> • Be orientated towards the street. • Allow for natural surveillance and a visual connection into the building through transparent windows and balconies. • Avoid blank walls, large areas of reflective services, high fences, service areas, car parks and garage doors in the podium interface areas. • Provide clear glazing to street frontages; security grills should be visually permeable and mounted internally. • Provide no or low, visually permeable front fencing 	<p>Not achieved</p> <p>Please refer to the above discussion relating to the SBO and managing level differences and consequential impacts to the street activation.</p>
<p>Design pedestrian entrances to open directly onto the street, as a key feature of the façade and at the same level as the public footpath.</p>	<p>Not achieved</p> <p>Please refer to the above discussion relating to the SBO and managing levels differences and consequential impacts to the street activation.</p>
<p>Foyer areas should have visibility to the street and be designed to encourage activity and interest both within and external to the building.</p>	
<p>New development within a commercial or mixed-use zone should provide:</p> <ul style="list-style-type: none"> • Transparent windows and entrances for at least 80 per cent of the width of the street frontage of each individual retail premises, or at least 60 per cent of the width of the street frontage of each premises for other commercial uses. • Lighting design that is incorporated to the façade to contribute to a sense of safety at night. 	<p>Not achieved</p> <p>The proposed interface to Cobden Street would not meet this requirement owing to the vehicular access and service cupboard location. An artwork in the form of bronze metal inlay on precast concrete is proposed to extend from street level to the top of the lift overrun. This is an acceptable design response to this elevation notwithstanding the overarching concerns relating to the proposed height of the built form. Further detail should be provided regarding the integrated art elements of the proposal for Council approval.</p> <p>All other elevations would be primarily treated with glazing and would meet this requirement however the sleeving of this to accommodate the minimum finished floor level necessities the provision of a planter around to soften its impact and so undermine the true delivery of an activated frontage to all other interfaces at ground floor level.</p>
Tower Design and Internal Amenity	
<p>Tower forms (above podiums) should not exceed a maximum width of 35 metres to:</p>	<p>Achieved</p>

<ul style="list-style-type: none"> • Ensure that daylight penetrates through to parts of the building and streets, and adjoining buildings. • Reduce their perceived visual bulk. • Maintain sightlines between buildings. <p>New residential development should have access to onsite communal or private open space in the form of rooftops, podiums, balconies or courtyards.</p>	<p>The site dimensions result in a maximum depth of 18m and adequate daylight access will be facilitated by three mostly glazed elevations.</p> <p>External shading or similar should be provided in line with recommendations from Council's Sustainability Officer to ensure appropriate levels of thermal comfort can be achieved.</p> <p>The rooftop level provides communal outdoor areas for recreation.</p> <p>An amended wind report demonstrating the comfort level of this area in accordance with the standard and without the 4-metre screening in the way of the LED screen would be required as this element exceeds the mandatory height requirements that cannot be varied.</p>
Building Services	
<p>Waste materials storage and services should be provided on site and should be screened from areas of high pedestrian activity.</p>	<p>Achieved in part</p> <p>Please refer to matters relating to waste management and traffic and access at Section 13.47 of this report.</p>
<p>Waste storage or service should not impede pedestrian access and should be located away from footpaths.</p>	
<p>New buildings should provide internal and on-site loading facilities and on-site service vehicle parking at the rear of buildings to minimise disruption of traffic or pedestrian access and avoid laneway congestion.</p>	
<p>Building services on rooftops should be screened to avoid detrimental noise and visual impacts on the amenity of both private and public realms.</p>	<p>Not achieved.</p> <p>The associated plant and lift overrun would be concealed with a feature pre-cast concrete wall featuring an artwork with the glazed balustrade and planted perimeter to the shared rooftop terrace behind the curtain wall façade.</p> <p>Clarification of the digital LED video screen is required including whether this is considered to represent an advertising element, whether it is to face external to the building and whether this form part of a lighting strategy to the crowning element of the building.</p> <p>Furthermore, this 'feature' is not supported to be part of the proposal's art contribution to the site. Further detail should be provided regarding the integrated art elements of the proposal for Council approval.</p>
<p>Noise attenuation measures and suppression techniques should be incorporated into developments to ensure noise does not unreasonably affect the amenity of public areas and nearby residences.</p>	<p>Not achieved</p> <p>The Acoustic Engineering Report prepared by Cogent Acoustic is lacking detail on how the proposal would mitigate against external noise sources including traffic along Kings Way.</p> <p>The report concentrates on acoustic measures required to contain noise from within the development 'leaking out'.</p> <p>It is recommended that the report be amended to consider how the internal amenity of the commercial areas will also be protected from noise sources outside the development.</p> <p>The recommendations of the Acoustic Report have not been detailed on the architectural plans.</p>

	And these, along with any recommendation of the revised report must ensure a comfortable level of internal amenity is delivered. If the proposal was supported further information would be required through any permit requirements if a permit was issued to address this particular matter.
Green roofs, roof gardens and vertical gardens should be encouraged in new or refurbished buildings. Green roofs are defined as a vegetated landscape built up from a series of layers that are installed on the roof surface as 'loose laid' sheets or modular blocks	<p>Not achieved</p> <p>Landscape works are restricted to planting in a plinth around the base of the building - 700mm wide to Kings Place and Cobden St frontages and 2m wide under croft on Kings Way frontage, and to the roof-top shared space. DDO26-2 seeks a 3m landscape setback to Kings Way which the application fails to deliver.</p> <p>The proposed planting comprises a variety of small trees, cascading and climbing plants that are all native species, some indigenous. These are considered generally appropriate for the context, but further detail should be provided to ensure that they do not overly screen the transparency of the ground floor from the public realm. Indicated soil depths and irrigation appear adequate for the successful plant growth.</p>
Vehicular Access and Car Parking	
Vehicle crossovers should be no more than 6 metres wide, with a maximum of one crossover per site.	<p>Not achieved</p> <p>Please refer to matters relating to traffic and access at Section 13.47 of this report.</p>
Vehicle ingress and egress, loading facilities and building services should not be located on frontages along St Kilda Road or Punt Road.	<p>Not applicable</p> <p>The site does not share a frontage with St Kilda or Punt Roads. It is noted that access from a Transport Zone (Schedule 2) would likely be restricted leaving only the provision of an access from Kings Place or Cobden Street as viable options.</p>
Car access ways should not visually dominate the façade of a building, and be visually permeable to retain a visual connection through the site and allow for natural surveillance.	<p>Achieved in part</p> <p>The proposed crossover from Cobden Street would occupy approximately 1/3 of the site frontage. A ramped access to a car lift would be concealed behind a roller door. The proposed car parking arrangement is designed that no pedestrian activity other than drivers would occupy this space.</p>
Car parks should be built underground or located to the rear of the site to enable active uses on the street frontage. Where car parks are built above ground, they should not front the site or be visible from St Kilda Road, Queens Road or Punt Road.	<p>Achieved</p> <p>All car parking would be provided within a car stacker arrangement within basement levels. Please refer to matters relating to traffic and access at Section 13.47 of this report.</p>
Open/at-grade car parks should not be located in front setback areas.	<p>Not applicable</p> <p>As the development is proposed to be constructed to the title boundary (including Crown land title) there is no proposed open or at-grade car parking.</p>
Pedestrian Permeability	

New development should include pedestrian links along St Kilda Road, Queens Road and areas in the Mixed Use Zone to create mid-block links and increase the permeability of the Precinct.	Not applicable Given the island profile of the site this requirement is not considered relevant to this proposal.
Development should enhance existing links/laneways by providing a mix of active and non-active frontages, appropriate to the role of the link / laneway.	Not achieved Please refer to above comments regarding activation.

- 13.41 Would the proposal result in any unreasonable amenity impacts to surrounding properties or the public realm?
- 13.42 The mixed-use zone provides for a limited number of decision guidelines related to offsite amenity impacts. One is:
- The impact of overshadowing on existing rooftop solar energy systems on dwellings on *adjoining* lots in a Mixed-Use Zone or Residential Growth Zone.
- 13.43 As detailed earlier, shadow impacts extend across Kings Way, however, they impact on a mixed-use building on the adjacent side of Kings Way and do not impact upon any existing rooftop solar energy systems.
- 13.44 Whilst third party and offsite amenity impacts to residential properties appear non-existent, when having regard to the physical and planning contexts as sought of the DDO26 that seeks high quality design – off site impacts to the public realm are required to be carefully considered on this constrained sight, to avoid detrimental noise and visual impacts on the amenity of both private and public realms.
- 13.45 A 4-metre high LED ‘screen’ is proposed above the roof line of the building. Insufficient detail has been provided to enable a full assessment of this critical element, including, light spill, glare and potential noise pollution.
- 13.46 It is unclear how this screen is to function including operating hours and lux levels and whether the external side of the screen to Kings Way is to be ‘active’.
- 13.47 In this regard the proposal fails.

Are the proposed car parking and access arrangements acceptable?

Traffic and access

- 13.48 The traffic assessment provided in the applicants traffic report details that the proposal would have a traffic generation rate of 0.38 spaces in the AM peak period and 0.43 parking spaces in the PM peak period. This would equate to 11 vehicle movements and 12 movements in the AM / PM peak respectively.
- 13.49 Council’s Traffic Engineers have reviewed the submitted traffic report and consider that the adopted traffic generation rates are low and may be higher. Nevertheless, even at the low rate that has been adopted, it would result in two vehicles queuing external to the site. Council’s Traffic Unit do not consider this to be acceptable. It does not accord with the requirements of the Australian Standard and it is not acceptable that the development needs to rely on the public road network for queueing to the development. Council’s Traffic Engineers have noted that the potential traffic issues would be further aggravated by the proposed future closing of Cobden Street where all future traffic would enter and exit the street via Kings Way. The property on the opposite side of the road proposes to have access from Cobden Street and is expected to generate 67 vehicle movements per peak hour. The queueing associated with the subject site would likely conflict with the traffic generation anticipated for the development on the opposite side of the road.
- 13.50 Council’s Traffic Engineers have also raised concerns about the position of the proposed crossing to Kings Way which is shown to be located within 5m from the intersection of Kings Way. This does not meet the requirements of Access Driveway Locations in

AS2890.1 and is not considered an appropriate design considering the nature of the site, queuing expected and location off a Primary State Arterial road.

- 13.51 As such, there is significant concerns about the potential traffic issues associated with the proposed traffic generation and access arrangement. It is therefore recommended that concerns about traffic generation and access be included as a ground of refusal.

Car Parking

- 13.52 Twenty-eight (28) parking spaces would be provided to be accommodated in a mechanical car stacker system accessed from the front of the site.
- 13.53 Pursuant to Clause 52.06, 138 parking spaces should be provided for the office (4,607 sqm net floor area). As a result, the proposal seeks approval for a reduction of 110 spaces for the office. The car parking that would be provided would be at a rate of 0.6 spaces per 100sqm of office net floor area.
- 13.54 Clause 52.06-7 states that before deciding on an application to reduce the number of car parking spaces the responsible authority must consider certain matters. An assessment of these matters is provided below:

Decision Guideline	Assessment
The Car Parking Demand Assessment.	<p>A traffic engineering assessment has been provided by the applicant.</p> <p>It does not specifically include a car parking demand assessment that addresses the requirements of Clause 52.06-7. However, it provides the following assessment in support of the reduction of car parking:</p> <ul style="list-style-type: none"> • <i>The site is located close to several sustainable transport alternatives such as tram routes, bus routes, bicycle and pedestrian facilities and car share vehicles. This will enable users of the proposed development to travel to and from the site using sustainable modes of transport and reduce the demand for car parking.</i> • <i>The generous provision of bicycle parking and end of trip facilities will encourage the use of alternative transport modes and reduce the reliance on private vehicle use.</i> • <i>Staff car parking demands are often a function of supply and in locations where on-street parking is constrained by parking restrictions, staff typically elect to utilise alternate transport modes (noting that the subject site has very good access to alternate transport modes). Accordingly, the staff car parking demand is anticipated to be limited to the level of on-site car parking provision, unless staff choose to pay for the on-street ticketed parking.</i> • <i>The short-term on-street parking restrictions will ensure any short-term visitors to the area are able to find a parking space within close proximity to the subject site even during periods of peak activity.</i> • <i>The development helps to achieve the objectives sought by Local Policy by reducing the dependence on private motor vehicles</i> • <i>The size and geometry of the site limits the ability to provide any additional car parking on-site.</i>

	<ul style="list-style-type: none"> <i>The applicant has committed to the preparation of a Green Travel Plan (GTP) for the development.</i>
Any relevant local planning policy or incorporated plan.	There are no relevant local planning policies or incorporated plans
The availability of alternative car parking in the locality of the land,	<p>There is a slew of alternative car parking available within a close proximity of the site. This consists of on-street public parking spaces (generally which feature timed and paid parking restrictions) and commercial car parks. Furthermore, there is a density of share cars located in the area which can be viewed as an alternative to traditional car parking provision.</p> <p>In this sense, there is flexible car parking arrangements in the immediate area which suit both short and long term parking demands subject to availability.</p> <p>Noting that the proposal requires a dispensation only for long term parking demands associated with the office use, occupants travel behaviours will likely reflect the availability of this alternative parking provision.</p> <p>It is generally expected that the majority of the building users will access the site from surrounding, walkable catchments.</p>
On street parking in residential zones in the locality of the land that is intended to be for residential use.	<p>The surrounding areas are heavily restricted via posted restrictions. Generally, the surrounding areas are limited to one or two hours however there are several paid parking areas which do not feature any timed restriction (those within Bank and Wells Streets).</p> <p>These parks are not generally associated with any residential area but noting the mixed use locale the site resides in there is likely some residential use of these areas.</p>
The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.	Given the small size of the site (336sqm) and the close proximity to Kings Way which carries a high volume of traffic it is difficult to provide car parking on this site, particularly with concerns about potential vehicle queuing towards Kings Way.
Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.	<p>There is not considered to be any substantial economic impacts associated with a shortfall of parking on the land. This area of Melbourne is a highly dense and active area where limited parking is typical (i.e CBD, Fishermans Bend, Richmond, Cremorne, etc) and where public transport is widely accessible.</p> <p>The proposal is not anticipated to have any economic impact associated with the parking reduction sought.</p>
The future growth and development of any nearby activity centre.	The surrounding area is equally developed and awaiting development. It is anticipated to become more dense and utilised as time progresses.
Any car parking deficiency associated with the existing use of the land.	<p>The proposal would require additional dispensations for the office use.</p> <p>Whilst adding to the existing car parking deficiency it is acknowledged that the surrounding land and public transport context has undergone significant change over the life of the building.</p>

Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.	Not applicable.
Local traffic management in the locality of the land.	Traffic management is generally undertaken by Council with arterial roads managed by VicRoads. Parking restrictions however are managed by Council for both Council assets and VicRoads assets. On-street parking has been managed by Council and features a large extent of parking restrictions.
The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas	Fewer car parking spaces is anticipated to be associated with fewer car movements. This is a positive outcome for the local immediate area and will improve pedestrian amenity, amenity in nearby residential areas (despite there being limited purely residential areas surrounding the site) and will reduce traffic impacts and congestion.
The need to create safe, functional and attractive parking areas.	The proposal would locate access to Cobden Street and provide all parking within a basement level. This is considered acceptable.
Access to or provision of alternative transport modes to and from the land.	The site benefits to a large array of alternatives to the private vehicle. There is a significant volume of tram services operating in the immediate area, a significant extent of dedicated cycling infrastructure, high quality pedestrian infrastructure, all providing access to the hub of the public transport system contained within the Melbourne CBD.
The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.	Historically, no businesses in the surrounding area have made financial contributions to offset parking reductions. Many do however benefit from previous parking reductions.
The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.	Reducing car parking provision will have limited impact on urban design outcomes
Any other matter specified in a schedule to the Parking Overlay	Not applicable.
Any other relevant consideration	Not applicable.

13.55 In addition to the assessment above, it is noted that three recent VCAT decisions have supported significant reduction of car parking for office development on other nearby sites in South Melbourne. These decisions are for the following:

Address	Application Number / VCAT Reference No	Proposal	Car parking reduction sought	Proposed Office Car parking rate
34-40 Eastern Road South Melbourne	46/2020 / P1293/2020	Eight storey mixed use building with two basement levels of carparking, comprising offices and food and	90 spaces	0.87 spaces per 100sqm

		drink premises at the ground level		
9-11 Palmerston Crescent, South Melbourne	74/2020 / P1829/2020	19 storey (including the mezzanine level) office building above a single basement level	122 spaces	0.46 spaces per 100sqm
412 St Kilda Road, Melbourne	193/2020 / P1458/2020	Alterations and additions to an existing office building including extending two existing roof levels.	117 spaces	0.34 spaces per 100sqm

13.56 In these three decisions, VCAT supported the reduction in car parking for several reasons including:

- *The sites location proximate to public transport which provide alternatives to private vehicle use*
- *State policy strongly favouring the trend towards low or zero provision for office parking provision*
- *Changes to car use for offices in recent years with the introduction of ride share and car share services*
- *The oversupply of bicycle spaces and end of trip facilities to offset the reliance of private motor vehicles.*

13.57 As detailed in the assessment of this proposal against the decision guidelines in 52.06-7, these same reasons are applicable in the assessment of car parking for the subject application. In addition, the subject site is compromised by its small size and its location adjacent to Kings Way with potential vehicle queuing concerns towards Kings Way.

13.58 Based on the assessment above and the recent VCAT decisions for car parking for similar office development, the parking reduction that is being sought is therefore considered acceptable and consistent with both State and Local planning policy that seeks to encourage public and active transport modes as an alternative to the private vehicle.

Accessing and Manoeuvring

13.59 An assessment of the access to the site has already been detailed above where concerns have been raised about the impact of traffic generation and the location of the new vehicle crossing. In addition, Council's Traffic Unit have raised concerns about the lack of sight triangles and the size of the car parking spaces where B99 vehicles cannot be accommodated by the parking system. It is noted that while the swept path analysis demonstrated B99 vehicles can access the site, B99 vehicles will not be able to park within the site. This limits the usability of the parking spaces and is considered a poor design outcome. It has been recommended the site can cater for B99 vehicles. It is recommended that the concerns about the lack of sight triangles and sufficiently sized car parking spaces be included as a ground of refusal.

Loading and Waste collection

13.60 No on site loading bay or waste collection would be provided for the development. The submitted plans show that a loading zone would be provided on Cobden Street near the proposed vehicle accessway. Comments have been provided from Council's Traffic Engineers that the proposed loading space would require the removal of existing car

parking in Cobden Street. Councils Traffic and Parking Engineers do not support the proposed loading space in Cobden Street where comments have been provided that On-street parking is a public resource and is not intended to cater for any one use only. Removing a public resource from the community is not considered appropriate especially in response to a lack of appropriate facilities on-site. Given the size of the office floor area it is considered that some provision should be provided for loading for the development. The lack of on site loading facilities and waste collection is therefore recommended to be included as a ground of refusal.

Bicycle Facilities

- 13.61 Twenty five (25) bicycle parking spaces would be provided which accords with the requirements of Clause 52.34. Given that the number of bicycle parking spaces accords with the planning scheme the number of bicycle facilities provided is considered acceptable.
- 13.62 The plans show that a designated bike lift is provided which would access the bicycle parking area on basement level 2. the plans do not show that the bicycle lift is accessible from the ground floor.
- 13.63 This would appear to be a drafting issue on the plans. As such, it is not considered necessary to include as a ground of refusal but should be noted that this will need to be resolved through conditions should a permit be issued.

Sustainable Design and Water Sensitive Urban Design

- 13.64 Council's Sustainable Design Officer have advised that the proposal fails to demonstrate an acceptable outcome for ESD.
- 13.65 It has been advised that for a development of this size, the proposal should meet a 70% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS to demonstrate excellence in sustainable design, and improvements will need to be made.
- 13.66 It has also been advised that the heating, cooling, hot water and lighting loads entered in BESS are different to the JV3 results in Appendix B and are required to be amended to reflect modelling results.
- 13.67 JV3 results are also showing that proposed building fabric is of a poor performance and that the building design is reliant on the solar PV system to meet NCC energy efficiency minimum requirements. Energy efficiency commitments need to be improved.
- 13.68 External shading to prevent glare and overheating is required and could be provided in the form of external operable awnings, louvers, sliding shutters, venetian or roller blinds.
- 13.69 It is acknowledged that top floor outdoor areas appear to have minimal protection from the elements. Consider shading elements to make it useable space in cold and hot weather.
- 13.70 Having regard to the size and location of rainwater tanks must be provided on the proposed floor plans with a notation to indicate tank connection to toilets, include connection to bin wash taps and a maintenance manual for water sensitive urban design initiatives.
- 13.71 The manual must set out future operational and maintenance arrangements for all WSUD measures appropriate to a complex project of this scale, including inspection frequency, cleanout procedures and as installed design details/diagrams including a sketch of how the system operates. This manual needs to be incorporated into any Building Maintenance Guide.

14. INTEGRATED DECISION MAKING AND CONCLUSION

- 14.1 Clause 71.02 of the planning scheme requires the decision-maker to integrate the range of policies relevant to the issues to be determined and balance the positive and negative

environmental, social and economic impacts of the proposal in favour of net community benefit and sustainable development. When considering net community benefit, fair and orderly planning is key; the interests of present and future Victorians must be balanced; and, the test is one of acceptability.

The proposal would result in several positive, neutral and negative impacts, which are outlined below:

Positive

- The *proposal* is considered to have strategic support from the Planning Scheme, which has a consistent theme to facilitate opportunities for urban renewal and opportunities to provide and for residential, commercial, retail, industrial, recreational, institutional, and other community uses
- The proposal would achieve the purpose of the zone by way of providing a commercial use which would support the locality (environmental, economic and social).

Neutral

- Carparking rates are considered to be acceptable, balancing considerations of promoting sustainable transport (encouraging a modal shift towards using public transport, *cycling* and walking).

Negative

- *The proposal would create a building that is inconsistent to the height sought for buildings in precinct 2 of the DDO26 (environmental, economic and social).*
- *Traffic, safety and circulation impacts are significant (economic and social).*
- *The proposal is considered to not satisfy the requirements of DDO26 (environmental, economic and social).*
- *Off-site amenity impacts are not avoided (environmental and social).*

15. OFFICER DIRECT OR INDIRECT INTEREST

- 15.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

16. OPTIONS

- 16.1 Refuse as recommended.
- 16.2 Approve with changed or additional conditions
- 16.3 Refuse - on key issues.

17. CONCLUSION – REFUSAL

- 17.1 Whilst the site is strategically located for an increase in commercial yield than what currently exists on site, concerns are raised with a number of aspects of the proposal including:
- *The protrusions into the landscape setbacks at the ground and upper level would not meet the precinct wide and sub-precinct objectives of the DDO.*
 - *The lack of upper level setback to Kings Place and Cobden Street would not meet the precinct wide and sub-precinct objectives of the DDO.*
 - *The proposed height would be excessive given the limited site constraints and would be an overdevelopment of the site and would not meet the precinct wide and sub-precinct objectives of the DDO.*

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- *An insufficient urban design response and architectural excellence.*
 - *The development would not meet the access requirements and would generate unacceptable queuing, circulation and traffic safety impacts to Kings Way and the sites local traffic network and immediate area.*
 - *The creation of a newly proposed on street loading bay for the exclusive use of the development that is currently a public resource.*

 - *Unsatisfactory Environmentally Sustainable Design (ESD) and (Water sensitive urban design) WSUD response.*

17.2 It is therefore considered that the development as proposed is not acceptable and cannot be supported in its current form.

ATTACHMENTS

- 1. Site Location**
- 2. Site Photographs**
- 3. Floor Plans**
- 4. Elevations**
- 5. Overshadowing Diagrams**
- 6. Renders**
- 7. Internal Referral Responses**