



15 May 2012

Our Ref: RC/LR 11134

Joint Regional Planning Panels  
Panel Secretariat  
22-33 Bridge St  
SYDNEY NSW 2000

Dear JRPP Sydney East Members,

**re: No. 36-38 Victoria Street, Burwood – DA 12/2012; JRPP No. 2012 SYE022**

We write on behalf of P & N Group Holdings Pty Ltd (“the Applicant”) in relation to JRPP No. 2012 SYE022, which concerns No’s 36-38 Victoria Street, Burwood. This DA is to be considered by the JRPP Sydney East at its meeting on 17 May 2012.

The JRPP has before it an assessment report prepared by planners at Burwood Council. Although the assessment report finds that the proposal is reasonable and appropriate in terms of its height, bulk, scale, FSR, urban design, landscaping, traffic generation, open space, relationship to surrounding properties, overshadowing, amenity and appearance, being highly compliant when considered in the light of the many relevant controls, it recommends refusal of the proposal solely because the proposal does not provide a north-south public pedestrian link which the assessment report states is required by Burwood Development Control Plan Part 36 applying to the Burwood Town Centre (“the DCP”).

We wish to bring the following matters to the attention of the JRPP.

**1. The need for a pedestrian link was not identified in the pre-DA meeting**

The proposal was the subject of a pre-DA meeting with Council officers. At the pre-DA meeting, Section 4.1.4 of the DCP was discussed. The objectives of Section 4.1.4 of the DCP are:-

- “O1 To improve the pedestrian network in the Town Centre by providing well-located, safe and active pedestrian links between existing streets.*
- O2 To increase the permeability of the pedestrian network by providing pedestrian links through private development.”*

The pedestrian links are illustrated on Figure 4.1.4 of the DCP (Figure 4.1.4 is reproduced in Figure 1 attached to this correspondence). Figure 4.1.4 needs to be considered in the following context:-

- a pedestrian link between Deane Street and Victoria Street East would primarily provide a link between environs of the railway line and Westfield Burwood;
- however, this proposed link would not be particularly useful as there is no entrance to Burwood Station from Deane Street, the entrance being in Burwood Road and there is no entry to Westfield Burwood opposite the northern end of the proposed link; and
- a recently refurbished building, No. 9 Deane Street, obstructs the southern end of the proposed link between George and Deane Streets, meaning that this end of the proposed link is unlikely to ever be provided.

Scaled off the DCP diagram (see Figure 1), the proposed public pedestrian link between Deane Street and Victoria Street East is 12.0 metres wide. All the other proposed pedestrian links on the DCP Map also scale off at 12.0 metre width. However, the DCP states that the link only needs to be 4.5 – 6.0 metres wide.

At the pre-DA meeting, it was pointed out to the Council officers present that there was an existing Right of Way (“ROW”) over the land to the west of the subject site (Lot 21 in DP 557970, known as No. 40 Victoria Street). The ROW runs along the eastern boundary of that land and is 23 feet wide (approximately 7.01 metres). This ROW favours Lot 22 in DP 557970, known as No. 132 Burwood Road. Figure 4.1.4 in the DCP (see Figure 1 attached) shows the pedestrian link predominantly within the ROW. Photograph 1 in Figure 5 shows the ROW.

If, as is clearly intended, the proposed public pedestrian link needs to run adjacent to the western boundary of No. 29 George Street, being the property to the south of the subject site, then if that link was to run in a straight line (which the DCP also clearly intends) and if it were to be 4.5 – 6.0 metres wide, it would not impact on the subject site (see Figures 3 and 4A).

The westernmost strip of No. 29 George Street is currently used for car parking purposes associated with the church on that land. The absence of any existing building on the westernmost part of No. 29 George Street, provides confirmation of the DCP intention that the pedestrian link be provided in this location.

It is particularly relevant to note that the western boundary of No. 29 George Street is offset, by around 6.0 metres (by survey) from the western boundary of the subject site, which coincides with the minimum unobstructed width required by the DCP for a pedestrian link (see Figure 4B). In other words, a 6.0 metre wide pedestrian link over the westernmost part of No. 29 George Street would align (directly) with the right-of-way over Lot 21 in DP 557970 immediately to the west of the site and would not impact at all on the subject site (see Figure 4C).

No view was expressed by Council officers at the pre-DA meeting that the subject site had to accommodate a pedestrian link. Indeed, nothing further was said on the matter after the above observations on the adjoining sites were made.

**2. The need for a pedestrian link was not identified in Council's written pre-DA advice**

Council's written pre-DA advice, dated 21 November 2011 (see Attachment 1), made no mention of the need to provide a pedestrian link through the site. The DA was lodged accordingly.

The whole purpose of the pre-DA process is to raise significant issues to be addressed by the Applicant. The Council's assessment report, which recommends refusal of the DA solely because of the absence of a pedestrian link across the site, needs to be viewed in this context.

**3. Clarification that no public pedestrian link is proposed**

Following the lodgement of the DA, Council officers, by letter dated 26 March 2012, raised various issues to be addressed by the Applicant. Item 2 of that letter stated as follows:-

**"2. Pedestrian Link/Walkway**

*Clause 4.1.4 – Pedestrian links of DCP Part 36 are to be a minimum width of 4.5m, and where possible 6m in width. The proposal allows for a width varying between 2m and 3m, which is inadequate. Further, finished levels on the proposed pedestrian link, reveal a variation in levels with that of the adjoining property to the south. Disability access must be included to ensure access along this link."*

We then prepared a letter dated 19 April 2012, responding to the above matter as follows:-

**"2. Pedestrian Link/Walkway**

*There appears to be some confusion on this issue. The proposal does not propose a public pedestrian link within the site.*

*Please refer to Section 4.3.8.1 (pages 41 and 42) of the SEE which cross references Figure 5G which shows the Council's planned pedestrian link running adjacent to the western boundary of the site. As stated on page 42 of the SEE the proposal does not impact on this link.*

*The proposal does provide for ground level access around the southern and eastern parts of the site but that is because the Applicant has not sought to extend the podium to those boundaries. However, it does not comprise a public pedestrian thoroughfare."*

**4. The location of the pedestrian link as shown in the DCP cannot simply be shifted**

DCP No. 36 went through an extensive public notification/exhibition period in which comments were invited from the public and affected parties, prior to its adoption on 10 November 2009. We respectfully submit that the necessity to provide a pedestrian link should not be forced on the Applicant in circumstances where the link is clearly intended to be provided on, and is shown on the DCP Map as being predominantly on, adjoining land. To do so is quite inappropriate, apart from being unfair and unreasonable.

It is logical that it be provided on the site to the west as any link provided in that location would then continue in a straight line over the westernmost part of No. 29 George Street to the south (see Figures 4A, 4B and 4C). If the link is shifted eastwards, it will also have a most detrimental impact on the development potential of No. 29 George Street, and the owners of that land should similarly be afforded the opportunity to comment on any revision to the location of the link via an exhibited amendment of the DCP.

## **5. The pedestrian link should not be redirected through the site**

If it is assumed that the pedestrian link needs to follow a straight line (a reasonable assumption, given that other planned pedestrian links in the Town Centre follow a straight line), then any modification to the alignment of the pedestrian link would have a significant impact on the property to the south, because instead of being adjacent to its western boundary, the link would run through the middle of that property (see diagrams in **Attachment 2**).

It would not be appropriate to “dog-leg” the planned pedestrian walk into the site because of the various negative impacts which flow from pedestrian links which are other than direct (e.g. blind corners, lack of surveillance, etc). Any dog-leg or diversion from the direct line would be unacceptable (and clearly, less satisfactory) as it would inevitably give rise to security and public safety risks, particularly when one considers that the suite of planning controls promotes boundary-to-boundary podiums up to 15 metres high, presumably between which the public pedestrian link is intended to pass. It is difficult to foresee such a link as attractive, particularly given the level differential of around 1.7 metres between the subject site and No. 29 George Street.

## **6. There is questionable merit in the concept of this pedestrian link**

It is also difficult to see such a link as being practical, desirable, or even necessary.

The northern side of Victoria Street between Burwood Road and Shaftesbury Avenue is almost wholly occupied by Westfield Burwood Shopping Centre. There is no pedestrian entry into the shopping centre opposite the site or opposite the northern end of the public pedestrian link in the DCP. There is a pedestrian entrance into the shopping centre off the northern side of Victoria Street at a point around midway between the subject site and Burwood Road. There is no other entrance along the full length of the shopping centre along Victoria Street. Combine with this the absence of any pedestrian access to the station off Deane Street at the southern end of the proposed pedestrian link (let alone the presence of No. 9 Deane Street which obstructs the southern end of the planned link) and it becomes highly questionable whether the proposed pedestrian link will have any significant utility or merit.

Furthermore, for any resident living in the residential flat buildings located either side of George Street, east of No. 29 George Street, their most direct route to Westfield is via George Street and Shaftesbury Avenue where they can enter the shopping centre at the end where the convenience retailing is located. There will be very little utility for those residents from a public pedestrian link over No. 29 George Street because it would take them to a point in Victoria Street where there is no entry into the shopping centre.

Figures 7, 8 and 9 provide walking distances for comparison purposes between already available routes and routes which would be available if the proposed pedestrian link was to

be provided between George Street and Victoria Street East. The distances on the figures demonstrate that there will be no notable reductions in walking distances between the points assessed as a consequence of the proposed pedestrian link.

**7. The whole of the pedestrian link, as shown in the DCP, cannot be realised in any event**

It is clear from the assessment report that the southern section of the public pedestrian link (i.e. between Deane Street and George Street) is not expected to eventuate. No. 9 Deane Street, occupied by the St John's Ambulance head office, has been extensively refurbished and occupies 100% of its site, leaving no prospect for the link to be accommodated on that land (see Figure 5).

**8. A pedestrian link, if forced onto the site, would have a significant impact on the proposal**

The accommodation of a pedestrian link on the western part of the site would mean the loss of considerable amount of commercial space for proposed Tenancy 3 (in order to accommodate the proposed pedestrian link) and the removal altogether of Tenancy 2 (to accommodate the relocated basement ramp).

The shift of the driveway to the eastern side boundary (which puts it adjacent to the neighbouring residential flat building – an outcome the existing scheme avoids to the benefit of those neighbours) would be clearly less desirable.

The slicing-off of the westernmost 6.0 metres of the northern tower with the resultant loss of many north-facing apartments (which would bring the residential development into non-compliance with the solar access requirements in SEPP 65), and a reduction in the activation of the street frontage because of the loss of a street-front commercial tenancy) would also be a less desirable outcome.

We respectfully submit that in the circumstances of this case, the disbenefits of a proposed pedestrian link on the subject site outweigh the very limited benefits it would provide and for that reason, the JRPP should not adopt the recommendation in the assessment report, and should instead approve the DA.

**9. The proposal properly and reasonably responds to the neighbouring development to the east**

**The DCP permits, indeed promotes, a podium up to a height of 15.0 metres to occupy the entire site.** The proposal, in contrast, is setback 3.0 metres from the eastern boundary to minimise impacts on the amenity of the residents of the neighbouring residential flat building at No. 32 Victoria Street East. In this regard, the proposal properly responds to the constraints of the site and it should not now be burdened by the imposition of a pedestrian link in a different location to that shown on and intended by the DCP map.

**10. Additional diagrammatic material**

Further diagrammatic representation of the relevant issues is provided in **Attachment 2**, which contains four sketch plans prepared by the project architect. SK01 shows the public

walkway with a straight alignment and in the location intended in the DCP (i.e. on the property to the west and along the western boundary of No. 29 George Street to the south).

However, if the pedestrian link is to be accommodated on the subject site and the pedestrian link is still to be maintained in a straight line, then the link would not be positioned adjacent to the western boundary of No. 29 George Street (to the south), but would instead be more central on that property with commensurately greater disruption to how the ground floor of any redevelopment on that property was configured (see SK02).

SK03 shows a dog-leg in the pedestrian link to accommodate the offset western boundaries of the site and No. 29 George Street. From a public pedestrian safety perspective, such a dog-leg represents a very poor design outcome.

SK04 shows the 1.8-metre change in level between No. 29 George Street and the subject site which any proposed pedestrian link needs to resolve.

## 11. Summary

In summary:-

- the DCP pedestrian link diagram shows all proposed pedestrian links within the Town Centre as being 12.0 metres wide, even though they are intended to be only 4.5 – 6.0 metres wide;
- the proposed pedestrian link in the DCP is intended to be on the land to the west of the site, being a straight line continuation of the 6.0-metre wide link over the westernmost part of No. 29 George Street to the south;
- if the link was to be shifted eastwards, it will have a most deleterious impact on 29 George Street (as it will have on the site);
- the pedestrian link should not “dog-leg” through the site;
- no requirement for a pedestrian link on the site was identified either in the pre-DA meeting or in the Council's written pre-DA advice;
- the southern end of the proposed pedestrian link cannot be provided as it is occupied by a recently refurbished office building (No. 9 Deane Street);
- even if the southern end of the proposed pedestrian link could be provided, it does not link the station with Westfield Burwood as the entrance to the station is in Burwood Road;
- the northern end of the proposed pedestrian link does not emerge opposite any pedestrian entry to Westfield Burwood, thus making the link of very limited utility; and
- no significant reductions in walking distance between destinations in Deane Street and Victoria Street would be provided by the proposed pedestrian link.

The JRPP is asked to note that the proposed pedestrian link intended by the DCP is not jeopardised by the proposal. The proposed pedestrian link is jeopardised only by the Council officer's perception of procedural difficulties in enforcing the proposed pedestrian link over the land to the west of the site. It is clearly evident from the preceding analysis that the proposed pedestrian link was always intended to run in a straight line on an alignment contiguous with the western boundary of No. 29 George Street, continuing northwards over



the Westfield site. Such an alignment for a 4.5 – 6.0 metre wide pedestrian link does not impact on the subject site. The alignment should not simply be shifted eastwards because the perceived difficulties in realising the proposed link where it should be have only now become apparent.

We respectfully request that for the reasons set out herein, the DA should be approved, in recognition of its design quality and high level of compliance, and not refused for lack of accommodation of the proposed pedestrian link, as recommended in the assessment report.

Yours faithfully,  
**BBC Consulting Planners**

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**Robert Chambers**  
**Director**

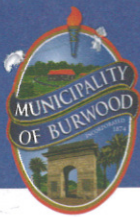
Email [bob.chambers@bbcplanners.com.au](mailto:bob.chambers@bbcplanners.com.au)



## **ATTACHMENT 1**

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P & N Sleiman Group  
C/- BBC Consulting Planners  
PO Box 438  
BROADWAY NSW 2007

PD ref.: PD2011.019  
Trim Doc: 11/43292

18 November 2009

Dear Sir/Madam

**No 36-38 Victoria Street, Burwood – PD19/2011**  
**Pre-DA Application for Mixed Development**

I refer to your pre-DA proposal for a 16 storey, mixed commercial and residential development, consisting 2 commercial levels, 14 residential levels and 4 basement car parking levels and advise as follows:

1. **Site** : The site is zoned B4 – Mixed Uses under Burwood Town Centre LEP 2010, and is located in the Middle Ring Area. The development controls under the LEP 2010 and DCP PT 36 apply. A maximum floor space ratio of 4.5:1 and maximum height of 60m apply to the property. A maximum residential floor space of 3:1 also applies.
2. **Urban Design** : Council has engaged the services of an urban design consultant to provide a preliminary assessment of the proposal. The consultant has identified a number of matters that require further consideration and amendment. An extract of the relevant portion of the report is attached for your information.
3. **Heritage** : A Heritage Impact Statement (HIS) is required to be submitted with a DA, addressing the heritage listed church and hall at No 134A Burwood Road.
4. **Traffic and Parking**
  - a. The 81 units require 84 car spaces and 14 visitor spaces – a total residential car parking portion of 98 spaces. The commercial floor space requires 16 spaces, i.e. a total of 114 space. The 114 spaces are the **minimum and maximum** to be provided with the development as identified in the DCP 36 and the 32 excess spaces are to be **deleted**.
  - b. All parking space dimensions, ramp width, grades and isle width are to comply with the Australia Standards.
  - c. No bicycle storage facilities are identified i.e. 1 bicycle space per 3 units.
  - d. Vehicle turning swept paths are required to be shown, to ensure deliver vehicles are able to enter and exit the site in a forward direction.

- e. Storage for apartments are to satisfy CI 2.3.10 of DCP No 36.
- f. Access and Mobility requirements of CI 2.3.12 of DCP No 36 are to be satisfied.
- g. Communal Open Space provision in CI 2.2.1.6 of DCP No 36 is necessary.

## **5. Assets and Design**

- a. Stormwater Draining
  - A stormwater management plan is to be prepared in accordance with Council's Stormwater Management Code and submitted with the DA
  - The property drainage is to connect to the existing Council's underground drainage system on Victoria Street in front of the property.
- b. Public Domain Improvement
  - The applicant is to provide a high quality Public Domain and streetscape improvement elements and finishes on all publicly accessible areas at its Victoria Street frontage, in accordance with Council's DCP Part No.35 and Public Works Element Manual.
- c. Damage Deposit
  - The applicant is to pay a calculated amount of damage deposit bond, to be retained by Council till the completion of the development under the DA. Should there be any damage caused to Council's assets, the money will be used to repair/rectify and restore the damages.

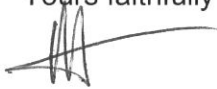
## **6. Health Services**

- a. A Waste management plan, complying with the requirements of Burwood Council's Development Control Plan No. 17, is to be submitted to Council as part of the development application. The Plan is to address waste management issues, with particular regard to the following:
  - Demolition phase
  - On site waste management during construction phase
  - Ongoing waste management when facility operation including location and size of waste storage rooms/areas.
- b. Separate storage areas are to be provided for the residential waste and recycling and the commercial waste and recycling.
- c. A separate area is to be nominated on site for the storage of large bulky items prior to collection as part of Council's clean up service.

- d. All waste and recycling collection s are to be carried out from within the site (not from kerbside). The design will need to include access for a fully loaded garbage vehicle to be able to access and service the development.
- 7. Building Code of Australia (BCA) : The development is to satisfy the requirements of the BCA and a BCA report is to be submitted with the DA.

Should you wish to discuss the above, please contact me on 9911 9871.

Yours faithfully

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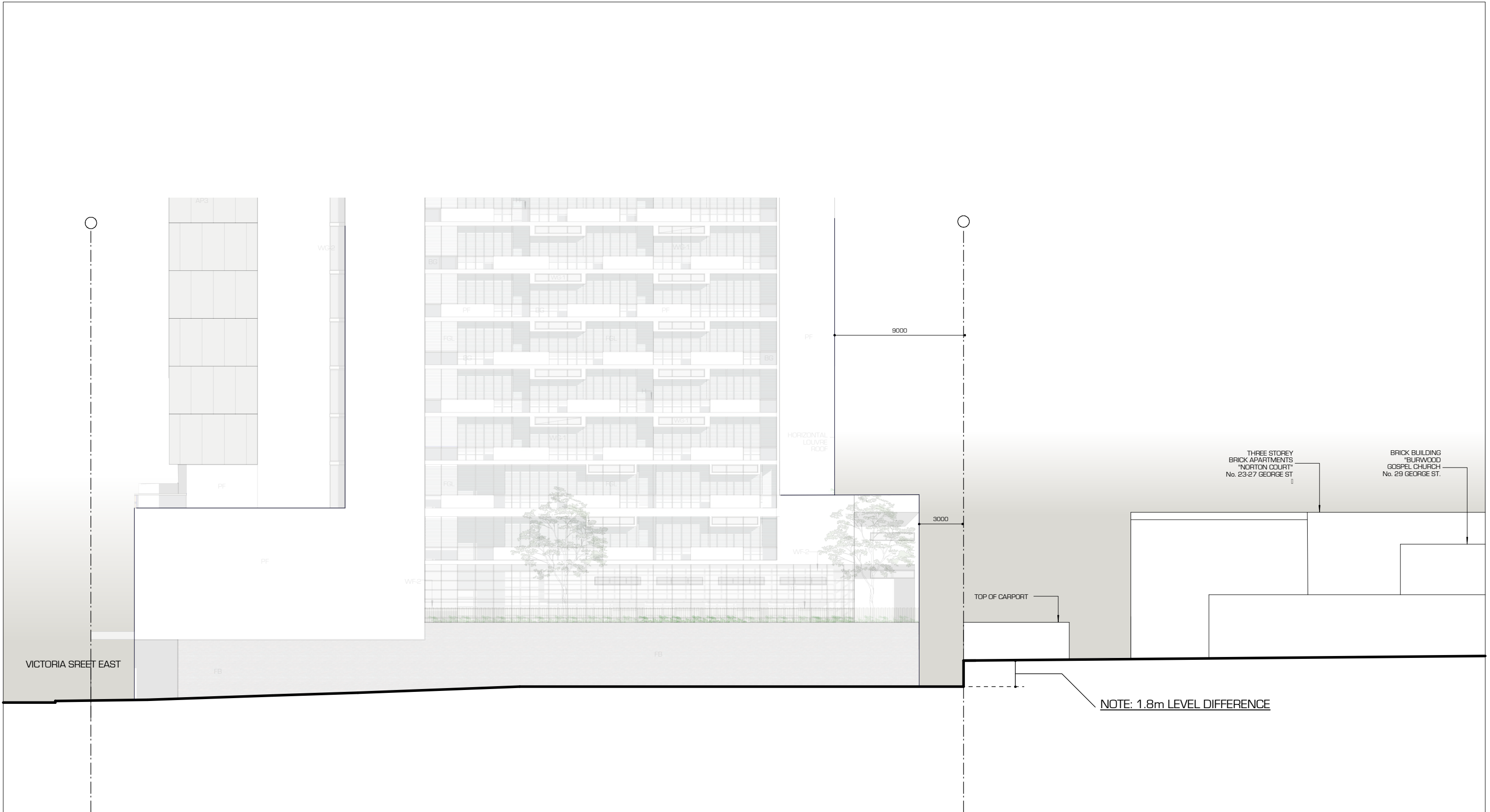
Michael Sue  
**SENIOR TOWN PLANNER**

**Encl:** Extract of Urban Design Report

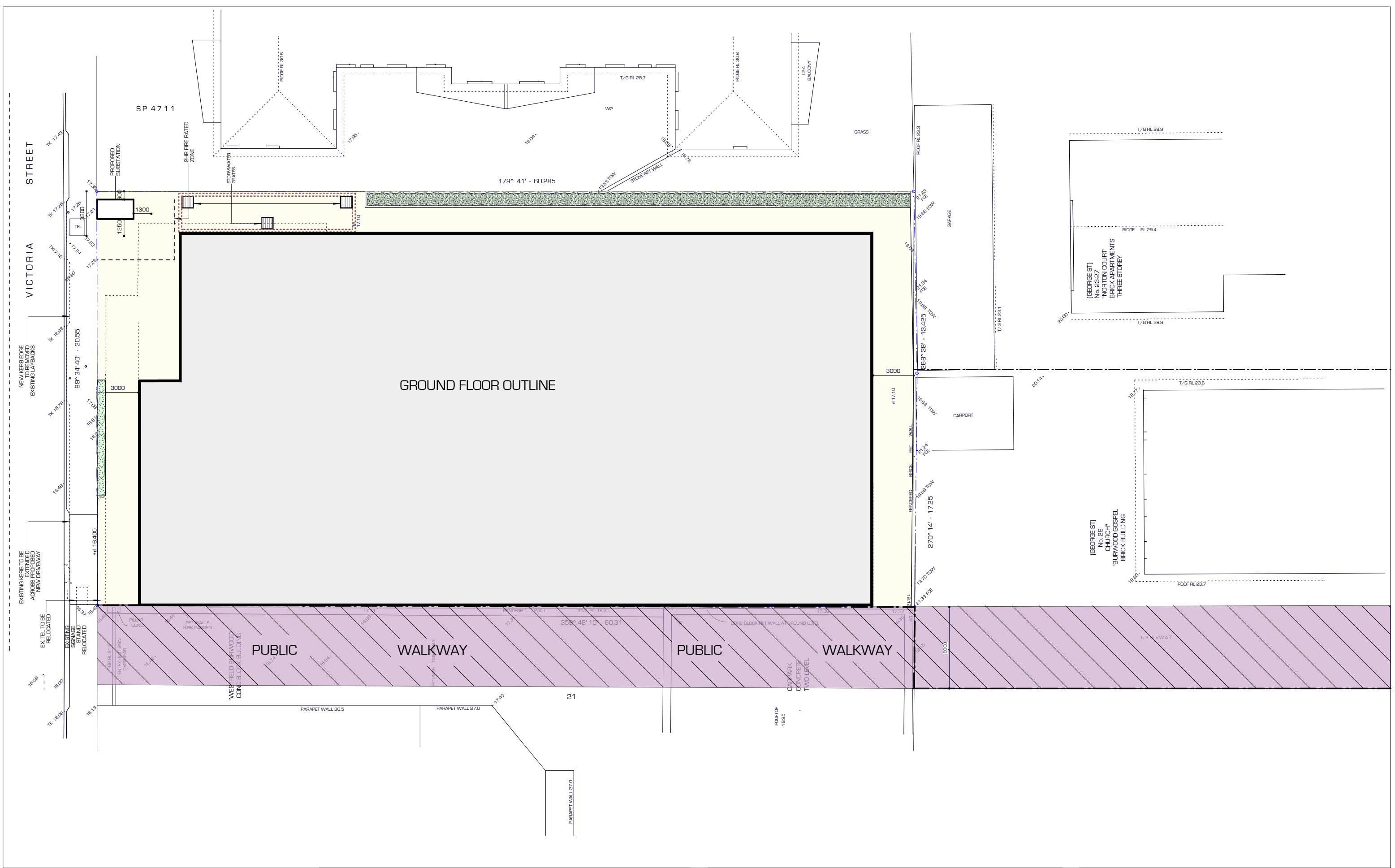


## **ATTACHMENT 2**

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# SECTION THROUGH PUBLIC WALKWAY



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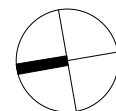
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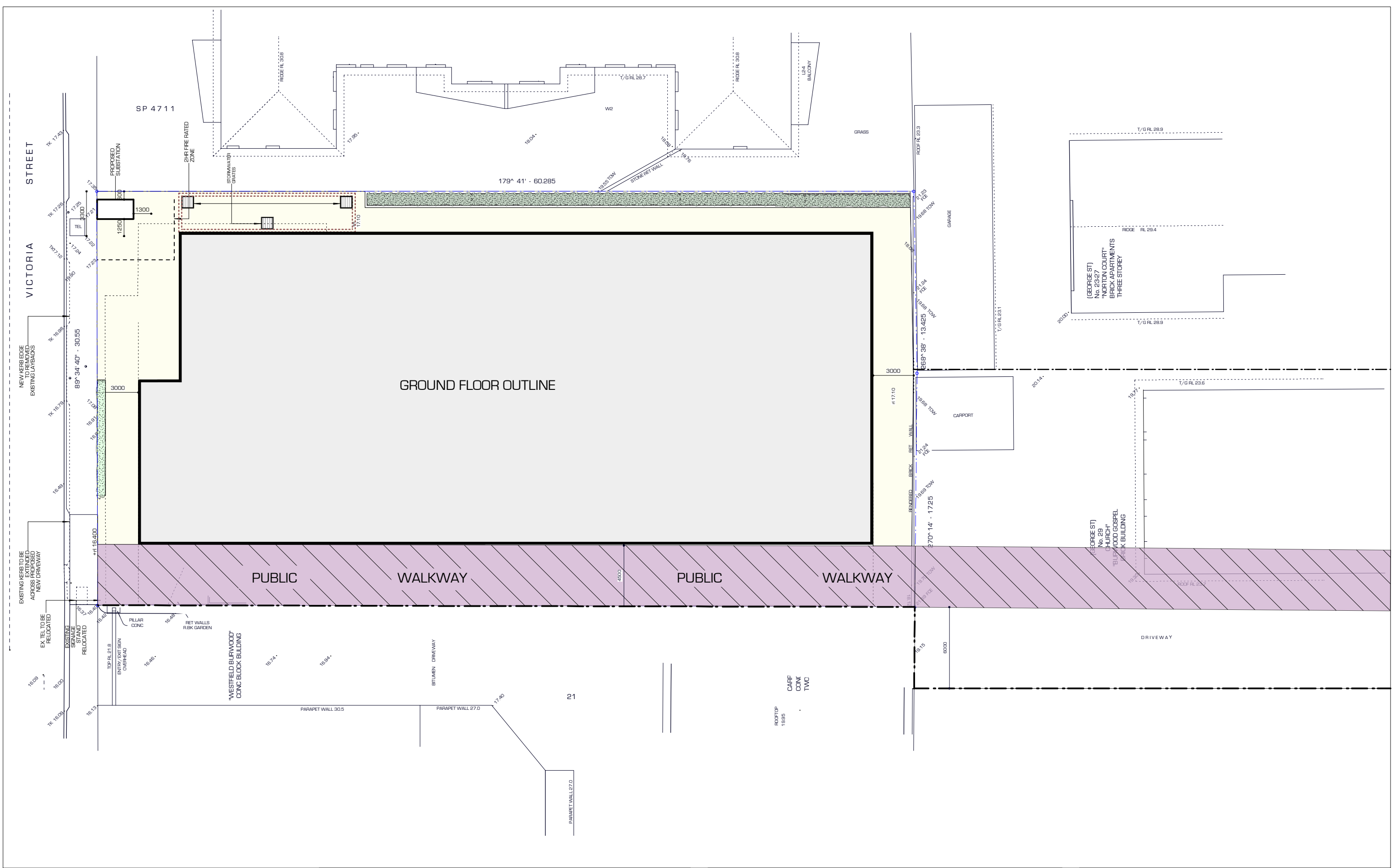
PUBLIC WALKWAY PLAN  
- PREFERRED

1112 - SK01

36-38 VICTORIA  
STREET  
BURWOOD

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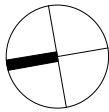
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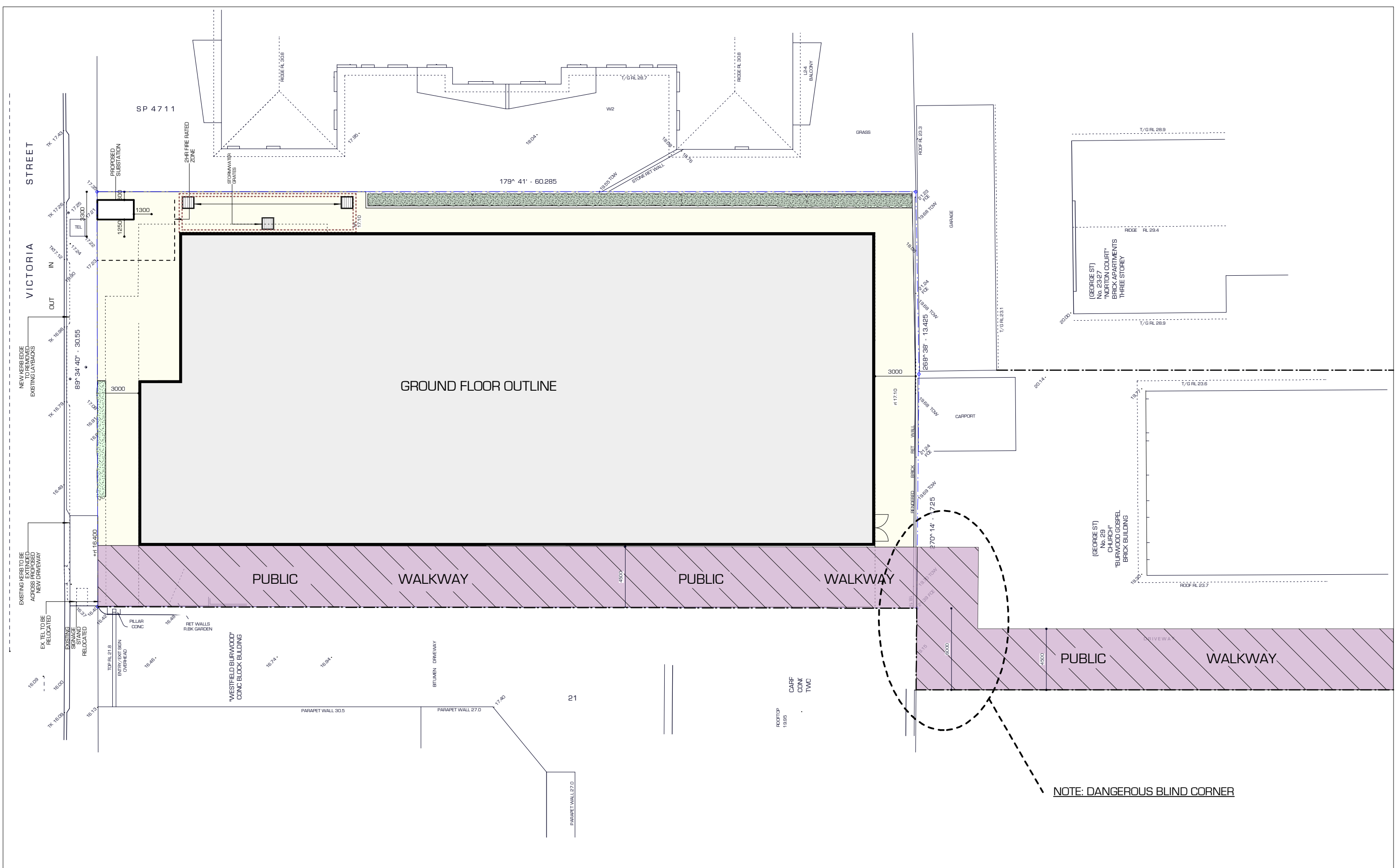
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**36-38 VICTORIA  
STREET  
BURWOOD**



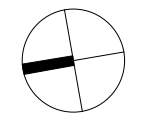
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