

Authority: Ontario Municipal Board Decision  
issued December 28, 2016 and the Local Planning  
Appeal Tribunal Order issued May 2, 2019 in Board  
File PL140111

## CITY OF TORONTO

### BY-LAW 64-2021 (LPAT)

**To amend the former City of North York By-law 7625 with respect to lands known municipally as 5799-5915 Yonge Street (Newtonbrook Plaza), and 46 and 47 Averill Crescent.**

Whereas authority is given to the Local Planning Appeal Tribunal by Sections 34 and 37 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas the Local Planning Appeal Tribunal, pursuant to its Order issued May 2, 2019, has determined to amend By-law 7625 of the former City of North York;

The Local Planning Appeal Tribunal Orders as follows:

1. Schedules "B" and "C" of By-law 7625 of the former City of North York are amended in accordance with Schedule 2 of this By-law.
2. Section 64.20-A of By-law 7625 is amended by adding the following subsection:  
64.20-A (235) RM6 (235).
3. For the lands identified on Schedules 1 and 2 of this By-law, where any provision of By-law 7625 is amended, deleted or otherwise addressed by the provisions set out below, the provisions set out in this exception will apply.

#### 4. DEFINITIONS

Notwithstanding the provisions of Section 2.0 and Section 6(27) substantial demolition provision the following definitions will apply:

- a. **Bakery** shall mean a restaurant or retail store that includes, as part of its business, the sale of food products baked on the premises directly to the public.
- b. **Bicycle Parking Space** shall mean an area used for parking or storing a bicycle.
- c. **Bicycle Room** shall mean a common indoor space located at, above or below Established Grade that is designed and equipped exclusively for the purpose of parking and securing bicycles.
- d. **Car-Share** shall mean the practice whereby a number of people share the use of one or more motor vehicles. Such car-share motor vehicles shall be made available for short term rental, including hourly rental, and shall be provided in a publicly accessible area.

- e. **Car-Share Parking Space** shall mean a parking space that is reserved and used for Car-Share purposes.
- f. **Established Grade** shall mean the geodetic elevation of 191 metres.
- g. **Full Building Permit** shall mean a permit issued under Section 8 of the *Building Code Act, 1992* following the above grade superstructure permit.
- h. **Gross Site** shall mean the lands shown within the bolded lines on Schedule 2 attached to and forming part of this By-law.
- i. **Gross Floor Area** shall mean the aggregate of the areas of all floors of a building above and below established grade, measured between the exterior faces of the exterior walls of the building or structure including any areas used as balconies, but excluding:
  - i. Any part of the building used for Mechanical Floor Area;
  - ii. Any space in a parking garage at or below grade used exclusively for motor vehicle and bicycle parking and access thereto, including loading areas;
  - iii. The floor area of unenclosed residential balconies;
  - iv. Indoor Amenity Space up to a maximum of 1.5 square metres per dwelling unit;
  - v. Floor area of a public recreational centre that is to be owned by the City;
  - vi. Floor area of a social facility;
  - vii. Floor area of street-related retail uses directly accessible off Yonge Street to a depth of 30 metres; and
  - viii. Any void space between the exterior faces of the exterior walls of the building or structure but without a floor.
- j. **Indoor Amenity Space** shall mean the indoor communal areas that are available for the exclusive use by the occupants of a building on the Net Site for recreational or social activities.
- k. **Loading Space** shall mean an area for the loading or unloading of goods or commodities from a vehicle.
- l. **Mechanical Floor Area** shall mean floor area within a building or structure used exclusively for the accommodation of mechanical equipment including but not limited to heating, ventilation, air conditioning, electrical, plumbing,

fire protection, elevator equipment, and mechanical, plumbing, ventilation and other service shafts and hoistways.

- m. **Net Site** shall mean the Gross Site minus public roads, and conveyances for road widening purposes to the City of Toronto.
- n. **Outdoor Patio** shall mean an outdoor patron area that is ancillary to a non-residential use.
- o. **Outdoor Amenity Space** shall mean outdoor communal areas that are available for the exclusive use by the occupants of a building on the Net Site for recreational or social activities, and may consist of hard or soft landscaping.
- p. **Parking Space** shall mean an area used for the parking or storing of a motor vehicle.
- q. **Public Transit Access** shall mean a continuous indoor and/or underground pedestrian walkway which is subject to a title restriction or an easement providing for public access and which would be available to connect to a public transit station should such a station be constructed with an access abutting an area of the Net Site prior to the development of such area.
- r. **Social Facility** shall mean facilities including among other uses, day care facilities, community recreation facilities and ancillary retail facilities, that are conveyed to the City or otherwise required to be managed by the City or required to be provided for community uses pursuant to an agreement with the City.
- s. **Stacked Parking Space** shall mean a **parking space** that is positioned above or below another **parking space** and is accessed only by means of an elevating device.
- t. **Substantial Demolition** shall mean the substantial destruction of the interior or exterior of a building such that the building is no longer available for safe occupancy.

Substantial destruction may include, but shall not be limited to, one or more of the following:

- i. The removal of more than 50 percent of the building's roof;
- ii. The removal of more than 50 percent of the building's exterior glazing;
- iii. The removal or permanent decommissioning of the building's heating, air conditioning, ventilation system, elevators or electrical system; and

- iv. Any other similar mechanical, engineering or structural decommissioning or demolition which would have the effect of making the building unfit for safe occupancy.

## 5. PERMITTED USES

- a. Notwithstanding the provisions of Section 20-A.1 and Section 6(22) the only permitted uses shall be as follows:

- i. ***Residential Uses***

Apartment house dwellings and accessory uses, including indoor and outdoor amenity spaces.

The gross floor area of all residential uses shall be limited to a maximum of 134,820 square metres of which up to:

- A. 66,520 square metres may be provided on Block 1;
- B. 61,200 square metres may be provided on Block 2; and
- C. 7,100 square metres may be provided on Block 3;

Each Block is identified on Schedule 1 to this By-law.

- ii. ***Non-Residential Uses***

Office Uses

- A. business and professional offices, including banks and other financial institutions;
- B. clinics;
- C. health science research laboratories;
- D. information processing centres or facilities; and
- E. professional medical offices.

- iii. ***Retail and Service Commercial Uses***

Provided that any such use is located below established grade the following retail and commercial uses shall be permitted:

- A. accessory uses;
- B. car rental agencies;
- C. car share services;

- D. car washes – provided they are fully enclosed within a building or structure;
- E. commercial parking garage;
- F. retail stores, including grocery stores, supermarkets and pharmacies;
- G. studios; and
- H. theatres.

Provided that any such use is located on the first or second floor of any building the following retail and commercial uses shall be permitted:

- I. accessory uses;
- J. art galleries;
- K. automatic teller machines;
- L. bakeries;
- M. car rental agencies;
- N. car share services;
- O. commercial galleries;
- P. dry-cleaning and laundry collecting establishments;
- Q. fitness centers;
- R. cafes;
- S. outdoor patio;
- T. personal service shops;
- U. restaurants including take-out;
- V. retail branches of banks and other financial institutions;
- W. retail stores, including grocery, supermarkets and pharmacies;
- X. studios; and
- Y. theatres.

Provided that any such use is located above the second floor of any building the following retail and commercial uses shall be permitted:

- Z. accessory uses;
- AA. commercial galleries;
- BB. fitness centers; and
- CC. personal service shops.

iv. ***Institutional Uses***

- A. day nursery, and associated outdoor play area; and
- B. public uses, including a public recreational facility.

v. ***Other Uses***

- A. public transit access; and
- B. condominium sales centre.

## **6. EXCEPTION REGULATIONS**

a. Maximum Gross Floor Area:

As provided for in the following subsections, the maximum Gross Floor Area permitted on the Net Site, shall be 159,414.0 square metres, such gross floor area being permitted by meeting the requirements herein pursuant to Section 37 of the *Planning Act* as described in Section 10.

b. Number of dwelling units - the maximum number of dwelling units shall be 1,650, of which up to:

- i. 810 may be provided on Block 1;
- ii. 748 may be provided on Block 2; and
- iii. 92 may be provided on Block 3;

Each Block as identified on Schedule 1 to this By-law.

c. Building Area:

No portion of any building or structure erected and used above established grade shall be located otherwise than wholly within the locations identified on Schedule 1 to this By-law except for canopies, awnings, front porches and steps, light fixtures, vents, trellises, guardrails, railings, stairs, stair enclosures, belt courses, chimney breasts, cornices, eaves or gutters, pilasters, sills, ramps, wheelchair ramps, underground parking ramps, landscape features, public art features, pergolas, gazebos, retaining walls, and window washing equipment. Balconies may be permitted to project a maximum of 1.5 metres outside the

by-law locations, provided that no balcony projections are located within 3 metres of the corner of any tower.

- d. Notwithstanding (c) and any H provisions, on Block 3 a condominium sales centre may be located in any area, provided that it is not located closer than 3.0 metres from the Yonge Street lot line and 4.2 metres from the Cummer Avenue lot line.
- e. Notwithstanding (c), an additional 0.2 metre balcony projection is permitted for enhanced architectural treatment, provided that the additional projection is limited to 20 percent of the combined length of all balconies on each storey.
- f. Building Height:

The building height, measured from Established Grade, shall not exceed the maximum heights in metres shown on Schedule 1 to this By-law excluding mechanical penthouses not exceeding 6.5 metres in height, parapets, railings, roof drainage, thermal insulation and roof ballast, terraces, terrace or balcony guards and dividers, planters, stairs, and stair enclosures, whether or not they are providing access to public or private amenity areas or to mechanical floor area located on the roof, wall or structure enclosing such elements and railings, window washing equipment, stair towers, partitions, landscape elements, green roof elements, lighting fixtures, vents, flues, pipes, access roof hatch, generators, outdoor furniture, heating, cooling or ventilating equipment or a fence, and structures located on the roof used for outside or open air recreation, safety or wind protection purposes.

## **7. LOADING REGULATIONS, MOTOR VEHICLE PARKING REGULATIONS AND BICYCLE PARKING REGULATIONS**

- a. Loading Regulations:
  - i. Loading Spaces shall be provided within the Net Site in accordance with the following:
    - A. For residential uses:
      - 1. For a building with less than 30 dwelling units – None required;
      - 2. For a building with 31-399 dwelling units – 1 Type 'G'; and
      - 3. For a building with 400 dwelling units or more – 1 Type 'G' and 1 Type 'C'.

- B. For non-residential uses:
1. No loading requirement if the non-residential gross floor area is between 0 square metres and 419 square metres;
  2. A minimum of 1 loading space if the non-residential gross floor area is between 420 square metres and 2,350 square metres per Block;
  3. A minimum of 2 loading spaces per Block for buildings with non-residential gross floor area between 2,351 square metres and 7,500 square metres per Block; and
  4. A minimum of 3 loading spaces per Block for buildings with non-residential gross floor area greater than 7,500 square metres per Block.

Non-residential loading spaces will be provided as a Type "A", Type "B", Type "C", or Type "G" loading space.

Where a Block contains a Type "G" loading space, such space can satisfy both the requirement for a Type "G" loading space for residential uses, and the requirement for one of the loading spaces for non-residential uses.

Where a Block contains a Type "A", Type "B" or a Type "C" loading space, such space can satisfy both the requirement for a Type "C" loading space for residential uses and the requirement for one of the loading spaces for non-residential uses.

- ii. Loading spaces shall have the following dimensions:
- A. Type "A" Loading Space shall have a:
1. A minimum length of 17.0 metres;
  2. A minimum width of 3.5 metres; and
  3. A minimum vertical clearance of 4.4 metres.
- B. Type "B" Loading Space shall have a:
1. A minimum length of 11.0 metres;
  2. A minimum width of 3.5 metres; and
  3. A minimum vertical clearance of 4.0 metres.



- C. Type "C" Loading Space:
  - 1. A minimum length of 6 metres;
  - 2. A minimum width of 3.5 metres; and
  - 3. A minimum vertical clearance of 3.0 metres.
- D. Type "G" Loading Space:
  - 1. A minimum length of 13 metres;
  - 2. A minimum width of 4.0 metres; and
  - 3. A minimum vertical clearance of 6.1 metres;

b. Parking Regulations:

Parking Spaces shall be provided within the Net Site in accordance with the following:

- A. a minimum of 1.00 parking space per dwelling unit, including 0.10 parking spaces per dwelling unit allocated for visitor use;
- B. a minimum of 0.90 parking spaces per 100 square metres of gross floor area devoted to non-residential uses;
- C. for each on-site car-share parking space provided, the resident parking requirement shall be reduced by 4 parking spaces;
- D. a maximum of 25 car-share parking spaces shall be provided;
- E. a minimum of 15 car-share parking spaces shall be provided, of which a minimum of 5 car-share parking spaces shall be provided in Block 1;
- F. a maximum of 1.40 parking spaces per dwelling unit, including 0.10 parking spaces per dwelling unit allocated for visitor use; and
- G. A maximum of 1.40 parking spaces per 100 square metres of gross floor area devoted to non-residential uses.

Parking spaces may be provided on any Block on the Net Site for Block 1, Block 2, and Block 3, as shown on Schedule 1.

Parking spaces may be provided in a stacked parking space.

Despite anything set out above, the maximum required parking may be exceeded per block provided that the total number of parking spaces for

Blocks 1, 2 and 3 does not exceed the total parking spaces permitted on the Net Site when built out in accordance with this By-law.

c. Bicycle Parking Regulations:

Bicycle Parking Spaces shall be provided within the Net Site in accordance with the following:

- A. a minimum of 0.75 Bicycle Parking Space per dwelling unit, which includes 0.07 Bicycle Parking Spaces per dwelling unit allocated for visitor use;
- B. a minimum of 0.28 Bicycle Parking Spaces per 100 square metres of gross floor area devoted to non-residential office uses; and
- C. a minimum of 0.38 Bicycle Parking Spaces per 100 square metres of gross floor area devoted to non-residential retail uses

Bicycle parking spaces may be provided on any Block on the Net Site for Block 1, Block 2, and Block 3, as shown on Schedule 1.

Bicycle Parking Spaces may be provided in a Stacked Bicycle Parking Space.

Bicycle Parking Spaces shall comply with the following:

- A. The minimum dimensions of a Bicycle Parking Space are:
  - 1. A minimum length of 1.8 metres;
  - 2. A minimum width of 0.6 metres; and
  - 3. A minimum vertical clearance from the ground of 1.9 metres.
- B. The minimum dimensions of a Bicycle Parking Space if placed in vertical position on a wall, structure or mechanical device are:
  - 1. A minimum length or vertical clearance of 1.9 metres;
  - 2. A minimum width of 0.6 metres; and
  - 3. A minimum horizontal clearance from the wall of 1.2 metres.
- C. If a Stacked Bicycle Parking Space is provided, the minimum vertical clearance of a Bicycle Parking Space is 1.2 metres.

d. Indoor Amenity Space:

A minimum of 1.5 square metres per dwelling unit of Indoor Amenity Space shall be provided.

e. Outdoor Amenity Space:

A minimum of 1.5 square metres per dwelling unit of Outdoor Amenity Space shall be provided.

f. Yard Setbacks:

The minimum yard setbacks shall be as shown on Schedule 1 to this By-law.

**8. PROVISIONS NOT APPLICABLE**

The provisions of Sections 6(22), 6A (1), 6A (2), 6A(8), 6A (16), 15.8, 15.12 and 20-A are not applicable.

The provisions of Section 15.1(a) of By-law 7625, as it applies to the Net Site, is hereby amended as follows:

Within the lands zoned RM6(235) on Schedule 2, a Full Building Permit shall not be issued for Tower B (as it is identified in Schedule 1) until either:

- (a) The new local road extending from Yonge Street to Cummer Avenue as generally shown on Schedule 1 is transferred to the City as provided in a draft approved plan of subdivision; or
- (b) In the event that the City fails to expropriate lands required to supplement that part of the Gross Site to be provided to connect the new local road to Yonge Street by December 31, 2019, the new local road may be provided as generally shown on Schedule 3 and as provided in a draft approved plan of subdivision, or
- (c) In the event that the lands are not conveyed, but the new local road has been established, as provided for in a draft approved plan of subdivision and shown on Schedule 1, the new local road may be secured to the City by deposit of a letter of credit in an amount satisfactory to the Executive Director of Engineering and Construction Services.

Prior to the first above-grade permit for Block 2, the Owner shall convey to the City the lands for public park identified as Block 4 on the draft approved plan of subdivision.

**9. HOLDING ZONE**

Within an RM6 (235) Zone subject to a Holding (H) provision the following provisions apply to the lifting of the Holding (H) provision:

The Holding provision shall not be lifted, and development not shall occur on the lands identified as Blocks 2 and 3 on Schedule 1 of this By-law prior to the earlier of:

1. the conveyance to the City of the lands required to complete the construction of a new public street from Yonge Street to Cummer Avenue, generally as shown on Schedule 1 of this By-law; or
2. six months from the date of Substantial Demolition of the office building known municipally in 2018 as 5799 Yonge Street, provided that it is demonstrated to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Executive Director of Engineering and Construction Services that the area road network can accommodate the zoned development on Blocks 2 and 3 to the satisfaction of the City, without the connection of the new public street to one of Yonge Street or Cummer Avenue.

## 10. INCREASED DENSITY

Matters that are to be provided pursuant to Section 37 of the *Planning Act*, 1990, c. P. 13, as amended, in order to permit the increased maximums in gross floor area authorized under subsection (a) of the Exception Regulations are:

### SECTION 37 AGREEMENT

- A. The owner of the subject lands shall enter into one or more agreements with the City of Toronto pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters referred to below, which agreement or agreements may be registered against the title of the lands to which this By-law applies in the manner and to the extent specified in such agreements. The owner of the subject lands, at the owner's expense and in accordance with, and subject to, the agreements referred to above, shall provide for or fund the following facilities, services and/or matters on terms satisfactory to the City of Toronto in exchange for the increased density herein set out:
  1. a minimum of 10,000 square metres of gross floor area devoted to office uses, as follows:
    - a. A minimum of 3,900 square metres of such gross floor area shall be provided on Block 1; and
    - b. A minimum of 7,568 square metres of such gross floor area shall be provided on Blocks 1 and 2, collectively.
- B. A minimum of 280 square metres of floor area for Public Transit Access.
- C. A minimum of 200 square metres of bicycle space in an at-grade bicycle room or bike station.

- D. Approximately 7,000 square metres of floor area devoted to street related retail uses which may include at-grade retail uses directly accessible off Yonge Street that exceed a depth of 30 metres.
- E. A minimum of 1.5 square metres floor area per dwelling unit of indoor residential amenity space.
- F. A Social Facility of a minimum of 3232 square metres, finished, including a daycare of 900 square metres and an adjacent 300 square metres outdoor play space, subject to the following:
1. 11 Parking Spaces shall be provided to the City at no cost;
  2. the facility shall be conveyed to the City as freehold strata title prior to the registration of a condominium which includes the second residential tower on Block 2; and
  3. the City and Owner shall enter into such reciprocal and cost agreement(s) and provide such easement(s) as are commercially reasonable and typical of a multiple-use, stratified, multiple-owner, integrated development block.
- G. A minimum of 6,006 square metres of parkland dedication.
- H. Entering into an affordable ownership housing delivery agreement with the City for a minimum of 5 percent of the residential units.
- I. The provision of land for a new local road extending from Yonge Street to Cummer Avenue, as provided in the draft approved plan of subdivision.
- J. In the event that the City expropriates lands required to supplement the lands to be provided by the owner in I above within the relevant period of time, the Owner shall construct the new local road extending from Yonge Street to Cummer Avenue as provided in the draft approved plan of subdivision. Should the City not expropriate lands required to connect the new local road to Yonge Street in a timely way, the Owner need not provide the entirety of such road to the City and may instead provide a cul-de-sac which may occupy lands intended to form part of the parkland dedication, together with landscaped open space including a publicly accessible walkway, on an interim basis or otherwise as shown on the draft approved plan of subdivision.
- K. Provision of publicly accessible private open space on the subject lands secured by title restriction in and through the site plan approval process, for Block 3, amounting to a minimum of 1,300 square metres, on Block 3.

**11. SEVERANCE**

Notwithstanding any future severance, partition or division of the Net Site, the provisions of this By-law shall apply to the whole of the Net Site as if no severance, partition or division occurred.

- 12.** Section 64.37 of By-law No. 7625, as amended, is further amended by adding the following subsection:

**"64.37 (51) O1**

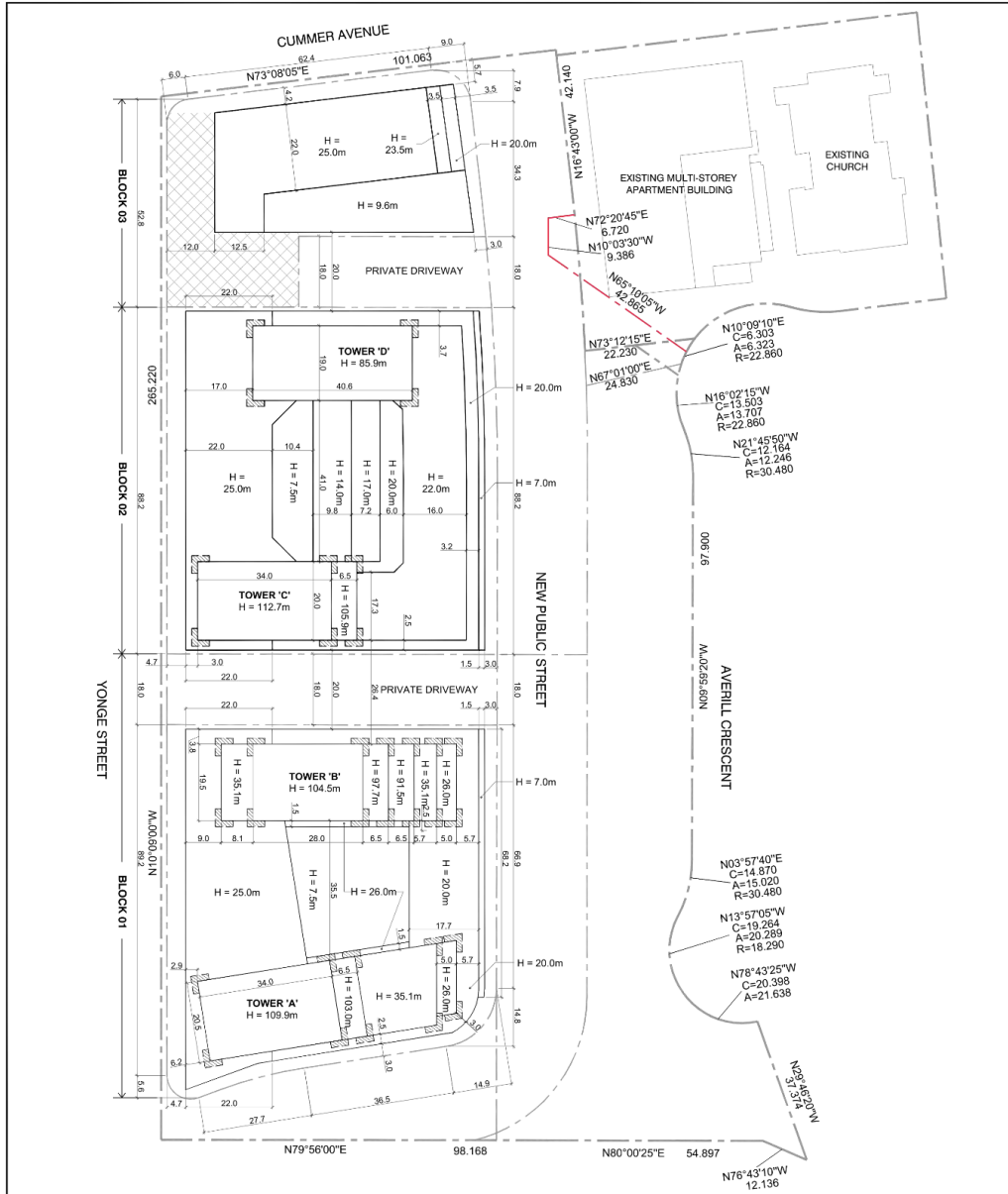
**(51)**

**PERMITTED USE**

- a. Public park; and
- b. A switch gear facility used for the transmission and distribution of electricity is permitted on Block 5 of the draft approved plan of subdivision.

Ontario Municipal Board Decision issued December 28, 2016 and the Local Planning Appeal Tribunal Order issued May 2, 2019 in Board File PL140111.

### Schedule 1




NOTE: All dimensions in metres.



File #18

 Hatch denotes Approximate location of Privately Owned Publicly Accessible Open Space at Ground Level

 Hatch denotes areas where balconies are not permitted within 3m of corner of Tower footprints



Not to Scale

