

Report to the Future Melbourne (Planning) Committee

Agenda item 6.3

**Planning Permit Application: TP-2016-858
58-66 La Trobe Street, Melbourne**

10 December 2018

Presenter: Jane Birmingham, Practice Leader Land Use and Development

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a planning application seeking approval for partial demolition, buildings and works to refurbish the existing building fronting La Trobe Street including construction of one addition level above the retained building, construction of a new 34 storey building located to the rear of the site for use as dwellings, a residential hotel and ground floor shop, and a reduction in the standard car parking rate at 58-66 La Trobe Street Melbourne (refer Attachment 2 - Locality Plan).
2. The applicant is Melbourne Domain Pty Ltd. C/- Tract Consultants, the owner is Owners Corporation PS611556T and the architect is Hayball Pty Ltd.
3. The land is located in the Mixed Use Zone (MUZ) and is affected by Heritage Overlay (HO488 - Police Headquarters Complex, 336-376 Russell Street, Melbourne) and Parking Overlay Schedule 12 (PO12).
4. A previous planning application (TP-2010-991), which sought approval for a 36 storey building, was refused by Council and the Victorian Civil and Administrative Tribunal (VCAT). VCAT provided direction in its order as to what would be an appropriate built form for the site and amenity expectations for adjoining properties.
5. Public notice of the application was undertaken. A total of 21 objections were received, primarily relating to height, design and amenity impacts. In response to concerns raised in objections received and advice from Council officers, the permit applicant submitted informally amended plans on 28 February 2018.

Key issues

6. Key issues for consideration are the appropriateness of the built form, internal and external amenity, the proposed uses and a reduction of the onsite car parking requirements.
7. The proposed height and scale of the development as shown on the informal amended plans is supported as it complies with VCAT's recommendation that any building on the site should be no higher than the Concept Blue tower. Furthermore the proposal is in keeping with the built form character in this area and satisfies the decision guidelines of Clause 22.17 (Urban Design Outside the Capital City Zone).
8. The VCAT order gave clear direction on built form relationship with the subject site and adjoining properties. The application provides greater setbacks to the adjoining properties from that required by VCAT which is considered to be a positive outcome.
9. The proposed uses (dwellings, residential building and shop) are akin to the uses already contained in the Mixed Use Zone and the Capital City Zone and are supported.
10. In accordance with the Planning Scheme requirements, there is a shortfall of 15 on site car spaces. The reduction in the car parking requirement is supported as the site is located in close proximity to public transport, the number of bicycle spaces exceeds the Planning Scheme requirements and other Council policies encourage the use of more sustainable transport modes.

Recommendation from management

11. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit subject to the conditions set out in the delegate report (refer Attachment 4 – Delegate Report).

Attachments:

1. Supporting Attachment (Page 2 of 71)
2. Locality Plan (Page 3 of 71)
3. Selected Plans (Page 4 of 71)
4. Delegate Report (Page 36 of 71)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (Act) sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme.
2. As objections have been received, sections 64 and 65 of the Act provide that the responsible authority must give the applicant and each objector notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The responsible authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the VCAT for a review of the decision or, if an application for review is made, until the application is determined by the VCAT.
3. Although the earlier VCAT decision is not binding it will be seriously taken into account if the matter were to go to VCAT again.

Finance

4. There are no direct financial issues arising from the recommendations contained within this report.

Conflict of interest

5. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Occupational Health and Safety

6. Relevant planning considerations such as waste management and potential amenity impacts that could impact on health and safety are considered within the planning permit application and assessment process.
7. The recommendation requires a Construction and Traffic Management Plan (CMP). The purpose of the CMP is to ensure the health and safety of those working, residing and travelling within proximity of the site during construction.

Stakeholder consultation

8. Public notice of the application has been undertaken to surrounding owners and occupiers and by posting one notice on the La Trobe Street frontage of the site, pursuant to Section 52 of the Act 1987.

Relation to Council policy

9. Relevant Council policies are discussed in the attached Delegate Report (refer to Attachment 4).

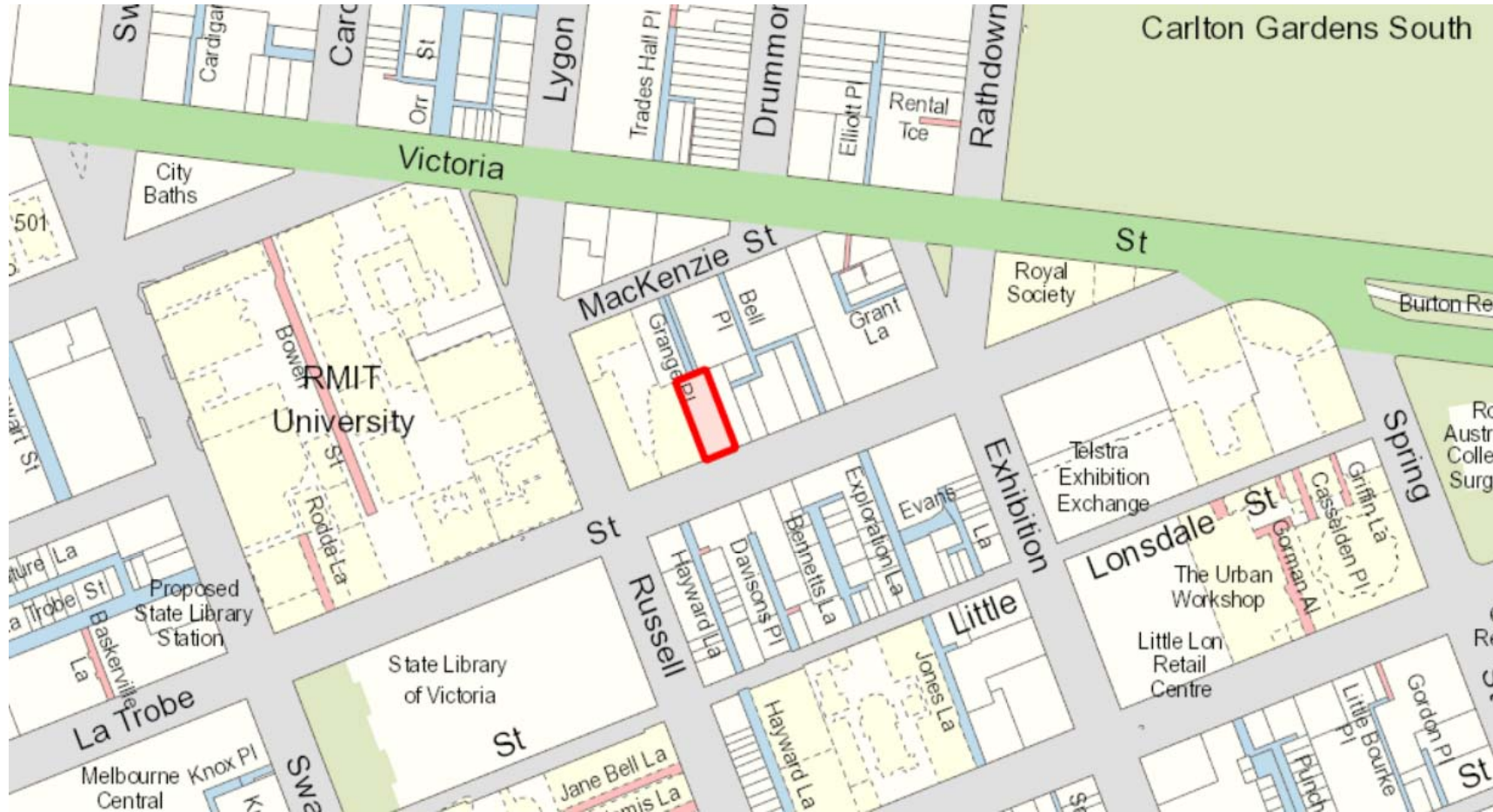
Environmental sustainability

10. The Environmentally Sustainable Design Statement prepared by Simpson Kotzman dated 3 October 2016 demonstrates that the development has the preliminary design potential to achieve the performance requirements of Clause 22.19 (Energy, Water and Waste Efficiency) and 22.23 (Stormwater Management (Water Sensitive Urban Design)).
11. Permit conditions requiring implementation of the ESD initiatives are recommended.

Locality Plan

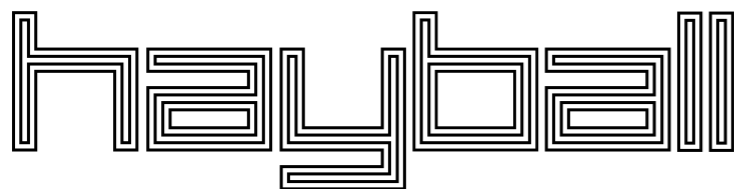
Attachment 2
Agenda item 6.3
Future Melbourne Committee
10 December 2018

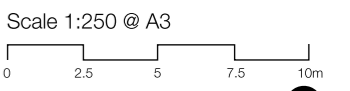
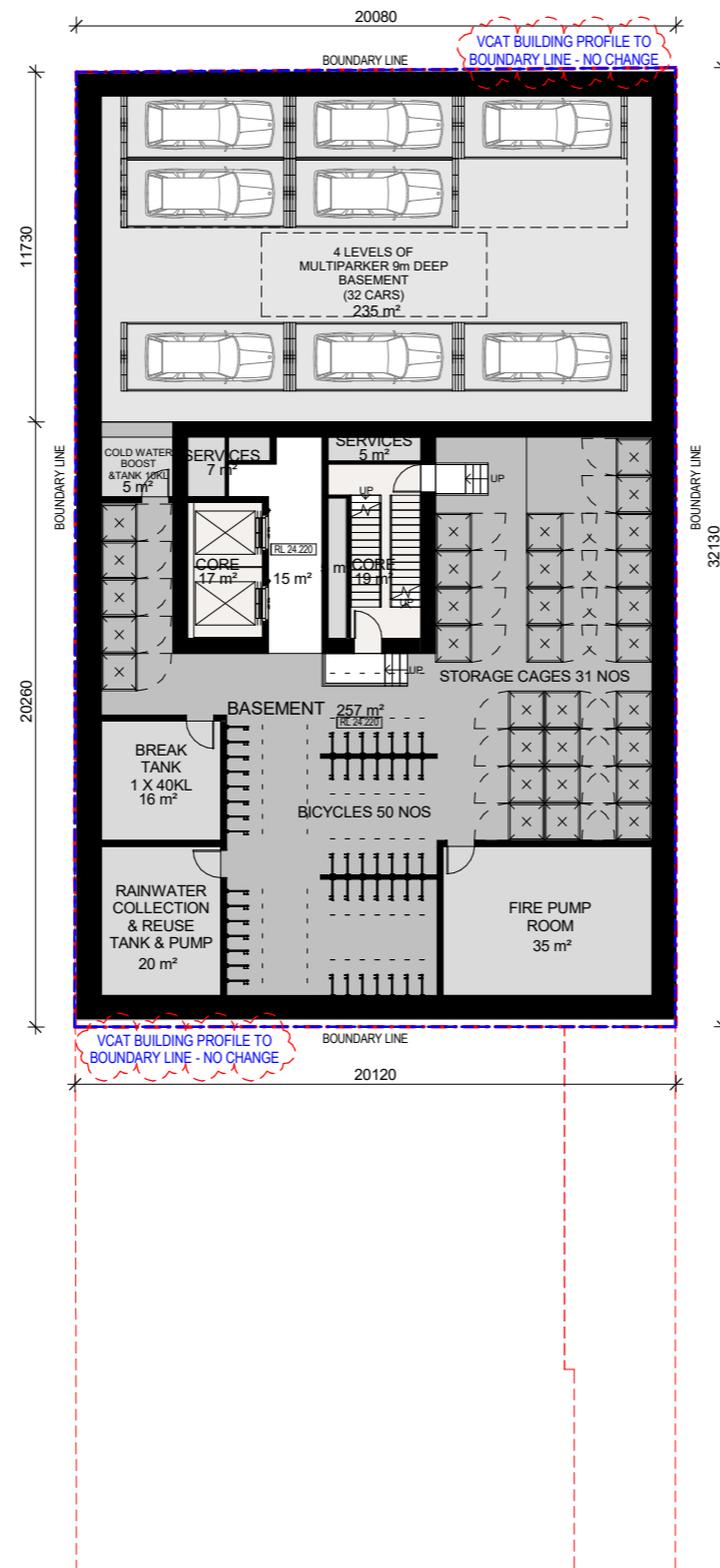
58-66 La Trobe Street, Melbourne



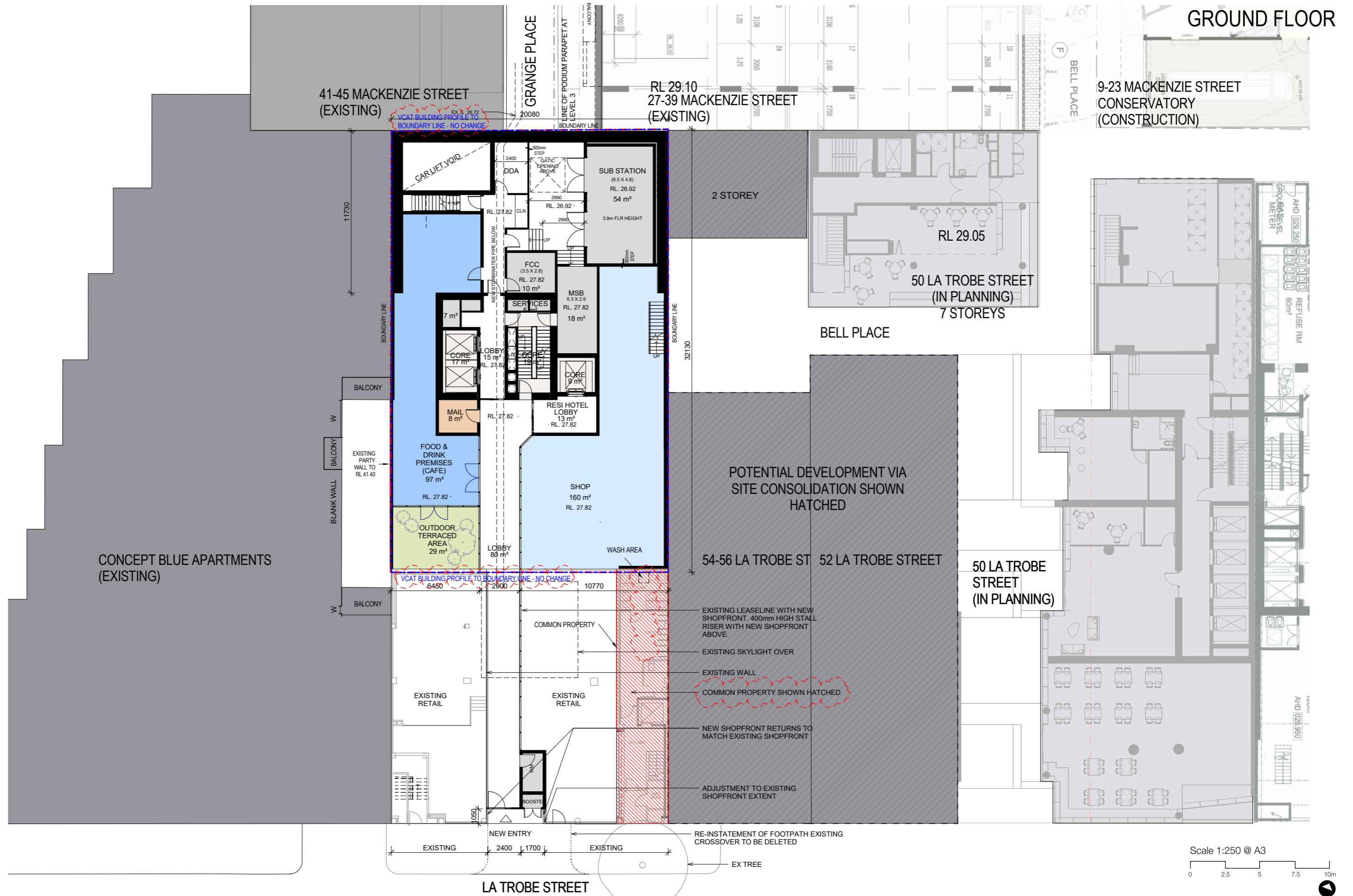
62 LA TROBE STREET MELBOURNE - ARCHITECTURAL DRAWINGS

TOWN PLANNING SUBMISSION UPDATES
29 JUNE 2018



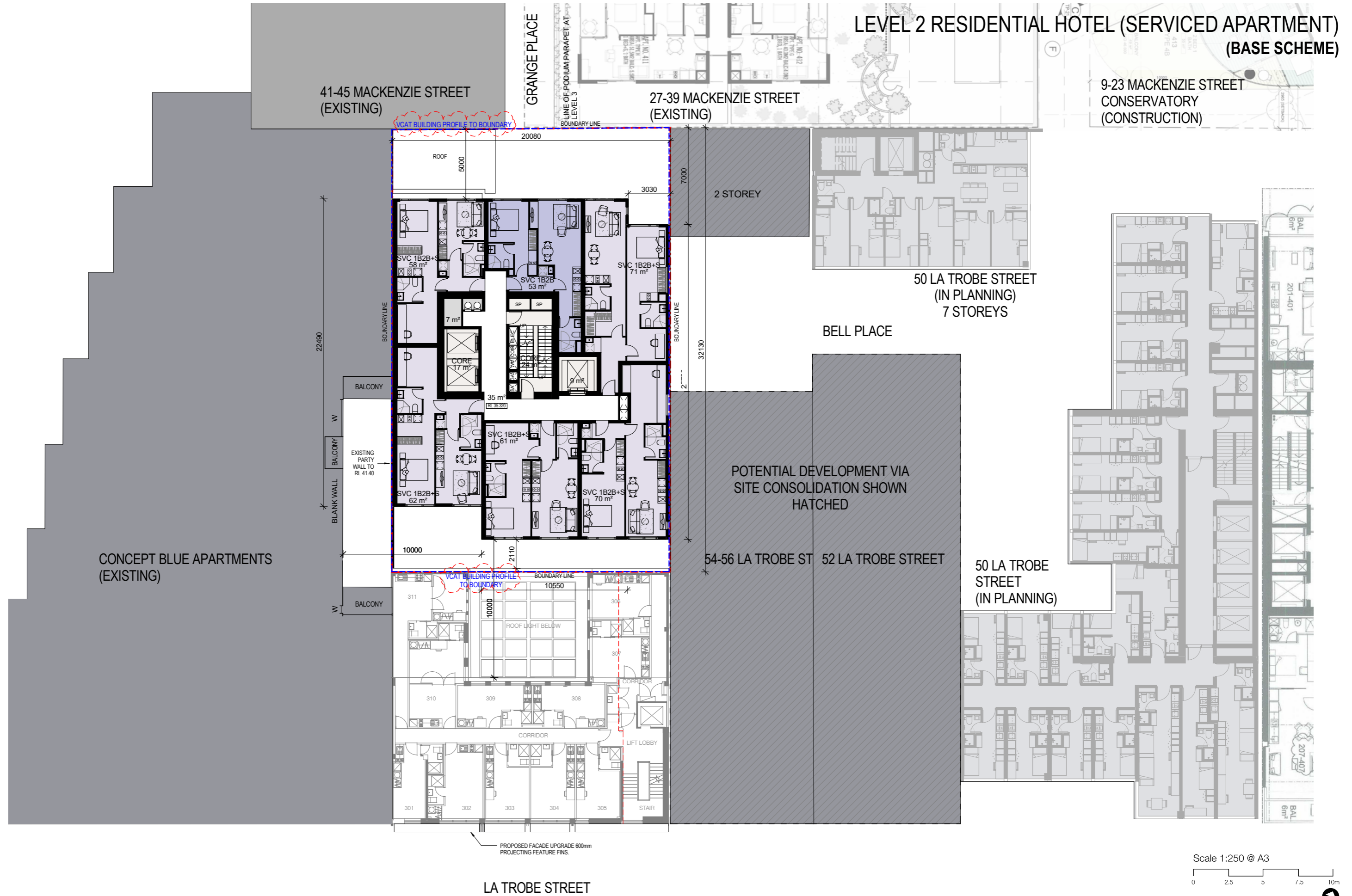


GROUND FLOOR



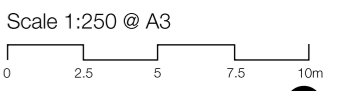
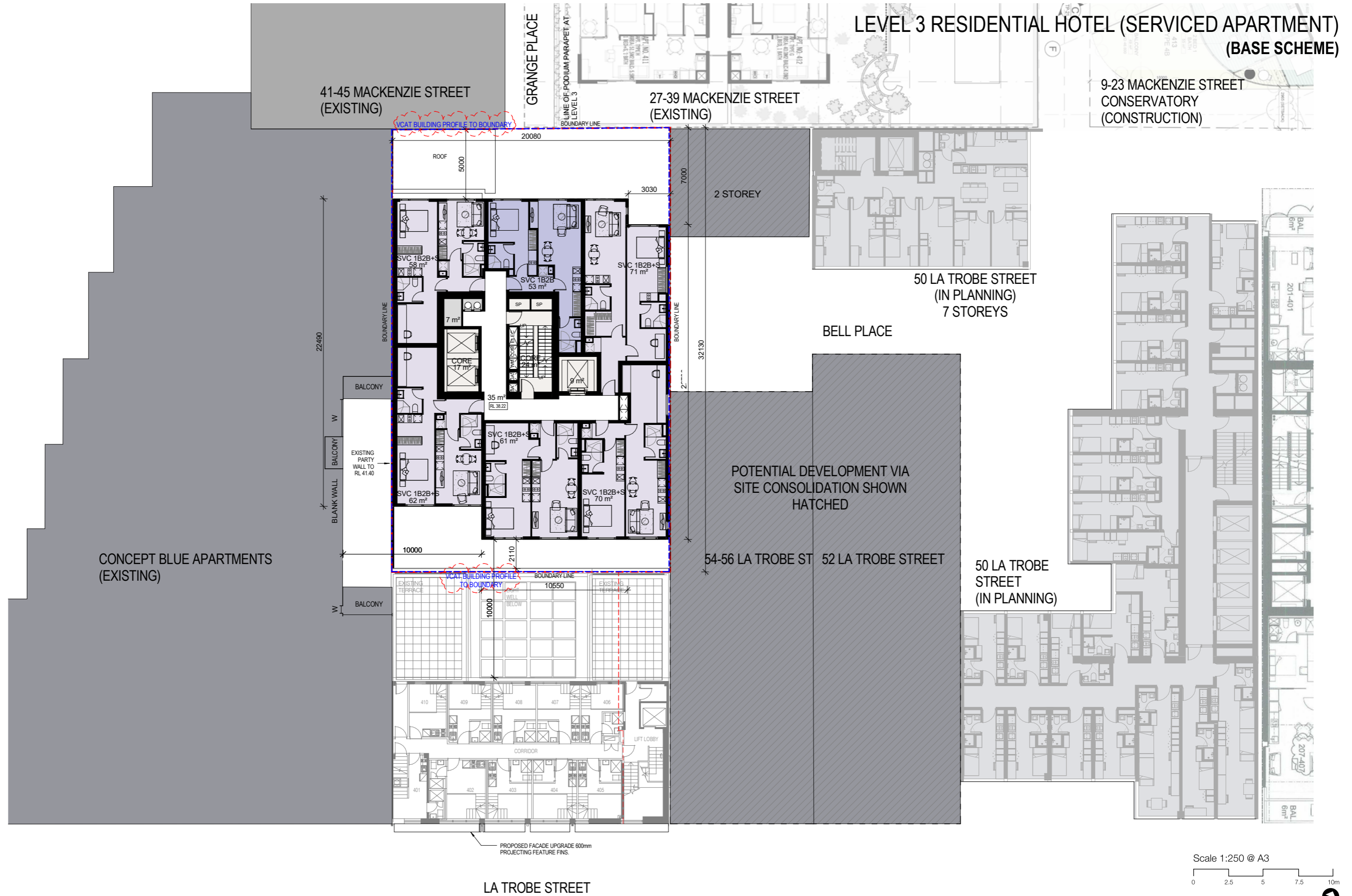
4.0 ARCHITECTURAL DRAWINGS

LEVEL 2 RESIDENTIAL HOTEL (SERVICED APARTMENT) (BASE SCHEME)



4.0 ARCHITECTURAL DRAWINGS

LEVEL 3 RESIDENTIAL HOTEL (SERVICED APARTMENT) (BASE SCHEME)



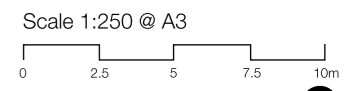
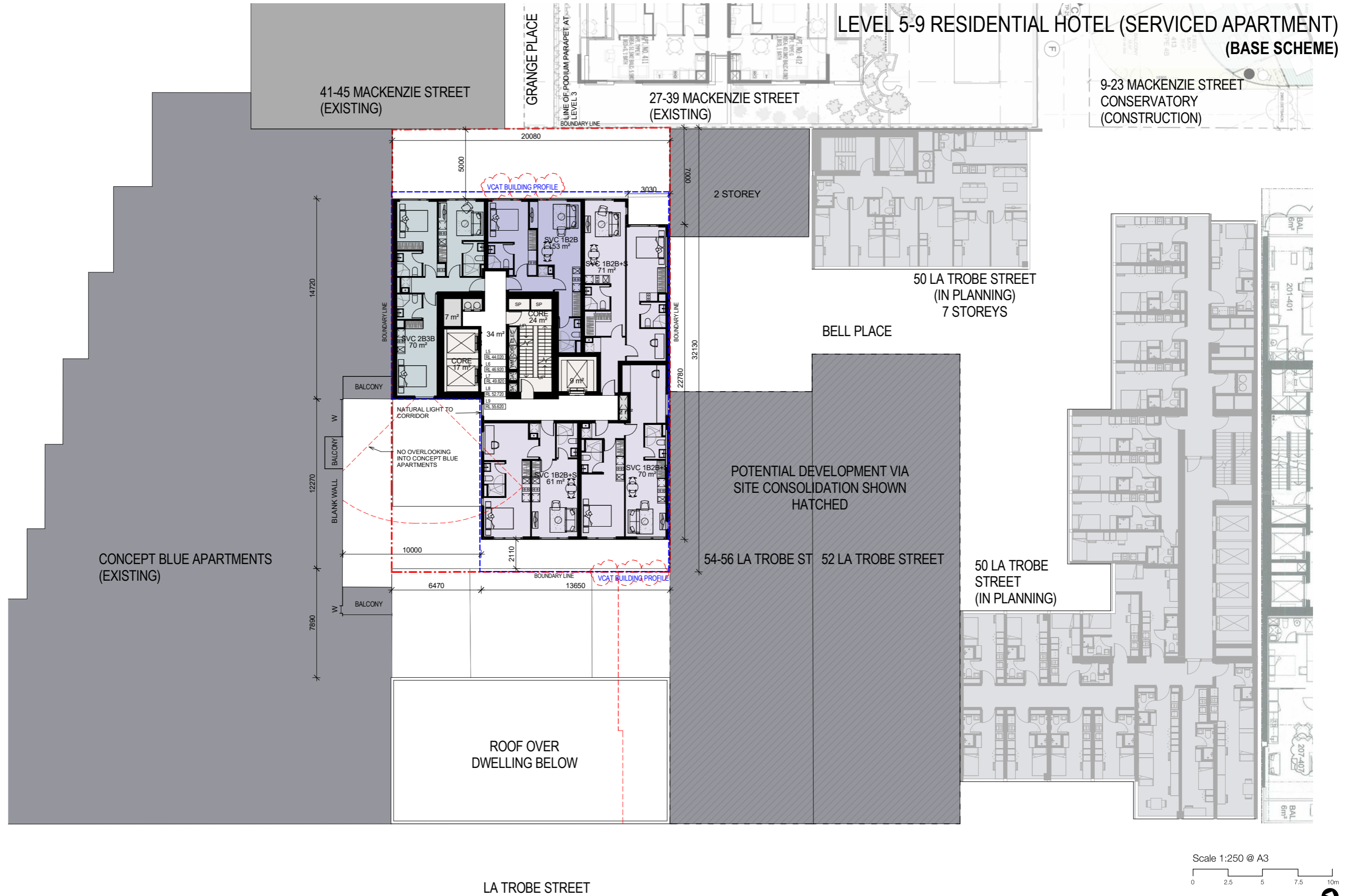
4.0 ARCHITECTURAL DRAWINGS

LEVEL 4 RESIDENTIAL HOTEL (SERVICED APARTMENT) (BASE SCHEME)



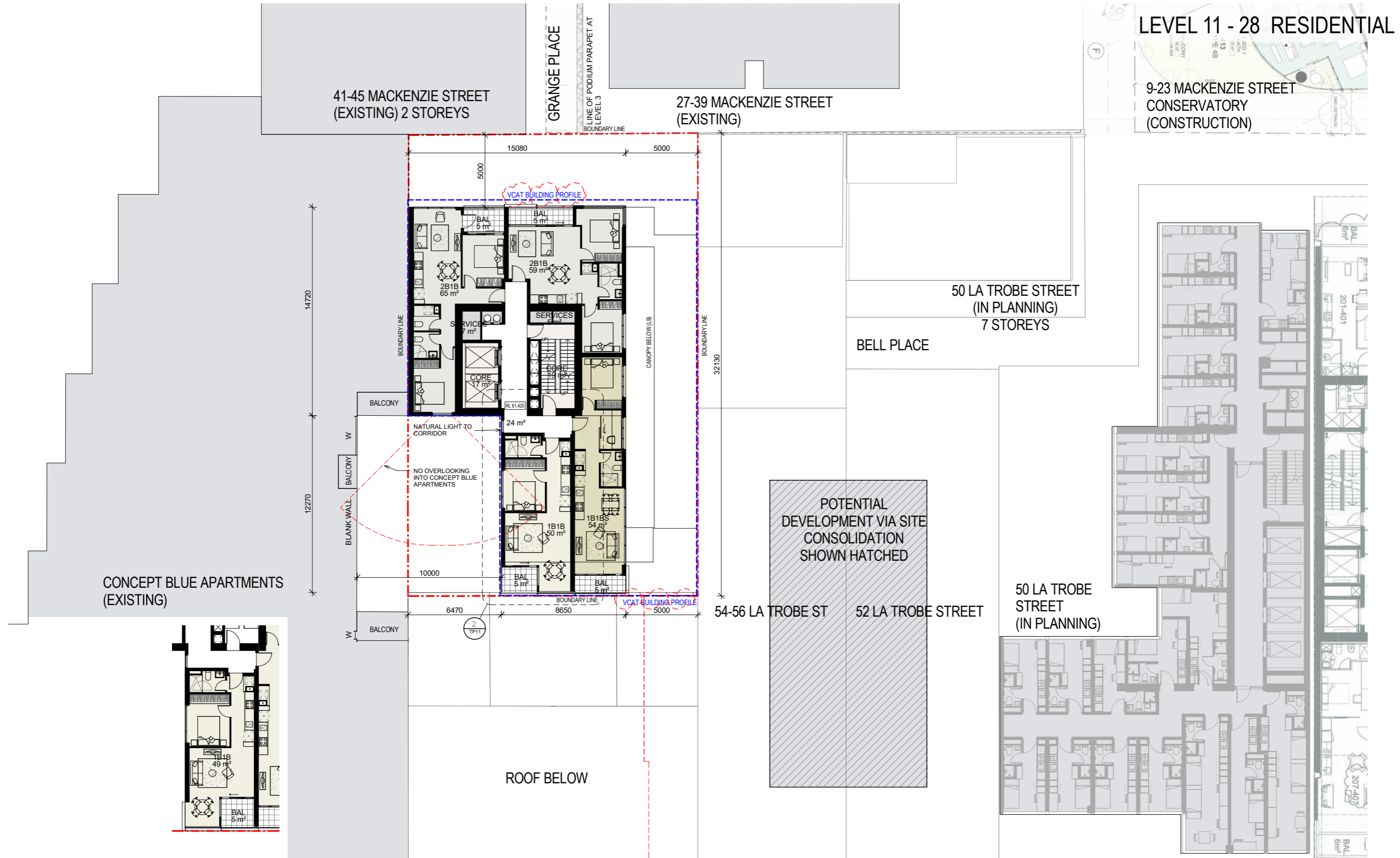
4.0 ARCHITECTURAL DRAWINGS

LEVEL 5-9 RESIDENTIAL HOTEL (SERVICED APARTMENT) (BASE SCHEME)

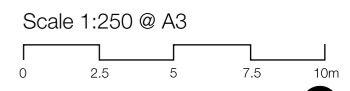


4.0 ARCHITECTURAL DRAWINGS

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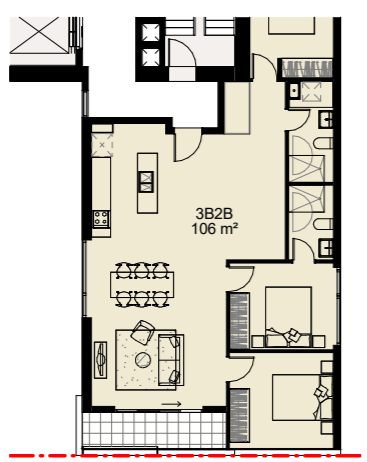
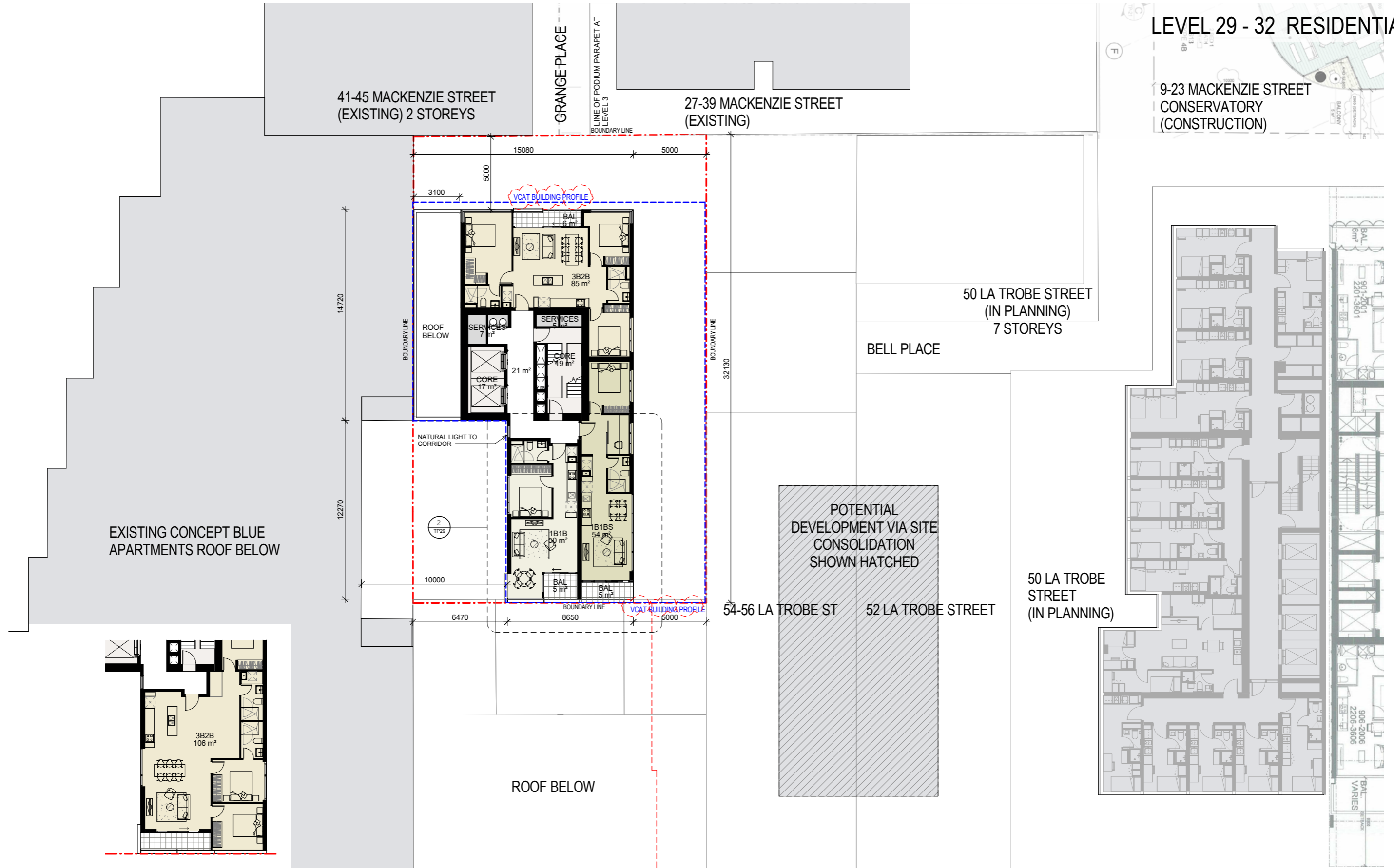


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4.0 ARCHITECTURAL DRAWINGS

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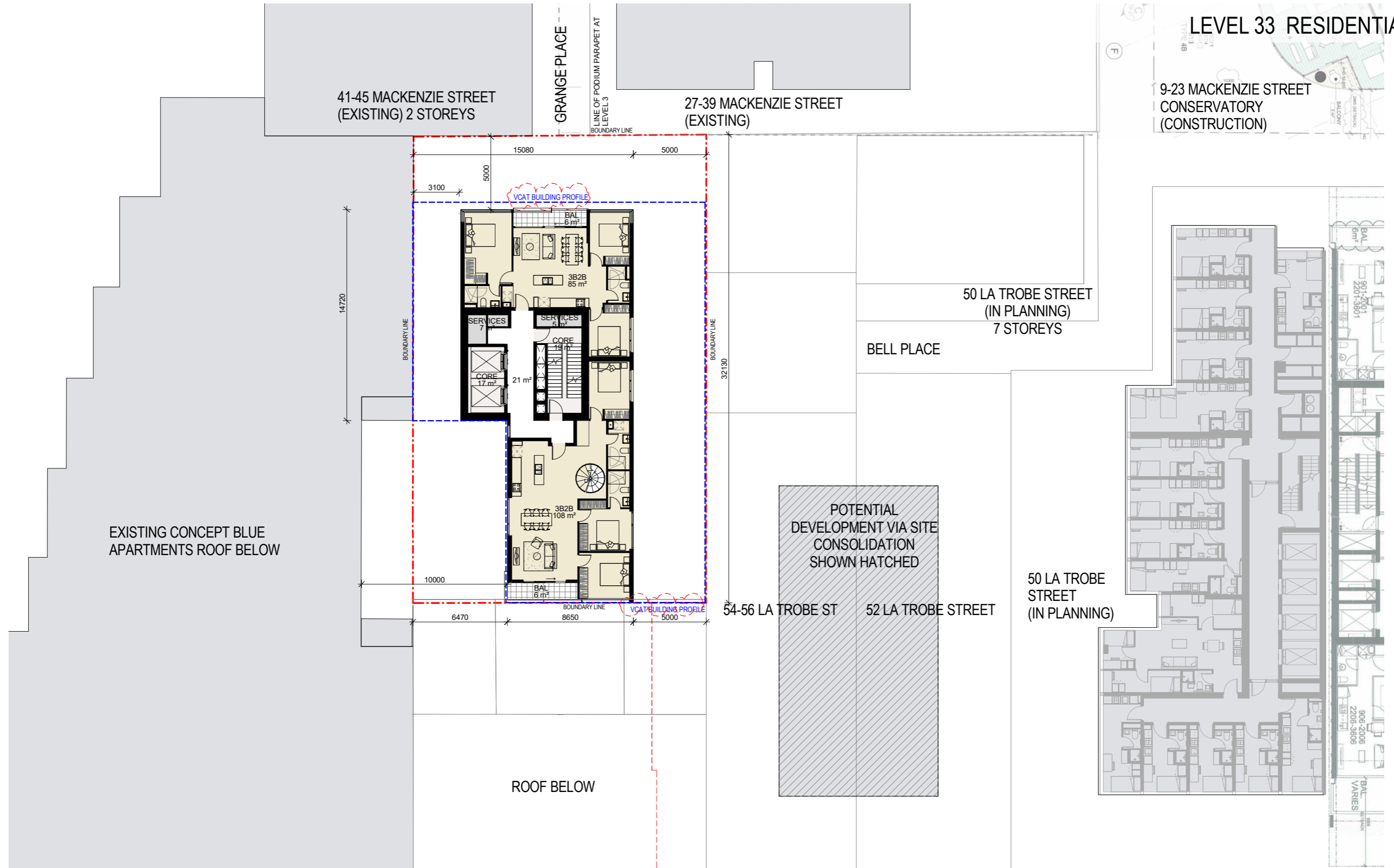


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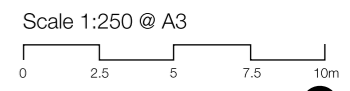
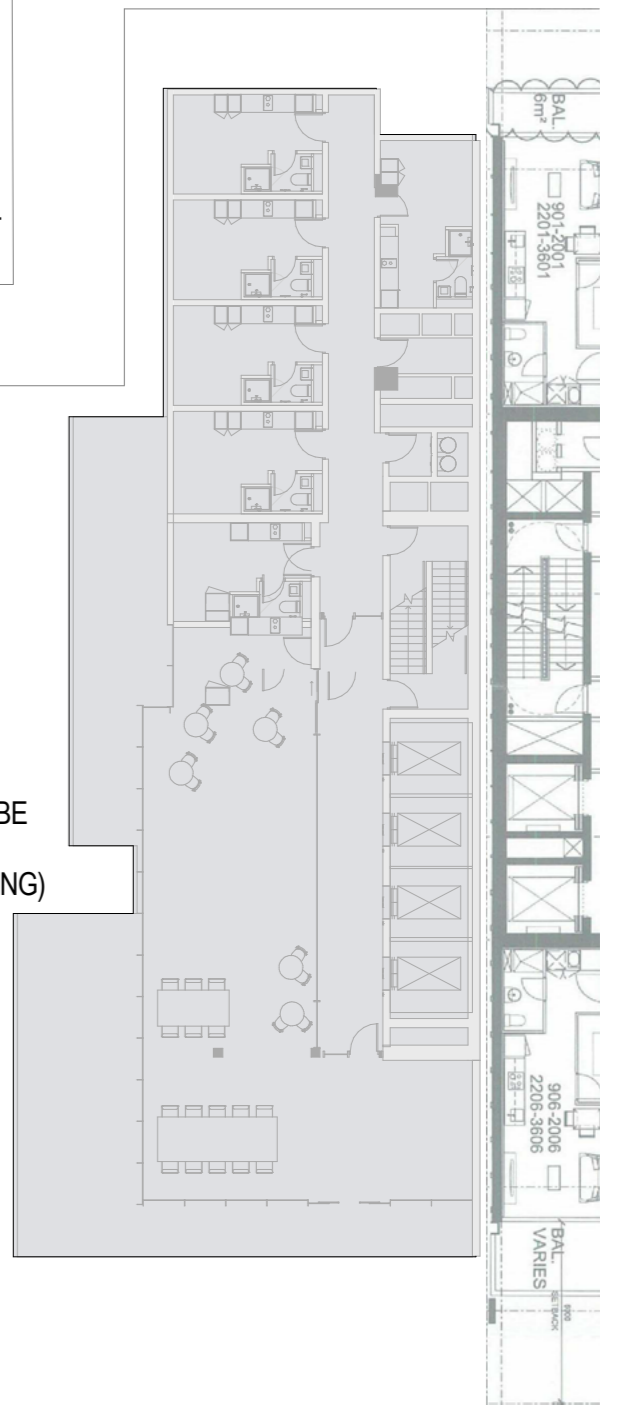
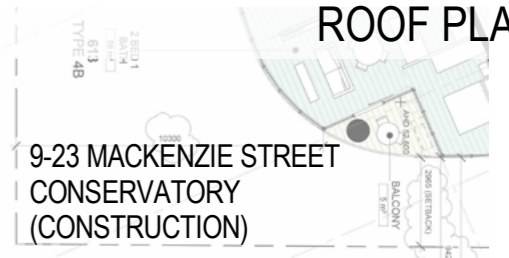
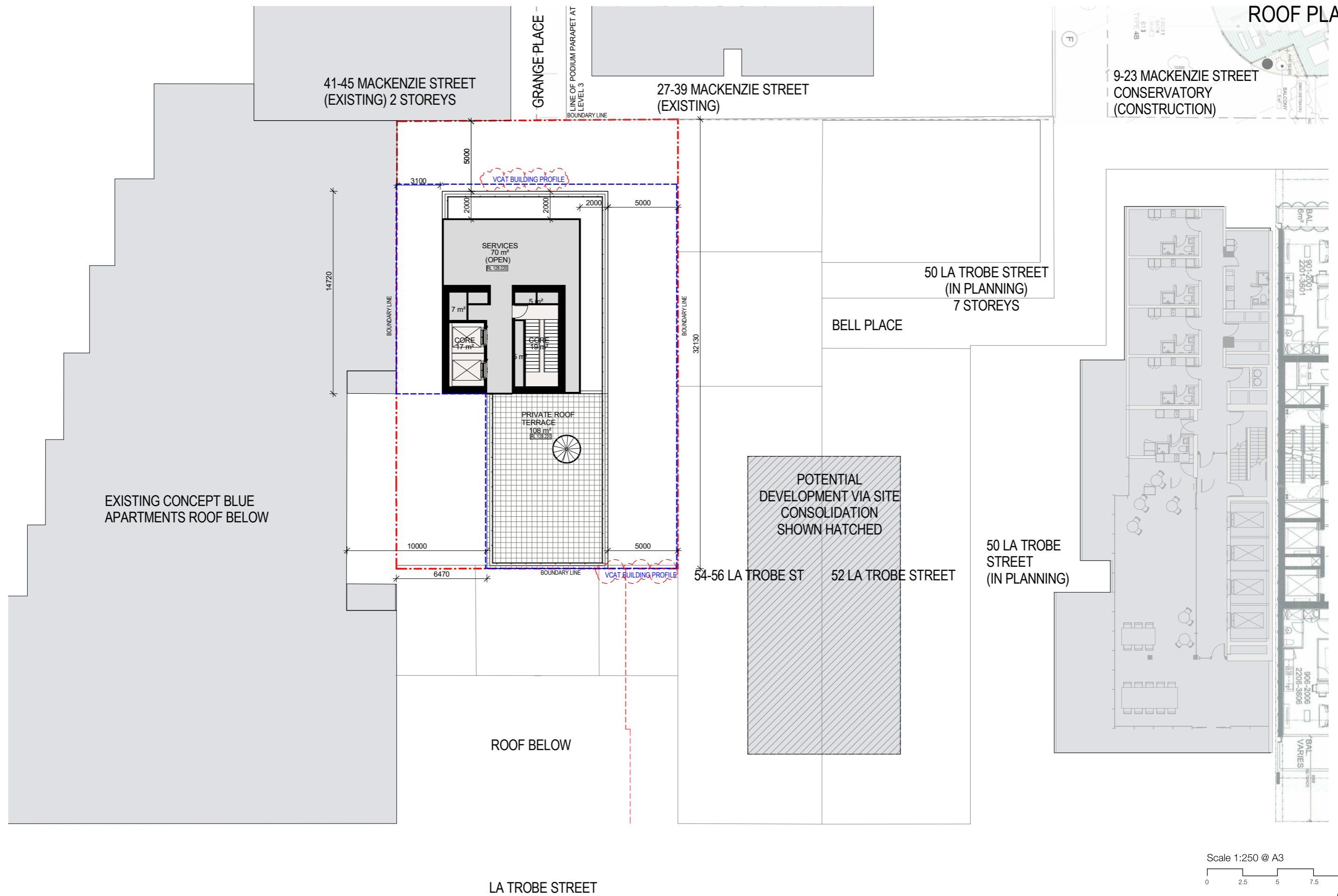
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0 2.5 5 7.5 10m

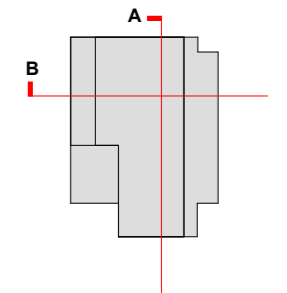
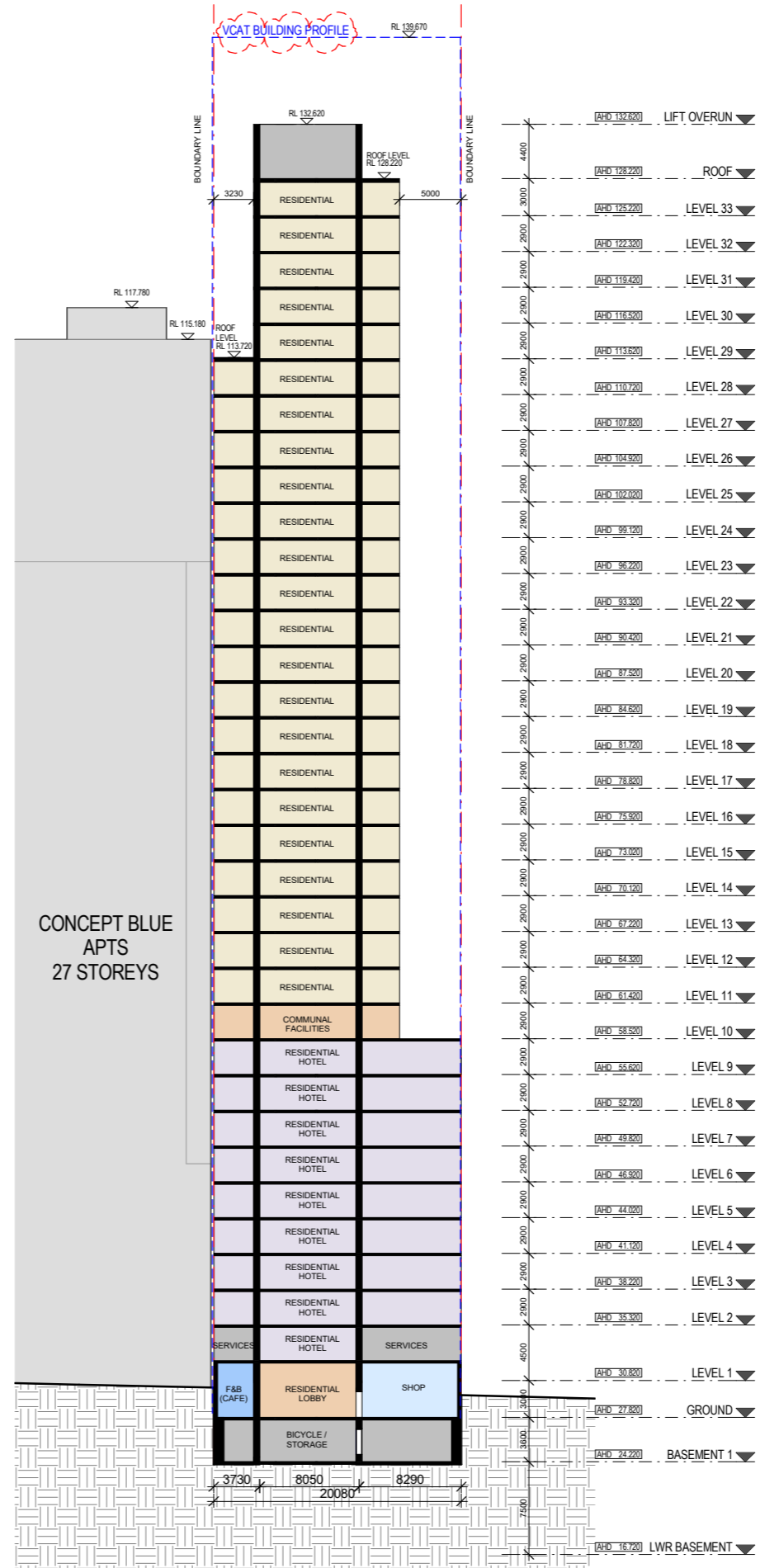
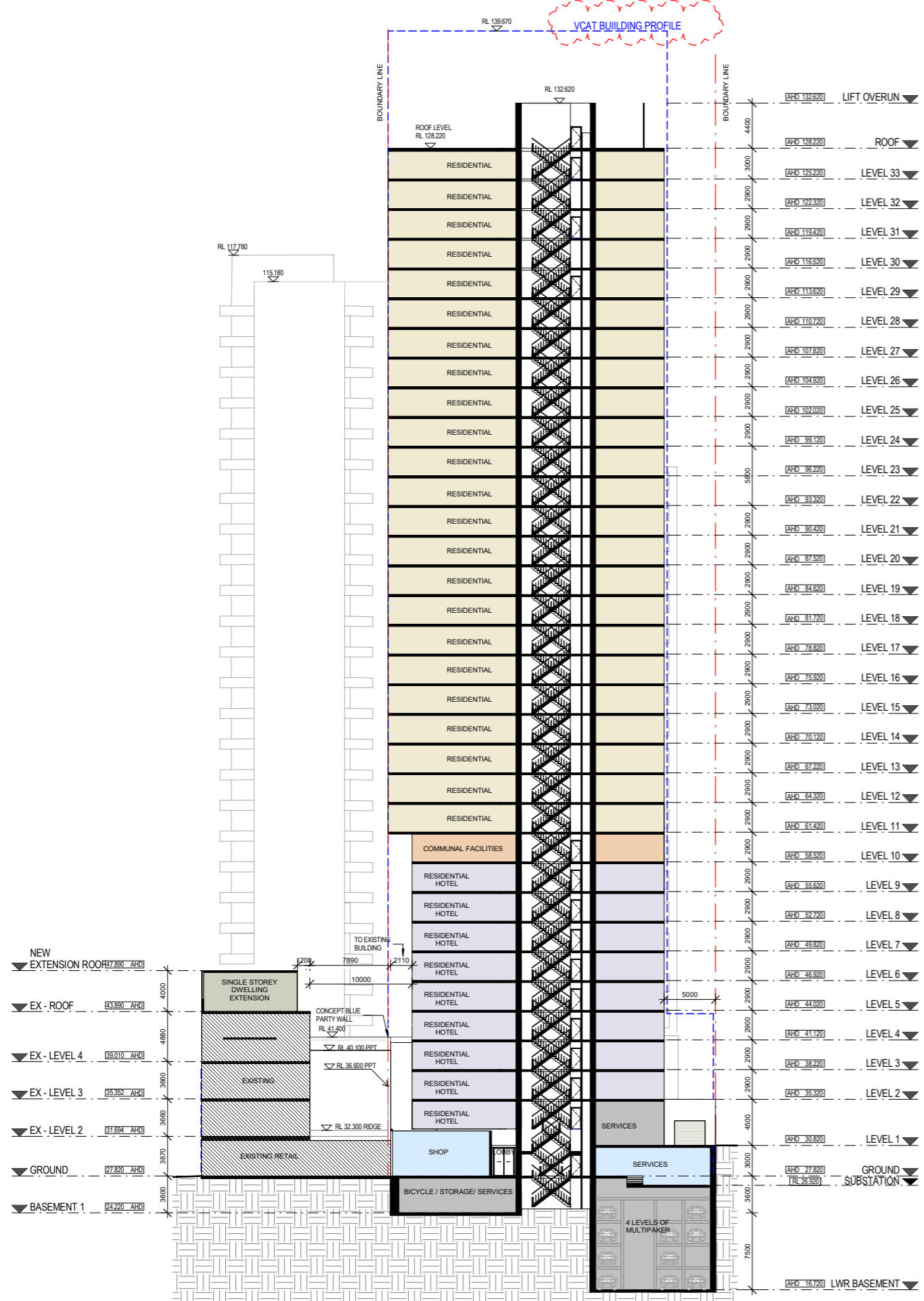
4.0 ARCHITECTURAL DRAWINGS

LEVEL 33 RESIDENTIAL



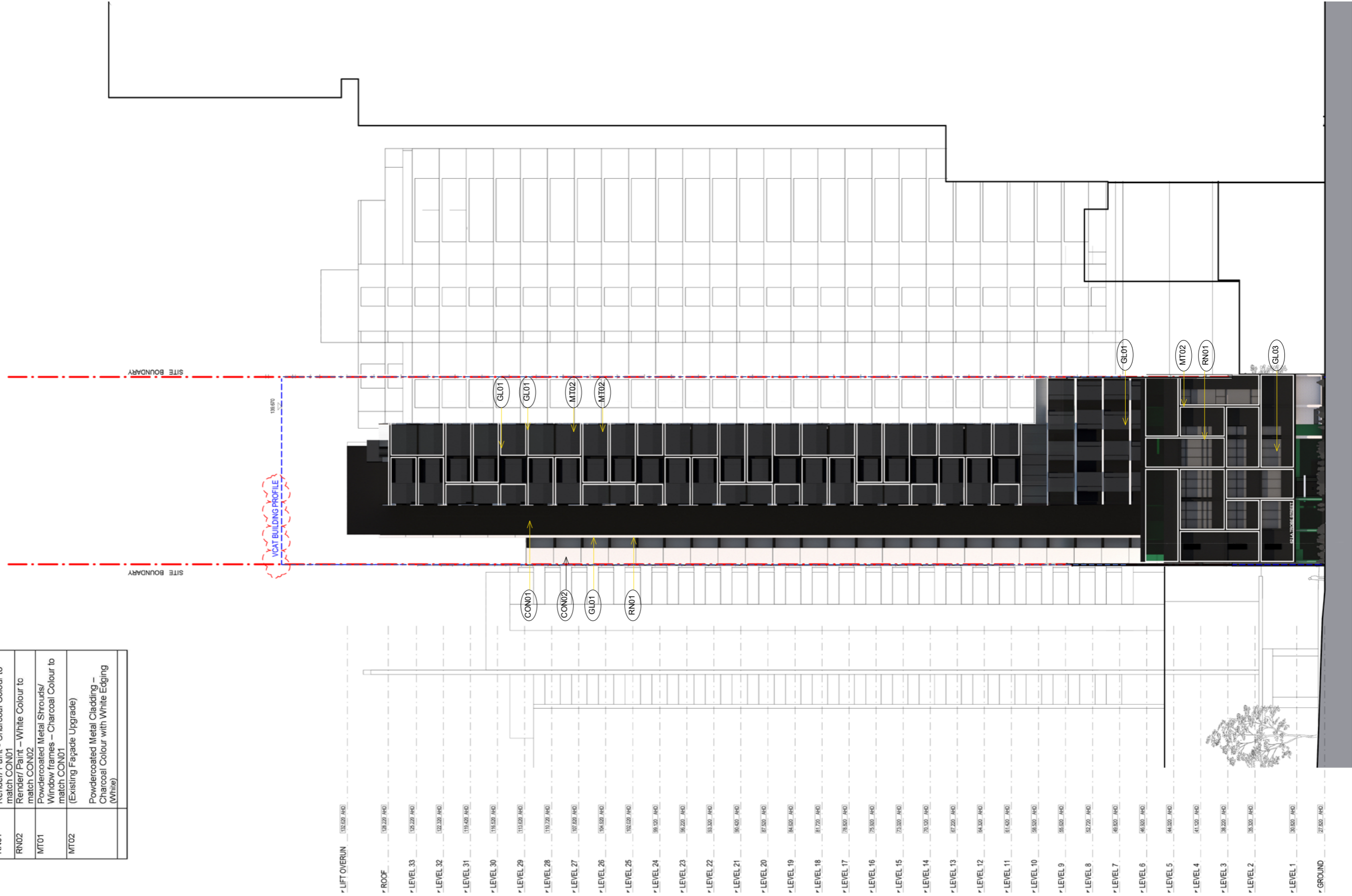
ROOF PLAN





Scale 1:250 @ A3
SCALE 1:250 A1 / 1:500 A3
0 2.5 5 7.5 10m

MATERIAL SCHEDULE	
CODE	DESCRIPTION
CON01	Precast Concrete – Charcoal Finish
CON02	Precast Concrete – 100% Brighton Light
GL01	Glazing – Dark Grey Tinted
GL03	Glazing – Clear
RN01	Render/ Paint - Charcoal Colour to match CON01
RN02	Render/ Paint – White Colour to match CON02
MT01	Powdercoated Metal Shrouds/ Window frames – Charcoal Colour to match CON01
MT02	Powdercoated Metal Cladding – Charcoal Colour with White Edging (White)

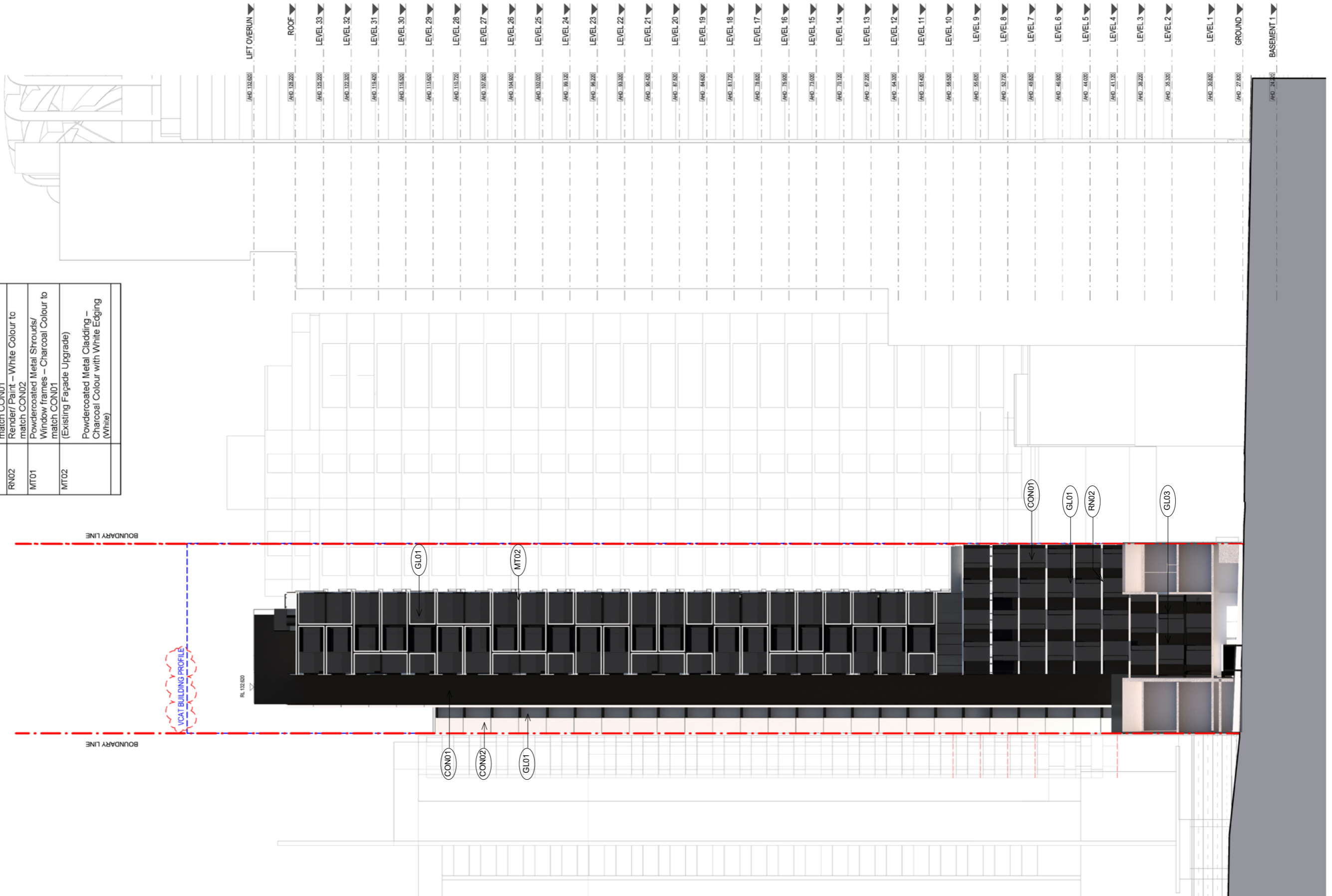


SCALE 1:200 A1 / 1:400 A3

4.0 ARCHITECTURAL DRAWINGS

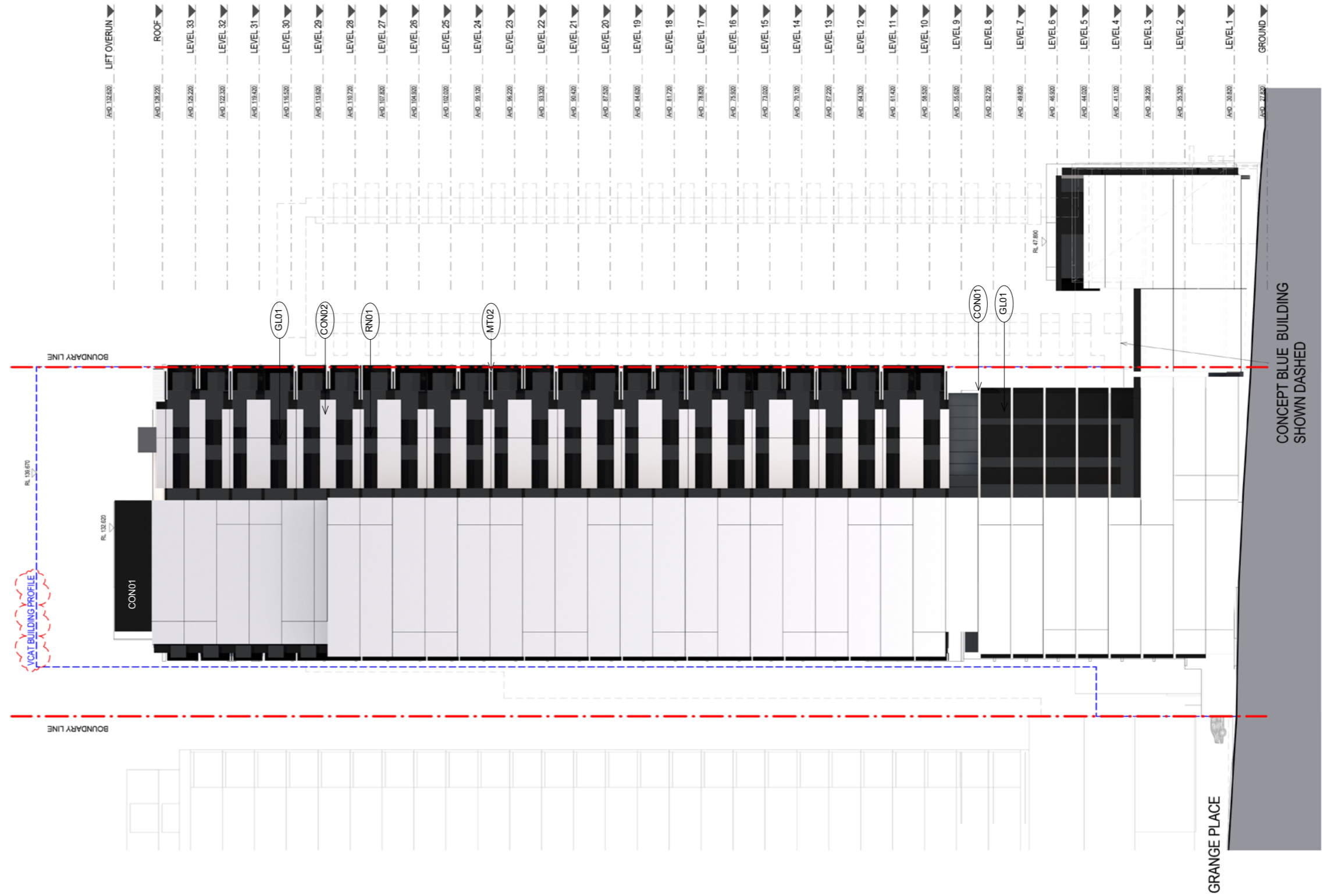
SOUTH ELEVATION VIEW FROM COURTYARD

MATERIAL SCHEDULE CODE	DESCRIPTION
CON01	Precast Concrete – Charcoal Finish
CON02	Precast Concrete – 100% Brighton Light
GL01	Glazing – Dark Grey Tinted
GL03	Glazing – Clear
RN01	Render/ Paint - Charcoal Colour to match CON01
RN02	Render/ Paint – White Colour to match CON02
MT01	Powdercoated Metal Shrouds/ Window frames – Charcoal Colour to match CON01
MT02	Powdercoated Metal Cladding – Charcoal Colour with White Edging (White)



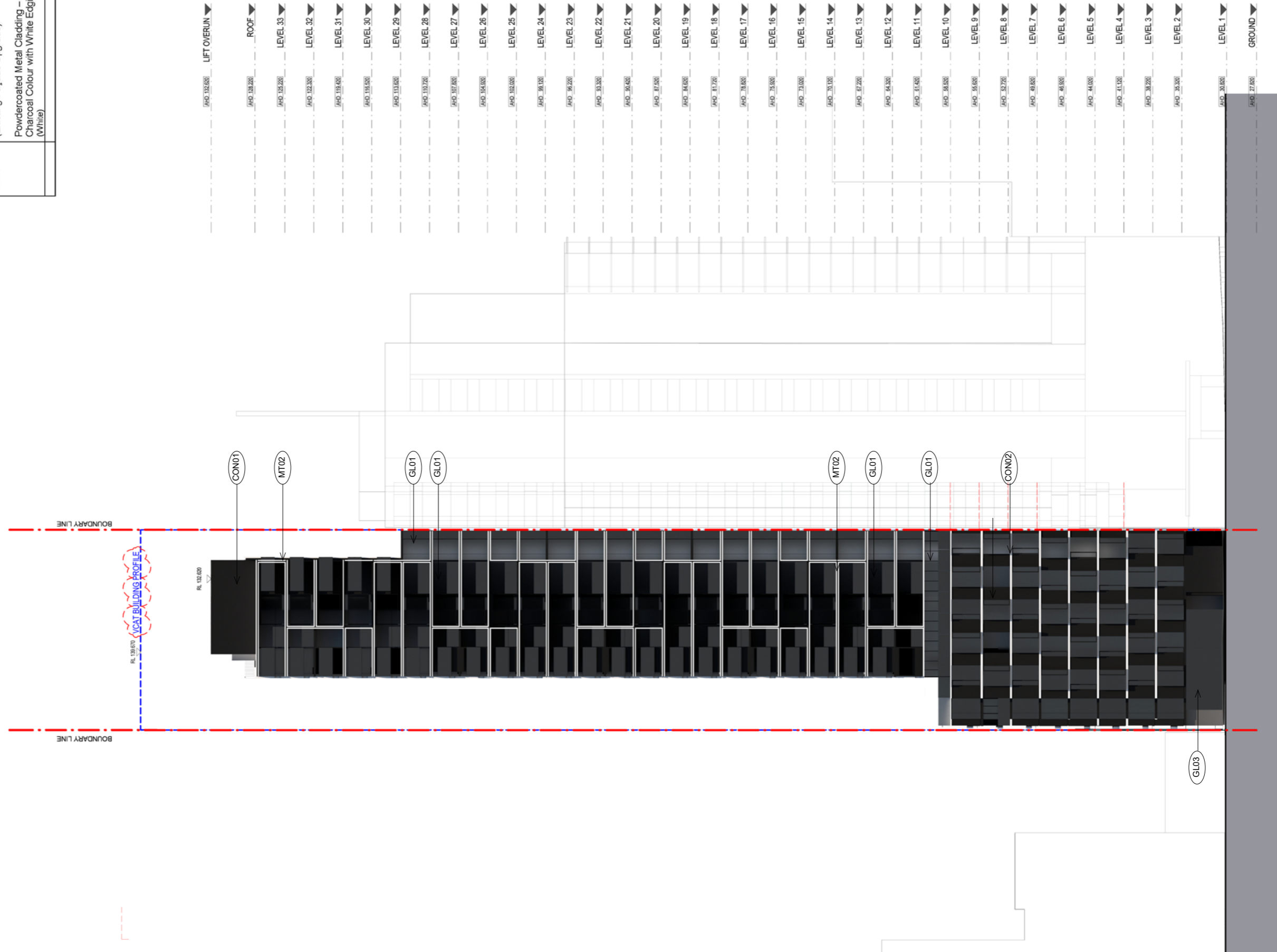
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MATERIAL SCHEDULE CODE	DESCRIPTION
CON01	Precast Concrete – Charcoal Finish
CON02	Precast Concrete – 100% Brighton Light
GL01	Glazing – Dark Grey Tinted
GL03	Glazing – Clear
RN01	Render/ Paint - Charcoal Colour to match CON01
RN02	Render/ Paint – White Colour to match CON02
MT01	Powdercoated Metal Shrouds/ Window frames – Charcoal Colour to match CON01
MT02	Powdercoated Metal Cladding – Charcoal Colour with White Edging (White)



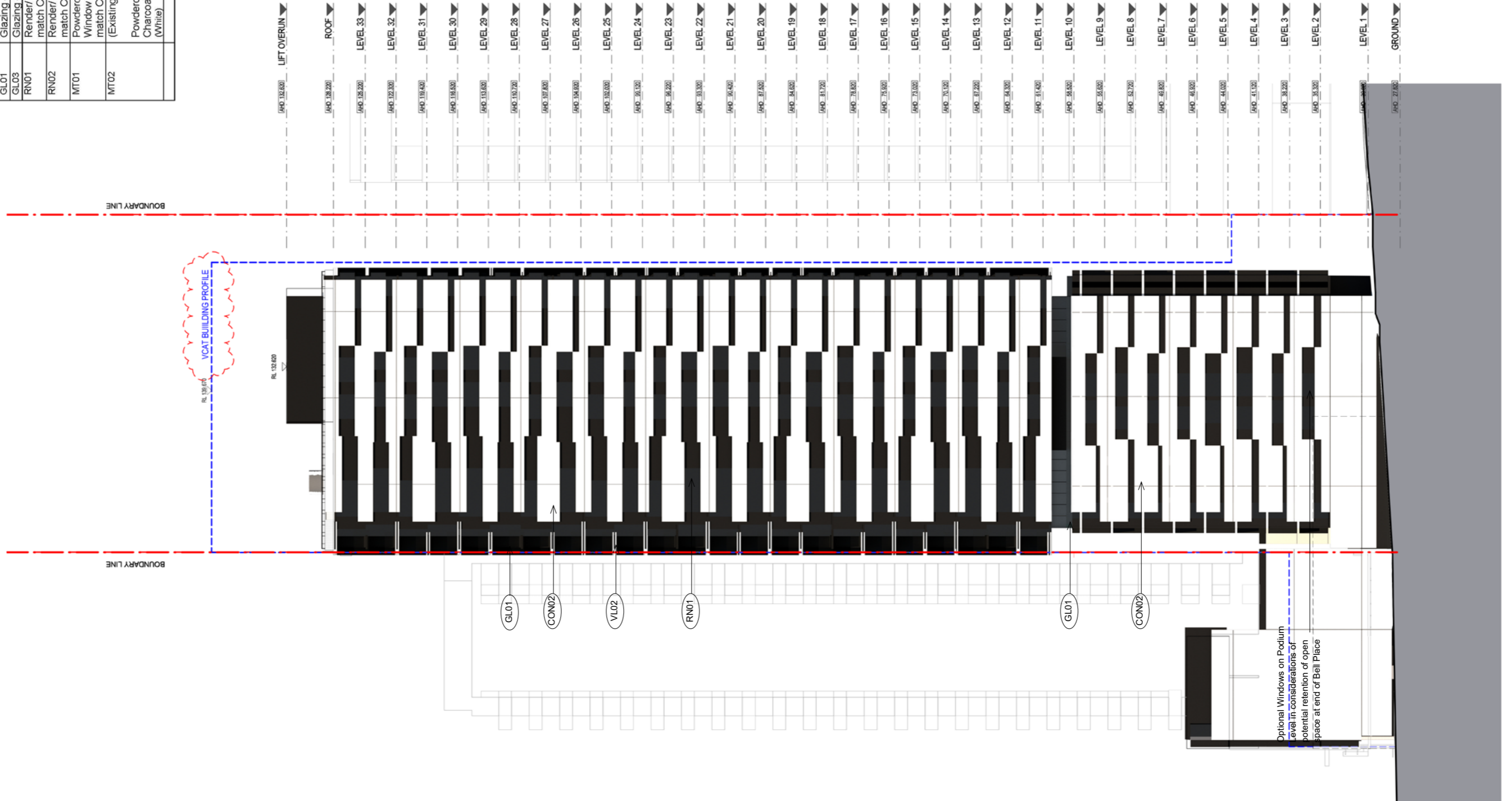
SCALE 1:200 A1 / 1:400 A3

MATERIAL SCHEDULE CODE	DESCRIPTION
CON01	Precast Concrete – Charcoal Finish
CON02	Precast Concrete – 100% Brighton Light
GL01	Glazing – Dark Grey Tinted
GL03	Glazing – Clear
RN01	Render/ Paint - Charcoal Colour to match CON01
RN02	Render/ Paint – White Colour to match CON02
MT01	Powdercoated Metal Shrouds/ Window frames – Charcoal Colour to match CON01
MT02	(Existing Façade Upgrade) Powdercoated Metal Cladding – Charcoal Colour with White Edging (White)



SCALE 1:200 A1 / 1:400 A3

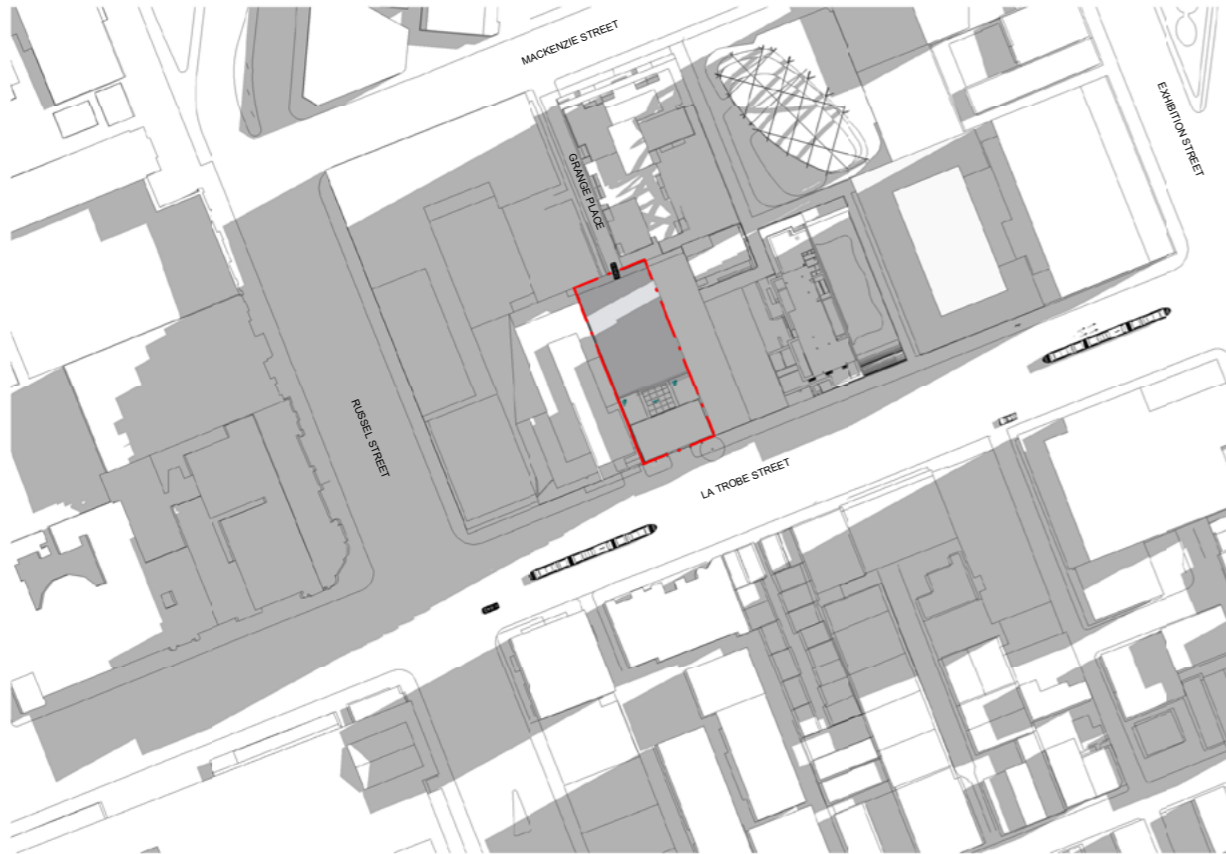
MATERIAL SCHEDULE CODE	DESCRIPTION
CON01	Precast Concrete – Charcoal Finish
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GL03	Glazing – Clear
RN01	Render/ Paint - Charcoal Colour to match CON01
RN02	Render/ Paint – White Colour to match CON02
MT01	Powdercoated Metal Shrouds/ Window frames – Charcoal Colour to match CON01
MT02	Powdercoated Metal Cladding – Charcoal Colour with White Edging (White)



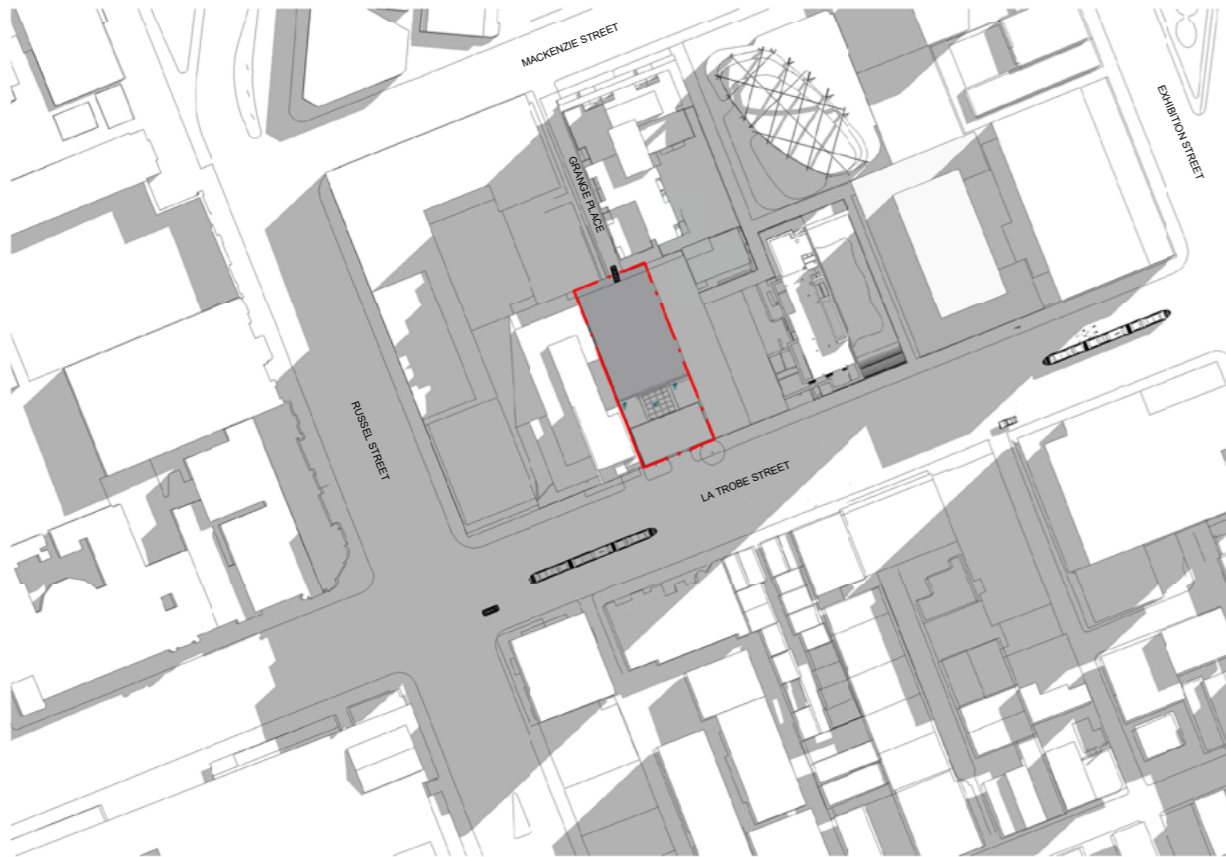
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4.0 ARCHITECTURAL DRAWINGS

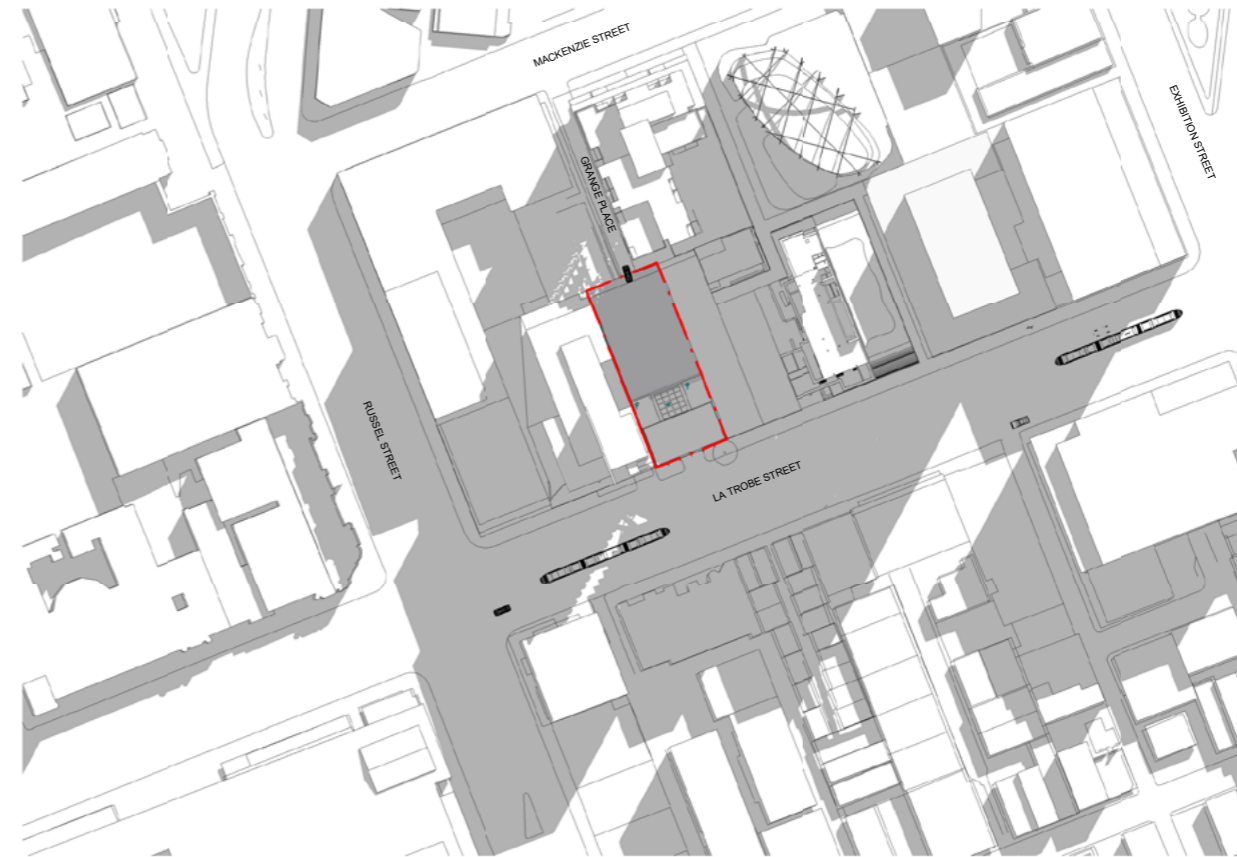
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A01.14 1 : 1000



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A01.14 1 : 1000

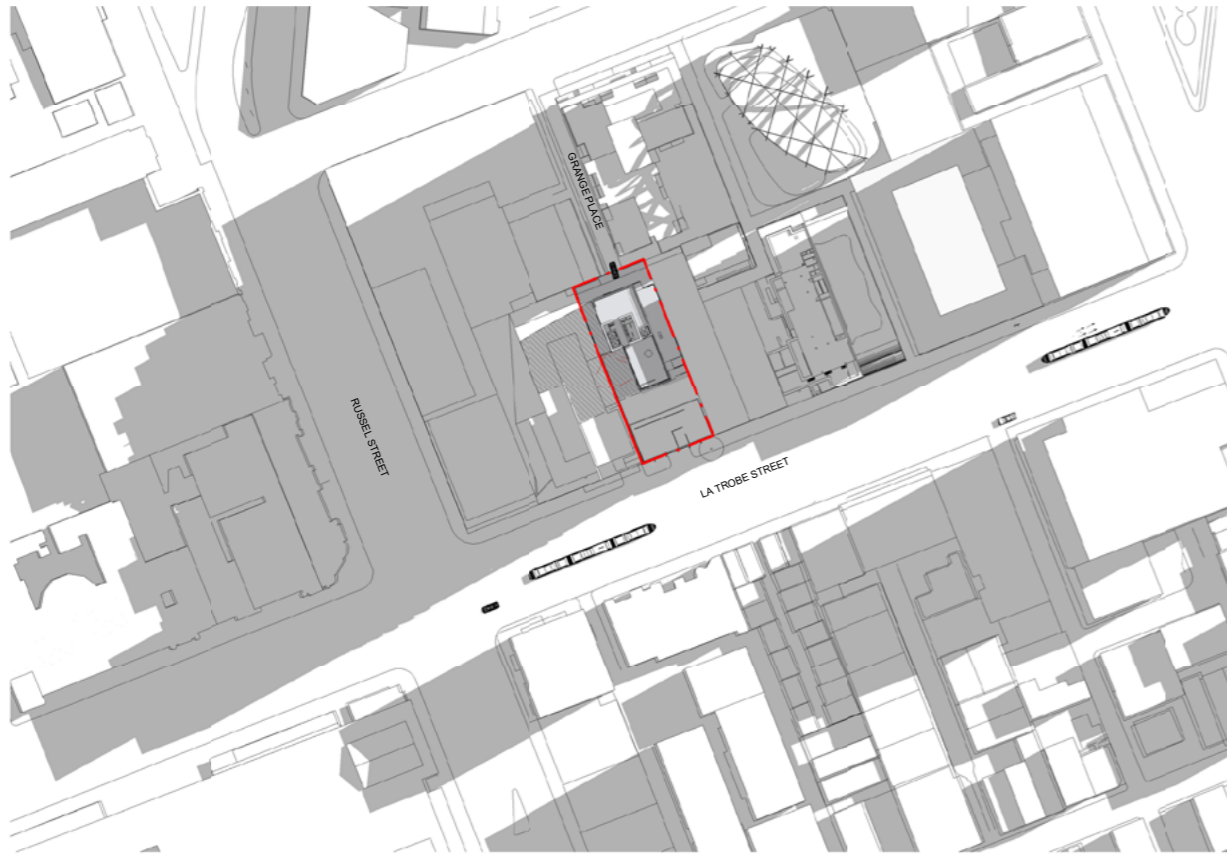


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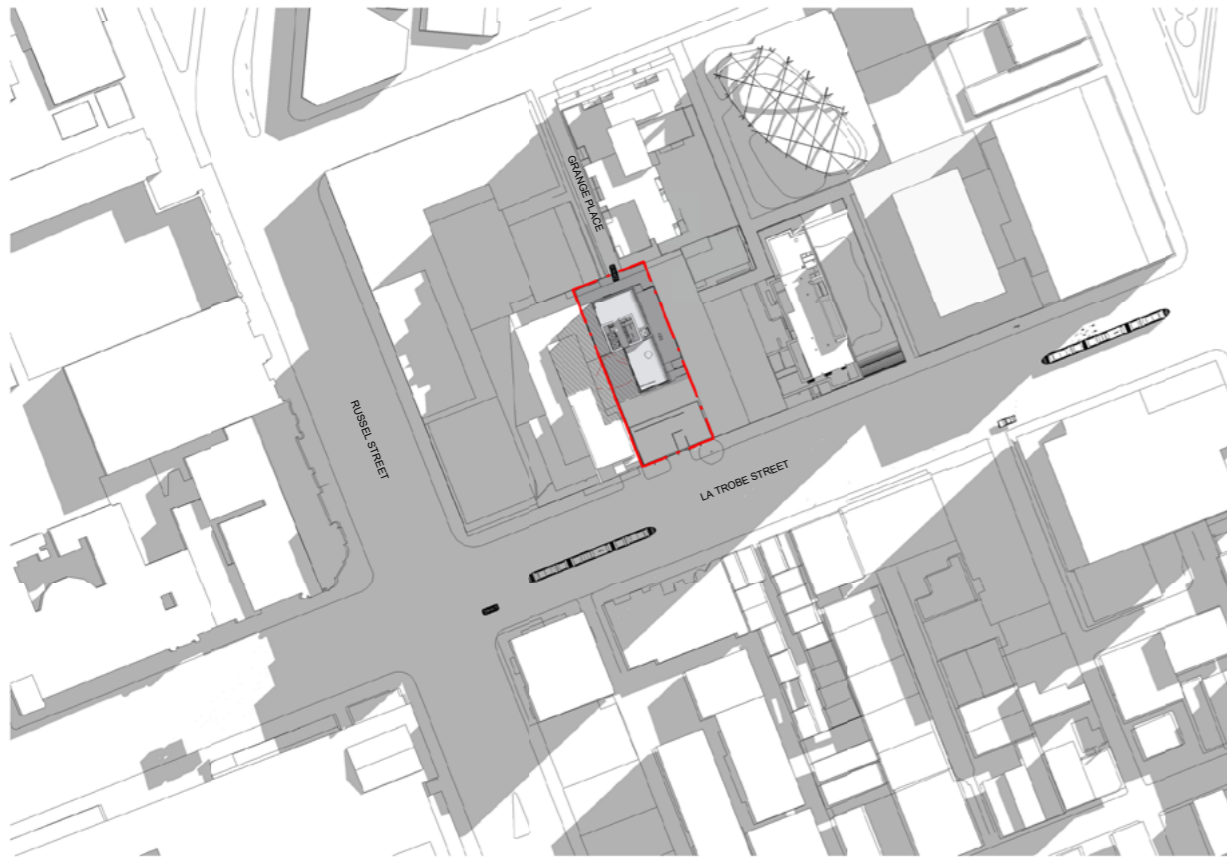
EXISTING CONTEXT SHADOW
SITE BOUNDARY

4.0 ARCHITECTURAL DRAWINGS

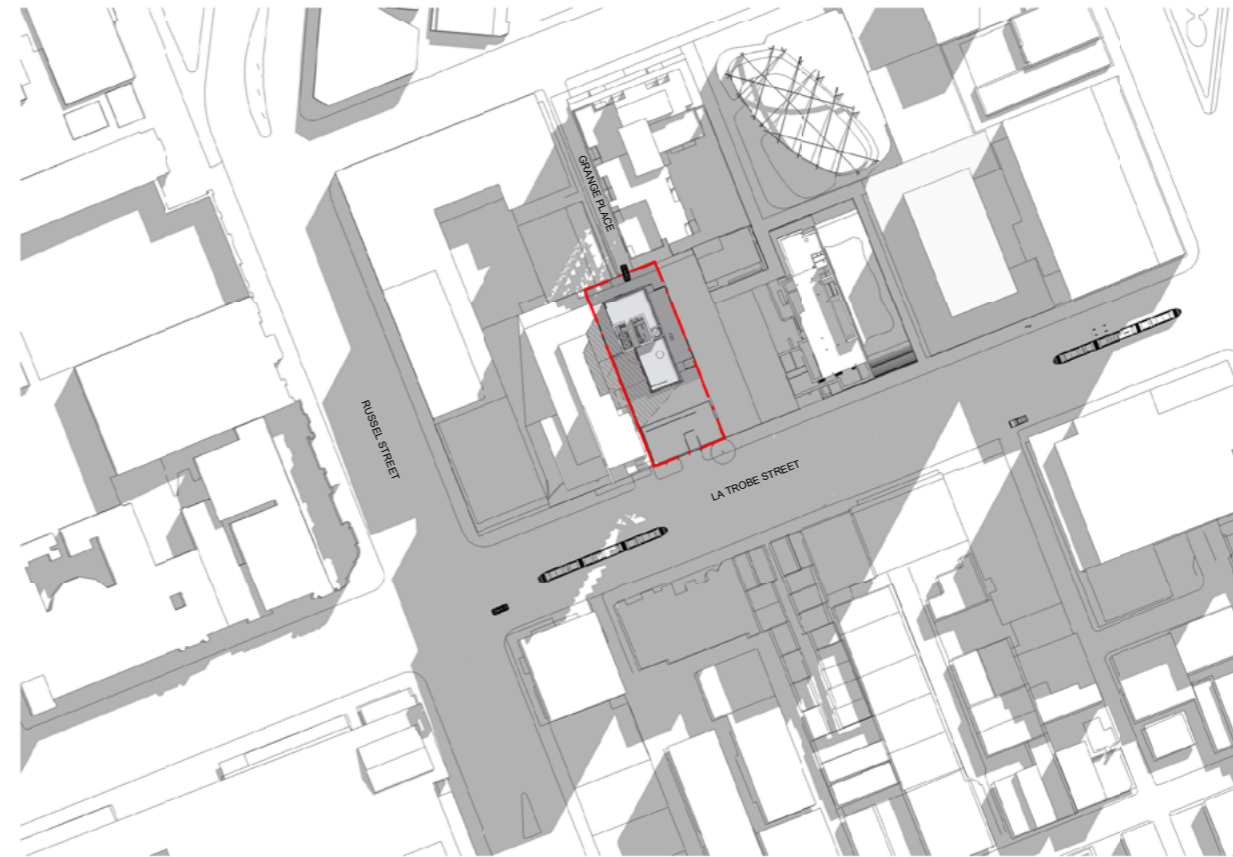
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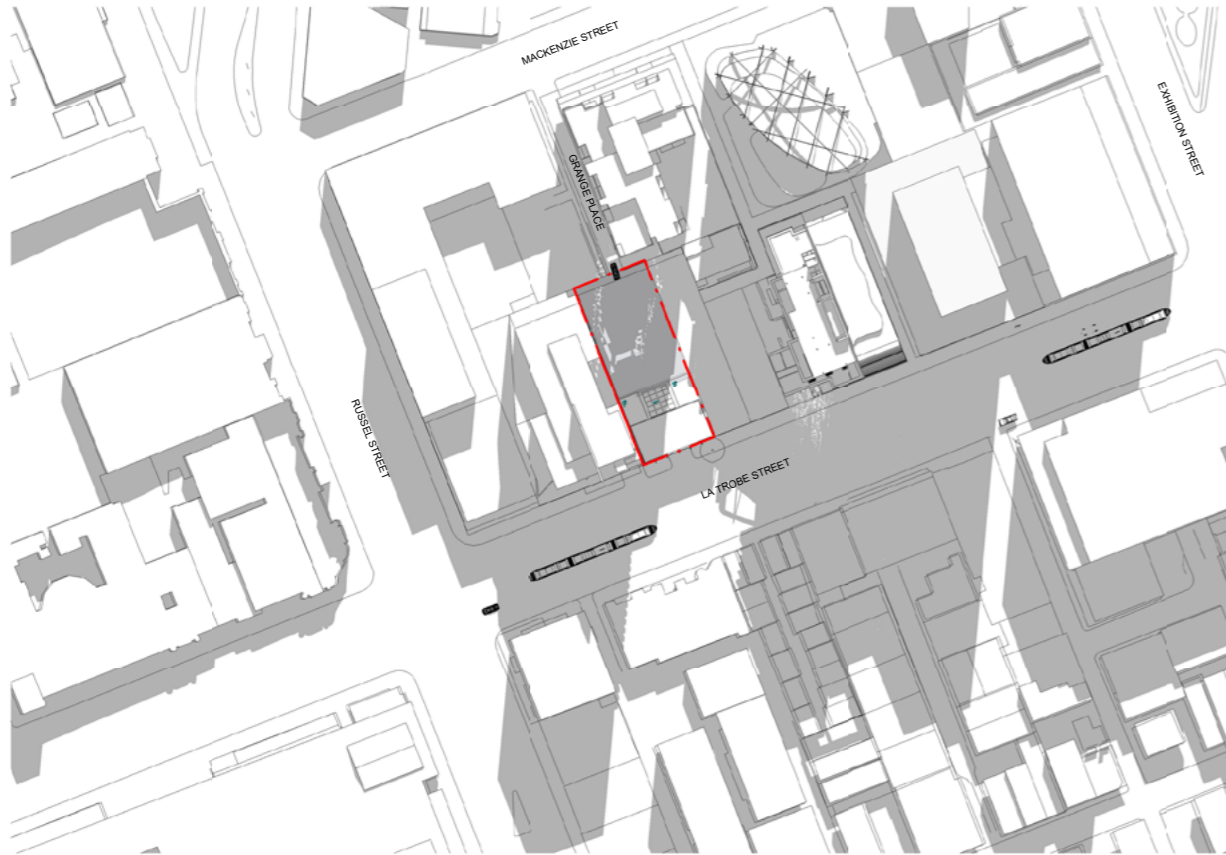


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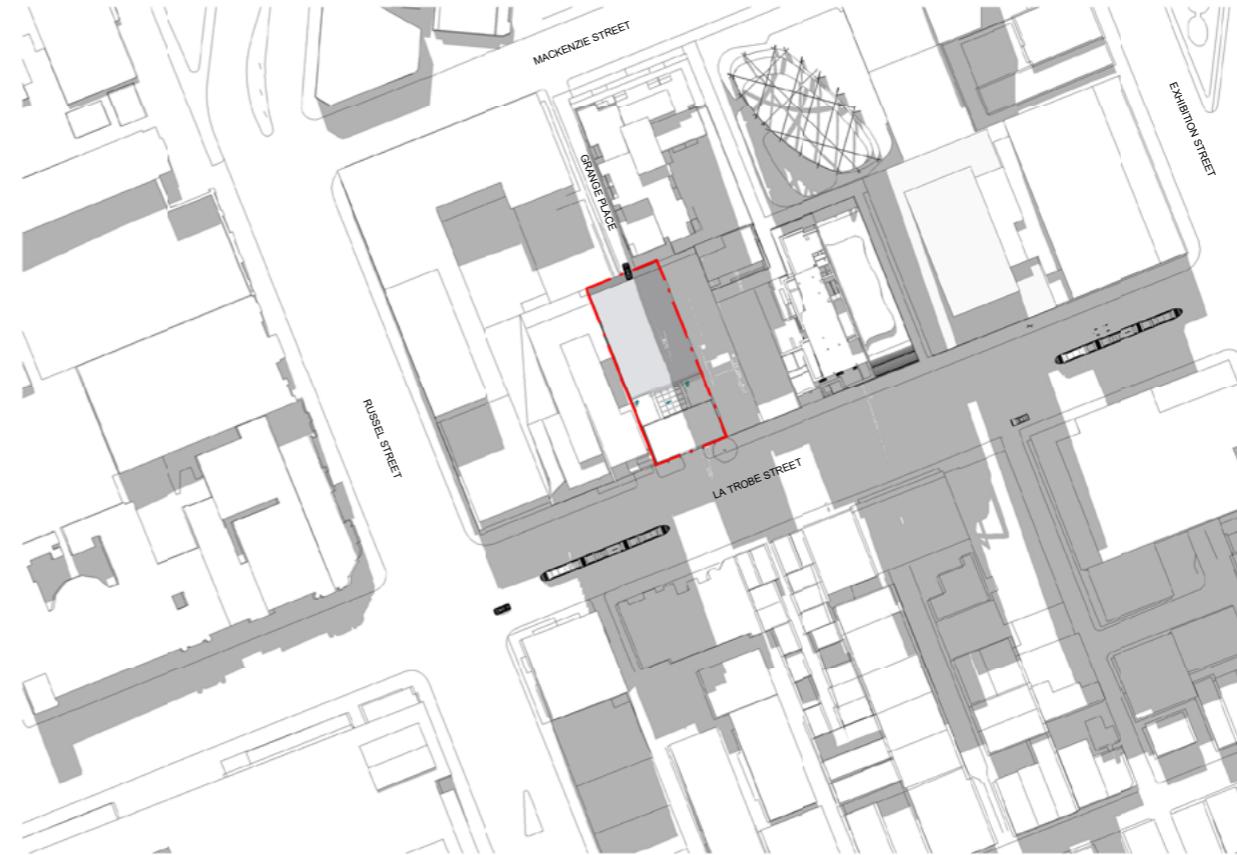
-  EXISTING CONTEXT SHADOW
-  PROPOSED BUILDING SHADOW
-  SITE BOUNDARY

4.0 ARCHITECTURAL DRAWINGS

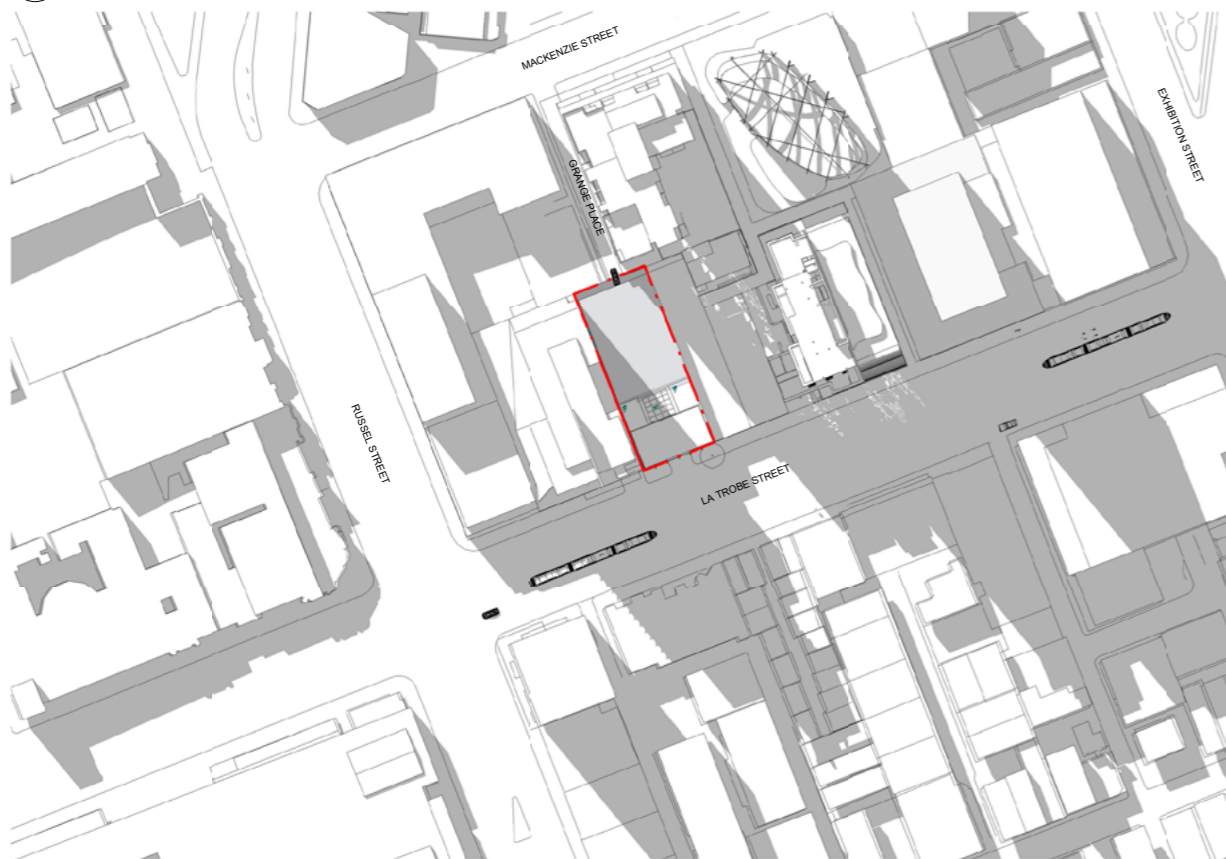
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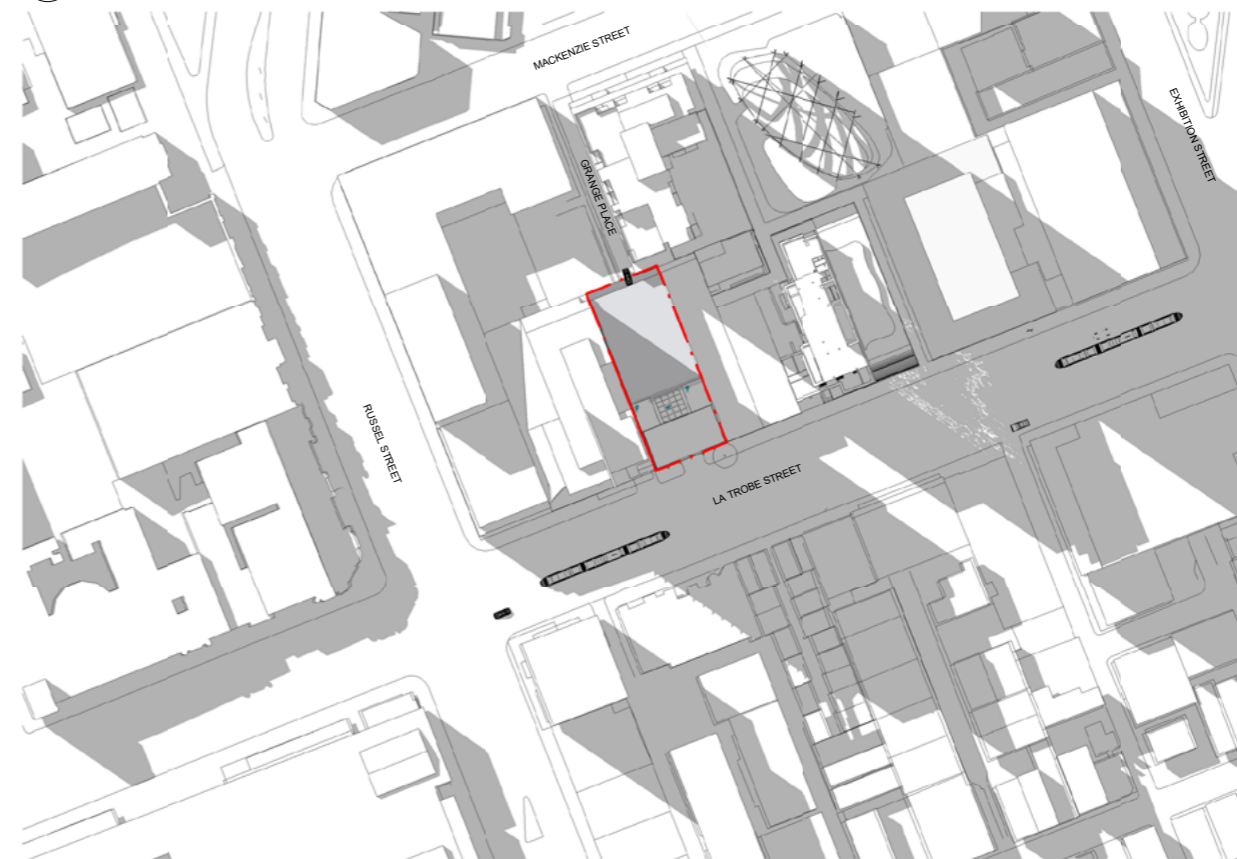
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2 Sun_Study_22/09_1pm
A01.14 1:1000



3 Sun_Study_22/09_2pm
A01.14 1:1000

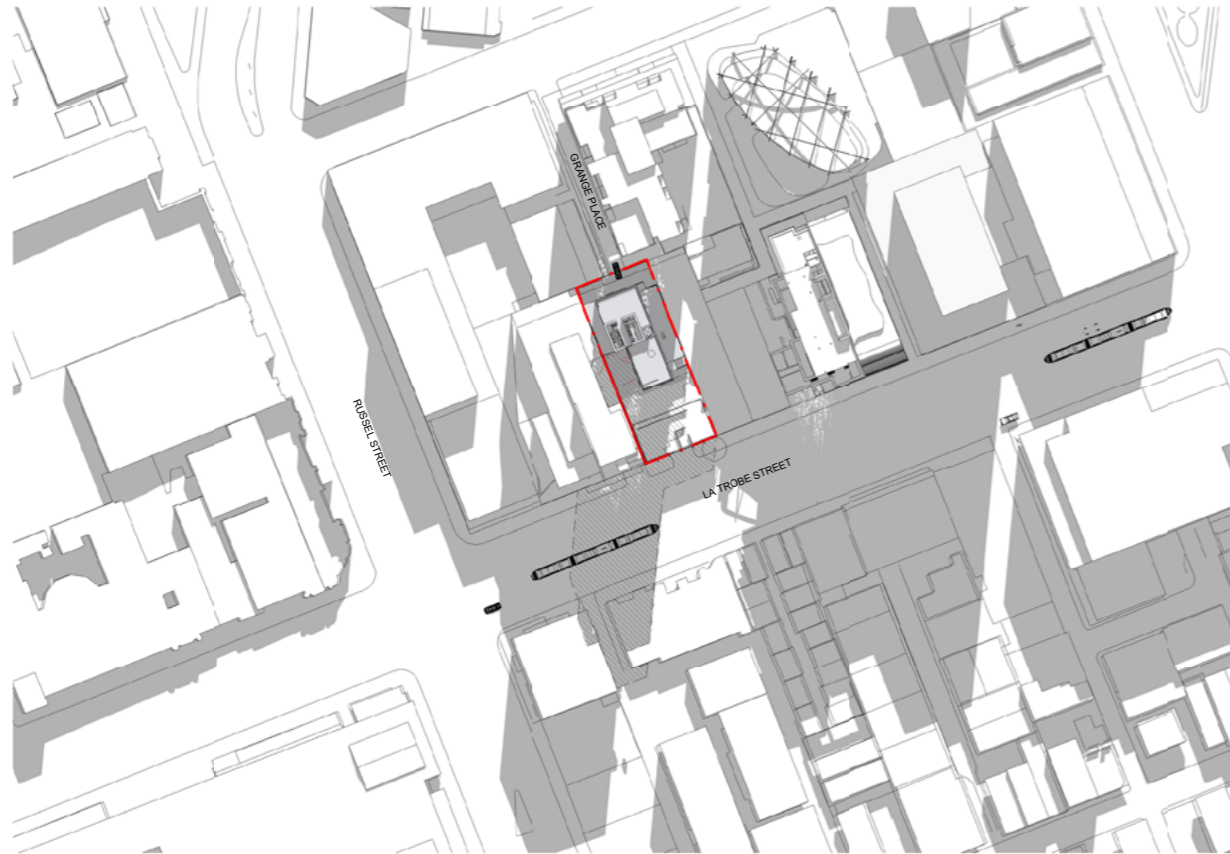


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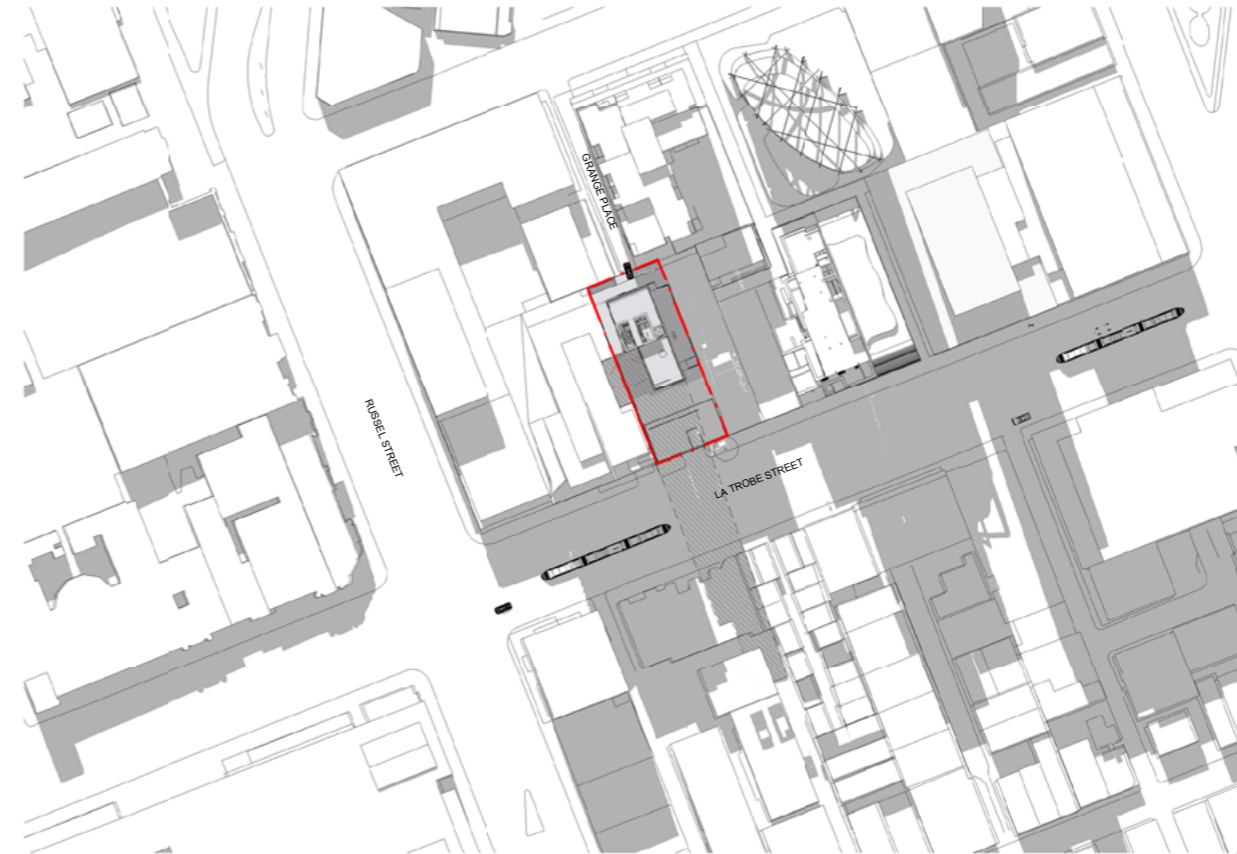
EXISTING CONTEXT SHADOW
SITE BOUNDARY

4.0 ARCHITECTURAL DRAWINGS

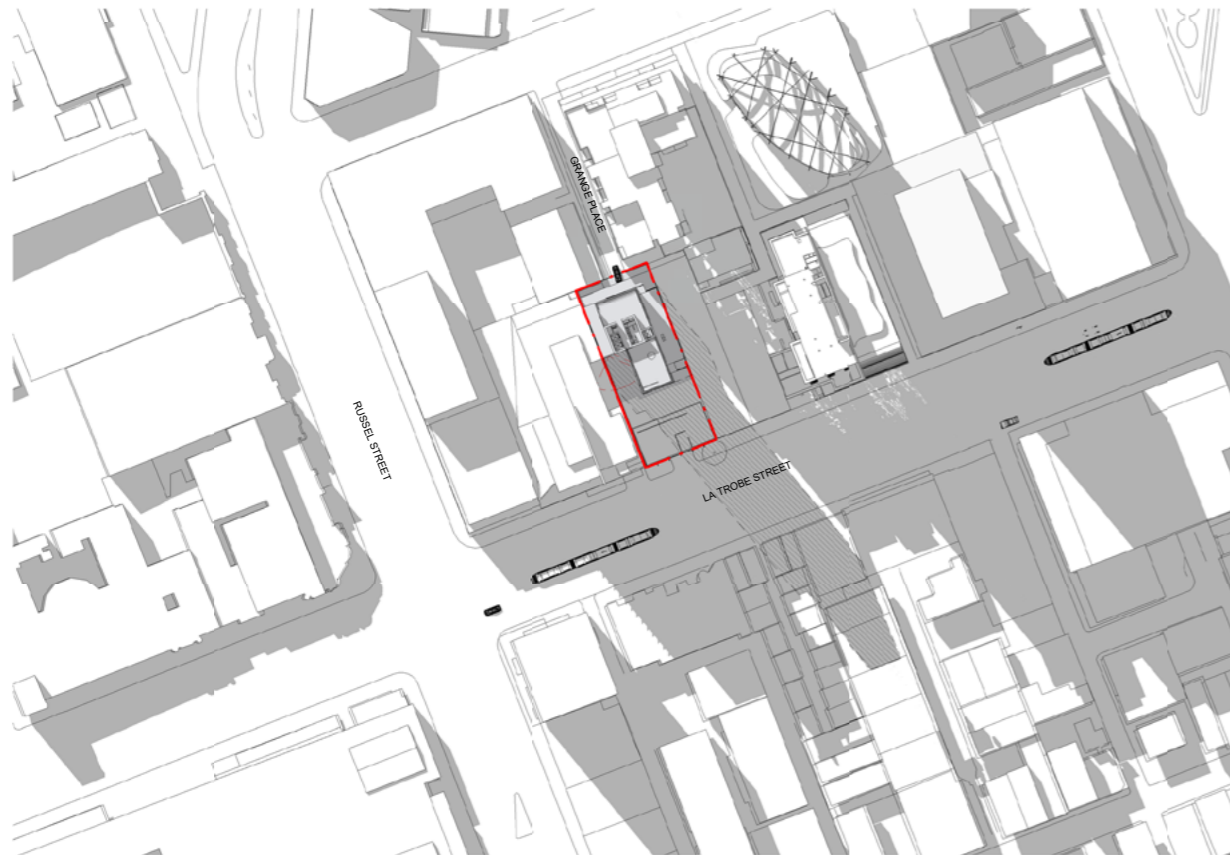
PROPOSED BUILDING SHADOW STUDY AFTERNOON



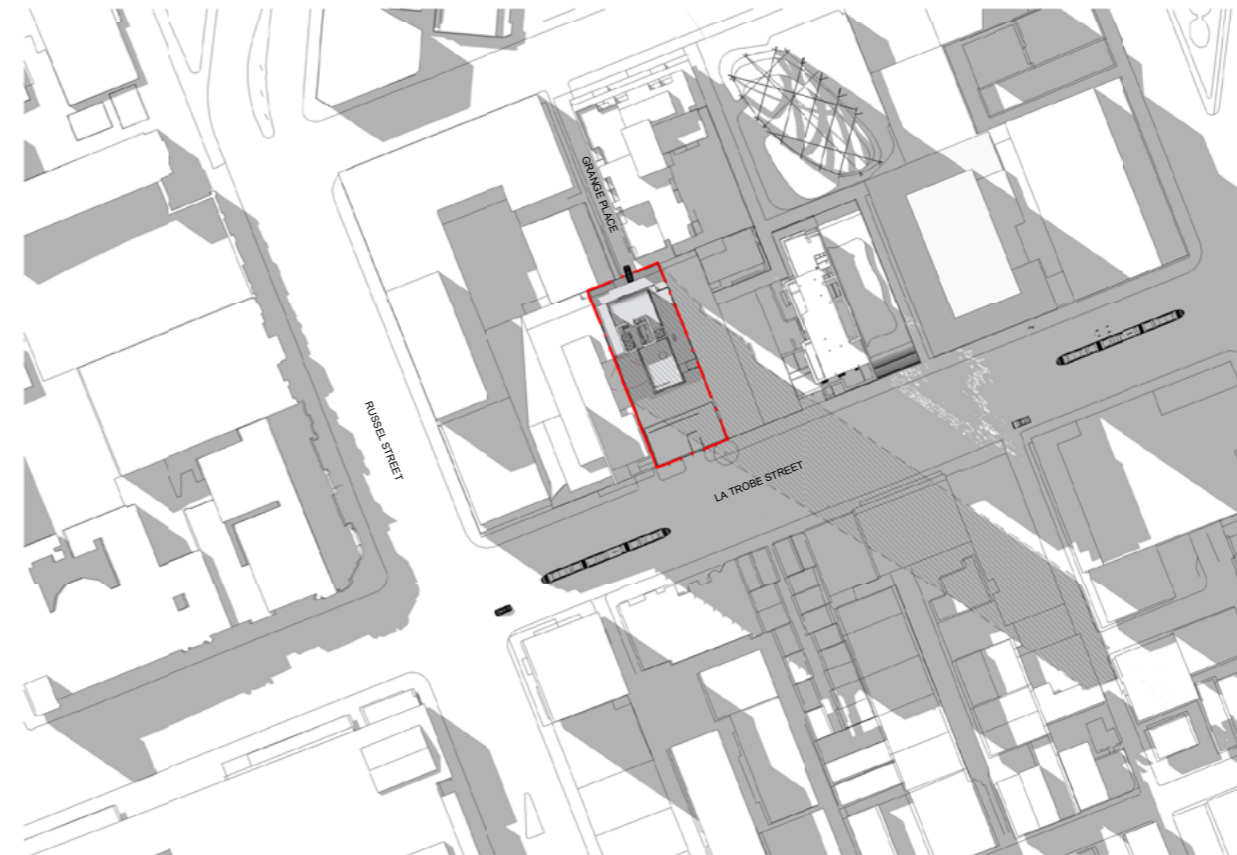
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TP87 1:1000






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A01.14 1:1000



2 Sun_Study_22/09_2pm
TP87 1:1000

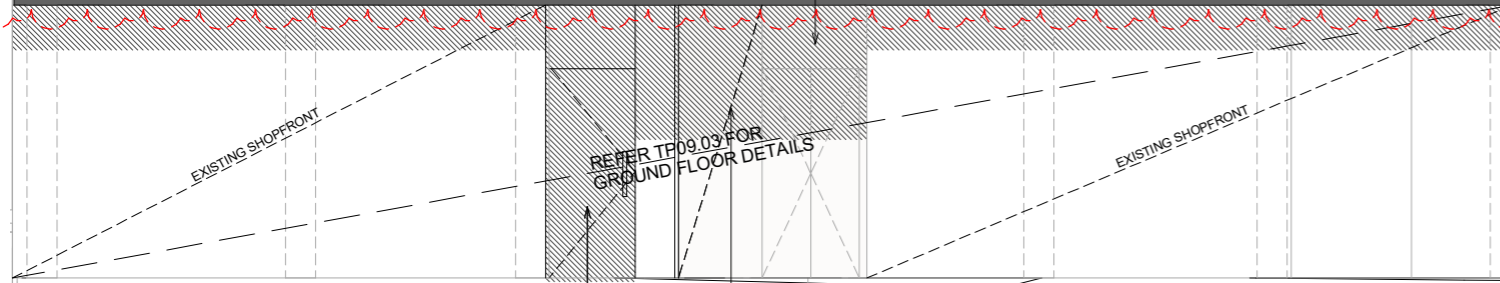


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A01.14 1:1000

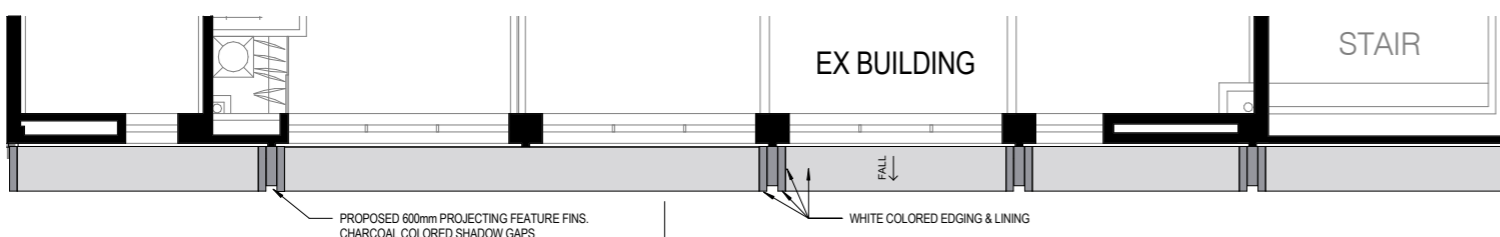
-  EXISTING CONTEXT SHADOW
-  PROPOSED BUILDING SHADOW
-  SITE BOUNDARY

4.0 ARCHITECTURAL DRAWINGS

FACADE DETAILS - FACADE UPGRADE



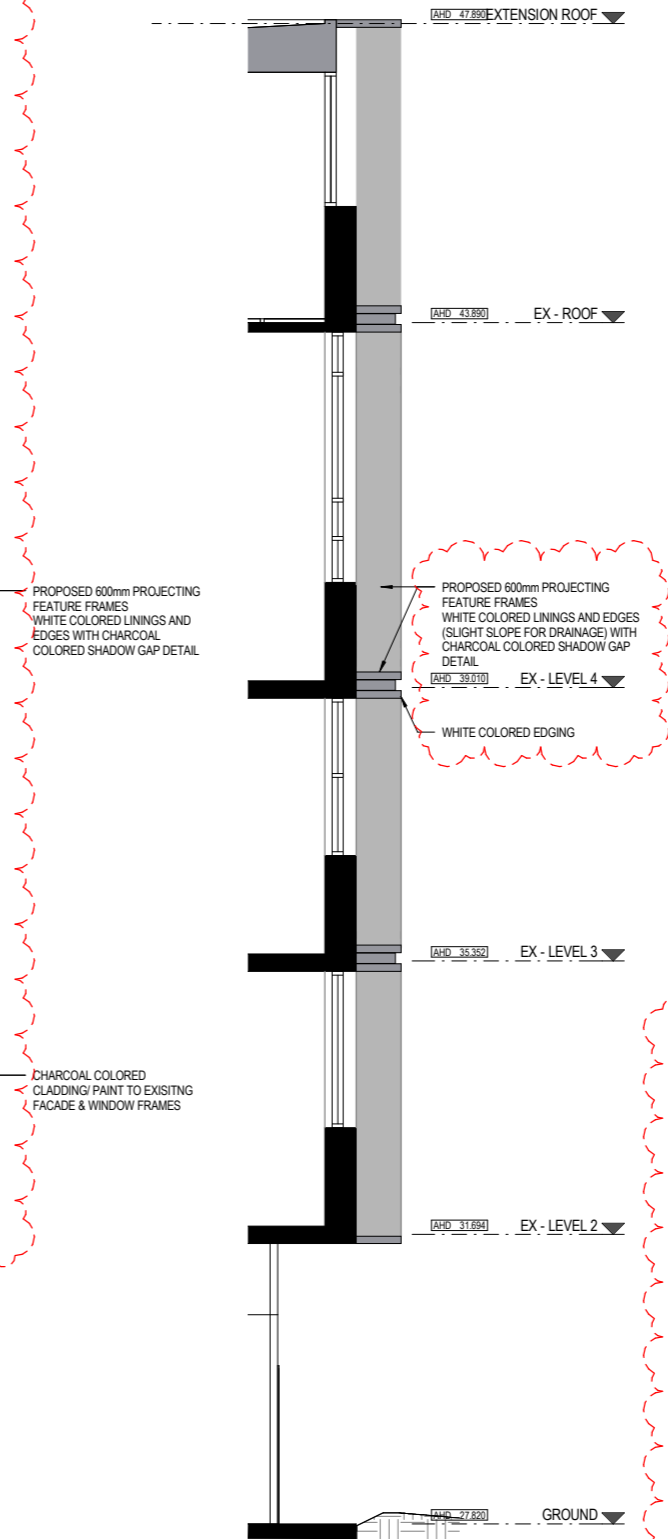
3 FACADE STUDY - EXISTING FACADE UPGRADE (ELEVATION)
TP93 1:50



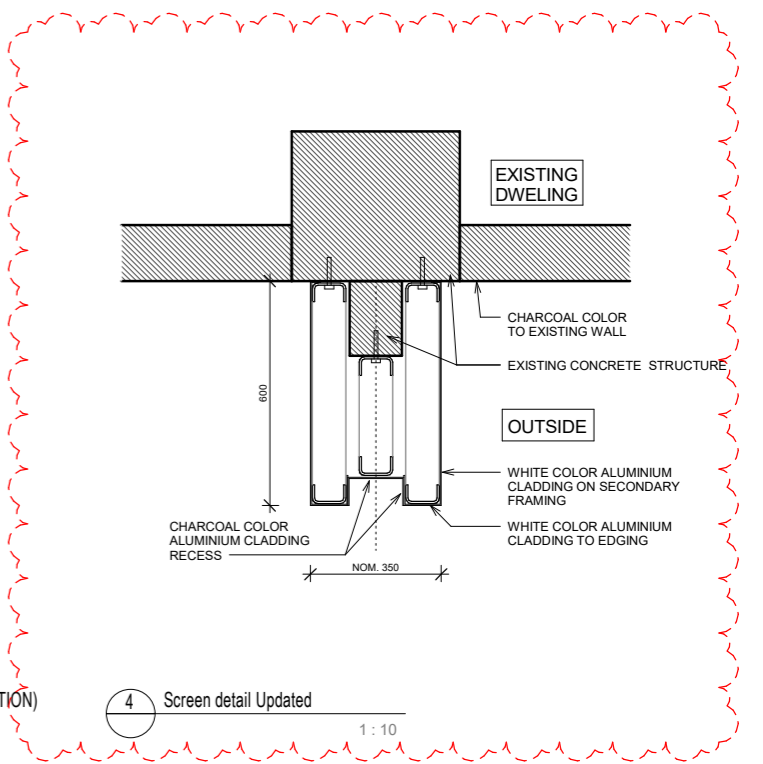
1 FACADE STUDY - EXISTING FACADE UPGRADE (PART LEVEL 3 PLAN)
A01.14 1:50

2 TP93

LA TROBE STREET

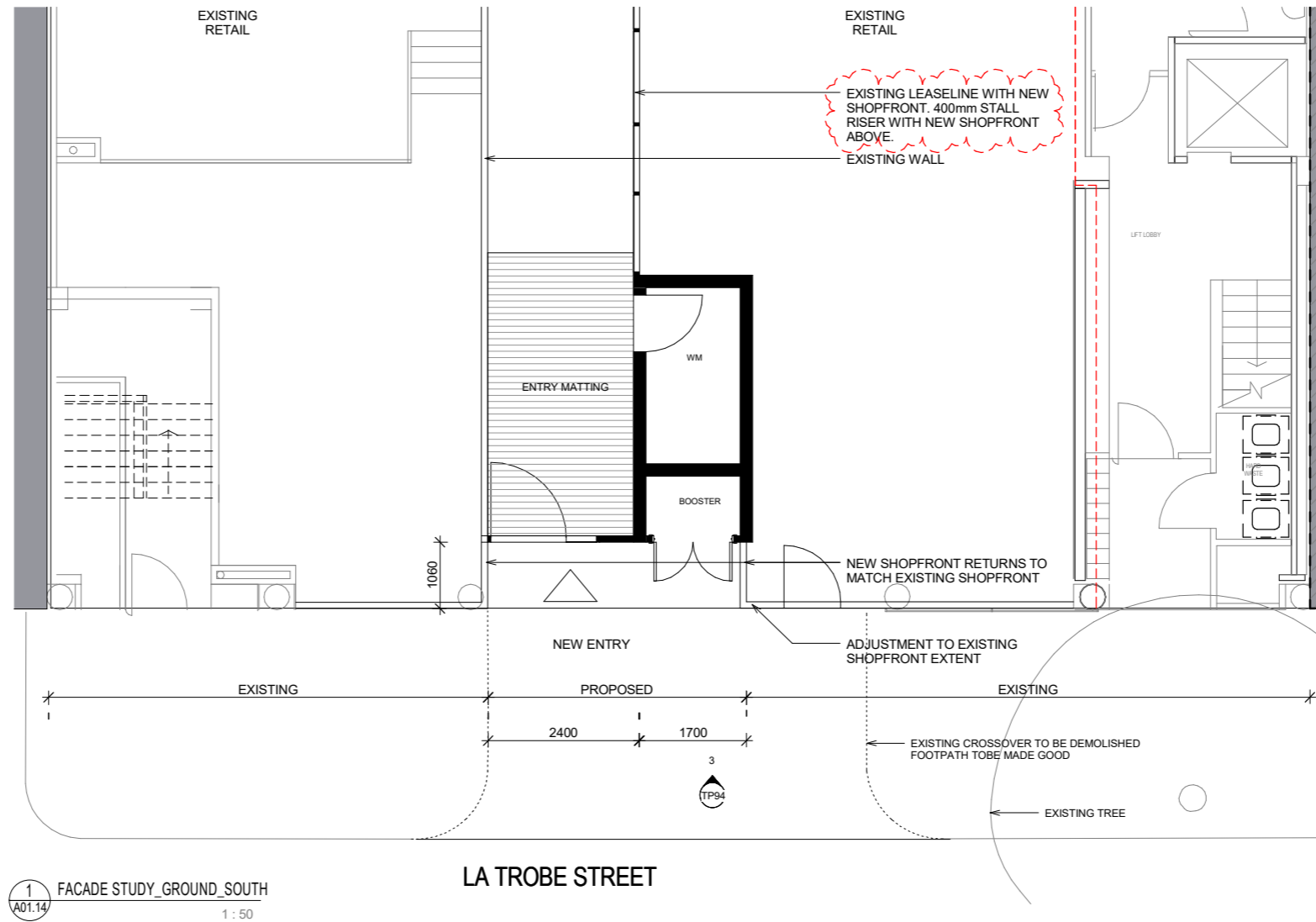
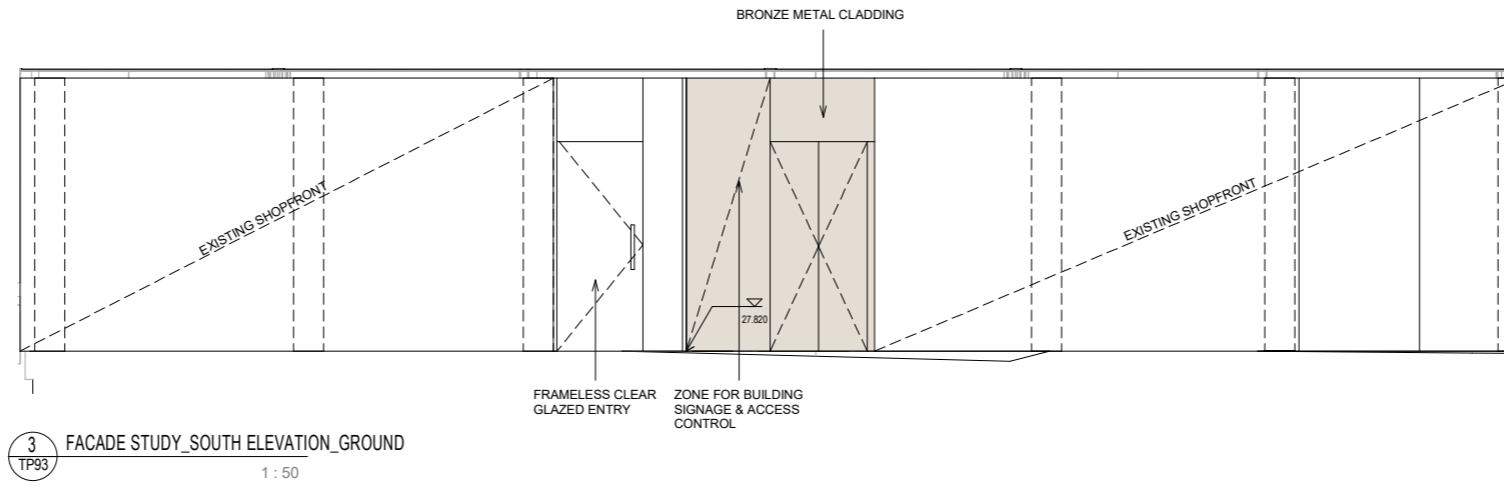


2 FACADE STUDY - EXISTING FACADE UPGRADE (SECTION)
TP93 1:50



4 Screen detail Updated
1:10

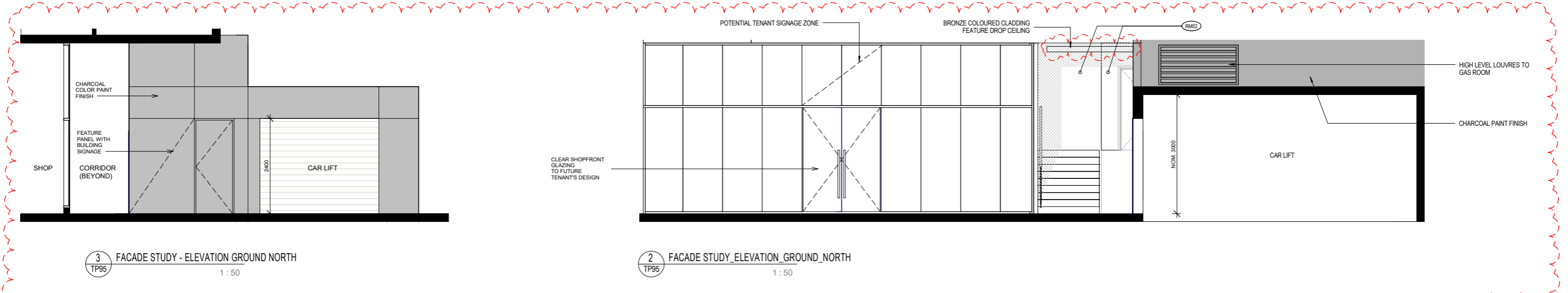
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SCALE 1:50 A1 / 1:100 A3

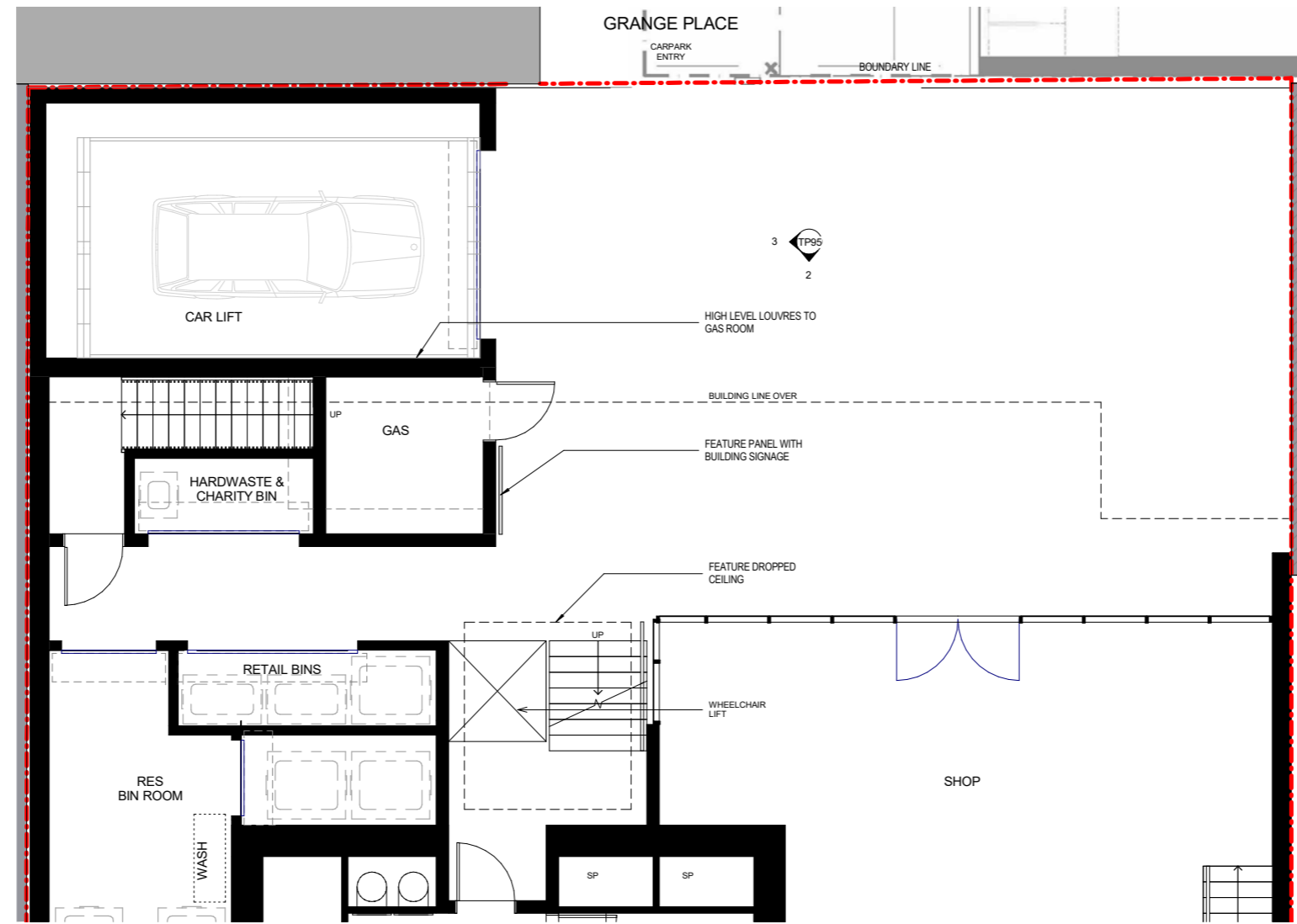
4.0 ARCHITECTURAL DRAWINGS

FACADE DETAILS - GROUND FLOOR NORTH



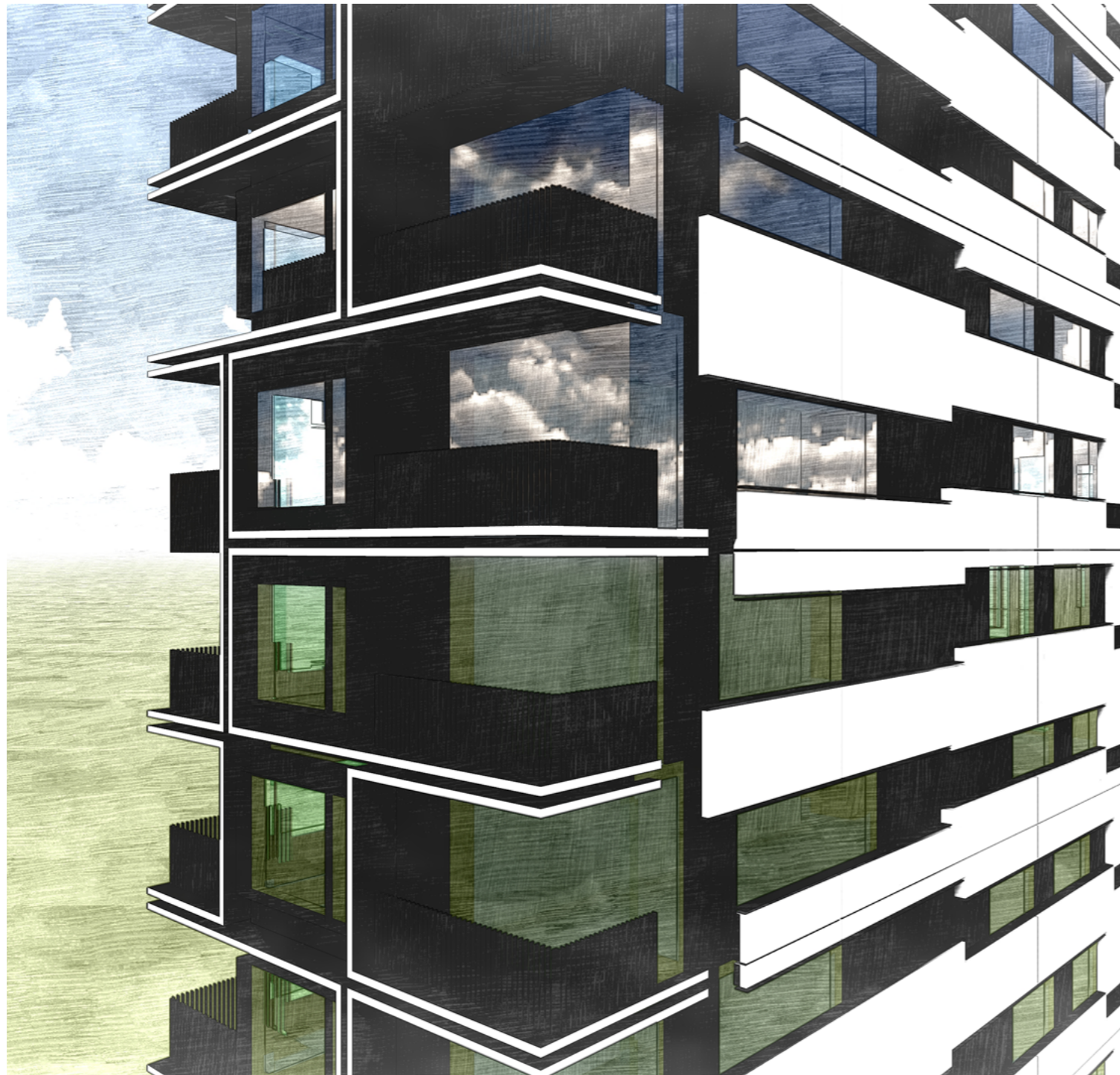
3 FACADE STUDY - ELEVATION GROUND NORTH
TP95 1:50

2 FACADE STUDY_ELEVATION_GROUND_NORTH
TP95 1:50

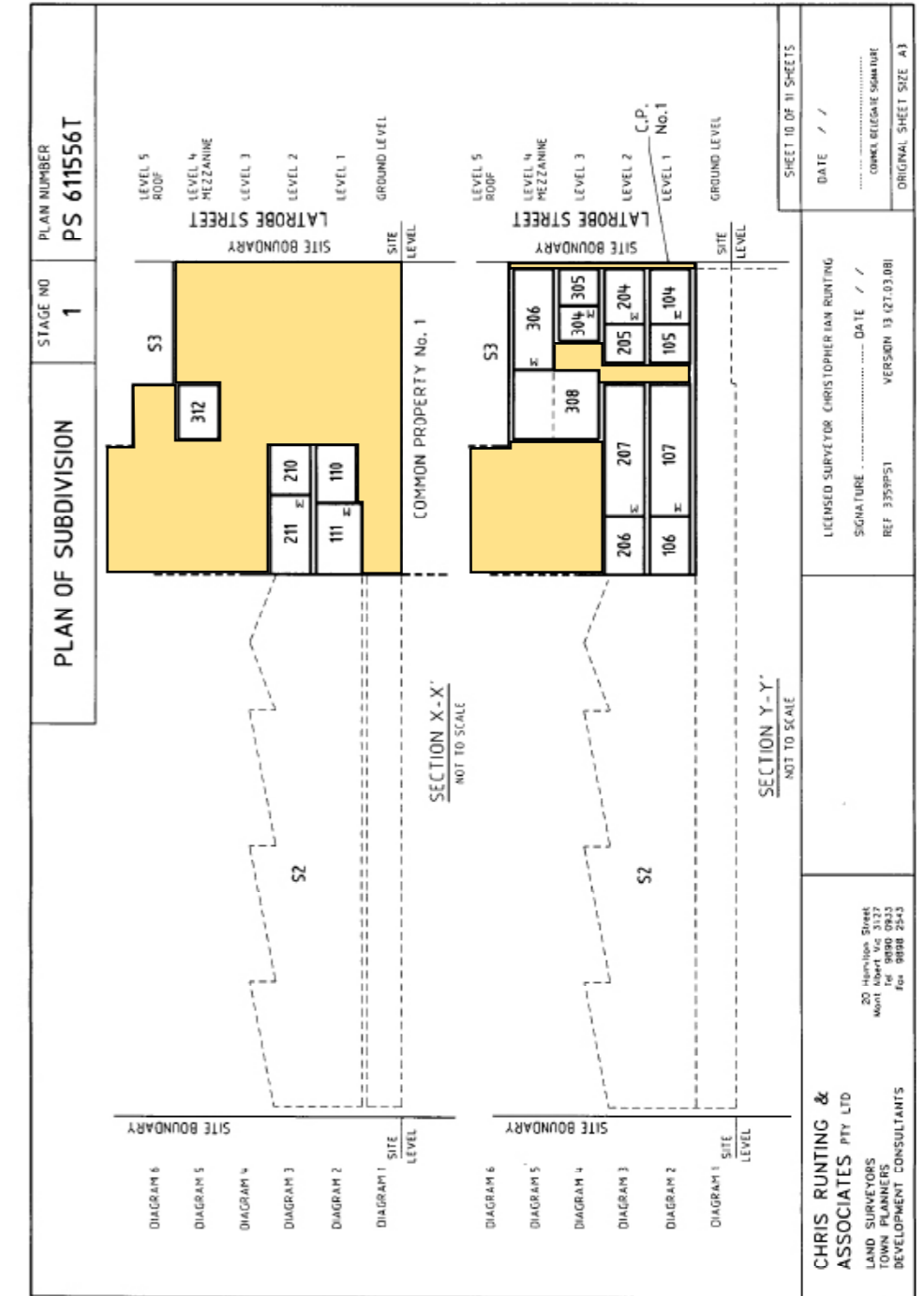
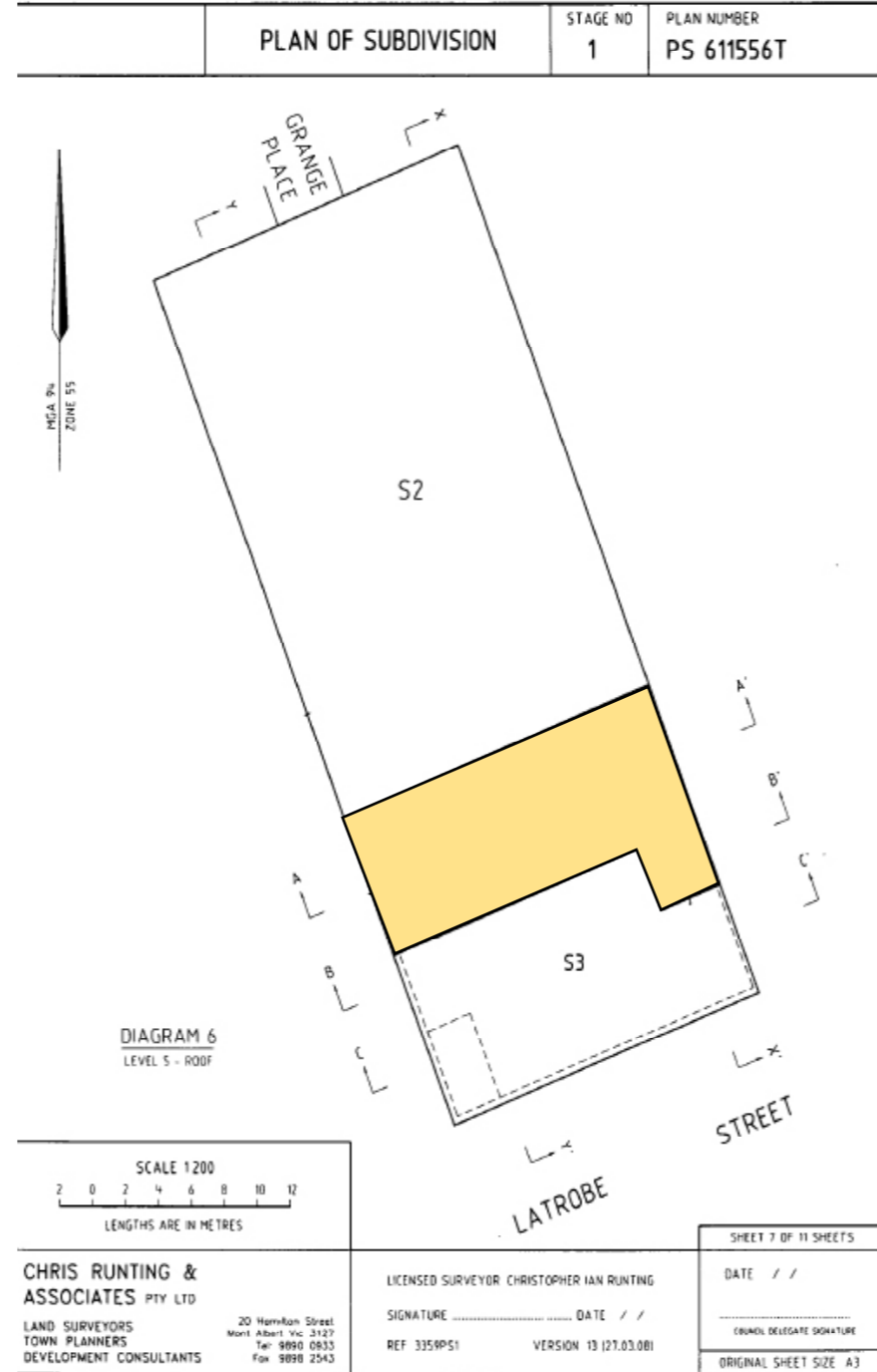
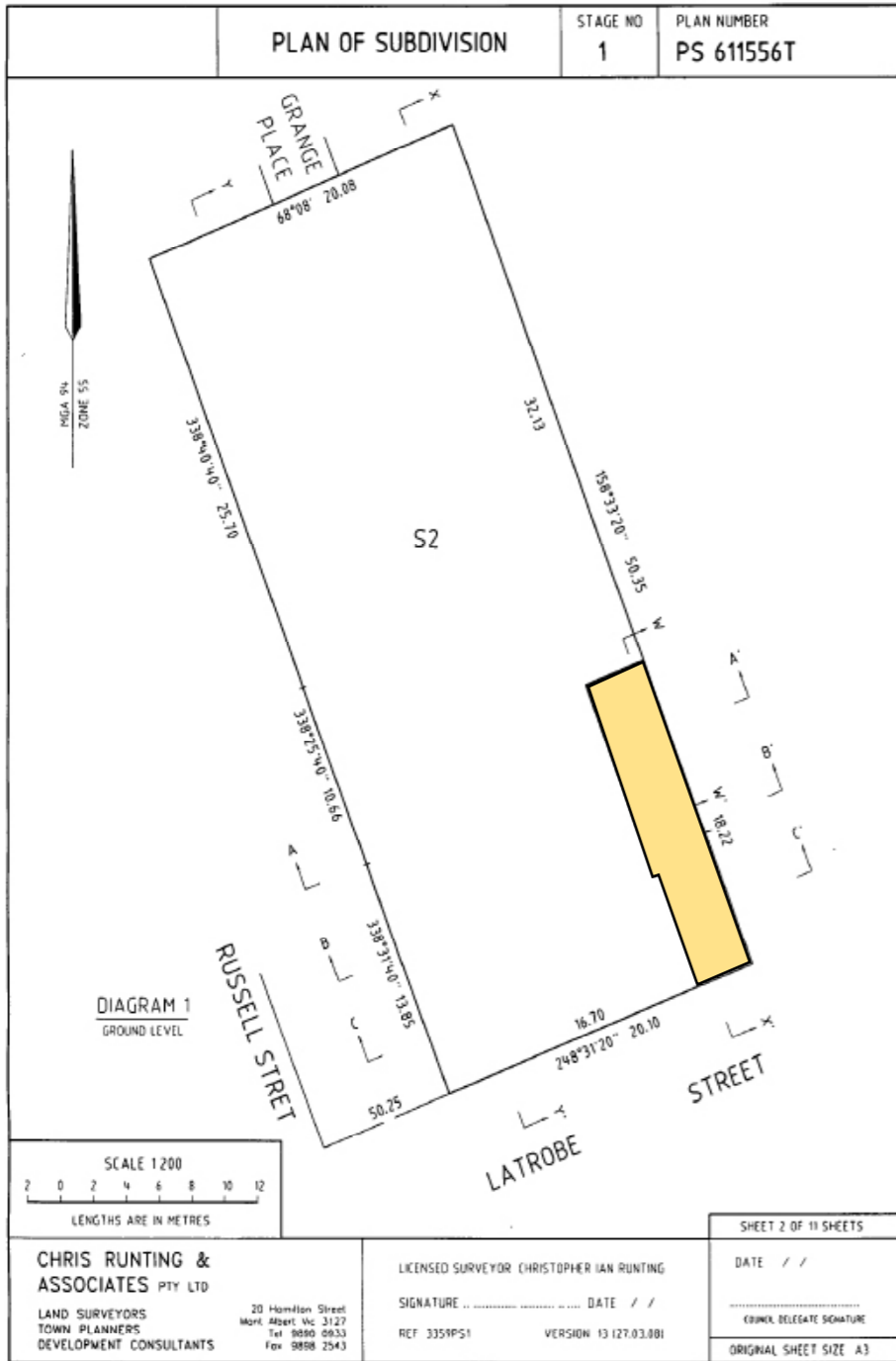


1 FACADE STUDY_GROUND FLOOR_NORTH
A01.14 1:50

SCALE 1:50 A1 / 1:100 A3

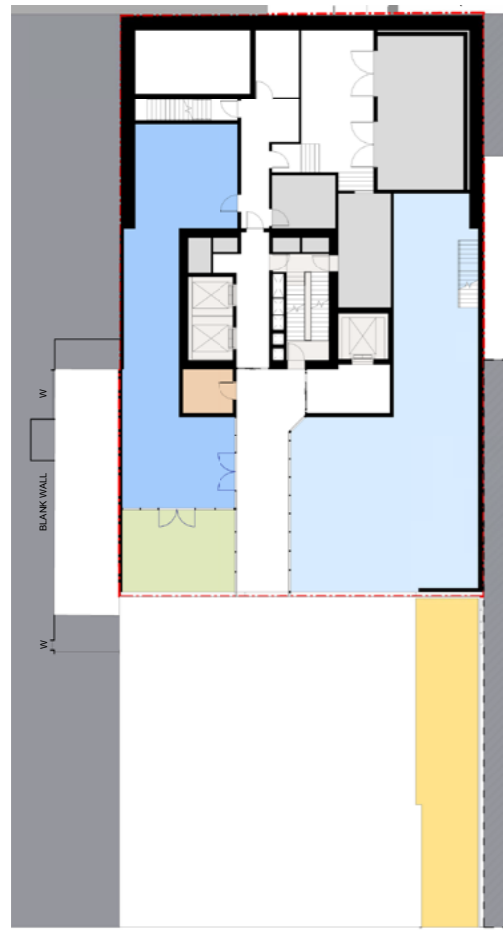


FACADE JUNCTION STUDY



COMMON PROPERTY

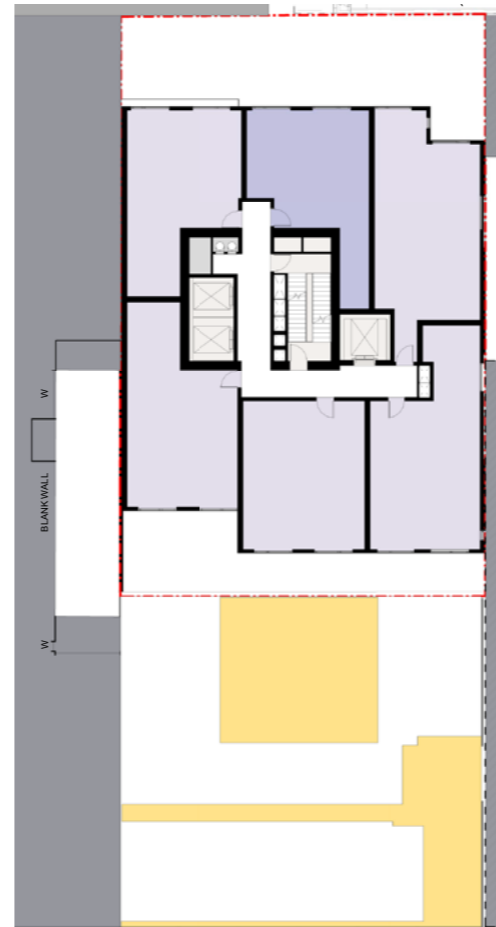
5.0 COMMON PROPERTY PLAN ANALYSIS



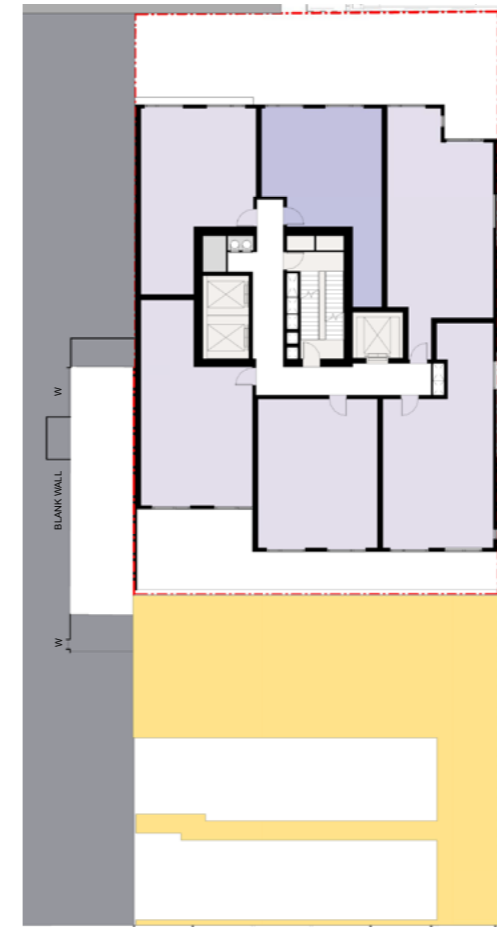
GROUND FLOOR



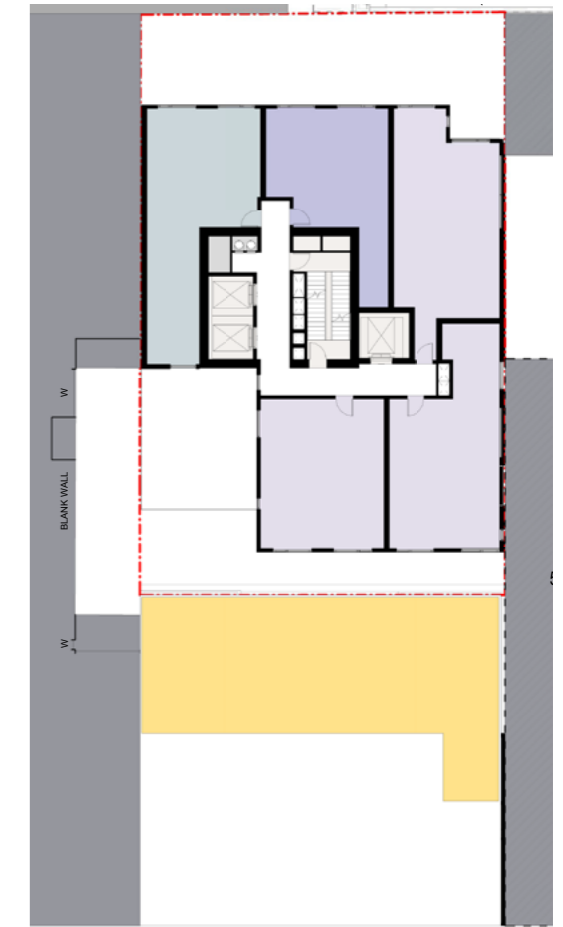
LEVEL 1



LEVEL 2



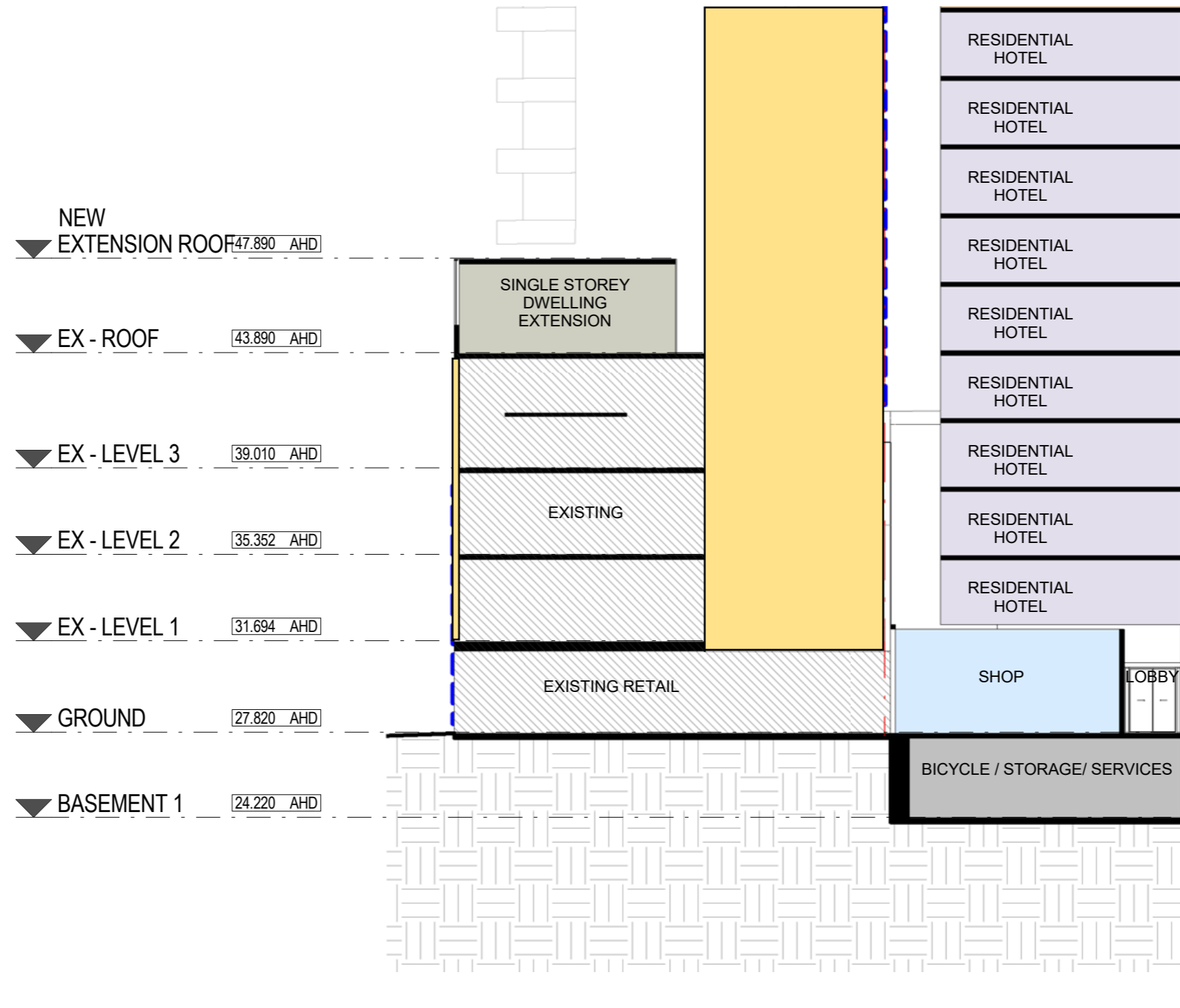
LEVEL 3



LEVEL 4

 COMMON PROPERTY

5.0 COMMON PROPERTY SECTION ANALYSIS



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PLANNING PERMIT APPLICATION

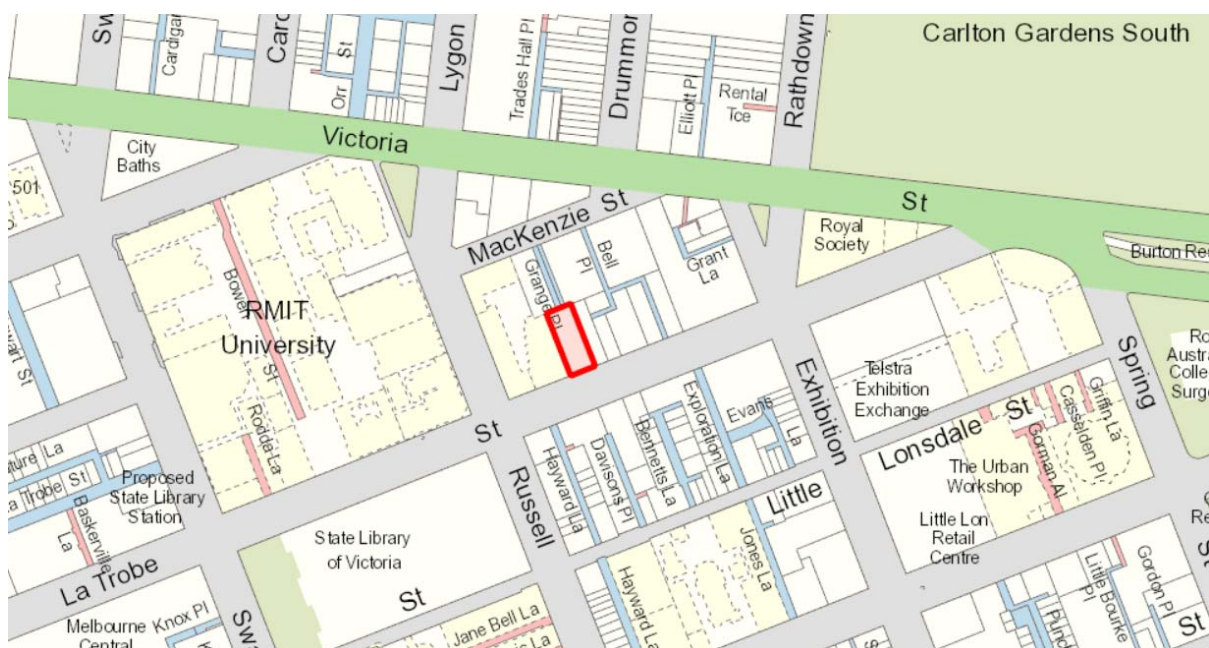
DELEGATE REPORT

Application number:	TP-2016-858
Applicant / Owner / Architect:	Melbourne Domain Pty Ltd. C/- Tract Consultants / Owners Corporation PS611556T / Hayball Pty Ltd
Address:	58-66 La Trobe Street, MELBOURNE VIC 3000
Proposal:	Part demolition and refurbishment of the existing building on La Trobe Street and the construction of an upper level addition to it, and the construction of a multi-level building for use as dwellings and residential hotel, and shops (other than an adult sex product shop), with a reduction in the standard parking rate for shops and residential hotel
Cost of works:	\$28 million
Date of application:	29 September 2016

1 SUBJECT SITE AND SURROUNDS

1.1 Subject Site

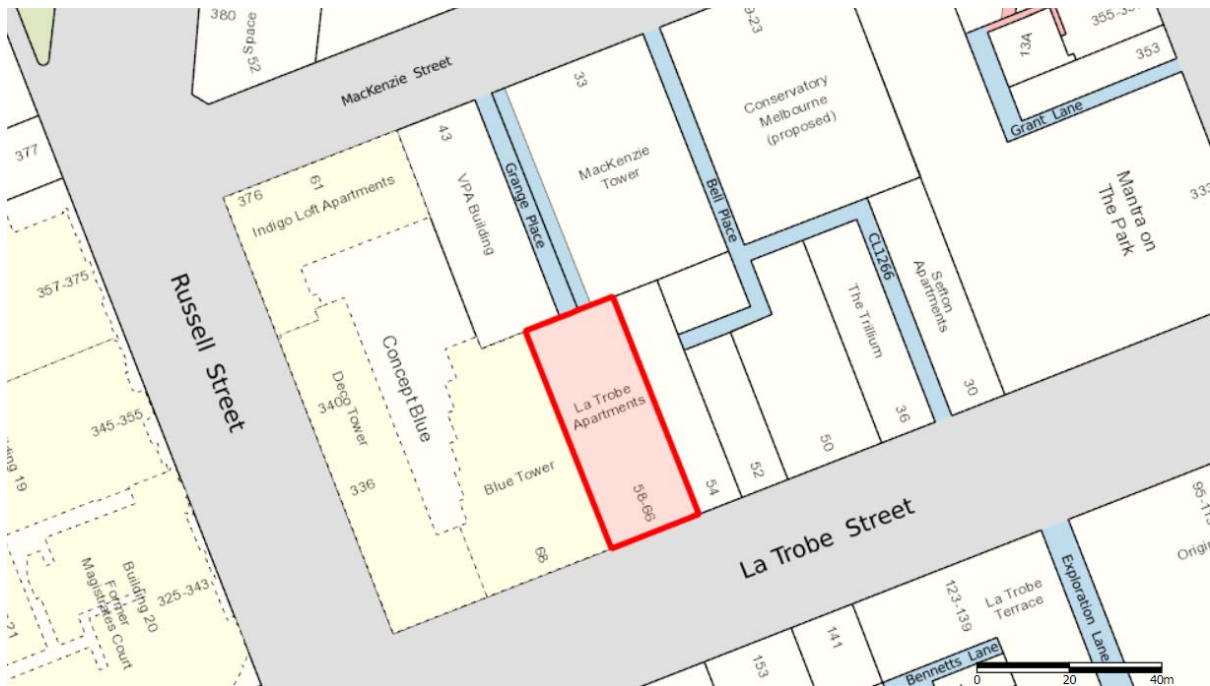
The subject site is located on the north side of La Trobe Street east of Russell Street in Melbourne. It is located at the northern edge of the Central Business District and the Hoddle Grid. The site is rectangular and has a frontage to La Trobe Street of approximately 20 metres, a frontage of approximately 7 metres to Grange Place, a length of 140.63 and a total site area of approximately 1010m².



Context Plan

The site is currently occupied by a four storey concrete building with ground-floor parking for 22 cars; built in 1957. The building was internally refurbished and converted from office space to residential apartments known as the La Trobe Apartments in 2008. There is a significant fall in the land of 3 metres from Grange Place (north) to La Trobe Street (south).

The land is formally described as Crown Allotment 2 Section 45 City of Melbourne Parish of Melbourne North.



Location Plan

1.2 Surrounds

The adjoining property to the west is known as Concept Blue and comprises several adjoining buildings around a courtyard. The site has a total area of 7010.7 m² and was completed in mid 2005.

Cityscape Pty Ltd describes the site as:

Formerly the Russell Street Police Complex which comprised the former Victoria Police headquarters building, built 1940-43, a 14 storey and a 6 storey building to Russell Street (now the Deco Tower); a 2 storey Victorian rendered brick barracks building on the corner of Russell and Mackenzie Streets (now Indigo Lofts); and an eight level office block that was demolished in September 2002 to make way for Blue Tower. The police first used part of this site in 1857.

Concept Blue comprises Blue Tower (property 4B), a 27 storey apartment tower, consisting of 280 one, two and three bedroom apartments, completed in late 2004.

Deco Tower (property 4D), the 14 storey and 6 storey former Victorian Police headquarters building to the corner of Russell and La Trobe Streets, comprises 100 luxury apartments and was completed in late 2004. The building was originally designed by Percy Everitt and modelled on the Empire State Building. The police radio mast, the existing Russell Street lobby and a mahogany staircase were retained.

On the Russell and MacKenzie Street corner, the 1889 former barracks building has been converted into 45 loft style apartments known as Indigo Lofts. The facade was retained and a further set back level was added as part of the conversion to apartments.

European style landscaped gardens plus a 25 metre swimming pool and gym are located between the two towers.

The adjoining site to the east of the subject site is 54 - 56 La Trobe Street, Melbourne. This site contains two, two storey brick office buildings connected by a paved courtyard. To La Trobe Street, the former Haddrick House; to the rear of the site, a small office building reached by a covered laneway on the eastern edge of the property. There is parking for four cars in an enclosed driveway at the eastern side of the buildings. The net lettable area is 911 m² and it is currently used as an office.

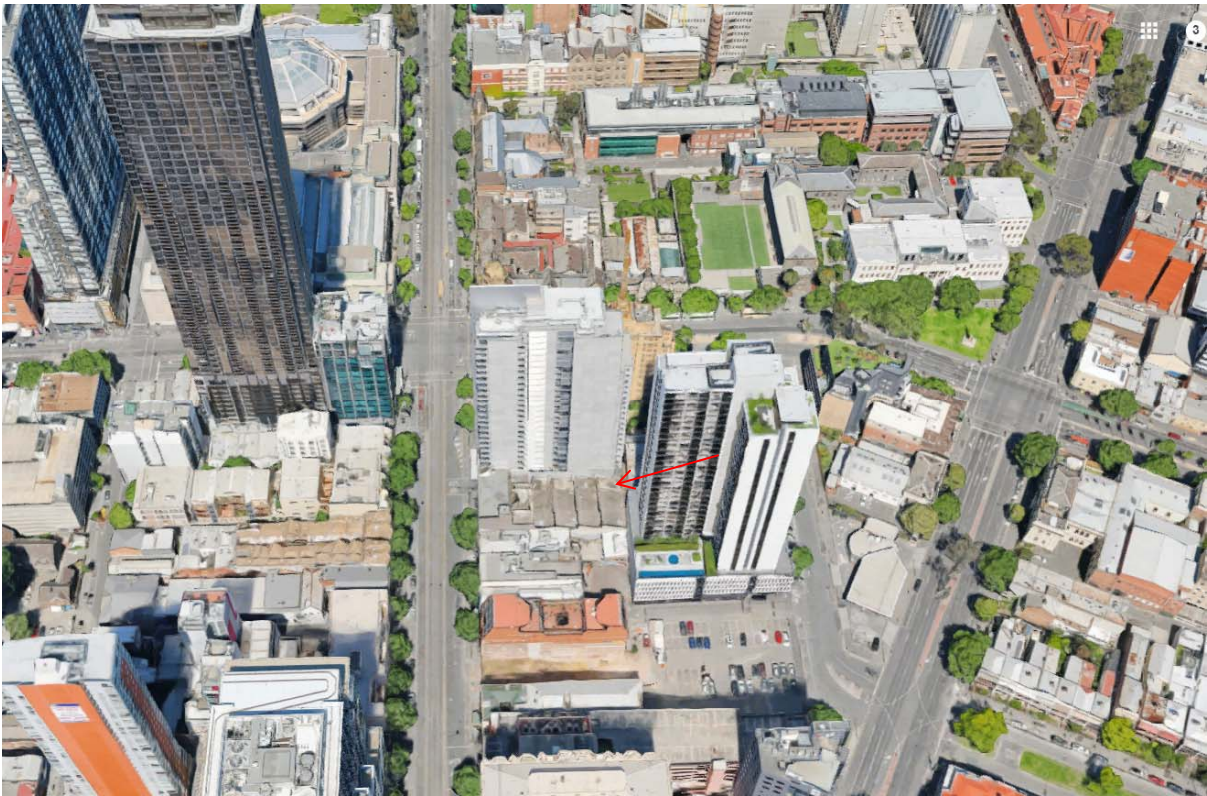
Further east is a three storey office building constructed in 1964 with a gross building area of 1,022 m². The ground floor was refurbished in 2001 and the whole building is currently used for karaoke.

Other significant developments within close proximity to the subject site include:

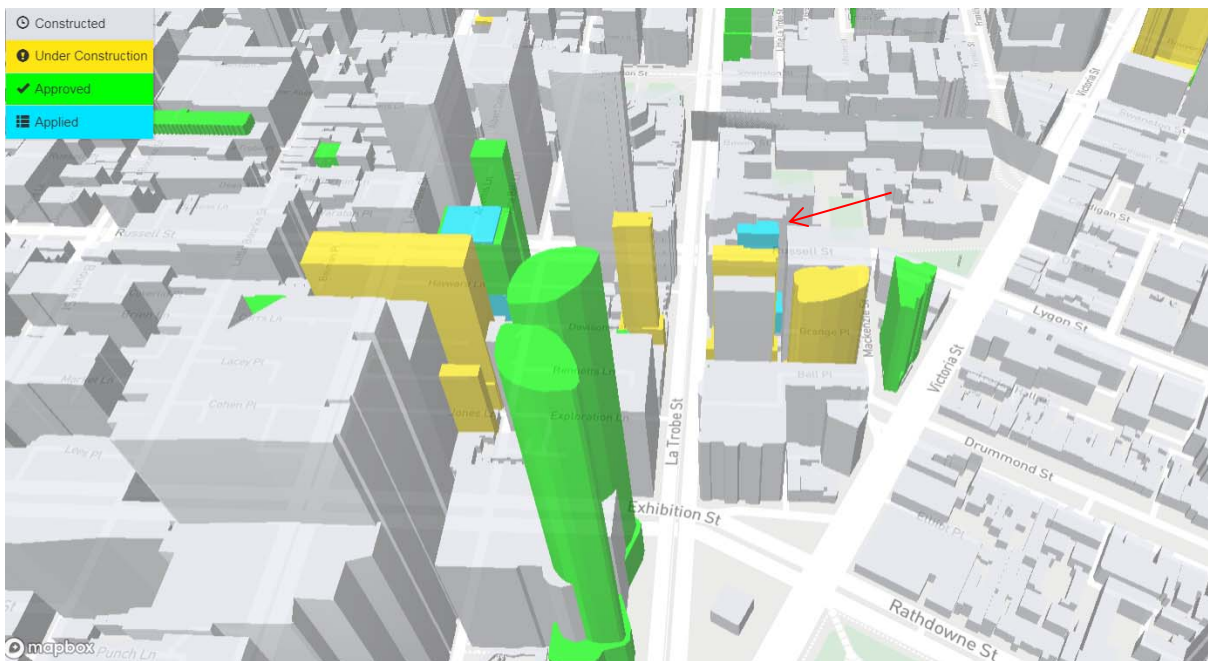
- 42-50 La Trobe Street, a 43 level development used for student housing;
- 36-40 La Trobe Street (known as 'The Trillium'), a 38 level development used as apartments;
- 33 Mackenzie Street (known as 'MacKenzie Tower'), a 33 level development which is complete;
- 9-23 Mackenzie Street (known as 'Conservatory Melbourne'), a 38 level development which is nearing completion;
- 23 - 29 Victoria Street, Melbourne which received planning approval in April 2018 for a 25 storey mixed use (office / apartments) building.



Subject site and surrounds looking south Russell St on the right and north west (source: Google Maps) – red arrow identifying subject site



Subject site and surrounds looking west along La Trobe St (source: Google Maps) – red arrow identifying subject site



City of Melbourne Development Activity Monitor – red arrow identifying subject site

1.3 Restrictive Covenants / Easements

The register search statement for Crown Allotment 4A Section 45A City of Melbourne Parish of Melbourne North identifies that the land is not burdened by any restrictive covenant or Section 173 Agreement, and is not encumbered by any easements.

1.4 Archaeology and Heritage Inventory

The subject site is not included in the [Victorian Heritage Inventory](#).

1.5 Aboriginal Cultural Heritage

The subject site is not included in an area of legislated cultural heritage sensitivity.

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

2 BACKGROUND AND HISTORY

2.1 Planning Application History

TP number	Description of Proposal	Decision & Date of Decision
TP-2010-991	Partial demolition of existing building and construction of a 36 storey building 108 metres in height for residential apartments, retail tenancies, offices and cafe/restaurant with a waiver of the car parking and loading bay requirements for the non-residential uses.	MCC & VCAT Refusal 17 May 2013
TP-2015-746	Change use from car park to a restricted place of assembly with a waiver of the associated car parking and bicycle parking requirements, and sale and consumption of liquor.	MCC Refusal 23 May 2016



Proposed perspective of TP-2010-991 along La Trobe Street 28.08.2013 by Hayball

The following are relevant extracts from VCAT Order P1397/2013 / TP-2010-991 dated 23 October 2013 (paragraph number notated and significant sentences underlined):

- 23. Design issues raised by Council in its grounds of refusal included the height of the proposal, the setbacks to east and west, the failure to provide equitable access to outlook and sunlight between towers and its failure to make a positive contribution to the public realm due to its lack of architectural quality.

- 25. Despite these approvals (at Concept Blue, 27 McKenzie Street and 40 La Trobe St), we cannot perceive any justification for a built form higher than the aggressive bulk of Concept Blue which marks the intersection of La Trobe and Russell Streets. Future redevelopment of the front half of the site will mask development on the review site, but we do not think this justifies a building which projects above what are already high buildings in an area designated for ongoing change, but with heights which provide a transition from the CC2 to the north. We accept Mr Sheppard's evidence that the size of the setback from La Trobe Street will reduce the visual presence of the building on the street, but not his justification of a building height roughly equivalent to the top of the Concept Blue "fin" as contributing to the emerging character of taller buildings supported by the area's intensification.
- 27. The two areas of blank wall along the western boundary of Concept Blue presented an acceptable level of equity for the development of the adjoining site - as at that time the allotment had not been subdivided and was thus less constrained. However, the dimensions of the lightwell imposed a considerable restraint on any development, as even had the current proposal reflected the 3 metre dimension of the existing lightwell, the amenity of the 17 rear apartments whose only outlook is south into the lightwell and the bedrooms which face east at the higher levels would have been totally inadequate. The apartments which face north onto the lightwell have an alternative outlook onto La Trobe Street.
- 29. We accept the applicant's assertion that in this case the provision of an additional 7 metre separation in line with the Concept Blue lightwell is a more than acceptable response which also preserves an outlook to the southeast from the upper levels. Further, during the hearing the applicant offered a further 2.6 metre setback of the west wall of the car park on Level 4 adjacent to the lightwell. This amendment should be incorporated in any subsequent proposal for the site.
- 30. The abutting neighbour to the east, whose small (525 m²) property is also a candidate for redevelopment, wishes to preserve this potential for the land. Mr McNamara identified a concern that given Council's submissions which seek spacing between towers, in the absence of any setback of the east wall of the proposal before us, the onus would fall on his client to provide separation...
- 31. As it is our decision to refuse the grant of a permit for reasons of amenity and substantial reconfiguration will be required in any future iteration of the project, the extent of wall built to the east boundary is a matter for consideration at that time. Ideally the redevelopment of the two adjoining sites could be considered together and an appropriate urban design solution arrived at collaboratively.
- 32. The extent of the wall along almost the whole of the east boundary appears to result from the decision to maximise the intensification of the site, and to compensate for the setback from the west. We think that this may indicate an over-optimistic view of the potential yield which can be achieved on this site.
- 36. We conclude that a height no higher than the Concept Blue tower (excluding the fin) would be acceptable.
- 40.....We find that the proposed internal amenity is poor. The north-south orientation of the site does not make south facing apartments inevitable....
- 41. The applicant points to the direct access of living rooms to balconies, access to communal facilities and maximised northern aspect and views of the city as indications of an appropriate level of internal amenity. We disagree. Few apartments derive any benefit from their northern orientation and the disadvantages of, for example, low ceiling heights, minimal floor area and lack of adequate storage tip the balance to an unacceptable outcome.
- 57. Residents of an apartment on Level 20 and 25 Concept Blue are concerned not only by the possible detriment to their north and west facing terrace by wind from the proposal but also by the loss of privacy to and outlook from a bedroom window which faces west across the lightwell into the review site. As discussed above, a wind assessment will be required of any new proposal. In terms of the outlook from the bedroom and bathroom windows, any future development on the review site will alter conditions pertaining to rooms which face it. As discussed above, we find the solution adopted in relation to the Concept Blue lightwell in this proposal acceptable.

- 58 (Conclusion) The review site presents a good opportunity for redevelopment at greater intensity. The redevelopment of the land for the proposed uses is appropriate, given its location and attributes, despite the constraints imposed on it by the subdivision of the original landholding. Policy and the zone purpose support its redevelopment. However, we find that the design of the building in terms of internal and external amenity impacts is unacceptable given its immediate context. We affirm Council's decision. No permit is granted.

3 PROPOSAL

3.1 Application Plans

The proposal is illustrated in the application plans prepared by Hayball as initially received by Council on 29 September 2016 and subsequently amended and received on 27 January 2017. These plans were advertised to surrounding owners and occupiers. The applicant describes the proposal in the Planning and Urban Context Report (dated 17 October 2016) as follows:

The proposal seeks planning approval to construct a 34 storey building. A summary of the key features of the development are;

- *The development will contain 2 buildings. The existing building fronting La Trobe Street will be retained and refurbished. An additional dwelling will be constructed on the upper level of this building to create a 5th level at the street edge. To the rear of the site a new tower is to be constructed up to 34 storeys in height. It comprises ground level retail and lobby areas with serviced apartments (Residential Hotel) up to level 7 and private residences above. Access to this new building will connect through the front building directly from La Trobe Street.*
- *A total of 133 dwellings, comprising a split of 35 residential hotel/serviced apartments and 98 residential apartments. As part of the plan drawing set the architects, Hayball have provided indicative plans to represent how the residential hotel apartments could be converted to residential apartments. This variation of the floor plan layouts can be achieved and provide comfort to Council that multi-purpose layouts can be achieved if required.*
- *Extension of existing retail tenancies with an additional 352 m² of 'shop' floor area extending to the rear boundary of the site. This retail is connected to the existing central walkway off La Trobe Street. The hours of operation for this use are proposed at 7am to 9pm, 7 days per week.*
- *A 67 m² Food and Drink Premises (café) is also proposed at ground floor with a 29 m² outdoor terrace. We note that this land use does not trigger a planning permit under the MUZ.*
- *The residential hotel/serviced apartments will have a separate lobby and entry to the upper level apartments.*
- *A communal meeting space and dining area with outdoor terrace is planned at level 10. This will be available for residents of the building.*
- *A secure bike parking area of 50 spaces at basement level.*
- *A total of 32 car parking spaces in a stacked system at basement level. This is accessed via a car lift off Grange Place.*
- *In the single basement level, 31 storage cages.*
- *Services including bin storage area, substations, switch rooms, and a 20000L rainwater tank.*
- *A dual chute system for waste connects to the level 1 bin storage area (which is at grade to the rear).*
- *The new tower building rises between levels 9-34 to AHD 132.620. It is setback 10m from the current building fronting La Trobe Street, 5m from the East, has no setback from the West (where it abuts the common wall), and 5m from the rear, north boundary.*
- *On the rooftop is a 105 square metre communal terrace for recreation and outdoor purposes*

The design response has been influenced by a comprehensive analysis of the Site and its surrounds. It has also been informed by the comments and suggestions provided by the City of Melbourne through the pre-application phase.

It features a design of high architectural and urban design quality that:

- Provides a range of one, two and some three bedroom apartments.*
- Activates and engages with La Trobe Street through the refurbishment of the current building to improve the retail offer at ground level and to encourage pedestrian interaction. At upper levels it activates the building with the new façade works and high level of fenestration along the façade.*
- Incorporates horizontal and vertical articulation in the new tower to reduce visual bulk and mass.*
- Adopts a range of quality and robust materials, finishes and design elements to respond to the emerging character of the area.*
- Provides a street wall height of around 20 metres with an overall height of approximately 101.5 metres which is consistent with the state and local aspiration for intensification within this city edge location. The street wall achieves the intent of a 1:1 ratio of height to street width which is a well accepted urban design principle within the City of Melbourne.*
- Relocates vehicular access from La Trobe Street to a single entry and exit off the rear lane at Grange Place which improves efficiency and pedestrian safety along La Trobe Street and creates net community benefit.*

The application plans were amended on 27 January 2017. These plans are dated 25 January 2016 and appear to be a date error on the plans (2016 rather than 2017). The plans show the retail uses on the ground floor to be rationalised as follows:

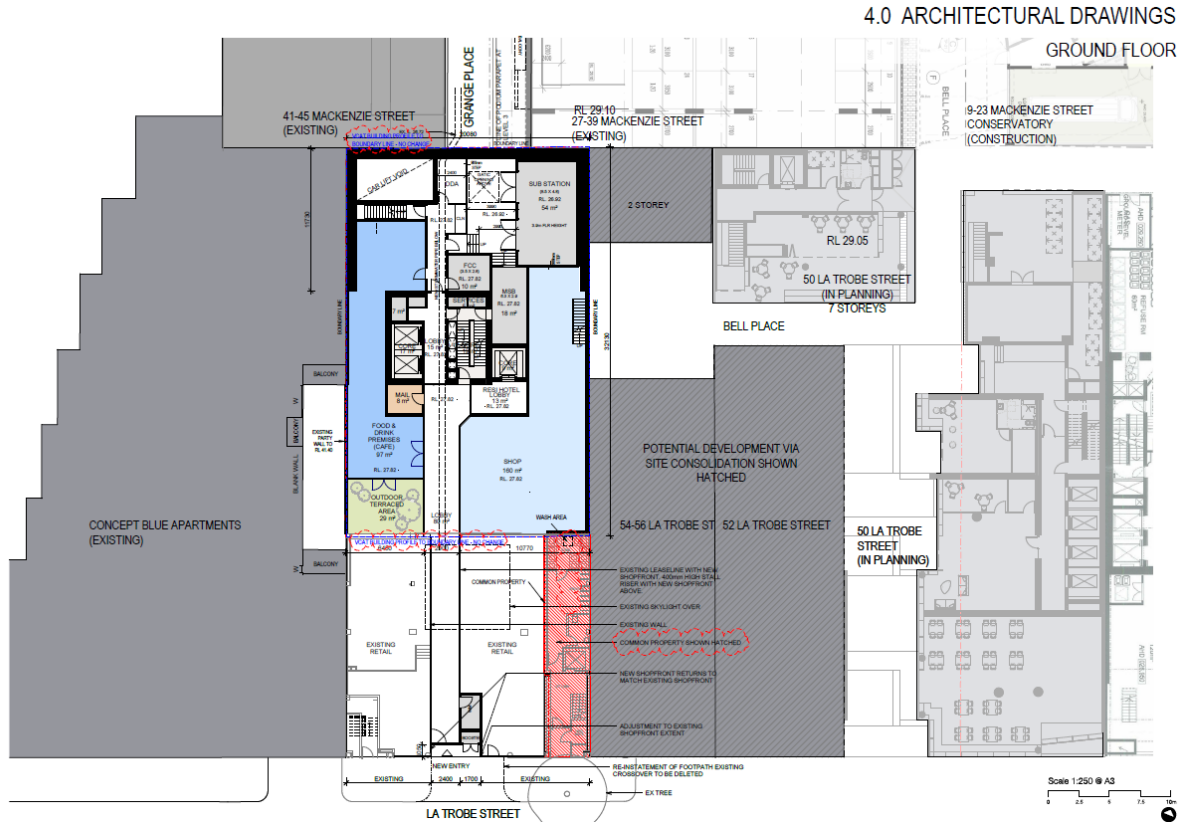
- 67 m² Food and Drink Premises (café) with a 29 m² outdoor terrace area (no permit required).
- 352 m² extended retail has been nominated as a 'shop' trading 7am to 9pm 7 days a week

A copy of objections received during the formal notice period, in addition to feedback from Council's Urban Design Advisor, were provided to the permit applicant during the assessment of the application. In response to concerns raised in objections received and advice from the Urban Design Advisor, the permit applicant presented 'without prejudice plans' on 28 February 2018. These plans were circulated to objectors on 29 March 2018 and included the following changes:

- Relocation of the sub-station, fire control centre room and switch room (MFB) from level 1 to the ground floor.
- Provision of additional shop floor area at the ground floor interface with Grange Place in place of previous substation.
- Provision of additional stair access between ground level and level one within the eastern shop tenancy.
- Rearrangement of the level 1 plan to include DDA lift and changes to bin room areas.
- Removal of study of south-western serviced apartment at level 1 and replacement with increased bin-storage room.
- Conversion of south-eastern first-floor serviced apartment (SVC1B1B) to office floor space.
- Conversion of the dwellings at levels 8 and level 9 to residential hotel rooms.
- Square off the southern wall at the south-eastern corner of levels 1 to 9 to a consistent 2.110m setback.
- Alterations to the façade design of the tower.
- Extend southern façade design for the podium to level 4.
- Update materials schedules to reflect façade changes.
- Provision of additional details of proposed façade treatment, screen detail and colour to podium.
- Provision of further details regarding the shopfronts at ground floor to La Trobe Street.

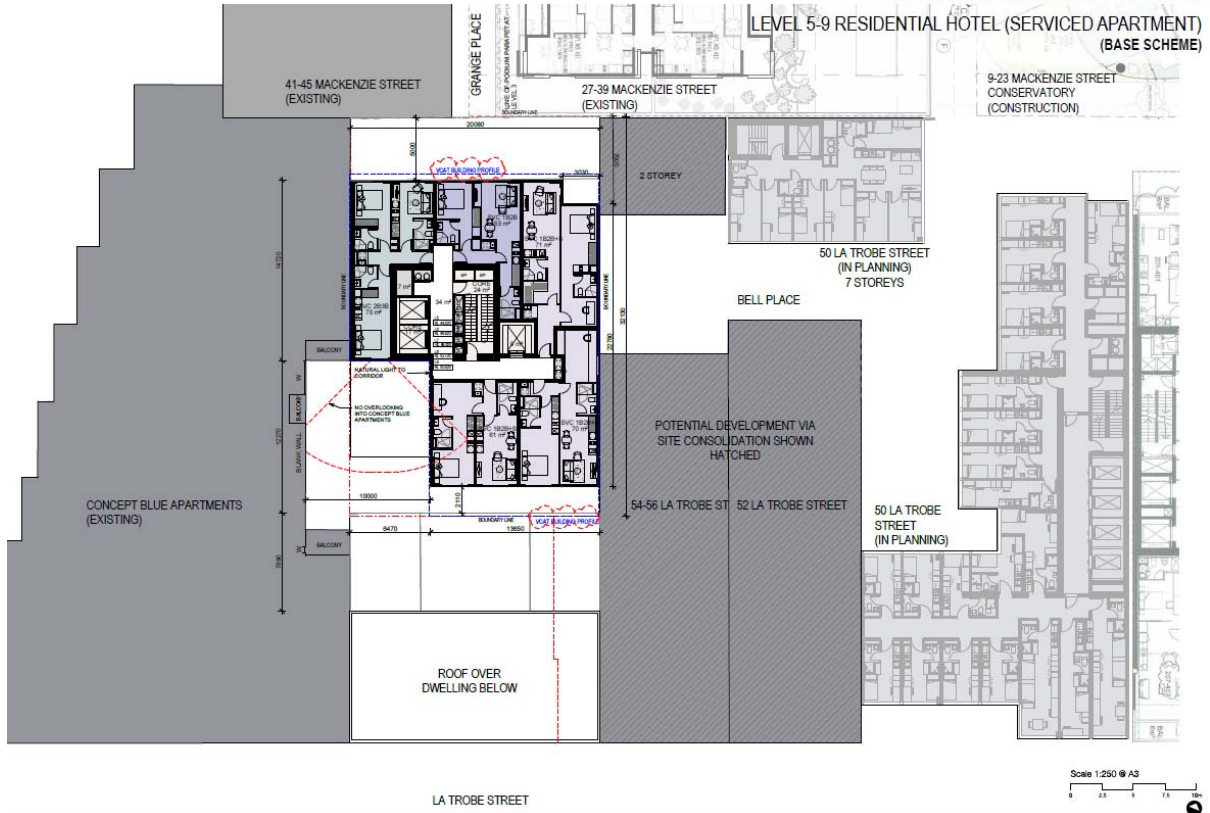
- Bin Room within existing building updated to reflect 'wash area'.

On 3 September 2018 Council received supplementary 'without prejudice' plans from the applicant. The plans do not materially alter the layout, height, or setbacks of the building from the set of plans submitted on 28 February 2018. The 3 September 2018 'without prejudice plans' contain additional information about the previous VCAT building profile, the nature of common property, provide some additional shadowing diagrams, and note the three additional bins at ground-floor of the existing building (to ensure consistency with the prepared waste management plan for the front building).



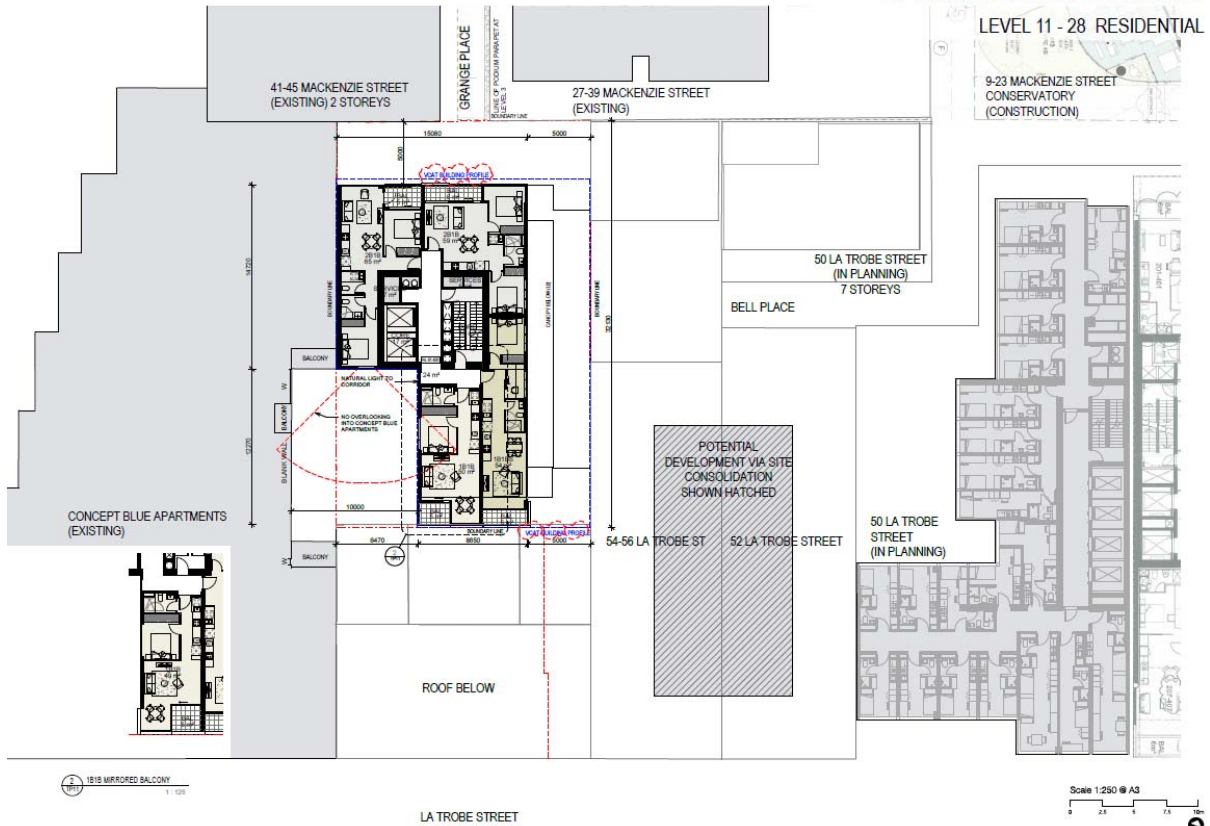
Proposed ground floor plan and surrounds 3.09.2018 by Hayball

4.0 ARCHITECTURAL DRAWINGS



Proposed levels 5-9, blue lines indicate the building envelope for VCAT plans for TP-2010-991 and surrounds 3.09.2018 by Hayball

4.0 ARCHITECTURAL DRAWINGS



Proposed levels 11-28, blue lines indicate the building envelope for VCAT plans for TP-2010-991 and surrounds 3.09.2018 by Hayball



Perspective of proposed building looking west along La Trobe Street by 3.09.2018 by Hayball



South (La Trobe Street) and west elevations by 3.09.2018 by Hayball

4 STATUTORY CONTROLS

The following planning controls and requirements of the Melbourne Planning Scheme apply to the subject site and proposed development:

Statutory Controls	
Mixed Use Zone	<p>Pursuant to Clause 32.04-2 the proposed uses <u>do not</u> require planning permission:</p> <ul style="list-style-type: none"> • the use of the land for the purpose of dwellings (other than bed and breakfast) does not require a planning permit; • the use of the land for a food and drink premises shop requires a planning permit as the leasable floor area exceeds 150m². The food and drink premises has a leasable floor area of 67m². • the use of the land as for the purpose of an office space provided that the leasable floor area does not exceed 250m². The without prejudice plans includes 75m² of office space. <p>Pursuant to Clause 32.04-2 the proposed uses do require planning permission:</p> <ul style="list-style-type: none"> • the use of the land for a shop (other than an adult sex product shop) requires a planning permit as the leasable floor area exceeds 150m² (352m² proposed) • the use of the land for a residential hotel requires a planning permit <p>Pursuant to Clause 32.04-8 a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.04-2</p> <ul style="list-style-type: none"> • The application was lodged with the City of Melbourne on 27 September 2016 with a response to Council's Request for Further Information lodged 27 January 2017. The application has not been formally amended since that time. VC136 (Better Apartment Design Standards) was gazetted into the Scheme on 13 April 2017 and therefore the application is afforded transitional provisions where Clause 58 does not apply. • As per this clause, Clause 55 does not apply to a development of five or more storeys. In this case the Guidelines for Higher Density Residential Development are applicable.
Heritage Overlay Schedule 488 Police Headquarters Complex 336-376 Russell Street, Melbourne	<p>Pursuant to Clause 43.01-1, a permit is required to demolish a building or to construct a building or construct or carry out works.</p> <p>It is noted that HO488 applies a Heritage Overlay to the Police Headquarters Complex on the corner of Russell Street and La Trobe Street and the overlay map extends into part of the application site. It is understood that is a mapping error which is acknowledged in the previous VCAT decision. This error however has not been rectified and therefore this overlay applies to this site.</p>
Parking Overlay, Schedule 12 (residential development in specific inner city areas)	<p>This overlay operates in conjunction with Clause 52.06.</p> <p>Schedule 12 of the overlay varies the requirements of Clause 52.06 and specifies that a permit is required to provide car parking spaces in excess of the maximum of one space per dwelling.</p> <p>A total of 98 dwellings are proposed, therefore the overlay allows a maximum of 98 resident carparking spaces.</p> <p>The on-site parking provision proposed is 32 resident spaces; therefore no permit is required under this overlay.</p>
Clause 52.06, Car Parking	<p>Pursuant to Clause 52.06-3, A permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.</p> <ul style="list-style-type: none"> ▪ Residential Hotel - 1 to each unit, and 1 to each manager dwelling, plus 50 per cent of the relevant requirement of any ancillary use therefore 35 spaces are required under this provision. ▪ Shop - 4 spaces per 100 sq.m (352 sq.m proposed) therefore 14 spaces are required under this provision. ▪ Food and Drink Premises - 4 spaces per 100 sq.m (67 sq.m proposed) therefore 2 spaces are required under this provision. <p>The Planning Scheme parking requirement is 51 spaces. No onsite parking is proposed for the other uses and therefore a permit is required</p>

	to reduce the statutory requirement for these uses.
Clause 52.34, Bicycle Parking	<p>Clause 52.34 sets out the statutory requirements for the provision of bicycle facilities for the development proposal, being:</p> <ul style="list-style-type: none"> ▪ Residential Hotel – employee 1 space required for employee and zero for customers ▪ Food and Drink Premises – employee 1 space and zero for customers ▪ Dwelling – residents 20 and 10 for visitors ▪ Shop and office no requirement. <p>The Planning Scheme parking requirement is 33 bicycle spaces. The proposed on-site bicycle parking provision of 50 spaces meets the statutory requirement. A permit is therefore not required under this provision.</p>

5 STRATEGIC FRAMEWORK

5.1 State Planning Policy Framework (SPPF)

The following policies of the Planning Policy Framework are relevant to this proposal:

- **Clause 11 (Settlement)** which states that “Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure”.
- **Clause 11.01-1S (Settlement)** which seeks to “To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements”.
 - **Clause 11.01-1R (Settlement – Metropolitan Melbourne)** which seeks to focus investment and growth in the Metropolitan Melbourne Central City which is recognised as being of state significance.
- **Clause 11.02-1S (Supply of urban land)** aims to “ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses”.
- **Clause 11.03-1S (Activity Centres)** which seeks to “To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community”.
 - **Clause 11.03-1R (Activity Centres – Metropolitan Melbourne)** which seeks to “Support the development and growth of Metropolitan Activity Centres”.
- **Clause 15 (Built Environment & Heritage)** which states that “Planning is to recognise the role of urban design, building design, heritage and energy and resource efficiency in delivering liveable and sustainable cities, towns and neighbourhoods”.
- **Clause 15.01-1S (Urban Design)** which seeks to “create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity”.
 - **Clause 15.01-1R (Urban Design – Metropolitan Melbourne)** which seeks to “create a distinctive and liveable city with quality design and amenity”.
- **Clause 15.01-2S (Building Design)** which seeks to “achieve building design outcomes that contribute positively to the local context and enhance the public realm”.
- **Clause 15.01-4S (Healthy Neighbourhoods)** which seeks to “achieve neighbourhoods that foster healthy and active living and community wellbeing.”

- **Clause 15.01-4R (Healthy Neighbourhoods – Metropolitan Melbourne)** which seeks to “Create a city of 20 minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.”
- **Clause 15.01-5S (Neighbourhood Character)** which seeks to “recognise, support and protect neighbourhood character, cultural identity, and sense of place”.
- **Clause 15.02-1S (Energy and Resource Efficiency)** which seeks to “encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.”
- **Clause 16 (Housing)** which states that “Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure”.
- **Clause 16.01-1S (Integrated Housing)** which seeks to “promote a housing market that meets community needs”.
 - **Clause 16.01-1R (Integrated Housing – Metropolitan Melbourne)** which seeks to “Provide certainty about the scale of growth by prescribing appropriate height and site coverage provisions for different areas.”
- **Clause 16.01-2S (Location of Residential Development)** which seeks to “locate new housing in designated locations that offer good access to jobs, services and transport”.
 - **Clause 16.01-2R (Housing Opportunity Areas – Metropolitan Melbourne)** which seeks to “identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne”.
- **Clause 16.01-3S (Housing Diversity)** which seeks to “provide for a range of housing types to meet diverse needs”.
 - **Clause 16.01-3R (Housing Diversity – Metropolitan Melbourne)** which seeks to “Create mixed-use neighbourhoods at varying densities that offer more choice in housing”.
- **Clause 16.01-4S (Housing Affordability)** which seeks to “deliver more affordable housing closer to jobs, transport and services”.
- **Clause 17 (Economic Development)** seeks to provide for a strong and innovative economy and support and foster economic growth.
- **Clause 18 (Transport)** which states that “Planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe”.
- **Clause 18.01-1S (Land Use and Transport Planning)** which seeks to “create a safe and sustainable transport system by integrated land use and transport”.
- **Clause 18.02-1S (Sustainable Personal Transport)** which seeks to “promote the use of sustainable personal transport”.
 - **Clause 18.02-1R (Sustainable Personal Transport – Metropolitan Melbourne)** which seeks to “Improve local travel options for walking and cycling to support 20 minute neighbourhoods”.
- **Clause 18.02-2S (Public Transport)** which seeks to “Improve local travel options for walking and cycling to support 20 minute neighbourhoods”.
 - **Clause 18.02-2R (Principal Public Transport Network)** which seeks to “Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect”.

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

The relevant provisions of the MSS include:

- **Clause 21.04-1 (Growth Area Framework)** The site is on the edge of the Hoddle Grid – original city centre.
- **Clause 21.06-1 (Urban Design)** aims to “ensure that the height and scale of development is appropriate to the identified preferred built form character of an area”
- **Clause 21.06-3 (Sustainable development)** encourages “environmentally sustainable building design innovation”
- **Clause 21.07-1 (Residential development)** aims to “provide for new housing while preserving the valued characteristics of the existing neighbourhoods”
- **Clause 21.08 (Economic Development)** aims “to support the Central City and local retail uses”.
- **Clause 21.09 (Transport)** seeks “to integrate transport and urban growth” and “to maximise the use of public transport through efficient urban structure”.
- **Clause 21.12 (Hoddle grid)** seeks “Support permanent and short term residential accommodation to encourage a diverse population.”

5.2.2 Local Policies

The relevant local policies are summarised as follows:

- **Clause 22.02 (Sunlight to Public Spaces)** aims to “ensure new buildings and works allow good sun penetration to public spaces” and “ensure that overshadowing from new building or works does not result in significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians”
- **Clause 22.17 (Urban Design Outside the Capital City Zone)** states that it is important that the valued aspects of the City’s character are not lost through redevelopment by ‘ensuring that the scale, sitting, massing and bulk of development complement the scale, sitting, massing and bulk of adjoining and nearby built form’.
- **Clause 22.19 (Energy, Water and Waste Efficiency)** aims to “ensure buildings achieve high environmental performance standards at the design, construction and operation phases”, “improve the water efficiency of buildings and encourage the use of alternative water sources” and “minimize the quantity of waste going to landfill and maximize the recycling and reuse of materials”
- **Clause 22.23 (Stormwater Management (Water Sensitive Urban Design))** aims to “achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines” and “promote the use of water sensitive urban design, including stormwater re-use”.

6 PARTICULAR PROVISIONS

The following particular provisions apply to the application:

- Clause 52.06 - Car Parking
- Clause 52.34 - Bicycle Facilities

7 GENERAL PROVISIONS

The following general provisions apply to the application:

- Clause 65 – Decision Guidelines, which includes the matters set out in;
- Section 60 of *the Planning and Environment Act 1987*.

8 PUBLIC NOTIFICATION

Public notice of the application was given by sending letters to the owners and occupiers of adjoining and surrounding properties on 10 March 2017 and by instructing the permit

applicant to erect one public notice on the La Trobe Street frontage of the site for a 14 day period in accordance with Section 52 of the *Planning and Environment Act 1987*.

A signed statutory declaration confirming that the permit applicant had erected the public notice sign(s) in accordance with Council's requirements was returned on 27 March 2017.

9 OBJECTIONS

A total of 21 objections (five of which are pro forma) have been received as of the date of this report. The concerns raised by neighbouring and surrounding properties in each submission have been summarised below to identify key themes and issues raised. Further consideration of the objections is given in the assessment of the application in assessment section of this report.

Summary of objector concerns:

- Height
- Setbacks
- Overlooking
- Building design
- Heritage and neighbourhood character
- Overshadowing / loss of light
- Car parking
- Loading and unloading
- Internal amenity
- Wind
- Noise
- Miscellaneous
- Devaluation of property.
- Overdevelopment of the immediate neighbourhood.
- Loss of outlook/views.
- Noise and disturbance associated with the construction activities.

10 CONSULTATION

A copy of the objections received in respect of the application at the conclusion of the formal notice period was forwarded to the applicant for their consideration and response.

The applicant has been provided a copy of all objections received to date and has provided a written response. Further, draft modified plans have also been received from the applicant. Objectors were notified of the without prejudice plans on 29 March 2018. The plans provided additional information such as 9 metre view lines and incorporate changes intended to address some of the issues raised by Council officers as well as objectors' concerns.

11 REFERRALS

11.1 Internal

The application was referred internally to the following (with comments summarised):

11.1.1 Urban Design Advisor

Council's Urban Designers provided the following comments in respect of the application on 27 April 2017.

We note the site is located within the MUZ and is regrettably not affected by C262 or C270. Further, VCAT precedent from the prior refusal, the presence of party-walling from Concept Blue and a subsequent Council approval to the east. This creates an

unrepeatable condition for a wall of towers. Considered on first principles, the subject site would not be an appropriate site for a tower. Whilst a highly problematic urban outcome, in this situation the horse has already bolted.

Acknowledging these limitations, we provide the following comments:

Rear Interface

- There is a lack of information around the function of the Grange Place interface. We are concerned with the public safety outcome, and legibility of this space. A CPTED analysis should be undertaken. This applies both to pedestrians, and residents queuing for the car lift, particularly at night time.
- There is an opportunity to better celebrate and make legible a second residential entry from Grange Place, effectively to create a private through-link, allowing convenient access to Carlton and Gardens to the north. This might inform an improved design for the rear forecourt.
- There is acknowledgement in the renders of the terminal vista from MacKenzie Street, however the elevation has not responded to this vantage point. Building signage and other architectural devices should be employed at the ground and upper level to address this vista and potential desire line for a secondary pedestrian entry.

Borrowed podium and lower levels

- The entry sequence through the borrowed podium from La Trobe Street with a courtyard space for retail is positive.
- It is unclear how the basement retail will work without natural light. If a basement is being built, we would strongly prefer a basement substation with an access hatch in the forecourt from Grange Place, and a potential micro tenancy or entry in order to activate the lane.
- Encourage new shopfronts to include tactile materiality, operable components and stall risers. Avoid floor to ceiling glass with standard aluminium framing.
- The proposed 600mm projection is acceptable on the basis that it is a retrofit which retains an existing structure, is contained within the lower podium levels.

Tower profile

- The convoluted building line in the primary La Trobe Street façade results in unnecessary complication of an already slender architectural form. We recommend the simplification of this line to provide a simplified, coherent architectural form, with the dual effect of improving light to the lower level retail and hotel use, whilst improving outlook from Concept Blue. A consistent 4.5m setback line is preferred in this respect, bringing the setback balcony forward, and drawing back the projecting element off the title boundary marginally.
- The tower cantilever to the southern boundary is concerning in the extent to which it reduces daylight to already compromised serviced apartments.
- The living area of apartments at Levels 8-9 is deeply concerning and must be redesigned.
- The proposed height approximates the fin of Concept Blue as per the direction of the previous VCAT decision.
- It is positive to note that attempts at recession within a constrained envelope have been established to avoid perception of a wall of towers. Through modifications to the leading south tower elevation, this should ensure that the deep cavern to the west,

through its absence of sunlight / daylight, will allow the perception of a series of spaced towers, rather than a conjoined mass.

- Whilst the proposal employs a residential hotel use to manage the challenging amenity levels up to Level 7, we would encourage the lowest of these levels with limited daylight to explore office or similar non-residential use where daylight is most constrained, and a multiple aspect neutral floorplate could better achieve daylight than a cellular residential hotel plan.

The 'without prejudice' amended plans received on 28 February 2018 were reviewed by Urban Design who provided the following advice on 23 March 2018.

Advice

- As discussed, the elevation treatment is supported, which promotes a more elegant, simplified vertical form, which successfully turns the corner. It is positive to see this treatment extend to the north elevation as well.
- The simplified 2m setback from the existing building is supported on the basis of the serviced apartment use in the lower levels.
- It appears all serviced apartment and residential levels now have living areas with direct outlook to the exterior, with adequate glazing width to internal space.
- The incorporation of some small office areas is supported.
- The additional setback to levels above the height of the borrowed podium is supported.
- The placement of the mid-rise communal area setback ensures that the hotel levels below achieve improve daylight, through the vertical distance from the cantilevered soffit.
- The light coloured window shrouds to the existing building are supported to promote improved light levels. The 600mm depth of projections are supported as per previous advice, noting the limitations of the existing structure, and 30m street width.
- The unification of the penthouse in the street oriented building within the shroud form is supported and appears more coherent and elegant in the street elevation.
- The glazed returns and stall risers fitted to the shop fronts to La Trobe Street front are supported, providing views through to the building entry.

Primary comments regarding outstanding matters relate to the rear interface, which has moved in a really positive direction but is missing clarity in the concept, function and safety of this space.

- The Gatic access / sunken substation to the rear is excellent and opens an interesting space in association with a retail premises, which can spill out and utilised the forecourt zone.
- The paving treatment of this rear space will be key, and must not be simply asphalt or concrete. Cobbles or similar should be incorporated to claim this space as a pedestrian space.
- This space as a volume has immense possibility to contribute to the spatial depth and grain of this part of the city, however it appears to be lacking a degree or finesse, with regard to shop fronts, materiality, lighting and soffit. Could a careful condition resolve this? We have confidence in the Hayball Team's ability to achieve this given the success of projects such as Serrata and Coventry as well as 488 La Trobe where timber, stone and other public realm interface elements have been incorporated.

- The rear elevation denotes 'clear shopfront glazing to future tenants design'. We encourage careful use of permit conditions to allow a high quality shop front design which will make or break this space. We encourage a more tactile, human scaled shop front design with materiality, clearly defined openings and a plinth, as opposed to floor to ceiling curtain walling. We could consider a condition allowing artistic hoarding to be installed until a tenant is ready to fit out to their shop front design as a PC Item within the contract (say a proportion of fit out allowance etc.). The last thing we want is low quality shop front glazing ending up in a skip – or being unsuitable for the tenant, who can't afford to replace it.
- Additional seating and landscape zones could be incorporated along the east boundary of the space, in addition to a higher quality car lift door, such as glass which celebrates a visually interesting architectural element (the lift itself).
- It is unclear where the secure building line occurs from the rear, with a number of entrapment space occurring under the building alignment, including at the bin room access. A simplified secure building line is required.
- Can the wheelchair lift and stair occur within the building line, with a secondary door continuing the alignment of the shop? The building entry location is otherwise positive, and terminates an axial view from Grange Place.

11.1.2 Urban Forestry

Urban Forestry reviewed the application and provided the following comments on 2 March 2017:

The applicant's Arborist has considered the level of required pruning to the northern aspect of the trees canopy to facilitate various installation options and concluded that this work will not be detrimental to the health or aesthetics of the tree. If the works are undertaken in accordance with the Tree Protection Plan and following conditions, it is our view that there will be no adverse effects to tree health or longevity.

Standard conditions and notes were provided that should be included on any permit that may issue.

11.1.3 Civil Design

On 1 March 2017, Council's Principal Engineer (Infrastructure) made the following comments:

Upgrade of footpath is requested as the development located at 36-40 La Trobe Street was recently approved for bluestone pavers along the property frontage.

The proposed development includes construction over a 225mm diameter stormwater drain located along the centre of the property (North-South direction) of the subject land. A 1.5 metre wide drainage easement shall be created over the drain in favour of Melbourne City Council. Furthermore, Council will require the existing drain to be upgraded to meet a minimum of 20yr Ari and to the satisfaction of the responsible authority – Engineering Services. These works are to be carried out prior to any commencement on site. If the stormwater assets exist within the site, the development will need to be redesigned and a formal easement is to be created as part of the subdivision.

The proposed works are within existing street trees in the road reserve. This matter should be referred to the Manager Urban landscapes for comment.

Manager Engineering Services Branch recommends that all projections over the street alignment must conform to Building Regulations 2006, Part 5, and Sections 505 to 514 as appropriate. Reference may be made to the City of Melbourne's Road Encroachment Operational Guidelines with respect to projections impacting on street trees and clearances from face/back of kerb.

Standard conditions and notes were provided that should be included on any permit that may issue.

11.1.4 Urban Services (Waste Management)

Revised Waste Management arrangements were provided by the permit applicant reflecting the without prejudice amended plans. Urban Services found these arrangements to be unacceptable. They advised that following items need to be addressed:

- Ratepayers are entitled to a Council collection service. Therefore, the residential component of waste will need to be collected by Council on-site for the rear building. The development will need to accommodate a Council MRV. Waste and Recycling will be collected twice per week, not 3 times as specified in the WMP.
- This development can utilise a fully commingled collection, therefore using garbage and recycling bins (no cardboard bins).

11.1.5 Traffic Engineer

Council's Traffic Engineer reviewed the Traffic Impact Assessment (TIA) by TTM Consultants dated September 2016 regarding the above application and provided the following comments (summarised) on 23 March 2017.

- The provision of 32 spaces for the residential component is acceptable.
- No parking is proposed for the small retail premise which under the Planning Scheme generates a parking requirement of 15 spaces. Bearing in mind the size and location of the site, Engineering Services offers no objection to the waiver of this requirement.
- Traffic generation in Grange Place is acceptable.
- Supportive of the use of the multi-car stacker system which will need to comply with the specifications given in the TTM report with a service time of no more than 90 seconds.
- The provision of 50 bicycle onsite spaces exceeds the Planning Scheme requirement of 39 spaces and is acceptable.
- Does not support the carpark and loading dock access area as proposed.
 - The applicant has since reviewed this arrangement and significantly changed the vehicle access requirements.

11.2 External

11.2.1 Transport for Victoria (Determining Referral Authority)

The application was referred to Transport for Victoria pursuant to Section 55 of the *Planning and Environment Act 1987*. Transport for Victoria provided written advice on 15 November 2016.

The subject site is located above the rail corridor which is owned by Vic Track. As such Vic Track's views have been incorporated into this response.

Melbourne Underground Rail Loop (MURL)

Public Transport Victoria notes that the subject site is located directly above the Melbourne Underground Rail Loop (MURL 'City Loop') train tunnels. The proposed tower falls within the zone of influence of the MURL, therefore an assessment is required as per Section 54 of the Transport (Compliance and Miscellaneous) Act 1983.

Given that the proposed development is located near tram services and directly above the MURL, PTV and VicTrack require detailed plans, reports and agreements to be entered into to ensure that public transport infrastructure and operations are protected during the construction of the development.

Response

Public Transport Victoria, pursuant to Section 56(1) of the Planning and Environment Act 1987, does not object to the grant of a planning permit subject to the following conditions being placed on any permit issued:

These conditions have been included in the conditions section of the report.

12 ASSESSMENT

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

- Use
- Design and Built Form
- Car Parking
- Better Apartment Design Standards
- Use of Contaminated Land
- Sustainability
- Objector concerns

These issues are addressed in the following sections.

12.1 Use

As outlined at Section 4, a planning permit is not required for use of part of the land for the purpose of dwellings, a food and drink premises under 150 m² and an office space under 250 m² being located within the Mixed Use Zone where such uses are actively encouraged. Further, the use of part of the site as a residential hotel and shop is also consistent with the purpose of the zone, which relevantly includes:

- '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.'

Clause 21.08 Economic Development recognises that the Central City is the prime location for commerce in metropolitan Melbourne, and along with the St Kilda Road commercial area, is of state significance. Areas zoned Mixed Use (like the subject site) around the Central City have traditionally provided locations for business activities, which support Capital City functions. These areas are under increased pressure for housing, and it is important to ensure their ongoing functioning and viability as business areas, which serve both local community needs and Capital City business activity.

The incorporation of 352 m² of retail floor area at ground floor, together with serviced apartments above into a residential development is encouraging. The shop on ground floor will no doubt serve both the residential and working nearby communities.

The mix of uses provided within the development is therefore supported.

12.2 Design and Built Form

In the absence of being located within a Design and Development Overlay, the appropriate built form outcomes for the site, including height, are guided via the applicable policies of the MSS, including:

- Ensure a strong distinction between the built form scale of the Central City with that of development in surrounding areas (Clause 21.06-1)
- In the Hoddle Grid ensure occupancies in new tower buildings are well spaced and offset to provide good access to an outlook, daylight, sunlight and to minimise direct overlooking between habitable room windows (Clause 21.06-1)
- Ensure that the scale, bulk and quality of new development supports a high quality public realm (Clause 21.06-1)
- Ensure the design of buildings and public spaces enhances the public realm and the pedestrian environment (Clause 21.06)
- Ensure that new developments in the Mixed Use Zone provide active street frontages and minimise pedestrian disruption from car access (Clause 21.06)
- Ensure built form and land uses promote surveillance of the public realm at all times of the day and night (Clause 21.06)

- Ensure a clear edge between the taller built form of the Capital City Zone and the lower form of the surrounding areas (Clause 21.12)
- Ensure that the design of tall buildings in the Hoddle Grid promote a human scale at street level, respects the street pattern and provides a context for heritage buildings (Clause 21.12)
- Ensure that new tall buildings add architectural interest to the city's skyline (Clause 21.12)

Further guidance is provided at Clause 15.01 Built Environment, and Local Policy Urban Design Outside the Capital City Zone at Clause 22.17. In this context, the following is noted:

Context & Height

The subject site is located within what could be described as an island block (bounded by La Trobe, Russell and Victoria Streets) within the Mixed Use Zone, and in an area where the MSS seeks a transition in scale between the Capital City Zone and the lower scale development in Carlton. The island block contains new buildings that vary in height from 32 to 38 storeys. Clause 22.17 notes that new development is encouraged to respond to the building pattern of the surrounding area, acknowledging that any development is part of a larger setting and that each setting is different.

The proposed height at 105 metres (34 storeys) approximates the height of the fin of Concept Blue as per the direction of the previous VCAT decision. Furthermore the height of the building blurs the distinction between the Mixed Use Zone and the higher built forms of the Capital City Zone to the south (on the south side of La Trobe Street). This is evident in the Development Activity Monitor image (page 4) which demonstrates the building height transition from the south to the north and is supported.

Building form and setbacks

Some submitters raised issues relating to the design including that the façade is basic and repetitive and lacks interesting treatment and that the façade has no relevance or connection with the heritage buildings in its immediate neighbourhood.

The application of the heritage overlay on the subject site is the result of a mapping error and the subject building is not of any heritage significance. In regards to impact on the heritage buildings, the Concept Blue Tower separates the subject site from the heritage buildings of the former Russell Street Police Headquarters.

Council's Urban Design raised concerns with the building form and articulation of the tower. The applicant has since amended the elevational treatment and introduced setbacks in the 'without prejudice' plans. The proposal now provides for an elegant form which has been designed to successfully turn the corner.

A 5 metre setback above level 10 has been introduced along the eastern boundary. Although this was not a requirement sought by VCAT, the setback greatly assist in the tower being designed in the round, avoids blank walls and also provides amenity (light and air) for future residents of the site. It is anticipated by the applicant that an equal 5m setback to the site adjoining to the east could be provided to achieve 10m separation. This setback is supported as it allows for future redevelopment of the adjoining site to the east.

The tower setbacks from the western boundary are beyond what VCAT required which is positive as it results in a built form that has less of an amenity impact on the Concept Blue Tower apartments and reduces the perception of a wall of towers as viewed from La Trobe Street.

Objections raise inadequate setbacks as an issue, specifically in relation to side and rear setbacks. As stated above, the without prejudice plans have responded to these concerns by providing a greater setback to the western lightwell to achieve a 10m separation between the two building façades.

The building above level 1 is setback 5 metres from the northern boundary. This setback is supported as it allows the adjoining site to the north to be redeveloped in future while protecting the amenity of future residents of the subject site.

Street Level Frontages

The without prejudice amended plans have largely addressed earlier concerns expressed by Urban Design, significantly increasing the ground floor activation and removing entrapment spaces. The result is a development that will directly engage with La Trobe Street and Grange Place through the direct relationship of ground floor entries, front doors and windows to the streets such as the glazed returns and stall risers fitted to the shop fronts to La Trobe Street frontage which provide views through to the building entry.

The sunken substation to the rear of the site has resulted in an open space at the ground level which will be an appealing space that can be used in association with retail premises (ie uses which can spill out and utilise the forecourt zone).

The renewal of the existing La Trobe Street façade and proposed 600mm projection to the existing La Trobe Street façade is acceptable on the basis that it is a retrofit which retains an existing structure and is contained within the lower podium levels. This extent of projection would not be supported in a new build unless a balance of projection and subtraction was provided in the façade.

As noted earlier, Urban Design recommends further minor modifications which have been addressed via conditions of permit.

Sunlight

Clause 22.02 Sunlight to Public Spaces seeks to ensure new development allows good sun penetration to public spaces and that overshadowing from new development does not result in a significant loss of sunlight and diminish the enjoyment of public spaces for pedestrians.

Shadow diagrams prepared by Hayball architects demonstrate that additional shadowing of La Trobe Street will occur given it is directly south of the subject site. It is noted however, the La Trobe Street is not identified as a 'key public space' for the purposes of Clause 22.02, nor is it considered a 'major pedestrian route'. It is therefore considered that the shadowing will not adversely reduce the public enjoyment of the street.

Protection from Wind

Consideration has been given as to the possible wind effects of the buildings on its surroundings. A desktop environmental wind assessment was conducted by MEL Consulting dated 19 September 2016. Their report concluded that the wind conditions for all test locations in the streetscapes surrounding the development have been shown to achieve the criterion for walking comfort. The change in the built form in the 'without prejudice plans' may result in a change in the wind impacts. The applicant has indicated they would accept a condition for further wind testing.

12.3 Car Parking

Objectors raised concern with traffic generated by the proposal, the loading arrangements and waste arrangements. The loading area and waste arrangements have been revised in the 'without prejudice' plans.

Traffic related matters associated with the proposed development have been considered by Council's Traffic Engineer's and that advice is summarised above.

While the increase in floor area requires a waiver of a higher number of car spaces under Clause 52.06, the waiver of this requirement is appropriate. It is noted that Council's Traffic Engineers have no objection to the proposed parking provision, due to the following considerations:

- The parking provision for residents is below the maximum rate;
- The provision of no parking for the residential hotel component is acceptable as guests and workers will either need to rely on sustainable transport modes (*including public transport, cycling & motorcycling*), or to park in the commercial off-street car parks;
- The provision of no parking for the shop component is acceptable because shoppers will most likely be local and workers will either need to rely on sustainable transport

modes (*including public transport, cycling & motorcycling*), or to park in the commercial off-street car parks; and

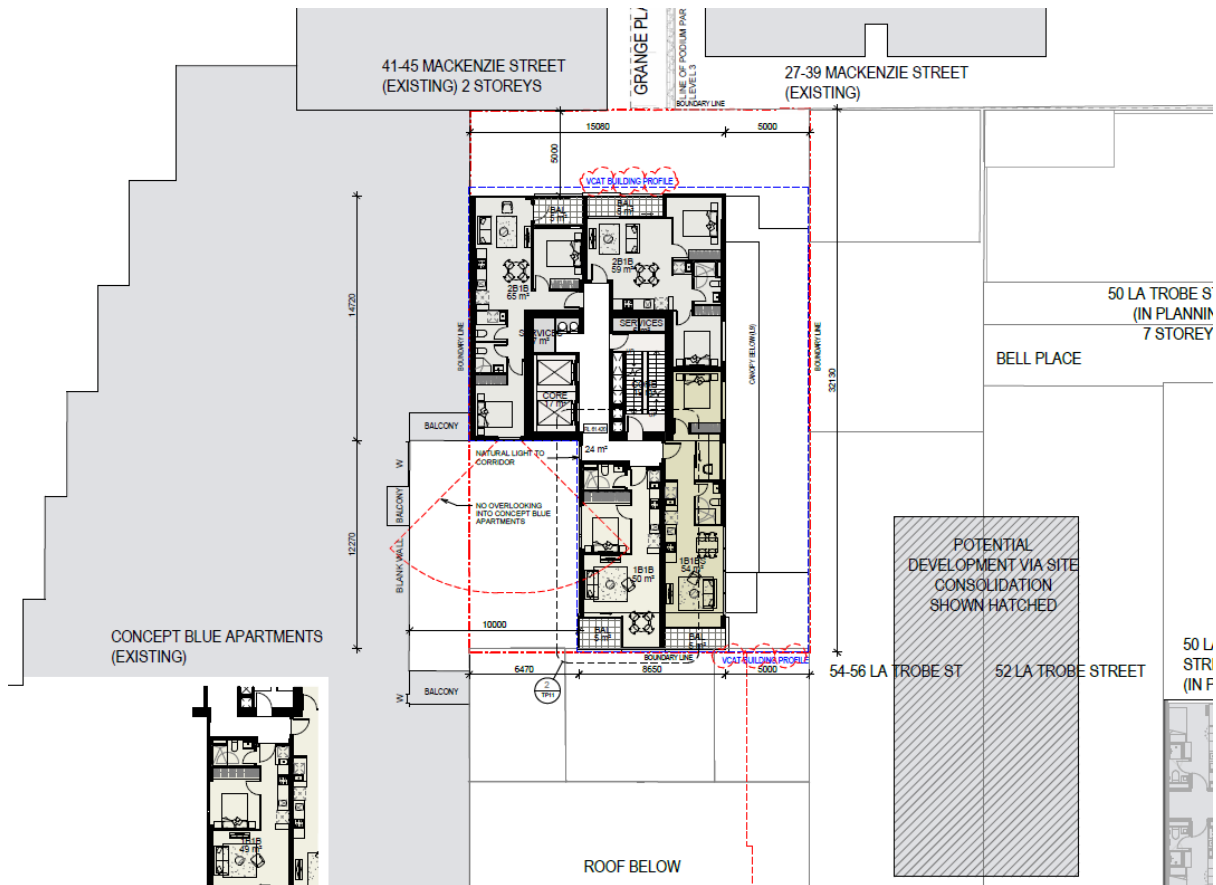
- Given the short/medium-term parking restrictions in the surrounding streets, there will be no opportunities for the guests/staff to park on-street.

12.4 Internal amenity

As discussed above in the statutory controls section, the application has not been formally amended since amendment VC136 which introduced the Better Apartment Design Standards into the Scheme and therefore the application is afforded transitional provisions where Clause 58 does not apply.

Clause 55 (Rescode) does not apply to a development of five or more storeys. In this case the Guidelines for *Higher Density Residential Development* are applicable. The *Design Guidelines for Higher Density Residential Development* includes relevant objectives relating to internal amenity. An assessment against the key objectives concerning internal amenity is as follows:

- In response to concerns raised by Council about the internal amenity, layout and number of 'private' apartments was amended. Apartments in the lower section of the tower where light levels were lower have been replaced with serviced apartments (residential hotel) and will be secured via a s173 agreement.
- Dwellings are a mixture of one bedroom (46), two bedrooms (36) and three bedrooms (6) with areas ranging from 39 to 108 square metres. The mixture of housing types and sizes are supported.
- All dwellings have good access to natural ventilation and daylight with no bedrooms relying on borrowed light or 'snorkel' layouts.
- All dwellings have open-plan kitchen, living and dining areas.
- Bicycle parking and storage is provided for the dwellings in the basement.
- All dwellings have access to balconies which vary in size from 5 m² to 108 m² for the penthouse. The sizes of these balconies are considered acceptable given that a communal terrace of 123 m² has been provided and that they are equivalent to other apartment buildings in Melbourne
- Due to the orientation of the site, it is not possible for all private balconies to have access to northern light.
- Communal facilities are proposed at level 6 in the form of a gymnasium, two lounges, a dining room and outdoor terrace (108 m²).
- Habitable windows are either setback 10 metres from existing habitable windows and therefore do not overlook or have been orientated so that they overlook within a 45 degree arc as shown in the diagram provided.



Proposed levels 11-28, blue lines indicate the building envelope for VCAT plans for TP-2010-991 and surrounds 3.09.2018 by Hayball

- Clause 58.04-3 Noise Impacts. The requirements of Clause 58.04-3 do not apply to the development as Victoria Street carries less traffic than that stipulated. Nonetheless, the proposed residential uses are considered to be sensitive in this mixed use area. It is therefore recommended that an acoustic condition be placed on the permit to ensure the future residents will be well protected from external noise sources.

12.5 External Amenity

A number of objectors, all of whom reside in the Concept Blue building, raised concerns about the impact of the development on the amenity (light levels and ventilation) of dwellings facing light well of the Concept Blue Tower (adjoining to the west). The Design Guidelines for Higher Density Residential Development include objectives relating to equitable access to outlook and sunlight (Objective 2.6) and overlooking (Objective 2.9).

The previous VCAT decision gave consideration to these matters and validated the proposed setbacks and consequential amenity impacts such as access to light and ventilation. The proposed light well and setbacks are greater than those recommended by VCAT and therefore result in a better outcome for residents of Concept Blue.

The proposed light well response and 10 metre separation between the two building facades satisfactorily addresses these amenity matters.

12.6 Use of Contaminated Land

Clause 13.03-1 provides objectives, strategies and policy guidelines that direct the Responsible Authority to require investigation into potentially contaminated land (in addition to requiring remediation of this land so that the land is fit for the proposed future land use – if the land is found to be contaminated).

Given that the previous use of the land is unknown, it is recommended that the applicant provides a contaminated land assessment and subsequent audit if required.

12.7 Sustainability

ESD issues were also raised by some objectors specifically in relation to dwellings placed on the west, the heat gain to the building is increased and the liveability of the spaces reduced and that the likelihood of any landscaping surviving on the building is unlikely. A Sustainable Management Plan prepared by Simpson Kotzman dated 3 October 2016 concludes that the development has the potential to achieve 5 Star Green Star and is supported.

Clause 22.19 provides that it is policy to encourage buildings that:

- *Minimise greenhouse gas emissions and maximise energy efficiency.*
- *Minimise mains potable water consumption and encourage the use of alternative water sources, such as rainwater and grey water.*
- *Provide the facilities that will enable building users and occupants to reduce waste sent to landfill, maximise the recycling and reuse of materials and support the municipality's progress towards becoming a resource and material-efficient city.*

Clause 22.23 Stormwater Management (Water Sensitive Urban Design) objectives of this policy include:

- *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
- *To promote the use of water sensitive urban design, including stormwater re-use.*

Clause 22.23 provides that it is policy that development applications relating to new buildings incorporate water sensitive urban design that achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Guidelines, CSIRO 1999 (or as amended).

A Sustainable Management Plan prepared by Simpson Kotzman dated 3 October 2016 concludes that the development has the potential to achieve 5 Star Green Star and a Melbourne Water STORM score of 101% and is supported.

Conditions (Civil Engineering) will be included on any permit being granted, as recommended by Council's Principal Engineer (Infrastructure), to ensure that the development complies with Local Planning Policy Clause 22.23.

12.8 Additional Objector Concerns

Where concerns raised in an objection have not been addressed in the above assessment, these matters are considered below.

• **Car Parking**

Many objections raised issues with car parking indicating that residential car parking and traffic in this area is already problematic. Some objections suggested that the maximum allowable on-site car parking should be provided. Council's traffic engineers have reviewed the proposal and are supportive of the parking reduction and that providing more on site spaces would only increase congestion.

• **Noise**

Noise was raised as an issue in regard to both construction (three objections) and noise from the use of the land (10 objections). This is not directly relevant to the assessment of the planning permit application.

The remit of the Responsible Authority's discretion with respect to potential noise impacts associated with the proposed development are limited.

In regards to noise from construction activities, a condition (Construction Management Plan) will be included on any permit granted requiring the developer to prepare and submit a detailed construction management plan to Council's Construction Management group, which, when approved, sets out how construction processes will be carried out.

The reasonable enjoyment of outdoor areas associated with a development of the type proposed (which will lead to the generation of noise) is part and parcel of the amenity of living in an urban environment.

The Environment Protection (Residential Noise) Regulations 2008 list items and times when noise from a residential use is unreasonable.

If noise generated by a residential property is excessive, and this issue cannot be resolved through civil communication, the behaviour can be reported to the police.

- **Overdevelopment of the immediate neighbourhood**

An assessment of the application under the relevant provisions of the Melbourne Planning Scheme above determines that the site is suitable for multi-storey residential and commercial development and that it would not result in an overdevelopment of the immediate neighbourhood.

- **Other matters**

Concerns such as loss of views, loss of income and devaluation of property do not fall within the remit of Council's discretion when assessing a planning application in accordance with the *Planning and Environment Act 1987*.

13 CONCLUSION

Subject to conditions, including amended plans as detailed in this report, the proposed development will respond positively to its context, have no unreasonable adverse off-site amenity impacts, and appropriately complies with applicable sections of the Melbourne Planning Scheme.

14 RECOMMENDATION

Having considered all relevant provisions of the Melbourne Planning Scheme, in addition to the matters required under Section 60 of the *Planning and Environment Act 1987*, Planning has determined to issue:

- A Notice of Decision to Grant a Permit, subject to the conditions set out below.

14.1 Permit Conditions

Amended Plans

1. Prior to the commencement of development, an electronic copy of the plans, drawn to scale must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the application plans prepared by Hayball (dated 25 January 2016), but amended to show:
 - a. The design revisions detailed in the substituted plans prepared by Hayball dated 29 June 2018 but further modified to show:
 - i. Changes required by the revised waste management plan.
 - ii. Changes required by the revised traffic management report.
 - iii. Changes required by the revised wind report.
 - iv. Changes required by the revised Environmentally Sustainable Design Statement.
 - v. The elevation of the shop at the ground floor with an interface with Grange Place to have greater solidity by reducing the extent of glazing and providing solid materials and form such as a plinth.
 - vi. Provision of further details of paving treatment to the Level 1 Grange Place forecourt area, to provide an attractive pedestrian space.
 - vii. Provision of additional seating and landscape zones along the east boundary of the Level 1 Grange Place forecourt, as appropriate.
 - viii. Provision of a high quality car lift door which celebrates the lift as a visually interesting architectural element.

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

Secondary consent provision

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

Use of Shops

3. Except with the prior written consent of the Responsible Authority, the shop uses authorised by this permit must only operate between the following hours seven days a week
 - a. 7am – 9pm seven days a week.

Amendment of waste management plan

4. Concurrent with the endorsement of plans, a revised Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. The WMP must detail waste storage and collection arrangements and must comply with the council's guidelines. Waste storage and collection must be undertaken in accordance with the endorsed WMP. Waste storage and collection arrangements must not be altered without the written consent of the Responsible Authority.

Amendment of traffic and loading management report

5. Concurrent with the endorsement of plans, an amended traffic and loading management report must be submitted to and approved by the Responsible Authority. The traffic management report must be generally in accordance with the traffic management report prepared by TTM Pty Ltd dated 5 December 2016, but modified to show:
 - (a) The design of the car park and loading docks, the positioning of boom gates, card readers, control equipment, including car park control points, and ramp grades must be generally in accordance with the requirements of Clause 52.06 of the Melbourne Planning Scheme.
 - (b) Car Stacker Management Plan including installation in accordance with the manufacturer's specifications by a suitable qualified person, and routine service and maintenance.
 - (c) Headroom clearance heights and movement diagrams for waste collection vehicles and private vehicles.

The amended traffic management report must be prepared with reference to Clause 52.06 of the Melbourne Planning Scheme. Car parking, loading and traffic management for the development must be in accordance with the report, to the satisfaction of the Responsible Authority.

Acoustic report

6. Prior to the commencement of development (excluding demolition), an acoustic report must be submitted to and approved by the Responsible Authority. The acoustic report must confirm that habitable rooms of new dwellings and residential hotel have been designed to limit internal noise levels to a maximum of 45dB in accordance with relevant Australian Standards for acoustic control. Acoustic measures for the development must be in accordance with the acoustic report, to the satisfaction of the Responsible Authority.

Environmentally Sustainable Design

7. Concurrent with the endorsement of plans, an amended Environmentally Sustainable Design (ESD) Statement prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. The ESD Statement must demonstrate that the building has the preliminary design potential to achieve the following:
 - a. A Melbourne Water STORM score of 101%; and,
 - b. A 5 star rating under a current version of Green Star – Design and As Built v1 or equivalent.

8. Any change during detailed design, which prevents or alters the attainment of the performance outcomes specified in the endorsed ESD Statement, must be documented by a suitably qualified professional in an addendum to this report, which must be provided to the satisfaction of the Responsible Authority prior to the commencement of construction.
9. Within six months of the occupation of the development, a report from a suitably qualified professional must be submitted to and approved by the Responsible Authority. The report must outline how the design initiatives implemented within the completed development achieve the performance outcomes specified in the endorsed ESD Statement.

Materials and Finishes

10. Concurrent with the endorsement of plans, a materials and finishes schedule must be submitted to and approved by the Responsible Authority. The schedule must:
 - (a) Illustrate the location and type of all external materials and finishes on elevations in colour and at an appropriate scale (typically 1:50).
 - (b) Be accompanied by a physical samples board of all materials and finishes with clear coding linking back to the elevations.

All materials and finishes must be in accordance with the schedule, to the satisfaction of the Responsible Authority.

8. Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

Urban Forest Recommended Conditions

11. No works (including any demolition) must commence on site until a bank guarantee equivalent to the combined environmental and amenity values of the London Plane tree (*Platanus x acerifolia*), City of Melbourne asset No. 1023912, has been lodged with council. See Advice Notes.
12. No works (including any demolition) must commence on site or within the Tree Protection Zone of the London Plane (*Platanus x acerifolia*), City of Melbourne asset No.1023912 until a Project Arborist is engaged to implement the recommendation detailed in the Arboricultural Impact Assessment and Tree Management Plan by Bruce Callander dated 17 November 2016.
13. In addition to the temporary tree protection measure identified in the Arboricultural Impact Assessment and Tree Management Plan by Bruce Callander dated 17 November 2016, the tree pit of the London Plane (*Platanus x acerifolia*), City of Melbourne asset No.1023912 must be boxed to ensure its full isolation from the work area to the to the satisfaction of a council Arborist from the Urban Sustainability Branch.

Drainage of projections

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

Works abutting Council Lanes

15. The title boundaries for the property may not exactly agree with the road alignments of the abutting Council lane. The approved works must not result in structures that encroach onto any Council lane.

Drainage system upgrade

16. Prior to the commencement of the development or as otherwise agreed in writing with the responsible authority, a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the

Responsible Authority – Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne’s underground stormwater drainage system. Where necessary, the City of Melbourne’s drainage network must be upgraded to accept the discharge from the site in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

Demolish and construct access

17. Prior to the commencement of the use/occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed and upgraded, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

Sawn bluestone footpaths

18. The footpath adjoining the site along La Trobe Street must be reconstructed and upgraded in sawn bluestone together with associated works including the renewal of kerb and channel and/or services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

Street levels not to be altered

19. Existing street levels in La Trobe Street must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services

Existing street lighting not altered without approval

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

Street furniture

21. All street furniture such as street litter bins, recycling bins, seats and bicycle rails must be supplied and installed on La Trobe Street footpath outside the proposed building to plans and specifications first approved by the Responsible Authority – Engineering Services.

Creation of Easement

22. A 1.5 metre wide drainage easement must be created along the centre of the property (North-South direction) of the subject land in favour of Melbourne City Council. The easement must be to the satisfaction of the City of Melbourne’s Manager, Engineering Services Branch and Team Leader Land Survey, Planning and Building Branch.

Legal Agreement

23. Prior to the commencement of the development, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act, 1987. The agreement must provide the following;
 - a. the existing 225mm diameter storm water drain located along the centre of the property (North-South direction) of the subject land shall be upgraded and reconstructed in accordance with plans and specifications first approved by the Responsible Authority – Manager Engineering Services Branch;
 - b. a drainage easement shall be created over the reconstructed stormwater drain running along the centre of the property (North-South direction) of the subject land. The easement shall be created in favour of the Melbourne City Council to the satisfaction of the City of Melbourne’s Manager, Engineering Services, Branch and Team Leader Land Survey.

- c. liability and maintenance of Council's stormwater drain/s located within the subject land.
- d. the residential hotel component provided on the subject land is to be used for exclusively as a residential hotel and not dwellings.

The owner of the property to be developed must pay all of Council's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title

Building Appurtenances and Services

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

Wind Mitigation

28. Concurrent with the submission of plans for endorsement under Condition 1, an amended Wind Impact Assessment report must be prepared by a suitably qualified engineering consultant. The Wind Impact Assessment must be submitted to and be to the satisfaction of the Responsible Authority. When approved, the report will be endorsed and will then form part of the permit. The report must be generally in accordance with the report prepared by Mel Consultants (Report 70/17) dated June 2017 but further modified to address all changes required under Condition 1 of this permit.
29. Any further modifications required to the development in order to ensure acceptable wind conditions to the surrounding streets and public areas must be carefully developed as an integrated high quality solution with the architectural and landscape design and not rely on street trees to the satisfaction of the Responsible Authority.
30. The recommendations and requirements of the endorsed Wind Assessment Report must be implemented at no cost to and be to the satisfaction of the Responsible Authority.

Construction Management Plan

31. Prior to the commencement of the development, including demolition and bulk excavation, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group. This construction management plan must be prepared in accordance with the City of Melbourne - Construction Management Plan Guidelines and is to consider the following:
 - a. public safety, amenity and site security.
 - b. operating hours, noise and vibration controls.
 - c. air and dust management.
 - d. stormwater and sediment control.

- e. waste and materials reuse.
- f. traffic management.
- g. protection of street trees.

3D Digital Model

32. Prior to the commencement of the development, excluding demolition, bulk excavation and site preparation works, or as otherwise agreed with the Responsible Authority, a 3D digital model of the development and its immediate surrounds, as appropriate, must be submitted to the Responsible Authority and be to the satisfaction of the Responsible Authority. The model should be prepared having regard to the Melbourne City Council Advisory Note – 3D Digital Modelling. Digital models provided to the Melbourne City Council may be shared with other government organisations for planning purposes. The Melbourne City Council may also derive a representation of the model which is suitable for viewing and use within its own 3D modelling environment. In the event that substantial modifications are made to the building envelope a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.

Potentially Contaminated Land and Remediation

Preliminary Environmental Assessment

33. Before the development starts, including demolition, bulk excavation and site preparation works but excluding any demolition or works necessary to satisfy the requirements of this condition, a Preliminary Environmental Assessment (PEA) must be carried out to determine if the subject site is potentially contaminated. The PEA must be provided to the satisfaction of the Responsible Authority.

The PEA must:

- (a) Be carried out by a suitably qualified environmental professional.
- (b) Include details of the nature of the land uses previously occupying the site and any anticipated sources of direct contamination arising from the activities associated with these land uses.
- (c) Include details of any anticipated sources of indirect contamination from neighbouring properties.
- (d) Include a review of any previous assessments of the potential contamination of the site.
- (e) Clearly identify whether the site is potentially contaminated or not, within the meaning provided by Ministerial Direction No. 1 – Potentially Contaminated Land.

Comprehensive Environmental Assessment

34. Should the PEA reveal that the site is potentially contaminated, a Comprehensive Environmental Assessment (CEA) must be carried out to determine if the site is contaminated, and if the site is contaminated, the appropriate method of remediation to ensure the site is suitable for the intended uses(s).

The CEA must be carried out by a suitably qualified professional who:

- (a) Is a member of the Australian Contaminated Land Consultants Association; and
- (b) Is an Environment Protection Authority (EPA) accredited environmental auditor for contaminated land, or is employed by a corporation that retains an EPA accredited environmental auditor on staff.

Evidence of the report author's qualifications in line with the above requirements must be provided in a letter accompanying the CEA.

The CEA must be provided to the satisfaction of the Responsible Authority before the development starts, excluding any demolition or works necessary to undertake the CEA.

The CEA must:

- (a) Be undertaken in accordance with:
 - i. The process set out in the *National Environment Protection (Assessment of Site Contamination) Measure (NEPM) (Schedule A – Recommended general process for assessment of site contamination)*.
 - ii. The guidelines set out in *NEPM (Schedule B – General guidelines for the assessment of site contamination)*.
- (b) Set out the results of any site investigation undertaken, which must be referenced against the applicable health-based investigation levels (HILs) for the proposed use/development set out in the NEPM, in addition to any other applicable health or ecological based metrics under relevant legislation.
- (c) Clearly identify whether evidence of soil contamination above the applicable HILs for the proposed use/development set out in the NEPM was found, in addition to any other applicable health or ecological based metrics under relevant legislation.
- (d) Confirm whether, on the basis of the findings of the CEA:
 - i. An Environmental Audit in accordance with Section 53X of the Environment Protection Act 1970 (EPA 1970) is required to be performed, to ensure the site is suitable for the intended use(s).

Or

- ii. If an Environmental Audit in accordance with Section 53X of the EPA 1970 is not required to be performed, a Remediation Action Plan (RAP) is required to be performed, to ensure the site is suitable for the intended use(s).
- iii. The CEA must specifically refer to the RAP prepared to ensure the site is suitable for the intended use(s), and the RAP must be submitted concurrently with the CEA.

Or

- iv. An Environmental Audit in accordance with section 53X of the EPA 1970 and a Remediation Action Plan (RAP) is not required, and the site is suitable for the intended use(s).

Environmental Audit

35. Should the CEA confirm, that an Environmental Audit in accordance with Section 53X of the EPA 1970 is required, then before the development starts, excluding any demolition or works required to undertake the CEA or Environmental Audit, one of the following must be provided to the satisfaction of the Responsible Authority:

- (a) A Certificate of Environmental Audit issued for the site in accordance with Part IXD of the EPA 1970.

Or

- (b) A Statement of Environmental Audit prepared by an environmental auditor appointed under the EPA 1970, in accordance with Part IXD of the EPA 1970 that confirms that the environmental conditions of the land are suitable for the sensitive use.

Where a Statement of Environmental Audit (Statement) is provided, all of the conditions of the Statement must be complied with to the satisfaction of the Responsible Authority.

Before the development is occupied, written confirmation from an EPA accredited auditor for contaminated land must be provided to the satisfaction of the Responsible Authority confirming:

- (a) That the conditions of the Statement have been implemented; and
- (b) Whether there are ongoing conditions on the Statement that require significant ongoing maintenance and/or monitoring.

If the written advice submitted in accordance with the above requirement indicates that there are ongoing conditions on the Statement requiring significant ongoing maintenance and/or monitoring, a legal agreement to ensure that all future owners/occupants of the building are notified of these conditions must be entered into in accordance with Section 173 of the *Planning and Environment Act 1987* with the Responsible Authority.

This Agreement must be executed on title prior to the occupation of the building.

The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

Public Transport Victoria

Prior to commencement

- 36. Before the development starts, including demolition and bulk excavation, detailed construction/engineering plans and computations prepared by a suitably qualified person(s) must be submitted to Public Transport Victoria and VicTrack for endorsement, for the protection of the railway corridor, the Melbourne Underground rail loop tunnels and all transport infrastructure. The plans must:
 - a) detail all excavation of the site and impacts on the Melbourne Underground rail loop tunnels and all associated infrastructure, and any other transport infrastructure; and
 - b) include (if required) a pre-condition dilapidation survey carried out in the Melbourne Underground Rail Loop (MURL) in the proximity of the development at the full cost of the permit holder and in consultation with VicTrack and the Accredited Rail Operator.
- 37. Before the development starts, including demolition and bulk excavation, Construction Control and Indemnity Agreements as required by Public Transport Victoria and VicTrack including (if required by PTV) an agreement with the rail operator, must be in place to the satisfaction of Public Transport Victoria and Vic Track.
- 38. Before development starts, including demolition and bulk excavation, three (3) copies of a Demolition and Construction Management Plan must be submitted to Public Transport Victoria and VicTrack which must be to the satisfaction of Public Transport Victoria and VicTrack. The Demolition and Construction Management Plan must include details of (but not be limited to) management proposals to minimise impacts to Vic Track assets and the operation of the railway during construction and must set out objectives and performance and monitoring requirements for:
 - a) Protection of all rail infrastructure to ensure rail infrastructure is not damaged during demolition or construction;
 - b) Mitigate disruption to train services;
 - c) Management of drainage, effluent, material stockpiles, fencing, hoardings to ensure VicTrack land is not used for, or impacted on, by these activities outside of the licence area;
 - d) Public safety, amenity and site security;

- e) Operating hours, noise and vibration controls; and
- f) Air and dust management.
- g) When access to the rail environment is required, specify:
 - i) The designation of any areas to be used under license during the construction process;
 - ii) Approvals and permits required from Public Transport Victoria, VicTrack and the accredited transport operators prior to works commencing and prior to accessing the rail corridor;
 - iii) That the rail operator(s) will be contacted to obtain their conditions and safety requirements for works on, over, under or adjacent to public transport land and/or easements and electrical infrastructure;
 - iv) That access to the public transport areas during construction must conform to all of the necessary public transport operator/s guidelines and instructions
 - vi) The rail safety requirements that must be adhered to by the permit holder.

All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan. The Demolition and Construction Management Plan must be implemented at no cost to VicTrack, Public Transport Victoria and/or the Rail Operator.

- 39. Before the development starts the permit holder must demonstrate that the detailed construction plans (including staging plans) and computations of the development have taken into account the emergency smoke dispersion requirements of the draught relief shafts of the Melbourne Underground Rail Loop tunnels located in the vicinity of the subject site to the satisfaction of Public Transport Victoria During demolition I construction.
- 40. During demolition, bulk excavation and construction of the development, monitoring of movement within the Melbourne Underground Rail Loop (MURL) in the proximity of the development shall be carried out if required by and to the satisfaction of Public Transport Victoria and VicTrack in consultation with the Accredited Rail Operator.
- 41. The permit holder must take all reasonable steps to ensure that disruption to rail and tram operations are mitigated during the construction of the development. Foreseen disruptions to public transport operations during construction must be communicated to the Service Operator and Public Transport Victoria fourteen days (14) prior to the commencement of those works.
- 42. The permit holder must ensure transport infrastructure is not damaged as a result of the works and is not altered without prior consent of Public Transport Victoria. Any damage to public transport infrastructure must be rectified to the satisfaction of Public Transport Victoria and Vic Track at the full cost of the permit holder.

Prior to occupation

- 43. Prior to the occupation of the development, all built drawings for the foundations to the ground floor level and retention system must be provided to Public Transport Victoria prior to occupation of the development or at another time agreed in writing with Public Transport Victoria.

General/on-going

- 44. Permanent or temporary soil anchors must not be installed in rail land and/or easements without the prior permission of Vic Track and PTV.

Permit Expiry

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

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

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

NOTES

Public Transport Victoria

- Building Design and Construction works are to comply with Victorian Safety (Installations) Regulations 2009 Part 3 Division 2.
- The developer shall pay any Rail Operator costs required for the development documentation review or construction works associated with the Permit as required by the Rail Operator.

Body Corporate /Owners Corporation approval

- Note: This planning permit does not constitute Body Corporate /Owners Corporation approval for development within common property on the site. The consent of the Body Corporate /Owners Corporation of the property must be obtained for any works undertaken within the common property.

Urban Forest Notes

- The tree protection bond amount will be calculated by council and provided to the permit holder. Should any tree be adversely impacted as a result of the works, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works necessary. At the time of lodgement of the bond the name and contact details of the Project Arborist who will monitor the implementation of the Tree Protection Plan for the duration of the development (including demolition) must be provided. The Permit Holder must contact City of Melbourne by email to trees@melbourne.vic.gov no later than two-months prior to commencement of the works to ensure bond valuations can be accurately established.
- In accordance with the Tree Retention and Removal Policy a bank guarantee must be:
 1. Issued to City of Melbourne, ABN: 55 370 219 287.
 2. From a recognised Australian bank.
 3. Unconditional (i.e. no end date)
 4. Executed (i.e. signed and dated with the bank stamp)
- Please note that insurance bonds are not accepted by the City of Melbourne. An acceptable bank guarantee is to be supplied to Council House 2, to a representative from either Council's Urban Forest and Ecology or Site Services.

Engineering Notes

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