

Ministerial Referral: TPM-2015-4

1 December 2015

Wesley Church Complex, 118-148 Lonsdale Street, Melbourne

Presenter: Jane Birmingham, Practice Leader Statutory Planning

### Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a Ministerial referral of a Planning Application at 118-148 Lonsdale Street, Melbourne (refer to Attachment 2 – Locality Plan). The Council's comment on the application has been sought by the Department of Environment, Land, Water and Planning (DELWP). The applicant is Leighton Properties C/- Urbis Pty Ltd, the owner is The Uniting Church in Australia Property Trust (VIC) and the architect is Cox Architecture.
2. The subject site is located within the Capital City Zone – Schedule 1 and is affected by the Heritage Overlay HO712 (Wesley Church Complex), the Design and Development Overlay Schedule 1 (Active Street frontage), ES02 Environmental Significance Overlay (Exceptional Trees) and Parking Overlay Schedule 1. The site is also on the Victorian Heritage Register.
3. The planning application seeks approval for demolition of existing buildings and construction of a 39 level (148.4 metres) office building on the eastern portion of the site and associated buildings and works including works within the Tree Protection Zone of a tree listed under ES02. The application proposes 55,000 square metres of net leasable office area, 1373 square metres of retail space, an on site loading bay, 117 car parking spaces (for employees), 368 bicycle spaces and associated facilities.
4. The Minister for Planning is the responsible authority for determining the application as the gross floor area of the building proposed exceeds 25,000m<sup>2</sup>. The majority of the works are exempt from third party notice and review rights with the exception of work within the Tree Protection Zone (Environmental Significance Overlay).
5. A previous planning permit application (TPM-2009-2) proposed the demolition of the existing two-storey building in the north east corner of the site and the Princess Mary Club, and the construction of a 20 storey office development over four levels of basement parking. This application was referred to Council who advised the Minister by letter dated 13 February 2009 that this proposal was not supported. The Minister refused the application on 19 January 2011 on the grounds that proposal results in the loss of residential amenity for properties to the east of Jones Lane beyond that which could be reasonably expected in the City and is contrary to the objectives and decision guidelines within the Melbourne Planning Scheme because of the proposals excessive height and length adjacent to Jones Lane, which was considered to be visually intrusive (summarised).

### Key issues

6. Key issues in consideration in this application are the appropriateness of the design and built form of the new office building, its impact on surrounding public realm and buildings, the public realm works including conversion from an open lot car park to open space and having regard to the previous decision for a similar but smaller development on the site.
7. The proposed building is significantly higher (148.4 metres compared with 80 metres) with reduced setbacks when compared to the previous application, which was refused by the Minister for Planning. The refused application was subject to Design and Development Overlay 56 which has expired and has therefore been removed from the Planning Scheme. It is considered that the visibility of the tower walls to Lonsdale and Little Lonsdale Streets is the primary concern and not the proposed height of the building. The built form is considered to be acceptable, subject to the introduction of a minimum 5 metre tower setback to the streets.

### Recommendation from management

8. That the Future Melbourne Committee resolves that a letter be sent to the Department of Environment, Land, Water and Planning indicating that the Melbourne City Council supports the proposal subject to the tower being setback a minimum of 5 metres from Lonsdale and Little Lonsdale and the conditions set out in the Delegate Report (refer to Attachment 3).

### Attachments

1. Supporting Attachment
2. Locality Plan
3. Selected Plans
4. Delegate Report

**Supporting Attachment**

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**Legal**

1. The Minister for Planning is the Responsible Authority for determining this application.
2. Amendment C262 to the Melbourne Planning Scheme was gazetted on 4 September 2015. It applies to land within the Central City on an interim basis and included transitional provisions.
3. Amendment C266 to the Melbourne Planning Scheme was gazetted on Monday 16 November 2015. This amendment was required to ensure that applications lodged prior to the gazettal of Amendment C262 are assessed against the version of the scheme in operation at the time (including the former Clauses 22.01 and 22.02). Previously it could have been interpreted that only the provisions of the relevant schedules benefit from the transitional provisions, which was not the intention of Amendment C262.
4. The Delegate report for this application has been prepared based on the planning scheme after the gazettal of Amendment C266.

**Finance**

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

**Conflict of interest**

6. 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.

**Stakeholder consultation**

7. Council officers have not advertised the application or referred this to any other referral authorities. This is the responsibility of the DELWP acting on behalf of the Minister for Planning.

**Relation to Council policy**

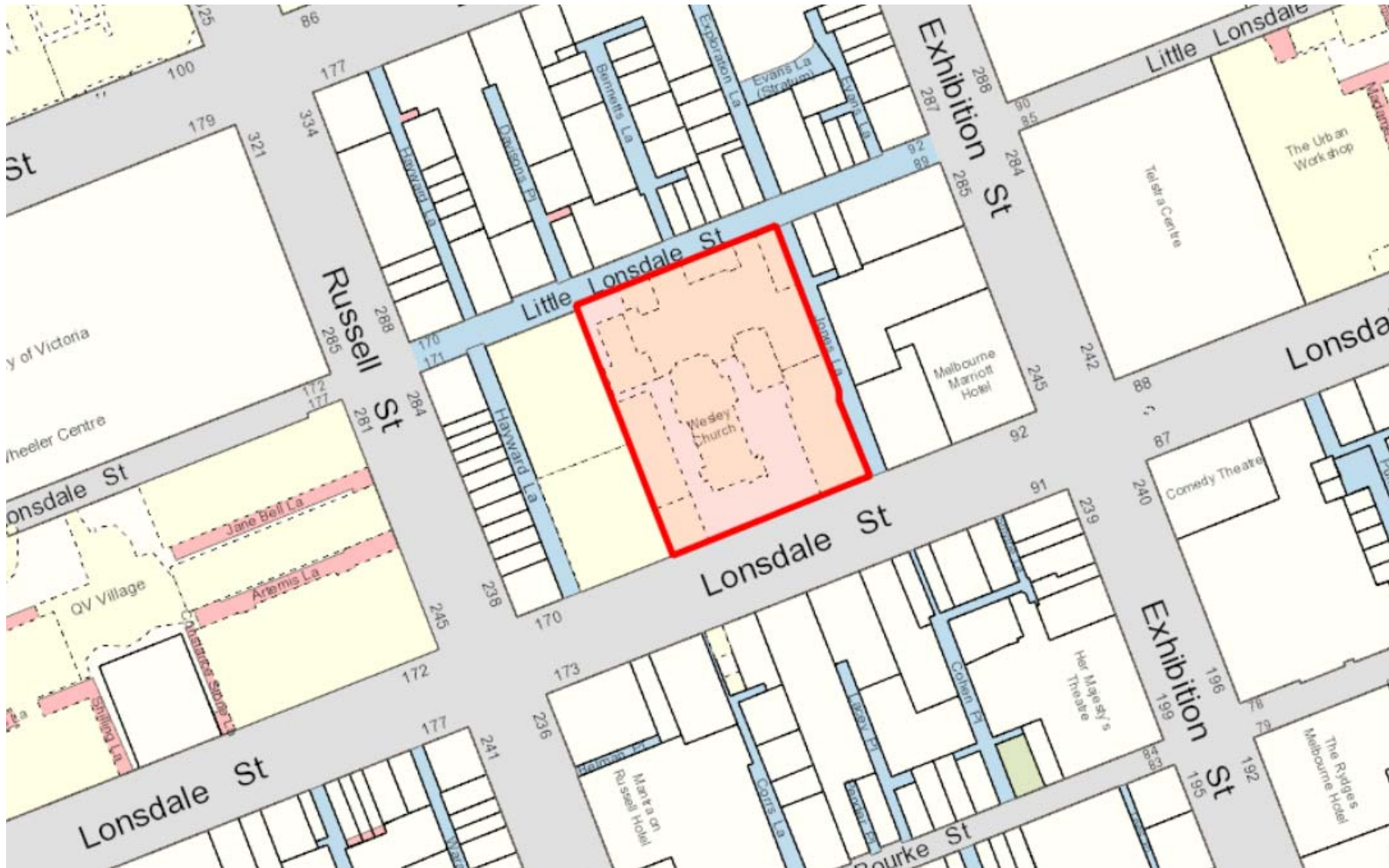
8. Relevant Council policies are discussed in the attached delegate report (refer to Attachment 3).

**Environmental sustainability**

9. Pursuant to Clause 22.19 of the Melbourne Planning Scheme, an environmentally sustainable design statement was submitted with the application that suggests that the development has the preliminary design potential to achieve a Five Star Green Star Rating.

# Locality Plan

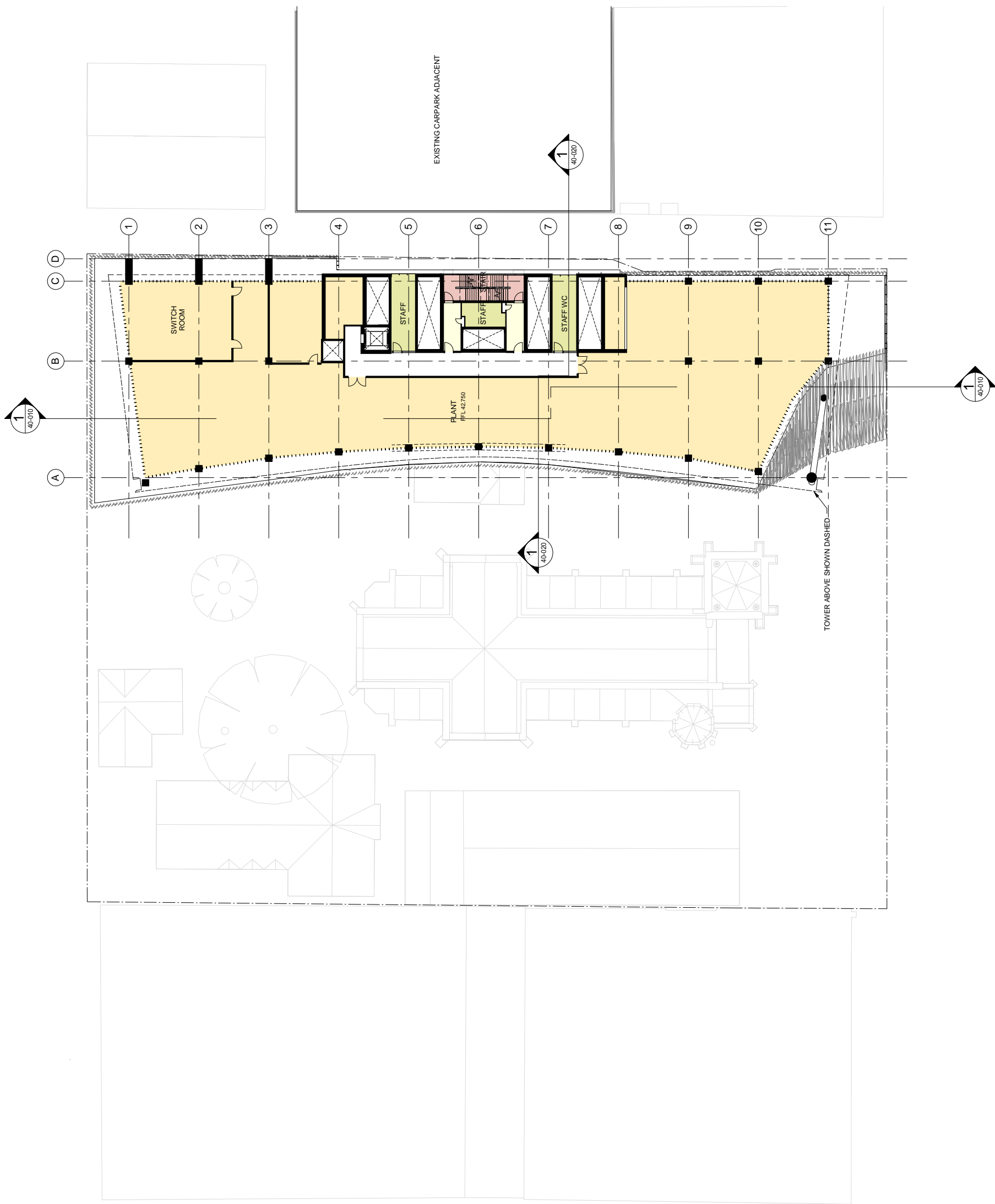
## Wesley Uniting Church, 118-148 Lonsdale Street, Melbourne

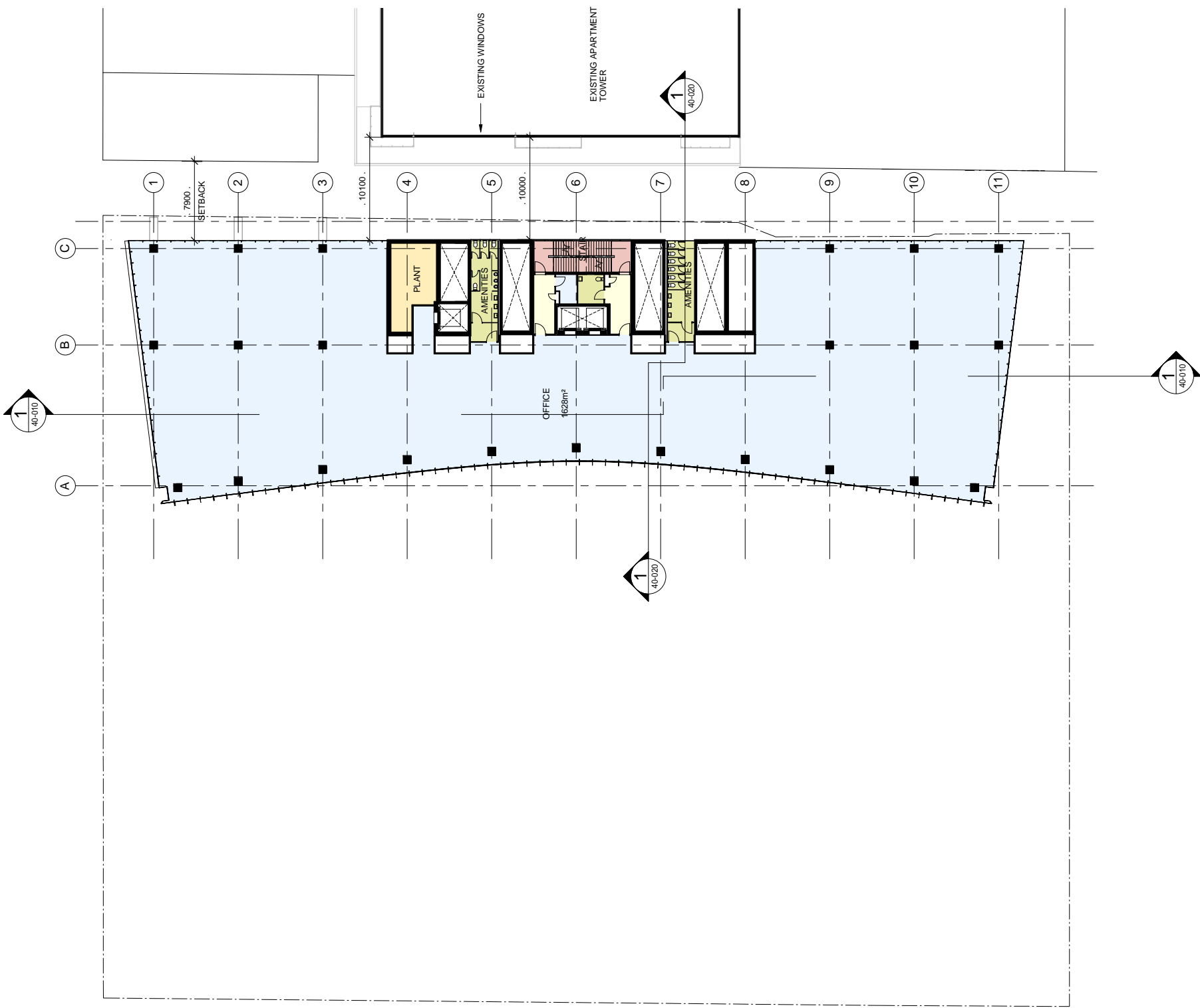




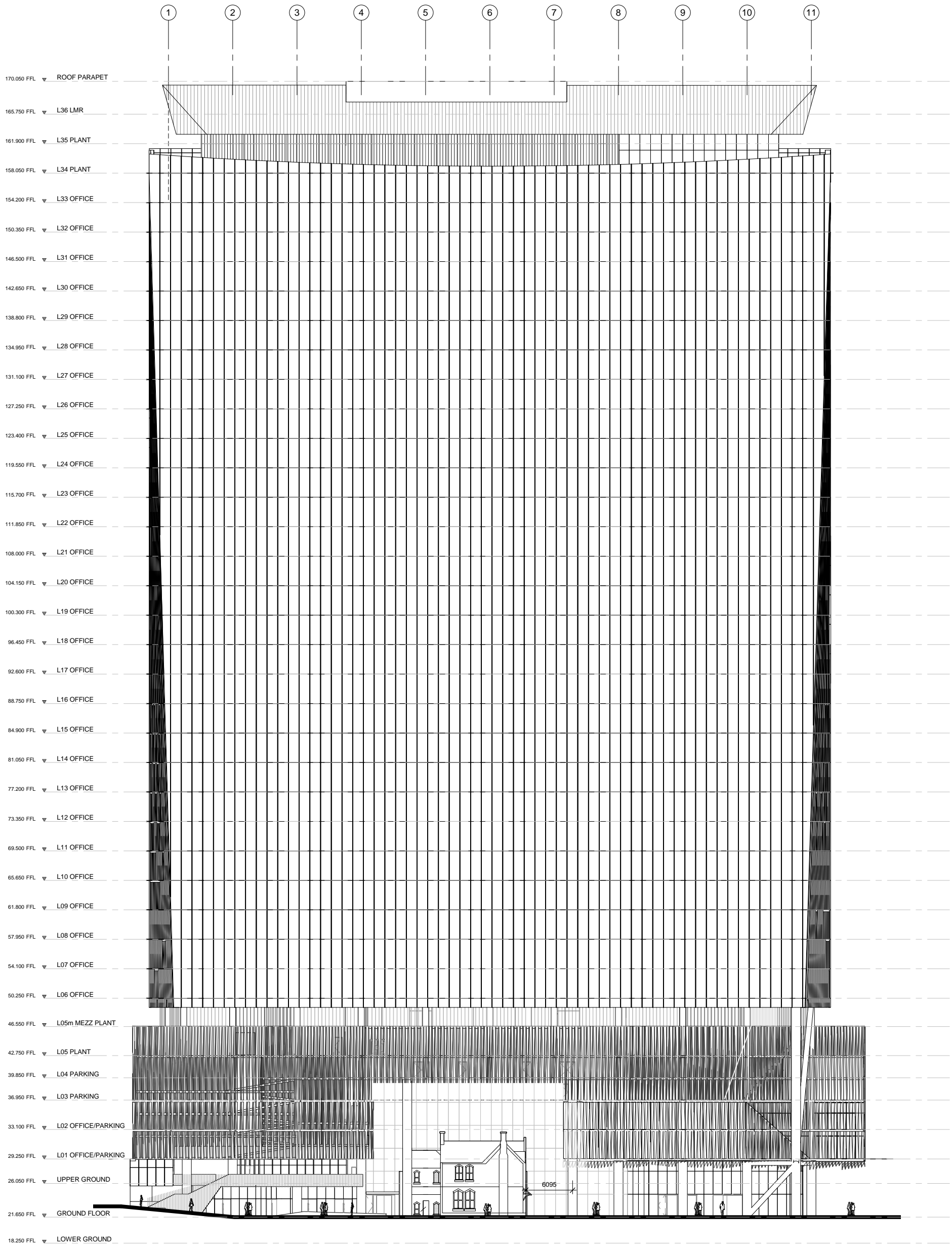


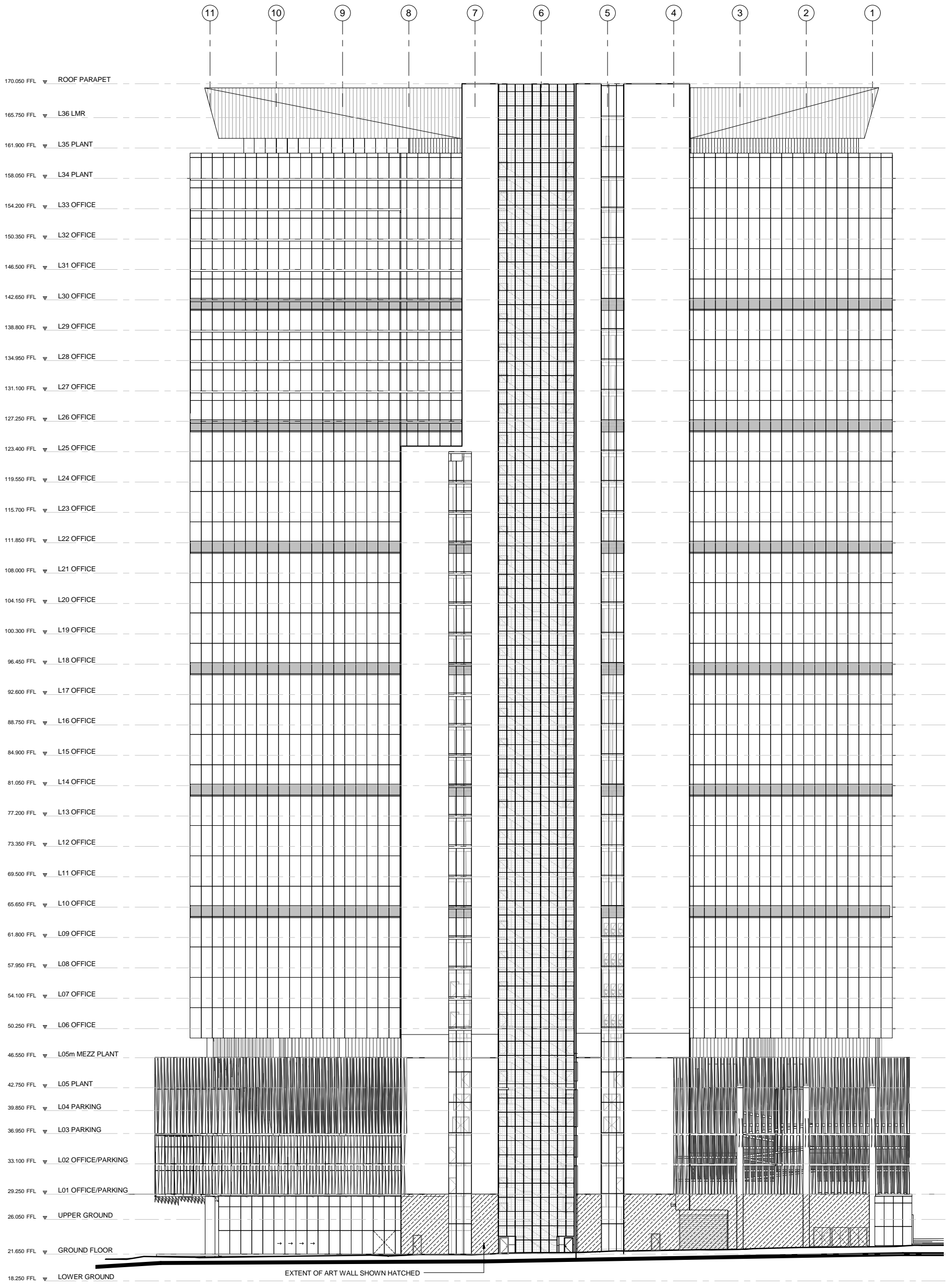


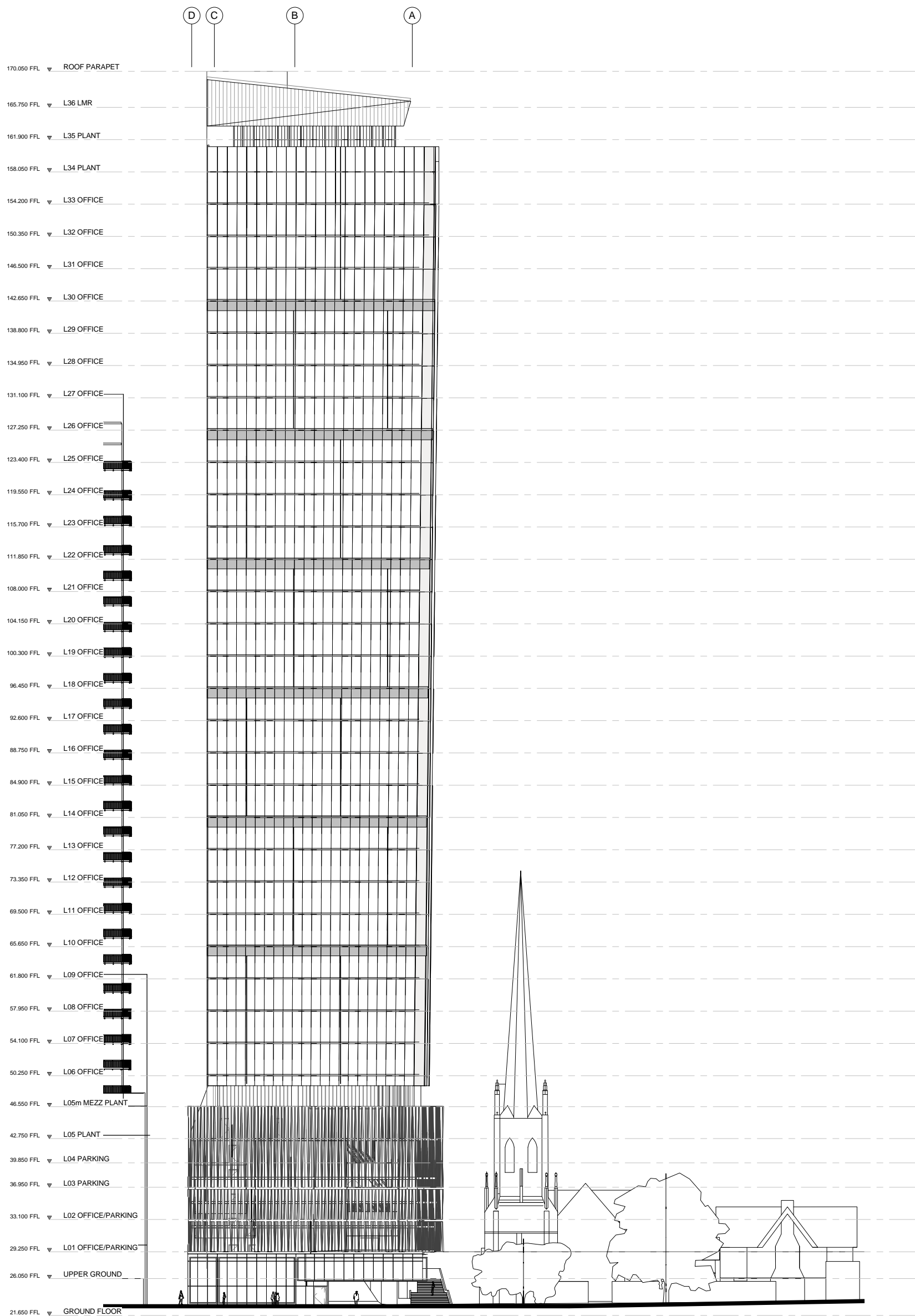


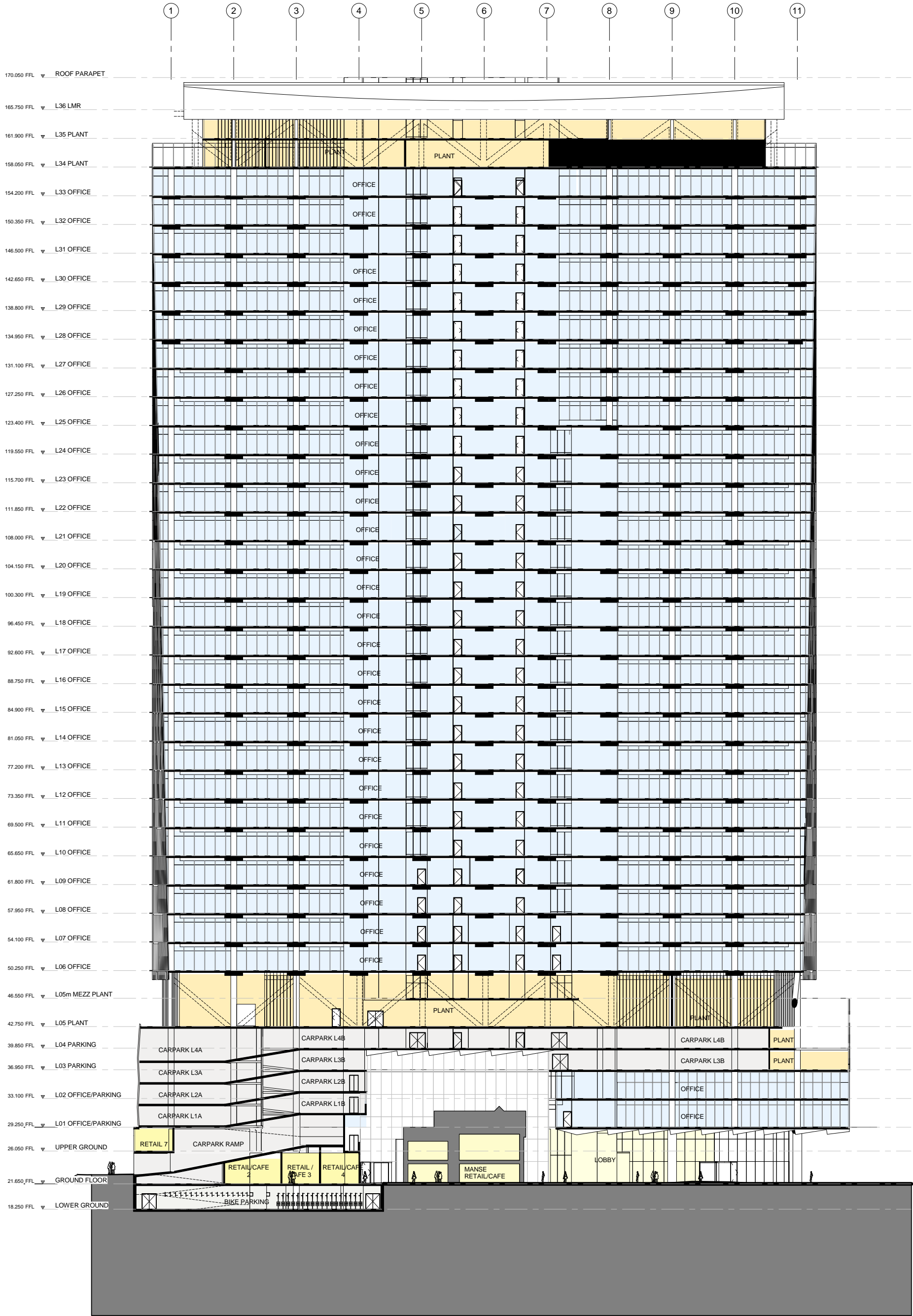


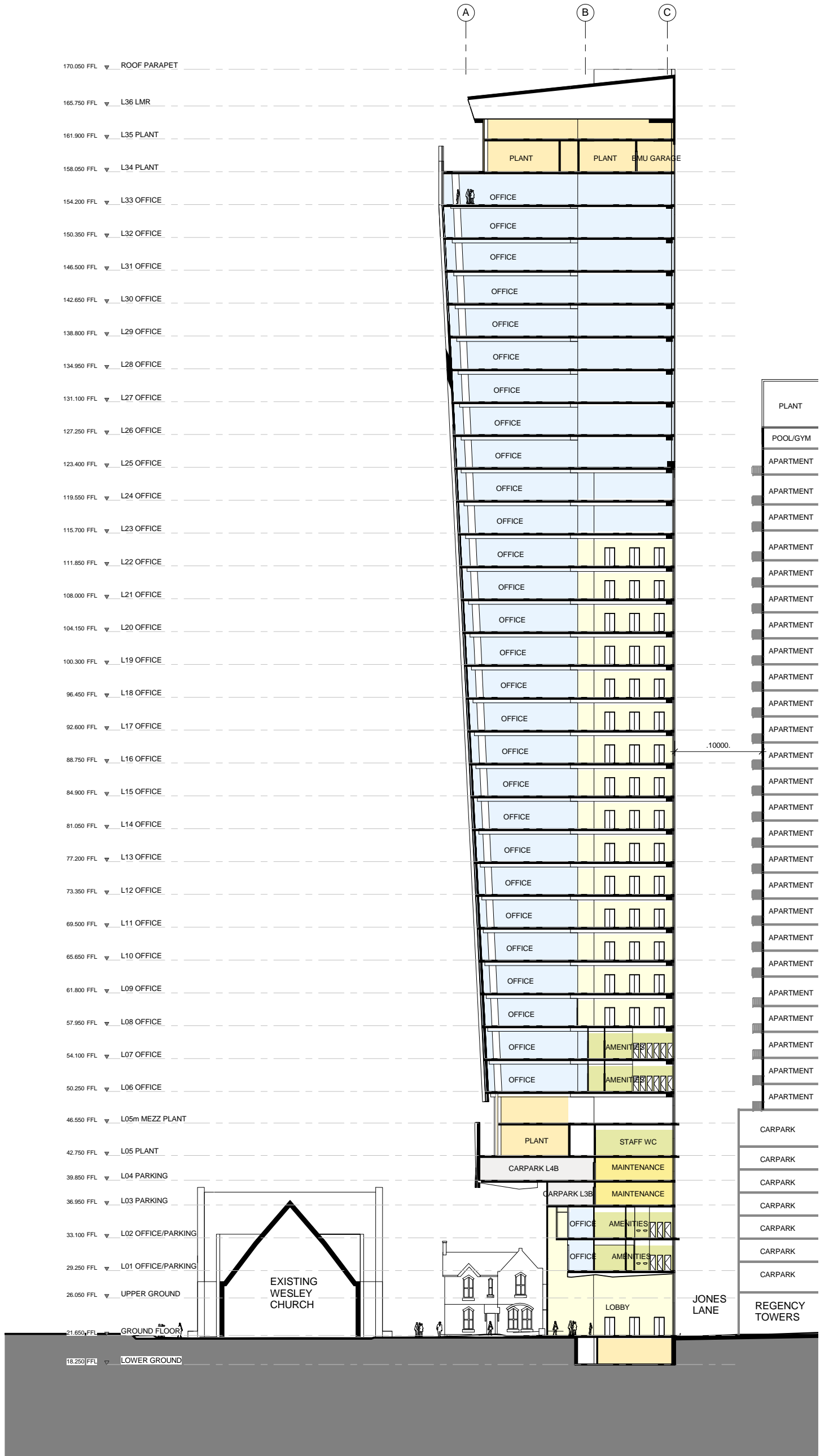


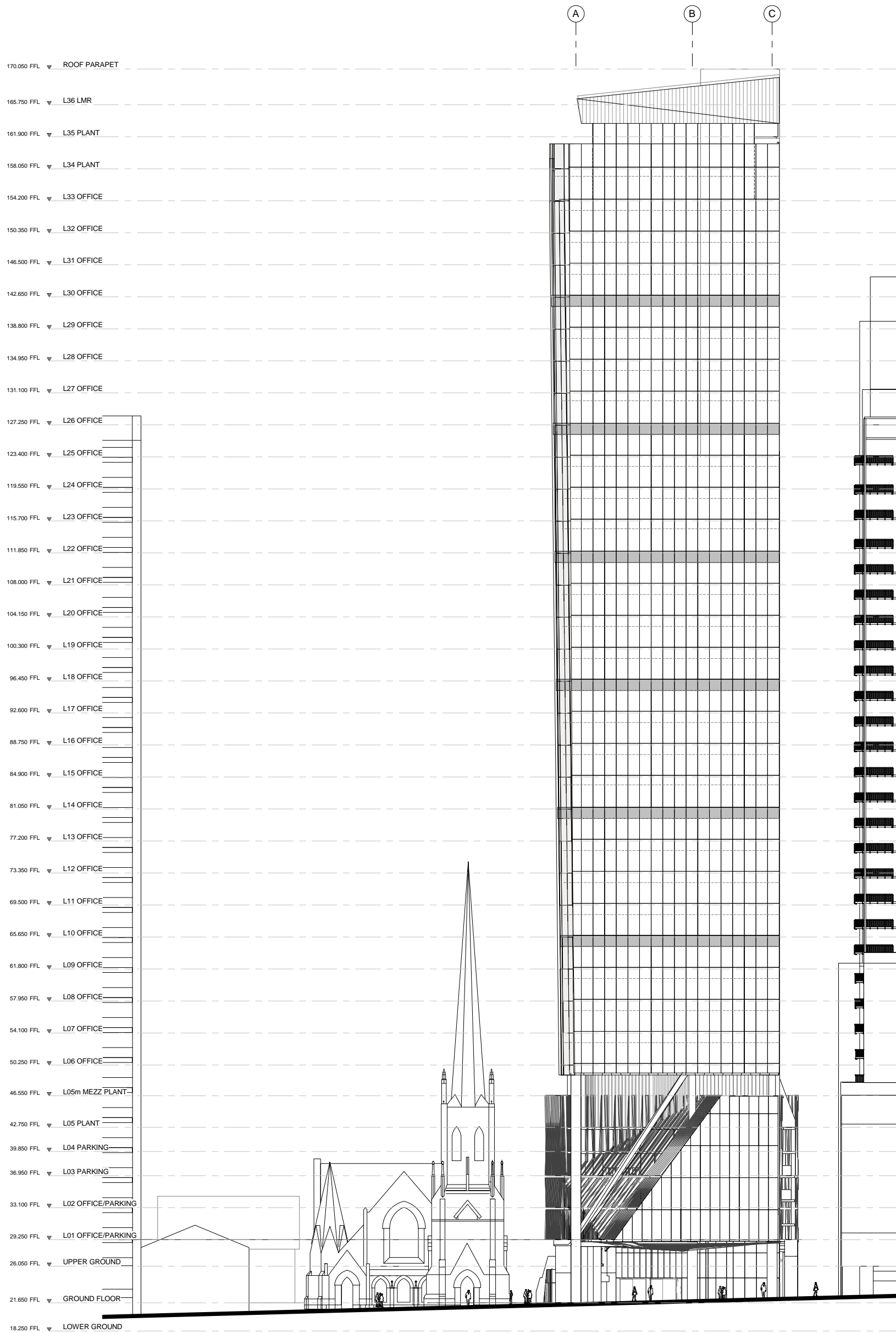












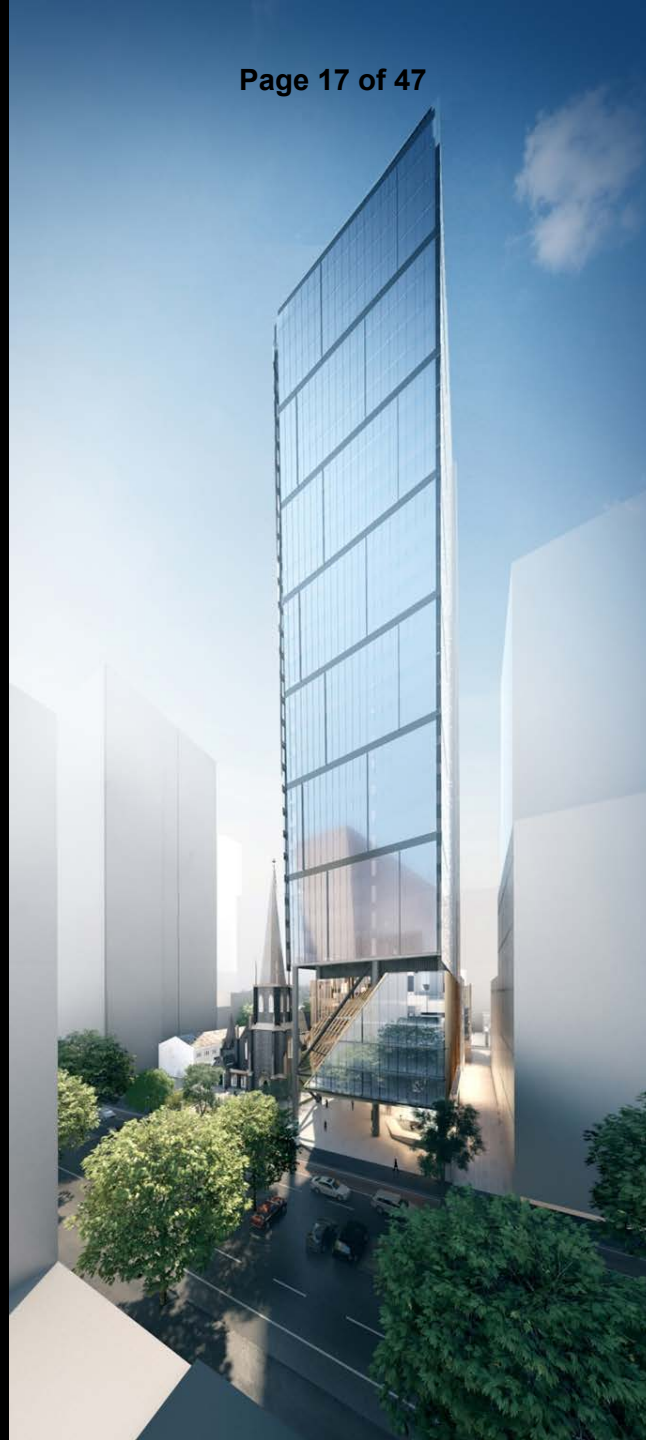


**November 2015**



**Revised  
Town Planning**

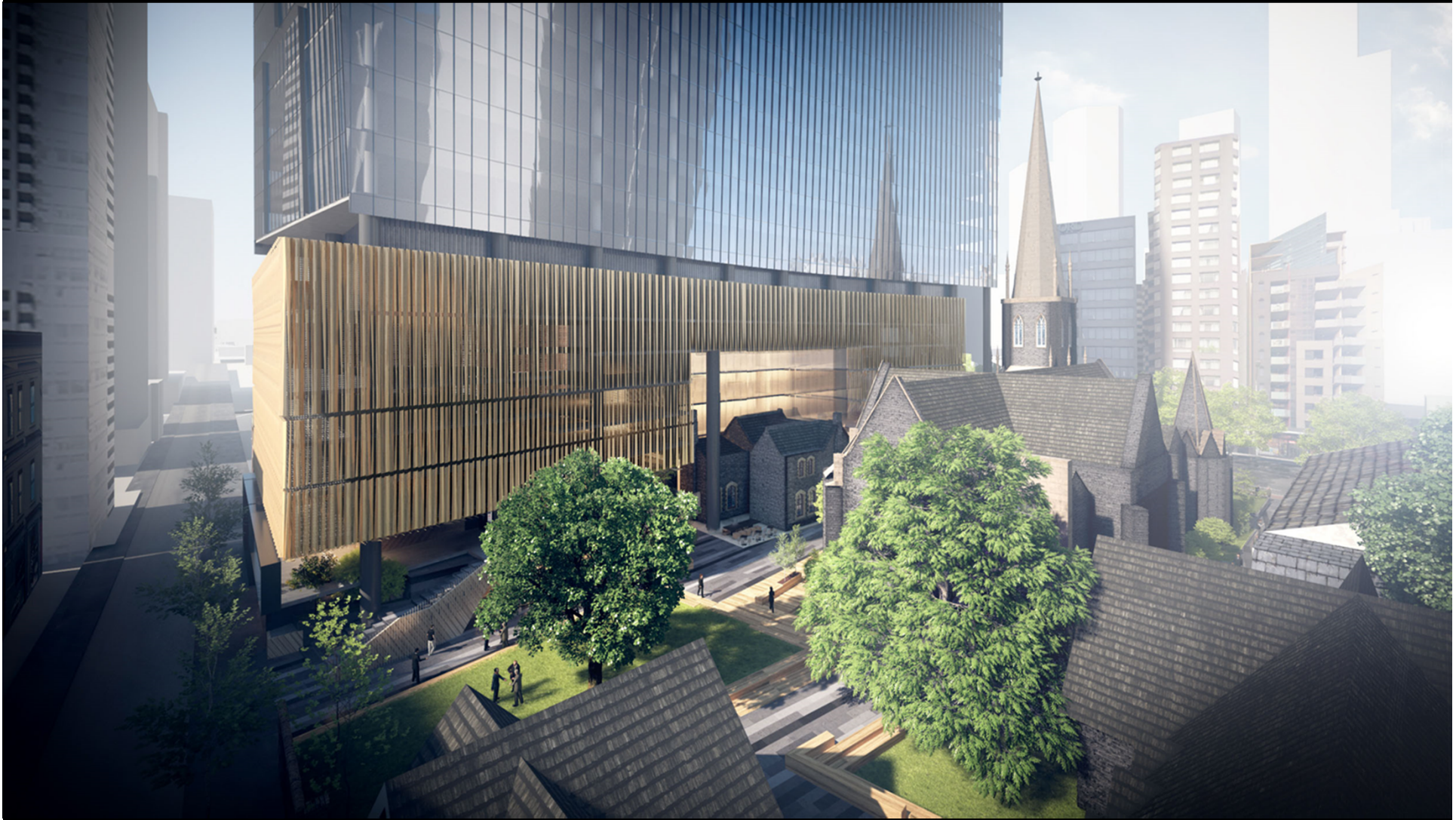






Revised  
Proposal

November 2015



**Revised  
Proposal**

**November 2015**



Revised  
Proposal

November 2015

**PLANNING REPORT****MINISTERIAL REFERRAL**

<b>Application number:</b>	<b>TPM-2015-4</b>
<b>DELWP Application number:</b>	2015/7000
<b>Applicant / Owner / Architect:</b>	Leighton Properties C/- Urbis Pty Ltd / The Uniting Church in Australia Property Trust (VIC) / Cox Architecture
<b>Address:</b>	Wesley Uniting Church, 118-148 Lonsdale Street, MELBOURNE VIC 3000
<b>Proposal:</b>	Demolition of existing buildings and construction of a multi-storey building including buildings and works within the Tree Protection Zone
<b>Cost of works:</b>	\$200 million
<b>Date received by City of Melbourne:</b>	22 January 2015
<b>Responsible officer:</b>	Kate Yuncken
<b>Report Date:</b>	20 November 2015
<b>(DM#9409536)</b>	

**1. SUBJECT SITE AND SURROUNDS****1.1. The site**

The subject site is bounded by Lonsdale Street to the south, Little Lonsdale Street to the north and Jones Lane to the east between Russell and Exhibition Streets. It has frontages to Lonsdale Street of approximately 70 metres, to Little Lonsdale Street of approximately 78 metres and to Jones Lane of approximately 96 metres. The total site area is approximately 7400 square metres.



The subject site is developed with the Wesley Church Complex comprising 10 buildings and car parking. The complex is included within Heritage Overlay HO712 and listed on the Victorian Heritage Register VHR No. H12. The statement of significance from Heritage Victoria states the following:

‘The Wesley Church and Wesley Mission Victoria Complex in Lonsdale Street consists of ten buildings including: The Church (1858); The Manse (1859); and The School House (1859) all designed by Joseph Reed; a Caretakers Cottage (1914); the Princess Mary Club (1926), designed by AS Eggleston and Nicholas Hall (1938), designed by Harry Norris. The North Boundary wall along Little Lonsdale St (1869) incorporates remnants of a stables and also includes a section which was rebuilt in 1914 during the construction of the Caretakers Cottage. The Lonsdale Street boundary is defined by a set of basalt central gateposts, the basalt plinths of a cast iron palisade fence and the bases of a smaller set of gates which led to the Manse (1873).’

The applicant has declared that the application will not breach any encumbrance on the subject site such as an easements or restrictive covenants.

## 1.2. Surrounds

The surrounding sites are developed with a range of building styles and heights. To the west at 150 Lonsdale Street is a 30-storey commercial building with a 10-storey car park. To the east over Jones Lane is an 11-storey education building at 108 Lonsdale Street, a 34-storey residential tower known as Regency Tower at 265 Exhibition Street and a two-storey commercial building at 113 Little Lonsdale Street. Directly to the north over Little Lonsdale Street are a range of buildings up to three storeys.



Lonsdale Street has two lanes of traffic in either direction with a shared parallel parking/bus lane provided on both sides of the road and parking within the central median. Little Lonsdale Street adjacent to the site provides for a single lane of eastbound traffic with a mix of on street parking and loading permitted adjacent to southern kerb with no standing permitted adjacent to the northern kerb.

## 2. THE PROPOSAL

The proposal seeks approval for demolition of existing buildings and construction of a multi-storey building including buildings and works within the Tree Protection Zone.

The initial plans and application documents referred to the City of Melbourne for comment were received on 19 February 2015. Council officers have met with the applicant on a number of occasions and have raised concerns with the absence of setbacks coupled with the height of the proposed tower.

The applicant subsequently amended the application under Section 50 of the *Planning and Environment Act 1987* in response to Council's and Heritage Victoria's feedback. The changes include:

- Marginally increasing the street and lane setbacks of the office building
- Adding an additional level of office
- Increasing the height of the void / overhang between the Manse and the office tower
- Relocating structural columns further away from the Manse
- Changes to landscaping to allow views of the Manse

The applicant also provided with the amended plans additional information as requested from DELWP. These amended plans and application documents were referred to the City of Melbourne for comment and were received on 3 August 2015.

Further revised plans were received on 28 August 2015. The only change to the 28 August 2015 plans is the inclusion of a notation relating to the Nicholas Hall and Wesley House site on the western portion of the broader parcel of land.

Additional information regarding wind conditions and wind mitigation measures were received on 22 October 2015.

On 10 November 2015 Heritage Victoria issued Heritage Permit (P21963) which approved the development subject to a number of conditions including revisions to the tower to create a greater clearance (void) between the tower and the Manse and to set the tower further back from the Church to allow for better views of the Church spire. The applicant has provided revised perspectives to the City of Melbourne on 12 November 2015 which address the Heritage Permit conditions. The following description and assessment is based on the amended plans dated 28 August 2015.

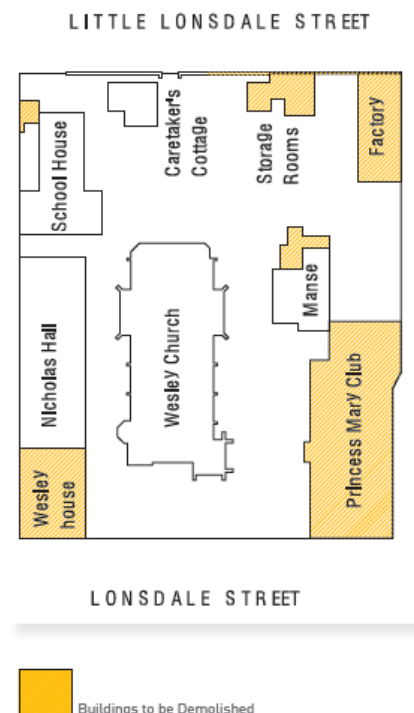
### Demolition

Demolition of the Factory and Storage Rooms on Little Lonsdale Street, the 1920 extension to the Manse, the site substation, Wesley House and Princess Mary Club on Lonsdale Street is proposed.

The applicant has stated demolition 'this is to allow for the redevelopment and re-vitalisation of this city precinct and allow for the new office tower and podium.

The series of buildings that are proposed to be demolished are of varying levels of heritage significance. The Factory, Substation, Wesley house and 1920 addition to the Manse are of little or no significance. The Princess Mary Club and Storage rooms are of contributory significance.'

Approval from Heritage Victoria has been given for the demolition of these buildings (and for the proposed works including the office tower).



## Uses

The application proposes the following uses for the whole site:

<b>Office</b>	Net leasable floor area: 55,000 square metres contained within the new building
<b>Café / retail</b>	The existing School House (520 square metres), Caretaker's Cottage (109 square metres) and Manse (230 square metres) will be re-purposed as restaurants.  The ground floor and upper ground floor of the proposed building also includes eight café/retail tenancies ranging from 40 to 86 square metres.  Total proposed floor area: 1373 square metres
<b>Plaza area</b>	The former car parking areas at ground level are proposed to be redesigned with landscaped open space and eating areas.
<b>Gross floor area (GFA)</b>	82,000 square metres (inclusive of new building and retro-fit)

## Buildings and works

The application proposes a new office building located in the eastern section of the site. The specific details of the new office building are as follows:

<b>Building height</b>	148.4 metres to top of roof parapet (170.050 RL)  39 levels (including lower ground, ground, upper ground and plant at levels 5 mezzanine, 34 and 35)
<b>Podium height</b>	25 metres (46.550 RL) up to level 5
<b>Front, side and rear setbacks</b>	The podium is generally built to the north, east and south boundaries of the site.  The proposed tower has a minimal setback from the east boundary and varied setbacks from the north and south boundaries. The approximate average setbacks are 3.4 metres from the north boundary and 5.4 metres from the south boundary. At level 33, the tower is setback 4.5 metres from Lonsdale Street and 2.5 metres from Little Lonsdale Street.
<b>Lower ground</b>	Bicycle parking and change rooms
<b>Ground floor</b>	Lobby, lifts and amenities, café/retail tenancies, substation, waste storage, loading bay (accessed via Jones Lane), substation, water meter assembly, gas meters, MDF room, security room, car parking entry ramp (accessed via Little Lonsdale Street) and bicycle parking entry ramp (accessed via Little Lonsdale Street)
<b>Upper ground floor</b>	Café/retail tenancies, lifts and car parking ramp
<b>Level 1 and 2 (podium)</b>	Office fronting Lonsdale Street, lifts and amenities and car parking
<b>Levels 3 and 4 (podium)</b>	Car parking and plant
<b>Level 5 (podium) and Level 5 mezzanine (between podium and tower)</b>	Plant
<b>Typical tower (levels 6 to</b>	Office with lifts and amenities core adjacent to Jones Lane



<b>33)</b>	
<b>Level 34 and 35</b>	Plant
<b>Materials and finishes</b>	Curtain wall façade, painted concrete, perforated metal mesh, metal louvres, steel columns and bronze aluminium screen (podium)
<b>Car parking spaces</b>	117 spaces for employees in podium levels 1 to 4
<b>Motorcycle spaces</b>	No motorcycle spaces indicated but opportunity to provide within the car parking areas
<b>Bicycle facilities and spaces</b>	Total spaces: 368 spaces at the lower ground floor Facilities: Change rooms with 36 showers at the lower ground floor
<b>Loading/unloading</b>	A loading bay area is proposed via Jones Lane with an area of 96 square metres
<b>Vehicle access</b>	Employee vehicle access via Little Lonsdale Street and servicing access for waste collection and loading/unloading via Jones Lane.



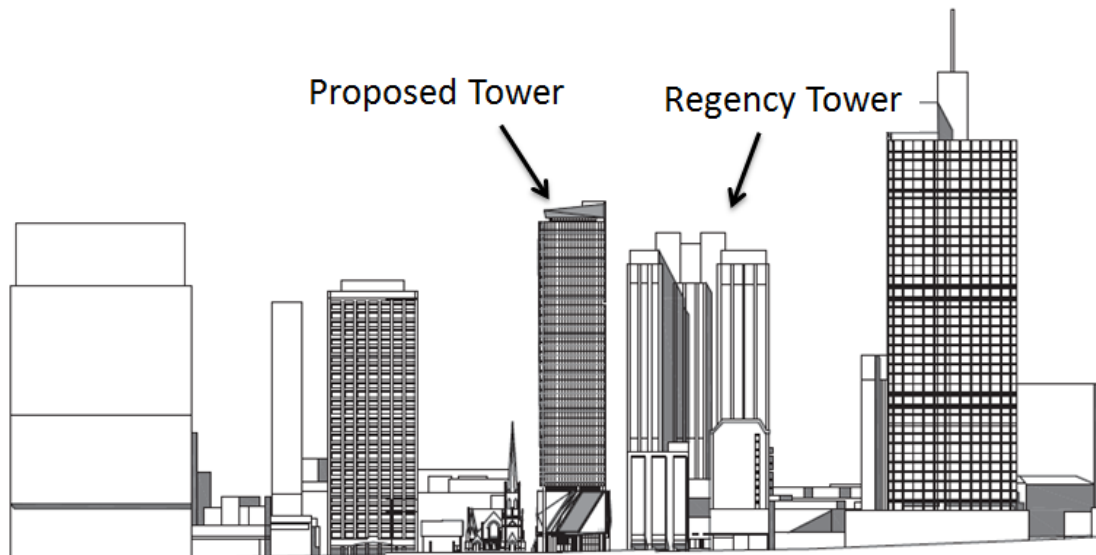
Proposed Site Plan



Nov. 15 Perspective inc. Heritage Vic Conditions



Nov 15 Perspective from Little Lonsdale Street - Proposed Office Tower and Courtyard



Lonsdale Street Elevati

### Lonsdale Street Elevation

### Open Space

Landscaping works are proposed on the ground level of the site to create an open space and meeting areas. Works include the introduction of new pedestrian paths to create a through blocklink, garden beds, grass beds, tree planting and seating.

## 3. BACKGROUND

### 3.1. Pre-application discussions

A pre-application meeting was held with officers from DELWP, City of Melbourne and the applicant. The key issue raised at the meeting by City of Melbourne officer was that the City of Melbourne objected to the previous planning application (TPM-2009-2) and subsequently refused by the Minister. For the City of Melbourne to support the proposal issues raised in both the objection and refusal would need to be addressed.

### 3.2. Site history

A previous planning permit application (TPM-2009-2) was referred from the Minister of Planning to the City of Melbourne for comment on 12 January 2009.

This application proposed the demolition of the existing two-storey building in the north east corner of the site and the Princess Mary Club. It was then proposed to construct a 20 storey office development over 4 levels of basement parking. The Manse building was also proposed to undergo some alterations but was to be retained on the site.

The City of Melbourne advised the Minister by letter dated 13 February 2009 that this proposal was not supported

The Minister for Planning refused the application on 19 January 2011 for the following reasons (summarised):

- The proposal results in the loss of residential amenity to the properties to the east of Jones Lane beyond that which could reasonably be expected in the City.
- The proposal is contrary to objectives and decision guidelines within the Melbourne Planning Scheme because of the proposals excessive height and length adjacent to Jones Lane will be visually intrusive.

### 3.3. Heritage Victoria Register

As stated above in Section 1.1, the Wesley Church Complex is included within Heritage Overlay HO712 and listed on the Victorian Heritage Register VHR No. H12. As such, a heritage permit is required for the proposal from Heritage Victoria.

Accordingly, no planning permit is required under the Heritage Overlay.

On 9 February 2015, Heritage Victoria referred a Heritage Application to the City of Melbourne (HV-2015-7). The City of Melbourne advised by letter that the Heritage Application was not support as the proposal will have an adverse effect upon the significance of the heritage buildings and heritage place which is the Wesley Church Complex.

The letter recommended that the proposed tower and associated works should be refused as the proposal fails to comply with the relevant heritage provisions of the Melbourne Planning Scheme (MPS), accepted conservation standards, the articles of the Burra Charter or with the Heritage Overlay Guidelines published by Heritage Victoria for the following reasons:

- The proposal will detract from the interpretation and appreciation of the heritage place and will have a detrimental impact upon the area. The development is not considered to be in-keeping with the Church complex as is expected under Clause 43.01 Heritage Overlay of the MPS. The development is inconsistent with the objectives of Clause 22.04 Heritage places inside the Capital City Zone of the MPS.
- The visual primacy and prominence of the Church and the Manse will be significantly diminished by the visually dominating built form of the development. The construction above and resulting significant encroachment into the airspace of the Manse is of particular concern and will severely impact the heritage significance of the building.
- Accepted conservation standards and the articles of the Burra Charter with regard to setting and visual relationship between introduced new built form and the host place are not met by the application.
- Although demolition of the Princess Mary Club maybe contrary to the outcomes sought by the Melbourne Planning Scheme, it is acknowledged that demolition of

the Princess Mary Club has been granted in the past. Any decision to allow the demolition of the Princess Mary Club should be justified by a clear statement of the costs associated with any restoration and conservation and the considerations that lead to the conclusion that it would be unfeasible to retain and conserve the building.

On 10 November 2015 Heritage Victoria issued Heritage Permit (P21963) which approved the development subject to a number of conditions including revisions to the tower to create a greater clearance (void) between the tower and the Manse and to set the tower further back from the Church to allow for better views of the Church spire.

#### 4. PLANNING SCHEME PROVISIONS

The following provisions of the Melbourne Planning Scheme apply:

State Planning Policies	<ul style="list-style-type: none"> <li>• Clause 9, Plan Melbourne</li> <li>• Clause 11.01, Activity Centres</li> <li>• Clause 15.01-2, Urban design principles</li> <li>• Clause 15.02-1, Energy and resource efficiency</li> <li>• Clause 17.01, Commercial</li> <li>• Clause 18.02-1, Sustainable personal transport</li> <li>• Clause 18.02-2, Cycling</li> <li>• Clause 18.02-5, Car parking</li> </ul>
Municipal Strategic Statement	<ul style="list-style-type: none"> <li>• Clause 21.02, Municipal Profile</li> <li>• Clause 21.03, Vision</li> <li>• Clause 21.04, Settlement</li> <li>• Clause 21.05, City Structure and Built Form</li> <li>• Clause 21.06, Built Environment and Heritage</li> <li>• Clause 21.08, Economic Development</li> <li>• Clause 21.12, Hoddle Grid</li> </ul>
Local Planning Policies	<ul style="list-style-type: none"> <li>• Clause 22.01, Urban Design within the Capital City Zone</li> <li>• Clause 22.02, Sunlight to Public Spaces</li> <li>• Clause 22.19, Energy, Water and Waste Efficiency</li> <li>• Clause 22.20, CBD Lanes</li> <li>• Clause 22.23, Stormwater Management (Water Sensitive Urban Design)</li> </ul>

Statutory Controls	
Clause 37.04	Pursuant to Clause 37.04-1 and 1.0 of CCZ1, a planning permit is not

<p>Capital City Zone, Schedule 1 (Outside the retail core) (CCZ1)</p>	<p>required to use the land for office or retail premises.</p> <p>Pursuant to Clause 37.04-4 and 3.0 of CCZ1, a permit is required to construct a building or construct or carry out works.</p> <p>Pursuant to Clause 37.04-4 and 4.0 of CCZ1, a permit is required to construct a building or construct or carry out works, and to demolish or remove a building or works.</p>
<p>Clause 43.10</p> <p>Heritage Overlay HO712 (Wesley Church Complex)</p>	<p>Pursuant to Clause 43.01-1, a permit is required to demolish or remove a building and construct a building or construct and carry out works.</p> <p>However as stated above in Section 1.1, the Wesley Church Complex is listed on the Victorian Heritage Register VHR No. H12. Pursuant to Clause 43.01-2, no permit is required to develop (including demolition) a heritage place which is included on the Victorian Heritage Register. Therefore, no permit is required under HO712.</p>
<p>Clause 43.02</p> <p>Design and Development Overlay, Schedule 1 (Active Street frontage) (DDO1, Area 2) affects the Lonsdale Street frontage</p>	<p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works.</p> <p>Clause 2.0, Requirements, of DDO1 states that buildings with ground-level street frontages to major pedestrian areas must present an attractive pedestrian oriented frontage to the satisfaction of the responsible authority, by providing:</p> <ul style="list-style-type: none"> <li>• 'At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or</li> <li>• At least 5 metres or 80% of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.</li> <li>• Built scale appropriate to the street and pedestrians.</li> <li>• Clear glazing (security grilles must be transparent)'. </li> </ul>
<p>Clause 42.01</p> <p>Environmental Significance Overlay, Schedule 2 (Exceptional Trees) (ESO2)</p>	<p>Pursuant to Clause 42.01-2 and 3.0 of ESO2, a permit is required to construct a building or construct or carry out works and to remove, destroy or lop any vegetation, including dead vegetation.</p> <p>Clause 3.0 of ESO2 states that a permit is required to construct a building or construct or carry out works within the Tree Protection Zone of any exceptional tree in the table to the schedule, In addition, a permit is required to remove, destroy or lop any exceptional tree in the table to the schedule.</p> <p>The table to ESO2 includes Exceptional Tree Register Tree Report Number 115 (<i>Olea europaea</i> or European Olive), which is located on the subject site. It has a specified Tree Protection Zone (TPZ) of 10.32 metres radius.</p> <p>The proposal seeks to retain this tree but does include buildings and works (associated predominantly with the proposed plaza area) within the TPZ. Therefore, a permit is required under the ESO2. As such, ESO2 states that an application must be accompanied by a report from a suitably qualified arborist, which, 'identifies the reason and need for the proposed works, options for alternative treatments and any remedial or restorative action proposed'.</p>
<p>Clause 45.09</p> <p>Parking Overlay, Schedule 1 (PO1) (Capital City Zone – Outside the Retail Core)</p>	<p>Clause 45.09 operates in conjunction with Clause 52.06.</p> <p>Pursuant to Clause 45.09-4, a schedule to this overlay may specify 'maximum and minimum car parking requirements for any use of land'.</p> <p>Clause 2.0, Permit requirements, of Schedule 1 states that:</p> <p>'A permit is required to provide car parking spaces in excess of the car parking rates in Clause 3.0 of this schedule.'</p> <p>Clause 3.0, Number of car parking spaces required, of PO1 states that:</p>

	<p>'Where no part of the site is used for dwellings the number of car parking spaces must not exceed the number calculated using one of the following formulas:</p> <p style="text-align: center;">5 x net floor area of buildings on the site in sq m / 1000 sq m</p> <p style="text-align: center;">Or 12 x site area in sq m / 1000 sq m'</p> <p>The maximum number allowed is approximately 282 (obtained using the first calculation and a floor area for the proposal of 56,373 square metres). The proposal seeks 117 space therefore, no planning permit is required pursuant to PO1.</p>
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Particular Provisions	
<p>Clause 52.06 Car Parking</p>	<p>Refer to PO1 regarding car parking rates.</p> <p>Clause 52.06-8 provides design standards for car parking.</p>
<p>Clause 52.07 Loading and unloading of vehicles</p>	<p>Pursuant to Clause 52.07, no building or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless:</p> <ul style="list-style-type: none"> <li>• 'Space is provided on the land for loading and unloading vehicles as specified in the table below.</li> <li>• The driveway to the loading bay is at least 3.6 metres wide. If a driveway changes direction or intersects another driveway, the internal radius at the change of direction or intersection must be at least 6 metres.</li> <li>• The road that provides access to the loading bay is at least 3.6 metres wide.'</li> </ul> <p>A permit may be granted to reduce or waive these requirements if either:</p> <ul style="list-style-type: none"> <li>• The land area is insufficient.</li> <li>• Adequate provision is made for loading and unloading vehicles to the satisfaction of the responsible authority.'</li> </ul> <p>For a floor area of 2600 square metres or less in a single occupation, the minimum loading bay dimensions are:</p> <ul style="list-style-type: none"> <li>• Area 27.4 square metres</li> <li>• Length 7.6 metres</li> <li>• Width 3.6 metres</li> <li>• Height clearance 4.0 metres</li> </ul> <p>The proposed retail premises require a loading bay of the minimum size. A loading bay is proposed (accessed via Jones Lane) therefore, assuming the dimensions comply, a planning permit is not required pursuant to Clause 52.07.</p>
<p>Clause 52.34 Bicycle Facilities</p>	<p>Pursuant to Clause 52.34-2, a permit is required to reduce or waive any requirement of Clause 52.34-3 and 52.34-4.</p> <p>Table 1 of Clause 52.34-3 specifies the following relevant rates:</p> <ul style="list-style-type: none"> <li>• Office – 1 employee space each 300 square metres of net floor area if the net floor area exceeds 1000 square metres and 1 visitor spaces to each 1000 square metres of leasable floor area if the net floor area exceeds 1000 square metres</li> <li>• Retail premises – 1 employee space to each 300 square metres of leasable floor space and 1 visitor space to each 500 square metres of leasable floor space</li> </ul> <p>Table 2 of Clause 52.34-3 states:</p>

	<ul style="list-style-type: none"> <li>If 5 or more employee bicycle spaces are required, 1 shower for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter.</li> </ul> <p>Table 3 of Clause 52.34-3 states:</p> <ul style="list-style-type: none"> <li>1 change room or direct access to a communal change room to each shower. The change room may be a combined shower and change room.</li> </ul> <p>Based on the above rates, the proposal requires:</p> <ul style="list-style-type: none"> <li>183 employee spaces for the offices</li> <li>55 visitor spaces for the offices</li> <li>5 employee space for the retail premises</li> <li>3 visitor spaces for the retail premises</li> </ul> <p>The proposal includes 368 bicycle parking spaces and 36 showers therefore, no planning permit is required pursuant to Clause 52.34.</p>
Clause 52.36 Integrated Public Transport Planning	An application for an office in excess of 10,000 square metres of leasable floor area must be referred to PTV for comment. DELWP is responsible for this referral requirement.

General Provisions	
Clause 61.01 Administration and enforcement of this scheme	The Minister for Planning is the responsible authority for this planning permit application as the total floor area of the development exceeds 25,000 square metres.
Clause 65 Decision Guidelines	Before deciding on an application or approval of a plan, the responsible authority must consider the decision guidelines of Clause 65.
Clause 66 Referral and Notice Provisions	These provisions set out the types of applications which must be referred under Section 55 of the Act or for which notice must be given under Section 52(1)(c) of the Act.

### Planning Scheme Amendment C262

Planning Scheme Amendment C262 was gazetted into the Melbourne Planning Scheme on 4 September 2015 to provide interim built form controls for 12 months within the Capital City Zone Schedules 1, 2 and 3, including the subject site. Changes to the Capital City Zone Schedules include increased control of shadow impacts and more stringent wind effect requirements. The amendment inserts a new Schedule 10 to Clause 43.02 Design and Development Overlay to introduce mandatory built form controls and a discretionary site plot ratio and makes City of Melbourne a recommending referral authority at the Schedule to Clause 66.04.

Amendment C266 to the Melbourne Planning Scheme was gazetted on Monday 16 November 2015. This amendment was required to ensure that applications lodged prior to the gazettal of Amendment C262 are assessed against the version of the scheme in operation at the time (including the former Clauses 22.01 and 22.02). Previously it could have been interpreted that only the provisions of the relevant schedules benefit from the transitional provisions, which was not the intention of Amendment C262.

## 5. PUBLIC NOTIFICATION

The application has been referred to the City of Melbourne for comment by the DELWP.

Pursuant to CCZ1 and DDO1, the application is exempt from the notice requirements of Section 52 (1) (a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82 (1) of the Act. However, the application is not exempt from these requirements pursuant to ESO2.

City of Melbourne was provided with copies of 26 objections addressed to the Minister for Planning. The key issues raised by objectors are:

- Adverse impact heritage buildings
- Impact on Jones Lane
- Overshadowing of public spaces
- Built form (no meaningful podium format and tower separation)
- Adverse amenity impact on Regency Towers

## 6. REFERRALS

The application was referred to the following internal departments:

- Urban Design
- Engineering

The comments received are summarised below.

### 6.1 Urban design

Both the original plans and amended plans dated 24 July 2015 were referred to Urban Design. Urban Design does not support the proposal and provided the following key relevant comments on 25 August 2015:

#### **Building height, scale and setback**

In relation to the original plans, Urban Design stated:

‘The building rises to a height of about 144m with no significant setbacks above podium level. We would expect this to generate adverse wind conditions for pedestrians. It also appears to overshadow Cohen Place 1-2pm in September. The building would have an overwhelming impact on Jones Lane in particular, to which it presents a long, high, flat façade with no sense of grain – not the human scale called for in the Laneways policy.

10m tower setbacks should be provided from Lt Lonsdale and Lonsdale Streets, consistent with CI 22.01 design standards. There is some scope to reduce the setback from Jones Lane in recognition of the very large setback from the west boundary, but a zero setback would not be satisfactory.

In relation to the amended plans dated 24 July 2015, Urban Design stated:

‘The tower setback from the north boundary has been increased from about 1.2m to about 3.4m average and the tower setback from the south boundary has been increased from about 3.2m to about 5.4m average. While this is certainly an improvement, the street setbacks remain far from satisfactory.’

#### **Additional key comments**

- Car parking should not be located above ground around the perimeter. To improve ground level activation, car parking should be relocated to basement levels and replaced with habitable space in the podium.
- The provision of windows to stairs, lobbies and amenities on the east boundary is supported.



- The retention and enhancement (via landscaping) of pedestrian access through the site is commended. However, more than one pedestrian access should be provided via Jones Lane.
- The increased greenery and permeability of ground level is supported. However, the wind report does not seem to identify areas for stationary activity.

## 6.2 Engineering

The original plans were referred to the Engineering Services Group (ESG). The following key relevant comments were provided on 19 February 2015 (traffic) and 19 March 2015 (civil design):

### Traffic

- The proposed parking provision is acceptable as it is below the maximum car parking requirement specified by PO1. No more than 7 spaces should be allocated to the retail use.
- No motorcycle parking provision is shown on the plans but it is acknowledged in the *Traffic Engineering Assessment* prepared by the Traffix Group and dated January 2015. Notwithstanding the requirements of PO1, ESG seeks a provision of one space for every 50 calculated statutory maximum car parking spaces.
- The proposed total bicycle parking provision is acceptable as it exceeds the requirements specified by Clause 52.34. However, the provision must include adequate parking for visitors in accordance with Clause 52.34. In addition, confirmation of the proposed type of bicycle parking is required.
- The proposed area of loading facilities meets and exceeds the requirements specified by Clause 52.27. However, confirmation of the height clearance within the loading dock is required.
- The comments include an analysis and requests for confirmation of details regarding car parking and access design including aisle width, DDA spaces, clearance and ramp grade (refer to Appendix 1 for a copy of the referral comments).
- The *Waste Management Plan* (WMP) prepared by Leigh Design and dated 30 November 2014 differs from the plans in terms of the development summary resulting in incorrect waste generation rates. An updated WMP is required in accordance with the City of Melbourne's *Guidelines for Preparing a Waste Management Plan* (2014) to confirm that the waste storage area and loading bay are of appropriate size and layout. A standard permit condition is recommended to ensure an updated WMP.
- The calculated traffic generation by Traffix Group is appropriate and is not expected to impact on the surrounding road network.
- The anticipated 95th percentile queue is required to be accommodated on-site.

### Civil design

- The owner of the subject land must be responsible for the care and management of the new areas of the public realm.
- All projections over the street alignment must conform to Building Regulations 2006, Part 5, Sections 505 to 514 as appropriate. The City of Melbourne's Road Encroachment Operational Guidelines address projections impacting on street trees and clearances from face/back of kerb. To achieve this the provision of a bluestone kerb along the western boundary of Jones Lane should be included for protection of the building. The structures of the building having setback at the ground floor level shall be designed with a minimum clearance of 5.0 metres from the surface of the road along Jones Lane.

- The maximum permissible width of a vehicle crossover without a pedestrian refuge is 7.6 metres. A pedestrian refuge with a minimum 2 metres in length and maximum 7.6 metres clear spacings should be provided for crossings wider than 7.6 metres. The width of an abutting laneway entrance should be included in the crossing width unless a 2.0 metre long pedestrian refuge is provided.
- The proposed crossing is located close to an existing tree in the road reserve. This matter should be referred to Urban Landscapes for comment.
- Engineering Traffic Team has confirmed that a shared zone has been recently installed in Jones Lane. A new footpath is no longer required adjacent to the subject site as previously requested.
- Redesign the outward opening doors projecting into the pathway located along the eastern boundary of the subject land so that they do not project beyond the building alignment when being open or closed.
- The comments also include permit conditions relating to a legal agreement and reconstruction of Jones Lane, drainage, street access and levels, footpaths and lighting (refer to Appendix 1 for a copy of the referral comments).

## **7. ASSESSMENT**

The application seeks approval for demolition of existing buildings and construction of a multi-storey building including buildings and works within the Tree Protection Zone. The key issues for consideration in the assessment of this application are:

- Built form
- Heritage
- External amenity
- Tree protection
- Engineering
- Environmentally sustainable design
- Stormwater management

These issues are addressed in the following sections.

### **7.1. Built form**

With regard to built form, Clause 22.01 - Urban Design within the Capital City Zone, 22.20 - CBD Lanes and DDO1, Active Street Frontages, provides policy guidance including building design, facades and public spaces.

The proposed building has an overall height of 148.4 metres and a notional podium/tower configuration, which is the preferred building typology described in the Urban Design Policy.

The proposed podium height at approximately 23 metres, although less than the 35 to 40 metres suggested in Clause 22.01, is appropriate as the height in keeping with the reference heights of heritage buildings within the site and in Little Lonsdale Streets and the podium heights of adjacent buildings.

In regards to tower setbacks, Clause 22.01 states that towers should be setback 10 metres from street frontages. The proposal does not comply with this objective with setbacks of approximately 4.5 metres from Lonsdale Street and approximately 2.5 metres from Little Lonsdale Street. Marginal street setbacks were introduced following concerns expressed by City of Melbourne officers however these setbacks are insufficient particularly on Little Lonsdale and Lonsdale Streets where a clearer tower / podium form is expected.

The podium and tower have been differentiated through the use of materials and marginal setbacks. Additional setbacks to the streets would further distinguish the podium and tower form. A 5 metre setback to both Lonsdale and Little Lonsdale Streets would assist in an

effective podium tower form built form, will create a more compatible pedestrian scale and will reduce the building bulk as viewed from the public realm.

Of relevance to the setback from Jones Lane, Clause 22.01 also states that towers should be well spaced to equitably distribute access to an outlook and sunlight between towers and ensure adequate sun penetration at street levels. The 34-storey residential tower known as Regency Tower at 265 Exhibition Street is the closest tower. Both the Regency Tower and the proposed office building have minimal setbacks to Jones Lane, with a resulting separation of approximately 10 metres. The separation between the buildings is considered to be adequate as the office floor plate has been designed to minimise overlooking through the siting of the lift and services opposite the Regency Towers.

Clause 22.20 is also relevant to the consideration of the setback from Jones Lane as it provides policy relating to buildings and works adjoining lanes. Jones Lane is identified as a Class 2 Lane which means it has a significant character and/or function and requires protection.

The building line and setbacks along Jones Lane vary. For the southern section (Lonsdale Street) of the proposal, the building is proposed to be setback 2 metres from Jones Lane for a length of 66 metres, then to the north the podium is built up to the Jones Lane boundary and the tower is setback 2 metres for a length of approximately 30 metres (terminating at Little Lonsdale Street).

The high degree of architectural treatment to the podium and the proposed setbacks reinforces a human scale to Jones Lane. This podium treatment and setbacks have been introduced following advice from the Urban Design Team..



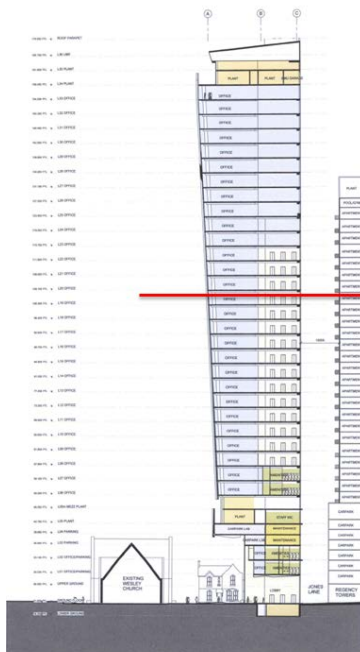
Nov 15 Lonsdale Street and Jones Lane



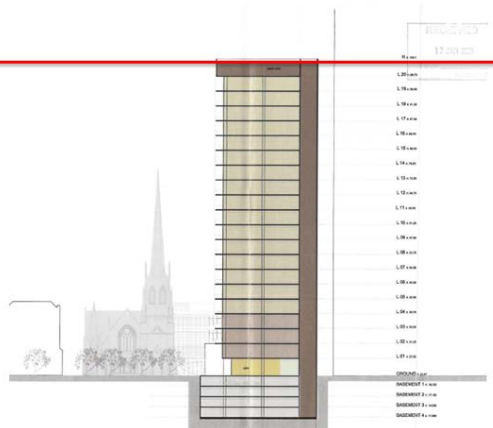
**Nov 15 Little Lonsdale Street and Jones Lane**

It is acknowledged that the proposed building is significantly higher (148.4 metres compared with 80 metres) and larger (in that the proposal does not incorporate the street setbacks that the previous planning permit application proposed) (TPM-2009-2), which was refused by the Minister for Planning on 19 January 2011. The refused application was subject to Design and Development Overlay 56 which has been removed from the Planning Scheme. It is considered that the visibility of the tower walls to Lonsdale and Little Lonsdale Streets is the primary concern and not the proposed height of the building.

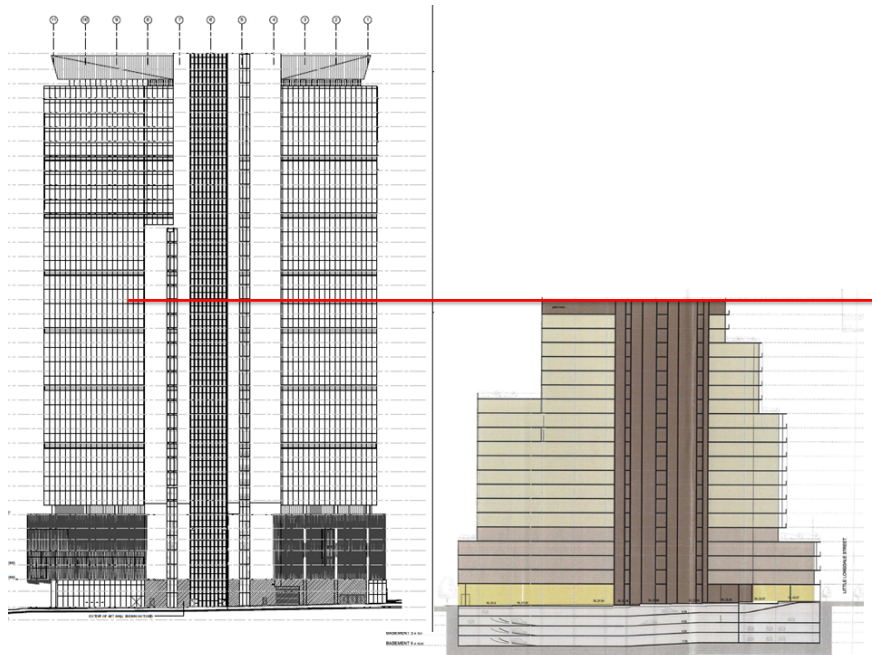
The built form is acceptable if a minimum 5 metre tower setback to the streets is introduced.



**Lonsdale Street Section  
Current 2015 Planning Application**



**Refused 2009 Planning Application**



**Jones Lane Elevation and Section**  
**Current 2015 Planning Application**

**Refused 2009 Planning Application**

The proposed reduced tower setbacks have a resulting impact in terms of wind. Clause 22.01, Urban Design within the Capital City Zone, comprises design standards for wind protection including, 'towers should be appropriately set back from all streets at the podium to assist in deflecting wind downdrafts from penetrating to street level'.

The submitted *Environmental Wind Assessment* prepared by MEL Consultants and dated January 2015 concludes that:

For the Basic Configuration, for which there were no street trees, the pedestrian level wind conditions in the streetscapes surrounding the proposed development have been shown to be either within or on the criterion for walking comfort for all wind directions. The wind conditions in the northern plaza area and the existing Manse have been shown to be either within or on the criterion for short term stationary activities. The Existing Configuration wind conditions have also been provided for comparison.

Long term stationary wind conditions are required for passive recreation spaces to succeed.

The applicant provided a plan on 22 October 2015 that illustrates the zones in which wind mitigation devices could be implemented to mitigate wind. The nature of the devices involves the inclusion of a series of screens placed within the northern plaza zone, nominally 1.5m high. The applicant has advised that the exact location of these screens will be part of the detailed design development. MEL Consultants have reviewed the plan received on 22 October 2015 and are of the view that the proposed wind mitigation strategies would achieve the criterion for long term stationary activities for all wind directions.

The report does not assess the impact the increased wind will have on the significant tree. This matter needs to be resolved so that the health of the tree is not reduced and could be addressed by condition.

Notwithstanding the built form concerns above, it is acknowledged that the proposal will have some beneficial built form impacts in terms of improved ground floor active frontages and the replacement of car parking with a landscaped plaza area. However, these benefits do not outweigh the negative impact of the proposal resulting from the lack of setbacks coupled with height.

In addition, as recommended by Urban Design, the car parking should be relocated from the podium to the basement to further improve ground level activation. The applicant has stated that they have investigated incorporating basement levels into the proposal however have discovered that this is not achievable in part because of the heritage limitations with the Manse structure.

## 7.2. Heritage

The site is listed on the Victorian Heritage Register and no permit is required under the Heritage Overlay to develop a heritage place which is included on the Victorian Heritage Register.

Although no permit is required under the Heritage Overlay, the State Planning Policy at Clause 15 – Built Environment and Heritage, Local Planning Policy Clause 22.01 – Urban Design within the Capital City Zone and decision guidelines of the Capital City Zone require consideration to be given to heritage matters.

Clause 15.3-1 seeks to ensure the conservation of places of heritage significance and ensure an appropriate setting and context for heritage places is maintained or enhanced, Clause 22.01 requires the consideration of adjoining heritage buildings for new buildings and Schedule 1 of Clause 37.04 requires the proximity to heritage places to be considered.

The site is located opposite the Little Lon Heritage Precinct which consists of two and three storey heritage buildings constructed between 1850s and 1910s. The visual primacy of the Little Lon Heritage Precinct will be visually diminished by the tall built form of the office building on Little Lonsdale Street. To reduce the dominance of the office tower the tower should be setback 5 metres from Little Lonsdale Street. This setback is consistent with the setback recommendation in 7.1 Built Form.

## 7.3. Open Space

Provision of publically accessible open space has been carefully designed in consultation with City of Melbourne. The provision of this area, in part, responds to Heritage Victoria requirements, and protection of the significant tree. While provision this area is to remain the property of the owner of the land, the design and location of this area will facilitate it's use and legibility as an area of public open space that will be of community benefit.



Nov 15 Open Space looking east

## 7.4. External amenity impacts

Of relevance to external amenity impacts, decision guidelines at 3.0 of CCZ1 include the 'impact on the amenity of any existing dwellings on adjacent sites'. The most sensitive interface is to the east with the 34-storey residential tower known as Regency Tower at 265 Exhibition Street. By virtue of the Wesley Church Complex, the west-facing windows of this building have enjoyed outlook and privacy.

The previous planning permit application (TPM-2009-2), which was refused by the Minister for Planning on 19 January 2011, had no setback to Jones Lane. The grounds of refusal included that the proposal, 'results in the loss of residential amenity to the properties to the east of Jones Lane beyond that which could reasonably be expected in the City'.

Although the proposed building is significantly higher (148.4 metres compared with 80 metres) than the previous planning permit application, a two metre setback is proposed resulting in a tower separation of approximately 10 metres. It is acknowledged that the level of amenity to the Regency Towers will be impacted by the proposed building however the impact is not unreasonable when considering that overlooking opportunities have been minimised through the location lift core and services on the Jones Lane elevation and the fact that there is a public lane between the buildings.

In addition, Clause 22.02, Sunlight to Public Spaces, also provides guidance for external amenity and states that development should not reduce the amenity of public spaces by casting any additional shadows between 11.00am and 2.00pm on 22 September.

The surrounding public spaces and pedestrian routes including Lonsdale Street and Jones Lane and Cohen Place, a plaza on Little Bourke Street. The submitted shadow diagrams indicate that the proposed building would overshadow Lonsdale Street, Jones Lane and Cohen Place between 11.00am and 2.00pm. The level of overshadowing of Lonsdale Street and Jones Lane is most likely existing and therefore, it is not considered to warrant any reduction in height.

### **7.5. Tree protection**

The proposal includes buildings and works (associated predominantly with the proposed plaza area) within the Tree Protection Zone (TPZ) of tree number 115 (*Olea europaea* or European Olive), which is identified in the table to ESO2. The relevant TPZ for the tree is 10.32 metres radius.

The submission does not include a report from a suitably qualified arborist as required by ESO2. In addition, the submitted *Landscape Architectural Report* prepared by AECOM and dated 5 December 2014 does not acknowledge the TPZ or comment on any remedial or restorative action proposed. However, if the application was supported, this requirement for an arborist report and appropriate tree protection measures could be addressed via a planning permit condition.

### **7.6. Engineering**

As outlined above in Section 6.2, ESG provided detailed comments including the requirement for construction of a new footpath in Jones Lane, confirmation of car parking and access design and an updated WMP.

The majority of these comments could be addressed via planning permit conditions should the application be supported.

### **7.7. Environmentally sustainable design**

Clause 22.19, Energy, Water and Waste, is relevant and includes policy objectives at Clause 22.19-2 and policy requirements at Clause 22.19-3. In addition, Clause 22.19-4 requires all applications to include a Waste Management Plan (WMP) and an Environmentally Sustainable Design (ESD) Statement. In terms of the ESD Statement, Clause 22.19-4 states that:

- 'Applications for buildings over 2,000 square metres in gross floor area must provide a statement from a suitably qualified professional verifying that the building has the preliminary design potential to achieve the relevant required Performance Measures set out in clause 22.19-5.'

The relevant Performance Measures are:

- For office over 5000 square metres gross floor area - NABERS Office – Energy 5 Stars or equivalent, 3 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star – Office rating tool or equivalent plus a 5 star rating under a current version of Green Star - Office rating tool or equivalent.

- For retail premises up to 2000 square metres gross floor area – 5 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star – Retail rating tool or equivalent.

The application includes a WMP prepared by Leigh Design and dated 30 November 2014. As noted above at Section 6.2, ESG raised concerns about the accuracy of the submitted WMP. However, if the application was supported, amend plans and a revised WMP could be ensured via a planning permit condition.

The submitted *ESD Report for Town Planning* prepared by AECOM and dated 5 December 2014 states that the proposal will meet the performance measures relevant for office and retail at Clause 22.19-5. If the application was supported, this compliance could be ensured via a planning permit condition.

## **7.8. Stormwater management**

Clause 22.23, Stormwater Management (Water Sensitive Urban Design), requires that applications include a Water Sensitive Urban Design (WSUD) Response addressing the details set out in Clause 22.23-4.

The submitted *ESD Report for Town Planning* prepared by AECOM and dated 5 December 2014 provides commentary relating to the proposed WSUD approach including on-site collection and raingardens for treatment. The report does not specifically address the policy requirements at Clause 22.23 however, if the application was supported, this compliance could be addressed via a planning permit condition.

## **8. OFFICER RECOMMENDATION**

That a letter be sent to DELWP advising that the City of Melbourne supports the application subject to the office tower being setback a minimum of 5 metres from Lonsdale and Little Lonsdale Street and the following conditions:

### **Amended Plans**

1. Prior to the commencement of development, amended plans must be submitted to the satisfaction of the Responsible Authority in consultation with the City of Melbourne. The amended plans must be generally in accordance with the prepared by Cox Architects dated 24 July 2015 (revision 2) but modified to show the following:
  - a) A minimum tower setback of 5 metres to Lonsdale and Little Lonsdale Streets.
  - b) Any amendments required to incorporate the recommendations of further wind climate assessment reports required in the corresponding condition below;
  - c) Any design changes as a result of arborists report in the corresponding conditions below;
  - d) Any design requirements as a result of the Disability Audit in the corresponding condition below;
  - e) Any requirements/recommendations of the traffic report as required in the corresponding conditions below; and
  - f) Any changes necessary to comply with the City of Melbourne Waste Guidelines and amended Waste Management Plan in the corresponding condition below.

### **Legal Agreement – Demolition Works**

2. Within 12 months of the commencement of the development, the owner of the land must enter into an agreement with the City of Melbourne, pursuant to Section 173 of the Planning and Environment Act 1987. The owner of the land must pay all of the City of Melbourne's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title. The agreement must provide for the following:
  - a) The provision of temporary works and/or landscaping in the event that the land remains vacant 6 months after the completion of the demolition of the buildings approved. Details of the proposed temporary works and/or landscaping must be to satisfaction of the Responsible Authority in consultation with the City of Melbourne.



- b) The provision of temporary works and/or landscaping in the event that the land remains vacant 6 months after the completion of the excavation and remediation works approved. Details of the proposed temporary works and/or landscaping must be to satisfaction of the Responsible Authority in consultation with the City of Melbourne.
- c) The permit holder must satisfy the Responsible Authority that substantial progress has been made towards obtaining the necessary approvals for the demolition approved and that the owner has entered into a bona fide contract for the development.
- d) The site must be kept in an orderly and tidy state at all times and its appearance must not prejudicially affect the amenity of the area to the satisfaction of the Responsible Authority.
- e) Require that the agreement ends with the commencement of the development approved under this permit.

### **Environmentally Sustainable Design**

3. Prior to the commencement of the development, an Environmentally Sustainable Design (ESD) Statement shall be prepared by a suitably qualified professional and submitted to the satisfaction of the Responsible Authority. The ESD Statement must demonstrate that the building has the preliminary design potential to achieve the following:
  - NABERS Office – Energy 5 Stars or equivalent.
  - A 5 star (office) rating under a Green Star Design v3 rating tool or equivalent.
4. The performance outcomes specified in the Environmentally Sustainable Design (ESD) Statement prepared by the accredited professional for the development must be implemented prior to occupancy at no cost to the Responsible Authority or the City of Melbourne and be to the satisfaction of the Responsible Authority.

Any change during detailed design, which affects the approach of the endorsed ESD Statement, must be assessed by an accredited professional. The revised statement must be endorsed by the Responsible Authority prior to the commencement of construction.

### **Materials and Finishes**

5. Prior to the commencement of each stage of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab and temporary structures, a façade strategy must be submitted to and approved by the Responsible Authority. The façade strategy must illustrate the legibility of the proposal from short and distant views, including the extent of façade pattern, level of colours and the ability to provide richness and depth. This can be provided through montages from various vantage points and/or a built model. The façade strategy must be submitted to and be to the satisfaction of the Responsible Authority and when approved will form part of the endorsed plans.
6. Prior to the commencement of each stage of the development, excluding demolition, bulk excavation, site preparation, soil removal, site remediation, retention works, footings, ground beams and ground slab and temporary structures, a sample board including a colour rendered and notated plan / elevation that illustrates the location and details of all external materials and finishes must be submitted to and be to the satisfaction of the Responsible Authority and when approved will form part of the endorsed plans. All finishes and surfaces of all external buildings and works, including materials and colours must be in conformity with the approved schedule to the satisfaction of the Responsible Authority.

**Architect to be retained**

7. Except with the consent of the Responsible Authority, Cox Architects must be retained to complete and provide architectural oversight during construction of the detailed design as shown in the endorsed plans and endorsed schedule of materials to the satisfaction of Responsible Authority.

**Demolition and Excavation Management Plan (DEMP)**

8. Prior to the commencement of the demolition works, a detailed Demolition and Excavation Management Plan (DEMP) must be submitted to and approved by the City of Melbourne Construction Management Group. The objective of the DEMP is to minimise the impact of works associated with the demolition on neighbouring properties and activities conducted in the area generally. The DEMP must address the following (inter alia):
  - a) Demolition
  - b) Staging of demolition
  - c) Site preparation and retention works
  - d) Public safety, amenity and site security
  - e) Management of the construction sites and land disturbance
  - f) Operating hours, noise and vibration controls
  - g) Air and dust management
  - h) Management of the removal of potentially contaminated waste and soil
  - i) Waste and materials reuse
  - j) Stormwater and sediment control
  - k) Traffic management and soiling of roadways

**Construction Management Plan**

9. Prior to the commencement of each stage of the development, excluding demolition, bulk excavation, site preparation and retention works, soil remediation, piling, footings, ground beams and ground slabs, a detailed Construction Management Plan (CMP) must be prepared to and be approved by the City of Melbourne. All development must be carried out in accordance with the approved Construction Management Plan to the satisfaction of the City of Melbourne. The CMP must describe how the occupier of the subject land will manage the environmental, construction and amenity impacts associated with the construction of the development. The CMP must address the following:
  - a) Staging of construction;
  - b) Management of public access and linkages around the site during construction;
  - c) Site access and traffic management (including any disruptions to adjoining vehicular and pedestrian access ways);
  - d) Any works within the adjoining street network road reserves;
  - e) Sediment control and site drainage;
  - f) Hours of construction;
  - g) Control of noise, dust and soiling of roadways;
  - h) Discharge of polluted waters;
  - i) Collection and disposal of building and construction waste;
  - j) Reasonable measures to ensure that disruption to adjacent public transport services are kept to a minimum.

### **Building appurtenances**

10. All building plant and equipment on the roofs, balcony areas, common areas, public thoroughfares must be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant machinery and equipment, including but not limited to all air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment shall be to the satisfaction of the Responsible Authority.
11. Any satellite dishes, antennas or similar structures associated with the development must be designed and located at a single point on each building in the development to the satisfaction of the Responsible Authority, unless otherwise approved to the satisfaction of the Responsible Authority.

### **Drainage of projections**

12. 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

### **Drainage connection underground**

13. Prior to the commencement of the development, 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.

### **Demolish and construct access**

14. Prior to the 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, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

### **Legal Agreement**

15. Prior to the commencement of the development, the owner of the land must enter into an agreement with the City of Melbourne, pursuant to Section 173 of the Planning and Environment Act, 1987. The agreement must provide the following:
  - a. The road adjoining the subject land along Jones Lane shall be widened to 6.7 metres.
  - b. The widened portion of the road is to be vested in Council as a road under the provision of the Subdivision Act 1988.
  - c. The widened portion of the road is to have an upper level set to the Australian Height Datum lying at least 5.0 metres above the road level.

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.

### **Reconstruction of Jones Lane**

16. All new or altered portions of road (including the provision of bluestone footpath, drainage, public lighting and signage) in Jones Lane must be constructed prior to the occupation of the

development, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

**Sawn bluestone footpath**

17. The footpath adjoining the site along Lonsdale Street must be reconstructed in sawn bluestone together with associated works including the reconstruction or relocation 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**

18. The existing street levels adjoining to the subject land 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**

19. The existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.

**Disability Audit**

20. Prior to commencement of each stage of development, excluding site preparation works, demolition, temporary sheds or structures for construction purposes, bulk excavation, site preparation and retention works, soil remediation, piling, footings, ground beams and ground slabs, the applicant must commission a Disability Audit of the development and undertake any modifications to the development as required by the audit to the satisfaction of the Responsible Authority.

**Car Parking, Loading / Unloading, Waste Management & Bicycle Facilities**

21. The area set aside for car parking and access of vehicles and access ways must be constructed, delineated and clearly lined marketed to indicate each car space, the access ways and the direction in which vehicles must proceed along the access ways, in conformity with the endorsed plans. Parking areas and access ways must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
22. Prior to the commencement of the development or any stage (excluding bulk excavation and demolition) a revised Waste Management Plan (WMP) shall be prepared and submitted to the City of Melbourne (Engineering Services). The WMP should address matters raised in the City of Melbourne's Engineer's memorandum dated 19 February 2015 and detail waste storage and collection arrangements and be prepared with reference to the City of Melbourne Guidelines for Preparing a Waste Management Plan. Waste storage and collection arrangements must not be altered without prior consent of the City of Melbourne (Engineering Services).
23. No garbage bin or surplus materials generated by the permitted use may be deposited or stored outside the site and bins must be returned to the garbage storage areas as soon as practicable after garbage collection.
24. The loading and unloading of vehicles and delivery of goods to and from the premises must at all times take place within the boundaries of the site.
25. Bicycle parking (including visitor spaces) must be provided, located and appropriately signed generally in accordance with Clause 52.34 of the Melbourne Planning Scheme to the satisfaction of the Responsible Authority.

### Significant Tree(s)

26. Prior to the commencement of the development, an Arboricultural Assessment that complies with AS 4970-2009 must be submitted for approval by the City of Melbourne. The Arboricultural Assessment shall be prepared by a suitably qualified and experienced Arborist (See AS 4970-2009) and will include:
- a) An arboricultural assessment of all trees within the site greater than 3m in height on the site where the proposed works would encroach into their allocated Tree Protection Zone (according to AS4970-2009). The assessment shall include:
    - Current botanical identification and common name;
    - Tree health or vigour;
    - Tree structure;
    - Tree crown height, crown width and trunk DBH;
    - Age class;
    - Estimated Life Expectancy; and
    - Retention Value.
  - b) Details of all trees to be removed, retained, pruned or transplanted.
  - c) Calculated Tree Protection Zones according to AS 4970-2009.
  - d) An Arboricultural Impact Assessment that identifies possible impacts to trees to be retained and design (including wind impacts) and construction methods proposed to ensure the viability of trees where there is encroachment into the Tree Protection Zone.

This report must be to the satisfaction of the Responsible Authority and when approved will form part of the permit.

### Street Tree assessment and Street Tree Protection Management Plan

27. Prior to the commencement of the development (including any demolition, bulk excavation, construction or carrying out of works), a Tree Protection Management Plan (according to AS 4970-2009, Section 5) must be prepared by a suitably qualified and experienced Arborist (See AS 4970-2009) and submitted to the City of Melbourne – Urban Landscapes. The Tree Protection Management Plan must include recommendations to ensure the viability of the trees adjacent to the site before, during and after construction to the satisfaction of the City of Melbourne.
28. Prior to the commencement of development (including any demolition, bulk excavation, construction or carrying out of works), a bond calculated by the City of Melbourne for the protection of the Council trees adjacent to the subject site must be submitted to the City of Melbourne. The bond is equal to the combined tree amenity, tree ecosystem services and greening reinstatement value. The bond will be returned when the works are completed to the satisfaction of the City of Melbourne.

### Glazing

29. Glazing materials used on all external walls must be of a type that does not reflect more than 20% of visible light when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

### 3D Model

30. Before the development starts or as otherwise agreed with the Responsible Authority an updated 3D digital model of the development and its immediate surrounds which reflects the required modifications under condition 1 of this permit, as appropriate, must be submitted to the Responsible Authority and the City of Melbourne and be to the satisfaction of the Responsible Authority in conformity with the Department of Transport, Planning and Local Infrastructure

Advisory Note 3D Digital Modeling. In the event that further 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.

### **Preliminary Environmental Assessment**

31. Prior to the commencement of the development (excluding demolition) the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended uses. This PEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development (excluding demolition). The PEA should include:

Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.

A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials.

Should the PEA reveal that further investigative or remedial work is required to accommodate the intended uses, then prior to the commencement of the development (excluding demolition), the applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the intended uses. This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development (excluding demolition). The CEA should include:

- Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This includes details of how long the uses occupied the site.
- A review of any previous assessments of the site and surrounding sites, including details of any on-site or off-site sources of contaminated materials. This includes a review of any previous Environmental Audits of the site and surrounding sites.
- Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 44582.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.
- An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.
- Recommendations regarding what further investigate and remediation work, if any, may be necessary to ensure the site is suitable for the intended use(s).

### **Noise attenuation to 45dB(A)**

32. Prior to the commencement of the development, an acoustic report prepared by a qualified acoustic consultant must be submitted to and be to the satisfaction of the Responsible Authority. The report must provide for noise attenuation measures to achieve a maximum noise level of 45dB(A)Leq in unfurnished and uncarpeted habitable rooms with all windows and doors closed, unless there is no suitable air conditioning and/or mechanical ventilation, in which case the maximum noise level of 45dB(A)Leq in unfurnished and uncarpeted habitable rooms must be achieved with all the windows half open and the doors closed. The report must be based on average external noise levels measured as part of a noise level assessment. The recommendations in the approved acoustic report must be implemented, at no cost to the Responsible Authority, prior to the occupation of the dwelling(s).

33. This permit will expire if one of the following circumstances applies:

- The development is not started within two years of the date of this permit;
- The development is not completed within four years of the date of this permit; and/or
- The use is not commenced within four 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

1. The permitted development has not been assessed against the *Building Regulations 2006*, Part 5, Division 2 – Projections. It is the responsibility of the Relevant Building Surveyor to make such an assessment prior to issuing a Building Permit. Matters that do not meet the requirements of the Regulations require the Report and Consent of Council prior to a building permit being issued.
2. The City of Melbourne will not change on-street parking restrictions to accommodate the servicing/delivery/parking needs of this development, as the restrictions are designed to cater for a number of other competing demands and access requirements. Residents who occupy this development will not be eligible to receive parking permits and will not be exempt from any on-street parking restrictions in the area.
3. All street furniture temporarily relocated and/or removed must be reinstated to the satisfaction of the City of Melbourne – Manager Engineering Services Branch.
4. All necessary approval and permits for works in the public realm are to be first obtained from the City of Melbourne – Manager Engineering Services and the works performed to the satisfaction of the City of Melbourne – Manager Engineering Services.
5. All construction and development works near street trees must abide by the protection and retention requirements outlined in the City of Melbourne’s Tree Retention and Removal Policy.
6. No street tree is to be pruned in any form and branches and roots must not be removed without the prior written consent of the City of Melbourne’s Urban Landscapes Branch.
7. Any requirement to temporarily relocate and/or remove street furniture must be first approved by the City of Melbourne – Manager Engineering Services Branch.
8. 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.

## APPENDIX 1 REFERRAL COMMENTS

Urban Design Comments (DM# 9011059-v2)

Traffic Engineering Comments (DM# 9009823-v3)

Civil Engineering Comments (DM# 9065119-v1 & DM# 9493329)