

Report to the Future Melbourne (Planning) Committee

Agenda item 6.4

**Ministerial Planning Referral: TPMR-2019-1
423 Bourke Street, 140 Queen Street, 150 Queen Street and 21-27 McKillop Street, Melbourne**

15 October 2019

Presenter: Evan Counsel, Acting Manager Planning and Building

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a Ministerial Planning Application seeking approval for the use and development of land at 423 Bourke Street, 140 Queen Street, 150 Queen Street and 21-27 McKillop Street, Melbourne (refer Attachment 2 – Locality Plan).
2. The application seeks approval to use part of the land for a minor sports and recreation facility (588m²); demolition of the buildings on the site; construction of buildings and works for a multi-storey mixed use development (46 storeys, 182 metres excluding plant). The proposal also includes 75,277m² of office and 714m² of retail uses (refer Attachment 3 – Selected Plans).
3. The Department of Environment, Land, Water and Planning (DELWP), on behalf of the Minister for Planning, has formally referred the application to the City of Melbourne as a recommending referral authority.
4. The applicant is Cbus Property Pty Ltd C/- Urbis Pty Ltd, the owner of the land is Cbus Property Melbourne Pty Ltd and the architect is Bates Smart.
5. The land is located within the Capital City Zone Schedule 1 (CCZ1) and is affected by Heritage Overlay (HO1213 - 140 Queen Street), Design and Development Overlay Schedules 1 (Active Areas) (DDO1-A2), 2 (Special Character Areas) (DDO2-A2), 4 (Weather Protection) (DDO4), 10 (General Development Area) (DDO10) and Parking Overlay Schedule 1 (CCZ – Outside the Retail Core) (PO1).

Key issues

6. The key issues relate to the built form, demolition of a significant heritage building and delivery of floor area uplift (FAU) and associated public benefit.
7. There are two relevant built form controls that require specific building envelopes. DDO2 affects 16 metres in depth of the eastern portion of McKillop Street site and DDO10 affects the remainder of the sites. The development complies with both of the built form requirements. The built form within DDO2 along McKillop Street successfully reinforces the built form character of the precinct and is supported. The remainder of the proposal affected by DDO10 complies with the modified requirements of DDO10 including setbacks, street wall heights, overshadowing and wind impacts.
8. The site includes a 'Significant' graded heritage building at 140 Queen Street. A number of structural engineers have assessed the condition of the building's façade and have concluded that the façade is in poor structural condition and therefore retention of the building is not possible/viable. Given the evidence provided demolition is supported in this unique circumstance. The proposed 'modified' façade along Queen Street is a modern interpretation of the existing heritage building by referencing its vertical and horizontal geometry elements. These are the elements which contribute to the significance of heritage place. The proposed contemporary interpretation of the existing heritage façade is supported.
9. In accordance with Clause 22.03, the floor area uplift and public benefit requirements have been more than satisfied via the provision of office space and therefore is supported. The office use is secured for a minimum 10 year period via permit conditions requiring a S173 agreement.

Attachments:

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

Recommendation from management

10. That the Future Melbourne Committee resolves to advise the Department of Environment, Land, Water and Planning that the Melbourne City Council does not object to the application subject to conditions outlined in the delegate report (refer to Attachment 4).

Supporting Attachment

Legal

1. The Minister for Planning is the Responsible Authority for determining this application.
2. The Minister for Planning gave notice of the application to Melbourne City Council pursuant to S.52(1)(c) of the *Planning and Environment Act 1987* on 29 May 2019.

Finance

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

Conflict of interest

4. 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.

Health and Safety

5. Relevant planning considerations such as traffic and waste management and potential amenity impacts that could impact on health and safety have been considered within the planning permit application and assessment process.

Stakeholder consultation

6. The application is not 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 *Planning and Environment Act 1987*.
7. The Department of Environment, Land, Water and Planning directed that notice of the proposal be given by ordinary mail to the owners and occupiers of the surrounding properties on 29 May 2019 and by posting notices on the Bourke Street, Queen Street and McKillop Street frontages for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

Relation to Council policy

8. Relevant Council policies are discussed in the attached delegate report (refer to Attachment 4).

Environmental sustainability

9. The Environmentally Sustainable Design (ESD) Report submitted with the application demonstrates that the development will achieve the ESD performance requirements of Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management).
10. Permit conditions requiring implementation of the ESD initiatives are recommended.

Locality Plan

Attachment 2
Agenda item 6.4
Future Melbourne Committee
15 October 2019

423 Bourke Street, 140 Queen Street, 150 Queen Street and 21-27 McKillop Street, Melbourne (referred to as 435 Bourke Street)



435 BOURKE STREET

18 SEPTEMBER 2019
REVISED COMPLIANT SCHEME

BATESSMART™



REVISED COMPLIANT SCHEME



*Town Planning Submission
Dec 2018*



*Revised Compliant Scheme
Sep 2019*

<i>Total Building Height</i>	250.05m	181.875m
<i>Top of Tower</i>	AHD 270.00m	AHD 225.83m
<i>Total Levels</i>	58 (G-L56)	49 (G-L47)
<i>Typical Floor GFA</i>	1546sqm	1500sqm
<i>Typical Floor to Floor Height</i>	3875mm	3725mm

REVISED COMPLIANT SCHEME MASSING

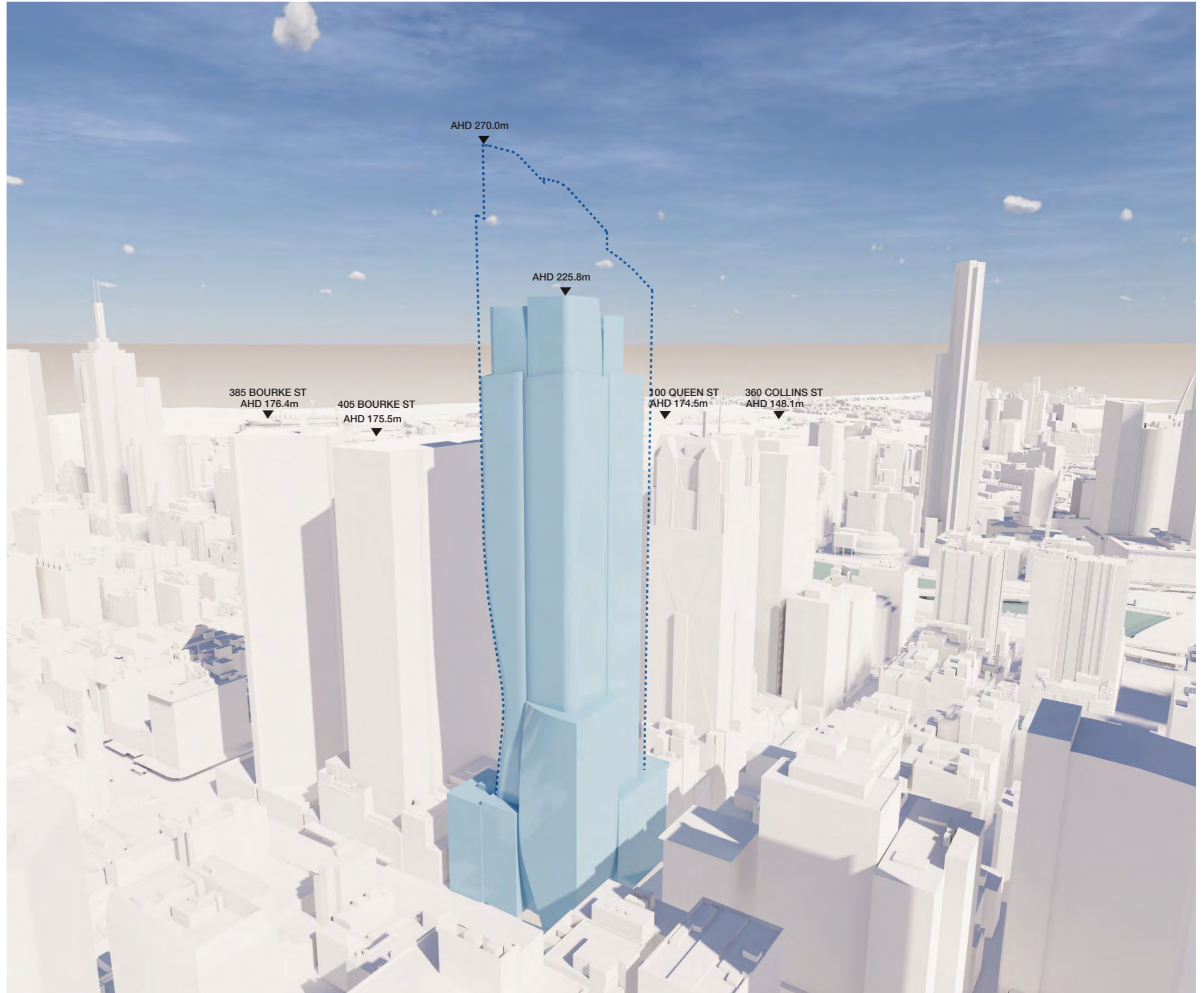
Revised Compliant Scheme

/Top of Tower	225.825m
/Total Building Height*	181.875m
/Typical Floor to Floor	3.725m
/Total Levels	49 (G-L47)

Town Planning Submission (DEC 2018)

/Top of Tower	AHD 270m
/Total Building Height*	250.050m
/Typical Floor to Floor	3.875m
/Total levels	58 (G-L56)

..... Dec 2018 Town Planning Submission



REVISED COMPLIANT SCHEME PROPOSED TOWER

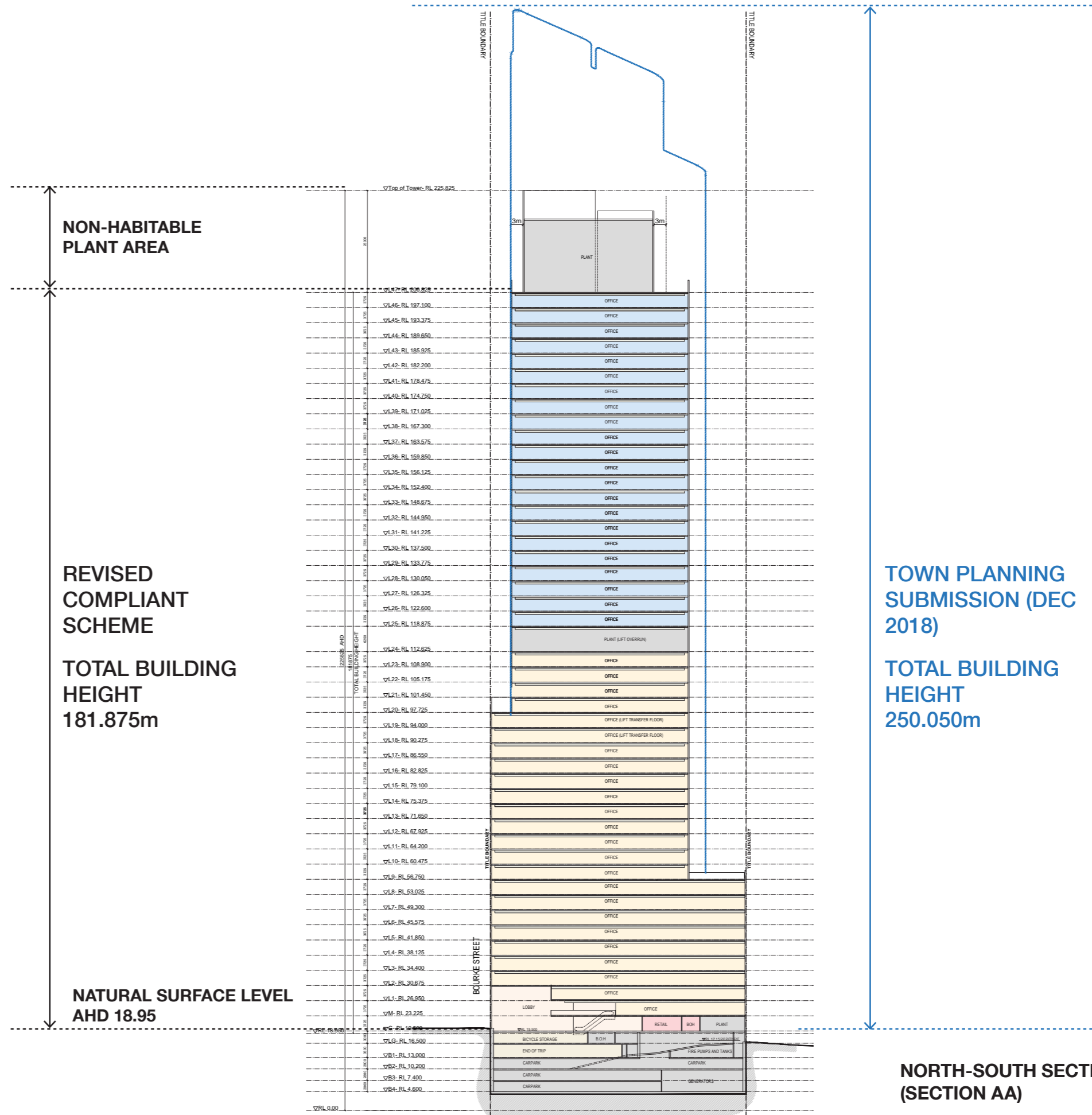
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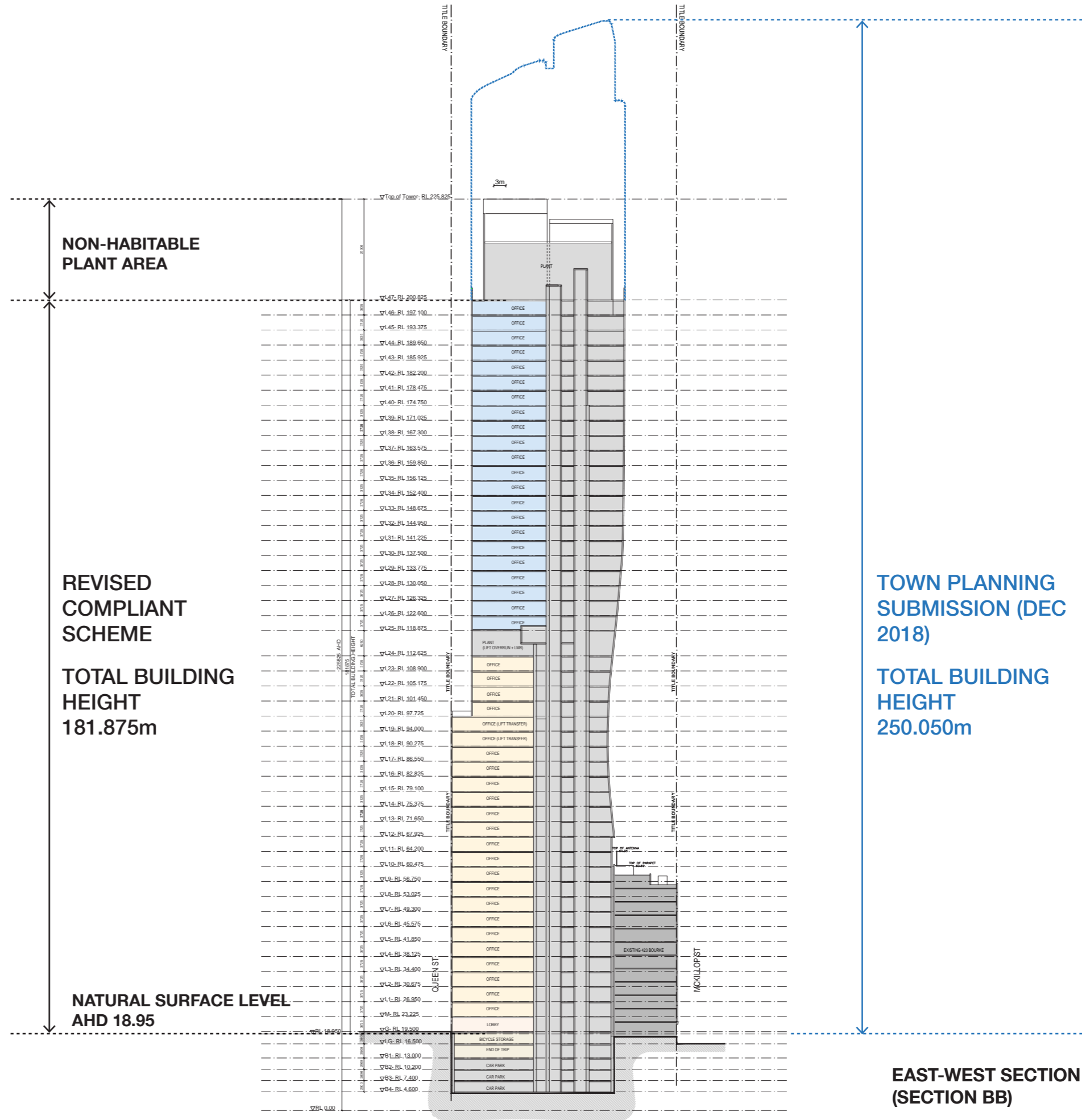
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Town Planning Submission (DEC 2018)

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..... Dec 2018 Town Planning Submission



TOWN PLANNING SUBMISSION (DEC 2018)
TOTAL BUILDING HEIGHT 250.050m

EAST-WEST SECTION (SECTION BB)

SETBACK AND FLOOR PLATE ANALYSIS DEVELOPABLE AREA

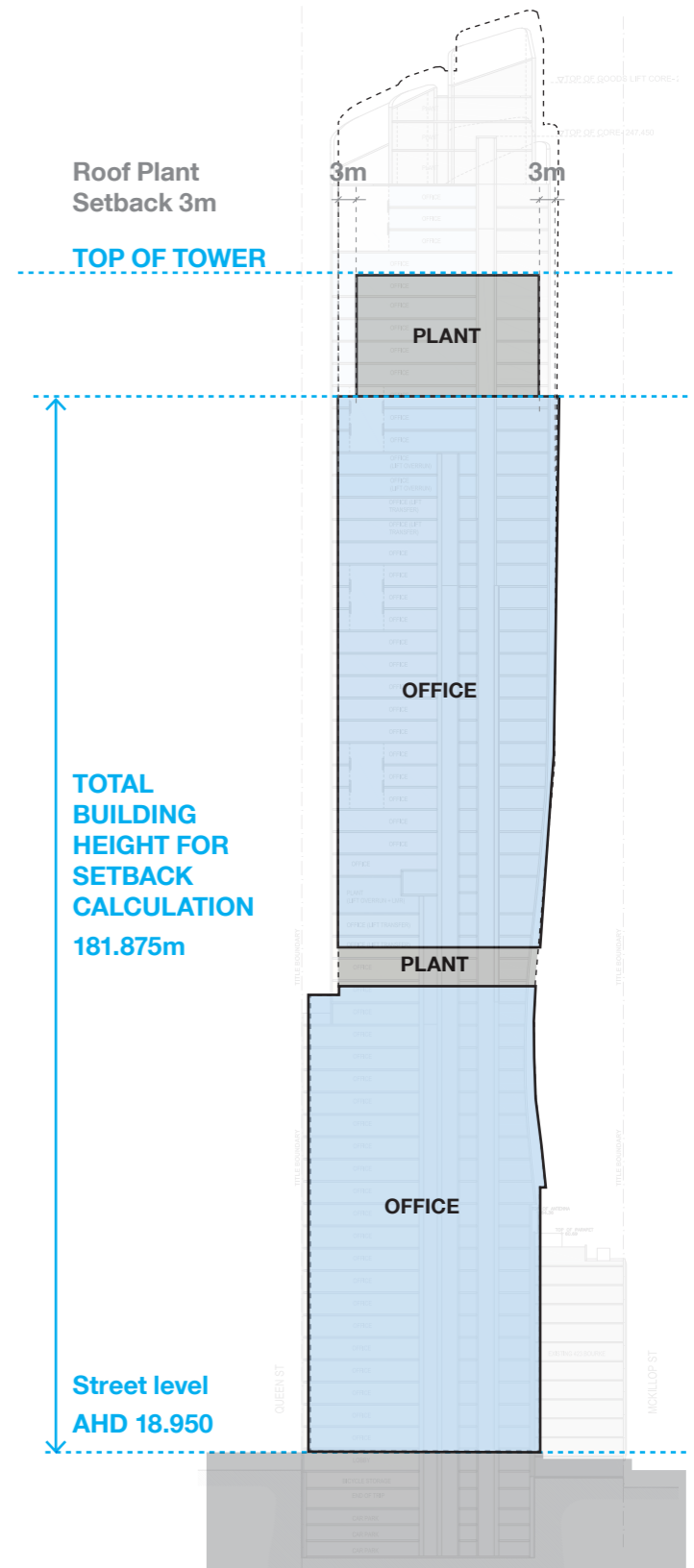
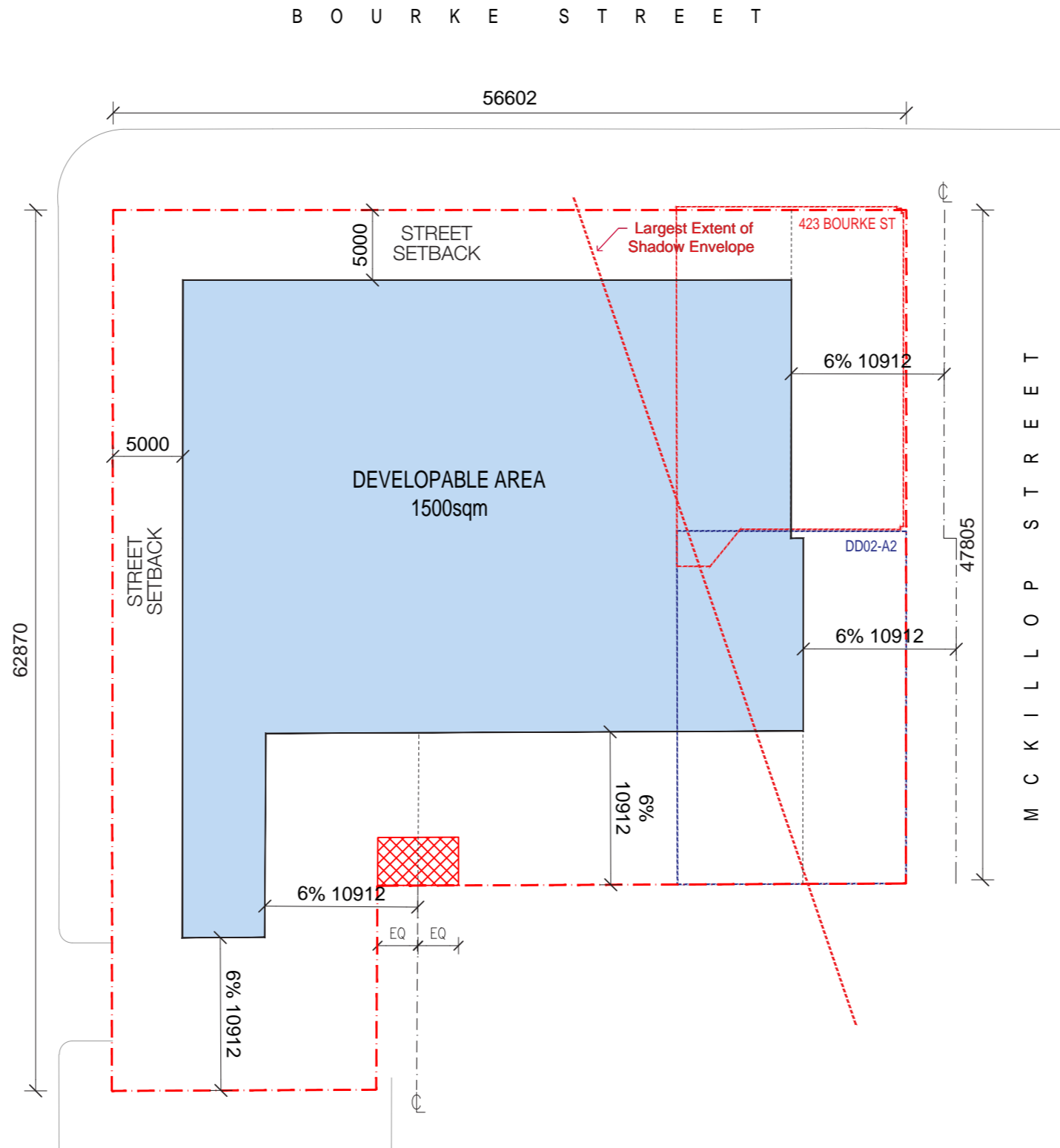
- /Total Building Height* 181.875m
- /6% Setback
181.875m x 6% 10.912m
- /Developable Area 1500sqm

Total Building Height

“Is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the façade.”

43.02 Design and Development Overlay, Melbourne Planning Scheme

The natural surface level of the site is the average of the levels at the middle of the Queen and Bourke Street frontages. The natural surface level of the building is assumed as an average of these two heights - AHD +18.95



SETBACK AND FLOOR PLATE ANALYSIS TOTAL BUILDING HEIGHT

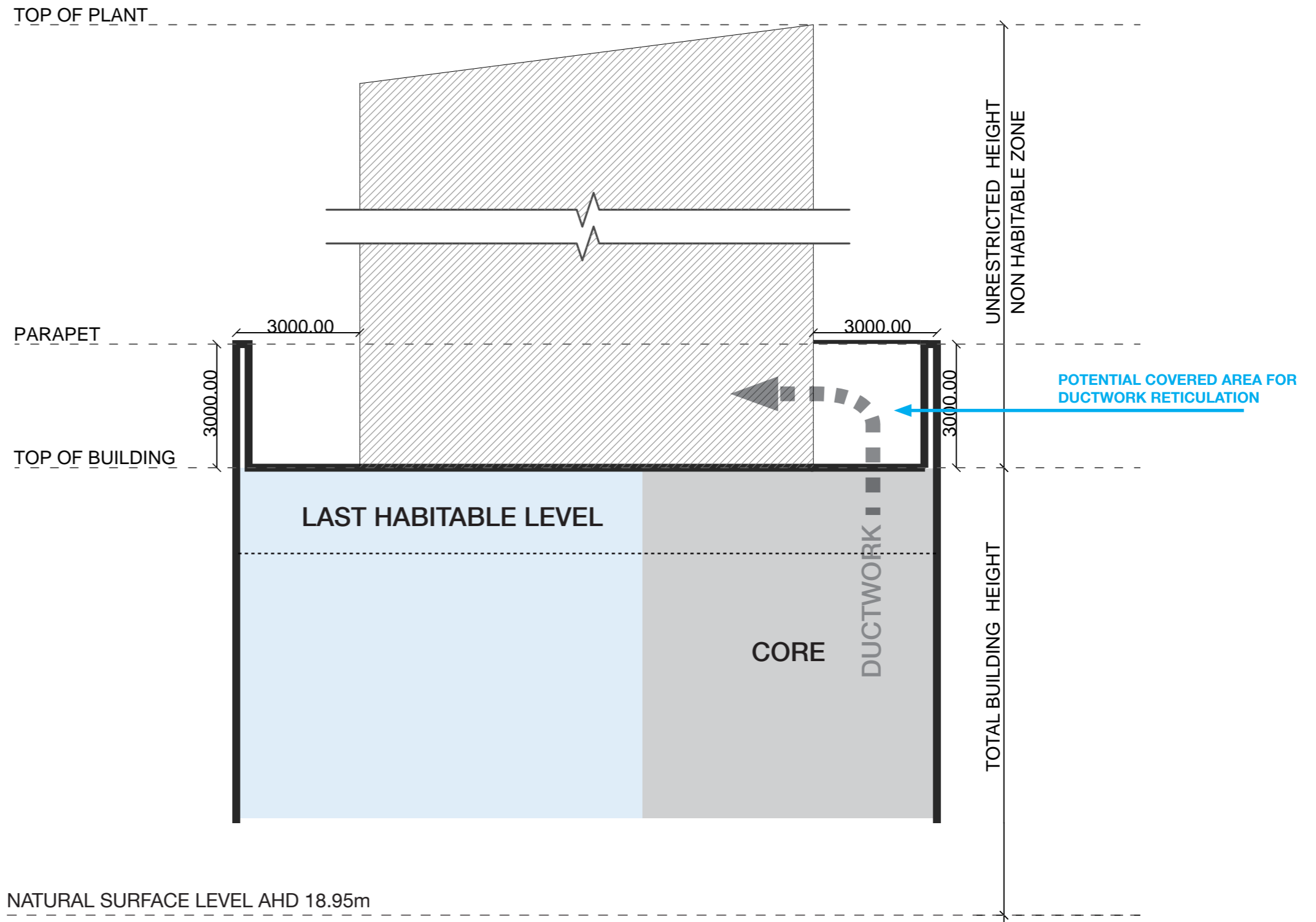
/Total Building Height*	181.875m
/6% Setback	
181.875m x 6%	10.912m
/Developable Area	1500sqm

Total Building Height

“Is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the façade.”

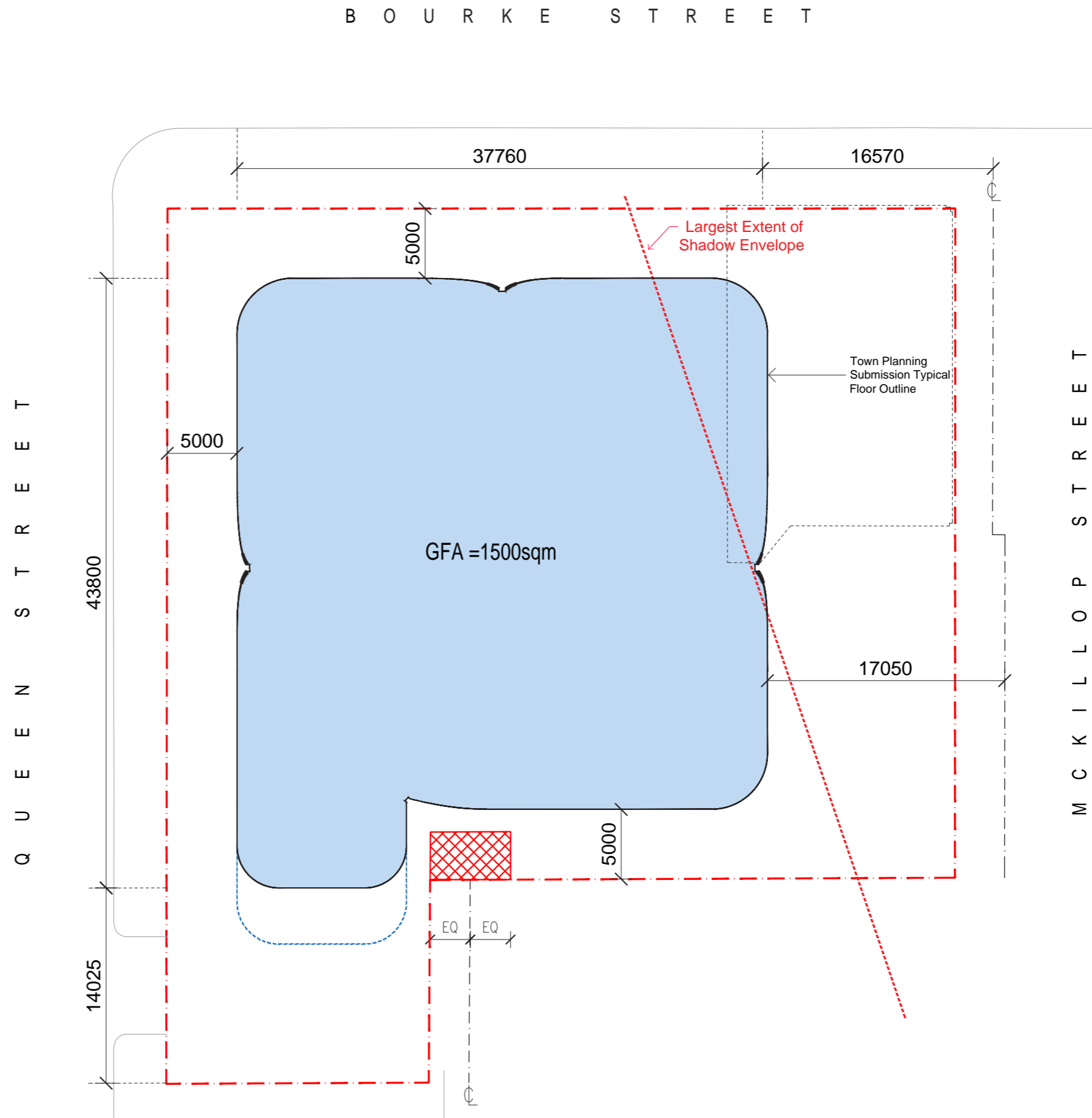
43.02 Design and Development Overlay, Melbourne Planning Scheme

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SETBACK AND FLOOR PLATE ANALYSIS PROPOSED FLOORPLATE

- / Typical floor GFA 1500sqm
- / 5m street setback from Queen and Bourke Streets
- / 5m rear setback from 392 Lt Collins Street
- / 14m setback from 118 Queen Street (increased from 10m)
- / 17m setback from Mckillop Street



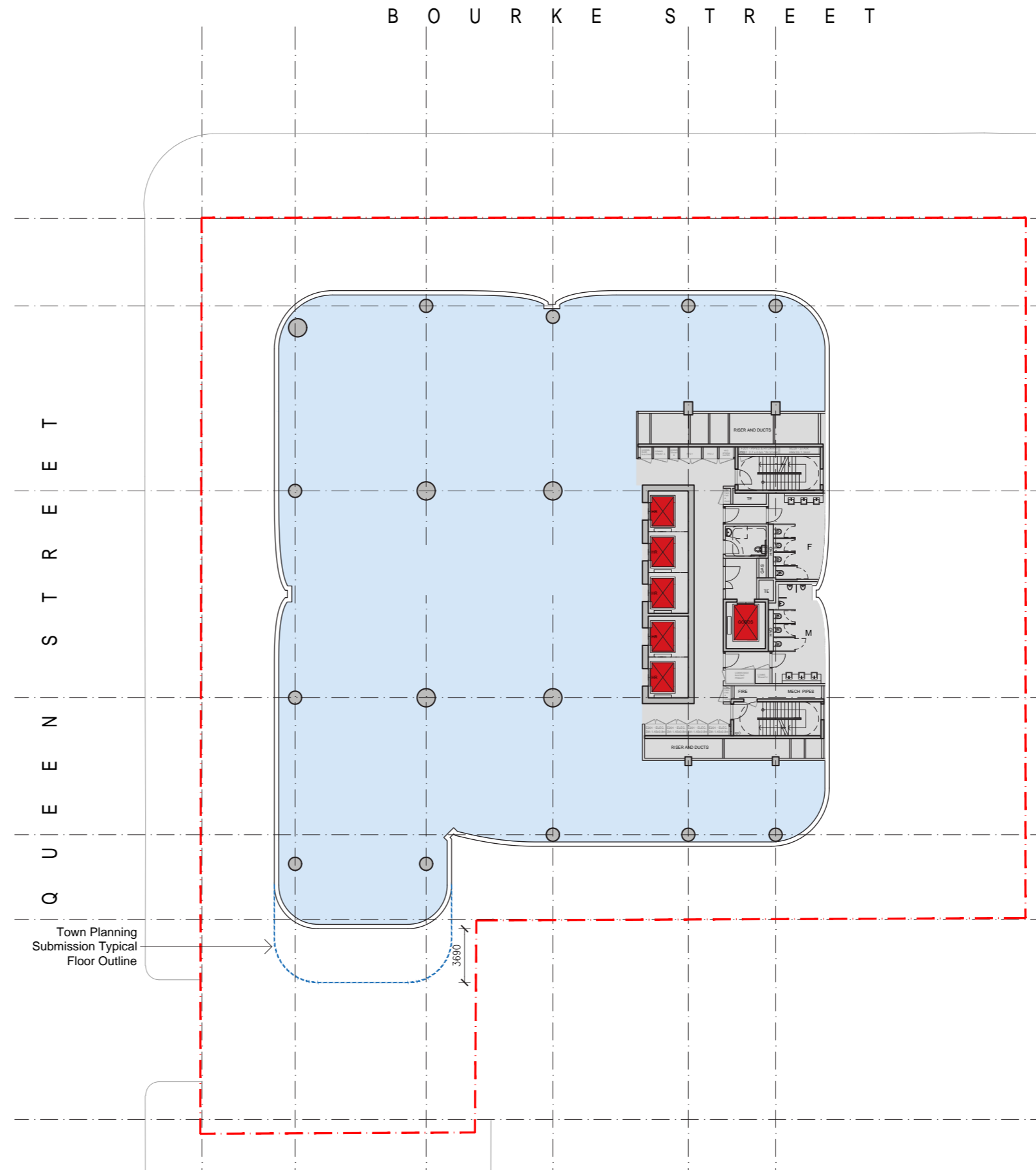
Town planning submission typical floor outline

TOWER FLOORPLATE TYPICAL HIGH RISE FLOOR

/ Typical floor GFA 1500sqm

/ Typical floor NLA 1230sqm
(assumes 82% efficiency)

/ Core layout same as town planning
submission



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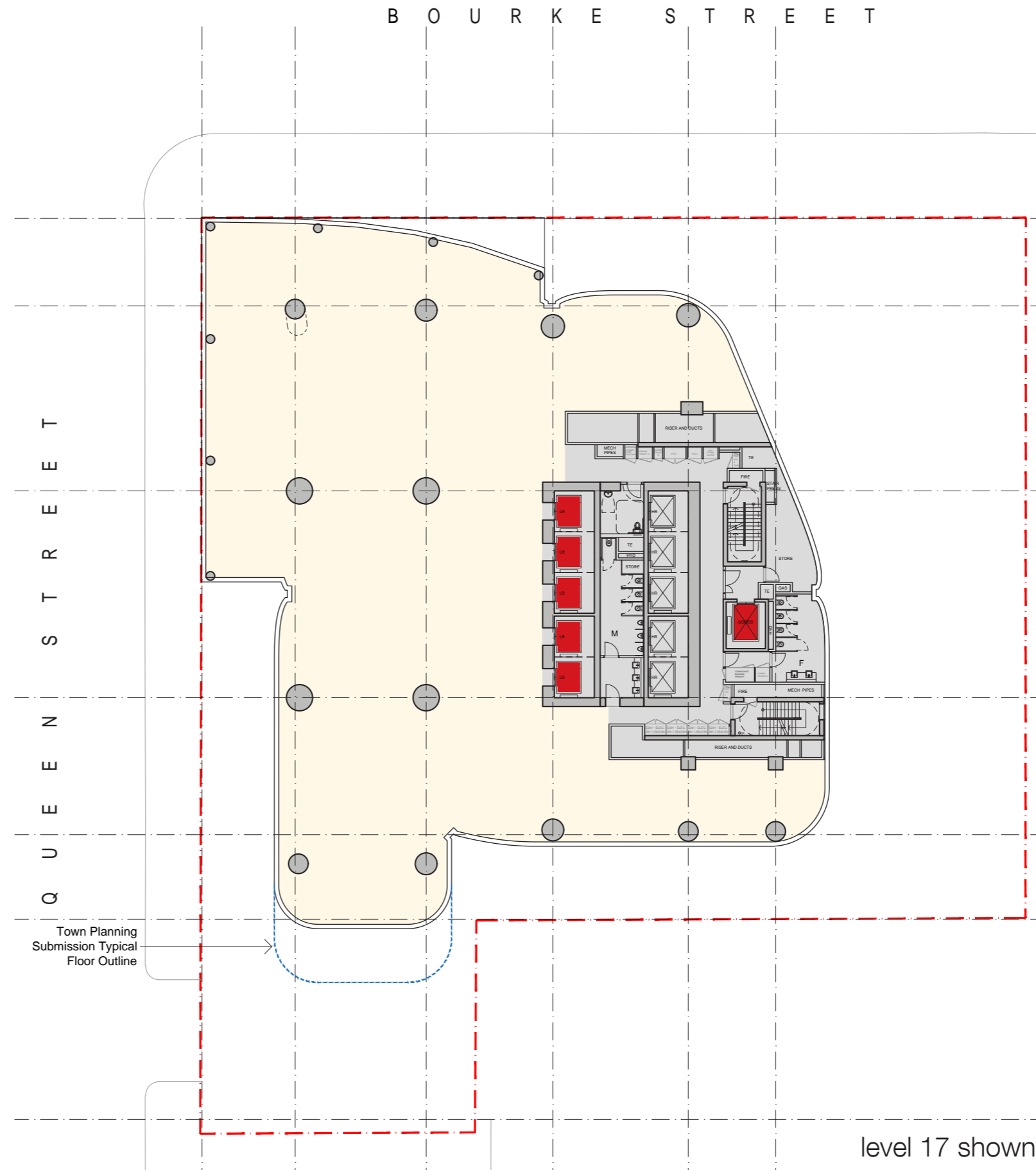
Town Planning
Submission Typical
Floor Outline

3690

Town planning submission
typical floor outline

TOWER FLOORPLATE TYPICAL LOW RISE FLOOR

- / Typical floor GFA 1615sqm
- / Typical floor NLA 1260sqm
(assumes 78% efficiency)
- / One bank of lifts removed
(lifting subject to further coordination)



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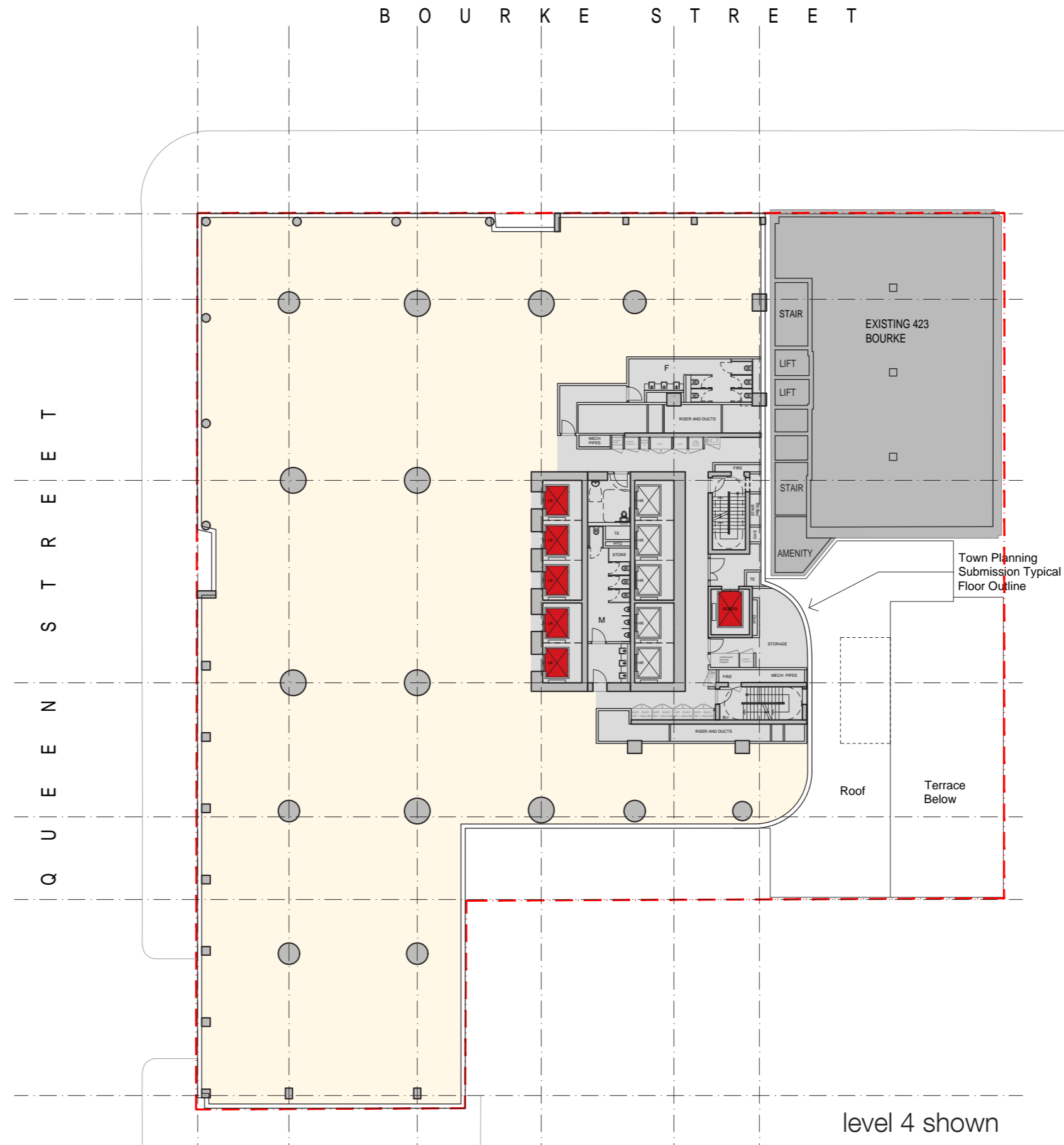
Town Planning
Submission Typical
Floor Outline

level 17 shown

Town planning submission
typical floor outline

TOWER FLOORPLATE TYPICAL PODIUM LEVEL

- / Typical floor GFA 2125sqm
- / Typical floor NLA 1660sqm
(assumes 78% efficiency)
- / One bank of lifts removed
(lifting subject to further coordination)

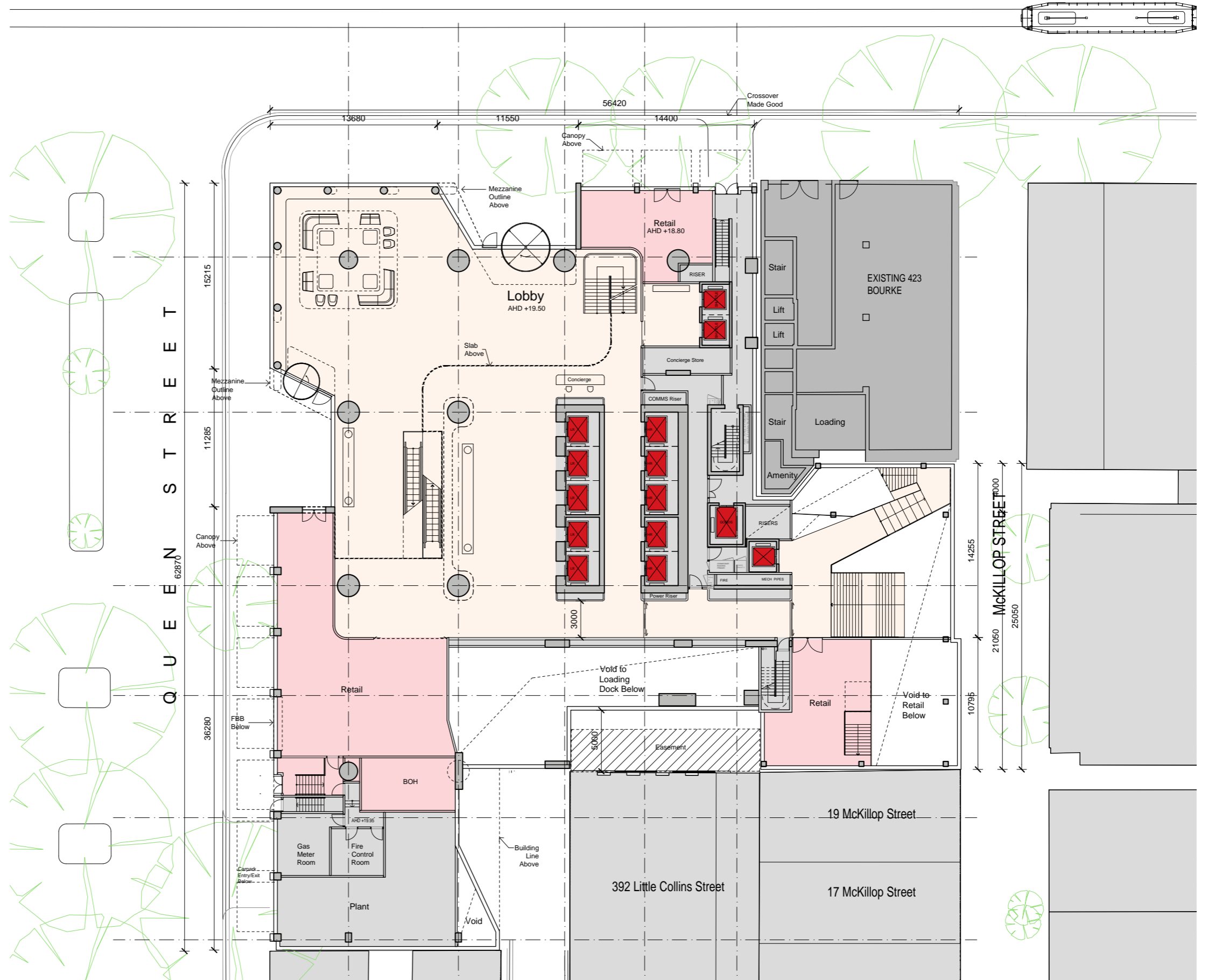


level 4 shown

..... Town planning submission
typical floor outline

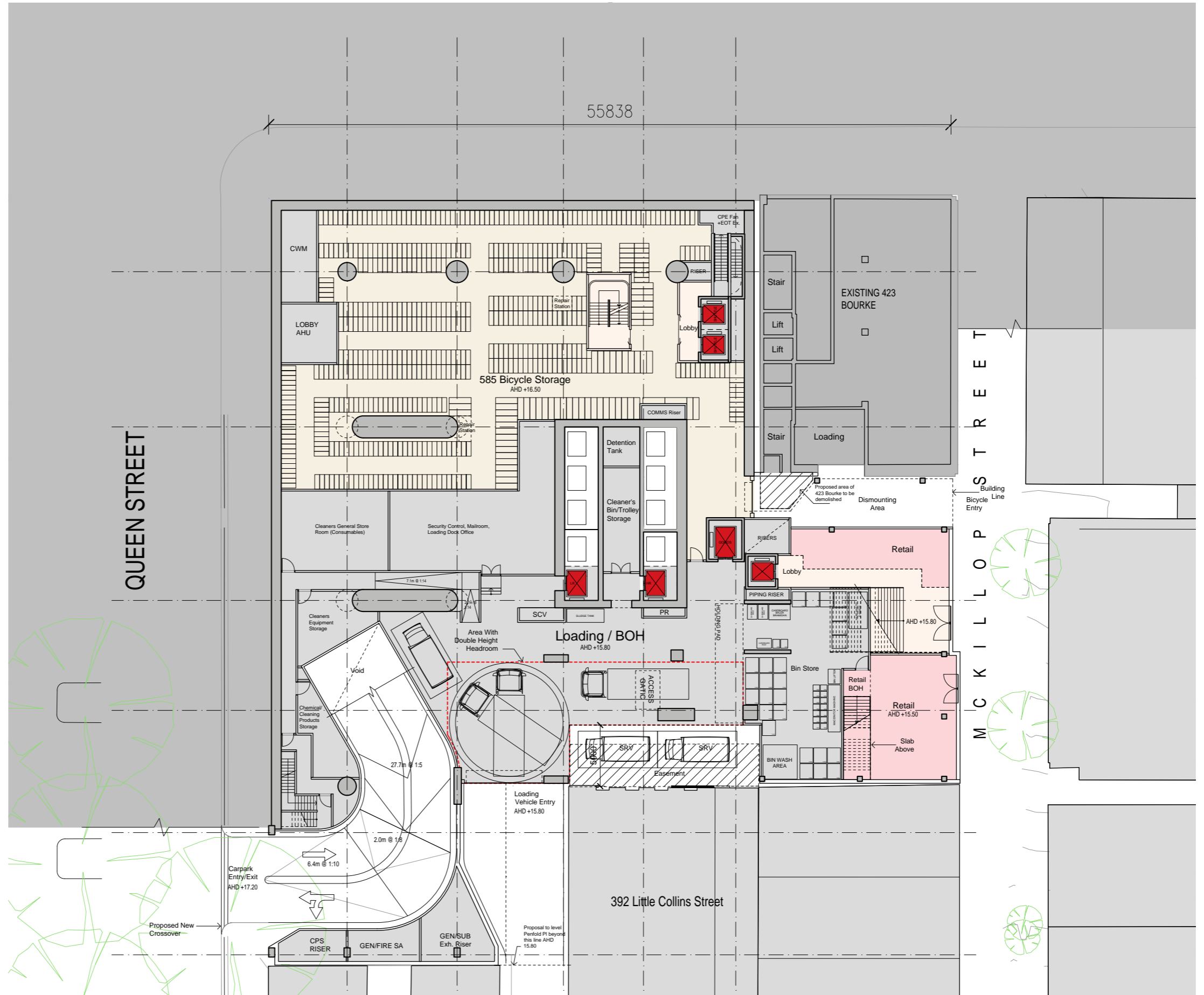
GROUND FLOOR PLAN

- / One bank of lifts removed (lifting subject to further coordination)
- / Ground floor layout remains unchanged



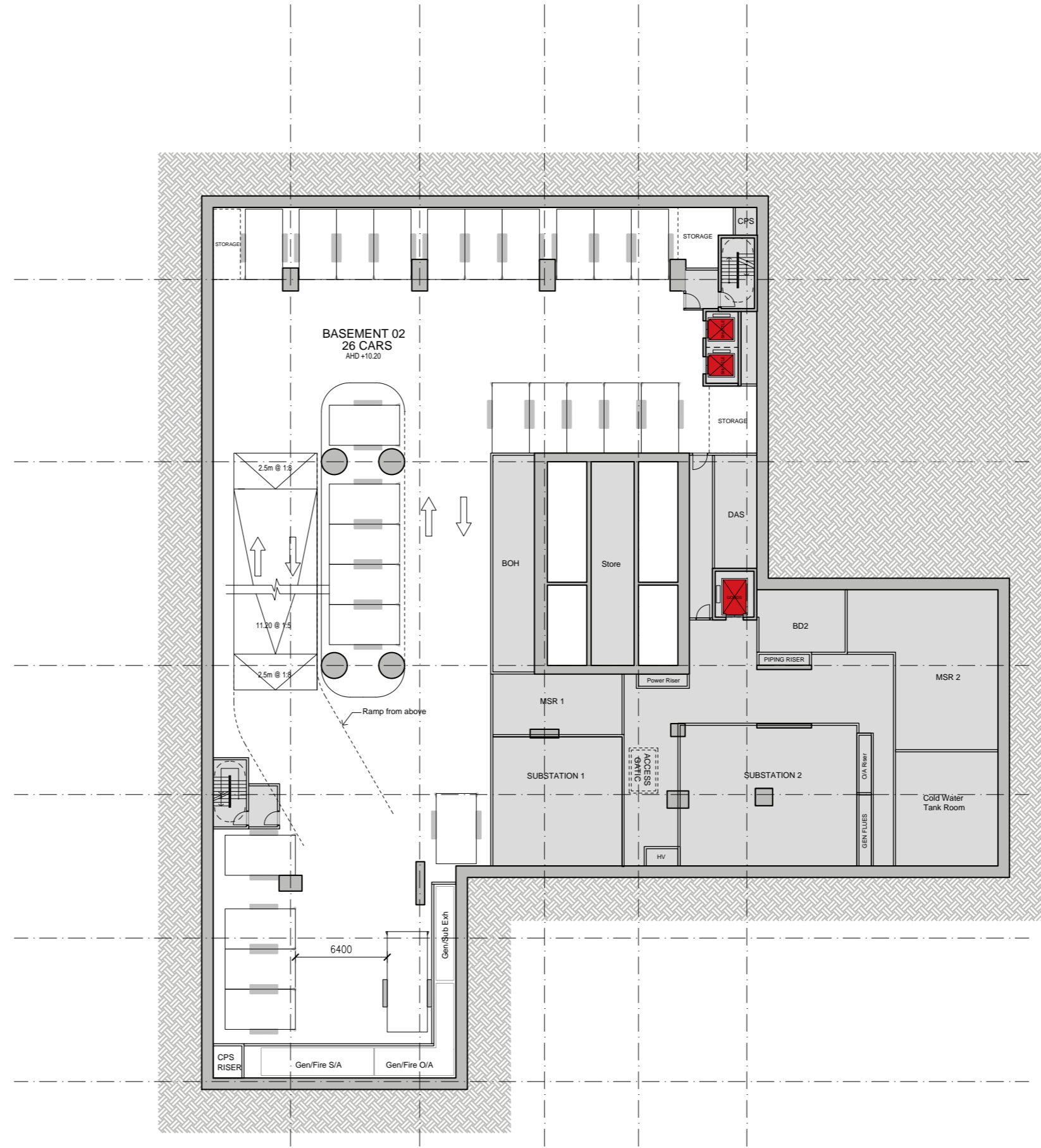
LOWER GROUND FLOOR PLAN

- / One bank of lifts removed (lifting subject to further coordination)
- / Lower ground floor layout remains unchanged

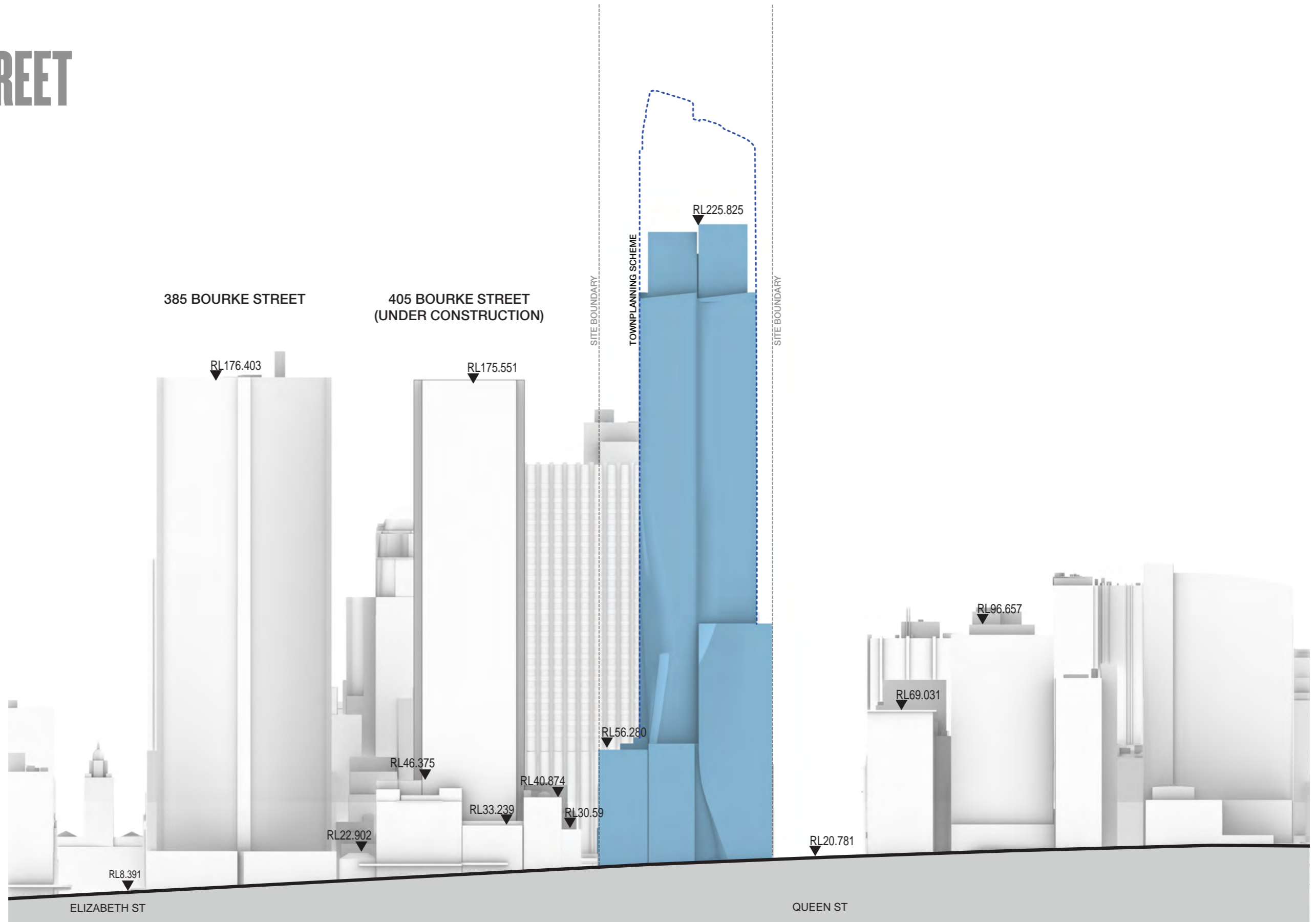


TYPICAL BASEMENT PLAN

- / One bank of lifts removed (lifting subject to further coordination)
- / Basement layout remains unchanged

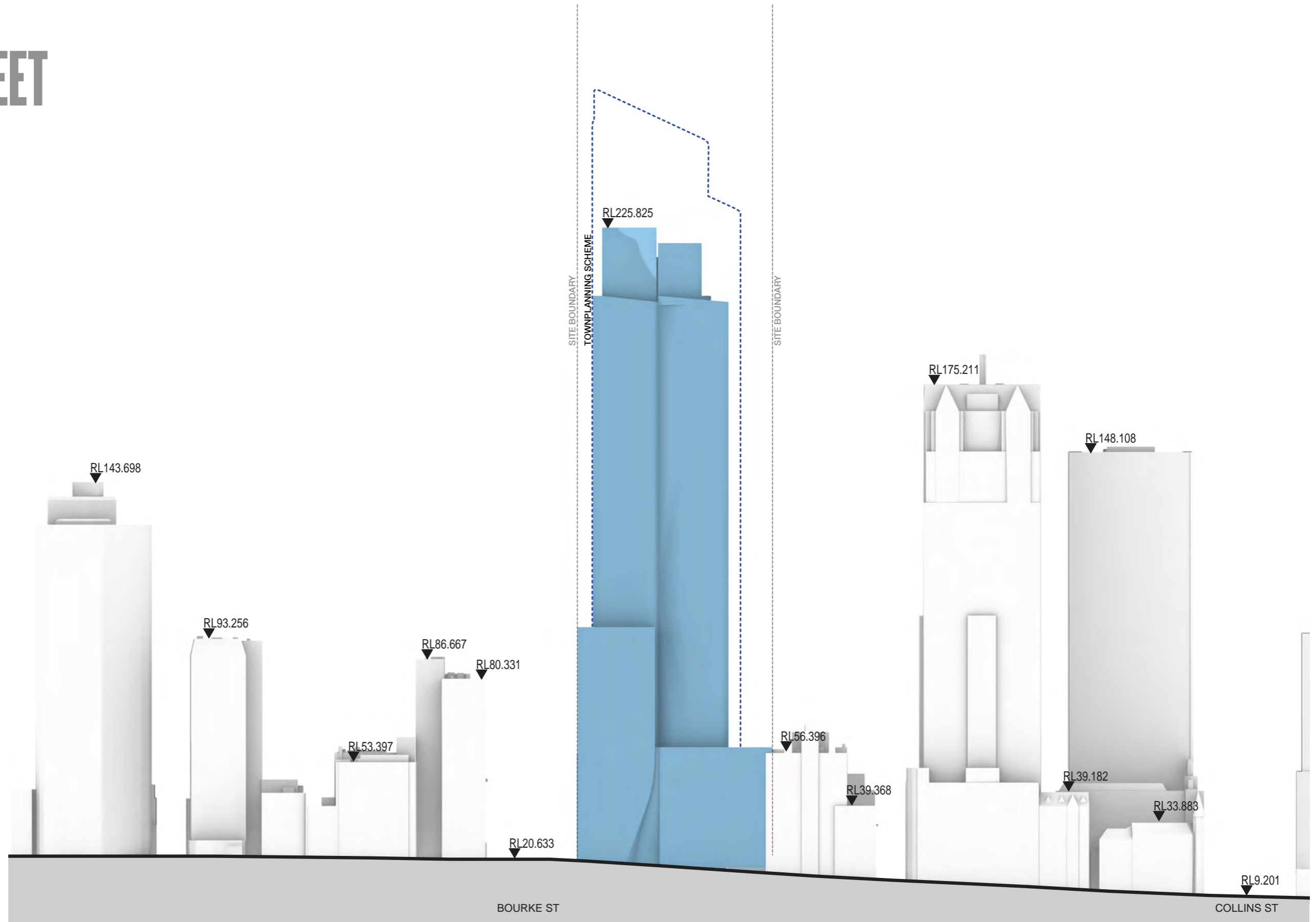


ELEVATIONS BOURKE STREET ELEVATION



..... Dec 2018 Town Planning Submission

ELEVATIONS QUEEN STREET ELEVATION

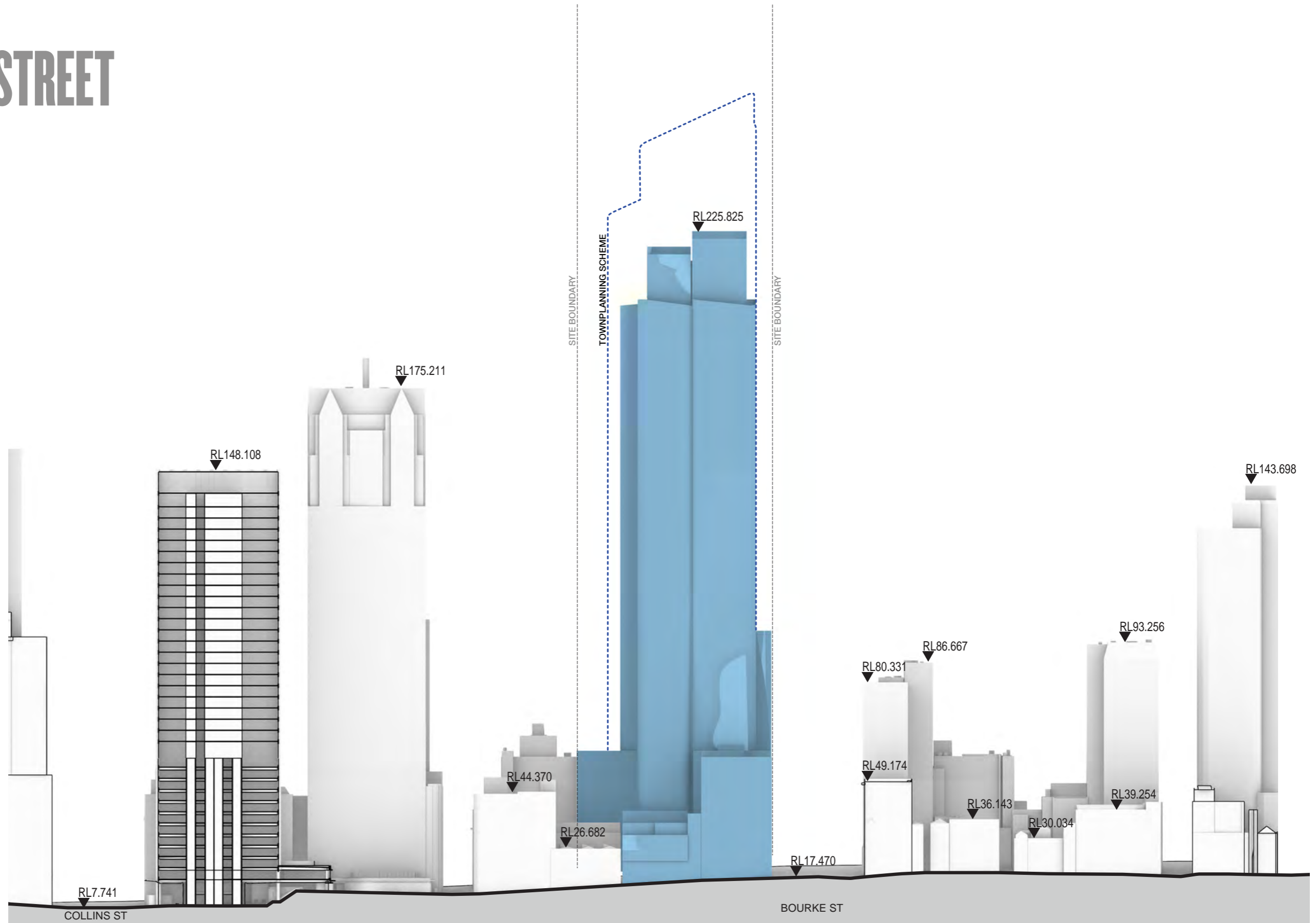


..... Dec 2018 Town Planning Submission

ELEVATIONS

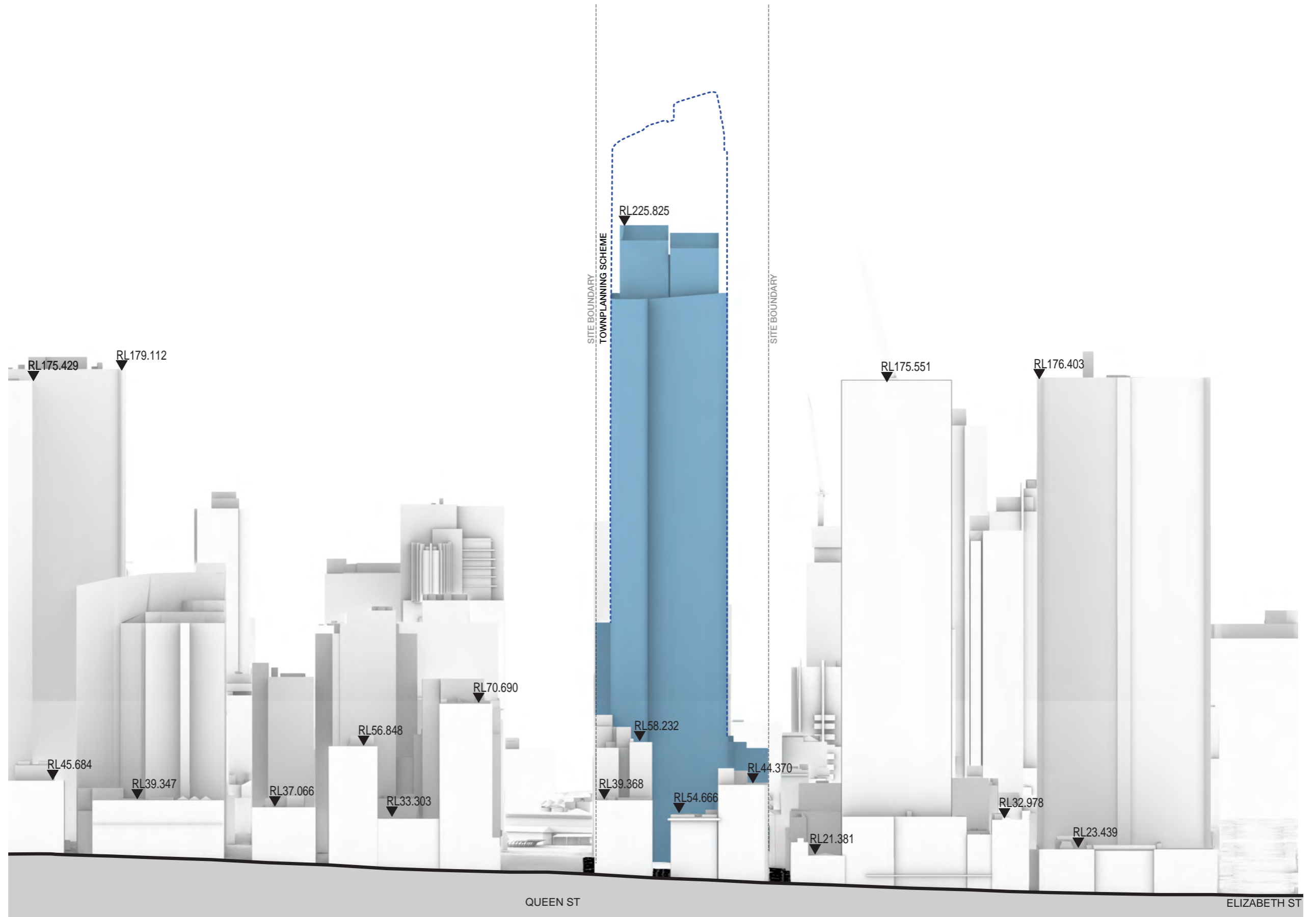
MCKILLOP STREET

ELEVATION



..... Dec 2018 Town Planning Submission

ELEVATIONS LT COLLINS ELEVATION



..... Dec 2018 Town Planning Submission

REVISED COMPLIANT SCHEME



REVISED COMPLIANT SCHEME



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REVISED COMPLIANT SCHEME



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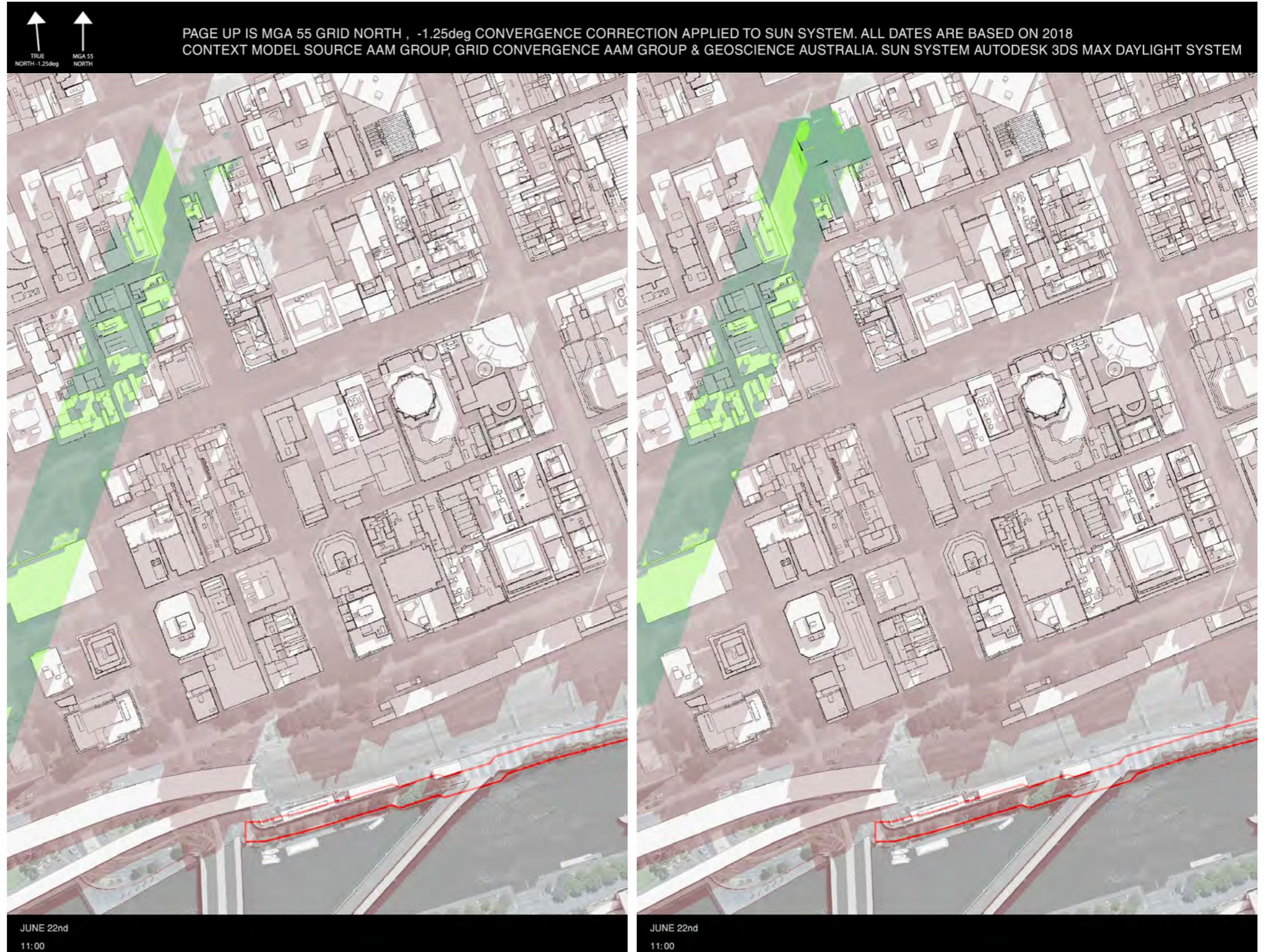


REVISED COMPLIANT SCHEME



BATESSMART.

SHADOW ANALYSIS COMPARISON NORTH BANK OF YARRA JUNE 22 11AM



SOLAR ACCESS

To achieve the built form outcomes set by DDO10, the building form has been designed to ensure and protect daylight and sunlight access to public spaces, including the DDO10 protected McKillop Street (Table 2, Schedule 10) and the Yarra Corridor, including 15m from the edge of north bank of the river (Table 1 to Schedule 10). the relevant controls are:

Table 1 to Schedule 10

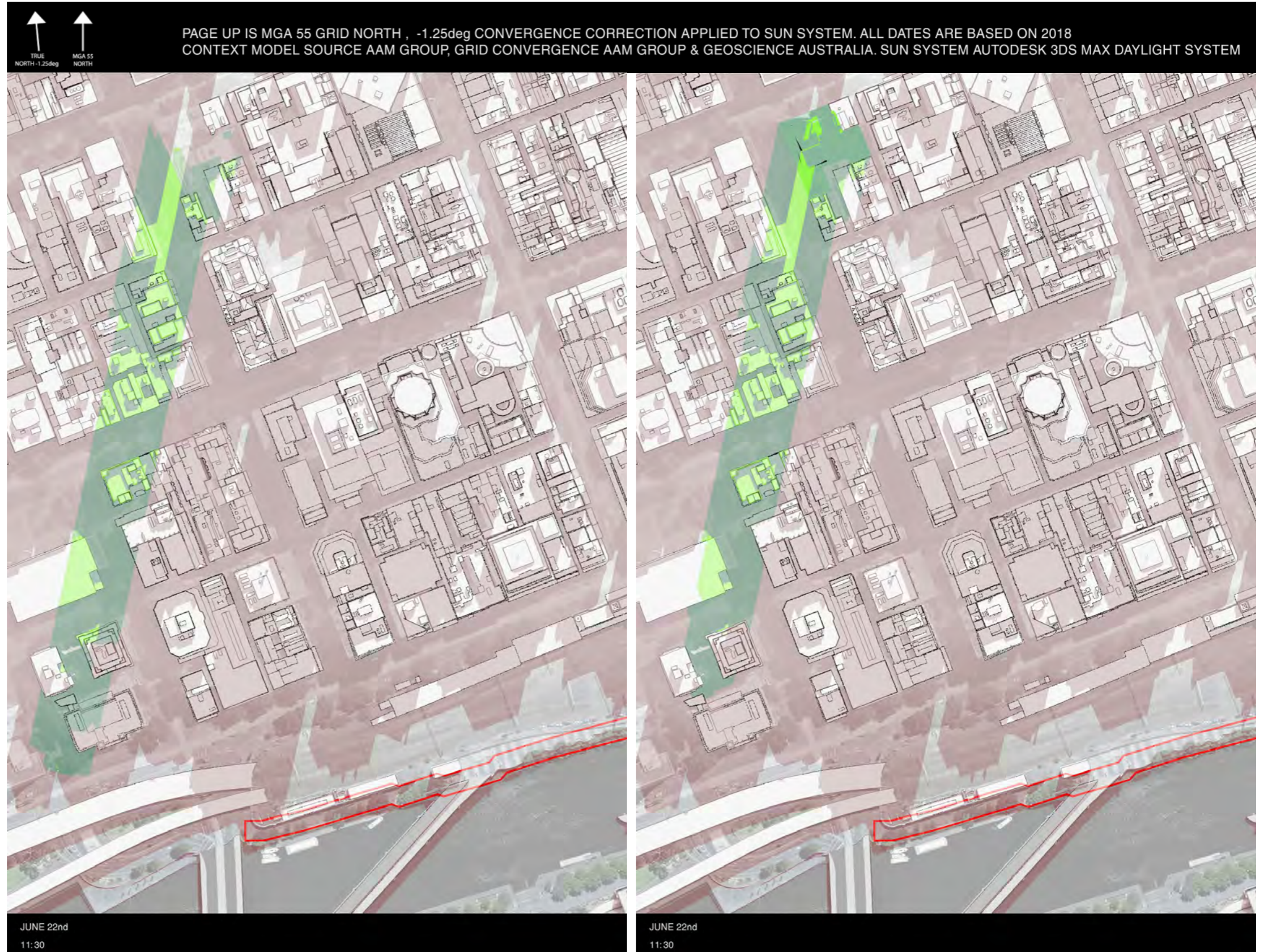
With the exception of minor works or minor changes to existing buildings within that defined space, a permit must not be granted for buildings and works which would cast any additional shadow across a space listed within Table 1 to this schedule

- Yarra Corridor: Hours between 11am and 2pm on 22 June

TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

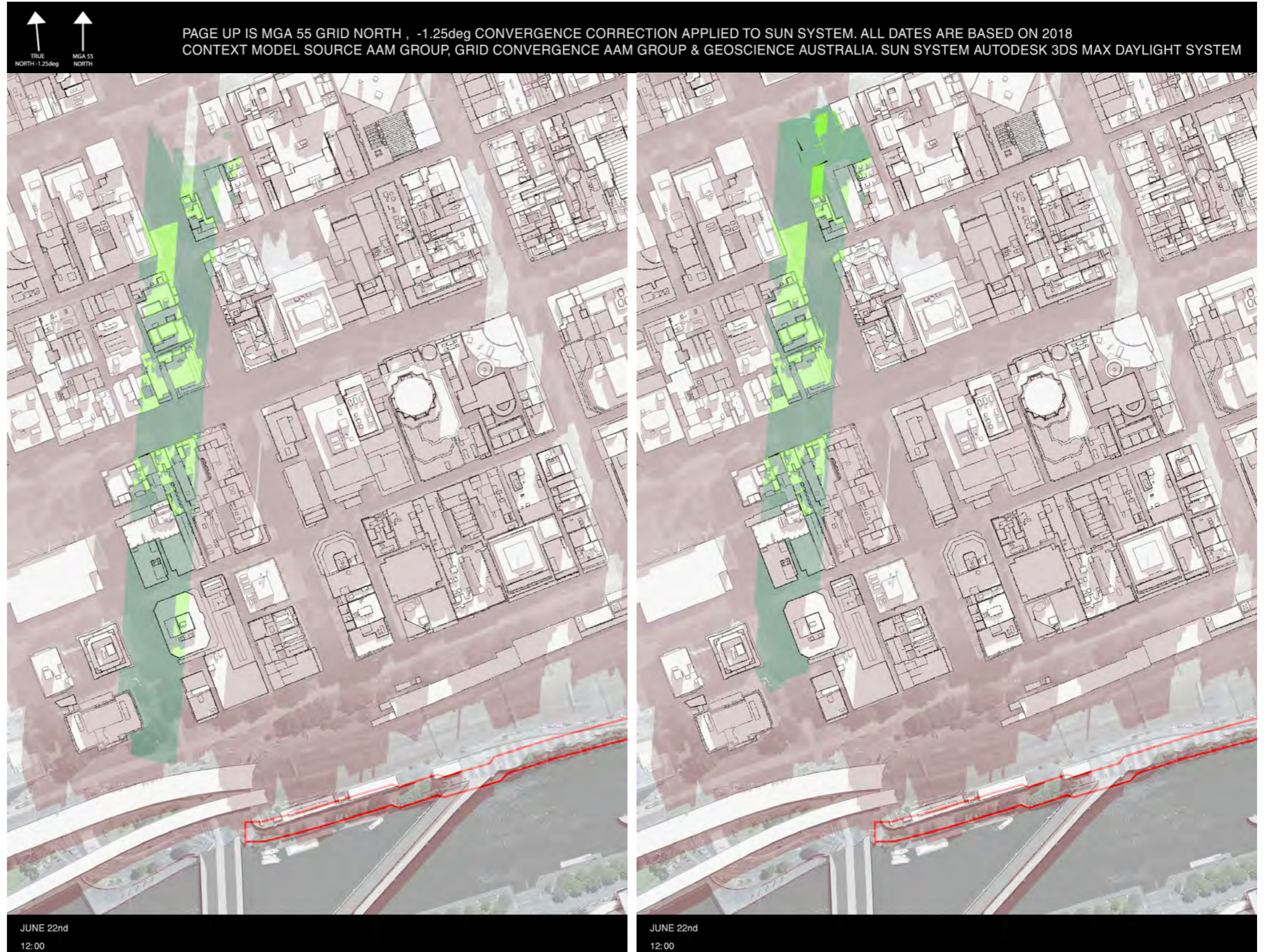
SHADOW ANALYSIS COMPARISON NORTH BANK OF YARRA JUNE 22 11:30AM



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

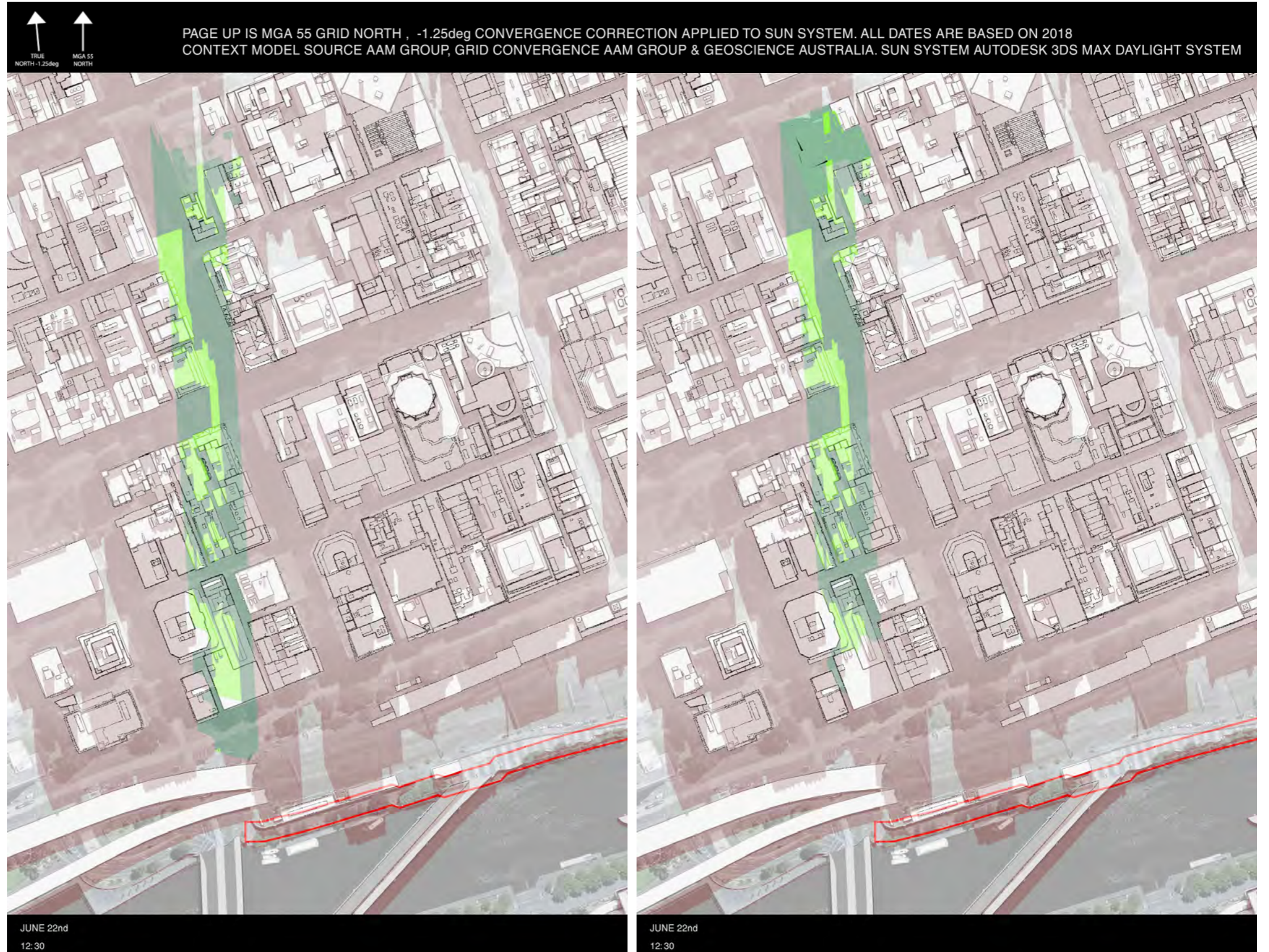
SHADOW ANALYSIS COMPARISON NORTH BANK OF YARRA JUNE 22 12PM



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

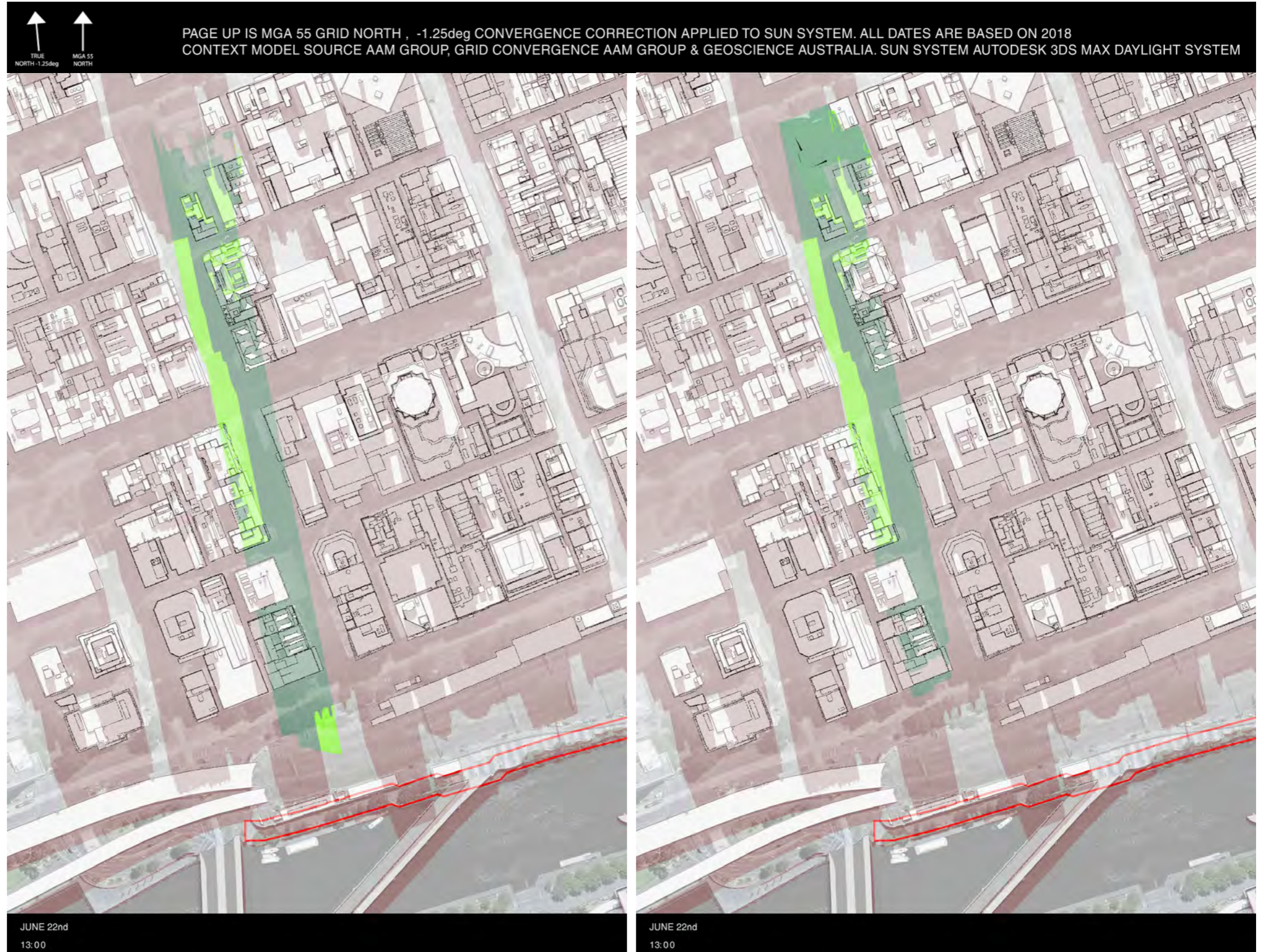
SHADOW ANALYSIS COMPARISON NORTH BANK OF YARRA JUNE 22 12:30PM



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

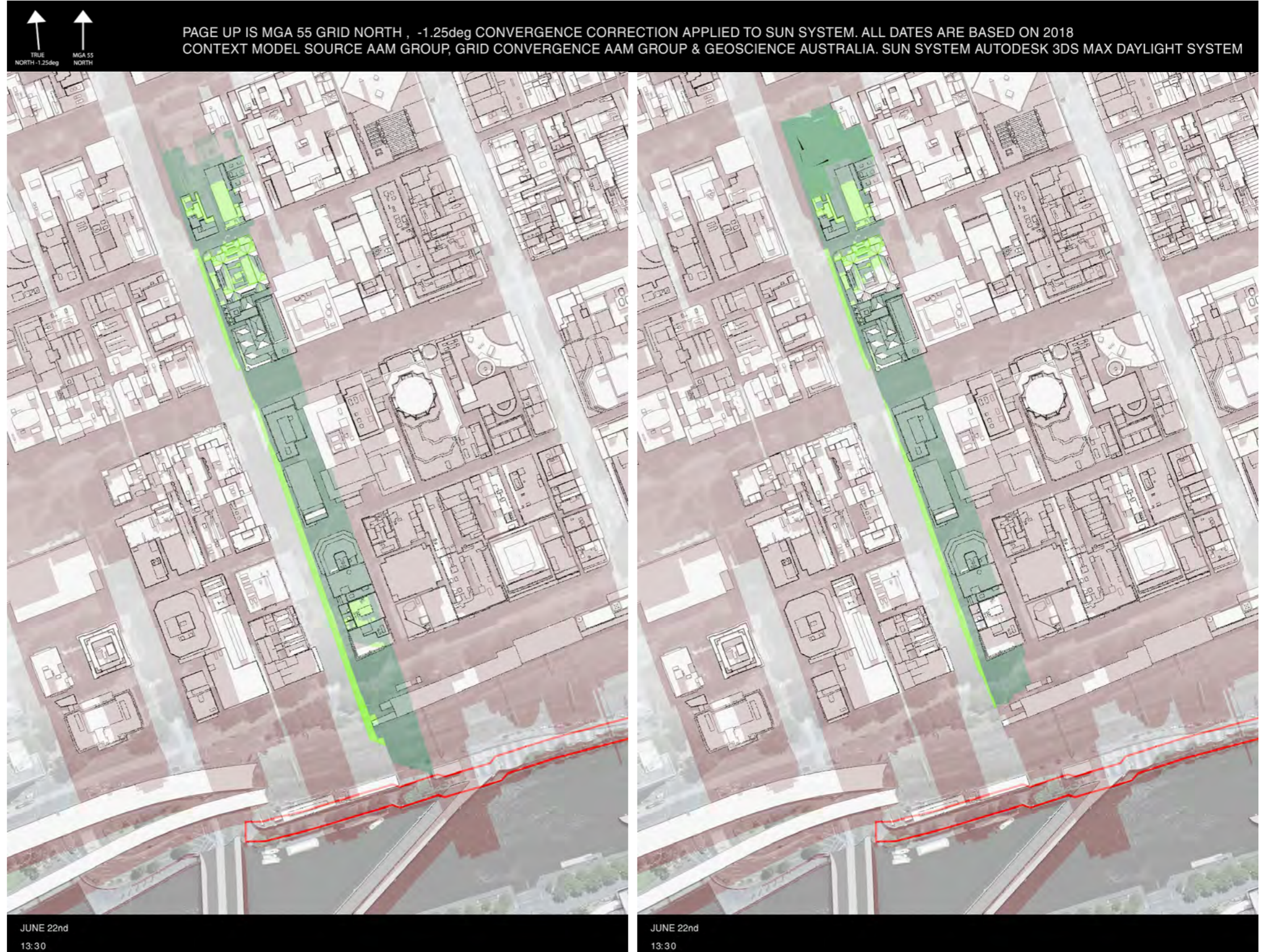
SHADOW ANALYSIS COMPARISON NORTH BANK OF YARRA JUNE 22 1PM



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

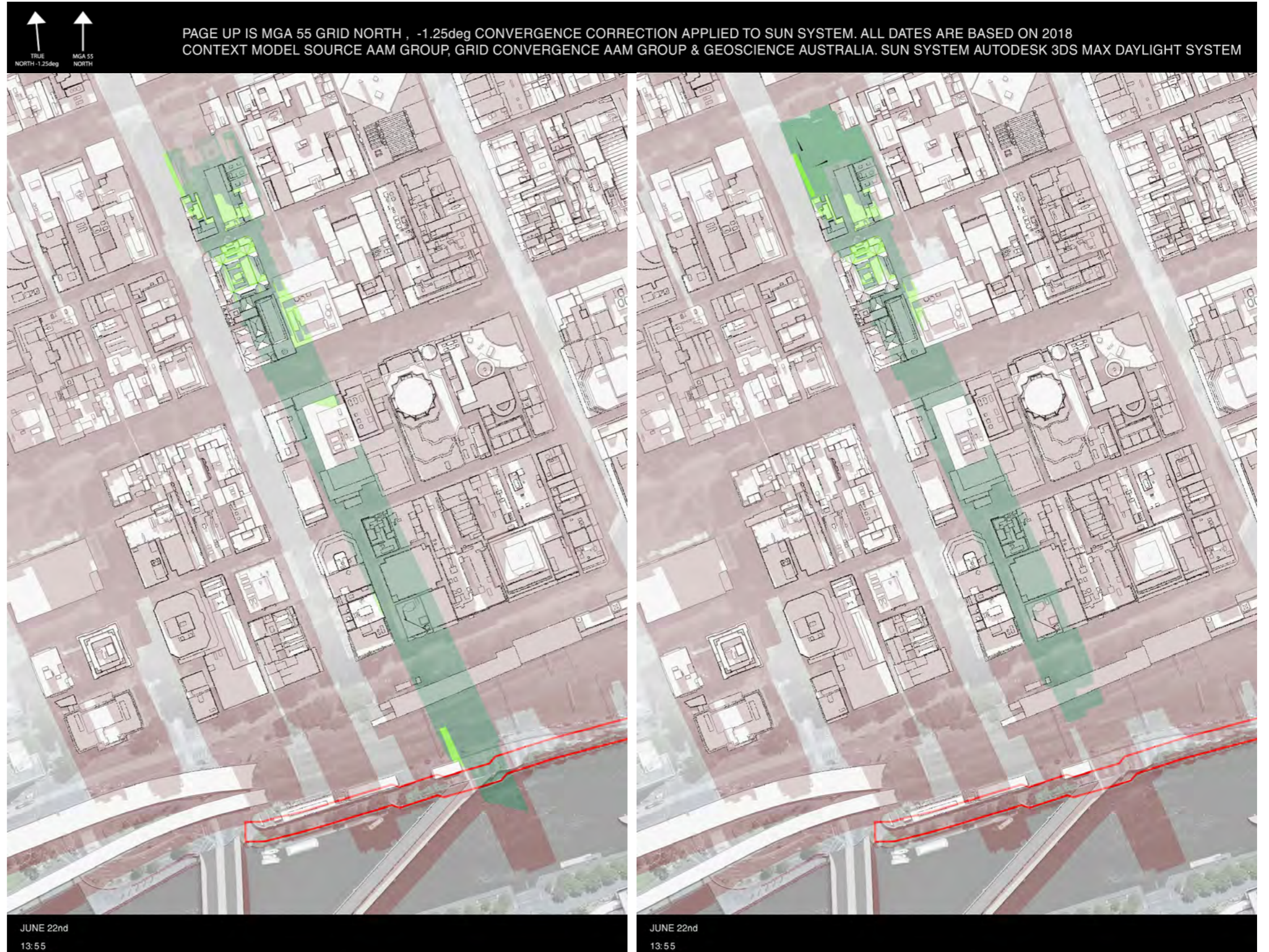
SHADOW ANALYSIS COMPARISON NORTH BANK OF YARRA JUNE 22 1:30PM



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

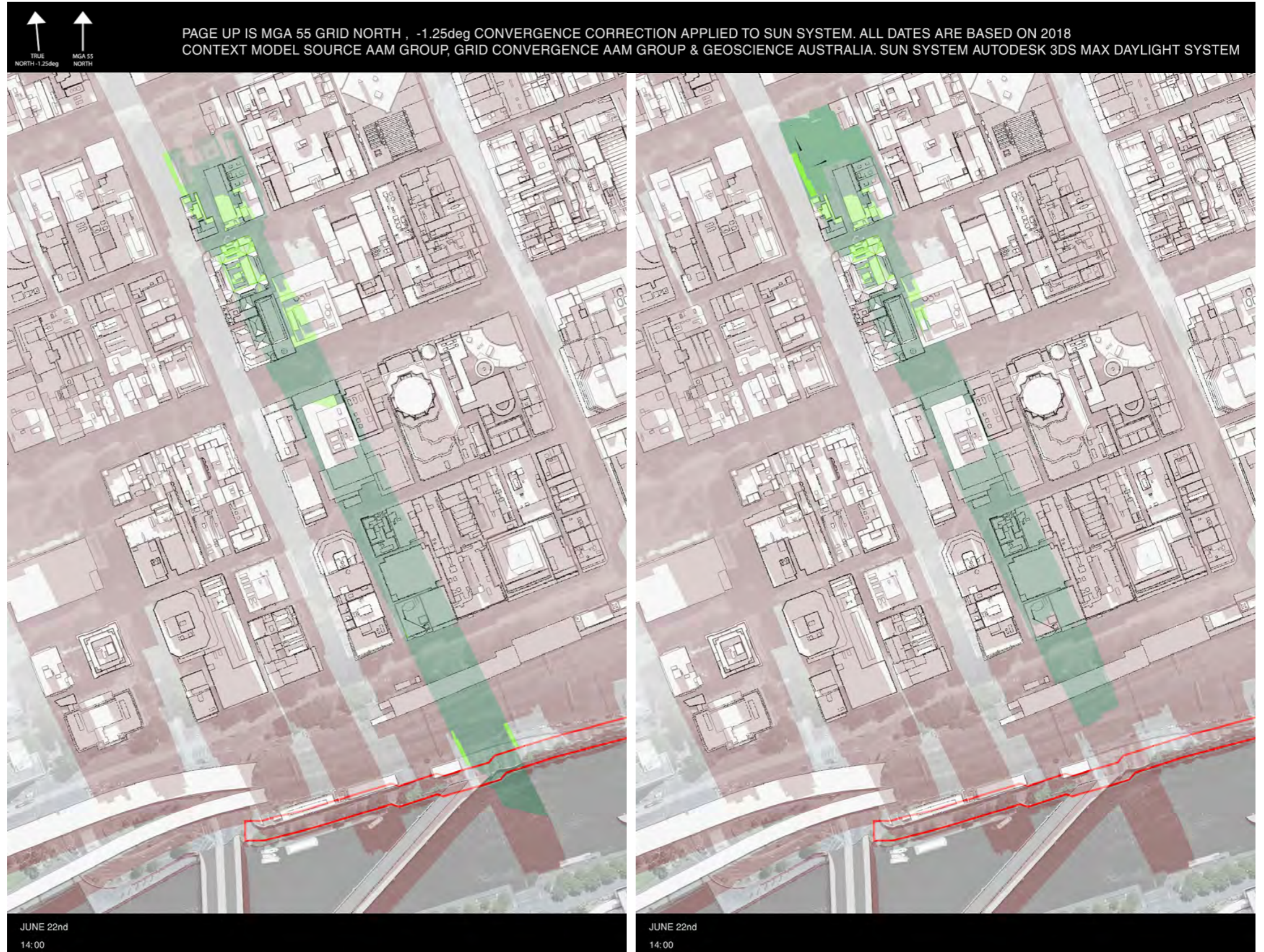
SHADOW ANALYSIS COMPARISON NORTH BANK OF YARRA JUNE 22 1:55PM



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON NORTH BANK OF YARRA JUNE 22 2PM



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

APRIL 22 1PM

SOLAR ACCESS

To achieve the built form outcomes set by DDO10, the building form has been designed to ensure and protect daylight and sunlight access to public spaces, including the DDO10 protected McKillop Street (Table 2, Schedule 10) and the Yarra Corridor, including 15m from the edge of north bank of the river (Table 1 to Schedule 10). the relevant controls are:

Table 2 to Schedule 10

A permit must not be granted for buildings and works which would cast any additional shadow across a space listed within Table 2 to this schedule during the hours and date(s) specified, unless the overshadowing will not unreasonably prejudice the amenity of the space

- McKillop Street: Hours between 11am and 2pm between 22 April and 22 September

■ PROPOSED TOWER SHADOW

■ ADDITIONAL SHADOW CAST BY PROPOSED TOWER

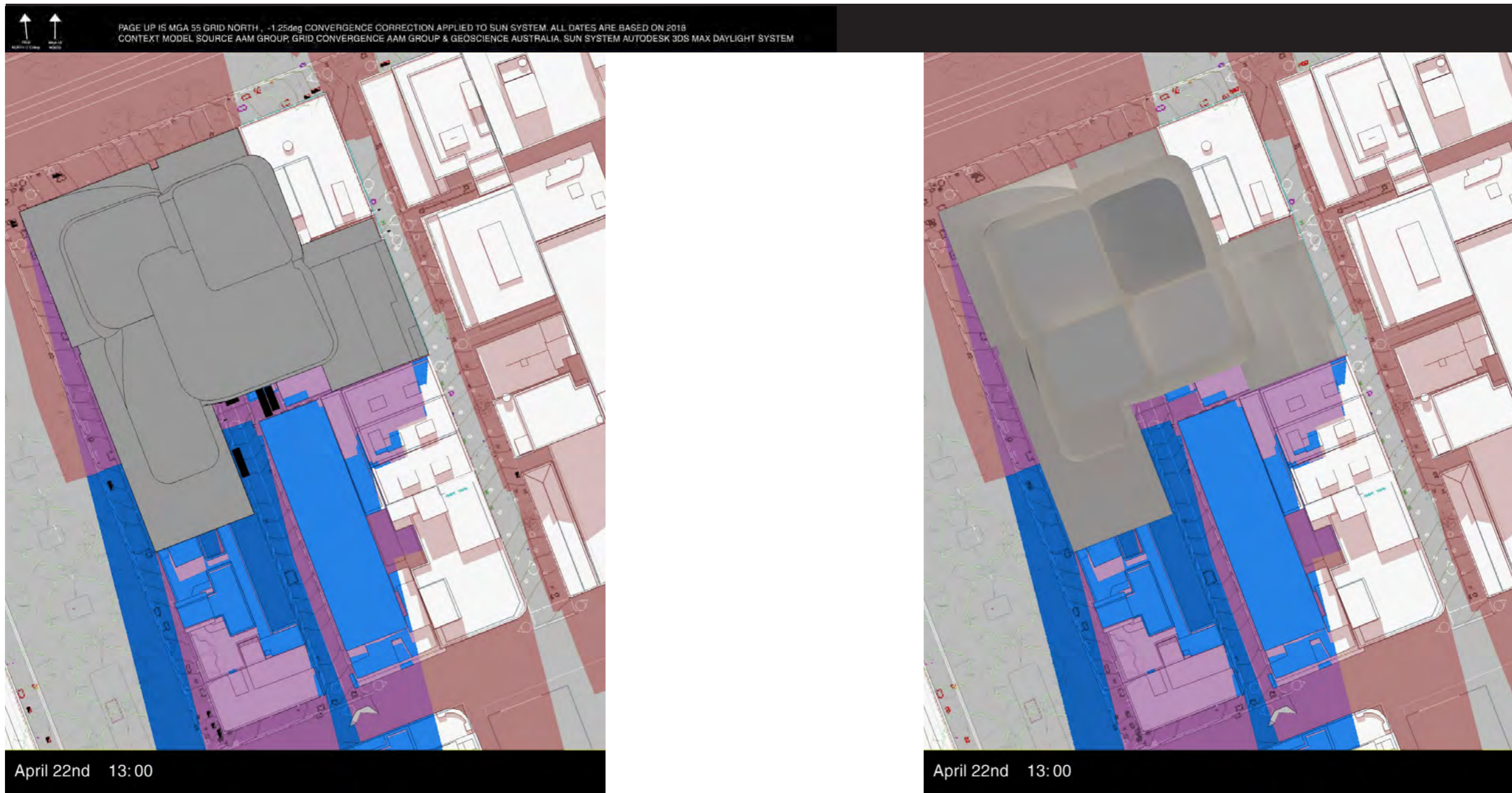
■ EXISTING CONTEXT SHADOW

McKillop Street is a key public place with and it's sunlight access is protected under the special character areas-built form control DD02.

This has an impact on the tower's envelope, which has been carved to allow solar access within the mid-rise of the tower. This provided an opportunity to give the tower a sculptural expression.

The McKillop street building is a low-rise, 4 level building that maintains the high-density and pedestrian orientated built form of the McKillop precinct.

The top most floor is recessed away from the street, incorporating a roof top terrace.



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

APRIL 22 1:30PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

APRIL 22 2PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

JUNE 22 1PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

JUNE 22 1:30PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

JUNE 22 2PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)

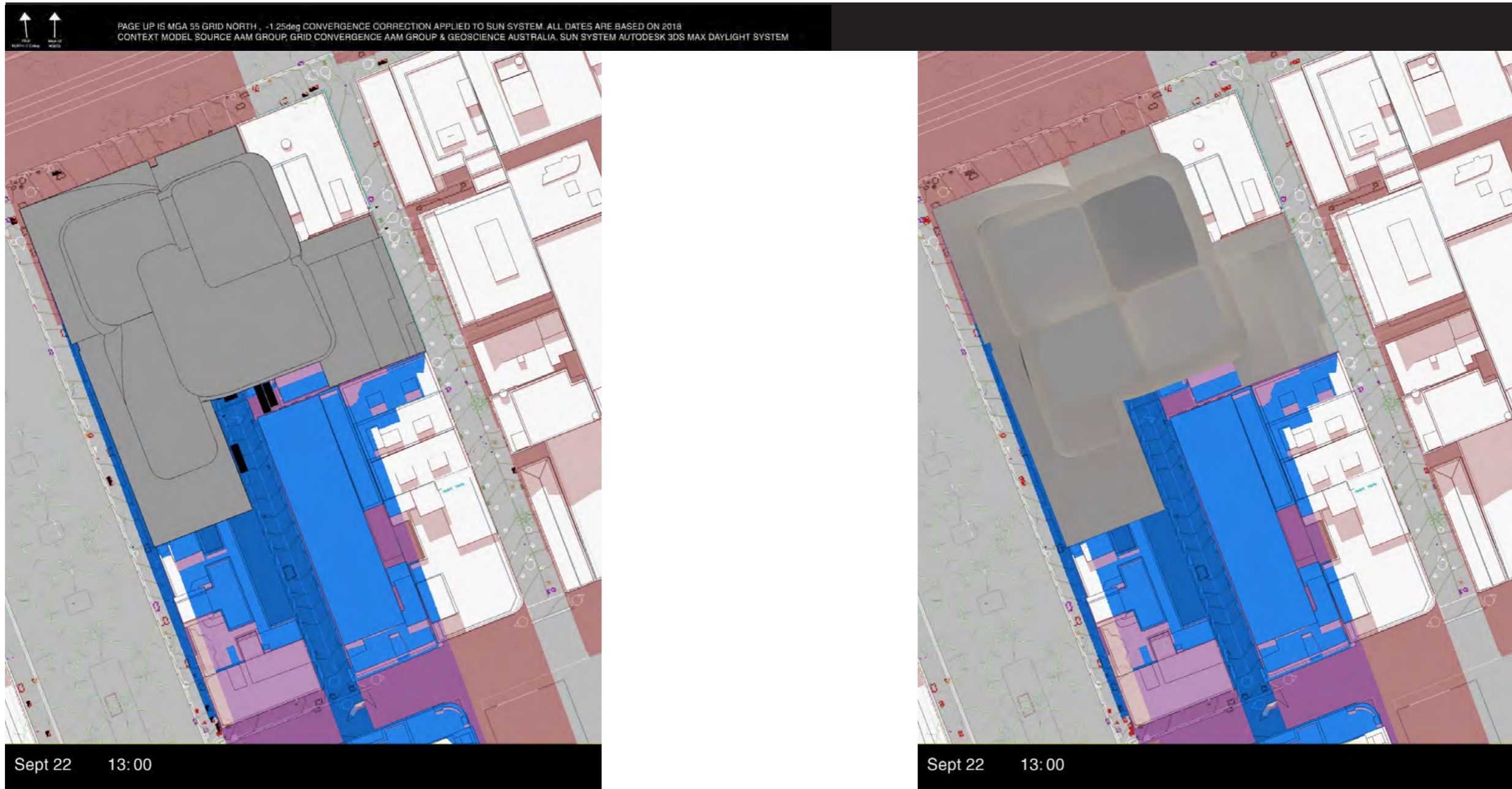
REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

SEPTEMBER 22 1PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

SEPTEMBER 22 1:30PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)

REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

MCKILLOP STREET

SEPTEMBER 22 2PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)

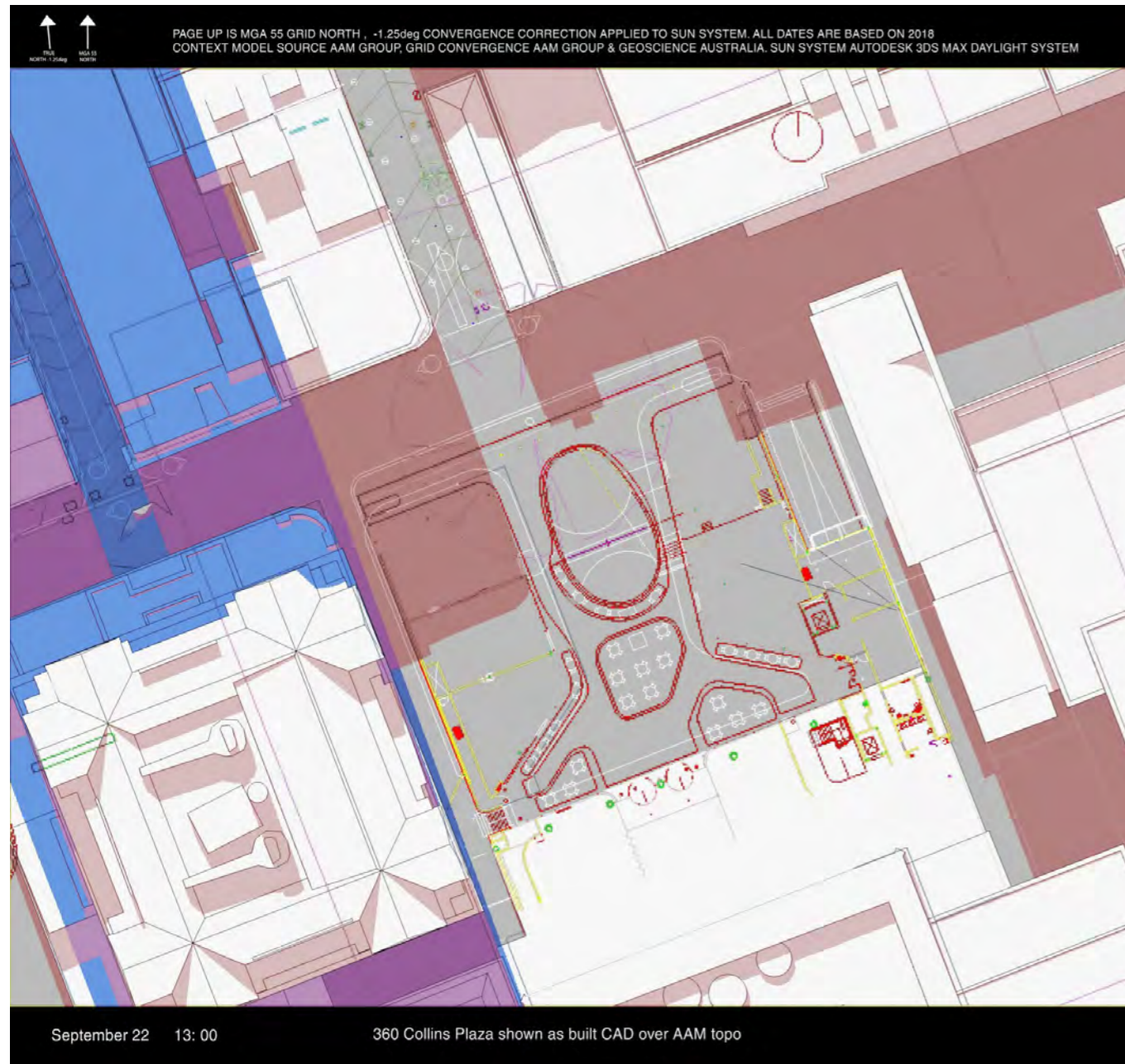
REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

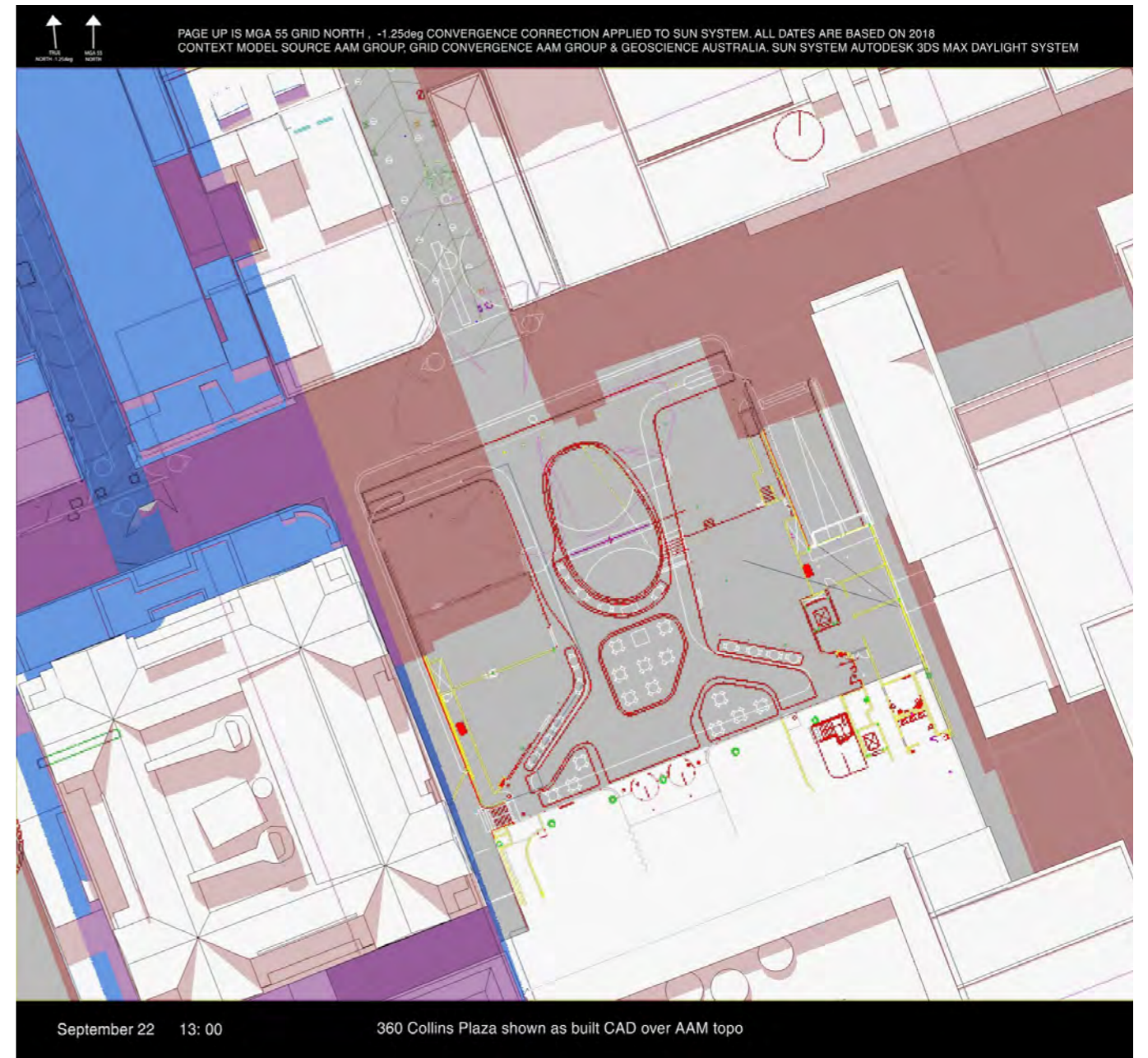
360 COLLINS FORECOURT

SEP 22 1PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)



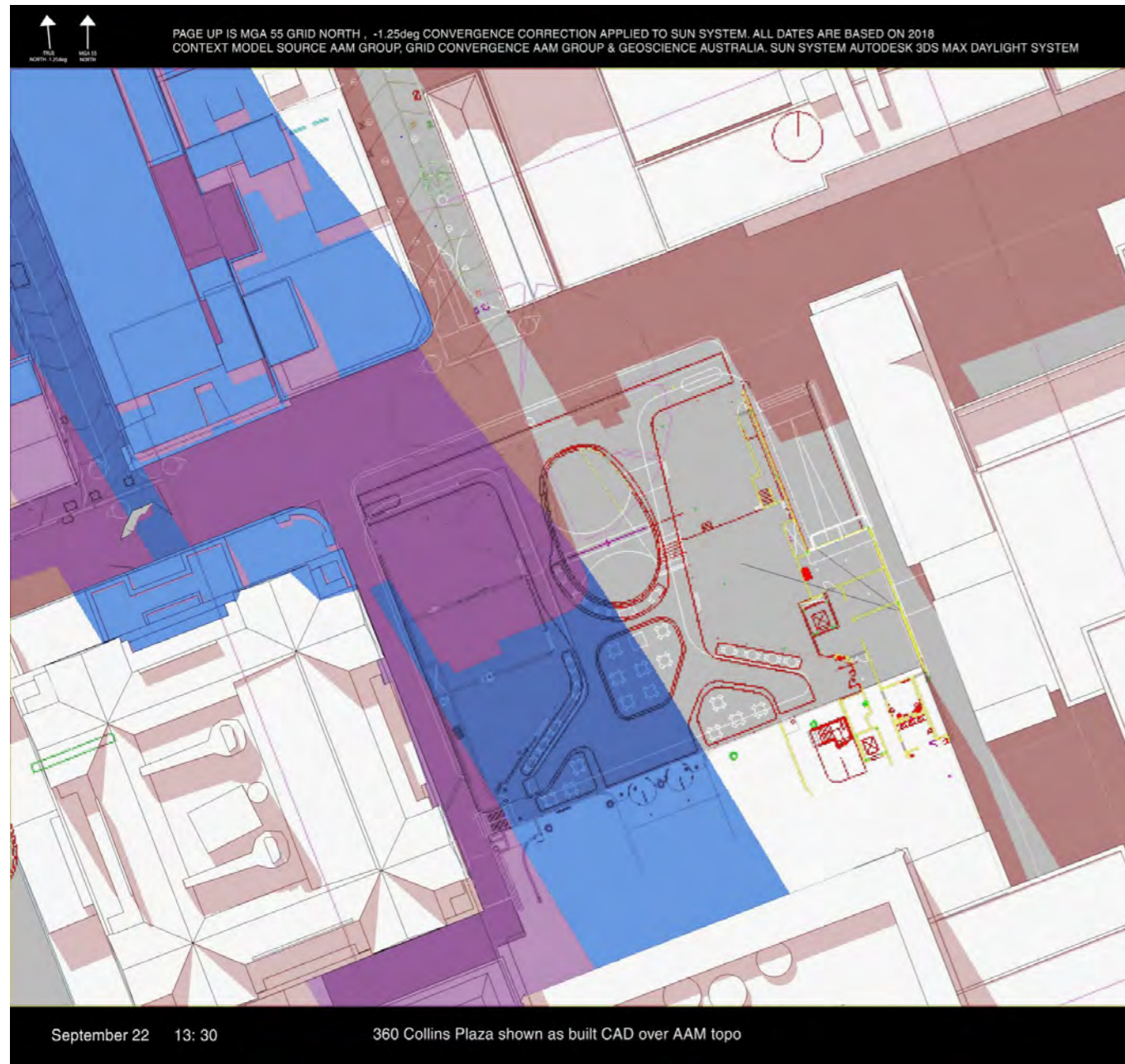
REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

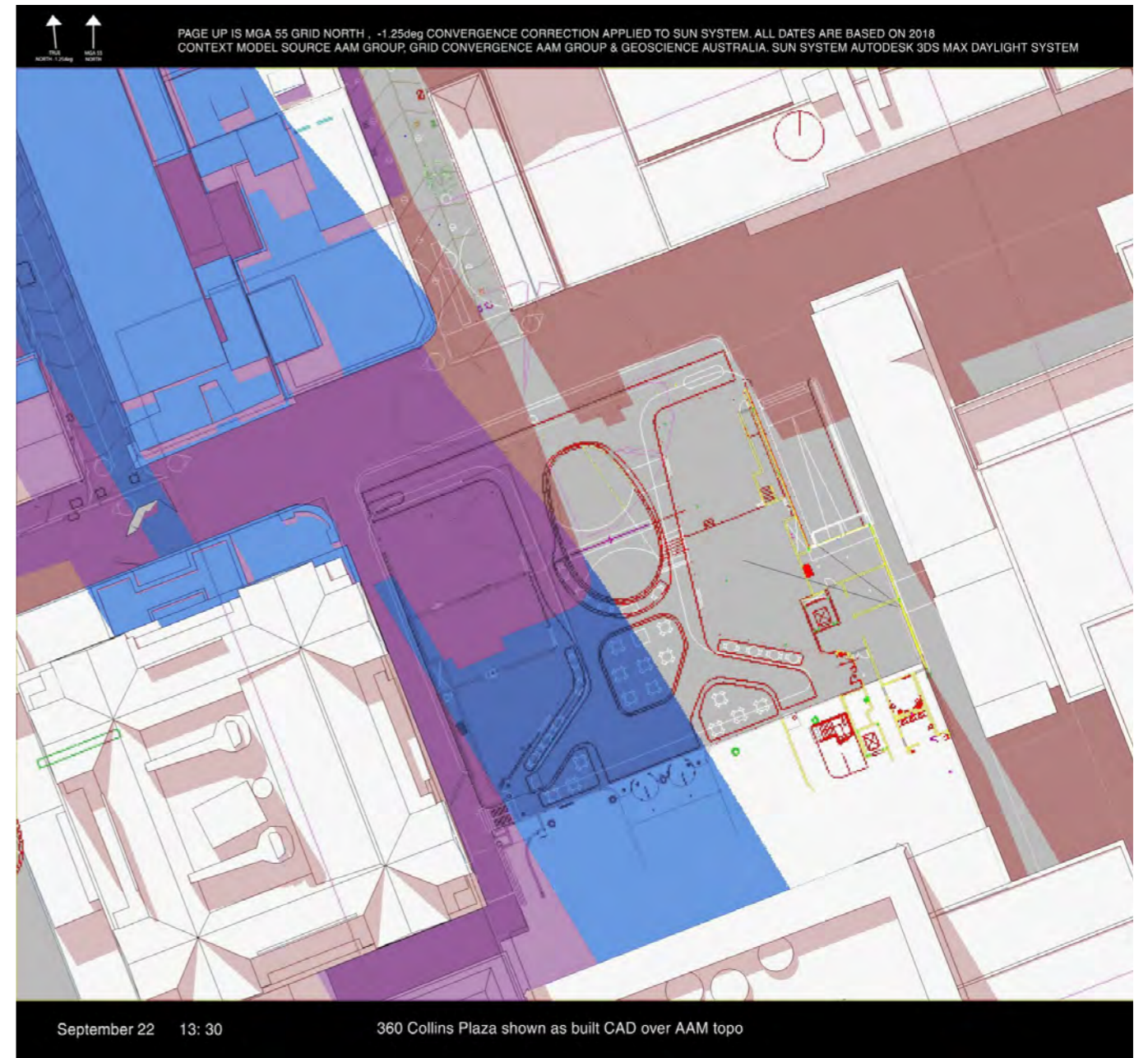
360 COLLINS FORECOURT

SEP 22 1:30PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW



TOWN PLANNING SUBMISSION (DEC 2018)



REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

360 COLLINS FORECOURT

SEP 22 1:45PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW
- ADDITIONAL SHADOW CAST ON LAWN AREA



TOWN PLANNING SUBMISSION (DEC 2018)



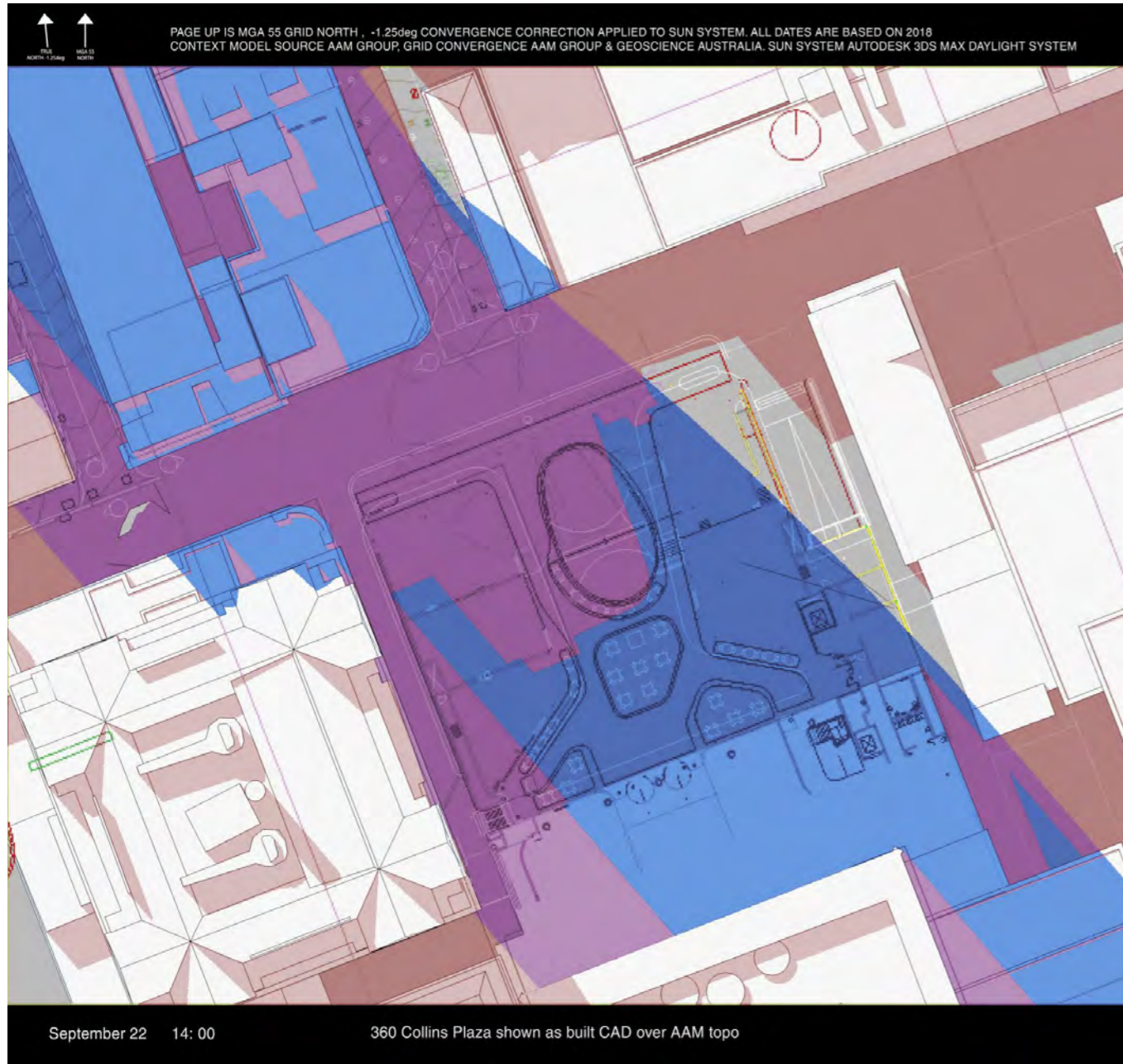
REVISED COMPLIANT SCHEME (SEP 2019)

SHADOW ANALYSIS COMPARISON

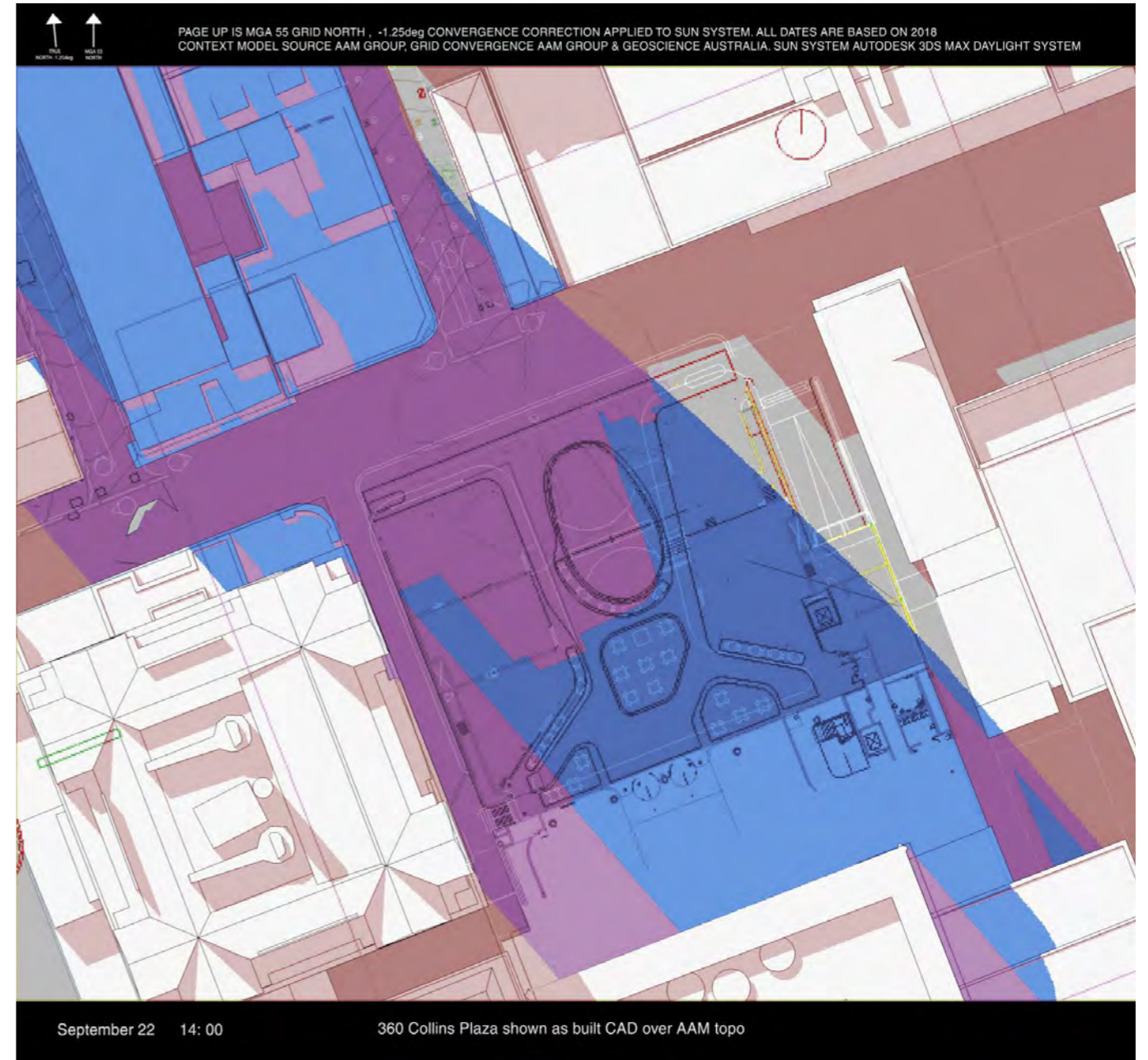
360 COLLINS FORECOURT

SEP 22 2PM

- PROPOSED TOWER SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED TOWER
- EXISTING CONTEXT SHADOW
- ADDITIONAL SHADOW CAST ON LAWN AREA



TOWN PLANNING SUBMISSION (DEC 2018)



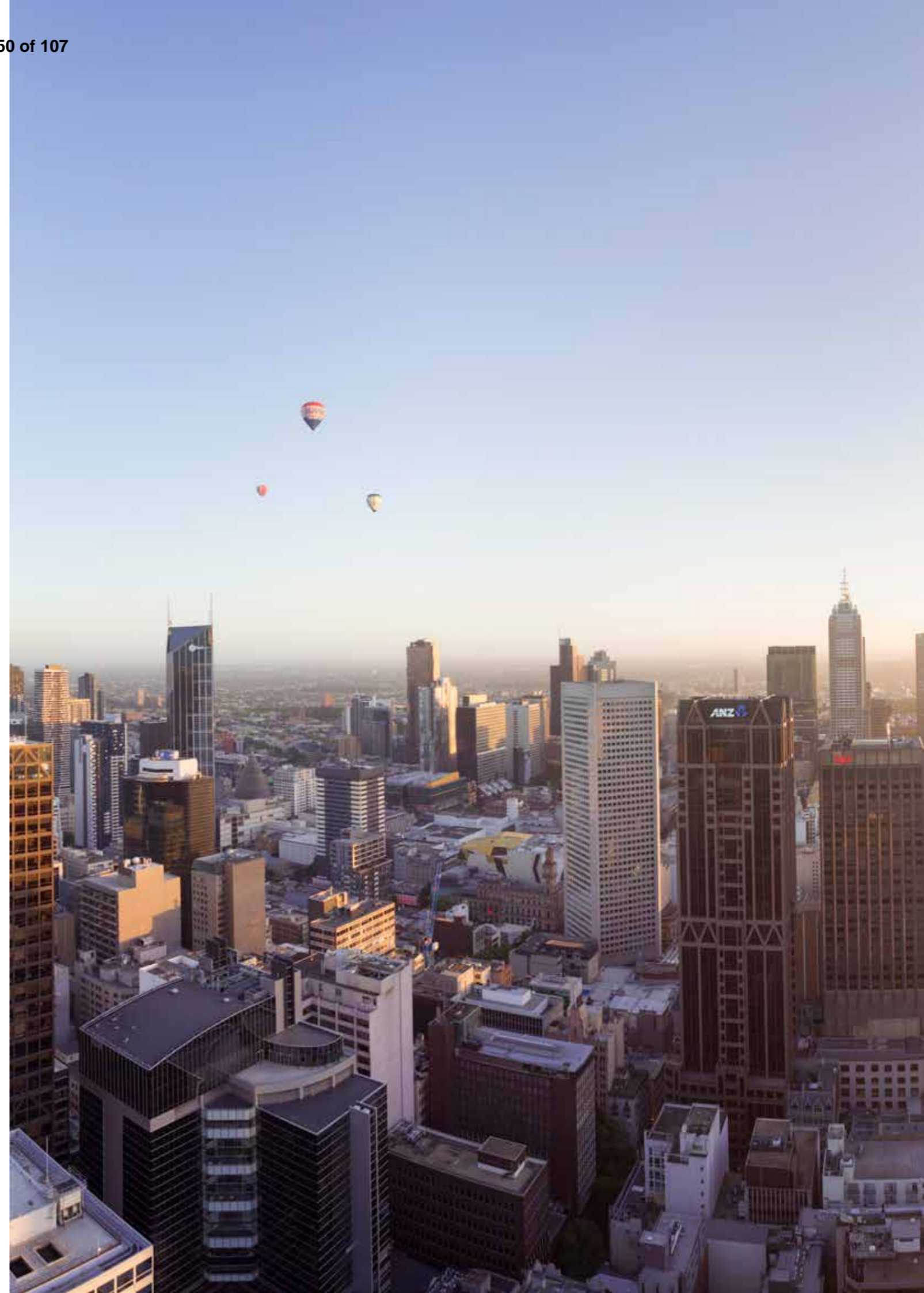
REVISED COMPLIANT SCHEME (SEP 2019)

435 BOURKE STREET

22 SEPTEMBER 2019

QUEEN ST FACADE CONCEPT PACK

BATESSMART™






REVISED COMPLIANT SCHEME



FAMILY OF FORMS AND FACADE ARTICULATION

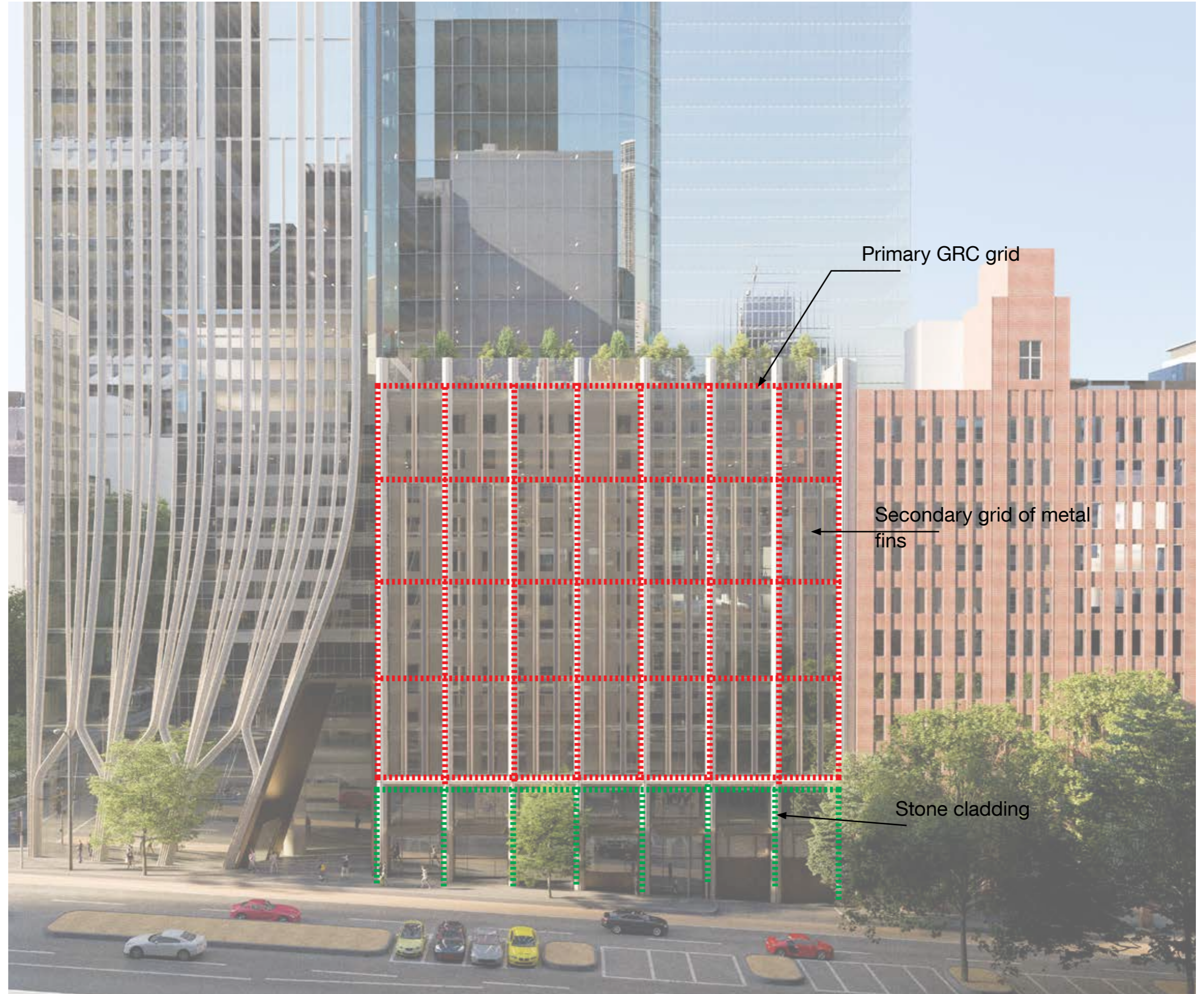
Proposed Modifications to the façade design for the 40m podium on Queen St to further differentiate the various massing forms and to reference the proportion and materiality of the original building façade.



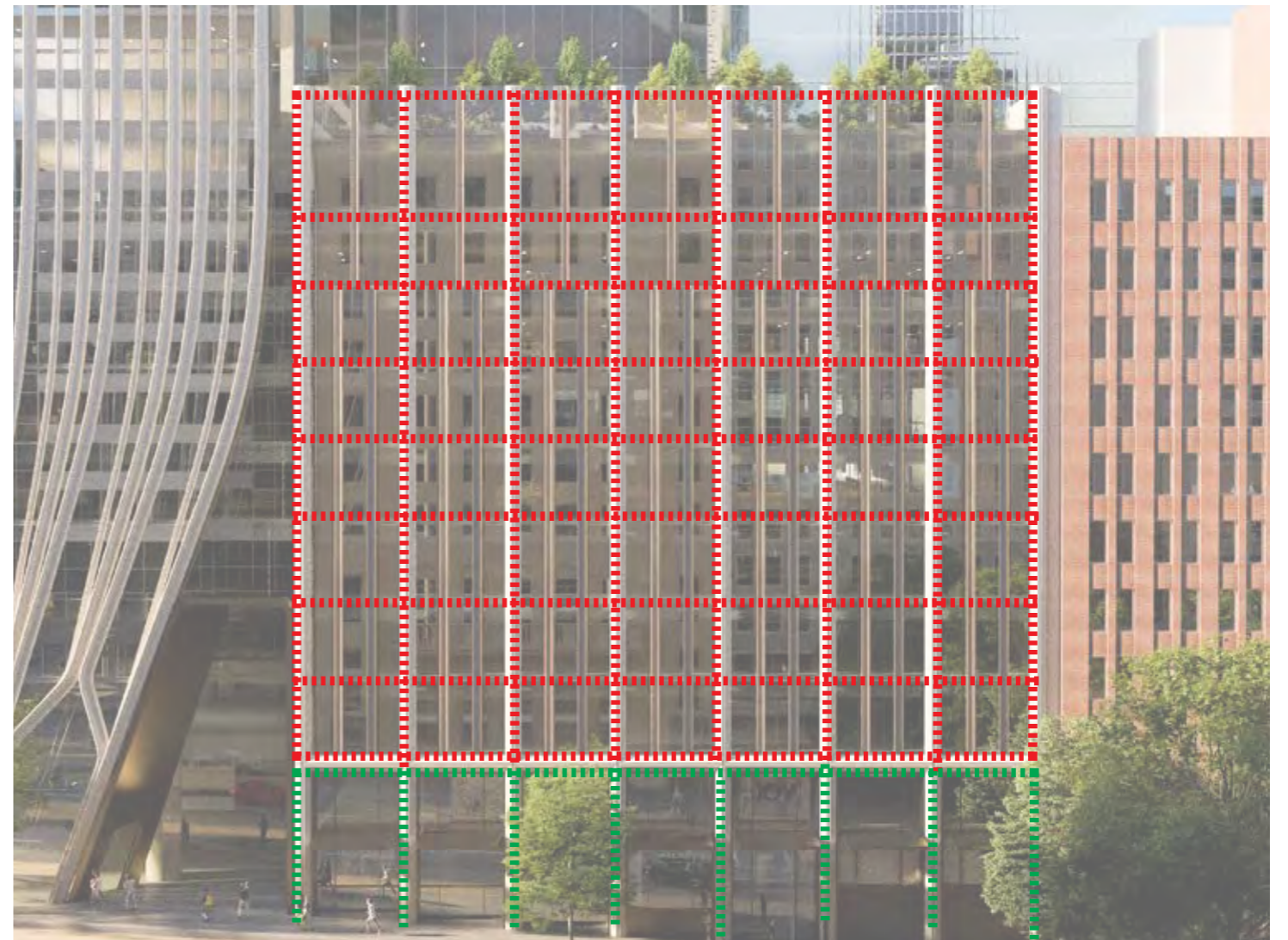
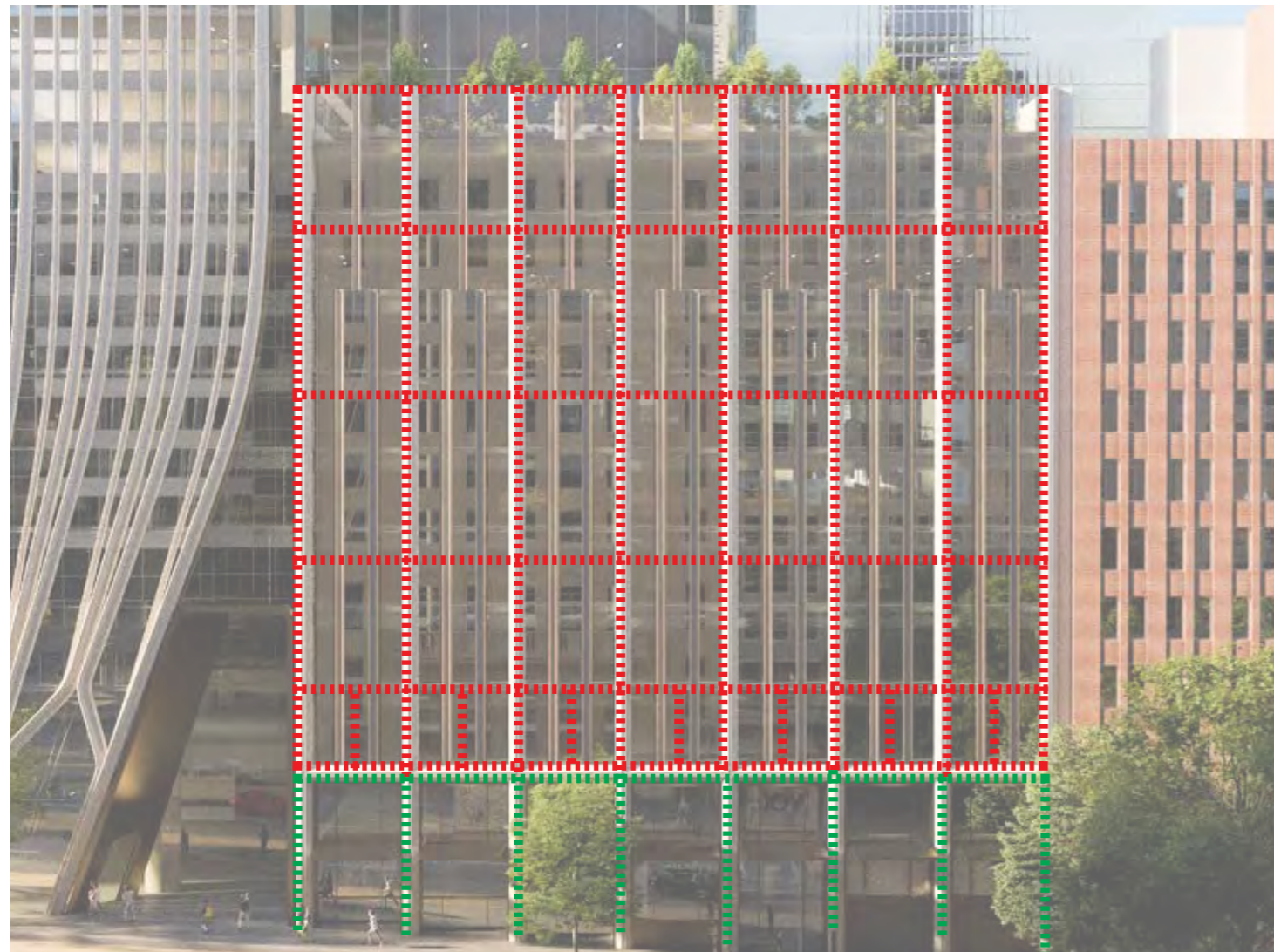
-  Facade Type A
Corner
-  Facade Type B
Bourke St
-  Facade Type C
Queen St

REFERENCE TO ORIGINAL FACADE PROPORTION

- Proposed GRC shading element
- Explorations of rectangular grids that balance horizontal and vertical proportion
- Modifying the dominant vertical facade of the submitted design
- Modular GRC construction references original modular precast concrete sunshading elements
- Detail of jointing and articulation will reference original jointing between concrete modules



REFERENCE TO ORIGINAL FACADE PROPORTION

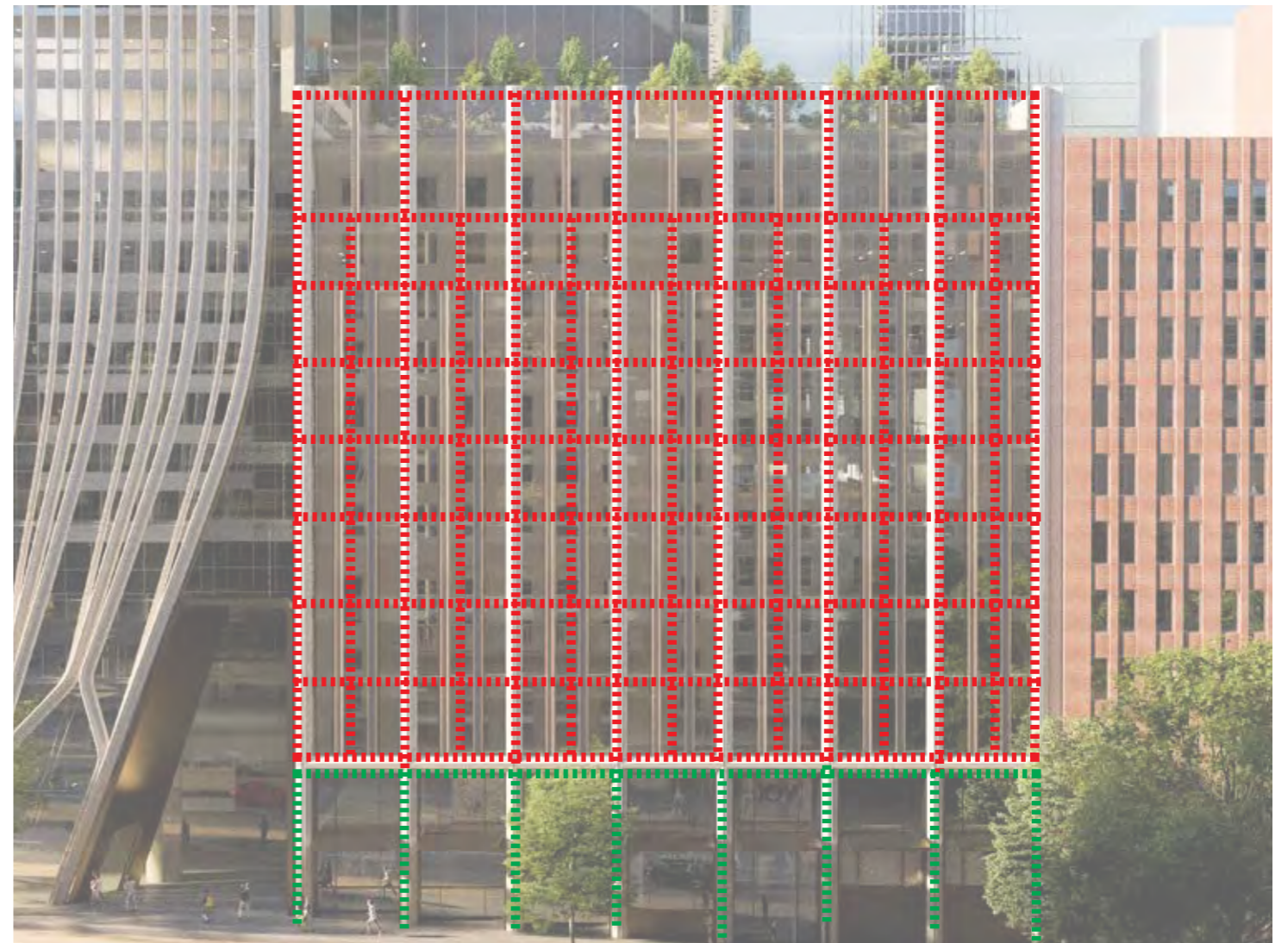
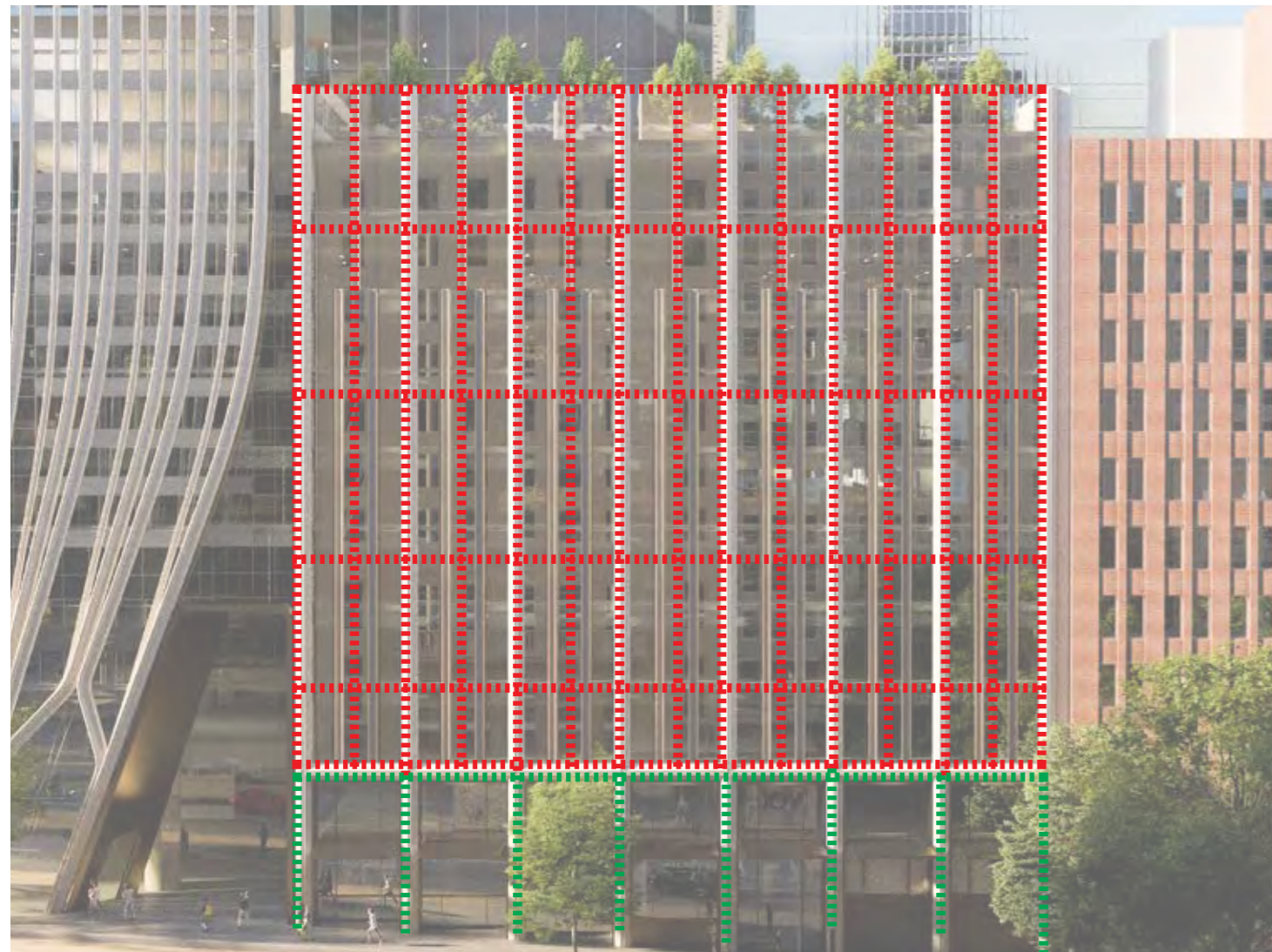


GRC modular element

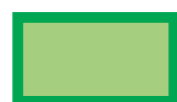


Stone Cladding

REFERENCE TO ORIGINAL FACADE PROPORTION



GRC modular element



Stone Cladding

DELEGATE REPORT MINISTERIAL PLANNING REFERRAL

City of Melbourne application number:	TPM-2019-1
DELWP application number:	PA1800482
Applicant:	Cbus Property Pty Ltd C/- Urbis Pty Ltd
Owner:	Cbus Property Melbourne Pty Ltd
Architect:	Bates Smart
Address:	423 Bourke Street, 140 Queen Street, 150 Queen Street and 21-27 McKillop Street, Melbourne (referred to as 435 Bourke Street)
Proposal summary:	Use part of the land for a minor sports and recreation facility, demolition of the buildings on the site, buildings and works pursuant to the Capital City Zone (Schedule 1), Design and Development Overlay (Schedule 2 and 10) and Heritage Overlay.
Cost of works:	\$300,000,000
Date received by DELWP	21 December 2018 (Original proposal) 19 September 2019 (Section 50 Amendment)
Date received by City of Melbourne:	15 January 2019 (Original proposal) 20 September 2019 (Section 50 Amendment)
City of Melbourne status:	Recommending Referral Authority (formal referral)
Responsible officer:	Kate Yuncken, Principal Urban Planner

1 SUBJECT SITE AND SURROUNDS

1.1 Subject Site

Ministerial Application PA1800482 concerns the site known as 435 Bourke Street, Melbourne.

The subject site consists of four individual buildings, and forms the northern portion of the block bounded by Bourke Street, Queen Street, McKillop Street and Little Collins Street. The site is located within the central city core and is affected by Heritage Overlay HO1213 (introduced by Amendment C271, gazetted 12 August 2019), along with various Design and Development Overlays and the Parking Overlay.

The site comprises the following parcels of land:

- **423 Bourke Street, Melbourne**, being Plan CP100426 and Lot 1 TP650019 (Volume 8881 Folio 499), occupied by an 11 storey office building that was built in 1973 and further refurbished in 1999.
- **140 Queen Street, Melbourne**, being Plan PC373014 (Volume 11346 Folio 722), occupied by a 13 storey concrete office building with basement car parking. The building was constructed in 1966 and was designed in a 'modernism' style by Yuncken Freeman Architects Pty Ltd. It contains a mix of offices and retail tenancies.

Amendment C271 was introduced on 12 August 2019 to replace interim heritage controls and applies a local heritage control over 128-146 Queen Street, the Scottish Amicable Building (Schedule 1213 to the Heritage Overlay).

The Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance, November 2018 (Amended May 2019) identifies that the building at 140 Queen Street, Melbourne is a 'Significant' graded heritage building.

- **150 Queen Street, Melbourne**, being Lot 1 TP844831 & Lot 1 TP113365 (Volume 9402 Folio 250 and Volume 9632 Folio 859), occupied by a 13 storey concrete office building with basement car parking and ground level retail tenancies. The building was constructed in 1960 and was designed by Bates Smart and McCutcheon.

The existing building has been demolished (approved via Planning Permit TP-2018-375) and the site is currently surrounded by hoarding along the Bourke and Queen Street frontages.

- **21-27 McKillop Street, Melbourne**, being Lot 1 TP861285 and Lot 2 TP861285 (Volume 11435 Folio 182 and Volume 9412 Folio 671), was occupied by a single storey brick building most recently operating as a restaurant. The building was constructed in 1986 and has been refurbished including in 1996 and 2007. The site is identified for its archaeological potential by Heritage Victoria (HI No. H7822-1597) and has the following statement of significance:

'This place is included on the Victorian Heritage Inventory, for its potential to contain historical archaeological remains associated with the settlement and growth of early Melbourne. Under the terms of the Heritage Act 2017 there is protection for all historical archaeology sites and objects in the state.'

Relevant details regarding the existing conditions and dimensions of the subject site are provided below.

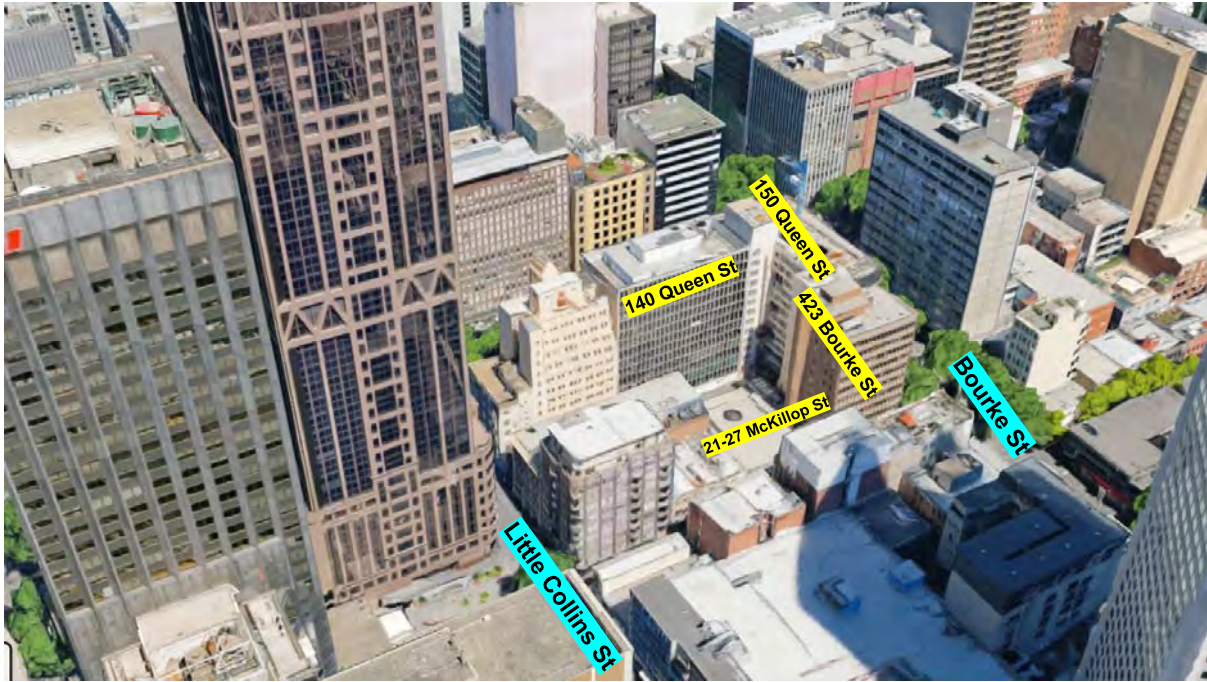
Table: Subject Site Details / Dimensions	
Street Frontage:	<p>56.6 metres to Bourke Street to the north. Bourke Street accommodates two lanes of traffic, two lanes for trams and on-street car parking located on both sides of the street. There are three street trees along the Bourke Street road reserve adjacent to the site frontage.</p> <p>62.9 metres to Queen Street to the west. Queen Street accommodates five lanes of traffic (three lanes travelling north and two lanes of travelling south) and a designated bus lane travelling south, with a central median strip. There are two existing street trees along the Queen Street road reserve adjacent to the site frontage.</p> <p>48.1 metres to McKillop Street to the west. McKillop Street is a 7 metre wide laneway, which extends in a north-south direction connecting Bourke Street with Little Collins Street.</p> <p>The rear of the sites at 140 Queen Street and 21-27 McKillop Street have a frontage to Penfold Place of 5.78 metres (approximately). Penfold Place is a north-south laneway extending to Little Bourke Street to the south.</p>
Site Depth:	<p>62.9 metres (measured from the Bourke Street title boundary) 56.6 metres (measured from the Queen Street title boundary)</p>
Site Area:	2,953 m ²
Topography:	The slope of the land falls by approximately 3.2 metres along the Bourke Street frontage (northwest to northeast, with the highest point at the northwest corner of the site); approximately 3.9 metres along the Queen Street frontage (north to south); and 2.5 metres along the McKillop Street frontage (northeast to south).
Heritage Status:	The subject site at 140 Queen Street is affected by Schedule 1213 of the Heritage Overlay, which was introduced by Amendment C271 and gazetted on 12 August 2019 to replace interim heritage controls.



Queen and Bourke Streets and McKillop Street – facing north



COMPASS base plan of subject site and surrounds including road status



Google Maps 3D subject site and surrounds

1.2 Surrounds

1.2.1 160 Queen Street, Melbourne

Across Bourke Street, to the immediate north of the subject site is 160 Queen Street. This site is occupied by Elders House, which is a 15 storey office building (with basement car parking), also incorporating an older four storey building towards Kirks Lane.

1.2.2 118-126 Queen Street, Melbourne

The subject site at 140 Queen Street shares a direct interface with 118-126 Queen Street, Melbourne (ACA Building), which is affected by a Heritage Overlay (HO1069). The existing building comprises a twelve storey office building with ground level retail and a basement.

The building was designed by the Sydney firm Hennessy, Hennessy & Co in a 'Neo-Gothic Jazz Moderne style'. Key features include the stepped tower and the pink faience made from a material known as Benedict stone. It was originally constructed for use by the Australasian Catholic Assurance Company in 1936.

The northern façade of the existing building abuts the site boundary and shares a party wall immediately adjoining the existing building on the subject site at 140 Queen Street.

1.2.3 392 Little Collins Street, Melbourne

The subject site at 21-27 McKillop Street shares a direct interface to the south with 392 Little Collins Street, Melbourne (Fairfax Guest House), which is affected by a Heritage Overlay (HO1056). The existing building comprises a five storey cement rendered brick building located on the northeast corner of Little Collins Street and Penfold Lane.

The western boundary of the site fronts Penfold Lane. There are a number of north facing windows, which are protected by a light and air easement (E-3).

The existing building was originally a warehouse, converted to an office building in 1964 and then refurbished, converted and subdivided into 31 residential dwellings and ground level retail in 1995.

1.2.4 19 McKillop Street, Melbourne

The subject site at 21-27 McKillop Street shares a direct interface to the south with 15-19 McKillop Street, Melbourne (Central Bonding Warehouses), which is affected by a Heritage Overlay (HO724). The existing building comprises a three-storey bluestone building constructed in 1860, which was originally used as a warehouse and refurbished in 2000. It has most recently operated as a restaurant.

1.2.5 455 Bourke Street, Melbourne

Across Queen Street to the immediate west of the subject site is 455 Bourke Street, Melbourne. The site is occupied by a 14 storey office building (with ground level retail and basement carparking), located on the southwest corner of the intersection of Bourke Street and Queen Street.

1.2.6 131-141 Queen Street, Melbourne

Across Queen Street to the immediate west of the subject site is 131-141 Queen Street, Melbourne (Victoria Club Building), which is affected by an interim Heritage Overlay (HO1258), which is due to expire on 29 May 2020. The existing building comprises a nine storey brick office building designed by EA Watts in the mid-1920s.

1.2.7 123 Queen Street, Melbourne

Across Queen Street towards the southwest of the subject site is 123 Queen Street, Melbourne (Former RACV Club), which is affected by an interim Heritage Overlay (HO1068), which is due to expire on 29 May 2020. The existing building comprises a 17 storey concrete and brick building with basement level parking, designed by Bates Smart & McCutcheon in 1961.

1.2.8 421 Bourke Street, Melbourne

Across McKillop Street to the east, the subject site at 423 Bourke Street shares a direct interface to the east with 421 Bourke Street, Melbourne (Former Kaye, Butchart & Co offices), which is affected by a Heritage Overlay (HO546). The existing building comprises a three storey brick and bluestone building, which was constructed in 1859 with an upper floor added in 1919. The property is now operated by Kozminsky (antiques and jewellery).

1.2.9 20-22 McKillop Street, Melbourne

Across McKillop Street to the east, the subject site at 423 Bourke Street shares a direct interface to the east with 20-22 McKillop Street, Melbourne, which is affected by a Heritage Overlay (HO725). The existing building comprises a seven storey brick building (former warehouse) with basement.

The building was originally designed by Thomas Watts & Sons and refurbished with the addition of three extra floors and sub-divided into units in 2004.

1.3 Amendment C271: Permanent Heritage Controls

Melbourne Planning Scheme Amendment C271 was prepared by Council and was gazetted on 12 August 2019. It applies to all land within the municipality affected by a Heritage Overlay and applies permanent heritage controls to replace interim controls.

Broadly, Amendment C271 implements:

- An amended schedule to Clause 43.01 Heritage Overlay to:
 - Insert heritage precincts HO1205 (Guildford and Hardware Laneways Precinct) and HO1204 (Elizabeth Street West Precinct) on a permanent basis and include the “Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance November 2018” and “Guildford and Hardware Laneways Heritage Study 2017: Heritage Inventory November 2018”
 - Insert seven new individual heritage sites on a permanent basis.

- Amend Clause 22.04 (Heritage Places within the Capital City Zone Policy) to ensure that the Study is considered when making decisions relating to any of the places and precincts which are the subject of this amendment.
- Amend the schedule to Clause 72.04 to insert two incorporated documents titled, “*Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance November 2018*” and “*Guildford and Hardware Laneways Heritage Study 2017: Heritage Inventory November 2018*”.

Of relevance to the site, Amendment C271 applies a Heritage Overlay to 140 Queen Street (HO1213 - 128-146 Queen Street, the Scottish Amicable Building). The Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance, November 2018 (Amended May 2019) identifies 140 Queen Street, Melbourne, as a ‘Significant’ graded heritage building.

1.3.1 Restrictive Covenants / S.173 Agreements

The register search of statement for the Certificates of Title listed below identify the following land parcels burdened by various Section 173 Agreements:

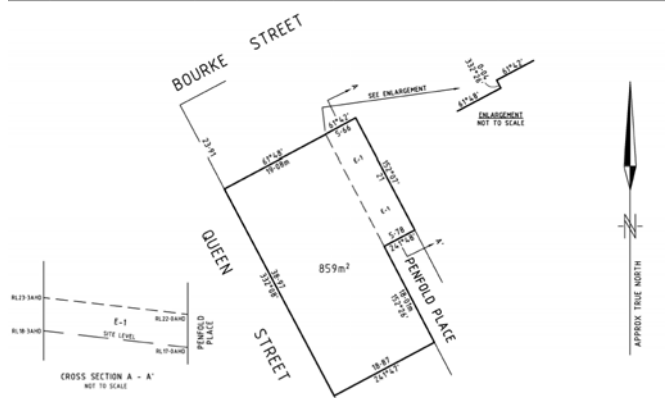
1. **Lot 1 on Title Plan 844831J**
 Section 173 Agreement: AK948534Q, Date: 06/03/2014
 Section 173 Agreement: AR673766M, Date: 20/11/2018
2. **Lots 1 and 2 on Title Plan 861285N**
 Section 173 Agreement: AH494607S, Date: 14/09/2010
3. **Lot 1 on Title Plan 113365Q**
 Section 173 Agreement: AK948534Q, Date: 06/03/2014
 Section 173 Agreement: AR673766M, Date: 20/11/2018
4. **Land in Plan of Consolidation 373014U**
 Section 173 Agreement: AH494607S, Date: 14/09/2010

1.3.2 Easements in favour of subject site

Easement E-1 on Title Plan 113365Q and Plan of Consolidation PC373014U

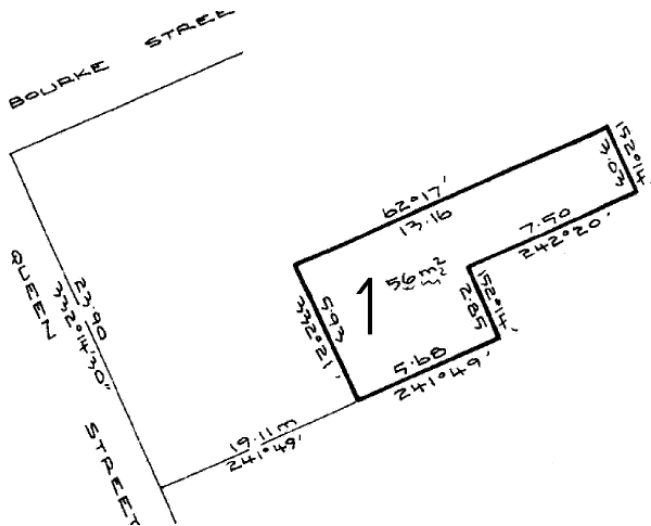
Easement E-1 is shown on Plan of Consolidation PC373014U (shown on the below extract from title) and adjoins the rear of 140 Queen Street (Volume 11346 Folio 722). The easement provides Carriageway (limited in height) to benefit 150 Queen Street (Volume 9402 Folio 250 and Volume 9632 Folio 859). The easement also provides sewerage and water supply.

Easement Reference	Purpose	Width/Height	Origin	Land Benefited/in Favour Of
E-1	As provided for in section 29(1c) L.C.A 1989	See Plan	Section 28(1c) L.C.A 1989	Citypower, City West Water & Vic Gas Distribution Pty Ltd
	Carriageway (limited in height)	See Plan	C/E A887624V	C/T Vol 9632 Folio 859 & C/T Vol 9402 Folio 250
E-1	*See cross section A-A	See Plan	This Plan	City West Water Ltd
	Sewerage	See Plan	This Plan	City West Water Ltd
	Water Supply	See Plan	This Plan	City West Water Ltd



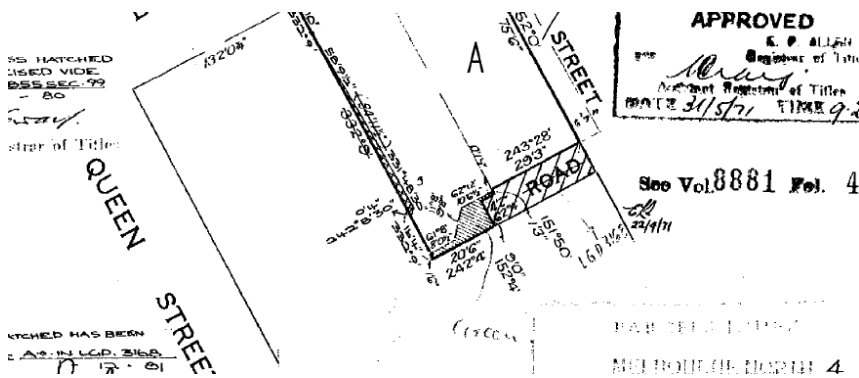
Lot 1 of TP113365Q is encumbered by a Carriageway easement (shown on the below extract from the title) which adjoins the rear of the subject site (Volume 9632 Folio 859), and is a carriageway easement that provides an extension to Penfold Place.

A small portion of land (approx. 20 m² in area) located at the northern end of the Council owned section of Penfold Place is proposed to be purchased from Council by Cbus Property Pty Ltd for integration with the development site. An Application for Road Discontinuance has been approved by Council.



Easement E-2 on Plan of Consolidation 100426

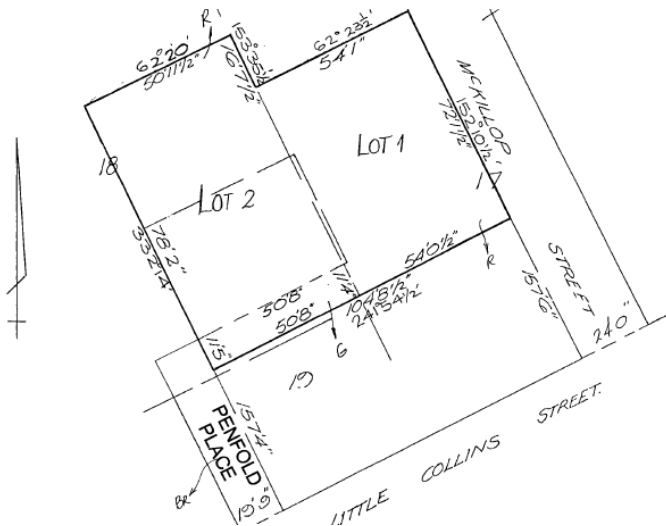
423 Bourke Street is encumbered by an easement (shown hatched on the below extract from the title) in the southwest corner of the site (Volume 8881 Folio 499). This easement was established to provide for Carriageway (limited in height), light, sewerage and drainage.



1.3.3 Easements encumbering subject site

Easement E-3 on Title Plan TP861285N (Lot 1 TP861285 and Lot 2 TP861285)

The adjoining building located at 392 Little Collins Street benefits from the easement (E-3) on the southern boundary of the land at 21 McKillop Street (Volume 11435 Folio 182). This Easement on the southern boundary of the 21 McKillop Street site, was established to provide light and air to the existing building at 392 Little Collins Street.



1.4 Archaeology and Heritage Inventory

The majority of the subject site is not included in the Victorian Heritage Inventory.

The portion of the site at 21-27 McKillop Street, Melbourne, is identified as being a Heritage Inventory Site by Heritage Victoria (HI No. H7822-1597) and has the following statement of significance:

'This place is included on the Victorian Heritage Inventory, for its potential to contain historical archaeological remains associated with the settlement and growth of early Melbourne. Under the terms of the Heritage Act 2017 there is protection for all historical archaeology sites and objects in the state.'

1.5 Aboriginal Cultural Heritage

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

2 BACKGROUND AND HISTORY

2.1 Application PA1800482

On 21 December 2018, Application PA1800482 was received by DELWP, seeking planning permission for the following:

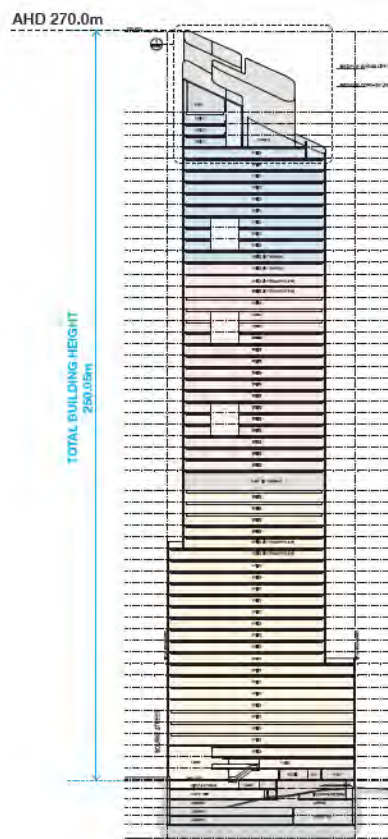
Use of the land for a minor sports and recreation facility, demolition of the buildings on the site, buildings and works pursuant to the Capital City Zone (Schedule 1), Design and Development Overlay (Schedule 2 and 10) and Heritage Overlay.

DELWP gave notice of the application to Melbourne City Council pursuant to S.52(1)(c) of the *Planning and Environment Act 1987* on 29 May 2019.

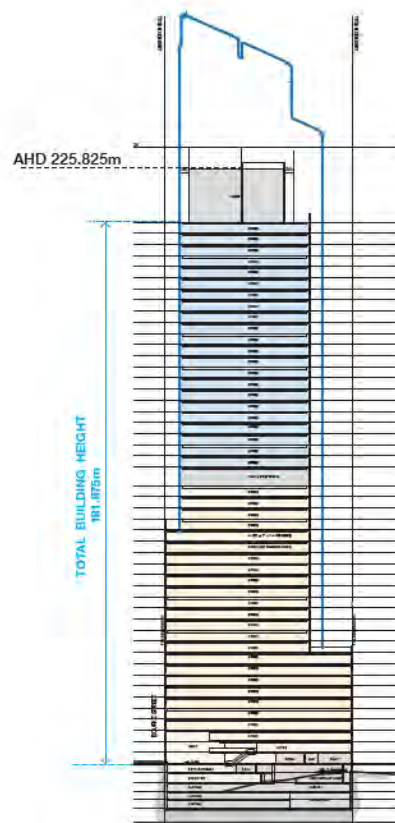
2.2 Section 50 Amendment Application

Following feedback received from the Minister for Planning on 8 September 2019 and subsequent discussions between the applicant and DELWP (9 September 2019) and City of Melbourne officers (10 September 2019) the application was formally amended on 19 September 2019 under Section 50 of the *Planning and Environment Act 1987*.

The changes involved a modified built form that conforms with all objectives and requirements of DDO10.



TOWN PLANNING SUBMISSION (DEC 2018)



REVISED COMPLIANT SCHEME (SEP 2019)

In summary the changes to the built form are:

Built form	Dec 2018	Sep 2019
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Height	250 metres	182 metres
Southern setback to ACA Building (118 Queen Street)	10 metres	14 metres
Gross floor area above ground	104,460 m ²	88,205 m ²

This represents the current proposal under consideration.

2.3 Demolition Permit – 150 Queen Street – TP-2018-375

A planning permit was granted by the City of Melbourne on 10 July 2018 (Planning Permit No. TP-2018-375) for demolition of the existing building and use of land for temporary public open space on the site at 150 Queen Street.

2.4 Demolition Application – 140 Queen Street and 21-27 McKillop Street – TP-2019-610

An application was lodged with City of Melbourne on 2 August 2019 for demolition of the existing buildings at 140 Queen Street and 21-27 McKillop Street. This application includes a proposed temporary public open space offering onsite (inclusive of the site at 150 Queen Street).

This application was made to address public safety issues that have arisen due to the deteriorating condition of the 140 Queen Street building façade, while the current application for the redevelopment of the site is assessed.

This application has been placed on hold at the request of the applicant.

3 PROPOSAL

3.1 Plans / Reports Considered in Assessment

Table: Plans / Reports considered in assessment		
Plan / Report Title	Plan/Report Author	Plan/Report Date
Planning Report	Urbis	21 February 2019
Letters providing further information	Urbis	16 January 2019 21 February 2019 12 April 2019 5 June 2019
Section 50 Amendment submission	Urbis	19 September 2019
Architectural Drawings	Bates Smart	19 September 2019
Queen Street Façade Concept Pack	Bates Smart	22 September 2019
Plot Ratio / Floor Area Analysis	Bates Smart	1 October 2019
Urban Context Report	Bates Smart	21 February 2019
Landscape Planning Report	Tract Consultants	12 December 2018

Table: Plans / Reports considered in assessment		
Arboricultural Construction Impact Assessment	Greenwood Consulting	13 December 2018
Traffic Impact Assessment	GTA Consultants	1 February 2019
Heritage Impact Assessment	Bryce Raworth Pty Ltd	December 2018
Wind Assessment	MEL Consultants	10 December 2018
Airspace Assessment	Thompson GCS	5 December 2018
Environmentally Sustainable Design (ESD) Statement	Norman Disney Young	5 December 2018
Operational Waste Management Plan	Irwinconsult	13 December 2018
DDA Statement	Phillip Chun Building Compliance	10 October 2018
Road discontinuance application	Urbis	10 August 2018
Town Planning Area Assessment	Rider Levett Bucknall	19 February 2019
Easement Legal Opinion	Gadens Lawyers	19 February 2019
Stormwater Management Plan (WSUD Response)	MA Civil	21 February 2019
Southern Interface Study	Bates Smart	18 February 2019
Structural Assessment of 140 Queen Street façade, including multiple reports submitted as follows: - Original structural assessment of 140 Queen Street façade - Additional structural engineering advice - Structural engineering memo - Supplementary façade addendum report	Arup Arup BG&E Facades Arup	12 December 2018 5 June 2019 4 June 2019 10 July 2019

3.2 Summary of Proposed Development / Land Use & Plan Excerpts

3.2.1 Summary of proposed development / use

Broadly the application comprises:

- Demolition of the existing buildings at 140 Queen Street, 150 Queen Street and 21-27 McKillop Street
- Development of the combined site for a 49 level (181.9 metre) commercial office tower with podium level retail tenancies and four basement levels.
- Development of the site at 21-27 McKillop Street with a four level building comprising a mix of retail tenancies at lower and ground levels, and multi-function spaces above for a mix of uses such as flexible meeting, recreation and lifestyle spaces.
- Landscaped terraces and open space are proposed at ground levels (including removal and replacement of two existing trees), along with outdoor roof terraces and sky gardens.

- The existing building at 423 Bourke Street is proposed to be retained, excluding a small corner of the building required to be demolished at the southwest corner. The proposed tower slightly cantilevers over this building.

The application accordingly seeks planning permission for the following:

- Demolition, use of the land for a minor sports and recreation facility (Section 2 use) and construct a building or construct or carry out works in the Capital City Zone.
- Demolish or remove a building or works and construct a building or construct or carry out works in the Heritage Overlay (HO1213).
- Construct a building or construct or carry out works under the following Design and Development Overlay schedules:
 - Design and Development Overlay – Schedule 1 (Active Street Frontages – Area 2)
 - Design and Development Overlay – Schedule 2 (Special Character Areas – Built Form Hoddle Grid – Area A2)
 - Design and Development Overlay – Schedule 10 (General Development Area – Built form)



Perspective from Bourke Street (north elevation) of the proposal and surrounds (Bate Smart September 2019)



Perspective eastern view along Bourke Street (west elevation) of the proposal and surrounds (Bate Smart September 2019)



Perspective western view along Bourke Street (east elevation) of the proposal and surrounds (Bate Smart September 2019)

**3.3 Detailed Information: Built Form
(Architectural Drawings dated 19 September 2019)**

3.3.1 Site layout and GFA

Total Site Area:	2,953 m ²	Site Coverage:	2,900 m ² (98%)
140 Queen Street	859 m ²		
150 Queen Street	913 m ²		
423 Bourke Street	396 m ²		
21-27 McKillop Street	785 m ²		

Combined Floor Area Ratio (FAR)	<p>98,205sqm (total) – 10,000sqm (basement) = 88,205 sqm</p> <p>$\frac{88,205\text{sqm (floor area)}}{2,953\text{sqm (site area)}} = 29.87:1$</p> <p>Proposed FAR: 29.87:1</p>	Floor area uplift sought:	40,889 m ²
DDO2 Plot Ratio McKillop St building Total tower GFA above ground in DDO2	<p>GFA 1,881 m² /Plot Ratio 4.51</p> <p>2,184 m² / 5.24:1</p>	DDO10 FARS Total tower GFA above ground (incl. 423 Bourke) in DDO10	84,140 m ² / 33.17:1
Office Floor Area* *Note: Car parking areas have been subtracted from this calculation.	75,277 m ²	Minor Sports and Recreation Facility:	588 m ²
Retail/Shop Floor Area* *Note: exclude 423 Bourke Street retail	714 m ²		

3.3.2 Building Height and Setbacks

Number of storeys above ground level (excluding mezzanines):	Max: 49	Number of basement levels:	Max: 4
21-27 McKillop Street	5	140 Queen Street	49
150 Queen Street	49	423 Bourke Street	11 (existing building retained)

Maximum Building Height (residential hotel tower):	225.9 metres (including plant)		Street Wall Height (tower):	Bourke Street podium: 37.8 metres	
	182 metres (excluding plant)			Queen Street podium: 37.8 metres	
Minimum Tower Setbacks (above street wall):	North (Bourke Street)	5 m	East (McKillop Street)	16.200 m – 17.050 m (to centre of laneway)	
	South	5 m-14.025 m	West (Queen Street)	5 m	

3.3.3 Access, car parking, bicycle facilities and loading / unloading

Car parking, bicycle facilities and loading and unloading			
Car parking spaces:	83	Bicycle spaces:	585
Motorcycle spaces:	0	Bicycle facilities:	56 showers and change rooms.
Parking access:	Car parking access will be via a basement ramp, accessible from the east along Queen Street.		
Loading / unloading:	Loading will be located on the Lower Ground Level, with access provided via a separate vehicle crossing from Penfolds Place, accessed via Little Collins Street.		

3.3.4 Building Programme

140 Queen Street and 150 Queen Street	
Basement levels 1-4	Car parking and storage areas associated with proposed land uses; building services; rainwater and grey water tanks.
Lower Ground Level	Retail, bicycle storage, loading and back of house
Ground level	Retail and office lobby
Mezzanine level	Office

Levels 1-46	Office
Roof	Plant
423 Bourke Street	
Ground level – Level 11	No change proposed
21-27 McKillop Street	
Lower Ground Level	Retail tenancies (x2); cyclist dismount area and connection to main buildings end of trip facilities
Ground level	Retail
Mezzanine Level and Level 2	Minor Sports and Recreation Facility. <ul style="list-style-type: none"> • Total patrons 196 • Hours of operation <ul style="list-style-type: none"> - 6 am to 9 pm Monday to Friday - 8 am to 4 pm Saturday and Sunday
Level 3	Retail and roof terrace

4 STATUTORY CONTROLS

The application requires the following planning permissions under the Melbourne Planning Scheme:

- Demolition, use of the land for a minor sports and recreation facility (Section 2 use) and construct a building or construct or carry out works in the Capital City Zone.
- Demolish or remove a building or works and construct a building or construct or carry out works in the Heritage Overlay (HO1213).
- Construct a building or construct or carry out works under the following Design and Development Overlay schedules:
 - Design and Development Overlay – Schedule 1 (Active Street Frontages – Area 2)
 - Design and Development Overlay – Schedule 2 (Special Character Areas – Built Form Hoddle Grid – Area A2)
 - Design and Development Overlay – Schedule 10 (General Development Area – Built form)

4.1 Zone

The subject site is located in the Capital City Zone.

4.1.1 Use of land

The application includes the following land uses (as characterised under the Melbourne Planning Scheme for the purpose of determining the applicable planning requirements in the Capital City Zone):

- **Office**

Use of land for 'Office' is a 'Section 1 – permit not required' land use in the Capital City Zone. The proposed use of land for Office is therefore a Section 1 – permit not required land use in the Capital City Zone.

- **Retail**

Use of land for 'Retail' (other than Adult sex bookshop, Department store, Hotel, Supermarket, and Tavern) is a 'Section 1 – permit not required' land use in the Capital City Zone. The proposed use of land for Retail is therefore a Section 1 – permit not required land use in the Capital City Zone.

- **Minor Sports and Recreation Facility**

Use of land for 'minor sports and recreation facility' is a 'Section 2 – permit required' land use in the Capital City Zone. The proposed use of land for 'minor sports and recreation facility' therefore requires a permit for use under the Capital City Zone.

4.1.2 *Buildings and Works*

A planning permit is required to construct a building or construct or carry out works under the Capital City Zone.

4.1.3 *Demolition*

A planning permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works under the Capital City Zone.

4.2 **Overlays**

4.2.1 *Heritage Overlay (Schedule HO1213: 128-146 Queen Street ('140 Queen Street', Melbourne -the Scottish Amicable Building)*

A planning permit is required to demolish or remove a building, or construct a building or construct or carry out works under HO1213.

4.2.2 *DDO Schedule 1 (Area 2) (Active Street Frontages) (DDO1-A2)*

A permit is required for buildings and works at ground level under to Schedule 1 of Clause 43.02.

4.2.3 *DDO Schedule 2 (Special Character Areas – Built Form (Hoddle Grid)) (DDO2-A2)*

A planning permit is required to construct a building or construct or carry out works (other than work at the ground level) under the Schedule 2 of Clause 43.02.

4.2.4 *DDO Schedule 4 (Weather Protection – Capital City Zone) (DDO4)*

A permit is not required to construct a building or construct or carry out works if adequate weather protection to the street frontage is provided to the satisfaction of the responsible authority.

4.2.5 *DDO Schedule 10 (General Development Area – Built Form) (DDO10)*

A planning permit is required to construct a building or construct or carry out works (other than work at the ground level and other minor works) under the Schedule 10 of Clause 43.02.

A permit can only be granted to vary the preferred requirement for any design element where it can be demonstrated that the development will achieve the relevant design objectives and built form outcomes.

4.2.6 *Parking Overlay Schedule 1 (Capital City Zone – Outside the Retail Core) (PO1)*

Schedule 1 to this Overlay identifies appropriate car parking rates for various uses within the CCZ. Under this Overlay, a permit is required to provide car parking spaces in excess of the car parking rates specified within the Schedule. The maximum number of spaces to be provided under PO1 rate is 295 spaces. The proposed 83 car parking spaces does not exceed the maximum number.

A planning permit is not required under this overlay.

4.3 Particular Provisions

4.3.1 Clause 52.34 Bicycle Facilities

The application complies with the following requirements of *Clause 52.34 Bicycle Facilities*:

- The minimum bicycle parking spaces requirement is met. 337 bicycle spaces are required and 585 bicycle spaces are proposed.
- The shower requirements for end of trip facilities where bicycle parking is provided. 37 showers are required and 56 showering facilities are provided.
- The change room requirements for end of trip facilities are located near the bicycle parking.

A planning permit is therefore not required under *Clause 52.34 Bicycle Facilities*.

4.4 General Provisions

4.4.1 Clause 65 Decision Guidelines

Before deciding on an application or approval of a plan, the responsible authority must consider the matters set out in *Clause 65 Decision Guidelines*, as appropriate.

5 STRATEGIC FRAMEWORK

5.1 Planning Policy Framework

The Planning Policy Framework (PPF) provides the broad policy direction within the Victoria Planning Provisions. The planning principles set out under the PPF are to be used to guide decision making on planning proposals across the state.

The following PPF clauses are considered relevant to the application.

- Clause 11 – Settlement
- Clause 13 – Environmental Risks and Amenity
- Clause 15 – Built Environment and Heritage
- Clause 17 – Economic Development
- Clause 18 – Transport
- Clause 19 - Infrastructure

5.2 Municipal Strategic Statement

The Municipal Strategic Statement (MSS) is a concise statement of the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving the objectives.

The MSS furthers the objectives of planning in Victoria to the extent that the Planning Policy Framework is applicable to the municipality and local issues, and provides the strategic basis for the application of the zones, overlays and particular provisions in the planning scheme and decision making by the responsible authority.

The following clauses of the MSS are considered relevant to the application:

- Clause 21.02 – Municipal Profile
- Clause 21.03 – Vision

- Clause 21.04 – Settlement
- Clause 21.06 – Built Environment and Heritage
- Clause 21.08 – Economic Development
- Clause 21.09 – Transport
- Clause 21.10 – Infrastructure
- Clause 21.11 – Local Areas
- Clause 21.12 – Hoddle Grid
- Clause 21.17 – Reference Documents

5.3 Local Planning Policy Framework

A Local Planning Policy (LPP) is a policy statement of intent or expectation. It states what the responsible authority will do in specified circumstances or the responsible authority's expectation of what should happen. LPP's provide the responsible authority an opportunity to state its view of a planning issue and its intentions for an area, and provides guidance to decision making on a day to day basis.

The following LPP's are considered relevant to the application:

- Clause 22.01 – Urban Design within the Capital City Zone
- Clause 22.02 – Sunlight to Public Spaces
- Clause 22.03 – Floor Area Uplift and Delivery of Public Benefits
- Clause 22.04 – Heritage Places within the Capital City Zone
- Clause 22.19 – Energy, Water and Waste Efficiency
- Clause 22.20 – CBD Lanes
- Clause 22.23 – Stormwater Management

6 PUBLIC NOTIFICATION

The following planning permissions are 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 *Planning and Environment Act 1987*:

- Construct a building or construct or carry out works under the Capital City Zone, Design and Development Overlay (DDO1 -A2), Design and Development Overlay (DDO2-A2) and Design and Development Overlay (DDO10).

The following planning permissions are not 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 *Planning and Environment Act 1987*, representing the planning permissions under which formal notice has been given of the application:

- Use of land for minor sports and recreation facility in the Capital City Zone.
- Demolish or remove a building or works and construct a building or construct or carry out works in Heritage Overlay HO1213.

DELWP directed that notice of the proposal be given by ordinary mail to the owners and occupiers of the surrounding properties on 29 May 2019 and by posting notices on the Bourke Street, Queen Street and McKillop Street frontages for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.

The application was formally amended on 19 September 2019 under Section 50 of the Planning and Environment Act 1987. At the time of writing this report no further notification had been given.

7 REFERRALS

7.1 Internal Referrals

7.1.1 Heritage Advisor

Council's Heritage Advisor provided detailed comments on the application on 17 July 2019. Council's Heritage Advisor provided the following advice (summarised) in relation to the demolition of 140 Queen Street building and the proposed works:

- *It is presently proposed to demolish the heritage building at 140 Queen Street on the basis of opinion that conservation of the original fabric, and therefore public safety, cannot be guaranteed for an extended period.*
- *Given the relatively thin dimension of the precast frames it is unsurprising that after 50 years the concrete frames are carbonating with reinforcing corroding in consequence.*
- *With conservation of heritage building (repair) where material is damaged or deteriorated the two primary options for conservation are replacement, and consolidation. In many cases consolidation may well be more costly, and offer less prolongation of longevity, than would replacement. The subject building is expected to be such a case.*
- *In some cases the fabric of the building is of itself sufficiently important that it will retain significance even in a deteriorated state. In such exceptional cases consolidation (with the additional bother and expense) is appropriate even though consolidation may well not be a panacea and it may be that other measures such as safety protection also need to be introduced in the longer term. The subject building at 140 Queens Street is not such a case as the fabric itself is unremarkable and can be replaced, with the proviso that it be faithfully reproduced to match the materials profiles, dimensions and finishes of the original. With appropriately controlled faithful reconstruction the heritage value of the subject building would not be diminished.*
- *Given the costs that would be involved in retention of the façade in place, irrespective of the cost and difficulties of consolidation of existing fabric, faithful reconstruction remains the more reasonable option that would retain the heritage value of the place.*
- *Recommendation:*
An application to demolish the building without faithful reconstruction of the heritage frontage should, in my assessment, be refused as noncompliant with Clause 43.01 and Clause 22.04.

7.1.2 Urban Design

Council's Urban Design Team provided detailed comments on the application on 26 February 2019. A consultation meeting was held between DELWP, Melbourne City Council and the permit applicant on 12 June 2019 to discuss referral advice including matters raised by Urban Design.

Revised Urban Design comments were received on 7 August 2019 and 10 October 2019, which have informed consideration of the application against the design objective and built form outcomes set out in Design and Development Overlay Schedule 1 (Area 2 - Active Street Frontages) and 10 (General Development Area – Built Form).

- *The applicants have responded positively to most of our comments. Agree that many of the previous comments relating to design detail, which were not directly addressed in this package, could be addressed via Permit Conditions. Key conditions include:*
 - *Ground floor layout, connectivity, and maximise building entries*

- *Sufficient depth in tower vertical rebate to break down mass*
- *Minimise impact of crossover and vehicle entry, including the adoption of a tiered door system*
- *Diversity of built form identity (streetwall)*
 - *Strong preference remains for the reconstruction of the existing façade. This is acknowledging the precedent that would be set for future developments involving modernist facades, many of which are likely to have some structural issues.*
 - *From a purely urban design perspective, support is given for a contemporary infill that references the existing façade. This approach would satisfy concerns regarding the diversity in the street wall form.*
- *Canopy height*
 - *Support the height of the canopies at the corner form, and note the positive step in canopy height between each street wall element.*
 - *There is a high degree of integration and detail resolution of the canopy within the openings of the ornamental stone / grc columns. The additional steel mullions between the openings further breaks down the rhythm of the ground floor and contributes to a tactile human-scale experience.*
- *Bourke and Queen façade details*
 - *Support regarding the legibility of the portal elements and also encouraged further integration of human scale elements at ground level. Encourage further material thickness, filigree, and tactility to articulate the ground floor entry, such as a shroud or finer portal element nested within and maintaining the proportions of the generous opening. Plate glass and a frameless revolving door in our view would not be sufficient to achieve this outcome.*
 - *Support the extent of stone treatment to match the canopy height and agree that this is the natural point of material transition.*
 - *The preliminary stone profile detail which depicts a fully integrated glazing system with no visible gaps between the cladding and glazing line is supported. Recommend a permit condition to safeguard this design intent through delivery.*
 - *The Bourke Street podium façade appears to show additional steel plate mullions within the stone cladded grid which is supported especially on the lower levels of the façade (shopfront), where the additional filigree and tactility will have a positive impact to the pedestrian environment.*
- *McKillop Street façade*
 - *Support the expression of various-sized steel elements within the façade, as well as the operable components and integration of planters on the ground floor.*
 - *Support the expression of the vertical circulation as a distinct massing component, which sits between the existing 423 Bourke Street and the new steel infill. However, the success of this strategy hinges on a clear 'grounding' of the steel framed infill, including the extension of the steel edges to hit the ground adjacent to the bicycle entry.*
 - *Encourage the adoption of solid, masonry plinths on the ground to further the sense of 'grounded-ness', which is a key characteristic of the existing streetscape.*

- *Encourage the articulation of the main entry within the façade through material thickness, filigree, and tactility. Any opportunity to integrate a canopy, as suggested in the notations in the elevational drawings, is strongly supported.*

Subject to conditions being included on any permit being granted addressing the key recommendations of Council's Urban Designer as discussed above, and noting the detailed consideration of the application against the requirements of Design and Development Overlay Schedules 2 and 10 in Section 8 of this report, it is considered that the proposal will broadly achieve an acceptable outcome having regard to relevant urban design considerations (including Clause 22.01 Urban Design inside the Capital City Zone).

7.1.3 Environmentally Sustainable Design & Green Infrastructure

Council's ESD Officer provided advice on the application on 11 January 2019, which confirmed that:

- *The development generally has acceptable ESD targets to satisfy Clause 22.19 of the Melbourne Planning Scheme. It has committed to achieving a minimum 5 Star Green Star Design and As-Built rating.*

- *Green Infrastructure and Landscaping*

The proposal currently includes a number of terrace gardens located on the podiums of the building. It is recommended that a complete Landscape Plan, Landscape Maintenance Plan and Irrigation Performance Specification be submitted to the satisfaction of the Responsible Authority.

- *Transport*

The project is targeting one Innovation point for the provision of electric vehicle (EV) charging points for 50% of parking spaces. This is an excellent initiative and demonstrates ESD leadership in transport.

- *Stormwater Management*

The ESD report outlines that a stormwater management strategy will be prepared by 4D Workshop, to be finalised during detailed design and designed to achieve water quality performance targets in line with the CSIRO's "Urban Stormwater Best Practice Environmental Management Guidelines" (1999).

The advice included recommended permit conditions that address detail matters in relation to the implementation of the environmentally sustainable performance outcomes and landscape details and maintenance. These matters can be dealt with post-permit, and conditions have been recommended for inclusion on any permit being granted to ensure that the development meets the requirements of Clause 22.19 Energy, Water and Waste Efficiency, and Clause 22.23 Stormwater Management (Water Sensitive Urban Design).

7.1.4 Urban Forestry

Council's Urban Forester provided the following advice on 9 April 2019:

Urban Forest and Ecology remain opposed to public tree removal. There seems no reason for the proposed removal of the mature and visually prominent tree on Bourke Street, other than to provide clear lines of site to the new building entrance.

There are two historic (empty) tree plots immediately adjacent to the Queen Street frontage that should be shown to be reinstated. These trees were removed to facilitate previous applications. The applicant should amend the application accordingly.

The applicant reviewed the above advice and responded stating that the Bourke Street street tree adjacent to the lobby entrance will not be removed. Council's Urban Forester provided additional advice on 24 September 2019:

The proposed removal of public tree asset 1024540 (Queen Street), to allow for a new access, is regrettable. If the recommended conditions are met that require a replacement tree plot (that provides improved growing conditions for a replacement tree) the proposal would meet the Policy. It is noted that confirmation has been obtained that public tree asset 1024730 (Bourke Street) is to be retained and that currently vacant tree plots will be identified for inclusion of plans.

Should a permit be issued the following conditions and advice notes should be included.

Conditions have been recommended for any permit being granted to ensure that additional street trees are planted through identifying plots in the endorsed plans and the existing public street trees are protected during the construction of development by a Tree Protection Management Plan.

7.1.5 City Design Landscape

Council's Principal Landscape Architect provided the following advice on 9 April 2019:

The application proposes planting of some of the elevated private areas, chiefly 'Gardens Terraces' L9 and L19, and 'Sky Terraces' L52 and L53. This is supported but further information is requested at this stage to confirm that required minimum soil depths and overall soil volumes, including depths and volumes for trees, have been assessed and are allowed for in the structural and architectural design. The Tract 'Landscape Concepts – Town Planning Report' of 12 December 2018, drawing 002-08 provides 'Typical "On Structure" Planter Details' but these do not include minimum soil depths or volumes.

Tract drawing 002-01 shows ground level works. The use of bluestone paving is supported but it is requested that the reference to 'Highlights' in the paving applies only to areas not managed by the City of Melbourne (the plan appears to show this treatment extending into City of Melbourne areas in both Queen and Bourke Streets).

Conditions have been recommended for landscaping and the delivery of public realm works

7.1.6 Traffic Engineering

Council's Traffic Engineer provided advice on the application on 30 January 2019 (summarised).

The proposed parking provision is accepted, as it is below the maximum number of 327 spaces permitted under PO1.

MPS Clause 52.34 requires the provision of 284 bicycle spaces (218 staff and 66 visitors). While it is proposed to provide a total of 585 spaces, it is unclear how many spaces will be allocated to staff / visitors.

It is inappropriate to provide staff and visitor parking in one shared area, and some visitor spaces should be provided in a more convenient location.

ES accepts the trip generation rate of 0.5 vehicles per parking space used in the TIA, and the expected 42 vehicle trips during each of the peak periods appears to be reasonable. It is accepted that the additional traffic generated will have an acceptable impact on the road network.

A loading area is located on lower ground floor towards the rear of the site, accessed via Penfold Place, and consists of 4 bays varying in size to accommodate delivery vehicles ≤ 8.8m, with a 10m diameter turntable to enable trucks to access the bays. The carriageway of Penfold Place is approximately 4.5m wide, with a footpath of approximately 1m in width along the west side. The TIA notes that 3 on-street (Loading Zone) spaces will need to be removed in Little Collins Street to facilitate access to / from Penfold Place. Consultation would need to be undertaken with the abutting occupiers in the street regarding the possible removal / relocation of these spaces. Ultimately, any changes to the on-street parking restrictions would

require the approval of M-ES. These works, if approved by M-ES, are to be undertaken at no cost to Council.

The majority of Penfold Place features Loading Zone (15 or 30 Minute) restrictions. Given the narrow width of the laneway, the waste bins left out on the carriageway and the vehicles parked in the loading zone, it will be difficult / impossible for vehicles to access the loading area, which is of concern. The existing parking restrictions in Penfold Place will not be changed to suit the needs of this development, as the Loading Zone service the wider area. The SPDs indicate that movements into / out of Penfold Place by 8.8m vehicles will be extremely tight, even if there are no loading vehicles stopped in the laneway (if vehicles are stopped in the laneway, it will not be possible for vehicles to pass).

The applicant has responded to matters raised by Council's Traffic Engineers and have recommended that a revised detailed car parking and traffic management report be prepared by a suitably qualified traffic consultant and approved by the Responsible Authority in consultation with Melbourne City Council. It is recommended that the report address in detail car parking and bicycle facilities allocation for the proposed uses, internal design of the car parking and loading areas, location and design of the vehicle crossing on Queen Street and other matters raised by Council's Traffic Engineer. Council's Traffic Engineers are supportive of this approach.

It is recommended that the car parking and traffic management report be approved prior to or concurrently with the endorsement of plans. This ensures that all matters are resolved prior to layouts of the building being approved.

7.1.7 Civil Engineering

Council's Principal Engineer (Infrastructure) provided advice on 16 April 2019:

The proposed development includes construction over a portion of road abutting the subject land to the south and known as Penfold Place. Prior to commencement of any works on site the portion of road to be built on should be formally discontinued and purchased by the developer. The discontinued portion of road should be consolidated with the subject land.

A section of Penfold Place has been discontinued and is currently in the process of being purchased by the developer.

Conditions and notes have been recommended for inclusion on any permit being granted to ensure that all of the requirements and recommendations of Council's Principal Engineer (Infrastructure) will be resolved in the final development.

7.1.8 Urban Services Engineering

Council's Waste Management Team provided advice on the application on 26 September 2019, indicating that that the Waste Management Plan (WMP) prepared by Irwinconsult dated 13 December 2018 was not supported and that the following item needs to be addressed:

- The proposal for 29 waste collections per week is unacceptable, and does not align with the City of Melbourne's vision to reduce truck movements. The large amount of garbage and recycling generated at this site warrants the use of compactors.

The advice noted that a large vehicle that is able to transport waste compactors maybe able to use Penfold Place. Council has recently had a large vehicle access Nicholson Place which is almost the same width as Penfold Place. The advice also noted that because the building is commercial, there is some flexibility to use smaller trucks.

A condition has been recommended for inclusion on any permit being granted to allow the WMP to be updated to address the advice above and the changes required by the parking and traffic management report. Council's Performance Management Engineer will have a further opportunity to review this updated WMP and ensure it complies with City of Melbourne's Waste Management Guidelines.

8 ASSESSMENT

8.1 Key Issues

The key issues for consideration in the assessment of the application include:

- Whether the proposed land uses are acceptable, having regard to the purpose and relevant decision guidelines of the Capital City Zone.
- Whether the proposed Floor Area Uplift provides a public benefit in accordance with the requirements of Clause 22.03 (Floor Area Uplift and Delivery of Public Benefits).
- Whether the extent of the proposed demolition and the proposed development is acceptable, having regard to the requirements of the Heritage Overlay (Schedule HO1213) and Clause 22.04 - Heritage Places within the Capital City Zone.
- Whether the proposed development is acceptable, having regard to the design objectives, built form requirements and built form outcomes of Clause 22.01 – Urban Design within the Capital City Zone and the applicable Design and Development Overlay Schedules.
- Whether the proposed development is acceptable, having regard to relevant traffic considerations, including the reduction sought to the car parking requirement under Clause 52.06 Car Parking.

Other relevant matters that have been considered below include building separation from neighbouring approved developments, contaminated land and sustainability.

8.2 Land Uses

8.2.1 Alignment with purpose of the Capital City Zone (Schedule 1)

The purpose of the Capital City Zone is:

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To enhance the role of Melbourne's central city as the capital of Victoria and as an area of national and international importance.

To recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.

To create through good urban design an attractive, pleasurable, safe and stimulating environment

The purpose of Schedule 1 to the Capital City Zone is:

To provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.

8.2.1.1 Minor sports and recreation facility

The proposed minor sports and recreation facility with the 'McKillop Building' requires a planning permission as it is a section 2 use within the Schedule 1 of Capital City Zone. The key issues for consideration include the impact on the amenity of the immediate area and the provision of bicycle facilities.

The proposal minor sports and recreation facility is considered not to have any unreasonable adverse impact on the amenity of the area given the number of patrons, the operating hours and Capital City context. The use is consistent with the varied nature of the central city environment and aligns with a purpose of Schedule 1 to the Capital City Zone. The proposed use will add to the variety of uses in the area to service the diverse needs of residents, visitors and workers.

8.2.1.2 Office and retail uses

The proposed office and retail uses do not require a planning permission as they are section 1 uses within the Schedule 1 of Capital City Zone. Although not requiring planning permission it is acknowledge that the significant amount of office space being provided does align with the purposes of the Capital City Zone in that it will serves the financial, legal and administrative aspirations of Schedule 1 to the Capital City Zone. The retail uses will also positively contribute to the capital city function of the locality.

8.2.2 Planning Policy Framework and Municipal Strategic Statement

As articulated in Section 8.2.1 above the proposed land uses will serve the purpose of the Capital City Zone, beyond this the proposed uses also find broad support in the Planning Policy Framework and Municipal Strategic Statement.

In particular, *Clause 21.12 Hoddle Grid*, encourages the development of a range of complementary precincts within the Hoddle Grid. The subject site is located within a predominately commerce precinct of the Hoddle Grid, noting there are residential and retail uses within this precinct.

Notably, the substantial provision of employment generating land uses on the land, with active frontages to Bourke, Queen and McKillop Streets, aligns with the outcomes for the subject site sought by the Melbourne Planning Scheme.

8.3 Floor Area Ratio

The Capital City Zone Schedule 1 states that:

A permit must not be granted or amended (unless the amendment does not increase the extent of noncompliance) to construct a building or construct or carry out works with a floor area ratio in excess of 18:1 on land to which schedule 10 to the Design and Development Overlay applies unless:

- a public benefit as calculated and specified in a manner agreed to by the responsible authority is provided; and
- the permit includes a condition (or conditions) which requires the provision of a public benefit to be secured via an agreement made under section 173 of the Planning and Environment Act 1987.

The Floor Area Ratio (FAR) for the proposal is 29.9:1, derived from the site area of 2,536 m² and proposed Floor Area of 84,140 m² (not including basements, voids, etc). The proposed Floor Area Uplift is 38,492 m².

Clause 22.03 (Floor Area Uplift and Delivery of Public Benefits) of the Melbourne Planning Scheme is relevant to this proposal given that the proposed building is to be used for office purposes.

The subject site is located within the Western Core Precinct of Melbourne’s CBD and therefore attracts a rate of \$7,000 per m² of gross realisation value (GRV) for commercial. Of this rate, 10% is considered as public benefit.

#	Step	Calculation	Details
1	Base Gross Floor Area (i.e. floor area available based on the floor area ratio of 18:1)	Site Area (2,536 m ²) x 18	45,648 m ²
2	Proposed Development Gross Floor Area (GFA)	Floor Area calculated in accordance with Schedule 1 of the Capital City Zone	84,140 m ²
3	Floor Area Uplift (FAU) sought in square metres	Proposed GFA (from Step 2) minus Base Gross Floor Area (Step 1)	38,492 m ²

4	Base data for valuing FAU	GRV/m ² associated with applicable use of FAU in 'Western Core' from Table 1 and Fig.1 of the DELWP document	\$7,000
5	Value of each square metre of FAU	10% of applicable GRV/m ² (from Step 4)	\$700
6	Total value of FAU	FAU sought (from Step 3) x value of each square metre of FAU (from Step 5)	\$26,944,400
7	Value of Public Benefit to be provided	Equal to (or greater than) the total value of FAU (from Step 6)	\$26,944,400
8	Agreed Public Benefit to be provided	Difference between Commercial and Residential GRV/m ² (\$500 x 84,140 m ²)	\$44,070,000

Table based on: How to Calculate Floor Area Uplifts and Public Benefits, Department of Environment, Land, Water and Planning (as amended from time to time)

Based on the Gross Realisation Values set out in Clause 22.03, a public benefit of \$26,944,400 is required to offset the uplift in area. The actual value of public benefit to be provided significantly exceeds the required benefit at \$44,070,000.

The proposed public benefit is significantly more than the Floor Area Uplift sought and as such it is supported. In accordance with Clause 22.07 it is recommended that a condition be placed on the permit requiring a Section 173 Agreement to be registered on title requiring the office use to be secured for a minimum of 10 years.

8.4 Heritage

The subject site comprises of one heritage building at 140 Queen Street. This building is subject to an interim heritage control. As mentioned above in Section 2, the building was identified in the recent Guildford and Hardware Lanes Heritage Study as a place of heritage significance and was recommended for an individual Heritage Overlay (at present identified as interim HO1213).

The proposed statement of significance for HO1213 reads as follows:

What is Significant

The Scottish Amicable Life Assurance Building at 128-146 Queen Street, was constructed in 1964-5 to a design by Yuncken Freeman. It is a large 13-storey commercial office building on the east side of Queen Street, with a façade expressed as a slender concrete lattice elevated above the street on a colonnade of pilotis. Above ground floor level, a strict geometry dominates, made up of repeating horizontal and vertical rows of narrow rectangular pre-cast concrete moulded panels, with glazing and spandrels set deep into the reveals. The deep set windows also provide integrated sun shading. At ground floor level, the building has been modified, but retains evidence of the original recessed and set down glazed wall which formed a shallow, covered and accessible colonnade at the interface of the private and public realms. Although a canopy has been added at street level, the original design intent remains legible, and the building overall retains a high level of external intactness to its façade.

How is it Significant

The Scottish Amicable Life Assurance Building at 128-146 Queen Street, is of historical and aesthetic / architectural significance to the City of Melbourne.

Why is it Significant

The Scottish Amicable Life Assurance Building, constructed in 1964-5 for the Scottish Amicable Life Assurance Society is of local historical significance. The company, which was

founded in Glasgow in 1826 and arrived in Australia in 1886, purchased the subject site in Queen Street in 1964, for the construction of their Australian head office. They commissioned architects, Yuncken Freeman, to design the new building, in the period when the practice was increasingly noted for their corporate and commercial designs, including buildings and company headquarters for a number of large insurance firms. Scottish Amicable remained in building until at least 1989. The building is also significant for its association with the historical post-war period in Melbourne, when commercial architecture began to recover after the war, and numerous multi-storey office buildings and headquarters were constructed. Successful firms embraced Modernist sought expression through the new corporate towers which (Criterion A) The Scottish Amicable Building, which retains a substantially externally intact façade to Queen Street, is also of aesthetic / architectural significance. It is an innovative and early example of the return to more massive construction, and a departure from the wholly-glazed expression of office buildings of the previous decade. While its rigid geometry and the incorporation of an entry forecourt (the colonnade) reveal its roots in the International Style, its three dimensional quality, achieved through more assertive textures and the use of sculptural, moulded pre-cast concrete rather than a flat glass exterior, provides a successful Modernist outcome. It is also of aesthetic significance for its strong but 'polite' presentation to Queen Street, where the building was required to conform with local height restrictions. This is amply demonstrated in images from the 1960s, including in works by renowned architectural photographer, Wolfgang Sievers. (Criterion E)

The building at 140 Queen Street is subject to an interim individual Heritage Overlay and is therefore subject to the provisions of Clause 43.01, the Heritage Overlay. The relevant purposes of this overlay are as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority may consider, as appropriate:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.*
- *Any applicable heritage design guideline specified in the schedule to this overlay.*
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

8.4.1 Proposed demolition of 140 Queen Street

The Assessment of Heritage Impacts by Bryce Raworth Pty Ltd dated December 2018 supports the proposed demolition on page 15:

Demolition

While Council policy does not encourage the demolition of buildings in the Heritage Overlay, such as 140 Queen Street, in this case demolition is sought due to poor structural condition.

The significance of the building as set out in Council's citation is accepted and not challenged. While it was Cbus Property's intention to retain and incorporate the facade of the building within the proposal, further assessment by engineering consultants has found that the condition of the fabric has deteriorated to a point that makes its retention unworkable from a building safety perspective. Structural engineers (Arup) have identified that the facade had a design life of approximately 50 years and the precast concrete is now in poor form and has a limited life expectancy. Accordingly, retention and conservation of the facade is not viable, and full demolition is considered unavoidable.

An assessment by engineering consultants Arup outlining these issues in greater detail is to be submitted to DELWP and Council as part of the present application.

The applicant has provided structural reports that assess the structural condition of the building's façade and DELWP have had these reports peer reviewed. The reports conclude that the façade is in a poor structural condition and both the permit applicant and DELWP have accepted that the retention of the building is not possible or viable. Council's Heritage Consultant has also acknowledged that the building cannot be retained for an extended period.

It is presently proposed to demolish the heritage building at 140 Queen Street on the basis of opinion that conservation of the original fabric, and therefore public safety, cannot be guaranteed for an extended period.

Clause 22.04 (Heritage Places inside the Capital City Zone) and Clause 43.01 (Heritage Overlay) seeks to conserve and enhance heritage places of natural or cultural significance. It is regrettable that this significant heritage building cannot be retained.

Given the evidence provided about the poor structural integrity of the façade of this heritage building, demolition is supported in this unique circumstance.

8.4.2 Design of the 'façade' of 140 Queen Street

Council's Heritage Advisor has recommended that full reconstruction of the 140 Queen Street building should be pursued in favour of replacing the building with a contemporary form. Council's Urban Design Team preference also remains for the reconstruction of the existing façade.

The existing facade contributes to this building's heritage significance. The existing façade comprises pre-cast concrete panels which are repeated vertically and horizontally, creating a sense of geometry. Each panel has deep set glazing that provides a sense of depth.



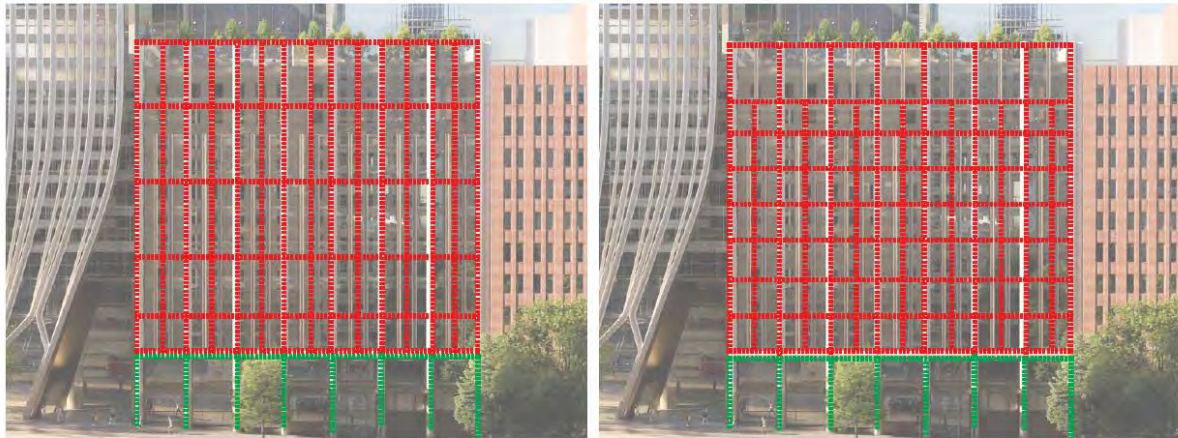
Photos of western façade of 140 Queen Street and panels (Bate Smart September 2019)

Council's Urban Design Team have recommended, from an urban design perspective a contemporary infill that references the existing façade could satisfy concerns with lack of diversity in the proposed street wall form. Referencing the existing façade can be achieved by establishing similar proportions to the existing façade whilst aligning with the floor to floor heights of the proposed office tower. This option is considered to be a balanced outcome and was discussed with the permit applicant on 19 September 2019.

Following the façade design meeting, Bates Smart was provided a façade concept pack on 22 September 2019. The pack provides evidence that modifications to the proposed façade of Queen Street can further differentiate the various massing forms. The modifications also successfully reference the proportion and materiality of the original building façade. The key design elements identified are:

- *Explorations of rectangular grids that balance horizontal and vertical proportions*
- *Modifying the dominant vertical façade of the submitted design*
- *Modular GRC construction references original modular precast concrete sun shading elements*
- *Detail of jointing and articulation will reference original jointing between concrete modules*

REFERENCE TO ORIGINAL FAÇADE PROPORTION



Modified concept western façade of 140 Queen Street (Bate Smart September 2019)

The ‘modified’ Queen Street façade conforms with the objectives of Clause 22.04 and the purposes of Clause 43.01 (Heritage Overlay). The ‘modified’ façade is considered to be a modern interpretation of the existing façade by referencing its vertical and horizontal geometry elements. These are the elements which contribute to the significance of heritage place and this interpretation is supported in this unique circumstance.

Although the subject site is not within a heritage precinct, the proposed built form, including modified proposed Queen Street façade, does have regard to the heritage building to the immediate south at 118-126 Queen Street. This building is a multi-storey Art Deco office known as the ‘ACA Building’, constructed between 1934-36. The Queen Street façade (street wall) which replaces the existing 140 Queen Street building is proposed to be one storey lower than the existing building to comply with current building height requirements, and thus will only be marginally taller than the adjacent ACA building. This ensures that 118-126 Queen Street remains a dominant heritage feature within the streetscape and also ensures that the proposed podium has a sympathetic and well scaled relationship with the ACA building.

8.5 Built Form

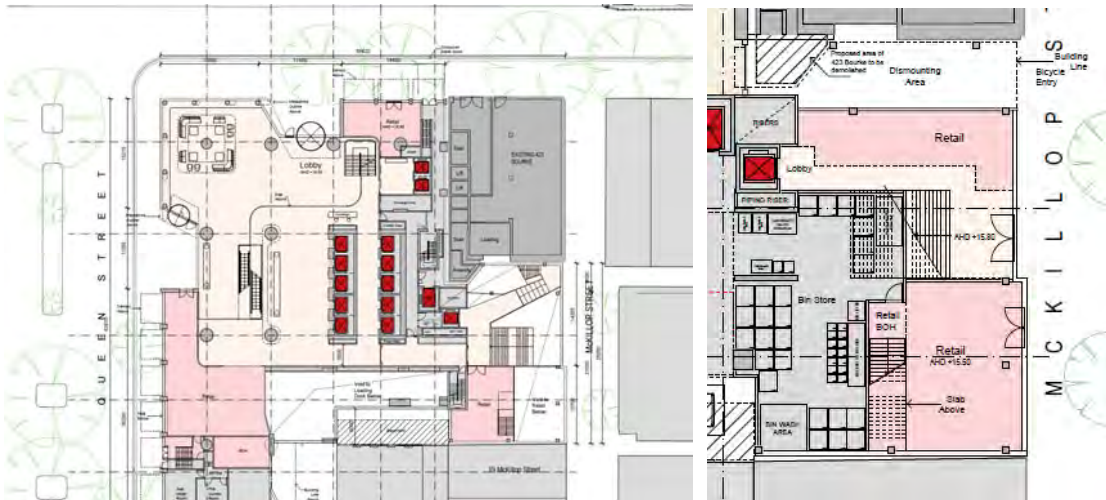
There are two significant built form controls that command certain built form envelopes. DDO2 affects 16 metres in depth of the eastern portion of the McKillop Street site and DDO10 affects the remainder of the sites (see DDO map below). These controls seek to ensure that development respects the built form scale and urban structure of the Central City and provides clear parameters to guide appropriate built form outcomes.



Planning Map of DDO2 and DDO10 (CoMPASS September 2019)

8.5.1 DDO Schedule 1 (Area 2) (Active Street Frontages – Bourke and McKillop Streets) (DDO1-A2)

The proposed ground floor facades along Bourke, Queen and McKillop Streets have been designed so that they are attractive and pedestrian oriented frontages. All frontages with the exception of Penfold Place which is not affected by DDO1, meet the requirements of this control.



Ground floor plans (Bate Smart September 2019)

Design Objective	Response
To ensure ground floor frontages are pedestrian oriented and add interest and vitality to city streets.	The ground floor layouts provide a mixture of activation including retail spaces, lobby areas. The elevations have been activated through the use glazing, openings and thoughtful building programming (ie grand staircase in 'McKillop Street' further

	<p>enhances and activates this façade). The full glazing along Bourke Street continues along Queen Street providing visual interest and connection with the lobby area. On-site loading is essential for the operation of the building and the location of the loading access point is via Penfold Place.</p>
<p>To provide continuity of ground floor shops along streets and lanes within the retail core.</p>	<p>As discussed above, the lobby space fronts both Bourke Street and Queen Street. The lobby is bookended by retail spaces that complement the lobby space. The retail space along McKillop Street provides continuity of ground floor activation along this unique laneway.</p>
<p>To ensure ground floor frontages contribute to city safety by providing lighting and activity.</p>	<p>The use of glazing, openings and active uses ensures that all frontages contribute to a safe city.</p>

8.5.2 DDO Schedule 2 (Special Character Areas – Built Form (Hoddle Grid) – McKillop Street) (DDO2-A2)

The proposed ‘McKillop Street Building’ although connected to the built form of the remainder of the site, reads as a separate building. The massing and architectural design reinforces the built form character of McKillop Street which is encouraged by DDO2-A2 and is also in keeping with Melbourne’s unique laneway network character.



McKillop Street elevation - ‘McKillop Street Building’ (Bate Smart July 2019)

DDO2-A2 sets a 15 m preferred height limit and a 4:1 modified requirement for buildings that face McKillop Street. The proposed ‘McKillop Street Building’ has a street wall height of approximately 14.5m with a two-tier setback above that achieves an overall height of approximately 22 m. The building successfully reinforces the built form character of McKillop Street by providing a transition in height from the tall 12 storey building to the north, down to the three storey building to the south.

Noting that a number of existing buildings on McKillop Street achieve an overall height of greater than 15 m, including the Emerald Commercial building opposite the subject site, the streetwall and overall height of the proposed built form is supported in this context.



McKillop Street elevation - 'McKillop Street Building' (Bate Smart July 2019)

8.5.3 DDO Schedule 4 (Weather Protection – Capital City Zone – Bourke Street) (DDO4)

DDO4 has been applied to the Bourke Street frontage to promote pedestrian amenity along this major pedestrian route.

The approach to the design of the canopy which strongly relates to the width and rhythm of the openings / bays within the ground floor façade design is supported. The revised July 2019 plans show canopies constructed from laminated glass and steel along both Bourke and Queen Streets. The footpath clearance of these canopies have been reduced to achieve a human scale response and to also provide better weather protection. The weather protection elements are supported.

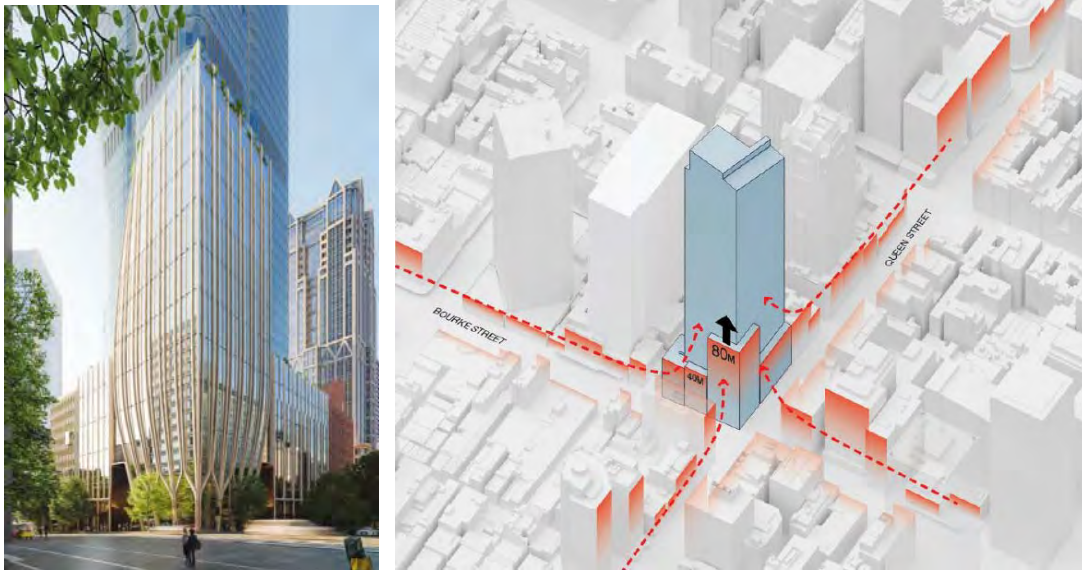


Queen and Bourke Street elevation (Bate Smart September 2019)

8.5.4 DDO Schedule 10 (General Development Area – Built Form) (DDO10) – Bourke and Queen Street

All street frontages are of high quality and achieve a human scale. Bourke and Queen Street elevations are highly activated through glazing and architectural treatments.

The Section 50 amended proposal is considered to comply with the mandatory requirements of DDO10.



Queen and Bourke Street elevation perspective demonstrating the 80 metre and 40 metre street walls (Bate Smart September 2019) and Podium and street wall height study demonstrating the street wall datum - *noting the original tower form (Bate Smart December 2018)

Table 3 to Schedule 10

A permit can only be granted to vary the preferred requirement for any design element where it can be demonstrated that the development will achieve the relevant design objectives and built form outcomes.

Design Element	Preferred Requirement	Modified Requirement	Built Form Outcomes	Response
Street wall height	Up to 20 metres	<p>The street wall height must be no greater than:</p> <ul style="list-style-type: none"> 40 metres; or 80 metres where it: <ul style="list-style-type: none"> defines a street corner where at least one street is a main street and the 80 metre high street wall should not extend more than 25 metres along each street frontage, and/or fronts a public space including any road reserve 	<p>Street wall height is scaled to ensure:</p> <ul style="list-style-type: none"> a human scale. an appropriate level of street enclosure having regard to the width of the street with lower street wall heights to narrower streets. consistency with the prevalent parapet height of adjoining buildings. height that respects the scale of adjoining heritage places. adequate opportunity for daylight, sunlight and skyviews in the street. definition of 	<p>The Bourke Street and Queen Street street walls meet the Modified Requirement.</p> <p>The proposed street wall heights are no greater than 40 metres except for 80 metres corner element which defines the street corner of these main streets. The 80 metre height street wall does not extend more than 25 metres along each street frontage.</p> <p>A human scale is achieved by solidifying the lower levels of the building, using canopies, and breaking up the mass of the frontages.</p> <p>Both Bourke Street and Queen Street are wide, two-way roads. The street walls have had regard for the width of the streets.</p> <p>As demonstrated above the exiting street wall heights,</p>

		wider than 80 metres.	<p>main street corners and/or public space where there are no significant impacts on the amenity of public spaces.</p> <ul style="list-style-type: none"> • maintenance of the prevailing street wall height and vertical rhythm on the street. 	<p>including the adjoining buildings along both streets are around the 40 metre datum.</p> <p>The proposed street wall heights will fit comfortably and harmoniously in the street; particularly as the lower elements of both frontages are highly activated and treated to reduce the perceived street wall height in this instance.</p> <p>The proposed street wall height adjacent to 118-126 Queen Street is of similar height and respects the heritage building.</p> <p>The site is located on the south east corner of Bourke and Queen Street. The southerly location results in no unreasonable reduction in daylight and sunlight opportunities to the public realm from the street wall heights.</p>
Building setback(s) above street wall	Above the street wall, towers and additions should be setback 10 metres from the title boundary.	Above the street wall, towers must be setback a minimum of 5 metres from the title boundary.	<p>Towers and additions are setback to ensure:</p> <ul style="list-style-type: none"> • large buildings do not visually dominate the street or public space. • the prevalent street wall scale is maintained. • overshadowing and wind impacts are mitigated. • the tower or addition includes a distinctly different form or architectural expression. 	<p><u>Bourke Street</u></p> <ul style="list-style-type: none"> • 5m (apart from the 80 metre street wall) <p><u>Queen Street</u></p> <ul style="list-style-type: none"> • 5m (apart from the 80 metre street wall) <p>The Bourke Street and Queen Street setbacks above the street walls meet the Modified Requirement.</p> <p>The 5m setbacks are acceptable as the lower podium provides a human scale, the street wall responds to the prevailing character and the tower form includes a distinctly different form and architectural expression to the podium form.</p> <p>The overshadowing of the public realm and wind impacts are discussed below in the wind and sunlight sections of this report.</p>
Building setbacks from side	Above the street wall or 40 metres	Towers and additions up to 80 metres in height:	Towers and additions are designed and	Above the street wall the tower is setback 6% of the total building height from

<p>boundaries and rear boundaries (or from the centre line of an adjoining laneway) and tower separation within a site</p>	<p>(where there is no street wall), towers and additions should be setback a minimum of 5 metres or 6% of the total building height whichever is greater.</p>	<p>Above the street wall or 40 metres (where there is no street wall), towers and additions must be setback a minimum of 5 metres.</p> <p>Towers and additions of no more than 80 metres in height may be constructed up to one side or rear boundary, excluding a laneway, if an existing, approved, proposed or potential building on an adjoining site is built to that boundary and if a minimum setback of 5 metres is met to all other side and rear boundaries and the centre line of any adjoining laneway.</p> <p>Buildings of no more than 80 metres in height, may be constructed to a second side or rear boundary if an adjoining site cannot, by legal restriction benefitting the application site, be developed above the street wall height.</p> <p>Towers exceeding 80 metres in total height:</p> <p>Above the street wall or 40 metres (where there is no street wall), towers and additions must be</p>	<p>spaced to ensure:</p> <ul style="list-style-type: none"> • sun penetration and mitigation of wind impacts at street level. • provision of reasonable sunlight, daylight, privacy and outlook from habitable rooms, for both existing and potential developments on adjoining sites. • floorplate layout or architectural treatment limits direct overlooking between habitable rooms. • buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them. • buildings do not visually dominate heritage places and streetscapes, nor significant view lines. 	<p>boundaries and the centre of laneways.</p> <p>Total building height 181.875 and 6% is 10.912 metres.</p> <p>The overshadowing of the public realm and wind impacts are discussed below in the wind and sunlight sections of this report.</p> <p>The closest tower located on the northern side of Bourke Street and is approximately 32 metres from the proposed tower.</p> <p>Given the significant setbacks and separation from other built form the proposal does not result in unreasonable amenity impacts on neighbouring and nearby properties.</p> <p>The tower is setback approximately 14 metres from heritage building at 118-126 Queen Street to the south.</p> <p>The tower has been sited and designed to ensure that the adjacent heritage place is respected and not unreasonably impacted on.</p> <p>View lines along Bourke and Queen Streets are maintained.</p>
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		<p>setback a minimum of 5 metres and must meet the design element requirements for tower floorplate.</p> <p>Tower separation within a site:</p> <p>Towers must be separated by a minimum of 10 metres.</p>		
Tower floorplate	<p>The tower floorplate is determined by the preferred requirement for building setbacks from side and rear boundaries and tower separation within a site, and the modified requirement for building setback(s) above the street wall.</p>	<p>The tower floorplates above the street wall for a tower above 80 metres in height may be adjusted in terms of location and/or shape but must not:</p> <ul style="list-style-type: none"> • result in an increase in the floorplate area • be situated less than 5 metres from a side or rear boundary (or from the centre line of an adjoining laneway) • be less than 5 metres to a street boundary • be less than 10 metres to an adjoining tower on the site. 	<p>The adjusted floorplate is designed and spaced to:</p> <ul style="list-style-type: none"> • reduce impact on existing and potential neighbours in terms of privacy, outlook, daylight and sunlight access. • minimise visual bulk. • reduce impact on public spaces, including overshadowing and wind effects and reduced visual dominance. • buildings do not visually dominate heritage places and streetscapes, nor significant view lines. • buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them. 	<p>The application does not seek an adjusted floorplate.</p>

*DDO10 Definitions: Laneway is a road reserve of a public highway 9 metres or less wide. Queen Street and Bourke Street therefore are defined as streets and Penfold Place and McKillop Street are defined as laneways.

8.5.4.1 Wind

DDO10 sets out requirements that must and should be met in relation to wind effects. The Wind Effects section of the Schedule notes that:

'a permit must not be granted for buildings and works...that would cause unsafe wind conditions in publicly accessible areas' in proximity to the proposed building.

The Wind Effects section also states that:

'a permit should not be granted for buildings and works...that do not achieve comfortable wind conditions in publicly accessible areas' in proximity to the proposed building.

MEL Consultants conducted wind tunnel tests applying the Wind Effects distance criteria set by DDO10 and using a 1/400 scale model of the proposed development. The simulated wind conditions for all test locations in the streetscapes surrounding the development.



Summary of ground level wind conditions for the Existing and Proposed Configuration for 360° of wind direction in the surrounding streetscapes (MEL Consultants wind assessment dated 10 December 2018).

The wind assessment prepared by MEL Consultants dated 10 December 2018 concludes that:

For the Proposed Configuration, wind conditions for all Test Locations in the streetscapes surrounding the development have been shown to achieve the walking criterion, with many Test Locations satisfying the standing and sitting criteria. The Existing Configuration wind conditions have been included for comparison at all of the Test Locations examined and for most locations are the same in terms of criteria satisfied.

The wind conditions for the Proposed Configuration in the streetscapes that surround the 435 Bourke Street development satisfy the safety criterion.

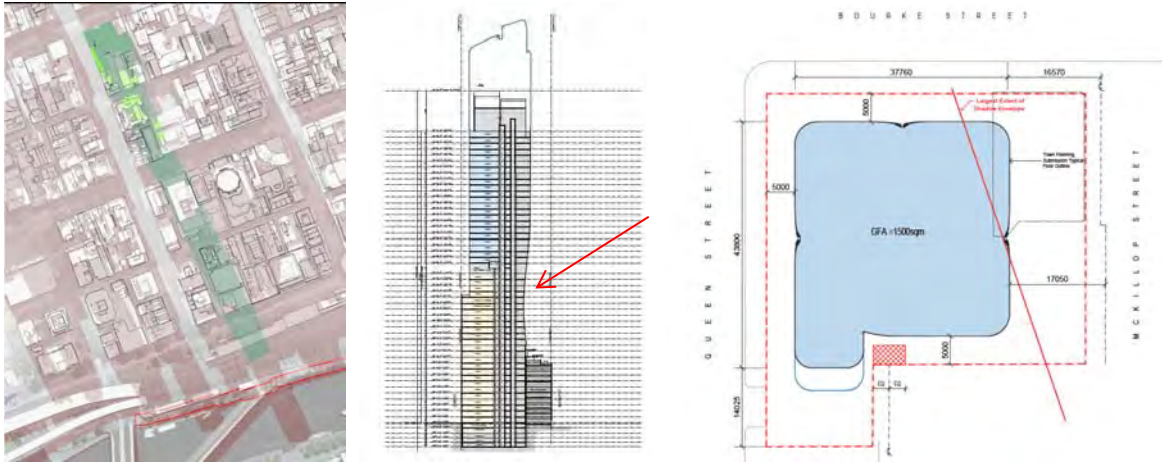
The wind assessment has demonstrated compliance with the wind requirements of DDO10 and is supported.

8.5.4.2 Sunlight to public space

DDO10 states the following in regard to a mandatory overshadowing provision:

- No overshadowing of the Yarra River Corridor (including 15 metres from the edge of the north bank of the river to the south bank of the river) between 11am and 2pm on 22 June.

The application documents confirm that the proposal complies with this mandatory provision.



2pm June 22 additional shadows (green); Section of the building showing the area carved out to reduce shadow impacts on McKillop Street and Proposed typical tower floorplate showing maximum amount of area lost for shadowing (Bate Smart September 2019)

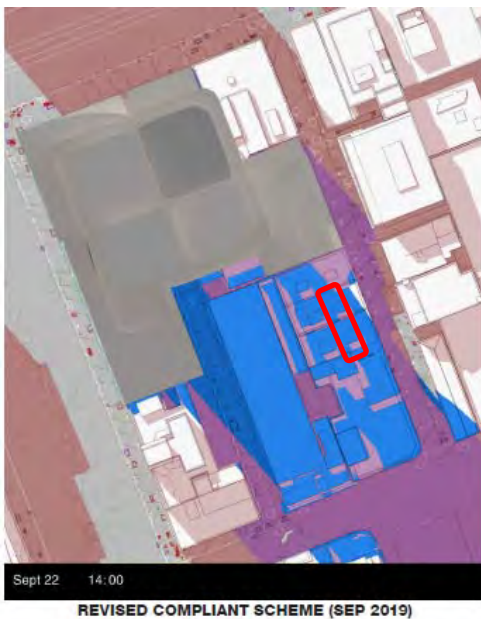
DDO10 states the following in regard to a discretionary overshadowing provision:

- No overshadowing of McKillop Street and privately owned public spaces accessible to the public between 11am and 2pm, between 22 April and on 22 September, unless the overshadowing will not unreasonably prejudice the amenity of the space.

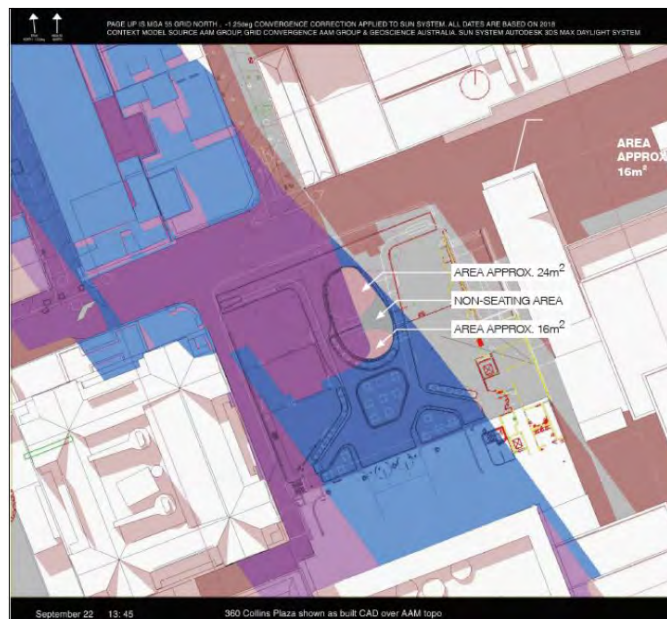
With regards to additional overshadowing to McKillop Street, the proposed tower has been sculptured (carved out in the middle section of the tower) to minimise shadowing impacts on McKillop Street.

The proposed tower does result in shadow impacts for four days of the year immediately prior to 2pm. The applicant has provided actual duration of the shadow ranges from 1 minute on 19 September (i.e. the shadow appears at 1.59pm), up to a maximum of 4 minutes on 22 September (i.e. the shadow is cast between 1:56pm – 2pm).

On balance with the proposed tower adjusting its form to reduce the shadow impact on McKillop Street and the fact that only a minor amount of area is overshadowed for four days of the year, these in minor incursions are considered not have a significant impact on the attractiveness and use of McKillop Street.



Sept 22 14:00
REVISED COMPLIANT SCHEME (SEP 2019)



September 22 13:45
360 Collins Plaza shown as built CAD over AAM topo

McKillop Street and 360 Collins Forecourt - additional shadows (blue) (Bate Smart September 2019)

The plaza to the rear of 360 Collins Street is a privately-owned space, which includes various food and beverage tenancies and associated outdoor seating, circulation spaces, and a raised landscaped 'oval' of around 125 m² that allows for informal public seating. It is a relevant reference for the consideration of shadow impacts, given that DDO10 calls for no additional shadow to be cast on privately owned spaces that are publicly accessible. Similar to McKillop Street, discretion can be exercised provided the shadow does not unreasonably prejudice the amenity of the space.

The shadow analysis identified that at present, at 1:30pm on 22 September, there are shadows cast by existing buildings that extend across approximately 50% of the raised lawn area. These shadows currently cover the lawn area completely by 2pm.

The applicant has provided details of the pattern of shadow and have identified that there is a 30 minute period when the lawn area is in full shadow. The above 'typical tower floorplate' shows a red line through the floorplate to demonstrate the loss of built form required for the proposal not to result in any additional overshadowing on the lawn area. The built form changes required are so significant that the building will not be viable.

The additional overshadowing of the lawn area at 360 Collins Street is supported because the privately-owned space will only be affected by additional shadow slightly earlier than what currently occurs and the development has significantly adjusted its built form to reduce the shadow impact on McKillop Street which is a public laneway.

8.5.5 Parking Overlay Schedule 1 (Capital City Zone – Outside the Retail Core) (PO1)

Given the proposed 83 car parking spaces will not exceed the maximum car parking rate of 295 spaces a permit is not required under this overlay. Council's traffic engineers are supportive of the car parking provision.

8.6 Traffic and Waste

As documented in the Referrals Section of this report Council's traffic and waste engineers have raised concerns in relation to loading access from Penfold Place and internal layout of the loading area within the site.

The applicant and Council's traffic and waste engineers are of the view that these matters can be resolved through further investigation of turning circles and changes to the layout.

The applicant has responded to matters raised by Council's traffic engineers and have recommended that a revised detailed car parking and traffic management report be prepared by a suitably qualified traffic consultant and a revised waste management plan be prepared. This approach is supported by Council's traffic and waste engineers.

It is recommended that the car parking and traffic management report be approved prior to or concurrently with the endorsement of plans. This ensures that all matters are resolved prior layouts of the building being approved.

8.7 Sustainability

8.7.1 Energy, Water and Waste Efficiency

Clause 22.19 Energy, Water and Waste Efficiency 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.*

The Sustainability Management Plan identifies that the proposed use / development has acceptable ESD targets to satisfy Clause 22.19 of the Melbourne Planning Scheme. It has committed to achieving a minimum 5 Star Green Star Design and As-Built rating.

Conditions for the implementation of the recommendations of the Sustainability Management Plan are recommended to ensure that building meets the targets.

Further, conditions have been recommended for inclusion on any permit being granted to ensure that the revised Waste Management Plan reflects the approved internal layout of the development, and is consistent with City of Melbourne's applicable Guidelines for preparing a Waste Management Plan.

Subject to conditions, it is therefore considered that the proposed development will meet the relevant requirements of *Clause 22.19 Energy, Water and Waste Efficiency*.

8.7.2 Stormwater Management (Water Sensitive Urban Design)

Clause 22.23 Stormwater Management (Water Sensitive Urban Design) sets out the following objectives:

- *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.*

Subject to the conditions recommended by Council's ESD Officer and Principal Engineer (Infrastructure) being included on any permit being granted, it is considered that the proposed development will meet the relevant requirements of *Clause 22.23 Stormwater Management (Water Sensitive Urban Design)*.

9 OFFICER RECOMMENDATION

That, for the reasons discussed within this report, the proposal is supported and the Melbourne City Council does not object to this application subject to the following permit conditions and notes:

9.1 Permit Conditions and Notes

Amended Plans

1. Prior to the commencement of the development, excluding demolition and bulk excavation, an electronic set of plans, drawn to scale, must be submitted to the Responsible Authority in consultation with the City of Melbourne, generally in accordance with the plans prepared by Bates Smart dated 19 September 2019 and the façade concept pack prepared by Bates Smart on 22 September 2019, but amended to show:
 - a. A full set of architectural plans, elevations, and sections
 - b. Any additional changes as required as a result of the Road Safety Audit.
 - c. Any changes as required as a result of the Façade Strategy.
 - d. Any changes as required as a result of the Car Parking and Traffic Management Report.
 - e. Any changes as required as a result of the revised Wind report.
 - f. Any changes as required as a result of the revised Waste Management Plan.
 - g. Indicative location of public street tree replacement plots.
 - h. Increase the number of building entries along Queen and Bourke.
 - i. Include a tiered door system at the Queen Street vehicle entry
 - j. The design / dimensions of the bicycle parking spaces complying with the relevant Australian Standards or Bicycle Network guidelines.

- k. All spaces, ramps, grades, transitions, accessways, height clearances and car lift designed in accordance with the Melbourne Planning Scheme and/or AS/NZS 2890.1:2004.

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

2. The development and land uses as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

Demolition / Heritage Conservation

3. Prior to the commencement of any demolition of the building at 140 Queen Street, the existing conditions of the front façade of the 140 Queen Street building is to be recorded photographically and measured drawings of the façade must be submitted to and approved by the City of Melbourne. The measured drawings of the 140 Queen Street façade must detail the construction methods and exact measurements of the façade details.

Façade Strategy

4. Prior to the commencement of the development, excluding demolition and bulk excavation, a facade strategy and material and finishes must be submitted to and approved by the Responsible Authority. All materials, finishes and colours must be in conformity with the approved Façade Strategy to the satisfaction of the Responsible Authority in consultation with the City of Melbourne. Unless otherwise approved by the Responsible Authority, the Façade Strategy must be generally in accordance with the development plans and must detail:
 - a. Elevation details generally at a scale of 1:50 illustrating typical podium details, entries and doors, and utilities, typical tower detail, and any special features which are important to the building's presentation. The drawings must demonstrate:
 - i. Modifications to the façade for the 40 metre podium (street wall) on Queen Street to further differentiate the various massing forms and to reference the proposal and material of the original building façade of 140 Queen Street as demonstrated in the façade concept pack prepared by Bates Smart on 22 September 2019.
 - ii. Details of the depth in tower vertical rebate to break down mass.
 - iii. Further evolution and detail of the façade design of the tower to ensure the delivery of a high quality, textured, modulated form.
 - iv. Preliminary stone profile detail which depicts a fully integrated glazing system with no visible gaps between the cladding and glazing line.
 - v. The design of all canopies.
 - vi. Detailed design information regarding external materials, colours and finishes, glazing, services, car park entrance door, security doors and lighting at the ground level.

Construction Management Plan

5. 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 Melbourne City Council – 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.
6. If a Construction Management Plan or Traffic Management Plan change any of the tree protection methodologies or impacts on public trees in ways not identified in the endorsed Tree Protection Plan (TPP), a revised TPP must be provided to the satisfaction of, and approved by, Melbourne City Council – Urban Forestry & Ecology.

Legal agreements

7. Prior to the commencement of the development (excluding demolition), the owner of the land must enter into an agreement with the Responsible Authority and Melbourne City Council pursuant to Section 173 of the Planning and Environment Act 1987. This agreement must:
- a. The office use must be secured for a minimum of 10 years from the date of issue of a certificate of occupancy for the building.
 - b. The Agreement must make provision for its removal from the land following completion of the obligations contained in the agreement.

The owner must pay all of the Responsible Authority's and the Council's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

8. Prior to the commencement of the demolition or removal of existing buildings or works (excluding demolition or removal of temporary structures) on the land, the owner of the land must enter into an agreement with the Responsible Authority and Melbourne City Council pursuant to Section 173 of the Planning and Environment Act 1987. The agreement must provide the following:
- a. if the land remains vacant for 6 months after completion of the demolition;
 - b. demolition or construction activity ceases for a period of 6 months; or
 - c. construction activity ceases for an aggregate of 6 months after commencement of the construction,

The owner must construct temporary works on the land to the satisfaction of the Responsible Authority.

Land Use (Minor Sports and Recreation Facility)

9. The maximum number of patrons on the premises must be no more than 196 at any one time unless with the prior written consent of the Responsible Authority.
10. Except with the prior written consent of the Responsible Authority, the premises must only be open for the use between 6am and 9pm Monday and 8 am to 4 pm Saturday and Sunday.

Car parking layout & access to be constructed and maintained in accordance with endorsed plans

11. The areas set aside for car parking, the access of vehicles and access ways must be constructed, delineated and clearly line-marked 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.

Road Safety Audit

12. Prior to the commencement of the development, excluding demolition and bulk excavation, a desktop Road Safety Audit prepared by a suitably qualified professional must be provided to the satisfaction of the Responsible Authority in consultation with Melbourne City Council – Engineering Services. The Road Safety Audit must address the following matters:
- a. Vehicular / bicycle / pedestrian access arrangements
 - b. Loading arrangements
 - c. Internal circulation / layout

When provided to the satisfaction of the Responsible Authority the Road Safety Audit will be endorsed to form part of this permit.

Car Parking and Traffic Management Report

13. Prior to the commencement of the development, other than demolition and early site preparation works approved, a Car Parking and Traffic Management Report prepared by a suitably qualified traffic consultant must be submitted to and approved by the Responsible Authority in consultation with Melbourne City Council. The Car Parking and Traffic Management Report must:
- a. Address the number of car parking spaces and bicycle facilities provided, integrate with the approved Waste Management Plan, and inform the detailed internal design of the car park and loading areas.
 - b. Demonstrate compliance with relevant car park design standards outlined in Clause 52.06-9 of the Melbourne Planning Scheme and / or other relevant guidelines.
 - c. Specify and assess all relevant traffic, access and parking matters and pedestrian safety to the satisfaction of the Responsible Authority and recommend traffic mitigation works and management measures, if required, to manage the traffic impacts generated by the development.
 - d. Address the location and design of the vehicle crossings on Queen Street, including pedestrian safety, and be prepared in consultation with Melbourne City Council. Priority should be given to pedestrians on the street over vehicles entering / exiting the site.

All traffic mitigation works and management measures as recommended in the Car Parking and Traffic Management Report must be implemented at no cost to the Responsible Authority or Melbourne City Council and must be to the satisfaction of Melbourne City Council.

Loading Management Plan

14. Prior to the commencement of the development, other than demolition and early site preparation works approved, a comprehensive Loading Management Plan (LMP) is to be prepared, specifying how the access / egress of loading vehicles is to be managed and ensuring that:
- a. All vehicle types expected to service the site are capable of being accommodated within the loading area / bays. Compliance with this requirement is to be demonstrated by the submission of appropriate swept path diagrams accompanying the LMP.
 - b. Loading bays are designed in accordance with relevant Australian and New Zealand Standards or other relevant standards as determined by a suitably qualified Traffic Engineer.
 - c. The delivery needs of the various components of the development can be accommodated.
 - d. Vehicles do not queue on-street.
 - e. Vehicles are able to both access / egress the site in a forward direction; and

- f. Any potential conflicts between various vehicles (and other road users) are satisfactorily addressed.
- g. Times for deliveries limit insofar as possible potential for amenity impacts on nearby sensitive land uses, including the guest rooms within the Residential Hotel use approved under this permit (e.g. by limiting vehicle deliveries to ordinary trading hours).

The LMP is to be approved by Melbourne City Council – Engineering Services. The owner must reimburse Melbourne City Council for all costs associated with any parking changes.

3D Digital Model

- 15. Prior to the occupation of the development, a 3D digital model of the approved development must be submitted to, and must be to the satisfaction of, the Responsible Authority. The model should be prepared having regard to Advisory Note – 3D Digital Modelling Melbourne City Council. 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 City of Melbourne.

Building Appurtenances and Services

- 16. 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.
- 17. 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.
- 18. 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.

Implementation of Environmentally Sustainable Design (ESD)

- 19. Prior to the occupation of any building approved under this permit, a report from the author of the endorsed ESD report, or similarly qualified persons or companies, outlining how the performance outcomes specified in the amended ESD report have been implemented must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm and provide sufficient evidence that all measures specified in the approved ESD report have been implemented in accordance with the relevant approved plans. This may include a GBCA Green Star Design & As Built Design Review Rating to confirm compliance with the stated Green Star targets.

Verification of Certified Green Star Rating

- 20. Following final GBCA certification of the project's Green Star Design & As-Built rating, copies of the certificate must be submitted to the Responsible Authority.

Landscaping

- 21. Prior to commencement of development (excluding demolition and bulk excavation), a scheme for landscaping and planting in connection with the proposed development must be submitted to, and be approved by the Responsible Authority. This should include landscape plans with detailed planter sections including soil volumes and schedules of species with soil volume requirements and growing media proposed, and a Landscape Maintenance Plan providing details of proposed

maintenance regimes with provision for maintenance beyond the fifty two week period following Practical Completion. Except with the prior written consent of the Responsible Authority the approved landscaping must be implemented prior to the occupation of the development. The landscaped area(s) must be maintained to the satisfaction of the Responsible Authority.

Drainage of projections

22. 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 City of Melbourne – Engineering Services.

Works abutting Council Lanes

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

Drainage connection underground

24. Prior to the commencement of the development (excluding demolition and bulk excavation), a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the City of Melbourne– 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

25. 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, in accordance with plans and specifications first approved by the City of Melbourne – Engineering Services.

Roads

26. All portions of road affected by the construction activities of the subject land must be reconstructed together with associated works including the reconstruction or relocation of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

Sawn bluestone footpaths

27. The footpath(s) adjoining the site along Queen Street and Bourke Street must be reconstructed in sawn bluestone together with associated works including the renewal/reconstruction of kerb and channel and modification of 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

28. Existing street levels in Queen Street, Bourke Street, Penfold Place and McKillop 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

29. 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.

Existing street furniture

30. Existing street furniture must not be removed or relocated without first obtaining the written approval of the Responsible Authority – Engineering Services.

Pedestrian ramp design

31. All pedestrian ramps must be designed and constructed in accordance with AS 1428:2009 Design for Access and Mobility and should be fitted with ground surface tactile indicators (TGSIs). Details of the TGSIs must be submitted to and approved by City of Melbourne – Engineering Services prior to their installation.

Street furniture

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

Public lighting

33. Prior to the commencement of the development, excluding preliminary site works, demolition and any clean up works, or as may otherwise be agreed with the City of Melbourne, a lighting plan must be prepared to the satisfaction of Council. The lighting plan should be generally consistent with Council's Lighting Strategy, and include the provision of public lighting in the adjacent streets. The lighting works must be undertaken prior to the commencement of the use / occupation of the development, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

Tree Protection Plan

34. Prior to the commencement of any works including demolition and bulk excavation, a Tree Protection Plan (TPP), for any public trees that may be affected by the development, must be provided to the satisfaction of the City of Melbourne. The TPP must be in accordance with AS 4970-2009 – Protection of trees on development sites and include:
 - a. City of Melbourne asset numbers for the subject trees (found at <http://melbourneurbanforestvisual.com.au>).
 - b. Reference to the finalised Construction and Traffic Management Plan, including any public protection gantries.
 - c. Site specific details of the temporary tree protection fencing to be used to isolate publicly owned trees from the demolition and construction activities or details of any other tree protection measures considered necessary and appropriate to the site.
 - d. Specific details of any special construction methodologies to be used within the Tree Protection Zone of any publicly owned tree. These must be provided for any utility connections or civil engineering works.
 - e. Full specifications of any pruning required to publicly owned trees.
 - f. Any special arrangements required to allow ongoing maintenance of publicly owned trees for the duration of the development.
 - g. Details of the frequency of the Project Arborist monitoring visits, interim reporting periods and final completion report (necessary for bond release). Interim reports of monitoring must be provided to Council's email via trees@melbourne.vic.gov.au.

Public Tree Protection

35. All works (including demolition), within the Tree Protection Zone of public trees must be undertaken in accordance with the endorsed Tree Protection Plan and supervised by a suitably qualified Arborist where identified in the report, except with the further written consent of the City of Melbourne.

36. Following the approval of a Tree Protection Plan (TPP) a bank guarantee equivalent to the combined environmental and amenity values of public trees that may be affected by the development will be held against the TPP for the duration of construction activities. The bond amount will be calculated by council and provided to the applicant / developer / owner of the site. Should any tree be adversely impacted on, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works incurred.

Public Tree Removal

37. Approval for any tree removal is subject to the Tree Retention and Removal Policy, Council's Delegations Policy and requirements for public notification, and a briefing paper to councillors. It should be noted that certain tree removals including but not limited significant or controversial tree removals, may be subject to decision by Council or a Committee of Council.
38. All costs in connection with the removal and replacement of public trees, including any payment for the amenity and ecological services value of a tree/s to be removed, must be met by the applicant / developer / owner of the site. The costs of these works will be provided and must be agreed to before council remove the subject trees.

Public Realm Civil Works (Tree Plots)

39. Subject to the approval of the removal of any public tree by the City of Melbourne and prior to the occupation of the development, Engineering Plans must be provided to the satisfaction of the City of Melbourne that show new tree plots. The plots must provide greater soil volume than a standard tree plot and may include structural soils within the footpath.

NOTES

The internal roads should remain the responsibility of the land owner(s) in perpetuity. The City of Melbourne is unlikely to agree to the internal roads being made public.

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.

The City of Melbourne (CoM) may not change the on-street parking restrictions to accommodate the access, servicing, delivery and parking needs of this development. The CoM cannot guarantee that vehicular access to and egress from the site will be possible via Penfold Place, as vehicles stopping in this laneways, either legally or illegally, may block access. The CoM will not get involved in resolving any access difficulties / disputes that may occur as a result of vehicles stopping in the laneway.

This place is included on the Victorian Heritage Inventory, for its potential to contain historical archaeological remains associated with the settlement and growth of early Melbourne. Under the terms of the Heritage Act 2017 there is protection for all historical archaeology sites and objects in the state.

In accordance with the Tree Retention and Removal Policy a bank guarantee must be:

- a. Issued to City of Melbourne, ABN: 55 370 219 287.
- b. From a recognised Australian bank.
- c. Unconditional (i.e. no end date)
- d. 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 Council's Urban Forest and Ecology Team. Please email trees@melbourne.vic.gov.au to arrange a suitable time for the bank guarantee to be received. A receipt will be provided at this time.

At the time of lodgement of the bank guarantee the completed Project Arborist Confirmation Form must be provided. On completion of the works the bank guarantee will only be released when evidence is provided of Project Arborist supervision throughout the works and a final completion report confirms that the health of the subject public trees has not been compromised.