

Report to the Future Melbourne Committee**Agenda item 6.2****Ministerial Planning Referral: ID-2020-7, 21 - 35 Power Street, Southbank****20 April 2021****Presenter:** Larry Parsons, Practice Leader Land Use and Development**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of a site specific planning scheme amendment lodged with the Minister for Planning and referred to Council for comment. The amendment seeks permission to apply a Specific Controls Overlay (SCO) to 21 - 35 Power Street, Southbank and include a related Incorporated Document (ID) in the planning scheme. This ID would facilitate the construction of a multi-storey office building on site.
2. The applicant is SJB Planning, the owner is GL Investment Company Melbourne Pty. Ltd. and the proposed building has been designed by Grimshaw Architects.
3. The site is located in Capital City Zone, Schedule 3 (Southbank), Design and Development Overlay Schedules 1 (Active street frontages), 3 (Traffic conflict frontages - Capital City Zone) and 10 (General development area - Built form) and Parking Overlay, Schedule 1 (Capital City Zone - Outside the retail core).
4. The proposed building would stand to a height of 52 storeys (215 metres) and measure 90,993 square metres. Of this, a net 50,990 square metres would be used as office space and 924 square metres as retail space. The balance of the floor area would accommodate a publicly accessible foyer and arcade extending through the site and connecting with an adjacent thoroughfare, building services and car and bicycle parking facilities. 130 car parking spaces would be provided at podium level and 350 bicycle parking spaces at basement level.
5. The Department of Environment, Land, Water and Planning, on behalf of the Minister for Planning, has referred the application to Council for comment. Council is a recommending referral authority and the proposal is exempt from third party notice and appeal rights.

Key issues

6. Approval was previously granted to construct a 75-storey (273 metres) mixed-use building on site with a smaller tower floorplate than that now proposed. The tower element of the now proposed 215m high building does not comply with the otherwise mandatory requirements of the Design and Development Overlay (DDO10), particularly the reduced side setbacks and expanded floor plate of the tower, though the SCO exempts compliance.
7. Surrounding sites accommodate high towers and approval has recently been granted to construct the southern hemisphere's highest mixed-use building at 102 - 158 City Road within this same block. These surrounding existing and approved buildings require a setback-compliant tower form, which would allow for greater visual relief and provide facing occupants with an appropriate degree of privacy and outlook.
8. The previously approved building would overshadow the Shrine of Remembrance surrounds at 4pm on 22 June, whereas the proposed building does not. This time is outside the control period of the planning scheme. However, on this basis, the applicant is of the view that the development is of state significance and that a planning scheme amendment process is the only mechanism available to consider the application and allow for the greater floorplate desired.
9. Officers do not share this view and consider that, subject to alterations to the form of the tower to comply with DDO10, the proposal could be assessed via the planning permit application process. It is considered that the planning scheme amendment process is not an appropriate mechanism in this case.

Recommendation from management

10. That the Future Melbourne Committee resolves to:

10.1 Advise the Department of Environment, Land, Water and Planning that:

10.1.1 Council opposes the proposed development at 21 - 35 Power Street, Southbank, and questions the need for a site specific planning scheme amendment to facilitate any approval that may ultimately be issued (refer to Attachment 4 of the report from management).

10.1.2 Should the Minister for Planning resolve to approve the proposed development, Council requests inclusion of the changes marked-up in the Draft Incorporated Document at Appendix 1 of Attachment 4 of the report from management.

Attachments:

1. Supporting Attachment (Page 3 of 71)
2. Locality Plan (Page 4 of 71)
3. Selected Plans (Page 5 of 71)
4. Delegate Report (Page 27 of 71)

Supporting Attachment

Legal

1. The Minister for Planning is the Responsible Authority. Whilst Council is a recommending referral authority, the application has been referred to Council for comment only.

Finance

2. There are no direct financial issues arising from the recommendations set out in this report.

Conflict of interest

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

Health and Safety

4. In developing this proposal, no Occupational Health and Safety issues or opportunities have been identified.

Stakeholder consultation

5. The application is exempt from the notice and review requirements of the *Planning and Environment Act 1987*.

Relation to Council policy

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

Environmental sustainability

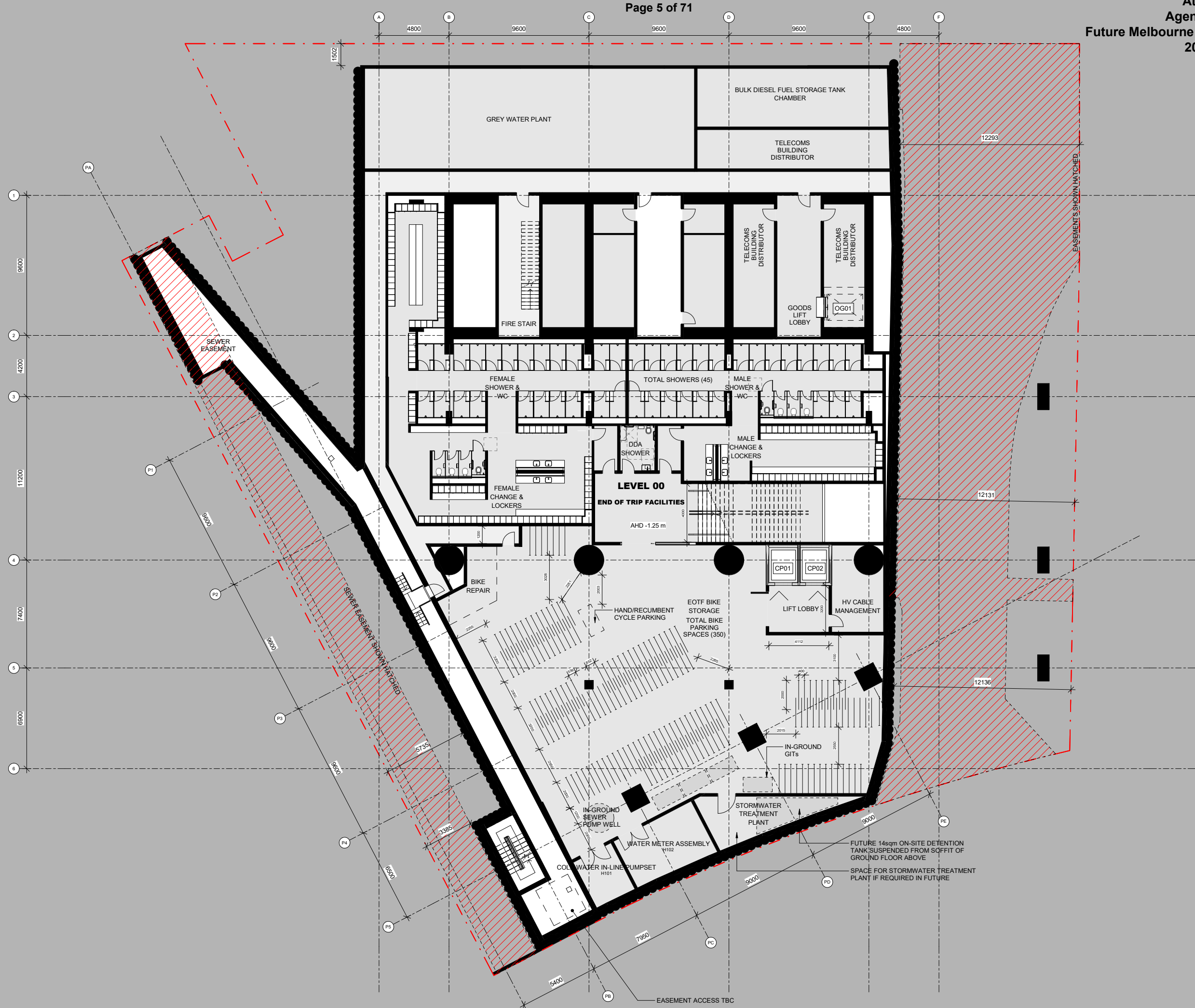
7. The Environmentally Sustainable Design (ESD) report submitted with the application confirms the proposed development can achieve the relevant performance measures set out in Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management) of the Melbourne Planning Scheme.

Locality Plan

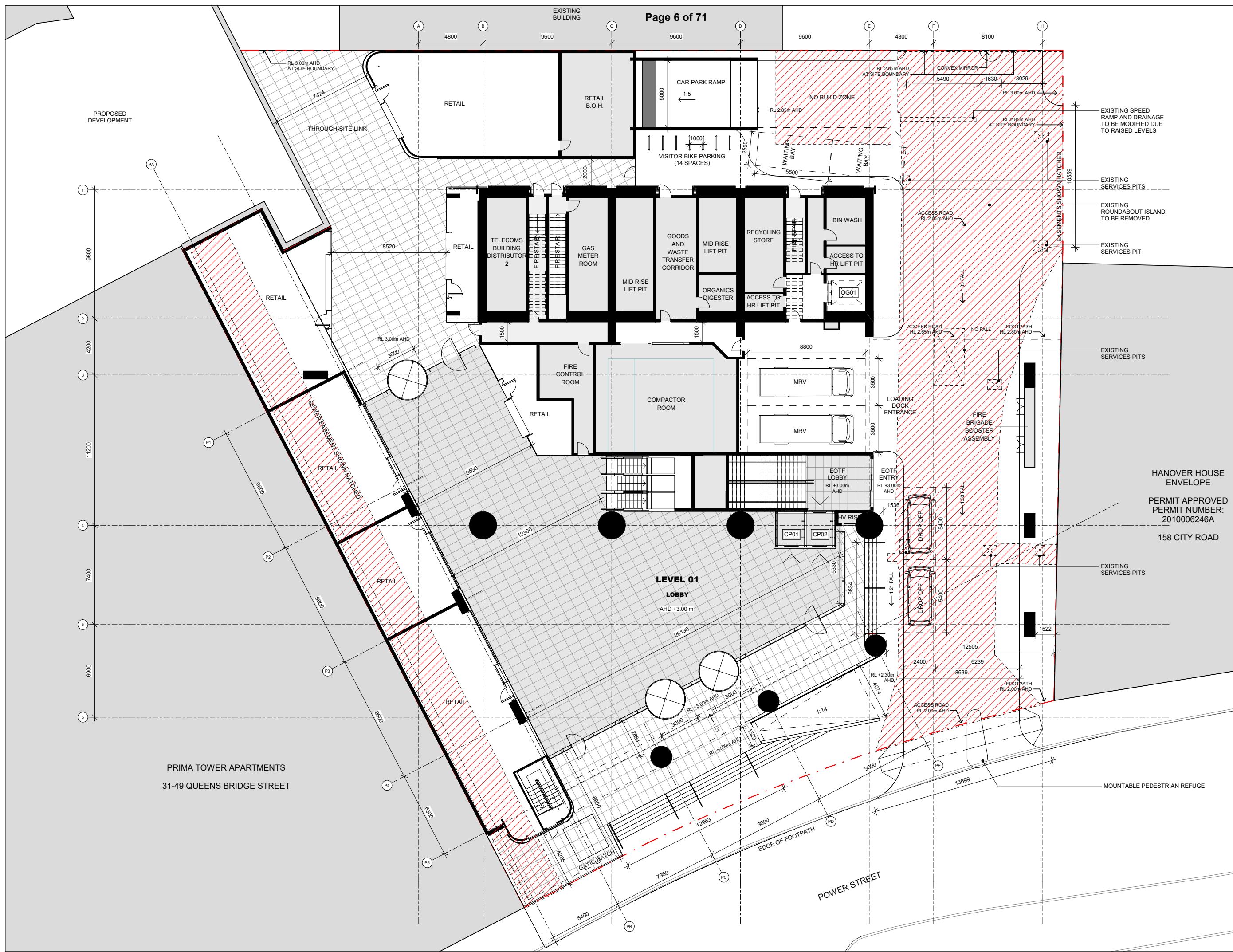
Attachment 2
Agenda item 6.2
Future Melbourne Committee
20 April 2021

21 - 35 Power Street, Southbank





EASEMENT ACCESS TBC



HANOVER HOUSE
ENVELOPE
PERMIT APPROVED
PERMIT NUMBER:
201006246A
158 CITY ROAD

CLIENT
GA Investment Co. Melbourne

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PROJECT NAME
25 Power Street, Southbank

PROJECT NO. ADDRESS
**17154 35 Power Street,
Melbourne, VIC,
Australia**

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

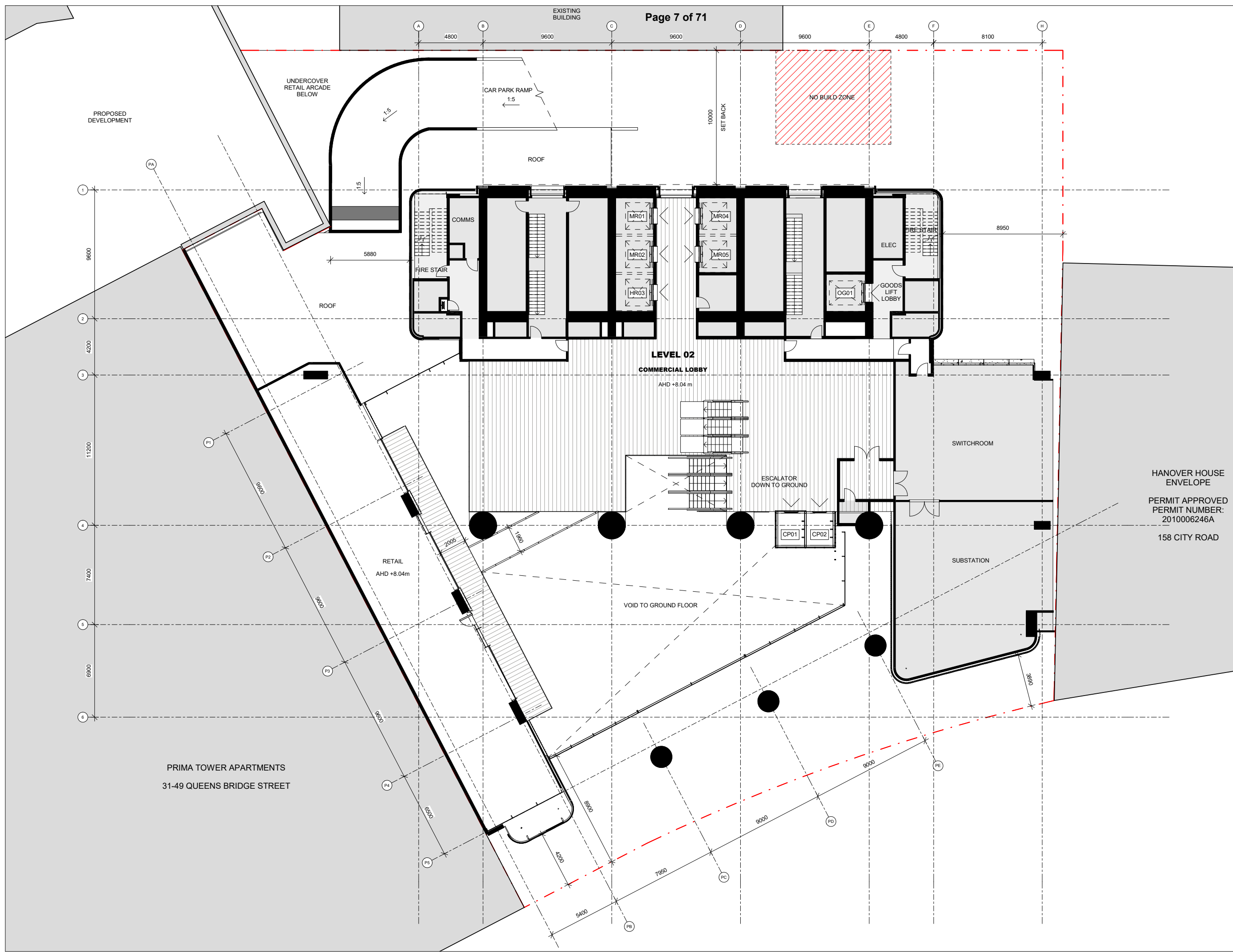
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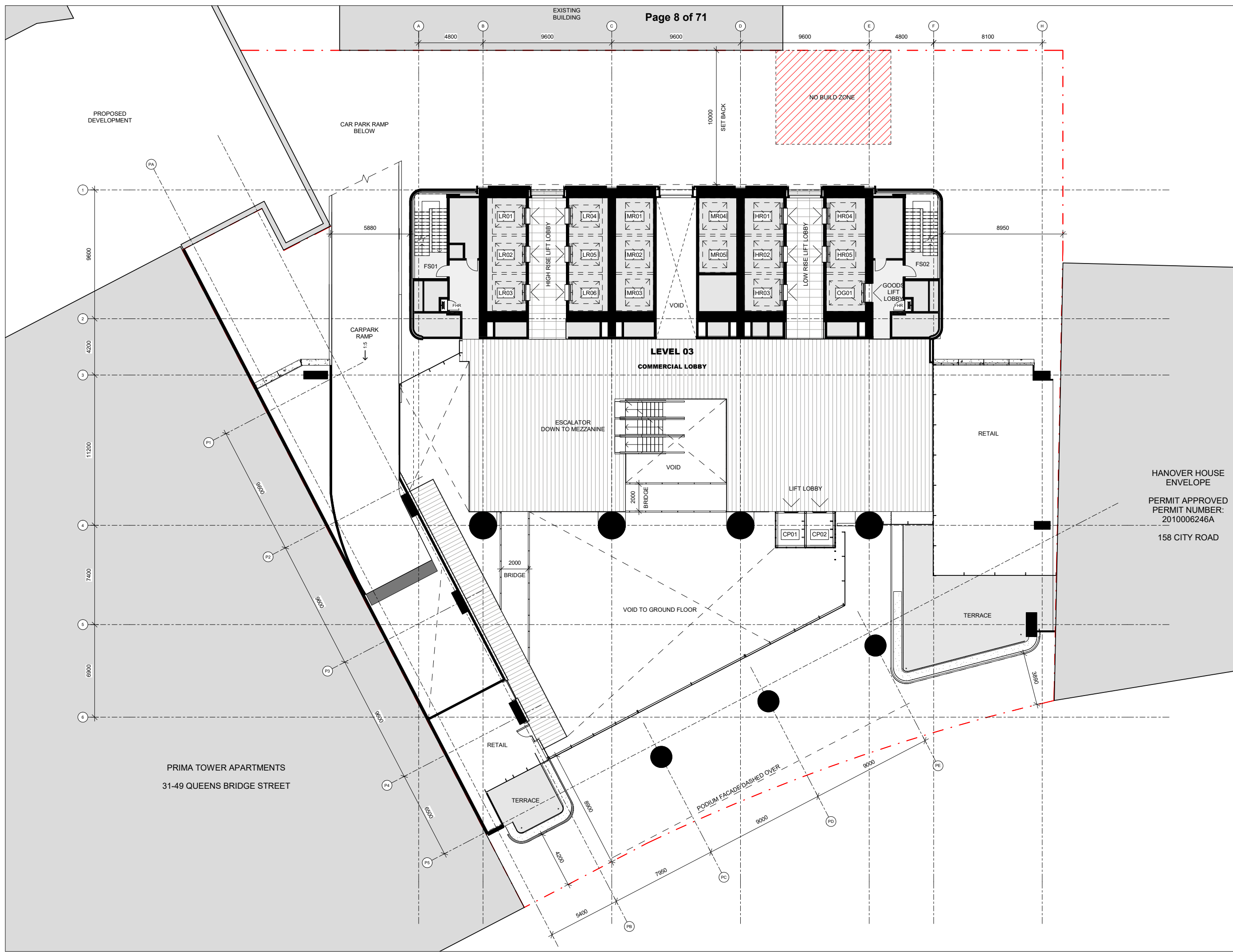
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LEVEL 01 - GROUND

SCALE STATUS
1 : 125 TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1001





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REV	BY	DATE	DESCRIPTION
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KEY PLAN

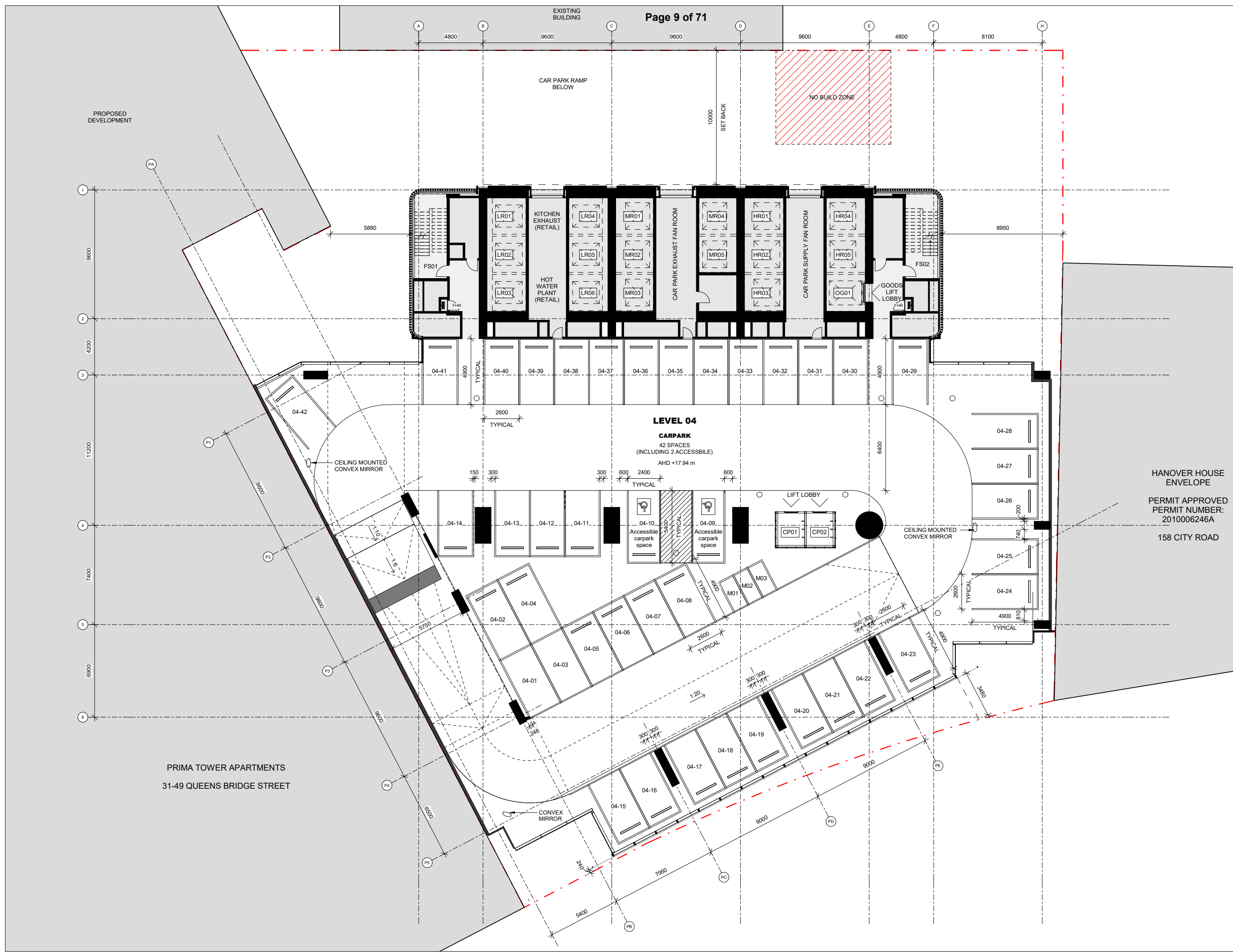
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SCALE STATUS
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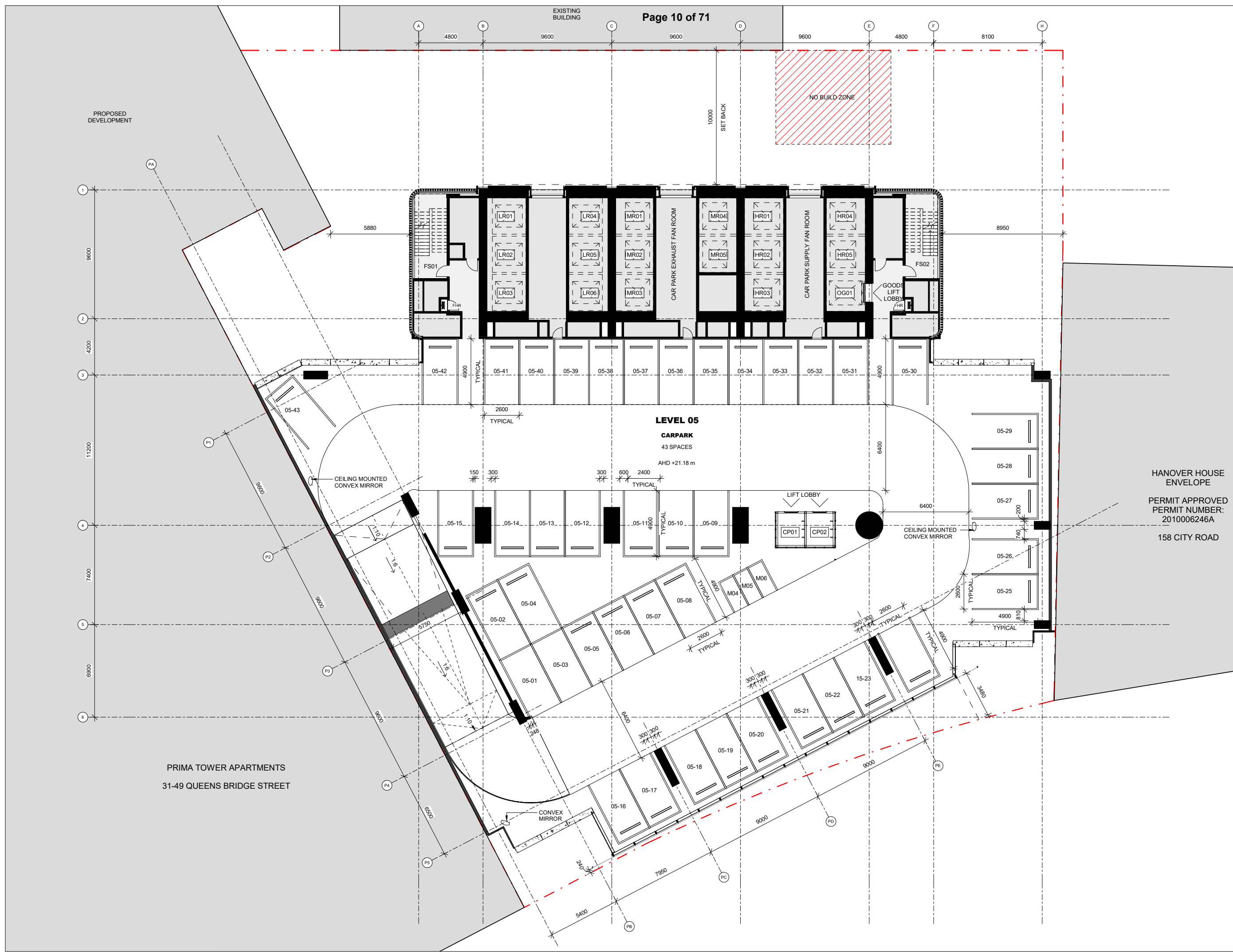
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MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1003



HANOVER HOUSE
ENVELOPE
PERMIT APPROVED
PERMIT NUMBER:
2010006246A
158 CITY ROAD

PRIMA TOWER APARTMENTS
31-49 QUEENS BRIDGE STREET



PROPOSED DEVELOPMENT

EXISTING BUILDING

NO BUILD ZONE

10000 SET BACK

LEVEL 05

CARPARK

43 SPACES

AHD +21.18 m

HANOVER HOUSE ENVELOPE

PERMIT APPROVED PERMIT NUMBER: 2010006246A

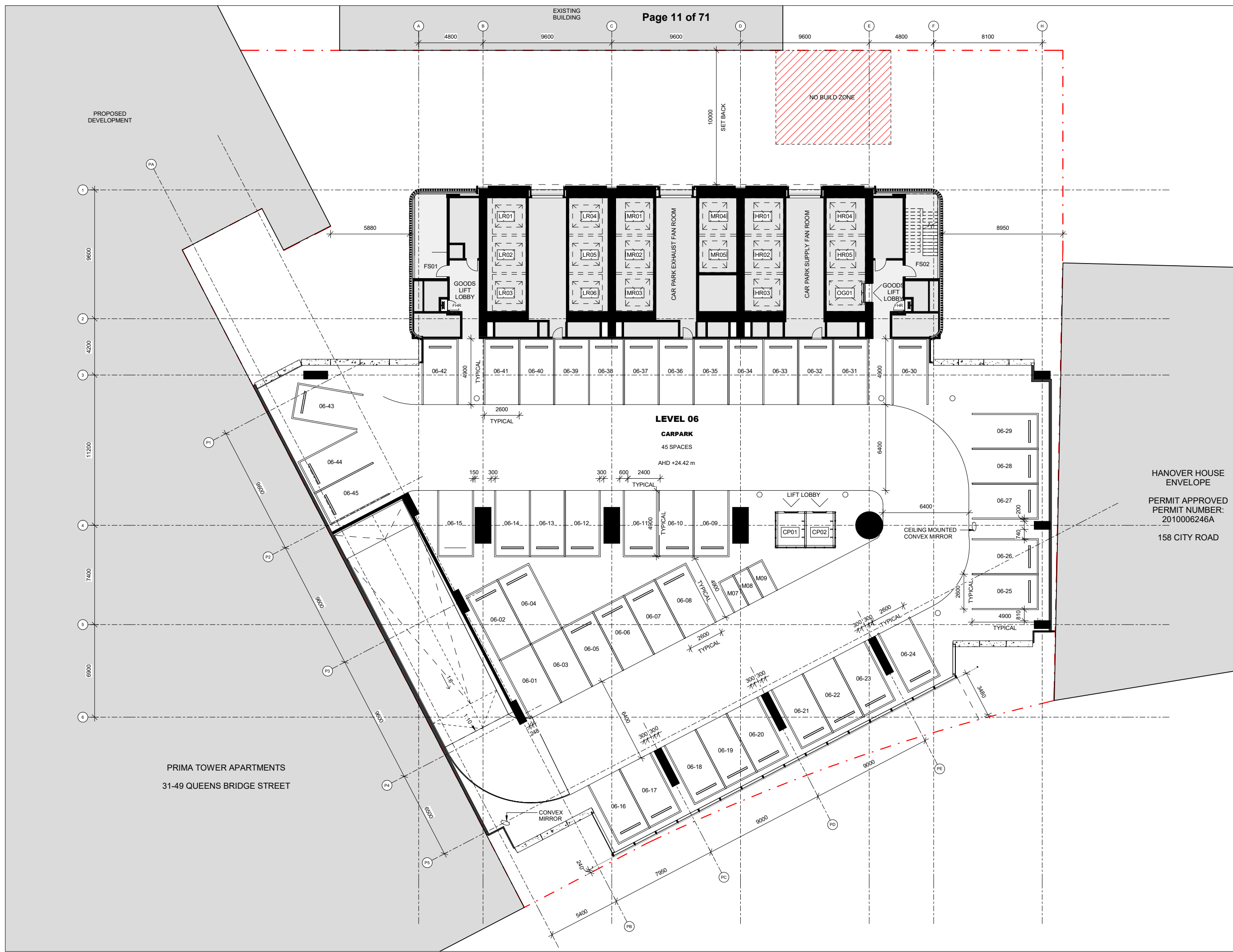
158 CITY ROAD

PRIMA TOWER APARTMENTS
31-49 QUEENS BRIDGE STREET

CEILING MOUNTED CONVEX MIRROR

CEILING MOUNTED CONVEX MIRROR

CONVEX MIRROR



HANOVER HOUSE
ENVELOPE
PERMIT APPROVED
PERMIT NUMBER:
2010006246A
158 CITY ROAD

PRIMA TOWER APARTMENTS
31-49 QUEENS BRIDGE STREET

PROPOSED
DEVELOPMENT

EXISTING BUILDING

10000
SET BACK

NO BUILD ZONE

LEVEL 06

CARPARK

45 SPACES

AHD +24.42 m

LIFT LOBBY

CEILING MOUNTED
CONVEX MIRROR

CONVEX MIRROR

NORTH

SCALE BAR

DRAWING TITLE

SCALE

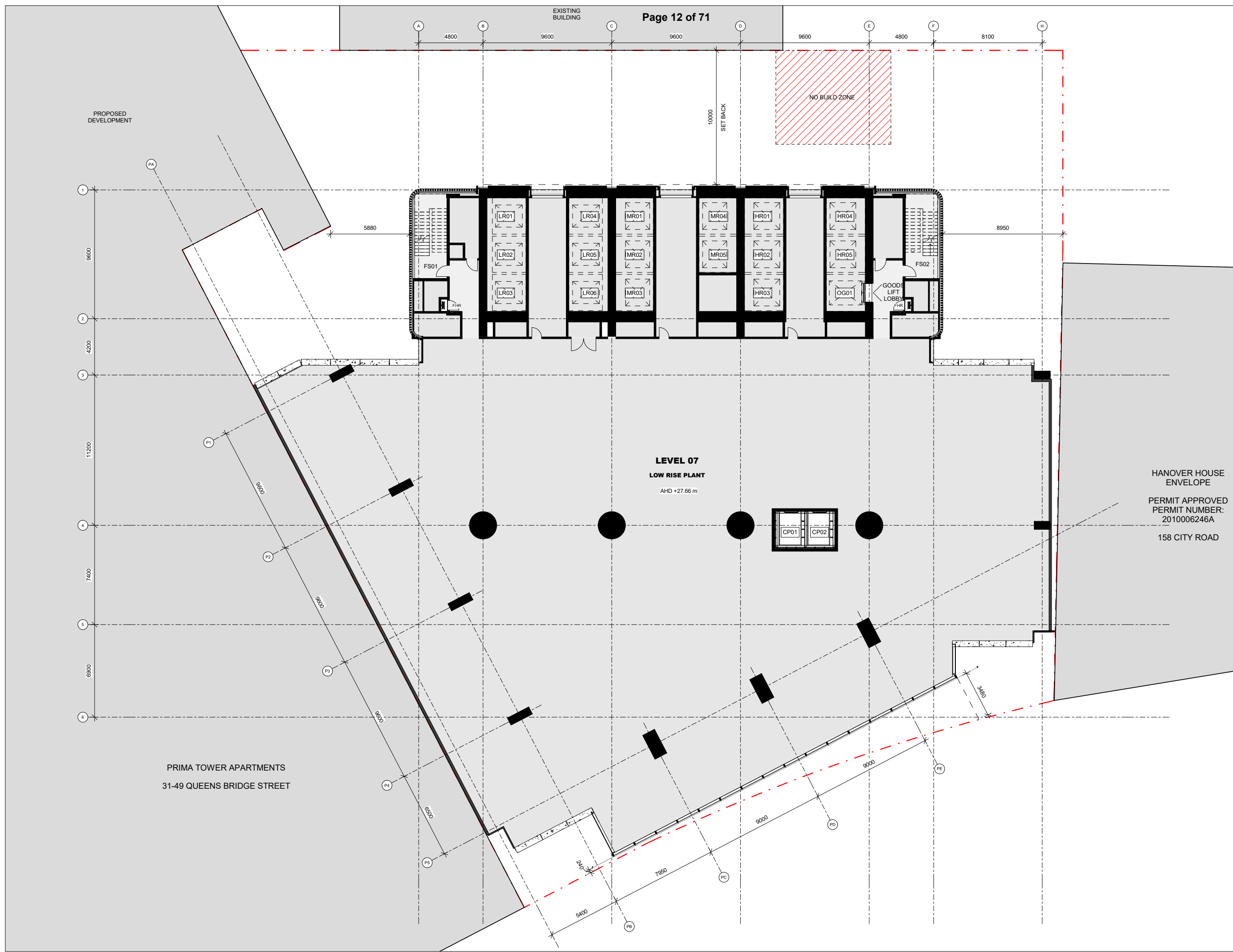
STATUS

DRW

DRW DATE

REV

DRAWING NO.



LEVEL 07
LOW RISE PLANT
AHD +27.66 m

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PRIMA TOWER APARTMENTS
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PROJECT NO. ADDRESS
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REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

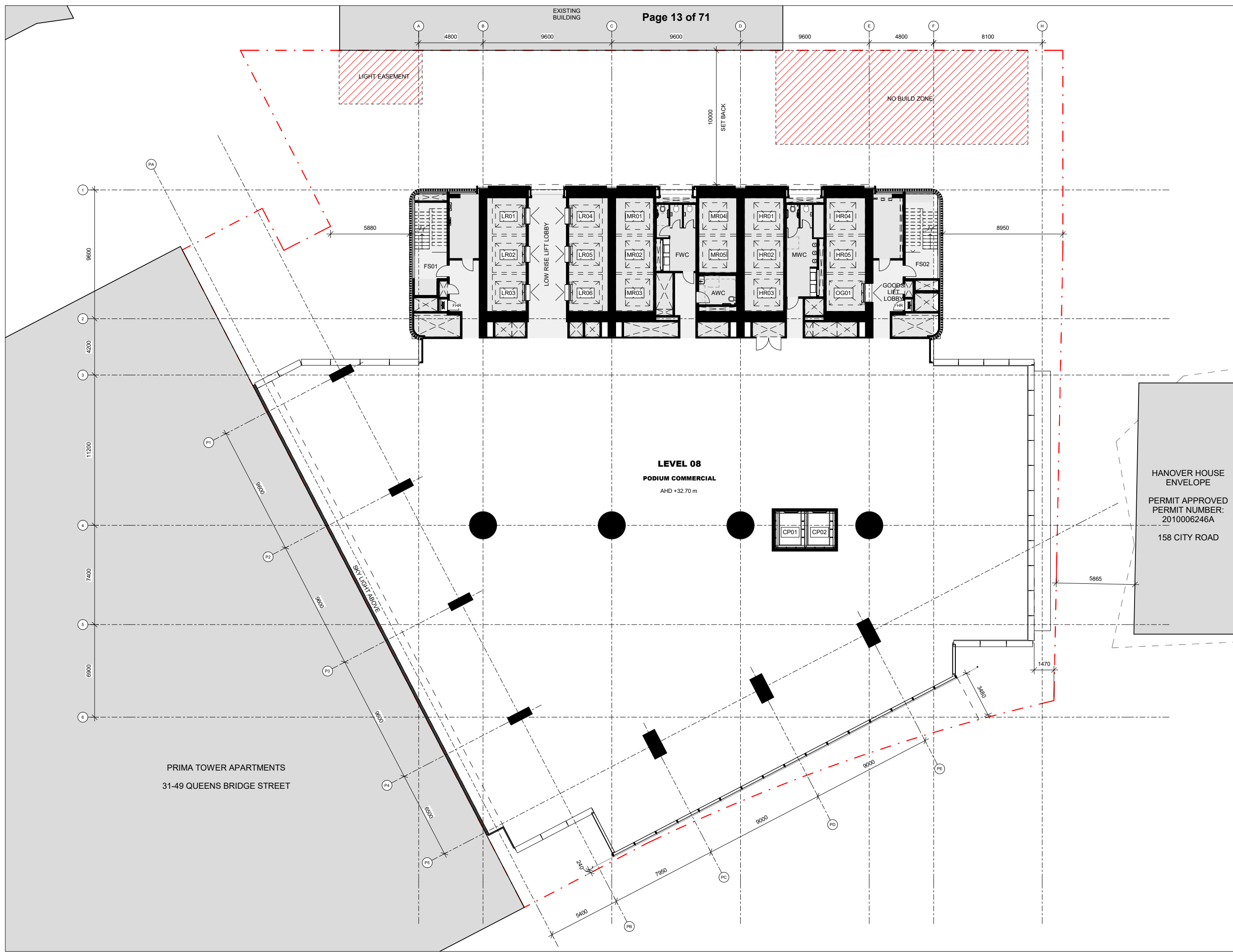
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SCALE BAR

DRAWING TITLE
LEVEL 07 - LOW RISE PLANT

SCALE STATUS
1 : 125 TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1007



LEVEL 08
PODIUM COMMERCIAL
AHD +32.70 m

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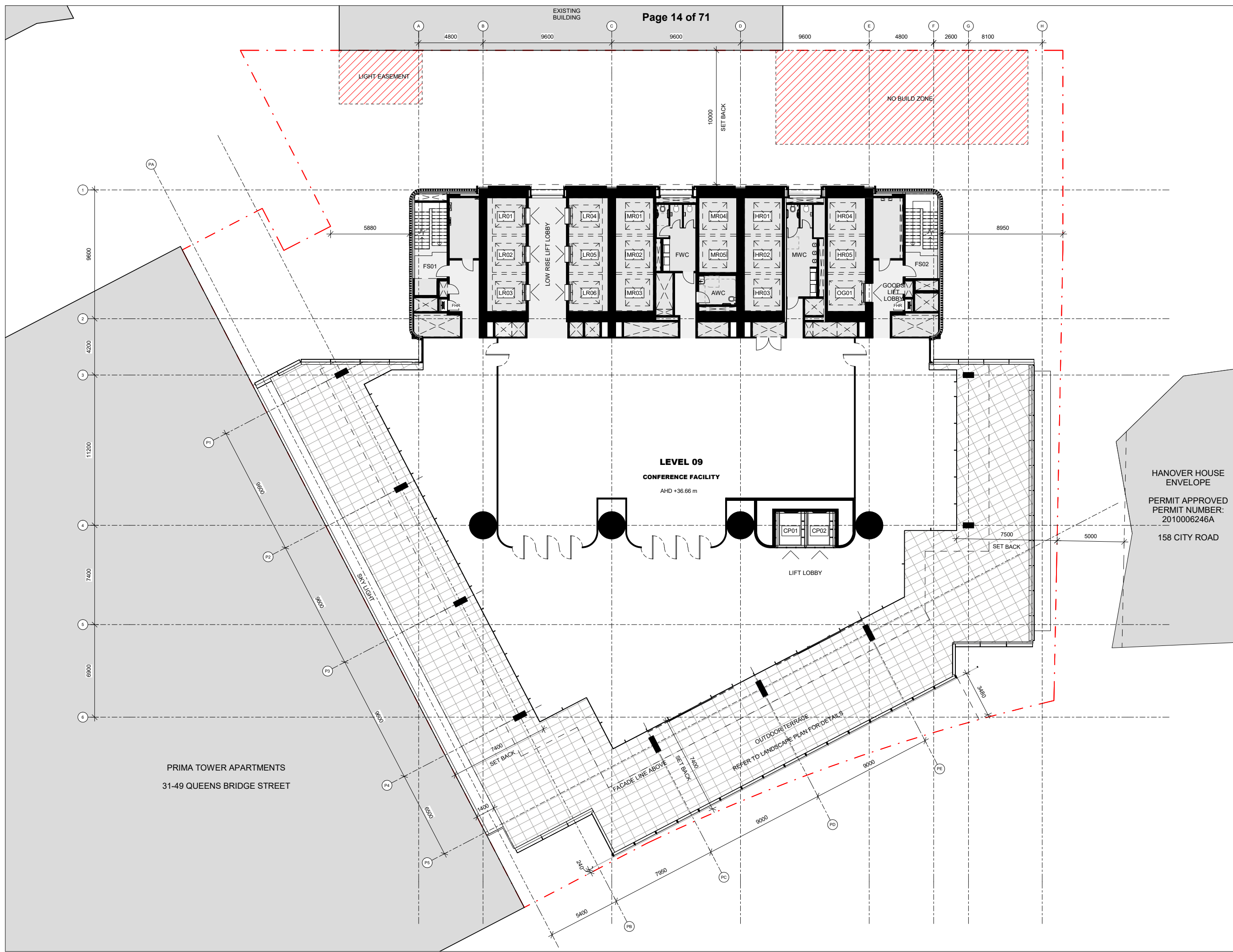
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DRAWING TITLE
LEVEL 08 - LOW RISE COMMERCIAL

SCALE STATUS
1 : 125 TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1008

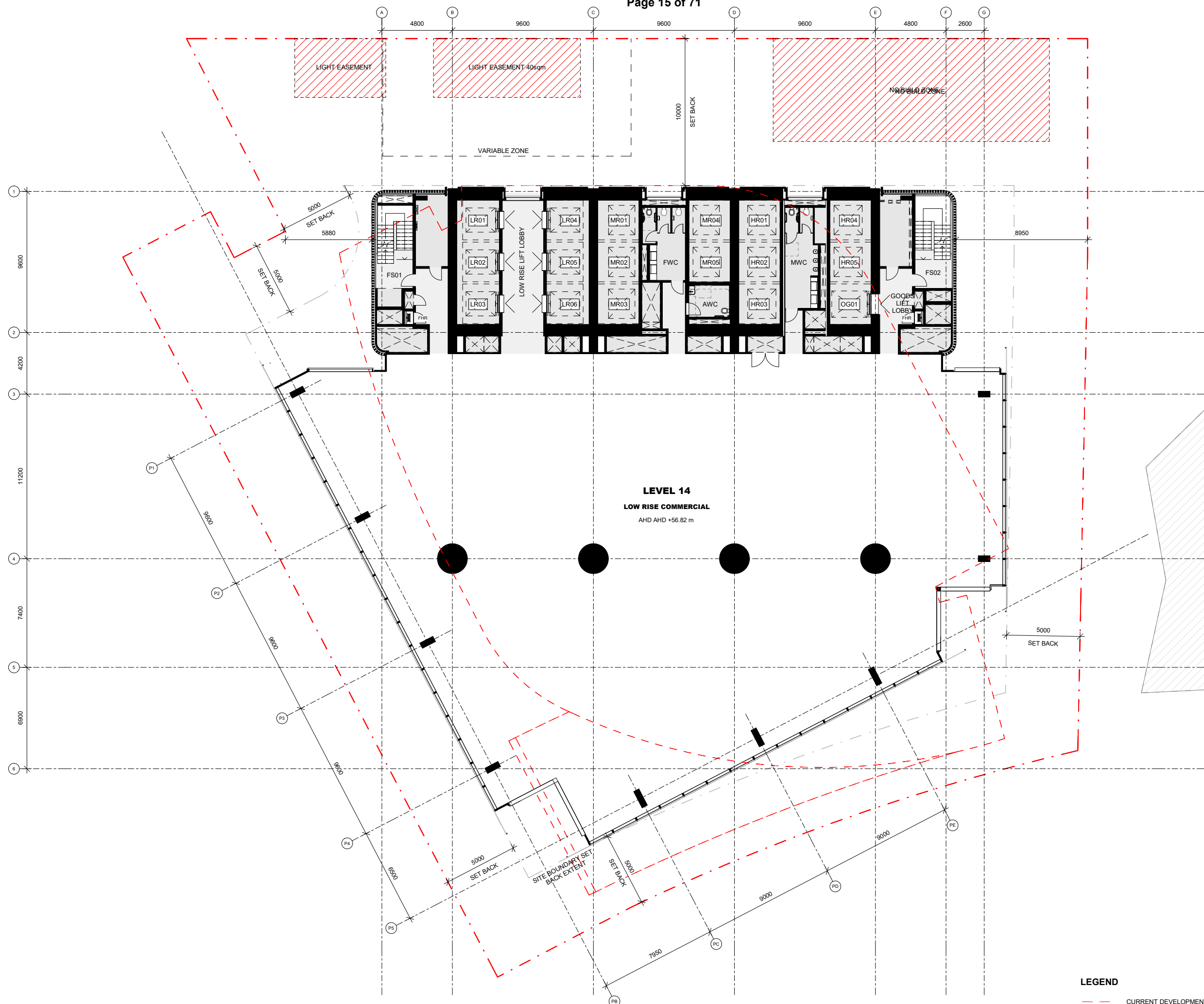


PRIMA TOWER APARTMENTS
31-49 QUEENS BRIDGE STREET

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ENVELOPE
PERMIT APPROVED
PERMIT NUMBER:
201006246A
158 CITY ROAD

LEVEL 09
CONFERENCE FACILITY
AHD +36.66 m

OUTDOOR TERRACE
REFER TO LANDSCAPE PLAN FOR DETAILS



LEVEL 14
LOW RISE COMMERCIAL
 AHD AHD +56.82 m

LEGEND
 - - - - - CURRENT DEVELOPMENT APPROVAL OUTLINE

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PROJECT NAME
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PROJECT NO. 17154 **ADDRESS** 35 Power Street, Melbourne, VIC, Australia

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

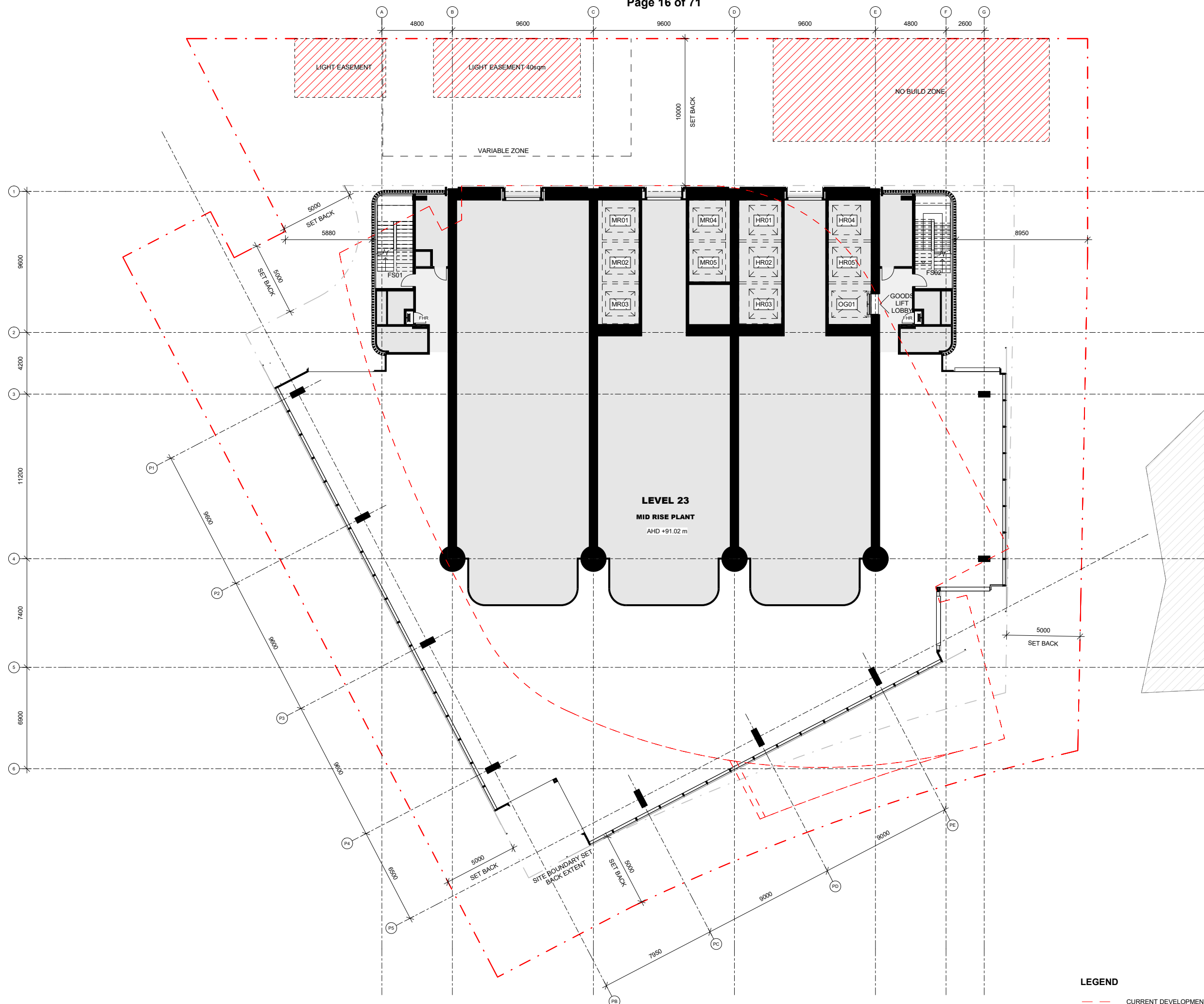
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DRAWING TITLE
LEVEL 14 - LOW RISE COMMERCIAL - TYPICAL

SCALE 1 : 125 **STATUS** TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
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PROJECT NO. 17154 **ADDRESS** 35 Power Street, Melbourne, VIC, Australia

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

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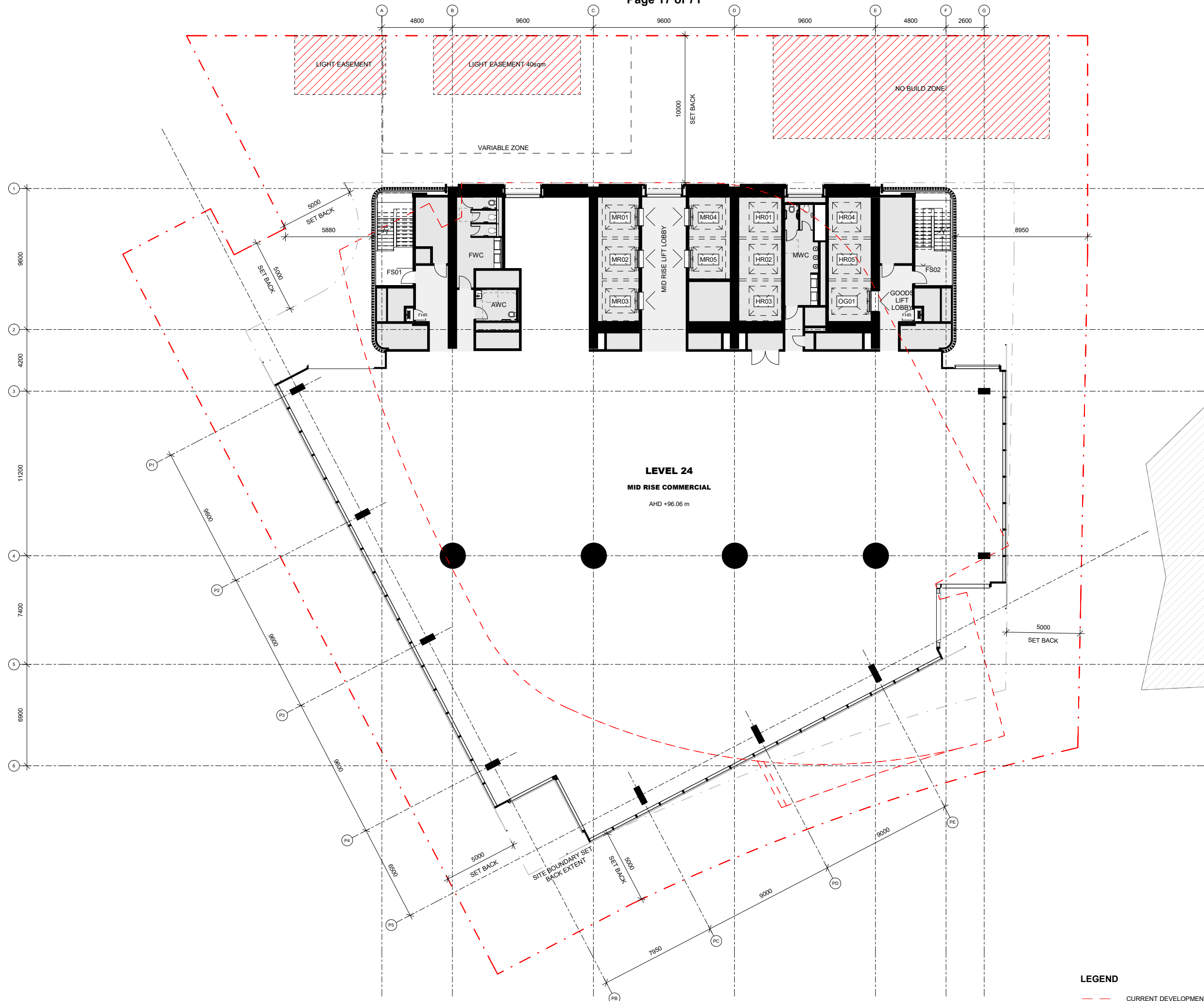
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LEVEL 23 - MID RISE PLANT

SCALE 1 : 125 **STATUS** TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1023

LEGEND
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LEVEL 24
MID RISE COMMERCIAL
 AHD +96.06 m

LEGEND

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PROJECT NAME
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PROJECT NO. **17154** **ADDRESS** **35 Power Street, Melbourne, VIC, Australia**

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

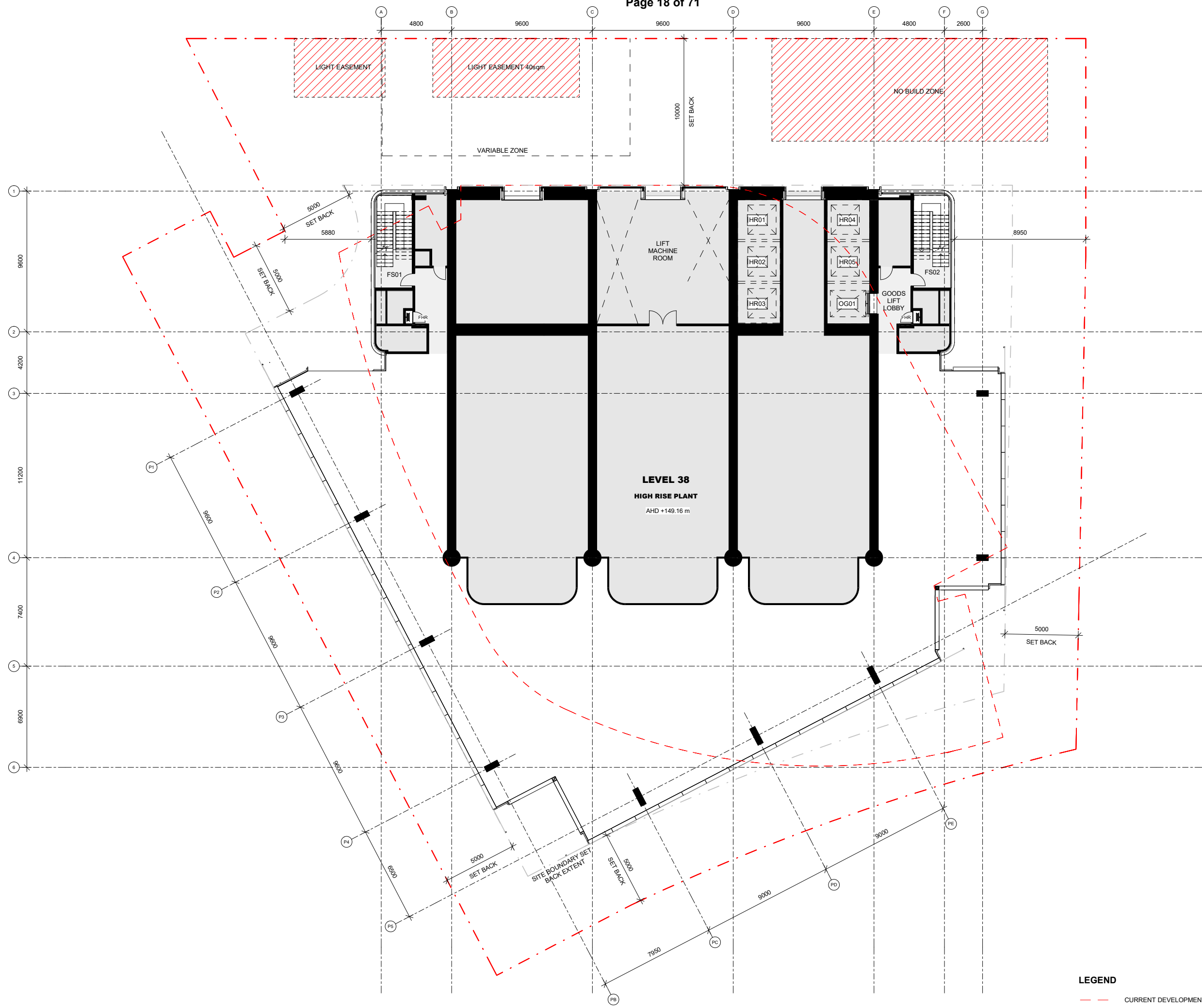
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DRAWING TITLE
LEVEL 24 - MID RISE COMMERCIAL - TYPICAL

SCALE **1 : 125** **STATUS** **TOWN PLANNING**

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1024



LEGEND

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PROJECT NAME
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PROJECT NO. ADDRESS
17154 35 Power Street,
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REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

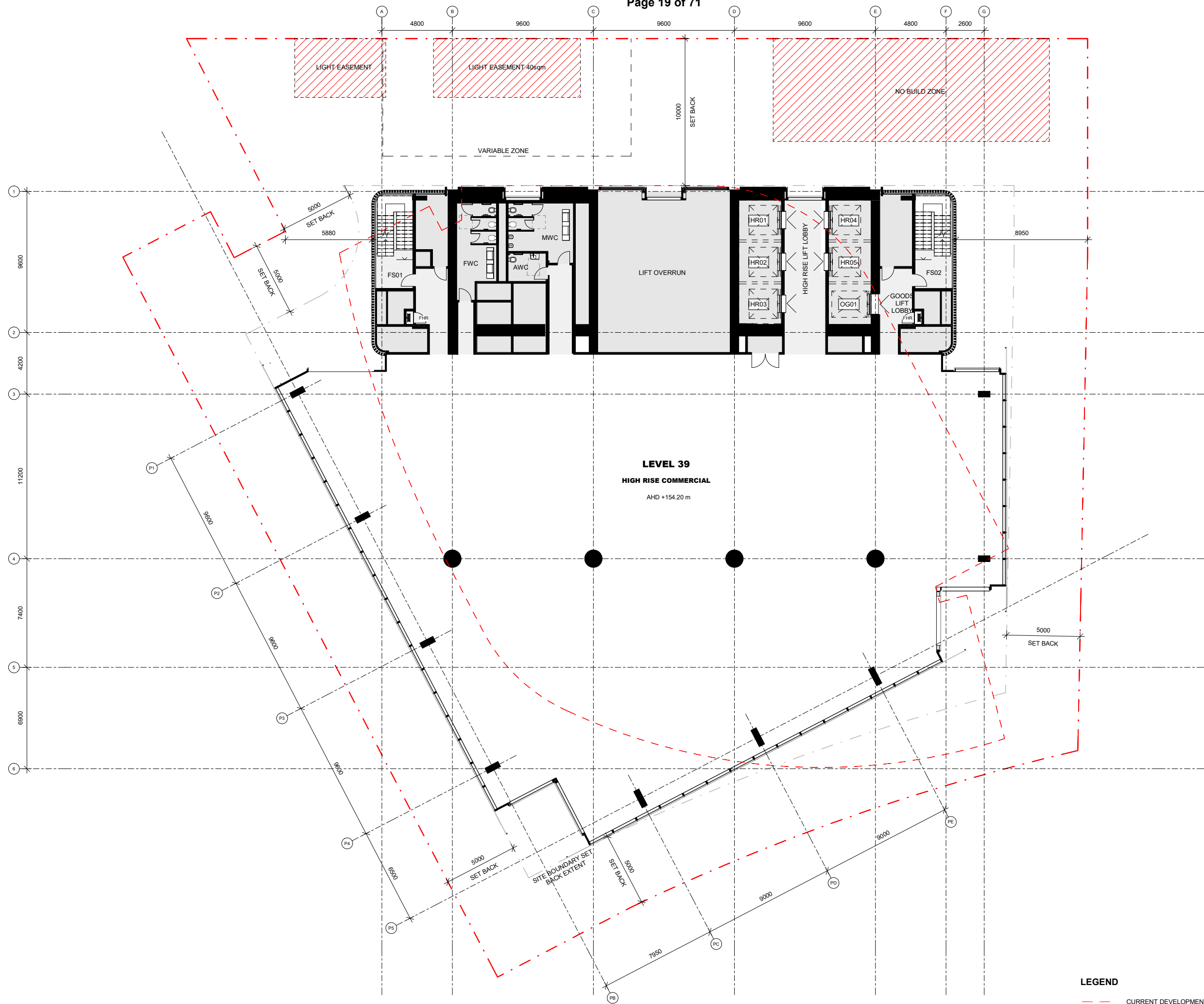
NORTH SCALE BAR

DRAWING TITLE
LEVEL 38 - HIGH RISE PLANT

SCALE STATUS
1 : 125 TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1038



LEVEL 39
HIGH RISE COMMERCIAL
 AHD +154.20 m

LEGEND

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PROJECT NAME
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REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

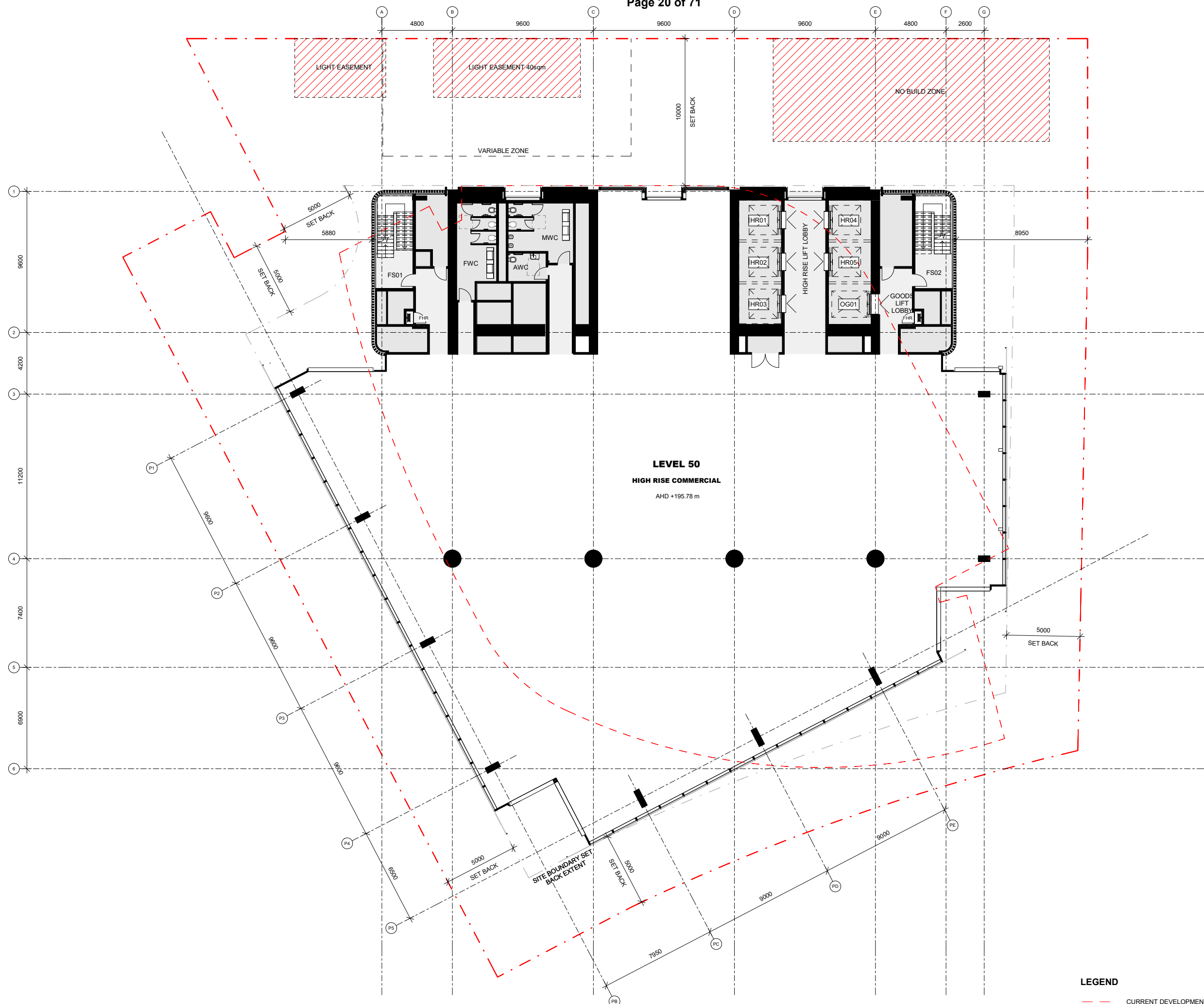
NORTH SCALE BAR

DRAWING TITLE
LEVEL 39 - HIGH RISE COMMERCIAL

SCALE STATUS
1 : 125 TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
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PROJECT NAME
25 Power Street, Southbank

PROJECT NO. 17154 **ADDRESS** 35 Power Street, Melbourne, VIC, Australia

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

NORTH **SCALE BAR**

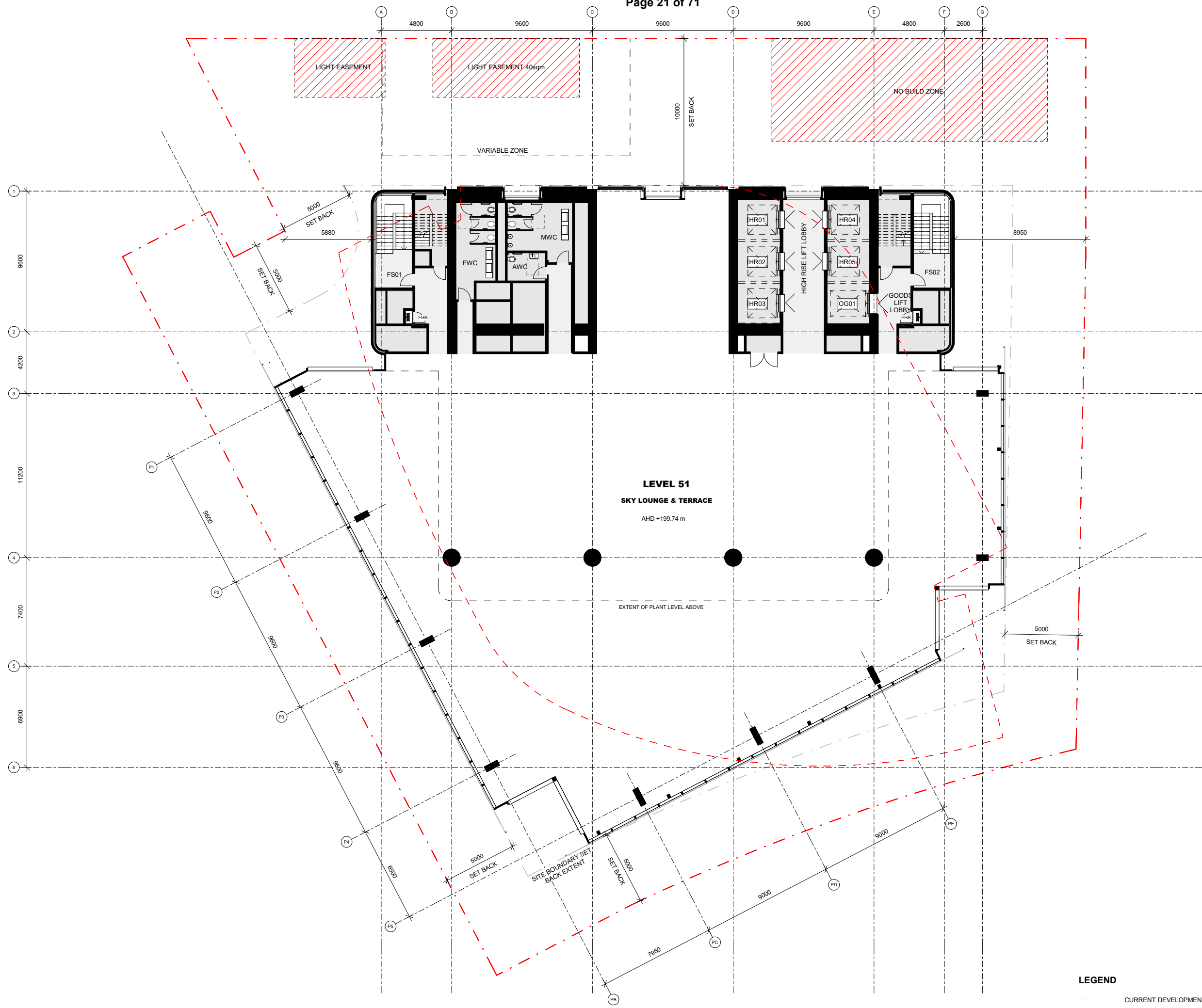
DRAWING TITLE
LEVEL 50 - HIGH RISE COMMERCIAL - TYPICAL

SCALE 1 : 125 **STATUS** TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1050

LEGEND
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LEGEND

--- CURRENT DEVELOPMENT APPROVAL OUTLINE

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PROJECT NAME
25 Power Street, Southbank

PROJECT NO. **17154** **ADDRESS** **35 Power Street, Melbourne, VIC, Australia**

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

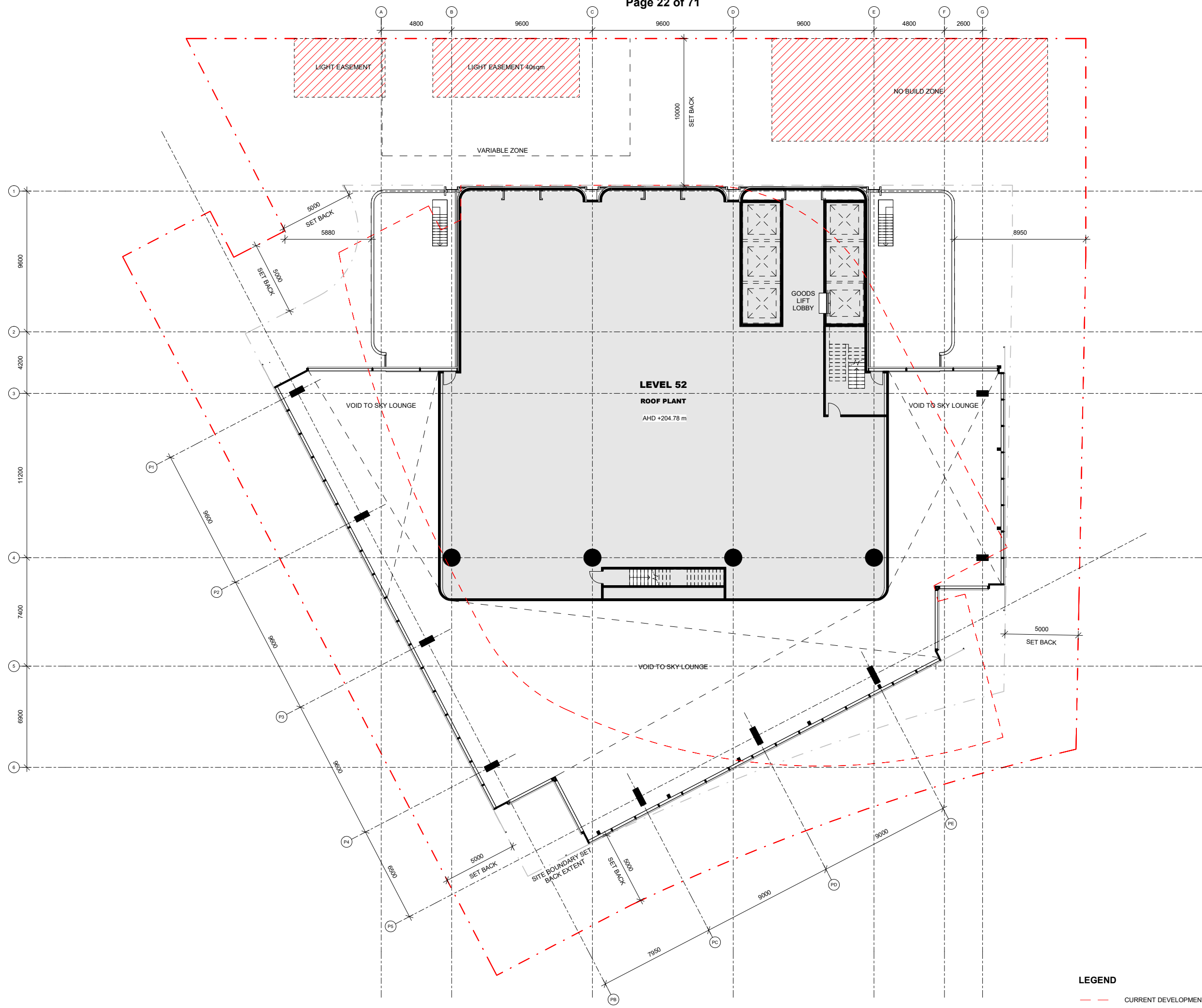
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DRAWING TITLE
LEVEL 51 - SKY LOUNGE + TERRACE

SCALE	STATUS
1 : 125	TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1051



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REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

NORTH **SCALE BAR**

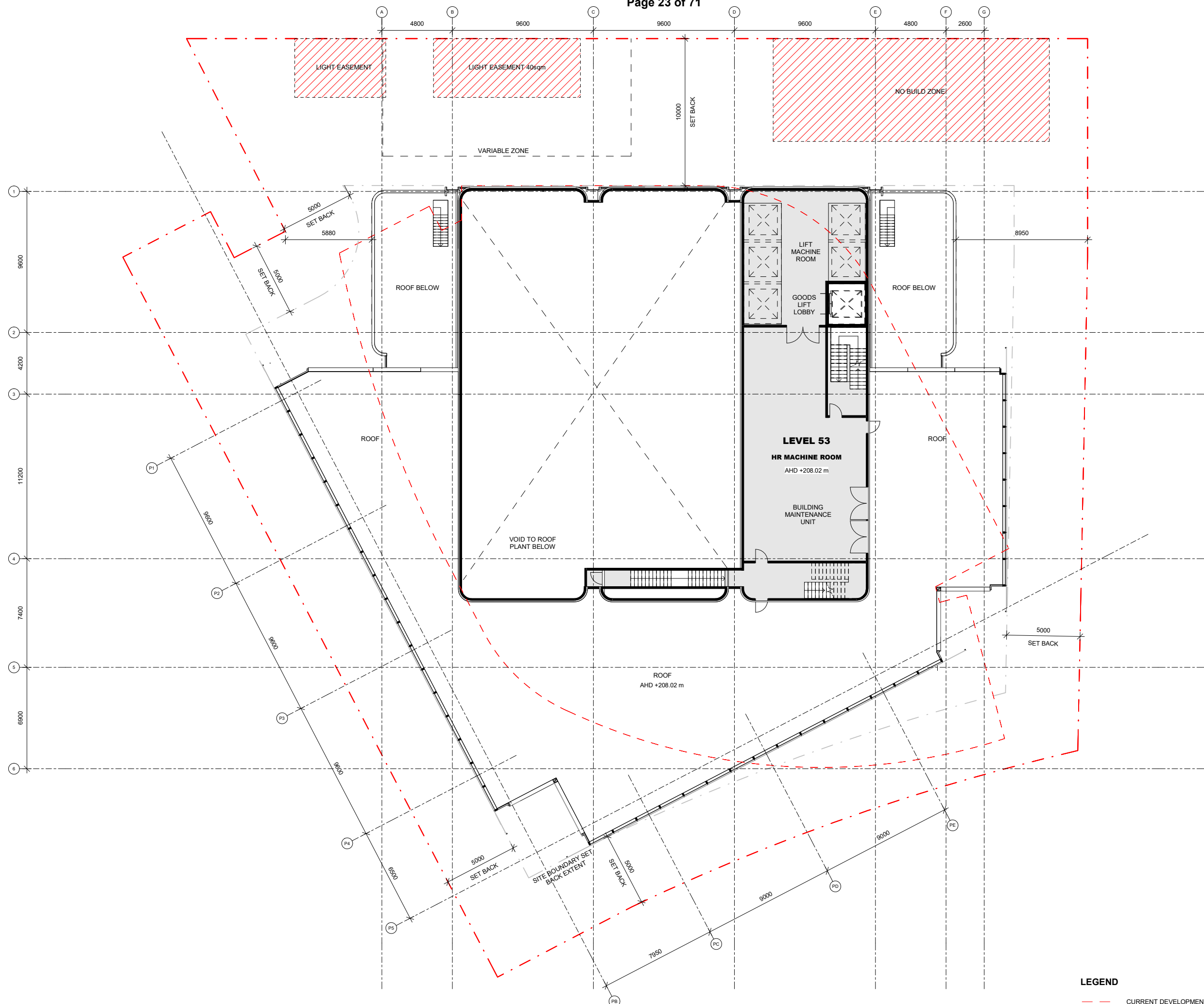
DRAWING TITLE
LEVEL 52 - ROOF PLAN

SCALE **1 : 125** **STATUS** **TOWN PLANNING**

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1052

LEGEND
 - - - - - CURRENT DEVELOPMENT APPROVAL OUTLINE



LEGEND
 - - - - - CURRENT DEVELOPMENT APPROVAL OUTLINE

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PROJECT NAME
25 Power Street, Southbank

PROJECT NO. 17154 **ADDRESS** 35 Power Street, Melbourne, VIC, Australia

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

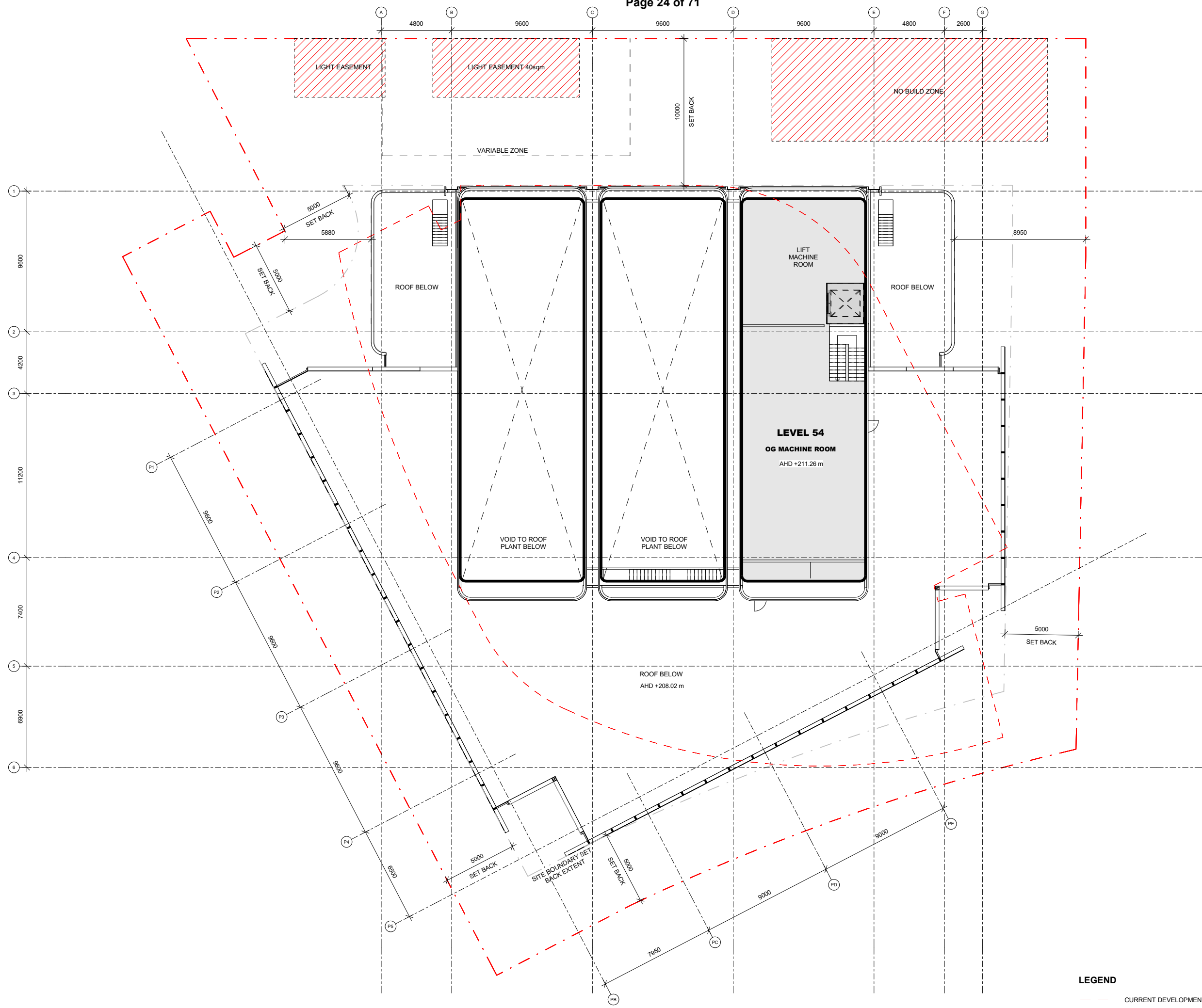
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DRAWING TITLE
LEVEL 53 - HR MACHINE ROOM

SCALE	STATUS
1 : 125	TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1053



LEGEND

--- CURRENT DEVELOPMENT APPROVAL OUTLINE

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PROJECT NAME
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PROJECT NO. ADDRESS
17154 35 Power Street,
 Melbourne, VIC,
 Australia

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

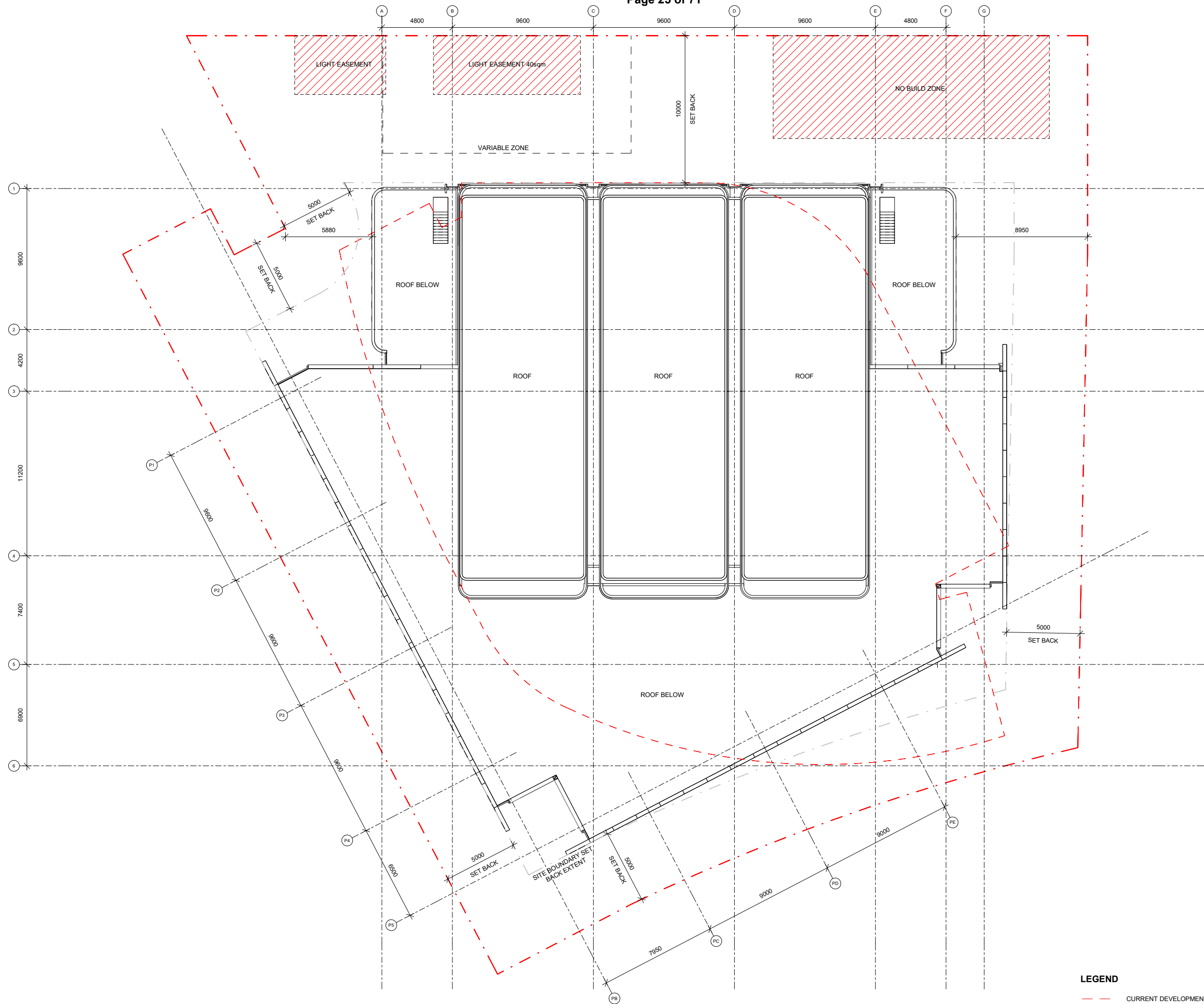
NORTH SCALE BAR

DRAWING TITLE
LEVEL 54 - OG MACHINE ROOM

SCALE STATUS
1 : 125 TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1054



LEGEND
 - - - - - CURRENT DEVELOPMENT APPROVAL OUTLINE

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PROJECT NAME
25 Power Street, Southbank

PROJECT NO. ADDRESS
17154 35 Power Street, Melbourne, VIC, Australia

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

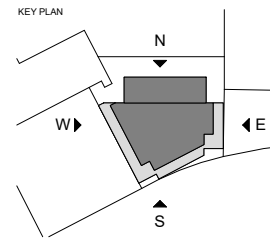
NORTH SCALE BAR

DRAWING TITLE
LEVEL 55 - ROOF

SCALE STATUS
1 : 125 TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1055



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PROJECT NAME
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PROJECT NO. ADDRESS
**17154 35 Power Street,
 Melbourne, VIC,
 Australia**

REV	BY	DATE	DESCRIPTION
01	GAS	24.04.20	TOWN PLANNING

KEY PLAN

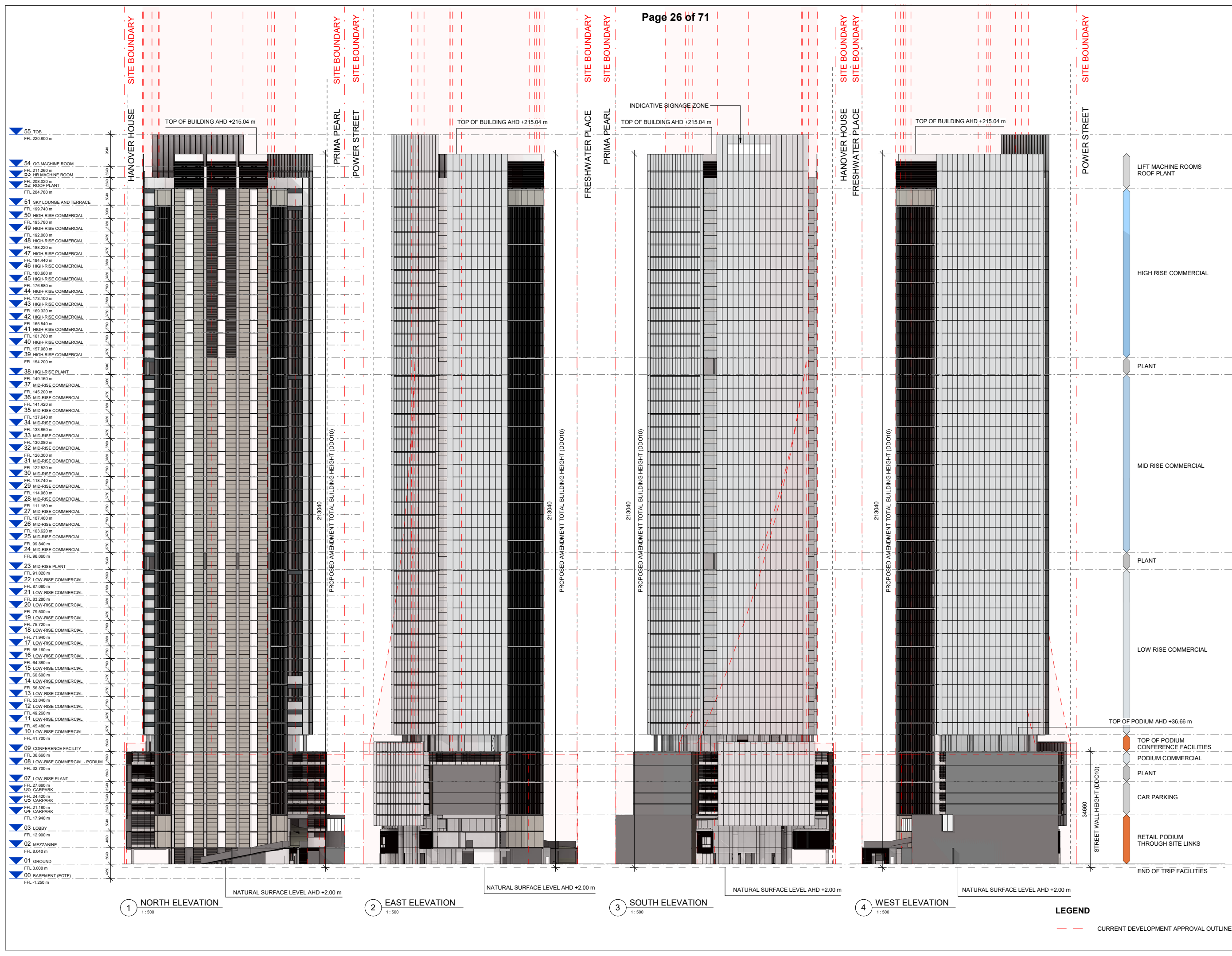
NORTH SCALE BAR

DRAWING TITLE
ELEVATIONS

SCALE STATUS
As indicated TOWN PLANNING

DRW	CH	APPR	DRW DATE	REV
MM	TC	MJ	24.04.20	01

DRAWING NO.
TP-1100



1 NORTH ELEVATION
 1:500

2 EAST ELEVATION
 1:500

3 SOUTH ELEVATION
 1:500

4 WEST ELEVATION
 1:500

LEGEND

--- CURRENT DEVELOPMENT APPROVAL OUTLINE

MINISTERIAL PLANNING REFERRAL DELEGATE REPORT

Application number:	ID-2020-7
DELWP reference:	Planning Scheme Amendment C398MELB
Applicant / Owner / Architect:	SJB Planning GL Investment Company Melbourne Pty. Ltd. Grimshaw Architects
Address:	21 - 35 Power Street, Southbank
Proposal:	Amendment to Melbourne Planning Scheme to apply Specific Controls Overlay (SCO) to the land and introduce a new Incorporated Document (ID)
Cost of works:	\$308,600,000
Date received by City of Melbourne:	26 November 2020
Responsible officer:	Connor Perrott, Principal Urban Planner

1. SUBJECT SITE AND SURROUNDS

1.1. The site

The subject site is located on the north side of Power Street, west of the City Road intersection. Measuring approximately 3,100 square metres, the site comprises three titles, is irregular in shape and currently vacant. A number of easements extend across the site and provide for access to adjoining lots as well as gas and electricity services. Three 'no build' zones also exist at the rear.

Figures 1 to 3 below show the site in greater detail.

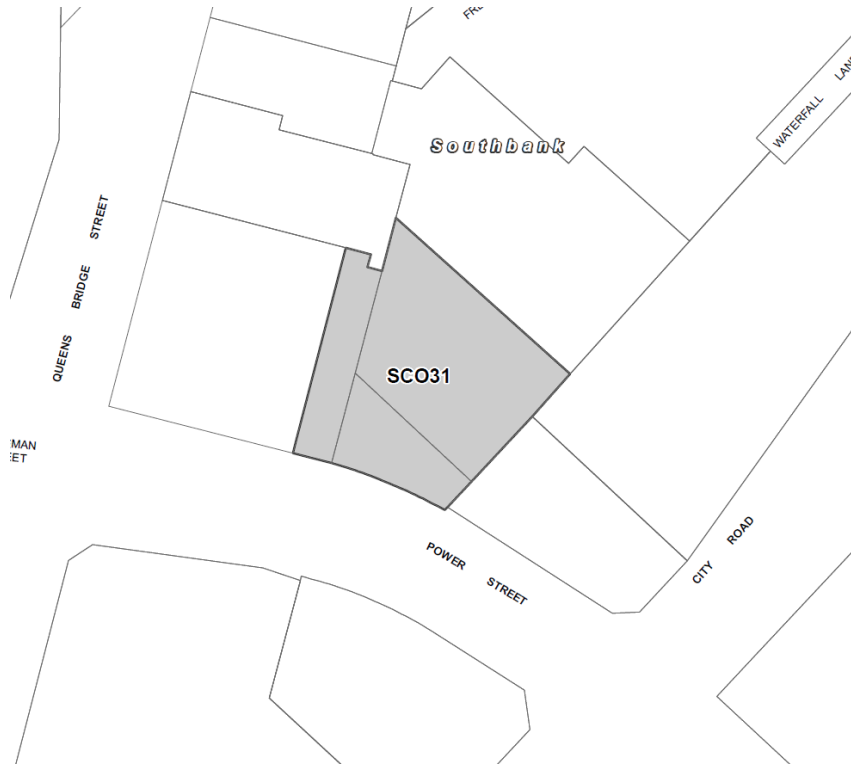


Figure 1 - The subject site and proposed Special Controls Overlay (SCO) boundary
(source: application documents prepared by SJB Planning)



Figure 2 - Aerial image of site as viewed from the south
(source: Google Maps)



Figure 3 - Site as viewed from Power Street (source: Google streetview)

1.2. Surrounds

To the north of the site, at 28 Freshwater Place, stands a multi-storey office building. Access to this building may be obtained via the aforementioned access (carriageway easement) extending through the site. This carriageway would be retained and would continue to provide access to the adjacent site.

To the east of the site, at 158 City Road, stands a seven storey office building (Hanover House). Permit 2010/006246-A issued by the Minister for Planning allows the construction of a multi-storey residential development in place of this building (refer Figure 4 below). Importantly, a subsequent approval incorporating this site and adjoining land has also recently been issued (refer Figure 5).



**Figure 4 - Development approved by Permit 2010/006246-A at 158 City Road
(source: application documents prepared by SJB Planning)**

As noted above, the Minister also recently granted approval for a multi-storey mixed-use building at 102 - 158 City Road (refer Permit PA1900647 (Council reference TPMR-2019-24)). This approved development would feature two towers and be the tallest building in the southern hemisphere (refer Figure 5 below). Notably, this development includes upgrades to Waterfall Lane at the rear of the site.



**Figure 5 - Approved development at 102 - 156 City Road
(source: application documents prepared by SJB Planning)**

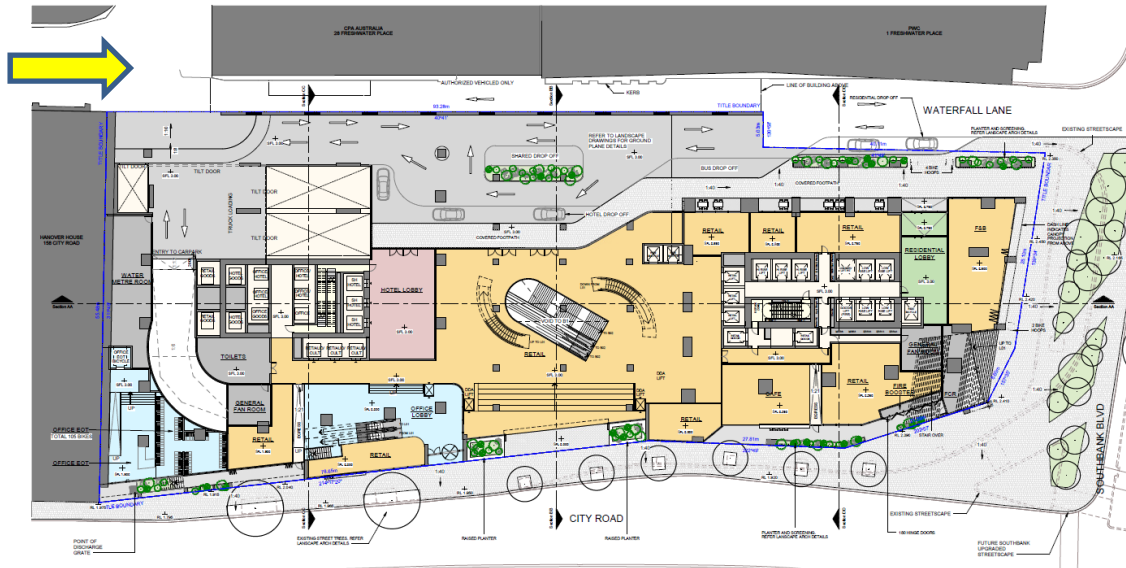


Figure 5A - Ground floor plan of approved development at 102 - 158 City Road showing upgraded Waterfall Lane (source: application documents prepared by SJB Planning)

Immediately to the west of the site, at 9 Power Street, stands a 72-storey mixed-use building (Prima Pearl). This building features commercial uses at ground level and residential uses above. As shown in Figure 6 below, the podium is built up to the western boundary of the subject site and the tower setback some distance behind this generally adjacent to the Queens Bridge Street frontage.



Figure 6 - 9 Power Street, Southbank (source: Google streetview)

2. BACKGROUND AND HISTORY

On 26 November 2020 Council received notice from the Minister that an application to amend the Melbourne Planning Scheme to facilitate the redevelopment of the subject site had been received. Though lodged in accordance with Section 20(4) of the *Planning and Environment Act 1987*, the application was referred to Council in accordance with Section 20(5). Whereas Section 20(4) does not allow for consultation, Section 20(5) allows this, albeit of a targeted nature. In this case, consultation includes Council.

This referral follows pre-application discussions held in June 2019 regarding the proposed development. Recent discussions with the applicant and DELWP (17 March 2021) did not offer any change to the tower form, but investigated ground level and street interface improvements. As these concepts have not been formalised through submitted plans, their intent is included via proposed conditions.

The existing Permit 2013/010075 (Council reference TPM-2014-2) was issued by the Minister. This permit allowed the construction of a mixed-use tower on site comprising office and retail space, a hotel and dwellings.

The permit was amended on 30 December 2018 by way of deleting all office space, reducing hotel room numbers and increasing dwelling numbers. The building then comprised 286 hotel rooms, 534 dwellings and 520 square metres of retail space.

Though the date by which this approved development was to commence has now passed (25 September 2020), an extension of time has recently been granted. The permit will now expire if the approved development is not commenced by 25 September 2023.

Importantly, this city block was originally the subject of an Incorporated Plan ('Freshwater Place') gazetted in 2001 and later altered in 2012 via Amendment C193. This Plan has now expired, leaving the subject site as the only parcel of the Incorporated Plan not yet developed.

3. STATUTORY CONTROLS

The following provisions of the Melbourne Planning Scheme apply:

Planning Policy Framework:	<ul style="list-style-type: none"> Clause 11 - Settlement Clause 15 - Built environment and heritage Clause 17 - Economic development Clause 18 - Transport Clause 19 - Infrastructure
Municipal Strategic Statement:	<ul style="list-style-type: none"> 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 21.13 - Urban renewal areas
Local Planning Policies:	<ul style="list-style-type: none"> 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 22.19 - Energy, water and waste efficiency Clause 22.23 - Stormwater management (Water Sensitive Urban Design)

The following statutory controls currently govern the site. Should the proposed SCO/ID be approved, these controls would not apply.

Statutory Controls	
<p>Clause 37.04 - Capital City Zone, Schedule 3 (Southbank)</p>	<p>In accordance with the provisions of the CCZ, a permit is required to construct a building / construct and carry out works unless the relevant schedule specifies otherwise. Though a permit is not required for certain building works in accordance with Schedule 3, this does not include developments such as that proposed.</p> <p>In accordance with the table of uses, a permit is not required to operate an office or retail premise in this zone.</p> <p>Clause 3.0 states <i>a permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) 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:</i></p> <ul style="list-style-type: none"> ▪ <i>a public benefit as calculated and specified in a manner agreed to by the Responsible Authority is provided; and</i> ▪ <i>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.</i>
<p>Clause 43.02 - Design and Development Overlay, Schedules 1 (Active Street frontages), 3 (Traffic conflict frontages) and 10 (General development area - Built form)</p>	<p>Clause 43.02-2 states that a permit is required to construct a building and construct or carry out works unless the relevant schedule specifies otherwise.</p> <p>Schedule 1 (Active street frontages), Area 3 (Major pedestrian areas and key pedestrian routes within CCZ3 and the MUZ) applies to the Power Street frontage of the site only. Here <i>buildings should provide a positive architectural response when viewed from street level and provide active street frontages and opportunities for engagement with pedestrians.</i> This includes ensuring at least five metres, or 80% of the street frontage (whichever is the greater) features an entry or display window which engages with the street.</p> <p>Schedule 3 (Traffic conflict frontages - Capital City Zone) applies to the Power Street frontage of the site only. Here a permit is required to construct a building / construct and carry out works associated with the provision of a new crossover or vehicle access way.</p> <p>Schedule 10 (General development area - Built form) is the key mechanism governing new development in the CCZ. This schedule sets out preferred and modified requirements relating to street wall heights, setbacks above street walls and side and rear boundaries and floor plates.</p> <p>In this case, the development complies with the provisions of this schedule as it relates to the aforementioned matters, excluding floor plate requirements. It is for this reason a SCO/ID has been submitted. This key matter is discussed further below.</p>
<p>Clause 45.09 - Parking Overlay,</p>	<p>This overlay specifies, by area and use, car parking requirements.</p>

<p>Schedule 1 (Capital City Zone - Outside the retail core)</p>	<p>The site is located within the bounds of Schedule 1 (Capital City Zone - Outside the retail core) where maximum parking rates apply. These rates are calculated as follows:</p> <p style="text-align: center;"><u>5 x net floor area of buildings on site in square metres</u> 1000 square metres</p> <p>On the basis the floor area of the proposed building is 90,993 square metres, a maximum of 455 car parking spaces may be provided on site.</p> <p>Given 130 car parking spaces only would be provided, the development complies with the provisions of this overlay.</p> <p>In addition to this, for every 100 car parking spaces provided on site, one motorcycle space should also be provided. In this case, this amounts to one space.</p>
<p>Clause 52.34 - Bicycle facilities</p>	<p>This clause specifies, by use, the number of bicycle parking spaces required on site.</p> <p>As this relates to retail, Table 1 states that for every 300 square metres of leasable floor area, one employee parking space should be provided on site. In addition to this, for every 500 square metres of leasable floor area, one 'shopper' space should also be provided.</p> <p>On the basis the development would comprise 924 square metres of retail floor area, three employee and two shopper spaces are required.</p> <p>Table 1 also states that for every 300 square metres of net office floor area, one employee space should be provided. In addition to this, for every 1,000 square metres of office floor area, one 'visitor' space should also be provided.</p> <p>Given the building would comprise 50,990 square metres of office floor area, 170 employee and 51 visitor spaces should be provided.</p> <p>221 bicycle parking spaces are required and 350 spaces would be provided. As such, the application complies with the bicycle parking requirements of this clause.</p> <p>In addition to bicycle parking, 18 employee showers and associated change rooms are also required in accordance with Clause 52.34-5.</p> <p>44 showers and associated change rooms would be provided at basement level and as such the application also complies with this requirement.</p>

General Provisions	
<p>Clause 65 - Decision guidelines</p>	<p>The Minister for Planning is the Responsible Authority and must determine if the proposed development will generate acceptable outcomes with reference to the provisions of this clause. This includes the matters set out in Section 60 of the <i>Planning and Environment Act 1987</i>.</p>
<p>Clause 66.02 - Use and development</p>	<p>The Minister must consult all relevant authorities. In accordance with this clause this includes the Head of Transport for Victoria; a</p>

referrals	Determining Referral Authority.
Clause 66.04 - Referral of permit applications under local provisions	The Minister must consult all relevant authorities. In accordance with this clause this includes Council; a Recommending Referral Authority
Clause 72.01 - Responsible Authority for this planning scheme	The Minister is the Responsible Authority. Given the floor area of the building exceeds 25,000 square metres, should the ID be approved, the Minister will be responsible for assessing related plans.

Amendment C308 (Urban design within the central city and Southbank)

In addition to the aforementioned controls, Planning Scheme Amendment C308 (Urban design within the central city and Southbank) is also of relevance. This amendment is now seriously entertained and would replace existing Clause 22.01 (Urban design within the Capital City Zone) as well as introduce a new Schedule 1 to the Design and Development Overlay (Urban design in central Melbourne).

This new schedule would comprise the provisions of existing Schedule 4 to the DDO (Weather protection) as well as a variety of design-related performance standards.

4. THE PROPOSAL

This application seeks approval to amend the Melbourne Planning Scheme to introduce site specific controls governing the future use and development of the land. These controls would operate independently of those which govern surrounding sites and as such allow for an alternate development model.

The proposed primary control is the Specific Controls Overlay (SCO). The purpose of this overlay is *to apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.*

Clause 45.12-1 (Use and development) of the SCO states *land affected by this overlay may be used or developed in accordance with a specific control contained in the incorporated document corresponding to the notation on the planning scheme map (as specified in the schedule to the overlay). The specific control may:*

- *Allow the land to be used or developed in a manner that would otherwise be prohibited or restricted;*
- *Prohibit or restrict the use or development of the land beyond the controls that may otherwise apply; and*
- *Exclude any other control in this scheme.*

In this case, the schedule to the SCO would be amended to reference a new overlay number. This, in turn, would introduce a new Incorporated Document (ID) entitled '21 - 35 Power Street & 38 Freshwater Place, Southbank, September 2020'. The stated objective of this ID is *to permit and facilitate the use and development of the land ...for the purposes of constructing a multi-level commercial building with an associated basement area and creation of access to Power Street...*

The development the SCO and ID seek to facilitate is detailed further in Table 1 below together with details of the building previously approved by Permit 2013/010075.

Element	Proposed development	Approved development	Variation
Building height:	52 storeys, 215 metres	75 storeys, 272.85 metres	-23 storeys, -58 metres
Floor area ratio:	29.4:1	36.3:1	-6.9:1
Uses:	Office, retail	Office, retail, hotel, residential	Hotel and residential uses deleted
Parking:	Cars: 130 Bicycles: 350	Cars: 423 Bicycles: 230	-293 +120

Table 1: Proposed and previously approved building details

Figures 7 to 10 below show the key built form differences between the proposed and previously approved buildings in greater detail.

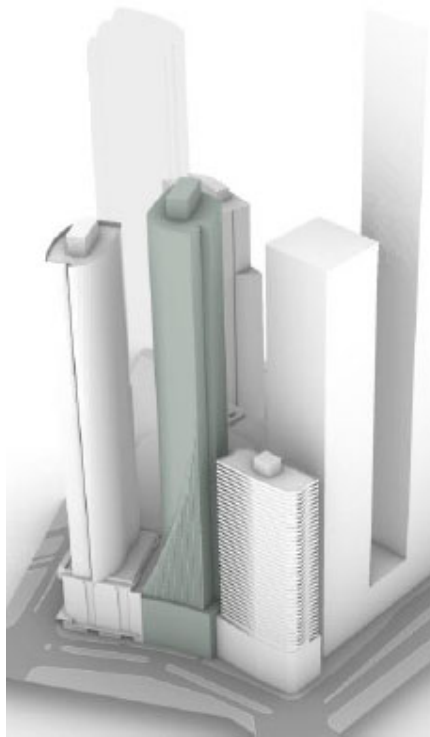


Figure 7 - Form of approved development
(source: application documents prepared by SJB Planning)

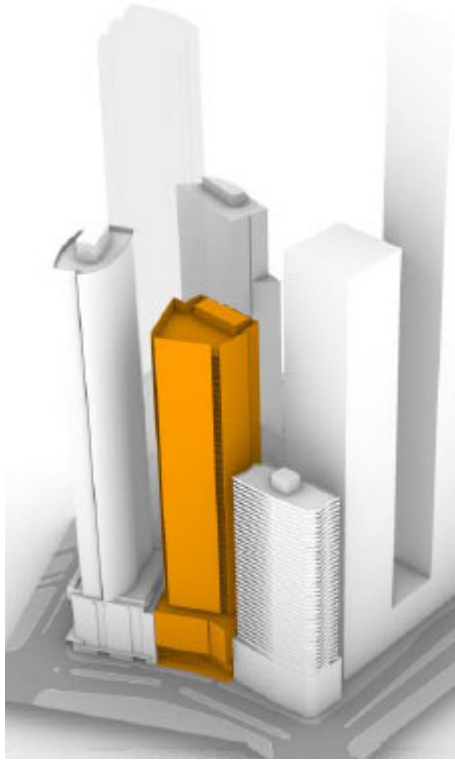


Figure 8 - Form of proposed development
(source: application documents prepared by SJB Planning)



Figure 9 - Artist's impression of approved development
(source: application documents prepared by SJB Planning)



**Figure 10 - Artist's impression of proposed development
(source: application documents prepared by SJB Planning)**

The proposed building would measure 90,993 square metres. This includes 50,990 square metres of office floor space and 924 square metres of retail space. The balance of the floor area would accommodate a publicly accessible plaza and thru-block link, circulation spaces, car and bicycle parking facilities and building services.

Pedestrian entry to the building may be obtained via Power Street. This entry point would lead to the aforementioned public plaza and, in turn, a secondary space providing direct access to Freshwater Place to the north. This plaza and secondary space would accommodate a number of retail tenancies at Levels 01 (ground), 02 and 03.

Access to the podium car park would be via the aforementioned carriageway easement extending through the site and providing access to 28 Freshwater Place. This access way would lead to a curved ramp extending over the plaza to parking levels (04 - 06).

This enclosed ramp would pass by retail uses on Levels 02 and 03. Adjacent to the sole retail tenancy on Level 03 would also be a small public terrace. This terrace may be accessed via the retail tenancy or, independent of this, the upper level of the plaza.

A second larger terrace would also be provided at Level 09. This terrace would extend the width of the Power Street frontage and be used in association with adjacent conference spaces. In addition to this, an expansive terrace and sky lounge would also be provided at Level 51. This terrace / lounge would occupy the entirety of this level and be used in association with the office spaces below.

At basement level the building would feature a 785 square metre end-of-trip facility. This facility would comprise 350 bicycle parking spaces as well as 18 female, 25 male and one DDA shower. Access to this facility may be obtained via dedicated lifts located in the public plaza. These lifts also provide access up to the conference facilities on Level 09.

Figures 11 to 14 below show the proposed building in greater detail.



**Figure 11 - The proposed building as viewed from Power Street
(source: application plans prepared by Grimshaw Architects)**



**Figure 12 - Power Street frontage and entry to plaza
(source: application plans prepared by Grimshaw Architects)**



Figure 13 - Publicly accessible plaza
(source: application plans prepared by Grimshaw Architects)



Figure 14 - View of public link extending between plaza and Freshwater Place
(source: application plans prepared by Grimshaw Architects)

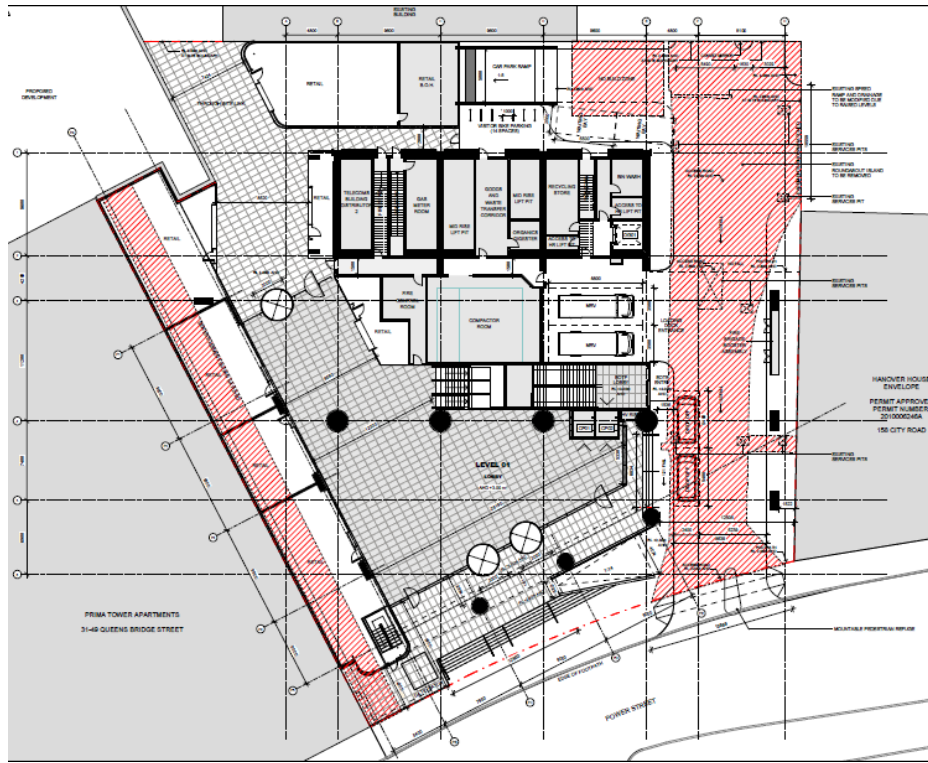


Figure 14A - Ground floor plan of proposed development (source: application plans prepared by Grimshaw Architects)

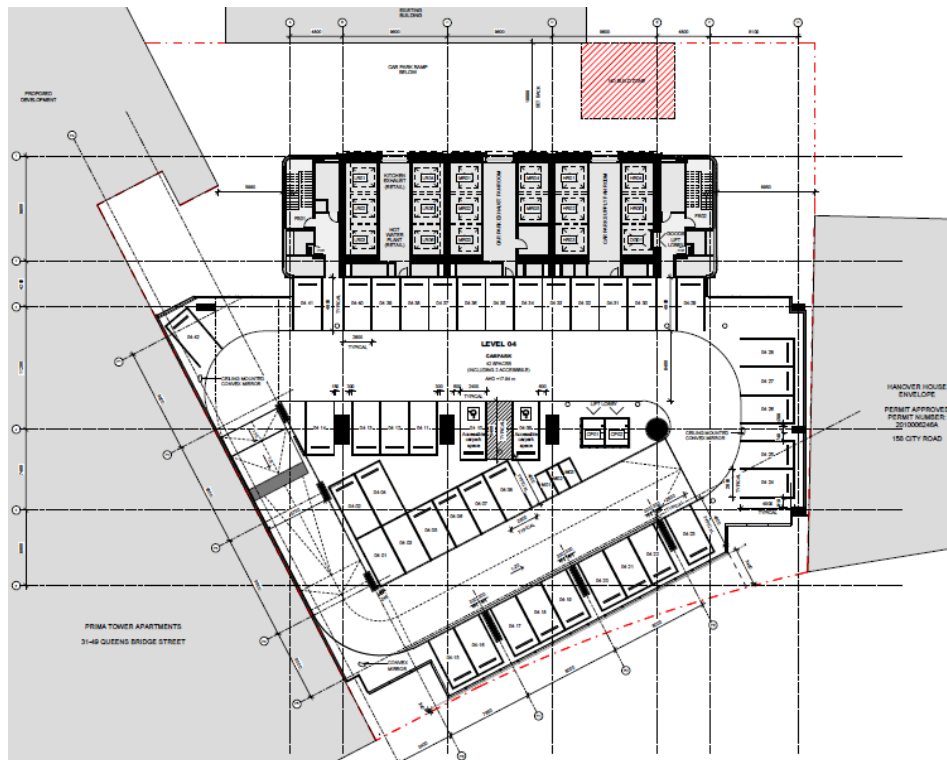


Figure 14B - Typical podium level plan (source: application plans prepared by Grimshaw Architects)

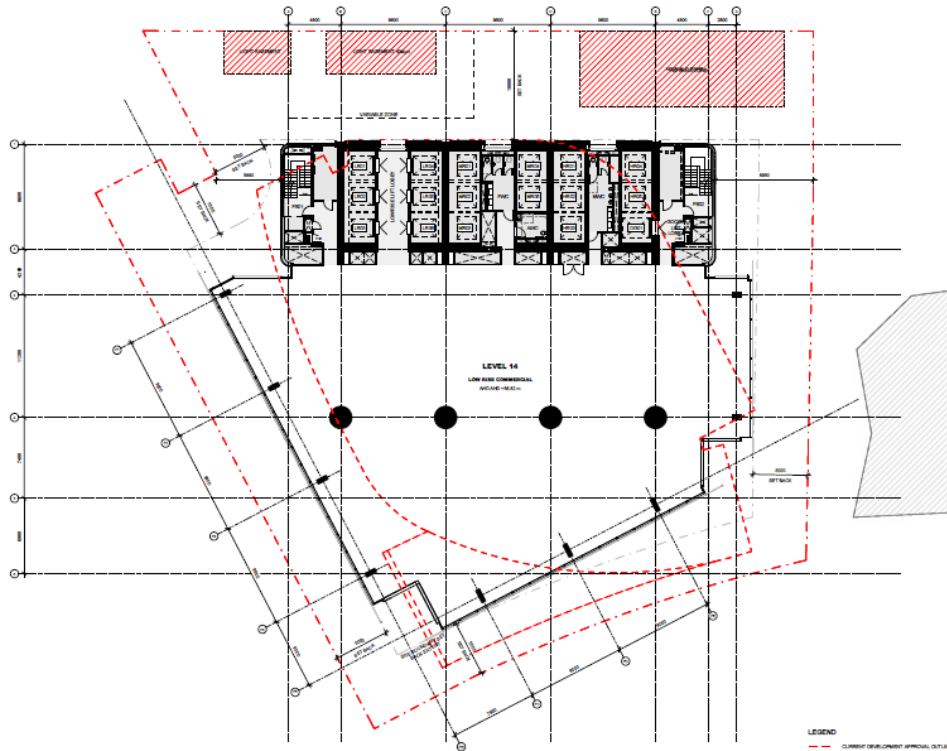


Figure 14C - Typical tower level plan
(source: application plans prepared by Grimshaw Architects)

5. PUBLIC NOTIFICATION

The Minister for Planning has referred the application to Council for comment in accordance with Section 20(5) of the *Planning and Environment Act 1987*.

No public notification was required by the Minister.

6. REFERRALS

The application was referred to the following Council departments for comment.

6.1. Environmentally Sustainable Development (ESD) Officer

- All proposed Green Star measures are well considered and documented. Supporting evidence is however lacking and should be included as an appendix in the ESD report.
- The Green Star pathway set out in the ESD report does not sufficiently demonstrate how a five-star rating will be achieved. Additional points should be targeted accordingly. Typically, a 10% buffer should be allowed for given ratings generally alter through the design process.
- The ESD report and Green Star pathway should also include low emissions vehicle credits taking into account on site charging infrastructure (no less than 5% of car parking spaces should feature charging points).
- A 5-star NABERS rating is targeted though this should be confirmed through further modelling. A NABERS rating certificate should be provided to Council within 24 months of first occupation.
- It is recommended that a solar PV array be mounted upon the roof of the building.
- A comprehensive landscape plan and maintenance plan should be submitted for further consideration. The landscape plan should include detailed sections showing the soil volumes and growing media of all planters.

- The applicant should benchmark the development against the Council's Green Factor Tool to understand what additional green infrastructure, if any, could be provided on site.
- A STORM report or appropriately documented MUSIC model should be submitted. This report / model should show how the development complies with the requirements of Clause 22.23 of the Melbourne Planning Scheme.
- All items with spatial requirements (water tanks for example) must be shown on the development plans.

6.2. Infrastructure and Assets

Traffic Engineering -

- The number of car parking spaces provided on site complies with the requirements of Schedule 1 of the PO. Fewer spaces should however be considered in order to encourage the use of sustainable modes of transport.
- The submitted transport assessment acknowledges surrounding streets are congested and recommends the implementation of a Green Travel Plan. Such plans are however generally unsuccessful. The most effective way to reduce congestion is to limit on-site parking spaces.
- The anticipated number of vehicle movements generated by the development during both the AM and PM peak will likely result in further congestion. This would impact upon the function of the Power Street / Queens Bridge Street and Power Street / City Road intersections.
- No less than one car share space and one electric vehicle charging space should be provided on site. The design / layout of all parking spaces / facilities must comply with the provisions of the Melbourne Planning Scheme or Australian Standard (AS) 2890.1:2004.
- Though the number of bicycle parking spaces exceeds that required by Clause 52.34 (by 124 spaces) additional spaces (450 in total) should be provided. These spaces will assist in accommodating anticipated parking demands.
- A condition should be included in the ID requiring the implementation of a bicycle share scheme.
- The number of motorcycle parking spaces provided on site (nine) is sufficient.
- A condition should be included in the ID requiring the submission of a comprehensive Loading Management Plan (LMP) detailing how all loading / unloading activities will be managed.
- A revised Road Safety Audit is also required. This audit should include an assessment of internal layout / access arrangements, all access points into the site, circulation spaces and potential conflict zones between motorists and pedestrians. The findings of this audit should be incorporated into the final design / layout of the development.
- Though the applicant is of the view that an audit is not necessary, it is noted that the car park layout differs from that previously approved and the usage of the building has also changed. To this end, movements / behaviours will also differ and this warrants further assessment.

Civil Engineering -

- The proposed development would impact upon an existing Council drain extending through the site. The applicant should consider the relocation or removal of this drain prior to the commencement of building works.

Waste -

- The submitted Waste Management Plan (WMP) and application plans must be amended to show increased size waste collections bays. These bays should be large enough to accommodate nominated waste collection

vehicles, including one metre clearances either side of the largest such vehicle.

- The clearance to the driver's side of the hook vehicle collection point of the southern-most compactor is 0.5 metres only.

6.3. Landscape Officer

- The provision of a compliant DDA access way to the Power Street entry will require the redesign and reconstruction of public areas adjacent to the site. This detail has not been provided and is required for further consideration.
- Given local population projections, it is considered that the widths of the footpaths extending through the site (1500mm) are insufficient, notwithstanding these comply with the recommendations set out in the submitted DDA report.
- Whilst pedestrian connections to adjacent developments are acceptable in principle, certain alterations are required as follows:
 - Waterfall Lane -
 - The footpath extending along this lane is enclosed on one side by service cupboards and a raised garden bed. Is this footpath necessary? If so, could service cupboards and raised garden beds be relocated to the site boundary to enable the footpath to be widened by 1500mm?
 - Northern east-west connection -
 - A number of doorways / exit points open out onto this footpath. This footpath should be modified accordingly to limit potential conflicts.
- Further details / plans of the open spaces / terraces at ground level adjacent to Power Street, the secondary space linking the development with Freshwater Place and the terraces at Levels 1, 3, 9 and 51 are required to enable a thorough assessment of each.
- The submitted DDA report states that seating with arm and back rests either undercover or below tree canopies should be provided. The submitted plans do not appear to include this seating.
- Though the submitted wind assessment concludes that local conditions will be acceptable, details of pedestrian comfort levels have not been provided. These details are relevant to the design of publicly accessible spaces around / on site. As such, a detailed wind assessment is required.
- Details of all garden beds (including soil volumes) are required for further consideration. The documents submitted in support of the application are inconsistent in this regard.

6.4. Land Survey

- The applicant should provide full copies of title in order to confirm what registered agreements / covenants, if any, apply.
- A no-build zone exists at the rear of the site and it is unclear if the basement will extend into this. Again, copies of any registered agreements would assist in determining the extent of all relevant restrictions.
- Prior to the commencement of building works, including demolition, the whole of the subject site must be owned by the one entity and consolidated into one title.
- Structures would be constructed within Easement E2 encumbering Lot 2 on PS505293S. Prior to the commencement of works, including demolition, this easement must be varied accordingly.
- Car drop-off zones and waiting bays are located within the easement providing access to 28 Freshwater Place. This easement requires

unrestricted access and will again need to be varied prior to the commencement of works, including demolition.

- The ID should include reference to the need to remove / vary all easements as necessary.
- Car spaces 5/32, 5/36, 5/39 and 5/40 on Level 5 should be deleted as these limit access to adjacent car park exhausts. Similarly, car spaces 6/32, 6/36, 6/39 and 6/40 should also be deleted on the basis these too limit access to services.
- Public access through the site must be maintained. This could be safeguarded via the creation of an easement or a legal agreement.

6.5. Urban Design

Thru-block connections and threshold spaces -

- The ground plane has limited human scale, activation and street front connections. This, in turn, undermines the contribution the thru-block link makes to the public realm.
- Additional active uses should be provided along the Power Street frontage to increase pedestrian activity. This might include the provision of additional retail uses emphasised with robust materials / facade depths.
- All ramps and stairs leading to the Power Street entry should be further resolved. This includes the provision of landscaping to encourage the occupation of the space. Integrated seating across the forecourt would also assist in achieving this.
- The lobby could be further activated by way of the provision of flexible working areas, seating and landscaping.

The driveway and its impact upon the pedestrian network -

- The footpaths either side of the driveway should be remodelled to improve pedestrian safety. This includes the provision of more generous circulation spaces. Footpaths should be no less than 1.8 metres wide to accommodate the two-way movement of wheelchairs and the necessary street infrastructure.
- The clearance to the underside of the car ramp is too low and will create unsafe alcoves alongside / over the arcade extending through the site. This arcade should be double height.
- Similarly, the reduced clearance to the underside of the raised substation will limit passive surveillance across the forecourt and entrance to the driveway. The substation should be setback behind the street front as far as possible. Alternatively, the provision of an appropriate soffit material and integrated lighting would assist in improving the appearance of the substation.

Building mass -

- The massing of the building appears to comply with the provisions of Schedule 10 of the Design and Development Overlay.

Wind -

- The submitted wind report does not adequately detail expected wind conditions. An updated wind assessment taking into account the winds generated by surrounding buildings and resultant cumulative effects should be submitted for further consideration.
- It is crucial that the standing comfort criteria is achieved across the entry forecourt and the walking comfort criteria is achieved across all other publicly accessible areas.

Podium and car parking interfaces -

- Podium level street front car parking should be setback behind / sleeved by active uses.
- Should street front podium level car parking be approved this must be concealed behind robust, high quality materials.

Facade strategy and materials -

- Details of the materials to be used are limited.
- The extensive use of glazing might result in glare. A more robust palette of materials should be considered.
- Unarticulated glazed curtain walls are not appropriate. Glass Reinforced Concrete (GRC) and brushed stainless steel should be considered at podium level, in particular to finish slab edges, as window shrouds, as soffits and also to screen car parking.
- Clarification is sought as to whether or not the proposed glazed screening across part of the podium level car park can achieve the necessary ventilation requirements.

6.6. Urban Forestry and Ecology

- The proposed building works will not impact upon existing public trees near to the site.
- The success or otherwise of vegetation on site and adjacent to it is dependent upon the soil volumes provided, irrigation systems and maintenance regime(s).
- There are currently no street tree plots adjacent to the site. Street trees should be provided here in order to increase urban canopy cover.

7. ASSESSMENT

Whilst the existing statutory controls governing the site set out current land use and built form expectations, these would become redundant should the proposed SCO and ID be approved. To this end, the key matters for consideration are:

- The appropriateness of the proposed control.
- The appropriateness of the proposed development having regard to the built form character of the surrounding area.

7.1. The appropriateness of the proposed control

The applicant is of the view that on the basis the approved development would overshadow the Shrine of Remembrance it would generate significant adverse public effects. A reduced height building is now proposed and this, in turn, ensures shadows would not be cast across the Shrine, but at 4pm on 22 June which is outside the period to be considered in the planning scheme.

The applicant is of the view that the proposed SCO/ID process is necessary on the basis the floor plates of the building do not comply with the mandatory requirements of Schedule 10 of the Design and Development Overlay.

This larger floorplate generates non-compliant side and rear tower setbacks. Whereas setbacks of five and 10 metres respectively are proposed, minimum setbacks of 12.9 metres are otherwise required by Schedule 10. This represents 6% of the total building height of 215 metres.

With regard to tower floorplate provisions, Table 3 of Schedule 10 states:

Design element	Preferred requirement	Modified requirement	Built form outcomes
<i>Tower floorplate</i>	<i>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.</i>	<i>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:</i> <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. 	<i>The adjusted floorplate is designed and spaced to:</i> <ul style="list-style-type: none"> - reduce impacts on existing and potential neighbours in terms of privacy, outlook, daylight and sunlight access. - minimise visual bulk. - reduce impacts 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.

Table 2: Tower floorplate provisions of Schedule 10 of the DDO
(source: Melbourne Planning Scheme)

With reference to the previously approved development, it is noted that a lower building height and reduced Floor Area Ratio (FAR) is now proposed. A larger tower floor plate is however also proposed as shown in Figure 15 below.

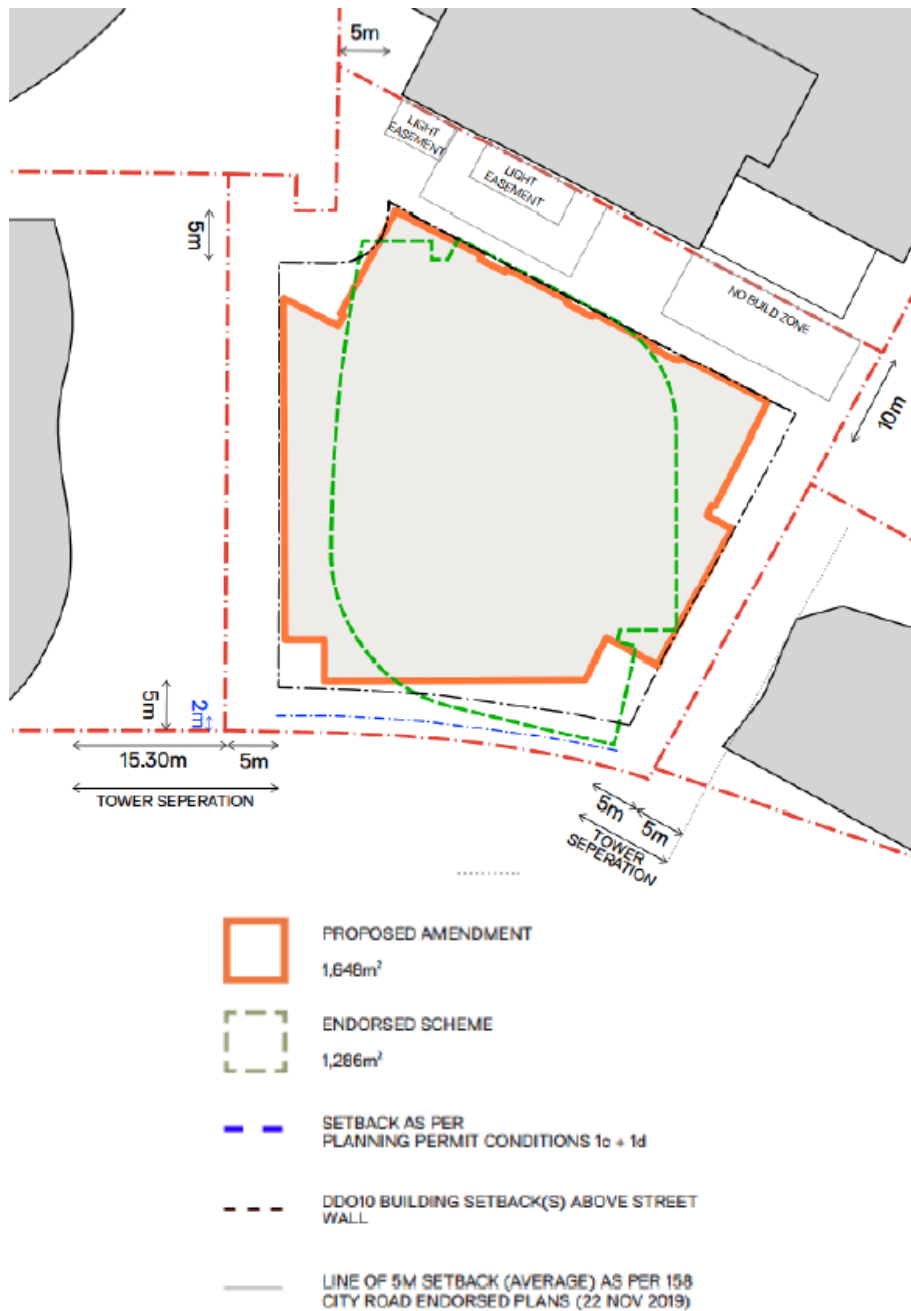


Figure 15: Approved and proposed tower floor plates
 (source: application documents prepared by SJB Planning)

Given the height of the proposed building (215 metres), the tower floor plate does not comply with the mandatory provisions of Schedule 10 and is again therefore prohibited. As previously noted, setbacks of 12.9 metres are required from side and rear boundaries and setbacks of five metres (side) and 10 metres (rear) only would be provided. The floorplate can be adjusted under DDO10, but this requires a justified give and take trade-off which is not provided here.

The resultant form; a shorter though broader tower element than previously approved, would be at odds with the narrower forms preferred by Schedule 10 (by virtue of the increased side and rear setbacks preferred) and indeed necessitated in this high-density city block.

7.2. Built form

The surrounding area comprises a number of higher-scale and closely spaced buildings. This includes Prima Pearl immediately to the west and 28 Freshwater Place to the north. As previously noted, a multi-storey mixed-use building with two towers has recently been approved at 102 - 158 City Road and this will be the tallest structure in the southern hemisphere.

This surrounding context demands a responsive built form outcome. This should include a tower compliant with the key metrics of Schedule 10 as a minimum. Compliant side and rear setbacks (12.9 metres) would assist in ensuring an adequate sense of visual relief between adjacent towers and provide existing and future facing occupants with a sufficient degree of outlook.

As proposed, it is considered that the tower floor plate would not allow for this and as such would impact upon the general amenity of surrounding residents and office occupants. The tower floor plate would also generate adverse built form impacts, including over-powering massing in the surrounding context.

Given this, it is considered that a more slender tower form is required here. Again, this form should be setback from side and rear towers in accordance with the provisions of Schedule 10 (12.9 metres, or as adjusted according to the guidelines) to ensure a more comfortable relationship with surrounding existing and approved forms.

With regard to off-site impacts, it is noted that in accordance with Table 1 of Schedule 10 (DDO10), a permit must not be granted to construct a building / construct or carry out works which would overshadow the Shrine and its northern forecourt between 11am and 3pm between 22 April and 22 September. This is complemented by Clause 22.02 (Sunlight to public spaces) which also seeks to prevent this.

Figure 16 below shows the shadows which would be cast by the approved and proposed developments. As shown, the proposed development would not overshadow the Shrine at any time until at least 4pm, whilst the approved development would overshadow its south-west corner at 4pm on 22 June. Importantly, this is outside the times identified in the planning scheme. Given this, it is considered that the proposal should not be considered of state significance on the basis of reduced overshadowing, as claimed by the applicant.

The on-line DELWP (formerly DTPLI) Officer Report for Ministerial Approval PA 2013/010075, 21-35 Power Street (approved permit for 273m tower), concluded the following in relation to Shrine of Remembrance overshadowing:

The proposal produces limited overshadowing of the Shrine precinct late in the afternoon in winter. However, this is not within the control period in the planning scheme and is at a non-critical time, when other shadows also reach the area.

Importantly, in accordance with the provisions of Council's endorsed Planning Scheme Amendment C278 (Sunlight to public parks), no additional shadows should be cast across the Shrine (Park Type 3) and its forecourt between 10am and 2pm on 21 June.

Though this has not been specifically confirmed by the applicant, using Figure 16 (from the application documents) as a guide, it is clear no such shadows would be cast. Given this, the approved development would not contravene the provisions of DDO10 nor those of Amendment C278, and as such reduced overshadowing should not render the proposed development of state significance.

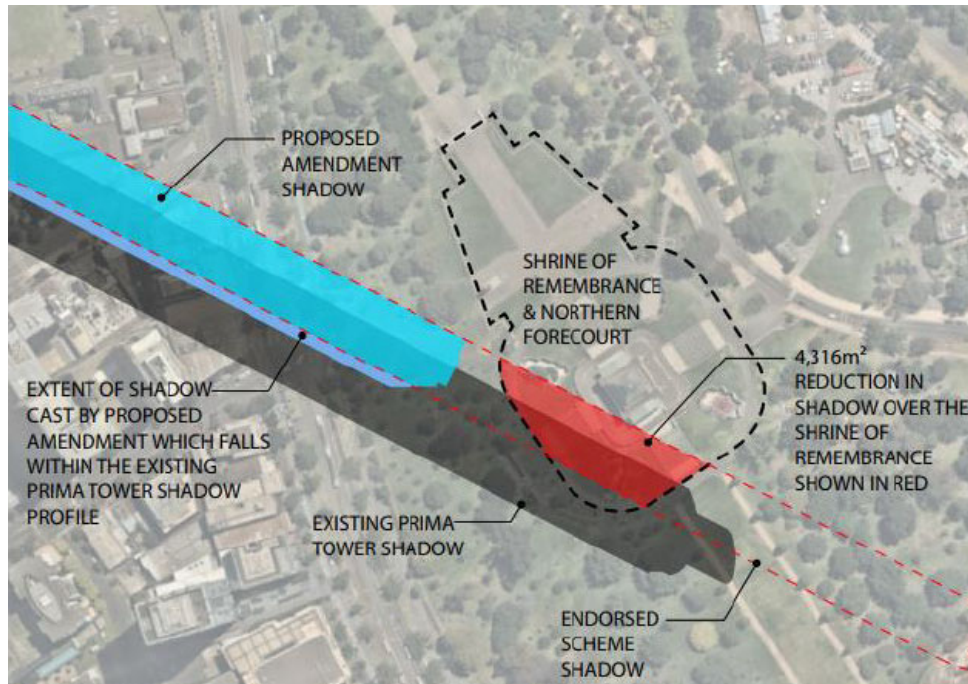


Figure 16: Extent of shadows cast towards the Shrine of Remembrance by the approved and proposed buildings, 4pm 22 June (source: application documents prepared by SJB Planning)

In addition to the aforementioned concerns regarding the key metrics of Schedule 10, as noted in the draft ID (refer Condition 1), the overall height of the building must not also breach the Obstacle Limitation Surface Level and PANS/OPS height (relating to aircraft flight paths). If this were the case and the development was therefore deemed a 'controlled activity', the further approval of the Commonwealth Department of Infrastructure and Regional Development would be required. Should this approval be forthcoming, the height of the building as currently proposed would not need to be reduced.

7.3. Other matters

7.3.1. Public benefits

Notwithstanding the preceding discussion, it is considered that the proposed building nevertheless generates certain benefits, as itemised in Ministerial guidance entitled 'How to calculate floor area uplifts and public benefits'. These include increased public access through the site via the foyer and arcade and the provision of strategically-favoured office space.

To secure the benefits of the through link and office space, it is recommended that the draft ID be amended to include conditions requiring the land owner to enter into legal agreements with Council. These agreements would safeguard public access through the foyer the hours the arcade is open and also ensure the office space remains such for a minimum of 10 years.

7.3.2. Public interfaces

Council's Urban Designers have raised a number of concerns with regard to the treatment of the public interfaces and plaza of the building. These include:

- The extent to which the Power Street frontage is activated. Additional active uses (perhaps retail) should be provided here. Any such elements should be finished in robust, high-quality materials that give a sense of depth and articulation.
- The configuration of the ramps and stairs leading to the Power Street entry. Integrated landscaping and seating should be provided here.
- The width of the footpath alongside the driveway extending through the site. This footpath should be no less than 1.8 metres wide to accommodate two-way wheelchair movements.
- The clearance to the underside of the car park ramp extending over the plaza. This clearance should be no less than double height.
- The clearance to the underside of the substation. This clearance should also be no less than double height. Alternatively, the provision of appropriate materials and lighting to the underside of the substation would assist in improving its appearance.
- The provision of street front car parking at podium level. Any such parking approved here should be sleeved by active uses or, alternatively, concealed behind robust, high-quality materials.

In response to these recommendations, it is noted that:

- The Power Street frontage could indeed accommodate additional active uses. These uses might be formal retail tenancies, or perhaps in the form of an open food and drink premise or commercial space, which would better complement the functionality of the lobby and plaza. It is important that this space attracts usage as the link between Power Street, the upper levels of the building and through to Freshwater Place.
- To complement this, it is agreed that the ground level treatment of the Power Street frontage should also feature a variety of tactile, human-scale finishes. This might include GRC, brushed stainless steel, timber and brick. Together with the provision of additional active uses here, such measures would ensure the development better complied with the provisions of Schedule 1 of the DDO and Amendment C308. As proposed, it is considered that the largely glazed ground level frontage of the building would present as a sterile and unwelcoming element.
- The Power Street setback, referred to as a plaza, is currently of limited public utility serving as a transit forecourt to the foyer rather than an occupiable public space. As a minimum, remodelling of the ramps and stairs leading to the building entry is required, together with the provision of integrated seating and landscaping which to assist in softening the appearance of the forecourt.
- To better enable safe pedestrian access along the driveway extending through the site, it is agreed that the width of the adjacent footpath should be no less than 1.8 metres. Importantly, this must be a clear width outside the alignment of adjacent columns.
- Though it is also agreed that the underside of the substation should be finished in appropriate materials and feature integrated lighting, it is considered that the clearance to the underside of the ramp leading to the car park need not be increased. Though this ramp will be visible over the northern passage of the plaza, it will remain nine metres clear of the finished floor level and will be finished to match adjacent walls and ceilings. This, in turn, ensures the ramp will not undermine the amenity value of the plaza as a whole.

- Podium level car parking would ideally be concealed behind active uses, however the provision of robust, high-quality materials here would assist. In this case, these materials should complement those required at ground level. To this end, tactile, human-scale finishes are preferred. This includes GRC, brushed stainless steel, timber and brick. Integrated vertical landscaping should also be considered though being south-facing only certain species might be appropriate. The largely glazed treatment currently proposed is again considered to be sterile and unwelcoming.

In accordance with the preceding discussion, it is recommended that Condition 1 of the draft ID be amended to require the aforementioned alterations. This will assist the building to better relate to and engage with its immediate surrounds and, in turn, contribute more positively to the public realm.

Though Urban Design has also recommended that the treatments of various internal elements be reconsidered (including the use of certain materials / colours and the finishes of columns), these elements do not otherwise require planning approval and could be altered without consent at a later date.

7.3.3 Transport and parking

In accordance with Schedule 1 of the PO, a maximum of 455 car parking spaces may be provided on site. The development would comprise 130 parking spaces only and as such complies with the provisions of Schedule 1.

Notwithstanding this, in accordance with the comments of Council's Traffic Engineers, the anticipated number of vehicle movements generated by the development would likely further impact upon the function of the surrounding near capacity road network at peak times, including the Power Street / Queens Bridge Street and Power Street / City Road intersections.

Importantly, the site is located within the Principal Public Transport Network (PPTN) and as such benefits from immediate access to a variety of services. This includes tram services along Queens Bridge Street a short distance to the west. This service provides direct access to the CBD and, in turn, a variety of connecting services. Flinders Street Railway Station is also located within walking distance across the former Sandridge Rail Bridge. This station serves all metropolitan rail lines.

Given these nearby services / facilities, building occupants will have direct access to a variety of transport options and will not be reliant upon on site car parking facilities. This again allows for a reduced number of spaces and the re-purposing of the floor area vacated by parking spaces. This might include the provision of additional bicycle parking spaces (subject to appropriate and safe access arrangements) in accordance with the recommendations of Council's Traffic Engineers. As previously noted, Traffic Engineers consider that an additional 100 bicycle parking spaces be provided. These spaces will, in turn, further provide for alternate, and sustainable, access to / from the site.

Alternatively, a reduced number of on-site car parking spaces might also allow for the provision of additional active uses at podium level. In accordance with the advice of Council's Urban Designers, this might include commercial space along the Power Street frontage.

To further reduce the movements generated by the development, car share spaces could also be provided. These spaces would be shared between building occupants, available via a booking system and used for both business and private use, again in the interests of reducing movements and congestion.

Though as previously noted the number of bicycle parking spaces provided on site (350) far exceeds that required by Clause 52.34 (226 only) the provision of additional spaces would again assist in encouraging a modal shift.

Notwithstanding the number of car parking spaces provided on site is significantly less than that permitted by Schedule 1 of the PO, a further reduction is considered necessary in order to ensure a truly sustainable outcome. This includes not only with regard to on site conditions, but also the impacts of anticipated vehicle movements off site. In this location it is considered alternate modes should be prioritised. This again includes increased bicycle parking. Here, cyclists will benefit from immediate access to a new separated bicycle lane extending along Queens Bridge Street. This lane connects with a city wide network and assists in ensuring the safety of cyclists.

7.3.4. Wind

Clause 2.3 of Schedule 10 of the DDO states that new buildings exceeding a height of 40 metres must not cause unsafe wind conditions within a defined radius of the host site (in this case 107.5 metres). Importantly, within this assessment area the wind speeds generated by a new building must remain 'comfortable'. This is defined as a *mean wind speed from any direction with probability of exceedance less than 20% of the time, equal to or less than:*

- 3 metres/second for sitting areas;
- 4 metres/second for standing areas; and
- 5 metres/second for walking areas.

The wind assessment submitted in support of the application concludes that the conditions generated by the building would be comparable to those of the approved development. Notably, the setting back of the ground floor from Power Street and the enclosure of the thru-block link / plaza would result in improved conditions at the building entry. Similarly, the reduced height of the development and elements of the podium (north and east) may also generate improved localised conditions.

Though Condition 6 of the ID requires the submission of a full wind report detailing the precise effects of the building, this condition does not refer to the requirements of Schedule 10 of the DDO or request the submission of a cumulative assessment taking into account the effects of the development together with surrounding buildings.

It is recommended that Condition 6 be amended accordingly. This, in turn, will enable a more comprehensive analysis of likely impacts and the formulation of accurate mitigation measures, if any.

7.3.5 Aboriginal Cultural heritage

The northern extremity of the site is situated within a designated area of Aboriginal cultural heritage sensitivity (refer Figure 17 below). Notwithstanding this, the site does not accommodate any registered cultural places and has previously been disturbed. To this end, the site is no longer considered to be culturally sensitive in accordance with the requirements and interpretations of the *Aboriginal Heritage Act 2006*. Given this, a Cultural Heritage Management Plan (CHMP) is not required.



Figure 17: Extent of area of Aboriginal cultural heritage sensitivity
(source: application documents prepared by SJB Planning)

8. THE DRAFT ID

On balance, the proposed development should not be supported given it represents a poor outcome and would result in a form inconsistent with the provisions of Schedule 10 of the DDO. As previously noted, a compliant form is especially required here given the scales and densities of surrounding buildings and the subsequent need to ensure a contextually responsive outcome. Importantly, it is noted that:

- The reduced height of the building (- 57 metres) does not generate significant benefits, noting somewhat less overshadowing to the Shrine surrounds at 4pm on 22 June, however this is an extreme shadow time outside of the control period.
- The tower floor plate would increase substantially from 1,266 square metres to 1,648 square metres given the noticeable reduction in side setbacks (refer Figure 15). This, in turn, would generate corresponding amenity impacts. This street block accommodates some of the tallest towers in the city and these require generous separation distances well in excess of the five and 10 metre setbacks currently proposed.
- Side setbacks have been reduced to five metres. This is approximately half of their former average. In addition, these setbacks are non-compliant. At the height proposed, setbacks of 12.9 metres are required.
- Significant alterations are required at ground and podium levels in order to better activate the Power Street frontage. These include the remodelling of the façade, the reduction of car parking and the addition of further active uses. This, in turn, would assist in ensuring the limited plaza better presented as a public space with adequate pedestrian links through to Waterfall Lane, itself subject to redevelopment as part of the Beulah redevelopment of the adjoining BMW site, now together with 102 - 158 City Road (existing Hannover House site, with existing tower approval).

Notwithstanding these fundamental concerns, the following matters are highlighted without prejudice and should not be regarded as acceptance of the proposed development or SCO/ID process, nor of the proposed tower form.

Based upon the submitted ID, associated plans and technical documents, it is recommended that if the Minister is minded to approve the ID, the following matters should first be resolved:

- The description of what the ID facilitates (refer Clause 2.0). This description should also include the variation and removal of easements (refer below).
- The extent to which the ID would apply. A statement should be included in the ID confirming that if the proposed development is not commenced within three years the ID no longer applies. This statement could be included in Clause 4.0.
- The treatment of certain public interfaces. In order to ensure these interfaces appropriately contribute to the public realm, it is recommended that Condition 1 of the draft ID be amended to require:
 - The provision of additional active uses at ground floor level along the Power Street frontage. These uses could be formal retail tenancies or less formal spaces, perhaps in the form of an open food and drink premise or commercial space.
 - The application of tactile, human-scale materials / finishes along the Power Street frontage at ground level. These materials / finishes must generate visual interest and create a sense of depth.
 - The remodelling of the ramps and stairs leading to the building entry and the inclusion of integrated seating and landscaping. All ramps and stairs must remain DDA compliant and seats provided with compliant arm and back rests where appropriate.
 - The footpaths alongside the driveway extending through the site increased to a minimum clear width of 1.8 metres. This width must be measured from the outside of adjacent columns / other obstructions. This might require the relocation or reduction in width of planters.
 - The repositioning / relocation of all doors opening out over the northern east-west pedestrian connection. Doors must not encroach upon this thoroughfare when open or when being opened.
 - The underside of the substation finished in tactile, human-scale materials and featuring integrated lighting.
 - Active uses should be provided along the Power Street frontage at podium level. This would reduce the number of car parking spaces provided on site in accordance with the below recommendation. The podium façade should be finished in robust, high quality materials / finishes that complement the finish of the ground level.
 - If the car parking were not to be reduced and set back from the frontage, the provision of robust, high-quality materials / finishes should screen the podium level. These materials / finishes / screens must be applied so as to conceal views to all podium level car parking, including angled views from the north and south along Power Street, and complement the materials / finishes required at ground level. To this end, tactile, human-scale materials / finishes / screens are preferred. This might include GRC, brushed stainless steel, timber and brick. These materials could be used to clad slab edges and soffits and / or used as window shrouds. Integrated vertical landscaping should also be considered.
- The remaining content of Condition 1 of the draft ID. In addition to the aforementioned recommended alterations to public interfaces, the following further items are also required and should be included within an expanded Condition 1:
 - Any alterations necessary to ensure the development does not encroach upon the 'no build' zone at the rear of the site. Alternatively, if the applicant can demonstrate agreements exist allowing building works within this zone the development need not be altered.
 - A reduced number of on-site car parking spaces. Preferably all spaces fronting Power Street and those immediately adjoining along

- the north and south frontages of the podium would be deleted and replaced by active uses.
- The deletion of Car Park Nos. 5-32, 5-36, 5-39, 5-40, 6-39 and 6-40. These spaces limit access to adjacent exhausts and must be deleted in addition to those required by the preceding condition.
 - A minimum of one car share space on site.
 - Notations on plan confirming no less than 5% of all remaining car parking spaces will be fitted with electric vehicle charging infrastructure / points.
 - The provision of 100 additional bicycle parking spaces on site. These spaces would ideally be located at basement level as part of the end-of-trip facility. Alternatively, these spaces could be located at podium level in place of deleted car parking spaces so long as safe and convenient access could be provided. Again, any spaces provided here must be appropriately screened from view from the public realm by robust, high-quality materials / finishes complementing those used at ground level.
 - The provision of a bicycle share facility on site. This facility must be made available to all on site employees and may be located at basement level together with private bicycle parking spaces. If separate to these, the share facility must be located so as to ensure safe and convenient access.
 - The provision of a solar PV array upon the roof of the building.
 - The loading / unloading bays increased in size to ensure both may comfortably accommodate nominated waste collection vehicles. This includes one metre clearances either side of the largest such vehicle.
- The treatment of the façade of the building. Though a façade strategy would be required in accordance with Condition 3 of the draft ID, additional text should be added to the related condition. This includes the need to ensure the strategy adequately shows the depth and articulation of the building and confirms all service cupboards and the like will be concealed behind finishes that integrate with surrounding treatments.
 - The requirements of Condition 6 (wind assessment) of the draft ID. This condition should be amended to refer to the provisions of Schedule 10 of the DDO and also to require an assessment of the cumulative effects of the development and surrounding buildings.
 - The ESD requirements of the draft ID. Though Conditions 8 and 9 seek to ensure base level information is submitted, additional items remain required as follows:
 - Evidence supporting the merit of the proposed ESD measures / initiatives to be incorporated into the development.
 - The further resolution of the Green Star pathway. This includes additional accreditation points to safeguard the desired rating. The provision of electric vehicle charging infrastructure on site will assist in providing the points necessary. No less than 5% of all car parking spaces should feature charging points. Typically, a 10% buffer should be allowed for given ratings generally alter through the design process.
 - Further modelling confirming a 5-star NABERS rating can be achieved. A certificate confirming this should be submitted to Council within 24 months of the first occupation of the building.
 - The content of proposed civil engineering conditions / requirements. Though Condition 10 of the draft ID requires the submission of stormwater drainage plans, the wording of this condition must be amended to address the concerns of Council's Civil Engineers. Additional standard conditions and notes must

also be included in the draft ID. This includes the need to consider the relocation or removal of an existing Council drain extending through the site.

- The content of the landscape condition of the draft ID. Whilst Condition 12 generally reflects Council's standard requirements, additional information remains outstanding. This includes details of the soil volumes and growing media of all planters on site, including those at upper levels and those recommended across the forecourt. Details of the soil volumes and growing media of any vertical planters applied to the podium should also be provided. The landscape plan condition must be amended accordingly and also reference the relevant requirements of recommended Condition 1.
- The variation / removal of easements as necessary. Where relevant, existing easements must be varied and / or removed to enable certain activities. For example, a carriageway easement currently requires unrestricted access across the site to 28 Freshwater Place. On the basis car parking would now be provided upon this easement access would be partially restricted. Given this, the easement must be varied to accommodate the proposed parking spaces and vehicular access to the building. Whilst Condition 14 seeks to address access related issues, this condition should be amended to address the concerns of Council's Land Survey Officers.
- The need to secure the public benefits generated by the development. It is recommended that the ID be amended to include conditions requiring the owner to enter into legal agreements with Council. These agreements would safeguard public access from Power Street through to the arcade, the hours the intervening foyer is open and also ensure the office space remained such for a minimum of 10 years. Whilst again Condition 14 seeks to address access issues, conditions must be added reflecting Council's standard requirements.
- Details of the measures that will be implemented to ensure the safe loading / unloading of goods. Though Condition 16 seeks to address loading / unloading, a more detailed analysis of just how this will be managed is required. To this end, it is considered that a condition should be included in the ID requiring the submission of a Loading Management Plan (LMP).
- The capacity of the loading / unloading bays and whether these are large enough to accommodate nominated waste collection vehicle(s). Whilst Condition 21 of the draft ID requires the submission of a WMP, the wording of this condition must be amended to address the concerns of Council's Waste Engineers. This includes the need to ensure loading / unloading bays are large enough to accommodate nominated vehicles, including the necessary clearances. These requirements also appear in recommended Condition 1 above.
- The need to obtain complete copies of all titles to better understand the nature and extent of registered restrictions. This includes whether or not an agreement exists allowing development within the 'no build' zone at the rear of the site. If no such agreement exists, one will be required prior to the commencement of the development or the plans must be amended accordingly.
- The ownership of the site and consolidation of titles. Prior to the commencement of the development, including demolition, site ownership and all titles must be consolidated.

9. OFFICER RECOMMENDATION

It is considered that the proposed development is not of state significance as claimed by the applicant. This is on the basis the proposed building would cast less shadows towards the Shrine than the approved building, however the time the approved development would overshadow the Shrine precinct (4pm on 22 June) is not formally recognised by the planning scheme.

In contrast, the proposed building features reduced tower setbacks compared with the approved scheme. These reduced setbacks would impact upon internal and public amenity as well as being non-compliant with the mandatory requirements of Schedule 10 of the DDO.

Except to avoid these controls, there appears no reason the development could not have otherwise been considered via the planning permit application process, as opposed to the planning scheme amendment process.

The applicant did not apply for a new planning permit, instead choosing to 'amend' the previous approval via the SCO/ID process. This represents a complicated process due to the significant changes proposed, and obviates payment of the Metropolitan Planning Levy (MPL).

In this case, had a planning permit application been lodged, a fee of \$57,670 and a MPL of \$401,180 would have been payable (\$458,850 in total). Since a planning scheme amendment application was lodged, a fee of only \$3,999 was paid.

It is recommended that the use of the SCO/ID process is not supported in cases such as this. This process should be reserved for projects of genuine state significance and not used as a tool to obviate planning controls without robust justification, noting it also reduces the payment of fees and charges.

Appendix 1:
Draft Incorporated Document

**MELBOURNE PLANNING SCHEME
Incorporated Document**

**21-35 Power Street & 38 Freshwater Place,
Southbank - September 2020**

**This document is an incorporated document in the Melbourne Planning Scheme pursuant
to Section 6(2)(j) of the *Planning and Environment Act 1987***

1.0 INTRODUCTION

This is an Incorporated Document in the schedule to Clause 45.12 of the Melbourne Planning Scheme (planning scheme).

The land identified in Clause 3.0 of this document may be used and developed in accordance with the specific controls and conditions contained in Clause 4.0.

The controls in this document prevails over any contrary or inconsistent provision in the planning scheme.

2.0 PURPOSE

The purpose of this Incorporated Document is to permit and facilitate the use and development of the land described in Clause 3.0 for the purposes of constructing a multi-level commercial building with an associated basement area, the creation of access to Power Street and the variation and removal of easements as necessary in accordance with the plans approved consistent with Clause 5.0.

3.0 ADDRESS OF THE LAND

This Incorporated Document applies to land at 21 - 23 Power Street (Lot 2 on Plan of Subdivision 505293S); 25-35 Power Street (Crown Allotment 2017) and 38 Freshwater Place (Lot S16 on Plan of Subdivision) that is affected by Specific Controls Overlay, Schedule XX (SCOXX) as identified in Figure 1 below.

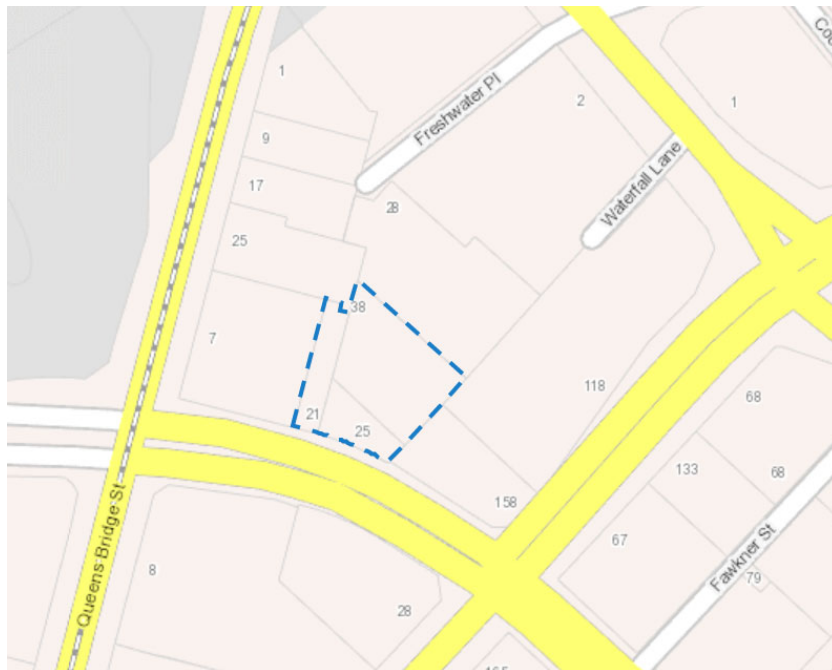


Figure 2 - Land subject to this incorporated Document highlighted in blue

4.0 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Despite any provision to the contrary or any inconsistent provision in the planning scheme, no planning permit is required for, and no planning provision in the planning scheme operates to prohibit, restrict or regulate the use and development allowed for by this Incorporated Document.

If the development this Incorporated Document facilitates is not commenced within three years of the date of approval, the provisions of the Incorporated Document no longer apply.

5.0 THE FOLLOWING CONDITIONS APPLY TO THIS DOCUMENT:

Amended Plans

1. Before the development starts, excluding demolition, bulk excavation and site preparatory works, amended plans must be submitted to and be approved in writing by the Responsible Authority. When approved, these plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally be in accordance with the plans prepared by Grimshaw Architects (dated 24 April 2020) but amended to show:

a) The overall height of the building reduced to below the Obstacle Limitation Surface level and PANS/OPS height, or;

To maintain the height of the building at 220.8 metres to Australian Height Datum (AHD), provide written evidence from the operators of each of Melbourne, Essendon and Moorabbin airports as to whether the proposed development would be deemed a "controlled activity" in accordance with the Airports (Protection of Airspace) Regulations 1996 (Commonwealth) in respect of each airport's airspace. If the development is deemed a controlled activity, the written approval of the Commonwealth Department of Infrastructure and Regional Development will then be required.

The applicant must provide all airports details of the height of the building referenced to AHD, including any other structures whether temporary (such as cranes) or permanent (such as antennae). If the consent of all relevant authorities can be obtained, the height of the building may be maintained at 220.8 metres AHD.

b) The tower setback 6% of the total height of the building (12.9 metres) from both side and the rear property boundaries, or as justified and adjusted in accordance with the modified requirements of DDO10;

c) The provision of additional active uses at ground floor level along the Power Street frontage. These uses may be formal retail tenancies or, alternatively, less formal spaces such as an open food and drink premise or work/commercial space;

d) The application of tactile, human-scale materials/finishes along the Power Street frontage at ground level. These materials/finishes must generate visual interest and create a sense of depth;

e) The remodelling of the ramps and stairs leading to the building entry and the provision of integrated seating and landscaping here. All ramps and stairs must remain DDA compliant and seats provided with compliant arm and back rests where appropriate;

f) The footpaths alongside the driveway extending through the site increased to a minimum clear width of 1.8 metres. This width must be measured from the outside of adjacent columns/other obstructions. This might require the relocation or reduction in width of planters;

g) The repositioning/relocation of all doors opening out over the northern east-west pedestrian connection. Doors must not encroach upon this thoroughfare when open or when being opened;

h) The underside of the substation finished in tactile, human-scale materials and featuring integrated lighting;

- i) The provision of active uses along the Power Street frontage at podium level, together with the use of robust, high quality materials/finishes that complement the finish of the ground level.

If the podium car park is not reduced (setback from the frontage), the provision of robust, high-quality materials/finishes/screening at podium level. These materials/finishes must be applied so as to conceal views to all podium level car parking, including angled views from the north and south along Power Street, and must complement the materials/finishes required at ground level in accordance with Condition 1(c). Integrated vertical landscaping should also be considered.

- j) Any alterations necessary to ensure the development does not encroach upon the 'no build' zone at the rear of the site. Alternatively, if the applicant can demonstrate agreements exist allowing building works within this zone the development need not be altered as otherwise required by this condition;
- k) A reduced number of on-site car parking spaces. Preferably all spaces fronting Power Street and the immediately adjoining spaces along the north and south frontages of the podium would be deleted. As noted by Condition 1(h) active uses could be provided here in place of these car parking spaces;
- l) The deletion of Car Park Nos. 5-32, 5-36, 5-39, 5-40, 6-39 and 6-40. These spaces limit access to adjacent exhausts and must be deleted in addition to those required by Condition 1(j);
- m) The provision of no less than one car share space on site;
- n) Notations confirming that no less than 5% of the final number of car parking spaces provided on site will be fitted with electric vehicle charging infrastructure/points;
- o) The provision of 100 additional bicycle parking spaces on site. These spaces would ideally be located at basement level as part of the end-of-trip facility. Alternatively, these spaces could be located at podium level in place of deleted car parking spaces so long as safe and convenient access could be provided. Again, any spaces provided here must be appropriately screened from view from the public realm by robust, high-quality materials/finishes/screens complementing those used at ground level;
- p) The provision of a bicycle share facility on site. This facility must be made available to all on site employees and may be located at basement level together with private bicycle parking spaces. If separate to these, the share facility must be located so as to ensure it may be safely and conveniently accessed;
- q) The provision of a solar PV array upon the roof of the building;
- r) The loading/unloading bays increased in size to ensure both may comfortably accommodate nominated waste collection vehicles. This includes one metre clearances either side of the largest such vehicle;
- s) Any modifications necessary to comply with the wind assessment required by the corresponding condition below; and
- t) Any modifications necessary to comply with the corresponding Land Survey requirements below.

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

Layout Not Altered

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

Materials and Finishes

3. Before the development starts, excluding demolition, bulk excavation and site preparatory works, a façade strategy must be submitted to and approved in writing by the Responsible Authority. This facade strategy must be generally in accordance with plans prepared by Grimshaw Architects dated 24 April 2020 as amended by Condition 1 above and include a schedule of materials, finishes and details, including but not limited to the colour, type of materials (and quality), construction and appearance. The Façade Strategy must include (but not be limited to) the following:
 - a) The strategy must illustrate the legibility of the proposal from short and distant views, including the extent of facade pattern, level of colours and the ability to provide richness, saturation and depth. This can be provided through montages from various vantage points and/or a built model. Coloured elevations or renders including adjoining context, annotated to show main finishes with a code or number to link them to the materials board;
 - b) A description, possibly accompanied by sketches, to describe the concept. A description/rationale for the façade elements (both podium and tower);
 - c) Detail of fixing and junction systems, sufficient to ensure a quality outcome (especially joints between materials and treatment of openings, corners, soffits, and coronations);
 - d) Resolution of practical details, such as access for façade maintenance and cleaning, as well as irrigation and drainage of any planters and a defined management regime;
 - e) Confirmation that service cupboards and the like will be concealed behind finishes that integrate with surrounding treatments.
4. Before the development starts, excluding demolition, bulk excavation, retention works and site preparatory works, a sample board must be submitted to and be to the satisfaction of the Responsible Authority. When approved this sample board will form part of the endorsed plans and must not be amended unless with the written consent of the Responsible Authority. All finishes and surfaces of all external buildings and works, including materials and colours, must be in conformity with the approved schedule to the satisfaction of the Responsible Authority
5. Except without the written consent of the Responsible Authority, all external glazing must be of a type that does not reflect more than 20% of visible light when measured at an angle of incidence normal to the glass surface.

Wind Assessment

6. Before the development starts, excluding demolition, bulk excavation and site preparatory works, wind tunnel testing must be carried out by a suitably qualified consultant on a model of the modified building. A report detailing the outcomes of this testing and demonstrating compliance with the provisions of Schedule 10 of the Design and Development Overlay (DDO10) of the Melbourne Planning Scheme must be submitted to and be to the satisfaction of the Responsible Authority. The report must also consider the cumulative effects of the building together with surrounding approved and existing buildings and recommend any modifications necessary to limit adverse wind conditions in areas used by pedestrians and future occupants of the building. The recommendations of the report must be implemented at no cost to the Responsible Authority and must not rely upon street trees. The report should be based upon the

wind report submitted with the application (prepared by Vipac and dated 23 April 2020) but modified to illustrate the design changes required by Condition 1 of this permit.

Construction Management Plan

7. Before the development starts, a detailed Construction Management Plan must be submitted to and be approved in writing by the City of Melbourne (Construction Management Group). This Construction Management Plan may be staged and is to be prepared in accordance with the City of Melbourne's 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 material reuse; and
 - f) traffic management.

Environmentally Sustainable Design (ESD) & Water Sensitive Urban Design

8. Prior to the commencement of the development, excluding demolition, bulk excavation and site preparatory works, an amended Environmentally Sustainable Design (ESD) Statement, generally in accordance with the statement submitted with the application, shall be submitted to the satisfaction of the Responsible Authority. This Statement must include:

- Evidence supporting the merits of the proposed ESD measures/initiatives to be incorporated into the development;
- The further resolution of the Green Star pathway. This includes additional accreditation points to safeguard the desired rating. The provision of electric vehicle charging infrastructure on site will assist in providing the points necessary. Typically, a 10% buffer should be allowed for given ratings generally alter through the design process; and
- Further modelling confirming a 5-star NABERS rating can be achieved. A certificate confirming this should be submitted to Council within 24 months of the first occupation of the building.

This additional information must demonstrate that the building has the preliminary design potential to achieve the following:

- a) A 5 star rating under a current version of the Green Star - Commercial/Office rating tool or equivalent assessment; and
 - b) 1 point for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star - Commercial/Office rating tool or equivalent.
9. The performance outcomes specified in the Environmentally Sustainable Design (ESD) Statement for the development must be implemented prior to first occupancy and at no cost to the City of Melbourne. Any changes made during detailed design which affect the approach of the endorsed ESD Statement must be assessed by an accredited professional. The revised statement must be endorsed by the Responsible Authority prior to the commencement of development and must not be amended unless with the written consent of the Responsible Authority.

10. Prior to the commencement of the development, excluding demolition, bulk excavation and site preparatory works, a stormwater drainage system incorporating integrated water management design principles must be submitted to and be approved in writing by the Responsible Authority - Infrastructure and Assets. This system must be constructed prior to the first occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system by installing a new minimum 300mm RC pipe in Power Street in accordance with plans and specifications first approved by the Responsible Authority - Infrastructure and Assets.

Environmental Assessment

11. Preliminary Environmental Assessment (PEA) and Comprehensive Environmental Assessment (CEA) not required on the basis no sensitive uses proposed.

Landscape plan

12. Prior to the commencement of the development, excluding demolition, bulk excavation and site preparatory works, an amended landscape plan taking into account the modifications required by Condition 1 must be submitted to and be approved in writing by the Responsible Authority. This plan must be drawn to scale with dimensions and show:
 - a) All ground level and upper level vegetated areas, including the soil volumes and growing media of all planters;
 - b) Details of any vertical landscaping applied to the podium, including soil volumes and growing media;
 - c) Details on the intended usage and accessibility of the podium green space;
 - d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant;
 - e) Details of surface finishes of retaining walls, pathways and driveways;
 - f) Location and type of irrigation systems to be used including the location of any rainwater tanks to be used for irrigation; and
 - g) Any other planting or maintenance requirements.
13. This landscape plan must be to the satisfaction of the Responsible Authority and when approved shall form a part of the endorsed plans and must not be amended unless with the written consent of the Responsible Authority.

Land Survey

14. Prior to the first occupation of the development all titles making up the site must be consolidated in one ownership and all access way/carriageway easements must be varied, removed or created as necessary to safeguard access through the site and to surrounding sites. This includes an application for certification pursuant to Section 23 of the Subdivision Act 1988 for the removal of easement E-2 encumbering Lot 2 on PS505293S. When certified by the Responsible Authority and a Statement of Compliance has been issued the plan must be lodged with Land Victoria for registration and evidence of this registration must then be provided to the Responsible Authority in order to demonstrate compliance with this condition.

15. Prior to the first occupation of the development light and air easements must be created along the northern boundary of the subject site to the satisfaction of the City of Melbourne.

Parking facilities and waste

16. Prior to the commencement of the development, excluding demolition, bulk excavation, and site preparatory works, a Transport Impact Assessment (TIA) must be submitted to and be approved in writing by the Responsible Authority in consultation with the City of Melbourne - Infrastructure and Assets. This TIA should include:
 - a) Additional information regarding the proposed access arrangements, including a detailed signage and line marking plan within the private roadway generally between Power Street and the on-site roundabout. Given the restricted sight lines through this area, particularly between loading vehicles & vehicles exiting the podium carpark, signage/flashing lights should be provided to alert approaching drivers when vehicles enter/exit the loading bay.
 - b) The car parking layout (including all spaces, entry/other ramps, grades, transitions, access ways and head clearances, etc.) must comply with the provisions of the Melbourne Planning Scheme and/or Australian Standard (AS) 2890.1:2004 and the relevant Australian Standards for loading/delivery vehicles.

The amended report must be to the satisfaction of the City of Melbourne - Infrastructure and Assets and when approved shall be the endorsed plans of this permit and must not be amended unless with the prior written consent of the Responsible Authority.

17. Prior to the commencement of the development, excluding demolition, bulk excavation and site preparatory works, a formal independent Road Safety Audit must be undertaken (including assessment of internal layouts and access arrangements; access via Waterfall Lane, Freshwater Place and the adjacent car park to the north; vehicle circulation via all basement/podium levels and an assessment of potential conflicts between vehicles accessing/egressing the roadway via Power Street, hotel/coach drop-off areas, loading bays and all legs of the roundabout), to assess any road safety issues affecting all road users. The findings of the Audit must be incorporated into the building at the developer's expense to the satisfaction of the City of Melbourne - Infrastructure and Assets.
18. The areas for the parking of vehicles must be clearly indicated on floor levels and the boundaries of all car parking spaces and access lanes and the direction in which vehicles should proceed along these lanes must be in conformity with the endorsed plans. All car parking spaces must not be used for any other purpose unless with the prior written consent of the Responsible Authority and all access aisles must be kept clear.
19. The areas set aside for the parking of vehicles within the site must not be operated as a public car parking facility at any time unless with the prior written consent of the Responsible Authority.

20. All car park mechanical exhaust systems must be sound attenuated to prevent noise nuisance to the occupants of the building and surrounding properties to the satisfaction of the City of Melbourne.
21. Prior to the commencement of the development, excluding demolition, bulk excavation and site preparatory works, an amended Waste Management Plan (WMP) must be submitted to and be approved in writing by the City of Melbourne - Infrastructure and Assets. This WMP must detail all waste storage and collection arrangements and be prepared with reference to the City of Melbourne's Guidelines for Preparing a Waste Management Plan. The WMP must also include all relevant matters required by Condition 1, including increased size loading/unloading bays. All waste storage and collection arrangements must not be altered without prior written consent of the City of Melbourne - Infrastructure and Assets.
22. All waste must be stored and handled within the site. Bins must not be placed outside the property boundary for collection unless with the prior written consent of the Responsible Authority.
23. Bicycle parking must be provided, located and appropriately signed generally in accordance with Clause 52.34 of the Melbourne Planning Scheme to the satisfaction of the Responsible Authority.

Building appurtenances

24. All building plant and equipment on roofs and public thoroughfares must be concealed to the satisfaction of the City of Melbourne. The construction of additional plant machinery and equipment, including but not limited to air conditioning equipment, ducts, flues, exhausts and communications equipment, shall be to the satisfaction of the City of Melbourne.
25. Any satellite dishes, antennae or similar structures must be designed and located at a single point to the satisfaction of the City of Melbourne unless otherwise approved in writing.

Projections

26. Any 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 - Infrastructure and Assets.

3D Model

27. Before the development starts, excluding demolition, bulk excavation and site preparatory works, or as may otherwise be agreed in writing by the Responsible Authority, a 3D digital model of the development and its immediate surrounds, as appropriate, must be submitted to and be approved in writing by the Responsible Authority in conformity with the Department of Environment, Land, Water and Planning's (DELWP) (or its successor) Advisory Note entitled '3D Digital Modelling'. In the event that substantial modifications are made to the building envelope a revised 3D

digital model must be submitted to and be to the satisfaction of the Responsible Authority.

No Advertising Displayed on Building

28. No advertising signs shall be erected, painted or displayed on the land without the prior written permission of the Responsible Authority unless in accordance with the provisions of the Melbourne Planning Scheme or with the written consent of the Responsible Authority.

Retention of Architectural Firm

29. Except with the written consent of the Responsible Authority, an architectural firm must be retained to complete and provide architectural oversight during construction of the detailed design as shown in the endorsed plans, façade strategy and the endorsed schedule of materials and finishes to the satisfaction of Responsible Authority.

Additional recommended conditions

30. The maximum permissible width of a vehicle crossover without a pedestrian refuge is 7.6 metres. All crossings wider than 7.6 metres should include a minimum of 2.0 metre long pedestrian refuge islands at 7.6 metre spacing.
31. All groundwater and water that seeps from the ground adjoining the building basement (seepage water) and any overflow from a reuse system which collects groundwater or seepage water must not be discharged to the Council's drainage network. All contaminated water must be treated via a suitable treatment system and fully reused on site or discharged into the sewerage network under a relevant trade waste agreement with the responsible service authority.
32. Prior to the first occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings demolished and the footpath, kerb and channel reconstructed in accordance with plans and specifications first approved by the Responsible Authority - Infrastructure and Assets.
33. All portions of roads affected by building-related activities 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 - Infrastructure and Assets.
34. The footpath adjoining the site along Power Street must be reconstructed in sawn bluestone together with associated works including the renewal of kerb and channel, provision of street furniture and modification of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority - Infrastructure and Assets.
35. Existing street levels along roads adjoining the site must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining the written approval of the Responsible Authority - Infrastructure and Assets.

36. Prior to the commencement of the development, excluding preliminary site works, demolition and site clean-up, or as may otherwise be agreed in writing with the City of Melbourne, a lighting plan must be prepared to the satisfaction of Council. This plan should be generally consistent with Council's Lighting Strategy and include the provision of public lighting along Power Street adjacent to the site. All lighting works must be completed prior to the first occupation of the development in accordance with plans and specifications first approved by the Responsible Authority - Infrastructure and Assets.
37. Prior to the first occupation of the development hereby approved, excluding demolition. Bulk excavation and site preparatory works, a Loading Management Plan (LMP) must be submitted to and be approved in writing by the Responsible Authority. This plan must detail how the access/egress of loading vehicles will be managed. The plan must also confirm that a Dock Manager will be employed to oversee the loading/unloading of all goods and waste. In addition to this, the plan must state that the reversing of vehicles into the loading bay will only be undertaken with the assistance of the Dock Manager, whose responsibilities in this regard shall include, as a minimum;
- Attendance in the loading bay when all deliveries are being received and waste collected;
 - To act as spotter for all vehicles reversing into the loading bay;
 - To act as an informal traffic controller and discourage pedestrian movements while vehicles reverse into the loading bay;
 - To ensure conflicts do not occur between loading vehicles and other vehicles; and
 - To ensure that the spaces used to manoeuvre vehicles is kept clear of obstructions at all times.
38. Prior to the commencement of the development hereby approved, including demolition and bulk excavation, the owner of the land must enter into an agreement with the Responsible Authority pursuant Section 173 of the Planning and Environment Act 1987. The owner must pay all the Responsible Authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title. The agreement must:
- a). Secure all office space as shown on the endorsed plans for a minimum of 10 years from the date of issue of a certificate of occupancy;
 - b). Office space is defined as land used for administration or clerical, technical, professional or other like business activity. No goods or materials intended for manufacture, sale or hire may be stored on the land and it must be physically separated and administratively independent of other uses within the building; and
 - c). The agreement must make provision for its removal from the land following completion of the obligations contained therein.
39. Prior to the commencement of the development hereby approved, including demolition and bulk excavation, the owner of the land must enter into an agreement with the Responsible Authority pursuant Section 173 of the Planning and Environment Act 1987. The owner must pay all the Responsible Authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title. The agreement must:

a). Provide for unrestricted public access through the retail arcade from Power Street to Freshwater Place the times the ground floor office lobby is open. This access must extend to include upper level retail tenancies and associated access ways also.

Notes –

All projections over the street alignment must conform to Building Regulations 2018, Part 6, Sections 98 to 110 as appropriate. Reference should be made to the City of Melbourne's Road Encroachment Operational Guidelines with respect to projections impacting on street trees and clearances from face/back of kerb.

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

All necessary approvals and permits are to first be obtained from the City of Melbourne and all works performed to the satisfaction of the Responsible Authority - Infrastructure and Assets.

Existing Council drainage within the site will likely be impacted by the proposed development. The developer must investigate whether this drainage can be relocated or removed prior to the commencement of building works.

6.0 DEVELOPMENT TIME LIMIT

Notwithstanding other provisions, the development permitted by this Incorporated Document will expire if one of the following circumstances applies:

- The development is not started within three years of the date of the gazettal of Amendment C398MELB;
- The development is not completed within five years of the date of the gazettal of Amendment C398MELB

The Minister for Planning may extend the periods referred to if a request is made in writing before these controls expire or within 6 months afterwards.

End of Document