

**Report to the Future Melbourne (Planning) Committee**

**Agenda item 6.2**

**Ministerial Planning Referral: TPM-2013-31  
19-25 Russell Street and 150-162 Flinders Street, Melbourne**

**6 May 2014**

**Presenter:** Angela Meinke, Manager Planning and Building

**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of a Ministerial Planning Application (reference 2013/009973) at 19-25 Russell Street and 150-162 Flinders Street, Melbourne. Notice of the planning application was given by the Department of Transport, Planning and Local Infrastructure (DTPLI) on 20 December 2013 (refer Attachment 2 – Locality plan and Attachment 3 – Proposed plans).
2. The applicant is Clement Stone Town Planners, the owner is Forum Theatre Holdings Pty Ltd and the architect is Bates Smart Pty Ltd.
3. The subject site is located within the Capital City Zone 1; Design and Development Overlays Schedule 1 –A2 (active street frontage), 2 A5 (40 metre discretionary height control), 4 (weather protection); Heritage Overlay Schedules 505 (Flinders Gate Precinct) and 653 (Forum Theatre) and Parking Overlay 1.
4. The application proposes the demolition of the MTC building at 25 Russell Street and the construction of a 32 level (107 metre) tower for a residential hotel, ground level retail, commercial and residential uses (refer Attachment 3 – Proposed plans). The application also proposes refurbishment of the Forum Theatre.
5. The Forum Theatre is on the Victorian Heritage Register (HO438) and an application has been lodged with Heritage Victoria for the refurbishment works and for a 3.5 metre projection of the tower over the rear of the Forum. The Heritage Victoria application has been recently referred to City of Melbourne for comment.
6. A planning permit is not required for the parts of the development that affect the Victorian Heritage registration of the Forum Theatre. The MTC building is within a heritage overlay but is not on the Victorian Heritage Register. A planning permit is required for the demolition of this building and the construction of the proposed new building. Under the heritage overlay the application is subject to third party notification and appeal.

**Key issues**

7. The key issues in this application are the impact upon the heritage precinct including nearby buildings (most notably the Forum Theatre), built form (including height and setbacks), impact to Hosier Lane and amenity impacts to the public realm including overshadowing of Federation Square.
8. It is considered that the development fails to adequately address the relevant heritage and built form policy directions and decision guidelines of the Melbourne Planning Scheme.
9. The height of the proposal fails to adequately acknowledge or have regard for the consistent and cohesive scale of the block bounded by Flinders Street, Russell Street, Collins Street and Flinders Lane that is defined by the scale of existing built form and prominent landmarks such as St Pauls Cathedral and the Forum Theatre.
10. The development is also considered to unreasonably dominate the immediate area by virtue of excessive height, lack of appropriate setbacks, impact to adjoining significant heritage buildings, impact to Hosier Lane and overshadowing of key public spaces, including Federation Square.
11. Whilst the external restoration of the Forum Theatre is highly desirable, the negative impact from the construction of a 32 storey tower is so significant, and far outweighs, any net community benefit due to the significant impact the new building will have on the public realm and indeed, the Forum Theatre.

**Recommendation from management**

12. That the Future Melbourne Committee resolves to send letters to the Department of Transport, Planning and Local Infrastructure and Heritage Victoria advising that while City Council supports the restoration of the Forum Theatre, Council objects to the applications as the proposed new hotel building is contrary to the heritage and urban design policies and planning controls of the Melbourne Planning Scheme and for the reasons set out in the Delegate Report (refer Attachment 4).

**Attachments:**

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

## Supporting Attachment

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### Legal

1. The Minister for Planning is the responsible authority for determining the planning application.

### Finance

2. There are no direct financial issues arising from the recommendations contained 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 direct or indirect interest in relation to the matter of the report.

### Stakeholder consultation

4. Council officers have not advertised the application or referred this to any other referral authorities. This is the responsibility of the DTPLI acting on behalf of the Minister for Planning who is the responsible authority. In accordance with Section 52(1)(b) of the *Planning and Environment Act 1987*, DTPLI has given notice of the application to the City of Melbourne pursuant to Clause 43.02 Heritage Overlay. All other matters other than heritage are exempt from notice and appeal rights.

### Relation to Council policy

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

### Environmental sustainability

6. Environmental sustainability is discussed in the attached officer report (refer Attachment 4).

## Locality Plan

### 19-25 Russell Street and 150-162 Flinders Street, Melbourne



# 6.16 PERSPECTIVE



BATESSMART.

DEVELOPMENT  
25 MAR 2014  
PLANNING

# 2.0 PROPOSED USES

The proposed development consists of two key elements:

/ The restoration and upgrade of the existing Forum Theatre and its continued operation as a theatre.

/ Demolition of the existing building at No. 17-25 Russell Street and construction of a new tower building comprising 31 levels above ground, and one level of basement plant and storage. The primary uses are Hotel (approx 73% of proposed GFA) and Commercial Office (approx 16% of proposed GFA), with a small amount of Retail and Residential also incorporated. (approx 5% each).

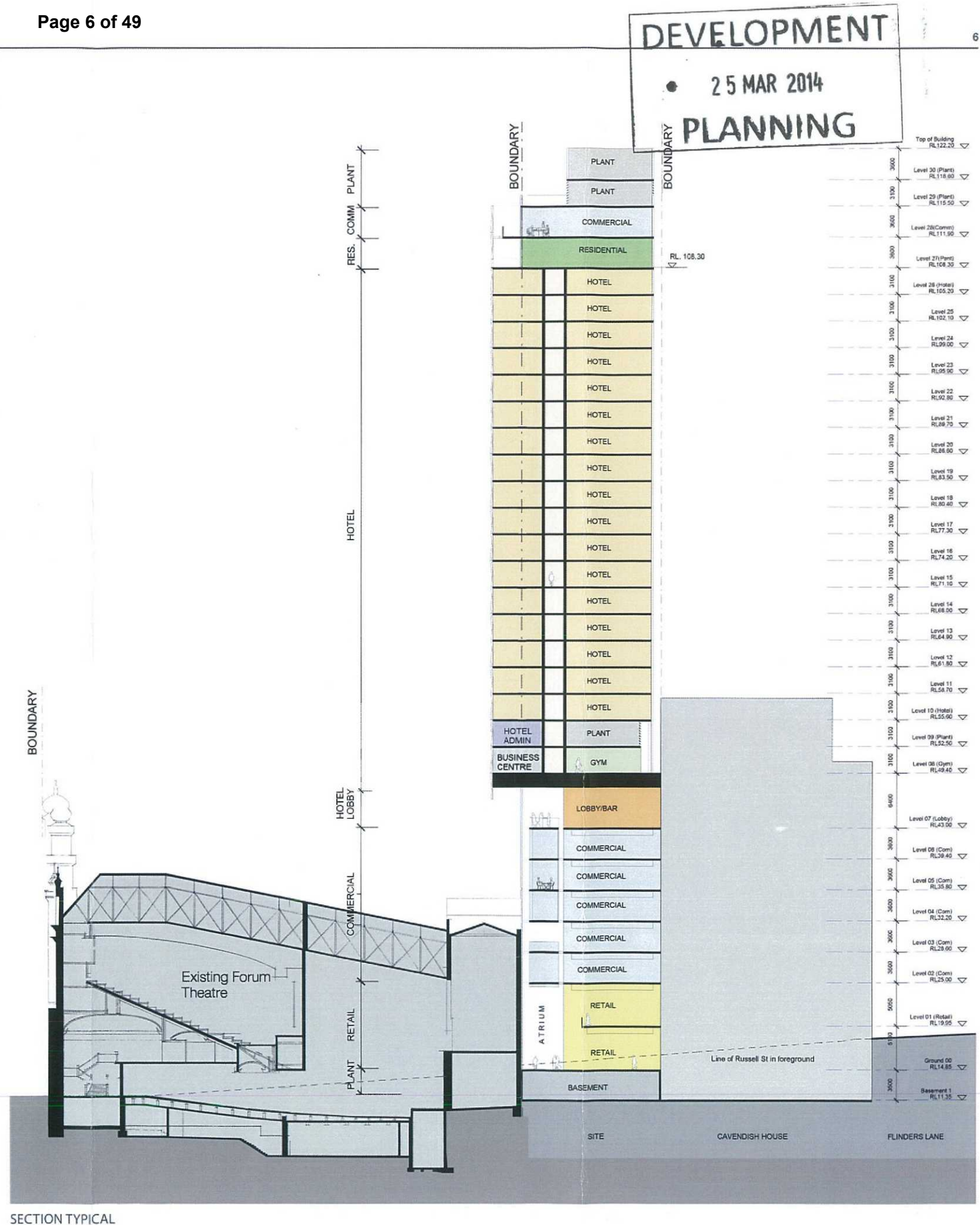
The podium comprises two storeys of ground floor retail addressing both Russell Street and Hosier Lane, with 5 floors of commercial office above. The topmost floor of the podium forms the hotel lobby which enjoys views over the rooftop of the Forum Theatre towards the river.

The tower consists of 17 typical hotel floors each containing 13 rooms per floor, providing a total of 221 rooms. Two additional levels at the base of the tower incorporate hotel administration, gym facilities and a small business centre.

Above the uppermost hotel floor is a single residential floor comprising two residential units. A single level of commercial office is the uppermost occupied floor. Two floors of plant are located at the rooftop above. These have been set back from the southern boundary to minimise visibility from street level and to maximise solar access to the South.

**LEGEND:**

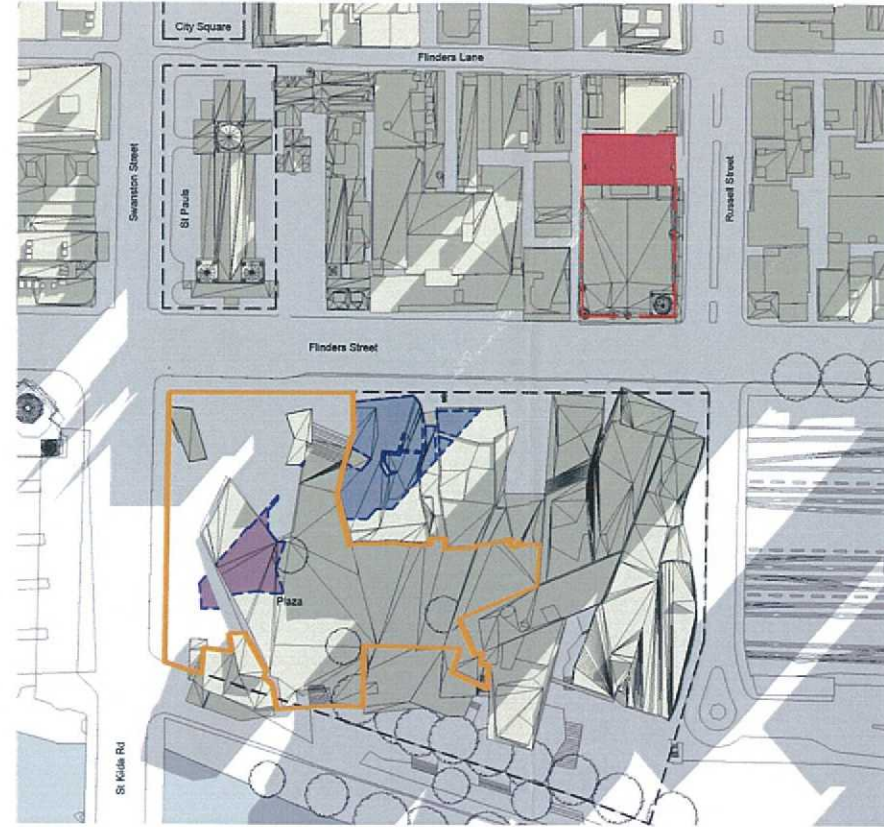
- COMMERCIAL
- RETAIL
- HOTEL
- HOTEL LOBBY
- HOTEL ADMINISTRATION
- BUSINESS CENTRE
- GYM
- WELLNESS CENTRE
- RESIDENTIAL
- CORE
- PLANT ROOM



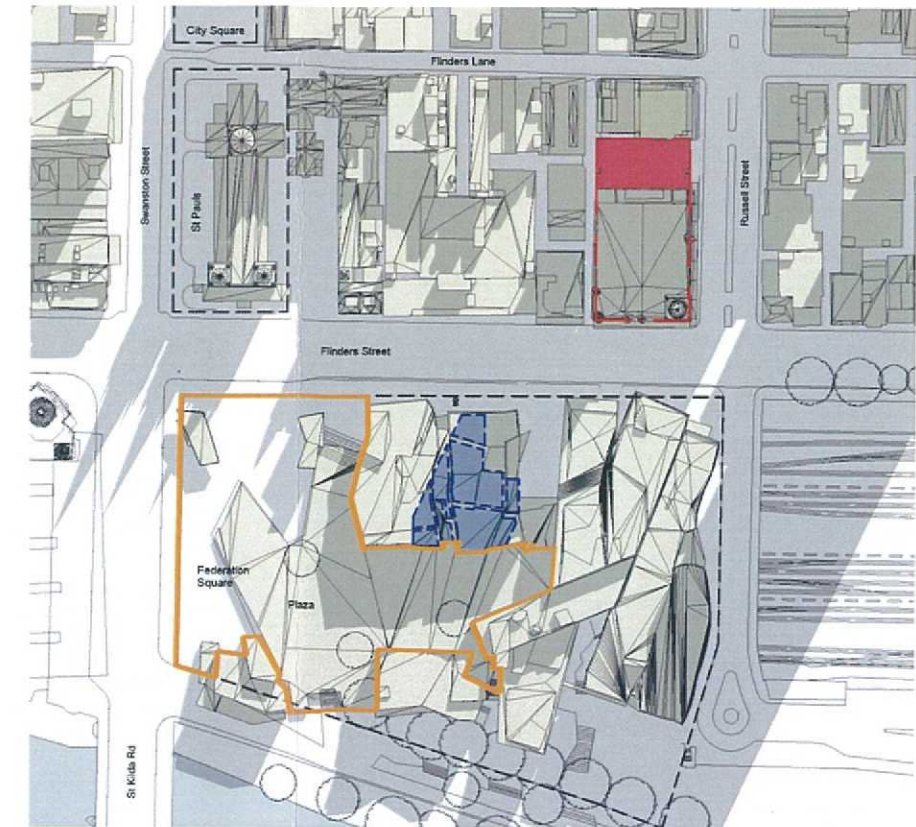
SECTION TYPICAL

# 22 JUNE WINTER SOLSTICE

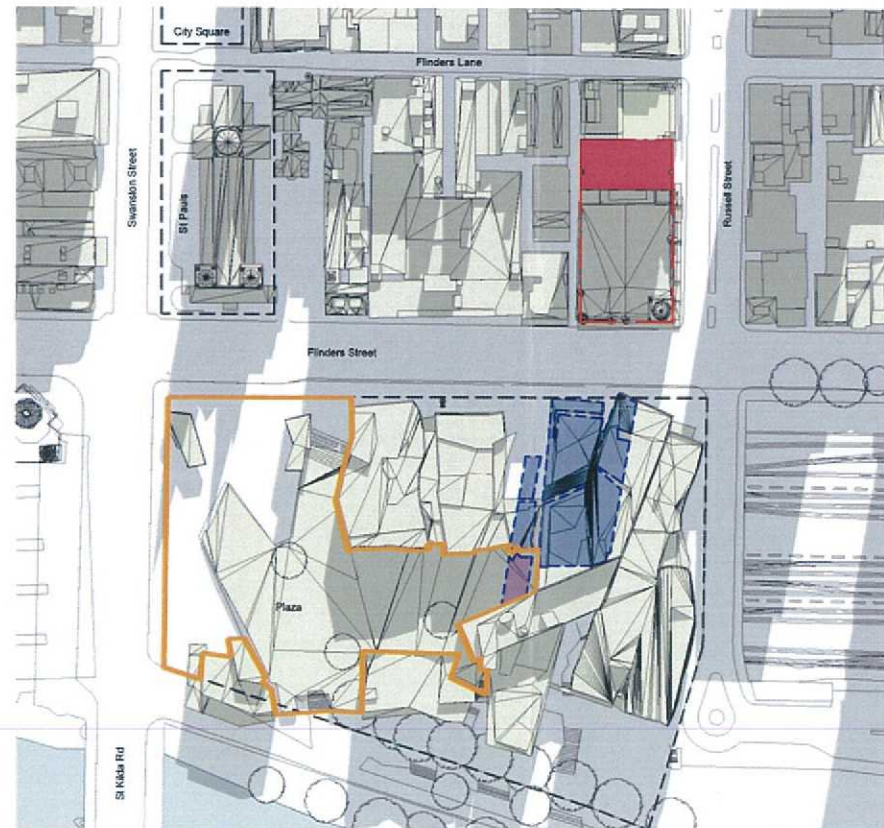
On 22nd June, the winter solstice, the adjacent shadow studies show the peak shadow impact of the proposed scheme. Please note these studies are revised and superceed those issued in December 2013.



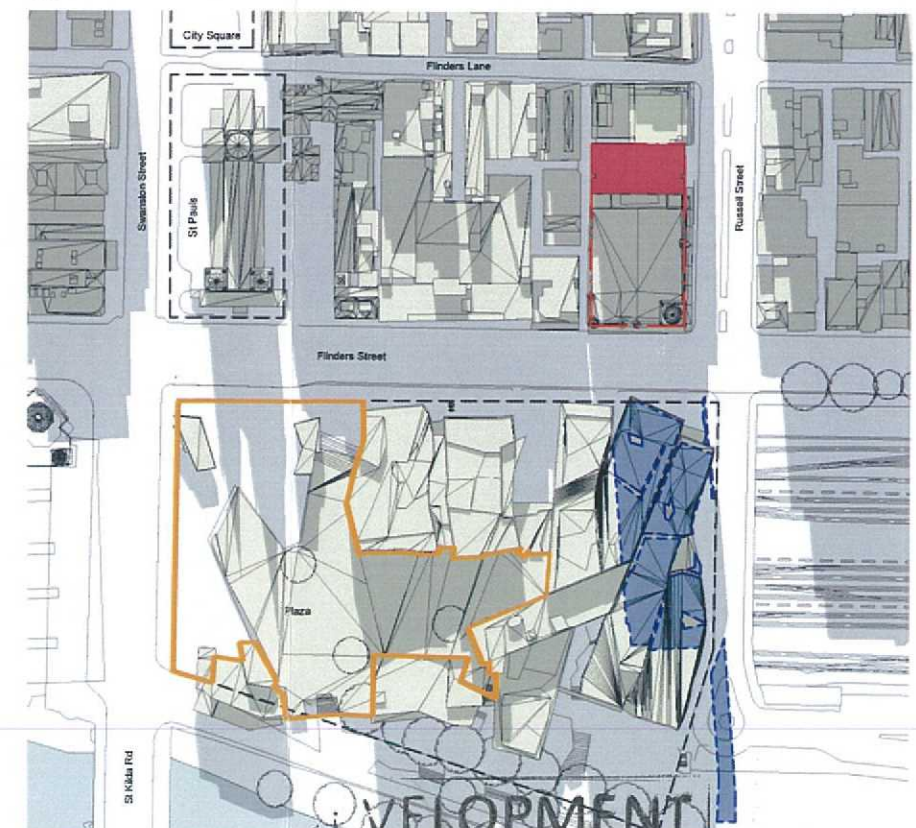
1 Winter Solstice 22 June 11am  
DA13.004 1:1250



2 Winter Solstice 22 June 12pm  
DA13.004 1:1250



3 Winter Solstice 22 June 1pm  
DA13.004 1:1250



4 Winter Solstice 22 June 2pm  
DA13.004 1:1250

- PROPOSED DEVELOPMENT
- PLAZA AND FORECOURT AREA
- EXISTING SHADOW CAST BY EXISTING BUILDINGS
- ADDITIONAL NEW SHADOW CAST WITHIN PLAZA AND FORECOURT AREA
- ADDITIONAL NEW SHADOW CAST ON ROOFTOPS OF EXISTING BUILDINGS OR OUTSIDE OF PLAZA AND FORECOURT AREA

DEVELOPMENT  
25 MAR 2014  
PLANNING

# DETAILED STUDIES

## 11AM-12PM

DEVELOPMENT  
25 MAR 2014  
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### 22ND JUNE: WINTER SOLSTICE

On the 22nd June, the winter solstice, shadow cast by the proposed development is at the annual maximum.


At 11am, the additional shadow cast by the proposed development reaches the annual maximum level of 6.03% of the plaza and forecourt area, an area of 666 square metres.

This area reduces rapidly however over the next 15 minutes by almost two thirds, at a rate of approximately 27 square metres per minute, to 2.32% of plaza area by 11.15am, an area representing 255 square metres.

By 11.28am, the area of additional shadow cast by the proposed development has passed.

On 22nd June, a small shadow effect re-emerges at 12.15pm at the eastern end of the Plaza and Forecourt area, and continues until 1.10pm. On this date, the annual maximum, this area never exceeds 163 sqm and is on average 145 square metres, an area representing 1.48% of plaza and forecourt area.

At 1.10pm, the effect of the proposed development passes and there is no further impact on the plaza or forecourt area for the remainder of the day.

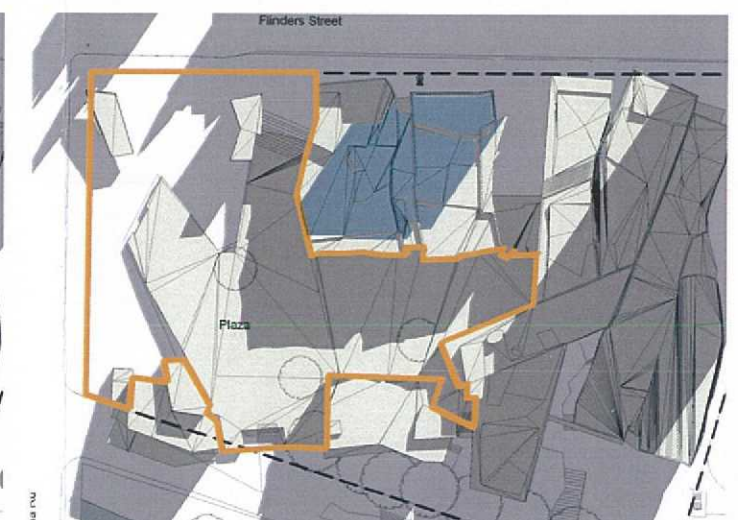
-  PLAZA AND FORECOURT AREA
-  EXISTING SHADOW CAST BY EXISTING BUILDINGS
-  ADDITIONAL NEW SHADOW CAST WITHIN PLAZA AND FORECOURT AREA
-  ADDITIONAL NEW SHADOW CAST ON ROOFTOPS OF EXISTING BUILDINGS OR OUTSIDE OF PLAZA AND FORECOURT AREA



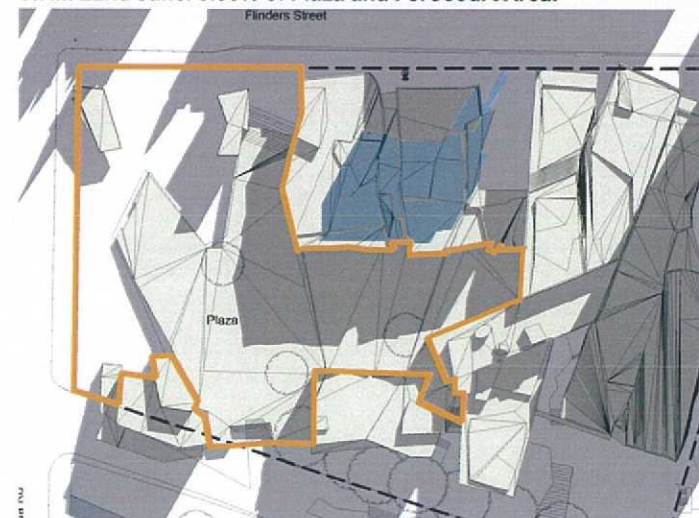
11AM 22nd June: 6.03% of Plaza and Forecourt Area.



11.15AM 22nd June: 2.32% of Plaza and Forecourt Area.



11.30AM 22nd June: No Effect on Plaza and Forecourt Area.



11.45AM 22nd June: No effect on Plaza and Forecourt Area.



12.00PM 22nd June: No Effect on Plaza and Forecourt Area.



12.15PM 22nd June: Approx 1.48% of Plaza and Forecourt Area until 1.10PM.



# HOSIER LANE PEDESTRIAN INTERFACE BY DAY

Hosier Lane is an intricate, vibrant, gritty and popular street art destination which forms an important component of the network of transient street art for which Melbourne is internationally renowned.

Our proposal does not seek to gentrify or alter the current character of the laneway in any way, but rather to celebrate and embrace its unique quality and vibrancy with a design response which is uniquely of its place.

In response to queries from the Department we have further refined the proposed Hosier Lane facade.

Our proposal consists of a gritty and industrial material palette which is in deliberate contrast to the refined finishes of the Russell Street podium facade.

Rusting 'Corten' steelwork facade frames of approximately 500mm in depth, arranged in a staggered pattern at a single storey scale, evoke a subtle and playful response to the existing brickwork of adjacent buildings at street level and create a gritty, industrial and urban aesthetic. Vertical coloured louvre blades inserted within the frames and finished with alternating colours on north and south edges respond to the vibrant and colourful aesthetic of the street art scene while resulting in the building changing its colour and appearance while walking through the laneway at pedestrian level.

At the ground floor, the facade of the loading dock and cafe areas consist of perforated bi-folding steel panels which, when closed, continue the solid character of the laneway and provide a canvas for new street art.

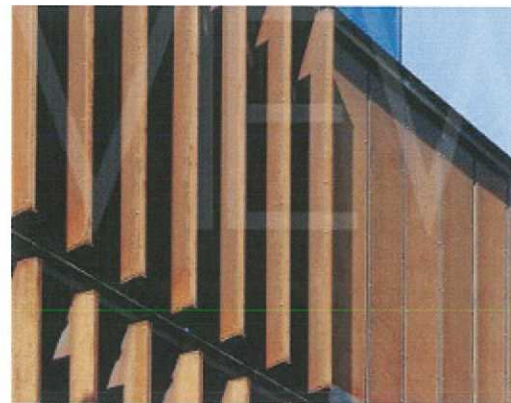
We will commission an established street artist to create an artwork covering the plant area louvres on level 01.



# MATERIALITY & STREET ART STRATEGY

DEVELOPMENT:  
25 MAR 2014  
PLANNING

The adjacent imagery shows our proposed design response to the Hosier Lane street frontage which seeks to celebrate its current pedestrian scale and gritty, urban character through the use of colour, materiality, commissioned street art, and solidity at street level.



'Corten' frame elements arranged in a pattern at single storey scale to create a gritty, urban aesthetic.



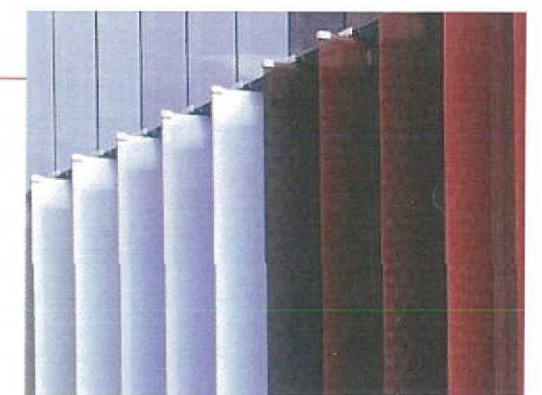
Perforated metal screens to loading dock and cafe frontages to maximise solidity at street level and provide zone for new street art.



Loading Dock

Cafe

Pedestrian Thru-Link



Coloured louvre blades to respond to vibrant colour of street art context.

Minimal, glazed facade to atrium and through-site link to provide a clear separation from the Forum Theatre and create a new enclosed "laneway" to Russel St.

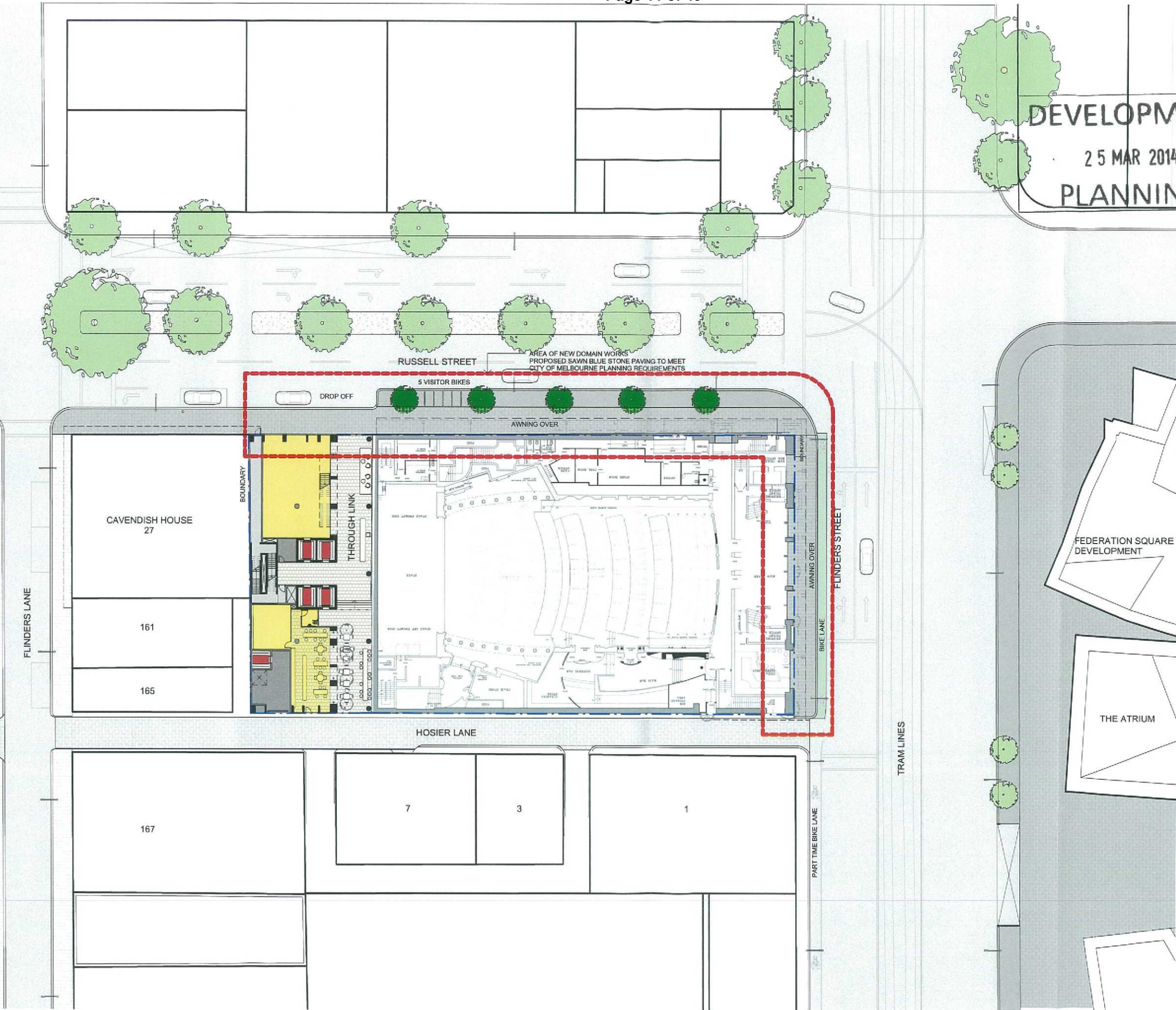


Street artist commissioned to undertake artwork involving louvre blades of plant floor.

Check all dimensions and site conditions prior to commencement of any work. The purchase or ordering of any materials, fittings, plants, services or equipment and the provision of shop drawings and/or the fabrication of any components. Do not scale drawings - refer to figure dimensions only. Any discrepancies shall immediately be referred to the architect for clarification. All drawings may not be reproduced or distributed without prior permission from the architect.

- Legend:
- Proposed tree
  - Existing tree to be retained
  - Proposed Sawn Blue Stone paving to meet City of Melbourne paving detail
  - Asphalt to meet City of Melbourne technical detail

**DEVELOPMENT**  
25 MAR 2014  
**PLANNING**



Revision	Date	Description	Initial	Checked
A	18/12/13	CA Issue	NK	BD

**Forum Hotel**  
19-25 Russell Street  
Melbourne  
Public Domain / Landscape Plan



Status	PLANNING APPLICATION		
Scale	1:250	@ A1	
Drawn	NK	Checked	BD
Project No.	S11353		
Plot Date	18/12/2013 12:26:17 PM		
Plot File			

Drawing no.	Revision
<b>DA1.002</b>	<b>A</b>

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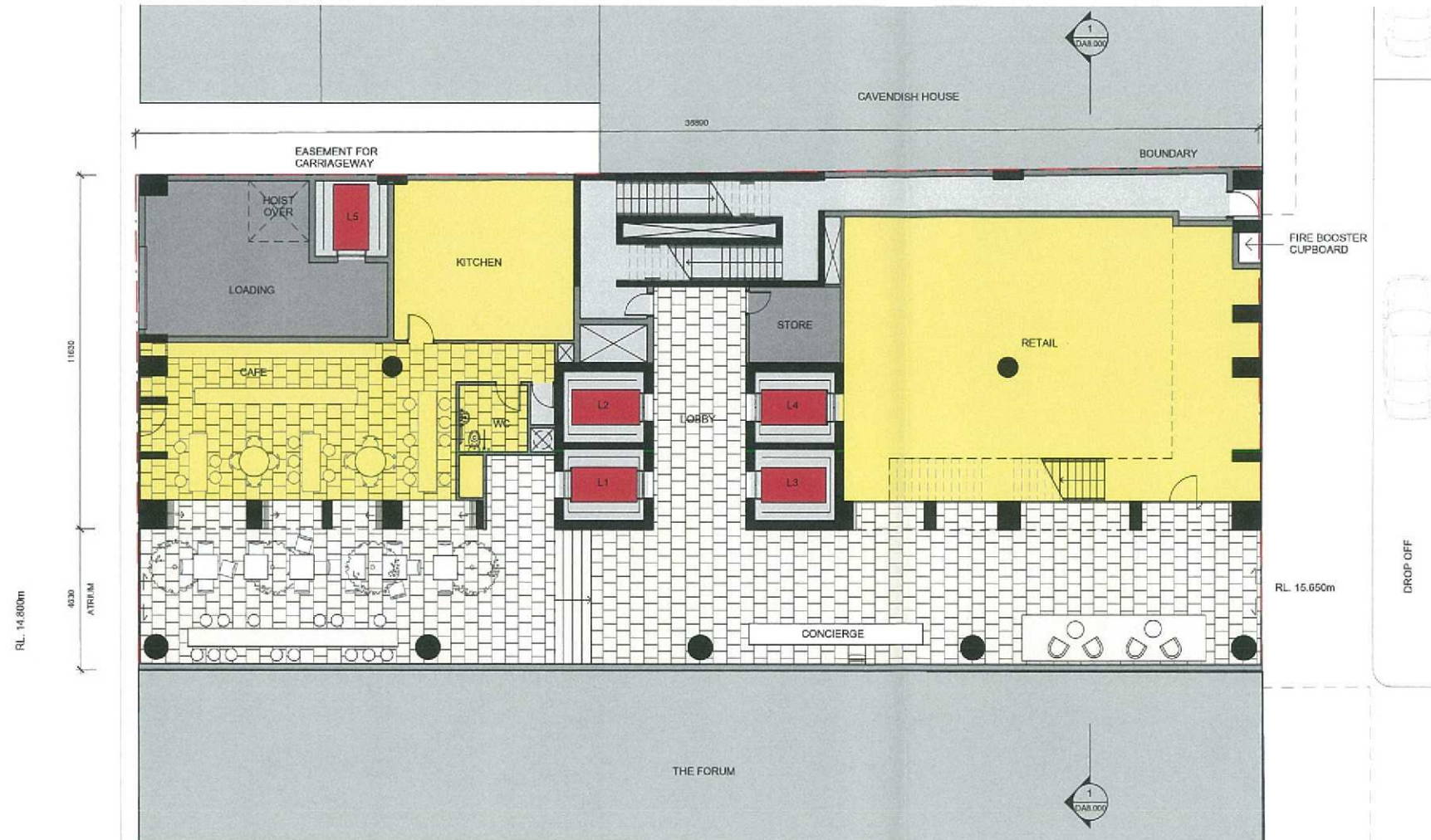
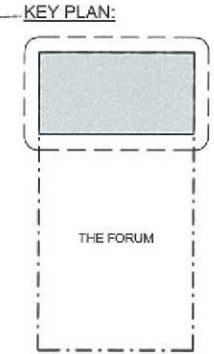
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**DEVELOPMENT**  
25 MAR 2014  
**PLANNING**

- LEGEND:**
- COMMERCIAL
  - RETAIL
  - HOTEL
  - LOBBY
  - HOTEL ADMINISTRATION
  - BUSINESS CENTRE
  - GYM
  - WELLNESS CENTRE
  - PENTHOUSE
  - CORE
  - PLANT ROOM



1 Ground Level Plan  
DA3.000  
1:100

Revision	Date	Description	Initial	Checked
A	18/12/13	DA Issue	KH	BD

**Forum Hotel**  
19-25 Russell Street  
Melbourne  
General Arrangement Plans  
Ground Level



Status	Planning Application		
Scale	1:100	@ A1	
Drawn	AW	Checked	BD
Project No.	S11353		
Plot Date	18/12/2013 1:04:51 PM		
Plot File			

Drawing no.	Revision
<b>DA3.000</b>	<b>A</b>

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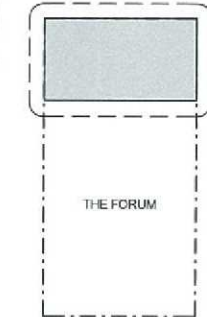
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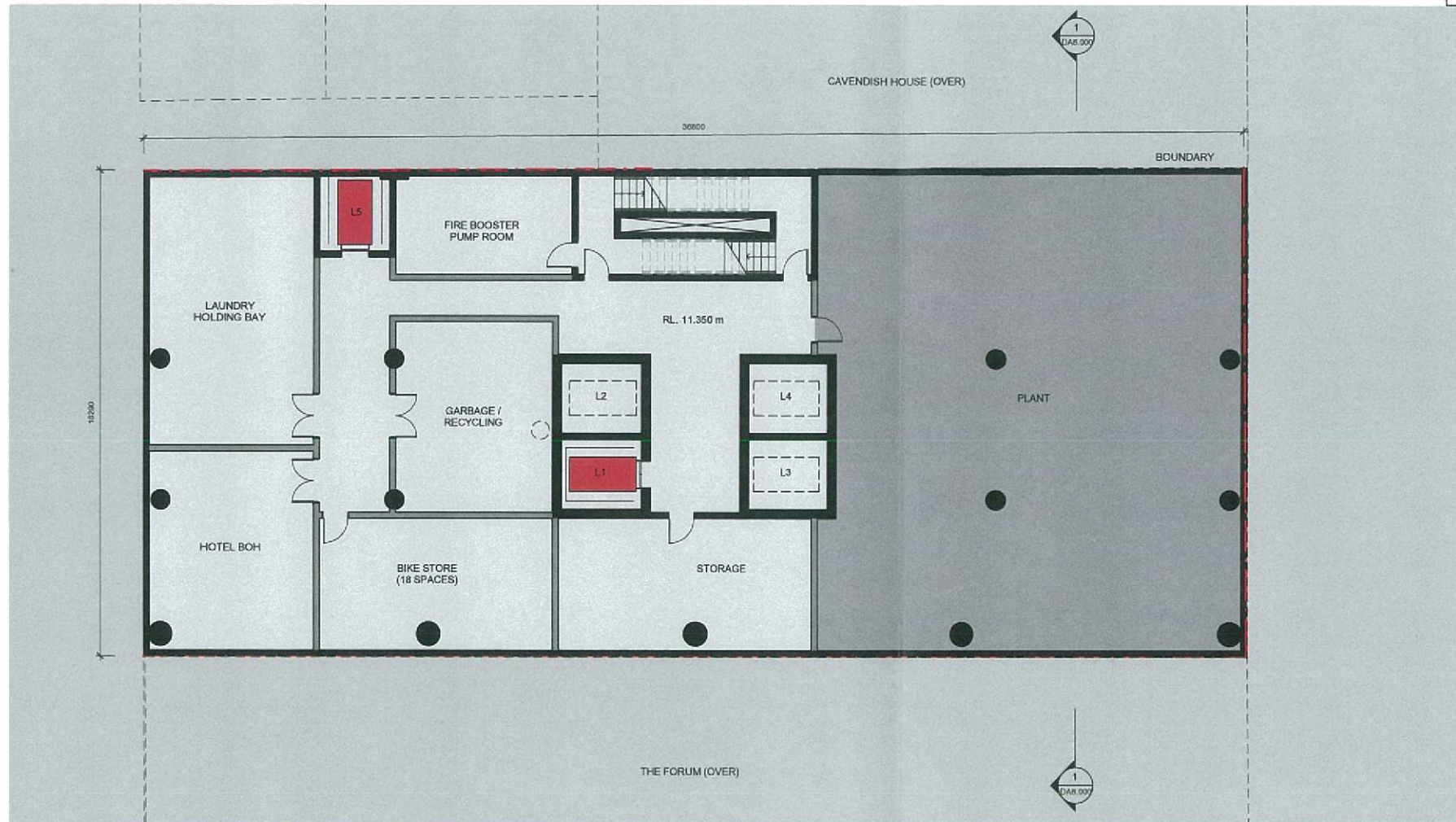
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- COMMERCIAL
- RETAIL
- HOTEL
- LOBBY
- HOTEL ADMINISTRATION
- BUSINESS CENTRE
- GYM
- WELLNESS CENTRE
- PENTHOUSE
- CORE
- PLANT ROOM

**KEY PLAN:**



**DEVELOPMENT**  
 25 MAR 2014  
**PLANNING**



1 Basement Level 001  
1 : 100

Revision	Date	Description	Initial	Checked
A	18.12.13	DA Issue	KD	BD

**Forum Hotel**  
 19-25 Russell Street  
 Melbourne  
 General Arrangement Plans  
 Basement Level



Status	Planning Application		
Scale	1 : 100	@	A1
Drawn	AW	Checked	BD
Project No.	S11353		
Plot Date	10/12/2013 1:05:21 PM		
Plot File			

Drawing no.	Revision
<b>DA3.0001</b>	<b>A</b>

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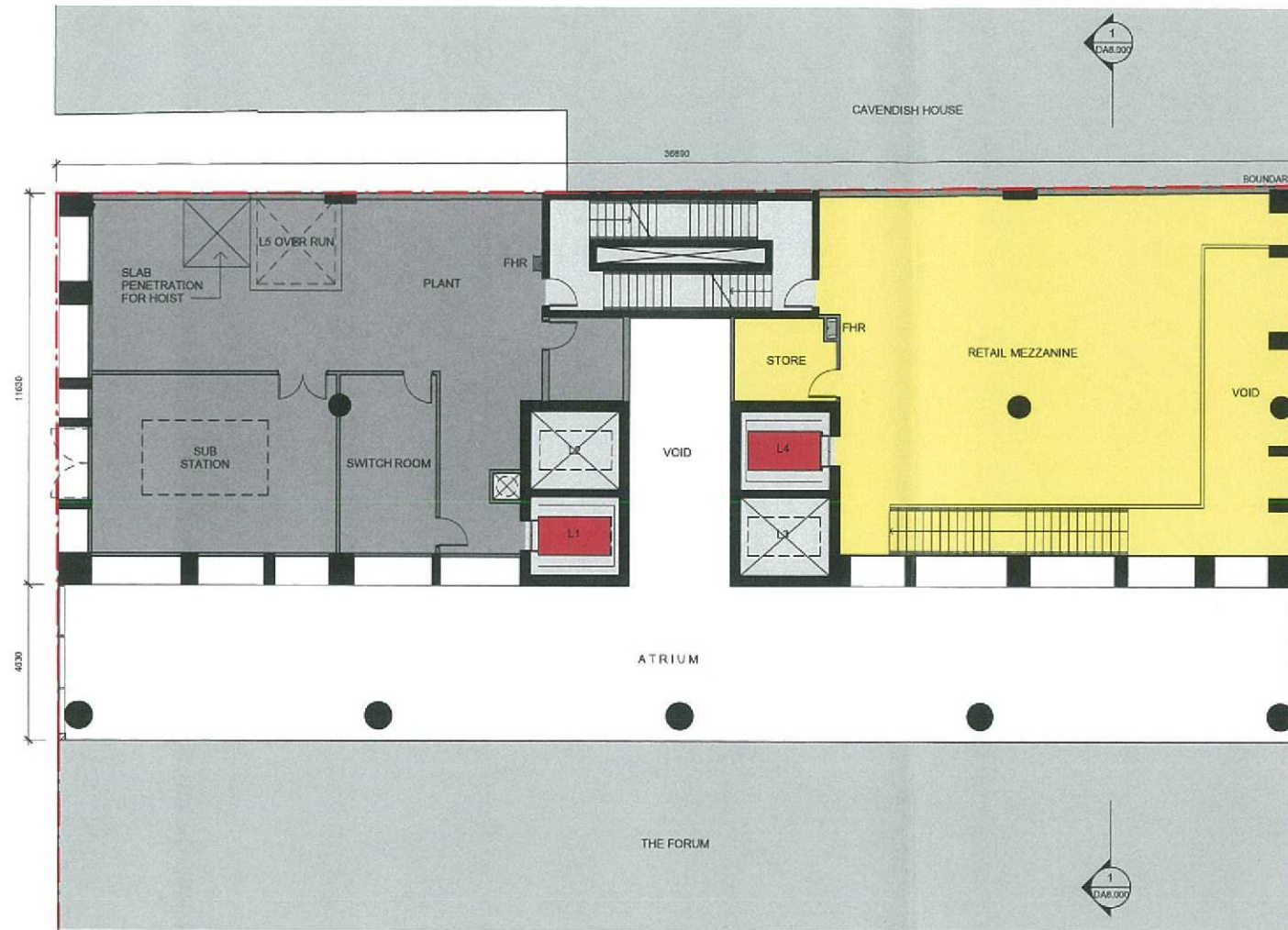
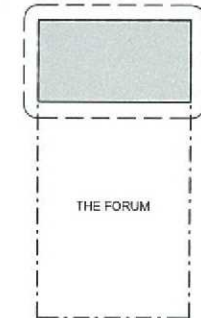
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**DEVELOPMENT**  
 25 MAR 2014  
**PLANNING**

**LEGEND:**

- COMMERCIAL
- RETAIL
- HOTEL
- LOBBY
- HOTEL ADMINISTRATION
- BUSINESS CENTRE
- GYM
- WELLNESS CENTRE
- PENTHOUSE
- CORE
- PLANT ROOM

**KEY PLAN:**



1 Level 01 Plan  
 DAS.001 1 : 100

Revision	Date	Description	Initial	Checked
A	18/12/13	IA Issue	KE	BD

**Forum Hotel**  
 19-25 Russell Street  
 Melbourne  
 General Arrangement Plans  
 Level 01, Retail & Plant



Status	Planning Application		
Scale	1 : 100	@ A1	
Drawn	AW	Checked	BD
Project No.	S11363		
Plot Date	18/12/2013 4:07:07 PM		
Plot File			

Drawing no.	Revision
<b>DA3.001</b>	<b>A</b>

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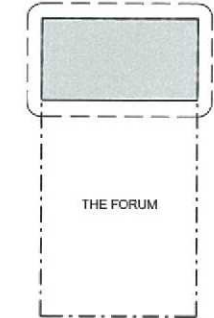
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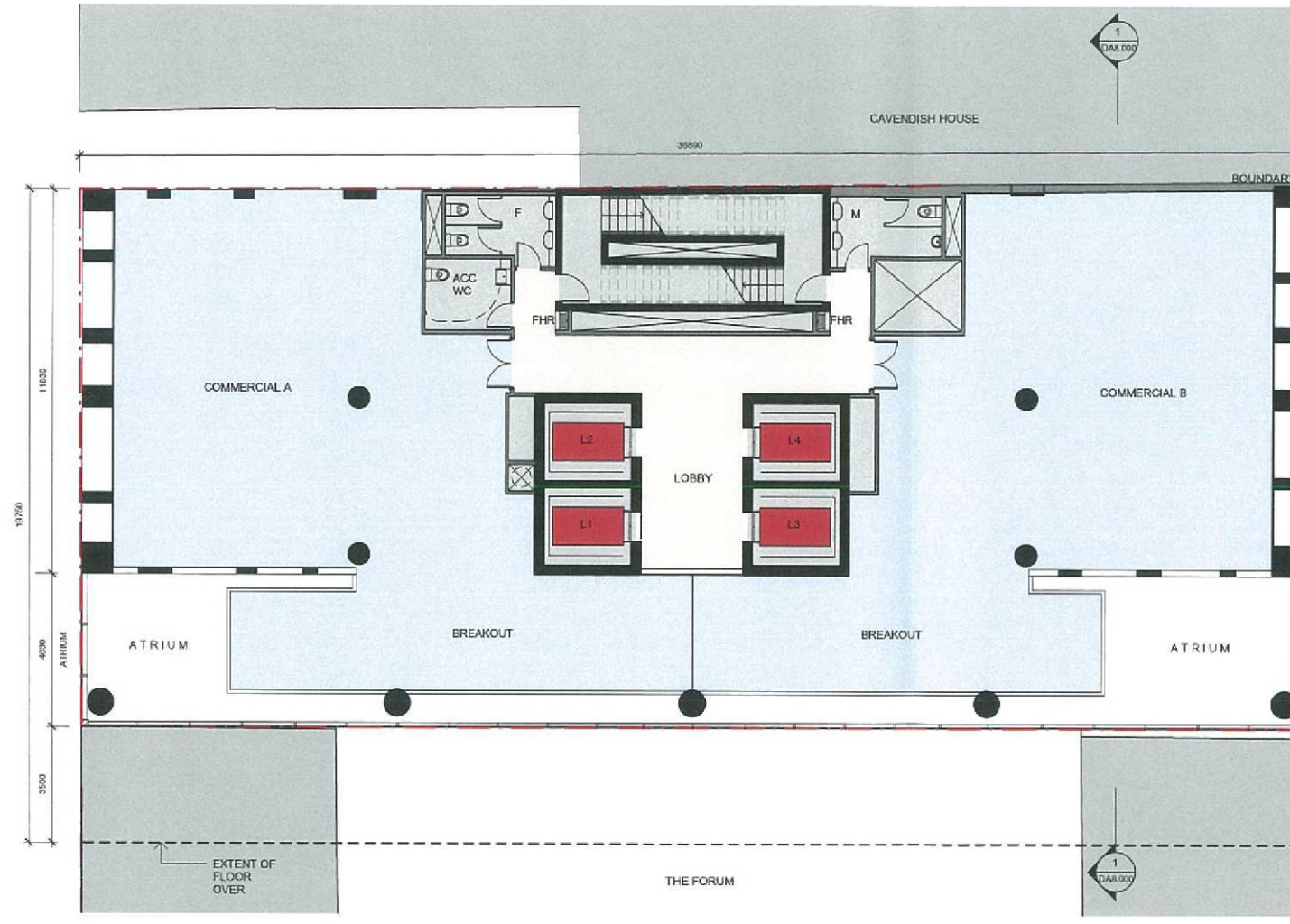
**LEGEND:**

- COMMERCIAL
- RETAIL
- HOTEL
- LOBBY
- HOTEL ADMINISTRATION
- BUSINESS CENTRE
- GYM
- WELLNESS CENTRE
- PENTHOUSE
- CORE
- PLANT ROOM

**KEY PLAN:**



**DEVELOPMENT**  
 25 MAR 2014  
**PLANNING**



1 Typical Podium Commercial Plan  
DA3.00 1:100

Revision	Date	Description	Initial	Checked
A	18.12.13	DA Issue	KB	BD

**Forum Hotel**  
 19-25 Russell Street  
 Melbourne  
 General Arrangement Plans  
 Level 02 to 06, Commercial

Status	Planning Application
Scale	1:100 @ A1
Drawn	AW Checked BD
Project No.	S11353
Plot Date	18/12/2013 1:00:31 PM
Plot File	

Drawing no. **DA3.002** Revision **A**

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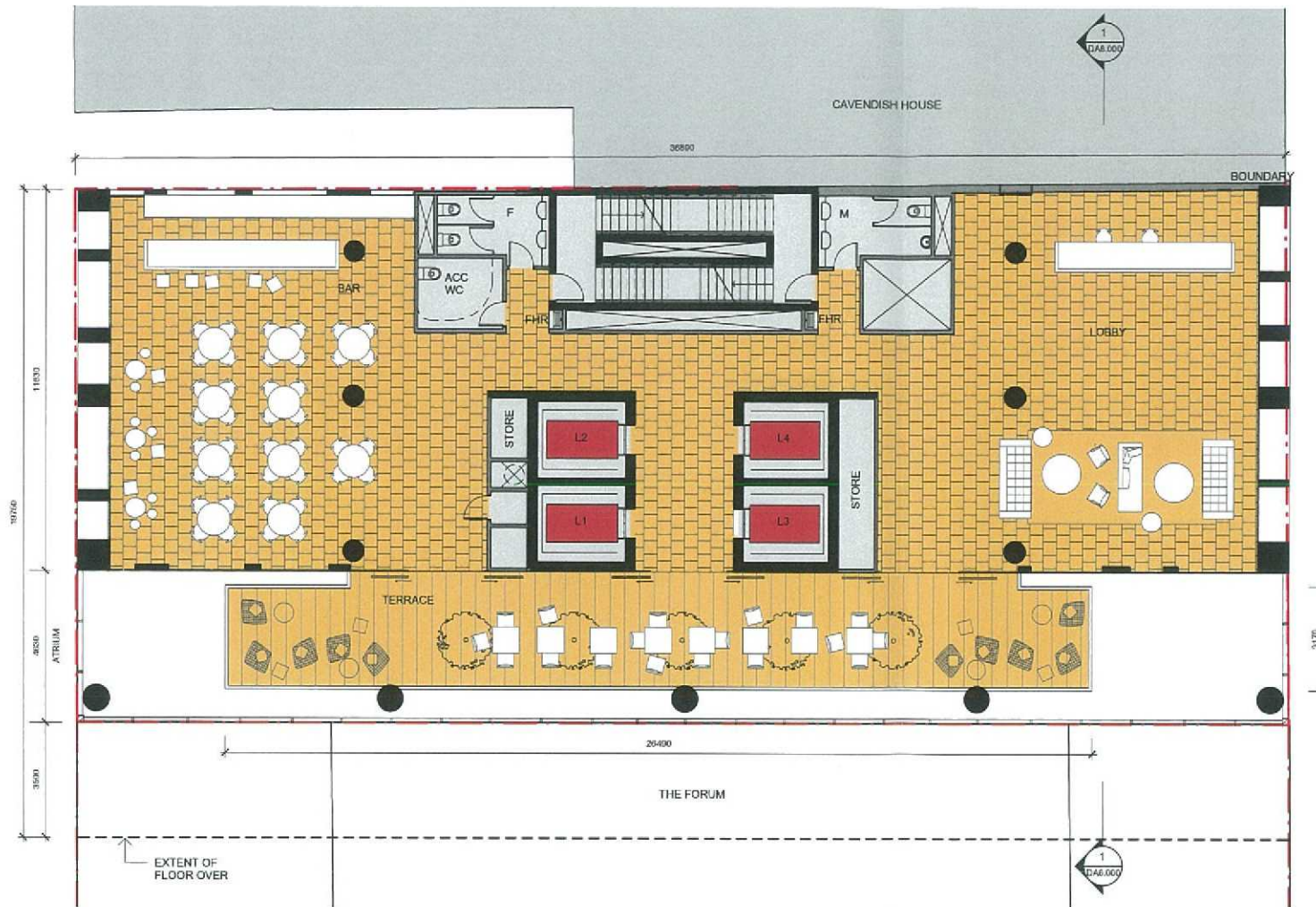
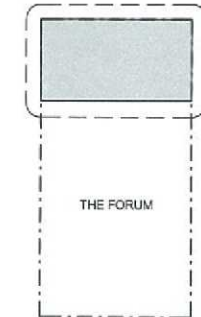
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**LEGEND:**

- COMMERCIAL
- RETAIL
- HOTEL
- LOBBY
- HOTEL ADMINISTRATION
- BUSINESS CENTRE
- GYM
- WELLNESS CENTRE
- PENTHOUSE
- CORE
- PLANT ROOM

**KEY PLAN:**



1 Level 07 Plan  
DA3.003  
1 : 100

Revision	Date	Description	HD	BD
A	16.12.13	DA Issue		

**Forum Hotel**  
19-25 Russell Street  
Melbourne  
General Arrangement Plans  
Level 07, Hotel Lobby & Bar



Status	Planning Application		
Scale	1 : 100	@ A1	
Drawn	AW	Checked	BD
Project No.	S11353		
Plot Date	19/12/2013 2:14:25 PM		
Plot File			

Drawing no.	Revision
<b>DA3.003</b>	<b>A</b>

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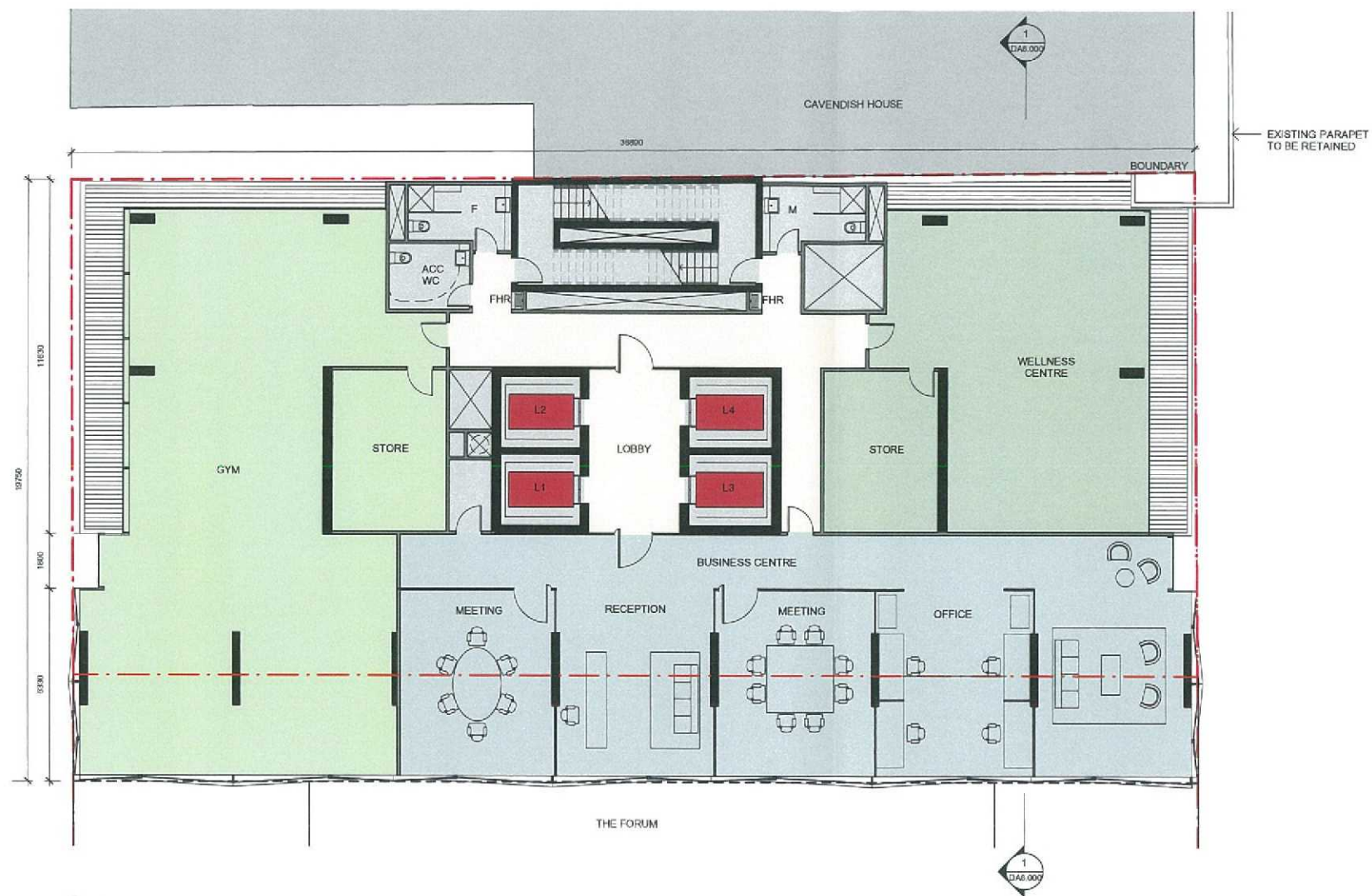
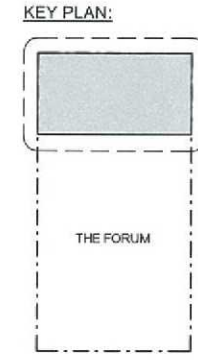
Bates Smart Pty Ltd ABN 70 004 999 400



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- LEGEND:**
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  - LOBBY
  - HOTEL ADMINISTRATION
  - BUSINESS CENTRE
  - GYM
  - WELLNESS CENTRE
  - PENTHOUSE
  - CORE
  - PLANT ROOM

**DEVELOPMENT**  
25 MAR 2014  
**PLANNING**



1 Level 08 Plan  
DA3.004 1:100

Revision	Date	Description	RD	BD
A	18.12.13	DA Issue		

**Forum Hotel**  
19-25 Russell Street  
Melbourne  
General Arrangement Plans  
Level 08, Hotel Guest Facilities



Status	Planning Application		
Scale	1:100	@ A1	
Drawn	AW	Checked	BD
Project No.	S11353		
Plot Date	16/12/2013 1:07:10 PM		
Plot File			

Drawing no.	Revision
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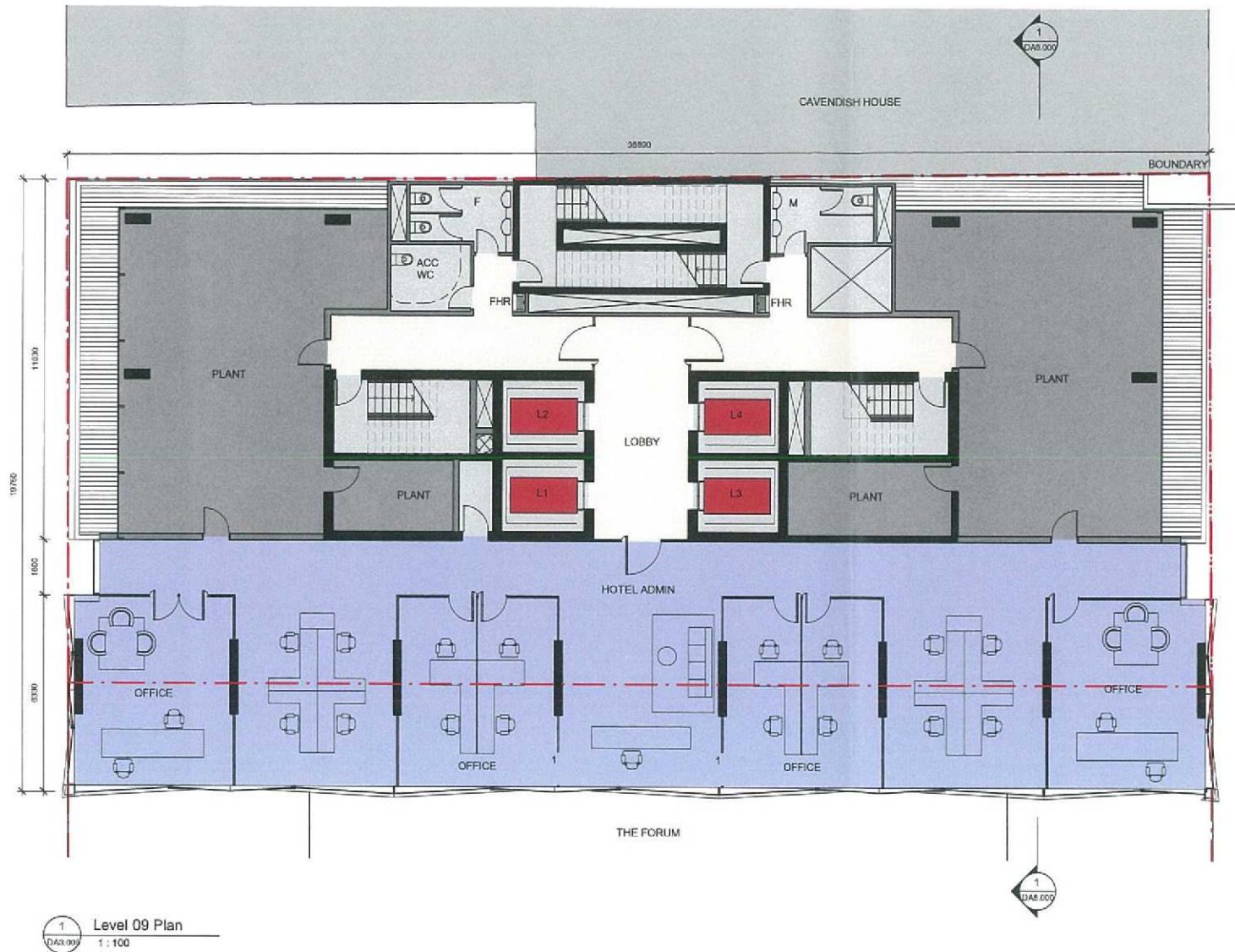
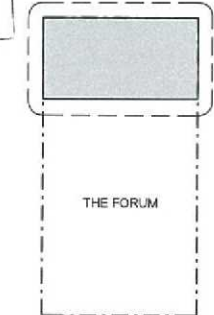
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**LEGEND:**

- COMMERCIAL
- RETAIL
- HOTEL
- LOBBY
- HOTEL ADMINISTRATION
- BUSINESS CENTRE
- GYM
- WELLNESS CENTRE
- PENTHOUSE
- CORE
- PLANT ROOM

**DEVELOPMENT**  
 25 MAR 2014  
**PLANNING**

**KEY PLAN:**



Revision	Date	Description	Initial	Checked
A	10.12.13	DA Issue		

**Forum Hotel**  
 19-25 Russell Street  
 Melbourne  
 General Arrangement Plans  
 Level 09, Plant and Hotel Admin

Status	Planning Application		
Scale	1 : 100	@ A1	
Drawn	AW	Checked	ED
Project No.	S11353		
Plot Date	10/12/2013 1:07:33 PM		
Plot File			

Drawing no.	Revision
<b>DA3.005</b>	<b>A</b>

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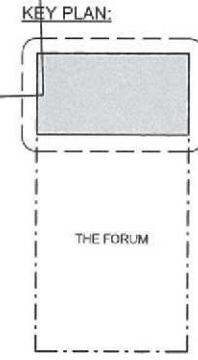
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**DEVELOPMENT**  
 25 MAR 2014  
**PLANNING**

- LEGEND:**
- COMMERCIAL
  - RETAIL
  - HOTEL
  - LOBBY
  - HOTEL ADMINISTRATION
  - BUSINESS CENTRE
  - GYM
  - WELLNESS CENTRE
  - PENTHOUSE
  - ODRE
  - PLANT ROOM



1 Typical Hotel Level Plan  
 DA3.006 1:100

Revision	Date	Description	Initial	Checked
A	18.12.13	DA Issue	BD	BD

**Forum Hotel**  
 19-25 Russell Street  
 Melbourne  
 General Arrangement Plans  
 Level 10 to 26, Hotel



Status	Planning Application		
Scale	1:100	@	A1
Drawn	AW	Checked	BD
Project No.	S11353		
Plot Date	18/12/2013 1:37:56 PM		
Plot File			

Drawing no. **DA3.006** Revision **A**

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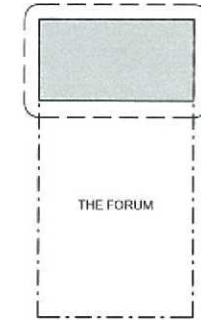
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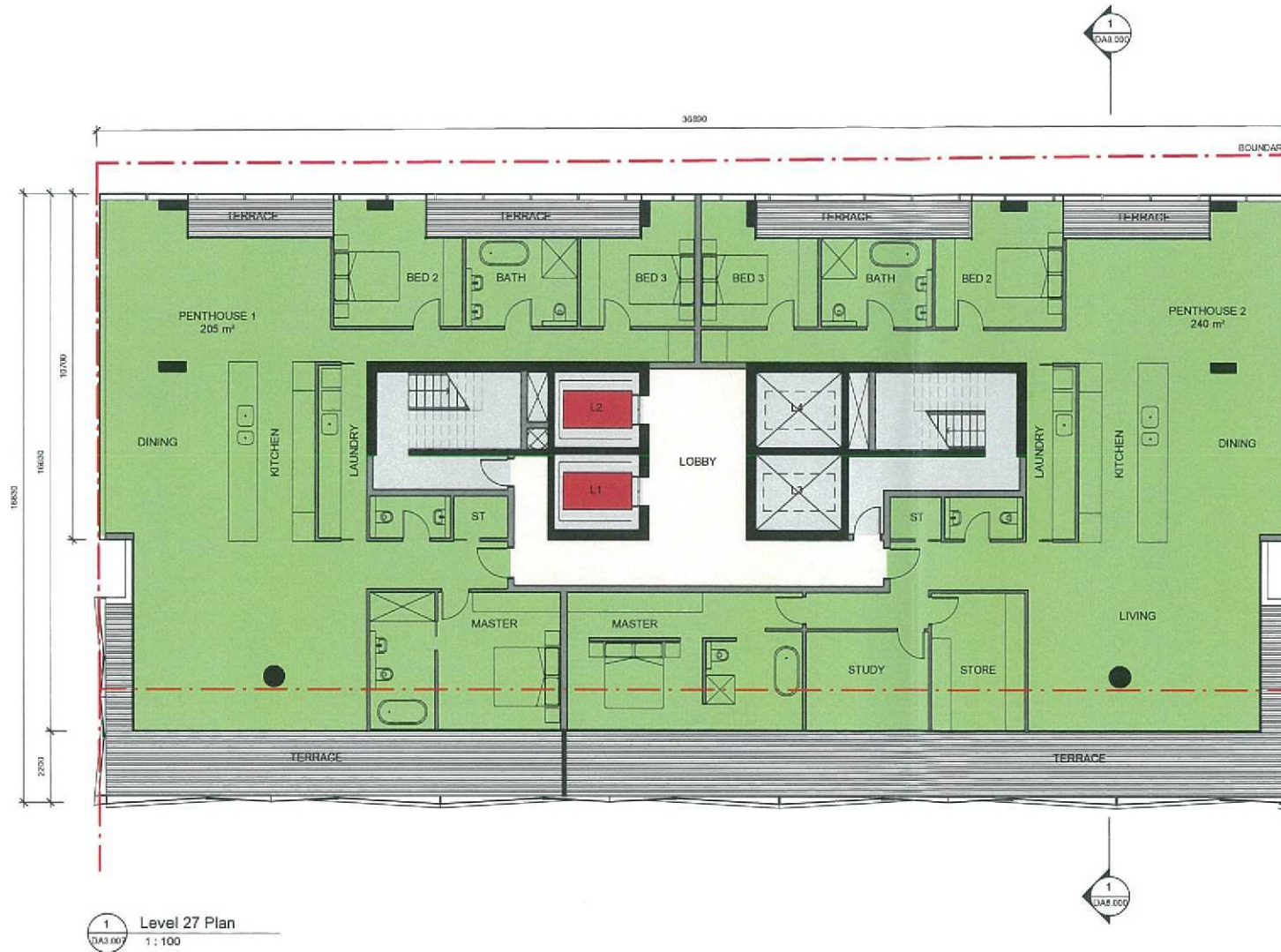
**LEGEND:**

- COMMERCIAL
- RETAIL
- HOTEL
- LOBBY
- HOTEL ADMINISTRATION
- BUSINESS CENTRE
- GYM
- WELLNESS CENTRE
- PENTHOUSE
- CORE
- PLANT ROOM

**KEY PLAN:**



**DEVELOPMENT**  
 • 25 MAR 2014  
**PLANNING**



1 Level 27 Plan  
 DA3.007 1:100

Revision	Date	Description	Initial	Checked
A	18.12.13	DA Issue	KB	BD

**Forum Hotel**  
 19-25 Russell Street  
 Melbourne  
 General Arrangement Plans  
 Level 27, Penthouse

Status	Planning Application		
Scale	1:100	@	A1
Drawn	AW	Checked	BD
Project No.	S11353		
Plot Date	18/12/2013 1:08:25 PM		
Plot File			

Drawing no.	Revision
<b>DA3.007</b>	<b>A</b>

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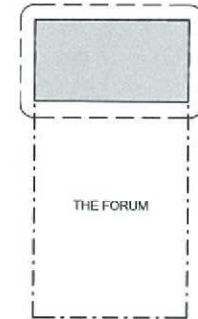
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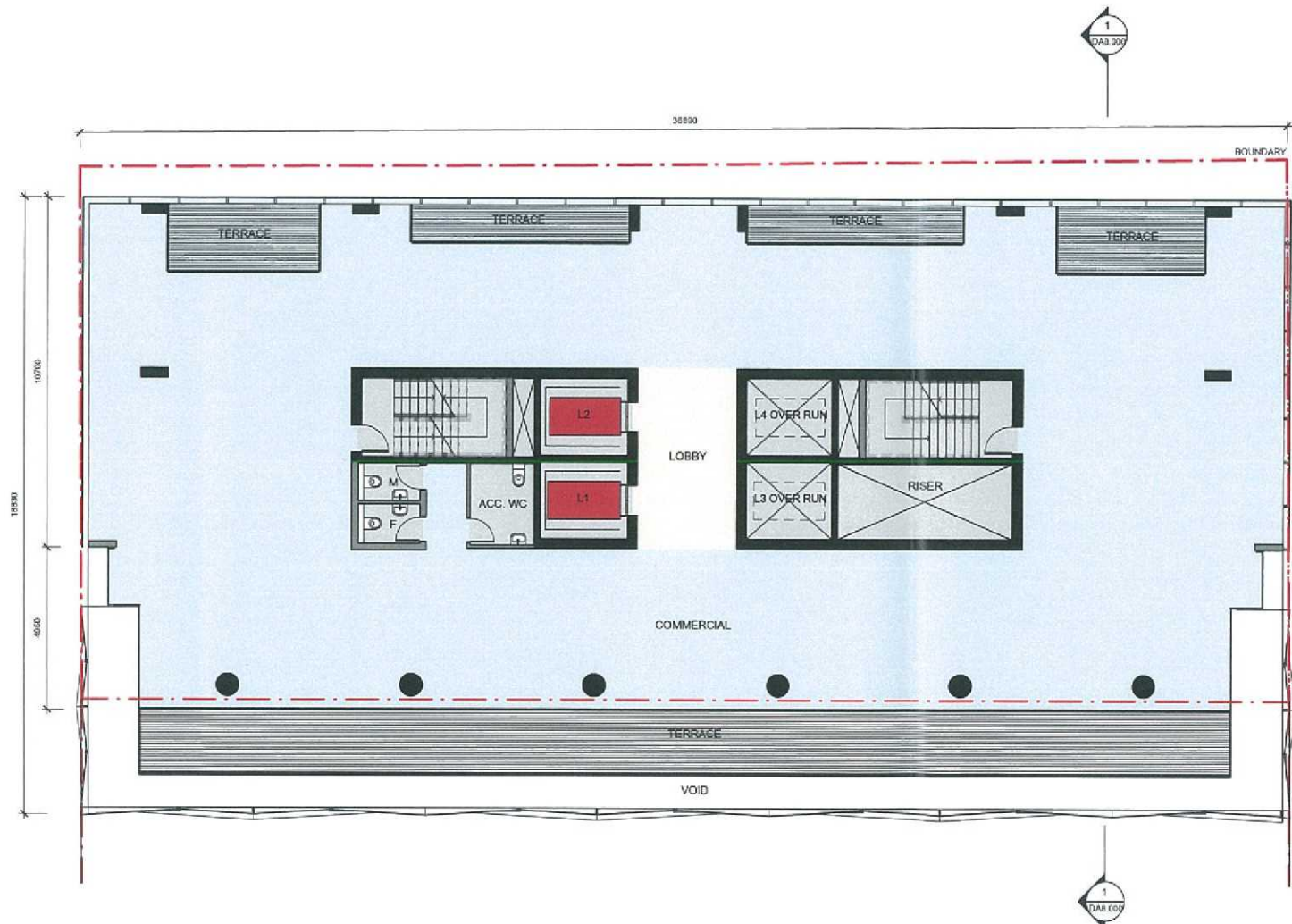
**LEGEND:**

- COMMERCIAL
- RETAIL
- HOTEL
- LOBBY
- HOTEL ADMINISTRATION
- BUSINESS CENTRE
- CYM
- WELLNESS CENTRE
- PENTHOUSE
- CORE
- PLANT ROOM

**KEY PLAN:**



**DEVELOPMENT**  
 25 MAR 2014  
**PLANNING**



1 Level 28 Plan  
DA3.008 1:100

Revision	Date	Description	BY	BY
A	18.12.13	DA Issue	KR	BD

**Forum Hotel**  
 19-25 Russell Street  
 Melbourne  
 General Arrangement Plans  
 Level 28, Commercial



Status	Planning Application		
Scale	1:100	@ A1	
Drawn	AW	Checked	BD
Project No.	S11353		
Plot Date	18/12/2013 2:07:41 PM		
Plot File			

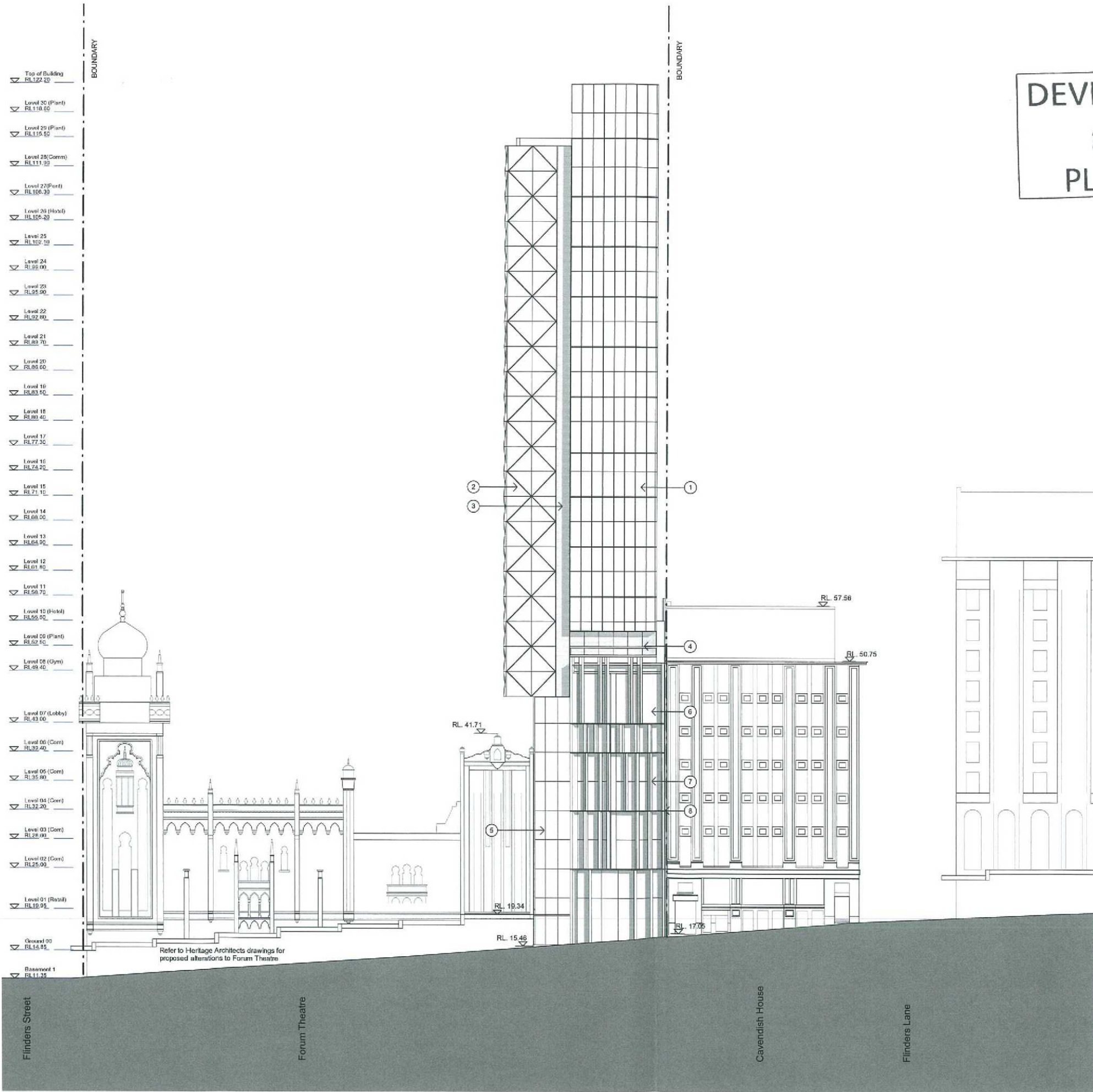
Drawing no.	Revision
<b>DA3.008</b>	<b>A</b>

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DEVELOPMENT  
25 MAR 2014  
PLANNING

**Materials Legend:**

1. Glass curtain wall with ceramic frit
2. Glass curtain wall facade
3. Operable glass louvres
4. Aluminium louvres
5. Clear glass curtain wall
6. Glazing
7. Vertical masonry blades
8. Expressed horizontal aluminium framing
9. Masonry cladding

Revision	Date	Description	Initial	Check
A	18.12.13	DA Issue	KB	BD

**Forum Hotel**  
19-25 Russell Street  
Melbourne  
Elevations  
Russell Street (East) Elevation

Status	Planning Application		
Scale	As indicated	@ A1	
Drawn	KB	Checked	BD
Project No.	S11353		
Plot Date	16/12/2013 15:10:02 PM		
Plot File			

Drawing no.	Revision
<b>DA7.000</b>	<b>A</b>

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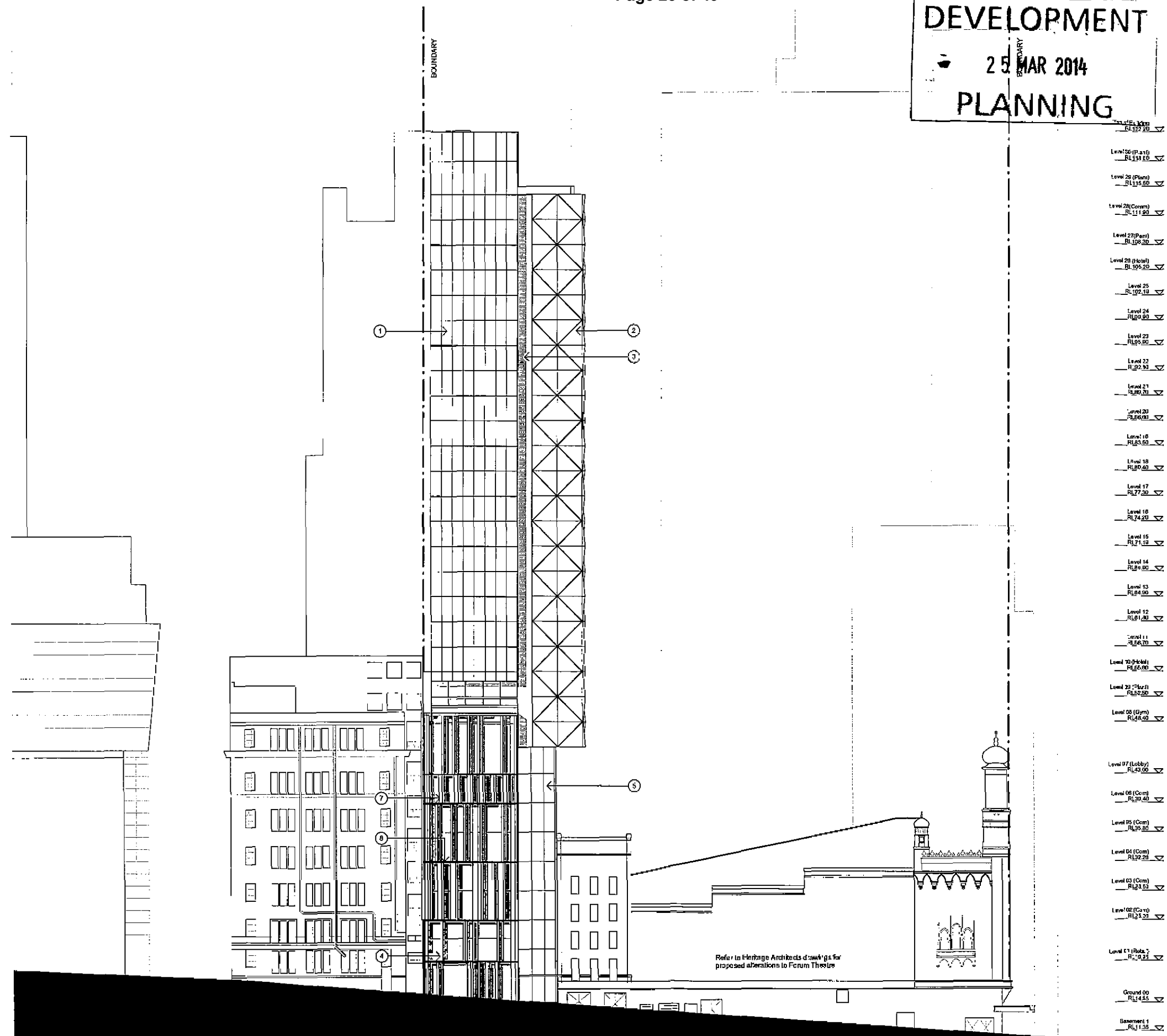
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**BATESMART**<sup>TM</sup>

**DEVELOPMENT**  
 25 MAR 2014  
**PLANNING**

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Level 28 (Plan)	R:119.00	▼
Level 28 (Plan)	R:116.00	▼
Level 28 (Corn)	R:111.00	▼
Level 27 (Plan)	R:106.00	▼
Level 26 (Plan)	R:105.00	▼
Level 25	R:102.10	▼
Level 24	R:100.00	▼
Level 23	R:95.00	▼
Level 22	R:92.00	▼
Level 21	R:88.00	▼
Level 20	R:85.00	▼
Level 18	R:83.00	▼
Level 18	R:80.00	▼
Level 17	R:77.00	▼
Level 16	R:74.00	▼
Level 16	R:71.00	▼
Level 14	R:68.00	▼
Level 13	R:64.00	▼
Level 12	R:61.00	▼
Level 11	R:58.00	▼
Level 10 (Kitchen)	R:55.00	▼
Level 10 (Plan)	R:52.00	▼
Level 08 (Gym)	R:48.00	▼
Level 07 (Lobby)	R:43.00	▼
Level 06 (Com)	R:39.00	▼
Level 05 (Com)	R:35.00	▼
Level 04 (Com)	R:32.00	▼
Level 03 (Com)	R:28.00	▼
Level 02 (Com)	R:24.00	▼
Level 01 (Rack 2)	R:20.00	▼
Ground 00	R:14.50	▼
Basement 1	R:11.50	▼

Refer to Heritage Architects drawings for proposed alterations to Forum Theatre

Rev	Date	Description	By	Chk
A	18/12/13	Issue	DK	DK

**Forum Hotel**  
 19-25 Russell Street  
 Melbourne  
 Elevations  
 Hosier Lane (West) Elevation

Project No.	S11353
Rev	18/12/13 1:00PM
Rev	

Drawing No.	DA7.001	Revision	A
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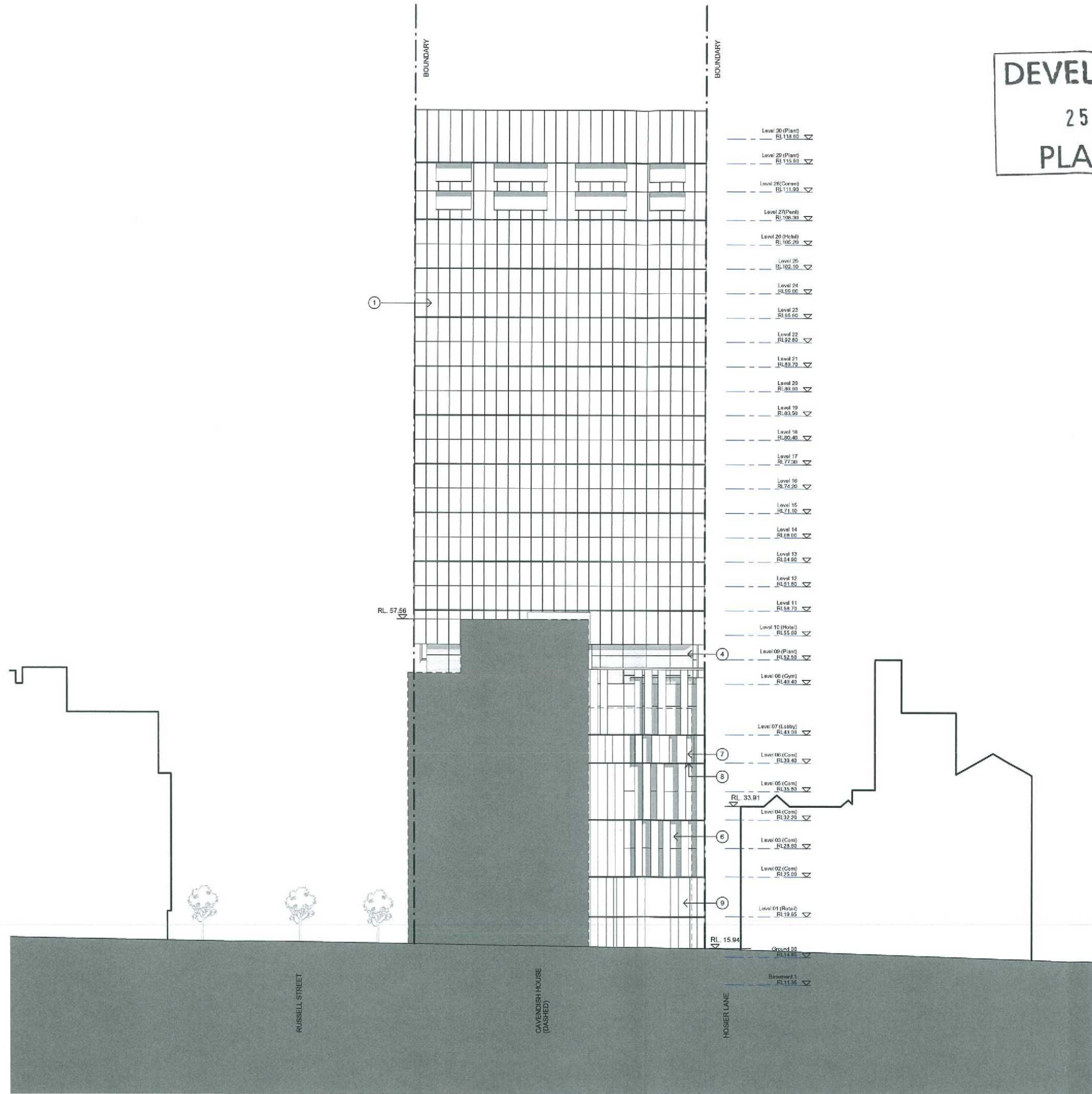
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**DEVELOPMENT**  
25 MAR 2014  
**PLANNING**

**Materials Legend:**

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2. Glass curtain wall facade
3. Operable glass louvres
4. Aluminium louvres
5. Clear glass curtain wall
6. Glazing
7. Vertical masonry blades
8. Expressed horizontal aluminium framing
9. Masonry cladding



- Level 30 (Plant) RL 118.60
- Level 29 (Plant) RL 115.60
- Level 28 (Corridor) RL 113.92
- Level 27 (Plant) RL 110.93
- Level 26 (Hotel) RL 106.20
- Level 25 RL 102.10
- Level 24 RL 99.00
- Level 23 RL 95.60
- Level 22 RL 92.60
- Level 21 RL 89.70
- Level 20 RL 86.60
- Level 19 RL 83.50
- Level 18 RL 80.40
- Level 17 RL 77.30
- Level 16 RL 74.20
- Level 15 RL 71.10
- Level 14 RL 68.00
- Level 13 RL 64.90
- Level 12 RL 61.80
- Level 11 RL 58.70
- Level 10 (Hotel) RL 55.60
- Level 09 (Plant) RL 52.50
- Level 08 (Corr) RL 49.40
- Level 07 (Lobby) RL 46.30
- Level 06 (Corr) RL 43.20
- Level 05 (Corr) RL 40.10
- Level 04 (Corr) RL 37.00
- Level 03 (Corr) RL 33.90
- Level 02 (Corr) RL 30.80
- Level 01 (Retail) RL 27.70
- Special 22 RL 24.60
- Basement 1 RL 11.50

Revision	Date	Description	Initial	Checked
A	16/12/13	DA Issue	KB	BD

**Forum Hotel**  
19-25 Russell Street  
Melbourne  
Elevations  
North Elevation

Status	Planning Application		
Scale	As indicated	@	A1
Drawn	KB	Checked	BD
Project No.	S11353		
Plot Date	16/12/2013 1:11:10 PM		
Plot File			
Drawing no.	DA7.002	Revision	A

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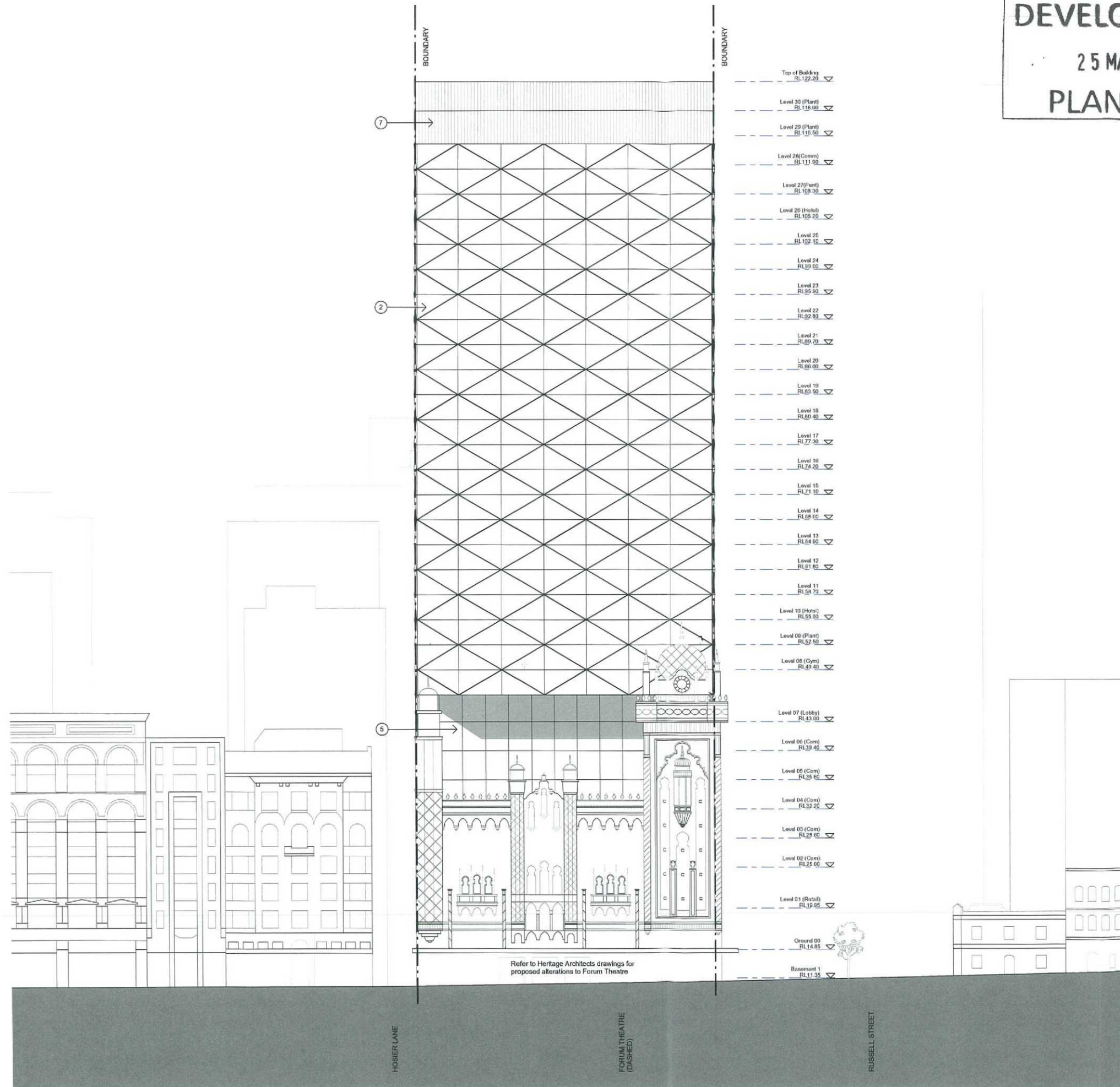
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**DEVELOPMENT**  
25 MAR 2014  
**PLANNING**

- Materials Legend:**
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Revision	Date	Description	Initial	Checked
A	18.12.13	DA Issue	KB	BD

**Forum Hotel**  
19-25 Russell Street  
Melbourne  
Elevations  
South Elevation

Status	Planning Application		
Scale	As indicated	@	A1
Drawn	KB	Checked	BD
Project No.	S11363		
Plot Date	19/12/2013 1:11:38 PM		
Plot File			

Drawing no.	Revision
<b>DA7.003</b>	<b>A</b>

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Bates Smart Pty Ltd ABN 70 004 900 400

**BATESSMART**

## PLANNING REPORT

### MINISTERIAL REFERRAL

<b>Application number:</b>	TPM-2013-31
<b>DTPLI Application number:</b>	2013/009973
<b>Applicant / Owner / Architect:</b>	Clement Stone/Forum Theatre Holdings Pty Ltd/BatesSmart
<b>Address:</b>	19-25 Russell Street and 150-162 Flinders Street, MELBOURNE VIC 3000
<b>Proposal:</b>	Demolition of existing building at 19-25 Russell Street and development of a multistorey building (32 levels) comprising a residential hotel, dwellings, ground level retail and office, refurbishment of the Forum Theatre, and buildings and works to make alterations to adjacent roads, and dispensation from a statutory rate for bicycle parking
<b>Date received by City of Melbourne:</b>	20 December 2013
<b>Responsible officer:</b>	Brendan Cousins

## 1. SUBJECT SITE AND SURROUNDS

### 1.1. The site

The development site is located at 19-25 Russell Street and 150-162 Flinders Street, and has frontages to Flinders Street, Russell Street and Hosier Lane, and has a total area of approximately 2040sqm.

19-25 Russell Street is located on the western side of Russell Street and is occupied by the former Melbourne Theatre Company building, which is proposed to be demolished as part of the application. 19-25 Russell Street has frontages to both Russell Street and Hosier Lane and has a total area of approximately 597sqm (19-25 Russell Street). Primary access to the building is from Russell Street.

150-162 Flinders Street is occupied by the Forum Theatre, formerly the State Theatre, and is currently used as a live music/entertainment venue. The Forum is A graded and is of Neo Islamic style. It is also on the Victorian Heritage Register. The height of the building varies between 1 to 6 stories. Notable features of the building include the jewelled clock tower with a copper clad Saracen dome, minarets, barley sugar columns and rich pressed cement decoration. Construction is steel frame and brick.

### 1.1. Surrounds

The applicant describes the immediate context in the following way:

‘The city block bounded by Flinders Street, Russell Street, Collins Street and Swanston Street is characterised by iconic Melbourne landmarks on street

corners; In Flinders Street St Paul’s Cathedral with its majestic tower and steeple marks the southern gateway to the Hoddle grid, in Flinders Street, The Forum Theatre with its tower and extraordinary decoration marks the south east edge of the first city block; in Russell Street the former T&G Building (now known as KPMG House) with its 10 storey façade and tower marks the northeast corner of the block; along Collins Street the art deco Regent Theatre and Plaza Ballroom are the significant buildings addressing Collins Street and the northwest corner of the city block is now marked by the open space of the city square and the historic statue of Burke and Wills.’

**Aerial Photo / Locality Plan**



<p>North</p>	<p>Cavendish House abuts the subject site to the north. The building is a C graded heritage building and is constructed to a height of ten levels. The building is occupied by residential apartments. Windows have been constructed on the southern boundary which overlook the former MTC building</p> <p>The former T and G building is located on the corner of Collins Street and Russell Street. It is A graded of a Neo Baroque style and is 12 storeys in height. The Heritage identification sheet states that ‘there is no other commercial building in Melbourne, built prior to 1950, which possesses the same large scale and only the Manchester Unity approaches its landmark qualities.’</p>
--------------	--

	<p>These two buildings, along with the Forum Theatre form a strong built form pattern along Russell Street between Collins Street and Flinders Street.</p> <p>There are also two graded buildings directly north of the subject site (161 and 165 Flinders Lane), west of Cavendish House. 165 Flinders Lane is graded D and is 7 storeys in height. It is located on the corner of Flinders Lane and Hosier Lane. 161 Flinders Lane is graded C and is currently occupied by Quest on Flinders Lane. A private laneway runs between the subject site and the rear of Macdonald House.</p>
South	<p>South of the site, on the opposite side of Flinders Street is Federation Square which includes one the most significant areas of civic spaces within the Central City. The building height and form of Federation Square is of a similar scale to the area directly north.</p>
East	<p>To the east of the subject site is Russell Street which is strongly characterized by the hill as Russell Street rises steeply to Collins Street. On the eastern side of the street are lower scale buildings, with the taller towers located further east of this area. The Grand Hyatt Hotel is located further up the hill opposite the Former T and G Building. It is 34 storeys in height and is setback from the corner of Collins Street and Russell Street.</p>
West	<p>Hosier Lane provides access between Flinders Street and Flinders Lane. It is also provides the only access to Rutledge Lane.</p> <p>Hosier Lane is a vibrant and active lane and has become a tourist destination in recent years due to its ever changing graffiti art. Hosier Lane also contains a mix of uses including food and drink premises (Mistys and Movida), residential apartments and the Living Room which is a community health care provider.</p>

The immediate context south of Flinders Lane demonstrates a strong and cohesive built form character of between 20-40 metres. The architectural and historic quality of the buildings in the block is very high with a number of significant building and very prominent landmarks, specifically St Paul’s Cathedral and the Forum Theatre.

## 2. THE PROPOSAL

The plans referred to the City of Melbourne for comment were received on 20 December 2013. Plans submitted in response to DTPLI’s request for further information was received 24 February 2014.

The application includes the following land uses:

<b>Gross floor area (GFA)</b>	26,007sqm (19,620sqm for Forum Hotel development and 6,387sqm for Forum Theatre)
<b>Office (commercial)</b>	Leasable Floor Area 3792 sqm
<b>Residential hotel</b>	Number of rooms: 221 rooms over 17 levels
<b>Retail (ground level etc.)</b>	Leasable Floor Area 1005sqm

The specific details of the proposal are as follows:

<b>Building height</b>	107 metres (32 Levels)
------------------------	------------------------

<b>Podium height</b>	-
<b>Front, side and rear setbacks</b>	North – 1 metre South – 0 metres (3.5 metre overhang of the adjoining property) East – 0 metres West – 0 metres
<b>Car parking spaces</b>	None
<b>Bicycle facilities and spaces</b>	None
<b>Loading/unloading</b>	Loading and unloading will occur within Hosier Lane
<b>Vehicle access</b>	There is no vehicle access to the site
<b>Signage</b>	The application proposes the construction of a new signs to the Forum Theatre. The signs will require planning permission although they are intended to replicate existing signage found on the theatre.
<b>Refurbishment works</b>	<p>Associated with the development are repair and restoration works to the existing Forum Theatre. The proposed works are based on the 1929 appearance of the building and will include;</p> <ul style="list-style-type: none"> <li>• repair of the façade of the building,</li> <li>• repair the awnings,</li> <li>• repair of some of the copper domes,</li> <li>• repair of tower clock</li> <li>• reconstruction of the Forum Theatre signage to the top of the parapet; and</li> <li>• reconstruction of external flood lights and highlights.</li> </ul> <p>No internal refurbishment works are proposed.</p> <p>The majority of the restoration works are exempt from a planning permit as the Forum Theatre is on the Victorian Heritage Register. The applicant has lodged an application with Heritage Victoria for the proposed refurbishment works and for the section of the proposed tower that overhangs the theatre.</p>

### 3. BACKGROUND

#### 3.1. Pre-application discussions

There were no pre-application discussions held with City of Melbourne planning officers.

#### 3.2. Site history

The following planning permits issued for this site and surrounding sites are considered relevant to this application:

TP number	Description of Proposal	Decision & Date of Decision
TP-1999-89	Construction of a 13 level building for 82 apartments	6 December 1999 (VCAT order 1999/062996)

TP-2001-1384 (19-25 Russell Street)	Construction of a 13 storey building (comprising two basement car parks, retail car park level and 12 levels of residential accommodation)	VCAT order (P859/2002) dated 30 August 2002
TPM-2007-1 (167-173 Collins Street)	Buildings and works including demolition of buildings on Watson Place and Flinders Lane, refurbishment of the building on Collins Street (former Auditorium Building) and the construction of a 19 level building with 4 level basement to be used for office, ground floor retail and 176 car parking spaces	VCAT order dated 2 July 2008

Notice of decision to grant a permit for TP-1999-89 was issued on 21 July 1999 by the City of Melbourne for a 13 level building for residential apartments and ancillary car parking at 19-25 Russell Street (Former MTC building). This decision was appealed by objectors. Ultimately, VCAT upheld the City of Melbourne’s decision and a permit was issued on 6 December 1999.

Planning Permit TP-2001-1384 was issued on 13 September 2002 for a 13 storey residential building at 19-25 Russell Street (Former MTC building). The initial application was lodged with Council for a 17 storey development. The applicant appealed to VCAT (P859/2002) for failure to determine the application within the prescribed time. The Tribunal was advised by the City of Melbourne that had it been able to decide on the application, it would have decided to refuse the application on the following four grounds:

- The proposed development would detract from the architectural and historic quality of the Flinders Lane heritage precinct and would be contrary to the purpose of the Heritage Overlay and Local Policy 22.04.
- The proposal is contrary to the design objectives and intent of the Design and Development Overlay Schedule 2, particularly with regard to reinforcing built form character.
- The proposed development is contrary of the provision of the Urban Design Policy at Clause 22.01.

At the commencement of the hearing, plans were substituted that showed, amongst other things, the deletion of one level from the building and modifications to the form of the remaining upper three levels. Ultimately, the Tribunal did not consider that the three additional levels were acceptable. The Tribunal directed that rather than have the development refused outright, a permit be granted for a modified proposal with the upper three levels deleted (approval of 13 storey building).

In relation to the proposal’s impact upon the heritage significance of the area, in particular Cavendish House and the Forum Theatre, the Tribunal stated:

‘...the proposal has the potential to impinge more strongly on the Forum and its minaret and tower when viewed from the south-east and south west corners of Russell and Flinders Street... the higher form abutting the flytower is more overpowering from a streetscape perspective.’

‘While in the previous application the Tribunal found no basis to support a stepping down to the Forum Theatre from Cavendish House, we are not persuaded in the current application that a step up from Cavendish house is desirable in terms of the values of the precinct as a whole.’

In relation to the built form, the Tribunal stated:

‘...we are not persuaded that the proposal meets the desired design objective to achieve a consistency in building scale. Moreover, in terms used in the decision guidelines of Clause 43.02, we are also not satisfied that the scale of the proposed buildings is compatible with the scale of the DDO2 area.’

And;

‘The rhythm evident down Russell Street hill would be interrupted and to some extent lost, even at quite distant views. The additional height associated with the current design impinges on the valley evident in the central city between the towers to the east and west.’

More recently, a development was approved at 167-171 Collins Street for a 19 level office building constructed on top of the former Auditorium building which fronts Collins Street. The development included the construction of a building which significantly exceeds the 40 metre discretionary height control. The development resulted in the overshadowing of Federation Square and substantial modifications to the former Auditorium building, which is on the Victorian Heritage Register. It is also notable as it is located with the ‘city valley’, which is created by the mandatory 40 m height control applying to the retail core and surrounding height controls including that which affects the subject site. This was referred to in the VCAT decision P859/2002.

The approved office tower is set back 32 metres from Collins Street and 4.33 metres above podium level as measured from the alignment of the Richard Allen Building on Flinders Lane. The office tower rises to a height of 73.65 metres above Collins Street (RL93.50-19.85) and 76.85 metres above Flinders Lane (RL93.50-16.65).

The City of Melbourne initially opposed the development. Although the retention and restoration of the front portion of the Former Auditorium Building was supported, significant concern was expressed regarding the impact of the new building on the retained portion of the Former Auditorium Building and more particularly on the impact on the Flinders Lane Heritage Precinct.

A Notice of Decision to Grant a Permit was issued by the Minister, however the applicant sought review of the decision by VCAT. Ultimately, the Tribunal determined that the development was appropriate for the following reasons:

- The building is of high design quality; it is unnecessary to further modify the building form other than in the agreed manner in which the plans have been amended during the course of the hearing.
- The height of the podium level is acceptable as is the setback of the building from the Flinders Lane building alignment.
- The proposed access way from Flinders Lane is appropriate and the enhanced activation of both Flinders Lane and Watson Place are positive outcomes for this proposal.

The approval of this building is the most significant departure from the height control (DDO2 A5) to date. The building is approximately 30 metres lower than the proposed building and incorporates street setbacks. The retained heritage building does not have the same prominence as the Forum Theatre and is located in the block north of Flinders Lane rather than the same block as the subject site.

#### **4. PLANNING SCHEME PROVISIONS**

The following provisions of the Melbourne Planning Scheme apply:

State Planning	Clause 11 – Settlement
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Policies	<p>Clause 15 – Built Environment and Heritage</p> <p>Clause 16 – Housing</p> <p>Clause 17 – Economic Development</p> <p>Clause 18 - Transport</p>
Municipal Strategic Statement	<p>Clause 21.03 – Vision and Approach</p> <p>Clause 21.04 – Land Use</p> <p>Clause 21.05 – City Structure and Built Form</p> <p>Clause 21.07 – Environment and Natural Systems</p> <p>Clause 21.08 – Local Areas (Central City)</p> <p>Clause 21.12 - Hoddle Grid</p>
Local Planning Policies	<p>Clause 22.01 – Urban Design within the Capital City Zone</p> <p>Clause 22.02 - Sunlight to Public Spaces</p> <p>Clause 22.04 - Heritage Places within the Capital City Zone</p> <p>Clause 22.19 - Water Energy and Waste Efficiency</p> <p>Clause 22.20 – CBD Lanes</p> <p>Clause 22.24 - Stormwater Management</p>

Statutory Controls	
Capital City Zone Schedule 1	<p>Pursuant to this Clause a permit is not required to use the land for the proposed land uses.</p> <p>A permit is required to construct a building and carry out works. A permit is not required for the restoration works to the Forum Theatre as works to buildings included on the Victorian Heritage Register are exempt.</p> <p>A permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.</p>
Design and Development Overlay 1 –A2 Active Street frontages	<p>Pursuant to Schedule 1 of this Clause a permit is required for building and works at ground level. Active frontage requirements must be met. Only the Flinders Street frontage is affected by this overlay. The application includes minor works to the façade of the Forum Theatre which require a planning permit under these provisions.</p>
Design and Development Overlay Schedule 2 A5	<p>Pursuant to Schedule 2 of this Clause, a permit is required for buildings and works. With the exception of architectural features and building services, buildings and works within Area 5 should not exceed the discretionary maximum height of 40 metres.</p>
Design and Development Overlay 4 – Weather Protection	<p>A permit is not required to construct a building or construct or carry out works if adequate weather protection to the street frontage is provided to the satisfaction of the responsible authority. The application does not propose any weather protection to Russell Street.</p>
Heritage Overlay	<p>A permit is required to carry out buildings and works, including demolition, however a planning permit is not required to develop a heritage place on</p>



Schedule 505	<p>the Victorian Heritage Register. The Forum Theatre is on the Victorian Heritage Register (H438), therefore for any parts of the development located within the extent of registration for the Forum Theatre will not require planning permission.</p> <p>The former MTC building is within the precinct heritage overlay but is not included on the Heritage Victoria Register. As such a permit is required for the demolition of this building and the construction of new building.</p>
Heritage Overlay Schedule 653	<p>A planning permit is not required to develop a heritage place which is included on the Victorian Heritage Register. The Forum Theatre is on the Victorian Heritage Register (H438), therefore for any parts of the development located within the extent of registration for the Forum Theatre will not require planning permission.</p>
Parking Overlay 1	<p>The site is located within the Capital City Zone (outside the Retail Core) and as such maximum parking provision requirements apply under Schedule 1 to the Parking Overlay (PO1).</p> <p>The development proposes no parking provision and therefore is in accordance with the Planning Scheme.</p>

Particular Provisions	
Clause 52.05, Advertising Signs	<p>Advertising sign requirements are at Clause 52.05. This zone is not in a category at Clauses 52.05-6 to 52.05-10.</p>
Clause 52.07, Loading and Unloading of Vehicles	<p>The retail use requires a loading and as such consideration of Clause 52.07 is required.</p>
Clause 52.34, Bicycle Facilities	<p>A rate of 1 space to each 5 dwellings for residents, plus 1 visitor space to each 10 dwellings applies.</p> <p>The statutory requirement for bicycle spaces for the development is 5 spaces in total. 5 spaces are proposed therefore a permit is not required.</p> <p>There is no bicycle parking rate applicable for a residential hotel.</p>
Clause 52.36, Integrated Public Transport Planning	<p>An application for an excess of 60 dwellings must be referred to PTV for comment. This is a responsibility of DTPLI.</p>

General Provisions	
Clause 61.01 – Administration and enforcement of this scheme	<p>The Minister for Planning is the responsible authority for this planning permit application as the total floor area of the development exceeds 25,000 square metres.</p>

## 5. PUBLIC NOTIFICATION

In accordance with Section 52(1)(b) of the *Planning and Environment Act 1987*, DTPLI has given notice of the application to the City of Melbourne under Clause

43.02 Heritage Overlay. All matters other than heritage are exempt from notice and appeal rights.

## 6. REFERRALS

The application was referred to the following internal departments with comments as summarised

- Urban Design
- Council's Heritage Consultant
- Engineering
- Land Survey
- Building

### 6.1. Urban Design

- The proposed height is considered to be inconsistent with the DDO's three Design Objectives.
- The proposal would cast additional shadow over the Federation Square atrium as well as the areas identified in the application.
- The built form character of this block is distinguished by fairly consistent building heights of 20-40m south of Flinders Lane. The proposed tower would dominate the Forum, which is one of the prominent landmarks which should remain dominant.
- The lack of tower setbacks from the east and west results in a negative impact on both Russell Street and Hosier Lane. The recess at Levels 8 to 9 helps to articulate the building, but is not a tower setback. A 107m tall form would impinge directly upon each street; it would disrupt the established street wall pattern which steps down Russell Street.
- No one parapet height predominates in Hosier Lane, but the range is about 10-35m, and this should not be exceeded. This means that the proposed "podium" should be reduced by one storey, above which the building should be set back.
- Any additional height above the proposed "podium" would need to be set back from the east and west. (The minimum setbacks would depend on the height, but if the currently proposed 107m height were to be pursued, then the 10m minimum setback in CI 22.01 would need to be fully adhered to, and the resultant floor plate is unlikely to be feasible.) We would then have no objection to such a proposal (ie lower, and set back) cantilevering over the Forum (subject to heritage advice).

### Heritage

The heritage advice received concluded that the following aspects of the proposal cannot be reasonably construed as complying with accepted conservation standards. These aspects do not comply with important decision guidelines of Clause 43.01 and do not comply with the objectives and policy of clause 22.04:

- The cantilever into airspace over and above a heritage building.

- The height of the tower well above the adjacent heritage buildings, the streetscape and wider heritage places.
- The placement of the proposed full height tower to the street frontage.
- The dominating presence in the largely intact heritage precinct
- The domination of the tower over the Forum, characterised as a backdrop to that building, that will fundamentally and irrevocably compromise the setting and sense of integrity of the setting of, and respect for, the heritage building.
- The absence of any independence from the heritage places; absence of capacity to see the proposed as separated, distinct or detached from the heritage places.
- The infill to the Russell Street streetscape to the height of the abutting Cavendish House with limited evident relationship to the heritage characteristics and appearance of Russell Street.

## **6.2. Land Survey**

- The title for the Forum Theatre (excluding the former MTC building) has a covenant which restricts any new development on the property to less than 45 metres reduced level as per the Australian Height Datum.
- The overhang of 3.5 metres is acceptable provided that the title boundary between the two properties is realigned prior to the commencement of works. It is also recommended that at least 5 metres is encumbered by a light and air easement adjacent to the overhang. If a permit is to issue it is requested that conditions along the following lines are included in the permit:
  - Prior to the commencement of works the southern title boundary for the land must be realigned to include the additional air space of 3.5 metres above a reduced level of 45 metres AHD in the title for the proposed development, to ensure all the structure for the proposed development is contained within the one title.
  - Prior to the commencement of works a light and air easement with a minimum width of 5 metres must be created along the southern boundary above a reduced level of 45 metres AHD adjacent to the realignment title boundary.

## **6.3. Engineering**

### **6.3.1. Loading/unloading**

- A loading area has been provided with access along Hosier Lane however it does not comply with the standard dimensional requirements.
- The development's land area is restricted and the narrow width of Hosier Lane would still not enable a Small Rigid Vehicle of 6.4m in length to access a loading bay.
- The small retail outlet and café would generate limited demand for this facility and the loading activity can be catered for by the 'No Stopping' area vehicles actually engaged in the pick-up and set down of goods excepted within Hosier Lane.

### **6.3.2. Bicycle parking**

- Engineering Services does not accept the use of the “Motel” rate for a residential hotel as indicated by Cardno as a Hotel can also have permanent residents who may have a need for bicycle parking, particularly as no car parking will be available.
- While Engineering Services accepts that some bicycle facilities can be provided on the proposed footpath, the applicant is requested to provide the 34 spaces for employee/resident use and at least half the visitor parking spaces within the site.

### **6.3.3. Waste**

- The WMP plan states that a private collection will occur, which is acceptable. The proposal is for bins to be transferred from the basement to the loading area. Waste collection contractors will stop and load bins directly from the loading area and return bins inside. This is acceptable.
- The maximum bins in any single collection is 7. With the inclusion of commercial waste this will rise to about 8. This collection can be achieved within less than 10 minutes. The current parking and loading restriction is No Standing except for the setting down and loading of goods. Waste collections fall within this exception.
- The collection times should however be modified to operate between the hours of 6am to 11am Monday to Friday and 7am to 11am on weekends or public holidays. This is to reduce the traffic in the lane during peak tourist/trading hours.
- A revised WMP is required. It should address the missing details outlined above and restrict the collection times to those advised by Council.
- Modifications to the floor plans are required. They should address the issues raised above.

### **6.3.4. Civil matters**

- No objection in principle to a widening of the footpath along Russell Street frontage, subject to upgrade of the footpath, street furniture and relocation of all services (street lights, fire hydrants, power and VicRoads cabinets) to the satisfaction of the Responsible Authority.
- The architectural drawings show widening of the footpath and provision of bicycle lane along Flinders Street frontage. We object to these works and request the applicant to retain the existing width of the carriageway along the street.
- The existing canopy of the building adjacent to the site along Flinders Street is damaged. The canopy shall be located with a minimum setback of 750mm from the face of the kerb.

## **6.4. Building**

Building has indicated that there there is concern regarding the “build-ability” of the development particularly in relation to constraints of the subject site and immediate surrounds. Whilst not strictly a planning consideration as it falls within the building spectrum, a Construction Management Plan (CMP) should be prepared and discussed with City of Melbourne’s building department prior to approval of any

plans. The development of the site has the potential to impact upon the functions of the area and road network.

The 1 metre north setback will not comply with the relevant building requirements if Cavendish House is developed.

## **7. ASSESSMENT**

The key issues in the consideration of this application are:

- Who the Responsible Authority for the application is.
- Heritage impacts.
- Built form including height and setbacks.
- Impact upon Hosier Lane.
- Amenity impacts including overshadowing and wind impacts to the public realm.
- Other detailed matters.

### **7.1. Responsible Authority for the application**

The application seeks approval from the Minister for a development that is 26,007sqm (19,620sqm for Forum Hotel development and 6,387sqm for Forum Theatre). It is considered that the City of Melbourne should be the Responsible Authority for the determining the application as the total gross floor area of the Forum Theatre should not be included in the calculation of the total development gross floor area. Legal advice has been sought which concluded that:

‘In our view, all things considered (including the purpose of clause 61.01 and the relevant permit triggers), we say that the proposal is for a development of 19,620 square metre (gross floor) area.’

The applicant and DTPLI have been notified of the above position. The applicant has provided DTPLI with its own legal interpretation that the development is greater than 25,00sqm in area. DTPLI have agreed with the applicant in relation to the interpretation of Clause 61.01. The City of Melbourne has not challenged DTPLI's decision to continue processing the application.

### **7.2. Heritage**

The proposal is located within two heritage overlays; HO505 Flinders Gate Precinct and Heritage Overlay 653 which specifically affects the Forum Theatre. The block which is bounded by Swanston Street, Flinders Street, Russell Street and Flinders Lane is also affected by a HO506 Flinders Lane Precinct.

The map below shows the grading of properties under the City of Melbourne Heritage Study that are located within close proximity to the proposal:



Note: KPMG house is actually affected by two graded buildings, the Former T and G building (A graded) and a C graded Edwardian building that faces Flinders Lane (known as the Richard Allen & Son warehouse).

The immediate context is strongly characterised by buildings of high heritage significance. Council's heritage advisor identifies the following important heritage elements characteristics of the immediate area:

- The Forum Theatre setting and air space
- The consistent and cohesive scale of Flinders Street, Russell Street and Collins Street as well as Flinders Lane.
- The heritage streetscape of Russell Street which includes the setting of the former T&G Building and Cavendish House
- The prevailing and cohesive traditional character and appearance of the city block that lies between St Paul's and Scots Church produced by Victorian, Edwardian and interwar buildings; their materiality and their grounded hierarchies of detail, composed to provide buildings of integrity, visual interest and human relevance.

The proposal fails to adequately address the relevant policy objectives of Clause 21.12 and Clause 22.04 and the decision guidelines of the Heritage Overlay, specifically:

- To conserve and enhance the character and appearance of precincts identified as heritage places by ensuring that any new development complements their character, scale, form and appearance.
- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.
- Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.

- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.
- Protect the scale of important heritage precincts, boulevards and other unique precincts that rely on a consistency of scale for their image, including the Retail Core, Chinatown, Hardware Lane, Flinders Lane, Bourke Hill, Parliament, the Melbourne Town Hall, and the churches on Flinders and Collins Streets.
- Ensure that the design of tall buildings in the Hoddle Grid promote a human scale at street level especially in narrow lanes, respects the street pattern and provides a context for heritage buildings.

The proposed refurbishment works to the Forum are supported and promote sound heritage conservation particularly in relation to this building of State significance that is currently in poor condition. The proposed works do not require primary planning permission under the requirements of the Melbourne Planning Scheme and are not included as part of this application, save for some ground level shop front works and signage. The restoration works require separate approval from Heritage Victoria. The proposed overhang of the new building will also require approval from Heritage Victoria.

Consideration of a planning application often includes the balancing of competing objectives and policies. In this instance benefits of the Forum Theatre restoration are not considered to justify the development as whole. Although the refurbishments are a positive factor, the proposed good is significantly outweighed by the impact of the hotel tower to the heritage precinct and the adjoining buildings.

The applicant has submitted that:

‘Given the contrasting materials used in the proposed development, the relatively small degree of cantilevering and cited clearances between the existing facades and new development, the proposed new building to the rear of the theatre will have no effect on the Theatre’s significance.’

And:

‘While this design is understated and contemporary in its approach, the new building will provide an effective and visually pleasing backdrop to the more elaborate facades of the Theatre’.

The impact of the tower has been significantly understated and insufficient justification has been provided for the aspects of the proposal that breach accepted heritage standards as outlined by the Melbourne Planning Scheme.

The development fails to protect the established character of this important heritage precinct, which relies on a consistency of scale, as outlined by Clause 21.14 Hoddle Grid.

Heritage policy requires that new development should conserve and enhance the character and appearance of heritage places by ensuring that new development complement the character, scale, form and appearance of the heritage place. The statement of significance for the Flinders Gate Precinct (Clause 22.04) includes:

‘...An important feature of Flinders Street’s southern face of buildings is their uniform height facing the station, Federation Square and the Yarra River.’

The development fails to achieve this standard by overwhelming all adjoining buildings and the immediate context. The tower will be the most dominant landmark in the heritage precinct and will diminish the impact of existing prominent landmarks, especially the Forum Theatre.

The proposal fails to adequately acknowledge or have regard for the consistent and cohesive scale of building within the block including the site and the low scale of existing built form that is defined by the Forum Theatre, Cavendish House and the Former T and G Building. The rhythm of the existing built form evident down Russell Street hill would be interrupted and compromised.

Although the height and proportion of the lower section of the new building is respectful of the prominent built form along Russell Street, the upper form by virtue of height and lack of setback will dominate the streetscape and adjoining heritage buildings. The tower is not respectful and does not enhance or protect the heritage place, which is one of the most highly significant city blocks in Melbourne.

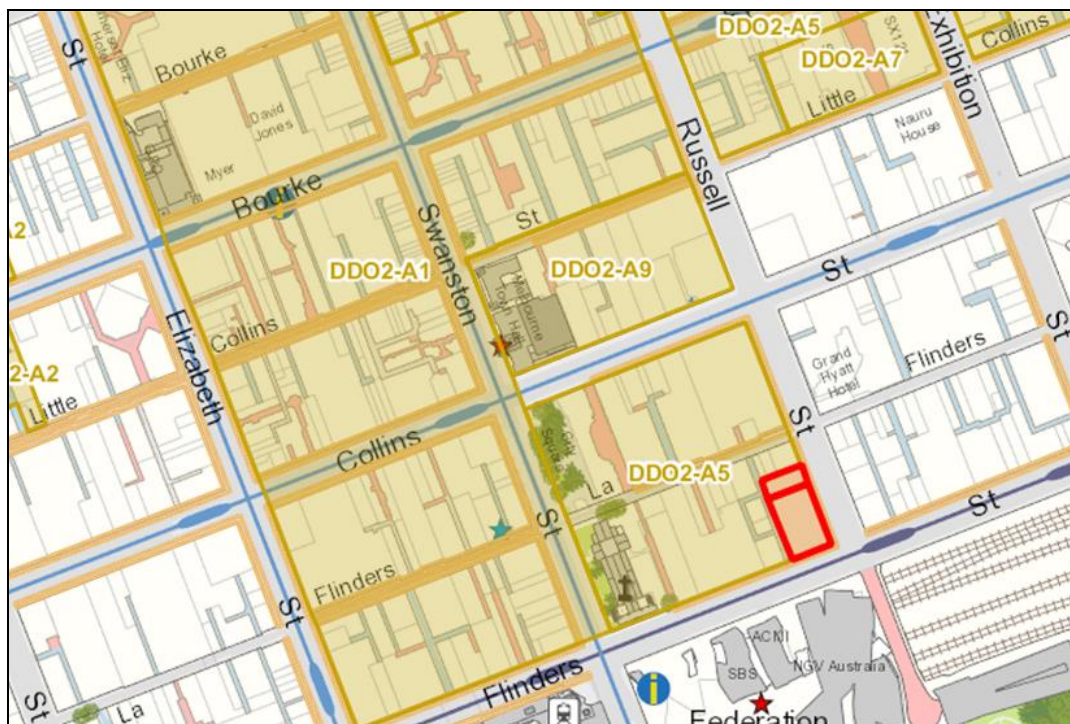
Since the issue of the VCAT order in 2002 for 19-25 Russell Street (former MTC building) there has been no significant change in planning policy or local context as it relates to heritage. It is therefore difficult to accept that a 32 level development with no street setbacks is more appropriate to allow than a 13 level development that was granted a permit by the Tribunal. It is acknowledged that the Tribunal's decision is not recent; however the bases for the decision outlined in the order are still very relevant. The only new difference is the associated refurbishment works to the Forum Theatre.

### 7.3. Built form

The site is affected by the Design and Development Overlay Schedule 2 (DDO2). The design objectives seek to:

- 'To protect sunlight access to key public places and open space areas so as to provide a comfortable, pedestrian-friendly urban environment.'
- 'To ensure that the height of new buildings reinforces the built form character of unique areas.'
- 'To maintain the visual dominance of prominent landmarks.'

The map below shows the immediate context in relation to the relevant planning height controls:





- DDO2-A1 is a mandatory 40 metre height control.
- DDO2-A5 is a discretionary 40 metre height control
- DDO2-A7 is a discretionary 80 metre height control
- DDO2-A9 is a discretionary 30 metre height control
- Land located to the north and north west is not affected by a height control (this includes land where the Grand Hyatt Hotel is located).

The Melbourne Planning Scheme clearly encourages areas along Flinders Street and Swanston Street to be of a lower scale up to and around 40 metres. Higher built form is concentrated outside these areas, particularly in the eastern and western areas of the city. Typically these areas do not have a height control and the appropriateness of taller building relies on the site context and local policy directions of Clause 22.01.

The recently constructed 19 level office tower at 167-173 Collins Street is contrary to this rule but does not set a precedent for an accepted variation of the height controls for the subject site as there are a number of factors that differentiate the two developments. The development (at 25 Russell Street) is considerably taller (30 metres approximately), has no street setbacks, has three frontages and is located in much closer proximity to the lower scale street wall found along Flinders Street. In contrast, although not initially supported by City of Melbourne, 167-173 Collins Street is much more respectful of its context and of the relevant planning controls and policies. Unlike the proposed building, 167-173 Collins Street is sufficiently distanced from the landmark spires of St Paul's and the Forum Theatre so as not to impact the significance of these landmark buildings.

The built form character of the block bounded by Flinders Street, Russell Street, Swanston Street and Flinders Lane is predominantly low scale, distinguished by fairly consistent building heights of 20-40 metres. The block is defined by buildings of high architectural and historical value.

In relation to the building height controls for the central city, remarks made by the Panel reviewing Amendment C20 stated that:

'Building height requirements should be regarded as the general rule only to be departed from in exceptional circumstances or where it is clear that the design objectives will be met by the proposed built form outcomes'.

The variation to the discretionary height control is significant. At 107 metres, the proposed tower is 67 metres taller than what is recommended by DDO2-A5 (40 metres). The significant variation in height is sought in an area where the established building height is generally 40 metres or lower. The tallest structure in this block is the spire of the St Paul's Cathedral which is considered one of Melbourne's most prominent landmarks. It is 92 metres tall.

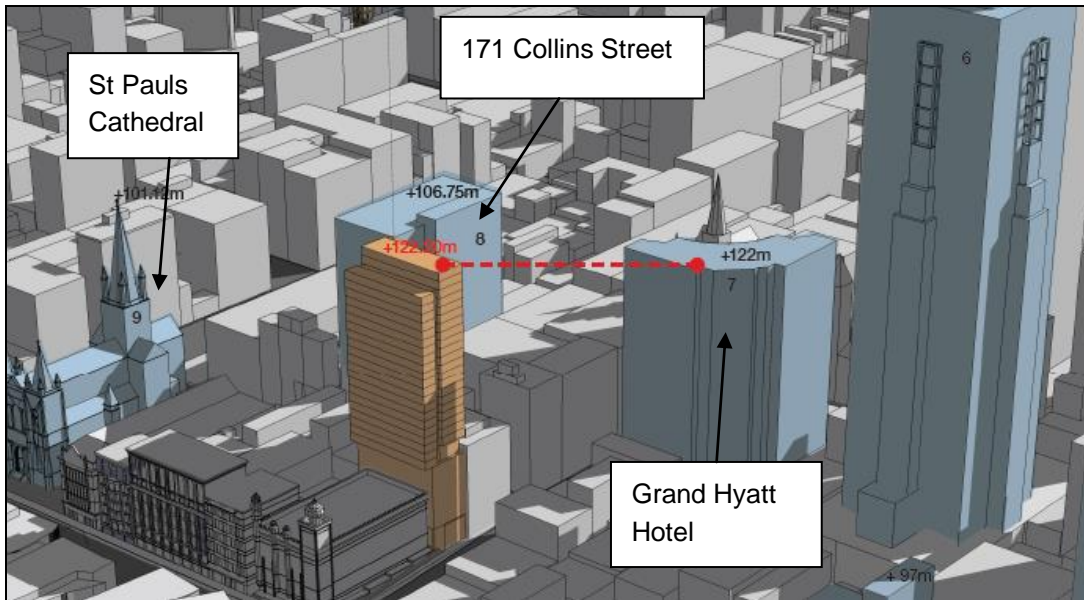
The tower does not meet the objectives and built form outcomes of the Design and Development Overlay Schedule 2 which clearly seek to preserve the low-scale nature of the area and the dominance of notable buildings. Furthermore the proposal does not meet the policy directions of Clause 21.12 Hoddle Grid and Clause 22.01 Urban Design outside the Capital City Zone.

The Urban Design Team does not support the tower hotel stating that:

'While some modest additional height may be supportable in recognition of the value of restoring the Forum, anything above the proposed "podium"

would need to be set back from the east and west, and even then the proposed height would be considered excessive’.

The applicant has justified the height of the development by stating that it will create a ‘symmetrical gateway’ with the Grand Hyatt Hotel, which is of a similar height. This justification is not accepted and does not respond to the context of the immediate area or the relevant planning policies and controls.



Note that development is in orange.

The Grand Hyatt Hotel is located further north of the subject site opposite the former T and G Building and is within an area with no specific height control. The height study provided by the applicant (see above) demonstrates the stretched relationship between the two buildings and serves to highlight the negative impact of the height on the immediately adjoining buildings, particularly the Forum Theatre building and to the immediate block.

The Grand Hyatt Hotel is also located on a much larger site, has much greater street setbacks (adopting a more traditional podium and tower typology) and does not form the back drop of a prominent landmark building. The link between the two buildings is tenuous and highlights the significance of the immediate context and the degree to which the proposal does not respond to it. Higher built form in the immediate area is limited and within the block between Flinders Street and Flinders lane, non-existent, with the exception of the St Pauls Cathedral spire

In relation to setbacks, Urban Design states:

‘The minimum setbacks would depend on the height, but if the currently-proposed 107m height were to be pursued, then the 10m minimum setback in Clause 22.01 would need to be fully adhered to, and the resultant floor plate is unlikely to be feasible’.

The proposed tower will become the dominant building within the block and will have an adverse impact upon existing prominent landmarks, specifically the Forum Theatre, and to a lesser extent Cavendish House. This does not comply with the built form outcomes sought by the Design and Development Overlay.

The tower is not setback from the east or west frontages. A minimal setback of 1 metre is proposed to the northern boundary and the tower will project 3.5 metres over the Forum Theatre. The lack of east and west setback results in a negative

impact on both the Russell Street and Hosier Lane frontages and is not consistent with the policy directions for towers as guided by the Urban Design Policy at Clause 22.01 or DDO2. The lack of tower setback adds to the dominance of the proposed building.

The 1.0 metre setback from the northern boundary has the potential to set an undesirable precedent. The development should not unreasonably constrain the adjoining property and compromise future access to daylight, ventilation and outlook or the future amenity of the subject development.

#### **7.4. Impact upon Hosier Lane**

In relation to Hosier lane, Clause 22.20 CBD Laneways encourages development to

‘Maintain and enhance the intimate environment of lanes by ensuring that higher tower forms are set back from the predominate parapet height along the laneway to ensure a sense of openness that reinforces a human scale.’

Hosier Lane is a vibrant and active lane and has become a tourist destination in recent years due to its ever changing street art. Hosier Lane also contains a mix of uses including food and drink premises (Mistys and Movida), residential apartments and the Living Room which is a community health care provider.

A 107 metre sheer wall is not considered to reinforce a human scale and has no regard to the existing built form on Hosier Lane which is in the range of 10-35 metres. The applicant has suggested that the podium and tower are outside pedestrian view as one proceeds from Flinders Street to Flinders Lane along Hosier Lane. This justification is not shared. The presence of a such a large building form will loom over the lane and will be clearly visible when viewed within Hosier Lane, in Rutledge Lane and in particular when viewed down Hosier Lane from either Flinders Lane or Flinders Street. A setback to any high form above podium level is important and would help reduce the overwhelming presence of the proposal. Even the tower of 167-173 Collins Street incorporated a 4.33 tower setback above podium as measured from the adjoining building alignment of Richard Allen Building (west of the subject site).

To better respond to the building height range found in Hosier Lane, Urban Design have suggested that the proposed “podium” should be reduced by one storey, above which the building should be setback.

Although the applicant has indicated that the interface to Hosier Lane will be finished in gritty and industrial materials suitable for street art, additional resolution of the lower levels is required so that it is better integrated into the existing character and use of Hosier Lane. There are inconsistencies in the plans which confuse the final concept of the ground level interaction with Hosier Lane, particularly in relation to location of the through link and café area. Urban design are supportive of a through block link. Further detail is of the link is required to understand how it will operate and be defined as “public space” rather than the lobby of the hotel.

#### **7.5. Loading and unloading**

Hosier Lane is proposed to be used as a ‘stop and prop’ loading area. A loading bay area has been provided onsite with access from Hosier Lane, however the dimensions do not comply with the requirements of the Melbourne Planning Scheme to allow for vehicle access.

Pursuant to Clause 22.20 Hosier Lane is considered a Class 2 lane. Typically developments abutting Class 1 and 2 laneways are discouraged from locating primary access and loading facilities onto the lane. Although Hosier Lane

experiences heavy pedestrian use during the day and into the evening, the Engineering Services Group has indicated that they do not object for the lane being used for short term waste management and loading activities associated with the retail and café uses.

They have suggested that collection times should be modified to operate between the hours of 6am to 11am Monday to Friday and 7am to 11am on weekends or public holidays. This is to reduce the traffic in the lane during peak tourist/trading hours and to limit impacts on residents.

The appropriateness of this requirement is dependent on the expected number of deliveries and the duration each delivery. It may be more appropriate to split the deliveries between Russell Street and Hosier Lane to reduce the impact upon the function of Hosier Lane. Additional information is also required in relation to the loading activities with the Hotel such as linen collection and deliveries.

This matter is unresolved and requires further detailed consideration before a decision is made as it is unclear whether the issues can be satisfactorily addressed.

### **Amenity impacts to the public realm.**

#### **1.1.1. Overshadowing**

Clause 22.22 Sunlight to Public Places states that:

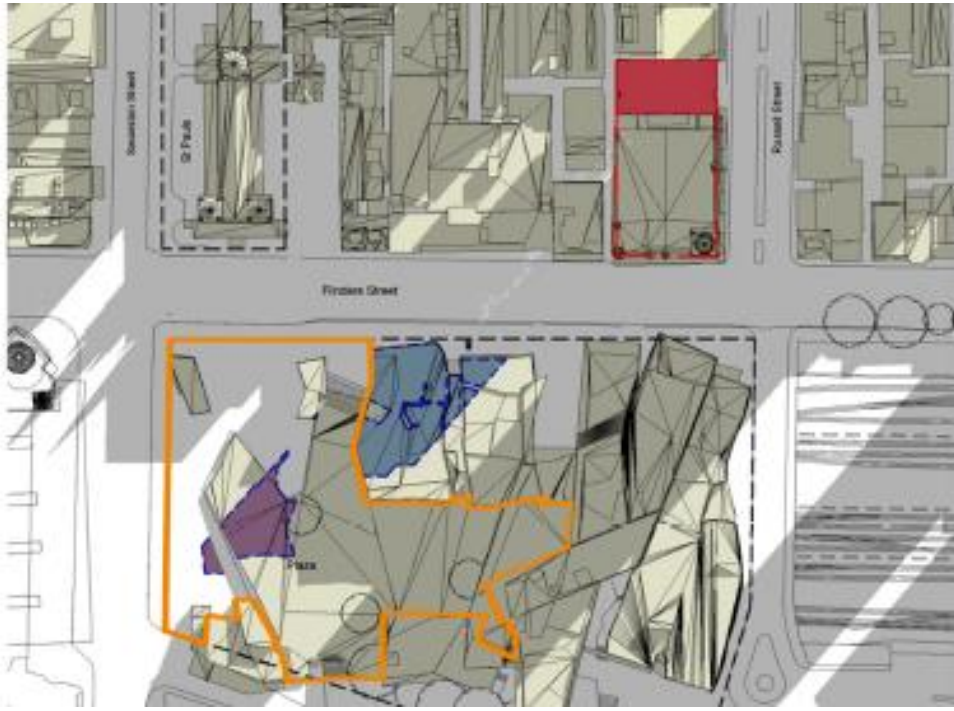
‘Development should not cast addition shadows across St Paul’s Square, the Plaza and the Atrium which are parts of Federation Square... between the hours of 11.00am and 2.00pm on 22 June.’

In addition a planning permit is required:

- To construct a building or construct or carry out works which would cast a shadow across any part of Federation Square, City Square, Queensbridge Square and the State Library Forecourt between 11.00 am and 2.00 pm on 22 June. A permit may only be granted if the responsible authority considers the overshadowing will not prejudice the amenity of the squares.
- To construct a building or construct or carry out works which would cast a shadow between 11.00 am and 2.00 pm on 22 March and 22 September over public space, public parks and gardens, public squares, major pedestrian routes including streets and lanes, and privately owned plazas open to the public. A permit may only be granted if the responsible authority considers the overshadowing will not prejudice the amenity of those areas.

Federation Square is one of Melbourne’s most valued and significant civic spaces. This is recognised by the above planning controls which seek to protect the amenity of this highly utilised public space.

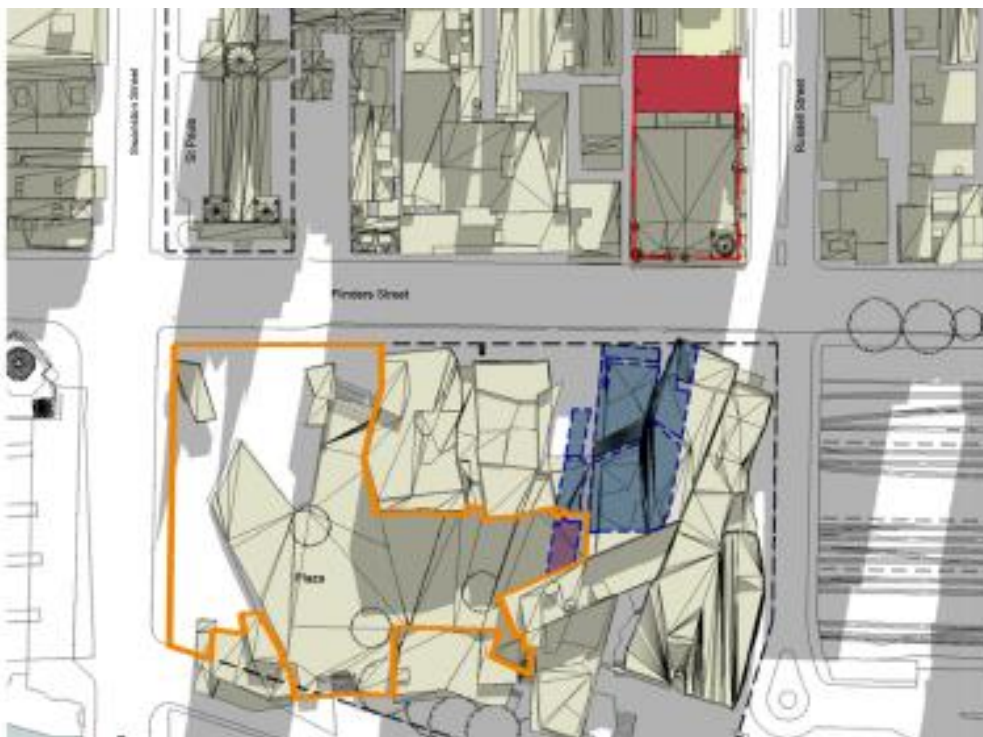
The proposed additional height and the siting of the tower will increase overshadowing to all areas of Federation Square described in Clause 22.22. The overshadowing will be significant to the remaining areas the Plaza that are not already in shadow at 11am and parts of the Plaza and all of the Atrium at 1pm (see below).



Legend:

- Proposed building envelope
- Extent of shadow cast by proposal at ground level
- Extent of shadow cast by proposal on atrium roof
- Shadows cast from existing development

Overshadowing 22 June 11am



Legend:

- Proposed building envelope
- Extent of shadow cast by proposal at ground level
- Extent of shadow cast by proposal on atrium roof
- Shadows cast from existing development

Overshadowing 22 June 1pm

The applicant's analysis justifies the additional overshadowing as a small percentage of the overall open space area of Federation Plaza, including shaded and unshaded areas (as shown above as the area outlined in orange). This approach misrepresents the true impact of the additional shadow to the existing unshaded areas of Federation Plaza. The intrusion of additional overshadowing to the unshaded areas of Federation Plaza is significant at 11am and represents a much greater percentage of shadow impact than what has been indicated by the applicant.

The impact on the Atrium is significant. The main source of daylight to the Atrium is provided by the north facing entry and glazed wall. The shadow diagrams provided show the roof of the Atrium being overshadowed. The impact is at its worst at 1pm. The proposed tower will not only cast a shadow over the Atrium roof but will also cast a significant shadow over the north facing Atrium opening causing the interior of the Atrium to be in shadow where it currently receives sunlight. This is an unacceptable outcome.

The shadow impact is caused by the proposed height of the building (exacerbated by the topography of the land), the close proximity of the subject site to Federation Square and to a lesser extent by the lack of any setbacks. The proposal by virtue of its height and location will have unreasonable overshadowing impacts to key public spaces, and does not promote a comfortable pedestrian friendly urban environment as encouraged by DDO2. Additional incremental overshadowing of Federation Square for the scale and duration proposed is unreasonable particularly to an area that is already compromised by existing buildings.

### **1.1.2. Wind impacts**

Wind conditions in the public areas along Russell Street and Hosier Lane have been shown to achieve the criterion for walking comfort from all conditions. This is an acceptable outcome for this context. Testing for the hotel entrances and within the through block link have been shown to meet or slightly exceed short term stationary. However it is considered that some form of weather protection should still be provided for Russell Street for not only wind protection but also from other elements.

### **7.5.1. Noise**

The development proposes a sensitive use abutting an existing use (live music/entertainment venue) that has the potential to detrimentally impact future guests of the hotel. In response the applicant submitted an acoustic report which recommended a number of treatments to ensure compliance with SEPP N-1 and SEPP N-2 during the operation of Forum Theatre for a live music/entertainment venue. These treatments are applicable to the hotel rooms and the 27th Level penthouse and will include:

- Fixed (non-openable) façade.
- an upgraded facade construction incorporating an IGU or acoustic double glazed system with an appropriately sized airgap and glazing configuration to reduce external music noise levels.
- Background noise masking required when high noise level generating activities within the Forum were being performed.
- The development to be structurally separated from the Forum Theatre apart at natural ground level.

The above measures should be incorporated in the design of the development.

The Forum Theatre is an established noise-making use and it is not unreasonable for a new sensitive use to provide appropriate noise attenuation methods to avoid

future potential conflicts between the two uses. The retention and protection of live music venues within the Capital City is an important consideration and should be primarily burdened by the agent of change. As part of the proposed refurbishments to the Forum Theatre, additional methods of noise attenuation could also be explored.

## **7.6. Other matters**

### **7.6.1. Impact to adjoining buildings**

There are a number of windows located on property boundaries, overhanging boundaries or within 1 metre of adjoining properties. The inadequate setbacks of windows have the potential to impact upon the development potential of adjoining properties. The directly abutting properties are Cavendish House (C graded) and Forum Theatre (A graded) and although it is unlikely that they will be developed it is unreasonable to compromise the adjoining properties or the development.

The Local Policy for Urban Design seeks equitable access to outlook and sunlight for all towers. A 1 metre side setback is contrary to these objectives and will establish a poor built form outcome that will prejudice the internal amenity of the hotel rooms of the subject development and any future adjoining development. As designed the development has potential compliance issues with building code requirements, which will be compounded if the adjoining properties are developed.

Cavendish House has windows on the south facing boundary. These windows overlook the subject site. However, a legal agreement on the property title for that building requires the removal of the windows (and balconies) if the adjoining property is developed in a manner that would block these openings. As such the development enjoys a legal right to build to the boundary at podium level.

The north facing boundary windows located at the podium level of the development need to be modified as they have the potential to overlook adjoining properties. The windows would also not be compliant with relevant building regulations. It is not considered that the above matters are fatal to the development and the windows/openings could be removed via condition if a permit was issued.

### **7.6.2. Bicycle parking**

City of Melbourne's Engineering Services Group does not accept the use of the "Motel" rate for a residential hotel as indicated by Cardno as a Hotel can also have permanent residents who may have a need for bicycle parking, particularly as no car parking will be available.

Therefore it is recommended that 34 spaces for employee/resident use are provided onsite if a permit was issued.

### **7.6.3. Signage and ground level shopfront alterations**

As part of the refurbishment works, the application proposed the reconstruction of a sign above the parapet of the Forum Theatre. This sign although exempt under the Heritage Overlay, will require planning permission under the Capital City Zone. Typically sky signage (a sign on or above a roof of a building) is discouraged by Clause 22.07 Advertising Signs. However, provided the signage meets the design detailing and specifications of the 1929 Forum Theatre, it should be appropriate in this instance.

The applicant has also indicated that the poster boxes may be electronic so they can be updated automatically. As no detail has been provided, it is difficult to determine whether this is an appropriate outcome on a highly graded heritage building.

Additional details of the proposed signage are required to enable a proper assessment of this aspect of the development.

The application proposes to reinstate an original shopfront to the Flinders Street frontage. The shopfront requires planning permission under the Design and Development Schedule 1 and Capital City Zone. It is understood the proposed works are for the external façade only. The buildings and works are minor and considered acceptable in this context.

#### **7.6.4. Waste**

The Waste Management Plan indicates that the maximum bins in any single collection are 7. With the inclusion of commercial waste this will rise to about 8. This collection can be achieved within less than 10 minutes. The current parking and loading restrictions is No Standing except for the setting down and loading of goods. Waste collections fall within this exception.

A revised WMP is required to address the missing details outlined above and restrict the collection times to those advised by City of Melbourne. Modifications to the floor plans would be required to address the issues raised above.

#### **7.6.5. Land survey**

City of Melbourne's Land Survey team has provided comments in relation to the development, specifically in relation to the projection over the Forum Theatre.

The title for the Forum Theatre is burdened by a covenant which restricts any new development to be constructed on the land to less than 45 metres reduced level as per the Australian Height Datum. The benefitting land is 25 Russell Street.

If a permit is to issue, Land Survey have requested that conditions along the following lines are included in the permit:

- Prior to the commencement of works the southern title boundary for the land must be realignment to include the additional air space of 3.5 metres above a reduced level of 45 metres AHD in the title for the proposed development, to ensure all the structure for the proposed development is contained within the one title.
- Prior to the commencement of works a light and air easement with a minimum width of 5 metres must be created along the southern boundary above a reduced level of 45 metres AHD adjacent to the realignment title boundary.

#### **7.6.6. ESD and stormwater management**

Local policies Clause 22.19 and Clause 22.24 address matters of ESD and stormwater management. Clause 22.24 has only been introduced into the scheme recently and as such the applicant has not provided an assessment against the requirements of this policy. If a permit is to issue appropriate conditions relating to the requirements of Clause 22.24 should be included.

The ESD report submitted by the applicant indicates that there is no Greenstar Rating tool for hotels, however the NABERS Energy and Water for Hotel Rating system is commonly used as an equivalent. The residential, commercial and retail components of the development must be assessed against the policy design rating under the Green Star Multi-Unit tool. It is considered that the report has insufficient detail and does not adequately verify that the development has the design potential to meet the requirements of Clause 22.19. A revised ESD statement should be



submitted with sufficient evidence and justification to satisfy the requirements of Clause 22.19.

### **7.7. Conclusion**

In summary, it is concluded that the potential benefits associated with the proposed refurbishment works to the Forum Theatre do not justify the overall development, given the major issues relating to the proposed hotel tower. The development does not adequately address the relevant heritage and built form policy directions and decision guidelines of the Melbourne Planning Scheme.

The design of the proposal fails to adequately acknowledge or have regard for the consistent and cohesive scale of the block bounded by Flinders Street, Russell Street, Collins Street and Flinders Lane that is defined by the scale of existing built form and prominent landmarks such as St Pauls Cathedral and the Forum Theatre.

The development is an overdevelopment of the site that will unreasonably dominate the immediate area by virtue of excessive height, lack of appropriate setbacks, impact to adjoining significant heritage buildings, impact to Hosier Lane and overshadowing of key public spaces.

## **8. OFFICER RECOMMENDATION**

That a letter be sent to DTPLI advising that the City of Melbourne objects the proposal on the following grounds:

1. The development fails to comply with the relevant policy directions, objectives and decision guidelines of Clause 22.04 Heritage Places within the Capital City Zone and the Heritage Overlay of the Melbourne Planning Scheme.
2. The development fails to conserve and enhance the character and appearance of the heritage place and does not adequately respect the existing character, scale, form and appearance of the heritage place.
3. The development by virtue of its location, bulk, form and appearance will adversely affect the significance of the Forum Theatre and other adjoining buildings.
4. The proposed height, combined with the lack of adequate setbacks fails to comply with the provisions of Design and Development Overlay Schedule 2 A5 and Clause 22.01 Urban Design within the Capital City Zone of the Melbourne Planning Scheme and is considered an overdevelopment of the site.
5. The development will have an adverse impact on the amenity of Russell Street, Flinders Street, Hosier Lane and Federation Square through building height, inadequate setbacks, overshadowing and visual bulk.
6. The development fails to complement, respect or relate to the low scale surrounding area, particularly to the established street wall pattern along Russell Street and the low scale and pedestrian friendly nature of Hosier Lane.