

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

**Agenda item 6.6**

**Ministerial Planning Referral: TPM-2013-16  
398-406 Elizabeth Street, Melbourne**

**3 December 2013**

**Presenter:** Daniel Soussan, Planning Co-ordinator

**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of a Ministerial Planning Application (reference 2013/006810) for 398-406 Elizabeth Street, Melbourne. The planning application was referred to the City of Melbourne by the Department of Transport, Planning and Local Infrastructure (DTPLI) on 18 July 2013 (refer Attachment 2 – Locality Plan and Attachment 3 – Proposed plans). The applicant is PDS Group Pty Ltd c/o SJB Planning, the owner is Alberay Pty Ltd and the architect is Hayball Pty Ltd.
2. The application seeks a permit to demolish the two existing single storey ungraded buildings and construct a 55 storey, 178 metre high, tower. The building is to be occupied by retail at ground and first level, car parking on levels 2-8, an office pod per floor on levels 2-8 and 466 dwellings.

**Key issues**

3. The proposed height is contrary to the Municipal Strategic Statement Clause 21.12 of the Melbourne Planning Scheme (MPS) which identifies the site within an area to have a lower scale than the Hoddle Grid to provide a contrast in built form scale between the lower scale of Carlton and North Melbourne and the Hoddle Grid.
4. The proposed height, coupled with the lack of podium and tower typology and lack of upper level setbacks from the Elizabeth and A'Beckett Street frontages is contrary to Clause 22.01 of the MPS. The 178 metre sheer wall onto the street frontages will overwhelm pedestrians and result in a building which is visually intrusive and dominant from the public realm, produce a canyon effect in A'Beckett Street and have little reference to a pedestrian scale of built form.
5. The lack of setbacks from the eastern and southern boundaries are contrary to Clause 22.01 of the MPS in that they do not adequately respond to the development potential of adjoining sites or the objective that towers be spaced to ensure equitable access to daylight and sunlight.
6. Above level 8, the tower is proposed to be set back 2.2 metres from the eastern elevation. Future responsibility for providing tower separation would have to be borne by the adjoining property. Should the adjoining property be developed with a similar or lesser setback, the narrow gap between towers will create a canyon effect, resulting in a poor outcome for the A'Beckett Street streetscape and severely compromising the outlook of the proposed apartments.
7. The tower is proposed to be setback only 5 metres from the southern boundary above level 8. In some circumstances the City of Melbourne has approved a 5 metre side boundary setback on the basis that the adjoining property will replicate the setback (providing a 10m separation). This situation is only suitable where apartments are off-set or oriented to ensure apartments maintain an outlook or where the façade is predominantly services (such as lift core and non-habitable rooms). In this case, the southern façade of the proposal is predominantly apartments with a south facing outlook.

**Recommendation from management**

8. That the Future Melbourne Committee resolve that a letter be sent to the Department of Transport, Planning and Local Infrastructure advising that:
  - 8.1. The Council objects to the application 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 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.

### Relation to Council policy

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

### Environmental sustainability

6. A Sustainability Statement forms part of the application submission. It includes the advice that the proposed development incorporates a wide range of ESD features and sets out primary goals to enhance the building's environmental performance and meet the objectives of the MPS. It also lists a number of these features. The report however only suggests that the proposal will achieve a four star green star rating. Clause 22.19 would seek a five star green star rating. This forms one of the proposed grounds of objection.

# Locality Plan

## 398-406 Elizabeth Street, Melbourne



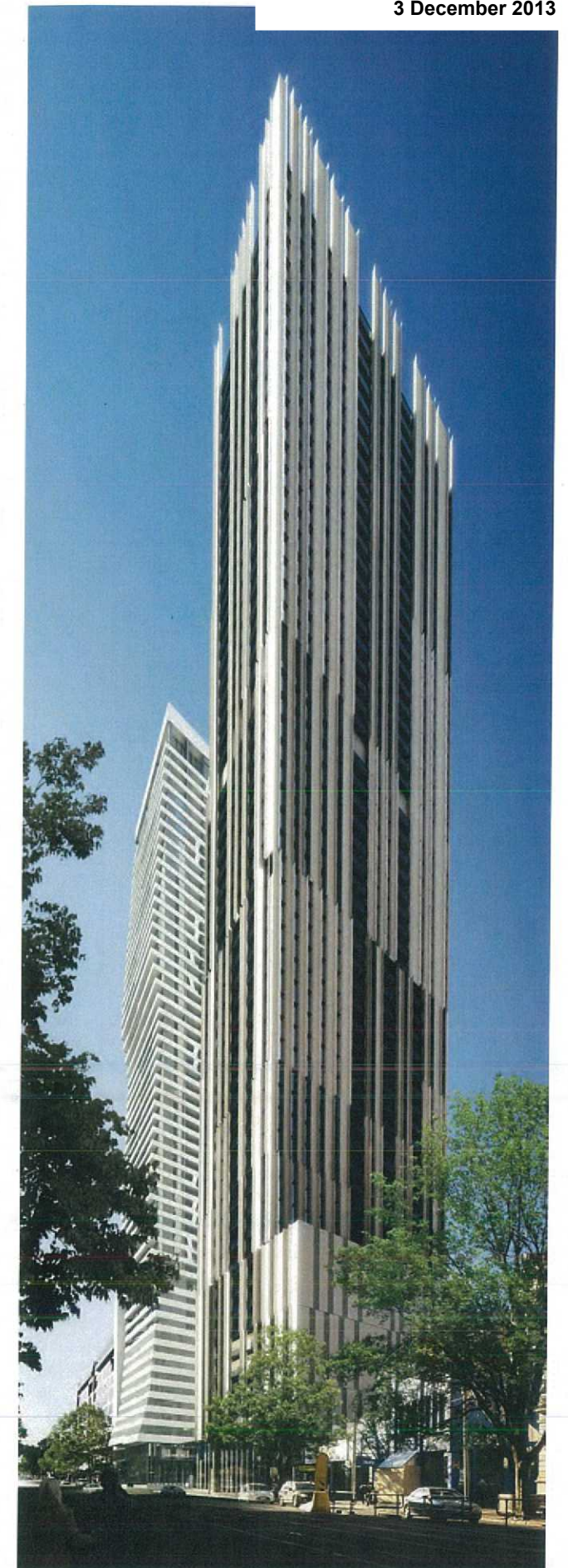
3D RENDER VIEWS



VIEW FROM NORTH WEST / ELIZABETH STREET

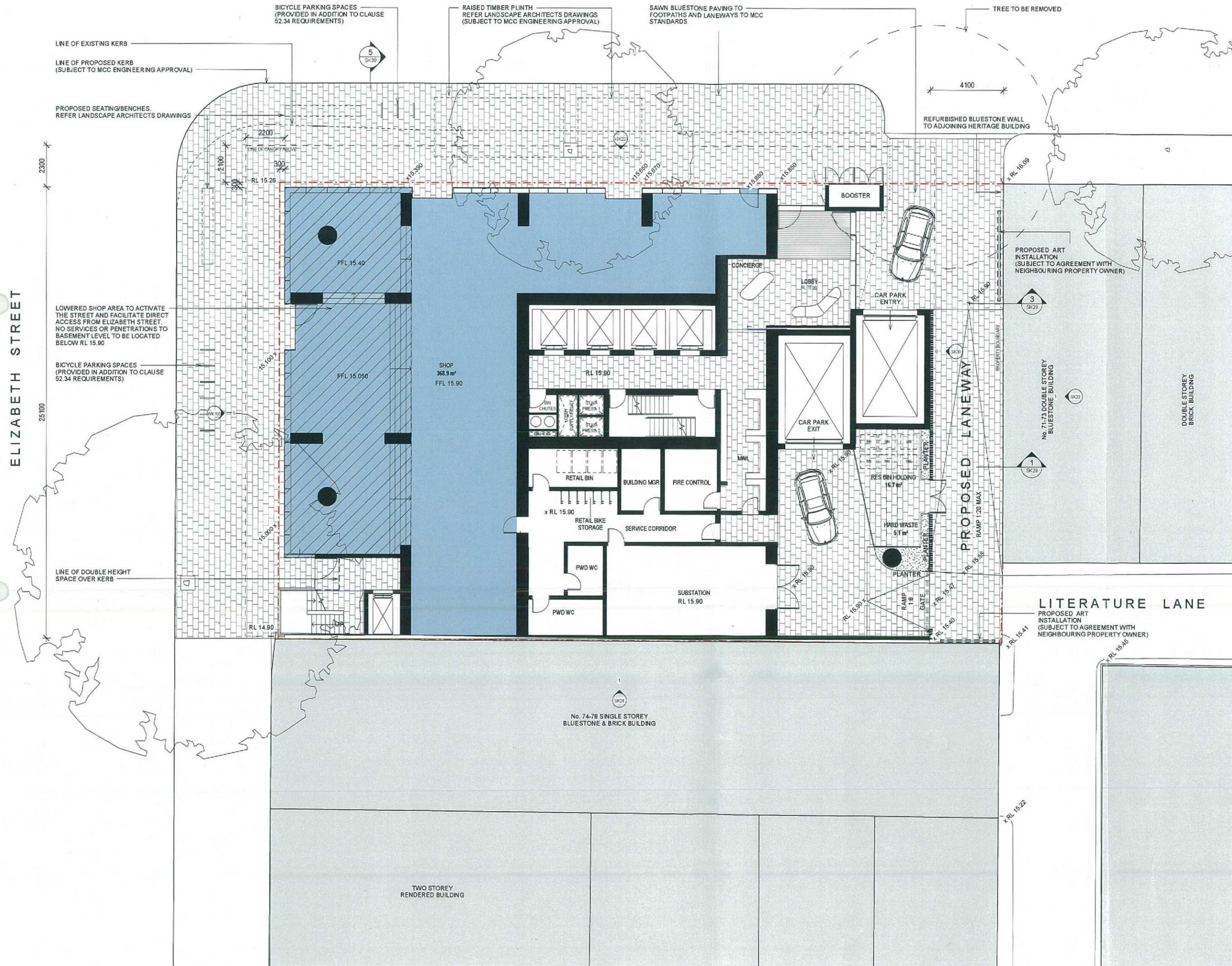


VIEW FROM WEST / A'BECKETT STREET



VIEW FROM SOUTH / ELIZABETH STREET

A'BECKETT STREET



2	RFI RESPONSE	20.08.13
1	PLANNING PERMIT APPLICATION	11.07.13

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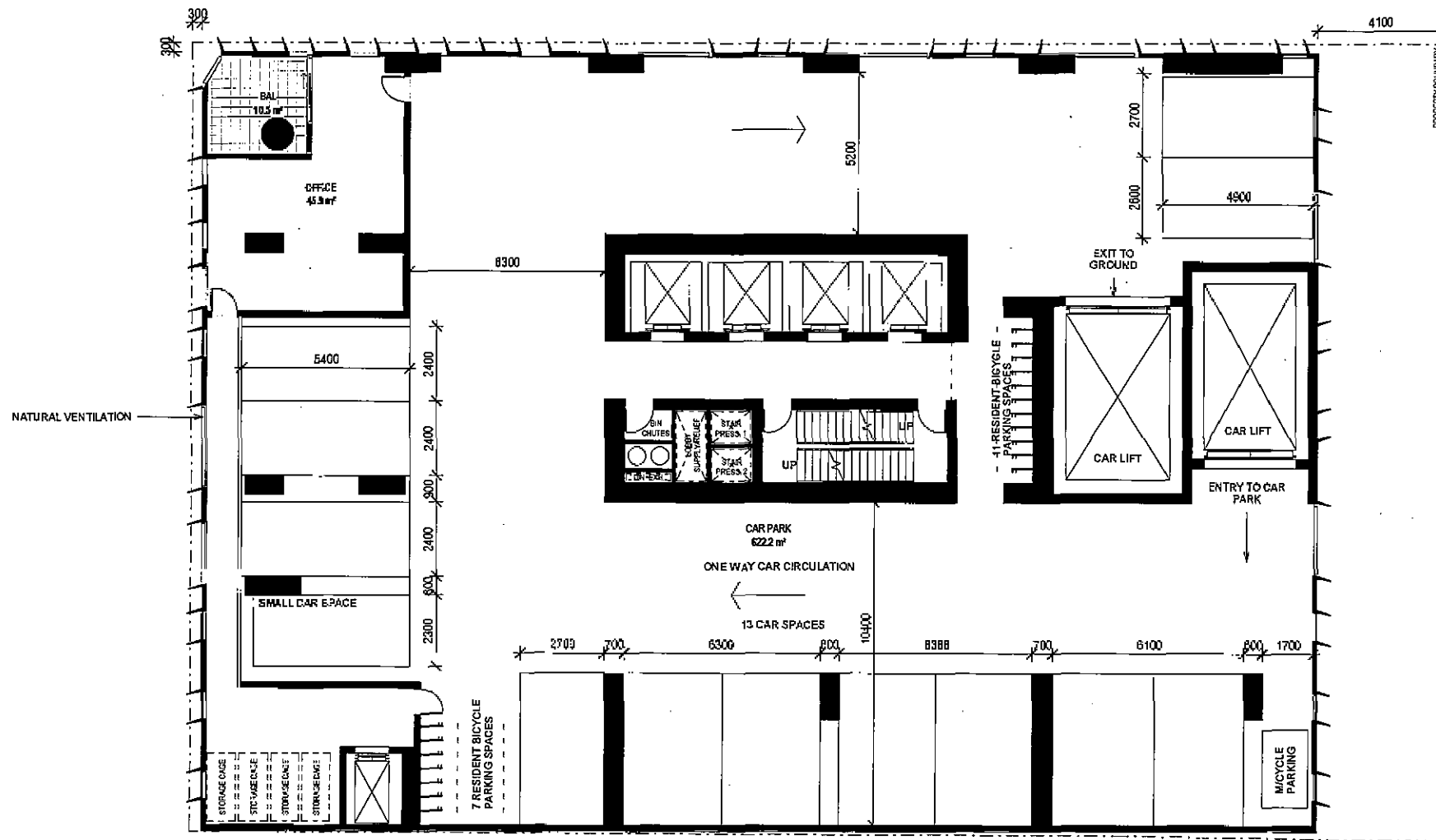
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**1802 ELIZABETH**  
 398 ELIZABETH STREET  
 MELBOURNE 3000

TITLE  
**GROUND FLOOR PLAN**

PROJECT NO 1802  
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PROJECT 1802 DWG NO SK03 2



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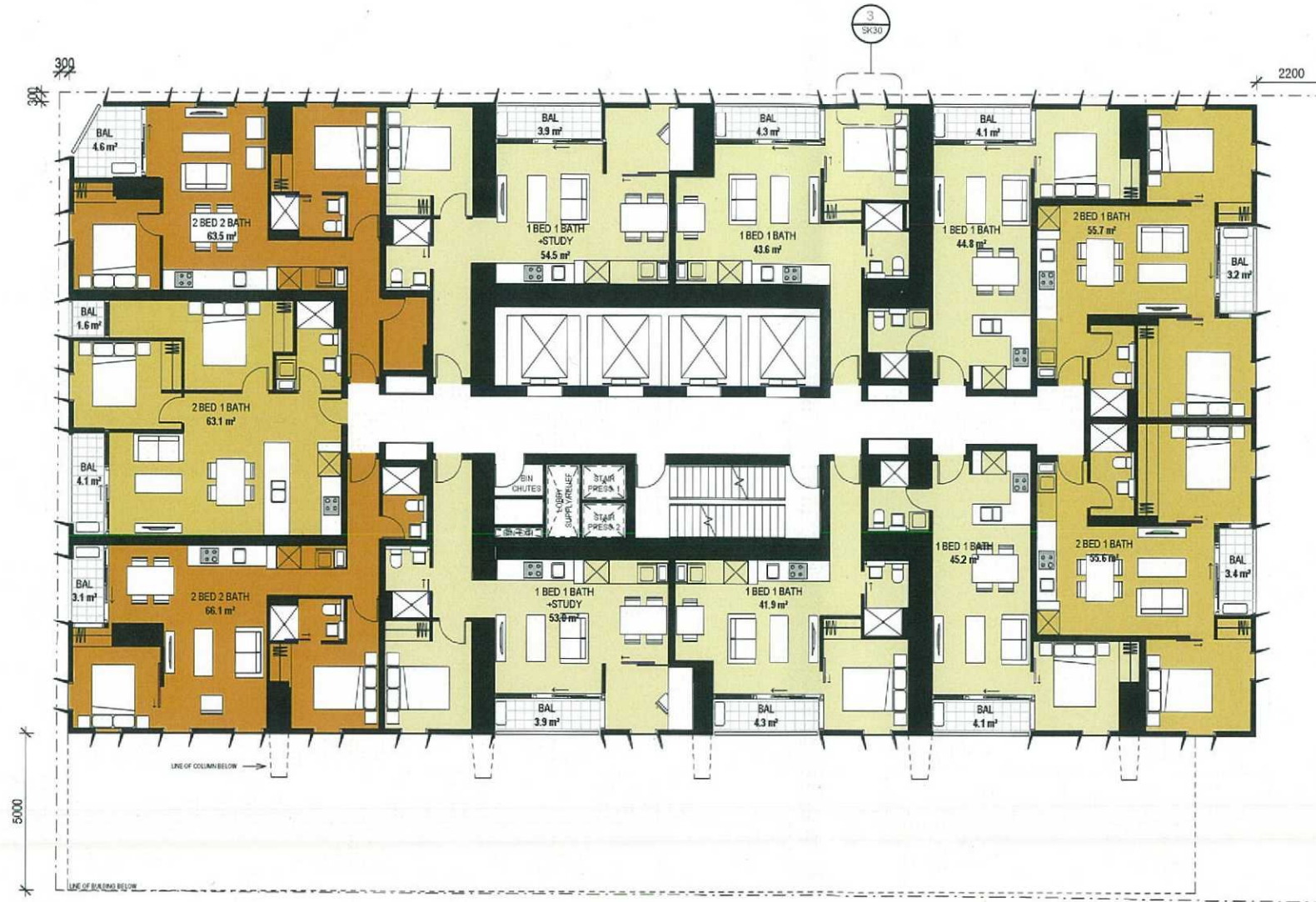
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1802\_ELIZABETH  
 398 ELIZABETH STREET  
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TITLE  
 LEVEL 3

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PROJECT 1802 DWG NO SK06 2



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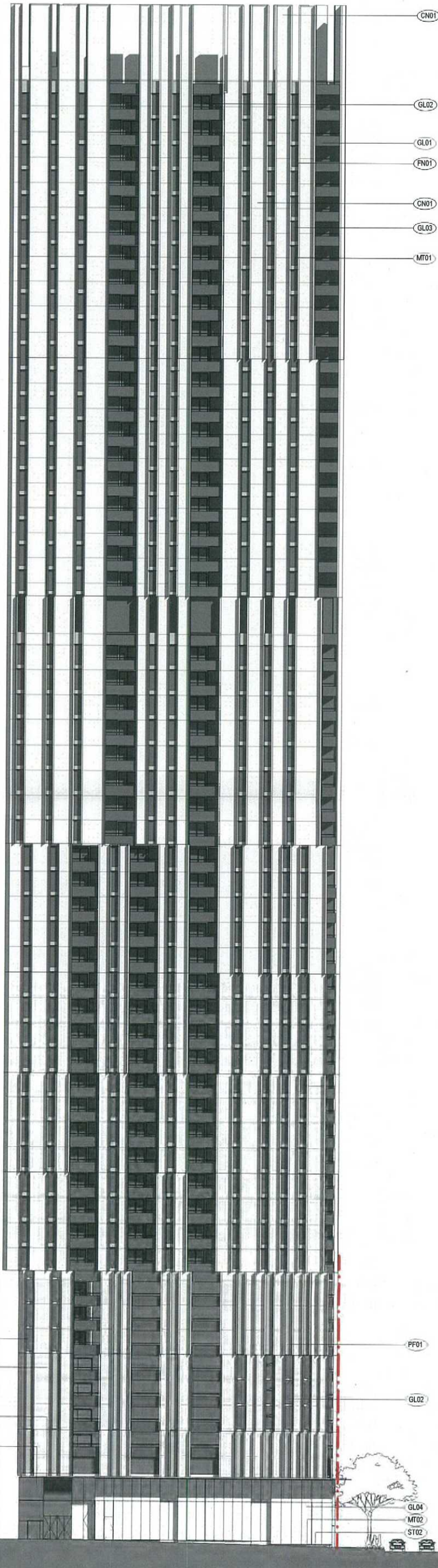
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MATERIAL LEGEND

CN01	CONCRETE PANEL, BRIGHTONLITE OFF-WHITE CEMENT COLOUR
FN01	ALUMINIUM FACADE FIN LIGHT NATURAL ANODISED ALUMINIUM COLOUR
GL01	FRAMELESS GLASS BALUSTRADE, GREY COLOUR
GL02	ALUMINIUM FRAMED GLAZING SYSTEM, CLEAR GLASS
GL03	FRONT GLAZED GLAZING SYSTEM, GREY COLOUR / OPAQUE SPANDREL PANEL
GL04	SHOPFRONT GLAZING AND FRAMELESS DOORS, CLEAR FULL HEIGHT GLAZING TO STRUCTURAL GLAZING MULLIONS.
PF01	PERFORATED METAL CLADDING DARK GREY COLOUR
MT01	HORIZONTAL METAL SUNSHADE, DARK COLOUR
MT02	FRAMED METAL CANOPY & CLADDING TO CAR LIFT ENTRY, DARK GREY COLOUR
MT03	METAL FIN, DARK GREY COLOUR
MT04	METAL WINDOW SURROUND/SHROUD DARK GREY COLOUR
ST01	HIGH QUALITY BLUESTONE CLADDING
ST02	SAWN BLUESTONE CLADDING

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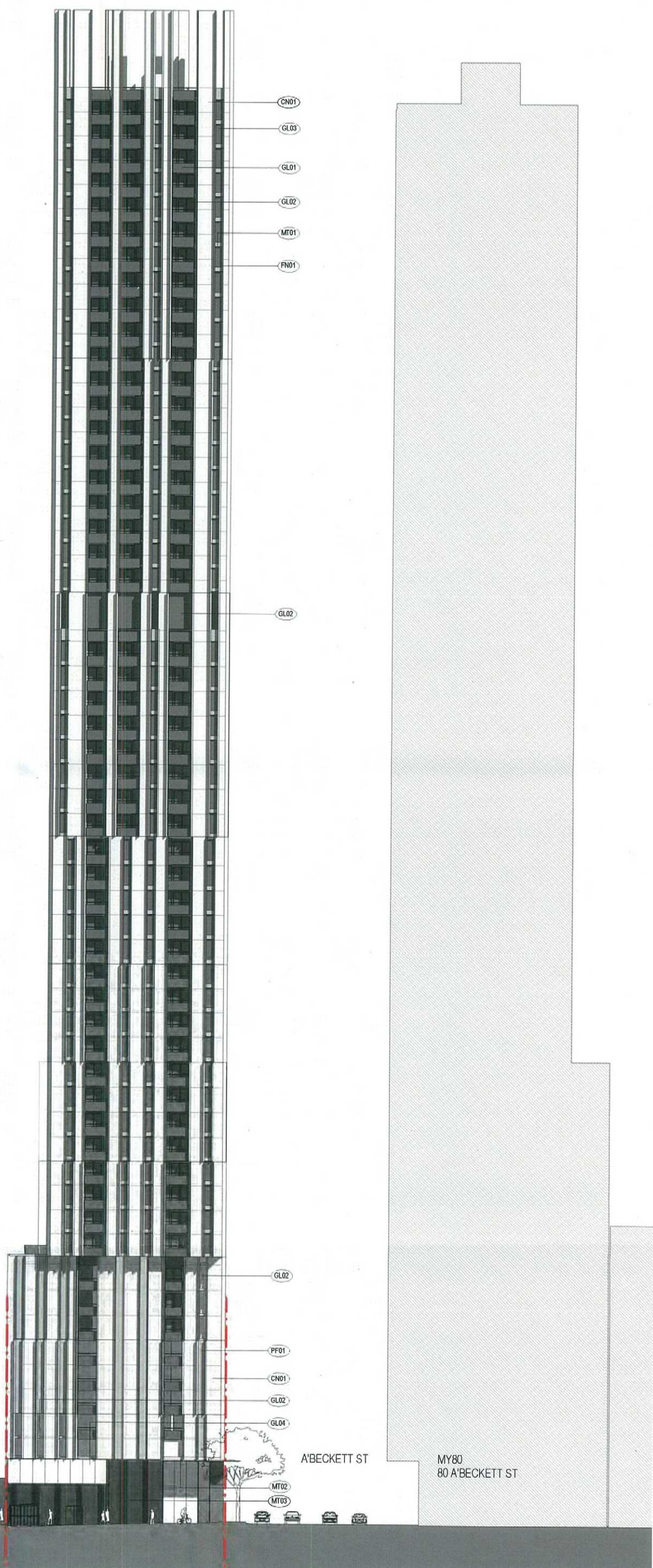
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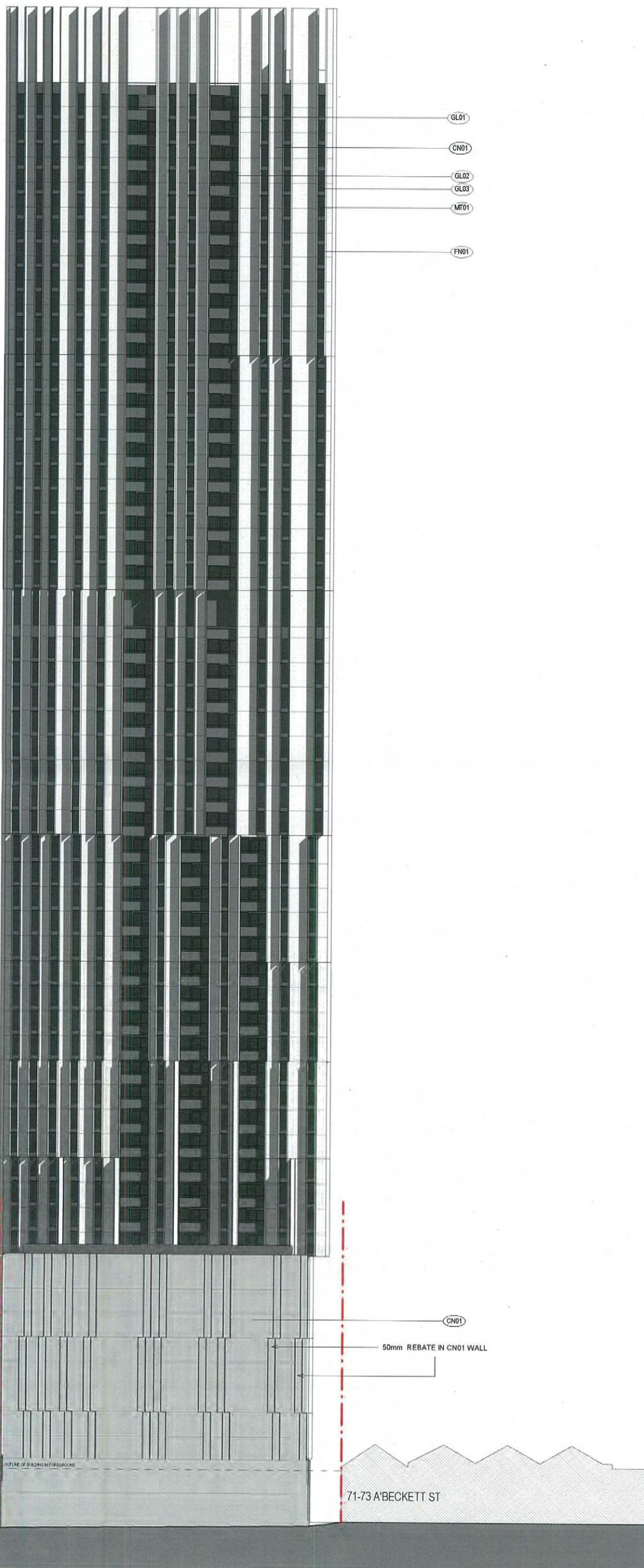
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1802 ELIZABETH  
 398 ELIZABETH STREET  
 MELBOURNE 3000

TITLE  
 EAST ELEVATION

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TOWN PLANNING  
**hayball**

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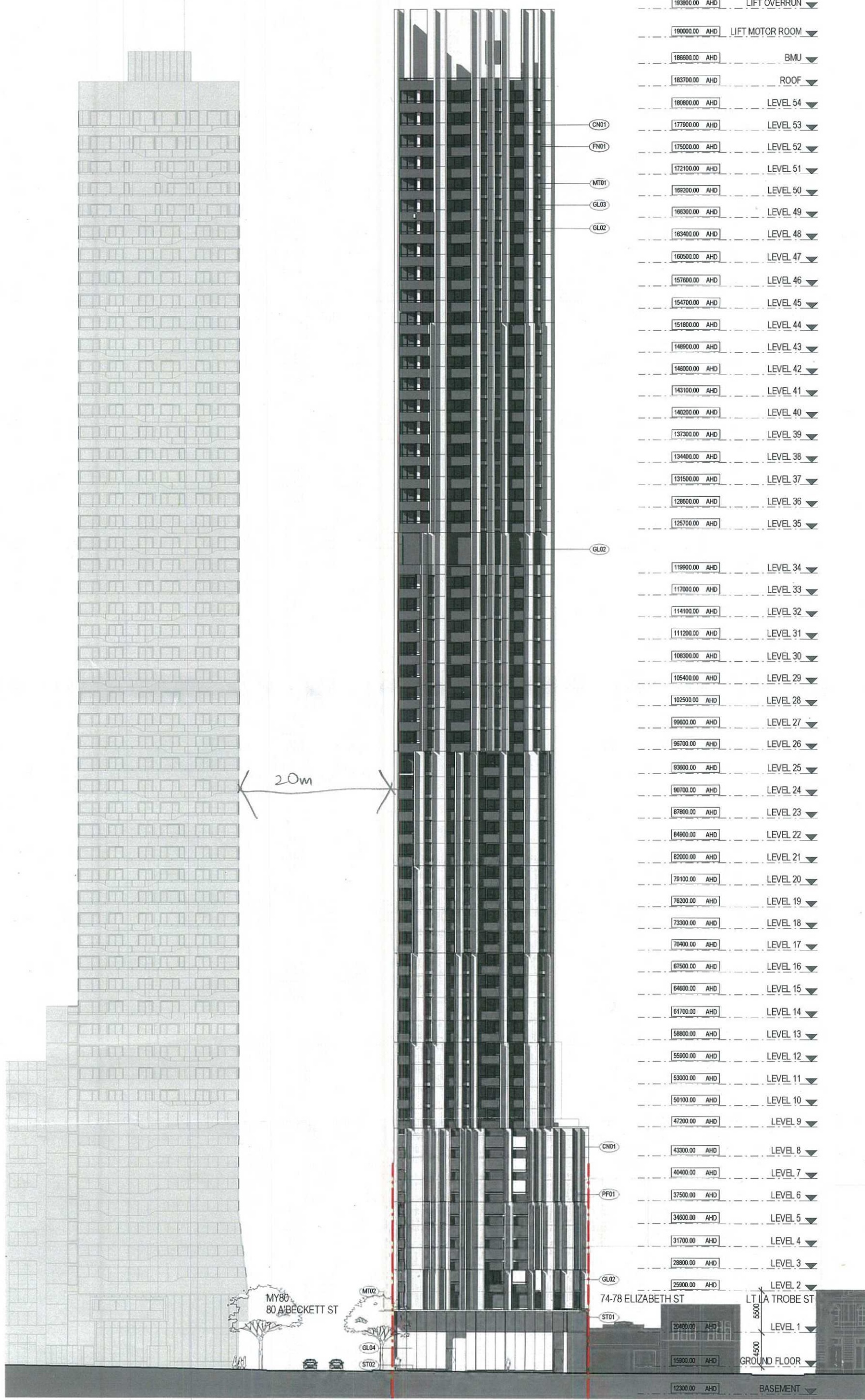
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1802 ELIZABETH  
 398 ELIZABETH STREET  
 MELBOURNE 3000

TITLE  
**SOUTH ELEVATION**

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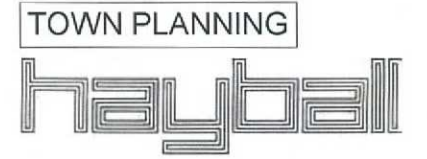
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70400.00 AHD	LEVEL 17
67500.00 AHD	LEVEL 16
64600.00 AHD	LEVEL 15
61700.00 AHD	LEVEL 14
58800.00 AHD	LEVEL 13
55900.00 AHD	LEVEL 12
53000.00 AHD	LEVEL 11
50100.00 AHD	LEVEL 10
47200.00 AHD	LEVEL 9
43300.00 AHD	LEVEL 8
40400.00 AHD	LEVEL 7
37500.00 AHD	LEVEL 6
34600.00 AHD	LEVEL 5
31700.00 AHD	LEVEL 4
28800.00 AHD	LEVEL 3
25900.00 AHD	LEVEL 2
20400.00 AHD	LEVEL 1
15900.00 AHD	GROUND FLOOR
12300.00 AHD	BASEMENT

**MATERIAL LEGEND**

CN01	CONCRETE PANEL, BRIGHTONLITE OFF-WHITE CEMENT COLOUR
FN01	ALUMINIUM FACADE FIN LIGHT NATURAL ANODISED ALUMINIUM COLOUR
GL01	FRAMELESS GLASS BALUSTRADE, GREY COLOUR
GL02	ALUMINIUM FRAMED GLAZING SYSTEM, CLEAR GLASS
GL03	FRONT GLAZED GLAZING SYSTEM, GREY COLOUR / OPAQUE SPANDREL PANEL
GL04	SHOPFRONT GLAZING AND FRAMELESS DOORS, CLEAR FULL HEIGHT GLAZING TO STRUCTURAL GLAZING MULLIONS.
PF01	PERFORATED METAL CLADDING DARK GREY COLOUR
MT01	HORIZONTAL METAL SUNSHADE, DARK COLOUR
MT02	FRAMED METAL CANOPY & CLADDING TO CAR LIFT ENTRY, DARK GREY COLOUR
MT03	METAL FIN, DARK GREY COLOUR
MT04	METAL WINDOW SURROUND/SIROUD DARK GREY COLOUR
ST01	HIGH QUALITY BLUESTONE CLADDING
ST02	SAWN BLUESTONE CLADDING

2	RFI RESPONSE	20.09.13
1	PLANNING PERMIT APPLICATION	11.07.13

Rev	Description	Date
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Refer to Contractors and verify all dimensions before any job commences. Figures dimensions shall take precedence over graphic scale. Work shall also conform to the specifications, other drawings and job dimensions. All shop drawings shall be submitted to the Architect/Consultant and manufacturer shall not commence prior to the return of shop drawings signed by the Architect/Consultant. © Copyright 2013 All rights reserved.

**1802 ELIZABETH**  
 398 ELIZABETH STREET  
 MELBOURNE 3000

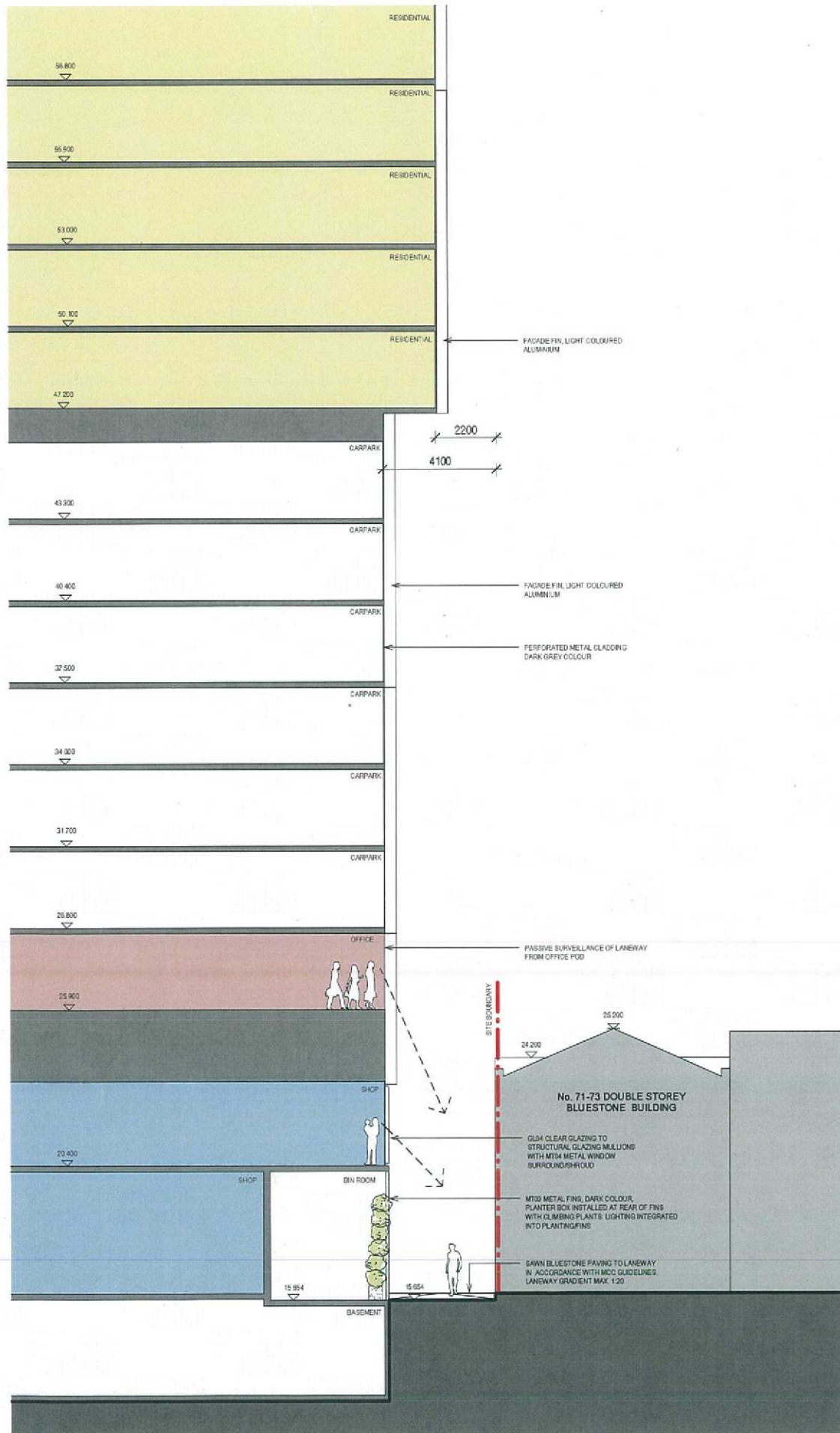
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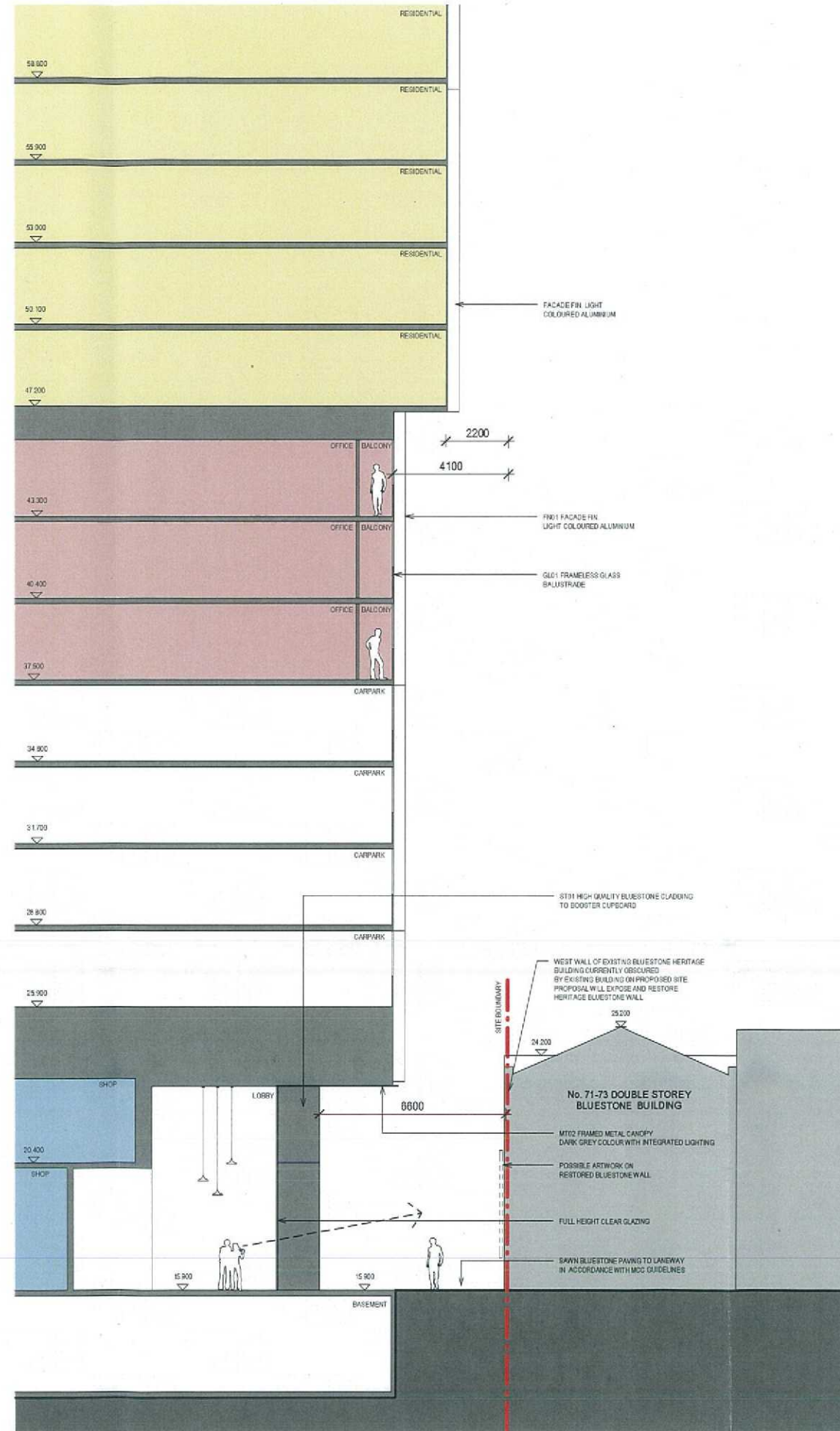
PROJECT DWG NO **SK25** 2  
 1:500 @ A3 ✓

MATERIAL LEGEND

CN01	CONCRETE PANEL, BRIGHTONLITE OFF-WHITE CEMENT COLOUR
FN01	ALUMINIUM FACADE FIN LIGHT NATURAL ANODISED ALUMINIUM COLOUR
GL01	FRAMELESS GLASS BALUSTRADE, GREY COLOUR
GL02	ALUMINIUM FRAMED GLAZING SYSTEM, CLEAR GLASS
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MT04	METAL WINDOW SURROUND/SHROUD DARK GREY COLOUR
ST01	HIGH QUALITY BLUESTONE CLADDING
ST02	SAWN BLUESTONE CLADDING



SECTION THROUGH BIN ROOM  
1  
SK00



SECTION THROUGH LOBBY  
3  
SK00

2	RFI RESPONSE	20.08.13
Rev	Description	Date



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1802 ELIZABETH  
398 ELIZABETH STREET  
MELBOURNE 3000

TITLE  
PROPOSED LANEWAY  
SECTIONS

PROJECT NO 1802  
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DATE PRINTED 23/09/2013 11:56:24 AM  
SCALE As Indicated

PROJECT 1802 DWG NO SK29 2

## PLANNING REPORT

### MINISTERIAL REFERRAL

<b>Application number:</b>	<b>TPM-2013-16</b>
<b>DTPLI Application Number:</b>	<b>2013/006810</b>
<b>Applicant / Owner / Architect:</b>	Applicant – PDS Group Pty Ltd c/- SJB Planning  Owner – Alberay Pty Ltd  Architect – Hayball Pty Ltd
<b>Address:</b>	398 – 406 Elizabeth Street, MELBOURNE VIC 3000
<b>Proposal:</b>	Demolition of the existing buildings and construction of a multi storey building comprising residential apartments, office, lower level retail premises (excluding adult sex bookshop, department store, hotel, supermarket, and tavern) and to waive the on-site loading requirements under Clause 52.07 of the Scheme (DTPLI ref 2013/006810)
<b>Date received by City of Melbourne:</b>	18 July 2013. Response to DTPLI request for further information received by City of Melbourne on 8 October 2013
<b>Responsible officer:</b>	Katherine Smart

#### 1. SUBJECT SITE AND SURROUNDS

##### 1.1. The site

The site has a 25.4 metre frontage to Elizabeth Street and 40.36 metres to A'Beckett Street with a total area of 1,030 square metres. The rear of the site also abuts Literature Lane for a length of approximately 4.63 metres. The site is relatively flat.

The site is currently occupied by two, single storey, ungraded buildings currently used as a hair salon and restaurant. There are two vehicular crossings from A'Beckett Street and access can also be gained from Literature Lane.

##### 1.2. Surrounds

The surrounding area is currently quite low scale, with a small number of multi-storey buildings in the wider area. Generally buildings are single storey to mid-rise and built to all boundaries with retail frontages. There has however been recent approval of some larger buildings in the immediate area.

More particularly with respect to the immediate area it is noted that:

- To the north across A'Beckett Street at No. 410 Elizabeth Street is the 'MY80', a 54 storey residential development currently under construction with generally no setbacks to the street. To the north-east at 58-64 A'Beckett Street is an approval for a high rise building with limited front setbacks.
- To the south is a two storey ungraded commercial building. Further south across Little La Trobe Street is a two storey 'B' graded building. There are no current approvals on either of these sites.
- To the east is a two storey 'A' graded heritage building and a two storey 'B' graded heritage building, both of which front A'Beckett Street.
- West across Elizabeth Street is a six storey building with retail at ground level and apartments above.



## 2. THE PROPOSAL

The plans forming the subject of this assessment are a combination of those initially received (date stamped 18 July 2013) and plans received in response to the further information request from DTPLI (date stamped 1 October 2013). It is proposed to partly demolish the existing buildings and construct a 55 storey, 177.9 metre high tower (plus basement and roof plant).

The application proposes the following uses:

<b>Dwelling</b>	Total number of dwellings: 466 One bedroom dwellings: 116 One bedroom + study: 62 Two bedroom dwellings: 260
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	Three bedroom dwellings: 28
<b>Office</b>	Leasable Floor Area 389sqm at levels 2 to 8
<b>Retail</b>	1,016sqm at ground and first level.

The floor plans also include the following:

- Widening of the A'Beckett Street footpath and proposed landscaping and street furniture.
- Proposed 4.1 metre wide laneway linking A'Beckett Street to Literature Lane along the eastern boundary of the site. The proposed laneway is also to be used as a loading dock and car park entry to the building.
- A new crossing and the removal of a street tree on the A'Beckett Street frontage.
- Building services at basement level.
- Levels 2 to 8 containing car parking and one office pod per floor.
- Plant and communal residential amenities on Level 34.
- Plant at levels 55 to 57.

The specific details of the proposal are as follows:

<b>Building height</b>	177.9 metres to the top of the roof plant.
<b>Podium height</b>	The building sets back from the southern boundary from level nine at a height of 32.2 metres
<b>Front, side and rear setbacks</b>	<p>North (A'Beckett Street): the building is setback 300mm at all levels. Fins which are an architectural feature of the building façade have varying projections over the title boundary from slightly projecting to a maximum of 300mm.</p> <p>West (Elizabeth Street): the building is setback 300mm at all levels. Fins which are an architectural feature of the building have varying projections over the title boundary from slightly projecting to a maximum of 300mm.</p> <p>East: From ground level to level nine the building is setback 4.1 metres from the eastern boundary. From level nine and above the building cantilevers over the 'podium' setback 2.2 metres from the eastern boundary. From level two and above the architectural fins are used on this elevation.</p> <p>South: From ground level to level nine the building is built to the boundary and then sets in 5 metres from the southern boundary. From level nine and above the fins are used on this elevation.</p>
<b>Gross floor area (GFA)</b>	The area schedule forming part of the application documentation states that the gross floor area is 43,583 square metres.
<b>Car parking spaces</b>	A total of 94 car spaces are to be provided, as well as

	six motorcycle spaces.
<b>Bicycle facilities and spaces</b>	173 spaces provided; 51 in the basement, seven at ground, and 11 on each of the levels 2 to 8. 18 additional spaces are proposed on the footpath.
<b>Loading/unloading</b>	No loading dock has been proposed.
<b>Vehicle access</b>	Car spaces are to be accessed from a new crossing from A'Beckett Street via a car lift.
<b>Finishes</b>	<p>The building has been designed 'in the round' with no blank facades. The applicant has described the building as 'a dark box wrapped in shifting and peeling concrete fins.' The building façade comprises of vertical precast concrete panels, grey spandrel glazing, grey glass glazed balustrades for balconies and a lighter coloured concrete vertical fins. The ground level shopfronts are to be clear glazing. The car parking podium levels are dark grey perforated metal cladding.</p> <p>A steel framed dark grey metal canopy is proposed above level one on both street frontages, it projects 2.1 metres over the tile boundary</p>

### 3. BACKGROUND

#### 3.1. Pre-application discussions

The plans presented at the pre-application meeting were for a 55 storey building similar to the application proposal.

The key issues raised at the pre-application meeting were:

- Tower setbacks in relation to streetscapes and adjoining properties development opportunities.
- Greater activation of street frontages is required in the car parking podium.
- Activation of the ground level along the proposed lane.
- Potential wind impacts.

#### 3.2. Site history

There is no directly relevant history or background for this application.

### 4. PLANNING SCHEME PROVISIONS

The following provisions of the Melbourne Planning Scheme apply:

State Planning Policies	<p>Clause 11 – Settlement.</p> <p>Clause 15.01-1- Urban Design.</p> <p>Clause 15.01-5 – Cultural Identity and neighbourhood character.</p> <p>Clause 15.02 – Sustainable development.</p> <p>Clause 15.03 – Heritage.</p>
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	<p>Clause 16 – Housing.</p> <p>Clause 18.02-1 – Sustainable personal transport.</p> <p>Clause 18.02-5 Car parking</p>
Municipal Strategic Statement	<p>Clause 21.03 – Vision.</p> <p>Clause 21.04-1 – Growth Area Framework.</p> <p>Clause 21.06-1 - Urban Design.</p> <p>Clause 21.06-2 – Heritage.</p> <p>Clause 21.06-3 – Sustainable development.</p> <p>Clause 21.07 – Housing.</p> <p>Clause 21.09 – Transport.</p> <p>Clause 21.12 – Hoddle Grid.</p>
Local Planning Policies	<p>Clause 22.01 – Urban Design within the Capital City Zone.</p> <p>Cause 22.02- Sunlight to Public Spaces.</p> <p>Clause 22.04 – Heritage Place within the Capital City Zone.</p> <p>Clause 22.19- Energy, Waste and Waste Efficiency.</p> <p>Clause 22.20 – CBD Lanes</p>

Statutory Controls	
Capital City Zone Schedule 1	<p>A permit is required to carry out demolition.</p> <p>A permit is required to carry out buildings and works.</p> <p>Retail, office and accommodation are Section 1 uses.</p>
Design and Development Overlay	<p>Clause 43.02-2 states that a permit is required to carry out buildings and works, but that this does not apply if a schedule to the overlay specifically states that a permit is not required.</p>
Design and Development Overlay 1 – Active Street frontage	<p>This overlay applies to the Elizabeth Street frontage of the site. Pursuant to this overlay, a permit is required to carry out buildings and works at ground level. The proposed development requires a permit under this overlay.</p>
Design and	<p>This overlay applies to the Elizabeth Street frontage. A permit is not</p>

Development Overlay 4 – Weather Protection	<p>required to carry out buildings and works if adequate weather protection to the street frontage is provided to the satisfaction of the Responsible Authority.</p> <p>The proposed canopies should be to the satisfaction of the Responsible Authority.</p>
Special Building Overlay	<p>Pursuant to Clause 44.05-1 a permit is required to construct a building or carry out works. An application must be referred to Melbourne Water. As the Minister for Planning is the Responsible Authority, DTPLI has responsibility for this referral. (Melbourne Water responded with no objection subject to conditions)</p>
Parking Overlay 1	<p>A permit is required to provide parking in excess of the car parking rates in Clause 3.0 of Schedule 1 to the Parking Overlay. Clause 3.0 sets a rate of 1 space per dwelling. However, Clause 2.0 states that this permit requirement does not apply to additional car parking to serve dwellings or a residential hotel.</p> <p>In addition to car parking for the residential component a number of spaces may also be provided for the retail and office components, without a permit. A permit is required to exceed this number.</p> <p>The proposal generates a maximum allowance of 466 spaces for the dwellings and 7 for the commercial component.</p> <p>The proposed development for 94 car parking spaces is below the maximum limits and no permit is required for the proposed car parking provision.</p> <p>Motorcycle parking: the schedule states that motor cycle parking should be provided at a rate of one space per 100 car parking spaces. Six parking spaces have been provided which meets the requirements and therefore there is no permit trigger.</p>

Particular Provisions	
Clause 52.06, Car Parking	<p>Pursuant to Clause 52.06-3, a permit is required to provide more than the maximum parking provision specified in a schedule to the Parking Overlay.</p> <p>As stated above, the proposed car parking provision is within the limits set out for Parking Overlay 1.</p>
Clause 52.07, Loading and Unloading of Vehicles	<p>Clause 52.07 applies to applications for the manufacture, servicing, storage or sale of goods or materials. As part of the land is to be used for retail purposes, a permit is triggered under this clause. The applicant has indicated that they are not providing a loading area however it is likely that the proposed laneway may be used for this purpose.</p>
Clause 52.34, Bicycle Facilities	<p>A permit may be granted to reduce or waive the bicycle parking requirement.</p> <p>Pursuant to Clause 52.34, the proposed uses generate a requirement for a minimum of 144 bikes, inclusive of 93 resident, 2 employee and 49</p>

	visitor bicycle spaces. 173 spaces are provided. Therefore, no permit is required to reduce the bicycle parking requirement.
Clause 52.35, Urban Context Report and Design Response for Residential Development of Four or More Storeys	This has been provided to DTPLI.
Clause 52.36, Integrated Public Transport Planning	An application for developments in excess of 60 dwellings must be referred to PTV for comment. As the Minister for Planning is the Responsible Authority, DTPLI has responsibility for this referral.

General Provisions	
Clause 61.01 – Administration and enforcement of this scheme	The Minister for Planning is the responsible authority for this planning permit application as the total floor area of the development exceeds 25,000 square metres.
Clause 65 – Approval of an application or plan	This clause sets out Decision Guidelines. These include the matters set out in Section 60 of the Act.

## 5. PUBLIC NOTIFICATION

The application has been referred to the City of Melbourne for comment. The covering letter from DTPLI includes the statement that the application is exempt from notice under Section 52 of the Act. This is correct in relation to Capital City Zone 1 provisions, Design and Development Overlay 1 and 4 and Special Building Overlay.

## 6. REFERRALS

The application was referred to Urban Design, Engineering Services, Land Survey, Urban Landscapes and the Municipal Building Surveyor. Key matters raised in responses are summarised/set out below.

### Urban Design

The comments include the following:

- The proposed plot ratio is approximately 42 which is indicative of an overdevelopment of the site.
- The height of 178 metres is considered excessive and inconsistent with the MSS which includes: 'ensure the area bounded by Latrobe and Victoria Streets and Elizabeth / Peel Streets has a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle grid.'

- Setbacks from boundaries are inadequate.
- Proposal compromises development potential of adjoining properties to the east and south.
- The use of fins is supported.
- The canopy may impact on street trees and City of Melbourne requires comments from the appropriate branch.
- Support given for the proposed through-site link however note that it would be more successful with increased building setbacks.
- Insufficient active frontages to the new laneway or literature lane. Inhabited space could be provided by the relocation of the substation and or the deletion of a car lift.
- Upper podium levels are dominated by car parking. Car parking should be replaced with habitable space where it fronts onto public open space.
- All building entry points should be well lit and avoid areas of concealment. The depth of the recess outside the southwest entry should be less than its width.

### **Engineering Services**

#### Traffic Engineering

Made the following comments:

- The extension of kerbing to A'Beckett Street will result in a reduced lane to the intersection of Elizabeth / A'Beckett Streets and the removal of an existing on-street loading bay. Whilst this may be appropriate, Engineering Services considers that the Kerb extension should be excluded from the planning process. This matter will need to be addressed separately, taking into consideration the full intersection and the appropriate width of any kerb extension. The current proposal shows a widening of approximately 2.5 metres which will exclude any similar measures on the north side of the road.
- Car parking numbers and arrangements are supported.
- The statutory requirement for motorcycles has been met (6 provided).
- The statutory requirement for Bike parking has been met.
- The Traffix Group traffic report indicates that waste collection may be accommodated within the proposed laneway along the eastern boundary of the site. This area may also be utilised for loading. It is recommended that further information regarding gradients and sweep paths be prepared which show access for a loading vehicle to this area.
- A waste management plan is required and details of swept paths are required if the proposed lane is to be used for waste collection.

#### Infrastructure

Comments provided include the following:

- Object to the installation of the raised timber plinth and planter beds in the A'Beckett Street footpath.
- Stairs should be set back sufficiently to enable tactile ground surface indicators to be within site boundary.
- Maximum permissible width of vehicle crossover without pedestrian refuge is 7.6 m. (Note the width of crossover is less than 7.6m)

- All projections over the street alignment must conform to Building Regulations 2006, Part 5, Sections 505 to 514 as appropriate. Reference may be made to the City of Melbourne's Road Encroachment Guidelines with respect to projections impacting on street trees and clearances from face/back of kerb.
- The footpath in A'Beckett Street must be upgraded and reconstructed in sawn bluestone together with associated works, including the renewal and upgrade of kerb and channel adjacent the subject land.
- A number of matters of detail are raised, which can be addressed by conditions, if a permit is issued.

#### Waste Management

Council would prefer to collect the waste from this site and a Waste Management Plan (WMP) is required. Recommended condition regarding waste is provided.

#### **Land Survey**

The proposed development proposes a new laneway.

- The land can remain as part of the development and have a section 173 agreement for public access during certain times or 24/7. It also appears that it may be used as a loading dock by the development and this would affect the ability of the area to function as a new pedestrian link between the two roads.
- The land can be vested in Council as a Road on a plan of subdivision which would be under Council's care and management, in this case it would probably have no standing signs to allow for pedestrian use and safety.

#### **Urban Landscapes**

The application was referred to Urban Landscapes as a street tree in A'Beckett Street is proposed to be removed and other trees may be affected by the canopy. The advice received included:

- The adjoining street tree in Elizabeth Street cannot be removed. The proposed building's canopy will have a major impact on this tree as the tree will require heavy pruning.
- The adjoining street trees in A'Beckett Street can potentially be removed. The proposed building's canopy will have a major impact on the one remaining street tree as it will require heavy pruning.

#### **Municipal Building Surveyor**

The application was discussed with Council's Assistant Building Surveyor who advised that a Construction Management Plan would be required.

### **7. ASSESSMENT**

The key issues in the consideration of this application are:

- Height.
- Design and built form, including setbacks and the impact on development potential of adjoining properties.
- Active street frontages.
- Overshadowing.
- Loading and waste.
- Wind.

- ESD.
- Street trees

## Height

Pursuant to Clause 21.12 the MSS identifies this site in an area to have

“...a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.”

This is repeated with the following statement;

“...ensure a strong contrast in scale of development along Elizabeth Street from the lower scale areas to the north of Victoria Street and the higher scale of the Capital City Zone.”

The proposed height of 178m is more commensurate with building heights in the Hoddle Grid, however there are a number of taller buildings in the Elizabeth, La Trobe and Victoria Streets triangle, including:

- 55 storey tower currently under construction ‘MY80’ at 410 Elizabeth Street.
- 48 storey building permit issued at 58-64 A’Beckett Street.
- 32 and 42 storey buildings constructed at 475 Swanston Street.
- 33 storey building constructed at 19 A’Beckett Street.

In the area to the west of Elizabeth Street taller buildings include:

- 39 and 46 storey towers (above a podium) at 151 Franklin Street.

In relation to the proposal at 410 Elizabeth Street ‘MY80’, Council commented on 22 May 2009 to DPCD suggesting that the height of the building be reduced to 80 metres (as well as requesting a 40m podium and tower setback above this).

Despite the Council’s submissions, the 55 storey tower (without a podium or setbacks) has been approved and is now under construction.

The applicant advocates that this proposal, of this height and of a singular tower form “establishes a clear dialogue between the proposed building and its ‘partner building’ (MY80).

The proposed height of 178m is consistent with the taller skyscrapers within the Hoddle Grid and having regard to the lack of a podium tower form and any meaningful setbacks (discussed below), this height is contrary to the City of Melbourne’s MSS vision for future built form for this area. .

## Design and Built Form

### Podium

The Local Policy for Urban Design in the Capital City Zone (Clause 22.01) recommends that towers should have a podium height generally between 35 to 40 metres except where a different parapet height already exists or where the need to provide a context for a heritage building or to emphasise a street corner justifies a variation from this norm.

The applicant has submitted that the area has an abundant mix of building heights and styles with no prevailing podium height. A podium form was not provided on the site given the lack of a clear dominant podium height and size of the site. The

singular tower form has been designed to emphasise the corner site and 'establish a clear dialogue with 'MY80' to the north'.

There is no clearly established podium height for this area, unlike the Hoddle Grid. This is due to the area being a much lower scale with a variety of building heights from single to multi storey. However, to guide future development, planning policy has been put in place to pursue a future desired built form character which creates buildings with a pedestrian scale podium height of between 35 to 40 metres to achieve a built form extension to the Hoddle Grid.

Local Policy Clause 22.01 recommends a podium /tower typology, with exceptions including a need to emphasise a corner site. The City Of Melbourne's urban design branch raised concern regarding the lack of setback along the northern boundary, resulting in an inadequate setback to the MY80 building to the north (20 metres) and an overbearing impact on A'Beckett Street. The Urban Design department commented that particularly if the height is to be approved, the tower should be set back 10 metres from the street frontages to achieve a street wall height of human scale and to avoid a canyon effect to A'Beckett Street, while improving wind conditions at ground level.

Buildings have been approved with lesser setbacks to the streets where they have met the relevant Planning Scheme objectives.

Among the most important of these is the objective of Clause 22.01 which seeks to improve the pedestrian experience. Given the height of the tower, zero setbacks will overwhelm the pedestrian, resulting in a building which is visually intrusive and dominant from the Elizabeth and A'Beckett Streets public realm. A greater setback would reduce this impact.

While it is acknowledged that the building has been designed 'in the round' for this corner site, the proposal is contrary to Local Policy 22.01 and a building of this height should be of a podium/tower typology.

The proposed height coupled with the lack of podium and upper level setbacks is contrary with the relevant objectives of Clause 22.01 and cannot be supported.

#### Setbacks

The Local Policy for Urban Design in the Capital City Zone (Clause 22.01) recommends that towers be set back at least 10 metres from street frontages and they be spaced to ensure equitable access to daylight and sunlight. Towers should be 24 metres from a similar tower-podium development. Separation may be reduced where it can be demonstrated that towers are offset, habitable room windows do not directly face one another and where consideration is given to the development potential of adjoining sites.

The building proposes no setback from the Elizabeth and A'Beckett Street frontages.

To the east, above level 8, the building is set back 2.2 metres from the title boundary and the adjoining two, two storey heritage buildings. To the south, above level 8, the building is setback 5 metres from the title boundary.

These setbacks do not appropriately respond to the principle of considering the development potential of adjoining sites. This model of possible future development is contrary to Clause 22.01, requiring spacing between towers. If the proposed development were approved, future responsibility for providing tower separation to the eastern boundary would have to be borne by 71 A'Beckett Street. Approval of a 2.2m side setback would impose an inequitable burden upon 71 A'Beckett Street, compromising its development potential.

If this setback was matched, or a lesser setback approved, this would provide a minimum 4.4m separation between towers which does not achieve equitable access to daylight and sunlight in accordance with Clause 22.01.

In addition, if the proposed development were approved a precedent for a wall 178m in height with 2.2m setback from a side boundary would be created, which developers may then seek to replicate on other sites in the city. This would be clearly contrary to one of the fundamental principles of Clause 22.01.

To the south the building is setback 5 metres above level 8. Clause 22.01 states that:

‘Tower separation setbacks may be reduced where it can be demonstrated that towers are offset and habitable room windows do not directly face one another and where consideration is given to the development potential of adjoining lots.’

The City of Melbourne has approved a 5 metre side boundary setback where it is considered that the adjoining property will replicate the setback and therefore provide a 10 metre building separation.

This is only appropriate where apartments are off-set or oriented to ensure they still maintain outlook (other than directly across the intervening setback) or where the façade is predominantly services, such as lift core and non-habitable rooms.

The southern façade of this proposal has a predominance of apartments with south facing outlook. This may well be mirrored in any future redevelopment of the adjoining property to the south with north facing apartments setback 5 metres from the common boundary. Therefore the proposal does not warrant a reduced tower separation in this circumstance and the 5 metre setback to the southern boundary is insufficient.

The lack of setback from the southern boundary places an inequitable requirement upon the adjacent site, 388 Elizabeth Street, to provide a 24 metre tower separation.

### **Active frontages**

The proposed new pedestrian through link along the eastern boundary is supported. The City of Melbourne’s urban design branch has suggested ways to increase the activation of the ground level of the laneway.

Levels 2 to 8 contain car parking and an office pod per floor. The urban design branch has recommended better activation of the street facades on these levels.

### **Overshadowing**

General policy under Clause 22.02 (Sunlight to Public Spaces) states that development should not cast additional shadows on public spaces including major pedestrian routes between 11 am and 2 pm on 22 September. Shadow diagrams submitted with the application show that from 11 am to 12 pm the proposed building will create an increase in overshadowing to the eastern and western footpaths of Elizabeth Street and at 1pm the eastern footpath. This area will be more intensely developed and taller buildings will cause some overshadowing of the major pedestrian routes.

### **Parking and Traffic**

Issues raised include a recommendation that the proposed widening of A’Beckett Street footpath be removed from the planning application and a requirement for the submission of swept paths for waste trucks to access the proposed laneway. The City of Melbourne’s response to DTPLI will incorporate these issues.



Other matters raised by Traffic Engineering could be addressed by conditions, if a permit were to be issued.

### **Wind**

A wind report by Mel Consultants forms part of the application submission. The summary to this report includes the following advice:

‘...wind conditions in the surrounding streetscapes are well within the criterion for walking comfort and have been shown to be not significantly changed compared to the existing wind conditions. The wind conditions along the new laneway and Literature Lane have been shown to be either on or within the criterion for short term stationary activities’.

There appear to be no adverse wind impacts in the public realm.

### **Environmentally Sustainable Development**

Clause 22.19 (Energy, Water and Waste Efficiency) requires that applications be accompanied by:

- A Waste Management Plan.
- An ESD Statement demonstrating how the development meets relevant policy objectives and requirements.

For buildings over 2,000 square metres in gross floor area the Sustainable Design Statement must include a statement from a suitably qualified professional verifying that the building has the preliminary design potential to achieve the relevant Performance Measures set out in Clause 22.19-5.

A Sustainability Statement forms part of the application. It notes that the proposed development incorporates a wide range of ESD features and sets out primary goals to enhance the building's environmental performance and meet the objectives of the Melbourne Planning Scheme. It also lists a number of these features.

The report concludes that the performance outcomes are consistent with the objectives of Clause 22.19.

The report notes however that the building will only achieve a four star green star rating.

Given the intent of Clause 22.19 is to encourage 'Australian Excellence' for new multi-unit residential developments and given the scale of the development proposed, it is recommended that further work should be undertaken in order to achieve a 5 star green star rating. If a permit were to issue this could be addressed by condition, however, given the recommendation is that the application not be supported this would form one of the grounds of objection to the proposal.

### **Internal Amenity**

Most of the bedrooms in the apartments have direct window access and the internal amenity of the apartments is generally appropriate. Should the land to the east and south be developed with similar setbacks to the current proposal, the outlook of the east and south facing apartments would be diminished.

## **7.1. Conclusion**

Overall it is considered that the proposed development does not respond appropriately to the relevant provisions of the Melbourne Planning Scheme, including Clause 21.12 (MSS) and Clause 22.01 (Urban Design within the Capital City Zone). This is largely as a result of inadequate setbacks from the north, south

and west boundaries and leads to the conclusion that the proposal is an overdevelopment of the site.

## **8. RECOMMENDATION**

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

- The proposal by virtue of its height and inadequate setbacks represents an overdevelopment of the site.
- The proposed height, combined with the lack of podium setbacks, is contrary to Clause 21.12 of the MSS and Clause 22.01.
- The proposal by virtue of its height, lack of podium and inadequate setbacks will have an overbearing impact upon the public realm contrary to relevant provisions of the Melbourne Planning Scheme, including Cause 22.01.
- The proposal does not adequately respond to the development potential of adjoining sites to the east and south.
- The proposed façades at levels 2-8 are dominated by car parking resulting in inactive street frontages.
- The proposal to widen the A'Beckett Street footpath adjacent to the site is not supported. This is a matter that would need to be dealt with the City of Melbourne engineers outside the planning permit process.
- The proposal fails to achieve a five star green star rating in accordance with Clause 22.19.

**Katherine Smart**  
Planning Officer