

**Report to the Future Melbourne Planning Committee**

**Agenda item 6.2**

**Planning Application: TP-2016-1124/A  
Queen Street Road Reserve and Queen Victoria Market, 65-159 Victoria  
Street, Melbourne**

**3 April 2018**

**Presenter:** Evan Counsel, Practice Leader Land Use and Development

**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of a proposed amendment to planning permit TP-2016-1124 which allows for demolition, buildings and works to construct a temporary market facility, display of internally illuminated advertising signage and a waiver of loading and unloading requirements at the above address.
2. The applicant is Melbourne City Council, the land owner is the Melbourne City Council and the architect is Breathe Architects.
3. The subject land is located in the Capital City Zone Schedule 1 and is affected by a Heritage Overlay (HO7 Queen Victoria Market Precinct and HO496 Queen Victoria Market), Design and Development Overlay Schedule 14 and Parking Overlay Schedule 1.
4. The proposed development forms part of the Queen Victoria Market Precinct Renewal.
5. This report is limited to considering the planning merits of the proposed changes to the already approved development.
6. The amendment seeks to significantly reduce the size of the approved temporary market pavilion from 254 metres in length with a width of 19 metres (4826 m<sup>2</sup>), to 111 metres in length with a width of 17.7 metres wide (1942.5 m<sup>2</sup>), a reduction of 2883.5m<sup>2</sup>. The proposed design of the temporary market has been modified and it is proposed to remove seven London Plane trees that were previously to be retained. The new temporary market will continue to provide a house for market traders at ground floor with an 'urban greenhouse' proposed on the first floor.

**Key issues**

7. Key issues in the consideration of this application are how the proposed modifications to the approved development will impact on heritage, built form, traffic and the proposed removal of street trees.
8. The height of the proposed pavilion will remain consistent with the approved form. The proposed modifications to the design of the structure generally constitute a reduction in project scope and are considered to be of limited consequence. The amended proposal significantly reduces the scale of the proposal and will not have an increased impact on the heritage precinct. The proposed design is considered to be appropriate subject to conditions requiring further design detail to be provided.
9. The proposed removal of the seven London Plane Trees is supported by Council's arborists subject to a number of conditions including details of future planting within the precinct to offset the loss of the trees.

**Recommendation from management**

10. That the Future Melbourne Committee resolves that a Notice of Decision to Grant an Amended Permit be issued subject to the conditions set out in the delegate report (refer Attachment 4 – Delegate Report).

**Attachments:**

1. Supporting Attachment (page 2 of 52)
2. Locality Plan (page 3 of 52)
3. Plans (page 4 of 52)
4. Delegate Report (page 25 of 52)

## Supporting Attachment

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### Legal

1. The Council is the Responsible Authority for this application.
2. Pursuant to Section 96(1) of the *Planning and Environment Act 1987* (Act), 'a responsible authority must obtain a permit from the Minister before carrying out any use or development for which a permit is required under the planning scheme for which it is the responsible authority, unless the planning scheme gives an exemption'.
3. Clause 67.01 of the Melbourne Planning Scheme provides an exemption from the provisions of Section 96 of the Act for the use and development of land for the purpose of leisure and recreation.

### Finance

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

### Conflict of interest

5. 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

6. Formal notification of the application was given by, ordinary mail to the owners/occupiers of surrounding properties and all original objectors and by posting three notices on the site for a 14 day period.
7. A total of 243 valid objections to this application have been received. It is noted that in the order of 341 submissions were received.

### Relation to Council policy

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

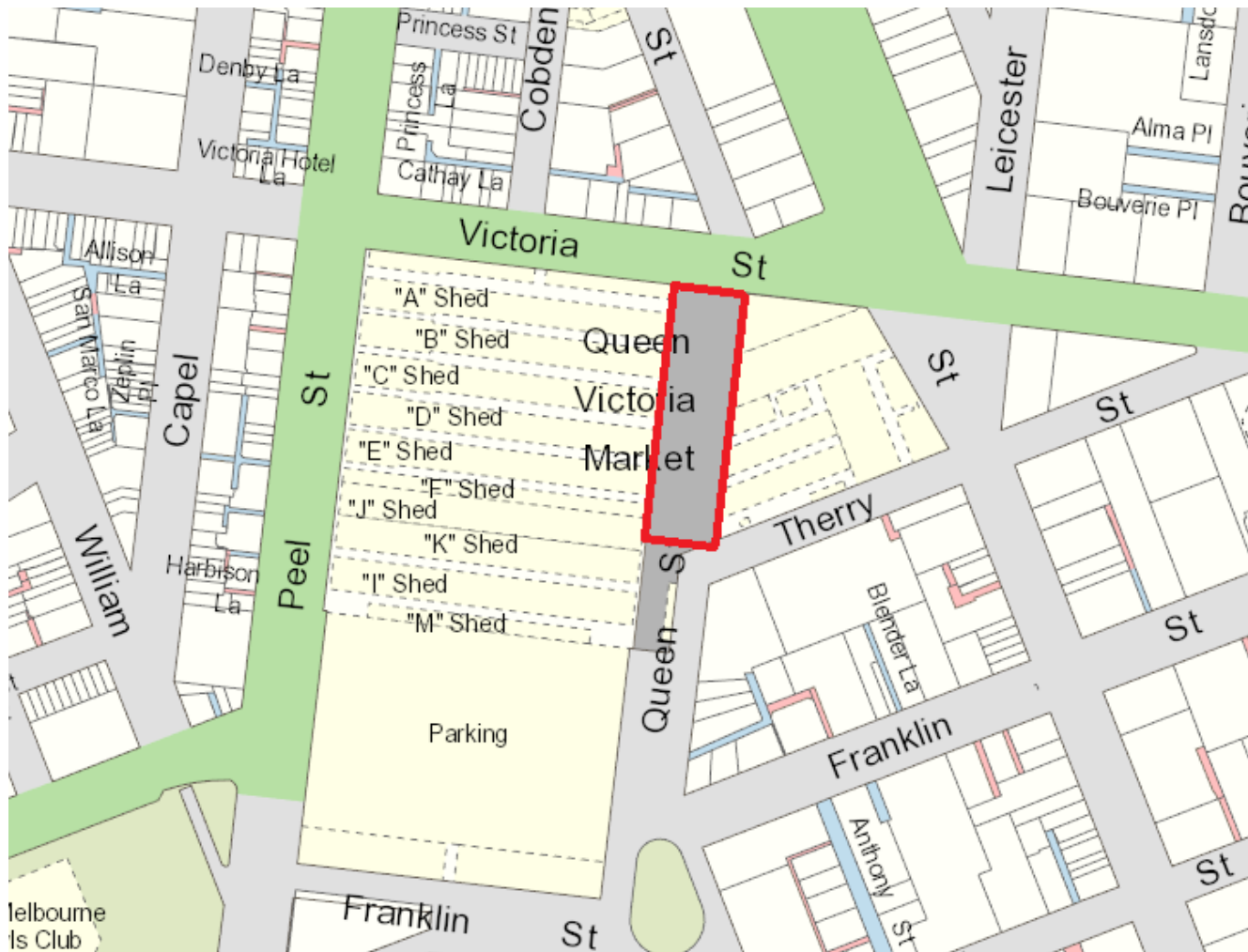
### Environmental sustainability

9. The sustainable design features and compliance with the requirements of Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management/Water Sensitive Urban Design) of the original Sustainability Management Plan will be incorporated into the development.

# Locality Plan

Attachment 2  
Agenda item 6.2  
Future Melbourne Committee  
3 April 2018

## Queen Street road reserve and Queen Victoria Market, 65-159 Victoria Street, Melbourne



**Attachment 3**  
**Agenda item 6.2**  
**Future Melbourne**  
**Committee**  
**3 April 2018**

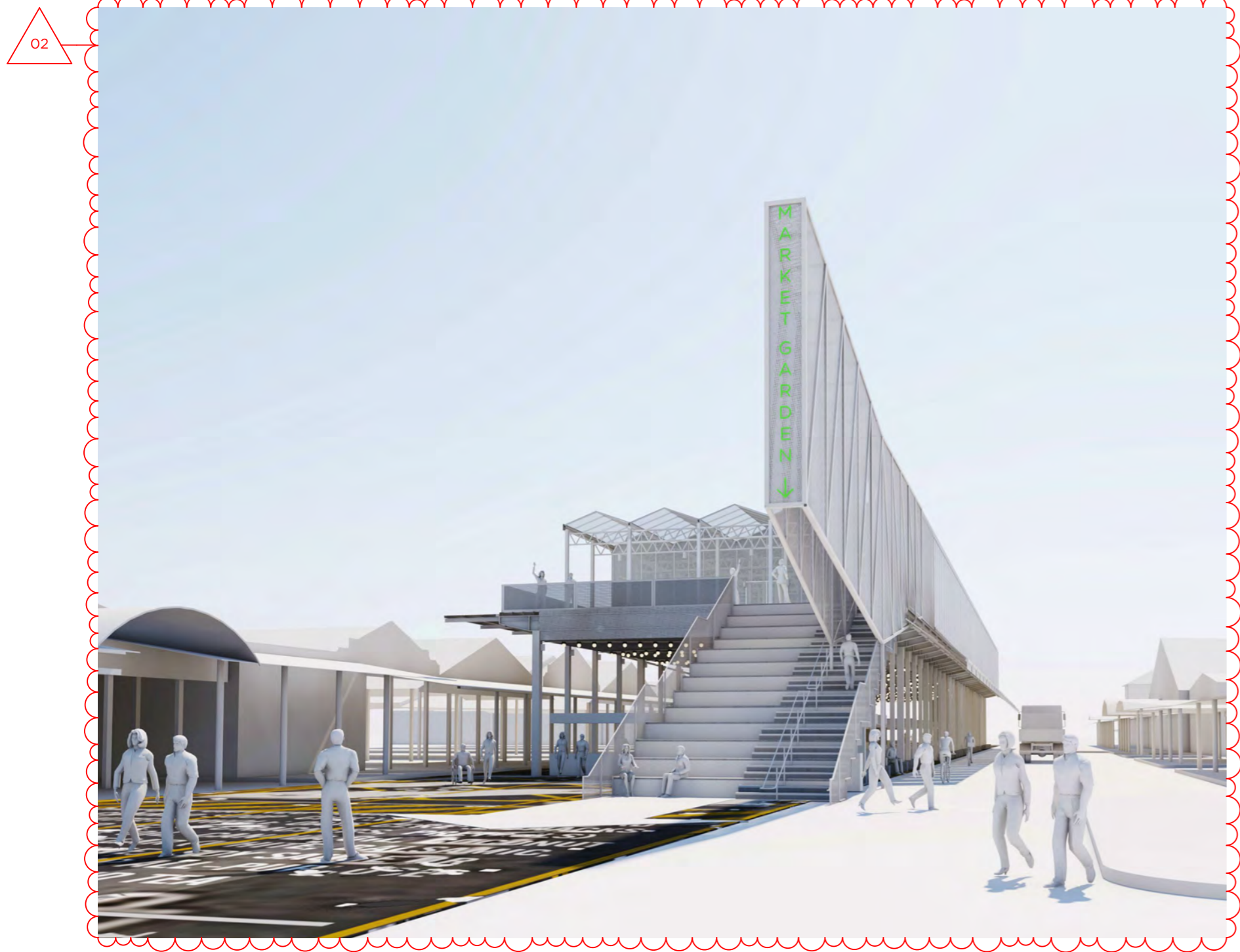
Rev —  
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Comments —  
**Preliminary Town Planning Application Issue for Discussion**  
**TOWN PLANNING REV 0 SUBMISSION**  
**RFI RESPONSE**  
**SECTION 72**

Date —  
**14/12/2016**  
**19/12/16**  
**19/01/17**  
**25/1/18**

# M A R K E T — G A R D E N

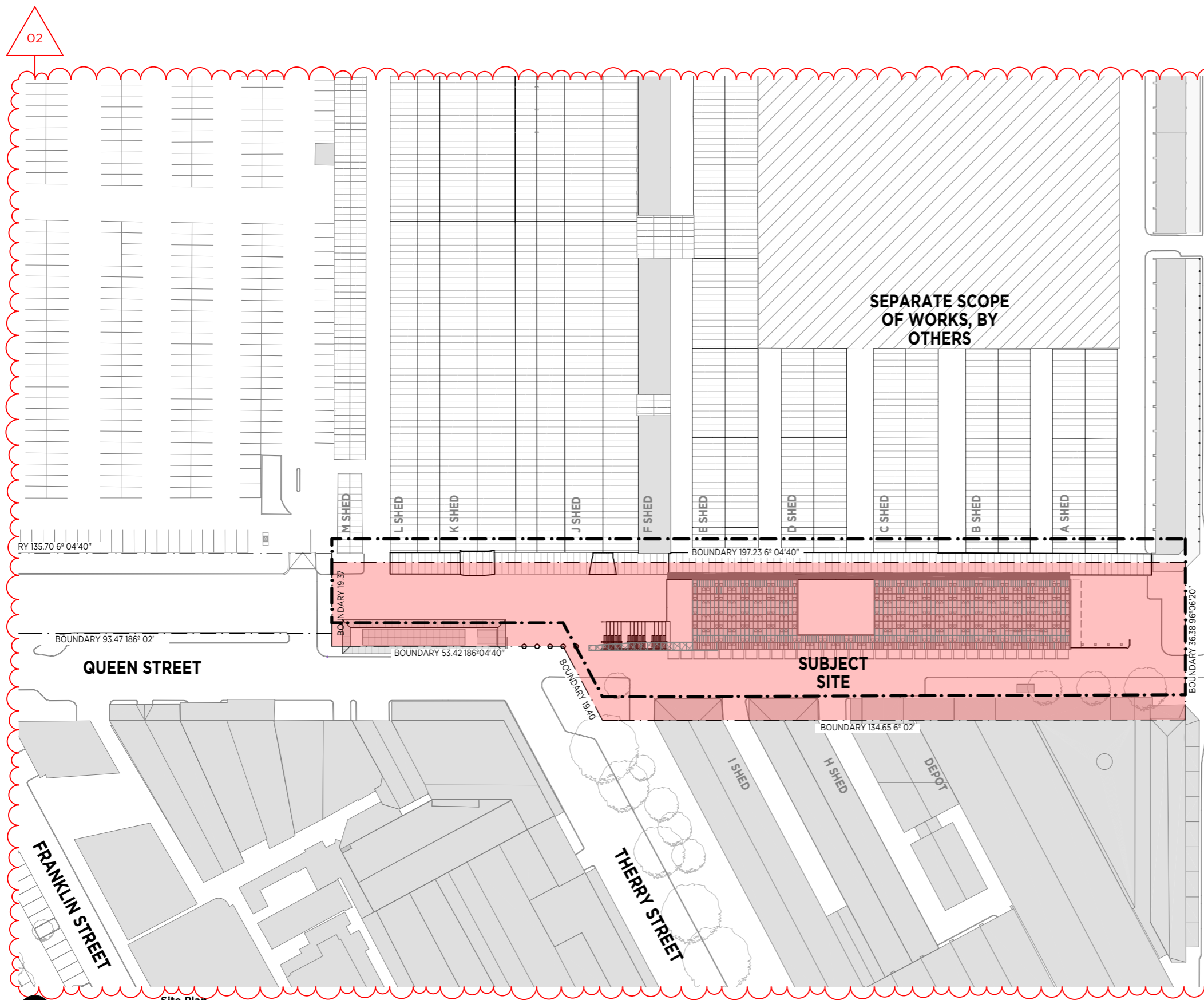
Town Planning Application QVMPR Market Garden Queen Street Melbourne, VIC 3000



Perspective view of temporary pavillion from the corner of Queen & Therry St

## Drawing List

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**Design Response**

Market Garden serves as a temporary trading pavilion that initiates a layered programmatic and experiential outcome for the trader, shopper and visitor. Through contextual ground floor markings and super graphics that reference and describe the narrative of the current site, traders will have a defined place of business beneath a productive and seasonal greenhouse. Market Garden is not about redefining the way traders interact with their customers, it's about respecting and maintaining the iconic market experience, movement and feel, ensuring that stallholders are able to continue trading as they know and enjoy in a temporary environment.

**TRADING HALL**

Fruit and vegetable stalls affected by market renewal works (sheds A - D) will be relocated in a flexible and adaptable open trading floor - sheltered, shaded and cooled beneath a high canopy. Visual and pedestrian permeability will be maintained to the upper market while also providing functional solutions for events, and trading logistics of loading and unloading. Market Garden presents potential for future business opportunities for the Queen Victoria Market - growing produce in the upper level greenhouse and offering an enhanced trading and customer experience during a time of transition. Upper level access and amphitheater seating will be included at the south end of the pavilion to act as a gathering and event space.

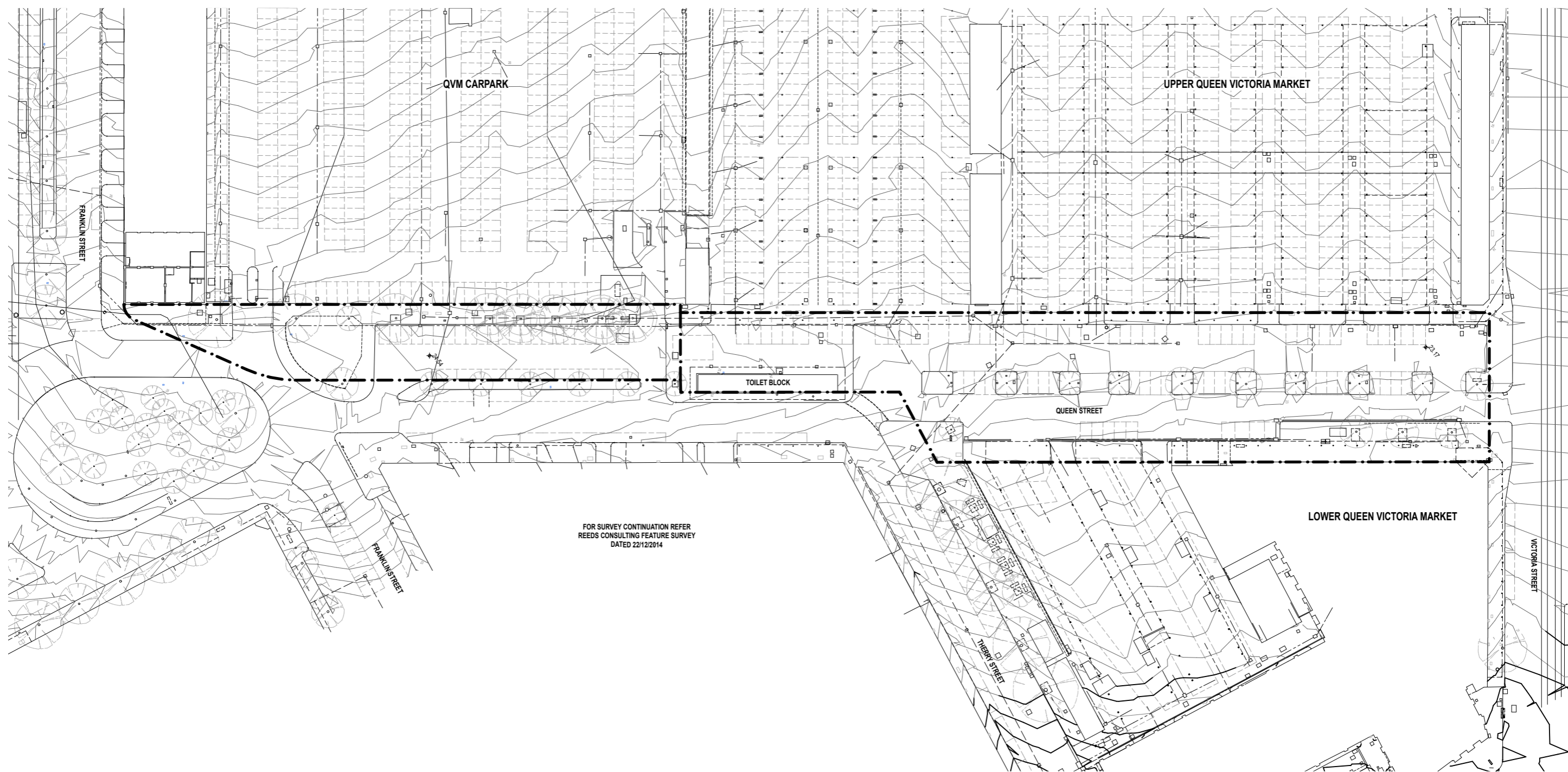
**GREENHOUSE**

Above the trading floor an enclosed, functioning greenhouse with, a portion of hospitality trading, will become both a productive and educational tool - overflowing with crops that can be seen, touched and smelled. Market Garden will prompt conversation around food security and how we obtain, consume and dispose of our food, empowering consumers through knowledge. It will be reflective of the market life cycle, growing and functioning both day and night. Waste reduction is achieved through management and use of composting and dehydration equipment, rainwater collection and reuse. Adopting a proven prefabricated and standardised construction system allows for the construction process to be assembled quickly, minimising the impact of site works on patrons and traders. The material palette is limited and robust, employing light coloured materials to reduce thermal gain, roof glazing, minor ground treatments, and a porous netted cladding to give form while permitting natural light and air. Taking lead from London, Tokyo and Brooklyn's urban farm models - the pavilion will become a live, thriving, fresh food haven that simultaneously provides relief from heat island effect. Market Garden delivers environmental, financial and social sustainability for the City of Melbourne.

**Area Schedule**

Ground Level — Open Air Trading Pavilion	<b>1560m<sup>2</sup></b>
Level 1 — Greenhouse & Circulation	<b>1160m<sup>2</sup></b>

01 Site Plan 1:1000



01

EXISTING GROUND FLOOR PLAN (SURVEY)

1:1000

NOTE: SURVEY PROVIDED BY ADSHEAD & McQUIE PTY. LTD.  
DATED SEPTEMBER - DECEMBER 2010 & COMPILED WITH LAND  
TITLE FOR CONSIDERATION ONLY. TITLE ESTABLISHMENT TO BE  
VERIFIED BY A LICENSED LAND SURVEYOR.



01 Victoria Street Facing South

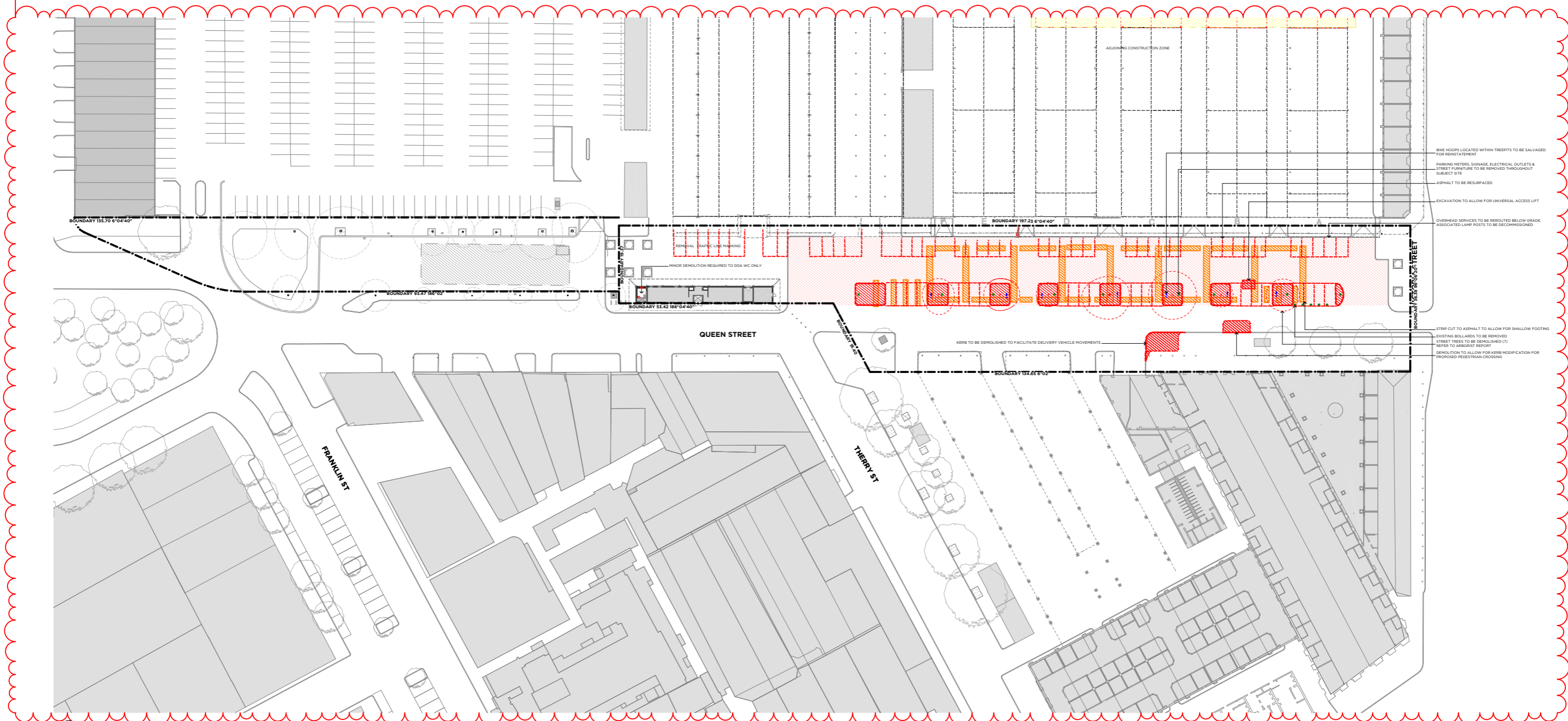


02 Queen Street Facing West



03 Franklin Street Facing North

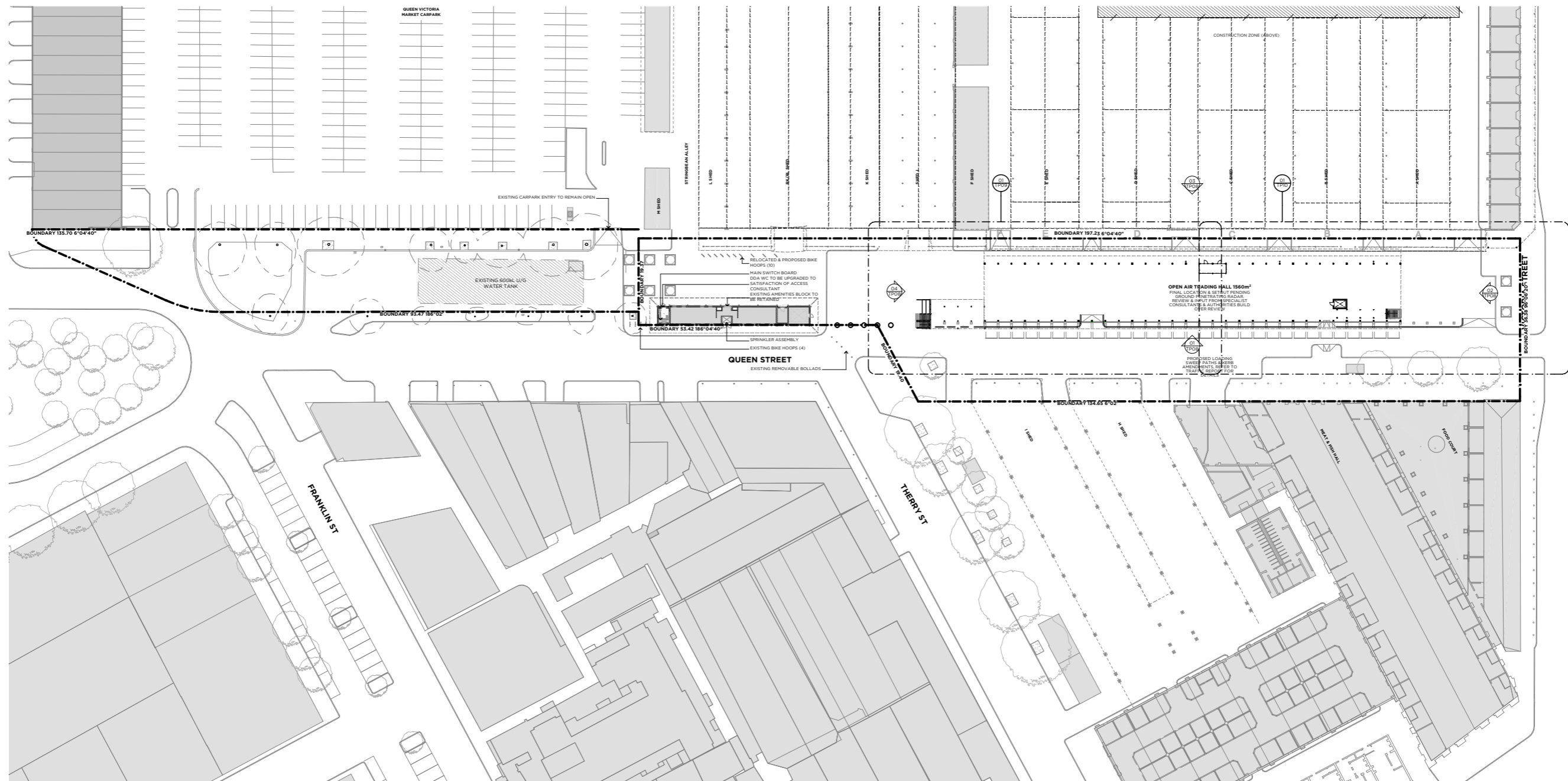
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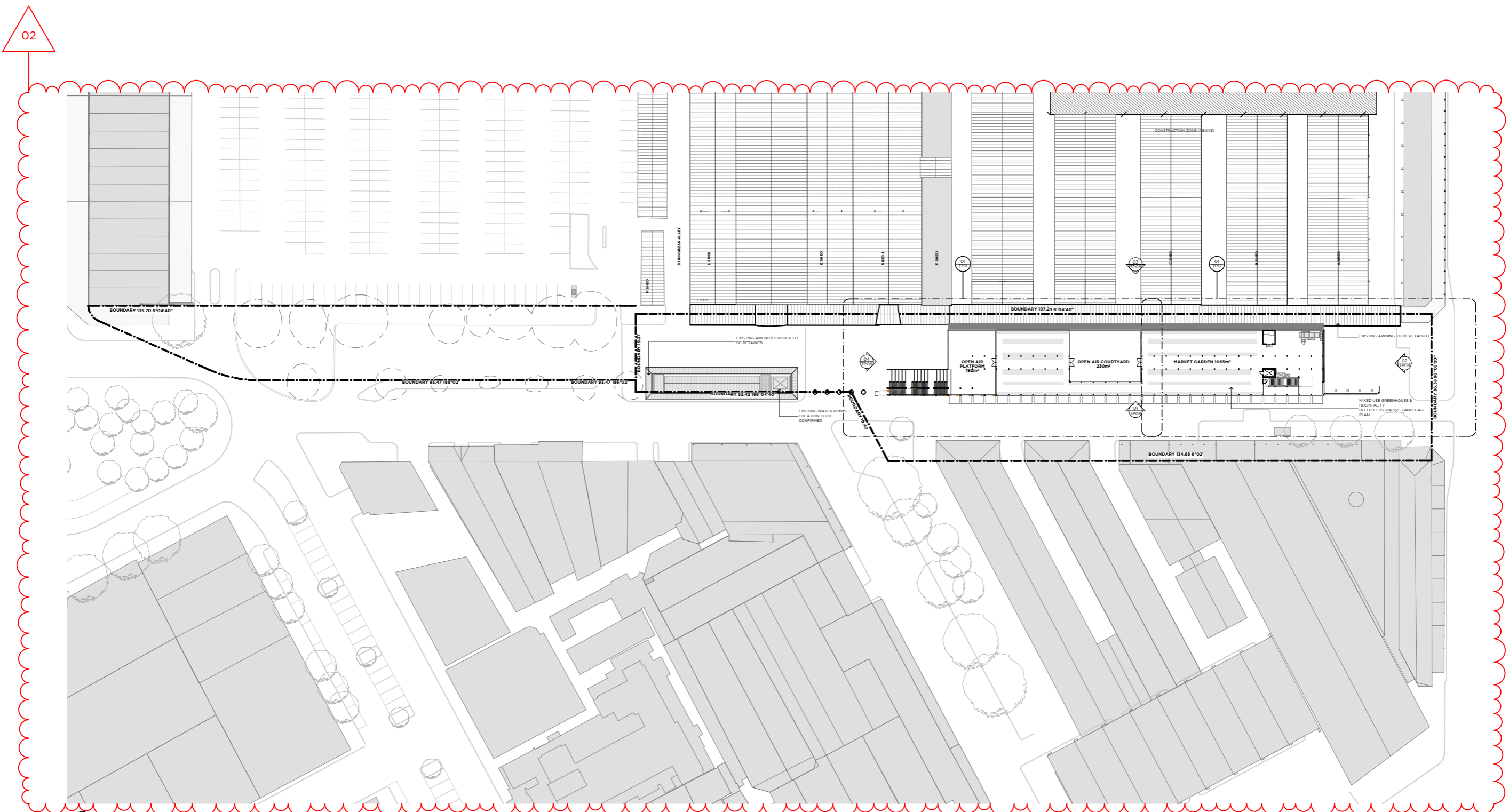
- BIKE HOOPS LOCATED WITHIN TREES TO BE SALVAGED FOR REINSTATEMENT
- PARKING METERS, SIGNAGE, ELECTRICAL OUTLETS & STREET FURNITURE TO BE REMOVED THROUGHOUT SUBJECT SITE
- ASPHALT TO BE RESURFACED
- EXCAVATION TO ALLOW FOR UNIVERSAL ACCESS LIFT
- OVERHEAD SERVICES TO BE REROUTED BELOW GRADE ASSOCIATED LAMP POSTS TO BE DECOMMISSIONED
- STRIP CUT TO ASPHALT TO ALLOW FOR SHALLOW FOOTING
- EXISTING BOLLARDS TO BE REMOVED
- STREET TREES TO BE DEMOLISHED (T) HERE TO AVOID REPORT
- DEMOLITION TO ALLOW FOR KERB MODIFICATION FOR PROPOSED PEDESTRIAN CROSSING

**01** **DEMOLITION PLAN**  
1:1000

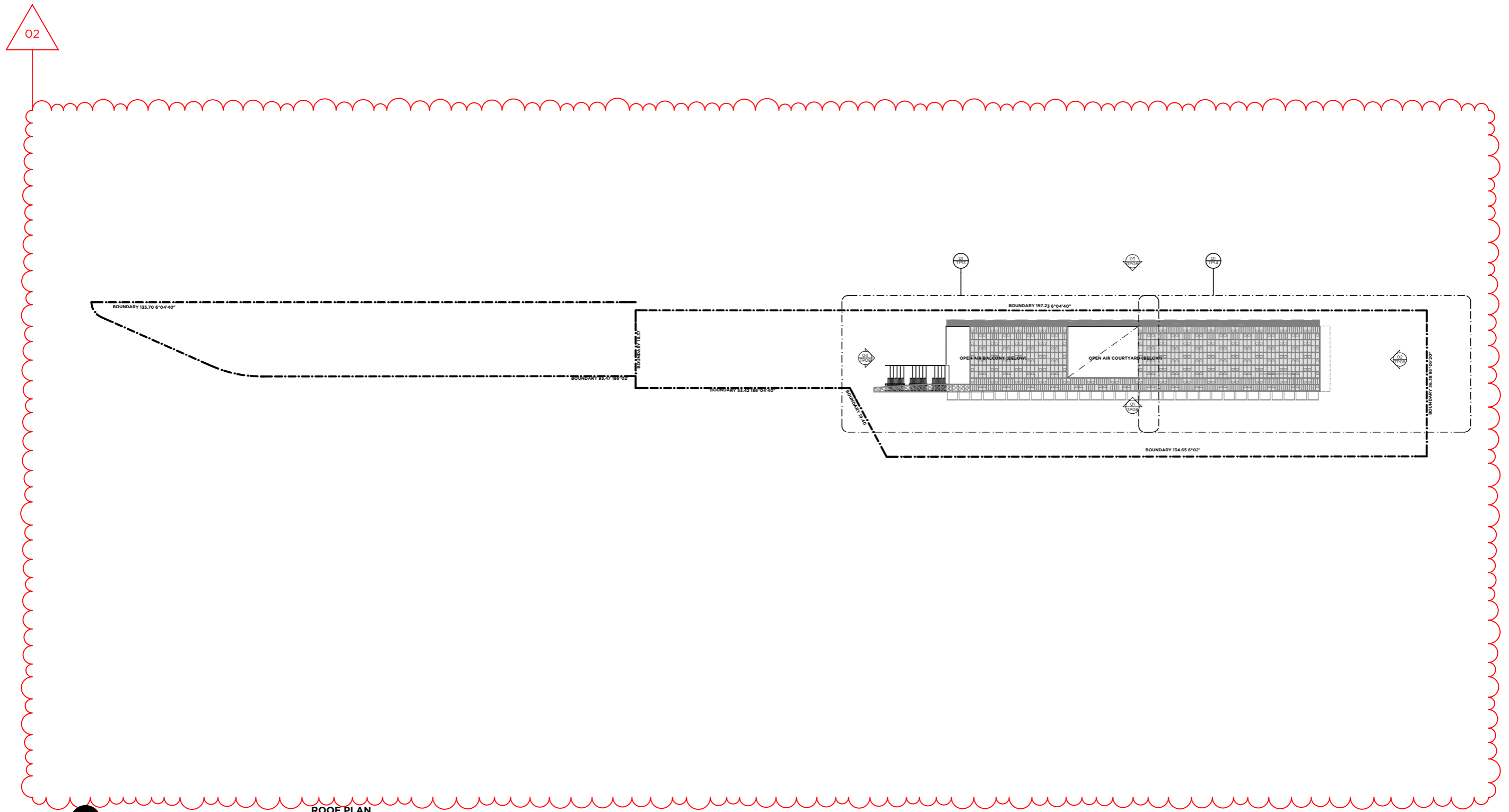




**01** **GROUND FLOOR PLAN**  
 1:1000



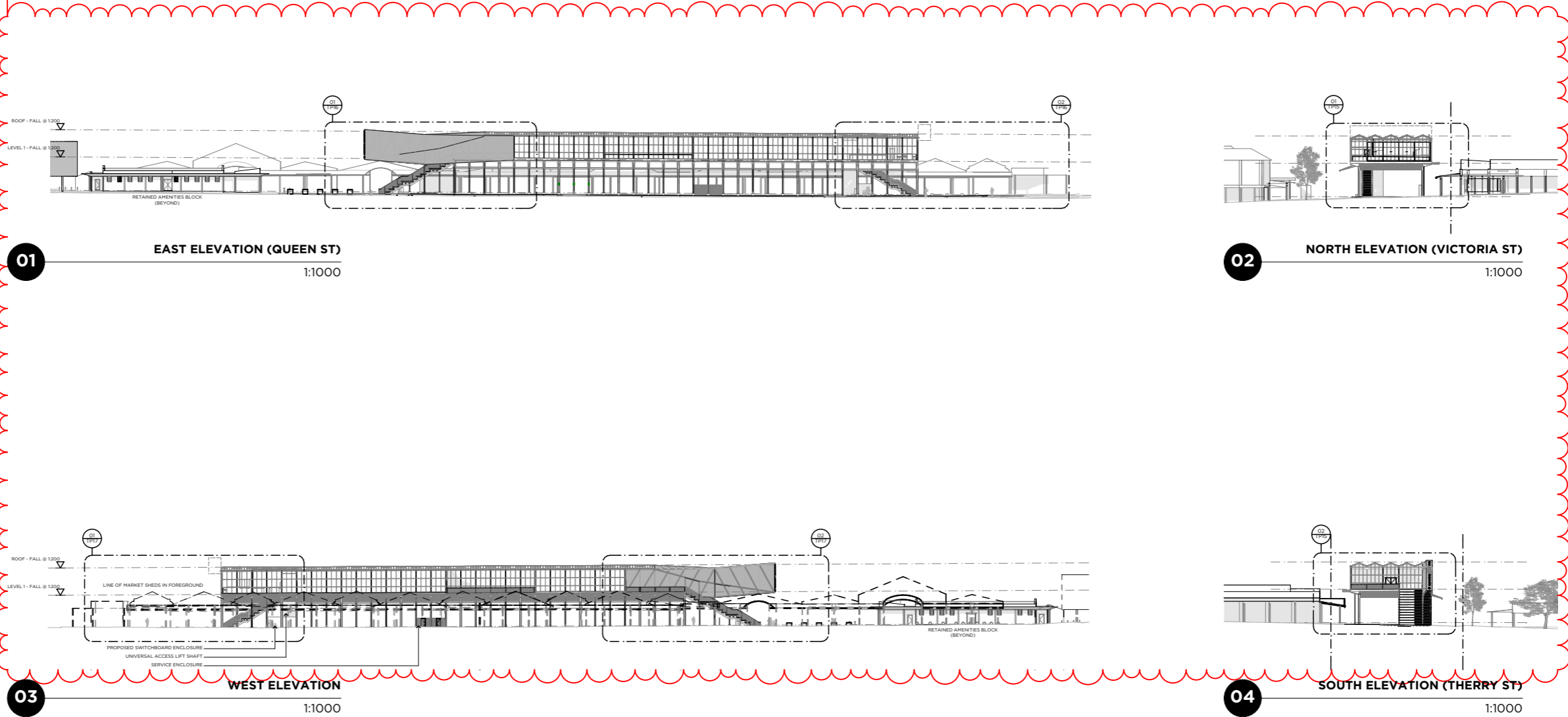
01 LEVEL 1 PLAN 1:1000

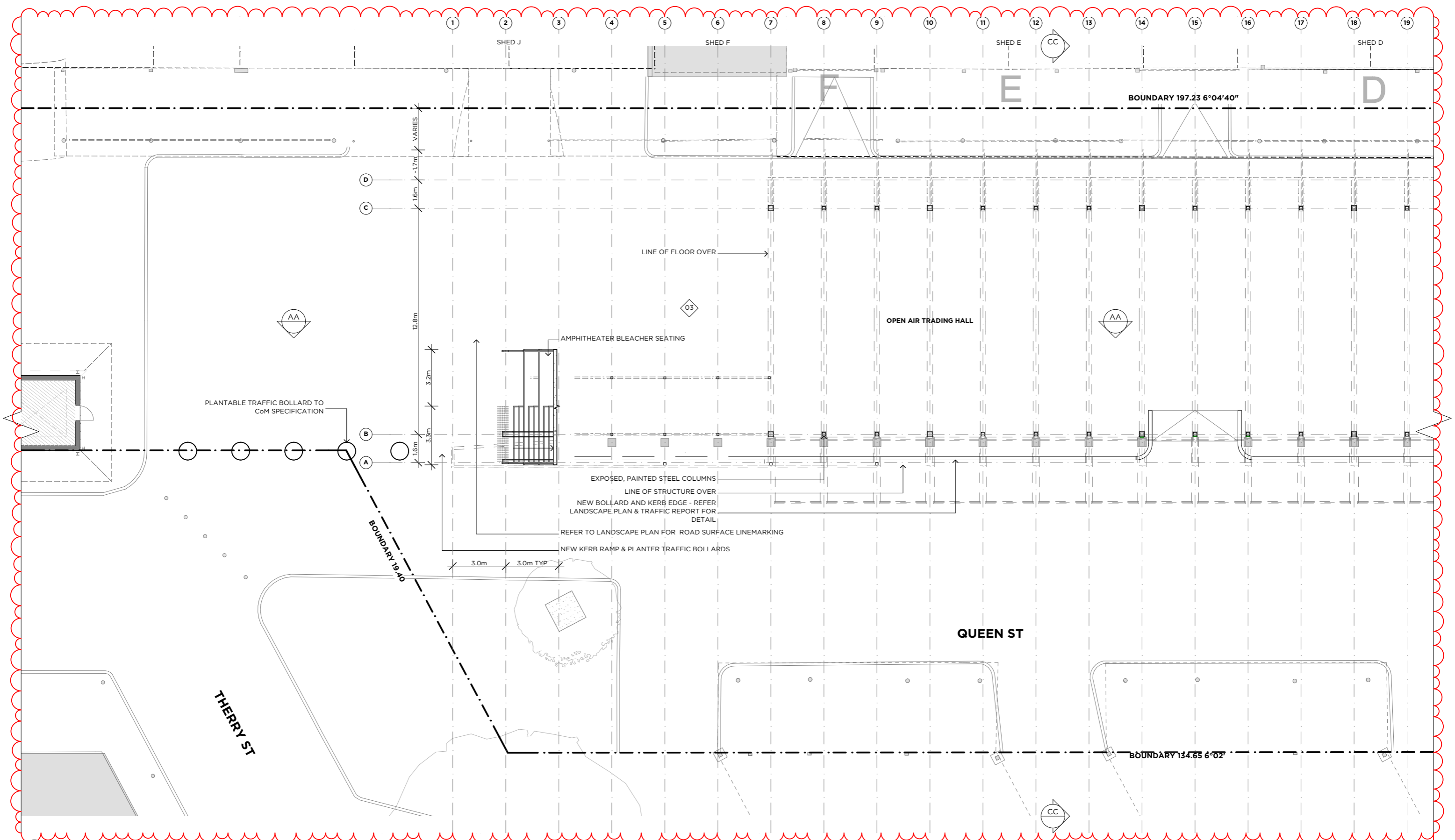


ROOF PLAN

1:1000

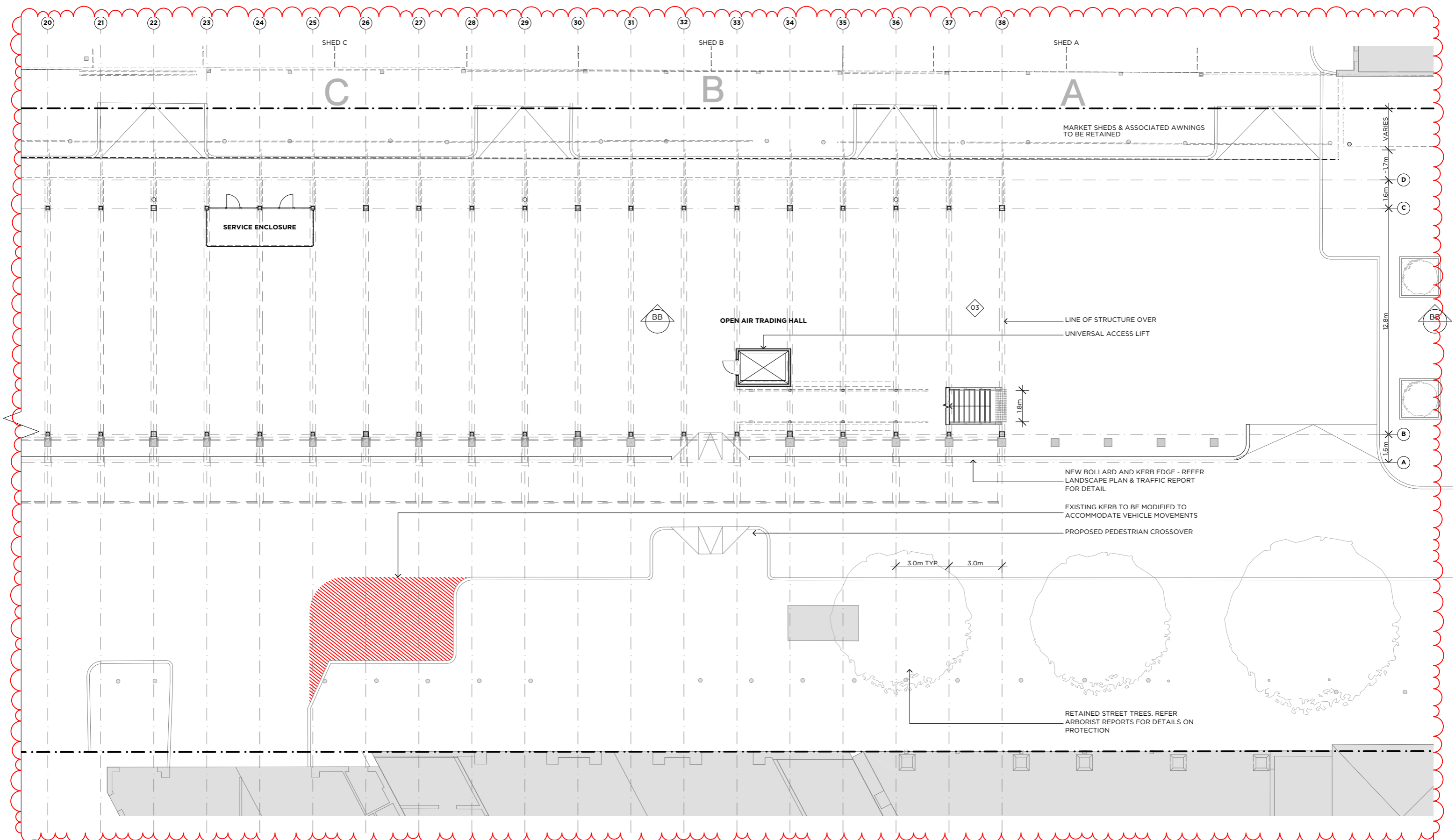
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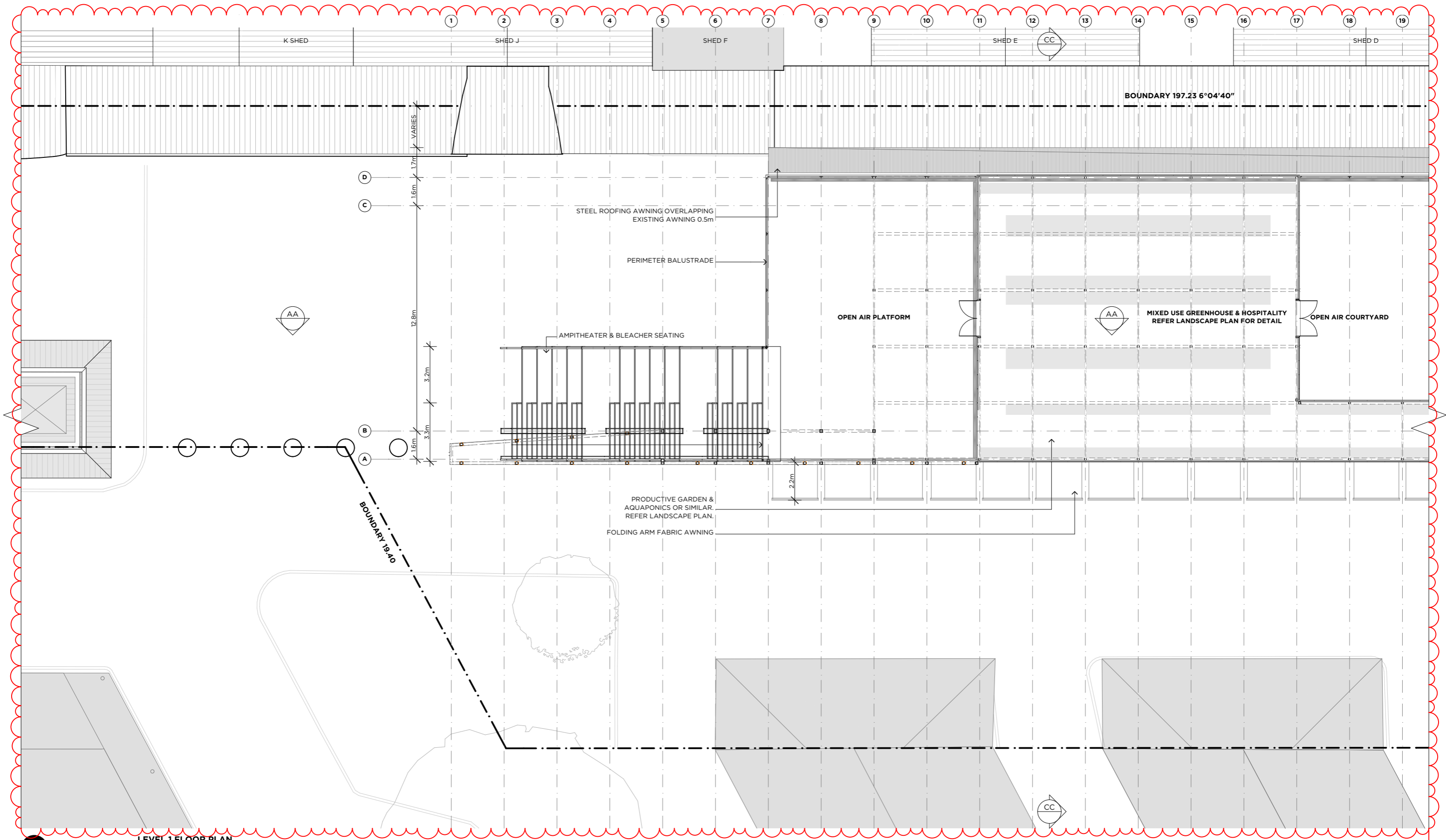
01 GROUND FLOOR PLAN 1:200

02



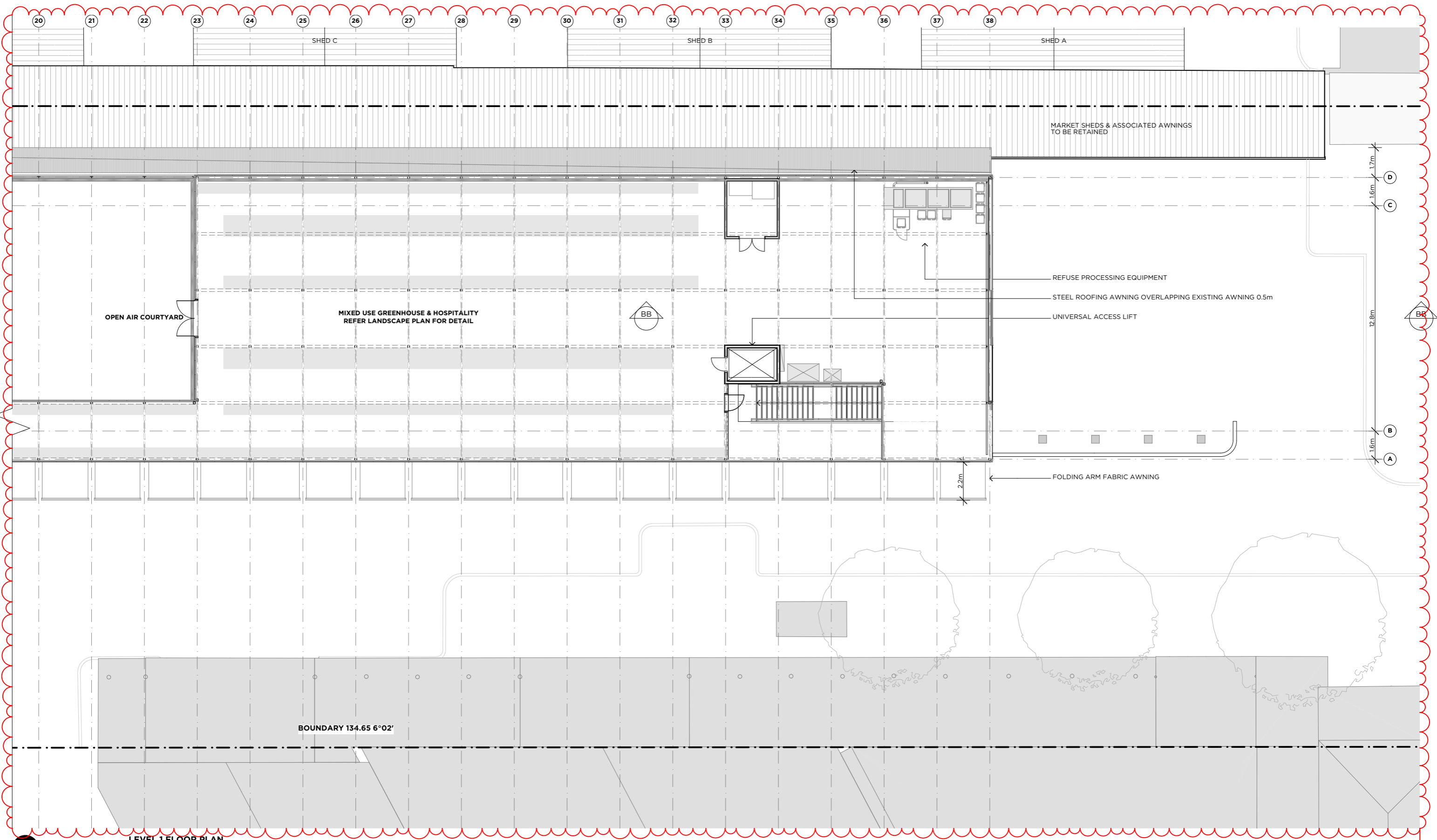
01 GROUND FLOOR PLAN 1:200

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01 LEVEL 1 FLOOR PLAN 1:200

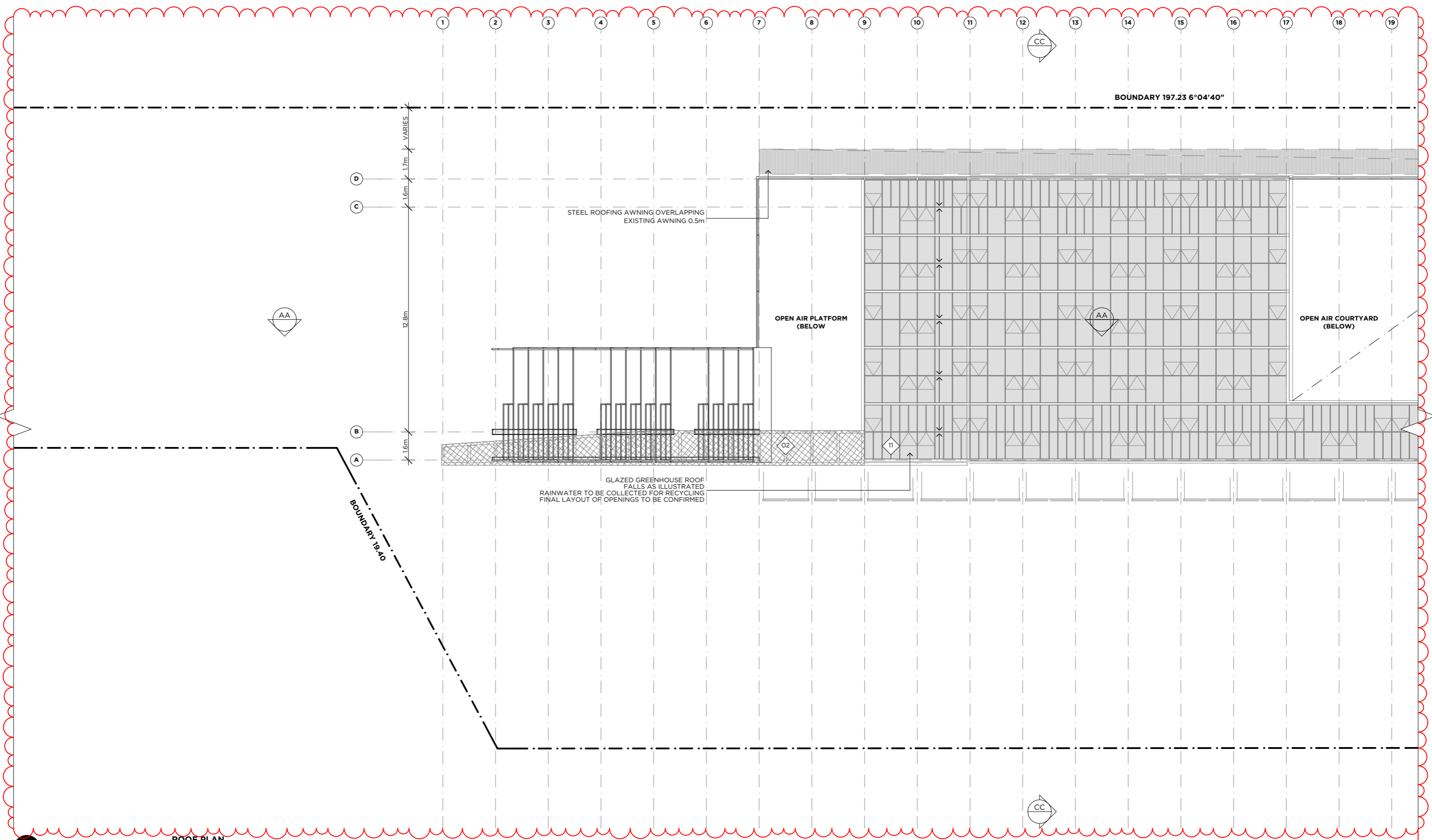
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01 LEVEL 1 FLOOR PLAN 1:200

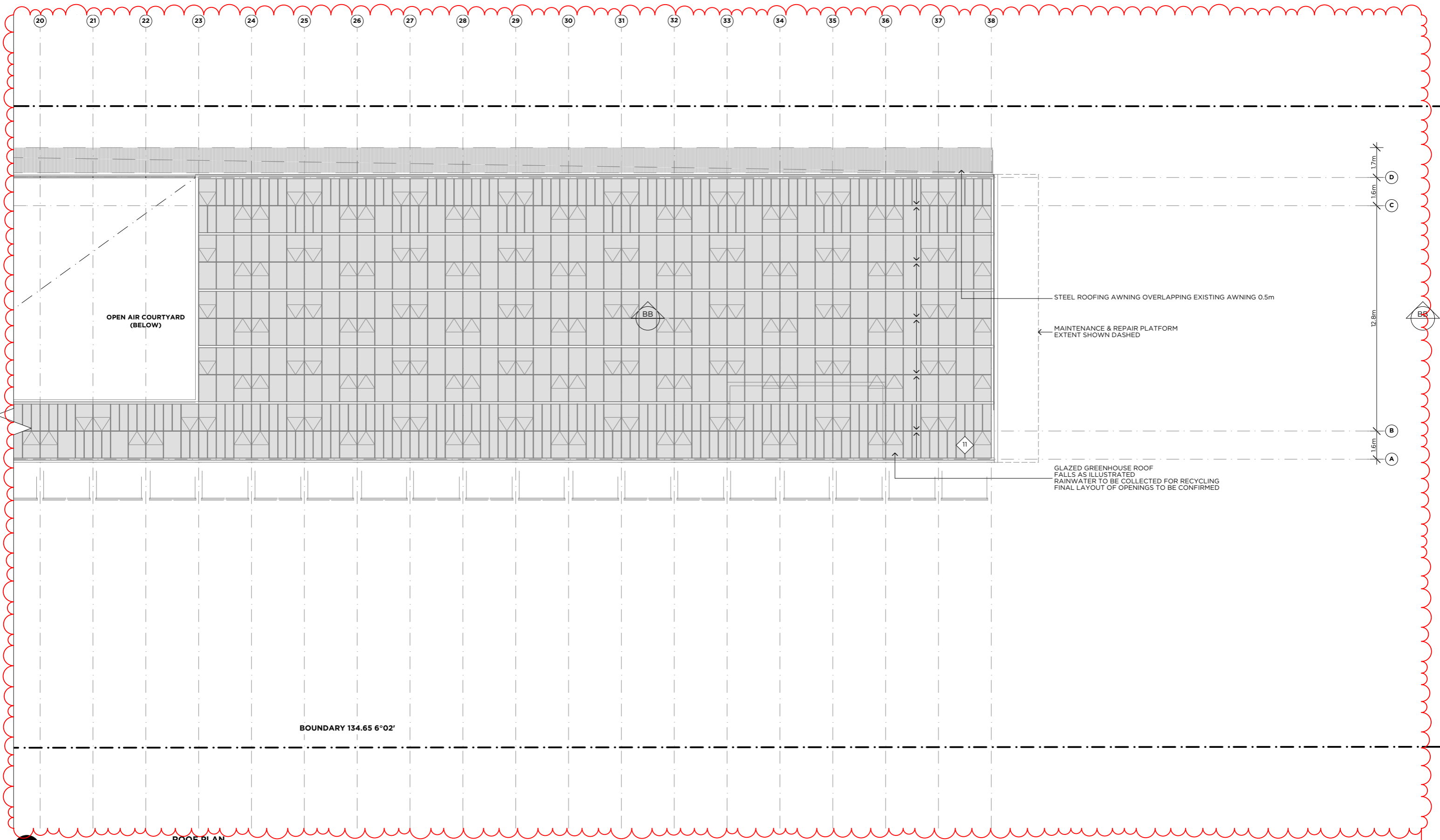
02





01 ROOF PLAN 1:200

02



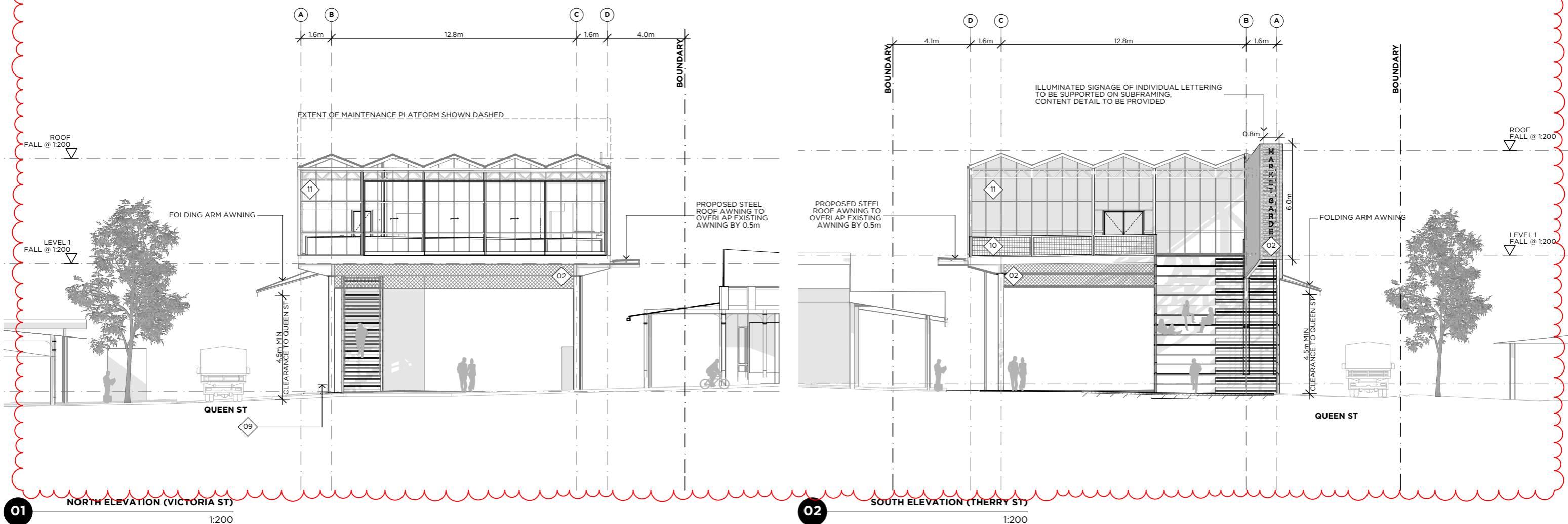
01 ROOF PLAN  
1:200

02

Rev —	Comments —	Date —
DRAFT	Preliminary Town Planning Application Issue for Discussion	14/12/2016
00	TOWN PLANNING REV 0 SUBMISSION	19/12/16
01	RFI RESPONSE	19/01/17
02	SECTION 72	25/1/18

LEGEND

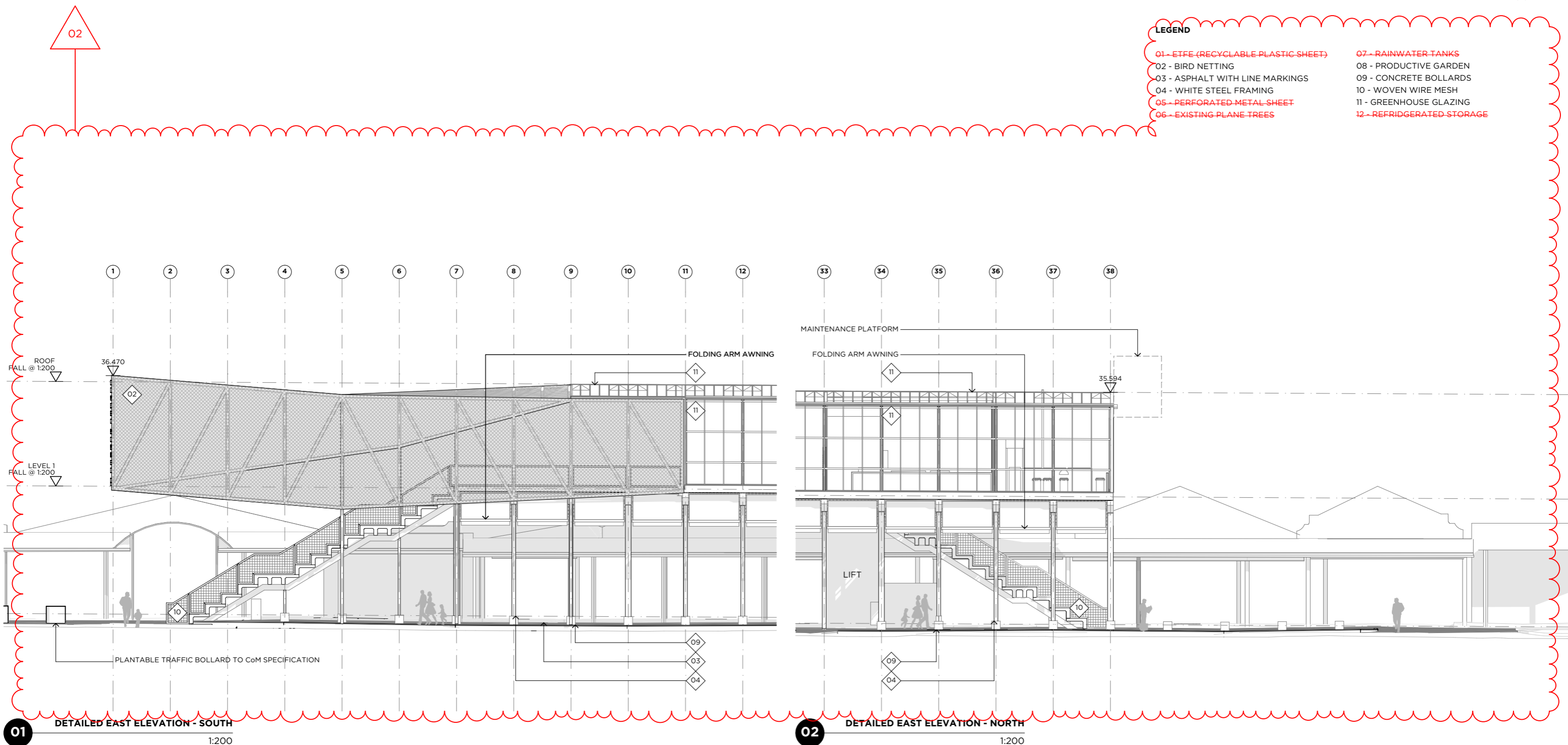
- 01 - ETFE (RECYCLABLE PLASTIC SHEET)
- 02 - BIRD NETTING
- 03 - ASPHALT WITH LINE MARKINGS
- 04 - WHITE STEEL FRAMING
- 05 - PERFORATED METAL SHEET
- 06 - EXISTING PLANE TREES
- 07 - RAINWATER TANKS
- 08 - PRODUCTIVE GARDEN
- 09 - CONCRETE BOLLARDS
- 10 - WOVEN WIRE MESH
- 11 - GREENHOUSE GLAZING
- 12 - REFRIDGERATED STORAGE



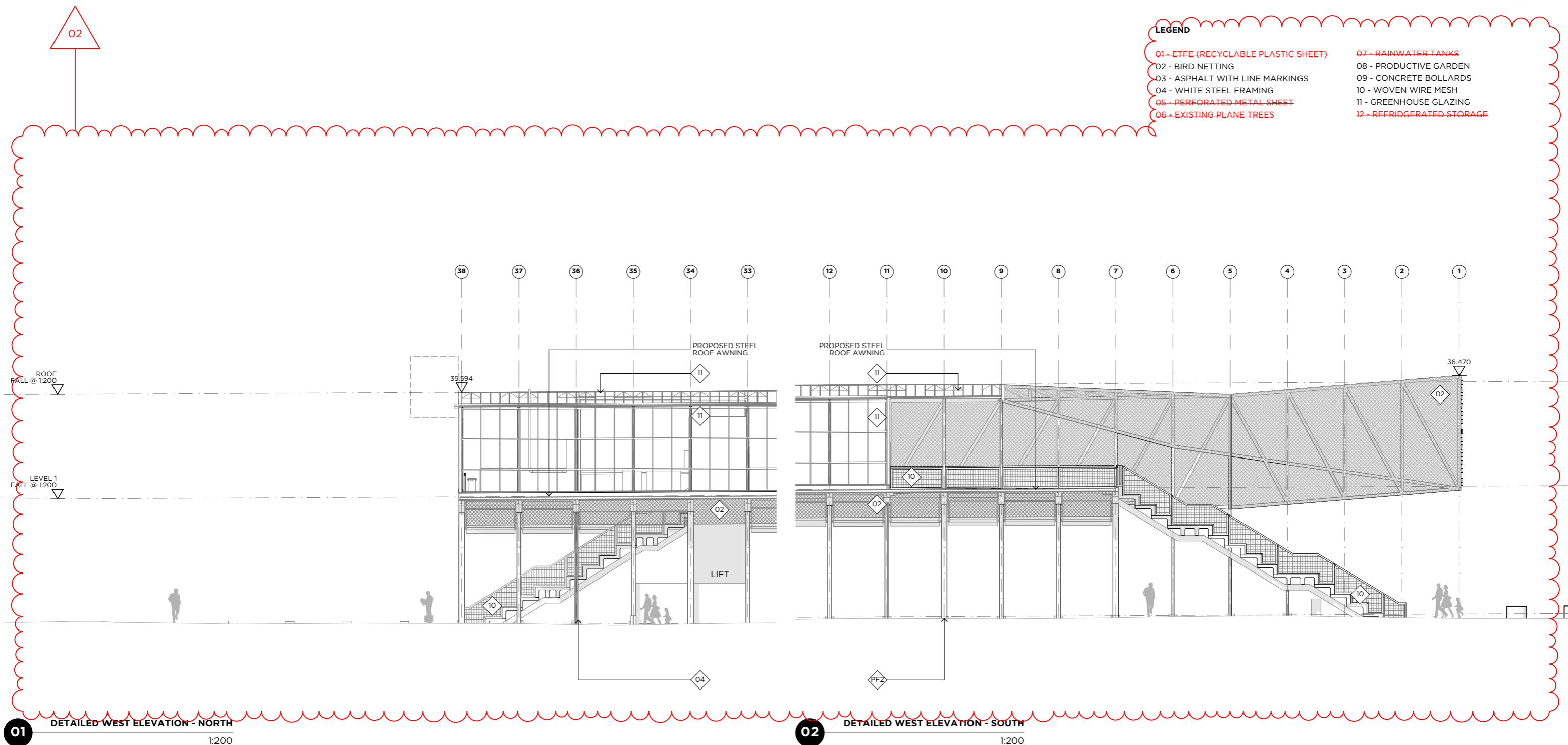
01 NORTH ELEVATION (VICTORIA ST) 1:200

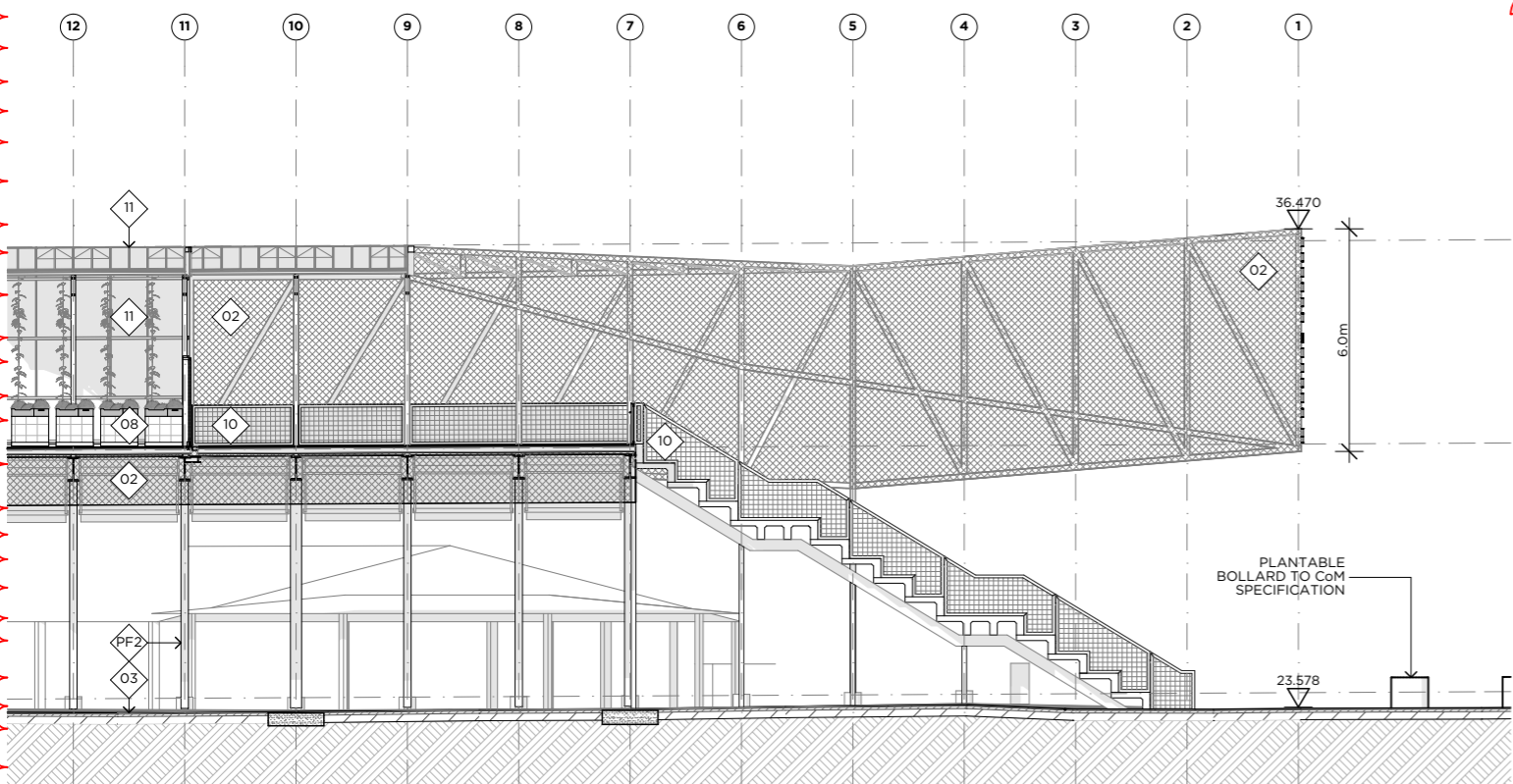
02 SOUTH ELEVATION (THERRY ST) 1:200

- LEGEND**
- 01 - ETFE (RECYCLABLE PLASTIC SHEET)
  - 02 - BIRD NETTING
  - 03 - ASPHALT WITH LINE MARKINGS
  - 04 - WHITE STEEL FRAMING
  - 05 - PERFORATED METAL SHEET
  - 06 - EXISTING PLANE TREES
  - 07 - RAINWATER TANKS
  - 08 - PRODUCTIVE GARDEN
  - 09 - CONCRETE BOLLARDS
  - 10 - WOVEN WIRE MESH
  - 11 - GREENHOUSE GLAZING
  - 12 - REFRIDGERATED STORAGE

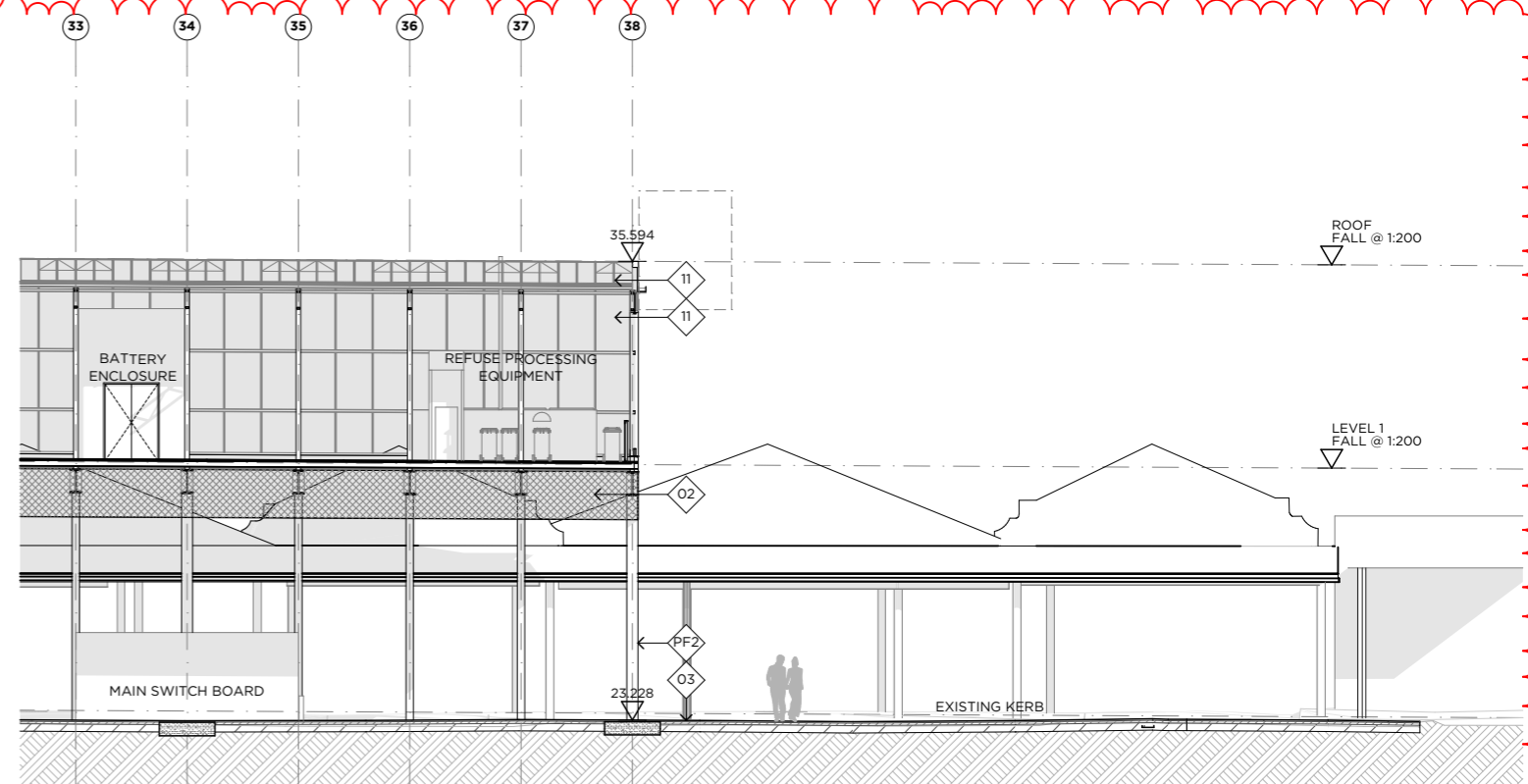


- LEGEND**
- 01 - ETFE (RECYCLABLE PLASTIC SHEET)
  - 02 - BIRD NETTING
  - 03 - ASPHALT WITH LINE MARKINGS
  - 04 - WHITE STEEL FRAMING
  - 05 - PERFORATED METAL SHEET
  - 06 - EXISTING PLANE TREES
  - 07 - RAINWATER TANKS
  - 08 - PRODUCTIVE GARDEN
  - 09 - CONCRETE BOLLARDS
  - 10 - WOVEN WIRE MESH
  - 11 - GREENHOUSE GLAZING
  - 12 - REFRIDGERATED STORAGE

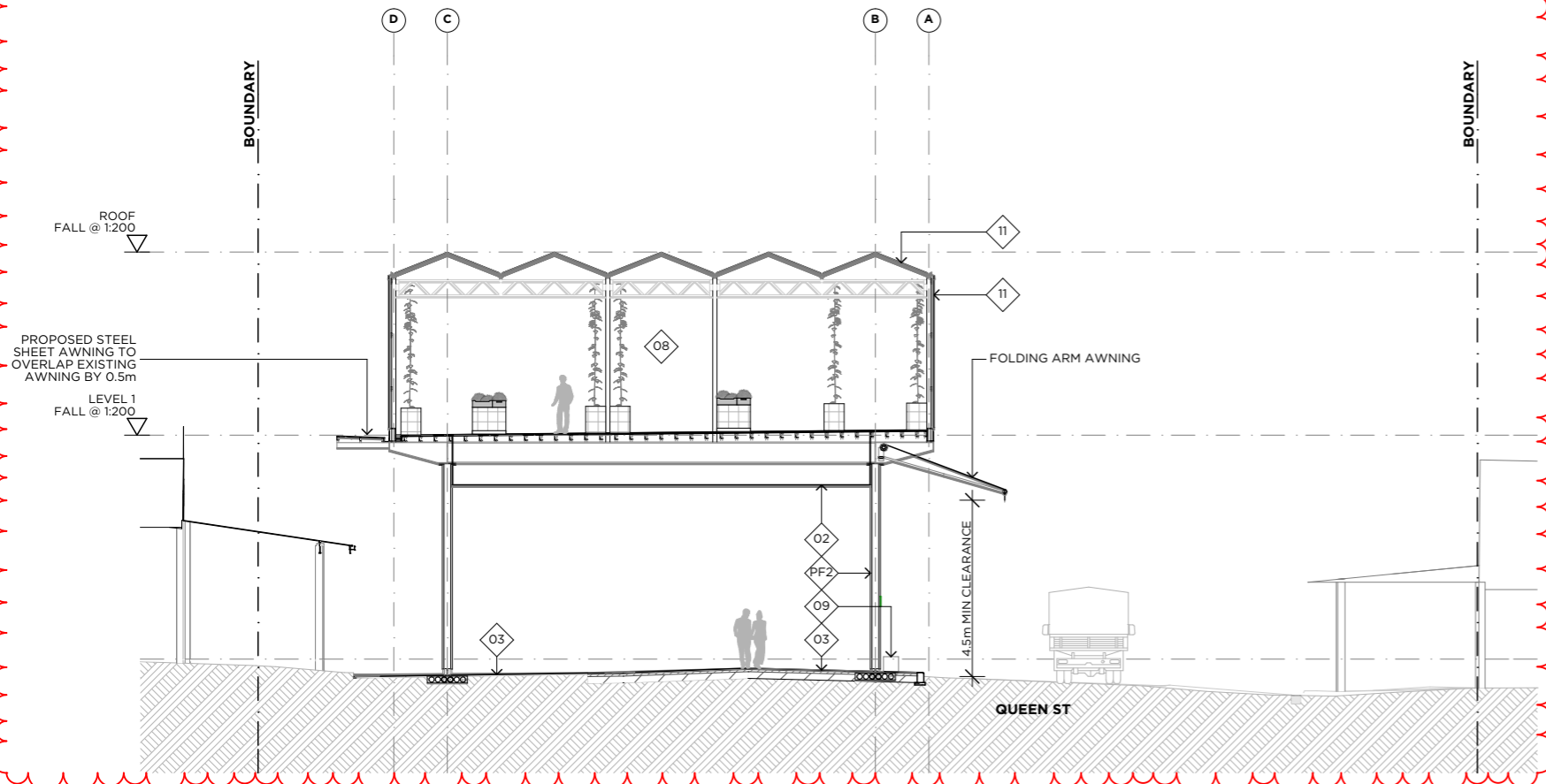




**AA** SECTION AA  
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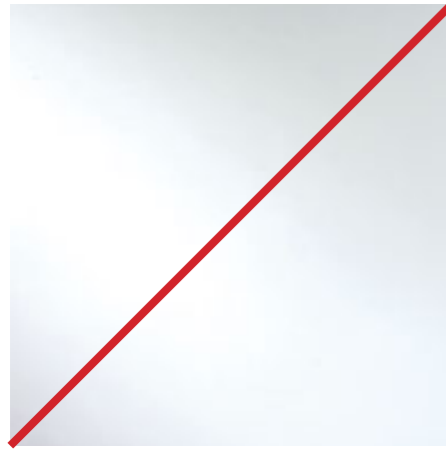
**BB** SECTION BB  
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**CC** SECTION CC  
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MARKET GARDEN | MATERIAL PALETTE

02



01 | EFTE



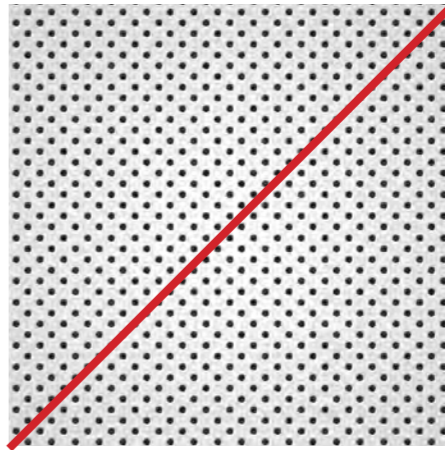
02 | WHITE BIRD NETTING



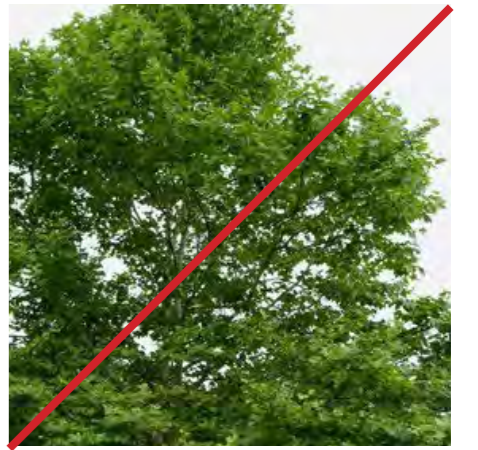
03 | ASPHALT WITH MARKINGS



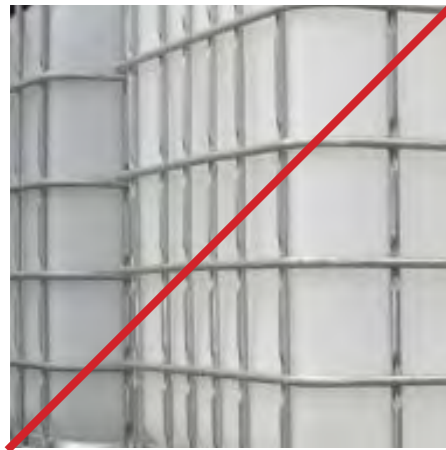
04 | WHITE STEEL FRAMING



05 | PERFORATED METAL SHEET



06 | EXISTING PLANE TREE



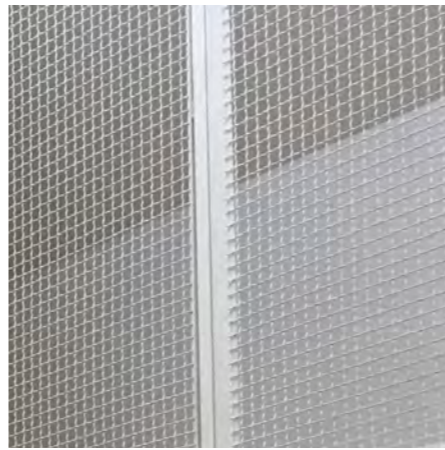
07 | RAINWATER TANK



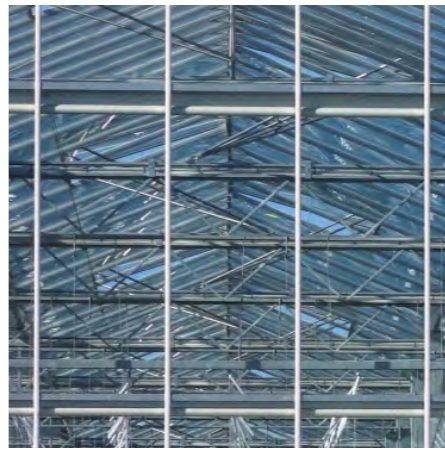
08 | PRODUCTIVE GARDEN



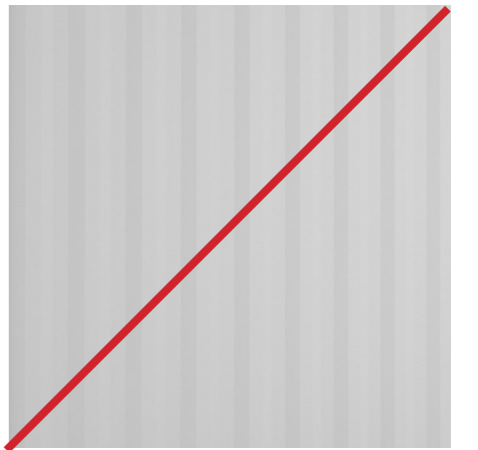
09 | CONCRETE BOLLARDS



10 | WHITE WOVEN WIRE MESH



11 | GLAZING



12 | REFRIGERATED STORAGE



Perspective view of temporary pavilion from Victoria St



## PLANNING APPLICATION REPORT

<b>Application number:</b>	<b>TP-2016-1124/A</b>
<b>Applicant:</b>	<b>City of Melbourne</b>
<b>Address:</b>	Queen Street Road Reserve and Queen Victoria Market, 65-159 Victoria Street, MELBOURNE VIC 3000
<b>Proposal:</b>	Amending the permit pursuant to Section 72 of the Planning and Environment Act 1987 including reduction in the overall length and width of the proposed pavilion and subsequent modifications to the built form, removal of trees in the location of the proposed pavilion, subsequent amendments and deletion of permit conditions
<b>Date of application:</b>	25 January 2018
<b>Responsible officer:</b>	Nicholas McLennan

### 1 SUBJECT SITE AND SURROUNDS

The site is located within the Queen Street road reserve and stretches approximately 330m from Franklin Street to the south to Victoria Street to the north. The reduced area of the proposal is indicated below.

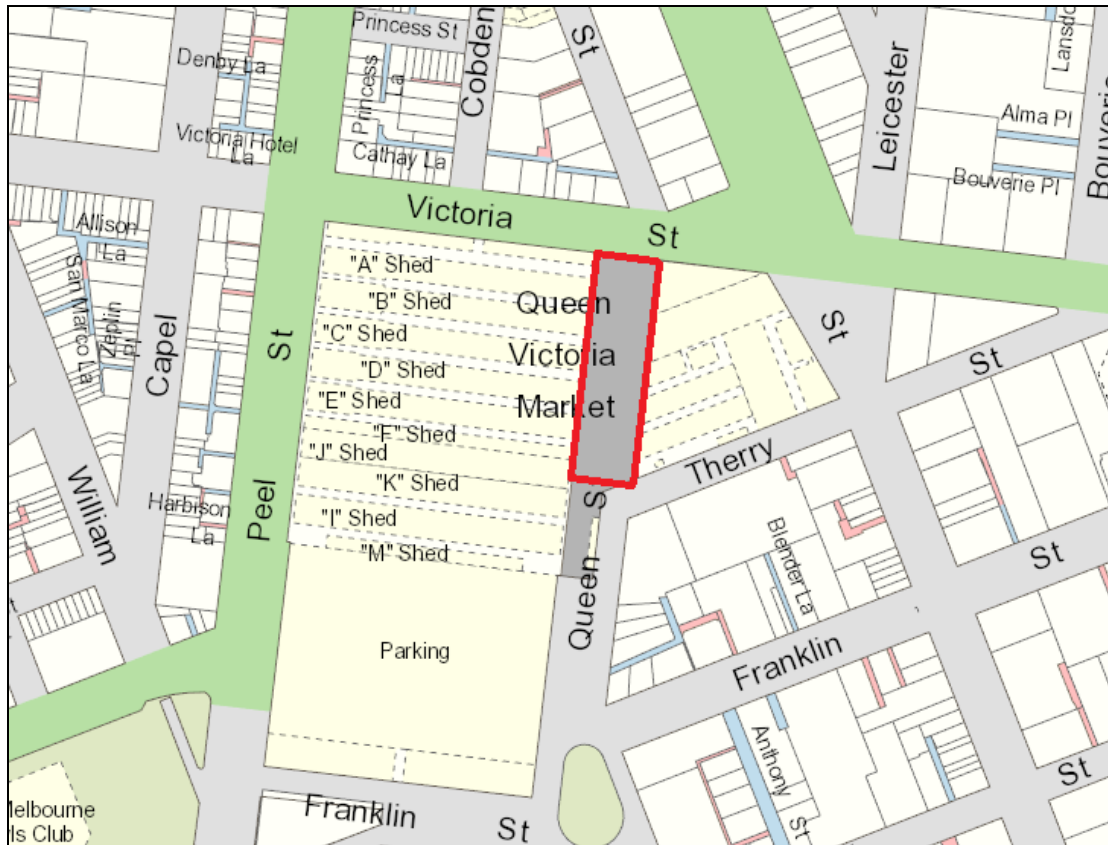


Figure One: Locality map of site showing approximate location of proposed works

In total the site has an approximate area of 10,000m<sup>2</sup> with an approximate 2 metre fall from Victoria Street to Franklin Street. The site is currently used as a road, car parking and amenities/toilet block.

To the west is the historic Queen Victoria Market sheds A to M and an open lot car park for the Market. To the north west is the Meat and Fish Hall, Dairy Produce Market and H and I sheds, while to the south west is Therry Street and a number of shop fronts. To the north is Victoria Street and to the south is the Victoria Market Reserve.

There are a number of easements that affect the Queen Street road reserve and a Section 173 agreement on title relating to Cultural Heritage matters.

### 1.1 Heritage Grading

The *City North Heritage Review* (RBA, 2013) includes a list of gradings of the buildings which make up the Queen Victoria Market. Relevant to this amended application is the retention of the toilet/amenities block which is graded D with a streetscape level of 2. The review describes the building as follows:

*'Red brick, with the original, central section having a plinth and gable roof, now obscured. Windows are four-paned, timber hoppers to both long elevations (east and west) and a timber door survives on the west side. The building has been extended to both the north and south ends and encircling verandah/canopy installed.'*

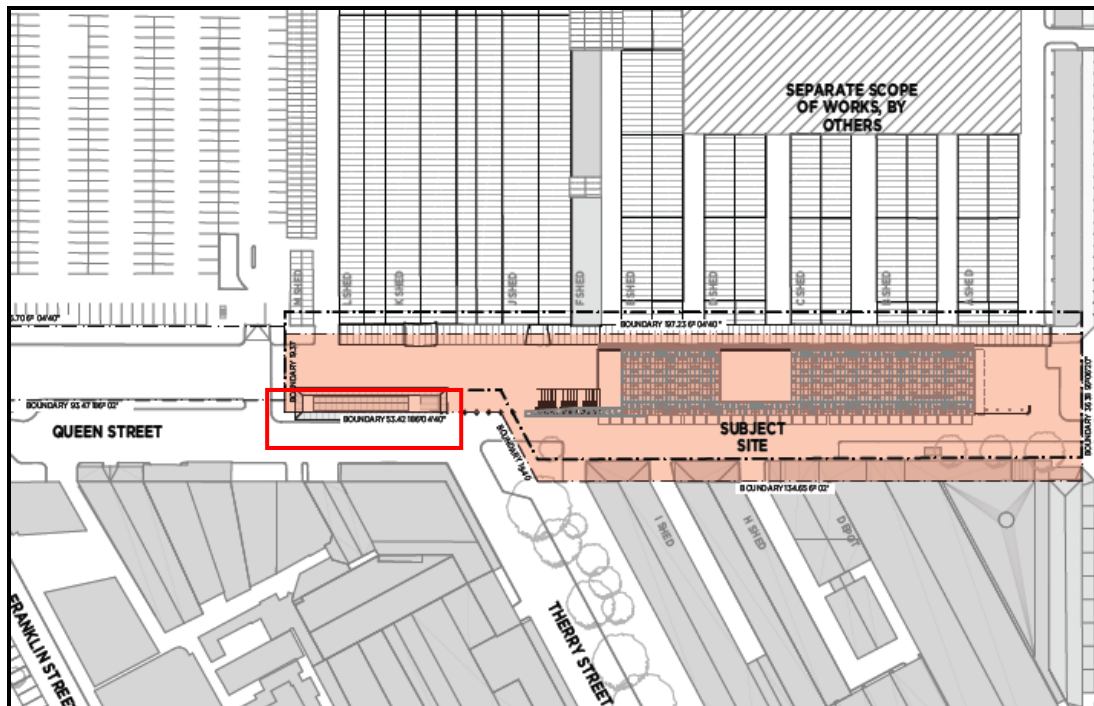


Figure Two: Site and surrounds showing location of proposed works on Queen Street road reserve.

## 2 BACKGROUND AND HISTORY

Although this report is limited to considering the planning merits of the proposal, the following information is provided for context:

The City of Melbourne in conjunction with Queen Victoria Market has embarked on the Queen Victoria Market Precinct Renewal (QVMPR). This is a ten year project aimed at rejuvenating the Queen Victoria Market and bringing it up to international standards.

The QVMPR Implementation Framework has been developed which sets out steps over the next five years to deliver the QVMPR. Stage one of this Implementation Framework involves relocating traders in sheds A, B, C and D to a temporary facility while the market's heritage sheds are restored and below ground facilities are created. Fruit and vegetable traders in sheds A and B are proposed to move into the new market pavilion, with general merchandise traders in sheds C and D to be relocated within the existing upper market sheds.

The original application was considered by Melbourne City Council at the Future Melbourne (Planning) Committee on 2 May 2017 where it was supported and subsequently a Notice of Decision to Grant a Permit and a Permit were issued.

The approved pavilion had an overall length of 264 metres and a width of between 10 and 19 metres. The maximum height of the approved pavilion was 13 metres. The ground floor and had a floor area of 3,840 square metres with an additional 260 square metres for the back of house facilities. The first floor had a floor area of 2,250 square metres resulting in a Gross Floor Area of 6,350 square metres. The proposed amendment results in a significant reduction of the approved development.

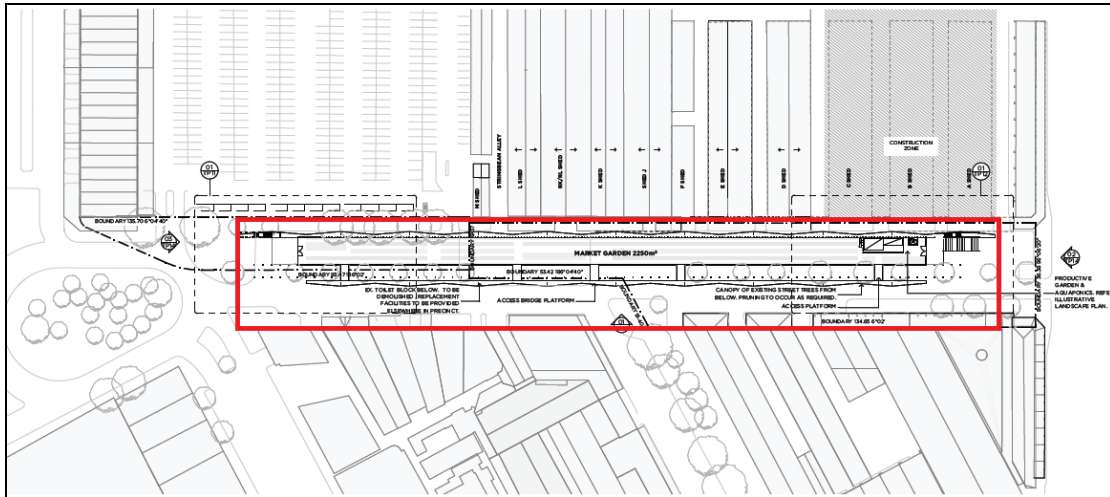


Figure Three: Extent of previously approved temporary market.



Figure Four: Render of previously approved temporary market.

It is noted that in the intervening period between the permit being issued and the amendment application being lodged, Planning Scheme Amendment C245 has been gazetted which introduced new planning controls in and around the Queen Victoria Market precinct. The planning controls that now govern the site are discussed further below.

## 2.1 Background

## 2.2 Planning Application History

The following applications, listed as considered relevant to the current proposal, have previously been considered for the subject site and/or adjoining sites:

TP number	Description of Proposal	Decision & Date of Decision
TP-2016-1124	Demolition and buildings and works for a temporary market, display of internally illuminated advertising signage and a waiver of loading and unloading requirements in accordance with the	<b>Permit</b> 5/6/2017 <b>Notice of Decision to Grant Permit</b> 8/5/2017

	endorsed plans	
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### 3 PROPOSAL

The architectural plans which have been considered in this assessment have been prepared by Breathe Architecture, dated 25 January 2018. The amended proposal seeks:

- Reduction in the length of the Pavilion from 264 metres to 111 metres;
- Reduction in the width of the pavilion from east to west from 19 metres to 17.7 metres;
- Removal of seven London Plane trees in the location of the proposed pavilion;
- Reduction of the extent of 'netting' associated with the greenhouse;
- Relocation of the amphitheatre bleacher seating from north to south and reversal from the west to the east side;
- Conversion of the double height bay where the plane trees were located to additional greenhouse area;
- Retention of amenities block;
- Removal of cool rooms from the market carpark;
- The three-bay greenhouse structure modified to include five bays over the width and length of a steel platform.

Resultantly, the above amendments require the following changes to existing permit conditions (as provided by the applicant).

Condition	Current Condition	Proposed amendment	Rationale
1	<p>Prior to the commencement of the development on the land, plans must be submitted to the Responsible Authority generally in accordance with the plans prepared by Breathe Architecture and dated 19 January 2017 but amended to show:</p> <p>a) Any changes as required by the revised Traffic Management Plan</p> <p>b) Any changes as required by the Tree Protection Plan</p> <p>c) Removal of all banner signs</p> <p>d) Removal of 'Market Garden' signage on the southern side of the Western elevation.</p> <p>These amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.</p>	Change the date associated with the plans to 25 January 2018.	To reference current plans
14	Specific details for the maintenance and care of public trees within the	Delete condition	The current condition is

	temporary pavilion following the construction period, must be provided in the form of a Tree Management Plan. The Tree Management Plan must be submitted to an approved by the Responsible Authority – Urban Landscapes. The management plan should include any expected pruning requirements, irrigation regimes and inspection schedules. If the works are proposed to be undertaken by external contractors (not Citywide Tree Care), this should be clearly indicated in the management plan.		superfluous as the amended scheme involves removal of trees.
15	<p>Following the approval of a Tree Protection Plan (TPP) a bank guarantee equivalent to the combined environmental and amenity values of public trees that may be affected by the development must be submitted and will be held against the TPP for the duration of construction activities. The bond amount will be calculated by Council and provided to the applicant/developer/owner of the site.</p> <p>Should any tree be adversely impacted, the City of Melbourne will be compensated for any loss of amenity, ecological services or for the cost of any amelioration works required (see advice notes).</p>	Delete condition	The current condition is superfluous as the amended scheme involves removal of trees.
16	Any proposed tree removal will be subject to the Tree Retention and Removal Policy, Council's Delegations Policy and requirements for public notification, and a briefing paper to councillors. It should be noted that certain tree removals including but not limited significant or controversial tree removals, may be subject to decision by Council or a Committee of Council. All applications for the removal of public trees must be sent <a href="mailto:trees@melbourne.vic.gov.au">trees@melbourne.vic.gov.au</a> and include documentation that meets the requirements of the Tree Retention and Removal Policy.	Delete condition	The current condition is superfluous as the amended scheme involves removal of trees.
17	All costs in connection with the removal and replacement of public trees, including any payment for the	Delete condition	The current condition is superfluous

	<p>amenity and ecological services value of a tree proposed for removal, must be met by the applicant/developer/owner of the site to the satisfaction of the Responsible Authority. The costs of these works will be provided and must be agreed to in writing before council removes the subject tree(s).</p>		<p>as the amended scheme involves removal of trees.</p>
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### 3.1 Demolition

No new demolition is proposed as a result of the amendments. Tree removal as outlined in section 3.0 of this report, does not require a planning permit.

It is noted that the toilet block is also no longer proposed to be demolished.

### 3.2 Buildings and Works

The proposal seeks to construct and carry out works for the development of the temporary pavilion structure located in the Queen Street road reserve within the Queen Victoria Market (QVM) Precinct.

### 3.3 Use

The temporary structure is proposed to accommodate a 'market' at ground floor. More specifically, the market component will operate as an open air trading hall on the ground floor, which is also known as the market pavilion.

The ground floor market pavilion is proposed to house existing fruit and vegetable traders being relocated from sheds A and B for a period of five years. These traders will operate on normal market days being Tuesday and Thursday to Sunday each week.

On the first floor is a market garden or 'urban greenhouse' which is ancillary to the market itself. The level one market garden is a covered area to grow plants including fruits and vegetables. This has been defined by the architects as an 'urban greenhouse' and has a working hydroponic system. This 'urban greenhouse' is proposed to be used as an educational resource to promote knowledge of food production for the general public.

The use has been afforded planning approval under the original permit, TP-2016-1124.

### 3.4 Signage

Business advertising signage has been approved under the original permit TP-2016-1124. No further signage is proposed under the amended permit application.



Figure Five: Render of the proposed building from Queen Street

#### 4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme require a planning permit for this proposal:

Clause	Permit Trigger
Capital City Zone Schedule 1 (Outside The Retail Core)	<p>Pursuant to Clause 37.04-1, no permit is required to use the land as a 'Retail Premises' or 'Market'.</p> <p>A permit is required to construct a building or construct or carry out works unless the schedule to this zone specifies otherwise.</p> <p>Schedule 1 lists no relevant exemptions in this instance. As such a permit is required for the proposed buildings and works.</p> <p>A permit is also required for the proposed signage as there are no exemptions.</p>
Heritage Overlay (HO7 – Queen Victoria Market Precinct)  (HO496 - Queen Victoria Market, 65-159 Victoria St, West Melbourne)	<p>Pursuant to Clause 43.01-1, a permit is required to demolish a building, construct a building and construct or carry out works and display a sign. As such a permit is required for the proposed works within the Queen Street road reserve.</p> <p>The Queen Victoria Market (not including the Queen Street road reserve) is listed on the Victorian Heritage Register – H734.</p>
Design and Development Overlay Schedule 14	<p>Pursuant to Clause 43.02-2 a permit is required to construct a building or construct and carry out works, unless a schedule to this</p>



(DDO14 – Queen Victoria Market Area 16)	<p>overlay specifies otherwise.</p> <p>Pursuant Schedule 14, there are no exemptions from requiring a planning permit. As such a permit is required under this overlay Area 16 has a discretionary maximum height limit of 7 metres.</p>
<p>Parking Overlay Schedule 1 (PO1)</p>	<p>This overlay specifies a maximum car parking rate. As no parking is associated with this particular facility within the market, no permit is required under this overlay.</p>

## 5 PLANNING SCHEME AMENDMENT C245

Planning Scheme amendment C245 was gazetted by the Minister for Planning on 31 August 2017. As such the current planning controls affecting the land are detailed above.

The amendment (summarised):

- Rezoned QVM car park from CCZ to Public Park and Recreation Zone (PPRZ).
- Introduced a new Schedule to the Development Plan Overlay (Schedule 11).
- Amended Design and Development Overlay (DDO) Schedule 14.
- Extends DDO10 to introduce revised built form controls for new development consistent with the remainder of the Hoddle Grid as introduced via Amendment C270 to the Melbourne Planning Scheme.
- Amend Built Environment and Heritage within Hoddle Grid Policy (Clause 21.12) to extend the area of the QVM precinct.
- Amends Clause 21.17 to include QVM Renewal Built Form Review and recommendations (April 2015) and QVM Precinct Renewal Master Plan (July 2015) as reference documents.

It is noted the proposed works are now outside Development Plan Overlay Schedule 11.

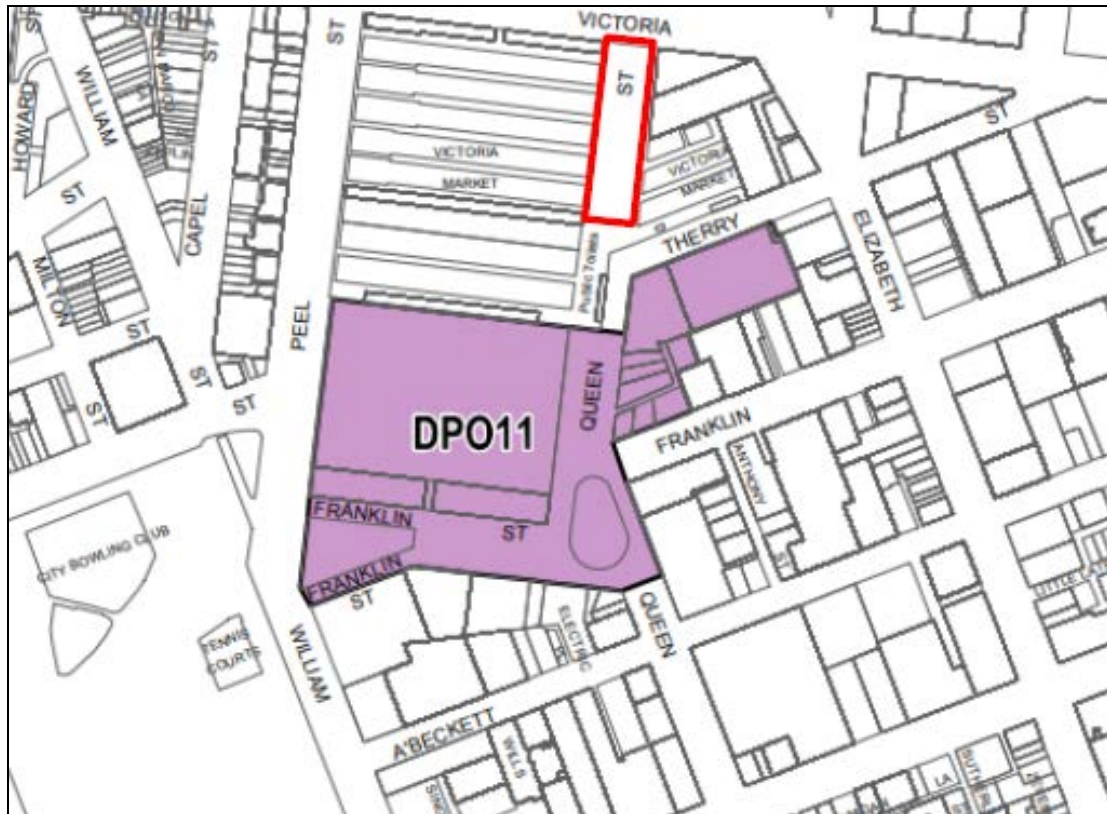


Figure Six: Development Plan Overlay Schedule 11

## 5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are listed as follows:

- Clause 11.03 Activity centres
- Clause 11.06-1 Jobs and investment
- Clause 11.06-4 Place and identity
- Clause 11.06-5 Neighbourhoods
- Clause 15.01 Urban environment
- Clause 15.02 Sustainable development
- Clause 15.03 Heritage
- Clause 17.01-1 Business
- Clause 17.03 Tourism

## 5.2 Local Planning Policy Framework (LPPF)

### 5.2.1 Municipal Strategic Statement (MSS)

The relevant provisions of the MSS are listed as follows:

- Clause 21.03 Vision
- Clause 21.06 Built Environment and Heritage
- Clause 21.08-1 Retail
- Clause 21.08-2 Business
- Clause 21.12 Hoddle Grid

### **5.2.2 Local Policies**

The relevant local policies are summarised as follows:

- Clause 22.01 Urban Design within the Capital City Zone.
- Clause 22.04 Heritage Places within the Capital City Zone
- Clause 22.07 Advertising Signs
- Clause 22.19 Energy, Water and Waste Efficiency
- Clause 22.23 Stormwater Management (Water Sensitive Urban Design)

## **6 ZONE**

The subject site is located within the Capital City Zone Schedule 1

The purpose of this zone is:

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

## **7 OVERLAY(S)**

### **7.1 Heritage Overlay**

The subject site is covered by Heritage Overlay Schedule 7 (HO7) Queen Victoria Market Precinct which (as identified in figure six below) affects the Queen Street road reserve.

The purpose of this overlay includes:

- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

### **7.2 Design & Development Overlay Schedule 14**

The site sits within Design and Development Overlay Schedule 14 (DDO14) - Queen Victoria Market.

Schedule 14 has the following design objectives:

- To ensure that any development within the Queen Victoria Market is consistent with its Victorian character and low-scale.
- To ensure that development around the Market edges and within close proximity to the Market provides an appropriate scale transition from the low scale Market buildings towards the medium and high rise towers in the Central Business District.
- To ensure that any development in close proximity to the Queen Victoria Market is compatible with the scale and character of the Market, surrounding residential developments and adjacent precincts.

The subject site sits within Area 16 of DDO14.

This area lists a discretionary maximum building height of 7 metres with the built form outcome to meet listed as:

‘Development maintains the consistency of scale and built form of the historic Queen Victoria Market.’

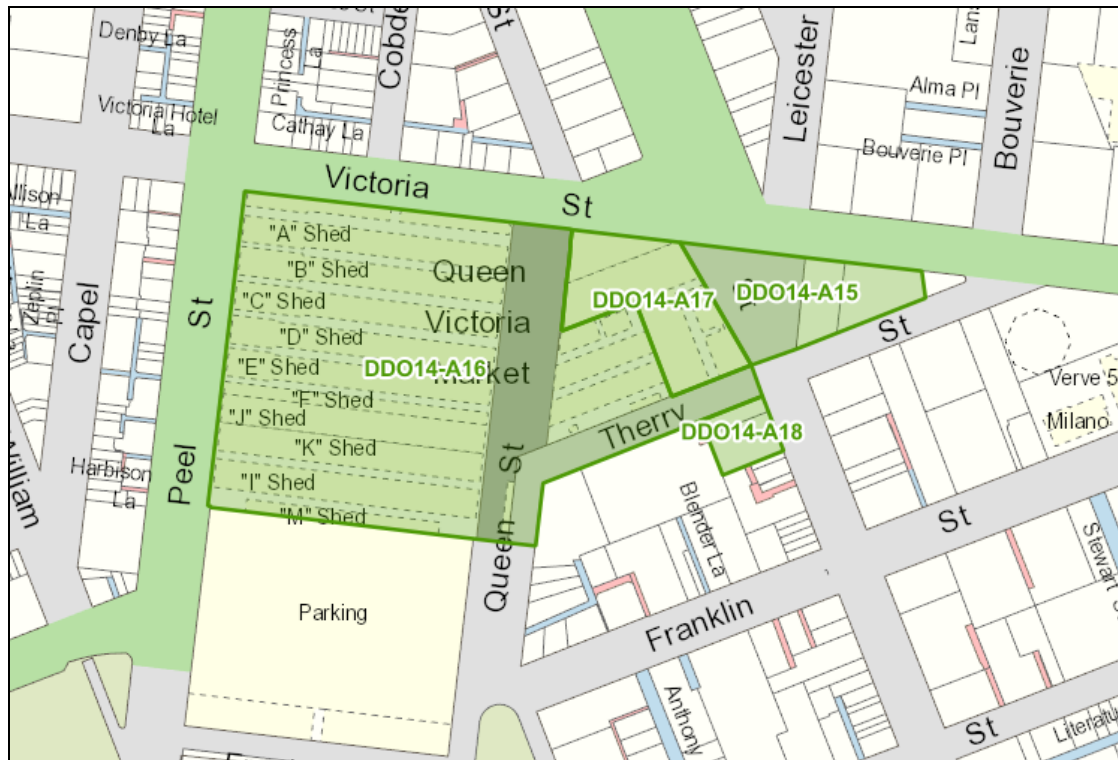


Figure Seven: Design and Development Overlay Schedule 14

### 7.3 Parking Overlay Schedule 1

The Parking objective to be met is: ‘To identify appropriate car parking rates for various uses within the Capital City Zone’

Schedule 1 lists a maximum parking rate for the area. However, as this application does not propose any additional car parking this overlay is not a permit trigger and is not considered relevant to this application.

## 8 PARTICULAR PROVISIONS

The following particular provision(s) apply to the application:

- Clause 52.05, Advertising Signs
- Clause 52.36, Integrated Public Transport Planning

## 9 GENERAL PROVISIONS

The following general provision(s) apply to the application:

- Clause 65, Decision Guidelines, which includes the matters set out in Section 60 of the Planning and Environment Act 1987.
- Clause 66.03, Referral of permit applications under other State standard provisions.
- Clause 67, Applications under Section 96 of *The Act*.

- Pursuant to Section 96 of the *Planning and Environment Act 1987 (The Act)*, 'a responsible authority must obtain a permit from the Minister before carrying out any use or development for which a permit is required under the planning scheme for which it is the responsible authority unless the planning scheme gives an exemption.
- Clause 67.01 provides an exemption from the provisions of Section 96(1) and 96(2) of *The Act* for use of the land as a Class 1 use (retail premises). Clause 67 also provides an exemption for demolition of a building and construction and carry out works associated with a Class 1 use (retail premises). As such the application is exempt from Sections 96(1) and 96(2) of *The Act* and can be considered by the Council as the Responsible Authority.

## 10 PUBLIC NOTIFICATION

Pursuant to Clause 37.04 and clause 43.02, the application is exempt from third party notice and appeal provisions of *the Planning and Environment Act 1987*.

Pursuant to Clause 43.01, the application is not exempt from third party notice and appeal rights and it was determined that the proposal may result in material detriment.

Pursuant to Clause 67.02, in accordance with Section 52(1)(c) of the Act, notice must be given to the owners and occupiers of adjoining land.

As such notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties and by posting four notices on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

It is noted that all objectors to the initial application were also notified by ordinary mail.

## 11 OBJECTIONS

A total of 243 valid objections were received and raised the following concerns with the proposal (summarised):

- Not in character with the existing market;
- Permanent loss of approximately 100 car parks in Queen St essential to customer convenience during the week;
- It divides the market in two;
- Affects the flow of traffic through the city by permanently blocking a vehicle outlet into Victoria St;
- Natural sunlight will be blocked and airflow reduced;
- Disruption to market operations in its construction;
- The permanent loss of 7 plane trees giving greenery, shade and respite at ground level;
- The proposed structure is completely unnecessary and unjustified on public land with existing market activities;
- The proposal is without consultation with traders and market customers;
- The renovation of the sheds could be done in stages without the proposed new glass structure;

- The proposed pavilion's design and imported glass material is completely out of character with the heritage area;
- The structure is redundant with or without Heritage Victoria's approval for excavation of sheds A, B, C and D.
- The Minister for Planning is the Responsible Authority

The majority of the objections received were identical however, all issues raised in all objections will be given due consideration in the following assessment.

It is noted that not all objections were lodged with the requisite information as required by the *Planning and Environment Act 1987* to be considered an objection.

A total of 341 submissions were received however only objections where the customer's name and postal address have been clearly provided have been registered as an objector in accordance with the requirements of the Planning and Environment Act 1987 ('the Act').

Objections where the name or postal address was missing or unable to be read, but an email address had been provided were followed up by Planning Business Support team by emailing the customer requesting their name/postal address. The objectors who responded were then registered if they replied.

Objections with name or postal address missing or unable to be read and no email provided are invalid as required by the Act.

## 12 CONSULTATION

The applicant provided the following written response to the objections received:

*Prior to responding to the objections, it is prudent to acknowledge that a planning permit has already been issued for the development of the temporary market facility. More specifically, Permit TP-2016-1124 allows:*

*"Demolition and buildings and works for a temporary market, display of internally illuminated advertising signage and a waiver of loading and unloading requirements in accordance with the endorsed plans".*

*The Council's consideration of the Section 72 application is therefore limited to an assessment of the proposed changes. To this end, the key considerations arising from the objections relate to the proposed removal of seven plane trees and the reduction in the size of the facility.*

*Our response follows.*

### *Tree Removal*

*The original application sought to retain the trees and they were integrated into the building design. Following further investigation, it was determined that the trees should be removed due to the likely impact of the proposed development on the structural root zones and the extent of pruning required and a detailed assessment is included within the letter prepared by Tree Logic, consultant arborists, which accompanied the amendment application.*

*Further, the Permit Applicant proposes to offset the tree removal by undertaking landscaping works and other public realm improvements in association with the broader Queen Victoria Market Precinct Renewal Project.*

*This will include a greening strategy to be implemented by City of Melbourne.*

*Whilst the tree removal is referenced in amendment application, we note that a planning permit is not required to remove the trees pursuant to the applicable zone and overlay provisions of the Melbourne Planning Scheme,*

*and it follows that this element of the proposal does not need to be determined. Instead, it requires local law approval only, and has been referenced in the application for 'completeness'.*

### **Size of the Facility**

*In response to the suggestion that the reduction in the size of the temporary pavilion will reduce the amount of trading area available to stallholders, we note that commercial operations are not relevant to the assessment of the proposal having regard to the applicable provisions in the Melbourne Planning Scheme. We note that the extent of the proposed below ground infrastructure in Quarter 2 beneath Sheds A-D has been significantly reduced requiring a reduced area to decant affected traders within the New Market Pavilion.*

*Regarding the reduced size of the temporary facility and associated design considerations, as noted in our original submission, the overall integrity of the architecture is not compromised, and the various innovations associated with the 'sustainability' of the project are maintained.*

### **Responsible Authority Status**

*It has also been suggested that the Minister for Planning is the responsible authority for this amendment application because it forms part of Queen Victoria Market Precinct Renewal Project. This is incorrect because the subject site is not affected by the Development Plan Overlay Schedule 11 provisions pursuant to which the Minister for Planning assumes responsible authority status.*

*More specifically, Section 2 of Clause 61.01 provides that the Minister for Planning is the responsible authority for administering and enforcing the scheme for:*

*"Land included in the Development Plan Overlay, Schedule 11 --- Queen Victoria Market Precinct Framework Plan Area (Figure 4 of this Schedule)."*

It is noted that no response in regard to the heritage concerns was provided. Concerns in regard to heritage matters and other matters not covered within the response are addressed in the assessment below.

## **13 REFERRALS**

### **13.1 Internal**

#### **13.1.1 Urban Design**

The City of Melbourne's Urban Design team made the following comments in regard to the proposal:

*The revised proposal is a reduction in the scope of the project, including the length of the structure, as well as some of the previous design resolution. We recognise the rationale for the reduction in size due to changed functional requirements but this has impacted on the success of the design strategies. We encourage further consideration of how they could be addressed in the detailed design stage. These include:*

- The design integration between the upper and lower level structure. These now read as separate elements.*
- The use of the chevron mesh element along the elevation as a structuring element of the shed. The effectiveness of this as an architectural and unifying device has been reduced.*

- *The double height void element which allowed strong engagement between the ground and upper level within the structure. In addition, we suggest that some additional elements need to be better integrated.*
- *The application of canvas awnings for shading, where the integrated Chevron element has been removed. These could be better integrated with the structure of the proposal.*
- *The application of a protruding shade structure on the side of the market stalls, which does not appear integrated.*

*We note a revised landscape plan has not been reviewed within the application package, although it is noted within the architectural drawings. While acknowledging the reasons for removal of the plane trees, it will significantly change the character of the area and integration of the structure into its setting, and we seek further evidence that an integrated landscape and built form response will be delivered.*

*We would therefore strongly encourage further design consideration of how to ensure:*

- *a better architectural and spatial/visual relationship between the upper and lower levels of the shed, and that enables the overall concept of the green house structure to be read as an entity.*
- *better integration of the shading to the long side elevations.*
- *the high profile elevation to Victoria Street is such to invite people into the precinct. The reinstatement of the chevron to announce this arrival is encouraged.*
- *a proposal which demonstrates how structuring landscape elements can be integrated into the built structure and surrounding public realm.*

### **13.1.2 Land Survey**

Land Survey had no comments to make noting the amended plans appear to show no proposed structure within the Government Road.

Further no changes to the permit are required as a result of the proposed modifications.

### **13.1.3 Traffic**

The City of Melbourne's Traffic Engineers made the following comments in regard to the proposed amendment:

*I have reviewed documents provided with comments from Contour Consultants detailing changes of proposal. From the information provided, it would appear that the changes largely relate to the size and design of the pavilion and not result in any changes to traffic conditions.*

*The main carpark access arrangements are not affected by this proposal (other than the removal of the cool rooms which will reinstate the parking spaces that were proposed to be removed) and as a result no new traffic comments are required.*

### **13.1.4 Urban Forest & Ecology**

The City of Melbourne's Urban Forest and Ecology team made the following comments in regard to the proposal:



*These comments refer to the potential impacts of the proposal on publicly owned trees and are made in accordance with the Tree Retention and Removal Policy.*

#### ***QVMPR – Proposed removal of seven London Plane Trees in Queen Street***

*The letter does not specifically refer to the amended proposal but documents Stephen Frank's involvement in the project and refers to a tree management report provided in January 2017 when the project area contained twenty eight semi-mature public trees (all London Plane trees).*

*The encroachment into the structural root zones of trees numbered 4-10 and 13-19 (thirteen trees) is identified as being of the greatest potential impact for the long term viability of the trees. Additionally, canopy impacts to trees 6, 7, 9 and 10, 23, 24 and 28 would require substantial pruning to accommodate the pavilion structure with pruning of trees 6, 7 and 23 exceeding industry thresholds for pruning.*

*The letter concludes that in the opinion of the author it is not possible to develop a feasible management approach for seven trees that would allow the construction of the approved temporary pavilion as designed while sustaining healthy viable trees into the future. As such the removal of seven trees (trees 4-10) is recommended.*

#### ***Tree Protection Plan***

*The Plan identifies that four public trees located on the eastern side of Queen Street between Victoria Street and Therry Street should be protected during construction of the temporary pavilion, although there is an acknowledgment that specific construction machinery clearance requirements are yet to be established and may result in the need for some minor pruning.*

#### ***Overall Conclusions***

*The design of the pavilion is not compatible with successful and sustainable tree retention and therefore I concur with the conclusion and recommendations provided by Stephen Frank that seven public trees require removal.*

*The Tree Protection Plan identifies that four public trees located on the eastern side of Queen Street. I concur that tree protection should be provided to these trees.*

*Internal council discussion has established that the project team are confident in providing details of re-greening within the precinct that will adequately mitigate the loss of tree canopy currently provided by the seven trees that require removal.*

- ***The following conditions of the existing permit should remain to ensure the Tree Retention and Removal Policy is met.***
  1. ***Condition 14 – Submission of Tree Protection Plan. Reason:*** Required to ensure appropriate protection of remaining public trees within the construction area.
  2. ***Condition 15 – Tree Protection bank guarantee. Reason:*** Required to ensure appropriate protection of remaining public trees within the construction area.

3. Condition 16 – Tree removal to be subject to the Tree Retention and Removal Policy. **Reason:** To ensure tree removal is briefed to councillors and public notices placed on the trees.

#### **Recommended Conditions and Advice Notes**

##### **Public Tree Removal**

- Proposed tree removal will be subject to the Tree Retention and Removal Policy, Council's Delegations Policy and requirements for public notification, and a briefing paper to councillors. It should be noted that certain tree removals including but not limited significant or controversial tree removals, may be subject to decision by Council or a Committee of Council. All applications for the removal of public trees must be sent [trees@melbourne.vic.gov.au](mailto:trees@melbourne.vic.gov.au) and include documentation that meets the requirements of the Tree Retention and Removal Policy. Applications received at least 5 working days prior to the end of each month will be included in the monthly Briefing Paper of the following month. A minimum 14 day notification period applies following distribution of the Briefing Paper to Councillors.

##### **Public Tree Protection**

- All works within the Tree Protection Zone of public tree assets must be undertaken in accordance with the endorsed Tree Protection Plan prepared by Stephen Frank dated 4 January 2018 and supervised by a suitably qualified Arborist where identified in the report, except with the further written consent of the Responsible Authority.
- In the event that a Construction Management Plan or Traffic Management Plan changes any of the tree protection methodologies or impacts on public trees in ways not identified in the endorsed Tree Protection Plan (TPP) an amended TPP must be provided to the satisfaction of the Responsible Authority. When provided to the satisfaction of the Responsible Authority the revised TPP will be endorsed to form part of this permit and will supersede any previously endorsed TPP for the purpose of Condition (XX).

##### **Street Tree Replacement and City Greening**

- Prior to the occupation of the temporary pavilion evidence must be provided to the satisfaction of the Urban Sustainability Branch that demonstrates an improvement to green space/infrastructure in the Queen Victoria Market Precinct (QVMP). The evidence must include:
  - a) Confirmation that replacement trees within the QVMP will, at maturity, provide equivalent or greater canopy cover than that lost through the removal of the seven trees on Queen Street.

Once approved the evidence will be endorsed to form part of this permit.

##### **Public Tree Protection Bond**

- Prior to the commencement of the development (including construction set-up) a bank guarantee equivalent to the combined environmental and amenity values of public trees identified in the endorsed Tree Protection Plan (TPP) must be lodged with the

*Responsible Authority. The bond will be held against the endorsed TPP for the duration of construction activities and until occupation of the temporary pavilion. The bond amount will be calculated by council and provided to the applicant/developer/owner of the site. Should any tree be adversely impacted on, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works incurred.*

### **13.2 External**

The original application was referred to Public Transport Victoria pursuant to Clause 52.36 (now relocated to Clause 66 of the Melbourne Planning Scheme).

The original application proposed a new retail premises that was in excess of 4000sqm. It is noted that the reduction in the works has resulted in the proposed premises being less than 4000sqm. Notwithstanding it is considered appropriate to include the conditions required by PTV will remain on any amended permit to issue.

Although Victoria Street is designated as a Road Zone Category 1, there is no alteration to access proposed via this arterial road and no referral trigger under Clause 52.29 (Alteration to access to a Road Zone Category One).

It is noted that VicRoads were notified of the original project through the traffic and civil engineering process and have no objections to the proposal.

## **14 ASSESSMENT**

The application seeks to amend the permit pursuant to Section 72 of the Planning and Environment Act 1987 including reduction in the overall length and width of the proposed pavilion and subsequent modifications to the built form, removal of trees in the location of the proposed pavilion, subsequent amendments and deletion of permit conditions.

### **14.1 Land Use**

The use of the ground floor as a 'market' falls within the land use nesting of a 'retail premises', which is a Section 1 use within the Capital City Zone Schedule 1 (CCZ1). As such the use does not require a planning permit.

The use of level one of the building as an 'urban greenhouse' or 'market garden' is a smaller component of the use, and has been granted a planning permit under TP-2016-1124.

The proposed amendment results in a reduction of the size of the originally approved temporary market and continues to be appropriate for the site.

### **14.2 Heritage**

Heritage considerations assessed under the original application continue to apply, as discussed below. The altered proposal reduces the scope of works, and accordingly, and subsequently any potential impact upon the heritage precinct.

#### **14.2.1 Demolition**

The previously approved demolition of the existing toilet block is no longer part of the scope of works, given the reduction of the size of the pavilion.

### 14.2.2 Buildings and Works

Clause 22.04 (Heritage Places within the Capital City Zone) identifies the Queen Victoria Market Precinct as a significant part of the Capital City. This clause identifies the following key attributes that contribute to the heritage significance of the precinct:

- The historic character of the precinct as a retail area.
- The generally simple, low-scale and remarkably intact example of a utilitarian form from the period of its construction. Taken as a whole, the Market and its component buildings are substantially intact in its 1923 form.
- The visual dominance of the Queen Victoria Market in the surrounding area.

The proposed use as a market will maintain the retail character of the area while the two storey structure will respect the simple, low scale, utilitarian market complex. Importantly, the structure being light weight in appearance, two storeys in height and largely transparent, will not dominate the historic QVM sheds from the surrounding area. As such the proposed buildings and works are considered to comply with the policy within Clause 22.04 in that the 'new development complements their character, scale, form and appearance' of the QVM precinct.

Clause 43.01 (Heritage Overlay) lists the following key decision guideline which is relevant to this application:

- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.

The Heritage Impact Statement prepared by Lovell Chen that accompanied the original application stated that:

*'The proposed pavilion is a temporary light weight structure, which will enable the continuation of the market activities while the broader redevelopment of the precinct is underway. Although the pavilion will produce a significant scale to a predominantly single storey precinct, this is considered acceptable in the larger context of a renewal at the QVM and the temporary nature of the pavilion. Aside from the demolition of the amenities block in Queen Street, the proposal will have no physical impact on the significant fabric of the QVM, including the retention of the street trees along Queen Street.'*

This statement continues to be supported by Council's heritage advisor, who stated that the temporary building can be supported within a heritage context, even though it is above the existing discretionary height control.

In addition it is noted that the new structure will continue to present as a light weight contemporary element in an historic precinct. The modern building which will be constructed of high quality materials will be clearly distinguishable from the older shed forms in a respectful manner.

The new building seeks to continue the tradition of utilising a shed/pavilion approach to the architecture of the precinct in an interpretive fashion. In this sense the new structure seeks to integrate within the QVM precinct and its form and appearance will not adversely affect the significance of the heritage place.

It is considered that the location of the new structure will not adversely affect the significance of the heritage place and can be supported on heritage grounds.

### 14.2.3 Aboriginal Cultural Heritage

As the application proposes works with 'significant ground disturbance' within a registered cultural heritage place, the works require the preparation of a Cultural

Heritage Management Plan (CHMP), as specified in the Aboriginal Heritage Regulations 2007.

A CHMP (No.14052) for this proposal has been submitted to and approved by Aboriginal Affairs Victoria. A note on the permit will specify the works must be in accordance with the CHMP at all times.

### 14.3 Street trees

The City of Melbourne's arborist has reviewed the proposal and is in agreement with the project arborist regarding the removal of the specified London Plane trees.

It is noted that the Council's arborist does not agree with the applicant's recommendation that Conditions 14, 15 and 16 should be removed. These conditions are to remain on any amended permit to issue, to ensure the remaining proximate trees are adequately protected, and that tree removals remain subject to Council's *Tree Retention and Removal Policy 2012*.

In removing the street trees, it is noted that a new condition will require the applicant to provide confirmation that replacement trees within the QVMP will be provided to offset the loss of the existing street trees. The replacement trees throughout the precinct will need to, at maturity, provide equivalent or greater canopy cover than that lost through the removal of the seven trees on Queen Street.

It is noted that the removal of the trees does not require a planning permit.

### 14.4 Built Form

The reduction in the scope of the proposed pavilion has resulted in a modified design response for the proposed temporary market. The architect has made the following comments on the proposal:

*Market Garden serves as a temporary trading pavilion that initiates a layered programmatic and experiential outcome for the trader, shopper and visitor.*

*Through contextual ground floor markings and super graphics that reference and describe the narrative of the current site, traders will have a defined place of business beneath a productive and seasonal greenhouse.*

The City of Melbourne's Urban Design team have viewed the proposal and have recommended the following be investigated and incorporated into the overall design:

- Distinct architectural and spatial/visual relationship between the upper and lower levels of the shed;
- Integration of the shading to the long side elevations;
- The high profile elevation to Victoria Street is such to invite people into the precinct;
- Demonstration of how structuring landscape elements can be integrated into the built structure and surrounding public realm.

The applicant has responded to the Urban Design advice and noted that they would accept conditions of any amended permit to issue to require further detail in regard to improvements of the upper level to give it greater depth in elevation, the integration of further shading along the eastern elevation (the western elevation is constrained by smoke exit/fire engineering requirements) and further detail in regard to the provision of landscaping elements and built structures to be integrated into the proposal.

Concerns have been raised in regard to the proposal blocking natural light and airflow. It is reiterated that the proposal is for a significant reduction in the built form

already approved and as such will result in an increase of light to the south of the structure than was originally approved.

Overall, subject to conditions requiring further design detail, the proposed design modifications to the previously approved pavilion are considered to be appropriate and will not unreasonably impact on the character of the area.

#### **14.5 Engineering Matters**

The proposed amendment will retain all of the existing conditions relating to civil engineering.

Concerns have been raised in regard to the impact on car parking within the market as well as traffic flow impacts within the area. The proposed reduction in the size of the temporary market will result in car parking that was to be removed under the approved permit being kept and will reduce the amount of built form that was to extend up Queen Street. These modifications are considered to have a positive impact on the already approved scenario.

The amendment application was referred to the City of Melbourne's Traffic Engineers who continue to support the application.

#### **14.6 Additional Objector Concerns**

A number of the concerns raised by objectors have been addressed above.

The following objector concerns are outside the scope of the assessment of this application to amend the existing planning permit, and are considered to not be relevant to the matters for consideration, which are restricted to the changes between the already approved development and the amended proposal. No new or unrelated matters can be considered:

- Opposition to overall QVMPR project;
- Impact on existing traders;
- The renovation to the sheds could be done in stages;
- Impact on loading for the market;
- Divides the market in two

These concerns relate to operational and business related requirements of the QVM during the life of the temporary market facility.

Whilst these matters are not relevant to the assessment of this application, it is noted that the QVMPR team has prepared a long term plan for the precinct to ensure its ongoing operation during the renewal works.

In regard to concerns raised about the Minister for Planning being the Responsible Authority for this application it is noted the City of Melbourne is the Responsible Authority as the proposed works fall outside of the Development Plan Overlay area which the Minister for Planning is the Responsible Authority.

#### **14.7 Conclusion**

It is considered that the amended proposal is consistent with the relevant sections of the Melbourne Planning Scheme, as discussed above, and that a Notice of Decision to Grant an Amended Permit be issued for the proposal subject to the following conditions:

## 15 RECOMMENDATION

That a Notice of Decision to Grant an Amended Permit be issued subject to the following conditions (no condition to be deleted, **new and amended conditions in red**):

1. Prior to the commencement of the development on the land, plans must be submitted to the Responsible Authority generally in accordance with the plans prepared by Breathe Architecture and dated **25 January 2018** but amended to show:
  - a) Any changes as required by the revised Traffic Management Plan.
  - b) Any changes as required by the Tree Protection Plan.
  - c) Removal of all banner signs.
  - d) Removal of 'Market Garden' signage on the southern side of the Western elevation.
  - e) **Amended landscape plan to reflect the modified design of the proposed pavilion.**
  - f) **Revised upper level to achieve greater integration between the upper and lower form/level and to provide greater depth in the round.**
  - g) **Integration of further shading along the eastern side of the proposed pavilion.**
  - h) **Detail of the location of movable planter boxes, flower containers, bollards and other structuring landscape elements to be integrated into the built structure and public realm.**

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

2. The development as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.

### Signage

3. The signs, including their structure and advertising material as shown on the endorsed plan, must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.
4. The location, size, material of construction and degree of illumination of the sign(s) shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
5. The signs shall only contain advertisement which provides or supplies information relating to the business conducted on the above mentioned land and must not display any third party promotional material, without the prior written consent of the Responsible Authority.
6. The lighting of the sign(s) must be positioned so no direct light or glare shall be visible from any roadway or from any adjoining property, to the satisfaction of the Responsible Authority.
7. The sign(s) must not be animated or contain any flashing light.

### Traffic Engineering

8. Prior to the commencement of the development (including demolition), a revised Traffic Management Plan must be submitted to the Responsible Authority generally in accordance with the plan prepared by Ratio Consultants and dated 16 February 2017 but amended to show:

- a) Traffic plans which demonstrate the proposed future layout of Queen Street and detail any proposed vehicle access to the west.
- b) A swept path review to be undertaken where vehicle access is required at any point.
- c) Location of loading areas for the market stalls within the new pavilion;
- d) Details of transport between the proposed loading areas and the pavilion market stalls.
- e) Specific vehicle movement requirements to these areas (trucks, forklifts etc.) including swept paths.
- f) Details of monitoring of queues at the Franklin Street access point. If queues exceed the original estimates further modifications must be undertaken to reduce delays for drivers.
- g) Confirmation of location of relocated bicycle parking hoops.

### **Waste**

9. The waste storage and collection arrangements must be in accordance with the Waste Management Plan (WMP) prepared by Ratio dated 16 Dec 2016. The submitted WMP must not be altered without prior consent of the City of Melbourne – Engineering Services.

### **Public Transport Victoria**

10. The permit holder must take all reasonable steps to ensure that disruption to bus operation along Franklin Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen days (14) prior.

### **Environmentally Sustainable Design**

11. The performance outcomes specified in the Sustainable Management Plan prepared by *Hype Sustainability* and dated December 2016 must be achieved in the completed development.

Any change during detailed design, which prevents or alters the attainment of the performance outcomes specified in the endorsed ESD Statement, must be documented by the author of the endorsed ESD statement in an addendum to this report, which must be provided to the satisfaction of the Responsible Authority prior to the commencement of construction.

### **Construction Management Plan**

12. Prior to the commencement of the development, including demolition, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group . This construction management plan must be prepared in accordance with the Melbourne City Council - Construction Management Plan Guidelines and is to consider the following:
  - a) public safety, amenity and site security.
  - b) operating hours, noise and vibration controls.
  - c) air and dust management.
  - d) stormwater and sediment control.
  - e) waste and materials reuse.



- f) traffic management.

### **Public Tree Protection and management**

13. Prior to the commencement of any works a Tree Protection Plan (TPP) must be submitted to and approved by the Responsible Authority – Urban Landscapes. The TPP must be in accordance with AS 4970-2009 – Protection of trees on development sites and include:
  - a) City of Melbourne asset numbers for the subject trees (found at <http://melbourneurbanforestvisual.com.au>)
  - b) Site specific details of the temporary tree protection measures to be used to isolate or protect public trees from the construction activities.
  - c) Specific details of any special construction methodologies to be used within the Tree Protection Zone of any public owned tree.
  - d) Full specification of any pruning required to public owned trees. All prescribed pruning must be in accordance with AS-4373-2007 'Pruning of Amenity Trees'.
  - e) Specific details for ongoing maintenance and management of public trees within and surrounding the development before and during construction.
  - f) Details of the frequency of the Project Arborist construction monitoring visits, interim reporting periods and final completion report (necessary for bond release).
14. Specific details for the maintenance and care of public trees within the temporary pavilion following the construction period, must be provided in the form of a Tree Management Plan. The Tree Management Plan must be submitted to and approved by the Responsible Authority – Urban Landscapes. The management plan should include any expected pruning requirements, irrigation regimes and inspection schedules. If the works are proposed to be undertaken by external contractors (not Citywide Tree Care), this should be clearly indicated in the management plan.
15. Following the approval of a Tree Protection Plan (TPP) a bank guarantee equivalent to the combined environmental and amenity values of public trees that may be affected by the development must be submitted and will be held against the TPP for the duration of construction activities. The bond amount will be calculated by council and provided to the applicant/developer/owner of the site. Should any tree be adversely impacted, the City of Melbourne will be compensated for any loss of amenity, ecological services or for the cost of any amelioration works required (see advice notes).
16. Any proposed tree removal will be subject to the Tree Retention and Removal Policy, Council's Delegations Policy and requirements for public notification, and a briefing paper to councillors. It should be noted that certain tree removals including but not limited significant or controversial tree removals, may be subject to decision by Council or a Committee of Council. All applications for the removal of public trees must be sent [trees@melbourne.vic.gov.au](mailto:trees@melbourne.vic.gov.au) and include documentation that meets the requirements of the Tree Retention and Removal Policy.
17. All costs in connection with the removal and replacement of public trees, including any payment for the amenity and ecological services value of a tree

proposed for removal, must be met by the applicant/developer/owner of the site to the satisfaction of the Responsible Authority. The costs of these works will be provided and must be agreed to in writing before council removes the subject tree(s).

18. If a Construction Management Plan or Traffic Management Plan proposes changes to any of the tree protection methodologies or impacts on public trees in ways not identified in the Tree Protection Plan (TPP), a revised TPP must be submitted to and approved by council.
19. All works within the Tree Protection Zone of public tree assets must be undertaken in accordance with the endorsed Tree Protection Plan prepared by Stephen Frank dated 4 January 2018 and supervised by a suitably qualified arborist where identified in the report, except with the further written consent of the Responsible Authority.
20. Prior to the occupation of the temporary pavilion evidence must be provided to the satisfaction of the Urban Sustainability Branch that demonstrates an improvement to green space/infrastructure in the Queen Victoria Market Precinct (QVMP). The evidence must include:
  - a. Confirmation that replacement trees within the QVMP will, at maturity, provide equivalent or greater canopy cover than that lost through the removal of the seven trees on Queen Street.

Once approved the evidence will be endorsed to form part of this permit.

21. Prior to the commencement of the development (including construction set-up) a bank guarantee equivalent to the combined environmental and amenity values of public trees identified in the endorsed Tree Protection Plan (TPP) must be lodged with the Responsible Authority. The bond will be held against the endorsed TPP for the duration of construction activities and until occupation of the temporary pavilion. The bond amount will be calculated by council and provided to the applicant/developer/owner of the site. Should any tree be adversely impacted on, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works incurred.

### **Civil Design**

22. Prior to commencement of any works on site the portion of road to be built on should be formally closed to traffic. All necessary approvals and permits are to be first obtained from the City of Melbourne - Manager Engineering Services and the works performed to the satisfaction of the City of Melbourne - Manager Engineering Services
23. Detail design engineering drawings of proposed shed showing the minimum clearance to existing overhead street lighting and underground drainage assets and existing utilities must be submitted to and approved by the Responsible Authority – Engineering Services.
24. Prior to the commencement of the development, a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the Responsible Authority – Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system.
25. All pedestrian paths and access lanes shown on the endorsed plans must be constructed and maintained to the satisfaction of the Responsible Authority - Engineering Services.

26. All new or altered portions of road (including the provision of footpaths, public lighting, pavement marking, bollards and signage) in Queen Street must be constructed prior to the occupation of the development, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
27. The footpath(s) adjoining the site along Queen Street must be reconstructed together with associated works including the reconstruction or relocation of kerb and channel and/or services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
28. Existing street levels in Queen Street must not be altered for the purpose of constructing pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services.
29. All street lighting assets temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has ceased. Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.
30. Existing street furniture must not be removed or relocated without first obtaining the written approval of the Responsible Authority – Engineering Services.
31. All pedestrian ramps must be designed and constructed in accordance with AS 1428:2009 Design for Access and Mobility and should be fitted with ground surface tactile indicators (TGSIs). Details of the TGSIs must be submitted to and approved by City of Melbourne – Engineering Services prior to their installation.
32. All street furniture such as bollards, street litter bins, recycling bins, seats and bicycle rails must be supplied and installed on Queen Street footpaths outside the proposed building to plans and specifications first approved by the Responsible Authority – Engineering Services.

**Time limit**

33. The development authorised by this permit including all associated structures must be removed within five years of the development being completed.
34. This permit will expire if one or more of the following circumstances apply:
  - a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the permit if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.

**Notes**

All buildings and works must be in compliance with the approved Cultural Heritage Management Plan (Reference number: 14052).

Pursuant to the *Road Management Act 2004* (the Act) any works within the road reserve of Victoria Street, an arterial road, requires the written consent of VicRoads, the Coordinating Road Authority.

Any new line markings on public roads must be referred to Traffic Engineering for comment.

All necessary approvals and permits are to be first obtained from the City of Melbourne – Manager Engineering Services and VicRoads and the works performed to the satisfaction of the City of Melbourne – Manager Engineering Services and VicRoads.

This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Registered Building Surveyor.

The applicant/owner will provide a copy of this planning permit and endorsed plans to any appointed Building Surveyor. It is the responsibility of the applicant/owner and the relevant Building Surveyor to ensure that all building (development) works approved by any building permit are consistent with this planning permit.

The legal point of stormwater discharge for the proposal must be to the satisfaction of the Responsible Authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the Responsible Authority prior to the commencement of any buildings or works. This Planning Permit does not represent the approval of other departments of Melbourne City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.

Proposed tree removal will be subject to the Tree Retention and Removal Policy, Council's Delegations Policy and requirements for public notification, and a briefing paper to councillors. It should be noted that certain tree removals including but not limited significant or controversial tree removals, may be subject to decision by Council or a Committee of Council. All applications for the removal of public trees must be sent [trees@melbourne.vic.gov.au](mailto:trees@melbourne.vic.gov.au) and include documentation that meets the requirements of the Tree Retention and Removal Policy. Applications received at least 5 working days prior to the end of each month will be included in the monthly Briefing Paper of the following month. A minimum 14 day notification period applies following distribution of the Briefing Paper to Councillors.