

Authority: Ontario Land Tribunal Decision and Order issued on June 22, 2021, and Order issued on August 16, 2022 in OLT File PL171103

CITY OF TORONTO

BY-LAW 1219-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 90 and 100 Simcoe Street, 130 Pearl Street, and 203, 207 and 211 Adelaide Street West.

Whereas the Ontario Land Tribunal, in its Decision and Order issued on June 22, 2021 and Order issued on August 16, 2022 in Tribunal File PL171103, in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. c. P.13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 90 and 100 Simcoe Street, 130 Pearl Street, and 203, 207 and 211 Adelaide Street West; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the Planning Act, a By-law under Section 34 of the Planning Act may authorize increases in the height and density of development beyond those otherwise permitted by the By-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the By-law; and

Whereas subsection 37(3) of the Planning Act provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Land Tribunal, by Order, amends By-law 569-2013 as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands subject to this By-law

from a zone label of CRE (x74) to a zone label of CRE (x63) as shown on Diagram 2 attached to this By-law.

4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.12.10 Exception Number (63) so that it reads:

(63) Exception CRE 63

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:

Site Specific Provisions:

- (A) On 90 and 100 Simcoe Street, 130 Pearl Street, and 203, 207 and 211 Adelaide Street West, if the requirements of By-law 1219-2023(OLT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (X) below;
- (B) Despite Regulations 50.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 87.05 metres and elevation of the highest point of the **building** or **structure**;
- (C) In addition to the uses permitted in Regulations 50.10.20.10(1) and 50.10.20.20(1), **public parking** is also permitted;
- (D) Despite Regulation 50.10.40.10(1) and (2), the permitted maximum height of a **building** or **structure** is the number in metres following the letters 'HT' as shown on Diagram 3 of By-law 1219-2023(OLT);
- (E) Despite Regulations 50.5.40.10(4) to (8), 50.10.40.10(3), and (D) above, the following equipment, **structures**, and parts of a **building** may project beyond the permitted maximum height shown on Diagram 3 of By-law 1219-2023(OLT):
- (i) equipment used for the functional operation of the **building**, such as electrical, utility, mechanical and ventilation equipment; enclosed stairwells, roof access, maintenance equipment storage, chimneys, and vents, by a maximum of 3.0 metres;
 - (ii) **structures** that enclose, screen or cover the equipment, **structures** and parts of a **building** listed in (i) above, by a maximum of 3.0 metres;
 - (iii) architectural features, parapets, and elements and **structures** associated with a **green roof**, by a maximum of 3.0 metres;
 - (iv) **building** maintenance units, window washing equipment, and light poles and fixtures, by a maximum of 6.0 metres;

- (v) planters, **landscaping** features, guard rails, and divider screens on a balcony and/or terrace, by a maximum of 3.0 metres; and
 - (vi) trellises, pergolas, canopies, and unenclosed **structures** providing safety or wind protection to rooftop **amenity space**, by a maximum of 3.0 metres;
 - (vii) Despite (i) to (vii) above, no equipment, **structures** or parts of a **building** may project beyond the permitted maximum height of 209.6 metres as shown on Diagram 3 of By-law 1219-2023(OLT), except for:
 - (a) enclosed stairwells, roof access, chimneys, pipes, and vents, which may project above the permitted maximum height of 209.6 metres by a maximum of 3.0 metres; and
 - (b) elevator shafts inclusive of overrun, which may project above the permitted maximum height of 209.6 metres by a maximum of 4.6 metres, if the total area covers no more than 90 square metres measured horizontally;
- (F) The permitted maximum **gross floor area** is 67,750 square metres subject to the following:
- (i) the permitted maximum **gross floor area** for residential uses is 60,000 square metres; and
 - (ii) the required minimum **gross floor area** for non-residential uses is 8,000 square metres.
 - (iii) In addition to the areas in a **building** listed in Regulation 50.5.40.40(3), the **gross floor area** of a **mixed use building** is further reduced by the area in the **building** at the ground level used for loading areas, staging areas, storage rooms, and driveways and passageways providing access to parking spaces and bicycle parking spaces.
- (G) Despite Regulation 50.10.40.30(1), a portion of the **building** may be set back more than 50.0 metres from a **lot line** that abuts a **street**.
- (H) Despite Regulation 50.10.40.50(1), a **building** with 20 or more **dwelling units** must provide **amenity space** at the following rate:
- (i) at least 2.0 square metres for each **dwelling unit** as indoor **amenity space**;
 - (ii) at least 1.44 square metres of outdoor **amenity space** for each **dwelling unit**, of which 40 square metres must be in a location adjoining or directly accessible to the indoor **amenity space**; and
 - (iii) no more than 25 percent of the outdoor component may be a **green roof**;

- (I) Despite Clause 50.10.40.70, and Regulation 50.10.40.80(3), the required minimum **building setbacks** and the required separation of **main walls** are as shown in metres on Diagram 3 of By-law 1219-2023(OLT);
- (J) Despite Regulations 50.10.40.80(1) and (2), and 600.10.10(1), the required separation between **main walls** is 3 metres;
- (K) Despite Clauses 50.5.40.60 and 50.10.40.60, and (I) and (J) above, the following elements may encroach into the required minimum **building setbacks** and **main wall** separation distances on Diagram 3 of By-law 1219-2023(OLT) as follows:
- (i) canopies and awnings, by a maximum of 3.0 metres;
 - (ii) architectural features, such as a pilaster, decorative column, cornice, sill, belt course, or chimney breast, by a maximum of 0.6 metres;
 - (iii) window projections, window washing equipment, mechanical and privacy screens, fences, trellises, railings by a maximum of 3.0 metres;
 - (iv) balconies located above a height of 54.6m, to a maximum of 1.8 metres;
 - (v) lighting fixtures, window sills, eaves, chimneys, pipes and vents, by a maximum of 1.0 metres; and
 - (vi) platforms, decks or terraces situated upon a roof, may encroach to the extent of the roof upon which they are located.
- (L) Despite Regulation 200.5.10.1(1), Table 200.5.10.1, and Article 200.20.10, **parking spaces** must be provided in accordance with the following:
- (i) a minimum of 0.17 residential occupant **parking spaces** for each **dwelling unit**;
 - (ii) a minimum of 40 **parking spaces** for the shared use of residential visitors and non-residential users of the **building**, which may be provided as **public parking**.
 - (iii) despite Regulation 50.5.80.1(1), the parking spaces required by (ii) above may be exclusively reserved and signed for a non-residential user provided a minimum of 2 parking spaces remain available for the shared use of residential visitors and non-residential users.
- (M) Despite Regulation 200.5.10.1(1), and (L) above, "car-share parking spaces" may replace **parking spaces** otherwise required for residential occupants, subject to the following:

- (i) a reduction of 4 resident occupant **parking spaces** will be permitted for each "car-share parking space" provided that the maximum reduction permitted be capped by the application of the following formula:
 - (a) 4 multiplied by (total number of **dwelling units** divided by 60), rounded down to the nearest whole number;
 - (ii) for the purpose of this exception, "car-share" means the practice whereby a number of people share the use of one or more motor **vehicles** and such "car-share" motor **vehicles** are made available to at least the occupants of the **building** for short-term rental, including hourly rental; and
 - (iii) for the purpose of this exception, "car-share parking space" means a **parking space** exclusively reserved and signed for a **vehicle** used only for "car-share" purposes;
- (N) Despite Regulation 200.5.1.10(2), a maximum of 10 percent of the provided **parking spaces** required pursuant to (L) above may have the following minimum dimensions:
- (i) length of 5.0 metres;
 - (ii) width of 2.4 metres; and
 - (iii) vertical clearance of 1.9 metres.
- (O) Despite Regulation 200.5.1.10(2)(A)(iv), thirteen (13) of the **parking spaces** required pursuant to (L) above, excluding any spaces with reduced size as permitted in (N) above, may be obstructed as described in Regulation 200.5.1.10(2)(D) without being required to provide additional width for the obstructed sides of the **parking space**;
- (P) Despite Regulation 200.5.1.10(12)(C), the required minimum setback for a **vehicle** entrance and exit from the **lot line** abutting the **street** is 2.1 metres.
- (Q) Despite Regulation 200.15.1(1), an accessible **parking space** must have the following minimum dimensions:
- (i) Length of 5.6 metres;
 - (ii) Width of 3.4 metres;
 - (iii) Vertical clearance of 2.1 metres; and
 - (iv) The entire length of an accessible **parking space** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path as shown on Diagram 1 and Diagram 2 of By-law 579-2017.

- (R) Despite Regulation 230.5.1.10(4) and (5), the required minimum dimensions of a **bicycle parking space** are:
- (i) For a **stacked bicycle parking space**, a minimum length of 1.8 metres, a minimum width of 0.4 metres and a minimum vertical clearance of 2.4 metres; and
 - (ii) For a **bicycle parking space** that is not a **stacked bicycle parking space**, a minimum length of 1.2 metres, a minimum width of 0.4 metres and a minimum vertical clearance of 1.9 metres;
- (S) Despite Regulation 230.5.1.10(7), one (1) gender neutral shower and change facility is required;
- (T) Despite Regulation 230.5.1.10(9), required "long-term" **bicycle parking spaces** may be located:
- (i) on the first **storey** of the **building**;
 - (ii) on the second **storey** of the **building**;
 - (iii) within a secured weather-protected enclosure outside the **building**; and
 - (iv) on any level of the **building** below-ground, provided that no more than 50 percent of the required **bicycle parking spaces** are located below the first level below-ground.
- (U) Despite Regulation 230.5.1.10(10), "short-term" **bicycle parking spaces** may also be located in a **stacked bicycle parking space**;
- (V) Despite Regulation 230.5.1.20(2), a "short-term" **bicycle parking space** may be located more than 30 metres from a pedestrian entrance to the **building** on the **lot**, provided that it is located:
- (i) on the first **storey** of the **building** in a publicly-accessible room, area or enclosure;
 - (ii) on the first below-ground level of the **building** in a publicly-accessible room, area or enclosure; or
 - (iii) outside the **building**, on the **lot**.
- (W) Despite Regulations 50.10.90.10(1), 220.5.10.1(2) to (11), and Article 220.20.1, a minimum of one Type "G" **loading space**, one Type "B" **loading space** and two Type "C" **loading spaces** must be provided and maintained on the **lot**.
- (X) The provision of **dwelling units** is subject to the following:

- (i) A minimum of 30 percent of the total number of **dwelling units** on the **lot** must have two or more bedrooms;
- (ii) A minimum of 10 percent of the total number of **dwelling units** must have three or more bedrooms; and
- (iii) Any **dwelling units** with three or more bedrooms provided to satisfy (X)(ii) above are not included in the provision required by (X)(i) above.

Prevailing By-laws and Prevailing Sections: (None Apply)

- 5. Despite any severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.
- 6. Section 37 Provisions:
 - (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 attached to this by-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A attached to this by-law and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
 - (B) Where Schedule A attached to this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
 - (C) The owner shall not use, or permit the use of, a **building** or **structure** erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Ontario Land Tribunal Decision and Order issued on June 22, 2021 and Ontario Land Tribunal Order issued on August 16, 2022 in OLT File PL171103.

SCHEDULE A
Section 37 Provisions

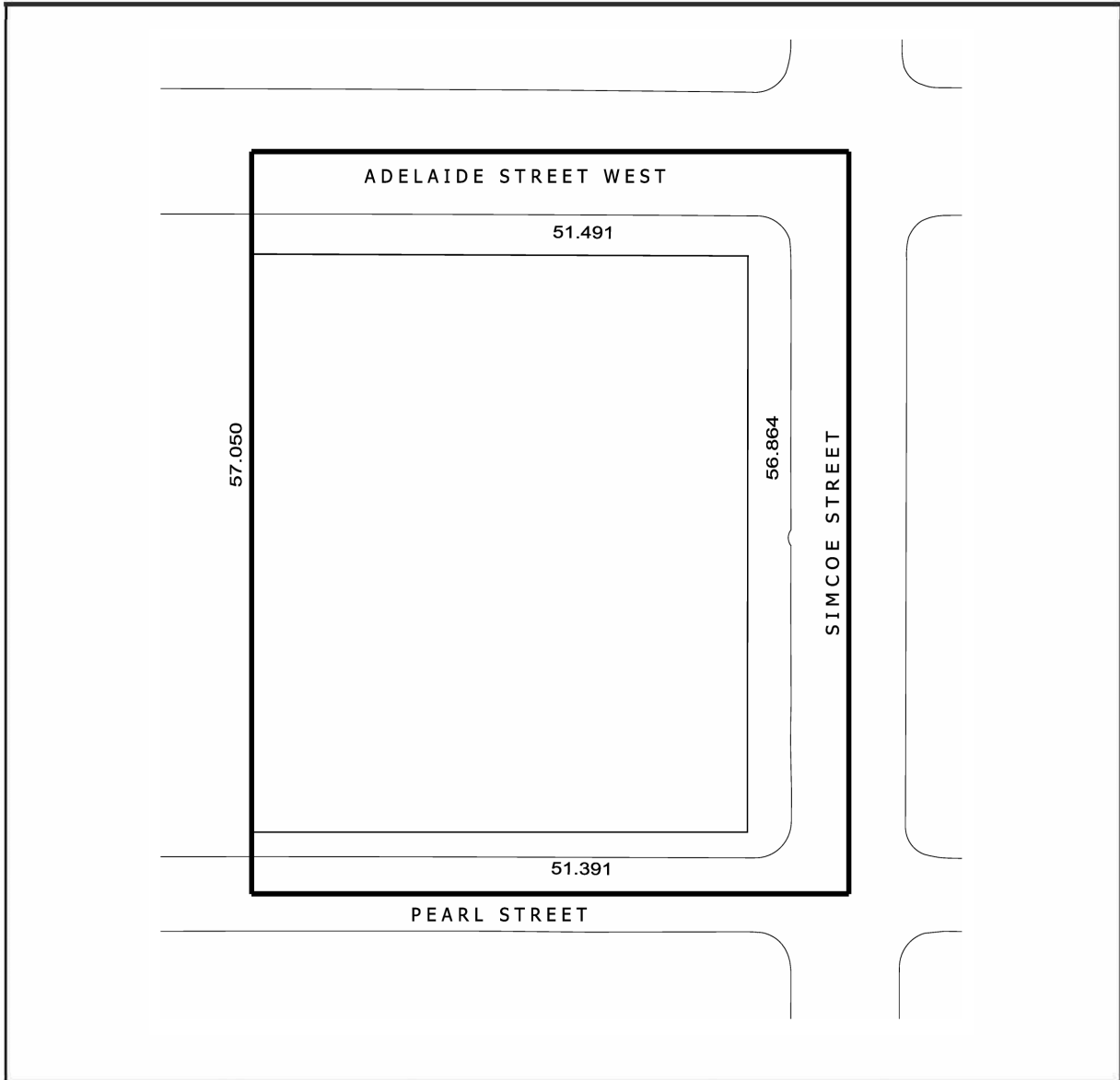
The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Diagram 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. The owner shall provide community benefits having a value of \$10,200,000 to be allocated to the following:
 - (A) Prior to the issuance of the first above-grade building permit, the owner shall pay to the City the sum of \$4,000,000.00 (the "Cash Contribution") to be allocated towards one or more of the following:
 - (i) provision of affordable housing in the local Ward;
 - (ii) capital improvements for new or existing cultural and/or community space in Ward 10, to be determined and announced at a later date; and
 - (iii) local streetscape and/or public realm improvements located within Ward 10 and within the vicinity of the subject lands;to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor and the owner.
 - (B) The owner shall provide and maintain on the **lot** at least 28 new affordable rental housing **dwelling units** at a value not to exceed \$6,200,000.00 distributed throughout the **lot** with rents that remain at an AMR that is equal to the gross monthly rent no greater than one (1) times the average City of Toronto rent multiplied by unit type (number of bedrooms), as reported annually by the Canadian Mortgage and Housing Corporation in its fall Rental Market Report: Greater Toronto Area for at least 40 years. The affordable rental units will be comprised of the following:
 - (i) at least 21 one-bedroom units having a minimum size of at least 39 square metres;
 - (ii) at least 4 two-bedroom units having a minimum size of at least 59 square metres;
 - (iii) at least 3 three-bedroom units having a minimum size of at least 85 square metres; and
 - (iv) average unit sizes will be higher than the minimum sizes.
2. The Cash Contribution set out in Subsection 1(A) above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the

Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the Cash Contribution by the owner to the City.

3. In the event the Cash Contribution in Subsection 1(A) has not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity of the Property.
4. The affordable rental units set out in Subsection 1(B) above shall be maintained as rental housing for at least a 40-year period and the owner shall not apply to convert any of the units to any non-rental housing purposes, nor to demolish the rental housing without replacement as rental housing on the site, during this period. The owner shall also not apply for approval of a Description with respect to any portion of the rental housing, nor register any of the rental housing under the Condominium Act or for any other form of ownership tenure, such as but not limited to, life lease or co-ownership as defined in Chapter 667 of the Toronto Municipal Code that provide a right to exclusive possession of a unit.
5. The affordable rental units set out in Subsection 1(B) shall be maintained on terms satisfactory to the Chief Planner and secured in an agreement pursuant to the Planning Act, including but not limited to the location of the units, and access to the facilities and amenities in the new building.
6. The Owner shall construct and maintain the Development in accordance with Tier 1, Toronto Green Standard, and the Owner will be encouraged to achieve Tier 2, Toronto Green Standard or higher, where appropriate.
7. Prior to the issuance of the first Building Permit (excluding a Demolition Permit) on the lands, including a conditional building permit, or a portion thereof, the Owner shall provide at its expense to the satisfaction of the Chief Planner and the Chief Engineer, a construction management plan.
8. As part of the Development Review Process, the Owner shall submit and thereafter secure the implementation of the following matters to the satisfaction of the Senior Manager, Heritage Preservation Services:
 - (A) final site plan drawings;
 - (B) a Heritage Lighting Plan;
 - (C) a signage plan (the "Signage Plan"); and
 - (D) an interpretation plan (the "Interpretation Plan"), substantially in accordance with the conservation measures set out in the approved Conservation Plan.

9. Prior to the issuance of any Building Permit for the Development, excluding permits for repairs and maintenance and usual and minor works for the existing heritage buildings as are acceptable to the Senior Manager, Heritage Preservation Services, the Owner shall:
- (A) obtain final approval for the Amending By-laws required for the alterations to the Lands, such amendments to have come into effect in a form and with content acceptable to the Chief Planner and Executive Director, City Planning Division, in consultation with the Senior Manager, Heritage Preservation Services;
 - (B) provide building permit drawings that are consistent with the conservation measures set out in the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Preservation Services; and,
 - (C) provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan, Heritage Lighting Plan, Signage Plan, and Interpretation Plan, all as may be further detailed and secured through the Development Review Process.
10. Prior to the release of the Letter of Credit the owner shall:
- (A) have obtained Site Plan Approval, issued by the Chief Planner;
 - (B) provide a letter prepared and signed by a qualified heritage consultant confirming that the required works set out in the approved Conservation Plan, Heritage Lighting Plan, Signage Plan and Interpretation Plan have been substantially completed, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and,
 - (C) provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services.



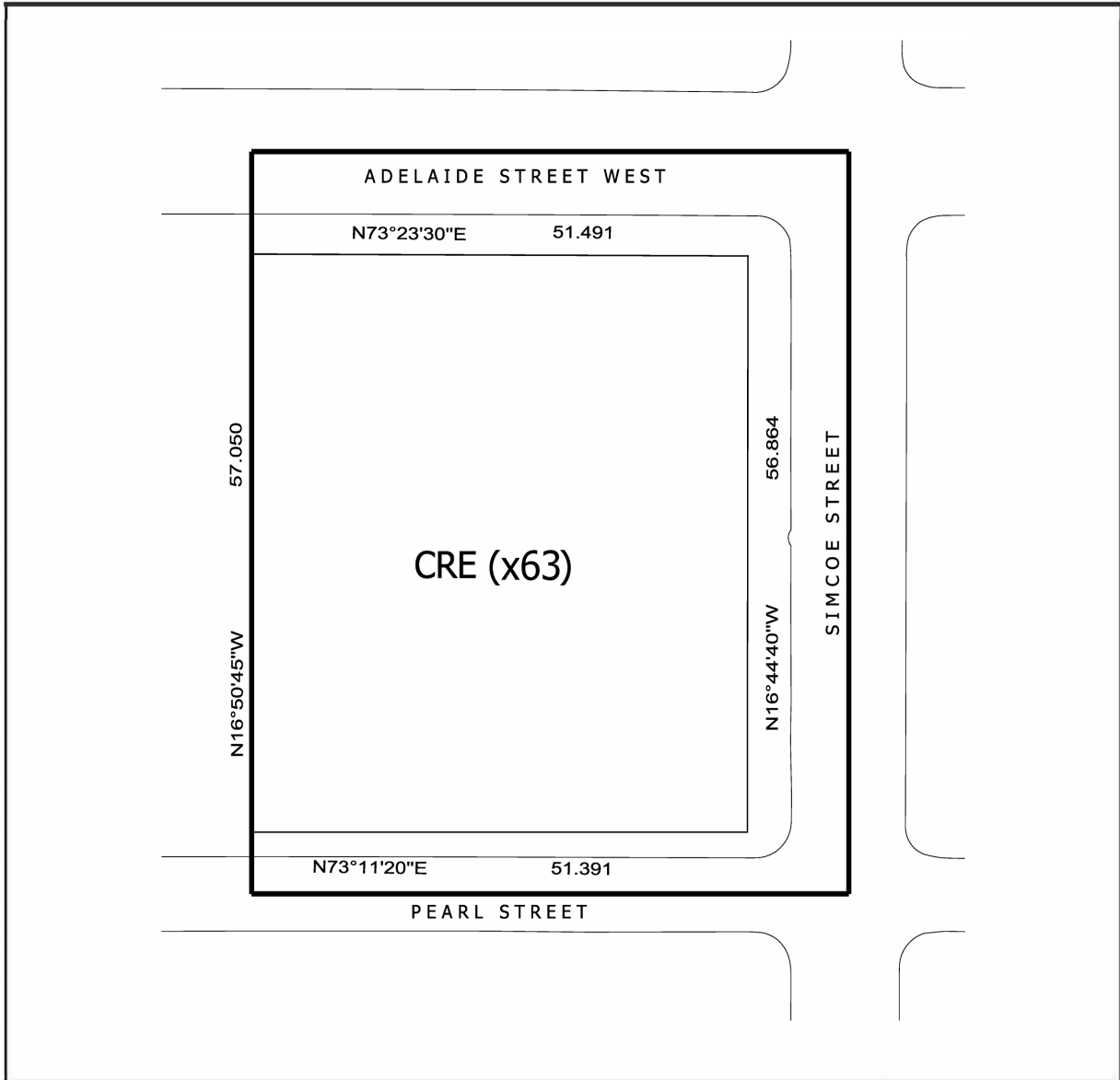
**90 & 100 Simcoe Street, 130 Pearl Street,
and 203, 207 & 211 Adelaide Street West**

File # 16 192792 STE 20 OZ

Diagram 1



Not to Scale



**90 & 100 Simcoe Street, 130 Pearl Street,
and 203, 207 & 211 Adelaide Street West**

File # 16 192792 STE 20 OZ

Diagram 2



Not to Scale

