

Report to the Future Melbourne (Planning) Committee

Agenda item 6.2

**Ministerial Planning Referral: TPM-2017-11/A
3-43 Waterfront Way, Docklands**

4 February 2020

Presenter: Jane Birmingham, Practice Leader Land Use and Development

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a Ministerial Planning Referral that seeks to amend Ministerial Permit PA1700219 for land at 3-43 Waterfront Way, Docklands (refer Attachment 2 – Locality Plan). Construction of the approved development is currently well advanced.
2. The applicant is Capital Alliance 7 Pty Ltd, the owner of the land is Capital Alliance 5 Pty Ltd, and DKO are the project architects.
3. The land is located within the Docklands Zone Schedule 6 (DZ6) and is affected by the Design and Development Overlay Schedule 12 (DDO12 - Noise Attenuation Area) and Schedule 54 (DDO54 - Business Park Precinct, Area 1) and Parking Overlay Schedule 10 (PO10 - Docklands Business Park).
4. On 15 October 2019 the Future Melbourne Committee resolved to support an addendum to the Waterfront City Outline Development Plan 2003 (the 'DP Addendum'). The DP Addendum was approved by the Minister on 3 December 2019.
5. This application seeks approval for an additional three levels above the approved development, in accordance with the recently approved DP Addendum. The amended development proposes 20 storeys, 189 hotel rooms, hotel function rooms and 99 apartments.
6. The Department of Environment, Land, Water and Planning (DELWP), on behalf of the Minister for Planning, has informally referred the application to the City of Melbourne for comment.

Key issues

6. The key issues relate to the proposal's compliance with the approved DP Addendum, built form (including height and setbacks) and public realm impacts (including overshadowing and wind).
7. The proposed height, setbacks and extent of overshadowing of the amended development satisfy the requirements of the recently approved DP Addendum. The proposal also remains consistent with relevant provisions of the Melbourne Planning Scheme and will make a positive contribution to the local area and wider Docklands precinct.
8. Permit conditions are recommended to ensure that the amended design complies with the existing permit conditions, and that the provision of bicycle facilities is consistent with the DP Addendum.

Recommendation from management

9. That the Future Melbourne Committee resolves to advise the Department of Environment, Land, Water and Planning that the Melbourne City Council supports the application subject to the conditions outlined in the delegate report (refer to Attachment 4).

Attachments:

1. Supporting Attachment (Page 2 of 39)
2. Locality Plan (Page 3 of 39)
3. Selected Plans (Page 4 of 39)
4. Delegate Report (Page 20 of 39)

Supporting Attachment

Legal

1. The Minister for Planning is the Responsible Authority for determining this application. The application is exempt from the notice of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3), and the review rights of section 82(1) of the *Planning and Environment Act 1987*. Melbourne City Council therefore has no formal status under the *Planning and Environment Act 1987* in relation to the application.

Finance

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

Conflict of interest

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

Health and Safety

4. Relevant planning considerations such as potential amenity impacts that could impact on health and safety have been considered within the amended development and the assessment process.

Stakeholder consultation

5. Council officers have not undertaken public notice of the application or referred this to any other referral authorities. This is the responsibility of DELWP acting on behalf of the Minister for Planning.

Relation to Council policy

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

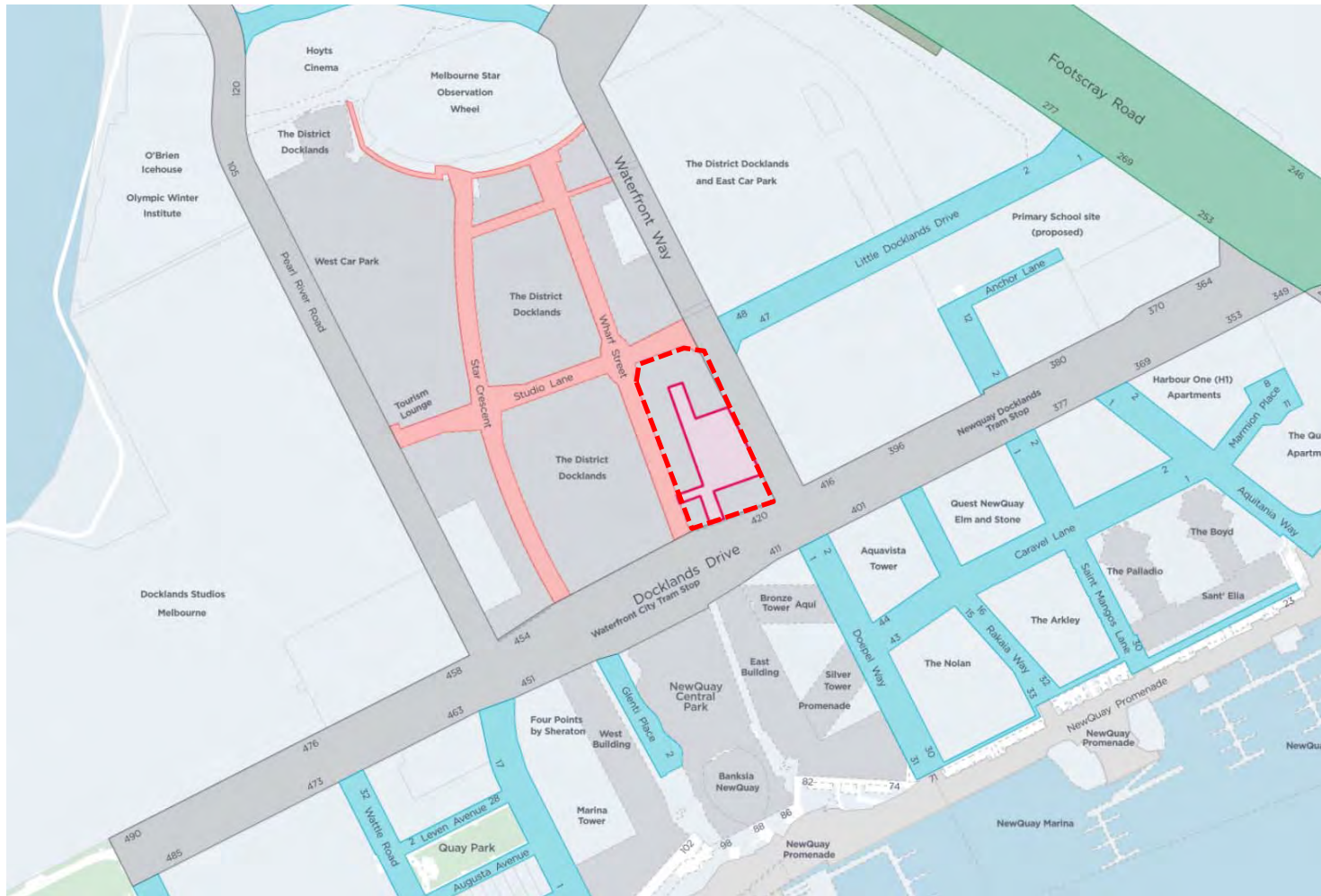
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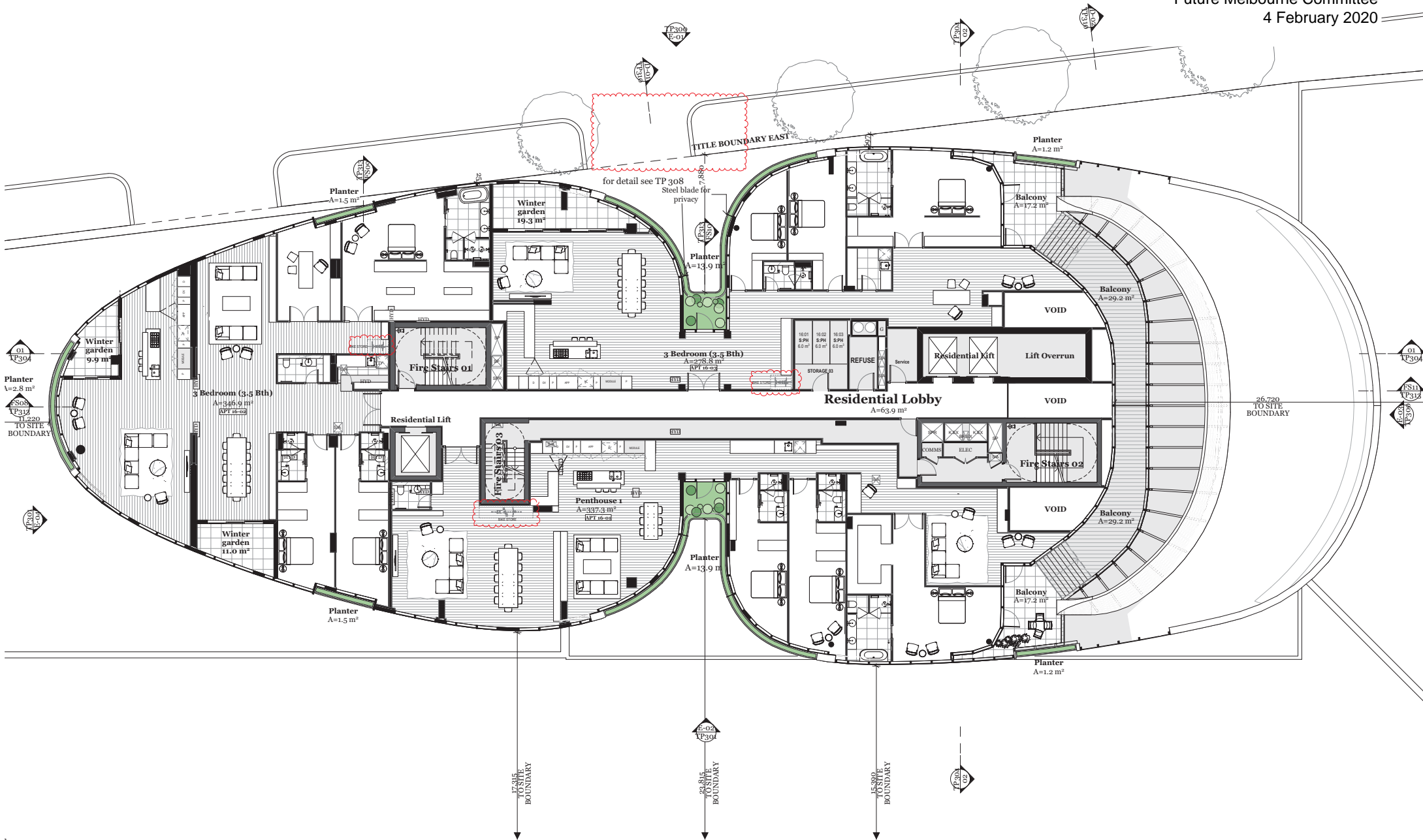
7. Condition 13 of the existing permit sets out ESD requirements for the approved development, including achieving a 5 Star Green Star Rating. An amended ESD Report, submitted as part of the application was found to be acceptable by Council's Green Infrastructure and ESD Officer.

Locality Plan

Attachment 2
Agenda item 6.2
Future Melbourne Committee
4 February 2020

3-43 Waterfront Way, Docklands



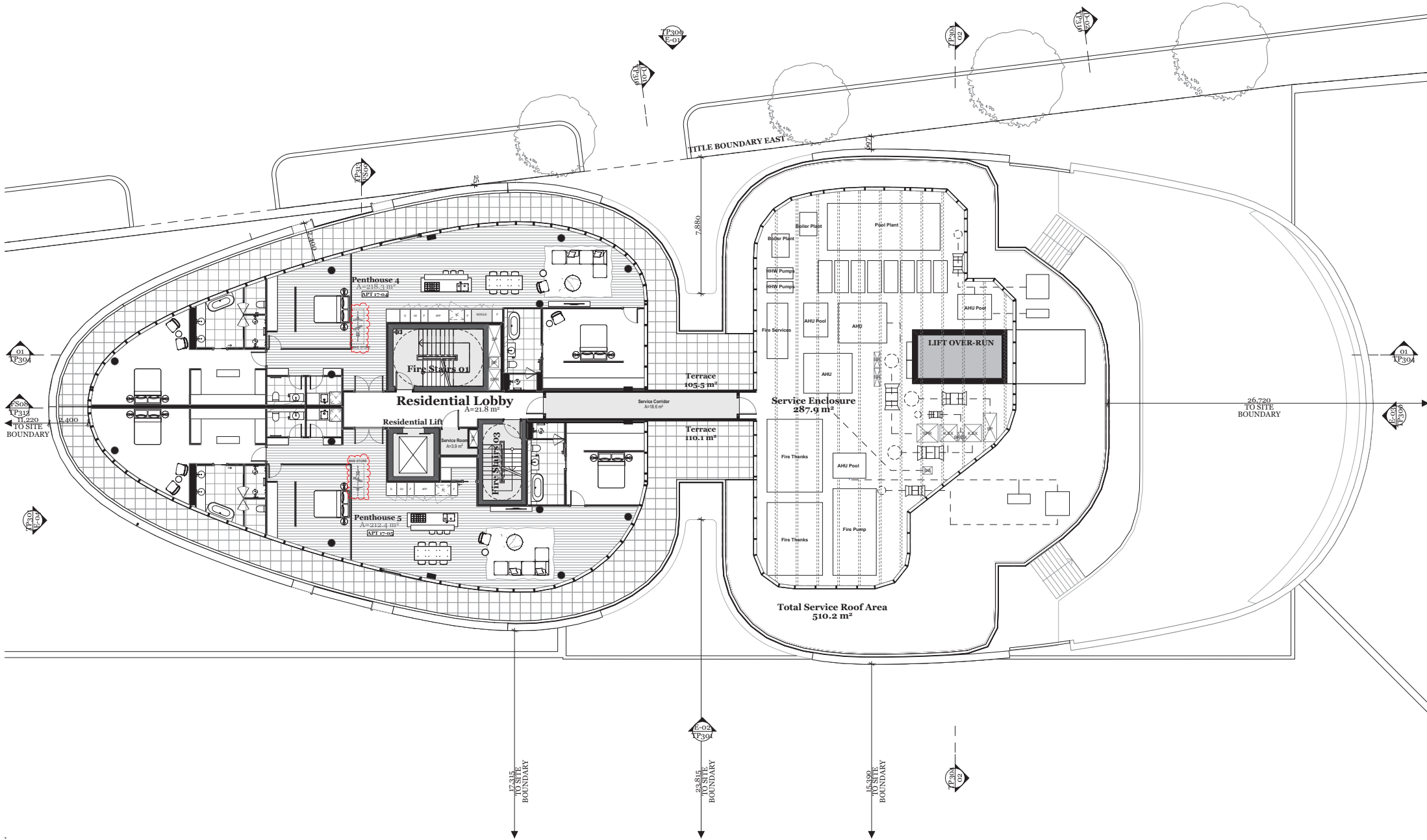


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D	22.06.18	DM	MF	TOWN PLANNING ENDORSEMENT
E	20.03.19	DM	MF	SECONDARY CONSENT
F	20.08.19	DM	MF	SECONDARY CONSENT
G	11.12.19	DM	MF	SECONDARY CONSENT

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		Drawing Number	TP213
		Revision	G



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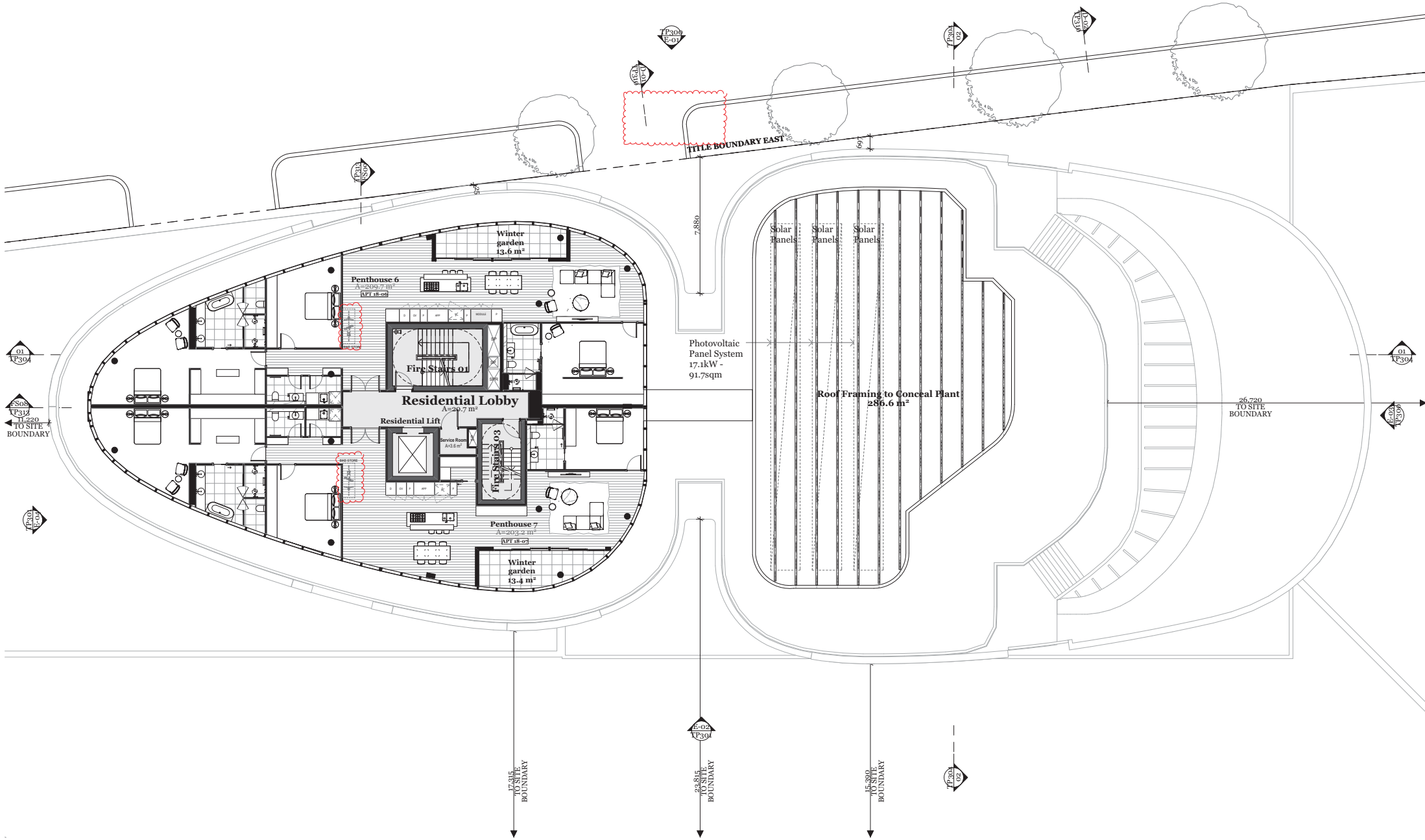
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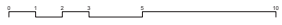


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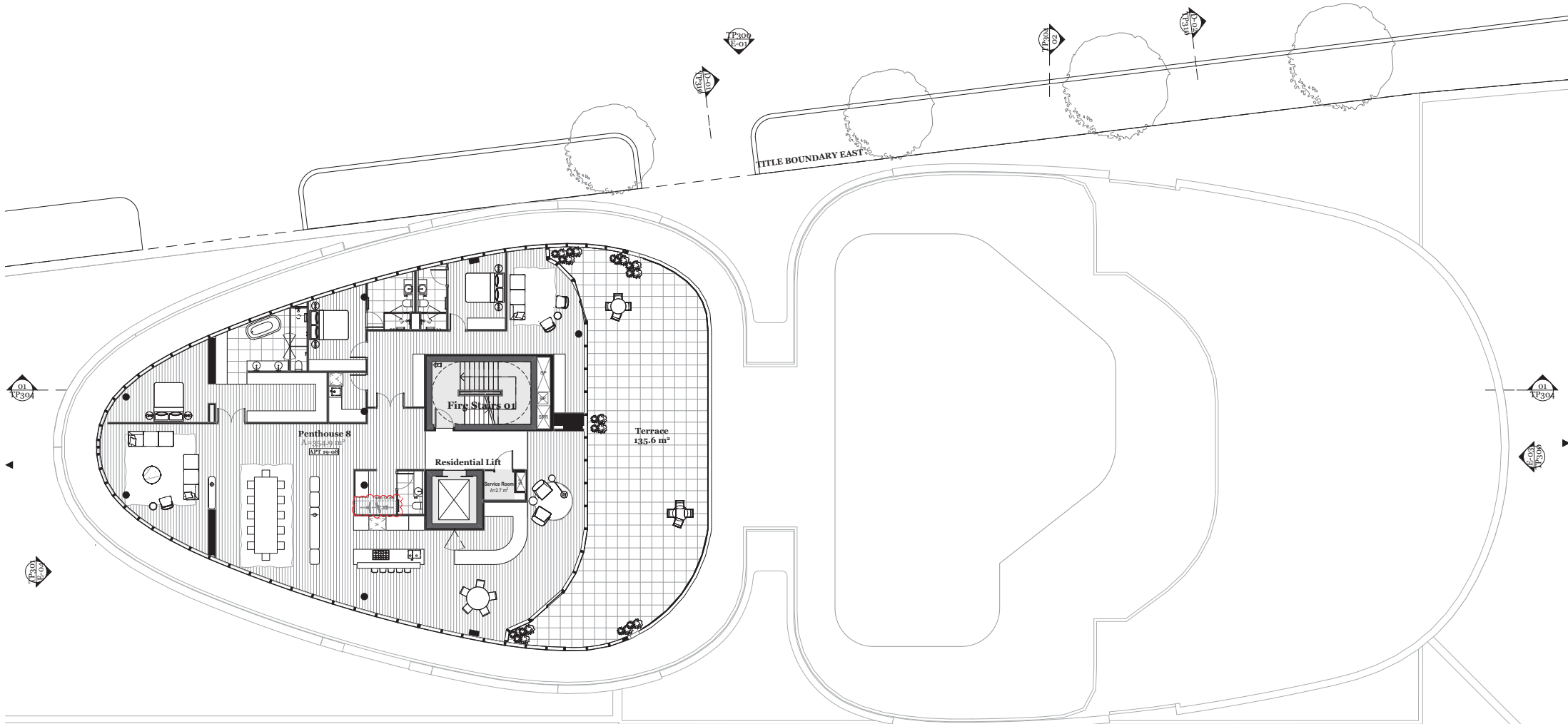
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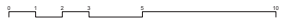
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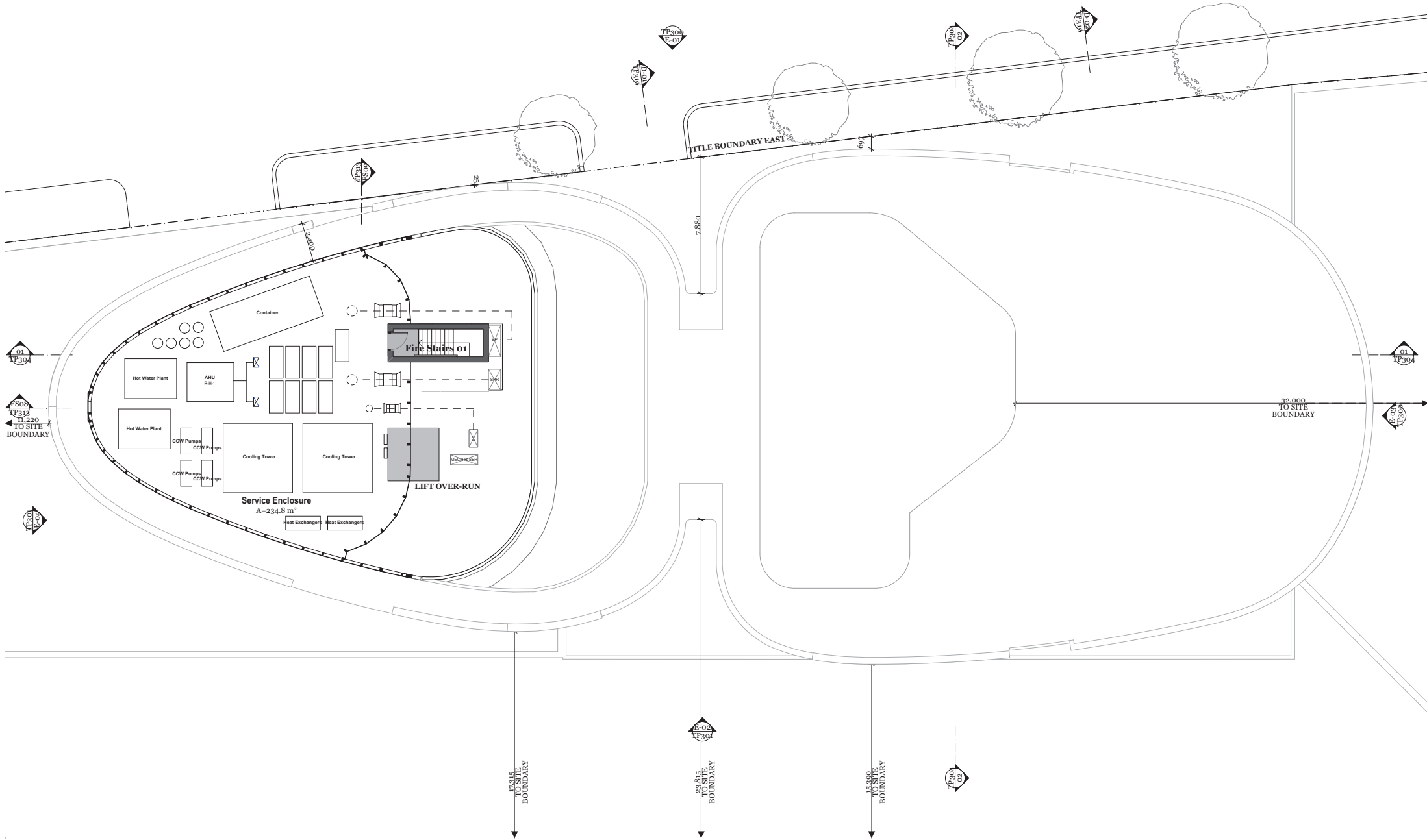
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WATERFRONT WAY



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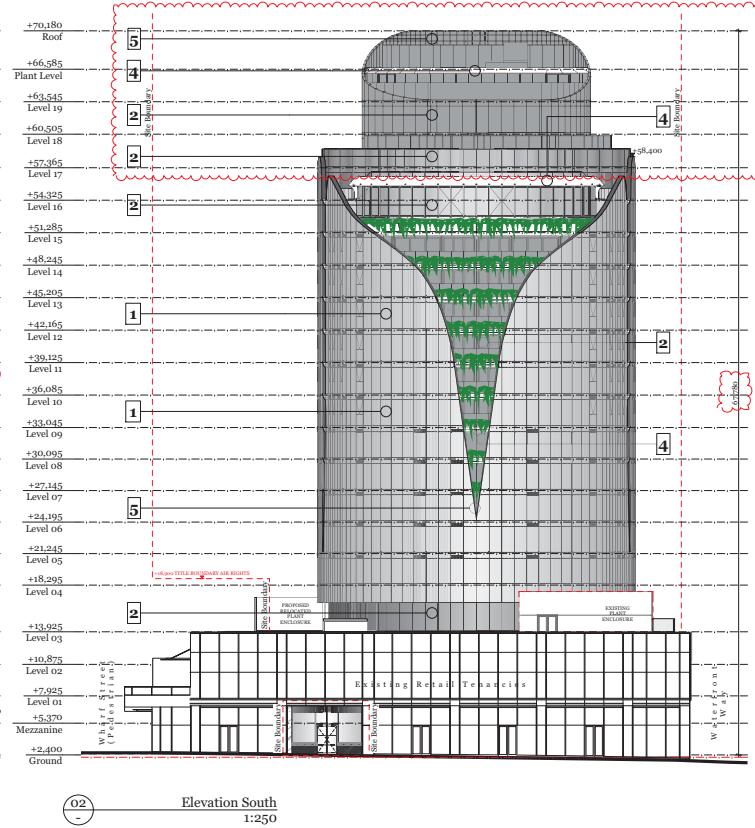
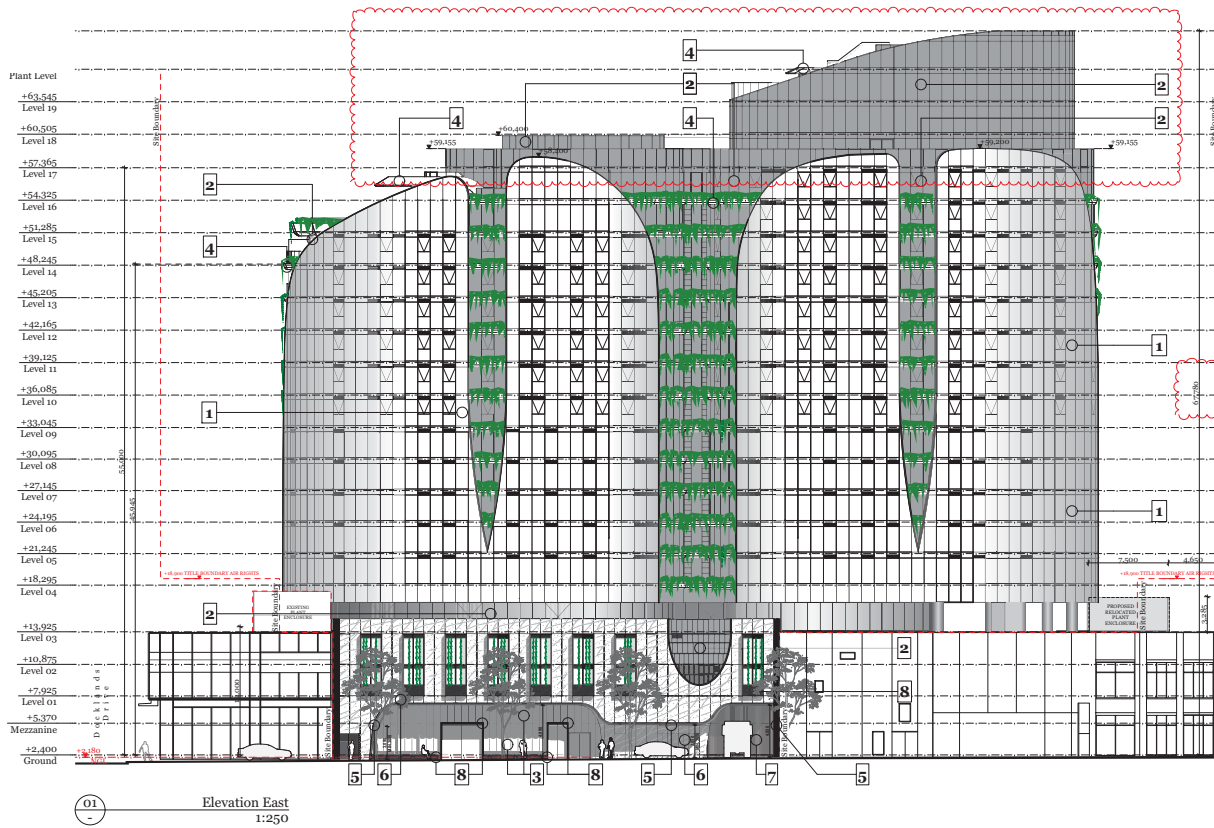
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		Revision	TP217	Date	26/08/2019
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1. Light Grey Glass

- Charcoal Frame

2. Dark Tinted Glass

- Charcoal Frame

3. Clear Glass

4. White -

- Gloss Finish

5. Aluminium

- Charcoal Finish

6. Stone Tiles

- Off-White Finish

7. Fluted, perforated metal

- Charcoal Finish

8. Stone Tiles

- Black Finish

01 - Elevation East 1:250

02 - Elevation South 1:250

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J	26.08.19	DM	MP	SECONDARY CONSENT

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Project Name
 Project Address
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WFC
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 Docklands,
 Melbourne, VIC 3008

Project Number
 Drawing Name
 Scale
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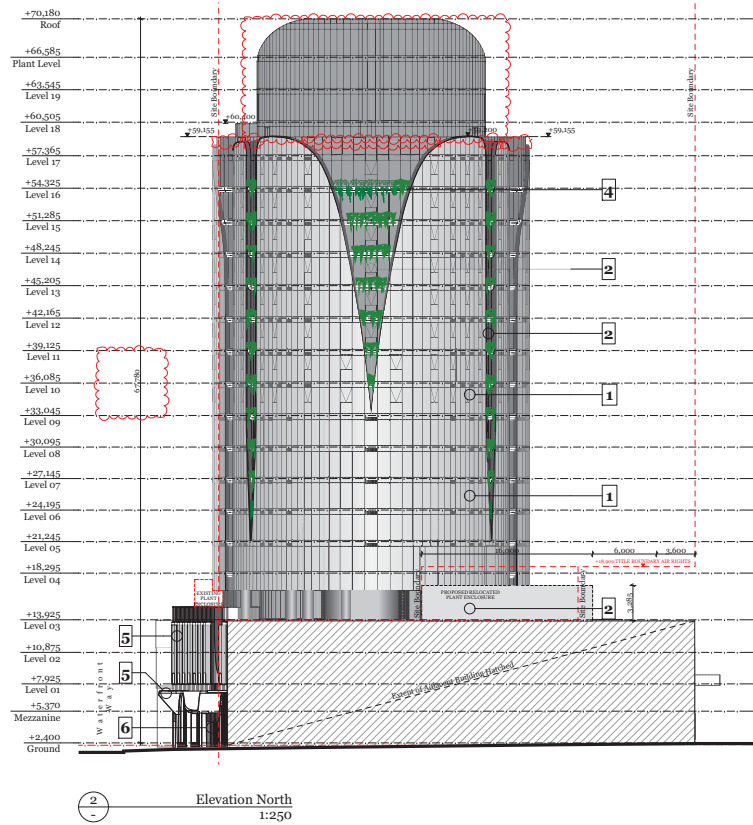
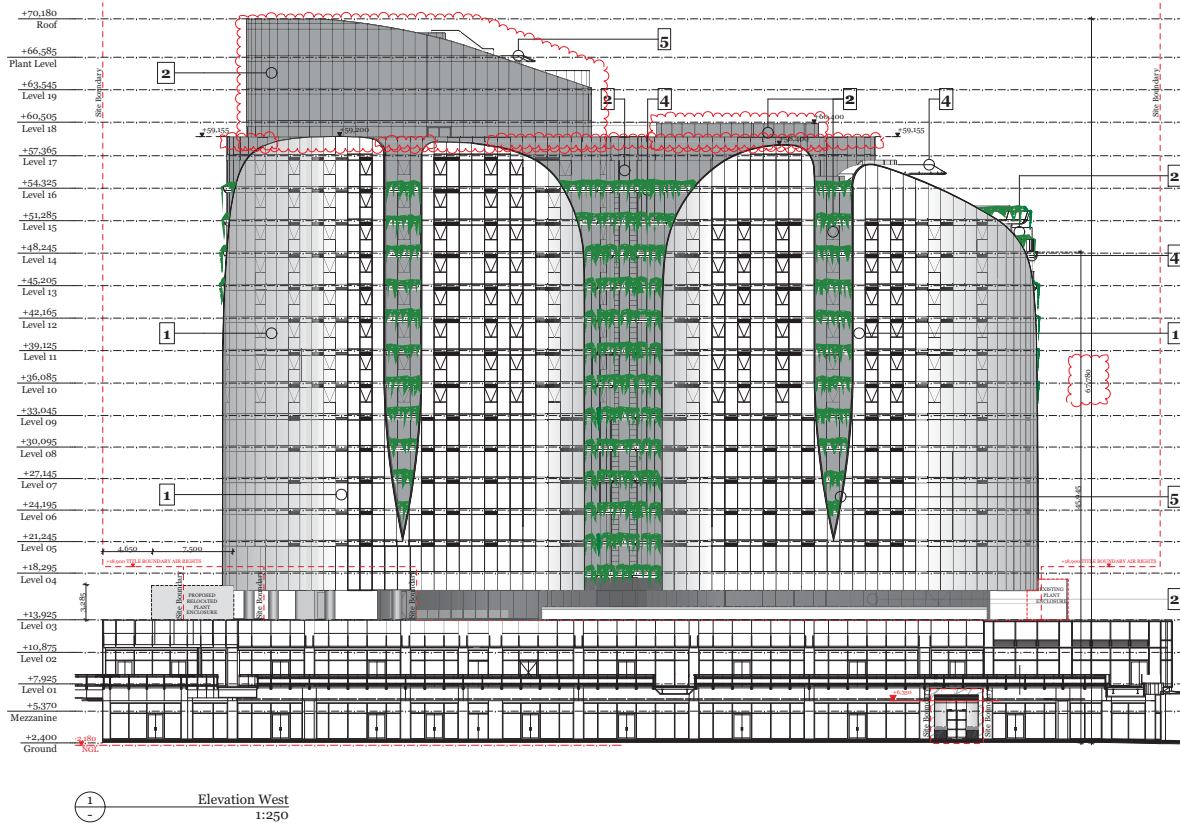
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 26/08/2019

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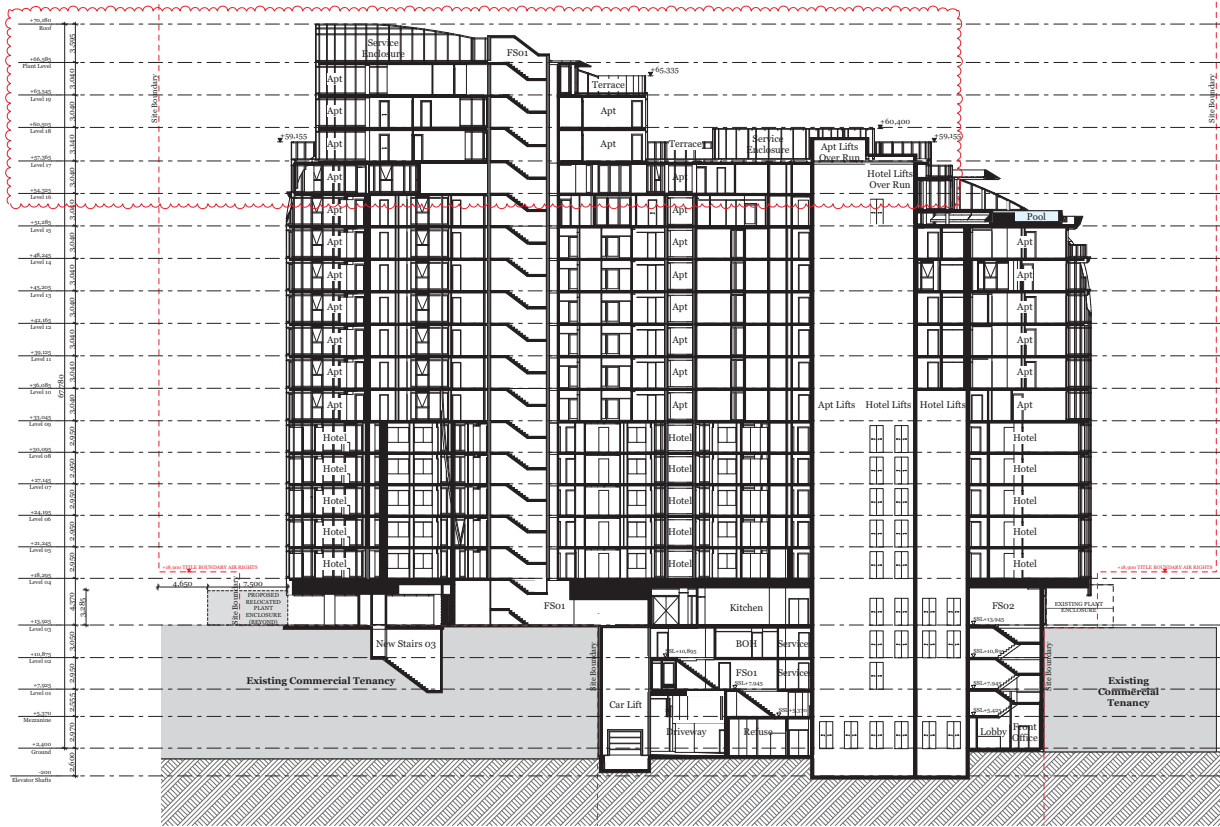
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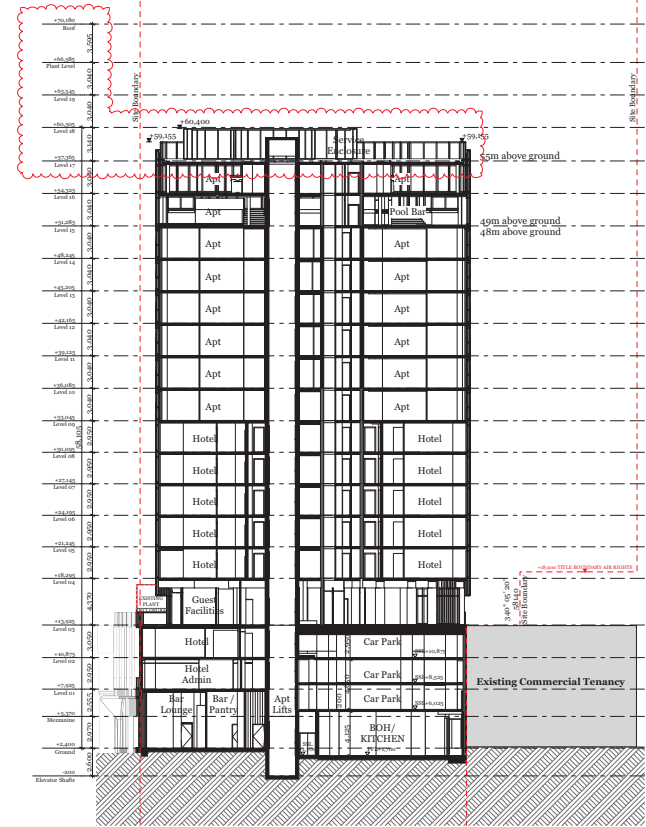
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 Date: 26/08/2019
 Drawing Number: TP301
 Revision: H





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02 Section BB
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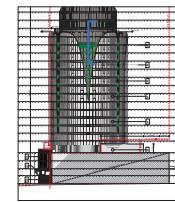
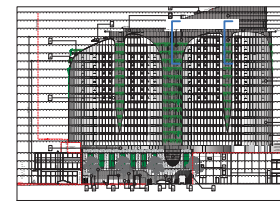
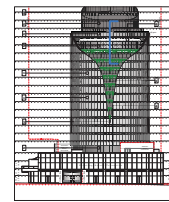
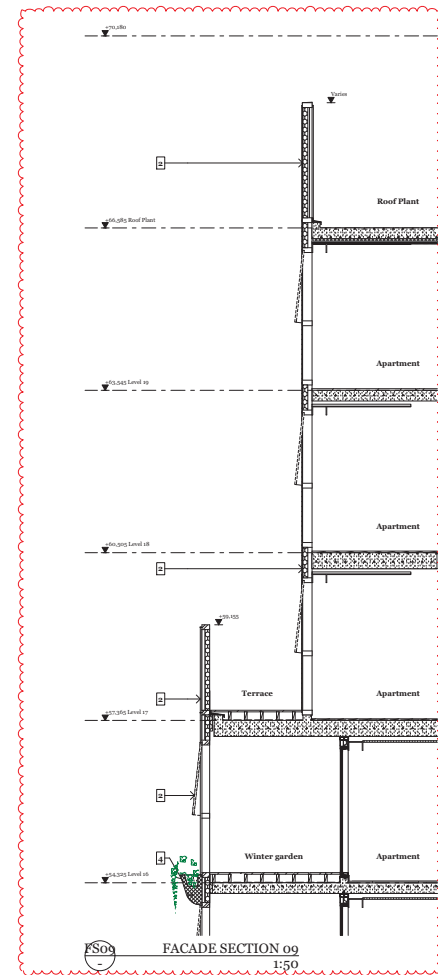
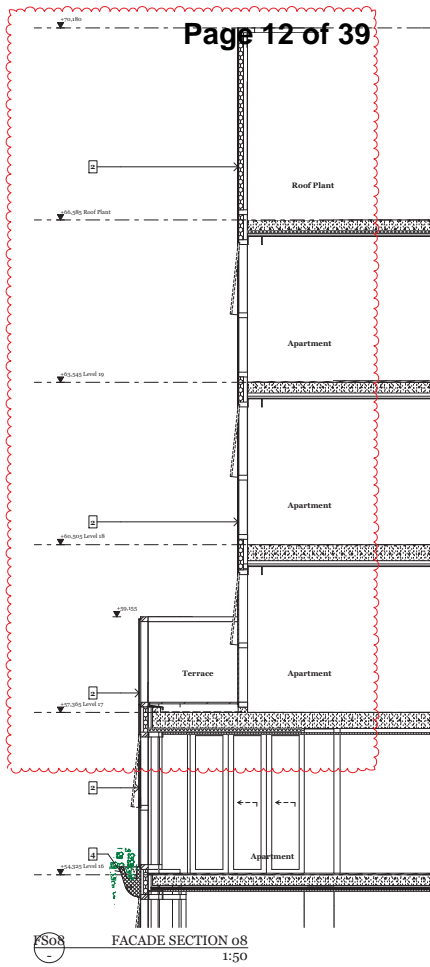
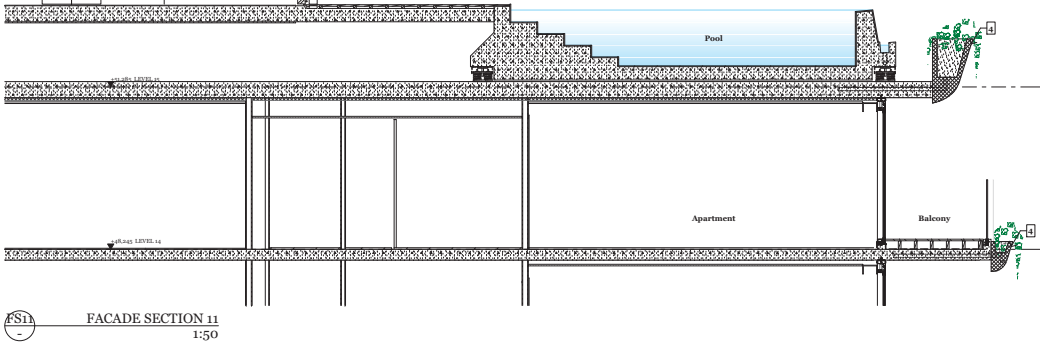
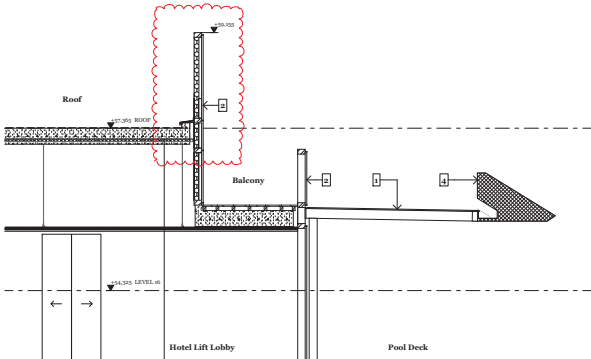
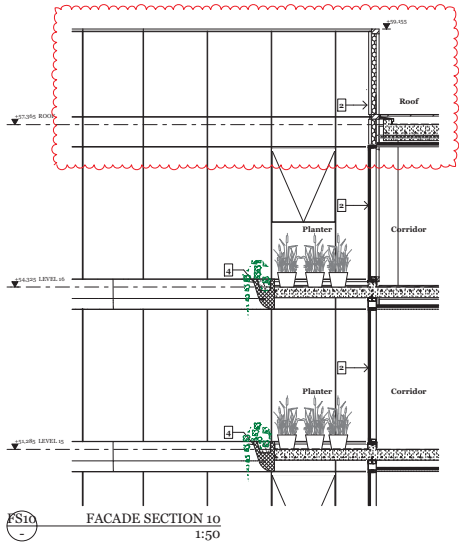
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Project Name
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Project Number
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 Drawing Number
 Revision
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1181
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Project Address
Client
Capital Alliance

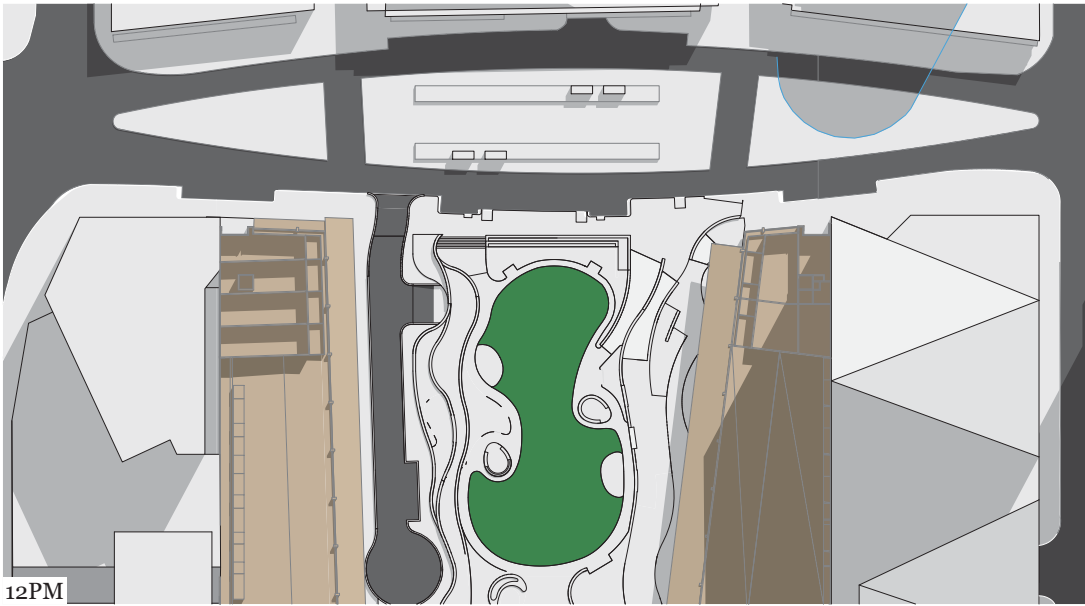
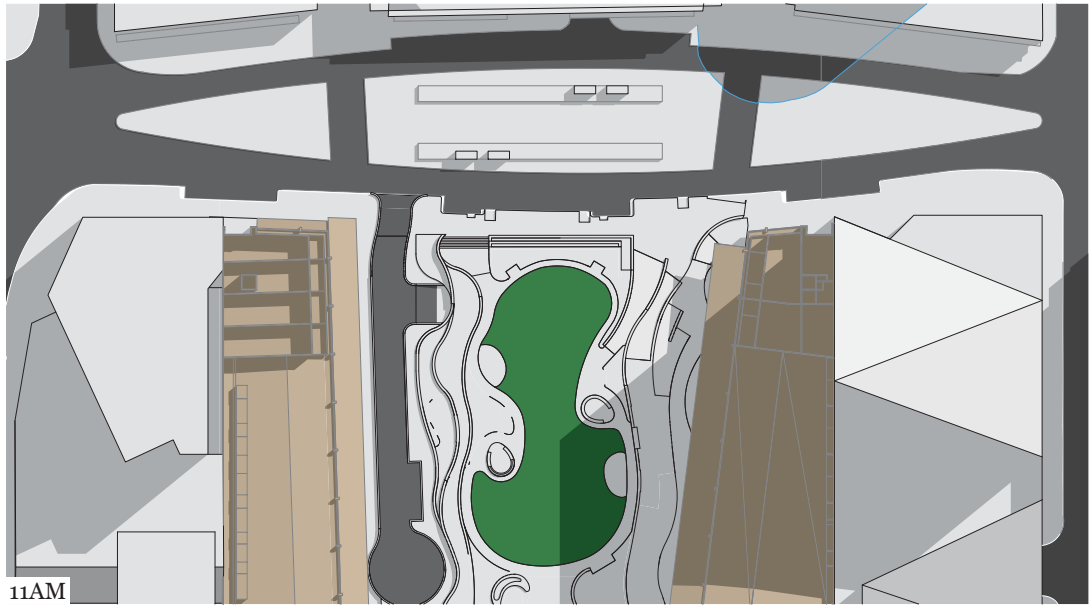
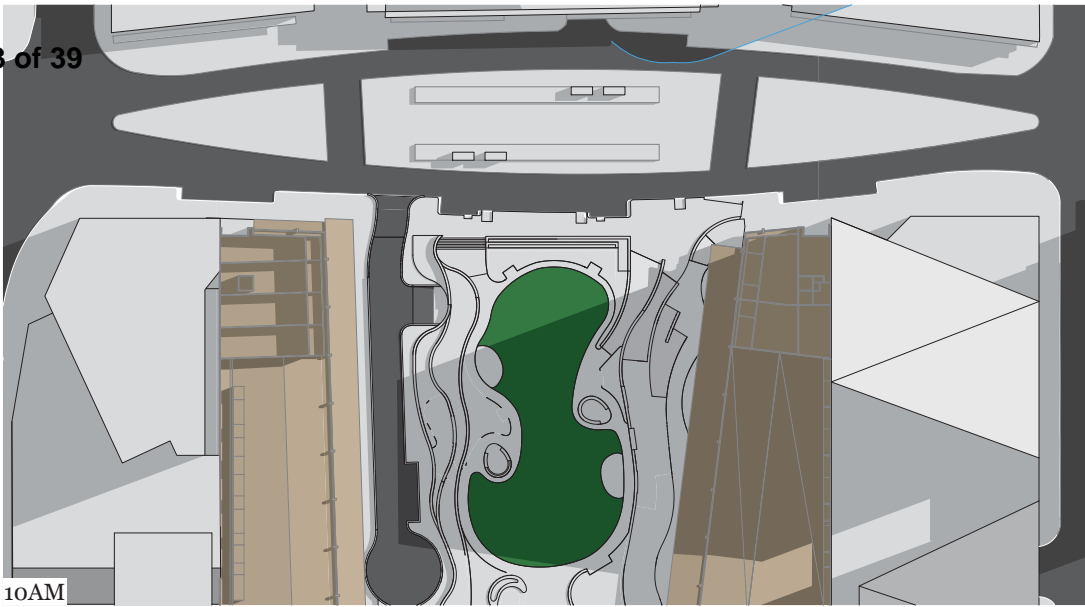
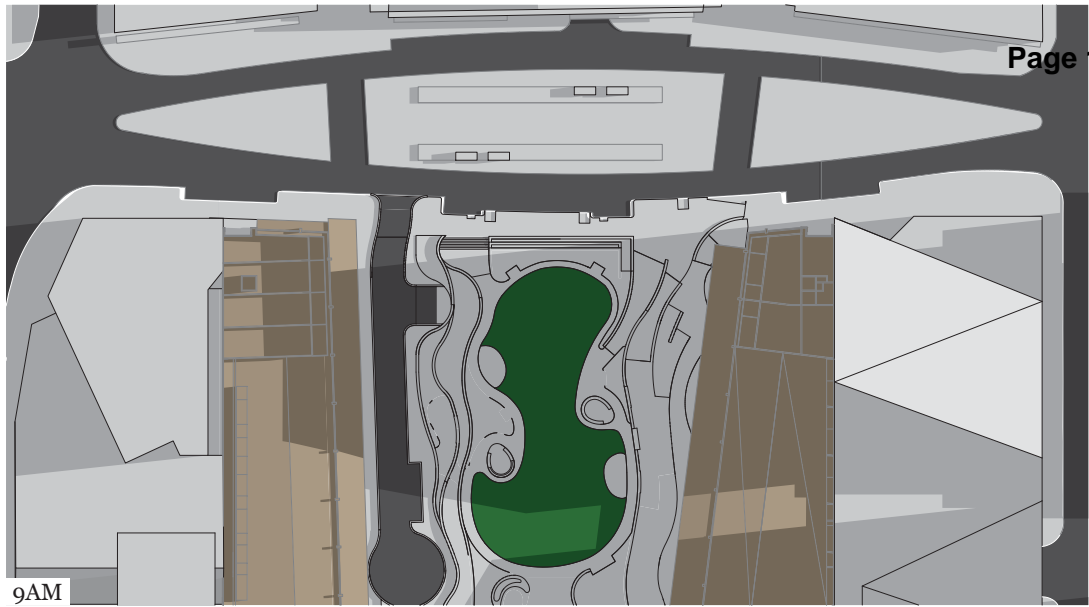
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1201, 11/08/2019
26/08/2019

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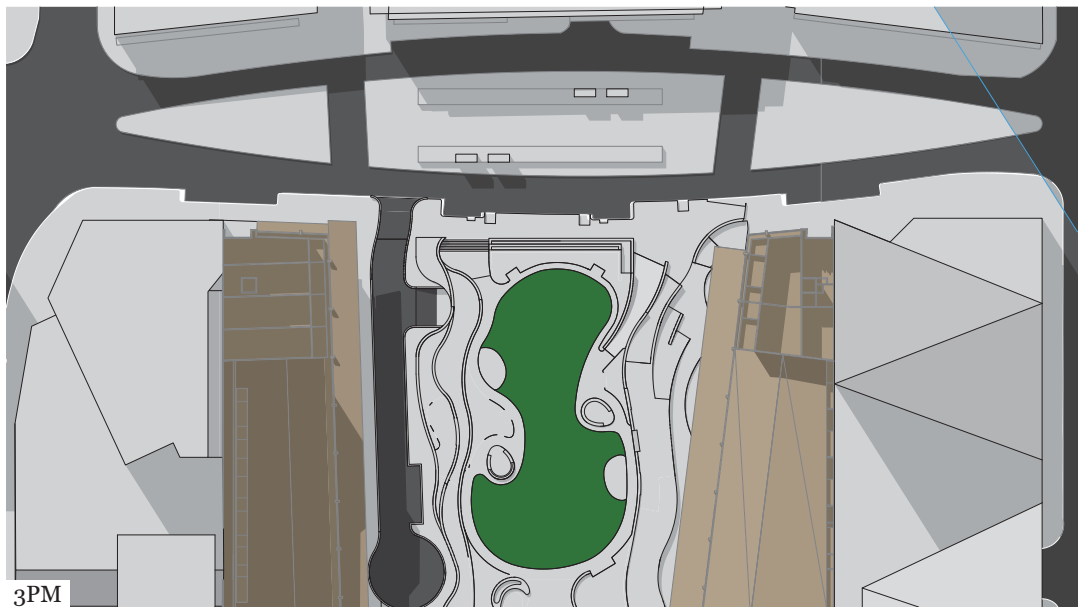
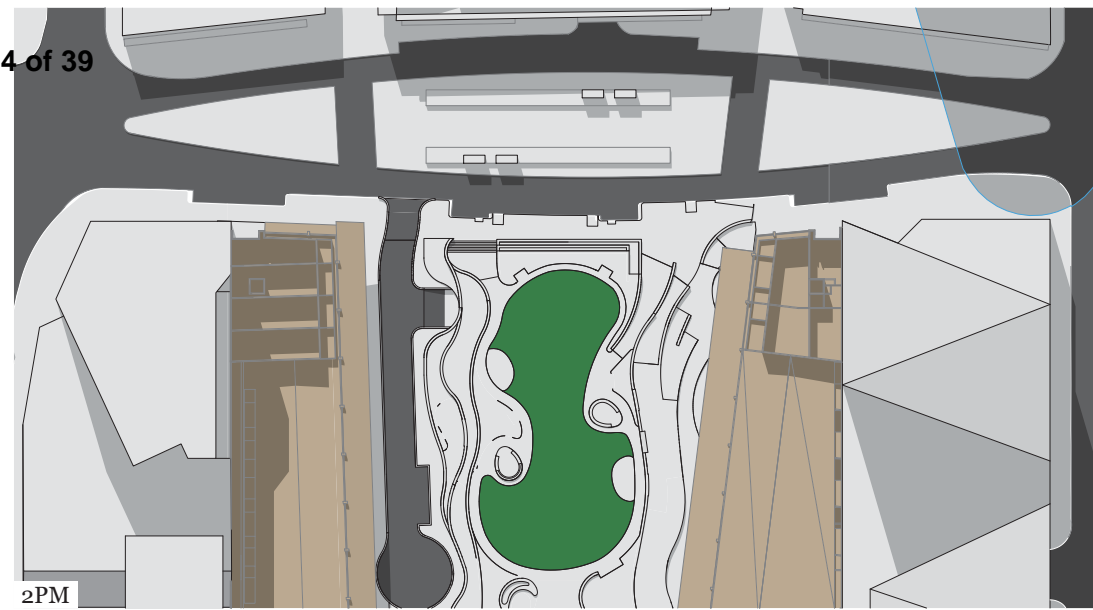
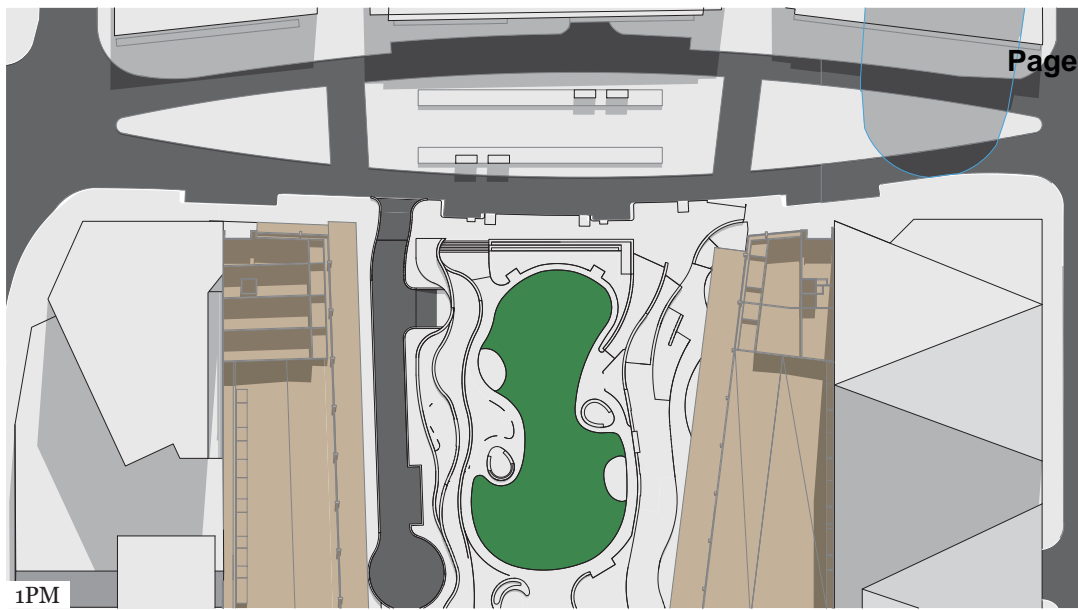
FOR INFORMATION ONLY



Docklands Drive
Docklands
VIC 3008

Shadow Study - Equinox
Monday, 28 October 2019

Shadow Study, September 22
- SE + SW Proposed



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- SE Proposed Envelope

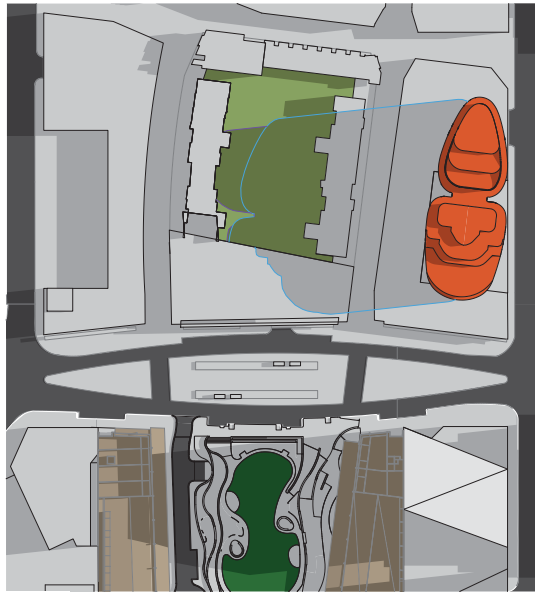
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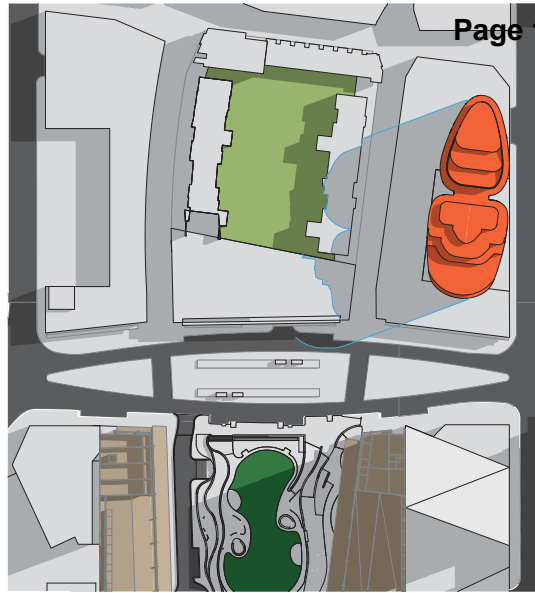
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VIC 3008

Shadow Study - Equinox
Monday, 28 October 2019

Shadow Study, September 22
- SE + SW Proposed



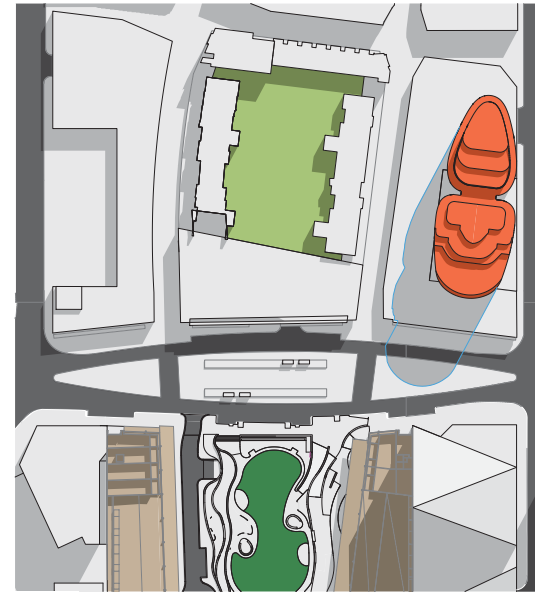
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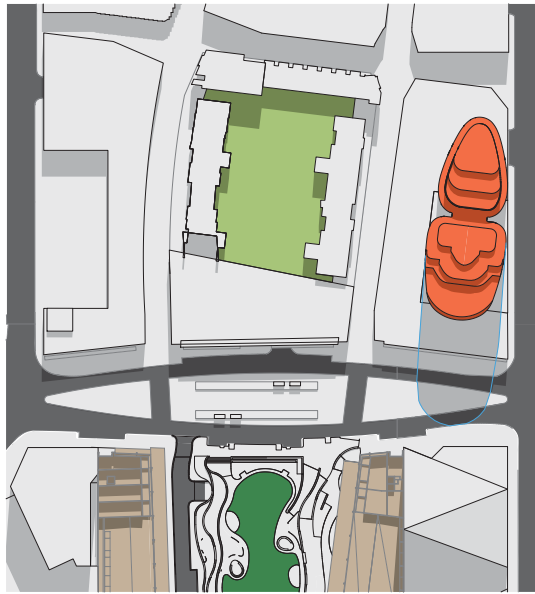
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12PM



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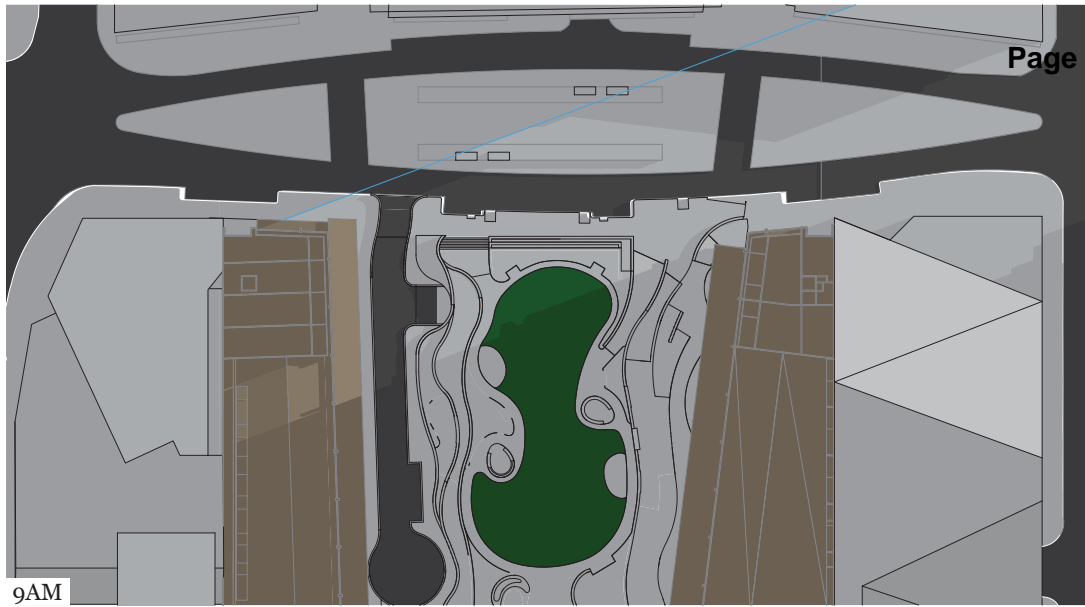
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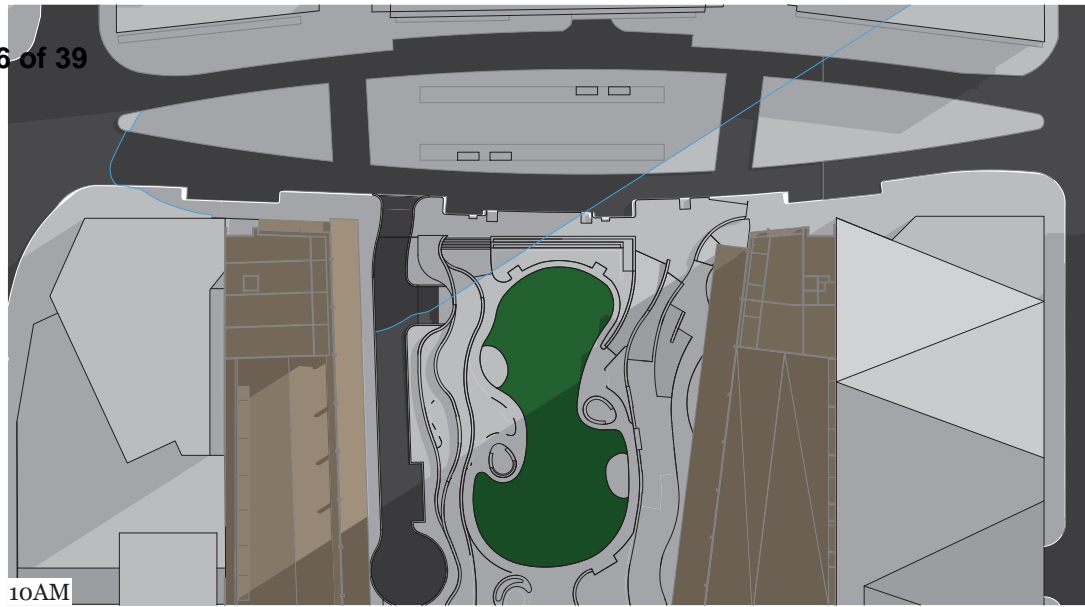
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Shadow Study - Equinox
Monday, 28 October 2019

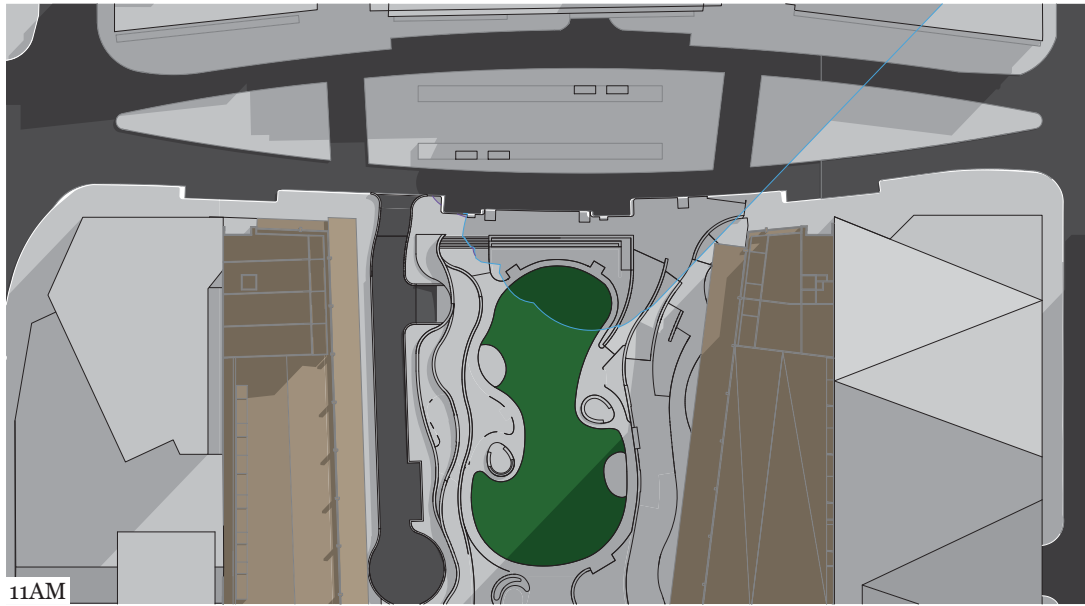
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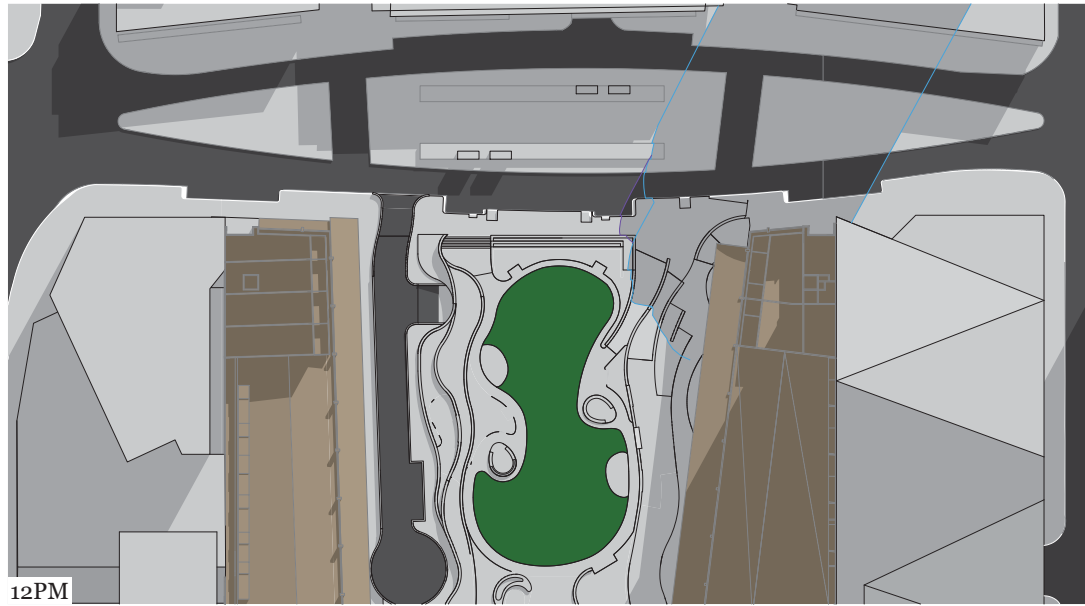
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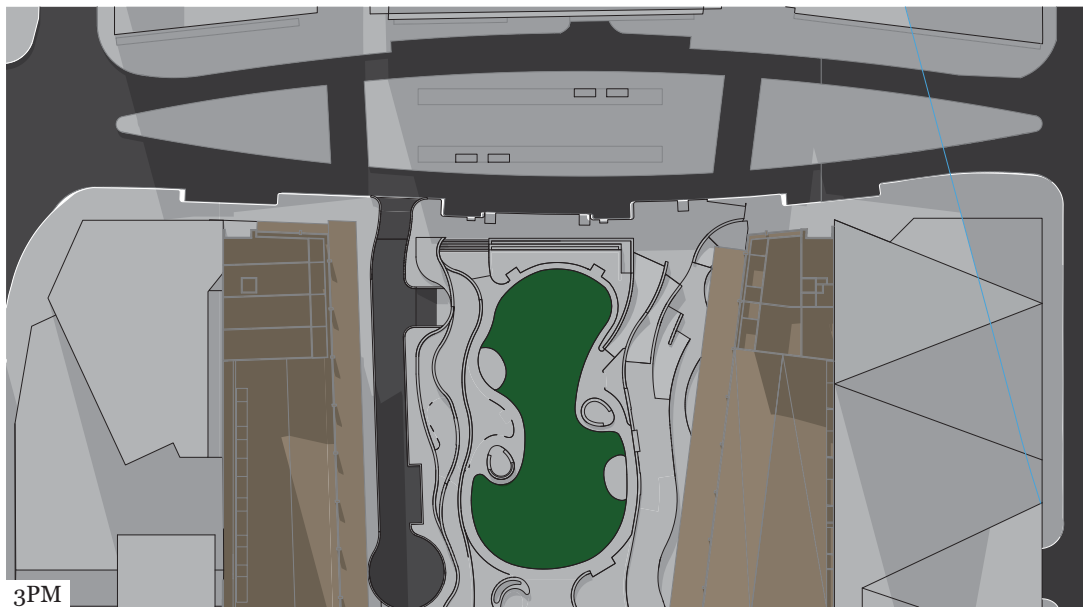
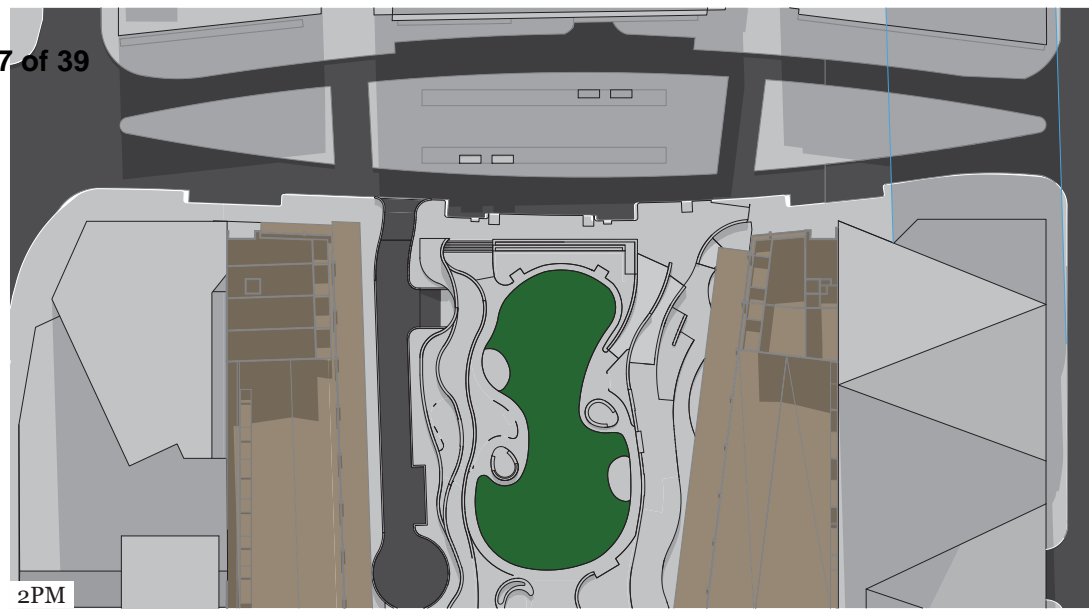
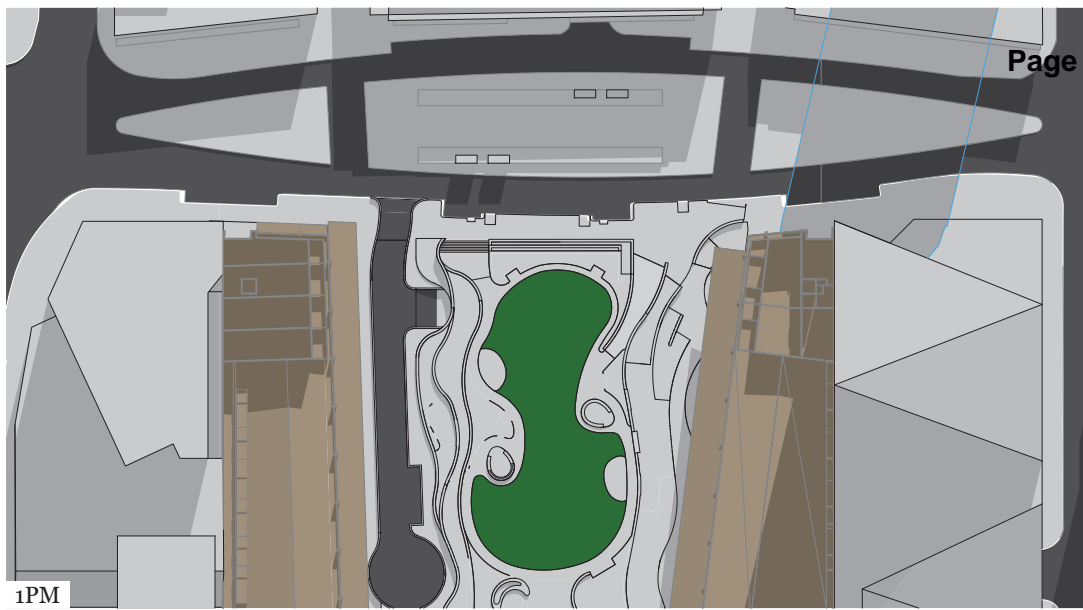
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Docklands Drive
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VIC 3008

Shadow Study - Winter
Monday, 28 October 2019

Shadow Study, June 22
- SE + SW Proposed



- SE Endorsed Envelope
- SE Proposed Envelope

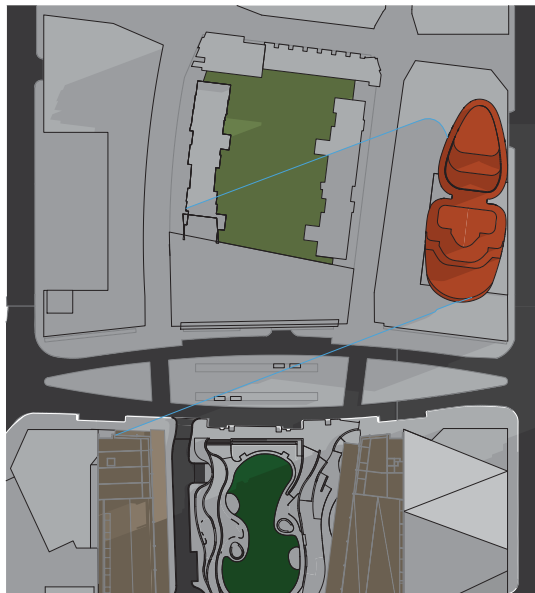
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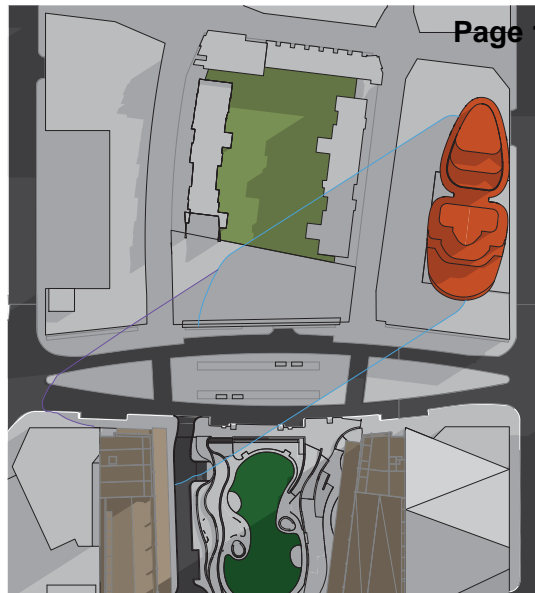
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Docklands
VIC 3008

Shadow Study - Winter
Monday, 28 October 2019

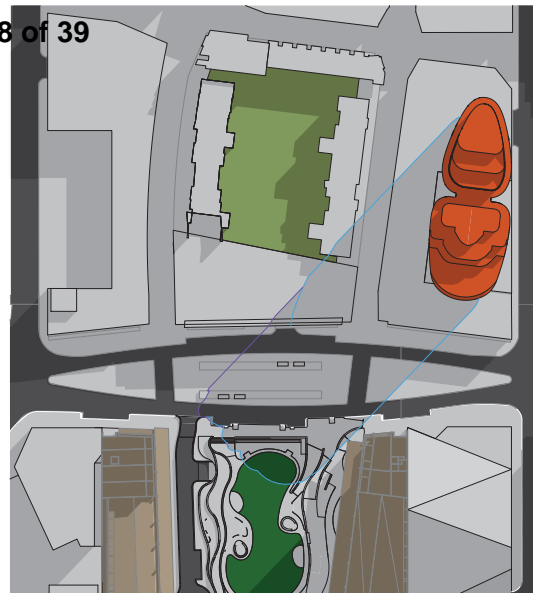
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- SE + SW Proposed



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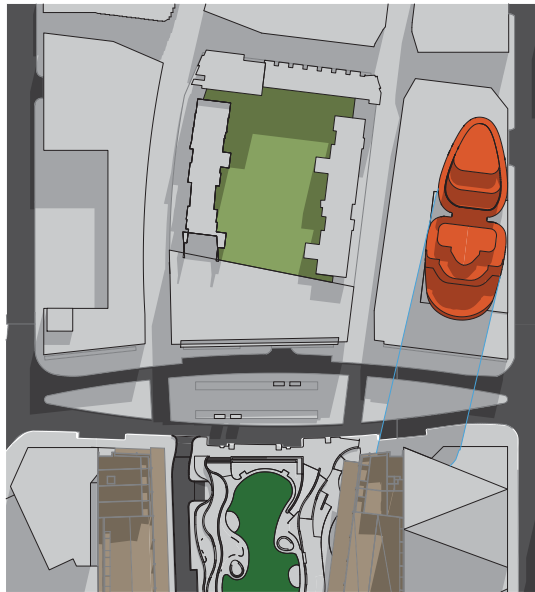
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11AM



12PM



1PM



2PM



3PM

— SE Endorsed Envelope
— SE Proposed Envelope

FOR INFORMATION ONLY



Docklands Drive
Docklands
VIC 3008

Shadow Study - Winter
Monday, 28 October 2019

Shadow Study, June 22
- SE + SW Full Extent

DOCKLANDS DRIVE

WATERFRONT WAY

26.08.2019

SOUTH EAST

		RESIDENTIAL								TOTAL
		1 BED	1 BED	2 BED	2 BED	3 BED	SPH	PH	TPH	
		1 BATH	1 BATH	1 BATH	2 BATH	3 BATH	110-140	140-150	over 150	
		50-55	0	75-85	0	100	110-140	140-150	over 150	
		m ²	m ²	m ²	m ²	m ²	m ²	m ²	m ²	
Roof Level										
Added Levels	Level 19	0	0	0	0	0	0	0	1	1
	Level 18	0	0	0	0	0	0	0	2	2
	Level 17	0	0	0	0	0	0	0	2	2
Typical Apartments - Low	Level 16	0	0	0	0	0	0	0	3	3
	Level 15 (Pool Deck)	2	0	0	5	0	0	0	0	7
	Level 14	3	0	2	6	2	0	0	0	13
Typical Hotel	Level 13	3	0	1	6	2	0	0	0	12
	Level 12	3	0	2	8	2	0	0	0	15
	Level 11	3	0	2	8	2	0	0	0	15
	Level 10	3	0	2	8	2	0	0	0	15
	Level 9 (Hotel Lift Overrun)	3	0	2	8	0	0	0	0	13
Typical Podium	Level 8									
	Level 7									
	Level 6									
	Level 5									
Ground Floor	Level 4									
	Level 3 (Hotel Function)									
Ground Floor	Level 2									
	Level 1									
	Mezzanine									
	Ground Floor									
		20	0	11	49	10	0	0	8	98

NOTE . Balcony areas are calculation for approximation only and not a measured value

No of Cars in Development

	Apt Type	No. of	
Apartments	Penthouses	0	
	Sub Penthouses	0	
	3 Bed/2 Bath	10	
	2 Bed/2 Bath	49	
	2 Bed/1 Bath	11	
	1 Bed/1Bath	0	
	1 Bed/1Bath	20	
		90	
Hotel	Rooms	189	0
Total Number of Cars:			80

CAR DISTRIBUTION

BICYCLE COUNT

No. of Bikes Required		
Purpose	Ratio	Req.
Residential	5	33
Visitor	10	10
Hotel	Allowance	10
	Total Required	53
	Total Provided	54

HOTEL			AREA SCHEDULE - TO PCA CALCULATION METHODS											
SLUITE	JUNIOR	DELUXE	*GFA	EFF.	RETAIL NSA	HOTEL NSA	APARTMENTS NSA	BALCONIES & WINTER GARDENS	PARKING	ROOFTOP LANDSCAPING	FOH / AMENITIES	HOTEL F&B	HOTEL BOH	COMMON AREA
30-40	40-55	over 55												
m ²	m ²	m ²												
			504.70	69%			346.20	132.80						
			504.70	82%			412.90	27.10						
			729.90	59%			430.60	215.70						
			1325.70	73%			963.30	133.10						
			1640.80	54%			556.00	58.60						
			1676.00	75%			1259.40	143.10						
			1680.20	76%			1274.40	134.90						
			1681.80	76%			1271.40	136.10						
			1682.80	76%			1271.80	136.70						
			1683.50	76%			1272.00	137.10						
			1672.80	0%			1213.90	137.50						
26	10	0	1673.80	80%		1345.50							30.45	297.85
26	10	0	1675.20	80%		1346.80							30.50	297.90
26	10	0	1677.00	80%		1347.50							30.50	299.00
26	10	0	1678.80	80%		1350.50							30.40	297.90
26	10	0	1675.50	80%		1344.70							30.40	300.40
			1208.80	0%									269.60	250.10
4	5	0	529.10	68%		358.40							14.70	156.00
			530.50	0%									393.70	136.80
			76.20	0%										76.20
			1239.30	0%									484.57	269.90
134	55	0	26747	0%	0	7093	10272	1393	2320	780	1934	529	827	4525

Room Total: 189

*inc apartment balconies and service stacks on all levels; lifts on ground level
*exc. communal terrace/public decks/landscape/carpark

DELEGATE REPORT**MINISTERIAL PLANNING REFERRAL**

Application number:	TPM-2017-11/A
DELWP Application number:	PA1700219-2
Applicant / Owner / Architect:	Capital Alliance 7 Pty Ltd / Capital Alliance 5 Pty Ltd / DKO
Address:	3-43 Waterfront Way, DOCKLANDS VIC 3008
Proposal:	Amendment of Ministerial Planning Permit PA1700219 under Section 72 of the Planning and Environment Act 1987 by way of: <ul style="list-style-type: none"> ▪ Redesigning Levels 16 & 17; and ▪ Adding three levels.
Cost of additional works:	\$3,000,000
Date received by City of Melbourne:	1 November 2019
Responsible officer:	Markus Tschech, Senior Urban Planner

1. SUBJECT SITE AND SURROUNDS**1.1. The site**

The subject site is located on the western side of Waterfront Way, immediately to the north of Docklands Drive and forms part of 'The District Docklands'.

It has an area of 1,261m² for the first 12 metres above ground level, and expands to 4,392.2m² above the property at 420-430 Docklands Drive, as a result of air rights over the adjacent land.

As indicated in the site photos on the following page, construction of the 16 storey residential building permitted under Ministerial Permit No. PA1700219-2 is well advanced. The already approved building has a maximum height of 58.24 metres (to the rooftop plan), comprises 189 hotel rooms, hotel function rooms and 99 apartments.

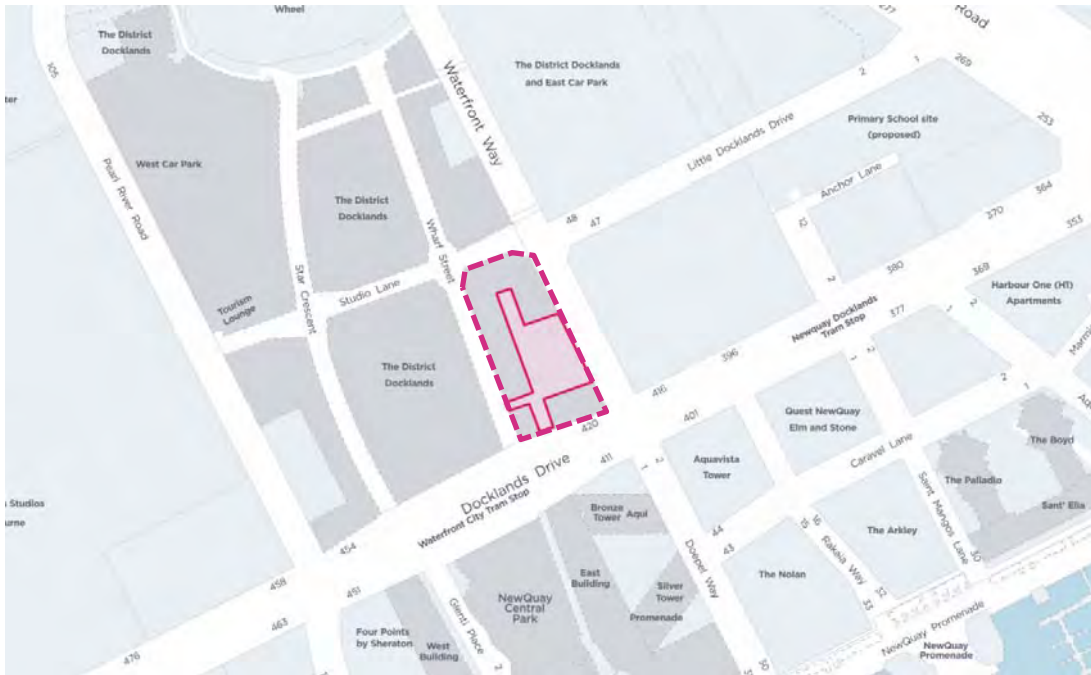


Figure 1 - Site context map with approximate extent of air rights indicated by the dashed lines



Figure 2 - Site photo taken on 8 January 2020

1.2. Surrounds

The subject site forms part of 'The District Docklands', which can be described as a town centre style mixed use precinct comprising retail premises, food and drink premises (including a brewery), offices, residential apartments, entertainment facilities (including a recently completed cinema), and the visually prominent 'Melbourne Star' observation wheel that has a maximum height of 120 metres.

In terms of direct abuttals, the site is located opposite 'NewQuay Central' to the south, which comprises a high-rise apartment building, mid-rise commercial buildings and a central area of public open space (NewQuay Central Park). Also to the south of the site, at 6-22 Pearl River Road is a high-rise residential building with a residential hotel component.

Across Waterfront Way to the east is an at-grade commercial carpark. The site benefits from Planning Permit TP-2012-828/A allowing an eleven storey commercial building.



Figure 3 - Nearmap aerial photo taken 31 August 2019

2. BACKGROUND

2.1. Site History

The following planning controls and planning permit history is considered relevant to this application:

Date	Site	Description of Control / Permit description	Outcome / Reference
15 September 2003	Waterfront City	Waterfront City ODP endorsed with a 25 metre discretionary height limit	N/A
28 June 2013	3-43 Waterfront Way	Construction of a 49.7 metre (16 storeys) building comprising dwellings and ground floor shops	Permit TP-2013-243
29 March 2016	3-43 Waterfront Way	Combined Permit Application and Development Plan Addendum to allow for the construction of a 109 metre (37 storeys) building comprising a residential hotel and dwellings	Ministerial Refusal 2015/35663 (TPM-2015-21)
20 August 2017	3-43 Waterfront Way	Buildings and works to construct a mixed use, 58.19 metre (18 storeys) building comprising a residential hotel and dwellings. Currently under construction	Ministerial Permit PA17/00219 (TPM-2017-11)
3 December 2019	Waterfront City	Waterfront City ODP Addendum, which applies to the subject site approved.	(TPM-2018-23)

3. THE PROPOSAL

The permit holder has applied under Section 72 of the *Planning and Environment Act 1987* to amend Ministerial Permit PA1700219.

The revised plans are those prepared by DKO, dated 26 August 2019 (TP213 – TP313). Approval is sought for the following changes:

- Redesign of level 16 to reduce the number of apartments from nine to three.
- Redesign of level 17 to replace some of the rooftop plant and services with two apartments towards the northern end of the site.
- Addition of a new level 18, comprising of two apartments towards the northern end of the site and a photovoltaic panel system above the rooftop plant on the level below.
- Addition of a new level 19, comprising of a single apartment towards the northern end of the site.
- Addition of a new level 20 to accommodate further building services (relocated from level 17).
- All additional levels would be set back an additional 2.24 metres from Docklands Drive.
- An overall reduction in the total number of dwellings from 99 to 98.
- An overall increase in height from 58.19 to 67.8 metres, concentrated towards the northern end of the site.
- An 813m² increase in Gross Floor Area (GFA) from 25,914m² to 26,747m².

The amended design does not propose any changes below level 16, and seeks to conform to the maximum building envelope allowed under the approved Addendum to the Waterfront City Outline Development Plan, May 2019.

Relevant extracts of the approved and proposed development are provided on the following pages.

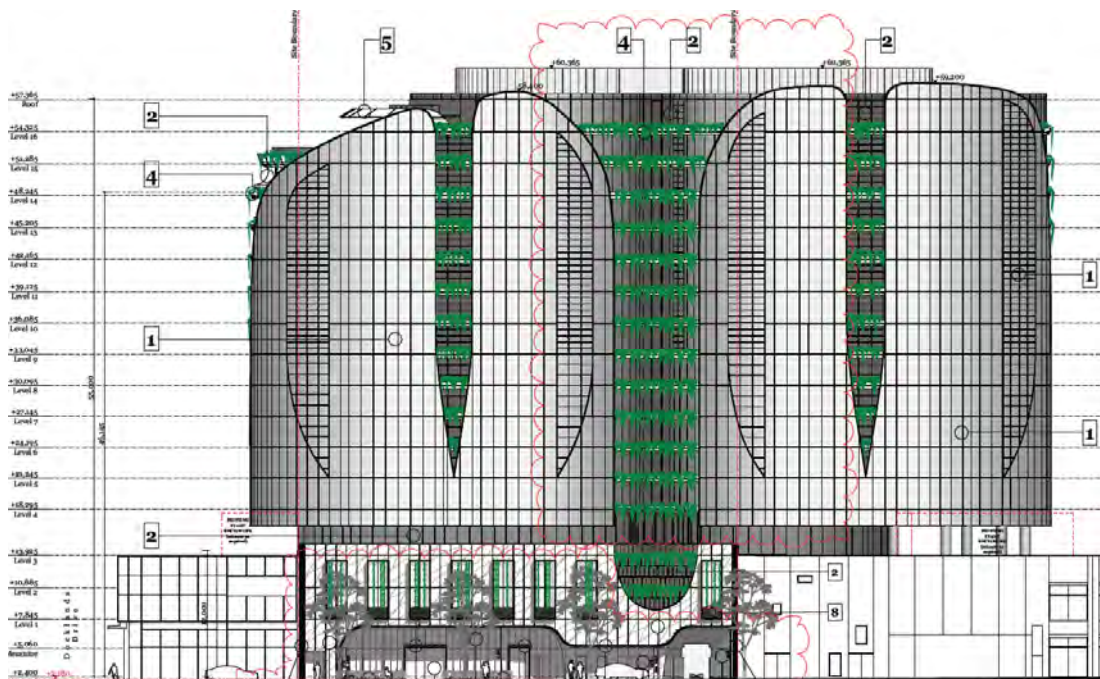


Figure 4 – Previously approved East Elevation. From Drawing TP300

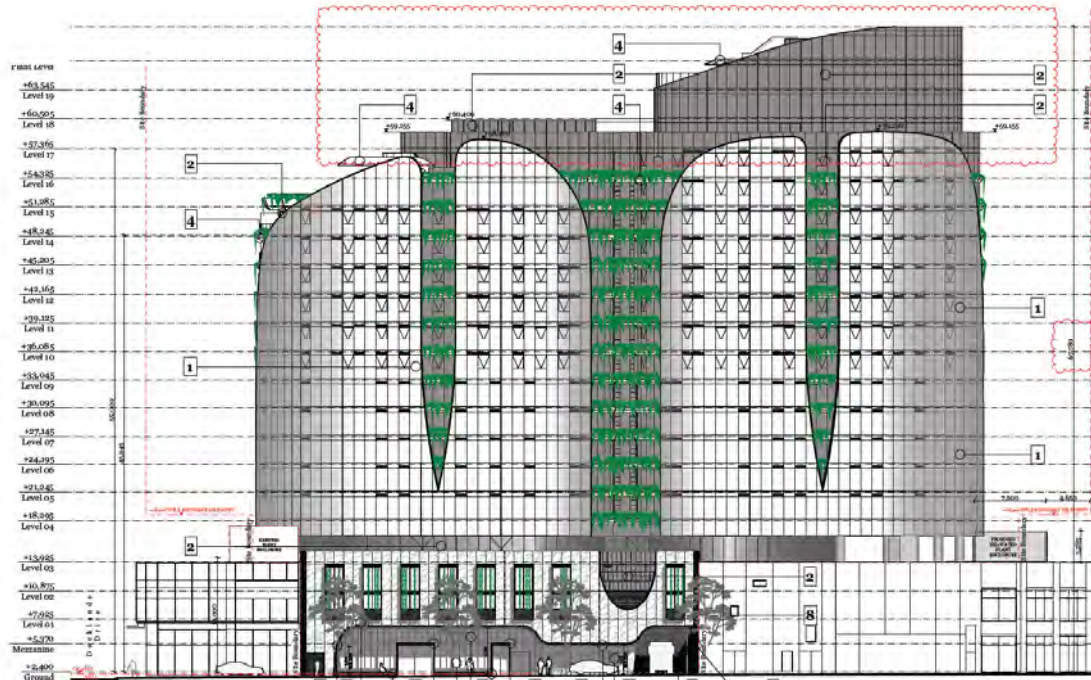


Figure 5 - Proposed East Elevation. From Drawing TP300

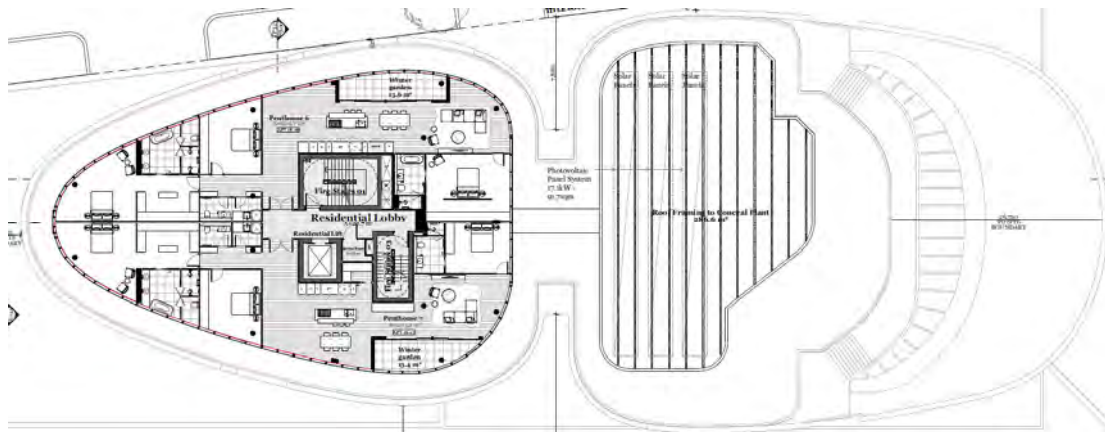


Figure 6 - New Level 18 Plan. From Drawing TP215

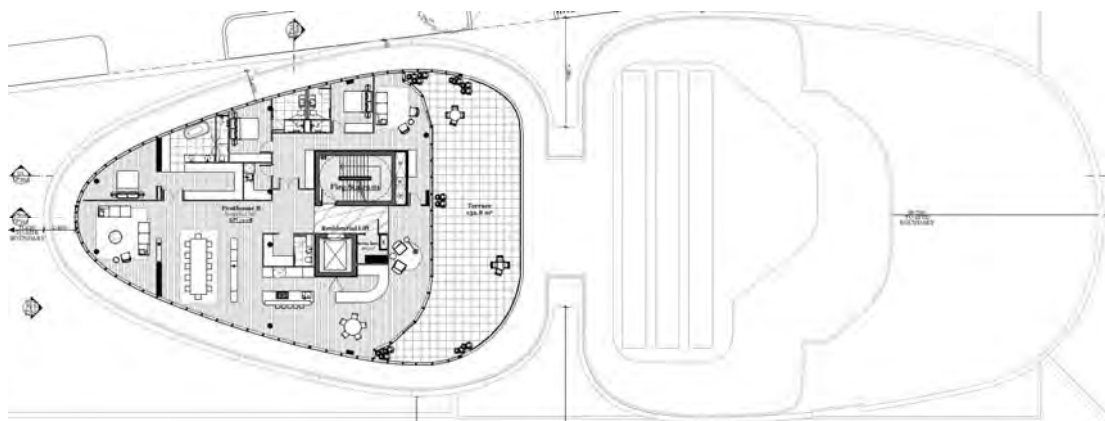


Figure 7 - New Level 19 Plan. From Drawing TP216

4. PLANNING SCHEME PROVISIONS

4.1. Current provisions

The following provisions of the Melbourne Planning Scheme apply:

State Planning Policies	<p>Clause 10: Planning Policy Framework</p> <p>Clause 11: Settlement</p> <p>Clause 12: Environment and Landscape Values</p> <p>Clause 15: Built Environment and Heritage</p> <p>Clause 16: Housing</p> <p>Clause 17: Economic Development</p> <p>Clause 18: Transport</p> <p>Clause 19: Infrastructure</p>
Municipal Strategic Statement	<p>Clause 21.04: Settlement</p> <p>Clause 21.05: Environment and Landscape Values</p> <p>Clause 21.06 Built Environment and Heritage</p> <p>Clause 21.07: Housing</p> <p>Clause 21.08: Economic Development</p> <p>Clause 21.09: Transport</p> <p>Clause 21.10: Infrastructure</p> <p>Clause 21.13-2: Docklands</p>
Local Planning Policies	<p>Clause 22.18: Urban Design within the Docklands Zone</p> <p>Clause 22.19: Energy, Water and Waste Efficiency</p> <p>Clause 22.23: Stormwater Management (Water Sensitive Urban Design)</p>

Statutory Controls	
Development Plan Overlay - Schedule 7 (DPO7) Business Park Precinct	<p>The purpose of a Development Plan is to identify areas which require the form and conditions of future use and development to be shown before a permit can be granted to use or develop the land.</p> <p>The DPO specifies requirements for the content of a development plan and contemplates that development plans may be amended. It specifies decision guidelines for assessing an amendment to a development plan.</p> <p>Once a development plan (or amended development plan) has been endorsed as being to the satisfaction of the responsible authority, separate planning applications will need to be lodged for the individual stages of development. The following statutory controls will apply to the future development of the land. A permit granted must be generally in accordance with the development plan.</p> <p>The Waterfront City Development Plan Addendum applies to the subject site and is discussed further in the following section.</p>
Docklands Zone - Schedule 6 (DZ6) Business Park Precinct	<p>The purpose of DZ6 is:</p> <ul style="list-style-type: none"> ▪ <i>To provide for a range of commercial, residential, recreational, educational, technology, business and leisure uses within a mixed use environment.</i> ▪ <i>To provide for a range of active and people orientated uses at the lower levels of buildings that are complementary of residential uses.</i> ▪ <i>To acknowledge the retention of port related activities west of Bolte Bridge.</i>

<p>Design and Development Overlay - Schedule 12 (DDO12)</p> <p>Noise Attenuation Area</p>	<p>Seeks:</p> <ul style="list-style-type: none"> ▪ <i>To ensure that new or refurbished developments for new residential and other noise sensitive uses constructed in the vicinity of the Docklands Major Sports and Recreation Facility include appropriate acoustic measures to attenuate noise levels, in particular music noise, audible within the building.</i> ▪ <i>To ensure that land use and development in the vicinity of the Docklands Major Sports and Recreation Facility is compatible with the operation of a Major Sports and Recreation Facility.</i> <p>A permit is required for buildings and works associated with new, refurbished or converted developments for noise sensitive uses.</p>
<p>Design and Development Overlay - Schedule 54 (DDO54)</p> <p>Business Park Precinct, Area 1</p>	<p>Schedule 54 to the DDO applies specifically to the Business Park Precinct and seeks:</p> <ul style="list-style-type: none"> ▪ <i>To provide for a complementary mix of medium and high rise development within the Precinct.</i> ▪ <i>To provide continuous public access along the waterfront area adjoining Moonee Ponds Creek and Victoria Harbour.</i> ▪ <i>To facilitate innovative buildings and structures relating to the Waterfront City precinct for entertainment purposes.</i> ▪ <i>To ensure the conservation of the general form of Victoria Harbour.</i> <p>DDO54 sets a discretionary maximum building height of 45 metres for land within Area 1, other than buildings and structures that form part of a theme park or are used for entertainment purposes.</p> <p>A permit is required to exceed the maximum building height.</p>
<p>Parking Overlay - Schedule 10</p> <p>Docklands – Business Park</p>	<p>Sets out maximum car parking rates for various land uses including:</p> <ul style="list-style-type: none"> ▪ 1.5 spaces to each dwelling ▪ 3 spaces to each 100m² of office gross floor area ▪ 0.4 spaces to each room for a residential hotel ▪ 4 spaces to each 100m² of retail gross floor area <p>A permit is required to provide car parking spaces in excess of the maximum number specified.</p>

Particular Provisions	
<p>Clause 52.06</p> <p>Car Parking</p>	<p>A permit is required to provide more than the maximum parking provision specified in a schedule to the Parking Overlay.</p>
<p>Clause 52.34</p> <p>Bicycle Facilities</p>	<p>A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. As the proposal would provide bicycle facilities in excess of minimum requirements, a permit is not required.</p>
<p>Clause 58</p> <p>Apartment Developments</p>	<p>Pursuant to Clause 37.05-4, Clause 58 does not apply to an application for an amendment of a permit under section 72 of the Act, if the original permit application was lodged before the approval date of Amendment VC136.</p> <p>The original application was lodged with the Minister for Planning on 28 March 2017, which is prior to the gazettal of Amendment VC136 on 13 April 2017. This application is therefore exempt from the requirements of Clause 58.</p>

General Provisions	
Clause 72.01 Responsible authority for administering and enforcing a provision of this planning scheme	The Minister for Planning is the Responsible Authority for this matter as the total floor area of the proposal exceeds 25,000 square metres.
Clause 65 Approval of an application or plan	Sets out matters that the Responsible Authority must consider before deciding on an application.

4.2. Waterfront City Outline Development Plan

The Waterfront City Outline Development Plan (WFCDP) was approved by the Minister for Planning on 28 November 2003.

An Addendum to the WFCDP (the 'DP Addendum'), prepared on behalf of Capital Alliance Investment Group was referred to Council for comment by the Minister for Planning on 7 December 2018.

The DP Addendum applies specifically to the subject site, and a similar sized parcel of land at 28-38 Pearl River Road to the west. It varies the built form controls of the 2003 WFCDP, including (but not limited to):

- An increase in the maximum building height from 58.19 to 67.8 metres,
- Specific setback requirements
- A maximum GFA of 35,000m² for the subject site,
- An 88 space cap on car spaces for the subject site
- A minimum requirement of one bicycle space per dwelling.
- A requirement that any building on the subject site does not contribute to additional overshadowing of NewQuay Central Park and the adjacent footpath on the Winter Solstice, beyond what is permitted by the existing approval.

Following the Future Melbourne (Planning) Committee meeting on 15 October 2019, where the DP Addendum was supported unanimously; Council wrote to the Minister on 16 October 2019 advising that Council supported the DP Addendum subject to conditions. It was approved by the Minister on 3 December 2019, subject to conditions.

At time of writing, an updated Development Plan Addendum has been submitted to the Minister for approval but has not yet been endorsed. As such, the proposal will be assessed against the submitted Addendum, while also having regard to the Minister's conditions of approval.

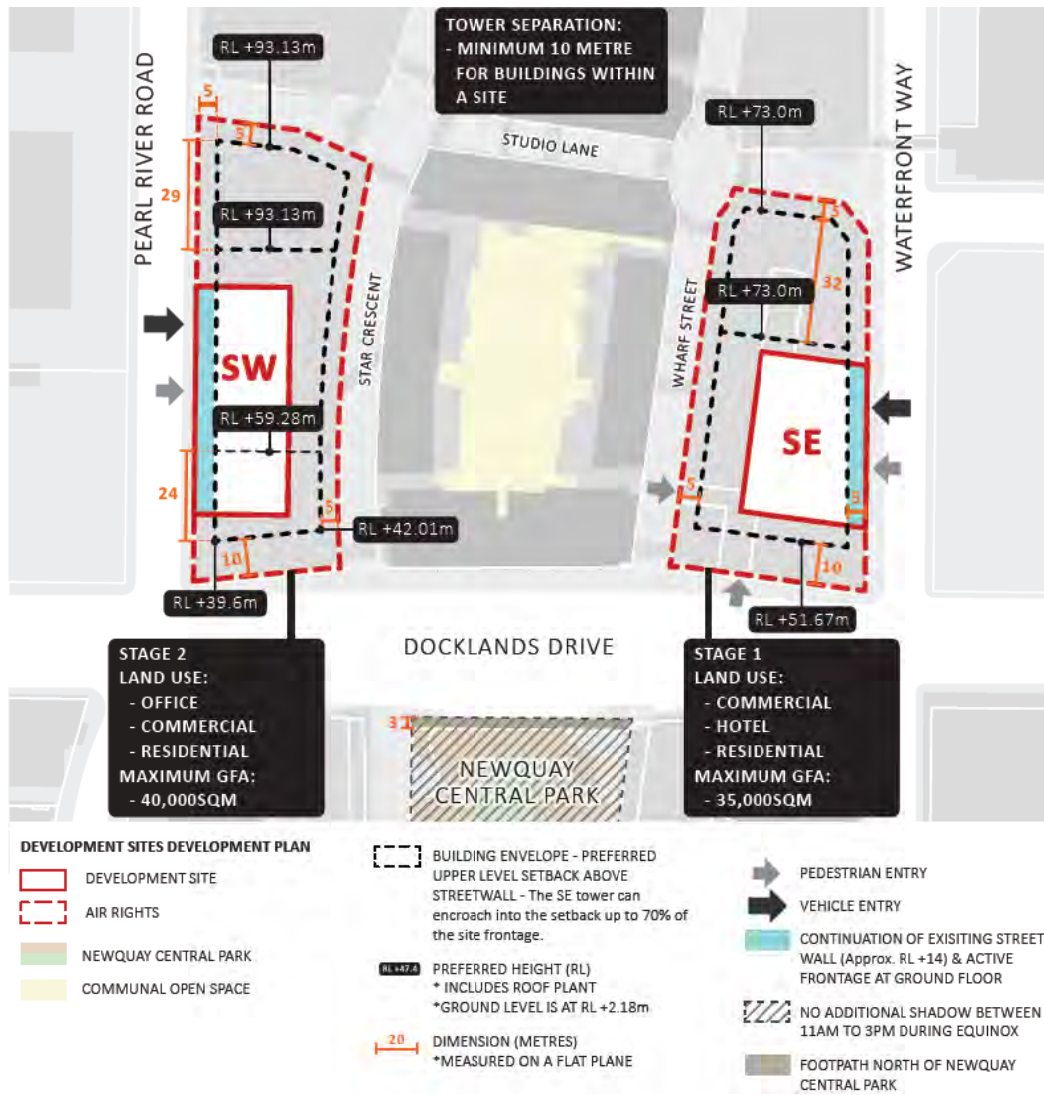


Figure 8 - Extract from the Development Plan Addendum referred to in the approval

5. PUBLIC NOTIFICATION

Pursuant to Clauses 37.05 (Schedule 6) and 43.02 (Schedules 12 and 54) a, this application is exempt from the notice requirements of Section 52 (1) (a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82 (1) of the Act.

The Minister for Planning has informally referred the application to Melbourne City Council as an interested party, seeking Council's recommendation on the application.

6. REFERRALS

The application was internally referred to the following work areas for comment with the responses provided below.

6.1. Urban Design

Building heights and overshadowing

The height of the SE towers (3-43 Waterfront Way) means that surrounding open space areas, rooftop common open space and New Quay Central Park, will experience additional overshadowing. Additional loss of solar access on a public park is not supported.

Street wall heights and upper level setbacks

The original approval for minimum street setback (~2 to zero metres) was associated with a lower tower form of 55m. As this proposal is now for a 67.8m tower (or 80m tower as proposed in the Amended ODP), a 5m upper level setback is recommended to adequately limit visual bulk and mitigate wind impacts.

Public interface

The plans indicate an amended ground floor condition now with half of the ground floor façade (~24m) along Waterfront Way occupied by services and a carpark entrance. We encourage a reduction to the extent of services in this zone and for a high quality treatment that is integrated with the broader façade.

6.2. Engineering Services Group - Traffic

Given that no changes are proposed to car parking, access or loading arrangements, we have no objections to this application from the traffic engineering perspective. However, the following recommendations are noted for consideration by the developer:

- *All spaces, ramps, grades, transitions, accessways, height clearances & car lift operation should be generally designed as per MPS or AS/NZS 2890.1:2004.*
- *The design of the loading area, including all space dimensions, grades & height clearances, should comply with relevant standards for Commercial Vehicles (AS2890.2-2002). A Loading Management Plan should be prepared, specifying how the access/egress of loading vehicles is to be managed. A Dock Manager should be employed, responsible for controlling the operation of the loading area and unloading of goods.*
- *In 2015, Council approved a new car share policy that has set a target of 2,000 on-street & off-street car share spaces within the municipality by 2021. Such an ambitious target was approved because car share programs help reduce the number of privately owned cars on the road and in private car parks. Research suggests each car share vehicle reduces the number of resident-owned vehicles by 9, & reduces the member's private car usage by 50%. In order to meet the likely demand, some car share & electric charging spaces should be provided on site.*
- *A formal independent desktop Road Safety Audit of the proposed development should be undertaken, at the developer's expense, which should include the vehicular/bicycle/pedestrian access arrangements, loading arrangements and internal circulation/layout. The findings of the Audit should be incorporated into the detailed design, at the developer's expense.*

6.3. Engineering Services Group - Waste

The application was referred to the City of Melbourne's Waste Engineer who advised that the amended WMP was acceptable.

6.4. Urban Forestry

There are no objections of additional conditions from Urban Forest and Ecology. The amendments are unlikely to impact the public trees on Waterfront Way that are currently protected by a Tree Protection Plan and bond.

7. ASSESSMENT

The key issues in the consideration of the proposed amendments are:

- Compliance with the approved DP Addendum.
- Built form, including building height, setbacks, gross floor area and design detail.
- Public realm considerations, including overshadowing and wind.
- Bicycle facilities, car parking and traffic impacts.
- Internal amenity.
- Compliance with conditions of the existing permit.

Each is addressed in turn below.

7.1. Compliance with the approved DP Addendum

An assessment against all relevant provisions of the approved DP Addendum has been undertaken as part of this review. As set out in the following sections, the proposal is consistent with the DP Addendum; though does require a variation to the overshadowing requirements. Overshadowing is discussed in detail at Section 7.3.1.

7.2. Built Form

7.2.1. Building Height

The proposal involves the addition of three levels to the approved building, taking it from RL 60.37 to RL 70.18 metres (67.8 metres above ground level). This increase in height is clearly illustrated in the below section of the proposed development.



Figure 9 - Extract from Section AA, marked up to show additional height (shaded yellow). From Drawing TP304

Although this height significantly exceeds the 45 metre discretionary maximum building height of the applicable DDO54; the approved DP Addendum allows for a maximum height of RL 73 metres, which tapers down to RL 51.67 towards the southern boundary of the site (see below). Importantly, the conditions of the DP Addendum approval do not vary the building envelopes depicted in the submitted document.

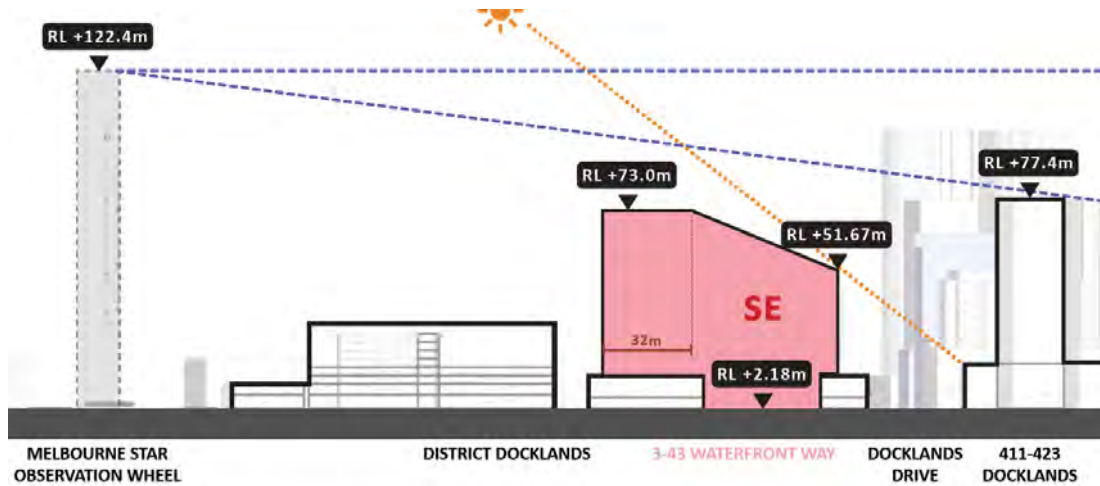


Figure 10 - Extract from the Development Plan Addendum referred to in the approval

The marked up East Elevation below depicts (approximately) how the amended design fits within the building envelope allowed by the DP Addendum.



Figure 11 - East Elevation extract (Drawing TP300), marked up with the DP Addendum envelope (purple line)

The proposed building height is therefore consistent with the provisions of the DP Addendum, which was previously supported by Council, and is therefore considered to be acceptable.

7.2.2. Setbacks

The proposal involves the addition of three levels to the approved building, which would be set back an additional 2.24 metres from all site boundaries. As the approved development is partially built to Waterfront Way, the new levels would be set back 2.24 metres from the street frontage.

An extract of (the new) Level 18, which depicts the proposed setbacks is reproduced on the following page.



Figure 12 - Level 18 plan. From Drawing TP215

The approved DP Addendum stipulates that any building on the subject site must be setback ten metres from Docklands Drive and five metres from all other boundaries. A building's street wall can, however, encroach into this setback for up to 70 per cent of this frontage. Given the site's 92 metre frontage above ground level, the five metre setback can be reduced for a length of 64.4 metres along Waterfront Way.

In addition to the above, the following built form objectives and guidelines should also be met:

- *Encourage a street wall definition that responds to its street width and positively contribute to the public realm.*
- *Provide varied setbacks or other design technique above the existing street wall form of DD to create interesting relationships between the base and building envelope proposals.*

In terms of technical compliance, the minimum 2.24 metre setback to Waterfront Way, which quickly tapers away in excess of five metres, would not contravene the provisions of this control.

Having regard to the built form objectives and guidelines, Council's Urban Designer noted some concern in relation to the setback of the additional levels, and would prefer a five metre setback to Waterfront Way to reduce the building's impact on the streetscape.

Although the 2.24 setback is less than half of that preferred by Council's Urban Designer, it nevertheless creates a clearly distinguishable transition in the building that is located behind the prominent 'skin' of the façade on lower levels. As the proposal involves an additional 9.61 metres of built form above the existing building, it is considered that the proposed setbacks provide adequate relief when these additional levels are viewed from the surrounding streetscape.

Given the above, it is considered that the proposed setbacks of the additional levels are acceptable.

7.2.3. Gross Floor Area

The proposal would increase the GFA of the development by 813m² from 25,914m² to 26,747m², which is substantially less than the 35,000m² maximum stipulated in the DP Addendum, and specifically referenced in its approval.

Given the relatively modest increase, lack of GFA controls for this portion of the City, and consistency with the approved DP Addendum, it is considered that the proposed GFA associated with the amended development is acceptable.

7.2.4. Design Detail and Materiality

As alluded to in section 7.1.2 of this report, the proposed addition to the approved development would be located above and behind the prominent light grey glass which constitutes the majority of the façade. The addition would be finished in dark tinted, curtain wall glass, which appears in the recesses of the aforementioned light grey glass façade. Although updated renders were not provided as part of this application, the two different glazing treatments are clearly depicted in the renders of the originally approved building (see below).



Figure 13 - Render of approved development. From www.thedocklandsresidences.com.au

The approved DP Addendum includes the following Detailed Design Objectives and Guidelines which any development on the site should meet:

- *To integrate building elements into the overall building form and design.*
- *Deliver high quality buildings and materials.*
- *Create a high level of visual interest.*
- *Provide a streetscape that improves the existing blank and inactive condition.*
- *Ensure development provides a detailed material and finishes schedule.*
- *Buildings should be designed with an appropriate scale, rhythm and proportion to its use and context.*
- *The design of a building is three dimensional, where building volumes, façades and building elements (entries, interior public spaces, drainage, security, services, heating and air conditioning, telecommunications, etc.), must be appropriately integrated in the overall design.*
- *Create visual interest through openings to the building which allows for views of both daytime and night time activity at the ground plane and levels above.*

Having regard to the above objectives and guidelines, as well as Council's Urban Design Policy (Clause 22.18), it is considered that the design of the new upper levels of the development is acceptable for the following reasons:

- The additional levels maintain the design language and materiality of the remainder of the building; thereby integrating with the design of the development, without resorting to a simple extension of the existing form.
- The dark tinted glass appears recessive behind the lighter skin on lower levels, which assists in reducing the scale of the additional form and adds visual interest.
- Council's Urban Designer did not raise any concerns in relation to the design detail of the additional levels.

7.3. Public realm

7.3.1. Overshadowing

One of the primary considerations with respect to the amended design is the extent of any additional overshadowing resulting from the additional height.

This is reflected in relevant Planning Scheme Policy, and overshadowing of NewQuay Central Park to the south was a key concern for Council in assessing the DP Addendum in late 2019. For this reason, the submitted DP Addendum stipulates that the area identified in Figure 14 below, should not be additionally overshadowed between 11am and 3pm on the Equinox (when compared to the approved development).

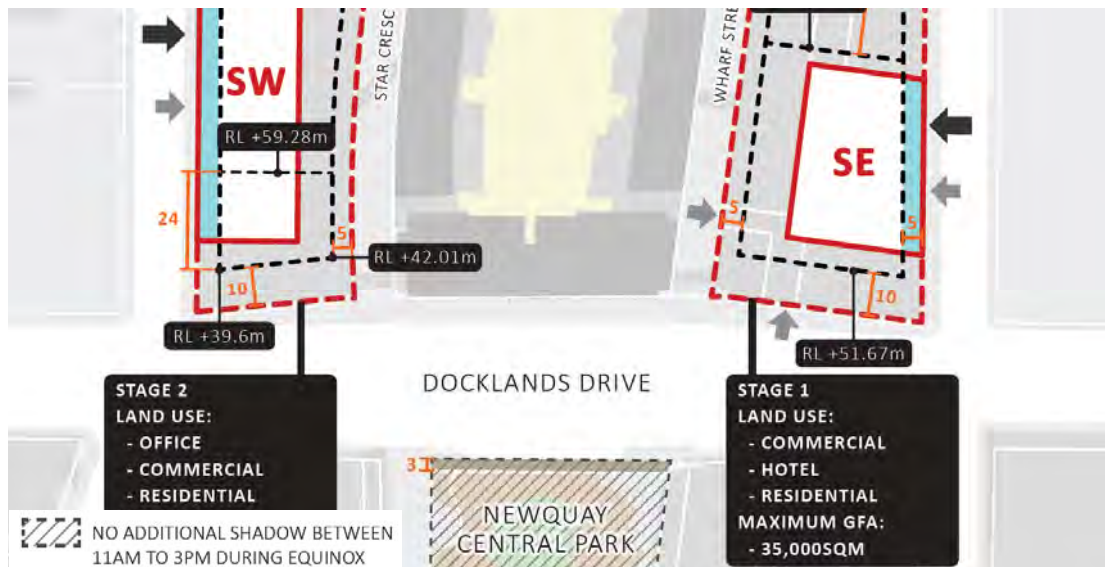


Figure 14 - Extract from the submitted DP Addendum, where 'SE' constitutes the subject site

A condition of Council's support for the submitted DP Addendum was that the area identified in Figure 14 above, receive no additional overshadowing on the *Winter Solstice* between 11am and 2pm. This recommendation was ultimately included as a condition of approval by the Minister for Planning.

The submitted overshadowing diagrams demonstrate that the amended design would result in a small area of additional overshadowing on the footpath (approximately 13m²) on the southern side of Docklands Drive (refer to Figure 15 below).

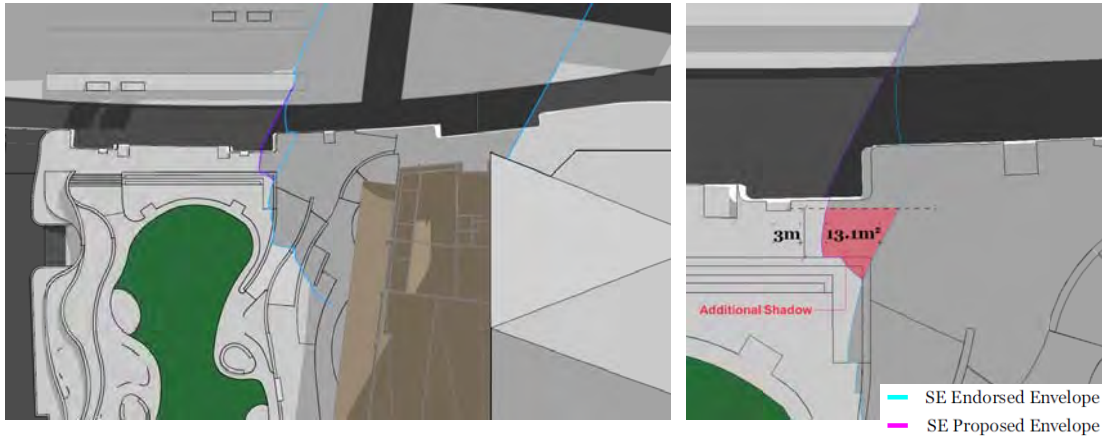


Figure 15 - Shadow Study extracts depicting additional overshadowing at 12noon on the Winter Solstice.

The approximate area which would receive additional overshadowing at 12 noon on the Winter Solstice is depicted in the site photo in Figure 16 below.

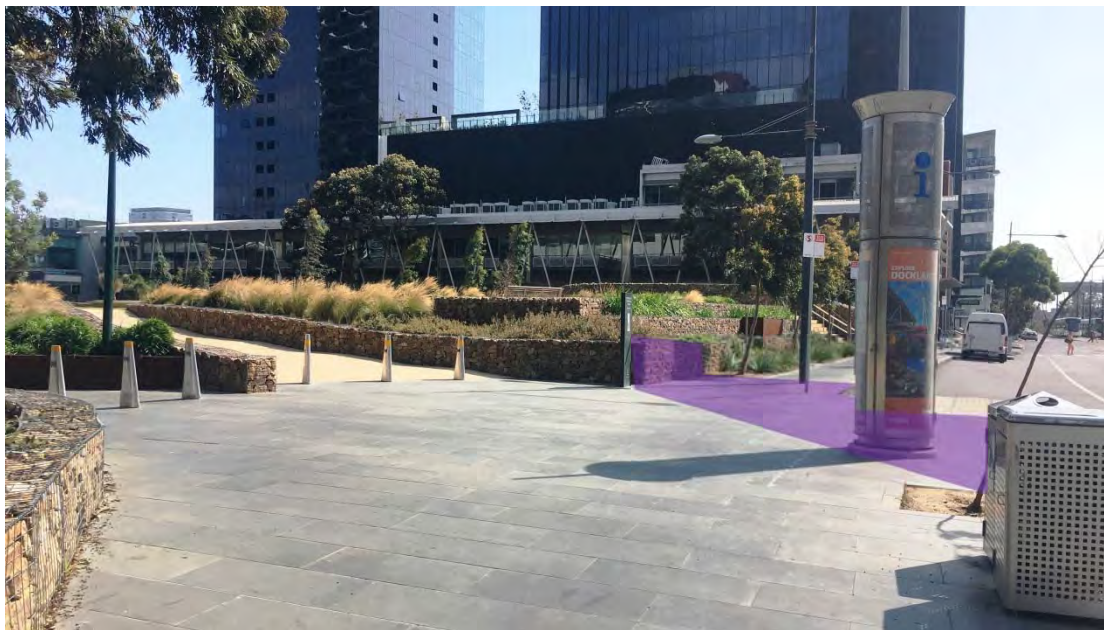


Figure 16 - Marked up site photo depicting approximate extent of additional overshadowing at 12noon on the Winter Solstice in purple shading.

It is the permit applicant's submission that the small area of additional overshadowing is 'generally in accordance' with the approved development.

Having regard to relevant Planning Scheme Policy, and the views of Council's Urban Designer, it is considered that the extent of additional overshadowing is acceptable for the following reasons:

- The additional overshadowing covers a relatively small portion of the footpath.
- NewQuay Central Park itself would not be subject to any additional overshadowing at any time of the year.
- Additional overshadowing would be restricted to 12 noon, with no additional overshadowing occurring from 9 to 11am or again from 1pm to 3pm.

7.3.2. Wind

In accordance with the DP Addendum approval, any planning application on the subject site must be accompanied by a wind report based on a wind tunnel study.

This wind report must demonstrate that the proposed development achieves the following Guidelines of the DP Addendum:

Seek to achieve reasonable wind conditions on Pearl River Road, Waterfront Way and Docklands Drive by employing the appropriate wind criterion as follows:

Public Realm

- *Pedestrian Transit Areas (footpaths, roads) - Walking Criterion.*
- *Retail store facades (window shopping) - Standing Criterion.*
- *Retail outdoor seating areas (café) - Sitting Criterion.*
- *Building Entrances (retail, residential) - Standing Criterion.*

Private Realm

- *Communal open space - Walking Criterion.*
- *Specific key locations (BBQ areas etc.) - Standing/ Sitting Criteria.*
- *Allow for a range of wind mitigation techniques including aerodynamic tower shapes, vented facades, airlocks, awnings, screens and/or built form.*

MEL Consultants undertook a wind tunnel model study of the approved development which is currently under construction. In their letter dated 4 September 2019, MEL Consultants advise that they had reviewed the amended design, and that:

The revisions to the design of the development at 3-43 Waterfront Way detailed in the DKO Architecture drawings dated 26th August, 2019, have been reviewed and it has been concluded that the design changes would have no significant adverse effects on the pedestrian level wind conditions. The proposed additional levels have been set back with height and aerodynamically shaped.

The revisions to the design of the development at 3-43 Waterfront Way detailed in the DKO Architecture drawings dated 26th August, 2019, have been reviewed and it has been concluded that the design changes would have no significant adverse effects on the pedestrian level wind conditions. The proposed additional levels have been set back with height and aerodynamically shaped.

A review of the MEL Consultants Report 36/17 reveals that the approved development meets the criteria listed in the DP Addendum reproduced above as it relates to the public realm, noting that there are no tenancies with outdoor seating within the study area along Docklands Drive and Waterfront Way.

Neither the original report, nor the statement of 4 September 2019 confirm that the private areas within the development, such as terraces on level 3 and the pool and the associated deck on level 15 will achieve the walking criterion. This has, however, been addressed via a supplementary statement from MEL Consultants dated 14 January 2020 confirming that the amended design would have no significant wind impacts to areas of communal open space within the development.

As the amended design is unlikely to contribute to additional wind impacts, it is considered that it is acceptable.

7.4. Bicycle facilities, car parking and traffic impacts

7.4.1. Bicycle Facilities

The proposed development would reduce the number of dwellings within the approved development from 99 to 98 and therefore marginally reduce the demand for bicycle facilities pursuant to Clause 52.34 of the Planning Scheme.

Notwithstanding this, the DP Addendum approval stipulates that bicycle parking be provided at a rate of at least one secure space per dwelling.

As construction of the approved development is well advanced, and the bicycle store (with room for 54 bicycle spaces) has been completed; opportunities for additional bicycle parking are limited. As a result, the application as referred to Council did not include any additional bicycle parking spaces.

Following on from discussions with the permit applicant, a set of amended discussion plans were submitted on 19 December 2019 demonstrating how a bicycle storage area could be incorporated into the floor plan of each the new / amended dwellings proposed on level 16-19.

This would result in an additional eight bicycle spaces overall, which is considered to be an acceptable compromise, given the advanced stage of construction.

Given the above, Council's support for the amended development will be conditional on the changes shown in Revision G of Drawings TP213 – TP216.

7.4.2. Car Parking

The DP Addendum approval stipulates that a maximum of 88 car spaces be provided on the subject site.

The proposal does not seek to vary the 80 car spaces that have already been constructed, and is therefore considered to be acceptable.

7.4.3. Traffic Impacts

Council's Traffic Engineer, in their review of the application recommended that:

- *In order to meet the likely demand, some car share & electric charging spaces should be provided on site.*
- *A formal independent desktop Road Safety Audit of the proposed development should be undertaken, at the developer's expense, which should include the vehicular/bicycle/pedestrian access arrangements, loading arrangements and internal circulation/layout. The findings of the Audit should be incorporated into the detailed design, at the developer's expense.*

Construction of the approved development is already well advanced, and opportunities for car share and electric charging spaces are limited.

With respect to a Road Safety Audit, the proposal does not seek to vary the ground level of the approved development.

These recommendations are considered unreasonable as they predominantly relate to the already approved development and will therefore not form part of recommended conditions.

7.5. Internal Amenity

All additional dwellings are labelled as 'penthouses' and range from 203.2 to 346.9m² (plus balcony) in size. They would each benefit from large bedrooms, living areas and balconies with excellent access to daylight, outlook and privacy.

7.6. Compliance with Conditions

The amended development has necessitated an update of several reports referred to in the Planning Permit. These are discussed below.

No further changes are sought, nor required, to the Planning Permit.

7.6.1. Waste Engineering

Condition 6 of the permit requires the submission of a Waste Management Plan (WMP) for endorsement. A WMP prepared by Leigh Design, dated 26 March 2018 was endorsed by Council on 27 August 2018.

An amended WMP, dated 26 September 2019, was submitted as part of the planning application. As noted at Section 6.3 of this Report, Council's Waste Engineer has reviewed this report and found it to be acceptable.

7.6.2. Sustainability Management Plan

Condition 13 of the permit requires the submission of a Sustainability Management Plan (SMP) for endorsement. A SMP prepared by ADP Consulting, dated 28 June 2018 was endorsed by the Minister for Planning on 21 August 2018. Key targets set out in this report include:

- A 5 Star Green Star rating, design and as-built.
- A 35,000L rainwater tank for toilet flushing.
- Best practice stormwater treatment.
- 90 per cent reduction of waste to landfill.

An amended SMP, dated 26 September 2019, was submitted as part of the planning application. This report demonstrates that the amended development continues to achieve the measures set out in the endorsed report and is therefore considered to be acceptable.

7.6.3. Acoustic Report

Condition 16 of the permit requires the submission of an Acoustic Report for endorsement. In accordance with the condition, the development must include attenuation measures maximum noise level of 45dB(A)Leq in unfurnished and uncarpeted habitable rooms with all windows and doors closed

An Acoustic Report prepared by Acoustic Logic, dated 31 May 2018 was endorsed by the Minister for Planning on 21 August 2018.

An amended Acoustic Report, dated 28 August 2019, was submitted as part of the planning application. The report sets out minimum glazing requirements for the additional levels to achieve compliance with the condition (refer to the example on the following page).

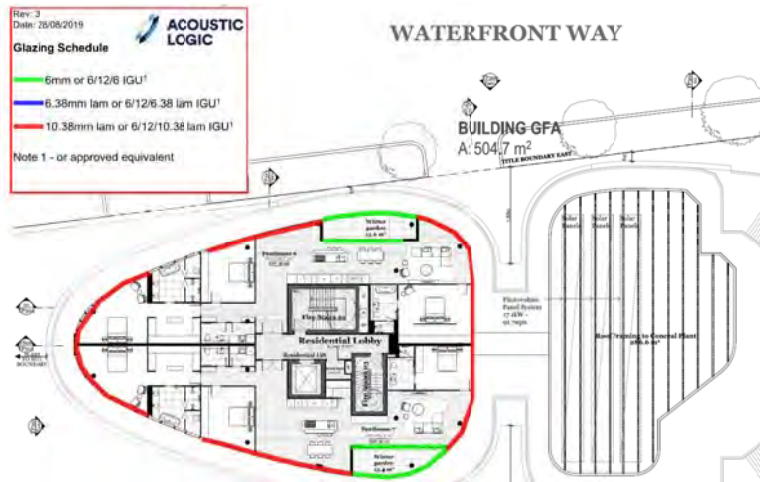


Figure 17 - Extract from Acoustic Logic report setting out minimum glazing requirements for Level 17 of the proposed development

The submitted Architectural Drawings do not nominate the types of glazing proposed and should therefore be updated to reflect these requirements.

7.7. Conclusion

It is considered that the proposal satisfies the recently approved DP Addendum, remains consistent with relevant planning provisions of the Melbourne Planning Scheme and will make a positive contribution to the wider Docklands precinct.

8. OFFICER RECOMMENDATION

That a letter be sent to DELWP advising that the Melbourne City Council supports the proposal, subject to the following conditions:

1. Prior to the commencement of the development, an amended set of plans drawn to scale, must be submitted to the Responsible Authority generally in accordance with those as received with the application but amended to show:
 - a) At least one bicycle space within all dwellings on levels 16-19, as shown on Drawings TP213, TP214, TP215 and TP216, Revision G.
 - b) The type of glazing for all external windows, consistent with the minimum requirements of the endorsed Acoustic Report at Condition 16.

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

2. Condition 6 of the Permit updated to refer to the amended WMP, dated 26 September 2019.
3. Condition 13 of the Permit updated to refer to the amended SMP, dated 26 September 2019.
4. Condition 16 of the Permit updated to refer to the amended Acoustic Report, dated 28 August 2019.