

## Report to the Future Melbourne (Planning) Committee

Agenda item 6.2

### Ministerial Planning Referral: TPM-2015-1/A 32-44 Flinders Street, Melbourne

1 September 2020

**Presenter:** Evan Counsel, Director Planning and Building

#### Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a Ministerial planning referral seeking to amend an existing permit that allows for the construction of a multi-storey mixed-use building at 32-44 Flinders Street, Melbourne (refer Attachment 2 - Locality plan).
2. The approved building is predominantly for residential use. This proposal seeks to change the primary use to office; with ground level retail spaces to be retained. This proposal includes a new pedestrian thru-block link extending between Flinders Street and Flinders Lane.
3. The applicant is Urbis Pty. Ltd., the owner is The GPT Group and the architect is Bates Smart.
4. The site is located in Capital City Zone Schedule 1 (CCZ1 Outside the Retail Core) and also affected by the Design and Development Overlay Schedule 10 (DDO10 General Development Area - Built Form), Schedule 4 (DDO4 Weather Protection) and the Parking Overlay Schedule 1 (PO1 Capital City Zone - Outside the Retail Core). Part of the site fronting Flinders Lane is also subject to an interim Heritage Overlay (HO1286 - Flinders Lane East Precinct).
5. The Department of Environment, Land, Water and Planning (DELWP), on behalf of the Minister for Planning, has referred the application to Council as a recommending referral authority.

#### Key issues

6. The key issues for consideration are built form, urban design and changes required to both the permit preamble and permit conditions.
7. The proposed amendments provide for improved built form, urban design and public realm outcomes. This includes the increased activation of the Flinders Street frontage and the provision of the new thru-block link. This link also allows for views to the eastern boundary wall of the adjacent Ernst and Young Building. This building is included on the Victorian Heritage Register and the thru-block link would allow for a greater appreciation of its three-dimensional form.
8. While the form of the towers remains largely as previously approved, their presentation has altered to reflect their new use. The number of car parking spaces to be provided on site has also been reduced and bicycle parking numbers increased. These positive changes are welcome in this highly accessible location.
9. Appropriate changes to the permit preamble and conditions are recommended to facilitate the above.

#### Recommendation from management

10. That the Future Melbourne Committee resolves to advise the Department of Environment, Land, Water and Planning that the Melbourne City Council does not object to this application subject to the conditions outlined in the delegate report (refer to Attachment 4 of the report from management).

#### Attachments:

1. Supporting Attachment (Page 2 of 54)
2. Locality Plan (Page 3 of 54)
3. Selected Plans (Page 4 of 54)
4. Delegate Report (Page 27 of 54)

## Supporting Attachment

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### Legal

1. The Minister for Planning is the Responsible Authority for determining this application.
2. The Minister for Planning has referred the application to Melbourne City Council as a recommending referral authority pursuant to section 55 of the *Planning and Environment Act 1987* (Act).

### Finance

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

### Conflict of interest

4. No 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 this matter.

### Health and Safety

5. Relevant planning considerations such as traffic and waste management and potential amenity impacts that could impact on health and safety have been considered as part of the planning permit application and assessment process.

### Stakeholder consultation

6. As the Responsible Authority, the Minister for Planning (through DELWP) is responsible for administering public notice and statutory referrals as necessary in accordance with the relevant provisions of the Act.

### Relation to Council policy

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

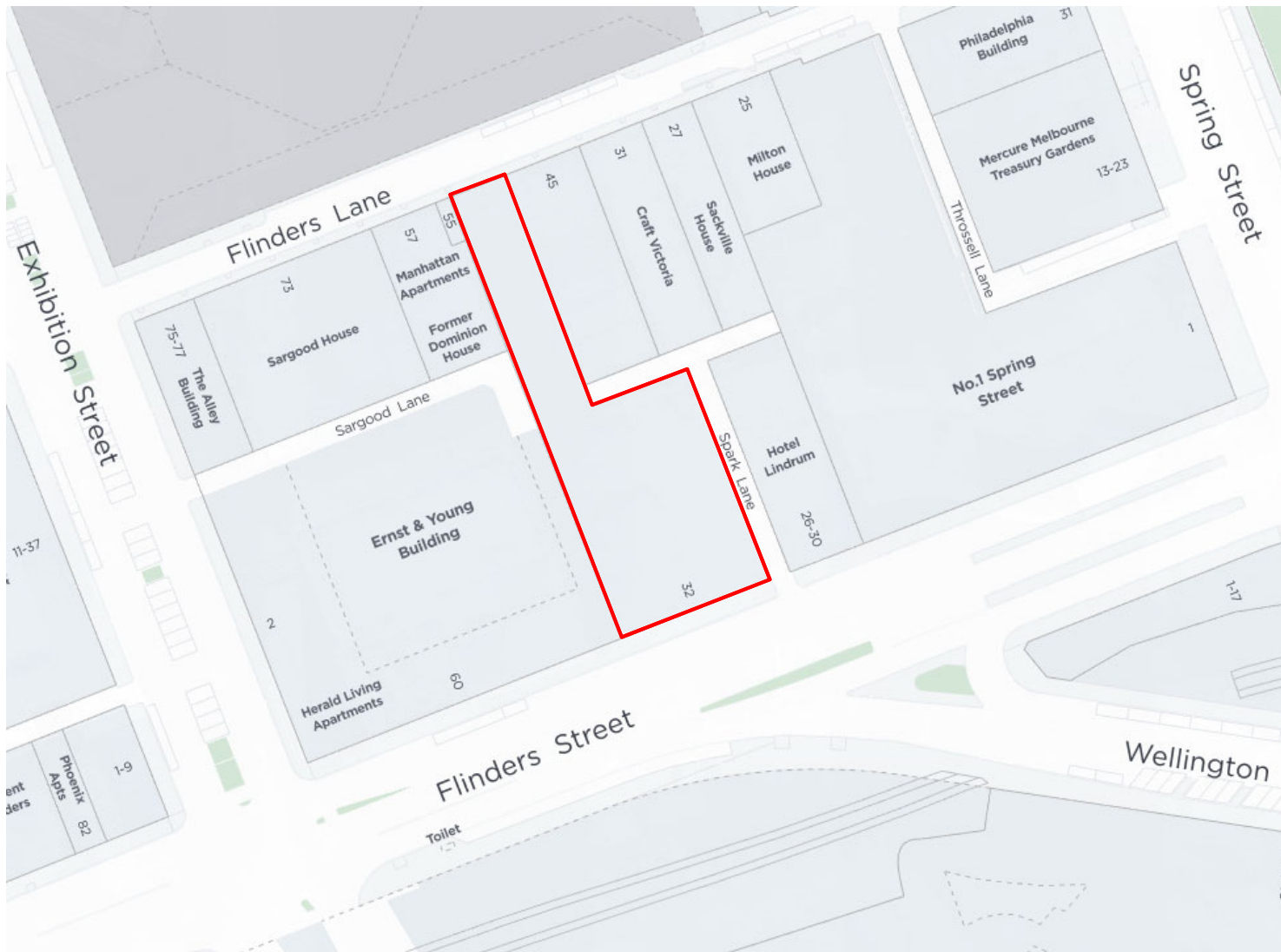
### Environmental sustainability

8. The Environmentally Sustainable Design (ESD) Report submitted with the application demonstrates that the development will achieve the ESD performance requirements of Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management).
9. Permit conditions requiring implementation of the ESD initiatives are recommended.

# Locality Plan

Attachment 2  
Agenda item 6.2  
Future Melbourne Committee  
1 September 2020

32 - 44 Flinders Street, Melbourne

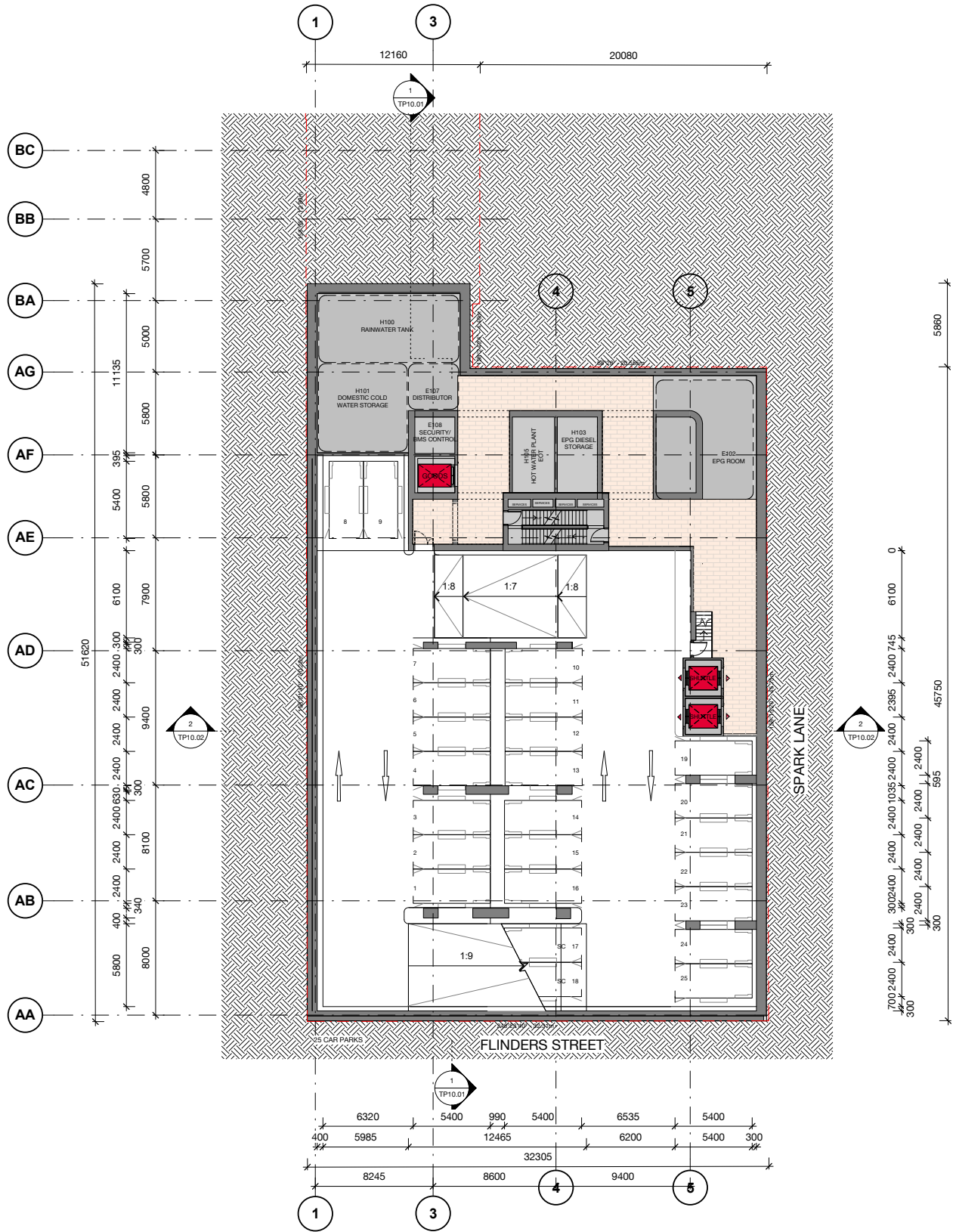


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Attachment 3  
Agenda item 6.2  
Future Melbourne Committee  
1 September 2020



09.03.20 Issued for Town Planning				
Rev	Date	Description	Initial	Checked

GPT\_32 FLINDERS STREET

Basement 04



Status	Town Planning		
Scale	1 : 200	@ A1	
Drawn	HH	Checked	CD
Project No.	M12057.A		
Plot Date	4/03/2020 4:54:46 PM		
BIM	32FLINDERS_BS_A_ARCH_R2019		
Drawing no.	Revision		

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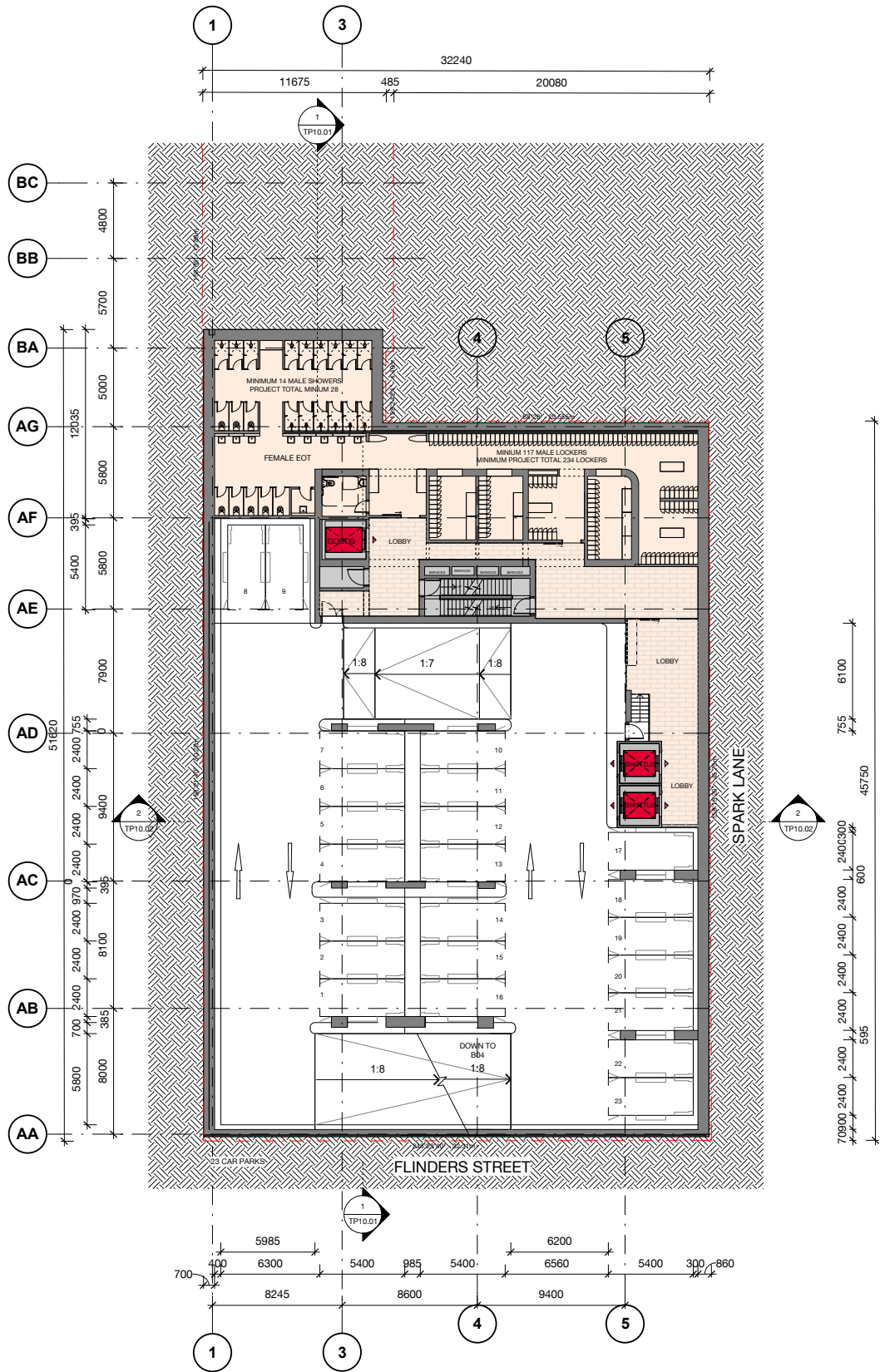
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GPT\_32 FLINDERS STREET

Basement 03



Status	Town Planning		
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## Basement 02

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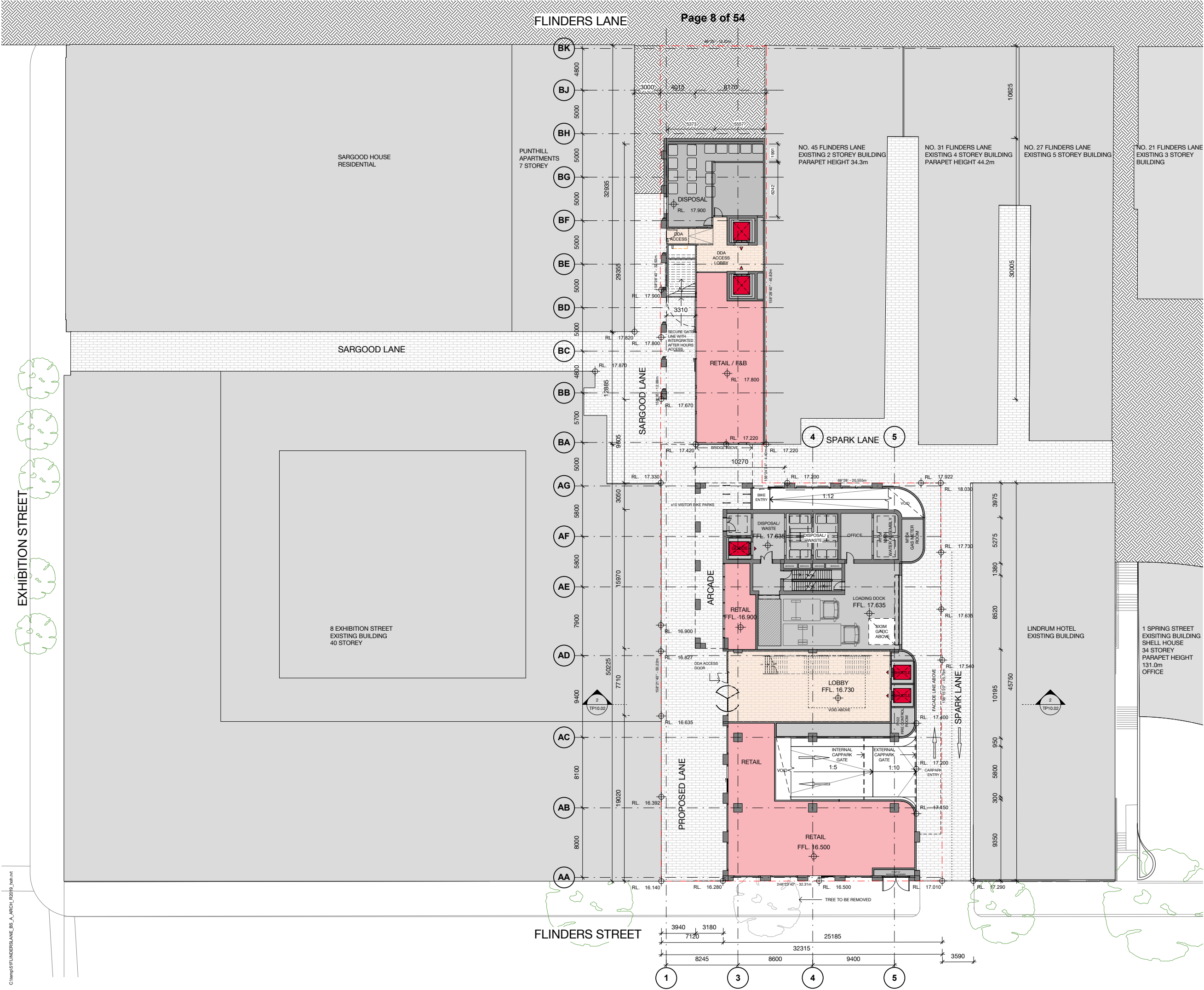
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Basement 01

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## GPT\_32 FLINDERS STREET

Ground Floor

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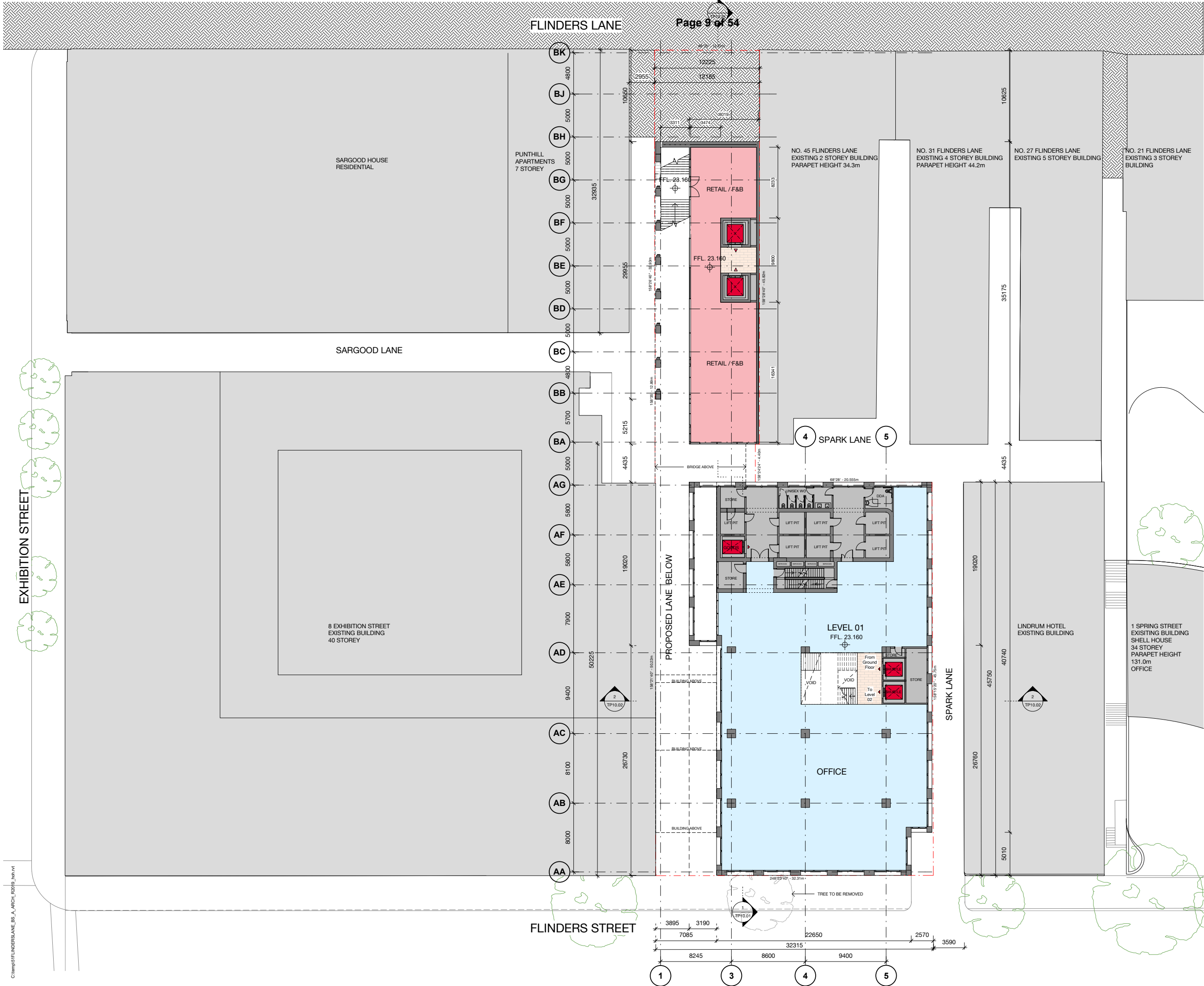
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## GPT\_32 FLINDERS STREET

Level 01



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EXHIBITION STREET

FLINDERS LANE

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FLINDERS STREET

SPARK LANE

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GPT\_32 FLINDERS STREET

Level 02



Status	Town Planning		
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## GPT\_32 FLINDERS STREET

### Level 03 - Podium Level

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Drawing no.	Revision				

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SPARK LANE

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Level 04 - Podium Level

Status	Town Planning		
Scale	1 : 200	@ A1	
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## GPT\_32 FLINDERS STREET

Level 05 - Podium Level



Status	Town Planning				
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## GPT\_32 FLINDERS STREET

Level 06 - Terrace Podium Level

Status	Town Planning			
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Drawn	Author	Checked	Checker	
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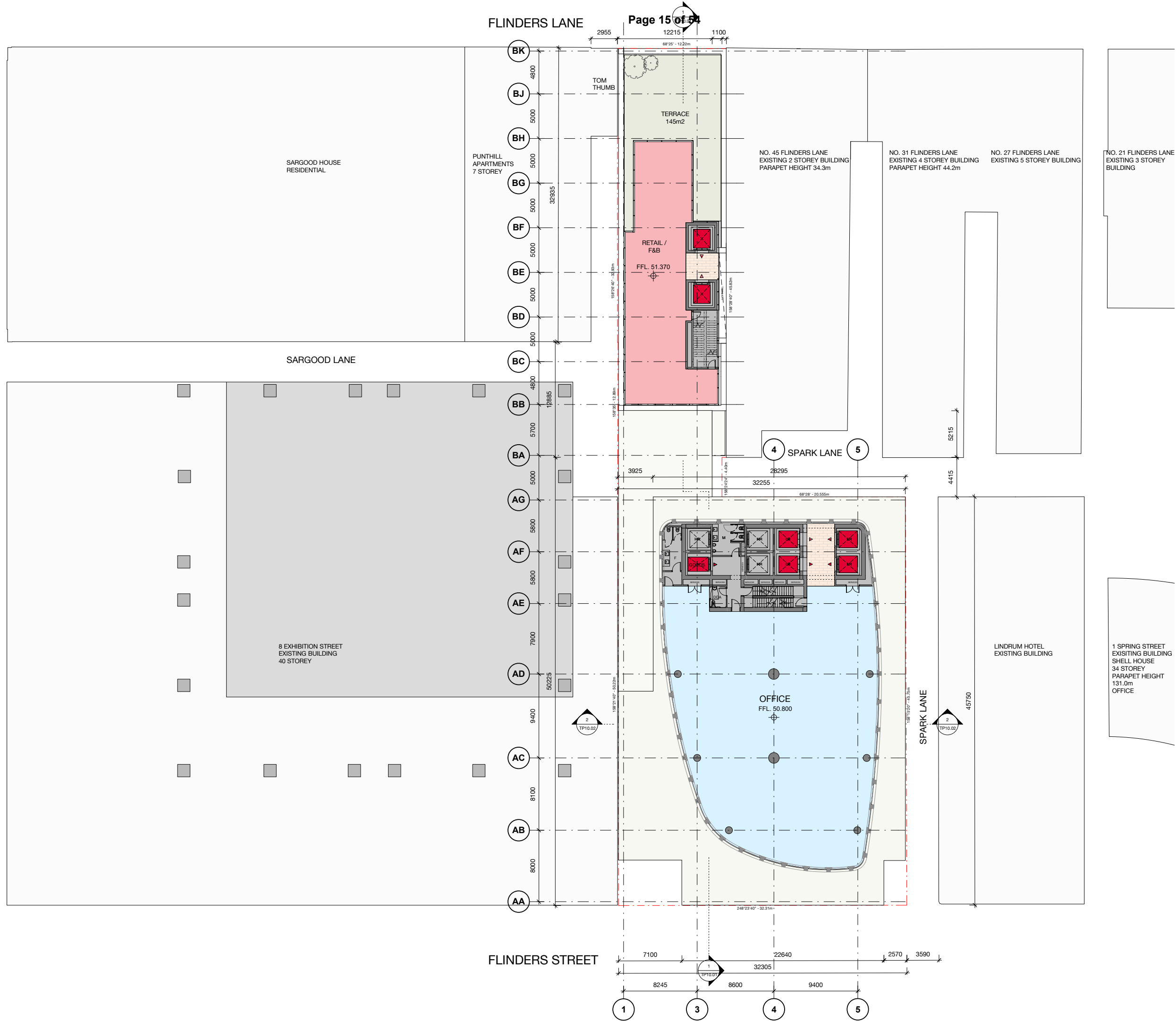
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## GPT\_32 FLINDERS STREET

### Level 08 - Flinders Lane Terrace

Status	Town Planning		
Scale	1 : 200	@ A1	
Drawn	HH	Checked	CD
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Plot Date	4/03/2020 4:52:54 PM		
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Drawing no.	Revision		

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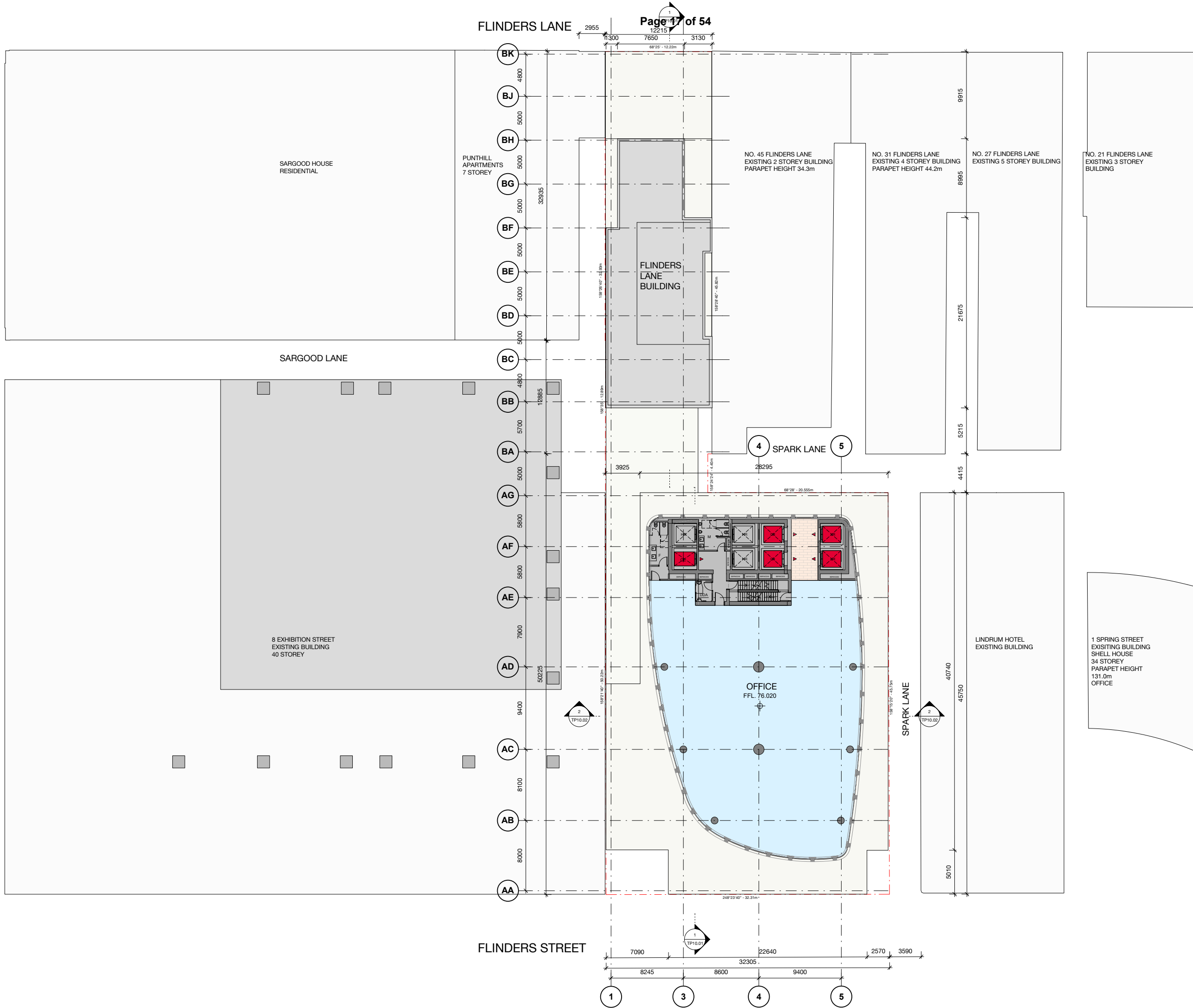
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## GPT\_32 FLINDERS STREET

Level 15 - 26 (Low Rise)

Status	Town Planning		
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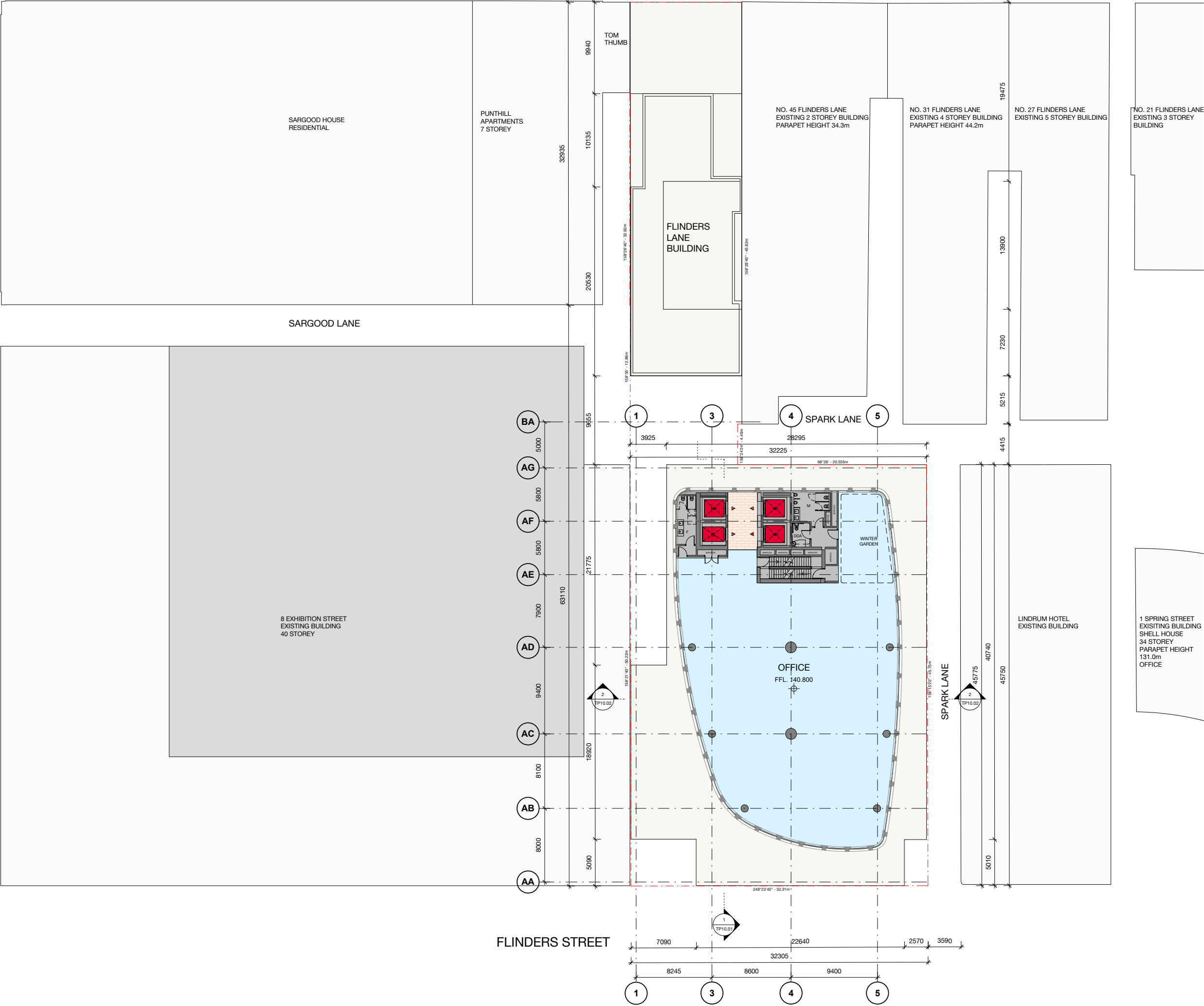
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## GPT\_32 FLINDERS STREET

Level 27 - 38 (High Rise Typical)

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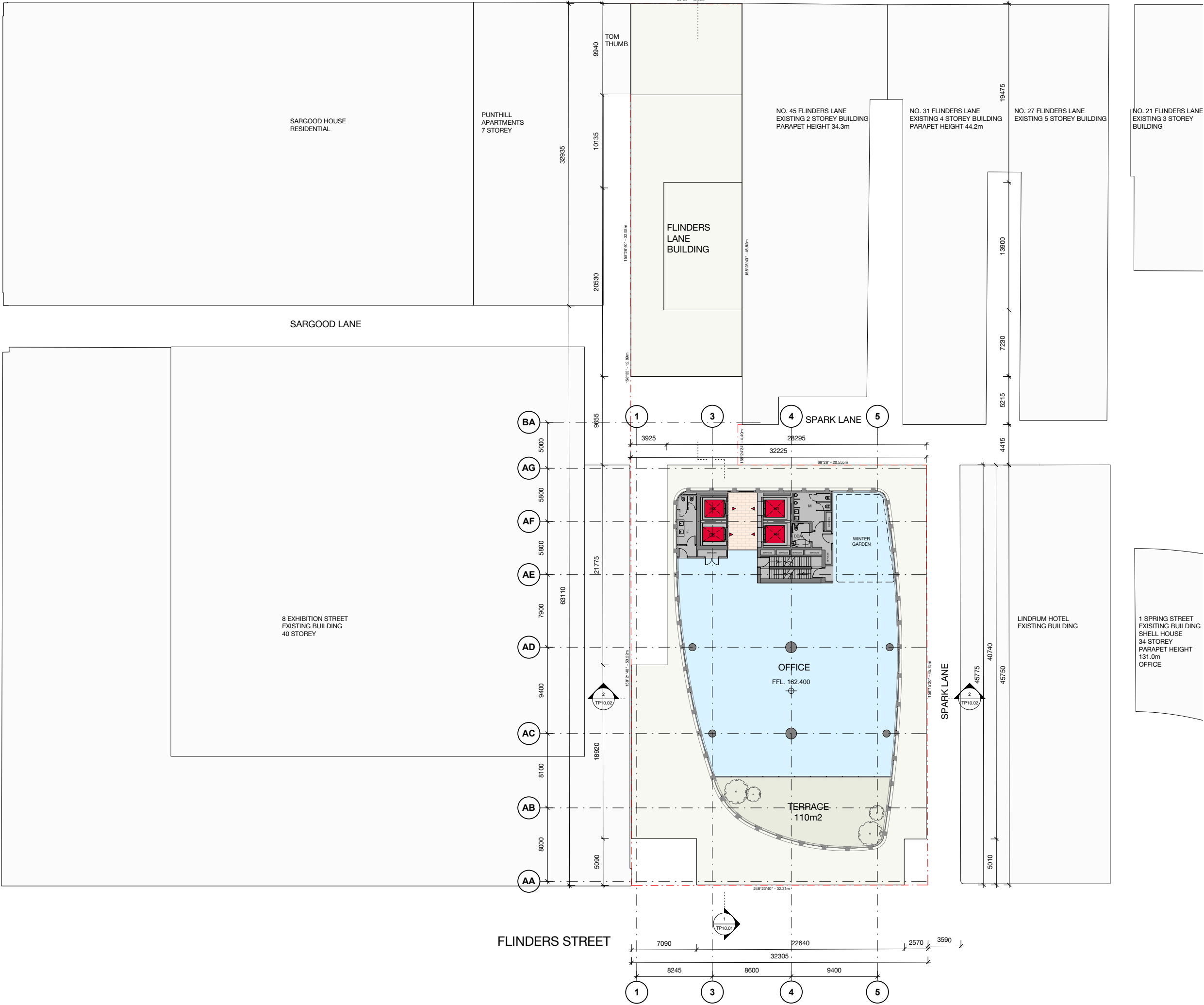
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## GPT\_32 FLINDERS STREET

Level 39 - Terrace Level



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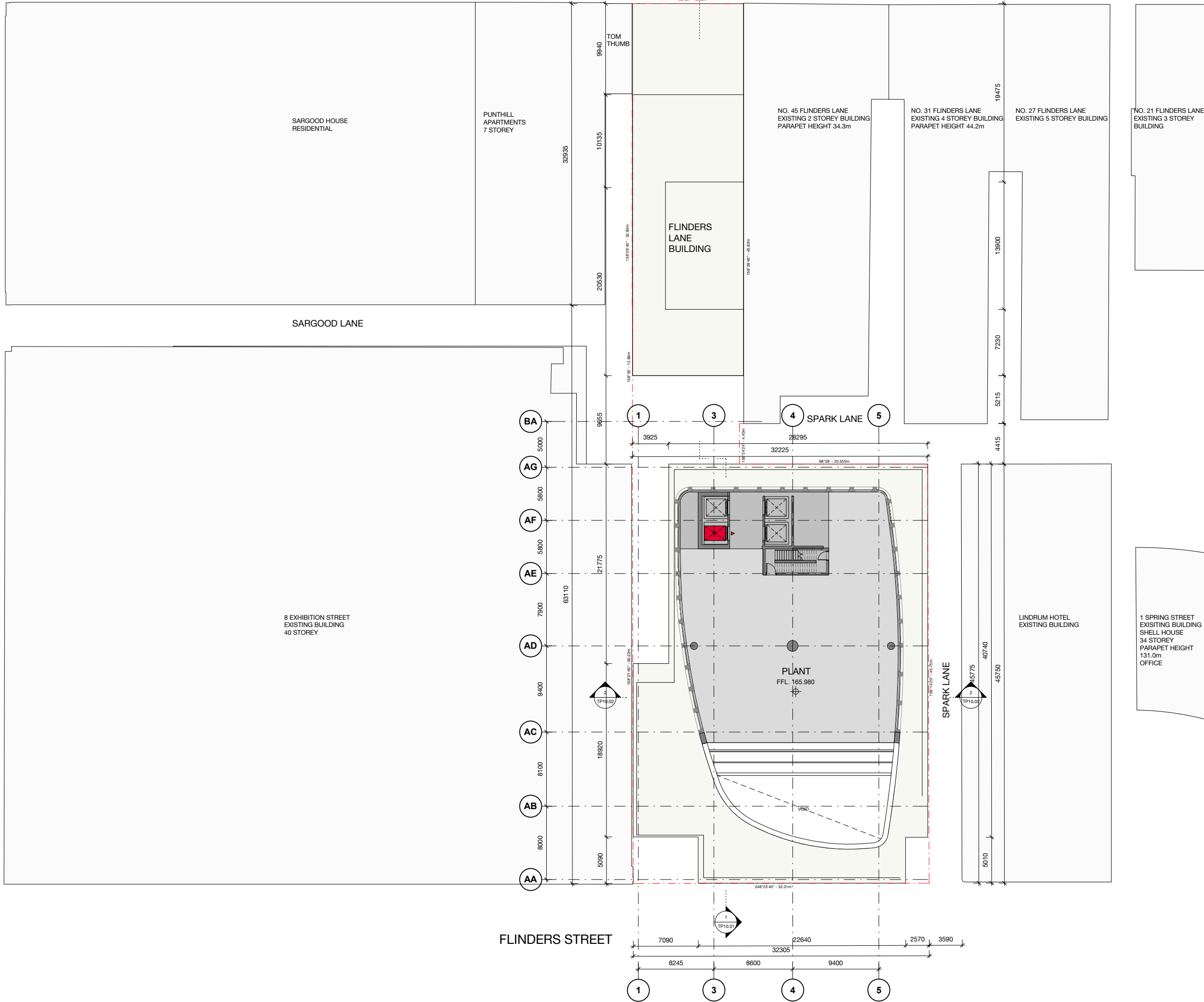
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## GPT\_32 FLINDERS STREET

Level 40 - Plant



Status	Town Planning				
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Plot Date	4/03/2020 4:53:49 PM				
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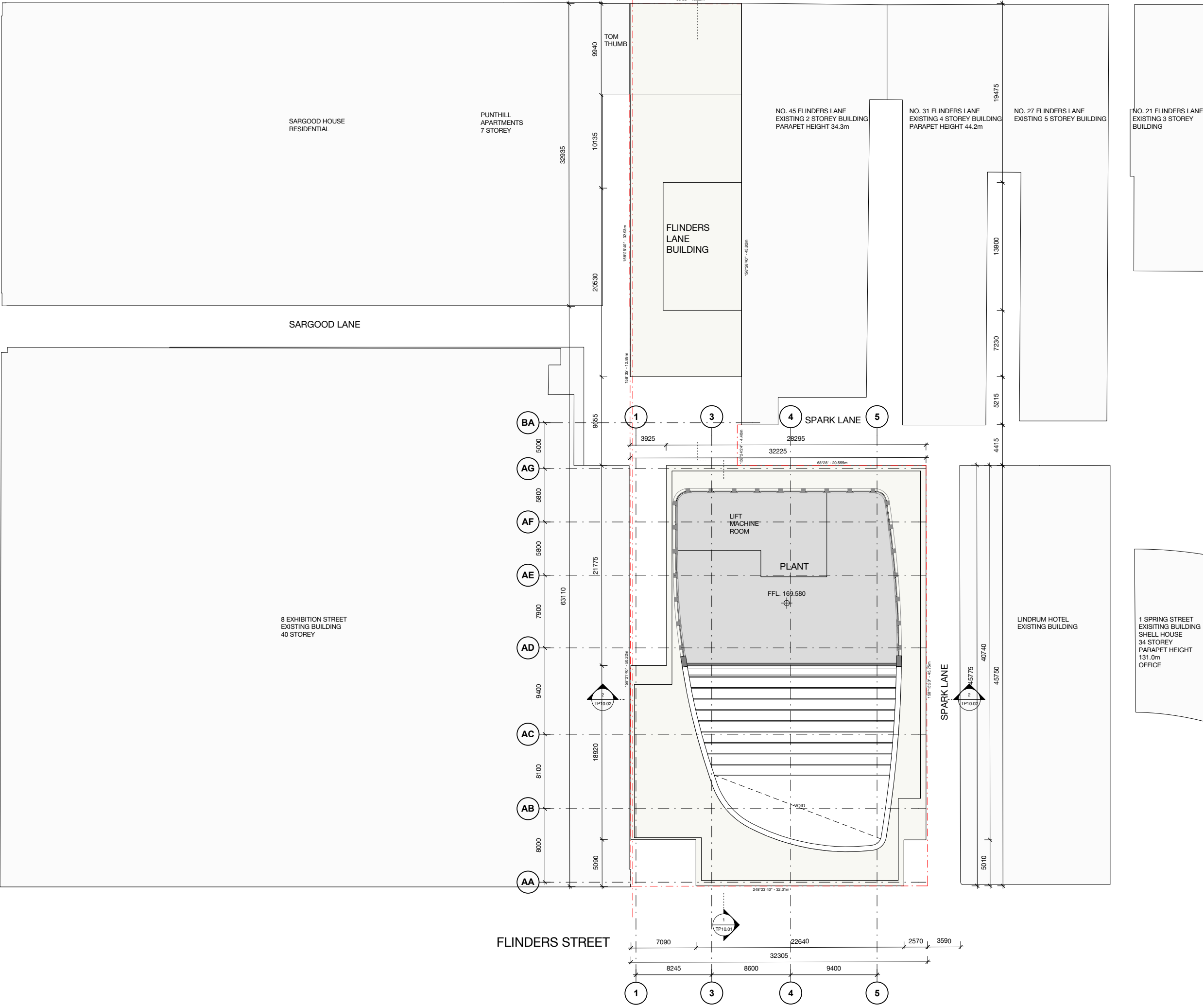
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## GPT\_32 FLINDERS STREET

### Level 41 - Plant



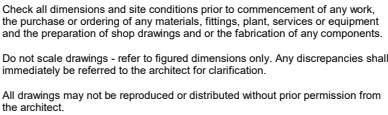
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GPT\_32 FLINDERS STREET

Level 42 - Roof Level



Status	Town Planning		
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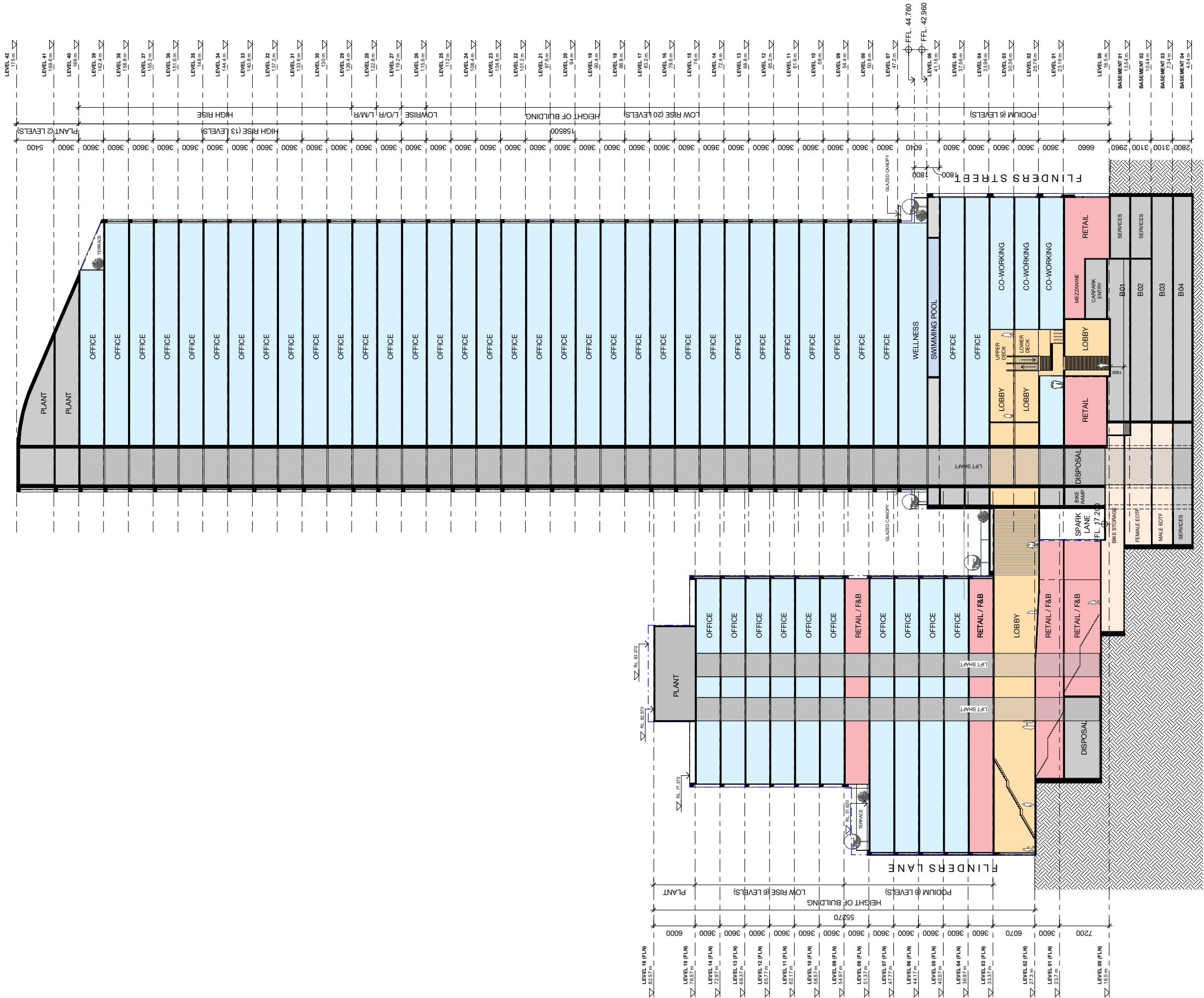
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Rev	Date	Description	Initial	Checked
	09.03.20	Issued for Town Planning		

## GPT\_32 FLINDERS STREET

### Section AA

Status	Town Planning		
Scale	1 : 300	@ A1	
Drawn	HH	Checked	CD
Project No.	M12057.A		
Plot Date	4/03/2020 4:56:58 PM		
BIM	32FLINDERS_SS_A_ARCH_R2019		
Drawing no.	Revision		

## TP10.01

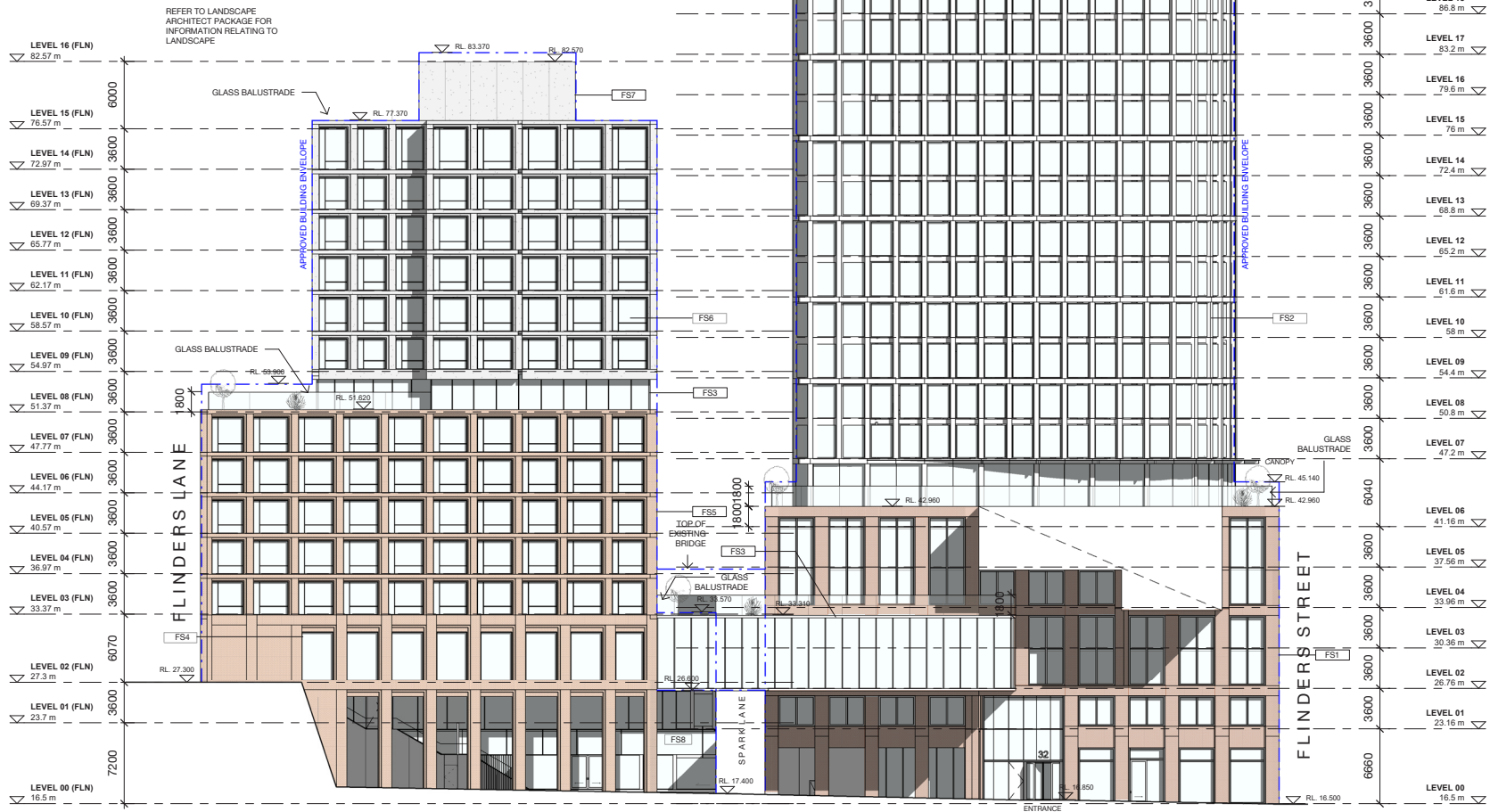
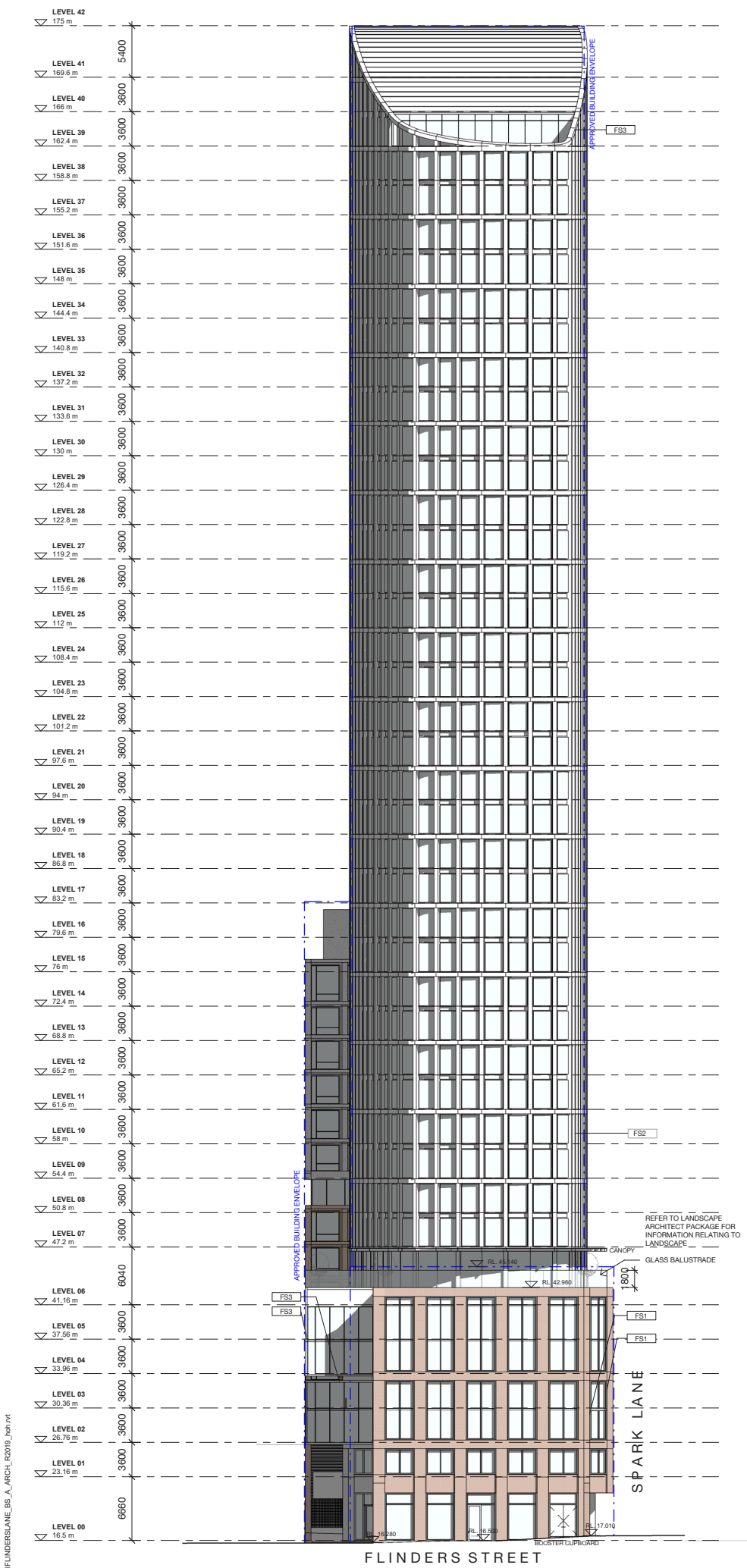
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#### FACADE LEGEND

- FS1 CLEAR VISION HIGH PERFORMANCE DOUBLE GLAZED UNIT WITHIN FEATURE BRICK MASONRY FRAME.
- FS2 CLEAR VISION HIGH PERFORMANCE DOUBLE GLAZED UNIT WITHIN EXPRESSED FRAME OF ALUMINIUM FEATURE FINIS. EXPRESSED METAL REVEAL LININGS TO GLAZING.
- FS3 CLEAR VISION HIGH PERFORMANCE DOUBLE GLAZED UNIT WITHIN STRUCTURALLY GLAZED CURTAIN WALL SYSTEM.
- FS4 CLEAR VISION HIGH PERFORMANCE DOUBLE GLAZED UNIT WITHIN FEATURE BRICK MASONRY FRAME WITH STEPPED DETAILING.
- FS5 CLEAR VISION HIGH PERFORMANCE DOUBLE GLAZED UNIT WITHIN FEATURE BRICK MASONRY FRAME.
- FS6 CLEAR VISION HIGH PERFORMANCE DOUBLE GLAZED UNIT WITHIN EXPRESSED TEXTURED CONCRETE FRAME.
- FS7 TEXTURED CONCRETE
- FS8 CLEAR VISION SHOP FRONT GLAZING WITHIN FEATURE METAL FRAME.
- FS9 DARK METAL FRAME OR PANEL

09.03.20 Issued for Town Planning

Rev Date Description Initial Checked

## GPT\_32 FLINDERS STREET

East  
South & West Elevations Building A

Status Town Planning

Scale As indicated @ A1

Drawn HH Checked CD

Project No. M12057.A

Plot Date 4/03/2020 5:01:34 PM

BIM 32FLINDERS\_BS\_A\_ARCH\_R2019

Drawing no. Revision

## TP09.01

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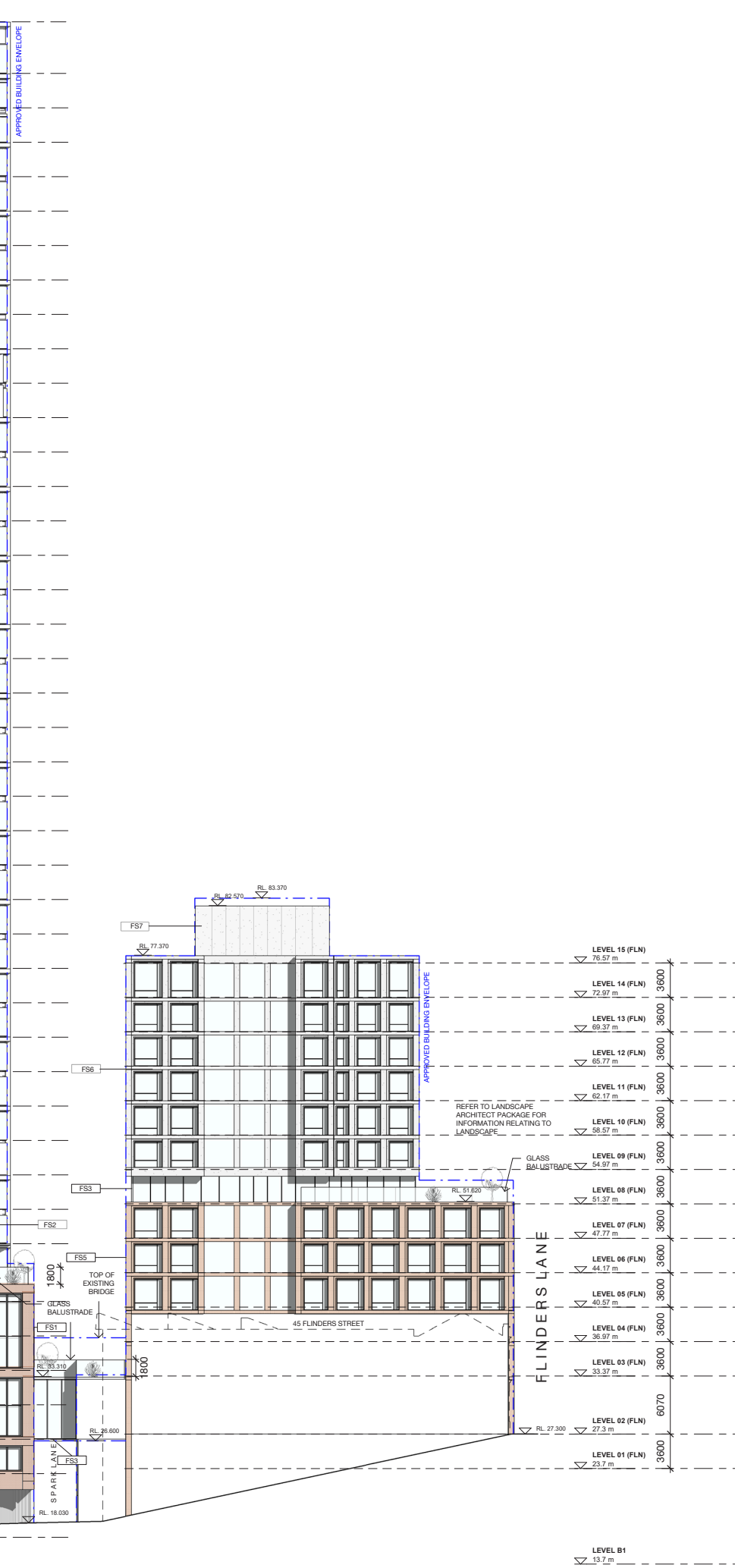
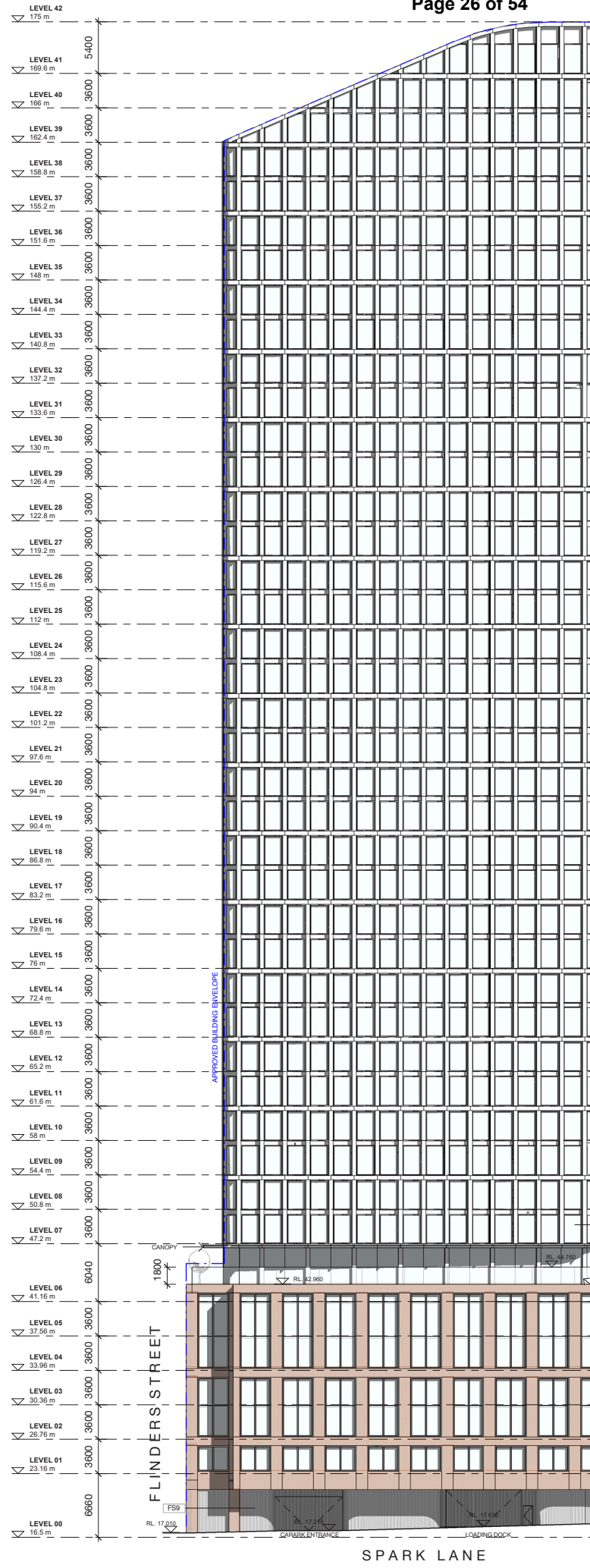
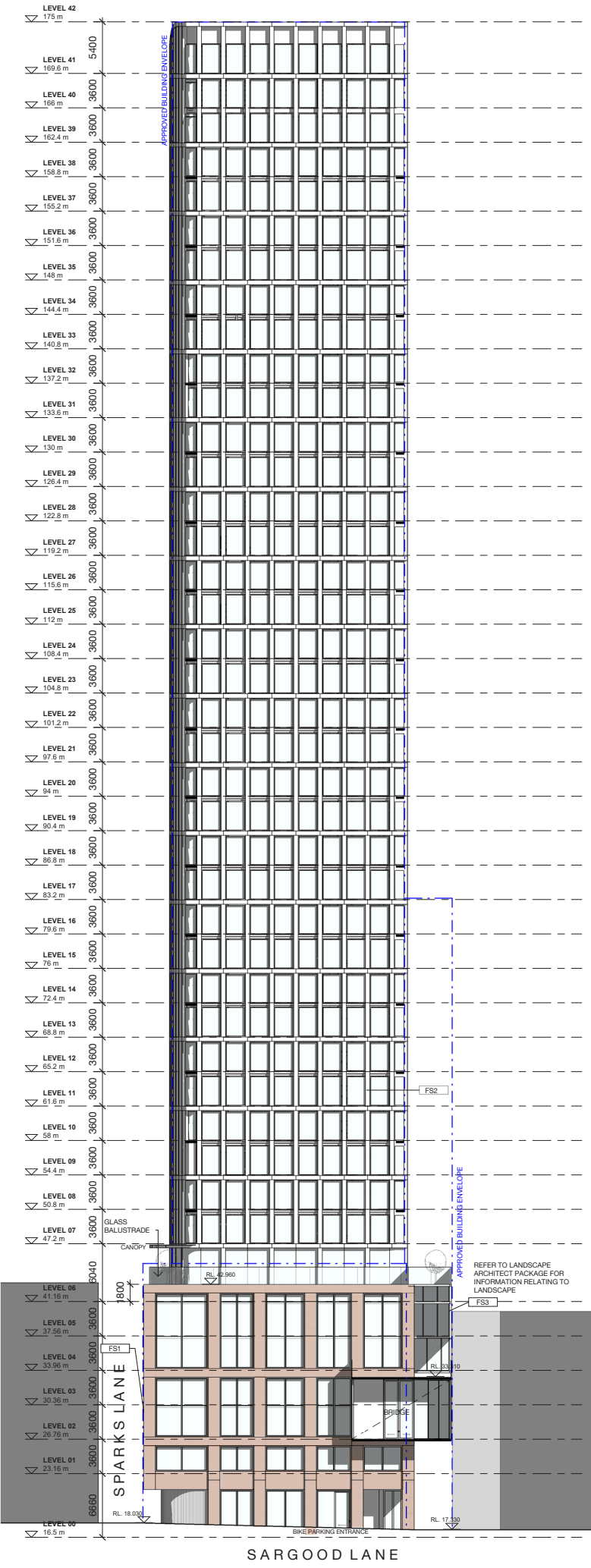


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09.03.20 Issued for Town Planning

Rev	Date	Description	Initial	Checked

## GPT\_32 FLINDERS STREET

North & East Elevation Building A

Status	Town Planning		
Scale	As indicated	@ A1	
Drawn	HH	Checked	CD
Project No.	M12057.A		
Plot Date	4/03/2020 4:59:58 PM		
BIM	32FLINDERS_BS_ARCH_R2019		
Drawing no.	Revision		

## TP09.02

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1

North Elevation  
1 : 300

2

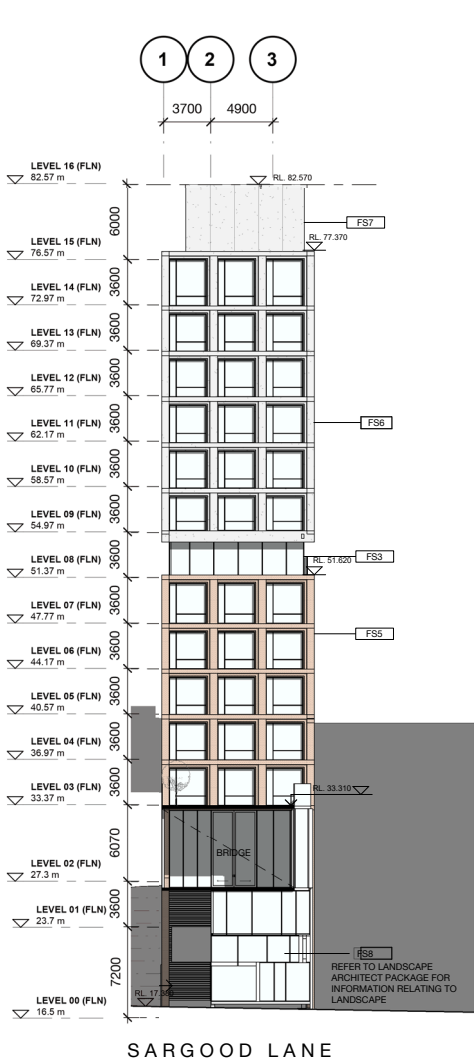
East Elevation  
1 : 300

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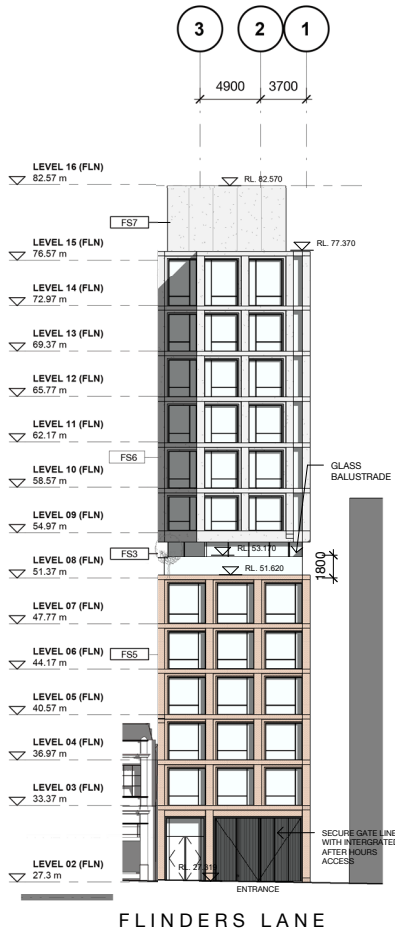
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  - FS7** TEXTURED CONCRETE
  - FS8** CLEAR VISION SHOP FRONT GLAZING WITHIN FEATURE METAL FRAME.
  - FS9** DARK METAL FRAME OR PANEL



2 South Elevation - B  
1 : 300



1 North Elevation - B  
1 : 300

09.03.20 Issued for Town Planning				
Rev	Date	Description	Initial	Checked

## GPT\_32 FLINDERS STREET

North & South Elevations Building B



Status	Town Planning		
Scale	As indicated	@ A1	
Drawn	HH	Checked	CD
Project No.	M12057.A		
Plot Date	4/03/2020 5:00:13 PM		
BIM	32FLINDERS_BS_A_ARCH_R2019		
Drawing no.	Revision		

## TP09.03

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## DELEGATE REPORT

### MINISTERIAL PLANNING REFERRAL

<b>Application number:</b>	TPM-2015-1/A
<b>Applicant</b>	Urbis Pty. Ltd.
<b>Owner</b>	The GPT Group
<b>Architect:</b>	Bates Smart
<b>Address:</b>	32-44 Flinders Street, Melbourne
<b>Proposal:</b>	Amendments to Permit 2014/70139 to accommodate change of use, alterations to podium including provision of thru-block link and material changes
<b>Cost of works:</b>	\$200,000,000
<b>Date received by City of Melbourne:</b>	1 April 2020
<b>Responsible officer:</b>	Connor Perrott, Principal Urban Planner

## 1 SUBJECT SITE AND SURROUNDS

### 1.1 Subject site

The subject site is located on the north side of Flinders Street and extends to Flinders Lane to the north. Formally known as Lot 2 on Plan of Subdivision 402661N (Volume 10382, Folio 958), the site comprises two distinct elements and slopes appreciably upward from south to north (Flinders Street to Flinders Lane).

Measuring 2,087 square metres, the site accommodates a 10-storey commercial car park comprising 546 spaces. This car park may be accessed via either Flinders Street or Flinders Lane.

Figures 1 and 2 show the Flinders Street and Flinders Lane frontages of the site respectively.





Figure 1: The subject site as viewed from Flinders Street (source: Google streetview).



Figure 2: The subject site as viewed from Flinders Lane (source: Google streetview).

Secondary access to the site may be obtained via Spark Lane. This lane extends along the eastern property boundary before returning through the centre of the site to connect with Sargood Lane. This lane extends off Exhibition Street a short distance to the west and runs perpendicular to the site.

## 1.2 Surrounds

To the east of the Flinders Street element of the site, across Spark Lane, stands the Hotel Lindrum. This building is now categorised as 'Significant' in accordance with the Council's Heritage Places Inventory (2020); an incorporated document introduced into the Melbourne Planning Scheme by Amendment C258.

To the west of the Flinders Street element of the site stands the Ernst and Young Building (formerly the Herald Sun building). This building is also regarded as significant in accordance with the Inventory and is included on the Victorian Heritage Register (refer VHR reference H1147).

To the east of the Flinders Lane element of the site stands a part two and part three-storey commercial building. This building is considered to be non-contributory in accordance with the Inventory and accommodates a food and drink premise at ground floor level and gallery above.

To the west of the Flinders Lane element of the site stands 'Tom Thumb'; a non-contributory two-storey food and drink premise. This building is adjoined by a multi-storey residential building known as 'Manhattan Apartments'. Beyond this stands Sargood House and The Alley Building, both of which are considered to be significant in accordance with the Inventory.

To the north of the site, across Flinders Lane, stands Collins Place. This building features two multi-storey office towers above a publicly accessible podium providing access to Collins Street to the north.

Figure 3 below shows the site and surrounding area in greater detail.

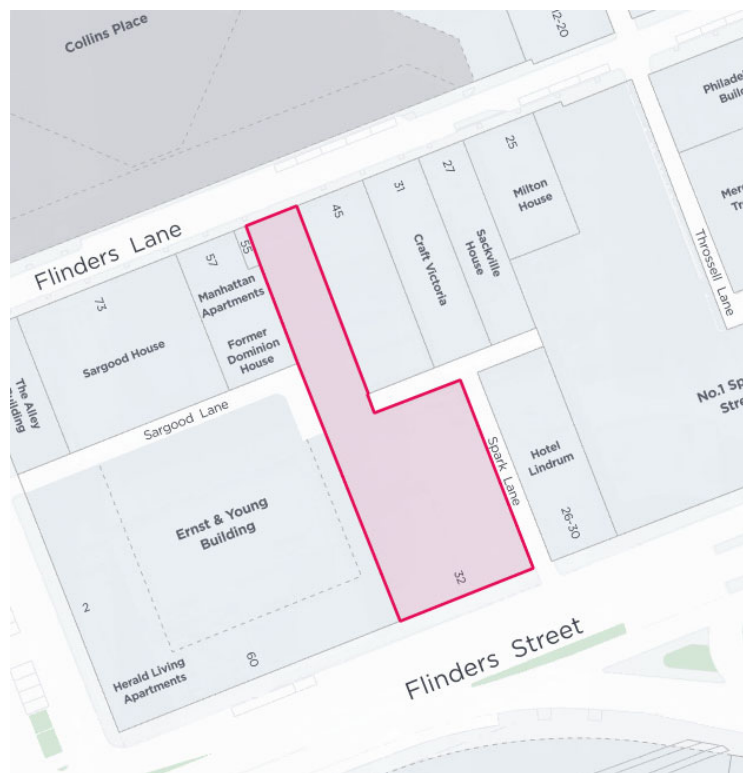


Figure 3: The site and surrounding area (source: Council's Geographical Information System)

## 2 BACKGROUND AND HISTORY

### 2.1 Pre-application discussions

Council's urban planners met with the applicant and representatives from the Department of Environment, Land, Water and Planning (DELWP) on 22 January 2020 to discuss the merits of the proposed amendments.

At this meeting, the following feedback was provided:

- The proposed thru-block link and additional office space are welcome and supported.
- Ideally the thru-block link would act as a typical Melbourne laneway. Any gates must be high quality.
- The east-facing boundary windows of the Flinders Lane tower may impact upon the equitable development rights of the adjacent site (45 Flinders Lane).
- The materiality of the building will be vitally important.
- Clarification is required as to the height of the thru-block link and its relationship with the adjacent Ernst and Young building.
- The extent of activation along the Flinders Street frontage must be maximised.
- The development should not impede the servicing requirements of the adjacent Lindrum Hotel.
- The development should be built up to the Spark Lane frontage.

### 2.2 Planning application history

This application seeks approval to amend Permit 2014/70139-1 issued by the Minister for Planning on 26 July 2016. This permit allows the demolition of the existing building on site and the construction of a multi-storey, mixed-use development in its place comprising dwellings, retail and office spaces.

Condition 1 of the permit requires the submission and approval of plans prior to the commencement of development. This amendment application seeks permission to delete this condition (as well as the deletion and amendment of others) to facilitate the alterations now proposed (refer below).

Plans have not been endorsed in accordance with Condition 1.

## 3 PROPOSAL

This application seeks approval to amend Permit 2014/70139-1 to accommodate alterations to the previously approved building and to introduce additional office space on site.

The preamble would be amended to read:

*Demolition of the existing building and construction of a multi-storey mixed-use building in accordance with the endorsed plans.*

This description excludes references to the previous uses of the building, including dwellings, retail and offices. Though retail and office uses would be retained, planning approval is not required for these in Capital City Zone, Schedule 1.

The applicant has also requested that the following conditions be amended or deleted to accommodate the proposed alterations:

- Condition 1 - Development plans. On the basis the plans referenced in this condition would be superseded, the applicant is of the view this condition is now redundant.
- Condition 15 - ESD report. Given the form and use of the development would be altered, the applicant has requested that the wording of this condition be amended to reflect the proposed alterations and new uses.
- Condition 17 - Car parking, loading / unloading and bicycle facilities. On the basis the ground floor and basement levels of the building would be altered, the applicant is of



the view that the wording of this condition should be amended to reflect the design / layout of new car and bicycle parking and loading / unloading facilities.

- Condition 32 - Public access. Given links through the site would now be altered, the applicant is of the view that the legal agreement required by this condition (enshrining Spark and Sargood Lanes as public highways) is now redundant and as such should be deleted.
- Condition 33 - Vesting of Spark Lane. Similarly, on the basis links through the site would be altered, the applicant is of the view this condition is redundant and should be deleted.
- Condition 43 - Landscaping and public realm works. Given the form and use of the building would alter, the applicant is of the view that the wording of this condition should be amended to reflect this.

The proposed amendments would result in the following alterations to the approved development:

	Approved development	Proposed development
Gross Floor Area (GFA) above ground	51,174 m <sup>2</sup>	41,994 m <sup>2</sup> (-9,180 m <sup>2</sup> )
Floor Area Ratio (FAR)	24.5:1	20.1:1
Uses	Dwellings (625) Retail/food and drink (1,327 m <sup>2</sup> )	Office (29,118 m <sup>2</sup> ) Retail (1,420 m <sup>2</sup> , + 93 m <sup>2</sup> )
Car parking spaces	356	83 (-273)
Bicycle parking spaces	216	230 (+14)

The key built form alterations are:

- The reconfiguration of the ground level of the building, including the re-location of the car park entry to Spark Lane and the resultant further activation of the Flinders Street frontage. The width of Spark Lane would also be increased to 6.2 metres to allow for two-way vehicle movements.

The now reduced ground floor level would also allow for the provision of a pedestrian thru-block link along the western property boundary between Flinders Street and Flinders Lane. Figure 4, 5 and 6 show the approved ground floor plan, the proposed ground floor plan and altered access arrangements through the site respectively.

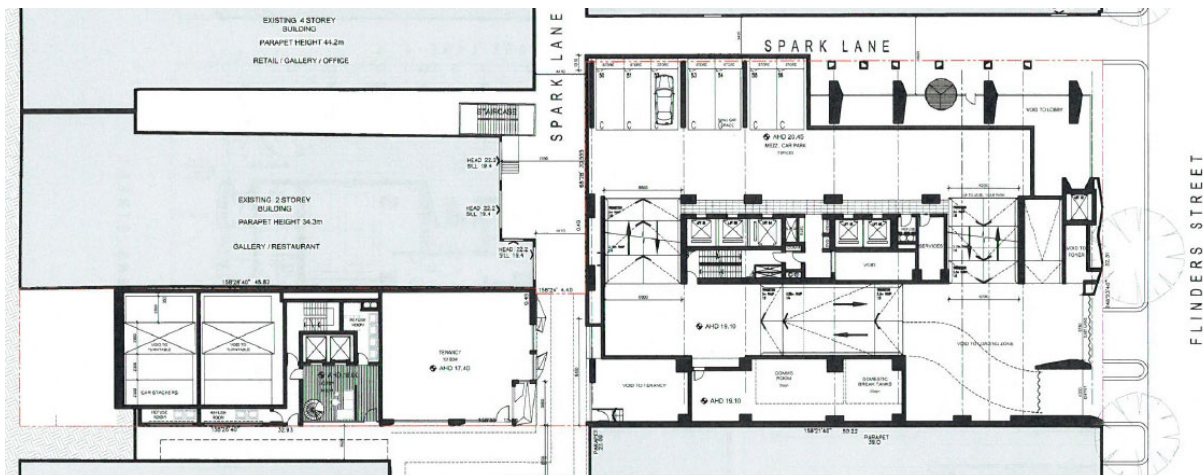


Figure 4: Approved ground floor plan (source: application documents prepared by Urbis)



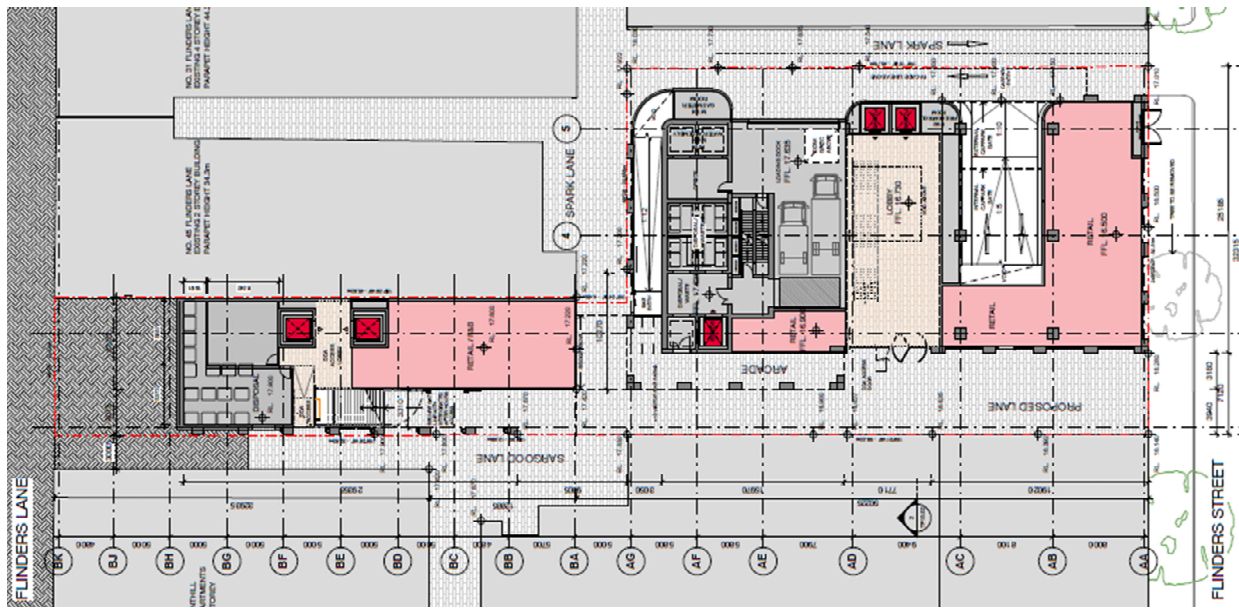


Figure 5: Proposed ground floor plan (source: application plans prepared by Bates Smart)

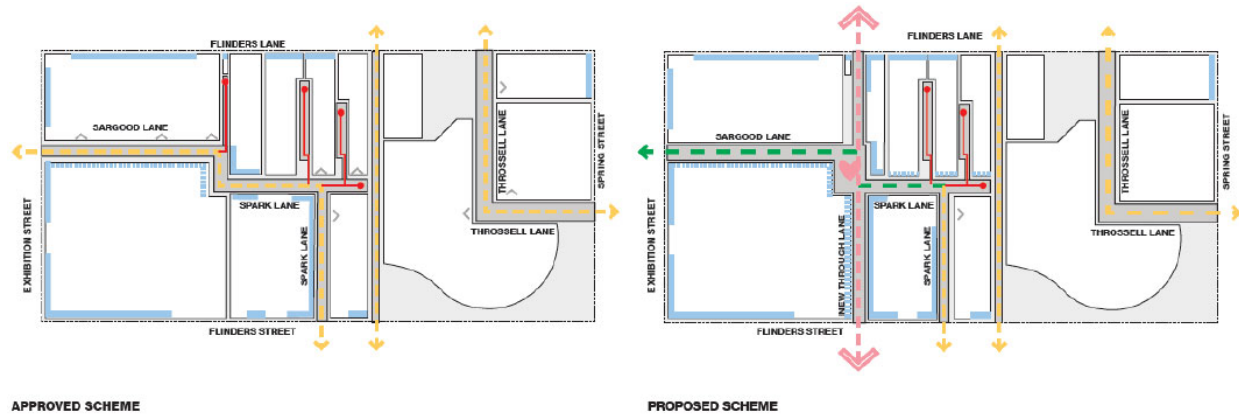


Figure 6: Approved and proposed surrounding laneway network (source: application plans by Bates Smart)

- Though the form of the Flinders Street tower would remain largely as previously approved, the feature 'notches' marking its north and south elevations would be removed. The change of use of the tower (to office) would also result in alterations to its presentation.

Figure 7 below shows the approved and proposed floor plans of the Flinders Street tower. Figures 8 and 9 show the presentation of the approved and proposed towers respectively.

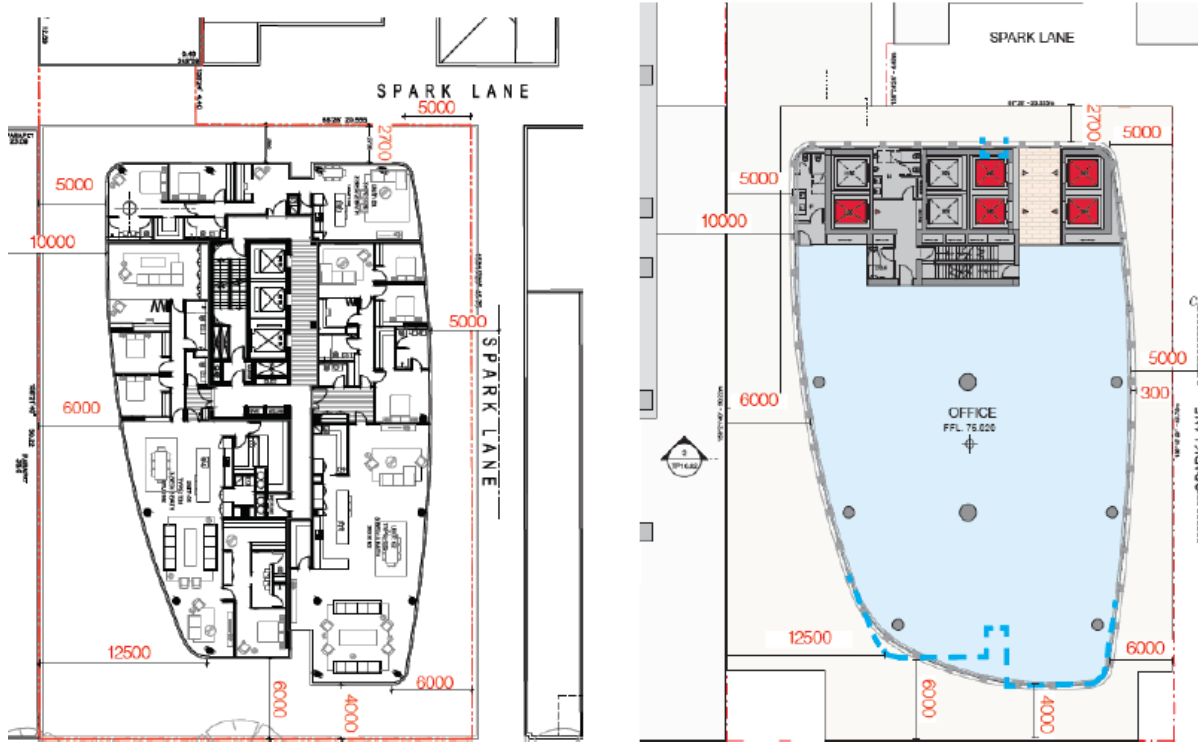


Figure 7: Approved and proposed typical tower floor plans - Flinders Street building  
(source: application plans by Bates Smart)

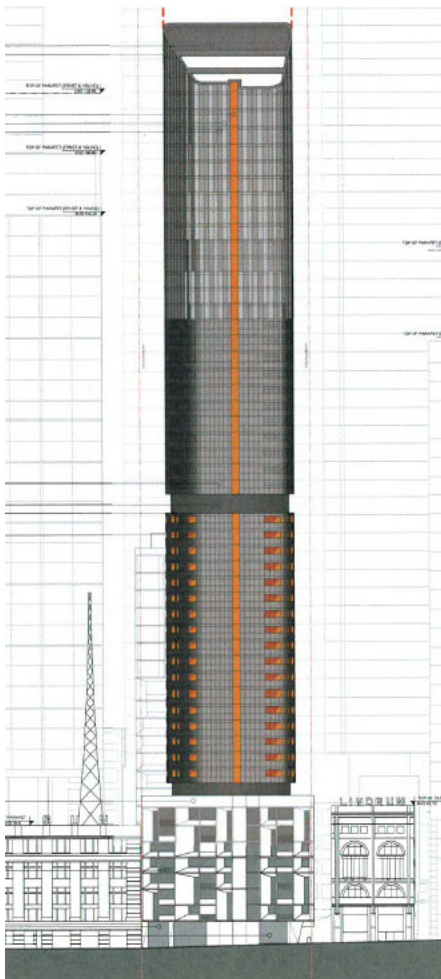


Figure 8: Presentation of approved Flinders Street tower (source: application documents)



Figure 9: Presentation of proposed Flinders Street tower  
(source: application plans prepared by Bates Smart)

- The reconfiguration of the Flinders Lane tower, including the deletion of the light well along the western boundary and the part extension of the tower over space vacated by now deleted north-facing terraces. The presentation of the tower would also now be altered to reflect its new use (office).

Figure 10 below shows the approved and proposed Flinders Lane tower floor plans.

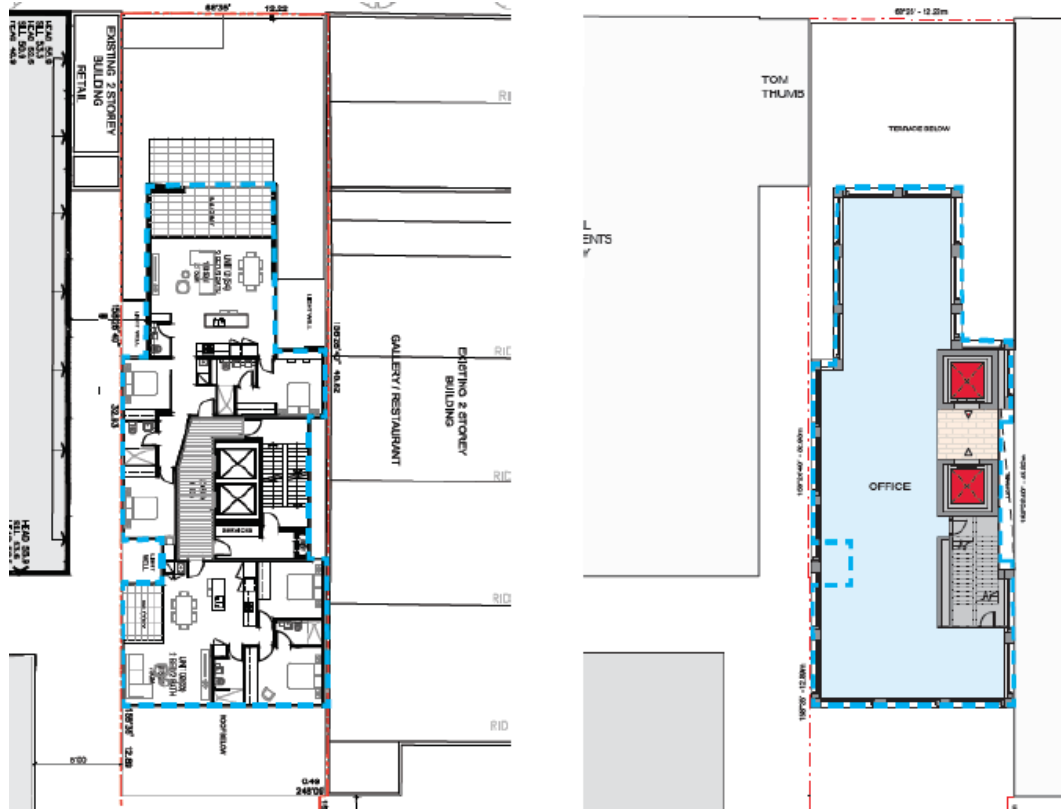


Figure 10: Approved and proposed typical tower floor plans - Flinders Lane building  
(source: application plans by Bates Smart)

Figures 11 and 12 show the presentation of the approved and proposed Flinders Lane tower.

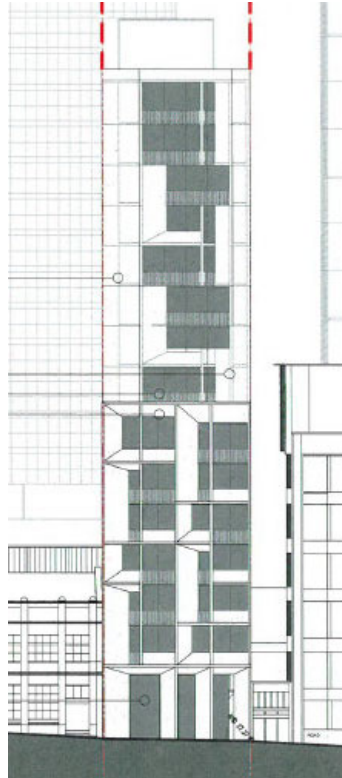


Figure 11: Presentation of approved Flinders Lane tower (source: application documents prepared by Urbis)



Figure 12: Presentation of proposed Flinders Lane tower (source: application plans prepared by Bates Smart)



Figures 13 to 16 show feature elements of the proposed building.



Figure 13: View of proposed development from south-east along Flinders Street  
(source: application plans prepared by Bates Smart)





Figure 14: Flinders Street entry to pedestrian thru-block link (source: application plans by Bates Smart)



Figure 15: View looking southward along thru-block link to Flinders Street (source: application plans by Bates Smart)

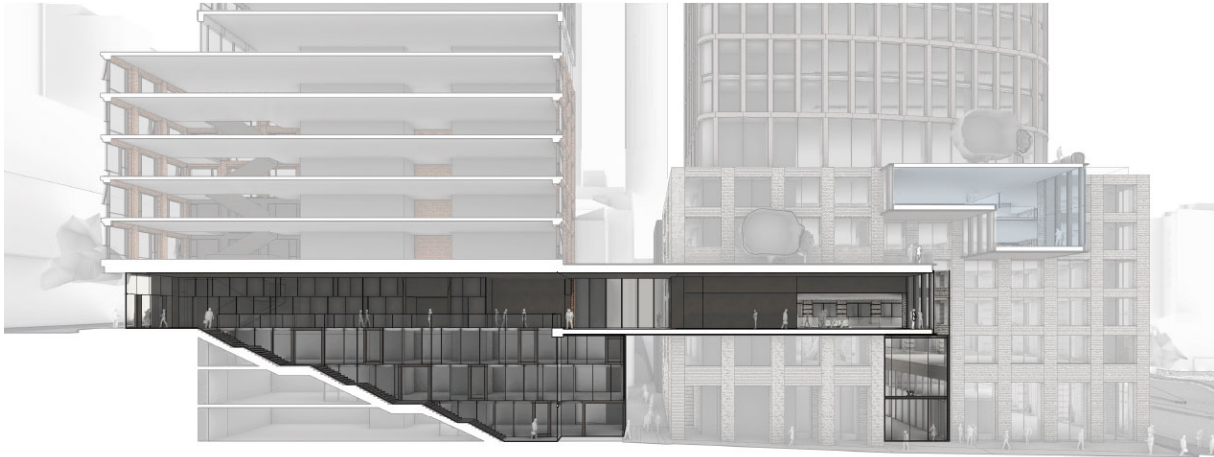


Figure 16: Section showing thru-block link extending from Flinders Street to Flinders Lane  
(source: application plans prepared by Bates Smart)

#### 4 STATUTORY CONTROLS

The following provisions of the Melbourne Planning Scheme apply.

Planning Policy Framework:	Clause 11 - Settlement Clause 15 - Built environment and heritage Clause 17 - Economic development Clause 18 - Transport
Municipal Strategic Statement:	Clause 21.04 - Settlement Clause 21.06 - Built environment and heritage Clause 21.08 - Economic development Clause 21.09 - Transport Clause 21.12 - Hoddle grid
Local Planning Policies:	Clause 22.01 - Urban design within the Capital City Zone Clause 22.04 - Heritage places within the Capital City Zone Clause 22.19 - Energy, water and waste efficiency Clause 22.23 - Stormwater management (Water Sensitive Urban Design)

Statutory Controls	
Clause 37.04 - Capital City Zone	<p>This clause states that a permit is required to demolish or remove a building and to construct a building and construct or carry out works.</p> <p>Schedule 1 of the CCZ states that permission is not required to operate an office or retail premises (other than an adult sex bookshop, department store, hotel, supermarket or tavern) in this zone.</p> <p>In accordance with the provisions of this clause, <b>a permit is required for the proposed alterations only</b>. A permit is not required for the proposed uses.</p>
Clause 43.01 - Heritage Overlay	<p>This clause states that a permit is required to demolish a building and to construct a building and carry out works.</p> <p>HO1286 applies to that part of the site fronting Flinders Lane only. This is an interim HO and expires on 29 May 2021.</p> <p>In accordance with the provisions of this clause, <b>a permit is required to alter that part of the approved development fronting Flinders Lane only</b>.</p>
Clause 43.02 - Design and Development Overlay (Schedules 4 and 10)	<p>In accordance with Clause 43.02-2, a permit is required to construct a building / construct or carry out works unless a relevant schedule specifies otherwise.</p> <p>Schedule 4 (Weather protection) applies to the Flinders Street frontage of</p>

	<p>the building only. The objectives of this schedule are:</p> <ul style="list-style-type: none"> <li>▪ <i>To promote pedestrian amenity on major pedestrian routes and areas.</i></li> <li>▪ <i>To provide protection from rain, wind and sun, without causing detriment to building or streetscape integrity.</i></li> </ul> <p>Weather protection (typically in the form of a canopy) will not be provided along the Flinders Street frontage of the building and as such a permit is required in accordance with Clause 4.0 of this schedule.</p> <p>The objectives of Schedule 10 (General development area - Built form) are:</p> <ul style="list-style-type: none"> <li>▪ <i>To ensure development achieves a high quality of pedestrian amenity in the public realm in relation to human scale and microclimate conditions such as acceptable levels of sunlight access and wind.</i></li> <li>▪ <i>To ensure that development respects and responds to the built form outcomes sought for the Central City.</i></li> <li>▪ <i>To encourage a level of development that maintains and contributes to the valued public realm attributes of the Central City.</i></li> <li>▪ <i>To ensure that new buildings provide equitable development rights for adjoining sites and allow reasonable access to privacy, sunlight, daylight and outlook for habitable rooms.</i></li> <li>▪ <i>To provide a high level of internal amenity for building occupants.</i></li> <li>▪ <i>To ensure the design of public spaces and buildings is of a high quality.</i></li> <li>▪ <i>To encourage intensive developments in the Central City to adopt a podium and tower format.</i></li> </ul> <p>Though in accordance with Clause 2.2, a permit is required for buildings / works, in accordance with Clause 7.0 the provisions of this schedule do not apply on the basis the original application was lodged prior to the introduction of Amendment C262 to the Melbourne Planning Scheme.</p> <p>Notwithstanding this, Clause 2.3 states that a permit must not be granted / amended for buildings / works that do not comply with the Modified Requirements of this schedule.</p>
Clause 45.09 - Parking Overlay	<p>This overlay specifies, by area and use, car parking requirements.</p> <p>The site is located within the bounds of Schedule 1 (Capital City Zone - Outside the retail core) where maximum parking rates apply. These rates are calculated as follows:</p> $\frac{5 \times \text{net floor area of buildings on site in m}^2}{1000 \text{ m}^2}$ <p>On the basis the total floor area of the building would now be 41,994 m<sup>2</sup>, a maximum of 210 car parking spaces may be provided on site.</p> <p>Given 83 car parking spaces only would be provided, the application complies with the requirements of this overlay.</p> <p>Clause 3.0 states that for every 100 car parking spaces provided on site, a minimum of one motorcycle parking space should also be provided.</p> <p>No motorcycle parking is required given less than 100 car parking spaces would be provided.</p> <p>No permit required.</p>

Particular Provisions	
Clause 52.34 -Bicycle Facilities	<p>The following bicycle parking spaces are required on site:</p> <p>Retail premise:</p> <ul style="list-style-type: none"> <li>1 employee space for every 300 m<sup>2</sup> of leasable floor area; and</li> <li>1 shopper space for every 500 m<sup>2</sup> of leasable floor area.</li> </ul> <p>Given the building would comprise 1,420 m<sup>2</sup> of leasable retail floor space, a total of five employee and three shopper spaces are required.</p> <p>Office:</p> <ul style="list-style-type: none"> <li>1 employee space for every 300 m<sup>2</sup> of leasable floor area if this area exceeds 1,000 m<sup>2</sup>; and</li> <li>1 visitor space for every 1,000 m<sup>2</sup> of leasable floor area if this area exceeds 1,000 m<sup>2</sup>.</li> </ul> <p>Given the development would comprise 29,118 m<sup>2</sup> of leasable office floor area, a total of 97 employee spaces and 29 visitor spaces are required on site.</p> <p>A total of 102 employee and 32 visitor / shopper spaces are required.</p> <p>230 spaces would be provided on site. This exceeds that required by 96.</p> <p>In addition to this, a total 28 showers would also be provided on site. This exceeds that required by 17.</p> <p>No permit required.</p>

General Provisions	
Clause 65 - Decision Guidelines	DELWP is the Responsible Authority and must determine if the development generates acceptable outcomes with reference to the decision guidelines of this clause. This includes the matters set out in Section 60 of the <i>Planning and Environment Act 1987</i> .
Clause 66.02 - Use and Development Referrals	<p>As Responsible Authority, DELWP is required to refer the application to relevant authorities.</p> <p>In this case, Transport for Victoria is a determining referral authority.</p>
Clause 66.04 - Referral of Permit Applications under Local Provisions	<p>As Responsible Authority, DELWP is required to refer the application to relevant determining and recommending referral authorities.</p> <p>In this case, the City of Melbourne is a recommending referral authority.</p>
Clause 72.01 - Responsible Authority for this Planning Scheme	<p>DELWP is the Responsible Authority on the basis the Gross Floor Area (GFA) of the development exceeds 25,000 m<sup>2</sup>.</p> <p>In this case, the City of Melbourne is a recommending referral authority.</p>

## 5 PLANNING SCHEME AMENDMENTS

In addition to the preceding policies, Amendment C308 (Urban Design in the Central City and Docklands) is also of relevance. This amendment was adopted by Council on 26 November 2019 and as such is considered to be seriously entertained.

The amendment seeks to introduce a new urban design policy (Schedule 1 to the DDO) into the Melbourne Planning Scheme along with an illustrative guide detailing policy objectives.

The overarching objective of the amendment is to improve the quality of design and development in the central city and Southbank.



## 6 PUBLIC NOTIFICATION

In accordance with Clause 66.04 of the Melbourne Planning Scheme, DELWP has formally referred the application to Council as a recommending referral authority.

As Responsible Authority, DELWP is required to administer public notice of the application in accordance with the provisions of the *Planning and Environment Act 1987*.

## 7 OBJECTIONS

One objection has been received by DELWP in response to the application. This objection was received from the Owner's Corporation of 57 Flinders Lane (Manhattan Apartments).

The concerns of the Owner's Corporation are:

- Loss of light.
- The noise and dust generated during the construction process and the impact this would have upon the health of residents of 57 Flinders Lane. These impacts would be exacerbated by the fact the original retained heritage windows of this building are not completely sealed.
- The impact any prolonged construction process may have upon the mental health of residents, particularly given restrictions imposed in response to the current global health crisis.

Though the objector also raised concerns regarding the impact the development may have upon local property values, this is not a planning-related matter.

## 8 INTERNAL REFERRALS

### 8.1 Urban Design

The application was referred to Urban Design who provided the following comments (summarised):

#### *Laneway/arcade experience*

- The proposed pedestrian thru-block link extending between Flinders Street and Flinders Lane is welcome.
- Notwithstanding this, a comprehensive public realm / landscape plan should be submitted showing the finer grain qualities of this link.
- Shadow diagrams demonstrating the level of sunlight that would penetrate the link should also be submitted for further consideration.
- An active retail / food and drink use should be provided along the Flinders Lane frontage to provide greater pedestrian continuity and legibility.
- Multiple, finer-grain retail / food and drink uses should be provided along the length of the link.

#### *Public interfaces*

- Any gates / screens securing the thru-block link must be high quality.
- A second entrance should be provided off the Flinders Street frontage to maximise the degree of activation here.
- The provision of vehicle / loading points off Spark Lane is preferred to the previously approved access points off Flinders Street.
- The passing indents provided along Spark Lane should be deleted.

#### *Flinders Lane podium*

- The use of brick is welcome however its finer grain qualities should be further detailed in a revised facade strategy.
- The windows upon the eastern elevation of the podium may impinge upon the equitable development rights of the adjacent property.

#### *Flinders Street tower*



- Clarification is required with regard to the materiality of the proposed framework. Will this be finished in masonry or metal cladding? A masonry frame with metal reveals is preferred.
- Glazing should be no more than 15% reflective.

## **8.2 Traffic**

The application was referred to Traffic who provided the following comments (summarised):

- The anticipated number of vehicle movements likely to be generated by the development will not impact upon the function of the surrounding road network.
- Notwithstanding this, it is recommended that a condition be included upon any amended permit issued requiring the submission of a traffic survey confirming the number of vehicle movements generated by the existing on site car park. This will, in turn, confirm if the movements generated by the proposed development are more or less than that of the existing use.
- Given any right hand turns in to / out of the site would likely delay passing trams and cause congestion, vehicle entry / exit must be restricted to left in / left out movements only. Signs and on site line marking to this effect should be installed / painted where necessary. In addition to this, yellow tram separation kerbing must be installed north and south of the tram lines adjacent to the site.
- Vehicle access control measures must be installed to prevent vehicles queuing over the Flinders Street footpath and carriageway.
- The design / layout of the on site car park complies with the requirements of the planning scheme and relevant Australian Standards.
- The number of car, bicycle and motorcycle parking spaces provided on site is satisfactory.
- A condition should be included upon any amended permit issued requiring the submission of a Loading Management Plan. This Plan must set out how loading bays will be managed. Ideally, a loading bay manager would also be employed to oversee all loading / unloading and prevent conflicts with other road users.
- The loading bay should be designed / laid out in accordance with relevant Australian Standards.
- A note should be included upon any amended permit issued advising the property owner that existing on-street parking restrictions will not be altered to accommodate the needs of the development.

## **8.3 Civil Design**

The application was referred to Civil Design who provided the following comments (summarised):

- Doors should not open out over the Flinders Street footpath. Doors should be redesigned / repositioned so that they do not project when open or when being opened / closed.
- The proposed widening of Spark Lane is acceptable. A minimum 5 metre clearance must be provided above the widened section of this laneway.
- Spark Lane and all internal access ways must remain publicly accessible at all times.
- The development would result in the loss of existing wall-mounted street lighting along Spark Lane. Replacement lighting and associated conduits must be provided.

## **8.4 ESD and Green Infrastructure**

The application was referred to the Council's ESD and Green Infrastructure Officer who provided the following comments (summarised):

- The measures set out in the updated ESD report are acceptable.
- A Green Star pathway should however be included in the appendix to the report.
- The proposed landscape treatment of the site is superior to that of the original scheme.

## 8.5 Legal Services

The application was referred to Legal Services who provided the following comments (summarised):

- The original permit required adjacent roads to be vested in Council as public highways.
- Council must determine if it again wishes to have the altered thru-block link vested or if it should remain in private ownership though be publicly accessible.
- Any asset vested in Council might be limited in depth or height. As such, a precise stratum could be created.
- If the thru-block link were to remain in private ownership, a S173 agreement would nevertheless still be required to ensure it remained publicly accessible.
- Council should not accept responsibility for any land which has not been vested.
- If the thru-block link remains in private ownership, does this effect any previously required open space contributions?

## 8.6 Land Survey

The application was referred to Land Survey who provided the following comments (summarised):

- Any future subdivision application would be exempt from the need to provide an open space contribution. This requirement does not apply to commercial and industrial buildings.
- Only land vested in favour of Council as public open space can be considered as such a contribution. This is not the case here and as such if the thru-block link was to remain in private ownership this would not affect any open space requirement that might have otherwise been required.

## 9 ASSESSMENT

The key issues for consideration are:

- The relationship of the development with the provisions of Schedule 10 of the Design and Development Overlay.
- The appropriateness of the design detailing of the proposed development.
- The appropriateness of amending the permit preamble and amending, deleting and / or adding conditions to accommodate the proposed development.

### 9.1 The relationship of the development with the provisions of Schedule 10 of the Design and Development Overlay

Clause 7.0 (Transitional arrangements) of Schedule 10 of the DDO states *the requirements of this schedule do not apply to ...an application (including an application to amend a permit) made before the commencement date of Amendment C262 (the precursor to DDO10)... For such applications, the requirements of this scheme, as they were in force immediately before the commencement of Amendment C262, continue to apply.*

The original application was lodged with the Minister in 2014 and referred to Council in January 2015. This pre-dates the commencement of Amendment C262 (4 September 2015) and as such in accordance with the provisions of Clause 7.0, the requirements of Schedule 10 do not apply.

Notwithstanding this, Clause 2.3 (Requirements) of this schedule states that *a permit must not be granted or amended (unless the amendment does not increase the extent of non-compliance) for buildings and works that do not meet the Modified Requirement of any relevant Design Element of Table 3 of this schedule.*

The relevant Modified Requirements in this case are the street, side and rear setbacks of both the Flinders Street and Flinders Lane towers.

In accordance with Table 3, these setbacks should be no less than five metres from property boundaries or the centre line of adjoining laneways. In addition to this, a minimum distance of 10 metres must be provided between towers on the same site.

As shown in Figure 7, the Finders Street tower would be setback four metres only from the street boundary. Though this is less than the five metres otherwise required, the proposed setback is no less than that previously approved. To this end, the extent of non-compliance here has not been increased.

Though the form of the tower has altered, this amounts to infills only behind the previously approved minimum street setback. This is considered to be consistent with the overarching purposes of Schedule 10, including *to ensure that development respects and responds to the built form outcomes sought for the Central City*.

Similarly, the setbacks of the tower from the centre line of Spark Lane to the east and the western property boundary also match those previously approved and exceed the Modified Requirements of Table 3 (six and 10 metres respectively).

The setback of the tower from the rear (Spark Lane) boundary will also match that previously approved (2.7 metres). Though again the feature notch here will be infilled, the minimum approved setback will not be reduced.

With regard to the Flinders Street podium, it is noted that the previously approved street wall height (44.4 metres) will be retained. The width of the podium will however be reduced by up to 7.1 metres. This, in turn, allows for the provision of the aforementioned part open thru-block link extending between Flinders Street and Flinders Lane.

Importantly, the reduced width podium also allows for views to the side wall of the adjacent Ernst and Young building. As previously noted, this building is included upon the Victorian Heritage Register (VHR) and views to its eastern boundary wall will allow for a greater appreciation of this heritage asset. Pedestrians passing through the site will be able to view this eastern wall up to first floor level and also via oblique higher level views through the colonnade abutting the western property boundary (refer below).

To ensure this wall is appropriately treated and not left unkempt following the demolition of the existing building on site, it is recommended that a condition be included upon any amended permit issued requiring details of the intended finish of the wall. This will also require the permission of Heritage Victoria.

As shown in Figure 10, the form of the Flinders Lane tower would also largely be retained. To this end, only its street setback would be reduced. This setback (now 9.8 metres) will however continue to comply with the Modified Requirement of Table 3.

Though the windows to be installed upon the eastern property boundary could impinge upon the equitable development rights of the adjacent site to the east (45 Flinders Lane), the applicant has agreed to the inclusion of a condition upon any amended permit issued requiring the removal of these windows should 45 Flinders Lane be development in the future in a manner which requires this.

With regard to the Flinders Lane podium, it is noted that the approved street wall height (24 metres) will again be retained. Though the light well adjacent to the western property boundary will now be deleted, this will be replaced by a largely permeable multi-storey colonnade (refer Figure 15). It is considered that this feature will provide the facing residents of Manhattan Apartments with an increased sense of visual relief and as such represents a built form and amenity improvement.

#### Wind effects

Though the provisions of Schedule 10 do not apply, it can be used as a guide when considering wind effects.

Schedule 10 states that a permit must not be granted for buildings exceeding a height of 40 metres which would cause unsafe wind conditions in publicly accessible areas within a

specified distance of the site (equal to half the longest width of the building above 40 metres measured from all façades, or half the total height of the building, whichever is greater).

On the basis the building would stand to a height of 175 metres, a notional assessment area of 87.5 metres measured from all facades applies (this exceeds half the longest width of the building above 40 metres).

The wind speeds generated by the amended form of the building would not differ greatly from those generated by the approved form. The impact assessment submitted in support of the application confirms wind speeds would satisfy all walking criterion along surrounding streets. In many locations the standing criterion would also be satisfied. On this basis, mitigation measures are not required.

Wind speeds across open spaces on site (on Levels 4, 6, 8 and 39) would satisfy all standing criterion. These conditions could be improved if desired by way of the provision of added landscaping and screening.

### Overshadowing

Though again the provisions of Schedule 10 do apply, it can be used as a guide when considering overshadowing together with the provisions of Clause 22.02 (Sunlight to public spaces).

Table 1 of Schedule 10 lists those public places which must not be overshadowed on specific dates and times. As this relates to this application, this includes the Yarra River Corridor between 11am and 2pm on 22 June.

On the basis the overall height of the amended development would not increase and the basic configuration of the Flinders Street tower (the tallest and most prominent element) would not be altered, the shadows cast by the building would not extent beyond those cast by previously approved forms.

Notwithstanding this, neither the previously approved or amended developments would cast shadows over the Yarra River Corridor (as defined by Figure 2 of Schedule 10 of the DDO) at the aforementioned times.

Table 2 of Schedule 10 lists other public places which should not also be overshadowed on specific dates / times. Unlike the places listed in Table 1 however, the places listed in Table 2 may be subject to some overshadowing provided this does not unreasonably impact upon the general amenity of that place. As this relates to this application, this includes Birrarung Marr between 11am and 2pm on 22 April and 22 September. Again, the shadows cast by the amended development would not extend beyond those cast by the previously approved building.

## **9.2 Design detailing**

### *Amendment C308 - Urban design in the central city and Docklands*

As previously noted, Amendment C308 and the new Schedule 1 to the DDO which it would introduce are now seriously entertained. In response to the relevant performance standards of this new DDO, it is noted that:

- The development would include a dedicated pedestrian thru-block link and as a result reduce the effective width of this city block.
- The proposed thru-block link would create a strong visual and physical connection with the surrounding public realm and allow for the continuation of activity through the site and between Flinders Street and Flinders Lane.
- Though not required in Heritage Overlays such as this, the extent of activation along the Flinders Street frontage would be near to the preferred 80%. Active frontages would also extend part way along Spark Lane and much of the length of the link. This extent of activation far exceeds that previously approved, particularly along the Flinders Street frontage and through the site. Importantly, Flinders Street is a major

pedestrian thoroughfare and it is anticipated the thru-block link will, in the future, act as an important pedestrian connection to Flinders Lane.

- Building services would be consolidated behind the Flinders Street frontage. This again assists in ensuring that the extent of activation here would be maximised.

#### *Response to Urban Design comments*

Though Council's Urban Designers have requested a condition be included upon any amended permit issued requiring the submission of a comprehensive landscape / public realm plan further detailing the thru-block link, it is noted that existing Condition 43 already serves this purpose. It is recommended however that this condition be amended to reflect the link now proposed, as opposed to the public spaces previously approved and referred to by this condition (refer overleaf).

Urban Design has also requested that a sunlight study of the link be undertaken. Given however the approved walkways extending through the site were largely enclosed and the link now proposed would be part open, it is considered that sunlight penetration would only increase and as such no further assessment is required.

Again, existing Condition 43 could reasonably be amended and applied to the new link. To this end, details of all materials, signage and landscaping along its length should be required for further assessment to ensure the highest possible design quality and, in turn, amenity value. This, together with the increased level of sunlight now proposed, will provide for a satisfactory pedestrian experience.

Whilst Urban Design has also recommended a number of smaller scale retail / food and drink premises be provided along the length of the link, it is considered that the proposed extent of activation is sufficient. This includes the provision of three retail / food and drink premises at Flinders Street level, an additional retail space at Level 01 and a further space at Flinders Lane level. These tenancies will together engage pedestrians passing through the various levels of the site between Flinders Street and Flinders Lane and provide for the continuity and legibility sought by Urban Design.

Though concerns have also been raised with regard to the indents provided along the Spark Lane frontage, these are required to enable comfortable vehicle access to the basement car park and loading bay. Again, the provision of these access points here, as opposed to the Flinders Street frontage as previously approved, represents an improved urban design outcome.

It is considered that the basic design detailing of the building, reconfiguration of public routes and increased extent of activation through the site will provide for improved built form and urban design outcomes.

In accordance with the following recommendations (including the retention / amendment of conditions requiring further details of materials and finishes and a façade strategy) it is considered that the development will contribute positively to the public realm and broader fabric of the city.

### **9.3 Amendments to the permit**

The existing permit must be amended to accommodate the alterations and new uses now proposed. As requested by the applicant, it is recommended that the preamble be amended to read:

*Demolition of the existing building and construction of a multi-storey mixed-use building in accordance with the endorsed plans.*

It is considered that this description accurately reflects the relevant permit triggers and the nature of the development now proposed.

The applicant has also requested that a number of conditions be amended or deleted to accommodate the proposed amendments. In response to these requests, it is noted that:



- Condition 1 (Development plans) - The deletion of this condition is acceptable on the basis it is now redundant. A replacement condition requiring the submission of amended plans showing the matters set out in this report is however required.
- Condition 15 (ESD report) - As requested, the wording of this condition should be amended to reflect the updated ESD report. This condition should also reference the need to submit a Green Star Pathway.
- Condition 17 (Car parking, loading / unloading and bicycle facilities) - The wording of this condition should also be amended to reflect the development now proposed. Certain requirements of this condition are now redundant and as such should be deleted.
- Conditions 32 and 33 (Public access and the vesting of Spark Lane) - As requested, these conditions can be deleted on the basis both are now redundant. A new condition (48) should however be added in their place requiring the applicant to enter into a legal agreement with Council in accordance with Section 173 of the *Planning and Environment Act 1987* requiring the thru-block link to remain publicly accessible.
- Condition 43 (Landscaping and public realm works) - The wording of this condition should also be amended to reflect the development now proposed. Certain requirements of this condition are also now redundant and should be deleted.

The recommended wording of these conditions appears overleaf.

In addition to these conditions, a number of other conditions should also be amended, deleted or added to accommodate the development now proposed, as follows:

- Condition 6 (Façade strategy) - The wording of this condition should be updated to reference the amended plans.
- Condition 13 (Wind assessment) - This condition is now redundant on the basis a report has now been submitted and this confirms the development will not generate adverse wind conditions, including along the length of the new thru-block link. Importantly, the recommendations set out in this report do not require alterations to the form of the building and therefore no further assessment of wind effects is required.
- Condition 27 (Noise attenuation report) – This is considered redundant on the basis noise sensitive uses will not now be provided on site.
- Condition 29 (Residential facilities) - This condition is now redundant on the basis residential uses will not now be provided on site.
- Condition 45 (Landscape management plan) - This condition should be updated to delete references to the plans upon which the original permit was based.
- Condition 46 (Green walls, facades and roofs) - On the basis no green walls, facades or roofs are now proposed, this condition is redundant and should be deleted.
- New Condition 49 (Legal agreement requiring removal of boundary windows) - On the basis the Flinders Lane tower would feature boundary windows, a condition should be added to any amended permit issued requiring the removal of these windows should the adjoining site to the east (45 Flinders Lane) be developed in the future in a manner which requires this.

The recommended wording of these conditions appears overleaf.

## 9.4 Other matters

### The ESD credentials of the development

Clause 22.19 (Energy, water and waste efficiency) states that where a new building measures in excess of 2,000 m<sup>2</sup>, it must be demonstrated that potential exists to achieve the relevant performance measures set out in Clause 22.19-5.

Clause 22.19-5 states that where a new development comprises up to 2,000 m<sup>2</sup> of retail space the following performance measures apply:

- Water efficiency - 5 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star - Retail rating tool or equivalent; and

- Waste efficiency - A Waste Management Plan prepared in accordance with a current version of the City of Melbourne's 'Guidelines for Waste Management Plans.'

In addition to this, where a new building comprises in excess of 5,000 m<sup>2</sup> of office space, the following performance measures also apply:

- Energy efficiency - NABERS Office - Energy 5 Stars or equivalent;
- Water efficiency - 3 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star - Office rating tool or equivalent;
- Waste efficiency - A Waste Management Plan prepared in accordance with a current version of the City of Melbourne's 'Guidelines for Waste Management Plans'; and
- 5-star rating in accordance with a current version of the Green Star - Office rating tool or equivalent.

Though the Council's ESD and Green Infrastructure Officer has advised that all building targets accord with the minimum requirements of Clause 22.19-5, the submitted ESD report does not include a Green Star Pathway. As such, it is recommended that the report be amended accordingly and a condition to this effect be included upon any amended permit issued. This condition would replace existing Condition 15 as generally proposed by the applicant.

#### Parking, access, loading and waste

##### *Impacts upon surrounding streets*

In accordance with the comments of the Council's Traffic Engineers, it is considered that the vehicle movements generated by the development will not alone impact upon the function of the surrounding road network. Importantly, the previously approved development comprised 356 car parking spaces and 83 spaces only would now be provided.

Though the Council's Traffic Engineers have requested a survey of the movements generated by the existing use, as opposed to those which would likely be generated by the proposed uses, this is not considered necessary given again the significantly reduced number of spaces which would be provided on site.

It is however considered necessary to ensure vehicle entry / exit to the site is restricted to left in / left out movements only. This will assist in ensuring vehicles entering / exiting Spark Lane do not impede tram services along Flinders Street and, in turn, cause delays along this busy thoroughfare.

##### *Loading*

Clause 65.01 states that before determining an application, the Responsible Authority must consider (amongst other matters) *the adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

Dedicated loading bays will be provided on site off Spark Lane. To ensure the safe operation of these bays, it is recommended that a condition be included upon any amended permit issued requiring the submission of a Loading Management Plan. This Plan should set out the measures that will be put in place (including the employment of a full-time Loading Bay Manager) to ensure the loading / unloading of vehicles does not impede the flow of traffic along Spark Lane or cause conflicts with lane users.

##### *Car and bicycle parking*

The number of car and bicycle parking spaces to be provided on site complies with the maximum and minimum requirements of Parking Overlay, Schedule 1 and Clause 52.34 respectively.

Importantly, the increased number of bicycle parking spaces provided (96 more than required) will assist in alleviating any residual demands for either on-site or on-street car parking. This is aided by the proximity of the site to a range of public transport services and

the fact that this suite of options significantly reduces building users' reliance upon private vehicles.

The proposed end-of-trip facilities also exceed that required by Clause 52.34. To this end, 28 showers will be provided at basement level whereas Clause 52.34 requires 17 only. This will again further assist in encouraging cycling to / from the site.

Whilst the number of bicycle parking spaces exceeds the requirements of Clause 52.34, only 10 of these would be allocated to visitors. This is 22 less than required by Clause 52.34. To this end, and to accommodate the sustainable travel needs of visitors, it is recommended that a condition be included upon any amended permit issued requiring the provision of an additional 22 visitor spaces on site. These spaces must be located in accessible areas such as adjacent to the pedestrian thru-block link. It appears ample space exists here to accommodate these spaces.

#### Miscellaneous matters

##### *Public benefits*

Clause 22.03 (Floor area uplift and delivery of public benefits) applies only where the provisions of Schedule 10 of the DDO also apply.

On the basis the existing permit benefits from the transitional provisions set out in Clause 7.0 of Schedule 10, the provisions of this schedule and, in turn, Clause 22.03 do not apply.

##### *Thru-block links*

Condition 32 requires the property owner to enter into a legal agreement with Council in accordance with Section 173 of the *Planning and Environment Act 1987* in order to declare the new roadway between Spark and Sargood Lanes (bisecting the site) public highway. In addition to this, the agreement would also indemnify Council against any claims which may arise in relation to projections over this new road. Condition 33 requires the road to be vested in Council.

The applicant has requested that Conditions 32 and 33 be deleted. This is on the basis these conditions are not now warranted given a new link would be provided through the site.

Council must determine if it wishes to have this new link vested or, conversely, if it should remain in private ownership but be publicly accessible.

On the basis elements of the new link would be encumbered, a precise stratum extending through the site is the most appropriate mechanism available to secure the land. This is not however typical and would only increase Council's liabilities. To this end, it is recommended that the link remain in private ownership and that a new condition be included upon any amended permit issued requiring the applicant to enter into a legal agreement with Council enshrining public access along it at all times.

As requested by the applicant, it is considered that existing Conditions 32 and 33 (enshrining the previously approved roadway link between Spark and Sargood Lanes as a public highway and requiring its vesting in Council) should now be deleted. This is on the basis that no new roadway / vehicle link will now extend through the site.

##### *Weather protection*

Schedule 4 of the DDO applies to the Flinders Street frontage of the site only. This DDO requires the provision of weather protection (canopies and the like) along major pedestrian thoroughfares such as this.

Though no such protection is proposed, it is noted this was also not required in association with the previously approved development.

Though ideally a canopy or similar would be provided here, it is noted that this section of Flinders Street does not feature canopies and the proposed thru-block link would be part

covered and provide pedestrians with an alternate route between Flinders Street and Flinders Lane.

On the basis the approved development does not feature a canopy or similar along the Flinders Street frontage, and given a new part covered pedestrian route would be provided through the site, it is considered weather protection need not be provided along Flinders Street as otherwise preferred by Schedule 4.

## 10 CONCLUSION AND RECOMMENDATION

It is considered that the proposed amendments represent improved built form, urban design and public realm outcomes. This includes the provision of a dedicated and more direct thru-block link between Flinders Street and Flinders Lane. The reduced width of the Flinders Lane podium also allows for a greater appreciation of the three-dimensional form of the adjacent historic Ernst and Young building immediately to the east. The reconfiguration of the ground level also allows for the further activation of the Flinders Street frontage.

Though the forms of the towers will remain largely as previously approved, their presentation will alter to reflect their use. The finer grain detail of this can be further assessed in accordance with Condition 6 (façade strategy) of the permit. It is recommended that this condition, as well as the permit preamble and a number of other conditions be amended, deleted or added as follows:

Permit preamble -

*Demolition of the existing building and construction of a multi-storey mixed-use building in accordance with the endorsed plans.*

Permit conditions -

- Delete existing Condition 1 and replace it with the following:  
*Prior to the commencement of the development hereby permitted, the applicant must submit to and have approved in writing by the Responsible Authority, plans generally in accordance with those submitted with the application numbered TP01.20 to TP09.03 inclusive, dated 22 January 2020 and prepared by Bates Smart but amended to show:*
  - a) *The provision of 22 additional visitor / shopper bicycle parking spaces on site. These spaces must be located in publicly accessible areas.*
  - b) *All service cupboard doors redesigned / repositioned so that they do not open out over the Flinders Street footpath when open or when being opened / closed.*
  - c) *A minimum clearance of five metres provided above the widened element of Spark Lane.*
  - d) *Details of the treatment of the exposed elements of the eastern wall of the Ernst and Young Building adjacent to the thru-block link. The treatment must strike an appropriate balance between the heritage values of this building and the need to provide a high degree of visual interest.*

*When approved, these drawings will be the amended plans of this permit.*

- Condition 6 amended to read:  
*Before the development starts, excluding demolition, bulk excavation and site preparation works, a Facade Strategy must be submitted to and be to the satisfaction of the Responsible Authority. When approved this will form part of the endorsed plans. All materials, finishes and colours must be in conformity with the approved Façade Strategy to the satisfaction of the Responsible Authority. The Facade Strategy for the development must be generally in accordance with plans prepared by Bates Smart, dated 22 January 2020 and numbered TP01.20 to TP09.03 inclusive and detail:*
  - a) *A concise description by the architect of the building design concept and how the façade works to achieve this.*

- b) *A schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance. This can be demonstrated in coloured elevations or renders from key viewpoints, to show the materials and finishes linking them to a physical sample board with clear coding.*
  - c) *Elevation details generally at a scale of 1:50 illustrating typical podium details, entries and doors, utilities, the through block link, typical tower detail and any special features which are important to the building's presentation.*
  - d) *Cross sections or other methods of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and / or material.*
  - e) *Information concerning how the façade will be accessed and maintained and cleaned.*
  - f) *Example prototypes and / or precedents that demonstrate the intended design outcome to produce a high quality built form in accordance with the design concept.*
- Condition 13 - Delete
  - Condition 15 amended to read:

*Before the development starts, excluding demolition, bulk excavation and site preparation works, an amended Environmentally Sustainable Design (ESD) Statement generally in accordance with that submitted with the application prepared by Norman, Disney and Young and dated 10 March 2020 shall be submitted to and be approved in writing by the Responsible Authority. This statement must include a Green Star Pathway and demonstrate that the building, after incorporating all Condition 1 requirements, has the preliminary design potential to achieve the following:*

- *Energy efficiency - NABERS Office - Energy 5 Stars or equivalent;*
  - *Water efficiency - 3 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star - Office rating tool or equivalent;*
  - *Waste efficiency - A Waste Management Plan prepared in accordance with a current version of the City of Melbourne's 'Guidelines for Waste Management Plans'; and*
  - *5-star rating in accordance with a current version of the Green Star - Office rating tool or equivalent.*
- Condition 17 amended to read:

*Before the development starts, including demolition and bulk excavation, a Transport Impact Assessment must be submitted to and be approved in writing by Melbourne City Council. This assessment must consider the amendments required by Condition 1 of this permit and include:*

- a) *Delete*
- b) *A Loading Management Plan, including proposed loading arrangements and delivery times which shall be outside commuter peak period and peak times. The plan must include measures to resolve the potential for pedestrian, cyclist and passenger vehicle interactions and conflicts along Spark Lane and provide for the employment of a full-time Loading Bay Manager.*
- c) *Delete*
- d) *Details of the location, allocation and type of all bicycle parking spaces and facilities in accordance with the requirements of Clause 52.34 (Bicycle Facilities) of the Melbourne Planning Scheme.*
- e) *Any disabled car parking and shared spaces featuring a minimum of 2.5 metre height clearance as per AS/NZS 2890.6:2009. All other car spaces must be provided with a minimum height clearance of 2.1 metres or be to the satisfaction of Melbourne City Council.*



- f) The exit of each site access to be provided with pedestrian visibility splays 50% clear of visual obstructions with a dimension of 2.5 metres x 2.0 metres be to the satisfaction of Melbourne City Council.*
- g) All car parking areas must be lit to the satisfaction of Melbourne City Council if in use during hours of darkness and all lights must be designed, fitted with suitable baffles and located to prevent any adverse effects to adjoining land.*
- h) All car spaces located at the end of an aisle must be provided with a vehicle turning area at least one metre wide measured from the end wall or be to the satisfaction of Melbourne City Council.*
- i) Delete*
- j) Vehicle entrance / egress points to Flinders Street must be designed and sign-posted to ensure that all vehicles enter and exit by making left-turn movements only.*
- k) A queuing analysis detailing access arrangements on entry to the site and demonstrating that the 95th percentile queue will not extend back onto Flinders Street and adversely impact traffic flows here.*
- l) Delete*
- m) The internal design of the car park and loading docks, the positioning of any boom gates, card readers, control equipment, including car park control points and ramp grades generally in accordance with the requirements of Clause 52.06 of the Melbourne Planning Scheme.*
- n) Delete*
- o) Delete*
- p) The provision of directional signage and line marking within the on site car park where this is considered necessary to the satisfaction of Melbourne City Council.*
- q) The provision of yellow tram separation kerbing installed north and south of the tram lines adjacent to the site to the satisfaction of Council and Yarra Trams.*
- Condition 27 - Delete
- Condition 29 - Delete
- Condition 32 - Delete
- Condition 33 - Delete
- Condition 43 amended to read:

*Before the development starts, excluding demolition and bulk excavation and site preparation, a Landscape and Public Realm Plan must be submitted to and be approved in writing by the Responsible Authority in consultation with Melbourne City Council. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and be generally in accordance with the amended plans prepared by Bates Smart numbered TP01.20 to TP09.03 inclusive and dated 22 January 2020 but amended to show:*

  - a) Paving, wall surface and soffit treatments along the pedestrian thru-block link.*
  - b) Way finding signage along the thru-block link to assist in identifying public facilities and connections through the site.*
  - c) Public lighting (which must be metered and installed in accordance with relevant Australian Standards).*
  - d) Delete.*
  - e) Provision of water sensitive urban design features.*
- Condition 45 amended to read:

*Before the development starts, excluding demolition, bulk excavation and site preparation, a landscape management plan detailing the ownership, maintenance*

*regime and management responsibilities for the public spaces and podium planting must be prepared and submitted to and be to the satisfaction of the Responsible Authority. This landscape management plan must be generally in accordance with the plans submitted with the amended application numbered TP01.20 to TP09.03 inclusive, dated 22 January 2020 and prepared by Bates Smart.*

- Condition 46 - Delete
- New Condition 48 added as follows:

*Prior to the commencement of the development hereby approved (excluding demolition, excavation and site preparation works), the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 requiring the thru-block link extending between Flinders Street and Flinders Lane, as well as connecting Spark Lane with Sargood Lane, to remain publicly accessible 24 hours a day a seven days a week.*

*The owner of the land must pay all of the City of Melbourne's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.*

- New Condition 49 added as follows:

*Prior to the commencement of the development hereby approved (excluding demolition, excavation and site preparation works), the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 providing for the removal of the windows / openings on the boundary adjacent to 45 Flinders Lane should this property be further developed in the future in a manner which the Responsible Authority considers would affect these windows / openings.*

*The owner of the land must pay all of the City of Melbourne's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.*

- New notes added as follows:

*All necessary approvals and permits are to first be obtained from the City of Melbourne and the works performed to the satisfaction of the Responsible Authority - Infrastructure and Assets.*