

**Ministerial Planning Referral: ID-2024-2  
140-160 Harbour Esplanade, Docklands**

7 May 2024

**Presenter:** Marjorie Kennedy, Head of Statutory Planning

**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee (FMC) of Melbourne Planning Scheme Amendment C438melb (the Amendment) which seeks to facilitate the redevelopment of the western edge of the Stadium Precinct in the Docklands (refer Attachment 2 of report from management - Locality Plan).
2. The applicant is Development Victoria and the Australian Football League c/- Urbis, land ownership is Development Victoria, and the architect is Grimshaw Architects (Master Plan only).
3. The subject site (Site) is located within Docklands Zone, Schedule 4 (DZ4) and is affected by Design and Development Overlay, Schedule 12 (DDO12) and Schedule 54 (DDO54), Parking Overlay, Schedule 10 (PO10) and Development Plan Overlay, Schedule 5 (DPO5).
4. The Amendment request was made to the Minister for Planning under section 20(4) of the *Planning and Environment Act 1987* (Act) and is referred to Council for comment under section 20(5) of the Act.
5. The Amendment seeks to introduce a new site specific planning control via a new schedule to the Specific Controls Overlay (SCO) and Incorporated Document (ID) 'Harbour Esplanade Precinct 140-160 Harbour Esplanade, Docklands Incorporated Document, September 2022'. The ID is a Master Plan for the site and defines the land uses, building envelope and publicly accessible areas to be delivered; with detailed development plans subject to conditions (refer Attachment 3 of report from management – Selected Plans).
6. The Master Plan proposes a development with a Gross Floor Area of 181,730 square metres across three tower envelopes. The envelopes range in height from 129 metres for Tower 1, 113 metres for Tower 2 and 90 metres for Tower 3. The envelopes make provision for publicly accessible private spaces and pedestrian links from Harbour Esplanade to the Docklands Stadium concourse.

**Key issues**

7. A higher order strategic issue arising from the proposed Amendment is the absence of current strategic plans for the surrounding precinct, including Central Pier, Harbour Esplanade and how the waterfront will better connect to the City. The proposal also seeks a significant uplift in the context of existing planning controls without the provision of a commensurate public benefit such as affordable housing and, or investment into the upgrade of Harbour Esplanade.
8. The broad design vision of the proposal to create a landmark mixed-use development that supports the city's relationship with Harbour Esplanade and to create a new destination for the Stadium Precinct is supported. However, it is considered key outstanding matters require resolution prior to the approval of any Planning Scheme Amendment.
9. Key outstanding matters include insufficient time to allow for a Design Review Panel process, community benefit, movement and wayfinding, flood mitigation, adaptive reuse, shadow analysis and wind mitigation. The recommendation outlines how these can be resolved through an updated Incorporated Document and Master Plan prior to approval of the Planning Scheme Amendment.

**Recommendation from management**

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

**Attachments:**

1. Supporting Attachment (Page 2 of 91)
2. Locality Plan (Page 3 of 91)
3. Selected Plans (Page 4 of 91)
4. Delegate Report (Page 29 of 91)

**Supporting Attachment**

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**Legal**

1. The Minister for Planning is the Planning Authority for determining this amendment request.
2. It is the responsibility of DTP on behalf of the Minister for Planning to consult with the responsible authority or any other person before exercising the powers under subsection (2) or (4) of section 20 of the Act.
3. The Minister for Planning is consulting with the Council under section 20(5) of the Act.

**Finance**

4. There are no direct financial issues arising from the recommendations contained within this report. The publicly accessible open space remains in private ownership and avoids Council responsibilities with regard to maintenance and damage.

**Conflict of interest**

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

**Health and safety**

6. Relevant planning considerations such as traffic and waste management, potential amenity impacts and potentially contaminated land that could impact on health and safety have been considered within the incorporated document application and assessment process.

**Stakeholder consultation**

7. The amendment request was made under section 20(4) of the Act and referred to the Council under section 20(5) of the Act.

**Relation to Council policy**

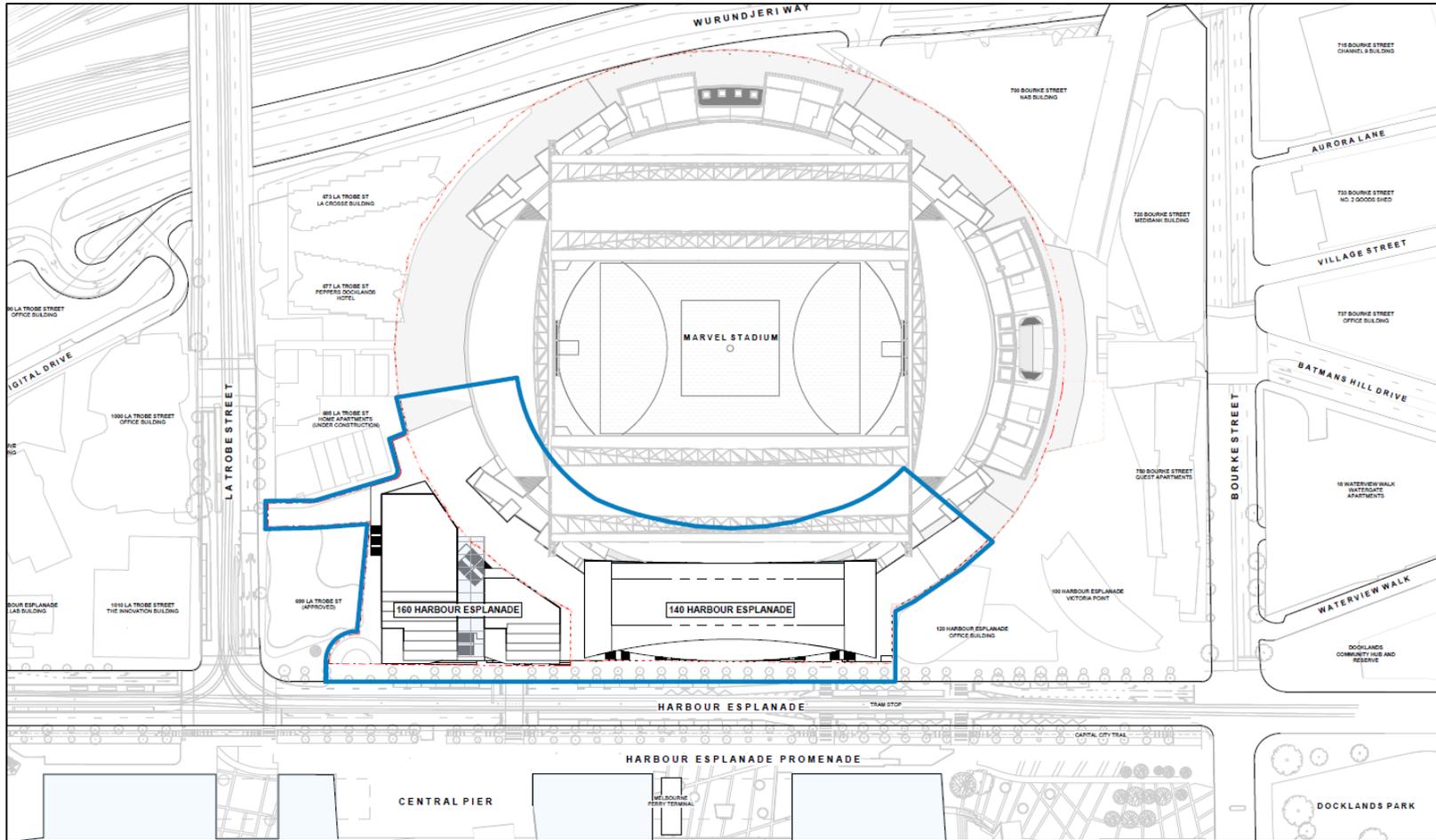
8. Relevant Council policies are discussed in the attached delegate report (refer to Attachment 4).

**Environmental sustainability**

9. The draft Incorporated Document requires the Environmentally Sustainable Design (ESD) performance standards achieve current measures and generally align with Council's proposed Melbourne Planning Scheme Amendment C376 – Sustainable Building Design.

# Locality Plan

## 140 – 160 Harbour Esplanade, Docklands



# HARBOUR ESPLANADE PRECINCT

## 140 & 160 HARBOUR ESPLANADE, DOCKLANDS DEVELOPMENT ENVELOPE DRAWINGS ISSUE FOR TOWN PLANNING

Attachment 3  
Agenda item 6.1  
Future Melbourne Committee 7  
May 2024

ARCHITECT  
**GRIMSHAW**

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SHEET NUMBER	SHEET NAME
DE00-0000	COVER SHEET
DE00-0050	SITE PLAN
DE00-0051	EASEMENT REMOVAL OR VARIATION PLAN
DE01-0010	LEVEL 1 CONCOURSE EXISTING CONDITIONS
DE01-0011	PUBLICLY ACCESSIBLE OPEN SPACE PLAN
DE01-0012	STADIUM EVENT EGRESS WIDTHS PLAN
DE01-0020	DEMOLITION AND MATERIALS RE-USE MANAGEMENT PLAN
DE02-0000	GROUND LEVEL (B3) DEVELOPMENT ENVELOPE PLAN
DE02-0001	UPPER GROUND (B2) DEVELOPMENT ENVELOPE PLAN
DE02-0002	LEVEL 1 CONCOURSE DEVELOPMENT ENVELOPE PLAN
DE02-0003	LEVEL 2 MEDALLION DEVELOPMENT ENVELOPE PLAN
DE02-0004	LEVEL 3 STADIUM DEVELOPMENT ENVELOPE PLAN
DE02-0013	LEVEL 14 DEVELOPMENT ENVELOPE PLAN
DE03-0000	WEST ELEVATION
DE04-0000	160 SECTION
DE04-0001	140 SECTION
DE49-0000	3D MASSING
DE49-0001	SHADOW DIAGRAMS



ARTIST IMPRESSIONS OF VIEW FROM HARBOUR ESPLANADE

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**DEVELOPMENT VICTORIA**

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MARKS & SPENCER (ACoustics)  
OCULUS (LANDSCAPE)  
URBES (TOWN PLANNING)  
VPAC (WIND ENGINEER)

PROJECT NAME  
**Harbour Esplanade Precinct**

PROJECT NO.  
**19256**

ADDRESS  
**140 & 160 Harbour Esplanade Docklands, Vic. 3008**

REV	BY	DATE	DESCRIPTION
A	HO	18.09.2022	Issue for Town Planning
B	HO	03.08.2022	Issue for Town Planning
C	HO	30.09.2022	Issue for Town Planning

KEY PLAN

NORTH

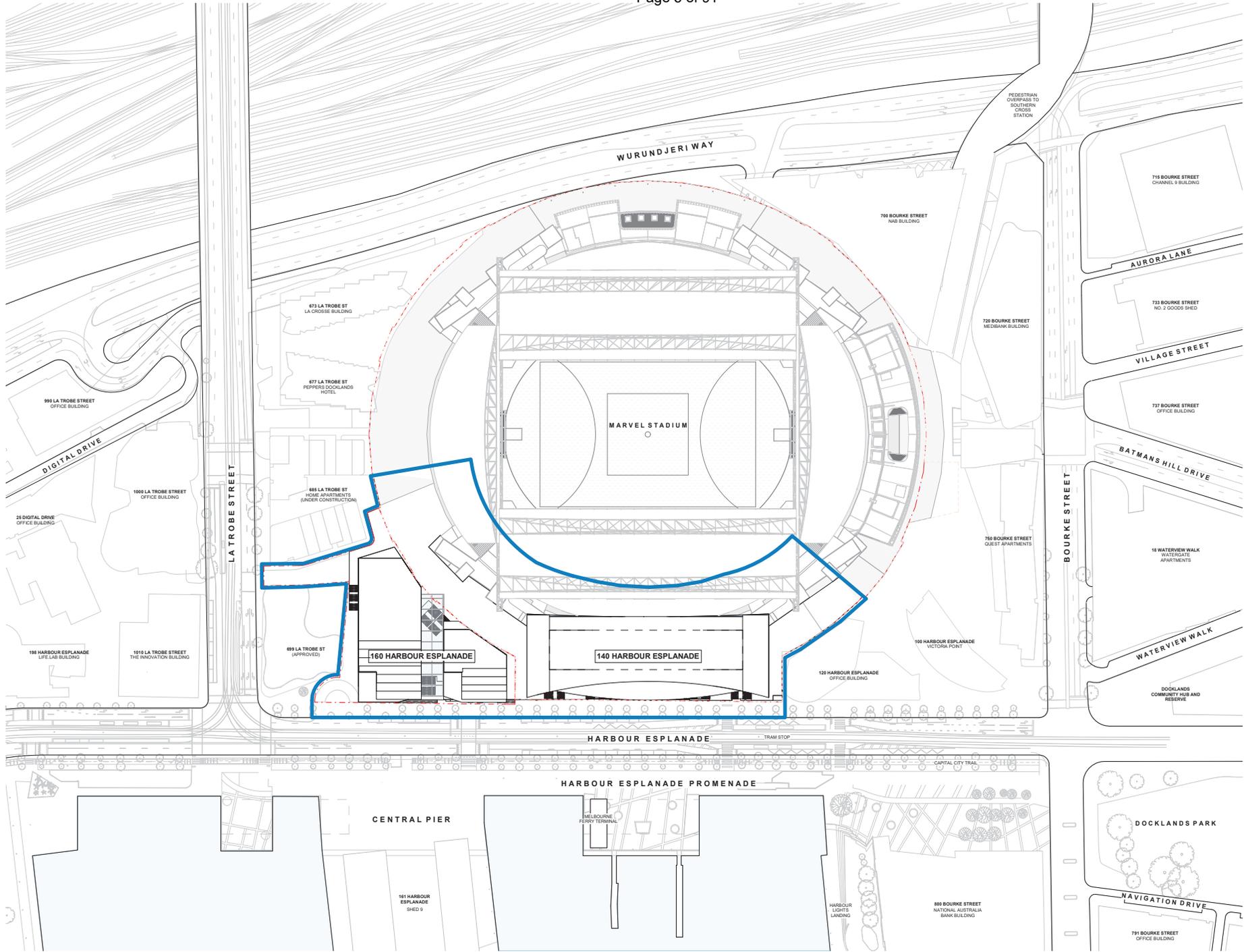
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STATUS  
**For Information**

DRW	CH	APPR	DRW DATE	REV
EF	HO	SA	30.09.2022	C

DRAWING NO.  
**DE00-0000**



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**PROJECT NAME**  
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**PROJECT NO.**  
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**ADDRESS**  
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B	HO	03.08.2022	Issue for Town Planning
C	HO	30.09.2022	Issue for Town Planning

**KEY PLAN**

**NORTH**

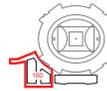
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**(E-0)** ANTICIPATE EASEMENT TO BE REMOVED OR VARIED (SUBJECT TO CONFIRMATION AT DETAILED DESIGN)  
**(A-0)** ANTICIPATE EASEMENT TO BE RETAINED (SUBJECT TO CONFIRMATION AT DETAILED DESIGN)

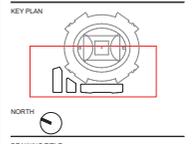
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URBIS (TOWN PLANNING)  
VPAC (WIND ENGINEER)

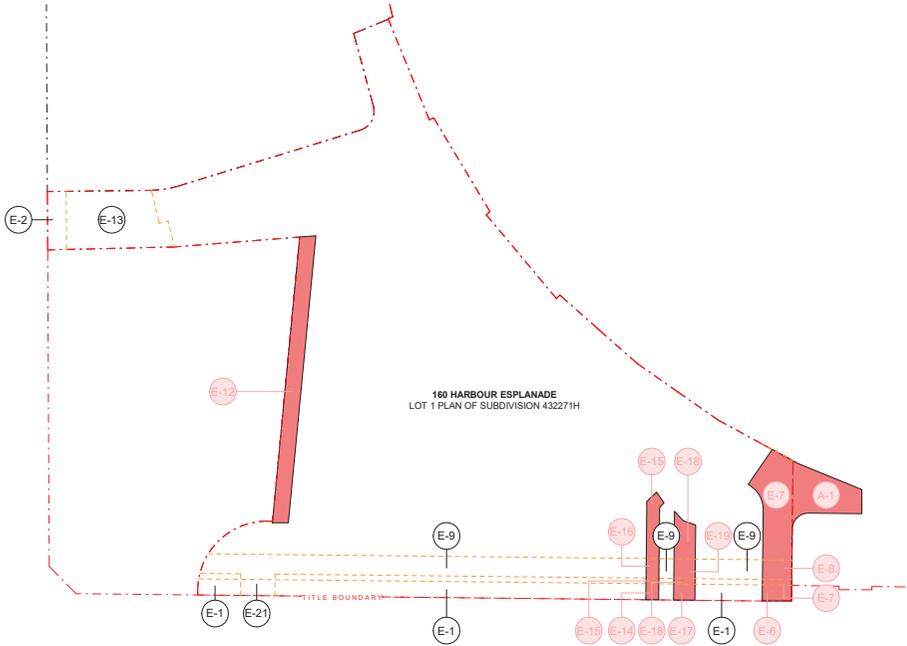
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PROJECT NO. ADDRESS  
**19256 148 & 160 Harbour Esplanade Docklands, Vic. 3008**

REV	BY	DATE	DESCRIPTION
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B	HO	03.08.2022	Issue for Town Planning
C	HO	30.09.2022	Issue for Town Planning



DRAWING TITLE  
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**AMR HO SA 30.09.2022 C**  
DRAWING NO.  
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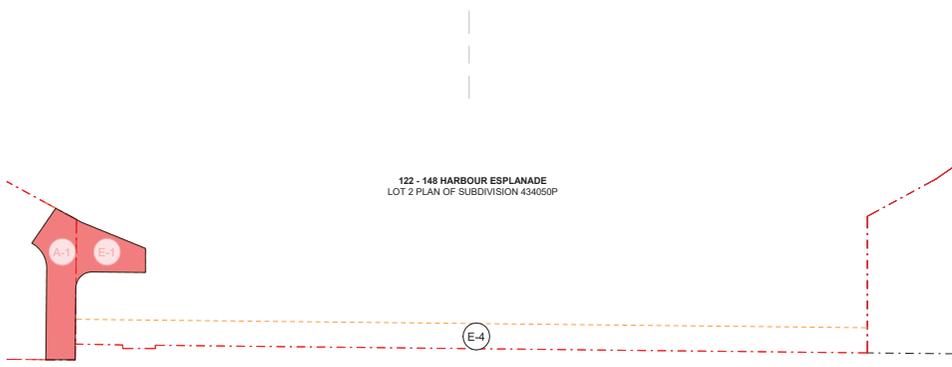


**1 EASEMENT REMOVAL OR VARIATION PLAN - 160 HARBOUR ESPLANADE**  
1 : 500

**160 Harbour Esplanade (Lot 1 Plan of Subdivision 432271H)**

E - ENCUMBERING EASEMENT		
A - APPURTENANT EASEMENT		
(A-1)	WAY	ANTICIPATED TO BE REMOVED OR VARIED
(E-1)	WATER SUPPLY + SEWERAGE	ANTICIPATED TO BE RETAINED
(E-2)	WATER SUPPLY + SEWERAGE, WAY	ANTICIPATED TO BE RETAINED
(E-6)	WAY, WATER SUPPLY + SEWERAGE	ANTICIPATED TO BE REMOVED OR VARIED
(E-7)	WAY	ANTICIPATED TO BE REMOVED OR VARIED
(E-8)	WAY, DRAINAGE	ANTICIPATED TO BE REMOVED OR VARIED
(E-9)	DRAINAGE	ANTICIPATED TO BE RETAINED
(E-12)	FOOTWAY	ANTICIPATED TO BE REMOVED OR VARIED
(E-13)	WAY	ANTICIPATED TO BE RETAINED
(E-14)	UNDERGROUND POWERLINE, WATER SUPPLY + SEWERAGE	ANTICIPATED TO BE REMOVED OR VARIED
(E-15)	UNDERGROUND POWERLINE	ANTICIPATED TO BE REMOVED OR VARIED
(E-16)	UNDERGROUND POWERLINE, DRAINAGE	ANTICIPATED TO BE REMOVED OR VARIED
(E-17)	CARRIAGEWAY, WATER SUPPLY + SEWERAGE	ANTICIPATED TO BE REMOVED OR VARIED
(E-18)	CARRIAGEWAY	ANTICIPATED TO BE REMOVED OR VARIED
(E-19)	CARRIAGEWAY, DRAINAGE	ANTICIPATED TO BE REMOVED OR VARIED
(E-21)	WATER SUPPLY + SEWERAGE, DRAINAGE	ANTICIPATED TO BE RETAINED

**2 EASEMENTS - 160 HARBOUR ESPLANADE**  
1 : 500



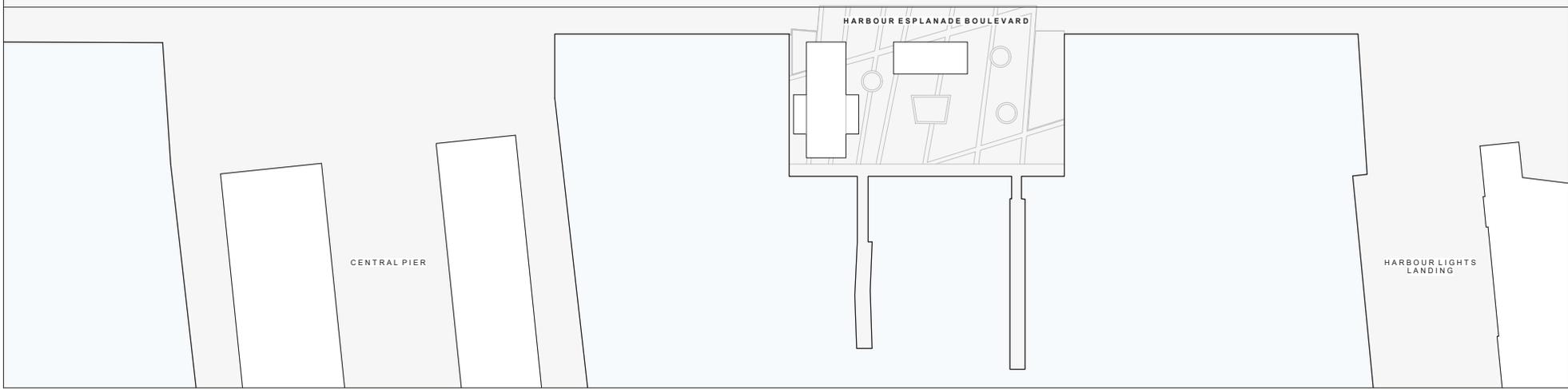
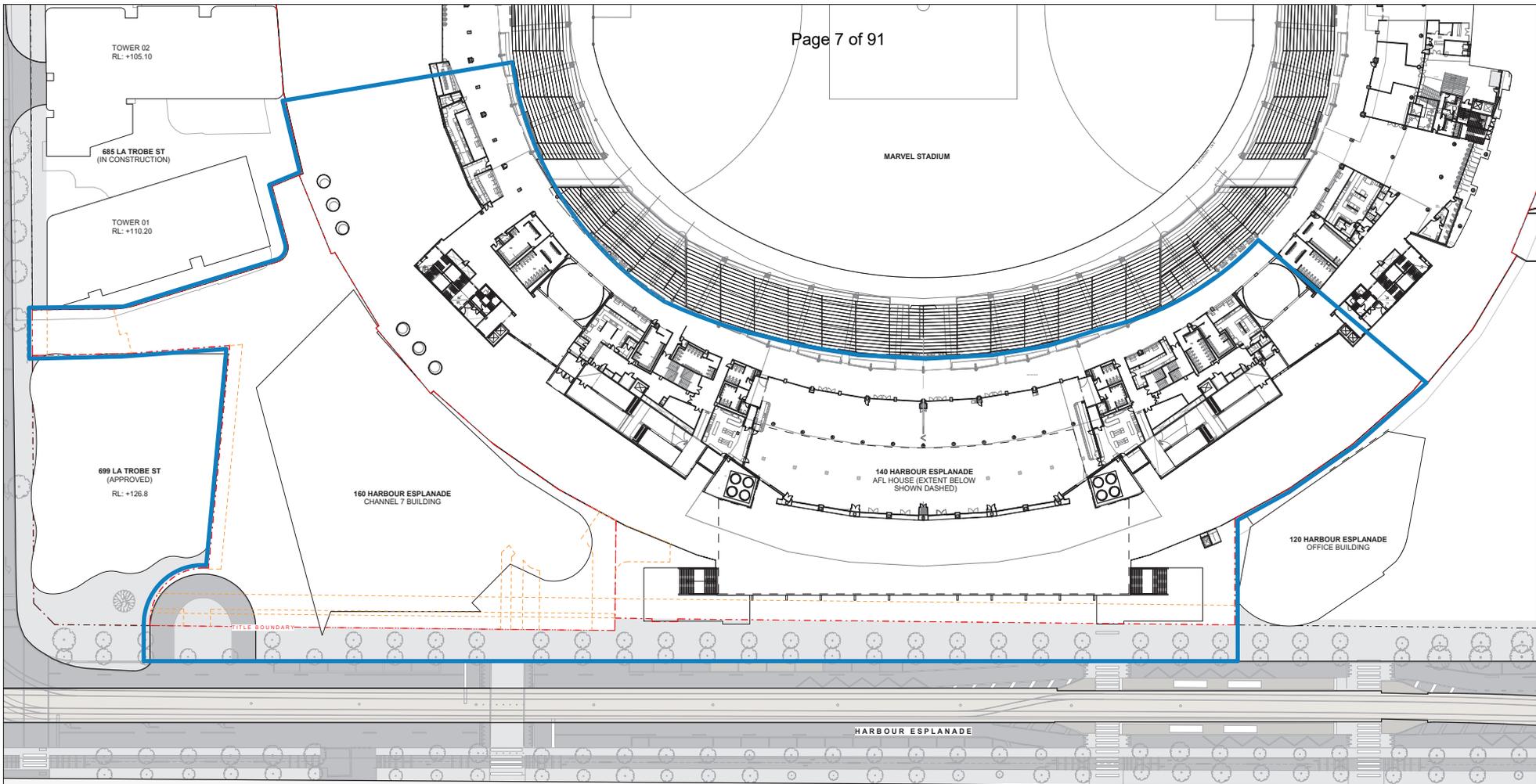
**2 EASEMENT REMOVAL OR VARIATION PLAN - 122 - 148 HARBOUR ESPLANADE**  
1 : 500



**122-148 Harbour Esplanade (Lot 2 Plan of Subdivision 434050P)**

E - ENCUMBERING EASEMENT		
A - APPURTENANT EASEMENT		
(A-1)	WAY	ANTICIPATED TO BE REMOVED OR VARIED
(E-1)	WAY	ANTICIPATED TO BE REMOVED OR VARIED
(E-4)	DRAINAGE	ANTICIPATED TO BE RETAINED

**2 EASEMENTS - 122 - 148 HARBOUR ESPLANADE**  
1 : 500



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**LEGEND**  
 - - - TITLE BOUNDARY  
 — SCOPE BOUNDARY  
 - - - EXISTING EASEMENTS

**CLIENT**  
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 AIRP/TRANSPORT/WASTE/LOGISTICS  
 SUSTAINABILITY  
 MARSHALL DAY (ACOUSTICS)  
 OCULUS (LANDSCAPE)  
 MURIEL (TOWN PLANNING)  
 VPAC (WIND ENGINEER)

**PROJECT NAME**  
 Harbour Esplanade Precinct

**PROJECT NO.**  
 19256

**ADDRESS**  
 140 & 160 Harbour Esplanade Docklands, Vic. 3008

REV	BY	DATE	DESCRIPTION
A	HO	18.05.2022	Issue for Town Planning
B	HO	03.08.2022	Issue for Town Planning
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**KEY PLAN**

**DRAWING TITLE**  
 LEVEL 1 CONCOURSE EXISTING CONDITIONS

**SCALE**  
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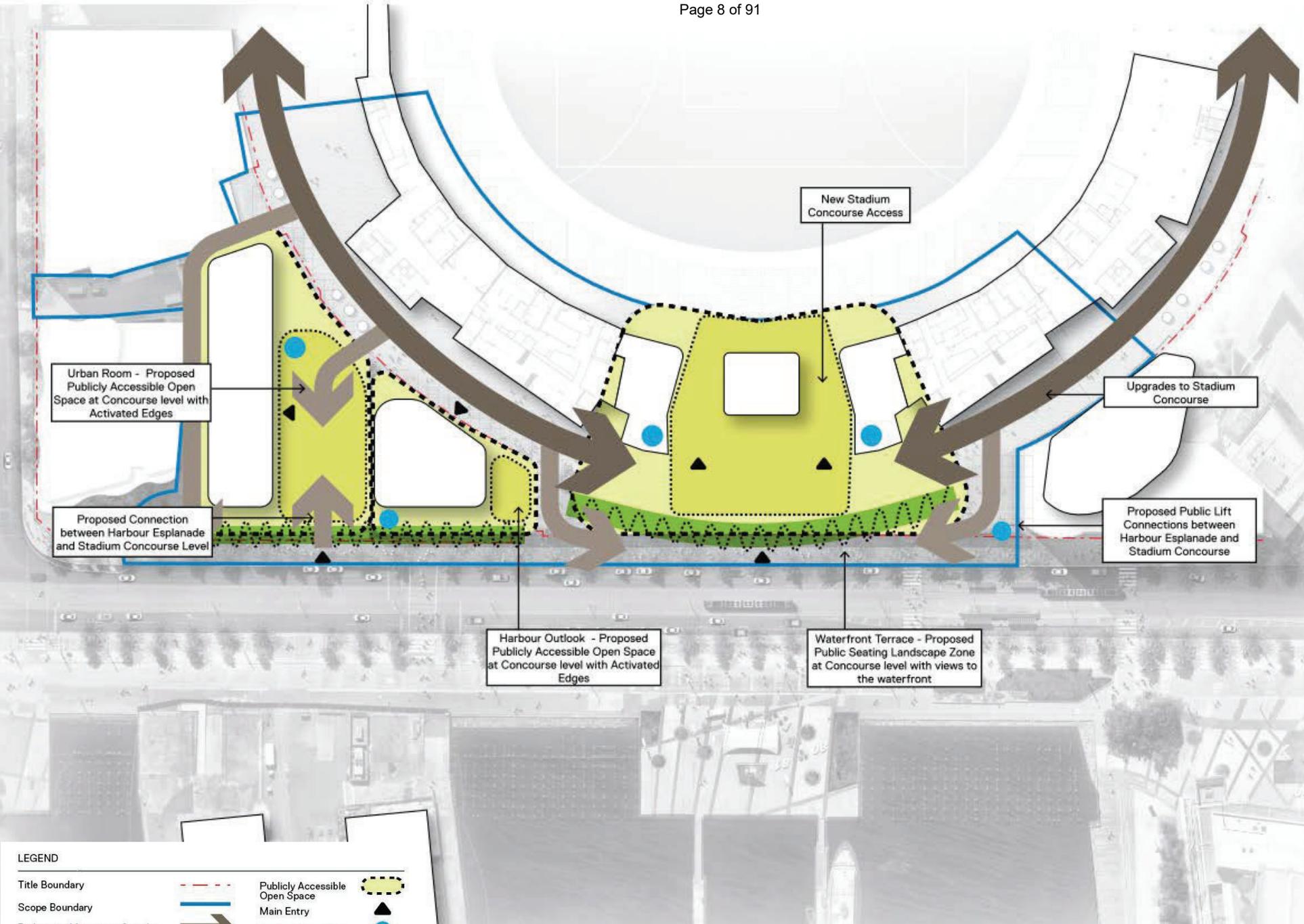
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Urban Room - Proposed Publicly Accessible Open Space at Concourse level with Activated Edges

Proposed Connection between Harbour Esplanade and Stadium Concourse Level

New Stadium Concourse Access

Upgrades to Stadium Concourse

Proposed Public Lift Connections between Harbour Esplanade and Stadium Concourse

Harbour Outlook - Proposed Publicly Accessible Open Space at Concourse level with Activated Edges

Waterfront Terrace - Proposed Public Seating Landscape Zone at Concourse level with views to the waterfront

**LEGEND**

- Title Boundary
- Scope Boundary
- Pedestrian Movement Corridor
- Stair Access / Egress
- Activated Edges
- Publicly Accessible Open Space
- Main Entry
- Vertical Circulation

PUBLICLY ACCESSIBLE OPEN SPACE PLAN PROVIDES AN OVERVIEW OF B3 (HARBOUR ESPLANADE) TO LEVEL 01 (CONCOURSE)

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 OCULUS (LANDSCAPE)  
 URBIS (TOWN PLANNING)  
 VPAC (WIND ENGINEER)

PROJECT NAME  
**Harbour Esplanade Precinct**

PROJECT NO. 19256 ADDRESS 145 & 160 Harbour Esplanade Docklands, Vic. 3008

REV	BY	DATE	DESCRIPTION
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C	HO	30.09.2022	Issue for Town Planning

KEY PLAN

NORTH

DRAWING TITLE  
**PUBLICLY ACCESSIBLE OPEN SPACE PLAN**

SCALE @ A1 STATUS For Information

DRW	CH	APPR	DRW DATE	REV
EF	HO	SA	30.09.2022	C

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**DE01-0011**

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- LEGEND**
- - - TITLE BOUNDARY
  - SCOPE BOUNDARY
  - - - EXTENT OF INTERNAL CONCOURSE
  - - - MINIMUM EGRESS WIDTHS
  - PROPOSED DEVELOPMENT
  - PROPOSED - PUBLIC REALM
  - ▲ MAIN ENTRY
  - ➡ STAIR ACCESS / EGRESS
  - ➡ STADIUM EGRESS ROUTE
  - ✳ VERTICAL TRANSPORT NODE

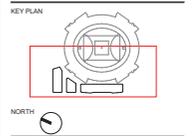
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 MARSHALL DAY (ACOUSTICS)  
 OCELAB (LANDSCAPE)  
 HURST (TOWN PLANNING)  
 WPAAC (WIND ENGINEER)

**PROJECT NAME**  
 Harbour Esplanade Precinct

**PROJECT NO.** 19256 **ADDRESS** 143 & 148 Harbour Esplanade Docklands, Vic. 3008

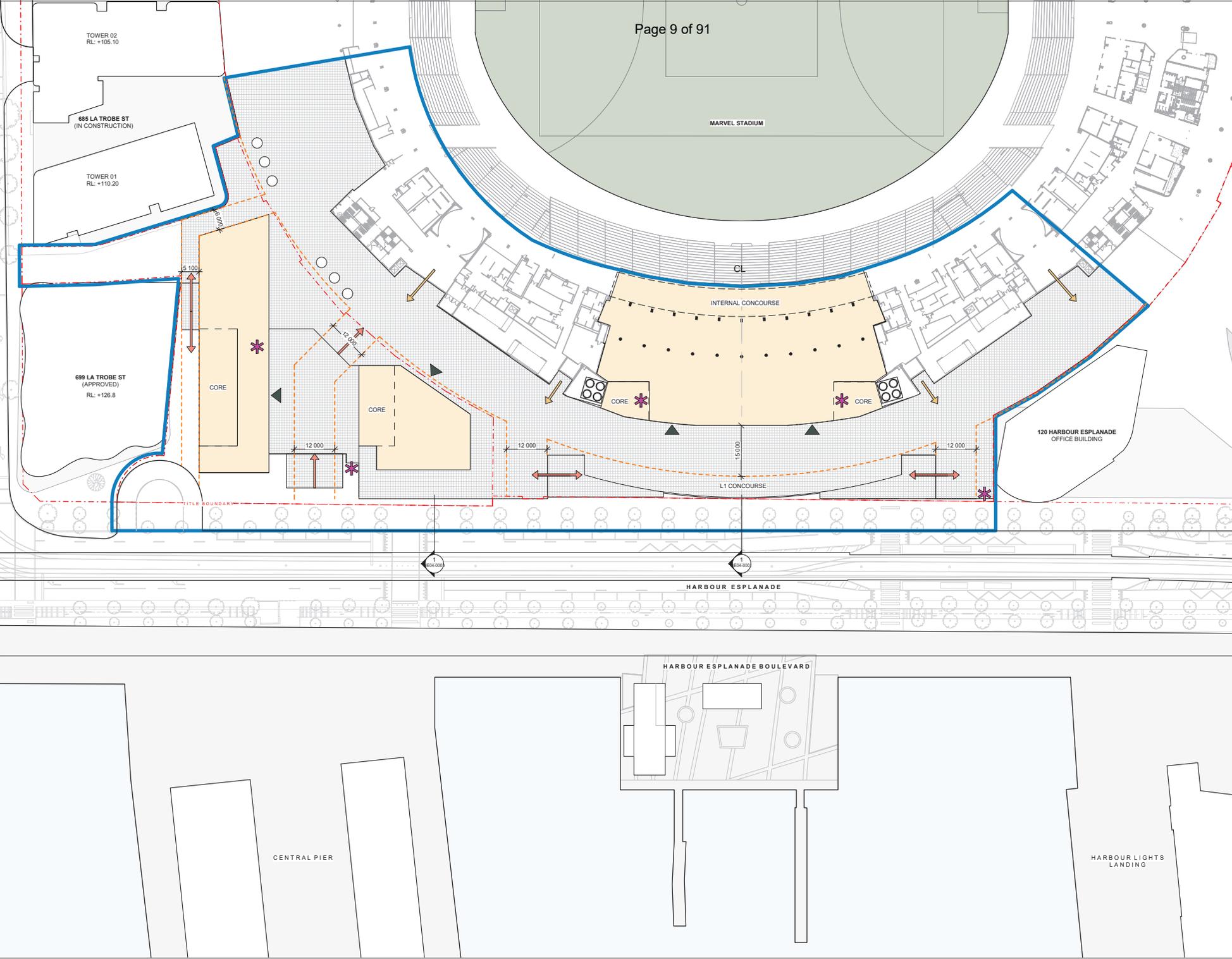
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C	HO	30.09.2022	Issue for Town Planning



**DRAWING TITLE**  
 STADIUM EVENT EGRESS WIDTHS PLAN  
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AMR	HO	SA	30.09.2022	C

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- LEGEND
- - - TITLE BOUNDARY
  - SCOPE BOUNDARY
  - - - EASEMENTS
  - DEMOLITION

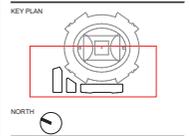
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 AMIP (TRANSPORT, WASTE, LOGISTICS)  
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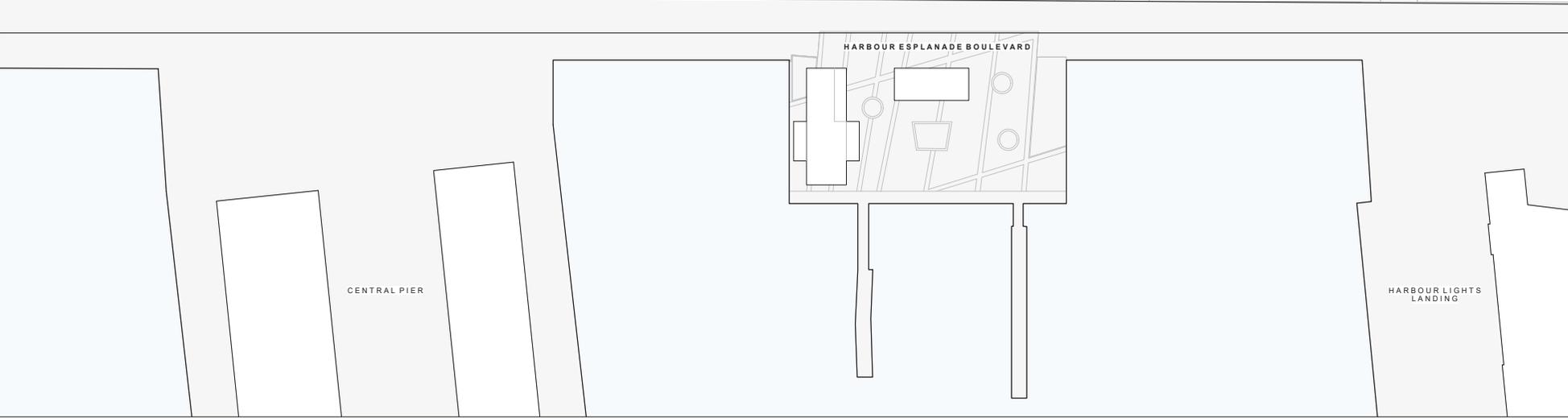
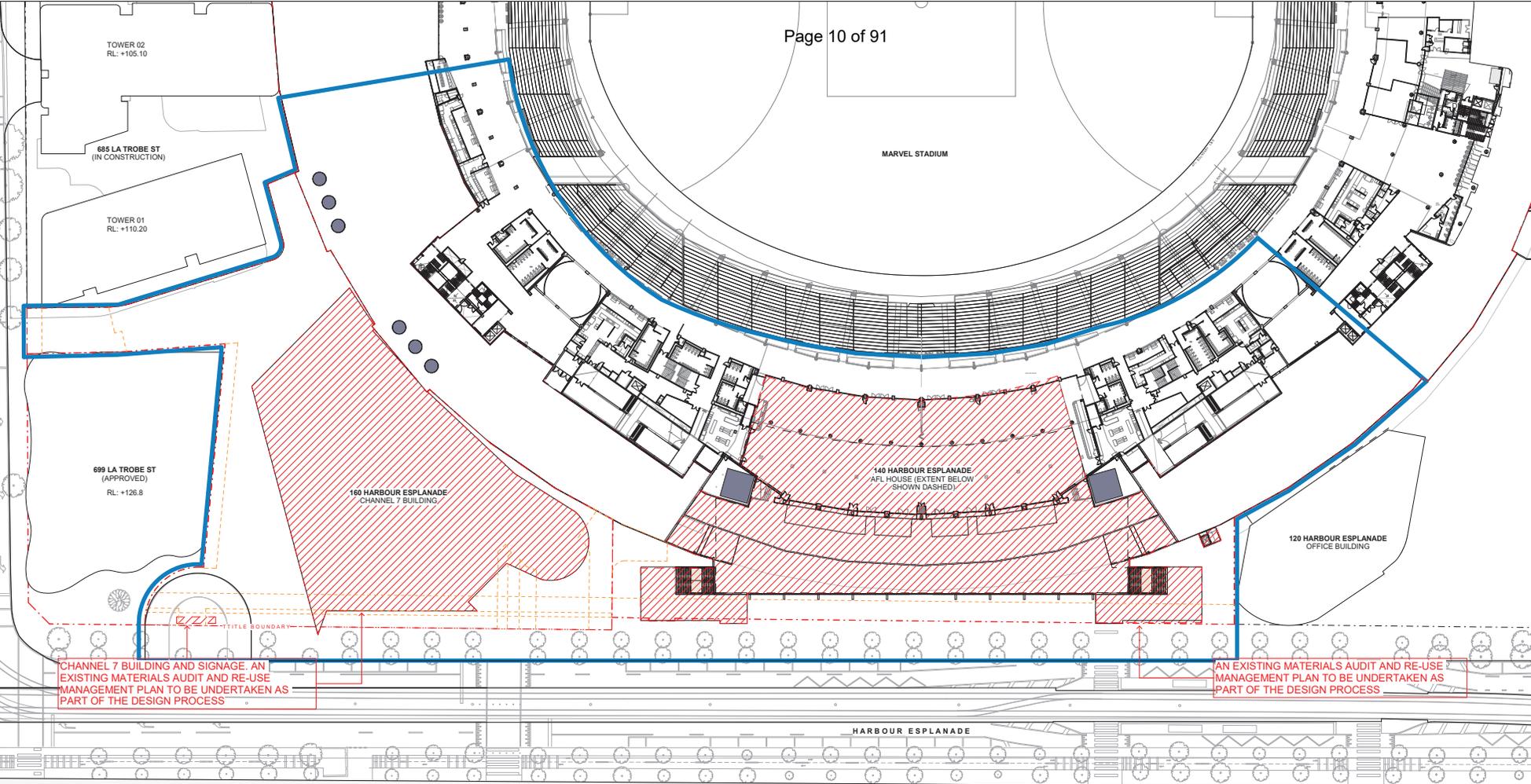


DRAWING TITLE  
**DEMOLITION AND MATERIALS RE-USE MANAGEMENT PLAN**

SCALE STATUS  
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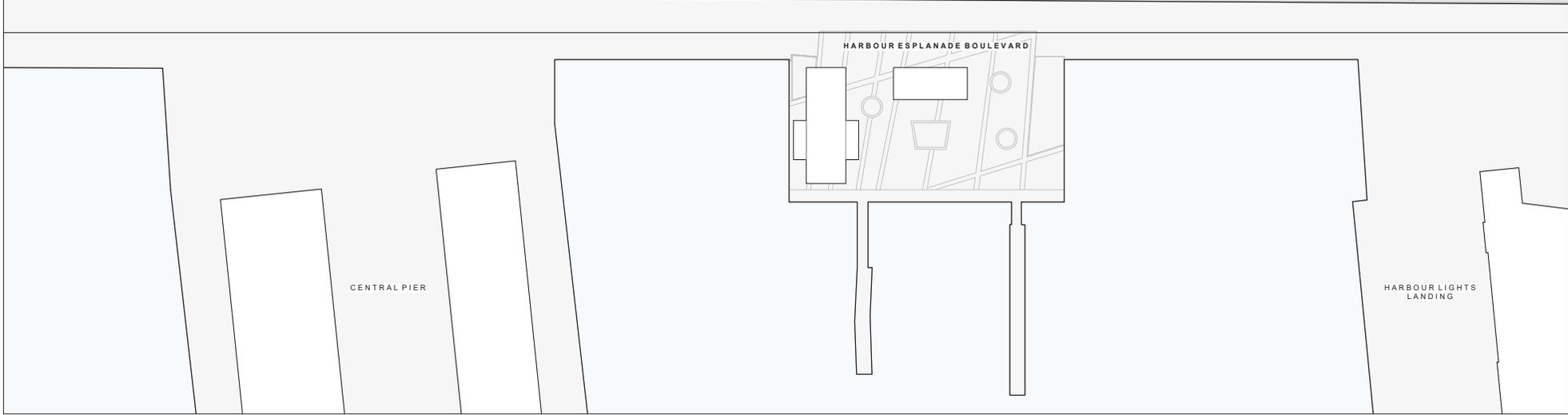
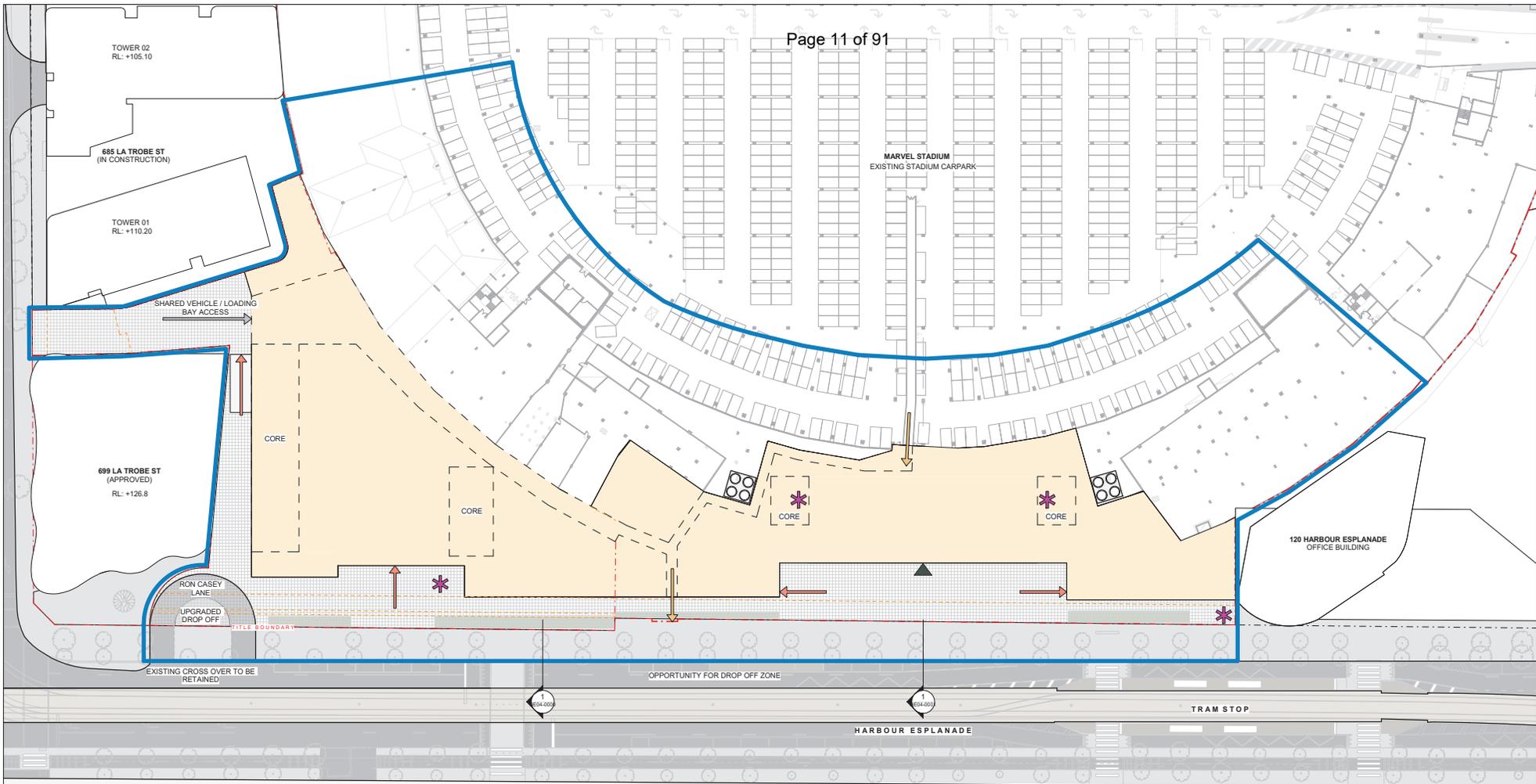
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DRAWING NO.  
**DE01-0020**



CHANNEL 7 BUILDING AND SIGNAGE. AN EXISTING MATERIALS AUDIT AND RE-USE MANAGEMENT PLAN TO BE UNDERTAKEN AS PART OF THE DESIGN PROCESS

AN EXISTING MATERIALS AUDIT AND RE-USE MANAGEMENT PLAN TO BE UNDERTAKEN AS PART OF THE DESIGN PROCESS



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- SCOPE BOUNDARY
- - - EASEMENTS
- PROPOSED DEVELOPMENT
- PROPOSED - PUBLIC REALM
- PROPOSED - LANDSCAPE ZONE
- ▲ MAIN ENTRY
- ↔ STAIR ACCESS / EGRESS
- ↔ STADIUM EGRESS ROUTE
- \* VERTICAL TRANSPORT NODE

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 ARUP (TRANSPORT, WASTE, LOGISTICS, SUSTAINABILITY)  
 MARSHALL DAY (ACOUSTICS)  
 OCULUS (LANDSCAPE)  
 URS (TRANSPORT)  
 VPAC (WIND ENGINEER)

**PROJECT NAME**  
**Harbour Esplanade Precinct**

**PROJECT NO.** 19256 **ADDRESS** 145 & 168 Harbour Esplanade Docklands, Vic. 3008

REV	BY	DATE	DESCRIPTION
A	HO	18.05.2022	Issue for Town Planning
B	HO	03.08.2022	Issue for Town Planning
C	HO	30.09.2022	Issue for Town Planning

**KEY PLAN**

**DRAWING TITLE**  
**GROUND LEVEL (B3) DEVELOPMENT ENVELOPE PLAN**

**SCALE** 1 : 500 @ A1 **STATUS** For Information

DRW	CH	APPR	DRW DATE	REV
EF	HO	SA	30.09.2022	C

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  - ▩ PROPOSED - TRANSITION ZONE
  - ▲ MAIN ENTRY
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  - ➔ STADIUM EGRESS ROUTE
  - ✳ VERTICAL TRANSPORT NODE

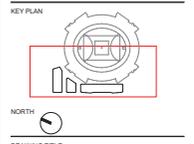
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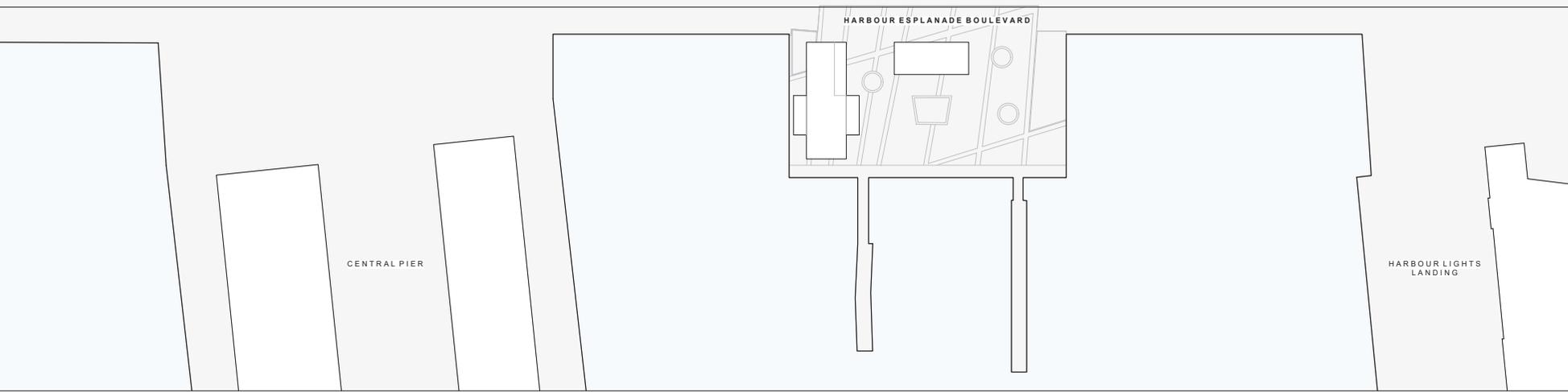
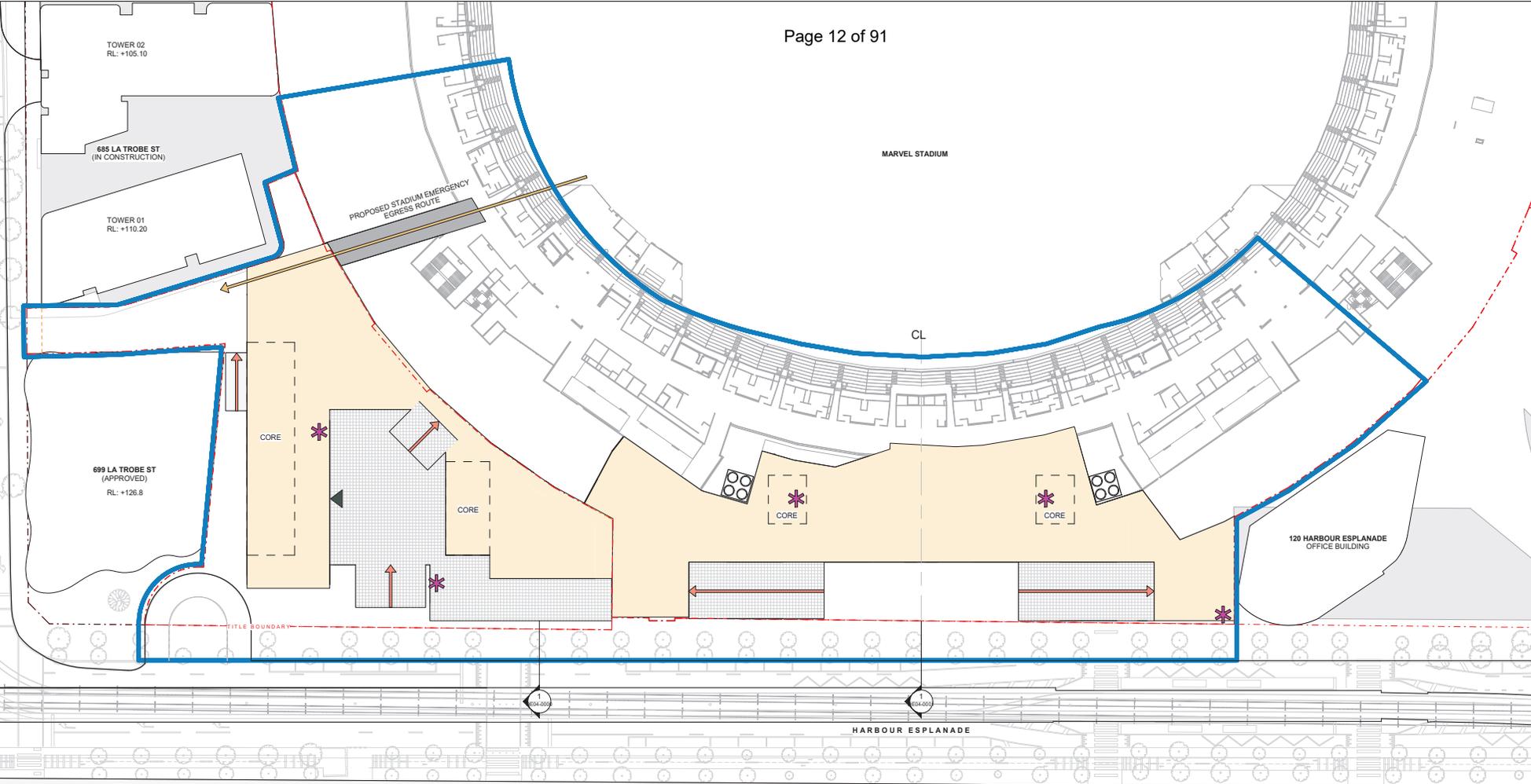


DRAWING TITLE  
**UPPER GROUND (B2) DEVELOPMENT ENVELOPE PLAN**

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  - PROPOSED DEVELOPMENT
  - PROPOSED - PUBLIC REALM
  - PROPOSED - TRANSITION ZONE
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  - ▶ STAIR ACCESS / EGRESS
  - ▶ STADIUM EGRESS ROUTE
  - \* VERTICAL TRANSPORT NODE

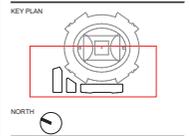
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 MARVEL DAY (ACOUSTICS)  
 OCELAB (LANDSCAPE)  
 URBAN FORM PLANNING (URBAN)  
 WPAK (WIND ENGINEER)

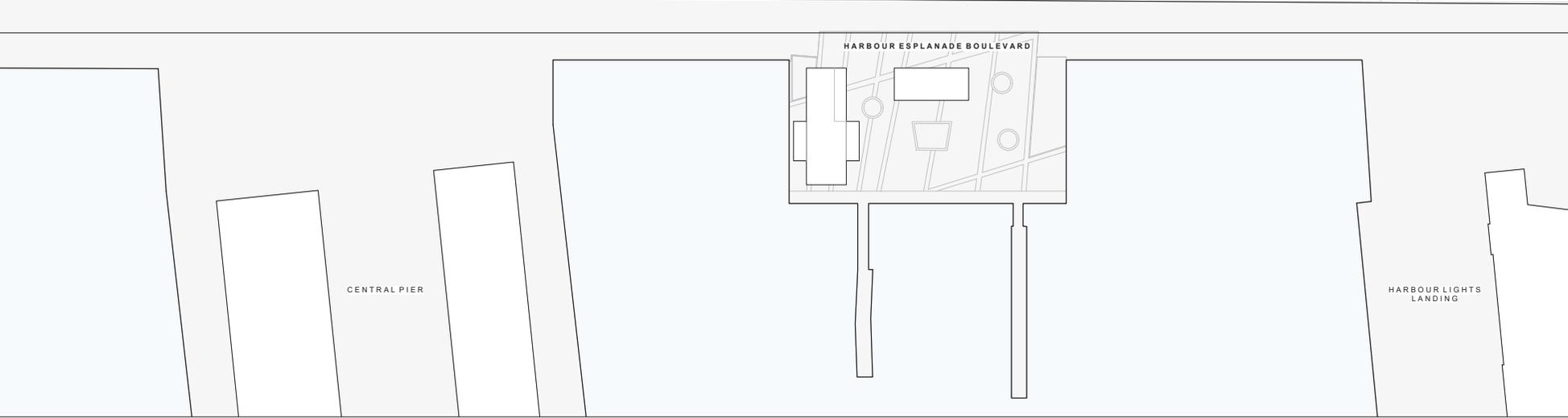
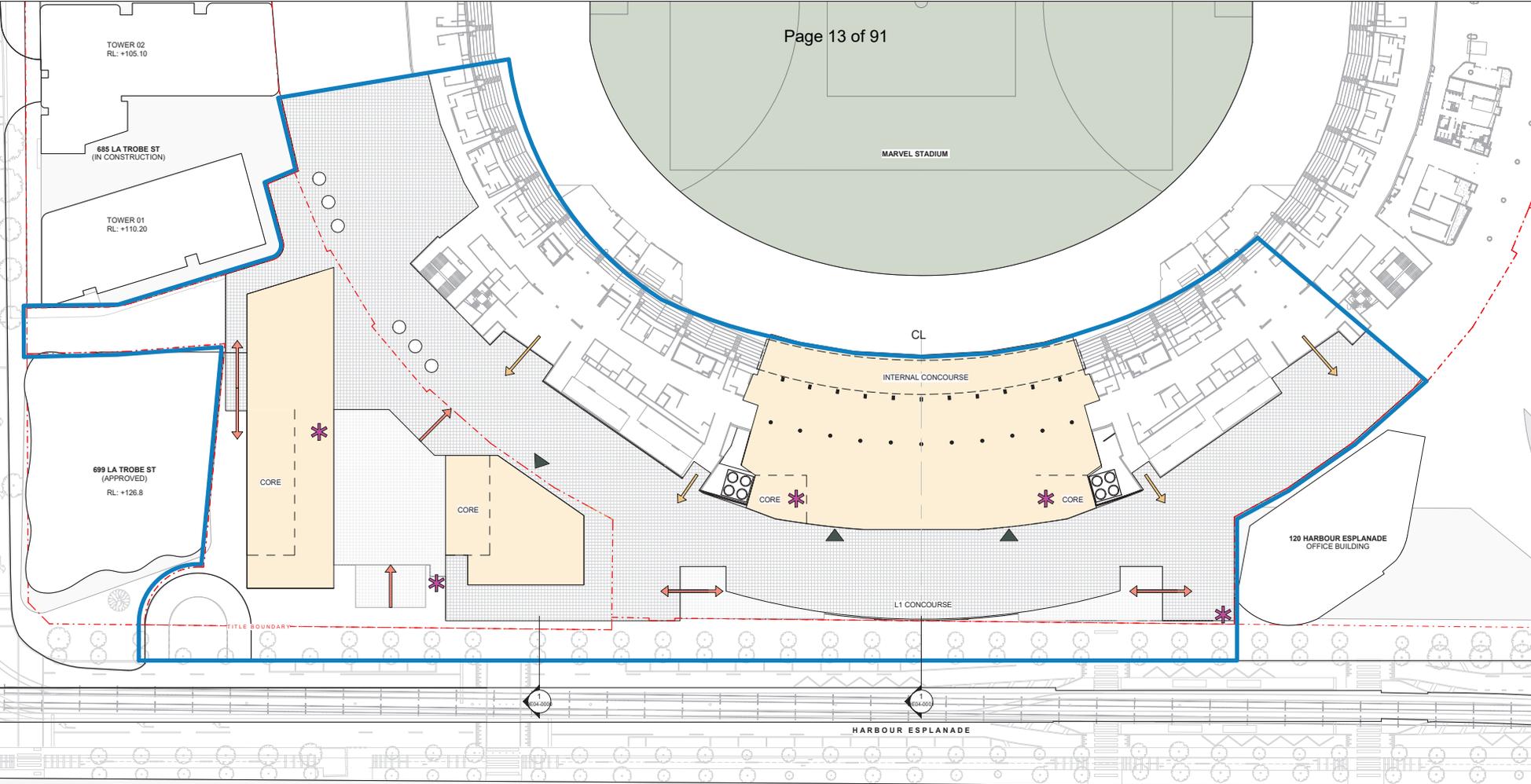
PROJECT NAME  
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PROJECT NO. 19256 ADDRESS 143 & 148 Harbour Esplanade Docklands, Vic. 3008

REV	BY	DATE	DESCRIPTION
A	HO	18.05.2022	Issue for Town Planning
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DRAWING TITLE  
**LEVEL 1 CONCOURSE DEVELOPMENT ENVELOPE PLAN**  
 SCALE 1 : 500 @ A1 STATUS For Information  
 DRW CH APPR DRW DATE REV  
 EF HO SA 30.09.2022 C  
 DRAWING NO. DE02-0002



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  - PROPOSED DEVELOPMENT
  - PROPOSED - PUBLIC REALM
  - PROPOSED - TRANSITION ZONE

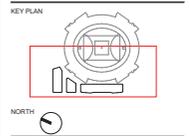
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PROJECT NAME  
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PROJECT NO. 19256 ADDRESS 140 & 160 Harbour Esplanade Docklands, Vic. 3008

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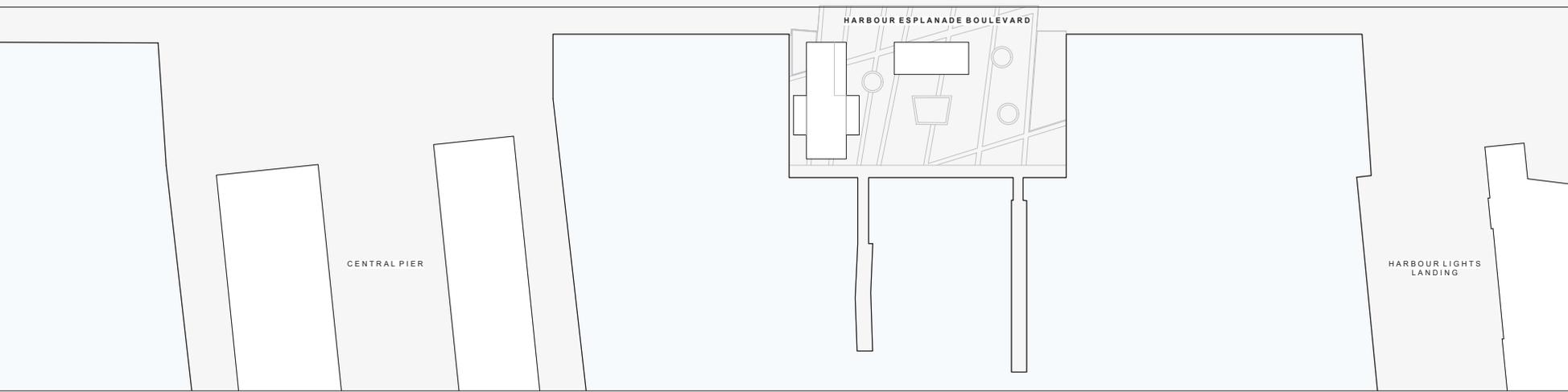
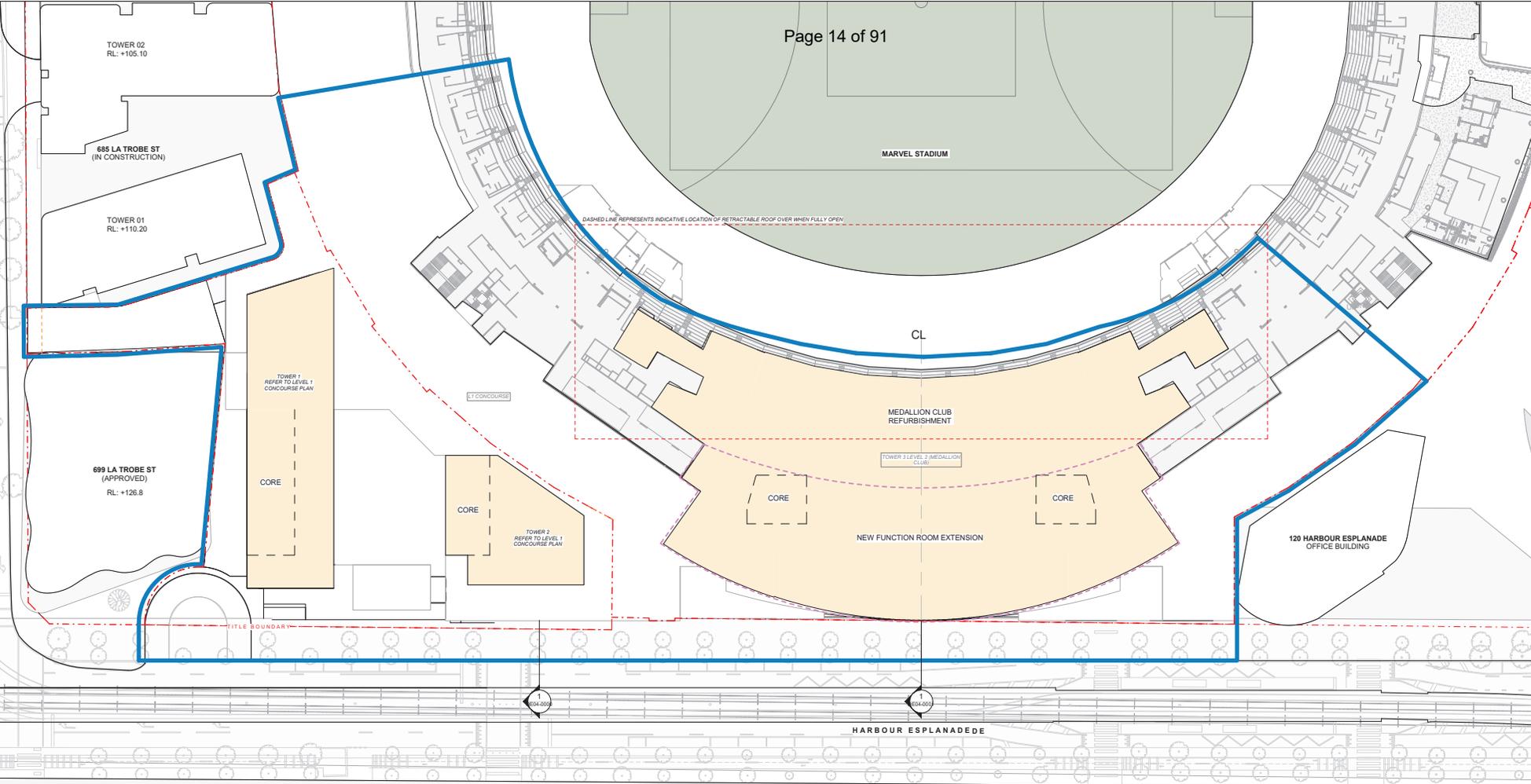


DRAWING TITLE  
**LEVEL 2 MEDALLION DEVELOPMENT ENVELOPE PLAN**

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- - - TITLE BOUNDARY
  - PROPOSED DEVELOPMENT
  - ▨ CORE SETBACK - TOWER 1 + 2
  - ▩ PUBLIC OPEN SPACE ZONE
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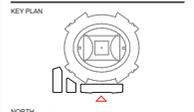
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 URBIS (TOWN PLANNER)  
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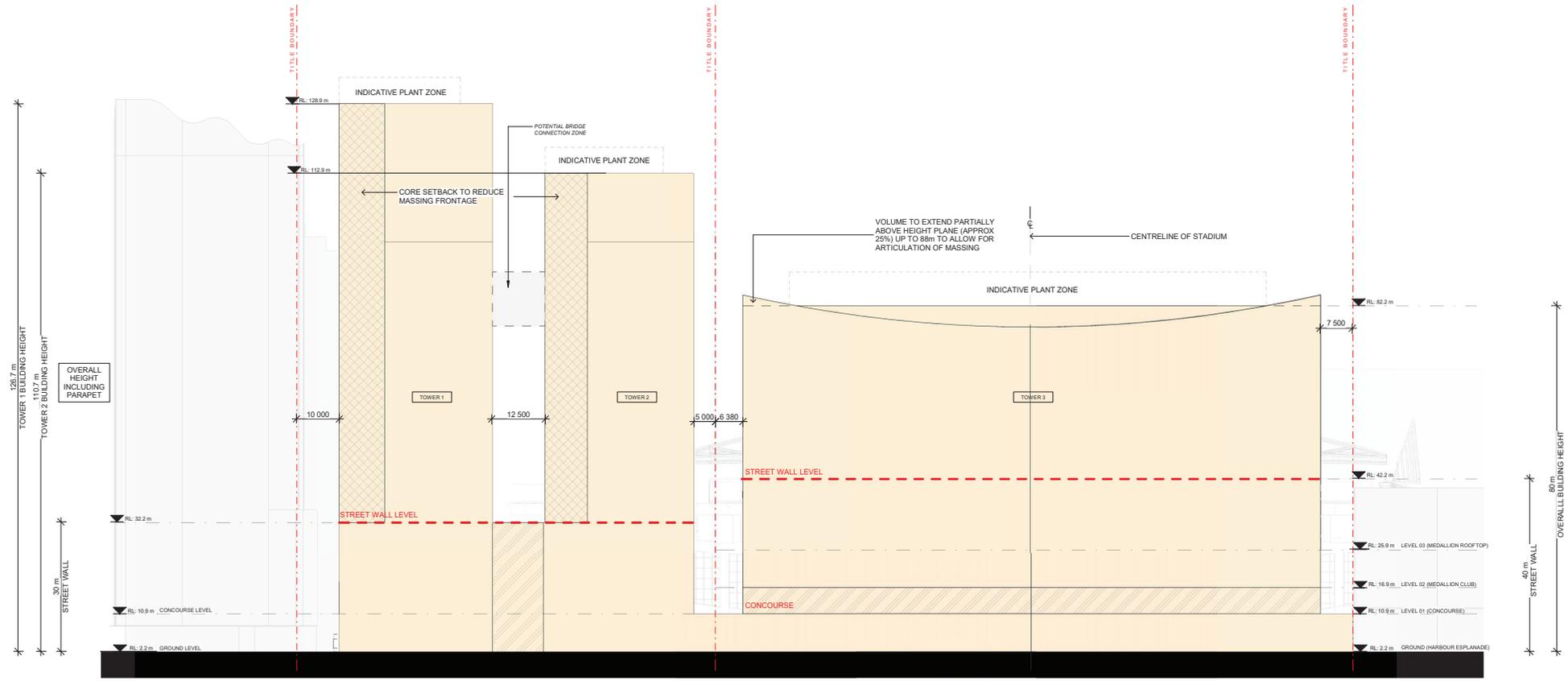


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**WEST ELEVATION**

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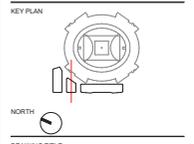
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 OCULUS (LANDSCAPE)  
 URBIS (TOWN PLANNER)  
 VPAC (WIND ENGINEER)

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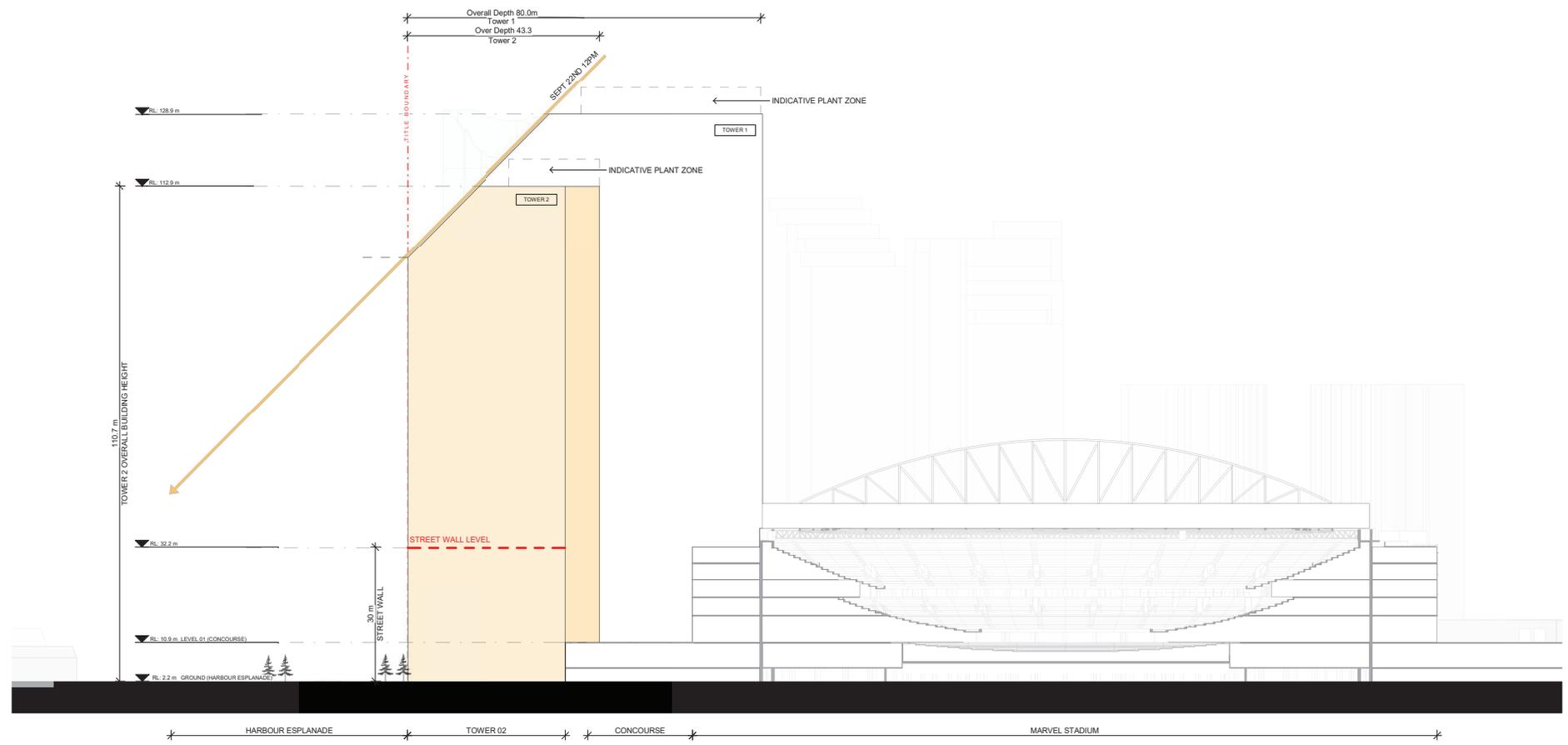
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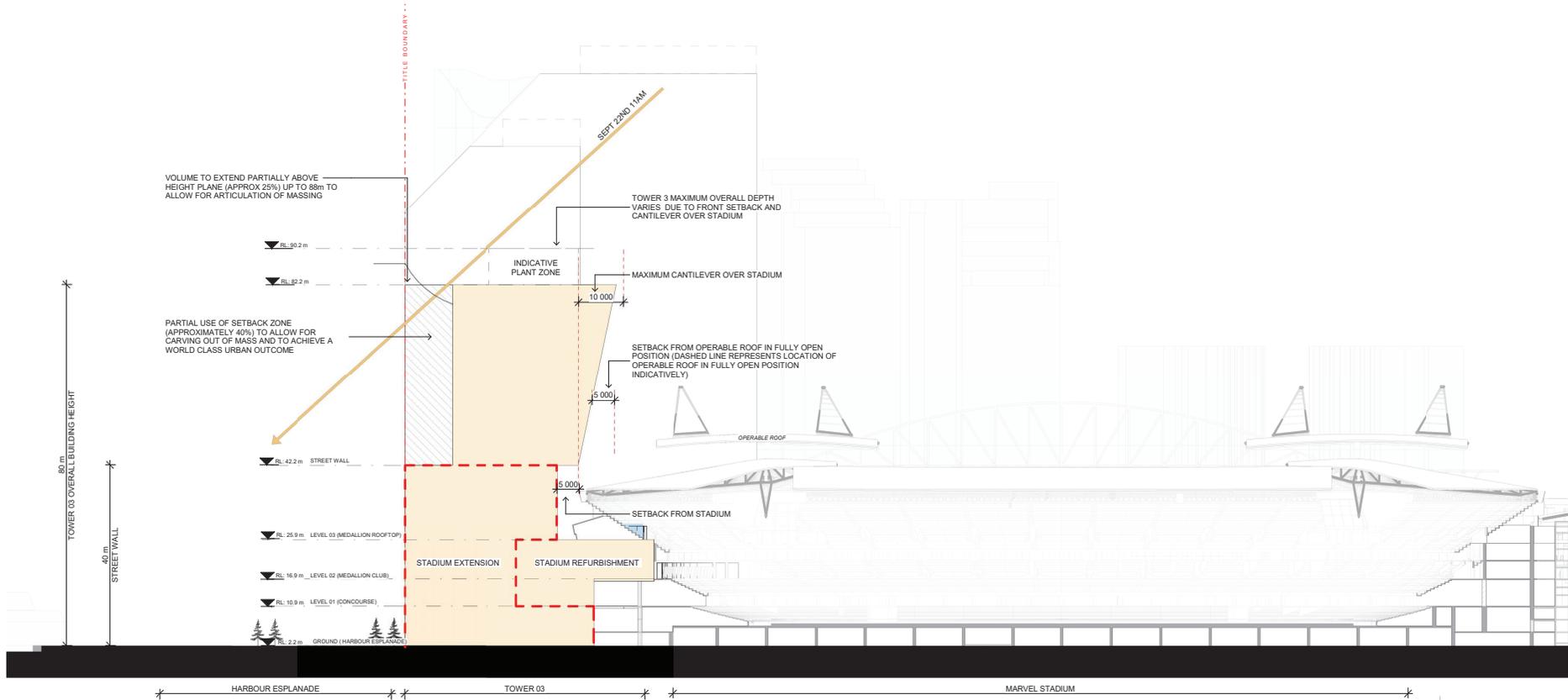
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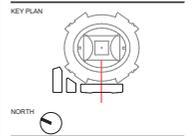
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**DRAWING TITLE**  
 140 SECTION

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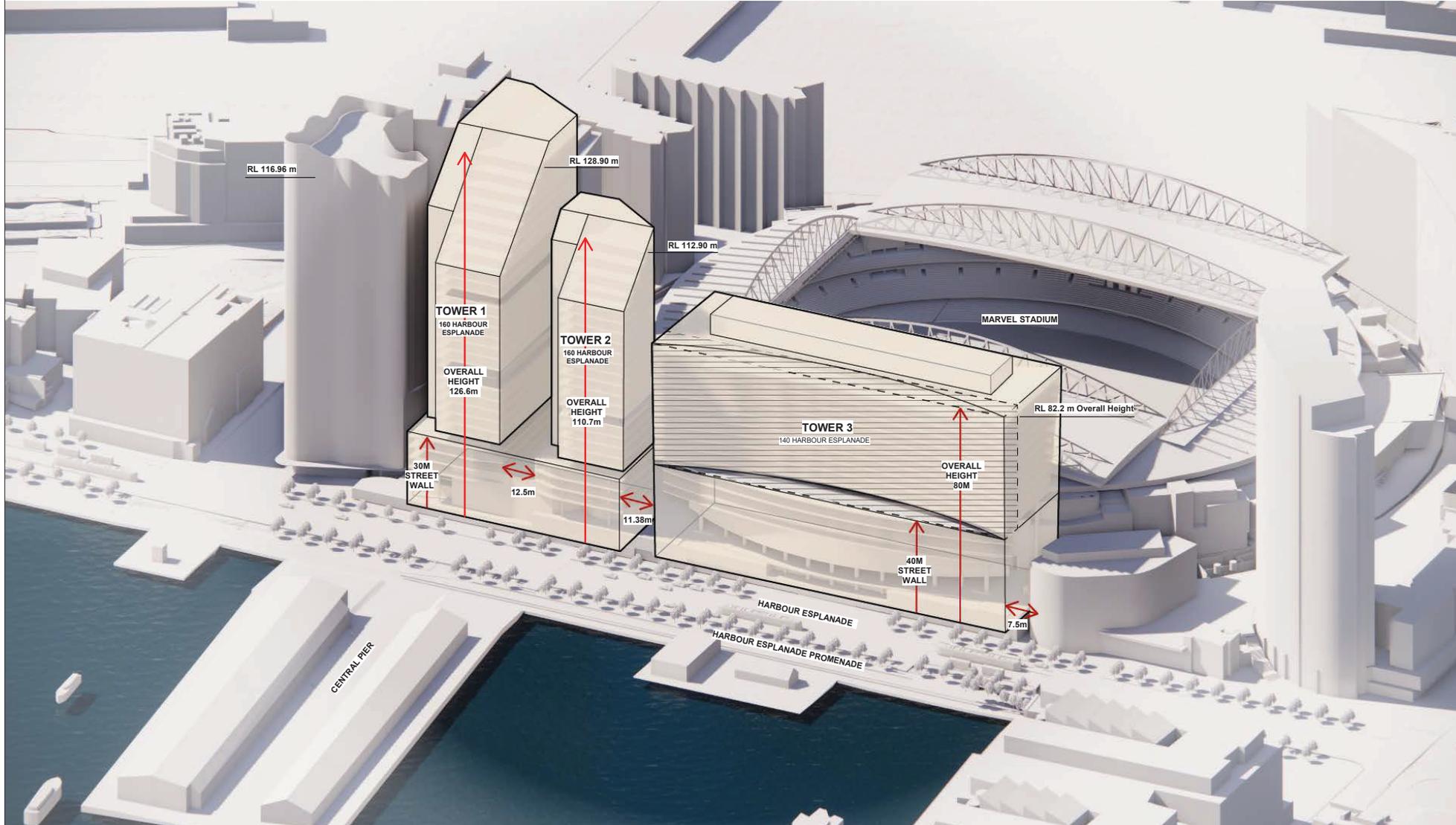
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KEY PLAN

NORTH

DRAWING TITLE  
**3D MASSING**

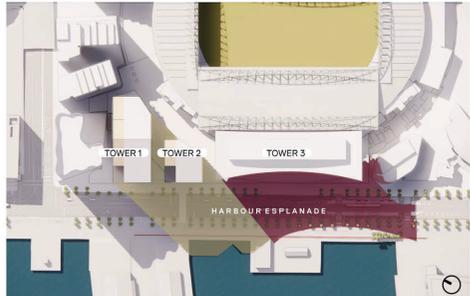
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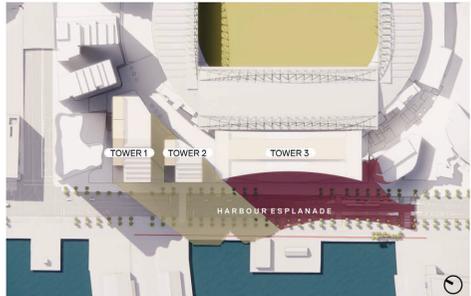
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September 22nd - 11am Indicative Shadows



September 22nd - 11:15am Indicative Shadows



September 22nd - 11:30am Indicative Shadows



September 22nd - 11:45pm Indicative Shadows



September 22nd - 12pm Indicative Shadows



September 22nd - 1pm Indicative Shadows



September 22nd - 2pm Indicative Shadows



September 22nd - 3pm Indicative Shadows

**LEGEND**

- TOWER 03 SHADOWS
- TOWER 01 + 02 SHADOWS
- EXISTING + APPROVED PROJECTS SHADOWS
- DEMARCATION OF DEDICATED PEDESTRIAN PATH ON HARBOUR ESPLANADE WEST FOR SHADOW STUDY ASSESSMENT



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OCULUS SANDBOX  
URBS (TOWN PLANNER)  
SPAC (WIND ENGINEER)

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**PROJECT NO.** 19256 **ADDRESS** 140 & 160 Harbour Esplanade, Docklands, Vic. 3008

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SHADOW DIAGRAMS

**SCALE** @ A1 **STATUS** For Information

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**DRAWING NO.** DE49-0001

# 140-160 Harbour Esplanade Precinct

MASTER PLAN AND  
URBAN CONTEXT REPORT

REV C - SEPTEMBER 2022

## 4.0 HARBOUR ESPLANADE PRECINCT (HEP) PRINCIPLES



## 4.0 HEP PRINCIPLES

### 4.1 OVERALL APPROACH

Harbour Esplanade Precinct is a unique development for Docklands, Victoria Harbour, Docklands Stadium and Melbourne.

The ambition is to create a landmark mixed use development that reinvents the city's relationship with Harbour Esplanade and creates a new destination in the urban civic landscape of one of the world's most liveable cities.

It will be a contribution to the future skyline looking towards the city, creating a new harbour-side precinct and high quality public realm for Docklands.



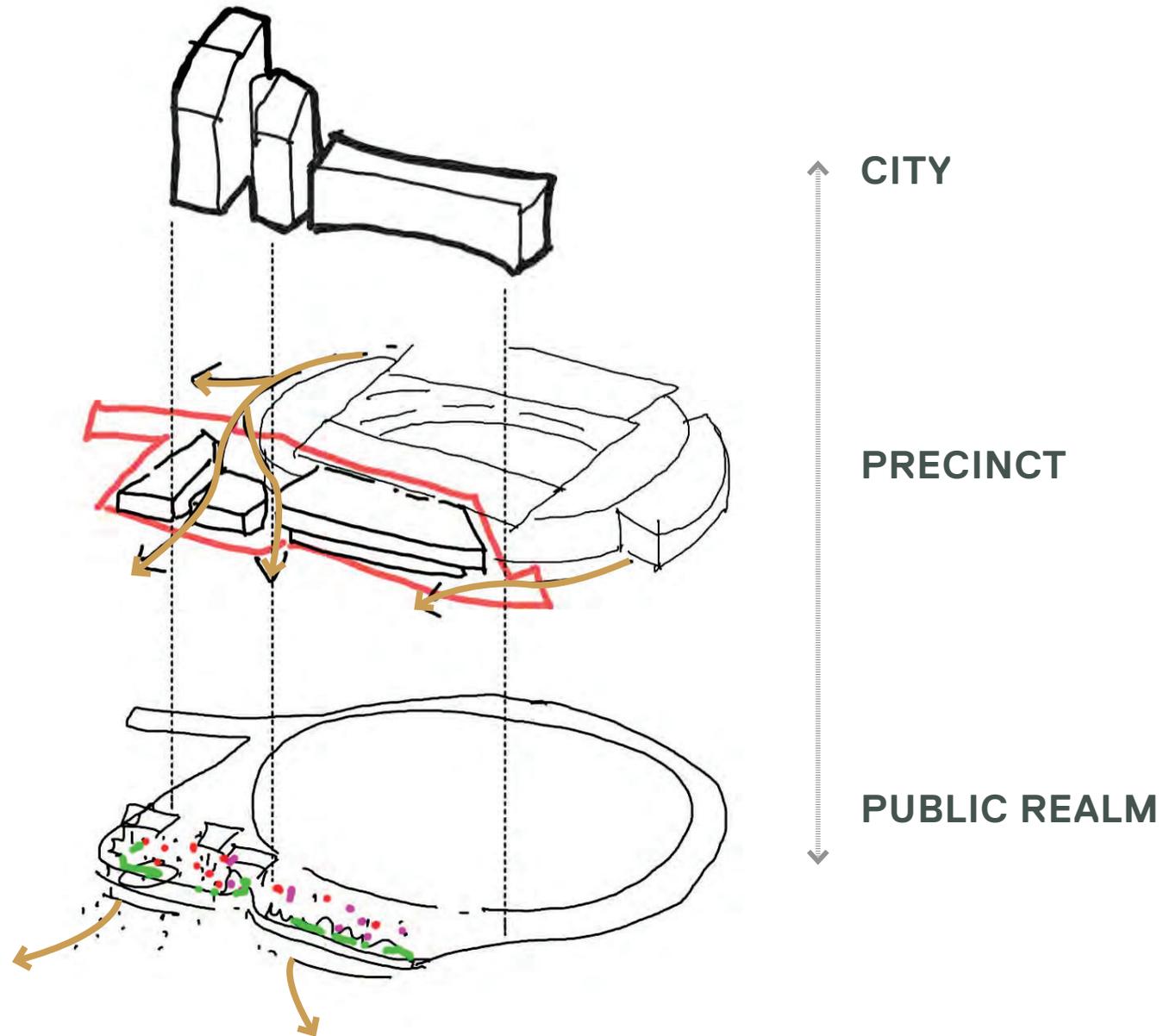
Figure 4.1.13 Creating a new landmark harbour side destination

### 4.0 HEP PRINCIPLES

#### 4.1 OVERALL APPROACH

This report outlines for HEP the principles from a city to a human scale:

- The City
- The Precinct
- The Public Realm



LEGEND

Pedestrian Circulation →

Figure 4.1.14 Overall approach diagram

## 4.0 HEP PRINCIPLES

### 4.1 OVERALL APPROACH

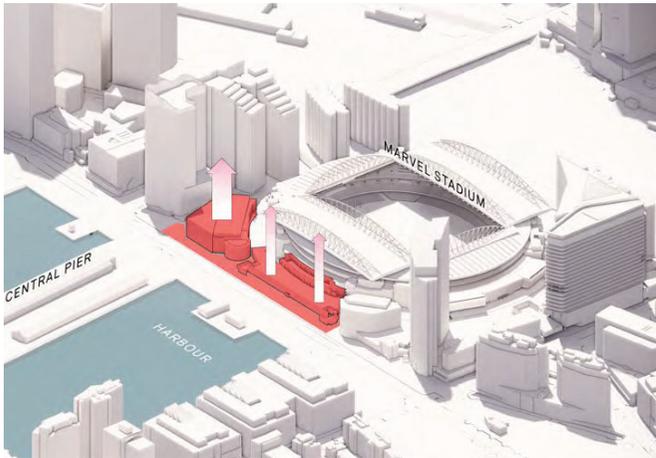


Figure 4.1.15 - 1 Existing conditions

Combine existing sites to create opportunity



Figure 4.1.16 - 2 Connected Public Realm

Create a continuous and active ground realm from stadium concourse down to the Esplanade, Central Pier and Harbour-side



Figure 4.1.17 - 3 A Civic edge to the Esplanade

Create a green civic spine along the Esplanade, providing new public space and mixed use terraces. A new civic precinct for Melbourne, its high quality civic experience will redefine the city's connection to the harbour.

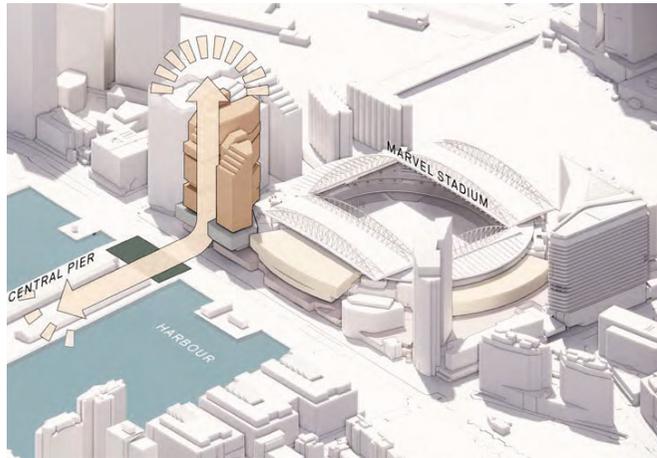


Figure 4.1.18 - 4 Towers positioned adjacent to Central Pier

Place a set of towers for Harbour Esplanade adjacent to Central Pier. The towers embrace a shared weather protected public space. New mixed use, retail and F&B will create a new harbour-side destination.

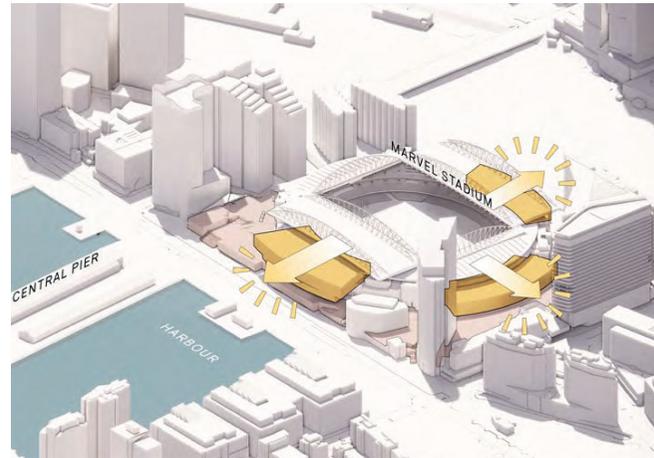


Figure 4.1.19 - 5 Extend the stadium to the Harbour

Extend the stadium to Harbour Esplanade as the next phase of the stadium upgrade and create a landmark expressive of the stadium:

- Open up the stadium and new entrance at concourse level to engage the esplanade and harbour
- Create a new address directly on Harbour Esplanade
- Create a new 1000 seat function room
- A new outdoor terrace for the GA patrons
- Upgrades to on B2 for additional escape from pitch

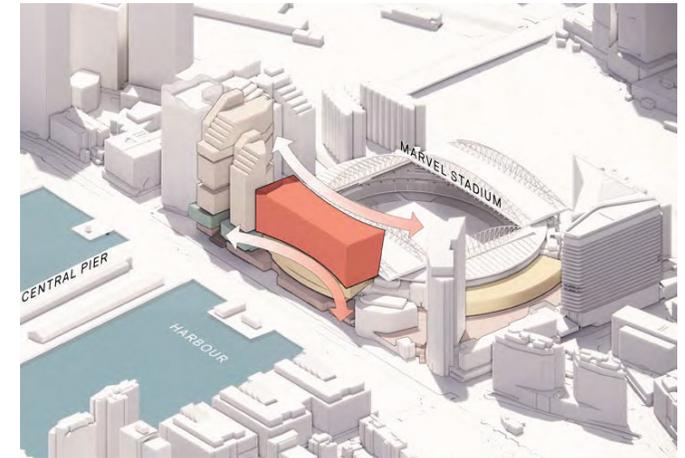


Figure 4.1.20- 6 A New Landmark Stadium

Create a new front door for the stadium through the further redevelopment of Marvel Stadium. A new 'landmark' building, will add to the iconic skyline view of a future Docklands and city beyond, continuing the current east and southern wing redevelopments to the stadium.

## PLANNING REPORT

### MINISTERIAL REFERRAL

<b>Application number:</b>	<b>ID-2024-2</b>
<b>DTP Application number:</b>	Amendment C438melb
<b>Applicant:</b>	Development Victoria and the Australian Football League c/- Urbis
<b>Owner:</b>	Development Victoria and the Australian Football League
<b>Architect:</b>	Grimshaw Architects (Master Plan only)
<b>Address:</b>	140-160 Harbour Esplanade, Docklands
<b>Proposal:</b>	Planning Scheme Amendment C438melb which seeks to facilitate the redevelopment of the western edge of the Stadium Precinct in Docklands via an Incorporated Document and application of a Specific Controls Overlay
<b>Cost of works:</b>	Not applicable
<b>Date received by City of Melbourne:</b>	7 February 2024
<b>Responsible officer:</b>	Xavier Livy
<b>Report Date:</b>	23 April 2024

#### 1. EXECUTIVE SUMMARY

On 7 February 2024 Council received notice from the Minister for Planning of an application from Development Victoria and the Australian Football League to prepare, adopt and approve Planning Scheme Amendment C438melb under section 20(4) of the Planning and Environment Act 1987.

The amendment seeks to facilitate the redevelopment of the western edge of the Stadium Precinct in Docklands. The development would deliver three towers atop a shared concourse with an expanded public realm that integrates with the Docklands Stadium and Harbour Esplanade. A mix of uses are envisaged, including office, retail, accommodation and other uses associated with Docklands Stadium.

Before making a decision about whether to proceed with the proposed draft Amendment, the Minister for Planning is undertaking consultation under section 20(5) of the *Planning and Environment Act 1987* to understand the views of affected parties, which include the City of Melbourne.

Council Officers are supportive of the broad vision of the proposal which is to create a landmark mixed-use development that supports the city's relationship with Harbour Esplanade and to create a new destination for the Stadium Precinct and Docklands Precinct more broadly. However, there is an absence of any up-to-date strategic

documents for the precinct and the draft Amendment does not provide sufficient strategic justification particularly with regard to how it responds to Central Pier and the waterfront. In addition the proposal seeks a significant uplift in the context of existing planning controls without the provision of a commensurate public benefit such as affordable housing and / or investment into the upgrade of Harbour Esplanade.

The purpose of this report, is to provide a Council position on the draft Amendment and to identify matters which should be resolved prior to the Minister for Planning determining Planning Scheme Amendment C438.

## 2. SUBJECT SITE AND SURROUNDS

### 2.1. The Site

Planning Scheme Amendment C438melb (**Application**) relates to 140 Harbour Esplanade and 160 Harbour Esplanade, Docklands (**Site**). The Site is formally identified as:

- A portion of the land known as 140 Harbour Esplanade, Docklands, described in Certificate of Title Volume 10629 Folio 289 and contained within Lot 2 on Plan of Subdivision 434050P.
- All of the land known as 160 Harbour Esplanade, Docklands, described in Certificate of Title Volume 10805 Folio 727 and contained within Lot 1 of Plan of Subdivision 432271H.

The Site is located on the eastern side of Harbour Esplanade with 669 La Trobe Street to the north, Marvel Stadium to the east and 120 Harbour Esplanade to the south. The Site slopes downwards from east to west with a frontage to Harbour Esplanade of approximately 230 metres, and a total site area of approximately 8,000 square metres.

The Site is developed with the existing Channel 7 building, concourse area and associated access points to Harbour Esplanade and La Trobe Street. The Site includes the existing Stadium Access Road (a private road) which connects La Trobe Street to the Marvel Stadium.

The submitted certificates of title indicate that the Site is burdened by a series of water, sewerage, electricity and drainage easements. The Site is also burdened by number of agreements under Section 173 the *Planning and Environment Act 1987*, Section 24(2) of the *Docklands Authority Act 1991* and Section 162 of the *Building Act 1993*. The agreements primarily seek to manage access within the Stadium Precinct.

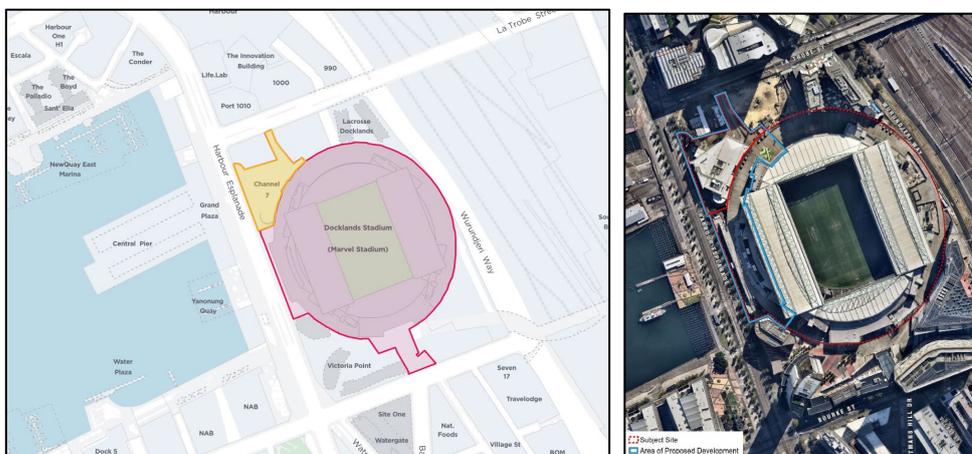


Figure 1 and 2 – Subject site includes 160 Harbour Esplanade (yellow) and part 140 Harbour Esplanade (red) (source: CoMPASS) (left) and Development area associated with the proposal (blue) (source: Applicants submission) (right)

## 2.2. Certificate of Title

The Site (part Lot 2 on Plan of Subdivision 434050P and Lot 1 of Plan of Subdivision 432271H) are affected by the following Section 173 Agreements:

- **Agreement AJ946169G** (Melbourne City Council License Access Path) which relates to the provision of an Access Path licensed to Melbourne City Council, extending from La Trobe Street and continuing around the eastern perimeter of the Stadium Concourse. The access path is for the purpose of discharging the municipal obligations of Council with respect to public areas (including maintenance and cleaning). The works proposed as part the Application do not impact this access path.
- **Agreement AJ954838S** (Developer License – Access Path) which relates to the provision of an Access Path for pedestrian access only for the purposes of evacuating the Adjoining Land in emergencies or simulated emergencies. The works proposed as part of the Application do not impact this access path.
- **Agreement AD030381T** (Stadium Link) which relates to the provision of a 'Stadium Link'. The Stadium Link is defined as a pathway not less than 3 metres wide to Harbour Esplanade. The Application seeks removal of this agreement noting the new proposed access points to Harbour Esplanade.

## 2.3. Surrounds

The surrounds are characterised by a range of approved and completed buildings of varying styles and heights. The immediately adjoining sites are described as follows:

- To the north is a development nearing completion with approval for two towers ranging from 28 to 29 storeys at 685-691 La Trobe Street, with a building height of approximately 101 metres. Further to the north east there are two mixed-use towers known as Lacrosse Docklands at 673-683 La Trobe Street.
- To the north west is a vacant site with approval for a 26-storey mixed-use development at 695-699 La Trobe Street with a building height of approximately 92 metres.
- To the east is Docklands Stadium and associated raised pedestrian concourse and car parking under. The south and east of the Docklands Stadium include recent development extensions to the associated concourse area.
- To the south is Victoria Point, which comprises three key buildings at 106-120 Harbour Esplanade known as Bendigo Bank, 100-108 Harbour Esplanade known as Victoria Point Tower and 744-770 Bourke Street known as Quest.

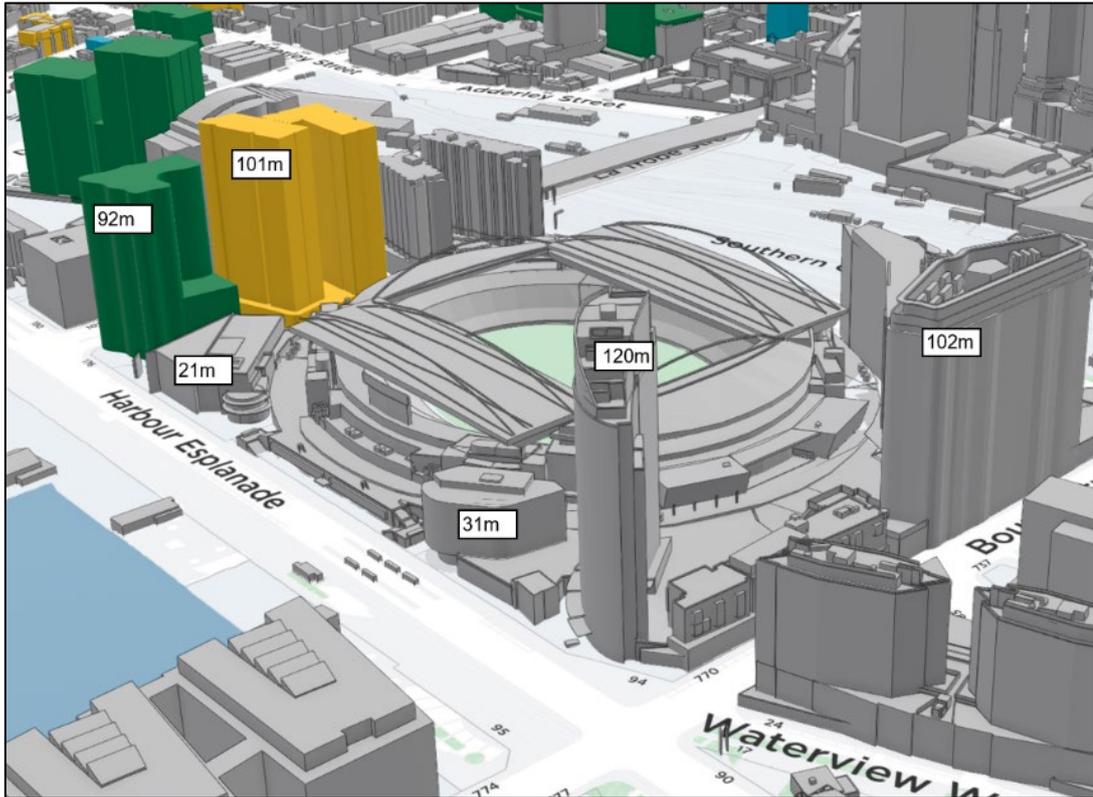


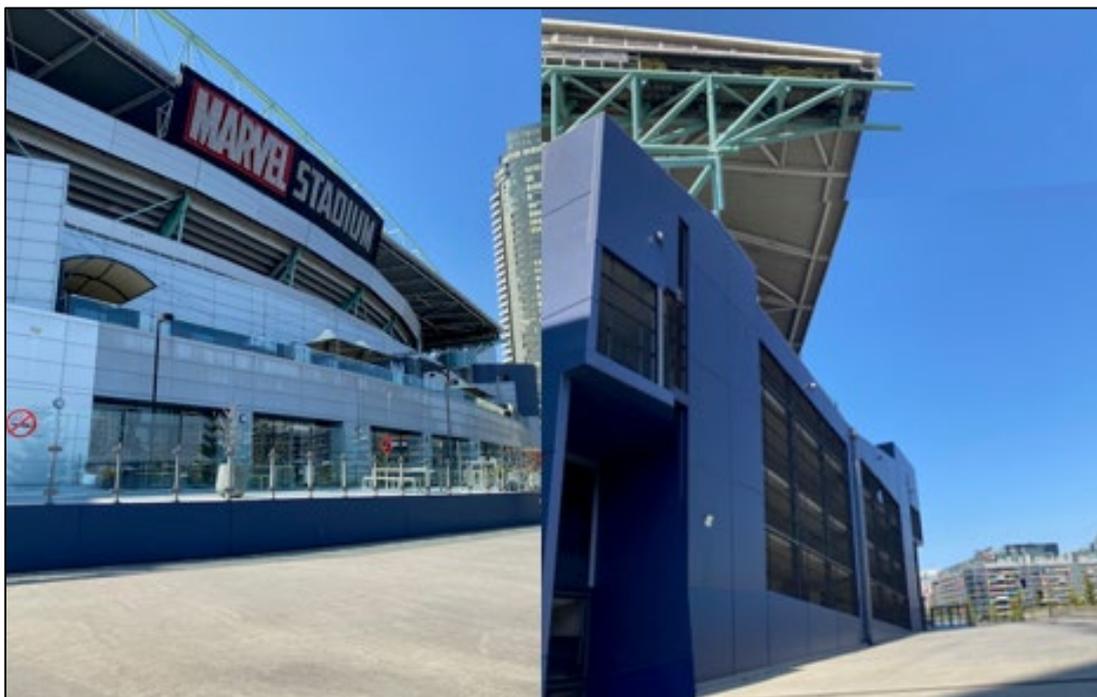
Figure 3 – Site in context of surrounding existing (grey), approved (green) and under construction (yellow) buildings from Victoria Harbour towards the CBD (source: CoMPASS 3D models)



Figure 4 – View from the Site across Harbour Esplanade, Central Pier and Victoria Harbour (source: City of Melbourne, dated 5 April 2024)



Figure 5 – Views along Harbour Esplanade include Dockland Park, tram stop, eastern footpath, AFL House (left to right) (source: City of Melbourne, dated 5 April 2024)



*Figure 6 – Views along western side of the Docklands Stadium (source: City of Melbourne, dated 5 April 2024)*

### **3. BACKGROUND AND HISTORY**

#### **3.1. Project announcement**

On 10 January 2024, the Honourable Natalie Hutchins (Acting Minister for Development Victoria), announced that the Allan Labor Government, together with the Australian Football League (AFL) will undertake a joint venture to explore redevelopment opportunities at the two prominent Docklands sites on Harbour Esplanade associated with the Application.

The announcement by the Minister acknowledged that the proposed Planning Scheme Amendment had been lodged with the Minister for Planning to confirm building envelopes and design requirements which seek to establish the framework for achieving the vision.

The Victorian Government has invested \$225 million towards the Marvel Stadium upgrade works.

#### **3.2. Pre-application discussions (PAM-2023-275)**

Council Officers provided preliminary feedback at a high level pre-lodgement briefing meeting with Department of Transport and Planning representatives, Development Victoria and the AFL on 5 July 2023. Council Officers were informed that the development of the Master Plan and the Development Envelope Drawings had been informed by a series of discussions between the Applicant, the Department of Jobs, Precincts and Regions (DJPR) and the Department of Transport and Planning (DTP) since 2019.

The concerns raised by Council Officers included the following:

- Lack of detail on the justification for the proposed built form envelopes noting they do not align with existing controls and provisions of the Melbourne Planning Scheme.
- The lack of consideration of the proposal's potential impacts on the broader Docklands Precinct including the integration and interface with Harbour

Esplanade, the future vision for Central Pier and the broader Stadium Precinct.

- Concerns with how the proposal addresses the principles of Design Excellence and Good Design.
- Overall building height, massing and the creation of a 'wall effect'.
- Wayfinding, legibility, safety and impacts on the public realm.
- Impacts on views and vistas towards the Hoddle Grid, Victoria Harbour and the stadium itself.

Despite the above feedback, no amendments were subsequently made to the development envelope drawings.

### 3.3. Relevant planning permit history

Several planning permits have been issued around the Site and Stadium Precinct.

Of note are the following permits:

TP number	Description of Proposal	Decision & Date of Decision	Status
TPM-2016-5/B DTP Reference PA1500055-2 685-691 La Trobe Street, Docklands	Development of the land for the construction of two multi-storey buildings, the use of land for dwellings and shops (excluding adult sex bookshop, department store, a supermarket exceeding 2,500 square metres of GFA and restricted retail premises).	Amended Permit 13 October 2021	Under construction
TPD-2010-9/B (DTP reference 2010006254B) 695-699 La Trobe Street, Docklands	Buildings and works associated with the construction of mixed use building	Amended Permit 19 March 2019	Not commenced
TPD-2013-3 (DTP reference 2013/000861 1000 La Trobe Street, Docklands	Multi storey commercial office building with associated ground floor office and retail and multi-storey car parking	Permit 7 June 2013	Complete
TP-2017-221 Central Pier (part)	Partial demolition of a section of wharf and buildings and works to construct safety break to dilapidated section of pier	Permit 4 May 2017	Complete
TP-2023-778 Central Pier and shed nine and fourteen	Demolition of the pier, including sheds nine and fourteen	Permit 24 November 2023	Demolition commenced
TP-2020-747/A	Partial demolition, carry out works, erection of signage associated with the upgrades to the City Edge and	Amended Permit 27 June 2023	Complete

Marvel Stadium, 122-148 Harbour Esplanade, Docklands	Town Square associated with Marvel Stadium.		
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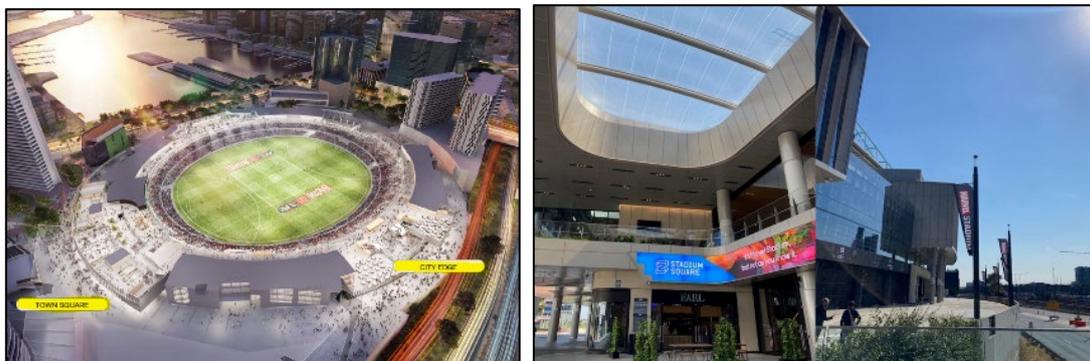


Figure 7 – Docklands Stadium concourse perspective with associated Town Square and City Edge stadium extensions approved under TP-2020-747 (source: Applicant's submission) (left) and views of these extensions (source: City of Melbourne, dated 5 April 2024) (right)

### 3.4. Relevant master plan

The following Master Plan is of note which was supported at a Future Melbourne Committee on 2 June 2015:

TP number	Description of Proposal	Decision & Date of Decision	Status
TP-2014-1072 Harbour Esplanade	<p>Buildings and works associated with the Harbour Esplanade Master Plan prepared by Places Victoria (Development Victoria).</p> <p>The Master Plan establishes the following principles:</p> <ul style="list-style-type: none"> <li>• Embrace the water</li> <li>• Provide a diverse range of experiences</li> <li>• Integrate public spaces within the built form</li> <li>• Take a restorative design approach</li> <li>• Make it unique, reinforce its heritage character</li> <li>• Re-prioritise pedestrian movement at key locations</li> <li>• Program the space for day and night activation</li> </ul>	Permit 2 June 2015	Not commenced.

Note: Planning Permit TP-2014-1072 requires the submission of detailed conditional documents in accordance with the Harbour Esplanade Master Plan such as a staging plan, detailed design plans, public realm works and landscaping plans. These conditional documents have not been satisfied at the time of writing of this report.

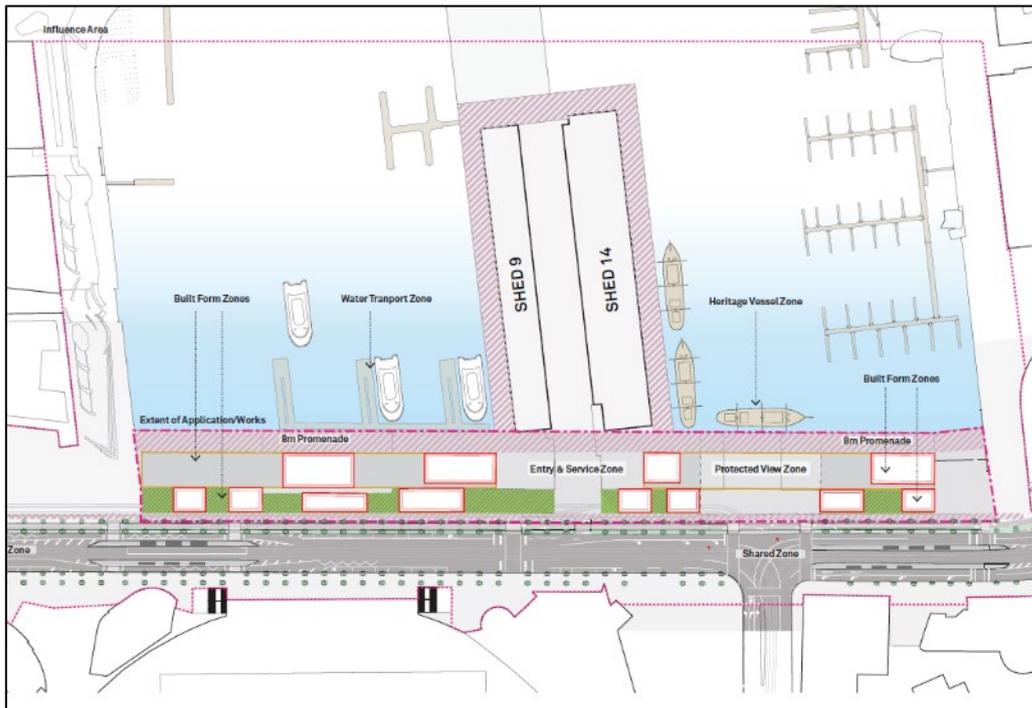


Figure 8 – Indicative works to Harbour Esplanade and Central Pier associated with the Harbour Esplanade Master Plan which was approved under TP-2014-1072 submitted by Development Victoria

### 3.5. Other relevant documents, strategies and plans

#### 3.5.1. Place Principles and Vision Strategy

Development Victoria undertook community engagement in December 2022 on a future vision for Central Pier.

The feedback will help inform the preparation of a Central Pier *Vision and Place Principles* document that will establish the vision for the future revitalisation of the pier. The *Vision and Place Principles* document is anticipated to be publicly released by Development Victoria for comment later this year.

#### 3.5.2. Docklands Summit

The Docklands Summit was a half-day event hosted by the City of Melbourne on 2 September 2022, which included over 100 attendees from all aspects of Docklands life. The purpose of the Summit was to elevate the urgent need for action, and generate enthusiasm and outcomes for regeneration in Docklands.

At the Future Melbourne Committee meeting on 8 November 2022 Council endorsed a range of actions which reflect the feedback from the Summit. These actions have informed new projects which seek to revitalise Docklands in the short, medium and longer-term.

## 4. THE PROPOSAL

### 4.1. Overview

This application referred on 7 February 2024 seeks approval to amend the Melbourne Planning Scheme to introduce site specific controls governing the future use and development of the land by introducing:

- An Incorporated Document to the Schedule to Clause 51.01 (Specific Sites and Exclusions) to facilitate the proposed development.
- A new site Specific Control Overlay to the Schedule to Clause 45.12 (Specific Controls Overlay).

- An update to the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme).

The schedule to the Specific Control Overlay (SCO) would be amended to reference a new schedule number (SCO35). This, in turn, would introduce a new Incorporated Document titled '*Harbour Esplanade Precinct 140-160 Harbour Esplanade, Docklands Incorporated Document, September 2022*'.

The Incorporated Document would allow:

- Partial demolition of the existing building at 122-148 Harbour Esplanade and full demolition of the existing building at 160 Harbour Esplanade, in accordance with the demolition plans endorsed under this Incorporated Document.
- Construction of a staged development including multi-level buildings, publicly accessible private spaces and pedestrian connections.
- Use of the land for office, accommodation, hotel, place of assembly (other than drive in theatre), child care centre, shop (other than adult sex bookshop and restricted retail), food and drink.
- Sale and consumption of liquor.
- Display of signage.
- Removal of the existing Section 173 Planning and Environment Act 1987 Agreement – Lot 1 PS432271H dated 5/8/2004.
- Removal and variation of easements.

Details of each element of the proposed Incorporated Document are set out in the following sections.

## **4.2. Master Plan Principles**

The proposal includes a set of principles and design criteria contained within the following documents:

- Master Plan and Urban Context Report prepared by Grimshaw Architects September 2022
- Development Envelope Drawings prepared by Grimshaw Architects September 2022.

These documents are considered to be the 'Master Plan' for the proposal and would guide future detailed conditional plan submission associated with the Incorporated Document.

The principles of the Master Plan essentially seek to ensure the proposal responds to its context from both a macro and micro perspective. The overarching three principles and sub principles require the proposal to respond to the:

- City (broader Docklands Precinct and Central City context):
  - *Create a world class mixed use precinct*
  - *Engage with traditional owners to inform design decisions*
  - *Ensure the development considers and addresses wider precinct implementation plans and policies.*
  - *Create the next generation of regenerative design*
  - *Connections to waterfront*
  - *Contribute to the future skyline of the city*

- *Create a landmark at 140 Harbour Esplanade*
- *Consider Built Form*
- *Address Harbour Esplanade*
- **Precinct (the Docklands Stadium, Harbour Esplanade, Victoria Harbour and surrounding buildings)**
  - *Create meaningful public open space*
  - *Ensure new public open spaces make a positive contribution to the Docklands network*
  - *Provide a mix of uses*
  - *Ensure Public Accessibility and natural wayfinding*
  - *Provide an articulated Public Esplanade and Urban Edge for people*
  - *Provide Activation in all modes*
  - *Provide main access from Harbour Esplanade*
  - *Ensure safe pedestrian movement*
  - *Provide an amenable pedestrian and public environment*
  - *Preserve and frame key vistas*
  - *Create an open and connected concourse and ground realm*
  - *Create an active podium*
  - *Maximise Harbour Esplanade Street Activation*
- **Public Realm (immediate areas within and surrounding the Site).**
  - *Provide high quality publicly accessible open space*
  - *Provide safe and accessible connections*
  - *Provide sheltered and protected public spaces*
  - *Provide public spaces that are open to the sky*
  - *Design to accommodate future flood levels*
  - *Embed landscaping features into the public realm*
  - *Materiality*

The Master Plan also includes general design criteria to guide the future detailed conditional plan submission associated with the Incorporated Document.



Figure 9 - Render of the potential presentation of the proposal to Harbour Esplanade and Victoria Harbour (source: Applicant's Master Plan and Urban Context Report)



Figure 10 - Render of the potential presentation of the 'Urban Room' and pedestrian connection from Harbour Esplanade between Tower 1 and Tower 2 towards the concourse (source: Applicant's Master Plan and Urban Context Report)

### 4.3. Development

The proposed Incorporated Document would allow for three development envelopes comprising of a podium and tower form. The detailed development plans for each of the three towers would need to be generally in accordance with the Harbour Esplanade Precinct Master Plan and Development Envelope Drawing referenced in the draft Incorporated Document. Specifics on the three development envelopes are contained in the below table:

	Tower 01	Tower 02	Tower 03
Gross Floor Area (sqm)	72,000	27,990	81,730
Building Height (AHD)	129.0 metres	113.0 metres	90 metres
Setbacks	North – 5 metres South – 12.5 metres East – 5 metres West – 0 metres	North – 12.5 metres South – 5 metres East – 0 metres West – 0 metres	North – 6 metres South – 7.5 metres East – N/A West – 0 metres

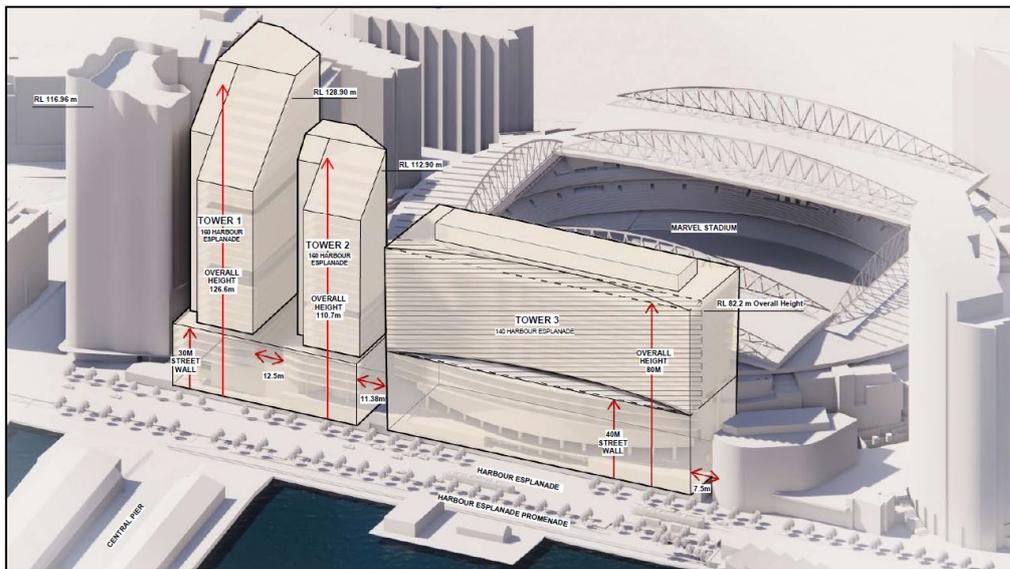


Figure 11 – Detailed building envelope diagrams showing proposed street wall and overall building height (source: Applicant's Development Envelope Drawings associated with the Master Plan)

The development would also need to be constructed in accordance with various design criteria requirements / plans / documents as follows:

- Detailed Development Plans
- A Façade Strategy
- A Material Schedule
- Glare / reflectivity requirements
- A Wind Tunnel assessment
- An Environmentally Sustainable Design Statement
- A Waste Management Plan
- Pedestrian connection requirements
- A Car Parking and Traffic Management Report
- A Road Safety Audit
- Bicycle facility requirements
- Lighting Plan

- Building appurtenance requirements
- Requirements from referral authorities, including Department of Transport and Melbourne Water.

Other than an Environmentally Sustainable Design Statement, Traffic Impact Assessment and Wind Tunnel Report, the reports referred to above have not been submitted / referred to Council for review and consideration. Based on the nature of the proposal (i.e. consideration of an Incorporated Document); they are not required to be submitted at this stage.

#### 4.4. Publicly Accessible Open Space

The proposal contemplates providing a series of publicly accessible private spaces throughout the site. The Master Plan includes a Publicly Accessible Open Space Plan highlighting the following key areas:

- Urban Room located between envelope one and two
- Harbour Outlook located between two and three
- New Stadium Concourse Access
- Waterfront Terrace area located along the Harbour Esplanade

The detail of these publicly accessible areas would need to be constructed in accordance with the principles and design criteria in the Harbour Esplanade Precinct Master Plan and Urban Context Report and Development Envelope Drawings as well as various built form requirements / plans / documents as follows:

- A detailed Landscape Plan
- Civil design requirements
- A Lighting Plan

Noting that Council would be consulted as part of the assessment of all of the above (and is the Responsible Authority for the civil design and lighting conditions), again the proposal in its current form allows for a considerable degree of flexibility with respect to a final design.

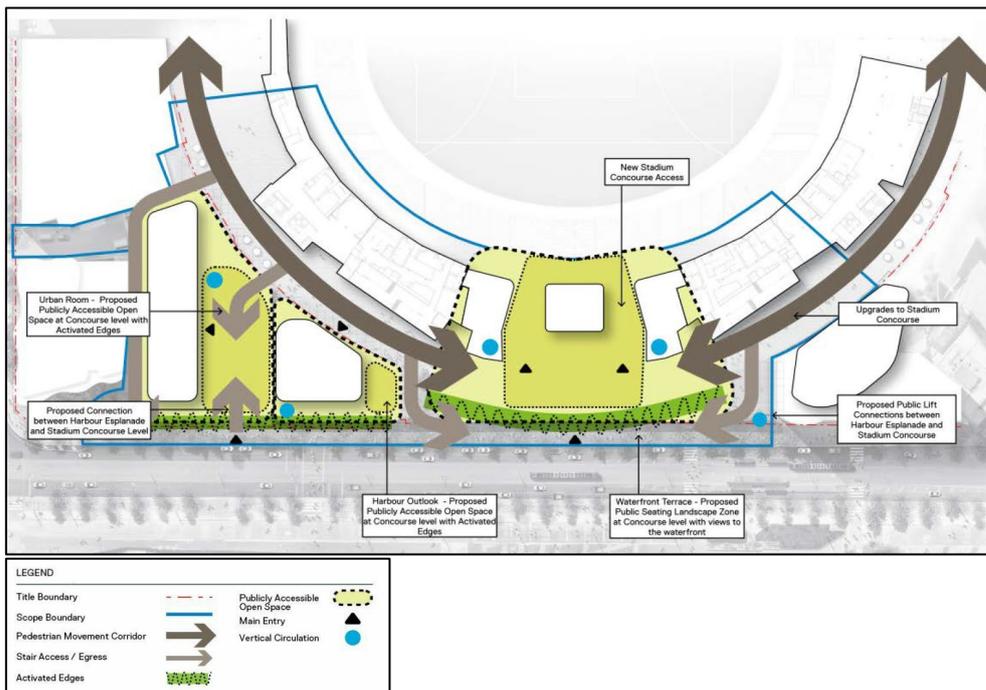


Figure 12 – Publicly Accessible Open Space and access / egress points from Harbour Esplanade to the concourse (source: Applicant's Development Envelope Drawings associated with the Master Plan)

#### 4.5. Use of the land

The proposal would allow for a mix of uses across the three envelopes including offices, a function centre and retail uses, with options to include accommodation such as dwellings and a residential hotel. It is noted that draft Incorporated Document seeks flexibility 'dependant on market conditions' and therefore the final land use mix is unknown at this stage.

It is noted that the Master Plan or draft Incorporate Document does not anticipate the provision of any Affordable Housing as defined in the *Planning and Environment Act 1987*.

#### 4.6. Display of signage

The proposal would allow the erection and display of directional, digital, promotional, sky and business identification signs in accordance with a signage strategy pursuant to condition 71.

A signage strategy has not been submitted / referred to Council for review and consideration. As with other elements of the proposal, given the lack of a signage strategy for review, an approval of the Incorporated Document would allow for a high level of flexibility in terms of content.

#### 4.7. Removal of Section 173 Agreement and Easements

Condition 4 of the draft Incorporated Document would allow the removal and or variation of redundant water, sewerage, electricity and drainage easements and a Section 173 Agreement.

Condition 5 of the draft Incorporated Document would remove Section 173 Agreement AD030381T which relates to the provision of a 'Stadium Link'. The Stadium Link is defined as a pathway not less than 3 metres wide to be located anywhere in the definition areas labelled as 'Stadium Link Area and Connection Area'.

#### 4.8. Submitted documents

The documents which have been considered in this assessment are identified in the table below:

Plan / Report Title	Drawing / Report Author	Drawing/ Report Date
Planning Report	Urbis	September 2022
Incorporated Document – Harbour Esplanade Precinct	N/A	September 2022
Master Plan and Urban Context Report	Grimshaw Architects	September 2022
Development Envelope Drawings	Grimshaw Architects	September 2022
Amendment C438melb Explanatory Report	N/A	N/A
Schedule to Clause 45.12 (Specific Controls Overlay)	N/A	N/A

Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme)	N/A	N/A
Pedestrian Journey and Built Form Experience Plan	Urbis	August 2023
Sustainability Strategy	Arup	August 2022
Wind Report	Vipac Engineers and Scientists	August 2022
Landscape Report	Oculus	July 2022
Traffic Impact Assessment	Arup	August 2022
Waste Management Plan	Arup	July 2022
Acoustic Report	Marshall Day Acoustics	July 2022
Existing Services and Flooding Advice	Aurecon	April 2022

## 5. PLANNING SCHEME PROVISIONS

The following provisions of the Melbourne Planning Scheme are relevant:

Planning Policy Framework	<p>Clause 2.02: Vision</p> <p>Clause 2.03: Strategic Directions</p> <p>Clause 11: Settlement</p> <p>Clause 11.03-6L-03: Docklands</p> <p>Clause 15.01-1L-02: Signs</p> <p>Clause 15.01-2S: Building Design</p> <p>Clause 15.01-2L-01: Energy and resource efficiency</p> <p>Clause 17.02-1S: Business</p> <p>Clause 19.03-3L: Stormwater management (Water sensitive urban design)</p> <p>Clause 16: Housing</p> <p>Clause 19: Infrastructure</p>
<b>Statutory Controls</b>	
<p>Clause 37.05</p> <p>Docklands Zone, Schedule 4 (Stadium Precinct) (DZ4)</p>	<p><u>Use</u></p> <p>Pursuant to Clause 37.05-1 and 1.0 of DZ4, a planning permit is not required to use the land for an office, hotel, place of assembly, child care centre (education centre), food and drink premises and shop (other than Adult Sex bookshop Department store, a Supermarket exceeding 2,500 square metres of GFA and Restricted retail premises) providing it is not at ground floor. Pursuant to Clause 37.05-1 and 1.0 of DZ4, a planning permit is required to use the land for Accommodation (other than residential hotel). It is noted that a planning permit is also required for Dwelling as the land is located west of the Major Sports and Recreation Facility.</p> <p><u>Development</u></p>

	<p>Pursuant to Clause 37.05-4 and 4.0 of DZ4, a permit is required to construct a building or construct or carry out works. Decision guidelines are at 4.0 of DZ4.</p>
<p>Clause 43.02  Design and Development Overlay, Schedule 12 (DDO12) (Noise Attenuation Area)</p>	<p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works.</p> <p>2.0, Requirements, of Schedule 12 states that any 'new or refurbished development or any conversion of part or all of an existing building that will accommodate new residential or other noise-sensitive uses must:</p> <ul style="list-style-type: none"> <li>• Be designed and constructed to include noise attenuation measures. These measures must achieve a maximum noise level of 45 dB in habitable rooms with windows closed when music is emitted from the Major Sports and Recreation Facility in the Melbourne Docklands Area.</li> <li>• Be fitted with ducted air conditioning if the new or refurbished development is within 400 metres of the centre point of the Docklands Major Sports and Recreation Facility.</li> </ul>
<p>Clause 43.02  Design and Development Overlay, Schedule 52 (DDO52) (Area 1 and 3) (Stadium Precinct)</p>	<p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works.</p> <p>2.0, Requirements, of Schedule 52 states that a 'permit is not required to construct a building or construct or carry out works if the requirements of Table 1 to this schedule are met'.</p> <ul style="list-style-type: none"> <li>• Table 1 specifies a maximum building height of 25 metres except for two towers not exceeding 75 metres for Area 1 (the north side of the subject site).</li> <li>• Table 1 specifies a maximum building height of 60 metres for Area 3 (the south side of the subject site).</li> </ul> <p>The maximum building heights are not met.</p>  <p>Figure 13 - DDO52 - Area 1 and Area 3 (source: CoMPASS)</p>
<p>Clause 43.04</p>	<p>Pursuant to Clause 43.04-1, a permit 'must not be granted to use or subdivide land, construct a building or construct or carry out works</p>

Development Plan Overlay, Schedule 5 (DPO5) (Stadium Precinct)	<p>until a development plan has been prepared to the satisfaction of the responsible authority'. In addition, a permit granted must:</p> <ul style="list-style-type: none"> <li>• 'Be generally in accordance with the development plan.</li> </ul> <p>Include any conditions or requirements specified in a schedule to this overlay'</p> <p>According to 1.0 of DPO5, a 'permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority'.</p>
<p>Clause 45.09</p> <p>Parking Overlay, Schedule 8 (PO8) (Docklands – Stadium Precinct)</p>	<p>Pursuant to Clause 52.06-2, 'before a new use commences, the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority'.</p> <p>2.0, Permit requirements, of PO8 states that a permit is required to provide car parking spaces in excess of the maximum number specified in the Table.</p> <p>3.0, Number of car spaces required, of PO8 includes the following rates:</p> <ul style="list-style-type: none"> <li>• 1.5 spaces per dwelling</li> <li>• 1 space to each 100 square metres of gross floor area for any use.</li> </ul> <p>The proposal does not seek to provide any car parking spaces.</p>
<b>Particular Provisions</b>	
<p>Clause 52.06</p> <p>Car parking</p>	<p>Refer to PO8 regarding car parking rates.</p> <p>Clause 52.06-8 provides design standards for car parking.</p>
<p>Clause 52.34</p> <p>Bicycle facilities</p>	<p>Pursuant to Clause 52.34-2, a permit is required to reduce or waive any requirement of Clause 52.34-3 and 52.34-4.</p> <p>Table 1 of Clause 52.34-3 specifies the following relevant rates:</p> <ul style="list-style-type: none"> <li>• Dwelling (in developments of four or more storeys) is 1 resident space per 5 dwellings and 1 visitor space per 10 dwelling.</li> <li>• Retail premises is 1 to each 300 square metres of leasable floor area for employees and 1 to each 500 square metres of leasable floor area for visitors.</li> <li>• Office is 1 to each 300 square metres of net floor area for employees and 1 to each 1000 square metres of net floor area for visitors.</li> <li>• Function Centre is 1 to each 1,500 square metres of net floor area for employees and 1 to each 1000 square metres of net floor area for visitors.</li> </ul> <p>The proposal seeks flexibility in the above land uses and therefore the exact bicycle provision for the development cannot be determined at this stage. Notwithstanding, the Application indicates that the base scenario is to provide 376 secure employee bicycle parking spaces and 120 visitor bicycle parking spaces.</p>
<b>General Provisions</b>	
<p>Clause 72.01</p>	<p>The Minister for Planning is the Responsible Authority for this application.</p>

Administration and enforcement of this scheme	Should the Incorporated Document be approved, Melbourne City Council would be responsible for the future assessment of related plans.
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## 6. PLANNING SCHEME AMENDMENTS

### 6.1. Amendment C376melb – Sustainable Building Design

Planning Scheme Amendment C376 aims to introduce new best-practice ESD Standards into the planning scheme to ensure that new buildings in the municipality respond to climate change. Amendment C376 also implements the Green Factor tool, which is an online green infrastructure assessment tool designed by the City of Melbourne, and was developed to help with optimising the design of green infrastructure and external landscapes on buildings.

The proposal has considered Amendment C376 within the Application, as discussed further in this report at Section 8.

### 6.2. Amendment C384melb – Inundation Overlays

Planning Scheme Amendment C384 (Inundation Overlays) is a 'seriously entertained' planning scheme amendment which seeks to introduce updated flooding controls, and associated built form requirements.

As it relates to the proposal, Land Subject to Inundation Overlay Schedule 3 (LSIO3) would apply to part of the Site along Harbour Esplanade. Permit applications in LSIO3 would require consent from Melbourne Water as the flood management authority.

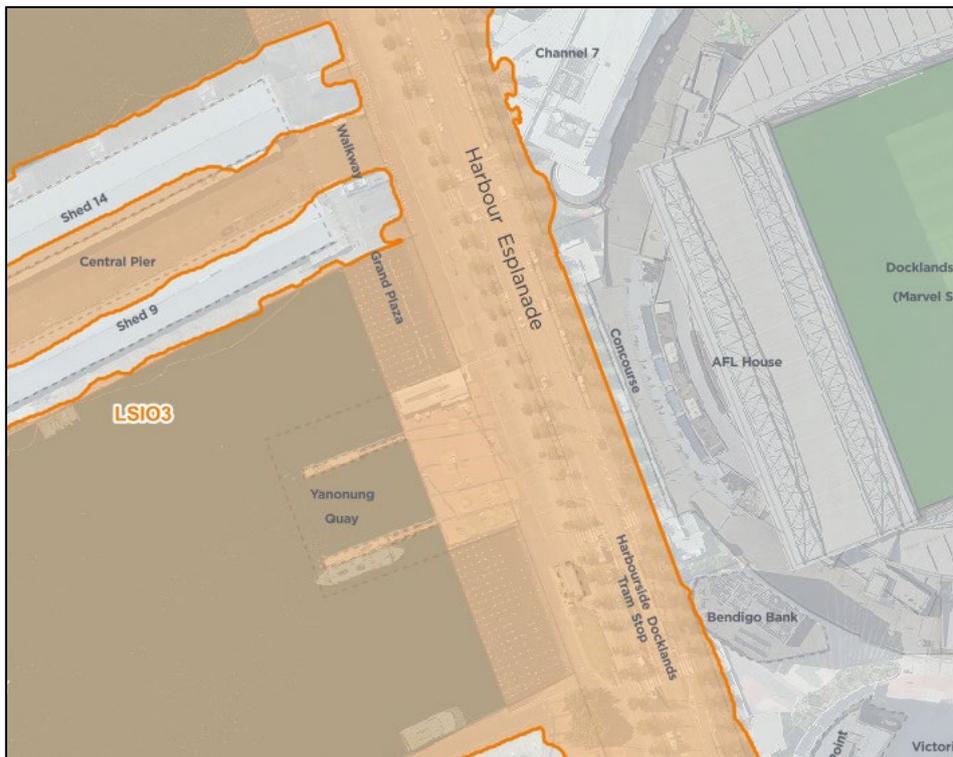


Figure 14 – Proposed Melbourne Water LSIO3 along Harbour Esplanade associated with Amendment C348 (source: CoMPASS)

## 7. PUBLIC NOTIFICATION

The Minister for Planning referred the application to Council for comment in accordance with Section 20(5) of the *Planning and Environment Act 1987*.

The Minister has also invited public submission on the proposed Amendment with submissions closing on 6 March 2024, noting there are no third party rights.

## **8. REFERRALS**

### **8.1. City Design**

The application was referred to City Design for review and comment. Their key concerns with the proposal in its current form can be summarised as follows:

- Views
  - The ability to view the CBD from various points within the Docklands and Victoria Harbour is a consistent objective in Planning Policies pertaining to Melbourne's Docklands. We require a detailed views analysis, to be included with the Incorporated Document, featuring views from a range of points within the broader Docklands area, in particular publicly accessible locations around the Victoria Harbour waterfront. The assessment should include commentary of the view available and the contribution or impact of the proposed built form.
- Massing
  - We require the massing to be revised, in particular the 40 metre street wall element to Harbour Esplanade. There is a lack of justification for the building envelopes proposed and we find this element particularly difficult to understand and justify.
- Flood levels
  - The response to flooding must be revised to ensure that flood levels required under Amendment C384 can be achieved without compromising the step free access from Harbour Esplanade to the main lift access to Tower 3.
- Wind
  - The wind assessment should be expanded to help understand the impact of the proposed built form beyond the immediate curtilage of the subject land. Further measurement locations should be included closer to Docklands Park and along the sides (heading west) of Victoria Harbour. Further development of the wind assessment should be undertaken via a suitably qualified peer review (to Melbourne City Council's satisfaction).

#### Officer comment:

To address the above items, the officer's recommendation includes:

- A requirement for Good Design principles to be established and for further detail on how they are to be achieved as a part of the detailed plan submissions.
- A recommendation that the Planning Scheme Amendment proposal is considered through a design review panel process prior to approval noting its State significance.
- Amendments to the built form mass and height to limit visual and amenity impacts such as bulk, visual impacts from sensitive interfaces and overshadowing.
- Further investigation and modification to the building envelope as required as a result of any updated flood or wind mitigation reports.

Refer to Section 9.3 of this report for a more detailed analysis of these design matters raised; and Section 10.1 and 11 which translates these matters into recommendations and amendment to the draft Incorporated Document.

## 8.2. City Strategy

The application was referred to City Strategy whose comments can be summarised as follows:

- Street activation and Pedestrian Connectivity
  - The Melbourne Planning Scheme seeks to support development that promotes the Docklands waterfront as a tourism and leisure destination. Given this, City Strategy welcomes the active uses at ground, upper ground and concourse level as indicated in the artist impression included as part of the Application. Any Planning Scheme Amendment should include appropriate provisions to ensure uses that connect the development to the public realm are prioritised.
  - The stadium is in close proximity to Southern Cross Station and several key tram routes which is good in terms of public transport linkage however also creates a challenge for the Docklands with respect to retention of patrons in the precinct before and after events. At present the site's interface with Harbour Esplanade is poor due to use of land for offices, including at street level. Streetscape activation and pedestrian permeability is further limited by the significant ground level differences between the stadium concourse and Harbour Esplanade. Recent feedback from local businesses and residents at the Docklands Summit indicated that wayfinding can be difficult at pedestrian level throughout the precinct.
  - The proposal represents an opportunity to re-think the urban realm and improve pedestrian linkages between the stadium concourse, Harbour Esplanade and the Docklands precinct more generally. The additional access points and street level activation between Harbour Esplanade and the concourse level are supported in principle.
  - Plans should also clearly demonstrate connectivity of new pedestrian links with existing infrastructure on Harbour Esplanade such as footpaths, shared paths, tram stops and street crossings. Detailed modelling of pedestrian movement at major events should be provided to better understand the challenges of pedestrian movement in and out of the stadium precinct.
- Lack of built form certainty:
  - While the improved connectivity between Harbour Esplanade and the concourse level are supported, there is some concern that Tower 3 at its proposed scale and location will wall the stadium off from views to the harbour and Docklands. This potentially further compounds existing wayfinding concerns from residents and businesses by isolating 2 key visual aspects of the precinct, being Marvel Stadium and Victoria Harbour. The importance of this interface is reflected in the existing design objective of Design and Development Overlay (Schedule 52) which specifically requires development proposals to recognise vistas to the west from the stadium precinct across Victoria Harbour.
  - There is also question as to whether there is scope to further improve the additional pedestrian connections.

- Design Excellence
  - Given the site's visual prominence adjacent to Victoria Harbour, the overall design should reflect the maritime heritage of the precinct whether that be through material selection or articulation / design. It recommended the proposal be considered through the Office of the Victorian Government Architect's Victorian Design Review Panel for comments and additional perspective.
- Scope of works
  - The 'scope boundary' indicated by the blue line on the plan above extends to the Harbour Esplanade carriageway. Council is the responsible authority for the Segment of Harbour Esplanade adjacent to Marvel Stadium. Council seeks clarity around the reasoning for extension of the project scope boundary to be outside of the title boundary and abutting the road carriageway.

Officer comment:

These items reiterate the above City Design advice. Refer to Section 9 of this report for a more detailed analysis of these matters raised; and Section 10.1 and 11 which translates these matters into recommendations and amendments to the draft Incorporated Document.

### **8.3. Sustainability and Green Infrastructure**

The application was referred to Council's Environmentally Sustainable Design and Green Infrastructure team whose comments can be summarised as follows:

- The development commits to a level of sustainability that is expected to meet the objectives of Clause 15.01-2L-01 Energy and resource efficiency and Clause 19.03-3L Stormwater management (water sensitive urban design) of the Melbourne Planning Scheme.
- The development has committed to achieving a 5 Star Green Star Buildings certified rating and registration has been indicated by project number of GS-8876B which is shown on the Green Star Building Directory and directly supports Clause 15-01-2L-01 of the Melbourne Planning Scheme. Further detail should be provided in Environmentally Sustainable Design (ESD) Statement which details each credit assigned to the registration.
- It is recommended that the development commit to the following:
  - A minimum 5 Star Green Star Buildings certified rating or equivalent.
  - Achieve the credit achievement standard for Heat Resilience credit 19, Water Use credit 25, and Waterway Protection credit 39 under the Green Star Buildings.
  - A minimum 5.5 Star plus 25% modelling margin NABERS Energy rating including a signed NABERS Commitment Agreement and associated energy modelling submitted prior to development commencing.
  - Achieve a minimum 7.5 Stars NatHERS average for all residential dwellings with no dwelling achieving lower than 6.5 stars.
  - Achieve at least 20% less energy use compared to a reference building for all other uses not covered under the above points.
  - A Waste Management Plan prepared in accordance with the current version of the City of Melbourne's Guidelines for Waste Management Plans 2021.

- It is recommended that the precinct commit to the following:
  - A minimum 6 Star Green Star Communities certified rating or equivalent.
  - Achieve Climate Active Carbon Neutral Standard or equivalent.
  - A minimum 0.55 using City of Melbourne's Green Factor Tool using the project scope boundary as the site area.

Officer comment:

To address the above items, the officer's recommendation includes:

- A more thorough investigation on how sustainable design measures are to be meaningfully incorporated into the proposal.
- Further evidence to demonstrate how the proposal can achieve the above recommended commitments.

Refer to Section 11 of this report which translates these matters into amendments to the draft Incorporated Document.

#### **8.4. Land Tenure**

The application was referred to the Land Survey team whose comments can be summarised as follows:

- The draft Incorporated Document should include the following recommendations:
  - Any proposed projections over Roads under Councils Care and Management must comply with Council's Road Encroachment Guidelines and referred to Infrastructure and Assets for comment.
  - Any proposed canopy over Roads under Councils Care and Management must comply with Council's Road Encroachment Guidelines and referred to Infrastructure and Assets for comment.
  - Prior to the commencement of the development including demolition, the owner must lodge with the Responsible Authority, an application for certification pursuant to Section 23 of the *Subdivision Act 1988* for the removal and or variation of easements as allowed under this Incorporated Document and associated endorsed detailed development plans. When certified by the Responsible Authority and a Statement of Compliance has issued, the plan must lodge at the Land Victoria for registration.
  - For Future Street Addressing purposes all Public Access ways which provide public access and / or access ways which provide direct entry into a ground floor tenancy must be named prior to occupation to provide for appropriate addressing of the ground floor uses.

Officer comment:

To address the above items, the officer's recommendation includes:

- Conditions to the detail development plans that all proposed works must be in accordance with Council's Road Encroachment Guidelines.
- Inclusion of additional recommended conditions to the draft Incorporated Document relating to the removal and / or variation of easements and street naming.

Refer to Section 11 of this report which translates these matters into amendments to the draft Incorporated Document.

## **8.5. Infrastructure Development**

The application was referred to Infrastructure Development whose comments can be summarised as follows:

- Infrastructure Development advises that they are generally satisfied with the relevant conditions in the draft Incorporated Document.
- On the matter of drainage easement however, although none of the easements are shown to be in favour of the City of Melbourne, Council records shows that there is an existing drain that extends from La Trobe Street up to the porte-cochere at Ron Casey Lane and then to Harbour Esplanade. This drain seems to encroach onto 160 Harbour Esplanade and this could well be the reason for E9, the drainage easement in favour of Places Victoria (now Development Victoria). No guarantee is given in the accuracy of the information and this would be a good opportunity to confirm existence and location of the drain and to the creation on title of a drainage easement in favour of the Melbourne City Council – or variation of part of easement E9.
- The draft Incorporated Document should include the following:
  - Before the development starts on 160 Harbour Esplanade, the exact location, depth and diameter of the stormwater pipe that extends from La Trobe Street up to the porte-cochere at Ron Casey Lane and then to Harbour Esplanade within the title boundaries of 699 La Trobe Street and of 160 Harbour Esplanade must be determined by site investigation and the finding provided to the City of Melbourne – Infrastructure Development.
  - Prior to Certification of a Plan of Subdivision for 160 Harbour Esplanade, a drainage easement in favour of the Melbourne City Council shall be created on title to the satisfaction of Melbourne City Council – Infrastructure Development and Principal Subdivision Officer. The easement must be centred on the drain centreline as determined by site investigation and its width must be no less than 3 metres.

### Officer comment:

To address the above items, the officer's recommendation includes:

- Support for the inclusion of the relevant civil, easement and access conditions in the draft Incorporated Document.
- Inclusion of the additional easement requirement recommended by Infrastructure Development.

Section 11 of the recommendation translates these matters into amendments to the draft Incorporated Document.

## **8.6. Waste Services**

The application was referred to Waste Services whose comments can be summarised as follows:

- Updates to the submitted waste management plan to address the following items which include:
  - Update of Table 1 (minimum waste separate) to identify that the

waste management system should separate:

- Recycling into separate streams: paper / cardboard, glass and others
  - Organics: food and green / garden waste (food can be combined with green waste or processed separately)
  - Residual (landfill / garbage)
  - Hard waste
  - E-waste
- Demonstrate consideration of on-site processing for organics to reduce volumes needed to be transported by truck.
  - Further detail to show the management of garden waste from landscaping (as inferred in section 4.4).
  - Update of Table 4 to acknowledge that e-waste from all operational areas of the development must be separated and sent for recycling.
  - Demonstrate that all internal back of house transfer corridors are to be at least 1.5 metres wide to safely accommodate larger 4 wheeled bins, trolleys, bin tugs and the like.
  - Updates to show that all temporary storage bins reflect the full spectrum of waste streams (including glass) at the development to ensure good separation occurs at the source.
  - Update of Tables 5, 6 and 7 to show:
    - An updated estimate of the proportions of glass in the commingled recycling stream, and update all relevant tables to include a separate glass stream.
    - If fully catered events are envisaged then garbage and organic volumes additional spaces need to be available to accommodate these events, particularly if in house kitchens are used.
    - A table that summarises the floor area of each use type.
  - Update to Figure 5 to show the weight of bins used to transfer waste to the docks. Glass transfer will likely need to be transferred in small bins and / or using a bin tug.
  - Update of Table 8 to show:
    - Confirmation of bin size options from an appropriate waste contractor noting the following:
      - Smaller organics bins (240 L) may be required.
      - Onsite processing of food waste should be considered and also within the function centre.
    - Details on bin tug/s and or trolley/ies as well as their associated storage area.

- Update of Section 4.3.1 to show:
  - Space available for waste bins and equipment to accommodate any contingencies such as a missed collection.
  - Configuration of bin storage areas to ensure all waste streams are easily accessible and bins can be manoeuvred easily and safely.
- Updates to Section 4.3.2, 4.6.2 and 5.1.3 to show that waste system must be based on a maximum of 3 collections per week per waste stream.
- Update to Section 4.6.1 to note that if compactors are used, a large hook lift vehicle will need to be accommodated, and suitable clearance will be required for operation (1 m in front of compactor at the rear and 5 m overhead).
- Update to Table 13 to provide floor area for each use type, and show separated glass.
- Any other relevant details dependant on the final land use mix in accordance with Melbourne City Council's Waste Management Plan Guidelines 2021.

Officer comment:

The above matters are noted and are addressed in the relevant waste condition in the draft Incorporated Document at Section 11 of the recommendation.

## **8.7. Urban Forest and Ecology**

The application was referred to Urban Forest and Ecology whose comments can be summarised as follows:

- No in principle objection to the conditions within the draft Incorporated Document subject to the following additional conditions:
  - Change the reference of 'street' trees to 'public' trees.
  - Provide details of all reasonable options exhausted to retain public trees when identifying trees proposed for removal.
  - Identify that any canopy cover lost as a result of public tree removal will be mitigated by new public tree planting as appropriate in any updated Landscape Plan.
  - All costs in connection with the removal and replacement of public trees on municipal land, including any payment for the amenity and ecological services value of the trees to be removed, must be met by the developer. The costs of these works will be provided and must be agreed to before Melbourne City Council removes the trees
- Requirement for a green travel plan and a pick-up / drop off strategy and any shuttle bus service for the potential function centre.

Officer comment:

The above matters are noted and are addressed in the relevant Landscape Plan, Construction Management and Tree Protection conditions in the draft Incorporated Document at Section 11 of the recommendation.

## 8.8. Traffic

The application was referred to Traffic Engineering whose comments can be summarised as follows:

- No in principle objection noting that there is capacity to provide ample bicycle parking across the development and no-onsite car parking provided.
- Supportive of the conditions within the draft Incorporated Document which relate to the loading management plan, road safety audit and other traffic related matters.
- Requirement for a green travel plan and a pick-up/ drop off strategy and any shuttle bus service for the potential function centre.

### Officer comment:

To address the above items, the officer's recommendation includes:

- Support for the inclusion of the relevant Condition 35-42 in the draft Incorporated Document which relate to matters such as a Loading Management Plan and Road Safety Audit.
- Inclusion of the requirement for a green travel plan and details on a shuttle bus service to support any function centre.

Refer to Section 11 of this report which translates these matters into amendment to the draft Incorporated Document.

## 9. ASSESSMENT

### 9.1. Strategic Context and Master Plan Principles

The Application includes a Master Plan which establishes a set of principles to guide future development of the three tower envelopes and associated publicly accessible open space areas. The overarching principles of the Master Plan are City, Precinct and Public Realm which aim to ensure that any future development is successful in both its broader and immediate context.

If the proposed Planning Scheme Amendment were approved, the provisions of the Melbourne Planning Scheme would not apply, however the Planning Policy Framework and Docklands Zone Schedule 4 (Docklands Stadium) remain an appropriate consideration in determining whether the establish principles align with existing objectives and strategies of the Scheme.

Clause 11.03.6L-03 (Planning for Places - Docklands) includes the following objectives for Docklands:

- *To provide a waterfront place of character and quality in which to live, work and visit.*
- *To encourage innovative, viable development built to the highest design and environmental standards.*
- *To strengthen Docklands relationship with the Hoddle Grid and the Yarra River Corridor.*

Schedule 4 to the Docklands Zone has the following purpose for the Stadium Precinct:

- *To provide for a range of commercial, residential, recreational, educational, technology, business and leisure uses within a mixed use environment.*
- *To encourage integrated and compatible land use and development within the area surrounding the stadium facility.*

- *To ensure that the Major Sports and Recreation Facility includes the opportunity to cater for a wide range of sporting events, as well as a range of entertainment and leisure activities.*

The Master Plan includes the following overall approach of seeking to *create a landmark mixed use development that reinvents the city's relationship with Harbour Esplanade and creates a new destination in the urban civic landscape of one of the world's most liveable cities. It will be a contribution to the future skyline looking towards the city, creating a new harbour-side precinct and high quality public realm for Docklands.*

### **9.1.1. Precinct Planning**

While the overall approach and ambition generally aligns with the relevant objectives and strategies of the Scheme, the success of the proposal and how it responds to its strategic context is contingent on understanding its implications on Harbour Esplanade, Central Pier and the precinct more broadly.

While it is noted considerable investment has been provided by the Victorian Government into the Docklands Stadium upgrades, further details are required to understand the strategic planning, vision and future investment for Central Pier and the associated waterfront. This information is considered critical for the consideration of the proposal due to the strong alignment between these key areas within the Docklands Precinct. The proposal is intrinsically linked with the waterfront area and the lack of planning detail presents as a fundamental challenge in determining the suitability of the proposal in its current form. Consideration of this Application in the absence of detail of this information is not considered to be logical or orderly planning for Docklands Precinct. It is understood Development Victoria are currently progressing their *Place Principles and Vision Strategy* to guide future planning and concepts for Central Pier and the waterfront.

This concern forms as a recommendation to the Minister – refer recommendation 10.1.1 of this report

### **9.1.2. Master Plan Principles**

The Master Plan principles, particularly with regard to the Public Realm are encouraging, however the proposal seeks a considerable degree of flexibility with respect to final design. While the overall approach is promising, the primary concern relates to the lack of detail to ensure the tower envelopes and publicly accessible open spaces achieve design excellence.

Given the significance of the proposal for the Docklands Precinct and State more broadly it warrants consideration through a design review panel to ensure principles of good design and design excellence are clearly established to guide the detailed plan submission. This could be undertaken through the Office of the Victorian Government Architect's Victorian Design Review Panel and would need to occur prior to the approval of any Planning Scheme Amendment to ensure any feedback is embedded in any Master Plan and associated Incorporated Document.

This concern forms as a recommendation to the Minister – refer recommendation 10.1.2 of this report

### **9.1.3. Public benefit**

The development works associated with the Application cover an area of approximately 8,000 square metres. The Master Plan includes envelopes associated with three towers, ranging in height from 90 to 129 metres with an overall Gross Floor Area of 181,730 square metres.

The proposal is a significant development which seeks a considerable uplift in the context of existing planning controls. While the Master Plan includes principles

around providing publicly accessible private open spaces it does not provide a commensurate public benefit.

It is considered the Application submitted on behalf of Development Victoria - the Victorian Government's property developer and major project agency - and the Australian Football League (AFL) should further explore any public benefit, particularly in the context of Amendment VC242 which require eligible significant application to provide 10% affordable housing.

If the provision of 10% affordable housing cannot be committed to as a part of proposal an alternative commensurate public benefit should be explored such as significant upgrade and investment works to Harbour Esplanade.

Any suitable public benefit would need to be secured by legal agreement and this concern forms a recommendation to the Minister – refer recommendation 10.1.3 of this report.

## **9.2. Land Use**

The proposal seeks flexibility to allow for the use of the land as an office, accommodation (including dwelling and residential hotel), hotel, place of assembly (other than drive in theatre), child care centre, shop (other than adult sex bookshop and restricted retail), food and drink.

The proposed uses could each be considered acceptable for the following reasons:

- The proposed uses are consistent with the purpose of the DZ4 which seeks to provide for a range of commercial, residential, recreational, educational, technology, business and leisure uses within a mixed use environment.
- The Site falls within the Stadium Precinct and is surrounded by various complementary uses within adjoining Docklands Precincts.
- The uses seek to support the Site as a mixed use precinct and are intended to operate both independently and in conjunction with the Major Sports and Recreation Facility.
- The proposed uses have the potential to contribute to the safe and activated public spaces.
- The proposal includes a variety of private and publicly accessible spaces which allow for a range of entertainment and leisure.

However, to ensure that the envelopes and approvals can accommodate a range of uses over its lifetime, it is recommended the masterplan includes a principle to ensure that each of the buildings and the floorplates are suitable for adaptive reuse.

Matters relating to the adaptive reuse form as a recommendation to the Minister – refer recommendation 10.1.5 of this report.

## **9.3. Design Response**

### **9.3.1. DDO Parameters**

If the proposed Planning Scheme Amendment were approved, the provisions of the Design and Development Overlay Schedule 52: Stadium Precinct (DDO52-Area 1 and Area 3) would not apply. Notwithstanding, the provisions of the DDO remain an appropriate built form guide for assessment of the proposal.

#### Schedule 52

The Design Objectives of DDO 52 seek:

- *To ensure that vistas to the east, into the Central Business District, and to the west across Victoria Harbour water body are recognised.*

- *To prevent any overshadowing of the playing surface of the major sports and recreation facility greater than the shadow that is already cast by the existing facility roof when fully open.*

In Schedule 52, Area 1 and Area 3 has the following maximum building heights:

- For Area 1, a permit is required to exceed 25 metres except for two towers not exceeding 75 metres.
- For Area 3, a permit is required to exceed 60 metres.

The Decision Guidelines of DDO 52 required consideration of the following:

- *The prevention of any overshadowing of the playing surface of the major sports and recreation facility greater than the shadow which is already cast by the existing facility roof when fully open.*
- *The orientation and design of a development and whether it will cause significant overshadowing individually or as part of a cumulative effect on the public realm.*
- *The need to ensure appropriate separation of buildings, particularly tower elements, to provide spacing of building bulk and to avoid the creation of a wall effect.*
- *Buildings exceeding 40 metres in height must provide an appropriate built form relationship to the street.*
- *The need to preserve significant vistas.*
- *The nature of wind effects caused by any new building, and design measures to address these.*
- *To ensure that vistas to the east, into the Central Business District, and to the west across Victoria Harbour water body are recognised.*
- *To prevent any overshadowing of the playing surface of the major sports and recreation facility greater than the shadow that is already cast by the existing facility roof when fully open.*

### **9.3.2. Design Discussion**

The broad design vision of the proposal is to create a landmark mixed-use development that supports the city's relationship with Harbour Esplanade and to create a new destination for the Stadium Precinct and Docklands Precinct more broadly. However, to ensure that the vision is realised, careful consideration of the Site and its context is required to ensure it achieves design excellence and results in a successful response to its strategic context. Having regard to the City of Melbourne's internal referral comments and the built form planning controls that would otherwise apply under normal applications, the following assessment considers:

- Built form and contextual response
- Public realm and pedestrian connections
- Flood mitigation
- Landscaping
- Wind impacts
- Overshadowing
- Noise Attenuation
- Signage

- Sustainability
- Harbour Esplanade works.

#### Built Form and Contextual Response:

The proposed envelopes are 129 metres for Tower 1, 113 metres for Tower 2 and 90 metres for Tower 3 (excluding plant level). The building height for Area 1 in DDO52 anticipates no more than two towers exceeding 75 metres and for Area 3 towers no greater than 60 metres. Importantly Area 1 includes three tower approvals over 75 metres of which two are under construction and one yet to be built.

Variation from the building height requirement of DDO52 are contemplated by the control. It is noted that development under the maximum building heights does not require a planning permit under the DDO52, however, the scale of the proposed envelope would require a planning permit and therefore consideration against the objectives and decision guidelines of the control.

A height greater than 75 metres for Area 1 and a height greater than 60 metres can be considered provided the development outcomes satisfactorily demonstrates that the decision guidelines are capable of being met. The proposed building envelopes go beyond what would ordinarily be considered an acceptable 'variation' of the building height requirement and introduce envelopes not anticipated by the existing control. The other concern with the envelopes relates to their spacing and setbacks. While it is acknowledged there have been variations in tower heights within the Stadium Precinct, existing approvals and developments have achieved more generous setbacks and spacing as a result of the DDO52 which seeks to limit the numbers of towers within each Area. Furthermore the proposal is largely limited to building envelopes and the establishment of overarching principles within the Master Plan, therefore lacking the detail to determine the design outcome of any building and whether the 'squeezing' of the envelopes into Area 1 and Area 3 can appropriately be accommodated when considering the decision guidelines of the DDO52.

The proposed envelopes do not appear to reference the height of existing and approved developments within their respective DDO52 areas nor do they incorporate setbacks commensurate with other towers within the Stadium Precinct. It is considered reduced envelopes with greater setbacks would have an improved opportunity to preserve significant views and vistas to the east, into the Central Business District, and to the west across Victoria Harbour water body. The primary concern relates to the Tower 3 form and the limited setbacks which contributes to the 'wall effect' and limited views. The Docklands Stadium presents as a landmark feature within the precinct and the Tower 3 envelope walls the stadium off from views to the Victoria Harbour and Docklands. While it is acknowledged that the principles within the Master Plan seek to ensure the podium level reads as a physical extension of the stadium, commensurate with the recently completed City Edge and Town Square extensions (TP-2020-747), there is concern with its massing as well as the form atop the concourse and podium. In addition the envelope anticipates a minimal side setback of 7.5 metres to the 120 Harbour Esplanade (Bendigo Bank). The limited side setback of Tower 3 adds to the wall effect and potentially compromises the development opportunities of the adjoining site. Therefore at a minimum the tower envelope should be reduced to incorporate a consistent 10 metre side setback which would be consistent with the Tower 1 side setback to 695-699 La Trobe Street.

These outstanding built form and contextual response concerns form recommendations to the Minister – refer recommendations 10.1.1, 10.1.2 and 10.1.4 of this report.

## Public Realm and Pedestrian Connections

The proposal seeks to incorporate principles within the Master Plan to achieve a successful public realm and pedestrian connections between the Docklands Stadium, Harbour Esplanade and the concourse. The intent of the Master Plan is to improve access, establish additional pedestrian connections, create active edges and incorporate are supported and largely align with Clause 11.03.6L-03 (Planning for Places – Docklands), however the lack of detailed plans result in an inability to determine their ultimate success.

A primary concern relates to the connection with Harbour Esplanade, Central Pier and Victoria Harbour. While the Master Plan acknowledges the need to connect with Central Pier and to ensure there is a high degree of activation along key pedestrian thoroughfares such as Harbour Esplanade, there continues to be uncertainty around their strategic planning and development which consequently impacts on the consideration of the Application.

The proposal includes a number of publicly accessible areas which aim to be flexible, highly permeable and protected spaces accessible on a 24/7 basis such as the 'Urban Room'. The public realm principles for the proposal are strong in supporting the success of the Site and how it connects with the Docklands Stadium and concourse. However, as identified above, the potential success of these spaces and how they will engage with Central Pier and the waterfront are unknown.

The Master Plan anticipates a range of publicly accessible spaces across the ground and upper levels to the concourse. The proposal establishes three key 12 metre wide publicly accessible links from the concourse to Harbour Esplanade, however, it is noted that Clause 11.03.6L-03 states *areas of intense pedestrian activity should be provided with a minimum width of 14 metres*. The Master Plan provides a pedestrian study which considers these access point in the context of intense pedestrian movement (event modes). While the Application has considered pedestrian movement, further detail is required to understand how crowds will practically be managed during these event modes as well as why an increase in their width to 14 metres in line with Clause 11.03.6L-03 is not a more suitable outcome.

This outstanding matter forms as a recommendation to the Minister – refer recommendations 10.1.6 of this report.

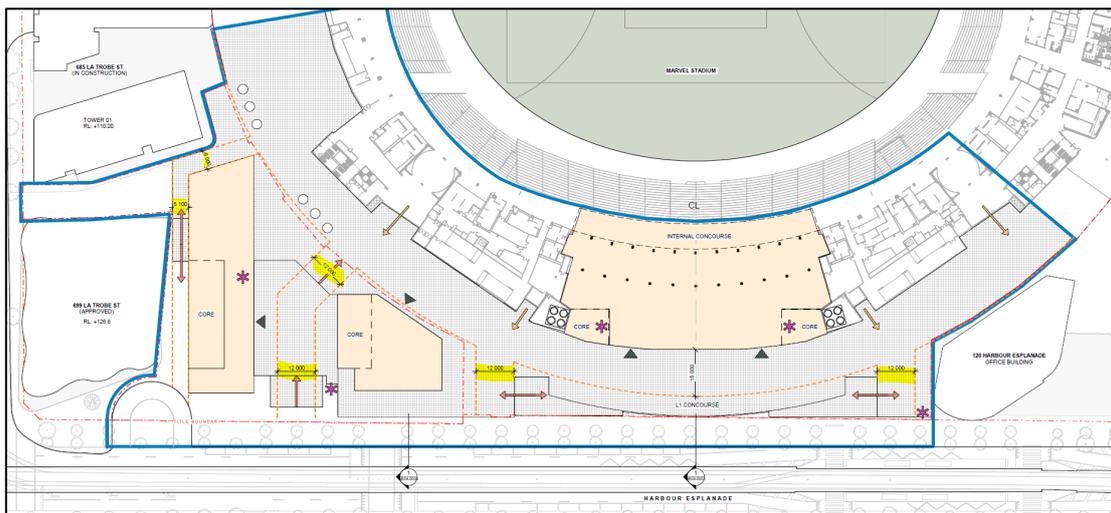


Figure 15 – Location of the 3 pedestrian access points from Harbour Esplanade which has a minimum width of 12 metre (source: Applicant's Development Envelope Drawings associated with the Master Plan)

### Flood Mitigation:

The proposal is impacted by Amendment C384 which proposes a Land Subject to Inundation Overlay Schedule 3 (LSIO3) would apply to part of the Site along Harbour Esplanade. This due to the riverine flooding associated with the Yarra River and Victoria Harbour.

The Master Plan and draft Incorporated Document has regard to a flood level of 2.04 metres AHD. The Master Plan establishes a public realm principle that future detailed design plans must accommodate these levels, however the detail on how this is achieved remains unknown. The Master Plan should reference the *Good Design Guide for Building in Flood Affected Areas*.

Appropriate flood management is critical to the success of the proposal and its interface to Harbour Esplanade. In addition any flood mitigation measures must be within the title boundary and must ensure they do not 'bleed' into the Harbour Esplanade Road Reserve.

These flood mitigation concerns and matters form recommendations to the Minister – refer recommendations 10.1.7 of this report.

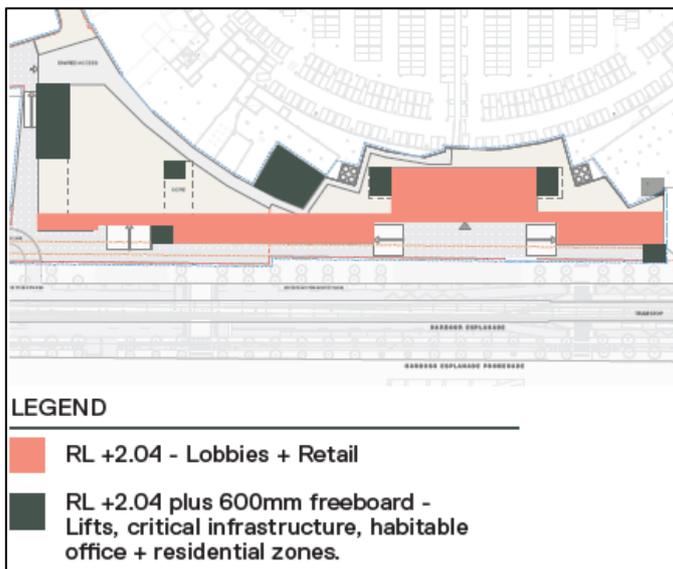


Figure 16 – Master Plan consideration of flooding implication and how they can be addressed along Harbour Esplanade (source: Applicant's Master Plan)

### Landscaping

The proposal seeks to incorporate principles within the Master Plan to embed meaningful landscaping into the proposal from the ground floor, podium and upper tower levels. The Application acknowledges the importance of the landscaping particularly within the publicly accessible open spaces within the Site and seeks to encourage a mix of softscape elements from climbers to canopy trees.

The landscaping ambitions within the Landscaping Report prepared by Oculus dated 28 July 2022 are largely supported, however there remains outstanding concern with regard to the viability of the landscaping. Due to the site context, orientation and proposed building envelopes the landscaped areas will likely be covered and experience limited direct solar access. Furthermore the Landscaping Report does not provide detail on how the proposal will ensure the success of the landscaping through measures such as deep soil planting, drainage, landscape maintenance and robust / contextual species selection. The Landscape Report should also make reference to the City of Melbourne *Green Our City Strategic Action Plan 2017-2021* and highlight its commitment to achieving a minimum Green Factor Score of 0.55 in line with the ambitions of Amendment C376.

These outstanding landscaping matters form recommendations to the Minister – refer recommendations 10.1.8 of this report.

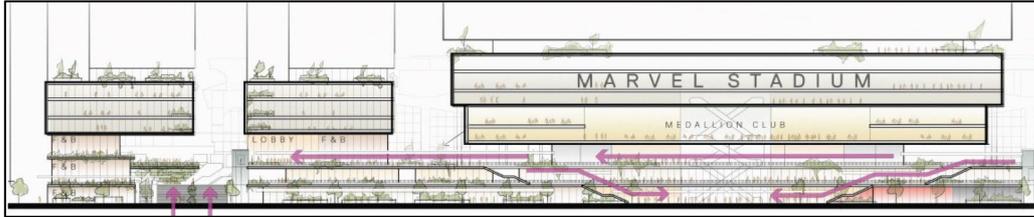


Figure 17 – Indicative cross section demonstration landscaping across the podium and concourse (source: Applicant's Master Plan)

### Wind

With regard to wind, Clause 3.0 to DDO52, states that consideration must be given to the nature of wind effects caused by any new building, and design measures to address these.

The proposed three tower envelopes have been tested through a wind tunnel model by Vipac Engineers and Scientists. Due to the strong wind impacts associated with the unique waterfront location, a series of recommendations are anticipated which include the need for canopies, pergolas / porous roofing, and porous fences / wind screens.

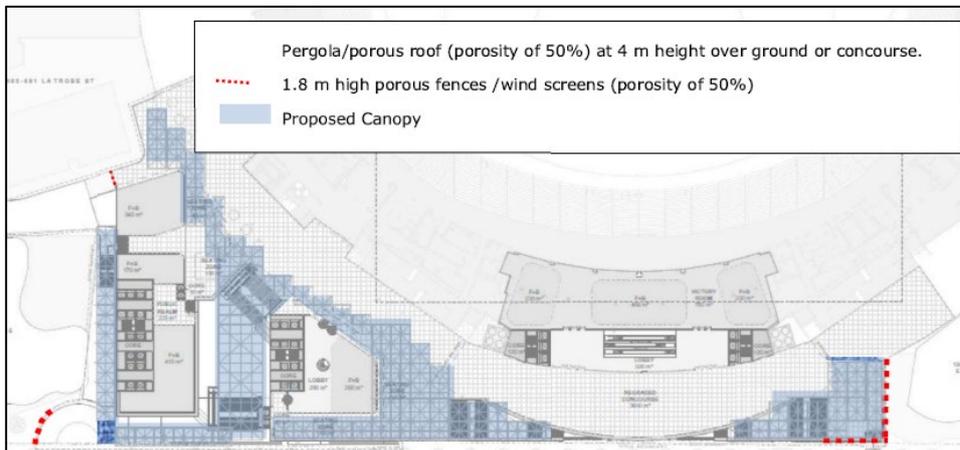


Figure 18 – Location of wind mitigation measurements which include a series of canopies and fencing along Harbour Esplanade (source: Applicant's Wind Tunnel Model Assessment)

Subject to the inclusion of the recommended wind control measures, the proposal will be able to achieve the relevant safety and comfort criteria. However, a primary concern relates to the lack of detail on the design of these measures. The proposal requires significant canopy cover as well as 1.8 metre fencing in specific areas along Harbour Esplanade. The Master Plan should be explicit in ensuring the design and delivery of any wind mitigation measures do not compromise on any public realm principles which relate to open to the sky and transparent materials.

In addition, the wind report should expand its assessment areas to beyond the immediate curtilage of the Site. Further measurement locations should be considered closer to Docklands Park and along the sides of Victoria Harbour.

This outstanding wind mitigation concern forms as a recommendation to the Minister – refer recommendations 10.1.9 of this report. It is also noted that the draft Incorporated Document includes a recommendation for an updated Wind Tunnel Assessments based on any the final design of each tower at Section 11 of this report.

## Overshadowing

In relation to overshadowing of key public spaces, relevant policy and guidelines within the planning scheme are as follows:

- At Clause 11.03-6L-03 (Planning for Places - Docklands), the policy guidelines require consideration of the following:
  - *Public spaces should generally be free of significant overshadowing between 11am and 3pm at the equinox (22 September / 20 March); and*
  - *Shadow diagrams which illustrate the shading effects of development in public and private spaces.*
- At Clause 3.0 of Schedule 52 to the Design and Development Overlay, the decision guidelines require consideration of:
  - *The prevention of any overshadowing of the playing surface of the major sports and recreation facility greater than the shadow which is already cast by the existing facility roof when fully open.*
  - *The orientation and design of a development and whether it will cause significant overshadowing individually or as part of a cumulative effect on the public realm.*

It is noted that Clause 15.01-1L-03 (Sunlight to public spaces) does not apply to land within the Docklands Zone nor does Planning Scheme Amendment C415 (Sunlight to Parks).

While it is acknowledged the submitted shadow diagrams do not show an impact to the nearby Docklands Park, there continues to be an impact to the public realm associated with Harbour Esplanade.

The requirements at Clause 11.03-6L-03 (Planning for Places – Docklands) and Schedule 52 of the Design and Development Overlay provide broad, discretionary guidance relating to overshadowing of public open spaces, albeit with a specific guideline at Clause 11.03- 6L-03 stating public spaces should generally be free of significant overshadowing between 11am and 3pm at 22 September and 20 March. These guidelines are relevant to Harbour Esplanade.

The primary impact to Harbour Esplanade is between 11am-12pm at the equinox to the western side of Harbour Esplanade. Due to the envelope height and setbacks, a continuous shadow mass extends across Harbour Esplanade during this time. When considering the existing conditions the impact could be considered minor as the shadow largely impacts the old tram lines and part of the western pedestrian footpath between 11am-11:30am at the equinox, however, it noted that in Harbour Esplanade Master Plan associated with TP-2014-1072 anticipates this space as a shared zone. The Application does not acknowledge the Harbour Esplanade Master Plan prepared by Development Victoria or any of the planned investment to the waterfront and Central Pier area. A comprehensive assessment of the potential shadow impact has not been considered as a part of the Master Plan and remains as a critical concern of the Application. The extent of shadow to this space could impact on its success, usability and the type of events within the shared zone.

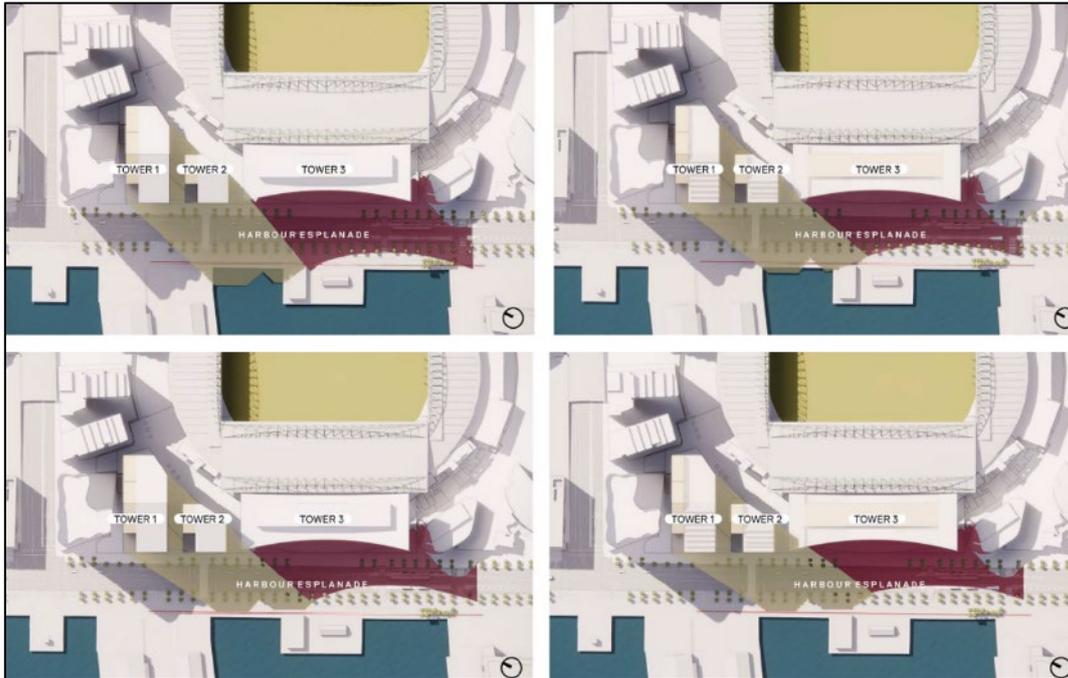


Figure 19– September 22<sup>nd</sup> Indicative shadow from 11-11:45am (top left to bottom right) (source: Applicant’s Master Plan)

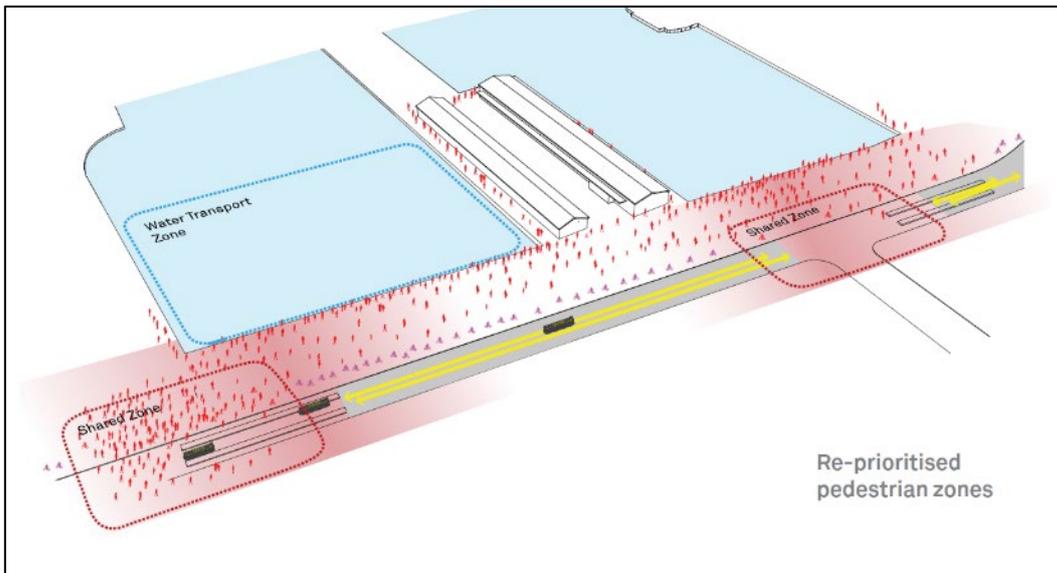


Figure 20 - Indicative Shared Zone associated with TP-2014-1072 (source: Development Victoria’s 2015 Harbour Esplanade Master Plan)

Secondary to the above concern, the proposed envelopes result in additional shadow cast onto the Docklands Stadium field from 2.00pm onwards. The AFL (as owners of the stadium) have provided their consent to the extent of overshadowing.

Again it is acknowledged the site specific approval sought turns off existing planning controls, however, overshadowing to areas of Harbour Esplanade is of concern as it has the potential to compromise future planning on a potential shared zone aimed at encouraged people to linger and engage with Victoria Harbour and the waterfront.

These overshadowing concern and further investigation on their impact to future planning for Harbour Esplanade, Central Pier and the waterfront form recommendations to the Minister – refer recommendation 10.1.1 and 10.1.10 of this report.

### Noise Attenuation

In relation to noise attenuation, relevant policy and guidelines within the planning scheme are as follows:

- At Clause 1.0 of Schedule 12 to the Design and Development Overlay, the design objectives require consideration of:
  - *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.*
  - *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.*

As detailed within the Acoustic Report, it concludes that appropriate design mitigation and acoustic treatments could be incorporated into any of the three towers, particularly if they were to accommodate more sensitive land use types such as dwellings. Furthermore the Acoustic Report confirms that potential noise impacts from the proposal itself can be managed to comply with the Melbourne Planning Scheme and EPA Noise Protocol requirements. Due to the nature of the Application the final design and detail of the development is unknown and noise mitigation measures would be resolved further at the detailed design stage.

Any ongoing compliance with EPA Noise Protocols and Schedule 12 to the Design and Development Overlay forms as recommendations to the Minister – refer Section 11 of this report.

### Signage

The application seeks approval for the erection and display of directional, digital, promotional, sky and business identification signs in accordance with a signage strategy pursuant to condition 71 of the draft Incorporated Document.

A signage strategy has not been submitted for review and consideration on the impact of potential signage types, zones, scale and view lines. The matter should not be deferred to a condition on any decision issued.

These signage matters outlined in the draft Incorporated Document at Section 11 of this report recommend deletion of these signage based conditions. It is considered these matter can be resolved as a separate planning permit application when there is a greater understanding on the built form and contextual response.

### Sustainability

The detail and understanding of the proposal's response in achieving excellence in sustainability is unknown until a comprehensive assessment can be undertaken against Clause 15.01-2L-01, Clause 19.03-3L and Amendment C376.

It is noted the Application commits to achieving a 5 Star Green Star Buildings certified rating, however to demonstrate the proposal's response to sustainability further detail and evidence must be provided to indicate how the credits have been allocated as well as how it responds to Amendment C376.

This matter forms a recommendation to the Minister – refer Section 11 of this report.

### Harbour Esplanade Road Reserve

The draft Incorporated Document includes Harbour Esplanade Road Reserve (Eastern Footpath) within its development area which is managed by Melbourne City

Council. The Master Plan and draft Incorporated Document do not provide any specific detail of any potential works within this area.

The Master Plan and draft Incorporated Document must note that any works in this area would require separate approval from Melbourne City Council. Specifically any works would need to be designed and delivered to the satisfaction of Melbourne City Council in accordance with the *Docklands Design and Construction Standards*.

Matters relating to the Harbour Esplanade Road Reserve (Eastern Footpath) forms a recommendation to the Minister – refer recommendation 10.1.10 of this report.

## **10. OFFICER RECOMMENDATION**

The proposed Planning Scheme Amendment C438melb to facilitate the redevelopment of the western edge of the Stadium Precinct which includes development of three towers atop a shared concourse, an expanded publicly accessible open spaces and pedestrian connections between the Docklands Stadium and Harbour Esplanade, has been reviewed in detail.

Having considered the Planning Scheme Amendment material and supporting documents provided by the applicant as well as internal referral advice received, the Harbour Esplanade Precinct project is supported by the City of Melbourne subject to the resolution of the identified Outstanding Key Matters, updates to the Master Plan and amendments to the draft Incorporated Document (identified under Section 11 - Draft Incorporated Document).

### **10.1. Outstanding Key Matters**

The following key matters are recommended to be addressed prior to the approval of the proposed Planning Scheme Amendment and are to be resolved as a part of an updated Master Plan.

#### **10.1.1. Unresolved Strategic Documents**

Prior to the approval of the Planning Scheme Amendment relevant strategic documents associated with Harbour Esplanade, Central Pier and the waterfront must be publicly released for consideration in the context of the Application such as Development Victoria's Place Principles and Vision Strategy and the Harbour Esplanade Master Plan documents.

#### **10.1.2. Design Review Panel Process**

Prior to the approval of the Planning Scheme Amendment consideration of the proposal through a design review panel must occur to ensure principles of good design and design excellence are clearly established and embedded in the Master Plan to guide the detailed plan submissions.

#### **10.1.3. Public Benefit**

Prior to the approval of the Planning Scheme Amendment the proposal must incorporate a public benefit commensurate to the uplift. This may include provision of a minimum of 10% affordable housing and / or upgrades in the Harbour Esplanade Road Reserve. Any public benefit must subsequently be secured by agreement as a part of the Master Plan and Incorporated Document.

#### **10.1.4. Built Form and Contextual Response**

Prior to the approval of the Planning Scheme Amendment the Master Plan must be amended to include:

- Further contextual analysis and perspectives of the proposal from existing and future publicly accessible areas on Harbour Esplanade, Central Pier and from the waterfront to demonstrate how the massing does not contribute to a

'wall effect' and allows for visibility to the existing Docklands Stadium structure.

- An increase in the southern elevation setback associated with Tower 3 from 7.5 metres to a minimum of 10 metres to assist in improving views and allowing for equitable development opportunities for the adjoining site at 120 Harbour Esplanade.
- Modifications to the massing of the 40 metre street wall associated with the Tower 3 Development Envelope Drawings while ensuring that the envelope diagrams continue to read as an extension to the Docklands Stadium.

#### **10.1.5. Adaptive reuse**

Prior to the approval of the Planning Scheme Amendment, an updated Master Plan to incorporate design principles to ensure that the two northern tower floor plates are designed to ensure adaptive reuse.

#### **10.1.6. Movement and Way Finding**

Prior to the approval of the Planning Scheme Amendment updated pedestrian modelling and analysis must be provided to:

- Demonstrate how crowds are to be practically managed and guided through the various egress points during event modes, noting the location and access to various transport options within the Docklands Precinct.
- Consideration of Clause 11.03.6L-03 (Planning for Places – Docklands) which stipulates areas of intense pedestrian activity are to achieve a 14 metre width rather than the proposed 12 metres.

#### **10.1.7. Flood Mitigation**

Prior to the approval of the Planning Scheme Amendment an updated Master Plan must include:

- Any updated or current Melbourne Water advice.
- Ensure that any flood mitigation measure are located within the title boundary.
- Demonstrate how the proposal will adopt and incorporate principles from the Good Design Guide for Flood Affected Areas document.
- Demonstrate the ability to achieve step free flooding particularly for the main access to Tower 3.

#### **10.1.8. Landscaping**

Prior to the approval of the Planning Scheme Amendment an updated Master Plan must provide detail on how the proposal will ensure the success of the proposed landscaping through measures such as deep soil planting, drainage, landscape maintenance and robust / contextual species selection and detail how landscaping will receive adequate solar access within and between the building envelopes.

#### **10.1.9. Wind Mitigation**

Prior to the approval of the Planning Scheme Amendment an updated wind assessment must be undertaken to provide further analysis on the impact of the proposal beyond the immediate curtilage of the Site. Further measurement locations should be considered closer to Docklands Park and along the sides of Victoria Harbour. In addition the Master Plan should be explicit in ensuring the design and delivery of any wind mitigation measures do not compromise on any public realm principles which relate to open to the sky publicly accessible areas and transparent materials.

#### **10.1.10. Shadow Analysis**

Prior to the approval of the Planning Scheme Amendment an updated shadow analysis must be provided in the context of Development Victoria's Place Principles and Vision Strategy and the Harbour Esplanade Master Plan documents. This is required to understand the implications of any shadowing on the future strategic planning for Harbour Esplanade, Central Pier and the waterfront.

#### **10.1.11. Road Reserve**

Prior to the approval of the Planning Scheme Amendment an updated Master Plan must reference that any potential works within the Harbour Esplanade Road Reserve are to be done to the satisfaction of Melbourne City Council. The Master Plan should also reference any public realm works are to be done in accordance with the Docklands Design and Construction Standards.

### **11. DRAFT INCORPORATED DOCUMENT**

Notwithstanding the outstanding key matters identified at Section 10.1 of this report, the Incorporated Document as proposed by the applicant is included on the subsequent page and provides recommendations, including added and amended conditions, shown in red – many of which are corrections, conditions required by internal referrals or changes required to address key matters identified (where possible).

Importantly, the draft Incorporated Document provided below is contingent on resolution of the matter identified at Section 10.1 (Outstanding Key Matters).

## **MELBOURNE PLANNING SCHEME**

### **INCORPORATED DOCUMENT**

**Harbour Esplanade Precinct – 140-160 Harbour Esplanade, Docklands**

**This is an Incorporated document under the Melbourne Planning Scheme pursuant to Section 6(2)(j) of the *Planning and Environment Act 1987*.**

## 1. INTRODUCTION

This document is an Incorporated Document as listed within the schedule to Clause 72.04 of the Melbourne Planning Scheme (the Scheme).

## 2. LAND DESCRIPTION:

This document applies to the following parcels of land:

- A portion of the land known as 122-148 Harbour Esplanade, Docklands, described in Certificate of Title Volume 10629 Folio 289 and contained within Lot 2 on Plan of Subdivision 434050P.
- All of the land known as 160 Harbour Esplanade, Docklands, described in Certificate of Title Volume 10805 Folio 727 and contained within Lot 1 of Plan of Subdivision 432271H.

This document also applies to land surrounding the parcels listed above, described as:

- Harbour Esplanade Road Reserve (Eastern Footpath)

Together known as “the land”, being all of the land within SCO35.

## 3. APPLICATION OF PLANNING SCHEME PROVISIONS:

Despite any provision to the contrary in the Scheme, pursuant to Clause 45.12 of the Scheme the land identified in this Incorporated Document may be used and developed in accordance with the specific controls contained in this document. In the event of any inconsistency between the specific controls contained in this document and any provision of the Scheme, the specific controls contained in this document will prevail.

~~For the purposes of public open space, the contribution requirements of Clause 53.01 of the Melbourne Planning Scheme do not apply to this Incorporated Document.~~

For the purpose of easements, Clause 52.02 of the Melbourne Planning Scheme does not apply to this Incorporated Document.

## 4. EXPIRY OF THIS SPECIFIC CONTROL:

The development of all stages of the land permitted under this Incorporated Document must commence within five years of the gazettal date of Amendment C438melb to the Melbourne Planning Scheme and must be completed within ten years of the gazettal date of Amendment C438melb to this Scheme. The uses permitted under this Incorporated Document must commence within ten years of the gazettal date of Amendment C438melb to this Scheme.

The Minister for Planning may extend the period for commencement if a request is made in writing before the time period for commencement expires or within six months afterwards.

The Minister for Planning may extend the date for the completion of the development if a request is made in writing before the time period for completion

expires or within six months after the time for completion expires and the development started lawfully before the approval expired.

## 5. THIS DOCUMENT ALLOWS:

This Incorporated Document allows for the following:

- Partial demolition of the existing building at 122-148 Harbour Esplanade and full demolition of the existing building at 160 Harbour Esplanade, in accordance with the demolition plans endorsed under this Incorporated Document.
- Construction of a staged development including multi-level buildings, publicly accessible spaces and pedestrian connections and the construction and carrying out of works.
- Use of the land for office, accommodation, hotel, place of assembly (other than drive in theatre), child care centre, shop (other than adult sex bookshop and restricted retail), food and drink.
- Sale and consumption of liquor.
- Display of signage.
- Removal of the existing Section 173 Planning and Environment Act 1987 Agreement – Lot 1 PS432271H dated 5/8/2004.
- Removal and variation of easements.

The use and development of the land must be in accordance with the detailed development plans endorsed under the conditions of the Incorporated Document and must be generally in accordance with the 'Incorporated Plans' prepared by Grimshaw Architects, titled 'Harbour Esplanade Precinct Development Envelope Drawings Rev C' and dated ~~30 September 2022~~ *[date of updated Master Plan]*, as follows:

- DE00-0050 – Site Plan
- DE00-0051 – Easement Removal or Variation Plan
- DE01-0010 – Level 1 Concourse Existing Conditions
- DE01-0011 – Publicly Accessible Open Space Plan
- DE01-0012 – Stadium Event Egress Widths Plan
- DE01-0020 – Demolition and Materials Re-Use Management Plan
- DE02-0000 – Ground Level (B3) Development Envelope Plan
- DE02-0001 – Upper Ground (B2) Development Envelope Plan
- DE02-0002 – Level 1 Concourse Development Envelope Plan
- DE02-0003 – Level 2 Medallion Development Envelope Plan
- DE02-0004 – Level 3 Stadium Development Envelope Plan
- DE02-0013 – Level 14 Development Envelope Plan
- DE03-0000 – West Elevation
- DE04-0000 – 160 Section
- DE04-0001 – 140 Section
- DE49-0000 – 3D Massing

The variation and/or removal of easements must be in accordance with the 'Easement Removal or Variation Plan' prepared by Grimshaw Architects and dated 30 September 2022, as follows:

- DE00-0051 – Easement Removal or Variation Plan

**6. THE FOLLOWING CONDITIONS APPLY TO THE USE AND DEVELOPMENT PERMITTED BY THIS DOCUMENT:**

**Detailed Development Plans**

1. Before the development starts, other than the demolition of the existing buildings and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, detailed development plans including staging (if required), comprising full architectural drawings, plans, sections, elevations and renders of the development must be submitted to and approved by the Minister for Planning in consultation with Melbourne City Council. The plans must be drawn to scale and fully dimensioned, including heights to Australian Height Datum for all levels, parapets, roof plant and architectural features on all elevations and sections.
2. Before the development of any stage commences, detailed development plans must be provided which remain within the Development Envelope Plans approved as part of this Incorporated Document. The detailed development plans for each stage must be supported by a comprehensive Urban Context Report and Architect Design Statement generally in accordance with the 'Harbour Esplanade Precinct Master Plan and Urban Context Report *Rev C*' and dated ~~30 September 2022~~ *[date of updated Master Plan]*, and respond directly to the City, Precinct and Public Realm principles and design criteria. The detailed development plans for each stage must provide the following information:
  - a) The title boundary and any projections over the title boundary, excluding any projections over the title boundary to Harbour Esplanade, including details of any minor adjustments to the title boundaries to those as at the date of this Incorporated Document.
  - b) A detailed development schedule including the total Gross Floor Area (GFA) using the definition in Clause 73.01 the Melbourne Planning Scheme and the GFA allocated to the proposed uses; the total number and allocation of car parking spaces (if applicable); number and type of bicycle parking and end of trip facilities; privately owned publicly accessible open spaces, including pedestrian connections (square metres); area (square metres) allocated for waste storage and collection, loading and unloading, and building services and equipment.
  - c) Publicly accessible open spaces in the form of activated pedestrian connections within the title boundary of the development site generally in accordance with the massing / development envelope plans approved as part of this Incorporated Document, unless otherwise agreed to by the Minister for Planning in consultation with Melbourne City Council.
  - d) Design details at 1:100 scale (or as otherwise agreed with the Minister for Planning) of the lower podium levels including the street levels to all interfaces to show active frontages, a clear sense of address and a high level of visual interest and engagement with the

street.

- e) Design details at 1:50 scale (or as otherwise agreed with the Minister for Planning) of the lower podium levels including the interfaces to the publicly accessible open spaces, including pedestrian connections, to demonstrate careful consideration of the building canopies, entries, active frontages, and services. Drawings should demonstrate finished materials and details that respond to the human scale and the function and character of the threshold from private to public land. Any level changes to the ground floor interface resulting from Melbourne Water requirements should have regard to balancing activation, accessibility and flood mitigation. All works must be within the Title boundary.
  - f) Design details at 1:50 scale (or as otherwise agreed with the Minister for Planning) of the podium elevations demonstrating the adoption of 'massing breaks' on all interfaces to reinforce a sense of fine grain and that the podium mass does not present as a single form.
  - g) Design details at 1:250 scale (or as otherwise agreed with the Minister for Planning) of the tower levels, including a clear 'massing break' to the waterfront western facades, defining separated building volumes.
  - h) Detailed floor plans for all levels in the building including typical floor plans.
  - i) Detailed roof plan.
  - j) Any changes required by the Façade Strategy required by the condition below.
  - k) Any changes required by the detailed Wind Impact Assessment required by the condition below.
  - l) Any changes required by the detailed Sustainability Management Plan required by the condition below.
  - m) Arrangements for waste storage and collection in accordance with the Waste Management Plan required by the condition below.
  - n) Any changes required by the Road Safety Audit required by the condition below.
  - o) All doors and openings adjoining the title boundary, as adjusted, designed to comply with Melbourne City Council's Road Encroachment Guidelines.
  - p) **Projections over the title boundary must comply with the Melbourne City Council Road Encroachment Guidelines to the satisfaction of Melbourne City Council.**
  - q) Recommendations or noise attenuation measures in accordance with the Acoustic Report required by the condition below.
3. The detailed development plans submitted under Condition 2 must provide the opportunity to extend and integrate the public realm works on the subject land at the Harbour Esplanade and Stadium Concourse levels in a manner that enhances pedestrian access, landscaping and the attractiveness and amenity of the public realm to the satisfaction of the Minister for Planning in consultation with Melbourne City Council and

Melbourne Water.

### **Easement Removal and Variation**

4. Prior to Certification of a Plan of Subdivision, a plan is to be submitted to and approved by the Responsible Authority to confirm any proposed removal or variation of easements, generally in accordance with the endorsed 'Easement Removal or Variation Plan' prepared by Grimshaw Architects and dated 30 September 2022. Clause 52.02 of the Melbourne Planning Scheme does not apply to the easement removal and variation approved under this Incorporated Document.

### **Section 173 Agreement**

5. Prior to the demolition of buildings on 160 Harbour Esplanade the existing S173 Agreement Instrument Number AD030381T between Seven Custodians Pty Limited and VicUrban dated 05/08/2004 requiring a Stadium Link, is to be removed from the title.

### **Façade Strategy**

6. Before the development of each stage starts, other than demolition of the existing buildings and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, a Façade Strategy must be submitted to and approved by the Minister for Planning in consultation with Melbourne City Council. When approved, the Façade Strategy 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 Minister for Planning.

The Façade Strategy must detail:

- a) A concise description by the architect of the building design concept and how the façade works to achieve this.
- b) Elevation details generally at a scale of 1:50 (or as otherwise identified in condition 2 or as agreed with the Minister for Planning) illustrating typical podium details, entries and doors, privacy screening, utilities, typical tower details and any special features which are important to the building's presentation.
- c) Design sectional details generally at a scale of 1:50 of the tower façade system, demonstrating the integration of cladding and 'massing break' elements within the curtain wall façade. Vertical and horizontal cladding should appear to be an integrated component of the façade, as opposed to an attached element.
- d) Cross section or other method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and or materials.
- e) Information about how the façade will be accessed and maintained and cleaned.
- f) Example prototypes and/or precedents that demonstrate the intended design outcome indicated on plans and perspective images to produce a high-quality built form outcome in accordance with the design concept.

## Materials and Finishes

7. Before the development of each stage starts, other than demolition of the existing buildings and early site preparation works approved under Condition 22, a schedule and samples of all external materials, colours and finishes including a colour rendered and notated plans/elevations must be submitted to and approved by the Minister for Planning in consultation with Melbourne City Council.

## Glare

8. Hazardous glare to public transport operators, road users and aircraft should not occur as a result of external glazing and cladding materials and finishes, to the satisfaction of the Minister for Planning.
9. Extended periods of discomfort glare for pedestrians and occupants of surrounding buildings caused by glazing (including tilted glazing) and external cladding materials and finishes with specular or glossy finishes (including polished metal cladding, finished stainless steel, glazed tiles, high gloss paint finishes) should be avoided or minimised, to the satisfaction of the Minister for Planning.
10. Prior to the endorsement of the façade strategy, a Reflectivity Assessment of external cladding materials and finishes utilising an appropriate methodology, may be required to be prepared by and to the satisfaction of the Minister for Planning

## Reflectivity

11. Specular light reflectance should be less than 15% for all external glazing and cladding materials and finishes when measured at an angle of 90 degrees to the surface of the material, to the satisfaction of the Minister for Planning.

## Pedestrian Connections

12. Pedestrian connections for each stage should respond to the principles and design criteria identified in the 'Harbour Esplanade Precinct Master Plan and Urban Context Report *Rev-G*' and dated *30 September 2022 [date of updated Master Plan]*, to the Satisfaction of the Minister for Planning.
13. Pedestrian connections for each stage throughout the site must be provided as shown within the drawings endorsed under this Incorporated Document and consider safety and accessibility, and provide strong public legibility and sightlines through the site in event and non-event mode.
14. Connections should be open to sky where possible or provide weather protection. Any roof structure should maximise daylight access and provide a generous height clearance to reinforce the sense of publicness. Structures should be of high-quality material and light weight with considerations for maintenance and cleaning requirements.

## Public Stair and Lift Connection

15. The development should provide at least two sets of public stairs and lift connections along the Harbour Esplanade frontage, unless otherwise agreed with the Minister for Planning in consultation with Melbourne City Council.
16. Public stairs and lifts from Harbour Esplanade to the Stadium concourse

must be clearly legible and give direct access, unless otherwise agreed with the Minister for Planning in consultation with Melbourne City Council.

### **Layout not Altered and Satisfactory Completion**

17. When approved the plans, schedules and reports referred to in the conditions of this Incorporated Document will be endorsed by the Minister for Planning or Melbourne City Council, as stated. The development as shown on the plans, schedules and reports must not be altered without the prior written consent of the Minister for Planning or Melbourne City Council, as stated.
18. All buildings and works must be maintained in good order and appearance to the satisfaction of the Minister for Planning.
19. Once the development of each stage has started, that stage must be continued and completed to the satisfaction of the Minister for Planning.

### **Retention of Design Firms**

20. Except with the written consent of the Minister for Planning, the nominated architect and landscape architect under each stage of development must be retained to complete the detailed development plans and to provide architectural and landscape oversight during construction of the detailed design, as shown in the endorsed plans, façade strategy and schedule of materials and finishes, to the satisfaction of the Minister for Planning.

### **Projections over the Title Boundary**

21. All projections over the title boundary must be drained to a legal point of discharge in accordance with plans and specifications first approved by Melbourne City Council.

### **Demolition and Early Site Preparation Works**

22. Before the demolition of the existing buildings and early site preparation works start on site, detailed plans showing the extent of demolition and early site preparation works must be approved by the Minister for Planning in consultation with Melbourne City Council.  
  
The demolition of the existing buildings and early site preparation works permitted under this condition are restricted to bulk excavation, site retention, soil investigation, soil remediation works, piling, footings, ground beams, ground slabs, relocation or diversion of existing services and the building works identified in DE01-0020 'Demolition and Materials Re-Use Management Plan' prepared by Grimshaw Architect and dated 30 September 2022, or as otherwise agreed with the Minister for Planning. All early site preparation works must be in accordance with the approved plans.
23. Before the demolition of the existing buildings and early site preparation works start on the site, an Early Works Demolition and Construction Management Plan (EWDCMP) must be submitted to and approved by Melbourne City Council. The EWDCMP must be prepared in accordance with ~~Melbourne City Council's Construction Management Plan Guidelines~~ *Melbourne City Council's Code of Practice for Building, Construction and Works*. The EWDCMP is to consider at least the following:

- a) Staging of works.
- b) Public safety, amenity and security.
- c) Management of public access and pedestrian connections around the site during construction.
- d) Site access and traffic management, including any disruptions to adjoining vehicular, public transport, bicycle and pedestrian access ways.
- e) Any works within the adjoining reserves and street network road reserves including footpaths.
- f) Hours of construction
- g) Noise and vibration controls.
- h) Air and dust management.
- i) Stormwater and sediment control.
- j) Arrangements for managing stockpiled soil before it is removed from the site.
- k) Collection and disposal of demolition waste.
- l) ~~Street trees~~ **Public trees** to be retained and protected.
- m) ~~Street trees~~ **Public trees** to be removed, lopped or pruned. **Provide details of all reasonable options exhausted to retain public trees when identifying trees proposed for removal.**
- n) Public assets to be protected.
- o) Program and completion date.
- p) Impact on the Stadium.

### Temporary Works

24. Before the development starts for each stage, other than early site preparation works, including the demolition of the existing buildings, approved under Condition 22, or as otherwise agreed with the Minister for Planning in consultation with Melbourne City Council, the owner of the land must enter into an agreement with Melbourne City Council pursuant to Section 173 of the *Planning and Environment Act 1987*. The agreement must provide for the following:
- a) if the land remains vacant for each stage for six months after completion of the demolition;
  - b) if demolition or construction activity ceases for a stage for a period of six months; or
  - c) if construction activity ceases for a stage for an aggregate of six months after commencement of the construction,

the owner must construct temporary works on the land to ensure that an active street frontage, landscaping or other treatment to the satisfaction of Melbourne City Council is provided at the main site frontages or to any

interface with publicly accessible open space and pedestrian connections on the site.

Before the construction of any temporary works as required by this condition, details of the works must be submitted to and approved by Melbourne City Council. Temporary works may include:

- a) the construction of temporary buildings for short-term retail or commercial use, providing an active street frontage; and.
- b) landscaping of the site for the purpose of public recreation and open space.

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

### **Staging Plan**

25. The development of the land may be undertaken in stages. Before the commencement of development, other than the demolition of the existing buildings and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, a staging plan must be submitted to and approved by the Minister for Planning. The staging plan should address the integration of publicly accessible open spaces and pedestrian connections. The staging plan may be altered and updated from time to time to the satisfaction of the Minister for Planning. The development must proceed in accordance with the approved staging plan.

### **Wind Tunnel Assessment**

26. Before the development of each stage starts, other than the demolition of the existing building(s) and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, a Wind Tunnel Assessment prepared by a suitably qualified person must be undertaken and submitted to and approved by the Minister for Planning. The Wind Tunnel Assessment must:
  - a) Respond to the wind effects provisions, definitions and criteria outlined in the Pedestrian Level Winds – Wind Tunnel Test report prepared by Vipac Engineers and Scientists Ltd and ~~dated 4 August 2022~~ *[date of updated Wind Tunnel Assessment]*.
  - b) Explain the effect of the development on the wind conditions in publicly accessible areas impacted by the development as well as any open to sky publicly accessible open spaces/connections, balconies and/or rooftop areas within the development.
  - c) At a minimum, model the wind effects of the development and its surrounding buildings (existing and proposed) using wind tunnel testing.
  - d) Not rely on any trees within publicly accessible areas for wind mitigation.
  - e) Make recommendations for modifications to the design of the building, if required, to achieve comfortable wind conditions consistent with the identified principal role for publicly accessible open spaces/pedestrian connections as well as any balconies and/or rooftop areas within the development.

27. Any modifications to the development to ensure comfortable wind conditions to the surrounding streets and concourse, building entries, publicly accessible open spaces/connections and any balconies and/or rooftop areas within the development must be carefully developed as a high quality integrated architectural solution to the satisfaction of the Minister for Planning in consultation with Melbourne City Council and implemented at the cost of the owner.

### Acoustic Assessment

28. Before the development of each stage starts, other than demolition of the existing buildings and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, an Acoustic Report prepared by a suitably qualified person must be approved by the Responsible Authority. Noise attenuation measures for the development must be in generally in accordance with the report, to the satisfaction of the Responsible Authority. The Acoustic Report must be generally in accordance with the Acoustic Report prepared by Marshall Day Acoustics ~~and~~ dated 26 July 2022 ~~and address the requirements of the Design and Development Overlay Schedule 12, Clause 58.04-3 and EPA Publication 1826.4 (or subsequently updated publication): Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues.~~
29. ~~The recommendations in the Acoustic Report must be implemented prior to the commencement of the use/occupation of the relevant stage of the development.~~

### Environmentally Sustainable Design Statement

30. Before the development for each stage starts, other than the demolition of the existing buildings and early site preparation works approved under Condition 22 or as otherwise agreed with the Minister for Planning, an Environmentally Sustainable Design (ESD) Statement prepared for each stage by a suitably qualified professional shall be submitted to and approved by the Minister for Planning in consultation with Melbourne City Council. The ESD Statement must be generally in accordance with the Environmentally Sustainable Design Statement prepared by Arup and dated 3 August 2022 and demonstrate that the building has the preliminary design potential to achieve the following:
- a) ~~A minimum (mandatory) 5 Star NABERS Energy rating or equivalent.~~
  - b) ~~An aspirational (preferred) 6 Star NABERS Energy rating or equivalent.~~
  - c) ~~A minimum (mandatory) 3 points for Wat-1 credit under the Green Star – Office rating tool or equivalent.~~
  - d) ~~A minimum (mandatory) 5 Star Green Star Design and As Built or equivalent.~~
  - e) ~~An aspirational (preferred) 6 Star Green Star Design and As Built or equivalent.~~
  - f) ~~A plan to consider how the development's reliance on gas may be reduced or removed over time.~~

The development commit to:

- a) A minimum 5 Star Green Star Buildings certified rating or equivalent

- b) Achieve the credit achievement standard for Heat Resilience credit 19, Water Use credit 25, and Waterway Protection credit 39 under the Green Star Buildings.
- c) A minimum 5.5 Star plus 25% modelling margin NABERS Energy rating including a signed NABERS Commitment Agreement and associated energy modelling submitted prior to development commencing
- d) Achieve a minimum 7.5 Stars NatHERS average for all residential dwellings with no dwelling achieving lower than 6.5 stars
- e) Achieve at least 20% less energy use compared to a reference building for all other uses not covered under the above points.
- f) A Waste Management Plan prepared in accordance with the current version of the City of Melbourne's Guidelines for Waste Management Plans 2021.

The precinct commit to:

- a) A minimum 6 Star Green Star Communities certified rating or equivalent
  - b) Achieve Climate Active Carbon Neutral Standard or equivalent.
  - c) A minimum 0.55 using City of Melbourne's Green Factor Tool using the project scope boundary as the site area.
31. Any change during detailed design which affects the approach of the endorsed ESD Statement must be assessed by an accredited professional. The revised ESD Statement must be endorsed by the Minister for Planning in consultation with Melbourne City Council before development starts.
32. Within ~~42~~ 24 months of occupation of each stage of the development, a report must be submitted to and approved by the Minister for Planning, which details the initiatives implemented within the completed development that achieve the performance outcomes specified in the endorsed ESD Statement.

### **Water Sensitive Urban Design**

33. Before the development starts, other than the demolition of the existing buildings and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, a stormwater drainage system incorporating integrated water cycle management design principles must be submitted to and approved by Melbourne City Council. The system must be constructed prior to the occupation of each stage of the development and provision made to connect this system to Melbourne City Council's underground stormwater drainage system. MUSIC modelling must be provided with the submission to demonstrate that the proposed stormwater management devices will achieve best practice stormwater quality as required by ~~Clause 22-23~~ Clause 19.03-3L of the Melbourne Planning Scheme.

### **Waste Management Plan**

34. Before the development starts, other than the demolition of the existing buildings and early site preparation works approved under Condition 22, or as otherwise agreed with Melbourne City Council, a detailed Waste Management Plan (WMP) must be submitted to and approved by Melbourne City Council. The WMP must be generally in accordance with the preliminary WMP prepared by Arup and dated 29 July 2022. The WMP

should include (but not be limited to):

- a) A communal hard waste storage area, so that hard waste collections are consolidated where possible and the collection frequency is minimised.
- b) Consideration of on-site processing of organic waste.
- c) Details of height clearances for relevant vehicles throughout entries, accessways, collection and storage areas.
- d) Details of waste equipment and waste storage areas.
- e) Swept path diagrams for all waste vehicles showing egress and ingress manoeuvres from/to street level, **with appropriate clearances.**
- f) **Update of Table 1 (minimum waste separate) to identify that the waste management system should separate:**
  - i. **Recycling into separate streams: paper / cardboard, glass and others**
  - ii. **Organics: food and green/garden waste (food can be combined with green waste or processed separately)**
  - iii. **Residual (landfill / garbage)**
  - iv. **Hard waste**
  - v. **E-waste**
- g) **Demonstrate consideration of on-site processing for organics to reduce volumes needed to be transported by truck.**
- h) **Further detail to show the management of garden waste from landscaping (as inferred in section 4.4).**
- i) **Update of Table 4 to acknowledge that e-waste from all operational areas of the development must be separated and sent for recycling.**
- j) **Demonstrate that all internal back of house transfer corridors are to be at least 1.5 metres wide to safely accommodate larger 4 wheeled bins, trolleys, bin tugs and the like.**
- k) **Updates to show that all temporary storage bins reflect the full spectrum of waste streams (including glass) at the development to ensure good separation occurs at the source.**
- l) **Update of Tables 5, 6 and 7 to show:**
  - i. **An updated estimate of the proportions of glass in the commingled recycling stream, and update all relevant tables to include a separate glass stream.**
  - ii. **If fully catered events are envisaged then garbage and organic volumes additional spaces need to be available to accommodate these events, particularly if in house kitchens are used.**

- iii. A table that summarises the floor area of each use type.
- m) Update to Figure 5 to show the weight of bins used to transfer waste to the docks. Glass transfer will likely need to be transferred in small bins and/or using a bin tug.
- n) Update of Table 8 to show:
  - i. Confirmation of bin size options from an appropriate waste contractor noting the following:
    - Smaller organics bins (240L) may be required
    - Onsite processing of food waste should be considered and also within the function centre.
  - ii. Details on bin tug/s and or trolley/s as well as their associated storage area.
- o) Update of Section 4.3.1 to show:
  - i. Space available for waste bins and equipment to accommodate any contingencies such as a missed collection.
  - ii. Configuration of bin storage areas to ensure all waste streams are easily accessible and bins can be manoeuvred easily and safely.
- p) Updates to Section 4.3.2, 4.6.2 and 5.1.3 to show that waste system must be based on a maximum of 3 collections per week per waste stream.
- q) Update to Section 4.6.1 to note that if compactors are used, a large hook lift vehicle will need to be accommodated, and suitable clearance will be required for operation (1m in front of compactor at the rear and 5m overhead).
- r) Update to Table 13 to provide floor area for each use type, and show separated glass.
- s) Any other relevant details dependant on the final land use mix in accordance with Melbourne City Council's Waste Management Plan Guidelines 2021.

The WMP should detail the waste storage, including dimensions, and collection arrangements and comply with Melbourne City Council's Waste Management Plan Guidelines ~~2017~~2021, also having regard to any new or updated version of Council's Guidelines.

Waste storage and collection arrangements must not be altered without prior written consent of Melbourne City Council.

35. All garbage and other waste material must be stored in an area set aside for such purpose to the satisfaction of Melbourne City Council.

### **Car Parking and Traffic Management**

36. Before the development starts, other than the demolition of the existing building and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, a Car Parking and Traffic Management Report prepared by a suitably qualified traffic

consultant must be submitted to and approved by the Minister for Planning in consultation with Melbourne City Council. The Car Parking and Traffic Management Report must be generally in accordance with the preliminary Traffic Impact Assessment prepared by Arup and dated 2 August 2022 and must:

- a) Address the number of car parking spaces and number and type of bicycle parking spaces and end of trip facilities provided.
  - b) Integrate with the approved WMP and inform the detailed internal design of the car parking and loading areas.
  - c) Specify and assess all relevant access, parking, loading and traffic matters, including pedestrian and cyclist safety and recommend traffic mitigation works and management measures, if required, to manage the traffic impacts generated by the development.
  - d) **Provision of a shuttle bus service for any proposed function centre.**
37. All traffic mitigation works and management measures as recommended in the Car Parking and Traffic Management Report must be implemented at the cost of the owner and must be to the satisfaction of Melbourne City Council.
38. **Before the development starts, a comprehensive Green Travel Plan (GTP) must be prepared for this development, which would further encourage the use of sustainable transport to the satisfaction of the Melbourne City Council.**

### **Parking Spaces**

39. If car parking is proposed to be provided, the detailed car park layout plans must show the number of car parking spaces, including electric charging spaces, and motorcycle parking spaces allocated to the uses within the development, to the satisfaction of the Melbourne City Council.
40. Any new car lift and new car parking layout including all spaces, ramps, grades, transitions, accessways, and height clearances must be designed in accordance with the Melbourne Planning Scheme, AS/NZS 2890.1:2004 or other relevant Australian Standards for the new/refurbished areas.

### **Car Parking Access and Layout**

41. Accessways and areas set aside for car parking where provided on the plans endorsed under Condition 2 must be constructed, delineated and clearly line-marked to indicate each car space and the direction in which vehicles must proceed along the accessways, in conformity with the endorsed plans. Accessways and parking areas must be kept available for these purposes at all times and maintained to the satisfaction of Melbourne City Council.

### **Road Safety Audit**

42. Before the development starts, other than the demolition of the existing building and early site preparation works approved under Condition 22, or as otherwise agreed with Melbourne City Council, a formal independent desktop Road Safety Audit of the development must be submitted to and approved by Melbourne City Council. The Audit must include assessment

of:

- a) Internal layout.
- b) Access arrangements.
- c) Loading arrangements.
- d) Pedestrian and bicycle access and movements within the site and in the public realm.
- e) Potential conflicts between vehicles / pedestrians / cyclists / public transport.
- f) Road safety issues affecting all road users.

The findings of the Audit must be incorporated into the detailed design to the satisfaction of Melbourne City Council.

### **Loading**

43. Before the development starts, other than the demolition of the existing building and early site preparation works approved under Condition 22, or as otherwise agreed by Melbourne City Council, a Loading Management Plan must be submitted to and approved by Melbourne City Council, specifying how the access/egress of loading vehicles is to be managed and ensuring that:
  - a) The delivery needs of the various uses within the development can be accommodated.
  - b) Vehicles do not queue on-street.
  - c) Any potential conflicts between various vehicles (and other road users) are satisfactorily addressed.
  - d) The loading facilities are designed generally in accordance with the relevant Australian Standard.
  - e) **Ensure deliveries are made outside peak traffic periods.**

### **Bicycle Facilities**

44. The development must provide bicycle facilities to satisfy, and preferably exceed, the minimum requirements of Clause 52.34 of the Melbourne Planning Scheme, to the satisfaction of the Minister for Planning. The design of bicycle spaces should comply with Clause 52.34-6 and wayfinding signage should be provided to comply with Clause 52.34-7 of the Melbourne Planning Scheme.

### **Landscaping**

45. Before the development for each stage starts, other than demolition of the existing buildings and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, a detailed landscape plan, landscape maintenance plan and irrigation performance specification for each stage of the development must be submitted to and approved by the Minister for Planning in consultation with Melbourne City Council. The detailed landscape plan should be generally in accordance with the Landscape Report prepared by Oculus dated **28 July 2022 [date of updated Landscape Report]**. The documents must be

prepared by a suitably qualified landscape architect and address the following:

- a) Details of all surface finishes including pathways, driveways, terrace or decked areas.
- b) The landscape design of all publicly accessible areas at ground and upper levels inclusive of integrated vertical greening opportunities where possible.
- c) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes and sizes at maturity. **All trees must be species that are recognised by Melbourne City Council as being future climate ready.**
- d) Deep soil tree zones.
- e) Detailed planter sections including soil volumes and growing media.
- f) Urban design elements including, but not limited to, paving, lighting, seating and public art.
- g) Clear demarcation of public realm and private spaces, including arrangements for pedestrian, bicycle and vehicular circulation.
- h) How the development responds to water sensitive urban design principles, including how storm water will be mitigated, captured, cleaned and stored for onsite use and the location and type of irrigation systems to be used, including the location of any rainwater tanks.
- i) Demonstrate covered and open to sky pedestrian connections and level changes. This should include proposed access hours and security considerations for publicly accessible private spaces.
- j) Legible, safe and accessible pedestrian connections.
- k) A landscape maintenance plan detailing:
  - i. ownership and management responsibilities of landscaped areas.
  - ii. The proposed maintenance regimes with provision for maintenance beyond the fifty-two-week period following Practical Completion.
  - iii. A Landscape Irrigation Performance Specification.
- l) **Identify that any canopy cover lost as a result of public tree removal will be mitigated by new public tree planting as appropriate.**

Landscaping must be implemented in accordance with the landscape plan to the satisfaction of the Minister for Planning.

46. Before the occupation of the development, landscape works as shown on the endorsed plans must be completed to the satisfaction of the Minister for Planning.
47. All landscape works (including within all publicly accessible/common areas of the development) must be maintained to the satisfaction of the Minister for Planning.

## Tree Protection Plan

48. Before the development starts, or as otherwise agreed with Melbourne City Council, an Arboricultural Assessment and Report and Tree Protection Plan (TPP) must be submitted to and approved by Melbourne City Council. The documents must demonstrate how publicly owned trees will be protected during the construction activities associated with the development. The TPP must be prepared by a suitably qualified arborist and in accordance with AS 4970-2009 – Protection of Trees on Development Sites. If a TPP is required for the demolition of the existing buildings and early site preparation works approved under Condition 22, the TPP may be staged. The documents must include but not be limited to:
- a) An assessment of all trees on or adjacent to the site, including their canopy cover.
  - b) Tree protection recommendations for the trees to be retained in accordance with Australian Standard AS 4970-2009 Protection of Trees on Development Sites to ensure their long- term health, including tree protection zones (for roots and canopies) and structural root zones.
  - c) Melbourne City Council asset numbers for the subject trees (found at <http://melbourneurbanforestvisual.com.au>).
  - d) Reference to the finalised Construction and Traffic Management Plan, including any public protection gantries. The Construction and Traffic Management Plan requirements must relate directly to those provided to Melbourne City Council in relation to any other conditions.
  - e) Site specific details of the temporary tree protection fencing to be used to isolate publicly owned trees from the demolition and construction activities or details of any other tree protection measures considered necessary and appropriate to the site.
  - f) Specific details of any special construction methodologies to be used within the TPP of any publicly owned trees.
  - g) Full specifications of any pruning required to publicly owned trees.
  - h) Any special arrangements required to allow ongoing maintenance of publicly owned trees for the duration of the development.
  - i) Name and contact details of the project arborist who will monitor the implementation of the TPP for the duration of the development.
  - j) Details of the frequency of the project arborist monitoring visits, interim reporting periods and final completion report (necessary for bond release). Interim reports of monitoring must be provided to Melbourne City Council's email [trees@melbourne.vic.gov.au](mailto:trees@melbourne.vic.gov.au).
49. All works (including bulk excavation), within the TPP of public trees must be undertaken in accordance with the endorsed Arboricultural Assessment and TPP and supervised by a suitably qualified Arborist where identified in the report, except with the further written consent of Melbourne City Council.

## Public Tree Protection Bond

50. Following the approval of the endorsed Arboricultural Assessment and Report and TPP, a bond equivalent to the combined environmental and amenity values of public trees that may be affected by the development must be lodged with Melbourne City Council. The bond will be held against the TPP for the duration of construction activities. The bond amount will be calculated by Melbourne City Council and provided to the owner of the site. Should any tree be adversely impacted on, Melbourne City Council will be compensated for any loss of amenity, ecological services or amelioration works incurred. If an Arboricultural Assessment and Report and TPP are required for the demolition of the existing buildings and early site preparation works approved under Condition 22, payment of the bond may be staged.
51. If a Construction Management Plan or Traffic Management Plan change any of the tree protection methodologies or impacts on public trees in ways not identified in the endorsed Arboricultural Assessment and Report and TPP, a revised TPP must be submitted to and approved by Melbourne City Council.

## Public Tree Removal

52. If any public trees are proposed for removal at any stage of the development under the endorsed Arboricultural Assessment and Report and TPP, then prior to the commencement of the development, the owner must submit a Street Public Tree Plot Replacement Strategy to Melbourne City Council, which shows replacement and/or additional tree plots in accordance with Melbourne City Council's Tree Retention and Removal Policy. The number of plots must be appropriate to ensure the loss of canopy cover can be mitigated by 2040. The Street Tree Plot Replacement Strategy must be to the satisfaction of and endorsed by the Melbourne City Council.
53. Before the occupation of each stage of the development, the replacement and/or additional street tree plots shown on the endorsed Public Tree Plot Replacement Strategy must be constructed at the cost of the owner and be to the satisfaction of Melbourne City Council.
54. **All costs in connection with the removal and replacement of public trees on municipal land, including any payment for the amenity and ecological services value of a trees to be removed, must be met by the developer. The costs of these works will be provided and must be agreed to before Melbourne City Council removes the trees.**

## Legal Agreement – Publicly Accessible Open Space

55. Before the development starts, other than demolition of the existing building and early site preparation works approved under Condition 22, or as otherwise agreed with the Minister for Planning, the owner of the land must enter into an agreement with the Melbourne City Council pursuant to Section 173 of the *Planning and Environment Act 1987* regarding the land marked Publicly Accessible Open Space on the Development Envelope Plans approved as part of this Incorporated Document. The agreement must provide for the following:
  - a) The agreement must be registered on the relevant certificate(s) of title which it affects.

- b) Provide Publicly Accessible Open Space inclusive of the identified Urban Room and other pedestrian access connections as marked on the endorsed plans, to be developed by the owner and at the owner's costs in accordance with relevant conditions of this Incorporated Document.
- c) The Publicly Accessible Open Space must include agreed, DDA-compliant access points to the Harbour Esplanade and Stadium (at least one at each end, north and south).
- d) Give unpaid access rights to the Publicly Accessible Open Space 24 hours a day, 7 days a week, except for temporary closures as agreed with Melbourne City Council due to the following:
  - i. Delivering the staged development of the land.
  - ii. Private and commercial events compatible with the active mixed-use precinct up to a maximum number of one day (or part thereof) per month, unless otherwise agreed by Melbourne City Council.
  - iii. Maintenance, repair, cleaning, emergencies and refurbishment works.
- f) Responsibility for outgoings and utility services.
- g) The owner must, at its cost, maintain the Publicly Accessible Open Space to the same standards as is required by Melbourne City Council for similar public open spaces that host events.
- h) Include timing of construction of the temporary (if required) and permanent Publicly Accessible Open Space to be before or concurrent with the occupation of the relevant stage to ensure seamless integration of private and public spaces.
- i) The owner will be responsible for the security of the Publicly Accessible Open Space and must maintain public liability insurance.
- j) Provision for the redesign and reconstruction of the open space from time to time, according to maintenance requirements, changed functional needs and other circumstances, as agreed by Melbourne City Council and the owner, and at the cost of the owner.

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

### **Construction Management Plan**

56. Before the development of each stage starts, other than the demolition of the existing building and early site preparation works approved under Condition 22, or as otherwise agreed with Melbourne City Council, a detailed Construction Management Plan (CMP) must be submitted to and approved by Melbourne City Council. ~~This CMP must be prepared in accordance with Melbourne City Council's Construction Management Plan Guidelines and is to consider the following~~ This CMP must be prepared in accordance with Melbourne City Council's *Code of Practice for Building, Construction and Works* and is to consider at least the following:

- a) Management of public access and connections around the site during construction.
- b) Site access and traffic management (including any disruptions to adjoining vehicular and pedestrian accessways).
- c) Any works within the adjoining reserves and street network.
- d) Public safety, amenity and site security.
- e) Hours of construction operating hours.
- f) Noise and vibration controls.
- g) Air and dust management.
- h) Stormwater and sediment control.
- i) Waste and materials reuse.
- j) Traffic management.
- k) Protection of street trees.
- l) Impact on the Stadium.

### **Building Appurtenances**

- 57. All building plant and equipment on the roofs, balcony areas and common areas are to be concealed to the satisfaction of the Minister for Planning. The construction of any additional plant machinery equipment, including but not limited to air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment, shall be to the satisfaction of the Minister for Planning.
- 58. Any satellite dishes, antennae or similar structures associated with the development must be designed and located at a single point in the development to the satisfaction of the Minister for Planning, unless otherwise approved to the satisfaction of the Minister for Planning.
- 59. No building services or architectural features other than those shown on the endorsed plans are permitted above roof level, unless with the prior written consent of the Minister for Planning.

### **Civil Works**

- 60. Existing street and footpath levels in roads and open spaces adjoining the site must not be altered for the purpose of constructing new vehicle crossovers or pedestrian entrances without first obtaining approval from Melbourne City Council.
- 61. Before the occupation of each stage of the development, or as otherwise agreed with Melbourne City Council, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by Melbourne City Council.
- 62. All portions of roads and reserves affected by the building related activities of the subject land must be reconstructed together with associated works

including the reconstruction or relocation of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by Melbourne City Council.

63. Before the occupation of each stage of the development starts, or as otherwise agreed with Melbourne City Council, any damaged footpaths adjoining the site along Harbour Esplanade must be reconstructed in new sawn bluestone together with associated works including the renewal of kerb and channel, provision of street furniture and modification of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by Melbourne City Council.
64. All street lighting assets temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has ceased. Existing public street lighting must not be altered without first obtaining the written approval of Melbourne City Council.
65. Existing street furniture must not be removed or relocated without first obtaining the written approval of Melbourne City Council. All street furniture such as street litter bins recycling bins, seats and bicycle rails must be supplied and installed on footpaths outside the proposed building to plans and specifications first approved by Melbourne City Council.
66. Before the development starts on 160 Harbour Esplanade, the exact location, depth and diameter of the stormwater pipe that extend from La Trobe Street up to the porte-cochere at Ron Casey Lane and then to Harbour Esplanade within the title boundaries of 699 La Trobe Street and of 160 Harbour Esplanade must be determined by site investigation and the finding provided to the Melbourne City Council – Infrastructure Development
67. Prior to Certification of any Plan of Subdivision for 160 Harbour Esplanade, a drainage easement in favour of the City of Melbourne shall be created on title to the satisfaction of Melbourne City Council – Infrastructure Development and Principal Subdivision Officer. The easement must be centred on the drain centreline as determined by site investigation and its width must be no less than 3m.

### **Lighting Plan**

68. Before the development starts, other than the demolition of the existing building and early site preparation works approved under Condition 22, or as otherwise agreed with Melbourne City Council, a lighting plan must be submitted to and approved by Melbourne City Council. The lighting plan should be generally consistent with Melbourne City Council's Lighting Strategy and include the provision of public lighting where required.
69. The lighting works must be undertaken prior to the occupation of each stage of the development, in accordance with plans and specifications first approved by Melbourne City Council.

### **Environmental Audit**

70. Prior to the commencement of the development (excluding any works necessary to undertake the audit), an Environmental Audit of the site must be carried out by a suitably qualified environmental auditor. On completion of the Environmental Audit, an Environmental Audit

Statement (EAS) and report must be submitted to the Responsible Authority in accordance with section 210 of the Environment Protection Act 2017 responding to the matters contained in Part 8.3, Division 3 of the Environment Protection Act 2017 to the satisfaction of the Responsible Authority. The EAS must either:

- state the site is suitable for the use and development allowed by this permit;
- state the site is suitable for the use and development allowed by this permit if the recommendations contained within the EAS are complied with.

All the recommendations of the Environmental Audit Statement (EAS) must be complied with to the satisfaction of the Responsible Authority for the full duration of any buildings and works on the land in accordance with the development hereby approved, and must be fully satisfied prior to the occupation of the development. Written confirmation of compliance must be provided by a suitably qualified environmental auditor in accordance with any requirements in the EAS.

If any of the conditions of the EAS require ongoing maintenance or monitoring, prior to the commencement of the use and prior to the issue of a statement of compliance under the Subdivision Act 1988 the owner of the land must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority to the effect that all conditions of the EAS issued in respect of the land will be complied with.

### **3D Digital Model**

71. Before the development is occupied, or as otherwise agreed with the Minister for Planning, a 3D digital model of the development must be submitted to and must be to the satisfaction of the Minister for Planning.
72. In the event that substantial modifications are made to the building envelope and design, a revised 3D digital model must be submitted to and be to the satisfaction of the Minister for Planning, before these modifications are approved.

### **Land Tenure**

73. Prior to the commencement of the development including demolition, the owner must lodge with the Melbourne City Council, an application for certification pursuant to Section 23 of the Subdivision Act 1988 for the removal and or variation of easements as allowed under this Incorporated Document and associated endorsed detailed development plans. When certified by the Melbourne City Council and a Statement of Compliance has issued, the plan must lodge at the Land Victoria for registration.
74. For Future Street Addressing purposes all Public Access ways which provide public access and or access ways which provide direct entry into a ground floor tenancy must be named prior to occupation to provide for appropriate addressing of the ground floor uses to the satisfaction of Melbourne City Council.

## Department of Transport

75. Before development starts, including demolition and bulk excavation, a Traffic Management Plan must be submitted to the Head, Transport for Victoria for endorsement, which outlines how traffic will be managed throughout the construction of the development and how impacts to public transport will be mitigated including trams to the satisfaction of the Head, Transport for Victoria in consultation with Yarra Trams. All traffic management and mitigation costs will be at the full cost of the proponent. The Traffic Management Plan must be implemented to the satisfaction of the Head, Transport for Victoria.
76. Prior to the commencement of works in public transport areas, the public transport operator(s) (tram, and train) must be contacted to obtain the operator's conditions and safety requirements for works on, over, under or adjacent to public transport land and/or easements and electrical infrastructure. Access to the public transport areas during construction must conform to all of the necessary public transport operator/s guidelines and instructions.
77. The proponent must take all reasonable steps to ensure that disruption to tram operation along La Trobe Street and Harbour Esplanade is kept to a minimum during the construction of the development. Foreseen disruptions to tram operations during construction and mitigation measures must be communicated to the Rail Operator (tram) and the Head, Transport for Victoria thirty-five days (35) prior to the commencement of those works.
78. The proponent must ensure transport infrastructure is not damaged as a result of the works and is not altered without prior consent of the Head, Transport for Victoria. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria and VicTrack at the full cost of the permit holder.

## Signage Strategy

- ~~79. Before the development is occupied, a Signage Strategy showing the location, details and dimensions of directional, digital, promotional, sky and business identification signs is to be prepared and submitted to the satisfaction of the Minister for Planning in consultation with Melbourne City Council. Signage to the Harbour Esplanade civic spine and waterfront interface should be minimised.~~

**END OF DOCUMENT**