



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500151776

Erf 4470, 1 Shell Road, Table View

Development Management

Date: 19 September 2025 (as amended 29/09/2025)

Ref: 8315



PROPOSED AMENDMENT AND REMOVAL OF TITLE DEED CONDITIONS, REZONING, COUNCIL'S APPROVAL AND DEPARTURES: ERF 4470, MILNERTON AT 1 SHELL ROAD

1. INTRODUCTION AND APPLICATIONS

This submission is to permit the proposed development of a building comprising 63 apartments (flats). Essentially the proposal is to convert the approved building plans for a Licensed Hotel into a block of flats. The proposed envelope – including the height – of the proposed building (at least from the first floor upwards) will be the same as the approved envelope of the approved building plans (for a hotel).

The property is subject to certain restrictive zoning conditions which were historically also written into the title deed, as restrictive title deed conditions. The site is within the Koeberg Restriction Area Overlay Zone (5-16km Zone), and the proposal therefore also requires Council's approval.



Architect's render of the proposed building on Erf 4470 Milnerton (Beach Boulevard elevation)

The following application is required in terms of Section 42 of the City of Cape Town's Municipal Planning Amendment By-Law, 2015, as amended ("the By-Law"):

- 1.1 Section 42(g) & (j): To amend the following restrictive title deed condition in Deed of Transfer

Condition (ii)A.(b): *"That only one building for use as a petroleum filling station, a licensed hotel, a cafe (which shall not include any other kind of shop) or a building combining two or more of such uses, be erected on this erf, provided that after having first obtained the written consent of the local authority, a special building or a building designed for use as a*

place of public worship, a social hall, an institution, a parking garage, or a place of instruction may be erected on the erf."

To read as follows:

*"That only one building for use as a petroleum filling station, **flats**, a licensed hotel, a cafe (which shall not include any other kind of shop) or a building combining two or more of such uses, be erected on this erf, provided that after having first obtained the written consent of the local authority, a special building or a building designed for use as a place of public worship, a social hall, an institution, a parking garage, or a place of instruction may be erected on the erf."*

- 1.2 Section 42(g) & (j): To **remove the following restrictive title deed conditions** and to **delete the previous conditions of approval** from Deed of Transfer

Condition (ii).A.(c) *"That not more than 60% of the area of this erf be built upon."*

Condition (ii).A.(d) *"That no building or structure or any portion thereof, except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the local lateral boundary common to any adjoining erf."*

- 1.3 Section 42(a): The **rezoning** of Erf 4470 from General Business Sub-zoning GB3 to General Residential Sub-zoning GR6.

- 1.4 Section 42(b): A **permanent departure** from Item 41(a) of the Development Management Scheme (DMS) to permit coverage of 78.2% in lieu of the permitted coverage of 60%.

- 1.5 Section 42(b): A **permanent departure** from Item 41(b) of the DMS to permit a floor factor of 5.3 (floor space of approximately 7676m²) in lieu of the permitted floor factor of 5.0 (1444m²).

- 1.6 Section 42(b): **Permanent departures** from Item 41(e) of the DMS to permit the building with the following setbacks:

1.6.1 First storey: To be 0m in lieu of 4.5m from the Beach Boulevard and Shell Road street boundaries.

1.6.2 8th – 12th storeys (above 25m): To be 4.72m in lieu of 9m from the Beach Boulevard street boundary.

1.6.3 8th – 12th storeys (above 25m): To be 4.72m in lieu of 9m from the Shell Road street boundary.

1.6.4 5th storey (between 15m and 25m): To be 1.32m in lieu of 9.84m from the common boundary.

1.6.5 6th storey (between 15m and 25m): To be 1.32m in lieu of 11.64m from the common boundary.

1.6.6 7th storey (between 15m and 25m): To be 1.32m in lieu of 13.44m from the common boundary.

1.6.7 8th – 12th storeys (above 25m): To be 1.32m in lieu of 15m from the common boundary.

1.7 Section 42(i): **Council's approval** in terms of Item 158 of the DMS (Specific provisions: Koeberg Restriction Area Overlay Zoning) to permit the proposed flats to be within the emergency planning zone (0-16km Zone) and the urgent protective action zone (5-16km Zone) of the Koeberg Nuclear Power Plant.

The following documents are attached to this report:

- Power of Attorney, Company Resolution & CIPC report
- Conveyancer certificate
- SG Diagrams
- Deeds of Transfer
- General Plans Nos. T.P. 392 L.D (Table View Township)
- Records of pre-application consultation meetings/correspondence with Council officials
- Proposed plans as prepared by **SLT Architects**
- Copy of approved building plans (for a hotel)
- Urban Visual Assessment as prepared by **Moth Consulting**
- Site traffic assessment as prepared by **Motion Consulting Engineers**
- Application form

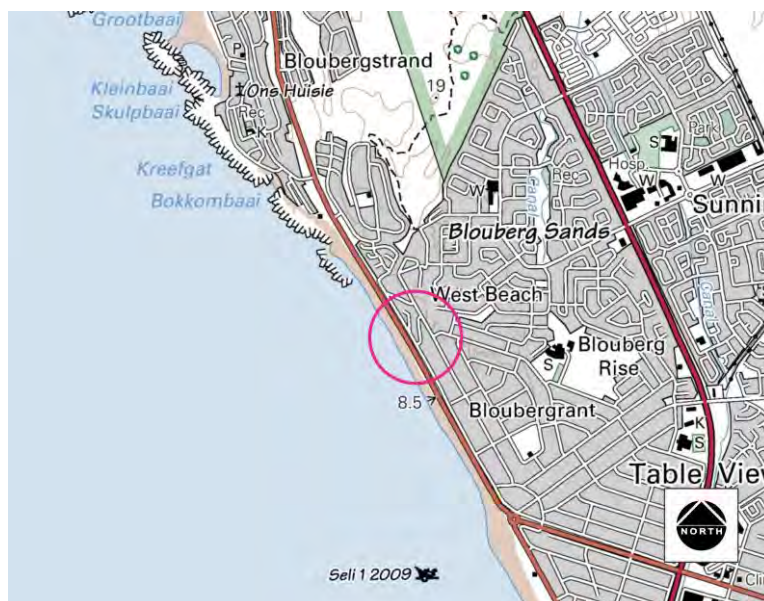
2. THE PROPERTY PARTICULARS

2.1 Ownership

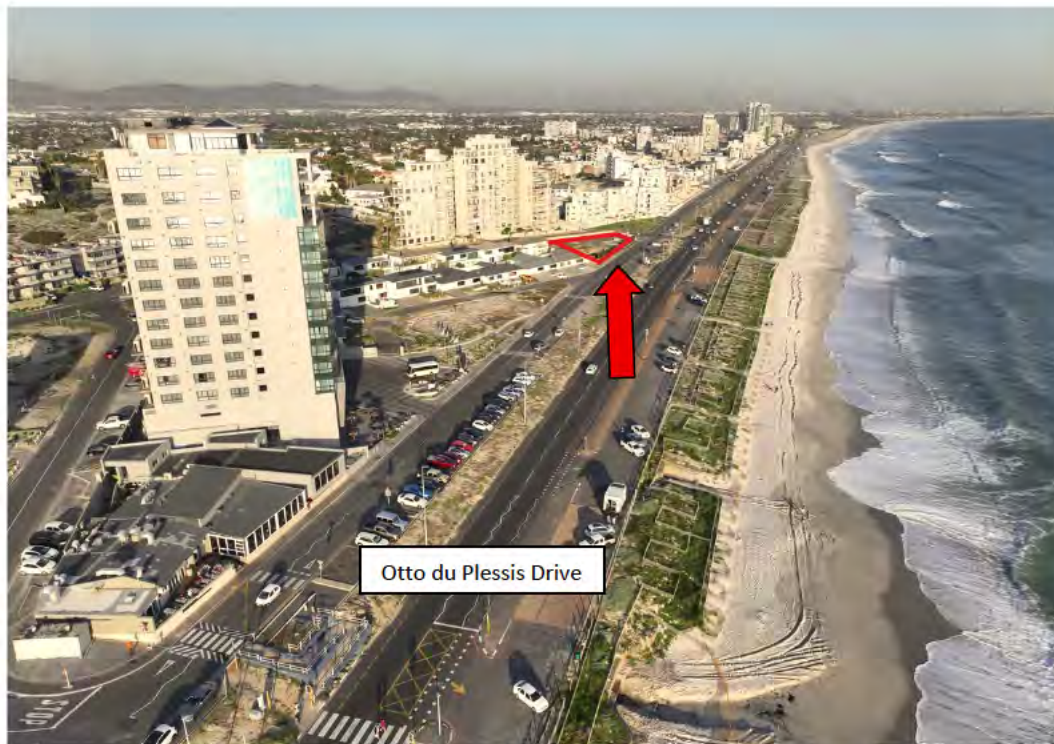
The property is registered in the name of _____ The directors have all signed the Company Resolution, authorising *Carl Visagie* to sign on behalf of the Company, and to appoint **Thomas Brian Brummer** to submit the application.

2.2 Locality, site particulars and context

The erf measures 1444m² in extent and is situated in the suburb known as Table View (refer to the **Locality Map**, below).



The Aerial Photograph, below, illustrates the urban context of the property in relation to the surrounding erven, the streets and the ocean. Erf 4470 is situated at 1 Shell Road, Milnerton and is directly east of West Beach (it also abuts Beach Boulevard), and forms part of the first row of erven facing the ocean and is separated from the beach by Marine Drive and Beach Boulevard. It shares a common boundary with two GR2-zoned erven to the north.

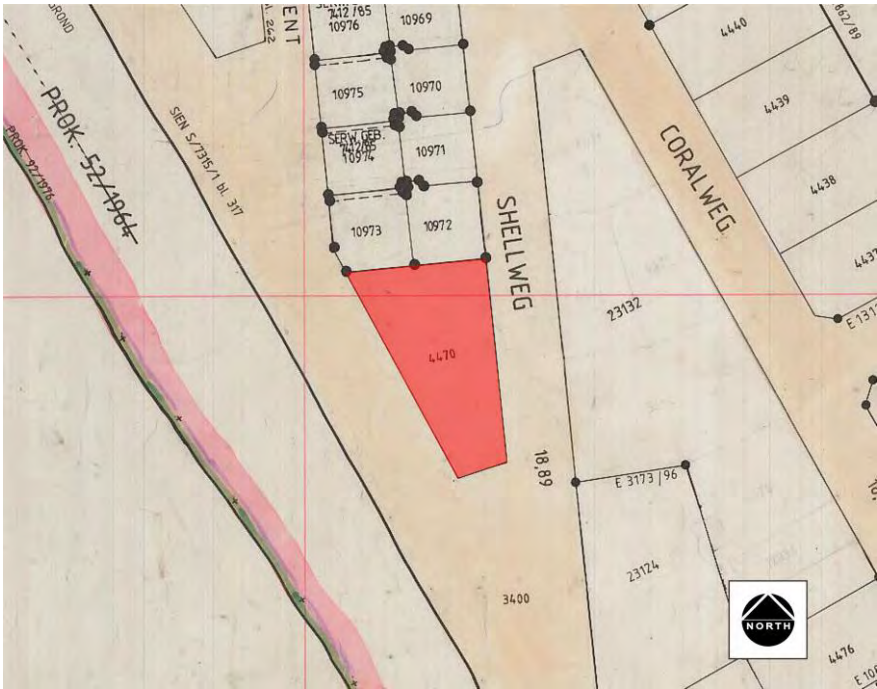


Aerial view of the location of Erf 4470 in its immediate context

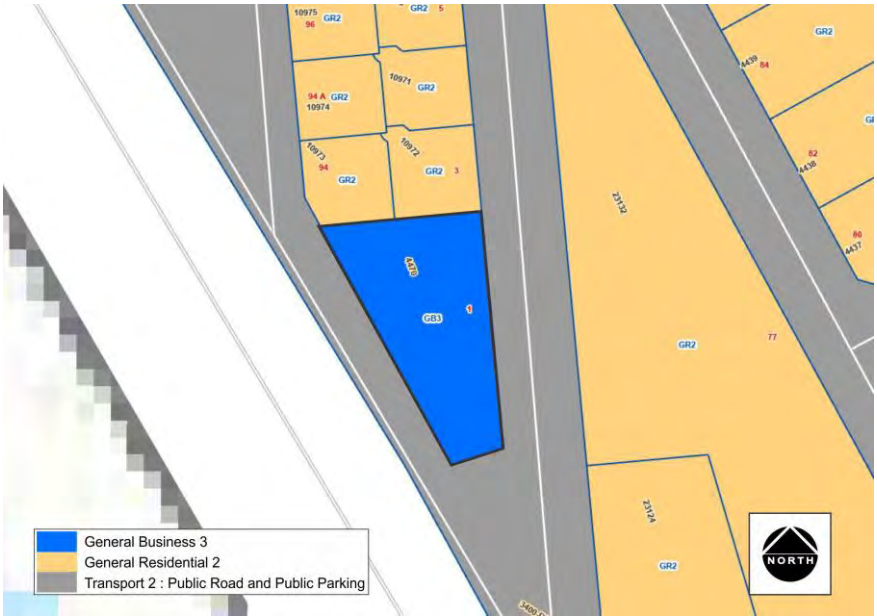
The application erf is part of a narrow band of erven (two erven deep) which are bordered by Beach Crescent, Hill and Shell Roads. The properties at the respective ends of this cluster of erven are zoned Special Business Zone and form two commercial or high-density nodes. Erven 4470 and 19390 form the southern and northern nodes respectively of this strip of erven. The existing building on Erf 19390 measures approximately 53m in height, whereas the approved hotel on Erf 4470 is approximately 38m in height. It is clear that the Council always had the intention for these two “book-end” erven to be developed with comparatively high buildings.



The **Noting Sheet** below, as obtained from the Surveyor-General’s office, is below. This part of Table View forms part of the Table View Township (the General Plans - indicating the extent of this township, are attached).



Below is an extract of the Council’s **Zoning Map** that indicates that the property is zoned General Business Sub-zoning GB3. As can be seen below, the surrounding properties are mostly zoned GR2 (in the “strip” running parallel with Otto du Plessis Drive), while some erven are also zoned GB3. The properties located further inland are zoned Residential Zoning 1: R1 (the former SR1).



2.3 Title Deed and conveyancer certificate

The property forms part of the Table Bay Township, which is a relatively large township.

Approximately 40 years ago the then Milnerton Municipality submitted proposals (to the Administrator) regarding the business zones in Table View Township. Upon conveying the Administrator's approval, the Director of Local Government noted that there was no sub-zone or town planning scheme controls for the Special Business Zone approved for the 10 erven abutting the western side of Hill and Shell Roads (which also includes Erf 4470). The Director then requested the City to submit proposals in this respect.

The erstwhile Milnerton Municipality then requested, on 21 September 1973, the Director of Local Government (Provincial Administration of the Cape of Good Hope) to designate the Special Business Zone in Hill and Shell Roads as sub-zone Special Business 2 in terms of the Table View Town Planning Scheme and to incorporate development restrictions for this sub-zone SB2.

A number of conditions were accordingly imposed on these erven (including Erf 4470) including, *inter alia*, restrictions pertaining to the permissible built-upon area of the site, building lines, a no-subdivision clause etc. There were no restrictions on height or bulk (floor factor/floor space). These restrictive conditions were thus imposed both as zoning conditions as well as title deed conditions.

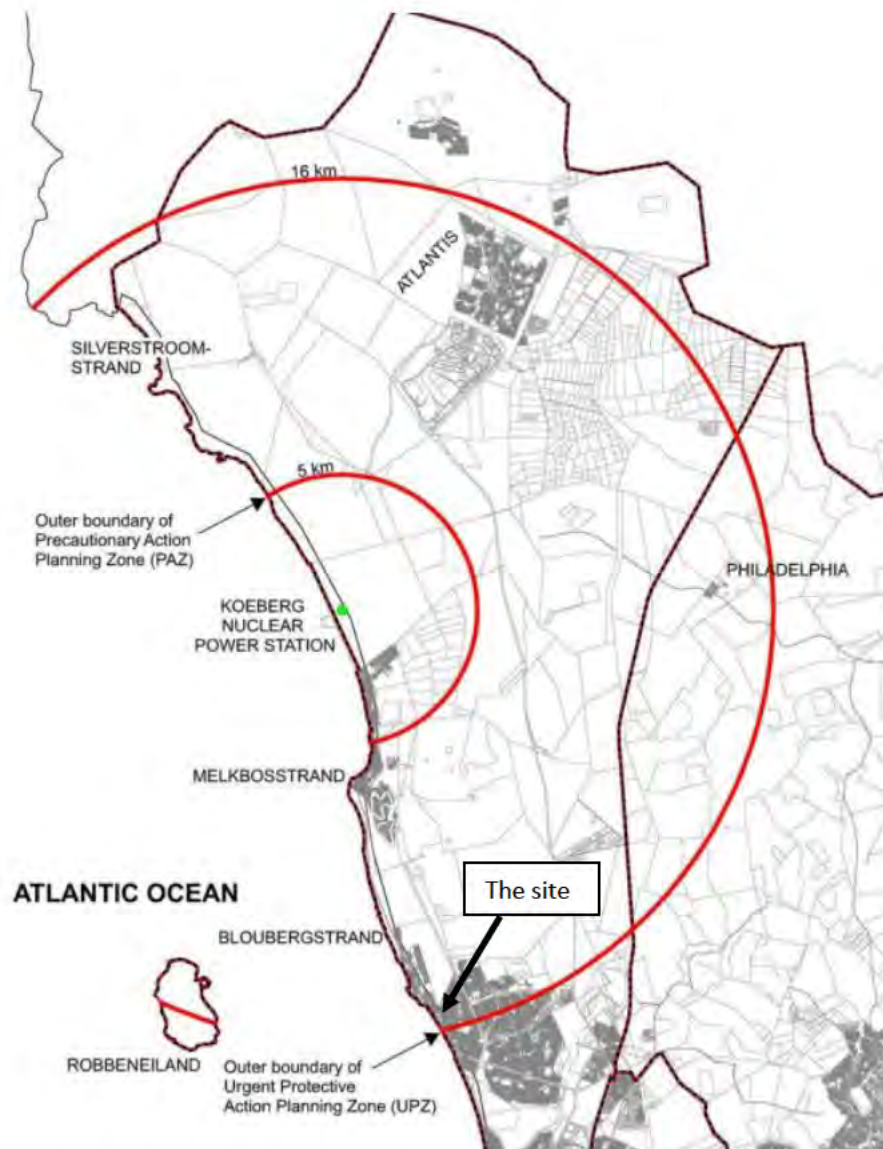
With the amalgamation, in 2013, of the former 28 different zoning schemes across the whole City of Cape Town into one Development Management Scheme, the subject erf was allocated a zoning of General Business Sub-zoning GB3.

A title deed search was conducted by *Willem Jacobus Theunissen* from **Boshoff Inc. Attorneys**, and who issued the conveyancer's certificate. The relevant conditions were imposed by the Administrator at the time of the approval of the Table View Township, and imposed in terms of Ordinance No. 33 of 1934 to be in favour of the registered owner of any erf is the Township.

The proposed **amendment** and the **removal** of the restrictive title deed conditions and the **deletion** of the previous conditions of approval are "mandatory", and the application is made in terms of Section 42(g) & (j) of the By-Law.

2.4 Koeberg Restriction Area Overlay Zoning

The property is situated within 16km (at approximately 15.4km) from the Koeberg Nuclear Power Plant. Any development within this radius of Koeberg is regulated and prescribed in terms of Item 158 of the DMS (Specific provisions: Koeberg Restriction Area Overlay Zoning), as recently amended. The proposed flats are within the emergency planning zone (0-16km Zone) and the urgent protective action zone (5-16km Zone) as indicated on the extract below, and require Council's approval.



The Specific provisions: Koeberg Restriction Area Overlay Zoning vide Item 158 of the DMS reads as follows (only the relevant extracts are included below):

(1) *In this item, unless the context otherwise indicates —*

(a) '...

(b) '0-16km Zone' is the emergency planning zone and means land within a radius of 16 km or less from the point defined by the co-ordinates X= -52727,4000 and Y= -3727966,6500 in the World Geodetic System WGS84 Universal Transverse Mercator coordinate system;

(c) '5-16km Zone' is the urgent protective action planning zone and means land within radii of more than 5 and 16 km or less from the point defined by the coordinates X= -52727,4000 and Y= -3727966,6500 in the World Geodetic System WGS84 Universal Transverse Mercator coordinate system;

(d) - (l)...

(2) & (3) ...

- (4) *In the 5-16km Zone—*
- (a) a second dwelling, third dwelling or affordable rental flat, which is an additional use right, is deemed to be a consent use;*
 - (b) in deciding an application in terms of this By-law, the City must consider the impact of the proposed use or development of land on—*
 - (i) population growth; and*
 - (ii) implementation of the Koeberg Nuclear Emergency Plan.*
- (5) *In the 0-16km Zone, the City may not approve an application in terms of this By-law if it will—*
- (a) result in the disaster management infrastructure lacking capacity to ensure effective implementation of the Koeberg Nuclear Emergency Plan;*
 - (b) adversely affect compliance with evacuation time criteria; or*
 - (c) adversely affect a nuclear-related development.*
- (6) ...
- (7) *The City must give the Regulator and Eskom notice in terms of section 87 of an application in terms of this By-law in the 0-16km Zone and consider any comment provided in accordance with that section.*
- (8) *Only after consultation with the Minister contemplated in the National Nuclear Regulator Act, the Regulator and Eskom may the City—*
- (a) amend this item; or*
 - (b) amend or deviate from the municipal spatial development framework or a district spatial development framework which concerns development in the 0-16 km Zone.*

3. BACKGROUND

Building plans

In accordance with the primary (permitted) use of Erf 4470, building plans for a Licensed Hotel (Protea Hotel) were approved by the City on 7 August 2008, card number 2749/07 (copy attached). The hotel would be for an 80-bedroom hotel with a 74 parking bays (in two basements and on the ground floor), a restaurant on the ground floor, and offices and a gymnasium on the first floor, with the hotel rooms on the 2st to the 11th floors. The building was approved with a height of 50,49 metres (this height indicated on the approved plans does not relate to the mean sea level (amsl), but is in relation to a datum height used at the time by the architects/land surveyor). It is confirmed that the proposed building is of exactly this same height (as approved).

The developer acted on the approved plans by commencing with construction before 7 August 2009. Construction of the hotel in terms of the approved building plans commenced mid-2009 but due to financial circumstances, resulting from the worldwide recession, unfortunately forced construction to terminate at the time. Given that construction has commenced, the plans are still valid and did not lapse.

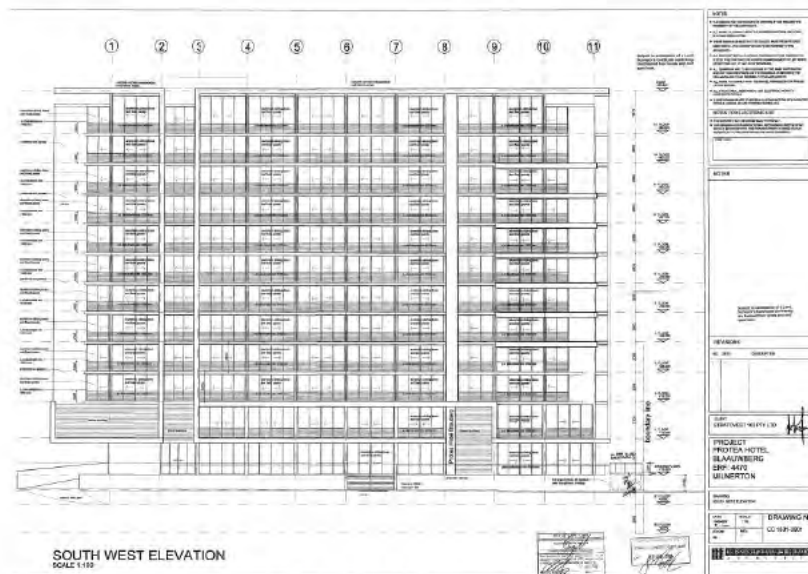
Since then, the property has changed ownership a number of times. The current owners would like to pursue a different land use (than a hotel), and considers it to be a more desirable and compatible use of the property and the approved building given the context of the area. The details of which will be set out below.

4. PROPOSED DEVELOPMENT

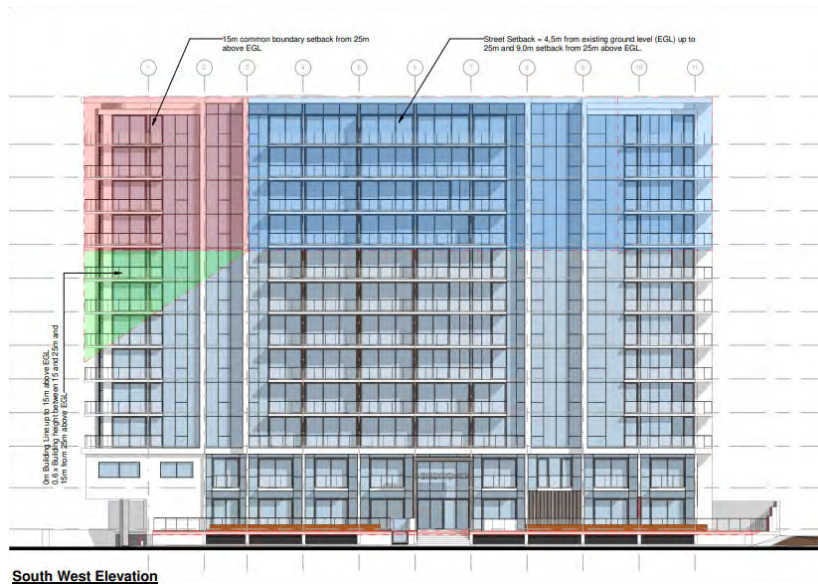


Architect's render of the proposed flats as seen from the south-west (Beach Boulevard)

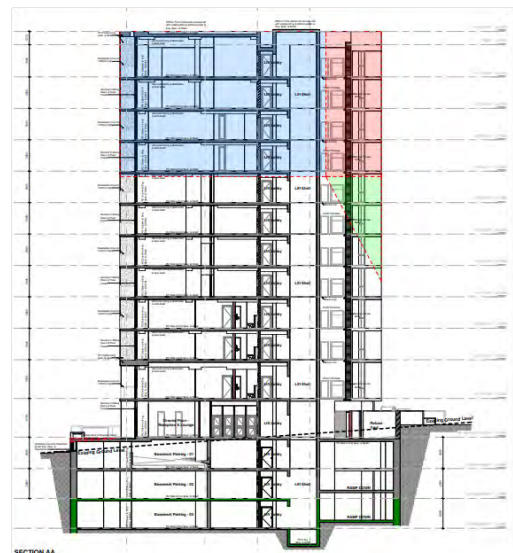
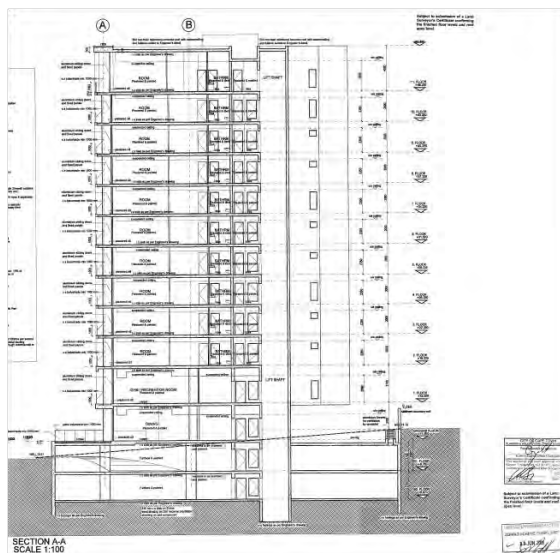
- The proposed development and resultant town planning application are considered to be highly technical in nature. The reason being as follows:
 - ❖ Building plans for a Licensed Hotel have been approved in 2008. The approved plans indicate a height of 50.49m for the building (taken from a datum height). These plans are still valid. The actual height of this building is approximately 38m (top of ground floor slab to top of roof).
 - ❖ The proposal is to retain the above-mentioned approved envelope of the "hotel" and to merely *change the land use* to permit this approved building to be used for "flats" (63 dwelling units). The proposed building will have a height of 48.215m amsl. The actual height of this building is also approximately 38m (top of ground floor slab to top of roof) and thus the same as the approved building.



South-west elevation (Beach Boulevard) of the approved building



South-west elevation (Beach Boulevard) of the *proposed* building



Section through the approved (left) and proposed (right) building

- ❖ The application is therefore merely to accommodate the proposed land use (which is considered to be more compatible with and have a more positive impact on the surrounding land uses), whilst the proposed list of departures is primarily the result of the proposed rezoning to GR6 (the development rules of which are applied to “fit” the approved building).
- ❖ As a result of the above, it is not believed that there is any impact on views, overshadowing, privacy, traffic or parking. The proposed land use is considered to have a more positive impact on the surrounding area compared to the approved licenced hotel.
- In general terms, the proposed building comprises of the following:
 - ❖ Three (3) basements for parking and other back-of-house purposes (e.g. store rooms), accommodating 83 vehicle and 12 motorcycle bays.
 - ❖ The approved vehicle access to the site from Shell Road will be eliminated and only one entrance from/to Beach Boulevard will be provided (leading to the basement parking

garages). This will enable the creation of more on-street parking (for the general public's use) in Shell Road.

No parking will be provided on the ground floor (all parking will be underground).

- ❖ There are twelve (12) storeys (the same as per the approved building plans) with a total of 63 dwelling units. The height of the building, as measured from the ground floor, will be approximately 38m.
- ❖ The ground floor comprises of a clubhouse (with restaurant) and a gymnasium for the exclusive use of the residents/owners of the proposed apartments. These facilities are not for the use of the general public.

This level also comprises of ancillary structures e.g. refuse areas, a pool and timber decking (also facing the ocean), planters, and a transformer (for municipal purposes as per Council's request).

The particulars of the proposal, with respect to the title deed, zoning conditions, and development rules of the DMS, are set out below:

4.1 Title deed conditions

- The proposed flats require the **amendment** of Condition (ii)A.(b) of Deed of Transfer which reads as follows:

"That only one building for use as a petroleum filling station, a licensed hotel, a cafe (which shall not include any other kind of shop, or a building combining two or more of such uses) be erected on this erf, provided that after having first obtained the written consent of the local authority, a special building or a building designed for use as a place of public worship, a social hall, an institution, a parking garage, or a place of instruction may be erected on this erf."

To read as follows:

*"That only one building for use as a petroleum filling station, **flats**, a licensed hotel, a cafe (which shall not include any other kind of shop, or a building combining two or more of such uses) be erected on this erf, provided that after having first obtained the written consent of the local authority, a special building or a building designed for use as a place of public worship, a social hall, an institution, a parking garage, or a place of instruction may be erected on this erf."*

- The proposed "built-upon" of the building itself, plus external structures e.g. the raised pool and timber decking (in accordance with the Council's Staff Circular PBDM/LUM 03/2013 – "Standard practice note and common approach to interpreting title deed conditions restricting maximum "area (to be) built upon") exceeds the permitted built upon of 60%. This requires the **removal** of Condition (ii)A.(c) of the title deed which restricts the built-upon of the erf to 60%.
- The main building complies with and respects the 4.72m street boundary and 1.57m common boundary setbacks as per Condition (ii)A.(d) of the title deed (a thin sliver of the balconies facing the common boundary is at 1.32m from this boundary). However, given that the condition does not permit "any building or structure or any portion thereof" (our underlining) within these spaces, this condition is proposed to be **removed** in order to permit the (ancillary) structures outside of the building on the ground floor e.g. access stairs, the pool,

timber deck (with railings), planters, the refuse areas, the enclosed transformer “yard”, retaining walls (e.g. to permit the drive-way to the basements), the small portions of the balconies on the common boundary, etc.

- These conditions are both **restrictive title deed conditions** and **previous conditions of approval**, and it is proposed to respectively **amend and remove**, and to **delete**, them.

4.2 Development Management Scheme (DMS)

- The existing GB3 zoning permits “flats” as a primary right. However, the same zoning also only permits a building up to 25m in height and a floor factor of 2.5 (3610m²).
- The proposed building* has a floor space of approximately 7676m² (representing a floor factor of 5.3) and a height of approximately 38.7m.

*It is pointed out that the approved height and floor factor of the building already exceed the permitted height and floor factor as per the existing GB3 sub-zone. Accordingly, it is not clear why the current GB3 zoning was allocated to this erf when all the former zoning schemes were amalgamated into the current (one) DMS. It is believed that, at the time, a more appropriate zoning, which better reflects the by-then approved floor factor and height, e.g. GR6, should have been allocated to this erf.

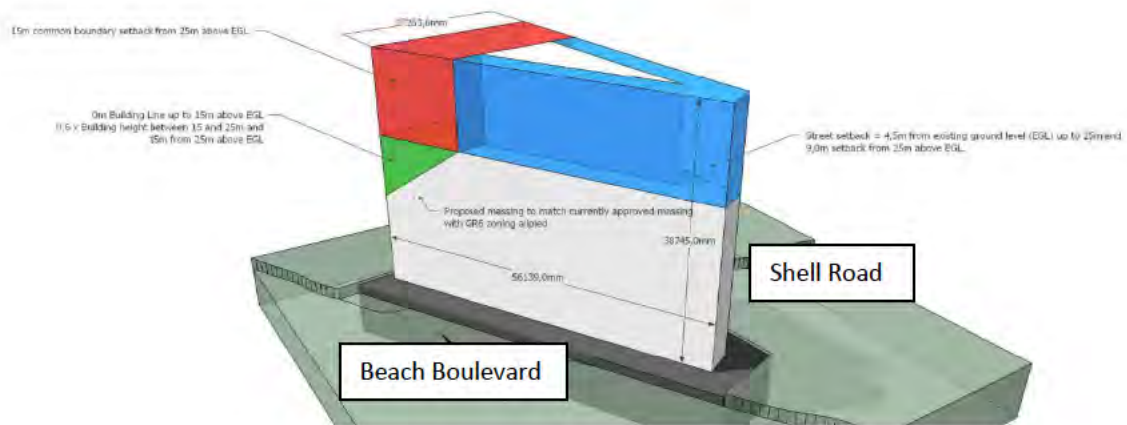
A rezoning to another appropriate base zone is considered required and desirable.

- It is thus proposed to **rezone** the property from GB3 to General Residential Sub-zoning GR6.
- The proposed GR6 zoning permits a height of 50m; it is proposed that Council impose a condition of approval to restrict any building on the property to a height of 48.215m amsl.
- The proposed GR6 zoning permits a floor factor of 5.0 (floor space of 7220m²). The proposed floor space of approximately 7676m² (which is also the floor space of the approved building) represents a floor factor of 5.3, and requires a **departure** (this represents less than 10% over the permitted floor factor of the GR6 sub-zoning).
- In terms of the “coverage” definition, “any portion of a basement which does not protrude above the existing ground level” (EGL) can be excluded from coverage calculations. This means that a large portion of the partially subterranean basement can be excluded.

The proposed coverage is 78.2% and requires a **departure**.

- The proposed GR6 zoning prescribes specific (and different) set backs for street and common boundaries, including for points (of the building) up to 25m in height above the EGL, and for points of the building over 25m in height above the EGL. The relatively unusual shape of the erf, plus the fact that it has two (converging) street boundaries and one common boundary, make for a relatively complicated set of **street and common boundaries building line departures** as set out earlier in this report.

The following simplistic image illustrates the nature and extent of the proposed GR6 development rules (in colour) with respect to the approved envelope of the building (the image below represents the full extent of the approved building’s envelope). The details of the respective applicable heights and setbacks are provided on the related images on the proposed plans (attached).



- No portion of the ground floor (first storey) is raised by more than 1.5m above the EGL, and the proposal complies with Item 126(a) of the DMS.
- The proposed pool on the first storey is 1m from the street boundaries and is permitted.
- The property is situated in a PT1 Area. A parking ratio of 1.25 bays/unit applies. The proposed 63 dwelling units (flats) require 79 on-site parking bays. A total of 83 vehicle bays will be provided, and there is no parking departure.

A total of 12 motorcycle bays will also be provided. Item 143(2)(a) of the DMS permits for every four motorcycle bays to count towards a credit of one parking bay (a credit of up to 2.5% of the total number of parking bays required is permitted). This means that up to 2.5% of the total number of 79 bays required (i.e. 2 bays) may consist of motorcycle bays (8 motorcycle bays).

Officially, a total number of 85 parking bays will be provided on site (with another 4 motorcycle bays in surplus).

- The property abuts Beach Boulevard to the west and Shell Road to the east and south. It does not abut Otto du Plessis Drive, which is to the west of Beach Boulevard. Otto du Plessis Drive used to be Proclaimed Main Road No. 199, which has been de-proclaimed vide Provincial Gazette No. 9086, dated 13 June 2025. It is still a designated metropolitan road with respect to Item 122 of the DMS, but has no impact on Erf 4770 due to its location.
- The location of the property within the 0-16km evacuation zone requires Council's approval within the Koeberg Restriction Area Overlay Zone. This aspect is discussed in more detail elsewhere in this report.
- The proposed plans were prepared by SLT Architects.
- A Site Traffic Assessment (STA) was prepared by Motion Consulting Engineers, and which supports the proposed development, including the parking layout and access. A copy is attached, and the particulars of the assessment will be addressed in more detail later in this report.
- An Urban Visual Assessment was prepared by Moth Consulting, and which supports the proposal.
- Given the relative proximity of the property to the ocean (within 100m from the High Water Mark), as well as the proposed excavation relating to the third basement, the necessary

environmental applications are being prepared by **inClover Environmental Consulting** and **Monique Sham Environmental Consultant**, for submission to the Department of Environmental Affairs and Development Planning (DEA&DP). Copies of these reports will be submitted to the Council as soon as they are available.

5. APPLICABLE LEGISLATION AND ADJUDICATION CRITERIA

Section 48(4) of the By-Law, as amended, states that the Council must have regard to the following when deciding an application for the removal, suspension or amendment of a restrictive condition:

- (a) whether the result would better align with the development management scheme (DMS);
- (b) the decision-making criteria in section 99; and
- (c) sections 42(1)(c) and 47 of SPLUMA.

Section 42(1)(c) of SPLUMA reads as follows (with respect to the Municipal Planning Tribunal considers and decides on an application):

- (c) take into account—
- (i) the public interest;
 - (ii) the constitutional transformation imperatives and the related duties of the State;
 - (iii) the facts and circumstances relevant to the application;
 - (iv) the respective rights and obligations of all those affected;
 - (v) the state and impact of engineering services, social infrastructure and open space requirements; and
 - (vi) any factors that may be prescribed, including timeframes for making decisions.

Section 47(2) of SPLUMA reads as follows:

- (2) A removal, amendment or suspension of a restrictive condition contemplated in subsection (1) must, in the absence of the contemplated written consent, be effected—
- (a) in accordance with section 25 of the Constitution and this Act;
 - (b) with due regard to the respective rights of all those affected, and to the public interest; and
 - (c) in the prescribed manner,
- if such removal, amendment or suspension will deprive any person of property as contemplated in section 25 of the Constitution.

Regard must also be had to Section 7 of SPLUMA when considering the application.

Lastly, before the various criteria are addressed, it must be kept in mind that the proposed land use application is, primarily and largely, considered to be highly technical in nature given the fact that the existing and approved envelope of the “hotel” building will be retained and used for the proposed flats use. With the exception of the title deed & zoning conditions relating to the permitted land use, the other proposed land use applications are primarily as a result of the new GR6 zoning proposed, and not necessarily because of any material and physical change of the building.

5.1 Adjudication criteria in terms of Section 48(4)(a) of the By-Law

The proposed removal and amendment of the restrictive conditions and deletion of the conditions imposed, as well as the proposed rezoning of the property from GB3 to GR6, are consistent with this criterium in the following respects:

- The DMS does not make any reference to the concept of “built-upon”,
- The DMS prescribes a different set of building lines, amongst other aspects, compared to the building lines as per the title deed,
- The DMS (the proposed GR6 zoning) allows flats as a primary right (whereas the title deed and rezoning condition do not), and
- The approved building exceeds the development rules of the existing GB3 zoning with respect to floor factor and height (a function of the original and historic Special Business Zoning (which did not have any limitation on “bulk” or height)).

The proposal will thus directly result in that the approved building (with marginal amendments) will “better align” with the DMS.

5.2 Adjudication criteria in terms of Section 99 of the By-Law

5.2.1 Motivation in terms of Section 99(1) of the By-Law

The application complies with the following minimum threshold requirements:

- (a) The proposed land use is **consistent with the Municipal Spatial Development Framework (MSDF)** and no deviation from it is required. The property is situated in the “Urban Inner Core” where land use densification and intensification are encouraged and should be supported.
- (b) The proposed “floor factor” departure does not exceed more than 10% of the maximum floor space of the applicable sub-zone (with respect to the proposed GR6 sub-zoning). It is noted that the proposed GR6 zoning is the highest sub-zoning for this base zone; there is no “next sub-zoning”.

5.2.2 Motivation in terms of Section 99(2) of the By-Law

The application complies with the following relevant considerations:

- (a) Applicable Spatial Development Frameworks
 - The application is consistent with and supports the aims of the **Provincial Spatial Development Framework (PSDF)** as it supports higher densities, more compact settlement footprints to minimise environmental impacts, reduce costs and time impacts of travel and to enhance financial sustainability with regard to the provision and maintenance of infrastructure, facilities and services.
 - The application is consistent with the **MSDF** and its Policies. As mentioned, the erf is in the Inner Urban Core which has as its principle the following: *“The City, public, and private sectors are committed to coordinated, spatially targeted investment and land development to spatially transform and integrate the city form”*.

The main desired spatial outcome and land use guideline is to promote and support diverse and dense land uses in association with public transport infrastructure provision – essentially intensification and densification within close proximity to public transport.

The proposed is for flats (63 dwelling units), which is both an intensification of land use (arguably even more so than the approved hotel use), and also a diversification of land use/development (there are a number of single dwellings in the area (notwithstanding the GR2 zoning of those erven) as well as offices, restaurants, etc.).

The property is situated directly on a MyCiTi bus route (Otto du Plessis Drive), with a bus stop literally in front of the property (20m away). Mini-bus taxis also operate along this Drive. The increase of housing stock in itself (as well as the broadening of the variety of accommodation options/types i.e. flats) with immediate access to safe, reliable, clean and affordable public transport is consistent with the MSDF and should be supported.

- With respect to the Blaauwberg District Plan the site is in “Sub-District 3: Greater Table View” and with the area identified for “Urban Development”. It is inside the Urban Development Edge. The property is located behind (i.e. to the east) of the coastal edge which is identified as “areas exposed to coastal processes” (i.e. the beach area which is being re-vegetated). The proposal does not impact on these “coastal processes”.



The proposal is considered to be consistent with the following spatial development objectives of the Plan:

- ❖ *Ensure control of development in order to ensure the effective implementation of Koeberg Nuclear Emergency Plan:*
 - The finer details of this aspect will be discussed later in this report, but suffice to say that the proposal, which is not a new (greenfield) development, which is within the existing built up area and within the Urban Development Edge, and which is within the Urban Inner Core, is not believed to impact on the ability for efficient emergency evacuation.

- The property has the rights for an 80-room hotel. The proposal is for a building comprising 63 dwelling units (which is less than the 80 rooms).
- The necessary assessment in this regard will form part of the internal circulation.
- ❖ *Improve public amenity of the beachfront area:* The property, which is not directly situated next to Otto du Plessis Drive or the beach, but east of Beach Boulevard, does overlook the beach and the ocean. The proposal will not have any impact on the public access to the coast. The proposal will have a positive public impact given that a high active interface will be created by means of the proposed outside, uncovered and slightly raised timber deck (with pool), on the ground floor, and which directly overlooks the roads and the coast (all parking will be underground). In addition, one of the recommendations of the site traffic assessment is for a 1.6m wide paved sidewalk be provided along Beach Boulevard, and for a pedestrian crossing to be installed across Beach Road leading to the Shell MyCiTi bus stop.
- ❖ *Protect and enhance scenic qualities along scenic routes:* The proposal essentially relates to a different land use but retaining the approved building's envelope and height. With the site being to the east of Beach Boulevard, it will not impact on the visual experience of road users traveling up and down Otto du Plessis Drive (i.e. along the coastline).
- **Transit Oriented Development Strategic Framework (TOD):** The vision for the TOD for Cape Town is to progressively move toward a compact, well connected, efficient, resilient urban form and movement system that is conducive to economic and social efficiency and equality whilst providing cost effective access and mobility, with the least possible negative impact on the environment. The proposal, which theoretically represents the intensification and densification of the land use (theoretically because of the approved building plans) is entirely consistent with the TOD as the site is only 20m from a MyCiTi bus route and stop.

There is no parking departure. The approved carriageway crossing in Shell Road will be removed, and this will increase the number of on-street-parking in that Road.

- **Koeberg Restriction Area Overlay Zoning**

The site is situated approximately 15.4km from the Koeberg Nuclear Plant. It is, for all intents and purposes, on the very perimeter of the applicable 16km, being only 600m from the boundary of this evacuation zone.

Several discussions (both via e-mail and personal) were held with various Council officials with respect to the proposed conversion of the approved building (hotel) to flats. One of the main aspects relates to whether the proposed land use will mean that the number of people on the site will increase, decrease, or remain the same. In this regard, the following:

- ❖ The approved Hotel comprised of the following:
 - 80 suites (160 people)
 - A restaurant, lounge and bar area (approximately 415m² in extent) – and not even including the large outside decks which were an external extension of the restaurant/bar areas (approximately 165m² in extent), were available for the general public. There is no clear indication on the plans of how many seating these public areas contained; however, by working on a ratio of 1.4m² = 1 person, it relates to up to 296 people for the *internal* public areas alone, and up to 118 people for the external public areas (thus a total of 414 people).

- Various offices for hotel purposes (e.g. accountant, boardroom) plus what appears to have been medical rooms (approximately 71m² in extent) – thus at least about 5 persons.
- In total therefore, it can be expected that the approved building could have accommodated up to at least 420 persons.

❖ The proposed flats comprise of the following:

- 9 Studios (9 people)
- 20x 1-bedroom apartments (between 20 & 40 people)
- 8x 2-bedroom apartments (between 16 & 32 people)
- 21x 3-bedroom apartments (between 63 & 126 people*), and
- 5x 4-bedroom apartments (between 20 & 40* people).
- This means a potential total of between 128 & 247 people*.
- *It is highly unlikely that the maximum number of occupants will ever materialize for the simple reason that at least the 3- and 4-bedroom apartments are unlikely to have two people per bedroom (it is more likely that there will be perhaps 4 people in a 3-bedroom apartment and 5 people in a 4-bedroom apartment, e.g. two parents with perhaps one child per bedroom). Such a scenario would reduce the overall, potential and maximum number of occupants even further (less than 247 persons).

Given that the potential number of persons on the site for the proposed flats will be *considerably less* than the potential number of persons on the site for the approved Hotel, the proposal is considered to satisfy the criteria of the Traffic Evacuation Modelling, and that there should be no risk with regard to the successful evacuation of the site.

As noted, the site is basically located on the periphery of the emergency planning zone and on Otto du Plessis Drive which is a major transport route and can accommodate relatively high traffic volumes if required.

(b) Relevant Criteria in the DMS

The application complies with relevant criteria contemplated in the DMS, i.e. the proposal is desirable when assessed in terms of the adjudication criteria set in out Section 99, as will be seen in more detail below.

(c) Applicable Policies Approved by the City

The proposal complies with the following approved Council Policies:

- **Densification Policy:** The application is consistent in that it:
 - ❖ helps to establish a more compact city in a responsible and incremental manner,
 - ❖ improves the city's efficiency and sustainability – thereby containing urban sprawl and by ensuring optimal and efficient use of infrastructure, services, facilities and land*,
 - ❖ increases the choice or variety of the housing stock,
 - ❖ protects the surrounding built and natural environment as the approved envelope of the building will be retained and just used for a different land use (compared to the approved hotel use), and
 - ❖ supports the development of a viable public transport system and improve levels of access to the city's resources and amenities (the site is situated on a MyCiTi bus route).

*"Tall buildings" is one of the ways to ensure this; this aspect will be discussed in more detail further below.

- **Inclusive Economic Growth Strategy:** The proposal is consistent with the Strategy by having a positive impact on the overall growth of the City's GDP through the significant investment made by the owners which will increase the property's value. A high number of jobs will be created during the construction phase, as well as post-construction. This is considered desirable and positive, and will have a positive impact on the lives of those workers.
- **Urban Design Policy:** The over-arching urban design principles are underpinned by three main aspects:
 - ❖ The greater public good,
 - ❖ The "whole" above the "parts", and
 - ❖ Identity, context and place making.

The proposal is considered to be consistent with and directly support these principles (e.g. the proposal is for all intents and purposes within the ambit of an approved set of building plans; it is a proposal for densification and intensification of land use in a contextually appropriate location – directly next to public transport); will help protect the environment by creating a more compact city; etc.)

Furthermore, the proposal is considered to be consistent with the following objectives of the Policy:

- *"Ensure a positive contribution to the urban structure of the city by creating integrated and legible places and neighbourhoods".*
- *"Ensure that the quality of public realm and public spaces are improved".*

The proposal has no exposed parking bays (all parking is underground); a large, trafficable external deck (with pool) will be provided on the ground floor (street level) to ensure an inter-active relationship with the streets by over-looking these public realms; the main part of the building (read: those portions which create the actual "massing" of the building) comply with the 4.72m and 1.57m street and common boundary building lines (as per the title deed); it is proposed that the relatively large portion of the road reserve at the intersection of Shell Road and Beach Boulevard be landscaped (for the developer's cost); and that a 1.6m wide sidewalk be provided along Beach Boulevard.

- *"Ensure that developments contribute to the creation of safe and secure communicates"*

The proposed flats will create a more robust (vibrant) and sustainable community; the movement of more people will increase passive and active surveillance (optimise visual connections) and thus improve overall safety and security; the development of the site vs. a vacant site is desirable as the latter is unsightly and often leads to anti-social behaviour. A new pedestrian crossing across Beach Boulevard (to the MyCiTi bus stop) is being proposed, and which will help ensure that people can cross (busy) roads easier and safer.

- *"Ensure opportunities and amenities are accessible and for people to move about easily and efficiently".*

As mentioned, the flats will enable the optimisation of the land use; densification along public transport routes is encouraged and responsible from a modern-planning perspective; all parking is underground; the approved CWC in Shell Road will be removed; the air-conditioning units and other service elements are screened as part of the building's design and will not have an unsightly impact.

- *"Promote development intensity, diversity and adaptability".*

The proposal is directly in support of the above. The building's envelope as per the approved building plans will be retained and (re)used for an alternatively land use (from hotel to flats) – this "flexibility" in the use of buildings is one of the key aims of this Policy.

- *"Ensure positive interfaces onto the public realm".*

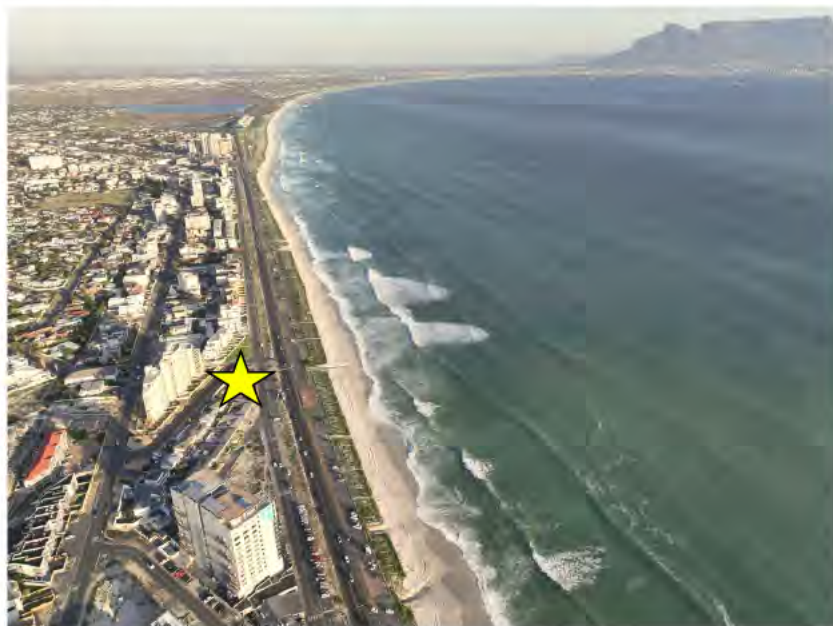
Consistency with this principle was already demonstrated.

- *"Development should protect, value and enhance the natural environment through sustainable design".*

By optimising the development of the site which is within an existing urban area, and within the Urban Development Edge, it will reduce the pressure on, and help protect, the natural environment from urban sprawl.

- *"Development should respect and enhance the heritage, character and unique identity of the city and its neighbourhoods".*

All the erven situated in the "corridor" approximately 160m wide (clearly visible on the aerial photo below), parallel and to the east of Otto du Plessis Drive are zoned either GB3, GR2, GR3 or GR4. None of those erven are zoned SR1. The inherent zoning of these properties is for higher-density developments.



The erven at the respective ends of the triangle of erven bordered by Beach Boulevard, Hill Road and Shell Road (i.e. Erven 4461, 193390& 4470) were originally zoned Special Business Zone (with no height or bulk restrictions), and thus form two

commercial or high-density nodes. Erven 4470 and 19390 form the southern and northern nodes respectively of this strip of erven.

The character of the immediate area with respect to building heights and “massing” is mixed; however, many of the existing buildings in the immediate vicinity are of similar height to the proposed building and are much higher than what their zonings permit. For example:

- Erf 23132 (GR2): Approximately 42m in height.
- Erf 193390 (GB3): Approximately 53m in height.
- Erf 21358 (GR2): Approximately 24m in height.
- Erf 3220 (GR2): Approximately 47m in height.



There are no heritage considerations.

- **Social Development Strategy (SDS):** The SDS articulates the role of the City of Cape Town in promoting and maximising social development, the latter which is understood – broadly – as the overall improvement and enhancement in the quality of life. In this regard, the proposal will create and add 63 new dwelling units to the housing stock available in the city in an appropriate location.

The proposal is consistent with this Strategy.

- **Tall Building Policy:**

Note: The assessment of the proposal (in particular the proposed rezoning) with respect to this Policy is considered to be highly technical for the simple reason that, theoretically, there is no “new” building being proposed; there is already an approved building with a height of approximately 38m and a total of 12 storeys, as explained earlier in this report. All the surrounding interested and affected parties are (or must be) already aware of this fact.

With regard to the site, the DMS, and the Policy itself:

- The original Special Business zoning permitted an unlimited height.
- The current GB3 zoning permits a building 25m in height (above the EGL).
- The proposed GR6 zoning permits a building 50m in height (above the EGL).
- The approved and proposed buildings are both approximately 38m in height, and comprise of 12 storeys.
- It is proposed that a condition of approval be imposed to limit the development on the site to a height of 48.215m amsl (i.e. approximately 38m).
- The Policy states that in lower order nodes a building is seen as a substantially taller building if it is more than 1.5m the permissible height as specified in the DMS; in this instance it means the (current) permitted height of 25m x 1.5 = 37.5m.
- The approved/proposed building of approximately 38m in height falls on the cusp of the above, and is considered to be a “substantially taller building” (albeit very theoretical in nature).

The main principles of this Policy are as follows:

The main principles of the Tall Buildings Policy are to:

- Promote and encourage sustainable growth in the city by permitting greater building height in appropriate locations;
- Ensure that taller buildings fit into the context of the surrounding cityscape, without negative impacts;
- Encourage design excellence. Tall buildings should form part of high quality urban environments in specific locations;
- Recognise that growth is dynamic and that the approach to tall buildings should therefore be flexible, provided that the proposal meets the strictly applied criteria for quality, design, character, context and protection of the urban environment.

In summary, the Tall Buildings Policy advocates responsible sustainable growth that makes a positive contribution to placemaking and the public realm and enhance the overall cityscape by ensuring the development of well-integrated tall buildings in appropriate locations, while giving guidance on the design during the early planning and design phases.

Importantly, the Policy is clear in that neither it (the Policy) nor its accompanying development guidelines) “seek to introduce or take away any existing development rights”. As mentioned, the approved building plans constitute “existing rights”; these rights can not be denied or taken away.

From a practical perspective, the following apply when considering “additional rights” (again, theoretical in nature):

- Level 2: Applications for substantial tall buildings or major additional height** (whether new buildings, modifications to existing substantial tall buildings or modifications to existing tall buildings that would create a substantial tall building), i.e. more than 1.5 times the underlying rights as referred to in the Scheme Regulation)
- The applicant will adhere to Policy statements: 1, 3, 4, 6, 7, 8, 9 and 10;
 - The applicant should adhere to Assessment Criteria and submission material;
 - The application will be unpacked (full documentation provided with reasoning to demonstrate how the design solution has been arrived at) with reference to the “Issues to be addressed by applicant”; and
 - The application can possibly be referred to an Inter-disciplinary Design Panel.

Policy statement 1: *The location of tall buildings must protect the key views to Table Mountain:* firstly, the approved building already impacts on some views from properties to the east of the subject erf towards Table Mountain. This is an unfortunate but historic fact, and there can be no legitimate or rational argument about this. Second, the proposed application for “additional rights” has no bearing whatsoever on the impact of any views for the simple reason that those rights (or expectations to views) have already been taken away. Third, the building is to the east of Beach Boulevard; it will not impact on any views from this Boulevard, or Otto du Plessis Drive, or the beach, towards Table Mountain.

Policy statement 3: *Applications must meet assessment criteria as set out in the Policy:* It is not believed that this statement is applicable in this instance given the existing nature of the approved plans (building).

Policy statement 4: *All tall buildings must contribute to a quality, active public realm at street and first floor level:* As explained, the proposal complies in this regard by means of the large, external timber deck and pool proposed on the ground floor which face Beach Boulevard as well as a section of Shell Road. All the apartments on the first floor (in fact – all the floors) facing west have balconies overlooking the street. Given the somewhat unusual fact that the site is situated between two streets (which then converge towards the south of the site), there is less activation onto Shell Road; however substantial landscaping is proposed on the ground floor and some windows of the proposed flats do look out onto this rear street.

Policy statement 6: *Assessment on merit within the building’s unique context:* It is indeed the specific context and merit of this site which require that the approved envelope must be regarded when assessing the proposal.

Policy statement 7: *Area character analysis will inform the design of tall buildings:* Given the approved nature of the building there is, for all intents and purposes, no (new) design of the building, and thus nothing to “inform” the design. That ship, as the saying goes, has sailed. It has been shown elsewhere in this report that some of the buildings in the immediate vicinity, including directly east of the site in Shell Road, are of even greater height than the proposed building. Many other properties are considered to be under-developed with respect to their base zoning (e.g. GR2 zoned erven which permits buildings up to 15m in height are developed with single storey, single dwelling houses).

Policy statement 7: *Area character analysis will inform the design of tall buildings:* Given the approved nature of the building there is, for all intents and purposes, no (new) design of

the building, and thus nothing to “inform” the design. That ship, as the saying goes, has sailed. It has been shown elsewhere in this report that some of the buildings in the immediate vicinity, including directly east of the site in Shell Road, are of even greater height than the proposed building. Many other properties are considered to be under-developed with respect to their base zoning (e.g. GR2 zoned erven which permits buildings up to 15m in height are developed with single storey, single dwelling houses).

Policy statement 8: *A tall building design should consider the three parts of a tall building within its context:* Given the approved nature of the building this statement is no longer considered applicable or realistic.

Policy statement 9: *A tall building’s design should include a mix of uses and promote the City’s Densification Strategy:* The proposed land use (flats) is specifically considered to be more “compatible” and to have a lesser impact on the surrounding properties, compared to the approved and permitted “licensed hotel” and its various related activities and impacts (e.g. a public restaurant and bar, traffic, potential noise, etc.). The proposed flats directly support the Densification Policy/Strategy.

Policy statement 10: *Criteria for renewable energy and/or energy efficiency in tall buildings must be considered to support limited infrastructure resources:* The proposed building plans will comply with the Council’s “SANS 10400-XA regulations” with respect to energy efficiency. The DMS permits solar geysers or panels on the roof of up to 1.5m in height; however, in order to ensure an uncluttered and low-as-possible roof, no such structures are proposed on the roof. The upper-most basement protrudes above the EGL and this will enable natural ventilation (energy efficiency).

The above demonstrates that the proposal is considered to be consistent with this Policy (notwithstanding the fact that a building with a particular envelope, design and appearance has been approved, the building plans of which is still valid).

(d) Desirability of the proposed use or development of land

The proposal is considered desirable for the following reasons:

- The proposed flats are permitted in terms of the existing zoning as well as the proposed zoning of the property. The proposed rezoning is therefore not aimed at obtaining a different set of permitted land uses.
- The proposed rezoning to GR6 is considered desirable and appropriate to better accommodate - or assimilate, the envelope of the approved building with respect to the (approved) height and floor factor).
- The approved building, with its specific height and bulk, is the product of historic town planning processes and zonings allocated to the site. The proposal will align this approved building with the current DMS and modern planning principles.
- The zoning of the site (GB3), plus the title deed condition which permits, *inter alia*, a Licensed Hotel, Cafe and a Service Station as of a right, indicate that the Council always regarded this property suitable for high-intensity land uses (even including a commercial component attached to it) from the very beginning.

- Most of the surrounding properties are zoned General Residential and thus, in principle, earmarked for higher-density residential purposes. The proposed land use is consistent with the surrounding land uses.
- The proposal is consistent with and satisfy the various applicable adjudication criteria, in particular Section 48(4)(a) of the By-Law (as recently amended).
- The proposal is considered to be a more desirable land use within the urban context, compared to the approved “licensed hotel” and its potential impacts: the proposal will be exclusively residential in nature with the owners and/or tenants occupying the units. Permanent residents or occupants are more sensitive about their neighbourhood in terms of noise, aesthetics, security etc. as opposed to constantly changing hotel guests.
- The commercial component attached to the Licensed Hotel, i.e. the offices, gymnasium and restaurant, will be removed. It is especially with regard to the hotel restaurant that the benefits will be felt by the residents in the area as there will be no deliveries taking place, no fumes and other emissions from the kitchens, no late-night dining and resultant noise etc.
- The proposed flats are expected to generate relatively less traffic than the licensed hotel, in particular the (hotel) restaurant will attract less visitors (and delivery vehicles) to the premises.
- It is not proposed to increase the height or the envelope of the approved building; the proposed building will be entirely the same with respect to the approved height and envelope. This is considered desirable.
- The proposal facilitates a sustainable, compact and efficient form of urban development, and will provide a greater variety of housing stock in the area.
- The proposed setback departures are a function of the proposed zoning, and not because any new building work proposed outside the *approved* envelope.
- The other departures, e.g. setback departures pertaining to structures on the ground floor, or pertaining to the coverage, are considered to be minor in nature and will not have any material external impact.
- The first storey (ground floor) of the proposed building comprises of relatively minor structures within the 4.72m (title deed) and 4.5m (DMS) street boundary building lines, e.g. uncovered decks, a pool, planters, etc. The proposed building, from the first floor upwards, respects the 4.72m (title deed) street boundary building line (which is more onerous compared to what the DMS allows, namely 4.5m, which applies up to a height of 25m above the EGL).
- The proposal is considered to be consistent with various Council Policies, Frameworks, District Plan, the PSDF and MSDF, etc.
- It is not believed that the proposal will have an undue impact on the evacuation plan relating to the Koeberg Nuclear Station; not only was an 80-room licensed hotel already approved for the site, but the property is also only 600m from the outer perimeter of the 16km evacuation zone and located adjacent to a main transport route (for easy evacuation, if required).
- There is no parking departure. No external (and visible) parking will be provided, and the approved CWC on Shell Road will be removal. This will allow for more on-street parking in Shell Road, which is desirable.

(e) Impact on Existing Rights

It is not believed that there is any material impact on existing rights for the following reasons:

- The over-arching and imperative issues here are that a 12-storey building with a height of approximately 38m was already approved, the building plans of which are still valid. Since the proposal will utilise this same building envelope, there is no impact on the surrounding properties with respect to views, privacy or over-shadowing.

(It is noted that the original Special Business Zoning of the property had unlimited height and bulk).

- The approved licensed hotel could arguably have a “worse” impact on existing rights due to the very nature of such a land use, compared to the proposed flats. The proposed amendment of the relevant title deed condition is considered to have a positive impact on existing rights.
- The proposed zoning and land use are consistent with the surrounding zoning and land uses. The proposal is in character with the urban environment with respect to the above.
- The proposed building will be the same height as the approved building, which is believed to have a positive impact on existing rights.
- The Urban Visual Assessment which was prepared concludes with *inter alia* the following statement (the UVA clearly supports the proposal):

The overall impact of the building in the context of its urban surroundings and with due consideration of the built and natural environments and impacts on any significant views can be described as *medium-low*. This rating is however only for the very specific views along a short section of Otto du Plessis Drive. Other view impacts are *low to non-existent*.

The UVA concludes that the overall visual impact of the building is a low-medium impact considering its urban location and limited impact on any significant views of the coast and Table Mountain, which dominates the views.

The following renders illustrate the proposed building within the surrounding context (with which it is clearly compatible):



View towards the south along Otto du Plessis Drive



View towards the north along Otto du Plessis Drive

(f) Consolidation

Not applicable.

(g) Relevant National or Provincial Legislation

The applications comply with all other National and Provincial legislation, including Section 7 of SPLUMA, which is addressed below.

Section 7 of SPLUMA

Spatial sustainability, efficiency and the principle of spatial justice:

- With respect to the type of proposed flats, the following:
 - ❖ Nine (9) of the flats are “studios” measuring between 44m² and 50m² in extent,
 - ❖ Twenty (20) of the flats are 1-bedroom units measuring approximately 58m² in extent.

This means that about 45% of all the proposed flats are relatively small residential units which are aimed to provide in the need for more affordable units and will improve access to such housing stock and the use of land for relatively lower-income occupants. This aspect is consistent with the principle of spatial justice.

- The proposal will help to limit urban sprawl and to create a more spatially compact city which is within fiscal, institutional and administrative means. It will also optimise the use of the available serviced land and the existing infrastructure (including public transport). This is consistent with the principle of social and spatial sustainability.
- The proposal will help to reduce the pressure on agricultural land on the outskirts of the city for development, and will thus have a positive impact on the environment. This is consistent with the principle of environmental sustainability.

- The proposal promotes land development in a location which forms part of an existing urban area and will optimise the use of available land (an increasingly scarce resource).
- The proposal will optimise the use of existing infrastructure and public transport facilities, thereby curbing costs for the Council, developers and ultimately the general public. This is consistent with the principle of efficiency.
- The creation of more compact cities and curbing the necessity to provide infrastructure for an ever-increasing metro, the saving of such money can be utilised to improve the lives of the previously disadvantaged by acquiring and/or developing land for those communities where required. Contextually speaking, appropriate densification will cumulatively help by taking pressure off from development elsewhere which normally drives the poor to the edges of the city. Low density urban areas closer to places with good opportunities and public transport facilities inevitably displaces other people to worse located land. The proposal is thus consistent with the principles of social justice.
- The proposal will utilise the existing and approved building footprint/envelope, and is not an attempt to acquire additional bulk over and above what is already approved on the site; it is merely an application which will make more efficient use of the land. This is the principle of spatial resilience.
- The proposal directly supports the Densification Policy and the principles of the TOD, as well as statutory documents e.g. the District Plan, MSDF etc. This is the principle of good administration.
- The proposed flats will ensure that the community will become more viable and vibrant e.g. greater security (more surveillance) and more people to sustain socio-economic facilities.
- The approval of this proposal will minimise a potentially negative financial, social, economic and environmental impact.

5.2.3 Motivation in terms of Section 99(3) of the By-Law

The application complies with the following relevant considerations:

(a) Socio-economic Impact

The property was purchased on the basis of confirmation from the Council that the building plans for the licensed hotel are still valid, and meaning that the specific height and envelope of the building have been established and entrenched.

The proposal will enable the optimal utilisation of the property and the best possible return on the investment made by the (relatively recent) owners. This will have a positive impact on the municipal valuation of the property as higher rates and taxes will be payable due to the improvement; such additional income to the City is crucial to help pay for the provision and maintenance of city-wide services and infrastructure.

The proposal will add much-needed housing stock to the city, and create a wider variety in housing opportunities (i.e. smaller units). This is considered as a positive social impact.

The fact that the proposed development is situated directly adjacent to a MyCiTi bus route (and stop) means optimal accessibility and relatively more affordable transport for the future occupants, whilst being consistent with the TOD.

Since the proposal will not increase the height or envelope of the approved building, it will have no (other) impact on the surrounding properties (and their existing rights) compared to what already exists in terms of the approved plans. This will have a positive socio-economic impact on the neighbours' properties.

The proposal will create a large number of employment opportunities both during and after construction which will have a positive economic impact on those parties involved.

(b) Compatibility with Surrounding Uses

The subject flats is entirely compatible with the surrounding land uses, which is primarily residential in nature (single residential and flats).

(c) Impact on External Engineering Services

Given that building plans have been approved for a licensed hotel (with 80 rooms and a restaurant), it is not expected that the proposed flats (with 63 dwelling units) will have any material – or more onerous, impact on the available infrastructure. Nonetheless, the proposal will be circulated to the relevant service branches for comments.

A Development Contribution is normally payable as a result of the proposed rezoning or when additional rights are acquired. However, in this instance, given that the proposal will utilise the same envelope and floor factor as per the approved building (hotel), it is not believed that any DC is payable since technically no additional rights (e.g. more floor space) is acquired.

(d) Impact on Safety, Health & Wellbeing of the Surrounding Community

It is not believed that the proposal will have any undue impact on the surrounding community in this regard. On the contrary, the proposal will enable the property to be developed with more flats, and thus create more housing stock which is always in high demand. There simply is not enough housing opportunities in the city, and the proposal will help to meet this demand.

The increase in numbers of residents will positively impact on the safety and wellbeing of the neighbours and the area by the increased levels of direct and indirect surveillance. In particular, the development of the vacant property is positive as such an unoccupied site lends itself well to anti-social activities, besides being visually unattractive.

The surrounding property owners must (or should) all be aware of the approved building, and the impact of that on aspects such as views, privacy and over-shadowing (these are aspects that are often cited as contributing to or affecting the “health and well-being” of people). Given that the proposed development will be fully in accordance with the approved envelope, there can be no impact as a result of the new development in these respects.

There is a potential that a licensed hotel (including a restaurant), a permitted right, could have some negative impacts on the surrounding properties from a noise, traffic and access (constant coming and going of pedestrians and cars) point of view. The proposal, which is no longer for a licensed hotel and

restaurant but for flats, is considered to positively impact on the “health and well-being” of the immediate community.

It is also considered desirable and positive that properties developed to their full potential is a sign of a healthy economy and neighbourhood. The proposal will positively impact on the sustainability and vibrant nature of the area, and which in turn positively impact on the “safety, health and well-being” of the community.

(e) Impact on Heritage

The property is not situated in a Heritage Protection Overlay Zone (HPOZ). Apart from some excavation of the property and some minor structures on the site (pylons which have been constructed following the approval of the plans in 2008), the site is vacant. There are thus no structures older than 60 years.

No heritage applications are required to the Council in terms of the DMS, or in terms of Sections 34 or 38 of the National Heritage Resources Act (to Heritage Western Cape).

(f) Impact on the Biophysical Environment

It is not believed that there will be any negative impact on the biophysical environment:

- There is no vegetation (trees) on the site which will be removed,
- Plans to excavate the ground in order to construct two full parking basements and a partial third basement, have been approved; the proposed excavation to expand the third basement is not believed to have any impact on ground water, etc.,
- No development is proposed which will have any impact on air quality etc.,
- The property is separated from the coast by two roads, and there is accordingly no impact on any coastal vegetation or the beach itself.

(g) Traffic, Transport, Parking and Access

- In terms of the former Table View Town Planning Scheme a parking provision of 3 bays for every 5 bedrooms + 20 bays was required for a licensed hotel. The 80 rooms (suites) therefore required $(16 \times 3) + 20$ bays = 68 bays.
- The approved building plans provide for 79 parking bays + 9 motorcycle bays.
- The DMS requires a parking provision of 1.25 bays/unit for flats. The proposed 63 flats therefore require 79 bays (the site is in a PT1 Area).
- A total of 83 parking bays (cars) and 12 motorcycle bays will be provided (8 of these bays count towards a credit of 2 additional car bays, meaning that effectively 85 parking bays are provided).
- There is no parking departure.
- The proposal will have a positive impact as it will remove the approved CWC from Shell Road which in turn will mean that more on-street parking for the general public will be provided in that Road.

- The only vehicle access to and from the site will be in Beach Boulevard. It is considered desirable and positive to eliminate vehicular access in Shell Road (where more access points exist for the other properties in that Road), and to position it in Beach Boulevard where there are far less properties taking access.
- All cars will exit the site in forward gear.
- There is no CWC departure.
- All parking will be hidden from view in the underground parking basements.
- The proposal, which is located directly adjacent the MyCiTi bus route and 20m from a bus stop, is supportive of and consistent with the principles of the TOD.
- It is recommended that a 1.6m wide sidewalk be provided adjacent to the site in Beach Boulevard, and that a pedestrian crossing be provided across this Road to the bus stop.
- A Site Traffic Assessment was undertaken by **Motion Consulting Engineers** (copy attached). The study supports the proposal, and recommends the following:

- **Ramp Control System:** At Building Plan stage, prepare a detailed design for the ramp traffic signal system in consultation with a specialist installer/contractor. The system should rest green for inbound traffic, with detectors or video-based sensors provided for both directions, signal heads and stop lines positioned for maximum visibility, and mirrors retained as redundancy.
- **Pedestrians:** Construct continuous paving along the Beach Boulevard frontage (minimum 1.6 m wide, or the full verge width where possible). Provide a paved sidewalk at the north-east corner of Shell Road. Install a pedestrian crossing across Beach Boulevard to the Shell MyCiTi stop, subject to City approval. The City should also maintain the western sidewalk of Beach Boulevard, clearing sand and vegetation to restore its function.
- **TEM:** The City is to complete the TEM process, to ensure alignment between STA recommendations and the City's operational requirements.

- The proposal is considered to have a positive impact on parking and traffic as demonstrated and motivated above.

(h) Whether the imposition of conditions could mitigate an adverse impact of the proposed use or development of land

- Council could consider to impose a height restriction as a condition of approval. This would be to limit any development of the site to the height of the proposed building, being 48.215m amsl (and seen in the light that the proposed GR6 zoning permits a height of 50m above the EGL).
- Council may also consider to impose a condition of approval to require that any building plans be generally in accordance with the proposed plans.

5.2.4 Motivation in terms of Section 48(4) of the By-Law read with Sections 42(1)(c) and 47 of SPLUMA

The application complies with the above Sections as follows:

5.2.4.1 Section 42(1)(c):

The various aspects listed under sub-section (c) of this Section have already been comprehensively addressed earlier in this report, e.g. the “public interest”, the “facts and circumstances relevant to the application”, the respective rights, impact of engineering services and social infrastructure, etc., and it was demonstrated that the proposal is considered to satisfy the above-mentioned criteria.

5.2.4.2 Section 47:

The various aspects listed under sub-section (c) of this Section have already been comprehensively addressed earlier in this report, e.g. the “public interest”, the “facts and circumstances relevant to the application”, the respective rights, impact of engineering services and social infrastructure, etc.

6. CONCLUSION

The proposal has been thoroughly motivated as demonstrated in this report. The proposal is considered to satisfy all the relevant adjudication criteria as required in terms of the Planning By-Law (e.g. Sections 48 and 99), SPLUMA and LUPA. In addition, the proposal is considered to be compliant with a host of statutory legislation e.g. the MSDF, the District Plan, Policies, Frameworks and Strategies.

The proposal was shown to be desirable.

Critically, it must be remembered that a building with the same envelope (height and “bulk”) as per the proposal, has already been approved and with those building plans being still valid. From a visual perspective there can accordingly be no impact on views, privacy or over-shadowing.

The proposed land is considered to be preferable to the approved hotel with its public restaurant and bar, specifically from a noise and traffic (including delivery vehicles etc.) point of view.

The proposal will also result in less people being on site at any given time compared to the number of people associated with the approved hotel, public restaurant and bar. This will have a positive impact on the Koeberg Traffic Evacuation Modelling (TEM) and ability to evacuate residents in the unfortunate event of an accident at Koeberg.

The departures are primarily the result of the proposed GR6 zoning, and not because of any material change in the envelope of the building (which is approved and will largely remain so).

The proposal is considered to be positive and desirable – if not an improvement, of the approved building from a parking, visual (appearance), land use and access point of view.

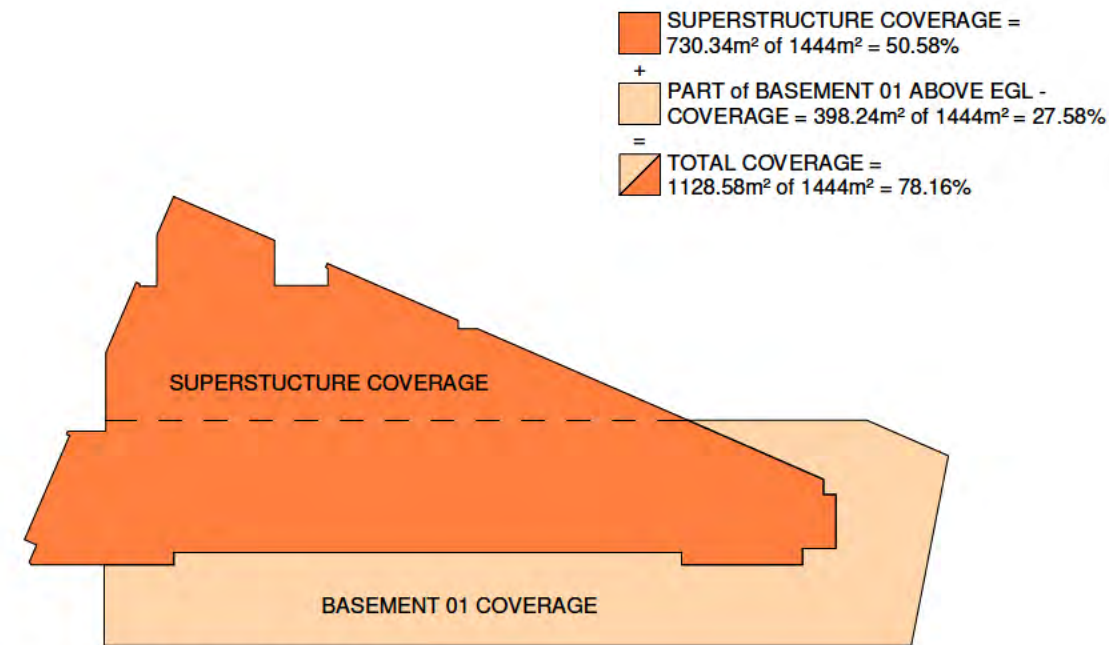
We trust that the Municipal Planning Tribunal will also recognize the desirability and benefits of the proposal, and to **approve** the application.

TOMMY BRUMMER TOWN PLANNERS



501 Locality Plan

Scale: 1 : 2500



Coverage Diagram

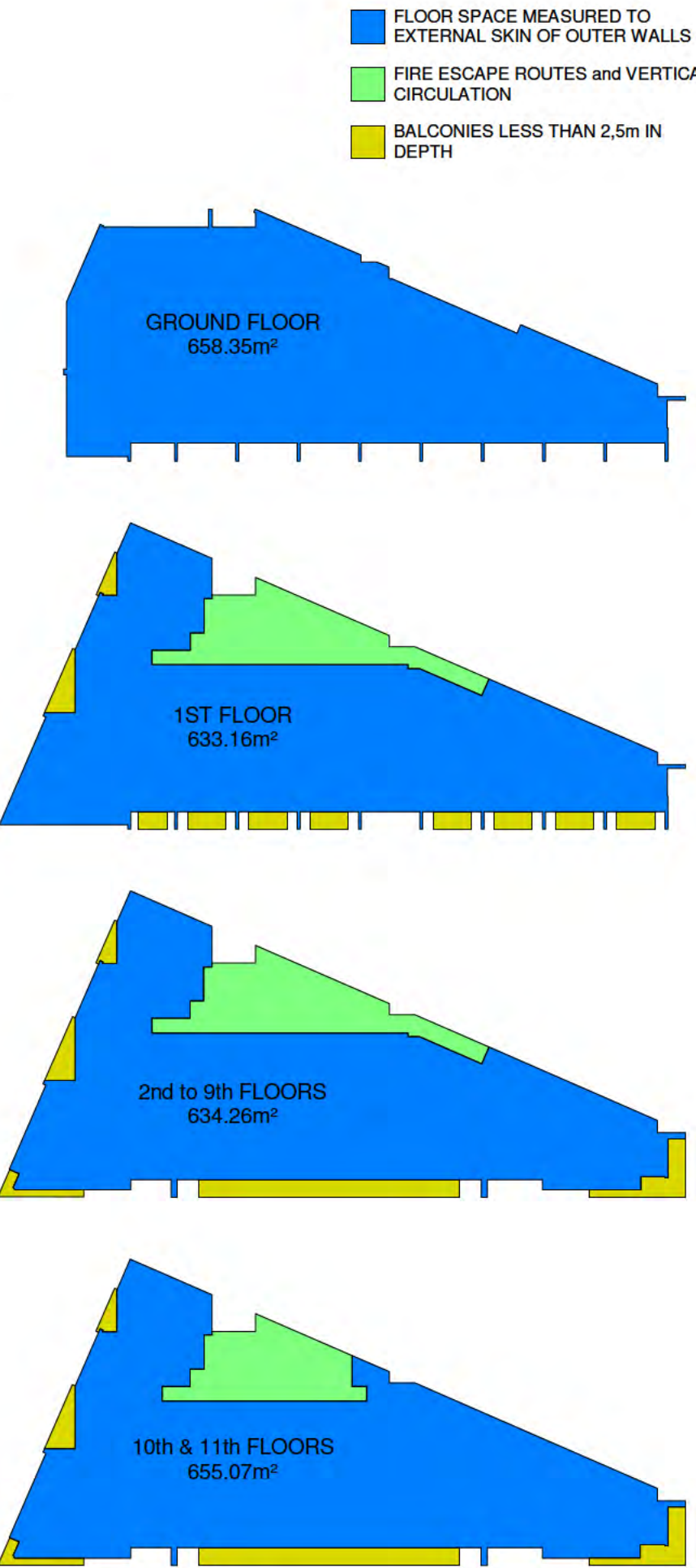
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FLOOR FACTOR CALCULATIONS (Related to AREAS DIAGRAM)			
REF:	NAME:	CLASS:	AREA:
NEW AREAS			
	GROUND FLOOR 00	G1	658.35 m²
	FLOOR 01	G1	633.16m²
	FLOOR 02	G1	634.26 m²
	FLOOR 03	G1	634.26 m²
	FLOOR 04	G1	634.26 m²
	FLOOR 05	G1	634.26 m²
	FLOOR 06	G1	634.26 m²
	FLOOR 07	G1	634.26 m²
	FLOOR 08	G1	634.26 m²
	FLOOR 09	G1	634.26 m²
	FLOOR 10	G1	655.07 m²
	FLOOR 11	G1	655.07 m²
TOTAL FLOOR SPACE:			7 675.76 m²
FLOOR FACTOR (5) CALCULATION:			
ALLOWED	- 5 x 1 444m² = 7 220m² allowable floor space		
ACTUAL	- 7 675.76m² ÷ 1 444m² = <u>5.3</u>		

SUPPLEMENTARY AREAS		
BALCONIES LESS THAN 2,5M IN DEPTH	-	625 m²
FIRE ESCAPE ROUTES & VERTICAL CIRCULATION	included on ground floor	
MUNICIPAL SUBSTATION YARD	-	29 m²
CLUBHOUSE REFUSE AREA	-	14 m²
COMPLEX REFUSE AREA	-	17 m²
BASEMENT -03	J2	1444 m²
BASEMENT -02	J2	1444 m²
BASEMENT -01	J2	1347 m²

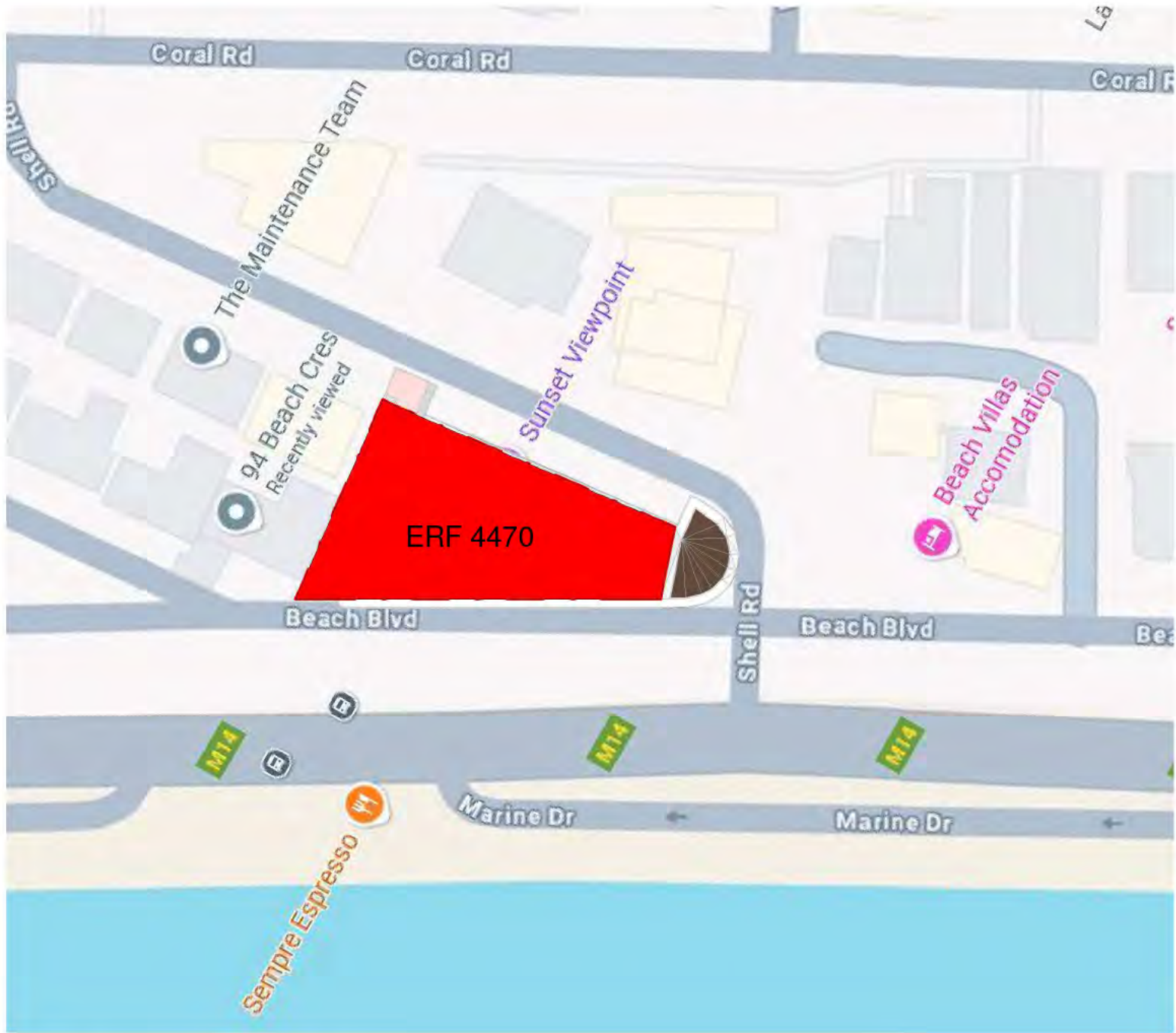
SCHEDULE OF RIGHTS (as per proposed GR6 zoning)		
PHYSICAL ADDRESS	Corner of Beach Boulevard & Shell Road, Blaauwberg, Milnerton	
SITE NUMBER	ERF 4470	
SITE AREA	1444,00m²	
ZONING	General Residential (GR6)	
BUILDING OCCUPATIONS	Building Type & Classification:	
	Basement 1-3:	J1 - Storage
	Ground Floor:	Private Use
CLIMATE ZONE	4 - Temperate Coastal	
	None	
	SERVITUDES	
BUILDING LINES (GR6 Zoning Applied)	Boundary Type:	Relevant Set-back Requirements:
	Street Boundary	4,5m building line up to 25m above EGL and 9m above 25m
	Common Boundary	0m Building Line up to 15m above EGL 0.6 x Building height between 15 and 25m and 15m from 25m above EGL
HEIGHT RESTRICTION (GR6 Zoning Applied)	50m	
	5	
	FLOOR FACTOR (GR6 Zoning Applied)	
PARKING PROVISION / RATIO (Standard as per Zoning Scheme)	Building Type:	Minimum Off-Street Parking Requirements: PT1 Zone
	Apartments	1.25 bay per unit
	Clubhouse	0
COVERAGE	60% Allowed	
	Private Gym	
	0	

	PERMISSABLE / ALLOWED	ACHIEVED
HEIGHT RESTRICTION (Above base level)	50m	40m at highest point (Refer to Elevations)
FLOOR FACTOR (Total GFA / Site)	5	5.3
PARKING PROVISION (Standard as per Zoning Scheme)	1.25/ unit @ 63 units = 79 Parking bays min.	83 Parking bays - (83 vehicular and 12 motorcycle bays)
COVERAGE (Total building footprint / Site x100)	60%	78,16% (Due to basement 1 partial protrusion above Existing Ground Level)
DISABLED PARKING PROVISION	3x Disabled parking bays to be provided for total site parking between 101-150	n/a



Area Diagrams

Scale: 1 : 500



502 Locality Plan

Scale: 1 : 1000

REVISIONS

NO.	DATE	DESCRIPTION	BY
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CLIENT:

PROJECT:
Bedrock Apartment Development, Blaauwberg

PURPOSE OF ISSUE:
FOR INFORMATION

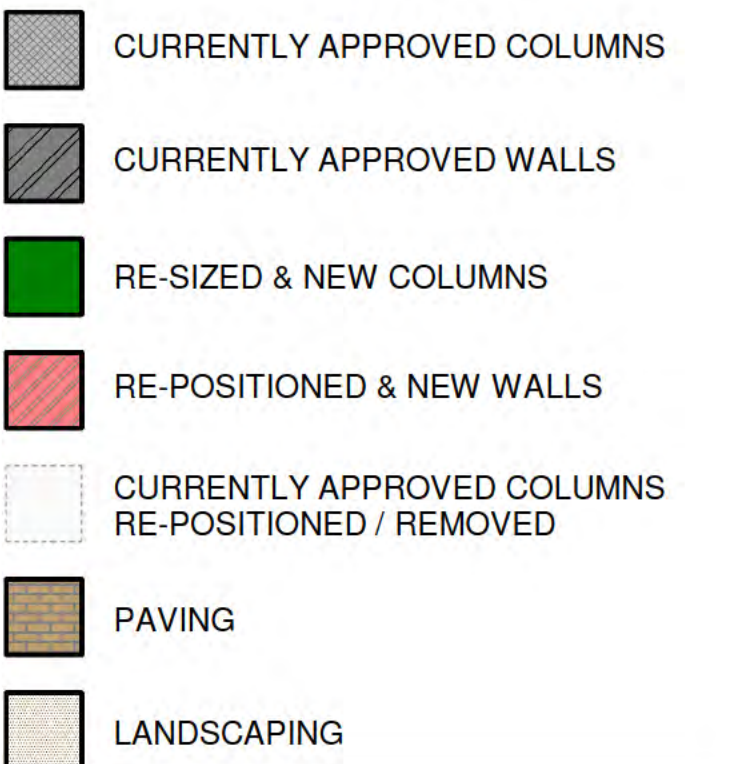
DRAWING:
SDP - Locality Plan

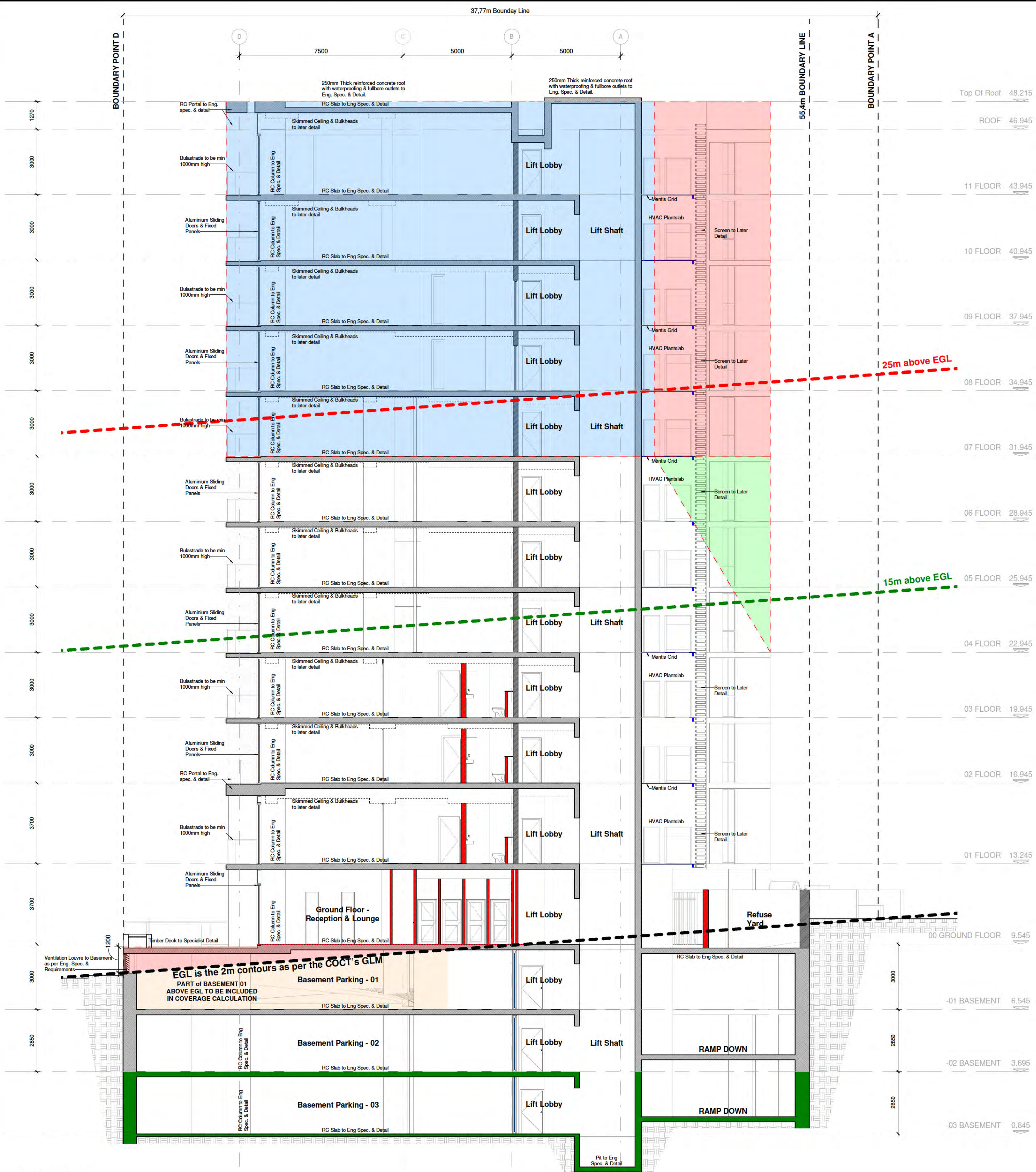
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SECTION AA
Scale: 1 : 100

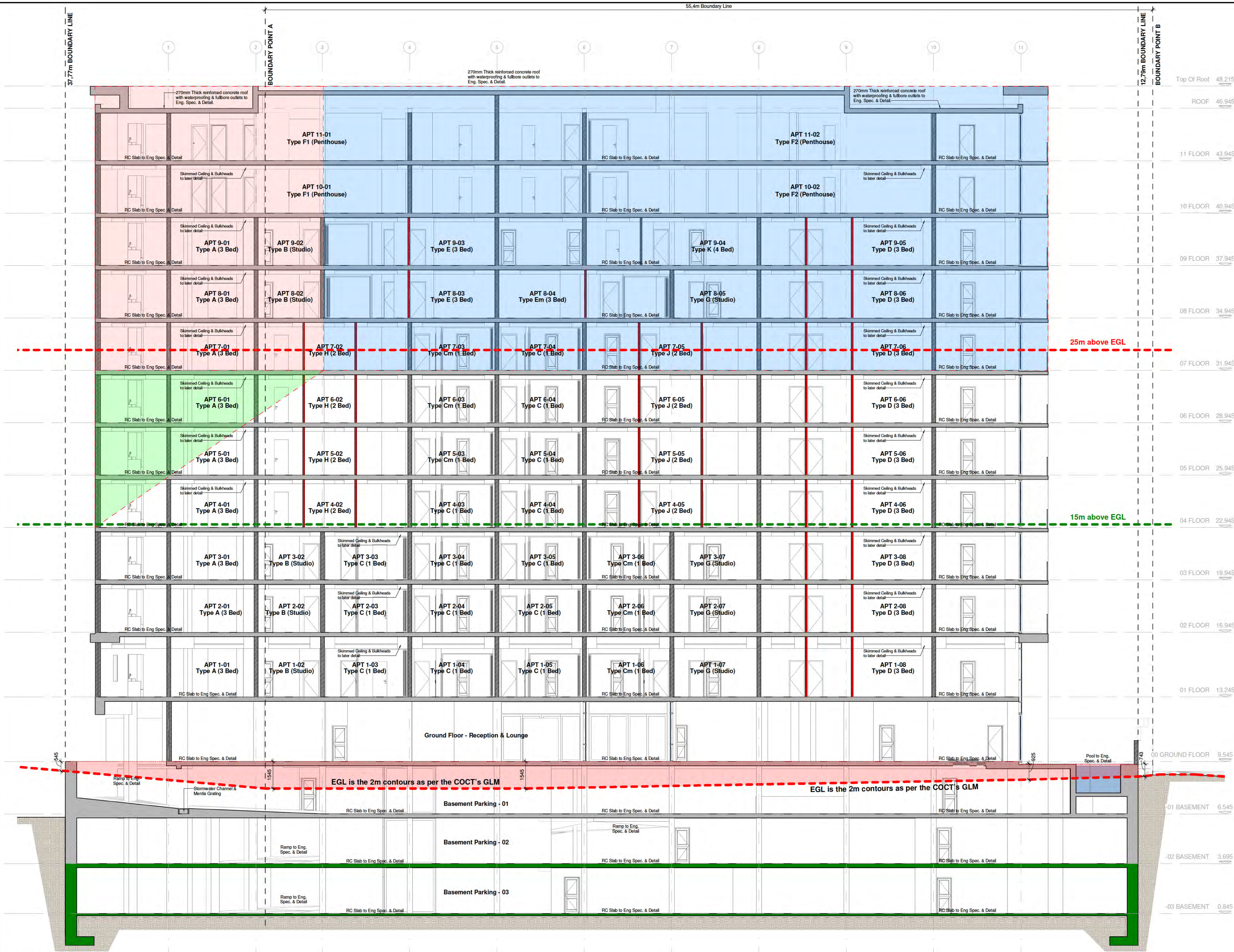
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NO.	DATE	DESCRIPTION	BY



ARTIST IMPRESSION
AS SEEN FROM BEACH BOULEVARD PUBLIC PARKING



CLIENT:			
PROJECT: Bedrock Apartment Development, Blauwberg			
PURPOSE OF ISSUE: FOR INFORMATION			
DRAWING: SDP - Section A-A & 3D Perspectives			
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PROJECT:
Bedrock Apartment Development, Blauwberg

PURPOSE OF ISSUE:
FOR INFORMATION

DRAWING:
SDP - Section BB

PROJECT NUMBER:
33050

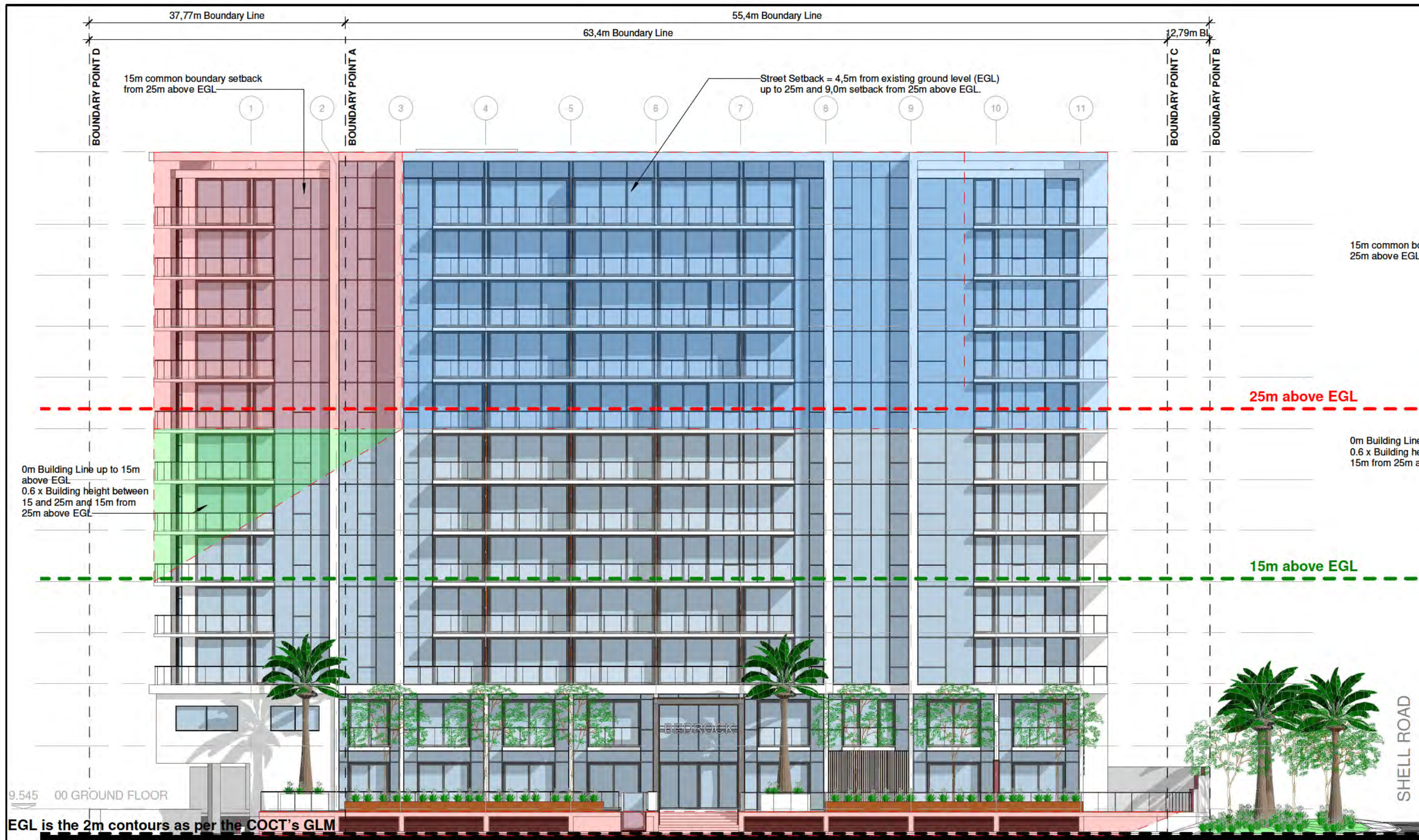
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SECTION BB
Scale: 1 : 100



South West Elevation

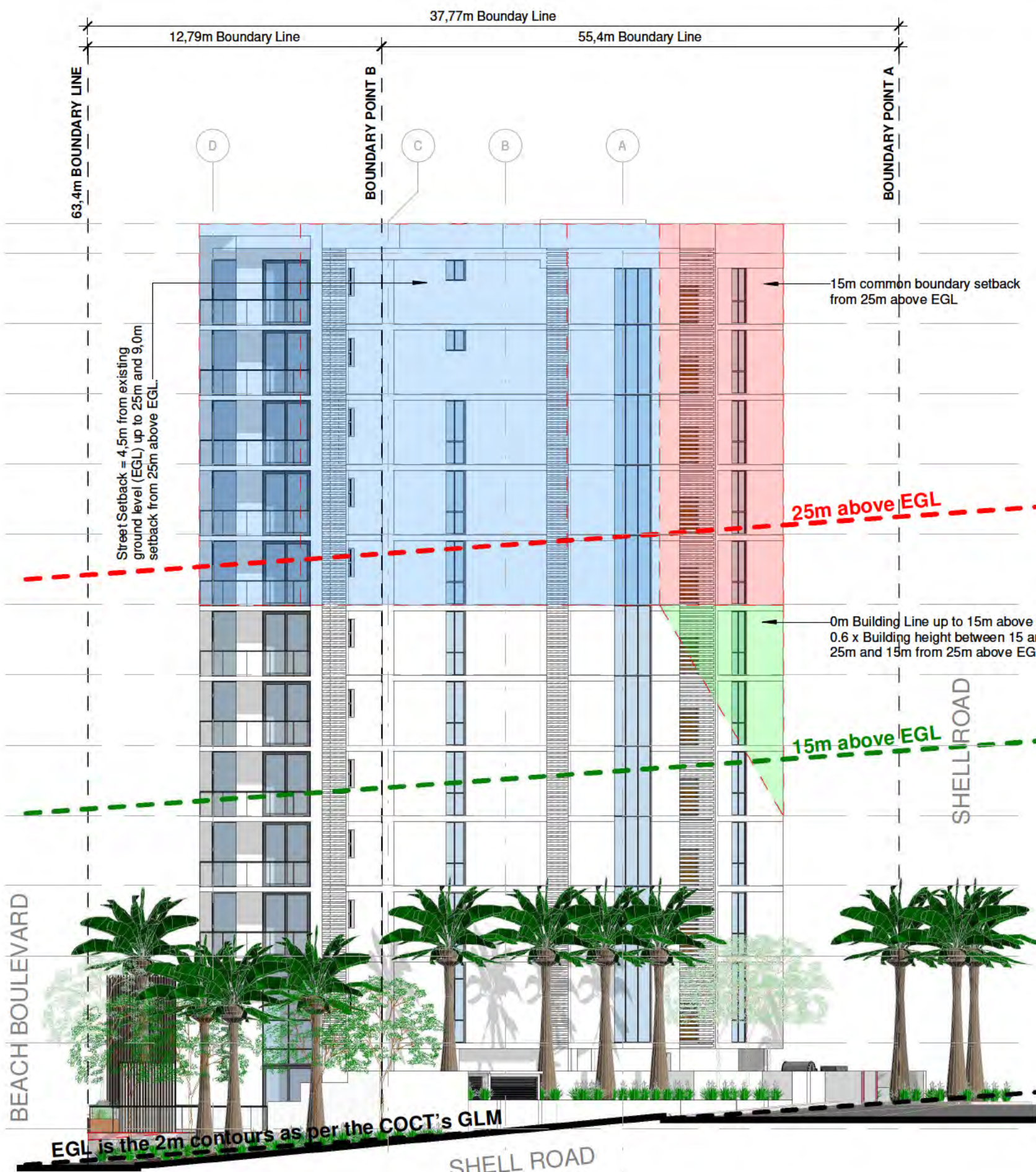
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BUILDING LINES (GR6 Zoning Applied)	Boundary Type:	Relevant Set-back Requirements:
	Street Boundary	4.5m building line up to 25m above EGL and 9m above 25m
	Common Boundary	0m Building Line up to 15m above EGL 0.6 x Building height between 15 and 25m and 15m from 25m above EGL
	Street Centreline	8m from centreline of any street boundary



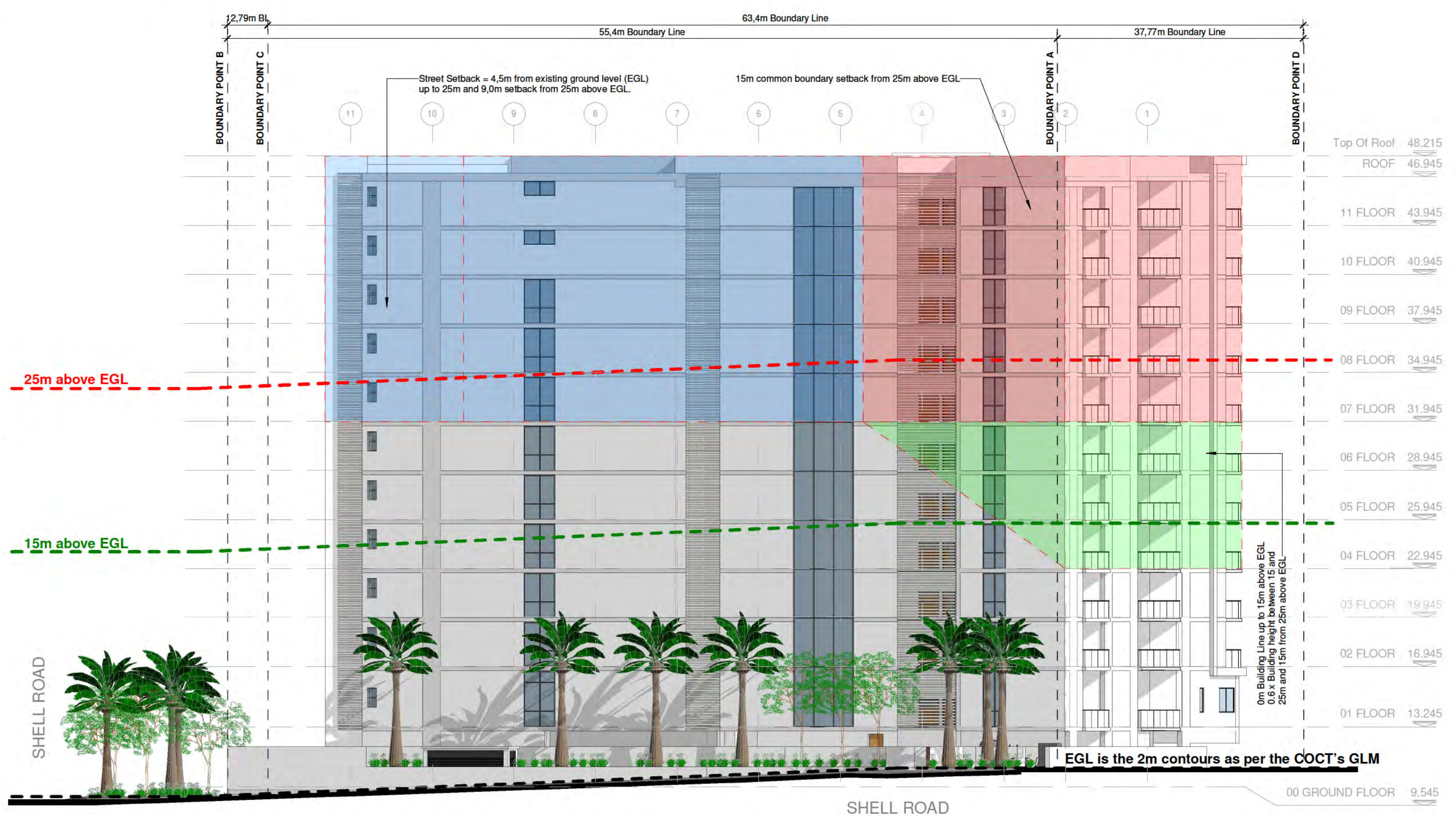
North West Elevation

Scale: 1 : 200



South East Elevation

Scale: 1 : 200



North East Elevation

Scale: 1 : 200

REVISIONS

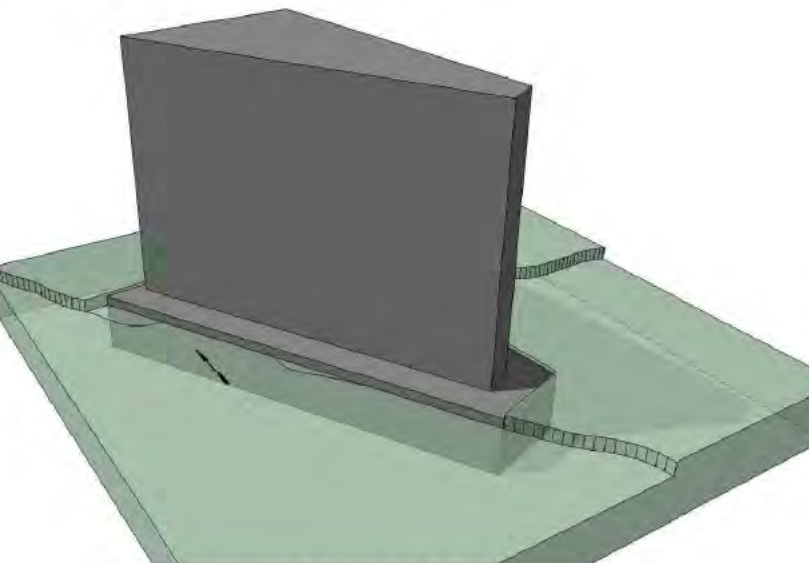
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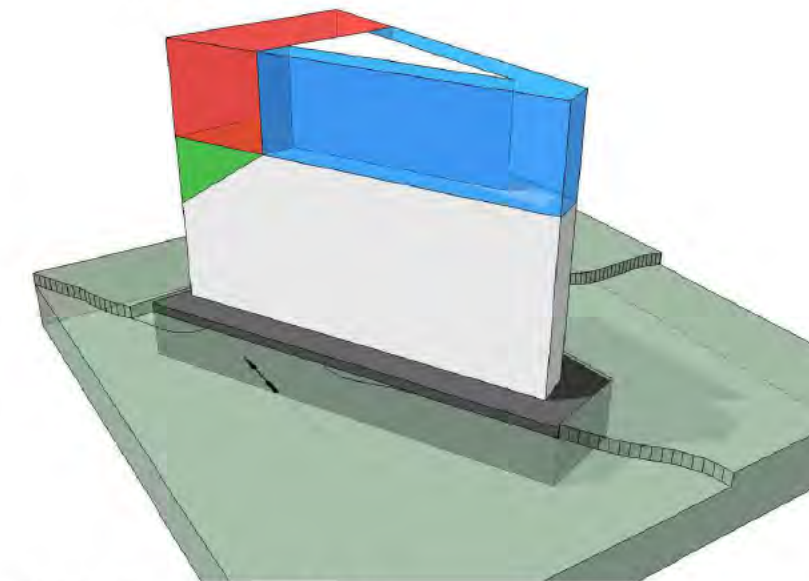
3D Perspective 1



3D Perspective 2



Currently Approved Massing Model



Proposed Massing Model



CLIENT:

PROJECT:
Bedrock Apartment Development, Blaauwberg

PURPOSE OF ISSUE:
FOR INFORMATION

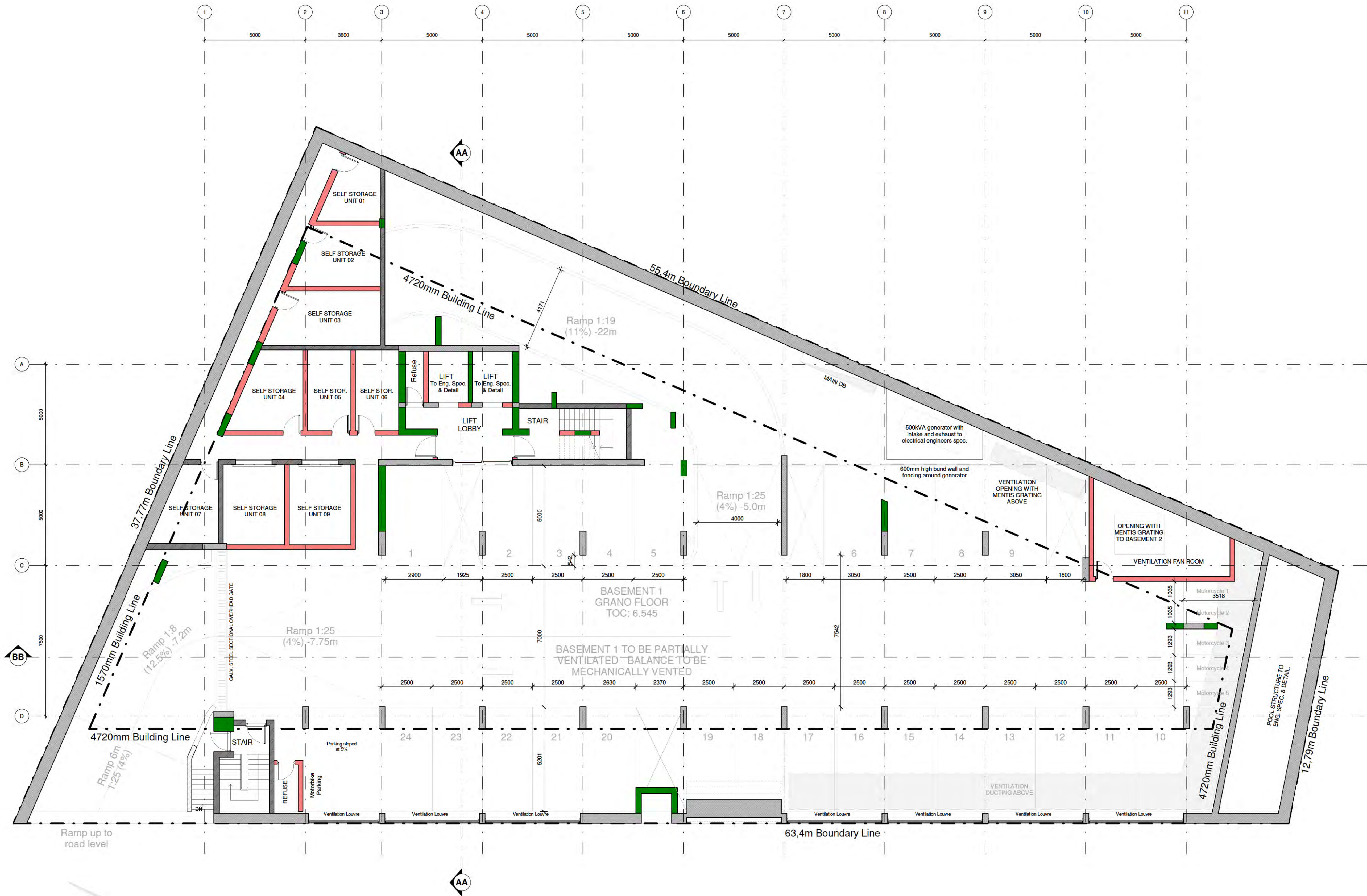
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PROJECT NUMBER:
33050

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CLIENT:

PROJECT:
Bedrock Apartment Development, Blaauwberg

PURPOSE OF ISSUE:
FOR INFORMATION

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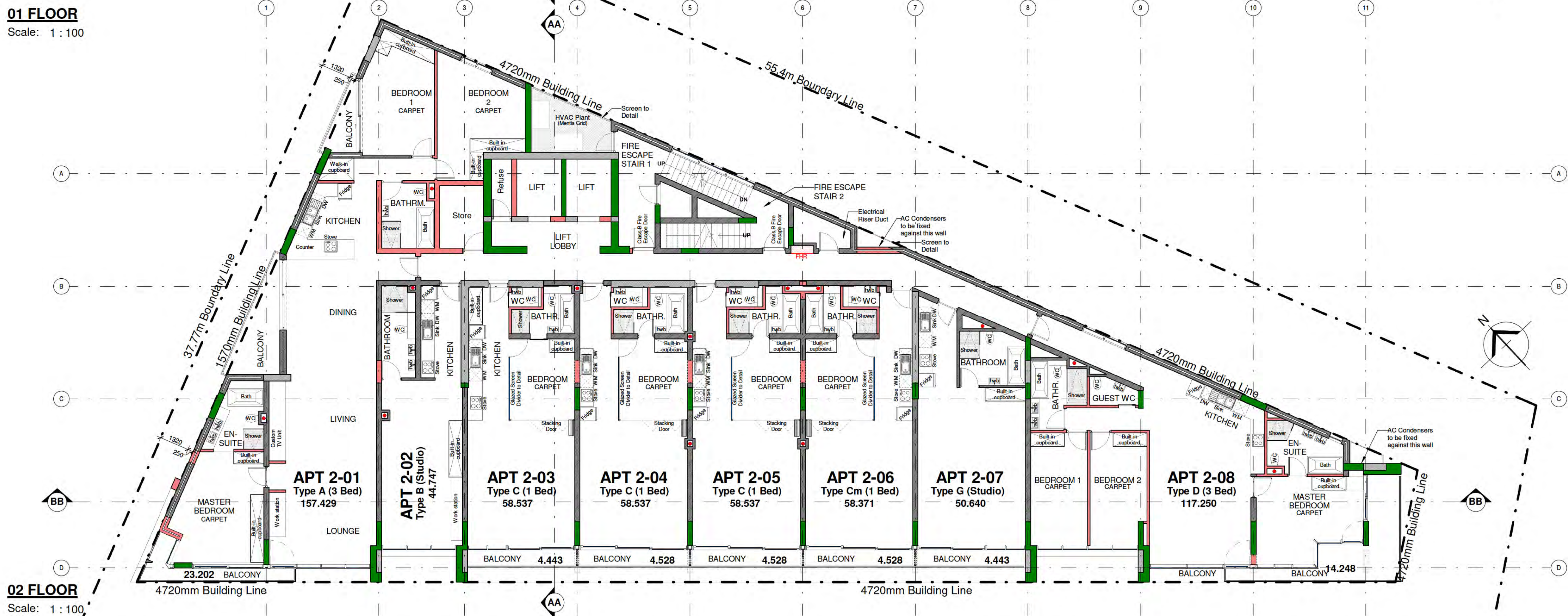
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01 FLOOR

Scale: 1 : 100



02 FLOOR

Scale: 1 : 100

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- LANDSCAPING



CLIENT:

PROJECT:
Bedrock Apartment Development, Blaauwberg

PURPOSE OF ISSUE:
FOR INFORMATION

DRAWING:
SDP - 1ST & 2ND FLOOR LAYOUTS

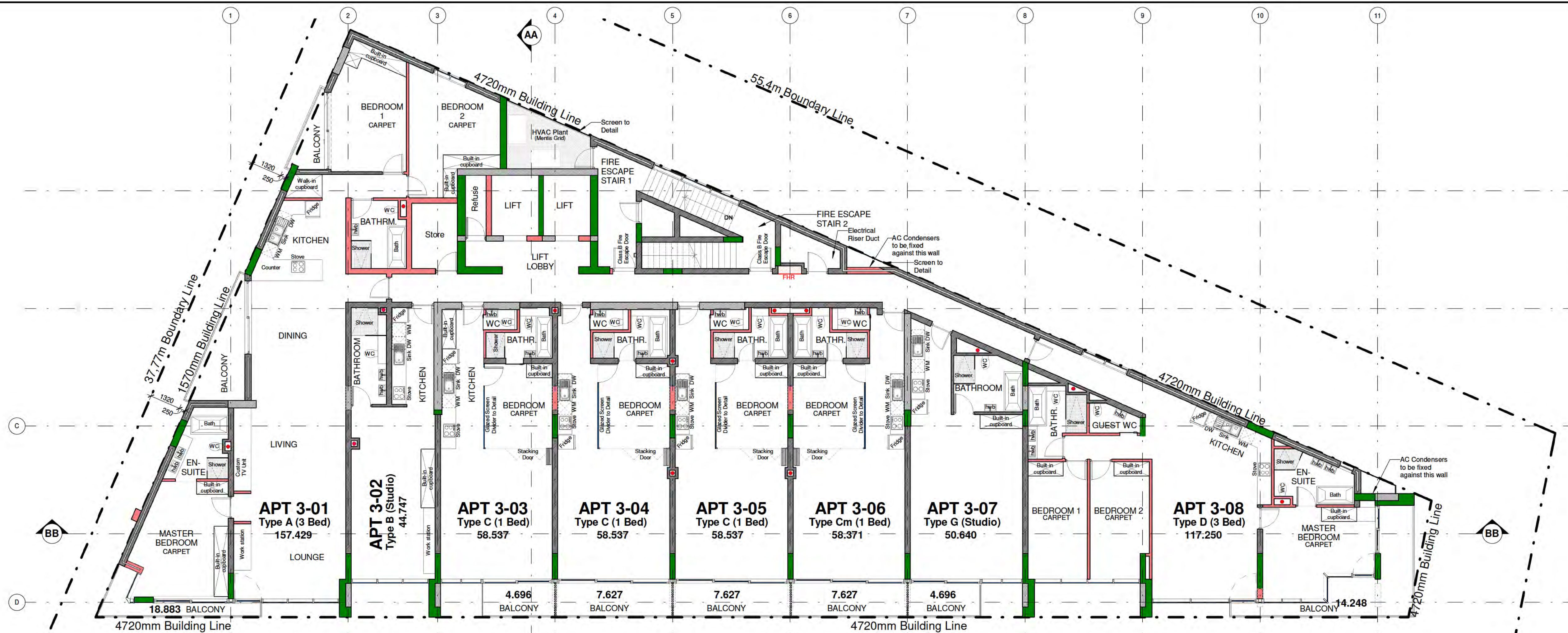
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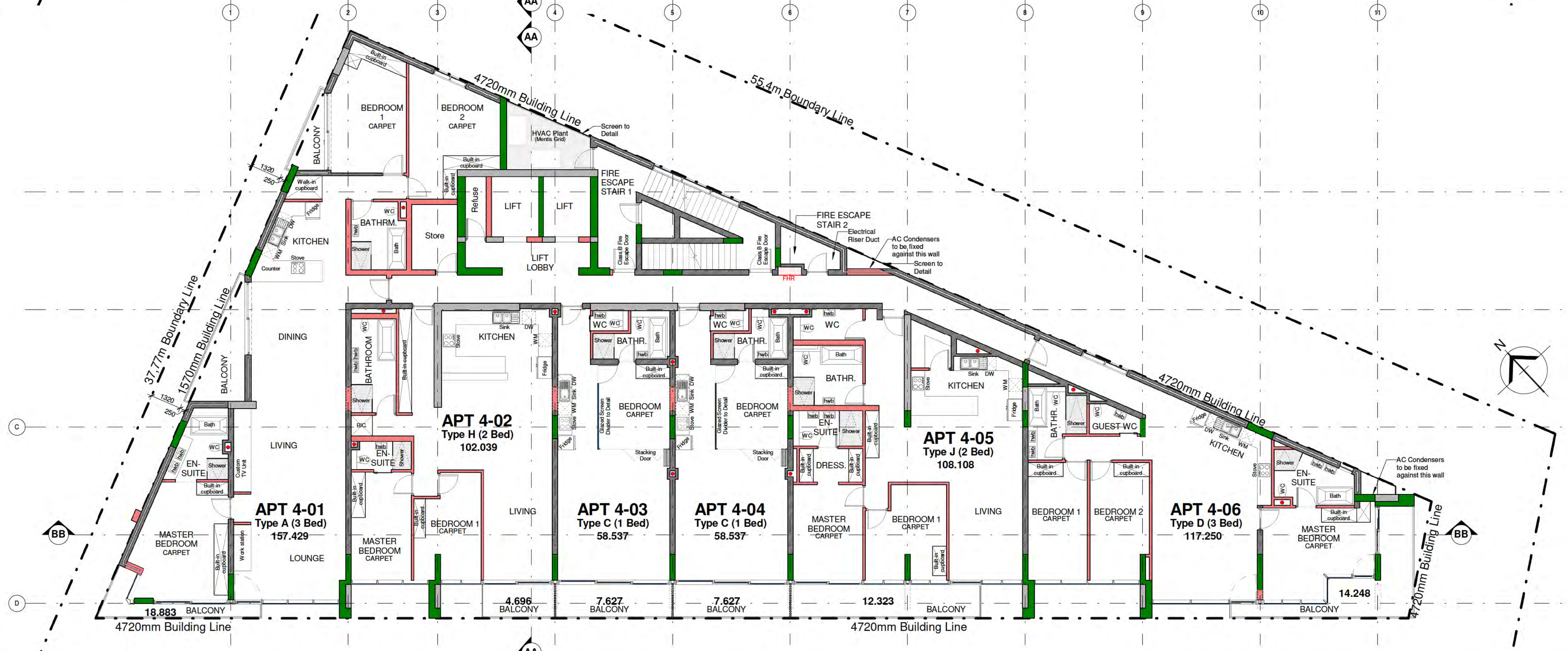
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03 FLOOR
Scale: 1 : 100



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04 FLOOR
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SLT ARCHITECTS

CLIENT:

PROJECT:
Bedrock Apartment Development, Blauwberg

PURPOSE OF ISSUE:
FOR INFORMATION

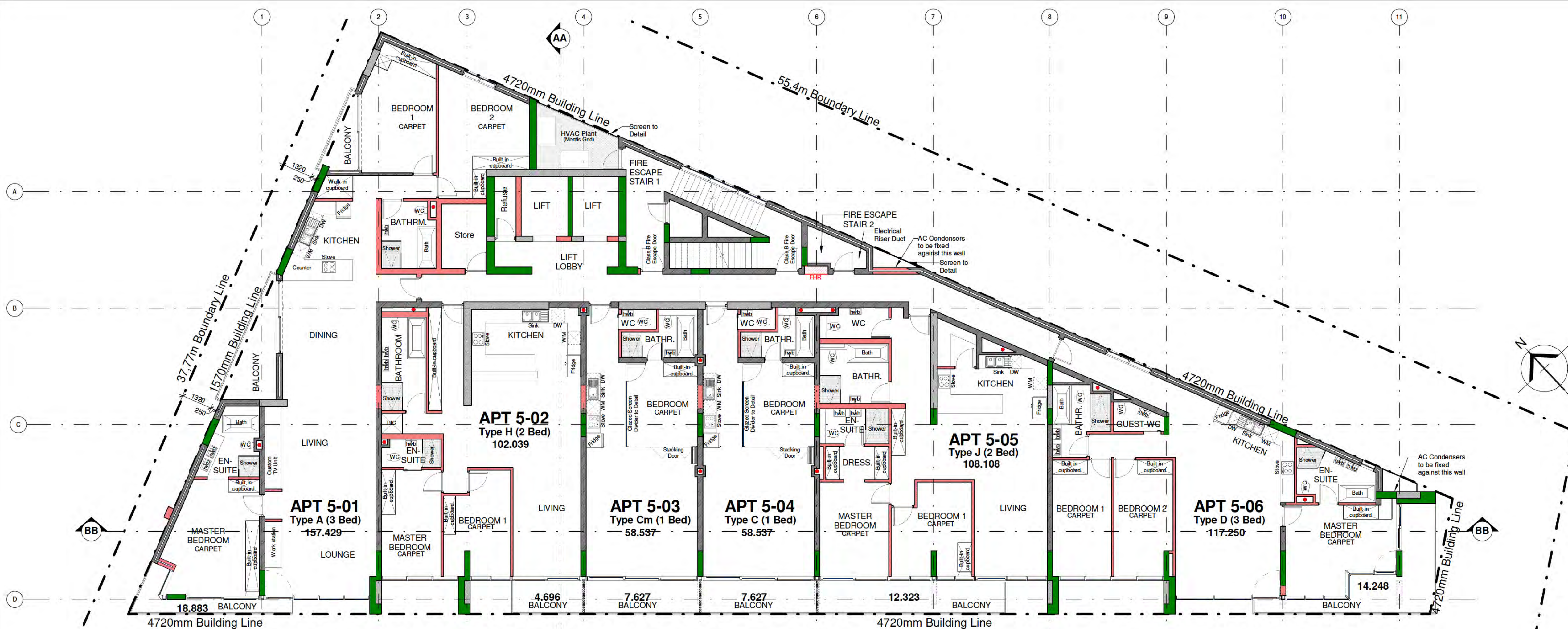
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SDP - 3RD & 4TH FLOOR LAYOUTS

PROJECT NUMBER:
33050

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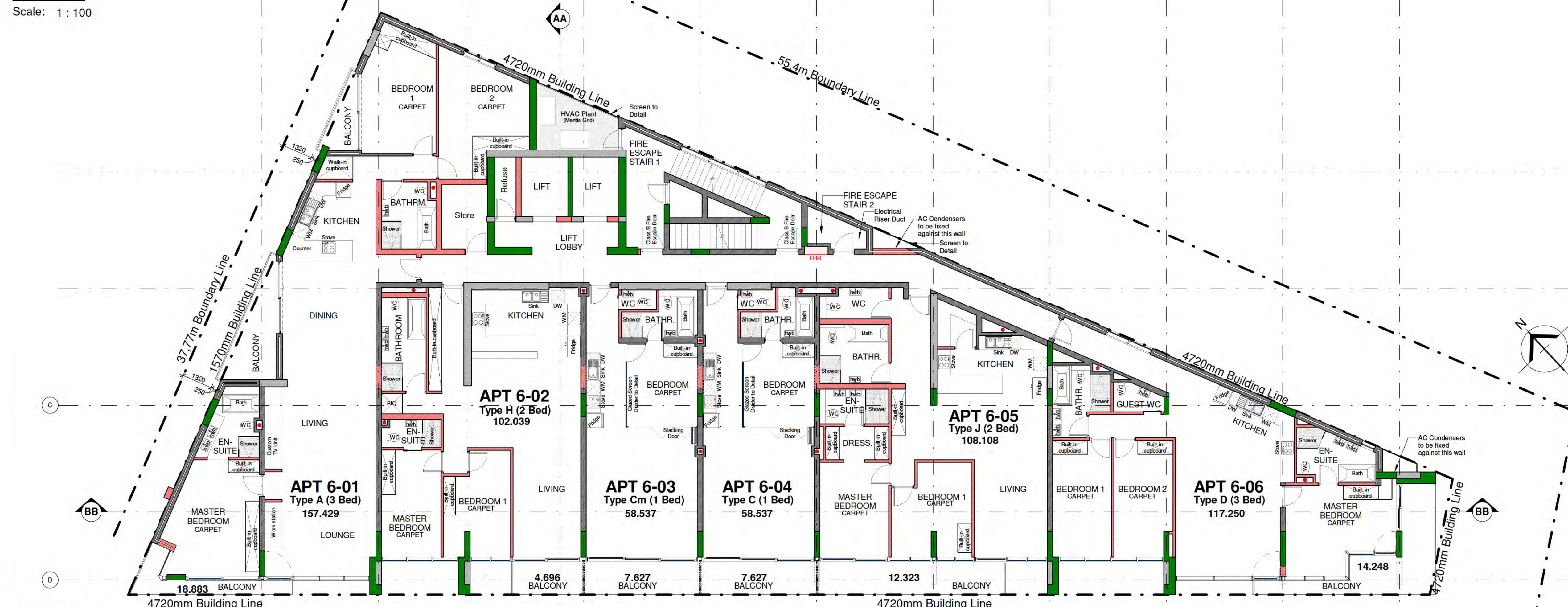
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05 FLOOR

Scale: 1 : 100



06 FLOOR

Scale: 1 : 100

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CLIENT:

PROJECT:
Bedrock Apartment Development, Blauwberg

PURPOSE OF ISSUE:
FOR INFORMATION

DRAWING:
SDP - 5TH & 6TH FLOOR LAYOUTS

PROJECT NUMBER:
33050

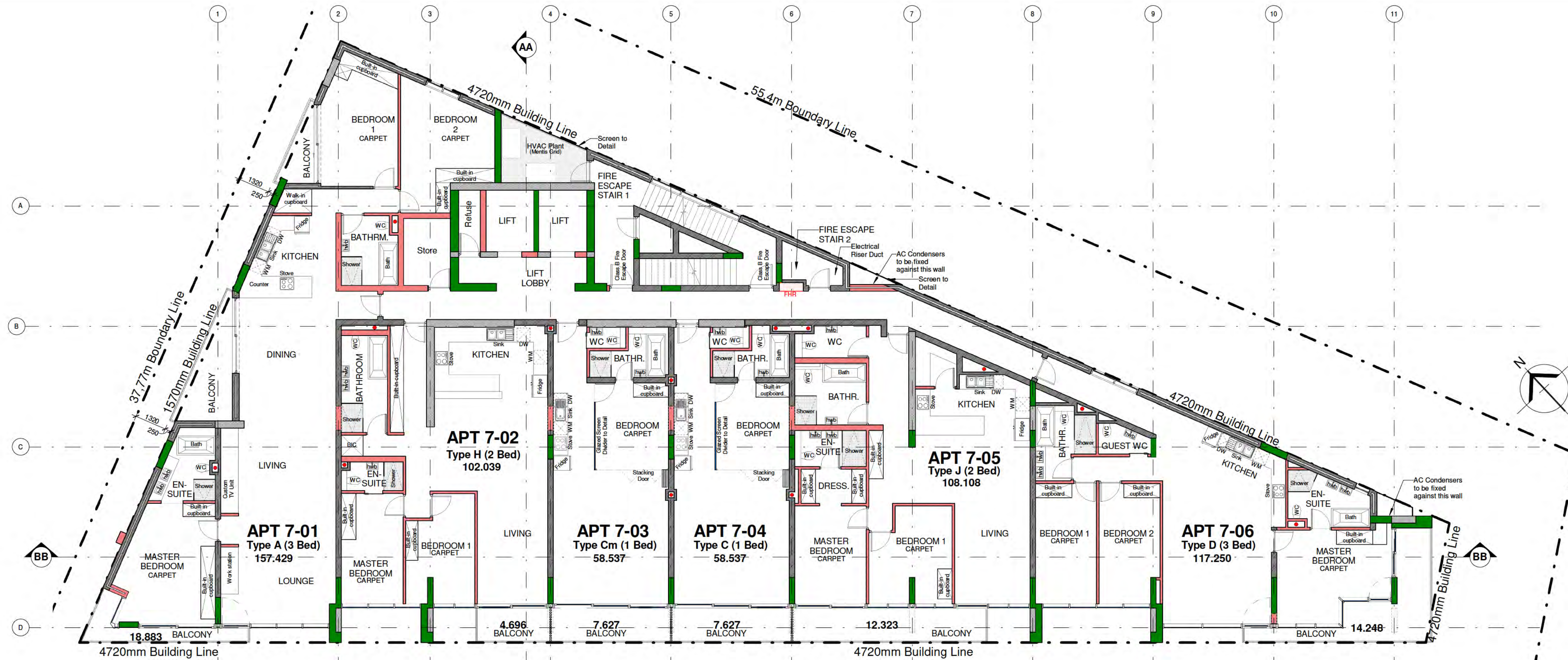
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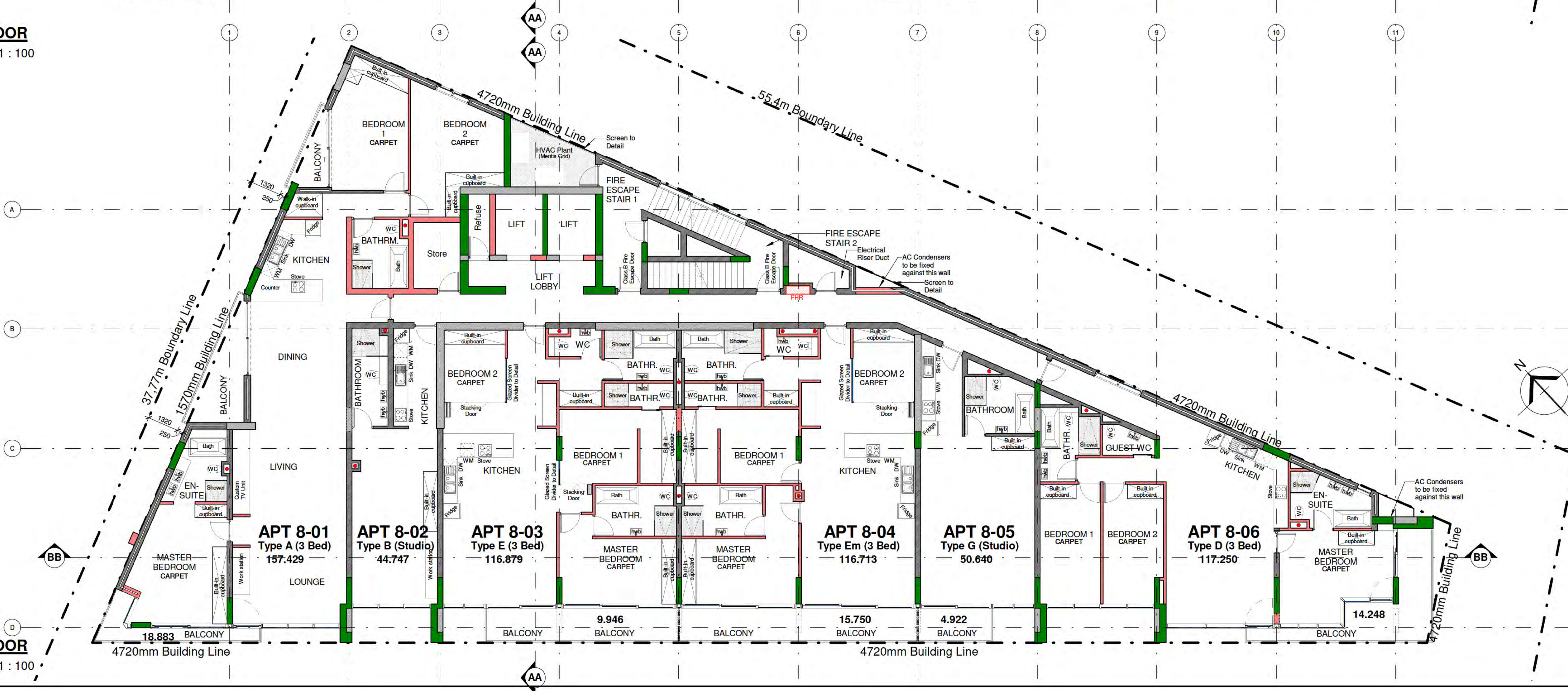
07 FLOOR

Scale: 1 : 100



08 FLOOR

Scale: 1 : 100



REVISIONS

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CLIENT:

PROJECT:
Bedrock Apartment Development, Blauwburg

PURPOSE OF ISSUE:
FOR INFORMATION

DRAWING:
SDP - 7TH & 8TH FLOOR LAYOUTS

PROJECT NUMBER:
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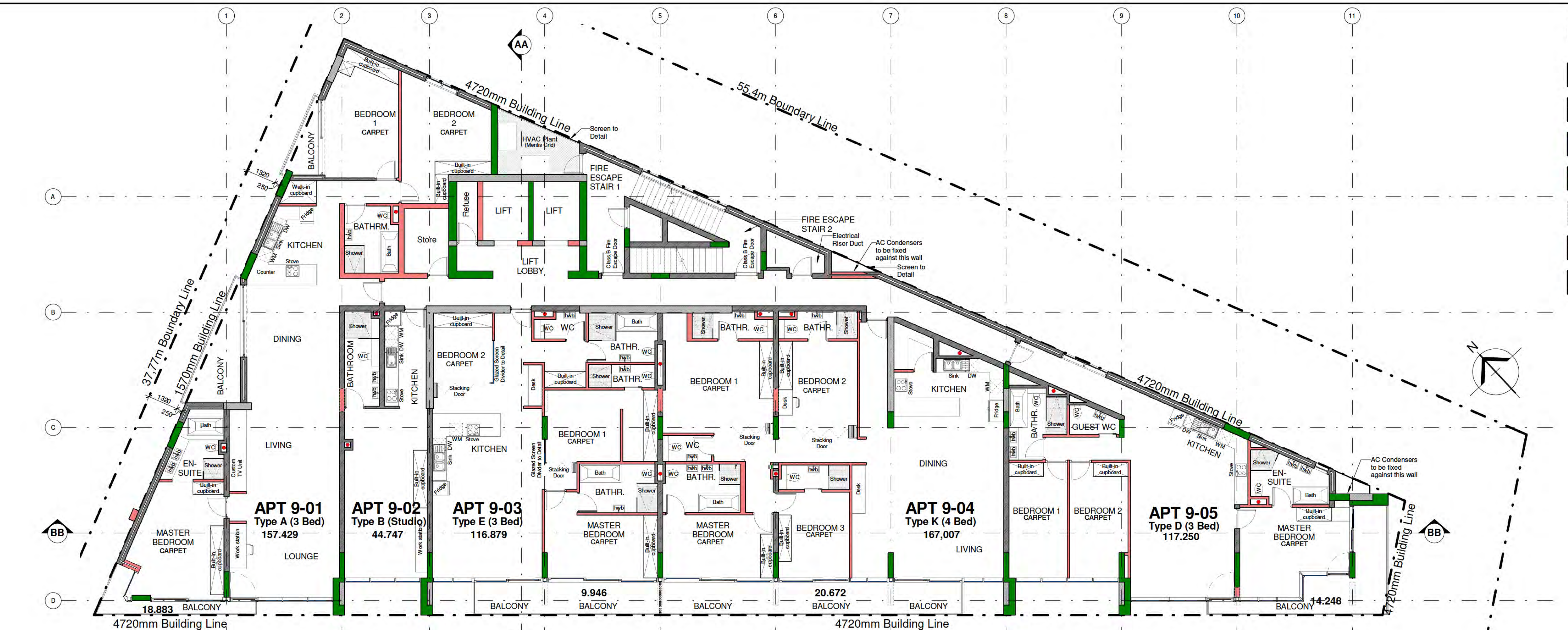
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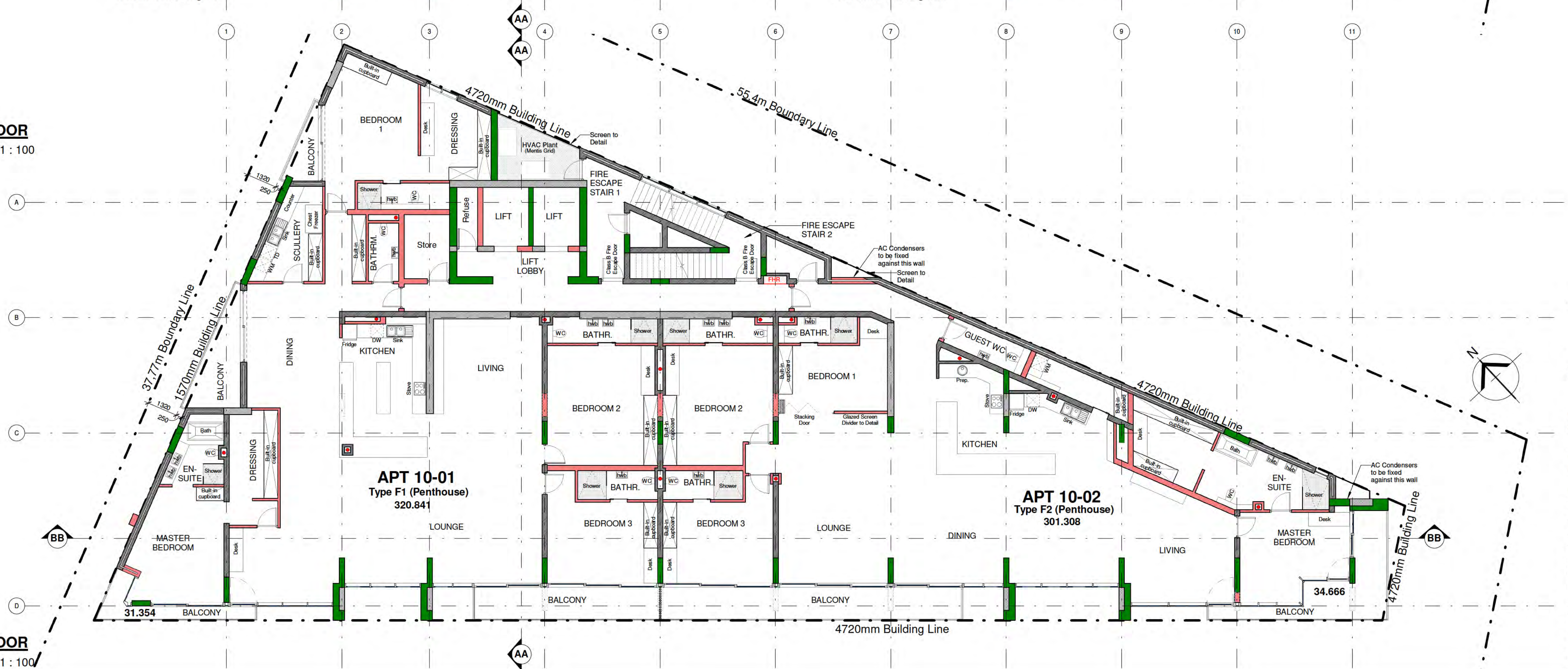
09 FLOOR

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10 FLOOR

Scale: 1 : 100



CLIENT:

PROJECT:
Bedrock Apartment Development, Blauwburg

PURPOSE OF ISSUE:
FOR INFORMATION

DRAWING:
SDP - 9TH & 10TH FLOOR LAYOUT

PROJECT NUMBER:
33050

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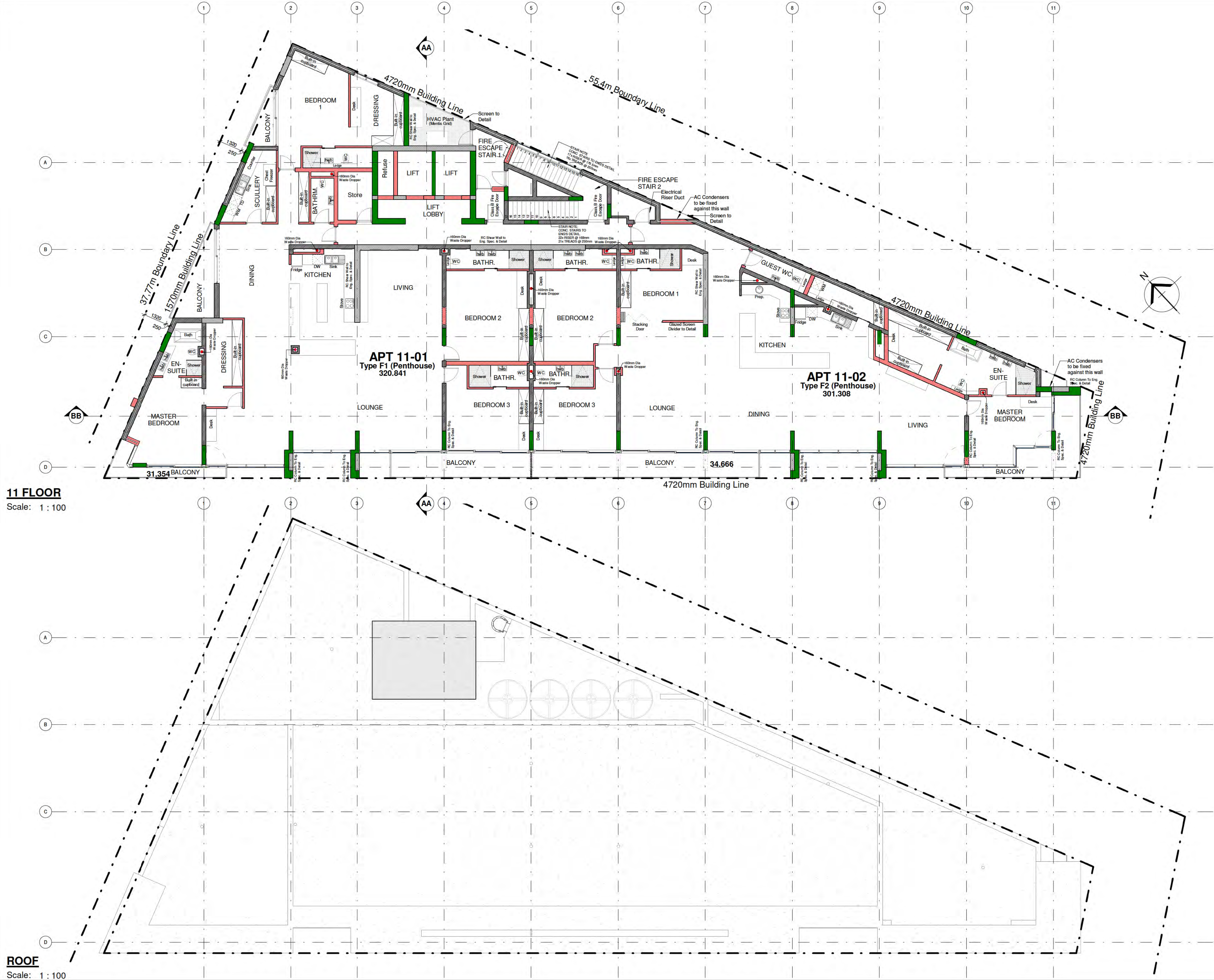
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11 FLOOR
Scale: 1 : 100

ROOF
Scale: 1 : 100

REVISIONS			
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		CURRENTLY APPROVED WALLS	
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		RE-POSITIONED & NEW WALLS	
		CURRENTLY APPROVED COLUMNS RE-POSITIONED / REMOVED	
		PAVING	
		LANDSCAPING	



CLIENT:

PROJECT:
Bedrock Apartment Development, Blaauwberg

PURPOSE OF ISSUE:
FOR INFORMATION

DRAWING:
SDP - 11TH FLOOR & ROOF LAYOUT

PROJECT NUMBER:
33050

SCALE	As indicated	DRAWN	AJM	SIZE
DATE	19-08-2025	CHECKED	TV/BB	A1
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