

Report to the Future Melbourne (Planning) Committee

Agenda item 6.1

**Ministerial Planning Referral: TPM-2013-29,
452-472 Elizabeth Street, Melbourne**

4 March 2014

Presenter: Martin Williams, Executive Officer Planning

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a Ministerial Planning Application (reference 2013/009121) at 452-472 Elizabeth Street, Melbourne. The planning application was referred to the City of Melbourne by the Department of Transport, Planning and Local Infrastructure (DTPLI) on 18 November 2013 (refer Attachment 2 – Locality plan and Attachment 3 – Proposed plans). The applicant is Golden Age Development Group, the owner is Foxlote Pty Ltd and the architect is Elenberg Fraser.
2. The application seeks a permit to construct a 75 storey, 239 m high tower comprising 622 dwellings. The building has proposed retail at ground and first floors, residential and car parking at levels two to seven and residential above. The basement contains car parking, services and bicycle storage all of which are accessed via a laneway off Franklin Street.

Key issues

3. The key issues with respect to this proposal are: the height of the tower coupled with the lack of setbacks to Elizabeth and Franklin Streets; the limited setbacks to the north and east and the impact this has on the development potential of adjoining sites. In many respects the issues are very similar to those raised by the proposed development at 398 Elizabeth Street (presented to the Future Melbourne Committee on 3 December 2013 and at the Council meeting on 17 December 2013).
4. Under the Melbourne Planning Scheme it is policy that towers should be setback 10 m from street frontages above a 40 m podium and that there be a separation of 24 m between towers. The recent panel report for Southbank recommended a tower separation of 20 m, which could be reduced to a minimum of 10 metres where it is demonstrated that there is 'sunlight, good daylight, privacy and an outlook from habitable rooms for both existing and proposed development.'
5. It should be acknowledged that a 67 storey building with no setbacks from Elizabeth Street or Franklin Street has been approved by the Minister for Planning opposite the subject site at 450 Elizabeth Street.
6. In terms of the public realm, to replicate this building form with a taller tower without any setbacks on the northern side of Franklin Street would result in a canyon-like effect that would create an oppressive pedestrian experience. This would be further exacerbated if the building form were to be repeated along Franklin and Elizabeth Streets. At 239 m in height this is the tallest tower that has been considered for this end of Elizabeth Street (compared for instance with the 178 m high tower that was proposed at 398 Elizabeth Street or the 218 m high building recently approved at 450 Elizabeth Street).
7. The proposed setbacks to the north of 4.9 m and to the east of 3 m (6 m inclusive of the laneway) do not adequately respond to the development potential of adjoining sites or the objective that towers be spaced to ensure equitable access to daylight, sunlight and outlook.
8. Additional concerns have been raised relating to street trees, environmentally sustainable design, car and bicycle parking access arrangements and potential wind effects caused by the proposal.
9. The application is not subject to public notification and the City of Melbourne does not have appeal rights but if Council (or any other party) objects, the Responsible Authority (the Minister for Planning) must consider its objection.

Recommendation from management

10. That the Future Melbourne Committee determine to send a letter to the Department of Transport, Planning and Local Infrastructure advising that:
 - 10.1. The City of Melbourne objects to the application as it is contrary to the urban design policies of the Melbourne Planning Scheme and for the reasons set out in the Delegate Report (refer Attachment 4).

Attachments:

1. Supporting Attachment
2. Locality Plan
3. Proposed Plans
4. Delegate's Report

Supporting Attachment

Legal

1. The Minister for Planning is the responsible authority for determining the application.

Finance

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

Conflict of interest

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

Stakeholder consultation

4. Council officers have not advertised the application or referred this to any other referral authorities. This is the responsibility of the DTPLI acting on behalf of the Minister for Planning who is the responsible authority.

Relation to Council policy

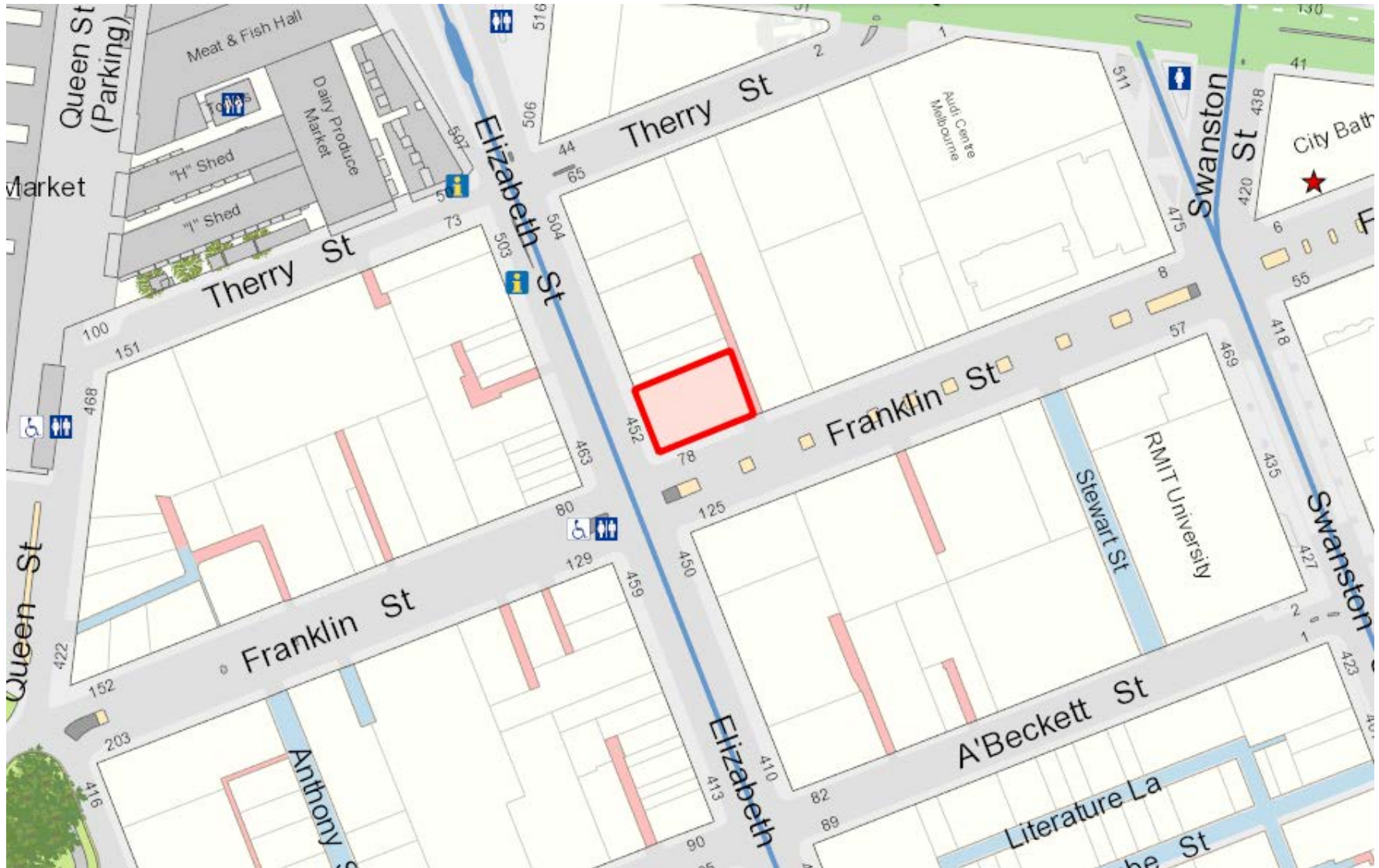
5. Relevant Council policies are discussed in the attached delegate report (refer Attachment 4).

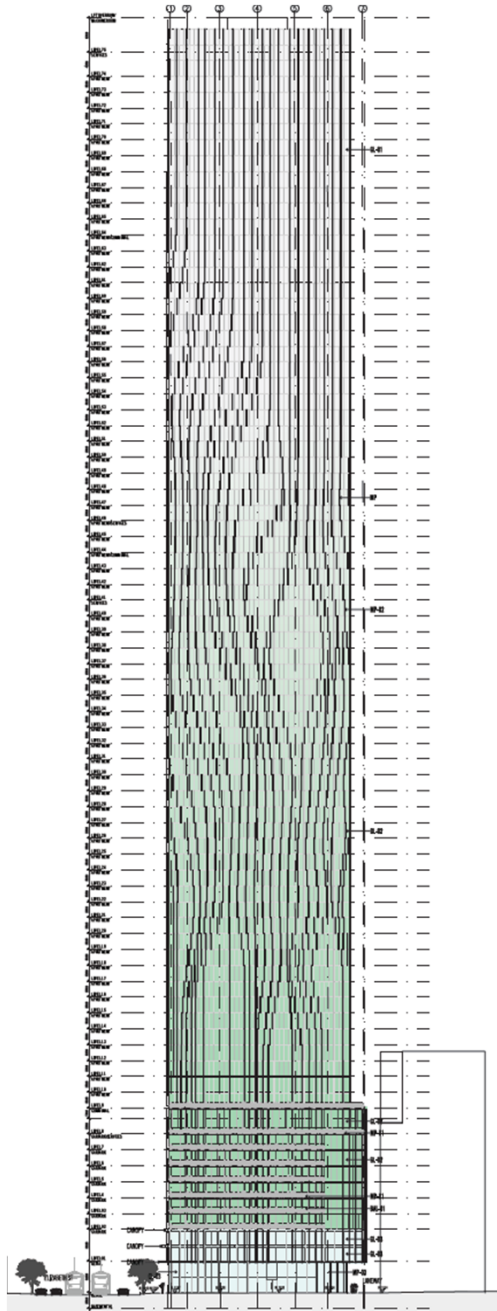
Environmental sustainability

6. The proposal includes an Environmental Sustainability Design Assessment which indicates that the building has the potential to achieve a 4 star Green Star rating, this is below the standard required by clause 22.19 of the Melbourne Planning Scheme which specifies 5 star.

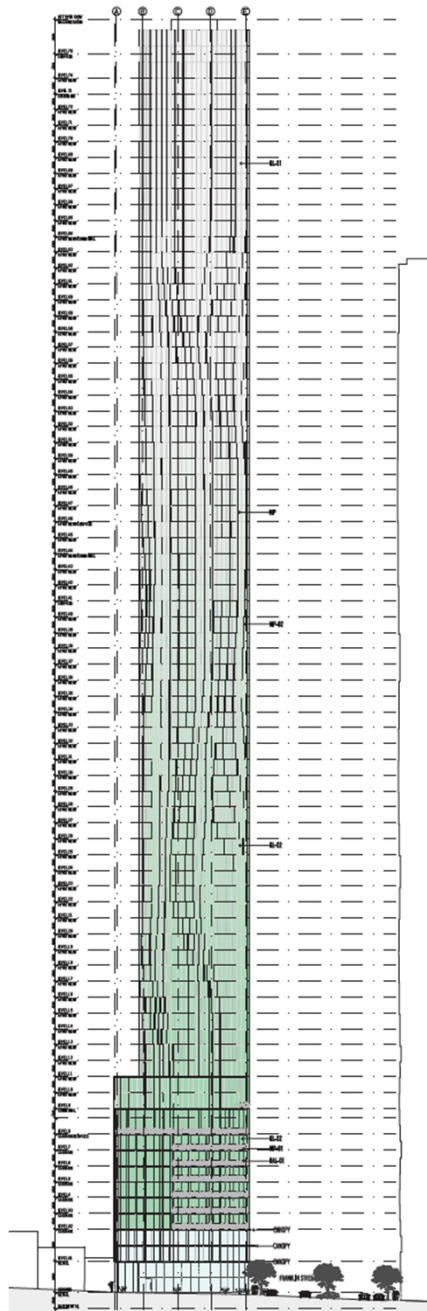
Locality Plan

452-472 Elizabeth Street, Melbourne

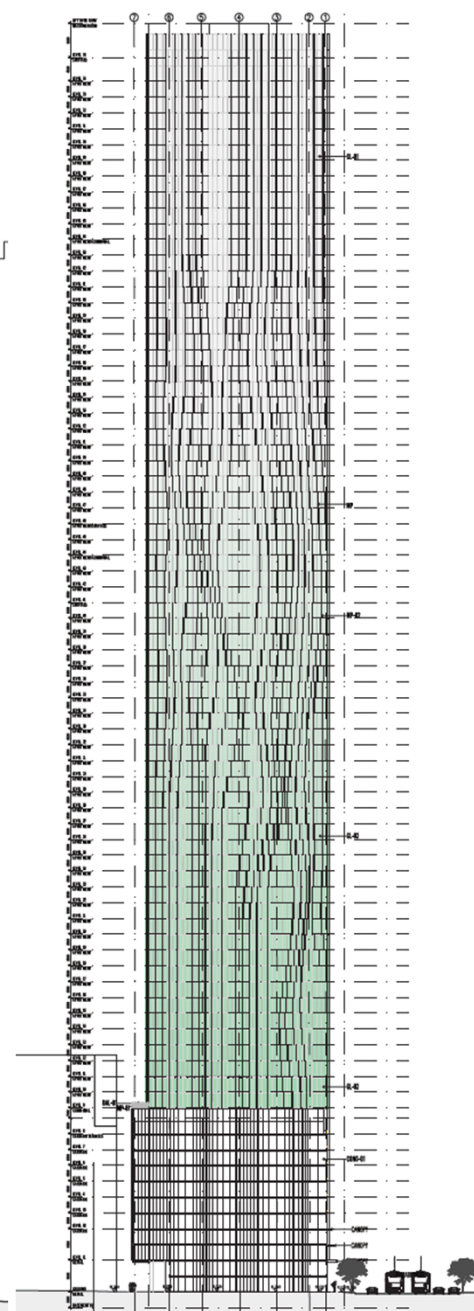




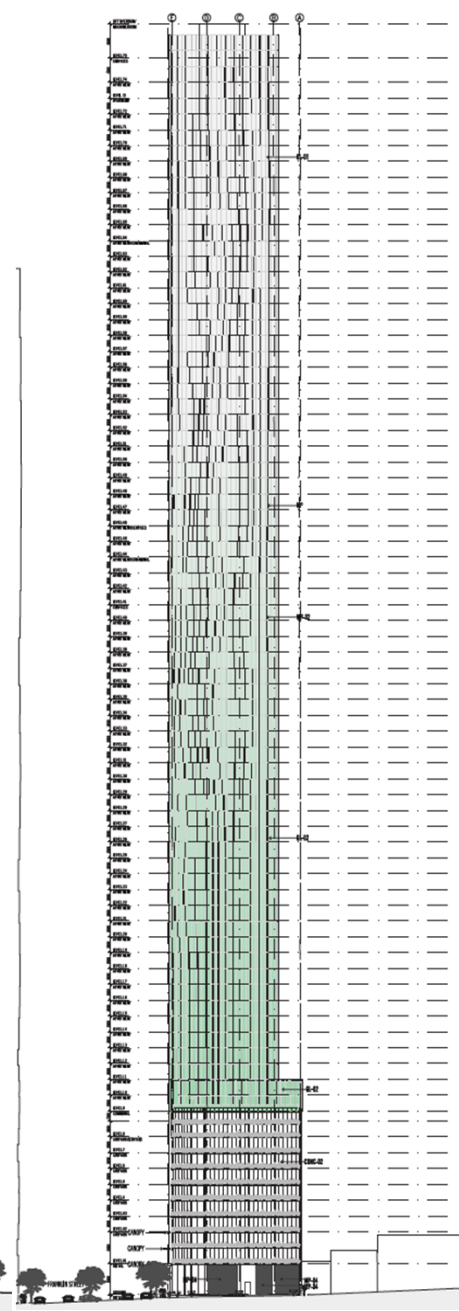
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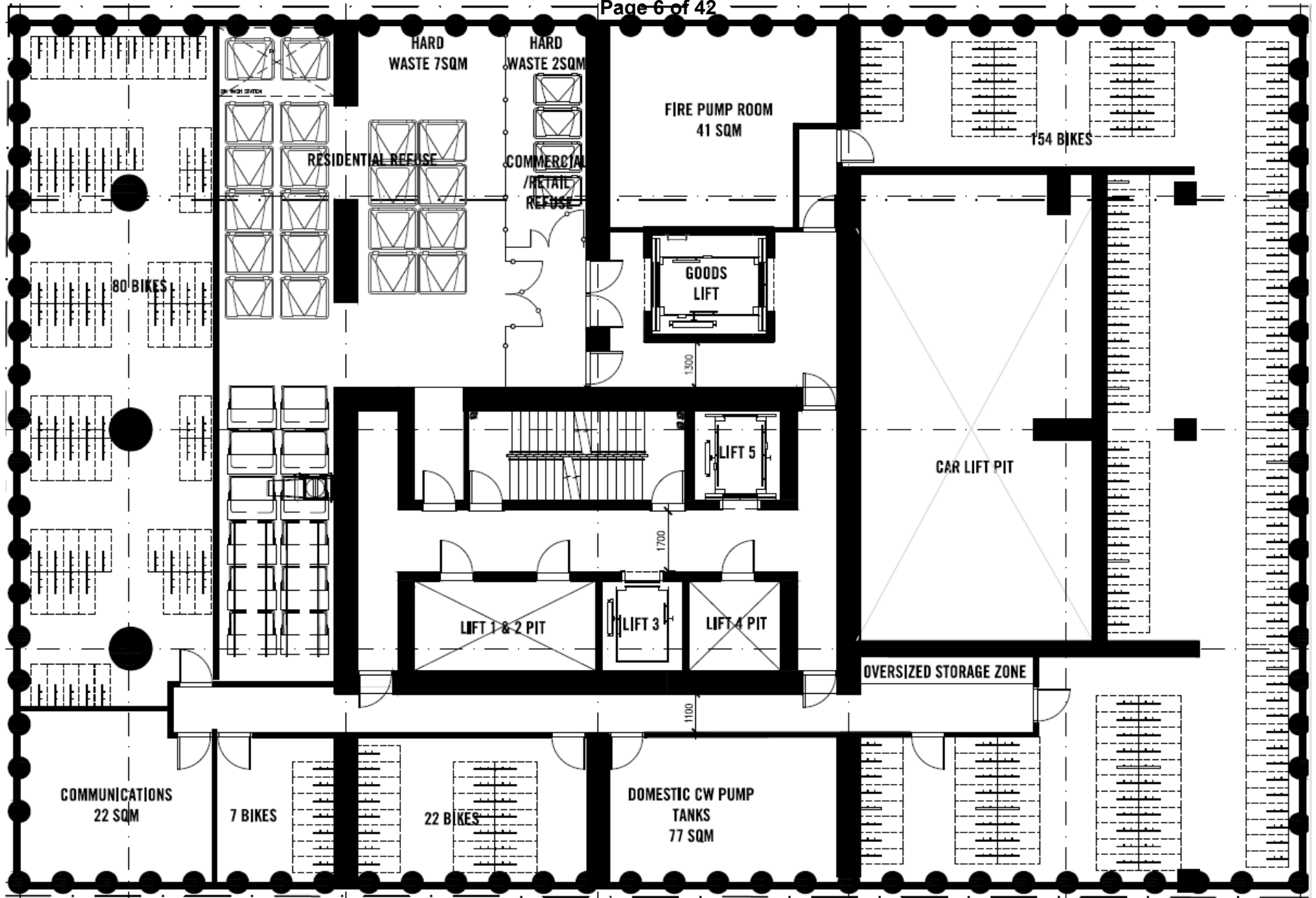
West Elevation



North Elevation



East Elevation



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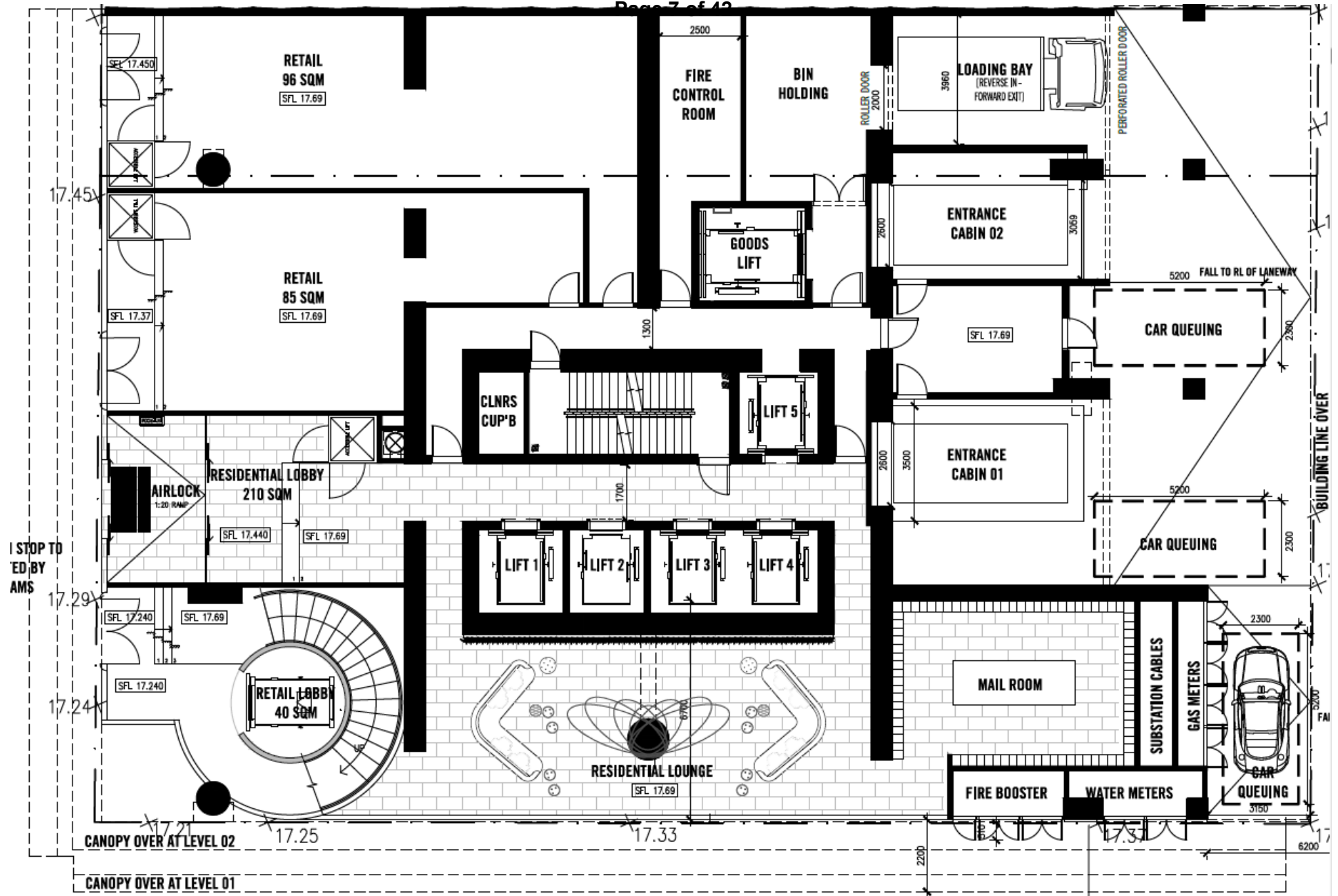
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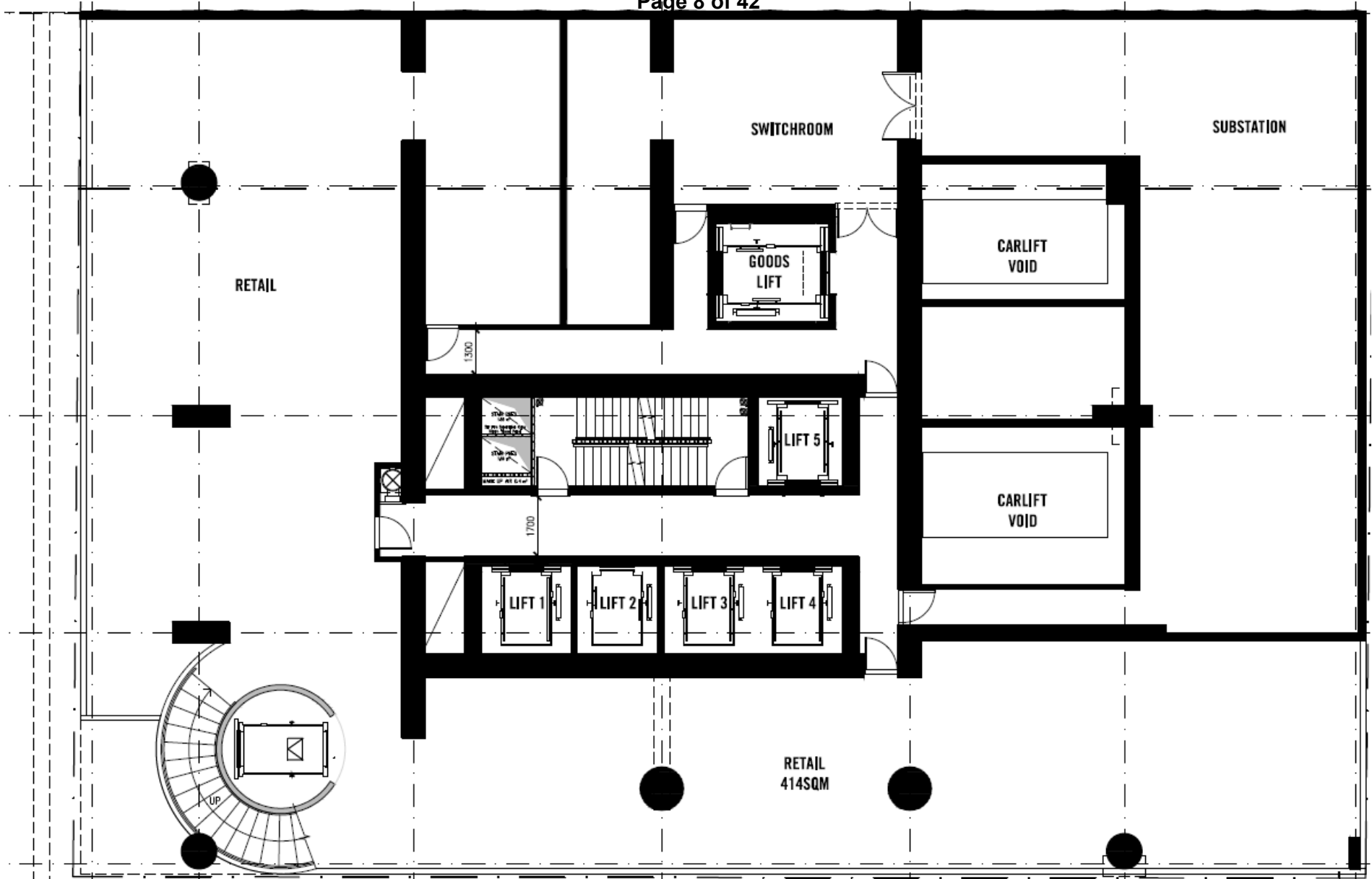
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				DRAWING NO.	A200
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CANOPY OVER AT LEVEL 02
 CANOPY OVER AT LEVEL 01 AT 300MM
 CANOPY OVER AT LEVEL 01

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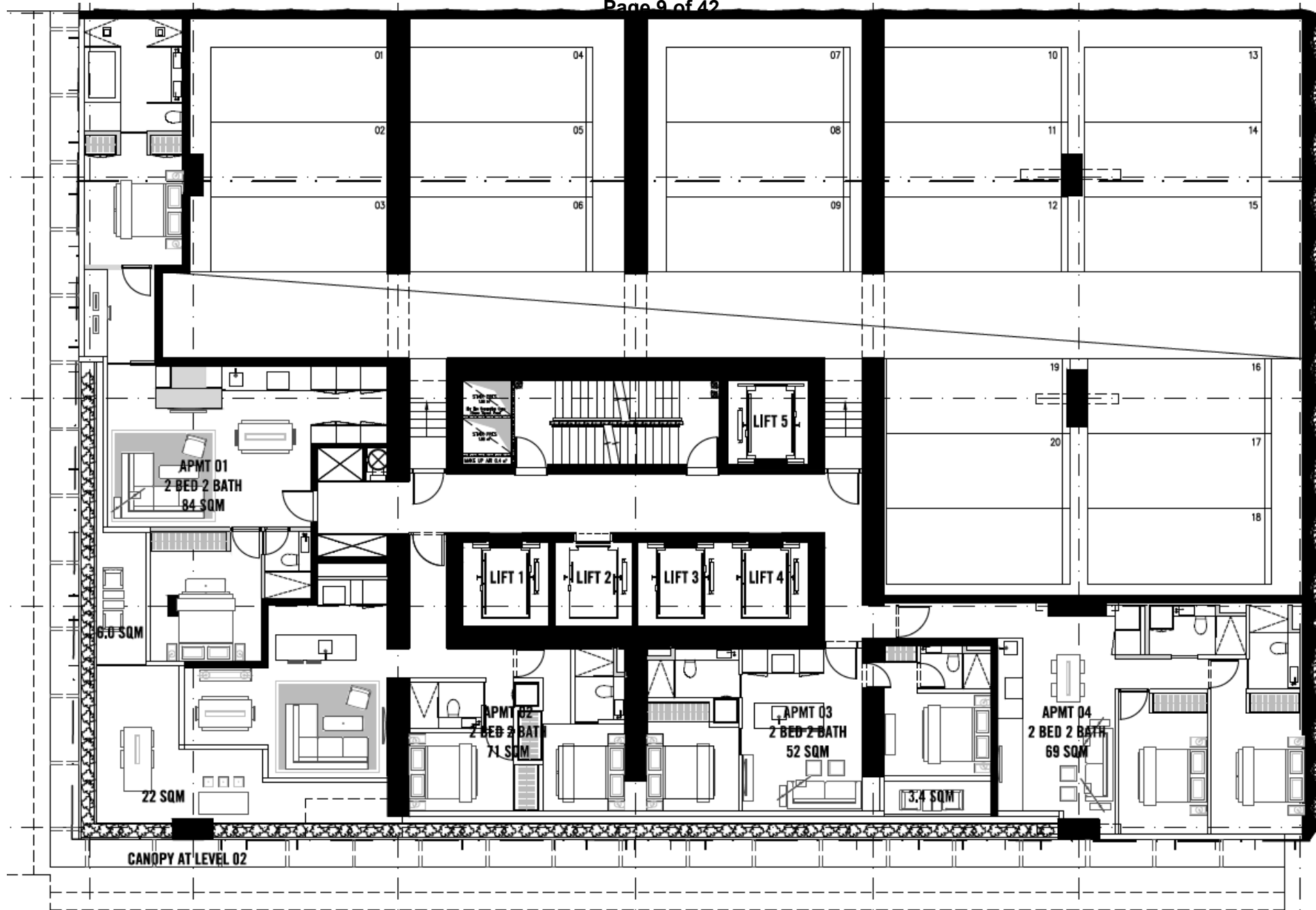
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CANOPY AT LEVEL 02

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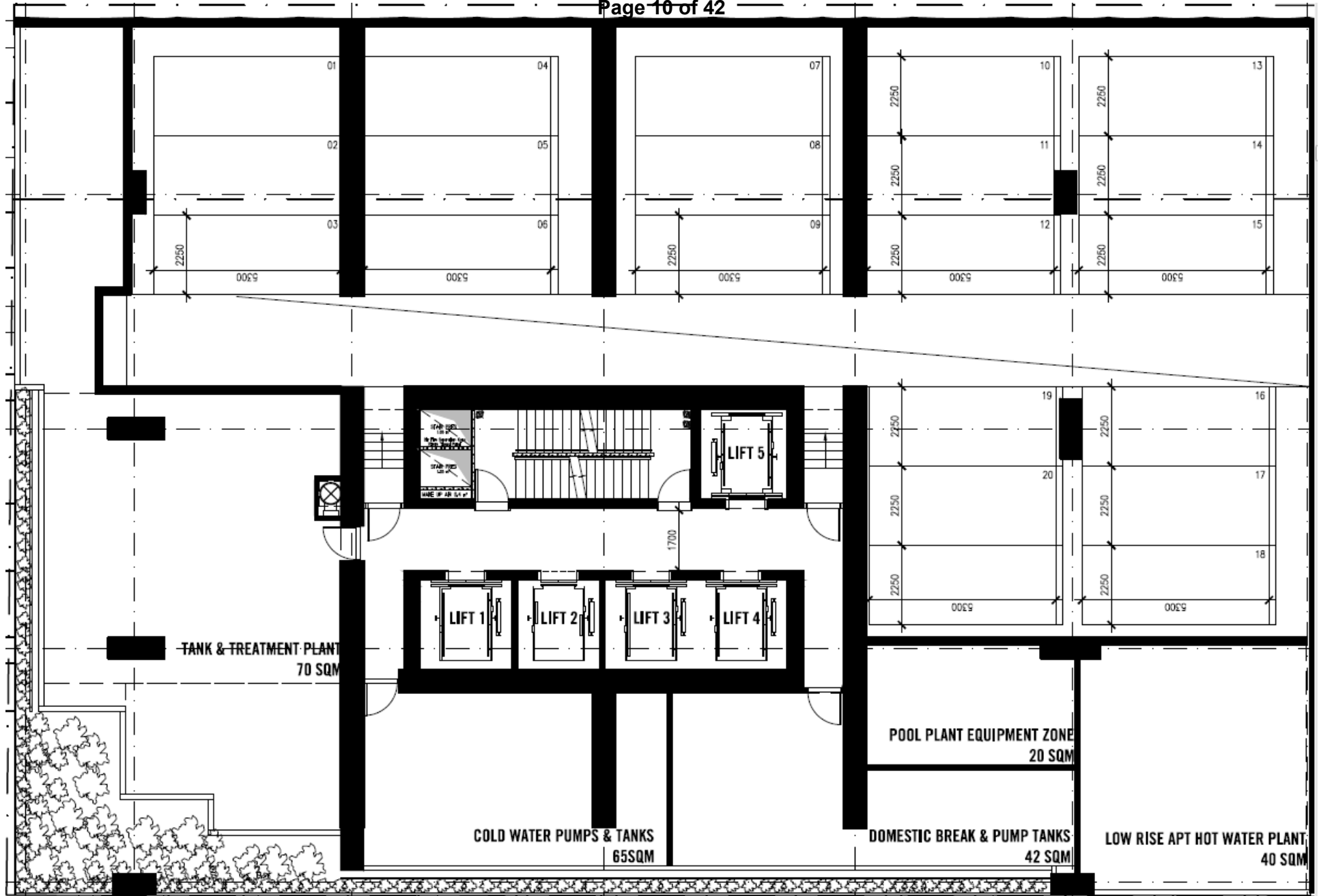
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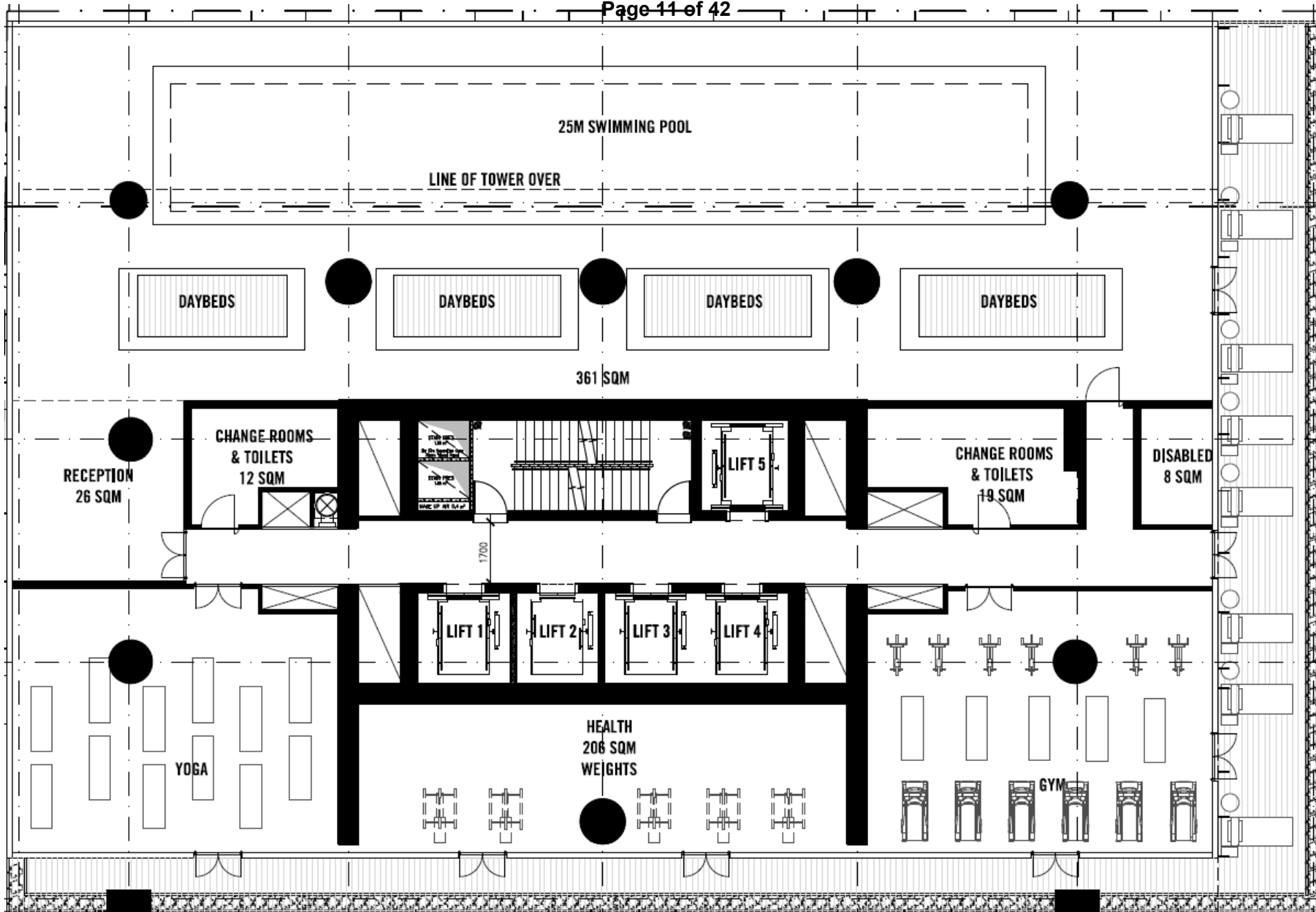


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ELEMBERG FRASER
 ARCHITECTS
 11041 110th Street, Richmond, BC V6V 2G9
 TEL: 604-273-1100 FAX: 604-273-1101
 WWW.ELEMBERGFRASER.COM

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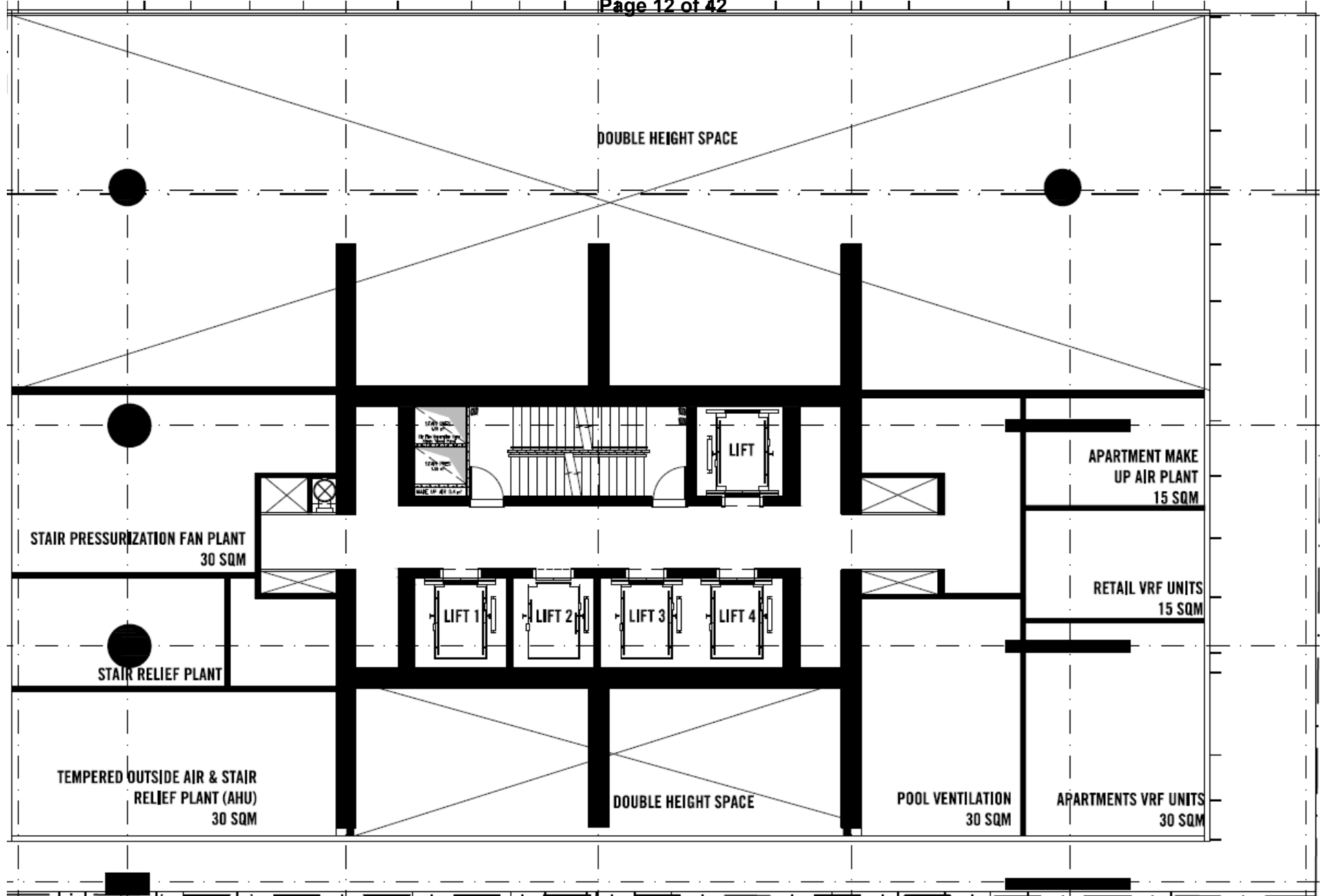


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ELENBERG FRASER
ARCHITECTS
11041 110th Ave. S.E. Unit 100
Bellevue, WA 98004
TEL: 206.469.4000 FAX: 206.469.4001
WWW.ELENBERGFRASER.COM

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PLAN OF PODIUM ROOF TOP
COMMUNAL FACILITIES
11041 A209



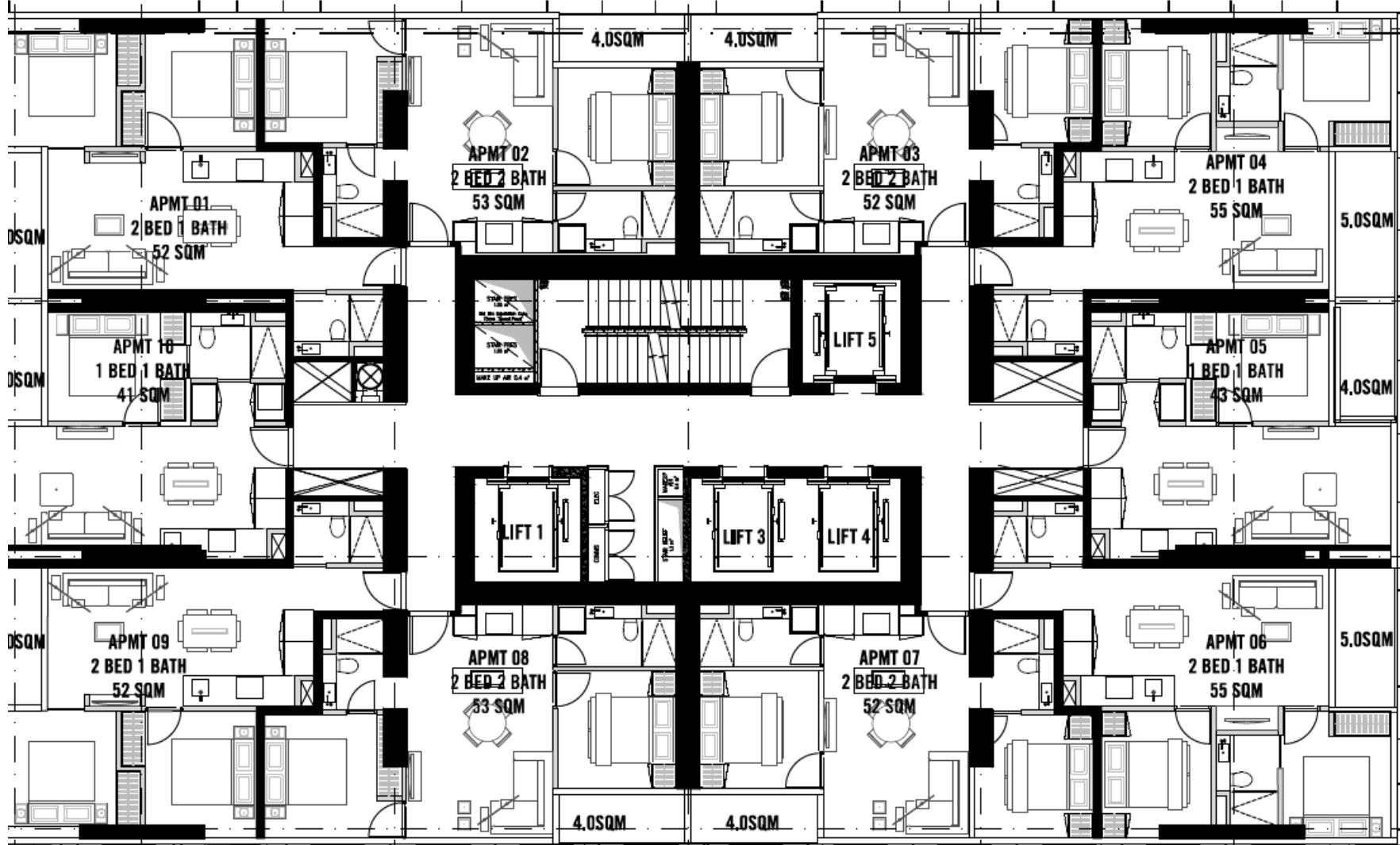
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ELEMBERG FRASER
MECHANICAL ENGINEERS
1100 WEST 10TH AVENUE, SUITE 1000
VANCOUVER, BC V6H 2B6
TEL: 604-276-1100
WWW.ELEMBERGFRASER.COM

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PLAN 10_SERVICES LEVEL
COMMUNAL FACILITIES
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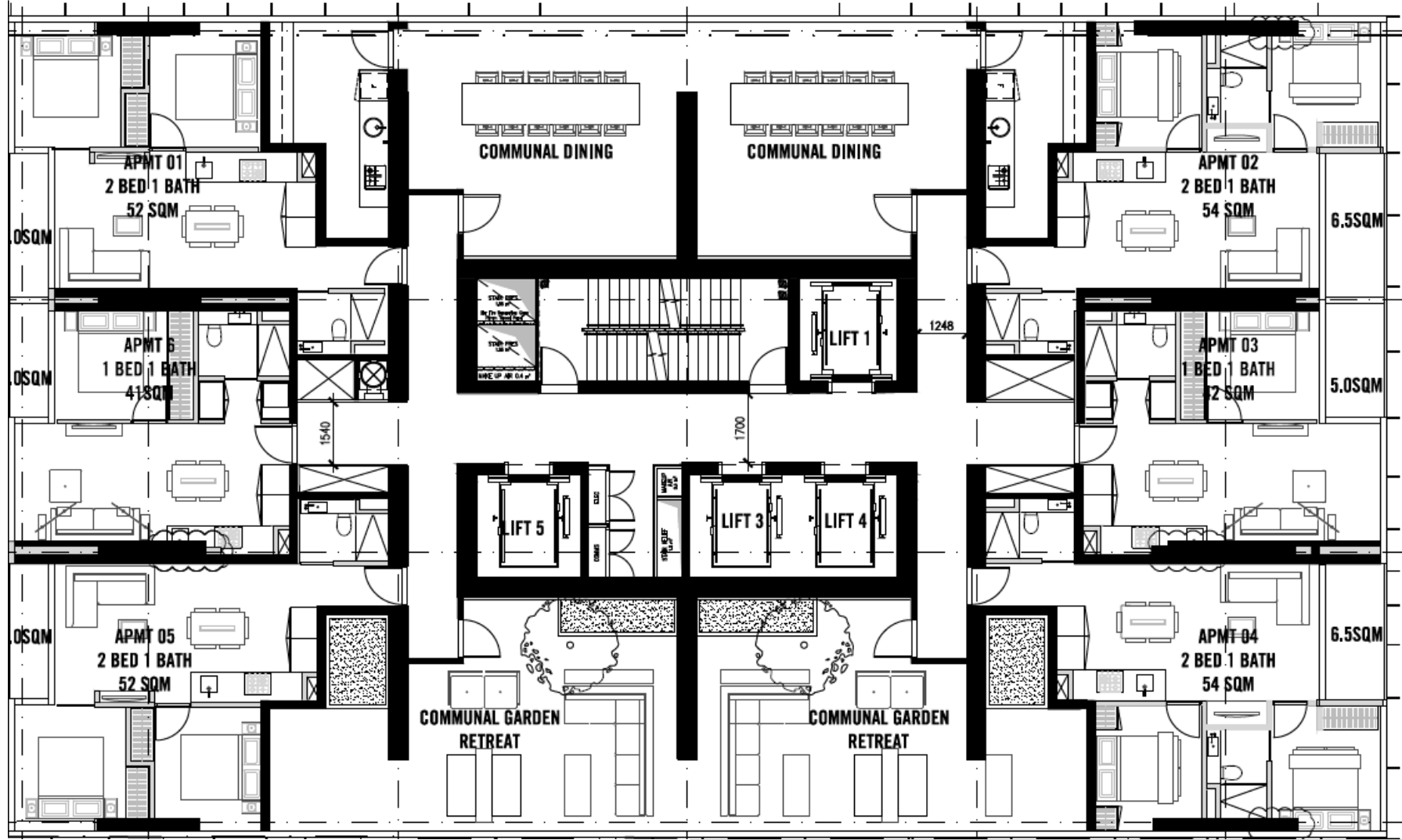
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TYPICAL FLOOR PLATE
 LEVEL 11-43 & 47-53

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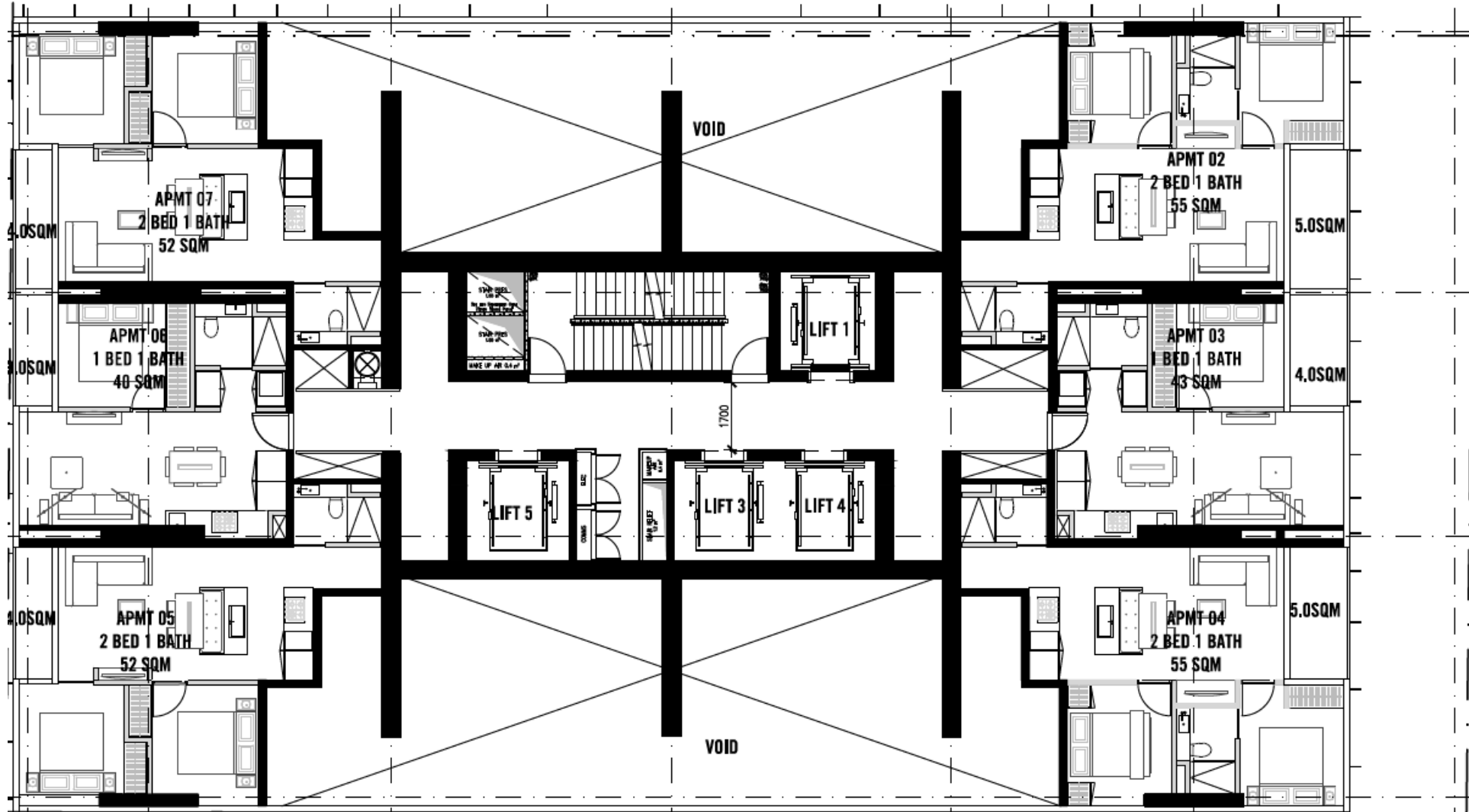


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ELENBERG FRASER
 ARCHITECTS
 1100 BAYVIEW AVENUE, SUITE 1000
 SCARBOROUGH, ONTARIO M1B 2Y7
 TEL: 416-491-1100 FAX: 416-491-1101
 WWW.ELENBERGFRASER.COM

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TYPICAL FLOOR PLATE_COMMUNAL
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LEVEL 45 DOUBLE HEIGHT FLOORPLATE
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CHECKED BY: [Name]
DATE: [Date]

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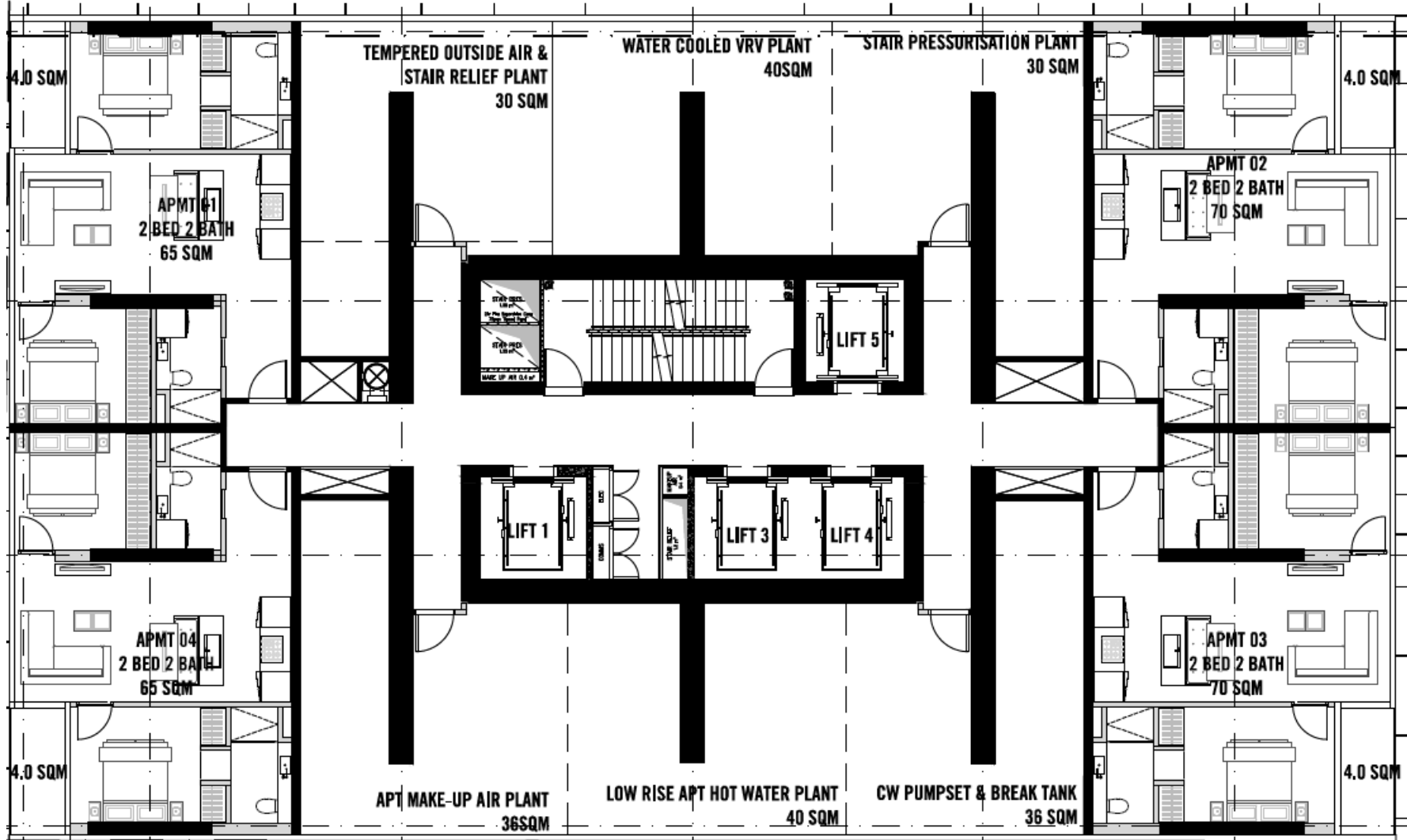
DOUBLE HEIGHT FLOORPLATE
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LEVEL 4B SERVICES LEVEL
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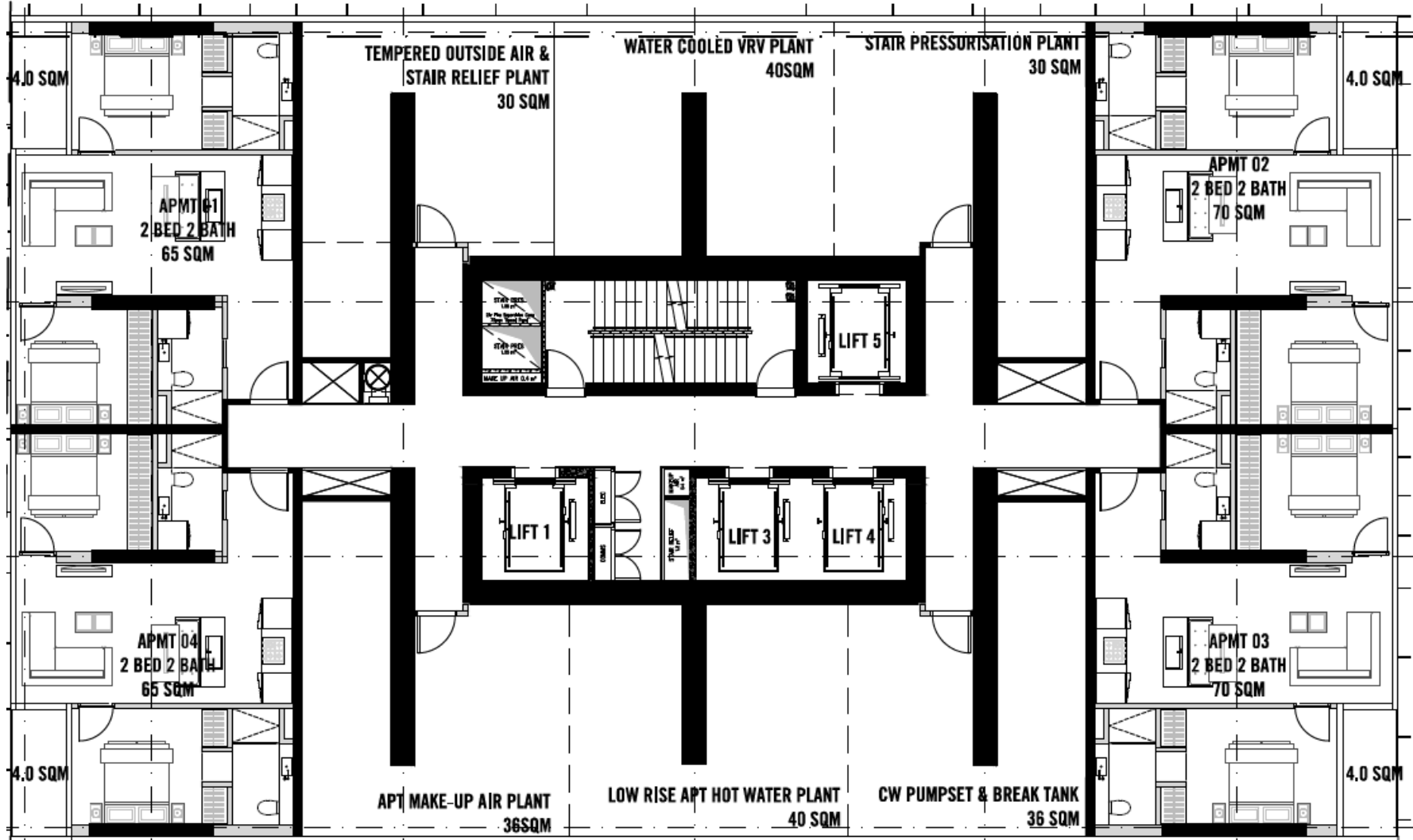
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 LEVEL 4B

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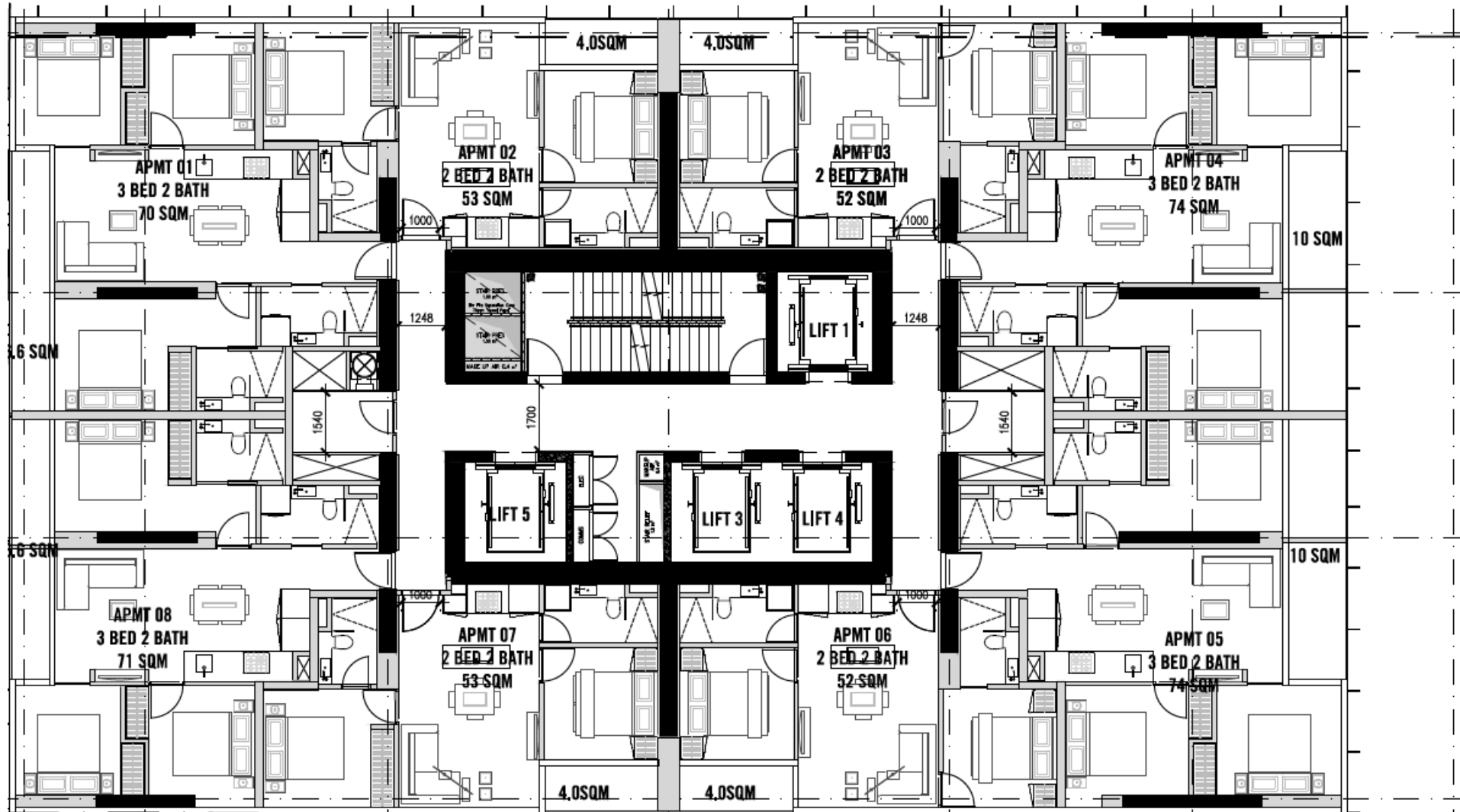


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Approved drawings have been prepared to meet the requirements of the Building Act 2004. They are not to be used for any other purpose without the consent of the architect.

ELENBERG FRASER
LEVEL 3, 140 BUCK STREET, MELBOURNE VICTORIA 3000
 AUSTRALIA
 TEL: +61 3 9002 2200 FAX: +61 3 9002 2205
 WWW.EF.COM.AU
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Drawing No: LEVEL 46 SERVICES LEVEL
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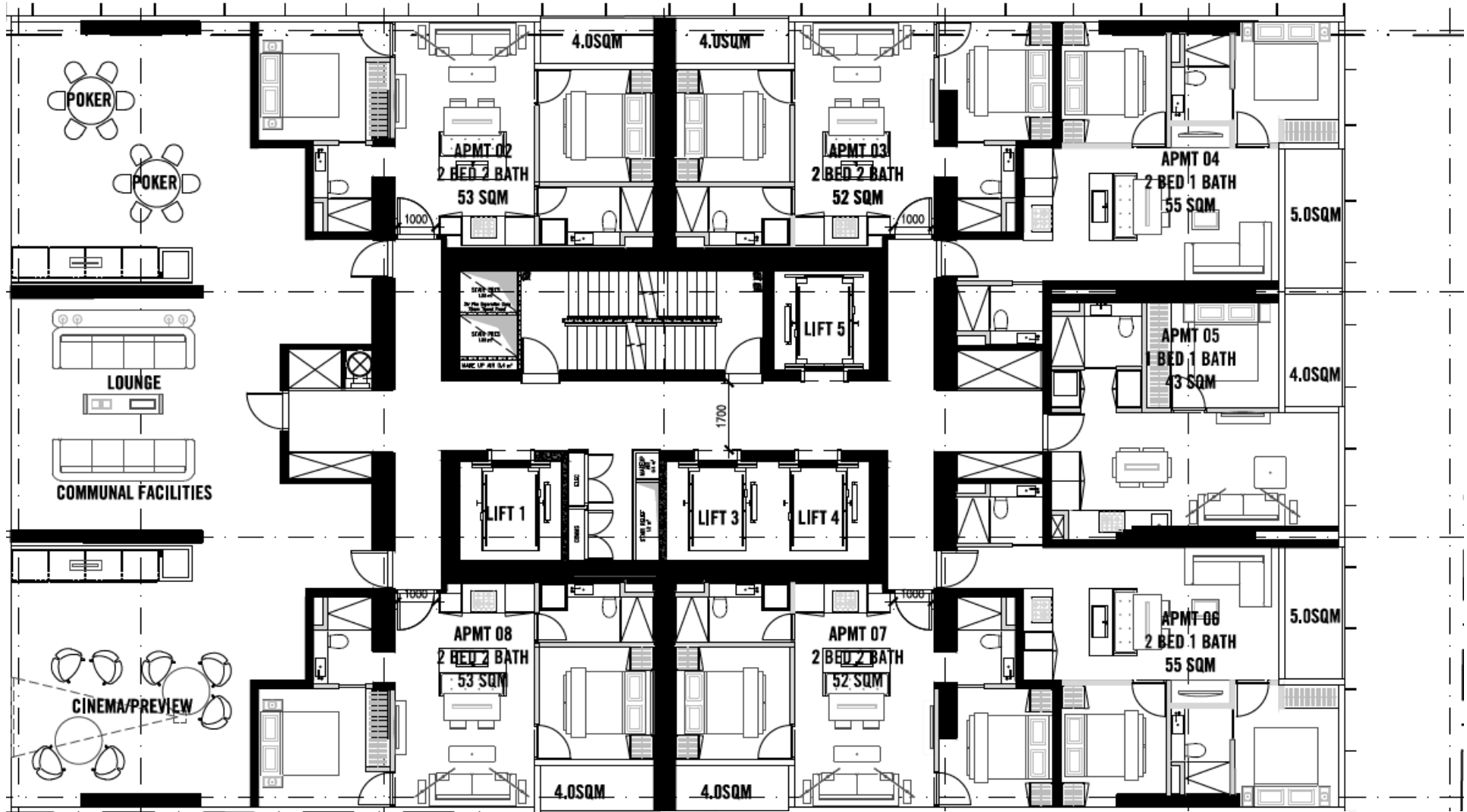


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ELEMBERG FRASER
 ARCHITECTS
 1000 WEST 10TH AVENUE, SUITE 1000
 DENVER, CO 80202
 TEL: 303.733.1100 FAX: 303.733.1101
 WWW.ELEMBERGFRASER.COM

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HIRISE TYPICAL FLOOR PLATE
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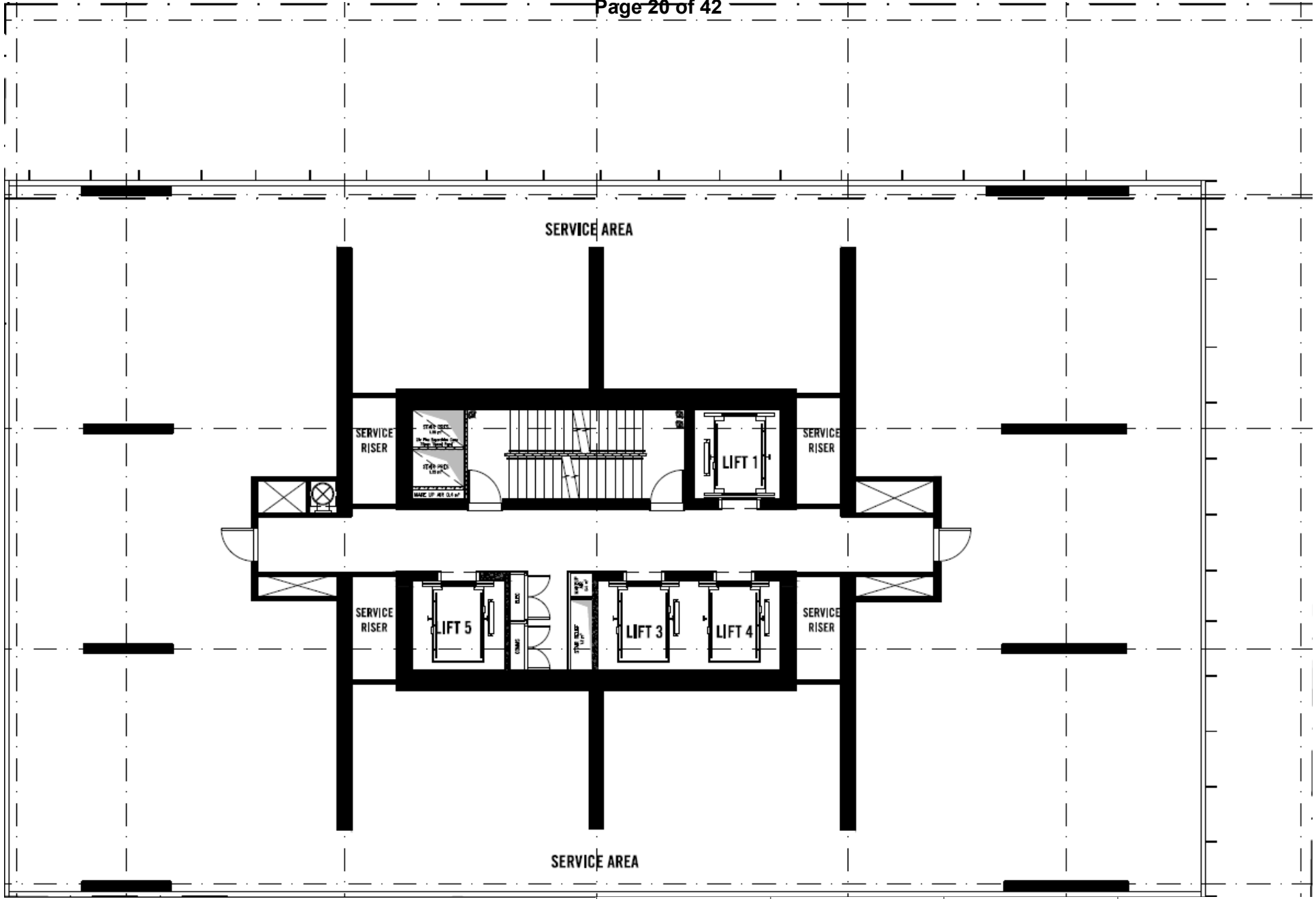


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ELENBERG FRASER
 LEVEL 64 COMMERCIAL OFFICE AND RESIDENTIAL VICTORIA JUNE
 11041
 TEL: +61 3 9592 2000 FAX: +61 3 9592 2001
 WWW.ELENBERGFRASER.COM.AU
 LEVEL 64 COMMERCIAL OFFICE AND RESIDENTIAL VICTORIA JUNE

Project: VT
 Date: -
 Drawing No: 11041
 Drawing Date: F

Drawing Title: HIGH RISE COMMUNAL LEVEL 64
 Drawing Number: A216
 Drawing Date: A



SERVICE AREA

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SERVICE RISER

SERVICE AREA

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Figured dimensions take precedence to scale readings. Tolerances as shown on site.
Refer any discrepancies to the Architect for decision before proceeding with the work.



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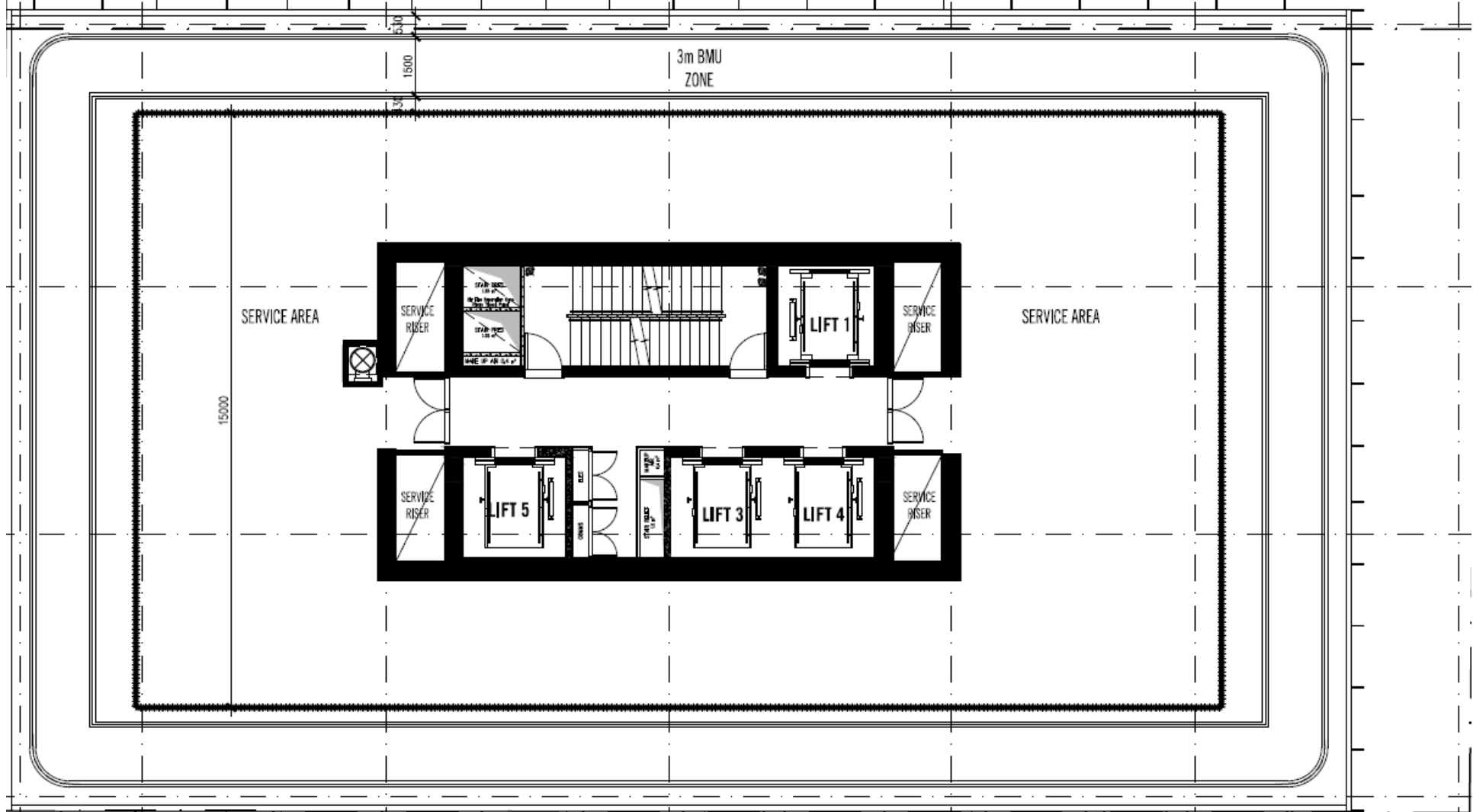
LEVEL 2, 100 QUEEN STREET, MELBOURNE VICTORIA 3000
AUSTRALIA
TEL: +61 3 9600 2200 FAX: +61 3 9600 2206
WWW.EF.COM.AU
1800 730 000

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Drawing Title
LEVEL 75 SERVICES
LEVEL 75

Project Number
11041
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Revision
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ELENBERG FRASER

ARCHITECTS
1100 BAYVIEW AVENUE, SUITE 1000
SCARBOROUGH, ONTARIO M1B 2Y7
TEL: 416-491-1100 FAX: 416-491-1101
WWW.ELENBERGFRASER.COM

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PLANNING REPORT - MINISTERIAL REFERRAL

Application number:	TPM-2013-29
DTPLI Application number:	
Applicant / Owner / Architect:	Urbis for Golden Age Development Group/ Foxcote Pty Ltd/Elenberg Fraser Pty Ltd
Address:	452-472 Elizabeth Street, MELBOURNE VIC 3000
Proposal:	Demolition of the existing buiding and the construction of a multi level building comprising residential dwellings and retail uses.
Date received by City of Melbourne:	22 November 2013
Responsible officer:	Meagan Merritt

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

The subject site is known as 452-472 Elizabeth Street, Melbourne. The land is formally described on Certificate of Title Vol 5844 Folio 672 and known as Lots 1 and 2 on Title Plan 392805B. No covenants or restrictions are registered on the title.

The site is rectangular in shape and located on the north-eastern corner of the intersection of Elizabeth Street and Franklin Street. It has a frontage to Elizabeth Street of 25.22m, a frontage to Franklin Street of 37.07m and a total site area of 921sqm. The site abuts a laneway at the rear that provides access to the site in addition to other properties to the north and east.

The site is currently occupied by a part single and part double storey building that has been occupied by a Drummond Golf retail outlet with customer parking located at the rear (accessed from the laneway).

Figure 1 - Aerial Photo (Source: City Of Melbourne)



Figure 2 – Site Photo (Source City of Melbourne)



1.2. Surrounds

The surrounding development is currently quite low scale, with a small number of multi-storey buildings in the wider area. Generally buildings are single storey to mid-

rise and built to all boundaries with retail frontages. There has however been recent approval of some larger buildings on nearby sites.

Lower scale built form opposite the subject site:

Figure 3 – Site Photo – opposite side of Elizabeth Street – 463 Elizabeth Street Melbourne (Source – Google Maps)



The block bounded by Elizabeth Street, Therry Street, Franklin Street and Swanston Street is in the process of undergoing substantial change. A number of tall buildings have recently been constructed and more are currently under construction, or are in the process of seeking planning approval. These include:

- A 56 storey building currently under construction at 23 Therry Street.
- The Vision development at 500 Elizabeth Street (site of the former Stork Hotel) which has approval for 71 storeys. Construction activities have recently commenced on this site.
- A 67 storey development (218m in height) at 450 Elizabeth Street on the south east corner of the intersection has recent planning approval. This was originally proposed at 55 storeys but was increased in height by an amendment approved by the Minister for Planning on 7 February 2014.
- The area to the south of Franklin Street is developed with a variety of built forms comprising lower rise development punctuated by high density taller built forms.
- On the north eastern corner of A'Beckett Street and Elizabeth Street, MY80 (No. 400 Elizabeth Street), a 56 storey development, is currently under construction..

There is also a building currently proposed for the south-eastern corner of the intersection of Elizabeth and A'Beckett streets at 398 Elizabeth Street. This application proposed a 55 storey, 178 metre high residential tower with no setbacks to Elizabeth or A'Beckett Streets. This application was referred to the City of Melbourne for comment by the DTPLI and was presented to the Future Melbourne

Committee on 3 December 2013 and to Council on 17 December 2013. The Council resolution with respect to this application was:

1. That Council resolve that a letter be sent to the Minister for Planning advising that:
 - 1.1. The Council objects to the application as it is contrary to the urban design policies of the Melbourne Planning Scheme.
 - 1.2. Should the Minister decide to issue a Planning Permit for the proposal, the permit should include the conditions set out in Attachment 2 of the supplementary report.

Figure 4 – Map of Building Heights within the Area (Existing and Proposed (Source – Application Documentation))



1.3. Interfaces:

North of the subject site is a double storey building occupied by a motorcycle dealership at ground level. Farther north towards Therry Street are three storey buildings of varying styles including heritage buildings. These properties are utilised by various land uses including retail, a hostel and education centre.

The site at 450 Elizabeth Street was granted planning permit 2011/012691 by the Minister for Planning for the demolition of the existing building and construction of a

new mixed-use multi-storey tower comprising dwellings, ground floor and first level retail and associated car parking.

On 24 February 2012 the City of Melbourne advised DTPLI that Council did not support the proposed development in its current form due to the lack of setbacks and inactive use of the podium. The City of Melbourne advised that the proposal would be supported if:

‘The tower was setback six metres from both the Elizabeth Street and Franklin Street property boundaries.
The tower was setback five metres from the southern and eastern property boundaries.
The Elizabeth Street frontage of the podium was redesigned to feature active uses. This will require the deletion of some car parking spaces.
Importantly, the overall height of the building could be increased to compensate for the loss of floor area necessitated by the recommended increased setbacks of the tower.’

The Minister for Planning approved an amendment to this development that increased the height of the building from 55 storeys to 67 storeys on 7 February 2014.

Figure 5 – Photomontage of proposed building at 450 Elizabeth Street Melbourne (Source – Application Documentation).



The remainder of the southern side of Franklin Street leading to Swanston Street contains two storey and three storey developments punctuated by a 28 storey development at 77 Franklin Street (Franklin Lofts).

The eastern boundary of the site adjoins the laneway. On the opposite side of the lane is a multi-level building known as Sky Lounge. The building comprises retail at the ground floor, car parking within the podium (with no fenestration facing the subject site) and four levels of serviced apartments above. The upper section of the building containing the serviced apartments abuts the lane at the front of the site and has a curvilinear facade to the remainder of the lane with setbacks that vary between 4m - 6m to the eastern edge of the laneway.

Figure 6 - View of subject site from the adjoining building at 58 Franklin Street and Existing building at 58 Franklin Street (Source – Application Documentation).



The western side of Elizabeth Street contains a number of older style buildings mixed with newer mid-rise developments.

The section of land between Franklin and Therry Streets is developed with double storey commercial buildings. Ground floor uses are predominantly convenience and takeaway food premises. Some of these smaller scale buildings are subject to an amendment to the Planning Scheme which will introduce a heritage overlay to these sites.

Farther west of the site, on the other side of Queen Street are the Queen Victoria Market and the Flagstaff Gardens..

2. PROPOSAL

The plans referred to the City of Melbourne for comment were received on 22 November 2013. They were prepared by Elenberg Fraser Pty Ltd (Revision A - 11041).

The application proposes the following uses:

Dwelling	Total number of dwellings: 622 (mostly over 63 levels with some in the podium). One bedroom dwellings/apartments: 110 Two bedroom dwellings/apartments: 488 Three bedroom dwellings/apartments: 24
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Retail (ground level etc.)	635sqm 221sqm at ground and 414sqm at first floor.
Building height	75 storeys – approximately 237.5 metres (239 to the lift overrun).
Podium height	10 storeys
Front, side and rear setbacks	Levels 1 to 9 are built to each boundary. Above the podium the building is set back 4.9 metres from the northern boundary and 3 metres from the eastern boundary. It retains a hard edge with no setback to the south and west (Elizabeth and Franklin Streets).
Gross floor area (GFA)	51,662 Square metres
Car parking spaces	163 spaces located across levels 2 to 7.
Bicycle facilities and spaces	263 spaces located in the basement
Loading/unloading	Provided on site off the laneway. The loading bay is 7.6 metres long, 3.96 metres wide with a clearance of 4.9 metres. A truck will be required to reverse in to leave in a forward direction.
Vehicle access	Provided off lane with two separate entrances and three queuing spaces. Cars will use the existing laneway and crossover from Franklin Street.
	The building is finished with a range of materials included textured concrete, silver, green and clear glazing. The materials are finished with curving vertical lines running up the building. Landscaping is incorporated into the podium levels on the street façade.

Figure 7 – Perspective Images of Proposed Building (Source – Application Documentation).



3. BACKGROUND

3.1. Pre-application discussions

The plans presented at the pre-application meeting were for a 75 storey building similar to the application proposal.

The key issues raised at the pre-application meeting were:

- Tower setbacks in relation to streetscapes and adjoining properties' development opportunities.
- Building height.
- Greater activation of street frontages is required in the car parking podium.
- Activation of the ground level along the proposed lane.
- Potential wind impacts.
- Maintenance of the proposed landscaping.

3.2. Site history

There is no directly relevant history or background for this application.

4. PLANNING SCHEME PROVISIONS

The following provisions of the Melbourne Planning Scheme apply:

State Planning Policies	<p>Clause 11 – Settlement.</p> <p>Clause 15.01-1- Urban Design.</p> <p>Clause 15.01-5 – Cultural Identity and neighbourhood character.</p>
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	<p>Clause 15.02 – Sustainable development.</p> <p>Clause 16 – Housing.</p> <p>Clause 18.02-1 – Sustainable personal transport.</p> <p>Clause 18.02-5 Car parking</p>
Municipal Strategic Statement	<p>Clause 21.03 – Vision.</p> <p>Clause 21.04-1 – Growth Area Framework.</p> <p>Clause 21.06-1 - Urban Design.</p> <p>Clause 21.06-3 – Sustainable development.</p> <p>Clause 21.07 – Housing.</p> <p>Clause 21.09 – Transport.</p> <p>Clause 21.12 – Hoddle Grid.</p>
Local Planning Policies	<p>Clause 22.01 – Urban Design within the Capital City Zone.</p> <p>Cause 22.02- Sunlight to Public Spaces.</p> <p>Clause 22.19- Energy, Waste and Waste Efficiency.</p> <p>Clause 22.20 – CBD Lanes</p>

Statutory Controls	
Capital City Zone Schedule 1	<p>A permit is required to carry out demolition.</p> <p>A permit is required to carry out buildings and works. Retail, office and accommodation are Section 1 uses.</p>
Design and Development Overlay	<p>Clause 43.02-2 states that a permit is required to carry out buildings and works, but that this does not apply if a schedule to the overlay specifically states that a permit is not required.</p>
Design and Development Overlay 1 – Active Street frontage	<p>This overlay applies to the Elizabeth Street frontage of the site. Pursuant to this overlay, a permit is required to carry out buildings and works at ground level. The proposed development requires a permit under this overlay.</p>
Design and Development Overlay 4 – Weather	<p>This overlay applies to the Elizabeth Street frontage. A permit is not required to carry out buildings and works if adequate weather protection to the street frontage is provided to the satisfaction of the Responsible Authority. The proposed canopies should be to</p>

Protection	the satisfaction of the responsible authority (The Minister for Planning).
Special Building Overlay	<p>Pursuant to Clause 44.05-1 a permit is required to construct a building or carry out works. An application must be referred to Melbourne Water.</p> <p>As the Minister for Planning is the Responsible Authority, DTPLI has responsibility for this referral. (Melbourne Water responded with no objection subject to conditions)</p>
Parking Overlay 1	<p>A permit is required to provide parking in excess of the car parking rates in Clause 3.0 of Schedule 1 to the Parking Overlay. Clause 3.0 sets a rate of 1 space per dwelling. However, Clause 2.0 states that this permit requirement does not apply to additional car parking to serve dwellings or a residential hotel.</p> <p>In addition to car parking for the residential component a number of spaces may also be provided for the retail and office components, without a permit. A permit is required to exceed this number.</p> <p>The proposal generates a maximum allowance of 622 spaces for the dwellings and 3 for the commercial component (625).</p> <p>The proposed development for 163 car parking spaces is below the maximum limits and no permit is required for the proposed car parking provision.</p> <p>Motorcycle parking: the schedule states that motor cycle parking should be provided at a rate of one space per 100 car parking spaces. No motor cycle parking is proposed and a reduction (to zero) of this standard is required.</p>

Particular Provisions	
Clause 52.06, Car Parking	<p>Pursuant to Clause 52.06-3, a permit is required to provide more than the maximum parking provision specified in a schedule to the Parking Overlay.</p> <p>As stated above, the proposed car parking provision is within the limits set out for Parking Overlay 1.</p>
Clause 52.07, Loading and Unloading of Vehicles	<p>Clause 52.07 applies to applications for the manufacture, servicing, storage or sale of goods or materials.</p> <p>As part of the land is to be used for retail purposes, a permit is triggered under this clause.</p> <p>A loading bay with an area of 27.4 square metres must be provided to each occupation of 2600 square metres of floor area or less.</p> <p>A loading bay is proposed in the north eastern corner of the site which accords with the dimensional requirements of the clause. As only a single bay is proposed a waiver of three loading bays is</p>

	required.
Clause 52.34, Bicycle Facilities	<p>A permit may be granted to reduce or waive the bicycle parking requirement.</p> <p>Pursuant to Clause 52.34, the proposed uses generate a requirement for a minimum of 126 bikes, inclusive of 63 resident, 2 employee and 1 visitor bicycle spaces.</p> <p>192 spaces in total are required and 263 spaces are provided. Therefore, no permit is required to reduce the bicycle parking requirement.</p>
Clause 52.35, Urban Context Report and Design Response for Residential Development of Four or More Storeys	<p>This has been provided to DTPLI.</p> <p>As the Minister for Planning is the Responsible Authority, DTPLI has responsibility for certification.</p>
Clause 52.36, Integrated Public Transport Planning	<p>An application for developments in excess of 60 dwellings must be referred to PTV for comment.</p> <p>As the Minister for Planning is the Responsible Authority, DTPLI has responsibility for this referral.</p>

General Provisions	
Clause 61.01 – Administration and enforcement of this scheme	The Minister for Planning is the responsible authority for this planning permit application as the total floor area of the development exceeds 25,000 square metres.
Clause 65 – Approval of an application or plan	This clause sets out Decision Guidelines. These include the matters set out in Section 60 of the Act.

5. PUBLIC NOTIFICATION

The application has been referred to the City of Melbourne for comment. The covering letter from DTPLI includes the statement that the application is exempt from notice under Section 52 of the Act. This is correct in relation to Capital City Zone 1 provisions, Design and Development Overlay 1 and 4 and Special Building Overlay.

6. REFERRALS

The application was referred to the City of Melbourne's Urban Design Branch and Engineering Services Group (traffic, waste and civil engineering).

The Urban Design comments include the following:

The height of the building in metres is not evident in the documentation reviewed, but appears to be 237.5m to the parapet; 239m to lift overrun. Because building is not set back from either street above podium level, the podium is effectively 237.5m tall – 6 times the design standard of 40m maximum in Clause 22.01.

The proposed zero setbacks from Elizabeth and Franklin Streets would result in a street wall height about 7.9 times the street width. This would create unattractive streetscapes and be quite at odds with the character which, until now, has drawn people to inner Melbourne. It would create a disjunction with the lower buildings which characterise the west side of Elizabeth St, and would tend to create a precedent leading to both streets becoming oppressive, canyon-like spaces.

The proposed setbacks are considered far from adequate. This is not excused by the fact that other non-complying towers have been approved in the vicinity; on the contrary, the effects of such developments compound each other, and their collective impact would be much greater than that of the odd exception. For a tower of the proposed height, the 10 and 12m setbacks suggested in Clause 22.01 should be fully implemented. This means that, if a tall tower is wanted on this site, it would need to be consolidated with some of the sites to the north in order to achieve a feasible floor-plate without compromising the urban design of the precinct.

The plot ratio is about 55:1 – nearly five times the design standard of 12:1 maximum set for the block as a whole in Clause 22.01. This indicates that the proposal is an overdevelopment of the site. Also, given the other towers constructed and approved on this block, we recommend that the current plot ratio be checked, as this block may already have reached 12:1.

Either the height needs to be significantly reduced, or tower setbacks need to be significantly increased. We would expect this to improve wind conditions on the surrounding footpaths, which, as currently proposed, are borderline. This in turn should obviate the need for balustrades to be 1.5m high.

A substantial area of blank wall presents to the north, and the relationship of this wall with the east elevation should be better-resolved. We otherwise have no objections to the design or materials; however, significant redesign would be needed in response to the different built form recommended above.

We support the proposed frontages to both streets at all levels.

The Engineering (civil) comments include the following:

The proposed development includes vehicle access from private road abutting the subject land to the east and known by the City of Melbourne as PL5160. The road is privately owned and our records show it is held under

old remnant general law titles. It should be almost impossible to locate current owners of the road.

Considering the scale of the proposed development and weighing public and private benefits we recommend declaring the road as a public highway. This provides positives for the developer/occupants as the City of Melbourne becomes responsible for the care and management of the lane. This includes parking control. The owner(s) of the proposed development must meet all necessary advertising, gazetting and other costs associated with this process.

It is important to note that the declaration of the road as a public highway cannot be guaranteed, as it is dependent on the impartial hearing and consideration of submissions required under the Local Government Act 1989.

The architectural drawings do not show delineation between the structure of the proposed building and public realm. The floor levels of the building must not encroach onto any road adjoining the subject land.

Manager Engineering Services Branch recommends that all projections over the street alignment must conform to Building Regulations 2006, Part 5, Sections 505 to 514 as appropriate. Reference may be made to the City of Melbourne's Road Encroachment Guidelines with respect to projections impacting on street trees and clearances from face/back of kerb.

It is noted that the existing building has a corner splay at the south-west corner of the subject land. The proposed ground floor drawing must be amended to show a 4.5 square metre splay at the corner of Elizabeth Street and Franklin Street.

The maximum permissible width of a vehicle crossover without a pedestrian refuge is 7.6 metres. Crossings wider than 7.6 metres should include pedestrian refuges a minimum of 2.0 metres in length at 7.6 metre maximum clear spacing. The width of an abutting laneway entrance should be deemed to be included in the crossing width unless a 2.0 metre long pedestrian refuge is provided between the laneway entrance and the crossing.

The Engineering (traffic) comments include the following:

The provision of 163 on-site car spaces is acceptable. All spaces are to be provided in a fully automatic car stacker system. At least 25% of the spaces should accommodate a vehicle height clearance of at least 1.8 m. There is no provision for disabled parking this should be resolved. Provision should be made for service vehicles, it would not be appropriate within the stacker system.

The Ratio Consultants report states "Residents and staff exiting the site will firstly call their vehicle via a systems operation panel located within the lift lobby area (opposite the concierge)." The report earlier mentions that all spaces are to be allocated to residents and the plans do not show a concierge station.

We have has serious reservations in relation to the proposed car queuing spaces. The "queuing" space consists of 3 completely independent car spaces which are liable to be opportunistically used by taxis and visitors.

There is no guarantee that the first entering vehicle will be the first to be serviced, which could lead to frustration. Consideration should be given to providing a single 3 vehicle queue rather than 3 individual queuing spaces. Entrance Cabin 1 is not readily accessible from the queue space closest to Franklin Street and it could be difficult to assess if it is occupied. It is not ideal for vehicles in the queuing spaces to have to reverse out into the lane. The queue space closest to Entrance Cabin 2 obstructs a pedestrian door.

It is proposed to widen the lane at ground level to "an overall effective laneway width of 6.2m." This additional width is used for car queuing. There will still not be sufficient room for two-way traffic if cars are queued. Adequate provision must be made for two-way traffic where the lane meets Franklin Street.

The multi-channel queuing analysis provided in the Ratio report appears to be flawed. The overall arrival rate (including outbound) is around one vehicle every 1.8 minutes but the stacker manufacturer is saying the minimum turnaround time is 45 seconds to exit the entrance cabin (which is not a lot of time if one needs to get multiple people and/or goods from the vehicle) plus 90 seconds to return with an empty pallet (i.e. 2 minutes 15 seconds). The swept paths provided indicate all the manoeuvres are very tight. This is not acceptable and would also increase service times.

The proposed provision of 263 bicycle spaces is appropriate. Access to the bicycle parking spaces is inconvenient requiring cyclists to enter via the lobby and then use the lifts with (in most cases) a long walk through multiple doors. Provision of a single loading bay is considered reasonable, but the location is not convenient. It is recommended that loading be designed to accommodate at least an 8.8 m truck as those trucks are able to drive in and out of the lane in a forward direction as it is not appropriate for vehicles to reverse.

A pedestrian sight triangle is required in the south-western corner of the site as well as a corner splay at the intersection of Elizabeth Street and Franklin Street.

The Engineering (waste) comments include the following:

A Waste Management Plan has been prepared by Leigh Design. Ultimately, a Waste Management Plan complying with the City of Melbourne Guidelines for Preparing a Waste Management Plan 2012 is required to be submitted to the City of Melbourne — Engineering Services.

7. ASSESSMENT

The key issues in the consideration of this application are:

- Height
- Design and Built form including setbacks and the impact on development potential on adjoining properties.
- Active street frontages.
- Overshadowing.
- Loading and Access

- Wind
- ESD
- Street Trees.

7.1. Height and Built Form

Pursuant to Clause 21.12 the MSS identifies this site in an area to have
“...a lower scale than the Hoddle Grid and provides a contrast in built form scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.”

This is repeated with the following statement;

“...ensure a strong contrast in scale of development along Elizabeth Street from the lower scale areas to the north of Victoria Street and the higher scale of the Capital City Zone.”

The proposed height of 237.5 metres is more commensurate and in many cases even greater than buildings heights in the Hoddle Grid, however there are a number of taller buildings in the Elizabeth, La Trobe and Victoria Streets triangle, including:

- 55 storey tower currently under construction ‘MY80’ at 410 Elizabeth Street.
- 48 storey building permit issued at 58-64 A’Beckett Street.
- 32 and 42 storey buildings constructed at 475 Swanston Street.
- 33 storey building constructed at 19 A’Beckett Street.

The City of Melbourne has consistently advised that height of a scale as listed above is an inappropriate development outcome. This proposal goes well beyond what has been considered on other sites in terms of height, on a relatively small lot. The proposed height coupled with the lack of a podium tower form and any meaningful setbacks, is contrary to the City of Melbourne’s MSS vision for future built form for this area.

The Local Policy for Urban Design in the Capital City Zone (Clause 22.01) recommends that towers should have a podium height generally between 35 to 40 metres except where a different parapet height already exists or where there is a need to provide a context for a heritage building or to emphasise a street corner. This may justify a minor variation to the norm given the street corner context. The purpose of this is to provide for a pedestrian friendly scale within the central city.

The proposal incorporates a small setback at the northern edge of approximately 4.9 metres, however there is no setback to Franklin and Elizabeth Streets. There is a mix of building scales within the immediate vicinity and there is no established podium height, unlike areas within the Hoddle Grid.

The City Of Melbourne’s Urban Design branch was especially critical of the lack of adequate set-backs, as quoted in section 6 above. It is worth reiterating their comments regarding this issue:

“The proposed zero setbacks from Elizabeth and Franklin Streets would result in a street wall height about 7.9 times the street width. This would create unattractive streetscapes and be quite at odds with the character which, until now, has drawn people to inner Melbourne. It would create a disjunction with the lower buildings which characterise the west side of Elizabeth St, and would tend to create a precedent leading to both streets becoming oppressive, canyon-like spaces.

The proposed setbacks are considered far from adequate. This is not excused by the fact that other non-complying towers have been approved in the vicinity; on the contrary, the effects of such developments compound each other, and their collective impact would be much greater than that of the odd exception. For a tower of the proposed height, the 10 and 12m setbacks suggested in Clause 22.01 should be fully implemented. This means that, if a tall tower is wanted on this site, it would need to be consolidated with some of the sites to the north in order to achieve a feasible floor-plate without compromising the urban design of the precinct.”

The proposal under this application is similar to the proposal for 398 Elizabeth Street, Melbourne (TPM-2013-16) that went before the Future Melbourne Committee and Council in December 2013, in that this proposal also involves a tall tower, with no setbacks, constructed opposite another tall tower with no setbacks. It is also broadly within the same geographic area of the Capital City Zone (albeit on the north side of the street one block further from the CBD).

Whilst Franklin Street is wider than A'Beckett Street (30m compared with 20m in width), the tower under the current proposal is also in the order of 60m (or around 20 storeys) higher than was proposed at 398 Elizabeth Street.

In terms of the public realm, it is considered that to replicate the setbacks of 450 Elizabeth Street with a significantly higher tower would result in a canyon-like effect in Franklin Street that would create an oppressive pedestrian experience.

This would be further exacerbated if the form were repeated along Franklin Street and Elizabeth Streets.

Elizabeth Street is oriented north-south. In this respect it is less sensitive to the impact of taller built form; however, the lack of any setback for such a tall tower will still have an adverse impact on the public realm.

Although the building has been designed ‘in the round’ for this corner site, the proposal is contrary to Local Policy 22.01 and a building of this height should be of a podium/tower typology. The proposed height coupled with the lack of podium and upper level setbacks is contrary with the relevant objectives of Clause 22.01 and cannot be supported.

The Local Policy for Urban Design in the Capital City Zone (Clause 22.01) recommends that towers be set back at least 10 metres from street frontages and they be spaced to ensure equitable access to daylight and sunlight. Towers should be 24 metres from a similar tower-podium development. Separation may be reduced where it can be demonstrated that towers are offset, habitable room windows do not directly face one another and where consideration is given to the development potential of adjoining sites.

The setbacks proposed do not appropriately respond to the principle of considering the development potential of adjoining sites, particularly the site to the north, which is currently occupied by a double storey shop, but also with respect to the site to the east.

This model of possible future development is contrary to Clause 22.01, requiring spacing between towers. If the proposed development were approved, future responsibility for providing tower separation would have to be borne by the neighbouring sites.

7.2. Active Street Frontages and Land Uses

The land uses proposed are all as of right (section 1) uses not requiring a permit. The tower is mostly residential and the ground and first floor are retail uses.

These uses provide an active street frontage. The site is activated around all edges by either retail tenancies or the lobby.

Levels 2 to 7 are mostly car parking, however a sleeve of residential runs along the street frontages to provide balconies and windows to the street.

The activation of the street and land uses are considered appropriate.

7.3. Overshadowing

General policy under Clause 22.02 (Sunlight to Public Spaces) states that development should not cast additional shadows on public spaces including major pedestrian routes between 11 am and 2 pm on 22 September.

Shadow diagrams submitted with the application show that from 11 am to 12 pm the proposed building will result in an increase in overshadowing to the eastern and western footpaths of Elizabeth Street and at 1pm the eastern footpath.

This area will be more intensely developed and taller buildings will cause some overshadowing of the major pedestrian routes.

7.4. Car Parking, Bicycle Parking Loading and Access

Significant issues have been raised in the Engineering referral comments (see section 6).

Whilst the provision / number of bicycle parking, car parking and a loading bay are all acceptable, the layout and access arrangements are particularly problematic and unresolved.

In particular Engineering Services have identified matters relating to the potential for queuing and flow on congestion to Franklin Street. These matters require

demonstrated resolution prior to any approval of development on this site and are likely to require significant modifications to the proposed design.

These matters will be identified in the City of Melbourne's response to the Minister for Planning (DTPLI). A copy of the comments from Engineering Services has been forwarded to both the permit applicant and DTPLI. It is understood that the applicant is intending to meet with Engineering Services to try and work through their issues with the proposal.

7.5. Internal Amenity and Development Potential of adjoining sites

The proposal does not have any bedrooms that rely on borrowed light, or indeed any of the 'hammer head' arrangements that have become common in more recent years for multi-storey residential development proposals (i.e. where one bedroom is set behind another with a narrow corridor providing light to the second room). This is a positive feature of the proposed development.

The recent panel report for Southbank recommended a tower separation of 20m, which could be reduced to a minimum of 10m where it is demonstrated that there is 'sunlight, good daylight, privacy and an outlook from habitable rooms for both existing and proposed development'.

In terms of the development potential of adjoining sites and the amenity of future occupants, there are two key issues: the setback to the north; and the setback to the east.

To the north, there are 122 apartments that only have outlook to the north. The proposal currently provides a 4.9 metre setback from the tower edge to the common boundary. If this were replicated on the adjoining site this would result in a 9.8m tower separation, with apartments either directly facing one another, or facing the lift core of the adjoining building.

This is contrary to the current policy and does not comply with the principles established by the Southbank Panel Report.

By comparison, the development proposed at 398 Elizabeth Street (where similar concerns were raised with respect to the amenity and outlook of apartments – albeit those facing south rather than north), there were 66 apartments and the setback was proposed at 5m.

To the east, the tower is setback 3m from the private laneway, which is around 3m wide. This in effect creates a 6m setback from the boundary of the neighbouring site to the east.

The existing residential development on the site to the east (the Sky Lounge Apartments) has a somewhat unusual curved façade, the consequence of which is that the distance between the proposed tower and this façade ranges from around 10.2m to around 12.2m. This building is relatively modest in terms of its scale, with a podium car park of around 8 storeys with four levels of serviced apartments above (to a total height of around 15 storeys).

Figure 8 – Interface of the proposed building with adjoining site at 58 Franklin Street (Source – Application Documentation)



There are 183 apartments that face east. Given the floor plate / layout that has been adopted for these apartment levels (with bedrooms located at the outer edges and the living rooms located more centrally along the eastern façade), the principal outlook is to the east, and there is very limited opportunity for outlook to either the north or south.

The applicant has suggested that as this site is strata subdivided that there is little chance that this site will be developed.

This argument has been put before on other sites within the City, and cannot be relied upon. A recent application at 36-40 La Trobe Street relied on a similar assumption and since approval of that permit for that site the adjoining land (which was strata subdivided and in separate ownership) has been purchased by a prospective developer.

Assuming that a site is undevelopable because it is in separate ownership is not a sensible planning approach, particularly given the rising value of land within the central city, and the increased pressure for redevelopment.

If a tower were to be developed on the site to the east, and were this to mimic the setbacks on the subject site (or even to simply extend upwards and adopt the curved façade setbacks to a similar height as the proposed building) then this would result in numerous apartments facing one another across a distance of somewhere between 9m and 12m.

This is also clearly contrary to the current policy and the principles of the Southbank Panel Report.

7.6. Wind

A wind assessment including tunnel testing was prepared by Vipac. The report found that the tower would cause wind affects that required alterations at ground floor including a cutback to the corner of the building to reduce the corner acceleration, relocation of the Franklin Street entry and louvered walls to level 8.

Subject to these treatments (which are shown on the proposed plans) the wind conditions will satisfy criterion for walking along the adjacent footpaths and standing at the building entrance.

An area identified in the report as section 8 (facing Elizabeth Street) has been identified as exceeding the walking criterion. No amelioration measure has been provided to address this affect. This is a matter of significant concern.

Whilst the proposal achieves an appropriate wind condition for walking, the condition and design do not facilitate the active retail land uses at ground floor. With high (walking) wind conditions at ground floor pedestrians are less likely to stop (stationary) at the front of the retail uses at ground floor to either browse in the windows or enter the shops. The optimum use of the ground floor requires wind conditions suitable for stationary activities. Wind conditions suitable for walking (and not stationary) also eliminate any opportunity for street trading such as café seating along the pavement, etc.

The canopy of the building prevents and reduces the impact of wind effects. However as discussed below the canopy greatly impacts upon street trees on Franklin Street and may require removal, reduction or redesign which would worsen the wind effects.

7.7. ESD

Clause 22.19 (Energy, Water and Waste Efficiency) requires that applications be accompanied by:

- A Waste Management Plan.
- An ESD Statement demonstrating how the development meets relevant policy objectives and requirements.

For buildings over 2,000 square metres in gross floor area the Sustainable Design Statement must include a statement from a suitably qualified professional verifying that the building has the preliminary design potential to achieve the relevant Performance Measures set out in Clause 22.19-5.

A Sustainability Statement forms part of the application. It notes that the proposed development incorporates a wide range of ESD features and sets out primary goals to enhance the building's environmental performance and meet the objectives of the Melbourne Planning Scheme. It also lists a number of these features.

The report concludes that the performance outcomes are consistent with the objectives of Clause 22.19. The report notes however that the building will only achieve a four star green star rating.

Given the intent of Clause 22.19 is to encourage 'Australian Excellence' for new multi-unit residential developments and given the scale of the development proposed, it is recommended that further work should be undertaken in order to achieve a 5 star green star rating or to demonstrate how the proposal is achieving the 'or equivalent' provisions of the policy.

If a permit were to issue, this could be addressed by condition. However, given that the recommendation is that the application not be supported this would form one of the grounds of objection to the proposal.

7.8. Street Trees

The canopies at levels 1 and 2 along the Franklin Street frontage have the potential to impact upon two street trees. The adjoining street trees in Franklin Street are not supported for removal. . The proposed canopy will have significant impact upon the tree as the tree will require severe pruning.

7.9. Conclusion

It is considered that the proposed development does not respond appropriately to the relevant provisions of the Melbourne Planning Scheme, including Clause 21.12 (MSS) and Clause 22.01 (Urban Design within the Capital City Zone).

This is largely as a result of inadequate setbacks in conjunction with building height. The proposal is an overdevelopment of the site and should not be supported.

8. OFFICER RECOMMENDATION

That a letter be sent to DTPLI advising that the City of Melbourne objects to the proposal on the following grounds:

- The proposal by virtue of its height and inadequate setbacks represents an overdevelopment of the site.
- The proposed height, combined with the lack of podium setbacks, is contrary to Clause 21.12 of the MSS and Clause 22.01.
- The proposal by virtue of its height, lack of podium and inadequate setbacks will have an overbearing impact upon the public realm contrary to relevant provisions of the Melbourne Planning Scheme, including Clause 22.01.
- The proposal does not adequately respond to the development potential of the adjoining sites to the north or east.
- The proposed car parking, bicycle and access arrangements are inefficient and will result in unacceptable traffic conditions.
- The proposal fails to achieve a five star green star rating in accordance with Clause 22.19.
- The wind effects created by the proposal will have a detrimental impact upon pedestrian comfort.
- The proposal will compromise the health of existing street trees.

Meagan Merritt
Senior Planning Officer
City Of Melbourne