

**FUTURE MELBOURNE (PLANNING)
COMMITTEE REPORT**

Agenda Item 5.5

**APPLICATION FOR PLANNING PERMIT: TP-2011-471
36-40 LA TROBE STREET, MELBOURNE**

7 February 2012

Presenter: Martin Williams, Acting Manager Planning and Building

Purpose and background

1. The application is presented to the Committee at the request of Cr Louey.
2. The purpose of this report is to advise the Committee of an application to construct a 35 level (118.5m high) podium tower development at 36-40 La Trobe Street, Melbourne. The proposal contains food and drink premises at ground level, 58 car parking spaces and 77 bicycle spaces in levels 1 to 4 and 244 residential apartments in levels 1 to 35 (refer Attachment 2 – Locality Plan and Attachment 3 – Proposed Plans).
3. The site is located within the Mixed Use Zone and is not affected by any overlays. The existing building on the site has a heritage grading, but no Heritage Overlay protection.
4. The application was advertised and received five objections, citing amenity impacts, traffic issues, the demolition of the building and concerns regarding the height and scale of the building and limited setbacks.

Key issues

5. The key issues in this application relate to the size and scale of the building, particularly in relation to side boundary setbacks and the potential creation of an urban wall along this section of La Trobe Street.
6. A more acceptable built form outcome would require the proposed building to be reduced in height to a maximum of 60 metres or a 5 metre setback provided to the western boundary.
7. A height of 60 metres is consistent with recent planning decisions and the approach taken where a podium/tower form is not possible for the site.
8. A reduction in the height of a 118.5 metre high building to 60m or the inclusion of a 5m setback would require such a substantial redesign that approval with conditions would not be appropriate.

Recommendation from management

9. That the Future Melbourne Committee issue a Refusal to Grant a Permit, subject to the grounds included in the delegate's report (refer Attachment 4 – Delegate Report).

Attachments:

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

SUPPORTING ATTACHMENT

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (the Act) sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme.
2. As objections have been received, sections 64 and 65 of the Act provides that the Responsible Authority must give the applicant and each objector a notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The Responsible Authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the Tribunal for a review of the decision or, if an application for review is made, until the application is determined by the Tribunal or withdrawn.
3. In making its decision, section 60(1)(c) of the Act requires the Responsible Authority to consider, amongst other things, all objections and other submissions which it has received.

Finance

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

Conflict of interest

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

Stakeholder consultation

6. Formal notification (advertising of the planning application) was carried out for the application.

Relation to Council policy

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

Environmental sustainability

8. Environmental sustainability is discussed in the attached officer report (refer Attachment 4).



CITY OF MELBOURNE

Locality Plan : 36-40 La Trobe Street, Melbourne

Page 3 of 32

Attachment 2
Agenda Item 5.5
Future Melbourne Committee
7 February 2012



Approx. Scale 1:1000

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NORTH

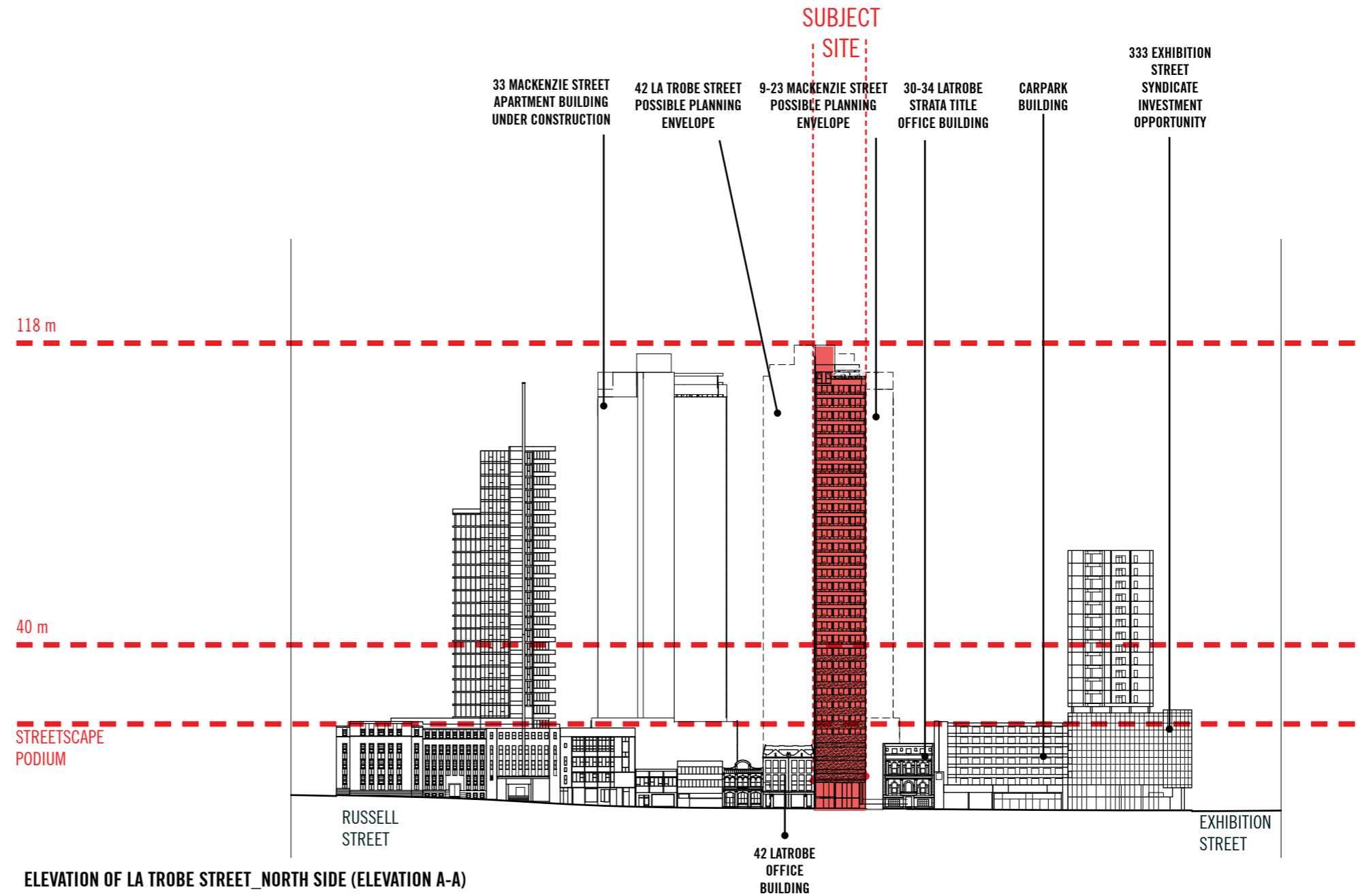
SUBJECT SITE
40 LATROBE STREET

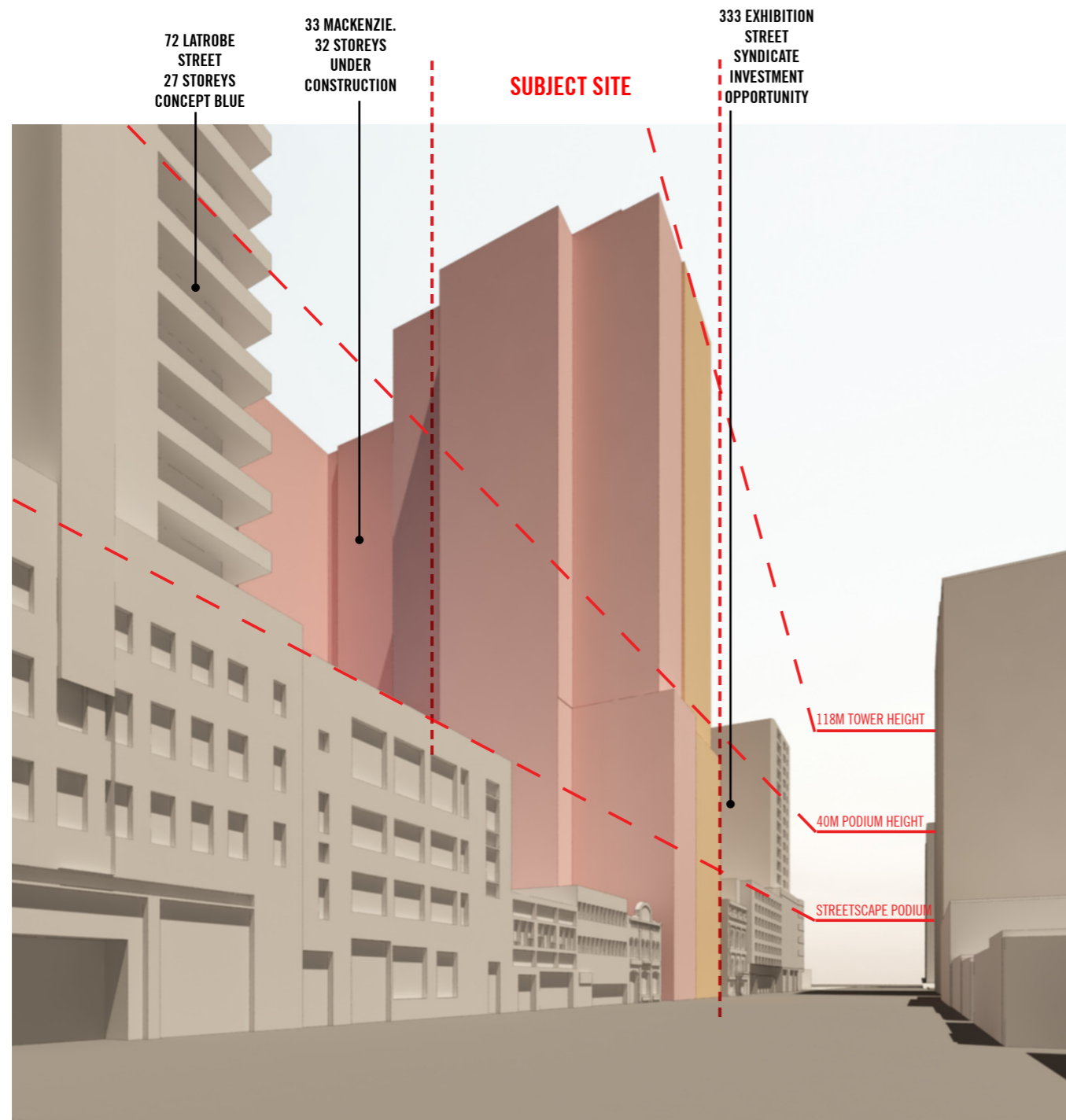


NO. 40 LATROBE STREET VIEW FROM MACKENZIE STREET

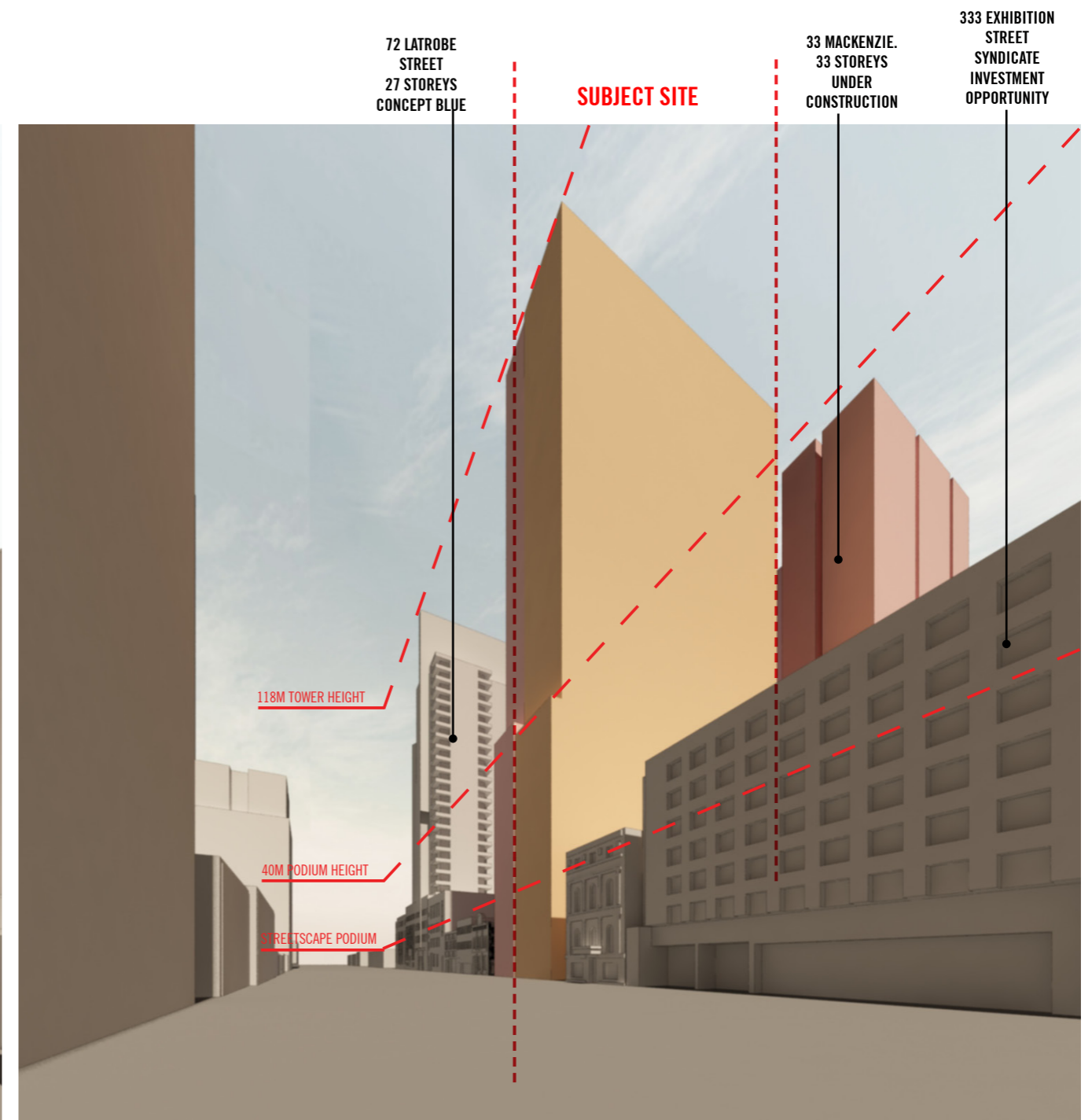
MASTERPLANNING_HEIGHT PROFILE

TOTAL: 118 METRES
35 LEVELS
STANDARD FLOOR PLATE: LEVEL 13- 34
40M-112 M TOWER HEIGHT
PODIUM: LEVEL 01-12
40M PODIUM HEIGHT

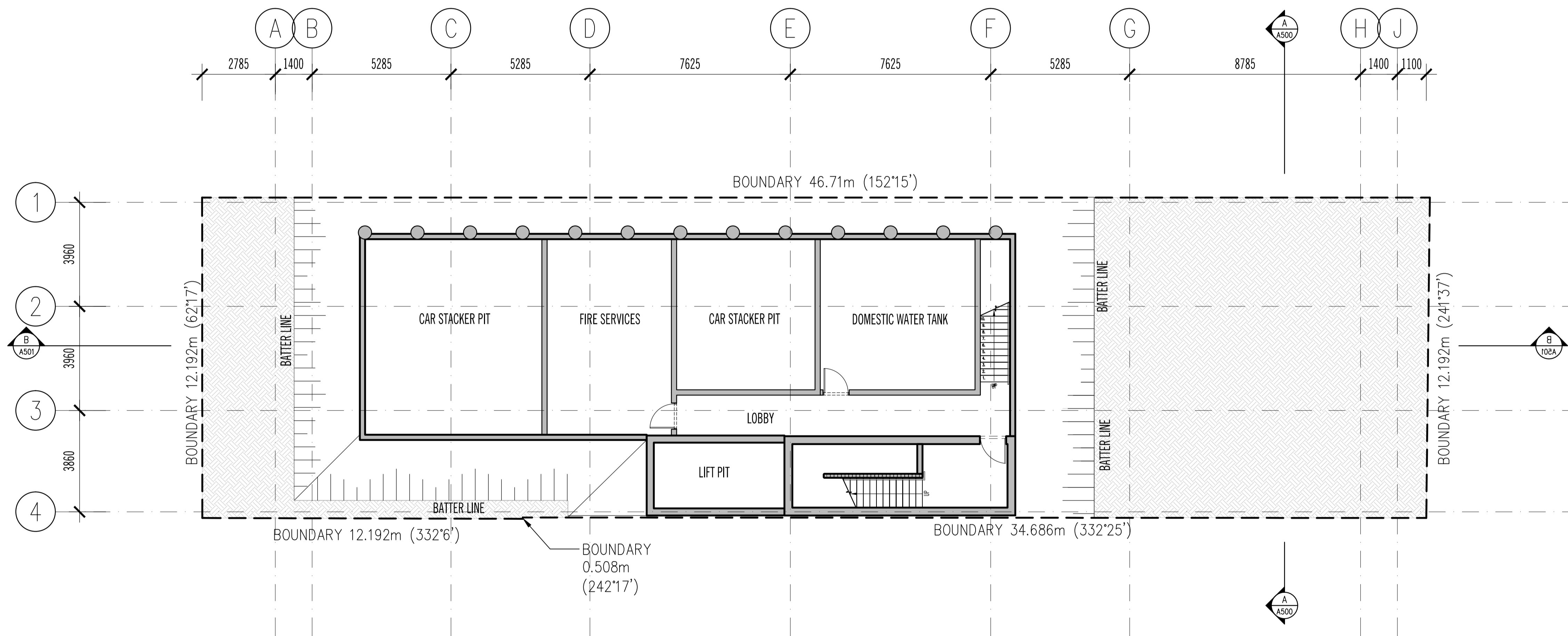




LOOKING TOWARDS NORTH EAST



LOOKING TOWARDS NORTH WEST



LEVEL	BASEMENT
UNITS	-
GFA	236m ²
NSA RES	-
EFF	-
TCE	-
CARS	-
RL	-2.70m

Rev.	Date	Reason for issue	DRAWN BY
-	29.09.2011	FOR TOWN PLANNING FOR INFORMATION	
A	13.12.2011	FOR TOWN PLANNING	
B	16.12.2011	FOR TOWN PLANNING	

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Note: These drawings are work in progress and do not represent the complete set of documentation. They are intended to describe the design intent only and are not intended to be used as a tender document. SCALE@A1 1:100@A1, 1:200@A3 **PRELIMINARY**

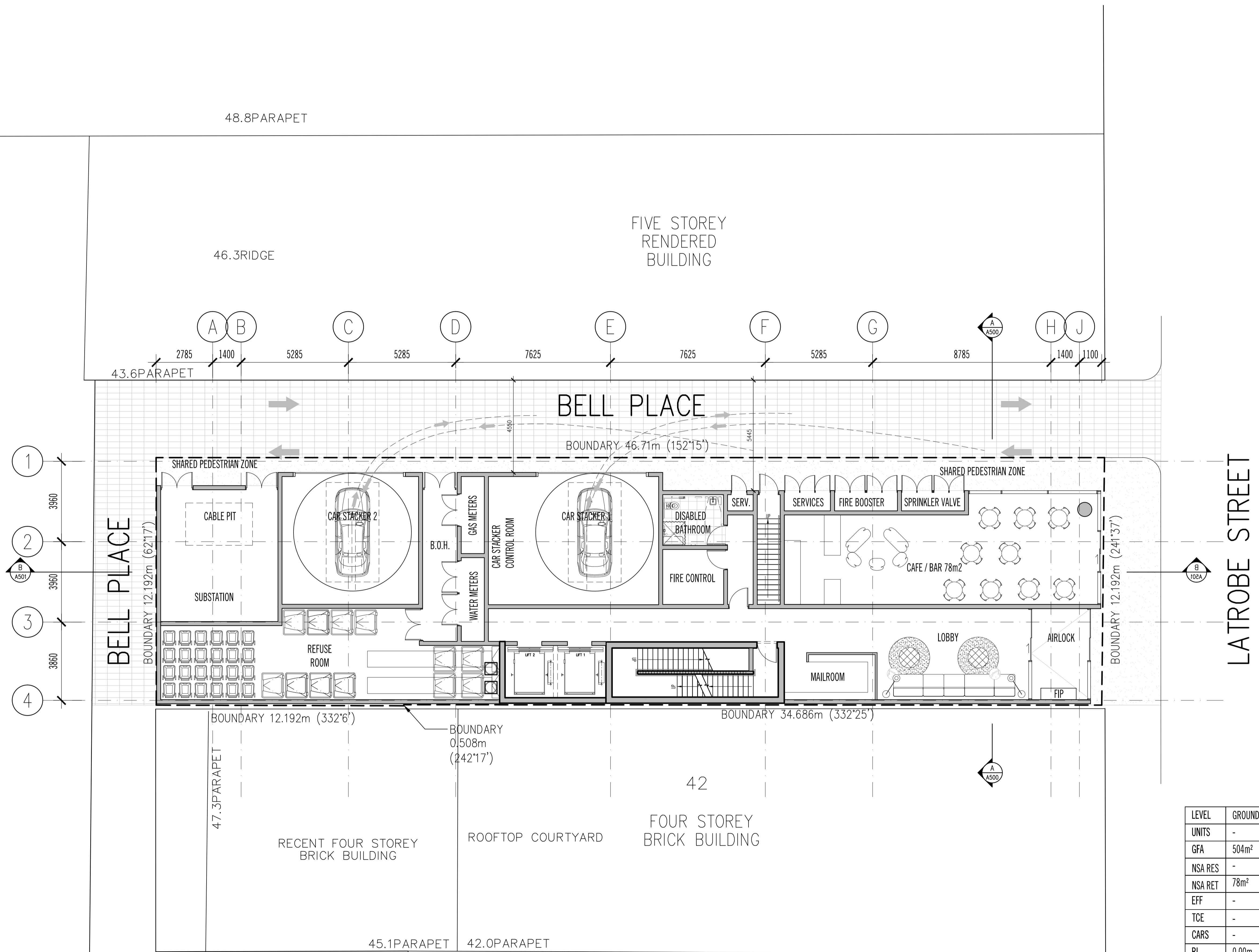
Figured dimensions take precedence to scale readings. Verify all dimensions on site. Report any discrepancies to the Architect for decision before proceeding with the work.

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Project Title
40 LA TROBE STREET
 Client
IN PROPERTY

Drawing Title
BASEMENT FLOOR PLAN
OPTION C
 Project Number
1093
 Drawing Status
TP

Drawing Number
A100
 Revision
B
 Dec 16, 2011 - 3:47pm



LEVEL	GROUND
UNITS	-
GFA	504m ²
NSA RES	-
NSA RET	78m ²
EFF	-
TCE	-
CARS	-
RL	0.00m

Rev.	Date	Reason for issue	DRAWN BY
-	29.09.2011	FOR TOWN PLANNING FOR INFORMATION	
A	13.12.2011	FOR INFORMATION	
B	16.12.2011	FOR TOWN PLANNING	

Drawn by: _____
 Checked by: _____
 Date: _____

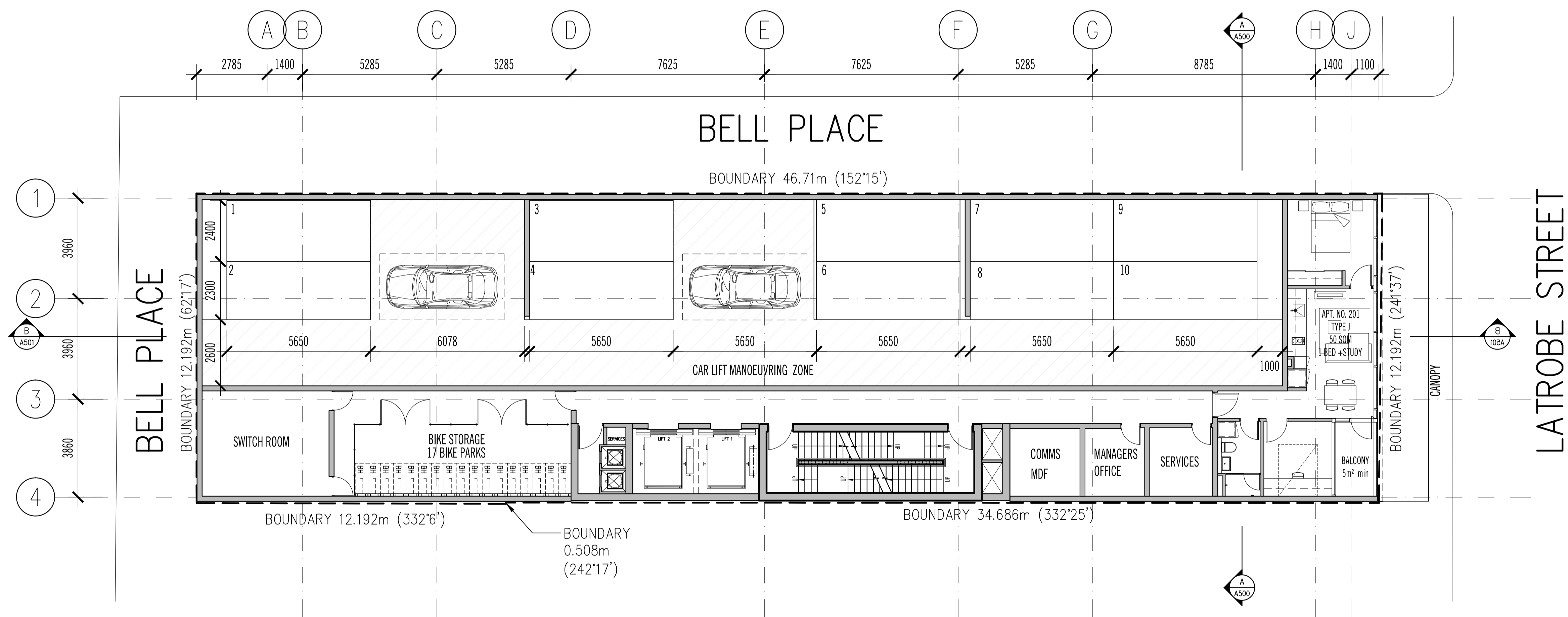
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Project Title: **40 LA TROBE STREET**
 Client: **IN PROPERTY**

Drawing Title: **GROUND FLOOR PLAN OPTION C**
 Project Number: **1093**
 Drawing Status: **TP**
 Drawing Number: **A200**
 Revision: **B**
 Date: Dec 16, 2011 - 3:47pm



LEVEL	02
UNITS	-
GFA	562m ²
NSA RES	50m ²
NSA RET	-
EFF	-
TCE	5m ²
CARS	10
BIKE	17
RL	5.70m

Rev.	Date	Reason for issue	DRAWN BY
A	29.09.2011	FOR TOWN PLANNING	
B	13.12.2011	FOR INFORMATION	
C	19.12.2011	FOR TOWN PLANNING	

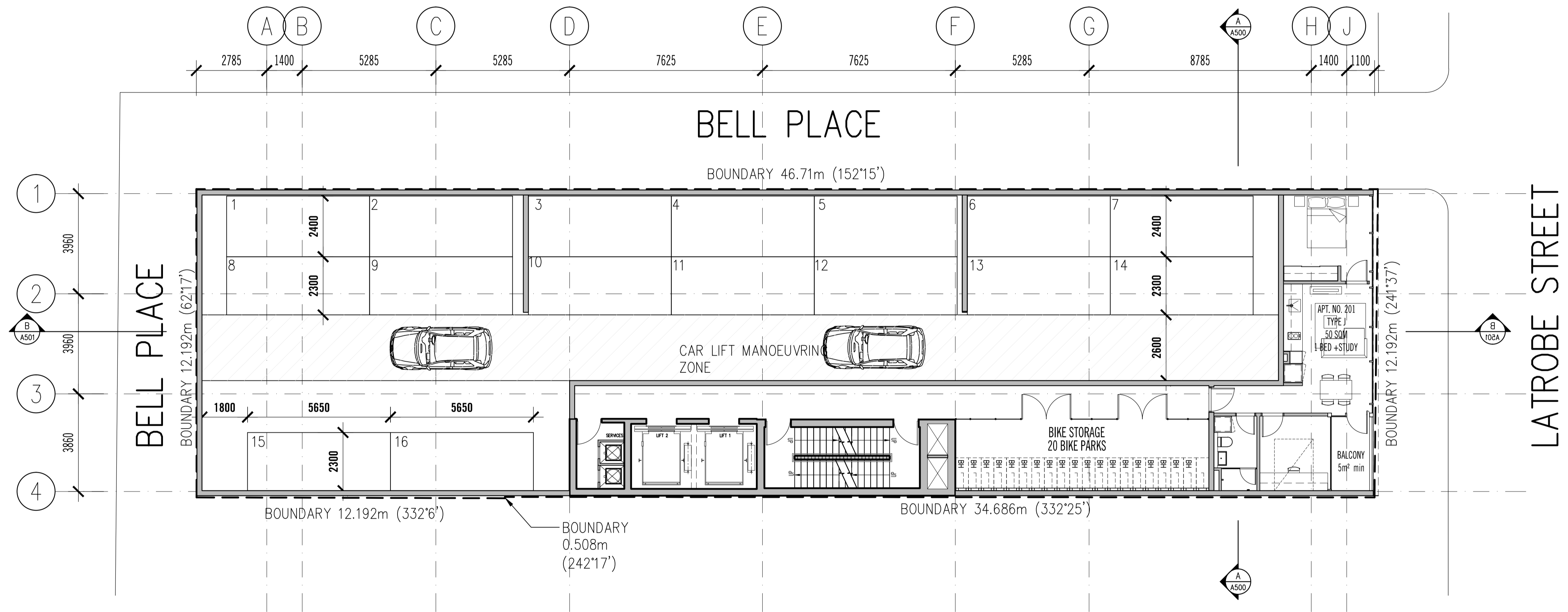
Drawn by: [Name]
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 AEN 97 556 188 726

40 LA TROBE STREET
IN PROPERTY

LEVEL 2 PLAN
OPTION C
 Project Number
1093
 Drawing Status
TP
 Drawing Number
A201
 Revision
A



LEVEL	03, 04
UNITS	-
GFA	562m²
NSA RES	-
NSA RET	50m²
EFF	-
TCE	5m²
CARS	16
RL	VARIES

Rev.	Date	Reason for issue	DRAWN BY
-	29.09.2011	FOR TOWN PLANNING FOR INFORMATION	
A	13.12.2011	FOR TOWN PLANNING	
B	16.12.2011	FOR TOWN PLANNING	

Drawn by:

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Project Title
40 LA TROBE STREET

Client
IN PROPERTY

Project Number
1093

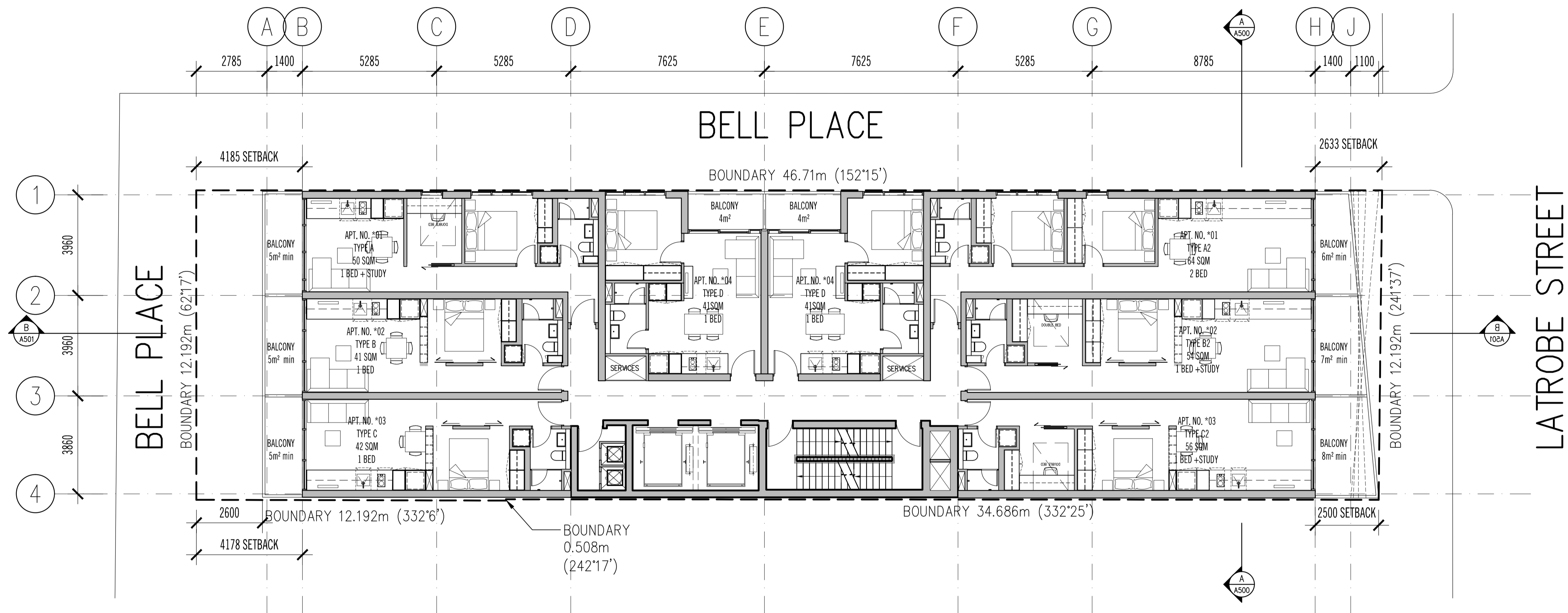
Drawing Status
TP

Drawing Title
LEVEL 3 & 4
OPTION C

Drawing Number
A202

Revision
B

Dec 16, 2011 - 3:47pm



LEVEL	05-09
UNITS	8
GFA	472
NSA RES	389
NSA RET	-
EFF	82%
TCE	VARIES
CARS	-
RL	VARIES

Rev.	Date	Reason for issue	DRAWN BY
A	26.08.2011	FOR TOWN PLANNING FOR INFORMATION	
B	13.12.2011	FOR TOWN PLANNING	
B	16.12.2011	FOR TOWN PLANNING	

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Project Title
40 LA TROBE STREET

Client
IN PROPERTY

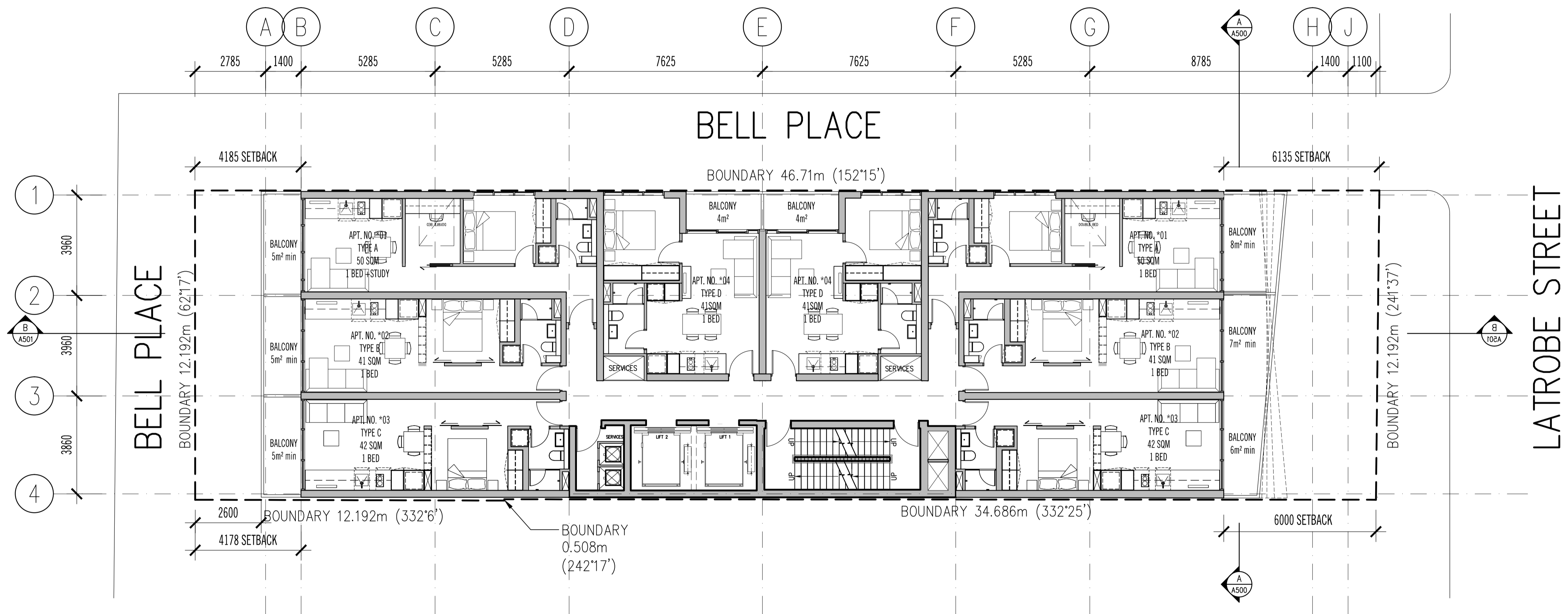
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**LEVEL 5-12 PLAN
OPTION C**

Project Number
1093

Drawing Status
TP

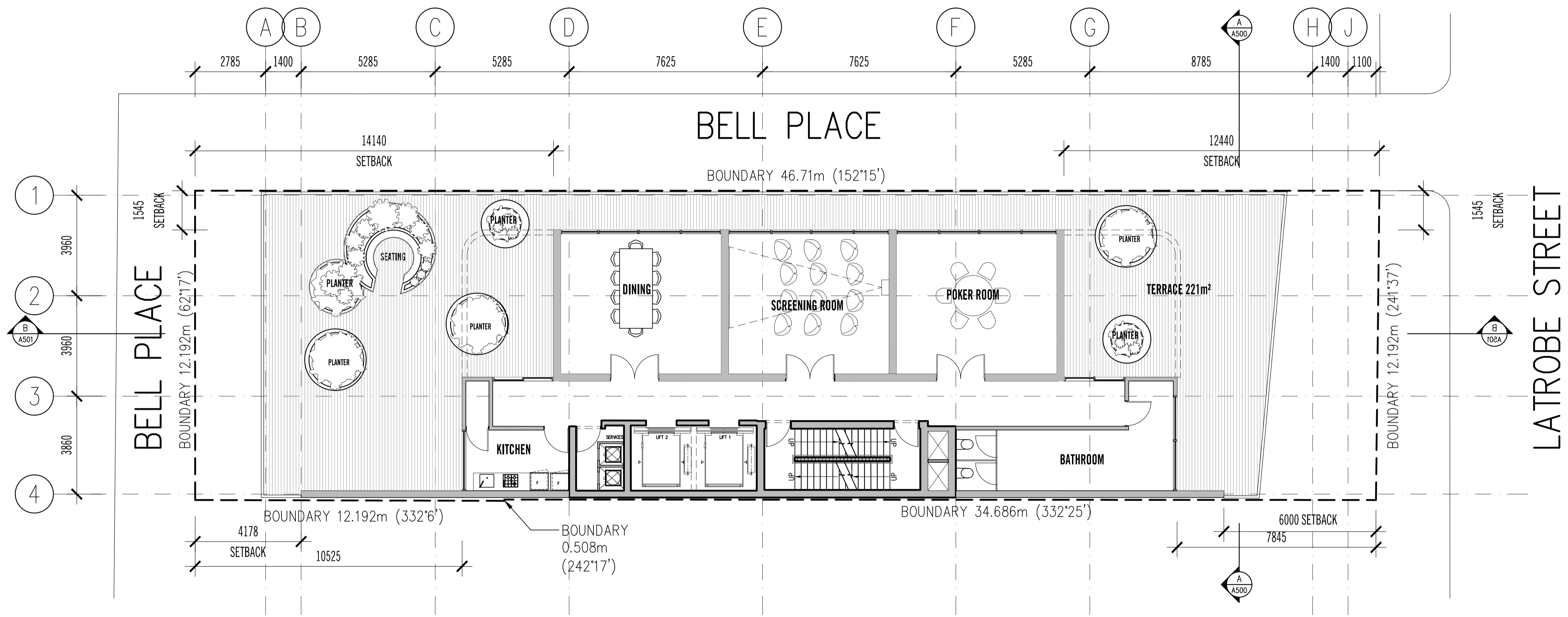
Drawing Number
A205

Revision
B



LEVEL	10-34
UNITS	8
GFA	430
NSA RES	348
EFF	80%
TCE	VARIES
CARS	-
RL	-

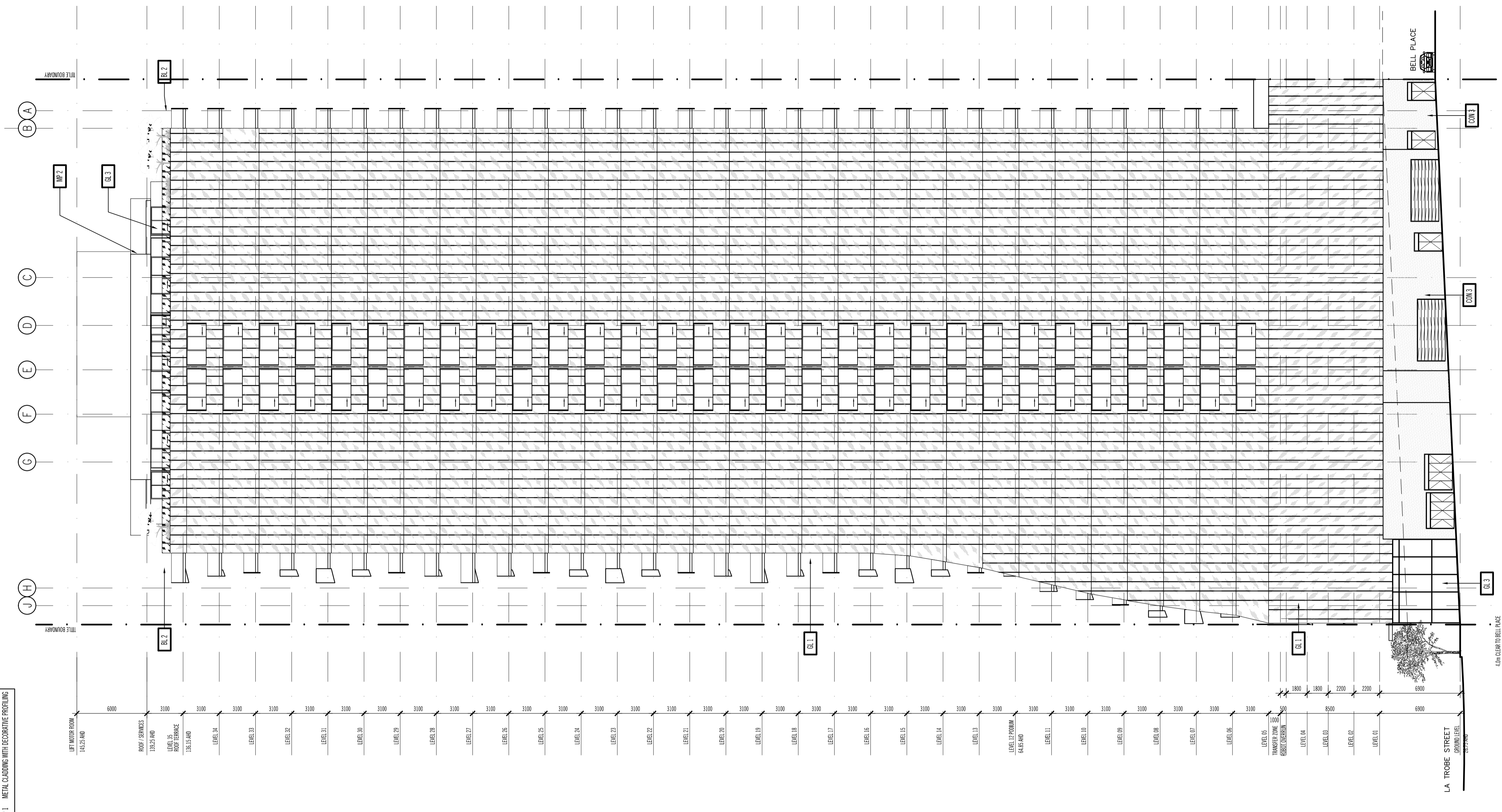
<p>Rev. Date Reason for issue</p> <p>1 29.09.2011 FOR TOWN PLANNING FOR INFORMATION</p> <p>2 13.12.2011 FOR TOWN PLANNING</p> <p>3 16.12.2011 FOR TOWN PLANNING</p>	<p>DRAWN BY</p>	<p>Note: The drawings are to be viewed with regard to the scale at which the document has been issued and for the specific purpose of the issue. The information contained within is considered to be correct at the time of documentation.</p> <p>As an uncontrolled document, Elenberg Fraser accepts no responsibility for alterations by persons once issued.</p> <p>By accepting and utilizing any drawings or other data or any form of electronic media generated and provided by Elenberg Fraser the Client agrees not to use these drawings and data, in whole or in part, for any purpose or project other than the project which is the subject of this agreement.</p> <p>The Client agrees to waive all claims against Elenberg Fraser resulting in any way or from any unauthorised changes or reuse of the drawings and data for any other project by anyone other than Elenberg Fraser.</p> <p>In addition, the client agrees, to the fullest extent permitted by the law, to indemnify and hold Elenberg Fraser harmless from any damage, liability, or cost, including reasonable lawyer's fees and costs of defence, arising from any changes made by anyone other than Elenberg Fraser or from any reuse of the drawings and data without prior written consent of Elenberg Fraser.</p> <p>By accepting and utilizing any drawings or other data on any form of electronic media generated and provided by Elenberg Fraser, the Client covenants and agrees that all such drawings and data are instruments of service of Elenberg Fraser, who shall be deemed the author of the drawings and data and shall retain all common law, statutory law and other rights, including copyrights and Intellectual property.</p> <p>Upload of drawings to web based data control system, if required, will be done at the following phase milestones: 100% DD, 100% CD and will be on the basis of a complete set of documents.</p> <p>Further uploads/updates will be charged out as a variation.</p>	<p>Note: These drawings are work in progress and do not represent the complete set of documentation. They are intended to describe the design intent only and are not intended to be used as a tender document.</p> <p>SCALE@A1 1:100@A1, 1:200@A3</p> <p>PRELIMINARY</p> <p>Figured dimensions take precedence to scale readings. Verify all dimensions on site. Report any discrepancies to the Architect for decision before proceeding with the work.</p>	<p>ELENBERG FRASER</p> <p>LEVEL 3, 160 QUEEN STREET MELBOURNE VICTORIA 3000 AUSTRALIA</p> <p>TEL +61 3 9600 2260 FAX +61 3 9600 2266</p> <p>MAIL@E-F.COM.AU WWW.E-F.COM.AU</p> <p>ABN 97 556 188 726</p>	<p>Project Title</p> <p>40 LA TROBE STREET</p> <p>Client</p> <p>IN PROPERTY</p>	<p>Drawing Title</p> <p>LEVEL 13-34 PLAN</p> <p>OPTION C</p> <p>Project Number</p> <p>1093</p> <p>Drawing Status</p> <p>TP</p> <p>Drawing Number</p> <p>A213</p> <p>Revision</p> <p>B</p>
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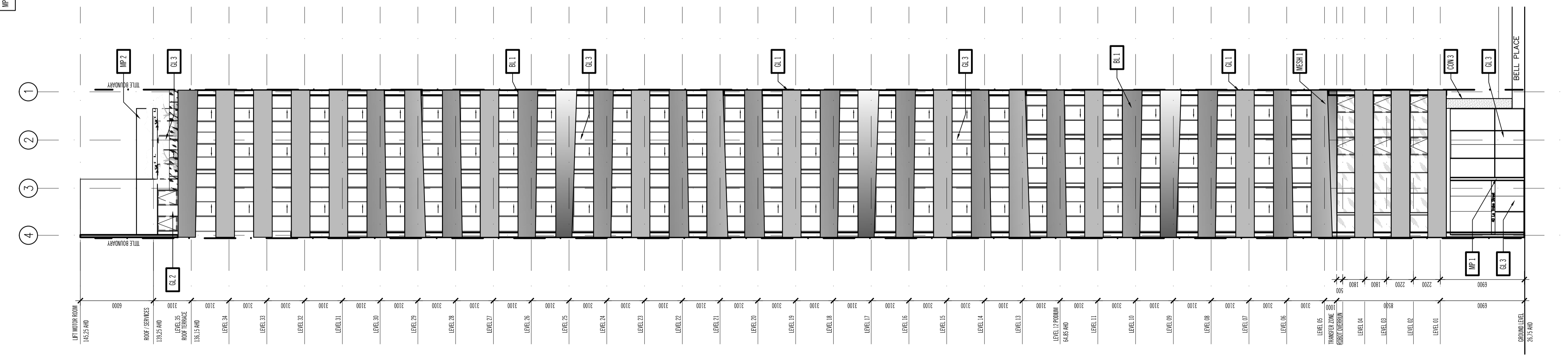
LEVEL	35
UNITS	-
GFA	250
NSA RES	-
EFF	-
TCE	221
CARS	-
RL	-

MATERIALS LEGEND

CON 1	PRE-CAST CONCRETE PANELS WITH DECORATIVE RELIEF PROFILE, PAINTED WHITE FINISH
CON 2	PRE-CAST CONCRETE PANELS, OFF FORM FINISH
CON 3	RENDER FINISH, COLOUR BLACK
MESH 1	ARCHITECTURAL PERFORATED MESH, COLOUR CHROME
MESH 2	ARCHITECTURAL PERFORATED MESH, COLOUR BLACK
GL 1	WHITE GLAZING WITH POLISHED VERTICAL ARTICULATION FINS
GL 2	CLEAR GLAZING
GL 3	BRONZE GLAZING
BL 1	1.1m HIGH PERFORATED MESH BALUSTRADE, INFERRED BALUSTRADE BOTTOM
BL 2	CLEAR GLASS BALUSTRADE, 1.6m HIGH
MP 1	METAL CLADDING WITH DECORATIVE PROFILING



ELEVATION EAST



ELEVATION SOUTH

Rev.	Date	Reason for issue
1	29.09.2011	FOR TOWN PLANNING FOR INFORMATION
2	13.12.2011	FOR TOWN PLANNING FOR INFORMATION
3	16.12.2011	FOR TOWN PLANNING FOR INFORMATION

DRAWN BY: [Name]

DATE: [Date]

SCALE: [Scale]

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SCALE @A1 1:200@A1, 1:400@A3

PRELIMINARY

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Project Title
40 LA TROBE STREET

Client
IN PROPERTY

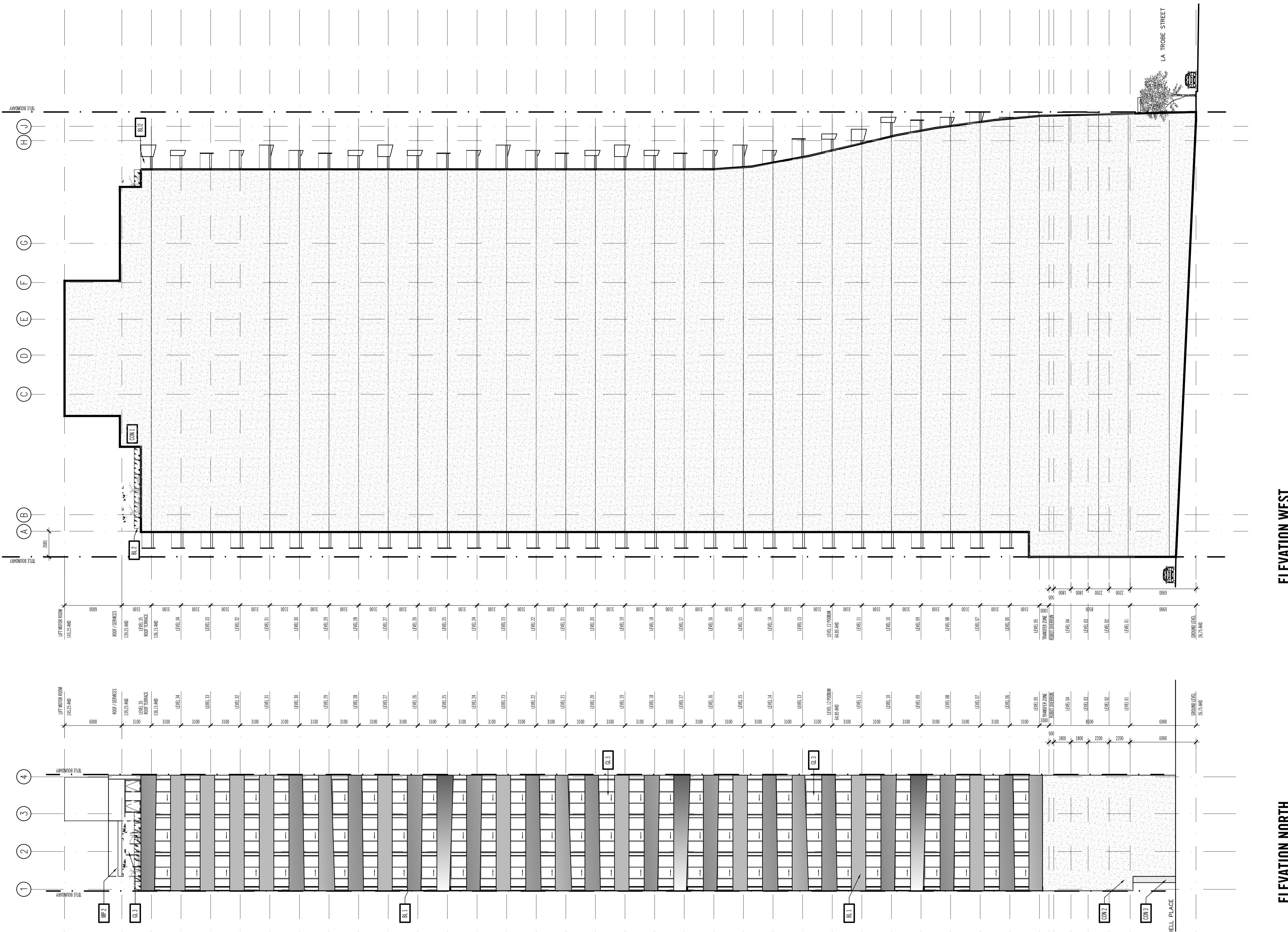
Drawing Title
ELEVATION - SOUTH & EAST OPTION C

Project Number
1093

Drawing Status
TP

Drawing Number
A400

Revision
B



MATERIALS LEGEND

- CON 1 PRE-CAST CONCRETE PANELS WITH RESCRIPTIVE RELIEF PATTERN, UNPAINTED WHITE FINISH
- CON 2 PRE-CAST CONCRETE PANELS, OFF FORM FINISH
- CON 3 BEMBER FINISH, COLOUR BLACK
- MESH 1 ARCHITECTURAL PERFORATED MESH, COLOUR BRONZE
- MESH 2 ARCHITECTURAL PERFORATED MESH, COLOUR BLACK
- GL 1 WHITE GLAZING WITH POLISHED VERTICAL ARTICULATIONS
- GL 2 CLEAR GLAZING
- GL 3 BRONZE GLAZING
- BL 1 1.1m HIGH PERFORATED MESH BALUSTRADE, PAINTED BALUSTRADE BOTTOM
- BL 2 CLEAR GLASS BALUSTRADE 1.1m HIGH
- MP 1 METAL CLADDING WITH DECORATIVE PROFILING

ELEVATION WEST

ELEVATION NORTH

Rev.	Date	Reason for issue	DRAWN BY
A	29.09.2011	FOR TOWN PLANNING FOR INFORMATION	
B	13.12.2011	FOR TOWN PLANNING	
	16.12.2011	FOR TOWN PLANNING	

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SCALE@A1 1:200@A1, 1:400@A3
PRELIMINARY

Figured dimensions take precedence to scale readings. Verify all dimensions on site. Report any discrepancies to the Architect for decision before proceeding with the work.

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Project Title
40 LA TROBE STREET

Client
IN PROPERTY

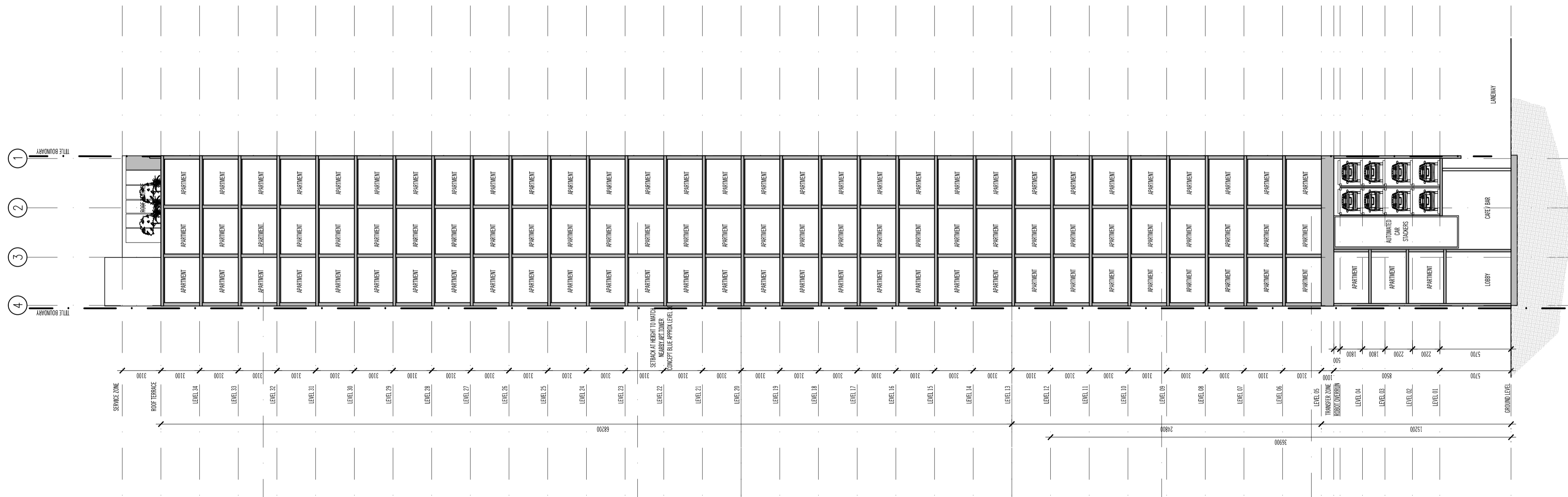
Drawing Title
**ELEVATION - NORTH & WEST
OPTION C**

Project Number
1093

Drawing Status
TP

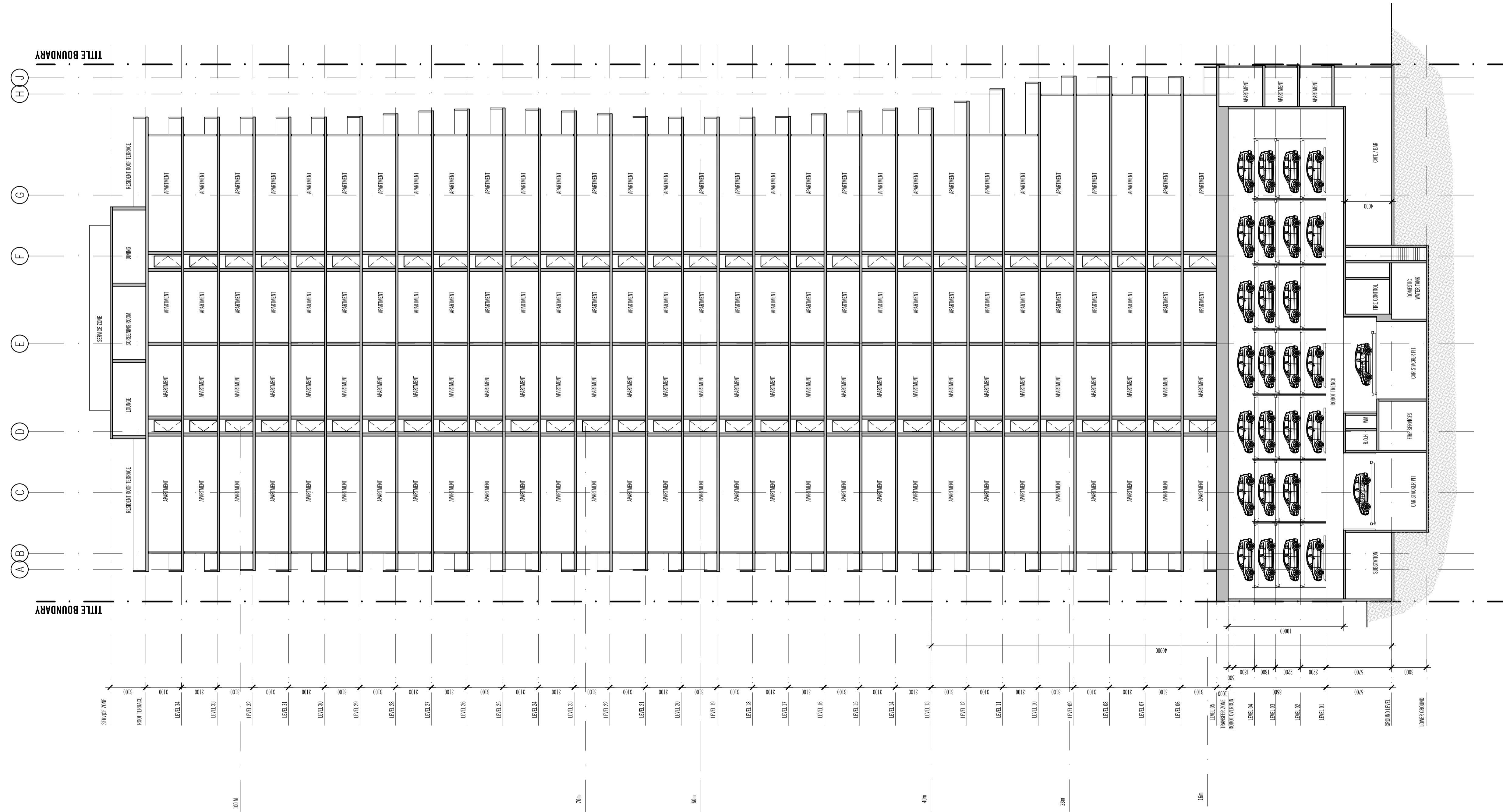
Drawing Number
A401

Revision
B



CROSS SECTION A-A

<p>Rev. Date Reason for issue</p> <p>1 29.09.2011 FOR TOWN PLANNING FOR INFORMATION</p> <p>2 13.12.2011 FOR TOWN PLANNING</p> <p>3 18.12.2011 FOR TOWN PLANNING</p>	<p>DRAWN BY</p>	<p>Note: The drawings are to be viewed with regard to the scale at which the document has been issued and for the specific purpose of the issue. The information contained within is considered to be correct at the time of documentation.</p> <p>As an uncontrolled document, Elenberg Frasier accepts no responsibility for alterations by persons once issued.</p> <p>By accepting and utilizing any drawings or other data or any form of electronic media generated and provided by Elenberg Frasier the Client agrees not to use these drawings and data, in whole or in part, for any purpose or project other than the project which is the subject of this agreement.</p> <p>The Client agrees to waive all claims against Elenberg Frasier resulting in any way or from any unauthorised changes or reuse of the drawings and data for any other project by anyone other than Elenberg Frasier.</p> <p>In addition, the client agrees, to the fullest extent permitted by the law, to indemnify and hold Elenberg Frasier harmless from any damage, liability, or cost, including reasonable lawyer's fees and costs of defence, arising from any changes made by anyone other than Elenberg Frasier or from any reuse of the drawings and data without prior written consent of Elenberg Frasier.</p> <p>By accepting and utilizing any drawings or other data on any form of electronic media generated and provided by Elenberg Frasier, the Client covenants and agrees that all such drawings and data are instruments of service of Elenberg Frasier, who shall be deemed the author of the drawings and data and shall retain all common law, statutory law and other rights, including copyrights and Intellectual property.</p> <p>Upload of drawings to web based data control system, if required, will be done at the following phase milestones: 100% DD, 100% CD and will be on the basis of a complete set of documents.</p> <p>Further uploads/updates will be charged out as a variation.</p>	<p>Note:</p> <p>These drawings are work in progress and do not represent the complete set of documentation. They are intended to describe the design intent only and are not intended to be used as a tender document.</p> <p>SCALE@A1 1:200@A1, 1:400@A3</p> <p>PRELIMINARY</p> <p>Figured dimensions take precedence to scale readings. Verify all dimensions on site. Report any discrepancies to the Architect for decision before proceeding with the work.</p>	<p>ELENBERG FRASER</p> <p>LEVEL 3, 160 QUEEN STREET MELBOURNE VICTORIA 3000 AUSTRALIA</p> <p>TEL +61 3 9600 2260 FAX +61 3 9600 2266</p> <p>EMAIL: E.COM.AU WWW.E.F.COM.AU</p> <p>ABN 97 556 188 726</p>	<p>Project Title</p> <p>40 LA TROBE STREET</p> <p>Client</p> <p>IN PROPERTY</p>	<p>Drawing Title</p> <p>CROSS SECTION A-A</p> <p>OPTION C</p> <p>Project Number</p> <p>1093</p> <p>Drawing Status</p> <p>TP</p> <p>Drawing Number</p> <p>A500</p> <p>Revision</p> <p>B</p>
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CROSS SECTION B-B

Rev.	Date	Reason for issue
A	29.09.2011	FOR TOWN PLANNING FOR INFORMATION
B	13.12.2011	FOR TOWN PLANNING FOR INFORMATION
B	16.12.2011	FOR TOWN PLANNING FOR INFORMATION

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Project Title: **40 LA TROBE STREET**
 Client: **IN PROPERTY**

Drawing Title: **CROSS SECTION B-B OPTION C**
 Project Number: **1093**
 Drawing Status: **TP**
 Drawing Number: **A501**
 Revision: **B**

DELEGATED PLANNING APPLICATION REPORT

Application number:	TP-2011-471
Applicant:	Argo Pty Ltd
Address:	36-40 La Trobe Street, MELBOURNE
Proposal:	Construction of a multi storey residential building, use of ground level for food and drink premises and waiving of Clause 52.07 Loading and unloading of vehicles.
Date of application:	21 June 2011
Responsible officer:	Katherine Smart

1 SUBJECT SITE AND SURROUNDS

An inspection of the site and surrounding area was undertaken on 22 September 2011.

The subject site is located on the northern side of La Trobe Street. It is bounded by Bell Place to the north and east and La Trobe Street to the south. The site abuts an adjoining property of similar size to the west.

The site is rectangular with a frontage to La Trobe Street of approximately 12.2 metres and depth of approximately 46.7 metres giving a total area of approximately 569 square metres. The site slopes from La Trobe Street to the northern boundary by approximately 2 metres.

The subject site is currently occupied by a two storey "C" graded building. Access to the site is currently provided via Bell Place which is approximately 3.6 metres wide. Bell Place provides vehicle and pedestrian access between La Trobe Street to the south and Mackenzie Street to the north.

East of the subject site across Bell Place is a four level warehouse building which has been converted into residential apartments. Farther east at 333 Exhibition St is "Mantra on the Park" comprising 19 levels. The Australia Post building at no. 315 Exhibition Street comprises 22 levels.

North of the site across Bell Place is no. 9-23 Mackenzie Street with an at grade commercial car park. To the north-west a planning approval TPM-2008-66 has issued for a 32 storey building at 33 Mackenzie Street to be used for 372 dwellings and food and drink premises. Construction is under way.

Abutting the site to the west is a five storey "C" graded brick building built to the eastern and western boundaries. On the corner of Russell Street is the former Police Headquarters which has been redeveloped as the "Concept Blue" development. This residential building comprises 27 levels with a four level podium on the north east corner of the intersection of La Trobe and Russell Streets.

The site is not affected by any easements or restrictive covenants.

2 BACKGROUND AND HISTORY

2.1 Pre-application discussions

There were a number of pre application discussions in relation to the current application.

2.2 Planning Application History

An application was lodged on 22 June 2011 for a 32 level building with a small setback to La Trobe Street. This proposal was advertised and five objections were received. Comments were received from Council's Urban Design Branch raising concern regarding the proposed height and limited setbacks. A meeting was held with the applicant and Council staff and amended plans were submitted 10 October 2011 suggesting two options. Option A made alterations to the wing walls on LaTrobe Street and option B increased the front setback to La Trobe Street and increased the height by 3 additional levels. Option B was preferred as conforming more closely to local policy objectives. These plans were assessed and a decision made at officer level to not support the proposal.

The applicant was made aware of the decision at officer level to refuse the application and formally lodged amended plans 'option C' dated 23 December 2011. These amended plans are considered in this report. The amendments include a 6m tower setback from LaTrobe Street and replacing some parking with apartments to provide activation of the La Trobe Street façade. The height of the building remains at 35 levels (118.5m).

3 PROPOSAL

The proposal is to demolish the existing building and construct a 35 level, 118.5m high residential building with ground level food and drink premises. The building includes one basement level which contains services and car stacker pits.

The ground level has floor to ceiling heights of 6.9 metres and proposes a 78sqm café / bar located on the corner of La Trobe Street and Bell Place, a lobby area, two car stackers / lifts with access from Bell Place and services.

Levels 1-4 propose 58 car spaces, 77 bike spaces and 4 apartments. The car park is fully automated. A one bedroom plus study apartment is located on each level to the La Trobe Street frontage to activate the street frontage. These levels are built to all boundaries.

Levels 5-12 contain 8 apartments per level: 4 x one bedroom, 3 x one bedroom plus study and 1 x two bedroom. The glazing to these levels is set back approximately 2.5m from La Trobe Street with balconies having varying setbacks of zero to 1.0m from Latrobe Street. The apartments are set back approximately 4.1m from Bell Place at the rear with balconies of varying setbacks from 1.6m to 2.6m. The building is built to the western boundary and to the eastern boundary as well except for a 1.4m x 5.8m inset which provides for balconies.

Levels 13-34 contain 8 apartments per floor: 6 x one bedroom apartments and 2 x one bedroom plus study. The glazing line to the apartments which front La Trobe Street are set back approximately 6.1m with balconies of varying setbacks from 3.4m to 4.4m. The apartments are set back approximately 4.1m from Bell Place at the rear with varying balcony setbacks from 1.6m to 2.6m. The building is built to the western boundary and generally to the eastern boundary with an 1.4m x 5.8m inset which provides for a balconies.

Level 35 is set back from the north, east and southern boundaries and contains the communal facilities of a cinema and dining and poker rooms.

The proposed uses are in total, 78sqm bar/café, 164 x one bedroom, 52 x one bedroom plus study and 27 x 2 bedroom apartments (243 apartments in total), 58 car and 77 bike spaces.

The building has an overall height of 118.5m inclusive of roof top plant.

4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme require a planning permit for this proposal:

Clause	Permit Trigger
Mixed Use Zone Clause 32.04	<p>Pursuant to Clause 32.04-1 a permit is required to use part of the land for the purpose of a 'retail premises'.</p> <p>No permit is required to use the land for a dwelling.</p> <p>Pursuant to Clause 32.04-5 a permit is required to construct two or more dwellings on a lot.</p> <p>No permit is required for demolition.</p>
Car Parking Clause 52.06	<p>Schedule to Clause 52.06 'Car Parking' identifies that a parking precinct plan 'Car parking provision for residential development in specific inner city areas of Melbourne' affects the subject site. The Schedule to this Clause specifies a maximum number of car parking spaces 1 space per dwelling. 240 apartments are proposed, therefore the provision of 64 car spaces on site is below the maximum allowed under the schedule and no permit is required.</p>
Bicycle Facilities Clause 52.34	<p>Clause 52.34-2 a permit is required to reduce or waive the standard bicycle parking requirement.</p> <p>Decision guidelines are listed at Clause 52.34-2.</p> <p>The standard bicycle parking requirements are as follows:</p> <ul style="list-style-type: none"> • Dwelling: 1 space/5 dwellings and 1 visitor space/10 dwellings; • Residential Building: 1 space/ 10 lodging rooms and 1 visitor space/10 lodging rooms; • Restaurant: 1/100m² of floor area available to the public and 2 + 1 visitor space/ 100m² of floor area available of the floor area available to the public exceeds 400m². <p>On this basis a total of 1 restaurant bicycle space, 48 residential and 24 visitor bicycle spaces are required. There is no shower/ change room facilities required.</p> <p>The application provides 73 bicycle residential spaces which meets the statutory requirement, therefore no permit is required.</p>
Loading and Unloading of Vehicles (Clause 52.07)	<p>Pursuant to Clause 52.07 a permit is required to reduce or waive the loading and unloading space requirements associated with the manufacture, servicing, storage or sale of goods or materials. The food and drink component triggers a</p>

	<p>planning permit for this requirement. There is no specific requirement for dwellings.</p> <p>No Loading bay has been proposed and therefore a permit is required to waive this requirement.</p>
<p>Licensed Premises Clause 52.27</p>	<p>A permit is required to use land to sell or consume liquor. No specific application has been made, however the plans note a potential bar use at ground level. A permit would be required under this clause for the sale of alcohol.</p>

5 STRATEGIC FRAMEWORK

5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are summarised as follows:

- Clause 11 (Settlement) states that planning is to recognise the need for and contribute towards various outcomes including a high standard of urban design and amenity and energy efficiency. It also requires consideration of various policy guidelines including 'Safer Design Guidelines for Victoria...' and 'Guidelines for Higher Density Residential Development'.
- Clause 15 relates to Built Environment and Heritage.
- Clause 15.01-2, (Urban Design Principles) seeks to achieve outcomes that 'contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties'. It includes relevant design principles for development proposals for non-residential and residential development not covered by Clauses 54 to 56 and references the 'Design Guidelines for Higher Density Residential Development.'
- Clause 18 relates to transport. The objective of Clause 18.02-2 includes encouragement of cycling as a mode of travel.

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

The subject site is located within the 'Central City' and the relevant provisions of the MSS are summarised below.

Table 4 under Clause 21.05 (City Structure and Built Form) relates to Built Form Amenity Principles and states that for areas including the Central City, new buildings should be well spaced and offset to equitably distribute access to outlook and sunlight between towers and to minimise direct overlooking between habitable rooms.

Figure 10 (Built Form Character) shows the subject site within an area where a built form character change is envisaged – substantial change. In addition, figure 10 has the site in an area where; "the design, height and bulk of development should contribute positively to this character" and references Clause 21.05-3 (The Public Environment). Objectives and strategies set out under this clause include references to encouraging excellence in urban design, encouraging detail which engages the eye of the pedestrian, ensuring that the scale, bulk and quality of new development support a high quality public realm, ensuring development minimises adverse wind effects and provides wind protection, maximising solar access and protecting and enhancing the laneway system.

Objectives and strategies relevant to the area include:

- Ensure the design, height and bulk of development in the Docklands, Capital City Zone and parts of the Mixed Use and Business Zones, where a new built form character is envisaged (identified in Figure 10), creates a new but high quality built form character.
- Ensure development in areas where a new built form character is to be created (identified in Figure 10), complement the scale of, and provide a transition to, adjoining low scale buildings in areas where the existing built form character should be maintained.
- To ensure that the height, scale, massing and bulk of new development helps achieve an identified preferred future character and amenity.
- Ensure a high level of on-site amenity for future occupants of new residential developments through the provision of access to daylight, sufficient solar access, privacy, outlook, acoustic amenity and open space, consistent with the Amenity Principles and Preferred Built Form Character relevant to the area.

The vision for the Central City set out in Clause 21.08 includes the following:

'The Central City has grown as a high density inner city residential environment. Excellent construction and effective management of non-residential uses as well as good design of new dwellings in the City has meant that a diverse range of uses can co-exist'.

Figure 12 indicates the subject site as an area "ensure the area provides a lower scale than Hoddle Grid and provides a contrast in scale between the lower scale of Carlton and North Melbourne and the higher scale of the Hoddle Grid.

Relevant land use implementation strategies for the Central City address matters including the following:

Retail, entertainment and the Arts in the Central City

- Encourage a mix of uses at ground level in new developments to support street life and provide pedestrian interest.

Height and scale in the Central City of Melbourne

- Ensure new tall buildings add architectural interest to the city's sky line.
- Ensure that the design of tall buildings in the Central City promotes a human scale at street level especially in narrow lanes, respects the street pattern and provides a context for heritage buildings.

Lanes and arcades

- Protect the built form, character and function of laneways and the laneway system as a significant determinant of Melbourne's built form and distinguish the laneways from other larger Central City streets.

Streetscape

- Ensure development creates a continuous building edge and integrated streetscape.

Pedestrian Amenity

- Provide weather protection along key pedestrian routes and areas where this does not conflict with building or streetscape integrity.
- Ensure that building design enhances the safety of pedestrians, visitors and occupants of buildings.

5.2.2 Local Policies

Clause 22.17 - Urban Design Outside the Capital City Zone

It is policy that “in areas where built form change is substantial, a new and equally attractive environment must be created.”

The subject site is in an area identified in the MSS at Clause 21.05-2 Figure 10 where there is a desire for built form change – substantial change. The Design Objectives and Built Form Outcomes in the Design and Development Overlays also guide the scale and form of development in the creation of a new built form character.

This clause provides specific policy with relation to scale, context, building height and bulk, street level frontages, fronts and backs of buildings, building tops, visible facades and blank walls, pedestrian connection, protection from wind and rain and access and safety in public spaces.

6 ZONE

The subject site is located within the Mixed Use Zone (MUZ). The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
- To encourage residential development that respects the neighbourhood character.

6.1.1 Proposed Planning Scheme Amendment C188

Council has adopted the Central City Built Form Review and is waiting on approval from the Minister for Planning to authorise its exhibition.

This proposal is not currently seriously entertained as a planning scheme amendment though it has been adopted by Council. The Built Form review proposes to include the subject site in the Capital City Zone.

La Trobe Street is categorised as a Primary Street. The proposed control which affects this category transfers across the policies and requirements of the previous Urban Design for the Capital City Zone Policy to this control. Several of these would be relevant to the application if they were in effect.

Bell Place is categorised as a through block connection. The proposed control affecting city laneways would introduce a 40 metre maximum podium height with a 3 metre minimum upper level setback. The rationale is to allow for the development of taller building forms along laneways whilst maintaining a human scale environment along laneway frontages.

In general the review proposes the following built form tower / podium requirements:

Buildings and works must maintain minimum building setbacks above the podium of:

- 6 metres for podiums above primary or secondary streets; and
- 3 metres for podiums above any Lane.

Amendment C188 proposes that a permit can not be granted to reduce the minimum podium setback for buildings and works on a Primary or Secondary Street or a Through-block Lane (as shown on Figure 1).

Buildings and works must maintain a minimum building setback above the podium of:

- 5 metres from boundaries other than street or lane frontage; and
- 10 metres from any other building above podium level.

7 OVERLAYS

The subject site is not affected by any overlays.

8 PARTICULAR PROVISIONS

Schedule to Clause 52.06 'Car Parking' identifies that a parking precinct plan 'Car parking provision for residential development in specific inner city areas of Melbourne' affects the subject site. The Schedule to this Clause specifies a maximum number of car parking spaces. The provision of 64 spaces on site is below the maximum allowed under the schedule; therefore no permit is required.

Clause 52.07 'Loading and Unloading of Vehicles' specifies loading bay requirements. The food and drink component triggers a permit under this clause.

The requirements have not been met; therefore a planning permit is required. A permit may be granted to reduce or waive these requirements if either:

- The land area is insufficient.
- Adequate provision is made for loading and unloading vehicles to the satisfaction of the responsible authority.

Clause 52.34 'Bicycle Facilities' specifies that a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. In residential developments of four or more storeys, 1 space to each 5 dwellings is required for residents, and 1 space to each 10 dwellings for visitors. At only 63sqm, the retail premises does not generate a requirement for bicycle parking.

The proposal provides the statutory requirement; therefore no permit is required.

Clause 52.35 'Urban Context Report and Design Response for Residential Development of Four or More Storeys' requires that an application for a residential development of 4 or more storeys be accompanied by an urban context report and design response.

Clause 52.36 'Integrated Public Transport Planning' requires that where in excess of 60 dwellings are proposed, the application be referred to the Director of Public Transport.

9 GENERAL PROVISIONS

The following particular provisions apply to the application:

Clause 65 'Decision Guidelines' includes the matters set out in Section 60 of the Planning and Environment Act 1987.

Clause 66 'Referral and Notice Provisions' requires:

- an application under Clause 52.36-01 (Integrated Public Transport Planning) must be referred to the Director of Public Transport.

10 PUBLIC NOTIFICATION

It was determined that the proposal may result in material detriment. Notice of the proposal was given by ordinary mail to approximately 700 owners and occupiers of surrounding properties and by posting 1 notice on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

11 OBJECTIONS

The application has received five objections. Three objections came from owners or occupiers of the four-storey residential building at 30-34 Latrobe Street; one from a resident of Clifton Hill concerned to see the preservation of the group of heritage buildings from 30 to 50 Latrobe Street; and one from Melbourne Heritage Action. The grounds of objection are:

- Overlooking and overshadowing of residential properties to the east.
- Carparking podium directly opposite residential apartments, visual impact, noise, fumes and mechanical plant.
- Construction issues in Bell Place.
- Bell Place can not support the proposed volume of traffic.
- The proposal is out of scale with surrounding buildings and the height does not relate to street width. Does not respect adjacent heritage buildings.
- Height and lack of setbacks in addition the fins protrude closer to the residential building.
- Demolition of a "C" graded building and the impact on the streetscape and on the group of 4 "C" graded buildings on LaTrobe Street.

12 CONSULTATION

Meetings were held with the applicant, Councillors and Council officers. Key issues discussed at the meetings related generally to building height and tower setbacks from site boundaries.

13 REFERRALS

13.1 Internal

The application was referred to Urban Design and Engineering Services for comment.

13.1.1 Urban Design

The development is not supported.

Height and Massing

Recommend that the average front setback be increased to 7m to the wall face and 5m to the average balcony face reducing the impact on La Trobe Street and Bell Place.

Tower should be set back 5m from the common (west) side boundary.

Ideally the tower should be set back 3m from Bell Place, however as this would preclude a tower development of the site a zero setback can be supported provided

wind conditions are satisfactory and the other setback recommendations are provided.

Alternatively would support limited setbacks to a height of 60m.

Preference to omit walls flanking balconies above balustrade height resulting in a 'toothed effect.'

Facade Design

Preference for a toothed effect of flanking walls.

Paving treatment of Bell Place requires clarification.

The profiling of the precast concrete on the western elevation will need significant depth and interest.

The eastern elevation relies on fins projecting beyond the boundary to achieve visual interest.

Activation

Improve active street frontage to Bell Place.

Activate levels 1 to 4 by introducing inhabited space to La Trobe Street at levels 1-4 and the laneway frontages at levels 1 and 2 at least.

Car and Bike Parking

Should the car parking be above ground (preference is that it is in basement levels) it should be naturally ventilated.

Pedestrian Safety

All building entry points should be well lit.

ESD

Recommend that ESD report be submitted and that applicant explore opportunities for environmental initiatives.

13.1.2 Engineering Services

Waste Matters

The ground level plan requires updating to reflect the bin system and bins proposed in the waste management plan.

Traffic Engineering

Acceptable that no visitor parking has been provided on site for residents.

The restaurant use generates a requirement of 28 spaces. Given the location, the café is not expected to generate a significant visitor car parking demand and it is therefore acceptable that no visitor parking is required. However it is recommended that two spaces are provided for staff.

The proposal is expected to generate up to 14 vehicle movements in each peak hour. This equates to a traffic generation of less than 1 vehicle movement every 4 minutes in the peak periods, and is considered to be low in engineering terms.

With respect to traffic volumes, the road network surrounding the site is expected to accommodate this increase in traffic.

The Swept Path analysis undertaken by Ratio Consultants illustrates movements in and out of the transfer cabins. It is noted that swept path diagrams require full use of the shared pedestrian zone in addition to multiple manoeuvres.

It is noted that for two cars to pass each other, the full use of the private portion designated as shared pedestrian area is required. No objection is offered in this regard.

Queuing space for three vehicles waiting to use the car stacker transfer cabins is available on Bell Place. There is some concern that this is inadequate and that there is potential for cars to queue out onto La Trobe Street as a result of traffic generated by the proposed development

A further detailed assessment of the car stacker operation is requested to ensure that vehicles can access in a safe and efficient manner and that queuing of vehicles onto La Trobe Street does not take place. This assessment should be provided in conjunction with the manufacturer's specifications in order to be cross-checked.

Bicycle parking

Bicycle Victoria recommends 'Ned Kelly' rails with a minimum offset of 400mm from adjacent walls or obstructions. Several of the bicycle spaces located adjacent to walls on Level 1 are not in accordance with the minimum specifications. A minor redesign of the bicycle parking layout is recommended to ensure that each of the bicycle parking spaces accords with the Bicycle Victoria specifications and enough space is provided to lift and place bicycles onto the rails.

Bicycle parking numbers are acceptable.

Loading

The proposed cafe floor area of 85m² generates a requirement for 27.4 m² of on-site loading area.

Observations on-site by Engineering Services Consultant Cardno indicate that there is limited provision for loading adjacent to the site along La Trobe Street. Reference to the applicant's traffic report by Ratio Consultants indicates that loading needs at the site generated by the current use as an education centre have been met by on-street facilities for a number of years.

The proposed cafe occupies a smaller area than the existing education centre, and it is anticipated that a reduced loading requirement will be generated by the café, which can continue to be accommodated by on-street parking facilities adjacent to the site. It is therefore considered that no on-site loading provision for the café is justified.

The applicant should be advised however that Council will not necessarily alter existing parking facilities to cater for the developments' shortfall. Any issues that arise in this regard will be for the applicant to resolve.

13.2 External

The application was referred externally to the Department of Transport as the development includes more than 60 dwellings. A letter received in response offers no objection to the grant of a permit.

14 ASSESSMENT

The application seeks approval for the demolition of the existing building, the construction of a multi storey building. The key issues for consideration in the

assessment of this application are design and built form, including height, projections and lack of setbacks.

14.1 Land Use

The proposal seeks approval for use of the site as apartments and a food and drink premises.

The proposed mix of uses on the site is consistent with the strategic aims for this precinct. The incorporation of non-residential uses at ground floor is appropriate.

The plan notes that the area may be used as a café or bar, both of these uses are Section 2 Uses in the Mixed Use Zone, given the proximity to similar uses they may be appropriate the area. However consideration needs to be given to the amenity impacts of these uses including proposed operating hours and serving of alcohol in respect to Clause 22.27.

Given that a bar implies the sale of alcohol under a general licence, with the limited information given as part of this application it is appropriate that if a permit were to issue that the bar use be deleted.

In this location it would be appropriate for a restaurant / café to operate between 7am and 9pm, with any additional hours requiring an amendment to the permit.

Given that residences will be located directly above the premises, it is not considered appropriate at this time to extend the operating hours beyond 9pm as a tenant has not been secured nor are operation details known. If a permit were to issue this could be addressed by condition.

Should a permit issue for the buildings and works a separate planning permit would be required under Clause 52.27 for the sale of liquor which would address issues relating to hours of operation, number of patrons, waste arrangements, etc.

14.2 Demolition

There are currently no permit triggers for the demolition of this building. Concern has been raised by objectors regarding the demolition of this "C" graded building and the implication for the remaining three graded buildings and heritage streetscape in this section of LaTrobe Street. Council officers are investigating possible protection of these buildings, but at this stage there is no planning ground on which such an objection can be sustained.

14.3 Design and Built Form

The standard model for developing taller buildings in the Capital City Zone is based on a 35-40 metre high podium with the tower element set back at least 10 metres from street frontages.

Whilst the subject site is currently located within a Mixed Use Zone, the site is identified as being located in the 'central city' in the MSS and is proposed to be included in the Capital City Zone as part of the built form review (Amendment C188).

As the site is currently located outside the CCZ, the local policy at Clause 22.17 applies. This clause has the following policy basis:

'In areas where built form change is more substantial, a new and equally attractive environment must be created. Clause 21.05-2 and Figure 10 of the Municipal Strategic Statement identify areas where there is a desire for built form change and a preferred new built form character. The Design Objectives and Built Form Outcomes in the Design and Development Overlays also

guide the scale and form of development in the creation of a new built form character. ‘

The following policy is relevant to this proposal:

‘Scale and height

In areas where the desire for built form change has been identified, the scale of new development is encouraged to respond to the scale of the emerging preferred new built form.’

The application seeks approval for the construction of a multi storey residential tower with an overall height of 118.5 metres.

The immediate adjoining buildings are two to five storeys. However the following towers have been built or have current approvals in the surrounding area:

- Construction under way for 32 levels at 33 Mackenzie Street to the north west of the site
- Permit issued for 23 levels at 43 Mackenzie Street to the north west of the site
- Permit issued for 25 levels at 61 Mackenzie Street to the north west of the site
- Existing 19 levels at 333 Exhibition Street (Mantra on the Park)
- Existing 27 levels 68 at Latrobe Street (Concept Blue tower)
- Existing 15 levels at 334 Russell Street (part of the Concept Blue development)
- Existing 22 levels at 95 Latrobe Street (Australia Post Building)

The proposed tower is taller than all of the nearby towers developed or approved. Several of these towers are also on corner allotments, providing greater design freedom and less impact on nearby buildings. The land size of the subject site is much smaller than the sites of adjoining tower developments, resulting in a development of higher plot ratio and greater impact on adjacent properties than nearby examples.

The building is proposed to be built with no setbacks to the side boundary to the west or to Bell Place to the east. There is a rear setback onto Bell place to the north of 4.1 metres, but with balconies projecting forward of this.

The lack of setbacks combined with proposed fin projections over Bell Place to the east results in an overly dominating built form to the laneway. The lack of setback to the west may compromise development opportunities on the adjacent site.

To reduce these negative impacts it was recommended at pre-application stage and during the planning application process that the applicant introduce setbacks.

Tower separation

If the adjoining property to the west is built with a similar footprint there will be no space between the buildings, resulting in a wall of fabric which is in conflict with Clause 21.05 of the MSS which states that:

‘new buildings should be well spaced and offset to equitably distribute access to outlook and sunlight between towers...’

Built form Guidelines for the Capital City Zone indicate a 24 m tower separation to achieve the above requirement. However, it is recognised that this is not always achievable and in response to this permits have issued allowing a minimum 5m setback to adjacent sites, resulting in a minimum 10m setback between towers. The Capital City Built Form Review supports the reduction in spacing under some circumstances.

In addition to the above, Local Policy Clause 22.17 *Urban Design Outside the Capital City Zone* has policy relating to context which states:

'In areas where the desire for built form change has been identified, new buildings and works should consider the potential for other development to occur in the immediate environment and respect the ability for surrounding sites to be at least equally developed.'

A zero setback to the western common boundary would not achieve equitable development potential for the smaller sites along La Trobe Street.

Should the adjoining building to the west be developed with a tower that abuts the common boundary, the same argument will occur in relation to the setback requirement of its western boundary, unless contrary to policy there is an acceptance that an unbroken wall of buildings is an appropriate built form outcome.

In relation to tower separation along the eastern boundary, Bell Place is 3.6m wide and providing a 3m setback from the lane means that if the site to the east is developed with a tower, a 3m setback on that site above podium height would provide a 9.6m separation which is slightly less than the minimum but would achieve a better outcome in respect to outlook, sunlight, privacy and the lane-scape than what is proposed.

Facades

Concern has been raised in regard to the uninhabited podium (car parking) levels. To provide activation, it is recommended that a 'skin' of apartments be applied to these elevations.

Further details of the proposed projections are required.

Internal Amenity

The building provides mainly for relatively small one bedroom apartments. A number of apartments per floor rely on borrowed light for bedrooms.

All of the apartments from level 5 up have access to varying sized balconies.

Wind

The wind tunnel report prepared in relation to the original proposal, with a reduced setback to La Trobe Street, indicates that the wind conditions in the streetscapes surrounding 40 La Trobe Street would be within the criterion for walking comfort for all wind directions.

Car Parking, Bicycle Facilities & Engineering Issues

Council's Traffic Engineers have not raised any major concerns with the vehicle numbers nor the access and parking arrangements. Standard access and carparking layout conditions are suggested.

Projections and street trees

A street tree is located adjacent to the subject site and will require protection during construction and further details of any projections onto La Trobe Street will be required should a permit issue.

Environmental Sustainability

The applicant has indicated that the apartments will rate an average of 7 stars which is in excess of the BCA. The development includes a number of ESD initiatives.

14.4 Conclusion

The proposal is inconsistent with the relevant sections of the Melbourne Planning Scheme with respect to the lack of setbacks provided, the height of the building and the projections proposed. It is considered to be an over-development of the site and may compromise development opportunities on adjacent sites, particularly the site to the immediate east and west.

15 RECOMMENDATION

That a Refusal to Grant a Permit be issued with the following reasons for refusal:

1. The proposal by virtue of its height, projections and lack of setbacks will have an overbearing impact upon the public realm, contrary to relevant provisions of the Melbourne Planning scheme, including Clauses 21.05. 21.08-1 and 22.17.
2. The proposal by virtue of its height, projections and lack of setbacks will have an adverse impact on the development potential of adjoining land and is contrary to relevant provisions of the Melbourne Planning scheme, including Clauses 21.05. 21.08-1 and 22.17.
3. The proposal by virtue of its lack of activation to the podium (levels 1 - 4) detracts from La Trobe Street and Bell Place and would be contrary to Clause 22.17 (Urban Design Outside the Capital City Zone) and of the Melbourne Planning Scheme.
4. The proposal by virtue of its height, lack of setbacks and extent of projections represents and overdevelopment of the site and is contrary to the proper and orderly planning of the area.

The Lord Mayor, Deputy Lord Mayor and Councillors were originally notified of the above recommendation on 25 November 2011.

The matter was called in to the Future Melbourne Committee at the request of Cr Louey and the applicant then subsequently lodged amended plans on 23 December 2011. The Council officer position on the application has not changed as a result of the amended plans.

Katherine Smart

Planning Officer

16 DECISION

The signature and date below confirms that the Lord Mayor, Deputy Lord Mayor and Councillors affirmed this recommendation as the Council's decision.

Signature:

Date affirmed:

Katherine Smart

Planning Officer