

Report to the Future Melbourne Committee

Agenda item 6.3

Planning Permit Application: TP-2020-570 165-167 Exhibition Street, Melbourne

13 April 2021

Presenter: Larry Parsons, Practice Leader Land Use and Development

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of an application for partial demolition, buildings and works, and waiver in bicycle parking requirement for a development at 165-167 Exhibition Street, Melbourne (refer to Attachment 2, Locality Plan).
2. The applicant is URPS acting on behalf of The Lee Superannuation Fund (the owner). The architect is Piccolo Architecture.
3. The site is located within the Capital City Zone (CCZ1) Outside the Retail Core and is affected by the Heritage Overlay Schedule 507 (HO507), Parking Overlay Schedule 1 (PO1), the Design and Development Overlay Schedules 1 (DDO1), 2 (DDO2), and 4 (DDO4)
4. The proposal seeks approval for partial demolition of the rear of the existing 'C' graded building and buildings and works which comprise of a three storey extension to the rear including roof terrace. The site will be utilised as a 'Restaurant' which is nested under 'Retail Premise', which is a section 1 use in the Capital City Zone.
5. Public notice of the proposal has been undertaken and a total of 28 objections, inclusive of three duplicates, have been received.

Key issues

6. Key issues for consideration relate to waiver of bicycle spaces, the proposed extent of demolition to the heritage place, and appropriateness of proposed extension having regard to the design objectives and built form controls of the Heritage Overlay and Design and Development Overlay Schedules 1, 2 and 4.
7. The extension is visually recessive and displays high quality architecture and design. It will sit comfortably in the streetscape and will not unreasonably dominate the heritage place or broader heritage precinct, subject to conditions in the recommendation. These conditions include setting back the rooftop balustrade and pergola frame from the street façade. The alterations and additions to the existing building support its adaptive reuse and provide an attractive, pedestrian oriented ground floor frontage
8. The waiver of bicycle spaces is considered appropriate in this location due to high public transport accessibility and availability of bicycle hoops in the immediate surrounds.

Recommendation from management

9. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit subject to the conditions outlined in the Delegate Report (refer Attachment 4 of the report from management).

Attachments:

1. Supporting attachment (Page 2 of 34)
2. Locality Plan (Page 3 of 34)
3. Plans (Page 4 of 34)
4. Delegate Report (Page 12 of 34)

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 provide that the responsible authority must give the applicant and each objector 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 VCAT for a review of the decision or, if an application for review is made, until the application is determined by the VCAT.

Finance

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

Conflict of interest

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

Health and Safety

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

Stakeholder consultation

6. Public notice of the application has been undertaken to surrounding owners and occupiers, pursuant to Section 52 of the Act.

Relation to Council policy

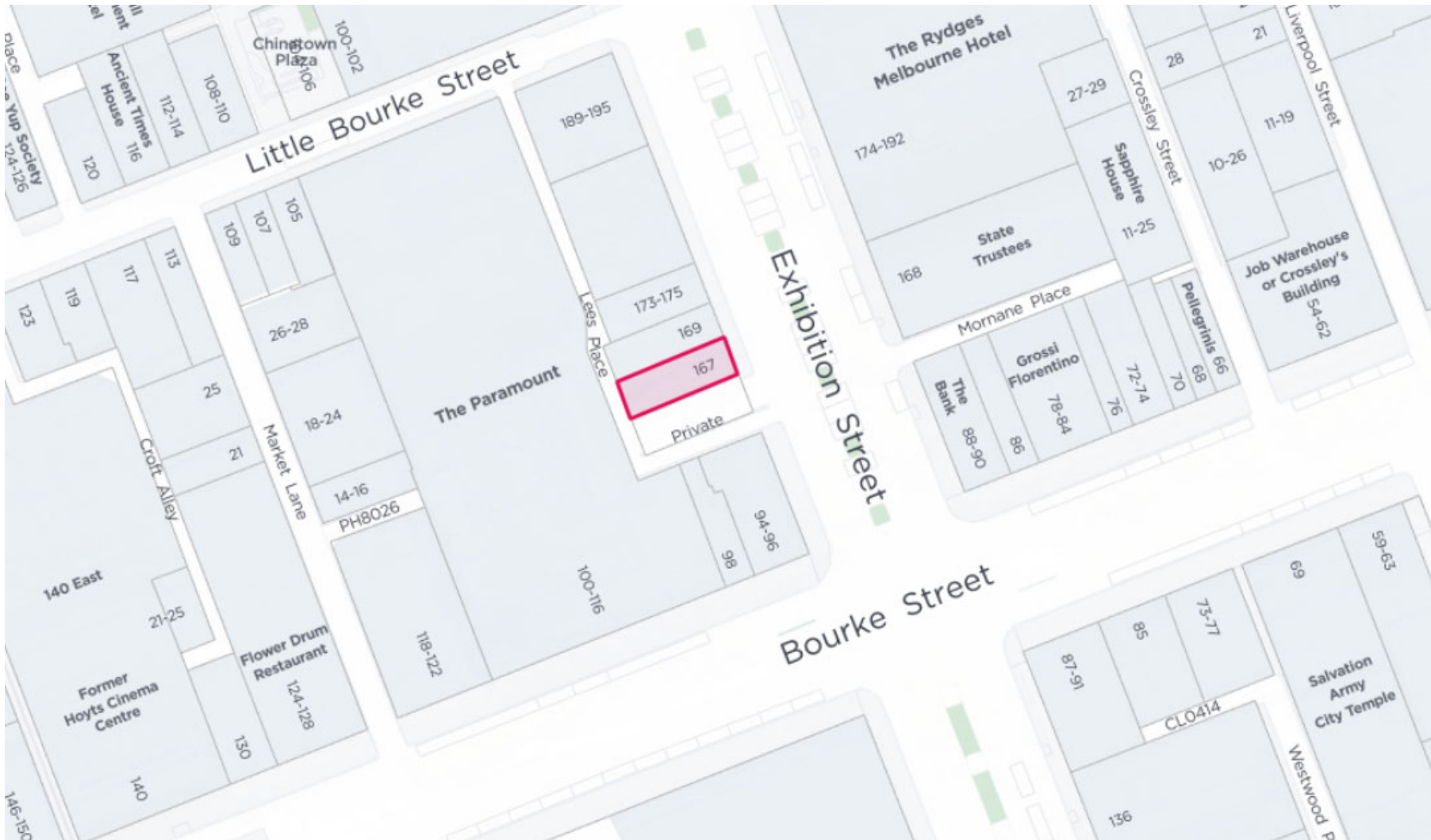
7. Relevant Council policies are discussed in the attached Delegate Report (refer Attachment 4)

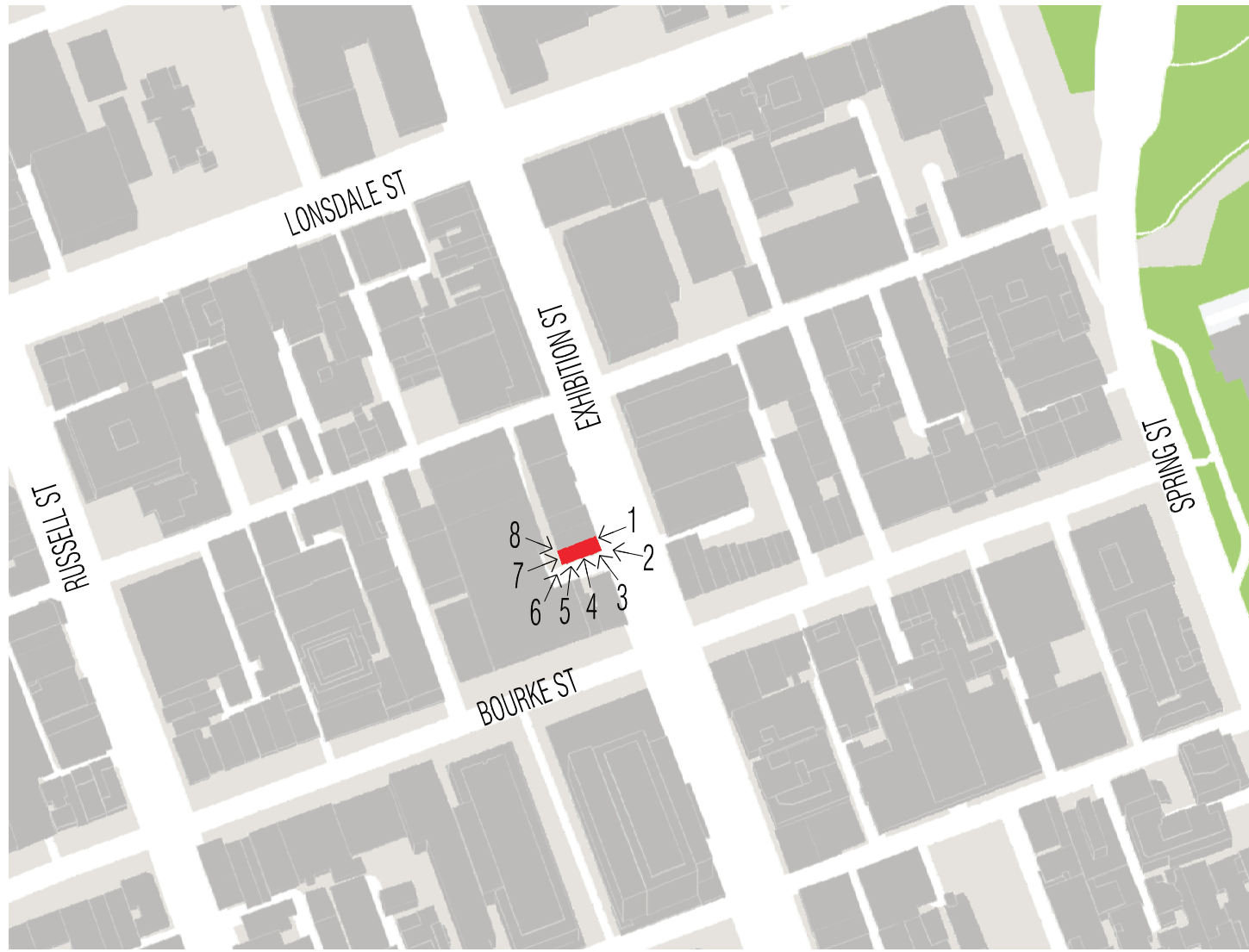
Environmental sustainability

8. The submitted ESD Report complies with policy and will be enforced through permit conditions.

Locality Plan

165-167 Exhibition Street, Melbourne





LOCATION PLAN

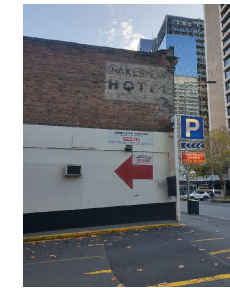
LEGEND:



VIEW 1 - EXHIBITION ST



VIEW 2 - EXHIBITION ST



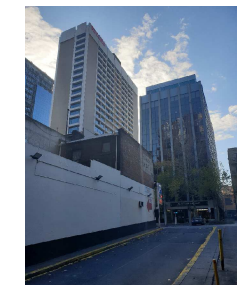
VIEW 3 - LEES PLACE



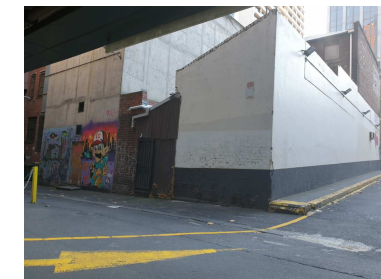
VIEW 4 - LEES PLACE



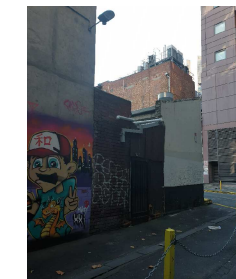
VIEW 5 - LEES PLACE



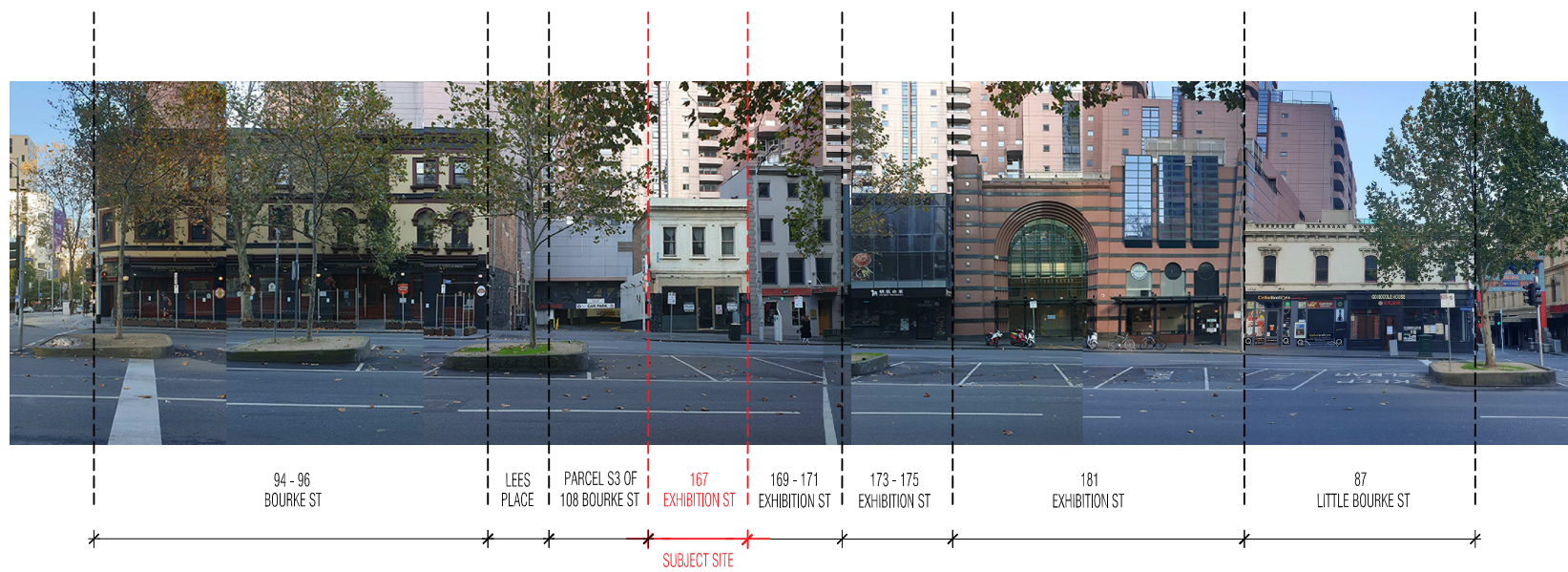
VIEW 6 - LEES PLACE



VIEW 7 - LEES PLACE



VIEW 8 - LEES PLACE



EXISTING STREETScape - EXHIBITION STREET

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REV	DATE	DESCRIPTION
A	AUG. 2020	TOWN PLANNING APPLICATION

TOWN PLANNING
ISSUED FOR

2 STEPHENSON STREET CREMORNE
VICTORIA 3121 AUSTRALIA
INFO@PICCOLOARCHITECTURE.COM
WWW.PICCOLOARCHITECTURE.COM

1:100
SCALE

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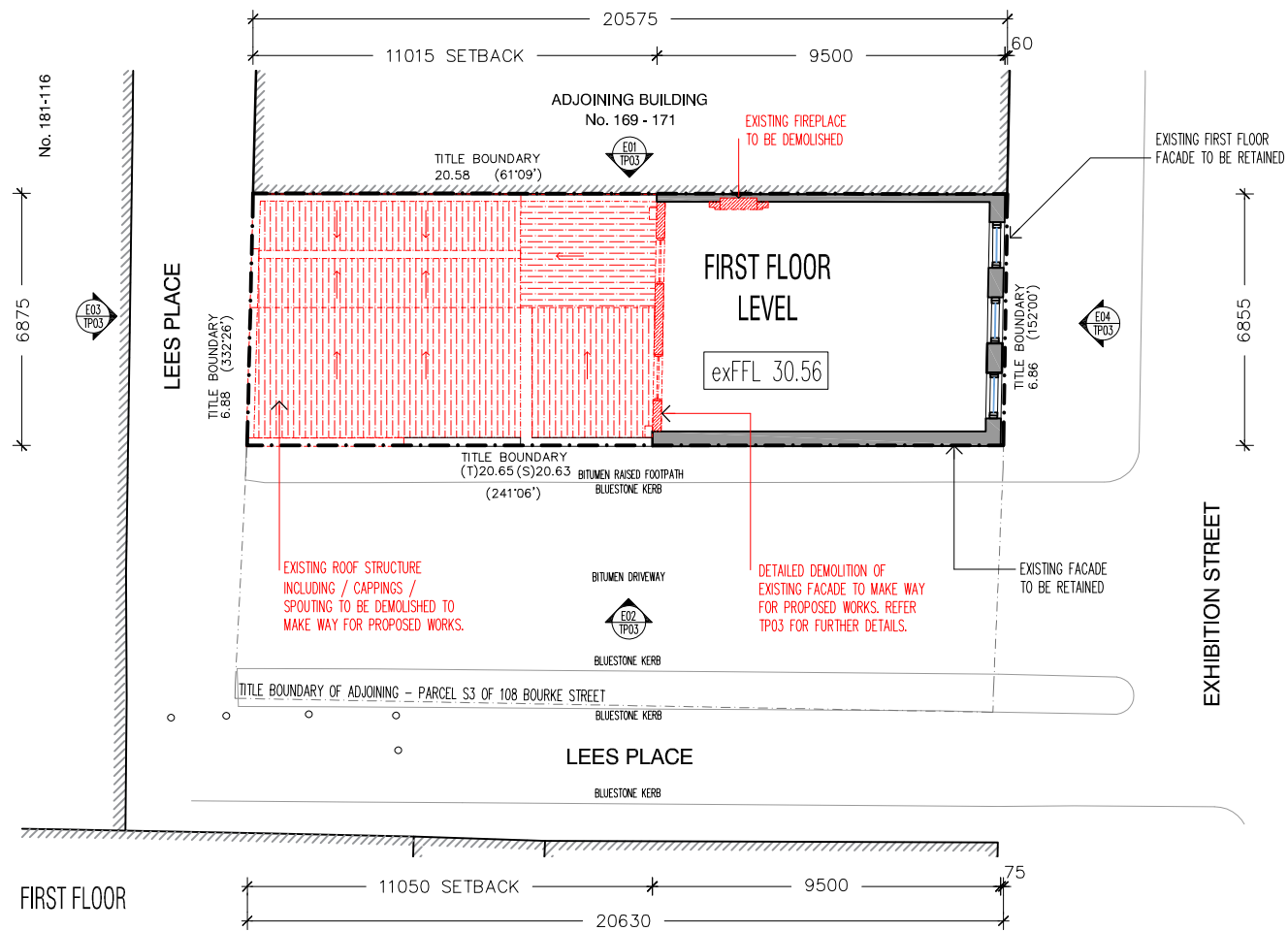
EXHIBITION STREET
167 EXHIBITION ST
MELBOURNE CBD



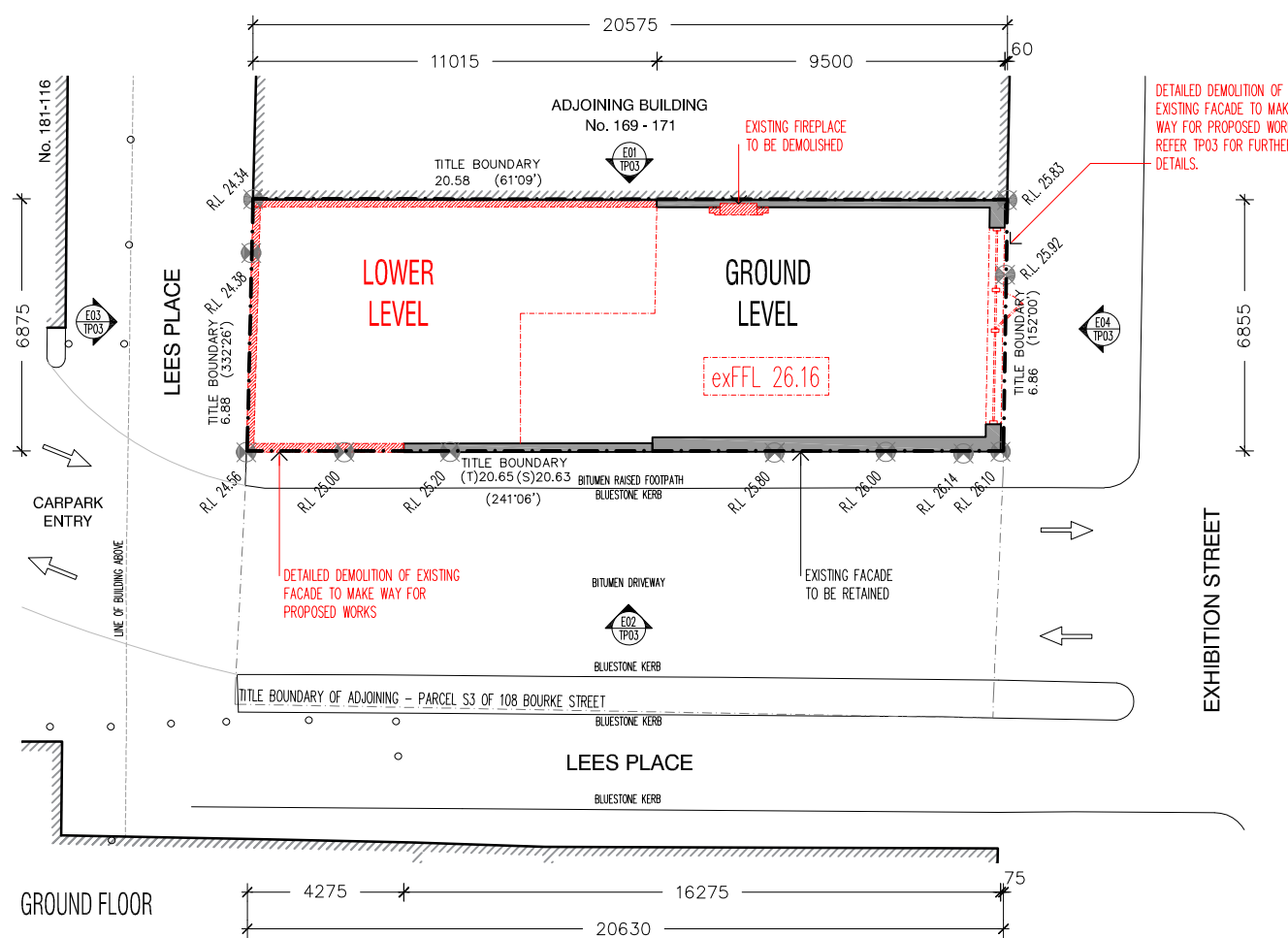
NTS
191016
16-Oct-20

SITE LOCATION PLAN

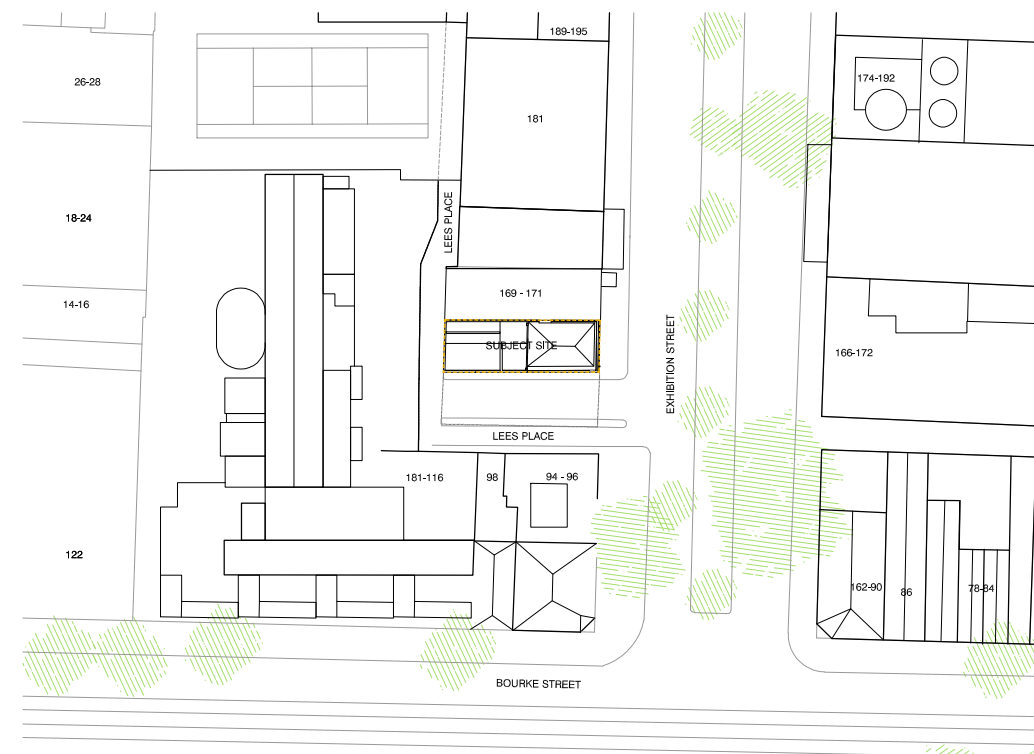
TP01 A



FIRST FLOOR



GROUND FLOOR



SITE PLAN
1:1000

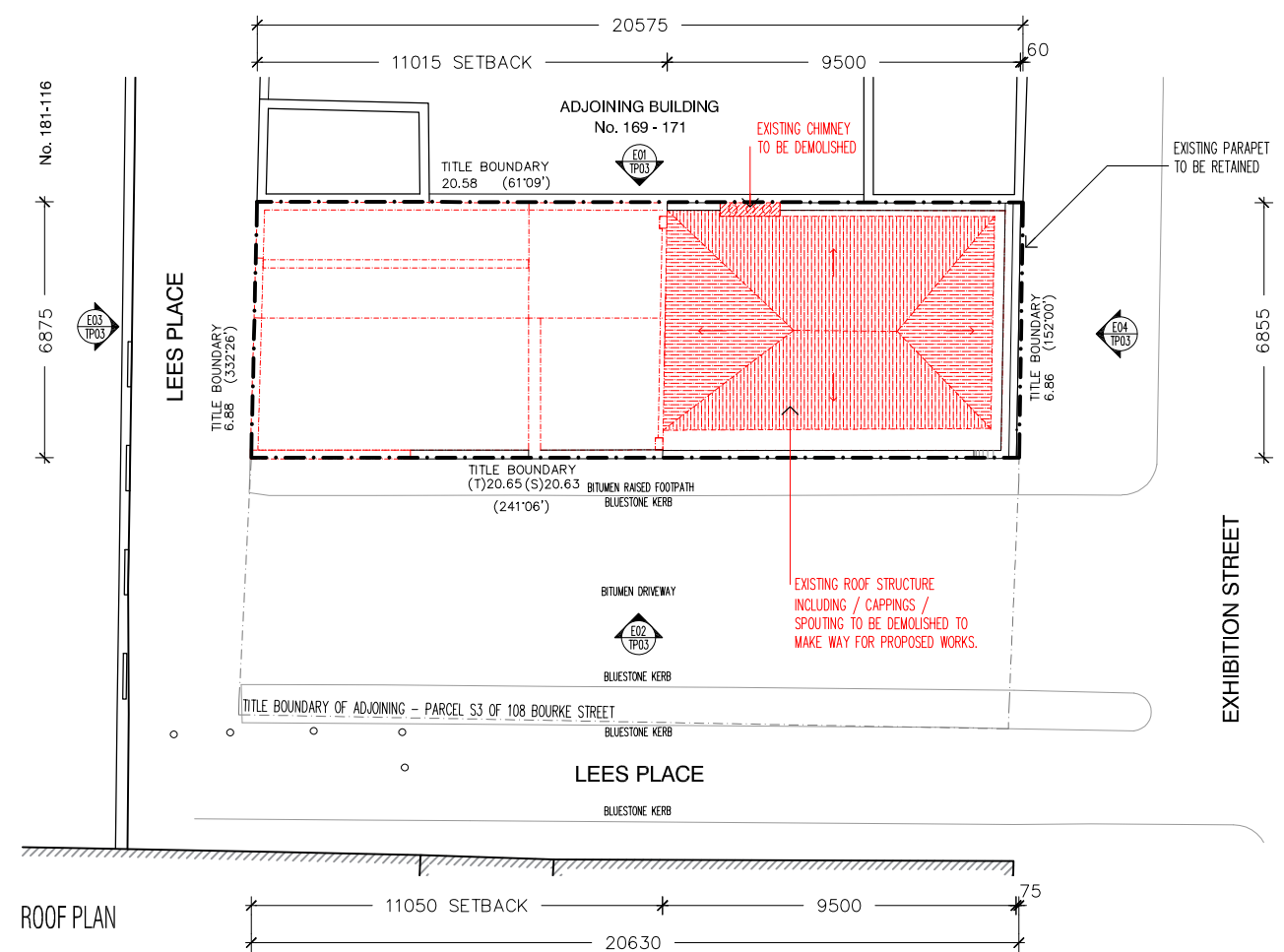
DESCRIPTION:

THE SUBJECT PROPERTY IS LOCATED TO THE WESTERN END OF EXHIBITION STREET IN MELBOURNE CBD. THE BUILDING IS LOCATED WITHIN A CAPITAL CITY ZONE (CCZ1) AFFECTED BY A DESIGN DEVELOPMENT OVERLAY (DDO), HERITAGE OVERLAY (HO) AND A PARKING OVERLAY (PO)

THE LOT HAS A PRIMARY STREET FRONTAGE OF 6.85 METRES TO EXHIBITION STREET AND AN AREA OF 141.5 SQM. THE EXISTING TWO STOREY BUILDING ON THE LOT SHARES A PARTY WALL WITH ITS NEIGHBOUR TO THE NORTH @ 169-171 EXHIBITION STREET.

BOTH ITS SOUTHERN AND WESTERN BOUNDARIES ARE BORDERED BY LEES PLACE, AND HAVE A TOTAL STREET FRONTAGE OF 20.6M AND 6.85M RESPECTIVELY.

THE PROPOSAL SEEKS TO DEMOLISH THE REAR OF THE EXISTING BUILDING TO MAKE WAY FOR CONTEMPORARY FIRST FLOOR EXTENSION AND ROOF TERRACE.



ROOF PLAN

LEGEND:

- EXISTING TO BE RETAINED
- EXISTING TO BE DEMOLISHED

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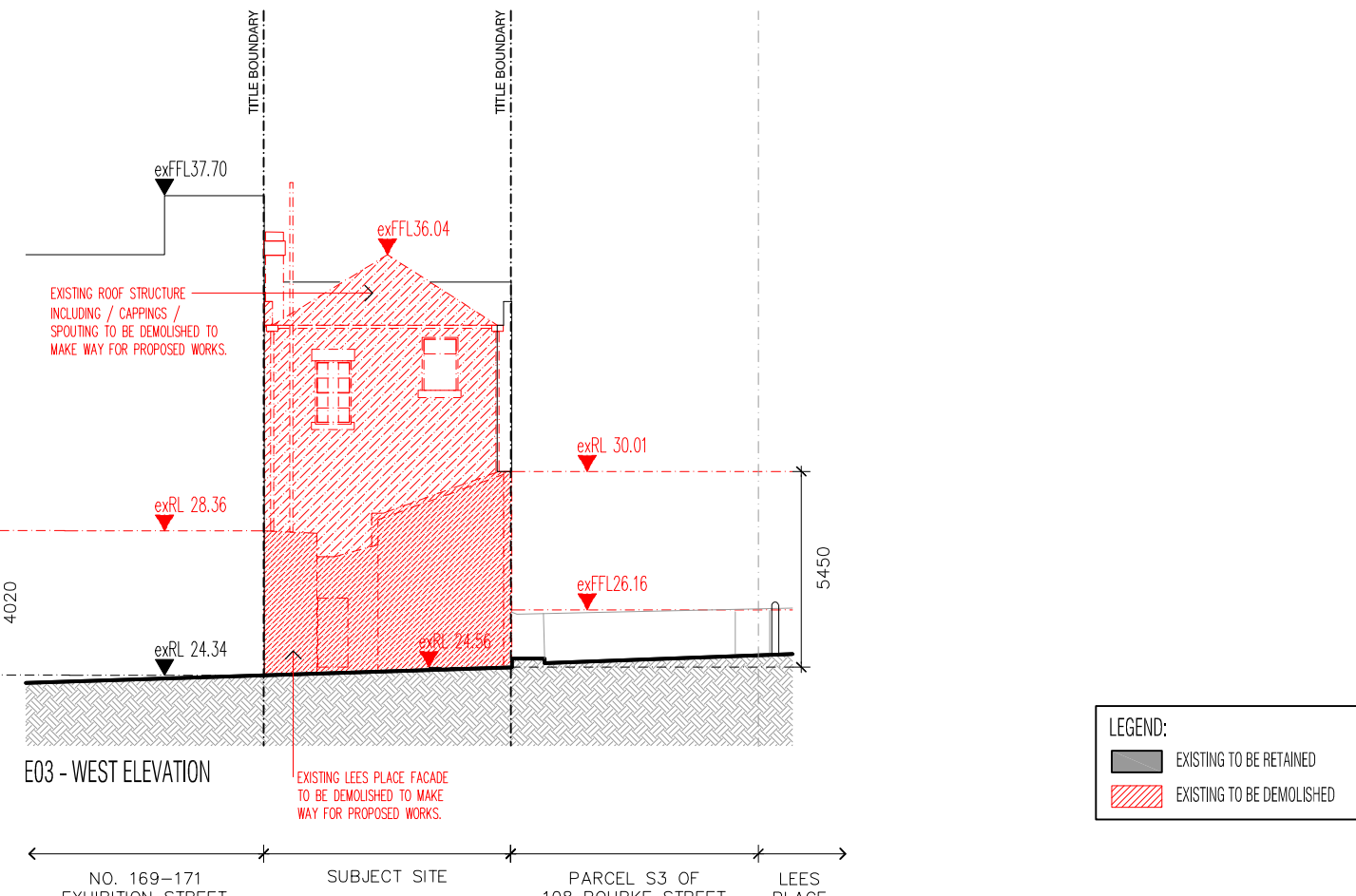
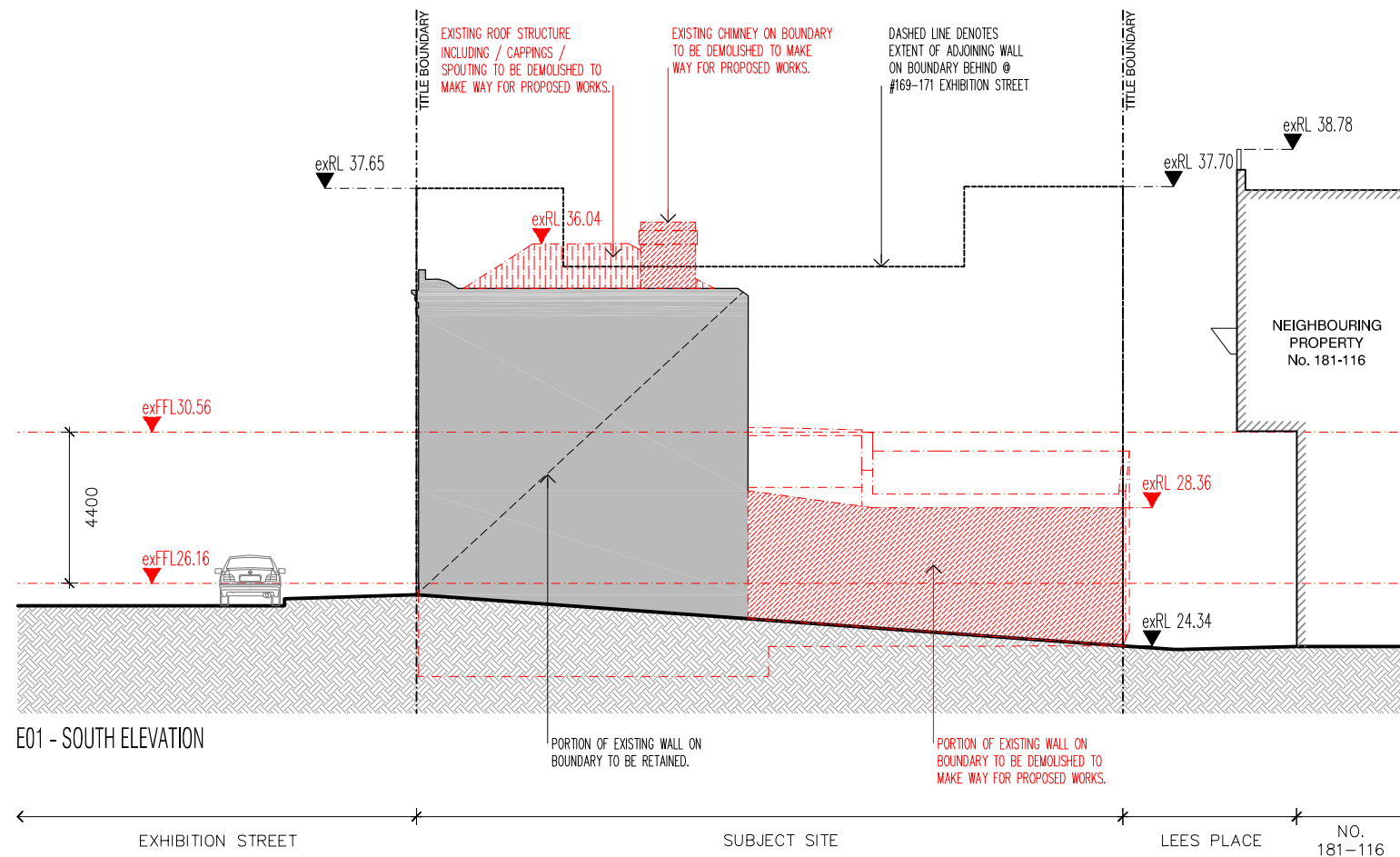
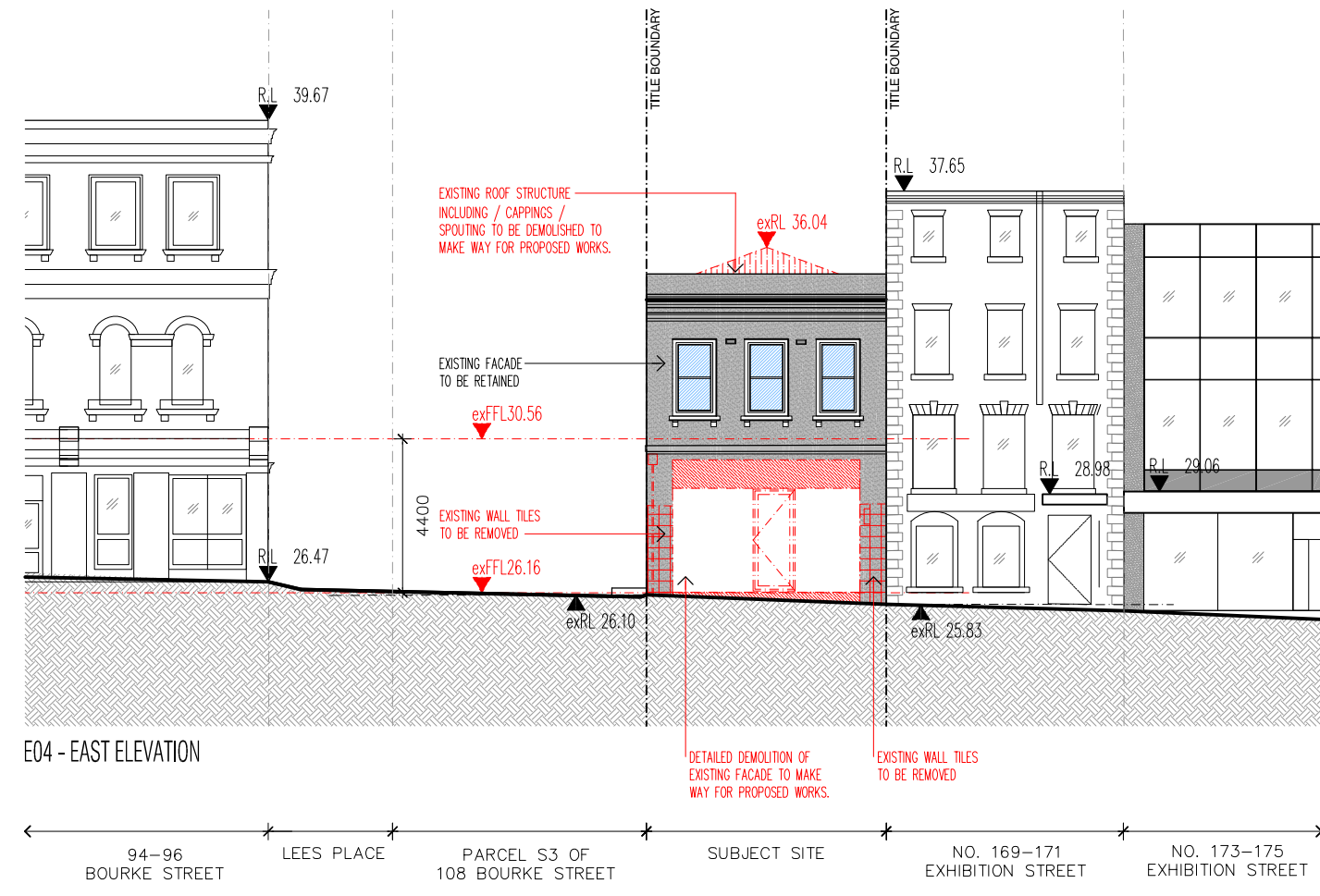
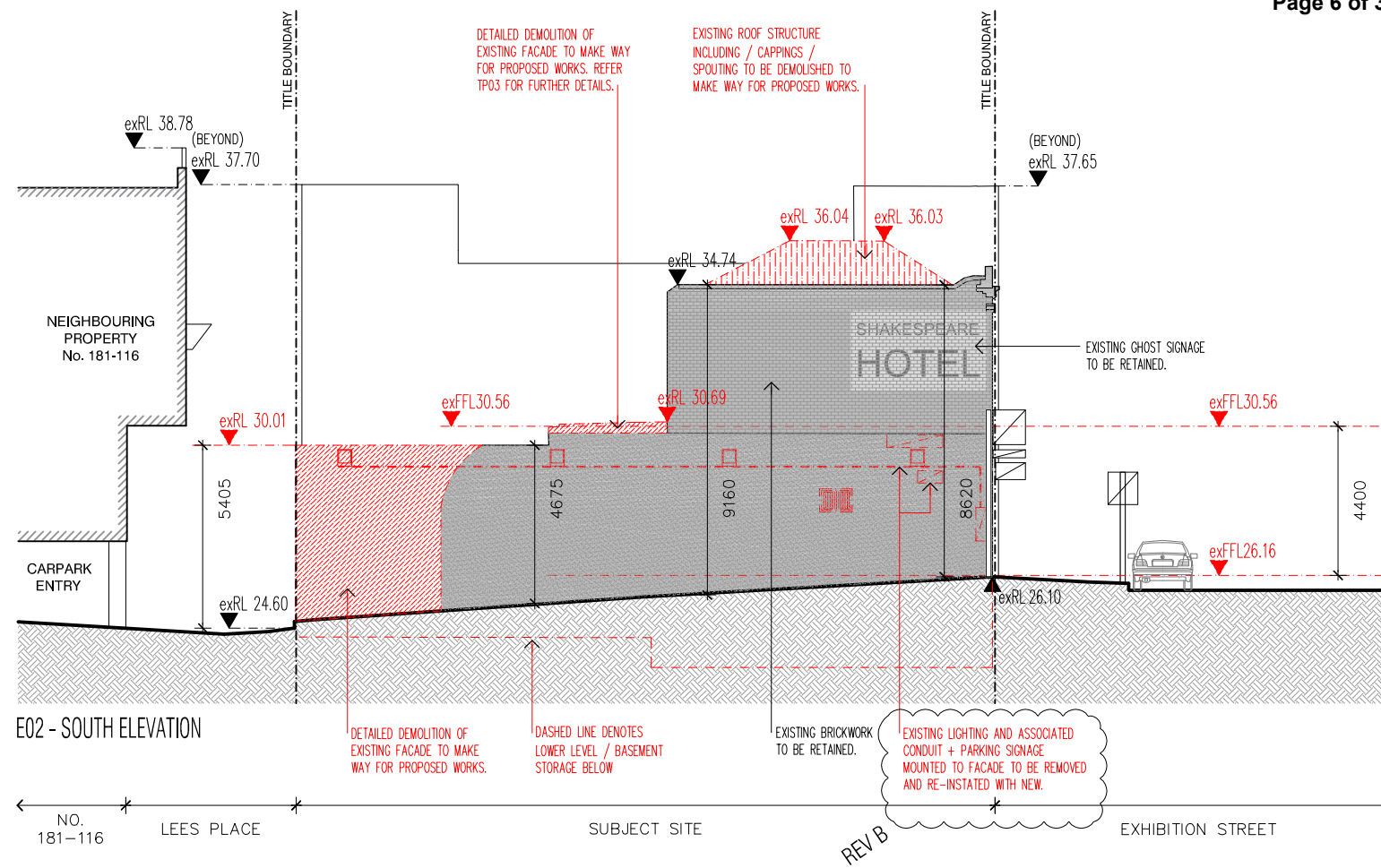
PICCOLO
ARCHITECTURE

EXHIBITION STREET
167 EXHIBITION ST
MELBOURNE CBD

1:200@A3
191016
16-Oct-20

EXISTING CONDITIONS -
PLAN

TP02 A



LEGEND:

- EXISTING TO BE RETAINED
- EXISTING TO BE DEMOLISHED

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191016
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EXISTING CONDITIONS -
ELEVATIONS

TP03 B



EXISTING STREETSCAPE ELEVATION



PROPOSED STREETSCAPE ELEVATION

LEGEND:

- EXISTING TO BE RETAINED
- EXISTING TO BE DEMOLISHED
- STREET WALL PROFILE FACING EXHIBITION STREET

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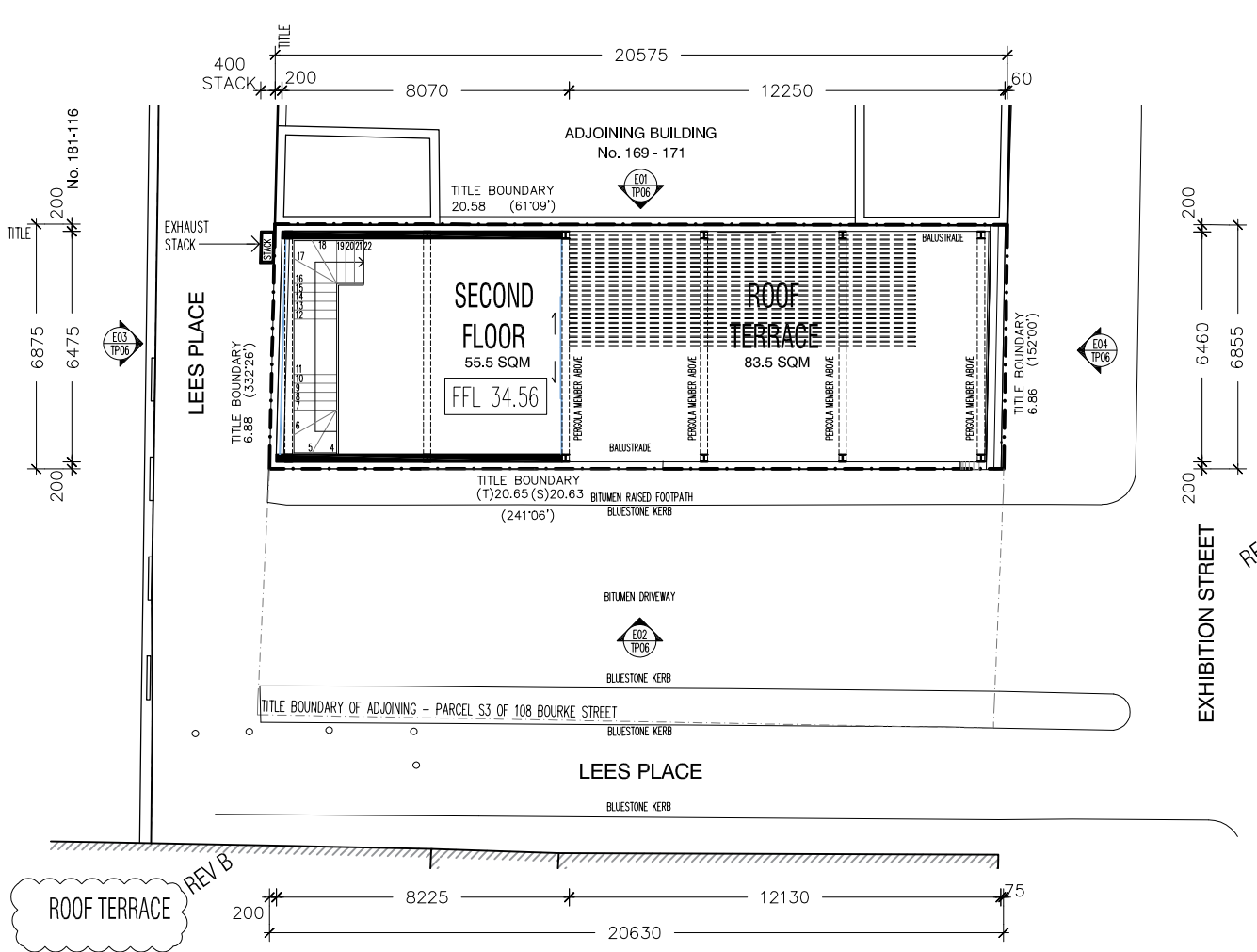
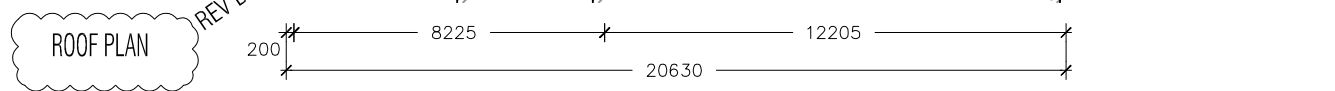
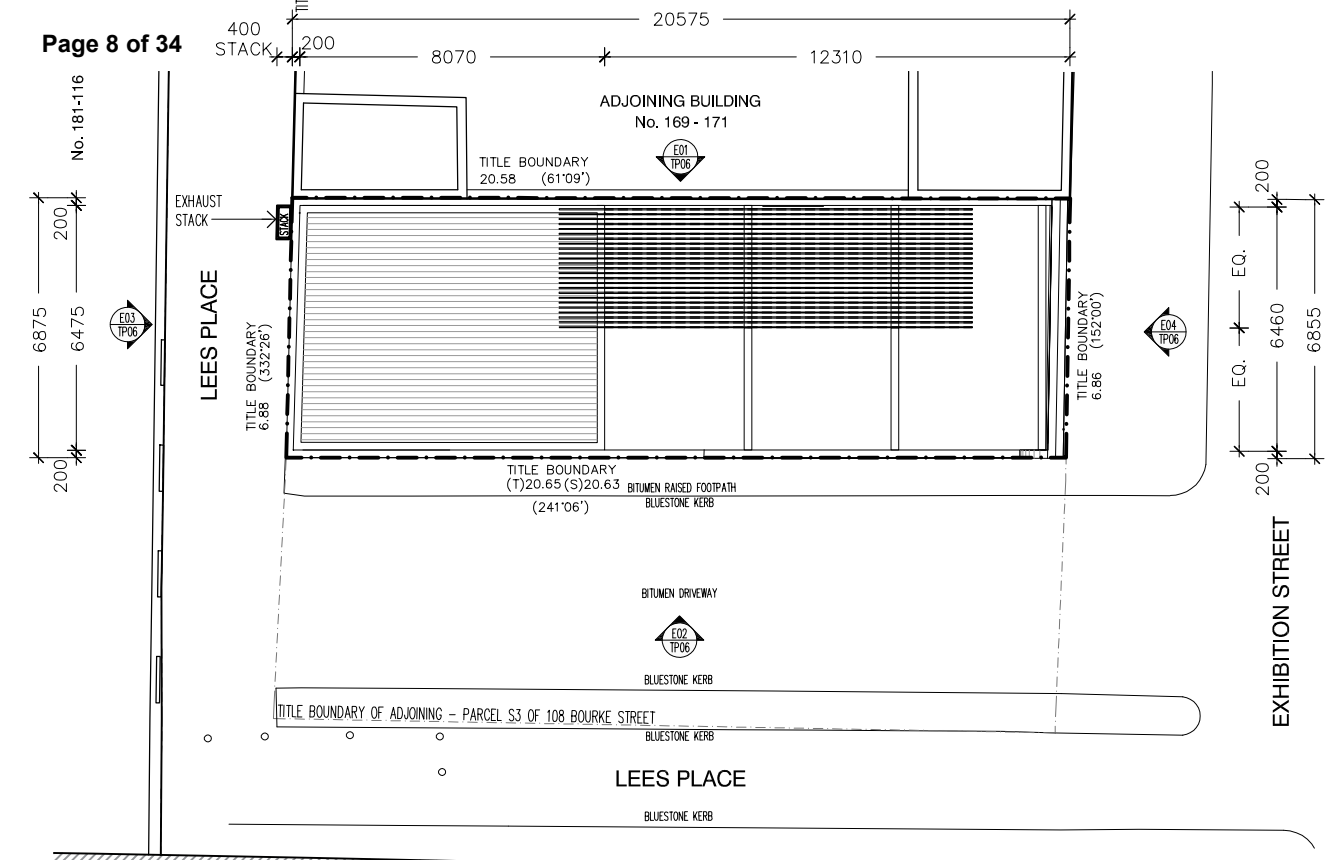
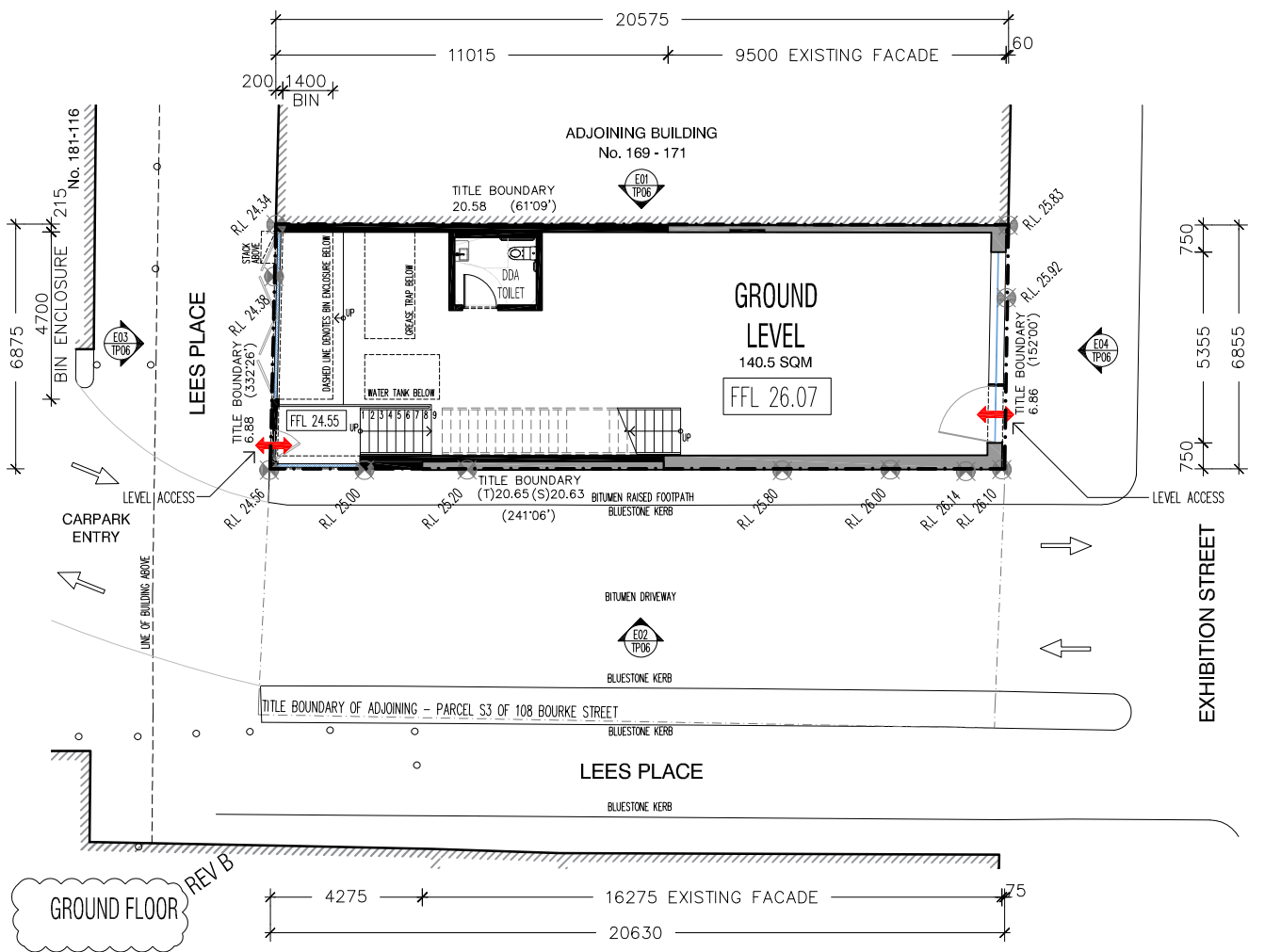
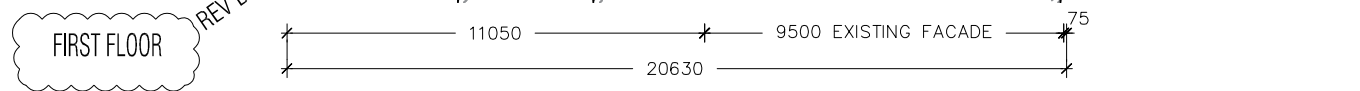
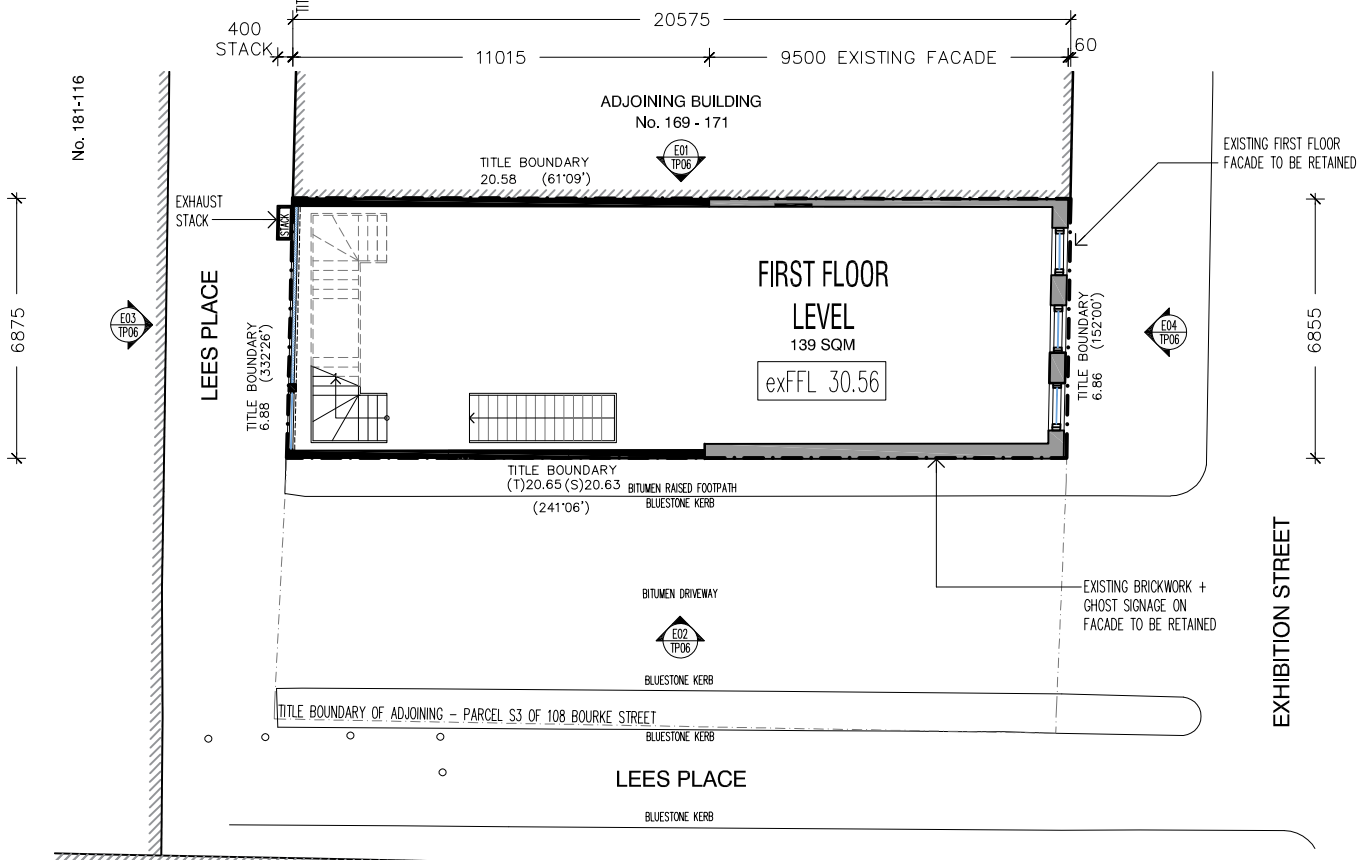
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EXISTING + PROPOSED
STREETSCAPES

TP04 B



AREA SCHEDULE:

SITE AREA:	141.5 SQ.M
EXISTING BUILDING:	
- GROUND FLOOR:	141.5 SQ.M
- FIRST FLOOR:	65.5 SQ.M
TOTAL:	207 SQ.M
PROPOSED BUILDING:	
- GROUND FLOOR:	141.5 SQ.M
- FIRST FLOOR:	141.5 SQ.M
- SECOND FLOOR / ROOF TOP:	141.5 SQ.M
- SECOND FLOOR:	57 SQ.M
- ROOF TERRACE:	84.5 SQ.M
TOTAL:	424.5 SQ.M

LEGEND:

	EXISTING TO BE RETAINED
	PROPOSED NEW STRUCTURE

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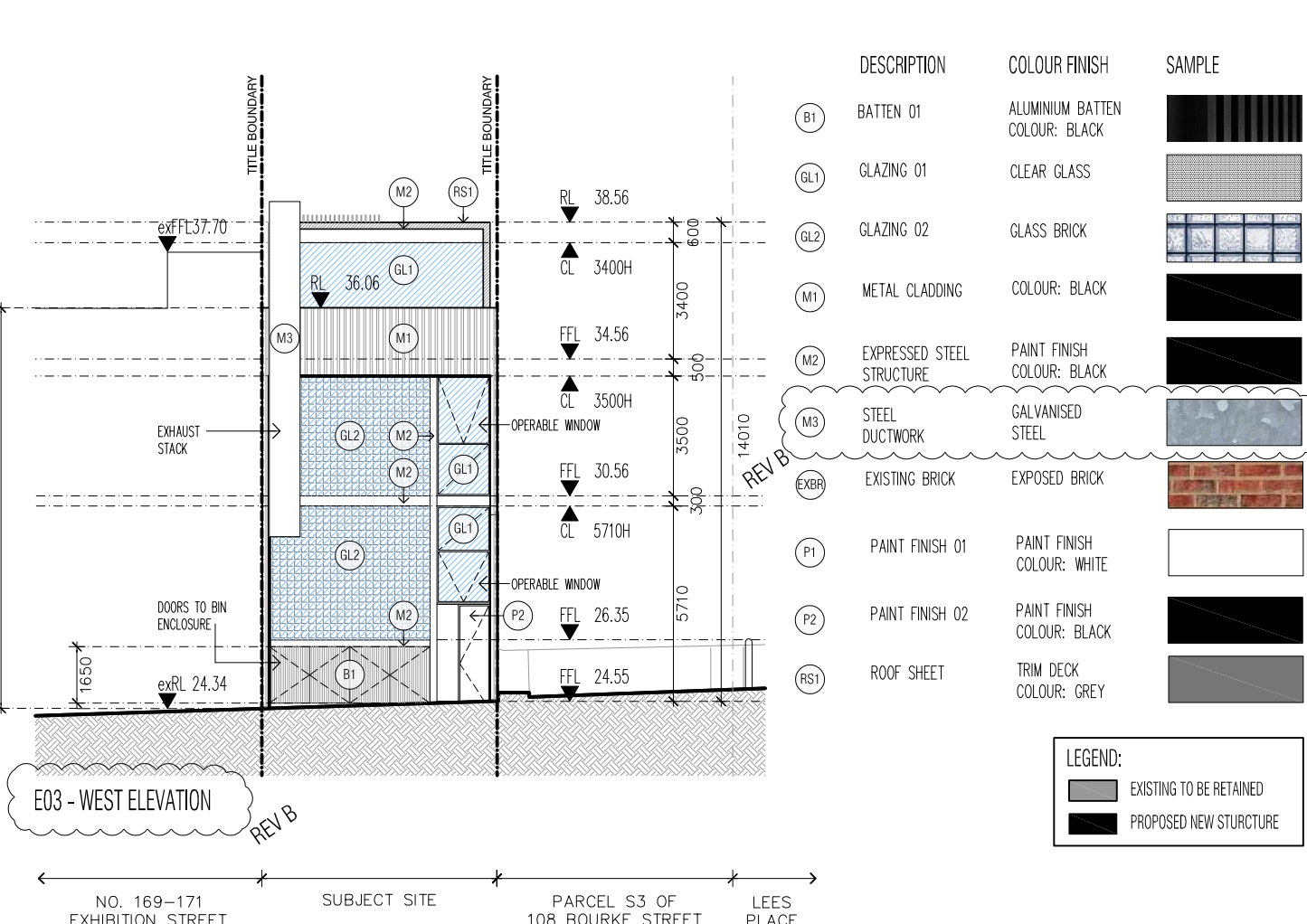
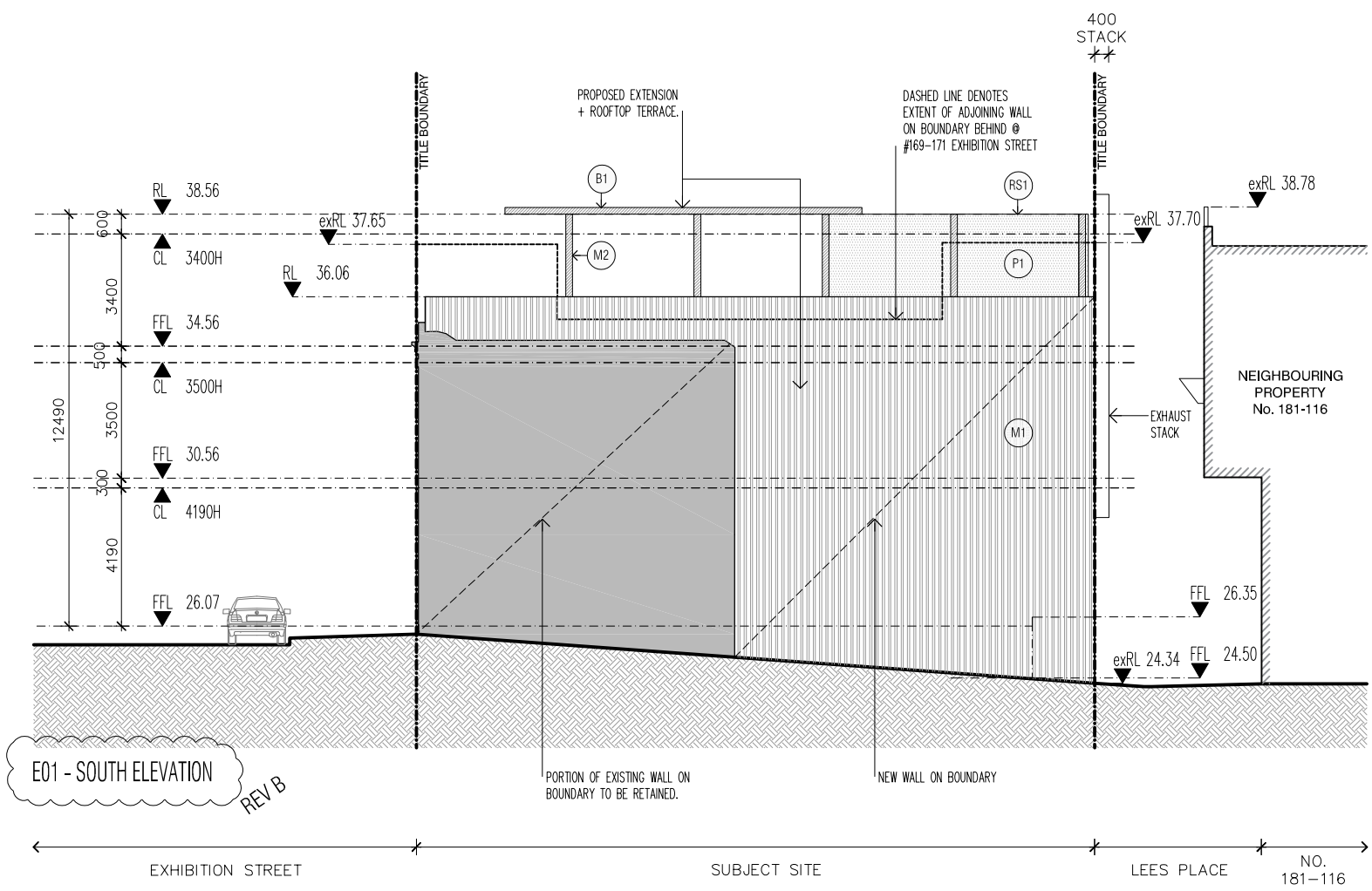
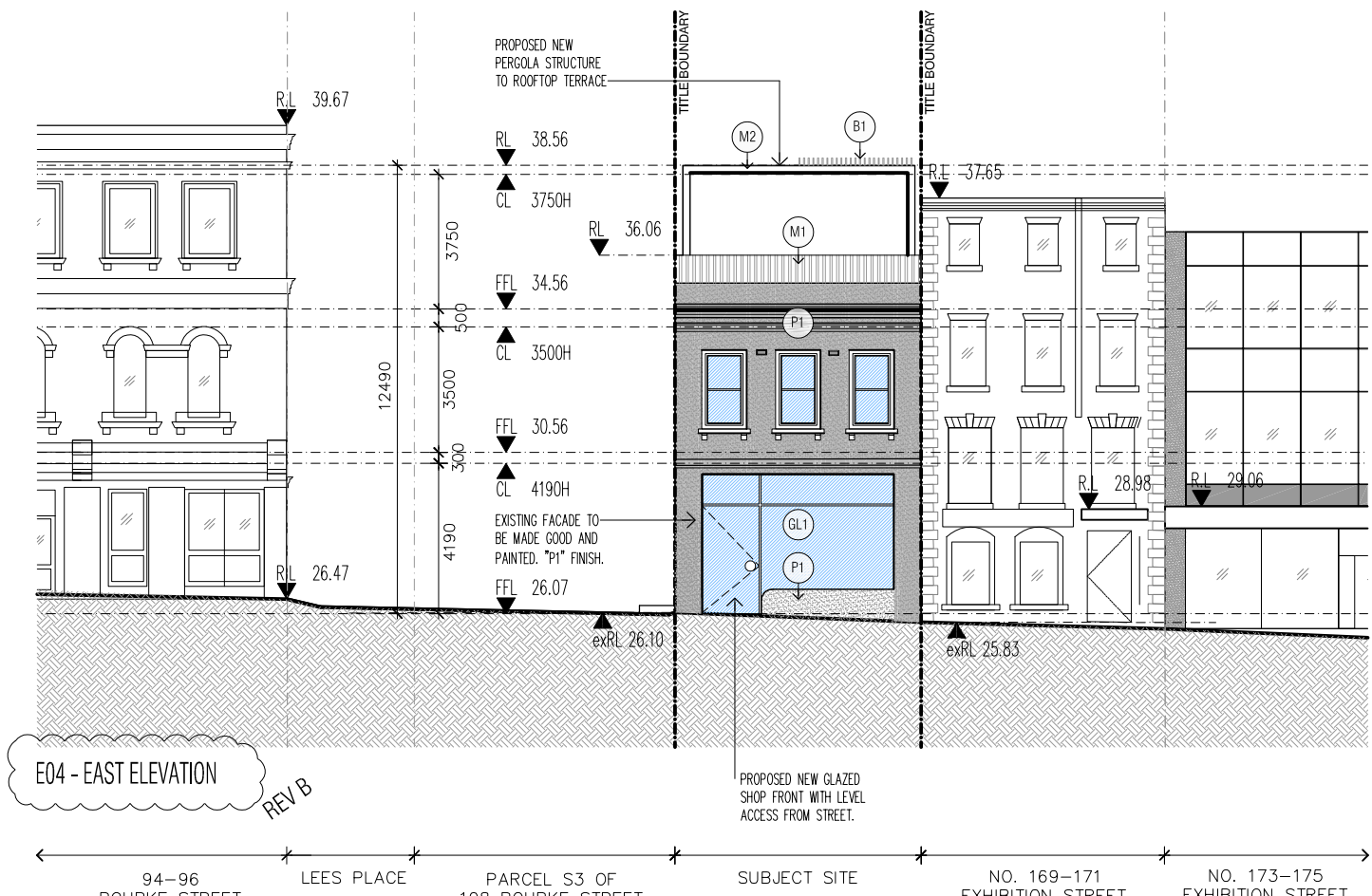
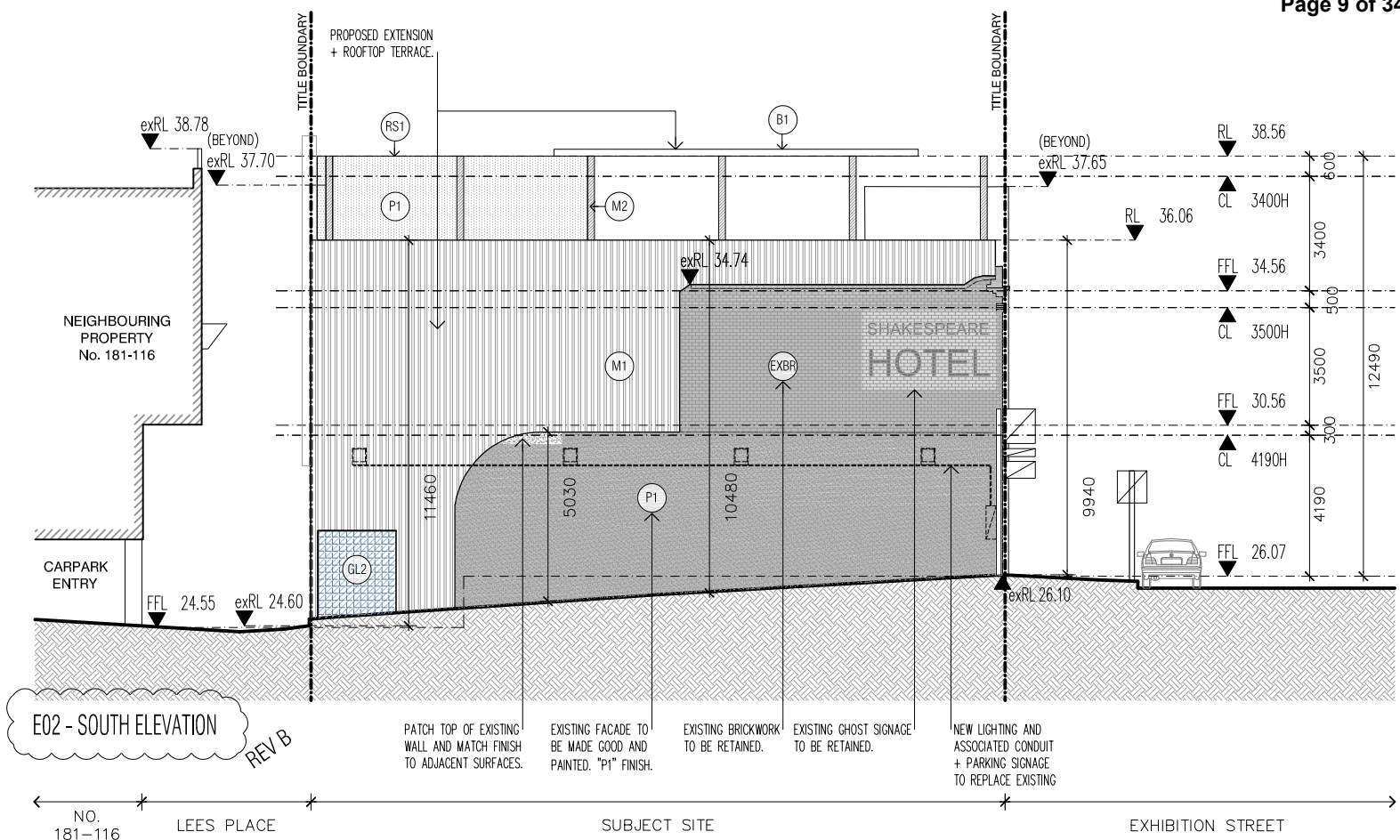
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EXHIBITION STREET
167 EXHIBITION ST
MELBOURNE CBD

1:200@A3
191016
16-Oct-20

PROPOSED PLANS

TP05 B



	DESCRIPTION	COLOUR FINISH	SAMPLE
(B1)	BATTEN 01	ALUMINIUM BATTEN COLOUR: BLACK	
(GL1)	GLAZING 01	CLEAR GLASS	
(GL2)	GLAZING 02	GLASS BRICK	
(M1)	METAL CLADDING	COLOUR: BLACK	
(M2)	EXPRESSED STEEL STRUCTURE	PAINT FINISH COLOUR: BLACK	
(M3)	STEEL DUCTWORK	GALVANISED STEEL	
(EXBR)	EXISTING BRICK	EXPOSED BRICK	
(P1)	PAINT FINISH 01	PAINT FINISH COLOUR: WHITE	
(P2)	PAINT FINISH 02	PAINT FINISH COLOUR: BLACK	
(RS1)	ROOF SHEET	TRIM DECK COLOUR: GREY	

LEGEND:

- EXISTING TO BE RETAINED
- PROPOSED NEW STRUCTURE

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EXHIBITION STREET
167 EXHIBITION ST
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16-Oct-20

PROPOSED ELEVATIONS

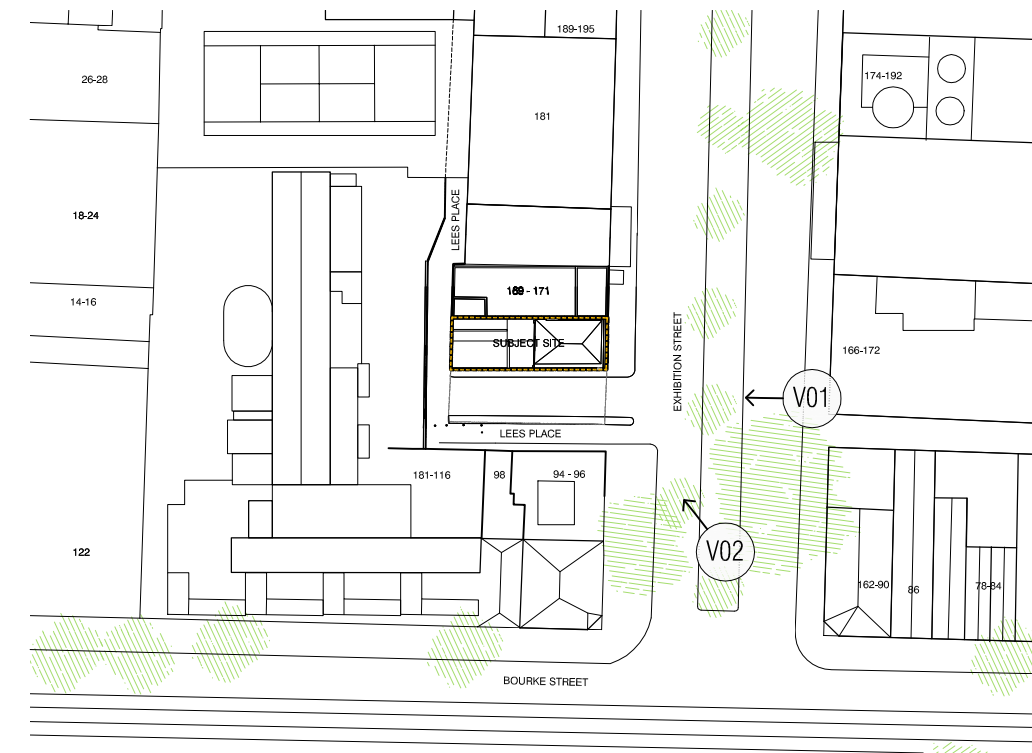
TP06 B



V01 - EXISTING CONDITION



V01 - PROPOSED DEVELOPMENT



SITE PLAN
1:1000

LEGEND:
 SUBJECT SITE

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 30/08/20
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NTS
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EXISTING + PROPOSED
 3D VIEWS

TP07 _B

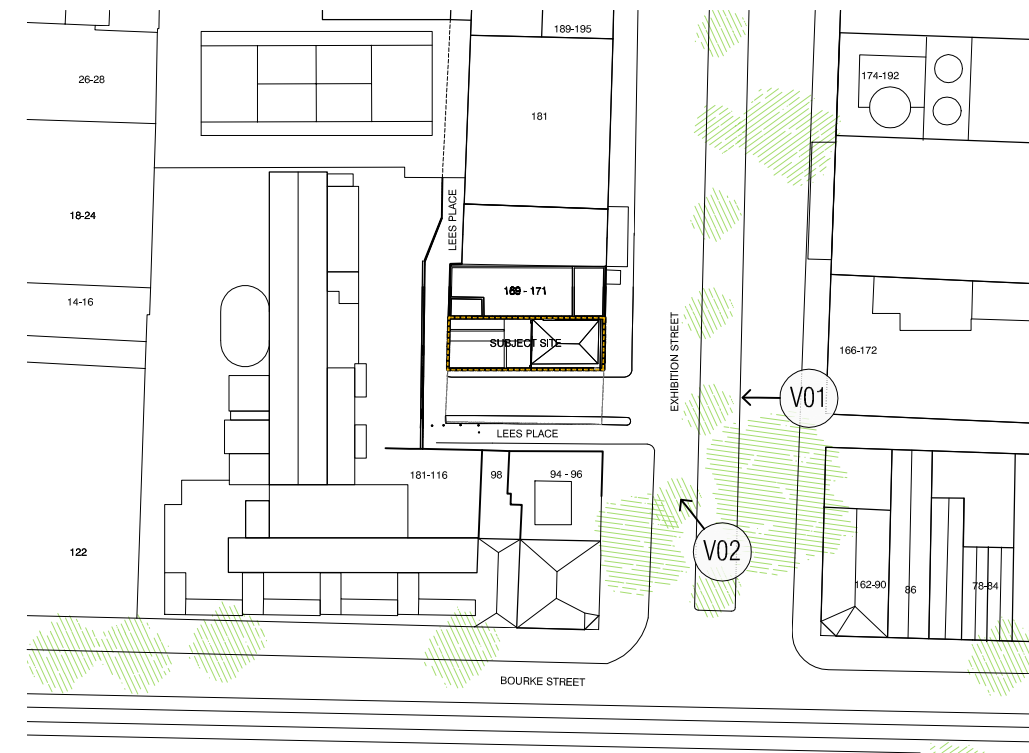
REV B



V02 - EXISTING CONDITION



V02 - PROPOSED DEVELOPMENT



SITE PLAN
1:1000

LEGEND:
 SUBJECT SITE

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 16/10/20

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 MELBOURNE CBD



NTS
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 16-Oct-20

EXISTING + PROPOSED
 3D VIEWS

TP08 B

REV B

Delegated Planning Application Report

Application number:	TP-2020-570
Applicant/Owner/ Architect:	The Lee Superannuation Fund c/- URPS / The Lee Superannuation Fund / Piccolo Architecture
Address:	165-167 Exhibition Street, MELBOURNE VIC 3000
Proposal:	Partial demolition and buildings and works in a design and development overlay and heritage overlay, and waiver in bicycle parking requirement.
Cost of Works:	\$1,075,000
Date of application:	25 August 2020
Responsible officer:	Michelle Fernando

1 SUBJECT SITE AND SURROUNDS

1.1 Subject site

The subject site is formally identified as Lot 1 on TP552646F. The site is not encumbered by any covenants or easements.

The site has a frontage to Exhibition Street of approximately 6.8 metres and is bound by Lees Place to the rear (west). The site has an area of approximately 279 sqm. The site is currently developed with a double storey brick building constructed in 1858. The site is currently vacant having operating as a food and drink premises previously. The site is located in the Little Bourke Street Precinct and is graded 'C' under the Central City Heritage Study Review, 1993.



Figure 1 – Subject site as viewed from Exhibition Street

1.2 Surrounds

The surrounding context is varied in building form, scale and use. The immediate surrounds is as summarised below:

Directly to the north of the site is 169-171 Exhibition Street which contains a four storey, brick and concrete building built in 1976 in faux heritage style. The building is not categorised under Heritage Places Inventory Part A or B.

Directly to the south of the site is a vehicle entry to car park for 100-116 Bourke Street. 100-116 Bourke Street is a twenty two storey concrete residential/retail building with six basement levels of parking and three ground levels of retail, and also occupies land to the west of the site across Lees Place.

The south side of Lees Place (94-96 Bourke Street) is occupied by The Elephant and Wheelbarrow a three-storey building built in 1853, extended in 1887 and refurbished and converted to a hotel in 2000. The building is categorised as Significant under the Heritage Places Inventory Part A.



Figure 2 – Aerial image of subject site and status of abutting laneways (private laneways shown in red and public laneways shown in blue)

2 BACKGROUND AND HISTORY

2.1 Pre-application discussions

A pre-application advice was provided to the applicant prior to lodgement of this application. Commentary included:

- Urban Design provided in principle support, pending provision of further information regarding proposed materiality.
- Council's Heritage Advisor considered the visibility of roof deck to replace the existing partially visible roof can be supported, in balance with restoration works to the building, removing paintwork and the proposed front roof frame.

2.2 Planning Application History

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

3 PROPOSAL

The application seeks approval for partial demolition and buildings and works including the rear addition of three storeys inclusive of roof terrace. The application is summarised as below:

Building height	12.7 m (RL 37.78)
Number of storeys	3
Car parking	0
Bicycle parking	0

Demolition

- Demolition of the roof structure, existing chimney and western elevation wall to double storey component of site;
- Demolition of single storey component of site inclusive of southern, western and northern walls and roof associated roof structure; and
- Partial demolition of ground floor shopfront.

Buildings and works

- Construction of an additional three storeys extension to the rear including roof terrace.
- Materials include: retained brick, metal cladding, painted brick in white and glass bricks.

Use

- The site will be utilised as a 'Restaurant' which is nested under 'Retail Premise', which is a section 1 use in the Capital City Zone.



Figure 3a – Visualisation of proposal as per submitted plans



Figure 3b – Visualisation of proposal as per submitted plans

4 STATUTORY CONTROLS

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

Clause	Permit Requirements
Zone	
Clause 37.04 Capital City Zone Schedule 1	<p>Buildings and works – permit required</p> <p>Pursuant to Schedule 1 to Clause 37.04-4, a permit is required to construct a building or carry out works.</p> <p>Demolition – permit required</p> <p>Pursuant to Schedule 1 to Clause 37.04-1, a permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.</p> <p>Use – permit not required</p> <p>Pursuant to Schedule 1 to Clause 37.04-1, a permit is not required for the use of the site as a Retail premises (other than Adult sex bookshop, Department store, Hotel, Supermarket, and Tavern).</p>
Overlay	
Clause 43.01 Heritage Overlay Schedule 507 (Little Bourke Street)	<p>Pursuant to Clause 43.01, a permit is required to:</p> <ul style="list-style-type: none"> Demolish or remove a building; Construct a building or construct or carry out works, and; Externally paint a building if the schedule to this overlay specifies the heritage place as one where external paint controls apply.
Clause 43.02 Design and Development Overlay Schedule 1 (A2 Active Street Frontage Area 2) Schedule 2 (A2 Built	<p>Pursuant to Clause 43.02, a permit is required to construct a building or carry out works.</p> <p>The provisions of these schedules relate to, amongst other matters, building height, floor area ratios, overshadowing, street wall heights, setbacks and active street frontages.</p>

Form Hoddle Grid Area 2) Schedule 4 (Weather Protection)	
Clause 45.09 Parking Overlay Schedule 1	Pursuant to Schedule 1 to Clause 45.09, a permit is required to provide car parking spaces in excess of the car parking rates specified in the schedule. No on-site car parking is proposed and therefore a permit is not required under this clause.
Particular Provisions	
Clause 52.34 Bicycle Facilities	The bicycle parking rate for retail premises is: Retail premises other than specified in this table <ul style="list-style-type: none"> • 1 employee space to each 300 sqm of leasable floor area, and • 1 to each 500 sqm of leasable floor area. The development generates a bicycle space requirement of one for employee spaces. Showers and change rooms are not required as less than five employee spaces are required. No bicycle parking is provided on-site, as such a waiver is required .
General Provisions	
Clause 65 Decision Guidelines	The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause, which include the matters set out in Section 60 of the Planning and Environment Act 1987.

5 STRATEGIC FRAMEWORK

5.1 Strategic policy framework

The following provisions of the Melbourne Planning Scheme apply:

Planning Policy Framework	Clause 15.01-1S – Urban Design Clause 15.01-2S – Building Design Clause 15.02-1S – Energy and Resource Efficiency Clause 15.03-1S – Heritage Conservation Clause 17.02-1S – Business Clause 18 – Transport Clause 19 – Infrastructure
Municipal Strategic Statement	Clause 21.06 – Built Environment and Heritage Clause 21.08 – Economic Development Clause 21.12 – Hoddle Grid
Local Planning Policies	Clause 22.01 – Urban Design within the Capital City Zone Clause 22.04 – Heritage Places in the Capital City Zone Clause 22.19 – Energy, Water and Waste Efficiency Clause 22.23 – Stormwater Management (Water Sensitive Urban Design)

5.2 Planning Scheme Amendments

5.2.1 Amendment C308

Amendment C308 to the Melbourne Planning Scheme is of relevance. This amendment seeks to refresh Design and Development Overlay Schedule 1 (DDO1) by introducing new provisions into the planning scheme to guide future development. The Amendment proposes the following changes;

- Deleting Clause 22.01 Urban Design in the Capital City Zone policy;
- Replacing Schedule 1 to the Design and Development Overlay *Active Street Frontages* with a new Schedule 1 to the Design and Development Overlay *Urban Design in the Central City and Southbank*;
- Deleting Schedule 4 to the Design and Development Overlay (Weather Protection – Capital City Zone) and incorporating the provisions of this schedule into the proposed DDO1;

The subject site is identified under Map 1 to proposed Schedule 1 to the Design and Development Overlay as being within the 'Central City' and within the 'Special Character Area'. An assessment against proposed Design and Development Overlay Schedule 1 is included under Section 10 of this report.

5.2.2 Amendment C396

Amendment C396 to the Melbourne Planning Scheme is of relevance however is not yet considered to be seriously entertained. This amendment seeks to convert heritage grading for properties from the older heritage grading system to a contemporary system, in line with conversion under Amendment C258.

On 16 March 2021, the Future Melbourne Committee resolved to apply to the Minister for Planning for authorisation to prepare and exhibit Amendment C396: Finalisation of the Heritage Places Inventory.

The site is proposed to be categorised as 'Contributory' under Amendment C396.

6 PUBLIC NOTIFICATION

The proposal falls within a heritage overlay HO507, therefore Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties and by posting two notices on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

Pursuant to Schedule 1 to Clause 37.04 (Capital City Zone) and Schedules 1, 2 and 4 to Clause 43.02 (Design and Development Overlay), an application to construct a building or construct or carry out works, demolish or remove a building or works is exempt from the notice requirements of Section 52 (1) (a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82 (1) of the Act.

Pursuant to Clause 52.34-3 (Bicycle Facilities), an application to vary, reduce or waive any requirement of the Clause 52.34-5 is exempt from the notice requirements of Section 52 (1) (a), (b) and (d), and (3) and the review rights of Section 82 (1) of the Act.

7 OBJECTIONS

A total of 28 objections were received, and raised the following concerns with the proposal:

- Built form:

- Inappropriate response to the heritage context; and
- Visual bulk.
- Impacts related, to loading and waste including;
 - Noise generated by waste transfer and truck movements; and
 - Impeding access to car park.
- Amenity impacts:
 - Amenity impacts related to 'restaurant' use;
 - Use of the as a 'tavern (bar)';
 - Noise generated by patrons and mechanical equipment; and
 - Parton behaviour.
- Construction impacts.
- Discrepancies in plans.
- Insufficient public notice.

Of the 28 objections, three were identical, and objections should relate to heritage issues. However, all issues raised in all objections will be given due consideration in the following assessment.

8 CONSULTATION

Given the receipt of the above objections, the following consultation was undertaken:

- The applicant was provided a copy of all objections however did not opt to respond to objections raised; and
- Email sent to objectors clarifying the application did not propose a 'Tavern (Bar)'.

9 REFERRALS

9.1 Internal

9.1.1 Urban design

Council's Urban Design officer maintained their support for the application, having previously reviewed the plans under pre-application. The following additional comments have been received (summarised):

- Material palette does not specify 'M1' as a *profiled* metal cladding (though it is depicted as such in renders and elevations). It is recommended that this is added to the material description, as a flat powder coated metal panel will not be supported to this location as it will lack contextual relevance, human scale and quality.

A condition to this affect has been included in the recommendation below.

9.1.2 Heritage

The application was referred to Council's Heritage Advisor under pre-application. It was that the proposal was supported subject to the following changes:

- Proposed paintwork is omitted and unsympathetic paintwork is removed to restore original brick façade; and
- Partial visibility of the roof terrace and associated balustrades is supported however front frame should be removed due its prominence.

Conditions to this affect have been included in the recommendation below.

Proposed plans submitted under this application are consistent with those reviewed under pre-application were not referred to Council's Heritage Advisor. It is considered that there is adequate direction within Clause 22.05 and 43.01 of the Melbourne Planning Scheme to make an informed assessment of the application.

9.1.3 Waste

Council's Waste Engineer has advised the proposed Waste Management Plan (WMP) prepared by Salt dated 9th November 2020 is unacceptable.

The above requirements are discussed further in detail under Section 10.3.2 of this report.

9.1.4 ESD

Council's ESD Officer offered no objection to the proposal and requested standard conditions are included, should a permit be issued.

9.2 External

The application was not required to be referred externally.

10 ASSESSMENT

The application seeks approval for partial demolition, alterations and additions to the existing building, including three additional storeys. The key issues for consideration in the assessment of this application are:

- Built form having regard to the design objectives and built form controls in Design and Development Overlay (Schedule 1, 2 and 4) and Clause 22.01 Urban Design within the Capital City Zone policy;
- Heritage; and
- Any other issues raised by the objectors.

10.1 Proposed use

The application proposes to use the site as a restaurant, which under the Capital City Zone – Schedule 1 does not require a planning permit.

It is noted that the site recently operated as a restaurant and is located within an area which is a mix of commercial and residential uses. The immediate surrounding sites are generally two to three storeys in height and often the lower levels are utilised for retail purposes. The majority of nearby residential properties are located above the second storey and generally located in nearby multi-storey buildings including 88-90 and 100-116 Bourke Street.

Patrons entering and exiting the site will continue to do so from Exhibition Street, reducing the interface with residential properties to the west at 100-116 Bourke Street. Noise emissions from the site will be required to comply with Environment Protection Authority has State Environment Protection Policy (SEPP) (Control of music noise from public premises) and State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 legislation to protect residents from levels of noise generated. Therefore, this noise source, which must comply with SEPP legislation, is unlikely to unreasonably impact on the surrounding residential properties.

Any fumes generated must comply with the relevant Health and Building legislation.

As surrounding land uses are mixed and include a number of bars, the inclusion of a restaurant with a roof deck component is unlikely to cause any unreasonable adverse amenity impacts by way of noise.

Notwithstanding the above, as a planning permit is not required to use the land as intended, it is outside of the remit of this assessment. The planning assessment is limited to the proposed buildings and works and a reduction in the bicycle parking requirements.

10.2 Built form

10.2.1 Design and Development Overlay (Schedule 1, 2 and 4)

The proposed development has been assessed against the relevant design objectives, built form outcomes and design requirements of DDO1, DDO2 and DDO4 as set out below.

Schedule 1 – Active Street Frontage Activity

Schedule 1 to the Design and Development Overlay states the following design objectives:

- *To ensure ground floor frontages are pedestrian oriented and add interest and vitality to city streets.*
- *To provide continuity of ground floor shops along streets and lanes within the retail core.*
- *To ensure ground floor frontages contribute to city safety by providing lighting and activity*

The subject site is located within Area 2 (Major Pedestrian Areas and Key Pedestrian Routes within CCZ1) of Schedule 1, under which buildings with ground-level street frontages must present an attractive pedestrian oriented frontage to the satisfaction of the responsible authority. An assessment of the permit requirements are as follows:

Requirements	Design Response
<p><i>At least 5 metres or 80% of the street frontage (whichever is the greater) as an entry or display window to a shop and/or a food and drink premises, or</i></p> <p><i>At least 5 metres or 80% of the street frontage (whichever is the greater) as other uses, customer service areas and activities, which provide pedestrian interest and interaction.</i></p>	<p><i>Approximately 80% of the street frontage will be utilised as display window and entry to a retail premises.</i></p>
<p><i>Built scale appropriate to the street and pedestrians.</i></p>	<p><i>The development will retain the existing building at the street frontage whilst providing greater permeability at the pedestrian level through large windows and active uses.</i></p>
<p><i>Clear glazing (security grilles must be transparent).</i></p>	<p><i>Clear glazing has been proposed at the pedestrian level.</i></p>

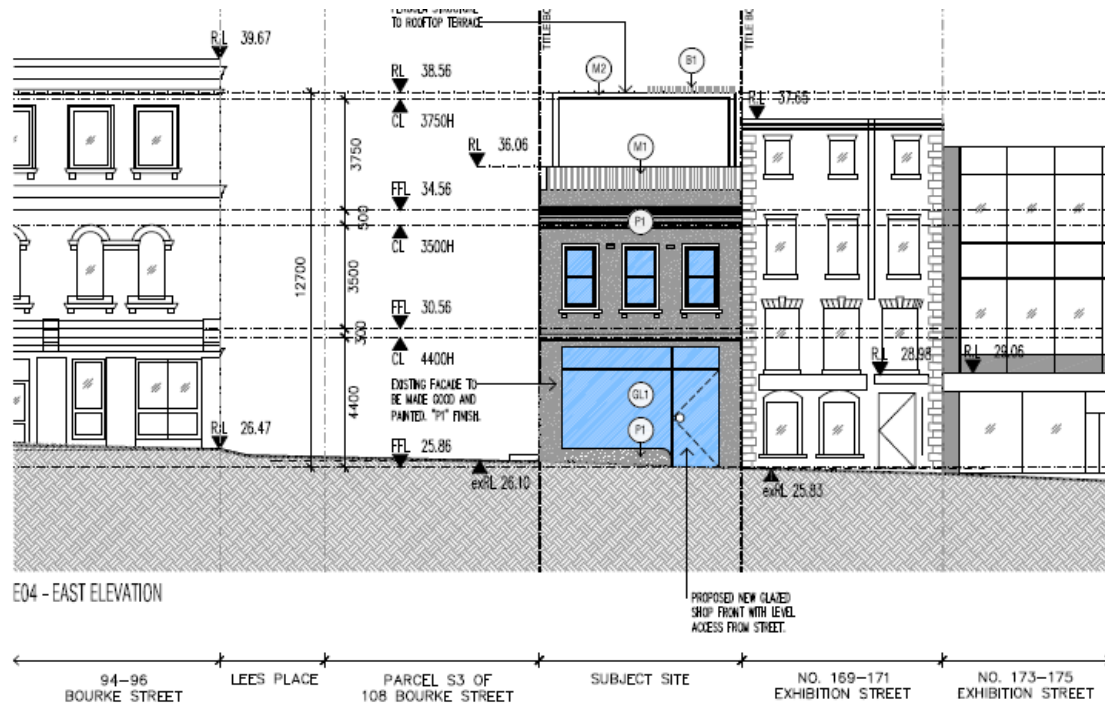


Figure 4 – Eastern elevation as per advertised plans

As noted above Amendment C308 is now considered to be seriously entertained. The subject site is identified under Map 1 to proposed Schedule 1 to the Design and Development Overlay as being within the 'Central City' and within the 'Special Character Area'. An assessment of the proposed revised controls is as below:

Urban Structure

The average urban block length does not exceed 100 metres as such a new through-block pedestrian connection is not required. The site is also not within 200 metres of a rail station as such additional pedestrian connections are not required. Whilst the site does have an abuttal to two street frontages, the site is only 142 sqm in area, as such additional pedestrian connections through the site are not necessary.

Site Layout

The proposal will be aligned to the street at ground level. There are no narrow publicly accessible alcoves and recesses proposed, as the building is built to boundary at the ground floor. The proposal allows for a level of passive surveillance from the roof terrace and does not create entrapment areas.

Building Mass

The development adopts a contemporary response to the proposed extension to the existing heritage building. Street frontage to Exhibition Street does not exceed 25 metres, as such is required to be broken into smaller vertical sections. The proposal also provides a visually recessive upper level which has been setback approximate 12 metres from the street frontage.

Building Program

The development provides active uses at the ground floor to address the public realm. Ground floor ceiling heights are a minimum of 4 metres, however first and second floors are a minimum of 3.4 metres, which is short of the preferred 3.8 metres. A minor variation is supported given the heritage constraints of the site and minor extent of non-compliance.

Proposed tenant has not been identified however no point of sale adjacent the frontage has been proposed as such any matters regarding queuing on the street can be appropriately considered under relevant Local Law requirements

Building services have been located to rear of the site, and will occupy less than 40 per cent of the ground floor area of the site area. Services, loading and waste areas are generally located away from the street.

Public interfaces

At least 80 per cent of the combined length of the ground level interfaces of a building to streets and laneways are an entry or window. Standard condition regarding glass reflectivity has been included on permit. No façade projections are proposed. No weather protection has been proposed due to the heritage status of the building.

Design detail

The development has provided a high quality urban design outcome which has been supported by Council’s Urban Designer. The development proposes high quality materiality and an active ground floor frontage, which is not obscured by services.

Schedule 2 – Built Form Hoddle Grid

Schedule 2 to the Design and Development Overlay states the following design objectives:

- *To protect sunlight access to key public places and open space areas so as to provide a comfortable, pedestrian-friendly urban environment.*
- *To ensure that the height of new buildings reinforces the built form character of unique areas.*
- *To maintain the visual dominance of prominent landmarks.*
- *To protect the unique built form and public realm amenity.*

Clause 2.3 to the schedule outlines that buildings and works:

- *must meet the Design Objectives in this schedule;*
- *must satisfy the Built Form Outcomes specified for each relevant Area in Table 3 and Table 4 to this schedule and for each relevant Design Element in Table 5 to this schedule;*
- *should meet the Preferred Building Height or Modified Requirement specified for each relevant Area in Table 4 to this schedule; and*
- *should meet the relevant Requirement specified for each relevant Design Element specified in Table 5 to this schedule.*

Design Objectives

Design objectives	Response
To protect sunlight access to key public places and open space areas so as to provide a comfortable, pedestrian-friendly urban environment.	<i>The proposal will not result in loss of sunlight to Lee Place, due to existing and approved higher development in the immediate context.</i>
To ensure that the height of new buildings reinforces the built form character of unique areas.	<i>The proposed height is consistent with the existing development, and has been provided a light weight treatment to mitigate visual bulk.</i>

To maintain the visual dominance of prominent landmarks.	<i>There are no prominent landmarks in the immediate context, however the proposal is unlikely to negatively detract from any surrounding buildings including lower scale, heritage buildings.</i>
To protect the unique built form and public realm amenity.	<i>The proposal will positively contribute to the built form and public realm amenity by improving the existing building with high quality, external materials and providing an improved pedestrian interface.</i>

Wind effects

Schedule 2 states that:

- *A permit must not be granted for buildings and works with a total building height in excess of 40 metres that would cause unsafe wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all facades, or half the total height of the building, whichever is greater as shown in Figure 1.*
- *A permit should not be granted for buildings and works with a total building height in excess of 40 metres that do not achieve comfortable wind conditions in publicly accessible areas within a distance equal to half the longest width of the building above 40 metres in height measured from all facades, or half the total height of the building, whichever is greater as shown in Figure 1.*

The proposal does not exceed 40 metres; as such these provisions do not apply.

Overshadowing

Schedule 2 states that a permit must not be granted for or buildings and works which would cast any additional shadow across the spaces within Table 2 to this schedule during the hours and date(s) specified for that space, unless the overshadowing will not unreasonably prejudice the amenity of the space.

The proposal does not result in additional overshadowing to the areas identified within Table 2.

Building height and built form outcomes

Table 4 to Schedule 2 identifies the following preferred building heights and built form outcomes for the subject site:

Table 4 to Schedule 2			
Area	Preferred Building Height	Modified Requirement	Built Form Outcomes
A2	15 metres	4:1 Floor Area Ratio	<p>The low-rise, high-density and pedestrian oriented built form of the Chinatown and McKillop/ Hardware/ Guilford Lane precincts is maintained.</p> <p>Upper levels are visually recessive from streets and laneways.</p> <p>To provide a comfortable scale transition between the precinct and the broader area.</p>
Assessment			
Clause 2.3 of Schedule 2 states that a proposal should meet the preferred building			

height or modified requirement specified for the relevant Area. The proposal will have an overall building height of 12.7 metres; as such will not exceed the preferred building height.

The development will not impact the built form of the Chinatown and McKillop/ Hardware/ Guilford Lane precincts due to limited scale of the proposal and distance from noted precincts. As noted upper levels are sufficiently recessive from the Exhibition Street and Lees Place, and will not dominate either streetscape. The development presents a minor increase in height and floor area of the existing building, and will continue to provide an appropriate transition to larger buildings in the broader area.

Table 5 of Schedule 2		
Design Element	Requirement	Built Form Outcomes
Street wall height	The street wall height should not exceed 20 metres, or the preferred building height, whichever is lower.	Street wall height is scaled to ensure: <ul style="list-style-type: none"> • a human scale. • consistency with the prevalent parapet height of adjoining buildings. • height and setback that respects the scale of adjoining heritage places. • adequate opportunity for daylight, sunlight and sky views in the street.
Complies		
The development has a proposed street wall height of 9.9 metres, short of the preferred building height of 15 metres.		
Upper level street setbacks	Above the street wall, upper levels of a building should be setback a minimum of 5 metres.	Buildings are setback to ensure: <ul style="list-style-type: none"> • larger buildings do not visually dominate the street or public space. • the dominant street wall scale is maintained. • sun penetration and mitigation of wind impacts at street level.
Complies		
The proposal provides an upper level setback of 12 metres at the second floor which is in excess of the preferred 5m.		
Setback(s) from side boundary	Above 40 metres, upper levels of a building should be setback a minimum of 5 metres from a side boundary. If a laneway: Above 20 metres, upper levels of a building should be setback a minimum of 5 metres from the centreline of a laneway.	Buildings are setback to ensure: <ul style="list-style-type: none"> • provision of adequate sunlight, daylight, privacy and outlook from habitable rooms, for both existing and proposed developments. • provision of adequate daylight and sunlight to laneways. • buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them. • taller buildings transition down in height to adjacent areas that have a lower height limit, so as not to visually dominate or compromise

		the character of adjacent existing low-scale development areas.
N/A The development doesn't exceed 20 metres.		
Setback(s) from rear boundaries	Above 20 metres, upper levels of a building should be setback a minimum of 5 metres from a rear boundary, or from the centreline of a laneway.	Buildings are setback to ensure: <ul style="list-style-type: none"> • provision of adequate sunlight, daylight, privacy and outlook from habitable rooms, for both existing and proposed developments. • taller buildings transition down in height to adjacent areas that have a lower height limit, so as not to visually dominate or compromise the character of adjacent existing low-scale development areas.
N/A The development doesn't exceed 20 metres.		

Schedule 4 – Weather protection

Schedule 4 to the Design and Development Overlay states the following design objectives:

- *To promote pedestrian amenity on major pedestrian routes and areas. f*
- *To provide protection from rain, wind and sun, without causing detriment to building or streetscape integrity.*

The existing building is graded 'C' under the Central City Heritage Study Review, 1993, and does not have an existing canopy. Given the existing conditions and heritage status of the building, further works to provide weather protection is not required.

10.2.2 Heritage

The building has been categorised a 'C' grading under the Central City Heritage Study Review, 1993. A Grade C building is defined as:

Grade C buildings

Grade C buildings are of cultural significance for their representation of different phases of development in the central city. Buildings with a C grading make a contribution to the cultural value of the streetscape or precinct within which they are located.

Part B of Clause 22.04 states as relevant:

- *The demolition or alteration of any part of a heritage place should not be supported unless it can be demonstrated that that action will contribute to the long-term conservation of the significant fabric of the heritage place*
- *All development affecting a heritage precinct should enhance the character of the precinct as described by the following statements of significance.*
- *Regard shall be given to buildings listed A, B, C and D or significant and/or contributory in the individual conservation studies, and their significance as described by their individual Building Identification Sheet.*

As noted the site is included under Amendment C396 to implement the new grading system for those sites in the Heritage Places Inventory 2020 Part B. The amendment

is not yet considered to be seriously entertained however the building is recommended to be 'Contributory'.

Demolition

The extent of demolition proposed is as summarised below:

- Demolition of the roof structure, existing chimney and western elevation wall to double storey component of site;
- Demolition of single storey component of site inclusive of southern, western and northern walls and roof associated roof structure; and
- Partial demolition of ground floor shopfront.

Demolition proposed to the ground floor shopfront is predominately to unsympathetic modern alterations, and as such is supported.

The demolition of the rear double storey component is clearly visible from the streetscape as the adjoining site has been developed for vehicle access rather than occupied with built form. The extent of demolition proposed generally retains the building to a depth of 9.5 metres, excluding the chimney and roof form. The pitched roof is visible from a distance but always behind a parapet, but the chimney is internal to the site and is not visible from the street. The existing 'ghost signage' on the second storey of the exposed brick façade will be retained.

The demolition to the rear portion of the development is not considered to impact the long-term conservation of the significant fabric of the heritage place, as the front portion of the site will be retained, and restored in some aspects. Whilst the retention of the front three dimensional form is encouraged including the roof form, it is considered the chimney, which is low, is not visible from the street and the roof form, although visible from the side, is not visible over the front parapet. Facilitating useable roof space for diners is a fundamental objective of the proposal, therefore, in this case and on balance, the proposed demolition of these elements is conceded. The extent of demolition has been supported by Council's Heritage Advisor.

However, the first frame of the rooftop pergola and the sheet metal balustrade are not acceptable as they are prominently visible from the front and side above the retained front of the building, significantly impacting its visual integrity. A permit condition is recommended to set both elements back at least 4m from the street frontage.

The provisions of Part A of Clause 22.04 (Heritage Places in the Capital City Zone) are not applicable under this application, however it is noted the extent of demolition is generally consistent with relevant performance measures.

The proposed demolition will facilitate the adaptive re-use of the building, whilst maintaining key attributes of the site, and is therefore supported.

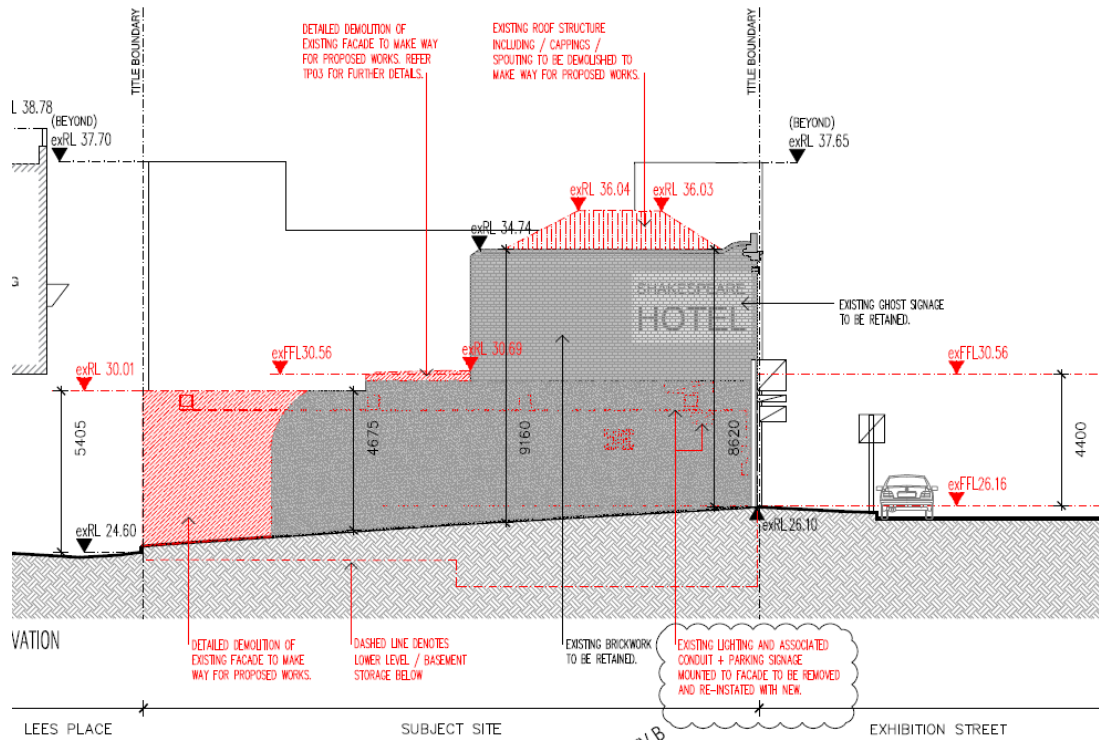


Figure 5 – Proposed demolition

Buildings and works

The site is not identified as culturally significant in relation to aboriginal archaeological relics and no works are proposed below ground level; as such the development is not considered to impact identified aboriginal cultural heritage values.

The site is within the 'Little Bourke Street' precinct which states:

Chinese immigrants settled in Little Bourke Street as early as the mid 1850s. Chinese occupation in the city centre then extended north and west, creating a distinct enclave. The buildings that they occupied were not distinctively 'Chinese' in their appearance but were rather the typical small brick shops, dwellings, warehouses and factories of the less affluent areas of Victorian Melbourne (indeed the area was not known as 'Chinatown' until the 1970s)...

The precinct is bordered on its northern boundary by taller strip development fronting Lonsdale Street. Many Victorian and Edwardian buildings survive in this location and they provide an important contextual link between the 'back streets and lanes' of the heart of the precinct and the more public areas of the City. Since the Second World War, Lonsdale Street has become a centre for Melbourne's Greek community, further enhancing the cultural diversity of this cosmopolitan precinct.

The key attributes include:

- The small low-scale Victorian and Edwardian buildings densely located along Little Bourke Street and the adjoining laneways.
- ..
- The amenity of Little Bourke Street and the adjoining laneways for pedestrian use.
- The attractiveness of the precinct for tourism and recreation.

The statement of significance for this heritage precinct highlights that the heritage character of this area is taken from; traditional Chinese land uses and signage, the remaining heritage buildings and the pedestrian experience along Little Bourke Street and the surrounding laneways.

Buildings in the immediate surrounds are categorised as follows:

Subject site	Category
94-96 Bourke Street	Significant
98 Bourke Street	Significant
100-116 Bourke Street	Significant
169 Exhibition Street	Non-contributory
173-175 Exhibition Street	Non-contributory
189-195 Exhibition Street	Significant

As noted in the table above there are no buildings directly abutting the site which are categorised under either the Central City Heritage Study Review, 1993 or Heritage Places Inventory 2020 Part A. Buildings identified as ‘Significant’ are separated by Lees Place and do not share a principal streetscape with the site other than 94-96 Bourke Street.

The development generally maintains the existing low scale built form of the immediate surrounds, whilst providing an adaptive reuse to the roof space which is not considered to impact significant heritage fabric. Whilst the rear extension to the first floor to the rear boundary will be visible from Lees Place and south-eastern corner of Exhibition Street the retained portion of the site (to depth of approximately 9.5 metres) will remain prominent. Similarly the second floor which has been setback approximately 12 metres is considered to be recessive.

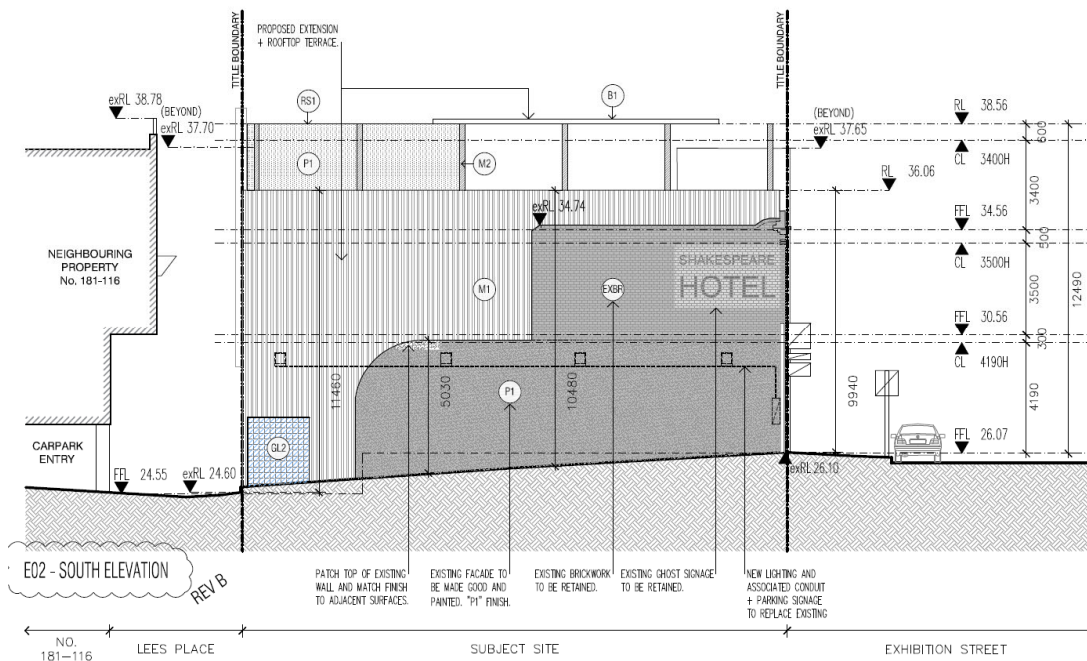


Figure 6 – Southern elevation as per advertised plans

Council’s Heritage Advisor has supported the proposed works under pre-application submissions subject to:

- Restoration of original brick façade; and

- Removal of the front most framing element generally adjacent front parapet.

The applicant has contested these recommendations stating that the brickwork cannot support removal of paintwork, and the front framing element will not be prominent and likely obscured by future development on adjoining lot to the south.

It is considered that paintwork removal and restoration of the original brick façade is an appropriate response for this site, noting the Building Identification Sheet for the site recommends that painted brickwork should be removed by approved method. The applicant has provided a letter from MLEI Consulting Engineers (dated 1 February 2021) stating that they do not recommend stripping the paintwork as it may cause further damage to identified areas of the front façade. It is noted the assessment is based on visual inspection from ground level and did not involve any testing. As such it is not clear that paintwork cannot be removed subject to an appropriate process and a condition to this affect has been included in the below recommendation.

The adjoining site to the south is the only entry point to basement car park of 100-116 Bourke Street, as such is unlikely to be extensively redeveloped however limited weight can be placed on potential future development. It is also considered that if the site to south was development, the front frame will still be an intrusive element and unsympathetic the heritage place. A condition will require the deletion of the front frame element.

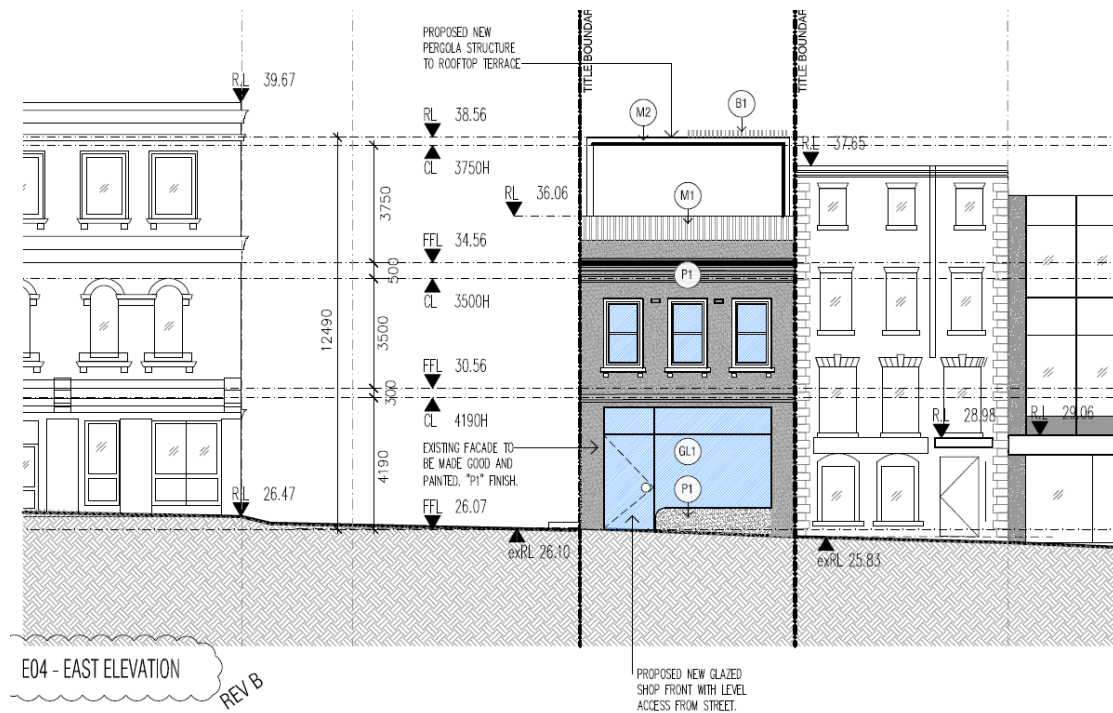


Figure 3 – Eastern elevation as per advertised plans

The extension is distinctively modern and will juxtapose with the adjoining heritage fabric rather than mimic or replicate it in any literal sense. Conceptually, this approach is the preferred approach to new buildings within heritage precincts.

The southern elevation shows that existing parking signage on the building façade will be replaced; it is noted Council records do not show a permit has been approved for this signage and it has not been included in the permit application. As such a condition will require this notation is removed from plans. Existing lighting along the boundary is not within the Title boundary and will need to be removed.

Given the above, it is considered that the proposal complies with Clause 43.01-8 decision guidelines and Clause 22.04 Local Policy in that the proposed development will not adversely affect the cultural significance of the place and the location, bulk, form and appearance of the proposed built form will not adversely affect the character or appearance of adjacent buildings or the significance of the heritage place.

10.3 Bicycle parking, waste and loading

10.3.1 Bicycle Parking

The development generates a bicycle space requirement of one for employee spaces. No bicycle parking is provided on-site, as such a waiver is required.

The site is well serviced by public transport and there are on-street bicycle hoops in close proximity to the site. Given the above, the reduction of bicycle parking can be supported.

10.3.2 Loading

Objectors have raised concerns regarding loading provisions for the site, and potential to impede access to driveway to 100-116 Bourke Street. The applicant has advised loading will be undertaken from Lees Place to the rear of the site, as per existing conditions. A loading zone is also available on Exhibition Street directly adjacent the site between 7:30am – 7:30pm Monday – Saturday.

Whilst the applicant has legal access to Lees Place as a Council laneway, they would be required to utilise the driveway of 100-116 Bourke Street to exit on to Exhibition Street. The site does not appear to have legal access to this driveway. As such loading vehicles will likely need to reverse down Lees Place to Little Bourke Street as insufficient turning room is available; this is considered to be an unacceptable outcome. As loading can be undertaken from Exhibition Street additional area for turn circles for loading vehicles is not required. It is noted that any illegal use of driveway of 100-116 Bourke Street is a civil matter



Figure 6 – Aerial image of site showing access arrangements



Figure 7a – Rear of site as viewed from Lees Place

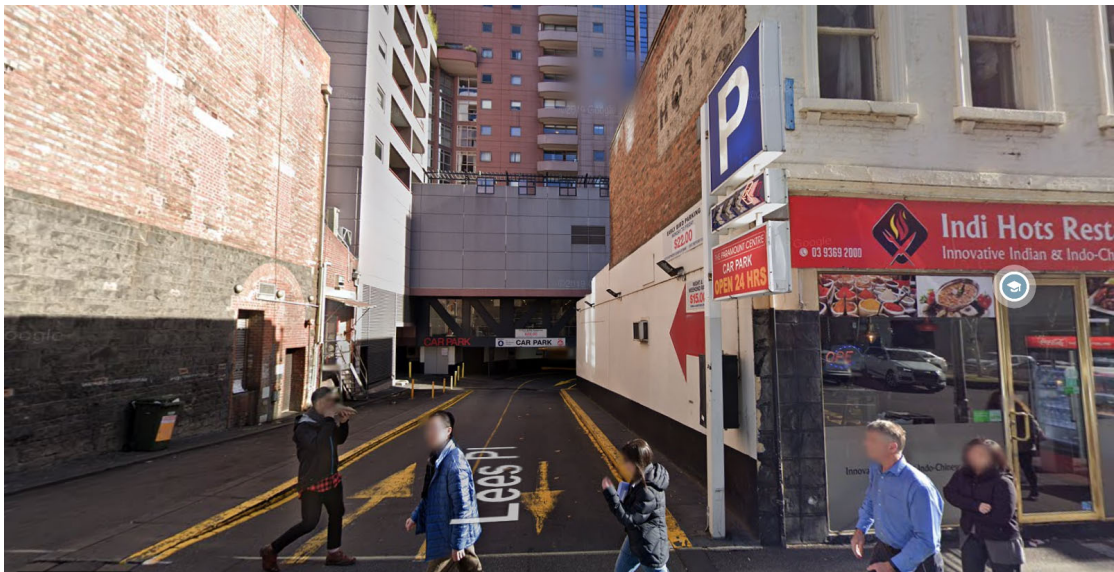


Figure 7b – Private driveway as viewed from Exhibition Street

10.3.3 Waste

As noted above waste cannot be collected from Lees Place as such revised WMP generally in accordance WMP prepared by Salt dated 9 November 2020 detailing the following is required:

- All bins are to be drawn to scale on the floor plan.
- Provision for the management of organic waste; and
- Waste collection from Little Bourke Street (north end of Lees Place).

10.4 Objector concerns

A number of the concerns raised by the objectors have been addressed above; the following additional concerns are addressed below:

Use of the building as 'tavern (bar)'

The application seeks approval for buildings and works associated with a retail premises. The applicant has not applied to use the land as a tavern ('bar'). Should the applicant wish to operate the premises as a tavern ('bar'), a fresh application for planning permit is required. Measures regarding patron behaviour will be assessed under any subsequent applications.

Construction impacts

An objector has raised concerns regarding impacts during construction. Standard condition regarding the submission of a construction management plan has been included in the below recommendation.

10.5 Conclusion

It is considered that the proposal is consistent with the relevant sections of the Melbourne Planning Scheme, as discussed above, and that a Notice of Decision to Grant a Permit be issued for the proposal subject to the following conditions:

11 RECOMMENDATION

That a Notice of Decision to Grant a Permit be issued subject to the following conditions:

Amended Plans

1. Prior to the commencement of the development hereby approved, electronic plans drawn to scale must be submitted to the Responsible Authority generally in accordance with the advertised plans (Plan Ref: Plans prepared by Piccolo Architecture 'Exhibition Street 167 Exhibition Street Melbourne CBD' Ref No 191016 dated October 2020) but amended to show:
 - a) Deletion of front framing element to roof terrace adjacent parapet wall;
 - b) Setting back the rooftop balustrade at least 4m from Exhibition Street parapet, including its side elevation to Lees Place;
 - c) Material and finishes schedule updated to show:
 - i. 'M1' Metal Cladding' updated to profiled metal cladding; and
 - ii. 'P1 Paint Finish' removed from east and south elevation of retained building, to replace with 'EXBR Existing Brick'.
 - d) Deletion of reference to replacement parking signage and public lighting;
 - e) Any changes required by Waste Management Plan under condition 4.

Secondary Consent

2. The development as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.

Paint removal

3. Prior to the commencement of paint removal, details of the removal process must be submitted to and approved by the Responsible Authority. The paint must be removed by an approved chemical process, or by other means to

the satisfaction of the Responsible Authority, unless agreed otherwise in writing.

Waste Management

4. Prior to the commencement of development, a revised Waste Management Plan (WMP) shall be prepared, submitted and approved by the Melbourne City Council - Engineering Services. This Plan must be generally in accordance with the plans prepared by Salt dated 9 November 2020 but amended to show:
 - a) All bins are drawn to scale on the floor plan;
 - b) Provision for management of organic waste; and
 - c) Waste collection from Little Bourke Street.

The WMP should detail waste storage and collection arrangements and be prepared with reference to the Melbourne City Council Guidelines for Preparing a Waste Management Plan.

5. The waste storage and collection arrangements must be in accordance with the endorsed Waste Management Plan (WMP). The endorsed WMP must not be altered without prior consent of the Responsible Authority – Engineering Services.

Environmentally Sustainable Design (ESD) Statement

6. The performance outcomes specified in the Environmentally Sustainable Design (ESD) Statement prepared by Aspire Sustainability Consulting Pty Ltd dated 19 October 2020 must be achieved in the completed development.

Any change during detailed design which prevents or alters the attainment of the performance outcomes specified in the endorsed ESD Statement, must be documented by the author of the endorsed ESD statement in an addendum to this report which must be provided to the satisfaction of the Responsible Authority prior to the commencement of construction.

7. Prior to the occupation of the building approved by this permit, a report from the author of the endorsed ESD report, or similarly qualified persons or companies, outlining how the performance outcomes specified in the amended ESD report have been implemented must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the approved ESD report have been implemented in accordance with the relevant approved plans.

Civil Design

8. Prior to the commencement of the development hereby approved, a stormwater drainage system incorporating integrated water management design principles must be submitted to, and be approved by the Responsible Authority – Infrastructure and Assets. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's stormwater drainage system.
9. All portions of Roads and Laneways affected by building related activities on the subject land must be reconstructed together with associated works including the reconstruction or relocation of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Infrastructure and Assets.

10. Existing street levels in Roads and Laneways adjoining the site must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Infrastructure and Assets.
11. All street lighting assets temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has ceased. Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Infrastructure and Assets.
12. Existing street furniture must not be removed or relocated without first obtaining the written approval of the Responsible Authority – Infrastructure and Assets.
13. The title boundaries for the property may not exactly agree with the road alignments of the abutting Council lane. The approved works must not result in structures that encroach onto any Council lane.

Glazing

14. Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

Construction Management Plan

15. Prior to the commencement of the development, including demolition, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group . This construction management plan must be prepared in accordance with the Melbourne City Council - Construction Management Plan Guidelines and is to consider the following:
 - a) public safety, amenity and site security.
 - b) operating hours, noise and vibration controls.
 - c) air and dust management.
 - d) stormwater and sediment control.
 - e) waste and materials reuse.
 - f) traffic management.

Permit Expiry

12. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within three years of the date of this permit.
 - b) The development is not completed within five years of the date of this permit.

The Responsible Authority may extend this permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the development if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired

Notes

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