

## Report to the Future Melbourne Committee

Agenda item 6.3

### Application to Amend a Planning Permit: TP-2019-80/B 19-21 and 23-29 Bourke Street, Melbourne

15 August 2023

**Presenter:** Nick McLennan, Acting Head of Statutory Planning

#### Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of an application to amend Planning Permit TP-2019-80/A under section 72 of the *Planning and Environment Act 1987* (Act) for 19-21 and 23-29 Bourke Street, Melbourne (refer Attachment 2 – Locality Plan).
2. The approved development allows partial demolition, buildings and works for the construction of alterations and additions to the existing buildings, including excavation for a basement and reduction of the bicycle facilities requirements. The approved development is a three-storey restaurant with basement and retractable awnings above a terrace and courtyard on the second floor.
3. The proposed amendment seeks approval for additional demolition and reconstruction works, external alterations, modifications to the internal layout and signage (refer Attachment 3 – Selected Plans).
4. The applicant is Twenty Three Bourke Land Pty Ltd c/- Jewell Partnership Pty Ltd. The owners are Nineteen Bourke Land Pty Ltd and Twenty Three Bourke Land Pty Ltd. The architect is Mills Gorman Architects Pty Ltd. The cost of works for the approved development and proposed amendment is \$10 million.
5. The subject site is located within the Capital City Zone Schedule 1 (CCZ1), Heritage Overlay (HO500 and HO526), Design and Development Overlay Schedules 1 and 62 (DDO1 and DDO62), and Parking Overlay Schedule 1 (PO1) of the Melbourne Planning Scheme. 19-21 Bourke Street is a 'contributory' graded building and 23-29 Bourke Street is a 'significant' graded building in the Heritage Places Inventory March 2022 (Amended May 2023).
6. Public notice of the application was given under the Heritage Overlay. The application received four objections. The proposed amendment is being presented to the Future Melbourne Committee as the additional demolition to the 'significant' graded building at 23-29 Bourke Street results in substantial demolition.

#### Key issues

7. The key issue for consideration in the assessment of the amendment application is heritage.
8. The proposed demolition and reconstruction works have come about through a detailed appraisal of how the building can be safely constructed given the conditions onsite. The application has been through a thorough process with heritage consultants, expert contractors, Council's planning officers and heritage advisor to consider heritage and the safety and practicality of the build, and ensure that the proposal maintains the character and appearance of the existing buildings to ensure they continue to contribute to the Bourke Hill Precinct.
9. New and amended permit conditions are recommended to ensure the development is constructed in accordance with the endorsed drawings and documents with the oversight of Lovell Chen or a suitably experienced Project Heritage Conservation Architect.

#### Recommendation from management

10. That the Future Melbourne Committee resolves that a Notice of Decision to Grant an Amended Permit be issued subject to the conditions set out in the delegate report (refer to Attachment 4 of the report from management).

#### Attachments:

1. Supporting Attachment (Page 2 of 44)
2. Locality Plans (Page 3 of 44)
3. Selected Plans (Page 4 of 44)
4. Delegate Report (Page 16 of 44)

## Supporting Attachment

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### Legal

1. Division 1 of Part 4 of the Act sets out 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 Victorian Civil and Administrative Tribunal (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 within 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 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. An Environmental Sustainable Design Statement has been endorsed to form part of Planning Permit TP-2019-80/A and is not affected by the proposed amendment.

# Locality Plan

## 19-21 and 23-29 Bourke Street, Melbourne



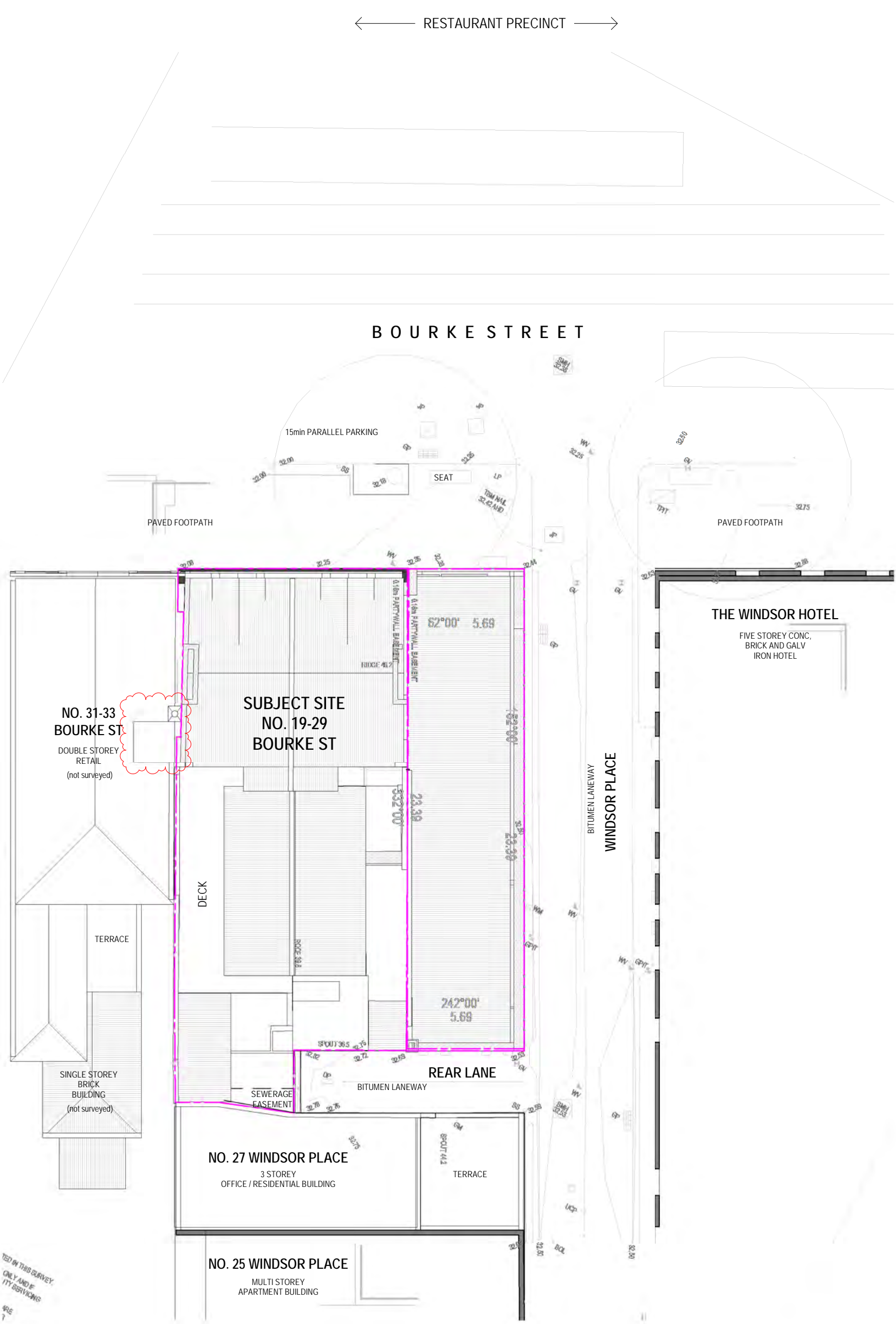




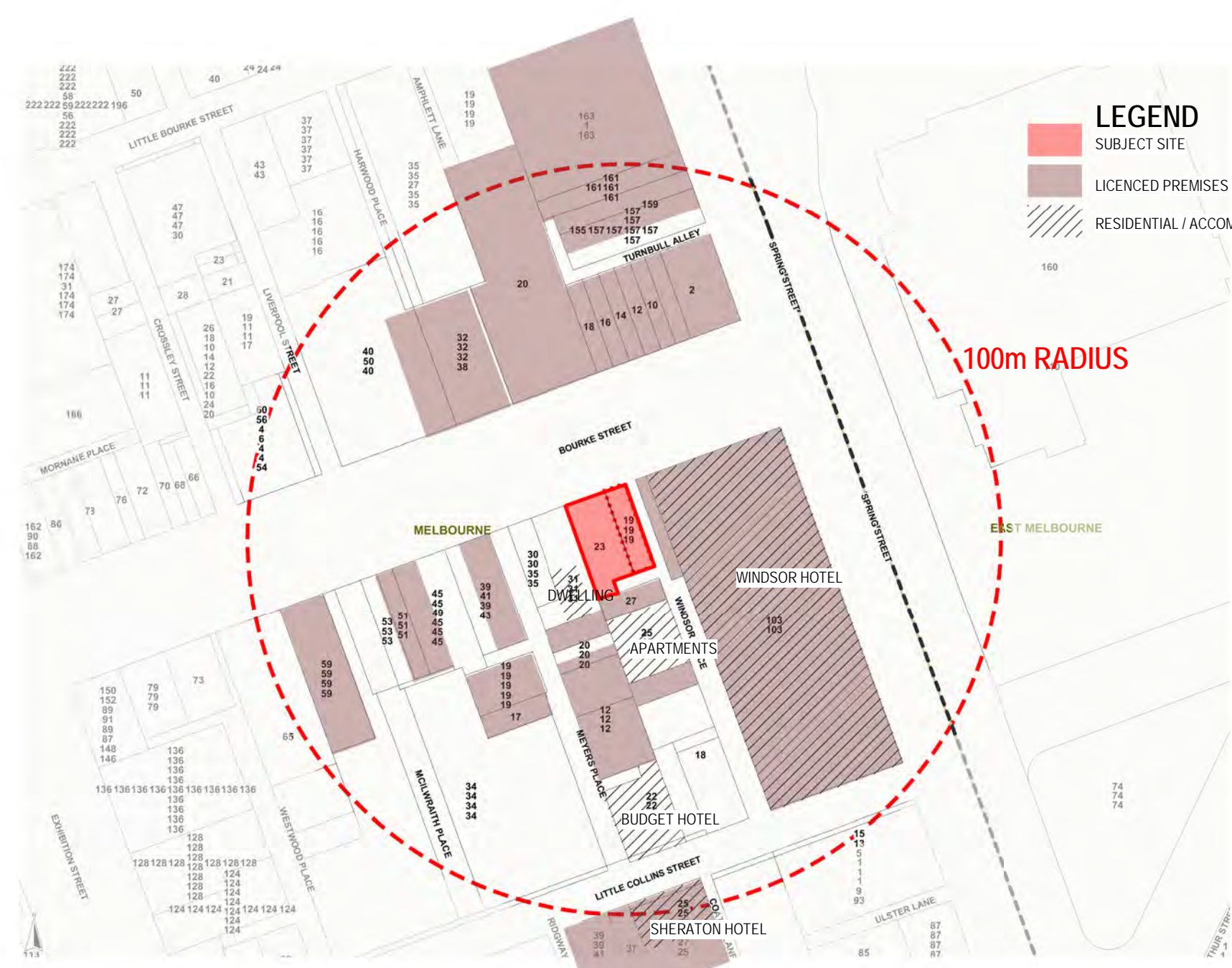
# 19-21 & 23-29 B O U R K E S T, M E L B O U R N E

TP00	COVER SHEET	O	20/07/2023
TP01	EXISTING SITE CONTEXT	F	20/07/2023
TP02	PROPOSED SITE PLAN	F	20/07/2023
TP03	DEMOLITION FLOOR PLANS	H	20/07/2023
TP03.1	DEMOLITION ELEVATIONS	J	20/07/2023
TP04	PROPOSED FLOOR PLANS	R	28/04/2023
TP04.1	PROPOSED FLOOR PLANS	L	20/07/2023
TP05	ELEVATIONS	L	20/07/2023
TP06	SECTIONS & FACADE DETAILS	R	28/04/2023
TP06.1	SECTIONS	K	20/07/2023
TP07	CONCEPT 3D VIEWS - ARTIST IMPRESSIONS ONLY - REFER ELEVATIONS FOR DETAILS	H	20/07/2023
TP08	SHADOW DIAGRAMS 21 SEPTEMBER	F	20/07/2023





1. SITE CONTEXT PLAN  
SCALE 1:200



SITE CONTEXT ANALYSIS PLAN  
NOT TO SCALE



3. STREETScape (BOURKE ST)



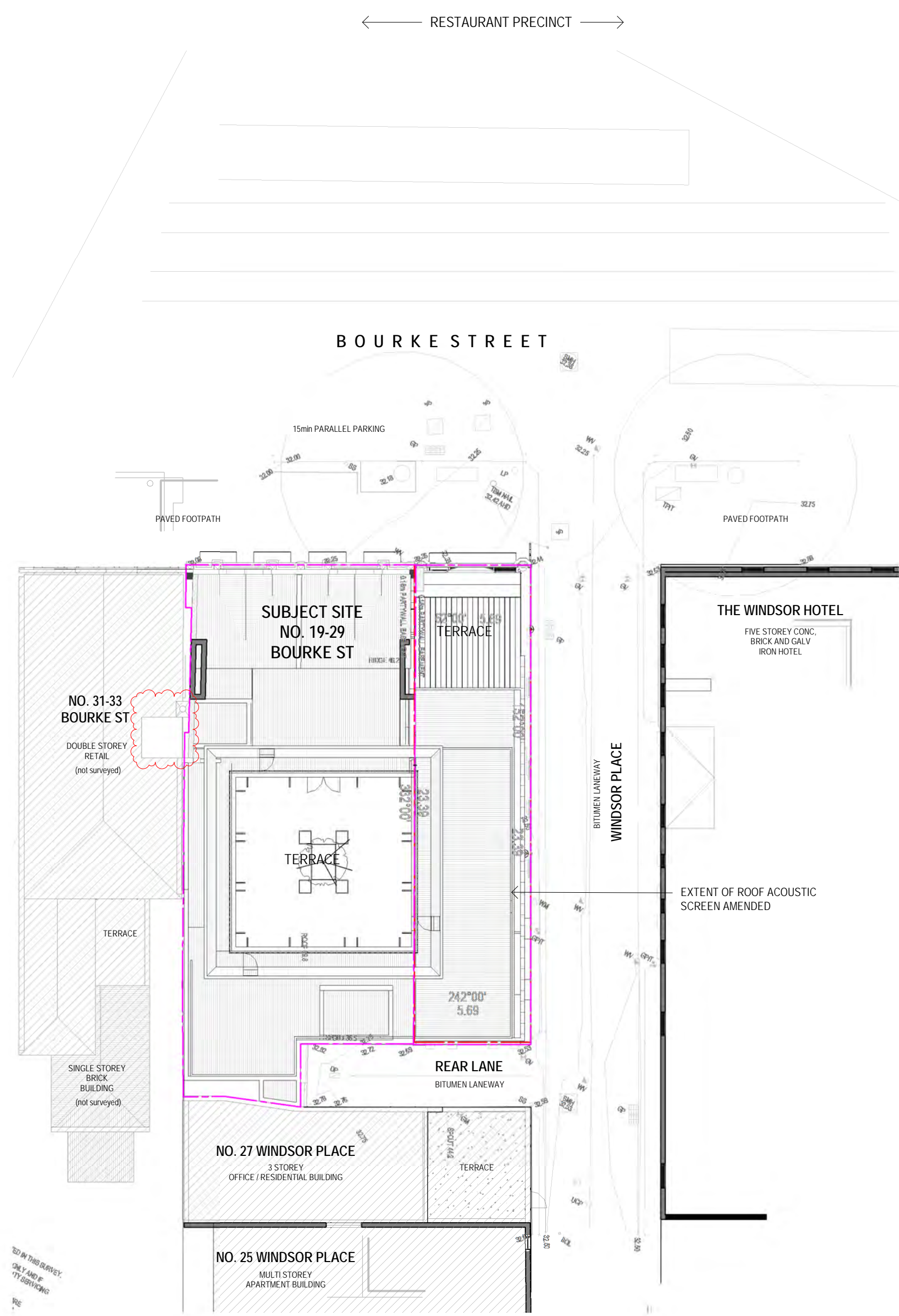
4. STREETScape BOURKE ST (OPPOSITE)



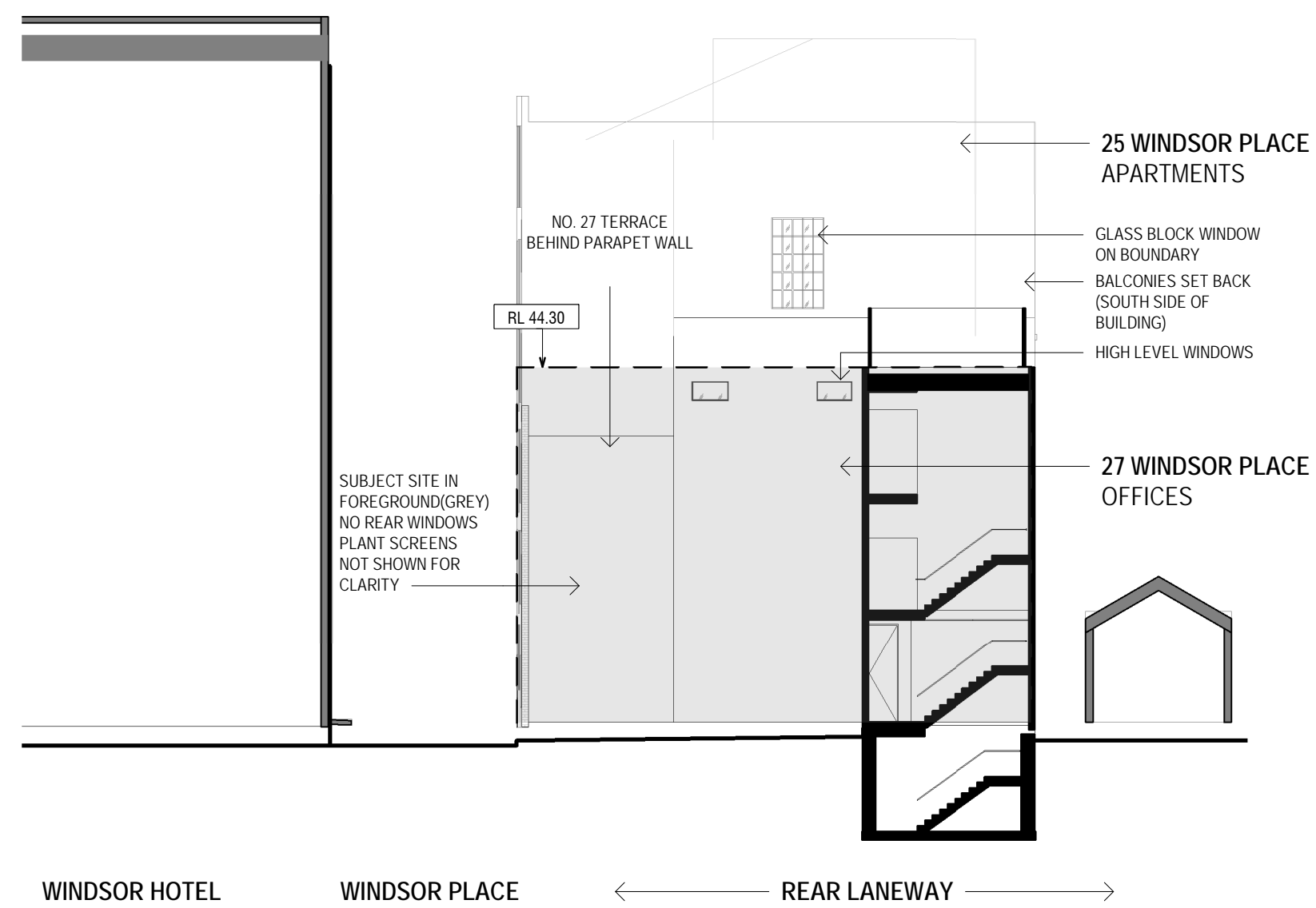
2. EXISTING AERIAL VIEWS  
NOT TO SCALE







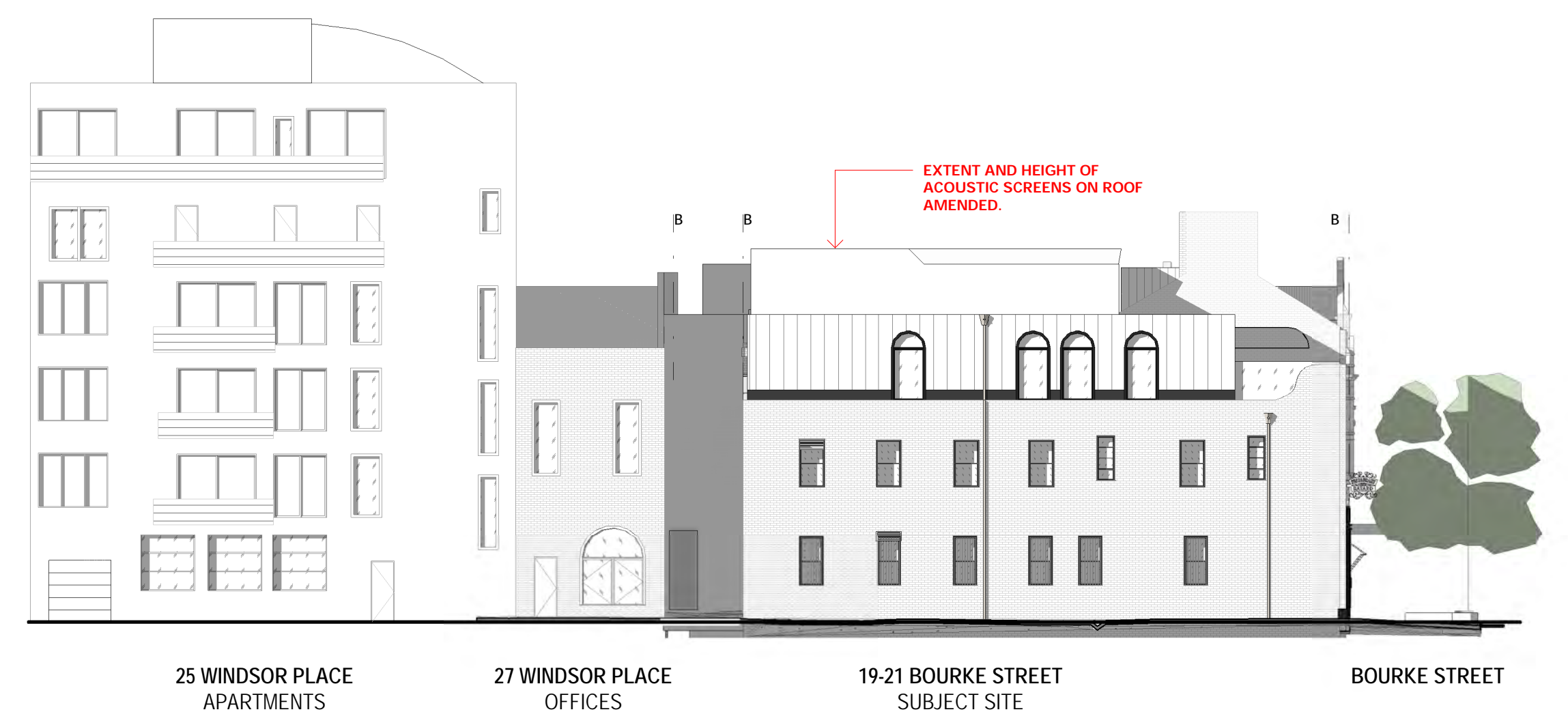
SITE PLAN  
SCALE 1:200



WINDSOR PLACE SECTION (THROUGH LANEWAY)  
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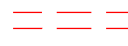

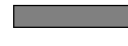

WINDSOR PLACE STREETScape (OPPOSITE)  
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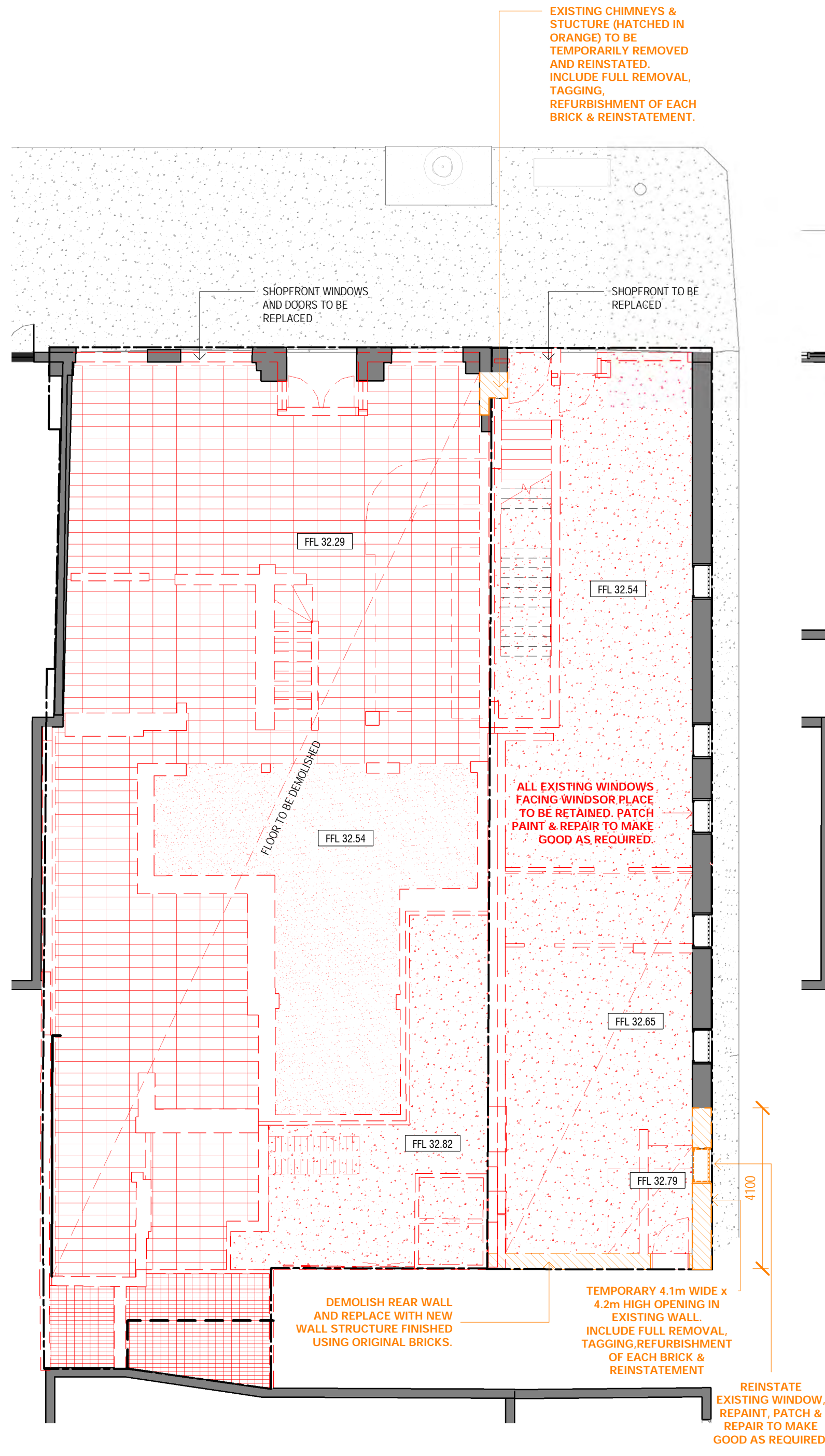


3. PROPOSED WINDSOR PLACE STREETScape  
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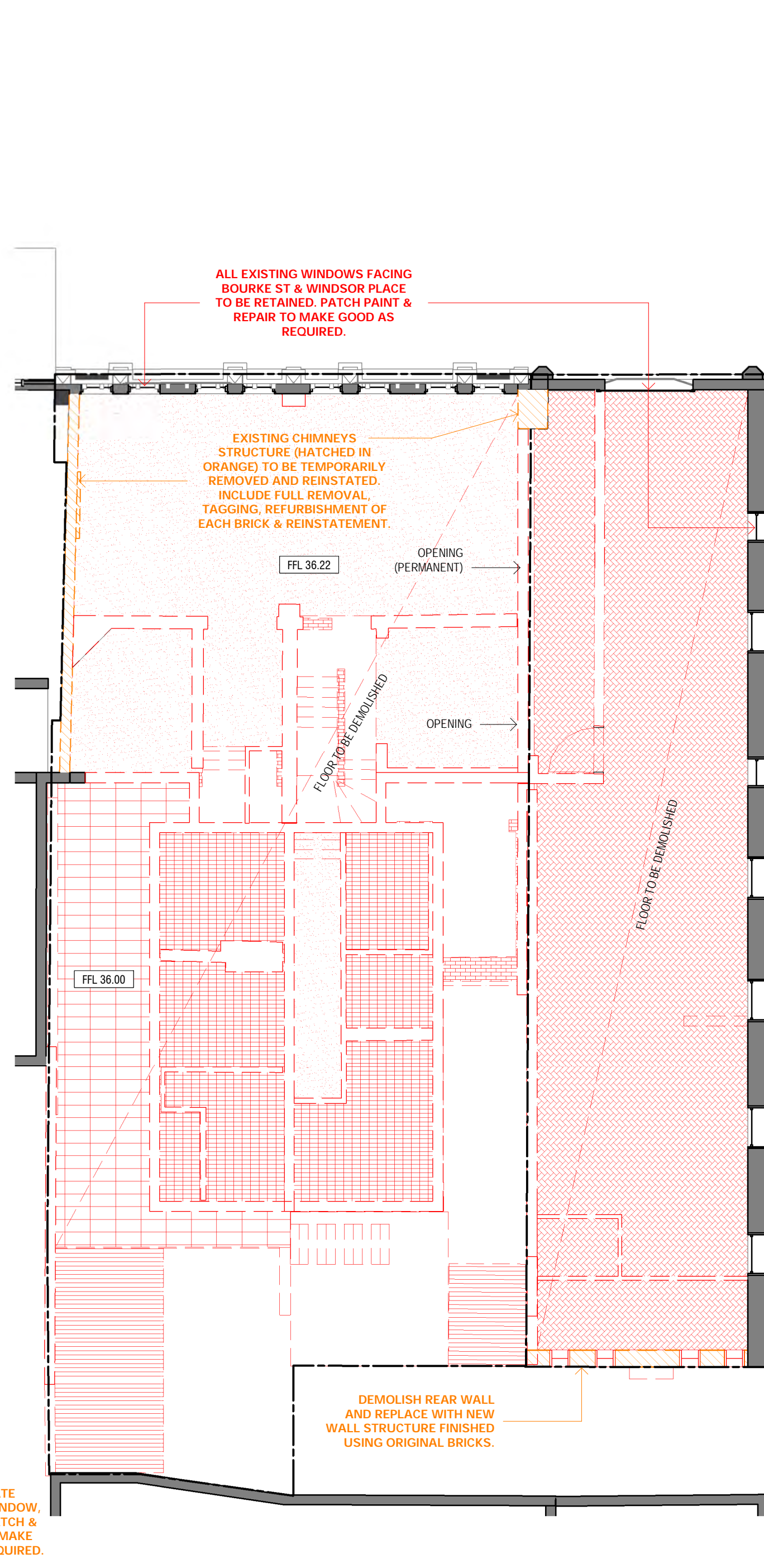
LEGEND

-  EXTENT OF DEMOLITION OF WALLS, DOORS, WINDOWS, FLOORS.
-  EXTENT OF WALLS, ROOFS & WINDOWS TO BE DEMOLISHED & REINSTATED.
-  EXISTING WALLS TO REMAIN
-  NEW WALLS



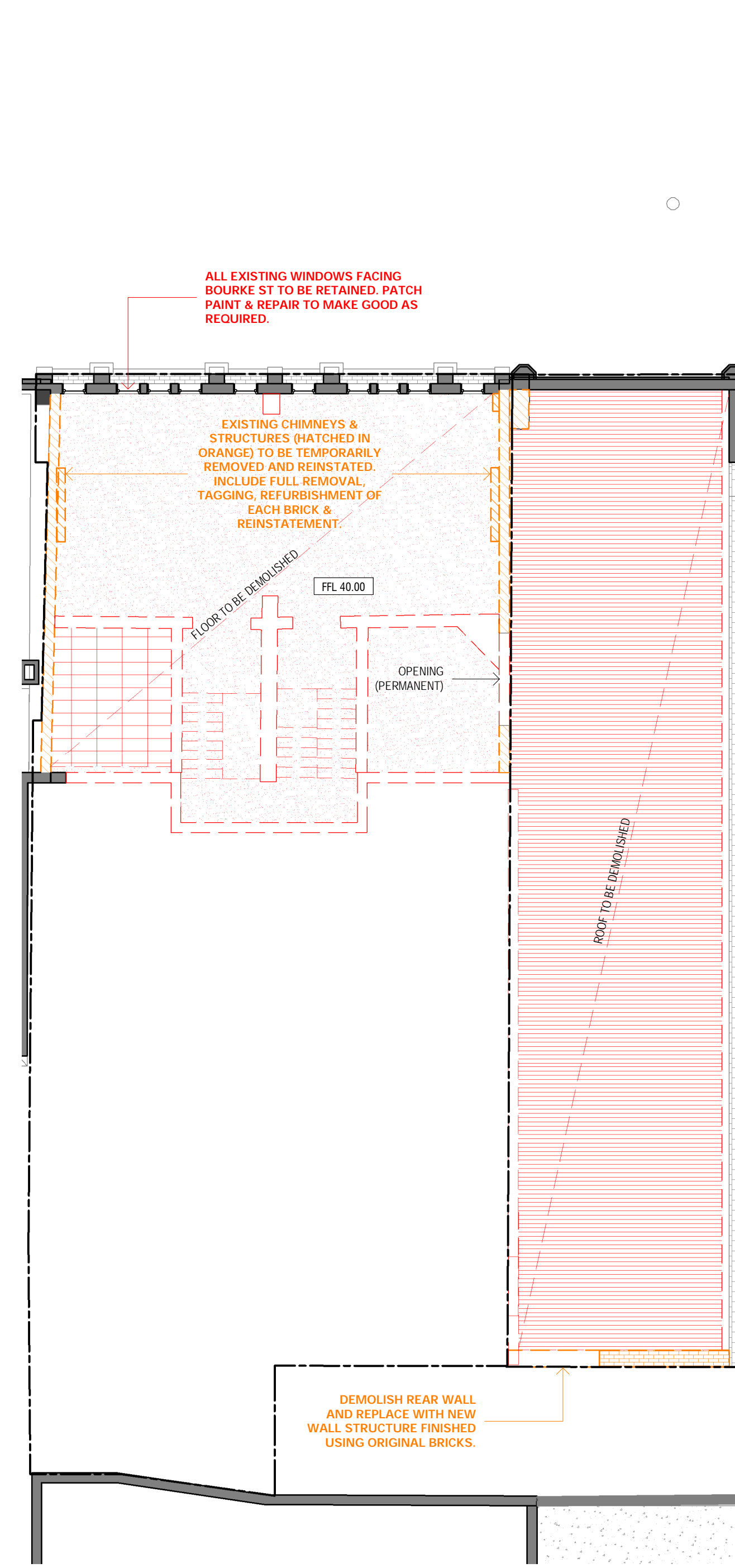
GROUND FLOOR

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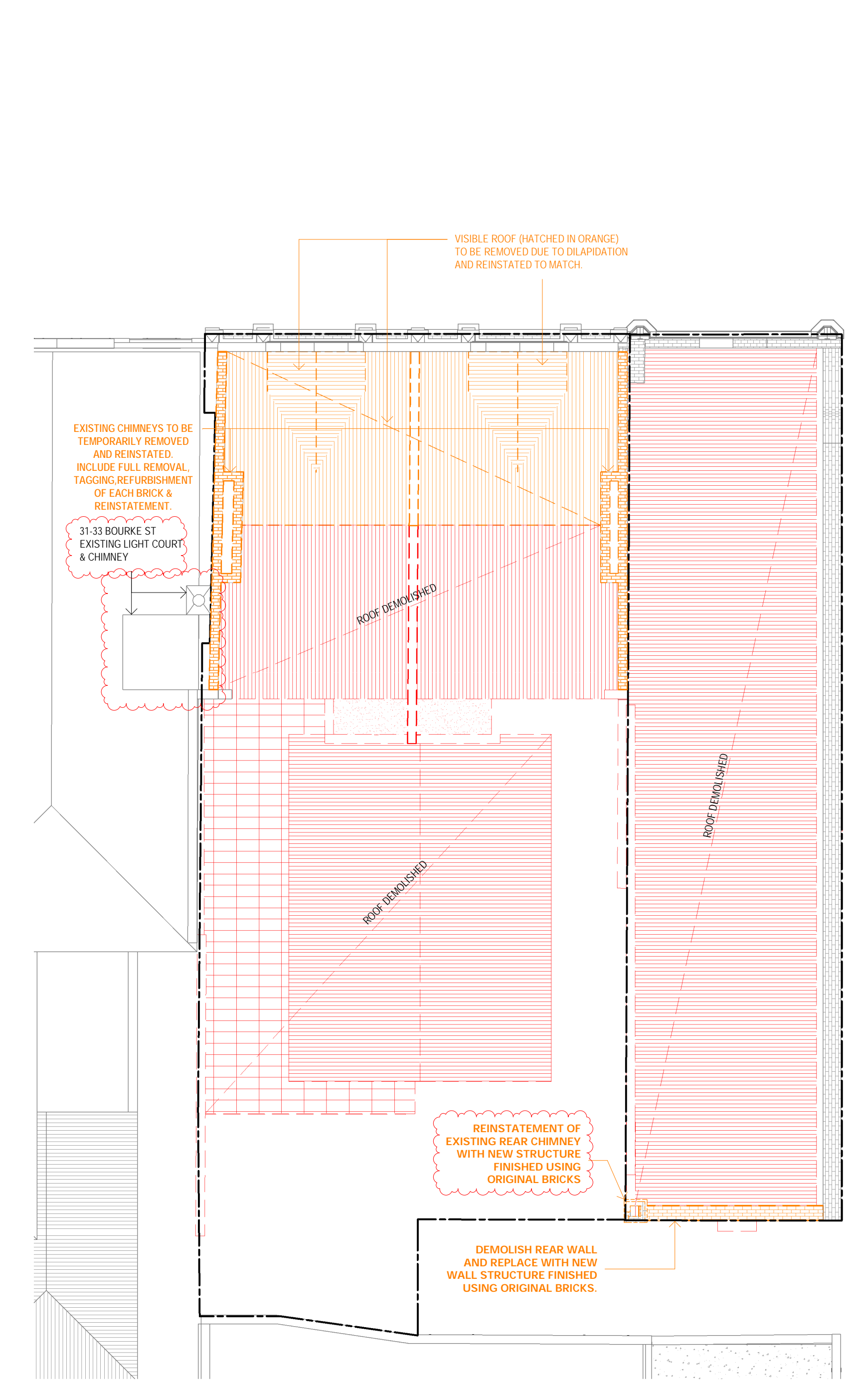
FIRST FLOOR

SCALE 1:100



SECOND FLOOR

SCALE 1:100



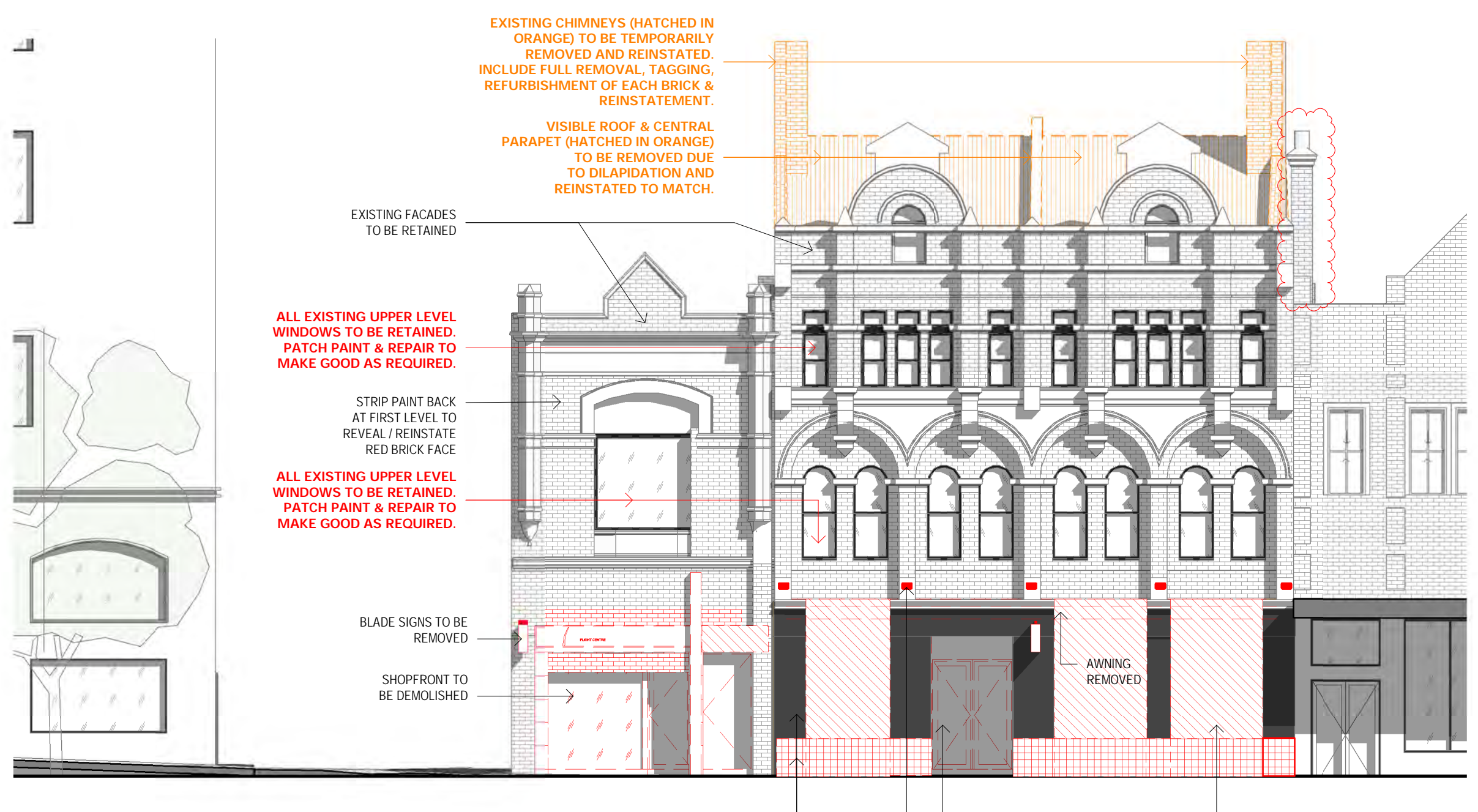
ROOF PLAN

SCALE 1:100

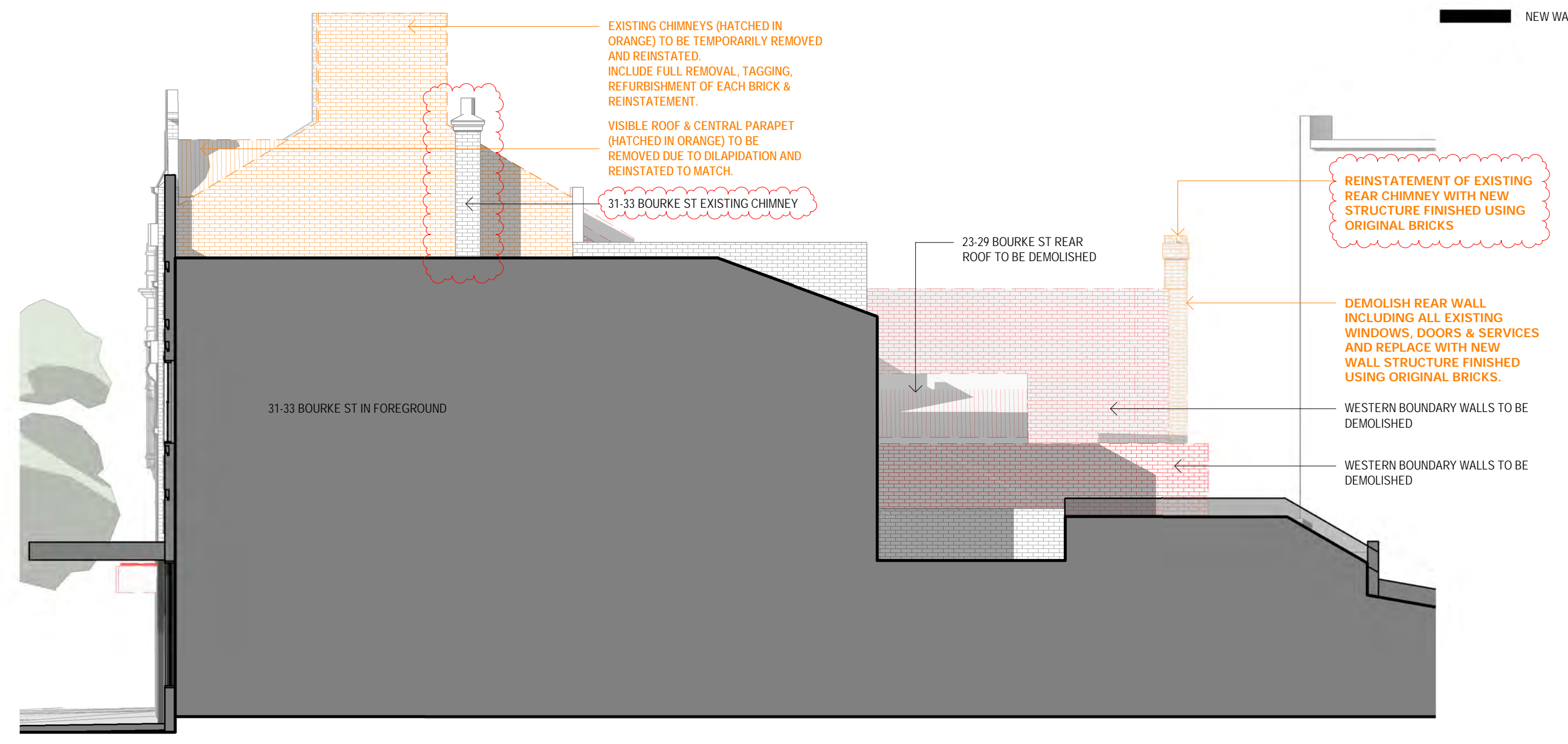


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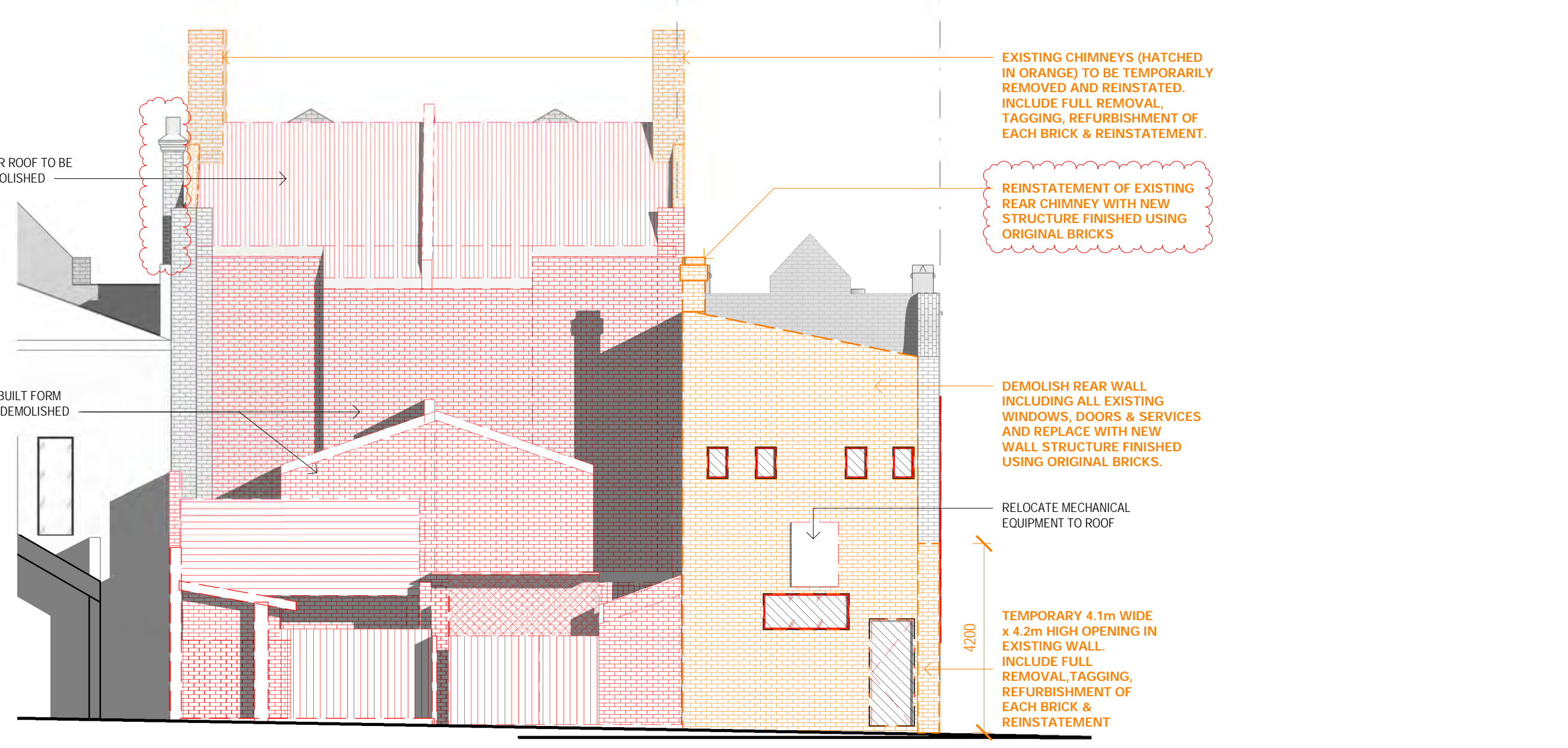
- EXTENT OF DEMOLITION OF WALLS, DOORS, WINDOWS, FLOORS.
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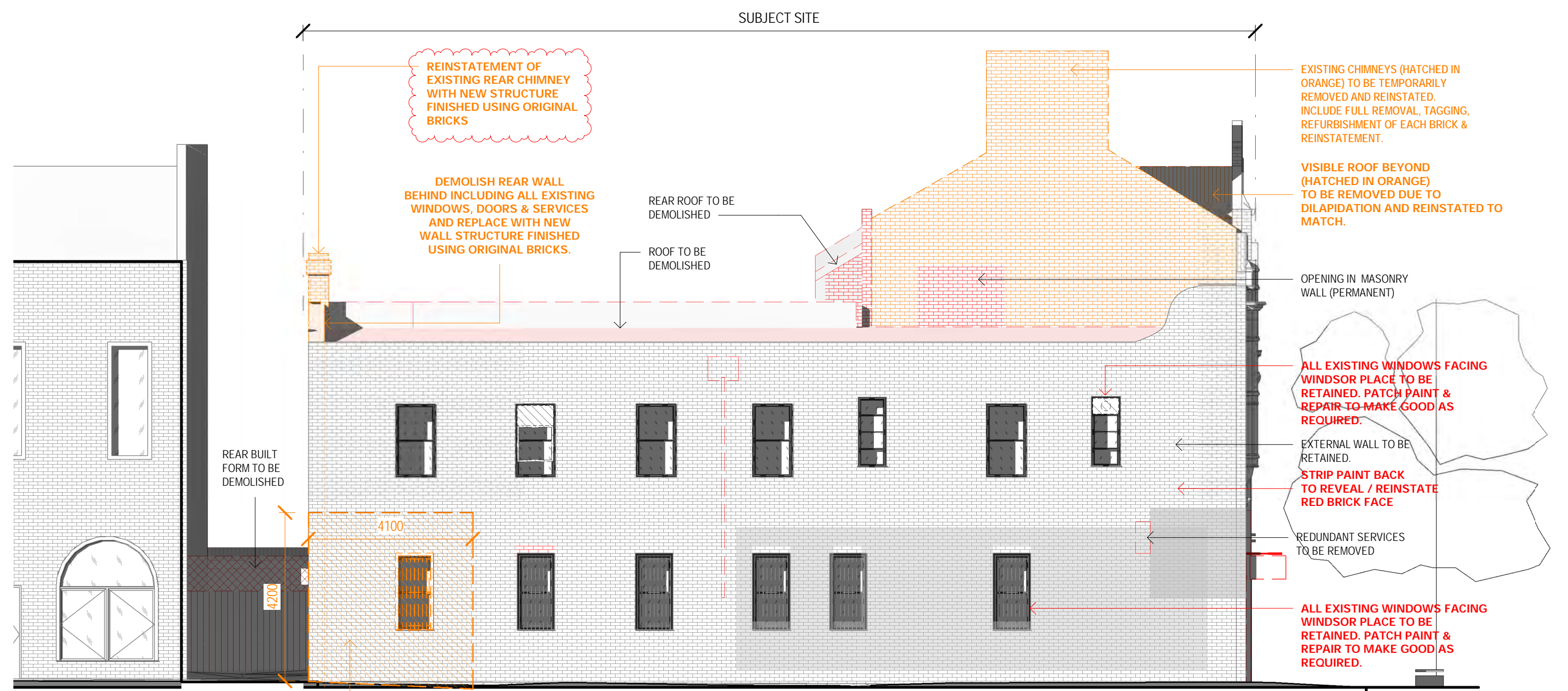
**NORTH ELEVATION**  
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**WEST ELEVATION**  
SCALE 1:100
















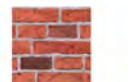


**SOUTH ELEVATION**  
SCALE 1:100



**EAST ELEVATION**  
SCALE 1:100



MATERIALS SCHEDULE

 PA-01 PAINT FINISH	 PC-01 POWDERCOATED METAL
 PA-02 PAINT FINISH	 GLZ CLEAR GLAZING
 PA-03 PAINT FINISH	 GLZZ OPAQUE GLAZING
 PA-04 PAINT FINISH	 GLZ3 REEDED OBSCURED GLAZING
 MET-01 COLOURBOND CLADDING	 CAN CANVAS (CANOPY)
 MET-03 BRASS METAL	 EX MA BRICKWORK - EXISTING
 MET-02 COLOURBOND CLADDING (RECESS)	 <del>MA-01 DELETED - NOT IN USE</del> CLADDING (PAINT OVER WITH PA-01)
	 RO METAL DECK ROOFING COLOURBOND MONUMENT
	 FAB WHITE OPAQUE FABRIC

GROSS FLOOR AREAS	
19-21 BOURKE ST	502.80 m <sup>2</sup>
23-29 BOURKE ST	1076.01 m <sup>2</sup>
	1578.81 m <sup>2</sup>




SITE AREA	
23-29 BOURKE ST	280.27 m <sup>2</sup>
12-21 BOURKE ST	133.09 m <sup>2</sup>
	413.36 m <sup>2</sup>

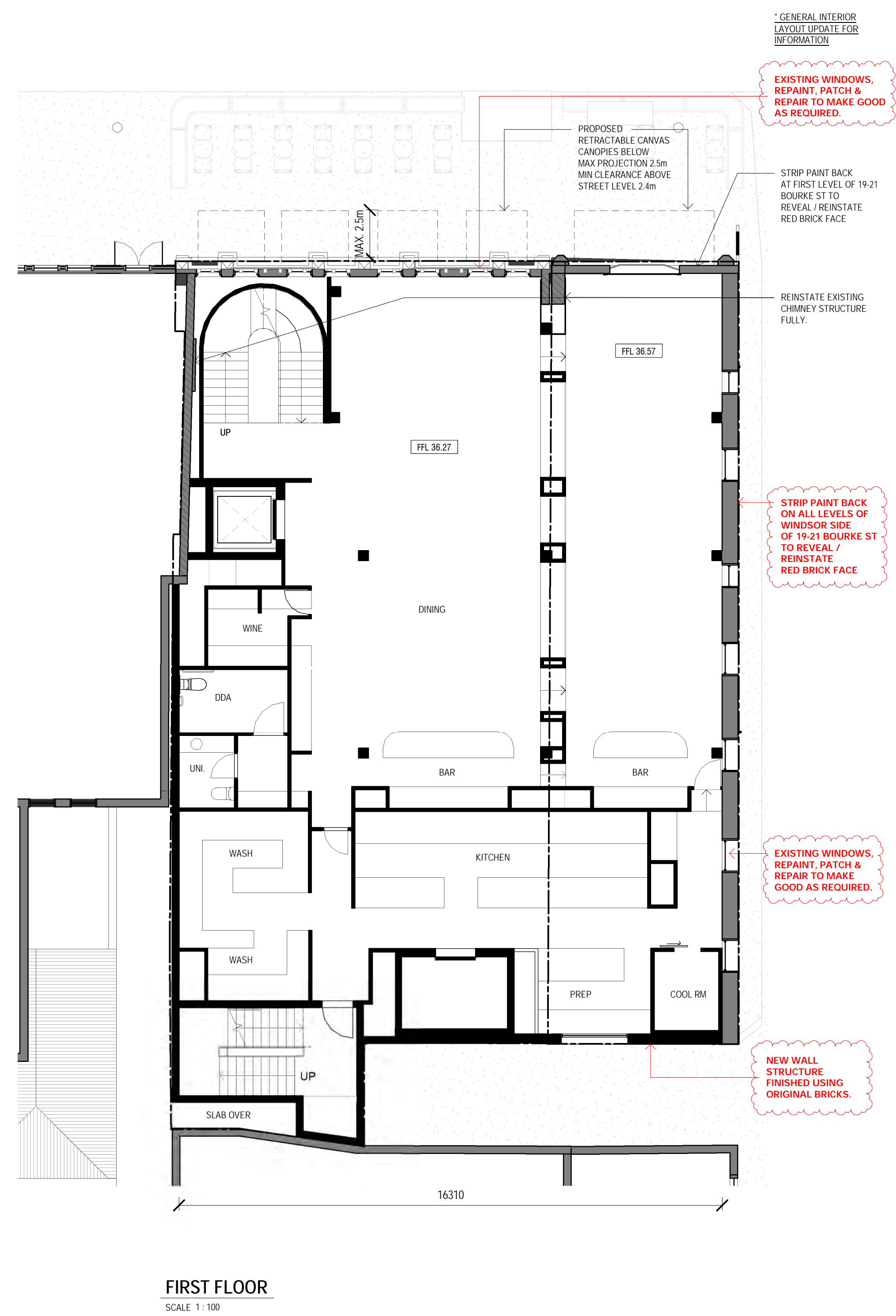
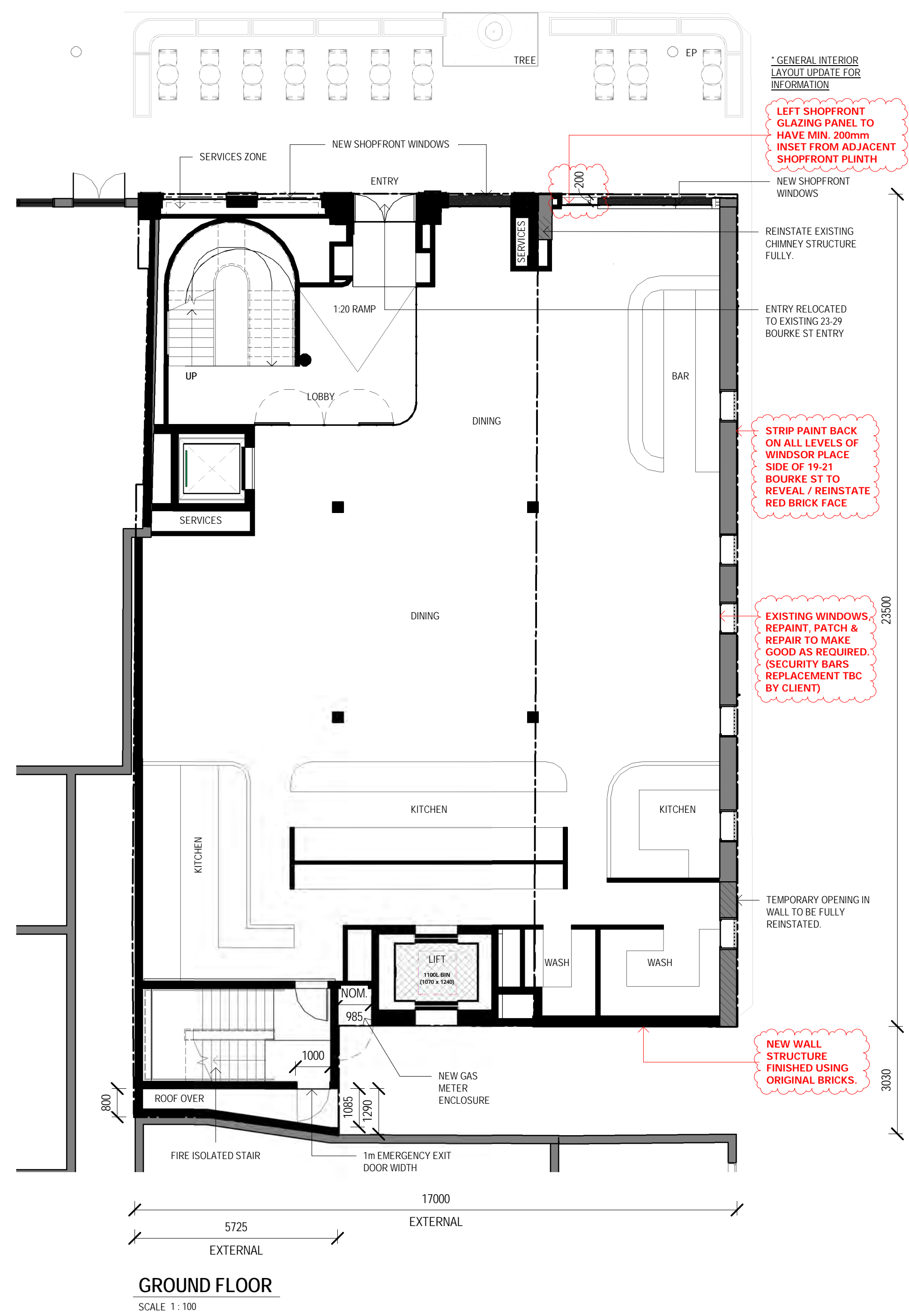
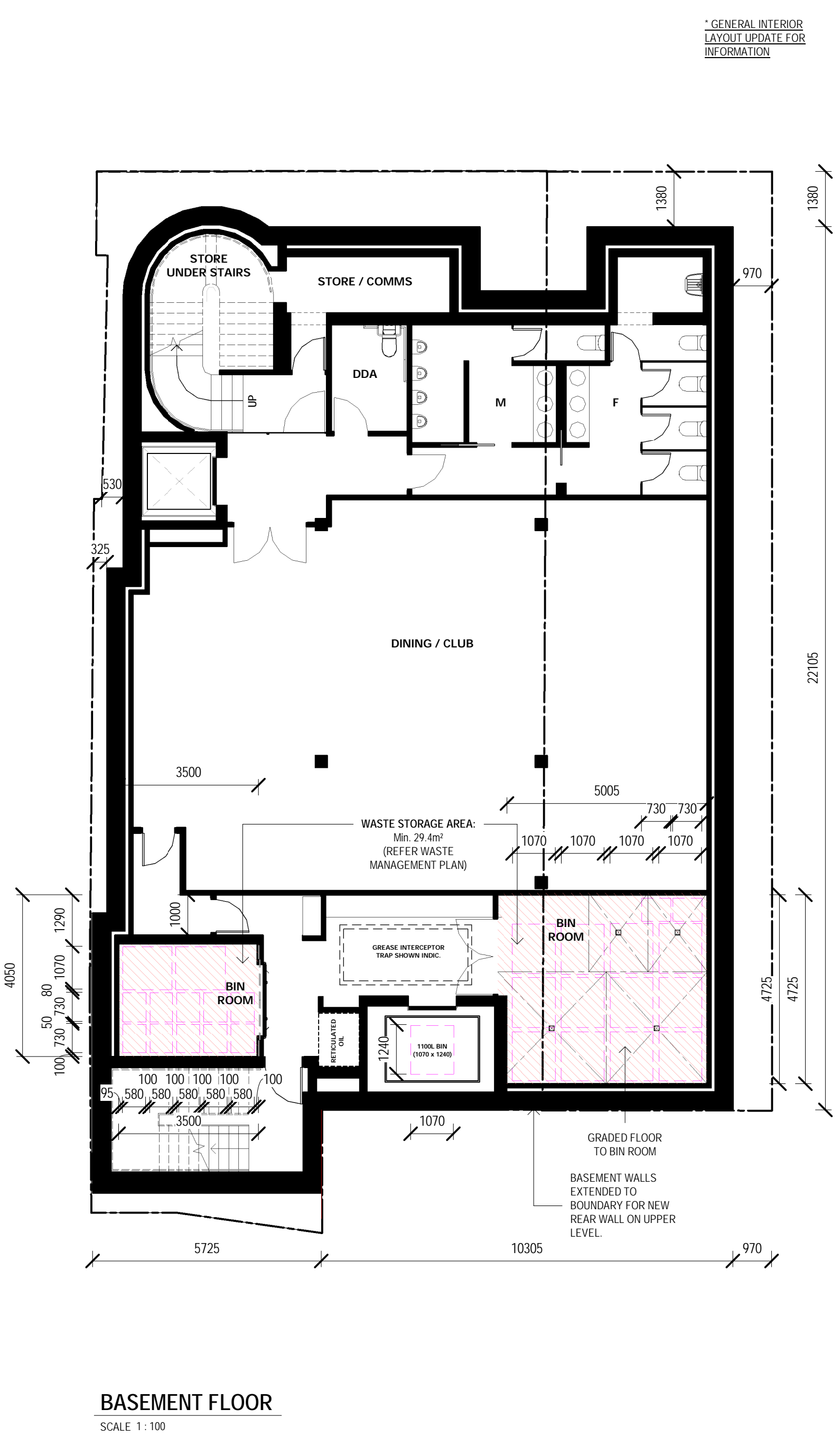
INTERNAL FLOOR AREA SCHEDULE	
BASEMENT	301.38 m <sup>2</sup>
GROUND FLOOR	379.78 m <sup>2</sup>
FIRST FLOOR	379.51 m <sup>2</sup>
SECOND FLOOR	271.74 m <sup>2</sup>
SECOND FLOOR TERRACES	108.06 m <sup>2</sup>
	1440.47 m <sup>2</sup>

FLOOR AREA AVAILABLE TO PUBLIC	
BASEMENT	237.36 m <sup>2</sup>
GROUND FLOOR	267.44 m <sup>2</sup>
FIRST FLOOR	252.40 m <sup>2</sup>
SECOND FLOOR	218.30 m <sup>2</sup>
SECOND FLOOR TERRACES	108.06 m <sup>2</sup>
	1083.56 m <sup>2</sup>

EXISTING INTERNAL FLOOR AREA AVAILABLE TO PUBLIC (23-29 BOURKE ST)	
GROUND FLOOR	121.80 m <sup>2</sup>
FIRST FLOOR	156.36 m <sup>2</sup>
SECOND FLOOR	98.77 m <sup>2</sup>

LEGEND

-  TITLE BOUNDARY
-  EXISTING BUILDING
-  PROPOSED WALLS

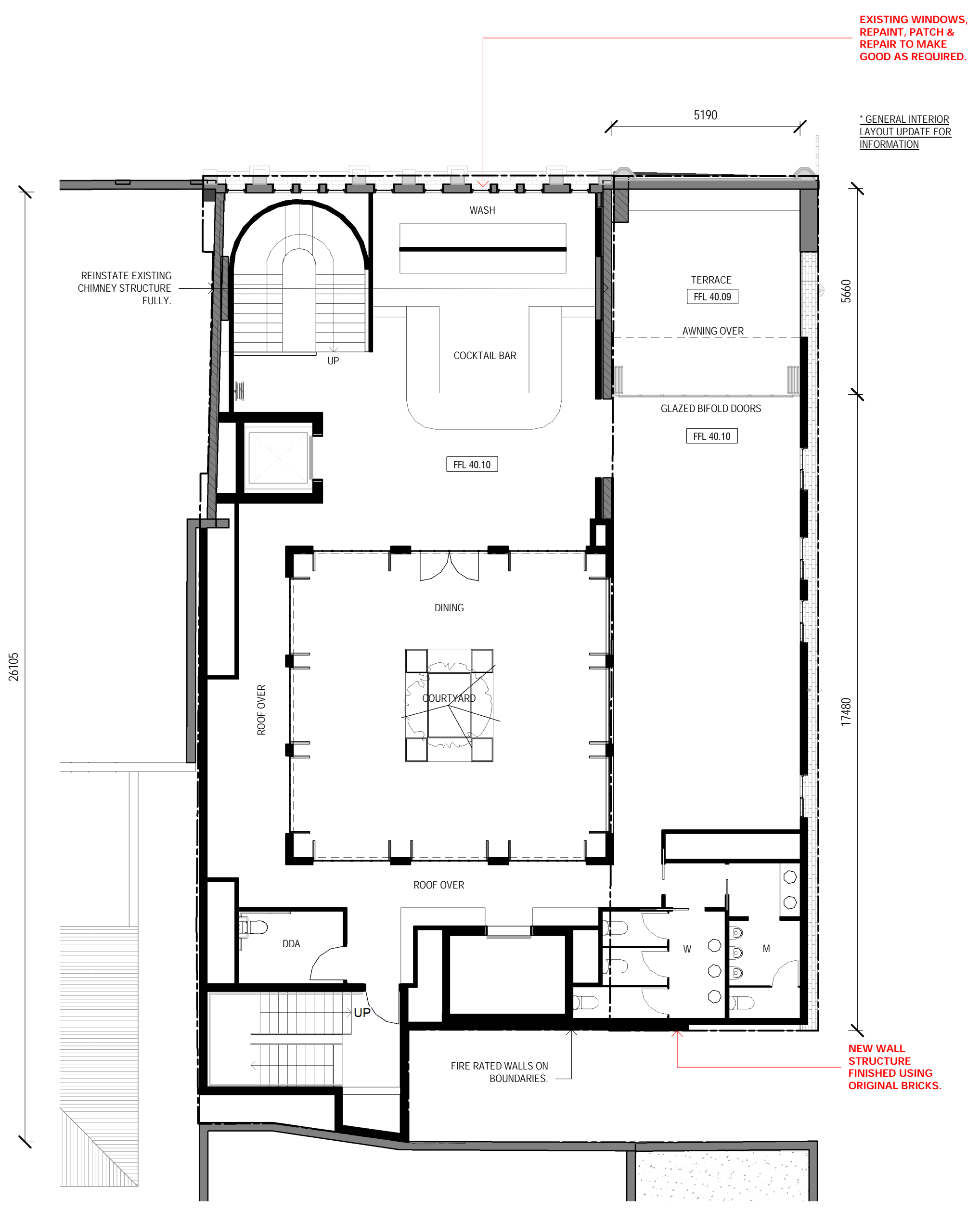


MATERIALS SCHEDULE

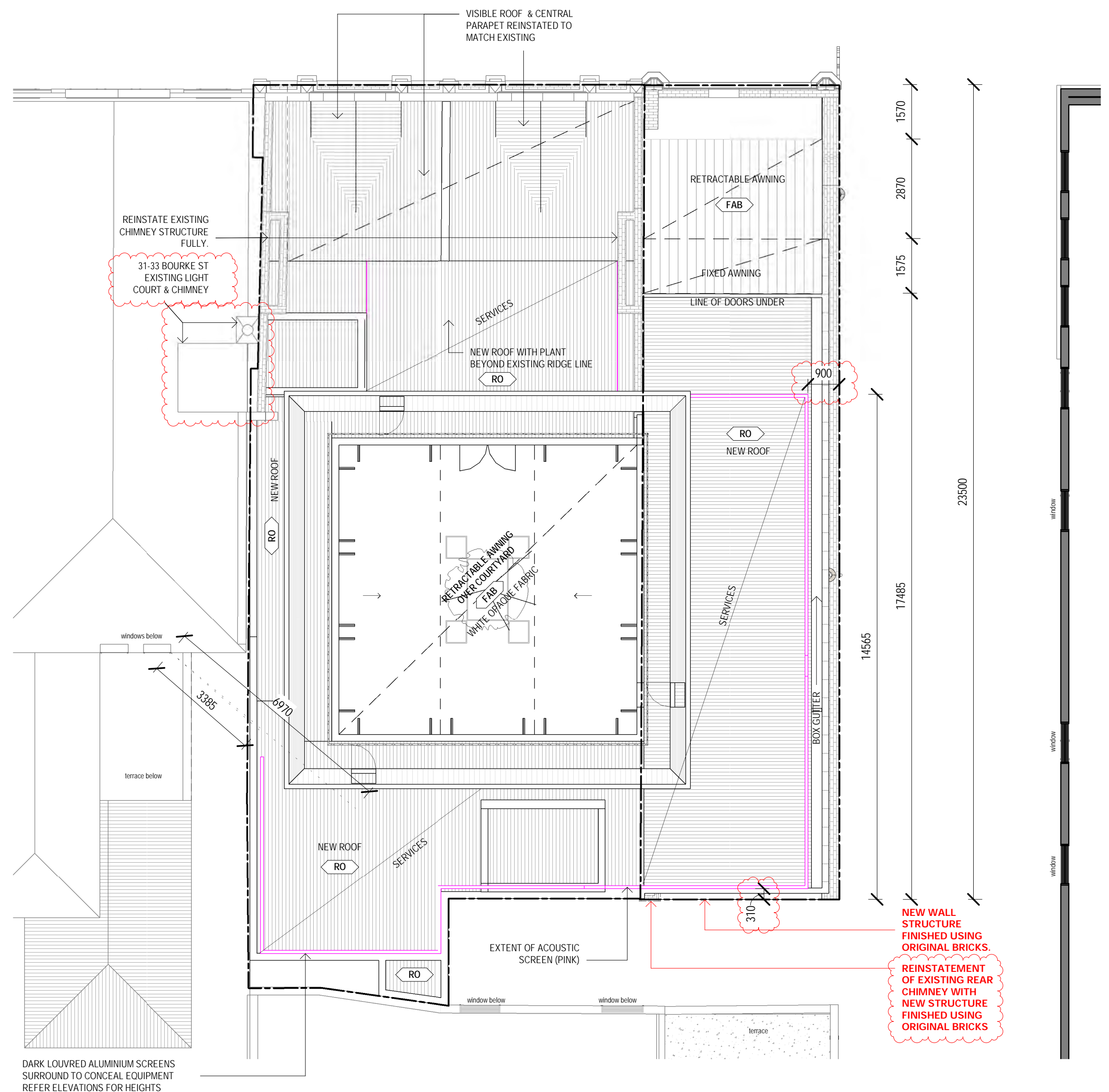
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PA-02	PAINT FINISH	GLZ	CLEAR GLAZING
PA-03	PAINT FINISH	GLZ2	OPAQUE GLAZING
PA-04	PAINT FINISH	GLZ3	REDED OBSCURED GLAZING
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		RO	METAL DECK ROOFING COLOURBOND MONUMENT
		FAB	WHITE OPAQUE FABRIC

LEGEND

	TITLE BOUNDARY
	EXISTING BUILDING
	PROPOSED WALLS



**SECOND FLOOR**  
SCALE 1:100

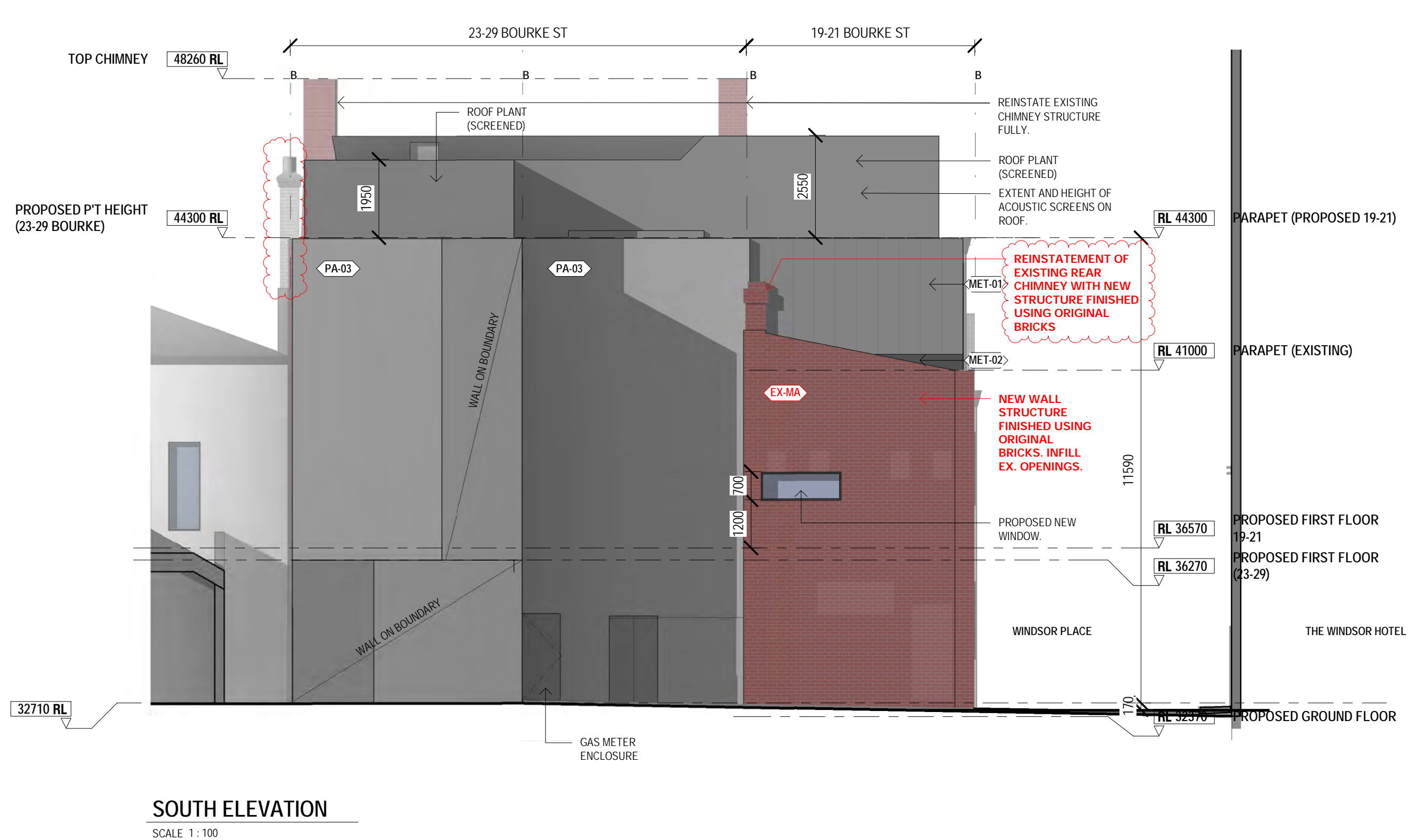


**ROOF PLAN**  
SCALE 1:100





**EAST ELEVATION**  
SCALE 1:100



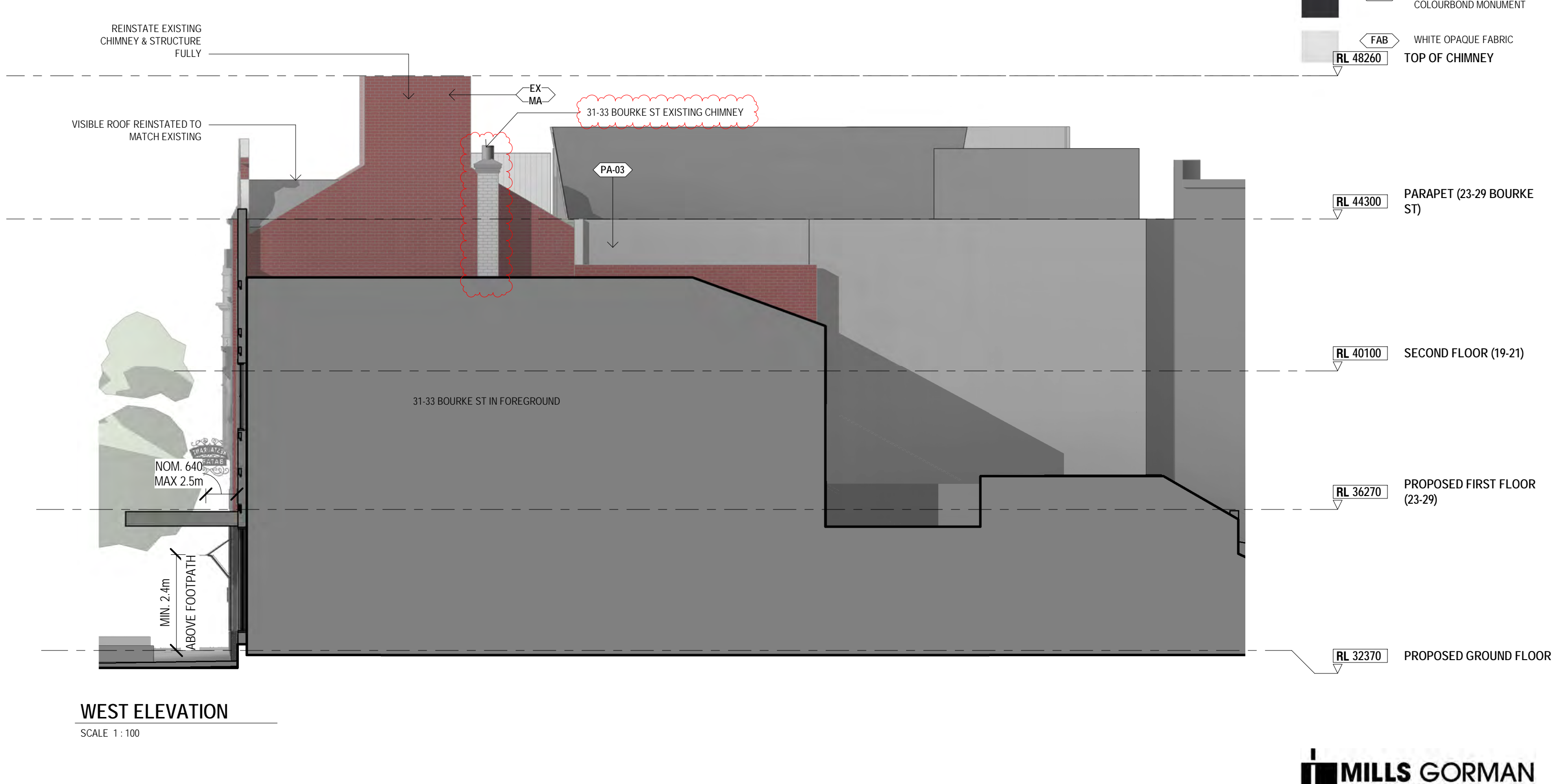
**SOUTH ELEVATION**  
SCALE 1:100

**MATERIALS SCHEDULE**

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PA-04	PAINT FINISH	GLZ3	REDEED OBSCURED GLAZING
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MET-03	BRASS METAL	EX	BRICKWORK - EXISTING
MET-02	COLOURBOND CLADDING (RECESS)	MA-01	<del>DELETED, NOT IN USE</del> METAL DECK ROOFING COLOURBOND CLADDING (PAINT OVER WITH PA-01)
		RO	METAL DECK ROOFING COLOURBOND MONUMENT
		FAB	WHITE OPAQUE FABRIC
		RL 48260	TOP CHIMNEY

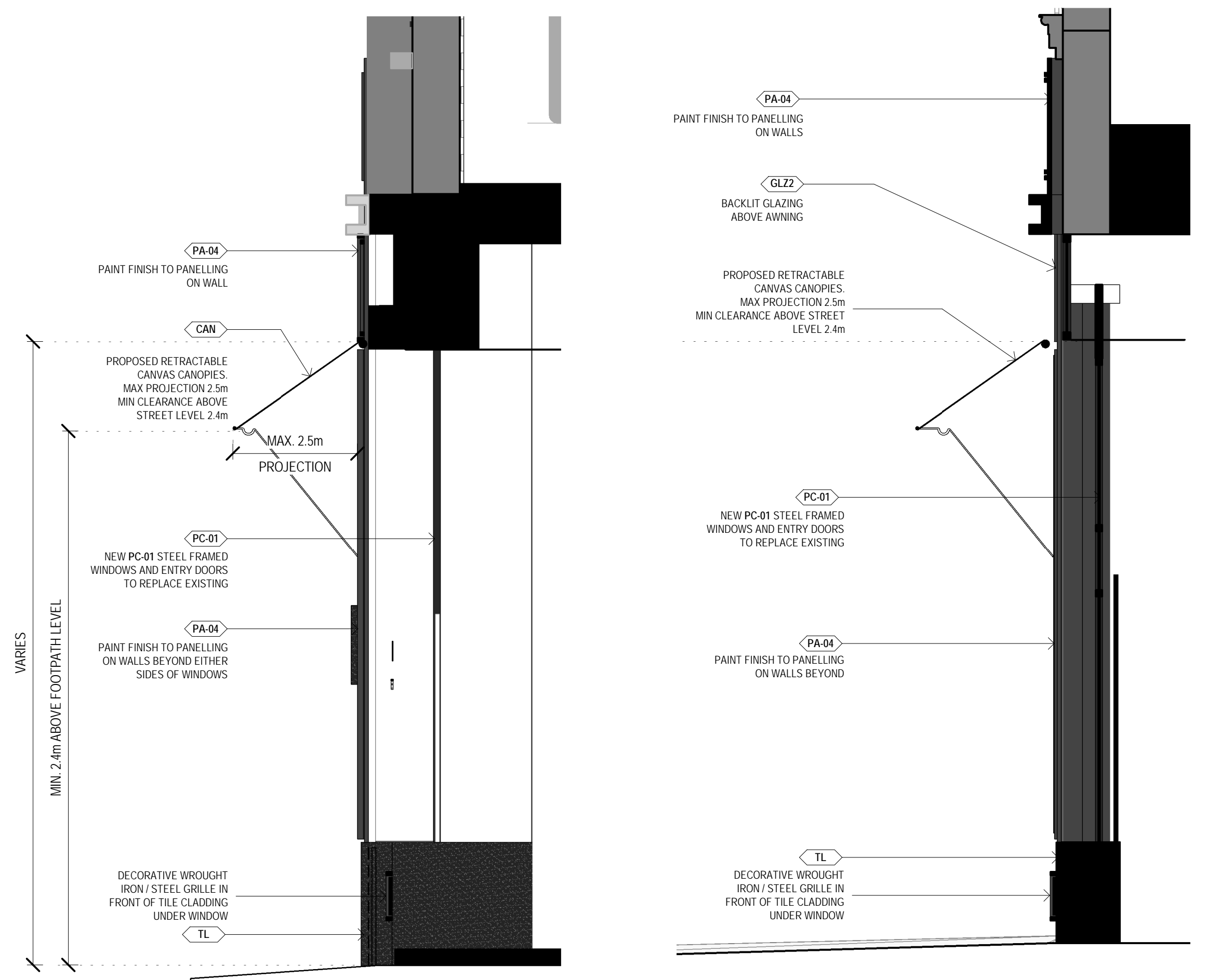
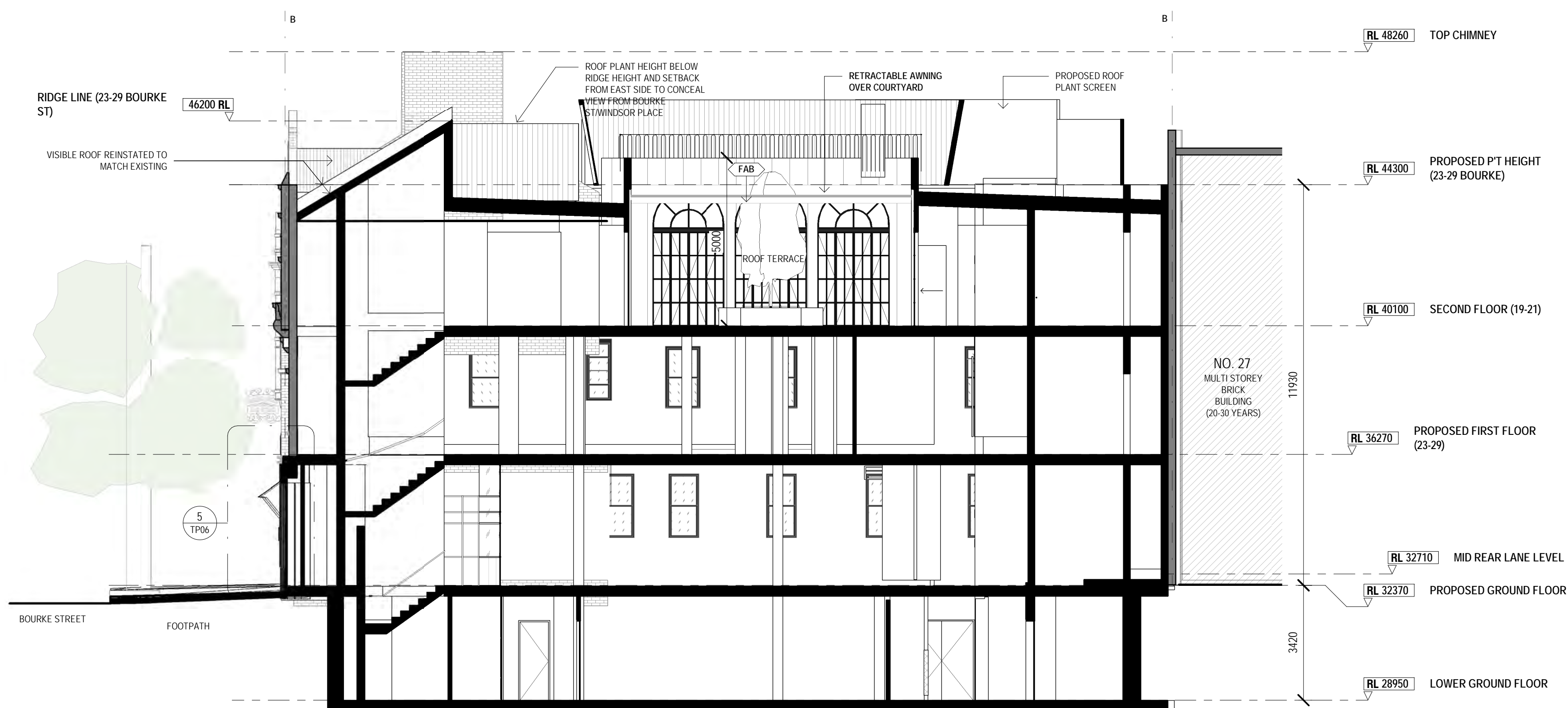


**NORTH ELEVATION**  
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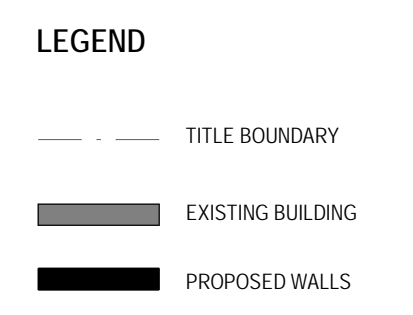
**WEST ELEVATION**  
SCALE 1:100



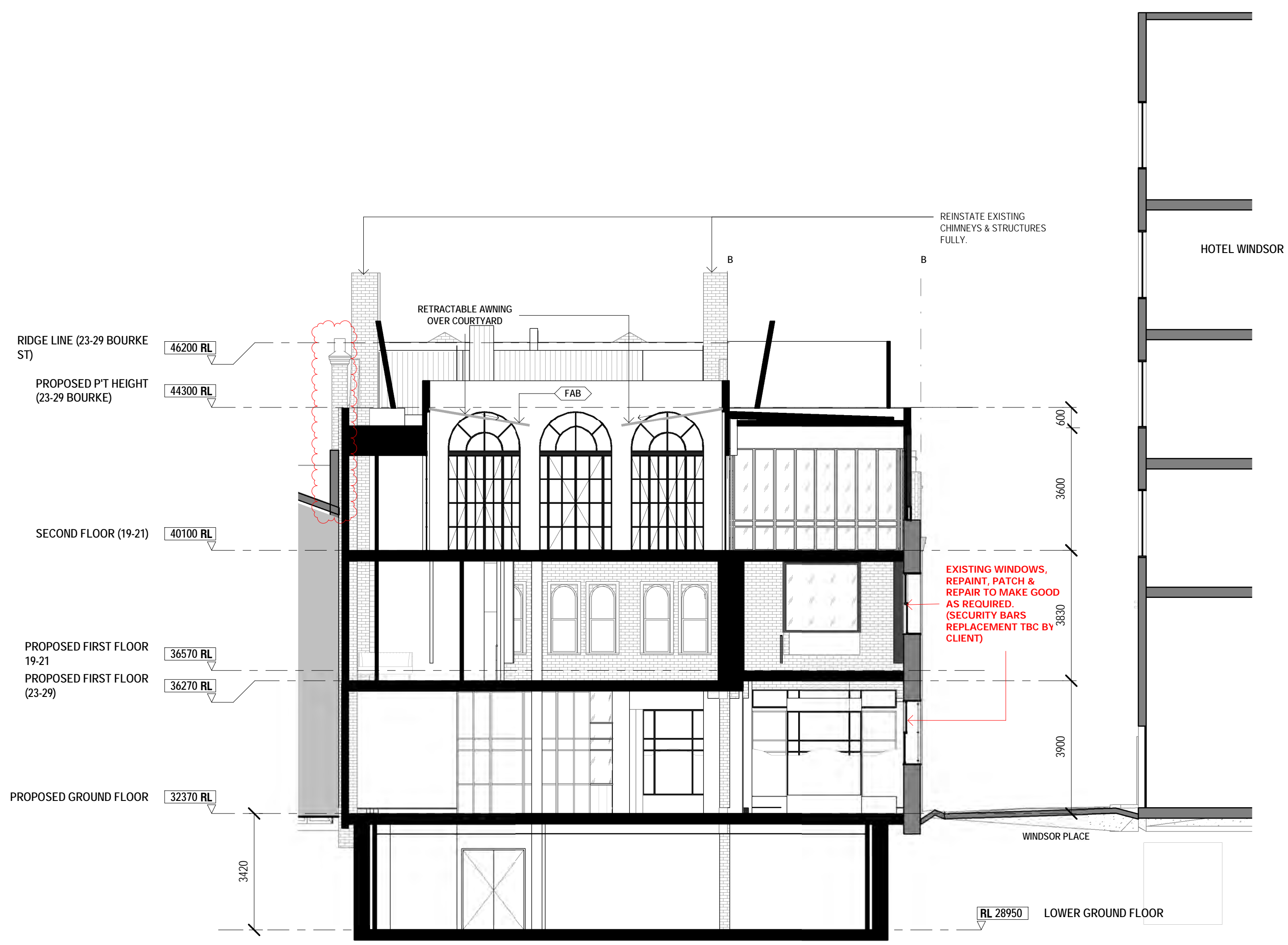


**MATERIALS SCHEDULE**

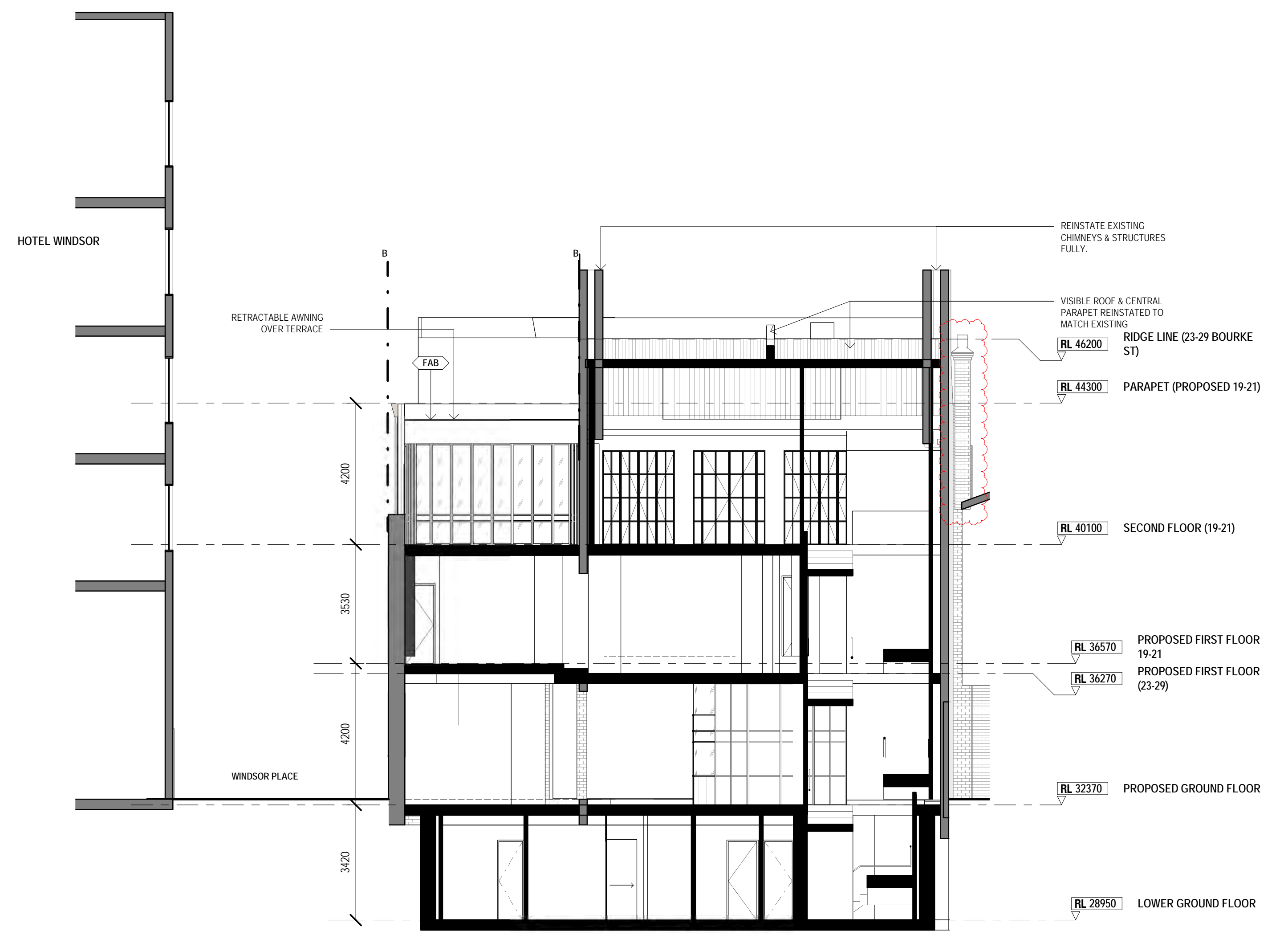
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		RO	METAL DECK ROOFING COLOURBOND MONUMENT
		FAB	WHITE OPAQUE FABRIC























SECTION  
SCALE 1:100



SECTION  
SCALE 1:100

MATERIALS SCHEDULE

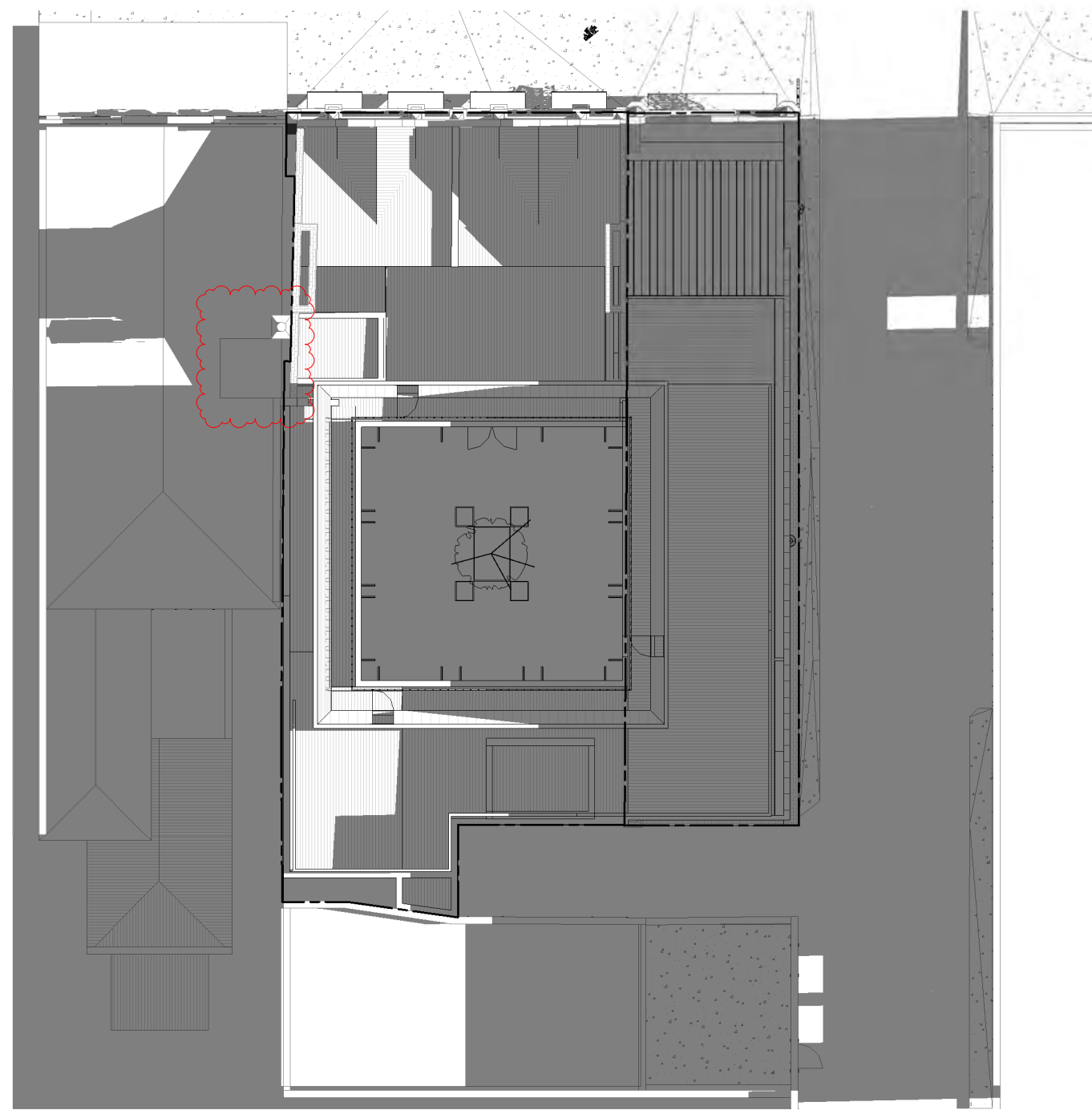
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 PA-02	PAIN T FINISH	 GLZ	CLEAR GLAZING
 PA-03	PAIN T FINISH	 GLZ2	OPAQUE GLAZING
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		 RD	METAL DECK ROOFING COLOURBOND MONUMENT
		 FAB	WHITE OPAQUE FABRIC



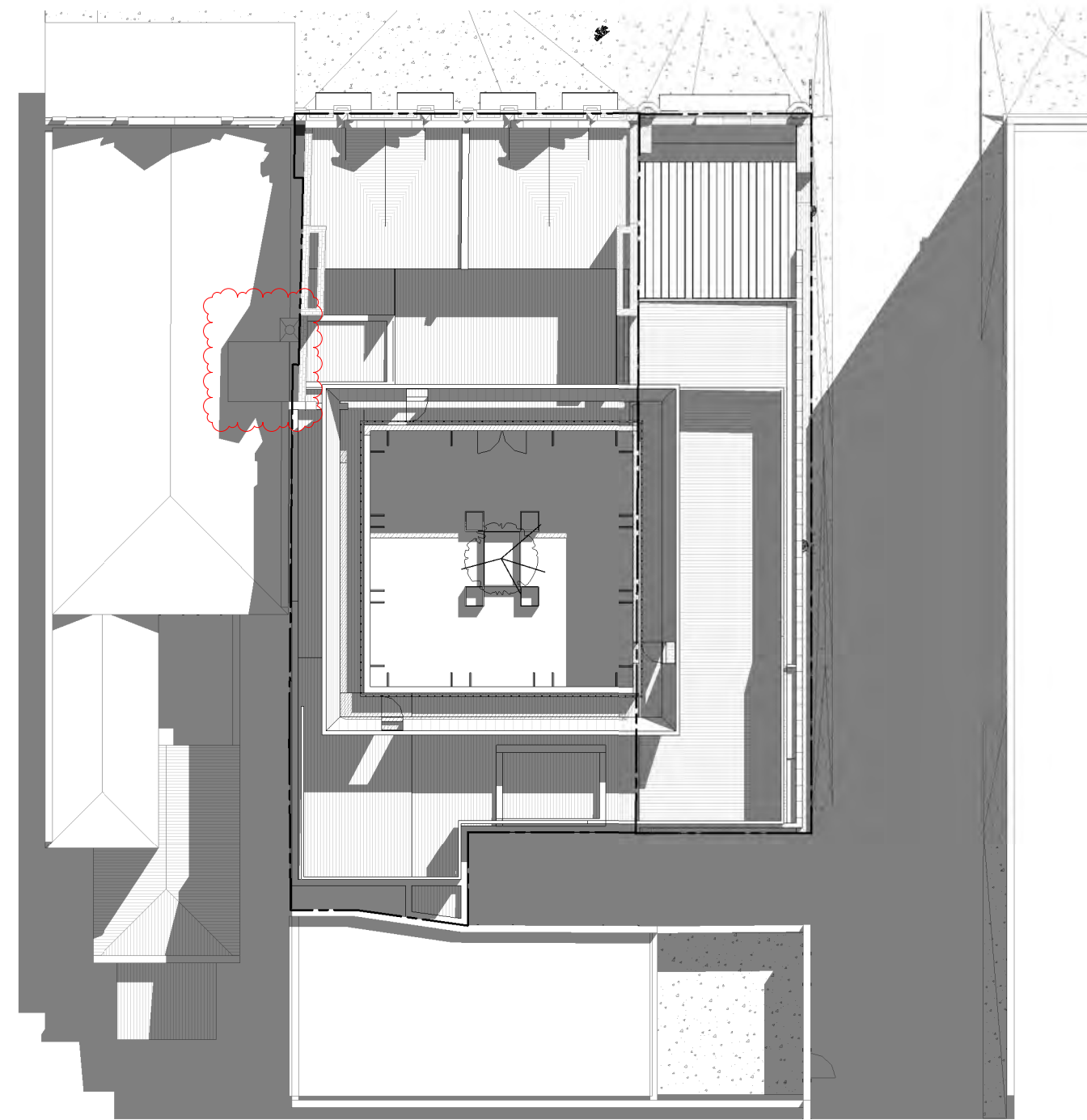


SHOPFRONT GLAZING PANEL  
INSET MINIMUM 200mm FROM  
ADJACENT PLINTH

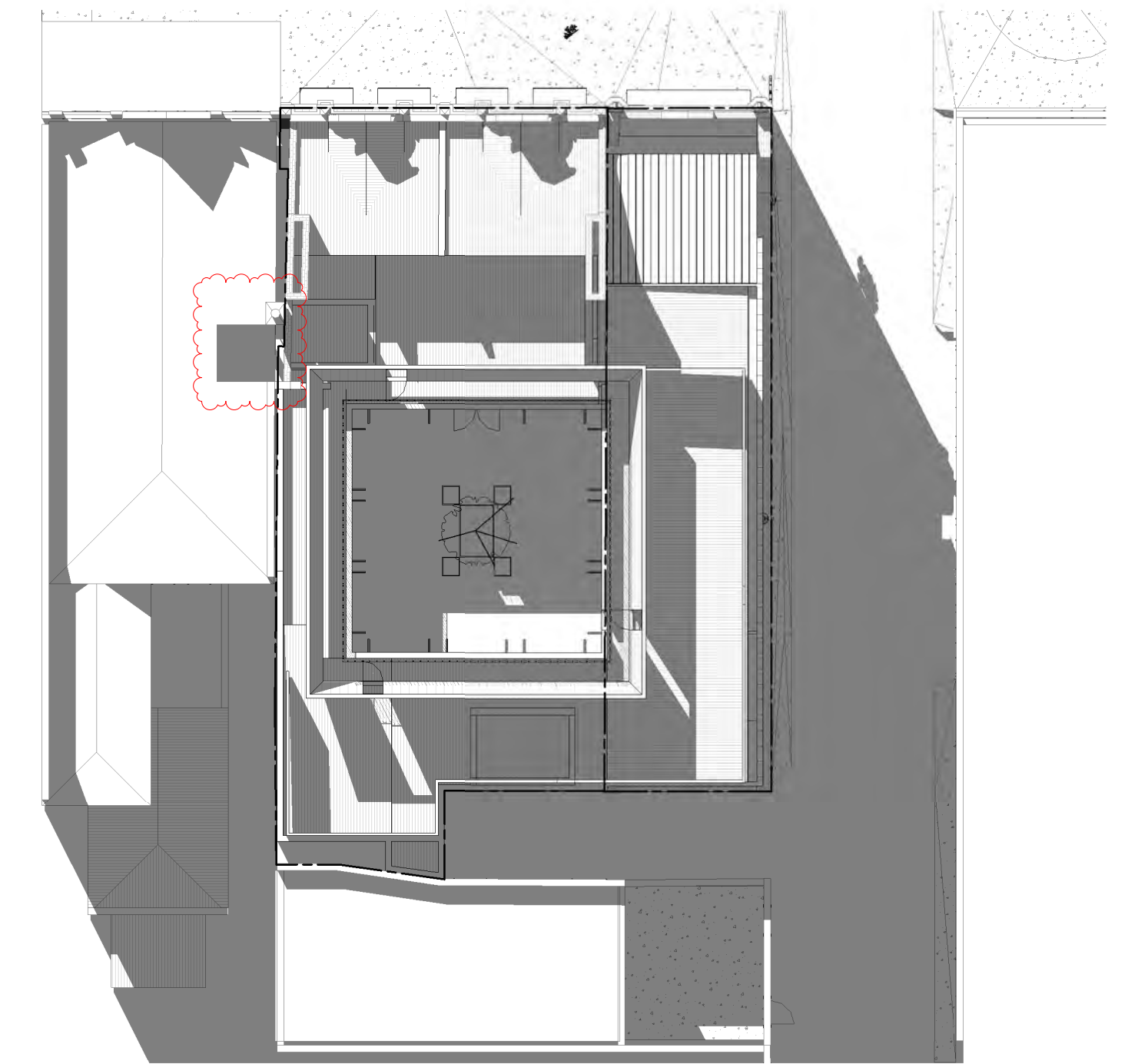




SHADOW DIAGRAM 9AM - PROPOSED  
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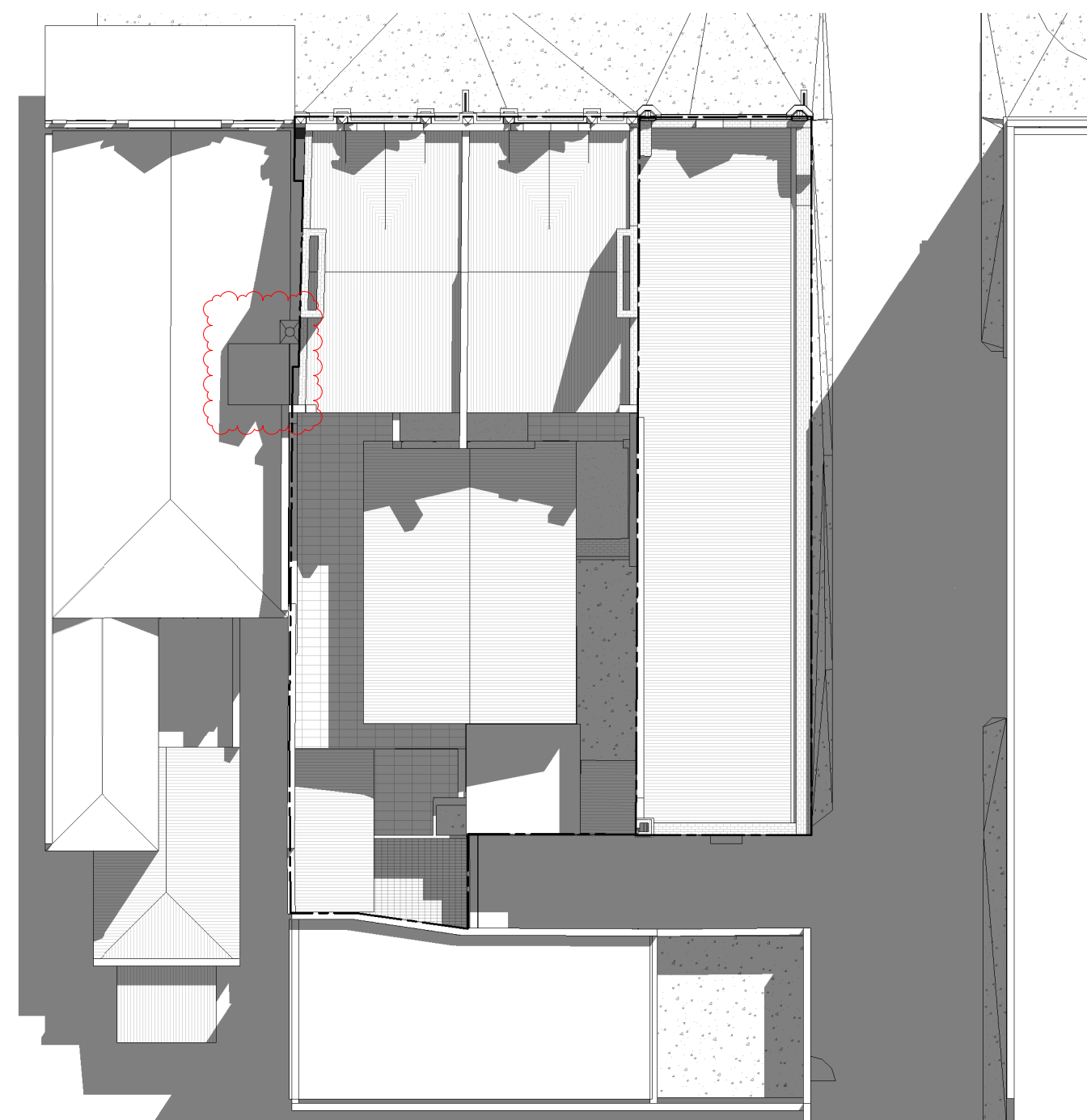
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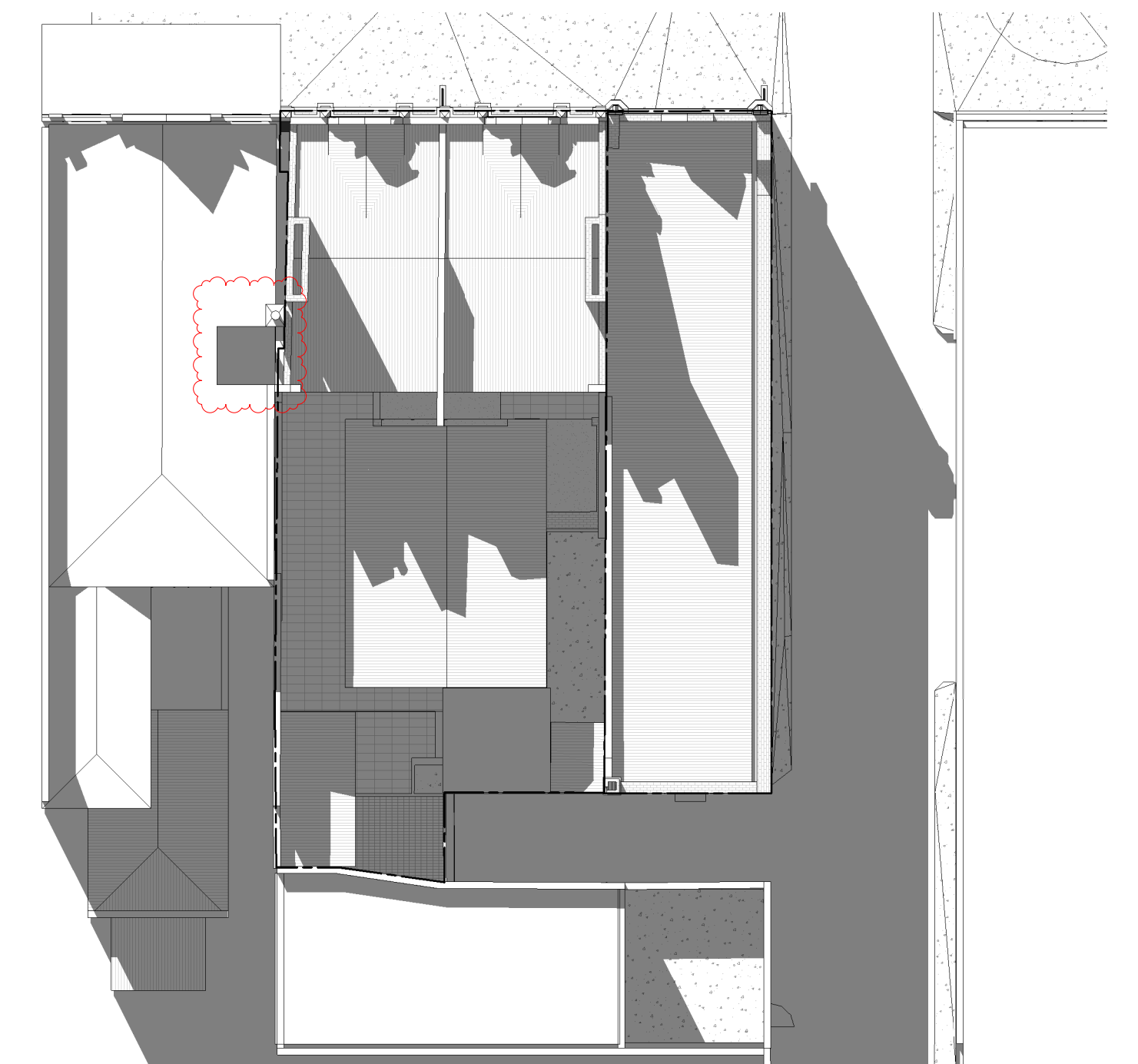
SHADOW DIAGRAM 3PM- PROPOSED  
SCALE 1:200



SHADOW DIAGRAM 9AM EXISTING  
SCALE 1:200



SHADOW DIAGRAM 12PM - EXISTING  
SCALE 1:200



SHADOW DIAGRAM 3PM - EXISTING  
SCALE 1:200

**DELEGATE REPORT**  
**APPLICATION TO AMEND A PLANNING PERMIT**

<b>APPLICATION NO:</b>	TP-2019-80/B
<b>APPLICANT:</b>	Twenty Three Bourke Land Pty Ltd c/- Jewell Partnership Pty Ltd
<b>OWNER:</b>	Nineteen Bourke Land Pty Ltd and Twenty Three Bourke Land Pty Ltd
<b>ARCHITECT:</b>	Mills Gorman Architects Pty Ltd
<b>ADDRESS:</b>	19-21 & 23-29 Bourke Street, Melbourne
<b>PROPOSAL:</b>	Amend Planning Permit TP-2019-80/A under Section 72 of the <i>Planning and Environment Act 1987</i> to allow additional demolition and reconstruction works, external alterations, modifications to the internal layout and signage
<b>COST OF WORKS:</b>	\$10 million
<b>DATE OF APPLICATION:</b>	13 February 2023
<b>RESPONSIBLE OFFICER:</b>	Adam Birch, Senior Urban Planner

## 1. SITE AND SURROUNDS

### 1.1 The Site

The Site is located on the southwest corner of Bourke Street and Windsor Place, Melbourne and comprises two adjoining properties:

Table 1: Site Description			
Street Address & Formal Land Description	Heritage Grading	Description	Use
19-21 Bourke Street, Melbourne Lot 1 on Title Plan 892468E	Contributory	Circa 1901. Two-storey building with painted brick. Ground floor shopfront is not original. First floor front façade, side and rear elevations are original, except for the new windows and external painting.	Former shop and office. Currently vacant.
23-29 Bourke Street, Melbourne Lot 1 on Plan of Subdivision 056144	Significant	Circa 1901. Three-storey building with face brick. Ground floor shopfront is not original.	Former restaurant. Currently vacant.



		The two upper levels of the front façade are original.	
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The Site is currently being developed in accordance with Planning Permit TP-2019-80/A for a three-storey restaurant with a basement and retractable awnings above a terrace and courtyard on the second floor. Demolition works have commenced and archaeological works have been completed.

To the east, Windsor Place is identified as a Class 2 Lane in Clause 15.01-1L-01 (CBD Lanes).

A dead-end Council Lane (CL1286) is located at the rear of the Site (See Figure 1).



**Figure 1: Site Location Map**



**Figure 2: Bourke Street frontage (19-21 and 23-29 Bourke Street)**





**Figure 3: Side Elevation of 19-21 Bourke Street (Windsor Place)**



**Figure 4: Rear Elevation of 19-21 Bourke Street (Council Lane, photograph taken prior to commencement of demolition works)**



## 1.2 Surrounds

The site is located within the Bourke Hill Precinct (HO500), which is of aesthetic, architectural, historic, scientific and social significance for Melbourne.

The Precinct is known for its vibrant retail, café and restaurant culture; prominent landmarks, including Hotel Windsor, Princess Theatre and Parliament House; and vistas such as along Bourke Street.

The Precinct hosts a diverse range of buildings spanning from the 19th century to the post-war period.

Nearby sensitive land uses include:

- To the west, Level 1 of 31-33 Bourke Street contains a dwelling.
- To the east, across Windsor Place, is the Hotel Windsor, a six-storey residential hotel.
- To the south, at 19-25 Windsor Place is a five-storey apartment building.

Since the grant of Planning Permit TP-2019-80 on 13 March 2020, the following noteworthy changes have occurred in the surrounding area:

- Ministerial Permit 2009/1687 for redevelopment of the Hotel Windsor at 103-137 Spring Street and 1-17 Bourke Street expired on 31 March 2020.
- The redevelopment of the former Palace Theatre at 20-30 Bourke Street for Le Meridien is now complete and occupied.
- Demolition and construction works have commenced at the former Jobs Warehouse at 54-62 Bourke Street and 11-19 Liverpool Street for a hotel redevelopment.

## 2. BACKGROUND AND HISTORY

### 2.1 Planning Permit History

Planning Permit TP-2019-80 was issued on 13 March 2020.

The permit was amended under Section 72 of the *Planning and Environment Act 1987* on 10 June 2022 to include excavation for a basement.

Planning Permit TP-2019-80/A allows 'partial demolition, buildings and works for the construction of alterations and additions to the existing buildings, including excavation for a basement and reduction of the bicycle facilities requirements in accordance with the endorsed plans'.

An extension of time was granted on 10 May 2022. The permit will expire if the development is not completed by 13 March 2026.

The following documents have been endorsed to form part of the permit.

<b>Condition No.</b>		<b>Date Endorsed</b>
1	Amended Plans	20 December 2022
5	Demolition Management Plan	5 April 2023
6	Construction Management Plan	5 April 2023
7	Structural Engineering Report	5 July 2023



8	Waste Management Plan	20 December 2022
9	ESD Statement	30 June 2023
11	Lot Consolidate Waiver	8 March 2023
13	Security Bond	29 November 2022

## 2.2 Planning Application History

The application was formally amended on 27 July 2023 under Section 57A of the *Planning and Environment Act 1987* in response to heritage comments and the objectors' concerns.

The amended plans received 27 July 2023 include the following changes:

- A 200 mm rebate in the shopfront of 19-21 Bourke Street at the location of the former entry.
- Remove the paint from the side (east) elevation and first floor front façade of 19-21 Bourke Street.
- Reconstruct the rear (south) wall of 19-21 Bourke Street, including the chimney, using the original bricks. It is noted that there is a discrepancy between the proposed rear elevation and roof plan; condition 1 amended plans are recommended on any amended permit that may issue to include the reconstructed chimney on the proposed roof plan.
- Retain and repair all upper level windows on the front facades of 19-21 and 23-29 Bourke Street and the side elevation of 19-21 Bourke Street (no permit required but notation included for information purposes).
- The chimney and light well to 31-33 Bourke Street.

The amended plans were informally circulated to the objectors on 28 July 2023.

## 2.3 Related Approvals

### Removal of Easements

Planning Permit TP-2023-336 was issued 29 June 2023 for the removal of a drainage easement at the rear of the Site.

### Liquor Licensing

The Licensee, Lucas Restaurants, is in the process of obtaining a Restaurant and Café Liquor Licence with Liquor Control Victoria.

Melbourne City Council did not object to the grant of the licence provided the use of outdoor areas, including the rooftop terrace and courtyard is limited to 1am.

### Heritage Victoria Archaeological

Heritage Victoria granted consent under Section 124(4)(a)(i) of the *Heritage Act 2017* on 28 April 2023 to carry out archaeological investigations.

## 3. PROPOSAL

The application seeks approval to amend Planning Permit TP-2019-80/A under Section 72 Amendment of the *Planning and Environment Act 1987* to allow additional demolition and reconstruction works, external alterations, modifications to the internal layout and signage.

Details of the proposal can be summarised as follows.



### Additional demolition and reconstruction works

- Demolish the entire ground floor shopfront to 23-29 Bourke Street (not original).
- Demolish the rear (south) boundary wall to 19-21 Bourke Street and reconstruct using the original bricks.
- Create a temporary 4.1 m wide x 4.2 m high opening in the side elevation of 19-21 Bourke Street (at the rear of the Site) for construction access, including works to remove, tag, refurbish and reinstate each brick, reinstate the existing window and repair and paint to make good.
- Dismantle and reconstruct the 15.9 m high chimneys, flanking gable walls and northern roof slope to 23-29 Bourke Street, including works to remove, tag, refurbish and reinstate each brick.
- Remove and replace the corrugated steel roof sheets to 23-29 Bourke Street (not original) due to the dilapidated condition.

### Additional restoration works

- Remove the paint from the side elevation (Windsor Place) and first floor front façade of 19-21 Bourke Street.
- Retain and repair all upper level windows on the front facades of 19-21 and 23-29 Bourke Street and the side elevation of 19-21 Bourke Street (no permit required but notation included for information purposes).

### External alterations

- Modify the new shopfronts to 19-21 and 23-29 Bourke Street to provide a more cohesive design.
- Install six ornamental lanterns above the shopfronts.
- Adjust the position of the second floor arched windows on the side elevation of 19-21 Bourke Street (Windsor Place).
- Additional plant and equipment on the roof and increase in the height and length of the associated screens.

### Internal layout

- Basement footprint extended to the rear boundary for the entire width (an additional 1.1 m x 5.7 m).
- Modifications to the internal layout, including an enlarged bin room in the basement and a single entry to Bourke Street. A 200 mm glazing recess will denote the entry to 19-21 Bourke Street that will be closed.

### Signage

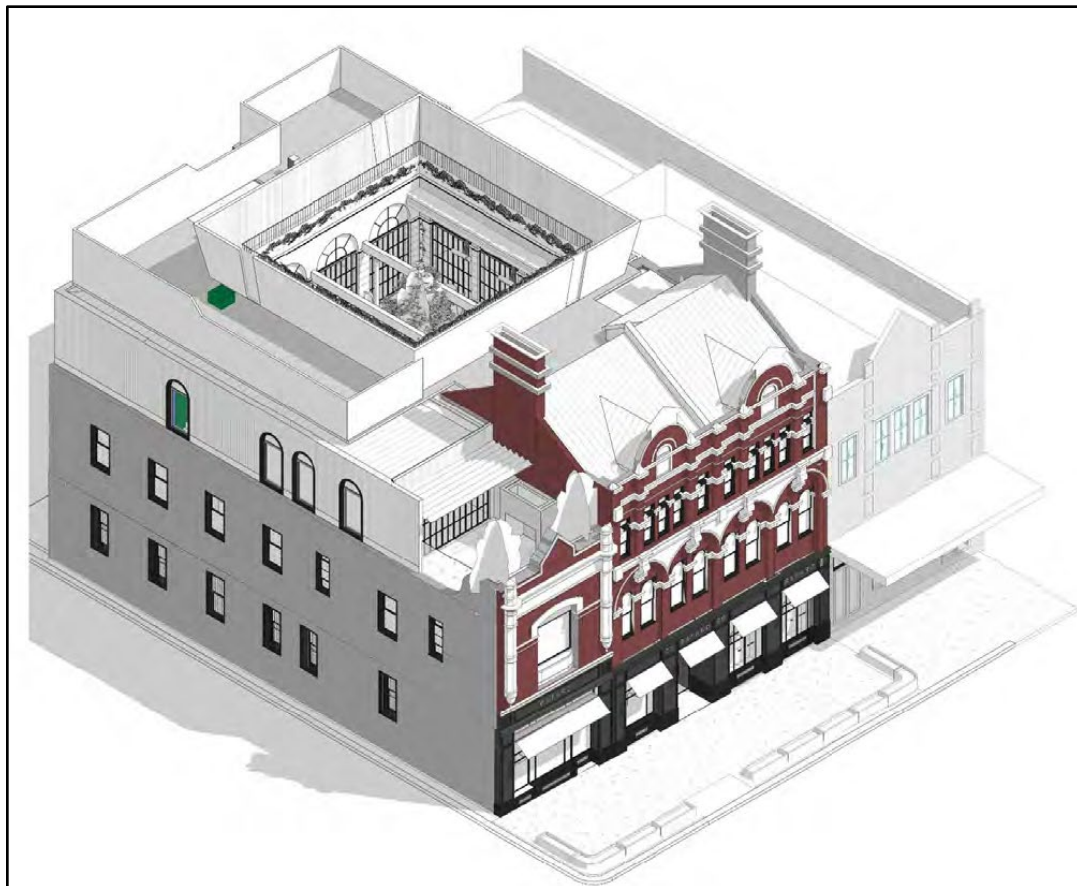
The proposed 'Batard Restaurant' business identification signage includes:

- A 1 m x 1 m approx. projecting sign, 4.5 m above the footpath, at the corner of Bourke Street and Windsor Place.
- A 0.48 m wide x 0.4 m high approx. plaque on the Bourke Street pilaster.
- Four 0.1 m x 0.1 m approx. 'B' letters on the shopfront glazing.

The documents considered in this assessment are listed in Table 3.



<b>Table 3: Application Documents</b>		
<b>Document</b>	<b>Author</b>	<b>Date / Received</b>
Planning Submission	Jewell Partnership Pty Ltd	10 February 2023
Architectural Plans	Mills Gorman Architects Pty Ltd	10 February 2023 28 June 2023 27 July 2023
Heritage Impact Statement	Lovell Chen Pty Ltd	10 February 2023 May 2023 July 2023
Conservation Works Plan	Kapitol Group	14 April 2023 19 June 2023
Roof Plant Spatial Arrangement memo and drawings	Kapitol Group	4 July 2023



**Figure 5: 3D Image (source: Capitol Group)**



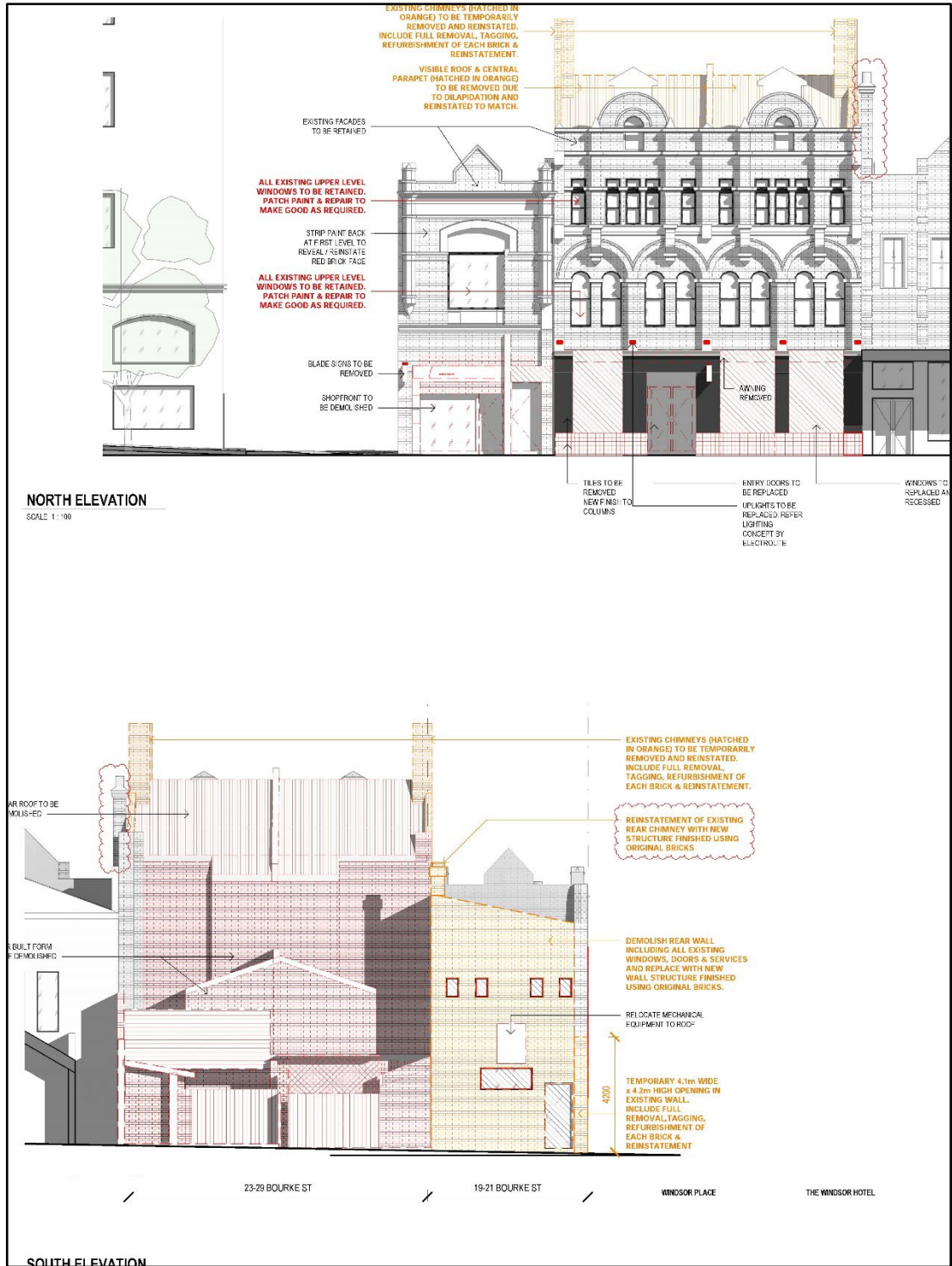


Figure 6: Proposed Demolition Elevations (source: Mills Gorman Architects)



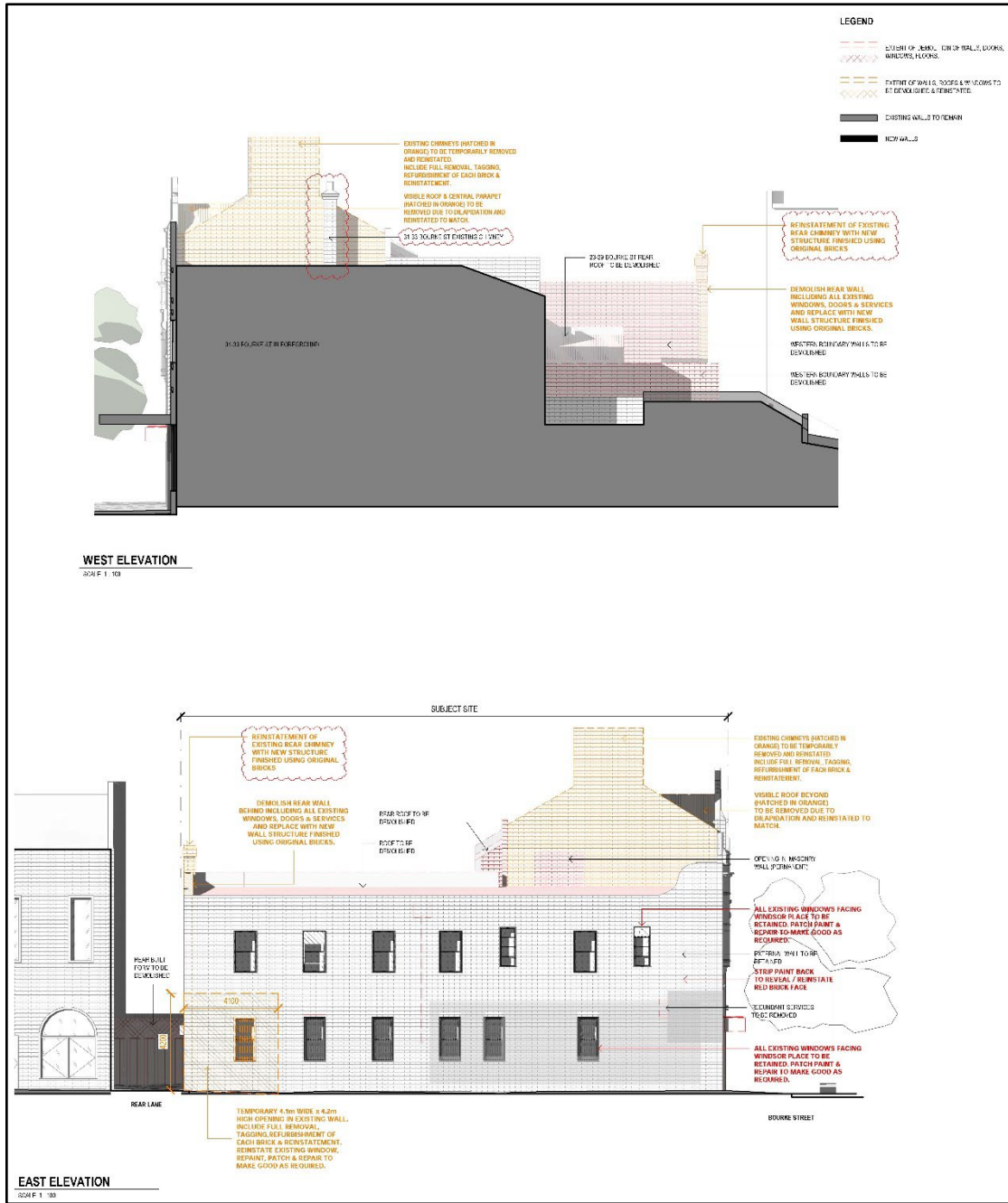


Figure 7: Proposed Demolition Elevations (source: Mills Gorman Architects)





Figure 8: Proposed Elevations (source: Mills Gorman Architects)



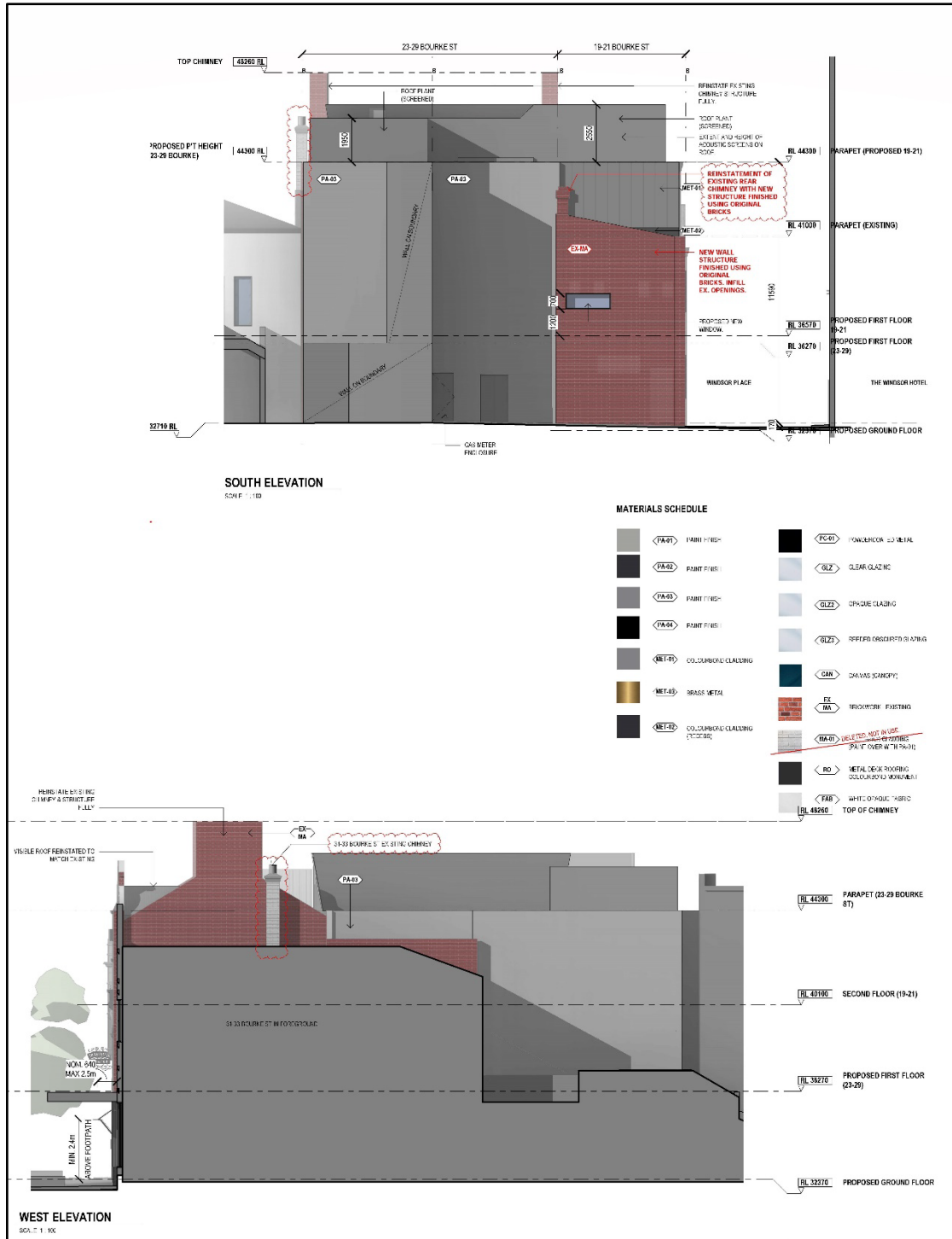


Figure 9: Proposed Elevations (source: Mills Gorman Architects)





Figure 10: Bourke Street Renders (source: Mills Gorman Architects)



Figure 11: 19-21 Bourke Street Shopfront Render (source: Mills Gorman Architects)





**Figure 12: Windsor Place Render (source: Mills Gorman Architects)**

#### 4. STATUTORY CONTROLS

The following controls of the Melbourne Planning Scheme trigger the need for a planning permit.

<b>Table 4: Statutory Controls</b>	
<b>Clause</b>	<b>Permit Trigger</b>
Clause 37.04 Capital City Zone Schedule 1 (Outside the Retail Core)	Pursuant to Clause 37.04 Schedule 1, a permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.  A permit is required to construct a building or construct or carry out works.  A permit is required to erect the proposed signs.
Clause 43.01 Heritage Overlay (HO500 Bourke Hill Precinct) (HO526 23-29 Bourke Street)	Pursuant to Clause 43.01-1, a permit is required to: <ul style="list-style-type: none"> <li>• Demolish or remove a building.</li> <li>• Construct a building or construct or carry out works.</li> <li>• Externally alter a building by structural work, rendering, sandblasting or in any other way.</li> <li>• Construct or display a sign.</li> </ul>
Clause 43.02 Design and Development Overlay Schedule 1 (Urban Design in Central Melbourne)	Pursuant to Clause 43.02 Schedule 1, a permit is required to construct a building or construct or carry out works. The provisions of this schedule relate to urban structure, site layout, building mass and building program.  Pursuant to Clause 43.02 Schedule 62, a permit is required to construct a building or construct or carry out works.  A permit is not required for: <ul style="list-style-type: none"> <li>• Buildings and works at ground level.</li> </ul>



<p>Schedule 62 (Special Character Areas – Built Form Bourke Hill)</p>	<ul style="list-style-type: none"> <li>• Buildings and works to install or modify plant and service fixtures to an existing building.</li> </ul> <p>The provisions of this schedule relate to wind effects; overshadowing; maximum building height; preferred building height and modified requirement; building design features; design elements; and built form outcomes.</p> <p>The Site is located in Area B1.</p> <p>The proposed amendment does not affect the approved building envelope, except for the building services on the roof. The proposed building services are setback at least 3 m from the front façades and do not exceed the 15 m maximum building height.</p>
<p>Clause 45.09 Parking Overlay Schedule 1 (Capital City Zone – Outside the Retail Core)</p>	<p>Schedule 1 to Clause 45.09 provides a maximum car parking rate.</p> <p>No car parking is proposed, as such no permit is required under this overlay.</p>

## 5. STRATEGIC FRAMEWORK

- Clause 02.03-3: Environmental risks and amenity
- Clause 02.03-4: Built environment and heritage
- Clause 02.03-6: Economic development
- Clause 11.03-1R: Activity centres – Metropolitan Melbourne
- Clause 11.03-6L-09: Hoddle Grid
- Clause 13.05-1S: Noise management
- Clause 15.01-1R: Urban design – Metropolitan Melbourne
- Clause 15.01-1L-01: CBD lanes
- Clause 15.01-1L-02: Signs
- Clause 15.01-1L-04: Urban design
- Clause 15.01-2S: Building design
- Clause 15.01-2L-01: Energy and resource efficiency
- Clause 15.03-1S: Heritage conservation
- Clause 15.03-1L-02: Heritage
- Clause 17.01-1R: Diversified economy – Metropolitan Melbourne
- Clause 17.02-1S: Business
- Clause 18.01-1L: Land use and transport planning
- Clause 19.03-3L: Stormwater management (Water sensitive urban design)
- Clause 19.03-5S: Waste and resource recovery

### 5.1 Particular and General Provisions

- Clause 52.05: Signs
- Clause 53.18: Stormwater Management in Urban Development
- Clause 65: Decision Guidelines



## **6. PUBLIC NOTIFICATION**

### **6.1 Section 52 Notice**

Pursuant to Clause 37.04 (Capital City Zone) and Clause 43.02 (Design and Development Overlay), an application 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 43.01-4, an application under this overlay for any of the following classes of development 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:

- External alteration of a building.
- Internally alter a building.
- Construction or display of a sign.
- Services normal to a building other than a dwelling, including chimneys, flues, skylights, heating and cooling systems, hot water systems, security systems and cameras, downpipes, window shading devices, or similar.

The proposed demolition and construction and carrying out of works are not 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 and therefore notice of the original application was given by ordinary mail to the owners and occupiers of surrounding properties and by posting three signs on the land for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

### **6.2 Section 57B Notice**

As discussed in section 2.2 of this report (Planning Application History, following the advertising period, amended plans were submitted under s.57A of the Act on 27 July 2023.

It was not considered that the changes would result in material detriment to any person, as compared to the plans advertised and given that all previous objections would still apply to the amended proposal, formal re-advertisement was not considered necessary. However, the amended plans were circulated to the objectors who were afforded an opportunity to provide further comment.

## **7. OBJECTIONS / CONSULTATION**

The original application received four objections, which raised the following concerns (summarised):

- The additional demolition results in facadism.
- The drawings do not show the adjoining chimney or light well.
- Potential damage to the adjoining building during construction.
- Concern that a gantry was approved and installed before the current application to amend the permit was determined.
- Construction management concerns, including hours, noise, access and safety.



- Noise from the open areas on the second floor.
- Waste storage and collection.

In response, as discussed above, the applicant amended the architectural plans under s.57A of the Act to provide the relevant information, which were circulated to the objectors. At the time of preparing this report, no objections had been withdrawn.

## **8. REFERRALS**

### **8.1 Internal Referrals**

#### **Heritage**

Several conversations and two workshops were held with Council's Heritage Advisor and the applicant; an onsite meeting on 7 March 2023 and an online meeting on 26 June 2023.

In response to Council's Heritage Advisor's concerns and recommendations, the applicant provided the following revised documents:

- Heritage Impact Statement by Lovell Chen dated July 2023.
- Conservation Works Plan by Kapitol Group dated 14 April 2023 and 19 June 2023.
- Roof Plan Spatial Arrangement memo and drawings by Kapitol Group dated 4 July 2023.
- Amended drawings received 27 July 2023 with the following changes:
  - A 200 mm rebate in the shopfront of 19-21 Bourke Street at the location of the former entry.
  - Reconstruction of the rear wall of 19-21 Bourke Street using the original bricks.
  - Retain and repair all upper level windows on the front facades of 19-21 and 23-29 Bourke Street (no permit required but notation included for information purposes).

The Heritage Advisor provided written and verbal advice on the application.

The Heritage Advisor is now supportive of the proposal provided a faithful reconstruction of the dismantled elements is carried out in accordance with an approved Conservation Works Plan with the oversight of an experienced Heritage Conservation Architect, which will be required via conditions should an amended permit issue.

### **8.2 External Referrals**

No external referrals were required.

## **9. ASSESSMENT**

### **9.1 Key Considerations**

The application seeks approval to amend Planning Permit TP-2019-80/A under Section 72 of the *Planning and Environment Act 1987* to allow additional demolition and reconstruction works, external alterations, modifications to the internal layout and signage.



The key matters for consideration are:

- Demolition and reconstruction works
- External alterations
- Signage
- Response to the objectors' concerns.

Pursuant to Section 72 of *the Planning and Environment Act 1987*, the ambit of discretion is limited to the proposed changes sought by the amendment. Consideration cannot be given to elements approved as part of the original application that are not sought to be amended.

In considering the amendments proposed, regard has been given to the relevant provisions of the Melbourne Planning Scheme and the individual merits of the application.

It should be noted that a 'Restaurant' land use does not require a planning permit in the Capital City Zone Schedule 1. Therefore, matters relating to potential amenity impacts from the use, such as noise and patron management, are not considered in this assessment.

This assessment is confined to the relevant heritage and built form considerations of the Capital City Zone, Heritage Overlay and Design and Development Overlay.

## **9.2 Demolition and Reconstruction Works**

For this particular application, the proposed additional demolition needs to be considered in conjunction with the proposed reconstruction works. Namely, the works to:

- Dismantle and reconstruct the 15.9 m high chimneys, flanking gable walls and northern roof slope to 23-29 Bourke Street for the safety and practicality of the build.
- Create a temporary 4.1 m wide x 4.2 m high opening in the side elevation of 19-21 Bourke Street (at the rear of the Site) for construction access.
- Demolish the rear (south) boundary wall to 19-21 Bourke Street and reconstruct using the original bricks.
- Remove and replace the corrugated steel roof sheets to 23-29 Bourke Street due to the dilapidated condition.

The proposed demolition and reconstruction works have come about through a detailed appraisal of how the building can be constructed. The proposed changes consider heritage and practical construction working issues (i.e. the safety and practicality of the build).

The applicant has been through a thorough process with heritage consultants, expert contractors, Council's planning officers and heritage advisor to consider heritage and the safety and practicality of the build, and to ensure that the proposal maintains the character and appearance of the buildings and the contribution they make to the Bourke Hill Precinct.

The significant elements of the buildings to be demolished / deconstructed will be fully documented and the original heritage fabric will be carefully removed, tagged, refurbished and reinstated in the reconstruction of the chimneys and boundary walls. This methodology will be required to be documented and overseen by relevant professionals and will form part of permit conditions should an amended permit issue.



From a safety perspective, the proposed methodology is best as temporarily propping the 15.9 m high chimneys above the construction site, no matter how diligently done, still has a large inherent risk, not only to the safety of the workers onsite but also to the adjacent property.

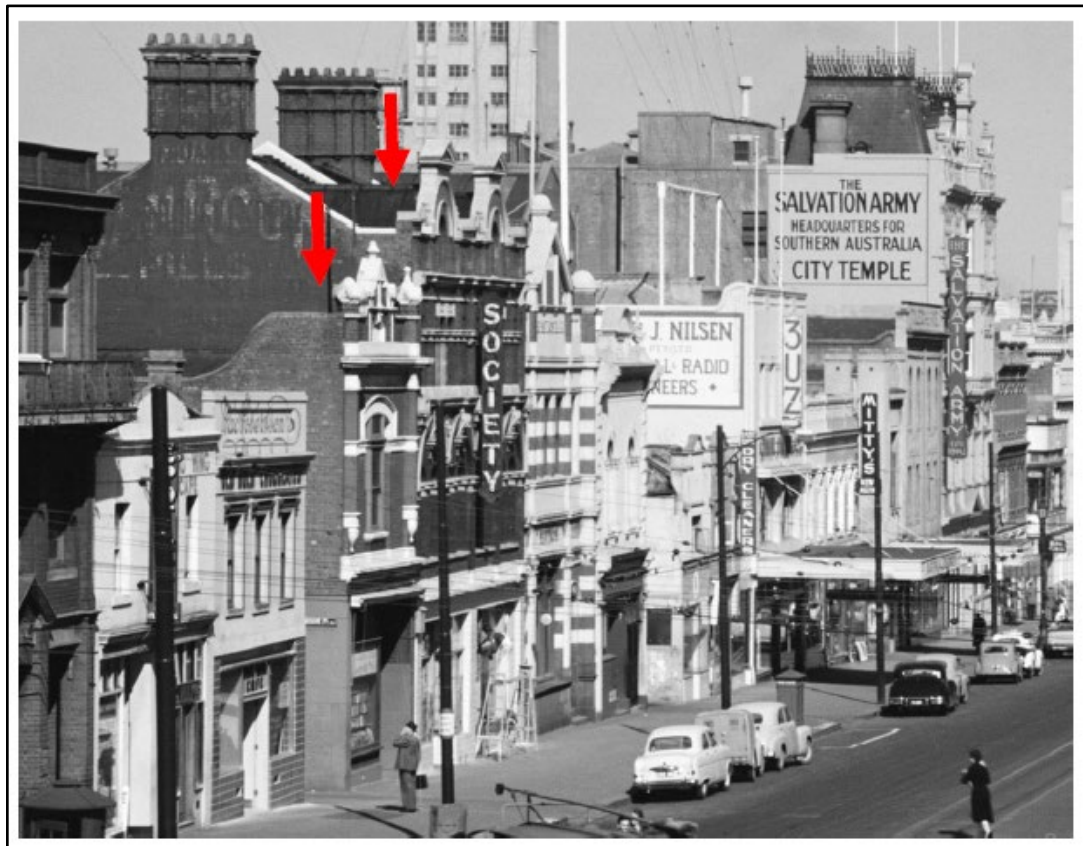
According to the Incorporated Document *Heritage Places Inventory March 2022* (Amended May 2023), 19-21 Bourke Street is graded 'contributory' and 23-29 Bourke Street is graded 'significant'.

Clause 15.03-1L-02 (Heritage) states that '*Partial demolition in the case of significant buildings and of significant elements or the front or principal part of contributory buildings will not generally be permitted*'.

The Incorporated Document *Heritage Precincts Statements of Significance February 2020* (Amended April 2020) notes for the Bourke Hill Precinct, the valued elements that contribute to the significance of the Precinct include: '*The side elevations, rear elevations, roof forms (including chimneys) and rear walls, etc. that are visible throughout the precinct due to the particular configuration of laneway development in combination with the regular layout of main and sub-streets*'.

For the 'significant' building at 23-29 Bourke Street, the existing chimneys, flanking gable walls and northern roof slope are significant elements (See Figure 13). For the 'contributory' building at 19-21 Bourke Street, the side (east) and rear (south) boundary walls are notable features.

All of these elements form part of the assessed significance of the heritage place; are part of the character and appearance of the streetscapes; and contribute to the Precinct's aesthetic, architectural, historical, scientific and social significance.



**Figure 13: Historic Photograph (source: State Library of Victoria provided by Lovell Chen)**



The demolition policy guidelines at Clause 15.03-1L-02 (Heritage) require consideration of the following as relevant:

- *The assessed significance of the heritage place or building.*
- *The character and appearance of the proposed building or works and their effect on the historic, social and architectural values of the heritage place and the street.*
- *The significance of the fabric or part of the building, and the degree to which it contributes to its three-dimensional form, regardless of whether it is visible.*
- *Whether the demolition or removal of any part of the building contributes to the long-term conservation of the significant fabric of the building.*
- *Whether the demolition will adversely affect the conservation of the heritage place.*
- *Whether there are any exceptional circumstances.*

While the elements of the buildings proposed to be demolished / deconstructed would not normally be permitted, the supporting documentation indicates exceptional circumstances apply and are necessary to ensure the approved development can be carried out safely.

In exceptional circumstances like this, demolition and reconstruction of the elements may be considered to ensure the long-term conservation of the heritage place.

Clause 15.03-1L-02 (Heritage) includes the following restoration and reconstruction strategies:

- *Ensure where there is to be reconstruction or restoration to any part of a significant building, or any visible part of a contributory building, that it be an authentic restoration or reconstruction process, or should not preclude such a process at a future date.*
- *Ensure where there is to be restoration or reconstruction of a building, it is based on evidence of what a building originally looked like by reference to elements of nearby identical buildings, other parts of the building or early photographs and plans.*

The partial demolition shown in orange on the demolition plans (See Figures 6 and 7) does not involve disposal of original heritage fabric but deconstruction and reconstruction. This includes surveying and documenting the chimneys and boundary walls before they are carefully dismantled, as well as tagging, cleaning and storing the original heritage fabric so that it can be used in the reconstruction.

In support of the amendment, the applicant has provided revised plans, a Heritage Impact Statement prepared by Lovell Chen and a Conservation Works Plan by Capitol Group. The architectural drawings show the *what*, the Heritage Impact Statement expresses the *why*, and the Conservation Works Plan details the *how*. All three documents have been prepared and reviewed in conjunction with each other, and are considered to appropriately document and justify the proposed works.

In addition, it is recommended that a number of permit conditions be amended and added to ensure an authentic, evidenced based reconstruction and restoration, in accordance with endorsed drawings and documents, to conserve the significance of the heritage place.



Condition 7 of Planning Permit TP-2019-80/A requires a Structural Engineering Report to demonstrate the means by which the retained portions of the buildings will be supported during demolition, excavation and construction works to ensure their retention. It is recommended that this condition be amended to require a revised Structural Engineering Report to reflect the condition 1 plans.

Condition 13 requires a bank guarantee or bond to the value of \$100,000 to ensure the existing buildings are not demolished except to complete the works approved by the permit. This amount is considered appropriate for both the approved development and proposed amendment. However, it is recommended that condition 13 is amended to state that the bank guarantee or bond will only be returned when the works are completed to the satisfaction of the Responsible Authority and a Completion Report by Lovell Chen or a suitably experienced Project Heritage Conservation Architect has been submitted.

It is recommended that the following new conditions be included on any amended permit. (The new conditions are numbered 13A to 13D in keeping with the Department of Transport and Planning Writing Planning Permits document dated May 2023):

- A condition requiring a Detailed Survey of the Existing Conditions with explanatory photographs and construction documentation, including detail and methodology, of all elements to be reconstructed (condition 13A).
- A condition requiring a revised Conservation Works Plan generally in accordance with the reports dated 14 April and 19 June 2023 by Kapitol Group but amended to reflect the condition 1 plans (condition 13B).
- A condition requiring Lovell Chen or a suitably experienced Project Heritage Conservation Architect to provide oversight of all demolition, excavation, reconstruction and conservation works until the completion of the development (condition 13C).
- A condition requiring the Project Heritage Conservation Architect to prepare a Completion Report, including before and after photographs of the buildings and written advice demonstrating that the development has been completed in accordance with the endorsed plans and documents (condition 13D).

In conclusion, the adverse impact of the additional demolition is offset by the reconstruction and restoration works and redevelopment of the site. The redevelopment of the site as a whole contributes to the long-term conservation of the heritage place with substantial investment in the land to continue and enhance the historic use of the Site for a restaurant.

A faithful reconstruction and important restoration of the existing buildings will not result in any discernible difference in the character, appearance and three dimensional form of the front part of the buildings as viewed from the street.

### **9.3 External Alterations**

The proposed amendment includes the following external alterations to the approved development:

- Modify the new shopfronts to 19-21 and 23-29 Bourke Street to provide a more cohesive design (See Figure 14).
- Adjust the position of the second floor arched windows on the side elevation of 19-21 Bourke Street (Windsor Place).
- Additional plant and equipment on the roof and increase in the height and length of the associated screens.



- Remove the paint from the side elevation (Windsor Place) and first floor front façade of 19-21 Bourke Street.

The external alterations are consistent with the requirements of the Capital City Zone Schedule 1, Heritage Overlay and Design and Development Overlay Schedules 1 and 62 as:

- The existing shopfronts are not original and the proposed shopfronts are respectful of the features of the heritage place with high quality materials, finishes and details that provide a fine grain and visual interest.
- A vertical break is provided between 19-21 and 23-29 Bourke Street to delineate the buildings while providing a cohesive frontage.
- A 200 mm recess is provided at the location of the former entry to 19-21 Bourke Street, in keeping with the original feature.
- The service cabinets occupy less than 40% of the street frontage and will have reeded obscure glazing.
- The new shopfronts have extensive clear glazing to provide active frontages.
- The proposed amendment continues to provide weather protection (retractable canvas canopies) to Bourke Street.
- The arched windows on the side elevation of the addition (Windsor Place) are acceptable.
- The paint removal (permit required) and restoration of the existing windows (no permit required) will enhance the appearance and presentation of the heritage place.
- The additional plant, equipment and associated screens on the roof are required for the efficient operation of the restaurant and to achieve the relevant ventilation, noise and odour control.
- The building services and screens are setback at least 3 m from the front façades and do not exceed the 15 m maximum building height.
- The screens are clearly distinguishable from the heritage fabric and will not dominate or disrupt the appreciation of the 'contributory' building at 19-21 Bourke Street as viewed from the street. The screens are appropriately setback from the front part of the building and integrated with the overall design. It is noted that insufficient information has been provided regarding the material and finish of the screens and will be required to be provided by condition should a permit issue.





**Figure 14: Approved and Proposed Shopfronts (source: Mills Gorman Architects)**

**9.4 Signage**

Clause 15.01-1L-02 (Signs) sets out the following objectives and strategies for the Bourke Hill Precinct:

*Objectives*

- *To enhance the tourism and residential functions.*
- *To improve pedestrian amenity and interest.*
- *To retain the small scale character.*

*Strategies*

*Encourage signs in Bourke Hill (the area bound by Little Bourke Street, Spring Street, Little Collins Street and Exhibition Street) to be:*

- *Small scale and at ground floor level.*
- *Individually crafted with a high degree of detail.*
- *Illuminated to minimise detriment to the amenity of surrounding residences.*
- *Limited in number, and to not include promotional advertising.*



The proposed signage is consistent with Clause 15.01-1L-02 (Signs), the Capital City Zone Schedule 1 and Heritage Overlay, and acceptable because:

- The signs are small in size and individually crafted with a high degree of detail.
- The signs are integrated with the architecture, and do not obscure any features or clutter the façade.
- The signs are respectful of the heritage buildings and precinct.
- The projecting sign has an appropriate clearance above the footpath.



**Figure 15: Proposed Signage (source: Mills Gorman Architects)**

### 9.5 Response to the objectors' concerns

A response to the objectors' concerns is provided in the table below.

Table 5: Response to objections	
Objection	Planner Response
The additional demolition results in facadism.	The additional demolition and reconstruction works to dismantle and reconstruct the 15.9 m high chimneys and associated structures to 23-29 Bourke Street, using the original bricks, is required for the safety and practicality of the build.



	<p>The authentic, evidenced based reconstruction of the chimneys and associated structures will maintain the three-dimensional form of the building.</p> <p>The new roofing sheets to 23-29 Bourke Street are required given dilapidated condition of the existing roofing sheets.</p>
The drawings do not show the adjoining chimney or light well.	The adjoining chimney and light well are included in the amended plans received 27 July 2023.
Potential damage to the adjoining building during construction.	Potential damage to the adjoining building during construction is not a relevant planning consideration; it is a building matter.
Concern that a gantry was approved and installed before the current application to amend the permit was determined.	The gantry is associated with Planning Permit TP-2019-80/A. All pre-commencement conditions were satisfied prior to installation of the gantry.
Construction management concerns, including hours, noise, access and safety.	Conditions 6 and 7 of Planning Permit TP-2019-80/A require demolition and construction management plans, which address these concerns.
Noise from the open areas on the second floor.	<p>A 'Restaurant' land use does not require a planning permit in the Capital City Zone Schedule 1. Therefore, matters relating to potential amenity impacts from the use, such as noise and patron management, are not considered in this assessment.</p> <p>Notwithstanding, condition 3 of Planning Permit TP-2019-80/A requires the use to comply with State Environment Protection Policy No. N-1 and N-2 (SEPP1 and SEPP2), as applicable, given the nexus between the terrace and courtyard on the second floor with retractable awnings, building services on the roof and potential noise impacts.</p> <p>It is recommended that condition 3 is amended to refer to EPA Publication 1826.4, which replaced SEPP1 and SEPP2.</p>
Waste storage and collection.	<p>Condition 8 of Planning Permit TP-2019-80/A requires a Waste Management Plan, which has been satisfied.</p> <p>Waste storage and collection arrangements must not be altered without prior consent of the City of Melbourne – Waste and Recycling.</p>

## 10. RECOMMENDATION

It is considered that the proposal is generally consistent with the relevant policies and clauses of the Melbourne Planning Scheme, as discussed above, and that a Notice of Decision to Grant an Amended Permit should now be issued subject to the following amended permit description and conditions (with changes highlighted in blue).

### 10.1 Amended Permit Description

Partial demolition, **deconstruction**, **reconstruction**, buildings and works for the construction of alterations and additions to the existing buildings including excavation for a basement, **signage** and reduction of the bicycle facilities requirements in accordance with the endorsed plans.



## 10.2 Amended Permit Conditions

1. ~~Prior to the commencement of the development on the land~~ Prior to the commencement of the additional demolition, reconstruction works and external alterations approved by this amended permit, plans drawn to scale must be submitted to the Responsible Authority generally in accordance with the plans prepared by Mills Gorman Architects ~~received 2 December 2024~~ dated 10 February 2023 but amended to show:
  - a. ~~The painting and external finishing of ground floor of 19-21 Bourke Street to be colour matched to the grey paint colour of the first floor façade.~~
  - b. ~~No painting of the existing unpainted brick wall at the rear (south elevation) of 19-21 Bourke Street.~~
  - c. ~~The ground level retractable awnings on Bourke Street to have a minimum clearance of 2.4 metres above the footpath and a maximum projection of 2.5 metres.~~
  - d. ~~A 1:20 or 1:50 scale elevation and section showing the details of the ground floor Bourke Street elevation.~~
  - e. ~~The material, colour and finish of the retractable awning above the courtyard and the new roof.~~
  - f. ~~Retention of the retractable awning over the courtyard.~~
  - g. ~~The area schedule to include the basement.~~
  - h. ~~Any changes required by the endorsed Waste Management Plan.~~
  - a. The reconstructed chimney at the rear of 19-21 Bourke Street included on the proposed roof plan.
  - b. The material and finish of the acoustic, plant and equipment screens on the roof.
  - c. Any changes required by the revised Structural Engineer's Report in condition 7.
  - d. Any changes as required by the Detailed Survey of the Existing Conditions in condition 13A.
  - e. Any changes required by the revised Conservation Works Plan in condition 13B.

These amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.

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.
3. ~~The noise generated by the premises must at all times comply with the requirements of the State Environment Protection Policy, (Control of Noise from Commerce, Industry and Trade) No. N-1, and State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority.~~

The noise generated by the premises must at all times comply with the requirements of the EPA Publication 1826.4 (or subsequently updated publication): Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, to the satisfaction of the Responsible Authority.

4. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, to the satisfaction of the Responsible Authority.
5. Prior to the commencement of the demolition works, a detailed Demolition Management Plan (DMP) must be submitted to and approved by the City of Melbourne – Construction Management Group. The objective of the DMP is to minimize the impact of works associated with the demolition on neighbouring properties and activities conducted in the area generally. The DMP must address the following (inter alia):
  - a. Demolition
  - b. Staging of demolition
  - c. Site preparation and retention works
  - d. Public safety, amenity and site security
  - e. Management of the construction sites and land disturbance
  - f. Operating hours, noise and vibration controls
  - g. Air and dust management
  - h. Management of the removal of potentially contaminated waste and soil
  - i. Waste and materials reuse
  - j. Stormwater and sediment control
  - k. Traffic management and soiling of roadways.
6. Prior to the commencement of the development (excluding demolition), a detailed Construction Management Plan (CMP) must be submitted to and be approved by the City of Melbourne – Construction Management Group. The CMP must be prepared in accordance with the City of Melbourne – 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
7. ~~Prior to the commencement of the development, including demolition~~ Prior to the commencement of the additional demolition, reconstruction works and external alterations approved by this amended permit, a revised report prepared by a suitably qualified Structural Engineer or equivalent, must be submitted to the Responsible Authority, demonstrating the means by which the retained portions of building will be supported during demolition and construction works to ensure their retention, to the satisfaction of the Responsible Authority. The recommendations contained within this report must be implemented at no cost to City of Melbourne and be to the satisfaction of the Responsible Authority.
8. Prior to the commencement of the development (excluding demolition), a revised Waste Management Plan (WMP) shall be submitted to and approved by the Responsible Authority. The revised WMP must be generally in accordance with the Waste Management Plan by Leigh Design Pty Ltd dated 25 November 2021 but revised to provide:



- a. Organic waste managed as a separate waste stream.
- b. Collections of each waste stream capped at 3 per week.
- c. Changes to the bin quantity and storage area as a result of a and b above, as well as any associated increase in the size of the basement.
- d. The stopping location of waste vehicles.
- e. Full swept path diagrams showing waste vehicle entry manoeuvre into Windsor Place from Little Collins Street and exit manoeuvre into Bourke Street.

Waste storage and collection arrangements must not be altered without prior consent of the City of Melbourne – City Infrastructure.

9. Prior to the commencement of the development (excluding demolition), an Environmentally Sustainable Design (ESD) Statement shall be prepared and submitted to the satisfaction of the Responsible Authority. The ESD Statement must demonstrate that the building has the preliminary design potential to achieve 5 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star – Retail rating tool or equivalent.
10. The title boundaries for the property may not exactly agree with the road alignments of the abutting Council lane(s). The approved works must not result in structures that encroach onto any Council lane.
11. Unless otherwise agreed to by the Responsible Authority, prior to the commencement of the development (excluding demolition), the land titles must be consolidated, to the satisfaction of the Responsible Authority.
12. No architectural features, plant and equipment or services other than those shown on the endorsed plans are permitted above roof level, unless with the prior written consent of the Responsible Authority.
13. Prior to the commencement of any demolition, construction or works, a bank guarantee or bond to the value of \$100,000 must be deposited with the Responsible Authority to ensure that the existing buildings at 19-21 and 23-29 Bourke Street are not demolished except to complete the development in accordance with the endorsed plans. The bank guarantee or bond will **only** be returned when the works are completed to the satisfaction of the Responsible Authority and a Completion Report has been submitted under Condition 13D of this permit.
- 13A. Prior to the commencement of the additional demolition, reconstruction works and external alterations approved by this amended permit, or as otherwise agreed to by the Responsible Authority, a Detailed Survey of the Existing Conditions with explanatory photographs and construction documentation, including detail and methodology, of all elements to be reconstructed must be submitted to and approved by the Responsible Authority.
- 13B. Prior to the commencement of the additional demolition, reconstruction works and external alterations approved by this amended permit, a revised Conservation Works Plan must be submitted to and approved by the Responsible Authority, generally in accordance with the Conservation Works Plan by Kapitool Group dated 19 June 2023 but revised to include:
  - a. The amended plans as required by condition 1.
  - b. Details of the Project Heritage Conservation Architect as required by condition 13C.

Once endorsed, the revised Conservation Works Plan will become part of this permit and must not be amended without first obtaining the written consent of the Responsible Authority.

- 13C. Prior to the commencement of the additional demolition, reconstruction works and external alterations approved by this amended permit, the permit holder must engage and retain Lovell Chen or a suitably experienced Project Heritage Conservation Architect to provide oversight of all demolition, reconstruction and conservation works until the completion of the development. The engagement of the Project Heritage Conservation Architect is to be approved by the Responsible Authority.
- 13D. Prior to occupation of the development or as otherwise agreed with the Responsible Authority, the Project Heritage Conservation Architect must submit a Completion Report to the satisfaction of the Responsible Authority. The Completion Report must include before and after photographs of the buildings and written advice demonstrating the development has been completed in accordance with the endorsed plans and documents of this permit.
- 13E. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.
- 13F. The location and details of the signs, and any supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
- 13G. The signs, including the structure and content, must be constructed and maintained to the satisfaction of the Responsible Authority.
- 13H. This permit, as it relates to signs will expire 15 years from the issued date of the amended permit. On expiry of the permit as it relates to signs, the signs and any supporting structure must be removed.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the period referred to in this condition.

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

The Responsible Authority may extend the 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:**

The subject site is shown on the Heritage Victoria Archaeology inventory maps as having potential archaeological remnants. If an archaeological site is uncovered in the course of a building works it is an offence under the Act to knowingly disturb, damage or excavate without obtaining the appropriate consent of the Executive Director of Heritage Victoria. The applicant is therefore advised to contact Heritage Victoria prior to the commencement of any demolition, excavation or works on the site.



Unless in accordance with a Permit issued, pursuant to the provisions of the City of Melbourne Activities Local Law 2019, a person must not in a premises adjacent to a public place sell or offer to sell, or allow to be sold or offered for sale any good or service to a person who is in, on or near a public place.

The City of Melbourne will not change the on-street parking restrictions to accommodate the access, servicing, delivery and parking needs of this development.