

Report to the Future Melbourne (Planning) Committee

Agenda item 6.1

**Planning Permit Application: TP-2018-774
132-138 Little Bourke Street, Melbourne**

19 March 2019

Presenter: Jane Birmingham, Practice Leader Land Use and Development

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a planning application seeking approval for the construction of buildings and works associated with a restaurant, display of internally illuminated business identification signage and a reduction of bicycle parking at 132-138 Little Bourke Street which is currently an open lot car park (refer Attachment 2 - Locality Plan).
2. The applicant is Captain Obvious Pty Ltd c/- Tract Consultants, the owner is 138 Chinatown Pty Ltd and the architect is B+W Baracco+Wright Architects.
3. The land is located in the Capital City Zone Schedule 1 and is affected by Heritage Overlay (HO507 – Little Bourke Street Precinct) – the subject site is ungraded, Design and Development Overlay Schedules 1 (Active Street Frontage Area 2), 2 (Built Form Huddle Grid Area 2) and 3 (Traffic Conflict Frontage) and Parking Overlay Schedule 1.
4. Public notice of the application was undertaken pursuant to the Melbourne Planning Scheme Heritage Overlay provisions only, as the works are exempt from the giving of notice under all other planning controls relevant to this proposal. A total of 18 objections were received, primarily relating to potential amenity impacts relating to the alleged use of the premises as a 'bar' including noise, fumes and smoking. Concerns were also raised in relation to the proposal having a dominating presence within the Chinatown precinct and the design outcome being out of character with the streetscape and wider heritage precinct.

Key issues

5. The key issue for consideration is the appropriateness of the built form within the existing heritage context.
6. A number of objectors refer to the application as a bar and have raised amenity concerns including potential noise impacts. The applicant has not applied to use the land as a tavern and this must be taken at face value. Should the applicant wish to operate the premises as a tavern a planning permit would be required.
7. The proposed height and scale of the development is considered contextually appropriate, being lower than surrounding buildings. The lightweight built form on the boundary retains the existing open character and creates an active street frontage. The proposal represents a positive contribution to the street and is considered to be a substantial improvement upon the current open lot car park.
8. The reduction in the bicycle parking requirement is supported as the site is located in close proximity to public transport and on-street bicycle hoops and it is expected that many people will walk to the site.

Recommendation from management

9. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit subject to the conditions set out in the delegate report (refer Attachment 4 – Delegate Report).

Attachments:

1. Supporting Attachment (Page 2 of 47)
2. Locality Plan (Page 3 of 47)
3. Selected Plans (Page 4 of 47)
4. Delegate Report (Page 17 of 47)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987 (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 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 direct or indirect interest in relation to the matter of the report.

Health and Safety

5. Relevant planning considerations such as waste management and potential amenity impacts that could impact on health and safety are 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 and by posting two notices on site and letters to adjoining property owners and occupiers, pursuant to Section 52 of the Act 1987.

Relation to Council policy

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

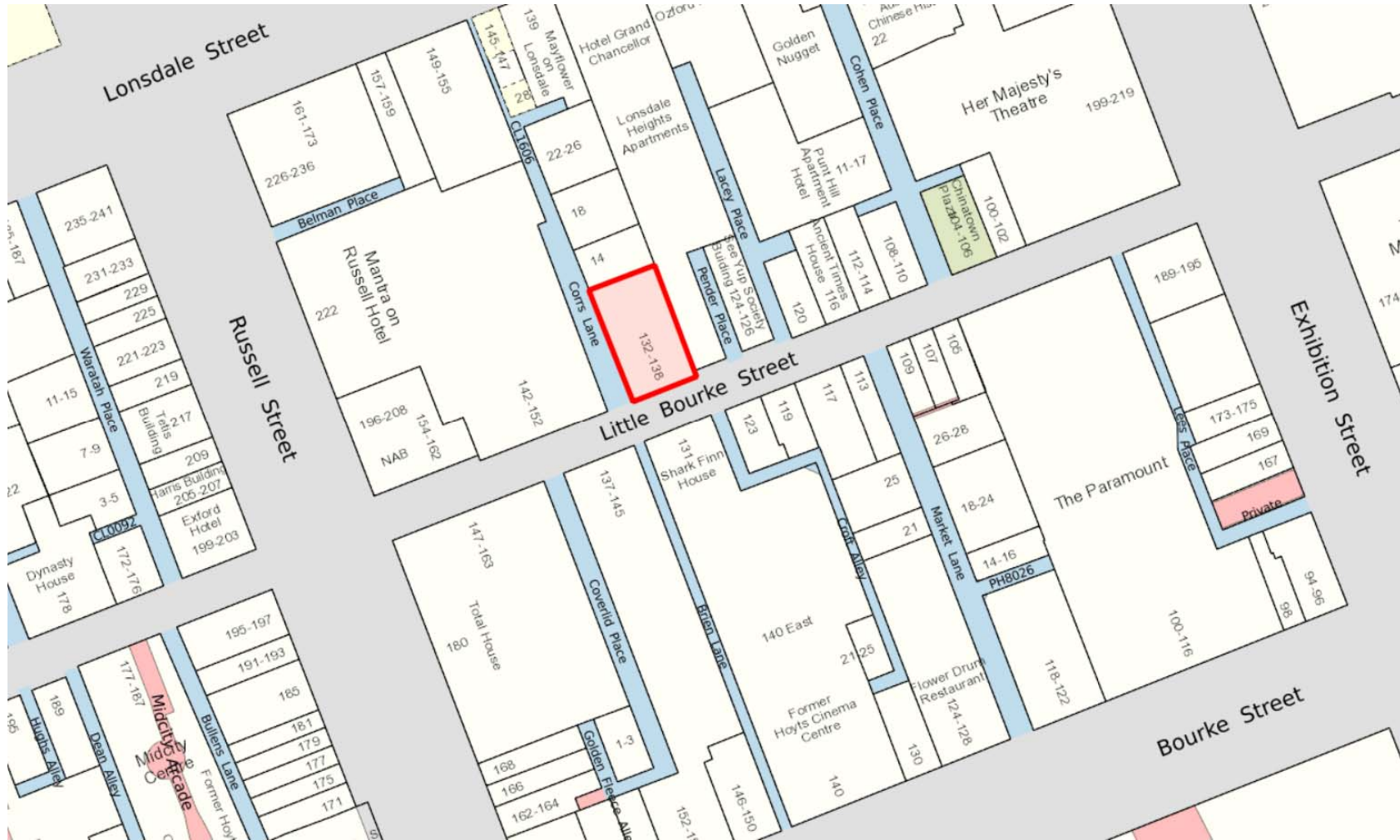
Environmental sustainability

8. A development of this scale does not require an Environmentally Sustainable Design Statement to be submitted as part of this application.

Locality Plan

Attachment 2
Agenda item 6.1
Future Melbourne Committee
19 March 2019

132-138 Little Bourke Street, Melbourne



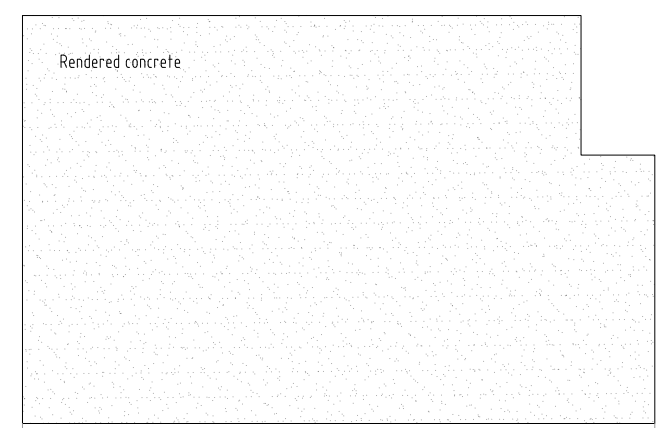


132-138 Little Bourke St
Melbourne

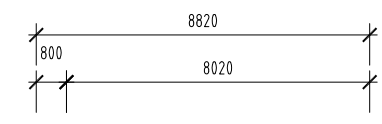
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10790

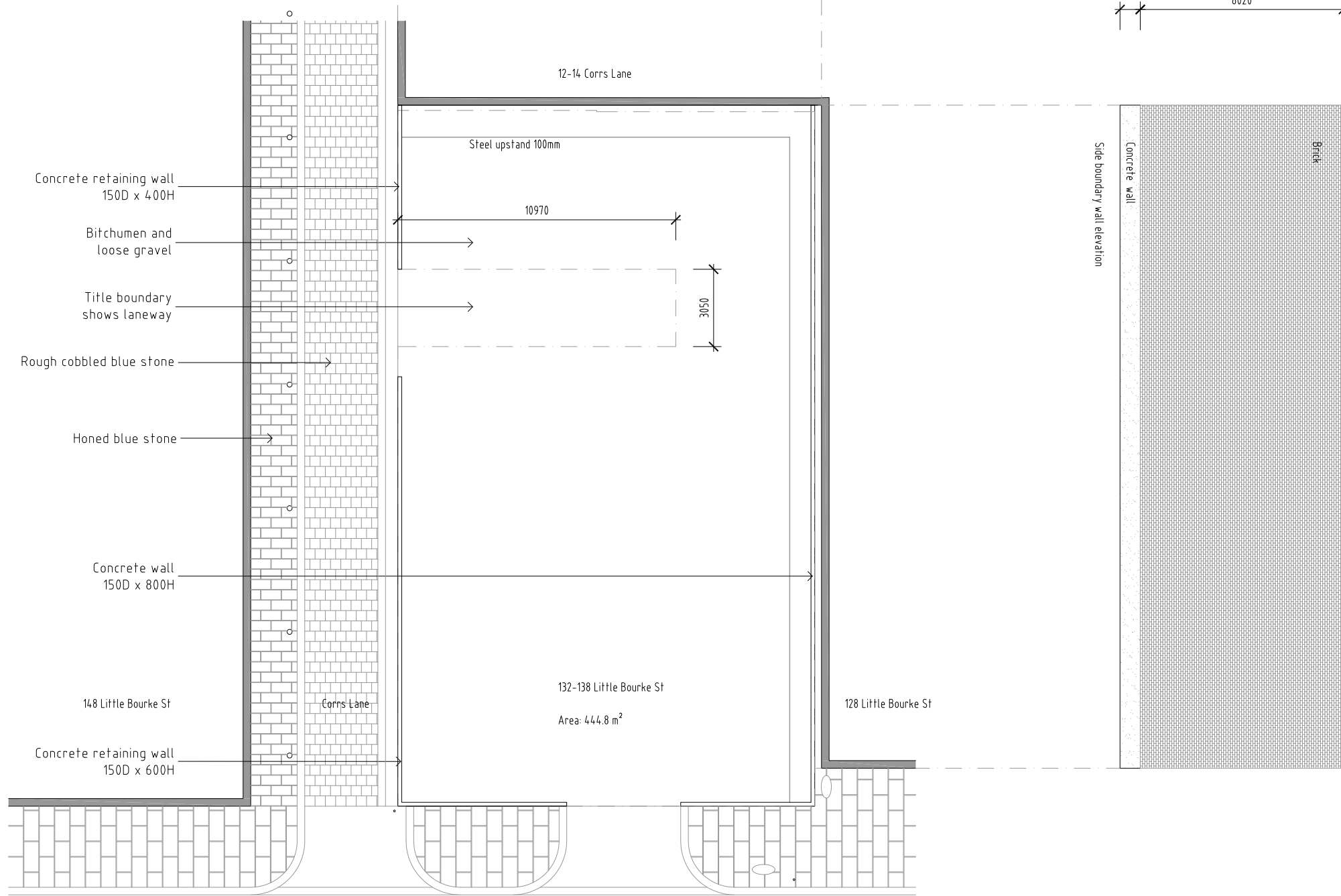
27170
26170
1500
3500



Rear boundary wall elevation



Side boundary wall elevation



Little Bourke St

EXG SITE PLAN 1:200

STATUS PLANNING

DRAWING : EXISTING PLAN

SCALE : 1:200 @A3

DATE: 30.08.18

DRAWN : JW

JOB No : 02.18

132-138 Little Bourke St
Melbourne

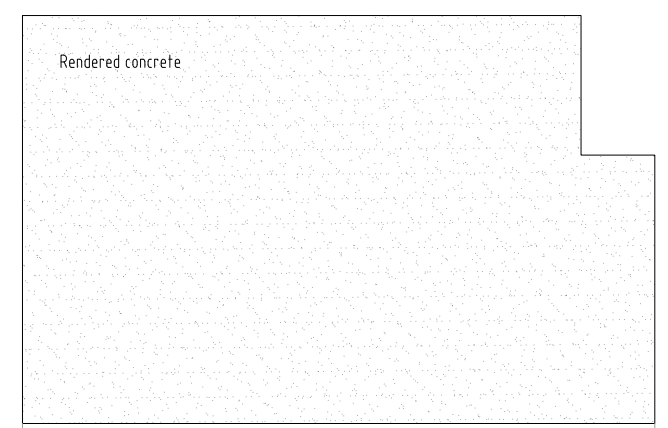
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A001



10790

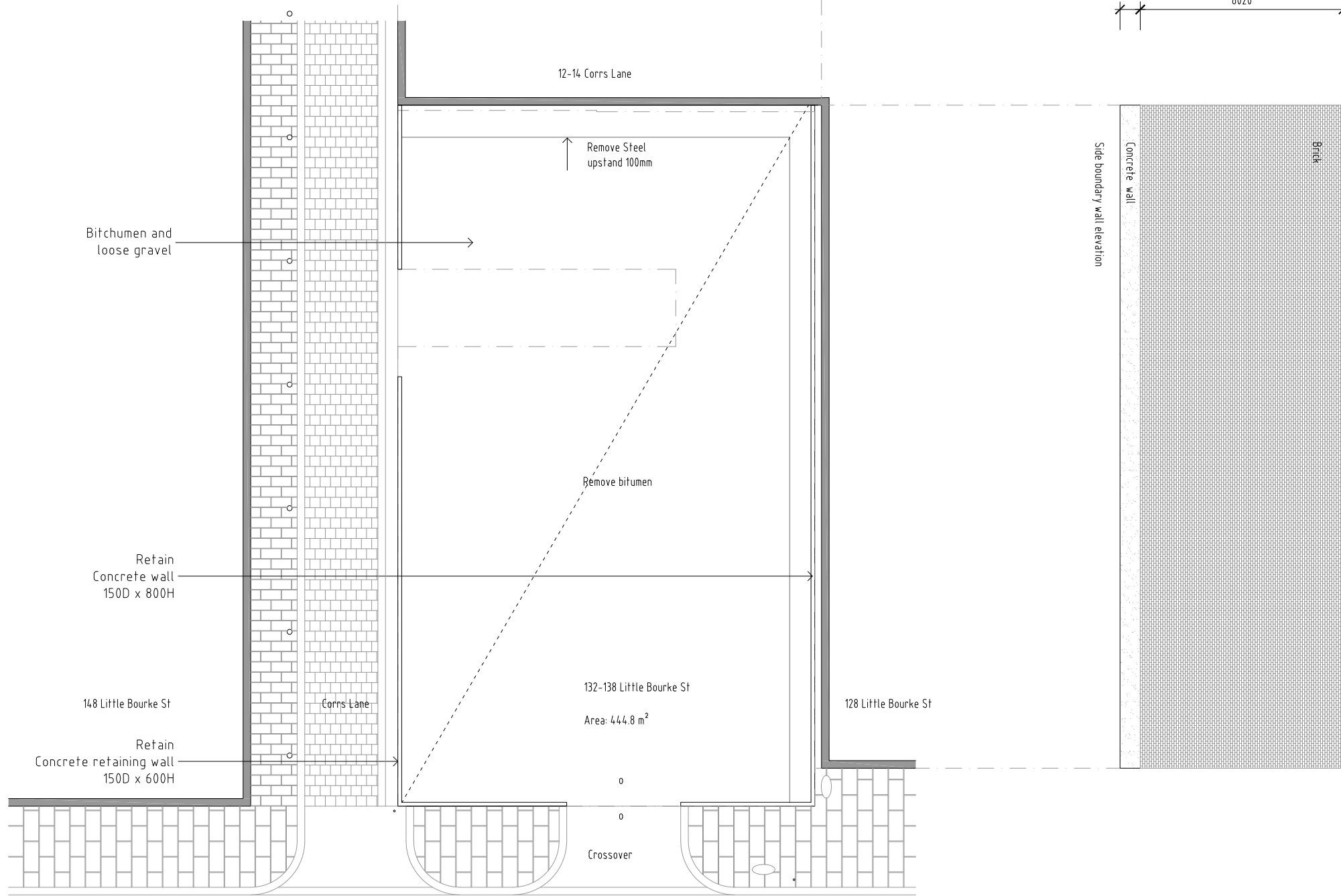
27170
26170
1500
3500



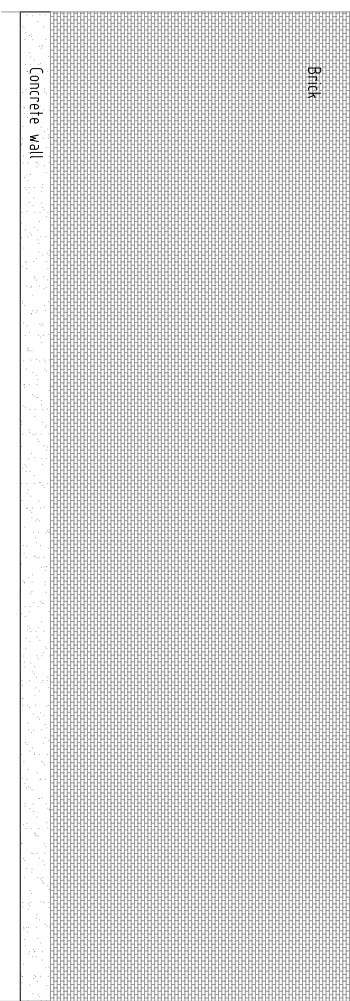
Rear boundary wall elevation

2135 2930 745 16725

8820
800 8020



Side boundary wall elevation



To be demolished

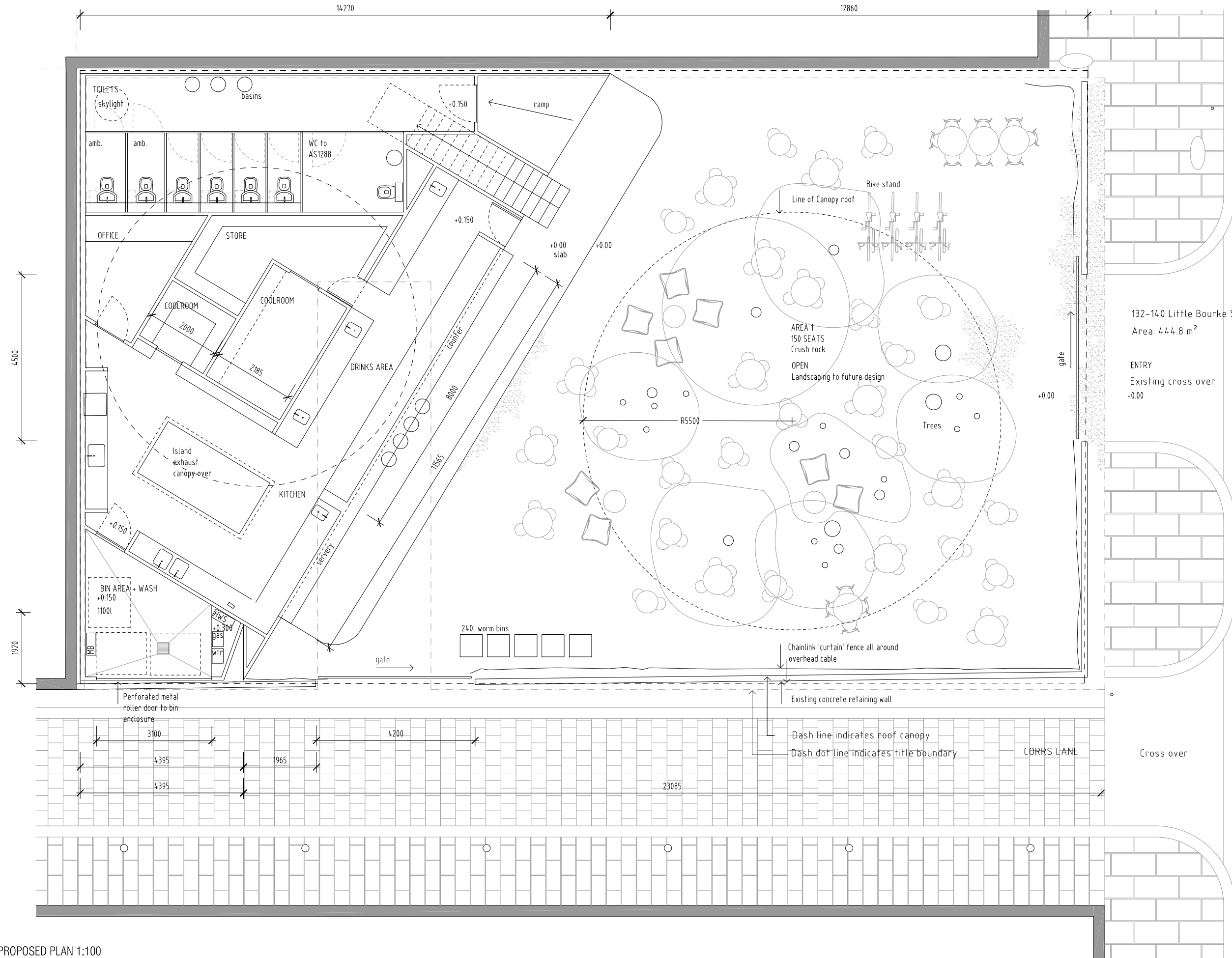
STATUS	PLANNING
DRAWING :	DEMOLITION
SCALE :	1:200 @A3
DATE:	05.11.18
DRAWN :	LW
JOB No :	02.18

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A002





NOTES

132-140 Little Bourke St
 Area: 444.8 m²
 ENTRY
 Existing cross over
 +0.00

LITTLE BOURKE ST

Net Leaseable Area	
Ground Floor AREA 1	300m ²
Roof Deck AREA 2	60m ²
Total	360m ²

STATUS

DRAWING : GROUND FLOOR PLAN

SCALE : 1:100 @A3

DATE: 30.10.18

DRAWN : LW

JOB No : 02.18

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 Melbourne

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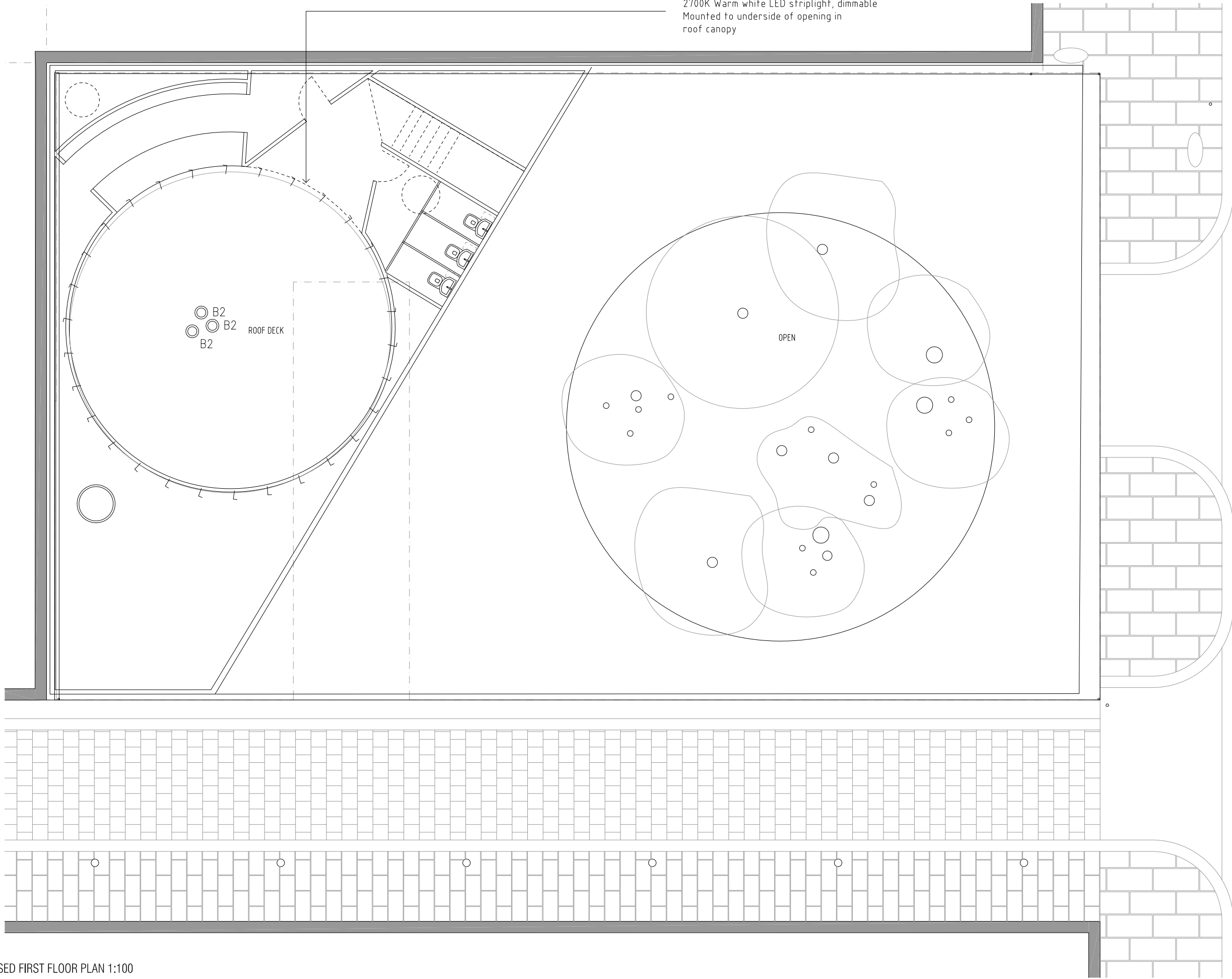
PROPOSED PLAN 1:100

A 101

2700K Warm white LED striplight, dimmable
Mounted to underside of opening in
roof canopy

NOTES
EMERGENCY LIGHTING TO
STATUTORY REQUIREMENTS
LIGHTING IN INTERIOR ROOMS
TO FUTURE DESIGN

— L —
2700K Warm white LED striplight
Dimmable
● B2
300mm dia. ground light IP 54
Diffuser fitting
70W



STATUS DRAFT

DRAWING : LIGHTING

SCALE : 1:100 @A3

DATE: 13.09.18

DRAWN : LW

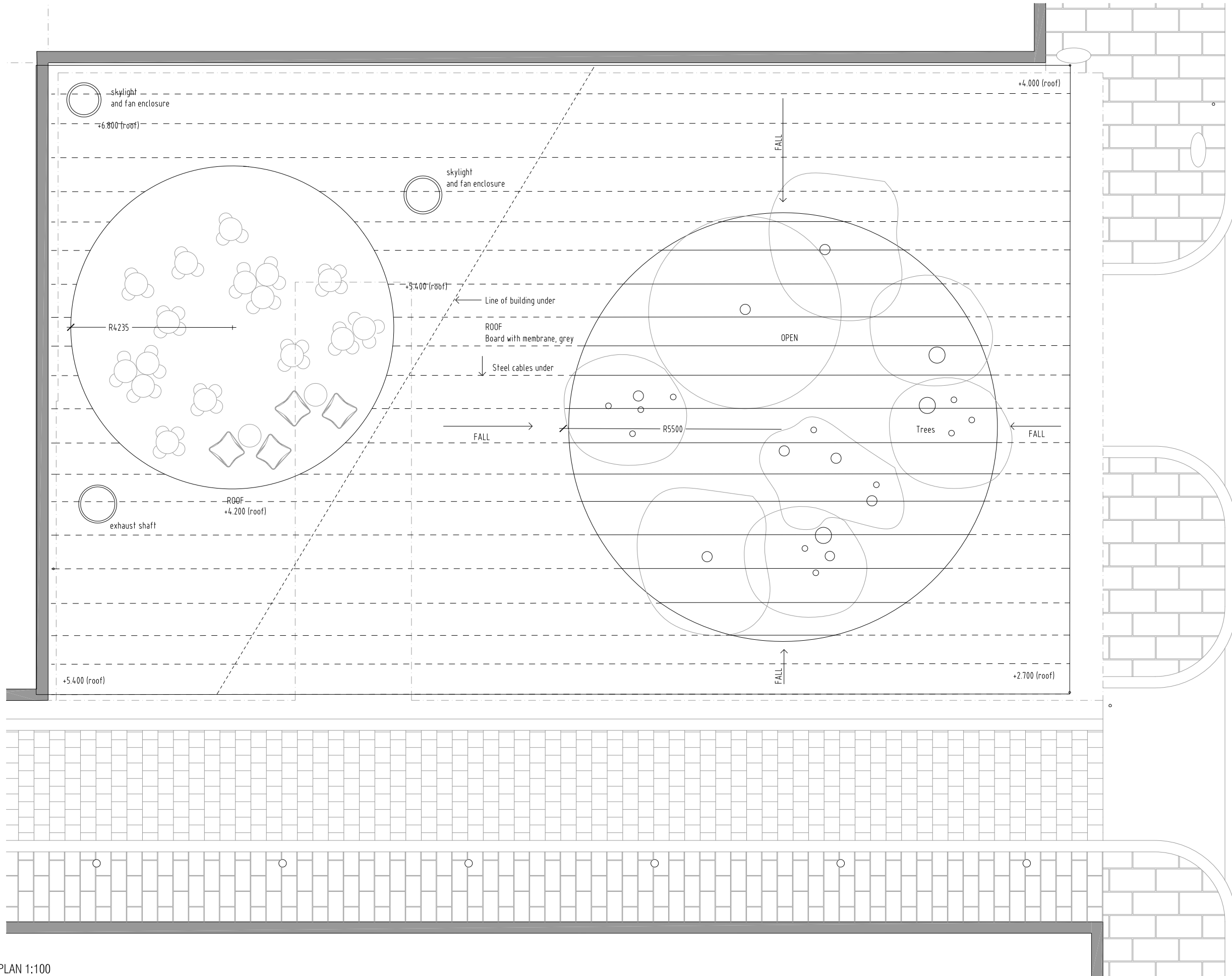
JOB No : 02.18

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A402 ↗

NOTES



STATUS PLANNING

DRAWING : ROOF PLAN

SCALE : 1:100 @A3

DATE: 05.11.18

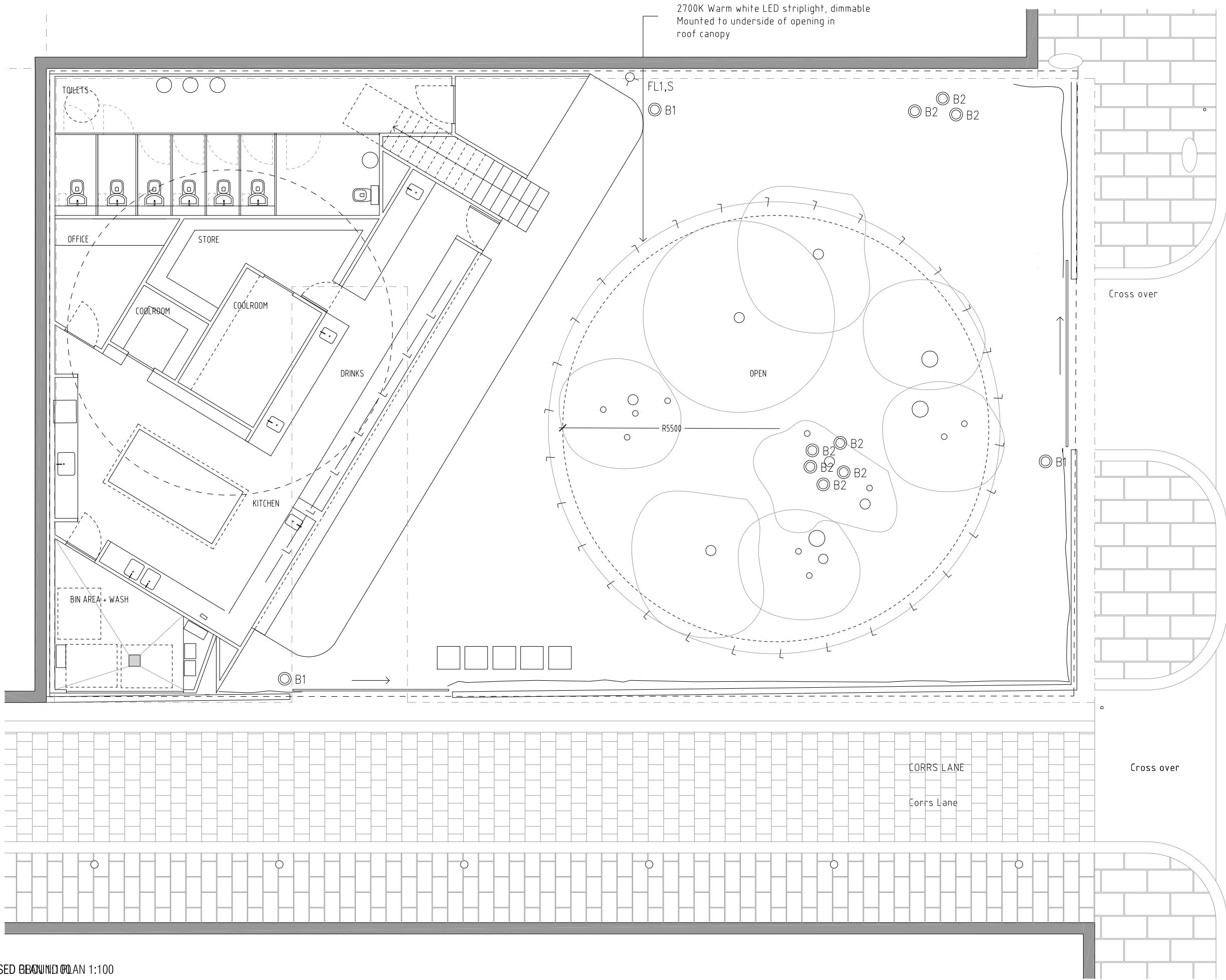
DRAWN : LW

JOB No : 02.18

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A103



2700K Warm white LED striplight, dimmable
Mounted to underside of opening in
roof canopy

NOTES

EMERGENCY LIGHTING TO
STATUTORY REQUIREMENTS

LIGHTING IN INTERIOR ROOMS
TO FUTURE DESIGN

FL1,S

Floodlight baffled, facing the ground
100W PAR56 IP 65
wall mounted, after hours sensor

L

2700K Warm white LED striplight
Dimmable

B1

300mm high Bollard IP 54
70W

B2

300mm dia. ground light IP 54
Diffuser fitting
70W

LITTLE BOURKE ST

STATUS PLANNING

DRAWING : LIGHTING

SCALE : 1:100 @A3

DATE: 05.11.18

DRAWN : LW

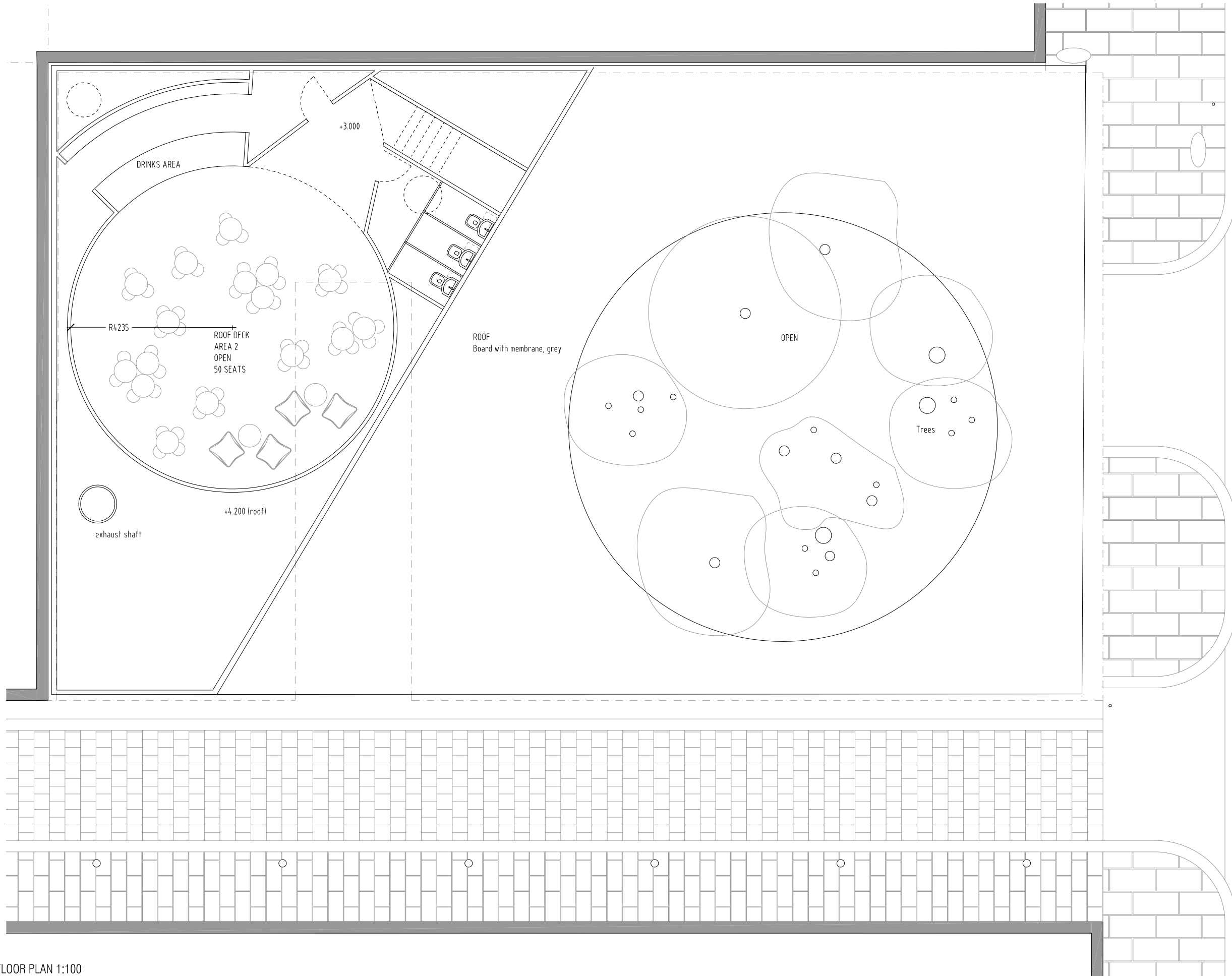
JOB No : 02.18

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A401

NOTES



Net Leaseable Area	
Ground Floor AREA 1	300m ²
Roof Deck AREA 2	60m ²
Total	360m ²

STATUS PLANNING

DRAWING : FIRST FLOOR PLAN

SCALE : 1:100 @A3

DATE: 30.10.18

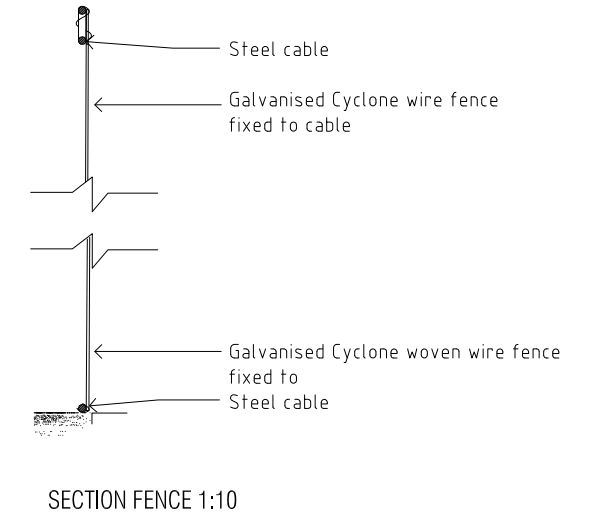
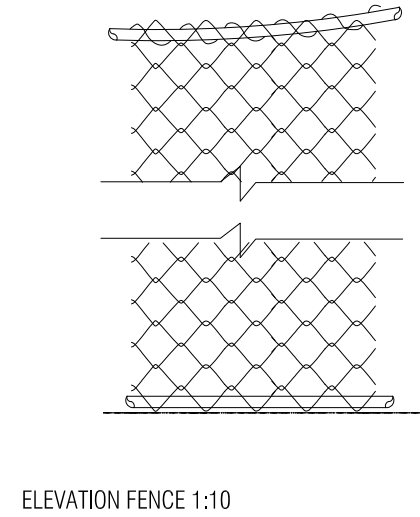
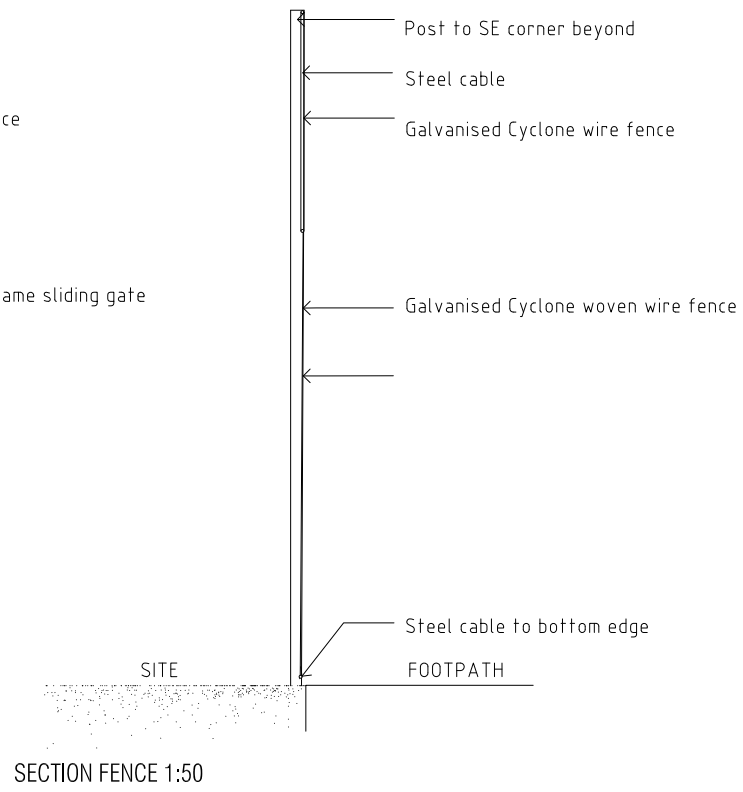
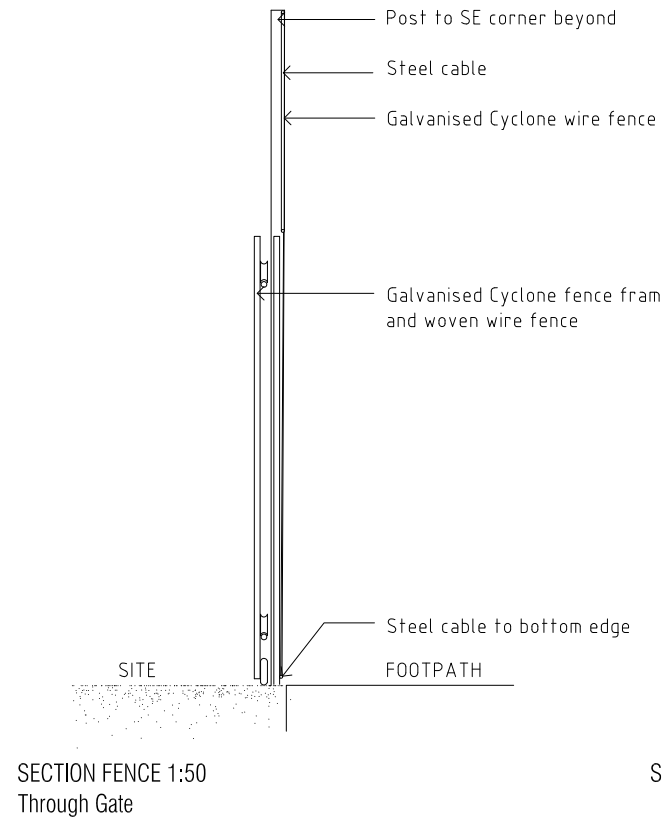
DRAWN : LW

JOB No : 02.18

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A102

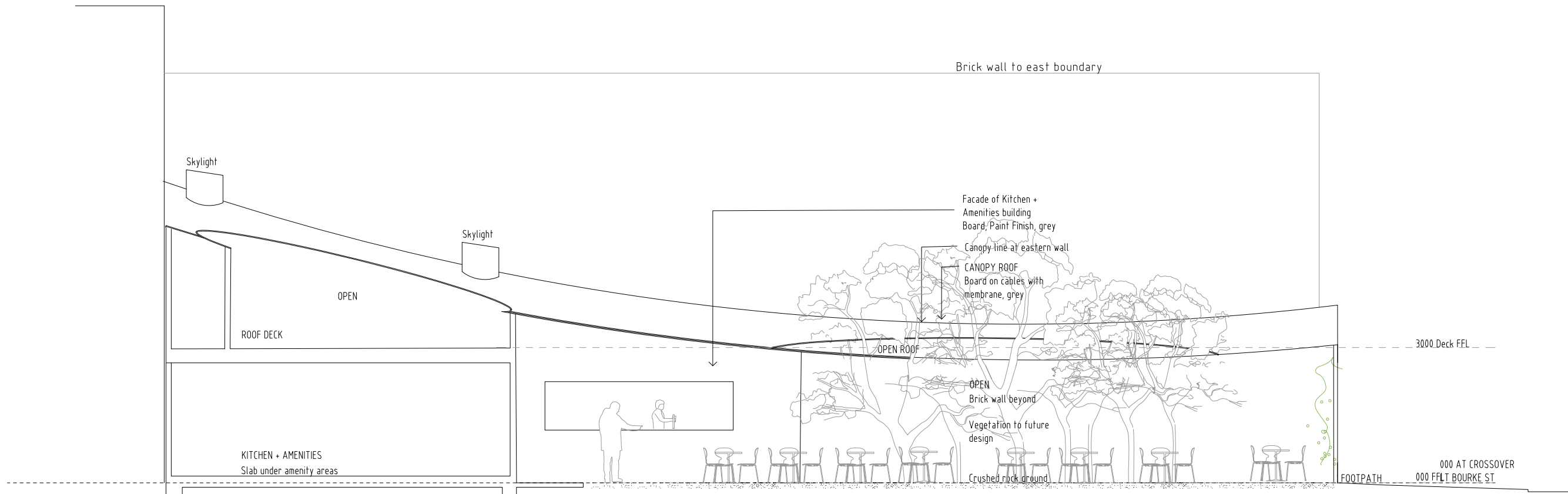


SECTION FENCE 1:50
Through Gate

SECTION FENCE 1:50

ELEVATION FENCE 1:10

SECTION FENCE 1:10



SECTION A-A 1:100

STATUS PLANNING

DRAWING : SECTION A-A

SCALE : 1:100 @A3

DATE: 05.11.18

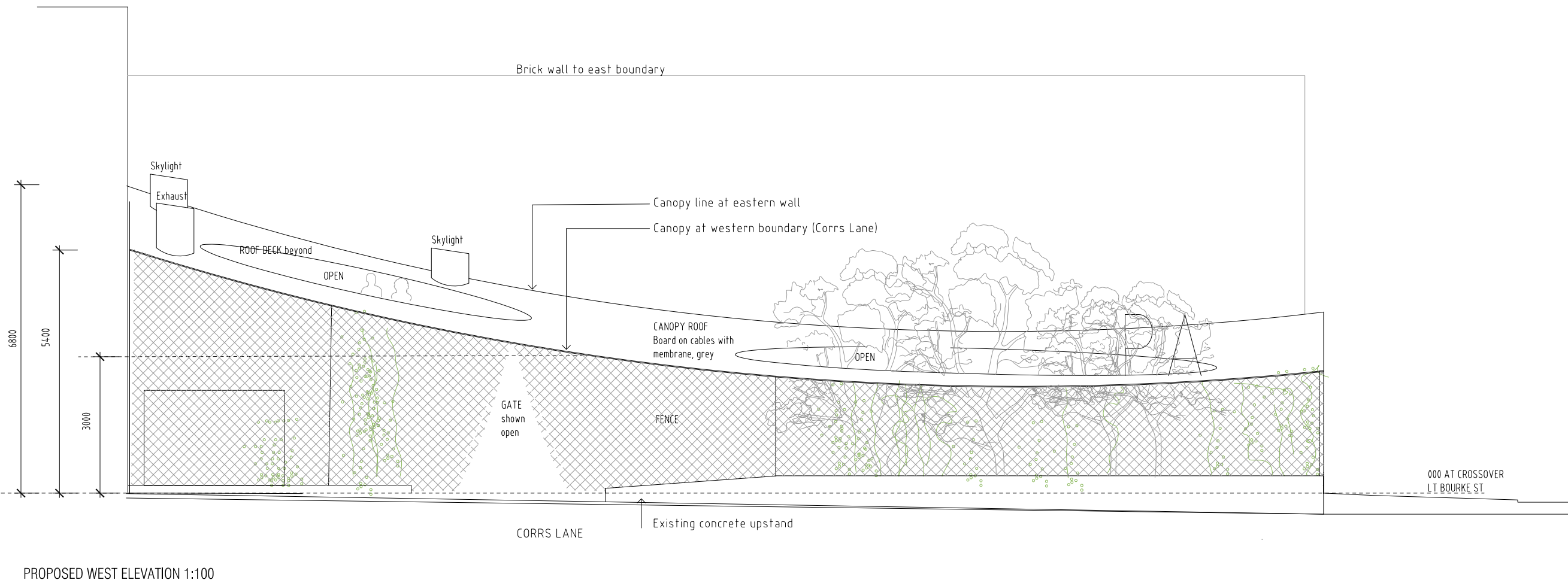
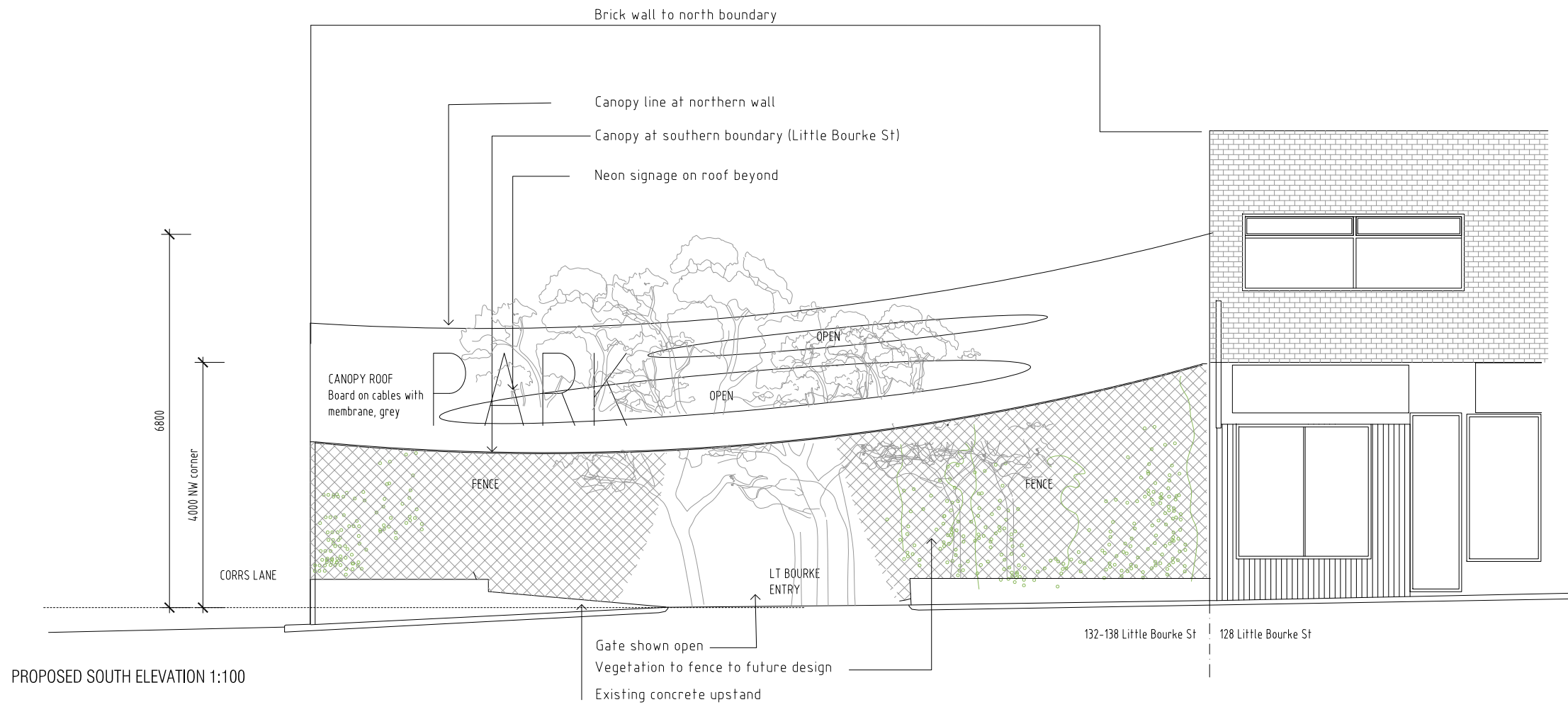
DRAWN : LW

JOB No : 02.18

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A201



STATUS PLANNING

DRAWING : ELEVATIONS

SCALE : 1:100 @A3

DATE: 05.11.18

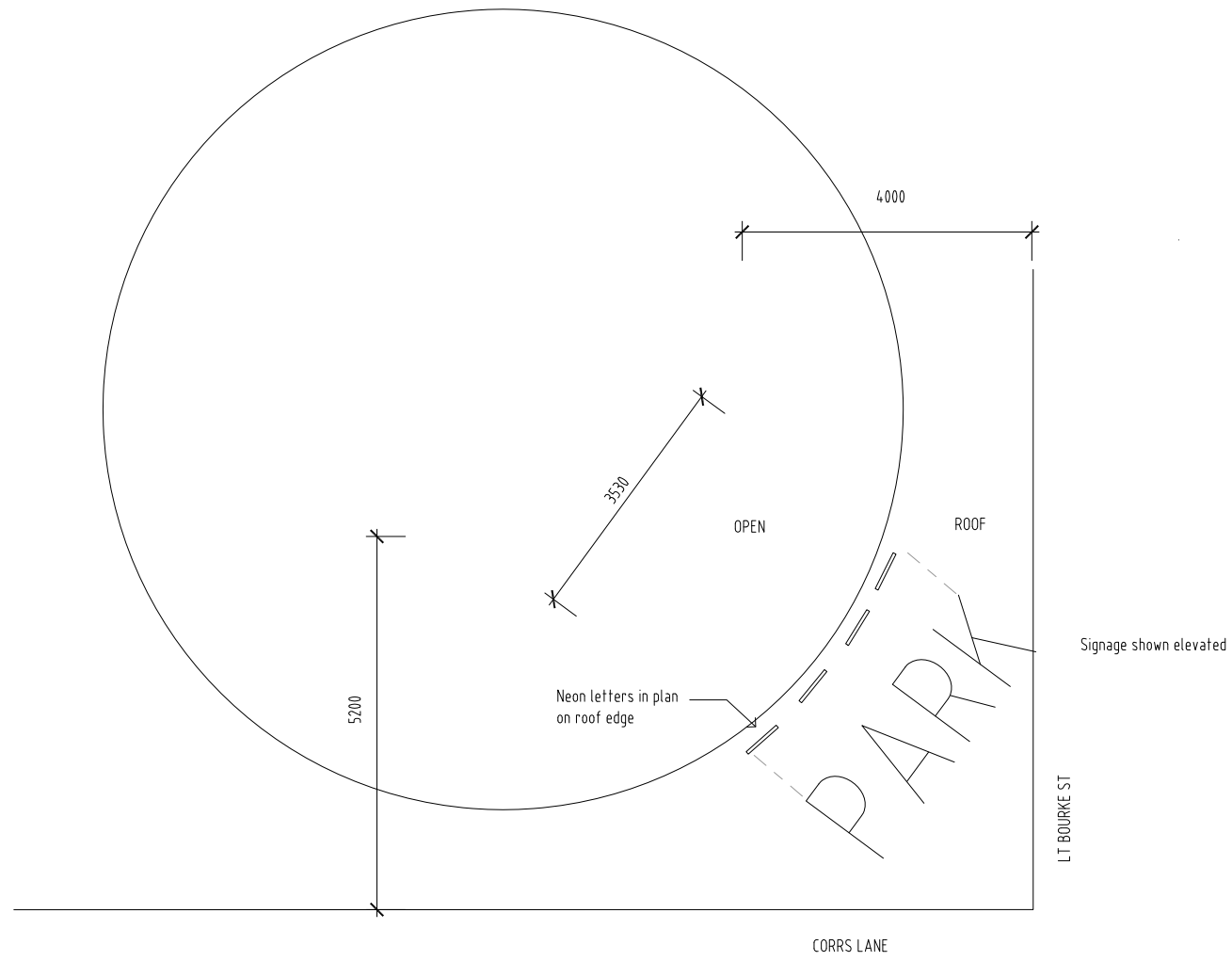
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JOB No : 02.18

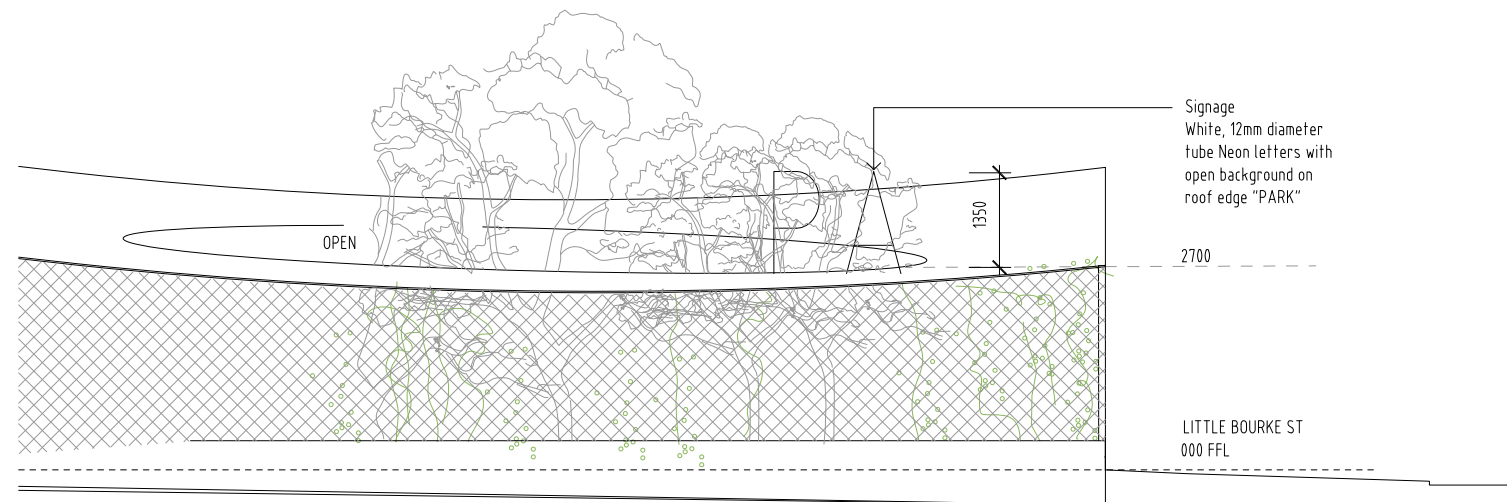
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A301



PLAN ROOF DECK SIGNAGE 1:100



ELEVATION ROOF DECK SIGNAGE 1:100

STATUS PLANNING

DRAWING : SIGNAGE

SCALE : 1:100 @A3

DATE: 05.11.18

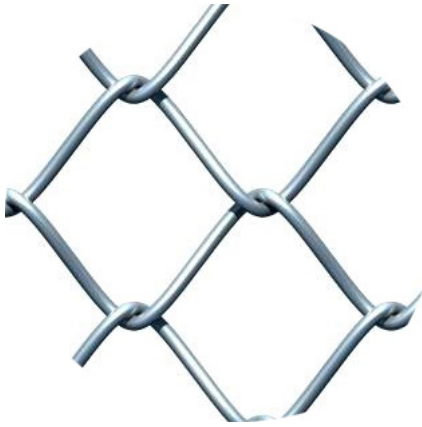
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JOB No : 02.18

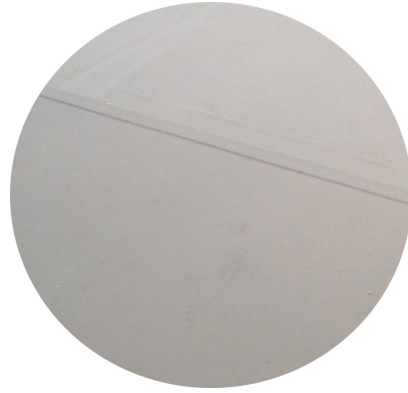
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A501



1.



5.



2.



3.



4.

- 1. Galvanised 'Cyclone' chainlink fence panel
- 2. Steel cable supports
- 3. Vegetation through chainlink panel
- 4. Galvanised 'Cyclone' framing to gate frames
- 5. Canopy roof, Board and membrane, grey

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DELEGATE REPORT

PLANNING APPLICATION

Application number:	TP-2018-774
Applicant:	Tract Consultants Pty Ltd
Address:	132-138 Little Bourke Street, MELBOURNE VIC 3000
Proposal:	Construction of buildings and works associated with a restaurant, display of internally illuminated business identification signage and a reduction of bicycle parking
Date of application:	10 September 2018
Responsible officer:	Katherine Smart

1 SUBJECT SITE AND SURROUNDS

The site has a total area of 454 m², is relatively flat with no existing vegetation and is currently used as an open lot car park. The site has a 16.46 metre frontage to Little Bourke Street to the south and 27.67 metre frontage to Corrs Lane to the west. Abutting the site to the north is a three storey wall and to the east a two storey wall. The site is located within a Heritage Overlay, Little Bourke Street Precinct, however it is ungraded. The adjoining buildings to the east and west are ungraded, the adjoining building to the north, 14 Corrs Lane has a 'D' grading. To the south-east, across Little Bourke Street, 123 Little Bourke Street has an 'A' grading.

The subject site is located on the northern side of Little Bourke Street with Russell Street to the west and Exhibition Street to the east. The southern section of Corrs Lane is approximately 6 metres wide and provides vehicular access to the properties at 139 and 149 Lonsdale Street. The northern section of Corrs Lane narrows to approximately 3 metres wide; it then narrows again to a 1.2 metre wide pedestrian laneway which connects through to Lonsdale Street. To the south of the site Brien Lane provides a pedestrian link between Little Bourke Street and Bourke Street.



Compass 12.11.2018



Subject site, view to the east along Little Bourke Street, source: Streetview 12.11.2018



Subject site and Corrs Lane, view to the north, source: Streetview 12.11.2018

The site currently has vehicle access from both Little Bourke Street and Corrs Lane. There is a low wall enclosing the majority of the site boundaries.

A three storey boundary wall abuts the site to the north and a two storey boundary wall abuts the site to the east. The boundary walls extend for the length of each respective boundary.



View to the west along Little Bourke Street, source: Streetview 12.02.2018

The area has a mix of uses, generally commercial (food and drink premises) at ground level and office or residential above.

To the east across Corrs Lane, 222 Russell Street is a multi-storey building which contains three shops, five food and drink premises, two offices and 48 dwellings. The built form along Corrs Lane is two storeys and contains two restaurants;

Shanghai Street and Ants Bistro. The multi storey section of the building is setback approximately 18 metres from Corrs Lane and 25 metres from Little Bourke Street.

To the north are three, three storey buildings. The building adjacent to the site, 14 Corrs Lane, currently contains a tavern, Fab Gallery at ground level and an art gallery and dwelling above. Further north, 16 and 22 Corrs Lane are occupied by tavern and restaurant uses.

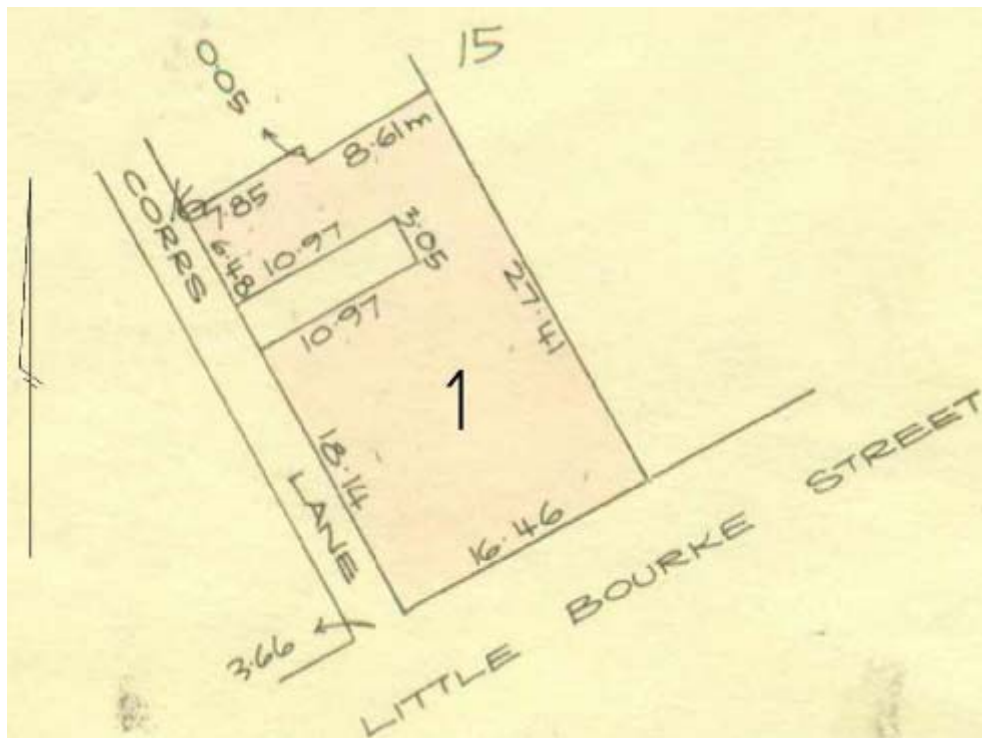
Abutting the site to the east, 131-137 Lonsdale Street is a multi-storey building containing four food and drink premises, two offices and a mix of hotel and residential accommodation. The built form which abuts the subject site is two storeys and contains a food and drink premises on each level.

Across Little Bourke Street to the south is a multi-storey office building; the built form to Little Bourke Street is four storeys with a restaurant at ground level. To the south east of the site is the Chinese Mission Church and to the south west are food and drink premises.

The site has excellent access to public transport services and pedestrian routes. Little Bourke Street is encompassed within the Chinatown area, which has multiple pedestrian linkages and lanes connecting Little Bourke Street to Lonsdale Street to the north and Bourke Street to the south.

The applicant has declared that the site is not affected by any easements or restrictive covenants.

The title shows the land is comprised of two allotments which are formally recognised as Lot 1 on Title Plan 449517T and Lot 1 on Title Plan 161130X. Title Plan 449517T is possibly a remnant roadway that is not included in the subject site parcel of land, however the two titles are within the same ownership.



Title

2 BACKGROUND AND HISTORY

2.1 Pre-application discussions

A pre application meeting was held on 20 September 2018.

2.2 Planning Application History

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

Revised plans were provided to Council on 8 November 2018 showing the following changes:

- Rearrangement of site facilities including moving the kitchen, service, amenity and storage areas to the north side of the site including the rooftop deck. This allows for all seating areas to be kept together.
- Alteration of the site entry points. The southern entry has shifted slightly east to be more central to the site. The western entry has shifted further north along Corrs Lane.
- As a result of the revised rooftop deck location, there will be two circular openings in the canopy,
- The maximum height of the canopy will be reduced by 2 metres.
- Additional toilets will be provided on the rooftop deck.
- Bicycle parking is shown on ground floor plans.

These plans were advertised and form the basis of this assessment.

3 PROPOSAL

The plans which have been considered in this planning assessment are: Demolition A002 05.11.18, Ground Floor A101 30.10.18, Existing plan A001 30.08.18, Lighting A402 13.09.2018 and A401 05.11.18, Roof A103 05.11.18, First Floor Plan A102 30.10.18, Section A-A A201 05.11.18, Elevations A301 05.11.18, Signage A501 05.11.18, Materials (not numbered).

The proposal is for the development of the land for the purposes of a restaurant. A restaurant and café liquor licence will also be sought for the use however this does not require a planning permit under the Schedule to Clause 52.27.

The restaurant is proposed to operate between:

- 8am to 1am Thursday through Saturday
- 8am to midnight Sunday through Wednesday

There will be a maximum of 15 staff on site and maximum patron numbers of 250 at any single time. A total of 200 seats will be provided on site.

Music provided on the site will be general background music typical of a restaurant venue.



3D proposal

The Little Bourke and Corrs Lane frontages are to have a steel mesh fence ranging from 5.4 metres high at the northern end of Corrs Lane to 2.7 metres high at the corner of Corrs Lane and Little Bourke Streets and 4.0 metres high on the south eastern corner.

The mesh fence will be free standing i.e. not attached to the adjoining buildings. The plans do not detail this.

Landscaping of the mesh fence is proposed but further detail will be required.

The proposed restaurant layout is as follows:

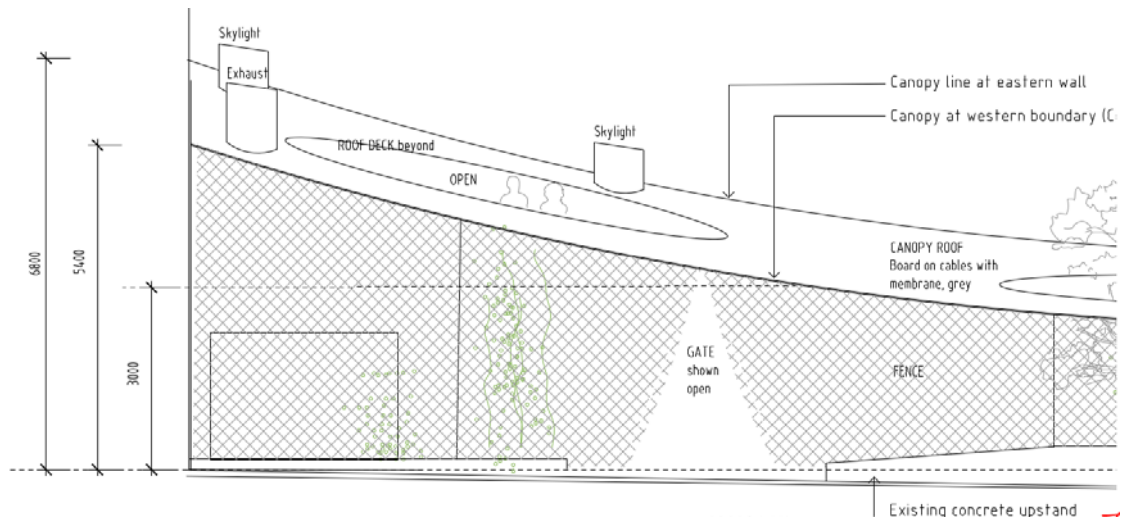
Ground level:

- Kitchen, toilets, services, bins and drinks area located in the northern section of the site.
- The remainder of the site will have crushed rock base or landscaping, which is only located within the circular, open to the sky, hole in the overhead canopy.
- 150 seats and four bike racks.
- Access is via two gates; one located on Little Bourke Street at the existing vehicular crossing and the other on Corrs Lane. There is also a perforated metal roller door to the bin enclosure onto Corrs Lane.

Level 1:

- Above the ground level kitchen area is a roof deck with toilets, drinks area and 50 seats.
- A circular hole is cut out of the canopy over level 1 seating area.

- The finished floor level of the roof deck is approximately 3 metres above ground level, the maximum height of the canopy on Corrs Lane is 4.5 metres and the canopy rises to a height of 6.8 metres in the north eastern corner of the site.



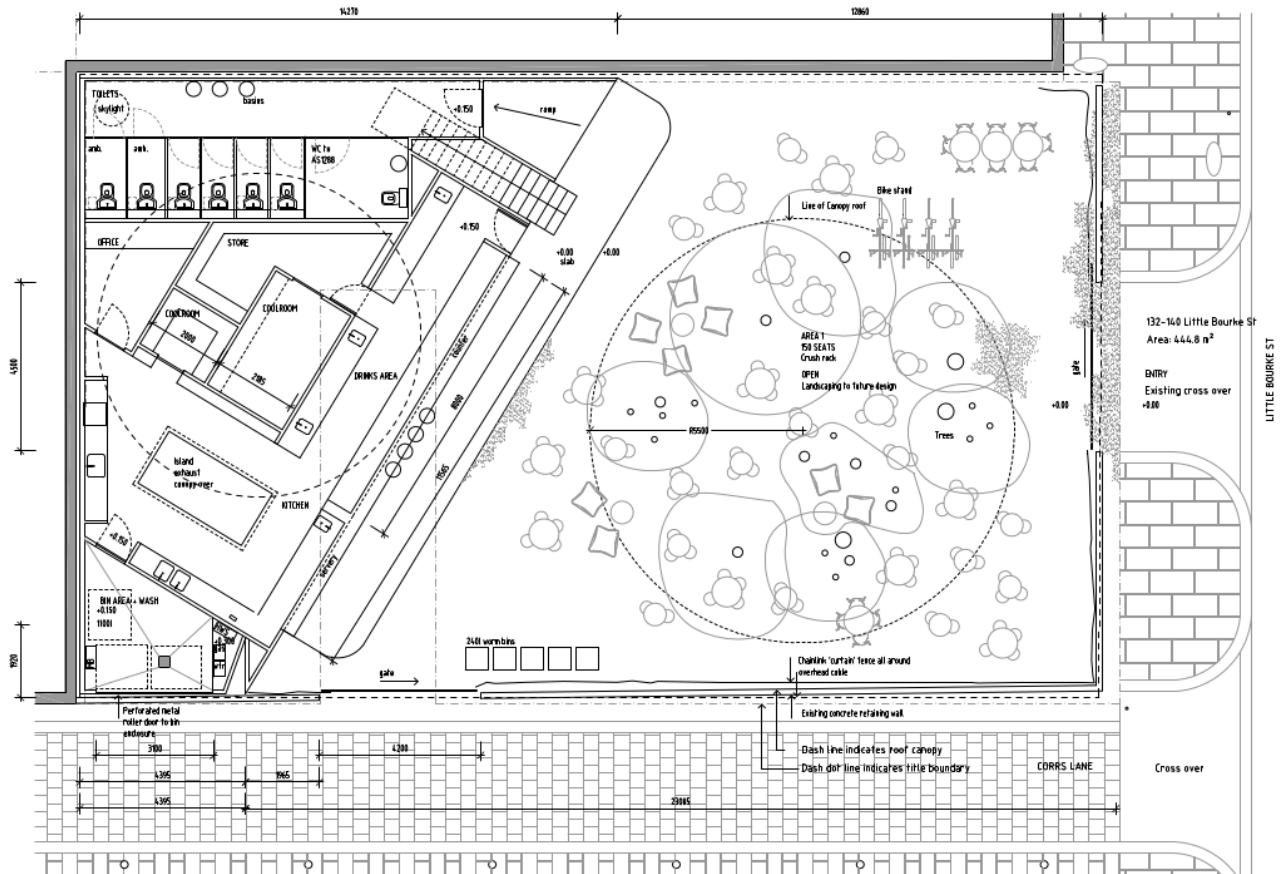
Part of the north western elevation

Lighting:

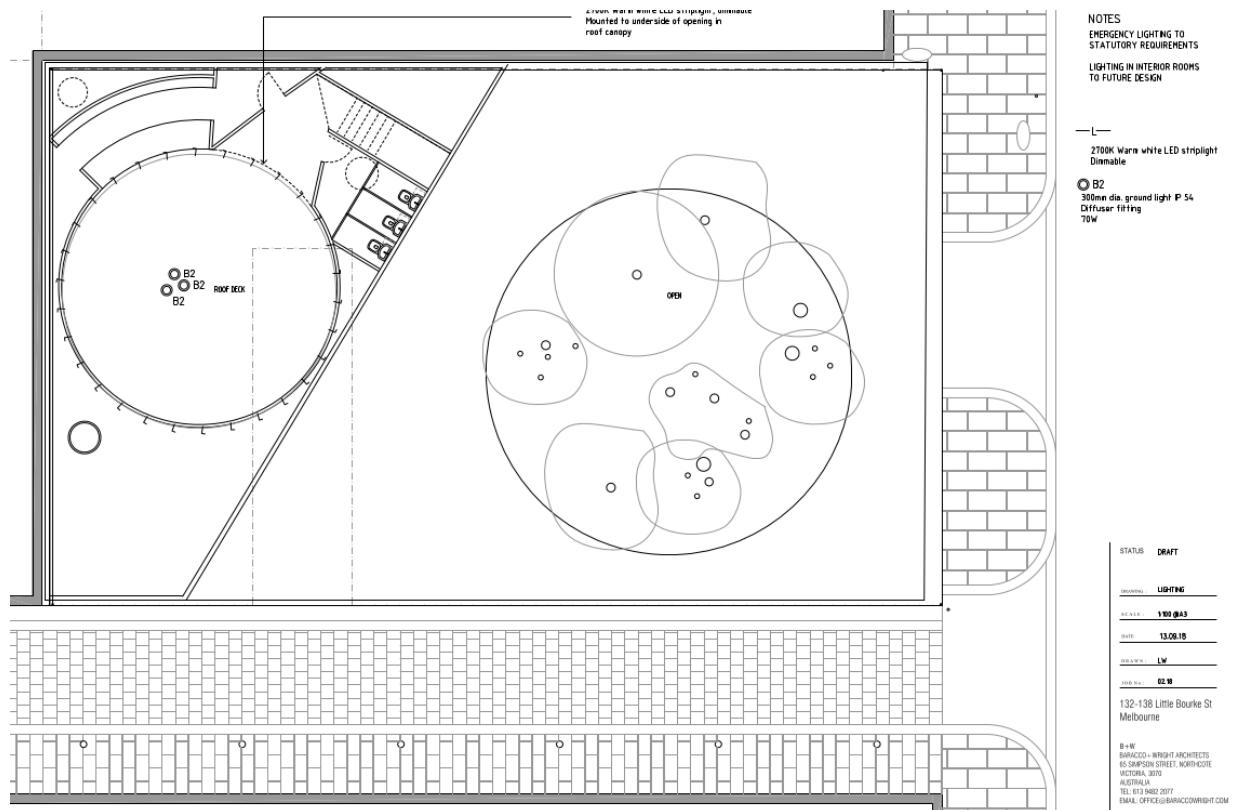
- A lighting plan has been provided showing at ground level: three 70W bollards and eight 70 W ground lights (diffuser fitting). The first level has three 70 W ground lights (diffuser fitting).

Signage:

- Internally illuminated sign consisting of white 12mm diameter neon tube letters with an open background. The letters spell PARK and each letter is 1.35m high over a length of 3.53m long for an area of 4.766m². The sign is located on top of the canopy, at the lower part of the canopy approximately 3 metres above ground level. The sign is setback a minimum of approximately 2 metres from both Little Bourke Street and Corrs Lane.



Ground floor plan



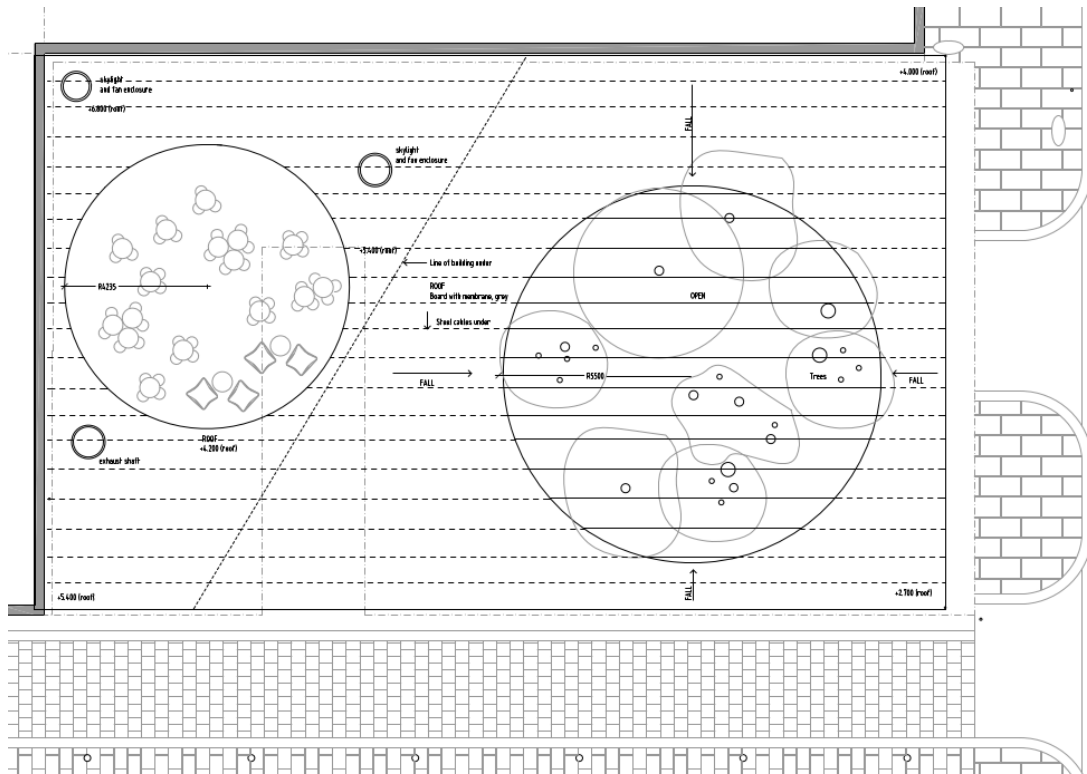
First floor plan

NOTES
EMERGENCY LIGHTING TO STATUTORY REQUIREMENTS
LIGHTING IN INTERIOR ROOMS TO FUTURE DESIGN

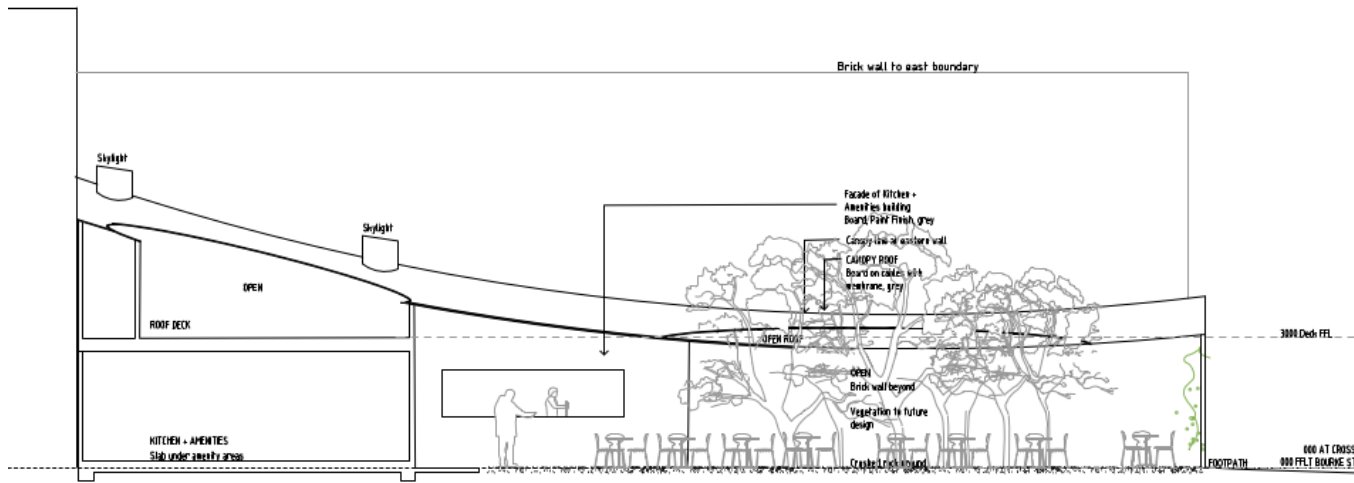
2700K Warm white LED strip light
Dimmable

B2
300mm dia. ground light P 54
Diffuser fitting
70W

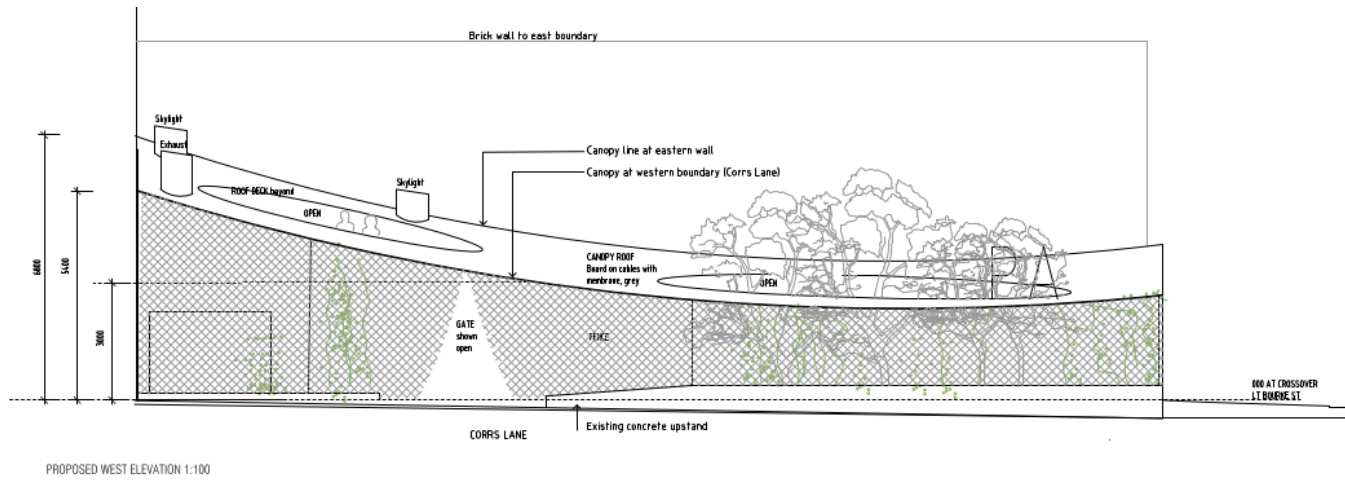
STATUS	DRAFT
DATE	13.08.18
BY	LW
DATE	02.10
132-138 Little Bourke St Melbourne	
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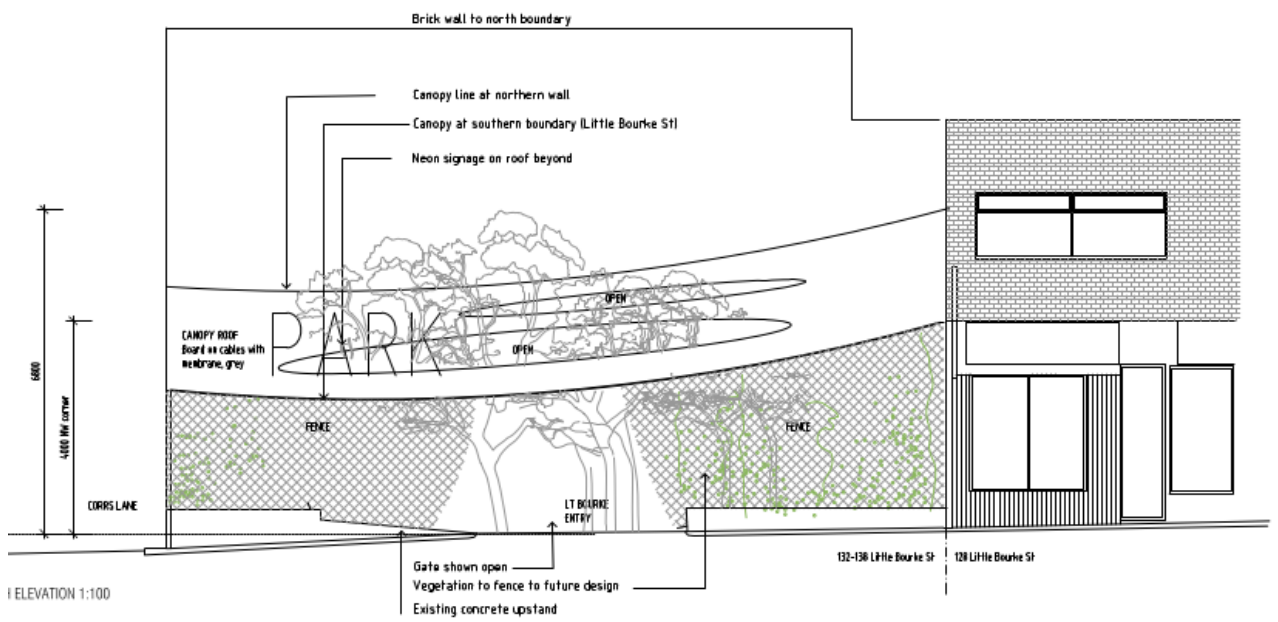
Roof plan



Section



West Elevation



South elevation including signage

4 STATUTORY CONTROLS

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

Clause	Permit Trigger
Clause 37.04-4 Capital City Zone 1	Pursuant to Clause 37.04-4, a permit is to construct a building or construct or carry out works and demolish and remove a building. Pursuant to Clause 37.04-5, a permit is required to erect an advertising sign unless exempt (the proposed signage is not exempt). Sign requirements are at Clause 52.05. This zone is not in a sign category at Clauses 52.05-11 to 52.05-14. Pursuant to Clause 37.04-1 no permit is required to use the site as a restaurant.
Clause 43.02-2 DDO	Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works.

DDO1-A2 Active Street Frontages	Permit is required for buildings and works at ground level.
DDO2-A2 Special Character Areas – Built Form (Hoddle Grid)	Permit is required for buildings and works; area 2 has a preferred building height of 15 metres.
DDO3 Traffic Conflict Frontage - CCZ	A permit is not required to construct a building or carry out works other than those associated with the creation or alteration of a crossover or vehicle access way. As no vehicle crossover is proposed no permit is required pursuant to this overlay.
HO507 Clause 43.01-1 Heritage Overlay (Little Bourke Street Precinct)	Pursuant to Clause 43.01-1 of the HO a permit is required to demolish or remove a building and construct a building or construct or carry out works. A permit is also required under the Heritage Overlay to construct or display a sign.
PO1 Parking Overlay Schedule 1	No on site car parking is included as part of this proposal and as such no permit is required pursuant to Clause 45.09-3 of the Parking Overlay.
Clause 52.34 Bicycle Facilities	Pursuant to Clause 52.34-1 a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. The site area available to the public (Net Leasable Area shown on “Proposed Plan”) is 413m ² . As such, the proposal generates the needs for four employee spaces, and four visitor spaces. The proposal provides four formal bicycle parking spaces on site and therefore seeks a waiver of four spaces.
Clause 52.27 Licensed Premises	Pursuant to Clause 52.27 a planning permit is not required to sell or consume liquor in the Capital City Zone.
Clause 52.05 Signs	Pursuant to Clause 37.04-5, a permit is required to erect an advertising sign. Decision guidelines are at Clause 52.05-8.

5 STRATEGIC FRAMEWORK

5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are summarised as follows:

Clause 11 (Settlement) seeks to ‘facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.’

Clause 11.01-1S (Settlement) seeks to ‘promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.’

Clause 11.01-1R1 (Settlement – Metropolitan Melbourne) seeks to ‘Focus investment and growth in places of state significance, including Metropolitan Melbourne Central City.’

Clause 11.03-1S (Activity Centres) seeks to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

Clause 15 (Built Environment and Heritage) seeks to ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context.

Clause 15.03-1S (Heritage Conservation) seeks to ensure the conservation of places of heritage significance.

Clause 13.07-1S (Land use compatibility) seeks to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.

Clause 15.01-2S (Building Design) seeks to achieve building design outcomes that contribute positively to the local context and enhance the public realm.

Clause 15.01.1 (Urban Design) seeks to 'create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.'

Clause 17 (Economic Development) seeks to 'provide for a strong and innovative economy, where all sectors are critical to economic prosperity.'

Clause 17.2-1S (Business) seeks to 'encourage development that meets the communities' needs for retail, entertainment, office and other commercial services.'

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

The relevant provisions of the MSS are summarised as follows:

Clause 21.06 (Built Environment and Heritage) seeks to:

- Reinforce the City's overall urban structure.
- Ensure that the height and scale of development is appropriate to the identified preferred built form character of an area.
- Increase the vitality, amenity, comfort, safety and distinctive City experience of the public realm.
- Improve public realm permeability, legibility, and flexibility.
- Create a safe and comfortable public realm.

Clause 21.06-2 (Heritage) seeks to:

- Conserve and enhance places and precincts of identified cultural heritage significance.

Clause 21.08 (Economic Development) seeks to support, enhance and retain business through the following relevant objectives:

- Support the Central City and local retail uses.
- Reinforce the City's role as Victoria's principal centre for commerce.
- Encourage employment opportunities for local residents.

Clause 21.09 (Transport) seeks to improve and encourage walking, cycling, and public transport networks by giving priority to pedestrian use.

Clause 21.12 (Hoddle Grid) seeks to protect the regular grid layout, laneways, tree-lined boulevards and identified significant public open spaces. It also seeks to

maintain a low rise form and streetscape in the Retail Core and along key views to ensure an intimate pedestrian scale.

It further seeks to:

- Encourage the development of a range of complementary precincts within the Hoddle Grid that offer a diverse range of specialist retail, cultural and entertainment opportunities.
- Support entertainment, bars, eating and other evening uses throughout the Hoddle Grid.
- Encourage arcade and laneway links between streets and public spaces.

5.2.2 Local Policies

The relevant local policies are summarised as follows:

Clause 22.01 (Urban Design within the Capital City Zone) applies to Schedule 1 to the Capital City Zone and seeks:

- To ensure that development responds to the underlying framework and fundamental characteristics of the Capital City Zone while establishing its own identity.
- To enhance the physical quality and character of Melbourne's streets, lanes and Capital City Zone form through sensitive and innovative design.
- To ensure developments contribute to a high quality public realm and to passive surveillance of the public domain.
- To incorporate laneways and through-block links to enhance pedestrian movement and permeability.
- To improve the experience of the city for pedestrians by providing a human scale to the street wall, weather protection, sunlight access, summer shadow and comfortable wind conditions.
- To address the cumulative impact of the scale, setbacks and height of developments where multiple towers provide the precinct built form context for individual proposals.

Clause 22.04 (Heritage Places within the Capital City Zone) seeks to achieve the following:

- To conserve and enhance all heritage places, and ensure that any alterations or extensions to them are undertaken in accordance with accepted conservation standards.
- To consider the impact of development on buildings listed in the Central Activities District Conservation Study and the South Melbourne Conservation Study.
- To promote the identification, protection and management of Aboriginal cultural heritage values.
- To conserve and enhance the character and appearance of precincts identified as heritage places by ensuring that any new development complements their character, scale, form and appearance.

Clause 22.07 (Advertising Signs) seeks to achieve the following:

- To allow for the reasonable identification and marketing of institutions, businesses and buildings and communication of messages.

- To protect the characteristics of significant buildings and streetscapes.
- To protect important vistas from obtrusive and insensitive advertising.
- To ensure that signs in residential areas and other high amenity areas do not detract from the appearance or character of the area.
- To encourage where appropriate, signs that contribute to the lively and attractive character of an area.
- To encourage signs that improve the quality of the area.

Chinatown Objectives

- To enhance the area's role as part of the entertainment area, its attraction for visitors, and its traditional role as a focus for the Asian community.
- Signs are encouraged to:
 - Be vertically proportioned. Horizontal projecting signs are discouraged.
 - Be small to medium scale to reflect the scale and character of the buildings and the streetscape.
 - Be bright and animated.
 - Include Chinese characters where in keeping with the tenancy of the building.
 - Comprise traditional Chinese colours - red, green, black and gold. White is not culturally appropriate.
 - Be of tubular neon.

6 ZONE

The subject site is located within the CCZ1 Capital City Zone 1.

The Site is located within Schedule 1 to the Capital City Zone (CCZ1). The Purpose of **Clause 37.04** (Capital City Zone) is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To enhance the role of Melbourne's central city as the capital of Victoria and as an area of national and international importance.*
- *To recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.*
- *To create through good urban design an attractive, pleasurable, safe and stimulating environment.*

7 OVERLAYS

The subject site is affected by:

Design and Development Overlay Schedule 1 (DDO1-A1)

The site is affected by Schedule 1 of Design and Development Overlay (DDO1). The design objectives of the overlay have a focus on ensuring ground floor frontages are pedestrian oriented and add interest and vitality to city streets.

Design and Development Overlay (DDO2-A2)

The site is affected by Design and Development Overlay Schedule 2 (DDO2) which identifies the specialist character significance of the Hoddle Grid built form. The overlay seeks to protect sunlight access to public places and protect the unique built form and public realm amenity.

Design and Development Overlay (DDO3)

The site is also affected by Design and Development Overlay Schedule 3 (DDO3) which relates to traffic conflict frontages within the Capital City Zone. This overlay seeks to promote pedestrian flow, safety and amenity and minimise conflict between pedestrians and vehicles on footpaths.

Heritage Overlay (HO507)

The site is affected by a Heritage Overlay Schedule 507 (HO507) which relates to the Little Bourke Street Precinct. The heritage overlay seeks to ensure development does not adversely affect the significance of heritage places.

8 PARTICULAR PROVISIONS

The following particular provisions apply to the application:

Clause 52.05 (Signs) seeks to regulate the development of land for signs and ensure signs are compatible with the amenity and visual appearance of an area including the existing or desired future character. Decision guidelines at Clause 52.05-8 require the responsible authority to consider the following:

- The character of the area, including: sensitivity of heritage values, compatibility with existing character, cumulative impact of signs, consistency with outdoor advertising theme in the area.
- The relationship to the streetscape, setting or landscape, including: the proportion, scale and form relative to the streetscape, the position and if it protrudes above existing buildings, the ability to introduce landscaping to reduce the visual impact.
- The relationship to the site and building, including: the scale and form of the sign relative to the scale, proportion and other significant characteristics of the host site and building.
- The impact of any illumination, including: the impact on amenity of nearby residents, the area and safety of pedestrians and vehicles.
- The need for identification.

Clause 52.34 (Bicycle Facilities) seeks to ‘encourage cycling as a mode of transport’. Clause 52.34-3 lists a ‘restaurant’ specifically with the following rates:

Table 1 to Clause 52.34-5 – Bicycle spaces

USE	EMPLOYEE/RESIDENT	VISITOR/SHOPPER/STUDENT
Restaurant	1 to each 100 sq m of floor area available to the public	2 plus 1 to each 200 sq m of floor area available to the public if the floor area available to the public exceeds 400 sq m.

The site area available to the public (Net Leasable Area shown on “Proposed Plan”) is 413m². As such, the proposal generates the needs for four employee spaces, and four visitor spaces. The proposal provides four formal bicycle parking spaces on site and therefore seeks a waiver of four spaces.

9 GENERAL PROVISIONS

The following general provision applies to the application:

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

10 AREAS OF ABORIGINAL CULTURAL HERITAGE SENSITIVITY

- Under the *Aboriginal Heritage Regulations 2007*, the site is not identified as an area of Aboriginal cultural heritage sensitivity.

11 PUBLIC NOTIFICATION

Pursuant to 37.04-4 and 37.04-5, an application to construct a building and construct or erect a sign 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 52.34-2, Bicycle Facilities, is exempt from the notice requirements of Section 52(1) (a), (b) & (d), the decision requirements of Section 64(1), (2) & (3) and the review rights of Section 82(1) of the Act.

Pursuant to Clause 43.02-2, Design and Development Overlay a schedule to this overlay may specify that an application is exempt from notice requirements. DDO1, 2 and 3 specifically exempt the construction of a building or construct or carry out works 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 (Heritage Overlay) 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:

- Construction of a fence.
- Construction of a carport, garage, pergola, verandah, deck, shed or similar structure.
- Construction or display of a sign.

The fence and sign are exempt from the notice requirements; the sail canopy is generally akin to a pergola or similar structure and is also exempt. However the proposed new building works namely the two storey building which contains the kitchen and toilets is not exempt under the Heritage Overlay and therefore notice of the application was given via two notices on site and letters to adjoining properties.

12 OBJECTIONS

The application has received 18 objections and the concerns raised are summarised below:

- Noise and proximity to residential properties.
- The Little Bourke Street pavement is narrow and queues from restaurants force pedestrians onto the road, into oncoming traffic. An entrance setback from the road would not have venues competing for the limited pavement space.
- Many surrounding restaurants are historically small with limited seating space and the proposal is likely to have a dominating presence within Chinatown and detract from the established smaller venues.

- Council should develop site specific guidelines as to the type of built form that should occur on the site to achieve sympathetic infill development.
- The design outcome is not consistent with the established streetscape character.
- It has the appearance of a temporary premises surrounded by solid masonry buildings.
- The site layout and material are out of character with the Little Bourke Street heritage precinct.
- The 3D perspective does not match the layout plans.
- The applicant is proposing a restaurant however it appears to be a tavern and will 'morph' into one.
- The plans indicate a drinks area; it is a disingenuous application and should be assessed against Clause 22.22.
- Insufficient information provided with the application; a planning report, cumulative impact assessment, an acoustic report and a patron management plan should be provided.
- The open air nature of the venue is likely to create excessive external amenity concerns relating to noise and fumes. Other food and drink premises are contained indoors. Likened the proposal to the existing Section 8 Bar.
- The application contains insufficient information relating to kitchen fumes and smokers.
- The application contains insufficient information regarding what happens when it rains.
- The proposed use is not responsive to the context of the area and is not sympathetic to the heritage precinct.
- Advertising process was confusing.

13 CONSULTATION

The applicant responded in writing to the objections. No further consultation was undertaken.

14 REFERRALS

14.1 Internal

14.1.1 Urban Design

The Urban Design Team supports an outdoor restaurant in this location and the high quality of the design response. The following comments have been received:

We support an outdoor restaurant in this location and of the high quality of the design response. The proposed lightweight structure retains the existing open character and provides much needed vegetation for this area of the CBD. Overall, we are very supportive of and excited by the proposal.

We provide the following minor comments and recommendations:

Response to context

- *The existing carpark creates a feeling of openness to this corner and provides visibility between Corrs Lane and Little Bourke Street. This distinguishes Corrs Lane from other laneways in Chinatown and is a defining character of the site and surrounding urban structure.*
- *The proposed lightweight structure with vegetation within retains a sense of the existing open character, allowing views across between Corrs Lane and Little Bourke Street. We support this response to context.*

Site layout and entries

- *This area of Chinatown experiences high pedestrian volumes and the existing, narrow footpaths along Little Bourke Street often result in pedestrians being forced to walk on the road.*
- *The removal of the carpark is supported as it reduces conflict between pedestrians along Little Bourke Street and cars entering and exiting the carpark.*
- *The key entry is positioned on the corner of Corrs Lane and Little Bourke Street. A sliding gate to either side creates a sense of openness on the corner and maintains view lines through the site.*
- *However, we are concerned that the key entrance may contribute to conflict with other pedestrians at this corner.*
- *We recommend exploring an option that locates the key entrance along Corrs Lane to manage potential conflict with the flow of pedestrian volumes along Little Bourke Street.*

Public realm interface

- *A large internal seating area is located at the corner of Corrs Lane and Little Bourke Street. This brings life and activity to this key corner, contributing to a safe and engaging environment for pedestrians.*
- *Other seating areas are setback from the edge of Little Bourke Street and Corrs Lane and separated by vegetation. Depending on the density and type of planting, this may remove activity from the interface with the public realm.*
- *A planting schedule is requested to show proposed species and planting density in order to assess how the vegetation will present to the public realm. For example, the vegetation and cyclone wire fence used for Section 8 bar on Tattersalls Lane creates a feeling of openness and allows pedestrian views deep into the interior. Conversely, Lane's Edge on Meyers Place utilises denser planting and screening which limits views into the interior, creating a more enclosed and private space.*
- *Further detail on proposed vegetation and precedent images would help illustrate the design intent and relationship with the public realm.*

Materials

- *We support the use of lightweight and transparent materials, such as cyclone wire fence and vegetation. This retains the feeling of openness and allows views into and through the site to Corrs Lane.*
- *There is an opportunity to remove the existing crossover and repave the footpath in bluestone pavers to improve the continuity of public realm along Little Bourke Street. Bluestone paving should be continued around the corner to complement the existing treatment of Corrs Lane.*

We look forward to seeing this unique project progress.

It is noted that the applicant subsequently amended the plans in response to Council's urban design comments changing the single entry point from the corner of Little Bourke Street and Corrs Lane to now provide two entries, one mid-point on Little Bourke Street and one mid-point on Corrs Lane. The amended plans were the plans advertised.

The applicant has also provided a draft landscape plan for the proposed cyclone wire fence green wall, see below.

14.1.2 Urban Sustainability

Urban Sustainability supports the proposal with a landscaping condition. The applicant subsequently lodged a draft landscape plan which has been broadly supported by the Urban Sustainability team stating:

Broadly supportive of this approach and can see that the intent of maintaining visual connectivity into the site has been addressed.

A condition of any permit granted should still require the submission of a landscaping plan.

14.1.3 Civil Engineering

Civil Engineering commented that the two titles which make up the subject site should be consolidated under the one title. This was discussed internally with Council's Building Department and, given the nature of the proposal, an alternative can be considered (see Building referral below). Civil Engineering has also commented that they have no objection to the proposal subject to standard conditions.

14.1.4 Land Survey

In relation to the consolidation of the two titles Land Survey advised that, while it would be good practice to require consolidation of titles, on the basis of the information provided by the applicant, Land Survey has no objection to a combined allotment statement being issued in lieu of consolidation.

14.1.5 Building

In relation to the consolidation of the two titles Building confirmed that it is possible at building permit stage for a combined allotment statement to be issued in lieu of requiring consolidation.

14.1.6 Heritage

Council's Heritage Advisor supported the application and made the following comments:

It is my assessment that the occupation of the existing vacant car park with an outdoor restaurant effectively a pop up, does not present a heritage concern in relation to any impact upon the heritage character and appearance or any adverse impact upon cultural heritage significance of the Little Bourke Precinct, which is the host heritage place. The works that are proposed to facilitate the restaurant use are not of themselves in any sense more prominent, or dominating in the streetscape than is the vacant lot.

It is the case that, unless an existing introduced building was exceptionally disruptive of the heritage character of a streetscape, a permit for demolition without an appropriate replacement building would not be issued under the heritage provisions of the planning scheme today. This approach is to protect the sense of continuity of an existing built form that can be considered a complement to the character of the heritage place. As there is no compulsion under the planning scheme to compel a land owner to build an infill building in a heritage place, and as there is no heritage control pertaining to the use of a place, it is only limited elements of the proposed works that need to be assessed in relation to Clause 43.01 and Clause 22.04. The character of the canopy, fence, facilities, and planting, is evidently not the same character as that of the heritage built form. However, as discussed above, although the current car park condition of the site has no heritage value, there is no compulsion under heritage provisions to compel construction of a built form infill.

In my assessment the proposed use will be akin to a park, or piazza, and while adding activity to the site, the proposal and will not dominate or detract from the appreciation of the cultural heritage significance of the existing streetscape, will not detract or compete with the appreciation of the scale, pattern and presence of the existing building and historical use, and certainly will disrupt the appreciation of Little Bourke Street no more than does the present presentation of the existing vacant site.

14.2 External

The application was not required to be referred externally.

15 ASSESSMENT

The application seeks to redevelop the site for the purposes of a restaurant, a use that does not require a planning permit in the Capital City Zone Schedule 1. The associated buildings and works require a permit.

The works include a two storey structure built along the north and part of the eastern boundary which contains the kitchen, drinks area, storerooms, toilets, stairs and utilities at ground level and a roof deck with seating and toilets above. The ground level has seating provided on a crushed rock base with proposed landscaping under a circular roof cut into a canopy which is strung over the site and not attached to adjoining buildings.

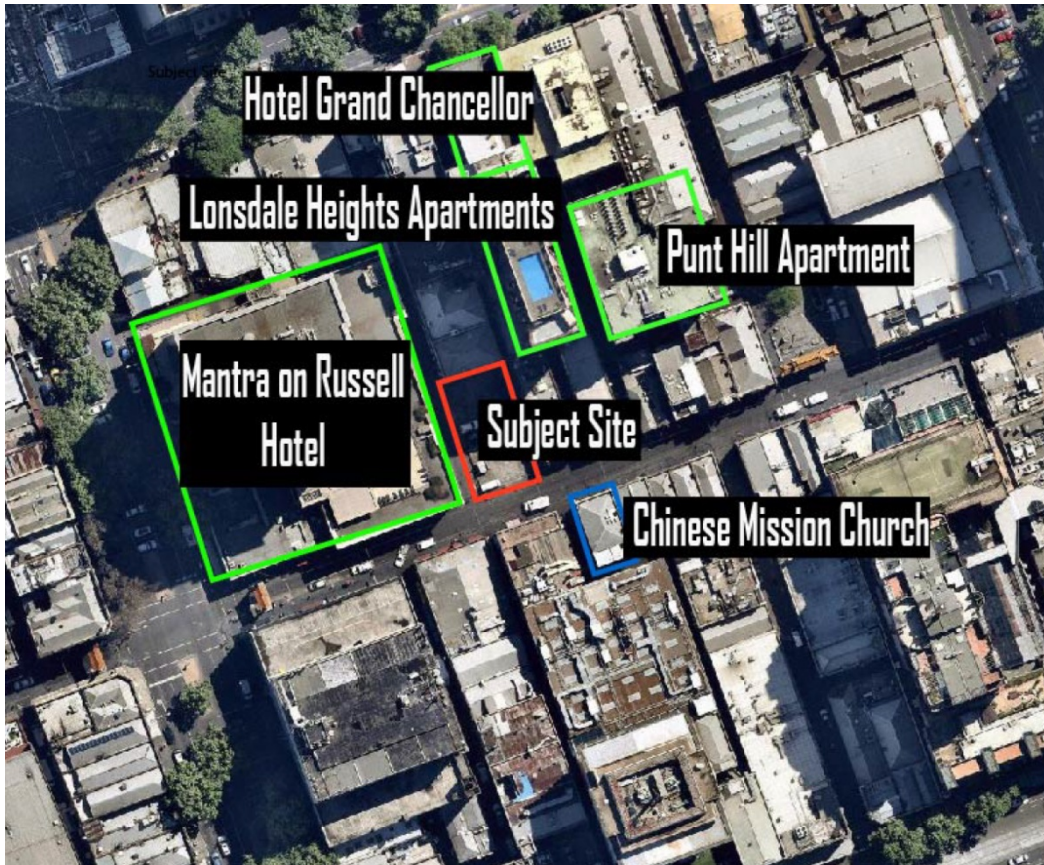
The canopy extends over the site with two circles open to the sky. A galvanised cyclone woven wire fence forms the boundary onto Corrs Lane and Little Bourke Street. Landscaping is proposed but further detail will be required.

The key issues for consideration in the assessment of this application are heritage, urban design, landscaping, potential amenity impacts and signage.

15.1 Potential Amenity Impacts

Although the proposed restaurant use does not require a permit, the potential noise impacts from the proposed restaurant are discussed below.

The site 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 222 Russell Street (Mantra on Russell) and 131 Lonsdale Street (Lonsdale Heights Apartments). Music will be limited to background music only in accordance with a restaurant and café liquor licence; there may be some noise generated by patrons conversing. It is unlikely that the noise levels generated by the restaurant use will unreasonably impact on the surrounding residential properties. There are existing bars directly north of the site, including Fad Gallery and Berlin Bar. There are various restaurants surrounding the site; however most of these are entirely indoor operations. It is unlikely that the subject site would have any impact on the operation or amenity of these adjoining restaurants.



Location of nearby apartments (not including the Chinese Mission Church)

Source: Hansen Partnership Pty Ltd objection 2019 pg. 9

As surrounding land uses are mixed and include a number of bars, the inclusion of an open-air restaurant with background music is unlikely to cause any unreasonable adverse amenity impacts by way of noise. The site will be primarily a seated venue serving food in accordance with relevant regulations. The use of the canopy and vegetation on site will help to act as a buffer and provide some noise attenuation measures. The operation of the background music provided in association with the restaurant should not cause any unreasonable impact on the wider surrounding area.

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, signage and a reduction in the bicycle parking requirements.

15.2 Built Form

The proposed buildings and works have been assessed against Local Policy 22.01, Urban Design Within the Capital City Zone. The policy basis states that the following attributes contribute to the amenity, liveability and economic prosperity of the Central City, these include:

- Design excellence
- Appropriate building height, setback and scale
- Public realm amenity

The relevant objectives of Clause 22.01 include:

- To ensure that development responds to the underlying framework and fundamental characteristics of the Capital City Zone while establishing its own identity.
- To enhance the physical quality and character of Melbourne's streets, lanes and Capital City Zone form through sensitive and innovative design.
- To ensure developments contribute to a high quality public realm and to passive surveillance of the public domain.
- To improve the experience of the city for pedestrians by providing a human scale to the street wall, weather protection, sunlight access, summer shadow, comfortable wind conditions, active street frontages.
- To maintain identified special character areas where a lower scale of development is appropriate in response to identified attributes.

The proposed building works, particularly the fence, which is the most visible built form to pedestrians, maintains the street edge at a pedestrian scale compatible with the existing scale of the adjoining buildings. This complies with the requirements of Clause 22.01 in that a built form of appropriate height, setback and scale in this special character, heritage precinct is achieved.

The built form, while maintaining the street edge at an appropriate scale, responds to the underlying framework and characteristics of the Capital City Zone, however it is not a traditional built form and thereby falls into the category of establishing its own identity. In relation to the design excellence of the proposal, Council's Urban Design Branch supports the proposal stating:

The Urban Design Team supports an outdoor restaurant in this location and of the high quality of the design response. The proposed lightweight structure retains the existing open character and provides much needed vegetation for this area of the CBD.

In relation to the Clause 22.01 requirement for development to contribute to a high quality public realm and improve the experience of the city for pedestrians, the use of a cyclone wire fence ranging in height from 2.7 metres to 5.4 metres at the public realm interface, provides an opportunity to create a green wall while still allowing views into the site. This provides an interesting street wall at a pedestrian scale and also an engaging and active street frontage. Visibility into and out of the site encourages passive surveillance of the adjoining street and lane.

Maintaining an active street frontage in this major pedestrian area also accords with the planning controls relevant to Design and Development Overlay Schedule 1 Area 2 Active Street Frontages.

In relation to the public realm interface, Council's Urban Design Branch made the following comments:

A large internal seating area is located at the corner of Corrs Lane and Little Bourke Street. This brings life and activity to this key corner, contributing to a safe and engaging environment for pedestrians.

Contextually the proposed lightweight structure with vegetation within retains a sense of the existing open character, allowing views across between Corrs Lane and Little Bourke Street.

Further detail on proposed vegetation and precedent images would help illustrate the design intent and relationship with the public realm.

A draft landscape plan has subsequently been provided and supported by Council's Urban Sustainability Branch stating: *Broadly supportive of this approach and can see that the intent of maintaining visual connectivity into the site has been addressed.* It is noted that a landscaping condition will still be required on any permit issued.

The applicant has incorporated two entry points with one being located midpoint along Corrs Lane to reduce potential conflict with the flow of pedestrian volumes along Little Bourke Street. The removal of the car park will reduce conflict between pedestrians along Little Bourke Street and cars exiting and entering the site. There is also an opportunity to reinstate the footpath adjacent to the site with the removal of the vehicular crossing to improve the continuity of the public realm along Little Bourke Street. A condition of permit will require the reinstatement of the footpath at the location of the redundant vehicular crossing on the Little Bourke Street frontage.

To summarise, the proposed buildings and works are of an appropriate pedestrian scale and compliment the low scale of surrounding buildings. The built form aligns to the street pattern and the development uses lightweight and transparent materials which will provide an interesting and active interface with the public realm. The access points have been designed to minimise pedestrian disruption.

15.3 Heritage

The subject site is affected by a Heritage Overlay (Little Bourke Street Precinct). The subject site is currently used as an open lot car park and has not been afforded a grading in Council's Central City Heritage Study Review.

Local Policy Clause 22.04 (Heritage Places within the Capital City Zone), has the following objective:

- To conserve and enhance the character and appearance of precincts identified as heritage places by ensuring that any new development complements their character, scale, form and appearance.

Local Policy Clause 22.04 has the following policy:

- All development affecting a heritage precinct should enhance the character of the precinct as described by the following statements of significance.

The Little Bourke Street Precinct statement of significance 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 most obvious features of Chinatown were the Chinese themselves, their characteristic trades, and the often run-down general character of their quarter of the City. ...Today, Chinatown's shops, restaurants and distinctive character are popular with many Melburnians and tourists as well as the Chinese community.

...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.

The key attributes include:

- The small low-scale Victorian and Edwardian buildings densely located along Little Bourke Street and the adjoining laneways.
- The traditional association with the Chinese community expressed through uses and signage.
- 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.

Pursuant to Clause 43.01-8, before deciding on an application the responsible authority must consider the following matters:

- The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.
- Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.
- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.
- Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.

The proposed 'as of right' restaurant use is in keeping with the many restaurants in the locality and although not a Chinese restaurant, the use will not adversely affect the cultural significance of the place and therefore is in accordance with the relevant local policy (Clause 22.04) and decision guidelines (Clause 43.01-8) above.

It is noted that the subject site as well as the buildings to the immediate east, west and south of the site are ungraded. The proposed buildings and works, particularly the fence which will be the most visible built form to pedestrians, maintains the street edge at a scale compatible with the existing scale of the adjoining buildings and will not adversely affect the significance of the heritage place. The two storey building is located in the northern part of the site abutting taller, two and three storey boundary walls and is not out of scale with the existing buildings or character of the area.

The two access gates located mid-block on both Corrs Lane and Little Bourke Street provide for adequate access to avoid queuing. The green wall fencing will provide an attractive frontage to the street and lane and will be an improvement for the pedestrian experience to the current, open lot car park.

The location, bulk, form and appearance of the proposed buildings are in keeping with the character of adjacent buildings, the heritage place and accord with the key attributes highlighted in the statement of significance for this heritage precinct.

Council's heritage adviser provided written advice that the proposal will not have an adverse impact on the heritage character or cultural significance of the precinct, as follows:

"The occupation of the existing vacant car park with an out-door restaurant effectively a pop up, does not present a heritage concern in relation to any impact upon the heritage character and appearance or any adverse impact upon cultural heritage significance of the Little Bourke Precinct.

... the proposed use will be akin to a park, or piazza, and while adding activity to the site, the proposal will not dominate or detract from the appreciation of the cultural heritage significance of the existing streetscape, will not detract or compete with the appreciation of the scale, pattern and presence of the existing buildings and historical use, and certainly will disrupt the appreciation of Little Bourke Street no more than does the present presentation of the existing vacant site."

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.

15.4 Signage

The proposed signage is not in the typical Little Bourke Street traditional Chinese elongated rectangular style, however the restaurant is not Chinese and therefore that form of signage is not appropriate to the use. The proposed signage is set back approximately 2 metres from the street frontages and consists of neon tube letters 1.35 metres high over a length of 3.53 metres.

Pursuant to CCZ Clause 37.04, a permit is required to display an internally-illuminated business identification sign.

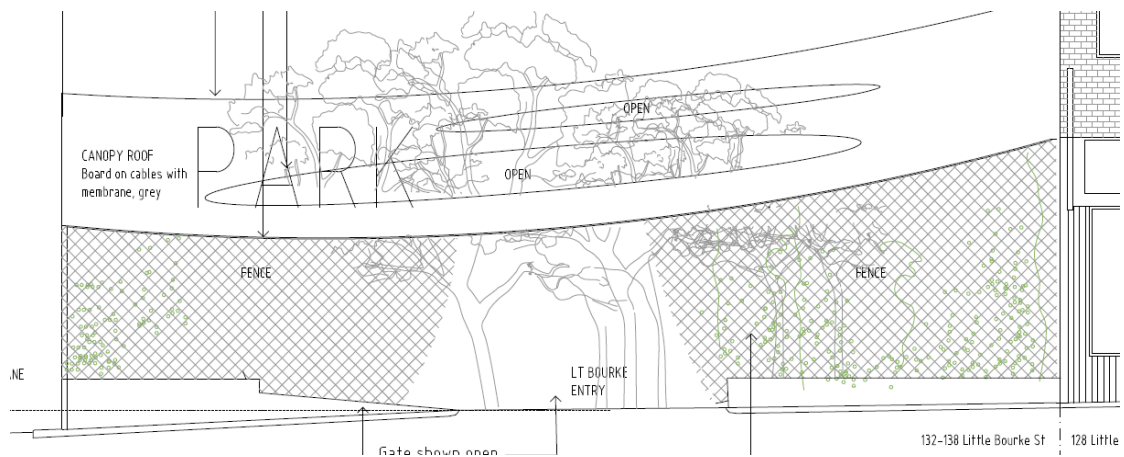
Pursuant to Local Policy Clause 22.07 (Advertising signage) the proposed signage responds to the following objectives:

- The proposed signage allows for the reasonable identification and marketing of the business.
- Contributes to the lively and attractive character of the Chinatown area.

Policy includes:

- Signs should respect the building style and scale and the character of the street.
- Signs should fit within architectural forms and be integrated with the design of the building.
- Promotion, panel and sky signs are discouraged.

The proposed sign respects the scale and character of the street and is integrated with the design of the site. However the sign, which fits the definition of a sky sign as it is located above the roof of the canopy, is not taller than the overall building on site as it is located on a low part of the canopy structure. Therefore in this instance it is not a typical sky sign as it is integrated into the overall building design and does not project above the building line.



South elevation indicating that the sign is above the canopy but below the overall height of the structure.

Pursuant to Clause 22.07 the Capital City Zone has design requirements for areas of special character including Chinatown which has the following objective:

- To enhance the area’s role as part of the entertainment area, its attraction for visitors and its traditional role as a focus for the Asian community.

Signs are encouraged to:

- Be vertically proportioned. Horizontal projecting signs are discouraged.
- Be small to medium scale to reflect the scale and character of the buildings and the streetscape.
- Be bright and animated.
- Include Chinese characters where in keeping with the tenancy of the building.
- Comprise traditional Chinese colours - red, green, black and gold. White is not culturally appropriate.
- Be of tubular neon.

The typical Chinatown signage pattern is of small signs on heritage buildings that are built to the street boundary. The size of the proposed sign is relatively large however it is setback from the street and relates to an atypically large site. Many of the Chinatown signs compete on smaller facades often with more than one tenant.

The proposal complies with policy requirement that signs should be “*be of tubular neon*”.

The proposed colour, white, is not considered to be ‘culturally appropriate’. However there are white signs in the locality and, given the unique nature of this sign being set into the site coupled with the proposed vegetation, the use of white neon is supported in this instance.

In addition to the requirements of Clause 22.07, discussed above, an assessment has been made against the decision guidelines of Clause 52.05-8 (Signs) listed in paragraph 8 in this report:

- The illumination of the sign will not unreasonably impact upon Little Bourke Street as the street is well-lit and most commercial premises display some form of internally-illuminated signage.
- The proposed illuminated neon tube sign is internal to the site and may be partially screened from the street once vegetation has been planted. The

presence of the sign is not unreasonable as it is setback approximately 2 metres from both street frontages and is of an appropriate design and size.

- The sign does not impact any significant views or vistas.
- The sign will not impact the safety of any vehicular, pedestrian, or cyclist traffic in the area.
- The sign will contribute to the vibrancy of the area, particularly at night.

It is submitted that the proposed internally-illuminated business identification sign complies with Clauses 22.07 and 52.05-8 and will appropriately contribute to the character of the area.

15.5 Lighting

The proposal incorporates lighting. The plans indicate that the lighting is low level and baffled however a condition of permit will require that a lighting strategy plan must be endorsed prior to the development commencing.

15.6 Licensed Premises

The proposed development will require a restaurant and café liquor licence to enable the service and consumption of alcohol on the site. It is noted that, pursuant to Schedule to Clause 52.27, a planning permit is not required for licensed premises on all land within the Capital City Zone for a restaurant and café licence required under the Liquor Control Reform Act 1998.

The Victorian Commission for Gambling and Liquor Regulation (VCGLR) may impose conditions on any restaurant and café licence issued which could include:

- The predominant activity on the premises must be the preparation and serving of meals at all times.
- Provision of tables and chairs in place to seat at least 75 per cent of the people on the premises at any given time.
- If licensed to trade late, (beyond ordinary trading hours of 11pm) there must not be any music playing louder than background music after 11pm. The VCGLR define music being regarded as background music if two people can sit 60cm apart and have a conversation without raising their voice.

15.7 Bicycle Parking

The site area available to the public (Net Leasable Area shown on “Proposed Plan”) is 413m². As such, the proposal generates the needs for four employee spaces, and four visitor spaces. The proposal provides four bike parking spaces on site and is therefore four spaces short of the statutory requirement.

The site is well serviced by public transport and there are on-street bicycle hoops in close proximity to the site including on the following corners:

- Little Bourke and Russell Streets
- Little Bourke and Exhibition Streets
- Brien Lane and Bourke Street
- Corrs Lane and Lonsdale Street

Given the above, the reduction of bicycle parking can be supported.

15.8 Objector’s concerns

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

The proposal is for a bar, this is a disingenuous application and more information is required.

The application seeks approval for buildings and works associated with a restaurant. The applicant has not applied to use the land as a tavern. Should the applicant wish to operate the premises as a bar/tavern, a fresh application for planning permit is required.

Potential noise from the proposed 'bar'.

The proposal is for a restaurant. The liquor licence will regulate the hours of operation and will include a condition relating to background music, as noted above in paragraph 15.6. In addition to this, the Environment Protection Authority has State Environment Protection Policy (SEPP) (Control of music noise from public premises) legislation to protect residents from levels of music noise. Notwithstanding this, the applicant has advised that the use will have background music only with no amplified music. Therefore, this noise source, which must comply with SEPP legislation, is unlikely to unreasonably impact on the surrounding residential properties or the surrounding food and drink premises which are generally indoors.

As the area is relatively open, it is acknowledged that there may be noise generated from patrons talking, laughing, similar to alfresco restaurants and people walking along the street.

Fumes and smoking

Any fumes from the commercial kitchen must comply with the relevant Health and Building legislation and the proposed kitchen, including its flues, will have to be designed to comply.

Smoking is banned in all commercial outdoor dining areas in accordance with Victorian State Government legislation.

Queuing on the footpath

The access points into and out of the site located mid-block on the Little Bourke Street and Corrs Lane frontages have been discussed above. It should also be noted that Council can enforce any nuisance queuing on the footpath via the Melbourne City Council Activities Local Law 2009 in that a person must not:

- (a) without a *permit*, unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*; or
- (b) invite, encourage or allow the congregation of *persons* so as to unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*.

The application contains insufficient information regarding what happens when it rains.

The applicant has advised that when it rains or colder conditions arise, the venue will be occupied by fewer patrons, or they will seek shelter under the permanent structures on the site. Other options include non-permanent umbrellas and heaters throughout the venue which would cover small areas for patrons as required in these poorer weather conditions.

16 CONCLUSION

It is considered that the proposal is consistent with the relevant policies and clauses of the Melbourne Planning Scheme, as discussed above.

17 RECOMMENDATION

Having considered all relevant provisions of the Melbourne Planning Scheme, in addition to the matters required under Section 60 of the *Planning and Environment Act 1987*, Planning has determined to issue: A Notice of Decision to Grant a Permit, subject to the conditions set out below

1. Before the development starts, excluding demolition and any clean up works, amended plans must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies (including an electronic copy) must be provided. The plans must generally be in accordance with the application plans but modified to show the following:
 - a) The mesh fence and canopy structure to be freestanding and not affixed to adjoining buildings.
 - b) Any changes required by the lighting plan (condition 3).
 - c) Any changes required by the landscaping plan (condition 4).
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. Prior to the commencement of the development, a lighting plan must be prepared and submitted to the satisfaction of the Responsible Authority. The lighting plan should be generally consistent with the City of Melbourne Lighting Strategy and conform with relevant Australian Standards, and include details of proposed fittings in a schedule on the plan and must be designed, baffled and located to the satisfaction of the Responsible Authority.
4. Prior to the commencement of the development, a detailed landscape plan prepared by a suitably qualified professional must be submitted and approved by the Responsible Authority. This plan must include:
 - a) A schedule of all soft and hard landscaping and treatments.
 - b) Urban design elements including, but not limited to, paving, lighting, seating and public art, and clear demarcation of public realm and private spaces, including arrangements for pedestrian, bicycle and vehicular circulation.
 - c) How the project responds to water sensitive urban design principles, including how storm water will be mitigated, captured, cleaned and stored for on-site use and the location and type of irrigation systems to be used including the location of any rainwater tanks to be used for irrigation.
 - d) Position, type and spread of all trees on the site and a schedule detailing the size and physical condition of each tree and, where appropriate, the steps to be taken to retain the trees in a satisfactory condition together with details of any proposals for the felling, topping or lopping of any tree.
 - e) Location of any street trees.

- f) Planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
 - g) Details of surface finishes of retaining walls, pathways and driveways.
 - h) Planting schedule and layout for landscaping elements to the cyclone fencing boundary and canopy, specifically addressing how a visual connection into the site will be maintained when vegetation is mature.
 - i) Location and size of planters for vegetation, ensuring sufficient soil volumes are provided for the specified species.
5. 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.
 6. Prior to the commencement of the development (excluding demolition), a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the Responsible Authority – Engineering Services. 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 underground stormwater drainage system.
 7. Prior to the commencement of the use / occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
 8. The footpath adjoining the site along Corrs Lane must be reconstructed together with associated works including the reconstruction of kerb and channel and modification of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
 9. Existing street levels in Corrs Lane and Little Bourke Street must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services.
 10. All street lighting assets temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has been ceased. Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.
 11. Existing street furniture must not be removed or relocated without first obtaining the written approval of the Responsible Authority – Engineering Services.
 12. 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.

Signage conditions

13. The sign, including its structure and advertising material as shown on the endorsed plan, must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.
14. The location, size, material of construction, colours, wording and degree of illumination of the sign shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
15. The lighting of the sign must be so positioned that no direct light or glare shall be visible from any roadway or from any adjoining property, to the satisfaction of the Responsible Authority.
16. The sign must not be animated or contain any flashing light.
17. This permit, in relation to the sign expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.

NOTES

At the building permit stage, a combined allotment statement should be issued in lieu of consolidation of the two titles on the subject site.

The applicant / owner will provide a copy of this planning permit and endorsed plans to any appointed Building Surveyor. It is the responsibility of the applicant / owner and the relevant Building Surveyor to ensure that all building (development) works approved by any building permit are consistent with this planning permit.

This Planning Permit does not represent the approval of other departments of Melbourne City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.