

Report to the Future Melbourne (Planning) Committee

Agenda item 6.1

**Planning Permit Application: TP-2019-36
7-9 Hosier Lane, Melbourne**

7 July 2020

Presenter: Evan Counsel, Director Planning and Building

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a planning permit application seeking approval for partial demolition, external alterations and buildings and works to construct an eight storey addition to the existing heritage building, and a reduction of the bicycle parking facilities associated with a residential building at 7-9 Hosier Lane, Melbourne (refer Attachment 2 – Locality Plan).
2. The applicant is Bruce Henderson Architects c/- Urbis Pty Ltd, the owner is Parasol Investment Company Pty Ltd and the architect is Bruce Henderson Architects.
3. The site is located within the Capital City Zone Schedule 1 (CCZ1) and is affected by Heritage Overlay (HO506 Flinders Lane Precinct), Design and Development Overlay Schedule 2 Area 5 (DDO2-A5 Special Character Areas) and Parking Overlay Schedule 1 (PO1).
4. The proposal includes an eight storey addition above a retained three storey heritage building. The third level contains a 1.5 metre recess from the east boundary (Hosier Lane) and a 0.825 metre recess from the north boundary. The addition has a 0.5 metre setback from the north and east boundaries from level four to level nine. The tenth floor contains a 1.96 metre setback from the north boundary and a 2 metre setback from the east boundary (Hosier Lane).
5. Public notice of the application was undertaken, which resulted in 27 objections.

Key issues

6. The key issues for consideration are heritage with regard to the host building and broader precinct, design objectives and built form outcomes, perceived amenity impacts, waste, bicycle facilities, potentially contaminated land, environmentally sustainable design and other matter raised by objections.
7. The development complies with the preferred maximum height. Variations to the discretionary upper level setbacks are supported as the development will sit comfortably in the context of the surrounding area and will not unreasonably affect the heritage significance of the host building.
8. The addition will not unreasonably dominate or detract from the host building having regard to its contributory heritage classification and the narrow width of Hosier Lane, which ensures that the heritage building is the dominant element when viewed from street level. Through on-going consultation, the applicant has agreed to a condition to retain the street art and graffiti at street level.
9. The development will provide an appropriate level of internal amenity and will not introduce unreasonable adverse amenity impacts to the surrounding sites.
10. Subject to a condition, the development will meet the statutory requirement for bicycle parking.

Recommendation from management

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

Attachments:

1. Supporting Attachment (Page 2 of 75)
2. Locality Plan (Page 3 of 75)
3. Selected Plans (Page 4 of 75)
4. Delegate Report (Page 31 of 75)¹

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. Section 61 of the Act sets out that the Council may decide to grant a permit, grant a permit subject to conditions or refuse to grant a permit on any ground it thinks fit.
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 traffic and waste management and potential amenity impacts that could impact on health and safety have been considered within the planning permit application and assessment process.

Stakeholder consultation

6. Public notice of the application was undertaken in accordance with the Act and resulted in 27 objections at the time of writing this report.

Relation to Council policy

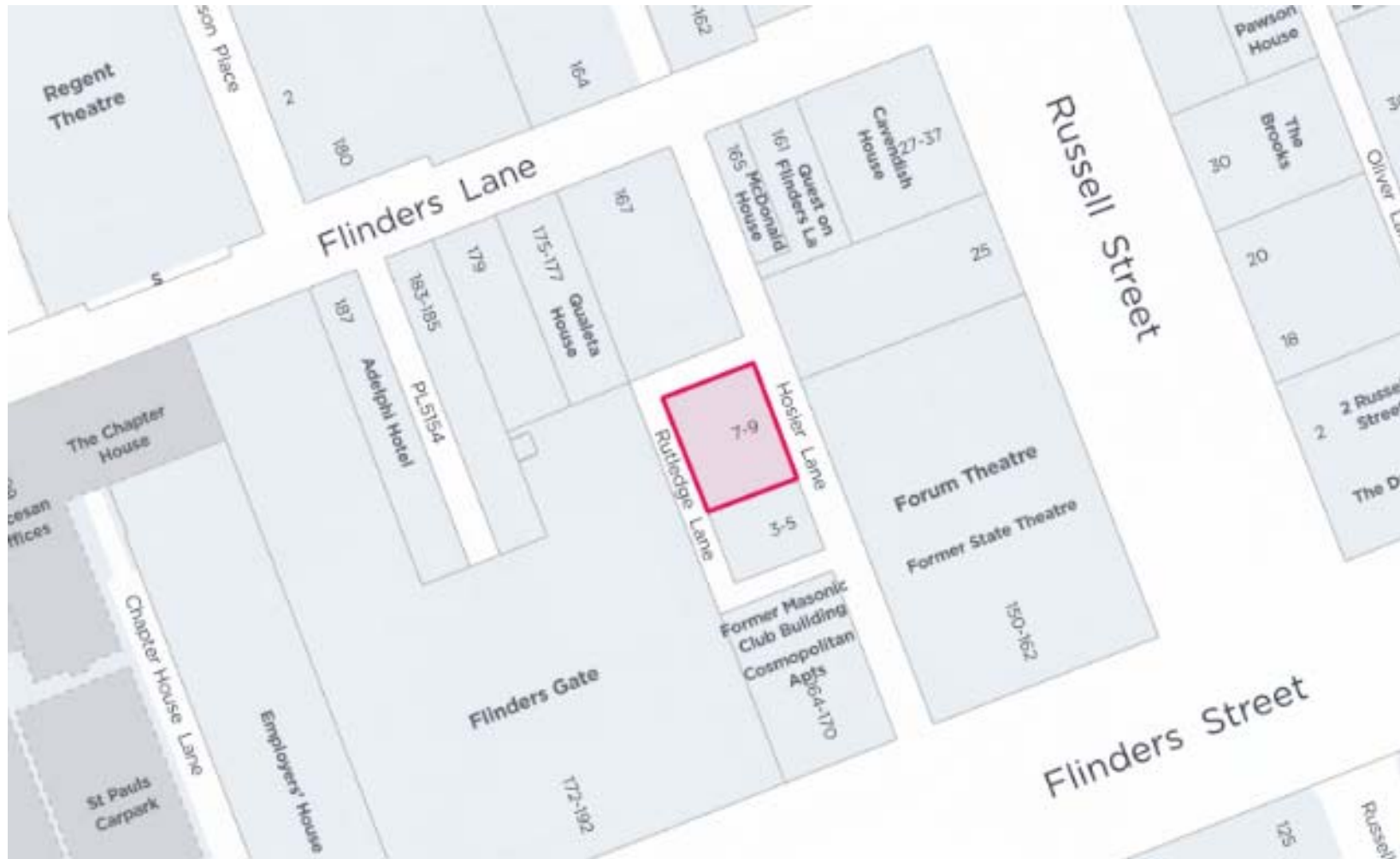
7. Relevant Council policies are discussed in the attached delegate report (refer to Attachment 4).

Environmental sustainability

8. The Environmentally Sustainable Design (ESD) Report submitted with the application demonstrates that the development will achieve the ESD performance requirements of Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management).
9. Permit conditions requiring implementation of the ESD initiatives are recommended.
10. The Waste Management Plan submitted with the application demonstrates that the proposal will achieve the requirements of Clause 22.19 (Energy, Water and Waste Efficiency).

Locality Plan

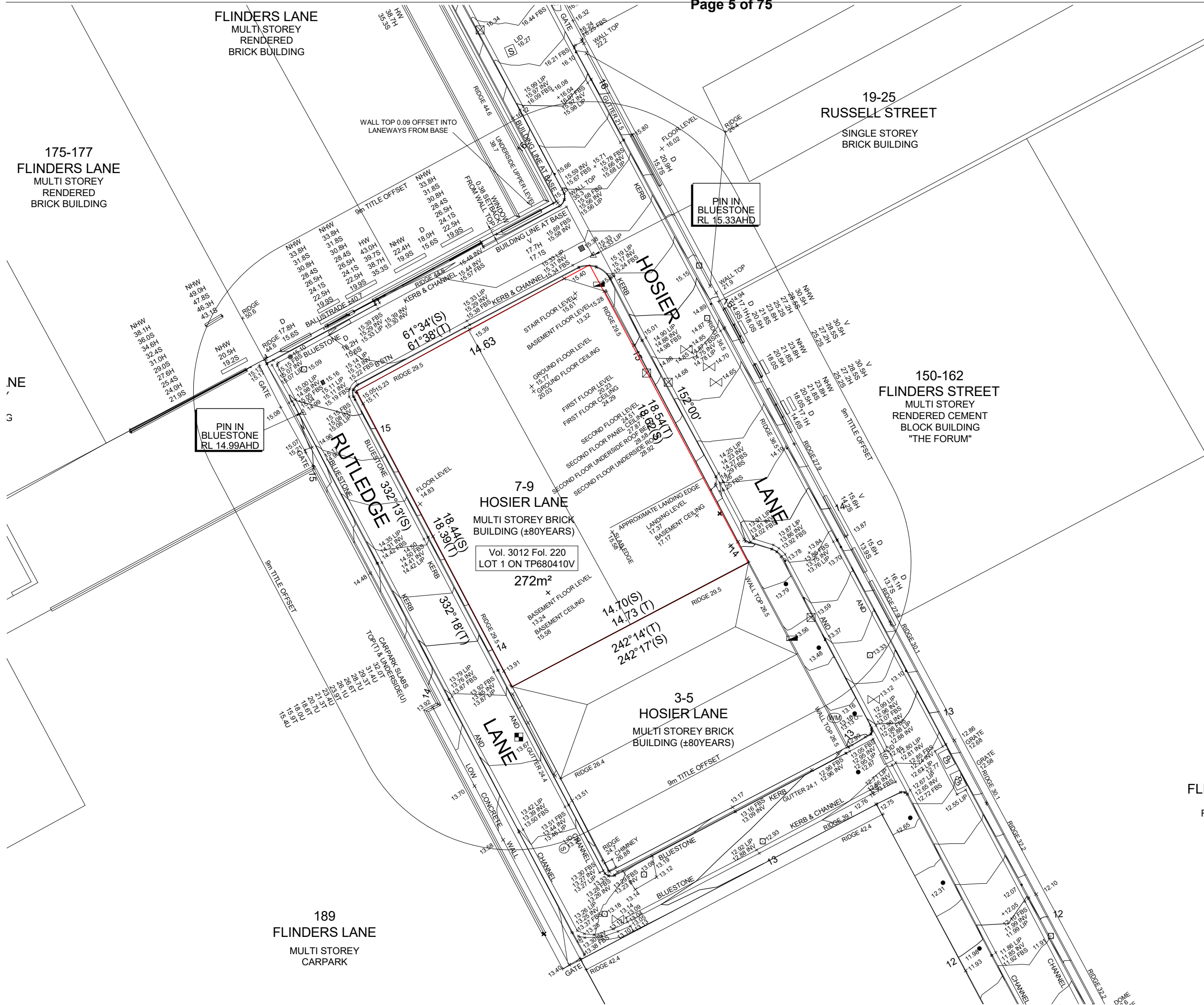
7-9 Hosier Lane, Melbourne



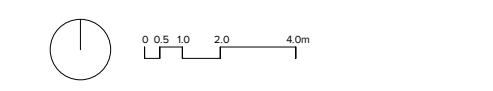
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PROJECT:

FLI
F
Mixed use development
7-9 Hosier Lane, Melbourne

DRAWING TITLE:

Site survey

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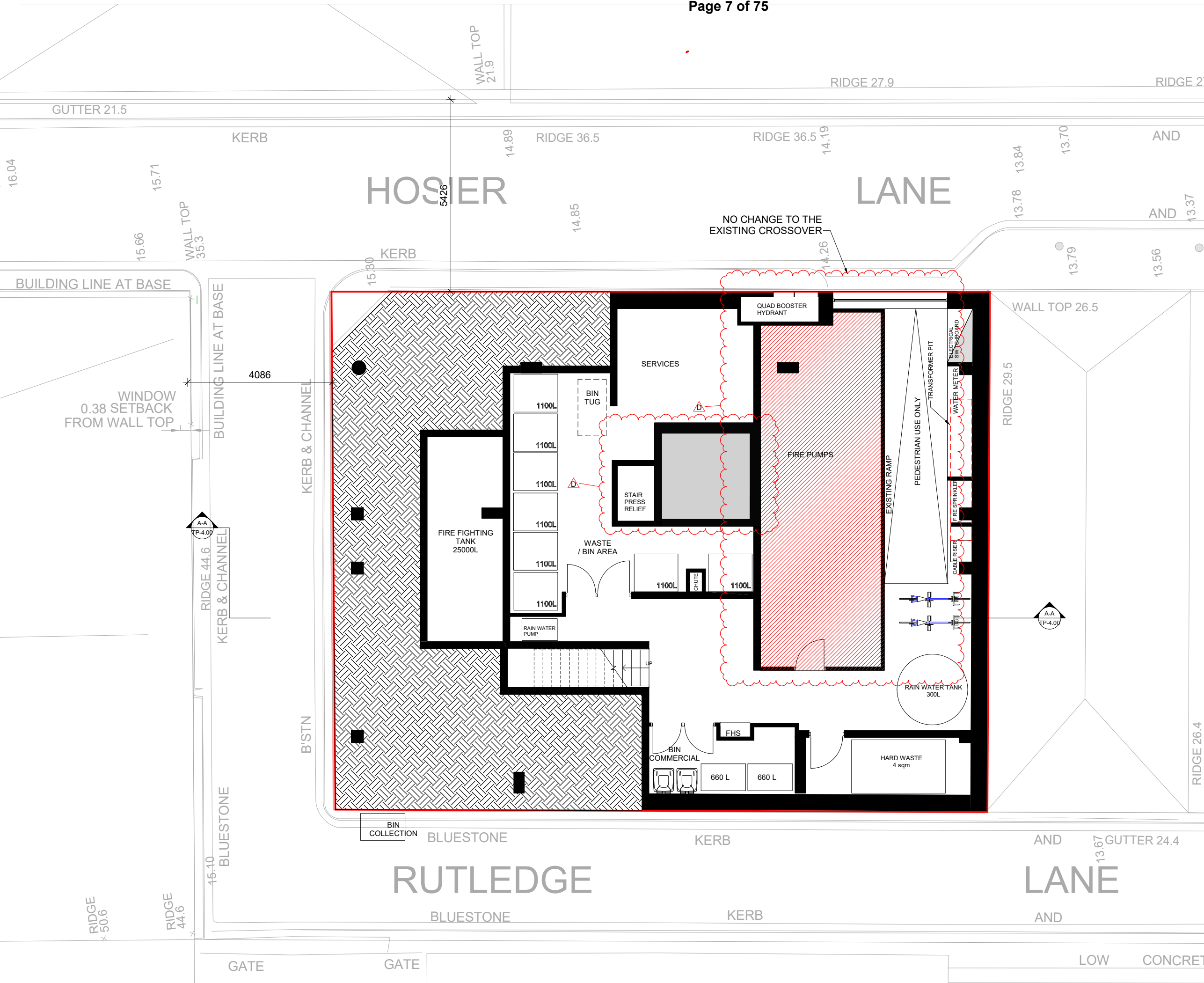
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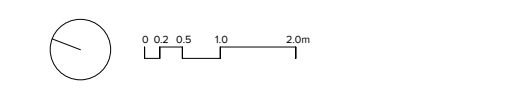
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PROJECT:
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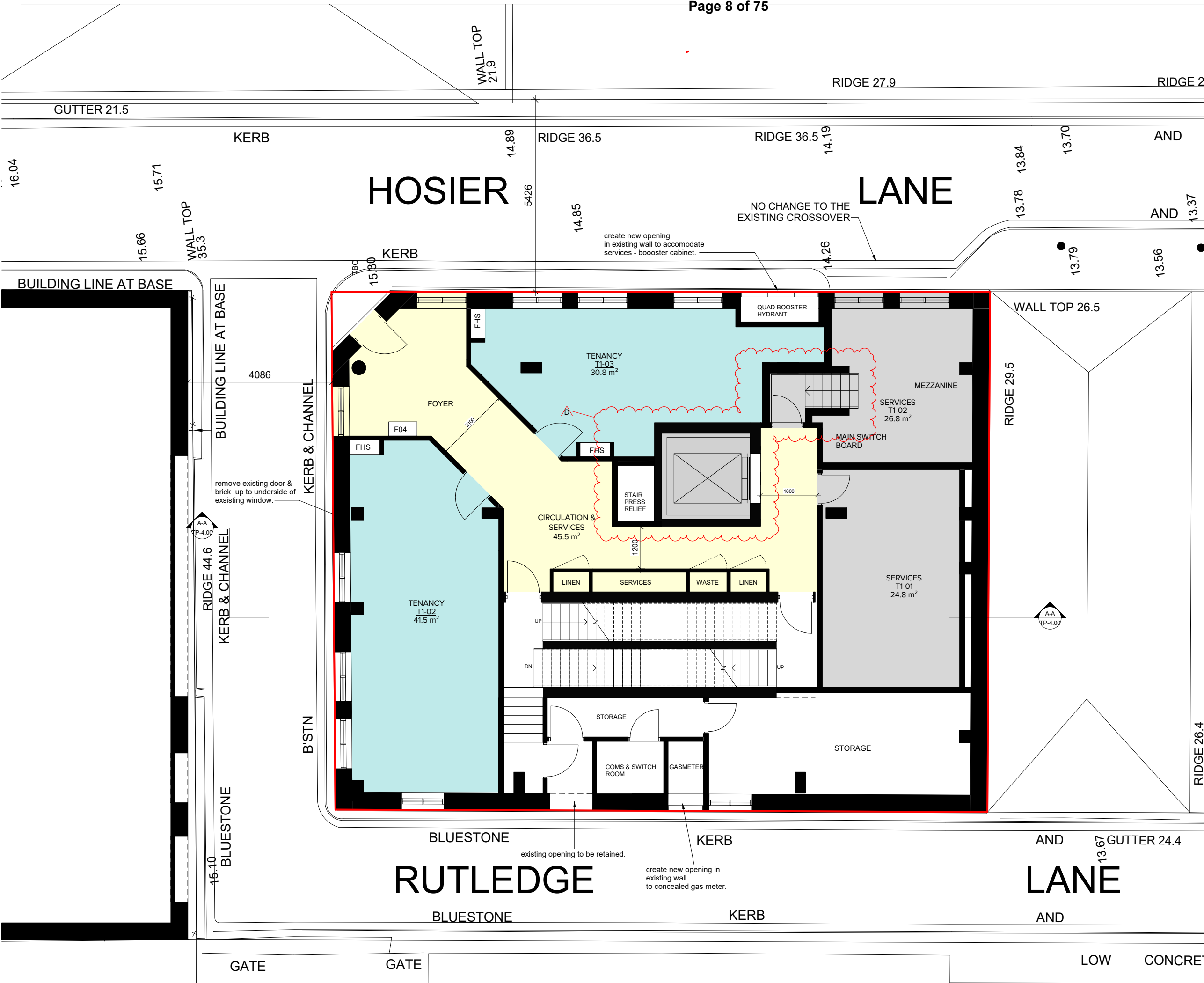
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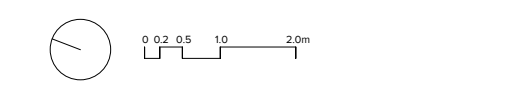
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PROJECT:
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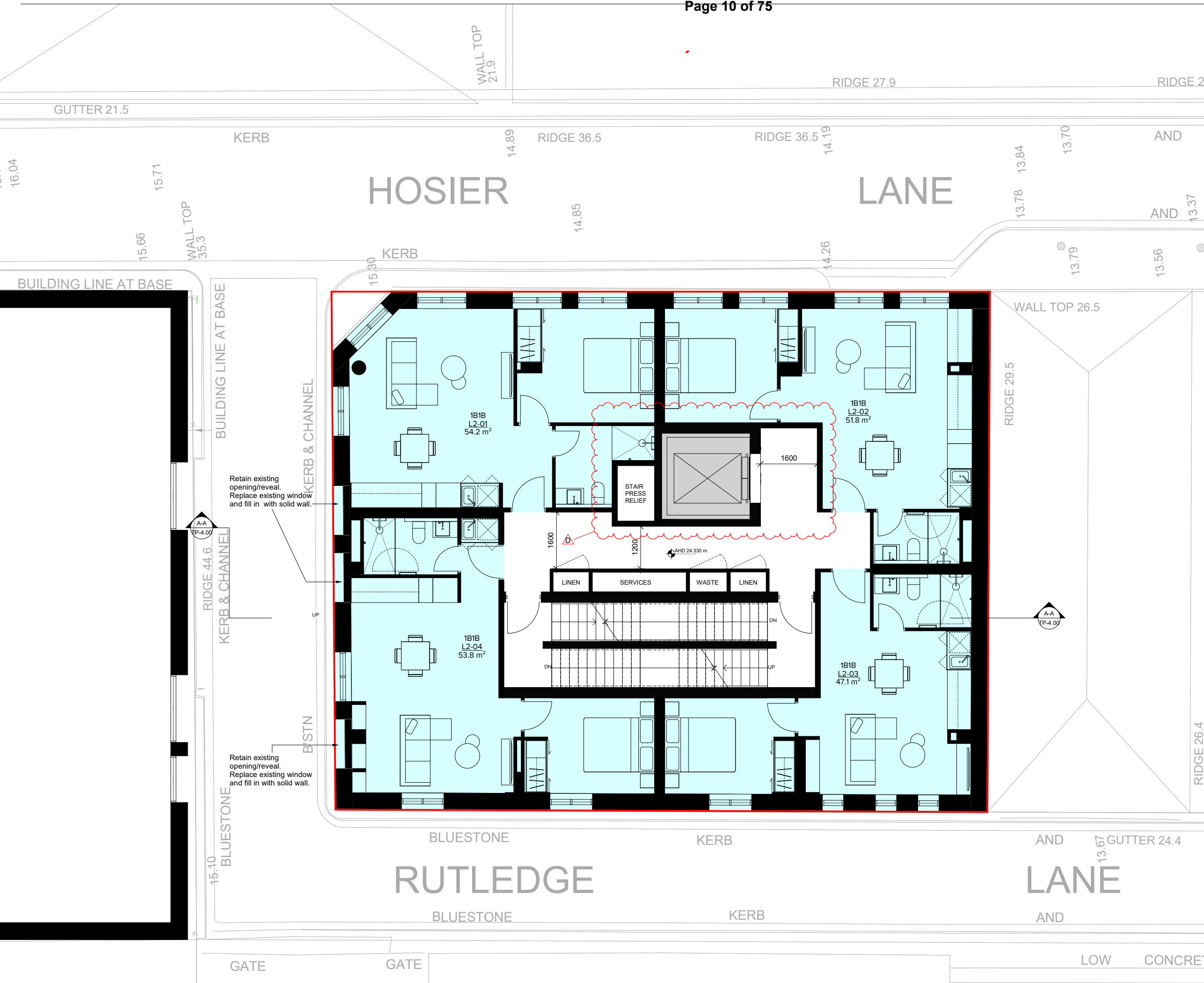
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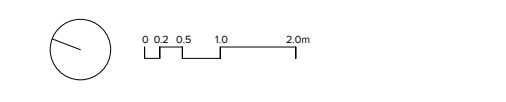
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PROJECT:
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DRAWING TITLE:
Level 02

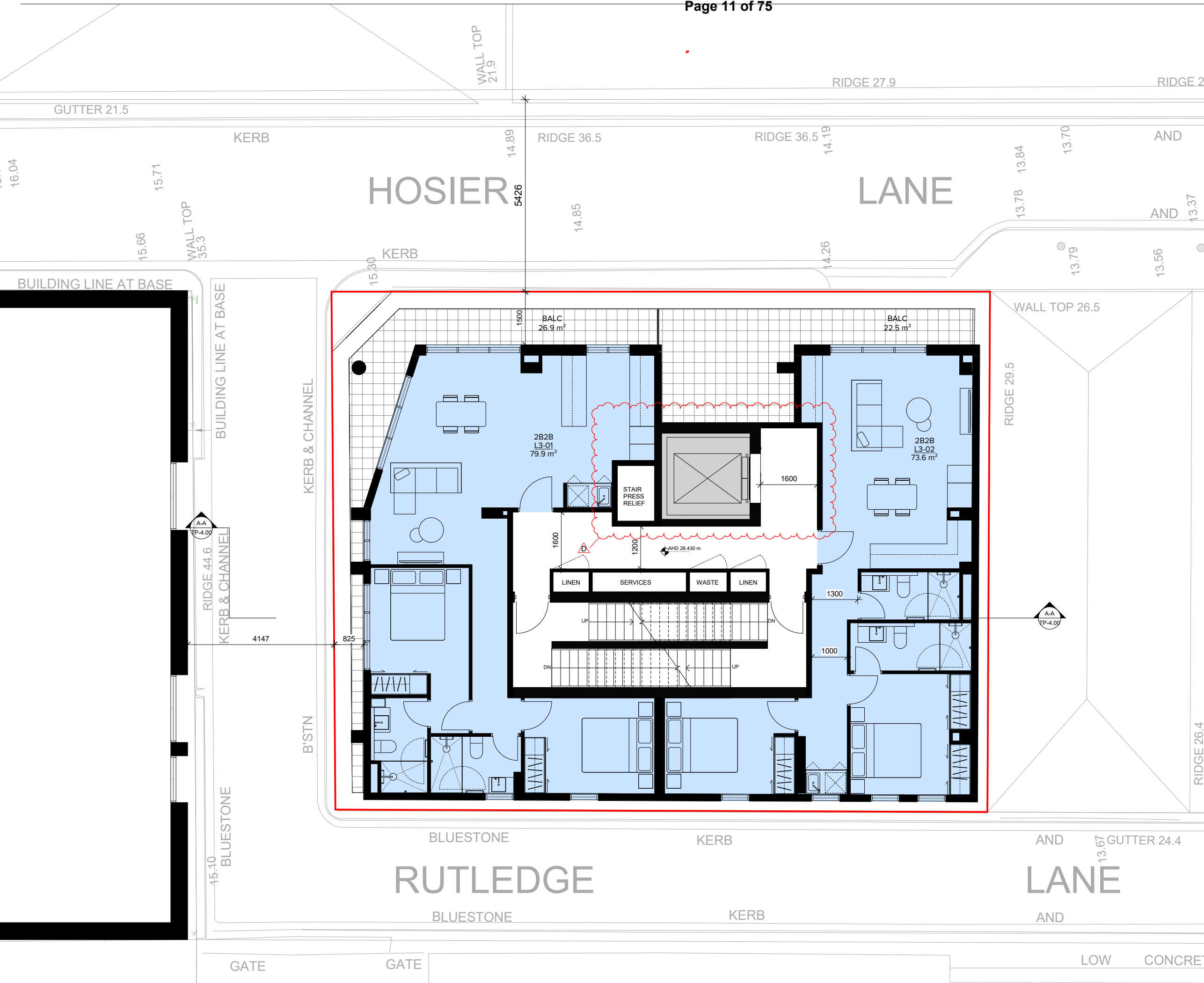
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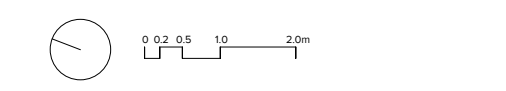
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PROJECT:
Mixed use development
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DRAWING TITLE:
Level 03

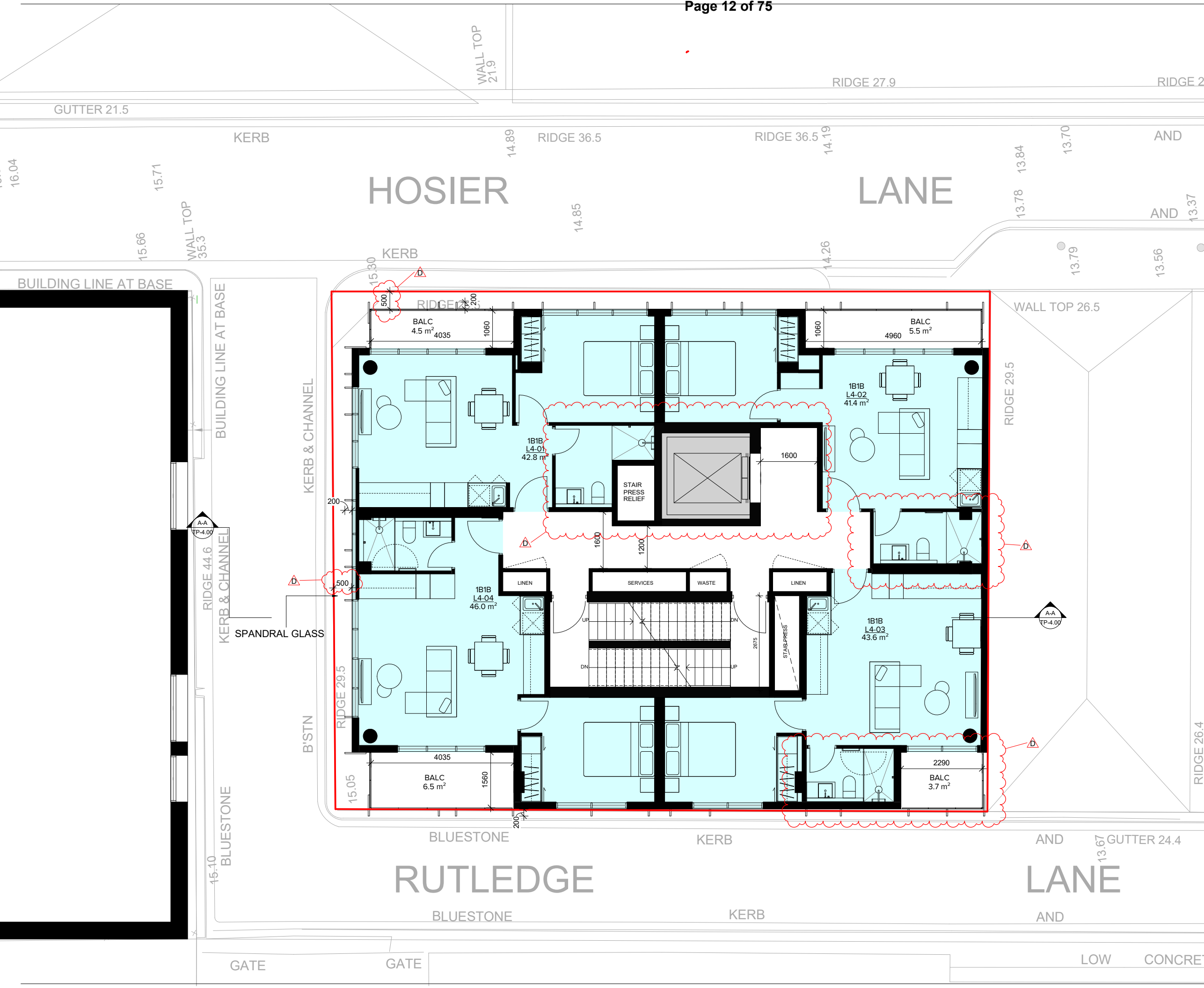
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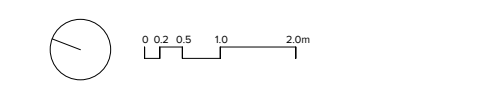
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PROJECT:
Mixed use development
7-9 Hosier Lane, Melbourne

DRAWING TITLE:
Level 04-06

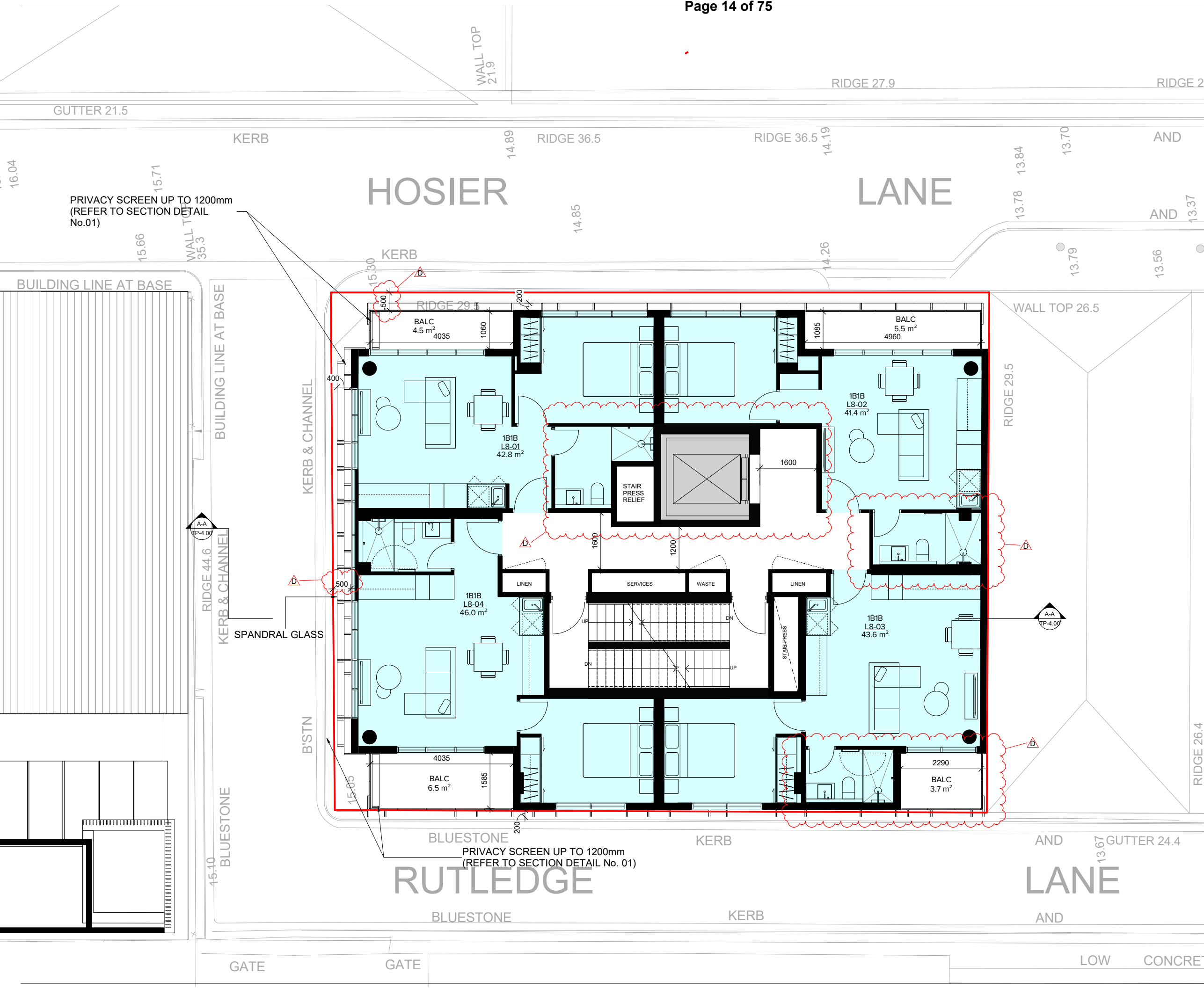
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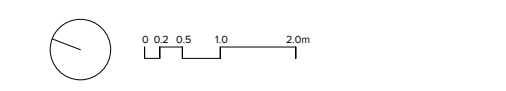
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PROJECT:
Mixed use development
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Level 08

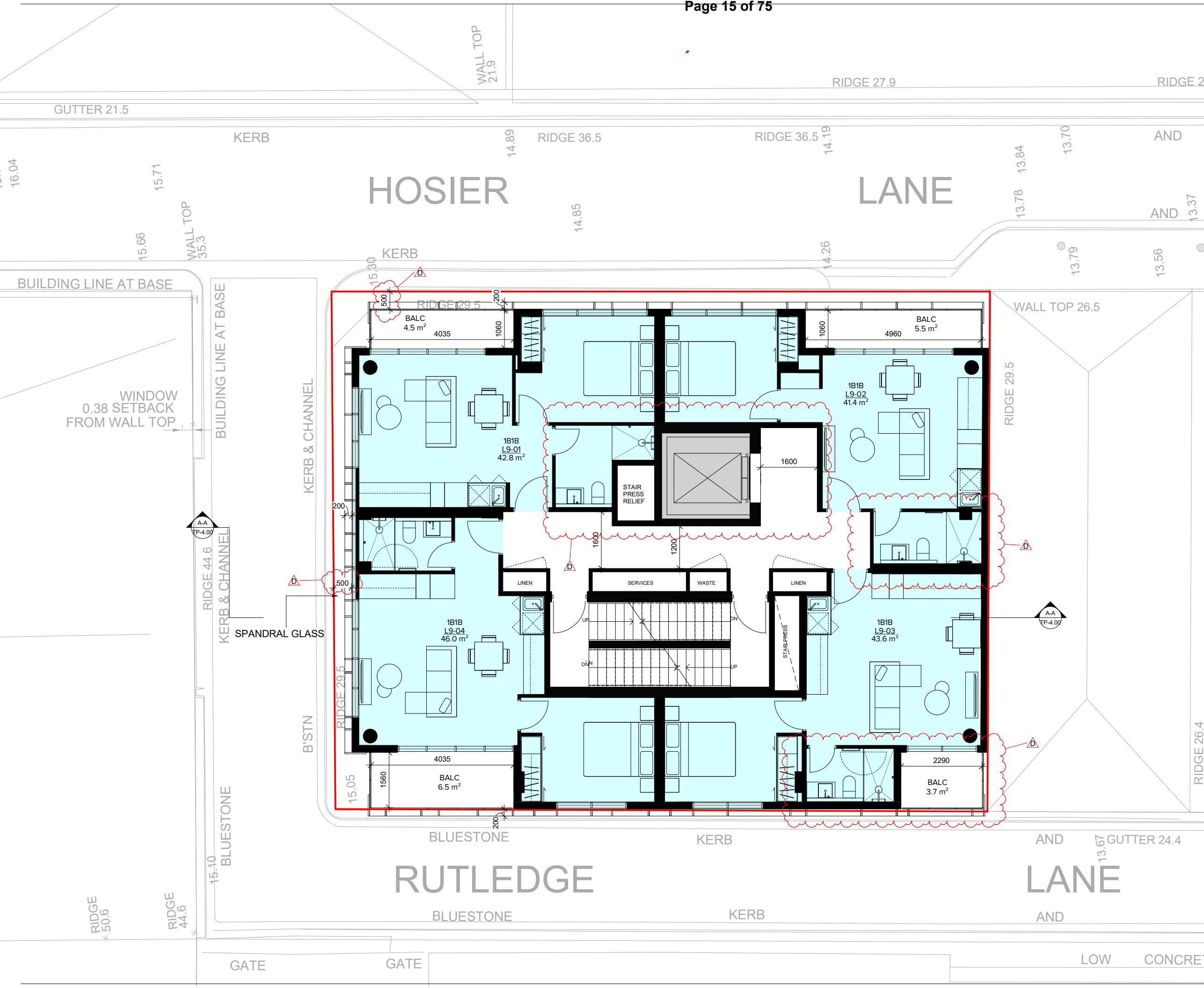
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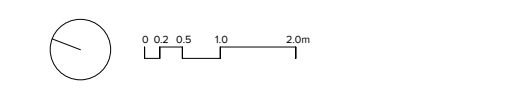
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DRAWING TITLE:
Level 09

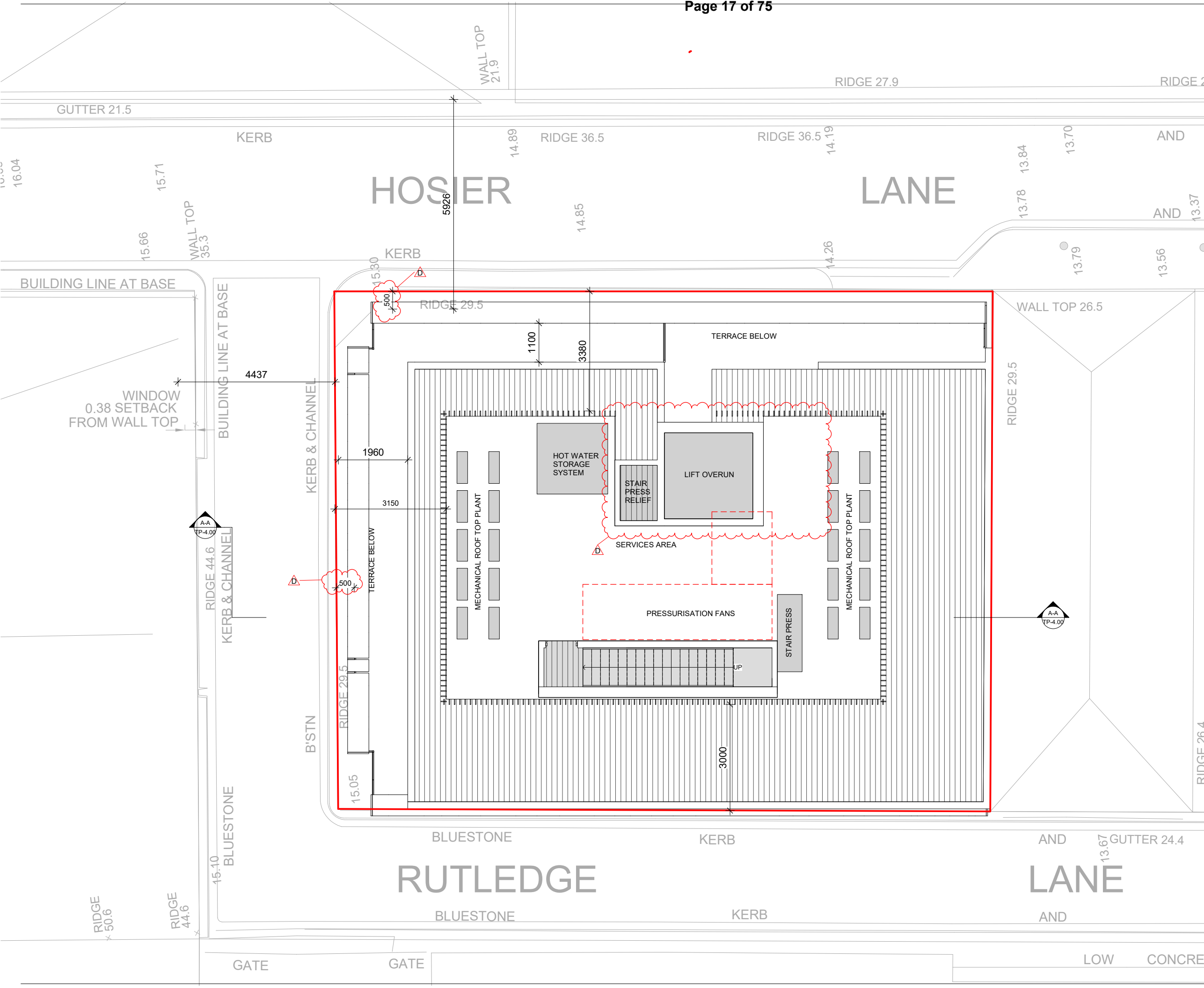
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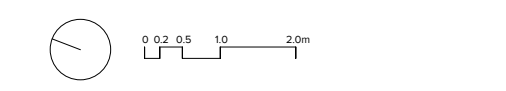
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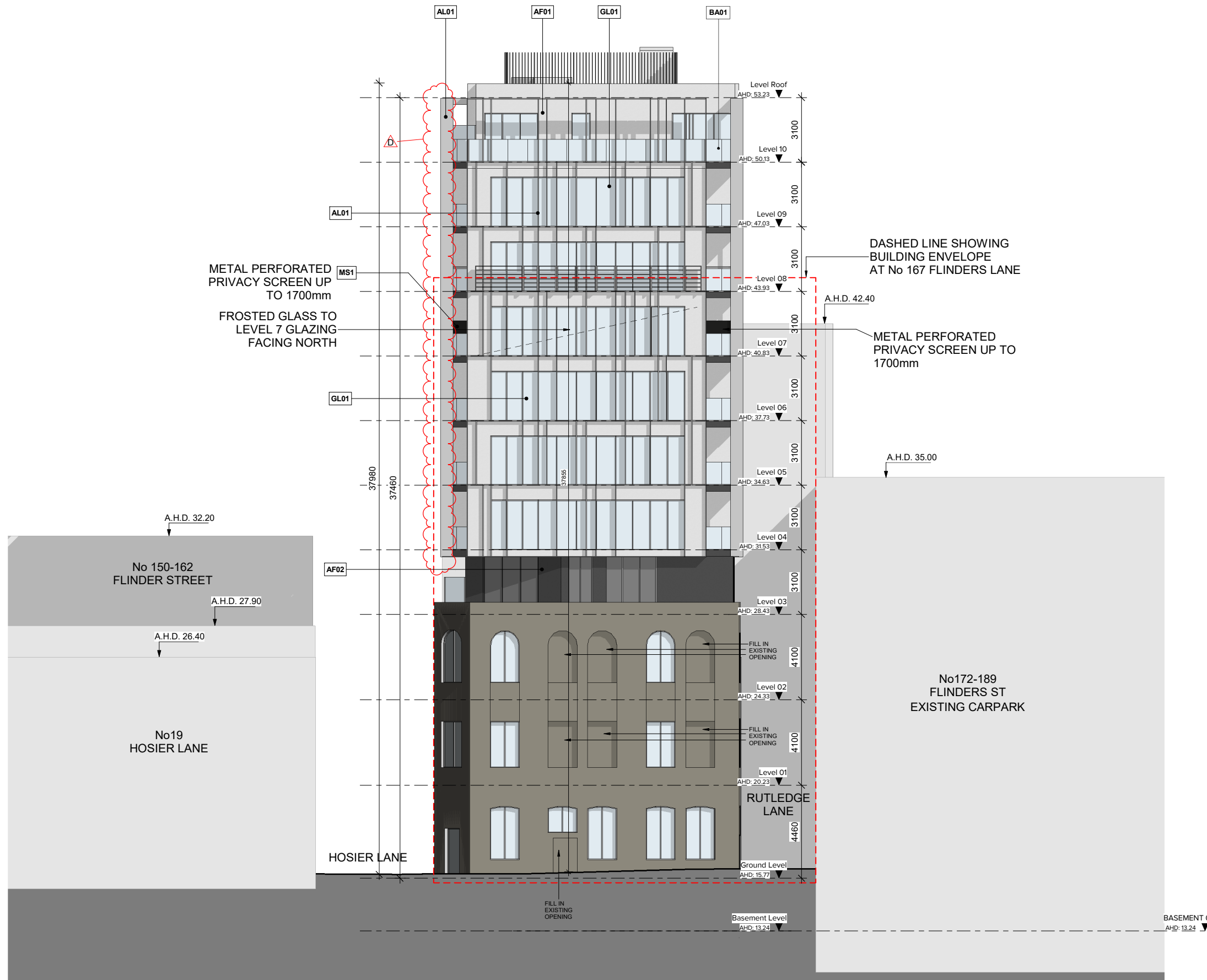
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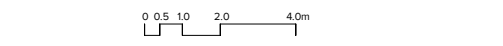
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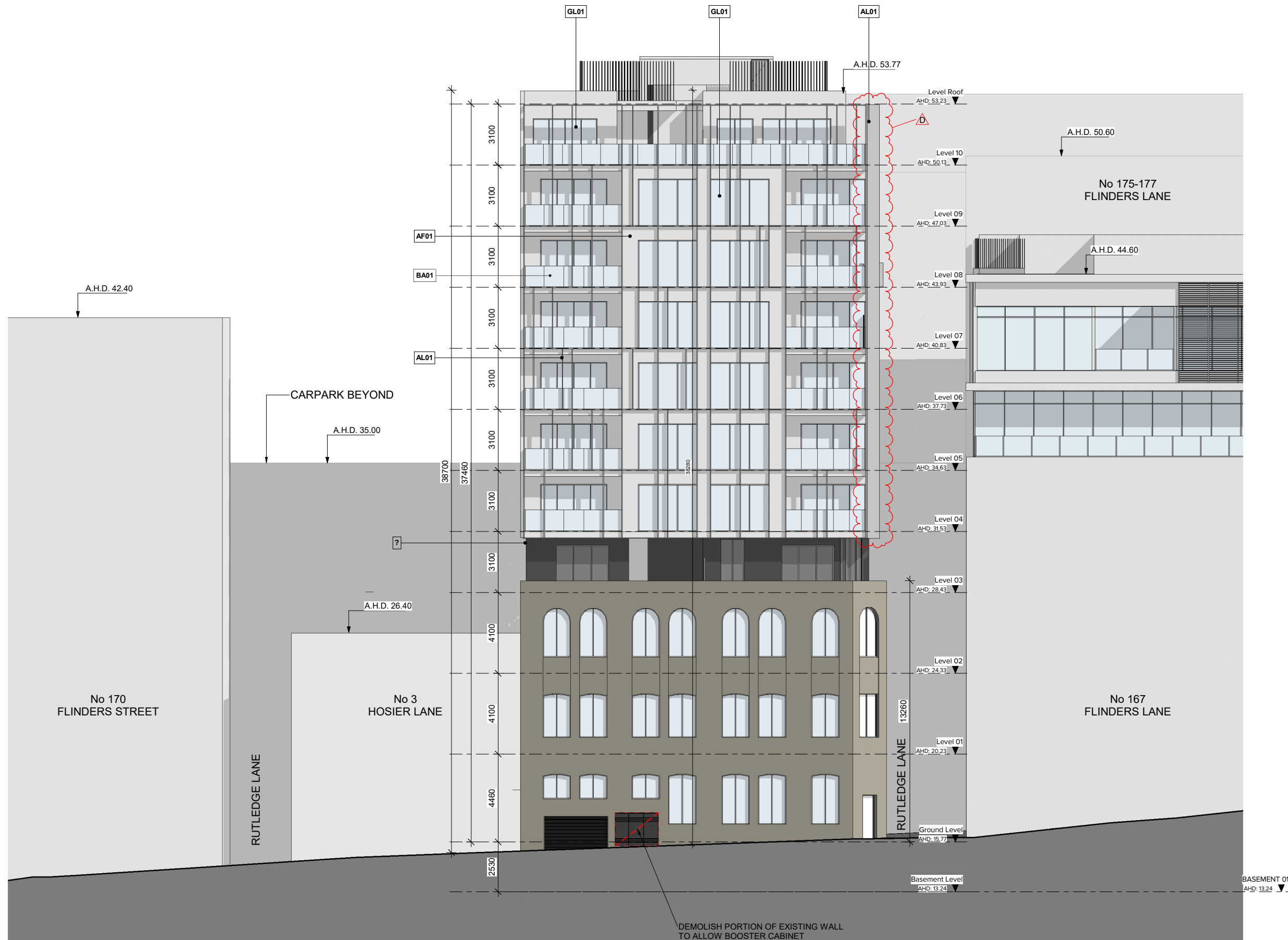
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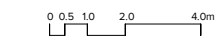
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PROJECT:

Mixed use development
7-9 Hosier Lane, Melbourne

DRAWING TITLE:

East elevation

DATE: 28/03/2020 JOB #: 37026

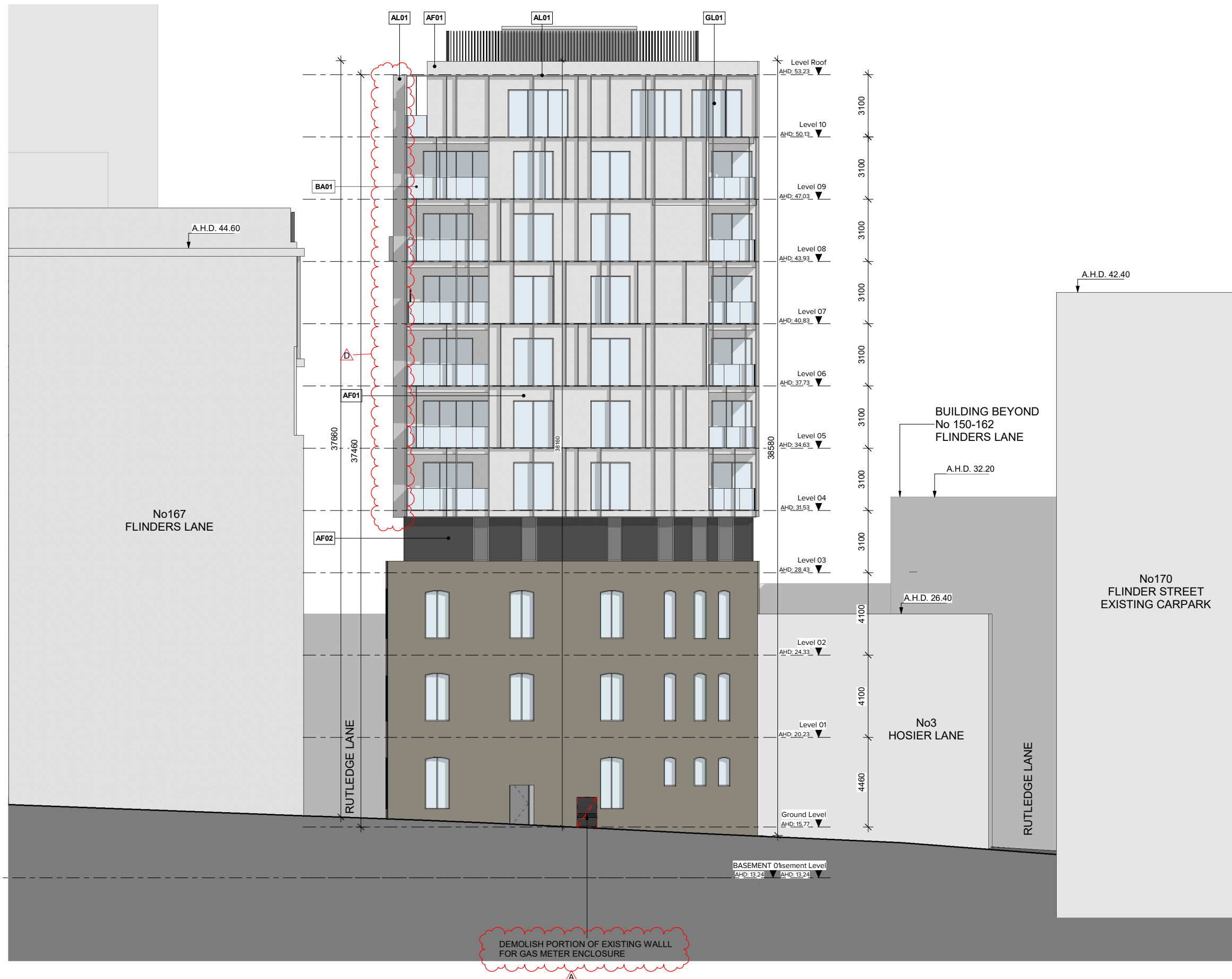
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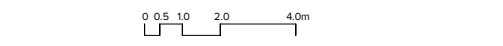
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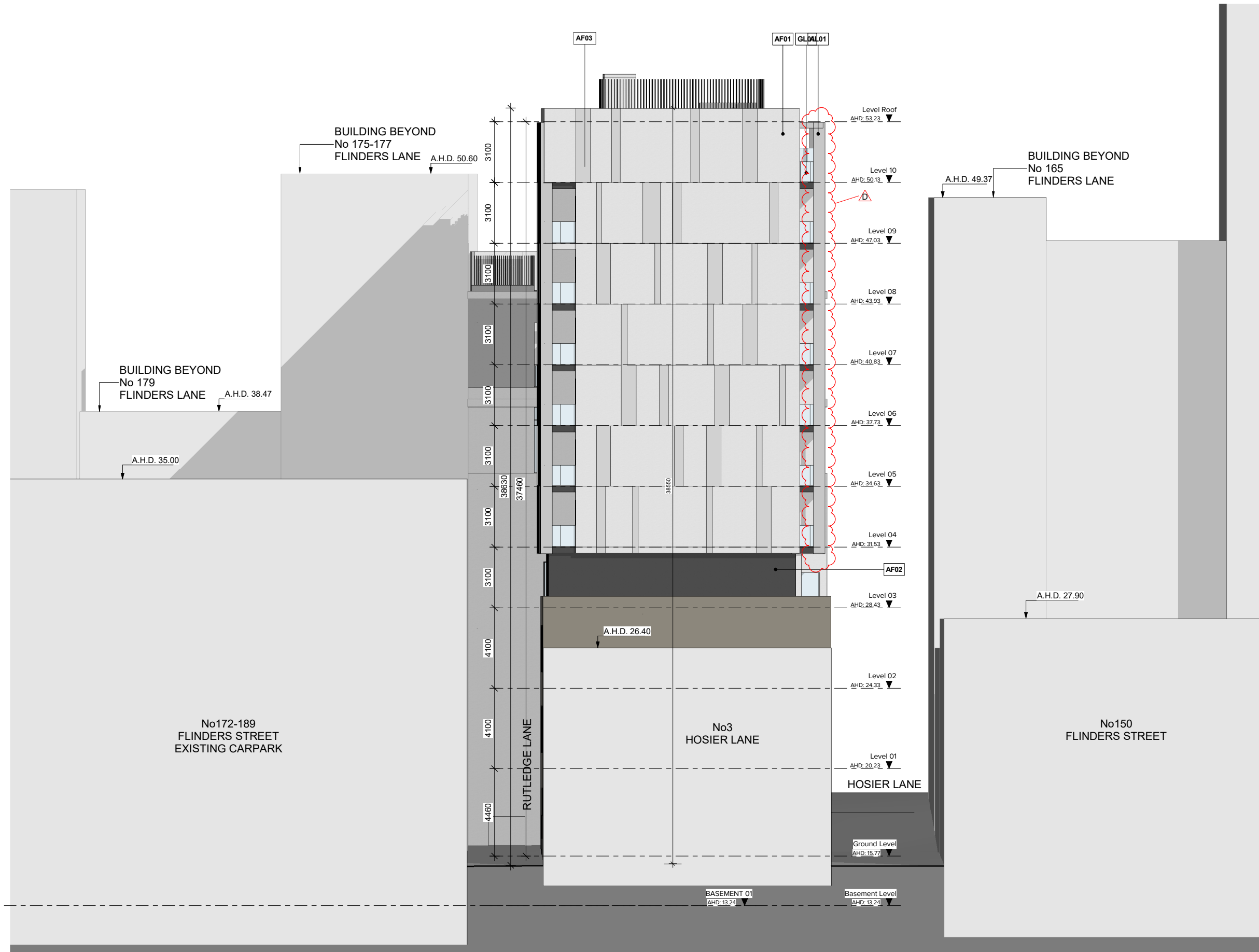
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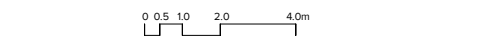
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PROJECT:
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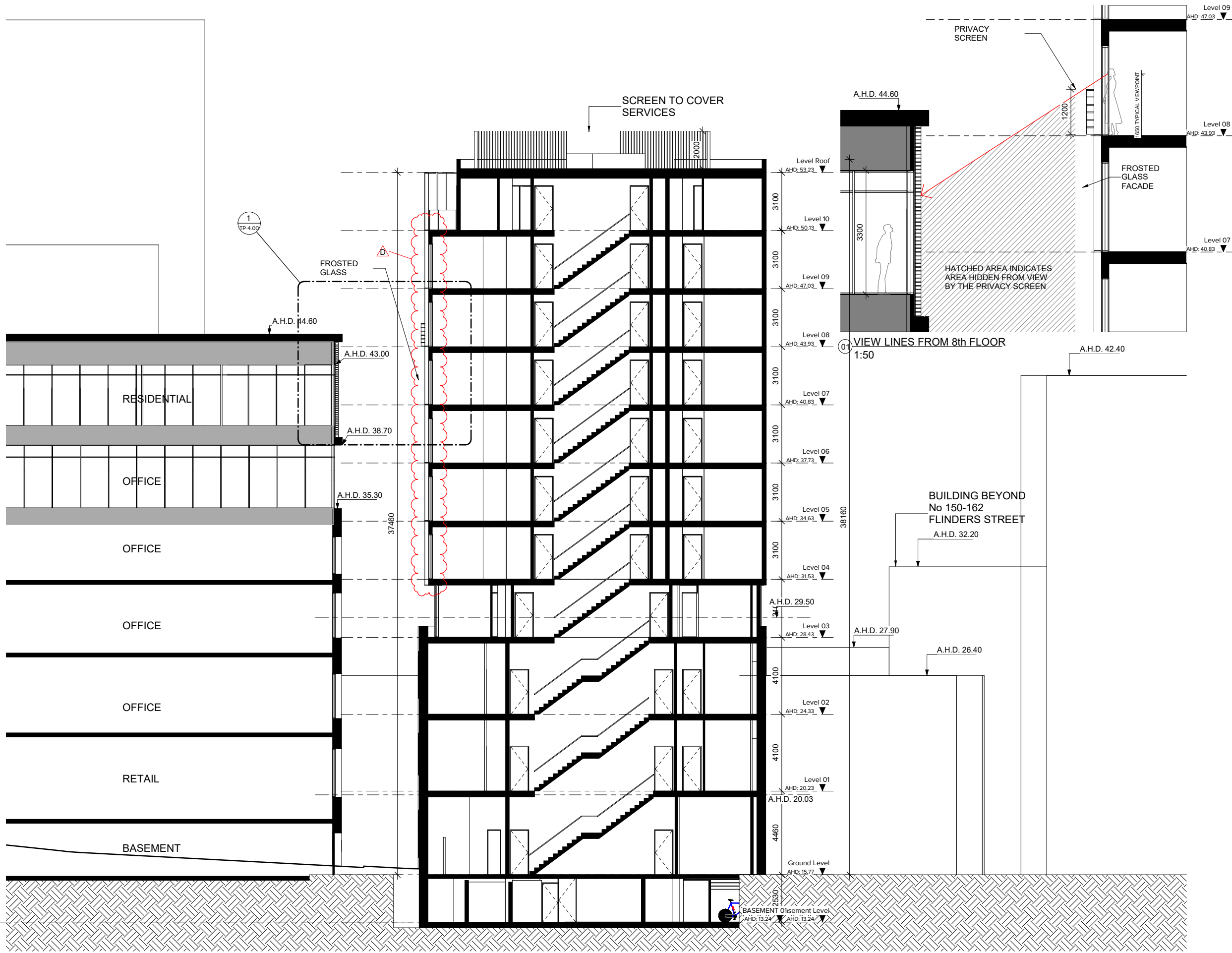
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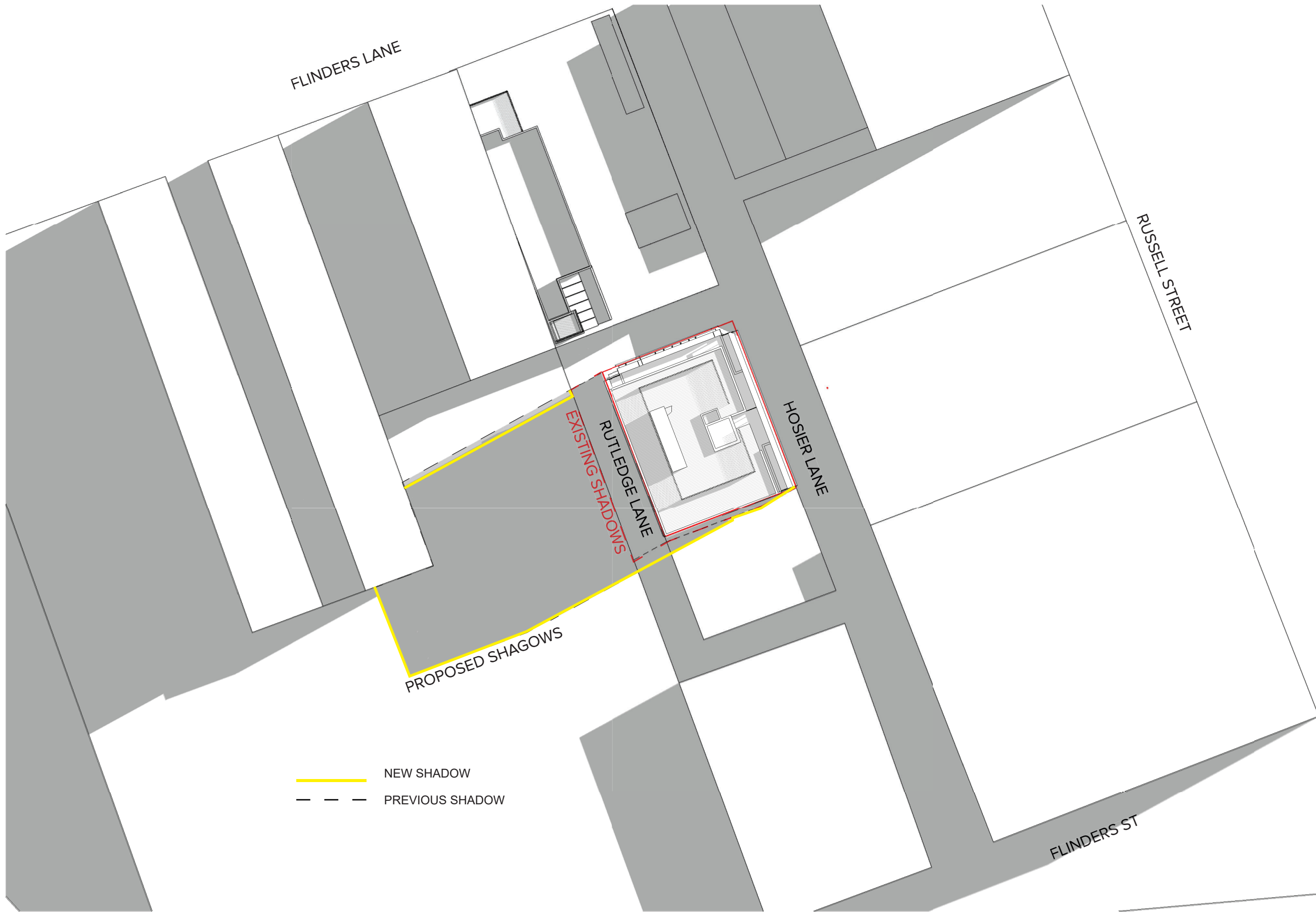
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PROJECT:
Mixed use development
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DRAWING TITLE:
Section A-A

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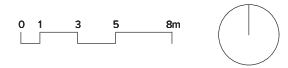
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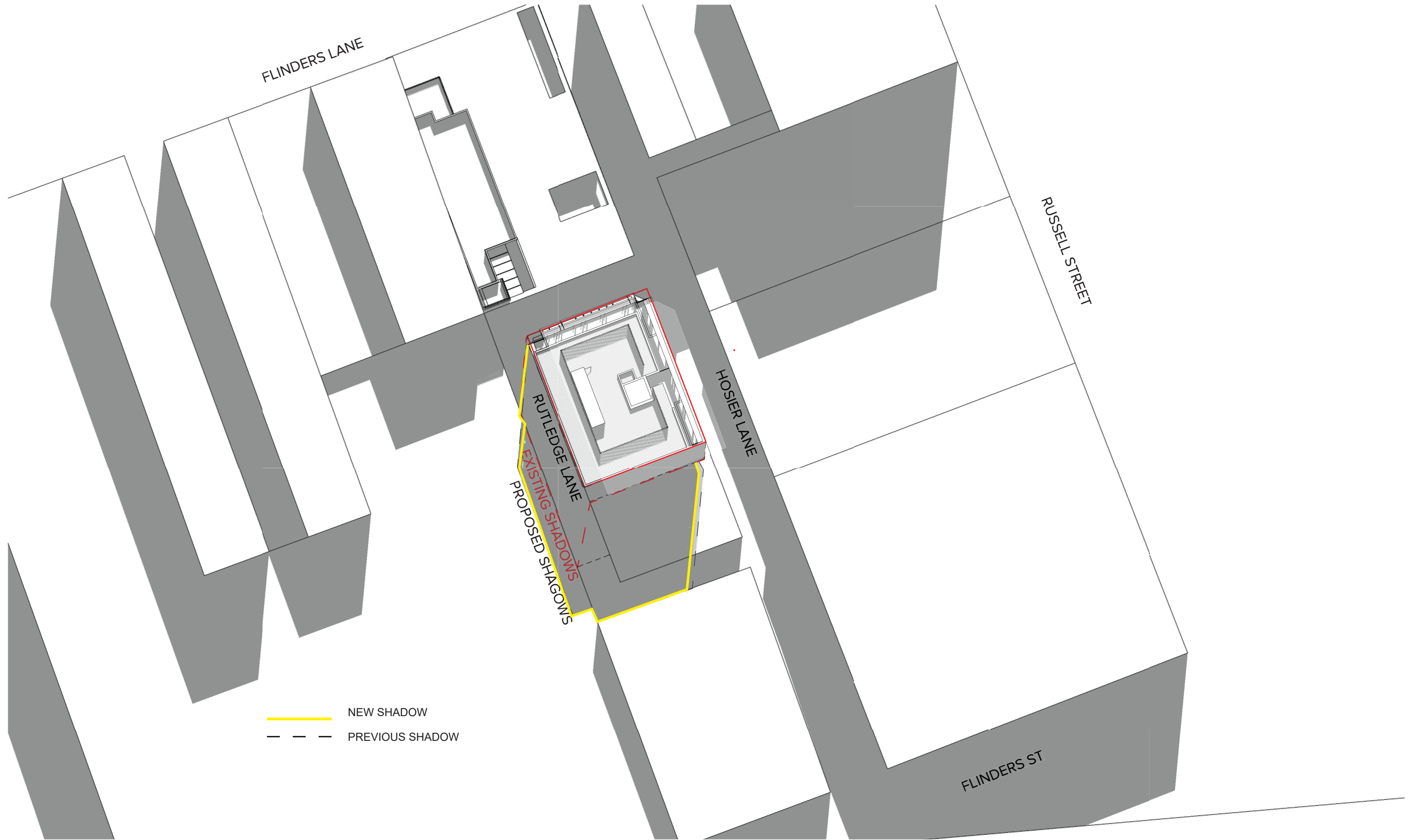
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REV	DATE	DESCRIPTION	REV	DATE	DESCRIPTION
A	28-01-19	RFI COUNCIL			
D	28-03-20	INCREASE SETBACK TO N & E FACADE			



PROJECT:
 Mixed use development
 7-9 Hosier Lane, Melbourne
DRAWING TITLE:
 Shadow diagrams 9AM

DATE: 25/08/2017 **JOB N°:** 37026
SCALE: 1:50 @ A1 - 1:100 @ A3 **REVISION N°:** D
DRAWN: SA
DRAWING STATUS: Townplanning **DRAWING N°:** TP-6.00



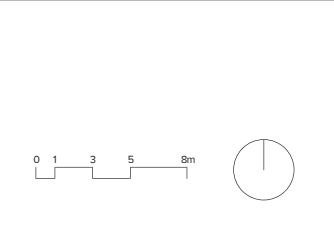
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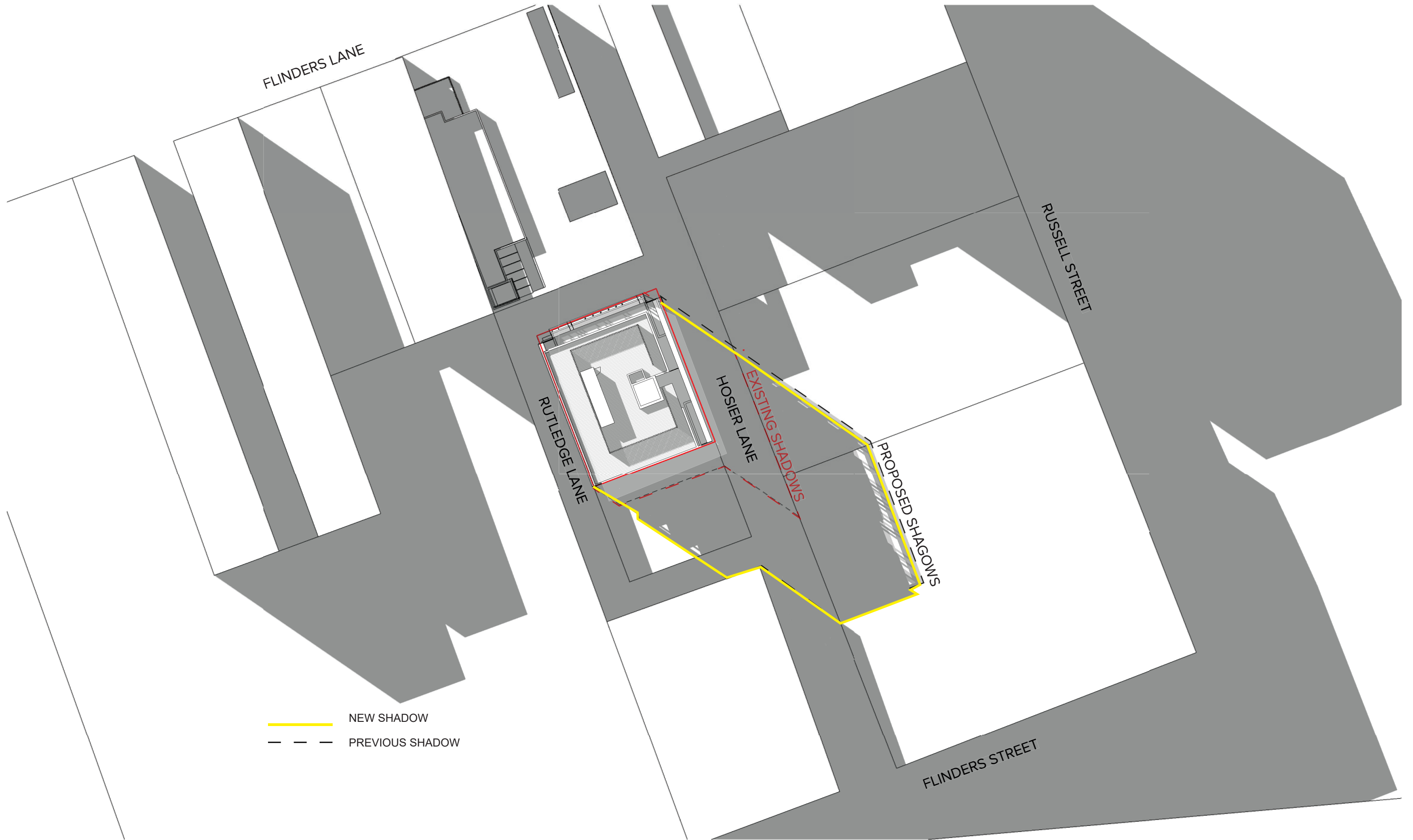
REV	DATE	DESCRIPTION	REV	DATE	DESCRIPTION
A	28-01-19	RFI COUNCIL			
D	28-03-20	INCREASE SETBACK TO N & E FACADE			



PROJECT:
**Mixed use development
 7-9 Hosier Lane, Melbourne**

DRAWING TITLE:
Shadow diagrams 12PM

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DRAWN:	SA		
DRAWING STATUS:	Townplanning	DRAWING N°:	TP-6.01



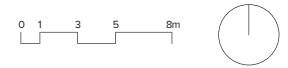
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REV	DATE	DESCRIPTION	REV	DATE	DESCRIPTION
A	28-01-19	RFI COUNCIL			
D	28-03-20	INCREASE SETBACK TO N & E FACADE			



PROJECT:
**Mixed use development
7-9 Hosier Lane, Melbourne**
 DRAWING TITLE:
Shadow diagrams 3PM

DATE: 25/08/2017 JOB N^o: 37026
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 DRAWN: SA
 DRAWING STATUS: DRAWING N^o:
 Townplanning TP-6.02

PROPOSED DEVELOPMENT IN 7-9 HOSIER LANE, MELBOURNE 2020-05-04

LEVEL/UNIT	UNIT AREA m ²	BALCONY m ²	TOTAL AREA m ²	CORE/STAIRS m ²	LOBBY, SERVICES CORRIDORS, m ²			GFA m ²	
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BASEMENT

17.3	140.5						157.8	
------	-------	--	--	--	--	--	-------	--

GROUND

48	223						271	
----	-----	--	--	--	--	--	-----	--

LEVEL/UNIT	UNIT AREA m ²	BALCONY m ²	TOTAL AREA m ²	CORE/STAIRS m ²	LOBBY, SERVICES CORRIDORS m ²			GFA m ²	1 BEDS	2 BEDS	3 BEDS
1-1	54.2	0.0	54.2						•		
1-2	51.8	0.0	51.8						•		
1-3	47.1	0.0	47.1						•		
1-4	53.8	0.0	53.8						•		

206.9	0.0	206.9	29	35.1			271	4	0	0
-------	-----	-------	----	------	--	--	-----	---	---	---

2-1	54.2	0.0	54.2						•		
2-2	51.8	0.0	51.8						•		
2-3	47.1	0.0	47.1						•		
2-4	53.8	0.0	53.8						•		

206.9	0	206.9	29	35.1			271	4	0	0
-------	---	-------	----	------	--	--	-----	---	---	---

3-1	79.9	26.9	106.8							•	
3-2	73.6	22.5	96.1							•	

153.5	49.4	202.9	29	39.1			271	0	2	0
-------	------	-------	----	------	--	--	-----	---	---	---

4-1	42.8	4.5	47.3						•		
4-2	41.4	5.5	46.9						•		
4-3	43.6	3.7	47.3						•		
4-4	46	6.5	52.5						•		

173.8	20.2	194	29	29			252	4	0	0
-------	------	-----	----	----	--	--	-----	---	---	---

5-1	42.8	4.5	47.3						•		
5-2	41.4	5.5	46.9						•		
5-3	43.6	3.7	47.3						•		
5-4	46	6.5	52.5						•		

173.8	20.2	194	29	29			252	4	0	0
-------	------	-----	----	----	--	--	-----	---	---	---

6-1	42.8	4.5	47.3						•		
6-2	41.4	5.5	46.9						•		
6-3	43.6	3.7	47.3						•		
6-4	46	6.5	52.5						•		

173.8	20.2	194	29	29			252	4	0	0
-------	------	-----	----	----	--	--	-----	---	---	---

7-1	42.8	4.5	47.3						•		
7-2	41.4	5.5	46.9						•		
7-3	43.6	3.7	47.3						•		
7-4	46	6.5	52.5						•		

173.8	20.2	194	29	29			252	4	0	0
-------	------	-----	----	----	--	--	-----	---	---	---

8-1	42.8	4.5	47.3						•		
8-2	41.4	5.5	46.9						•		
8-3	43.6	3.7	47.3						•		
8-4	46	6.5	52.5						•		

173.8	20.2	194	29	29			252	4	0	0
-------	------	-----	----	----	--	--	-----	---	---	---

9-1	42.8	4.5	47.3						•		
9-2	41.4	5.5	46.9						•		
9-3	43.6	3.7	47.3						•		
9-4	46	6.5	52.5						•		

173.8	20.2	194.0	29	29			252	4	0	0
-------	------	-------	----	----	--	--	-----	---	---	---

10-1	79.0	30.7	109.7							•	
10-2	69.0	21.3	90.3							•	

148	52	200	29.0	23			252	0	2	0
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TOTAL	1758.1	222.60	1980.7	355.3	669.8			3005.8	32	4	
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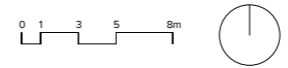
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A	28-01-19	RFI COUNCIL			
D	28-03-20	INCREASE SETBACK TO N & E FACADE			



PROJECT:
Mixed use development
7-9 Hosier Lane, Melbourne

DRAWING TITLE:
Perspective

DATE: 25/08/2017 JOB N°: 37026

SCALE: 1:50 @ A1 - 1:100 @ A3 REVISION N°: D

DRAWN: SA

DRAWING STATUS: Townplanning DRAWING N°: TP-5.00

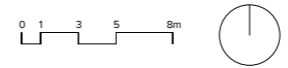


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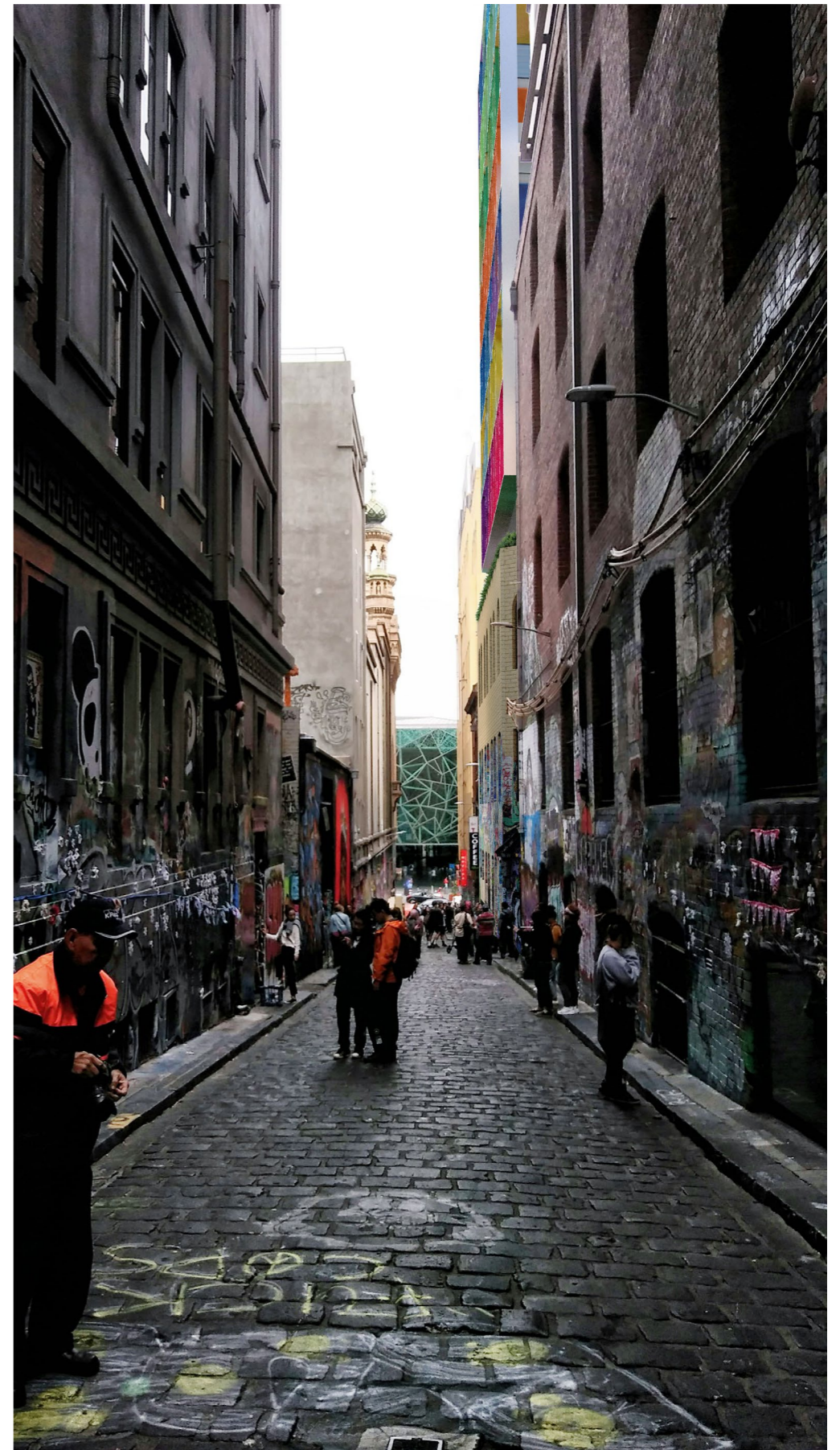
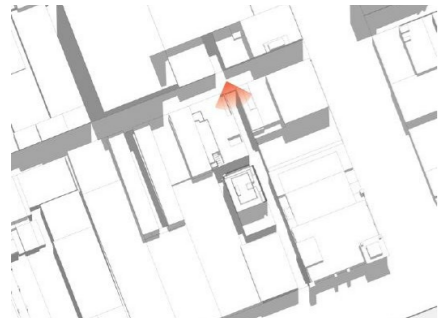
REV	DATE	DESCRIPTION	REV	DATE	DESCRIPTION
A	28-01-19	RFI COUNCIL			
D	28-03-20	INCREASE SETBACK TO N & E FACADE			



PROJECT:
**Mixed use development
7-9 Hosier Lane, Melbourne**

DRAWING TITLE:
Perspective

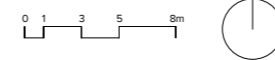
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DRAWING STATUS: DRAWING N°:
Townplanning TP-5.01



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PROJECT:
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7-9 Hosier Lane, Melbourne**
DRAWING TITLE:
Perspective

DATE: 25/08/2017 JOB N°: 37026
SCALE: 1:50 @ A1 - 1:100 @ A3 REVISION N°: D
DRAWN: SA
DRAWING STATUS: TOWNPLANNING DRAWING N°:
TP-5.02

PLANNING PERMIT APPLICATION

DELEGATE REPORT

Application number:	TP-2019-36
Applicant / Owner / Architect:	Bruce Henderson Architects C/- Urbis Pty Ltd / Parasol Investment Company Pty Ltd / Bruce Henderson Architects
Address:	7-9 Hosier Lane, Melbourne VIC 3000
Proposal:	Partial demolition, external alterations and buildings and works to construct an eight storey addition, and a reduction of the bicycle parking facilities associated with a residential building
Cost of works:	\$12,000,000
Date of application:	15 January 2019
Date of s57A amended plans:	14 April 2020
Delegate:	Ryan Cottrell, Urban Planner

1. SITE AND SURROUNDS

1.1 Subject Site

Planning Application TP-2019-36 (the **application**) concerns the land known as:

- 7-9 Hosier Lane, Melbourne (the **Site**).
- Lot 1 on Title Plan 680410V (Volume 014254, Folio 777).

The Site is located on the west side of Hosier Lane. The Site is rectangular and has a Hosier Lane frontage that measures approximately 18.5 metres and an area of approximately 272 square metres. The Site has a north and west frontage to Rutledge Lane which allows secondary access and rear service (Figure 1).

The land has a fall of approximately 1.5 metres across the site in a south-east direction.

The land is developed with a three storey brick Edwardian building with basement car park that was built in the early 1900s. The Site is being used as an education facility which provides hospitality training for youths. The use includes a retail premises component at the ground level.

The building on the Site is built to all boundaries, with a 45 degree splay to the north-eastern corner of Hosier Lane and Rutledge Lane (Figure 2). The Site contains a single width crossover to Hosier Lane that provides vehicular access to the existing basement. There are two existing pedestrian entrances off the north-eastern corner of Hosier Lane and Rutledge Lane, and Rutledge Lane.

At ground level the façade is painted with extensive street art and graffiti. The upper levels consist of painted brick in a cream colour. The façade is articulated with regular piers with inset arched windows to the Hosier frontage. Several of the existing windows have closed with bricks.

Title Plan 680410V does not include any restrictive easements or covenants of relevance to the application.

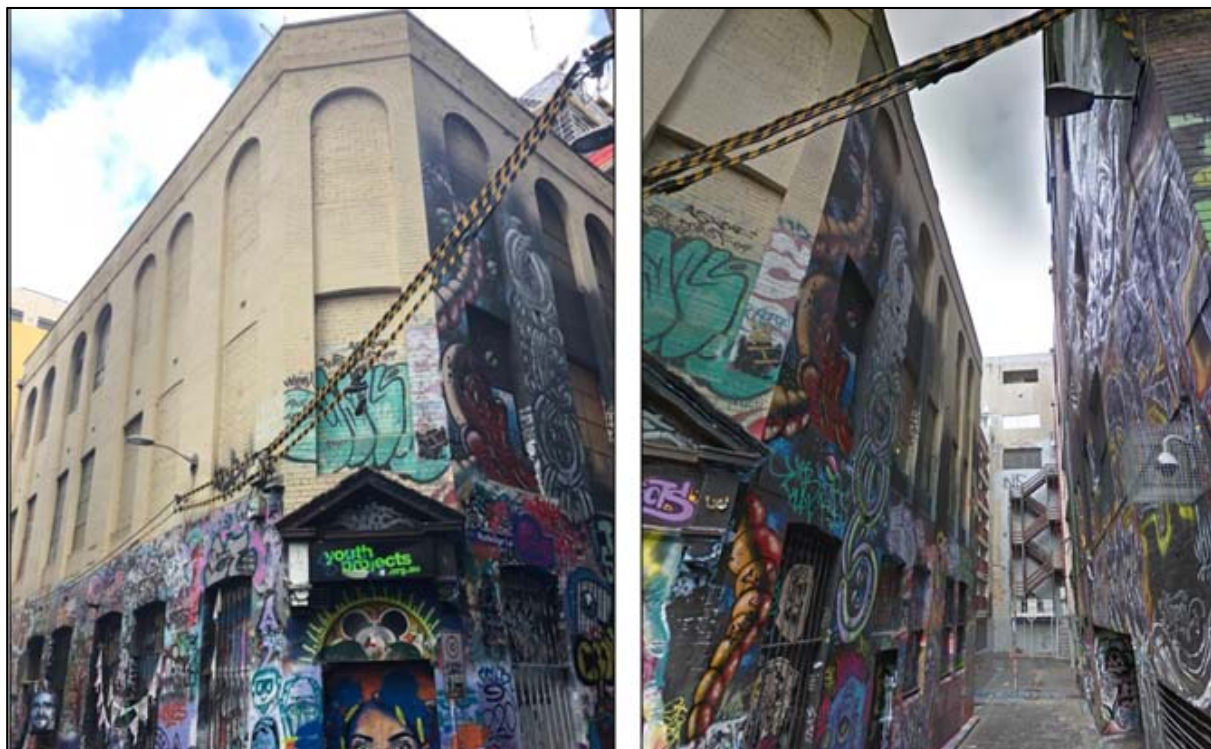
The site has been afforded a 'C' grading in the Central City Heritage Review Study 1993. Neither the City of Melbourne's Heritage database nor documents incorporated into the Melbourne Planning Scheme (MPS) include any statement of significance for the Site.

The heritage place will be re-classified as 'Contributory' under Melbourne Planning Scheme Amendment C258.

Figure 1: Locality map



Figure 2: Streetscape Photograph of Subject Site (Captured 06 June 2019)



1.2 Site Surrounds

The immediate surrounds contains a broad range of uses and built form typologies.

With regards to the surrounding streetscape, Hosier Lane is a narrow, one way thoroughfare. The built form is relatively consistent with regards to height and scale with the streetscape containing predominantly low rise buildings (approximately 6-10 storeys) (Figure 3).

Many buildings along Hosier and Flinders Lane (between Swanston and Russell Streets), date from between 1900-1930, though there are buildings constructed post 1960.

The nearest public transport options include tram lines along Flinders and Swanston Streets and the Flinders Street Railway Station; all within walking distance.

Figure 3: Aerial view of the Site (NearMap image dated 17/12/2019)



The surrounding area has been summarised as follows;

North

To the north, on the opposite side of Rutledge Lane, at 167 Flinders Lane, is a six storey former brick warehouse. Built in 1901, this building has been afforded a 'B' Grading in the Central City Heritage Review Study 1993.

This building has been built to the boundaries and is occupied by retail and office uses, with a penthouse apartment located on the fifth floor. Several large floor to ceiling glazed habitable room windows front the subject site. These windows feature perforated metal screening. The upper levels of this building are setback approximately 0.4 metres from Hosier Lane and Rutledge Lane.

East

Across Hosier Lane to the east at 19-25 Russell Street is the rear of 19-25 Russell Street, Melbourne. This site contains a two storey render and brick building that is constructed to its boundaries and used as a retail premises. This site has not been afforded a heritage grading. Access to this site is available via both Russell Street and Hosier Lane.

Also across Hosier Lane to the east at 150-162 Flinders Street is the Forum Theatre. Built in 1929, the Forum Theatre is a 6 storey complex formerly known as the State Theatre. This building is of architectural and historical significance to the State of Victoria for its influence in the development of the 'atmospheric' style. The Forum Theatre has been afforded an 'A' grading in the Central City Heritage Review Study 1993, as well as being included on the Victorian Heritage Register under reference: H0438. The Hosier Lane elevation of this building contains building services at ground.

South

In terms of direct abuttals, the Site shares a southern boundary with 3-5 Hosier Lane, Melbourne. This site is developed with a three storey brick building and has been afforded a 'C' grading in the Central City Heritage Review Study 1993. Built to the boundaries with dual frontages off Hosier Lane and Rutledge Lane, this building is used as a retail premises at the ground level and office above.

Further south (approximately 15m) across Rutledge Lane, at 164-170 Flinders Street, is an eight storey residential building with ground floor retail. Built in 1927, this building has been afforded a 'B' Grading in the Central City Heritage Review Study 1993. Several windows and balconies have an outlook towards the Site.

West

To the south-west of the site at 172-192 Flinders Street, is a nine storey building with commercial car parking, retail and office. It is noted that Planning Permit TP-2011-88 has been issued on the land for alterations and additions to the existing building for the construction of additional levels.

Specifically, the proposal will see the demolition of four levels of above ground car parking and construction of a five storey addition. At the Rutledge Lane ground level interface, the development seeks to introduce a retail tenancy with glazed windows which is south-west of the site and opposite 3-5 Hosier Lane (Figure 4). This development has a street wall height to Rutledge Lane that is approximately 24 metres high with a minor setback and architectural details that extend to the Rutledge Lane boundary.

Figure 4: Artist impression of the development at 172-192 Flinders Street



1.3 Archaeology and Heritage Inventory

The subject site is included on the Victorian Heritage Inventory for its potential to contain historical archaeological remains associated with the settlement and growth of early Melbourne. Under the terms of the *Heritage Act 2017* there is protection for all historical archaeology sites and objects in the state.

The applicant has been advised to contact Heritage Victoria to ensure that they do not breach any requirement of the *Heritage Act 2017* relating to any potential archaeological items located below the site.

1.4 Aboriginal Cultural Heritage

The subject site is not included in an area of legislated cultural heritage sensitivity.

2 BACKGROUND AND HISTORY

2.1 Pre-application discussions

The applicant met with City of Melbourne planning officers on 10 October 2017 to discuss the proposal prior to the lodging the application. The discussions related to setbacks and visibility of an addition due to the narrow width of Hosier Lane.

A further meeting was held with the applicant, with the Heritage Advisor present.

2.2 Request for Further Information

Following the submission of the original application on 21 January 2019, a request for further information was provided to the applicant seeking various items to be shown on the development drawings.

Further information was received by Council on 15 February 2019.

2.3 Post Advertising Consultation / S.57A Amendment

2.3.1 Section 57A Amendment (1)

A copy of objections received during the formal notice period, in addition to feedback from Council's Heritage Advisor, Urban Design Advisor, ESD Officer, Traffic, Civil and Waste Engineers, were provided to the applicant.

In response to concerns raised by objectors and feedback from Council's Heritage Advisor, Urban Design Advisor, ESD Officer and Engineers, the application was formally amended on 2 September 2019 under Section 57A of the Planning and Environment Act 1987. This application sought to revise the application through the provision of:

- Revised Basement Plan prepared by Bruce Henderson Architects, dated 6 August 2019.
- Marked up Level 1 plan notating detail regarding windows.
- Amended ESD Statement prepared by Sustainability House, dated 31 July 2019.
- Updated Waste Management Plan prepared by Sustainability House, dated 12 August 2019.

A copy of the amended plan and updated reports was circulated to all registered objectors to the application for informational purposes on 13 September 2019.

It should be noted that this amendment to the application stated that the application would accept a planning permit condition to include the required number of bicycle parking spaces pursuant to Clause 52.34.

2.3.2 Section 57A Amendment (2)

Despite the above amendment, City of Melbourne planning officers reviewing the application were not satisfied that the proposal adequately responded to the Site's heritage context. The applicant was advised that a setback to the proposed upper level of the development would be required in line with heritage and urban design advice received by those departments of the City of Melbourne.

The application was formally amended again on 14 April 2020 under Section 57A of the Planning and Environment Act 1987. This application sought to amend the application through the provision of:

- Revised development drawings prepared by Bruce Henderson Architects, dated 28 March 2020. The revised drawing includes a 0.5m setback to the north and east elevations from level 4 to level 9 of the proposed development.

- An updated development schedule and shadow diagrams corresponding to the new setbacks.
- An updated Waste Management Plan prepared by Sustainability House (Suho), dated 28 October 2019.

Copies of the amended plans and updated documents / reports were circulated to all objectors on 8 May 2020.

2.4 Planning Application History

The following applications, listed as considered relevant to the current proposal, have previously been considered for the adjoining sites (Table 1):

Table 1: Planning Application History			
TP number	Property Address	Description of Proposal	Decision & Date of Decision
TP-2011-291/A	167-173 Flinders Lane, Melbourne	Demolition of the existing roof and the construction of an additional two levels with a mezzanine and roof terrace.	Permit Issued 20/12/2011
TP-2011-88/C	172-192 Flinders Street, Melbourne	Alterations and additions to the existing building including partial demolition, modifications to the existing car park, increased office space, restoration works, and the construction of additional levels and associated works in accordance with the endorsed plans.	Permit Issued 10/04/2012
TP-2015-487	150-162 Flinders Street and 19-25 Russell Street, Melbourne	Multi use and multi-level development. Demolition and associated works including renovation of the Forum Theatre in accordance with the plans and associated documents filed.	Application on hold
TP-2017-664	179-181 Flinders Lane, Melbourne	Partial demolition of the existing building, additions and alterations, erection of signage and waiver of bicycle parking requirements. This permit approves a 55.47 metre high building.	Permit Issued 23/04/2018

2.5 Planning Scheme Amendments

2.5.1 Heritage

Amendment C258 to the *Melbourne Planning Scheme* is of relevance. This amendment is now seriously entertained and proposes to revise local heritage policies as well as introduce two new incorporated documents into the *Melbourne Planning Scheme*; the *Heritage Precinct Statements of Significance* incorporated document and the *Heritage Places Inventory* incorporated document.

The *Heritage Places Inventory* incorporated document would introduce a new grading system in accordance with which buildings are attributed a level of significance. To this end, the existing letter grading system (A, B, C and D) would be replaced by 'Significant', 'Contributory' and 'Non-contributory'.

In accordance with this new system, the existing building on site would be regarded 'Contributory'

Draft Clause 22.04 (Heritage places within the Capital City Zone states:

A 'contributory' heritage place is important for its contribution to a heritage precinct. It is of historic, aesthetic, scientific, social or spiritual significance to the heritage precinct. A 'contributory' heritage place may be valued by the community; a representative example of a place type, period or style; and/or combines with other visually or stylistically related places to demonstrate the historic development of a heritage precinct. 'Contributory' places are typically externally intact, but may have visible changes which do not detract from the contribution to the heritage precinct.

2.5.2 Built Environment

Amendment C308 to the *Melbourne Planning Scheme* is of relevance. This amendment seeks to refresh Design and Development Overlay Schedule 1 (DDO1) through consolidating several Design and Development Overlays and bringing them into line with best practice urban design.

Amendment C308 contains requirements relating to active frontages and states that:

- *Ground floor building services, including waste, loading and parking access:*
 - *Should be minimised.*
 - *Must occupy less than 40 per cent of the ground floor area of the site.*
- *Development in General Development Areas and laneways in Special Character Areas, should meet the following ground level frontages requirement.*
 - *At least 80 per cent of the combined length of the ground level interfaces of a building to streets and laneways are an entry or window.*
 - *The ground floor frontage requirement does not apply to the development of a building in a heritage overlay or heritage graded building. Development of a heritage building should maintain or increase compliance with the following ground level interface requirement.*

The application contains approximately 60 square metres of the 272 square metre ground floor dedicated to services, which is approximately 25 per cent of the ground floor area. The proposal complies with the above mandatory requirement.

The Site is located in a laneway in a Special Character Area however it is also affected by the Heritage Overlay. The 80 per cent requirement for entries or windows does not apply.

It is noted that this application does not seek permission for built form that would be prohibited under the proposed DDO1.

3 PROPOSAL

3.1 Plans / Reports considered in assessment

The plans which have been considered in this assessment are identified in Table 2 below:

Table 2: Plans / Reports considered in assessment		
Plan / Report Title	Drawing/ Report No.	Date Stamped
Metropolitan Planning Levy (MPL)	MPLCERT10595	24/12/2018

Copy of Title	Vol. 03012 Fol. 220	18/12/2018
Planning Report	Urbis	14/01/2019
Response Letter (to objections and referral comments)	Urbis	21/08/2019
Development Plans	Drawing No. TP 1.00, 1.01, 2.01-2.12, 3.00-3.03, 4.00, 7.00	20/03/2018 and 09/04/2018
Revised Basement Plan	Drawing No. TP 2.00	06/08/2019
Revised Development Plans	Drawing No. TP 1.00, 1.01, 2.00-2.05, 2.08-2.12, 3.00-3.03, 4.00, 7.00 Bruce Henderson Architects	28/03/2020
Urban Context Report	Bruce Henderson Architects	18/06/2018
Environmentally Sustainable Design (ESD) Statement	Sustainability House	20/09/2018
Amended ESD Statement		31/07/2019
Water Sensitive Urban Design Response Report	Sustainability House	20/09/2018
Waste Management Plan	Sustainability House	20/09/2018
Updated Waste Management Plan		12/08/2019
Updated Waste Management Plan		28/10/2019
Acoustic Assessment	Acoustic Logic	15/01/2019
Heritage Impact Statement	Michael Taylor Architecture and Heritage	30/09/2019

3.2 Summary of proposed development

The proposal, as shown on the plans referenced in Table 2 above, seeks planning approval for the partial demolition, external alterations, and buildings and works to construct an eight storey addition, and a reduction of bicycle facilities associated with the a residential hotel (serviced apartments).

The building will comprise the primary use of accommodation (residential hotel) with ground floor retail.

A residential hotel is defined as “land used to provide accommodation in serviced rooms for persons away from their normal place of residence. If it has at least 20 bedrooms, it may include the sale of liquor for consumption on, or off, the premises, function or conference rooms, entertainment, dancing, amusement machines, and gambling.”

This is the most accurate land use definition for the proposed accommodation related use.

A summary of the key features of the development include;

- Partial demolition of the existing three storey heritage building, including the existing roof, internals, infill brick to original openings and a portion of the existing ground floor wall fronting Hosier and Rutledge Lanes. Note that some windows on the north elevation will not be reopened due to the existing structural columns that are behind.
- Construction of an addition comprising eight storeys above the retained three storey heritage building. The third level contains a 1.5 metre recess from the east boundary (Hosier Lane) and a 0.825 metre recess from the north boundary. The addition contains a 0.5 metre setback from the north and east boundaries from level four to level nine. The tenth floor contains a 1.96 metre setback from the north boundary and a 2 metre setback from the east boundary (Hosier Lane).
- All works are located within the site boundary except from architectural fins located on the fourth to tenth levels on the west elevation which project 0.2 metres over Rutledge Lane.
- The development will retain the ground level graffiti, restore the first and second levels of the heritage building façade and feature a multi-coloured metal framing around the windows to the north, east, and west elevations. The south elevation will contain grey render / precast concrete.

3.3 Detailed Information

Table 3: Summary of proposed development	
Site Area:	272m ²
Site Coverage:	100%
Total GFA (including service areas):	3,005.8m ²
Floor Area Ratio (including all enclosed areas, services lifts, car stackers and covered balconies):	10.47:1
Built Form	
Number of storeys above ground level:	11
Maximum Building Height:	38.28m (taking at the centre of the Hosier Lane frontage, excluding the lift overrun and plant/services)
Number of basement levels:	1
Street Wall Height:	13.26 metres
Land Use	
Accommodation (Residential Hotel):	1,980.7m ² 36 rooms.
Retail (gross leasable floor area):	72.3m ² (Two tenancies).
Traffic	
Car parking spaces:	0
Bicycle spaces:	2

3.4 Key Excerpts from Development Plans

Excerpts from the development plans dated 28 March 2020 are found at Figures 5, 6, 7, 8 and 9.

Figure 5: Proposed ground floor plan

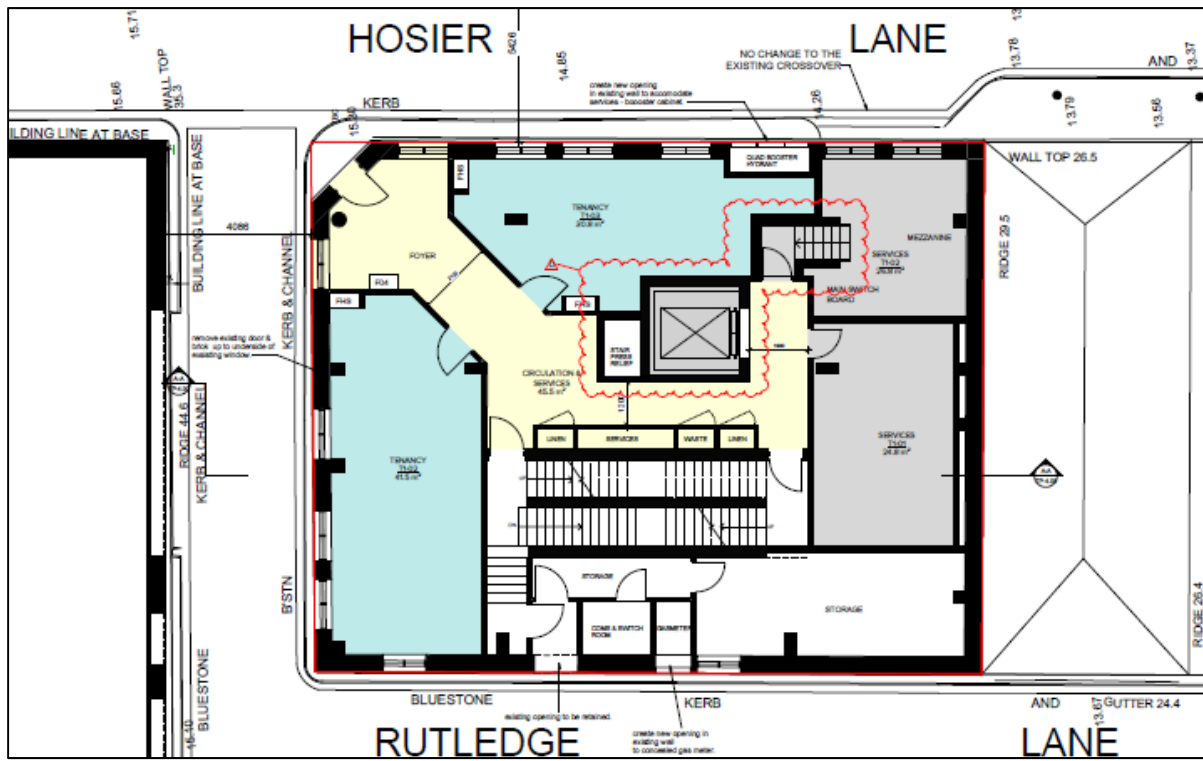


Figure 6: Proposed Hosier Lane elevation (without coloured façade strategy to addition)

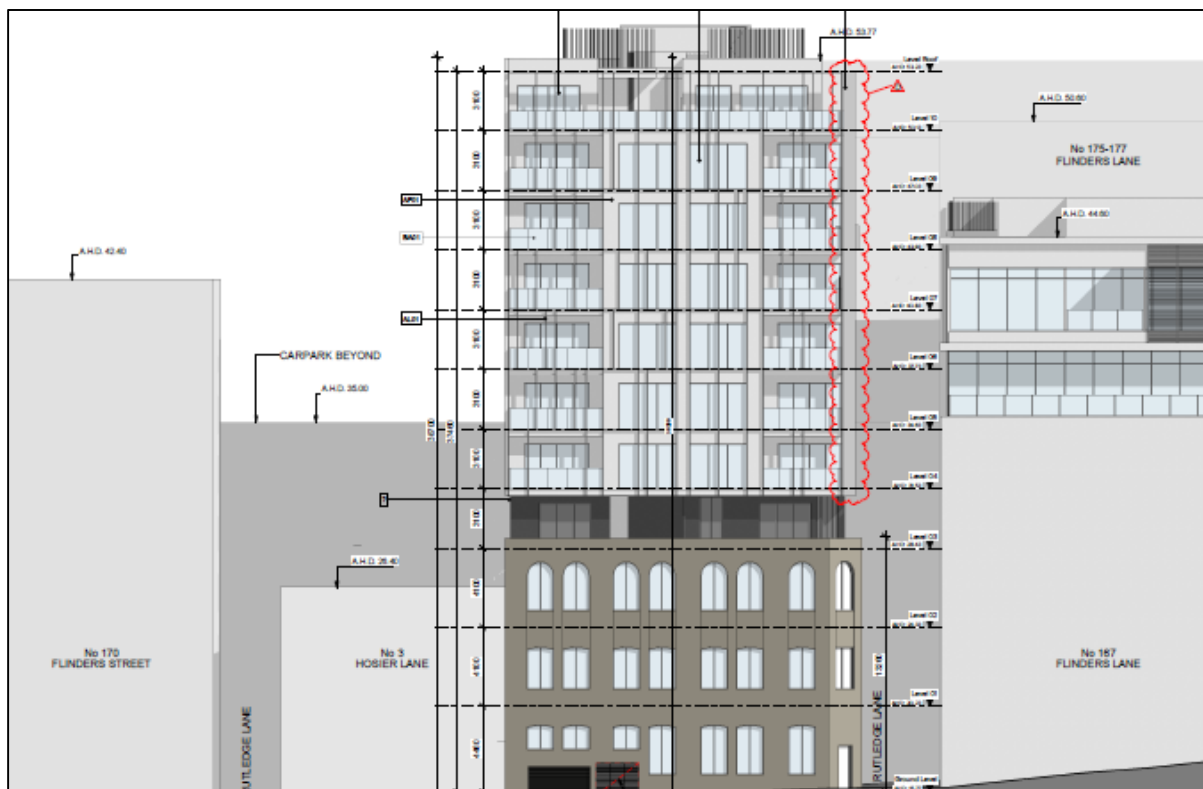


Figure 7: Level 4-6 plan (Drawing No. TP-2.05)

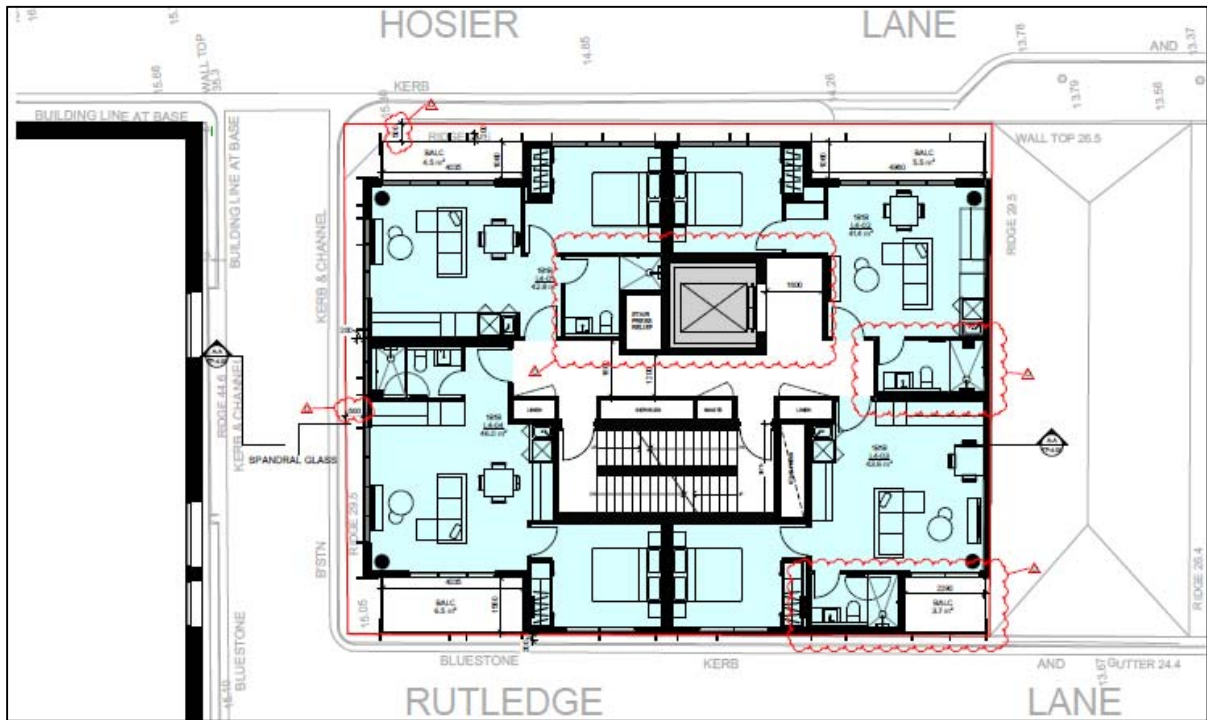
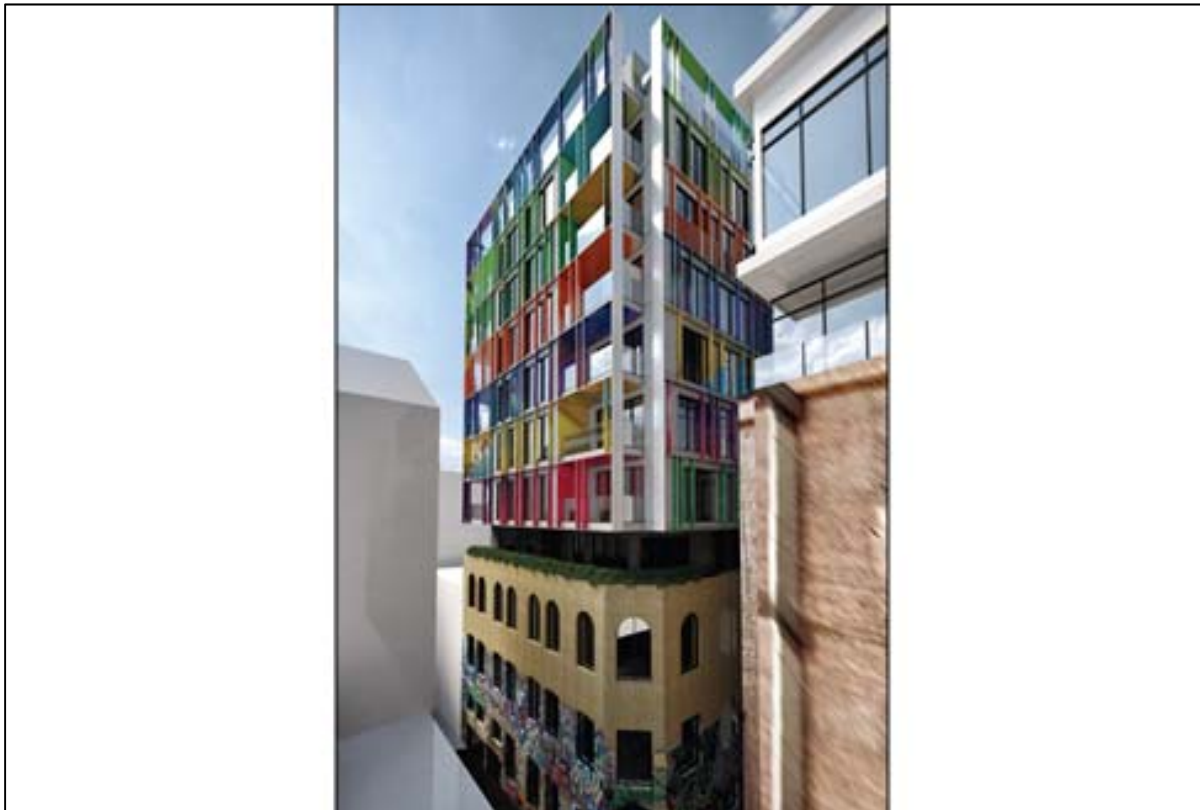


Figure 8: Render of Proposed Development (looking up from the northern side of Hosier Lane)



Figure 9: Render of Proposed Development (looking from north-west (Note that this render does not include the 0.5 meter setback))



4 STATUTORY CONTROLS

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

Table 4: Statutory Controls/ Permit Triggers	
Clause	Permit Trigger
<p>Clause 37.04 Capital City Zone Schedule 1 - Outside the Retail Core</p>	<p>Pursuant to Clause 1.0 of 37.04, Schedule 1, a planning permit is not required to use the land for accommodation (includes residential hotel) or a retail premises.</p> <p>Pursuant to Clause 34.07-4, a permit and prior approval for the redevelopment of the site are required to demolish or remove a building or works.</p> <p>Pursuant to Clause 3.0 of Clause 37.04, Schedule 1, a <u>permit is required</u> to construct a building or construct or carry out works.</p> <p>Pursuant to Clause 4.0 of Clause 37.04, Schedule 1, a <u>permit and prior approval</u> for the redevelopment of the site <u>are required</u> to demolish or remove a building or works.</p>
<p>Clause 43.01 Heritage Overlay Schedule 506 - Flinders Lane Precinct</p>	<p>Pursuant to Clause 43.01-1, a <u>permit is required</u> to:</p> <ul style="list-style-type: none"> ▪ Demolish or remove a building ▪ Construct a building or construct or carry out works ▪ Externally alter a building by structural work, rendering, sandblasting or in any other way.

<p>Clause 43.02 Design and Development Overlay Schedule 2 - A5 Built Form Hoddle Grid Area 5</p>	<p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works unless exempted by the relevant schedule.</p> <p>Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay. A permit may be granted to construct a building or construct or carry out works which are not in accordance with any requirement in a schedule to this overlay, unless the schedule specifies otherwise.</p> <p>Pursuant to Clause 2.2 of Clause 43.02, Schedule 2, a permit is required as none of the exemptions apply.</p> <p>Table 4 to Schedule 2 stipulates a maximum building height of 40 metres applies. This table provides a modified requirement of a 10:1 Floor Area Ratio (FAR) provided the built form outcomes are achieved.</p> <p>Table 5 to Schedule 2 outlines the relevant preferred design elements.</p>
<p>Clause 45.09 Parking Overlay Schedule 1 - Capital City – Outside the Retail Core</p>	<p>Pursuant to Schedule 1 of Clause 45.09, a permit is required to provide car parking spaces in excess of the car parking rates in Clause 3.0 of this schedule.</p> <p>This does not include the provision of additional car parking, to the satisfaction of the responsible authority which is required to serve on site use for dwellings or a residential hotel.</p> <p>The proposal does not provide on-site car parking; therefore, a permit is not required.</p>
<p>Clause 52.34 Bicycle Facilities</p>	<p>Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities have been provided on the land. A permit may be granted to reduce, vary or waive the number of bicycle spaces required by the table.</p> <p>Pursuant to Clause 52.34, the use of the land as a 'residential hotel' is not included. However, it does include its parent land use term 'residential building other than specified in this table'.</p> <p>The parking rate for a 'residential building other than listed in this table' is:</p> <ul style="list-style-type: none"> ▪ In developments of four or more storeys, 1 to each 10 lodging rooms for employees ▪ In developments of four or more storeys, 1 to each 10 lodging rooms for visitors. <p>Clause 52.34-5 states that if in calculating the number of bicycle facilities the result is not a whole number, the required number of bicycle facilities is the nearest whole number. If the fraction is one-half, the requirement is the next whole number.</p> <p>The proposal includes a total of 36 lodging rooms and therefore produces a bicycle parking demand for 4 spaces for employees and 4 spaces for visitors (36/10 = 3.6, rounded to the nearest whole number = 4 bicycle spaces)</p> <p>Two bicycle parking spaces are provided in the development, therefore a permit is required to reduce the bicycle parking requirement under Clause 52.34-4.</p> <p>Given that the rate of bicycle parking spaces required is less than 5, end of trip showers are not required.</p> <p>Given that showers are not required, a change room is not required.</p>

	<p>The parking rate for a 'retail premises other than listed in this table' is:</p> <ul style="list-style-type: none"> ▪ 1 to each 300 sqm of leasable floor area for employees/resident ▪ 1 to each 500 sqm of leasable floor area for visitors/shoppers <p>The leasable floor area is less than 300 sqm; therefore, no permit is required for the retail premises element of the proposal.</p>
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5 STRATEGIC FRAMEWORK

5.1 Planning Policy Framework (PPF)

- Clause 11.03-1R (Activity Centres – Metropolitan Melbourne)
- Clause 15 (Build Environment and Heritage)
- Clause 17.01-1S (Diversified Economy)
- Clause 17.04-1S (Facilitating Tourism)
- Clause 18.02-2S (Public Transport)

5.2 Local Planning Policy Framework (Municipal Strategic Statement)

- Clause 21.06 (Built Environment and Heritage)
- Clause 21.09-3 (Cycling)
- Clause 21.10-1 (Renewable Energy and Efficient Water Use)
- Clause 21.12 (Hoddle Grid)
- Clause 22.01 (Urban Design within the Capital City Zone)
- Clause 22.02 (Sunlight to Public Spaces)
- Clause 22.04 (Heritage Places within the Capital City Zone)
- Clause 22.19 (Energy, Water and Waste Efficiency)
- Clause 22.20 (CBD Lanes)
- Clause 22.23 (Stormwater Management – Water Sensitive Urban Design)

6 PARTICULAR PROVISIONS

- Clause 52.34 (Bicycle Facilities)
- Clause 53.06 (Live Music and Entertainment Noise)

7 GENERAL PROVISIONS

- Clause 64 (General Provisions for Use and Development of Land)
- Clause 65 (Decision Guidelines, which includes the matters set out in Section 60 of the Planning and Environment Act 1987).

8 PUBLIC NOTIFICATION

The following permit requirements as bearing on the proposed development are **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:

- An application to construct a building or construct or carry out works for a use in Section 1 of the Capital City Zone – Schedule 1.
- An application to construct a building or construct or carry out works within the Design and Development Overlay – Schedule 2.

- An application to vary, reduce or way any requirement of Clause 52.34-5 and Clause 52.34-6.

The application is not exempt from notice and review under Clause 43.01-4 (Heritage Overlay). Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties on 26 April 2019 and by posting two notices on the Hosier Lane and Rutledge Lane (northern boundary) frontages for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

A signed statutory declaration confirming that the applicant erected the public notice signs in accordance with Council's requirements was returned on 24 May 2019.

As noted at Section 2.3 of this report, a copy of the amended plans was circulated to all objectors on 13 September 2019.

As noted at Section 2.3 of this report, a copy of the plans amended pursuant to Section 57A of the *Planning and Environment Act 1987* was circulated to all registered objectors to the application for informational purposes on 8 May 2020.

9 OBJECTIONS

A total of 27 objections were received as of the date of this report. The concerns raised in the objections have been summarised below.

9.1 Summary of objector concerns

9.1.1 Land Use

- Unregulated use of the land 24 hours a day.
- Short term accommodation not appropriate
- Waste collection insufficient.

9.1.2 Built Form

- Colours and materiality of tower form.
- Building height.
- Visual bulk.
- Setbacks to upper tower form.
- Southern façade materiality (appearance and durability)
- The balconies should not be permitted

9.1.3 Amenity Impacts

- Loss of privacy and overlooking.
- Loss of sunlight and overshadowing.
- Laneway character.
- Wind impacts.

9.1.4 Traffic

- Lack of bicycle parking on site.
- Lack of car parking on site.
- Increased pedestrian congestion within the lane.

- Increased vehicle traffic for deliveries and other services.
- Additional waste collection.

9.1.5 Heritage

- Laneway character.
- Impact on heritage precinct.
- Colours and materials are not appropriate
- Loss of heritage significance.
- Building height.
- Facadism.
- Unsympathetic building height and setbacks.

9.1.6 Other

- Property devaluation.
- The advertised plans are inadequate.
- Loss of ground floor Youth Projects tenancy.
- Negative impact on arts precinct and tourist destination.
- Construction impacts and lack of construction management plan.
- Fire isolation between buildings.
- Maintenance of boundary walls.
- Doesn't response to CoM's Green Your Laneway Initiatives.

9.1.7 Post Amended Plans

The following matters have been raised after the plans were amended:

- The setback is not sufficient, DDO2 requires a 5 metre setback
- The development will be highly visible
- The internal demolition is not appropriate
- The colours are inappropriate
- The development does not response to the built form guidance of MPS Amendment C258
- Gentrification resulting in the abandonment of artists.
- Insufficient bicycle parking
- Overdevelopment of the site

Further consideration of the objections is given in Section 13 of this report.

10 CONSULTATION

A copy of the objections received in respect of the application at the conclusion of the formal notice period was forwarded to the applicant for their consideration and response.

A copy of the amended plan and updated reports was circulated to all registered objectors to the application for informational purposes on 13 September 2019.

A copy of the amended plans and updated reports was circulated to all registered objectors to the application for informational purposes on 8 May 2020.

11 INTERNAL REFERRALS

The following internal referrals were required:

11.1 Heritage Advisor

The original plans were referred to the City of Melbourne's Heritage Advisor who provided the following heritage assessment (summarised):

- The sense of integrity of the host heritage building will be maintained notwithstanding the testing extent of the additions.
- There can be no doubt that the proposed additions will prevent the host building from being viewed, other than at the ground level, without the proposed built from intruding upon the appreciation of the host.
- The site context leans in the favour of the proposed development, including:
 - "The extraordinary cultural setting.
 - The congested locality land locked within the city block and with limited capacity for view of the host building in any sense of a panoramic context.
 - The warehouse and somewhat 'fortress' nature of the heritage host that is robust enough in the confined setting to project sense of solidity capable of 'carrying' the proposed new form without presenting the host building as having been reduced to a shell or husk."
- The new presence will be perceived as 'additions' on the host building rather than as a form that dominates the host.
- The expression of the proposed new building is colourful to relate to the cultural setting with lightweight expression applied to the upper levels.
- The proposal has precedent in this locality with 167 Flinders Lane and with developments such as the Adelphi Hotel with its projecting pool.
- The proposals acceptability is on achieved as an 'on balance' outcome which includes conservation works to the existing building.
- The projection of the screens and fins of the addition are problematic.
- The proposal should match the setback of 167 Flinders Lane which is 500mm from the primary frontage and 400 to Hosier Lane.
- From a heritage perspective, the projection of the façade elements beyond the west façade (Rutledge Lane) is acceptable.

The following recommendations were provided:

- *"The external projection of the addition be set back 400mm from the facade face of the host building on the east and north frontages.*
- *A condition should be included in the permit requiring conservation works to be to the satisfaction of the City of Melbourne and to include the stripping of the paint from the brickworks of the upper facades down to the applied graffiti. The scope and method of conservation works should be documented and approved by the City of Melbourne as a part of the permit prior to commencement of works.*
- *The additions should be within the envelope of a setback from the north, east and chamfered façade face of 400mm."*

Planner's Response

The applicant has adopted the recommended setback in the latest amended plans submitted, dated 28 March 2020. The remaining recommended permit condition should be included on any permit issued to ensure the removal of paint does not damage any significant heritage fabric. An assessment of the relevant heritage policies is found at Section 13 of this report.

11.2 Urban Design

The Urban Design Team provided advice on 13 March 2019 generally supporting the proposal. The provided the following assessment (summarised):

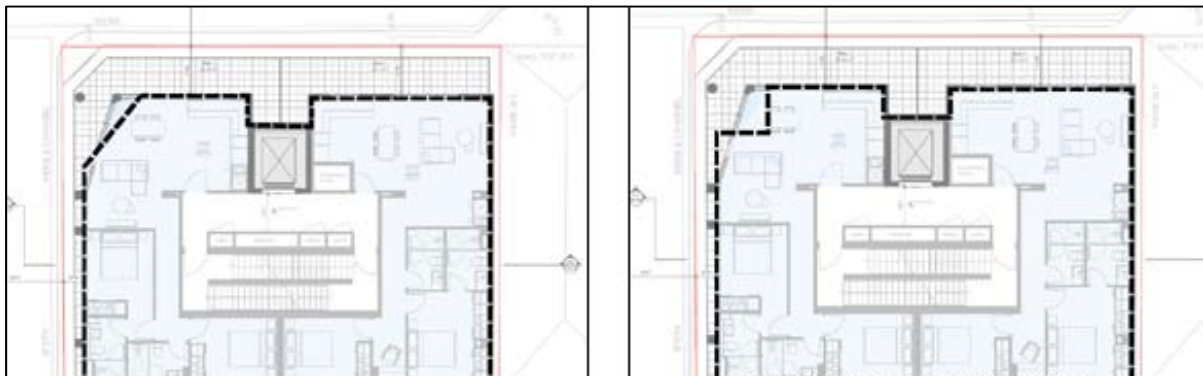
Context

- The proposal provides an appropriate response to context, offering multiple opportunities for the existing building to further integrate into the public realm.
- The proposal improves the relationship between the ground level tenancies and public realm through refurbishing existing windows with glazing. The active tenancies will likely improve the Hosier Lane precinct.
- The Site is located within an area in which scale, style and typology is varied – with a combination of building adaptations and additions set amongst older heritage forms.
- The proposed development presents as two simplified, distinct components (*a strong plinth base and a contemporary upper form*).
- The proposal does not attempt to replicate the existing heritage form however presents as a contrasting, playful response to site.

Public Interface

- One entrance on the north-east splayed corner is supported. The single entrance is acceptable given the heritage form is being retained. The single entrance may assist in concentrating pedestrian movement on the busy lane (Hosier Lane).
- The appearance and design of the south wall should be further interrogated to avoid a blank wall.
 - We suggest some integration of art, murals, materiality, etc.
- We recommend the north-east corner splay be further exaggerated at the tower component to relate to the retained heritage building.
- Furthermore, we query the 'peel back' of the north-east building edge on level 3 and request this angle better relate to the splay of the host building (Figure 10).

Figure 10: Relate the angle of the chamfer at level three to the angle within the host building.



The above diagrams have been prepared by the City of Melbourne's Urban Design team and are for discussion and explanation purposes only.

Massing

- We do not support projections over the site boundary.
- We note that there are minor projections (200mm) due to detailing of the façade's upper form. A marginal setback of 300-500mm may alleviate this and provide a consistent street wall.
- We support the building recess of 2000mm at level 3 creating a strong separation between new and old forms. The proposed tower sits comfortably within the context, removed from the host building through a meaningful 'transition' space between the host and tower form.

Design quality

- The window details should respond to the existing building's details.
- Further information relating to the upper form materiality is required to ensure they are robust and convey depth.
- We appreciate the opening of the bricked/enclosed windows to provide better amenity to users and providing passive surveillance opportunities to Hosier and Rutledge Lane. This should be included on the north elevation also.

Recommendations

There are several design detail matters we require to be resolved through further refinement:

- Remove projections over the site boundary. Marginally set-back tower from the building edge to alleviate the bulk of the upper form Flinders Street and Flinders Lane.
- Provide demolition plans and architectural drawings of existing building layout/use, etc.
- Clarification of detailing and treatment of the soffit at level 4.
- Clarification of the 'metal sheeting' material used to the upper form. Refine precedent imagery or provide a tactile materials board to further denote treatment.
- Align the splay/chamfer of the tower form with the existing splay of the host building.
- Investigate alternate angle of level 3 north-eastern chamfered edge.
- Open up enclosed windows on the northern elevation.
- Ensure retention of original windows and investigate multi-paned treatment for new windows.

Planner's Response

The applicant responded to the comments and advice provided above on 21 August 2019.

Their response included:

- Acceptance of a condition requiring the provision of visual interest to the south boundary wall via art, murals or materiality.

- Acceptance of a permit condition that would require further exaggeration of the north-east corner or the upper form.
- Noting that some of the windows on the north elevation could not be opened due to the existing structural columns that are located behind them.
 - The above accepted permit conditions are recommended to be included on any permit issued.

As mentioned at Section 2.3.2 of this report, the application was formally amended to include a 0.5m setback of the upper levels of the development above the existing heritage building in response to urban design's original advice.

A complete assessment of the relevant built environment and urban design policies is found at Section 13 of this report.

11.3 Traffic

The application was referred to the City of Melbourne's Traffic Engineers who acknowledged that the documents did not include a traffic impact assessment, nor did they include sufficient bicycle parking.

These comments were sent to the applicant. The applicant responded to these comments on 21 August 2019 stating that they would accept a permit condition requiring the number of bicycle spaces required by Clause 52.34 for serviced apartments (residential building).

The City of Melbourne's Traffic Engineers accepted this, commenting:

"I understand that it is proposed to construct an 11-storey building, comprising 36 serviced apartments & ground floor retail.

The applicant is now proposing to provide bicycle parking in accordance with the Melbourne Planning Scheme requirements, which is accepted & should be stipulate as a condition of permit. The design/dimensions of the bicycle parking should comply with the relevant Australian Standards or Bicycle Network guidelines."

Planner's Response

The applicant has agreed to a permit condition relating to bicycle parking on site, satisfying the requirements of Clause 52.34.

- It is recommended that a permit condition be included on any permit issued that requests the requirements of Clause 52.34 be satisfied prior to the commencement of the development.

11.4 Urban Services (Waste)

The application was referred to the City of Melbourne's Waste Services Department who provided the following comments:

*"We have reviewed the WMP for this proposal from Suho dated 28th October 2019 (DM#13519955 p.26) and found it to be **unacceptable**.*

The following items need to be addressed:

- *Please clarify how the basement level is accessed by tenants/residents to deposit hard waste and larger items that do not fit in the chutes.*

- *Given that all waste (including hard waste) at this development will be collected by a private operator, all bins are to be provided by the development. Reference to 240L bins to be provided by Council needs to be removed from p.31.*
- *Reference to collection days being determined by Council's collection service needs to be removed from p.31.*
- *CoM does not support daily truck movements within the municipality. Therefore, waste can be collected from the Café a maximum of 3 times per week, with our preference for as few collections per week as possible.*
- *The time that bins are placed kerbside on Rutledge Lane must be kept to a minimum. Therefore, collections should be co-ordinated with the collection contractor to minimise this time.*
- *Collections must occur as early in the morning as possible to conform with EPA Guidelines, thereby minimising risks to the large number of pedestrians that congregate in this high profile area.*
- *Bins must be placed on Rutledge Lane for collection. Please show individual bins drawn to scale on Rutledge Lane.*
- *Please show the truck stopping location.”*

Planner's Response

The City of Melbourne's waste guidelines have not been satisfied as identified above.

- The above items could be resolved by requesting an updated waste management plan through a condition on a permit if one is issued. This would adequately provide for reasonable control and management of the waste generated by the proposal in accordance with the City of Melbourne's waste guidelines.

11.5 Civil Design

The application was referred to the City of Melbourne's Civil Design Engineers who requested that the standard civil design conditions be included on any permit issued as well as the following comments.

“The architectural drawings indicate pedestrian access at the north-east corner of the building. The developer shall provide DDA compliant pedestrian access from the subject lane to Flinders Street and Flinders Lane. The works should include modification to the existing surface pavement completed to the satisfaction of the City of Melbourne.

The existing corner splay located at the north-east corner of the site shall be vested in Council as a road.

The existing buffer kerb and narrow footpath adjacent to the subject site along Hosier Lane shall be reconstructed with a new 300mm wide bluestone kerb to the satisfaction of the City of Melbourne.

It is noted that the existing vehicle crossing in Hosier Lane does not meet with our current standards. The vehicle crossing shall be reconstructed in asphalt with bluestone edges to the satisfaction of the Responsible Authority.

The proposed development has impact on wall-mounted street lights attached to the existing building in Hosier and Rutledge Lanes. The street lights impacted as a result of the works should be reinstated in accordance with the requirements and to the satisfaction of the Responsible Authority.”

Planner's Response

The provided conditions will adequately address the relevant civil design requirements.

- It is recommended the provided conditions be included on any permit issued.

11.6 Environmentally Sustainable Design (ESD)

The application was referred to the City of Melbourne's ESD and Green Infrastructure team who advised on 6 September that the amended Environmentally Sustainable Design Statement was satisfactory.

In addition to their comments, they provided recommended permit conditions.

Planner's Response

The provided permit conditions will adequately ensure that the proposed development will meet the ESD requirements of the Melbourne Planning Scheme.

- It is recommended the provided conditions be included on any permit issued.

12 EXTERNAL REFERRALS

The application was not required to be referred externally.

13 ASSESSMENT

The application seeks planning approval for the partial demolition, external alterations and buildings and works to construct an eight storey addition, and a reduction of bicycle facilities associated with a residential building.

The key issues in the consideration of this application are:

- Land Use.
- Heritage.
- Built Environment (urban Design)
 - The design objectives and built form outcomes of DDO2
- Sustainable Design.
- Bicycle Facilities.
- Potentially Contaminated Land.
- Live Music and Entertainment Noise.
- Objector Concerns.

13.1 Land Use

The proposal seeks to use the land for the purpose of a residential hotel (accommodation) and two ground level retail premises. Both proposed uses are as-of-right land uses in the Capital City Zone at Clause 1.0 of Clause 37.04, Schedule 1, of the Melbourne Planning Scheme and do not require a planning permit.

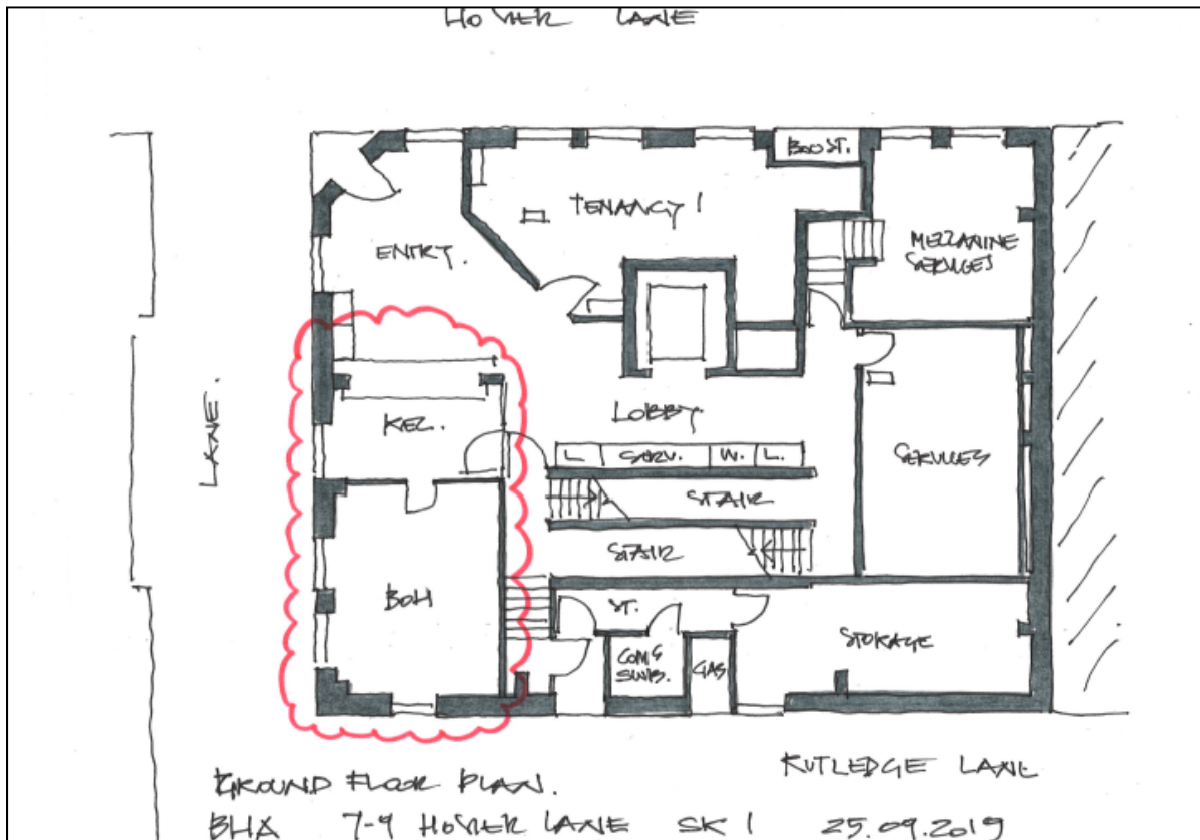
To address the objections received in response to the proposed use(s), the purpose of the Capital City Zone Schedule 1 (CCZ1) is to provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.

The proposed land use, 'accommodation', which will occupy the predominant share of floor space within the building, will directly serve the purpose of the CCZ1 and support the continued development and growth of the broad range of accommodation options within the Central City.

Through on-going discussions with the applicant, it was agreed that it would be necessary to provide a reception and back of house to allow for the appropriate daily operation of the use and to allow guests to 'check-in'. The applicant agreed in writing on 24 September 2019, that should a permit be issued, a condition be included requiring the replacement of the larger ground floor tenancy with a reception and small back of house.

On the 26th of September 2019, a draft sketch of the ground floor layout was provided as per Figure 11 below.

Figure 11: Draft Ground Floor Plan with Reception and Back of House



Concerns regarding the safety and security of the site could be addressed via a permit condition requiring an operational management plan prior to the commencement of the use.

- o It is recommended that an operational management plan and amended plans that show a ground level service desk and back of house be included on any permit issued.

13.2 Heritage

The key issues for consideration relating to heritage include the appropriateness of the proposed demolition to the façade, roof and internals of the building and the impact the new development will have on the subject site, surrounding heritage built form and the Flinders Lane Precinct.

Clause 22.04 (Heritage Places within the Capital City Zone) recognises the importance of the Flinders Lane Precinct identifying:

'An intense period of building between 1900 and 1930 resulted in taller buildings incorporating large showcase windows to both ground and basement floors, characteristically separated by a floor line approximately 1 metre from the ground. The new buildings of the 1970s and 1980s were even taller, more architecturally pretentious, and presented a display to the street. Flinders Lane retains buildings from all three eras, and presents a striking physical display of the changing pattern of trading activity in Melbourne'.

Key attributes are identified as being:

- The scale and character of the six and seven storey office and warehouse buildings constructed in Flinders Lane before the Second World War and the predominant building forms and materials of the precinct.
- The traditional association with 'Rag Trade' activities, other creative professions, or dwellings.
- The large showcase windows at the ground and basement floors of the warehouse offices constructed before the Second World War.

The subject site has been afforded a C grading pursuant to the *Central City Heritage Review Study* (1993).

Clause 22.04 requires the recommendations for individual buildings, sites and areas contained in this study to be taken into consideration.

The appropriateness of the proposal having regard to heritage considerations is discussed below.

13.2.1 Demolition

Clause 22.04 states that the demolition or alteration of any part of a heritage place should not be supported unless it can be demonstrated that the action will contribute to the long-term conservation of the significant fabric of the heritage place.

Within the Heritage Impact Statement submitted with the application prepared by Michael Taylor Architecture and Heritage dated 30 September 2018 the following is noted in regard to demolition:

'Façade restoration will have the beneficial effect of representing the building to the street while restoring the facades to earlier appearance and improving the building's material condition through conservation works to brickwork, parapets and downpipes'.

The proposed demolition will not have an unreasonable adverse impact on the significance of the heritage places and is an acceptable response the relevant heritage policies for the following reasons:

- The extent of proposed demolition includes the removal of internal fabric (not subject to planning approval), removal of bricked up openings on the north and east facades to allow for the re-opening of windows and demolition of the entire roof structure, to facilitate the addition above the existing building (Figure 12).
 - There are existing structural columns behind a total of six windows located on the north elevation of the site facing Rutledge Lane on level 1 and level 2. It is accepted that opening these windows is not required as they would not allow for a meaningful use (Figure 13 & 14).

Figure 12 – Proposed elevation showing reinstated window openings



Figure 13 – Floor plan showing structural columns on the north side of the site

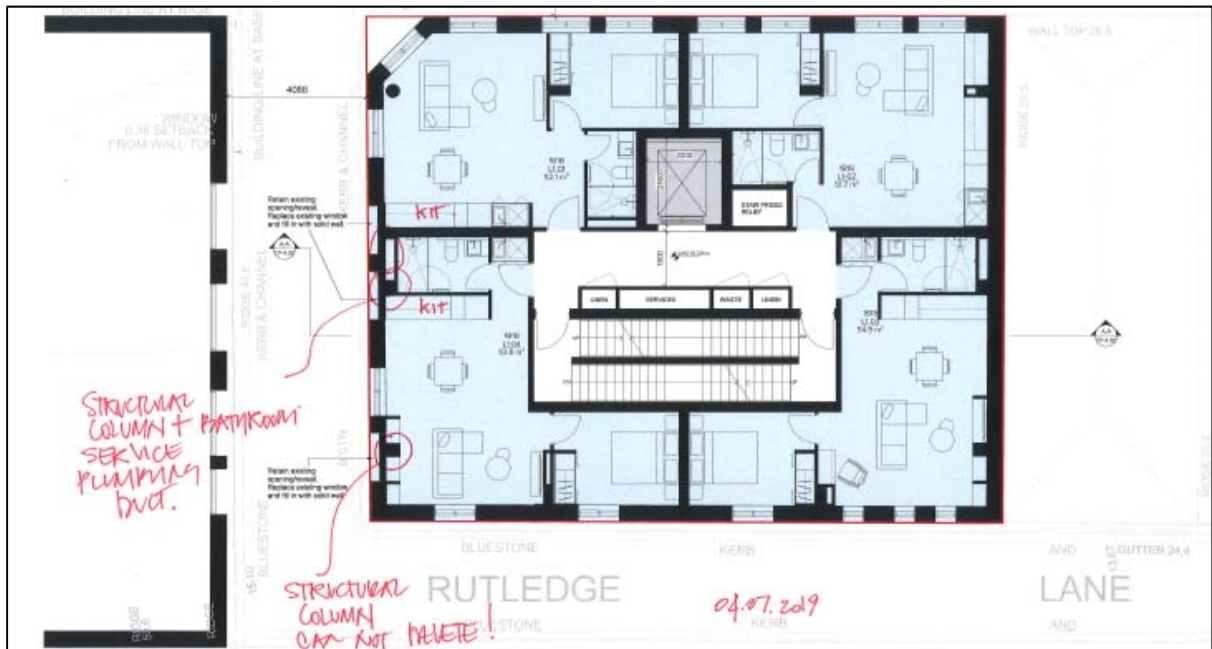
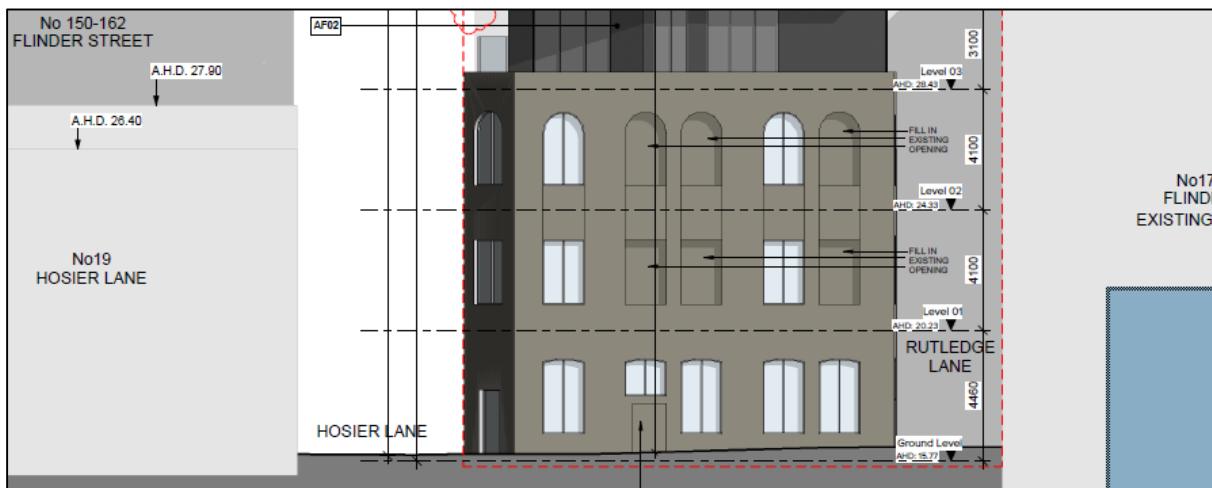


Figure 14 – Proposed north elevation showing windows closed due to structural columns



- The extent of demolition sought by the application will ensure the character and appearance of the heritage building as viewed from surrounding laneways is largely unaltered. Notably, the elements of the building that are to be demolished (including the roof), make no appreciable contribution to the presentation of the heritage building as viewed from the laneway due to the building's taller scale and the limited viewing angles available to the development within the narrow Hosier laneway environment.
- Provision of a nominal 500mm setback to the upper-storey addition will ensure that the retained heritage building is the most prominent built form element presenting to the street, and (noting the very narrow laneway environment, which restrict viewing angles of upper-level additions), will contribute to the impression of the retained heritage building's integrity.
- The proposed demolition will allow for the long-term conservation and use of the heritage place while allowing for the retrofitting of the building for the purposes of accommodation.
- The proposed external demolition will allow for the restoration of the buildings and its openings which will enhance its character and appearance to the public realm.
- While it is noted that C258 discourages façadism, the above assessment stands as the works will maintain the existing building levels and make use of the existing opening in a meaningful manner. This will provide for an acceptable balance of restoration and development of a heritage place for ongoing enjoyment and conservation.

13.2.2 New Addition

The proposed eight level addition above the heritage building is not considered to unreasonably impact on the significance of the heritage place and its contribution to the Flinders Lane Precinct.

The form of Melbourne City Council's Heritage Policy submitted for approval under Amendment C258 states that is it policy that additions to contributory buildings:

- are respectful of the building's character and appearance, scale, materials, style and architectural expression.
- do not visually dominate or visually disrupt the appreciation of the building as it presents to the street.
- maintain the prominence of the building by setting back the addition behind the front or principal part of the building, and from other visible parts and moderating height.
- do not build over or extend into the air space directly above the front or principal part of the significant or contributory building.
- retain significant roof form within the setback from the building façade together with roof elements of original fabric.
- do not obscure views of façades or elevations associated with the front or principal part of the building.

The proposed addition is considered to be an acceptable response the relevant heritage policies for the following reasons:

- The proposed development responds to the higher built form scale key attribute of the Flinders Lane Precinct.
- The upper level design, materials and colours successfully responds to street art character and history of Hosier Lane (Figure 15).

- The height of the proposed building and upper level setback is consistent with the existing built form in the immediate surrounds (Figure 16), excluding the south adjoining site and the site to the east at 25 Russell Street. It is noted that 25 Russell Street is currently subject to an application for a multi-level building.
- As identified by Council's Heritage Advisor, the external alterations to the retained heritage façade will breathe new life into the building, restoring and enhancing its presentation to the public realm.
 - It is recommended that a permit condition relating to conservation works including the removal of paint be included on any permit issued to ensure the external fabric of the building is not damaged.

Figure 15: Proposed perspective looking up from Hosier Lane



Figure 16: Flinders Lane streetscape at the intersection of Hosier Lane



While the proposed development deviates from the new policy expectation that additions not extend over the airspace above the front or principal part of the heritage building (by not providing a greater setback behind the retained heritage building), it is considered that the design of the new additions are acceptable in this specific instance for the following reasons:

- The laneway context assists the proposal, noting that such minimal setbacks would not be acceptable if the building was located in a more prominent and visible location with wider vistas (allowing for wider viewing angles of taller elements at street level). Given that the Site is located in a narrow laneway enclosed by taller built form, provision of a 500mm setback will provide sufficient horizontal separation to promote the visual prominence of the heritage fabric (which will continue to dominate the site's presentation at street level) and recessive presentation of the new additions.

The addition of a recessed waist above the heritage building will further contribute to the prominence of the retained heritage building when viewed at street level, by providing vertical separation between the heritage building and proposed addition, achieving clear delineation between old and new and ensuring the heritage building can be read as a distinct entity from all viewpoints.

- The built form in the immediate surrounds includes development typologies (new additions constructed above existing heritage buildings) of similar heights with similar nominal setbacks, providing an established character for how heritage buildings are treated within the surrounding laneway environment.
- The proposal provides an on-balance appropriate design response when considered against the full suite of competing policies for the site, the specific site conditions and the site's unique laneway, through including:
 - Nominal setbacks that respond to the existing built environment context.
 - Separation between the addition and heritage building, retaining the prominence of the host building.
 - A design response that has a strong urban design narrative with a high level of compliance with urban design policy.
 - Extensive conservation works to the building facade that will enhance the appearance of the building and its longevity, as confirmed by Council's Heritage Advisor, providing net community benefit.

In summary, the proposed addition / new building provides an acceptable response to the built form policy of Amendment C258 by:

- Responding to the key attributes of the Flinders Lane Precinct which includes taller buildings with minimal setbacks.
- Including a setback from the façade of the contributory building.
- Adopting a contextual design response.
- Not obscuring views of the host or adjoining heritage buildings.
- Avoiding reproduction of the form of historic fabric.

13.3 Built Environment

The proposed works are an acceptable response to the purpose and decision guidelines of the Capital City Zone and relevant built environment (urban design) policies for the following reasons:

- The proposed works align with the purpose of the Capital City Zone as they seek to provide for Section 1 uses (no permit required) that complement the function of the locality.

- The proposal acknowledges the character of the existing host building and presents an addition that does not unreasonably detract from the public realm or built form character at Hosier Lane which includes several buildings of a similar height.
- The design of the proposal is well integrated with the street and adjoining properties as it responds to the general height and setbacks of the properties to the north, east and west.
- The proposed site access point is well defined and is not likely to unreasonably impact on the flow of pedestrians on Hosier Lane.
- The proposed ground level inserts activation by including retail uses that will enhance the pedestrian experience and safety.
- The proposal responds to Clause 22.20 relating to CBD lanes by:
 - Activating the ground and upper levels overlooking Hosier Lane.
 - Maintaining opportunity for street art to thrive.
 - Locating most of the building services at Rutledge Lane which is the lowest Class of lane at Clause 22.20 (Class 3).
 - Avoiding visual obstruction to other streets or lanes in the pedestrian network.
- The proposal does not cast any additional shadow on the key public spaces listed at Clause 22.02, nor does it introduce an unreasonable reduction of solar access to Hosier Lane. While it is acknowledged that the proposed development has marginal shadow impacts to Rutledge Lane at 9am, and introduces impacts to Rutledge Lane at 12noon and Hosier Lane at 3pm, these impacts are balanced through enhancing the appearance of the existing heritage building and activating the ground level frontages of the site (Figure 17, 18 & 19).

Figure 17 – Shadow diagram, 9am (existing, originally proposed and amended plans)

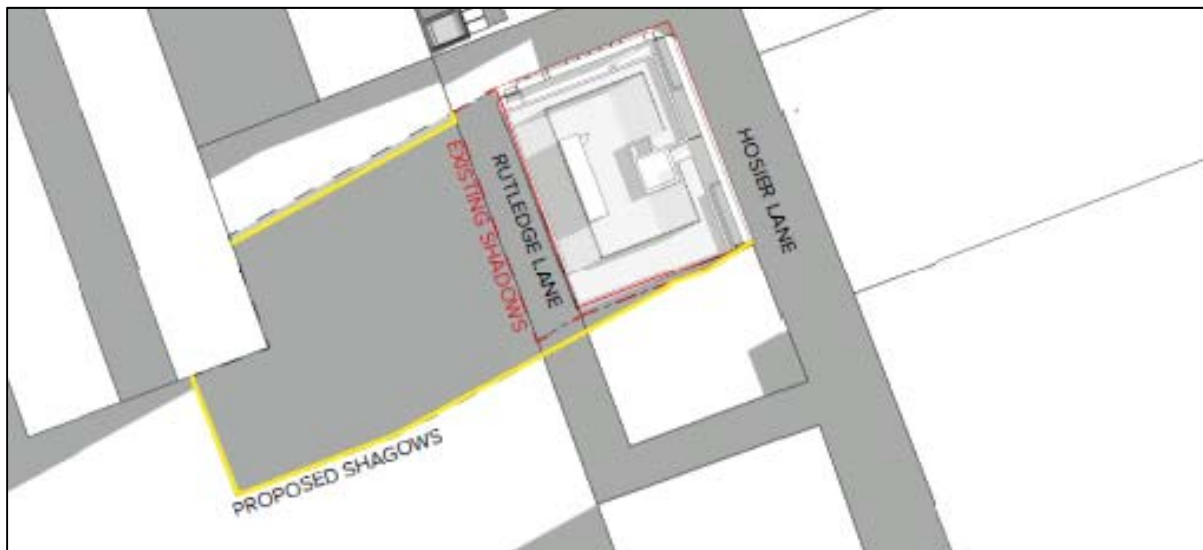


Figure 18 – Shadow diagram, 12noon (existing, originally proposed and amended plans)

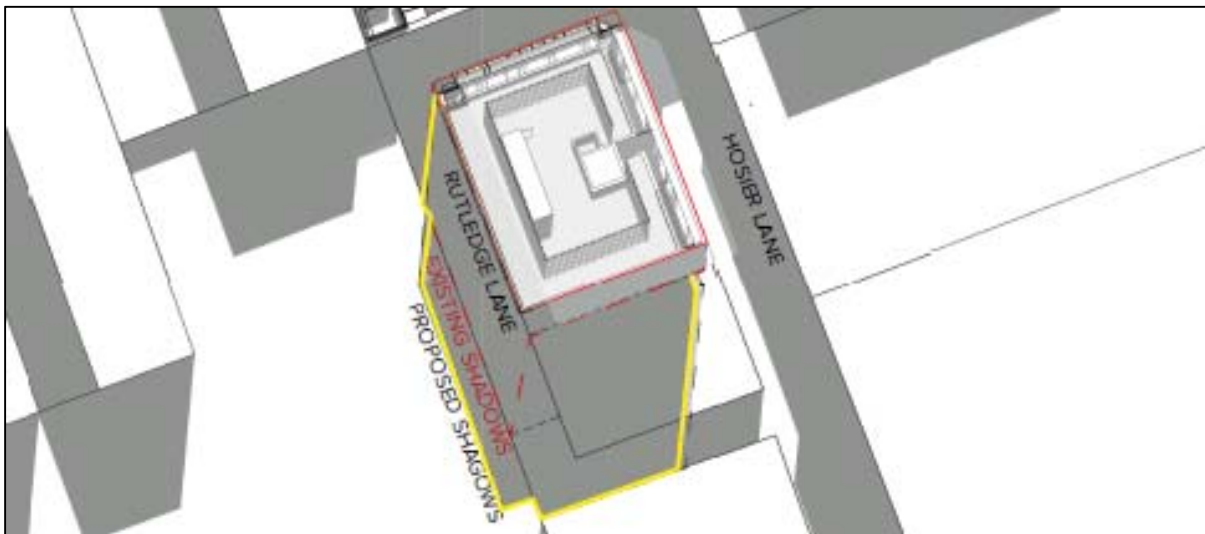


Figure 19 – Shadow diagram, 3pm (existing, originally proposed and amended plans)



In addition to the above, the following assessment of the relevant performance standards found at Clause 22.01 is to be used as a method to assess the proposed works.

13.3.1 Building Envelope

The proposal appropriately addresses Clause 22.01-1 relating to the building envelope based on the following:

- The existing street wall height of the building is maintained and does not impact on the key vistas listed at Clause 22.01-1.
- The proposal includes a setback that responds the built form context within the immediate surrounds. Further, Hosier Lane and Rutledge Lane provide adequate separation between the proposed building and the existing surrounding built form.
- While the new levels are built on the shared boundary with the site to the south, this site's access to sunlight is not affected as it is also built to all boundaries and does not include any open areas.
- The overall building envelope design response acknowledges the heritage context of the precinct and response to the emerging higher built form character of the area.

13.3.2 Building Design

The proposal appropriately addresses Clause 22.01-2 relating to building design for the following reasons:

- The lower levels of the retained building maintain the existing street wall continuity as they are built to the site boundaries.
- The proposed upper level form contains a contextual building design that includes a recess, setback and architectural treatment that enables the podium and tower format to be distinct yet cohesive.
- The proposal includes context responsive setbacks to ensure that the addition does not introduce unreasonable height or bulk impacts that would unreasonably detract from the viewing of the adjoining heritage buildings.

13.3.3 Facades

The proposal appropriately addresses Clause 22.01-4 relating to facades by:

- Providing an upper level design response that speaks to the colourful street art history of Hosier Lane.
- The proposed addition presents with high quality material and details, addressing the Rutledge and Hosier Lane frontages and a cohesive manner.
- Providing north, east, and west elevations that provide visual interest.
 - The blank south wall of the proposed development could be improved through a permit condition requiring the inclusion of materiality / art / or visual interest. This should form a condition applied to any permit issued.
- Accepting the street art context of Hosier Lane accepting graffiti rather than introducing graffiti proofing measures.
- Reinstating the primary and secondary frontage window details of the site to improve the presentation of the heritage building.

13.3.4 City and Roof Profiles

The proposal appropriately addresses Clause 22.01-5 relating to city and roof profiles for the following reasons:

- The proposed roof form is integrated within the overall building form.
- The proposal adequately conceals the building services through setbacks.
- The simple roof form of the proposal will not have an unreasonable impact on the street block city skyline which is dense and varied.
- The roof is well design and not likely to introduce visual clutter when viewed from higher buildings.

13.3.5 Projections

The proposal appropriately addresses Clause 22.01-6 relating to projections based on the following:

- The projecting architectural details / fins over Rutledge Lane on the west elevation are minor (0.2 metres) and light weight; they do not unreasonably detract from the character of the area.
- The projections do not impact on any street trees, and are well above the 5 metre height requirement of the City of Melbourne's Road Encroachment Operational Guidelines.

13.3.6 Access and safety

The proposal appropriately addresses Clause 22.01-9 relating to access and safety by:

- Locating the main building entrance on the primary frontage of the site, adjacent to active uses.
- Avoiding alcoves and unsafe spaces.
- Locating the storage of waste on site.

13.4 DDO2

The proposed development is an acceptable response to DDO2 and its design objectives for the following reasons:

- The proposal does not introduce unreasonable shadow impacts on the places listed in Table 1 and 2 of Clause 43.02, Schedule 2.
- The architectural response is high quality as it is pedestrian focused and respectful to the nearby heritage buildings.
- The proposed development includes a pedestrian focused ground level interface and link that enhances the streetscape.
- The proposal is well integrated into the unique built form character of the area without unreasonably impacting on the public realm.
- The proposal complies with the design objectives, built form outcomes and design elements of DDO2 (Table 4 and 5 of DDO2) (see Section 13.4.1 and 13.4.2 of this report for a detailed assessment of these items).

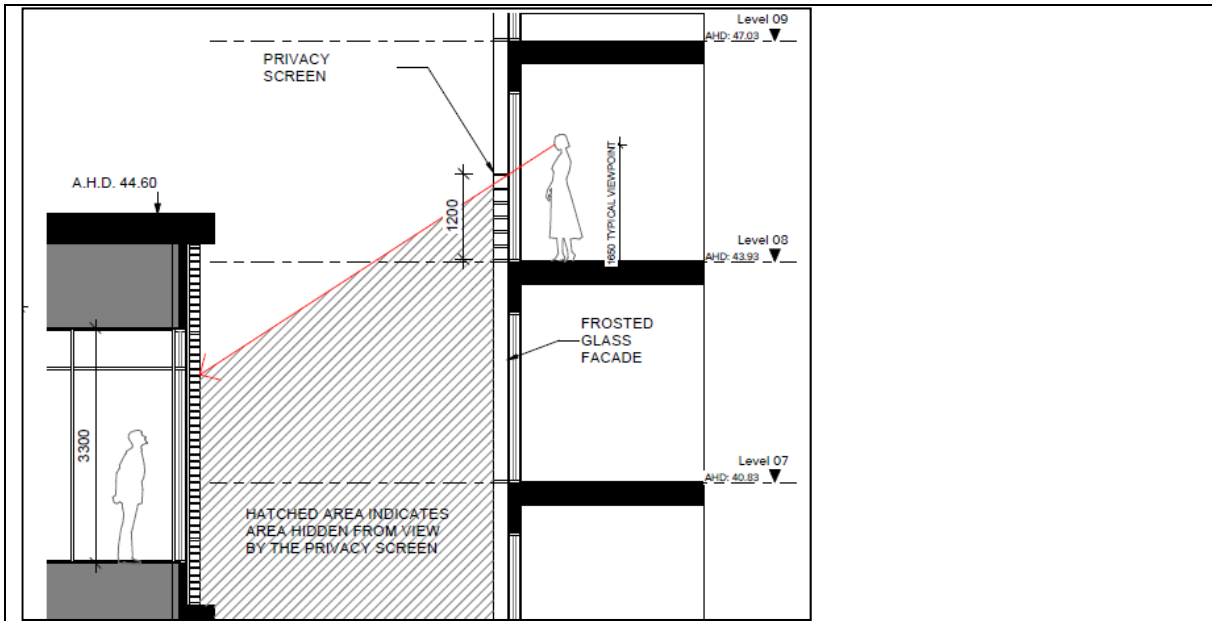
13.4.1 Table 4 to Clause 43.02, Schedule 2

Area	Preferred Building height	Design Objective
5	40 metres	The scale of development complements and is compatible with the nearby retail core. St Paul’s Cathedral remains the dominant building on the Flinders Street skyline between Swanston and Russell Streets. The Parliamentary buildings remain dominant in vistas along Bourke Street. Upper levels are visually recessive from streets and laneways.
Assessment		
<p>Clause 43.02-2.1 defines ‘total building height’ as the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of non-habitable architectural features not more than 3.0 metres in height and building services setback at least 3.0 metres behind the façade.</p> <p>The proposed development will have a total building height of 38.28 metres with the building services proposed to be setback 3.38 metres from the façade.</p> <p>The scale of development is acceptable as it is slightly lower than the preferred building height and does not visually dominate the sites listed in the design objective.</p> <p>The upper levels are an acceptable response to the intimate laneway which includes buildings of a similar height with similar setbacks of approximately 0.5 metres.</p> <p>The upper levels are distinct from the retained heritage form which maintains its prominence within the laneway.</p>		

13.4.2 Table 5 to Clause 43.02, Schedule 2

Design Element - Street wall height	
Requirement	Built form Outcomes
The street wall height should not exceed 20 metres, or the preferred building height, whichever is lower.	<p>Street wall height is scaled to ensure:</p> <ul style="list-style-type: none"> ▪ a human scale. ▪ consistency with the prevalent parapet height of adjoining buildings. ▪ height and setback that respects the scale of adjoining heritage places. ▪ adequate opportunity for daylight, sunlight and sky views in the street.
Assessment	
<p>The existing three storey street walls to Hosier and Rutledge Lanes are being retained.</p> <p>The existing building and retained features result in the street wall measuring 13.26 metres, complying with the 20 metre maximum requirement.</p> <p>The scale of the street wall height is consistent with the existing built form at this section of Hosier Lane and is therefore respectful to the heritage context.</p> <p>The proposed street wall is of a human scale and does not unreasonably further impact on the existing opportunity for sunlight and sky views from the street.</p>	
Design element – Upper level setbacks	
Requirement	Built form Outcomes
Above the street wall, upper levels of a building should be setback a minimum of 5 metres.	<p>Buildings are setback to ensure:</p> <ul style="list-style-type: none"> ▪ larger buildings do not visually dominate the street or public space. ▪ the dominant street wall scale is maintained. ▪ sun penetration and mitigation of wind impacts at street level.
Assessment	
<p>The proposal does not include the preferred 5 metre setbacks above the street wall; it includes a 0.5m setback.</p> <p>Despite the requirement not being met, the proposed upper level setbacks are acceptable in this instance as they respond to the existing built form context in the immediate surrounds; this context includes a very narrow laneway environment and buildings of a similar height with similar setbacks, contributing to an established sense of enclosure within the lane.</p> <p>The height of the proposed development, which does not exceed the preferred height requirement (40 metres), and sits comfortably below the requirement at 38.28 metres, further ensures that the reduced setbacks will not contribute to an undesirable level of visual dominance over the laneway environs.</p> <p>The presence of Hosier Lane and Rutledge Lane allows for adequate building separation that will enable sun penetration and mitigate unreasonable wind impacts.</p> <p>The proposed building does unreasonably dominant the laneways which already adjoin similarly developed sites.</p>	
Design element – Setback(s) from side boundary	
Requirement	Built form Outcomes

<p>Above 40 metres, upper levels of a building should be setback a minimum of 5 metres from a side boundary.</p> <p>If a laneway: Above 20 metres, upper levels of a building should be setback a minimum of 5 metres from the centreline of a laneway.</p>	<p>Buildings are setback to ensure:</p> <ul style="list-style-type: none"> ▪ provision of adequate sunlight, daylight, privacy and outlook from habitable rooms, for both existing and proposed developments. ▪ provision of adequate daylight and sunlight to laneways. ▪ buildings do not appear as a continuous wall at street level or from nearby vantage points and maintain open sky views between them. ▪ taller buildings transition down in height to adjacent areas that have a lower height limit, so as not to visually dominate or compromise the character of adjacent existing low-scale development areas.
<p>Assessment</p>	
<p>The proposed development is not higher than 40 metres and is not required to include a setback to the side boundary of the site shared with 3-5 Hosier Lane to the south. Regardless, 3-5 Hosier Lane does not include any private open space or habitable room windows that would be affected by the proposal as the shadows cast only affect the roof of the structure.</p> <p>The other side boundary to the north adjoins Rutledge Lane and is preferred to be setback 5 metres from the centre line of the laneway above a building height of 20m.</p> <p>Above 20 metres, the proposed development is setback approximately 2.5 metres from the centre of Rutledge Lane (0.5 metre setback from the site boundary).</p> <p>Despite the setback not meeting the requirement, it is acceptable in this instance as the proposed upper levels response to the immediate built form context and the minimal impacts to the public realm and adjoining properties. The relevant context includes:</p> <ul style="list-style-type: none"> ▪ A building to a height of 29.155 metres with a 0.435 metre setback to Rutledge Lane at 167-173 Flinders Lane, Melbourne. ▪ An approved building (TP-2011-88) to a height of 25.765 metres with zero setback which is then set back 2 metres from Rutledge Lane to a height of 44.015 metres at 172-192 Flinders Street, Melbourne. <p>As demonstrated in the shadow diagrams at Figure 14, 15 and 16, the proposed development does not introduce unreasonable overshadowing to the existing laneways as the impacts apply to different sections of the lane network at different times of the day.</p> <p>While it is acknowledged that Rutledge Lane is intimate and already contains higher built form with minimal setbacks, the proposed building does not a continuous wall at street level. This is achieved through including a recess at Level 03 and through included a distinct and setback upper form.</p> <p>Directly north of the subject site, across Rutledge Lane, are the habitable room windows of Level 5 at 167 Flinders Lane. Given the orientation of the site, sunlight and daylight will not be impacted upon by the proposed development.</p> <p>To alleviate potential overlooking concerns, frosted glazing and perforated mesh screening is proposed at Levels 07 and 08 to prevent downward and direct views as shown in Figure 20 below.</p> <p>Figure 20: Overlooking Section from Drawing No. TP-4.00</p>	



Design element – Setback(s) from rear boundaries

Requirement	Built form Outcomes
<p>Above 20 metres, upper levels of a building should be setback a minimum of 5 metres from a rear boundary, or from the centreline of a laneway.</p>	<p>Buildings are setback to ensure:</p> <ul style="list-style-type: none"> ▪ Provision of adequate sunlight, daylight, privacy and outlook from habitable rooms, for both existing and proposed developments. ▪ Taller buildings transition down in height to adjacent areas that have a lower height limit, so as not to visually dominate or compromise the character of adjacent existing low-scale development areas.

Assessment

The rear (west) boundary adjoins Rutledge Lane and is preferred to have any building above 20 metres setback 5 metres from the centre line of the laneway.

Above 20 metres, the proposed development is setback approximately 1.85 metres from the centre of Rutledge Lane (zero setback from the site boundary).

While the requirement is not met, the proposed built form responds to its context which is acknowledged to be intimate and dense. This is acceptable given that Rutledge Lane is presently used mainly for back of house and waste services.

Given that the building across from the Site at 172-192 Flinders Street, Melbourne is currently used as a carpark and approved to be used as an office, the lack of setback does not introduce significant concerns relating to amenity.

A greater setback to the rear laneway is not required as the lane is predominately used for services and access, noting the new retail tenancy at the west adjacent site is located south of the subject site.

13.5 Wind

In terms of wind impacts, it is noted that there are requirements contained in DDO2 that apply to the proposal. In this instance as the proposal does not exceed 40 metres, there is no requirement for a wind analysis report.

13.6 Internal Amenity

The internal amenity of the proposed short-stay accommodation rooms is acceptable. All rooms are generous in size and have access to natural light and air because they have been oriented north, east or west.

13.7 Sustainability

13.7.1 Energy, Water and Waste Efficiency

The proposed development is considered to comply with the performance measures set out in Clause 22.19-5 for development, noting the following:

- The energy targets for the development are considered to be good, and aligned generally with industry best practice for similar building typologies.
- The building is proposed to have a solar PV system on the rooftop to provide renewable energy to the common building services. Should a permit be issued, a condition will be included requiring this system to be shown on the plans.

An updated Waste Management Plan (WMP) was provided with the second amendment to the application. This WMP was reviewed by Council's Waste Services Department who highlighted several aspects of the plan that required updating in line with Council's Waste Guidelines. Should a permit be issued, this would be required to be addressed prior to the commencement of works.

13.7.2 Stormwater Management (Water Sensitive Urban Design)

Clause 22.23 provides that it is policy that development applications relating to new buildings incorporate water sensitive urban design that achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Guidelines, CSIRO 1999 (or as amended).

The permit applicant has supplied a STORM Rating Report identifying that the development has the preliminary design potential to achieve a STORM rating of 105% utilising a 3,000 litre rainwater tank.

Standard conditions (Civil Engineering) will be included on any permit being granted, as recommended by the City of Melbourne's Principal Engineer (Infrastructure), to ensure that the development complies with Local Planning Policy Clause 22.23.

13.8 Bicycle Parking

The application was referred to Council's Traffic Engineering Department for review. The comments are provided at Section 13.1.3 of the report.

Pursuant to Clause 52.34 (Bicycle Facilities), the parking rate for a residential building other than specified in this table is:

- In developments of four or more storeys, 1 to each 10 lodging rooms for employees.
- In developments of four or more storeys, 1 to each 10 lodging rooms for visitors.

The proposed includes a total of 36 lodging rooms and therefore produces a parking demand for four spaces for employees and four spaces for visitors (rounded to the next whole number as per Clause 52.34).

The original proposal did not seek to provide any bicycle parking on site.

It is noted that Council's Traffic Engineering Department objected to the proposed reduction to the bicycle parking requirement having regard to the City of Melbourne's vision of becoming a cycling city.

Having regard to the concerns raised by objectors and through on-going consultation, the applicant consented that should a permit be issued, a condition could be included requiring the provision of eight bicycle spaces in accordance with Clause 52.34 of the Melbourne Planning Scheme.

13.9 Contaminated Land

Clause 13.03-1 (Use of contaminated and potentially contaminated land) provides objectives, strategies and policy guidelines that direct the Responsible Authority to require investigation into potentially contaminated land (in addition to requiring remediation of this land so that the land is fit for the proposed future land use – if the land is found to be contaminated).

According to the submitted Heritage Impact Statement, the subject site has historically been used for a warehouse.

As the proposed development is for a sensitive use and also involves excavation associated with the basement, a condition on any permit issued would require a Preliminary Environmental Assessment (PEA), and subsequently a Comprehensive Environmental Assessment (CEA) and/or Environmental Audit if required.

- The standard PEA and CEA permit conditions are recommended to be included on any permit issued.

13.10 Live Music and Entertainment Noise

Clause 53.06 (Live Music and Entertainment Noise) seeks to ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.

This clause applies to an application required under any zone of this scheme to construct a building or construct or carry out works associated with a noise sensitive use that is within 50 metres of a live music entertainment venue.

The subject site is within close proximity to the Forum Theatre at 150-162 Flinders Street. The Forum Theatre is considered to be a live music entertainment venue as defined at Clause 53.06-2.

While a residential hotel is not included within the definitions of a 'noise sensitive residential use' at Clause 53.06-2, an assessment against the decision guidelines has still been provided.

The applicant provided an Acoustic Assessment prepared by Acoustic Logic and dated 15 February 2019 which has considered that potential noise impact from operation of the Forum Theatre on the proposal.

The Acoustic Assessment recommended;

- The apartments to incorporate acoustic glazing to reduce external music noise levels within the apartments.
- Installation of background sound masking within habitable rooms to raise internal background noise levels, noting that this would only be required to be used when high noise level generating activities within the Forum were being performed.
- External walls that incorporate precast or masonry wall will not require upgrading acoustically; lightweight external construction will require attention.

Based on the above recommendations the development will comply with the State Environment Protection Policy.

- The recommendations in the submitted acoustic assessment should be referred to in a permit condition on any permit issued to provide for the control of noise impacts to the occupants of the proposed development.

13.11 Objector Concerns

Where concerns raised in an objection have not been addressed in the above assessment, these matters have been separately considered below.

13.11.1 Loss of Privacy and Overlooking to Apartments to the South

Concerns have been raised regarding potential overlooking to balconies and habitable room windows to the south of the subject site at 164-170 Flinders Street.

When considering overlooking, policy requires development to be designed to avoid direct views into a habitable room window or the secluded private open space of an existing dwelling within a horizontal distance of 9 metres.

As the subject site is located appropriately 15 metres away from the habitable room windows and balconies of the dwellings to the south, direct overlooking satisfies planning requirements.

13.11.2 Loss of Existing Ground Floor Tenancy

The loss of a retail tenancy in association with a proposed development does not fall within the remit of City of Melbourne's discretion when assessing a planning application in accordance with the *Planning and Environment Act 1987* and the *Melbourne Planning Scheme*.

13.11.3 Lack of On-Site Car Parking

The subject site is affected by the Parking Overlay – Schedule 1. Pursuant to Schedule 1 of Clause 45.09, a permit is required to provide car parking spaces in excess of the car parking rates in Clause 3.0 of this schedule. This does not include the provision of additional car parking, to the satisfaction of the responsible authority which is required to serve on site use for dwellings or a residential hotel.

The proposal does not seek to have any on site car parking spaces. Therefore, no planning permit is required pursuant to the Overlay.

The purpose of Clause 45.09, Schedule 1, is to reduce car parking and car use in the Capital City Zone. The lack of car parking is therefore encouraged.

It is noted that the site is well serviced by public transport.

13.11.4 Pedestrian Congestion within Hosier Lane

Concern was raised with regard to the current congestion within Hosier Lane by pedestrians wanting to view the street art on display, and potential for the residential hotel to further exacerbate the issue.

Given the nature of the use as serviced apartments, as opposed to an office or other commercial based use, it is not considered that the new building will result in an unreasonable impact on the congestion currently found within the lane.

13.11.5 Property Devaluation

The loss of income or devaluation of a property, in association with a proposed development, does not fall within the remit of the City of Melbourne's discretion when assessing a planning application in accordance with the *Planning and Environment Act 1987* and the *Melbourne Planning Scheme*.

13.11.6 Construction Concerns

Concern was raised regarding noise and vibrations from the construction activities. It is noted that should a planning permit be granted, prior to any demolition or buildings and works commencing a building permit must also be obtained under the Building Act 1993.

Should a permit be issued, a condition will be included requiring the submission of a Construction Management Plan (CMP) to the satisfaction of the Responsible Authority. The CMP will be required to meet Council's Construction management Guideline.

13.11.7 CoM Green Your Laneway Initiatives

The City of Melbourne has established the Green Your Laneway program to help transform the city's laneways into leafy, green and useable spaces for everyone to enjoy.

Hosier and Rutledge Lanes have been marked as having the lowest potential for going green, based on the amount of sunlight they receive, exposure to wind and other physical characteristics.

13.12 Conclusion

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

14 RECOMMENDATION

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

15 CONDITIONS

Amended Plans

1. Prior to commencement of development, including demolition and bulk excavation, an electronic copy of the plans, drawn to scale must be submitted to the Responsible Authority generally in accordance with the plans titled TP 1.00, 1.01, 2.00-2.05, 2.08-2.12, 3.00-3.03, 4.00, 7.00, prepared by Bruce Henderson Architects, dated 20 March 2020, but amended to show:
 - a) A minimum of eight bicycle spaces (four for employees and four for visitors) to be provided on site.
 - b) The ground floor including a reception desk, back of house facilities and subsequent internal reconfigurations, generally in accordance with the discussion plan prepared by Bruce Henderson Architects dated 25 September 2019.
 - c) Plans at a scale of 1:50 detailing the re-opening of the windows on the Hosier Lane façade.
 - d) The inclusion of art, murals and / or materiality to the south elevation of the development.
 - e) The north-east corner of the upper form further exaggerated/redesigned to respond to the features of the heritage building below.
 - f) A solar PV system of 6kW shown on the rooftop plan.
 - g) The capacity of the rainwater tank to be shown as 3,000 litres.
 - h) Reference to the recommendations as listed in the Acoustic Assessment Prepared by Acoustic Logic and dated 15 February 2019 shown on the plans.
 - i) Any changes as required by the updated Waste Management Plan required by Condition 12.

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

2. The development and uses as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.
3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Contamination

4. Prior to the commencement of the development (excluding demolition and including bulk excavation), the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended use(s). This PEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development.

The PEA should include:

- Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.
 - A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials.
 - Identification of the likelihood of the site being potentially contaminated.
5. Should the PEA reveal that further investigative or remedial work is required to accommodate the intended use(s), then prior to the commencement of the development (excluding demolition and any works necessary to undertake the assessment), the applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the intended use(s).

This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development. The CEA should include:

- Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This includes details of how long the uses occupied the site.
- A review of any previous assessments of the site and surrounding sites, including details of any on-site or off-site sources of contaminated materials. This includes a review of any previous Environmental Audits of the site and surrounding sites.
- Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 44582.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.
- An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.
- Recommendations regarding what further investigative and remediation work, if any, may be necessary to ensure the site is suitable for the intended use(s).

- Recommendations regarding whether, on the basis of the findings of the CEA, it is necessary for an Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970 to be performed or a Statement of Environmental Audit in accordance with Section 53Z of the Environment Protection Act 1970 is required, to ensure the site is suitable for the intended use(s).
6. The recommendations of the CEA must be complied with to the satisfaction of the Responsible Authority for the full duration of any buildings and works on the land in accordance with the development hereby approved, and must be fully satisfied prior to the occupation of the development.

Prior to the occupation of the development the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the CEA.

7. Should the CEA recommend or the Responsible Authority consider that an Environmental Audit of the site is necessary then prior to the commencement of the development, (excluding demolition and any works necessary to undertake the assessment) the applicant must provide either:
- a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970;
 - b) A Statement of Environmental Audit in accordance with Section 53Z of the Environment Protection Act 1970. This Statement must confirm that the site is suitable for the intended use(s).

Where a Statement of Environmental Audit is provided, all of the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority for the full duration of any buildings and works on the land, and must be fully satisfied prior to the occupation of the building. Written confirmation of compliance must be provided by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or other person acceptable to the Responsible Authority. In addition, the signing off of the Statement must be in accordance with any requirements regarding the verification of remedial works.

If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and / or monitoring, the applicant must enter into a legal agreement in accordance with Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. This Agreement must be executed on title prior to the occupation of the building. The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

Acoustic

8. Prior to commencement of the use, the recommendations contained within the Acoustic Assessment prepared by Acoustic Logic, dated 15 February 2019, must be implemented at no cost to the Melbourne City Council and be to the satisfaction of the Responsible Authority.

Detailed Matters

9. Prior to the commencement of paint removal, details of the removal process must be submitted to an approved by the Responsible Authority. The paint must be removed by an approved chemical process, or by other means to the satisfaction of the Responsible Authority.
10. Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

3D Modelling

11. Prior to the commencement of the development (excluding any demolition, bulk excavation, construction or carrying out of works) a 3D digital model of the approved development must be submitted to, and must be to the satisfaction of the Responsible Authority. The model should be prepared having regard to the Advisory Note – 3D Digital Modelling Melbourne City Council.

Digital models provided to the Melbourne City Council may be shared with other government organisations for planning purposes. The Melbourne City Council may also derive a representation of the model which is suitable for viewing and use within its own 3D modelling environment. In the event that substantial modifications are made to the building envelope a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.

Waste

12. Prior to the commencement of the development, an updated an updated Waste Management Plan (WMP) generally in accordance with the WMP prepared by Suho and dated 28 October 2019 must be prepared, submitted to and approved by Melbourne City Council – Engineering Services. The updated WMP should include:
 - a) Clarification of how the basement level is accessed by tenants/residents to deposit hard waste and larger items that do not fit in the chutes.
 - b) Removal of reference to 240L bins being provided by Melbourne City Council.
 - c) Removal of reference to the collection days being determined by Melbourne City Council's collection service.
 - d) A reduction of waste collections per week with no more than three per week.
 - e) The location of the bins on Rutledge Lane drawn to scale.
 - f) The location of the waste collection truck stopping location.

Once approved, the waste storage and collection arrangements must not be altered without prior written consent of the Melbourne City Council – Engineering Services.

13. No garbage bin or waste materials generated by the development may be deposited or stored outside the site, other than in accordance with an approved Waste Management Plan, and bins must be returned to the on-site garbage storage area as soon as practical after garbage collection, to the satisfaction of the Responsible Authority.

Environmentally Sustainable Design (ESD)

14. The performance outcomes specified in the Environmentally Sustainable Design (ESD) Statement prepared by Suho and dated 31 July 2019 for the development must be implemented prior to occupancy at no cost to the Responsible Authority or Melbourne City Council and be to the satisfaction of the Responsible Authority.

Any change during detailed design, which affects the approach of the endorsed ESD Statement, must be assessed by an accredited professional. The revised statement must be endorsed by the Responsible Authority prior to the commencement of construction.

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

Operational Management Plan

16. Prior to the commencement of the use, the application must submit an Operational Management Plan describing:
 - a) The ways in which staff are to be made aware of the conditions attached to this permit.
 - b) Details of the type(s) of liquor licence sought (if applicable).
 - c) Security arrangements including the number of personnel and their hours of operation.
 - d) Security lighting outside the premises.
 - e) The recommendations of any acoustic report submitted in support of the proposal.
 - f) The training of staff in the management of patron behaviour.
 - g) A complaint handling process to be put in place to effectively manage complaints received from neighbouring and nearby businesses and residents. This must include details of a Complaints Register to be kept at the premises. The Register must include details of the complaint received, any action taken and the response provided to the complainant.

The management plan must be to the satisfaction of, and be approved by, the Responsible Authority. Once approved, the management plan will form part of the endorsed documents under this permit. The operation of the use must be carried out in accordance with the endorsed operational management plan unless with the prior written consent of the Responsible Authority.

Engineering Services

17. All projections over the street alignment must be drained to a legal point of discharge in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
18. Prior to the commencement of the development, 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 existing underground stormwater drain in Hosier Lane. Where necessary, the City of Melbourne's drainage network must be upgraded to accept the discharge from the site in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
19. Prior to the occupation of the development, the existing vehicle crossing adjacent to the subject land in Hosier Lane must be reconstructed in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

20. Prior to the occupation of the development, the existing corner splay located at the north-east corner of the site must be vested in favour of Melbourne City Council as a road, to the satisfaction of the Responsible Authority – Land Survey.
21. Prior to the occupation of the development, the owner of the subject land must provide pedestrian access compliant with the Disability Discrimination Act 1992 requirements from the subject lane to Flinders Street and Flinders Lane, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
22. The existing buffer kerb adjacent to the subject site along Hosier and Rutledge Lanes must be reconstructed including renewal of kerb, provision of access ramps 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.
23. Existing street levels in roads adjacent to the subject site 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
24. All street lighting assets temporarily removed or altered to facilitate construction works must be reinstated in accordance with the requirements of the Responsible Authority. The existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.

Construction Management Plan

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

Other

26. Any satellite dishes, antennae or similar structures associated with the development must be designed and located at a single point in the development to the satisfaction of the Responsible Authority, unless otherwise approved to the satisfaction of the Responsible Authority.
27. All service pipes, apart from roof downpipes, must be concealed from the view of a person at ground level within common areas, public thoroughfares and adjoining properties.

Expiry

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

The Responsible Authority may extend 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:

- a) 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.
- b) This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Registered Building Surveyor.
- c) 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.
- d) 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.
- e) All necessary approvals and permits are to be first obtained from Melbourne City Council and the works performed to the satisfaction of Melbourne City Council – Manager Engineering Services.