

Report to the Future Melbourne Committee

Agenda item 6.1

Planning Permit Application: TP-2021-200
115-127 Russell Street, Melbourne

1 February 2022

Presenter: Nick McLennan, Manager Statutory Planning

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of Planning Permit Application TP-2021-200 for land located at 115-127 Russell Street, Melbourne (refer Attachment 2 – Locality Plan). The proposal includes partial demolition of the heritage building to enable construction of a new roof top bar above the existing hotel, known as the Crafty Squire.
2. The applicant is AVC Operations Pty Ltd c/- Urbis Pty Ltd; the owner is Revoe Pty Ltd and the architect is Studio Y. The cost of the proposed works is \$1million.
3. The land is located within the Capital City Zone Schedule 2 (CCZ2); and is affected by Design and Development Overlay Schedule 1 (DDO1) and Schedule 2 (DDO2); and Parking Overlay Schedule 2 (PO2). A planning permit is required for partial demolition; buildings and works for the construction of a rooftop bar above the existing building; the display of internally-illuminated business identification signage; and a reduction in bicycle parking.
4. Public notice of the proposal was given and a total of 45 objections were received.
5. The applicant has lodged an appeal with the Victorian Civil and Administrative Tribunal (VCAT) for failure of the Council to grant a planning permit within the prescribed 60 day time period.

Key issues

6. The key issues in the consideration of this application are existing use rights, built form, operational management, potential amenity impacts, bicycle facilities and signage.
7. The existing hotel benefits from existing use rights which extend to the proposed roof top bar, therefore no planning permit is required for its use.
8. The application complies with relevant State and Local Planning Policy and the proposed buildings and works exhibit an appropriate response to the decision guidelines of the CCZ2, design objectives and outcomes of the DDO1 and built form requirements of the DDO2.
9. Subject to recommended conditions, there will be no unreasonable amenity impacts to surrounding properties as a result of the additions to the building's roof top.
10. The waiver of bicycle parking is acceptable given the constraints of the site, its location and context with excellent access to public transport and on-street bicycle hoops available.
11. The proposed signage is appropriate to the site and surrounds and will appropriately identify the roof top bar without causing visual clutter.

Recommendation from management

12. That the Future Melbourne Committee resolve to advise the Victorian Civil and Administrative Tribunal and relevant parties that had Council been in a position to make a decision on the application it would have issued a Notice of Decision to Grant a Planning Permit subject to the conditions set out in the delegate report (refer Attachment 4 of the report from management).

Attachments:

1. Supporting Attachment (Page 2 of 53)
2. Locality Plan (Page 3 of 53)
3. Selected Plans (Page 4 of 53)
4. Delegate Report (Page 29 of 53)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987 (Act)* sets out the requirements in relation to application for permits pursuant to the relevant planning scheme.
2. Section 84(2) of the Act provides that once an application is made to VCAT for review of a failure to grant a permit, the Council may decide on an application but must not issue or give a permit, notice of decision or notice of refusal.

Finance

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

Conflict of interest

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

Health and Safety

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

Stakeholder consultation

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

Relation to Council policy

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

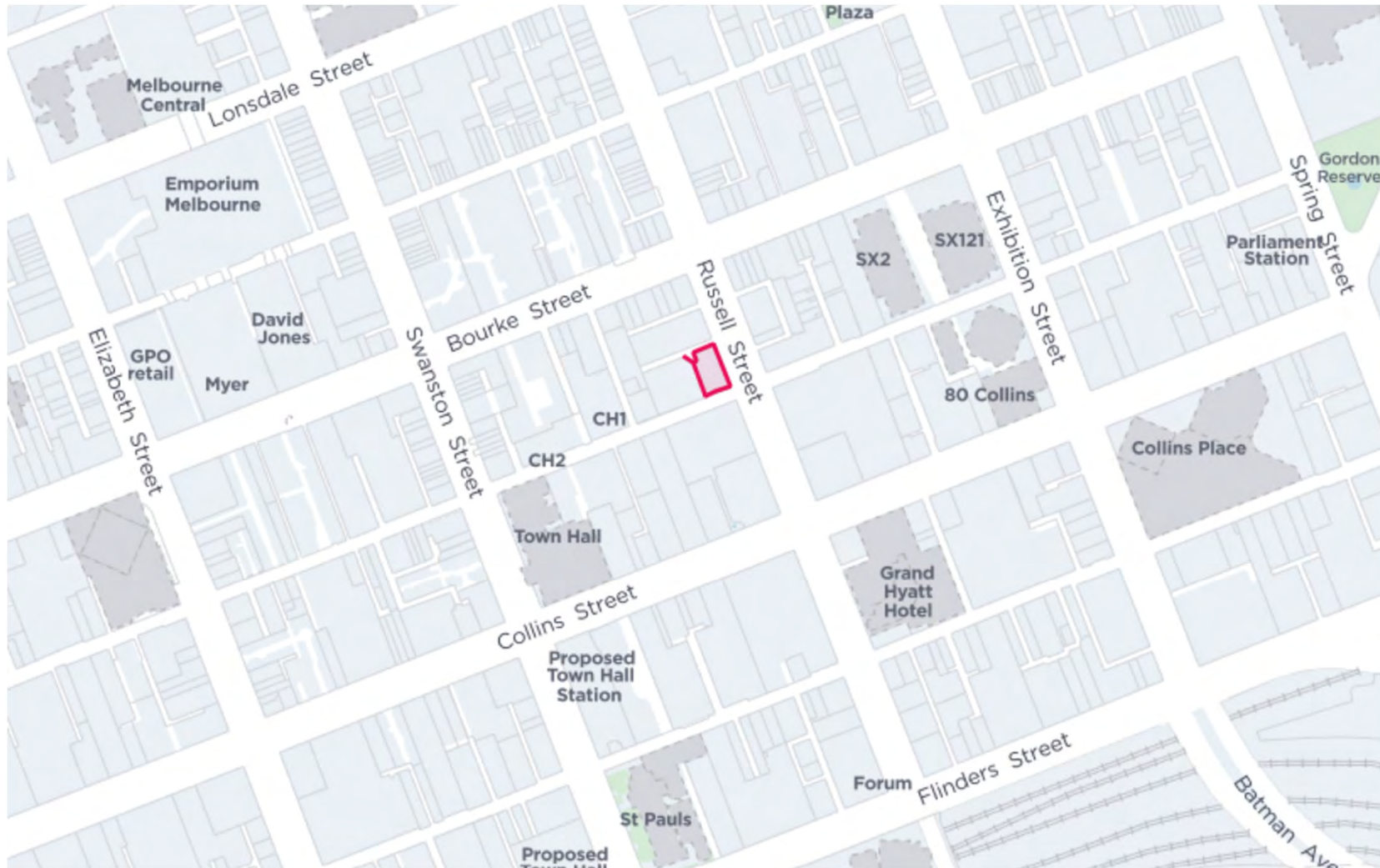
Environmental sustainability

8. The proposal relates to buildings and works for the construction of a roof top bar. The requirements set out in in Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management) and Clause 53.18 (Stormwater Management in Urban Development) of the Melbourne Planning Scheme can be satisfied subject to relevant conditions being included on any permit to issue.

Locality Plan

Attachment 2
Agenda item 6.1
Future Melbourne Committee
1 February 2022

115-127 Russell Street, Melbourne



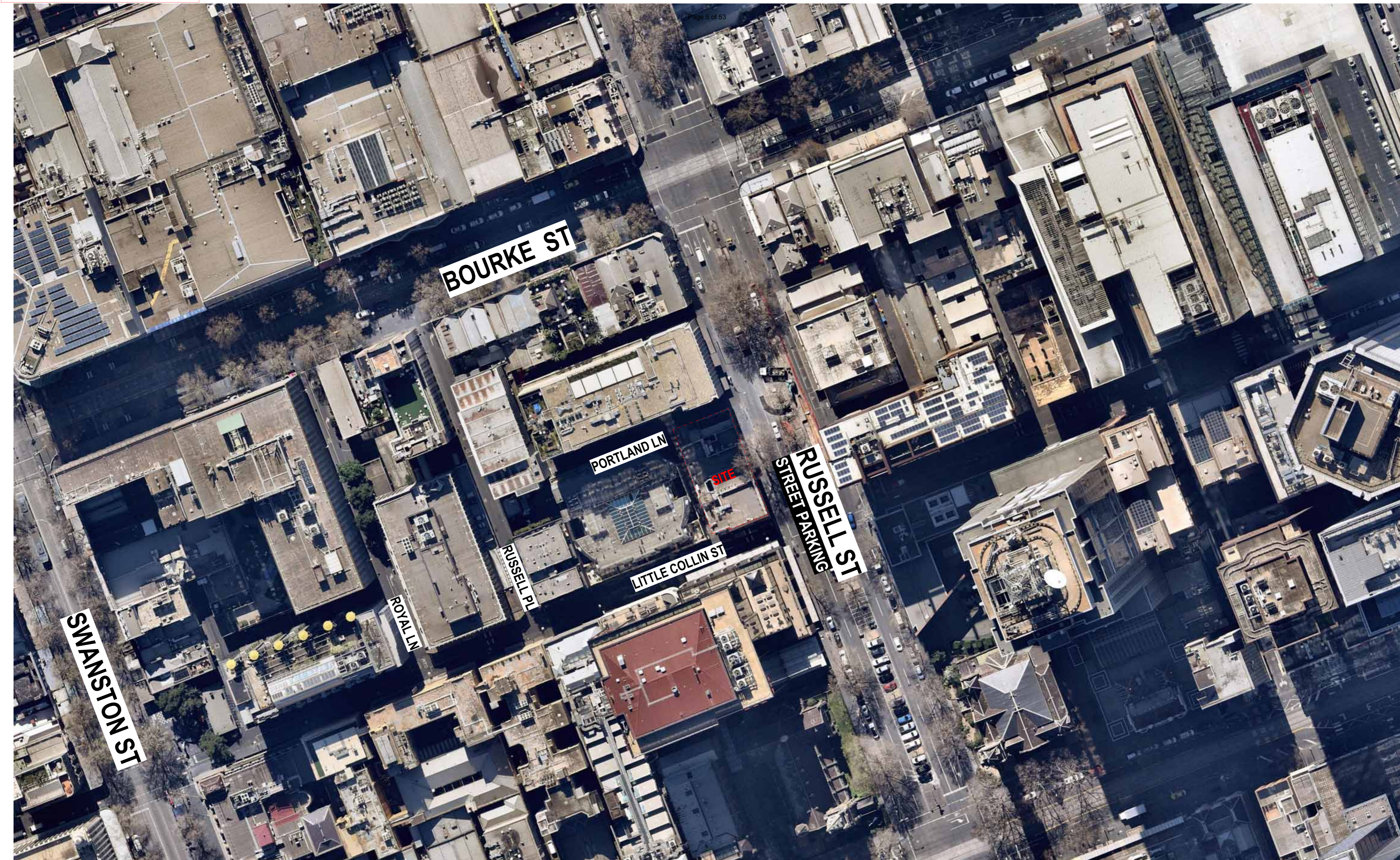
CRAFTY SQUIRE ROOFTOP

ADDRESS: 127 RUSSELL STREET, MELBOURNE VIC 3000

DATE: 29/07/2021

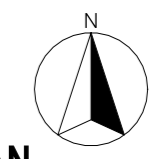
TOWN PLANNING REVISION A





Revisions		
Rev.	Date	Notes
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<input type="radio"/> Design Development
<input type="radio"/> Tender
<input type="radio"/> Construction



111 RUSSELL STREET

127 RUSSELL STREET

141 RUSSELL STREET

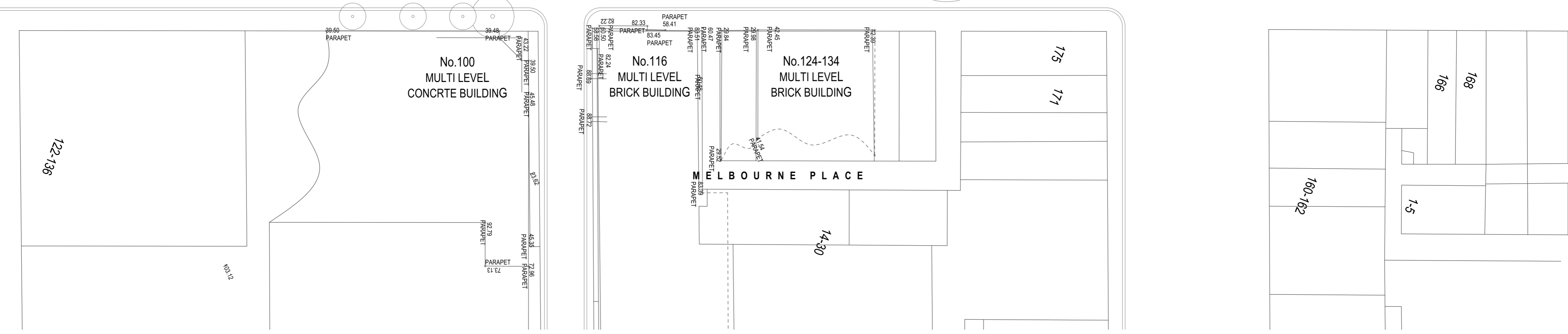
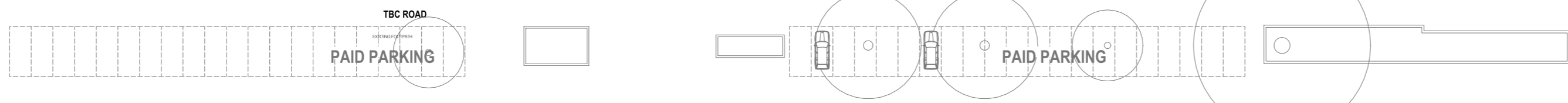
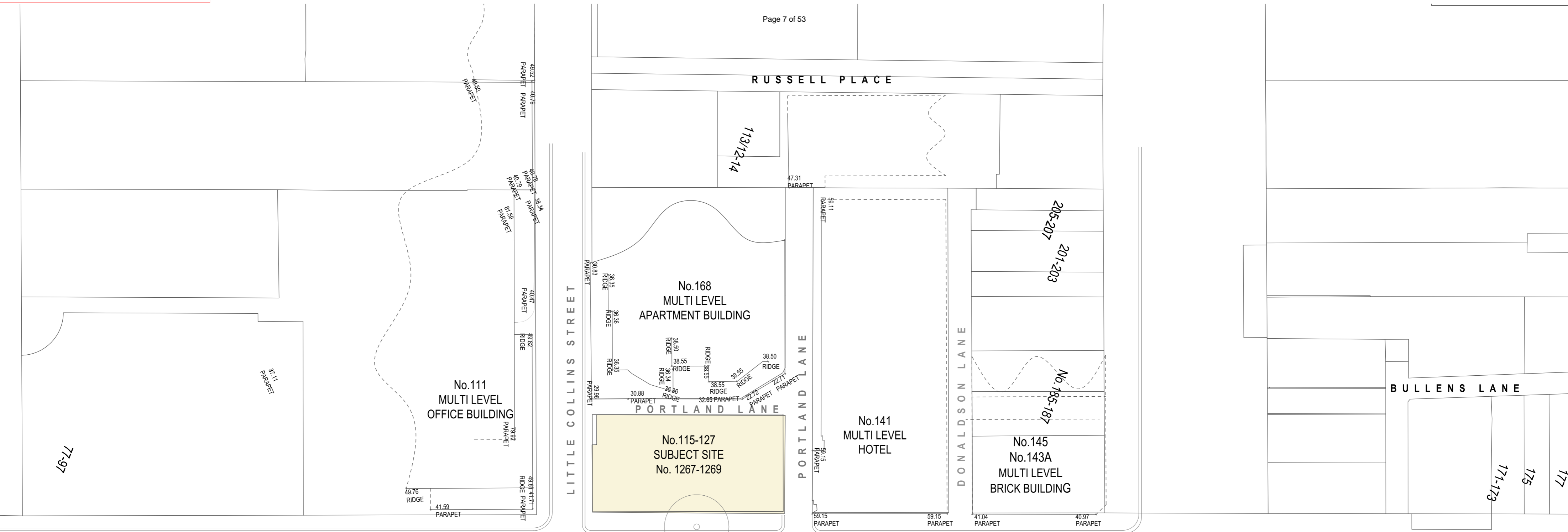


Revisions		
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A	29/07/2021	ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY

- Existing Conditions
- Sketch
- Town Planning
- Design Development
- Tender
- Construction

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Address: **127 RUSSELL STREET, MELBOURNE VIC 3000**
SITE CONDITIONS
SITE PHOTOS

Scale:
Sheet size: **A2**
Date: **29/07/2021**
Dwg No. **TP101**



SITE PLAN
1:500

<p>Suite 11 30 Inkerman St. St Kilda VIC 3182 T: 03 9988 7200 M: 03 9751 1241 groundcontrol@studioy.com.au www.studioy.com.au</p>	<p>This work is copyright and owned by Studio Y. Apart from any use permitted by the Copyright Act 1968, no part may be copied by any process, reproduced, altered, published, modified or electronically stored without the prior permission of Studio Y. This work is solely used for the purpose and site in which it has been prepared by Studio Y. Any other use without the express permission of Studio Y is strictly prohibited.</p>	<p>Builders/Contractors shall verify all dimensions and conditions on site prior to any commencement of works. Dimensions shown are nominal. Figured dimensions should take precedence over scaled dimensions. Any discrepancies are to be made known to the designers office prior to any work commencing on site. All shop drawings shall be submitted for review and manufacture shall not commence prior to the return of un-amended shop drawings.</p>	<p>Revisions</p> <table border="1"> <thead> <tr> <th>Rev.</th> <th>Date</th> <th>Notes</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>29/07/2021</td> <td>ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Rev.	Date	Notes	A	29/07/2021	ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY										<ul style="list-style-type: none"> <input type="radio"/> Existing Conditions <input type="radio"/> Sketch <input checked="" type="radio"/> Town Planning <input type="radio"/> Design Development <input type="radio"/> Tender <input type="radio"/> Construction 	<p>Project Name: CRAFTY SQUIRE ROOFTOP Address: 127 RUSSELL STREET, MELBOURNE VIC 3000</p> <p>EXISTING CONDITIONS SITE SURVEY</p>	<p>Scale: 1:500 Sheet size: A2 Date: 29/07/2021</p> <p>Dwg No. TP200</p>
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No.168
MULTI LEVEL
APARTMENT BUILDING

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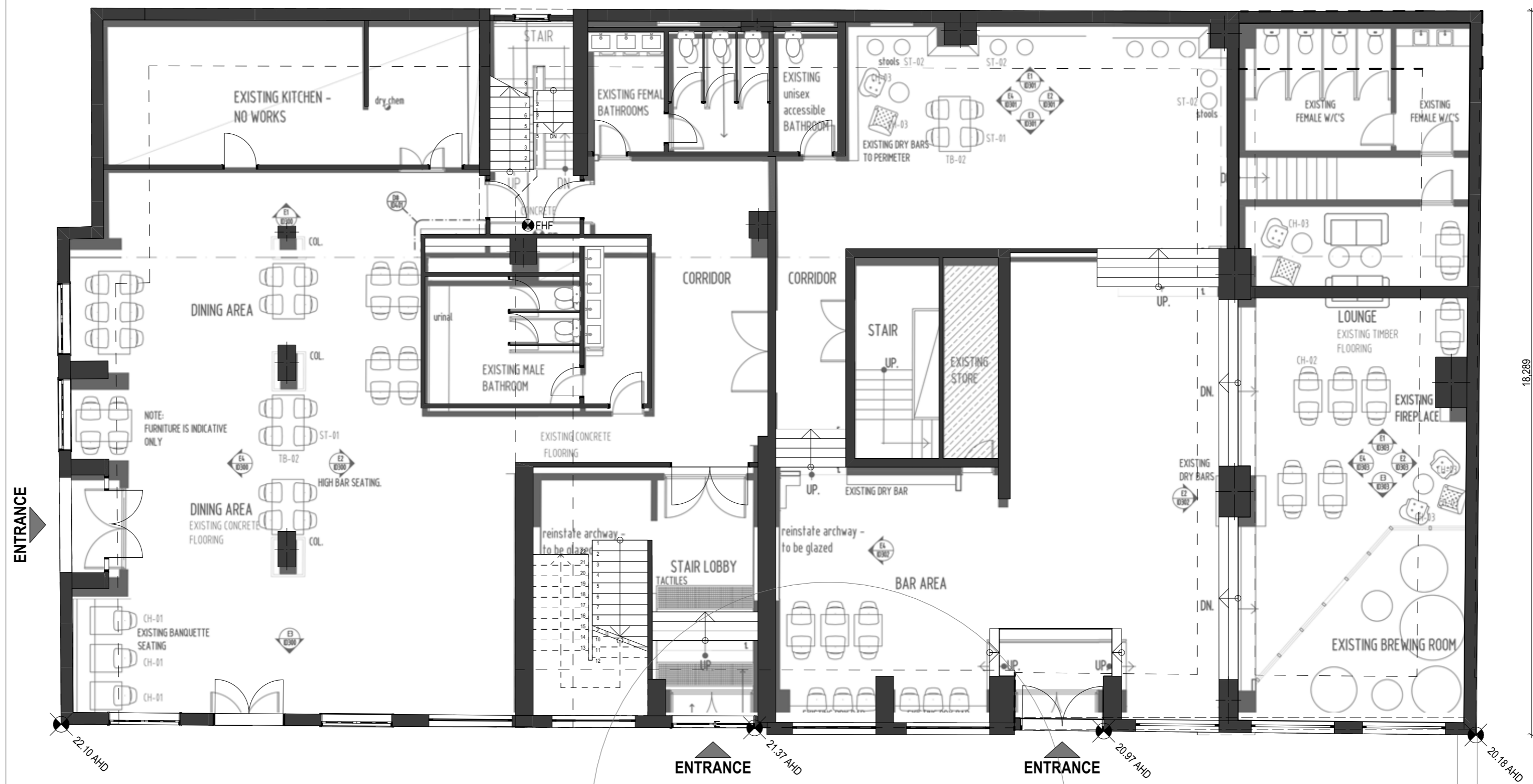
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P O R T L A N D L A N E

No.111
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0. EXISTING GROUND FLOOR PLAN
1:100

NOTE:
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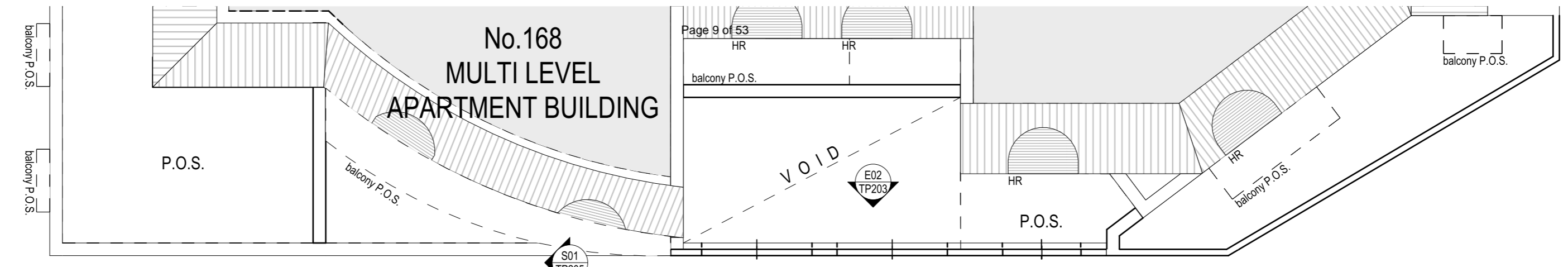
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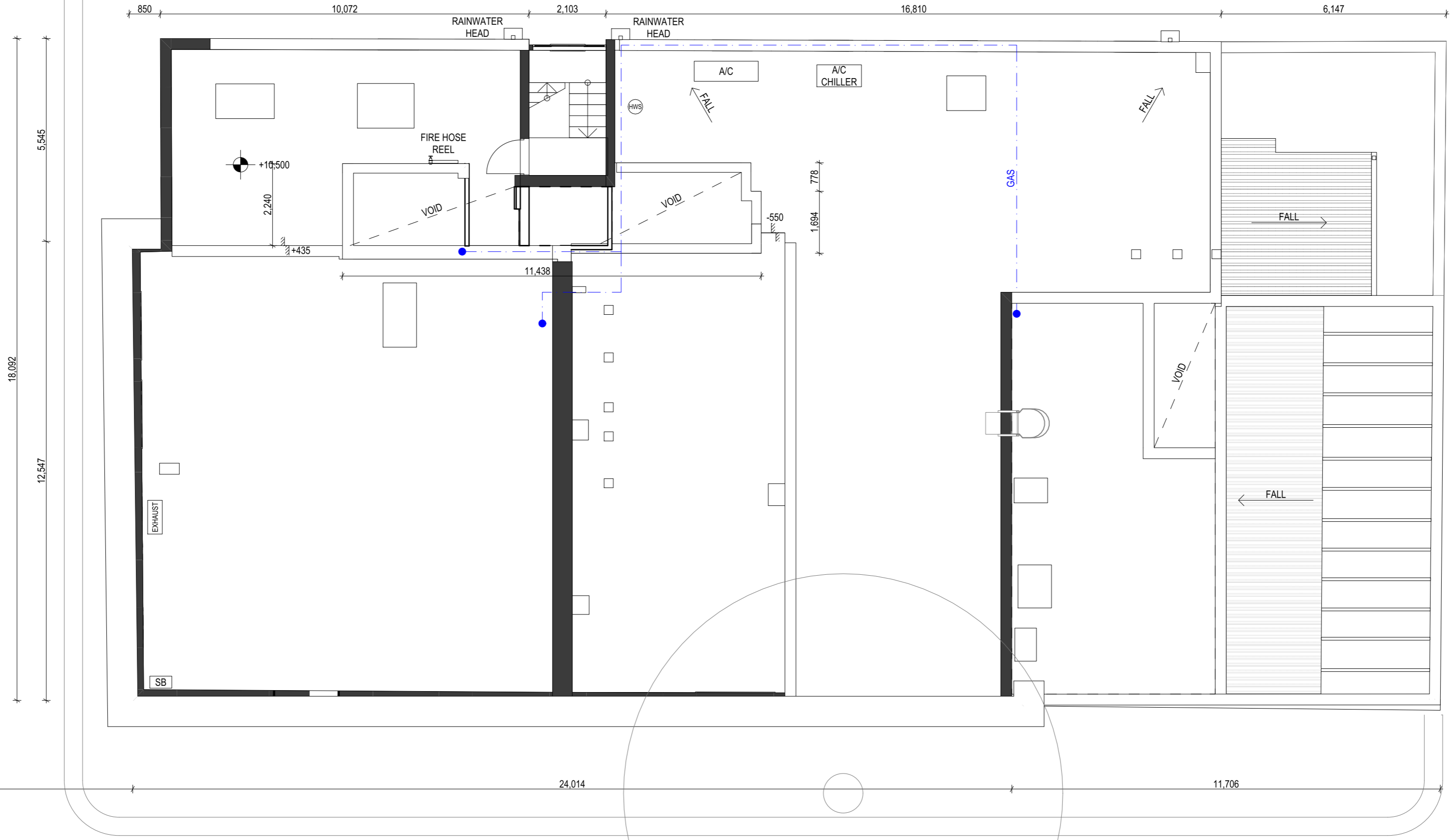
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OFFICE BUILDING

LITTLE COLLINS STREET



PORTLAND LANE



PORTLAND LANE

No.141
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RUSSELL STREET

1. EXISTING ROOF PLAN
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Revisions

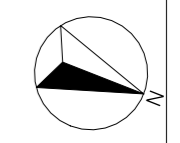
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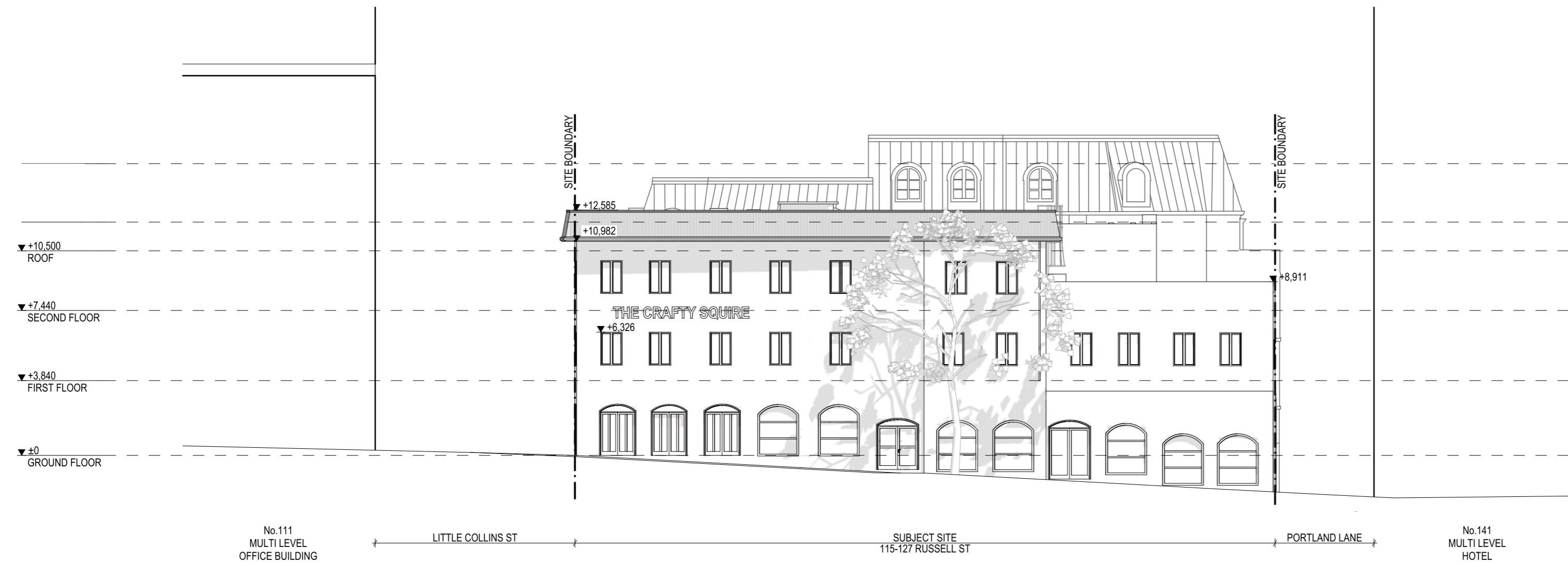
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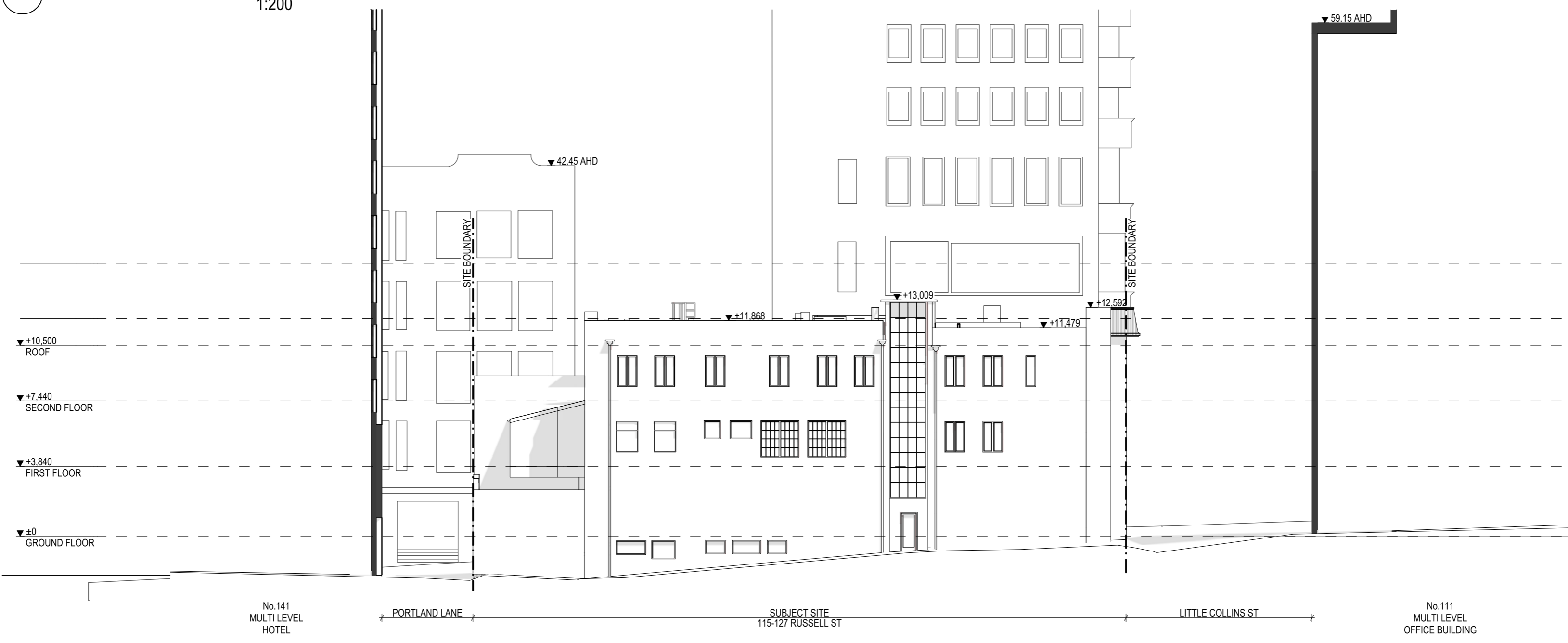
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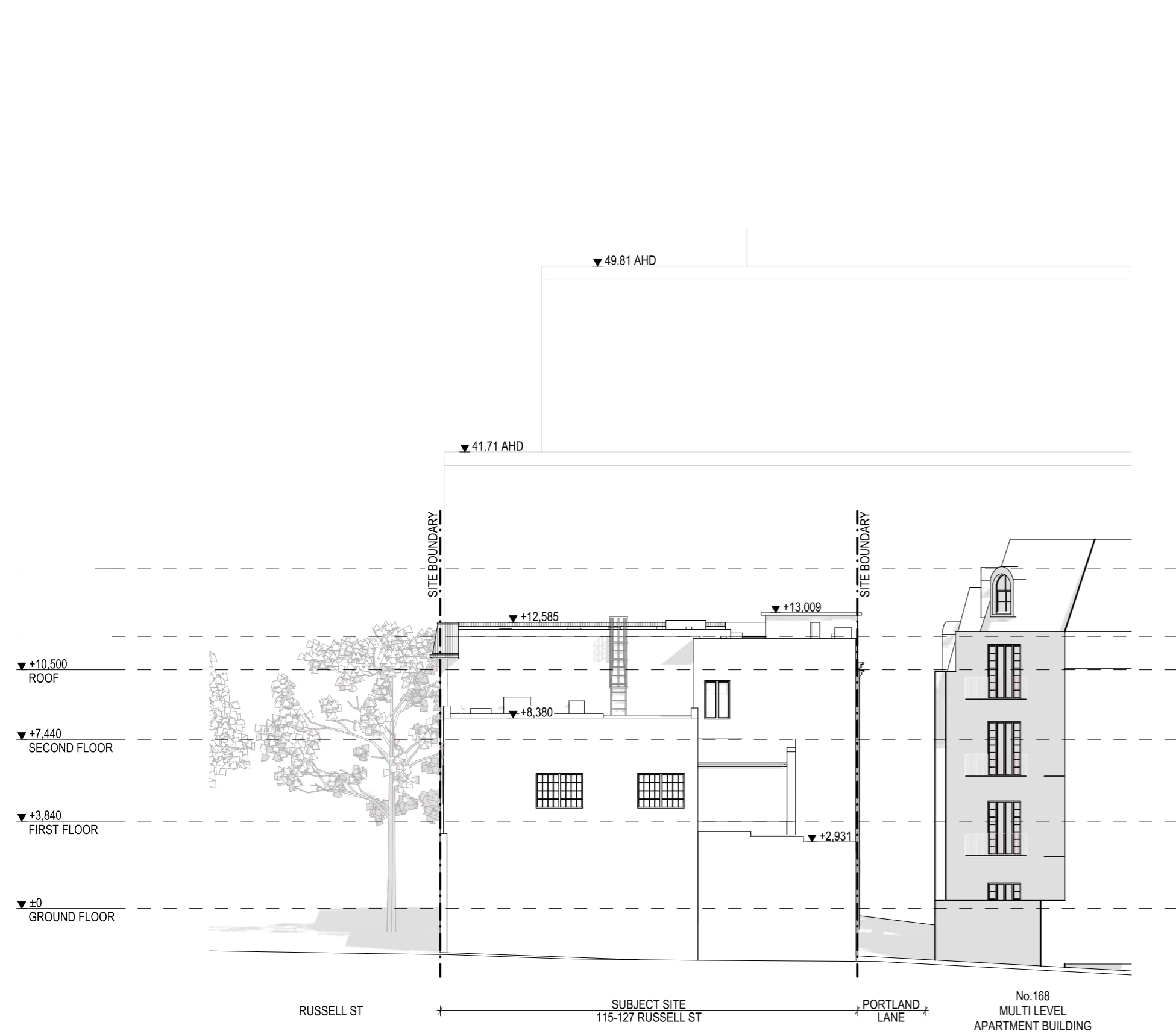
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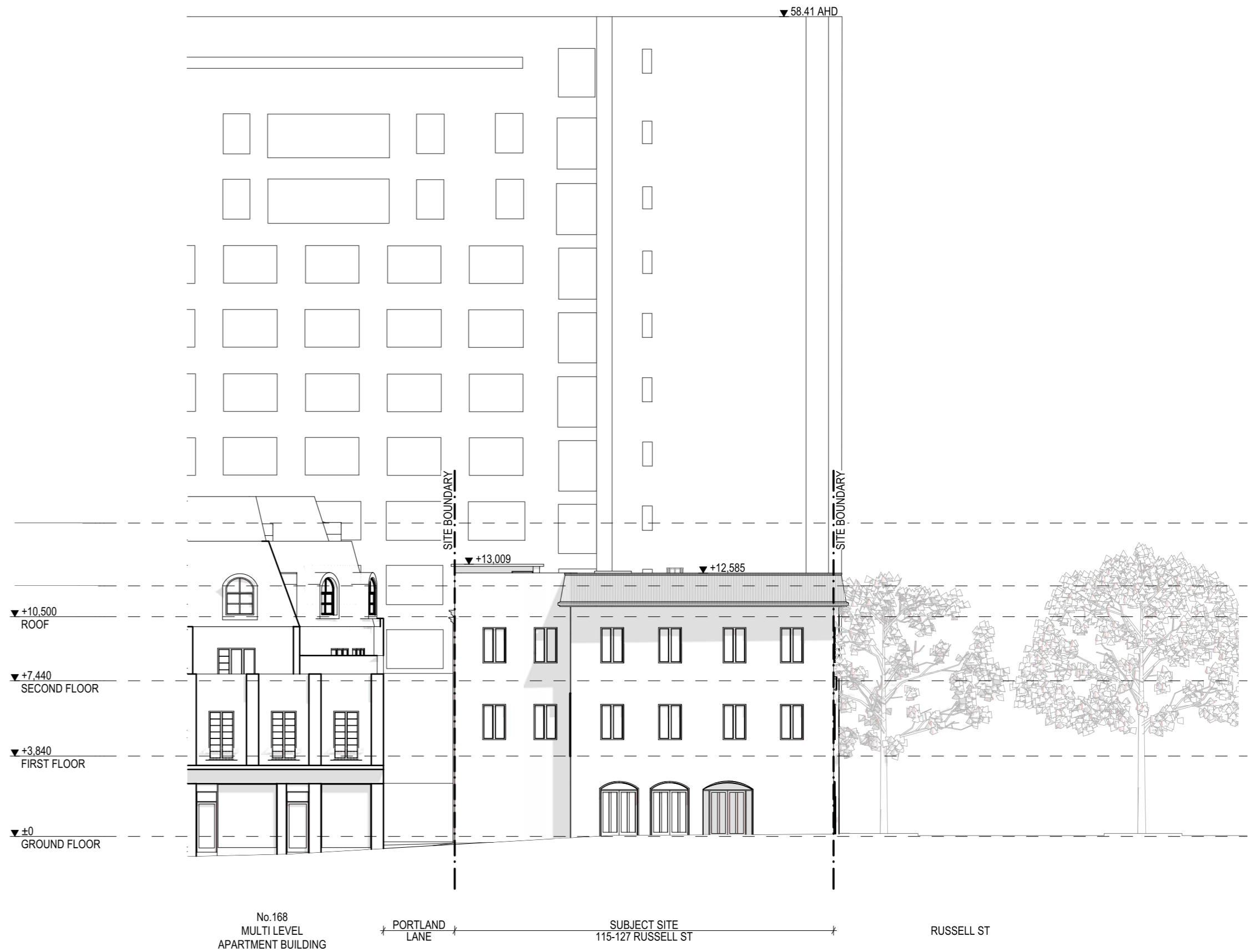
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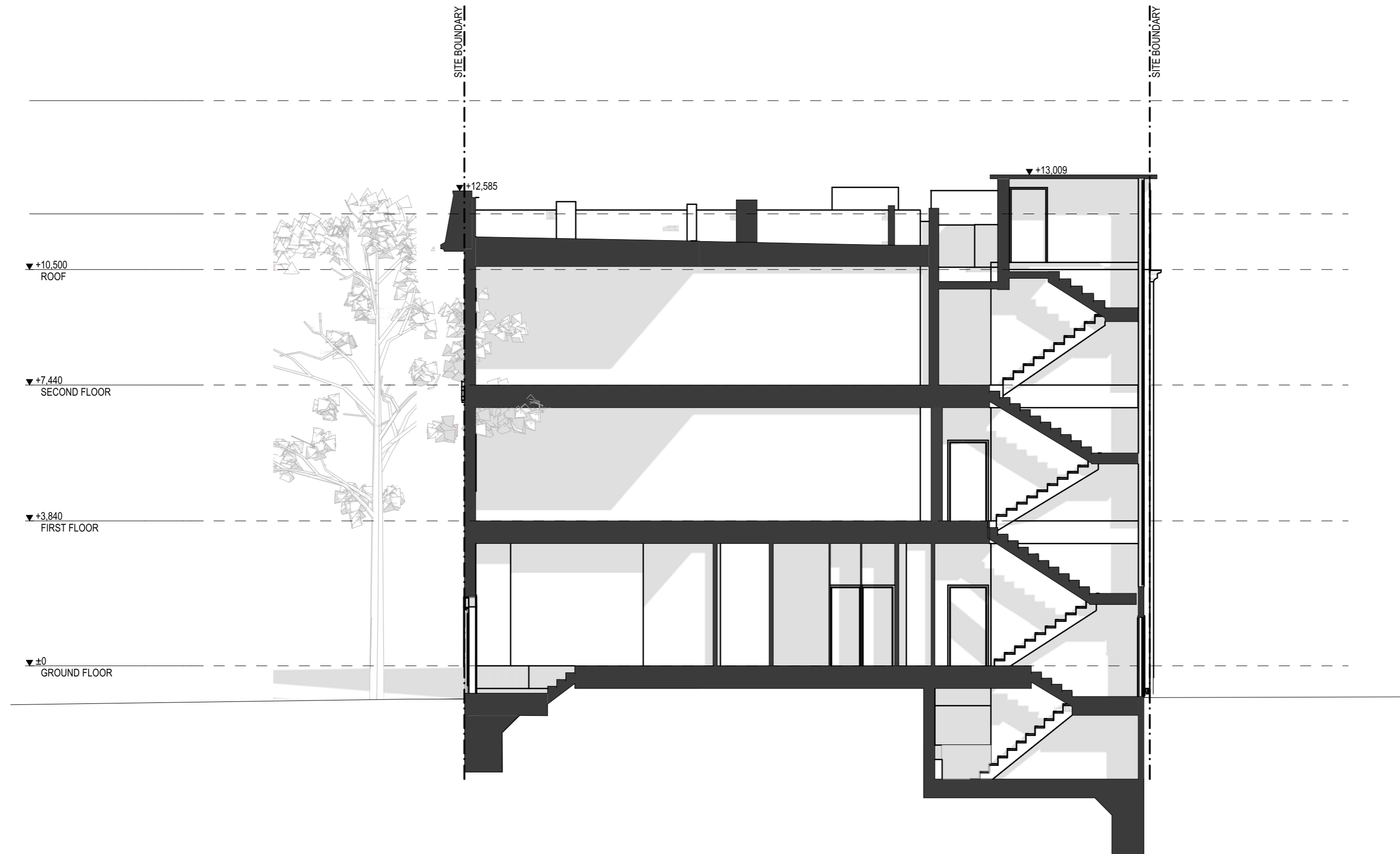


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E04 EXISTING SOUTH ELEVATION
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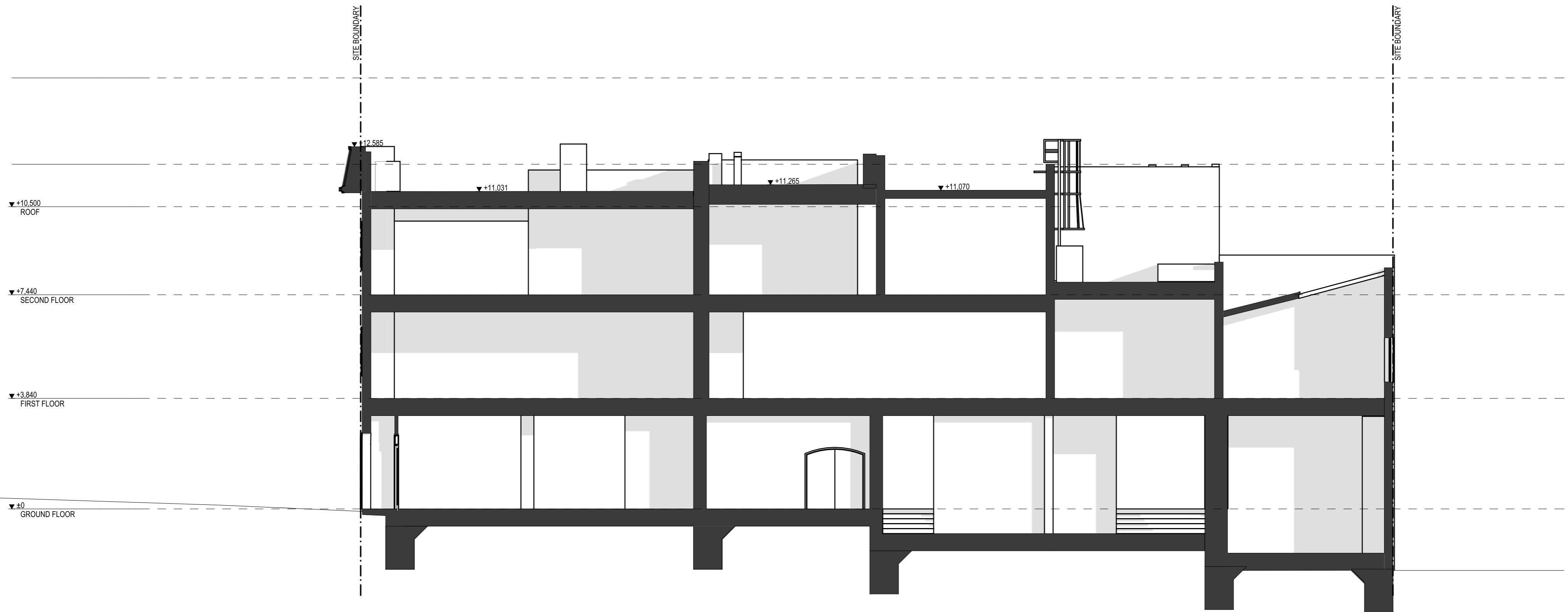
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Project Name:	CRAFTY SQUIRE ROOFTOP
Address:	127 RUSSELL STREET, MELBOURNE VIC 3000
EXISTING CONDITIONS	
EXISTING SECTIONS 01	

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S02 EXISTING SECTION
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- Existing Conditions
- Sketch
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- Tender
- Construction

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Address: 127 RUSSELL STREET, MELBOURNE VIC 3000

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EXISTING CONDITIONS
EXISTING SECTIONS 02

Dwg No. TP206

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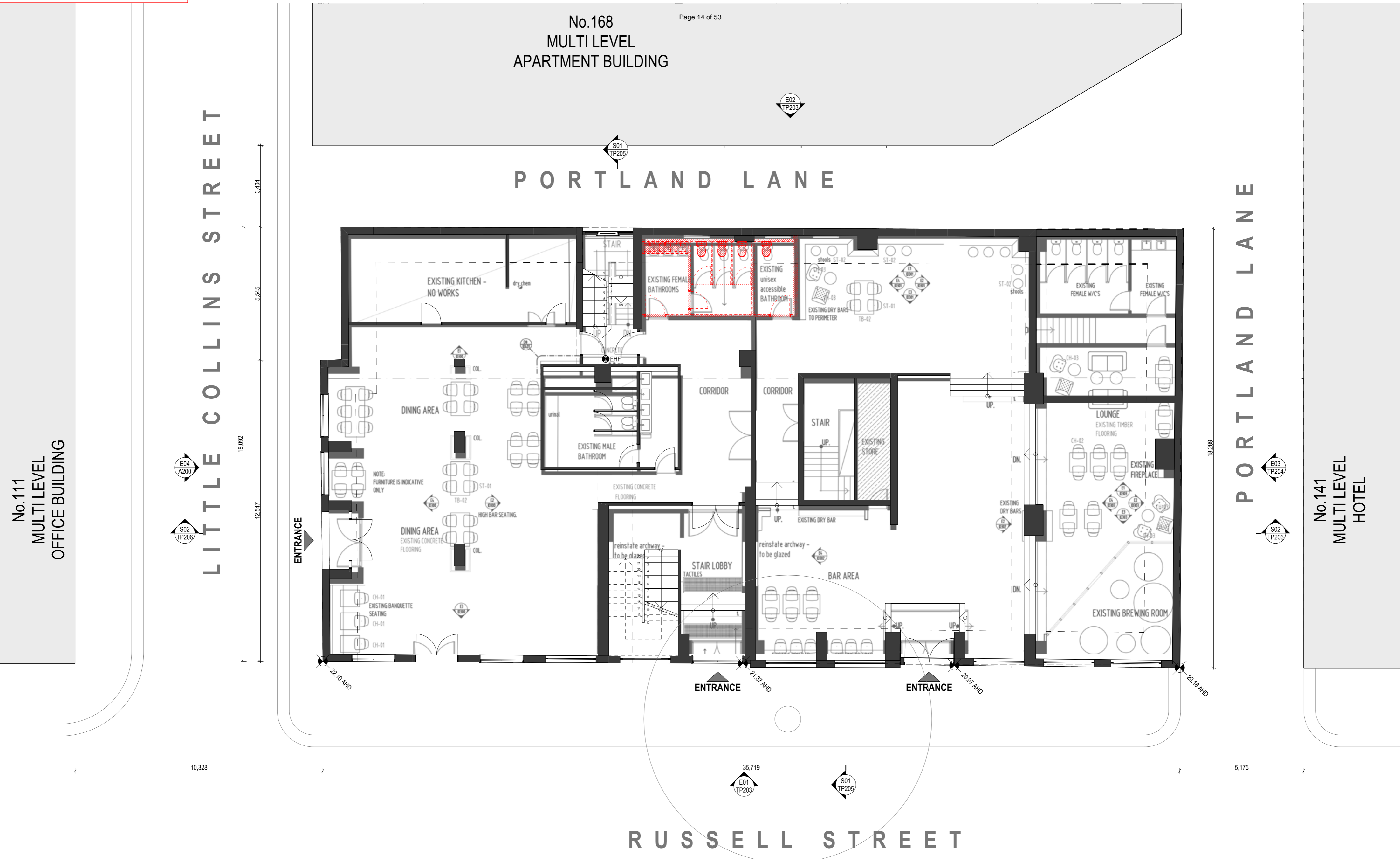
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0. DEMOLITION GROUND FLOOR PLAN
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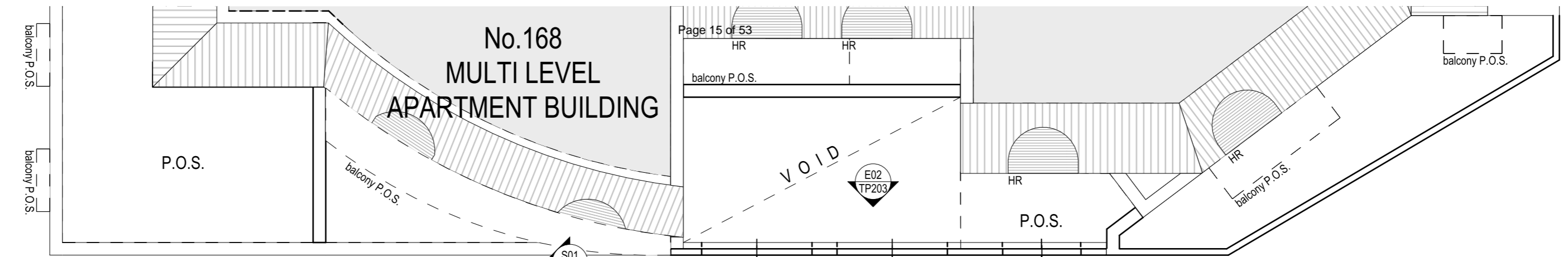
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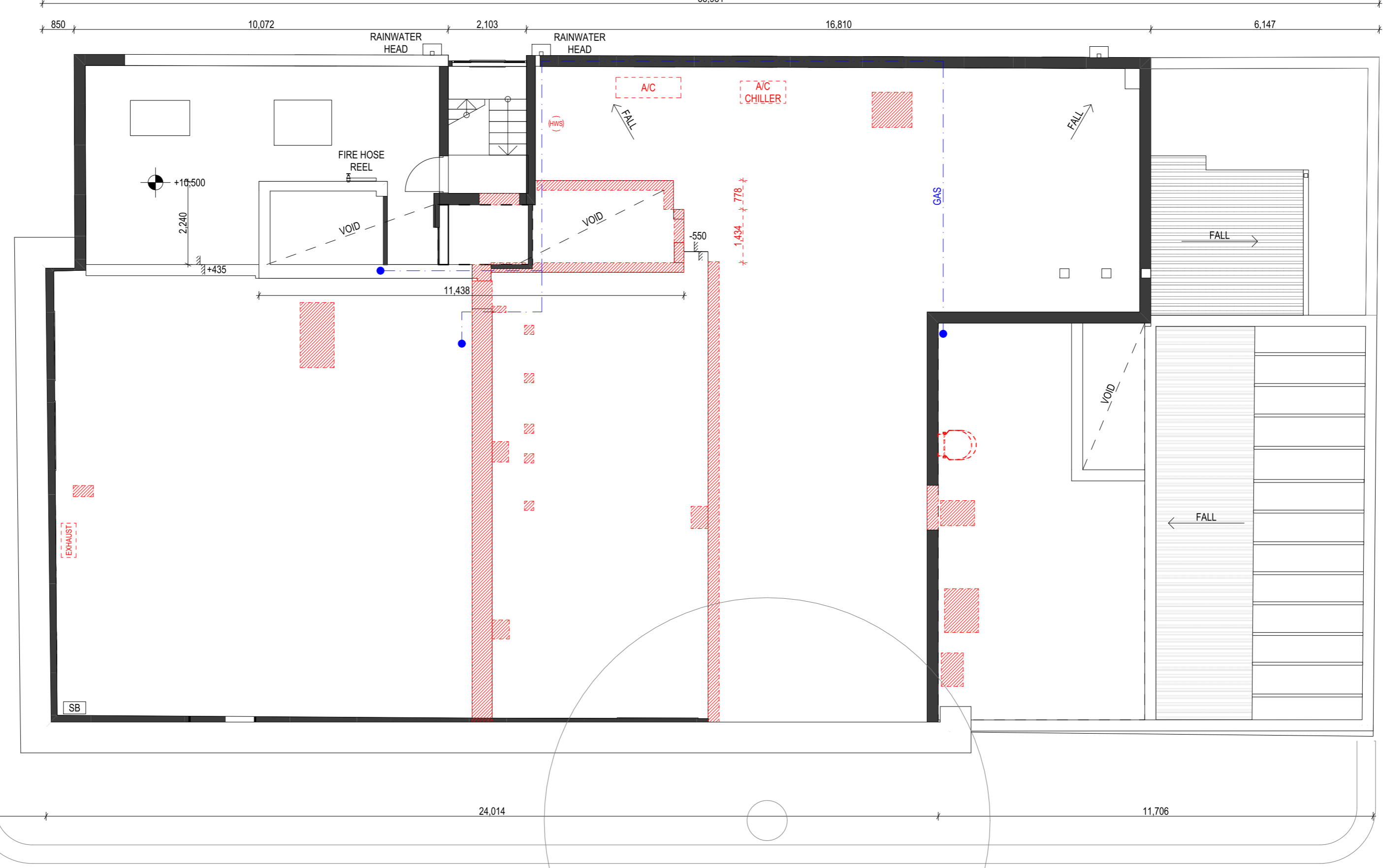
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MULTI LEVEL
OFFICE BUILDING

LITTLE COLLINS STREET



PORTLAND LANE



PORTLAND LANE

No.141
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HOTEL

RUSSELL STREET

1. DEMOLITION ROOF PLAN
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Project Name: CRAFTY SQUIRE ROOFTOP
Address: 127 RUSSELL STREET, MELBOURNE VIC 3000

**DEMOLITION
DEMOLITION ROOF PLAN**

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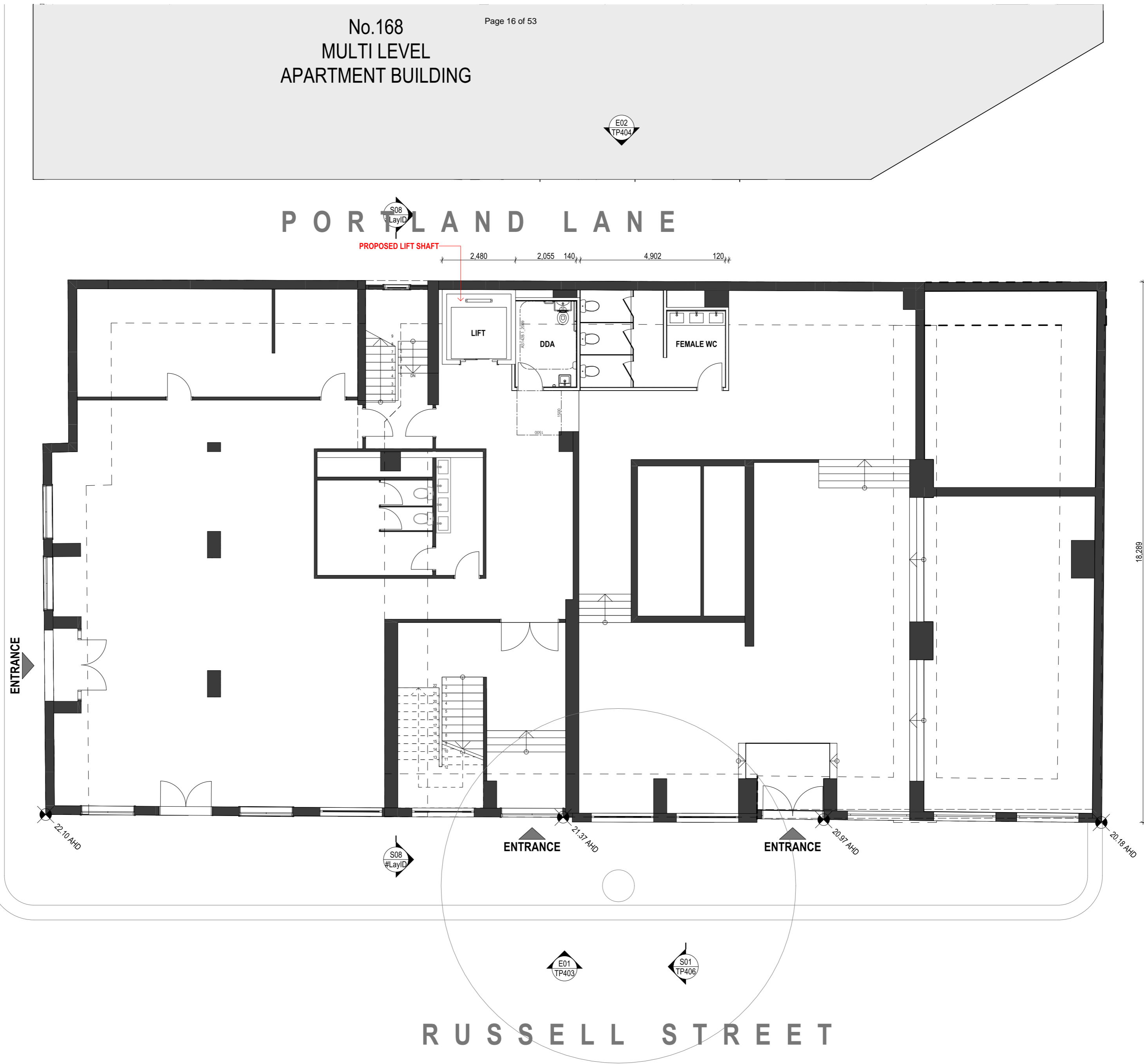
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MULTI LEVEL
OFFICE BUILDING

LITTLE COLLINS STREET

PORTLAND LANE

PORTLAND LANE

No.141
MULTI LEVEL
HOTEL



RUSSELL STREET

0. PROPOSED GROUND FLOOR PLAN
1:100

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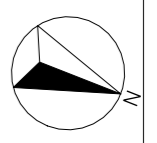
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PROPOSAL
PROPOSED GROUND FLOOR PLAN

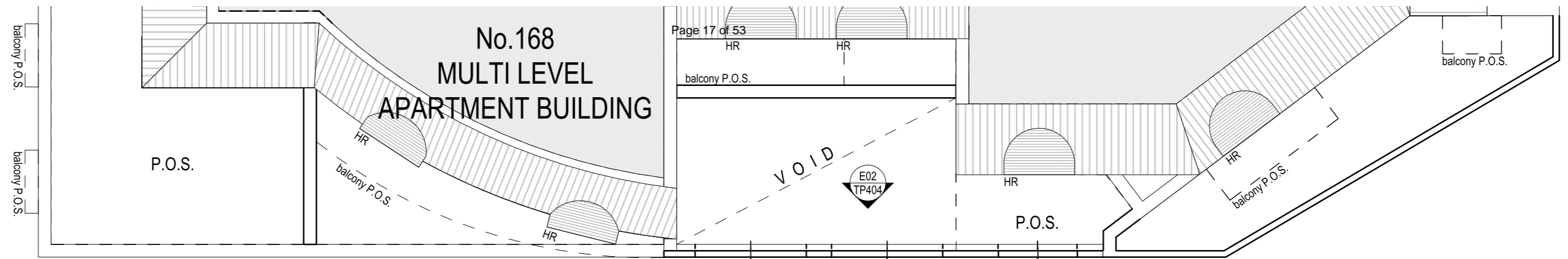


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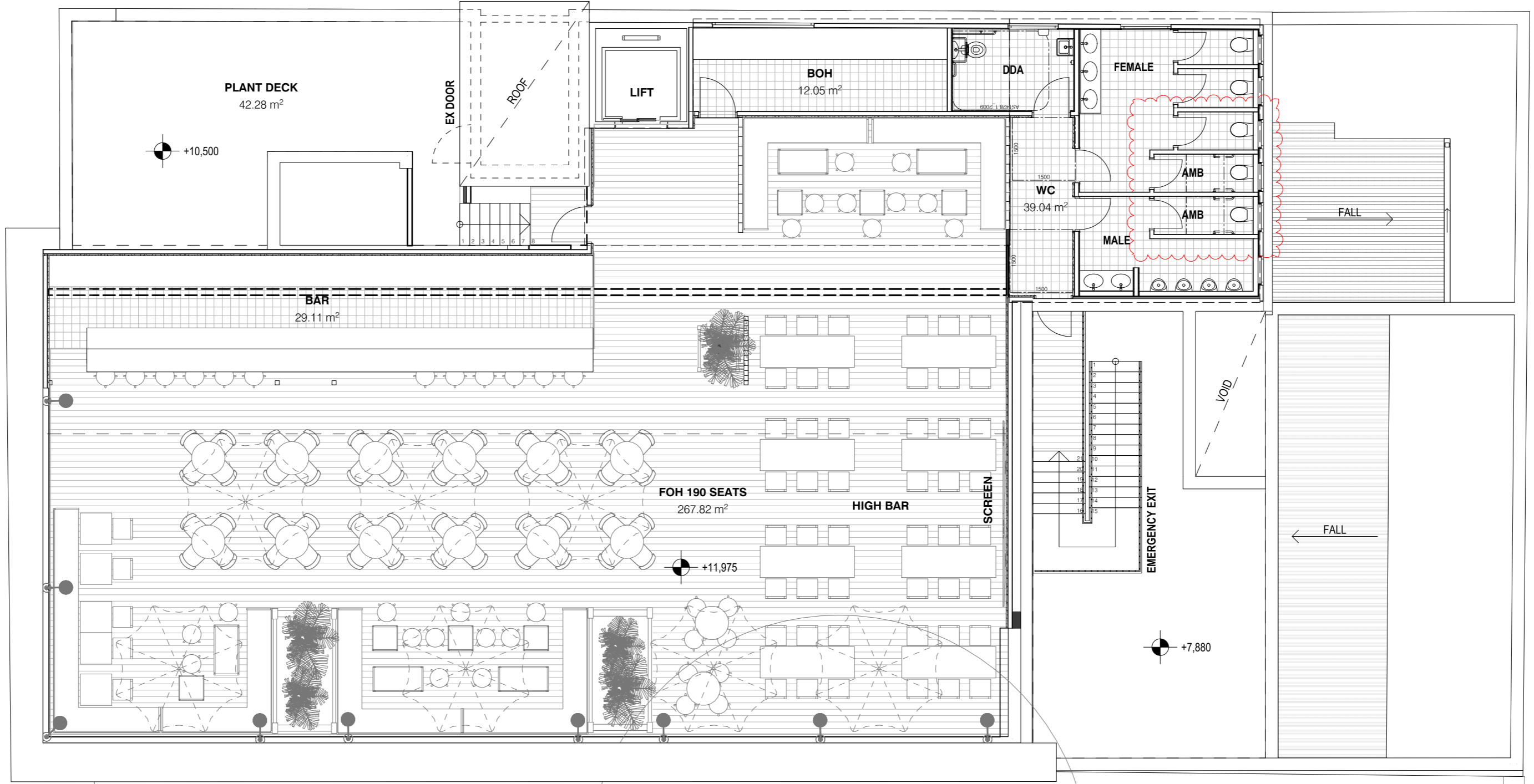
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No.111
MULTI LEVEL
OFFICE BUILDING

LITTLE COLLINS STREET



PORTLAND LANE



PORTLAND LANE

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RUSSELL STREET

1. PROPOSED ROOF TOP BAR PLAN
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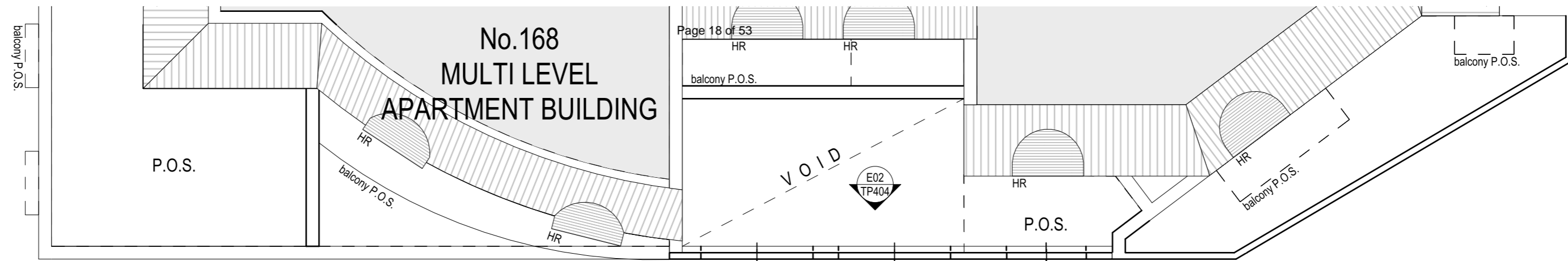
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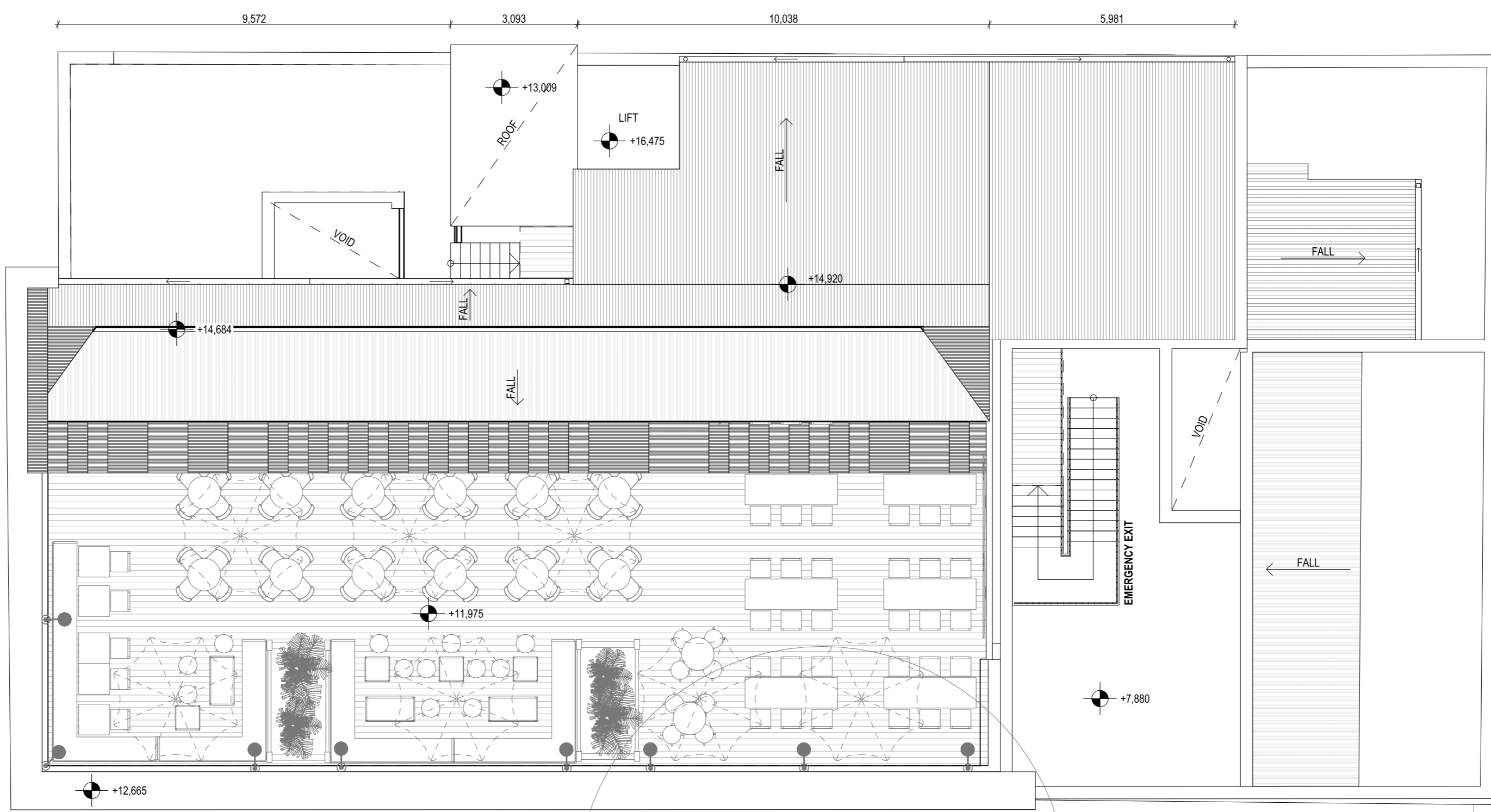
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PORTLAND LANE



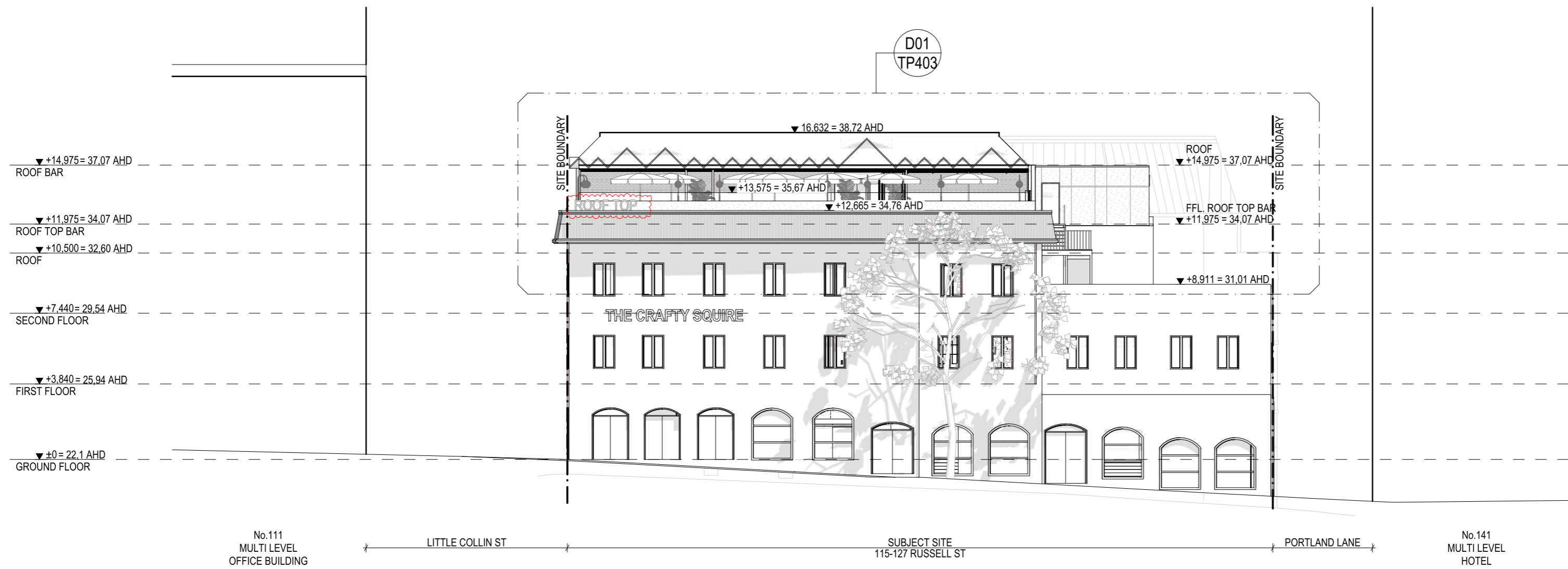
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No.141
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HOTEL

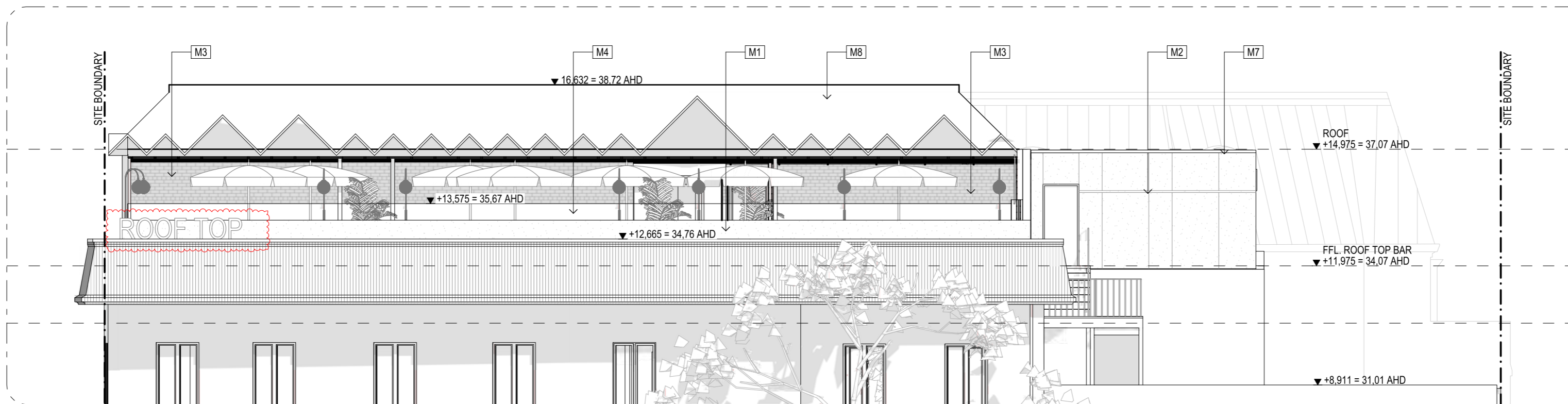
RUSSELL STREET

2. PROPOSED ROOF BAR PLAN
1:100

<p>Suite 1130 Inkerman St. St Kilda VIC 3182 T: 03 9988 7201 A: 03 9578 761 3241 groundcontrol@studioy.com.au www.studioy.com.au</p>	<p>This work is copyright and owned by Studio Y. Apart from any use permitted by the Copyright Act 1968, no part may be copied by any process, reproduced, altered, published, modified or electronically stored without the prior permission of Studio Y. This work is solely used for the purpose and site in which it has been prepared by Studio Y. Any other use without the express permission of Studio Y is strictly prohibited.</p>	<p>Builders/Contractors shall verify all dimensions and conditions on site prior to any commencement of works. Dimensions shown are nominal. Figured dimensions should take precedence over scaled dimensions. Any discrepancies are to be made known to the designers office prior to any work commencing on site. All shop drawings shall be submitted for review and manufacture shall not commence prior to the return of un-amended shop drawings.</p>	<p>Revisions</p> <table border="1"> <thead> <tr> <th>Rev.</th> <th>Date</th> <th>Notes</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>29/07/2021</td> <td>ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Rev.	Date	Notes	A	29/07/2021	ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY													<ul style="list-style-type: none"> <input type="radio"/> Existing Conditions <input type="radio"/> Sketch <input checked="" type="radio"/> Town Planning <input type="radio"/> Design Development <input type="radio"/> Tender <input type="radio"/> Construction 	<p>Project Name: CRAFTY SQUIRE ROOFTOP Address: 127 RUSSELL STREET, MELBOURNE VIC 3000</p> <p>PROPOSAL PROPOSED ROOF BAR PLAN</p>	<p>Scale: 1:100 Sheet size: A2 Date: 29/07/2021</p> <p>Dwg No. TP402</p>
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<p>Studio Y. placeformspace</p>					<p>Scale: 1:100 Sheet size: A2 Date: 29/07/2021</p> <p>Dwg No. TP402</p>																			



E01 PROPOSED EAST ELEVATION
1:200



D01 PROPOSED EAST ELEVATION
1:100

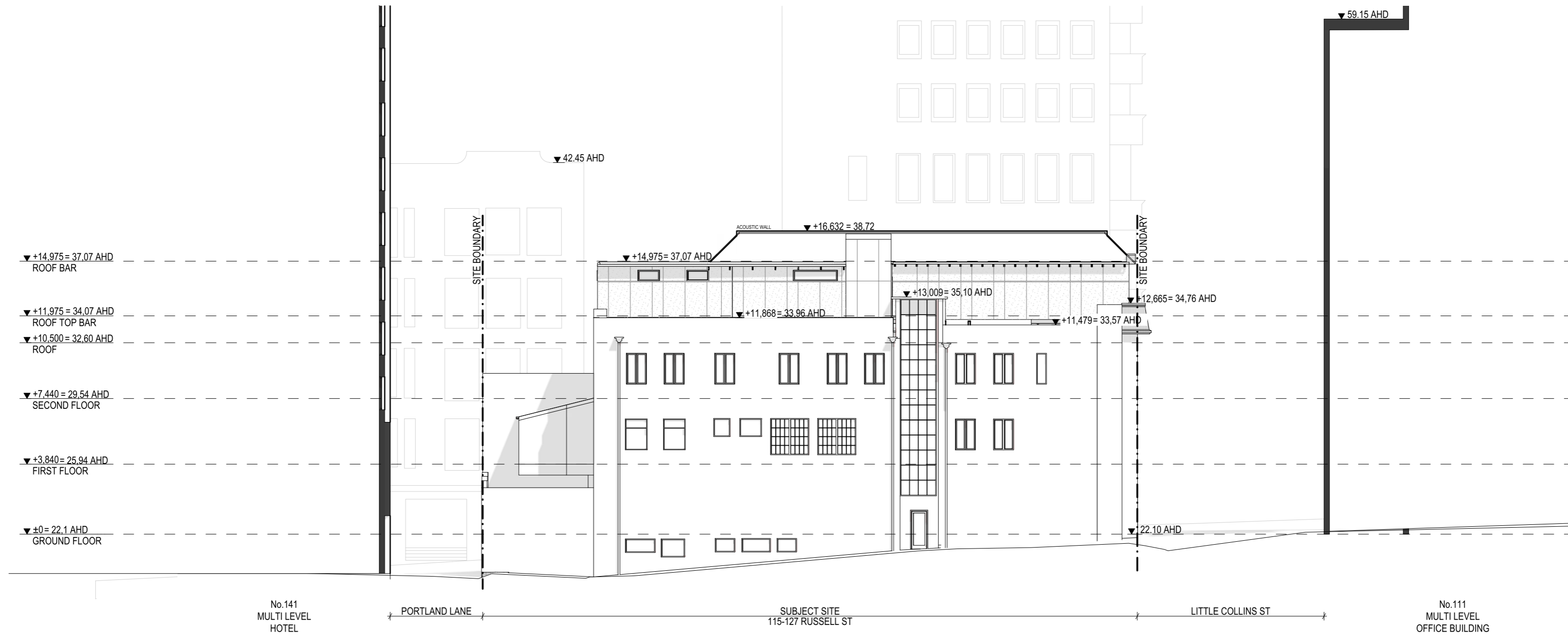
Rev.	Date	Notes
A	29/07/2021	ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY

- Existing Conditions
- Sketch
- Town Planning
- Design Development
- Tender
- Construction

Project Name: CRAFTY SQUIRE ROOFTOP
Address: 127 RUSSELL STREET, MELBOURNE VIC 3000

PROPOSAL
PROPOSED ELEVATIONS 01

Scale: 1:200, 1:100
Sheet size: A2
Date: 29/07/2021
Dwg No. **TP403**



E02 PROPOSED WEST ELEVATION
1:200

Revisions

Rev.	Date	Notes
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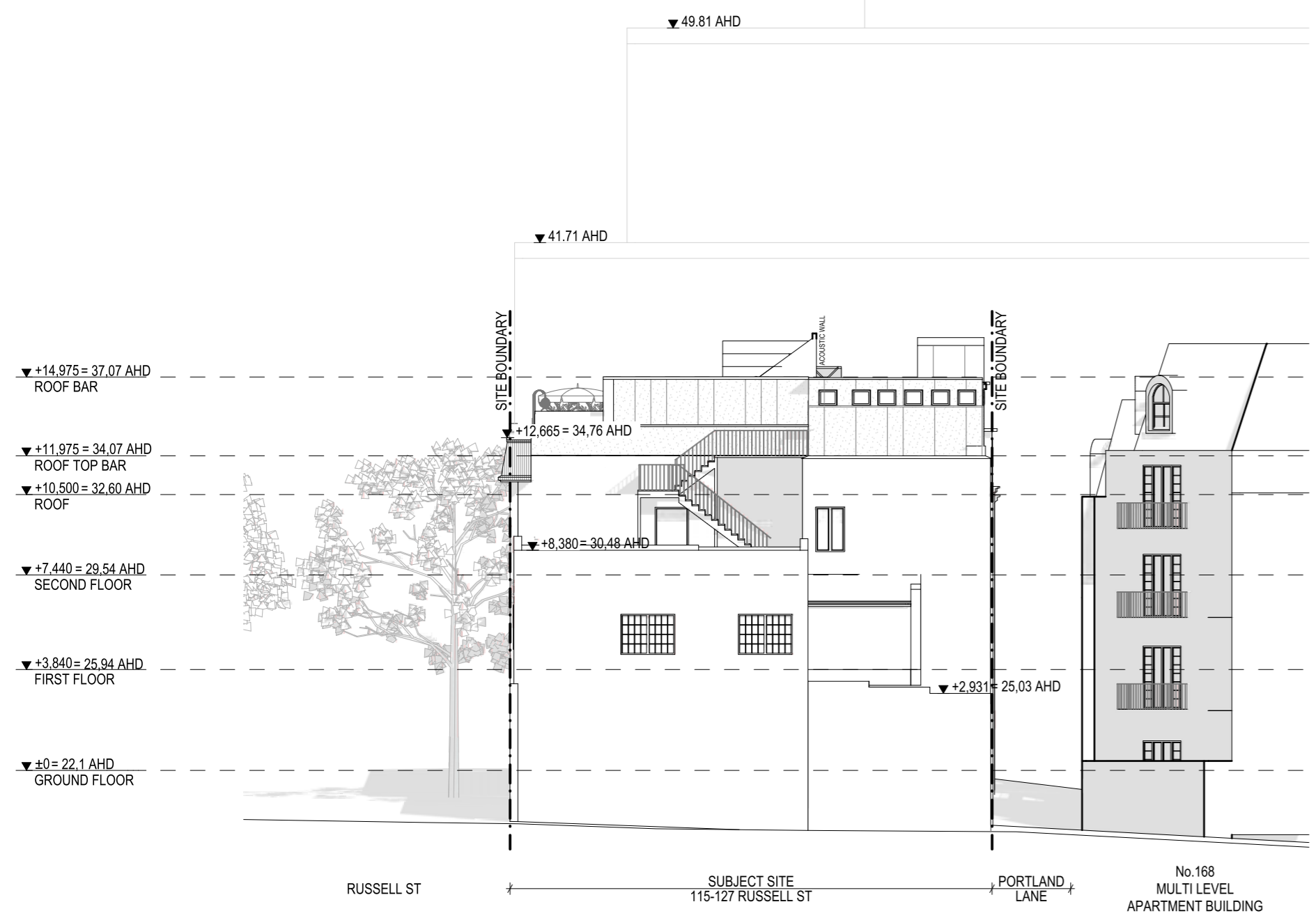
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- Construction

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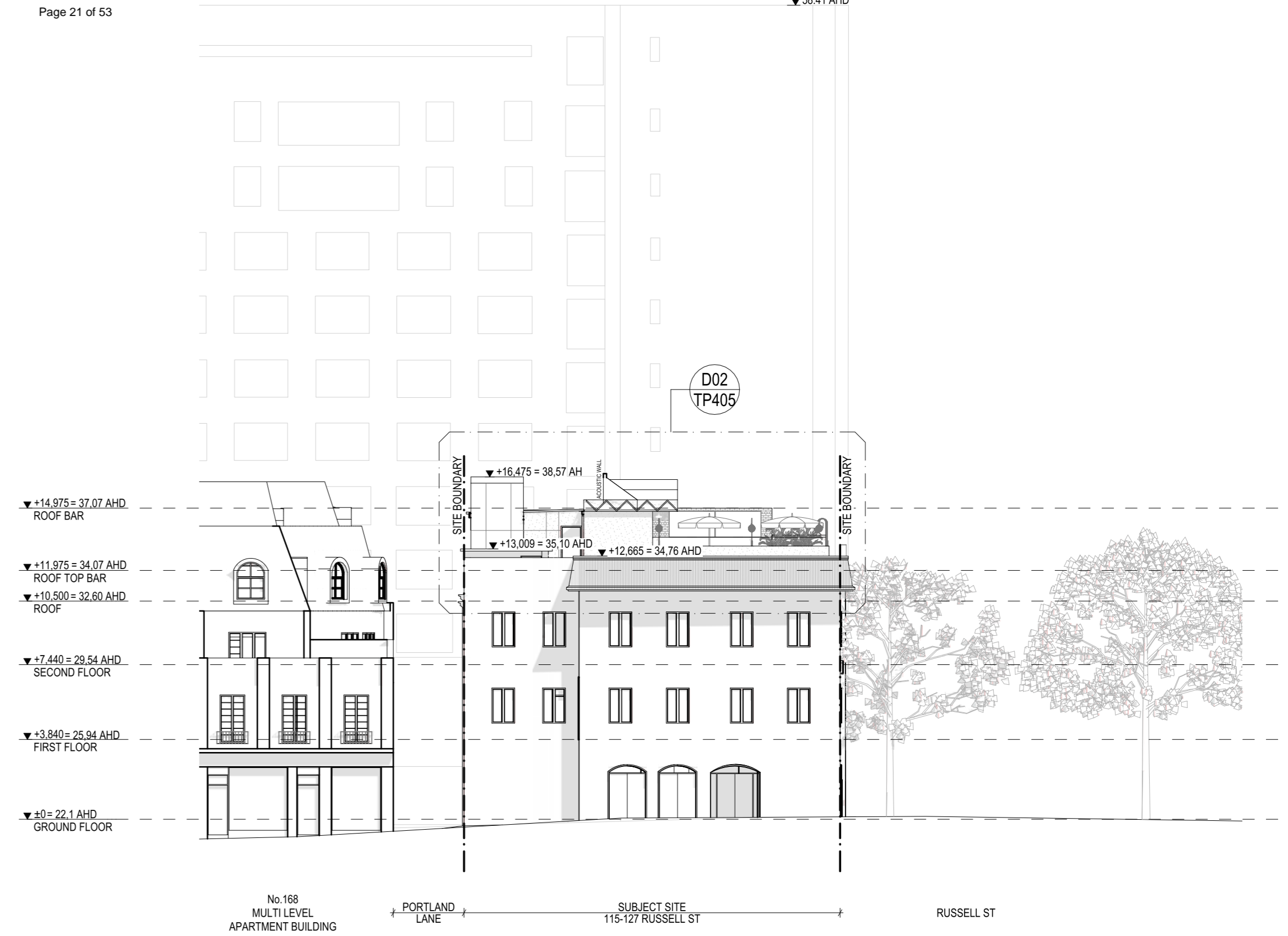
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PROPOSED ELEVATIONS 02

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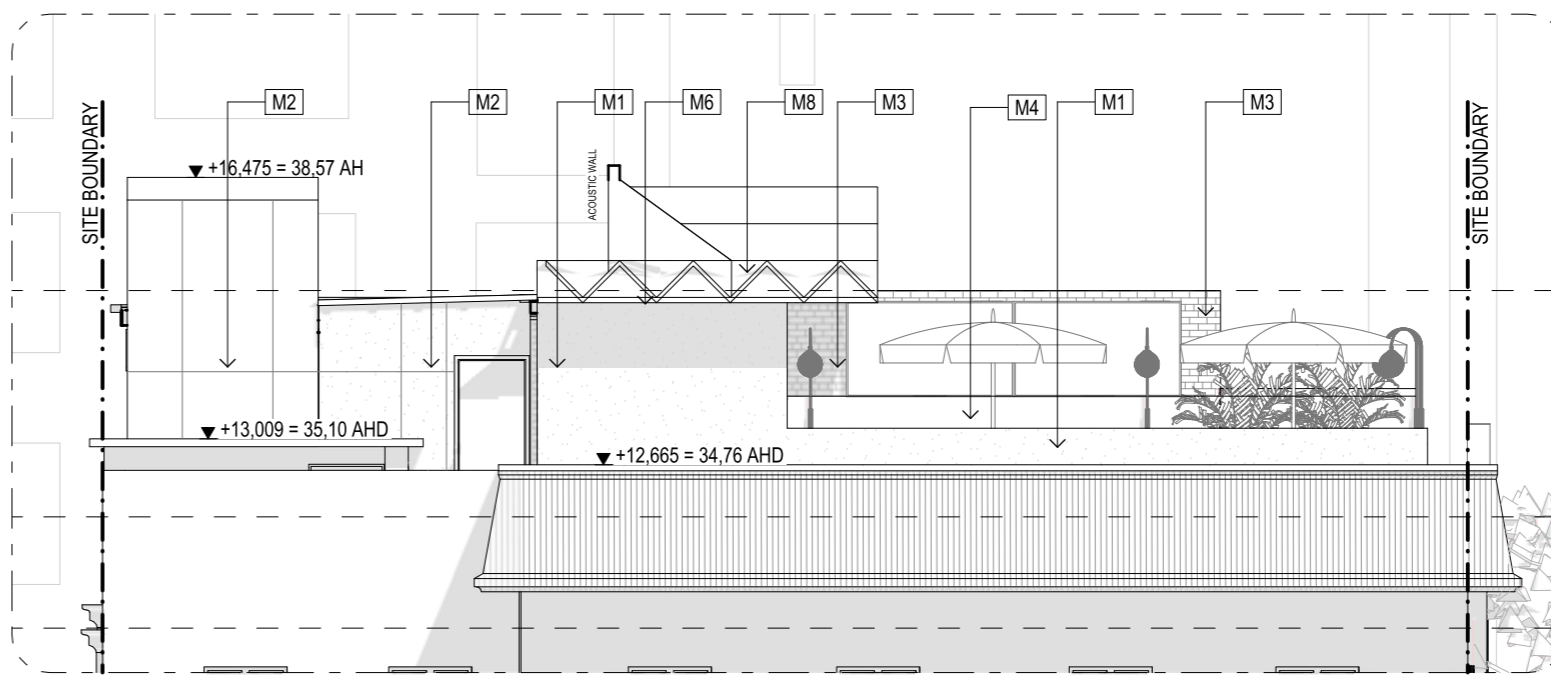
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E03 PROPOSED NORTH ELEVATION
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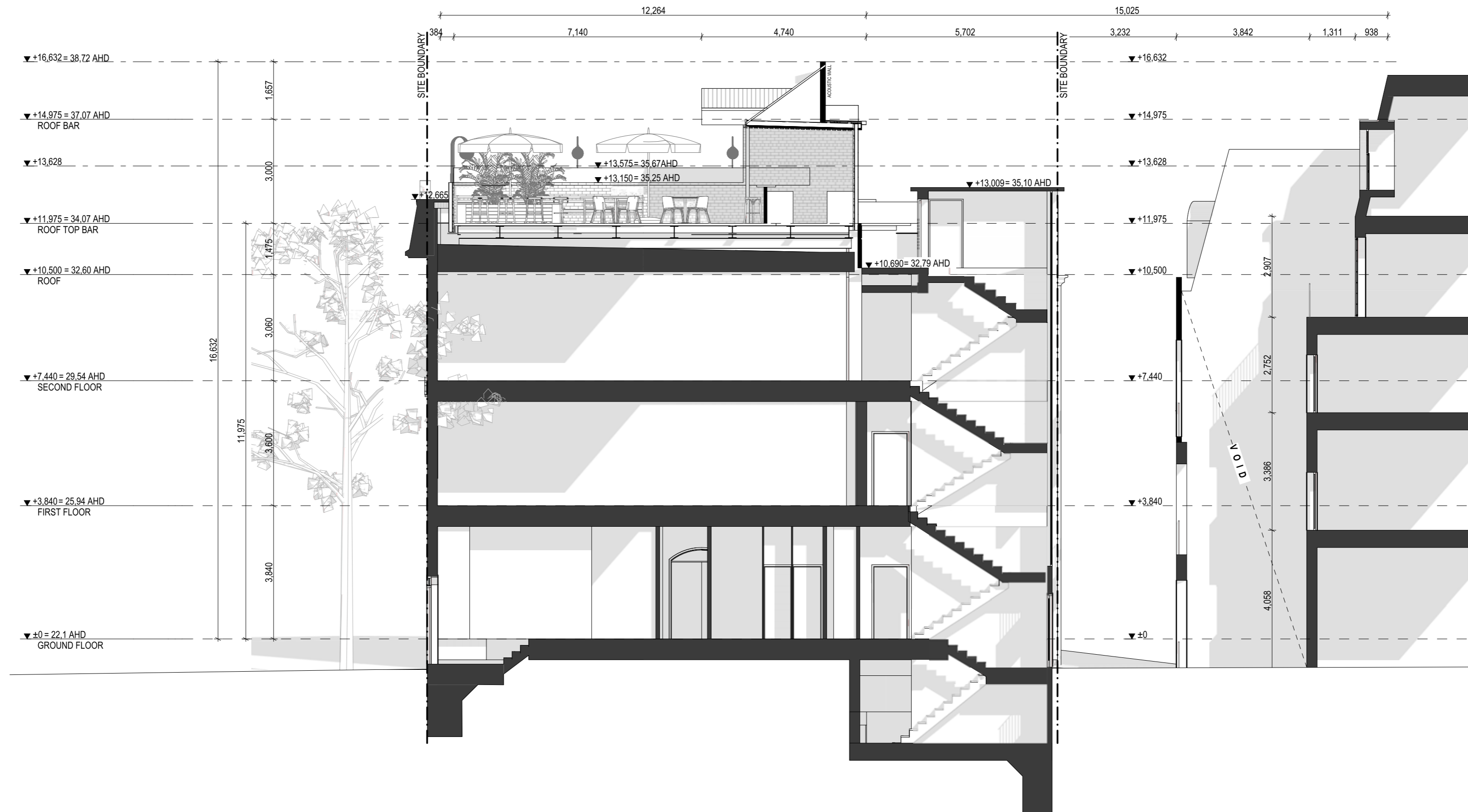


E04 PROPOSED SOUTH ELEVATION
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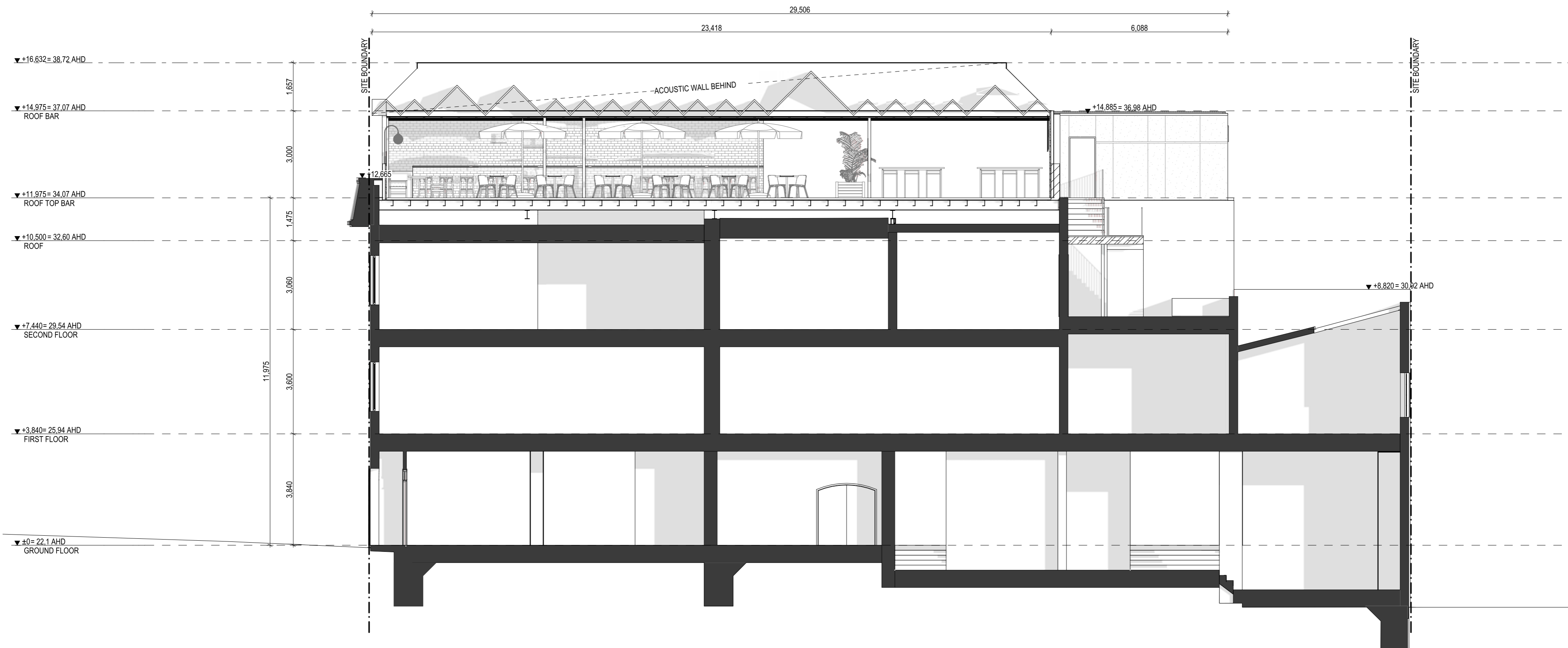


D02 PROPOSED SOUTH ELEVATION
1:100

<p>Suite 1130 Inkerman St, St Kilda VIC 3182 T: 03 9988 7300 M: 03 9751 3241 groundcontrol@studioy.com.au www.studioy.com.au</p>	<p>This work is copyright and owned by Studio Y. Apart from any use permitted by the Copyright Act 1968, no part may be copied by any process, reproduced, altered, published, modified or electronically stored without the prior permission of Studio Y. This work is solely used for the purpose and site in which it has been prepared by Studio Y. Any other use without the express permission of Studio Y is strictly prohibited.</p>	<p>Builders/Contractors shall verify all dimensions and conditions on site prior to any commencement of works. Dimensions shown are nominal. Figured dimensions should take precedence over scaled dimensions. Any discrepancies are to be made known to the designers office prior to any work commencing on site. All shop drawings shall be submitted for review and manufacture shall not commence prior to the return of un-amended shop drawings.</p>	<p>Revisions</p> <table border="1"> <thead> <tr> <th>Rev.</th> <th>Date</th> <th>Notes</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>29/07/2021</td> <td>ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Rev.	Date	Notes	A	29/07/2021	ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY							<ul style="list-style-type: none"> <input type="radio"/> Existing Conditions <input type="radio"/> Sketch <input checked="" type="radio"/> Town Planning <input type="radio"/> Design Development <input type="radio"/> Tender <input type="radio"/> Construction 	<p>Project Name: CRAFTY SQUIRE ROOFTOP Address: 127 RUSSELL STREET, MELBOURNE VIC 3000</p> <p>PROPOSAL PROPOSED ELEVATIONS 03</p>	<p>Scale: 1:200, 1:100 Sheet size: A2 Date: 29/07/2021</p> <p>Dwg No. TP405</p>
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<p>© Studio Y. All rights reserved. 2021</p>			<p>TP405</p>															



S01 PROPOSED SECTION
1:100



S02 PROPOSED SECTION
1:100

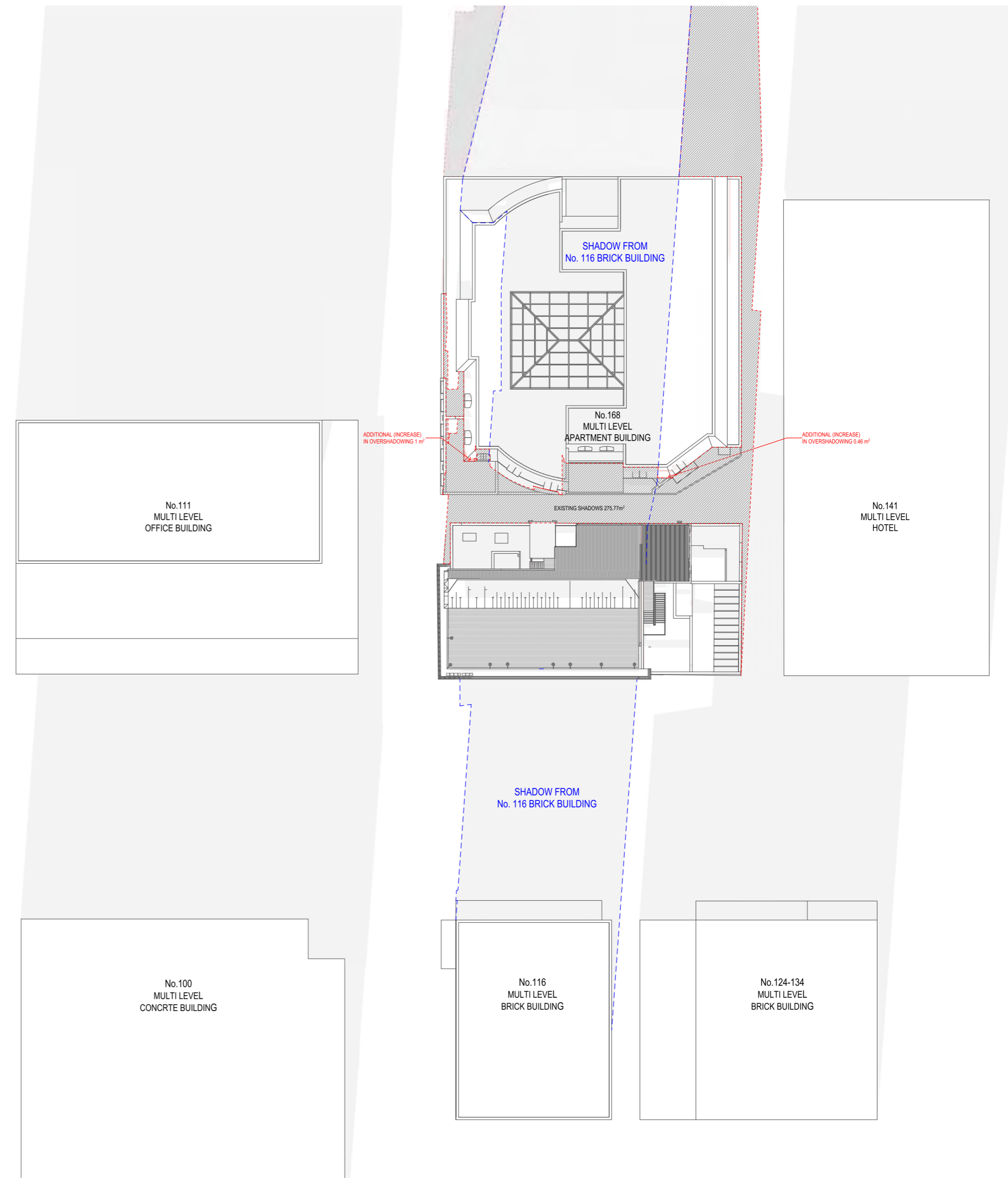
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A	29/07/2021	ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY

- Existing Conditions
- Sketch
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- Design Development
- Tender
- Construction



01

EXISTING SHADOW DIAGRAM - 22 SEPT - 9AM
1:500

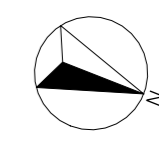


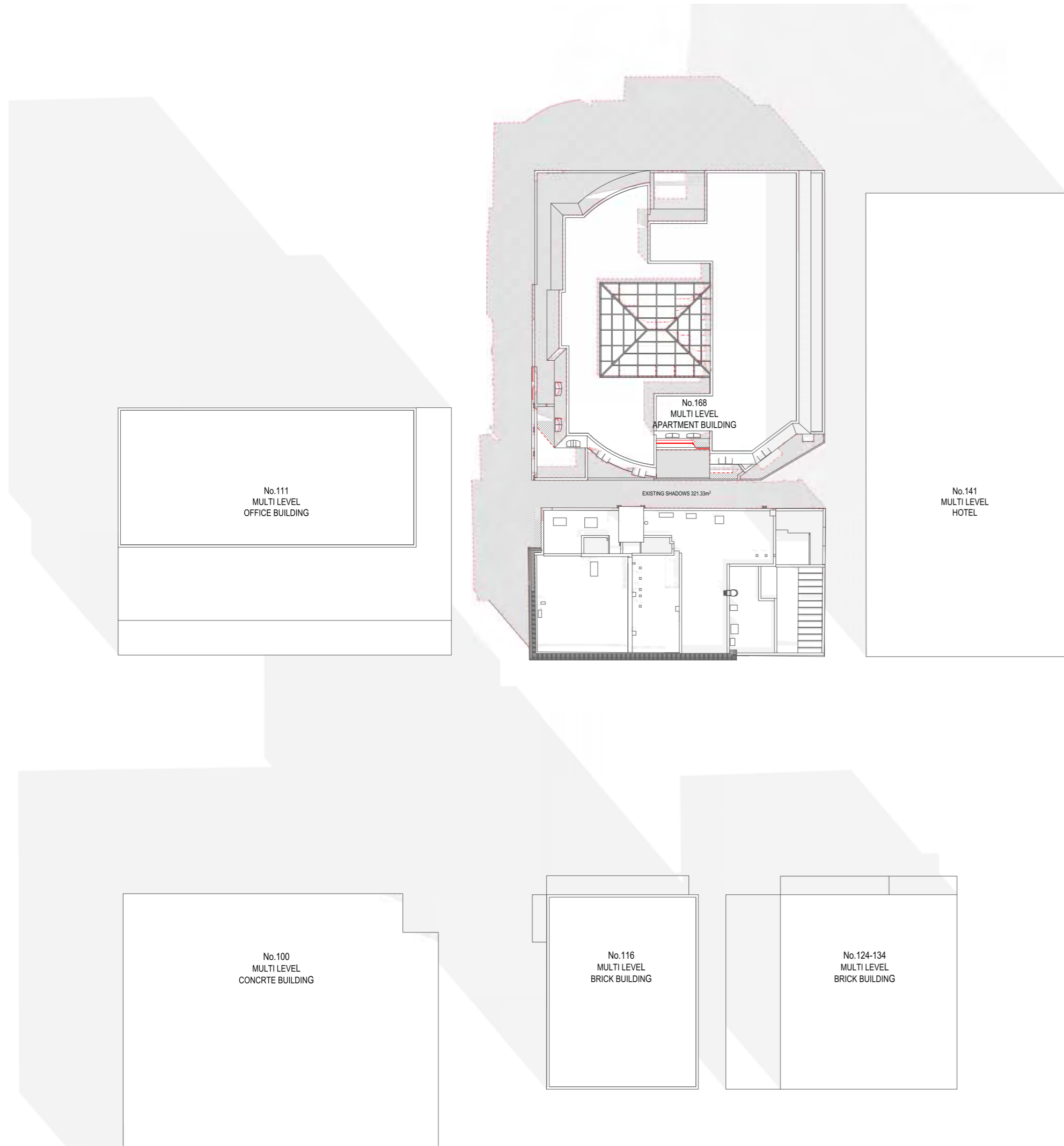
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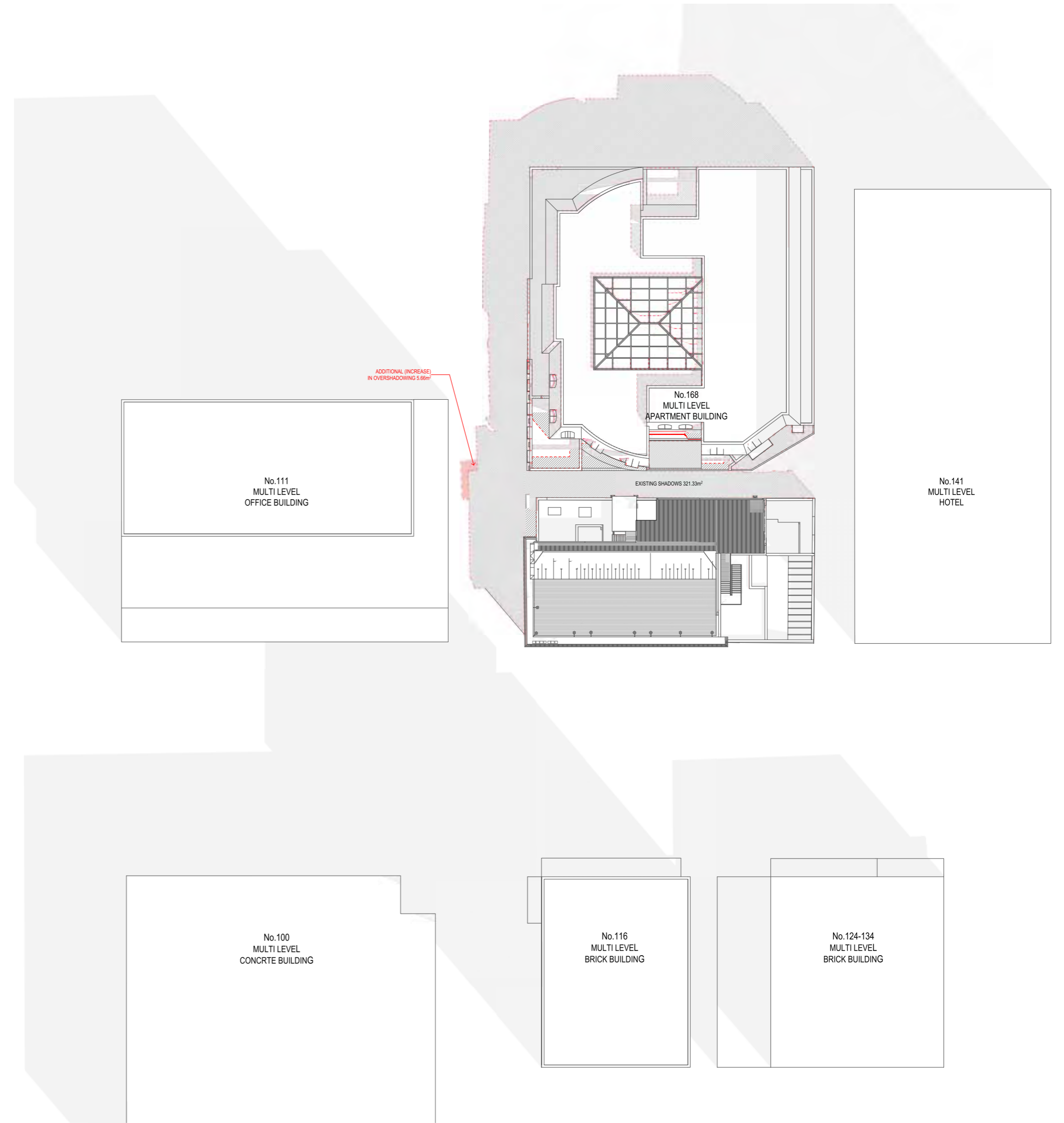
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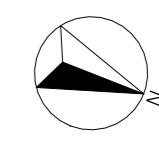
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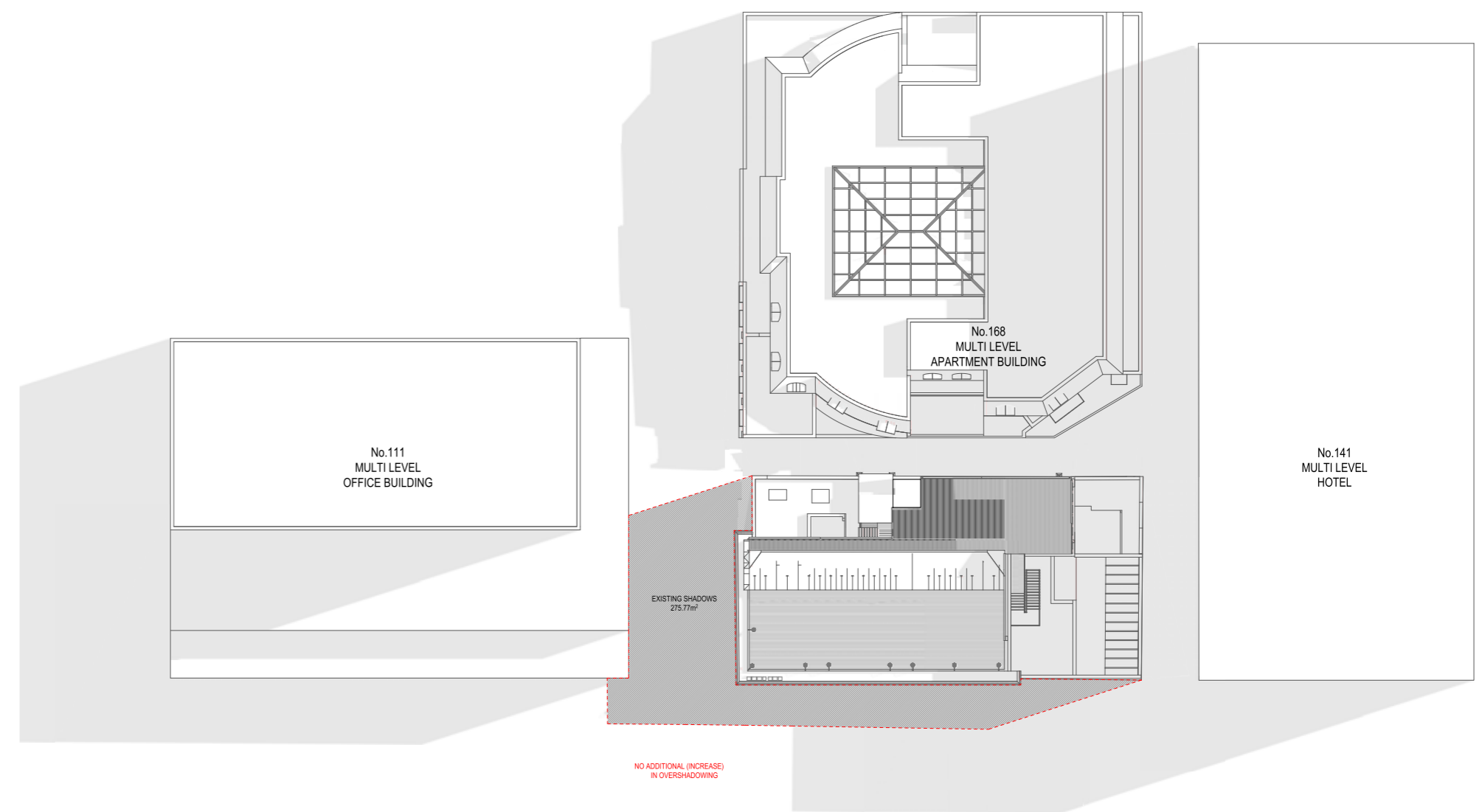
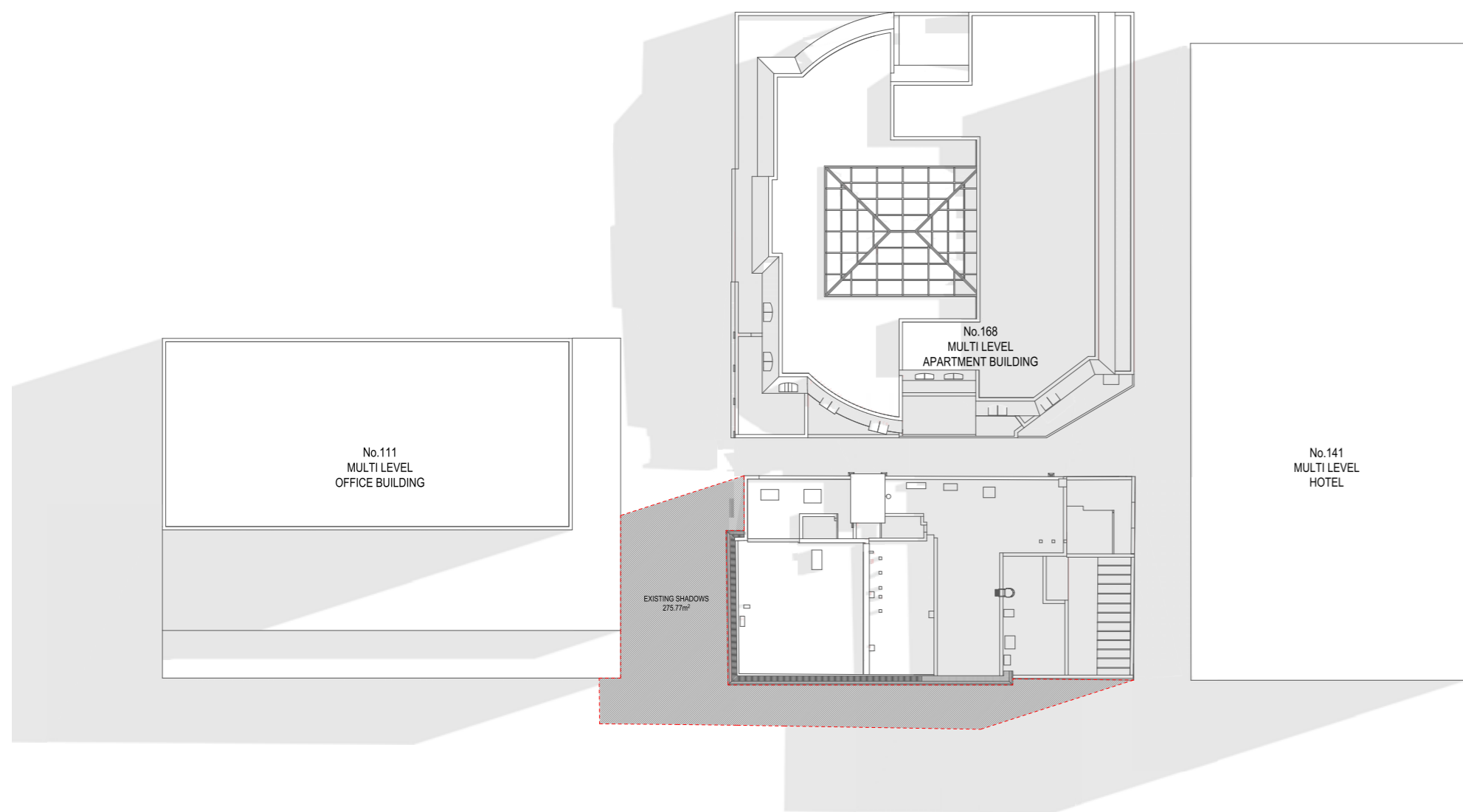


02 PROPOSED SHADOW DIAGRAM - 22 SEPT - 12PM
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Revisions		
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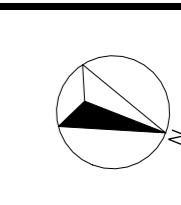


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03 PROPOSED SHADOW DIAGRAM - 22 SEPT - 3PM
1:500

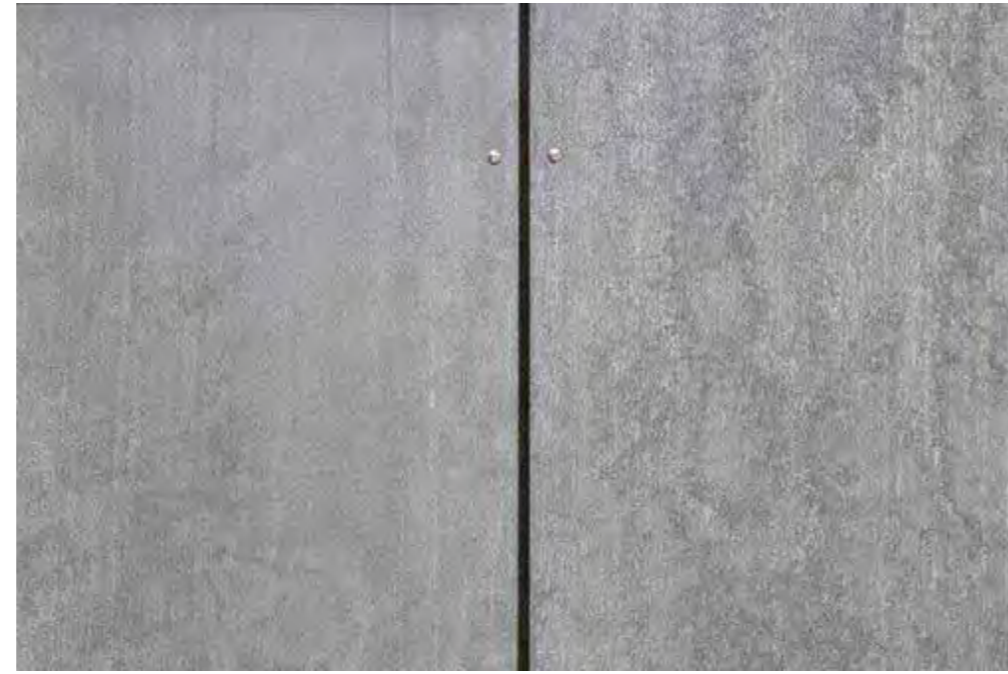
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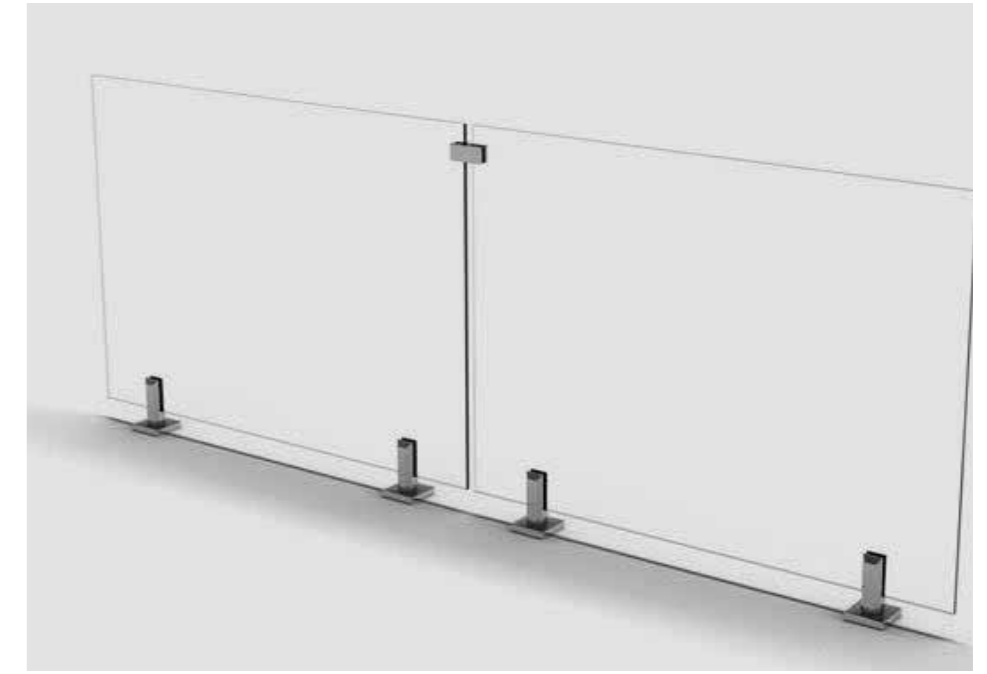
M1 - RENDER FINISH



M2 - FIBRE CEMENT SHEET



M3 - BRICK VENEER



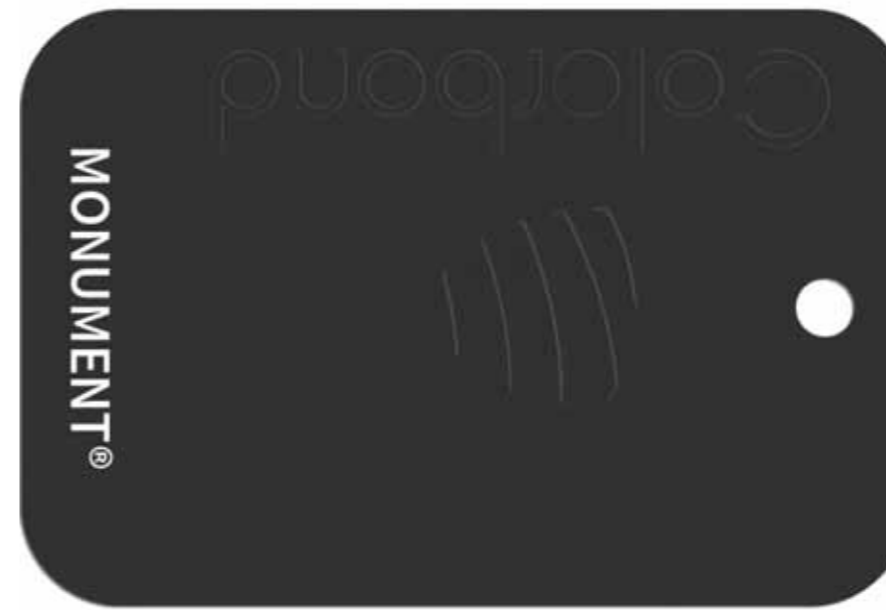
M4 - GLASS BALUSTRADE



M5 - GLASS BLOCKS



M6 - TIMBER



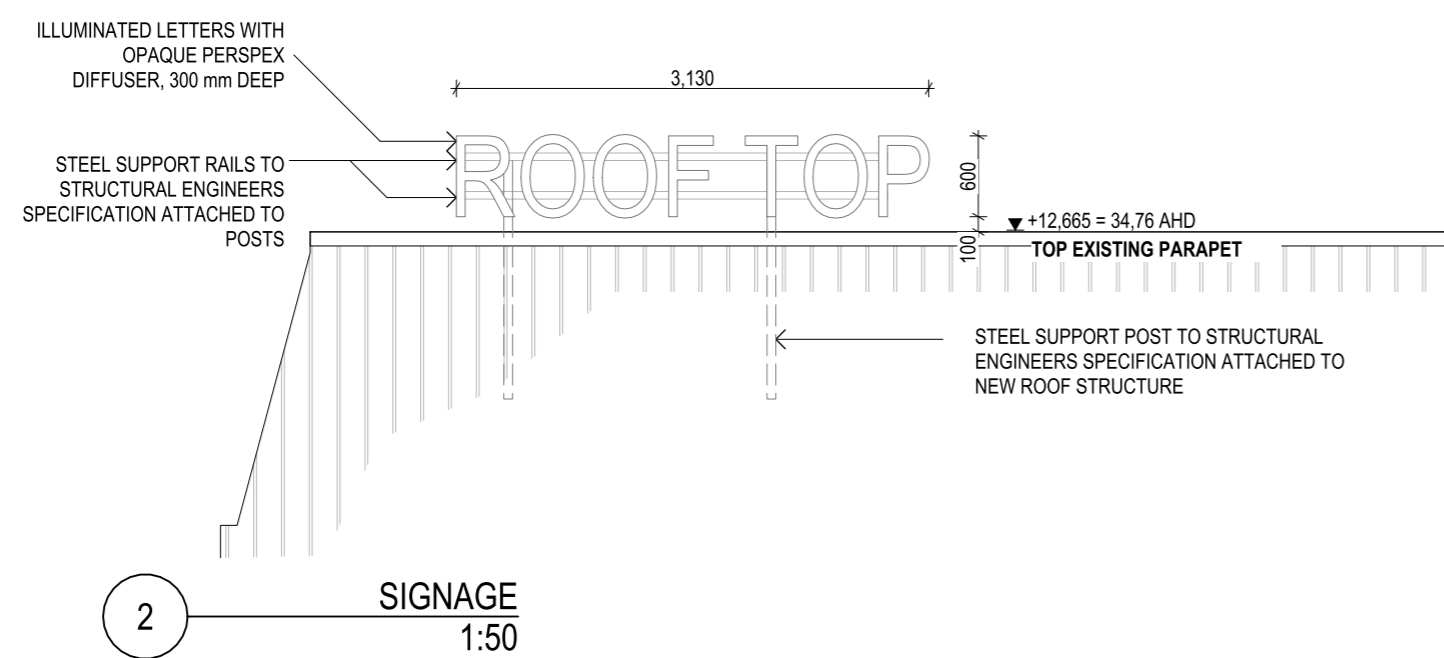
M7 - CP COLORBOND MONUMENT ROOF



M8 - COLORBOND SANDBANK

Revisions		
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A	29/07/2021	ROOF TOP FLOOR PLAN, SIGNAGE, ROOF GREENERY

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DELEGATE REPORT

PLANNING PERMIT APPLICATION

Application number:	TP-2021-200
Applicant:	AVC Operations Pty Ltd c/- Urbis Pty Ltd
Owner:	Revoe Pty Ltd
Architect:	Studio Y
Address:	115-127 Russell Street, MELBOURNE VIC 3000
Proposal:	Partial demolition; buildings and works for the construction of a rooftop bar above the existing building; the display of internally-illuminated business identification signage; and a reduction in bicycle parking pursuant to Clause 52.34
Cost of works:	\$1 million
Date of application:	13 April 2021
Responsible officer:	Nikki Brock, (Acting) Principal Urban Planner

This report has been prepared subsequent to the permit applicant lodging an application for review to the Victorian Civil and Administrative Tribunal pursuant to Section 79, failure to determine. This report outlines Council Officers' assessment of the application and its recommendation for a decision, had Council been in a position to issue a decision on the application.

1. SUBJECT SITE AND SURROUNDS

1.1. The site

The site is located on the west side of Russell Street, with Portland Lane and Little Collins Street abutting the site's north and west, and south boundaries respectively.

The site comprises two separate lots:

- Lot 1 on Title Plan 412691J; and
- Lot 1 on Title Plan 424396T.

The site has an area of approximately 653 square metres.

The site features a hotel, known as The Crafty Squire (formerly The Portland Hotel), contained within a three storey building which includes dining, bar, lounge and back of house areas in the lower two levels and hotel accommodation on the third level.

The hotel can be accessed via entries on both Russell and Little Collins Streets.

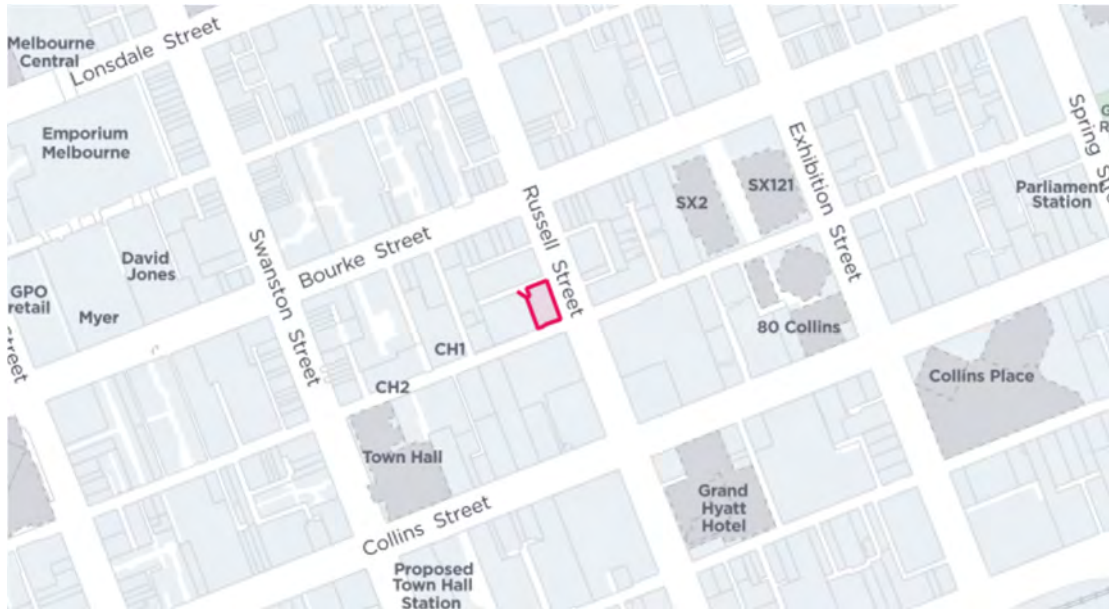


Figure 1: Site location (Source: Compass)



Figure 2: Image of site from corner of Russell and Little Collins Streets (Source: Google Street View)

1.2. Surrounds

The site is located within the Hoddle Grid with excellent access to public transport, and services and facilities commensurate with its central city location. Buildings of varying height and scale surround the site and a number of buildings affected by a Heritage Overlay are scattered across the area. Multi-storey towers anchor the south-east and south-west corners of the intersection the site is located on.

Russell Street features four trafficable lanes on either side of a landscaped median featuring angled parking. Little Collins Street allows one-way traffic in a north-east to south-west direction only and has restricted on-street parking on the south side of the street. Crossovers allow access to both the south and east ends of Portland

Lane, used to service the site as well as the Georges Apartments to the east and QT Hotel and Residences to the north.

Immediate surrounds feature the following:

North

The QT Hotel and Residences is located on the north side of Portland Lane at 133 Russell Street and features hotel rooms and permanent residences with habitable room windows facing the site, as seen in Figure 3 below. The hotel features a number of bar and dining spaces, including two separate rooftop bar areas on Level 11.



Figure 3: Interface of QT Hotel and Residences to the site (Source: Google Street View)

East

The Hero Apartments at 118 Russell Street contains retail premises at the lower levels and 134 apartments above with a height of 14 storeys, many with windows and / or balconies that face the site.

The double storey building at 122 Russell Street contains a restaurant.

The existing five storey former Melbourne Theosophical Society at 130 Russell Street is currently being redeveloped for a residential hotel to contain 14 storeys.

The building at 120 Collins Street (Australian Alpine House) occupies the corner of Russell and Little Collins Streets diagonally east of the site. The building features 51 levels and contains offices, ground level retail and basement parking.

South

South of the site on the opposite side of Little Collins Street, 150 Collins Street contains a 14 storey office building with ground level retail.

West

Across the southern extension of Portland Lane from the site are the Georges Apartments at 180 Little Collins Street. The heritage building features ground floor

retail and 40 apartments above, over a total of four levels. Some apartments within the building feature habitable room windows and balconies that face the site.



Figure 4: Georges Apartments on left and The Crafty Squire on the right, separated by Portland Lane (Source: Google Street View)

2. BACKGROUND

2.1. Pre-application discussions

There were no pre-application discussions held.

2.2. Site history

The following planning permits issued for this site are considered relevant to this application:

TP number	Description of Proposal	Decision & Date of Decision
TP-1995-407	Erection and display of signage (to erect signage to the existing hotel)	Permit 26 May 1995
TP-1997-920	Use of the first floor plus a ground floor entry, for the purpose of a sexually explicit adult entertainment venue	Permit 21 May 1999
TP-2000-887	Refurbishment of the exterior of the building including installation of a canopy and new signage	Permit 19 September 2000
TP-2001-873	Erection of signage to existing hotel	Permit 6 September 2001
TP-2003-349	Alterations to façade and erection of signage	Permit 30 May 2003

TP-2010-890	Construction of alterations to create an outdoor area (to be used in association with the existing hotel)	Permit 25 August 2011
TP-2015-312	Alterations to the exterior of the building including replacement awning and a new architectural feature and erection of business identification signs	Permit 22 May 2015

The above approvals relate to the site's historical use as a hotel.

Planning permit TP-2010-890 approved a small outdoor area on the north side of Level 1 of the building to primarily be used as a smoking area at the time. This area faces the QT Hotel and Residences and is enclosed by a timber batten roof and mesh screening to openings in the north-facing wall of the building.

Permit conditions prevent music from being played in this area. This is the only existing outdoor area associated with the hotel.

2.3. S.79 Application for Review

On 23 November 2021, the applicant filed an Application for Review of the Responsible Authority's failure to grant a permit within the prescribed time period pursuant to Section 79 of the *Planning and Environment Act 1987*.

A copy of the S.79 Failure Application was served on Council by the permit applicant on 3 December 2021 in accordance with VCAT's initiating order (dated 30 November 2021).

Council filed the information required by the Tribunal's Practice Notice PNPE2 – Information from Decision Makers (PNPE2) to the Tribunal on 13 December 2021.

3. THE PROPOSAL

The plans which have been considered in this planning assessment are those that were submitted as further information and are dated 29 July 2021.

The application proposes partial demolition and the construction of buildings and works to facilitate the creation of a roof top bar above the existing hotel. The roof is currently occupied by building services and the like and is not accessible to patrons.

The roof top bar would accommodate up to 376 patrons at any one time with 190 seats in an area of 267.8 square metres. It is proposed that the roof top bar would operate until 1am daily, with food served until 11pm.

Background music or a solo or duo acoustic performer/s only is proposed.

The buildings and works the application proposes are as follows:

- Internal demolition of ground floor bathroom facilities and rooftop features where required.
- The construction of an internal lift shaft from the ground to roof top.
- The construction of works to the roof top to create a partially covered bar, including service and back of house areas as well as bathroom facilities.
- The construction of an acoustic wall on the west boundary of the roof top bar area.
- The construction and display of an internally-illuminated sign on the east elevation of the roof to read 'ROOF TOP' with individual illuminated letters to have a combined width of 3.13 metres and a height of 600 mm.

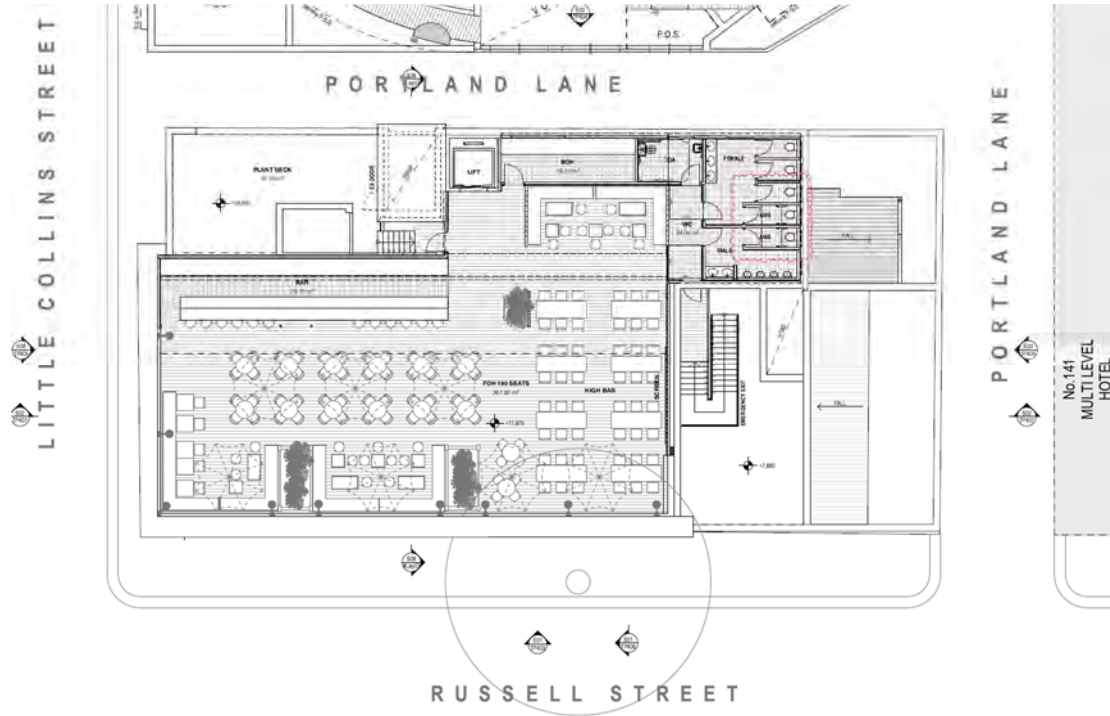


Figure 5: Roof top bar plan (Source: Applicant)

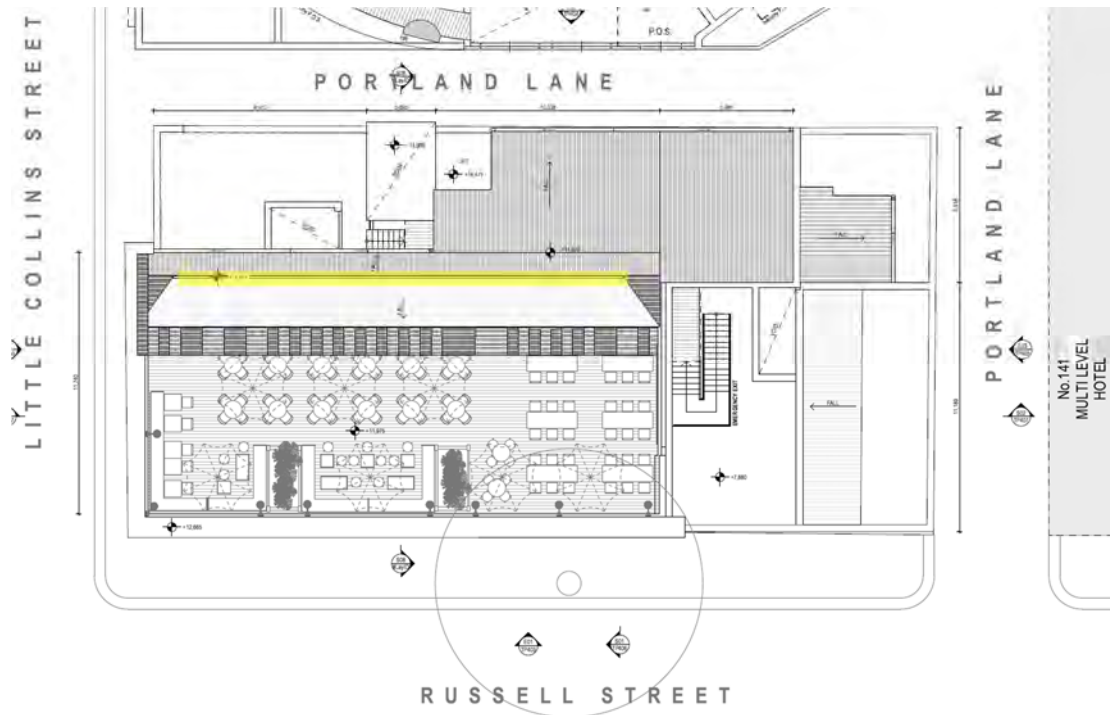


Figure 6: Roof plan including acoustic wall, highlighted in yellow (Source: Applicant)



Figure 9: Aerial 3D of the proposed roof top including covered structures (Source: Applicant)

4. STATUTORY CONTROLS

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

Statutory Controls	
Clause	Permit trigger
Capital City Zone Schedule 2	<p>Permit required – buildings and works and demolition</p> <p>Pursuant to Clause 37.04-1, a Hotel is a Section 2 ‘permit required’ use. However, the existing hotel benefits from existing use rights and no permit is required for an extension of the existing use.</p> <p>Pursuant to Clause 37.04-4, a permit is required to construct a building or construct or carry out works.</p> <p>Pursuant to Clause 37.04-4, a permit is required to demolish or remove a building or works.</p> <p>Pursuant to Clause 37.04-5, a permit is required to construct or put up for display a sign as the proposed sign does not meet exemption criteria listed under Schedule 2 to the clause.</p> <p>Sign requirements are at Clause 52.05 and this zone is not in a sign category at Clauses 52.05-11 to 52.05-14.</p>
Design and Development Overlay Schedule 1	<p>Permit required – buildings and works</p> <p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works.</p> <p>The schedule relates to urban design and requires that buildings and works:</p>

Urban Design in Central Melbourne	<ul style="list-style-type: none"> • Must meet the Design objectives specified in Schedule 1; and • Must satisfy the Design outcomes specified for each relevant Design element in Schedule 1.
Design and Development Overlay Schedule 2 – Area 1 Built Form (Hoddle Grid)	<p>Permit required – buildings and works</p> <p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works.</p> <p>The schedule relates to built form outcomes in the Hoddle Grid and requires that buildings and works meet a number of design objectives and built form outcomes. These include a mandatory maximum building height of 40 metres, a discretionary street wall height of 20 metres and discretionary setbacks above the street wall of 5 metres.</p>
Parking Overlay Schedule 2 Capital City Zone – Retail Core	<p>No permit required</p> <p>Clause 45.09-1 states that this overlay operates in conjunction with Clause 52.06, and that a schedule may vary the requirements of Clause 52.06.</p> <p>Clause 3.0 of Schedule 2 states that no car parking spaces are required for any use.</p>

Particular Provisions	
Clause 52.05 Signs	<p>No permit required</p> <p>Clause 52.05 contains sign requirements. However, land in the CCZ2 is not in a sign category at Clauses 52.05-11 to 52.05-14.</p>
Clause 52.06 Car Parking	<p>No permit required</p> <p>Pursuant to Clause 52.06-3, a permit is not required if a schedule to the Parking Overlay specifies that a permit is not required under this clause.</p> <p>Clause 3.0 of Schedule 2 to the Parking Overlay states that no car parking spaces are required for any use.</p>
Clause 52.27 Licensed Premises	<p>No permit required</p> <p>A permit is required to use land to sell or consumer liquor if (inter alia):</p> <ul style="list-style-type: none"> • The area that liquor is allowed to be consumed or supplied under a licence is to be increased. <p>This does not apply (inter alia):</p> <ul style="list-style-type: none"> • If the schedule to this clause specifies that a permit is not required to use land to sell or consume liquor under a particular type of licence. <p>The schedule to Clause 52.27 states that a permit is not required for land within the Capital City Zone for all licences required under the Liquor Control Reform Act 1998.</p>

<p>Clause 52.34 Bicycle Facilities</p>	<p>Permit required</p> <p>Pursuant to Clause 52.34-2, a permit may be granted to vary, reduce or waive the bicycle parking requirement of Clause 52.34-5 and 52.34-6.</p> <p>The increase in floor area of the existing use generates a requirement for 22 bicycle parking spaces and associated facilities. The application does not propose to provide any additional bicycle facilities and, therefore, a permit is required to waive these requirements.</p>
<p>Clause 53.18 Stormwater Management in Urban Development</p>	<p>Permit required</p> <p>An application to construct a building or construct or carry out works:</p> <ul style="list-style-type: none"> • Must meet all of the objectives of Clauses 53.18-5 and 53.18-6; and • Should meet all of the standards of Clauses 53.18-5 and 53.18-6.

General Provisions	
<p>Clause 63 Existing Uses</p>	<p>Pursuant to Clause 63.05, a use in Section 2 or 3 of a zone for which an existing use right is established may continue provided:</p> <ul style="list-style-type: none"> • No building or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirement in this scheme. • Any condition or restriction to which the use was subject continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or the extent of activities within the use. • The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.
<p>Clause 65 Decision Guidelines</p>	<p>Includes the matters set out in Section 60 of the Planning and Environment Act 1987.</p>

Operational Provisions	
<p>Clause 73 Meaning of Terms</p>	<p>Clause 73.03 defines the land use term 'hotel' as:</p> <p>Land used to sell liquor for consumption on and off the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines, and gambling.</p>

5. PLANNING SCHEME PROVISIONS

The following provisions of the Melbourne Planning Scheme apply:

<p>Planning Policy Framework</p>	<p>Clause 11 – Settlement</p> <ul style="list-style-type: none"> • Clause 11.01-1S – Settlement
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	<p>Clause 15 – Built Environment and Heritage</p> <ul style="list-style-type: none"> • Clause 15.01-1R – Urban Design Metropolitan Melbourne • Clause 15.01-2S – Building Design <p>Clause 17 – Economic Development</p> <ul style="list-style-type: none"> • Clause 17.01-1R – Diversified Economy Metropolitan Melbourne • Clause 17.02-1S – Business
Municipal Strategic Statement	<p>Clause 21.02 – Municipal Profile</p> <ul style="list-style-type: none"> • Clause 21.02-5 – Prosperous City <p>Clause 21.03 – Vision</p> <p>Clause 21.04 – Settlement</p> <ul style="list-style-type: none"> • Clause 21.04-1.1 – The original city centre – the Hoddle Grid <p>Clause 21.06 – Built Environment and Heritage</p> <ul style="list-style-type: none"> • Clause 21.06-1 – Urban Design <p>Clause 21.08 – Economic Development</p> <ul style="list-style-type: none"> • Clause 21.08 – Economic Development - Retail <p>Clause 21.12 – Hoddle Grid</p>
Local Planning Policy Framework	<p>Clause 22.02 – Sunlight to Public Spaces</p> <p>Clause 22.07 – Advertising Signs</p> <p>Clause 22.19 – Energy, Water and Waste Efficiency</p> <p>Clause 22.23 – Stormwater Management (Water Sensitive Urban Design)</p>

6. PUBLIC NOTIFICATION

An application to construct a building or construct or carry out works for a use in Section 2 of Clause 37.04-1 is not exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

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

7. OBJECTIONS

A total of 45 objections were received which raised the following concerns in relation to the proposal:

- Noise.
- No acoustic barrier to east, should be a retractable roof closed after 11.
- Loss of views, privacy, daylight.
- Reduction in bicycle parking inappropriate.
- Current operation of The Crafty Squire and ongoing amenity impacts, plus use of Portland Lane.
- Signage should be dimmable.

The concerns raised will be addressed in Section 9 of this report.

8. CONSULTATION

Objections were passed on to the applicant who advised that they did not intend to provide a response to the concerns raised.

Council officers have discussed the proposal with objectors prior to and since the failure appeal has been lodged with the Tribunal.

Statements of grounds from objectors, indicating their intention to join as a party to the VCAT proceeding, were required to be lodged with the Tribunal by 21 January 2022. One objector had lodged a statement of grounds with the Tribunal by this date.

9. REFERRALS

The application was referred to the following internal departments with comments summarised:

- Waste

The submitted Waste Management Plan by Frater dated 22 July 2021 requires minor amendments prior to approval.

The amendments sought by Council's Waste and Recycling team can be included as conditions on any permit to issue. The current waste management arrangements will largely be retained and only require minor modification for the new roof top bar.

10. ASSESSMENT

The application seeks partial demolition; buildings and works for the construction of a rooftop bar above the existing building; the display of internally-illuminated business identification signage; and a reduction in bicycle parking pursuant to Clause 52.34.

The key issues in the consideration of this application are:

- Existing Use Rights
- Built Form
- Amenity Impacts
- Bicycle Facilities
- Signage
- ESD

9.1 Existing Use Rights

The existing use of the building as a hotel will be maintained under the current application, and no permit is required for the use of the roof top as a bar.

This position is supported by case law, cited in the applicant's submission to Council.

The VCAT decision in *Stonnington City Council v Southern Property Corporation Pty Ltd [2005] VCAT 2346 (Argo Hotel)* found that the current operation of a hotel was not restricted in area and that the use could be extended to other areas of the building not previously used for a hotel.

In addition, the use of the roof top as a hotel would not constitute a change in activities on the land, therefore allowing the existing use right to continue pursuant to Clause 63.05 (Existing Uses).

Council has accepted the hotel benefits from existing use rights based on the use being carried out lawfully immediately prior to the approval date, as per the requirements of Clause 63.01 (Extent of Existing Use Rights) or that the use has been carried out continuously for a period in excess of 15 years prior to the date this

application was made, as per the requirements of Clause 63.11 (Proof of Continuous Use).

This position is consistent with previous decisions by Council for applications of a similar nature.

A permit has not previously been issued for the existing use. However, a search of Council records revealed planning permits for various buildings and works related to the use of the building as a hotel, dating back to 1995.

Of the objections received in relation to the application, none were concerned with the status of the hotel's operation under existing use rights.

9.2 Built Form

The application seeks approval for buildings and works to the existing roof top to facilitate the creation of a roof top bar. Additions will result in an increase in height of the building by approximately 4.0 metres (from 12.6 metres to 16.6 metres) relative to natural ground level at the Russell and Little Collins Streets corner.

The bulk of the addition will be located in the centre of the site and extend to Little Collins Street and is formed by the covered bar, roof and acoustic wall, as shown in the sections below.

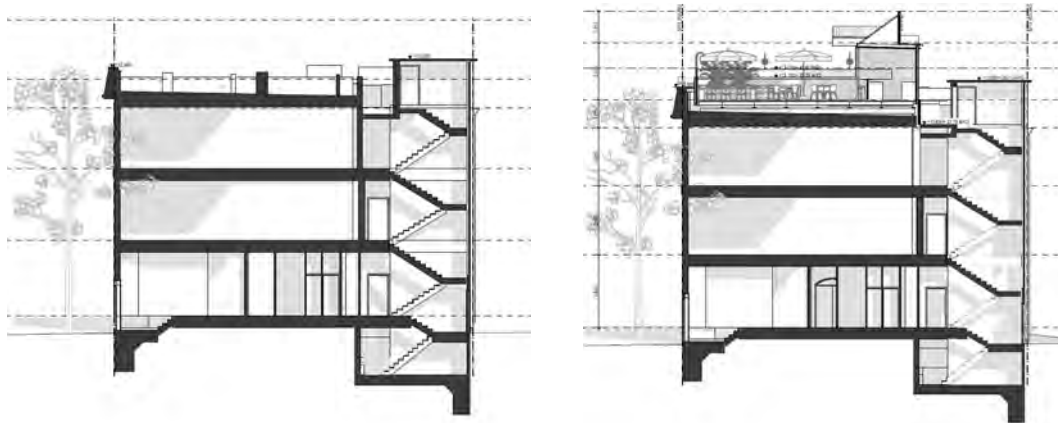


Figure 10: Existing (left) and proposed (right) sections (Source: Applicant)

The proposed built form has been assessed against relevant State and Local Planning Policy as well as the requirements and decision guidelines of Schedule 2 to the Capital City Zone and Schedules 1 and 2 to the Design and Development Overlay, as relevant to the current proposal.

The built form is considered to be acceptable for the following reasons:

- It is consistent with State and Local Planning Policy that seeks to ensure building design is of a high quality and contributes positively to the public realm.
- It does not cause overshadowing to an extent that would prevent sunlight penetration to adjoining streets.
- Existing building entries and access to adjoining lanes will be maintained.
- The height, bulk and scale of the addition is in keeping with the host building and appropriate to the surrounding context.
- The built form will provide adequate weather protection for patrons and employees, with the open area of the bar overlooking Russell and Little Collins Streets providing activation above street level and affording passive surveillance of the public realm.

9.2.1 Design and Development Overlay Schedule 1

Schedule 1 to the Design and Development Overlay sets out requirements relating to urban design for applications proposing buildings and works within the Central City. Having regard to the location of the proposed buildings and works at the roof level, the design objective of most relevance to the current application is:

- To ensure that all development achieves high quality urban design, architecture and landscape architecture.

While the objectives of DDO1 are of limited relevance to the proposed additions, the development demonstrates overall compliance with relevant design objectives, outcomes and elements of Schedule 1 having specific regard to the following:

- The addition will be well integrated with the existing building and maintain an interesting skyline through the roof profile.
- The addition will be internally-accessible and all existing ground level street entries and window openings will be retained.
- Building services will be accommodated in the south-west corner of the roof, not generally visible from the public realm.
- The roof top bar will be contained within the existing building's footprint and will have no impact on any existing street trees.
- The Little Collins Street façade will incorporate materials including fibre cement sheet and a render finish to integrate the addition with the existing building below.
- The proposed built form will result in a visually interesting addition that delivers a high quality design on all visible sides.

9.2.2 Design and Development Overlay Schedule 2 – Area 1

Schedule 2 to the Design and Development Overlay sets out built form requirements specific to the Hoddle Grid. Design objectives include the following:

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

Given the nature of the proposed addition, not all of the requirements of the schedule are relevant. However, the proposal is considered acceptable when assessed against the relevant requirements for the following reasons:

- The proposed buildings and works are considered to meet the design objectives outlined above.
- Due to the site's orientation, layout, existing height and general surrounds which feature much higher buildings, there will be little impact on sunlight in the public realm as a result of the proposed additions. Shadow diagrams demonstrate that the only additional overshadowing will occur to the centre of Little Collins Street at midday on 22 September.

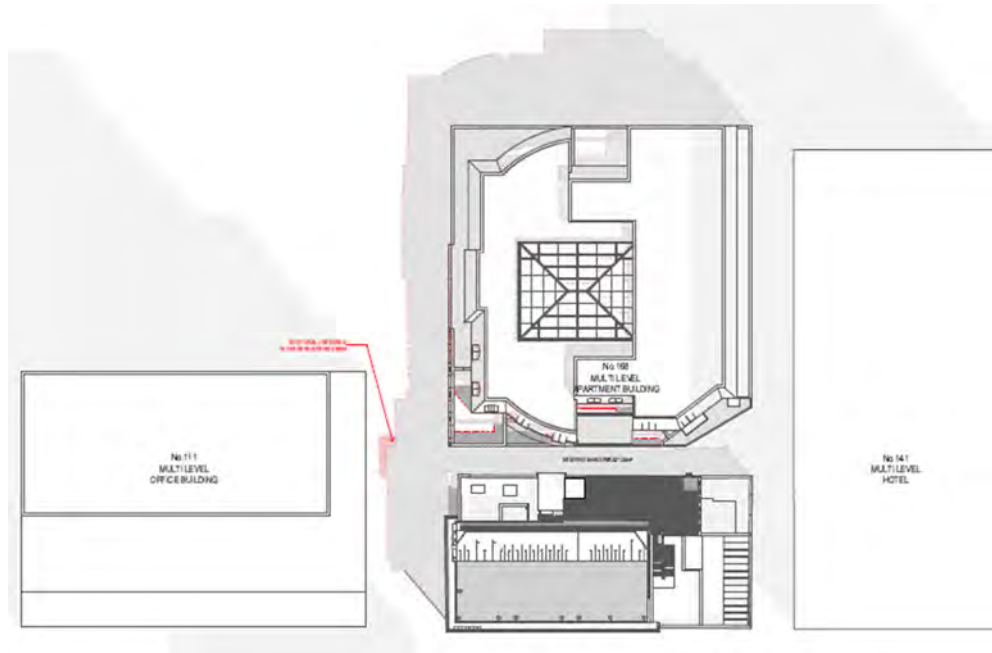


Figure 11: Additional overshadowing at midday on 22 September indicated in red above (Source: Applicant)

- The relatively minor increase in height to the existing low-scale building is well below the 40 metre mandatory maximum allowed in Table 3.
- The addition will continue to provide a feeling of openness and intimate scale for pedestrians.
- The additions are largely set back from the Russell Street and Little Collins Street boundaries, maintaining the existing street wall conditions. Side and rear setback requirements do not apply as the height of the building is less than 20 metres, however, Table 5 stipulates that upper level setbacks from the street should be a minimum of 5 meters above the street wall.
- The balustrade to the bar area above the Russell Street wall will be set back 0.384 metres and have a height of 0.485 metres above the existing parapet. The side wall of the bar above the Little Collins Street street wall will be set back 0.5 metres and have a height of 2.31 metres above the existing parapet. Although these setbacks do not comply with the required setbacks, the addition has been designed to be in keeping with the host building and is considered to be of a scale that will not dominate or detract from the host building or the surrounding streetscape with the dominant wall scale of the existing building being maintained.
- A human scale continues to be provided and the addition still allows adequate opportunity for daylight, sunlight and sky views in the street.

9.3 Amenity Impacts

Noting that the hotel has been established on the site for an extended period of time, such that it benefits from existing use rights, amenity considerations are limited to potential impact of the buildings and works on adjoining properties as well as any

impacts that may be reasonably associated with the subsequent use of those buildings and works.

Having regard to the context of the site, which has immediate interfaces with residential properties, potential amenity impacts of the proposed additions are required to be considered in the assessment of the proposal.

The overwhelming majority of objections received to the application were concerned with amenity impacts as a result of the proposed use of the roof as an extension of the hotel which as previously discussed are beyond the scope of consideration in the current application.

Having regard to the proposed built form, the alterations and additions are considered to be sensitively located so as to not result in any unreasonable bulk or overshadowing to the adjoining properties.

It must also be acknowledged that the hotel has been established on the site for an extended period of time, such that it benefits from existing use rights. The site is located within the central city in proximity to numerous uses of a similar nature, albeit of varying scale, and residents in the surrounding area cannot expect the same level of amenity that may be expected in suburbs outside the central city. Further consideration of amenity as a result of the subsequent use of the roof top is considered below.

9.3.1 Waste storage

Several objections have raised concerns with the current operation of the hotel and cited matters including existing amenity impacts, mostly noise related, and the use of Portland Lane for waste storage.

These matters which relate to the existing operation of the Hotel cannot be considered under the current application.

However, having regard to the proposed extension of the use to the roof as a result of the building and works a Waste Management Plan (WMP) was required to be submitted with the application.

As discussed in Section 8 above, Council's Waste Services team have reviewed the submitted WMP and have noted that an amended WMP will be required to address outstanding matters which will be required as a condition of permit, should one issue.

Appropriate conditions can also be included to ensure waste is stored and transported in accordance with any approved WMP which will be required to comply with Council's 'Guidelines for Waste Management Plans, 2021'.

9.3.2 Noise

Noise was the key concern raised by objectors, although many objections related to noise emanating from the site under its current operation. As previously identified, noise emanating from the existing premises is not a matter that can be considered under the current application.

Notwithstanding, having regard to potential noise impacts from the use of the proposed roof top, the applicant has submitted a Noise Impact Assessment with the application that monitored noise from a point on the west side of the site, between the site and the Georges Apartments. The assessment asserts that, given the monitoring point was at the closest point from the adjoining apartments to the site,

compliance at that location would also result in compliance for those sensitive uses further from the site, including the QT Residences to the north.

The assessment found that, provided the acoustic barrier proposed as part of the application is installed, the rooftop bar will not result in adverse noise impacts.

Objectors were concerned that an acoustic barrier should also be installed on the east of the site fronting Russell Street. Whilst the Noise Impact Assessment stated that the test results demonstrate noise levels for other nearby sensitive uses would be acceptable, testing has not demonstrated that the installation of an acoustic barrier will not then mean noise experienced by properties to the north or east will be altered or acceptable (potentially reduced).

To the north, the north boundary of the bar's seating area will feature a solid screen with a height of approximately 3.0 metres, leaving only a portion of the north boundary open for a distance of approximately 3.5 metres. It is noted that apartments in the QT residences are located on Levels 9 and 10 of the building, above the height of this screen.

An acoustic wall to the east or north, may not be necessary, but a condition of permit should require additional testing to be carried out at additional points, with appropriate measures taken depending on the results of testing, to the satisfaction of the Responsible Authority.

A condition of permit will also allow Council to require further testing, should further noise issues arise following the commencement of the use of the roof top bar.

Another noise related matter raised by objectors was the possibility of a retractable roof over the bar, to be closed after 11pm. A retractable roof does not form part of the current application and it is proposed that the roof top bar would operate until 1am.

Given that a permit is not required for a licensed premises under Clause 52.27, the Local Planning Policy at Clause 22.22 for Licensed Premises that Require a Planning Permit also does not apply to the current application. It does, however, provide guidance in relation to hours of operation.

9.3.2 Hours of operation

Policy at Clause 22.22-3 states that the hours of operation for hotels in the Capital City Zone should be limited to 1am. Further, it goes on to say that rooftops should not be occupied past 1am and in noise sensitive areas alcohol should not be consumed in outdoor areas after 11pm.

The report submitted with the application expressly states that the roof top bar will operate until 1am daily. However, the submitted management plan, and acoustic report, indicates that the roof top bar will operate until 3am on Friday and Saturday nights. This is not consistent with policy at Clause 22.22-3 and a condition of permit should require the management plan and acoustic report to be amended to read 1am only as per the application documents.

It is also proposed that alcohol will continue to be served until 1am on the roof top. Based on the installation of an acoustic barrier, and further testing to be carried out as a condition of permit, provided further testing demonstrates no amenity impacts

on any nearby sensitive use, the service of alcohol on the roof top bar until 1am is not considered unreasonable in this instance.

8.3.4 Loss of views, privacy and daylight

Objectors, particularly those living in the Georges Apartments to the west of the site, were concerned with loss of views, privacy and daylight as a result of the proposed addition.

It is well-founded that there is no legal right to a view and this is not a matter that can be considered within the scope of a planning assessment.

Views to adjoining residential properties from the roof top will be possible towards Russell and Little Collins Street, with no overlooking possible to the north or west towards the QT residences and Georges Apartments respectively. It is noted that the Hero Apartments at 119 Russell Street directly opposite the site are located approximately 25 metres from the proposed roof top.

The north boundary of the roof top bar is located approximately 17.0 metres from the southern wall of the QT Hotel and Residences. It is also proposed that the north boundary of the bar's seating area will feature a solid screen with a height of approximately 3.0 metres, leaving only a portion of the north boundary open for a distance of approximately 3.5 metres. This will prevent any views between either property, particularly for any residents in the lower levels of the QT Residences.

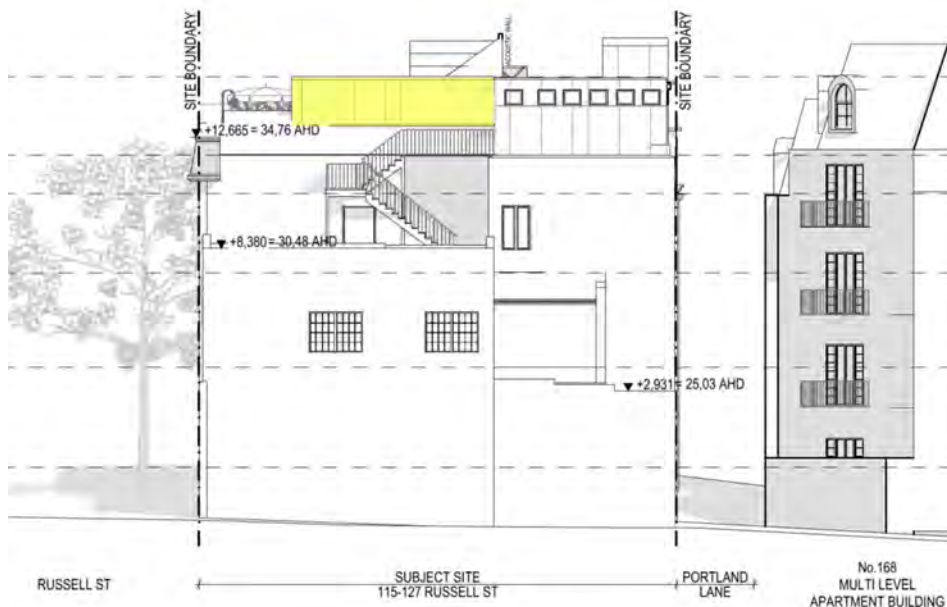


Figure 12: North elevation including screening to QT Hotel and Residences in yellow (Source: Applicant)

Also shown in Figure 11 above, the north elevation will feature highlight windows in new bathroom facilities. The only other addition will be stairs to be used for emergency exit only. The elevation above suggests a door will be constructed on the second level (third floor) for patrons to exit from the roof top, however floor plans and elevations have not been submitted which show these works. A condition of permit should one issue will require plans to show any works to Level 2 to be submitted.

The rooftop bar is east-facing over Russell Street. The addition closest to the Georges Apartments to the west is setback approximately 6.9 metres from Portland Lane and will feature highlight windows to back of house areas and bathroom

facilities only. As a result, there will be no overlooking or loss of privacy concerns to those apartments.

Loss of daylight was also raised as a concern by objectors. Having regard to the location of works, the main bulk of the addition, comprising the under cover bar area, will be set back approximately 9.0 metres from the boundary of the site containing the Georges Apartments (6.9 metres from Portland Lane). Existing conditions in the portion of Portland Lane that currently separates the site from the Georges Apartments will not be changed under the current application.

The proposed lift shaft would be visible to some of these apartments. It will be located in the centre of the eastern Portland Lane elevation with a height of approximately 17.37 metres above the laneway (3.47 metres above the existing building height). The lift shaft is not located directly opposite any habitable room windows in the apartments and, with a width of only 2.48 metres, it will not result in a loss of daylight or any unreasonable amenity impacts.

It is noted that the proposed plans do not provide specific detail of the proposed materiality of the acoustic wall which is to be constructed along the western elevation. Further, not all elevations reference the specific materials proposed to be used as per the materials schedule provided. A condition of any permit to issue will require further detail of the proposed acoustic wall to be provided on the plans and materials schedule and for all elevations to clearly reference what proposed materials are to be used where.

Shadow diagrams demonstrate there will be minor additional overshadowing to the Georges Apartments at 9am. However, this is so minor (1 square metre and 0.46 square metres in two separate areas) that it would barely be discernible to residents and, therefore, is not unreasonable in this inner city context.

Based on the above assessment, and subject to appropriate permit conditions, there will be no unreasonable amenity impacts as a result of the proposed addition.

9.4 Bicycle Facilities

The application seeks a waiver of the required bicycle facilities for the roof top bar.

Pursuant to Clause 52.34-1, the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. Where the floor area occupied by an existing use is increased, the requirement for bicycle facilities only applies to the increased floor area of the use.

Clause 52.34 specifies the following rates for a hotel:

User	Measure	Rate	Requirement
Employee / Resident	267.82 m ²	1 to each 25 m ² of bar floor area available to the public, plus 1 to each 100 m ² of lounge floor area available to the public	11 spaces
Visitor	267.82 m ²	1 to each 25 m ² of bar floor area available to the public, plus 1 to each 100 m ² of lounge floor area available to the public	11 spaces

The increase in floor area of the existing use generates a requirement for 22 bicycle parking spaces and 2 shower / change rooms for employees. The application does not propose to provide any additional bicycle facilities and, therefore, a permit is required to waive these requirements.

The proposed waiver has been assessed against the decision guidelines of Clause 52.34-4 and is acceptable for the following reasons:

- The existing building operates as a hotel under conditions that will not drastically alter with the construction of a roof top bar and, although an increase in employees to the site would be expected, current employees and visitors would continue to travel to the site under the method they presently use.
- Given that the increase in floor area is far less than the existing floor area of the building, and the building occupies the entire site, it is not reasonable to expect the applicant to set aside space for on-site bicycle parking.
- There are existing on-street bicycle hoops in the vicinity of the site that employees and visitors could utilise.
- The site is well serviced by public transport noting its location within the inner city.

9.5 Signage

The proposed signage is located on the east elevation facing Russell Street. It will feature individual internally-illuminated lettering to read 'ROOF TOP' on a steel support structure above the existing parapet of the building.

The signage has been assessed against Council's Local Planning Policy for advertising signs at Clause 22.07 as well as the decision guidelines at Clause 52.05 and is acceptable for the following reasons:

- The site is located in the central city where business identification signs are commonly seen.
- Although there is an existing sign on the east elevation of the building that reads 'THE CRAFTY SQUIRE', the additional sign is appropriately located to identify the roof top bar and of an appropriate size and scale, as is the existing sign, so as to not cause visual clutter.
- The sign will not obscure or compromise any important views from the public realm, dominate the skyline, or impede views to any existing signs.
- The positioning, proportion and scale of the sign is appropriate to the setting and streetscape.
- The steel support structure is unlikely to be discernible from the public realm given its form and location, and projection of the sign is minimal.
- Illumination of the sign can be controlled via permit conditions requiring the lighting to be dimmable. It is noted that this was also raised as a concern by objectors and will be addressed via condition should a permit issue.
- The sign is appropriately located and of a type, size and scale to not be a safety hazard.
- The sign will provide adequate identification for the roof top bar without any detrimental amenity impacts.

9.6 Environmentally Sustainable Design

The submitted application does not discuss any specific ESD measures and conditions of permit will require an ESD Statement to be submitted to ensure

compliance with the requirements of Clause 22.19 (Energy, Water and Waste Efficiency).

A Waste Management Plan, as required by Clause 22.19, was submitted with the application and is discussed in Section 9.3.1.

Conditions of permit will also ensure the proposal complies with the relevant requirements of Clauses 22.23 (Stormwater Management - Water Sensitive Urban Design) and 53.18 (Stormwater Management in Urban Development).

Subject to the above conditions, the proposal will exhibit a satisfactory response to the relevant ESD requirements.

9.7 Conclusion

As demonstrated by the assessment above, the application complies with relevant State and Local Planning Policy and can be supported based on the following:

- The proposed demolition is minor and will facilitate buildings and works for the development of the roof top bar.
- There will be no amenity impacts as a result of the additions to the building's roof top.
- The waiver of bicycle parking has been deemed acceptable in this context.
- The proposed signage is appropriate to the site and surrounds.
- Appropriate ESD measures will be incorporated via conditions of permit.
- All objections received have been given due consideration in assessment of the proposed buildings and works.

11. RECOMMENDATION

That the Future Melbourne Committee resolve:

- To advise the Victorian Civil and Administrative Tribunal that had Council been in a position to make a decision on the application it would have recommended that a Notice of Decision to Grant a Planning Permit be issued subject to conditions, and including the following preamble:

'Partial demolition; buildings and works for the construction of a rooftop bar above the existing building; the display of internally-illuminated business identification signage; and a reduction in bicycle parking pursuant to Clause 52.34'; and
- To advise the Victorian Civil and Administrative Tribunal and parties that it intends to rely on this position in the proceedings.

12. CONDITIONS

Amended plans before endorsement

1. Prior to the commencement of the development, an electronic set of plans drawn to scale, must be submitted to the Responsible Authority, generally in accordance with the plans prepared by Studio Y Architects Pty Ltd dated 29 July 2021 but amended to show:
 - a) A proposed plan showing any works to Level 2 associated with the new emergency stairs shown on the proposed north elevation.
 - b) Elevations and Materials Schedule to include further detail of the proposed materials and finishes of the acoustic wall.
 - c) All elevations to be updated to identify proposed materials as per the Materials Schedule.

- d) Any changes as required by the amended Acoustic Report required by Condition 7.
- e) Any changes as required by the updated Waste Management Plan required by Condition 16.
- f) Any changes as required by the ESD Statement required by Condition 18.

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

Compliance with endorsed plans

- 2. The development as shown on the endorsed plan(s) must not be altered or modified unless with the prior written consent of the Responsible Authority.

Satisfactory completion

- 3. Once the development permitted has started it must be continued and completed to the satisfaction of the Responsible Authority.

Materials and colours schedule

- 4. Prior to the commencement of the development a schedule and a colour rendered and notated elevation must be submitted to, and approved by the Responsible Authority.

Features above roof level

- 5. No architectural features, plant and equipment or services other than those shown on the endorsed plans are permitted above roof level, unless with the prior written consent of the Responsible Authority.

Construction Management Plan

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

Acoustic testing prior to use

- 7. Prior to the commencement of the use of the roof top bar an amended acoustic report prepared by a suitably qualified acoustic consultant must be submitted to and approved by the Responsible Authority. When approved the report will be endorsed and will form part of the permit. The report must include the results of acoustic testing to the east side of the site and verify

that the maximum noise levels will comply with (EPA Publication 1826.4 (or subsequently updated publication): Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues) is achieved to the satisfaction of the Responsible Authority.

The recommendations of the report must be implemented at no cost to the Melbourne City Council prior to commencement of the use.

Further acoustic testing

- 8. The Responsible Authority, with just cause, may at any time request lodgement of an acoustic report, prepared by a suitably qualified acoustic consultant. The report must be to the satisfaction of the Responsible Authority and identify all potential noise sources and sound attenuation work required to address any noise issues and to comply with *EPA Publication 1826.4 (or subsequently updated publication): Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues*.

The recommendations of the report must be implemented by the applicant to the satisfaction of the Responsible Authority.

Compliance with EPA Guidelines

- 9. The noise generated by the roof top bar must at all times comply with the requirements of the *EPA Publication 1826.4 (or subsequently updated publication): Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues*.

Patron numbers

- 10. The maximum number of patrons on the roof top bar must be no more than 376 at any one time unless with the prior written consent of the Responsible Authority.

Hours of operation

- 11. Except with the prior written consent of the Responsible Authority, the roof top bar must only be open for the use between the following hours:

Day	Roof top bar
Monday – Sunday	7am to 1am
Good Friday and Anzac Day	Midday to 1am

Bottle removal time limit

- 12. No bottles or other waste material may be removed from the site between the hours of 9pm and 7am the following morning, seven days a week.

No amplified live music

13. No amplified live music or entertainment is permitted on the roof top bar without the prior written consent of the Responsible Authority.

Amended Operational Management Plan

14. Prior to the commencement of the use the applicant must submit an amended operational management plan (generally in accordance with the report accompanying the application) describing:
 - a) The roof top hours of operation to be consistent with the hours of operation at Condition 11 hereon.

The management plan must be to the satisfaction of, and be approved by, the Responsible Authority. Once approved, the management plan will form a 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.

Baffle external lighting

15. Any external lighting must be baffled so that no direct light is emitted outside the site, to the satisfaction of the Responsible Authority.

Amended Waste Management Plan

16. Prior to the commencement of the development, an amended Waste Management Plan (WMP) must be prepared, submitted and approved by the Melbourne City Council – Waste and Recycling. The WMP must be generally in accordance with the WMP by Frater, dated 22 July 2021, but amended as follows:
 - a) Remove references to changes in frequency in consultation between the venue and private contractor.
 - b) Amend the 1 x 660L bin for organic waste to 2 x 240L bin.

Once approved, the WMP will form a part of the endorsed documents under this permit. Waste storage and collection arrangements must not be altered without prior consent of the Melbourne City Council - Waste and Recycling.

Garbage storage area

17. All garbage and waste material must be stored in an area set aside for such purpose to the satisfaction of the Responsible Authority. No goods, garbage, packing material or similar material shall be left outside the venue on adjoining footpaths or roads.

Environmentally Sustainable Design (ESD) Statement

18. Prior to the commencement of the development, an Environmentally Sustainable Design (ESD) Statement shall be prepared by a suitably qualified professional and submitted to the satisfaction of the Responsible Authority. The ESD Statement must demonstrate that the building has the preliminary design potential to achieve the following:

- a) 5 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star – Retail rating tool or equivalent.

Implementation of ESD initiatives

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

Drainage system provision

20. 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 Melbourne City Council's stormwater drainage system.

Signs

21. The sign, including its structure and advertising material as shown on the endorsed plan, must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.
22. The location, size, material of construction, colours, wording and degree of illumination of the sign shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
23. The sign must not be animated or contain any flashing light.
24. The sign's illumination must be controllable and dimmable to the satisfaction of the Responsible Authority.
25. This permit, as it relates to signage, will expire 15 years from the date of its issue, at which time the sign and all supporting structures must be removed, and the site reinstated to the satisfaction of the Responsible Authority.

Permit expiry

26. 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.